

CITY COURT      CITY OF SARATOGA SPRINGS  
COUNTY OF SARATOGA    STATE OF NEW YORK  
PRESENT:    HONORABLE FRANCINE R. VERO  

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THE PEOPLE OF THE STATE OF NEW YORK,



DECISION & ORDER  
Docket No.: CR-02713-21

-vs-

JAMAICA M. MILES,

Defendant.

APPEARANCES:

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Municipal Center  
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Ballston Spa, NY 12020

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Attorney for Defendant

**Vero, J.:**

The Defendant, Jamaica M. Miles, stands charged with one count of Unlawful Imprisonment in the Second Degree (Penal Law § 135.05), a class A misdemeanor and one count of Disorderly Conduct (Penal Law § 240.20 (5)), a violation. The People allege that on July 14, 2021 at about 7:44 p.m. during a protest in Saratoga Springs the Defendant obstructed vehicular traffic by standing in the southbound lane of Broadway at Phila Street and, by placing herself in front of a motor vehicle, restrained the movement of the occupants.

In an omnibus motion dated December 14, 2021 the Defendant moved pursuant to Criminal Procedure Law (“CPL”) § 170.40 to dismiss the informations in the furtherance of justice. Facts essential to the determination of the motion were in dispute, in particular the Parties’ interpretation

of video evidence which the Court had not yet viewed. By Decision and Order of this Court dated January 3, 2022 Defendant's motion was held in abeyance pending a *Clayton* hearing. The *Clayton* hearing (the "Hearing") was conducted on January 20, 2022. The Court makes the following findings of fact and conclusions of law.

#### Findings of Fact

At the Hearing the Defense called Mark Emanatian and Molly Dunn to testify. The Parties stipulated to the admission of Defendant's Exhibits "A" and "B", enlarged drone photos taken the night of July 14, 2021 depicting a crowd of protestors and cars parked on Broadway in Saratoga Springs. The Parties also stipulated to the admission of the People's Exhibit "1", a flash drive with nine minutes and 16 seconds of footage of the July 14<sup>th</sup> incident in question.

Mark Emanatian, Executive Director of the Capital District Area Labor Federation, testified he has known Ms. Miles for 12 years. He described Ms. Miles' volunteer work for the Schenectady City Schools and explained she was instrumental in securing state funding for teachers. He further testified that on a monthly basis Ms. Miles volunteers at mass food distributions in which food is distributed to up to 700 families in need.

Molly Dunn testified she participated in the July 14<sup>th</sup> protest and identified herself in the video (People's Exhibit "1") standing in front of and blocking the car that is the subject of Ms. Miles' charges. Ms. Dunn further testified that as a result of her actions (like Ms. Miles) she was charged with Unlawful Imprisonment in the Second Degree and Disorderly Conduct. She explained the misdemeanor was dismissed and, with respect to the Disorderly Conduct violation, she agreed to an adjournment in contemplation of dismissal ("ACOD") with a date for ultimate dismissal in 30 days (CPL § 170.55 (2)). The Court finds Ms. Dunn and Mr. Emanatian to be credible and credits their testimony.

The video footage (People's Exhibit "1") is taken from the inside of a southbound facing car parked on Broadway at Phila Street. The driver captures the footage and there is one passenger in the front passenger side seat. The video depicts a group of protestors, some holding signs, standing in front of the car blocking its passage. Ms. Dunn testified that prior to the start of the video the car was stopped for "under 10 minutes." A number of protestors also stand along the driver's side of the vehicle and by the passenger side in front of the Adelphi Hotel.

A woman (not Ms. Miles) speaks into a megaphone. As she is speaking the passenger expresses concern to the driver that the individuals surrounding the car have weapons. Ms. Miles is seen in the distance walking south on Broadway on or near the sidewalk with a stroller. She passes Phila Street, crosses Broadway, proceeds south on Broadway in front of the Adelphi Hotel and walks by the vehicle without engaging the driver, passenger or protestors.

After Ms. Miles passes the car the woman with the megaphone says, "Now [] Jamaica Miles is going to say a few things." Ms. Miles then proceeds to the front of the vehicle, yells into a megaphone and walks from one side of the front of the car to the other, blocking its path. After approximately three minutes Ms. Miles leaves the area of the vehicle and appears to walk north on Broadway. For the remainder of the video Ms. Miles is not seen, but she is heard yelling into the megaphone.

On four occasions the vehicle occupants plead with the individuals surrounding their car to move so they can proceed on Broadway, but the crowd refuses to disburse. Four protestors engage in conversations with the driver and passenger and two tell them to be quiet when they ask to pass by. At about seven minutes and 10 seconds into the video the passenger calls 911 and asks the dispatcher to "do something" to "get [the crowd] away" so he can drive home to take prescription heart medication. During the 911 call a woman approaches the driver-side door and

the driver explains the passenger has a heart condition and needs to take medication. Shortly thereafter the crowd allows the vehicle to pass.

What the Court finds the most revealing from the video is that at no point did Ms. Miles engage with the driver or passenger in any manner, nor was she ever within earshot when they asked the crowd to disburse. It appears Ms. Miles was unaware the occupants were pleading with the protestors to move so they could proceed on the roadway or that the passenger had a heart condition and needed to take medication.

#### Conclusions of Law

CPL § 170.40 authorizes the court to dismiss a non-felony local criminal court accusatory instrument in the furtherance of justice. In making its determination the court must examine and consider a series of statutorily delineated factors (CPL § 170.40 (1)). These factors are as follows:

- (a) the seriousness and circumstances of the offense;
- (b) the extent of harm caused by the offense;
- (c) the evidence of guilt, whether admissible or inadmissible at trial;
- (d) the history, character and condition of the defendant;
- (e) any exceptionally serious misconduct of law enforcement personnel in the investigation, arrest and prosecution of the defendant;
- (f) the purpose and effect of imposing upon the defendant a sentence authorized for the offense;
- (g) the impact of a dismissal on the safety or welfare of the community;
- (h) the impact of a dismissal upon the confidence of the public in the criminal justice system;
- (i) where the court deems it appropriate, the attitude of the complainant or victim with respect to the motion;
- (j) any other relevant fact indicating that a judgment of conviction would serve no useful purpose (CPL § 170.40 (1) (a) – (j)).

The Court of Appeals has held that the statute “does not compel catechistic on-the-record discussion of items (a) through (j)” (*People v Rickert*, 58 NY2d 122, 128 [1983]). Rather, “the court is required to consider the factors individually and collectively in making a value judgment that is based upon striking a sensitive balance between the interests of the individual and those of

the state” (*People v Gordon*, 61 Misc 3d 966, 970 [Crim Ct, Kings County 2018] [*citing People v Harmon*, 181 AD2d 34, 36 [1<sup>st</sup> Dept 1992]]).

In this case, the Court examined and considered all the statutory criteria of CPL § 170.40 (1), both individually and collectively. The Court’s analysis follows:

The Court recognizes that blocking traffic is a serious matter (CPL § 170.40 (1) (a)). That being said, other than delay there is no proof in the record of any particular harm to the Complainant (the passenger of the vehicle at issue) caused by the Defendant’s conduct (CPL § 170.40 (1) (b)).

With respect to the evidence of guilt (CPL § 170.40 (1) (c)), there is little question the Defendant’s actions constitute disorderly conduct - the video evidence plainly showing Ms. Miles blocked the path of the Complainant’s car (Penal Law § 240.20 (5)).

The history and character of the Defendant (CPL § 170.40 (1) (d)) weigh heavily in favor of dismissal. Ms. Miles is a 47-year-old mother of four. She does not have a criminal record. In addition to Mr. Emanatian’s testimony the Court has considered the affidavit Ms. Miles submitted in support of her omnibus motion. In her affidavit Ms. Miles describes her extensive and impressive involvement in the community. She is a member of Emanuel Friedens Baptist Church, co-founder of All Of Us Community Action Group and is serving a three-year term as a member of the Schenectady City School District Board of Education. While “the fact that a defendant may have had no prior criminal record and an exemplary record, standing alone, is insufficient to justify a dismissal in the interest of justice, it is certainly of significance in the overall determination” (*People v Gragert*, 1 Misc 3d 646, 649 [Crim Ct, NY County 2003] [internal citations omitted]). In this case, the Defendant’s volunteerism and commitment to serving the less fortunate members of her community, all while raising four children, have significant weight in deciding this motion.

As to the purpose and effect of imposing upon the Defendant a sentence authorized for the offenses (CPL § 170.40 (1) (f)), if convicted of Unlawful Imprisonment in the Second Degree, a crime, Ms. Miles will face a sentence of up to one year of incarceration (Penal Law § 10.00 (4) (6)). Disorderly Conduct is a violation, not a crime, yet it carries a maximum sentence of 15 days (Penal Law § 10.00 (3) (6)). There would be no purpose in imposing a jail sentence upon a 47-year-old woman who has never been arrested before, particularly for an offense where there is no harm other than delay. Imposing a jail sentence will have an unduly harsh and detrimental effect in that Ms. Miles, a mother of four, would be unable to care for her family while imprisoned. Even if Ms. Miles were not sentenced to a term of incarceration a life-long misdemeanor conviction will hinder future employment opportunities, thereby negatively affecting her ability to financially support her children for years to come.

With respect to the impact of a dismissal (CPL § 170.40 (1) (h)), the Defendant must be accorded a jury trial for the misdemeanor (CPL § 340.40 (2)). If the misdemeanor proceeds to trial a significant amount of the Court's time and the time of the prospective and eventual jurors will be spent in the process of summoning jurors, selecting a jury, instructing jurors and waiting for them to deliberate. Due to COVID-19 protocols and social distancing requirements the jury will deliberate in the smaller City Court courtroom while the trial is held in the larger courtroom. As a consequence of both courtrooms being occupied by the trial, other Court matters will not be timely heard during the week to two-week-long trial. The public will gain confidence in the criminal justice system if the misdemeanor is dismissed and time and judicial resources are more appropriately devoted to serious crimes involving domestic violence, drugs, guns and extreme violence that come before this Court (CPL § 170.40 (1) (h)).

At the Hearing the Defense argued dismissal is warranted because Ms. Miles was offered a plea that is less favorable than the agreement offered to Ms. Dunn. Ms. Miles was offered a plea to one count of Disorderly Conduct in full satisfaction of both charges whereas Ms. Dunn agreed to a 30-day ACOD. While the offers would be inadmissible in any trial, the Court may consider the fact the offers were made at a *Clayton* hearing (*People v Joseph P.*, 106 Misc 2d 1075, 1079-80 [Just Ct, Westchester County 1980] [*citing People v James*, 98 Misc 2d 755, 756 -57 [Crim Ct, NY County 1979)]).

The People submit that 13 individuals were arrested in connection with the July 14<sup>th</sup> protest and they did not take a “one size fits all” or “cookie-cutter approach” to resolve these cases. Rather, all 13 arrestees received an individual, independent analysis to determine their level of culpability and each defendant received a plea offer that was appropriate given their culpability and criminal history. The People correctly noted that several of the July 14<sup>th</sup> arrestees agreed to ACODs and one accepted a plea to one count of Disorderly Conduct - the same plea agreement offered to Ms. Miles. The People explained Ms. Dunn received a 30-day ACOD because, unlike some of the other protestors, she never engaged with the driver or passenger. It is the People’s position that of all the individuals depicted in the People’s Exhibit “1” Ms. Miles has the “highest level of culpability” because she is “leading the group.”

While the Court notes it is common practice and appropriate to offer a plea based upon a defendant’s level of culpability, the Court disagrees with the People’s assessment of Ms. Miles conduct. Ms. Miles is not the most culpable, she is simply the loudest. What differentiates Ms. Miles from the other protestors is the volume and intensity of her voice. Ms. Miles blocks the vehicle’s path for about three minutes while other protestors stand in front of the car for the duration of the video. Four protestors spoke directly with the occupants and denied their repeated

requests for the crowd to disburse. Ms. Miles never spoke with the driver or passenger and it appears she was unaware the passenger needed to leave to take heart medication. Furthermore, the video plainly shows the crowd was already blocking the vehicle's path *before* Ms. Miles arrived upon the scene. Contrary to the assertion of the People at the Hearing, no evidence was introduced establishing that Ms. Miles was a "leader" of the group in this case.

The Court cannot dispose of Ms. Miles charges with ACODs without the consent of both the People and the Defense (CPL § 170.55 (1)). To this end, if Ms. Miles' charges are dismissed in the furtherance of justice she will essentially be placed in the same position as the several July 14<sup>th</sup> arrestees who agreed to ACODs because an ACOD is not an admission of guilt or innocence and after the expiration of the adjournment period the accusatory instrument is "deemed to have been dismissed by the court in *furtherance of justice*" (CPL § 170.55 (2) [emphasis added]). A dismissal will have a positive impact upon the public's confidence in the criminal justice system in that defendants with the same clear criminal history and the same or similar charges stemming from the same incident will receive essentially the same disposition (CPL § 170.40 (h)).

Lastly, the attitude of the Complainant with respect to the motion (CPL § 170.40 (1) (i)) also weighs in favor of dismissal. The Complainant did not testify at the *Clayton* hearing, nor did he submit an affidavit in opposition to Defendant's motion to dismiss. Likewise, the other person affected by the alleged criminal conduct, the driver of the vehicle, did not submit a deposition in support of the charges, nor did he participate in this proceeding in any fashion.

Although there is evidence of guilt of Disorderly Conduct (CPL § 170.40 (c)), as discussed above consideration of the relevant factors set forth in CPL § 170.40 (1) weigh in favor of dismissal. The Court finds the Defense satisfied its burden of proof by demonstrating by a



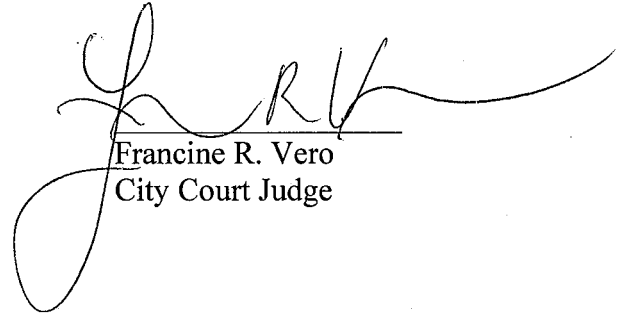
preponderance of the credible evidence that dismissal is warranted (*see* CPL §§ 210.45 (7), 170.45).

Accordingly, for the foregoing reasons, it is

ORDERED that the Defendant's motion to dismiss pursuant to CPL § 170.40 is granted.

The foregoing constitutes a Decision and Order of this Court.

Signed this 24<sup>th</sup> day of January, 2022  
at Saratoga Springs, New York



Francine R. Vero  
City Court Judge