

Handout 10
Deposition of Kenji Davis

Q. Please state your name for the record.

A. Kenji Davis.

Q. How old are you?

A. Eighteen.

Q: Were you recently a student at Ann Arbor High School?

A: Yes. I just graduated a few months ago, in June.

Q. While you were a student at Ann Arbor High School, were you a member of the Computer Science Club?

A. For a little while. I joined in the spring of my freshman year, and I quit in the middle of my junior year because Ms. Marquez became the coach of the club and she works for the NSA.

Q. And why did that make you want to quit?

A. Well, I did some research and learned that the NSA spies on American citizens, wiretaps phones, that sort of thing.

Q: And did that make you dislike Ms. Marquez?

A. Well, I don't like the NSA and what it does to citizens. I wanted to take a stand for what I believed in, and quitting seemed like an effective way to do that. I didn't think it was right that someone who worked for this agency was now supposed to be someone we looked up to.

Plus all she did was encourage us to work for the government, to be computer scientists for the government.

Q. Did she tell you much about her job?

A. Not really, or at least, nothing specific. She was very clear that she couldn't tell us anything about what she actually did, except that she used her computer science degree a lot. It's all super secret.

Q. Is it fair to say that you and Ms. Marquez had substantial differences of opinion?

A. Yes, we disagreed about the NSA's spying programs, among other things. She defended the NSA, saying that it did everything necessary to keep Americans safe. She thinks it's OK for the government to do anything it wants as long as it says it is trying to protect Americans. And I think that civil rights and civil liberties are actually important. It doesn't matter whether Americans are protected if our core values are completely undermined in doing so.

Q. So you disliked Mr. Marquez?

A. Not personally, no. We disagreed on a lot of things, but she was always nice to me and we got along well personally. I just felt like I couldn't stay in the club once I started to think about the terrible things our nation has done in the name of "protecting" Americans.

Q. How did you get along with the other students in the Computer Science Club?

A. I got along well with them when I was in club. Not as well when I started talking to them about how I felt about the NSA

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Q. Did the other students generally agree with Ms. Marquez?

A. Well, yeah. I mean, she's really nice and all. The other kids seemed really eager to just believe everything she said about how great it was to be a computer scientist at the NSA, and they all wanted to be just like her. So they seemed willing to defend her and the NSA every time it came up. So yeah, they agreed with her, but I think it's mostly because they didn't really spend a lot of time thinking about it and learning about what the NSA actually does.

Q. Let's talk about what happened on February 20, 2014. You attended an assembly at school, right?

A. Yes.

Q. Can you tell me a little bit about these assemblies generally?

A. We have them about once a month. We usually have a speaker. Sometimes someone from outside the school, sometimes a teacher, sometimes a student. They talk about various topics and issues facing the school or the community.

Q. Where do you usually sit during the assemblies?

A. Well, I'm in student council, or, at least I was, at that time. Student council members sit on the stage behind the speaker, facing the audience.

Q. And that's where you were sitting during this assembly?

A. Yes.

Q. Who was the speaker at the February 20th assembly?

A. Ms. Marquez. I knew she was going to be a speaker because they announce the speakers to the whole school the week before. Also, the student council gets to propose speakers, and we usually get early notice of who the speaker is going to be.

Q. Did the student council propose Ms. Marquez?

A. No, the administration did that all on their own, I think because it was so early in the school year, and we hadn't really had time to meet and propose speakers yet.

Q. Were you upset that Ms. Marquez was speaking?

A. Well, yeah, of course. I didn't like what she was there to say. I didn't think it was appropriate to have a speaker encouraging students to join an organization that spies on Americans in violation of the Constitution.

Q. Did you do anything at the assembly?

A. I wore a patch to the assembly, attached to the front of my shirt, that said "The NSA Sucks."

Q. Why did you wear the patch?

A. To express my disagreement with NSA. I wanted to bring the issue to the attention of the students, and let them know that lots of people don't like what the NSA does.

Q. Why did you choose that message?

A. I thought it would get people's attention. Also it was short enough to fit on my shirt and still be visible from the audience.

Q. You were sitting on the stage during the assembly, correct?

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A. Yes. I was sitting on the stage with the rest of the student council, behind Ms. Marquez, facing the audience.

Q. So the audience could see you?

A. Yes.

Q. Could Ms. Marquez see you at all?

A. I think she saw me when I walked in, but she wasn't looking at me while he was speaking or anything.

Q. Did Ms. Marquez react to seeing the patch?

A. Like I said, I think she saw me but I'm not sure. She didn't do or say anything about it if that's what you're asking.

Q. And how did the other students react?

A. They didn't really. There were a few murmurs from the audience, but they quieted down as soon as the assembly started.

Q. Did some students laugh?

A. I guess so.

Q. And some booed?

A. One or two maybe.

Q. Were the murmurs, laughter, and boos typical for this type of assembly?

A. Kind of. Anytime there's a controversial topic at the assembly, like when we had someone come in to talk about sexual health and stuff, there's a reaction from the students.

Q. But people don't react that way to every assembly, right?

A. They do when the topic is interesting to them. But I guess not to every single one, no.

Q. Did anyone ask you to leave the stage or say anything to you during the assembly?

A. No.

Q. What happened after the assembly?

A. Not much. I went out into the hallway and chatted with friends.

Q. Were you still wearing the patch?

A. I wore it out into the hall but I took it off while I was talking to my friends. There was no point in wearing it all day.

Q. Did anyone from the computer science club approach you?

A. Yeah. Some guys came up to me and started giving me a hard time, saying that I wasn't patriotic and that they didn't like how I'd embarrassed Ms. Marquez and her daughter.

Q. Did these students insult you?

A. Um, I know they called me unpatriotic and a bully.

Q. Did these students threaten you?

A. No. They were actually pretty calm about it.

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Q. What else did they say?

A. They said they were offended and were planning to complain to Mr. Carpenter.

Q. How did you respond?

A. I just shrugged it off. Mr. Carpenter was at the assembly and I figured if he had a problem with it, he would have approached me about it right away.

Q. Did the students say anything else?

A. No, not really. They walked away and I went to eat lunch.

Q. Did you hear anything else about the assembly and your patch over the rest of the day?

A. Yeah. People were coming up to me all day. Some of them were saying that that they were happy someone was finally telling it like it is. Other people didn't like it.

Q. Were people talking to you during class?

A. No, nothing in class. Just in the halls and at lunch.

Q. Was the conversation disruptive to your classes?

A. No. People were chatting about it a little before and after class, but once the teachers started class it was normal.

Q. But it was a big deal around the school?

A. Not really. Like I said, a few people said stuff to me, but it didn't really seem to be a huge issue or anything.

Q. You said you were suspended at the end of the day. How did you learn you were suspended?

A. Well, I was in my last class and I got a note that I should go to Mr. Carpenter's office. Mr. Carpenter told me that he thought my actions were disrespectful and inappropriate. He said that other students were distracted and upset by what I'd done, and that I had disrupted the activities of the school. He also told me that I had violated school rules about lewd speech and wearing patches that convey political messages. I was pretty surprised and told him so. I said I thought he was wrong, especially about the lewd thing, because I certainly wasn't intending to be lewd and I didn't think what I said was lewd at all. I knew about the patches rule but I never thought they'd bring it up since students always wear T-shirts and patches and buttons and stuff, and the administration never does anything about it. In fact, I heard that the last time they enforced the rule was before I was even born.

Q. Do other students wear paraphernalia bearing political messages?

A. Oh, yeah, definitely. Many students wore pro-government and pro-surveillance shirts and buttons, and stuff that say things like "I'd Rather Be Waterboarding Terrorists" and "See Something / Say Something" and "Protect America: Arrest Snowden." And none of those kids were ever suspended or anything like that.

Q. Mr. Carpenter told you that you were suspended for breaking the school rules -- not for the viewpoint you expressed. Correct?

A. He might have said that, but all I know is that I was suspended for what I said. The school didn't like what I had to say, some of the other students didn't like it.

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Q. So what about the lewd language? You've testified that the patch said "The NSA Sucks." "Sucks" refers to a sexual act, right?

A. Um, no.

Q. Well then what does it mean, in your opinion?

A. It just means "stinks" or "is lame."

Q. But it is commonly understood to refer to a sexual act, correct?

A. No, not really.

Q. So after your suspension, what happened after you returned to school?

A. Pretty much nothing. A few people said stuff to me, both positive and negative, but it wasn't really a big deal around the school after I got back. I was really embarrassed about being suspended, and I didn't want to talk about it, so no one really bugged me about it.

Q. Are you in college now?

A. No.

Q. Why not?

A. Well, I decided to take a year off and so I'm applying this year.

Q. Why did you decide to take a year off?

A. A lot of it was because of the suspension. I had already applied to colleges when I got suspended, but then I had to update them about the suspension, so I decided to withdraw my applications instead.

Q. Why did you withdraw your applications?

A. I was worried that the suspension would negatively impact my chances for acceptance. So I wanted to wait until I could get the school to withdraw the suspension or until the court case finishes.

Q. Prior to this incident, had you ever gotten into trouble in school?

A. No, never.

Q. What about your performance in school? Were you a good student?

A. Yes. I graduated with a 3.8 GPA.

Q. How did you get along with your classmates?

A. Really well. I mean, that's probably one of the reasons I was elected to student council in the first place. I think like 8 or 9 kids ran for just 2 senior class rep spots, and I got the most votes out of everyone.

Q. And what about your teachers? Did you get along well with them?

A. Of course. Up until the suspension, I always really liked school, my classes, all that stuff.