

IN THE IOWA DISTRICT COURT FOR SIOUX COUNTY

STATE OF IOWA,

NO 03841 SMSM026797

Plaintiff,

Vs.

PAUL ROBERT DORR,

MOTION TO AMEND, RECAST AND
RECONSIDER MOTION TO DISMISS

Defendant.

COMES NOW, the Defendant, Paul Robert Dorr, and for this Motion To Amend, Recast and Reconsider his Motion To Dismiss, respectfully states to the court:

1. Previously Paul Robert Dorr submitted a Motion To Dismiss and Memorandum of Law which was denied by the court on July 8, 2019.

2. The aforesaid Motion, Memorandum and Order overruling the Motion To Dismiss addressed the issue of selective prosecution based on stipulated facts as set forth in the Affidavits of the Defendant (WHICH ARE NOW WITHDRAWN): they did not **directly** address and argue the lack of requisite intent nor the First Amendment exercise of Freedom of Speech and Freedom of Religion.

3. For purposes of the trial, the State of Iowa has no **admissible** evidence of what happened to the library books in question (the video proposed by the state cannot be admitted, Rule 5.901) other than the facts that the library can testify to, namely:

A. They were checked out by Paul Robert Dorr, and

B. They were not returned by Paul Robert Dorr when the books were due. Accordingly, the State of Iowa cannot satisfy its burden of proof and overcome **the presumption of innocence** that is guaranteed to Paul Robert Dorr.

4. These books are fungible, not one of a kind items or unique works of art. They not only can be replaced but have been replaced in the Orange City Library along with over \$1,000 in donations. *Exhibit #4*. In addition, *Exhibit #4* is the receipt for the full payment of the four books, credited to Paul Robert Dorr's Orange City library account number.

LACK OF WANTON AND WILFUL INTENT (*MENS REA*)

5. The charge brought against the Defendant fails to allege any *unlawful* intent as required by the Supreme Court of the United States. Elonis v. United States, 575 U.S. ____, 135 S. Ct. 2001 (2015).

6. In accordance with this failure to allege and have proof of the *mens rea*, the State of Iowa cannot prove a criminal case against Paul Robert Dorr; **this is merely a civil matter which has already been resolved.**

FIRST AMENDMENT – FREEDOM OF SPEECH AND RELIGION

7. In the event that the State of Iowa would be able to circumvent the Rules of Evidence (5.901) and be able to introduce evidence of intentional destruction of the library books, it would also necessarily introduce evidence that Paul Robert Dorr acted **solely** as an exercise of his rights of Free Speech and Freedom of Religion as guaranteed under the Constitution of the United States of America and applied to the states under the Fourteenth Amendment.

8. Therefore, as a result, the State will nullify any and all criminal intent element (*mens rea*) and no criminal conviction can possibly be obtained nor allowed to stand.

9. The speech that defendant Paul Robert Dorr was his opposition to library books available to minor children at the Orange City Public Library free from their parents knowledge that promotes homosexual sex to pre-teens and transgenderism to elementary-aged children.

10. The argument that he did not burn his books but the books of another is simply a way to circumvent or, at least curtail, the inviolate guarantees of the First Amendment. In Texas v. Johnson, 491 U.S. 397; 109 S.Ct. 2533; 105 L. Ed.342 (1989) the flag that was burned **did not belong to Johnson** but had been “taken from a flagpole outside one of the targeted buildings.” Also Johnson’s actions were not an Exercise of Religion.

11. The Orange City Library and the City of Orange City have commandeered the State of Iowa and its resources to play the innocent victim whereas it is using this prosecution to engage in promoting its agendas and raise funds for the library and the City of Orange City.

WHEREFORE the Defendant, Paul Robert Dorr respectfully requests the court to reconsider the original motion to Dismiss along with these additional grounds for dismissal and to find that the State of Iowa 1) has failed to properly allege the criminal intent necessary to a charge of criminal mischief; and 2) cannot overcome the protections guaranteed by the First Amendment; and. 3) that the state is engaging in selective prosecution. Dorr prays that this court would upon reconsideration, dismiss this charge of 5th degree criminal mischief and assess the costs to the state of Iowa.

July 27, 2019

Date

Paul R Dorr

Paul Robert Dorr, Defendant
(Pro Se)