

IN THE CIRCUIT COURT OF ST. LOUIS CITY
STATE OF MISSOURI

STATE OF MISSOURI,)	
Plaintiff)	
)	Cause No. 1222-CR04627-01
v.)	
)	Division No. 3
CORNELL MCKAY,)	
Defendant.)	

**STATE’S AMENDED MOTION TO EXCLUDE CERTAIN DEFENSE OBSERVERS
FROM THE COURTHOUSE DURING THE SENTENCING HEARING**

Comes now the State of Missouri and requests this Court to enter its order prohibiting certain observers from the courthouse during the sentencing hearing and states the following in support thereof:

1. There were many supporters for the defendant who sat through the trial and a very small percentage of them were his biological family.
2. It is believed that these supporters were from the First Baptist Church in Villa Ridge, Missouri.
3. It is believed that the defendant had contact with these people for no longer than a couple of months prior to his arrest for this case and during that month, defendant did not have continuous contact with them. According to statements made by Chris Douglas, associate pastor of the First Baptist Church to police detectives, the defendant had been staying with him in Washington, Missouri since August 13, 2012 and he had met him a couple of weeks before that in St. Louis. In a recording secretly made by Chris Douglas and John Huff when they appeared at the Central Patrol Bureau following defendant’s arrest, Douglas is heard telling detectives that the defendant had been staying with him a week (without notice to his probation officer).
4. While they were respectful of the Court and courthouse for most of the trial, they were not following the reading of the verdicts.
5. Prior to the jury being brought down to the courtroom and the verdicts being read, the Court admonished the courtroom observers that if they did not feel that they could

- control their reactions irrespective of the jury's verdicts that they needed to leave the courtroom. No one left.
6. Despite the Court's admonishment, following the verdicts as defendant was escorted from the courtroom, a few of them yelled, "I/we love you Cornell." All of this was in front of the jury sitting in the jury box.
 7. The victim was not able to be present for the verdicts but her husband, who was a witness in the trial, was present. Out of an abundance of caution, a Circuit Attorney Investigator was asked to escort him to our office to avoid any confrontation with the defendant's supporters. In an effort to do so, the State's investigator escorted our witness down a flight of stairs prior to attempting to board an elevator.
 8. While waiting for the elevator on the fourth floor, an elevator door opened and it was an elevator crowded full with the people who were in the courtroom supporting the defendant.
 9. When the doors opened, they began yelling at the State's witness, demanding "How will you sleep tonight?" over and over, until the elevator doors closed.
 10. A local reporter wrote a story about the case, which was posted on the newspaper's website. Several people made comments on-line regarding the case including the following by people associated with the defendant:
 - a. "I was in the courtroom and witnessed first-hand the brokenness of our City's justice system, and it was appalling how Cornell's defense was not allowed to present important evidence due to legal red tape. The Police Department was not interested in justice, it was interested in closing a case. I suggest those detectives come out to Franklin County and see how true officers of the law perform their jobs; I thank God for the men in women officers and judges who serve our communities based on truth instead of politics. See for yourself in the article's pictures how closely an innocent man, Cornell, looked to an already guilty armed robber and murderer, Keith Esters. Thank you Jennifer for writing this article!" Korey von Hogan, works at First Baptist Church Villa Ridge.
 - b. "I was also at the trial and found it to be a sad day for justice. The jury was not allowed to hear all of the facts and an innocent man was convicted of a

crime that he did not commit. Justice was not served this week.” Doug Muensterman

- c. “You can NOT trust St. Louis City prosecutors. You CAN trust in God. The evidence that was not allowed was a disgusting act by the prosecution. The lies from the detectives are a disgusting act of police work. The multiple conversations I had with the District 9 detectives clearly showed racism to the fullest extent to the point other St. Louis Police Department Employees recognized it. What a sad day to see someone else being free cased. We will continue to trust in God and pray for all the young black men in St. Louis who has been or will become the victims of our “injustice System”. There are so many great police officers and detectives in St. Louis but there are way too many crooks dressed up as the good guys. They are wolves in sheep’s clothes. My only advice for now it to stay close to Jesus. He will never leave you are forsake you.” Chris Douglas, associate pastor First Baptist Church Villa Ridge. *See attached State’s Exhibit A: Article from Stltoday.com and comments.*

11. The State has no interest in restricting anyone’s lawful right to free speech.
12. The State does, however, have a very serious concern that the people who were in the courtroom for the trial, who verbally assaulted a State’s witness and who posted such comments despite very little actual knowledge of, or relationship with, the defendant would not be respectful to this Court or to the victim who has an absolute right to be present at the sentencing.
13. “The following rights shall automatically be afforded to victims of dangerous felonies, as defined in section 556.061 [including Robbery First Degree] ... For victims, the right to be present at all criminal justice proceedings at which the defendant has such right.” Mo.Rev.Stat. §595.209.1(1).
14. The Missouri Constitution, Section A, Article 1, Section 32, states “Crime victims, as defined by law, shall have the following rights, as defined by law: (1) The right to be present at all criminal justice proceedings at which the defendant has such right, including juvenile proceedings where the offense would have been a felony if committed by an adult; (2) Upon request of the victim, the right to be informed of and

heard at guilty pleas, bail hearings, sentencing, probation revocation hearings, and parole hearings, unless in the determination of the court the interest of justice require otherwise; ... (6) The right to reasonable protection from the defendant or any person acting on behalf of the defendant.

15. The State believes that allowing the defendant's supporters who have already disobeyed the Court's admonishment in the courthouse would create an unnecessary risk of both disregarding the Court's orders again and disrupting the peace of the victim of this crime. These supporters have already demonstrated an inability to follow the Court's orders both in and out of the courtroom.
16. There are alternative methods for them to show their support for the defendant and to present any statements they might have to the Court. Unlike the victim of the crime, they do not have a constitutionally and statutorily protected right to be present in the courtroom. The victim deserves to be heard without further assault in any fashion.

Wherefore, the State hereby requests this Honorable Court enter an Order excluding those people who were present for the trial verdicts and who disobeyed the Court's admonishment following the verdicts from the courthouse property on the day of sentencing in this matter.

Respectfully submitted,

/s/ Christine Krug

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Certificate of Service

I certify that a true copy of the above and foregoing was delivered to defense counsel James Hacking via e-filing this 30th day of January, 2014.

/s/ Christine Krug

Christine H. Krug
Assistant Circuit Attorney