

Hemming Park

April 7, 2017

State of Florida v. Thomas Craig Beckham

17CF019793AD

DISPOSITION MEMORANDUM

EXECUTIVE SUMMARY

This case involves multiple arrests made after a political protest and political counter-protest, both protected by the First Amendment, led to physical altercations and batteries committed upon law enforcement officers.

In this case, a protest group (the "Protesters") convened in Hemming Park, Jacksonville, Florida (the "Park") on April 7, 2017, to protest the United States' actions in Syria. The Protesters were led by David Schneider ("Schneider") and included Connell Crooms ("Crooms"). The Protesters convened in the Park without a permit. Shortly after the protest began, a counter-protest group ("Counter-Protesters") gathered in the same public space in the Park. The Counter-Protesters were led by Gary Snow ("Snow").

Law enforcement monitored the protest and counter-protest to ensure that both remained peaceful. When the situation between the Protesters and Counter-Protesters escalated, law enforcement intervened. Ultimately, multiple Protesters (Schneider, Crooms, William Wilder, Christina Kittle, and Thomas Beckham) were arrested for various alleged felonies, including for the batteries committed upon law enforcement. Counter-Protester Snow was not arrested.

This office has undertaken a thorough investigation into each of the arrests to determine the criminality of the conduct at issue. The protest, counter-protest, and ensuing conflict were recorded on multiple separate devices from various sources and angles. We have reviewed more than 30 recordings of this incident, and have spoken with witnesses, law enforcement, and counsel for defendants.

Based on this review, we have reached negotiated dispositions on misdemeanor offenses for three of the five Protesters who were arrested (Wilder, Kittle, and Beckham), and for whom there exists sufficient proof of their guilt. We have declined filing charges on two of the five Protesters who were arrested (Crooms and Schneider). We have declined to prosecute Schneider because there is insufficient evidence to support his charge. We have declined to prosecute Crooms because we have learned Crooms has a congenital hearing deficiency and we cannot prove that he actually heard and understood the commands of law enforcement.

We have also analyzed Counter-Protester Snow's conduct and have declined to pursue criminal charges against him. We did not charge Snow because his speech and actions,

though provocative and offensive to the Protesters, were protected by the First Amendment.

Further factual detail and our legal analysis follows.

FACTUAL SUMMARY

The Park requires that groups of “more than 20 people,” or groups using “amplified sound,” obtain a permit.¹ The Park clearly notices the permit requirement through public signage on the property and through the Friends of Hemming Park website.² If a group properly applies for a permit from the Friends of Hemming Park and is granted the permit, the group is assured a specific time certain to conduct its event, be it a party, festival, or demonstration.³

The Jacksonville Sheriff’s Office (“JSO”) learned late in the day on April 7 about the Protesters’ intent to engage in an unpermitted protest in the Park at approximately 6:00 pm. JSO dispatched one of its citywide teams to respond to the Park to ensure a safe and peaceful protest.

After the protest began, both Protesters and Counter-Protester Snow ascended a low park ledge and began making concurrent announcements regarding their particular political views. All were using megaphones to amplify their voices. All speech was political in nature, dealing with U.S. foreign policy in Syria. The Protesters viewed Snow’s actions as interrupting their protest, and they requested that law enforcement remove Counter-Protester Snow. JSO did not remove the Counter-Protesters or intervene. Because the Protesters had not convened pursuant to a permit, the Counter-Protesters had an equal right to be in the same public space. Both had equal right to promote their respective views.⁴

¹ <http://hemmingpark.org/event-application/>. (A copy of webpage is attached as Exhibit A).

² The posted park sign at Hemming Park puts organizers on notice of the following: “Park Rules Allow, but only with an FOHP permit: Vending or soliciting in designated areas, Holding an event, gathering, rally, or presentation, Using amplified sound or electrical outlets within the park.” (A photograph of the Park sign is attached as Exhibit B).

³ Permits and procedures can be found on the Friends of Hemming Park website at http://hemmingpark.org/wp-content/uploads/2015/12/01-Park_Event-Reservation-Application_FINAL.pdf. (A copy of this webpage is attached as Exhibit C).

⁴ Since 2011, JSO has been adhering to the legal advice of the Office of General Counsel that JSO could not intervene between Protesters and counter-Protesters or request that the counter protesters leave an area where both Protesters and Counter-Protesters have equal rights.

While both Protesters and Counter-Protester Snow were on the park ledge, a masked man wrapped himself in Snow's megaphone cord and physically pulled Snow off the ledge.⁵ Crooms stepped in between the masked man and Snow. Snow placed his left forearm on the chest of Crooms and with his right arm, reached over Crooms to untangle the cord. The video evidence depicting Snow's forearm on Crooms' chest suggests that Snow may have been using Crooms to regain his balance as he attempted to unwind himself from the megaphone cord.⁶ As this was happening, one of the Protesters took Snow's "Trump" flag and began walking to the left side of the stage. Once Snow untangled himself from the megaphone cord, he too walked to the left side of the stage pursuing the person who had taken his "Trump" flag. Crooms then moved around in front of Snow with his arms extended outward.

A JSO officer stepped between Snow and Crooms. The officer's back was facing Snow and his chest was facing Crooms. As the officer stepped between Snow and Crooms, Snow flicked his middle finger over the officer's shoulder and in the face of Crooms. Snow did not physically touch Crooms when he made the gesture, but likely would have if Crooms did not move his head back. Reacting to Snow's gesture, Crooms lunged forward. The officer consequently sought to secure Crooms.⁷

While officers attempted to detain Crooms by placing him in handcuffs, video footage clearly depicts Crooms resisting the officers by refusing to provide officers with his hands.⁸ A melee ensued that included three of the Protesters (Wilder, Kittle, and Beckham) physically striking, pushing, or grabbing JSO officers.

DISPOSITION OF THOMAS BECKHAM'S CASE

While officers were attempting to gain control of Crooms, Thomas Beckham ("Beckham") deliberately interfered with law enforcement's attempted detention of Crooms.⁹ In an effort to bring control over the ensuing melee, Officer Langston grabbed Beckham to

⁵ See Exhibit D- video labeled Snow 1.

⁶ See Exhibit D- video labeled Snow 1 and Crooms 2.

⁷ See Exhibit D- video labeled Snow 2.

⁸ Law enforcement did not know about Crooms' hearing deficiency at the time they were ordering him to comply with their commands.

⁹ See Exhibit D- video labeled Beckham 1 & 2. For viewer reference, Beckham can be seen at the left side of the screen wearing a black jacket and green kilt.

detain him. Beckham physically attempted to escape Officer Langston's grasp by pulling away. Protester Kittle tried to facilitate Beckham's escape by grabbing Officer Langston's left arm. Kittle then pushed Officer Langston in the face.¹⁰ Beckham ultimately wrangled himself from Officer Langston's grasp and then pushed another officer who was ultimately successful in detaining Beckham.¹¹

Beckham was arrested for the third degree felony of resisting an officer with violence in violation of Section 843.01, Florida Statutes, and the second degree misdemeanor of affray in violation of Section 870.01(1), Florida Statutes. Beckham has no prior criminal record and after finally being detained, he was compliant with law enforcement. No officer was injured by Beckham. There is clear evidence of Beckham committing the felony of resisting an officer with violence. However, in light of the facts and circumstances and with the agreement of the victim officer, the State has reached a negotiated disposition with Beckham on the lesser included misdemeanor offense of resisting without violence. Beckham has agreed to plead guilty to this offense and will complete 25 hours of community service. The State has agreed to terminate probation early upon his successful completion of the hours.

¹⁰ See Exhibit D- video labeled Kittle

¹¹ See Exhibit D- video labeled Beckham 3.

State of Florida v. Connell Crooms
17CF019805AD
DECLINATION MEMORANDUM

EXECUTIVE SUMMARY

This case involves multiple arrests made after a political protest and political counter-protest, both protected by the First Amendment, led to physical altercations and batteries committed upon law enforcement officers.

In this case, a protest group (the “Protesters”) convened in Hemming Park, Jacksonville, Florida (the “Park”) on April 7, 2017, to protest the United States’ actions in Syria. The Protesters were led by David Schneider (“Schneider”) and included Connell Crooms (“Crooms”). The Protesters convened in the Park without a permit. Shortly after the protest began, a counter-protest group (“Counter-Protesters”) gathered in the same public space in the Park. The Counter-Protesters were led by Gary Snow (“Snow”).

Law enforcement monitored the protest and counter-protest to ensure that both remained peaceful. When the situation between the Protesters and Counter-Protesters escalated, law enforcement intervened. Ultimately, multiple Protesters (Schneider, Crooms, William Wilder, Christina Kittle, and Thomas Beckham) were arrested for various alleged felonies, including for the batteries committed upon law enforcement. Counter-Protester Snow was not arrested.

This office has undertaken a thorough investigation into each of the arrests to determine the criminality of the conduct at issue. The protest, counter-protest, and ensuing conflict were recorded on multiple separate devices from various sources and angles. We have reviewed more than 30 recordings of this incident, and have spoken with witnesses, law enforcement, and counsel for defendants.

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We have also analyzed Counter-Protester Snow’s conduct and have declined to pursue criminal charges against him. We did not charge Snow because his speech and actions,

though provocative and offensive to the Protesters, were protected by the First Amendment.

Further factual detail and our legal analysis follows.

FACTUAL SUMMARY

The Park requires that groups of “more than 20 people,” or groups using “amplified sound,” obtain a permit.¹ The Park clearly notices the permit requirement through public signage on the property and through the Friends of Hemming Park website.² If a group properly applies for a permit from the Friends of Hemming Park and is granted the permit, the group is assured a specific time certain to conduct its event, be it a party, festival, or demonstration.³

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After the protest began, both Protesters and Counter-Protester Snow ascended a low park ledge and began making concurrent announcements regarding their particular political views. All were using megaphones to amplify their voices. All speech was political in nature, dealing with U.S. foreign policy in Syria. The Protesters viewed Snow’s actions as interrupting their protest, and they requested that law enforcement remove Counter-Protester Snow. JSO did not remove the Counter-Protesters or intervene. Because the Protesters had not convened pursuant to a permit, the Counter-Protesters had an equal right to be in the same public space. Both had equal right to promote their respective views.⁴

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While both Protesters and Counter-Protester Snow were on the park ledge, a masked man wrapped himself in Snow's megaphone cord and physically pulled Snow off the ledge.⁵ Crooms stepped in between the masked man and Snow. Snow placed his left forearm on the chest of Crooms and with his right arm, reached over Crooms to untangle the cord. The video evidence depicting Snow's forearm on Crooms' chest suggests that Snow may have been using Crooms to regain his balance as he attempted to unwind himself from the megaphone cord.⁶ As this was happening, one of the Protesters took Snow's "Trump" flag and began walking to the left side of the stage. Once Snow untangled himself from the megaphone cord, he too walked to the left side of the stage pursuing the person who had taken his "Trump" flag. Crooms then moved around in front of Snow with his arms extended outward.

A JSO officer stepped between Snow and Crooms. The officer's back was facing Snow and his chest was facing Crooms. As the officer stepped between Snow and Crooms, Snow flicked his middle finger over the officer's shoulder and in the face of Crooms. Snow did not physically touch Crooms when he made the gesture, but likely would have if Crooms did not move his head back. Reacting to Snow's gesture, Crooms lunged forward. The officer consequently sought to secure Crooms.⁷

While officers attempted to detain Crooms by placing him in handcuffs, video footage clearly depicts Crooms resisting the officers by refusing to provide officers with his hands.⁸ A melee ensued that included three of the Protesters (Wilder, Kittle, and Beckham) physically striking, pushing, or grabbing JSO officers.

DISPOSITION OF CONNELL CROOMS' CASE

Crooms was arrested for the third degree felonies of resisting arrest with violence, in violation of Section 843.01, Florida Statutes, and inciting a riot, in violation of Section 870.01(2), Florida Statutes. There is not a reasonable probability of conviction at trial on the charges.

⁵ See Exhibit D- video labeled Snow 1.

⁶ See Exhibit D- video labeled Snow 1 and Crooms 2.

⁷ See Exhibit D- video labeled Snow 2.

⁸ Law enforcement did not know about Crooms' hearing deficiency at the time they were ordering him to comply with their commands.

There does not exist a reasonable probability of conviction for the offense of inciting a riot. In order to prove that Crooms incited a riot, the State must prove that Crooms did so with the intent to incite a breach of peace and acted in concert with two or more people to accomplish this. Moreover, the State must prove that Crooms' words or actions were done defiantly and unlawfully in a violent manner. See State v. Beasley, 317 So.2d 750 (Fla. 1975).

Prior to Snow's middle finger gesture, and almost contacting Crooms with it, Crooms was peaceful. Crooms did not advocate for violent behavior, and, even, was seen raising his arms in the air as a show of the opposite of violence. Crooms' reaction to Snow appears in the videos to be prompted by Snow's actions towards Crooms. No evidence supports that Crooms did anything to incite a riot. There is not a reasonable probability of conviction for this charge.

While the video evidence establishes ample probable cause to support Crooms' arrest for resisting arrest,⁹ we decline to pursue this charge against Crooms. When Crooms failed to comply, it was unknown to law enforcement that Crooms has congenital deafness and sensorineural loss of hearing in both ears. Based on his established medical condition, Crooms has a defense to this charge. From medical records, we know that Crooms was not wearing any hearing aids when he was treated at the hospital. When the protests began, we know that Crooms was wearing at least one hearing aid, but this hearing aid was somehow dislodged at an unknown point during the events in question. Despite our investigative efforts, we have not been able to determine how or when Crooms' hearing aid or aids were dislodged.

Available video evidence is inconclusive about when Crooms lost one, or both, of his hearing aids. Medical records do establish, though, that without hearing aids, Crooms required a signing interpreter at the hospital and at one point medical personnel had to provide written instructions to Crooms based on his inability to hear.

Whether Crooms could hear the commands of law enforcement is unknown, and the State cannot prove that Crooms could hear the commands. Crooms' medical history and

⁹Misinformation exists about Crooms being tased, beaten unconscious, and deprived of medical care. The evidence refutes these claims. First, Crooms was never tased. Computerized records confirm that the officer's taser was armed, but never used. Similarly, medical records contain no indication of treatment for taser use. Second, Crooms did not lose consciousness. Paramedics and medical personnel—through their own testing—determined that Crooms was conscious and responsive to stimuli. Finally, Crooms was provided prompt medical attention. Indeed, Jacksonville Fire and Rescue Department ("JFRD") records show that Crooms was attended to less than eight minutes after being detained by law enforcement.

medical records provide him a factual defense—that is, that he did not hear the commands of law enforcement. This defense precludes a reasonable probability of conviction against Crooms on this charge.

For these reasons, the State declines to pursue prosecution of Crooms.

State of Florida v. Christine Kittle
17MM019727AD
DISPOSITION MEMORANDUM

EXECUTIVE SUMMARY

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Law enforcement monitored the protest and counter-protest to ensure that both remained peaceful. When the situation between the Protesters and Counter-Protesters escalated, law enforcement intervened. Ultimately, multiple Protesters (Schneider, Crooms, William Wilder, Christina Kittle, and Thomas Beckham) were arrested for various alleged felonies, including for the batteries committed upon law enforcement. Counter-Protester Snow was not arrested.

This office has undertaken a thorough investigation into each of the arrests to determine the criminality of the conduct at issue. The protest, counter-protest, and ensuing conflict were recorded on multiple separate devices from various sources and angles. We have reviewed more than 30 recordings of this incident, and have spoken with witnesses, law enforcement, and counsel for defendants.

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We have also analyzed Counter-Protester Snow's conduct and have declined to pursue criminal charges against him. We did not charge Snow because his speech and actions,

though provocative and offensive to the Protesters, were protected by the First Amendment.

Further factual detail and our legal analysis follows.

FACTUAL SUMMARY

The Park requires that groups of “more than 20 people,” or groups using “amplified sound,” obtain a permit.¹ The Park clearly notices the permit requirement through public signage on the property and through the Friends of Hemming Park website.² If a group properly applies for a permit from the Friends of Hemming Park and is granted the permit, the group is assured a specific time certain to conduct its event, be it a party, festival, or demonstration.³

The Jacksonville Sheriff’s Office (“JSO”) learned late in the day on April 7 about the Protesters’ intent to engage in an unpermitted protest in the Park at approximately 6:00 pm. JSO dispatched one of its citywide teams to respond to the Park to ensure a safe and peaceful protest.

After the protest began, both Protesters and Counter-Protester Snow ascended a low park ledge and began making concurrent announcements regarding their particular political views. All were using megaphones to amplify their voices. All speech was political in nature, dealing with U.S. foreign policy in Syria. The Protesters viewed Snow’s actions as interrupting their protest, and they requested that law enforcement remove Counter-Protester Snow. JSO did not remove the Counter-Protesters or intervene. Because the Protesters had not convened pursuant to a permit, the Counter-Protesters had an equal right to be in the same public space. Both had equal right to promote their respective views.⁴

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While both Protesters and Counter-Protester Snow were on the park ledge, a masked man wrapped himself in Snow's megaphone cord and physically pulled Snow off the ledge.⁵ Crooms stepped in between the masked man and Snow. Snow placed his left forearm on the chest of Crooms and with his right arm, reached over Crooms to untangle the cord. The video evidence depicting Snow's forearm on Crooms' chest suggests that Snow may have been using Crooms to regain his balance as he attempted to unwind himself from the megaphone cord.⁶ As this was happening, one of the Protesters took Snow's "Trump" flag and began walking to the left side of the stage. Once Snow untangled himself from the megaphone cord, he too walked to the left side of the stage pursuing the person who had taken his "Trump" flag. Crooms then moved around in front of Snow with his arms extended outward.

A JSO officer stepped between Snow and Crooms. The officer's back was facing Snow and his chest was facing Crooms. As the officer stepped between Snow and Crooms, Snow flicked his middle finger over the officer's shoulder and in the face of Crooms. Snow did not physically touch Crooms when he made the gesture, but likely would have if Crooms did not move his head back. Reacting to Snow's gesture, Crooms lunged forward. The officer consequently sought to secure Crooms.⁷

While officers attempted to detain Crooms by placing him in handcuffs, video footage clearly depicts Crooms resisting the officers by refusing to provide officers with his hands.⁸ A melee ensued that included three of the Protesters (Wilder, Kittle, and Beckham) physically striking, pushing, or grabbing JSO officers.

DISPOSITION OF CHRISTINE KITTLE'S CASE

During the melee with JSO officers, Christina Kittle ("Kittle") grabbed the arm of Officer Langston as Officer Langston attempted to take another protester, Thomas Beckham ("Beckham"), into custody. While grabbing Officer Langston, Kittle also struck Officer

⁵ See Exhibit D- video labeled Snow 1.

⁶ See Exhibit D- video labeled Snow 1 and Crooms 2.

⁷ See Exhibit D- video labeled Snow 2.

⁸ Law enforcement did not know about Crooms' hearing deficiency at the time they were ordering him to comply with their commands.

Langston in the face with an open hand. As Kittle continued to grab Officer Langston's arm, Officer Langston had to divert his focus from Beckham and detained Kittle instead.⁹

Kittle was arrested for the third degree felonies of battery on a law enforcement officer in violation of Section 784.07(2)(B), Florida Statutes, and inciting a riot in violation of Section 870.01(2), Florida Statutes.

There does not exist a reasonable probability of conviction for the offense of inciting a riot. In order to prove that Kittle incited a riot, the State must prove that she did so with the intent to incite a breach of peace and acted in concert with two or more people to accomplish this. Moreover, the State must prove that Kittle's words or actions were done defiantly and unlawfully in a violent manner. See State v. Beasley, 317 So.2d 750 (Fla. 1975). Video evidence does not support these elements. Rather, the video depicts Kittle attempting to pull a fellow protester away from an officer who was attempting to detain the other protester. The same video evidence, however, does unequivocally show Kittle committing a battery on a law enforcement officer.

Kittle has no prior criminal record. With the agreement of the victim officer, the State has reached a negotiated disposition with Kittle on the lesser included misdemeanor offense of battery. Kittle will plead guilty to this offense but will not be adjudicated. She has agreed to complete 25 hours of community service, and the State has agreed to terminate probation early upon her successful completion of the community service hours.

⁹ See Exhibit D- video clip labeled Kittle.

State of Florida v. David Schneider
17CF091776AD
DECLINATION MEMORANDUM

EXECUTIVE SUMMARY

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DISPOSITION OF DAVID SCHNEIDER'S CASE

During the melee, Schneider can be seen filming video and yelling. Schneider then abruptly leaves in an effort to avoid apprehension and arrest by JSO.

Schneider was arrested for the third degree felony of inciting a riot, in violation of Section 870.01(2), Florida Statutes. The State will not pursue prosecution of Schneider for inciting a riot.

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⁶ See Exhibit D- video labeled Snow 1 and Crooms 2.

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There does not exist a reasonable probability of conviction for the offense of inciting a riot. In order to prove that Schneider incited a riot, the State must prove that he did so with the intent to incite an immediate breach of peace and acted in concert with two or more people to accomplish this. Moreover, the State must prove that Schneider's words or actions were done defiantly and unlawfully in a violent manner. See State v. Beasley, 317 So.2d 750 (Fla. 1975).

There is no evidence that Schneider encouraged violence, and therefore, no reasonable probability of conviction exists. As such, the State will not file charges in this matter.

The State Attorney's Office has reviewed this decision with law enforcement.

State of Florida v. William Garrett Snow, Jr. "Gary Snow"

17MM028623AD

DECLINATION MEMORANDUM

EXECUTIVE SUMMARY

This case involves multiple arrests made after a political protest and political counter-protest, both protected by the First Amendment, led to physical altercations and batteries committed upon law enforcement officers.

In this case, a protest group (the "Protesters") convened in Hemming Park, Jacksonville, Florida (the "Park") on April 7, 2017, to protest the United States' actions in Syria. The Protesters were led by David Schneider ("Schneider") and included Connell Crooms ("Crooms"). The Protesters convened in the Park without a permit. Shortly after the protest began, a counter-protest group ("Counter-Protesters") gathered in the same public space in the Park. The Counter-Protesters were led by Gary Snow ("Snow").

Law enforcement monitored the protest and counter-protest to ensure that both remained peaceful. When the situation between the Protesters and Counter-Protesters escalated, law enforcement intervened. Ultimately, multiple Protesters (Schneider, Crooms, William Wilder, Christina Kittle, and Thomas Beckham) were arrested for various alleged felonies, including for the batteries committed upon law enforcement. Counter-Protester Snow was not arrested.

This office has undertaken a thorough investigation into each of the arrests to determine the criminality of the conduct at issue. The protest, counter-protest, and ensuing conflict were recorded on multiple separate devices from various sources and angles. We have reviewed more than 30 recordings of this incident, and have spoken with witnesses, law enforcement, and counsel for defendants.

Based on this review, we have reached negotiated dispositions on misdemeanor offenses for three of the five Protesters who were arrested (Wilder, Kittle, and Beckham), and for whom there exists sufficient proof of their guilt. We have declined filing charges on two of the five Protesters who were arrested (Crooms and Schneider). We have declined to prosecute Schneider because there is insufficient evidence to support his charge. We have declined to prosecute Crooms because we have learned Crooms has a congenital hearing deficiency and we cannot prove that he actually heard and understood the commands of law enforcement.

We have also analyzed Counter-Protester Snow's conduct and have declined to pursue criminal charges against him. We did not charge Snow because his speech and actions,

though provocative and offensive to the Protesters, were protected by the First Amendment.

Further factual detail and our legal analysis follows.

FACTUAL SUMMARY

The Park requires that groups of “more than 20 people,” or groups using “amplified sound,” obtain a permit.¹ The Park clearly notices the permit requirement through public signage on the property and through the Friends of Hemming Park website.² If a group properly applies for a permit from the Friends of Hemming Park and is granted the permit, the group is assured a specific time certain to conduct its event, be it a party, festival, or demonstration.³

The Jacksonville Sheriff’s Office (“JSO”) learned late in the day on April 7 about the Protesters’ intent to engage in an unpermitted protest in the Park at approximately 6:00 pm. JSO dispatched one of its citywide teams to respond to the Park to ensure a safe and peaceful protest.

After the protest began, both Protesters and Counter-Protester Snow ascended a low park ledge and began making concurrent announcements regarding their particular political views. All were using megaphones to amplify their voices. All speech was political in nature, dealing with U.S. foreign policy in Syria. The Protesters viewed Snow’s actions as interrupting their protest, and they requested that law enforcement remove Counter-Protester Snow. JSO did not remove the Counter-Protesters or intervene. Because the Protesters had not convened pursuant to a permit, the Counter-Protesters had an equal right to be in the same public space. Both had equal right to promote their respective views.⁴

¹ <http://hemmingpark.org/event-application/>. (A copy of webpage is attached as Exhibit A).

² The posted park sign at Hemming Park puts organizers on notice of the following: “Park Rules Allow, but only with an FOHP permit: Vending or soliciting in designated areas, Holding an event, gathering, rally, or presentation, Using amplified sound or electrical outlets within the park.” (A photograph of the Park sign is attached as Exhibit B).

³ Permits and procedures can be found on the Friends of Hemming Park website at http://hemmingpark.org/wp-content/uploads/2015/12/01-Park_Event-Reservation-Application_FINAL.pdf. (A copy of this webpage is attached as Exhibit C).

⁴ Since 2011, JSO has been adhering to the legal advice of the Office of General Counsel that JSO could not intervene between Protesters and counter-Protesters or request that the counter protesters leave an area where both Protesters and Counter-Protesters have equal rights.

While both Protesters and Counter-Protester Snow were on the park ledge, a masked man wrapped himself in Snow's megaphone cord and physically pulled Snow off the ledge.⁵ Crooms stepped in between the masked man and Snow. Snow placed his left forearm on the chest of Crooms and with his right arm, reached over Crooms to untangle the cord. The video evidence depicting Snow's forearm on Crooms' chest suggests that Snow may have been using Crooms to regain his balance as he attempted to unwind himself from the megaphone cord.⁶ As this was happening, one of the Protesters took Snow's "Trump" flag and began walking to the left side of the stage. Once Snow untangled himself from the megaphone cord, he too walked to the left side of the stage pursuing the person who had taken his "Trump" flag. Crooms then moved around in front of Snow with his arms extended outward.

A JSO officer stepped between Snow and Crooms. The officer's back was facing Snow and his chest was facing Crooms. As the officer stepped between Snow and Crooms, Snow flicked his middle finger over the officer's shoulder and in the face of Crooms. Snow did not physically touch Crooms when he made the gesture, but likely would have if Crooms did not move his head back. Reacting to Snow's gesture, Crooms lunged forward. The officer consequently sought to secure Crooms.⁷

While officers attempted to detain Crooms by placing him in handcuffs, video footage clearly depicts Crooms resisting the officers by refusing to provide officers with his hands.⁸ A melee ensued that included three of the Protesters (Wilder, Kittle, and Beckham) physically striking, pushing, or grabbing JSO officers.

Our legal reasoning for our decisions related to Snow are detailed below.

POTENTIAL CHARGES AGAINST GARY SNOW

This office opened a file to investigate potential charges against Counter-Protester, Snow. The analysis below outlines the charges we considered and the reasons why we decline to pursue criminal charges against Snow.

⁵ See Exhibit D- video labeled Snow 1.

⁶ See Exhibit D- video labeled Snow 1 and Crooms 2.

⁷ See Exhibit D- video labeled Snow 2.

⁸ Law enforcement did not know about Crooms' hearing deficiency at the time they were ordering him to comply with their commands.

We specifically have considered whether Snow’s speech or actions constituted criminal law violations. Namely, we analyzed whether giving someone the middle finger in the context of a heated argument is protected speech—or not. We also examined whether the actions of showing up, initiating a counter protest, and attempting to drown out the original protest, violated any criminal laws.

In answer to the first question and for reasons explained below, we conclude that there is not sufficient evidence to suggest that either Snow’s gestures or his speech are exempt from Constitutional protection.

To answer the second question, in the absence of a permit, the Protesters did not enjoy an exclusive right to assemble and Snow had an equal right to be in the same public space.

More specifically, the following is a list of potential offenses that we considered and evaluated in regards to charging Snow with a criminal violation:

Fla. Stat. § 871.01 – Disturbing Religious and Other Assemblies

Whoever willfully interrupts or disturbs any school or any assembly of people met for the worship of God or for any lawful purpose commits a misdemeanor of the second degree.

The Florida Supreme Court defined a violation of this statute in S.H.B. v. State, 355 So.2d 1176, 1178 (Fla. 1970), as follows:

To commit an offense under Section 871.01 a person must have deliberately acted to create a disturbance. That is, he must act with the intention that his behavior impede the successful functioning of the assembly in which he has intervened, or with reckless disregard of the effect of his behavior. The acts complained of must be such that a reasonable person would expect them to be disruptive. Finally, the acts must, in fact, significantly disturb the assembly. These elements are inherent in the statute as drafted. Since it is impossible to predict the type of behavior a person might use to cause a disruption, the statute cannot be more specific. But the elements of the offense, as outlined above, prevent an innocent party genuinely exercising his civil rights from being penalized.

In this case, Snow was exercising his Constitutional right to assemble and speak freely, just as the Protesters were doing. Snow had an equal right to express his opinions in Hemming Park because the park is open to the public and is a traditional venue where

individuals engage in protected political speech. The Protesters' failure to obtain a protest permit hindered the police from impeding the free speech rights of others who wished to engage in counter-protest.

Had the Protesters followed the policies of the park and obtained a permit for the use of the park, the officers would have likely been able to limit the actions of the Counter-Protesters, including Snow, by requesting that Snow relocate his protest so that he did not disturb the permitted protest event. See Carlson v. City of Tallahassee, 240 So.2d 866 (1st DCA 1970)(holding that police would have been justified in arresting the petitioner under 871.01 since the protest group had rented the assembly hall for their cause and the petitioner continually attempted to barge into the rented hall). If Snow had continued to disrupt the protest once the park had given permission for assembly through the permit process, a different analysis would prevail. However, based on the facts of this situation, there is no probable cause to support the offense of Disturbing Religious and Other Assemblies.

Fla. Stat. § 870.02—Unlawful Assemblies

If three or more persons meet together to commit a breach of peace, or to do any other unlawful act, each of them shall be guilty of a misdemeanor of the second degree.

Snow and the Counter-Protesters had the same lawful right to assemble as the Protesters. Accordingly, neither group was arrested or charged with this offense. Further, since the Protesters did not gain permission or seek a permit for this protest, the police were unable to ask Snow to leave or step away from the ledge where the Protesters began their demonstration. No competent, admissible evidence establishes that Snow or the other Counter-Protesters gathered for the purpose of committing a breach of the peace or to do any other unlawful act. Rather, the video evidence clearly depicts Snow initially engaging in First-Amendment-protected political speech posing no threat nor indicating any intent to do violence. Accordingly, there is no probable cause to support the offense of Unlawful Assemblies in violation of Section 870.02, Florida Statutes.

Fla. Stat. § 877.03—Breach of Peace; Disorderly Conduct

Whoever commits such acts as are of a nature to corrupt the public morals, or outrage the sense of public decency, or affect the peace and quiet of persons who may witness them, or engages in brawling or fighting, or engages in such conduct as to constitute a breach of the peace or disorderly conduct, shall be guilty of a misdemeanor of the second degree.

Florida's breach of the peace/disorderly conduct statute cannot be used to punish constitutionally protected speech. State v. Saunders, 339 So.2d 641 (Fla.1976). The

relevant question is whether Snow's middle finger gesture directed to Crooms constitutes constitutionally protected speech.

Though Snow did not actually utter the two word message at the heart of this case, he did not have to. The United States Supreme Court has recognized that protected speech also encompasses expressive conduct.

The gesture was made in the context of political speech, and courts throughout the country routinely frown upon criminalizing speech like this. See generally M. Hutter, *Digitus Impudicus: The Middle Finger and the Law*, 41 Cal. L. Rev. 1403 (2008).

The Florida Supreme Court in two seminal cases has narrowed the application of 877.03 in the context of speech as, itself, a breach of the peace. In White v. State, 330 So.2d 3 (Fla.1976), the Florida Supreme Court held that *mere words, used as a tool of communication, are constitutionally protected*. The Court went on to hold that this constitutional protection fails only when (1) by the manner of their use, the words invade the right of others to pursue their lawful activities, or (2) by their very utterance, they inflict injury or tend to incite an immediate breach of peace. Id. at 7 (emphasis supplied). Likewise, in State v. Saunders, 339 So.2d 641 (Fla.1976), the Supreme Court limited the application of 877.03 by holding that statute may only be applied if the speech constitutes (1) "fighting words," or (2) words such as shouts of "fire" in a crowded theater. 339 So.2d at 644. Delaney v. State, 489 So.2d 891 (1st DCA 1986). See also Macon v. State, 854 So.2d 834, 837 n. 1 (Fla. 5th DCA 2003) ("Words alone generally will not support a conviction for disorderly conduct."); Miller v. State, 667 So.2d 325, 328 (Fla. 1st DCA 1995) (reversing conviction for disorderly conduct and noting that there must be evidence of "something more than loud or profane language and a belligerent attitude" to support a conviction for disorderly conduct).

In light of these binding precedents, the issue here boils down to whether Snow's gesture amounted to "fighting words" that are outside the protection of the First Amendment. This is admittedly a close call, especially because Snow made the gesture within inches of Crooms' face. However, on the other side of the equation, the altercation between Snow and Crooms occurred in the context of a political demonstration and counter demonstration, speech that enjoys the highest protection under the First Amendment. And critically, Snow did not accompany his rude and arguably offensive gesture with any physical contact. Taking these circumstances as a whole, we believe prudence and the applicable case law require us to err on the side of the First Amendment. Accordingly, we have concluded that there is no reasonable probability of conviction for breach of peace/disorderly conduct.

Fla. Stat. § 784.03 – Battery

The offense of battery occurs when a person actually or intentionally touches or strikes another person against the will of the other; or intentionally causes harm to another person.

We evaluated whether Snows’ touching of Crooms, which occurred after Snow was pulled off of the ledge by his microphone cord, constituted a criminal battery. The video evidence indicates that Snow’s touching of Crooms appeared incidental to Snow’s attempt to free himself from the cord in which he was tangled.⁹ Crooms’ response (and lack of any apparent offense) to Snow’s touch corroborates this. There is no evidence to suggest that Snow’s touching was anything more than attempting to regain balance. Accordingly, there is insufficient probable cause to support the offense of battery in violation of Section 784.03 Florida Statutes.

Fla Stat. § 784.011 – Assault

An “assault” is an intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent. An assault is a second degree misdemeanor.

In this case, Snow did not threaten to do violence to Crooms. Shouting and/or making obscene hand gestures is not enough to constitute an assault without an overt act that places the victim in fear of an imminent act of violence. In this case, there was no overt act and the officer’s presence between Snow and Crooms negated any reasonable fear that any violence was imminent. See generally Sorin v. Cole, 929 So.2d 1092, 1094 (Fla. 4th DCA 2006) (telling someone f---you is not an assault). Accordingly, there is insufficient probable cause to support the offense of assault in violation of Section 784.011, Florida Statutes.

Fla.Stat. § 870.01(2) – Riot

All persons guilty of riot, or of inciting or encouraging a riot shall be guilty of a felony of the third degree.

Since the statute does not define riot, the Courts have looked to the common law definition. In order to prove this offense, the State must prove that the person incited or encouraged a riot with the intent to incite the persons assembled to an immediate breach of peace and acted with two or more people to accomplish this common goal. Moreover,

⁹ Exhibit D- video labeled Snow 1 and Crooms 2.

the State would have to prove that the person's words or actions were done defiantly and unlawfully in a violent manner. See State v. Beasley, 317 So.2d 750 (Fla. 1975).

In this case, there is no evidence that Snow's actions were done defiantly or unlawfully. There is no evidence that any of his actions were committed in a violent manner. While others at the protest did not agree with Snow's speech, or his "Trump" flag, there was nothing unlawful or violent about his words or actions. There is, therefore, insufficient probable cause to believe that Snow committed the offense of riot.

State of Florida v. William Thomas Wilder

17CF019787AD

DISPOSITION MEMORANDUM

EXECUTIVE SUMMARY

This case involves multiple arrests made after a political protest and political counter-protest, both protected by the First Amendment, led to physical altercations and batteries committed upon law enforcement officers.

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While officers attempted to detain Crooms by placing him in handcuffs, video footage clearly depicts Crooms resisting the officers by refusing to provide officers with his hands.⁸ A melee ensued that included three of the Protesters (Wilder, Kittle, and Beckham) physically striking, pushing, or grabbing JSO officers.

DISPOSITION OF WILLIAM WILDER'S CASE

During the melee, William Thomas Wilder ("Wilder") grabbed Officer Haire from behind. This caused Officer Haire's radio to fall away from his uniform and deprived the officer of his means of communication. Officer Haire pulled away from Wilder's grasp and

⁵ See Exhibit D- video labeled Snow 1.

⁶ See Exhibit D- video labeled Snow 1 and Crooms 2.

⁷ See Exhibit D- video labeled Snow 2.

⁸ Law enforcement did not know about Crooms' hearing deficiency at the time they were ordering him to comply with their commands.

punched Wilder in the face. Wilder admitted grabbing Officer Haire, but stated that he thought he grabbed a “rent-a-cop,” not an actual police officer.⁹

Wilder was erroneously charged with a first degree felony of aggravated battery on a law enforcement officer, instead of the third degree felony of battery on a law enforcement officer. Wilder was also arrested for the third degree felonies of depriving an officer of a means of communication in violation of Section 843.025, Florida Statutes, and inciting a riot in violation of Section 870.01(2), Florida Statutes. A search of Wilder’s person incident to arrest also led to the discovery of a pocket knife and a small amount of marijuana, and police arrested Wilder for those items as well.

Wilder is a 74-year old man with an insignificant criminal history. According to his counsel, Wilder has been involved in anti-war protests throughout his life with no prior incidents of violence.

There does not exist a reasonable probability of conviction for the offense of inciting a riot. In order to prove that Wilder incited a riot, the State must prove that Wilder did so with the intent to incite a breach of peace and acted in concert with two or more people to accomplish this. Moreover, the State must prove that Wilder’s words or actions were done defiantly and unlawfully in a violent manner. See State v. Beasley, 317 So.2d 750 (Fla. 1975). Video evidence does not support these elements. It does, however, show Wilder committing a battery on a law enforcement officer and depriving the officer of his means of communication.

With the agreement of the victim officer, the State has reached a negotiated disposition with Wilder on the lesser included misdemeanor offense of battery. Wilder will plead guilty to this offense. The State has agreed to a withhold of adjudication and will not pursue prosecution for the marijuana or knife. He has agreed to complete 25 hours of community service, and the State has agreed to terminate probation early upon his successful completion of the hours.

⁹ See Exhibit D- video labeled Wilder

Exhibit

A



BECOME A FRIEND OF HEMMING PARK. [DONATE TODAY](#)

05-25-2017 / 73° /



EVENT APPLICATION

Any event that features the following aspects requires a permit:

- Amplified sound
- Selling food, alcohol, or merchandise
- Selling tickets
- A gathering of 20 or more people
- Events open to the public
- Requiring a special setup or stages, tents, tables, barricades, or other items

Event permits are granted on a first-come, first-served basis. For large-scale events with more than 500 attendees, it is suggested that proposals are submitted three to six months prior to your preferred event dates. Proposals for smaller events may be considered with one to two months of lead time.

Complete proposals will be reviewed as soon as possible. Estimated fees cannot be given until a complete proposal has been submitted and reviewed by Friends of Hemming Park.

To book an event at Hemming Park, please follow these steps:

1. Review the [Hemming Park Event Guide](#) for rules, regulations, prices and more.
2. Complete a [Hemming Park Event Application](#) and submit it along with your application fee to:

Kayla Hughes, Programming & Volunteer Coordinator

Email: kayla@hemmingpark.org

Phone: 802-368-1680

Address: 303 N. Laura Street, Suite G5, Jacksonville, FL 32202

All activities in Hemming Park are subject to the rules of Hemming Park and the Friends of Hemming Park.



Event & Reservation Application

CONTACT INFORMATION

Date *

/ / 
MM DD YYYY

Name *

First Last

Company

Phone Number *

- -
####

Email *

Address *

Street Address

Address Line 2

City

State / Province / Region

Postal / Zip Code

Country

EVENT INFORMATION

Name of Event *

Organization's Name

Organization's Website

Date of Proposed Event

Hours of Proposed Event

Area(s) Requested

- Exclusive (Full Park)
- Laura & Monroe Corner
- Laura & Duval Corner
- Lower Bowl (Main Stage)

Purpose/Description of Event

Principal Beneficiary (ies) of Event

Estimate Attendance

Load-in Begins

Event Begins

Event Concludes

Load-out Begins

Load-out Concludes

INSURANCE INFORMATION

Insurance information is not required at the time of application, but must be submitted to FOHP for event to be confirmed.

Insurance Provider

Agent Name

Company Phone

ADDITIONAL EVENT INFORMATION

Is the event open to the public free of charge?

Is any portion of the event closed to the public?

Will sales occur during this event?

- Food
- Beverage
- Other
- No

Is there an admission/entry fee for the event?

Will food/beverage be distributed during the event?

- Included in ticket price/distributed for free
- Sold Separately
- No

Will alcohol be served during the event?

- Included in ticket price/distributed for free
- Sold Separately
- No

Will there be security for the event? (Security is mandatory after 7pm, on weekends and during events with alcohol)

- Yes, Jacksonville Sheriff's Office
- Yes, we need to book FOHP Authorized Security
- No, security is not needed

Describe plans for fire and emergency medical services protection.

Will the event require electricity?

Will the event utilize amplified sound?

- Yes, we will bring our own sound system
- Yes, we need to rent PA from Hemming Park
- None

Will event vehicles need parking on-site?

No

Are sponsors involved?

Yes

If yes, please list sponsors.

How will you promote the event?

- Radio
- TV
- Social Media
- Print Media
- Posters

Please provide event promotion details:

Request for Temporary Street Closure

If you would like to close the roads surrounding Hemming Park including Hogan, Duval, Monroe and Laura streets please indicate below. Street closures require police officers, date approvals, etc.

Closure Start Time

Closure End Time

Describe Roads To Be Closed and/or Event Route.

Attach Road Closure and Detour Map Here.



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[Our Services](#)

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[Event Application](#)

[Store](#)
[Contact](#)
[Directions](#)

Friends of Hemming Park
303 North Laura Street, Suite G5
First Floor, Downtown Main Library
Jacksonville, Florida 32202
904.515.5098

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[Park History](#)

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Exhibit

B

HEMMING PARK RULES

Hemming Park is open from sunrise to sunset and for special events. Friends of Hemming Park (FOHP) reserves the right to close all or parts of the park to the public for special events, programs or maintenance.

You Are Welcome To:

- Enjoy the park in a way that does not disturb others
- Enjoy the landscaping and fountains without entering these areas
- Use a park chair or one seat on a bench intended for sharing
- Share park furniture with other park patrons
- Walk your dog on a leash so long as any waste is cleaned up and disposed of

Park Rules Allow, during FOHP Events:

- Possession of alcoholic beverages only when purchased and consumed in designated areas from an FOHP approved vendor or through an FOHP sponsored or permitted event
- Bringing chairs, tables, or furniture into the park during FOHP events

Park Rules Allow, but only with an FOHP permit:

- Vending or soliciting in designated areas
- Holding an event, gathering, rally, or presentation
- Using amplified sound or electrical outlets within the park

Park Rules Prohibit:

- Disturbing the peace
- Littering – Please dispose of all waste in designated receptacles
- Feeding animals
- Indecent exposure
- Panhandling or aggressive begging
- Possessing illegal weapons
- Causing fires or possessing fireworks
- Using vehicles, except those operated by authorized personnel
- Destroying any park property
- Illegal gambling
- Sleeping or camping
- Soliciting or vending in non-designated areas without a permit from FOHP
- Violating any Florida State Statutes or Local Municipal Ordinances not listed here

Please contact Hemming Park staff if you have any questions or concerns and enjoy your visit to Hemming Park!

JSO & other law enforcement officials have authority to enforce Florida State Statutes, Local Municipal Ordinances and all park rules & issue, pursuant to Chapter 28, Ordinance Code, trespass warnings that may prohibit violators from entering Hemming Park and its adjacent sidewalks for one year. These Rules enforce, and are defined by, relevant provisions of the Florida Statutes and the Jacksonville Ordinance Code, including but not limited to Section 614.138.



Exhibit

C



EVENT RESERVATION APPLICATION

THE EPICENTER OF THE REVITALIZATION OF JACKSONVILLE

The mission of Friends of Hemming Park is to transform Jacksonville's oldest public park into a modern, urban space that engages diverse communities and restores vitality to our city's public square. We plan to accomplish this by bringing in regular amenities, programming, and creating more utility in the park through community-driven partnerships.

Hemming Park team looks forward to working with you to build your event.



FRIENDS OF HEMMING PARK
 303 N. Laura Street, Suite G5
 Jacksonville, FL 32202

hemmingpark.org
 Phone: (904) 515-5098
 Fax: (904) 515-5098

Applicant Information

_____ Organization Name / Client	_____ Name of Applicant / Authorized Client Representative
_____ Organization's Website(s)	_____ Co-Promoters involved with this Event

Contact Information

_____ Contact Name	_____ Street Address
_____ Work Phone	_____ City
_____ Cell Phone	_____ State
_____ Home Phone	_____ Zip Code
_____ FAX	_____ Email Address
	_____ Area(s) Requested

Event Information

_____ Name of Event	_____ Date(s) Requested
_____ Purpose of Event	
_____ _____	

Principal Beneficiary(ies) of Event

Estimated Attendance

TIMING DETAIL

Load-in Begins: _____

Event Begins: _____

Events Concludes: _____

Load-out Begins: _____

Load-out Concludes: _____

Insurance Information

_____ Insurance Provider	_____ Agent Name
_____ Company Phone	

* Insurance information is not required at time of Application submission but must be submitted within _____ days of approval.

**Additional
Event
Information**

Is this event open to the public free of charge? YES NO

Is there an Admission/ Entry Fee for this event? YES NO

• If yes, list fee amount: _____

Is any portion of this event closed to the public? YES NO

Is this event a fund-raiser? YES NO

Will sales occur during this event? YES NO

• If yes, circle type: Food Alcohol Non-Alcoholic

Do you expect future sales and/or income from this event? YES NO

• If yes, explain: _____

Will items be distributed during this event? YES NO

Food Alcohol Non-Alcoholic

Comp'ed Sold

Will cooking occur during this event? YES NO

• If yes, please provide detail: _____

Will there be security needs for this event?
(This may required based on event) YES NO
Authorized Jacksonville Sheriff's Office

• If yes, circle one: Event Security

Will this event require electricity? YES NO

Will this event utilize amplified sound? YES NO Both

• If yes, circle one: Music PA

YES NO

Will this event require onsite vehicle access? If so, describe:

****Note: This option may not be possible**

Are sponsors involved with this event? YES NO

• If yes, please list sponsors: _____

Will there be organizational and/or sponsor signage visible onsite? YES NO

Will information/ goods/ promotional materials be distributed? YES NO

Will a new product or business be introduced? YES NO

How will this event be promoted? (Circle all that apply) Radio TV Print Posters Other

• Please provide detail: _____

Do you want to be included on the Hemming Park website/ social media? YES NO

• If yes, please provide information about your event for the Hemming Park website/ social media postings:

* Hemming Park does not guarantee placement or use of exact language

Contact us at 904-515-5098 with any questions. Fax or email completed form to Hemming Park Management. Email: kayla@hemmingpark.org / Fax: 904-515-5098

Authorized Credit Card

Credit Card Information:

Visa, MasterCard, Discover
OR American Express #: _____

Expiration Date: _____

Billing Street Address: _____

Billing City and State: _____

Billing Zip Code: _____

Name on the Card: _____

Authorization

Authorized Client Representative (PRINT NAME)

On-site Designated Person(s) in Charge

On-site Designated Person(s) in Charge

On-site Designated Person(s) in Charge

Emergency Contact Person

Falsification and/or misrepresentation in completing this application may result in rate adjustment or revocation of Event Use Permit.

I UNDERSTAND THAT CHANGES TO THE ABOVE DETAILED EVENT CONTENT REQUIRED IMMEDIATE WRITTEN NOTIFICATION TO HEMMING PARK'S EVENT STAFF. I HAVE READ AND UNDERSTAND FRIENDS OF HEMMING PARK'S POLICIES AND PROCEDURES.

Signature of Authorized Client Representative

Date

Approval, denial or inclusion of restrictions and/or special conditions of Event Use Permit is at the sole discretion of Friends of Hemming Park.

YOU WILL BE NOTIFIED OF YOUR APPLICATION STATUS WITHIN 7 - 14 BUSINESS DAYS FROM RECEIPT OF APPLICATION. CREDIT CARD STATEMENT WILL REFLECT CHARGE BY "FRIENDS OF HEMMING PARK".

Application Fees are non-refundable and must be received in order to process any application. Applications will not be considered until received.

OFFICE USE ONLY:

\$100.00

\$200.00 (within 10 business days of event date)

Date application was received:

Exhibit

D