

☐ DV ☐ Child Abuse ☐ Arson ☐ Homicide ☐ Hate Crime ☐ Elderly ☐ Gang Related ☐ Liquor Est. ☐ On-Body Camera

Agency: SPD

Incident / Investigation Report

Case Number: 14-01980



ASSAULT-TOUCHED TO INJURE

Reported 01/25/2014 02:13

Found 01/25/2014 02:13

Occurred 01/25/2014 02:13

Location 4420 N Saddlebag Tr Apt. 105, Scottsdale, AZ

Original Officer (1150) BAILEY, C

Original Information

Original Page: 3

Date Added: 01/25/2014

Added By: (1150) BAILEY, C

Related Name Relationships

RASPANTI, ADAM DAVID	is	STRANGER	to	EPSHTEYN, BORIS
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Notes / Narratives

On 01/25/14 at approximately 2225 hours, I was on patrol as a bike officer and responded to 4420 N Saddlebag Trail to Whiskey Row in reference to a fight. I was operating on a police issued mountain bike and in full uniform. I was riding with Officer E. Schwartz #1189.

Upon our we were directed two a large white male in a pink shirt and a second male subject up against the retaining wall holding his nose. Officer Schwartz made contact with the male subject in the pink shirt who was later identified to me as Boris Epshteyn. I made contact with the second male who was identified to me by his Arizona drivers license as Adam Raspanti.

I observed the Adam was holding his nose and appeared to be in pain. I asked Adam what happened and he told me the following:

Adam stated that he was in the Whiskey Row bar with some friends. He was standing near the front of the bar when he observed Boris walking by. He stated that earlier in the night he observed Boris being kicked out of the bar and he wondered why he was back. Adam stated that he stated to Boris, "Didn't you get kicked out an hour ago?" Adam stated that right after he said that Boris punched him with a closed fist in the face. He stated that the group was separated by bouncers and everyone was removed. I observed that Adam had a small contusion to his nose. He stated that it was bleeding initially but there was none now. I asked if he felt like anything was broken and he stated, "No". Adam refused treatment by Scottsdale Fire. While speaking with Adam I observed that he had blood shot and watery eyes. While he spoke I detected an odor of intoxicating beverage.

I asked Adam if he said anything else to Boris that would incite him and he stated that he did not. He stated that he only asked if he was kicked out earlier and then he was struck. I asked Adam if he wished to aid in prosecution and he stated that he would.

I spoke with Officer Schwartz and advised him of what Adam had stated. He advised me that Boris had given a similar story with Adam pushing him before he struck him.

Officer Schwartz placed Boris under arrest for assault.

This concluded my involvement.

NFI.

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Original Officer (1150) BAILEY, C

Supplement Information

Supplement Page: 1

Date Added: 01/25/2014 03:07:27

Added By: (1189) SCHWARTZ, E

Supplement Notes

On 01/25/2014 at approximately 0213 hours I was working with the Bike Unit in full blue regulation uniform and on a police issued mountain bike. I was in the area of Saddlebag and Indian Pl when a call was dispatched in reference to an assault that had just occurred.

As we rode up to the area of 4420 N Saddlebag Tr, at Whiskey Row, we were pointed to a large white male in a pink shirt. One of the security officers and a citizen were stating that the man had just punched another patron in the face. Officer Safsten and I detained the gentleman and advised him that we needed to speak to him.

I requested his identification and he provided me with a New Jersey Driver's License and stated that he was Boris Epshteyn. I advised him that we were just told that he had punched the other patron. He said that he did not and that the argument had started an hour earlier. He explained that the other patron had been "hitting on" and kissing his friend's girlfriend. An argument ensued and they were separated.

At the end of the night Epshteyn went to the bar to close his tab and was then contacted by the same patron again. The man said to him, "Didn't you get kicked out an hour ago?" The man at that time pushed him with two hands in his chest. Epshteyn is 6-04, 275 pounds and was significantly larger than the other man. Epshteyn advised that he pushed passed him and began to leave. Nothing further happened.

Officer Bailey, who had been speaking with the victim and other security officers advised that Epshteyn had gotten into the argument earlier but during the second incident Epshteyn punched the victim in the face, bleeding and bruising the man's nose. There was corresponding evidence of injury on the man.

When Officer Bailey confirmed that the victim wished to assist in prosecution I placed Epshteyn under arrest for assault. Given that a known address for Epshteyn was provided with local ties to the valley, Epshteyn was booked and released pending his court date.

NFI. See other supplements for more information.

JMS Internal Booking # 2014000777	Alert/VP		CITY OF SCOTTSDALE ARREST REPORT	DNA previous ☐ Yes ☒ No	DNA taken ☐ Yes ☒ No	Fingerprinted ☒ Yes ☐ No	Photo ☒ Yes ☐ No
AZAFIS PCN number							

IDENTIFICATION

1 ORI # AZ0072500	2 AGENCY NAME Scottsdale Police Department	3a ARREST # 2014001174	3b DR # 14-01980							
5a LAST, FIRST, MIDDLE NAME EPSHTEYN, BORIS	5b Citizenship US	5c Interpreter ☐ Yes ☒ No	5d Language	7 SEX ☒ M ☐ F	8 RACE ☒ W ☐ B ☐ A ☐ I	9 HGT. 6'04	10 WGT. 275	11 EYE GREEN	12 HAIR BRO	13 SKIN LGT
15 PLACE OF BIRTH (CITY, COUNTY, STATE) MOSCOW RUSSIA	16 SSN - - -	17 DATE OF BIRTH	18 AGE 31	19 AFIS ARN	20 SID #	21a Relative/Emergency Contact	21b Relationship	21c Address/Phone	22 DL #	23 ST NJ
24 FBI #	25 IDENTIFICATION COMMENTS									
26 ☐ RESIDENT ☒ NON-RESIDENT	27 HOME ADDRESS (STREET, CITY, STATE, ZIP)				28 RESIDENCE PHONE		29 OCCUPATION (BE SPECIFIC)			
30 EMPLOYER (NAME OF COMPANY/SCHOOL)				31 BUSINESS ADDRESS (STREET, CITY, STATE, ZIP)				32 BUSINESS PHONE		

ARREST

33 LOCATION OF ARREST (STREET, CITY, STATE, ZIP) 4420 N SADDLEBAG TR SCOTTSDALE, AZ			34 DIST/BEAT D2/06	39 ARMED? ☐ Y ☒ N	40 DESCRIPTION OF WEAPON		
41 DATE OF ARREST 01/25/2014	42 TIME OF ARREST 02:25 ☐ 1. AM ☒ 2. PM	43 DAY OF ARREST ☐ S ☐ M ☐ T ☐ W ☐ T ☐ F ☒ S	44 TYPE ARREST BOOKED				
CHARGE # 1	F/M M	Cnt 1	Charge ASSAULT-TOUCHED TO INJURE	State/Local 13-1203A3	Citation/Warrant # 1914774		
DR # 1401980	Bond 0.00	Release Date 01/25/2014	Violation Date 01/25/2014	Court ORI SCOT	DV N	Prep Offense	Disposition CITE & RELEASE
66 ARREST DISPOSITION			68 ACCOMPLICE ARRESTED WITH			DOB:	BOOKING#:
ALIAS AKA							

Scars, Marks and Tattoos

BOOKING

Date of Booking: 01/25/2014	Booking Time: 02:43	Day of Booking: Saturday	Cell:	Booking Detention Officer: (B1497) IVERSON, D
Property Locker: District 2 Jail Area Locker 46				Property Received From: Epshteyn, Boris
Property Taken: 2 Wallet, 1 Belt, 1 Watch, 1 Necklace, 9 Credit Card, 490 Cash				
Date Taken: 01/25/2014	Taken By: (B1497) IVERSON, D		Date Returned: 01/25/2014	Returned By: (B1500) SCOTT, R

RELEASE INFORMATION

Date of Release: 01/25/2014	Release Time: 3:37	Release Notes:
Release To: SELF	Release Reason: CITE AND RELEASE	Release Detention Officer: (B1500) SCOTT, R
Related Cases		
ARRESTING OFFICER (Badge#) (1189) SCHWARTZ, E	TRANSPORTING OFFICER (Badge#)	SUPERVISOR (Badge#) (537) RUCKER II, R
Booking Notes:		



IN THE SCOTTSDALE CITY COURT, MARICOPA COUNTY, STATE OF ARIZONA

STATE OF ARIZONA, VS BORIS EPSHTEYN, PLAINTIFF, DEFENDANT	Complaint No C-01914774 Case No CR-2014002682	PLEA AGREEMENT DIVERSION
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Pursuant to A.R.S. § 9-500.22 the State has determined that it would serve the ends of justice to suspend entry of judgment so that the defendant may participate in a diversion program

Plea The defendant agrees to plead guilty to

Count 1, ARS §13-1203A3 (NON-DV), ASSAULT TOUCHING, a class three misdemeanor, committed on 01/25/2014

- The parties stipulate to the incorporation by reference of departmental report #14-01980 for use in determining a factual basis
- The following charges are to be dismissed, or if not yet filed, shall not be brought against the defendant
n/a
- If the below diversion program accepts the defendant after evaluation the defendant shall contact the program within 48 hours and, *The State has no objection to Def. completing the program in his home state of New Jersey, but with the approval + under the supervision of Sage Counseling.*
 Sage Counseling
 1630 South Alma School Road, Suite 101 Mesa, AZ 85210
 (480) 849-3352
 Complete a screening for PEACE and enroll participate and complete any recommended program and/or counseling
- The defendant must successfully complete the specified diversion program pay all court costs, complete all other court requirements, and file all required documents within 6 months by *Nov. 25th 2014* **THIS DATE WILL NOT BE CONTINUED**
- The defendant agrees to the following other conditions during the period of diversion
 - pay a court cost of \$118.00 (An additional fine of \$243.45 will be assessed ONLY if all other terms of diversion have not been met by the date stated in term number 4 Fine will be due and owing in addition to any other fees ordered)
 - pay \$ *v/a* restitution to Adam Raspani through payment to the Court, to be paid by _____
 - have no contact with Adam Raspani
 - do not return to Whiskey Row Bar in Scottsdale, AZ
 - Other Defendant shall complete 25 hours of community service through any non-profit organization and provide written proof of completion of community service hours on appropriate agency letterhead to the Prosecutor's Office *prior to the sentencing date*
- The defendant will remain a law-abiding citizen and keep the court and the prosecutor informed (in writing) of his/her current address at all times during the period of diversion
- The Defendant avows that he/she has neither previously enrolled in nor completed a similar diversion program in Scottsdale or any other jurisdiction and that this offense did not involve the discharge, use, or threatening exhibition of a deadly weapon or dangerous instrument
- The Defendant avows that he/she has no convictions for any violent offense
 he/she has no prior felony convictions and no misdemeanor convictions for endangerment, assault or contributing to the delinquency or dependency of a minor (PEACE)
- The Defendant understands that if he/she fails to timely show proof of compliance with all the above conditions, the plea of guilt will be entered on the record by the Court and all terms will be enforced by the Court. If the Defendant fails to appear as ordered, he/she waives their right to be present at sentencing and understands the agreed upon sentence will be entered. Proof of completion of all of the above items shall be provided to the court and/or prosecution division by the date specified above. If this Plea Agreement is rejected, withdrawn, or reversed on appeal, the original charges will automatically be reinstated and set for trial. The defendant hereby gives up any and all motions, defenses, objections, or requests that he/she has made or raised or could assert hereafter, to the Court's entry of judgment and imposition of sentence consistent with this agreement unless this plea is rejected or withdrawn. This Plea Agreement does not preclude any other remedies authorized by law. **MOTOR VEHICLE DIVISION MAY TAKE ADDITIONAL SEPARATE ACTION THAT MAY AFFECT DEFENDANT'S DRIVERS LICENSE AND/OR VEHICLE REGISTRATION**

DEFENDANT I have read and understand the above. I have discussed the case and my constitutional rights with my lawyer, if I have one. I have been informed of my constitutional rights by the court or my lawyer and understand that I am waiving those rights in order to enter into this plea. I agree to enter my plea of guilty as indicated above on the terms and conditions set forth in this document.

Date 5/28/2014 Defendant [Signature]

DEFENSE COUNSEL I have discussed this case with my client in detail and explained his/her constitutional rights to him/her. I believe that the disposition of this matter, as set forth herein, is appropriate and is in the interest of justice.

Date 05/28/2014 Defense Counsel [Signature] *FOL R CRAIG (014579)*

PROSECUTOR I have reviewed this matter and concur that the plea and disposition set forth herein are appropriate and in the interest of justice.

Date 5-28-14 Prosecutor Cate [Signature]

INTERPRETER I have accurately interpreted the terms of this Plea Agreement for the Defendant and ascertained that he/she understands the language of interpretation.

Date _____ Interpreter _____



STATE OF ARIZONA,

VS

Boris Epshteyn
DEFENDANT

COMPLAINT#

01914774

CHARGE(S)

CR#

214002682

GUILTY/NO CONTEST
PLEA PROCEEDING

Defendant personally appearing before me, in open Court. I have ascertained the following facts, noting each by initialing it

Judge's

Initials

- 1 Defendant understands the nature of the charge(s) against him/her, namely 1st-Degree AD a class 3 misdemeanor
- 2 Defendant understands the range of possible sentences for the offenses charged, with a maximum penalty of 30 days jail, \$500.00 fine + surcharges, 1 year probation and a minimum penalty of suspended sentence
- 3 Other legal consequences Subsequent Offense Loss of Driver's License, Restitution, Contempt, Special Conditions, Immigration, other
- 4 Defendant understands the following constitutional rights which he/she gives up by pleading guilty/no contest
- (a) The right to plead not guilty,
 - (b) The right to trial by jury, if any, or trial to the court,
 - (c) The right to the assistance of an attorney at all stages of the proceeding, and in certain cases to an appointed attorney, to be furnished free of charge, if Defendant cannot afford one,
 - (d) The right to confront the witnesses against him/her and to cross-examine them as to the truthfulness of their testimony,
 - (e) The right to present evidence on his/her own behalf, and to have the state compel witnesses of his/her choosing to appear and testify,
 - (f) The right to remain silent and to be presumed innocent until proven guilty beyond a reasonable doubt.
- 5 That Defendant wishes to give up the constitutional rights of which he/she has been advised
- 6 There exists a basis in fact for believing Defendant is guilty of the offenses charged
- 7 Defendant and the prosecutor have entered into a plea agreement, and Defendant understands and consents to its terms
- 8 The plea is voluntary and not the result of force, threats, or promises other than a plea agreement
- 9 Defendant IS X IS NOT on probation or parole
- 10 Defendant understands that by pleading guilty/no contest the Defendant waives the right to have the appellate courts review the proceedings by way of a direct appeal and that the Defendant may seek review only by filing a petition for post-conviction relief in this Court pursuant to Rule 32
- 11 Defendant is satisfied with the services of his/her attorney

I CERTIFY THAT THE JUDGE PERSONALLY ADVISED ME OF THE MATTERS NOTED ABOVE THAT I FULLY UNDERSTAND AGREE WITH AND APPROVE THE FINDINGS MADE BY THE JUDGE THAT I UNDERSTAND THE CONSTITUTIONAL RIGHTS WHICH I GIVE UP BY ENTERING THIS PLEA AND THAT I STILL DESIRE TO PLEAD ☒ GUILTY ☐ NO CONTEST TO THE CHARGES SET FORTH ABOVE

DATED

5/28/2014

Defendant

Defense Attorney if any

ON THE BASIS OF THESE FINDINGS I CONCLUDE THAT DEFENDANT KNOWINGLY VOLUNTARILY AND INTELLIGENTLY ENTERS A PLEA TO THE ABOVE CHARGES AND I ACCEPT HIS/HER PLEA

DATED

5/28/2014

Judge



IN THE SCOTTSDALE CITY COURT, MARICOPA COUNTY, STATE OF ARIZONA

STATE OF ARIZONA,

PLAINTIFF,

VS

BORIS EPSHTEYN,

DEFENDANT

Complaint No
C-01914774

Case No
CR-2014002682

STATE'S MOTION TO

☒ DISMISS

☐ ENTER PLEA OF GUILT ON RECORD

- ☒ The State, pursuant to A R S § 9-500 22(A), moves the Court to dismiss the above-entitled matter with prejudice. The dismissal is requested because the defendant has fulfilled all conditions of the diversion contract.
- ☐ The State, pursuant to A R S § 9-500 22(A), moves the Court to enter the defendant's plea of guilt on the record and impose all terms agreed upon in the plea agreement. This motion is made because the defendant failed to fulfill the following condition(s) of the diversion portion of the agreement:

RESPECTFULLY SUBMITTED this 1st day of December, 2014

CARON CLOSE
CITY PROSECUTOR

By

Cate Sand
Assistant City Prosecutor

ORDER

UPON MOTION OF THE STATE, and good cause appearing, IT IS HEREBY ORDERED

☒ The above-captioned matter be dismissed with prejudice

☐ The diversion is vacated and defendant's plea of guilt is hereby entered on the record

DONE this 1st day of December, 2014

[Signature]
JUDGE, Scottsdale City Court

Copy of the foregoing mailed this
1st day of December, 2014, to

Scottsdale City Prosecution Division

Defendant

By R Reynolds