

Message

From: Gene Marsh [REDACTED]
Sent: 7/23/2012 2:43:26 PM
To: Berst, David [REDACTED]
CC: Remy, Donald [REDACTED]
Subject: RE: NCAA PRESS CONFERENCE

David-

Mark's statements regarding Erickson were good. The most helpful part was saying that were the death penalty to be imposed, there also would have been additional penalties. I believed that to be the case from the start. The comments re Erickson were also terrific.

I appreciate your comments very much. I have not slept much in the past week, but hope to now ... but not right now.

The hardest part of this has been talking on behalf of several lawyers - including my partner and great friend, William - who come at things from an entirely different perspective. But both Frank Guadagnino at Reed Smith and their new general counsel, Steve Dunham, have been just superb in this process - raising all the issues that come naturally to them as great lawyers - and they are great lawyers who have served their client well - but also recognizing that in the end it must be a decision made by the new leadership that weighs many, many factors.

I had to weigh accepting this outcome versus what might come with a traditional infractions process in an opinion. I laid it all out and gave my opinion, but the call was not mine. I think they made the right choice.

There will be caustic critics and experts on "due process" etc. I'll get tagged I am sure, but I could truly care less. Truly. Folks who comment from the outside are all hat and no cattle.

Long ago - in the Alabama case - I learned to decide what is important to me ethically and stay right there intellectually. No matter what the noise.

That experience served me well this week, in talking this through with the people I dealt with.

I might fly to Indy on my own dime to talk about this - the big picture of this process - absolutely not specifics as to Penn State.

I hope Penn State will continue to involve me in this process as we move forward, but now is not the time to raise that. I think I can help them - truly.

At let me note that Donald Remy has been absolutely terrific this week. Most importantly, he understood what it was to be on the other side of this as a lawyer.

I remain so sorry for Penn State. So many folks paying a heavy price for the inaction of others. Having spent 28 years on a campus makes me even more sensitive to how this lands on people.

Best regards,

Gene