

Exhibit D

IN THE MATTER OF

THE TERMINATION OF EMPLOYMENT

OF JOHN FRESHWATER

VOLUME XXXV

TRANSCRIPT OF PROCEEDINGS

held at Mount Vernon Board of Education offices,

Mount Vernon, Ohio,

on June 4, 2010,

before Mr. R. Lee Shepherd, Referee

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APPEARANCES:

FOR THE BOARD OF EDUCATION

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FOR MR. FRESHWATER

Mr. R. Kelly Hamilton
P.O. Box 824
Grove City, OH 43123
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ALSO PRESENT

Mr. Steve Short
Mr. Paul Deegan
Ms. Leslie McCarthy

EXHIBITS:

Board's

- 90 -- "Reaching for the Sky" -- four (4) pp.
- 91 -- "Reaching for the Sky" with handwritten notes -- four (4) pp.
- 95 -- "Science Student Data Sheet" (redacted) -- two (2) pp.
- 98 -- Mount Vernon Police Dept. Report, Incident No. 2010-0216 -- seven (7) pp.
- 99 -- Affidavit of John Freshwater dated 04/22/10 -- two (2) pp.

Employee's

- 92 -- Observation 10/08/99 -- two (2) pp.
- 112 -- textbook *Astronomy*
- 113 -- textbook *Inside the Restless Earth*
- 114 -- textbook *Cells, Heredity, and Classification*
- 148 -- transcript of Freshwater interview with H.R. On Call -- fifty-nine (59) pp.
- 161 -- copy of front cover of Glencoe "Teacher Wrap-around Edition Science Interactions" and pp. 18-47 -- thirty-six (36) pp.
- 182 -- PowerPoint presentation -- fourteen (14) pp.
- 183 -- PowerPoint presentation -- twenty-two (22) pp.
- 187 -- binder with 410 pp.
- 225 -- CD labeled "Inspection Documents"
- 226 -- Internet page with "Click a Deer for a Holiday Cheer!" -- one (1) page

EXHIBITS:

Employee's

- 227 -- Excell Professional Development Workshops for Educators Fall 2003 -- two (2) pp.
- 228 -- CD labeled "John Freshwater conversation w/ Steve Hughes"
- 229 -- Affidavit of John Freshwater dated 06/01/10 with attachment -- thirty-two (32) pp.
- 230 -- photograph of caller ID -- one (1) page

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Witnesses

Page:Line

John Freshwater

Redirect Examination by Mr. Hamilton 5672:9

Recross-Examination by Mr. Millstone 5814:3

1 inclinations. Before you went to Mr. Hughes's office and
2 before he called you on the telephone, did you and I have any
3 discussion related to Mr. -- about your suspicion of
4 Mr. Hughes being the anonymous source?

5 A. Between those two times? Between when I was at his
6 office and headed home? Is that what you said? Repeat the
7 question. I apologize.

8 MR. MILLSTONE: Read it back.

9 (Question read.)

10 A. I do not remember any discussion.

11 Q. When you talked to Mr. Hughes at his office, did you
12 take an audio recorder?

13 A. Yes, I did.

14 Q. And when Mr. Hughes called you on the telephone, did you
15 have that same audio recorder with you?

16 A. Yes, I did.

17 Q. Personally, do you like Mr. Hughes?

18 A. Yes.

19 Q. Pleasant man with you?

20 A. Yes, very much. Bought a Christmas tree and bought
21 apples from me.

22 Q. John, I'm first going to hand you what's been marked
23 Employee Exhibit No. 228. Are you familiar with this?

24 A. Yes.

25 Q. Would you agree that Employee Exhibit No. 228 is the

1 audio recording -- I should say recordings as in plural that
2 you made when you and Mr. Hughes spoke at his office and then
3 when he called you on the phone?

4 A. Yes.

5 Q. John, I'm going to hand you Employee Exhibit No. 229.
6 Would you tell me what this is.

7 A. It's an affidavit I signed.

8 Q. And the affidavit is concerning what?

9 A. The matters with Mr. Hughes.

10 Q. I'm handing you Employee Exhibit No. 230. What does
11 this depict?

12 A. This would be my cell phone.

13 Q. It would be your what?

14 A. My cell phone.

15 Q. Would it be your cell phone or would it be your caller
16 ID?

17 A. It's my caller ID on my home phone.

18 Q. So Mr. Hughes called you at home?

19 A. Yes.

20 Q. And it says his name right there, Hughes, Steven R.
21 Correct?

22 A. Yes.

23 Q. And the date is a little hard to see, but taking a look
24 at the affidavit that you signed and looking at Employee
25 Exhibit 230, what date did these two conversations take

1 place?

2 A. That would be the 19th.

3 Q. The 19th of what year?

4 A. January 19th, 2010.

5 Q. As I'm taking a look at Employee Exhibit No. 229, do you
6 -- did you transcribe your conversation with Mr. Hughes?

7 A. Yes.

8 Q. Now, as you transcribed your conversation with
9 Mr. Hughes, does he tell you some different things about his
10 personal impressions of this matter?

11 A. Yes, he does.

12 Q. Did Mr. Hughes tell you that it was his impression the
13 board of education based their resolution of intent to
14 consider your termination upon the H.R. investigative report?

15 A. That's correct.

16 Q. Did Mr. Hughes give you an impression as to why you were
17 suspended without pay pending the outcome of this hearing?

18 If you can't recall, I'll direct your --

19 A. Yeah, he did. I cannot recall exactly how he stated
20 that.

21 Q. Look at page 24 of Employee Exhibit No. 229.

22 A. This would be the conversation at my house then.

23 Q. That you had with him on the phone?

24 A. Yes.

25 Q. Did Mr. Hughes talk to you about part of an insurance

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MR. MILLSTONE: I think it will delay the witnesses by about an hour and a half, but I think that we can get through most of the witnesses we had planned for Monday.

HEARING OFFICER: All right. We'll conclude for today. I'd rather not leave this hanging. I'd like to get this resolved before we proceed. So be prepared when we're back here at 9 o'clock Monday, and we'll see if we can iron this out.

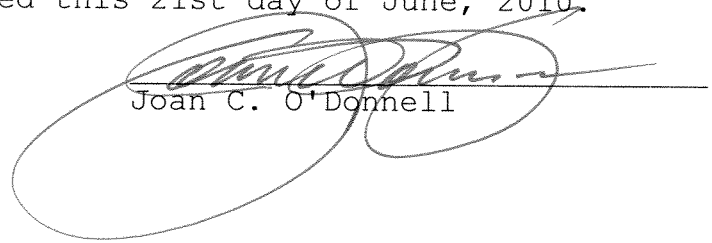
With that, we will close the record for today.

(The hearing recessed at 4:37 p.m.)

CERTIFICATE OF REPORTER

I, Joan C. O'Donnell, Registered Professional Reporter, do hereby certify that the foregoing Volume XXXV, consisting of pp. 5667-5829, is a true and complete transcript of the proceedings conducted on the 4th day of June, 2010, before Mr. R. Lee Shepherd, Referee. I further certify that I was personally present throughout the said proceedings.

Subscribed this 21st day of June, 2010.


Joan C. O'Donnell