



INSTITUTE FOR CONSTITUTIONAL ADVOCACY AND PROTECTION  
GEORGETOWN UNIVERSITY LAW CENTER

May 14, 2019

Hon. Sheila R. Tillerson Adams  
Administrative Judge  
Circuit Court for Prince George's County  
14735 Main Street  
Upper Marlboro, MD 20772

Dear Judge Adams,

We represent Qiana Johnson, a community organizer, and Life After Release, an organization focused on empowering individuals, families, and communities affected by the criminal-justice system. Among their other projects, Ms. Johnson and Life After Release coordinate a local court-watching program aimed at increasing accountability and promoting positive change within Prince George's County's judicial system. They also provide support to people facing criminal charges through a participatory-defense model that seeks to promote greater family and community involvement in the adjudicative process.

To further these efforts, Ms. Johnson and Life After Release have obtained audio recordings of certain Prince George's County Circuit Court proceedings from the Court Reporter's office. In particular, they have obtained recordings from cases in which Life After Release provided support to criminal defendants and their families, including cases where defendants asked Ms. Johnson to address the court on their behalf. The recordings showcase the positive impact that increased community participation can have on the judicial process and provide a model for other community members to follow. For those reasons, Ms. Johnson and Life After Release intend to share these recordings with others by posting them online, playing them at meetings and community events, and providing them to the news media. However, Ms. Johnson and Life After Release understand that these actions may, in the Court's view, run afoul of § 1-201 of the Maryland Code of Criminal Procedure, which prohibits "broadcast[ing] any criminal matter, including a trial, hearing, motion, or argument, that is held in trial court."

We believe that it would be unlawful to enforce § 1-201 against Ms. Johnson or Life After Release for using audio recordings of court proceedings to engage others in a public dialogue about Prince George’s County’s criminal legal system. The recordings accurately depict what occurred during public court proceedings, and Ms. Johnson obtained them lawfully under Rule 16-504(h)(1) of the Maryland Rules. Accordingly, “state officials may not constitutionally punish publication of [the recordings] absent a need to further a state interest of the highest order.” *Florida Star v. B.J.F.*, 491 U.S. 524, 533 (1989) (citation omitted); *see also Bartnicki v. Vopper*, 532 U.S. 514, 527-28 (2001) (“As a general matter, ‘state action to punish the publication of truthful information seldom can satisfy constitutional standards.’” (citation omitted)).

We do not believe that the Court can identify a “state interest of the highest order” to justify § 1-201’s blanket ban on “broadcast[ing]” all lawfully obtained audio recordings of public court proceedings. For that reason, we believe that Ms. Johnson and Life After Release enjoy a First Amendment right to use such recordings in their public-education efforts. Still, as a matter of courtesy, and out of respect for this Court, Ms. Johnson and Life After Release wish to give the Court an opportunity to identify any “state interest[s] of the highest order” that might justify restrictions on their public-education efforts. If you believe that Ms. Johnson and Life After Release’s proposed uses of recordings obtained under Rule 16-504(h)(1) would cause any concrete harm to the Court or anyone else, please identify those harms and the reasons why you believe that those harms would result. Ms. Johnson and Life After Release will consider any information you provide in response to this letter in deciding whether and how to use any particular recording. If it would aid your assessment, Ms. Johnson and Life After Release are willing to identify specific recordings that they intend to use in the near future.

Finally, Ms. Johnson and Life After Release seek clarification on the scope of § 1-201’s prohibition on “broadcast[ing] any criminal matter.” Specifically, they seek to know whether the provision would cover (1) posting a Circuit Court recording on a public website; (2) copying a Circuit Court recording onto a duplicate compact disc; (3) playing a Circuit Court recording at a public event, such as a community meeting; (4) playing a Circuit Court recording at a private meeting; or (5) sharing a Circuit Court recording with the news media. To the extent the Court construes § 1-201 to cover any of these activities, we invite the Court to explain how § 1-201’s blanket prohibition on those activities comports with the First Amendment.

Thank you very much for your attention to this matter. Please respond to this letter by Friday, May 24, so that we can advise our clients accordingly. And do not hesitate to contact us if you would like to discuss anything in the meantime.

Sincerely,

A handwritten signature in blue ink, appearing to read "Nicolas Riley & Daniel Rice". The signature is stylized and cursive.

Nicolas Riley & Daniel Rice

INSTITUTE FOR CONSTITUTIONAL ADVOCACY & PROTECTION  
GEORGETOWN UNIVERSITY LAW CENTER  
600 New Jersey Ave. NW  
Washington, DC 20001  
reachICAP@georgetown.edu  
202-662-9042

CC: Mahasin El Amin, Clerk of Court  
Court Reporters' Office