

17-4023(L)

United States Court of Appeals  
*for the*  
Second Circuit

Eliyahu Mirlis,

Plaintiff-Appellee,

Lawrence Dressler,

Interested Party-Appellee

v.

Daniel Greer, Rabbi, Yeshiva of New Haven, Inc.,

Defendants-Appellants

Aviad Hack,

Appellant

Gan School, Inc., F.O.H., Inc., Edgewood Village, Inc.,  
Edgewood Elm Village, Inc.,

Defendants

---

ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT

**BRIEF FOR APPELLEE LAWRENCE DRESSLER**

Lawrence Dressler, Pro Se

**JURISDICTION STATEMENT PURSUANT TO RULE 28(a)(4) F.R.A.P.**

The Appellee Lawrence Dressler is satisfied with the Jurisdiction Statement set forth in the appellate briefs filed by the Appellants.

**ISSUE PRESENTED PURSUANT TO RULE 28(a)(5) F.R.A.P.**

The Appellee Lawrence Dressler is satisfied with the Issue Presented Statement set forth in the appellate briefs filed by the Appellants.

**STATEMENT OF THE CASE PURSUANT TO RULE 28(a)(6) F.R.A.P**

The Appellee Lawrence Dressler is satisfied with the Concise Statement of the Case set forth in the appellate briefs filed by the Appellants.

**SUMMARY OF THE ARGUMENT PURSUANT TO Rule 28(a)(7) F.R.A.P.**

Aviad Hack, while represented by counsel, purposefully avoided the service of a subpoena to appear at trial on multiple occasions, at one point running out of a public school classroom full of his students. Overturning the District Court decision would amount to an approval of Aviad Hacks disrespect for the legal process and encourage others to engage in similar behavior.

Aviad Hack testified against Defendants Yeshiva of New Haven, Inc. and Daniel Greer. Aviad Hack's testimony consisted largely of admissions that he was grossly negligent in his role as Dean of Students at the Yeshiva of New Haven, Inc. in failing to report the long term sexual abuse of Eli Mirlis. The only reason Aviad

Hack testified against the Defendants is because Aviad Hack was originally named as a Defendant in a prior unfiled State court cause of action commenced by Eli Mirlis.

The public release of the video deposition of Aviad Hack would encourage other victims to report sexual abuse. Aviad Hack, a teacher, a rabbi, an authority figure and a graduate of Yale University, testified about how he was victimized by a fellow authority figure, graduate of Yale, and rabbi whom he “revered.” If a man of Aviad Hack’s education, stature, and strong family background could fall prey to child sexual abuse, the release of the video will only serve to encourage other victims, of lesser stature, to come forward and report abuse.

**ARGUMENT PURSUANT TO Rule 28(a)(8) F.R.A.P.**

**I. THE DISTRICT COURT DID NOT ABUSE ITS DISCRETION IN ORDERING THE RELEASE OF THE VIDEO DEPOSITION OF AVIAD HACK**

The District Court did not abuse its discretion in ordering the release of the video deposition of Aviad Hack. The District Court reached its decision based on reasoning of the Second Circuit case of Application of CBS, Inc., 828 F.2 958 (2<sup>nd</sup> Cir. 1987). Nowhere did the District Court create a new standard or diverge from the holding of this Second Circuit decision. Aviad Hack’s privacy interests were not “extraordinary circumstances.” Application of CBS, Inc., 828 F.2 958 (2<sup>nd</sup> Cir.

1987).

Aviad Hack was no “innocent bystander,” as described in Application of CBS, Inc., 828 F.2 958 (2<sup>nd</sup> Cir. 1987). In 2003 Aviad Hack held the position of Dean of Students of the Yeshiva of New Haven. It was at this time that Aviad Hack became aware of the extensive sexual relationship between Eli Mirlis and Daniel Greer. (Page 39, Redacted Deposition of Avi Hack filed 3/18/18). Aviad Hack testified that he was aware that this sexual relationship continued for an extensive period of time after 2003. (Redacted Deposition of Aviad Hack filed 3/8/18). Aviad Hack testified that he never reported this sexual relationship to any “person or agency or organization.” (Page 48, Redacted Deposition of Aviad Hack filed 3/8/18).

During a hearing on a Motion to Compel filed by Daniel Greer (EFC no. 29 filed in the District Court) conducted on the date of April 4, 2017, in oral argument the attorneys for the litigants represented to the Court (Martinez, J.) that Eli Mirlis served a State civil lawsuit alleging sexual molestation upon Daniel Greer, the Yeshiva of New Haven and Aviad Hack in late 2015. (EFC no. 104 filed in the District Court). Eli Mirlis never returned his complaint, which named Daniel Greer, the Yeshiva of New Haven and Aviad Hack as defendants, to State Court. It was only after Eli Mirlis filed his State Court case did Aviad Hack agree to assist

Eli Mirlis in his lawsuit against Mr. Greer and the Yeshiva of New Haven. Eli Mirlis subsequently filed this Federal civil lawsuit against Daniel Greer and the Yeshiva of New Haven on May 3, 2016.

Aviad Hack's video deposition was conducted on the dates of August 2 and August 25, 2016. Aviad Hack was represented by counsel during each deposition. Aviad Hack was represented by counsel at subsequent court hearings concerning his deposition, ie., a Motion To Compel was filed on September 9, 2016 by Daniel Greer. Aviad Hack was represented by counsel when portions of the deposition transcript were attached to publicly filed motions. (See Trial Memo Joint, ECF no. 111 filed 4/10/17). The entire deposition transcript, with a few redactions, was attached to court documents submitted by Attorney Ponvert just before trial. At no time did Aviad Hack's counsel ever seek a protective order or an order to seal portions of Aviad Hack's deposition.

In May of 2017 attorneys for both the Plaintiff Eli Mirlis and the Defendant Daniel Greer attempted to serve Aviad Hack with a subpoena to appear at trial. On May 10, 2017 the trial court (Shea, J.) determined that Aviad Hack was an unavailable witness. The Court (Shea, J.) allowed Eli Mirlis to enter portions of Aviad Hack's videotaped depositions into evidence.

Connecticut State marshals and licensed Rhode Island process servers made

numerous attempts, and spent many hours, trying to serve Aviad Hack with a subpoena to appear at trial. Aviad Hack deliberately avoided each process server. Aviad Hack's wife refused to assist the Rhode Island process server in locating Aviad Hack. Aviad Hack's attorney refused to accept service on behalf of Aviad Hack. Aviad Hack's employer, the Rhode Island Department of Education, assisted Aviad Hack in avoiding service.

Aviad Hack was no "innocent bystander." Application of CBS, Inc., 828 F.2 958 (2<sup>nd</sup> Cir. 1987). Aviad Hack was Dean of Students at the Yeshiva of New Haven at the time Eli Mirlis was molested by Daniel Greer. As a fully grown married adult with children of his own, Aviad Hack knew Daniel Greer sexually abused Eli Mirlis over a substantial period of time and yet did nothing to report it or stop it. Aviad Hack was originally named as a Defendant in the State Court action that was never returned to Superior Court. Aviad Hack decided to testify against Daniel Greer and the Yeshiva of New Haven only after Hack was named a defendant in the State court action.

"Because Williams was ill, he could not appear as a live witness at the trial, in which he was named as an unindicted co-conspirator. His testimony was taken in a prison hospital and consisted largely of admissions that he had allowed himself to be controlled by organized crime." Application of CBS, Inc., 828 F.2 958, 959

(2<sup>nd</sup> Cir. 1987). Aviad Hack testified against Defendants Yeshiva of New Haven, Inc. and Daniel Greer. Aviad Hack's testimony "consisted largely of admissions" that he was grossly negligent in his role as Dean of Students at the Yeshiva of New Haven, Inc. in failing to report the sexual abuse of Eli Mirlis.

While represented by counsel, Aviad Hack purposely avoided numerous attempts at service of process by the attorneys for both the Plaintiff and the Defendants. Aviad Hack chose to run out of a classroom of students in order to avoid a Rhode Island process server. The witness in Application of CBS, Inc., 828 F.2 958 (2<sup>nd</sup> Cir. 1987) had a legitimate illness that prevented him from appearing at trial. Aviad Hack had no such illness. Aviad Hack had no legitimate reason for not appearing at trial. The only reason Aviad Hack could not appear at trial was because Aviad Hack intentionally avoided service of process.

Aviad Hack knew the litigants were attempting to serve him with a subpoena to appear at trial. Aviad Hack's attorney knew that both counsel for the Plaintiff and counsel for the Defendant sought to have Aviad Hack appear at trial. The circumstances that Aviad Hack finds himself, ie., the order to release his videotape deposition, are "solely the result" of his own acts. Application of CBS, Inc., 828 F.2 958 (2<sup>nd</sup> Cir. 1987).

The public release of the video deposition of Aviad Hack will encourage

other victims to come forward and report sexual abuse. Aviad Hack testified about his position as an authority figure, ie., as a Rabbi and as the Dean of Students. Aviad Hack testified about how he was victimized by an authority figure, ie., Rabbi Daniel Greer. Aviad Hack testified that he had “tremendous respect, reverence and awe” for Rabbi Daniel Greer. Rabbi Daniel Greer was “superlative in every way.” Rabbi Greer was a “religious guidepost” an “effective parent” and an “effective teacher.” (Page 20, Redacted Deposition of Avi Hack filed 3/18/18). If a man of Aviad Hack’s education, position, and strong family background, ie., graduate of Yale University, Dean of Students, and Rabbi, could fall prey to child sexual abuse perpetrated by a man he “revered,” the public release of Avi’s video will only serve to encourage other victims, of lesser stature, to come forward and not be ashamed to report abuse.

Mr. Greer has argued that he will be prejudiced in State court criminal proceedings in which he is a defendant by the release of Aviad Hack’s videotape. This is not the proper venue for Mr. Greer to address this issue. Mr. Greer should seek a court order from the criminal court where his case is currently pending.

### **CONCLUSION**

For all of the foregoing reasons, the decision of the District Court should be upheld on appeal.

Dated: New Haven, CT

\_\_\_\_\_/s/\_\_\_\_\_  
Lawrence Dressler, Pro Se

**CERTIFICATE OF SERVICE**

This is to certify that on the \_\_\_\_\_ day of October, 2018, the undersigned caused the foregoing brief to be sent via first class mail, postage prepaid to all counsel and pro se parties of record, as follows:

Antonio Ponvert, Esq., Koskoff, Koskoff & Beider, 350 Fairfield Ave, Bpt, CT 06604

David Grudberg, Esq., Carmody Torrance, 195 Church St, New Haven, CT 06510  
Steven Errante, Esq., Lynch, Traub Keefe Errante, 52 Trumbull St, New Haven, CT 06510

\_\_\_\_\_/s/\_\_\_\_\_  
Lawrence Dressler

**CERTIFICATE OF COMPLIANCE**

The undersigned certifies that the foregoing brief complies with the type volume limitations contained in Fed. R. App. P. Rule 28.1(e)(2) and Fed. R. App. P. Rule 32(a)(7)(B) because this brief contains less than 1811 words, excluding the parts of the brief exempted by Fed. R. App. P. 32 (a)(7)(B).

This brief complies with the typeface requirements of Fed. R. App. P. Rule 32 (a)(5) and the typestyle requirements of Fed. R. App. P. Rule 32 (a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Office word 2007 using the font Times New Roman in 14 point size.

\_\_\_\_\_/s/\_\_\_\_\_  
Lawrence Dressler