

MISSOURI CIRCUIT COURT
TWENTY-SECOND JUDICIAL CIRCUIT
(City of St. Louis)

FILED
MAY 28 2021

State of Missouri,
Plaintiff,

vs.

William Olsten,
Defendant.

22ND JUDICIAL CIRCUIT
CIRCUIT CLERK'S OFFICE
BY _____ DEPUTY
Cause: 1922-CR02199-01
Division 7

Judgment

Cause called for bench trial on Tuesday, April 6, 2021. Defendant appeared in person with his attorney Brian Millikan. State of Missouri appeared by and through assistant circuit attorneys Jeff Estes and Rob Huq.⁷ Both parties called witnesses and multiple electronic and written exhibits were received into evidence. Subsequently, the court took this matter under submission.

Portions of the case history are as follows:

On September 20, 2019, the Circuit Attorney charges Defendant by indictment with three counts of Assault Third Degree. In counts one and two, the state alleges that Defendant assaulted R.A. and H.D. respectively, both disabled persons and special victims, which elevates the charge to a Class D Felony.² In count three, the state alleges that Defendant assaulted A.B., a Class E Felony, with all three incidents stemming from conduct occurring on September 29, 2017 (Court file, Indictment filed September 20, 2019);

On May 20, 2020, Defendant waives his right to a jury trial in writing and agrees to submit all issues in this case to the court (Court file);

and on December 16, 2020, and by written agreement of both parties, this matter was scheduled for a bench trial on April 5, 2021. Following some pretrial matters, the evidentiary presentation was delayed to the following day, April 6, 2021 (Court file).

1 Rob Huq did not enter on the case and has yet to enter on behalf of the State of Missouri. However, he filed motions on behalf of the Circuit Attorney immediately prior to trial, then appeared at counsel table and questioned both a state's witness and the sole defense witness during the trial.

2 Assault Third Degree is a Class E felony unless the complaining witness is a special victim as defined by statute,
then the offense is elevated to a Class D felony. §565.054.2 RSMo.

Following opening statement, the State of Missouri called the three complaining witnesses, A.B., H.D. and R.A., as well as a St. Louis Metropolitan Police Department Lieutenant for a total of four witnesses.³ Additionally, the state offered multiple electronic and written exhibits which were received into evidence.⁴ After the state rested, Defendant called a St. Louis Metropolitan Police Department Sergeant as his only witness.⁵ The state chose not to offer any rebuttal evidence. Following closing arguments, the court took this matter under submission.

The court takes judicial notice of the applicable statutes, caselaw, Missouri Approved Instructions (MAI) and the court file, including the various motions, pleadings and attachments filed in this matter.

The state asserts the Defendant wrongfully administered his pepper spray intentionally causing physical injury to three different individuals R.A., H.D. and A.B, who were participating in a protest march through downtown St. Louis on September 29, 2017. (R.A., H.D., A.B. Testimony; Indictment, filed September 20, 2019.) At the time, Defendant was a member of the St. Louis Metropolitan Police Department but is no longer employed as a police officer.

³ The state chose to identify witnesses by initials within both the Complaint and the Indictment, so the court refers to these witnesses in a similar method. (Court file, Complaint filed July 16, 2019 and Indictment filed September 20, 2019.)

⁴ Exhibits 1 through 3 and Exhibits 5 through 11 were admitted without objection. The state chose not to offer Exhibit 4, an affidavit. Additionally, the state was unable to present Exhibit 11, a recording made by complaining witness A.B., seemingly due to equipment failure or technical difficulty. Exhibit 1 is a disc that contains multiple items including, but not limited to, two different video recordings further identified as the Maverick and the De Mian video which memorialize portions of the incident from varying vantage points. Exhibit 2 is an evidence envelope that includes both photographs and another disc. The four total photographs of two different individuals were neither marked nor identified during trial. Exhibit 2A is another disc containing the "RTCC" video.

⁵ Similarly, the court refers to the Police Lieutenant called by the State as the State's Witness and the Police Sergeant called by the Defendant as the Defendant's Witness.

Facts

After consulting the applicable Missouri statutes, caselaw and Missouri Approved Instructions as well as after reviewing the collective evidence and taking into consideration the testimony of the witnesses and assessing their credibility, the court finds:

As protesters were demonstrating in downtown St. Louis, on September 29, 2017, at approximately 9:37 p.m., police officials were managing traffic flow to ensure the protesters could proceed safely along Broadway. (Exhibit 2A video.) As A.B. and R.A. walked south on Broadway at the end of the protesting group and approached the Walnut intersection, police asked them to wait momentarily on the north side of the intersection to allow blocked traffic to proceed east on Walnut. (Exhibit 1, Maverick video.) Just south of the intersection, the immediate vicinity on Broadway was mostly vacant after most of the protesters walked out of view. (Exhibit 2A video.) As police were waving traffic east on Walnut, Minister Gray, a protest participant, assaulted a police officer, knocking him to the ground. As police officials proceeded to take him into custody, another protester identified as "Cap" punched an officer participating in the Gray arrest. (Defendant's Witness Testimony.)

Following the second assault, Cap resisted arrest and ran south on Broadway away from the Walnut intersection where police administered a taser to take him into custody. (Exhibit 1, Maverick video; Defendant's Witness Testimony.) Instantaneously, an initial group of protesters converged on the arrest scene, the previously near vacant area on Broadway immediately south of Walnut. (Exhibit 2A video.) Despite police repeatedly directing people to "Get Back!" this initial, smaller group of approximately 14 individuals surrounded the police officers with some standing as close as eight to ten feet. (Exhibit 1, Maverick video; Exhibit 2A video.)

Following the arrest, Defendant and other law enforcement officials escorted Cap north on Broadway toward the Walnut intersection. Meanwhile, law enforcement continued to instruct the protesters, including A.B., R.A. and H.D. to "Get Back." (Exhibit 1, Maverick video; Defendant's Witness Testimony.) Despite this, many protesters who previously traveled south on Broadway and out of view returned in large numbers to the Broadway and Walnut intersection. (Exhibit 2A video.) R.A. and A.B. were already at the intersection at the time of the dual arrests, but H.D. was among the crowd members who returned to the intersection after initially proceeding south on Broadway away from the scene. (Exhibit 1, Maverick video and De Mian video.)

Despite the police commands, the crowd continued to gather in a number exceeding 100 people during the late evening hours. (Defendant's Witness Testimony.) Located at the front of the gathering crowd, A.B. shouted assorted vulgarities and taunted Defendant, referring to him as a "p--sy a-s white boy" and further threatening to "f--k him up." (Exhibit 1, Maverick video.)

After relinquishing control of Cap to other officers a short distance away, Defendant remained at the Broadway/Walnut intersection to assist other officers monitoring the growing crowd. (Exhibit 1, Maverick video; Exhibit 2A video.) Disregarding directives, A.B. continued to threaten and taunt Defendant as he moved toward Defendant. (Defendant's Witness Testimony.) Meanwhile, the crowd continued to gather in large numbers, assembling in a show of force in the middle of Broadway. (Exhibit 1, Maverick video, Exhibit 2A video.)

After directing the crowd to get back, Defendant administered his pepper spray in the direction of A.B. (Exhibit 1, Maverick video; Defendant's Witness Testimony.) Likewise, R.A. was also affected by the discharge. (R.A. Testimony.) The pepper spray also affected H.D. who was in the area, pursuant to a video that she recorded during the incident and one of two video

recordings contained in State's Exhibit 1. (H.D. Testimony; Exhibit 1, De Mian video, Exhibit 2A video.)

The participants in this unfolding confrontation were not limited to law enforcement and the gathering crowd. Following the baseball game, people with small children are visible in the video walking away from the stadium, then along the Broadway sidewalk. (Exhibit 2A video.) Additionally, vehicular traffic accumulated along Walnut attempting to exit downtown but was blocked at Broadway by police to accommodate the protest demonstration.

What appeared to resemble a peaceful protest that was winding down to a few stragglers turned hectic, chaotic and tense within moments as the large crowd converged on police officers at the intersection of Walnut and Broadway following the consecutive arrests. (Defendant's Witness Testimony; Exhibit 2A video.) The crowd became unlawful when some previous protest participants reversed their route, turned north, assembled on Broadway and disregarded multiple law enforcement commands to get back. The two arrested individuals unlocked the unrest, initiating the assaults while law enforcement was distracted with the traffic proceeding east on Walnut that also blocked an avenue of retreat. Moreover, some in the "angry" crowd were throwing things at the police officers. (Defendant's Witness Testimony.) Just before Defendant disbursed his pepper spray, law enforcement was justified in arresting members in the large crowd but this was unfeasible due to the collective circumstances. (Defendant's Witness Testimony.)

On October 2, 2018, each of the three complaining witnesses filed a separate civil lawsuit against Defendant, Col. John Hayden and the City of St. Louis as a consequence of this incident. Each lawsuit is pending in The United States District Court, Eastern District of Missouri. (A.B., R.A. and H.D. Testimony.)

Analysis

a. State fails to comply with the statutory requirements defining a special victim.

The state alleges R.A. and H.D. are each a “disabled person, and special victim” in its indictment but the state’s trial presentation omitted the requisite evidence as required by statute. (Counts One and Two of Indictment filed September 20, 2019; §556.061(24) RSMo.) In short, the Circuit Attorney failed to introduce a physician’s corroborating diagnosis or the “verified ...medical findings” specifying the physical impairment of R.A. and H.D. §556.061(24) RSMo.

Among other statutory subgroups, a “special victim” may include a law enforcement officer, emergency personnel, or a probation or parole officer, all of whom must be on duty at the time of the assault, as well as an elderly person, a person with a disability, or a vulnerable person, etc. §565.0002(14)(a)-(f) RSMo. As expected, the statute defines the different classes of special victim. For example, an elderly person is simply defined as “a person sixty years of age or older.” §556.061(25) RSMo.

The statutory definition for a disability or a disabled person is more involved. Specifically, a “disability” is defined as a mental, physical, or developmental impairment that substantially limits one or more major life activities or the ability to provide adequately for one’s care or protection, whether the impairment is congenital or acquired by accident, injury or disease, where such impairment is verified by medical findings. §556.061(24) RSMo. Based on an ordinary reading, a disability may include a mental, physical or developmental impairment but the statute further requires the impairment is “verified by medical findings.” §556.061(24) RSMo. In the present matter, the court did not receive any corroborating medical testimony or

health diagnosis, medical report, physical examination supplemented by a physician's affidavit regarding the two impairments affecting two complaining witnesses. As required by statute and corroborated by caselaw, the circuit attorney's decision to designate R.A. and H.D. as a disabled person and special victim elevates the criminal consequences but triggers the state's obligation to prove this element beyond a reasonable doubt.⁶

During trial both witnesses offered compelling testimony about their physical impairments. H.D. explained that over the course of her entire life she suffers from a connective tissue disorder that restricts her movement to a wheelchair, among other limitations. (H.D. Testimony.) Similarly, R.A. discussed that since his birth one of his lower limbs is shorter in length than the other leg, forcing him to utilize a prosthetic limb. (R.A. Testimony.) While the court respects the courage of these two witnesses to discuss publicly their personal medical issues, these explanations do not qualify as verified medical findings. More simply, the statute requires a professional medical finding to verify the disability dialogue. Additionally, the court does not question the truthfulness of either witness regarding this specific subject matter but simply summarizes the statutory substance prompting an evidentiary obligation for the state.

The Circuit Attorney had ample opportunity to secure the proper medical findings required by law. Approximately two years separate the incident from the date that the Circuit Attorney filed her charging document and this matter was pending for an additional period exceeding 18 months before the trial ultimately commenced.

⁶ Besides the plain language of §556.061(24) RSMo., the evidentiary obligation to offer verified medical findings is court confirmed. *State v. Beck*, 581 S.W.3d 97, 103 (Mo.App. W.D. 2019) In *Beck*, the court rejected the Defendant's argument that the State was required to offer verified medical findings of both the 'impairment' and the 'life activity substantial limitation.' *Id.*, at 102. The court held that among additional evidence submitted by the state, an examination report attested to by medical experts medically verified the complaining witness' impairment. *State v. Beck*, 581 S.W.3d 97, 103. Here, the circuit attorney did not offer the verified medical findings documenting the disability for either R.A. or H.D.

The state's inability to verify the impairments of R.A. and H.D. by medical findings presents a defect in the state's case. Accordingly, the court cannot find the Defendant guilty beyond a reasonable doubt as charged under counts one and two, the alleged assaults involving R.A. and H.D.

- b. Located near Defendant, Defendant's witness observed the events unfold, recognized the danger of the growing crowd and observed action was necessary because the crowd refused to withdraw.**

Next, the court will consider the state's case involving the alleged assault of A.B., count three, and lesser included charges stemming from all three counts. The lack of verified medical findings are similarly problematic for the circuit attorney's case involving the lesser included assault fourth degree for R.A. and H.D.

Defendant called as his witness a police sergeant who has 28 years of law enforcement experience and who was supervising 10 to 12 different detectives on the scene of the incident. Based on his career advancement, the department recognizes his considerable experience and his proven professional abilities. More importantly, he was standing in close proximity to Defendant and had the opportunity to observe Defendant as well as the protesters during the tense moments preceding, during and after Defendant administered his pepper spray. Significantly, he observed A.B. shout racial taunts, threaten and move toward Defendant in a threatening manner. (Defendant's Witness Testimony; Exhibit 1, Maverick video.)

Following the arrests of two protesters, Defendant's witness saw the crowd reverse course on Broadway and move rapidly toward the police officers forcing them to retreat toward Walnut. Although several officers instructed the crowd to get back, the crowd continued to converge on law enforcement which had its back to the moving vehicular traffic now proceeding

east on Walnut. Despite the officer commands, the crowd of protesters grew "angry," continued to move toward the police with some even throwing objects at the police. (Defendant's Witness Testimony.)

The court finds Defendant's witness highly credible. The state's own evidence, the videos corroborate the testimony of Defendant's witness that the crowd demeanor changed dramatically within moments. Immediately before the two arrests, the Broadway vicinity just south of Walnut was almost vacant after the majority of the protesters had proceeded through this area south on Broadway. (Exhibit 1, Maverick video; Exhibit 2A video.) Following the arrests however, a substantial number of the crowd returned and disregarded multiple commands to get back. (Exhibit 1, Maverick video and De Mian video; Exhibit 2A and Defendant's Witness Testimony.) When the crowd returned, their aggressive, confrontational manner was apparent. Some in the crowd are visibly angry as they resist maintaining a respectable distance while directly approaching law enforcement even as the police officers are backpedaling toward the Walnut intersection.

Standing next to the Defendant, Defendant's witness recognized the threat of the crowd, fearing that he and the other officers were about to be overrun. Among other concerns, the police officials on the scene were contained without an opportunity to retreat. They were facing a growing, angry crowd converging on their location with their backs to moving traffic on Walnut, effectively blocking their retreat. (Defendant's Witness Testimony.)

The growing threat was complicated by the state's complaining witness, A.B. Despite police officials directing him and others to get back, A.B. continued to advance. (Defendant's Witness Testimony.) Located at the front of the gathering crowd, A.B. began taunting Defendant, referring to him as a "p--sy a-s white boy" and further threatening to "f--k him up." (Exhibit 1,

Maverick video.)

The state argues that Defendant is compelled to disregard the racial taunts and seemingly insignificant name calling. When objectively considering all the evidence, the court cannot disguise A.B.'s threatening comments as simple profanity, as disingenuously suggested by the state, especially after recognizing his aggressive conduct. Specifically, A.B. is advancing toward Defendant despite multiple commands to get back. Most importantly, A.B. is demonstrating this threatening conduct while standing at the apex of an angry group gathering in a show of force, all of which is clearly visible to Defendant's witness and the Defendant. Moreover, the show of force materializes within moments following two different assaults on law enforcement.

After recognizing A.B.'s threatening conduct as well as identifying the safety risk presented by the crowd, Defendant's witness persuasively explained that the Defendant acted reasonably when discharging his pepper spray and if he had not, the police sergeant witness with 28 years of law enforcement experience would have done so. (Defendant's Witness Testimony.)

- c. Defendant complied with Metropolitan Police Department – City of St. Louis Office of the Police Commissioner Special Order guidelines which direct the officer to assess the situation and determine the best method to safely bring the incident under control with the least amount of force.**

Both sides refer to the Metropolitan Police Department – City of St. Louis Office of the Police Commissioner Special Order as guiding Defendant's conduct in this matter. (Exhibit 3.) Prior to the use of any force, "officers will assess the situation to determine the best method to safely bring the incident under control with the least amount of force applied" pursuant to these guidelines. (Exhibit 3, p.00630.) Accordingly, Officers may use non-deadly force for the resolution of incidents, as follows: a) To protect themselves or others from physical harm b.) To restrain or subdue a resistant individual; or c.) To bring any unlawful situation safely and

effectively under control. (Exhibit 3, p.00630.) The use of pepper spray is considered non-deadly force. (Exhibit 3, p.00630.)

In the alternative, the state contends that Defendant is vulnerable to the lesser included charge of Assault Fourth Degree if the court does not find the Defendant guilty of Assault Third Degree. Accordingly, the state is required to prove the Defendant "knowingly causes physical injury" under Assault Third Degree compared to Defendant "attempts to cause or recklessly causes physical injury" under Assault Fourth Degree. §565.054.1, §565.056.1(1) RSMo. For many of the same reasons, the court is not so convinced beyond a reasonable doubt.

The court finds that Defendant's response was reasonable and justified after considering all three Police Commissioner guidelines. Following a review of the videos and after listening to the witness testimony, the court can arguably interpret Defendant's reaction as an attempt to protect from harm, restrain a resistant individual as well as bring an unlawful, threatening situation under control. (Exhibit 3, Non-Deadly Force Policy(2a)(2b)(2c), p.00630.) Less than 90 seconds separate the two major events, Defendant discharging the pepper spray and the Cap and Minister Gray arrests following the assaults on law enforcement. (Exhibit 2A video, Exhibit 1, Maverick video.) Importantly, Defendant's exposure to threatening conduct was not limited to A.B. He assisted with Cap's detention immediately following the assaults. When he returned to the intersection, his line of sight was directed south in the face of the converging crowd that was disregarding law enforcement directives. Some in the crowd were even throwing objects at the police. (Defendant's Witness Testimony; Exhibit 1, Maverick video.)

The crowd demeanor changed dramatically during this time period, as the crowd became increasingly aggressive, angry and threatening. Complicating the situation, the vehicular traffic moving east on Walnut blocked the law enforcement retreat. Standing next to Defendant during

these critical moments, Defendant's witness observed that the limited police presence was about to be "overrun" by this angry crowd exceeding 100 people. (Defendant's Witness Testimony.)

The state contends that Defendant's conduct was criminal when administering the pepper spray because he knowingly, attempted or recklessly caused harm to A.B., R.A. and H.D., depending on the respective charge. §565.054.1, §565.056.1(1) RSMo. Even the state's own witness contradicted himself regarding Defendant's use of the pepper spray and was completely unpersuasive that Defendant's actions even remotely resembled criminal conduct. During direct examination he initially stated that the use of the mace was unnecessary under the circumstances. However, he later conceded during cross examination that he did not have an opinion about Defendant's use of the pepper spray, or non-deadly force, in this situation. (State's Witness Testimony.)

While he reviewed the video recordings of the incident and was present on the scene, he did not witness the confrontation between Defendant and the complaining witnesses because he was equally distracted by the crowd that reversed course and was heading north on Broadway in large numbers. (State's Witness Testimony; Exhibit 2A video.)

While the state's police witness was more ambivalent about Defendant's decision to use the pepper spray, Defendant's witness was firm, unapologetic and adamant about the need to stabilize the unruly situation, explaining that police officials were on the verge of being "overrun." (Defendant's Witness Testimony.) The latter witness' testimony paints a more complete picture of the events, especially when considering the video shows an aggressive crowd confronting the police and gathering in large numbers within moments. When considering the collective circumstances within the full panorama view available to the court, Defendant's actions can arguably be interpreted as an effort to protect Defendant, other police officers, the

protesters themselves as well as the nearby vehicular occupants and several pedestrians leaving the baseball game.

As reflected in the initial portions of some of the videos, it is not missed on the court that the September 29 event began as a peaceful demonstration as police chose to guaranty the protesters uninterrupted access on a major city thoroughfare as thousands were exiting the baseball stadium on foot and some further attempting to leave downtown by vehicle. (Exhibit 1, Maverick video; Exhibit 2A video). However, it is highly significant to the court, the uncontroverted evidence reflects that a significant number of the protesters reversed course on Broadway and returned to the Walnut/Broadway intersection. The overwhelming angry crowd descended on a handful of police officers who assured their safe passage just moments earlier. Standing at the front of this crowd, A.B. threatened Defendant while disregarding commands to stand back.

After considering the collective evidence, after reviewing the applicable statutes, case law and the appropriate Missouri Approved Instructions (MAI), the court finds that Defendant's response to the escalating threat in the late evening hours of September 29 was justified. In fact, his response comports with the Office of the Police Commissioner guidelines outlining the appropriate use of force. (Exhibit 3, Non-Deadly Force Policy (2a)(2b)(2c), p.00630.)

The Circuit Attorney isolates Defendant's conduct to the very narrow window defined by his interaction with the complaining witnesses, while ignoring the threatening conduct and the rapidly mounting chaos assembling in the face of law enforcement. For example, the state heavily faults Defendant for shouting back at A.B. at one point during their limited interaction. What the state views as highly reflective of his guilt cannot be viewed in isolation or without considering the escalating threat beginning with the assaults and continued by the crowd

behavior. Even the state's own evidence reflects that Defendant likewise issued a last directive to get back before administering the pepper spray and after his sole comment of displeasure that may or may not have been directed at A.B. (Exhibit 1, Maverick video; Exhibit 2A video.)

When pushing prosecution, the circuit attorney seems to disregard the concerning crowd conduct as a factor. Following the assaults, the crowd gathered in a show of force in the face of law enforcement. This unruly, angry group was real. In these critical moments law enforcement was overwhelmed and on the verge of being overran. Despite commands to withdraw, the unruly crowd resisted - even grew in number - with some even throwing things. The crowd presented a tangible threat to the safety of the officers as well as the pedestrians proceeding through the area and immediately following a heavily attended downtown event. It is simply unreasonable to expect any factfinder to evaluate the Defendant's conduct and impose criminal liability without considering the safety threat.

H.D. faults Defendant for disbursing the pepper spray prior to any warning and without law enforcement providing any public disbursement order. (H.D. Testimony.) Considering law enforcement officers were heavily distracted by the moving traffic and the rapidly growing converging crowd, it is unclear if a public disbursement announcement was feasible under these circumstances. Besides, law enforcement commands to withdraw were repeatedly articulated prior to Defendant disbursing the pepper spray.

To his credit, R.A. is not recorded as taunting or threatening Defendant. Based on the video recordings, it is unclear at what point he stopped advancing toward Defendant. However, it is unsurprising that R.A. was affected by Defendant's pepper spray since he is viewed standing next to A.B. shortly before the pepper spray disbursement. (Exhibit 1, Maverick video.) While the court finds him credible that he was simply anxious to learn the reason(s) for the Gray and

Cap arrests, the critical fact remains that he remained on the scene while a rapidly gathering large, angry crowd assembled at his back in a show of force and ignored multiple commands to get back.

R.A. further concludes that law enforcement and others did not consider these events as "an illegal protest" based on their supportive efforts to block side streets or the traffic intersecting with Broadway on behalf of protesters, thus highlighting Defendant's wrongful conduct. (R.A. Testimony.) The court appreciates his concern. Like the other protesters, R.A.'s right to demonstrate, publicly assemble and voice his opinion are constitutionally protected within limits. While the court agrees that law enforcement guaranteed safe passage for the demonstrators as they peacefully proceeded south on Broadway, the court disagrees about the legality of the crowd conduct after reversing course and converging on law enforcement. Admittedly, the pivotal events were separated by moments during these late evening hours on September 29. What began as a legal demonstration with protesters exercising their constitutionally protected right to free speech became illegal activity when the crowd abruptly changed course, willfully disregarded directives to get back, continued to gather in the middle of Broadway and confronted law enforcement following dual assaults. Former lawful conduct does not excuse latter unlawful conduct.

Conclusion

While the court's decision will not be well received, the equal reality is that a just society relies on law enforcement to exercise sound discretion and act reasonably when maintaining law and order. These are high expectations but critical to ensuring equal treatment under the law. When an officer deviates from the oath and willfully abuses his authority, the community's confidence in law enforcement and the equity of our society are tarnished. Respectfully, the court

finds that this did not happen here. While regrettable, unfortunate and concerning that the complaining witnesses experienced the unpleasant effects of the chemicals disbursed from Defendant's mace canister, Defendant's actions were justified under the circumstances. His response immediately followed two separate assaults on law enforcement while one complaining witness threatened bodily harm and aggressively advanced toward the Defendant with even more numerous, angry individuals converging into the immediate area. Defendant's decision to disburse the pepper spray also followed numerous law enforcement directives instructing the crowd to withdraw. For these collective reasons, the court finds the Defendant not guilty on counts one through three. Case closed.

Dated, Entered and So Ordered this twenty-eighth day of May 2021.

Thos Clark

Hon. Thomas Clark
Judge

Entered
P. Pollihan
5-28-21