

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 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 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 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 ahold 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 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.

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.

?

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.
- 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.
- FALSE**

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.
- 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.

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

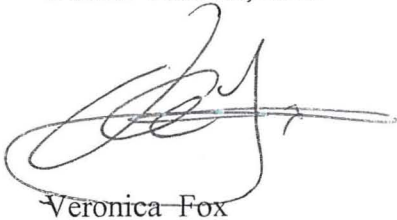
- i. The People assert that an outright dismissal of the charges herein would put the safety and welfare of the community at risk as it would allow the defendant to continue her pattern of disruptive, violent, and erratic behavior.
 - ii. The People fear that a dismissal would leave open the possibility that the defendant is a danger to herself or others.
- 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.

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
District Attorney Tompkins County
320 N. Tioga Street
Ithaca, New York 14850
(607) 274-5461

Attorney Verification

I affirm under penalty of perjury that the assertions of fact set forth in the foregoing document are true upon information and belief, my source of which includes the following:

- my review of the police reports and witness statements
- my conversations with witnesses
- my presentation of evidence to the grand jury

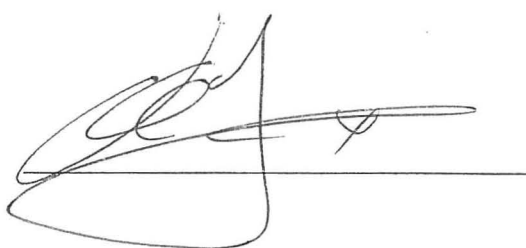


Veronica Fox

Proof of Service

I, Veronica E. Fox, understanding that it is punishable as a misdemeanor pursuant to Penal Law 210.45 knowingly to make a false statement herein, state that I served this document upon the defendant by placing a copy of the same in the outgoing U.S. mail bin within the District Attorney's Office before the time for the daily mail collection on June 27, 2019, in an envelope addressed as follows:

Anne Rose Blayk Bonze
1668 Trumansburg Road
Ithaca, New York 14850



Tompkins County
DISTRICT ATTORNEY
Tompkins County Courthouse
320 North Tioga Street
Ithaca, New York 14850

Hasler

FIRST-CLASS MAIL

06/28/2019

US POSTAGE \$000.65⁰



ZIP 14850
011E12650692

Bonze Anne Rose Blayk
1668 Trumansburg Rd
Ithaca, NY 14850

14850\$9213 R006

