

THE STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS

SUPERIOR COURT

*****Expedited Processing Required*****

JOHN M. FORMELLA, ATTORNEY GENERAL

v.

AARON GOODWIN, SHANNON GOODWIN, & KEVIN GOODWIN

**ATTORNEY GENERAL JOHN M. FORMELLA'S COMPLAINT
UNDER THE NEW HAMPSHIRE CIVIL RIGHTS ACT**

NOW COMES Attorney General John M. Formella ("State") with a complaint against Aaron Goodwin, Shannon Goodwin, and Kevin Goodwin (hereinafter, collectively, "Defendants") for a violation of the New Hampshire Civil Rights Act, RSA 354-B:1. The State asks that this Court find that Defendants violated the New Hampshire Civil Rights Act when they used physical force against two victims, M.D. and an unidentified Black male, by physically assaulting the victims outside of a restaurant. The evidence demonstrates that race and/or national origin motivated Defendants' conduct and their actions interfered with the lawful activities of their victims, who were patronizing a local restaurant when they were attacked.

As detailed in this complaint, the State asks that this Court impose civil penalties upon Defendants, to permanently enjoin Defendants from committing future Civil Rights Act violations, and other remedies. Filed contemporaneously with this complaint are a motion and memorandum in support of a preliminary injunction to enjoin Defendants from future unlawful conduct and to protect the individuals and businesses targeted or affected by Defendants until the Court grants a permanent injunction. **As required by RSA 354-B:4, IV, this Court must prioritize this matter in its schedule.**

In support of this complaint, the State submits the following:

INTRODUCTION

1. The New Hampshire Civil Rights Act, RSA 354-B:1, provides that all persons have the right to engage in lawful activities and to exercise and enjoy the rights secured by the United States and New Hampshire Constitutions and the laws of the United States and New Hampshire without being subject to actual or threatened physical force or violence against them or any other person or actual or threatened damage to or trespass on property when such actual or threatened conduct is motivated by race, color, religion, national origin, ancestry, sexual orientation, sex, gender identity, or disability.

2. On November 22, 2023, the Defendants each used physical force against one of two victims, M.D. and an unidentified Black male, while engaged in racial harassment of M.D. Defendant Aaron Goodwin used physical force against M.D. and Defendants Kevin Goodwin and Shannon Goodwin used physical force against the unidentified Black male who came to M.D.'s aid. The racial harassment included calling M.D. a "n****r"¹, stating M.D. was a drug user, and stating that M.D. was too poor to afford a good cigar. The assaults took place in the parking lot of Gilley's Diner at 175 Fleet Street, Portsmouth, NH and were captured on the restaurant's exterior security camera.

3. In response to these violations, the Attorney General asks this Court to find that Defendants violated the Civil Rights Act, impose civil penalties against Defendants, and enjoin them from, among other things, further violating the Civil Rights Act.

¹ The State uses an abbreviated version of this word and other profanities and slurs used by Defendants.

PARTIES

4. John M. Formella is the Attorney General of New Hampshire. The Attorney General's Office is located at 1 Granite Place- South, Concord, NH 03301.

5. Pursuant to RSA 354-B:2, whenever the Attorney General has probable cause to believe that any person has violated any provision of RSA chapter 354-B, the Attorney General may bring a civil action for injunctive or other appropriate equitable relief in the Superior Court in the county where the alleged violator resides or where the alleged conduct occurred.

6. Defendant Aaron Goodwin resides at 20 Doe Drive, Eliot, ME 03903.

7. Defendant Shannon Goodwin resides at 1047 Lehman Ct., Annapolis, MD 21409.

8. Defendant Kevin Goodwin resides at 3706 Edgewater Place, Dundalk, MD 21222.

9. The alleged conduct occurred on or about November 22, 2023, in the City of Portsmouth, New Hampshire.

JURISDICTION AND VENUE

10. This Court has jurisdiction over this action pursuant to RSA 354-B:2, II.

11. Rockingham County is the proper venue for this action because the unlawful conduct occurred in Portsmouth, New Hampshire, a city located within Rockingham County.

FACTS

12. On November 22, 2023, at approximately 10:30 p.m., M.D., a Black man, entered Gilley's Diner located at 175 Fleet Street in Portsmouth, NH to pick up food, after having been to a cigar bar earlier in the evening. When M.D. entered the diner, the Defendants, who are white, were already in the restaurant awaiting food. M.D. and the Defendants did not know each other.

13. Soon after M.D. arrived, Defendant S. Goodwin, noticing M.D.'s accent, asked M.D. where he was from. M.D. replied that he was from "Africa," to which Defendant K. Goodwin responded by calling M.D. a "moron" and told him that Africa was a continent, not a country. M.D. did not respond.

14. Around that time, Defendant A. Goodwin told M.D. that he smells bad, to which M.D. responded that he had just come from a cigar bar. M.D. then gave A. Goodwin a cigar he had purchased earlier that night. Defendant K. Goodwin reacted angrily to this, asking A. Goodwin why he was talking to "this f*****g moron" and stating that M.D. was too poor to afford a good cigar. Defendant K. Goodwin further stated that the cigar was a "blunt," which he explained was when Black people mix tobacco with marijuana and smoke it. M.D. again did not respond, and Defendants received their food and left soon after.

15. Not long after Defendants left with their food, M.D. received his food and exited the restaurant. When M.D. left, Defendants were in the parking lot speaking to each other. Defendant K. Goodwin noticed M.D. exit the restaurant and told him to leave, which prompted M.D. to ask what K. Goodwin's problem was with him. Defendant S. Goodwin then became belligerent with M.D., shouting at him and calling him, among other things, a "n*****r."²

16. As M.D. continued to ask Defendants what was wrong and explain he had done nothing to them, two young men, one Black and one Asian, entered the parking lot and walked up the stairs to the restaurant. The men stopped on the stairs and watched the parties as the confrontation developed. Defendant S. Goodwin observed the men stop and began to berate

² Defendant's use of "n*****r" is particularly telling of her racial bias as the "epithet is so loaded with a legacy of slavery and racial hatred that it is inextricably linked with prejudice and hostility towards African Americans." *United States v. Bartow*, 997 F.3d 203, 209 (4th Cir. 2021). The slur "sums up...all the bitter years of insult and struggle in America" such that "no other word in the English language so powerfully or instantly calls to mind our country's long and brutal struggle to overcome racism and discrimination against African-Americans." *Ayissi-Etoh v. Fannie Mae*, 712 F.3d 572, 580 (D.C. Cir. 2013) (Kavanaugh, J., concurring). Deploying the word as the Defendant did demonstrates racial bias against Black people as clearly as any single utterance can.

them, including by calling the Black man a “n****r” and the Asian man a “Jap.” The young men did not leave the stairs.

17. As Defendants continued their discussion with M.D., S. Goodwin became aggressive with M.D. to the degree that she had to be physically held back. While M.D. was speaking with S. Goodwin and K. Goodwin, Defendant A. Goodwin walked behind M.D. and forcefully pulled M.D. to the ground by the back of his shirt, saying nothing before doing so.

18. Upon seeing M.D. attacked, the two young men moved off the stairs towards M.D., who was on the ground. Defendant K. Goodwin rushed at the men and shoved his arm into the young Black man’s shoulder and chest to keep him from M.D. S. Goodwin also quickly moved to the young Black man and began to call him names, including a “n****r.” S. Goodwin then hit the young Black man in the face and then again in the chest. Defendant A. Goodwin was circling M.D. at this time, who remained on the ground.

19. When M.D. got to his feet, he moved to the young men and told them that they should not engage further, and that the incident was not worth them getting in trouble over. An employee of the restaurant then shouted out to the parking lot and told the parties that she was calling police. The parties then separated and awaited police.

20. When Portsmouth Police Officer Christian Peete arrived, an employee of the restaurant, Arlene Mullikin, confirmed that Defendants had attacked M.D. because of his race, adding that she believed it was motivated by race because Defendant S. Goodwin was repeatedly directing racist slurs at M.D. and the two young men. The employee further noted that the two unidentified young men entered the restaurant shortly after the incident and told her that S. Goodwin slapped the young Black man and called him a “n****r” and called the Asian man a “Jap.”

21. While on scene, Officer Peete noticed that Defendant S. Goodwin appeared highly intoxicated and was “making a scene.” Defendant A. Goodwin initially refused to identify himself and had to be handcuffed when he tried to leave the scene after the officer informed him that he was not allowed to do so. Defendants were generally uncooperative and rhetorically asked if they were allowed to use self-defense. They also told the officer that they believed M.D. was in a gang based on hand movements they claimed to have seen. As they were leaving, Defendant A. Goodwin stated that the incident was not racially motivated. Defendant A. Goodwin made numerous subsequent statements to police and the press maintaining that he used self-defense and that the matter had nothing to do with race. S. Goodwin and K. Goodwin made no subsequent statements to press or police about the incident.

22. The two unidentified young men would not provide their names or contact information to police as they did not want to be involved. They did tell police that night that they both saw Defendant A. Goodwin attack M.D. for no apparent reason. They said that when they went to help M.D., Defendant S. Goodwin struck the young Black man in the face.

23. M.D. made multiple statements to police consistent with the above narrative. He explained that he did not know Defendants and that he had done nothing to provoke an attack. He confirmed the racially derogatory comments by Defendants S. Goodwin and K. Goodwin and the attack by Defendant A. Goodwin.

24. After the attack, M.D. sought medical care, at which time he was diagnosed with a concussion, a wrist sprain, and an injury to his Achilles tendon.

25. On March 22, 2024, Defendants A. Goodwin and K. Goodwin were each charged with one count of Simple Assault and one count of Disorderly Conduct for their conduct related

to this case. Defendant S. Goodwin's case remains open as she is living out of state and not expected to return to New Hampshire.

26. On August 26th, 2024, Defendant K. Goodwin pled guilty to one violation-level offense of Disorderly Conduct related to his conduct in the case. He was sentenced to pay a \$500 fine and a \$120 penalty assessment. On September 17th, 2024, Defendant A. Goodwin pled guilty to one misdemeanor count of Simple Assault related to his conduct in this case. He was sentenced to thirty days in the house of corrections, all suspended for two years on the conditions that he obtain an anger management evaluation and follow all recommendations and that he complete twenty hours of community service.

COUNT I

Violation of New Hampshire Civil Rights Act (Physical Force or Violence) – Aaron Goodwin

27. The Attorney General incorporates by reference all the previous paragraphs of this complaint as if stated herein in full.

28. Defendant A. Goodwin used physical force or violence against M.D. when, on November 22, 2023, he pulled M.D. to the ground from behind by the back of his shirt.

29. Race and/or national origin motivated Defendant A. Goodwin's conduct. The assault against M.D. occurred while Defendant A. Goodwin's family members were racially harassing M.D. The assault by Defendant A. Goodwin against M.D. was otherwise unprovoked.³

³ Courts have repeatedly held that a defendant can be found liable for a bias-motivated offense when they are present for racial harassment of an individual and acted in support of those engaging in such harassment, even when the defendant themselves makes no statement about race. See *United States v. Woodlee*, 136 F.3d 1399 (10th Cir. 1998) (finding sufficient evidence of racial bias motive where a defendant assaulted a Black man despite the fact that the defendant did not join in the racial harassment that others had participated in); see also *State v. Hendrix*, 838 P.2d 566 (Ore. 1992) (noting that the defendant hearing his co-defendants making racist remarks about the victims before defendant joined the attack is evidence of racial bias); *May v. State*, 343 So. 3d, 533 (Al. 2021) (finding that the defendant's presence near a co-defendant uttering a racial slur about the victims prior to the defendant attacking the victims to be evidence of bias by the defendant).

30. Defendant's conduct disrupted the lawful activities of M.D., who was merely getting something to eat at a restaurant open to the public.

31. Defendant's action constituted a violation of the Civil Rights Act, RSA 354-B:1.

COUNT II

Violation of New Hampshire Civil Rights Act (Physical Force or Violence) – Kevin Goodwin

32. The Attorney General incorporates by reference all the previous paragraphs of this complaint as if stated herein in full.

33. Defendant K. Goodwin used physical force or violence against an unknown Black man when, on November 22, 2023, he pushed the man in his chest with his arm.

34. Race and/or national origin motivated Defendant K. Goodwin's conduct. Defendant K. Goodwin made numerous racially derogatory comments about M.D. and Black people prior to the assault. Defendant K. Goodwin's assault prevented the unidentified man from aiding M.D. when Defendant A. Goodwin was engaged in a race and/or national origin-motivated assault against M.D.

35. Defendant's conduct disrupted the lawful activities of the young man who was merely getting something to eat at a restaurant open to the public and then sought to help a person who had been thrown to the ground.

36. Defendant's action constituted a violation of the Civil Rights Act, RSA 354-B:1.

COUNT III

Violation of New Hampshire Civil Rights Act (Physical Force or Violence) – Shannon Goodwin

37. The Attorney General incorporates by reference all the previous paragraphs of this complaint as if stated herein in full.

38. Defendant S. Goodwin used physical force or violence against an unknown Black man when, on November 22, 2023, she hit the man in the face with her hand.

39. Race and/or national origin motivated Defendant S. Goodwin's conduct. S. Goodwin directed a number of racial slurs at the young man while she was striking him with her hand.⁴

40. Defendant's conduct disrupted the lawful activities of the young man who was merely getting something to eat at a restaurant open to the public and then sought to help a person who had been thrown to the ground.

41. Defendant's action constituted a violation of the Civil Rights Act, RSA 354-B:1.

COUNT IV

Violation of New Hampshire Civil Rights Act (Physical Force or Violence) – Shannon Goodwin

42. The Attorney General incorporates by reference all the previous paragraphs of this complaint as if stated herein in full.

43. Defendant S. Goodwin used physical force or violence against an unknown Black man when, on November 22, 2023, he hit the man in the chest with her hand.

44. Race and/or national origin motivated Defendant S. Goodwin's conduct. S. Goodwin directed a number of racial slurs at the young man while she was striking him with her hand.

45. Defendant's conduct disrupted the lawful activities of the young man who was merely getting something to eat at a restaurant open to the public and then sought to help a person who had been thrown to the ground.

⁴ As stated in footnote 2, Defendant's use of this word demonstrates racial bias on her part in a way that few, if any, single words can.

46. Defendant's action constituted a violation of the Civil Rights Act, RSA 354-B:1.

REQUEST FOR RELIEF

WHEREFORE, the Attorney General respectfully requests that this Honorable Court:

- A. Prioritize—as **required by RSA 354-B:4, IV**—the processing of this case consistent with Superior Court Rule 48(b)(2) and RSA 354-B:4, IV, which provides that all actions brought under this statute shall have priority in the court scheduling;
- B. Find that Defendant A. Goodwin violated the New Hampshire Civil Rights Act, RSA 354-B:1, once;
- C. Order Defendant A. Goodwin to pay a civil penalty of \$5,000 for each Civil Rights Act violation;
- D. Find that Defendant K. Goodwin violated the New Hampshire Civil Rights Act, RSA 354-B:1, once;
- E. Order Defendant K. Goodwin to pay a civil penalty of \$5,000 for each Civil Rights Act violation;
- F. Find that Defendant S. Goodwin violated the New Hampshire Civil Rights Act, RSA 354-B:1, two times;
- G. Order Defendant S. Goodwin to pay a civil penalty of \$5,000 for each Civil Rights Act violation;
- H. Enter a temporary restraining order and a preliminary/permanent injunction to remain in place for three years, which prohibits Defendants from:
 - 1. engaging in or threatening physical force or violence, damage to property, or trespass on property against any person motivated by race, color, religion, national origin, ancestry, sexual orientation, sex, gender identity, or disability;

2. participating, directly or indirectly, in any unlawful⁵ activities motivated by race, color, religion, national origin, ancestry, sexual orientation, sex, gender identity, or disability;
3. going within 350 feet of M.D., M.D.'s home, M.D.'s place of work, and Gilley's Diner, 175 Fleet Street, Portsmouth, NH;
4. contacting, directly or indirectly, the victim, M.D., and any members of M.D.'s immediate family; and
5. encouraging or causing any other persons to engage in conduct prohibited in paragraphs H.1-.4 above, conspiring with any other persons to engage in such conduct, or assisting any person in engaging in such conduct;

I. Order that any violations of the Court's order could result in criminal and/or civil sanctions and additional fines as provided for in RSA chapter 354-B;

J. Grant such other and further relief as it deems just and equitable.

Respectfully submitted,

JOHN M. FORMELLA,
ATTORNEY GENERAL

October 29, 2024

/s/ Peter M. MacKenna
Peter M. MacKenna, Bar #269543
Attorney
Civil Rights Unit
Peter.M.MacKenna@doj.nh.gov

/s/ Sean R. Locke
Sean R. Locke, Bar #265290
Senior Assistant Attorney General
Director, Civil Rights Unit
New Hampshire Department of Justice
Office of the Attorney General
1 Granite Place-South, Concord, NH 03301-6397
(603) 271-3650
Sean.R.Locke@doj.nh.gov

⁵ Unlawful in this context means: any act that could subject a person or legal entity to civil or criminal liability.