

S01S-CR23-0250319-S	:	SUPERIOR COURT
STATE OF CONNECTICUT	:	JUDICIAL DISTRICT OF
vs.	:	STAMFORD
JOHN ALAFOYIANNIS	:	JANUARY 14, 2025

REVISED MOTION TO DISMISS

The Defendant, John Alafoyiannis, respectfully moves this Court to dismiss all charges pending against him, specifically, one count of interfering with an officer in violation of Conn. Gen. Stat. § 53a-167a, one count of criminal trespass in the second degree in violation of Conn. Gen. Stat. § 53a-108, and one count of breach of peace in the second degree in violation of Conn. Gen. Stat. § 53a-181. As detailed below, the evidence presented by the State fails to establish probable cause for the charges, necessitating dismissal pursuant to Connecticut Practice Book § 41-8(5) and (9).

I. FACTUAL BACKGROUND

1. On April 18, 2023, the Defendant called Staples High School in Westport, Connecticut to inform school officials that the following day he would be picking up his daughter directly from school. School officials acknowledged his request and said no problem.
2. On April 19, 2023, the Defendant again called Staples High School in Westport, to inform school officials of his plan to pick up his daughter pursuant to a child custody agreement and parenting plan. Again, school officials acknowledged his request and said no problem.
3. However, when the Defendant arrived at Staples High School on April 19, 2023, at approximately 1350 hours, his daughter was not there.

4. Indeed, school officials were confused as to his daughter's whereabouts first reporting to the Defendant that she was there, then a few minutes later explaining to him she was not at the school that day.

5. He explained to school officials he had called twice before – once on April 18, 2023, and once earlier in the day on April 19, 2023 – and explained to them he wished to exercise his parenting time, and that he had a valid custody agreement, but again school officials had no meaningful answers as to why they did not inform him *before* he arrived that she was not in school that day nor could they explain *where* she was or *why* she was not in school.

6. This is not the first time the school has failed to follow and frustrate his parenting time and to follow the custody agreement.

7. Concerned about the well-being of his daughter and the school officials' inability to explain her whereabouts, the Defendant engaged in a calm and measured conversation with them.

8. At no time did the Defendant scream, threaten, or intimidate anyone. Multiple witnesses, including some school officials, and the Defendant's parents, Loula Lois Alafoyiannis and John Nicholas Alafoyiannis, all corroborate his behavior as calm and non-confrontational.

9. For example, when he was asked to lower his voice, the Defendant complied. When he was asked to leave the building, he complied. When police asked for his ID, he complied.

10. Despite the Defendant's calm and measured demeanor, Assistant Vice Principal Proskinitopoulos, approached the Defendant and his elderly parents and raised her voice to them stating, *inter alia*, what are you doing here and then without any lawful or logical reason shouting for them to be thrown out of the school immediately. Her actions were threatening,

illogical, disrespectful, and unlawful. The Defendant had every lawful and legal reason to be there to pick up his daughter and inquire about her whereabouts. Video evidence corroborates the aforementioned.

11. However, after leaving the building, police officer Edward Wooldridge continued to try and bait the Defendant into an argument.

12. The Defendant, wishing only to leave, declined to engage.

13. The officer then aggressively refused to let him leave and detained him without cause.

14. The officer's actions exacerbated the situation rather than de-escalating it. Had the officer permitted the Defendant to leave, there would have been no arrest.

15. Video footage and eyewitness accounts further corroborate this sequence of events. Multiple witnesses, including the Defendant's parents, corroborate his behavior as calm and non-confrontational.

16. Video footage of the incident further substantiates the Defendant's account, showing no actions that could constitute the elements of the charged offenses.

II. LEGAL STANDARD

Under Practice Book § 41-8(5) and (9), a motion to dismiss may be granted when the prosecution fails to provide sufficient evidence to establish probable cause that the defendant committed the offenses charged.¹ Probable cause requires more than mere suspicion or

¹ Conn. Practice Book § 41-8 says: "The following defenses or objections, if capable of determination without a trial of the general issue, shall, if made prior to trial, be raised by a motion to dismiss the information:

- (1) Defects in the institution of the prosecution including any grand jury proceedings;
- (2) Defects in the information including failure to charge an offense;
- (3) Statute of limitations;
- (4) Absence of jurisdiction of the court over the defendant or the subject matter;

speculation; it must be supported by evidence sufficient to justify a reasonable belief that the defendant has committed the crimes alleged. See *State v. Boyd*, 214 Conn. 132, 146 (1990).

"When assessing whether the state has sufficient evidence to show probable cause to support continuing prosecution following a motion to dismiss ... the court must view the proffered proof, and draw reasonable inferences from that proof, in the light most favorable to the state. The quantum of evidence necessary to overcome a motion to dismiss is less than the quantum necessary to establish proof beyond a reasonable doubt at trial. In ruling on the defendant's motion to dismiss, the court must determine whether the state's evidence would warrant a person of reasonable caution to believe that the defendant had committed the crime." See, *State v. Herazo*, 2023 Conn. Super. LEXIS 3397, *22-23, *citing*, *State v. Cyr*, 291 Conn. 49, 55-56, 967 A.2d 32 (2009).

III. ARGUMENT

A. Interfering with an Officer (§ 53a-167a)

To sustain a charge under Conn. Gen. Stat. § 53a-167a, the State must prove that the defendant intentionally obstructed, resisted, or hindered a peace officer in the performance of their duties. The evidence fails to establish any interaction between the Defendant and law enforcement during the incident that rises to the level of interference.

The Defendant complied with all requests from school officials, including lowering his voice, leaving the building, and providing identification. The officer's decision to aggressively

(5) Insufficiency of evidence or cause to justify the bringing or continuing of such information or the placing of the defendant on trial;

(6) Previous prosecution barring the present prosecution;

(7) Claim that the defendant has been denied a speedy trial;

(8) Claim that the law defining the offense charged is unconstitutional or otherwise invalid; or

(9) Any other grounds."

detain the Defendant, despite his compliance, was unwarranted and escalated an otherwise resolved situation. The officer's actions do not reflect an obstruction or hindrance by the Defendant but instead are an overreach of authority. The Defendant's actions consisted solely of lawful attempts to leave the premises and return home, which do not meet the statutory definition of interference.

B. Criminal Trespass in the First Degree (§ 53a-108)

To convict a defendant of criminal trespass in the first degree, the State must prove that the defendant knowingly entered or remained unlawfully in a building or premises. Here, the Defendant was present at the school for a lawful purpose—to pick up his daughter pursuant to an approved parenting plan and custody agreement. The State has presented no evidence suggesting that the Defendant's presence was unauthorized, unlawful or that he remained on the premises after being asked to leave. In fact, it is quite the opposite, he expressed numerous times he had to leave to pick up his other child from another school and he could not stay at Westport High School and he was there only pursuant to a legal parenting plan.

C. Breach of Peace in the Second Degree (§ 53a-181)

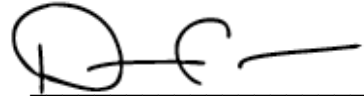
Conn. Gen. Stat. § 53a-181(a) provides that a person is guilty of breach of the peace when, with intent to cause inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he engages in fighting or in violent, tumultuous, or threatening behavior in a public place. The Defendant's calm demeanor, as corroborated by video footage and eyewitness testimony, contradicts any suggestion that he engaged in tumultuous or threatening behavior. Expressing concern for his daughter's whereabouts is a reasonable and lawful response under the circumstances and does not rise to the level of a breach of peace.

IV. CONCLUSION

The charges against the Defendant are unsupported by the evidence. And as the Court knows, an unlawful arrest often entitles a defendant to dismissal of the charges against him *State v. Gallagher*, 191 Conn. 433, 438, 465 A.2d 323, 326 (1983). The Defendant's conduct here was entirely lawful and fails to meet the statutory elements of the offenses charged. Simply put, there are no material facts in dispute that any jury could reasonably rely upon that could support any of the elements or return a verdict in favor of the prosecution. Accordingly, this Court should dismiss all charges against the Defendant in the interest of justice.

WHEREFORE, the Defendant requests that this Court grant this Motion to Dismiss.

Respectfully submitted by:



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Dated: January 14, 2024

ORDER

The foregoing Motion having been considered; it is hereby: GRANTED / DENIED

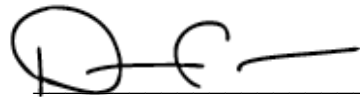
BY THE COURT

Judge / Clerk

CERTIFICATION

This is to certify that a copy of the foregoing was served on the date indicated below, and delivered via email and/or facsimile to all *pro se* parties and counsel of record.

Respectfully submitted by:

A handwritten signature in black ink, appearing to be 'D. Crosland', written over a horizontal line.

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