

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI

LAUREN STOKES,

Plaintiff,

v.

GLENN BOYCE, CHANCELLOR OF THE
UNIVERSITY OF MISSISSIPPI, in his official
and personal capacities,

Defendants.

Case No. 3:25-cv-307-GHD-RP

District Judge Glen H. Davidson

Magistrate Judge Roy Percy

RESPONSE TO MOTION TO QUASH

Lauren Stokes, through undersigned counsel, respectfully responds to the “Necessitous and Urgent Motion to Quash” [40] that Glenn Boyce filed yesterday.

Summary

Boyce does not want to testify in open court. He delayed his response to Stokes’s motion, delayed the hearing on the motion, did not show up for the hearing, and withheld documents before and even after it. He now moves to quash a subpoena to compel his appearance in court this Friday because he says he is leaving town and will not be back until March.

If Boyce stands by his decision to terminate Stokes, he should appear to defend it. He is the only named defendant in this lawsuit, and last Friday’s hearing was reset and relocated to a time and place convenient for him. He did not appear and his counsel did not call any witnesses in his defense. The hearing has ended, but the Court invited Stokes to subpoena Boyce to appear this Friday, if she desired. Stokes served Boyce with a subpoena, as invited. She observed,

however, that Boyce has the burden of proof. She would have examined him if he had appeared in court, but if he has nothing to say for himself, so be it.

Boyce's motion to quash is more of the same. Stokes does not wish to further inconvenience the Court or further delay resolution of this matter. Stokes has already proved her case. There is nothing that Boyce could truthfully say that would contradict the evidence already presented. He had no justification for terminating Stokes, much less sending an email to all faculty, staff, and students condemning her and chilling speech on campus.

Stokes does not wish the Court to rearrange its schedule to accommodate Boyce again. If Boyce will not appear this Friday, notwithstanding the Court's remarks at last Friday's hearing, Stokes does not wish to put the Court in the position of having to compel him.

For the record, Stokes offers the following additional context below.

Background

Stokes's motion

Stokes filed this lawsuit on October 21 [1] and moved for a preliminary injunction on November 7 [5]. Ms. Mills (for Stokes) and Mr. Mayo (for Boyce) spoke shortly after. Mr. Mayo told Ms. Mills that he had surgery on December 11 that would make a December hearing difficult. Ms. Mills, believing that Mr. Mayo was unavailable for a December hearing, gave Mr. Mayo more than a month to file Boyce's response to Stokes's motion.

Boyce filed his response to Stokes's motion on December 10. [17] The response referred to "a large volume of emails, text messages, and social media posts" but did not provide them.¹ [18 at 4]

¹ The response did attach a letter dated September 23 [17-5], which the University purported to have sent Stokes, in support of its argument that nothing could be done now because Stokes had "waited" too long to ask for reinstatement. [18 at 15] As shown at the hearing, Stokes did not receive any letter until October 9. The letter dated

Stokes filed a reply to Boyce on December 17. [21]

On December 18, Mr. Mayo told Ms. Mills that he had not had surgery on December 11 as represented but instead had moved the surgery to January. Meanwhile, on December 19, the Court set a hearing for January 12.

On December 22, Boyce filed a “necessitous and urgent” motion that asked that the hearing be continued to February 13. [23] Among other things, that filing represented: “The Chancellor has two meetings set for January 12, one on campus with President of the Southern Association of Colleges and Schools (SACS), the University’s accrediting body, and the other on campus or in Memphis with a major donor about a substantial gift to the law school. The Chancellor is available for the hearing on February 13.” [23 at ¶8] An additional filing on December 29 further represented: “January 12 presents scheduling issues for Defendant Chancellor Glenn Boyce, Vice Chancellor Lisa Stone, and the Chancellor’s lead counsel, with all available for a hearing on February 13.” [26]

The Court assented, and the hearing was moved to February 13.

Public records requests

On January 8, Ms. Mills emailed Mr. Mayo and Mr. Watkins to ask for “the emails/calls etc. to which your filings refer.”² She advised that she had prepared public records requests for the information. Mr. Watkins directed her to make her requests of the University. Ms. Mills made the requests of the University the same day.

September 23 strangely appears to have been backdated. Boyce did not call any witnesses at the hearing, so there was no one to ask to explain.

² Because Boyce separately moved for qualified immunity [16], discovery in this case was automatically stayed. [19] Public records requests were Stokes’s only means of obtaining information that Boyce did not voluntarily provide.

On February 12, the day before the February 13 hearing, the University informed Ms. Mills that it had compiled records responsive to her requests and instructed her to mail a check for \$694 to the University, after which it would produce the records to her.

February 13

The Court's hearing was February 13. Stokes's counsel, Ms. Mills and Ms. Bass, called seven witnesses (Stokes and faculty, staff, and students from the University) for Stokes.

The attached excerpt from the transcript of the hearing reflects that Ms. Mills then told the Court: "Your Honor, we intended to call the defendant, Glenn Boyce, but he's not here that I'm aware." Mr. Mayo affirmed: "He's not here right now." Ms. Mills responded: "Okay. I can wait to see if he appears for the defense. If he doesn't I would ask for an opportunity to address that at the end of the hearing. Otherwise, we rest."

Mr. Mayo then complained that Stokes had not subpoenaed Boyce to appear. Ms. Mills responded: "[H]e is the named defendant. When we discussed these hearing dates, in addition to other reasons, I was told we would have to move the hearing so that witnesses could be here, which I presumed meant the defendant himself. But be that as it is, it's fine by me."

The Court answered simply: "Let's see if the defendant attends the hearing today. Do you intend to call him Mr. Mayo?" Mr. Mayo asked for a few minutes to consider. When he returned, he said he did not. The Court then asked: "Now, do you have proof you wish to put on at this juncture?" Mr. Mayo said he did not.

The Court asked Ms. Mills: "How does that pronouncement affect your position?" She responded: "[I]f this is the close of the hearing and it will not be dragged out ... Let's end it, and it is what it is. The university has the burden of proof. It hasn't produced any of the items on which it relied in Glenn Boyce's declaration. None of the e-mails. None of the telephone calls.

It won't tell us who the important public officials were who allegedly told Glenn Boyce to fire Lauren Stokes. Accepting that it's the university's burden of proof – and, in my opinion, it has not carried it, and the fact that he hasn't even shown up underlines that – I'm satisfied if this is the conclusion of the hearing.”

The Court recessed “to consider.” When it returned, it advised: “Now, if the movant, Ms. Stokes, desires to call the defendant as a witness, I'll ask that if – you issue a subpoena for him to appear next Friday.” Mr. Mayo responded: “I don't know where the chancellor will be next Friday, but I can find out.” The Court replied: “Well, find out. If the movant intends to call him as a witness, she will be permitted to issue a subpoena for him. And I assume that he would not be very hard to find.”

The weekend

Friday evening, Mr. Watkins emailed Ms. Mills and Ms. Bass. He said: “We're not entirely clear on the Court's instructions about the Chancellor's testimony.” He asked if there was a “mutually agreeable time” for it.

On Saturday Ms. Mills responded: “We understood the court to say next Friday, which we took to mean the same time, same place. We've prepared a subpoena consistent with that. We presume the court considered its calendar and confirmed its availability before it proposed next Friday. We don't intend to ask it to rearrange its schedule for our benefit. But if you do, let us know. We might not object.” Ms. Mills then asked: “Do you accept service?”

Mr. Mayo replied: “[T]he Chancellor is out of town next Friday. He leaves on Tuesday afternoon and will not return until the first week of March.” Mr. Mayo advised “The Chancellor is available for a deposition in our office on Monday afternoon at 2:00pm or Tuesday morning at

9:00am. ... If you serve the Chancellor with a subpoena to appear next Friday (for a hearing or a deposition), we will necessarily move to quash the subpoena.” Mr. Mayo did not accept service.

Meanwhile Ms. Mills and Ms. Bass notified the Court that they were “deciding whether they still wish to examine Boyce in the light of his counsel’s failure to call any witnesses for Boyce at yesterday’s hearing.” They emphasized that they “do not wish to inconvenience the Court by requiring it to return to Oxford to reopen the hearing unnecessarily.” They advised, however, that, “[i]n the meantime, out of an abundance of caution, they intend to serve the attached subpoena,” and “[i]f they decide to withdraw it, they will promptly alert the Court.” [36]

On Sunday, consistent with those representations, they served Boyce with a subpoena to appear this Friday. [38]

February 16

On Monday (yesterday), Boyce moved to quash the subpoena. In his motion, Boyce laments that Stokes did not subpoena him to appear on February 13 and “never asked his counsel to secure his attendance at the hearing despite being aware that he was not at the courthouse.” [40 at 2]

Also on Monday (yesterday), Stokes’s counsel received records responsive to the public records requests. Those records are not elucidating. The University says it withheld records on the general basis that they are privileged or exempt from disclosure, but it did not say how many records it withheld, and it did not describe what it withheld. For what it is worth, the records Stokes’s counsel has reviewed do not appear to identify the important “public officials” who Boyce says told him to “take action.”

Takeaways

Stokes did not put Boyce in this position. Boyce requested the February 13 hearing date. He did not appear. Had he appeared, Stokes's counsel would have examined him.

The Court invited Stokes to subpoena Boyce to appear this Friday. Having learned on Saturday that he is leaving town Tuesday, Stokes could not waste time deciding what to do. She served him promptly.

There is no reason to quash the subpoena, and Boyce does not offer one. He says he is unavailable, but his unavailability is not anyone else's problem now. Respectfully, the Court and Stokes and her counsel have other things they could be doing, too.

Boyce's attitude toward these proceedings is indicative of how he treated a beloved employee on September 11. The matters at hand (one employee's livelihood and dignity; an entire faculty, staff, and student body's freedom of speech) are no consequence to him. They are matters of inconvenience, that's all.

Be that as it may, it remains that Stokes has already proved her case. She does not need Boyce's testimony this Friday. Stokes will not require the Court to decide whether to accommodate Boyce again. She does not wish to delay a resolution of her motion. If it is all the same to the Court, Stokes will withdraw the subpoena. She will have an opportunity to examine Boyce soon enough, and that examination will be more meaningful with the benefit of full discovery.

Respectfully submitted,

/s/ Alysson Mills

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CERTIFICATE OF SERVICE

I certify that I electronically filed the foregoing with the Clerk of Court using the ECF system which sent notification of filing to all counsel of record.

/s/ Alysson Mills

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