


CRIMINAL COMPLAINT DEFENDANT COPY		DOCKET NUMBER 2247CR000793	NO. OF COUNTS 3	Trial Court of Massachusetts District Court Department 
DEFENDANT NAME & ADDRESS Kevin D Mackie [REDACTED]			COURT NAME & ADDRESS Concord District Court 305 Walden Street Concord, MA 01742 (978)369-0500	
DEFENDANT DOB [REDACTED]	COMPLAINT ISSUED 07/21/2022	DATE OF OFFENSE 07/08/2022	ARREST DATE	
OFFENSE CITY / TOWN Acton	OFFENSE ADDRESS 177 MAIN STREET		NEXT EVENT DATE & TIME 08/30/2022 08:30 AM	
POLICE DEPARTMENT ACTON PD	POLICE INCIDENT NUMBER 22ACT-657-AR		NEXT SCHEDULED EVENT Arraignment	
OBTN	PCF NUMBER 5568480	DEFENDANT XREF ID 36544254	ROOM / SESSION Pretrial Session	
The undersigned complainant, on behalf of the Commonwealth, on oath complains that on the date(s) indicated below the defendant committed the offense(s) listed below and on any attached pages.				

COUNT	CODE	DESCRIPTION
1	265/15A/A	A&B WITH DANGEROUS WEAPON c265 §15A(b)

On 07/08/2022 did, by means of a dangerous weapon, a MEGAPHONE, assault and beat FREDERICK SMITH, in violation of G.L. c.265, §15A(b).

PENALTY: state prison not more than 10 years; or house of correction not more than 2½ years; or not more than \$5000 fine; or both such fine and imprisonment. District Court has final jurisdiction under G.L. c.218, §26.

2	265/13A/B	A&B c265 §13A(a)
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On 07/08/2022 did assault and beat FREDERICK SMITH, in violation of G.L. c.265, §13A(a).

PENALTY: house of correction not more than 2½ years; or not more than \$1000 fine.

3	266/120	TRESPASS c266 §120
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On 07/08/2022 did without right enter or remain in or upon the dwelling house, building, boat, improved or enclosed land, wharf or pier of another, or in a school bus, as defined in G.L. c.90, §1, after having been forbidden to do so by the person who had the lawful control of such premises, either directly or by notice posted thereon, or in violation of a court order pursuant to G.L. c.208, §34B or G.L. c.209A, §§3-4, in violation of G.L. c.266, §120.

PENALTY: imprisonment not more than 30 days; or not more than \$100; or both. G.L. c.90, §24A: CLERK-MAGISTRATE MUST REPORT A CONVICTION INVOLVING THE USE OF A MOTOR VEHICLE TO THE REGISTRAR OF MOTOR VEHICLES.

SIGNATURE OF COMPLAINANT X	SWORN TO BEFORE CLERK-MAGISTRATE/ASST. CLERK/DEP. ASST. CLERK X	DATE
NAME OF COMPLAINANT	A TRUE COPY ATTEST X	CLERK-MAGISTRATE/ ASST. CLERK DATE

Notice to Defendant: 42 U.S.C. § 3796gg-4(e) requires this notice: If you are convicted of a misdemeanor crime of domestic violence you may be prohibited permanently from purchasing and/or possessing a firearm and/or ammunition pursuant to 18 U.S.C. § 922 (g) (9) and other applicable related Federal, State, or local laws.



Acton Police Department
Summons Report

Summons #: 22ACT-657-AR
Call #: 22-13005
Incident #: 22ACT-840-OF

Date/Time Reported: 07/08/2022 @ 1807
Arrest Date/Time: 07/18/2022 @ 1449

OBTN: TACT202200657
Additional Cases: 22ACT-604-AR
22ACT-658-AR
22ACT-659-AR
22ACT-660-AR
Reporting Officer: Nathan Meuse

Signature: _____

DEFENDANT (S) SEX RACE AGE SSN PHONE

1 MACKIE, KEVIN DAVID M W [REDACTED]

Military Active Duty: N
HEIGHT: 509 - 510 WEIGHT: HAIR: BLACK EYES: NOT AVAIL.
BODY: NOT AVAIL. COMPLEXION: NOT AVAIL.
DOB: 08/13/1985 PLACE OF BIRTH: NOT AVAIL.
LICENSE NUMBER: [REDACTED] ETHNICITY: NOT HISPANIC

[CONTACT INFORMATION]

[REDACTED]

[APPEARANCE]

GLASSES WORN: NO

OFFENSE (S) ATTEMPTED TYPE

LOCATION TYPE: Specialty Store Zone: South
DISCOVERY MUSEUM
177 MAIN ST
ACTON MA 01720

- 1 A&B 265/13A/B 265 13A N Misdemeanor
OCCURRED: 07/08/2022 1807
WEAPON/FORCED USED: Personal Weapons (Hands/Feet/Etc)
- 2 TRESPASS 266/120 266 120 N Misdemeanor
OCCURRED: 07/08/2022 1807
- 3 A&B WITH DANGEROUS WEAPON 265/15A/A 265 15A N Felony
OCCURRED: 07/08/2022 1807
WEAPON/FORCED USED: Blunt Object
AGGR. ASSAULT/HOMICIDE: Argument

**Acton Police Department
Summons Report**

Page: 2
07/19/2022

Summons #: 22ACT-657-AR
Call #: 22-13005
Incident #: 22ACT-840-OF

#	VICTIM(S)	SEX	RACE	AGE	SSN	PHONE
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1	SMITH, FREDERICK [REDACTED]	M	W		[REDACTED]	[REDACTED]
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DOB: [REDACTED]

INJURIES: None
ETHNICITY: Not of Hispanic Origin
RESIDENT STATUS: Resident
VICTIM CONNECTED TO OFFENSE NUMBER(S): 1 3
RELATION TO: MACKIE KEVIN
CONTACT INFORMATION:
[REDACTED]

Stranger

2 DISCOVERY MUSEUM
177 MAIN ST
ACTON MA 01720

VICTIM CONNECTED TO OFFENSE NUMBER(S): 2

#	PERSON(S)	PERSON TYPE	SEX	RACE	AGE	SSN	PHONE
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1	ANDREWS, THOMAS [REDACTED]	WITNESS	M	W		[REDACTED]	[REDACTED]
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2	MACFADDEN, MOLLY A [REDACTED]	WITNESS	F	W		[REDACTED]	[REDACTED]
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CONTACT INFORMATION:
[REDACTED]

Attachments for 22ACT-657-AR

Description	Type
DISCOVERY MUSEUM-4 Attachment#: 64B938A2BDB54C798584E996DD2CF449	MOV
DISCOVERY MUSEUM-2 Attachment#: 8AC57159CAC94D4F83900450FA5998B2	MOV
DISCOVERY MUSEUM-3 Attachment#: DD4F86BF35964037A262E137B63FB673	MOV
DISCOVERY MUSEUM Attachment#: E42E6F05BFE44C4FB1EC37E93A687083	MOV
DISCOVERY MUSEUM-1 Attachment#: F3433C1FDEC6459D8D290409B9989378	MOV

Ref: 22ACT-657-AR

On July 8, 2022, I Officer Monahan worked the 3:00 P.M. - 11:00 P.M. shift in marked patrol car five while in complete duty uniform. At approximately 6:07 P.M., car eight (Sergeant Grey), car three (Officer Mixon), car fifteen (Officer Frelick), and car seven (Officer Gordon), along with a Maynard officer, responded to the Discovery Museum at 177 Main street for a report of an active physical incident at a protest, with pepper spray being discharged.

Upon my arrival, three individuals were yelling at each other in close proximity. Due to the reports of the physical nature described by dispatch, I immediately separated the parties to deescalate the situation. I spoke with three individuals involved in the assault; the first was Michelle Efendi. I asked Michelle to explain exactly what happened before the officers' arrival. Michelle told me that she and a few others arranged to protest at the Discovery Museum for children receiving Covid-19 vaccinations. Michelle stated that they were peacefully protesting in front of the Discovery Museum. At this time, a heavy-set man with a beard wearing a brown rangers shirt was described as having "destroyed the sign they made and using the pipe to hit several people with." Michelle also stated that this individual grabbed her on the forearm. Michelle indicated that she did not require any medical treatment.

Michelle also said that two more parties, described as females, left the scene out of fear. Michelle did not want to give out the info on the parties as she did not know if they wished to have the personal information distributed.

I then spoke with Kevin Mackie, the individual who discharged his pepper spray. Kevin stated that they also had a peaceful protest interrupted by this individual. Kevin was holding the sign when the individual destroyed it. The sign was constructed of PVC pipe approximately three feet long and about one inch thick. Kevin stated that this pipe struck him. Kevin deployed his pepper spray and sprayed this individual in the face. Kevin said he sprayed him because "he feared for his life." I asked Kevin where he was struck, and he told me that he was struck in the left elbow area; I observed a red mark in this area. The male fled into the woodline after Kevin pepper-sprayed him. Kevin also pointed out to me that he had a scrape on the side of his left knee. I asked Kevin if he wanted any medical attention, but he did not.

After talking with Kevin, Dispatchers advised officers that they received a call from a male party requesting medical attention at [REDACTED] after being pepper-sprayed. Officer Frelick and Officer Gordon found a heavy-set male in his underwear, with a ranger's shirt next to him at this location matching the description. At this time, Officer Gordon and Officer Frelick arrested this individual based on the information we received.

I also spoke with Phillip Valeri, who also stated they were having a peaceful protest. Phillip watched Kevin get struck with the pipe. Phillip walked over to Kevin to assist in defending him, but in the process, he was grazed by the pipe on his left knuckles. Phillip could not confirm if this was intentional or by accident. I asked Phillip if he needed medical attention, and he replied, "yes" at this time, Sergeant Grey requested an ambulance. Phillip signed a refusal to go to the hospital.

After speaking with the parties involved in the initial assault, I talked to Molly Macfadden, the museum's assistant director. Molly stated that she was aware of the protestors and asked them to leave politely. I asked how many times she asked, and she said "many." Molly also confirmed that Kevin was struck with PVC pipe. Molly was in emotional distress as these individuals yelled at her. Molly was not involved in any physical

Ref: 22ACT-657-AR

altercation and did not need medical attention.

At approximately 7:17 P.M. Officer Mixon and I were dispatched back to the discovery museum for the protestors' return. Upon our arrival, the protestors were positioned across the street, standing on the sidewalk. The protest was verbal and did not incite any violence. Sergeant Grey advised that I remain on the scene until the protestors left. See Officer Mixon's report for more information.

The protestors did not comment on if they would return to the area. All units cleared without further issue.

Respectfully Submitted,
PTL. Kyle Monahan
Acton Police Dept.

Respectfully Submitted,
PTL. Kyle Monahan
Acton Police Dept.

On Friday, July 8, 2022, I worked my assigned shift of 1500-2300 hours assigned to the west sector of town in marked cruiser 3. At approximately 1635 hours, Officer Monahan, Sgt. Grey, and I were dispatched to the Discovery Museum for a report of a protest in progress. While in route, dispatch updated responding units that the protest had become physical.

Upon arrival, dispatch also notified us that someone had been pepper sprayed. I spoke to **MOLLY MCFADDEN (DOB [REDACTED])** who is an employee at the scene. Molly stated that there were two men involved in a physical altercation. She described the first man as having a beard and pointed him out on the scene. He was later identified as **KEVIN MACKIE (DOB [REDACTED])**. Molly described the second male individual as heavy-set, wearing a brown Ranger's shirt with sandy hair. The male individual wearing the brown shirt was later identified as **FREDERICK SMITH ([REDACTED])**. Molly stated that Kevin was hit by the plastic white pipe that held the protest signs by Frederick. Molly then told me that after Kevin was hit with the pipe by Frederick, he pepper sprayed Frederick.

I then spoke to **DANA O'CONNOR ([REDACTED])** who stated that she had the incident on a video recording. I provided Dana with my email address to send the video footage. I then asked Dana what had occurred, and she stated that she came outside when she heard the initial commotion. Dana stated that when she walked out of the building, she observed the two previously mentioned male parties fighting over a white plastic rod. Dana stated that the man wearing the brown shirt had grabbed the flag that Kevin was holding, and Kevin hit the male party with the mega horn. Dana stated that the first physical violence contact was when Kevin hit the other male party with the mega horn. Dana then stated that Kevin had pepper sprayed Frederick, and Frederick had left the scene.

I then spoke to **THOMAS ANDREWS (DOB [REDACTED])** who stated that he witnessed the events as well. Thomas told me that there were 5-6 protestors present. He stated that the employees of the Discovery Museum had asked the employees to leave after they began yelling on the property. Thomas told me that Frederick attempted to grab the sign away from Kevin that he was holding at the time and Kevin sprayed the pepper spray multiple times after Frederick attempted to grab the sign. Thomas stated that Frederick then tried to push Kevin away from him, and that Kevin then hit Frederick with the plastic white pole.

Thomas then told me that as police arrived, he witnessed two female parties leaving the scene on foot. Thomas described the first female party as a White woman in her mid-40s wearing jeans and a black polka-dot shirt with brown shoulder-length hair. Thomas described the second female, who left shortly after the first, as an Asian woman wearing a black shirt.

I also spoke to **GARY AYALA (DOB [REDACTED])** and **GRANT AYALA (DOB [REDACTED])**. Gary and Grant stated that they were outside when the incident occurred. Gary provided me with the same recount of events as Dana, and showed me a video that he recorded on his cell phone. I provided Gary with my email address to send me the footage.

Lastly, I spoke **CHARLIE SMITH (DOB [REDACTED])**. Charlie told me that Frederick had grabbed the sign from Kevin's hands, asking him to leave. Charlie stated that that was when Kevin sprayed Frederick twice, immediately reaching for his pepper spray. Charlie disclosed that she tagged the police department in her video on Facebook.

The Facilities Director, **MART KOOPER (DOB [REDACTED])** arrived on scene, and provided his information.

Acton Police Department
NARRATIVE FOR STEPHANIE MIXON

Ref: 22ACT-657-AR

Mart did not witness any events.

Respectfully Submitted,
Officer Stephanie Mixon #208

Ref: 22ACT-657-AR

While on the road I heard Communications dispatching units to the Discovery Museum on Main Street for a disturbance. While en route the call was upgraded from people yelling at each other to a physical fight in progress. I requested Communications to start two additional units and ask the Maynard Police if they could send an officer.

When I arrived Officer Monahan and Mixon were on scene and trying to separate the parties involved. Once they were separated Officer Monahan spoke with Kevin Mackie, Phillip Valeri and Michelle Efendi. Officer Mixon was speaking with Molly McFadden an employee at the museum. I overheard Molly telling Officer Mixon that she observed one of the involved hitting another with a plastic pipe. Frederick Smith was later identified as the one who hit Kevin MacKie with the pipe.

Communications advised that a resident of [REDACTED] was requesting EMS for being sprayed with a chemical in the face. I sent Officers Gordon and Frelick to the address.

Officer Monahan had finished speaking with Mackie, Valeri and Efendi. I was briefed by Officer Monahan prior to speaking to the three of them. All acknowledged that Frederick Smith was aggressive when he approached them. Kevin stated he was holding the sign when Frederick tried to pull it away from him. When the sign pulled apart Frederick used one of the plastic pipes to strike him and Phillip. Kevin recalled being hit on the knee and arm with the pipe. Phillip stated he was hit on the hand with the pipe and felt it may have injured a finger. Both Kevin and Phillip requested EMS to check out there injuries. Kevin pointed out the sign he was holding which was in a pile on the main walkway to the museum.

Michelle Efendi gave the same accounting of what transpired. Michelle was unsure if she was struck by Frederick swinging the pipe. She did recall Frederick grabbing her arm and trying to pull her towards him. Michelle was able to break free and move away from Frederick. Michelle informed me two other friends were with them. Both ran away when Frederick was running at them. Michelle advised she was trying to video the incident and will forward it to me.

I was informed by Officer Gordon that Frederick was being transported to the E.D. at Emerson. I advised Officer Gordon to place Frederick under arrest for Assault and Battery with a Dangerous Weapon. Officer Gordon rode in the ambulance and Officer Frelick followed in his cruiser.

I followed Michelle, Kevin and Phillip to the sidewalk across from the museum prior to clearing the area.

Frederick was transported back from the hospital by Officers Gordon and Frelick. At the station he was booked, used the phone and advised of his rights. I offered Frederick an opportunity to provide a statement which he declined. Frederick was placed in cell#4 awaiting bail.

Officer Gordon bagged and tagged Frederick's shirt. It was placed in evidence locker#6.

07-09-2022

I received a call from Michelle Efendi advising she was forwarded several video's showing the incident. Michelle will be forwarding them to me. Additionally, she now recalls Frederick Smith coming at her while

Ref: 22ACT-657-AR

swinging the pipe. Michelle indicated she had to move away in order not to be hit. Michelle wanted to make sure Frederick was charged for grabbing her arm and pulling her towards him.

A complaint will be sought on Frederick Smith at the Concord District Court for:

M.G.L. 265 -13A Assault and Battery - Michelle Efendi

M.G.L. 265 - 15B Assault with a Dangerous Weapon - Pipe -Michelle Efendi

M.G.L. 265 - 15A Assault and Battery with a Dangerous Weapon - Pipe (2cts) Kevin Mackie/Phillip Valeri

M.G.L. 272 - 53 Disorderly Conduct

Ref: 22ACT-657-AR

I, Detective Nathan Meuse, report the following;

On July 12, 2022, I was asked by Sgt. Grey to review and attach five videos sent to this department from Dana O'Connor, the clinic supervisor from the Acton Discovery Museum vaccine site. Dana had recorded the assaults that took place at the Discovery Museum on July 8, 2022. After reviewing the videos, I took notice of the following;

The first video is titled "video.mov" and is 53 seconds long. This video shows up to five individuals holding signs protesting Covid-19 vaccinations for children. Dan O'Connor is recording while walking in front of the building as children and adults walk past to enter. Dana O'Connor enters the building through a door at the northwest end and asks if anyone has called the police. A woman's voice responded that the police were called and were on their way; Dana O'Connor then began to walk back outside.

The second video is titled "video_1.mov" and is 1 minute 26 seconds long. This video shows Dana's point of view as she is walking out of the building and looks at a commotion happening towards the northeast end of the building. The video shows the defendant, FREDERICK SMITH, holding onto and pulling a fabric material and PVC sign with his right hand, which is also held onto by protester KEVIN MACKIE. Mackie is holding onto the sign with his left hand and is holding a red and white megaphone in his left hand. Smith is attempting to pull the sign as he is walking toward another protester, MICHELLE EFENDI. Smith's back is now towards Mackie, when Mackie hits Smith in the head with the megaphone four times while yelling, "get off my property." On two occasions, Smith appears to try and block Mackie from hitting him in the head before pushing him away and down into a bush and saying, "get off my [inaudible]." Smith turns away from Mackie and starts walking towards Effendi. Mackie gets up off the ground, reaches into the right pocket of his shorts, pulls out a small canister of pepper spray, and repeatedly yells at Smith to "get out of here now." Smith then tries to grab a megaphone from Efendi as she pulls away, and then Smith grabs ahold of a sign that is strapped over the front of Fendi's shoulders. At this time, Mackie discharged the pepper spray directly into Smith's face from a distance of no more than a foot.

Dana steps back from the group and continues recording at a greater distance. The video shows Smith standing in front of Mackie and Efendi as they continue to yell at him to leave. Mackie continues to spray Smith as he stands there and attempts to block the spray with his left arm. Smith turns and walks away from Mackie and is seen wiping his face. Smith then begins to pick up the sign Mackie was originally holding, which is falling apart on the ground. As Smith picks up the sign, he begins to pull it apart even more. Mackie then grabs ahold of the back-neck portion of Smith's tee-shirt and pulls it in a downwards motion. Smith swats at Mackie with his left hand and walks forward and away from Mackie, toward Efendi. Mackie then runs to get in front of Smith, grabs ahold of his left shirt sleeve, and sprays him again in the face with the pepper spray. Smith then drops the sign and turns away from Mackie who then pushes him with one hand from behind. Mackie is continually yelling "get off my property." Smith then goes to bend down to pick up a piece of PVC pipe from the sign, and just as he is bending over, Mackie punches Smith in the right side of the head with his left clenched hand. Smith then instantly stands up with the PVC pipe in both hands, turns towards Mackie, swings, and strikes Mackie in the left arm with the pipe. Efendi then begins walking toward Smith, yelling something inaudible through the megaphone as Smith swings the pipe at her, not making contact. Mackie sprays Smith with the pepper spray one last time, and Smith begins walking away, still carrying the PVC pipe. The video shows Smith walking northeast on a paved driveway towards the direction he had arrived from; Mackie is seen following behind him until the video ends. In the third video, titled "video_2.mov", Smith is still walking away with Mackie following. Mackie then returns into view of the video holding the PVC pipe, and Acton Police Officers arrive a short time later.

Ref: 22ACT-657-AR

Michelle Efendi had given me the name of Elinor Actipis as another protestor in the group that had left before police arrival. I spoke with Elinor, who confirmed she was at the protest and left shortly after the assaults took place. Elinor told me that she saw Smith barreling into Kevin Mackie, yelling "this is a neighborhood" and multiple cuss words after that. Elinor saw Smith destroy his sign, attack Mackie, and attempt the same on Effendi. Elinor also said that after the attack started, she pulled out her cell phone and began recording. She also said that the video might look like Mackie is attacking Smith but was done so in self-defense. Elinor reported that Smith did head in her direction with the PVC pipe but did not attack her; she also reported that she did not need any medical attention before or after leaving the property.

I spoke with the Discovery Museum's Chief Executive Officer, Neil Gordon. I explained to Neil that according to Officer Monahan's report, Molly MacFadden identified herself as the museum's assistant director and had asked the protestors to leave many times before the assault(s) occurred. Neil told me that as the assistant director, Molly was in charge that day and had complete control of the property and authority to trespass anyone from the property. I also spoke with Molly, who told me that she had gone to each of the five protestors and told them that they were on private property and to leave. Molly said that Michelle Efendi and Phillip Valeri both replied with "no, I'm not leaving," and, according to Molly, the other three protestors, Kevin Mackie, Elinor Actipis, and an unknown person, ignored her request and refused even to make eye contact.

After reviewing the video recordings of the incident and speaking with witnesses, I am requesting charges through the Concord District Court for the following;

G.L c266, § 120 - Trespass

Michelle Efendi (DOB [REDACTED])
Kevin Mackie (DOB [REDACTED])
Phillip Valeri (DOB [REDACTED])
Elinor Actipis (DOB [REDACTED])

These four individuals remained on private property belonging to the Children's Discovery Museum Inc. located at 177 Main Street, Acton Ma., and did so after being directly forbidden to remain there by the Museum's assistant director, Molly MacFadden, who had lawful control of the premises.

G.L c. 265, § 15A - A&B with Dangerous Weapon

Kevin Mackie (DOB [REDACTED])

Kevin Mackie used a megaphone to intentionally strike Frederick Smith four times in the head, while Smith was pulling at a homemade sign that was in the hands of Mackie.

G.L c. 265, § 13A - Assault and Battery

Kevin Mackie (DOB [REDACTED])

Kevin Mackie intentionally punched Frederick Smith with a closed fist in the side of the head while Smith was bending over to pick up a piece of PVC pipe that was a part of a homemade sign.

Ref: 22ACT-657-AR

Respectfully Submitted
Detective Nathan Meuse, 143
Acton PD