

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, NORTH, SS.

SUPERIOR COURT

JOHN M. FORMELLA, ATTORNEY GENERAL

v.

DAVID VAN TASSELL

Docket No. 216-2023-CV-00730

MOTION TO ENTER CONSENT DECREE

NOW COMES, Attorney General John M. Formella (the “State”) to ask this Court to enter the attached consent decree that has been agreed upon by both parties. The State and Defendant, David Van Tassell, have agreed to resolve this matter through the attached consent decree. The consent decree permits this Court to enter judgment and impose an injunction and other agreed upon remedies. The State asks this Court to adopt the consent decree and enter judgment against the defendant.

In support of this motion the State submits the following:

1. On November 3, 2023, the State filed a complaint against Defendant alleging that he had committed a violation of the Civil Rights Act, RSA 354-B:1, when he left a note threatening unlawful use of force with the purpose to coerce or terrorize and was motivated to do so by the victim’s race and/or national origin.
2. On November 15, 2023, this Court issued a preliminary injunction in the matter restraining the defendant from, in short, knowingly having direct or indirect contact with any victim or approaching within 350 feet of the victim, his home, his family, and the Walmart at 725 Gold Street, Manchester, NH.

Granted



Honorable David A. Anderson

March 24, 2024

3. The State has been engaged in negotiations with Defendant, through his counsel in the companion criminal case, Courtney Duffey, about how to address the State's allegations and resolve this matter. On March 21, 2024, the State and the defendant reached an agreement memorialized in the attached consent decree. *See* Attachment A.

4. Among other things, the consent decree:

- a. Enters a finding that Defendant's conduct constituted a violation of the Civil Rights Act, RSA 354-B:1;
- b. Orders Defendant to pay a \$2,000 civil penalty with all but \$150 suspended for a period of eighteen months, conditioned upon compliance with the remaining terms of the consent decree;
- c. Orders Defendant to participate in behavior and/or mental health counsel and comply with all recommendations within 90 days of entry of the consent decree;
- d. Orders Defendant to complete either an implicit bias training or racial sensitivity training within 180 days of entry of the consent decree;
- e. Orders Defendant to execute releases that authorize the State to verify compliance with paragraphs c and d;
- f. Restrains Defendant from committing future Civil Rights Act violations, directly or indirectly, against any person, including the victim;
- g. Restrains Defendant from knowingly coming within 350 feet of the victim, the victim's home, the victim's family, and the Walmart at 725 Gold Street, Manchester, NH; and

- h. Advises the defendant that a knowing violation of the consent decree's terms is a class A misdemeanor and could lead to future criminal and civil sanctions.
5. Upon entry of the consent decree copies of the order shall be transferred to the Portsmouth Police Department, RSA 354-B:4, III.

WHEREFORE, the State requests that this Honorable Court:

- (A) Endorse the attached consent decree;
- (B) Cancel the March 25, 2024 final hearing and/or convert the final hearing to a hearing on entry of the attached consent decree; and
- (B) Grant such further relief as may be deemed just and proper.

Respectfully submitted,

JOHN M. FORMELLA
ATTORNEY GENERAL

By his attorney,

/s/ Sean R. Locke
Sean R. Locke, Bar #265290
Senior Assistant Attorney General
Director, Civil Rights Unit
New Hampshire Department of Justice
Office of the Attorney General
33 Capitol Street, Concord, NH 03301-6397
(603) 271-3650

March 21, 2024

CERTIFICATE OF SERVICE

I, Sean R. Locke, hereby certify that a copy of this Motion to Enter Consent Decree has been provided to Defendant through this Court's electronic filing system, First Class mail, and electronically through his public defender, Courtney Duffey.

March 14, 2024

/s/ Sean R. Locke
Sean R. Locke

Attachment A

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS
Northern Judicial District

SUPERIOR COURT

JOHN M. FORMELLA, ATTORNEY GENERAL

v.

DAVID VAN TASSELL

Docket No. 216-2023-CV-00730

CONSENT DECREE

John M. Formella, Attorney General (“the State”), filed a complaint under the New Hampshire Civil Rights Act (“Complaint”) on November 2, 2023. In the Complaint, the State sought civil penalties and a preliminary and permanent injunction against the defendant, David Van Tassell (“Defendant”), based upon allegations that the defendant violated the New Hampshire Civil Rights Act, RSA 354-B:1, on July 29, 2023. The State and Defendant have agreed to enter this Consent Decree without a trial or adjudication on the merits of the State’s Complaint.

This Court orders and decrees the following:

JURISDICTION

1. This Court has jurisdiction over the parties and the subject matter of this action pursuant to RSA 354-B:2, II. The State asserts claims for relief under RSA chapter 354-B.

FINDINGS

2. On July 29, 2023, at approximately 3:30 p.m., the victim, J.A., parked his truck in the Walmart parking lot, located at 725 Gold Street, Manchester, NH, to go shopping with his wife. Victim’s truck displayed a Mexican flag hanging from the rear-view mirror and his license

plate read "TEX-MEX." At approximately 3:33 p.m., Defendant drove his gold, Volvo station wagon past the row where Victim had parked his truck. Defendant drove his station wagon to the next row, turned down that row, and parked in it. At approximately 3:36 p.m., Defendant exited his station wagon and walked toward Victim's truck. There, he left a note under the front driver's side windshield of Victim's truck. Defendant then returned to his station wagon and drove away at approximately 3:39 p.m. At approximately 4:30 p.m., Victim and his wife returned to his car and discovered the note under their windshield. The note read, "you are worse than a Purtro (sic) Rican you should be shot." The note had been written on a partially torn receipt from Lowe's store #1907. Victim felt threatened by the note, called the police for assistance, and expressed concern that someone may try to shoot him while he was driving around Manchester.

3. The receipt was from a purchase made by Defendant at Lowe's store #1907's terminal 08 on July 23, 2023, at 2:21 p.m. Defendant's vehicle when he made the purchase at Lowe's was the same vehicle captured on surveillance footage from the Walmart on July 29, 2023. Lowe's surveillance footage also showed Defendant and revealed that he was the same person who left the note on July 29, 2023.

4. Defendant has admitted that he left the note on Victim's truck.

5. On July 29, 2023, Defendant violated RSA 354-B:1 when: (1) he threatened unlawful force or violence against Victim while Victim was engaged in lawful activities; (2) he was motivated by race and/or national origin when he threatened unlawful use of force or violence; and (3) the threatened unlawful use of force or violence against Victim was designed to coerce or terrorize Victim. Defendant threatened Victim by leaving an anonymous note on Victim's property, specifically Victim's truck, that stated he hoped Victim would be shot. The language on the note, specifically invocation of race and/or national origin, support the

conclusion that the note was motivated by race and/or national origin. The anonymous nature of the note, Defendant's act of singling out Victim for no reason other than his race and/or national origin, and the invocation of violence demonstrated a reckless intent to inflict unlawful harm upon Victim.

6. Defendant's act constituted a violation of the New Hampshire Civil Rights Act, RSA 354-B:1, which prohibits threatened uses of force and/or violence motivated by race and/or national origin designed to interfere with the lawful activities and/or rights of others.

ORDER

A. Defendant will pay a civil penalty of \$2,000 with all but \$150 suspended for a period of eighteen months, conditioned upon compliance with the terms of this Order;¹

B. Defendant must participate in behavioral and/or mental health counseling with a licensed professional and comply with all recommendations within 90 days of this Order;

C. Defendant must complete either an implicit bias training or racial sensitivity training agreed upon with the State within 180 days of this Order;

D. Defendant must execute necessary releases for the State to verify compliance with paragraphs B and C;

E. Defendant, for a period of eighteen months from the date of this Order, is enjoined, pursuant to RSA Chapter 354-B from:

1. engaging in or threatening physical force or violence, damage to property, or trespass on property against any person motivated by race, color, religion, national origin, ancestry, sexual orientation, sex, gender identity, or disability;

¹ The defendant can arrange a payment plan for the civil penalty with the Attorney General's Office. Otherwise, payment is to be made within 30 days of the date of this Order.

2. participating, directly or indirectly, in any unlawful² activities motivated by race, color, religion, national origin, ancestry, sexual orientation, sex, gender identity, or disability;

3. going within 350 feet of the Walmart at 725 Gold Street, Manchester, NH; J.A.; J.A.'s home; and J.A.'s place of work;

4. contacting, directly or indirectly, J.A., and any members of J.A.'s immediate family, including but not limited to his wife;

5. encouraging or causing any other persons to engage in conduct prohibited in paragraphs E.1-E.4 above, conspiring with any other persons to engage in such conduct, or assisting any person in engaging in such conduct; and

F. Pursuant to RSA 354-B:4, I, any knowing violation of this Court's order could result in criminal and/or civil sanctions and additional fines, as provided for in RSA Chapter 354-B.

G. This Court retains jurisdiction over this matter for the purposes of enabling any of the parties to this Consent Decree to ask this Court at any time for such further orders or directions as may be necessary or appropriate for the interpretation or implementation of the Consent Decree, for the modification or termination of any of the provisions, and for the enforcement of the terms; and

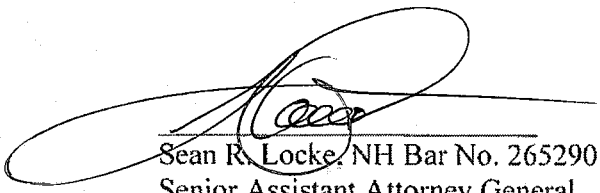
H. Pursuant to RSA 354-B:4, III, a certified copy of this order will be provided to the Manchester Police Department, because it has jurisdiction over where the Civil Rights Act violation occurred, and to the Londonderry Police Department, because that is where Defendant resides.

² Unlawful in this context means: any act that could subject a person or legal entity to civil or criminal liability.

Plaintiff,

JOHN M. FORMELLA
ATTORNEY GENERAL

Date: 3/21/24



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(603) 271-3650
Sean.R.Locke@doj.nh.gov

Defendant,

Date: 3/21/24


David Van Tassell

It is hereby Ordered and Decreed as set forth above:

Date: 
Honorable David A. Anderson
March 24, 2024

Hon. David A. Anderson
Justice, Superior Court