

## Witness Testimonies

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We will now begin hearing witness testimony in Hammer v. Gavel. Plaintiff, please call your first witness. Your Honor, the proponents of Hammer justice called Davidson College Theater Professor James Webb to the stand.

So first off, Dr. Webb, what does justice mean to you? Justice means to me the setting right of something that went wrong. It's a balancing of the scales. It's paying attention to people, particularly who may have been pushed to the margins and pushed to the edges of society and left behind.

And figuring out a way to create or fix or even sometimes destroy systems that are working against all of society being able to have access to what we deem to be the American dream. Which is that anybody in this country is supposed to be able to work hard, have a big dream, believe in themselves, put forth the effort, and accomplish and achieve whatever they want to achieve and have what they want to have. Everybody is supposed to have access to that.

But sometimes there are barriers that are either systematized or barriers because of cultural wars or just people, places, and things that limit the potential of people to be able to self-actualize in this country. And to me, true justice is about fixing things so that that right to life and liberty and the pursuit of happiness, the ideals that we hold so valuable in this country, can be actualized by any individual. Whether they choose to do that, that's on them.

But the foundation, the groundwork, the fertile soil should be there so that any person can be able to do that. Absolutely. And then my other question is, how does your job intersect in Iraq with justice? Well, one of the things that we do in the theater is we take a mirror to society and we put it on stage and we show ourselves the things that we do and the things that we do to each other.

The great thing, though, about theater is that as an artist, we try to also create potential solutions or potential ways to rethink a thing so that we can be better. One of the things about this country is that we're talking about to become a more perfect union. And that, to me, when I hear that, that is a very active, present-in-the-moment thing that's constantly churning, so we're constantly trying to learn how to be better.

And as a country, we have evolved and we've done that. When you think about things like the civil rights movement, the women's movement, the gay movement, the Me Too movement, all these things that help us to hone in and examine some of the sins of our past and try to make corrections in that. Each time, we try to get a little bit better and a little bit better and a little bit better.

And theater, storytelling in itself, has been a valuable tool to help shine a light on that because

the powerful thing about theater and storytelling is that when we present stories on stage, it is tridimensionalized. So it's not just sort of this binary thing or this two-dimensional thing, but we are using all of our gifts of empathy and non-judgment and understanding to try to get into the mind of human beings. To understand them, to figure them out, so that then hopefully we can adjust our actions and try to do better.

I think storytelling is a hugely valuable tool that we have and the theater allows for the opportunity of stories that don't necessarily get told in the media or get told as a part of the mainstream. The theater allows for that to happen, to tell the stories of many different people. And so, as a part of my work, it's certainly about finding those stories that are not told often that may be of marginalized people and trying to do my best to tell those stories in a way that honors that human experience in an authentic way so that people can learn from that.

Next up, plaintiffs call the Davidsonians, the student newspaper at Davidson College, editors-in-chief Claire Kelly and Ben Peek to the stand. I mean, I feel like justice interlaps a lot with ethics and I think Claire and I definitely deal a lot with ethics and making sure everyone on campus can kind of get the justice slash ethics they deserve. The best example we've dealt with would be, and I'm assuming it's fine name-dropping her because she was published in our paper.

We had a last issue before Thanksgiving break, we had an article by Cynthia Blanc, who's the president of BIAF, the Y-A-F on campus, which is a conservative group. She talked about how abortion is murder, in her opinion, and Davidson condones it. And we got a lot of pushback from like on Yik Yak and on campus for people, like we both received text messages from people kind of asking us, you know, why would we post something like this? And just the week prior, we had a perspective piece about how someone, I'm forgetting their name, two sophomores on campus had written an article about how they believe that women are in danger because of a new Trump presidency.

So I feel like we had to give Cynthia justice, whether or not we believe in her opinion or not, like the justice to speak her mind. I think that's what it means to me. That was a long answer, I'm sorry.

No, yeah, I agree. I think it means just advocating to make sure everyone's voices are heard and that, like Ben was saying, as many people can be represented as possible in a fair way. Absolutely.

Well, similar question, you guys very much touched on it, but like how does your job, like how does your position at the Davidsonian like intersect and interact with justice? I just talked a lot, so I feel like you should go. I think, yeah, I think in this semester particularly what I've noticed is that I think kind of similar to what we're talking about with advocating, I think it just means making sure that like you can just have, you provide the truth, whatever that may be, but also you provide like what a lot of other people think about whatever the truth is, if that makes sense. So like in the election, you know, when we had the two columns, we had the Davidson Democrat and the Davidson Republican column, no matter what we thought, we wanted to

make sure that both sides are represented and that what each side thought was the truth was able to be heard.

But we also wanted to make sure that, you know, we weren't like spreading misinformation, we weren't just like saying things that other people thought. We wanted to, you know, we fact-checked to make sure that everything that was said was correct in some way, shape, or form, and so I think a lot of times just kind of determining what other people think and what's like factually correct and what is kind of best for the school as a whole, I guess. And I also think like, you know, we hope that the Davidsonian provides a sort of check to the school.

I mean, you know, at the end of the day, we are Davidson students, so we, it's hard to, it's sometimes hard to disassociate ourselves from that identity, but you would hope that in our paper, you know, if the school were to do something that maybe the students weren't fans of, or something were to happen on campus that maybe, and again, I'm not saying this has happened or not, but, you know, that the administration tries to cover up, like, the goal, our goal would be to bring that to light, give students a voice and, you know, hopefully bring the administration to justice. I put that in quotes because obviously, like, at the end of the day, we're just a school newspaper, but still, giving, you know, giving a voice to that kind of stuff can definitely be important. Now, plaintiffs call Davidson College Associate Chaplain and Campus Rabbi Becca Diamond to the stand.

So my first question is pretty broad, and that's like, what does justice mean to you? Justice, when I think about justice in a Jewish context, I think about the idea of tikkun olam, which is a Hebrew phrase meaning repairing the world, and it's the idea that our world was created broken, and our task as humans is to repair the pieces, to put the world back together, and make it a little more whole. And that's what I think justice is, is taking, finding some of those broken pieces in the world and making them whole again. That's terrific.

And then what is your, like, how does your job interact with justice, like in the chaplain's office? Well, in the chaplain's office, I would say that my role in general is supporting students. And so students come to me when they, you know, have questions about Judaism, when they have, they're working through problems in their personal lives, and, you know, that includes issues of justice, trying to work through ethical implications of their actions, trying to understand how broader events in the world have to do with them. This was especially relevant last year and continuing this year with the events going on in Israel and Gaza, where students wanted to talk to me about what does justice mean in that scenario, and I don't have the answers, but I can talk to them about it.

And I also, I'm a congregational rabbi as well, and something that I'm very aware of is that I have a voice that people listen to. And in terms of justice, I feel like it's my responsibility to bring issues of justice to the awareness of my congregants. And as people are going about their daily lives, often it's easy to get stuck in, you know, what's on my calendar, what am I doing next? And I feel like my role is to help lift people's eyes and to see the world around them

and what needs to be fixed in the world.

Finally, plaintiffs call Assistant Director for Civic Engagement and Lulabelle Houston Resource Center Director at Davidson College, Shane Riley. Okay, so my first question is, like, what is justice to you? That's, I mean, a great question overall, but I think for me, justice is always from a restorative lens, and I think it applies to just about everything. So I think a lot of times when you say justice, people think about, like, justice in courts or law, maybe in politics or, you know, some form of, like, crime setting.

But for me, it can exist, like, anywhere that there's barriers to positive change in a community. And so, you know, we see justice in our immediate outside community, our campus community, but ultimately I'm always thinking about it through a more restorative approach. And I'll explain a little bit about what that is, but I think we've all probably seen that graphic that displays, like, inequality, equality, equity, and justice.

I think there's one with the baseball field and the fence. And so, like, while we, of course, should strive for equity and resources and opportunities, justice is kind of like that next step, right? So not making sure that, you know, everybody just has the same resources, but that they have the resources that are actually applicable to their specific situation. And then, you know, justice, of course, is in that graphic, is kind of removing that fence altogether so everybody can kind of see the baseball game.

If you haven't seen that graphic, I feel like you can easily look it up. But, so yeah, actively breaking down barriers to preventing, that prevent anyone from having a chance to live a full life is what I kind of think justice is. So obviously, you know, redistributing resources in an equitable way is the first step.

But with a restorative justice approach, we can kind of undo the harm that's been done, repair those relationships, prevent it from happening again, you know, further future injustice. So it kind of involves bringing all parties together for kind of the betterment of that community and for no other motive, right? Like, we want to have community buy-in, we want to be, you know, stewards of our community, and there can't be any other, like, political motive or anything like that for justice, at least in my mind. That's terrific, thank you.

And then my other question was, how does, like, your occupation, your position here in the Center for Civic Engagement really, like, interact and intersect with justice? Yeah, in a few ways. I think it's kind of the default approach we take when working with community partners, or, you know, specifically with my role being the central staff member for Lulabelles, which is our on-campus resource center. You know, equity is definitely in the vision and mission of Lulabelles.

We want to be sure that all students have access to necessary resources around their basic needs, academics, life skills to set them up after college, financial literacy, and other things, too. But at its core, like, the creation of Lulabelles and the existence of it is justice, right? Like, we're removing the barriers to, of socioeconomic status or lack of transportation, preventing

somebody from being able to get to the grocery store. I know y'all walk to Harris Teeter, but it's quite a long commute if you walk, and it's uphill on the way back.

And so, while we always have an equity mindset, and that's kind of the purpose, making sure all students kind of have a level playing field, you know, going into the classroom. At its core, like, the creation of that as a resource center is justice in itself. And so, I think it's big in my role, specifically what I do on our campus.

I think we always are kind of looking to have a restorative approach with our community partners. You got to partake in Service Odyssey this past summer, which is a program I also direct. And so, a lot of the, you know, community partners we worked with through that program to introduce to first-year students have a justice or restorative justice approach to the work that they're doing, whether it be around basic needs or animal care.

So, I think those are kind of like the main functions that I see in my role in regards to justice. But I think as a student affairs practitioner and as an educator, you know, we kind of have a responsibility to remove barriers for our students and to give them the full experience to set them up for what's next. And so, that's always at the core of what somebody in this field does.

Thank you to all our fantastic witnesses. Your Honor, the plaintiff now rests. Thank you.

Defendant, please call your first witness. Thank you, Your Honor. Proponents of gavel justice call U.S. District Court Judge Vince Chabria, the first Indian American federal judge in California state history, to the stand.

First question is, like, what does justice mean to you? Well, it's a complicated word, but I think the two things I think of are that everybody should be treated equally. Sorry. The first thing I think of is that everybody should be treated equally and that the law, government should not discriminate against people based on wealth or any other characteristic.

And relatedly, the second thing I guess is that to me, society is not just unless there is opportunity for everyone to pursue the career that they want, support their families, and kind of do what they want to do in life. Absolutely. And then, how does your job interact with justice? Well, the first thing I would say is that, of course, although we are – we judges are kind of in the center of justice, at the center of the justice system, it's important to acknowledge the limit on our ability to do justice, right? I mean, we are not policymakers.

We're supposed to be resolving individual conflicts, adjudicating individual conflicts, and leaving, you know, bigger policy decisions to the other branches of government. And, of course, those bigger policy decisions have a lot to do with the justice that I just described. And, of course, we also don't have guns.

So, even in the rulings that we do issue in favor of one side or another, we actually don't have the power to enforce them. We rely on everybody else's commitment to justice, rule of law. And so, our ability to defend justice is really dependent on the rest of society agreeing that our

rulings should be adhered to.

But that said, obviously, we play a central role in the administration of justice. We adjudicate and preside over criminal cases where we make sure that power of government does not trample the rights of an indigent criminal defendant. We adjudicate civil cases where, you know, Barro tells us that we are to do equal right to the poor and the rich and make sure that nobody has an unfair advantage in the adjudication of civil disputes.

And we preside over jury trials. The jury, of course, is another central component of our country's system of justice, taking decisions out of the hands of government officials and putting those important decisions in the hands of regular citizens. Depending on how many people there are on the jury and what kind of case it is.

So, my job is central to the administration of justice in our country, and I'm very proud to be doing it every day. The defense now calls Michael R. Kellyan, a former public defender and president of the 2,500-member California Public Defenders Association, to the stand. So my first question is, what does justice mean to you? That's an interesting question because that could easily be an entire semester course.

So asking it to distill it down to, you know, a few words or a couple of minutes is difficult. But you asked earlier, so I decided to think about it. And I think what I decided was that, first of all, there are a lot of different kinds of justice in a society.

There's racial justice, there's religious justice, social justice, economic justice. My areas are criminal justice. And each one of those areas has their individual definitions and criteria for what is just in a society.

But I think that there's one common thread that runs through all of those. And that is that in a just society, everybody, not just citizens, but everybody by the society is treated equally and fairly in an imbalanced manner, regardless of what color they are, what God they worship, if any, how rich or powerful or poor or weak they are, they're all treated in an even and balanced manner. And throughout American, I mean, not American, throughout the history of mankind, very few societies have actually gotten to that standard, but the good ones keep trying.

And some of them have gotten fairly close to that. So I think in about two minutes, that's that would be my feeling about what a just society is. That's fantastic.

Thanks. And then my other question is, how is the occupation or all the occupations you've worked in your career intersect and interact with justice? Okay, well, let me back up and go around just a little bit, not take up too much time, but I was a public defender for about 32 years or so. In 1963, the US Supreme Court decided a case called Gideon versus Wainwright.

And the Gideon case held that everybody, not just citizens, but everybody who was charged with a crime that could result in jail time or prison time was entitled to be represented by an attorney. And the court also decided that if a person could not afford to hire their own attorney,

the government had the responsibility for providing them with an attorney free of charge. So that's where basically the public defender system was born.

There were places that had that system beforehand individually, but that was a full United States Supreme Court ruling. Over the years, public defenders have gotten a bad rap, I think, mostly from the media, from TV and movies. And I think we've all heard statements in the television shows and movies and such was like, I had to get a public defender because I couldn't afford to hire a real lawyer.

And or I only had a public defender, so I got railroaded into whatever. The truth is absolutely the opposite of that. For several reasons.

One is that public defenders are total specialists. That's all we did. Not any other kinds of law.

And as such, we have some of the best trainings, some of the best resources, some of the best seminars that you could have. So I would say, in almost every case that I've seen, a public defender anywhere, basically, county, state, federal is at least as good, if not better, in most cases, better than almost any private attorney that somebody could hire for even a lot of money. So the main difference, though, and the main thing regarding our concept here is that people don't become public defenders for the money, obviously, for the prestige, for the power.

They become public defenders because they have a passion to provide justice for people. Because almost all the people that they deal with are those people who are poor, helpless, people who have done really, really bad things, people who society doesn't really want to deal with. And they do it because they have this calling to provide justice for those people.

And I would say even that if they were asked, they would say, or I would say, at the risk of being presumptuous, that they're not just providing criminal justice for somebody. That they are the justice. The system and the individual public defenders are the justice that those people deserve and get in society.

So I don't know if that answers the question. Now, obviously, or maybe not obviously, but in full disclosure, I not only did it for 30 something years, but I'm also a past president of the California Public Defenders Association, which has about 4,000 members in pretty much every county in the state. So I am admittedly biased.

So that's just full disclosure. But I think that everything that I'm saying is borne out. And if you probably asked any random public defender, county, state, federal, they would say the same thing.

Next up, defendant calls Davidson College Honor Council student solicitor Daniel Pressa to the stand. What is justice to you? To me, justice is trying to right some sort of wrong that happened, whether to someone else or in the community, and do it in a just and equitable way. That's awesome.

And then my other question is, how does your job here as a student solicitor on the Honor Council intersect and interact with justice? Yeah, well, the nature of my work is dealing with the Honor Code and any potential violation of the Honor Code. And so any faculty member or student who sees a potential violation, it's our job to help rectify that situation. And something that we try to emphasize as an Honor Council is this idea of restorative justice.

So not just trying to punish a student who might have violated the Honor Code and try to take them out of the community in some way, but to really restore them to the community, to help them get back into the community. And, and yeah, and that's why we don't ever suggest suspension or expulsion as the first outcome we seek in trying to restore a wrong like that, because again, we want to bring them back into the community in some way. So, yeah.

Finally, your honor. The defense calls Davidson College campus police captain Laura Van Zandt. Okay, so my first question is, what does justice mean to you? So justice means to me, you know, treating everybody equitably fair.

No matter what, and making sure that, you know, we do the right thing, or anybody does the right thing, you know. Law enforcement is, you know, we're bound by laws and things like that. But there's sometimes where, you know, we can go

**This file is longer than 30 minutes.**

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