

DN S20N-CR11-0128328S
 STATE OF CONNECTICUT
 V.
 DUANE T. DOUDEL

SUPERIOR COURT GA#20
 NORWALK
 28 NOV 28 P 4:22
 NORWALK

SUPERIOR COURT
 GA #20
 AT NORWALK
 NOVEMBER 28, 2011

MEMORANDUM OF DECISION
RE: MOTION TO VACATE ORDER

This matter comes before the court on the defendant's motion to vacate the May 20, 2011 order of the court, [Hudock, J], prohibiting the defendant from possessing any weapons or applying for any pistol permits. These orders were entered as conditions of the defendant's release.

An evidentiary hearing commenced on July 27, 2011, and continued and concluded on August 22, 2011. The evidence presented consisted of the testimony of a number of Norwalk police officers, Dr. Staw, his wife Sandy Staw and Janine Roy, both of whom work in his office. The basic facts of the alleged incident are as follows:

The defendant, Mr. Duane Doutel, had been a patient of Dr. Staw for years, and carried his gun several times when he went to the office for medical appointments. Although the office had no policy prohibiting guns, Dr. Staw indicated that carrying a gun was not something that they expected patients to do. The office is located on East Avenue in Norwalk, which Mrs. Staw testified is not considered a dangerous area.

On the last office visit, February 7, 2011, Mr. Doutel had some pre-operative tests performed at Dr. Staw's office. There was some issue or question regarding the timely forwarding of those test results to Mr. Doutel's surgeon. Dr. Staw testified that on February 9th or 10th, he had contacted Dr. Altman's office by phone to discuss some abnormal lab values in Mr. Doutel's test results. According to the doctor's records, the test results were sent to the surgeon's office, via fax on February 14, 2011.

On February 16, 2011, the following voice message was received at Dr. Staw's office:

...[Inaudible] this is Duane Doutel, a former patient of Dr. Staw's. Uh I paid at my last visit for an EKG and a CBC which were pre-op and they have not been forwarded, despite several requests, to the surgeon. He will provide those because I paid for them up front. I want them forwarded. If I haven't heard within forty-eight hours that those results have been forwarded to Dr. Altman, I will be walking into the office, and it will not be pretty. Do you understand me? I paid for those up front. You will provide them. I will see to it that a valid AIC is done, not the botched one that Dr. Staw ran without fasting. Thank you.

[Note: Transcription prepared by the court, from re-plays of Defense Exhibit A]

Norwalk Police Officer Jared Zwickler responded to a call from Dr. Staw's office after the message was received, and listened to the recording of Mr. Doutel's message. In the course of his investigation he learned that the office staff felt threatened by this message, based upon the fact that the defendant previously had brought a firearm with him to medical appointments, made a point of showing medical staff that he had the

weapon with him, often expressed racist ideas in the office, discussed political subjects, and was often very agitated, animated, or easily excitable while at the medical office. In this regard, it should be noted that the Mr. Doutel's manner of speaking and tone of voice vary within the message. Although the initial portion of the message is evenly modulated, in the latter part of the message, the intonation varied, with certain words and phrases expressed more emphatically, including the following portions:

....He will provide those because I paid for them up front....If I haven't heard within forty-eight hours that those results have been forwarded to Dr. Altman, I will be walking into the office, and it will not be pretty. Do you understand me? I paid for those up front. You will provide them. I will see to it...

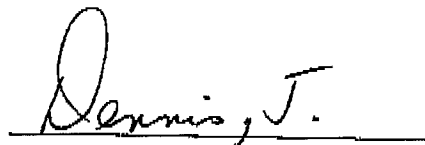
Section 54-64a of the Connecticut General Statutes provides that the court may consider numerous factors in making the determination as to conditions of release. Conditions of release are set by the court to ensure the appearance of the arrested person in court and to ensure that the safety of any other person will not be endangered. When considering the safety of others, two of the factors to be considered in setting conditions of release, are the nature and circumstances of the offense and the weight of the evidence against the arrested person.

The second amendment to the Constitution of the United States provides that "[a] well regulated Militia, being necessary to the security of a free State, the right of the people to bear Arms, shall not be infringed." Article first, Section 15 of the Connecticut

Constitution provides that every citizen has a right to bear arms in defense of himself and the state. Neither of these provisions has been found to be absolute.

Considering the weight of the evidence and the nature and totality of the circumstances in this case, the previous orders of the court, temporarily restricting the defendant's right to bear arms to ensure that the safety of any other person will not be endangered, are not unreasonable.

Accordingly, the defendant's motion to vacate the May 20, 2001 court ordered conditions of release is denied.



Dennis, J.

“DECISION ENTERED IN ACCORDANCE WITH THE FOREGOING”
11-28-11
Charles Kim, Caseflow Coordinator
Tiffany Lockshier, Norwalk State's Attorney office
Rachel Baird, Esq.
“Denied”

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ATTENTION: _____

FROM: Norwalk Superior Court

RE: Duane Dondel: Memorandum of Decision re:
Motion to vacate order

MESSAGE: _____

Number of copies including fax cover: 5