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# Monica Yant Kinney | President? What president?

By Monica Yant Kinney

Inquirer Columnist

For a sign of these strange times, look no farther than Upper Darby.

The traditionally Republican township is terrified to be associated with President Bush.

A lawyer representing Upper Darby in a civil-rights lawsuit went so far as to beg the judge *not* to allow Bush's name to be uttered in court.

It will be hard enough to find people who can be open-minded about an old man arrested for speaking his mind by holding a small sign.

If jurors hear the old man was charged with a crime for protesting Bush and the war in Iraq, they're bound to take his side.

Folks are more than fed up with the president, the township argued.

*He's toxic*

.

Asking a federal judge to suppress evidence as a way to ensure a fair trial is the legal equivalent of a Hail Mary pass.

But when a suburb is being sued over how police handled a peaceful protest against the most loathed president in modern history, it may take a miracle to win.

## One man and a sign

Harold Lischner had a long career in medicine as an immunologist at St. Christopher's Hospital for Children and professor at Temple University's School of Medicine.

Lischner was 78 on Sept. 15, 2003, the day the presidential motorcade roared into Delaware County for a Bush fund-raiser.

Lischner was not one of the 700 people attending the invitation-only reception inside a banquet hall in the Drexelbrook development, his lawsuit explained.

He and 50 others stood outside - on Drexelbrook's property, as opposed to a public space nearby set aside for protesters. Lischner held a sign reading:

"Withdraw our troops from Iraq. Give the \$87 billion to the Iraqi governing council and UN for immediate relief and repair of the destruction we caused."

Now, that's hardly a radical rallying cry - it's far too wordy to generate any chanting.

But Lischner's sign did draw the attention of Upper Darby police, who repeatedly told him to put the sign away and leave, or face arrest.

He didn't, so they did.

Lischner was 'cuffed and driven to police headquarters.

Two months later, a judge found him not guilty of the disorderly-conduct charge.

Two years later, Lischner sued.

## **Bush by the numbers**

At the time of Lischner's arrest, Bush's approval rating was over 50 percent.

On the eve of next week's trial, the president's numbers are about half that, give or take a few percentage points depending on who's doing the asking and answering.

Bush is drowning and could sink us, Upper Darby argued in its court filings, citing a string of sorry stats:

Bush has *"the worst approval rating of an American president in a generation,"* the township's lawyer wrote, using italics for emphasis.

"Currently, 62 percent of Americans believe Bush's actions in Iraq show he is *'stubborn and unwilling to admit his mistakes.'*

"President Bush's identity, in and of itself, presents the danger that the jury will favor plaintiff," insisted the defendant, Upper Darby.

So come on, judge, the township argued, wouldn't it be better for everyone if Lischner just said he was holding a sign in opposition of "a presidential candidate?"

As in, a generic, unnamed politician. Someone who didn't mislead his people while sending their mothers and brothers to fight in an unwinnable war.

"In a bizarre way, it kind of makes sense," Clay Richards, of the Quinnipiac University Polling Institute, told me after I schooled him on the strange legal strategy.

"Two out of three potential jurors don't like the way Bush is running the country. Automatically, you're going to have an awful lot of sentiment for someone protesting Bush. It's hard to make a crime out of that in 2007."

But, as another pollster and pundit Terry Madonna noted, the president is still the president.

"It's not like we're talking about Charlie Manson," said the oft-quoted Franklin and Marshall professor, who dubbed Upper Darby's argument "absurd" and "outrageous."

To that I add desperate, pathetic and, thankfully, moot.

Who and what Lischner was protesting that day is absolutely relevant to his case, U.S. District Judge Gene E.K. Pratter ruled last week.

"There is no requirement that trials be made up of the blandest theories, facts and arguments available," she wrote.

The president's identity may not matter to Upper Darby, but it will to the jury and it does to Pratter. Which is especially impressive, since it was Bush who nominated her for the job.

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