

**IN THE CIRCUIT COURT, FOURTH JUDICIAL CIRCUIT
IN AND FOR DUVAL COUNTY, FLORIDA**

ADMINISTRATIVE ORDER NO. 2015-4

**RE: COURTHOUSE SECURITY
PHOTOGRAPHY ON DUVAL COUNTY COURTHOUSE GROUNDS**

WHEREAS, the judiciary has a responsibility to maintain the public confidence in the integrity of the American judicial system; and

WHEREAS, a “courthouse serves . . . to provide a locus in which civil and criminal disputes can be adjudicated” and, while being charged with the responsibility of maintaining proper order and decorum, judges have not only the right, but, “indeed, the duty” to limit the “appearance of favoritism in judicial proceedings” and “appearance of political partiality” according to Huminski v. Corsones, 396 F.3d 53, 91 (2d Cir.2005) (quotations omitted); see also United States v. Grace, 461 U.S. 171, 103 S.Ct. 1702, 75 L.Ed.2d 736 (1983); and

WHEREAS, recent disturbing activities have occurred on the grounds of the Duval County Courthouse (hereinafter, “the Courthouse”) involving photography of secure areas on Courthouse grounds, posing a security threat to the Courthouse and a threat to the integrity of the judicial system; and

WHEREAS, for example, on Friday, May 29, 2015, at approximately 10:20 a.m., an individual videotaped numerous persons, including several people attempting to enter the Courthouse, while shouting out that the Court system and the Judges inside the Courthouse were “corrupt.” When officers arrived, the individual stood at the front of the Courthouse, continued to videotape the numerous uniformed law enforcement officers of the Jacksonville Sheriff’s Office (“JSO”), yelling that they should be “ashamed” of themselves. He called them “legalized gang members” and “thugs,” and even threatened to file an internal affairs complaint because one officer did not immediately provide a name and badge number. People witnessing this encounter appeared to be visibly shaken; in fact, numerous credentialed media representatives left the scene. The individual then turned to them, and yelled that the credentialed media members “continue to ignore the proof” that judges are corrupt, “ignoring corruption is supporting corruption”, and that they “should be ashamed of themselves”.

The individual then followed the media representatives to the State Attorney’s fenced-in

parking lot, where he continued to videotape and yell at them. The videotape was later uploaded to YouTube under F-T-G (the last two letters standing for "the government"); and

WHEREAS, this activity created a security threat because it required the time and scarce resources of numerous uniformed JSO officers to leave their posts on Courthouse grounds in order to supervise and monitor the incident. In addition, the individual's actions also publicly denigrated the Court's integrity and core purpose of unbiased and unprejudiced decisions in Duval County as part of the American judicial system; and

WHEREAS, on Thursday, May 28, 2015, during a fire alarm which went off at approximately 12:05 p.m. (noon) inside the Courthouse, the same individual was holding a sign indicating he was disgruntled about a judge's ruling. The individual was videotaping crowds - including Judges, Judicial Assistants, judicial staff, Clerk's Office staff, and law enforcement personnel - during a mandatory evacuation from certain restricted secure exits of the Courthouse. The video filmed conspicuous signs on each side of the garage door that state "Notice - Secure Area - Authorized Personnel Only." The videotape also depicted judges' and other staff members' vehicles parked in the small secure garage located on the street level (underneath the building) while the garage door was open. In addition, the videotape showed the Security Guard's command center inside the garage, which further compromises the security of the garage and the integrity of the Courthouse security.

The videotape included license plates of some of the judges' vehicles and showed some judges driving out of the secure garage, including their faces and their associated vehicles (make, model, year, and license plates). This disclosure puts the judges in a vulnerable position because the videotape is available on the Internet under the F-T-G label. Furthermore, it identifies the Duval County Courthouse. On this date, the individual was videotaping on Courthouse grounds and the Courthouse perimeter sidewalk on the grounds (not the public sidewalk surrounding the Courthouse grounds) when he again provoked law enforcement officers, asking in a loud and belligerent tone for the officers' names and badge numbers, all while the officers were preoccupied with controlling the crowds evacuating the building into the building's perimeter sidewalk and directing "everyone to move across the street." While the officers were busy clearing the crowds safely, the individual filmed the secure Courthouse garage, and one officer asked him to "please remove your camera."

The individual stated the officer had committed “battery” because she “touched” his “property” and he made repeated and hostile demands to her and to another officer that he see her supervisor. The videotape was later uploaded to YouTube under F-T-G and is available for viewing on the Internet; and

WHEREAS, this activity interfered with the orderly and safe administration of the building, the safety of the public and judicial staff evacuating the building and on the perimeter of the Courthouse and the grounds, and threatened the security of all persons parking in the secure garage as well as those driving out of the garage; and

WHEREAS, the Courthouse secure garages on Pearl Street and Broad Street, the adjacent State Attorney’s fenced-in parking lot, and the Courthouse Sally Port, are all secure areas of the Courthouse grounds. See e.g., Mazzetti v. U.S., 518 F.2d 781 (10th Cir. 1975)(holding local rule prohibiting pictures of prisoners being escorted down a stairway to a bus in a parking lot within the environs of a courthouse was not constitutionally overbroad and was not an improper restraint of First Amendment rights of newspaper photographer who took pictures). Therefore, photography in and around such secure areas jeopardizes the safety of the judges, judicial staff, and personnel of the State Attorney’s Office, and compromises the security system in place; and

WHEREAS, pursuant to the Florida Public Records Act, Sections 119.071(4)(d)2.a.(I), c, and d.(I), Florida Statutes, and Rule 2.420, Florida Judicial Administration Rules, expressly adopting confidentiality provisions of Chapter 119 for judicial branch records, certain types of personally identifiable information regarding judges, prosecutors, and other law enforcement officers are exempt from disclosure; and

WHEREAS, courts have “*regularly rejected* the assertion that people who wish to ‘propagandize protests or views have a constitutional right to do so whenever and however and wherever they please.’” U.S. v. Grace, 461 U.S. 171, 177-78, 103 S.Ct. 1702, 75 L.Ed.2d 736 (1983) (quoting Adderley v. FL, 385 U.S. 39, 47–48, 87 S.Ct. 242, 17 L.Ed.2d 149 (1966)); and

WHEREAS, public streets, sidewalks and parks have historically been considered to be “public forums” and have been associated with the free exercise of expressive activities for use of assembly, free exchange of certain ideas and speakers. Huminski v. Corsones, 396 F.3d 53, 89-90 (2d Cir.2005); and

WHEREAS, on the other hand, “Courthouses and courthouse grounds (with the exclusion of public sidewalks surrounding the Courthouse grounds) have uniformly been treated as nonpublic forums for purposes of First Amendment analysis.” Schmidter v. State, 103 So. 3d 263, 270 (Fla. 5th DCA 2012) (emphasis added), citing U.S. v. Grace, 461 U.S. at 177-79 (holding the Supreme Court building and its grounds other than public sidewalks are not public forums); Huminski, 396 F.3d at 90–91; and

WHEREAS, the Courthouse, including its grounds, is a nonpublic forum and has “not been traditionally held open for the use of the public for expressive activities.” Huminski 391 F.3d at 90-91, citing U.S. v. Grace, 461 U.S. at 178; and

WHEREAS, likewise, parking lots adjacent to the Courthouse and the courthouse grounds generally are nonpublic forums. Huminski 391 F.3d at 91. “Other than abutting public streets and sidewalks, the parking lots do not fall within the class of traditional public forums - they are not ‘historically associated with the free exercise of expressive activities,’ as are ‘streets, sidewalks, and parks.” Id. citing U.S. v. Grace, 461 U.S. at 177; and

WHEREAS, pursuant to Article V, Section 2(d), Florida Constitution, Section 43.26(2)(e), Florida Statutes, and Rule 2.215(b), Florida Rules of Judicial Administration, the chief judge of each judicial circuit is charged with the authority to enter administrative orders along with the power to “do everything necessary to promote the prompt and efficient administration of justice in the courts over which he or she is chief judge” and to regulate the use of all court facilities; and

WHEREAS, “[a]n integral part of any court's duty to administer justice and fairly adjudicate disputes is to ensure that all parties have the opportunity to advance their cause in an atmosphere of safety, decorum, and fairness” In re Mone, 719 A. 2d 626, 632 (N.H. 1998) (citations omitted); and

WHEREAS, it is the court's responsibility “to oversee the operations of the judicial branch for the purposes of maintaining public confidence in the administration of justice” and to “maintain an independent judiciary so that the adjudication of individual controversies is fair and remains uninfluenced by outside forces.” Id. at 633 (citations omitted); and

WHEREAS, over 91,600 people use the Courthouse each month, including many citizens who have no choice but to use the facilities in search of justice, in response to a subpoena, or conducting other business, as well as many people who serve the public and work in the judicial

system; and

WHEREAS, “court security officers who assist the courts in providing a safe and secure forum for litigants, court staff, witnesses, jurors, and the public” play an integral role and are essential to the court’s most fundamental function of administering justice and fairly adjudicating disputes. Id. at 632; and

WHEREAS, “[w]ithout security the public's confidence in the integrity of the judicial system is threatened. The proper administration of justice requires that courts operate in a safe and secure environment”. Id. (quoting Bd. of Comm'rs, Weld Co. v. 19th Jud. Dist., 895 P.2d 545, 548-49 (Colo. 1995)); and

WHEREAS, for security purposes, it is in the best interest of the citizens of the Fourth Judicial Circuit, and all visitors to the Courthouse, that security officers are able to devote their resources, focus, and attention on protecting the safety of the persons who use the Courthouse, rather than controlling disturbances created by unreasonable, unprotected conduct that is inappropriate when considering its time, place and manner; and

WHEREAS, reasonable restrictions are necessary to ensure the safety of the Courthouse grounds, to protect the security of the Judges, Judicial Assistants, judicial staff, Clerk’s Office staff, and law enforcement personnel, and to minimize activities which unreasonably disrupt, interrupt, and interfere with the fair and orderly conduct of the judiciary; and

WHEREAS, any such restriction is being narrowly drawn to achieve that end.

NOW THEREFORE, by the authority vested in me as the Chief Judge of the Fourth Judicial Circuit and pursuant to the Florida Rules of Judicial Administration, it is

ORDERED that:

1. This Order vacates and supersedes Administrative Order 2015-3 entered on July 1, 2015.
2. For the purposes of this Order, the term “photography” shall include video recording, digital or otherwise, filming, or capturing by any means, any image by any device whatsoever.
3. The term “Duval County Courthouse grounds” herein shall apply to the exterior of the Duval County Courthouse at 501 West Adams Street, Jacksonville, Florida, 32202; the lawn area in front of the Courthouse facing Adams Street, perimeter sidewalk leading from Adams Street to the front of the Courthouse, the front steps and the entrance of the Courthouse; the garages on Broad

Street, on Pearl Street, and the Sally Port entrance; the adjacent building known as the "State Attorney's Office" which has an overpass bridge leading directly into the Courthouse; all perimeter sidewalks around the Courthouse (on Adams Street, Duval Street, Broad Street and Pearl Street), as well as around the State Attorney's Office building (on Monroe Street, Pearl Street, Julia Street, and Duval Street); and the fenced-in garage of the State Attorney's Office building directly across the street from the secure parking garage.

4. The *public* sidewalks along Adams Street; *across* the street from the Duval County Courthouse on Broad Street; and *across* the street from the Duval County Courthouse on Duval Street; are all excluded from the designation of "Duval County Courthouse grounds".

5. Demonstrations that unreasonably disrupt, disturb, interrupt, and interfere with the impartial and orderly conduct of the judiciary, or the lawful duties of JSO or other security officers, shall be prohibited on the Duval County Courthouse grounds.

6. Photography of secure locations on the Duval County Courthouse grounds, such as the secure parking garages (under the Courthouse at the Pearl Street and Broad Street entrance), the State Attorney's Office garage (on Pearl Street) and the Sally Port, and all security features of the Duval County Courthouse, including entrances to and exits from the Courthouse, shall be prohibited for the protection and security of the judiciary and to avoid breaching the security systems, or revealing the security systems, or security procedures of the Courthouse in place.

7. Any person engaging in the type of disruptive conduct as indicated in this Order may be found in contempt of Court.

8. The Jacksonville Sheriff's Office shall give any person who is violating any provision of this Order a copy of this Order and advise such person of the relevant restrictions herein.

9. In addition, law enforcement personnel shall instruct anyone violating the provisions of this Order to cease and desist immediately.

10. Any person who is observed continuing to engage in conduct that is in violation of this Order after having received a copy of the Order and being instructed to cease and desist by law enforcement, may face penalties including, but not limited to, injunctive relief, confinement, a monetary fine, or contempt.

11. This Administrative Order No. 2015-4 shall not prohibit, impede, obstruct, or interfere

with credentialed media representatives' ability to use the front Courthouse steps and any exterior areas where the Courthouse has traditionally been used as a backdrop while performing news gathering, photographing, filming, recording, and broadcasting functions consistent with journalistic practices.

12. Furthermore, this Administrative Order No. 2015-4 shall not, in any way, be construed as superseding or contradicting any of the provisions of the Second Amended Administrative Order No. 2013-17, establishing the policies and location of peaceful demonstrators, which has been previously entered on November 20, 2014.

13. This Administrative Order No. 2015-4 shall be recorded by the Clerk of the Court, in the Official Records of Duval County, in the State of Florida, and shall take effect immediately. All terms and conditions set forth herein shall remain in full force and effect unless and until otherwise ordered by the Court.

DONE AND ORDERED in Chambers at Jacksonville, Duval County, Florida, this 7th day of July, 2015.



MARK H. MAHON
CHIEF JUDGE

cc: All Judges in the Fourth Judicial Circuit

cc: All Judges in the Fourth Judicial Circuit
Senior Judges in the Fourth Judicial Circuit
The Honorable Robert M. Foster, Administrative Judge, Nassau County
The Honorable John H. Skinner, Administrative Judge, Clay County
All Magistrates in the Fourth Judicial Circuit
The Honorable Matthew A. Shirk, Esq., Public Defender
The Honorable Angela B. Corey, Esq., State Attorney
The Honorable Ronnie Fussell, Clerk of the Circuit Court, Duval County
The Honorable Tara S. Green, Clerk of the Circuit Court, Clay County
The Honorable John A. Crawford, Clerk of the Circuit Court, Nassau County
The Honorable Jason R. Gabriel, Esq., General Counsel
The Honorable Mike Williams, Sheriff, Jacksonville Sheriff's Office
The Honorable Rick Beseler, Sheriff, Clay County
The Honorable Bill Leeper, Sheriff, Nassau County
Lt. Mark Cowan, Clay County Sheriff's Office Courthouse Security
Major Steve Weintraub, Duval County Courthouse Security
Sgt. Kenneth Davis, Supervisor of Courthouse Security, Nassau County Sheriff's Office
WTEV CBS 47, WAWS FOX 30, WJCT PUBLIC TV, WJXT-TV4, WJXX-ABC25, WTLV-TV12
Margaret Jones, Office of the Clerk of Court, Clay County
Carla Colson, Office of the Clerk of Court, Nassau County
Jim Kowalski, Esq., Executive Director JALA
Eugene Nichols, Esq., Pres., Florida Ass'n of Crim. Defense Lawyers (Local Chapter)
Charles Bishop, Family Court Manager, Fourth Circuit
Joseph G. Stelma, Jr., Fourth Judicial Circuit Trial Court Administrator
Eve Janocko, Chief Deputy Trial Court Administrator
Caroline C. Emery, Esq., Court Counsel
The Jacksonville Bar Association
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