

259 MONROE AVENUE - ROCHESTER, NY

May 22, 2013

BEFORE MR. ONSAY
DAY OF MAY, 2013

GEOFFREY K. RERNICK
GEOFFREY K. RERNICK
1000 Park Ave. #200
Bronx, NY 10469
DOB: 02-28-15

STATE OF NEW YORK
ROCHESTER CITY COURT COUNTY OF MONROE

THE PEOPLE OF THE STATE OF NEW YORK

vs.

AFFIDAVIT

CR# 13-115259

BENNY WARR,

Defendant.

STATE OF NEW YORK)
COUNTY OF MONROE):ss

TACHE YOUNG, being duly sworn, deposes and says:

1. On May 1, 2013 at approximately 8:14 p.m., I had been at

Jefferson Avenue and Bartlett Street in the City of Rochester, New York for about fifteen (15) minutes.

2. On May 1, 2013 at approximately 8:15 p.m., I was waiting at the

bus stop near Benny Warr. After a couple of minutes, two (2) City of Rochester police officers came straight over to Benny Warr and told him that he had to leave. Benny Warr replied "for what – I'm at the bus stop". The officer then said "are you f ___ ing

kidding me – either you leave or I will arrest you". When Benny Warr replied that he was

at the bus stop, the officer said "you got to be f ___ ing kidding me" and he maced Benny Warr in his face. Then the officer pushed Benny Warr over and out of his

wheelchair.

3. After Benny Warr was pushed over in his wheelchair and he landed

on the ground, a City of Rochester Police officer jumped on Benny Warr. A third City of Rochester Police Officer showed up. The officers then kicked Benny Warr in his head and side and kneed him. Then the police officers put handcuffs on Benny Warr. At no time did Benny Warr do anything to provoke the attack and he did not try to resist being arrested by the police officers. Thereafter, an ambulance arrived at the scene and Benny Warr was placed in the ambulance. Other City of Rochester Police officers showed up at the scene. The police arrested a lady because she told the police they were wrong for what they did to Benny Warr.

4. I took video footage of Benny Warr and the City of Rochester Police officers starting before, during and after Benny Warr was pushed over in his wheelchair. I took the video footage on my Samsung Galaxy cell phone and this video footage was posted on YouTube.com, BlipTV and other websites. Attached hereto as Exhibit A is a CD containing the video footage which I took using my cell phone which truly and accurately depicts Benny Warr and the City of Rochester Police officers on May 1, 2013 at approximately 8:15 p.m. when Benny Warr was assaulted and arrested by the City of Rochester Police officers at the northwest corner of Jefferson Avenue and Bartlett Street in the City of Rochester, New York.

Sworn to before me this
25th day of May 2013.

Geoffrey K. Fernick
Notary Public

GEOFFREY K. FERNICK
Notary Public in the State of New York
MONROE COUNTY, N.Y.
Commission Expires 02-27-15

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MCS

My name is DERRICK LATHAM, dob 11/20/1985. On May 01, 2013, in the evening, I was with Benny Wan in front of the SWAN O Police Car came by and stopped. Two (2) Officers were in the car. They told Benny they did not want to see him when they come back. The Police Officer did not get out of the car - they told people to leave through the car window. Then they drove off. Benny and I crossed the street to the bus stop on the corner of Jefferson and Bartlett. Benny said he was going to take the bus. Benny normally does not hang around the area. I was at the bus stop with Benny. I was going to wait with Benny until he got on the bus. Tache was across the street near the bus stop. He came over to talk to Benny. About five (5) minutes later, the Police come back. The two (2) Officers were out of their car and went to Benny. I gave my Samsung phone to Tache and told her to start recording. One (1) of the Officers (Joey) told Benny that he had told Benny not to be here when I came back or something like that. I do not remember Benny saying anything. The Officer named Joey was shaking a can of mace. Benny told him he was waiting for a bus. Benny did not punch, hit, kick or threaten the Police Officers. Benny did not swear at the Officers. Officer Joey sprayed Benny. The other Police Officer was bald (I do not know his name) and was beside Benny's wheel chair. Officer Joey was in front of the wheel chair. The bald Officer pushed Benny's wheel chair over. Benny landed on the sidewalk. One (1) Officer put his Decker batton.

Jeff K. Smith (witness)

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three in Benny's back. They were trying to put cuffs on Benny. Benny said he was not resisting. I think the Officer kicked Benny when he was on the ground, and they kneed Benny while he was on the ground. I was about five (5) feet from Benny when this happened. Other Police Cars pulled up. The Police told us to move. I crossed Bartlett Street to the other corner. An Ambulance pulled up. They put Benny in the Ambulance. Benny did not do anything (verbally or physically) to provoke the Officers before they maced him and knocked his wheelchair over. I HAVE READ THE ABOVE TWO (2) PAGES AND SWEAR THEY ARE TRUE AND CORRECT. Densuke Rothman

SUBSCRIBED & SWORN TO
BEFORE ME THIS 15TH
DAY OF APRIL, 2014

Geoffrey K. Resnick

Notary Public in the State of New York

MONTGOMERY COUNTY, N.Y.

Commissioner Number 02-7P-15