

To Kristine Shaw Esq.
2019-09-19

Supplement

On 09/19/18 @ approximately 0340 Hrs. Officer Herz and I responded to Denny's, located on Elmira Rd for a trespass complaint. Upon arrival, we observed an individual later identified as Bonze Anne Rose Blayk. She appeared to be suffering from some sort of mental illness. She was blurting out random words and her demeanor was up and down, but mostly confrontational. She made reference to us not being real police and the restaurant employees not being real employees.

The employees advised us that this was the second incident with the subject that day. They relayed to us that there was an incident on C-Line involving this same subject refusing to pay for her meal and leaving the restaurant. IPD responded and assisted the restaurant in recovering payment and also issuing a trespass warning.

While I was speaking with employees, Bonze Blayk approached Officer Herz. She looked directly at his handgun and asked if it was real. She then reached for it, resulting in Officer Herz grabbing her hands. The situation escalated as Bonze pulled back and began to swing at Officer Herz. Officer Herz took her to the ground, where she refused to comply. I deployed my Taser and attempted to assist in gaining control of the subject. She continued to punch Officer Herz in the chest/abdomen area. Officer Herz punched her twice in the area of her face and the struggle continued.

Ultimately she was secured in handcuffs and Bangs EMS was called. There was a significant amount of blood on the floor, most if not all of which came from the subject's nose. She was transported to CMC for evaluation. Upon arrival at CMC, she continued to display behaviors associated with mental illness, such as aggressiveness towards ER staff, blurting out words and phrases that don't make sense.

While in the ER we advised the Doctor that we intended to take the subject back to IPD for processing if released. After assessing her the ER Doctor advised that Bonze had a broken Jaw. He further indicated that he also believed that a 9.41 form would be appropriate. He further indicated that he intended to sedate her due to her confrontational and violent behavior.

At that point, Officer Herz issued Bonze an appearance ticket. I completed an MHL 9.41 form and provided same to ER staff.

I later learned that Officer Orsaio had contacted TC Mental Health regarding Bonze yesterday. During that time several MHL professionals from TC Mental Health spoke with Bonze and evaluated her. TC Mental Health Staff advised Officer Orsaio that they did not believe Bonze was a danger to herself or others and refused to provide a 9.45 order.

RAILROAD

After informing B-line of the incident at briefing Officer Orsaio followed up with TC Mental Health. This time they provided a 9.45 order requiring evaluation. They asked Officer Orsaio to deliver it to the Hospital.

No officers were injured during this altercation. Officer Herz and I went back to Denny's and spoke with the store manager. She thanked us for responding so quickly.

I have manually tagged my BWC video if you are interested in reviewing it.

09/25/18

Scanned

I have reviewed the video and along with my recollection of the incident, I feel very strongly that Officer Herz used an objectively reasonable amount of force during this incident. Joly#8

09/25/18

Scanned

2018.10.25 12:07:23

-04'00"

PRID:53047155

Service: Bangs Ambulance, Inc.
(State ID: 5411)Base: State Street
Unit: 950 (Transport)
Shift: NightEMD: Yes, Without Pre-Arrival
Instructions - SEND NDispatched As: Hemorrhage/Laceration
Mass Casualty: NoVehc. Grid: Ithaca
Vehc. Disp. GPS: 42.439372, -76.509025
Type of Svc: Scene Unscheduled
Response Code: Send NMode to Ref: Emergent (Immediate
Response)Mode Descriptors: Initial No Lights or
Sirens, Upgraded to Lights
and Sirens

Moved Via: Stretcher

Position: Semi-Fowlers

Outcome: Treated, Transported by EMS

Ref Other Type: Bar / Restaurant

Location: 323 Elmira Rd
Ithaca, NY 14850
United StatesRequester: TC 911
Scene Grid: Ithaca

Ref. GPS: 42.4259185, -76.5113826

Date: September 19, 2018

Team: ALS

Crew 1: Primary Caregiver
Gariolo, Anthony
EMT-B (425786)Crew 2: Driver
*Harris, Stephanie
AEMT-P (413205)

* designates an ALS Provider

Mode to Rec: Emergent (Immediate
Response)

Mode Descriptors: No Lights or Sirens

Moved From: Stretcher

Stretcher
Purpose: Safe patient handling.

Receiving: Hospital

Cayuga Medical Center
Emergency Department
Hospital (General)
101 Dates Drive
Ithaca, NY 14850-1342
607-274-4011

Dest. Grid: Cayuga Medical Center

Dest. GPS: 42.4685200, -76.5379200

Rec. RN: Rebecca Cunningham, RN

Destination Basis: Closest Facility

Dest. Basis Comment: Room 10

Last Name: Blayk First: Bonze

Address: 1668 Trumansburg Rd

City: Ithaca ST: NY Zip: 14850

County: Tompkins

Country: United States

Citizenship: United States

Phone: Home: 607-277-5808

DOB: 05/01/1956 SSN: 431-88-9647

Age: 62y Sex: F Weight:

Height:

Subscriber: No

Billing Information:

Company
Medicaid (Medicaid)

Group ID

Odometer	Times
Ld Miles: 3.9	Dispatch: 04:00
	EnRoute: 04:02
	At Ref: 04:06
	At Patient: 04:07
	Leave Ref: 04:16
	At Rec: 04:24
	Transfer Care Dest: 04:27
	Available: 04:43

POLICE
REPORT
03:57

Consent Signed: Yes

PCS / Medical Necessity Signed: No

Primary Method of Payment: Medicaid

Scene Information

Description: Arrived to find patient lying prone on floor of restaurant with hands restrained behind back, accompanied by law enforcement.

First Agency Unit on Scene?: Yes

Patient Belongings: Patient's purse was placed on head of stretcher on scene and left with patient at hospital in room 10 after transfer of care.

Other Agencies: Law Law Enforcement Number: Ithaca PD

Chief Complaint (Category: Hemorrhage/Laceration)

Epistaxis

Chief Complaint (Category: Hemorrhage/Laceration)																		
Duration: 10 Minutes Anatomic Location: Head ALS Assessment: Not Required																		
History of Present Illness																		
950 dispatched priority SEND N by TC 911 for a 40 year old female bleeding from the nose. Ithaca PD on scene advised 950 to upgrade response due to onset of difficulty breathing. 950 responded immediately without use of lights and sirens, and arrived to find a 62 year old female lying prone on floor of restaurant with her hands restrained behind her back, accompanied by Ithaca PD. Initial BLS Assessment: Patient was alert and oriented to person, place, and time. Patient presented with a patent and self-maintained airway, as evidenced by her ability to speak in complete sentences. Patient was breathing non-labored on room air, with brief spells of hyperventilation. Patient presented with good cardiovascular function, as evidenced by brisk capillary refill. Patient presented with obvious bleeding from the nose, though not active at time of assessment. Patient was able to sit and move to standing position, and was escorted to stretcher by law enforcement. Patient was secured to stretcher with safety belts. Ongoing BLS Assessment: IPD 126 advised EMS that patient was combative, and that 126 punched patient in the nose during altercation. Patient was uncooperative with EMS assessment, but reported pain in the area of her nose. Patient experienced brief spells of hyperventilation. Patient denied difficulty breathing, stating that was just how she breathes. Vital signs were attempted. Patient was transported BLS to CMC, with report given to facility during transport. Patient was moved to room 10 via stretcher, and moved to hospital bed via 4-person blanket lift. Care transferred to RN Rebecca Cunningham following a brief verbal report. 950 returned in service.																		
Medical History	Current Medications	Allergies																
Unknown Obtained From: Patient Emergency Info Form: No	None - Reported By Patient	Unknown																
Neurological Exam																		
Level of Consciousness: Alert Chemically Paralyzed: No Neuro Comments: Patient was alert and oriented to person, place, and time. Mental Present: Oriented-Person, Oriented-Place, Oriented-Time	Loss of Consciousness: No Motor Comments: Patient was able to sit and stand without assistance. Sensory Comments: Patient did not complain of sensory deficit.	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="4" style="text-align: center;">Glasgow Coma Scale</th> </tr> <tr> <th style="text-align: center;">E</th> <th style="text-align: center;">V</th> <th style="text-align: center;">M</th> <th style="text-align: center;">Tot</th> </tr> <tr> <td style="text-align: center;">Int: 4</td> <td style="text-align: center;">5</td> <td style="text-align: center;">6</td> <td style="text-align: center;">= 15</td> </tr> <tr> <td colspan="4"> Qual: Legitimate values w/o interventions such as intubation and sedation </td> </tr> </table>	Glasgow Coma Scale				E	V	M	Tot	Int: 4	5	6	= 15	Qual: Legitimate values w/o interventions such as intubation and sedation			
Glasgow Coma Scale																		
E	V	M	Tot															
Int: 4	5	6	= 15															
Qual: Legitimate values w/o interventions such as intubation and sedation																		
Airway	Respiratory																	
Status: Patent Performed By: Patient Outcome: Unchanged Comments: Patient presented with a patent and self-maintained airway, as evidenced by her ability to speak in complete sentences.	Effort: Normal Comments: Patient was breathing non-labored on room air, with brief spells of hyperventilation.																	
Cardiovascular																		
JVD: Not Appreciated Edema: Not Appreciated	Cap. Refill: Brisk																	

Cardiovascular	
Comments: Patient presented with good cardiovascular function as evidenced by brisk capillary refill. Patient presented with obvious bleeding from the nose, which had stopped prior to arrival of EMS on scene.	
Injury Details	
Reason for Encounter: Injury/Trauma	
Trauma Center Criteria: - Not Applicable	
Drug/Alcohol Indicators Present: Not Known	
Intentional: No	
Work Related: No	
Injury Cause: Fight, Brawl, Rape	
Mechanism: Assault	
Equipment: Not Applicable	
Risk Factors Present: Not Applicable	

Initial Physical Findings	
Assessment	
Skin Findings: Patient presented with warm, pink, and dry skin.	
Face: Bleeding Controlled, Pain, Tenderness	
Face Findings: Patient presented with pain, tenderness, and bleeding from the nose.	

Impression / Diagnosis	
Symptoms: Bleeding	
Impression: Bleeding/Hemorrhage	
Initial Patient Acuity: Lower Acuity (Green)	

Activity										
Time	H.R.	B.P.	RA	SaO2	Resp	Rhythm	GCS	ECG Method	Prtcl	CRW*
	H.R. Method	B.P. Method			Resp Effort		GCS Qual			
04:20					18 Normal		4/5/6 Legitimate values w/o interventions such as intubation and sedation		Routine	01
Vital signs were assessed and uncooperative.					Unable to assess blood pressure and pulse due to patient being restrained					

* Assessment made by

State of New York
City Court : City of Ithaca

The People of the State of New York

vs.

Bonze Anne Rose Blayk

Defendant

**People's Response To Defendant's
Omnibus Motions**

CR-1771-19 2

CR-3865-18

DA File 18-2393

Crime date: **09/19/2018**

Arrest date: **09/19/2018**

Top charge: **§ PL 195.05 00A M 2 Obstruct Governmental Administration-2nd Degree**

The People respond to defendant's pre-trial motions dated May 28, 2019 and filed May 31, 2019, as follows:

Summary of Facts

On or about September 19, 2018 at about 03:57 a.m., while located at Denny's, 323 Elmira Road, in the City of Ithaca, County of Tompkins, State of New York, the defendant did physically resist being escorted from the premises when asked to leave by Officer Herz, a uniformed member of the City of Ithaca Police Department. The defendant did intentionally obstruct, impair and pervert this administration of law by reaching towards the holstered duty pistol of the officer, pulled away from the officer, took a boxing stance and began to physically fight with the uniformed officers on the scene. The defendant did fail to follow commands of the uniformed officers, did attempt to punch one officer, did attempt to grab at one officer's holstered pistol and did kick, flail her arms, and physically resist being placed in handcuffs.

Motion to Dismiss

Defendant ~~seemingly~~ asks the Court to dismiss the accusatory instruments in the interest of justice pursuant to Criminal Procedure Law § 170.40. The People oppose this request. There is no compelling factor, consideration or circumstance clearly demonstrating that the continued prosecution of defendant would constitute an injustice. Further, defendant fails to address any of the factors laid out in C.P.L. § 170.40 that the court must consider in determining whether a compelling factor exists that would warrant a dismissal in the interest of justice. At best, the defendant mentions misconduct by the officers as a factor. The People will address that factor and other applicable factors below.

a) The seriousness and circumstances of the offense

- i. Defendant was charged with one count of Obstructing Governmental Administration in the Second Degree in violation of Penal Law § 195.05, one count of Resisting Arrest in violation of Penal Law § 205.30 and count of Trespass in violation of Penal Law 140.05.

- ii. The circumstances surrounding these crimes are extreme. The officers responded to a call from Denny's employees stating that there was a

~~FALSE~~ ~~disruptive patron~~ that left Denny's without paying earlier in the day. Upon the patron's return to pay after police officers requested it, the patron was advised 30 minutes earlier

~~FALSE~~ by the manager not to return. That patron had returned to Denny's just hours later and was screaming and opening silverware in the dining area. Upon arrival, the officers engaged in conversation with the defendant telling defendant to leave in an attempt to have the defendant exit the premises

~~FALSE~~ voluntarily, but attempts were unsuccessful. The officers then attempted to

escort the defendant out of Denny's at which point the defendant turned facing the officer and leaned in towards the officer's holstered gun while reaching for it. The officer, to maintain safety, then took hold of both of the defendant's wrists to advise the defendant not to do that. The defendant began to pull away violently in an effort to release the officer's grip and grew more violent

FALSE
POINTING

TASERED
by police document

with attempts to punch, kick and fight the officers. A struggle ensued where in the defendant had to be secured with force on the ground. The defendant received medical attention and emergency mental health treatment.

b) Evidence of Guilt

TASER?

- i. Evidence of guilt is strong. The evidence against defendant includes, but is not limited to, the following:

- i. Body Worn Camera from two officers showing the defendant reaching toward Officer Herz' holstered pistol, the defendant being uncooperative, resisting the officer escort to exit the premises, and attempting to fight, punch and kick the officers.
- ii. Voluntary statement of Gabriel Gueder dated September 19, 2018, who witnessed the altercation and the defendant's resistance and obstruction.
- iii. Voluntary statement of Jessica Smith dated September 19, 2018, who witnessed the altercation and the defendant's resistance and obstruction.
- iv. Officer Herz, the complainant, and Officer Joly having direct knowledge of the incident.

PERJURY

c) History, character and condition of the defendant

- i. The People assert that the defendant has a history of mental illness leading to uncontrollable and disruptive behavior as well as a criminal history indicating violent tendencies and delusional tendencies.

FALSE

?

d) Exceptionally serious misconduct of law enforcement personnel

- i. The defendant seems to address this factor in her motion papers, however, fails to provide any basis to support the notion that the actions or conduct of the officers rise to the level of exceptionally serious misconduct.

FALSE
CRIPPLED
LEFT ARM

- ii. In fact, the officers involved responded appropriately to the defendant's erratic, non-compliant and violent behavior. Upon arrival the officers were cordial and made conversation with the defendant. They discussed the situation with the defendant and still the defendant refused to leave claiming discrimination. The officers then attempted to escort the defendant out of the building at which point the defendant took actions that led to the officer to secure defendant's wrist. It was at that point that the defendant began to yell, fight, hit and kick at officers and in response officers took measures to secure the situation.

STRICTLY
FALSE

TASERED

e) The purpose and effect of imposing authorized sentence

- i. Authorized sentences in crimes seek to achieve retribution, deterrence and rehabilitation. Those goals fit squarely within the circumstances of this case.

FRIENDLY

- ii. Due to the numerous interactions the defendant has had with law enforcement overall since 2012 as well as the defendant's pattern of disruption in the community it appears that the defendant is in need of some form of court ordered guidelines, supervision or mental health treatment. At the very least, the People see a sentence in this case as an attempt at rehabilitation for the defendant.

FALSE

2

f) The impact of dismissal on the safety and welfare of the community

- i. The People assert that an outright dismissal of the charges herein would put the safety and welfare of the community at risk as it would allow the defendant to continue her pattern of disruptive, violent, and erratic behavior. FALSE
- ii. The People fear that a dismissal would leave open the possibility that the defendant is a danger to herself or others. 2008-2018 GOOD CONDUCT
- g) The impact of dismissal upon the confidence of the public in the criminal justice system

- i. The People assert that a dismissal of the charges herein would greatly weaken the public's confidence in the criminal justice system. The public need to know that if they feel threatened that police officers can take proportional and reasonable means to ensure the safety of the public. This includes providing sanctions that seek to reduce repeat offense and provide an incentive to deter social disobedience and encourage mental wellness and recovery.
- POLICE BRUTALITY
9??

In light of the above reasons, the People respectfully request that the defendant's motion to dismiss be denied.

Statement of Readiness

Pursuant to CPL 30.30(1), the People are ready for trial.

Dated: June 28, 2019


Veronica Fox

Matthew Van Houten
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