

DEFENDANT: Mark C. Clark
DOB: 08/01/1968 AGE: 52
ADDRESS:
29 Mullen Road
Underhill, VT 05489

ARRAIGNMENT DATE: August 19, 2020
SA CASE ID.: 20-12206
ASSIGNED (D)SA: Susan Hardin Esq. ERN:
POLICE DEPT.: VSP-Williston
INVESTIGATING OFFICER: Tpr. Nathaniel Quealy
VICTIM ADVOCATE: Kathyria Ferrer-Rodriguez
INCIDENT NO.: 20A103517

STATE OF VERMONT

SUPERIOR COURT
CHITTENDEN UNIT
STATE OF VERMONT
v.
MARK C. CLARK

CRIMINAL DIVISION
DOCKET NO. 1938-8-20 Cncr

INFORMATION BY STATE'S ATTORNEY

By the authority of the State of Vermont, the State's Attorney for Chittenden County, upon the oath of office charges:

COUNT 1 OF 3

CHARGE CODE: 13V1201C3A | CODE ID: 228 | OFFENSE CLASS: F
CHARGE NAME: BURGLARY INTO AN OCCUPIED DWELLING

Mark C. Clark, in the County of Chittenden, at Jericho on or about August 18, 2020, entered any occupied dwelling knowing that he or she was not licensed or privileged to do so, with the intent to commit a simple assault, to wit: by going into the home of [REDACTED] and assaulting him, in violation of 13 V.S.A. §§ 1201(a) and 1201(c)(3)(A).

Penalty: Imprisoned not more than 25 years or fined not more than \$1,000.00 or both.

COUNT 2 OF 3

CHARGE CODE: 13V1023A1 | CODE ID: 116 | OFFENSE CLASS: M
CHARGE NAME: ASSAULT - SIMPLE

Mark C. Clark, in the County of Chittenden, at Jericho on or about August 18, 2020, attempted to cause recklessly caused bodily injury to another, to wit: by assaulting [REDACTED], causing discoloration and swelling to his head, in violation of 13 V.S.A. § 1023(a)(1).

Penalty: Imprisoned not more than 1 year or fined not more than \$1,000.00 or both.

VERMONT SUPERIOR COURT
CHITTENDEN UNIT

AUG 24 2020

FILED

COUNT 3 OF 3

CHARGE CODE: 13v1026a1&1455 | CODE ID: 2242 | OFFENSE CLASS: M

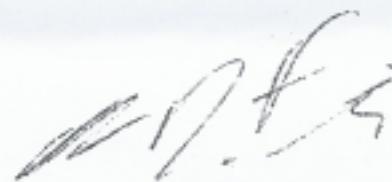
CHARGE NAME: Disorderly Conduct - Fight Etc - Hate Crime

Mark C. Clark, in the County of Chittenden, at Jericho on or about August 18, 2020, with intent to cause public inconvenience, or annoyance or recklessly creating a risk thereof, engaged in fighting or in violent, tumultuous or threatening behavior, whose conduct was maliciously motivated by the victim's actual or perceived sexual orientation, in violation of 13 V.S.A. § 1026(1) and 13 V.S.A. § 1455.

Penalty: Imprisoned not more than two years or fined not more than \$2,000.00 or both.

Against the peace and dignity of the State.

DATED: August 19, 2020



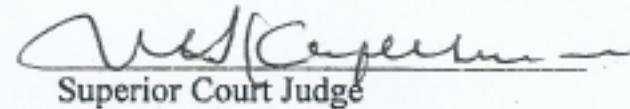
State's Attorney (Deputy)

Referral(s) if applicable: -

Diversion Tamarack No Referral – Reason: Charges not appropriate

This information has been presented to me and I have found probable cause.

DATED: 8/19/20


Superior Court Judge

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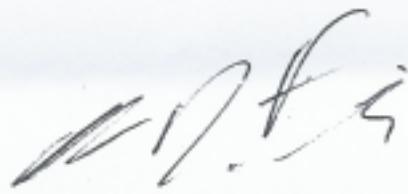
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State's Attorney (Deputy)

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DATED:

Superior Court Judge

State of Vermont v. _____ Docket No. _____

**NOTICE OF THE POTENTIAL COLLATERAL CONSEQUENCES
OF A CONVICTION**

- (1) When you plead guilty or are convicted of an offense, you may suffer additional legal consequences beyond jail or prison, home confinement, probation, and fines. These consequences may include:
 - (A) being unable to get or keep some licenses, permits, or jobs;
 - (B) being unable to get or keep benefits such as public housing or education;
 - (C) receiving a harsher sentence if you are convicted of another offense in the future;
 - (D) having the government take your property;
 - (E) being unable to serve in the military or on a jury;
 - (F) being unable to possess a firearm; and
 - (G) being unable to exercise your right to vote if you move to another state.
- (2) If you aren't a United States citizen, a guilty plea or conviction may also result in your deportation, removal, exclusion from admission to the United States, or denial of citizenship.
- (3) The law may provide ways to obtain some relief from these consequences. Contact information for organizations that may be able to offer assistance to persons seeking relief from collateral consequences may be found on the Internet at:
<http://forms.vermontlaw.edu/criminaljustice/index.cfm>
- (4) Further information about the consequences of conviction is available on the Internet at:
<http://ago.vermont.gov/about-the-attorney-generals-office/divisions/criminal-justice/collateral-consequences-conviction/>
- (5) Conviction of a crime in Vermont does *not* prohibit an individual from voting in Vermont.

Date

Defendant

Defense Attorney

AFFIDAVIT

Case #20A103517
STATE OF VERMONT
CHITTENDEN COUNTY, ss.

NOW COMES Trooper Nathaniel Quealy, affiant(s), being duly sworn and on oath, deposes and says he has probable cause to believe that Mark C. Clark (08-01-1968) hereinafter referred to as defendant, has committed the offense(s) of Burglary, a violation of Title 13, Vermont Statutes Annotated Section 1201 AND Simple Assault, a violation of Title 13, Vermont Statutes Annotated Section 1023, AND Hate Motivated Crimes, a violation of Title 13, Vermont Statutes Annotated Section 1455.

The undersigned being duly sworn, deposes and says that I, Trooper Nathaniel Quealy am now and have been since January 2016, a full time employee of the Vermont State Police, being presently assigned to the Williston Barracks as a Trooper.

1. On August 18th, 2020 at approximately 1723 hours I was notified by dispatch of a call from Vicki Clark (07-27-1958) who advised that her brother, the defendant Mark Clark (08-01-1968) had been sprayed in the face with mace by "the maintenance man" [REDACTED] advised that she had MARK in the house with her, and that [REDACTED] was out behind the property.
2. It should be noted that the two address at which this incident occurred are [REDACTED] [REDACTED]. The two residences are approximately 200 feet apart and share a mutual loop driveway. The defendant does not reside at either of these addresses, and [REDACTED]
3. I responded to the scene with Trooper Barone and Detective Trooper Filipek. Detective Trooper Filipek arrived on scene first. Upon my and Trooper Barone's arrival on scene several minutes later, we met with Det. Trooper Filipek who advised that he had been meeting with [REDACTED] and the defendant and that the defendant was currently washing the mace out of his eyes.
4. All three of us then walked down the driveway to the other residence, where I met with [REDACTED] while Trooper Barone and Det. Trooper Filipek met with his acquaintances. I asked [REDACTED] what happened, and he told me that there had been a long-term history between him and the "other guys" from the other residence. [REDACTED] told me that he had been out mowing and that the defendant pulled up in his truck and "started swinging". He then told me that several weeks prior four people from the other residence had all assaulted him at once, cracking his ribs, rupturing a kidney, and giving him a concussion. [REDACTED] then told me that today the defendant "threatened me with a fight"

and had hit him on the top of the head. He then gestured towards the upper left side of his head, which appeared to be swollen and discolored.

5. [REDACTED] told me that after the defendant struck him, that he "slugged him back, then he left". I asked [REDACTED] when mace came into play in the situation, and he told me "When I had to protect myself". He then clarified that "during the slugging, I gave him a little shot because I got beat by four of them last time". [REDACTED] advised that he struck the defendant with his right hand and had been holding the mace in his left hand.
6. I asked [REDACTED] if he always carries the mace, and he told me that he had "never ever had to carry that until this last time because I feared for my life". I then asked [REDACTED] what precipitated the issues between himself and the other residence and he initially told me that he believed they were upset about him mowing the lawns and blowing grass onto their cars. I asked [REDACTED] if the defendant said anything to him prior to the altercation today and [REDACTED] replied "Yup- 'Im gonna kill ya. You're a faggot and I'm gonna kill ya." [REDACTED] told me that he takes it "very harshly" when someone calls him a faggot, because his sexual preference and what he does is up to him. He then told me that "I do what I do and I am what I am... and I have a friend who I associate with..." .
7. I then asked [REDACTED] if he thought that his neighbors' animosity towards him could be related to that and he told me that he believed it was a factor. [REDACTED] became emotional at this point and began to cry. He lowered his voice and told me that he didn't want to say it too loud and told me that he thought the situation was more due to "the hatred thing" and not as much because of the lawn mowing. I asked [REDACTED] if he would be willing to provide a written statement, and he advised that he would. I told [REDACTED] that we could come back the next day and get the statement from him, which he ultimately advised he would prefer. [REDACTED] written statement will be attached and incorporated with this case as if fully set forth herein at a later date and time.
8. Trooper Barone and I then walked over to [REDACTED] and allowed rescue to enter the residence to attend to the defendant. I met with Det. Trooper Filipek, who advised that he had been speaking with other members of the residence who had told Det. Trooper Filipek that the defendant had been "coaxed over" to [REDACTED] residence by [REDACTED]. Det. Trooper Filipek advised that none of the individuals present had witnessed the incident, but that [REDACTED] had seen the defendant stumbling around after the fact.
9. There was a group of individuals outside the residence, who advised that the defendant was their uncle. They were ultimately identified as CODY Groll (12-29-1996), KOREY

Martello (11-10-1984), PETER Groll (04-26-1961), SCOTT, and the complainant VICKI. All of them expressed surprise and told me that [REDACTED] injuries were self-inflicted after hearing me advise rescue personnel that [REDACTED] should be evaluated. The defendant was then brought out of the residence by rescue and brought into the back of the ambulance for further evaluation.

10. After speaking with this group, I went back to [REDACTED] and his group who were still speaking with Trooper Barone. Trooper Barone informed me that after further conversing with [REDACTED] she learned that the altercation had actually occurred just inside the entryway to [REDACTED] residence, and that [REDACTED] had watched the defendant enter his house while he had been outside mowing. [REDACTED] had then gone into his residence to determine what the defendant was doing, at which point the defendant accosted [REDACTED] and punched him in the head/face.
11. Trooper Barone's supplemental affidavit detailing her conversation with [REDACTED] and his acquaintances will be attached and incorporated with this case.
12. Trooper Barone and I then met with the defendant as he was being released from the ambulance after being cleared by rescue. The defendant told me that he had pulled into the driveway while the defendant had been mowing. The defendant then told me that [REDACTED] had gestured for him to come over towards him where he was out back mowing. He told me that he parked his truck, went out back to see [REDACTED], but that he wasn't there. The defendant stated he then walked out front, where [REDACTED] was walking into his residence. The defendant claimed that [REDACTED] gestured for him to come into the house with him while saying "come here, come here!" at which point the defendant stated [REDACTED] sprayed him with the mace and then told the defendant to "Get in your truck and get the fuck out of here". He told me that he couldn't defend himself and had not struck [REDACTED]
13. It should be noted that while speaking with the defendant, he had several fresh finger shaped bruises on his arms and chest that appeared to be consistent with someone trying to push the defendant away. He advised that he didn't know where the bruises came from and that the marks on his chest were from the mace.
14. The defendant also stated that he did not know [REDACTED] but knew that there was a history between [REDACTED] and his (the defendant's) family.
15. Subsequent to all of the aforementioned facts and circumstances of the case, I placed the defendant under arrest and transported him to the Williston State Police Barracks for

processing. The defendant's handcuffs were double locked and checked for tightness before being placed into my cruiser for transport.

16. While at the barracks I learned that the defendant is on parole with Burlington Probation and Parole and contacted them. P&P agreed to file lodging paperwork for a parole violation given the facts and circumstances of the case.
17. I then contacted the on-call judge, the Honorable Judge Gregory Rainville. Judge Rainville ordered that bail be set at \$10,000 with conditions of release, which are attached and incorporated with this case. Per the judge, the defendant is due to appear before Chittenden County Superior Court via video on August 19th, 2020 at 1030 hours to answer to the aforementioned charges.
18. Wherefore, the undersigned affiant finds probable cause that the defendant Mark C. Clark (08-01-1969) committed the criminal offense of burglary by "enter(ing) any building or structure knowing that he is not licensed or privileged to do so, with the intent to commit a felony, petit larceny, **simple assault**, or unlawful mischief" when he entered the residence of [REDACTED] without permission where he then assaulted [REDACTED] by punching him in the face. The defendant also committed the criminal offense of Simple Assault when "he attempt(ed) to cause or purposely, knowingly, or recklessly cause(d) bodily injury to another" by striking [REDACTED] in the face/head. The defendant also committed the criminal offense of Hate-Motivated Crimes by "commit(ing), causes to be committed, or attempts to commit any crime and whose conduct is maliciously motivated by the victim's actual or perceived race, color, religion, national origin, sex, ancestry, age, service in the U.S. Armed Forces, disability as defined by 21 V.S.A. § 495d(5), sexual orientation, or gender identity" when he told [REDACTED] "You're a faggot and I'm gonna kill ya" while committing the criminal offense of burglary and immediately before assaulting [REDACTED]

Subscribed and sworn to before me on
this 18 day of August, 2020

(Notary Public) (Judicial Officer)


(Affiant)
8-18-2020
(Date)



SUPPLEMENTAL AFFIDAVIT
CASE 20A103517

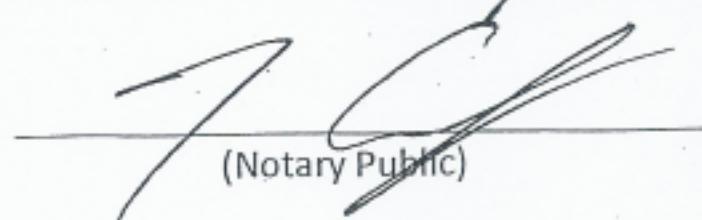
STATE OF VERMONT
CHITTENDEN COUNTY

NOW COMES, Trooper Brittani Barone, affiant, being duly sworn and on oath, deposes and says:

1. On August 18, 2020 at approximately 1723 hours I assisted Trooper Quealy with a citizen assist at 1 Jericho East Apt in the Town of Jericho.
2. I arrived on scene and Trooper Quealy and I spoke with [REDACTED] DOB 11/21/1965. [REDACTED] was visibly shaken. Trooper Quealy initially spoke with [REDACTED]. After the conversation, Trooper Quealy advised me [REDACTED] had advised he was a gay male and had been dealing with the neighbors harassing him for being gay.
3. When I spoke with him about what occurred, [REDACTED] advised he was mowing the lawn, as he maintains the property. [REDACTED] further advised he saw Mark Clark DOB 08/01/1968 pull into the driveway in his truck and park next to his shop/residence. [REDACTED] advised he saw Clark get out of the truck and go into his residence.
4. [REDACTED] went into the residence to see what Clark was doing and did not see him inside. He stated he saw Clark 1 step away from the door outside the residence. Clark then came into the residence towards [REDACTED]. [REDACTED] advised Trooper Quealy that Clark called him a "faggot", stated he was going to kill him and then punched him in the face. [REDACTED] stated he struggled to push Clark out of the residence, but was able to get him to the doorway, where he sprayed him in the face with pepper spray.
5. [REDACTED] was fighting back tears while speaking with me. He stated he didn't want to involve the police. [REDACTED] also indicated there was a history with Clark's family and that 4 weeks prior to this incident he had been thrown on the ground and assaulted by 4 males. He advised that was why he had been carrying pepper spray.
6. Trooper Quealy and I spoke with Clark when he was finished being evaluated by rescue for the pepper spray in his eyes. He stated that he had pulled in the driveway and [REDACTED] had waved him over. Clark further stated that when he got to the door of the residence, [REDACTED] sprayed him in the face with pepper spray and then punched him in the back of the head 2 or 3 times. He then stated [REDACTED] told him to leave, but he couldn't because of the spray in his eyes. While speaking with Clark I observed there to be multiple fresh

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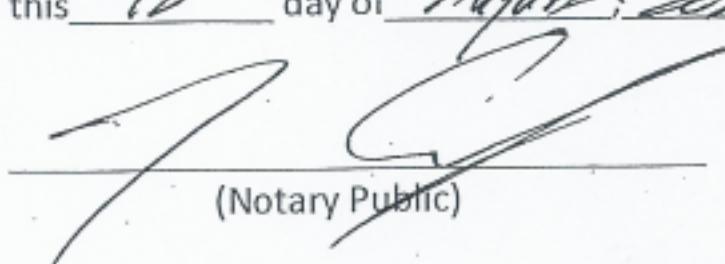

(Affiant)


(Notary Public)

08/18/2020
(Date)

blue bruises on his left bicep and on his chest. I asked him if they came from the incident and he advised he wasn't sure how he got them.

7. Clark was placed into custody without incident and transported to the Williston State Police Barracks by Trooper Quealy.
8. I provided [REDACTED] with the TRO Hotline number and he advised he would be staying at [REDACTED] for the evening to avoid being further assaulted.

Subscribed and sworn to before me on
this 18 day of August, 2020

(Notary Public)


(Affiant)
08/18/2020
(Date)

Docket No. 1938-8-20 Cncr	State vs. Clark, Mark C.	1938-8-20 Cncr
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Prosecutor:	Susan Hardin	Defendant:	Mark C. Clark
Motions pdg:		DOB:	08/01/1968
Bail set:	\$10000.00	POB:	Burlington, VT
Incarcerated:	Northwest State Corr Facility (St.A)	Atty:	Harley G. Brown III
Conditions:		Aliases:	
Case Status:		Address:	29 Mullen Road Underhill VT 05489
Active - Pretrial			
Next Hearing:			

Dspt	Docket No.	Ct.	Statute	F/M/O
1	1938-8-20 Cncr	1	13 1201(c)(3)(a)	fel
BURGLARY INTO AN OCCUPIED DWELLING				
2	1938-8-20 Cncr	2	13 1023(a)(1)	mis
ASSAULT-SIMPLE				
3	1938-8-20 Cncr	3	13 1026a(1)&1455	mis
DISORDERLY CONDUCT-FIGHT, ETC-HATE CRIME				

08/19/20 Information and Affidavit filed on 3 disputes.
Dispute 1 for Docket No. 1938-8-20 Cncr Count #1, BURGLARY INTO AN OCCUPIED DWELLING, Felony, 13 V.S.A. 1201(c)(3)(a). Alleged offense date: 08/18/20. Arrest/citation date: 08/18/20 VSP-Williston.
Arraignment set for 08/19/20 at 10:00 AM.
Arraignment scheduled for 08/19/20 cancelled.
Dispute 2 for Docket No. 1938-8-20 Cncr Count #2, ASSAULT-SIMPLE, Misdemeanor, 13 V.S.A. 1023(a)(1). Alleged offense date: 08/18/20. Arrest/citation date: 08/18/20 VSP-Williston.
Dispute 3 for Docket No. 1938-8-20 Cncr Count #3, DISORDERLY CONDUCT-FIGHT, ETC-HATE CRIME, Misdemeanor, 13 V.S.A. 1026a(1)&1455. Alleged offense date: 08/18/20. Arrest/citation date: 08/18/20 VSP-Williston.
Arraignment set for 08/19/20 at 10:00 AM. Kathyria Ferrer-Rodriguez, Victim's Advocate, entered as-party/participant 3.
Surety bond or cash set by A. Gregory Rainville on dispute 1-3. Bail Amount: 10000.00 pre. Condition[s] 1-2,4,11,14-17,31 imposed. No.4: released into the custody of responsible adult approved by court; No.11: Curfew: 24 hour @ court approved residence; No.14: not to have contact with victim- [REDACTED]; No.15: not to harass victim- [REDACTED].
[REDACTED] No.16: to appear in court on 8/19/20 @10:30 AM; No.17: subject to arrest without warrant if does not abide by Condition[s] 31; Other conditions: stay 300 feet away from victim's home, car, place of employment and victim himself.
Arraignment held by Michael S. Kupersmith. (CDVIDEO) sa mcfarlan/da chase/Dft present da challenges probable cause as to count 1. Court finds PC.
Probable Cause found by Judge Michael S. Kupersmith on disputes 1-3. Attorney assigned: Margaret M. Jansch.
Request granted for public defender. 50.00 to be paid; Payment Order No. 167475. Dft to fill out application for further review of Public Defender fee.
Copy of Affidavit and Information given to defendant. 24 hour rule waived.
Reading of Information waived. Defendant pleads not guilty on disputes 1-3. Pre-trial discovery order issued.
Conditions set by Michael S. Kupersmith on dispute 1-3. Bail Amount: 0.00 set. Condition[s] 1-2,14-15,31-33 imposed; No.14: not to have contact with [REDACTED]; No.15: not to harass [REDACTED]

Other conditions: Defendant shall not be within 300 feet of victim, victim's residence, vehicle, or place of employment. Dft shall not go onto East Jericho Drive in Jericho Vermont. Dft shall be arrested without warrant if in violation of conditions 14,15,31 and 32.

Case status changed to Active - Pretrial.

08/20/20 Case status changed to Active - Pretrial.

Note: Pinks put in PD's mailbox.

08/21/20 1 document filed by Attorney Jessica Brown for party 1: Notice of Attorney Conflict.

08/24/20 Attorney assigned: Harley G. Brown III.

Note: Attorney Harley Brown, III, is assigned.

2 documents filed for party : State's info signed for PC by Judge MSK; Signed conditions of release.