

1 STATE OF MINNESOTA DISTRICT COURT
2 COUNTY OF WASHINGTON TENTH JUDICIAL DISTRICT

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4 State of Minnesota, **HEARING**

5 Plaintiff,

6 V. File No.: 82-CR-17-242

7 Stephen Carl Allwine, S.C. No: A18-0846

8 Defendant.

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10 The above-entitled matter came duly on
11 for hearing before the Honorable Mary Hannon,
12 one of the Judges of the above-named Court on
13 February 1, 2017, at the Washington County
14 Government Center, Stillwater, Minnesota.

15 **APPEARANCES:**

16 Fred Fink and Jamie Kreuser, Assistant
17 Washington County Attorneys, appeared for and on
18 behalf of Plaintiff.

19 Kevin DeVore, Esq., appeared for and on
20 behalf of the Defendant.

21 Allison Frapp Fredrickson, Esq.,
22 appeared on behalf of Charles and Joanne Jutz.

23 Gregg Wacker, Washington County
24 Probation Department.

25 Michelle Belisle, Judicial Aide.

1 Lynne Krenz, Court Reporter.

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3 (WHEREUPON, the following proceedings
4 were duly held:)

5 THE COURT: All right. The next matter
6 is State versus Stephen Carl Allwine.

7 Mr. Allwine is represented by Kevin
8 DeVore who's here, Fred Fink appears from the
9 County Attorney's Office on along with Jamie
10 Kreuser, and Mr. Wacker is here from probation.

11 There's been a violation of conditions
12 of release filed. From what I can tell in the
13 file, Mr. Allwine posted bond a week or so ago.
14 January 26th, and was on conditions of \$500,000,
15 conditional bail, along with no contact orders,
16 GPS monitoring, no leaving the state, firearms,
17 et cetera. Unconditional bail was \$1 million.

18 Mr. Wacker, anything further for the
19 record regarding the violation report?

20 MR. WACKER: Your Honor, I --

21 THE COURT: I should note, we did off
22 the record have some conversation, and I had a
23 chance to review the communications between Mr.
24 Allwine and the maternal grandparents, who are
25 the custodians of the Defendant's child at this

1 time. So I did have a chance to see what the
2 content was.

3 MR. WACKER: I don't think there's
4 anything else, Your Honor.

5 THE COURT: Mr. Fink, the State's
6 position regarding current conditions?

7 MR. FINK: First of all, Your Honor,
8 the -- the item in question, which the State
9 believes is at least an indirect contact, if not
10 an attempted contact with J.A., who was a -- who
11 is named in the no contact order, with what was
12 an item called a Gizmo Gadget.

13 If I may, Your Honor, I have marked, I
14 guess it's the specifications of how this item
15 works. I have marked it Exhibit 1. I've
16 provided Counsel a copy already. If I'm --

17 THE COURT: All right.

18 MR. FINK: This item, Your Honor, is
19 capable of tracking the wearer using an
20 application on a different phone.

21 This item also is capable of sending
22 and receiving up to 10 specified numbered phone
23 calls and --

24 THE COURT: So certain phones are
25 connected to the gizmo to be able to get

1 through?

2 MR. FINK: That's my understanding.
3 Yes, Your Honor.

4 THE COURT: Okay.

5 MR. FINK: And only those 10. So a
6 random call can't come in.

7 THE COURT: Okay.

8 MR. FINK: It's -- it's the State's
9 position that given the fact that this item
10 belonged to J.A., and that the Defendant within,
11 I think, about 48 hours of his release, and
12 ordered not to contact J.A. --

13 THE COURT: Yeah. I'm sorry, what was
14 the date of the communications that you showed
15 me, Mr. Wacker? If you can tell me that?

16 MR. WACKER: Your Honor, I cannot.

17 THE COURT: Okay.

18 MR. WACKER: It does not specifically
19 state.

20 THE COURT: Okay.

21 MR. WACKER: But it --

22 THE COURT: It was reported in the last
23 couple days, anyway?

24 MR. WACKER: Correct.

25 MR. FINK: Correct.

1 MR. WACKER: And the one, it did say,
2 "I'm out."

3 THE COURT: Right. So it was after he
4 left the jail presumably?

5 MR. WACKER: Correct.

6 THE COURT: All right. Go ahead, Mr.
7 Fink. Sorry.

8 MR. FINK: Thank you.

9 It's our position that since that item
10 is in the control of the prohibited person, that
11 this was an attempted contact, or indirect
12 contact with J.A., which is a violation of his
13 conditions of release.

14 And we know from a quick perusal, if
15 there is such a thing in this criminal
16 complaint, that this is Defendant is nothing but
17 sophisticated in terms of data products and
18 storage devices.

19 Therefore, it's the position of the
20 State, that number one, that bail that's been
21 posted be forfeited and that new bail be imposed
22 in the amount of \$2 million unconditional, and
23 \$1 million conditional. With no contact direct
24 or indirect, with J.A., and a GPS monitor, so we
25 don't have any confusion later on.

1 No contact with the Jutz family, who is
2 presently the custodian of J.A.

3 THE COURT: All right. It seems that
4 at the very least, the not contact order, just
5 so you know, then that needs to be amended.
6 Because there's some difference between the no
7 contact order in this case, and what this Court,
8 who has been assigned the juvenile Court matter
9 has ordered.

10 And while I informed the Defendant that
11 the Juvenile Court Order controls, we should
12 probably endeavor to make the orders consistent.
13 So we'll do at least that.

14 Mr. DeVore, as to the State's argument
15 regarding changes to the bail and conditions?

16 MR. DEVORE: Well, first of all, Your
17 Honor, we disagree that there was any attempt to
18 have any contact directly or indirectly with
19 J.A.

20 It's clear, there was absolutely no
21 contact directly with J.A. The only
22 communication was via text message to Mrs. Jutz,
23 and that was simply to advise her that J.A. had
24 a -- this watch, or this gizmo that she could
25 set up an account for, that she could get a PIN

1 number for so that she could stay in touch with
2 J.A.

3 The reason that J.A. had the gizmo in
4 the first place was because last summer, 2016,
5 there were some threats that were made towards
6 the family. The Allwines collectively decided
7 to get him the watch so they could monitor his
8 activity, make sure he was safe.

9 When Mr. Allwine got out of jail, he
10 simply relayed information to Mrs. Jutz that she
11 would have that ability to do so.

12 Mr. Allwine --

13 THE COURT: And he wasn't asked by them
14 to help them figure out a way to keep track of
15 this child?

16 MR. DEVORE: They didn't solicit his
17 request, no.

18 But we have to be clear that there was
19 not, I mean, I realize what Mr. Fink is saying,
20 that there could be communication between a
21 phone and directly to this gizmo, but there
22 wasn't any of that. It was communication
23 between Mr. Allwine and Ms. Jutz.

24 And it was to simply advise her of the
25 ability to set up that account.

1 You read the e-mail or the text
2 messages yourself off the record, Your Honor.
3 I've seen them myself and there wasn't anything
4 in there that gives any direction to Ms. Jutz
5 to talk to J.A. or communicate with him in any
6 way.

7 All the communication is simply to say
8 that she has the ability to set that up.

9 My client deleted the app from his
10 phone before it was now seized by the police.

11 Your Honor, I think a fair amendment to
12 the conditions would be to simply add a no
13 contact with the Jutzes.

14 I've already talked to my client about
15 this today. That, you know, just he should just
16 cease any communication with them at all. He
17 can go through me, and they have a lawyer and I
18 can go through her if there's any need to have
19 any communication of any kind. That way it's
20 all above board.

21 There's no assumptions being made about
22 why he would be communicating, because that's
23 really what this is. This is an assumption that
24 Mr. Allwine was attempting to somehow
25 communicate with J.A., which he wasn't.

1 So I don't want to blow this out of
2 proportion. Yes, it's a serious thing. It's a
3 serious matter. It's a serious order. It's a
4 serious case. But all he did is communicate to
5 Ms. Jutz in an attempt to set up an account, and
6 that's it.

7 So to change the conditions of release,
8 to forfeit the bail and raise the bail amount
9 is way out of proportion with what was done
10 here. And we deny that he violated the order.

11 I agree that the Court would give him a
12 strict, you know, warning that you're walking a
13 fine line.

14 And I would submit to the Court that
15 changing both the Juvenile Court Order, as well
16 as the Criminal Court Order to reflect no
17 contact with the Jutz family would be an
18 appropriate remedy in this case.

19 THE COURT: Ms. Fredrickson, did you
20 have any position that you wanted heard on
21 behalf of your clients regarding the no contact
22 requests?

23 MS. FREDRICKSON: Your Honor, I think
24 that's appropriate.

25 Again, as Mr. DeVore stated, it would

1 be helpful for everyone to know exactly what
2 kind of contact they can and can't have.

3 THE COURT: Okay.

4 MS. FREDRICKSON: My clients aren't
5 comfortable being the gatekeepers. And they're
6 worried about responding and whether they have
7 an obligation to respond or to not respond.

8 So including them in the no contact
9 order, even though they're not directly asking
10 for that, I think that it would be in everyone's
11 best interests.

12 THE COURT: All right. Thank you.

13 The Court understands the position Mr.
14 Allwine's taking about how he was just trying to
15 communicate with the grandparents. That's his
16 perspective.

17 What the Court sees is somebody who's
18 got a history of using many devices to do all
19 kinds of electronic things, setting up something
20 that potentially could allow him to have contact
21 with the child when he wasn't asked for any
22 assistance on that.

23 He had been instructed by the Juvenile
24 Court repeatedly that he was to have no contact
25 with this child. And the Criminal Court orders

1 also restricted his contact with the child.

2 So the concern is that, basically,
3 immediately upon being released on very strict
4 conditions and high bail, Mr. Allwine was
5 already manipulating it to get around the
6 Court's orders.

7 So I think it's appropriate for there
8 to be some adjustment in things, and I'm hoping
9 that Mr. Allwine gets a clear message from this
10 Court, regarding his absolute prohibition on any
11 contact with this child and the Jutzes. So I'm
12 going to the -- so I'm going to make that clear
13 as well.

14 The adjustment to the previous order
15 will be as follows:

16 Monetary only bail will be set in the
17 amount of \$1,500,000. Conditional bail is set
18 at \$600,000. So an additional \$100,000 will
19 need to be posted. Based on the violation the
20 Court believes occurred.

21 And conditions are as previously
22 ordered, GPS monitoring, with exclusions to be
23 the Jutz home, and the airport and any other
24 exclusion zones that the supervising PO,
25 probation agent, believes are appropriate.

1 Mr. Allwine is not to leave the State
2 of Minnesota for any purpose. The passport
3 remains with the Cottage Grove Police.

4 There is a firearms order prohibition
5 in place. And the no contact will be redrafted
6 to indicate no contact directly or indirectly of
7 any sort with the J.A. the minor child, with
8 Charles or Joanne Jutz or the home of the
9 Jutzes. The matter is set before Judge Ekstrum,
10 I believe, February 13, 2018 for Rule 8
11 appearance.

12 Anything further?

13 MR. DEVORE: No, Your Honor.

14 MR. FINK: No, Your Honor.

15 THE COURT: Thank you.

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17 JUDICIAL

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20 BRANCH

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REPORTER'S CERTIFICATE

I, Lynne M. Krenz, do certify the foregoing pages of typewritten material constitute a full, true and correct transcript of my original stenograph notes, as they purport to contain, of the proceedings reported by me at the time and place hereinbefore mentioned.

/s/Lynne M. Krenz
Lynne M. Krenz, RMR, CRR, CRC

Date: July 13, 2018

