

Vermont Supreme Court Acquits Tyler Smith Waters For Texting His Former Partner

Tyler Smith Waters has been acquitted by the Vermont Supreme Court of his conviction of violating an abuse-prevention order. The Court ruled sending text messages to his former partner was not harassment.

In 2007 Waters had a child with a woman he had lived with for several years in Brattleboro, Vermont. When they split-up she obtained an abuse-prevention order in October 2009 that barred Waters from having unauthorized physical contact with her, but it specifically allowed that he “may have contact by telephone only.” The order placed no limit on the frequency, timing or subject matter of his contact with the woman by telephone. She made no allegation Water abused their two-year-old child, and the order authorized him to have telephone contact with his child on Friday evenings, and provided for weekly contact between Waters and his child.

Waters abided by the order. He only contacted his former partner by telephone and she did not seek to have the order modified.

In December 2009 the woman complained to police that during the previous month Waters called her about once a day, and he sent her about one text message a day.

Waters was charged with violating the protection order based on the prosecutor’s contention his telephone calls and text messages constituted harassment that violated the order.

During Waters’ trial in 2011 the prosecution introduced evidence that during a 37-day period of time Waters called his child’s mother about 30 times and he sent her 37 text messages. Typical of Waters’ [texts were](#): “Hi. Getting in. It’s after work. Call me. Not sure what phone you got. I love you two. Wish to end no-contact soon. Let’s be more normal. No more courts and such. What you think?”; and, “Have not any better friend than u. All alone all the time. Wish wuz with u 2. Call me if you need. Till Fri.”

Waters’ former partner testified the texts were unwelcome and she did not think he was supposed to communicate with her. She

also [described his](#) calls and texts “as irritating rather than annoying.”

After the prosecution rested its case Waters’ lawyer made a motion for a judgment of acquittal arguing that no evidence had been introduced Waters violated the protection order. His lawyer argued the order specifically allowed telephone contact without limit, [and Waters](#) “did not threaten harm to any person or property in any of the texts, and none of the texts contained language that was profane, threatening, intimidating, or violent.” In denying the motion Windham County Superior Court Judge David Sntag ruled a reasonable person could be “tormented” by Waters’ behavior.

Waters did not testify and his lawyer rested without presenting a defense.

The judge instructed the jury that to [harass a person](#) “means to intentionally engage in a course of conduct directed at that person which would cause a reasonable person to be annoyed, irritated, tormented, or alarmed.” Waters’ lawyer did not object to the judge’s instruction. The jury submitted a question to the judge during its deliberations requesting the legal definition of “tormented” and “annoyed.” The judge replied the jury was to apply “common definitions.”

The jury convicted Waters, and the judge sentenced him to two years in prison.

Waters appealed, arguing the judge’s jury instruction on harassment was overly broad, and the evidence of harassment was insufficient to convict Waters of violating the abuse-prevention order.

On November 15, 2013 the Vermont Supreme Court ruled in a majority opinion the trial judge prejudicially erred denying Waters’ motion for acquittal because his conduct was not “harassment” in violation of the abuse-prevention order.

The [Court observed](#) that if the protection order had barred all contact of any kind between Waters and his former partner and their child “this would have been an open-and-shut case.” Since it didn’t, the case hinged on what constitutes “harassment” in violation of the law. The Court determined that the applicable definition under Vermont law is:

¶ 24. “Harassing” means actions directed at a specific person, or a member of the person’s family, which would cause

a reasonable person to fear unlawful sexual conduct, unlawful restraint, bodily injury, or death, including but not limited to verbal threats, written, telephonic, or other electronically communicated threats, vandalism, or physical contact without consent. (13 V.S.A. § 1061(4))

The Court [also determined](#) that although Waters’ trial lawyer didn’t object to the ‘harassment’ jury instruction, “that the error is sufficiently clear to amount to plain error” because the jury was misled to think Waters could be convicted if it found his conduct merely “annoying” or “irritating.”

Having determined what constitutes harassment and that the jury instruction was prejudicial to Waters’ right to a fair trial, [the Court concluded](#):

¶ 34. But we cannot say that the communications amounted to threats. The State relies primarily on the frequency of defendant’s communications to support its charge. In the face of an order permitting telephone contact without restriction as to frequency, timing, or subject matter, the frequency of defendant’s texts by itself cannot support an inference that the conduct was threatening. [In this day and age, one text per day, on average, is not a shocking number](#), especially given the lack of clear evidence that complainant asked defendant to stop texting her before he sent many of those texts. As of spring 2011, 18-29 year-old cell-phone owners send and receive text messages at an average rate of 87.7 messages a day, and 95% of this age group use the text messaging feature on their phones. Aaron Smith, Pew Inst., Americans and Text Messaging 3 (2011).

¶ 35. Given that we conclude that a jury instructed about the definition of “harassment” in the RFA opinion in a way that is consistent with this opinion could not convict defendant of violating the abuse-prevention order on the basis of the evidence presented below, convicting defendant of a felony on the basis of an overly broad instruction would undermine the fairness of the judicial process.

Defendant’s conviction is reversed and the matter is remanded for entry of a judgment of acquittal.

[Click her to read](#) the ruling in *State of Vermont v. Tyler Smith Waters*, 2013 VT 109 (VT Sup Ct., 11-15-2013).

Waters completed serving his sentence be-

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Windham County Courthouse in Newfane, Vermont.

“Compulsive Liar” Jailed For Falsely Accusing Ex-Boyfriend Of Rape

Natasha Foster, a 23-year-old “compulsive liar” who falsely accused a former boyfriend of rape after he ended their on-off relationship by text, [was sentenced](#) in Antrim, Northern Ireland to three months in jail.

Foster, who admitted a charge of perverting the course of public justice, is the third woman in Northern Ireland to be sentenced for making similar claims. In 2010 Newtownabbey woman Lindsay Gorman was jailed for nine months, while in January 2013 a Dromore woman, Belinda Poots Sneddon, was given a two-year suspended jail term plus a £1,000 fine.

Antrim Crown Court Judge Desmond Marrinan [told Foster that](#) when people like her “act in this wicked way and cry rape falsely” it not only increased the plight of women who have been victims of this distasteful crime, it may also create doubt in the minds

of the public and may also affect the minds of a jury whose job it is to decide on such cases. He added that such false claims also posed significant and potential issues as they might also be seen as an attack on, and damage the criminal justice system itself.

Judge Marrinan said it was a difficult case when it came to deciding what was a fair, just and proportionate sentence. However, while a sentence of six months, if not longer, would be justified, given the mitigating factors, such as her genuine remorse, and the fact she was now a young mother, he would reduce the sentence to three months.

Judge Marrinan said that in November 2011, Foster, who had a new boyfriend, still harbored the hope of a reconciliation with her former lover, “Mr X.” He had called at her home to collect some belongings, during which ‘something happened’, but a short time later Mr X sent a text message indicating he was not going to resume the relationship.

While the judge said while this may well be described as a “somewhat ungallant act,” it

did not warrant or justify what Foster did next, which was to inform her new boyfriend, and later the police, that Mr X had raped her.

Judge Marrinan said defence lawyer Michael Smith had described Foster as a ‘woman scorned’, he saw her behavior as a mixture of impulsivity, anger and hurt and a sense of rejection, which resulted in Mr X being arrested and spending nearly 12 hours in custody. However, two days later Foster went to police and confessed that any sex was consensual.

Foster began serving her sentence after the sentencing hearing on November 25, 2013. She will serve half of her three month term in custody, after which she will serve the same period on supervised parole.

Source: [‘Wicked’ Natasha Foster](#) to spend Christmas in jail for ‘crying rape’, *Belfast Telegraph*, Nov. 25, 2013



Natasha Foster
(Belfast Telegraph)

Compensation Ordered For Man Wrongly Convicted Of Attempted Culpable Homicide

India’s High Court in Kerala has ordered that Muraleedharan R U be provided with compensation for his wrongful conviction of attempted culpable homicide.

In 2004 Muraleedharan was an employee of the Changaramkari temple in Mararikulam, on India’s southwest coast. On September 27, 2004 he got into a fight with a neighbor who used Muraleedharan’s motorcycle registration number to file a false motor accident claim. Police arrested both men, charging Muraleedharan with an attempt to commit culpable homicide, and his neighbor

with voluntarily causing hurt by a dangerous weapon.

Although the charges were dropped against the neighbor, Muraleedharan was tried and convicted of his charge after a bench trial. He was sentenced to three years imprisonment and a fine of Rs10,000 (\$160 in 2013) by the trial court.

Muraleedharan appealed on the basis the evidence didn’t support he had attempted to commit culpable homicide, and he was charged [because he was](#) “targeted by the police for opposing the insurance racket” his neighbor was involved in. The appeals court ordered the Inspector General’s Office to investigate Muraleedharan’s claims.

The Inspector General’s post-conviction report detailed that Muraleedharan’s neighbor filed two false accident cases with different police offices to claim insurance for an injury he allegedly suffered after his motorcycle hit a bicycle on February 17, 2003. He submitted different medical certificates issued by doctors with the Alappuzha medical college hospital to support his insurance claims. One of those claims involved using the registration number of Muraleedharan’s motorcycle. The IG’s report identified several police officers involved in the insurance scam and recommended action against



Kerala High Court building
in Kochi, Kerala, India

them. When police officials were notified they responded that the three officers involved directly in the inquiry had retired. The IG’s report also detailed that no action was taken on Muraleedharan’s insurance fraud claims by the trial court, the medical superintendent at the Cherthala hospital where the men were treated, the district police chief, the DSP, and the director-general of police. The IG’s report further documented that Muraleedharan shouldn’t have been charged with an attempt to commit culpable homicide because his neighbor’s injury from their altercation was not life-threatening.

Based on the IG’s report Muraleedharan’s conviction was quashed in July 2011.

Muraleedharan then filed a claim for compensation for his wrongful imprisonment. After it was denied by the lower court, in November 2013 the High Court in Kerala [ordered the](#) chief secretary and director general of police in Charamangalam, Alappuzha to file affidavits on the compensation to be paid Muraleedharan.

Sources: [HC orders compensation](#) for man wrongly convicted, *Times of India*, November 15, 2013

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fore the Court issued its ruling and his appeal lawyer, Vermont Defender General Matthew Valerio, [told the Brattleboro Reformer](#), “we don’t know where he is now.”

Sources:

[State of Vermont](#) v. Tyler Smith Waters, 2013 VT 109 (VT Sup Ct., 11-15-2013)

[Texts, harassment at issue in local case](#), *Brattleboro Reformer*, November 19, 2013