

JUSTICE COURT

MAR 03 2016

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Aaron J. Prisbrey (#6968)
AARON J. PRISBREY, P.C.
1090 East Tabernacle Street
St. George, Utah 84770
Phone: (435) 673-1661
Fax: (435) 673-3561
E-mail: cynthia@prisbreylaw.com
Attorney for Defendant

IN THE WASHINGTON COUNTY JUSTICE COURT
STATE OF UTAH

CITY OF ST. GEORGE,

Plaintiff,

vs.

VARLO DAVENPORT,

Defendant.

**MOTION TO FIND DR. RICHARD
"BIFF" WILLIAMS IN CONTEMPT OF
COURT**

Case No. 151700661

Judge: Ronald Read

Pursuant to rule 14 of the Utah rules of criminal procedure defendant hereby moves this court for its order finding Richard 'Biff' Williams in contempt of court for refusing to obey the court's orders of February 10 and February 18, 2016 regarding the subpoena duces tecum served on Williams on May 14, 2015. Defendant requests that Williams be incarcerated at the Washington County Purgatory correctional facility for a period of 48 hours and that he be compelled to comply with the orders issued by this Court. Defendant further requests reimbursement for attorney fees and costs in bringing this matter before the Court. In support of this Motion, Defendant states as follows:

STATEMENT OF FACTS

1. On May 5, 2015 Defendant filed a Notice of Intent to Issue Subpoena Duces Tecum with this tribunal.
2. The subpoena was served on Williams via his agent on May 14, 2015 (See return of service attached hereto).
3. On June 15, 2015, Williams, through counsel filed an objection to the subpoena. (See objection to subpoena on file).
4. On February 10, 2016, this tribunal ordered Williams to respond to the subpoena duces tecum in various respects, requiring production within ten days. (See order regarding subpoena duces tecum on file).
5. On February 18, 2016, this tribunal further ordered counsel for Williams to provide to defendant all emails, in native format pertaining to the defendant in relation to the events of November 21, 2014 by Thursday, February 25, 2016. (See minute entry of February 18, 2016).
6. On February 18, 2016, counsel for defendant argued that Williams was withholding exculpatory evidence under the guise that it was “not relevant” to the criminal claim. This tribunal required Williams Council to submit the entirety of Don Reed’s file to the tribunal by February 25, 2016, with a cover letter identifying the documents delivered to Prsbrey, counsel for Davenport. (See minute entry on file).
7. Williams has not provided any documents to Davenport as required under the February 10, 2016 order, which were due by February 20, 2016. (See lack of certificate of service in the Court’s file).
8. Williams has not provided any documents to Davenport as ordered by this tribunal on February 18, 2016, which were due on February 25, 2016. (See lack of certificate of service in the Court’s file).
9. Williams has not provided Don Reed’s file to the court as required by this tribunal on February 18, 2016, which were due on February 25, 2016. (See the Court’s file).
10. On February 26, 2016, the undersigned called, the attorney for Williams and left a voicemail message asking when he intended to comply with the court’s orders. As of this date, neither Davenport nor his legal counsel have heard anything from Williams counsel as to why there has been no compliance with the court’s orders.

BIFF WILLIAMS IS IN CONTEMPT OF THE COURT'S ORDERS

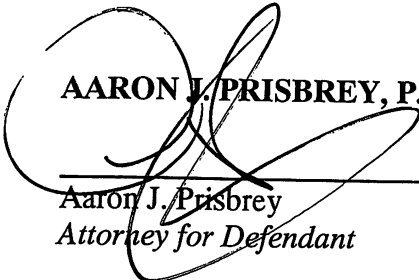
Rule 14(a)(7) of the rules of criminal procedure provides that “Failure to obey a subpoena without reasonable excuse may be deemed a contempt of the court responsible for its issuance.” Williams was served the subpoena on May 14, 2015. This Court ordered compliance with certain aspects of the subpoena by February 20 and February 25 respectively. Williams has ignored the order, and has not notified Davenport nor this tribunal why he is not complying with the subpoena. It is anticipated that the information Williams has refused to turn over contains relevant information in at least the following two respects.

It is anticipated the information Williams has refused to turn over exculpatory evidence that has been purposely withheld from Davenport by the city and the college.

It is also anticipated the information Williams has refused to turn over contains documentation that Dixie State professor Mark Hauser falsified documents and entered into an agreement wherein the alleged victim was promised an “A” grade in an acting class she was failing and employment with Dixie State in exchange for her testimony against Davenport in order for Hauser to keep his job, as he was about to be fired as the result of a faculty tenure committee that voted 14-0 to deny him tenure.

DATED this 3rd day of March, 2016.

AARON J. PRISBREY, P.C.



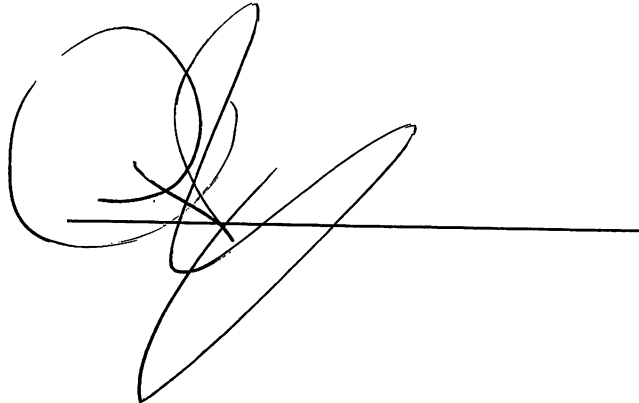
Aaron J. Prisbrey
Attorney for Defendant

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing, "Motion To Find Dr. Richard "BIFF" Williams In Contempt Of Court" was caused to be served via United States mail, postage pre-paid, upon the following individuals on this 3rd day of March 2016.

Biff Williams
c/o D. Michael Carter
225 South 700 East
St. George, Utah 84770

Shawn M. Guzman
Robert L. Cosson
175 East 200 North
St. George, Utah 84770

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

PROOF OF SERVICE
CITY OF ST. GEORGE V. VARLO DAVENPORT
CASE NO. 151700661
Service of Subpoena Duces Tecum
Upon President Williams at Dixie State University

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$.69
Certified Fee	\$ 3.30
Return Receipt Fee (Endorsement Required)	\$ 2.70
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 6.48

ST. GEORGE, UT 84703-8908
MAY 12 2015
USPS

Send To: **President Richard Williams, D.S.U.**
Street, Apt. No.; or PO Box No. **225 S 700 E**
City, State, ZIP+4® **St. George, Utah 3875**

PS Form 3800, August 2006 See Reverse for Instructions

7011 1150 0001 8868 9413

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>2. Signature <i>Paul Durand</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below <input type="checkbox"/> No</p> <p style="text-align: center;">MAY 18 2015</p>
<p>1. Article Addressed to: Dr. Richard "Biff" Williams President Dixie State University 225 South 700 East St. George, Utah 84703-3875</p>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number <i>(Transfer from service label)</i></p>	<p style="text-align: center;">7011 1150 0001 8868 9413</p>
PS Form 3811, February 2004	Domestic Return Receipt 102505-02-M-1540