

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO

TOM RETZLAFF
Plaintiff,

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v.

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NO: 5:08-CV-00170-OLG

LYNDA YVONNE DE LA VINA,
DIANE BAKER WALZ, KYLE
MERLETTE SNYDER, KATHERINE
ANNE POPE,
Defendants.

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AFFIDAVIT OF DANIEL J. KILEY

COUNTY OF BEXAR

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STATE OF TEXAS

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Before me, the undersigned authority, personally appeared Daniel J. Kiley, who being known to me as the person whose signature appears below, and being first by me duly sworn, did depose and say:

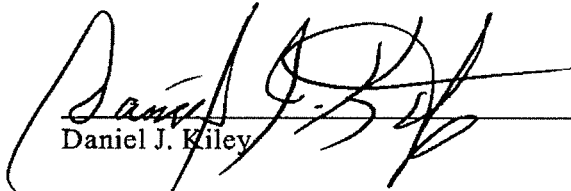
1. "My name is Dan Kiley. I am over 18 years of age and have never been convicted of a felony crime or any misdemeanor crime involving dishonesty. I have personal knowledge of the matters set forth in this affidavit, am competent to make the affidavit, and the facts I state herein are true and correct.
2. I am employed by the University of Texas at San Antonio Police Department as Captain and have held this position since 1996. Earlier, I retired as Master Sergeant after 21 years of military police service in the U.S. Air Force. I hold a Texas Peace Officer License and am trained and equipped to perform the same law enforcement work as officers employed by Texas cities.
3. The UTSA Police Department received in June 2005 the first of four or five complaints of a non-criminal nature against Mr. Retzlaff, when he was enrolled as an undergraduate student on campus. These amounted to accusations that Mr. Retzlaff disrupted class, and made students or instructors uncomfortable. In November 2007, however, a Chinese national and student named Zhu Lan, or "Julie," filed a complaint that Mr. Retzlaff was harassing her and contacting her even after she warned him not

EXHIBIT
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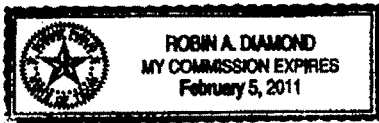
to. The circumstances of her complaint suggested that Mr. Retzlaff's actions could amount to criminal conduct. Kyle Snyder joined Julie's complaint about Mr. Retzlaff because Julie apparently sought her support in handling Mr. Retzlaff.


4. **Attachment 1** is a true and correct copy of the UTSA Police Department offense/incident report dated November 8, 2007, which I prepared and signed in connection with Ms. Zhu's (Julie's) complaint. A narrative section dated November 12 correctly reports the product of my investigation. In the final paragraph, I document my clear, past directions to Mr. Retzlaff not to contact Ms. Zhu in light of her complaint, and my finding that he nevertheless called and wrote to Zhu in direct violation of my instruction. By this time, Ms. Zhu formally complained of harassment, which I understood would support a criminal charge. (I understand that Mr. Retzlaff later filed a civil suit against Ms. Zhu after she returned to China at the conclusion of her temporary stay and period of study at UTSA. In Ms. Zhu's absence, criminal charges could not easily go forward.)
5. **Attachment 1** also includes a portion of the many pages of emails that I reference in my narrative report. In particular, they document Ms. Zhu's direction to Mr. Retzlaff that he stop contacting her; and Mr. Retzlaff's decision to nevertheless respond by e-mail. (I have redacted the content of his unseemly response to her.)
6. I have used databases and public records to establish a history of Mr. Retzlaff's criminal conduct, including charges brought against him, his convictions, and his time in prison. I have not released these detailed findings to any academic administrator at UTSA. Certain information is public, including that Mr. Retzlaff served time in prison under the custody of the Texas Department of Criminal Justice from February 1998 to May 2004, when he won early release. After his release, he enrolled as an undergraduate student at UTSA and became an MBA student here in 2007.
7. I have reviewed Mr. Retzlaff's MBA application, including his personal statement, and have concluded that it contains many false statements about his past. His alleged military service during particular years is directly contradicted by the facts of his criminal history, including the dates of his criminal conduct and the period (1998 – 2004) when he was imprisoned. I have attempted to verify whether Mr. Retzlaff ever served in the military and the conditions of his discharge, and have learned that Mr. Retzlaff was apparently enlisted in the army for a short period but was given a general, not honorable, discharge. Mr. Retzlaff has used aliases and may have used more than one social security number; he has refused to provide me records or record authorizations for his military service.”

END OF AFFIDAVIT


Daniel J. Kiley

SWORN AND SUBSCRIBED before me on January 29, 2009.




Notary Public In and For the State of Texas

My Commission Expires 2/15/11