

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI
Honorable David C. Mason, Judge

STATE OF MISSOURI,)
)
) Plaintiff,)
)
) vs.) Cause 2022-CR01301
)
)
) **MARK MCCLOSKEY,**)
)
)
) Defendant.)

TRANSCRIPT OF GUILTY PLEA AND SENTENCING

On the 17th day of June, 2021, the above-entitled cause came on regularly for hearing before the Honorable David C. Mason, Judge of Division 17 of the Twenty-Second Judicial Circuit in the City of St. Louis.

The State of Missouri was represented by Special Prosecutor Richard Callahan, Esq.

The Defendant was present in person and was represented by Joel Schwartz, Esq.

SUSAN M. MOODY, CCR #430
OFFICIAL COURT REPORTER
CITY OF ST. LOUIS CIRCUIT COURT
TWENTY-SECOND JUDICIAL CIRCUIT

1 Proceedings

2 June 17, 2021

3 oOo

4 THE COURT: Court calls the matter of the
5 State of Missouri against Mark McCloskey; this is
6 Cause 2022-CR01301, and the matter of the State of
7 Missouri against Patricia McCloskey, Cause
8 2022-CR01300.

9 Let the record reflect that the -- I see
10 the defendant -- are both defendants here?

11 MR. SCHWARTZ: They are both here. Did
12 you want them both up at the same time?

13 THE COURT: I can't see behind you very
14 well. I'm sorry.

15 MR. SCHWARTZ: Judge, do you want them
16 both up here at the same time?

17 THE COURT: Yeah.

18 MR. SCHWARTZ: Okay.

19 THE COURT: I mean, that would be the
20 normal . . .

21 MR. SCHWARTZ: That's fine with me.

22 THE COURT: Standing right in front of me.
23 I'm sorry. One of those days.

24 Let the record reflect that both
25 defendants are present in person and through

1 counsel; likewise State of Missouri through Special
2 Prosecutor Callahan.

3 There was a brief discussion off the
4 record wherein counsel for defendant advised the
5 Court that he would have an announcement for the
6 Court.

7 So, Mr. Schwarz, what is your
8 announcement?

9 MR. SCHWARTZ: Your Honor, regarding
10 Mr. Mark McCloskey, the State, through Special
11 Prosecutor Richard Callahan -- I'm talking into a
12 nonexistent microphone.

13 THE COURT: I can hear you.

14 MR. SCHWARTZ: -- filed a substitute
15 information in lieu of indictment. We would waive
16 formal reading of that, and we would be entering a
17 plea of guilty based upon that this afternoon.

18 THE COURT: All right. And is it your
19 desire for the Court to proceed today with each
20 defendant in turn? Is that your desire?

21 MR. SCHWARTZ: If the Court wishes them to
22 take -- if the Court wishes to take them together
23 through a plea colloquy and their rights, we would
24 have no objection. If the Court wishes to do them
25 individually, we have no objection to that either.

1 THE COURT: So you are suggesting that
2 Defendant Patricia McCloskey would likewise enter a
3 guilty plea today?

4 MR. SCHWARTZ: She will be pleading guilty
5 to Count II in the substitute information in lieu of
6 indictment that was filed earlier by Mr. Callahan.

7 THE COURT: All right. You say Count II.
8 The agreement, I'm assuming, removes Count I with
9 respect to Patricia McCloskey?

10 MR. SCHWARTZ: I'm sorry, Your Honor?

11 THE COURT: You said Count II. Does that
12 mean the agreement removes Count 1 with respect to
13 Patricia McCloskey?

14 MR. CALLAHAN: Judge, if I may.

15 THE COURT: Please do.

16 MR. CALLAHAN: Because they're charged in
17 the alternative, the disposition of one eliminates
18 the other as a matter of law.

19 THE COURT: Gotcha. Thank you very much.

20 All right. Okay. With that -- I just
21 need to make sure that I have -- give me a second.
22 I have to be sure my charge is correct --

23 MR. SCHWARTZ: Yes, sir.

24 THE COURT: -- to make sure that I ask the
25 correct questions in the course of the guilty plea.

1 And the only thing left then with respect
2 to Patricia McCloskey is just Count II; is that
3 accurate?

4 MR. SCHWARTZ: That's correct, Your Honor.

5 THE COURT: All right. Trying to find the
6 charging document. Wasn't there a change with
7 respect to the charge concerning defendant Patricia
8 McCloskey? Was there?

9 MR. SCHWARTZ: Was there what, Your Honor?

10 THE COURT: Was there a change in the
11 charge concerning Patricia McCloskey? Was there any
12 substitute indictments filed?

13 MR. CALLAHAN: Judge, there was a
14 substitute information in lieu of indictment filed
15 on May 24th. I don't have -- I've got two big
16 briefcases full of papers.

17 THE COURT: I understand.

18 MR. SCHWARTZ: I have a copy of it, Your
19 Honor.

20 THE COURT: Oh, great. Thank you,
21 Counselor.

22 (Handing document to the Court.)

23 THE COURT: All right. Thank you.

24 So what you are announcing to the Court is
25 a plea on the alternative Count II, correct?

1 MR. SCHWARTZ: That is correct, Your
2 Honor.

3 THE COURT: All right.

4 And with respect to Defendant Mark
5 McCloskey, what you are announcing is a plea to the
6 substitute information which the State filed today;
7 is that correct?

8 MR. SCHWARTZ: That is also correct.

9 THE COURT: All right.

10 Clerk, please put both defendants under
11 oath.

12 **PATRICIA MCCLOSKEY AND MARK MCCLOSKEY,**
13 upon being first duly sworn by the Clerk, were
14 examined and testified as follows:

15 **EXAMINATION BY THE COURT**

16 THE COURT: Just for the record, these
17 particular defendants do have unique professional
18 status which can impact any assessment of their
19 understanding of their rights. I need to first make
20 that clear.

21 Attorney Patricia McCloskey, as I
22 understand, you're presently a member of the bar in
23 good standing?

24 MRS. PATRICIA McCLOSKEY: I am.

25 THE COURT: And your bar number is?

1 MRS. PATRICIA McCLOSKEY: 36153.

2 THE COURT: All right.

3 And to Mark McCloskey, I understand you're
4 presently a member of the bar in good standing?

5 MR. MARK McCLOSKEY: I am.

6 THE COURT: And your bar number is?

7 MR. MARK McCLOSKEY: 36144.

8 THE COURT: All right. To either of you,
9 if I ask any questions that you don't understand, I
10 still have to give you an opportunity if you wish to
11 discuss it with your attorney before answering. I
12 still need to advise you don't force an answer if
13 you aren't sure of what it is I'm saying.

14 Now, for both of you I'm going to ask some
15 questions. I will break this down. I don't
16 normally call people by their first name, but to
17 make it easier, I will probably just say Patricia
18 and then Mark at different times. And that way the
19 court reporter can have a clear record of who's
20 answering the question.

21 Now, for both of you, your lawyer has
22 indicated to the Court that you wish to withdraw
23 your pleas of not guilty and enter pleas of guilty
24 to, with respect to Patricia, Count II, and with
25 respect to Mark, the substitute information done

1 today; is that correct?

2 MR. MARK McCLOSKEY: Yes, Your Honor.

3 MRS. PATRICIA McCLOSKEY: Yes.

4 THE COURT: All right. And the charges
5 under there are, Count I, for Patricia, that she
6 committed the Class A misdemeanor of harassment in
7 the second degree.

8 You understand that, Miss McCloskey?

9 I need you to speak.

10 MRS. PATRICIA McCLOSKEY: Oh. I
11 understand, yes.

12 THE COURT: Thank you.

13 And the substitute information which was
14 filed today with respect to Mark McCloskey indicates
15 a Class C misdemeanor of assault in the fourth
16 degree.

17 You understand that, defendant Mark --
18 Mr. McCloskey?

19 MR. MARK McCLOSKEY: Yes, Your Honor.

20 THE COURT: Have you both had an
21 opportunity to discuss these charges with your
22 lawyer?

23 MR. MARK McCLOSKEY: Yes, Your Honor.

24 MRS. PATRICIA McCLOSKEY: We have.

25 THE COURT: Do you have any questions of

1 the Court concerning the charges?

2 MR. MARK McCLOSKEY: No, Your Honor.

3 MRS. PATRICIA McCLOSKEY: No, Your Honor.

4 THE COURT: Is that correct, Mr. Schwartz,
5 you've had an opportunity to talk to your clients
6 about these charges?

7 MR. SCHWARTZ: Extensively, Your Honor.

8 THE COURT: Do you feel that they
9 understand the existing charges that they're about
10 to plead guilty to?

11 MR. SCHWARTZ: I do, Your Honor.

12 THE COURT: Before I accept your pleas of
13 guilty, I need to make sure that you both fully
14 understand your trial rights. I'll be doing this by
15 asking you a series of questions. And again, if I
16 ask a question you don't understand, do not force an
17 answer.

18 Under the law of the State of Missouri,
19 the Constitution of the United States, you both have
20 the right to a trial by a jury.

21 Do you understand that, Miss McCloskey?

22 MRS. PATRICIA McCLOSKEY: Yes.

23 THE COURT: Mr. McCloskey?

24 MR. MARK McCLOSKEY: Yes.

25 THE COURT: Before a jury trial can

1 proceed, you and your lawyer will be able to
2 participate to determine who those 12 jurors would
3 be.

4 Do you understand that, Miss McCloskey?

5 MRS. PATRICIA McCLOSKEY: I do.

6 THE COURT: Mr. McCloskey?

7 MR. MARK McCLOSKEY: Yes, Your Honor.

8 THE COURT: You also have the right to
9 petition or ask the Court for what's called a bench
10 trial. This is where the judge hears the evidence
11 and the judge decides whether you're guilty or not.

12 Do you understand that, Miss McCloskey?

13 MRS. PATRICIA McCLOSKEY: Yes.

14 THE COURT: Mr. McCloskey?

15 MR. MARK McCLOSKEY: Yes, sir.

16 THE COURT: You also have the right to be
17 present for any trial, be it by jury or by judge,
18 and listen to all the evidence as it comes out
19 against you.

20 Do you understand that, Mr. McCloskey?

21 MR. MARK McCLOSKEY: Yes, sir.

22 THE COURT: Miss McCloskey?

23 MRS. PATRICIA McCLOSKEY: Yes.

24 THE COURT: All right.

25 You have the right to have your lawyer

1 cross-examine any witnesses that the state calls to
2 testify against you.

3 Do you understand that, Miss McCloskey?

4 MRS. PATRICIA McCLOSKEY: Yes.

5 THE COURT: Mr. McCloskey?

6 MR. MARK McCLOSKEY: Yes, Your Honor.

7 THE COURT: You have the right to see any
8 papers, documents or physical evidence that the
9 state would have to introduce against you before
10 it's shown to the jury.

11 You understand that, Miss McCloskey?

12 MRS. PATRICIA McCLOSKEY: Yes, Your Honor.

13 THE COURT: Mr. McCloskey?

14 MR. MARK McCLOSKEY: Yes, Your Honor.

15 THE COURT: You have the right to have
16 your lawyer cross-examine -- I may have already said
17 that -- cross-examine any and all witnesses that the
18 state calls to testify against you.

19 You understand that, Miss McCloskey?

20 MRS. PATRICIA McCLOSKEY: Yes.

21 THE COURT: Mr. McCloskey?

22 MR. MARK McCLOSKEY: Yes, sir.

23 THE COURT: You also have the right to put
24 forth witnesses to testify on your behalf.

25 You understand that, Miss McCloskey?

1 MRS. PATRICIA McCLOSKEY: Yes, Your Honor.

2 THE COURT: Mr. McCloskey?

3 MR. MARK McCLOSKEY: Yes, Your Honor.

4 THE COURT: All right.

5 Now, before -- before a judge -- in order
6 for a judge or a jury to reach a verdict against
7 you, it has to be based upon evidence and proof
8 beyond a reasonable doubt.

9 You understand that, Mr. McCloskey?

10 MR. MARK McCLOSKEY: Yes, Your Honor.

11 THE COURT: Miss McCloskey?

12 MRS. PATRICIA McCLOSKEY: Yes, Your Honor.

13 THE COURT: But before a judge or a jury
14 would reach a determination, your lawyer will have
15 an opportunity to give them a closing argument to
16 try to convince them that you're not guilty.

17 Do you understand that, Mr. McCloskey?

18 MR. MARK McCLOSKEY: Yes, Your Honor.

19 THE COURT: Miss McCloskey?

20 MRS. PATRICIA McCLOSKEY: Yes, Your Honor.

21 THE COURT: If you're found guilty,
22 nonetheless, and you disagree with that verdict, you
23 can take it to the Court of Appeals and ask them
24 either for a new trial or to throw the charges out
25 all together.

1 You understand that, Miss McCloskey?

2 MRS. PATRICIA McCLOSKEY: Yes, Your Honor.

3 THE COURT: You understand, Mr. McCloskey?

4 MR. MARK McCLOSKEY: Yes, Your Honor.

5 THE COURT: However, by entering pleas of
6 guilty today, you're giving up all of those rights
7 to trial by jury, or trial by judge, and all those
8 rights to take it up on appeal that I have just
9 discussed with you.

10 Do you understand that, Mr. McCloskey?

11 MR. MARK McCLOSKEY: Yes, Your Honor.

12 THE COURT: Miss McCloskey?

13 MRS. PATRICIA McCLOSKEY: Yes, Your Honor.

14 THE COURT: Knowing that, do you wish to
15 still proceed with pleading guilty today?

16 Mr. McCloskey?

17 MR. MARK McCLOSKEY: Yes, Your Honor.

18 THE COURT: Miss McCloskey?

19 MRS. PATRICIA McCLOSKEY: Yes, Your Honor.

20 THE COURT: I'm going to have the special
21 prosecutor announce to the Court and discuss some of
22 the charges against you. And I'll be asking you
23 some questions. Listen carefully to what he says
24 because I'll be asking you questions about what he
25 says.

1 Mr. Callahan, you -- if you speak up you
2 may continue to sit if you wish.

3 MR. CALLAHAN: I will stand, Your Honor.

4 THE COURT: All right. Then, Counsel,
5 please, could you announce to the Court if you're
6 ready to proceed to trial today; and if so, what if
7 anything you would expect to prove?

8 MR. CALLAHAN: Judge, if this case were
9 tried, the State's evidence would show that on
10 June 28th of last year, a group of protestors were
11 headed north on north Kingshighway. And some of the
12 group -- they were on their way to the Mayor's house
13 to protest some information she had released.

14 And --

15 THE COURT: That was the then existing
16 Mayor, correct?

17 MR. CALLAHAN: Yes, former Mayor.

18 And some of the group thought they were
19 taking a shortcut, and they turned left and went
20 down Portland Place. And -- and as they
21 confronted -- and the McCloskey's, when they saw a
22 crowd coming down into the gate in front of their
23 house, they went outside with guns.

24 The actual charge against Patricia
25 McCloskey is that she pointed a pistol at a group of

1 individuals in front of her home without good cause
2 and with the purpose to cause emotional distress.
3 That's harassment in the second degree, a Class A
4 misdemeanor.

5 The charge against Mr. McCloskey is that,
6 again on that date, he purposely placed at least one
7 individual in apprehension of immediate physical
8 injury by waiving a rifle in the direction of one or
9 more individuals in front of his home. That is a
10 class -- that is assault in the fourth degree, and
11 that is a Class C misdemeanor.

12 THE COURT: All right.

13 Defendant Miss McCloskey, did you
14 understand what the special prosecutor said?

15 MRS. PATRICIA McCLOSKEY: I did.

16 THE COURT: And is it true that on that
17 date, time, and place in question you engaged in the
18 use of a dangerous weapon, to wit a handgun, in a
19 manner that could cause emotional distress?

20 MRS. PATRICIA McCLOSKEY: Yes.

21 THE COURT: All right. Actually, you
22 pointed it at -- pointed the automatic pistol at a
23 group of individuals; is that true?

24 MRS. PATRICIA McCLOSKEY: Yes.

25 THE COURT: And defendant Mr. McCloskey,

1 did you hear what the special prosecutor said?

2 MR. MARK McCLOSKEY: I did, Your Honor.

3 THE COURT: Did you understand what he
4 said?

5 MR. MARK McCLOSKEY: I did, Your Honor.

6 THE COURT: And is it true that on that
7 date, time, and place in question, you placed a
8 person in immediate physical -- apprehension of
9 immediate physical injury by waving a Colt automatic
10 rifle in the direction of one or more individuals?

11 MR. MARK McCLOSKEY: I sure did, Your
12 Honor.

13 THE COURT: Range of punishment, Special
14 Prosecutor?

15 MR. CALLAHAN: I'm sorry, Your Honor?

16 THE COURT: Range of punishment for these
17 causes.

18 MR. SCHWARTZ: Range of punishment.

19 MR. CALLAHAN: Oh. Judge, on --

20 THE COURT: Misdemeanor, I'm sure one day
21 to one year. I just need to ask.

22 MR. CALLAHAN: On the C misdemeanor it's
23 up to 1 day to 15 days. The fines go from -- on the
24 Class A misdemeanor from \$1 to \$2,000, and on the C
25 misdemeanor from \$1 to \$750.

1 The state's recommendation in each case --

2 THE COURT: Hold on. We'll get to that in
3 a moment. But that's the range of punishment?

4 MR. CALLAHAN: That's the range of
5 punishment, Your Honor.

6 THE COURT: And what's the range of
7 punishment with respect to the charge against
8 defendant Mark McCloskey?

9 MR. CALLAHAN: That would be from one day
10 to 15 days or a fine -- and/or a fine from \$1 to
11 \$750.

12 THE COURT: All right.

13 Now, what that means for both of you, if
14 you go to trial on these charges, then you would be
15 facing as much as 15 days and \$2000 with respect to
16 Miss McCloskey, and 750 in fines with respect to
17 Mrs. McCloskey.

18 Let me say something. I need to ask you
19 this, Special Prosecutor. The charges that you now
20 have before this Court, are these charges before
21 this Court only because of the plea agreement? And
22 what I mean by that is, if either defendant were to
23 say "No, I don't want to do this," would it be your
24 intent to proceed on the charges that are originally
25 filed?

1 MR. CALLAHAN: With respect to
2 Mrs. McCloskey, certainly.

3 THE COURT: All right.

4 MR. CALLAHAN: With respect to
5 Mr. McCloskey, I had informed his counsel some time
6 ago that I was not going to charge a felony of
7 exhibiting. I did not believe the evidence merited
8 that. I was still wrestling with which
9 misdemeanor -- possibly the harassment -- I was
10 still wrestling with what charge to file.

11 And after some brief discussion, I was
12 very comfortable with proceeding with this
13 substitute information.

14 THE COURT: Okay. Well, then I need to
15 take a step back. With respect to -- what was the
16 original charge that you would be proceeding with if
17 there was no plea agreement with respect to
18 defendant Miss McCloskey?

19 MR. CALLAHAN: With Mrs. McCloskey I filed
20 that substitute information, and that is what I
21 would go to trial with, the alternative charges of
22 the E felony or the A misdemeanor.

23 THE COURT: So you would be taking Count I
24 to the jury as well?

25 MR. CALLAHAN: Well, at this point, yes.

1 THE COURT: All right. And what is the
2 range of punishment under Count I? That's E felony,
3 so I guess -- is it still the same?

4 MR. SCHWARTZ: Judge, the range of
5 punishment on the E felony is one day to four years.

6 THE COURT: Oh, okay. Yeah, you're right.
7 It says felony. I do see it.

8 MR. SCHWARTZ: Yeah.

9 THE COURT: I need to rephrase a question
10 to you, Miss McCloskey. If you were to go to trial
11 in your case, you would be facing as much as
12 four years in prison. Do you understand that?

13 MRS. PATRICIA McCLOSKEY: Yes, I do, Your
14 Honor.

15 THE COURT: All right.

16 Now, also -- I've got from the
17 defendant -- from the prosecution, I guess, what you
18 would be asking of -- no, I don't.

19 If I were to accept the pleas of guilty
20 from both these defendants, what would be the
21 State's recommendation at that time?

22 MR. CALLAHAN: Judge, the state's
23 recommendation would be that the Court assess the
24 maximum fine as the punishment.

25 THE COURT: And I believe you announced

1 that to be \$750?

2 MR. CALLAHAN: Well, in Mrs. McCloskey's
3 case it's \$2,000.

4 THE COURT: \$2,000. Thank you.

5 MR. CALLAHAN: And if I could correct
6 something I said earlier, I -- perhaps with
7 Mr. McCloskey, I was wrestling with also charging
8 harassment in the second degree versus this. And in
9 the end, my decision was to file the assault in the
10 fourth degree, the C misdemeanor instead, in an
11 attempt to distinguish between the degree of conduct
12 committed by each of them.

13 THE COURT: I understand. And with
14 respect to defendant Mark McCloskey, if I accept his
15 plea of guilty, what would your recommendation be?

16 MR. CALLAHAN: It would be the maximum
17 fine which is \$750.

18 And as part of this, Your Honor, the State
19 is also -- we filed a request for an order of
20 forfeiture; and the State is requesting that the
21 Court order the forfeiture of both weapons involved
22 and direct that the weapons be destroyed.

23 On that latter point, I believe the
24 defense has a different request to make. But that
25 is the State's position; and so they've agreed to

1 the forfeiture of the weapons. State is requesting
2 for destruction. They have an alternative request
3 as to the disposition, at least with respect to the
4 rifle.

5 THE COURT: I understand. And we'll get
6 to that in just a moment.

7 So you've heard the position that the
8 state says they're going to recommend. Let me ask,
9 is that in pursuant to a plea bargain agreement that
10 you negotiated, Mr. Schwartz, on behalf of your
11 clients?

12 MR. SCHWARTZ: It is, Your Honor; and we
13 are in agreement with it.

14 THE COURT: And the two of you agree with
15 what your lawyer has negotiated?

16 Miss McCloskey?

17 MRS. PATRICIA McCLOSKEY: Yes, sir.

18 THE COURT: Mr. McCloskey?

19 MR. MARK McCLOSKEY: Yes, Your Honor.

20 THE COURT: Because what that means, if I
21 accept the plea of guilty and enter the
22 recommendation -- or accept the recommendation of
23 the state, you will not be able to take your guilty
24 pleas back. You understand that?

25 MRS. PATRICIA McCLOSKEY: I do.

1 THE COURT: You understand that,
2 Mr. McCloskey?

3 MR. MARK McCLOSKEY: Yes, Your Honor.

4 THE COURT: Knowing that, do you wish to
5 continue to plead guilty, Miss McCloskey?

6 MRS. PATRICIA McCLOSKEY: Yes.

7 THE COURT: Mr. McCloskey?

8 MR. MARK McCLOSKEY: Yes, Your Honor.

9 THE COURT: All right. I guess I'm going
10 to make a few assumptions about education and skip
11 right to something that may sound silly for me to
12 even be asking. Were you able to read and fully
13 understand the papers that your lawyer showed you in
14 this case?

15 Mr. McCloskey?

16 MR. MARK McCLOSKEY: Yes.

17 THE COURT: Did you read and understand,
18 Miss McCloskey?

19 MRS. PATRICIA McCLOSKEY: Yes.

20 THE COURT: That would include the police
21 report in this case; is that correct?

22 Mr. McCloskey?

23 MR. MARK McCLOSKEY: I'm sorry. I didn't
24 hear you.

25 THE COURT: And that includes the police

1 report.

2 MR. MARK McCLOSKEY: Yes, Your Honor.

3 THE COURT: Miss McCloskey?

4 MRS. PATRICIA McCLOSKEY: Yes, sir.

5 THE COURT: All right. And do you have
6 any questions of the Court about any of these
7 documents, any concerns that you have that you may
8 not fully understand the documents that you read in
9 this case, either of you?

10 You need to speak your answer.

11 MRS. PATRICIA McCLOSKEY: No concerns.

12 MR. MARK McCLOSKEY: No concerns, Your
13 Honor.

14 THE COURT: Okay. Here comes a tough
15 question. I ask every defendant. In the last
16 24 hours, have you consumed any alcoholic beverages;
17 beer, wine, liquor of any kind?

18 Miss McCloskey?

19 MRS. PATRICIA McCLOSKEY: No, Your Honor.

20 THE COURT: Mr. McCloskey?

21 MR. MARK McCLOSKEY: No, Your Honor.

22 THE COURT: In the last 24 hours, any
23 street drug, marijuana, cocaine any type of pills.

24 Miss McCloskey?

25 MRS. PATRICIA McCLOSKEY: No, Your Honor.

1 THE COURT: Mr. McCloskey?

2 MR. MARK McCLOSKEY: No, Your Honor.

3 THE COURT: All right.

4 Has any doctor, psychiatrist,

5 psychologist, nurse, counselor, teacher or social

6 worker ever told you you had any type of emotional

7 or mental problem that needed treatment?

8 Miss McCloskey?

9 MRS. PATRICIA McCLOSKEY: No, Your Honor.

10 THE COURT: Mr. McCloskey?

11 MR. MARK McCLOSKEY: No, Your Honor.

12 THE COURT: All right.

13 As you stand before me now, do you feel

14 like you fully understand everything that I said?

15 You can just both answer in turn.

16 MRS. PATRICIA McCLOSKEY: Yes.

17 MR. MARK McCLOSKEY: Yes, Your Honor.

18 THE COURT: Everything that the special

19 prosecutor has said?

20 MRS. PATRICIA McCLOSKEY: Yes, Your Honor.

21 MR. MARK McCLOSKEY: Yes, Your Honor.

22 THE COURT: And everything that your

23 lawyer said, in open court or in private to you?

24 MR. MARK McCLOSKEY: Yes, Your Honor.

25 MRS. PATRICIA McCLOSKEY: Yes, Your Honor.

1 THE COURT: And, Mr. Schwartz, do you have
2 any cause to believe that either of your clients did
3 not understand the nature of this proceeding, their
4 rights to a jury and nonjury trial that they are now
5 giving up, the charges against them, or the
6 responsibilities and circumstances of the plea
7 bargain they have reached with the State?

8 MR. SCHWARTZ: I have no concerns
9 whatsoever, Your Honor, for either of them.

10 THE COURT: Based on the foregoing, then,
11 with respect to defendant Patricia McCloskey, I find
12 that there is a factual basis for the plea based
13 upon the defendant's admission to the facts and
14 circumstances alleged by the State in support of
15 their charges against the defendant.

16 With respect to defendant Mark McCloskey,
17 I find that there's a factual basis for the plea
18 based on the defendant's admission and the facts
19 alleged by the State in support of their charges
20 filed against the defendant.

21 I find both of these defendants are not
22 under the influence of any drugs or alcohol. I find
23 that both these defendants are not impaired by any
24 mental disease or defect or physical infirmity.

25 (Phone interruption.)

1 THE COURT: I'm glad our regular bailiff
2 isn't here.

3 MR. CALLAHAN: The advantages of being a
4 judge.

5 THE COURT: Oh, trust me. My bailiff will
6 step up here and take my phone in a minute and enjoy
7 doing it.

8 And based upon the finding, then, I will
9 now ask defendant Patricia McCloskey, with the sole
10 charge against you under Count II, harassment in the
11 second degree, how do you now plead, guilty or not
12 guilty?

13 MRS. PATRICIA McCLOSKEY: Guilty.

14 THE COURT: With defendant Mark McCloskey,
15 the sole charge against you of misdemeanor assault
16 in the fourth degree, how do you now plead, guilty
17 or not guilty?

18 MR. MARK McCLOSKEY: Guilty, Your Honor.

19 THE COURT: I find that both defendants
20 have entered their pleas of guilty knowingly,
21 intelligently and voluntarily. I therefore accept
22 the defendant's pleas of guilty. Having accepted
23 their pleas of guilty, I hereby find defendant
24 Patricia McCloskey guilty beyond a reasonable doubt
25 of the charge of Class A misdemeanor, harassment in

1 the second degree. I further hereby find the
2 defendant Mark McCloskey guilty beyond a reasonable
3 doubt of the charge of Class E misdemeanor, assault
4 in the fourth degree.

5 Having found both defendants guilty beyond
6 a reasonable doubt of the charges against them in
7 the present cause of action, I will announce to the
8 State, is there any reason why sentence and judgment
9 should not now be pronounced?

10 MR. CALLAHAN: No, Your Honor.

11 THE COURT: Defense?

12 MR. SCHWARTZ: No, Your Honor.

13 THE COURT: Counsel for the State, your
14 formal recommendation with respect to Patricia
15 McCloskey?

16 MR. CALLAHAN: On the -- in the case of
17 Mrs. McCloskey, the State would recommend that the
18 Court assess a fine of \$2,000.

19 THE COURT: All right.

20 Any objection to the recommendation of the
21 State?

22 MR. SCHWARTZ: No, sir.

23 THE COURT: It will be the order and
24 judgment of this Court, then, that the defendant,
25 Patricia McCloskey, is hereby ordered to pay a fine

1 in the amount of \$2,000 pursuant to law. Costs will
2 be assessed against the defendant in this case.

3 And there is no crime victim's
4 compensation fund, I believe, at the misdemeanor --
5 at this level.

6 Is that correct, Mr. Callahan? I don't
7 believe that there is.

8 MR. CALLAHAN: It's been a long time,
9 Judge.

10 THE COURT: Misdemeanor. I'm not sure
11 there's a crime victim --

12 MR. SCHWARTZ: Judge, my best guess -- and
13 it's a guess -- is it's \$10, but I'm not certain.

14 THE COURT: Ten dollars sounds right.
15 Obviously, as a circuit judge I don't do a lot of
16 misdemeanors. But \$10 now sounds right. I'm
17 rendering judgment in favor of the State of Missouri
18 against defendant Patricia McCloskey in the amount
19 of \$10 to be deposited in the crime victim's
20 compensation fund.

21 And the State's formal recommendation with
22 respect to defendant Mark McCloskey?

23 MR. CALLAHAN: With respect to
24 Mr. McCloskey, the State's recommendation is that
25 the Court assess a fine of \$750.

1 THE COURT: All right. Any objection to
2 the recommendation by the State?

3 MR. SCHWARTZ: No, Your Honor.

4 THE COURT: Therefore it will be the order
5 and judgment of this Court that the defendant, Mark
6 McCloskey, is ordered to pay a fine in the amount of
7 \$750. Costs will be assessed to the defendant.

8 Judgment in the favor of the State of Missouri
9 against the defendant in the amount of \$10 to be
10 deposited in the crime victim's compensation fund.

11 Anything further with respect to the
12 sentencing of either of these defendants Counsel for
13 State?

14 MR. CALLAHAN: I would respect the
15 sentencing, Your Honor.

16 THE COURT: All right. Counsel for the
17 defense on sentencing?

18 MR. SCHWARTZ: Judge, the only request I
19 have is the McCloskeys intend to pay this as soon as
20 conceivable --

21 THE COURT: I understand.

22 MR. SCHWARTZ: -- once the clerk's office
23 has it. But there is a spot for "to pay by" on the
24 form. Do you want to say 30 days just to be safe?

25 THE COURT: Just to be safe, I agree.

1 MR. SCHWARTZ: Okay. Thank you.

2 THE COURT: Now there's the matter of the
3 State's motion for forfeiture.

4 Let's first say in the case concerning
5 Patricia McCloskey, that involves a semiautomatic
6 pistol that the State has requested that this Court
7 order forfeited for the purposes of having it
8 destroyed.

9 I understand that there is no objection to
10 that, Counsel for the defense, for this defendant;
11 is that correct?

12 MR. SCHWARTZ: That is correct, Your
13 Honor.

14 THE COURT: All right. Then that one will
15 be granted. The gun will be so forfeited so we'll
16 close that up.

17 Then there is the request for forfeiture
18 with respect to the rifle concerning defendant Mark
19 McCloskey. The State has asked for forfeiture of
20 that, as well as destruction.

21 What is the defense response?

22 MR. SCHWARTZ: Judge, we have no objection
23 to waiving any ownership interest, nor any
24 forfeiture of the rifle. We would specifically ask
25 the Court, and the way I've written it is:

1 (Reading)

2 The defendant would hereby request that
3 said weapon be rendered inert and
4 inoperable, and be donated to a charity to
5 be determined at a later date.

6 And the reason we ask that is whatever
7 charity either the Court or the State chose, we
8 think that this particular firearm would no longer
9 be a firearm but be an artifact, and we think that
10 whatever charity it chose, it would raise a
11 substantial amount of money.

12 THE COURT: Well, I can see perhaps the
13 logic in that. The Court is not unaware of the
14 notoriety of the case. Nonetheless, that would be a
15 little bit of a departure from normal procedures,
16 particularly as it relates to the legislative intent
17 behind the forfeiture laws. I see that to depart
18 from that.

19 Granted, there probably are some types of
20 crimes at much, much higher levels than what we're
21 dealing with here that there might be some sort of
22 historical interest. This is a misdemeanor case,
23 and I do not anticipate that there will be that much
24 concern over the destruction, particularly since the
25 State, which would normally have an interest in

1 securing the protection of a weapon that might
2 actually have significant historical merit, or for
3 that matter significant financial merit to the
4 benefit of the community. They don't want to go in
5 that direction. And I don't really see any
6 evidence, other than counsel for the defendants, you
7 know, perhaps somewhat reasoned opinion that there
8 might be something there.

9 I'm therefore going to deny the request
10 and likewise order that the weapon in the case of
11 Mark McCloskey likewise be destroyed as soon as
12 practical, assuming the forfeiture of the weapon.

13 Anything further on the matter then
14 concerning the issue, Counsel for the state?

15 MR. CALLAHAN: If I may approach, Judge, I
16 have a proposed order for you.

17 THE COURT: You may approach.

18 Does Counsel for the defense have a
19 proposed order?

20 MR. SCHWARTZ: Yes, Judge.

21 THE COURT: All right.

22 MR. CALLAHAN: Here's -- I've made three
23 copies.

24 THE COURT: All right. And this is the
25 forfeiture order?

1 MR. CALLAHAN: Yes.

2 THE COURT: All right.

3 MR. SCHWARTZ: Here's the proposed
4 forfeiture order that I have, as well as the
5 sentence and judgment.

6 THE COURT: All right.

7 And that proposed order reflects the
8 argument you just raised to the Court?

9 MR. SCHWARTZ: I'm sorry, Judge?

10 THE COURT: What you just gave me, does it
11 reflect the argument you just raised to the Court?

12 MR. SCHWARTZ: It's my -- yes. It's my
13 proposal, Judge, as well as it says "request denied"
14 on there.

15 THE COURT: I gotcha. I will do so.

16 Both sides of the judgment and sentence
17 papers I now have here?

18 MR. SCHWARTZ: Yes, sir.

19 THE COURT: All right. Okay.

20 That being the case then, there being
21 nothing further, Court will be in recess, Bailiff.

22 MR. SCHWARTZ: Thank you, Judge.

23 (Proceedings and record concluded.)

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CERTIFICATE

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I, Susan M. Moody, Certified Court Reporter within and for the State of Missouri, do hereby certify that I am an official court reporter for the Circuit Court of the City of St. Louis; that on June 17, 2021, I was present and reported all the proceedings had in the case of STATE OF MISSOURI, Plaintiff, vs. MARK MCCLOSKEY, Defendant, Cause No. 2022-CR01301.

I further certify that the foregoing pages contain a true and accurate reproduction of the proceedings.

"/s/ Susan M. Moody"

SUSAN M. MOODY, CCR #430