

Ohio man given choice of Facebook apology or jail

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In a Tuesday, Feb. 21, 2012 photo, Mark Byron, a local photographer, holds his iPad with a photo of himself and his son, in his studio in Cincinnati, Ohio. Byron is involved in a divorce suit with his wife, Elizabeth, that has spilled over into Facebook. Due to a post on his Facebook page about his divorce and custody restrictions in November of 2011, a Hamilton County judge gave Byron the choice of going to jail or apologizing to her on the page for 30 days. He chose the apology, but plans to appeal. (AP Photo/The Enquirer, Liz Dufour) NO SALES

(AP) -- A man who was threatened with jail time for posting comments

about his estranged wife on his personal Facebook page unless he posted daily apologies for a month says the court ruling violates his freedom of speech.

Mark Byron of Cincinnati is making the [apology](#) to avoid 60 days in jail, but he plans to appeal the domestic relations court ruling. Byron and [free speech](#) and media experts say it should concern other users of the social networking site.

With hundreds of millions of people using Facebook for communication, Byron said Friday that "if they can do this to me, they can do it to others."

The idea "that anybody could tell you what to say to your friends on Facebook should be scary to people," said Cincinnati attorney Jill Meyer, who specializes in free speech and media issues.

The ruling is highly unusual and "troubling because it's a court telling someone to say something to - in some regards - his chosen group of friends," said Meyer. She noted that the comments were not directed to Byron's [wife](#), Elizabeth Byron, who was blocked from accessing the page.

According to the ruling, Byron posted comments on his page in November, saying in part, "If you are an evil, vindictive woman who wants to ruin your husband's life and take your son's father away from him completely - all you need to do is say you're scared of your husband or domestic partner and they'll take him away."

The Byrons are involved in ongoing divorce and child custody proceedings. Byron has said his wife and the court have prevented him from seeing his 17-month-old son many times. The court maintains he is allowed to see him on a twice-weekly basis.

Domestic Relations Magistrate Paul Meyers last month found Byron in contempt of a protective order over his Facebook comments. Meyers said that Byron could avoid a 60-day jail sentence and a \$500 fine by posting the apology - written by Meyers - to his wife and all of his [Facebook friends](#) and paying her attorney fees.

The June court order prohibited Byron from causing his wife physical or mental abuse, harassment or annoyance. She asked in December that he be found in contempt after learning of the Facebook comments.

Byron's comments expressed frustration, but they were not threats and he didn't make them to his wife, said Cincinnati attorney Jack Greiner, who also specializes in free speech and media issues.

Greiner said he doesn't think the First Amendment "allows a court to find that someone has harassed or caused a person to suffer mental abuse merely by expressing one's opinion about a court proceeding in a non-threatening way."

Greiner said that a court compelling speech through a court-written apology raises as many free speech concerns as actions prohibiting free speech.

The statement that Byron says he has been posting since Feb. 13 has him apologizing to his wife for "casting her in an unfavorable light" and to his Facebook friends for "attempting to mislead them." Byron said he is being forced to make statements that are false.

The magistrate's assistant said Friday that Meyers cannot comment on pending court cases. Elizabeth Byron's attorney did not immediately return calls.

The ruling found that several of Mark Byron's comments were "clearly

intended to be mentally abusive, harassing and annoying" to his wife and "generate a negative and venomous response to her from his Facebook friends."

Responses by Facebook friends to his posting caused Elizabeth Byron to be "afraid and concerned," according to court documents.

Byron and his attorney, Becky Ford, say he made his comments out of frustration and never expected his wife to see them since she couldn't access his account.

"Once he made the comments, some of his Facebook friends started making inflammatory comments which he had no control over," Ford said.

His [comments](#) were "nothing other than free speech communication where he was venting truthful information," Ford said.

Byron is scheduled to appear in [court](#) March 19 and show proof that he posted the apology or go to jail.

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