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On February 18, 2015 the U.S. Court of Military Commission Review issued its decision in *David M. Hicks v. USA*, No. 13-004 (U.S. Ct. Mil. Comm. Review, 2-18-2015). The Court first ruled that irrespective of the arguments related to Hicks' possible waiver of his right to appeal, the Court had *de novo* power to [review his appeal](#) because "this Court enjoys broad authority under 10 U.S.C. § 950f(d) to "affirm only such findings of guilty, and the sentence or such part or amount of the sentence, as the Court finds correct in law and fact and determines, on the basis of the entire record, should be approved." Then after considering the merits of Hicks' appeal, the Court cited the *Bahlul* case in ruling, "The findings of guilty are set aside and dismissed, and appellant's sentence is vacated."

David Hicks, now 39, [told the Guardian newspaper](#) after he learned of the court's ruling:

"Obviously it feels good that I'm an innocent man. I don't believe it should be surprising to anyone considering the circumstances over the years. ... the American and Australian authorities were aware of my innocence from day one, It is just unfortunate that because of politics, I was subjected to five and a half years of physical and psychological torture that I will now live with always."

[Click here to read the ruling](#) in *David M. Hicks v. USA*, No. 13-004 (U.S. Ct. Mil. Comm. Review, 2-18-2015).

Hicks' autobiography "Guantanamo: My Journey" is not available from Amazon.com in the United States. However, the electronic Kindle version is available from Amazon's Australian website [by clicking here](#).

Source:

[David M. Hicks v. USA](#), No. 13-004 (U.S. Ct. Mil. Comm. Review, 2-18-2015)

[David Hicks](#), Wikipedia.org (last visited 2-18-2015)

[Hicks to appeal](#), then sue over conviction, By Phillip Coorey and Natalie O'Brien, *The Age*, October 17, 2012

[U.S. Acknowledges Conviction of David Hicks](#), Guantanamo Detainee, Should Not Stand, By Raymond Bonner (Special to ProPublica), ProPublica.org, Jan. 28, 2015

[David Hicks](#): It feels good to be an innocent man, By Daniel Hurst, Michael Safi and agencies, *The Guardian* (Australia), February 19, 2015

[Al Bahlul v. United States](#), 767 F.3d 1 (D.C. Cir. 2014) (en banc)

Gary Alan Mauz Exonerated Of Disorderly Conduct For Calling Neighbor A "Whore"

On June 23, 2015 a three-judge panel of the Pennsylvania Superior Court [overturned the disorderly](#) conduct conviction of Gary Alan Mauz for calling his neighbor a "whore," and making other derogatory comments to her. The appeals court [noted that](#), "We find Appellant's comments reprehensible but not criminal."

At about 10 p.m. on April 24, 2013 Victoria Battistini was in the backyard of her home in Warrington, Pennsylvania when she saw from a street light that her neighbor Mauz was standing at the front door of his home. Battistini had a fenced backyard and Mauz' house was diagonal from her house.

Battistini heard Mauz directing comments toward her that included, her "fat mom humps [her] dog," and "whore." The two were separated by Battistini's backyard fence and they were not physically close to each other.

The next day Battistini called the police, reporting that Mauz' comments made her feel "uncomfortable and scared." The officer that responded cited Mauz for misdemeanor disorderly conduct on the basis he used obscene language towards Battistini, and he had created a hazardous or physically offensive condition for her.

Mauz had a bench trial during which the prosecution's only witnesses were Battistini and the investigating officer. Mauz was found guilty on June 20, 2014 of disorderly conduct for making a hazardous or physically offensive condition under 18 Pa.C.S.A. § 5503(a)(4). He was fined \$50 and ordered to pay court costs.

Mauz appealed, arguing the State introduced insufficient evidence to sustain his disorderly conduct conviction.

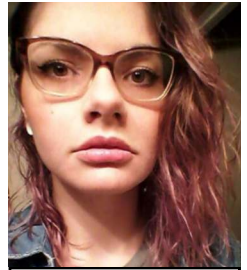
The Pennsylvania Superior Court's [unanimous ruling](#) on June 23, 2015 acquitted Mauz of his disorderly conduct conviction. The Court's ruling in *Commonwealth of Pennsylvania vs. Gary Alan Mauz*, No. 2068 EDA 2014 (Superior Court of Pennsylvania, 6-23-2014) [states in part](#):

Appellant argues the Commonwealth produced insufficient evidence to sustain a conviction under § 5503(a)(4).

...

"The offense of disorderly conduct is not

intended as a catch-all for every act which annoys or disturbs people; it is not to be used as a dragnet for all the irritations which breed in the ferment of a community." ... "It has a specific purpose; it has a definite objective, it is intended to preserve the **public** peace."



Victoria Battistini (Victoria Battistini's Facebook page)

... We concluded the defendant's action did not jeopardize "the public peace." In making statements that were "briefly irritating", the defendant did not commit disorderly conduct.

... we believe the evidence is insufficient to establish that Appellant acted with the intent to cause **public** annoyance, inconvenience or alarm.

Furthermore, we do not believe Appellant recklessly created a risk of a hazardous or physically offensive condition under § 5503(a)(4). ... Here, Appellant made a few brief, offensive remarks to Battistini and then retreated into his home. The two were separated by a fence, and the record fails to reflect that anyone else heard Appellant's statements.

We also do not believe Appellant's conduct created a physically offensive condition ... Appellant [] did not invade Battistini's physical privacy, as the encounter occurred when she was present in her yard and visible to Appellant from his own yard.

... For all of the foregoing reasons, we conclude the record ... does not contain sufficient evidence to support Appellant's conviction under § 5503(a)(4). We therefore vacate the judgment of sentence. (Note: The words in bold are in the judge's opinion)

Mauz' retrial is barred by double jeopardy.

[Click here to read the ruling](#) exonerating Gary Mauz in *Commonwealth of Pennsylvania vs. Gary Alan Mauz*, No. 2068 EDA 2014 (Superior Court of Pennsylvania, 6-23-2014).

Source:

[Commonwealth of Pennsylvania vs. Gary Alan Mauz](#), No. 2068 EDA 2014 (Superior Court of Pennsylvania, 6-23-2014)

[Pennsylvania judge vacates](#) disorderly conduct conviction of man who called neighbor a 'whore', By Joel Landau, *New York Daily News*, June 24, 2015

