



July 12, 2010

Twitter links Lindsay Lohan, W&L law professor

Staff Report

LEXINGTON — Washington and Lee University law professor Erik Luna was enjoying his family vacation last week when he began getting curious emails connecting a 2002 article of his with the law-breaking actress Lindsay Lohan.

And that was just the beginning.

By Friday, a Google News search of Luna's name with Lohan's turned up a spate of articles, including one of his favorites, from Hollywood.com, which said that Lohan had chosen "a random article by Erik Luna (some man who's probably very smart)." He had also conducted several interviews with media outlets, one of which resulted in this headline in The Daily Caller: "First Lohan, next Gaga: wonky professor gets a dose of online fame from Hollywood starlet."

"I looked up 'wonky' just to make sure I knew what they were calling me," said Luna, who joined the W&L law faculty in 2008 and specializes in criminal law and criminal procedure.

The story started Tuesday, when a Los Angeles County Superior Court judge sentenced Lohan to 90 days in jail for violating the terms of her probation on two DUI arrests in 2007.

On Wednesday, Lohan used Twitter to protest the severity of the sentence and to quote from Luna's article, published in the Cato Institute's Policy Analysis: "Misguided Guidelines: A Critique of Federal Sentencing."

On Twitter, Lohan sliced the following first paragraph into four separate, 140-character pieces: "Fifteen years ago, the federal justice system underwent a revolutionary but massively flawed revision of its approach to sentencing criminal defendants. Driven by concerns of disparate treatment and undue leniency in punishment, Congress created an independent agency, the U.S. Sentencing Commission, to formulate a new sentencing regime that would drastically limit the discretion of federal judges. The resulting body of law, known as the Sentencing Guidelines, has both perverted constitutional principles and produced grave injustices."

As fast as those four Tweets traveled along the Internet, Luna was bombarded with messages from colleagues and students who had seen his name in connection with Lohan's case.

His initial reaction? " 'Amused' is one word," said Luna. "Any attempt to compare Ms. Lohan's circumstances with the problems of sentencing referenced in her Tweets would be misguided.

"There are a couple of problems with the reference to my paper. First, it's dated. Since the paper's publication in 2002, there has been a sea change in the law. In 2005, the U.S. Supreme Court invalidated a key part of the sentencing scheme that had been the subject of my criticism. More fundamentally, Ms. Lohan's case is in the California state system, and my critique of federal sentencing has, at best, some oblique relevance to her plight."

Luna admits the 48-hour electronic swirl has been nothing if not bizarre, in large measure because he found himself doing interviews about the Lohan case only a few hours after he had been interviewed by a reporter from The Atlantic on alternatives to incarceration.

"At one point, I'm talking about a very serious topic, the privacy implications of electronic monitoring of probationers, parolees and others," said Luna. "A few hours later, I learn that Lindsay Lohan quoted a 2002 article of mine. It's a somewhat surreal, and certainly ridiculous, change of topics."

Not that there aren't some interesting lessons to be learned. For instance, Luna said, the original Tweets underscore a popular misunderstanding about the respective jurisdictions of the federal and state criminal justice systems.

Then there is the matter of scholarly writing and the Internet. Said Luna: "The proliferation of information in the modern age of electronic media means that scholarly work, which in the past would have been read by only a small circle of academics and policy analysts, is now accessible to a much larger audience. It can then be used or misused by those who discover it."

Until now, Luna said, his familiarity with Lindsay Lohan was limited to her role in the 1998 film "The Parent Trap," a favorite of his nine-year-old daughter, Aubrey.

"I don't believe Aubrey is familiar with subsequent chapters in Ms. Lohan's career," he said, "and that's probably as it should be."
