

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

_____)	
Roderick Webber,)	
Pro Se Plaintiff,)	
v.)	
)	Case 1:18-cv-00931-LM
Donald J. Trump, Donald J. Trump)	(Chief Judge
For President Inc., Edward Deck,)	Landya McCafferty)
et al. al.)	
)	
Defendants.)	
_____)	

PLAINTIFF'S MEMORANDUM IN REPLY TO DEFENDANT JPA III'S MOTION TO
DISMISS

FOURTH CLAIM: NEGLIGENCE

Standard of Review

The Federal courts have long held that when reviewing 12(b)(6) motions to dismiss, failure to state a claim upon which relief can be granted, "the Court ordinarily accepts as true all well-pleaded factual allegations and draws all reasonable inferences in the plaintiff's favor. Dismissal is inappropriate "unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." Dixon v. Page, 291 F.3d 485, 486 (7th Cir. 2002); Jackson v. E.J. Brach Corp., 176 F.3d 971, 977 (7th Cir. 1999); In re Parmalat Sec. Litig. 493 F.Supp.2d 723 (S.D.N.Y. 2007). Dismissal is appropriate only if it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim that would entitle him to relief. Conley v. Gibson, 355 U.S. 41, 45-46; Kennedy v. Nat'l Juvenile Det. Assoc., 187 F.3d 690, 695 (7th Cir. 1999).

NEGLIGENCE

In their motion Defendant JPA III Management Company, Inc. (JPA III) contends the Plaintiff has failed to show that the Defendant intended to cause harmful or offensive contact to the plaintiff. Defendant JPA III further contends that Plaintiff has failed to plead any facts from which it could be

concluded that JPA III took any part in the alleged assault.

Clearly in cases of negligence, intent is not required. In cases of negligence, the Plaintiff must merely allege that the Defendant had a duty, and that a reasonable person could find that the Defendant breached that duty, that Defendant's actions proximately caused injury to the Plaintiff, and that as a result of that breach Plaintiff suffered damages. In this case, Plaintiff has properly alleged all of the elements of negligence and the Defendant's motion to dismiss is without merit.

Duty of Care

Defendant JPA III contends that Plaintiff has failed to show that JPA III owed him a duty of care.

New Hampshire has long held that owners of property or landlords may be held negligent for failing to protect visitors and invited guests from foreseeable hazards and dangers. "A proprietor has a duty to invitees to exercise reasonable care for their protection." Burns v. Bradley 419 A.2d 1069 (N.H. 1980). Pridham v. Cash Carry Bldg. Center, Inc., 116 N.H. 292, 294, 359 A.2d 193, 195 (1976); W. PROSSER, THE LAW OF TORTS 61, at 392 (4th 1971).

More specifically, owners of property and landlords have a duty to protect visitors and invited guests from foreseeable hazards and dangers of third parties. "The assumed fact that the contractor knew of the peculiar danger connected with the plaintiff's situation is immaterial. The duty imposed by law upon the defendant, as the owner and occupier of the premises, for the reasonable protection of its invitee, is not performed by an attempted delegation of it to a third party. It is a non-delegable duty, arising from the proprietor's control of the premises (Woodman v. Railroad, 149 Mass. 335, 340); and "where the duty sought to be enforced is one imposed by law upon the defendant, he cannot escape liability by showing that he employed another, over whom he had no control, to perform it for him." Pittsfield etc. Co. v. Shoe Co., 71 N.H. 522, 530. "He may bargain with the contractor that he shall perform the duty, and stipulate for an indemnity from him if it is not performed, but he cannot thereby relieve himself from liability to those injured by the failure to perform it." Dalton v. Angus, 6 App. Cas., 740, 829; Rolfe v. Railroad, 69 N.H. 476; Cabot v. Kingman, 166 Mass. 403, 406; Engel v. Eureka Club, 137 N.Y. 100, 104; 1 Shearm. Red. Neg., s. 176; Cool. Torts 547.

Additionally, New Hampshire Courts have ruled that property owners can be held negligent for acts of third parties, so long as there is foreseeability of criminal behavior.

"A third exception is the existence of overriding foreseeability. Some courts have held landlords to a duty to protect tenants from criminal attacks that were clearly foreseeable, even if not causally related to physical defects on the premises." Walls v Oxford Management Co., 137 N.H. 653, 659 (N.H. 1993)

"Particular circumstances can give rise to such a duty. These circumstances include when the opportunity for criminal misconduct is brought about by the actions or inactions of the owner or where overriding foreseeability of such criminal activity exists." Iannelli v. Burger King Corp. 761 A.2d 417 (N.H. 2000)

"Landowners (like McDonald's) bear liability for criminal attacks occurring on their premises where `the opportunity for criminal misconduct is brought about by the actions or inactions of the owner or where overriding foreseeability of such criminal activity exists.'" Vandemark v. McDonald's Corp., 153 N.H. 753 (N.H. 2006)

New Hampshire law and the common law of Negligence clearly provides that owners of property or landlords have a duty of care that extends to acts of third parties. This duty continues to extend to landlords and property owners regardless of whether they rent the premises or not. If there was foreseeable danger by a third party, and a reasonable person could find that their injuries were the proximate cause of this breach, then the landlord or property owner is negligent. And where Landlords or property owners rent large event centers, auditoriums, or stadiums for public or private events for thousands of people their duty to the public or to invitees increases rather than diminishes.

Other jurisdictions have ruled that property owners can be held negligent even for the negligent acts of third persons.

"[A]n owner and occupier of land breaches his duty to invitees who are injured by the negligent acts of third persons, where such owner and occupier fails to exercise reasonable care to discover that such negligent acts of third persons are being done or are likely to be done and fails to give a warning adequate to enable such invitees to avoid harm, or fails to act to protect such invitees against such negligent acts of third parties." Martin v. Lambert 8 N.E.3d 1024 (Ohio Ct. App. 2014); Cassano v. Antenan-Stewart, Inc., 87 Ohio App.3d 7, 9-10, 621 N.E.2d 826 (12th Dist., 1993), quoting Holdshoe v. Whinery, 14 Ohio St.2d 134, 43 O.O.2d 240, 237 N.E.2d 127 (1968), paragraph four of the syllabus."

"Even when proprietors . . . have no duty . . . to provide a security guard or undertake other similarly burdensome preventative measures, the proprietor is not necessarily

insulated from liability under the special relationship doctrine. A proprietor that has no duty . . . to hire a security guard or to undertake other similarly burdensome preventative measures still owes a duty of due care to a patron or invitee by virtue of the special relationship, and there are circumstances (apart from the failure to provide a security guard or undertake other similarly burdensome preventative measures) that may give rise to liability based upon the proprietor's special relationship." (Delgado, supra, 36 Cal.4th at pp. 240-241.); 1005. Business Proprietor's Liability for the Negligent/ Intentional/ Criminal Conduct of Others.

"If the reasonably prudent person would foresee danger resulting from another's voluntary criminal acts, the fact that another's actions are beyond defendant's control does not preclude liability." Trentacost v. Brussel, 82 N.J. 214, 222 (1980); "criminal activity apparent in plaintiff's neighborhood"; Holley v. Mt. Zion Terrace Apartments, Inc., 382 So.2d 98, 100 (Fla.App. 1980); (apartment complex plagued by high incidence of serious crime); Kline v. 1500 Massachusetts Avenue, 439 F.2d at 483; (Crimes perpetrated against tenants in common area of apartment complex); Johnston v. Harris, 387 Mich. 569, 573-74, 198 N.W.2d 409, 410-11 (1972); Faheen, 734 S.W.2d at 273. - Walls v. Oxford Management Co. 137 N.H. 653, 659 (N.H. 1993).

Some jurisdictions have found property owners or municipalities liable where lessees have invited criminal third parties onto the premises.

"Holding a county owed a duty of care to injured motorists after a bus driver exited his bus with the keys in the ignition and the engine running, and left an obviously violent and disturbed individual unsupervised on board. ¶21 Accordingly, Washington cases finding the existence of a duty to guard against the criminal conduct of a third party have generally been based on reasons other than the foreseeability of such conduct. As the court in Kim explained, such cases have, instead, justified the imposition of such a duty based on the existence of a "special relationship' between either the actor and the victim, or between the actor and the criminal third party. Kim, 143 Wn.2d at 196-97; see, e.g., Nivens v. 7-11 Hoagy's Corner, 133 Wn.2d 192, 943 P.2d 286 (1997) (business owed duty to invitee to protect against criminal conduct of third party); Hertog v. City of Seattle, 138 Wn.2d 265, 979 P.2d 400 (1999) (state owed duty to individual harmed by the criminal conduct of probationer under state's supervision)." Parrilla v. King 157 P.3d 879 (Wash. Ct. App. 2007)

"Plaintiffs alleged that that their son was intentionally stabbed and killed by criminal third parties and Haverfield's

negligence was the direct and proximate cause of their son's death. Plaintiffs and Haverfield waived a jury trial and liability was not contested. The court found that Haverfield negligently failed to protect Michael Hunt, Jr. 'from his assailants, who were known dangerous, intoxicated patrons on Haverfield's premises; and that Haverfield negligently failed to remove these patrons from said premises after prior similar violent acts by these patrons against other persons on said premises.' The court further found that Haverfield's negligent acts were the direct cause of Michael Hunt, Jr.'s death. The court entered judgment in favor of plaintiffs for \$150,000." Hunt v. Capitol Indemnity Corporation 26 S.W.3d 341 (Mo. Ct. App. 2000)

In this case, it is clearly an issue of fact for a jury or factfinder whether Defendant, under the totality of the circumstances, exercised due care and whether Plaintiff's injuries and damages resulted from Defendant's breach of that duty. However, at this juncture, Plaintiff has clearly alleged a set of facts where a jury or factfinder could determine, in the light most favorable to the Plaintiff, the following elements consistent with a finding of negligence:

a) Defendant is the owner of a large hotel/event center with a 6,432 person auditorium that Defendant rented, leased, or lent to Defendant No Labels for an event which expected 2000 attendees that was open to the public and/or to private invitees.

b) A 2014 PDF containing contracts and other legal documents between Defendant JPA III and the Department of Safety, Division of Homeland Security and Emergency Management (HSEM) was published on the New Hampshire Secretary of State page. The documents detail preparations for a one day training conference called the 10th Annual Emergency Preparedness Training Conference, to be held at the Radisson Hotel, Manchester, with an expected attendance of 700 people on June 11, 2014.

Part of the contract stipulates the amount and kind of liability insurance JPA III would expect HSEM to carry for this event, stating, "The contractor shall, at its sole expense, obtain and maintain in force the following insurance: 14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$2,000,000 per occurrence." sos.nh.gov/WorkArea/DownloadAsset.aspx?id=52117

It is therefore clear that Defendant JPA III could foresee the

possibility of bodily injury, death or property damage with an event that only expected 700 attendees. The No Labels Problem Solvers event was estimated to be almost three times that amount of people, (at 2000), with invitees holding disparate views being prompted to "hold the candidates feet to the problem solving fire." Any reasonable person could foresee that this powder-keg would lead to conflict and possible torts.

SEE EXHIBITS: JPA/ HSEM CONTRACT

c) Defendant had a duty to make a safe environment or premises for attendees on their property. Defendant had a duty to manage, oversee, organize or direct the security of a large event on the property that they own. Defendant has security personnel or managers and has or should have security plans or operations for this large property and event center even when leased, rented, or lent. Defendant is not absolved of that duty by merely renting, leasing, or lending the property to Defendant No Labels or any other entity.

Defendant may have or did hire the Defendant police officers. Defendant did or may have organized or managed security for the event. Defendant may have or did recommend or advise Defendant No Labels about the security of the event.

d) Defendant knew or should have known that possibly violent or dangerous persons such as Defendant Donald J. Trump, Trump supporters, Defendant Edward Deck, Keith Schiller, Trump Security and other possibly dangerous or violent individuals may or were going to be present on their property. Said individuals have a history of violence and/or torts, assaults, and/or batteries and/or incitement to violence. (In addition to the history of violence of said individuals alleged in the complaint, a federal district court has held that "studio wrestling" such as produced by WWE and as participated in by Defendant Trump and his security chief, Keith Schiller, is real violence and can cause serious and permanent injuries). On June 22, 2009 Defendant Trump struck a man in the face. On July 19, 2011, Defendant Trump tackled a man and punched him in the face at least five times, while other wrestlers at the same event beat each other to bloody messes. On Dec 8, 2013, Defendant Trump pushed a man over a table, mirroring Defendant Deck's Oct 12, 2015 attack on Plaintiff. Once Defendant Trump shifted his focus to his campaign, the acts of violence shifted to incitement of violence, so that Defendant Trump could presumably be held blameless. Schiller is known to have bragged about using "his gut" rather than logic as chief of security for The Trump Organization, and has bragged about the various kinds of violence he has committed in that role. Defendant knew or should

have known that violence and/or torts were foreseeable with such a persons at the event and on their property. SEE APPENDIX 1

e) Defendant knew or should have known that police officers from the Manchester Police Department were going to be present at the event. Members of the Manchester Police Department have had a history of violence, police brutality, and torts in the past. APPENDIX 4: MANCHESTER POLICE TRACK RECORD, APPENDIX 5: RETALIATORY ARREST

f) Defendant knew or should have known that Defendant No Labels may not have been or were not experienced or professional or incapable of organizing security or safety at such an event.

g) Defendant knew or should have known that persons of different and/or opposing political, social, economic, ethnic, racial, and cultural identities and affiliations may or were going to be present at the event. Defendants knew or should have known that violence and/or torts were foreseeable with such persons or crowd gathered on Defendant's property.

h) Defendant knew or should have known that four Manchester police officers were or may have been insufficient for the anticipated assembled crowd of one to six thousand persons. Defendants knew or should have known that four Manchester police officers were the wrong choice for security for the event due to the Manchester Police Department's history of violence and/or torts. APPENDIX 4: MANCHESTER POLICE TRACK RECORD, APPENDIX 5: RETALIATORY ARREST

i) Plaintiff was an invited guest at Defendant No Labels event. Defendant attempted to ask a question of Defendant Trump.

j) The Defendant police officers and Defendant Trump's alleged security including Defendant Deck were unable to provide security or protect or make the environment safe for Plaintiff, an invited guest who merely asked a question, but rather were the individuals who brutally and with malice assaulted and battered Plaintiff and then falsely arrested and imprisoned Plaintiff for attempting to file a complaint against the Defendants and for asserting or attempting to assert his rights as protected by the U.S. Constitution and federal statute.

k) Plaintiff, an invited guest, suffered injuries and damages as a proximate cause of Defendant's failure to provide or manage adequate security or a safe environment on Defendant JPA III's property.

l) On September 3, 2015, Trump security officer Keith Schiller forcibly ripped signs away from protesters at Trump Tower and punched one in the face, with the assistance of Defendant Edward Deck. This created national headlines. Since JPA III/ the Radisson Hotel was hosting an event with Donald Trump speaking, they should have been aware of this. SEE APPENDIX 1

m) There have been dozens of violent and tortious incidents occurring at Radisson Hotels throughout the Radisson Hotel franchise ranging from massive swarms of protesters arriving at the Radisson Hotel in Manchester, requiring police to be called to the scene, to patrons falling down drunk, to arrests for molestation to murder, to gambling, to prostitution, to hostages being taken, and other torts too numerous to list. SEE APPENDIX 2: RADISSON FRANCHISE

Accordingly, New Hampshire law and the common law of negligence provide that Defendant JPA III owed a duty to the Plaintiff. Likewise, Plaintiff has alleged sufficient facts providing that Defendant may have breached that duty and that a reasonable person could find that said breach was the proximate cause of his injuries. JPA III knew or should have known that Defendant Trump and his violent associates were coming, and that it was foreseeable that violence would occur against one of their invited patrons.

The event presumably was bringing in hefty profits for JPA III, however, they did nothing, they planned nothing, and failed in their duty to provide a safe environment for invitees, despite having held much smaller events in the past for which they required their contractors to be insured with comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$2,000,000 per occurrence.

In not properly managing the security for the large 6000 person capacity venue with 2000 expected and rented for a political event open to the public which included foreseeable violent or dangerous guests, JPA III was negligent in their duty to Plaintiff. JPA III had a duty to make sure lessee had hired appropriate security under the totality of the circumstances, however, in this duty, JPA III failed to ensure that lessee had obtained professional and adequate security. Instead, lessee merely hired four off-duty police officers from The City of Manchester Police Department, known for their bar brawls, their violent acts of assault, their vehicular hit-and-runs, their

retaliatory arrests, and the accusations of sexual assault leading to large financial settlements.

With all of the crimes by The City of Manchester Police Department so frequently in the news, certainly JPA III must have been aware that their officers were not suitable security for the event, and had the potential themselves to become tortfeasors. Clearly, from the evidence, there were dangerous and criminally known tortfeasors present and attending. The security hired were insufficient and were even possibly improperly trained and incapable of providing security for a single person asking a question without committing a crime or multiple torts. That is certainly enough for the factfinder to determine that under the totality of the circumstances the lessor has not fulfilled their duty and was negligent. SEE APPENDIX 4: MANCHESTER POLICE TRACK RECORD, APPENDIX 5: RETALIATORY ARREST

New Hampshire and other jurisdiction law is clear, the owner of property does have a duty to prevent violent acts by third parties when they lease out a large event space. Their duty is not absolved simply because they assert it is. In fact, their negligence increases by their intentional carelessness and ignorance.

Therefore, viewing the allegations in the manner most favorable to the Plaintiff, Plaintiff has stated a claim for which relief could be granted. Plaintiff, hereby, asks this court to deny Defendant's Motion To Dismiss and, thereby, enable Plaintiff to discover further facts and evidence when presented to the jury would demonstrate that Defendant is liable for negligence.

Signed Rod Webber
Roderick Webber
June 19, 2019

APPENDIX 1

Preceding the No Labels Problem Solvers incident on October, 12, 2015 which occurred at The Radisson Hotel, there were several very high-profile news events in the headlines and on television

regarding Defendant Trump and his WWE Wrestling Partner, Keith Schiller, as well as Defendant Edward Deck. As a result, Defendant JPA III knew, or should have known that reckless individuals with a lengthy history of violence and assault would be in attendance at the No Labels Problem Solvers Conference.

A) World Wrestling Entertainment's Real Violence

Public sentiment seems to be that World Wrestling Entertainment, Inc. (WWE) is "fake" or "choreographed."

Public sentiment, however, is immaterial. The Honorable Vanessa L. Bryant in Connecticut District Court has ruled in McCullough v. WWE that there is enough evidence to show that the violence is real, to the extent that she allowed Plaintiffs Singleton and LoGrasso to proceed. WWE wrestlers sign waivers which frequently prevent them from seeking damages, however, as stated in McCullough v. WWE, information contained in the WWE's 2007 Wellness Program showed the WWE was aware that getting in the ring could cause wrestlers permanent degenerative conditions related to head injury and permanent brain damage.

"In particular, the WWE is alleged in the various complaints to have had knowledge of such a link as early as 2005. For wrestlers active during and after 2005, information about a link to permanent degenerative conditions could plausibly have informed plaintiffs' own choices about whether and when to re-enter the ring after sustaining a head injury and could plausibly have prevented permanent brain damage. Plaintiffs also allege that by virtue of its Wellness Program, begun in 2007, WWE possessed superior knowledge regarding a link between participation in WWE wrestling events and such permanent conditions. Because Singleton and LoGrasso are alleged to have wrestled on or after 2005, when WWE's knowledge of the non-disclosed facts is alleged to have begun, their claims for fraudulent non-disclosure may proceed." McCullough v. World Wrestling Entm't, Inc. 172 F. Supp. 3d 528, 566 (D. Conn. 2016)

B) Defendant Trump's acts of Violence on the WWE Seen by Many Millions

Defendant Trump's history of violence as part of the WWE goes back to 1988, and has bragged to that effect.

i) March 28, 2007, Donald Trump hits wrestler Vince McMahon in the lobby of Trump Tower in New York City. Trump's security officer Keith Schiller enters the frame, grabbing Vince McMahon. Schiller and McMahon tussle back and forth until Schiller knocks

McMahon to the ground. McMahon gets back up and there is some more pushing, while Trump looks on, clearly condoning the behavior. Video by Ted Shaffrey. The YouTube video has 174 thousand views. <https://youtu.be/-9CjKfO6ef0>

ii) June 22, 2009, Defendant Trump slaps wrestler in the face in front of a live audience of thousands of people, and likely to millions of people in their homes. The YouTube video has 6.5 million views. <https://youtu.be/lrDUeqsq54s>

iii) July 19th, 2011, Defendant Trump tackles wrestler Vince McMahon and punches him in the head at least five times, in front of a live audience of thousands of people, and likely to millions of people in their homes. The YouTube video has 13.4 million views. <https://youtu.be/5NsrwH9I9vE>

iv) April 6, 2013, Defendant Trump bragged that his 2013 induction into the WWE hall of fame was, "In front of a record-setting 80 thousand fans in one of the largest pay per view events in wrestle-mania history."
<https://www.youtube.com/watch?v=eVtyTw8cIEU>

v) Dec 8, 2013, Defendant Trump uses the full force of his 6'2" body and violently pushes Vince McMahon over a table, (similar to the assault on Plaintiff), in front of a live audience of thousands of people, and likely to millions of people in their homes. The YouTube video has 15 million views. The title on the screen bills Defendant Trump as "Donald Trump, Chairman of The Trump Organization." https://youtu.be/vVeVcVBW_CE

C) The Trump WWE Violence Becomes Part of the Trump Campaign

Defendant Trump has participated in these violent events since 1988, with the stated goal of making people "scared" and "frightened." The fear which Defendant Trump cultivated through numerous violent appearances with his wrestling partner Keith Schiller spilled out onto the streets, hurting innocent people as part of his presidential campaign. On September 3, 2015, Schiller forcibly ripped signs away from a protester and punched one in the face, with the assistance of Defendant Edward Deck while in the employment of at least one Donald Trump-related entity. As a result, the former wrestler (Schiller), and Defendant Deck made national headlines.

Defendant Trump was forced to address the incident with the press. The incident moved into the courts known as Galicia v Trump. (SUPREME COURT OF THE STATE OF NEW YORK BRONX COUNTY

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https://www.youtube.com/watch?v=_lymnIROibA

<https://youtu.be/CNT-YRroQ6w>

The story was disseminated in countless publications such as:

a) The Washington Post

<https://www.washingtonpost.com/news/politics/wp/2018/08/21/trump-must-face-claims-of-assault-on-mexican-protesters-judge-says/>

b) The New York Times

<https://www.nytimes.com/politics/first-draft/2015/09/03/guard-for-donald-trump-hits-protester/>

c) The New York Post

<https://nypost.com/2015/09/04/trump-security-team-scuffles-with-immigration-protester/>

d) The New York Daily News

<https://www.nydailynews.com/news/national/trump-security-guard-hits-protester-face-video-article-1.2348516>

e) The Daily Beast

<https://www.thedailybeast.com/trump-tower-protesters-subpoena-president-in-assault-case>

f) Daily Mail

<https://www.dailymail.co.uk/news/article-3222326/Trump-s-security-guards-fight-Mexican-immigrant-50-outside-Trump-Tower-mocked-Donald-s-campaign-slogan-Make-America-Racist-sign.html>

g) Business Insider

<https://www.businessinsider.com/trumps-guard-had-right-to-defend-self-2015-9>

TRUMP SUPPORTERS MAKE HEADLINES FOR BEATING AND URINATING ON HOMELESS MAN

On August 19, 2015, Steve and Scott Leader, two Trump fans made headlines for beating up a homeless man who they also urinated on in the name of Trump.

Boston Globe, August 19, 2015

"South Boston brothers allegedly beat homeless man Police say victim was targeted because he is Hispanic"

<https://www.bostonglobe.com/metro/2015/08/19/homeless/>

iTagewS4bnvBKWxxPvFcAJ/story.html

Time Magazine, August 20, 2015

"Donald Trump Cited as Inspiration in Beating of Homeless Latino, Police Say"

<http://time.com/4004579/donald-trump-homeless-hispanic-crime/>

Washington Post, August 21, 2015

"Trump says fans are 'very passionate' after hearing one of them allegedly assaulted Hispanic man"

https://www.washingtonpost.com/news/morning-mix/wp/2015/08/21/trump-says-fans-are-very-passionate-after-hearing-one-of-them-allegedly-assaulted-hispanic-man/?utm_term=.e030a7600098

CNN Politics, August 21, 2015

"Donald Trump was right," the two men said, according to police, as they beat the man with a metal pipe and then urinated on him."

<https://www.cnn.com/2015/08/20/politics/donald-trump-immigration-boston-beating/index.html>

According to The Massachusetts State Police Facebook Page, (May 16, 2016), the brothers were sentenced to prison, stating:

Subject: Suffolk DA Release 16-090: Brothers Get State Prison Terms for Beating Immigrant

Brothers Get State Prison Terms for Beating Immigrant

BOSTON, May 16, 2016—Two brothers were sentenced to state prison today after admitting that they beat a homeless man last year because they believed him to be an illegal immigrant, Suffolk County District Attorney Daniel F. Conley said.

SCOTT LEADER (D.O.B. 7/20/77) and STEVEN LEADER (D.O.B. 8/5/85) of South Boston pleaded guilty to indictments charging them with causing bodily injury while committing a civil rights violation, assault and battery for purposes of intimidation causing bodily injury, two counts each of assault and battery, and two counts each of assault and battery with a dangerous weapon.

Assistant District Attorney Nicole Rimar recommended that Scott Leader serve four to six years in state prison followed by probation and that Steven Leader serve three to four years in state prison followed by probation.

Suffolk Superior Court Judge Peter Krupp imposed lighter sentences of three years for Scott Leader and two and one-half years for Steven Leader, with both those sentences followed by three years of probation. Krupp ordered that each defendant's first year of probation must be served at a sober house, but

that each defendant may petition for release from that requirement after six months. Krupp also ordered them to serve 20 hours of community service and complete a cultural diversity training program if one exists.

"This unprovoked attack on a sleeping man disgusted every prosecutor, victim advocate, and trooper who worked on it," Conley said. "State prison was the only appropriate sentence." Prior to sentencing, Rimar read a prepared statement from the victim in which he described being awoken by the men urinating on him and then beating him in the unprovoked attack on Aug. 19, 2015.

"I still feel pain all over my body from this incident," the victim, then 58, wrote. "I don't think my fingers will ever be the same. I came to this country many years ago and worked hard in the farm fields to provide produce to people here. I actually became a permanent resident of this country years ago, although if I had been undocumented I still would not have deserved to be beaten this way."

Had the case proceeded to trial, Rimar would have introduced evidence and testimony to prove that the brothers kicked, punched, and urinated on the victim as he slept near the JFK/UMass MBTA station at about 12:30 that morning. One of them took a metal pole and struck the victim with it repeatedly. The two assailants then walked away laughing, witnesses said.

The victim was transported immediately to Boston Medical Center, where he was treated for a broken nose, serious bruising across his torso, and other injuries. With the help of civilian witnesses, State Police identified and apprehended the brothers shortly after the attack.

At the State Police barracks in South Boston, the evidence would have shown, Scott Leader made a series of incriminating statements, including that he and his brother "tuned up" an "illegal immigrant," and that this behavior was acceptable because the victim was homeless and Hispanic.

Michael Coffey was the DA's assigned victim-witness advocate. The defendants were represented by attorneys Victoria Kelleher and Jessica Tripp.

<https://www.facebook.com/MassStatePolice/posts/1022042091213107>

TRUMP SECURITY CHIEF KEITH SCHILLER, APPEARING ON "CONVERSATIONS WITH RICH SIEGEL"

<https://www.facebook.com/watch/?v=1084579158228692>

Schiller acknowledges he is Director of Security for the Trump Organization, and has worked almost 18 years with Donald J. Trump.

KEITH SCHILLER: I'm a fucking bodyguard... I'm no stranger to putting my hands on people.

Schiller holds up a photo of himself, saying:

KEITH SCHILLER:

You wouldn't want to meet this guy in a dark alley, I'll tell you that right now.

Siegel asks about security work.

RICH SIEGEL (INTERVIEWER): When you're looking in a crowd— What do you look for?

KEITH SCHILLER: He's got his pants down— his shorts hanging out. That's always a sign.

RICH SIEGEL (INTERVIEWER): Is that a sign? Have you seen that before?

KEITH SCHILLER: That's what you gotta worry about. He may piss on somebody.

Schiller continues to talk about his security work for the Trump Campaign and the Trump Organization.

KEITH SCHILLER: You know what it is? It comes down to instinct. And its a gut feeling. Over time and over many many years, I think its coupled with just the correctional and the law enforcement experience. Ya know— I can walk into a room, and I can pretty much feel I know who the guys we need to be concerned with.

RICH SIEGEL (INTERVIEWER): You can see them right away?

KEITH SCHILLER: I can feel it. You just know, and again, it's always a gut feeling.

APPENDIX 2: RADISSON FRANCHISE

April 25, 2011 patrons falling down from drunkenness at Glasgow Radisson

https://www.youtube.com/watch?v=kCv2evq8W_Y

April 15, 2007, Fight at Radisson Hotel
<https://www.youtube.com/watch?v=7bjwooJr29c>

Jan 6, 2008 Manchester NH Radisson: A massive swarm of protesters loudly chant to the extent that several police officers must be called to the scene
<https://www.youtube.com/watch?v=mKjLfLDH2H4>

Aug 1, 2011
Heavy drinking at Radisson, Manchester, NH
<https://www.youtube.com/watch?v=H9ZFZqKSrv4>

Sept 7, 2011, arrest at Radisson Hotel in Nashua NH
<https://www.youtube.com/watch?v=yaB1L7jznaQ>

Jan 8, 2013 Woman murdered by husband at Radisson Hotel, Noida
<https://www.youtube.com/watch?v=9kPU9NPlQoU>

Feb 24, 2013 Man arrested at Radisson in Noida, for molesting a girl
<https://www.youtube.com/watch?v=IJtI2syeY0k>

May 2013, Wolfpack Kickboxing Fight Night @ Radisson Athlone
<https://www.youtube.com/watch?v=jU0J00CB2AU>

June 23, 2013, Patrons at Downtown Minneapolis Radisson too drunk to stand
<https://www.youtube.com/watch?v=NeGE89dhOsE>

Nov 15, 2014 Fight Night! Wolfpack Athlone!
<https://www.youtube.com/watch?v=6NTtrczTrtg>

Oct 5, 2015 Wolfpack Fight Night 5th Oct 2013 @ Radisson Athlone
<https://www.youtube.com/watch?v=-Wi5Q0lyI8g>

Nov 20, 2015, Hostages taken at Radisson in Bamako, Mali
<https://www.youtube.com/watch?v=5zPle0eKwg0>

July 17, 2016, Kids caught vandalizing cameras at Radisson Hotel
<https://www.youtube.com/watch?v=QRR0CffeH1Y>

July 29, 2018, Bus accident at Radisson Hotel
<https://www.youtube.com/watch?v=pYKysFde5Hw>

Jan 9, 2019, Street fight at a Radisson Hotel (Kaushambi Delhi)
<https://www.youtube.com/watch?v=wwpDBcQbRzM>

Jan 19, 2019 Man in Santa outfit drunk lying on floor with beer at Radisson Hotel

<https://www.youtube.com/watch?v=G3wiJj0gu9s>

Jan 23, 2019 Multiple women heavily drunk/ performing lewd acts on each other at Radisson Hotel Padre Island

<https://www.youtube.com/watch?v=y64Rm3GkzKw>

aug 31, 2017: Thirty people arrested for gambling at Ludhiana Radisson Hotel

<https://www.youtube.com/watch?v=raLJnOF0ex0>

July 7, 2018: Prostitution ring busted at Radisson Bnajara Hills

https://www.youtube.com/watch?v=FZbzaVGE_Mc

March 4, 2019

According to the General Manager Bob Seguin at Nashua NH Radisson, multiple safety problems had been reported, and was quoted as saying,

"OSHA did visit us" and "Some (allegations) are true,"

Wayne Saya, the Radisson's engineering director claims OSHA, in 2018, levied a \$21,000 fine – which he alleged is "the largest known fine in the city's history" – against the Radisson and its parent company, Afp 105 Corporation

<http://www.nashuatelegraph.com/news/local-news/2019/03/04/nashua-radisson-gm-denies-allegations-of-multiple-violations/>

APPENDIX 3

SEE EXHIBITS: JPA/ HSEM CONTRACT

APPENDIX 4: MANCHESTER POLICE TRACK RECORD

4.A) Manchester Police Officer Michael Buckley participates in beating a man in a bar.

ACCORDING TO ADAM SEXTON reporting for WMUR-TV, (Published to YouTube March 3rd 2010)

Patron of the bar Strange Brew, Chris Micklovich was asked to leave. He asked why, and four off-duty cops beat him up,

according to Micklovich. Chief David Mara wanted to investigate injuries.

A witness came forward. Internal investigation

Four officers were at the bar:

- a. Officer Michael Buckley
- b. Officer Jonathan Duchesne
- c. Officer Matt Jajuga
- d. Lt. Ernie Goodno

Source: Chief Mara, Manchester PD, (ACCORDING TO ADAM SEXTON reporting for WMUR)

WMUR-TV - Published on Mar 16, 2010

<https://www.youtube.com/watch?v=E5ebcm8Jgfs>

e. Attorney General MICHAEL DELANEY clears officers of criminal wrongdoing

https://www.unionleader.com/news/crime/attorney-general-clears-officers-involved-in-strange-brew-incident/article_c4c8a0b4-6748-5401-9eb6-f0f13495db8f.html

f. Attorney General MICHAEL DELANEY said: **"I also want to say that clearly this situation was not the Manchester police department's finest hour,"** Delaney said. He noted that an internal affairs review was conducted by Manchester police. He also said, "I recognize the police chief has disciplined officers," he said. "I was asked to review this matter by the mayor, former County Attorney Bob Walsh and Chief David Mara."

<https://www.unionleader.com/article.aspx?articleId=a4112c9e-83f7-497e-93c8-0a0b25e16c5f&headline=Pressure+from+Manchester+police+unions+won%27t+halt+Strange+Brew+probe+says+county+attorney>

g) Manchester Police Officer Jonathan Duchesne participates in beating a man in a bar.

March 3rd 2010

For details, see 4A.

h. Manchester Police Officer Matt Jajuga participates in beating a man in a bar.

March 3rd 2010

For details, see 4A.

i. Manchester Police Lieutenant. Ernie Goodno participates in beating a man in a bar.

March 3rd 2010

For details, see 4A.

4.B)_OFFICER_RYAN_NARDONE_-_GUILTY_OF_SIMPLE_ASSAULT_(2010),
Manchester NH police officer found guilty of misdemeanor for hitting man in head at bar but jury hung on felony charge
<https://www.unionleader.com/article.aspx?headline=Nardon%20guilty%20of%20simple%20assault;%20hung%20jury%20on%20felony%20charge&articleId=f7f474bd-95f2-4110-8096-45942c217d8e>

In May 2010, Nardone was found guilty of simple assault –
<https://www.capecodtimes.com/article/20120129/NEWS/201290337>
https://www.sentinelsource.com/news/state_regional/ag-asked-to-probe-alleged-police-attack/article_f0d80a38-1c74-5f77-a302-ff109caa0b52.html

UnlawfulShield.com @AbolishQI

Manchester NH police officer found guilty of misdemeanor for hitting man in head at bar but jury hung on felony charge:
<http://is.gd/chYrE> 4:02 PM - 20 May 2010

4.C) Manchester Police Officer Steven Coco GUILTY of running over Dean Drukker and Noah Hickman (2013),

According to Andy Hershberger reporting for WMUR-TV (Published to YouTube Mar 26, 2014)

Coco struck them from behind in an undercover police SUV. Drukker suffered a serious head injury and was hospitalized Hickman had a broken elbow Judge Jillian Abramson agreed with state's recommendation of 12 months in jail.

She said she did not think that Coco was telling the truth.
<https://www.youtube.com/watch?v=DqKEo71ZTak>

Detective arrested in hit-and-run had been visiting at fellow officer's home

According to MARK HAYWARD and PAT GROSSMITH in the New Hampshire Union Leader Mar 26, 2013 mhayward@unionleader.com pgrossmith@unionleader.com

"On Tuesday, Manchester police Sgt. Stephen Coco was arrested and arraigned on felony charges stemming from the hit-and-run accident. Immediately, questions arose about why Coco was on Harrod Lane, a quiet, south Bedford residential street of about a dozen homes."

https://www.unionleader.com/news/crime/detective-arrested-in-hit-and-run-had-been-visiting-at-fellow-officers-home/article_4184e5a4-f001-518e-a781-1d3aed67e756.html

Fired Manchester officer charged in Bedford hit and run to see

pension

Anonymous entry in Union Leader, Mar 28, 2013 "

"MANCHESTER - Stephen Coco, the Manchester police sergeant who was fired and arrested following a hit-and-run accident on Friday in Bedford, won't getting his pension right away, but once he does he could be getting about \$37,100 a year."

https://www.unionleader.com/news/safety/fired-manchester-officer-charged-in-bedford-hit-and-run-to-see-pension/article_4911987f-6cb9-5083-a3e6-0cdfd561eac4.html

4.D)_WMUR-TV_REPORTS:_THREE_MANCH_COPS_FIRED_(2018).

Reported Published on Apr 11, 2018

Officer **Steven Cornacchia** fired (Apr 11 2018) after being arrested for conduct after an accident in alleged hit and run crash while off duty.

He was on leave since May of 2017

4.E)_Officer_Aaron_Brown_ACCUSED_OF_SEXUAL_ASSAULT_also_fired_
(April 11)- paid leave since Feb 2018. Being criminally investigated

4.F)_Detective_Darren_Murphy_of_the_special_investigative_drug_unit_was_fired_in_February_2018.

Being criminally investigated, but unrelated to Brown.

ACCUSED OF SEXUAL ASSAULT

Chief Nick Willard fired Murphy.

WMUR VIDEO <https://www.youtube.com/watch?v=stHbFad89wM>

WMUR PRINT: Police said Cornacchia, an officer with Manchester police since April 2013, struck a 22-year-old woman before 1:20 a.m. as he turned onto West Merrimack Street from Elm Street.

<https://www.wmur.com/article/manchester-officer-accused-of-striking-pedestrian-placed-on-leave/9660053>

MANCHESTER PAID \$45,000 FOR COPS ACCUSED OF SEXUAL ASSAULT

According to Mark Hayward written in the Union Leader, Jan 18, 2019

"MANCHESTER - City officials paid \$45,000 to the woman at the center of a months-long investigation into the conduct of fired city police officers Darren Murphy and Aaron Brown, according to court documents.

Former Police Chief Nick Willard fired both officers last year. He fired Murphy, an undercover detective, last February. An internal investigation into Murphy led to a similar investigation regarding Brown, a street-level detective, whom

Willard fired in April. Rogers' attorney, Olivier Sakellarios, eventually filed a claim letter with the city asserting Murphy and Brown used their status as police officers to coerce Rogers into sex."

https://www.unionleader.com/news/crime/review-of-evidence-begins-in-manchester-police-officers-sexual-assault/article_8047fa68-d7ea-11e8-b19f-a3bbd5abbb57.html

https://www.unionleader.com/news/crime/manchester-pays-to-woman-who-accused-two-police-officers-of/article_390de4b3-0ead-50c5-ad5a-c9dbc79ac74b.html

According to Carol Robidoux written in Manchester Ink Link (April 11, 2018)

CHIEF NICK WILLARD RELEASED THIS STATEMENT:

"The Manchester Police Department takes every accusation seriously while investigating all allegations made against our officers, and will hold those accountable who commit wrongdoing, as such, Chief Willard terminated two Manchester Police Officers today, Mr. Aaron Brown and Mr. Steven Cornacchia.

Mr. Brown, a former detective who had been employed by the City of Manchester Police Department since July of 2007, had been placed on paid administrative leave beginning February 20, 2018 until his termination today. A criminal investigation will be initiated into Mr. Brown's actions. The department has consulted with both the Attorney General and County Attorney on this matter and will continue to do so.

Cornacchia/MPD

Mr. Cornacchia has been employed by the City of Manchester Police Department since April, 2013. Mr. Cornacchia was on paid Administrative from May 14, 2017 to May 16, 2017 until he was arrested for Conduct After an Accident, after which he was on unpaid administrative leave pending his court case."

<https://manchesterinklink.com/2-police-officers-terminated-after-criminal-investigation/>

Cornacchia collapses before sentencing Jan 24 2018

According to Mark Hayward mhayward@unionleader.com written in the Union Leader

<http://201-ulweb.newscyclecloud.com/courts/manchester-police-officer-collapses-minutes-before-expected-guilty-plea-in-hit-and-run-20180123>

4.G) Off-duty police officer charged in early Sunday hit and run in Manchester

According to PAT GROSSMITH in the New Hampshire Union Leader, May 17, 2017

"MANCHESTER – An off-duty city police officer is accused of hitting a woman with his car early Sunday morning and, after checking on her, fleeing the scene of the collision. Steven Cornacchia, 31, of Manchester was arrested Tuesday and charged with a misdemeanor offense of conduct after an accident. He was released on \$1,000 personal recognizance bail pending a June 20 arraignment in Manchester Circuit Court."

https://www.unionleader.com/news/crime/off-duty-police-officer-charged-in-early-sunday-hit-and-run-in-manchester/article_39488944-03ad-5a0f-ad4e-b529a89cb0f6.html

4.H) Manchester police officer charged with felony assault on Cape Cod (2014)

According to Mark Hayward written in the New Hampshire Union Leader, sept 10, 2014

"Falmouth police arrested **Christian Horn, 31**, of Chester, NH, on two felony charges stemming from the alleged assault, which took place shortly after midnight on Aug. 24 outside the Sea Crest Beach Resort hotel, Falmouth police Lt. Sean Doyle said."

https://www.unionleader.com/news/crime/manchester-police-officer-charged-with-felony-assault-on-cape-cod/article_162c1af3-96ea-51c6-b11e-378656a83960.html

4.I). Manchester police officer charged in domestic case (2013)

- According to MARK HAYWARD written in the New Hampshire Union Leader. Jul 10, 2013

HOOKSETT – A veteran Manchester police officer was arrested Tuesday and charged with assault on Tuesday, stemming from a domestic-related incident at his Hooksett home in April, Hooksett police said. Police said **William Soucy, 52**, turned himself in to police and was charged with misdemeanor assault. He was booked and released on his own recognizance.

https://www.unionleader.com/news/crime/manchester-police-officer-charged-in-domestic-case/article_3e3fc7f3-9048-5652-912f-262ba61ec9ea.html

4.J). Officer's DWI charge leads to resignation (2012)

- According to SHAWNE K. WICKHAM written in the New Hampshire Sunday News Oct 21, 2012

MANCHESTER – The Manchester police officer charged with driving under the influence after he crashed his personal car into

another vehicle on Interstate-93 last week has resigned from the police department. Police Chief David Mara told the New Hampshire Sunday News that **David Connare** submitted his resignation in a letter Friday afternoon. "I accepted it," Mara said.

The chief said his department was awaiting the reports on the Oct. 16 crash from state police, who are doing the investigation.

https://www.unionleader.com/news/crime/officers-dwi-charge-leads-to-resignation/article_09aa89bc-56e8-5802-958f-99b4213aabba.html

4.K)_Manchester_Police_Officer_Charged_in_Domestic_Assault_(2012).

- According to GRETYL MACALASTER written in the Union Leader Correspondent. Sep 28, 2012

"RAYMOND – A Manchester police officer is facing a misdemeanor simple assault charge after allegedly throwing his wife to the ground during a domestic dispute.

Nathan **Robert Linstad, 34**, formerly of 19 Pond Road in Raymond, has pleaded not guilty to the charges through his attorney, according to court records.

He turned himself in to Raymond police on Sept. 13 after an arrest warrant was issued, and was released on personal recognizance bail with conditions stipulating he is not to possess any firearms, have contact with the victim or use alcohol or other drugs."

https://www.unionleader.com/news/crime/manchester-police-officer-charged-in-domestic-assault/article_34e0df95-ecd0-5222-874a-dbl63a3fca38.html

4.L)_Manchester_officer_charged_in_dispute_with_girlfriend_resigns,_will_keep_pension_(2019).

According to Emily Brindley ebrindley@journalinquirer.com written in the Journal Inquirer, "Former **Officer Jason Wagner, 40**, resigned Thursday (March 14th 2019) from the Manchester Police Department. The Manchester Police Department charged him on March 1 with disorderly conduct and second-degree unlawful restraint.

Former Officer Jason Wagner, 40, submitted his letter of resignation Wednesday, becoming effective Thursday." - Journal Inquirer

<https://www.journalinquirer.com/towns/manchester/manchester->

[officer-charged-in-dispute-with-girlfriend-resigns-will-keep/
article_9d4ba328-4737-11e9-bae5-67466d2f8313.html](http://www.aclu-nh.org/sites/default/files/field_documents/valentin_objection.pdf)

APPENDIX 5

RETALIATORY ARRESTS BY MANCHESTER POLICE DEPT

5.A). Valentin v Manchester. Manchester Police issue unlawful training memorandum 2011

[https://www.aclu-nh.org/sites/default/files/
field_documents/valentin_msj.pdf](https://www.aclu-nh.org/sites/default/files/field_documents/valentin_msj.pdf)

[https://www.aclu-nh.org/sites/default/files/
field_documents/valentin_objection.pdf](https://www.aclu-nh.org/sites/default/files/field_documents/valentin_objection.pdf)

5.B) Kean v Manchester 2012 Retaliation for wearing a police jacket

[http://www.nhd.uscourts.gov/sites/default/files/
opinions/16/16NH022.pdf](http://www.nhd.uscourts.gov/sites/default/files/opinions/16/16NH022.pdf)

Municipal Liability for Constitutional Violation (Count VI) Kean argues that the City of Manchester is liable for Officer McKenney's purported constitutional violations because it failed to train its officers with respect to the false personation statute. Because Officer McKenney did not violate Kean's First and Fourth Amendment rights, the City of Manchester cannot be liable for having maintained an allegedly

unconstitutional policy regarding officer training. As the Supreme Court has observed: [N]either *Monell v. New York City Dept. of Social Services* , 436 U.S. 658 (1978)