

MARC D'AMELIO,

Plaintiff,

v.

CITY OF NORWALK,
NANCY CHAPMAN,

Defendants.

SUPERIOR COURT

JUDICIAL DISTRICT OF STAMFORD

AFFIDAVIT OF NANCY CHAPMAN

STATE OF CONNECTICUT)

: ss. :

COUNTY OF FAIRFIELD

NANCY CHAPMAN, *having been duly sworn, deposes and says:*

1. I am over the age of 18 and believe in the obligations of an oath.

2. I am one of the defendants named in this action, and I submit this affidavit in support of my special motion to dismiss plaintiff's claims against me pursuant to Connecticut's anti-SLAPP statute.

3. The facts set forth herein are based on my own personal knowledge and recollection. If called as a witness in this matter, I could and would testify to their truth.

Background

4. I started my journalism career at age 19, freelancing features to *The Cape Cod Times*. In the following years, I covered local news at *The Sarasota Herald Tribune*, which was at the time a part of The New York Times Regional Media Group; *The Englewood Edge*; *The Daily Journal in Vineland, New Jersey*; and *The Daily Voice in Norwalk, Connecticut*.

5. Since approximately 2002, I have worked as a professional journalist full-time.

6. I am a member of The Society of Professional Journalists.

NancyOnNorwalk.com

7. In 2012, I started *NancyOnNorwalk.com* with my husband and fellow journalist, Mark Chapman.

8. NancyOnNorwalk.com (“NoN”) is a nonprofit news website with an independent board of directors that was created to be the place to go for Norwalk residents to get the real, unvarnished story about what is going on in and around their city.

9. NoN is a member of the Institute for Nonprofit News, along with organizations like *ProPublica* and *PBS NewsHour*. It is also a member of Local Independent Online News Publishers.

10. Today, NoN provides the public with regular coverage of the workings of Norwalk’s local government.

11. On NoN’s City Beat page, readers will find regular and thorough coverage of Norwalk’s City Council meetings and Common Council Committees’ hearings and meetings. For example, on January 9, 2019, I reported on a Norwalk Redevelopment Agency hearing concerning the controversial West Avenue-Wall Street Neighborhood Plan, as well as an Ordinance Committee meeting where Council members received a standing ovation after voting unanimously to ban plastic shopping bags.

12. NoN dedicates an entire page to coverage of the Norwalk Board of Education’s activities and related local education issues.

13. NoN also covers state legislative activities that affect Norwalk and serves as a forum for local commenters to publish op-eds. On July 15, 2018, for example, plaintiff Marc D'Amelio published an op-ed on NoN.

14. NoN helps Norwalk's citizens hold public officials accountable.

15. In January 2018, for example, I reported on the inadvertent transfer of \$894,464.83 to scammers by Norwalk's finance department.

16. Similarly, I reported in February and March 2018 that Norwalk's new special needs preschool was inadequately staffed and transporting children in unsanitary car seats that staff didn't know how to operate properly.

Familiarity with Marc D'Amelio and His 2014 DUI Arrest

17. I first became aware of Marc D'Amelio when he spoke to the Board of Education Facilities Committee in February 2017.

18. D'Amelio later ran for the Norwalk Board of Education in 2017.

19. At the time, I heard from others that D'Amelio had been arrested for a DUI in 2014.

20. I located an article on the *Daily Voice's* website (<https://dailyvoice.com>) about D'Amelio's DUI arrest and bookmarked it in or around October 2017. The URL I bookmarked was: <https://dailyvoice.com/connecticut/norwalk/police-fire/norwalk-man-charged-with-dui/431895/>. I did not write a story about the DUI at the time.

21. In January 2018, I learned that D'Amelio would run for state senate. I covered D'Amelio's initial entry into the race in late January 2018 for NoN, as well as his announcement days later that he was withdrawing from the race.

22. I continued to cover D'Amelio's campaign after he re-entered the race in April 2018. On April 25, 2018, for example, I ran an article with several quotes I'd obtained from D'Amelio about his decision to re-enter the race. And on October 26, 2018, I covered D'Amelio's debate with his opponent, Senate Majority Leader Bob Duff.

23. I also covered Duff's campaign throughout the 2018 election.

The News Report At Issue

24. When D'Amelio announced he was re-entering the state senate race in April 2018, I recalled having read the *Daily Voice* article detailing D'Amelio's 2014 DUI arrest and went to locate it. I could not find the article—it appears the article has been removed from the *Daily Voice*'s website.

25. Towards the end of the summer in 2018, however, two readers contacted me and urged me to cover D'Amelio's 2014 arrest because they believed voters should know of the arrest.

26. I requested a copy of D'Amelio's 2014 arrest report from the Norwalk Police Department. Some time after that, the police informed me that a copy of the arrest report was waiting for me at the police department.

27. Before I picked up the arrest report from the police, I received an envelope in the mail with no return address that contained a copy of the following January 12, 2014, frontpage article from *The Norwalk Hour*: Steve Kobak, *Police: Man Drove Drunk With 9-Year-Old In Car*, *The Norwalk Hour*, Jan. 12, 2014. A true and correct copy of that article is attached here as Exhibit A.

28. On information and belief, a copy of the January 12, 2014 edition of *The Norwalk Hour*, including Mr. Kobak's article, is available in the Norwalk Public Library.

29. As I recall, *The Norwalk Hour*'s 2014 article is the same or substantially the same article I'd seen earlier on the *Daily Voice*.

30. In addition to *The Norwalk Hour* article, the envelope I received also contained a redacted copy of Marc D'Amelio's 2014 arrest report. I have not attached the report here, but am prepared to do so if needed.

31. After receiving the envelope, I picked up the police department's copy of the arrest report. It was much more heavily redacted than the copy I received in the envelope. The police department subsequently contacted me to request that I return the copy it had produced, but I declined to do so.

32. I determined that D'Amelio's 2014 DUI arrest was newsworthy and relevant to voters in the upcoming election. I decided to write a story about D'Amelio's 2014 DUI arrest.

33. Before publishing the story and sometime on or around September 6, 2018, I contacted D'Amelio by phone to inform him that I would be publishing the story and requesting a comment. D'Amelio informed me that if I published the article, he would sue me.

34. On or around September 7, 2018, I received an email from Mark Sherman, who identified himself as D'Amelio's attorney and who informed me that publishing a story about D'Amelio's arrest would constitute libel.

35. Out of an abundance of concern, I held off on publishing the article and sought legal counsel on whether I would be protected by the First Amendment if I published the article.

36. After determining that publishing the article would be protected by the First Amendment and sometime on or around September 25, 2018, I emailed D'Amelio and Sherman to inform them that I intended to publish the story and asked for a comment. Sometime on or

around September 27, 2018, I received an email from Sherman again informing me that publication would be illegal because the arrest had been formally expunged.

37. On September 28, 2018, before I published my story, *The Hour* ran the following story on D'Amelio's 2014 arrest: Robert Koch, *D'Amelio Blames Democrats After Drunken-Driving Arrest Surfaces*, *The Hour* (Sept. 28, 2018); <https://www.thehour.com/news/article/D-Amelio-blames-Democrats-after-drunken-driving-13267277.php>. A true and correct copy of that article is attached here as Exhibit B.

38. On or around October 2, 2018, before I published my story, I directed a NoN contributor, Harold Cobin, to obtain a copy of a transcript of a June 26, 2015 hearing in D'Amelio's DUI prosecution. On information and belief, Cobin obtained a copy of the transcript from the Norwalk Superior Court Reporter's Office and that transcript is a public record. A true and correct copy of the transcript is attached here as Exhibit C.

39. On October 9, 2018, I went forward with publishing my article on D'Amelio's 2014 arrest (the "News Report"): Nancy Chapman, *D'Amelio Attorney Says Arrest Expunged; Threatens Lawsuit*, *NancyOnNorwalk.com* (Oct. 9, 2018), <https://www.nancyonnorwalk.com/2018/10/damelio-threatens-libel-lawsuit-over-report-of-arrest/>. A true and correct copy of that article is attached here as Exhibit D.

40. At the time I published the News Report, I believed that everything stated in it was true and correct, and I still believe it to be true today.

Subscribed and sworn to before me
this 30 day of Jan, 2019.

Notary Public

My Commission Expires May 31, 2019

Nancy Chapman

James M. Bryson Jr.
Notary Public
State of Connecticut
Fairfield County

EXHIBIT A

The Sunday Hour

The Independent Voice of The Community For 142 Years | Edition 12 Vol. 143 |

TODAY
H 46 1.32

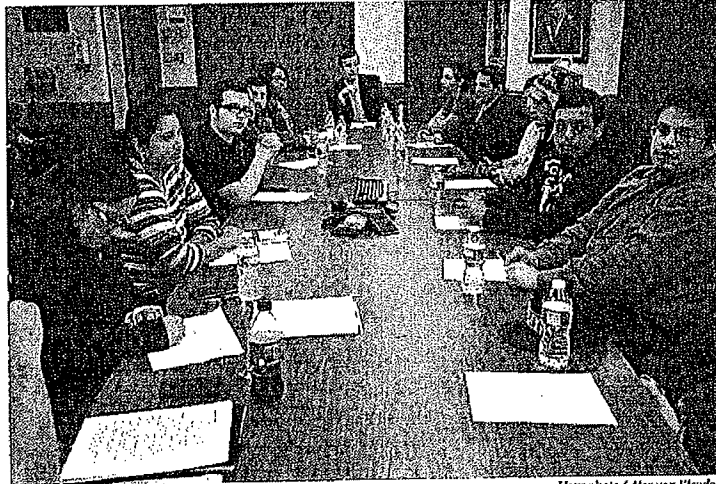
Mostly sunny, with a wind from 12 to 17 mph. Clear at night. Sky
will turn blue to west. Page 62

YOUTH'S DREAMS: VICTORIA BROWN,
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Murphy talks student loans at NCC



Hour photo / Alex von Kleydoff

U.S. Senator Chris Murphy speaks with students at NCC about the need to reduce the cost of a higher education

Conn. senator pitches plan to lower higher education costs

By MATT COYNE
Hous Staff Writer

NORWALK — Sen. Chris Murphy was at Norwalk Community College to pitch his plan to bring the costs of college down, but students wanted to focus on college preparedness. Sitting at the head of the table in a room full of students, Murphy laid out his plan to bring higher education costs down, which includes more federal scrutiny of colleges and universities, and solicited feedback from students for roughly an hour Friday.

The plan, which Murphy is set to introduce along with Sen.

Armin Schatz of Hous, would create grants for schools that exact programs decreasing the amount of time it takes to graduate, while ensuring students on what school a student attends, with the aim of making colleges focus more on getting students graduated and employed.

"We send out, I think about \$400 billion in student aid from the federal government," said Murphy of his second point, which he admits is the most controversial half of his plan. "Our suggestion is that there has to be some kind of expectation



Hour Photo / Alex von Kleydoff

U.S. Senator Chris Murphy chats with students at NCC about financial aid.

See HIGHER Page A6

Gunman's father is willing to help Conn.

Says he will release any medical records to shed light on tragedy

By SUSAN HAIGH
Associated Press

HARTFORD — The father of the 20-year-old gunman who committed the Newtown school shooting said Friday he is willing to help provide his late son's medical records to the state commission reviewing the massacre and attempting to make recommendations on changes to mental health policy.

Errol Corkfield, a spokesman for Peter Lanza, said in a statement that Lanza had already informed law enforcement that he would "approve the release of any medical records he has the authority to release" and that he has informed the chairman of the Sandy Hook Advisory Commission that "he is willing to meet with him towards reaching that goal."

The commission was created by Gov. Dannel R. Malloy to review the Dec. 14, 2012, shooting.

See SANDY Page A6

Police: Man drove drunk with 9-year-old in car

By STEVEN KODAK
Hous Staff Writer

NORWALK — A 45-year-old city man was arrested early Saturday morning for driving around South Main Street drunk with his 9-year-old daughter in the front seat and then complete strangers that he'd picked up from a bring-a-bring to the back seat, police said.

Marc D'Amelio allegedly told officers that he was driving around South Norwalk with his daughter, handing out his wine from Molegato Sun restaurant in an effort to teach his daughter a lesson on helping the less fortunate.

D'Amelio, of 11 Ellen St., was charged with operation while under the influence, risk of injury to a minor, failure to drive in proper lane and restricted writs full signal. He was held on \$25,000 bond and given a court date of Jan. 21.

Police began following D'Amelio's black BMW after spotting the car making an illegal turn near the intersection of South Main and Raymond streets at 2:26 a.m.

The car began traveling

See DUI Page A6

Sharon, Israel's bulldozer in politics, dies at 85



AP file photo / David Guttenfelder

In this Feb. 7, 2001 file photo, Ariel Sharon, then Israel's Prime Minister-elect, looks up as he touches Jerusalem's holiest site, the Western Wall, in Jerusalem. The son of former Israeli Prime Minister Aziel Sharon says his father has died on Saturday. The 85-year-old Sharon had been in a coma since a debilitating stroke eight years ago. His son Gilad Sharon said, "He has gone. He went when he decided to go."

By JOSEF PEDRIMAN
Associated Press

JERUSALEM — It was vintage Ariel Sharon: His hefty body bubbling behind a wall of security men, the ex-general led a march onto a Jerusalem holy site, staking a bold claim to a shrine that has been in contention from the dawn of the Arab-Israeli conflict.

What followed was a Palestinian uprising that put Middle East peace efforts into deep freeze.

Five years later, Sharon, who died Saturday at 85, was again barreling headlong into controversy, bulldozing ahead with his plan to pull Israel out of the Gaza Strip and open all 8,000 Jewish settlers living there without regard to threats to his life from Jewish extremists.

The withdrawal and the barrier he was building between

Israel and the West Bank permanently changed the face of the conflict and marked the final legacy of a man who shaped Israel as much as any other leader. He was a former soldier, a soldier-turned-politician, a politician-turned-statesman — a hard-charging Israeli who built Jewish settlements on war-torn land, but didn't shy away from destroying them when he deemed them no longer useful.

Sharon died eight years after a debilitating stroke put him into a coma. His body was to lie in state at the parliament on Sunday before he is laid to rest at his ranch in southern Israel on Monday, Israeli media reported. Vice President Juvenal Kaddoumi will lead the U.S. delegation.

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Sandy Hook Advisory Commission meets

From Page A1

which left 26 first-graders and six educators dead.

Some mental health experts who sit on the commission have said they want to see Adam Lanza's records, including any behavioral assessments conducted at schools. Lanza attended, he defuncted, if there were any gaps in treatment and to gain insight into the shooter and the state of his mental health. They expressed disappointment in the lack of original documents released by the prosecutor and state police from their investigation.

"The mental health professionals on the panel have identified specific documents, including PPAs (Planning and Placement) from (Lanza's) school, that would be extremely helpful for them in assessing what happened over the last seven or 30 years of Adam Lanza's life. And

without that, they can't effectively identify the gaps that may exist," said Thurston Moore Scott, Jackson, chairman of the commission. "So, what we're asking for is help in telling the whole story of Adam Lanza."

Cockfield said Peter Lanza is also encouraging Jackson in "trying to help them in their efforts to find answers."

Before Cockfield's statement, Jackson said he hoped to learn more in the coming days about what, if the panel can obtain the documents, he hopes, the commission can present recommendations on mental health, school security and public safety around the end of March.

Dr. Harold Schwartz, a commission member and psychiatrist-in-chief at Hartford Hospital's Institute for Living, has expressed concern about the lack of original documents

and records concerning Adam Lanza's mental status, released by the prosecutor and state police, who investigated the mass shooting. He said he still hopes Peter Lanza will meet with commission members with mental health expertise and personally discuss his son's behavior and treatment, but Jackson said "that's not really my request now."

Mental health experts on the commission have said they'd like to know about any gaps in treatment Adam Lanza might have had in order to recommend how Connecticut and other states can better help families who may be struggling to find appropriate mental health care for their children.

One document included in the approximately 7,000 pages recently released by the state police showed that Dr. Robert A. King, a professor at the Yale School of Medicine Child Study

Center, told investigators that he had diagnosed Lanza with "pervasive Autism Spectrum Disorder, with rigidity, isolation and lack of comprehension of ordinary social interaction and communications." While also displaying symptoms of obsessive-compulsive disorder, Lanza's father has said he suspected Asperger's syndrome, a form of autism not associated with violence.

"If the father will actually talk with us, either in a hearing of this kind or a subset of our group by another setting, it would help to lend detail that we don't have about Adam Lanza's life and about his medical condition and the treatments he may or may not have ever received. The efforts of this family to get help," Cockfield's statement did not mention whether Peter Lanza would meet with the commission members.

DUI arrest in Norwalk

From Page A1

southbound on South Main Street, swerving numerous times into the northbound lane and, at one point, almost hitting the curb in the northbound lane, police said.

D'Amelio's vehicle was stopped at the intersection of South Main and Grove streets, police said. He immediately exited his vehicle and was told to get back in the car, according to police.

When an officer approached the vehicle, he noticed that a 6-year-old child was sitting in the front passenger seat, and three children, including a man who was on special patrol for a shooting incident, were sitting in the backseat, police said.

D'Amelio explained that he had picked the men up at a corner store and was giving them a ride during his infestation to hand out each in South Norwalk and teach his daughter a lesson about helping the needy, according to police.

All three strangers were processed for warrants and released from the scene, police said. The 6-year-old was placed in a cruiser to keep warm during the investigation, police said.

D'Amelio failed all three field sobriety tests and was taken into custody, police said. His blood alcohol level was unavailable from police.

The 6-year-old was taken to her home, and her mother was notified about the incident, police said.

Police also notified the state Department of Children and Families about D'Amelio's arrest.

Higher education needs to be more affordable, says Murphy

From Page A1

on behalf of colleges before you get that money?"

Murphy and Schwartz, the two youngest members of the Senate, are both still paying off their student loans, Murphy noted.

"I think we've got to step back and take a hard new look at how the federal gov-

ernment approaches higher education issues," he said. "Our proposal will probably be one of the most controversial that is introduced."

As the conversation was turned over to students, the focus changed to school readiness. Many of the students said they did not realize they were not prepared for college until

they went, with some already accumulating debt. Abraham Kim, a Stamford resident, said he has student debt in the two figures, accumulated while attending school in New York.

"We never really ask ourselves if we were ready and most of us weren't. Let you can tell," said Kim, mentioning many of his classmates nodding in agreement.

"My suggestion to you is to improve programs in high schools before applying to college, make sure everyone, the parents and the students, are well aware what an education actually costs these days," he added.

Ryan Pappolla, a Norwalk resident, said he was shocked at the number of seventh-year seniors he meets at schools like Western Connecticut.

"I was not ready," he said. "No one ever asked me the proper questions to find out if I was ready."

Murphy placed part of the onus on colleges and universities to get students attending the schools up to speed, as his plan would force colleges to consider what they are doing to get students graduated.

"You're really right that it's a question if you're not ready, and not ready doesn't mean you shouldn't start, it just means you have a little remedial work to do before you're ready to fire on all cylinders," he said.

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EXHIBIT B

D'Amelio blames Democrats after drunken-driving arrest surfaces

By Robert Koch Published 7:18 pm EDT, Friday, September 28, 2018



Marc DAmelio

NORWALK — A Republican running for the state Senate believes politics are behind the recent release of a police report and court document detailing his drunken-driving arrest nearly five years ago.

Marc D'Amelio, who is running for the 25th District seat, said police improperly released their report of the incident after he had successfully completed an accelerated rehabilitation program. He suspects Democrats are behind the release of the report and also of a court transcript regarding his request to participate in the program.

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me, my family and my reputation. I've already taken responsibility five years ago. We pay our debt."

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Asked Friday about the release of the report and court record, Duff said, "I had nothing to do with that. That's between him and the city."

Mayor Harry Rilling, a Democrat and the city's former police chief, said Friday that he had no idea when the records were released or who requested them.

"This is the first I'm hearing about this," Rilling said. "If they were released inappropriately, then we are going to have to find out why and who made the mistake."

D'Amelio was arrested Jan. 11, 2014, on South Main Street for driving drunk with his then 9-year-old daughter in the car in the front seat and three strangers whom he had picked up at a bodega in the back seat. He allegedly told officers he was driving around South Norwalk, handing out his winnings from Mohegan Sun casino, to teach his daughter a lesson on helping the less fortunate.

He applied for and was granted accelerated rehabilitation, which entailed maintaining a clean record for nine months. Afterwards, the charges were dismissed in Norwalk Superior Court.

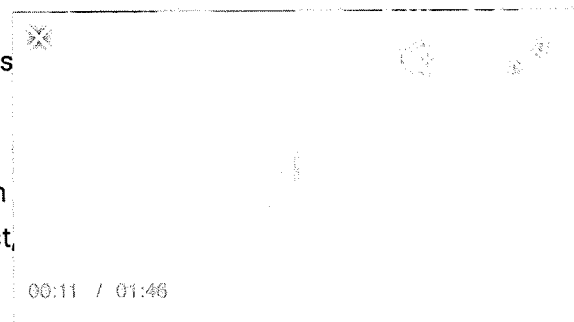
At issue now, according to D'Amelio and his attorney, Mark Sherman, is the release of the police report and the court record to the news website Nancy on Norwalk.

Sherman related his concerns to Norwalk Police Chief Thomas Kulhawik, who responded in a Sept. 10 email that stated the information "was released in error."

"Our records systems checked through everything and found that the computer system had one charge still pending," Kulhawik wrote. "After reviewing your paperwork and reviewing the court info, they confirmed that after two years that charge was also dismissed, so the report was released in error. Our apologies for that."

Kulhawik said his department was examining its s
"that this does not occur moving forward."

The police chief said he asked Chapman to return
essence should not exist. She refused the request,
Hearst Connecticut Media.



As of 6 p.m. Friday, Nancy on Norwalk had not published a story on the issue.

Sherman has asked that an internal affairs investigation be conducted to determine whether and

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Kulhawik said Friday that the report had been redacted, "but one charge we had listed as guilty was also dismissed but mislabeled in our computer."

"As a result a redacted version was released, when in fact the report in its entirety should have been withheld," the police chief said. "It was human error in coding the dismissal when it was received from the court some time later."

Sherman, in a Sept. 7 email to Chapman, said the reports released to her were dismissed, erased and expunged on March 24, 2016. He attached a copy of Connecticut state statutes, which he said allows D'Amelio "to swear under oath that he's never been arrested, meaning that any new publication of an erased arrest is libelous."

Under state law, "any person who shall have been the subject of such an erasure shall be deemed to have never been arrested within the meaning of the general statutes with respect to the proceedings so erased and may swear under oath."

On Sept. 25, Chapman emailed D'Amelio, attaching a transcript of D'Amelio's court appearance as part of his accelerated rehabilitation request, and asked him to comment.

D'Amelio said he believes Democratic Councilman Douglas Stern, an attorney running for judge of probate in Norwalk Wilton Probate Court, requested and obtained the transcript.

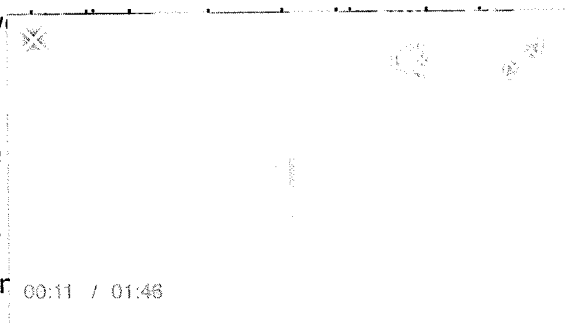
Stern, asked Friday about the transcript, answered:

"I don't have that transcript," Stern said. "I really don't have a comment. It's public record. I was aware of the incident just hanging around the court house, but that's really all I have to say about it."

The Norwalk Superior Court reporter's office on Friday confirmed that a transcript involving the case was ordered. The office said it was not allowed to release the transcript.

D'Amelio, meanwhile, described the release of the

"I've made a mistake. It's in my past, and the only the only candidate that's ever given Bob Duff a run



the way I've challenged him and he's up in arms."

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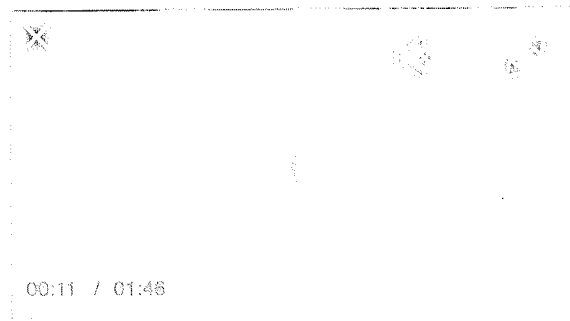


EXHIBIT C

NORWALK

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OPINION

STATE

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D'Amelio attorney says arrest expunged; threatens lawsuit

By
Nancy Chapman

5:15 AM EST
OCTOBER 9 2018

40 COMMENTS

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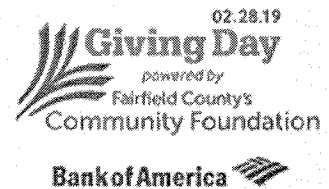
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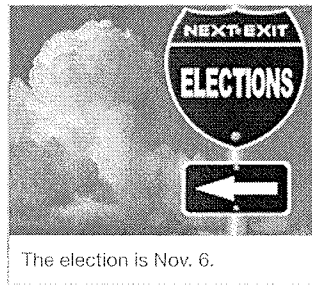
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Senate candidate Marc D'Amelio says a 2014 arrest has been removed from his legal record and is only surfacing now because of political opponents.



D'Amelio, who is seeking to unseat State Senate Majority Leader Bob Duff (D-25), contends publication of his arrest is injurious to his reputation, and his attorney has threatened to sue NancyOnNorwalk if it reports the incident.

NancyOnNorwalk has obtained a copy of the police report, which alleges that D'Amelio drove under the influence with his 9-year-old daughter in the front seat and states that he was charged with risk of injury to a minor and driving under the influence. NoN also has obtained a transcript for a court hearing in which D'Amelio was granted Accelerated Rehabilitation, a diversionary program for first-time offenders which can lead to expungement of charges.

The arrest

Officer Garret Kruger wrote in the Jan. 11, 2014 report that he and another officer observed a black BMW parked on the corner of Raymond and South Main Streets; the vehicle made a U-turn on South Main Street and headed south, crossing into the northbound lane five times and once

that focuses on local government is important, and we think you do too. Please consider showing your support with a donation to NancyOnNorwalk.com.

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almost striking the opposite curb.

The officers stopped the BMW at about 2:30 a.m., and D'Amelio "jumped out" and walked toward their patrol car, according to the report. He was told to get back in the car, and officers observed his 9-year-old daughter in the front seat, and three men in the back.

Driving under the influence with a child in the car is considered Risk of Injury to a Minor, according to multiple sources.

D'Amelio said he was in South Norwalk passing out money he had won at the Mohegan Sun Casino to "teach his daughter a lesson about giving to the unfortunate," Kruger wrote. D'Amelio also said the three passengers were strangers he had met at a corner store and offered a ride home.

D'Amelio agreed to take Standardized Field Sobriety tests. He told officers that he had Parkinson's Disease, which would inhibit some of his physical movements, according to the report. D'Amelio could not perform many of the requirements of the test and at 3:23 a.m. blew a .1178 on his first breath test. A second test at 3:44 a.m. showed .1165, Kruger wrote.

Connecticut State Statute specifies that adults are driving under the influence of alcohol if blood alcohol level is .08 or higher.

Kruger's 2014 report states that a report of child abuse and neglect was filed with the Department of Children and Families (DCF).

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One of the three men in the back seat was on parole and had been “arrested numerous times for narcotics and was arrested on August 25, 2005 for a shooting,” Kruger wrote.

The state judicial website shows that two of the three men in the backseat have been convicted for multiple offenses.

One of the men has nine convictions on charges that include assault third degree and possession of narcotics, and a December 2013 burglary charge. The other has six convictions, including charges of selling narcotics and larceny.

D'Amelio responds

NancyOnNorwalk called D'Amelio for comment on Sept. 6.

“I have to talk about my lawyer about that,” D'Amelio said, when told NancyOnNorwalk had a report and intended to write a story.

“I have never been convicted of a crime, and you know what’s going on right now,” he said. “I do not have a police record, and have not been convicted of a crime. This is what you know it is. It’s ‘the Senate Majority Leader knows he’s vulnerable,’ and it is what it is. I’ll stand by what I said. I do not have a police record. They want to dig things up.”

Duff did not respond to an email asking about D'Amelio’s allegation.

[presented with plans to change East Avenue](#)

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D'Amelio's lawyer responds

Attorney Mark Sherman contacted NoN on Sept. 7 and said the arrest and charges were dismissed, erased and expunged in March 2016. He argued that publication therefore constituted libel. By law, publication of true statements is not libel.

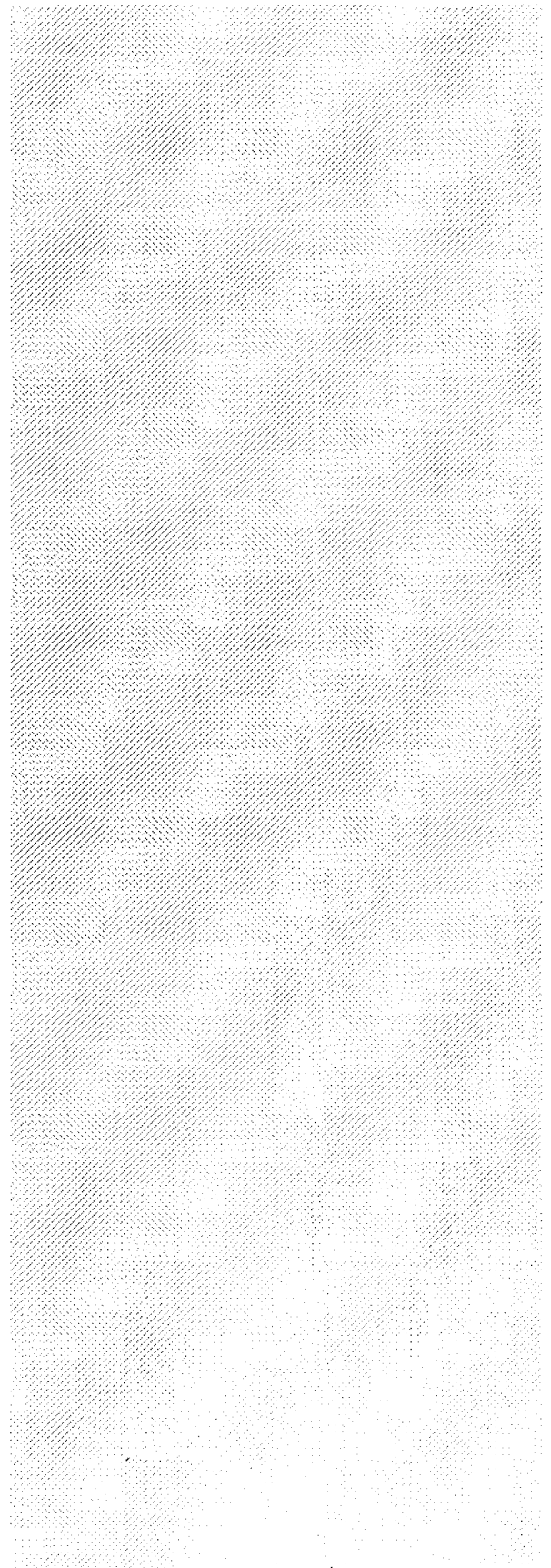
On Sept. 25, NoN emailed D'Amelio and Sherman, advised that NoN planned to post a story Monday, and asked if D'Amelio and/or Sherman wanted to comment verbally or send a statement.

On Sept. 27, Sherman sent this email:

“On behalf of Marc D'Amelio, I'm providing the following response-w/ the hyper-link:

“Mark Sherman, D'Amelio's Stamford criminal lawyer, confirmed that all charges against Mr. D'Amelio were dismissed and expunged by the Norwalk Superior Court. “The fact that police reports regarding a dismissed case were recently distributed to the media by the Norwalk Police Department is not only illegal but will be the subject of an Internal Affairs investigation, which we've asked the Connecticut State Police to handle.”

Expungement “is a court-ordered process in which the legal record of an arrest or a criminal conviction is ‘sealed,’ or erased in the eyes of the law,” according to <http://www.courts.state.nj.us/courts/tryon/tryon.htm>.



Source of the report

Before NancyOnNorwalk received any documents, two readers contacted NoN and said the public should know of D'Amelio's arrest.

Shortly thereafter, NoN received by mail an envelope with a copy of the arrest report. The envelope, which had no return address, also contained a Jan. 12, 2014, news article from the Hour about the arrest, which tells the same story as the arrest report.

NoN also contacted the Norwalk Police Department and arranged to pick up a copy of the arrest report. The copy provided by Norwalk Police was heavily redacted, with nearly all mentions of driving under the influence blacked out.

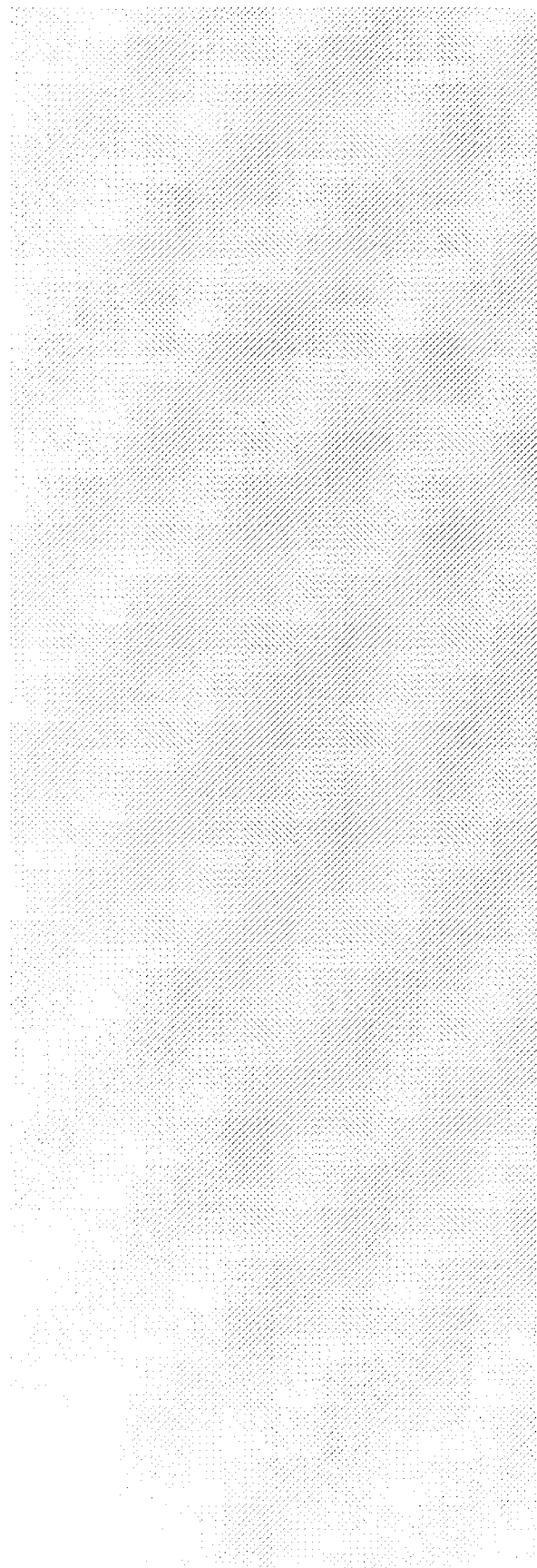
On Sept. 10, Norwalk Police Chief Thomas Kulhawik advised that the report was released in error, and asked that it be returned. NoN declined.

The reporting in this story is based entirely on the report which arrived by mail, which has far fewer redactions than the report provided by Norwalk Police.

Kulhawik on Sunday said he had not heard from the Connecticut State Police and had not requested their assistance.

The court transcript

D'Amelio's wife, Heidi, was present in the court when D'Amelio was granted



Accelerated Rehabilitation, the transcript obtained by NoN shows. DCF was not.

Heidi D'Amelio had no objection to the AR, the transcript states.

The aggravating circumstances were the presence of the 9-year-old in the car, Attorney Donna Krusinski is quoted as saying, and Wenzel replied that D'Amelio was looking at a C-class felony with the possibility of a 10-year sentence.

"If I may remind the Court, he pled to a reckless. Your Honor vacated it," Sherman is quoted as saying. "He did do a year probation on the reckless before. Your Honor vacated it based on changes in the law, which we're very grateful to."

"It's a difficult set of circumstances," Wenzel is quoted as saying. "Obviously you've got to make your top priority the safety and welfare of your children and you need to make better decisions."

"Biggest mistake of my life, sir," D'Amelio replied.

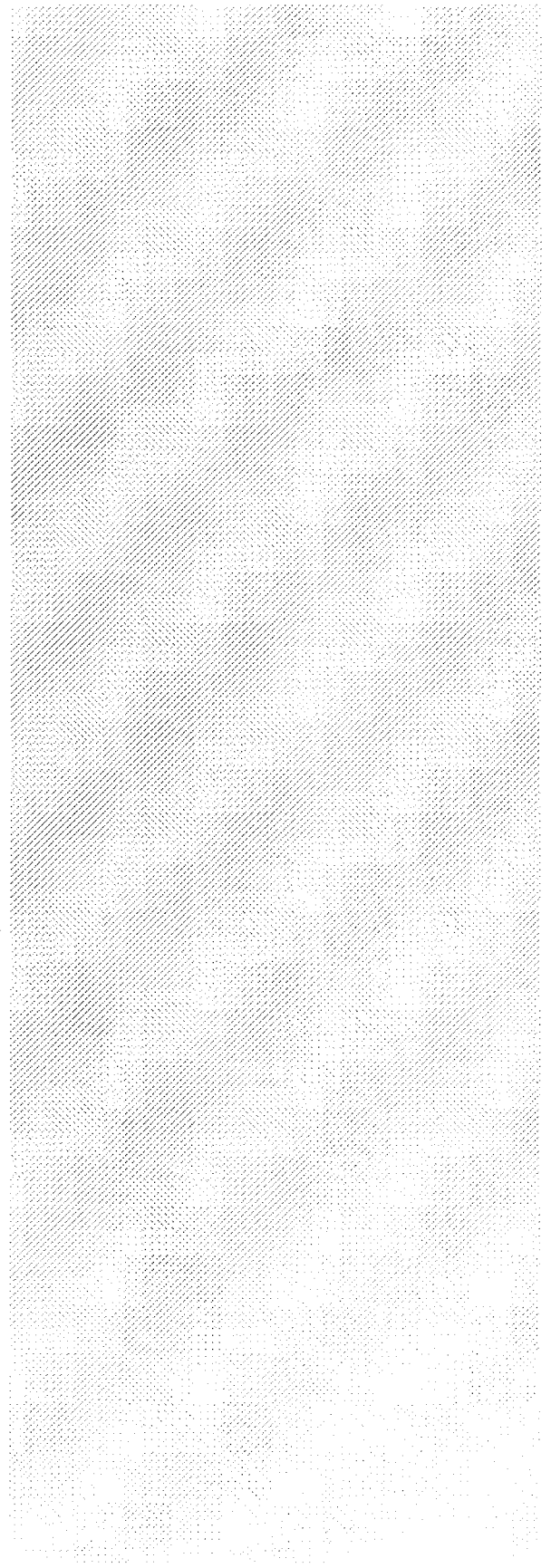
"Well I'm hoping that's the case and I'm hoping that from this point on you can use it as a way to learn," Wenzel replied.

"Everyone got lucky that time, okay?... let's go with a nine-month period of AR on this new matter. That will bring us to March 25, 2016."

[D'Amelio court transcript 15-0626](#)

D'Amelio slams Dems

On Sept. 29, a story appeared in The Hour detailing the arrest. The story quoted



D'Amelio accusing Democrats of conspiring to provide NoN with a police report to damage him, and said that Republicans believed that Common Council member Doug Stern (D-At Large) had provided the court transcript.

NancyOnNorwalk did not receive the transcript from Stern, a Democrat who is running for Judge of Probate.

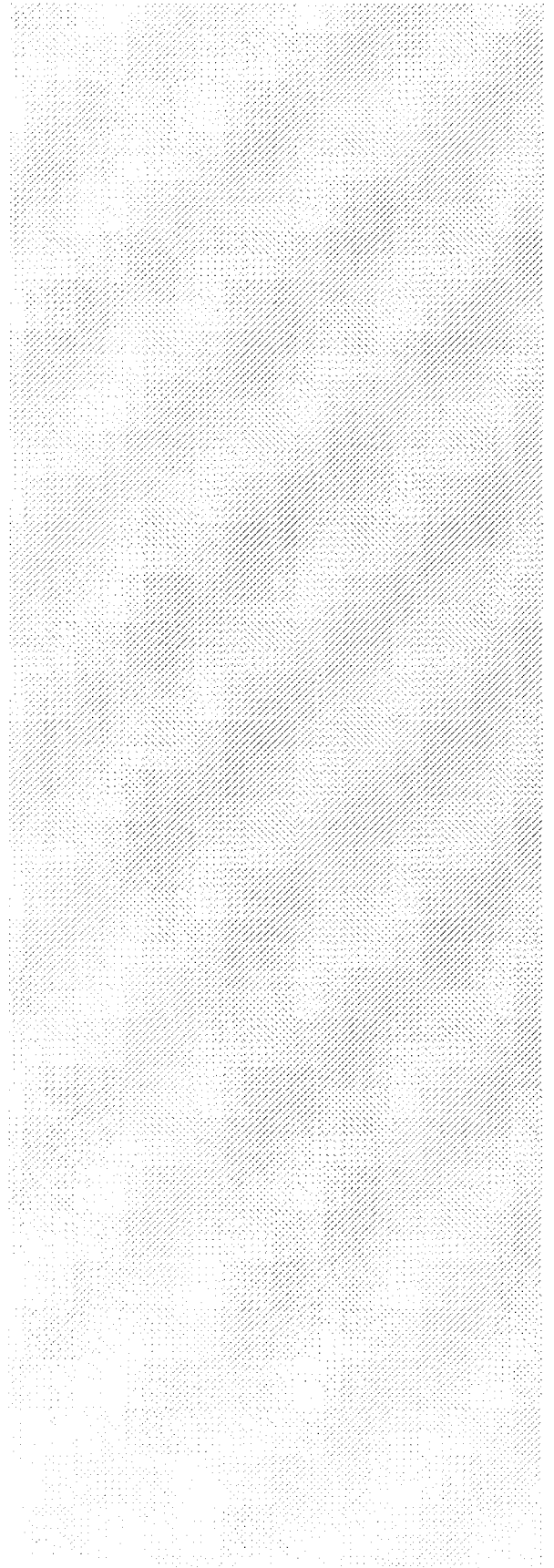
The transcript, first provided to NoN on Sept. 17, is available to the public by request. NoN contributor Harold Cobin went to the Norwalk courthouse on Oct. 2 and asked for records concerning D'Amelio. Cobin provided the clerk with D'Amelio's name, birth date and address. The clerk said nothing came up in the computer because it was too old, and when he told her he wanted a transcript she sent him to the court reporter's office, Cobin said.

"I showed her D'Amelio's name on my notepad and she asked me who I was," Cobin wrote in an email. "I said I was a reporter and she asked me to wait outside while she made a phone call. Then she called me back in and had me fill out a form to request a transcript."

The transcript obtained by Cobin is identical to the one provided to NancyOnNorwalk on Sept. 17.

An open secret

Rumors of D'Amelio's arrest were



rampant in Fall 2017 when D'Amelio was running for the Board of Education.

NancyOnNorwalk received word of a “whisper campaign” about it.

At the time, NancyOnNorwalk found one news story online about the arrest. The story no longer appears in search results.

D'Amelio's race for Board of Education was unsuccessful; he placed fifth in the race for four seats amid a Democratic landslide.

D'Amelio announced in January that he would take on Duff, then quickly withdrew, then in April resumed the campaign.

Republican Town Committee Chair Mark Suda, who is also a Norwalk Police Officer, declined a request for comment.

NancyOnNorwalk has received reports of Facebook users mentioning the incident, and D'Amelio replying that the comments were libelous. “Whoa there. Let me get this straight. You have lawyers going after people on this page, a Facebook page for the Norwalk Community, for things they said against you?” a commenter wrote to D'Amelio.

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40 comments

M. Murray

October 9, 2018 at 8:19 am

Done.

EXHIBIT D

NO: S20N-CR140136546S

: SUPERIOR COURT

STATE OF CONNECTICUT

: G.A. # 20

V.

: AT NORWALK, CONNECTICUT

DAMELIO, MARC

: JUNE 26, 2015

A R
S E C O N D
S T A G E

BEFORE THE HONORABLE WILLIAM WENZEL, JUDGE

A P P E A R A N C E S:

Representing the State of Connecticut:

ATTORNEY DONNA KRUSINSKI
Assistant State's Attorney
17 Belden Avenue
Norwalk, CT 06850

Representing the Defendant:

ATTORNEY MARK SHERMAN
29 Fifth Street
Stamford, CT 06905

Recorded By:
Donna Bonenfant

Transcribed By:
Linda Vanek
Court Recording Monitor
17 Belden Avenue
Norwalk, CT 06850

1 ATTY. KRUSINSKI: Marc Damelio.

2 THE CLERK: 209.

3 ATTY. SHERMAN: Good morning, Your Honor. Mark
4 Sherman for Mr. Damelio. This is down for second
5 stage AR.

6 THE COURT: Good morning, counsel. Good
7 morning, sir.

8 THE DEFENDANT: Good morning.

9 THE COURT: And our report is -- is the
10 gentleman eligible? He is eligible. Did we have
11 notice?

12 ATTY. SHERMAN: Yes we did, Your Honor. If I
13 may?

14 ATTY. KRUSINSKI: Who did you talk with this
15 morning?

16 ATTY. SHERMAN: The guy.

17 ATTY. KRUSINSKI: There's no notes in the file.

18 ATTY. SHERMAN: The State's objecting, if that
19 helps.

20 ATTY. KRUSINSKI: This needs to pass, Your
21 Honor. One of our volunteers just handed me a -- I
22 thought they were all kicks. He didn't speak to
23 anyone.

24 ATTY. SHERMAN: I didn't speak -- I just --

25 THE COURT: I'm sorry.

26 ATTY. SHERMAN: Certainly, I'll take it --

27 THE COURT: Let's pass it for a minute and make

1 sure we're all on the same page.

2 **(THE MATTER WAS RECALLED)**

3 ATTY. KRUSINSKI: Marc Damelio.

4 THE CLERK: 209.

5 ATTY. KRUSINSKI: No objection to the AR, Your
6 Honor.

7 ATTY. SHERMAN: Your Honor --

8 THE COURT: Okay. So did we sort out the issue
9 of eligibility?

10 ATTY. SHERMAN: Yes, Your Honor. And I believe
11 he is eligible.

12 ATTY. KRUSINSKI: He is.

13 THE COURT: Okay. And did we take care of
14 notice?

15 ATTY. SHERMAN: Yes, Your Honor. We do have
16 notice. I have it right here.

17 THE COURT: To whom was it directed?

18 ATTY. SHERMAN: To DCF and his wife, who is in
19 the gallery, Your Honor.

20 THE COURT: Okay. Anyone here from DCF?
21 Children and Families? There's no response.

22 ATTY. SHERMAN: And his wife, Heidi Damelio is
23 here, Your Honor.

24 THE COURT: Hi, ma'am. Good morning. So I will
25 be asking if you have any objection to this AR
26 application.

27 ATTY. KRUSINSKI: No, Your Honor.

1 THE COURT: No, I meant the --

2 ATTY. KRUSINSKI: Oh, I thought you meant the
3 State. I'm sorry.

4 THE COURT: -- parent representing the minor
5 children. Do you, ma'am?

6 MS. DAMELIO: I do not.

7 THE COURT: All right. Thank you, ma'am. So no
8 objection from the State?

9 ATTY. KRUSINSKI: No, Your Honor.

10 THE COURT: And any aggravating circumstances
11 here?

12 ATTY. KRUSINSKI: Driving while intoxicated with
13 a nine year old in the car.

14 THE COURT: Okay. This is -- sir, the charge
15 you're looking at, of course as counsel has explained
16 to you, is a C felony. The exposure on something
17 like this is up 10 years.

18 ATTY. SHERMAN: Your Honor, if I may remind the
19 Court, he pled to a reckless. Your Honor vacated it.
20 He did do a year probation on the reckless before
21 Your Honor vacated it based on changes in the law,
22 which we're very grateful to.

23 THE COURT: Yeah.

24 ATTY. SHERMAN: I'd ask you to consider that one
25 year of probation when you decide what to impose for
26 a condition of AR, if you're inclined to grant the
27 AR.

1 THE COURT: Okay. And that year ran, or --

2 ATTY. SHERMAN: 11 months and 20 days.

3 THE COURT: Okay. So it's not quite run.

4 ATTY. SHERMAN: Right.

5 THE COURT: Okay. Well I -- I'm going to grant
6 the application for the program, sir.

7 The -- you know, it's a difficult set of
8 circumstances. Obviously you've got to make your top
9 priority the safety and welfare of your children and
10 you need to make better decisions.

11 THE DEFENDANT: Biggest mistake of my life, sir.

12 THE COURT: Yeah. Well I'm hoping that's the
13 case and I'm hoping that from this point on you can
14 use it as a way to learn. Everyone got lucky that
15 time, okay?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: But I think what we should do,
18 counsel, is let's go with a nine month period of AR
19 on this new matter. That will bring us to March 25,
20 2016. The only condition, no new problems with the
21 law. Okay?

22 ATTY. SHERMAN: Thank you, Your Honor.

23 THE COURT: And if you'd go pay the program fee
24 on this matter --

25 ATTY. SHERMAN: Yes.

26 THE COURT: -- and then report to probation.

27 ATTY. SHERMAN: Thank you, Judge.

1

THE COURT: Thank you both.

2

THE DEFENDANT: Thanks.

3

4

*

*

*

5

NO: S20N-CR140136546S

: SUPERIOR COURT

STATE OF CONNECTICUT

: G.A. # 20

v.

: AT NORWALK, CONNECTICUT


DAMELIO, MARC

: JUNE 26, 2015

C E R T I F I C A T I O N

I hereby certify the foregoing pages are a true and correct transcription of the audio recording of the above-referenced case, heard in Superior Court, G.A. # 20, Norwalk, Connecticut, before the Honorable William Wenzel, Judge, on the 26th day of June, 2015.

Dated this 1st day of October, 2018 in Norwalk,
Connecticut.


Linda Vanek
Court Recording Monitor