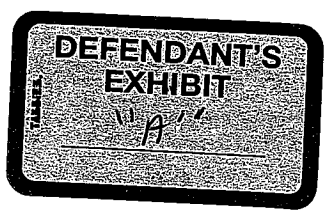


1 STATE OF ILLINOIS)
)
 2 COUNTY OF C O O K)
)
 3 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
 MUNICIPAL DEPARTMENT-FIFTH MUNICIPAL DISTRICT
 4
 5 THE PEOPLE OF THE)
 STATE OF ILLINOIS,)
 6)
 Plaintiff,)
 7)
 Vs.) No. 065005462
 8)
 ELIZONDO MILAGROS,)
 9)
 Defendant.)
 10

11 REPORT OF PROCEEDINGS of the hearing had before
 12 the Honorable JOHN HYNES, on the 21st day of
 13 February, 2007 , in Bridgeview, Illinois.

14 APPEARANCES:
 15 HON. RICHARD A. DEVINE,
 State's Attorney of Cook County, by:
 16 MR. JOHN RUSSELL,
 Assistant State's Attorney,
 17 Appeared for the People;
 18 MR. LOUIS BERNIS,
 Attorney-at-law,
 19 Appeared for the Defendant.

20
 21
 22 ADRIENNE WESTMAN, CSR
 OFFICIAL COURT REPORTER
 23 10220 S. 76th Ave, Room 058
 Bridgeview, Illinois 60455
 24



1 THE CLERK: Elizondo Milagros.

2 MR. BERNS: For the record, Louis Berns on
3 behalf of the defendant. Defendant's signing a jury
4 waiver.

5 THE COURT: Can we talk about this?

6 MR. BERNS: We can approach if you like.

7 THE COURT: Sure. Come on up.

8 (Whereupon a discussion was had off
9 The record.)

10 THE COURT: You know what I have to get a trial
11 book.

12 Ms. Elizondo, your attorney handed me a document
13 let me start off by saying you're charged with battery,
14 you understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: My understanding you are pleading not
17 guilty, is that correct?

18 THE DEFENDANT: Correct.

19 THE COURT: Your attorney handed me this document
20 entitled jury waiver, did you sign this?

21 THE DEFENDANT: He just asked me to sign it.

22 THE COURT: You understand what you signed, let
23 me tell you this, a jury trial you can have a jury
24 trial where you pick 12 people they sit right there

1 you pick them, your lawyer picks them, the State's
2 Attorney picks them those 12 people decide your
3 guilt or innocence on this case, do you understand
4 that?

5 THE DEFENDANT: Yes.

6 THE COURT: Did you know when you signed this you
7 waive that right you have a right to that jury you
8 understand that?

9 THE DEFENDANT: Yes.

10 THE COURT: You want me to hear this what we
11 call a bench trial, I'm going to make the decision based
12 upon the facts and evidence that I hear in determining
13 whether you're guilty or innocent?

14 THE DEFENDANT: Yes.

15 THE COURT: Is that what you want?

16 THE DEFENDANT: Yes.

17 THE COURT: You sure?

18 THE DEFENDANT: Yes.

19 THE COURT: Okay. Jury waiver executed. Any
20 preliminary motions?

21 MR. BERNS: Motion to exclude.

22 THE COURT: Motion - everyone testifying come on
23 up. There has been a motion to exclude that means
24 you're not to discuss your testimony. Everyone

1 understand that during the pendency of the trial,
2 understand that?

3 THE WITNESSES: Yes.

4 THE COURT: Swear the witnesses.

5 (Witnesses duly sworn.)

6 THE COURT: You understand English?

7 THE DEFENDANT: Yeah.

8 THE COURT: You don't need an interpreter?

9 THE DEFENDANT: No.

10 THE COURT: All the witnesses are sworn.

11 Any other motions? There has been a motion to exclude.

12 Motion to exclude. Any opening statements?

13 MR. BERNS: I'll waive.

14 MR. RUSSELL: Waive.

15 THE COURT: Call first witness.

16 Stand next to your attorney. Make sure you speak up so
17 my Court Reporter can hear.

18 THE WITNESS: I just had a root canal.

19 THE COURT: Take your time.

20 Go ahead.

21 OFFICER DUBINKA,

22 the witness herein, having been first duly

23 sworn, was examined and testified as follows:

24

1 DIRECT EXAMINATION

2 BY MR. RUSSELL:

3 Q Officer, state your name, badge number,
4 employment?

5 A Officer Michael Dubinka, Star 103, Summit
6 Police Department.

7 Q Officer, were you employed with Summit Police
8 Department -.

9 THE COURT: What was your first name?

10 THE WITNESS: Michael.

11 THE COURT: How do you spell your last name?

12 THE WITNESS: D-u-b-i-n-k-a.

13 THE COURT: Go ahead.

14 MR. RUSSELL: Q You were so employed with Summit
15 Police Department on May 21, 2006, approximately 2:00
16 o'clock in the morning?

17 A Yes, I was.

18 Q On that date and time did you have occasion
19 to go to 6303 Archer in Summit?

20 A Yes, I did.

21 Q What's located there?

22 A There is a bar there called -.

23 THE COURT: A bar called what?

24 THE WITNESS: Laduenya (phonetic), it's changed

1 names several times.

2 THE COURT: It's a bar?

3 THE WITNESS: Yes.

4 MR. RUSSELL: Q Were you dispatched to that location?

5 A Yes, I was.

6 Q When you got to that location did you meet
7 with somebody?

8 A Yes, I did.

9 Q Who did you meet with?

10 A Well, there was another officer there already
11 there was large group of people outside, injured subject.

12 Q Who was the other officer you went with?

13 A Officer Brendal.

14 THE COURT: Brendal?

15 THE WITNESS: Yes.

16 MR. RUSSELL: Q You stated somebody there was injured?

17 A Yes.

18 Q Is that person in this courtroom today?

19 A I don't know if he was or not.

20 Q What was your reason for going to this location?

21 A Because we had a call there was a fight
22 there was an injured person.

23 Q What, if anything, who else was present at
24 this location at that time?

1 A The subject that was arrested and there was
2 some men out there. I don't know who they were. They
3 were patrons of the bar. There was patrons from the
4 other bar coming out because the commotion. There was
5 ambulance on the scene.

6 Q And while you're on the scene with this
7 injured person what, if anything, unusual happened?

8 A We are trying to get any information who
9 the offenders were and the victim was speaking with
10 Officer Brendal. He says anybody that was out there
11 was not them. We asked people in the crowd. He couldn't
12 identify anybody. He said he thinks they had left.
13 I was asking people outside that walked out of the
14 bar if they seen what happened. They said, no, but
15 happened on the outside when they were leaving. The
16 offender and the offender and the victim.

17 Q Then what happened?

18 A I was continuing ask them what was going on.
19 I noticed that the female subject that was there was
20 screaming at Officer Brendal.

21 Q Do you see the female subject in the courtroom
22 that was screaming at Officer Brendal?

23 A Yes, I do.

24 Q Please point to that female -.

1 MR. BERNS: Stipulate to in-court I.D.

2 THE COURT: In-court identification of the
3 defendant by stipulation and actual testimony. Go ahead.

4 MR. RUSSELL: Q What, if anything, did you observe
5 the defendant do when she was screaming at Officer
6 Brendal?

7 MR. BERNS: Objection, foundation, where he was
8 proximity.

9 THE COURT: Can we be more specific.

10 MR. RUSSELL: Q When the defendant was screaming at
11 Officer Brendal approximately how far away were you?

12 A 10 to 15 feet.

13 Q What were the lighting conditions?

14 A Street lights. There are lights from vehicles
15 parked there.

16 Q Who else was present?

17 A Like I said there was customers from the bar
18 the ambulance crew was there. At that point or not they
19 were there because the victim refused any medical
20 transportation or aid, I guess he signed a waiver. I
21 don't know if they were still there at that point or not.

22 Q From 10 to 15 feet away observing the defendant
23 yelling at Officer Brendal what did you next observe?

24 A While he was talking to the victim she ran

1 at him he wasn't expecting it because he wasn't
2 looking at her when she shoved him he fell backwards
3 several feet. She backed away from him at that point.

4 Q Did he lose balance or was he able to maintain
5 balance?

6 A He maintained balance. He stepped backwards
7 put arms against a concrete call there.

8 Q Then what happened?

9 A I started walking over to that direction he
10 was telling her that you're under arrest because he had
11 been warning her to stay away from him. She admitted
12 to him she hadn't seen anything she was in the bathroom.
13 I heard her telling him she kept screaming and yelling
14 this whole time when I was approaching her she started
15 wacking him again I told her to stop.

16 Q After you told her to stop what happened?

17 A She raised up her arms started going at him
18 again.

19 Q Then what happened?

20 A I walked in between the two of them at that
21 point I held my can of department issued pepper spray.
22 I warned her I would spray her if she continued to go
23 towards him.

24 Q Then what happened?

1 A She continued at it with arms and waving at
2 that point I sprayed her.

3 Q Then what happened?

4 A Officer Brendal had gotten a little bit of
5 the effects also on him like a cross contamination she
6 was still in motion going towards him. I grabbed her I
7 handcuffed her at that point like I said group of people
8 out there I handcuffed her the ambulance people I
9 think at that point were also talking to him about
10 possibly giving him some type of treatment at that point
11 for his affects of the pepper spray that he got out.

12 Q When you say he who are you referring to?

13 A Officer Brendal.

14 Q Then what happened?

15 A Took her to the police station.

16 Q Who transported her to the police station?

17 A I don't remember.

18 Q Did you also go to the police station?

19 A Yes, I did.

20 Q What, if anything, happened at the police station?

21 A She is crying finally she apologized she said -.

22 THE COURT: She is crying?

23 THE WITNESS: Yes.

24 THE COURT: What else?

1 THE WITNESS: She told us that she was sorry.

2 MR. RUSSELL: Q After she said she was sorry -.

3 MR. BERNS: Could he finish his testimony.

4 THE COURT: I'm sorry I interrupted too. She
5 was crying. She said she was sorry. You may continue.

6 THE WITNESS: She is embarrassed she said she is
7 a relative is a police officer. She knows she couldn't
8 act like that.

9 MR. RUSSELL: Q After she admitted being sorry for this
10 offense what happened?

11 MR. BERNS: That's assuming testimony not in
12 testified she said sorry. I don't think the words -.

13 THE COURT: The evidence stands. Testimony stands.
14 You may ask the next question.

15 MR. RUSSELL: Q After she said she was sorry what
16 happened next?

17 A We continued to process her and she mentioned
18 again about being sorry. I told her she should apologize
19 to Officer Brendal that the officer she committed
20 battery on.

21 Q What, if anything, did she say at that point?

22 A At that point I was doing other things I
23 know she talked to him. I don't know what she said to
24 him at that time. She approached Officer Brendal at the

1 time she was bonding out.

2 MR. RUSSELL: Nothing further.

3 THE COURT: Your witness.

4 CROSS EXAMINATION

5 BY MR. BERNS:

6 Q Morning, Officer, this happened in May of
7 2006?

8 A Yes.

9 THE COURT: I can't hear. Speak louder.

10 MR. BERNS: Q Possibly Officer if you talk to the
11 Judge.

12 THE COURT: I can hear.

13 MR. BERNS: Q Sir, this happened May 21, 2006, 2:00
14 a.m.?

15 A Correct.

16 Q Were you and Brendal working as partners or
17 individual cars?

18 A Individual cars.

19 Q All you knew at the time there was a bar fight?

20 A At that point, yes.

21 Q You heard there were injuries someone summoned
22 an ambulance?

23 A Yes.

24 Q Truth be told you didn't know what to expect?

1 A No, I didn't.

2 Q Could have been a fight in progress?

3 A Yes.

4 Q When you got there, there was no fight in
5 progress?

6 A No.

7 Q Basically, your role was to investigate and
8 give aid or assistance if there was anybody injured?

9 A Correct.

10 Q The first person you approached was the
11 alleged victim of this battery, is that correct?

12 A Officer Brendal was already talking to him
13 I was - heard part of the conversation.

14 Q Basically, from what you heard he was
15 describing what happened, your role with Officer Brendal
16 trying to identify the perpetrator?

17 A Yes.

18 Q But, people were disbursed was this outside or
19 inside the bar?

20 A Outside.

21 Q When was the first time you saw or came into
22 contact with my client the defendant sitting next to me?

23 A Shortly after we got there because she was
24 shouting.

1 Q And did she have any relationship that you
2 were aware of with the initial victim of this battery
3 which you were summoned to the location?

4 A I - related or appeared - .

5 Q Did it appear they were boyfriend girlfriend
6 they came together?

7 THE COURT: Did you know if they had a relationship
8 at all?

9 THE WITNESS: I don't know.

10 MR. BERNS: Q Did she ever indicate that to you?

11 A She was concerned about him she said she came
12 with him there. I don't know why she was with him.

13 Q At least you knew they came together?

14 A They were in the bar together.

15 Q She wasn't just some patrol trying to get
16 involved in something didn't know about, didn't know the
17 victim?

18 A Right.

19 Q And did it appear she was concerned what had
20 taken place?

21 MR. RUSSELL: Objection as to what she appeared.

22 THE COURT: Sustained.

23 MR. BERNS: Q Did her initial - what was her initial
24 comments when began this investigation, if you recall?

1 A She kept saying things like do something
2 about it, arrest somebody.

3 Q She seemed to be aggravated what had taken
4 place, is that a fair statement?

5 A Yes.

6 Q Initially, did she batter you or Officer Brendal
7 when she first described to you she was aggravated want
8 you to arrest somebody what happened to your friend?

9 A I don't understand.

10 Q Did she ever touch you ? Did she put hands on
11 you at any time?

12 A No.

13 Q How about when you pepper sprayed her?

14 A No, cause I grabbed her arms right away she
15 was putting her hands in her face.

16 Q You pepper sprayed her she was not getting
17 handcuffed or subdued?

18 A Huh?

19 Q Initially when you pepper sprayed her, her
20 hands were still free?

21 A I didn't have her in custody.

22 Q When you pepper sprayed her how far away were
23 you from her?

24 A Several feet.

1 Q She battered you prior to you pepper spraying
2 her?

3 A No.

4 Q I understand from your testimony there was
5 some cross contamination?

6 A Yes.

7 Q My client ever raise her hands and have you
8 point the pepper spray towards Officer Brendal?

9 A No.

10 Q So, my client the battery we're talking about
11 has nothing to do with pepper spray you shot at her,
12 right, correct?

13 A I don't understand what you mean.

14 Q This is allegation of battery. I want to
15 make sure the battery doesn't also include pepper spray
16 that there was cross contamination against Officer
17 Brendal?

18 A Battery when she went after him the first time.

19 Q We'll talk about that. So, after you first
20 met her to kind of fast forward the story here, what
21 happened next regarding my client's interaction with you
22 and Officer Brendal?

23 A She was loud, screaming, swearing.

24 Q This is all part of this initial encounter,

1 is that like a continuation so that I understand
2 what happened?

3 A Yes.

4 Q By the way, did you or Officer Brendal
5 did you have vest on at that time?

6 A Yes.

7 Q Was Brendal wearing his vest under his shirt
8 or over his shirt if you recall?

9 A I don't recall.

10 Q I assume I won't assume anything, was my
11 client interfering with your investigation from your
12 perspective?

13 A Yes.

14 Q You found her voice and comments as frustrating?

15 A She was interfering. She couldn't identify
16 anybody. She told us she was in the bathroom. Officer
17 Brendal told her to stay back stay away. He kept
18 trying to talk to the victim. I was trying to ask any
19 of the patrons if they had seen anything.

20 Q At that point before any contact she was
21 basically being a pain in the rear regarding your
22 investigation, is that a fair statement?

23 A Obstructing us.

24 THE COURT: What did you say?

1 THE WITNESS: She was obstructing us. She
2 wouldn't she continued to interrupt us when trying to
3 talk to other people.

4 MR. BERNS: Q She was interrupting. She was
5 aggravated what had taken place, correct?

6 A I guess.

7 Q Really because she was in the bathroom when
8 her friend was the victim of battery in this bar she was
9 just frustrated would that be a fair statement?

10 A I don't know the person. I don't know why
11 she was acting.

12 Q In any event after she was you say she was
13 obstructing did you charge her with obstructing?

14 A No.

15 Q Did she ever give you a false name?

16 A No.

17 Q No, not in that regard. Okay. After you -
18 after she wouldn't after she kept interfering with
19 this investigation insisting that you arrest someone
20 for what happened to her friend what happened next?

21 A She charged at Officer Brendal.

22 Q It's your testimony she just charged at him,
23 is that your testimony, Officer?

24 A (Nodding.)

1 Q That's the first time she displayed any
2 violence or any touching of you or Officer Brendal?

3 A That I seen.

4 Q I think you told us Officer Brendal he held
5 his breath?

6 A Yes.

7 Q She didn't knock him down?

8 A She knocked him backwards.

9 Q How far did she knock him backwards?

10 A I don't know. I stepped backwards.

11 Q What portion of her body came in contact
12 with which portion of Officer Brendal's body?

13 A Her hands out this way I saw from corner of
14 my eye she went at him like this leaning like talking
15 to the victim.

16 Q You saw her hands in front of her chest, is
17 that what you first saw?

18 A Yes.

19 Q At that time were you specifically keeping
20 an eye what Officer Brendal and my client were doing
21 or talking were you focused on other things going on
22 outside of this bar?

23 A Little bit of both. I was here, there, trying
24 to ask other people trying to get information.

1 Q You were trying watching crowd control you
2 didn't know another altercation was going to erupt?

3 A Yes.

4 Q Only you and Officer Brendal?

5 A There was couple part-time officers came up
6 on the scene, ambulance, another town came over
7 because the other bar next store started empty out.

8 Q 2:00 o'clock in the morning after been an
9 altercation you assume people were drinking could have
10 been a volatile situation?

11 A Yes.

12 Q That is really primary concern?

13 A Yes.

14 Q In all honesty what happened between my
15 client and Officer Brendal you only caught out of the
16 corner of your eye, right?

17 A Stands to my right, yes.

18 Q What Officer Brendal and her were doing before
19 you saw her arms in front of you, you can't honestly
20 testify to, can you?

21 A What Officer Brendal -.

22 Q You said you saw her like this make contact
23 with Officer Brendal out of the corner of your eye, asking
24 you before that you were obviously doing other things?

1 A She walked in front of me when she did she
2 went past me.

3 Q Once again Officer Brendal has his vest on?

4 A I believe so.

5 Q You testified he had a vest on?

6 A I'm sure he would normally wear it. I didn't
7 check him.

8 Q Because of her screaming and her being
9 upset regarding her friend being battered insists on
10 someone being arrested you at that time determined
11 that the proper thing to do calm this woman down,
12 pepper spray her?

13 A She refused -.

14 THE COURT: She was what?

15 THE WITNESS: She refused my command when I told
16 her to stop when she was going at Officer Brendal again
17 I warned her.

18 THE COURT: Earlier she had raised her arm she
19 didn't?

20 THE WITNESS: She backed up he backed up she went
21 at him again with arms raised again.

22 MR. BERNES: Q Aside from initial contact you
23 testified to maybe I'm unclear?

24 THE COURT: There is two incidents the Court

1 understands two incidents. The one incident she did
2 make physical contact with Officer Brendal. The second
3 incident sparked the officer to pepper spray that's
4 what I understand.

5 MR. BERNES: Just trying to clarify.

6 THE COURT: That's fine.

7 MR. BERNES: Q Whether there was any other physical
8 contact he talked about hands being up may I inquire?

9 THE COURT: I understand. You may inquire.

10 MR. BERNES: Q After this initial alleged pushing
11 you saw any other time did she batter allegedly batter
12 Officer Brendal or just have hands up acting in
13 uncontrolled manner something else?

14 A She didn't batter a second time, no.

15 Q There was never any other batteries committed
16 on Officer Brendal so we're clear?

17 A Not that I know of. First one all I know.

18 Q When you arrived there if there was you would
19 have seen it?

20 A If there was another incident.

21 Q Just because you thought this woman was not
22 listening to verbal commands you pepper sprayed then
23 took into custody basically came un-eventful at that
24 time?

1 A To me appeared she was going to commit a second
2 battery that's why I pepper sprayed.

3 Q She didn't?

4 A Because I pepper sprayed.

5 Q So, we can rap up here you subdued her when
6 she calmed down at the station she thought about what
7 had taken place you're indicating she became a much
8 calmer nicer person?

9 A Yes.

10 MR. BERNES: Nothing further. One question.

11 Q Besides Officer Brendal taking a step back
12 did he ever need medical attention for that push
13 alleged push?

14 A You have to ask him.

15 Q Are you aware of that?

16 A All I know he came back from a month ago
17 from a shoulder injury. I don't know if he has any
18 more or not.

19 Q Are you aware of any medical testimony says
20 shoulder injury related to push?

21 A No.

22 Q My question is as you sit here today are you
23 aware that Officer Brendal was injured because of this
24 push?

1 A I don't know.

2 Q Cause you don't know are you aware whether
3 Officer Brendal required any medical attention aside
4 from cross contamination from your pepper spray that
5 immediate area for the push?

6 A No.

7 MR. BERNS: Thank you.

8 THE COURT: Your witness, Mr. Russell.

9 RE-CROSS EXAMINATION

10 BY MR. RUSSELL:

11 Q Did you see the defendant make physical
12 contact with Officer Brendal?

13 A Yes, I did.

14 MR. RUSSELL: That's all I have.

15 THE COURT: Okay. Anything further?

16 MR. BERNS: Nothing.

17 THE COURT: Call your next witness.

18 MR. RUSSELL: Can I see the complaint?

19 THE COURT: Sure. Brief recess.

20 (Whereupon a brief recess was taken.)

21 THE COURT: Recall the trial.

22 OFFICER BRENDAL,

23 the witness herein, having been first duly
24 sworn, was examined and testified as follows:

1 DIRECT EXAMINATION

2 BY MR. RUSSELL:

3 Q Officer, state your name, spell your last
4 name for the Court Reporter, badge number and department?

5 A Officer Brian Brendal, B-r-e-n-d-a-l, Star 91,
6 Summit Police Department.

7 Q How long have you been employed by Summit
8 Police Department?

9 A Over 10 years.

10 Q Were you so employed by Summit Police Department
11 on May 21, 2006, approximately 2:00 a.m.?

12 A Yes.

13 Q What were you working that night?

14 A Patrol.

15 Q Did you have occasion to go to 6303 S Archer?

16 A Yes.

17 Q What did you go there for?

18 A For fight call.

19 Q And when you arrived there did you speak with
20 anybody?

21 A I spoke with a male subject.

22 Q Do you remember his name?

23 A No, I don't.

24 Q And why were you speaking with him?

1 A He appeared to be the victim of a battery.
2 I was trying to obtain information from him.

3 Q Was anyone else present when you were doing
4 this?

5 A There was a lot of people around probably
6 50 people outside of the bar.

7 Q Any of your fellow officers arrive with you?

8 A Yes, they did.

9 Q Who is that?

10 A Officer Michael Dubinka and other responding
11 units.

12 Q While you were speaking with the victim of
13 this battery was there anyone else present?

14 A Yes.

15 Q Who was present?

16 A The defendant.

17 Q Can you please point to the person who was
18 present that you referred to as defendant?

19 MR. BERNES: In-court I.D.

20 THE COURT: Stipulate to in-court identification
21 of the defendant.

22 MR. RUSSELL: Q When you were speaking with the
23 victim what if anything did the defendant do?

24 A I was approaching by the defendant and she

1 was saying that I wasn't doing anything that I should
2 arrest the people. Then I asked the defendant if she
3 saw what happened she then told me no, I didn't see
4 it I was in the bathroom at the time.

5 Q Then what did you say?

6 A Then I said I need you to step back I need to
7 get information. I don't need to talk to you then she
8 began swearing and yelling at me some more and then I
9 started to try to get more information from the
10 victim of the apparent victim of this battery.

11 Q After you tried to get more information from
12 the victim of the battery what, if anything, did the
13 defendant do?

14 A I was shoved by the defendant.

15 Q When you were shoved can you describe how far
16 away the defendant was from you when you were initially
17 starting speaking with her?

18 A One more time.

19 Q How far away was the defendant when she first
20 started swearing at you?

21 A About two feet.

22 Q And were you standing or were you kneeling?

23 A I was standing.

24 Q When you were shoved describe how the

1 defendant shoved you?

2 A I was my attention was focused apparent
3 victim of the battery and then I was shoved in the
4 upper chest and I stepped back about three feet
5 because took me by surprise then I informed she was
6 under arrest.

7 Q And when she shoved you how did that feel?

8 A Offensive.

9 Q Offensive was your word?

10 A Yes.

11 Q Did cause you any pain?

12 A No.

13 Q After she shoved you what if anything happened?

14 A I informed her she was under arrest that she
15 still proceeded to yell and scream at me then
16 Officer Dubinka said do what he says you're under arrest.
17 She began to come at me again and then Officer Dubinka
18 sprayed her with pepper spray.

19 Q After she was sprayed with pepper spray what
20 happened?

21 A I also had some of the affects of the pepper
22 spray -.

23 MR. BERNS: I would just state at this point
24 and time unless testimony going to differ from the

1 first officer this is immaterial.

2 THE COURT: Sustained.

3 MR. BERNS: Unless allegations of another
4 battery.

5 THE COURT: I agree. Sustained.

6 MR. RUSSELL: There is admission -.

7 MR. BERNS: Stipulate testimony being consists
8 with first officer.

9 MR. RUSSELL: That's fine.

10 THE COURT: Okay. Nothing further?

11 MR. RUSSELL: No.

12 MR. BERNS: Cross, do you want us to approach?

13 THE COURT: Yes, come on.

14 (Whereupon a discussion was had off the
15 Record.)

16 MR. BERNS: Judge, at this -.

17 THE COURT: You don't want to cross examine?

18 MR. BERNS: Not at this time. I'll reserve
19 the right.

20 MR. RUSSELL: State rests.

21 THE COURT: Motion?

22 MR. BERNS: Judge, at this time make a motion
23 for a directed finding. Complaint on it's face
24 alleges bodily harm as a result of alleged shoving

1 batter, however, the court looks at it. The officer
2 I got to admit this is credible, honest officer,
3 Judge. I commend him for just telling the truth if
4 that's what happened. He said he wasn't injured in
5 response to counsel's question says he was assaulted.
6 There is a way to charge that.

7 THE COURT: I understand. Anything, Mr. Russell?

8 MR. RUSSELL: Judge, you did hear the testimony.

9 THE COURT: There is no question that this
10 lady committed a battery not the battery described
11 from what I heard so far. There is no question in
12 Court's mind all the elements of battery not under
13 Section 5123 which caused bodily harm because Officer
14 Brendal being very honest as he is says he was
15 offended. He was not hurt. Felt no pain. Right there
16 diminishes anything in the complaint that says bodily
17 harm. Had it said touch of insulting nature would be
18 a different story. That's not statutory provision
19 complaint written. No question if in Court's mind the
20 defendant caused a touching of insulting nature. She
21 should have at this point there be enough evidence to
22 find her guilty of that battery and I think the
23 officer was probably justified pepper spraying her when
24 she raised her hands. Evidently, was going to come

1 after you again that's not before this court.

2 I'm going to direct it out. Finding not guilty.

3 MR. BERNES: Thank you.

4 Thank you, Officer.

5 THE COURT: Ma'am, your attorney is going to
6 present me with a petition asking me to turn over the
7 proceeds of your bond to your lawyer as part of
8 attorney's fees for his fine work on behalf, do you
9 wish me to sign that?

10 THE DEFENDANT: Yes.

11 THE COURT: That will be the order.

12 MR. BERNES: Thank you.

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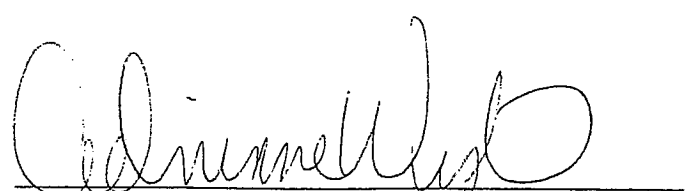
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STATE OF ILLINOIS)
) SS:
COUNTY OF C O O K)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT-FIFTH MUNICIPAL DISTRICT

I, Adrienne Westman, Official Court Reporter
of the Circuit Court of Cook County, Municipal
Department-Fifth Municipal District, do hereby
certify that I reported in shorthand the
proceedings had on the hearing in the
aforementioned cause; that I thereafter caused the
foregoing to be transcribed into typewriting, which
I hereby certify to be a true and accurate transcript
of the Report of Proceedings had before the
Honorable JOHN HYNES, Judge of said Court.



Official Court Reporter
No. 084-003668