

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

THE PEOPLE OF THE
STATE OF MICHIGAN,

v

Hon.
Case No. 10-008999-01-FH

JOSEPH SAAD,
ZIHRA SAAD,

District Court Case No. C030790A,B,
C030826

Defendants.

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MOTION TO QUASH INFORMATION AS TO DEFENDANT, JOSEPH SAAD

NOW COMES Defendant, Joseph Saad, through his attorney Mark M. Haidar, and for his *Motion to Quash Information as to Defendant Joseph Saad*, states:

1. Defendant, Joseph Saad (“Defendant”) is charged with resisting and obstructing a police officer.
2. On August 18, 2010, a Preliminary Examination was held in order to determine whether the Prosecutor could produce sufficient evidence as to each element of the charge in the

information to bind the Defendant over on the charge. (See *August 18, 2010 Preliminary Examination Transcript*).

3. On August 24, 2010, the Preliminary Examination was continued and at its conclusion, the district court found that, based on the testimony, there was a question of fact as to probable cause for the arrest, one of the necessary elements of the charge, and bound Defendant over on resisting and obstructing a police officer. (See *August 24, 2010 Preliminary Examination Transcript*, p. 60).

4. The issue presented for review is whether it was an abuse of discretion to bind the Defendant over on the charge of resisting and obstructing a police officer where the evidence presented at the Preliminary Examination was wholly inadequate to support a finding of a question of fact as to the probable cause of Defendant's arrest lawful.

5. For the reasons more particularly stated herein, Defendant, Joseph Saad, requests that this Court enter an order quashing the information on the charge of resisting and obstructing a police officer.

Respectfully submitted,

Mark M. Haidar (P-35143)
Attorney for the Defendant, Joseph Saad

Dated: October 18, 2010

BRIEF IN SUPPORT

Introduction

Defendant, Joseph Saad has been charged with resisting and obstructing a police officer. On August 18, 2010 and continued on August 24, 2010, a Preliminary Examination was held in order to determine whether there was sufficient evidence to bind Defendant, Joseph Saad (“Defendant”) over on the charge. At the conclusion of the Preliminary Examination, the district court found there was a question of fact as to probable cause for the arrest and bound Defendant over on the charge.

Defendant now brings this motion to quash on the basis that the Court abused its discretion in binding the Defendant over on the charge because the testimony was wholly incredible to support a finding that the arrest could have been lawful.

Facts

Testimony of Officer Scott Keller

The following “facts” are based upon the testimony of Officer, Scott Keller.

On July 10, 2010, City of Dearborn Heights Police Officer, Scott Keller (“Officer Keller”) was dispatched to a residence on Melborn Street in Dearborn Heights for a harassment complaint. See *August 18, 2010 Deposition Transcript*, p. 4-5. Upon arriving, Officer Keller spoke with a female, Cel Solak (“Ms. Solak”) who directed him to a residence a few houses down the street located at 5718 Melborn (“the House”). *Id.* at 7. The nature of the complaint was that Defendant had left Ms. Solak a telephone message which contained no overt threats but appeared to have scared Ms. Solak. *Id.* at 13-14.

Officer Keller proceeded to the House deciding to investigate what he perceived as a

potential misdemeanor (for which he was not present). *Id* at 7,13 and 35. Upon arrival, Officer Keller walked onto the porch, opened the screen door of the House and knocked. *Id* at 8 and 15-16. Defendant answered the door, which opened inward, staying inside. *Id* at 8 and 15-16. Officer Keller, standing on the porch, explained the reason for his presence and asked whether Defendant was the person Ms. Solak claimed had made the telephone call. *Id* at 9 and 16. Defendant confirmed that he was that person. *Id* at 9, 24 and 35. Officer Keller then requested Defendant's identification. *Id* at 9 and 15. Officer Keller testified that he requested the Defendant's identification to confirm his last name but did not ask for Defendant's last name. *Id* at 25. He also stated that he always asks subjects for identification. *Id* at 25.

Defendant apparently became irate at that point, yelling and cussing at Officer Keller while Officer Keller had the screen door open. *Id* at 9. According to Officer Keller, when he again requested identification while standing on the porch, the Defendant, from inside the House, shoved him back, with two hands, and said he would not give him shit and to get off his property. *Id* at 9, 17, 18 and 39. Officer Keller testified that he then put his foot on the threshold of the door, the step that is between the storm door and the entry door, to prevent Defendant from closing the door. *Id* at 9, 12, 16, 18 ,39 and 40. Officer Keller then called for backup and asked for his supervisor. *Id* at 9 and 15.

The Defendant continued to yell at Officer Keller, claiming he was being harassed because he had sued the city. *Id* at 10. Officer Keller requested identification several more times, Defendant refused and tried to slam the door. *Id* at 10. On direct examination, Officer Keller testifies that the deadbolt was engaged so Defendant could not get the door to latch. *Id* at 10 and 17. However, Officer Keller testified in the next sentence that "I had my foot on the threshold of the door so that he could not shut the door on my face." *Id* at 10. Further, after

testifying that he put his foot on the threshold after being pushed, he later testifies, on cross examination, that he put his foot on the threshold after the first time the Defendant tried to slam the door. *Id* at 19. Also on cross-examination, Officer Keller stated he had the right to put his foot in the door because Defendant had assaulted him. *Id* at 22. Officer Keller testified that Defendant had tried to slam the door several times (*Id* at 12 and 18) and at some point, got behind the door, pushed it and trapped Officer Keller's foot in the door giving him a bruised ligament. *Id* at 12.

On direct examination, Officer Keller is asked whether back up units arrived and answers yes. *Id* at 10. He is asked what occurred next and states that the Defendant continued to yell and began calling for his mother ("Defendant's Mother") to come to the door. *Id* at 10. Defendant's Mother came to the door, Officer Keller explained to her why he was at the House and then back up arrived. *Id* at 10. During his conversation with Defendant's Mother, she asked him to leave, as did Defendant. *Id* at 22 and 36. Defendant was also on his telephone at some point, about four feet away from Officer Keller. *Id* at 24. Officer Keller testified he was the sole officer at the House for a "few minutes" (*Id* at 13) and that the back up arrived one to two minutes after the assault, i.e, the push. *Id* at 19.

Officer Carrie Cates ("Officer Cates") was the first back up to arrive at the House. After her arrival, Officer Keller requested identification again and Defendant's Mother directed him to get his license, which he did. *Id* at 11, 20 and 36. However, on cross examination, Officer Keller also testified he had Defendant's license prior to the arrival of backup. *Id* at 20. When Defendant went to obtain his license, he had to leave the door area and go further into the House. *Id* at 21. Officer Keller is unaware where Defendant went to get his license, or if he had it on him, because he was speaking with Defendant's Mother. *Id* at 20.

Officer Keller eventually requests Defendant's Mother's identification as well. Officer Keller testifies on cross examination that he does not recall whether he was in possession of Defendant's Mother's identification when Officer Cates arrived or how he got it from her. *Id* at 22. Later, he testifies he had both licenses upon her arrival. *Id* at 24. He also testified the purpose of requesting Defendant's Mother's identification was for her interference with the investigation and/or because he had to explain several times why he was at the House but that she had done nothing for which she needed to identify herself. *Id* at 25.

To this point, Defendant has not been placed under arrest nor told he may be placed under arrest for any reason, even after he allegedly pushed Officer Keller. *Id* at 21 and 25. And although Officer Keller is concerned about Defendant going further into the House, he was not going to go into the House by himself to arrest Defendant. *Id* at 22.

Officer Gondek and Reserve Officer Nason arrived at the House next. At this point, Officer Keller's foot is still in the door and Defendant is no longer trying to close it but standing behind his mother. *Id* at 26. He is also on the telephone at this point. *Id* at 26. Several minutes later came Officer Keller's supervisor, Sergeant Skelton. *Id* at 19 and 27. Officer Keller's foot was still in the door and according to him, there were still verbal altercations occurring at this point. *Id* at 28. After Officer Keller apprised him of the situation, Sergeant Skelton directed Officer Keller to take Defendant into custody. *Id* at 27. Officer Keller testified that it was his intent to place Defendant under arrest regardless of Sergeant Skelton's decision. *Id* at 32. He had just been waiting for backup because he did not want to go in alone. *Id* at 33. Officer Keller then allegedly advised Defendant's Mother that he would be taken into custody, after advising her that assaulting police was not permitted. *Id* at 28.

According to Officer Keller, himself, Officer Gondek and Sergeant Skelton entered the

House. *Id* at 28 and 40. Officer Keller testified that Defendant, while standing in the hallway, was advised of being placed under arrest for assault and battery of a police officer and told to put his hand behind his back. *Id* at 28 and 40. Defendant did not put his hands behind his back but did not make any threatening moves toward any of the officers. *Id* at 29-30 and 41. Allegedly, Defendant was advised that he if he did not stop hindering, he would be tased. *Id* at 30 and 41. Defendant still did not put his hands behind his back and approximately six feet into the hallway; Officer Keller proceeded to shoot Defendant with his taser gun. *Id* at 29-30 and 41. Officer Keller testified he was then placed under arrest after a struggle. *Id* at 41. Defendant ended up with lacerations on his face which Officer Keller assumes resulted from his falling to the ground. *Id* at 30.

Testimony of Officer Carrie Cates

The following “facts” are based upon the testimony of Officer Carrie Cates.

Officer Cates was the second officer to arrive at the House. She had been a few blocks away from the House when the call for backup came over the radio. See *August 24, 2010 Preliminary Examination Transcript* at 4 and 11. She only knew Officer Keller was there on a type of harassment complaint. *Id* at 11. She arrived at the House a few minutes after the call for backup. *Id* at 11. Officer Cates walked up to the House, observing Officer Keller on the porch. *Id* at 5 and 11. Officer Cates observed Officer Keller halfway on the porch and on the doorway with a female subject trying to obtain identification. *Id* at 5, 12 and 14. On cross examination, Officer Cates testified that she believed Officer Keller’s foot was inside the door. *Id* at 12. The Defendant’s Mother and Defendant were inside the House. *Id* at 5 and 12. Officer Cates observed several minutes of arguing between Defendant, Defendant’s Mother and Officer Keller. *Id* at 5 and 31. The Defendant refused to give identification several times. *Id* at 6-7 and 14.

Officer Cates testified that the Defendant and Defendant's Mother were arguing because they did not think the officers had a reason to be there. *Id* at 6. They requested the officers leave. *Id* at 31.

Officer Cates testified on direct examination that they tried shutting the door on Officer Keller "several times." *Id* at 6. She testified on cross examination that she only witnessed Defendant trying to close the door once. *Id* at 13 and 18. Officer Cates testified that the reason the door would not close is because Defendant's Mother was standing in the doorway. *Id* at 12 and 18. She stated Officer Keller's foot was in the door too. *Id* at 12 and 18. On cross examination, Officer Cates admitted that she did not see the deadbolt prevent the door from closing. *Id* at 14. She further stated the door did not come close to closing while she was there and she saw it hit Officer Keller's foot while Defendant's Mother was standing in front of the door. *Id* at 18-19. Officer Cates also testified that while she was standing with Officer Keller and he was attempting to get identification, Officer Keller's foot was not in the doorway the entire time. *Id* at 13.

After more arguing, Defendant brought his identification to Officer Keller. *Id* at 16. Officer Cates testified on direct examination that Officer Gondek and Reserve Office Nason had arrived by that time. *Id* at 17. Officer Cates testified that Officer Keller requested Defendant's Mother's identification while was Defendant on the telephone. *Id* at 15 and 19. Officer Cates also testified that, at Defendant's Mother's request, Defendant went and got Defendant's Mother's wallet from somewhere in the house and brought it to the doorway. *Id* at 7, 19 and 31. During this time, Defendant's Mother was still arguing and telling them to leave. *Id* at 20. The identification was then turned over to Officer Keller. *Id* at 7. Officer Cates testified on cross examination that Officer Gondek and Reserve Officer Nason arrived after the identification was

obtained. *Id* at 20.

Upon obtaining the identification, Officer Cates went back to the radio in her vehicle to give the information to dispatch. *Id* at 7. Officer Cates states that at this time she called for the boss to come to the scene. *Id* at 8 and 21. At this point, Officer Keller had not advised Officer Cates that Defendant had pushed or assaulted him by pushing him. *Id* at 22 and 40-41. He only advised her that his foot had been slammed in the door. *Id* at 22 and 41. Officer Keller had not informed Officer Cates he planned to arrest Defendant. *Id* at 21, 31-32 and 41. She did not hear Officer Keller tell Defendant or Defendant's Mother that he would be placed under arrest, even though she had heard them ask the officers to leave more times than she could count. *Id* at 22 and 31-32.

Sergeant Skelton arrived, approximately ten minutes after Officer Cates, while she was still giving information over the radio. *Id* at 8 and 23. Sergeant Skelton was there from five to ten minutes, having a discussion with the other officers, before giving the order to arrest. *Id* at 23, 32 and 42. When Officer Cates went back to the porch, she was advised by Sergeant Skelton that they were to enter the House and place Defendant under arrest. *Id* at 8, 23 and 42.

Officer Cates testified that all five of the officers entered the House. *Id* at 8. Officer Cates testified that when they entered the House, Defendant was backing up. *Id* at 24 and 25. The other four officers went to arrest Defendant and she stood in a hallway with Defendant's Mother. *Id* at 9, 24 and 25. Officer Cates heard a scuffle in the hallway, she heard someone say taser, taser, taser. *Id* at 26. On direct examination, she stated she recalled Defendant yelling but not what because Defendant's Mother became irate as well. *Id* at 26. On cross examination, she testified she did not hear Defendant at all. *Id* at 32, 33 and 35.

Defendant's Mother began to get irate, pulling at Officer Cates' shirt, scratching

her neck and possibly trying to get around her to Defendant. *Id* at 9, 27 and 38.

Officer Cates testified that she warned Defendant's Mother to stop or she would place her

under arrest. *Id* at 38. She later testified on cross examination that she did not tell

Defendant's Mother she would be arrested if she did not stand back. *Id* at 49.

Defendant's Mother did not stop and she placed Defendant's Mother under arrest. *Id* at

10 and 28.

Upon being questioned by the court, Officer Cates admitted that had the Defendant's Mother stopped her assault on her; she would not have arrested her. *Id* at 40.

She also had never arrested a prime suspect for assaulting her. *Id* at 40.

The Court's Opinion

The court found:

"[T]here was no testimony that the slamming of the door which caused the injury at the house, at the Saad's (sic) house, was the assault. There was testimony and the testimony was clear that the assault was the push on the porch and that is a question of fact for a trier of fact so I will bind Mr. Saad over on the charge of assaulting, resisting and obstructing a police officer. (*Id* at 60).

Issue

A. Whether it was an abuse of discretion to bind the Defendant over on the charge of resisting and obstructing a police officer when the only evidence presented to create a question of fact of probable cause for the arrest was testimony so incredible that binding Defendant over on the charge cannot logically be considered a reasonable outcome.

Standard of Review

The district court's decision to bind Defendant over on the charge of assaulting, resisting and obstructing a police officer is to be reviewed under the abuse of discretion standard. The standard is defined as follows:

“The term discretion itself involves the idea of choice, of an exercise of the will, of a determination made between competing considerations. In order to have an ‘abuse’ in reaching such determination, the result must be so palpably and grossly violative of fact and logic that it evidences not the exercise of will but perversity of will, not the exercise of judgment but defiance thereof, not the exercise of reason but rather of passion or bias. *Spalding v. Spalding*, 355 Mich. 382, 94 NW2d 810 (1959).

More recently, the Michigan Supreme Court has stated that a somewhat stricter standard should be used in criminal cases because “loss of freedom by incarceration is often the penalty that a convicted defendant will suffer.” *People v. Williams*, 386 Mich. 565, 194 NW2d 337 (1972).

The Michigan Supreme Court has more recently defined the abuse of discretion standard as a determination of whether the ruling is “within the range of reasonable or principled outcomes.” See *People v. Babcock*, 469 Mich. 247, 269, 666 NW2d 231, 243 (2003), *Maldonado v. Ford Motor Co.*, 476 Mich. 372, 719 NW2d 809 (2006), cert denied, 2007 WL 506054 (US 2007).

Argument

- A. *The Prosecutor failed to present sufficient evidence to create a question of fact as to probable cause for the arrest of Defendant.*

Law

MCL 750.479 provides:

A person shall not knowingly and willfully do any of the following:

- (a) Assault, batter, wound, obstruct, or endanger a medical examiner, township treasurer, judge, magistrate, probation officer, parole officer, prosecutor, city attorney, court employee, court officer, or other officer or duly authorized person serving or attempting to serve or execute any process, rule, or order made or issued by lawful authority or otherwise acting in the performance of his or her duties.
- (b) Assault, batter, wound, obstruct, or endanger an officer enforcing an ordinance, law, rule, order, or resolution of the common council of a city board of trustees, the common council or village council of an incorporated village, or a township board of a township.

“Moreover, the principal ‘purpose of [the ‘resisting and obstructing’ statute] is to protect officers from physical harm.’ The purpose of the resisting arrest statute is to protect persons (the officers) from physical violence and harm. The statute ‘attempts to punish an assault upon an officer while in the discharge of his duty by a penalty more severe than that imposed for other assaults,’ i.e., assaults on private citizens.’ In our judgment, defendant’s conduct, i.e., the giving of a false name and age to an officer, does not fit within the range of conduct that M.C.L. § 750.479 was meant to prohibit beyond a reasonable doubt, that such result was contemplated by Miller when he made the assault.” *People v. Vasquez*, 465 Mich. 83, 92-94, 631 NW2d 711 (2001)(citations and quotations omitted).

“The elements of the crime of resisting arrest are (1) the defendant resisted arrest, (2) the arrest was lawful, (3) the person arresting the defendant was an officer of the law at the time, (4) the defendant knew the person was an officer, (5) the defendant knew the person was making an arrest, and (6) the defendant intended to resist arrest. A person may use reasonable force to resist an unlawful arrest.” *People v. MacLeod*, 254 Mich. App 222, 226-227, 656 NW2d 844 (2002)(citations omitted).

“Probable cause requires a reasonable belief that the evidence presented during the preliminary examination is consistent with the defendant’s guilt. Circumstantial evidence, coupled with those inferences arising therefrom, is sufficient to establish probable cause to believe that the defendant committed a felony. Although the district court should consider the weight of the evidence and the credibility of the witnesses in determining whether to bind the defendant over for trial, it may not usurp the role of the jury. Competent evidence that both supports and negates an inference that the defendant committed the crime charged raises a

factual question that the district court must leave to the jury.” *People v. Northey*, 231 Mich. App 568, 575, 591 NW2d 227 (1998)(citations omitted).

“If his arrest for being a disorderly person was illegal, defendant was entitled to resist that arrest. The burden is on the prosecution to prove that the arrest resisted was a legal arrest.”

People v. Davenport, 46 Mich. App 579, 581, 208 NW2d 562 (1973)(citations omitted).

In *O’Donnell v. Brown*, 335 FSupp 787 (WD Mich., 2004), the police had no probable cause to arrest a 17 year old for refusing to allow entry into his home to investigate a complaint, and therefore, the arrest violated the defendant’s right to be free of unreasonable seizure, where the police did not have a warrant and no exception to the warrant requirement applied.

Illegality of seizure is complete defense to a charge of resisting an officer. *People v. Landrie*, 124 Mich. App 460, 335 NW2d 11 (1983).

Analysis

In examining all the evidence presented at the Preliminary Examination, a finding that the Prosecution sufficiently demonstrated that he could prove the elements of resisting and obstructing arrest, specifically, that there was probable cause for the arrest, a necessary element of the crime, was an abuse of discretion.

The entire sequence of events testified to by both officers’ makes for an incredible story. First, Officer Keller decides to investigate a complaint of a threatening telephone message. There was nothing happening at the moment, Defendant was not at Ms. Solak’s home threatening her, but Officer Keller decided he would drive to her home and speak with her in person. Officer Keller listens to the message, does not think it is overtly threatening. At worst, he thinks Defendant committed a misdemeanor. So even though Defendant had not committed a felony, and had not

committed a misdemeanor in Officer Keller's presence, he decided he would also make a trip to the House. Apparently, it was a slow day for crime in the city of Dearborn Heights.

Next, although Officer Keller had his foot slammed in a door and in fact suffered an injury because of it; he claims that the assault that led to Defendant's arrest occurred when Defendant pushed him. This alleged push occurred while no one was around except Officer Keller and Defendant. Officer Keller also testified that he was the sole officer at the House for only a few minutes. See *August 18, 2010 Preliminary Examination Transcript* at 12. With the sequence of events as testified to by Officer Keller the following occurred in that time frame:

Officer Keller walked up to the door;

Officer Keller knocked and Defendant answered;

Officer Keller had a conversation with Defendant about why he was there, asked Defendant to confirm he was the subject of the complaint, which Defendant did;

Officer Keller requested Defendant's identification;

Defendant began yelling and cussing at Officer Keller;

Officer Keller made another request for identification

Defendant pushed Officer Keller;

Officer Keller put his foot on the threshold of the door;

Officer Keller called for backup;

Defendant tried to slam the door on Officer Keller's foot several times;

Defendant's Mother came to the door;

Officer Keller began to try to explain to her why he was there;

Defendant and Defendant's Mother continued to argue with Officer Keller.

It is difficult, bordering on unbelievable, to imagine that all these events occurred within the span of a "few minutes."

On direct examination, Officer Keller testified that he put his foot in the door, right after the assault on his person, to stop Defendant from trying to close the door. *Id* at 10. It seems he knew Defendant would try to close the door without any indication if the same from Defendant. However, he later testifies on cross examination, that he put his foot in the door *after* the first time the Defendant tried to close it. *Id* at 19. At this time, the door would not close that because the deadbolt was engaged. It is common knowledge that a door cannot be opened from the inside if the deadbolt is engaged. So for some unfathomable reason, Defendant decided to engage the deadbolt *after* he opened the door even though he had apparently decided he would try to close it on Officer Keller.

Further, Officer Cates testified that while she was standing with Officer Keller and he was attempting to get identification, Officer Keller's foot was not in the doorway the entire time. See *August 24, 2010 Preliminary Examination Transcript* at 13. Officer Keller's testimony makes it seem as if he put his foot in the door immediately upon being pushed and never took it off.

Officer Keller's whole account of the reason for his foot being in the door makes no sense and in conjunction with Officer Cates' account makes less sense. At one point, she states the door was attempted to be shut on Officer Keller several times. At another point she states she only witnessed Defendant attempting to shut it once. She claims Defendant's Mother is standing in front of the door and this blocks the door. However, Officer Cates also states Officer Keller's

foot is in the door. She cannot seem to decide the actual reason the door would not close.

Shockingly, Officer Cates sees no evidence that a deadbolt latch is stopping the door from closing.

If Officer Keller's and Officer Cates' testimony concerning the door is taken as true, it leaves the impression, among others, that not only did Defendant engage the deadbolt before trying to slam the door on Officer Keller the first time; he then disengaged it and tried to slam it again with his mother standing in front of it. With those cunning strategies, the officers were certainly lucky they succeeded with arresting Defendant in the end.

Defendant submits to this Court that the reason the account of the foot in the door is nonsensical is because *Officer Keller put his foot in the door while Defendant attempted to close it on him.*

In reality, Defendant confirmed he was the person which Ms. Solak alleged had left her a message. After confirming this, Defendant got angry when Officer Keller proceeded to ask for his identification, thinking he was being harassed because he had sued the city. Defendant tried to slam the door on Officer Keller. Officer Keller, possibly just on reflex, put his foot in the door to stop it.

Sometime after that, someone realized Officer Keller had made an illegal entry into the House.

With the realization, came the story of the push. The push means probable cause for an arrest, which justifies the entry into the House. There is no doubt Officer Keller had no other reason or right to be in the House. Defendant and his mother repeatedly told the officers to leave.

To add to the already illogical story, Officer Keller calls for backup as soon as he is assaulted, yet he did not inform dispatch he had been assaulted. He did not tell Officer Cates, the first back

up to arrive, about being pushed. He only told her his foot had been slammed in the door. He made no indication that he considered this an assault. He made no mention of the alleged push to the second two officers to arrive. In sum, he gave no one, including Defendant and Defendant's Mother, indication that he planned to arrest Defendant for assault.

Officer Keller claims to have specifically asked for his supervisor when he called for backup.

See *August 18, 2010 Preliminary Examination Transcript* at 9 and 15. Officer Cates also claims to have made the call for the supervisor. See *August 24, 2010 Preliminary Examination*

Transcript at 8 and 21. It seems neither officer can remember who actually requested the

supervisor. Regardless, Sergeant Skelton arrives and gives the arrest order. Officer Keller states

that due to the assault on his person, he planned to arrest Defendant the entire time, no matter

what his supervisor said. See *August 18, 2010 Preliminary Examination Transcript* at 32. He

just did not want to go in alone. That is quite understandable since he had already been pushed

by Defendant. Yet, he still did not attempt an arrest when *three* officers arrived to back him up.

He waited for four. Possibly, Defendant's elderly Mother appeared too formidable.

Now, after the alleged push, and despite intending to arrest Defendant no matter what his

supervisor ordered, Officer Keller permits Defendant to call whomever he pleases. Further,

Officer Keller was so intent on Defendant, the subject he intended to arrest, he could not even

remember from where Defendant produced his identification or if he left the vicinity when he

retrieved it. He has justification for possibly letting Defendant wander off; he was alone and

would not enter the House by himself. However, Officer Keller loses sight of Defendant not

once, but twice. The second time he permits Defendant to leave his sight to retrieve his mother's

wallet. At this point, Officer Cates is at the scene standing on the porch with him. See *August 24, 2010 Preliminary Examination Transcript* at 7, 19, and 3. The excuses for letting the subject of his future arrest leave his sight become feebler and less likely.

To effectuate the arrest, four, possibly, five officers (Officer Keller and Cates give inconsistent testimony on this point as well) enter the House without a warrant. Defendant backs away.

Defendant makes no threatening moves. Defendant is directed to put his hands behind his back but he does not do it. This passive, non threatening action necessitates the use of a taser, by Officer Keller no less, the officer who had already argued with the Defendant and who had an injured foot due to the actions of Defendant.

Lastly, Officer Cates claimed to have warned Defendant's Mother she would be arrested if she did not stop trying to get past her and grabbing at her. Yet, on cross examination, she basically admits she did not warn Defendant's Mother of the possibility of arrest. The point is not whether she is required to warn Defendant's Mother of a pending arrest, the point is that her inconsistent statements about her own arrest seriously call her credibility into question. Any statements she made that back up Officer Keller's already unbelievable story become even more suspect.

Conclusion

While it is certainly within the district court's discretion to find that the testimony of the police officers produced a question of fact as to probable cause for the arrest of Defendant, the testimony has to be somewhat credible. The officers' testimony was blatantly inconsistent and illogical. In fact, it only tended to demonstrate that a reason was fabricated to arrest the Defendant. The district court's decision to bind the Defendant over on the charge was hardly

“within the range of reasonable or principled outcomes.” See *People v. Babcock*, 469 Mich. 247, 269, 666 NW2d 231, 243 (2003), *Maldonado v. Ford Motor Co.*, 476 Mich. 372, 719 NW2d 809 (2006), cert denied, 2007 WL 506054 (US 2007). Accordingly, Defendant requests that this court quash the information on charge of resisting and obstructing a police officer.

Respectfully submitted,

Dated: October 18, 2010

Mark M. Haidar (P-35143)
Attorney for the Defendant, Joseph Saad

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Dearborn Heights Police Department Arrest Report

Dearborn Heights Police Department
 25637 Michigan Ave
 Dearborn Heights, MI 48125
 313 277-6770

Case No. 1000004053
 Report No. 1000004053.2
 Report Date: 7/10/2010

1

Subject: **INJURED OFFICER: KELLER, SCOTT**

Case Report Status	A - Approved	Entered On	7/16/2010 9:32:38 AM	Reporting Officer	00168 - Keller, Scott
Agency County	82 - Wayne	Entered By	00168 - Keller, Scott	Assisted By	
Agency City/Township	89 - Dearborn Heights	Verified On	7/16/2010 11:36:34 AM	Agency Assisted	
Occurred On	7/10/2010 9:00:00 PM	Verified By	00099 - Alexander, Mary	Call for Service #	100014698
Or Between		Approved On	7/20/2010 11:58:25 AM		
Business Name		Approved By	00885 - Mandell, Darla		
Location	5718 N MELBORNE	Related Cases			
CSZ	Dearborn Heights, MI	Disposition	Arrest		
Census/Geo Code	48127	Excp. Clear Reason			
Jurisdiction		Excp. Clear Date			
Grid		Reporting Agency	Dearborn Heights Police Department		
Sector		Report Type	Arrest Report		
Map		Division	Patrol		
Call Source	Telephone	Notified			
Vehicle Activity		Related Cases			
Dir. Veh. Traveling					
Cross Street					
Means					
Motive					

Report Narrative: **R/O WAS AT 5718 MELBORN CONDUCTING A FOLLOW UP TO A HARASSMENT INVESTIGATION. THAT STEMMED FROM THE COMPL AT 5655 MELBORN. R/O ARRIVED AT 5718 MELBORN AND MADE CONTACT WITH THE HOMEOWNER, JOSEPH SAAD. SEE POINT 1 AND POINT 2 OF THIS REPORT. AS R/O WAS ASKING FOR SAAD'S IDENTIFICATION/LICENSE. SAAD BEGAN YELLING AND SCREAMING AT R/O. SAAD TRIED SLAMMING THE DOOR IN R/O'S FACE BUT THE DEAD BOLT WAS ENGAGED SO HE WAS UNABLE TO. JOSEPH TRIED IT AGAIN BUT R/O STUCK HIS LEFT FOOT IN THE DOOR THRESHOLD SO THE DOOR COULDNT BE LOCKED. JOE OPEN AND SLAMMED THE DOOR SHUT SEVERAL TIMES ON R/O'S LEFT FOOT AND ANKLE AND THEN WAS BEHIND THE STEEL DOOR AND TRYING TO PUSH IT SHUT WHILE R/O'S FOOT WAS IN THE WAY. JOE WAS PUSHING SO HARD NEARLY TRAPPING R/O'S FOOT UNDER THE DOOR. JOE WAS TAKEN INTO CUSTODY AND TREATED FOR HIS INJURIES AT GARDEN CITY. WHILE AT GARDEN CITY, R/O ALSO HAD IS LEFT FOOT AND ANKLE X-RAYED AND CHECKED OUT BY A DR DUE TO THE PAIN FROM HAVING THE DOOR SLAMMED. R/O WAS RELEASED FROM GARDEN CITY HOSPITAL WITH A PRESCRIPTION FOR 800MG MOTRIN. R/O WAS GIVEN 2 DAYS OFF IN ORDER TO HEAL THE LEFT ANKLE AND FOOT FROM THE DR AND GARDEN CITY.**

Offense Detail: 4899 - Obstruct Police (Other)

Offense Description	4899 - Obstruct Police (Other)	Location Type	20 - Residence/Home	No. Prem. Entered	
IBR Code	90Z - All Other Offenses	Offense Completed?	Yes	Entry Method	
IBR Group	B	Hate/Bias	00 - None (No Bias)	Type Security	
Crime Against		Domestic Violence	No	Tools Used	
Offense File Class	48000 - OBSTRUCTING POLICE				
PACC					
Local Code					
Using					
Criminal Activity					

Dearborn Heights Police Department Arrest Report

Dearborn Heights Police Department
25637 Michigan Ave
Dearborn Heights, MI 48125
313 277-6770

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Case No. 1000004165
Report No. 1000004165.1
Report Date: 7/10/2010

Subject: **HINDERING INVESTIGATION;A&B ON P.O./RESISTING ARREST/SAAD, ZHIRA**

Case Report Status	A - Approved	Entered On	7/10/2010 9:50:00 AM	Reporting Officer	
Agency County	82 - Wayne	Entered By	00179 - Cates, Carrie	Reporting Officer	00179 - Cates, Carrie
Agency City/Township	89 - Dearborn Heights	Verified On	7/16/2010 11:36:38 AM	Assisted By	
Occurred On Or Between	7/10/2010 9:45:00 PM	Verified By	00099 - Alexander, Mary	Assisted By	
Business Name		Approved On	7/20/2010 1:45:29 PM	Agency Assisted	
Location	5718 N MELBORNE	Approved By	00885 - Mandell, Darla	Agency Assisted	
CSZ	Dearborn Heights, MI	Related Cases		Agency Assisted	
Census/Geo Code	48125	Disposition	Arrest	Agency Assisted	
Jurisdiction		Excp. Clear Reason		Agency Assisted	
Grid		Excp. Clear Date		Call for Service #	
Sector		Reporting Agency	Dearborn Heights Police Department	Call for Service #	100015142
Map		Report Type	Arrest Report		
Call Source	Telephone	Division	Patrol		
Vehicle Activity		Notified			
Dir. Veh. Traveling		Related Cases			
Cross Street					
Means					
Motive					

Report Narrative

R/O WAS RESPONDING TO ASSIST R/O KELLER ON A HARASSMENT COMPLAINT, WHEN R/O KELLER ADVISED DISPATCH TO HAVE ANOTHER PATROL CAR "STEP IT UP." R/O ARRIVED ON SCENE AND OBSERVED R/O KELLER STANDING ON THE PORCH WITH HIS FOOT IN THE FRONT DOORWAY, WITH ZIHRA AND JOSEPH SCREAMING AT HIM TO GET OFF OF THE PROPERTY. BOTH SUBJECTS WERE REFUSING TO GIVE ANY INFORMATION AND JOSEPH WAS ON THE PHONE WITH SOMEONE SAYING IT WAS HIS ATTORNEY AND THEY WERE MAKING THREATS TO SUE THE DEARBORN HEIGHTS POLICE DEPARTMENT, AND THAT WE WERE JUST THERE TO HARASS THEM FROM THEIR OTHER LAWSUIT PENDING WITH DHPD. R/O KELLER WAS THEN ABLE TO TALK ZIHRA INTO GIVING HER IDENTIFICATION TO HIM BECAUSE A REPORT NEEDED TO BE MADE. R/O GONDEK AND RESERVE R/O NASON ALSO ARRIVED ON SCENE TO ASSIST. R/O CATES ALSO CALLED SUPERVISOR TO RESPOND AND SGT. SKELTON WOULD BE ARRIVING SHORTLY.

R/O CATES THEN TOOK BOTH IDENTIFICATIONS AND WALKED DOWN THE SIDEWALK TO GIVE THE INFORMATION TO DISPATCH OVER THE RADIO. DURING THAT TIME SGT. SKELTON ARRIVED ON SCENE AND ADVISED R/O KELLER, AFTER BEING EXPLAINED THE SITUATION THAT JOSEPH NEEDED TO BE PLACED UNDER ARREST FOR ASSAULTING R/O KELLER BY SLAMMING THE DOOR ON HIS LEFT FOOT, AND FURTHER HINDERING AN INVESTIGATION. R/O'S KELLER, GONDEK, AND RESERVE NASON ENTERED THE HOME WITH SGT. SKELTON TO ATTEMPT TO PLACE JOSEPH UNDER ARREST, AT WHICH TIME HE BEGAN TO RESIST R/O'S. R/O'S WERE TRYING TO GET TO JOSEPH BUT ZIHRA WAS STANDING IN THE ENTRY WAY HOLDING HER ARMS OUT FURTHER HINDERING THE INVESTIGATION.

R/O CATES WAS ABLE TO GET ZIHRA INTO THE OTHER HALLWAY TO THE LEFT AND STOOD WITH HER TO KEEP HER FROM HINDERING ANYMORE WITH THE INVESTIGATION. ZIHRA THEN BEGAN TO BECOME IRATE AND WAS SCREAMING AND YELLING AT R/O'S TO LEAVE HER SON ALONE AND GET OUT OF HER HOME. ZIHRA GRABBED R/O CATES' UNIFORM SHIRT AND WAS PULLING ON IT, AND SMACKING R/O IN THE ARMS, TRYING TO GET AROUND R/O TO SEE WHAT

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Case No. 1000004165
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WAS GOING ON WITH JOSEPH. R/O CATES CONTINUOUSLY ADVISED ZIHRA TO STEP BACK IN THE HALLWAY SEVERAL TIMES. SHE THEN REACHED HER HANDS OUT AND WAS GRABBING A HOLD OF R/O CATES' COLLAR ON HER SHIRT, AND SCRATCHING R/O IN THE NECK AND TRYING TO PUSH R/O OUT OF THE WAY TO GET TO JOSEPH WHO WAS BEING PLACED UNDER ARREST BY THE OTHER OFFICERS. R/O ADVISED ZIHRA ONCE AGAIN TO STAND BACK AND SHE CONTINUED TO TRY AND PUT R/O OUT OF THE WAY. ZIHRA WAS THEN ADVISED SHE WOULD BE PLACED UNDER ARREST FOR HINDERING AN INVESTIGATION AND ASSAULTING A POLICE OFFICER. SHE THEN BEGAN TO RESIST ARREST BY PULLING HER ARMS AWAY FROM R/O CATES AND REFUSING TO PUT HER HANDS BEHIND HER BACK. AFTER A SHORT STRUGGLE TRYING TO GET ZIHRA'S HANDS OUT FROM THE FRONT OF HER AS SHE PULLED AWAY AND STOOD AGAINST A DOOR IN THE HALLWAY, R/O CATES WAS ABLE TO PLACE ZIHRA UNDER ARREST AND WALK HER TO THE PATROL VEHICLE OUT FRONT OF THE HOME. WHILE WALKING OUT TO THE PATROL VEHICLE ZIHRA STOPPED AND SAT DOWN ON THE GROUND. R/O CATES WAS ABLE TO HELP ZIHRA BACK ON HER FEET AT WHICH TIME SHE GOT INTO THE PATROL VEHICLE. R/O CATES THEN TRANSPORTED ZIHRA TO DHPD TO BE PROCESSED AND LODGED. AT DHPD ZIHRA REQUESTED AN AMBULANCE BECAUSE SHE WAS HAVING A HARD TIME BREATHING AND CHEST PAINS. DHPD RESCUE #1 RESPONDED AND TRANSPORTED ZIHRA TO OAKWOOD HOSPITAL TO BE ASSESSED. ONCE AT OAKWOOD HOSPITAL, THE DOCTORS DECIDED TO ADMIT ZIHRA TO THE CARDIAC FLOOR.

WHILE AT OAKWOOD HOSPITAL THE HEAD SECURITY OFFICER, LT. CHRISTIAN HANSEN INFORMED R/O OF A DISORDERLY GROUP OF FAMILY MEMBERS IN THE LOBBY CAUSING A SCENE BY TAKING PICTURES OF THE SECURITY STAFF AND TRYING TO GET PAST THEM TO GAIN ACCESS TO ZIHRA. R/O ADVISED THEM TO CONTACT DEARBORN POLICE DEPARTMENT AT WHICH TIME THEY DID. THE SECURITY STAFF ALSO HAD TO BOOK AN INCIDENT REPORT # 0623-10.

AN ATTORNEY NAMED NEMER N. HADOUS BAR # 264431, ARRIVED ON SCENE AND DEMANDED THE STAFF TO LET HIM SPEAK TO ZIHRA. THE STAFF ADVISED HIM THAT PER THEIR POLICY, ANYONE IN POLICE CUSTODY WAS NOT ALLOWED TO HAVE VISITORS. NEMER WAS SCREAMING AND YELLING IN THE LOBBY, CAUSING A DISTURBANCE AND WAS THREATENING THE STAFF AS WELL. R/O CATES WENT OUTSIDE AND ADVISED HIM HE COULD COME BACK TO SPEAK TO ZIHRA AS LONG AS HE CALMED DOWN. AS R/O CATES WAS TAKING NEMER BACK TO ALLOW HIM TO SPEAK WITH ZIHRA HE WAS MAKING THREATENING COMMENTS, STATING "I WILL HAVE YOUR JOBS FOR THIS." TO THE STAFF AND R/O CATES ADVISED THEN ADVISED HIM IF HE WAS NOT GOING TO COOPERATE WITH THE STAFF HE WOULD NOT BE ALLOWED TO SPEAK TO ZIHRA. NEMER WAS THEN ESCORTED BACK OUTSIDE WITH THE REST OF THE FAMILY AND DEARBORN POLICE OFFICERS. ANOTHER ATTORNEY NAMED ROBERT A. HADOUS, BAR # P32635 WAS ALSO ON SCENE AND SPOKE TO R/O CATES STATING HE WOULD COOPERATE WITH R/O AND JUST WANTED TO SPEAK TO ZIHRA FOR A MINUTE AND WOULD GET THE FAMILY TO LEAVE THE PREMISES. R/O CATES TOOK ROBERT BACK TO SPEAK TO ZIHRA. ROBERT LEFT AFTER A FEW BRIEF WORDS WITH ZIHRA AND WAS ABLE TO HAVE THE FAMILY LEAVE WITH HIM.

WHILE R/O CATES WAS AT OAKWOOD HOSPITAL, R/O CATES OBSERVED A FEW SCRATCHES TO THE RIGHT SIDE OF HER NECK. R/O CATES TOOK THREE PICTURES OF THE SCRATCHES AND SENT THEM TO EMAIL TO BE PRINTED OUT AT DHPD.

R/O CATES STOOD BY THE ROOM AT OAKWOOD HOSPITAL UNTIL 0530HRS ON 07/11/10 UNTIL SHE WAS RELIEVED BY R/O FRANCKOWIAK.

THE IN-CAR AUDIO FROM PATROL VEHICLE #08 WOULD BE TRANSFERRED AND PLACED ONTO AN EVIDENCE DISK AT A LATER TIME.

R/O CATES ALSO PRINTED OUT THE PICTURES OF THE SCRATCHES AND PLACED THEM ON

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EVIDENCE TAG # 83443 AND PLACED IN LOCKER #39.

Offense Detail: 1312 - Agg/Fel Assault - Police Officer

Offense Description	1312 - Agg/Fel Assault - Police Officer	Location Type	20 - Residence/Home	No. Prem. Entered	
IBR Code	13A - Aggravated Assault	Offense Completed?	Yes	Entry Method	
IBR Group	A	Hate/Bias	00 - None (No Bias)	Type Security	
Crime Against	PE	Domestic Violence	No	Tools Used	
Offense File Class	13002 - AGGRAVATED/FELONIOUS ASSAULT				
PACC					
Local Code					
Using					
Criminal Activity	N - None/Unknown				
Force Level					
Weapons	40 - Personal Weapons (Hands, Feet, Teeth, etc.)				

Offense Detail: 4899 - Obstruct Police (Other)

Offense Description	4899 - Obstruct Police (Other)	Location Type	20 - Residence/Home	No. Prem. Entered	
IBR Code	90Z - All Other Offenses	Offense Completed?	Yes	Entry Method	
IBR Group	B	Hate/Bias	00 - None (No Bias)	Type Security	
Crime Against		Domestic Violence	No	Tools Used	
Offense File Class	48000 - OBSTRUCTING POLICE				
PACC					
Local Code					
Using					
Criminal Activity					
Force Level					
Weapons					

Offense Detail: 4801 - Resisting Officer

Offense Description	4801 - Resisting Officer	Location Type	20 - Residence/Home	No. Prem. Entered	
IBR Code	90Z - All Other Offenses	Offense Completed?	Yes	Entry Method	
IBR Group	B	Hate/Bias	00 - None (No Bias)	Type Security	
Crime Against		Domestic Violence	No	Tools Used	
Offense File Class	48000 - OBSTRUCTING POLICE				
PACC					
Local Code					
Using					
Criminal Activity					
Force Level					
Weapons					

Arrestee A1: SAAD, ZIHRA

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Case No. 100004165
 Report No. 100004165.1
 Report Date: 7/10/2010

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Arrestee Number	A1	DOB	11/13/1931	Place of Birth	DEARBORN, MI, US
Name	SAAD, ZIHRA	Age	78	SSN	366-34-0145
Aliases		Sex	F - Female	DLN	S300982008871
Alert(s)		Race	W - White	DL State	MI - Michigan
Address	5718 N MELBORNE	Ethnicity	U - Unknown	DL Country	
CSZ	Dearborn Heights, MI 48127	Ht.	5' 5"	Occupation/Grade	
MO		Wt.	180	Employer/School	
Attire		Eye Color	BRO - Brown	Employer Address	
Habitual Offender Status		Hair Color	BLN - Blond	Employer CSZ	
		Hair Style	S - Straight	Res. County	
		Hair Length	S - Short	Res. Country	USA - United States of America
		Facial Hair	01 - Clean Shaven	Resident Status	R - Resident of the community, city, or town where the offense occurred
		Complexion			
		Build	MED - Medium		
		Teeth			

Phone/Email Type	Description
HM - Home Phone #1	313 561-3141

Supplemental ID# ID Type	ID Number	ID Issuer	Name
--------------------------	-----------	-----------	------

Physical Characteristics Type	Descriptor	Description
-------------------------------	------------	-------------

Arrest No. **14214**
 Arrest Type **T - Taken Into Custody**
 FBI No. **253288JD7**
 Criminal Tracking Number CTN
 Transaction Control Number TCN **1810191009X**
 Person Control Number PCN **58036727**

Arrested For **4801 - Resisting Officer
 1312 - Agg/Fel Assault - Police Officer
 4899 - Obstruct Police (Other)**

State No. **4025843T**
 Armed With **01 - Unarmed**
 Multi. Clearance **N - Not Applicable**

Count **1**
 Fingerprints
 Photos
 Miranda Read
 Miranda Waived
 Number of Warrants
 Juvenile Disposition
 Adult Present
 Detention Name
 Booked On
 Booked Location
 Released Location
 Released On
 Released By
 Release Reason
 Held For
 Date/Time Arrested **7/10/2010 9:45:00 PM**
 Arrest Location

Prev. Suspect No.
 Notified Name

Arrest Notes

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Case No. 1000004165
 Report No. 1000004165.1
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Victim V1: CARRIE, CATES

Victim Code	V1	Victim Of	1312 - Agg/Fel Assault - Police Officer 4899 - Obstruct Police (Other)	
Victim Type	P - Police Officer			
Name	CARRIE, CATES	DOB		Place of Birth
Aliases		Age	28	SSN
Alert(s)		Sex	F - Female	DLN
		Race	W - White	DL State
Address	25637 MICHIGAN Dearborn Heights, MI 48125	Ethnicity	U - Unknown	DL Country
CSZ		Ht.		Occupation/Grade
Altire		Wt.		Employer/School
Injury	M - Apparent Minor Injury	Eye Color		Employer Address
Circumstances	09 - Other Circumstances	Hair Color		Employer CSZ
		Facial Hair		Res. County
		Complexion		Res. Country
				Resident Status

S - Resides in the State but not the county or community where the offense occurred

Phone/Email Type Description

Supplemental IDs ID Type ID Number

Law Enforcement Officer Killed or Assaulted Information	Type	A - Assaulted
	Assignment	L - Other - Assisted
	Activity	11 - All Other
	Other ORI	

ID issuer	Testify	Name
Justifiable Homicide Circumstances		

Victim Offender Relationships

Offender	Relationship
A1 - SAAD, ZIHRA	98 - Victim Was Stranger

Victim Notes

STATE OF MICHIGAN
WAYNE COUNTY CIRCUIT COURT
CRIMINAL DIVISION

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff,

V

JOSEPH SAAD Defendant.

10-08999

Hon. CAROLE YOUNGBLOOD

Mark M. Haidar (P35143)
Attorney for Defendant
302 W. Main Street
Northville, MI 48167
(248) 374-1200

DEFENSE WITNESS LIST

The defense lists the following people as possible witness to be called at trial:

1. SAM SAAD
2. ZIHRA SAAD
3. ROBERT HADOUS
- 4.
- 5.
- 6.
- 7.
- 8.

Respectfully submitted,

Mark Haidar
MARK M. HAIDAR (P35143)
Attorney for Defendant
302 W. Main Street
Northville, Michigan 48167
(313) 999-1372

Date: 10/25/10

STATE OF MICHIGAN
 THIRD JUDICIAL CIRCUIT COURT
 RECORDER'S COURT

**FINAL PRE-TRIAL
CONFERENCE SUMMARY AND
FIRM TRIAL DATE CONTRACT**

CASE No.

10-08999

THE PEOPLE OF THE STATE OF MICHIGAN

— vs —

Date:

10-22-10

*Police of Asst./Invest/Officer
Causing Injury
Stalking*

JOSEPH SAAD

AKA:

SID:

ASSISTANT PROSECUTOR AND DEFENSE ATTORNEY

This form must be completed and presented to the Judge before the Final Pre-Trial Conference.

SAM SAAD

FINAL SETTLEMENT OFFER

The Prosecutor's Final Settlement Offer of

ZIHRA SAAD
ROBERT HADOUS

Charge

Sentence

Other (Specify)

is available until the Final Pre-Trial Conference is concluded. No settlement offers will be made after this date. The only disposition after the Final Pre-Trial Conference will be by plea of guilty as charged or trial.

STIPULATIONS

The Prosecutor and Defense Counsel hereby agree to the following stipulations:

- Auto Theft Case: Auto Owner Waived.
- Narcotics Case: Chain Of Evidence Waived, and/or Chemist Waived.
- Other stipulations _____

TRIAL LENGTH AND DATE

The Prosecutor and Defense Counsel represent that all pretrial motions and discovery have been completed and that all required witnesses are available for trial.

Number of Witnesses: Prosecution 4 Defense 3

Type of Trial: Guilty Estimated Length of Trial: _____ (Specify in half days)

TRIAL WILL COMMENCE ON 11-15-10 AT _____
Date Time

ACCEPTANCE OF NOTICE AND FIRM TRIAL DATE CONTRACT

Counsel for all parties accept notice of the trial date and waive all matters preliminary to trial except as entered on the record at the Final Conference. Defense Counsel and the Assistant Prosecutor confirm their availability on the trial date. All parties are to sign below.

Counsel For Defense

Assistant Prosecuting Attorney

Defendant

Judge

WHITE—Court Copy
GREEN—Docket Control
CANARY—Prosecutor's Office
PINK—Defense Attorney
GOLDENROD—Defendant

**FINAL PRE-TRIAL CONFERENCE SUMMARY
AND FIRM TRIAL DATE CONTRACT**

JUROR BACKGROUND REPORT

CID: 10008999

TITLE: P/V JOSPEH SAAD
JUDGE: YOUNGBLOOD, CAROLE

BADGE	NAME	MAR STS	OCCUPATION
301274577	BODENMILLER, MARK STEVEN	M	FINANCIAL ANALYST FOOD CLERK
301017542	BUTLER, VANESSA BLOCTON	D	
301260537	CHAPMAN, JAMES HUSTON	S	STUDENT
301017781	GALUSZKA, JULIE ANN	M	HOUSEWIFE SERVICE AGENT
301004555	GRZYB, RAQUEL GRACE	D	RETIREE
301115871	HEATHERWICK, WILLIAM PETER	M	MARKETING NURSE
291154180	HILL, DALE VERNON	E	SUPPORT MANAGER HOUSEWIFE
301166724	HOFGARTNER, CAROL BERNICE	M	EXEC DIRECTOR UNEMPLOYED
291120535	MASON, JANN RENATIE		
301070537	MAY, CARTER SCOTT	M	PROBATION AGENT ECURITY SYSTEM ADMIN
301258444	MCADOO, THOMAS ROBERT	M	ARCHITECT PHARMACY TECH
301011527	MCNARY, DIANA GAIL	M	GRAPHIC ARTIST SELF EMPLOYED
301094940	MIZER, KELLI JEAN	M	DIR/HLTH SVCS CUST SVC ENGINEER
301117371	MORENO, RONALD	M	RETIREE UNEMPLOYED
301094823	NIU, JEAN JUNZHE	M	IT PROFESSIONAL MECHANICAL ENGINEER
301133016	OSBERN, KENNETH	D	RETIREE
301000342	POOLE, KATHY JEAN	M	SENIOR CAREGIVER RETIREE
301252027	POWERS, MARTIN FREDERICK	S	TECHNICIAN
301249357	SKIVER, ERIC NATHANIEL	M	METROLOGIST HAIR DRESSER
301074961	STANISZ JR, RICHARD HENRY	M	MARKET CHANNEL MGR PURCHASING SUPV
301287272	SULKEY, MARY ANNE	M	SERVICE MGR ELECTRICAL TECH
301214617	TERRELL, VELMA L	S	
301017917	WOZNY, GERALD ANTHONY	M	WAREHOUSE MGR OFFICE MGR
301248813	YORK, DONNA ALICE	S	LAB SUPPORT TECH

NOTICE OF PRELIMINARY EXAM

People of the State of Michigan

VS

Joseph Saad

Docket #C030789 A & B

Incident #10-4052

The above entitled cause will be heard on Wednesday, August 18, 2010 @ 9:00 am.

The above entitled cause is adjourned from: 7/21/10 to 8/18/10

Report to the 20th District Court, 25637 Michigan Ave., Dearborn Heights, MI 48125

Phone: (313) 277-7202

Date of Offense: 06/01/10 – 7/01/10

Notified the following:

Atty: Mark M. Haidar ✓

MARK J. PLawecki – DAVID D. TURFE

District Court Judge

By: Gretchen Ackling, Deputy Court Clerk

Received By: _____ Date: _____

If you intend to employ an attorney, he or she should be notified immediately, otherwise an attorney will be appointed by the court.

OFFICE OF RESEARCH AND STATISTICS

1970-71

1971-72

1972-73

1973-74

1974-75

The following table shows the number of students enrolled in the various courses during the period 1970-71 to 1974-75.

The above table shows the number of students enrolled in the various courses during the period 1970-71 to 1974-75.

The following table shows the number of students enrolled in the various courses during the period 1970-71 to 1974-75.

1970-71

1971-72

1972-73

1973-74

1974-75

1975-76

1976-77

The following table shows the number of students enrolled in the various courses during the period 1970-71 to 1974-75.

STATE OF MICHIGAN THIRD JUDICIAL COURT CRIMINAL DIVISION	ORDER OF ACQUITTAL/DISMISSAL OR REMAND	CASE NO. <i>10-008999-0148</i>
--	--	-----------------------------------

ORI MI- *MI* Court address *1441 St Antoine Det MI 48226* Court telephone no. *224-0391*

THE PEOPLE OF The State of Michigan
 _____ v

Defendant's name, address, and telephone no.
Joseph Seal

CTN <i>82-1171135</i>	SID	DOB <i>7-21-49</i>
--------------------------	-----	-----------------------

Count	CRIME	CHARGE CODE(S) MCL citation/PACC Code
<i>1</i>	<i>PO with/hold/hold carrying weapon</i>	<i>750.81d(1)</i>
<i>2</i>	<i>Stalking</i>	<i>750.411a</i>

IT IS ORDERED:

- 1. The case is dismissed on the motion of the court with without prejudice.
- 2. The defendant's motion for dismissal is granted with without prejudice and the case is dismissed. *by motion for dismissal verdict H/C*
- 3. The defendant's motion for dismissal is granted in part with without prejudice and the following charge(s) is/are dismissed: _____

- 4. Defendant is acquitted on all charge(s) in this case after trial by judge. jury.
- 5. Defendant is acquitted after trial by judge jury only on the following charge(s): _____

- 6. Defendant shall be immediately discharged from confinement in this case.
- 7. Bond is cancelled and shall be returned after costs are deducted.
- 8. Bond/bail is continued on the remaining charge(s).
- 9. The case is remanded to the _____ district court for further proceedings for the following reasons:

Date *11-2-2010* Judge *James J. ...* Bar no. _____

If item 1, 2, or 4 is checked, the clerk of the court shall send a photocopy of this order to the Michigan State Police Central Records Division to create a criminal history record as required under MCL 769.16a.

STATE OF MICHIGAN <input type="checkbox"/> THIRD JUDICIAL CIRCUIT COURT <input type="checkbox"/> CRIMINAL DIVISION	SUMMARY STATEMENT OF CALENDAR CONFERENCE	CASE NO. 12-008999-01A4
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THE PEOPLE OF THE STATE OF MICHIGAN

-vs-

Charge: Aggravated Assault

AKA: _____

CALENDAR CONFERENCE HELD BEFORE THE HONORABLE _____

Calendar Conference Conducted on: 1-4-12

Motions shall be time-stamped and filed no later than: 10:00 AM

Motions timely filed will be heard on: 10-28-12

Final Conference will be conducted on: 1-12-12

Trial will commence on or about: 1-12-12

Motion for Discovery heard/waived. Discovery allowed/denied with regard to: _____

Bond modification, if any: _____

The Prosecutor represents to the Court that a guilty plea would be acceptable to the charge of: _____

_____ until the close of the Final Conference. In the event such plea is accepted by the Court, the Prosecutor would make the following commitment(s): _____

ANY PLEA OFFERS TO BE CONVEYED TO DEFENDANT BY: _____ (Date) _____

Estimated length of trial: _____

Number of People's witnesses: _____

Number of Defense witnesses: _____

Jury trial or waiver trial: _____

Asst. Prosecuting Attorney at Calendar Conference: _____

Defense Counsel at Calendar Conference: Name John Smith

Other pending cases: Address (313) 777-1372

Phone _____

Special Conditions; Record of Negotiations Fax _____

Distribution: Email _____

White - Court Copy
 Canary - Prosecuting Attorney
 Pink - Docket Control Center
 Goldenrod - Defense Counsel

Judge _____

**SUMMARY STATEMENT
 of
 CALENDAR CONFERENCE**

STATE OF MICHIGAN <input type="checkbox"/> Third Judicial Circuit Court <input type="checkbox"/> Recorder's Court	PRAECIPE FOR MOTION	CASE NO. <u>10-008999-01FH</u>
--	------------------------------------	--

THE PEOPLE OF THE STATE OF MICHIGAN

-vs-

JOSEPH SAAD

Defendant

TO THE ASSIGNMENT CLERK:

Please place a Motion for (here state nature of motion in brief form) To QUASH INFORMATION

on the Motion Docket for _____ before Judge CAROLE YOUNGBLOOD

Date: OCTOBER 19, 2010

Mark Haidar P35143
Attorney for Defendant *Michigan State Bar #*
302 W. MAIN
Address NORTHVILLE, MI 48167

Telephone

NOTE: UNDER MCR 2.107(c)(1) or (2)

PROOF OF SERVICE
(7 Days notice required)

I swear that on OCTOBER 19, 2010 I served a copy of the attached motion and praecipe upon the Wayne County Prosecutor, Recorder's Court Section by ~~hand~~ *(personal)* service. (Cross out one)

Sworn and subscribed before me

on: _____

Mark Haidar
Attorney for Defendant

Notary Public _____

County _____

My Commission Expires _____

7 Day Noticed waived _____
Date

Prosecuting Official *Michigan State Bar #*

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

THE PEOPLE OF THE
STATE OF MICHIGAN,

v

Hon.
Case No. 10-008999-01-FH

JOSEPH SAAD,
ZIHRA SAAD,

District Court Case No. C030790A,B,
C030826

Defendants.

KAL NAJAR (P-39237)
2 Woodward Avenue, Room # 1701
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Assistant Prosecuting Attorney

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MOTION TO QUASH INFORMATION AS TO DEFENDANT, JOSEPH SAAD

NOW COMES Defendant, Joseph Saad, through his attorney Mark M. Haidar, and for his *Motion to Quash Information as to Defendant Joseph Saad*, states:

1. Defendant, Joseph Saad ("Defendant") is charged with resisting and obstructing a police officer.
2. On August 18, 2010, a Preliminary Examination was held in order to determine whether the Prosecutor could produce sufficient evidence as to each element of the charge in the

information to bind the Defendant over on the charge. (See *August 18, 2010 Preliminary Examination Transcript*).

3. On August 24, 2010, the Preliminary Examination was continued and at its conclusion, the district court found that, based on the testimony, there was a question of fact as to probable cause for the arrest, one of the necessary elements of the charge, and bound Defendant over on resisting and obstructing a police officer. (See *August 24, 2010 Preliminary Examination Transcript*, p. 60).

4. The issue presented for review is whether it was an abuse of discretion to bind the Defendant over on the charge of resisting and obstructing a police officer where the evidence presented at the Preliminary Examination was wholly inadequate to support a finding of a question of fact as to the probable cause of Defendant's arrest lawful.

5. For the reasons more particularly stated herein, Defendant, Joseph Saad, requests that this Court enter an order quashing the information on the charge of resisting and obstructing a police officer.

Respectfully submitted,



Mark M. Haidar (P-35143)
Attorney for the Defendant, Joseph Saad

Dated: October 18, 2010

BRIEF IN SUPPORT

Introduction

Defendant, Joseph Saad has been charged with resisting and obstructing a police officer. On August 18, 2010 and continued on August 24, 2010, a Preliminary Examination was held in order to determine whether there was sufficient evidence to bind Defendant, Joseph Saad (“Defendant”) over on the charge. At the conclusion of the Preliminary Examination, the district court found there was a question of fact as to probable cause for the arrest and bound Defendant over on the charge.

Defendant now brings this motion to quash on the basis that the Court abused its discretion in binding the Defendant over on the charge because the testimony was wholly incredible to support a finding that the arrest could have been lawful.

Facts

Testimony of Officer Scott Keller

The following “facts” are based upon the testimony of Officer, Scott Keller.

On July 10, 2010, City of Dearborn Heights Police Officer, Scott Keller (“Officer Keller”) was dispatched to a residence on Melborn Street in Dearborn Heights for a harassment complaint. See *August 18, 2010 Deposition Transcript*, p. 4-5. Upon arriving, Officer Keller spoke with a female, Cel Solak (“Ms. Solak”) who directed him to a residence a few houses down the street located at 5718 Melborn (“the House”). *Id.* at 7. The nature of the complaint was that Defendant had left Ms. Solak a telephone message which contained no overt threats but appeared to have scared Ms. Solak. *Id.* at 13-14.

Officer Keller proceeded to the House deciding to investigate what he perceived as a

potential misdemeanor (for which he was not present). *Id* at 7,13 and 35. Upon arrival, Officer Keller walked onto the porch, opened the screen door of the House and knocked. *Id* at 8 and 15-16. Defendant answered the door, which opened inward, staying inside. *Id* at 8 and 15-16. Officer Keller, standing on the porch, explained the reason for his presence and asked whether Defendant was the person Ms. Solak claimed had made the telephone call. *Id* at 9 and 16. Defendant confirmed that he was that person. *Id* at 9, 24 and 35. Officer Keller then requested Defendant's identification. *Id* at 9 and 15. Officer Keller testified that he requested the Defendant's identification to confirm his last name but did not ask for Defendant's last name. *Id* at 25. He also stated that he always asks subjects for identification. *Id* at 25.

Defendant apparently became irate at that point, yelling and cussing at Officer Keller while Officer Keller had the screen door open. *Id* at 9. According to Officer Keller, when he again requested identification while standing on the porch, the Defendant, from inside the House, shoved him back, with two hands, and said he would not give him shit and to get off his property. *Id* at 9, 17, 18 and 39. Officer Keller testified that he then put his foot on the threshold of the door, the step that is between the storm door and the entry door, to prevent Defendant from closing the door. *Id* at 9, 12, 16, 18 ,39 and 40. Officer Keller then called for backup and asked for his supervisor. *Id* at 9 and 15.

The Defendant continued to yell at Officer Keller, claiming he was being harassed because he had sued the city. *Id* at 10. Officer Keller requested identification several more times, Defendant refused and tried to slam the door. *Id* at 10. On direct examination, Officer Keller testifies that the deadbolt was engaged so Defendant could not get the door to latch. *Id* at 10 and 17. However, Officer Keller testified in the next sentence that "I had my foot on the threshold of the door so that he could not shut the door on my face." *Id* at 10. Further, after

testifying that he put his foot on the threshold after being pushed, he later testifies, on cross examination, that he put his foot on the threshold after the first time the Defendant tried to slam the door. *Id* at 19. Also on cross-examination, Officer Keller stated he had the right to put his foot in the door because Defendant had assaulted him. *Id* at 22. Officer Keller testified that Defendant had tried to slam the door several times (*Id* at 12 and 18) and at some point, got behind the door, pushed it and trapped Officer Keller's foot in the door giving him a bruised ligament. *Id* at 12.

On direct examination, Officer Keller is asked whether back up units arrived and answers yes. *Id* at 10. He is asked what occurred next and states that the Defendant continued to yell and began calling for his mother ("Defendant's Mother") to come to the door. *Id* at 10. Defendant's Mother came to the door, Officer Keller explained to her why he was at the House and then back up arrived. *Id* at 10. During his conversation with Defendant's Mother, she asked him to leave, as did Defendant. *Id* at 22 and 36. Defendant was also on his telephone at some point, about four feet away from Officer Keller. *Id* at 24. Officer Keller testified he was the sole officer at the House for a "few minutes" (*Id* at 13) and that the back up arrived one to two minutes after the assault, i.e, the push. *Id* at 19.

Officer Carrie Cates ("Officer Cates") was the first back up to arrive at the House. After her arrival, Officer Keller requested identification again and Defendant's Mother directed him to get his license, which he did. *Id* at 11, 20 and 36. However, on cross examination, Officer Keller also testified he had Defendant's license prior to the arrival of backup. *Id* at 20. When Defendant went to obtain his license, he had to leave the door area and go further into the House. *Id* at 21. Officer Keller is unaware where Defendant went to get his license, or if he had it on him, because he was speaking with Defendant's Mother. *Id* at 20.

Officer Keller eventually requests Defendant's Mother's identification as well. Officer Keller testifies on cross examination that he does not recall whether he was in possession of Defendant's Mother's identification when Officer Cates arrived or how he got it from her. *Id* at 22. Later, he testifies he had both licenses upon her arrival. *Id* at 24. He also testified the purpose of requesting Defendant's Mother's identification was for her interference with the investigation and/or because he had to explain several times why he was at the House but that she had done nothing for which she needed to identify herself. *Id* at 25.

To this point, Defendant has not been placed under arrest nor told he may be placed under arrest for any reason, even after he allegedly pushed Officer Keller. *Id* at 21 and 25. And although Officer Keller is concerned about Defendant going further into the House, he was not going to go into the House by himself to arrest Defendant. *Id* at 22.

Officer Gondek and Reserve Officer Nason arrived at the House next. At this point, Officer Keller's foot is still in the door and Defendant is no longer trying to close it but standing behind his mother. *Id* at 26. He is also on the telephone at this point. *Id* at 26. Several minutes later came Officer Keller's supervisor, Sergeant Skelton. *Id* at 19 and 27. Officer Keller's foot was still in the door and according to him, there were still verbal altercations occurring at this point. *Id* at 28. After Officer Keller apprised him of the situation, Sergeant Skelton directed Officer Keller to take Defendant into custody. *Id* at 27. Officer Keller testified that it was his intent to place Defendant under arrest regardless of Sergeant Skelton's decision. *Id* at 32. He had just been waiting for backup because he did not want to go in alone. *Id* at 33. Officer Keller then allegedly advised Defendant's Mother that he would be taken into custody, after advising her that assaulting police was not permitted. *Id* at 28.

According to Officer Keller, himself, Officer Gondek and Sergeant Skelton entered the

House. *Id* at 28 and 40. Officer Keller testified that Defendant, while standing in the hallway, was advised of being placed under arrest for assault and battery of a police officer and told to put his hand behind his back. *Id* at 28 and 40. Defendant did not put his hands behind his back but did not make any threatening moves toward any of the officers. *Id* at 29-30 and 41. Allegedly, Defendant was advised that he if he did not stop hindering, he would be tased. *Id* at 30 and 41. Defendant still did not put his hands behind his back and approximately six feet into the hallway; Officer Keller proceeded to shoot Defendant with his taser gun. *Id* at 29-30 and 41. Officer Keller testified he was then placed under arrest after a struggle. *Id* at 41. Defendant ended up with lacerations on his face which Officer Keller assumes resulted from his falling to the ground. *Id* at 30.

Testimony of Officer Carrie Cates

The following “facts” are based upon the testimony of Officer Carrie Cates.

Officer Cates was the second officer to arrive at the House. She had been a few blocks away from the House when the call for backup came over the radio. See *August 24, 2010 Preliminary Examination Transcript* at 4 and 11. She only knew Officer Keller was there on a type of harassment complaint. *Id* at 11. She arrived at the House a few minutes after the call for backup. *Id* at 11. Officer Cates walked up to the House, observing Officer Keller on the porch. *Id* at 5 and 11. Officer Cates observed Officer Keller halfway on the porch and on the doorway with a female subject trying to obtain identification. *Id* at 5, 12 and 14. On cross examination, Officer Cates testified that she believed Officer Keller’s foot was inside the door. *Id* at 12. The Defendant’s Mother and Defendant were inside the House. *Id* at 5 and 12. Officer Cates observed several minutes of arguing between Defendant, Defendant’s Mother and Officer Keller. *Id* at 5 and 31. The Defendant refused to give identification several times. *Id* at 6-7 and 14.

Officer Cates testified that the Defendant and Defendant's Mother were arguing because they did not think the officers had a reason to be there. *Id* at 6. They requested the officers leave. *Id* at 31.

Officer Cates testified on direct examination that they tried shutting the door on Officer Keller "several times." *Id* at 6. She testified on cross examination that she only witnessed Defendant trying to close the door once. *Id* at 13 and 18. Officer Cates testified that the reason the door would not close is because Defendant's Mother was standing in the doorway. *Id* at 12 and 18. She stated Officer Keller's foot was in the door too. *Id* at 12 and 18. On cross examination, Officer Cates admitted that she did not see the deadbolt prevent the door from closing. *Id* at 14. She further stated the door did not come close to closing while she was there and she saw it hit Officer Keller's foot while Defendant's Mother was standing in front of the door. *Id* at 18-19. Officer Cates also testified that while she was standing with Officer Keller and he was attempting to get identification, Officer Keller's foot was not in the doorway the entire time. *Id* at 13.

After more arguing, Defendant brought his identification to Officer Keller. *Id* at 16. Officer Cates testified on direct examination that Officer Gondek and Reserve Office Nason had arrived by that time. *Id* at 17. Officer Cates testified that Officer Keller requested Defendant's Mother's identification while was Defendant on the telephone. *Id* at 15 and 19. Officer Cates also testified that, at Defendant's Mother's request, Defendant went and got Defendant's Mother's wallet from somewhere in the house and brought it to the doorway. *Id* at 7, 19 and 31. During this time, Defendant's Mother was still arguing and telling them to leave. *Id* at 20. The identification was then turned over to Officer Keller. *Id* at 7. Officer Cates testified on cross examination that Officer Gondek and Reserve Officer Nason arrived after the identification was

obtained. *Id* at 20.

Upon obtaining the identification, Officer Cates went back to the radio in her vehicle to give the information to dispatch. *Id* at 7. Officer Cates states that at this time she called for the boss to come to the scene. *Id* at 8 and 21. At this point, Officer Keller had not advised Officer Cates that Defendant had pushed or assaulted him by pushing him. *Id* at 22 and 40-41. He only advised her that his foot had been slammed in the door. *Id* at 22 and 41. Officer Keller had not informed Officer Cates he planned to arrest Defendant. *Id* at 21, 31-32 and 41. She did not hear Officer Keller tell Defendant or Defendant's Mother that he would be placed under arrest, even though she had heard them ask the officers to leave more times than she could count. *Id* at 22 and 31-32.

Sergeant Skelton arrived, approximately ten minutes after Officer Cates, while she was still giving information over the radio. *Id* at 8 and 23. Sergeant Skelton was there from five to ten minutes, having a discussion with the other officers, before giving the order to arrest. *Id* at 23, 32 and 42. When Officer Cates went back to the porch, she was advised by Sergeant Skelton that they were to enter the House and place Defendant under arrest. *Id* at 8, 23 and 42.

Officer Cates testified that all five of the officers entered the House. *Id* at 8. Officer Cates testified that when they entered the House, Defendant was backing up. *Id* at 24 and 25. The other four officers went to arrest Defendant and she stood in a hallway with Defendant's Mother. *Id* at 9, 24 and 25. Officer Cates heard a scuffle in the hallway, she heard someone say taser, taser, taser. *Id* at 26. On direct examination, she stated she recalled Defendant yelling but not what because Defendant's Mother became irate as well. *Id* at 26. On cross examination, she testified she did not hear Defendant at all. *Id* at 32, 33 and 35.

Defendant's Mother began to get irate, pulling at Officer Cates' shirt, scratching

her neck and possibly trying to get around her to Defendant. *Id* at 9, 27 and 38.

Officer Cates testified that she warned Defendant's Mother to stop or she would place her under arrest. *Id* at 38. She later testified on cross examination that she did not tell

Defendant's Mother she would be arrested if she did not stand back. *Id* at 49.

Defendant's Mother did not stop and she placed Defendant's Mother under arrest. *Id* at 10 and 28.

Upon being questioned by the court, Officer Cates admitted that had the Defendant's Mother stopped her assault on her; she would not have arrested her. *Id* at 40.

She also had never arrested a prime suspect for assaulting her. *Id* at 40.

The Court's Opinion

The court found:

“[T]here was no testimony that the slamming of the door which caused the injury at the house, at the Saad's (sic) house, was the assault. There was testimony and the testimony was clear that the assault was the push on the porch and that is a question of fact for a trier of fact so I will bind Mr. Saad over on the charge of assaulting, resisting and obstructing a police officer. (*Id* at 60).

Issue

A. Whether it was an abuse of discretion to bind the Defendant over on the charge of resisting and obstructing a police officer when the only evidence presented to create a question of fact of probable cause for the arrest was testimony so incredible that binding Defendant over on the charge cannot logically be considered a reasonable outcome.

Standard of Review

The district court's decision to bind Defendant over on the charge of assaulting, resisting and obstructing a police officer is to be reviewed under the abuse of discretion standard. The standard is defined as follows:

“The term discretion itself involves the idea of choice, of an exercise of the will, of a determination made between competing considerations. In order to have an ‘abuse’ in reaching such determination, the result must be so palpably and grossly violative of fact and logic that it evidences not the exercise of will but perversity of will, not the exercise of judgment but defiance thereof, not the exercise of reason but rather of passion or bias. *Spalding v. Spalding*, 355 Mich. 382, 94 NW2d 810 (1959).

More recently, the Michigan Supreme Court has stated that a somewhat stricter standard should be used in criminal cases because “loss of freedom by incarceration is often the penalty that a convicted defendant will suffer.” *People v. Williams*, 386 Mich. 565, 194 NW2d 337 (1972).

The Michigan Supreme Court has more recently defined the abuse of discretion standard as a determination of whether the ruling is “within the range of reasonable or principled outcomes.” See *People v. Babcock*, 469 Mich. 247, 269, 666 NW2d 231, 243 (2003), *Maldonado v. Ford Motor Co.*, 476 Mich. 372, 719 NW2d 809 (2006), cert denied, 2007 WL 506054 (US 2007).

Argument

- A. *The Prosecutor failed to present sufficient evidence to create a question of fact as to probable cause for the arrest of Defendant.*

Law

MCL 750.479 provides:

A person shall not knowingly and willfully do any of the following:

- (a) Assault, batter, wound, obstruct, or endanger a medical examiner, township treasurer, judge, magistrate, probation officer, parole officer, prosecutor, city attorney, court employee, court officer, or other officer or duly authorized person serving or attempting to serve or execute any process, rule, or order made or issued by lawful authority or otherwise acting in the performance of his or her duties.
- (b) Assault, batter, wound, obstruct, or endanger an officer enforcing an ordinance, law, rule, order, or resolution of the common council of a city board of trustees, the common council or village council of an incorporated village, or a township board of a township.

“Moreover, the principal ‘purpose of [the ‘resisting and obstructing’ statute] is to protect officers from physical harm.’ The purpose of the resisting arrest statute is to protect persons (the officers) from physical violence and harm. The statute ‘attempts to punish an assault upon an officer while in the discharge of his duty by a penalty more severe than that imposed for other assaults,’ i.e., assaults on private citizens.’ In our judgment, defendant's conduct, i.e., the giving of a false name and age to an officer, does not fit within the range of conduct that M.C.L. § 750.479 was meant to prohibit beyond a reasonable doubt, that such result was contemplated by Miller when he made the assault.” *People v. Vasquez*, 465 Mich. 83, 92-94, 631 NW2d 711 (2001)(citations and quotations omitted).

“The elements of the crime of resisting arrest are (1) the defendant resisted arrest, (2) the arrest was lawful, (3) the person arresting the defendant was an officer of the law at the time, (4) the defendant knew the person was an officer, (5) the defendant knew the person was making an arrest, and (6) the defendant intended to resist arrest. A person may use reasonable force to resist an unlawful arrest.” *People v. MacLeod*, 254 Mich. App 222, 226-227, 656 NW2d 844 (2002)(citations omitted).

“Probable cause requires a reasonable belief that the evidence presented during the preliminary examination is consistent with the defendant's guilt. Circumstantial evidence, coupled with those inferences arising therefrom, is sufficient to establish probable cause to believe that the defendant committed a felony. Although the district court should consider the weight of the evidence and the credibility of the witnesses in determining whether to bind the defendant over for trial, it may not usurp the role of the jury. Competent evidence that both supports and negates an inference that the defendant committed the crime charged raises a

factual question that the district court must leave to the jury.” *People v. Northey*, 231 Mich. App 568, 575, 591 NW2d 227 (1998)(citations omitted).

“If his arrest for being a disorderly person was illegal, defendant was entitled to resist that arrest. The burden is on the prosecution to prove that the arrest resisted was a legal arrest.”

People v. Davenport, 46 Mich. App 579, 581, 208 NW2d 562 (1973)(citations omitted).

In *O’Donnell v. Brown*, 335 FSupp 787 (WD Mich., 2004), the police had no probable cause to arrest a 17 year old for refusing to allow entry into his home to investigate a complaint, and therefore, the arrest violated the defendant’s right to be free of unreasonable seizure, where the police did not have a warrant and no exception to the warrant requirement applied.

Illegality of seizure is complete defense to a charge of resisting an officer. *People v. Landrie*, 124 Mich. App 460, 335 NW2d 11 (1983).

Analysis

In examining all the evidence presented at the Preliminary Examination, a finding that the Prosecution sufficiently demonstrated that he could prove the elements of resisting and obstructing arrest, specifically, that there was probable cause for the arrest, a necessary element of the crime, was an abuse of discretion.

The entire sequence of events testified to by both officers’ makes for an incredible story. First, Officer Keller decides to investigate a complaint of a threatening telephone message. There was nothing happening at the moment, Defendant was not at Ms. Solak’s home threatening her, but Officer Keller decided he would drive to her home and speak with her in person. Officer Keller listens to the message, does not think it is overtly threatening. At worst, he thinks Defendant committed a misdemeanor. So even though Defendant had not committed a felony, and had not

committed a misdemeanor in Officer Keller's presence, he decided he would also make a trip to the House. Apparently, it was a slow day for crime in the city of Dearborn Heights.

Next, although Officer Keller had his foot slammed in a door and in fact suffered an injury because of it; he claims that the assault that led to Defendant's arrest occurred when Defendant pushed him. This alleged push occurred while no one was around except Officer Keller and Defendant. Officer Keller also testified that he was the sole officer at the House for only a few minutes. See *August 18, 2010 Preliminary Examination Transcript* at 12. With the sequence of events as testified to by Officer Keller the following occurred in that time frame:

Officer Keller walked up to the door;

Officer Keller knocked and Defendant answered;

Officer Keller had a conversation with Defendant about why he was there, asked Defendant to confirm he was the subject of the complaint, which Defendant did;

Officer Keller requested Defendant's identification;

Defendant began yelling and cussing at Officer Keller;

Officer Keller made another request for identification

Defendant pushed Officer Keller;

Officer Keller put his foot on the threshold of the door;

Officer Keller called for backup;

Defendant tried to slam the door on Officer Keller's foot several times;

Defendant's Mother came to the door;

Officer Keller began to try to explain to her why he was there;

Defendant and Defendant's Mother continued to argue with Officer Keller.

It is difficult, bordering on unbelievable, to imagine that all these events occurred within the span of a "few minutes."

On direct examination, Officer Keller testified that he put his foot in the door, right after the assault on his person, to stop Defendant from trying to close the door. *Id* at 10. It seems he knew Defendant would try to close the door without any indication if the same from Defendant. However, he later testifies on cross examination, that he put his foot in the door *after* the first time the Defendant tried to close it. *Id* at 19. At this time, the door would not close that because the deadbolt was engaged. It is common knowledge that a door cannot be opened from the inside if the deadbolt is engaged. So for some unfathomable reason, Defendant decided to engage the deadbolt *after* he opened the door even though he had apparently decided he would try to close it on Officer Keller.

Further, Officer Cates testified that while she was standing with Officer Keller and he was attempting to get identification, Officer Keller's foot was not in the doorway the entire time. See *August 24, 2010 Preliminary Examination Transcript* at 13. Officer Keller's testimony makes it seem as if he put his foot in the door immediately upon being pushed and never took it off.

Officer Keller's whole account of the reason for his foot being in the door makes no sense and in conjunction with Officer Cates' account makes less sense. At one point, she states the door was attempted to be shut on Officer Keller several times. At another point she states she only witnessed Defendant attempting to shut it once. She claims Defendant's Mother is standing in front of the door and this blocks the door. However, Officer Cates also states Officer Keller's

foot is in the door. She cannot seem to decide the actual reason the door would not close.

Shockingly, Officer Cates sees no evidence that a deadbolt latch is stopping the door from closing.

If Officer Keller's and Officer Cates' testimony concerning the door is taken as true, it leaves the impression, among others, that not only did Defendant engage the deadbolt before trying to slam the door on Officer Keller the first time; he then disengaged it and tried to slam it again with his mother standing in front of it. With those cunning strategies, the officers were certainly lucky they succeeded with arresting Defendant in the end.

Defendant submits to this Court that the reason the account of the foot in the door is nonsensical is because *Officer Keller put his foot in the door while Defendant attempted to close it on him.*

In reality, Defendant confirmed he was the person which Ms. Solak alleged had left her a message. After confirming this, Defendant got angry when Officer Keller proceeded to ask for his identification, thinking he was being harassed because he had sued the city. Defendant tried to slam the door on Officer Keller. Officer Keller, possibly just on reflex, put his foot in the door to stop it.

Sometime after that, someone realized Officer Keller had made an illegal entry into the House.

With the realization, came the story of the push. The push means probable cause for an arrest, which justifies the entry into the House. There is no doubt Officer Keller had no other reason or right to be in the House. Defendant and his mother repeatedly told the officers to leave.

To add to the already illogical story, Officer Keller calls for backup as soon as he is assaulted, yet he did not inform dispatch he had been assaulted. He did not tell Officer Cates, the first back

up to arrive, about being pushed. He only told her his foot had been slammed in the door. He made no indication that he considered this an assault. He made no mention of the alleged push to the second two officers to arrive. In sum, he gave no one, including Defendant and Defendant's Mother, indication that he planned to arrest Defendant for assault.

Officer Keller claims to have specifically asked for his supervisor when he called for backup.

See *August 18, 2010 Preliminary Examination Transcript* at 9 and 15. Officer Cates also claims to have made the call for the supervisor. See *August 24, 2010 Preliminary Examination Transcript* at 8 and 21. It seems neither officer can remember who actually requested the supervisor. Regardless, Sergeant Skelton arrives and gives the arrest order. Officer Keller states that due to the assault on his person, he planned to arrest Defendant the entire time, no matter what his supervisor said. See *August 18, 2010 Preliminary Examination Transcript* at 32. He just did not want to go in alone. That is quite understandable since he had already been pushed by Defendant. Yet, he still did not attempt an arrest when *three* officers arrived to back him up. He waited for four. Possibly, Defendant's elderly Mother appeared too formidable.

Now, after the alleged push, and despite intending to arrest Defendant no matter what his supervisor ordered, Officer Keller permits Defendant to call whomever he pleases. Further, Officer Keller was so intent on Defendant, the subject he intended to arrest, he could not even remember from where Defendant produced his identification or if he left the vicinity when he retrieved it. He has justification for possibly letting Defendant wander off; he was alone and would not enter the House by himself. However, Officer Keller loses sight of Defendant not once, but twice. The second time he permits Defendant to leave his sight to retrieve his mother's

wallet. At this point, Officer Cates is at the scene standing on the porch with him. See *August 24, 2010 Preliminary Examination Transcript* at 7, 19, and 3. The excuses for letting the subject of his future arrest leave his sight become feebler and less likely.

To effectuate the arrest, four, possibly, five officers (Officer Keller and Cates give inconsistent testimony on this point as well) enter the House without a warrant. Defendant backs away.

Defendant makes no threatening moves. Defendant is directed to put his hands behind his back but he does not do it. This passive, non threatening action necessitates the use of a taser, by Officer Keller no less, the officer who had already argued with the Defendant and who had an injured foot due to the actions of Defendant.

Lastly, Officer Cates claimed to have warned Defendant's Mother she would be arrested if she did not stop trying to get past her and grabbing at her. Yet, on cross examination, she basically admits she did not warn Defendant's Mother of the possibility of arrest. The point is not whether she is required to warn Defendant's Mother of a pending arrest, the point is that her inconsistent statements about her own arrest seriously call her credibility into question. Any statements she made that back up Officer Keller's already unbelievable story become even more suspect.

Conclusion

While it is certainly within the district court's discretion to find that the testimony of the police officers produced a question of fact as to probable cause for the arrest of Defendant, the testimony has to be somewhat credible. The officers' testimony was blatantly inconsistent and illogical. In fact, it only tended to demonstrate that a reason was fabricated to arrest the Defendant. The district court's decision to bind the Defendant over on the charge was hardly

“within the range of reasonable or principled outcomes.” See *People v. Babcock*, 469 Mich. 247, 269, 666 NW2d 231, 243 (2003), *Maldonado v. Ford Motor Co.*, 476 Mich. 372, 719 NW2d 809 (2006), cert denied, 2007 WL 506054 (US 2007). Accordingly, Defendant requests that this court quash the information on charge of resisting and obstructing a police officer.

Respectfully submitted,



Mark M. Haidar (P-35143)

Attorney for the Defendant, Joseph Saad

Dated: October 18, 2010

INVESTIGATOR'S REPORT

Police Offense Number

2010 - 4052

Prosecutor's Case No.

MORE DEFN.

DATE: 07-11-10

CUST	DEFENDANT'S NAME (LAST, FIRST, MIDDLE)	FULL ADDRESS	AGE	SEX	RACE	D.O.B.	STATE & LOCAL I.D.
Y	Saad, Joseph (600/250/BRO/BRO)	5718 N. Melborn, Dearborn Heights MI 48127 R-OPER #S-300-441-000-574 TCN#I810192004L	61	M	W	07-21-48	SID#1954847W FBI#457252HB6
N	Saad, Zihra (505/180/BRO/BLN)	5718 Melborn, Dearborn Heights MI 48127 R-OPER #S-300-982-008-871 TCN#I810191009X	78	F	W	11-13-31	Unknown

OFFENSE (To be filled in by Prosecutor)

Place of Offense:

5718 Melbourn, Dearborn Heights MI 48127

Date: 07-10-10
2100

Date of Complaint:
07-10-10

Complainant's Name (Last, First, Middle) Full Address
Solak, Cel 5655 Melborn, Dearborn Heights MI 48127
Keller, Scott (DHPD) 25637 Michigan Ave., Dearborn Heights MI 48125
Cates, Carrie (DHPD) 25637 Michigan Ave., Dearborn Heights MI 48125

Age
69

Sex
F

Race
W

Phone Number
#313-561-6595

Person To Sign (Last, First, Middle)

D/Sgt. Terri L. Smith (Info. & Belief)

Reviewing Attorney and Bar No.

DETAILS OF INVESTIGATION

GUN USED Y / N - INJURED

Complainant will testify that the defendant previously had a relationship with her granddaughter (Krystal Domanski) and that since then the defendant has continuously threatened and harassed her and her granddaughter and that Krystal currently has a Personal Protection Order against him. On 07-10-10 complainant received a call from the defendant who left a voice message stating "I am glad your not in my life. You are an evil witch and I hope you die". After hearing the message, complainant notified police who responded to location and listened to the message. Complainant will further testify that her other granddaughter (K'lynn Solak-18) was choked by the defendant recently in the city of Dearborn and that since then she fears for her life because of the defendant's threats and that she keeps her blinds and storm shutters closed because of him.

Officer S. Keller will testify to being dispatched to 5655 Melborn on a report of harassing phone calls. Upon arrival Officer Keller met with the complainant who was crying and shaking as she advised Officer Keller that a man named Joe that lives down the street (three houses off the corner with blue SUV in the driveway) called her and threatened her. Officer Keller was attempting to talk to complainant to calm her down as she appeared terrified and was crying uncontrollably. Complainant stated that Joe left her a message on her answering machine and she wanted Officer Keller to hear the message. Complainant further stated that she is afraid for her life and that she keeps her blinds and storm shutters closed because of Joe. Officer Keller again tried getting complainant to calm down so she could play the message back on the answering machine for him to hear. The complainant played the message and Officer Keller heard a male voice state "I cant believe you are doing this. I am glad your not in my life, your an evil witch and I hope you die". As the message was playing, complainant


MSGT. TERRI L. SMITH

DHPD/DB

Officer in Charge

Emp. No.

Dept./Precinct/Bureau

Reviewed &
Approved By:

DCAPT. JEFFREY SEIPENKO

DHPD/DB

Commanding Officer

Dept./Precinct/Bureau

REQUEST FOR WARRANT RECOMMENDATION

Name of
Defendant #1 only Joseph Saad

Offense No. 10-4052

DETAILS OF INVESTIGATION (CONTINUED)

began crying even more and trembling. Complainant reported being terrified of Joseph and the messages he leaves her on her answering machine and further stated that this is an ongoing problem with Joe calling the house and threatening her. Officer Keller and complainant then walked back outside to the driveway so that Officer Keller could confirm with complainant the house where Joe lives.

Officer Keller then drove down to 5718 Melborn and notified dispatch of the address and that there will be a follow up conducted at this residence. Officer Keller knocked on the front door and heard a male voice inside the house. The male came to the door, opened it and was asked by Officer Keller if his name was Joe and he stated it was. Officer Keller then asked if he knew the complainant and if he called her. Defendant stated that he did know her and that he did call her today. Defendant related that he knows the complainant through her granddaughter, Krystal Domanski. Officer Keller then asked defendant if he left her a message in regards to calling her an evil witch and hoping she dies and he responded that he did say that to the complainant and repeated to Officer Keller that he wishes she would die. Officer Keller attempted to explain to the defendant that he can't just call the complainant and leave messages like that.

Officer Keller asked defendant to get his license or some other picture identification and the defendant began screaming, " I dont have to give you shit!!!! I'm not fucking giving you anything. Your harassing me and I'm calling the state police". Officer Keller repeatedly asked the defendant to get his license and he continued screaming that he wasn't giving his license. Officer Keller walked one more step toward the door and the defendant physically shoved him back toward the porch step and yelled to get off his property and then started screaming for his mother (Zihra). The defendant refused to furnish identification after being ordered several times to do so and continued screaming as he began stepping back into the house. The defedant then slammed the front door of the home but was unable to close it entirely because the dead bolt was engaged and the door couldn't latch. The defendant attempted to slam the door in Officer Keller's face several more times and Officer Keller put his foot in the doorway on the threshold and notified dispatch to send back up. Defendant then repeatedly slammed the front steel door on Officer Keller's left foot and ankle and then pushed on the door from inside trapping Officer Keller's foot almost under the door. The defendant continued screaming that he wasn't letting anyone inside the home and that the police can't come in. Defendant then began screaming again for his mother (Zihra) stating "the police are harassing me". Back up officers Cates, Gondek and Reserve Officer Nason arrived on scene to assist and again Officer Keller ordered the defendant to produce identification or he was going to be arrested for Hindering an investigation and Assault on a police officer and explained to the defendant why the license was needed to confirm his identity. Officer Keller, while still on the porch then observed the defendant get on his cell phone and start walking around the house making phone calls.

Defendant's mother (Zihra) then stepped into the doorway screaming at officers. Zihra was upset as she stood in the doorway, stating that there were 15 cop cars when there were only 3 police cars parked on the street. The defendant was still being observed, walking from the hallway to the kitchen, while talking on his phone to family members. Officer Keller then attempted to explain to Zihra why the police were at her home and why the police needed the defendant's license. Zihra began yelling at officers, stating this is all from the lawsuit that is filed against the city of Dearborn Heights. Officer Keller again tried explaining to the defendant and his mother why officers were there. Officer Keller then advised Zihra to get her indentification and a request was made through dispatch that a supervisor respond to the scene. After being provided both defendant and his mother's identification, Officer Cates ran a lein check on them away from the front porch area. Sgt. Skelton

REQUEST FOR WARRANT RECOMMENDATION

Name of
Defendant #1 only Joseph Saad

Offense No. 10-4052

DETAILS OF INVESTIGATION (CONTINUED)

arrived and was advised of the situation and what had occurred. The defendant was still walking from the hallway to the kitchen and back talking on his cell phone and yelling he wasn't going anywhere. Sgt. Skelton advised Officer Keller to arrest defendant for Hindering and Assault and Battery on a Police Officer as he had not only shoved Officer Keller but slammed Officer Keller's foot in the door several times. Officers went inside the residence to arrest the defendant and while trying to make their way Zihra was blocking the hallway and holding her arms out so officers couldn't get past her. Zihra continuously blocked Officer Keller's path down the hallway by grabbing his forearms. Officer Keller repeatedly told her to stop touching him and to stop interfering. Officer Gondek went around to the kitchen through the family room as the defendant was standing in the hallway yelling at officers. The defendant was advised he was under arrest and Sgt. Skelton grabbed the defendant's right arm and Officer Gondek grabbed his left arm. At that point became aggressive and began pulling his arms away and actively resisting arrest. The defendant continuously refused to put his hands behind his back as Officer Keller advised him that if he didn't put his arm behind his back he would be tasered. The defendant refused to comply and continued to actively resist. Officer Keller then yelled taser, taser, taser and the defendant was subsequently tasered. The defendant went down to the ground with officers trying to handcuff him. The defendant was ordered to stop resisting several times by Officer Keller in loud verbal commands but continued to actively resist and was tasered again for five seconds. The defendant then stopped resisting after the second taser and was handcuffed and taken into custody. The defendant was secured in the rear of unit 19 and was transported to DHPD where he was processed. After the booking process, defendant complained of chest pains and DHPD was notified and responded to the jail booking area. The defendant was transported to Garden City Hospital for medical treatment and evaluation. Officer Keller was suffering pain in his left foot and ankle and had a hard time walking on it. While at the hospital, Officer Keller was treated for his injuries. The defendant who was released from the hospital was then brought back to the jail and placed in a cell.

Officer C. Cates will testify to responding to assist Officer Keller on a harassment complaint, as Officer Keller had advised dispatch to have another patrol car respond as back up. Officer Cates arrived on scene and observed Officer Keller standing on the porch with his foot in the front doorway while both defendants were screaming at him to get off of the property. Both subjects were refusing to give any information and the male was on the phone with someone saying it was his attorney and they were making threats to sue the Dearborn Heights Police Department and that we were just there to harass them from their other lawsuit pending with DHPD. Officer Keller was then able to talk the female into giving her identification to him because a report needed to be made. Officer Cates took both identifications and walked down the sidewalk to give the information to dispatch over the radio. During that time Sgt. Skelton arrived on scene and was advised of the situation. Officer Skelton advised Officer Keller that Joseph needed to be placed under arrest for assaulting Officer Keller by slamming the door on his left foot and further hindering the investigation. Officers Keller, Gondek, and Reserve Nason entered the home with Sgt. Skelton to attempt to place Joseph under arrest and Zihra was standing in the entry way holding her arms out further hindering the investigation. When officers were able to reach the defendant he began to resist officers. Officer Cates was able to get Zihra into the other hallway to the left and stood with her to keep her from hindering anymore with the investigation. Zihra then began to become irate and was screaming and yelling at officers to leave her son alone and get out of her home. Zihra grabbed Officer Cates' uniform shirt and was pulling on it and smacking Officer Cates in the arms while

REQUEST FOR WARRANT RECOMMENDATION

Name of
Defendant #1 only Joseph Saad

Offense No. 10-4052

DETAILS OF INVESTIGATION (CONTINUED)

trying to get around to see what was going on with her son. Officer Cates continuously advised Zihra to step back in the hallway. Zihra then reached her hands out and grabbed ahold of Officer Cates' shirt collar, scratching Officer Cates in the neck while trying to push Officer Cates out of the way to get to her son, who was being placed under arrest by the other officers. Officer Cates advised Zihra once again to stand back and she continued to try and push Officer Cates out of the way. Zihra was then advised she would be placed under arrest for Hindering an investigation and Assaulting a Police Officer. Defendant then began to resist arrest by pulling her arms away from Officer Cates and refusing to put her hands behind her back. Officer Cates had a short struggle with Zihra as she was trying to get Zihra's hands out from the front of her (defendant was pulling away and stood against a door in the hallway) but was able to place Zihra under arrest and walk her to the patrol vehicle out in the front of the home. While walking out to the patrol vehicle Zihra stopped and sat down on the ground. Officer Cates was able to help Zihra back on her feet and she got into the patrol vehicle. Defendant (Zihra) was then transported to DHPD to be processed and lodged.

At DHPD Zihra requested an ambulance because she was having a hard time breathing and having chest pains. DHFD Rescue #1 responded and transported Zihra to Oakwood Hospital to be assessed. Once at Oakwood Hospital, the doctors decided to admit Zihra to the cardiac floor. While at Oakwood Hospital the head security officer, Lt. Christian Hansen informed Officer Cates of a disorderly group of family members in the lobby causing a scene by taking pictures of the security staff and trying to get past them to gain access to Zihra. Officer Cates advised them to contact Dearborn Police Department who responded. The security staff also had to book an incident report # 0623-10. An attorney named Nemer Hadous arrived on scene and demanded to the staff that they let him speak to Zihra. The staff advised him that per their policy, anyone in police custody was not allowed to have visitors. Nemer was screaming and yelling in the lobby, causing a disturbance and was advised that anyone in police custody was not allowed to have visitors. Nemer was screaming and yelling in the lobby, causing a disturbance and was threatening the staff as well. Officer Cates went outside and advised him he could come back to speak to Zihra as long as he calmed down. As Officer Cates was taking Nemer back to allow him to speak with Zihra he was making threatening comments, stating "I will have your jobs for this." to the staff and Officer Cates advised him if he was not going to cooperate with the staff he would not be allowed to speak to Zihra. Nemer was then escorted back outside with the rest of the family and Dearborn police officers. Another attorney named Robert Hadous was also on scene and spoke to Officer Cates stating he would cooperate and just wanted to speak to Zihra for a minute and would get the family to leave the premises. Officer Cates took Robert back to speak to Zihra. Robert left after a few brief words with Zihra and was able to have the family leave with him.

While Officer Cates was at Oakwood Hospital she observed a few scratches to the right side of her neck and had three pictures taken of the scratches and sent them by email to be printed out at DHPD.

Officer Cates stood by the room at Oakwood Hospital until 0530hrs on 07/11/10 until she was relieved by Officer Franckowiak. Zihra Saad was later admitted to the Cardiac Care Unit and further medical testing would be needed at the hospital the following day, therefore defendant Zihra Saad was released to the care of Oakwood Hospital and is no longer in custody at this time.

WAYNE COUNTY PROSECUTING ATTORNEY'S RECOMMENDATION

IN CUSTODY YES NO	Dept. Precinct Dearborn Heights Police	Date: 07-10-10	<input type="checkbox"/> Further Investigation Ordered <input type="checkbox"/> Further Investigation Completed				
I <input type="checkbox"/> DENY <input type="checkbox"/> RECOMMEND THE ISSUING OF A WARRANT AGAINST:			MISDEMEANOR <input type="checkbox"/> FELONY <input type="checkbox"/>				
DEFENDANT'S NAME (LAST, FIRST, MIDDLE)		FULL ADDRESS	AGE	SEX	RACE	D.O.B	ST. & LOCAL ID.
Saad, Joseph (600/250/BRO/BRO)		5718 N. Melborn, Dearborn Heights MI 48127	61	M	W	07-21-48	SID#1954847W FBI#457252HB6
R-OPER #S-300-441-000-574							
TCN#I810192004L							
Saad, Zihra (505/180/BRO/BLN)		5718 Melborn, Dearborn Heights MI 48127	78	F	W	11-13-31	Unknown
R-OPER #S-300-982-008-871							
TCN#I810191009X							
<p>Offense 1 _____ Defn. No. 1 2 3 _____</p> <p>Attempted <input type="checkbox"/> MCLA _____</p> <p>Offense 2 _____ Defn. No. 1 2 3 _____</p> <p>Attempted <input type="checkbox"/> MCLA _____</p> <p>Offense 3 _____ Defn. No. 1 2 3 _____</p> <p>Attempted <input type="checkbox"/> MCLA _____</p>							
<p>Denial Reason: _____</p> <p>Denial Code _____</p> <p>Defn. No. 1: _____ Defn. No. 2: _____ Defn. No. 3: _____</p>							
<p>Instructions: _____</p> <p>_____</p>							
<p>_____</p> <p>Date Completed</p>				<p>Signed: _____</p> <p>Assistant Prosecuting Attorney & Bar Number</p>			

WAYNE COUNTY PROSECUTOR'S OFFICE WITNESS LIST

The People of the State of Michigan

Circuit Court Number _____

vs.

Recorder's Court Number _____

Joseph Saad
Zihra Saad Defendants

George I. Gish
Clerk of Recorder's Court

Teola P. Hunter
Wayne County Clerk

Attorney for Defendant

The names and residences of the witnesses for the People in the above-entitled cause are listed below. The witnesses the people intend to produce at trial, pursuant to MCLA 767.40a(3), are designated by an "X" in the boxes to the left.

NAMES

RESIDENCES
(List next leave/furlough dates for all police witness)
(List phone numbers for all civilian witness)

<input type="checkbox"/>	<u>Cel Solak</u>	<u>5655 Melborn, Dearborn Heights MI 48127 #313-561-6595</u>
<input type="checkbox"/>	<u>Officer Scott Keller</u>	<u>25637 Michigan Ave., Dearborn Heights MI 48125</u>
<input type="checkbox"/>	<u>Officer Carrie Cates</u>	<u>" " "</u>
<input type="checkbox"/>	<u>Officer M. Gondek</u>	<u>" " "</u>
<input type="checkbox"/>	<u>Sgt. J. Skelton</u>	<u>" " "</u>
<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	<u>D/Sgt. Terri L. Smith</u>	<u>25637 Michigan Ave., Dearborn Heights. MI 48125</u>
	<u>Officer in charge of case</u>	

OIC Telephone Number 313-277-7716
Police Department DEARBORN HEIGHTS POLICE DETECTIVE BUREAU

Warrant APA _____ Date: _____ Trial APA-Final Witness List _____ Date: _____

Dearborn Heights Police Department Crime Report

Dearborn Heights Police
Department
25637 Michigan Ave
Dearborn Heights, MI
48125
313 277-6770

Case No. 1000004052
Report No. 1000004052.1
Report Date: 7/10/2010

Subject: **MALICIOUS USE OF TELECOM DEVICE, :SAAD,JOSEPH**

Case Report Status **A - Approved**
Agency County **82 - Wayne**
Agency City/Township **89 - Dearborn Heights**
Occurred On **7/10/2010 9:33:00 PM**
Or Between
Business Name
Location **5655 N MELBORNE**
CSZ **Dearborn Heights, MI**
48127
Census/Geo Code
Jurisdiction
Grid
Sector
Map
Call Source **Telephone**
Vehicle Activity
Dr. Veh. Traveling
Cross Street
Means
Motive

Entered On **7/10/2010 10:26:23 PM**
Entered By **00168 - Keller, Scott**
Verified On **7/16/2010 4:50:47 AM**
Verified By **00079 - Lux, Charles**
Approved On **7/20/2010 11:42:55 AM**
Approved By **00885 - Mandell, Daria**
Disposition **Active**
Excp. Clear Reason
Excp. Clear Date
Reporting Agency **Dearborn Heights Police**
Department
Report Type **Crime Report**
Division **Patrol**
Notified
Related Cases

Reporting Officer **00168 - Keller, Scott**
Assisted By **00179 - Cates, Carrie**
Agency Assisted
Call for Service # **100014693**

Report Narrative

R/O WAS DISPATCHED TO 5655 MELBORN ON A REPORT OF HARASSING PHONE CALLS. R/O ARRIVED ON SCENE AND SPOKE TO COMPL. SOLAK. SOLAK WAS CRYING AND SHAKING WHEN SHE CAME OUTSIDE TO MEET R/O. SOLAK STATED TO R/O THAT THE MAN JOE THAT LIVES DOWN THE STREET, 3 HOUSES OFF THE CORNER WITH BLUE SUV IN THE DRIVEWAY, CALLED HER AND THREATENED HER. R/O WAS ATTEMPTING TO TALK TO SOLAK TO CALM HER DOWN. SOLAK WAS TERRIFIED AND CRYING UNCONTROLLABLY. SOLAK STATED TO R/O THAT JOE LEFT HER A MESSAGE ON HER ANSWERING MACHINE. SOLAK WANTED R/O TO HEAR THE MESSAGE. R/O FOLLOWED SOLAK INSIDE HER HOME TO HER FAMILY ROOM. SOLAK STATED TO R/O SHE IS AFRAID FOR HER LIFE FROM JOE AND SHE KEEPS HER BLINDS AND STORM SHUTTERS CLOSED BECAUSE OF HIM. R/O AGAIN TRIED GETTING SOLAK TO CALM DOWN SO SHE COULD PLAY THE MESSAGE BACK ON THE ANSWERING MACHINE FOR R/O TO HEAR. SOLAK FOUND THE MESSAGE AND PLAYED IT BACK. R/O HEARD A MALE VOICE STATE " I CANT BELIEVE YOU ARE DOING THIS. I AM GLADE YOUR NOT IN MY LIFE, YOUR AN EVIL WITCH AND I HOPE YOU DIE." AS THAT MESSAGE WAS PLAYING , MRS SOLAK BEGAN CRYING EVEN MORE AND TREMBLING. R/O AND MRS SOLAK WALKED BACK OUTSIDE TO THE DRIVEWAY AND R/O CONFIRMED THE HOUSE WHERE JOE LIVES WITH MRS. SOLAK. R/O STATED TO MRS SOLAK IT WAS THE HOUSE ON THE OPPOSITE SIDE OF THE STREET WITH THE BLUE SUV IN THE DRIVEWAY AND ABOUT 3 HOUSES OFF THE CORNER. MRS SOLAK STATED YES THAT IS THE HOUSE WHERE JOE LIVES.

R/O DROVE DOWN TO 5718 MELBORN, NOTIFIED DISPATCH OF THE ADDRESS AND THAT THERE WILL BE A FOLLOW UP CONDUCTED AT THIS HOUSE. R/O EXITED THE PATROL CAR AND WALKED UP TO THE FRONT DOOR. R/O KNOCKED ON THE FRONT DOOR AND HEARD A MALE VOICE INSIDE THE HOUSE. THE MALE CAME TO THE DOOR AND OPENED IT. R/O ASKED THE MALE IF HIS NAME WAS JOE AND HE STATED IT WAS. R/O ASKED IF HE KNEW MRS SOLAK AND IF HE CALLED HER. HE SAID HE DID KNOW HER AND THAT HE DID CALL HER TODAY. JOSEPH RELATES HE KNOWS MRS SOLAK THROUGH HER GRAND DAUGHTER KRYSTAL DOMANSKI. R/O ASKED JOSEPH IF HE LEFT HER A MESSAGE IN REGARDS TO CALLING HER AN EVIL WITCH

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 313 277-6770

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Case No. 1000004052
 Report No. 1000004052.1
 Report Date: 7/10/2010

AND HOPING SHE DIES. JOSEPH RESPONDED HE DID SAY THAT TO MRS SOLAK AND REPEATED TO R/O THAT HE WISHES SHE WOULD DIE. R/O ATTEMPTED TO EXPLAIN TO JOSEPH THAT HE CANT JUST CALL MRS SOLAK AND LEAVE MESSAGES LIKE THAT. MRS SOLAK IS TERRIFIED OF JOSEPH AND THE MESSAGES HE LEAVES HER ON HER ANSWERING MACHINE. MRS SOLAK STATES THIS IS AN ONGOING PROBLEM WITH JOE CALLING THE HOUSE AND THREATENING HER.

R/O ASKED JOSEPH TO GET HIS LICENSE OR SOME OTHER PICTURE IDENTIFICATION. AS SOON AS R/O ASKED FOR IDENTIFICATION FROM JOE, HE BEGAN SCREAMING AT R/O, " I DONT HAVE TO GIVE YOU SHIT!!!!!!" "IM NOT FUCKING GIVING YOU ANYTHING." "YOUR HARASSING ME AND IM CALLING THE STATE POLICE." R/O ASKED REPEATEDLY FOR JOE TO GET HIS LICENSE. JOE CONTINUED SCREAMING AT R/O THAT HE WASNT GIVING R/O HIS LICENSE. R/O WALKED ONE MORE STEP TOWARD THE DOOR AND JOE PHYSICALLY SHOVED R/O BACK TOWARD THE PORCH STEP AND YELLED TO GET OFF HIS PROPERTY AND THEN STARTED SCREAMING FOR HIS MOTHER ZIHRA. JOE REFUSED TO FURNISH IDENTIFICATION TO R/O AFTER BEING ORDERED SEVERAL TIMES TO DO SO. SEE CASE #10-4053

Offense Detail: 1380 - Telephone Used for Harassment, Threats

Offense Description	IBR Code	IBR Group	Crime Against	Offense File Class	PACC	Local Code	Using	Criminal Activity	Force Level	Weapons
1380 - Telephone Used for Harassment, Threats	13C - Intimidation	A	PE	13003 -	INTIMIDATION/STALKING					

No. Prem. Entered: Yes
 Entry Method: 00 - None (No Bias)
 Type Security: NO

Suspect S1: SAAD, JOSEPH

Suspect Number	Name	Aliases	Alert(s)	Address	CSZ	MO	Active	Height	Build	Teeth
S1	SAAD, JOSEPH			5718 N MELBORNE Dearborn Heights, MI 48127						

DOB	Age	Sex	Race	Ethnicity	HT	WT	Eye Color	Hair Color	Hair Style	Hair Length	Facial Hair	Complexion	Build	Teeth
7/21/1948	61	M - Male	W - White	U - Unknown										

Place of Birth	SSN	DLN	DL State	DL Country	Occupation/Grade	Employer/School	Employer CSZ	Res. Country	Res. Country	Resident Status
										U - Unknown

HM - Home Phone #1

313 974-0480

Dearborn Heights Police Department Crime Report

Dearborn Heights Police Department
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 Dearborn Heights, MI 48125
 313 277-6770

Case No. 1000004052
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Supplemental IDs
 ID Type

ID Number

ID Issuer

Name

Physical Characteristics
 Type

Descriptor

Description

Suspect Notes

Victim V1: SOLAK, CEL

Victim Code

V1

Victim Of

1380 - Telephone Used for Harassment, Threats

Victim Type

I - Individual

Name

SOLAK, CEL

DOB

5/6/1941

Place of Birth

Aliases

Age

69

SSN

Alert(s)

Sex

M - Male

DLN

Address

5655 MELBORN ST

Race

W - White

DL State

CSZ

Dearborn Heights, MI 48127

Ethnicity

U - Unknown

DL Country

Attire

Ht.

Occupation/Grade

Injury

Wt.

Employer/School

Circumstances

Eye Color

Employer Address

Hair Color

Employer CSZ

Facial Hair

Employer Address

Complexion

Res. County

Res. Country

Resident Status

R - Resident of the community, city, or town where the offense occurred

Phone/Email
 Type

HM - Home Phone #1

Description

313 561-6595

Supplemental IDs
 ID Type

ID Number

ID Issuer

Testify

Name

Law Enforcement Officer Killed or Assaulted Information	Type
	Assignment
	Activity
Other ORI	

Justifiable Homicide Circumstances	

Victim Offender Relationships

Offender

Relationship

S1 - SAAD, JOSEPH **20 - Victim Was Acquaintance**

Victim Notes

Dearborn Heights Police Department Arrest Report

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Department
25637 Michigan Ave
Dearborn Heights, MI
48125
313 277-6770

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Case No. 1000004053
Report No. 1000004053.2
Report Date: 7/10/2010

Force Level
Weapons

Offense Detail: 1312 - Agg/Fel Assault - Police Officer

Offense Description	1312 - Agg/Fel Assault - Police Officer	Location Type	20 - Residence/Home	No. Prem. Entered	
IBR Code	13A - Aggravated Assault	Offense Completed?	Yes	Entry Method	
IBR Group	A	Hate/Bias	00 - None (No Bias)	Type Security	
Crime Against	PE	Domestic Violence	No	Tools Used	
Offense File Class	13002 - AGGRAVATED/FELONIOUS ASSAULT				
PACC					
Local Code					
Using					
Criminal Activity					
Force Level					
Weapons	40 - Personal Weapons (Hands, Feet, Teeth, etc.)				

Offense Detail: 4801 - Resisting Officer

Offense Description	4801 - Resisting Officer	Location Type	20 - Residence/Home	No. Prem. Entered	
IBR Code	90Z - All Other Offenses	Offense Completed?	Yes	Entry Method	
IBR Group	B	Hate/Bias	00 - None (No Bias)	Type Security	
Crime Against		Domestic Violence	No	Tools Used	
Offense File Class	48000 - OBSTRUCTING POLICE				
PACC					
Local Code					
Using					
Criminal Activity					
Force Level					
Weapons					

Arrestee A1: SAAD, JOSEPH

Arrestee Number	A1	DOB	7/21/1948	Place of Birth	DETROIT, MI, US
Name	SAAD, JOSEPH	Age	61	SSN	385-48-2626
Aliases		Sex	M - Male	DLN	S300441000574
Alert(s)		Race	W - White	DL State	MI - Michigan
Address	5718 N MELBORNE	Ethnicity	U - Unknown	DL Country	
CSZ	Dearborn Heights, MI 48127	Ht.	6' 0"	Occupation/Grade	
MO		Wt.	250	Employer/School	
Attire		Eye Color	BRO - Brown	Employer Address	
Habitual Offender Status		Hair Color	BRO - Brown	Employer CSZ	
		Hair Style	S - Straight	Res. County	
		Hair Length	S - Short	Res. Country	USA - United States of America
		Facial Hair	06 - Mustache Only	Resident Status	R - Resident of the community,

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city, or town where the offense occurred

Complexion
 Build **MED - Medium**
 Teeth

Phone/Email Type
 HM - Home Phone #1
 HM - Home Phone #1

Description
 313 974-0480
 313 974-0480

Supplemental IDs
 ID Type ID Number ID Issuer Name

Physical Characteristics
 Type Descriptor Description

Arrest No. **14212**
 Arrest Type **T - Taken Into Custody**
 FBI No. **457252HB6**
 Criminal Tracking Number CTN
 Transaction Control Number TCN **1810192004L**
 Person Control Number PCN **58036742**
 State No. **1954847W**
 Armed With **01 - Unarmed**
 Multi. Clearance **N - Not Applicable**
 Multi. Clearance Offense
 Prev. Suspect No. **1**
 Notified Name
 Arrest Notes

Arrested For **4801 - Resisting Officer
 1312 - Agg/Fel Assault - Police Officer
 4899 - Obstruct Police (Other)**
 Count
 Fingerprint
 Photos
 Miranda Read
 Miranda Waived
 Number of Warrants
 Juvenile Disposition
 Adult Present
 Detention Name

Booked On
 Booked Location
 Released Location
 Released On
 Released By
 Release Reason
 Held For
 Date/Time Arrested **7/10/2010 9:30:00 PM**
 Arrest Location **5718 MELBORNE**

Victim V1: KELLER, SCOTT

Victim Code V1	Victim Of 4801 - Resisting Officer 1312 - Agg/Fel Assault - Police Officer 4899 - Obstruct Police (Other)
Victim Type P - Police Officer	
Name KELLER, SCOTT	DOB 9/28/1974
Aliases	Age 35
Alert(s)	Sex M - Male
	Race W - White
Address 25637 MICHIGAN Dearborn Heights, MI 48125	Ethnicity U - Unknown
CSZ	Ht.
Attire	Wt.
Injury M - Apparent Minor Injury	Eye Color
	Hair Color

Dearborn Heights Police Department Arrest Report

Dearborn Heights Police Department
 25637 Michigan Ave
 Dearborn Heights, MI 48125
 313 277-6770

Case No. 1000004053
 Report No. 1000004053.2
 Report Date: 7/10/2010

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Circumstances **02 - Assault On Law Enforcement Officer(s)**

Facial Hair

Res. County

Complexion

Res. Country

Resident Status

R - Resident of the community, city, or town where the offense occurred

Phone/Email

Type	Description
BU - Business Phone #1	313 277-6770

Supplemental IDs

ID Type	ID Number
Law Enforcement Officer Killed or Assaulted Information	Type A - Assaulted
	Assignment H - One Officer Vehicle - Assisted
	Activity 11 - All Other
	Other ORI

ID Issuer

Testify

Name

Justifiable Homicide Circumstances	Name

Victim Offender Relationships

Offender	Relationship
A1 - SAAD, JOSEPH	98 - Victim Was Stranger

Victim Notes