

From:

Date: Wed, Apr 5, 2023 at 10:50 PM

Subject: March 9th protester corrects the record

To:

My dear SLS community:

I am writing to set the record straight on a matter of great import to our law school community. As many of you know, I was a driving force behind the protest of the March 9th SLS FedSoc event. As such, I am uniquely positioned to shine a light through a particular cloud of darkness that has cast a shadow over our community and placed my own colleagues and loved ones at risk of harassment and harm. One of the qualities the State Bar of California requires a lawyer to strive toward “at all times” when they [swear their oath](#) and become an attorney licensed to practice in California is “integrity.” It is out of integrity and love for my community that I write to you today.

To put it plainly, when it comes to their allegation about the protesters’ shouts, SLS FedSoc President Tim Rosenberger and Fifth Circuit Judge S. Kyle Duncan were mistaken: none of our protesters shouted, “We hope your daughters get raped,” or anything similar. When the judge came out to film the protesters, we were chanting, “Hey ho, hey ho, your backwards views have got to go,” and the volume of our chanting increased upon seeing the judge. Any shout that was loud enough to be heard over the chanting would have been heard by multiple people aside from the judge and the FedSoc president.

The closest thing that a protester shouted was, “You have a daughter,” to one of the FedSoc Board members with a daughter, alluding to the need for him to protect his daughter’s rights. However, the judge was not in the vicinity when this happened.

In addition, Judge Duncan had two federal marshals available to him. If someone had shouted something so incendiary, he would not have continued along his way without doing anything to acknowledge or address the comment.

Finally, in multiple interviews with reporters in the days following Thursday, March 9, Judge Duncan made no reference to the alleged shout about his daughters. Observe, in chronological order:

- **Friday, March 10:** In an [Original Jurisdiction article](#) by David Lat, to whom Judge Duncan gave a phone interview, Judge Duncan made no reference to the alleged shout. Instead, he asserted on the record, “Did I speak sharply to some of the students? I did. Do I feel sorry about it? I don’t.”
- **Friday, March 10:** In a [Reuters article](#) by Nate Raymond and Karen Sloan, Judge Duncan made no reference to the alleged shout. Instead, he said on the record that SLS student protesters “are idiots” and also that “[t]hey are hypocrites and they are bullies.”
- **Sunday, March 12:** In his [interview](#) with Rod Dreher, Judge Duncan made no reference to the alleged shout. In fact, he stated on the record that “I didn’t fear for my safety.”

- **Tuesday, March 14:** In an [Advisory Opinion podcast episode](#) that lasted over two hours on which Judge Duncan and David Lat were guests, Judge Duncan’s section lasted a little under 45 minutes (approx. time stamps 1:02:45 - 1:46:14) and he still made no reference to the alleged shout. He did, however, talk on the record about the font used for the protest posters, a dog that was present at the protest, and the snapping.

**Thursday, March 16** (one week after the protest): The first recorded mention in the public sphere with the language of the alleged shout was, to the best of my knowledge and belief, Ed Whelan’s [Tweet](#) about it. In the Tweet, he claimed that Tim Rosenberger “revealed” the alleged shout on his podcast recording.

This was, of course, after Tim’s **Monday, March 13** interview on the [Megyn Kelly Show](#) in which Tim claimed that “people were yelling particularly vile things, about, you know, rape of various of his family members.” (approx. time stamps 0:28-0:32).

One must wonder, of course, why Judge Duncan did not see fit to include a mention of these specific “vile things” in his **March 14** podcast episode appearance (or his interviews with David Lat, Reuters reporter Nate Raymond or Karen Sloan, or Rod Dreher in the days preceding it).

Of course, Judge Duncan’s memory returned to him in time for his **March 17** op-ed in the Wall Street Journal: he stated that, “As I entered the classroom, one protester screamed: ‘We hope your daughters get raped!’” If that were indeed the case, it would be unfortunate that he forgot to mention it in his four preceding on-the-record remarks to reporters.

If that were indeed the case.

The past month has been extremely painful at our law school, but it has also been a time of astonishing personal and interpersonal growth. It has been a time of connection, care, and community. I hope the time of healing is on its way soon.

In community,  
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