

IN THE GENERAL DISTRICT COURT FOR THE CITY OF CHARLOTTESVILLE

COMMONWEALTH OF VIRGINIA

V.

ELIZABETH DALY

REQUEST TO ENTER ORDER OF *NOLLE PROSEQUI*

COMES NOW the Commonwealth, by counsel, and hereby requests the entry of an Order of *Nolle Prosequi* concerning the three felony warrants pending against the defendant in the Charlottesville General District Court. The warrants allege two counts of assault and battery of a law enforcement officer, in violation of Virginia Code Section 18.2-57C, and a single count of eluding, in violation of Sec. 46.2-817. The alleged offenses occurred as a part of an unbroken chain of events that took place on April 11, 2013.

In support of its Motion the Commonwealth states that on April 11th, agents of the Dept. of Alcohol Beverage Control were conducting alcohol-related enforcement activity in the Harris Teeter parking lot at the Barracks Road Shopping Center in Charlottesville. The agents were approaching people who were exiting the store with what appeared to be alcoholic beverages and appeared to be underage.

At approximately 10:10 p.m., one of the agents saw three young women exit the store. One of them was carrying what appeared to be a 12-pack of beer. Two agents approached the women. By the time the agents caught up with them, the women were inside a motor vehicle. A female agent approached the driver's side of the vehicle. A male agent approached the passenger side of the vehicle. Both agents were dressed in casual clothes. Both were displaying their

(2)

badges and identified themselves as police officers. Both were attempting to make contact with the occupants of the vehicle.

The two agents who approached the vehicle could see that the driver and the front passenger were panicking. In particular, the front passenger was very upset. The male agent who approached that side of the vehicle could see that she was misperceiving the events in terms of who the agents were and their intentions. This agent could also see that the passenger was calling 911. Before the vehicle sped off, this agent saw the front passenger jump into the rear seat and yell toward the driver words to the effect of go, go, go, get out of here.

Despite multiple commands to stop the vehicle and two agents who positioned themselves on opposite sides of the vehicle toward the front, the driver took off at what was described to be a high rate of speed. In doing so the vehicle impacted both of the two agents who were positioned near the front of the vehicle. Neither agent received an injury that required medical treatment. One of the agents described the vehicle as having "grazed" him. The fleeing vehicle was pursued with lights and siren by another agent and was stopped nearby.

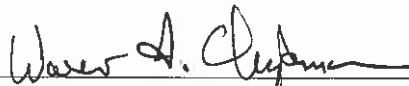
After the vehicle was stopped the agents verified that the front passenger was, in fact, on the phone with 911. It was learned that this young woman was especially anxious as a result of traumatic events that happened to one of her friends. It was also determined that there were no alcoholic beverages in the vehicle. What appeared to be a 12 pack of beer was, in fact, a type of sparkling water. As a result of these events the driver, Elizabeth Daly, was charged with the offenses that are now pending before the Charlottesville General District Court. Ms. Daly was held in jail overnight. The agents described that Ms. Daly apologized repeatedly to them after she realized that they were police officers.

(3)

A full and thorough investigation was conducted by the ABC agents who were involved in these events. Their investigation corroborated that Ms. Daly, under the circumstances, was influenced dramatically by the reaction of one of her passengers to the approach of the officers. Rightly or wrongly, this passenger fundamentally misperceived who the officers were and their intentions. It is undisputed that she emphatically communicated her fear to Ms. Daly and urged her to leave the scene. In the Commonwealth's view, there is no reason to believe that Ms. Daly would have done any such thing had she been by herself or had she not been subjected to the extreme influence to which she was subjected. The evidence establishes that Ms. Daly was not doing anything wrong at the time the officers first approached her vehicle. Absent the influence of the passenger's reaction to the officers there is no reason for her to have fled the scene.

In the view of the Commonwealth, this is a unique situation in which no purpose is served by prosecuting Ms. Daly for the offenses with which she is charged. If there is any lesson for her to have learned under the circumstances, there is no reason to believe that she has not already learned it with crystal clarity. As a result, the Commonwealth respectfully requests the entry of an Order of *Nolle Prosequi* in Ms. Daly's case.

Respectfully submitted,



Warner D. Chapman
Commonwealth Attorney
City of Charlottesville