IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI AT KANSAS CITY

POLICE PROSECUTOR		KC200366 095463333	
	OCN:	093403333	
STATE OF MISSOURI,	95) ,
vs.	PL	AINTIFF,)
NICHOLAS M. MCQUILLEN	J		,)
Menoras M. Megoirre) CASE NO.
) DIVISION 1)
)
7	DEF	ENDANT.	<i>)</i>)

INDICTMENT

Count I. Assault- 4th Degree - Pursuant To Subdivision (1), (5) (565.056-004Y201713990)

The Grand Jurors of the County of Jackson, State of Missouri, charge that defendant, in violation of Section 565.056, RSMO, committed the Class A Misdemeanor of Assault in the Fourth Degree, punishable upon conviction under Sections 558.002 and 560.011, RSMo, in that on May 30, 2020, in the County of Jackson, State of Missouri, defendant recklessly caused physical pain to N.M., a juvenile, by spraying a chemical agent at and/or near her face and eyes.

The range of punishment for a Class A Misdemeanor is imprisonment in the county jail or other authorized penal institution for a term not to exceed one (1) year; by a fine not to exceed two thousand dollars (\$2,000); or by both imprisonment and a fine. If money or property has been gained through the commission of the crime, any fine imposed may be not more than double the amount of the offender's gain from the commission of the crime up to a maximum of twenty thousand dollars (\$20,000).

The facts that form the basis for this indictment are contained in the Evidence Presented and Factual Findings in Support of Indictment document, filed contemporaneously herewith.

A TRUE BILL	
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FOREPERSON	*
s (a)	JEAN PETERS BAKER PROSECUTING ATTORNEY FOR THE COUNTY OF
8 R 3	JACKSON, STATE OF MISSOURI, by
	Dion Sant
Received this / day ofMARCH	, 2021.
⊠ SUMMONS TO ISSUE.	
□ WARRANT TO ISSUE. BOND SET AS \$	FOLLOWS:
CIRCUIT COURT JUDGE	
CINCOTT COURT GODGE	

WITNESSES:

WITNESSES:

- 1. PO Joy Beseth, 1125 Locust, Kansas City, MO 64106
- 2. PO Christopher Blevins, 1125 Locust, Kansas City, MO 64106
- 3. PO Taylor A. Hall, 1125 Locust, Kansas City, MO 64106
- 4. SGT Andrew Henry, 1125 Locust, Kansas City, MO 64106
- 5. CAPT. Danny Jackson, 1125 Locust, Kansas City, MO 64106
- 6. PO Devin Jackson, 1125 Locust, Kansas City, MO 64106
- 7. C.J., 415 E. 12th Street, Kansas City, MO 64106
- 8. PO Erich Kenning-Zweimiller, 1125 Locust, Kansas City, MO 64106
- 9. Frank Kuhl, 415 E. 12th Street, Kansas City, MO 64106

State vs. Nicholas M. McQuillen

- 10. SGT. Edward Lamport, 1125 Locust, Kansas City, MO 64106
- 11. N.M. 415 E. 12th Street, Kansas City, MO 64106
- 12.
- 13.
- 14. Det. William Majors, 1125 Locust, Kansas City, MO 64106
- 15. PO Shane Mellott, 1125 Locust, Kansas City, MO 64106
- 16. PO Carlos Mena, 1125 Locust, Kansas City, MO 64106
- 17. PO James R. Oakes, 1125 Locust, Kansas City, MO 64106
- 18. PO Bryan Quinn, 1125 Locust, Kansas City, MO 64106
- 19. SGT Jason Quint, 1125 Locust, Kansas City, MO 64106
- 20. PO John Shipman, 1125 Locust, Kansas City, MO 64106
- 21. PO Slade Whetro, 1125 Locust, Kansas City, MO 64106

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI AT KANSAS CITY

In re: Criminal Record Numbers: KC20036663 Division 1

Evidence Presented and Factual Findings in Support of Indictment

The Jackson County Grand Jury convened on six separate sessions to review the May 30, 2020 incident involving N.M., a juvenile, and Kansas City, Missouri Police ("KCPD") Officer Nicholas McQuillen, which occurred in the area of 47th Street and JC Nichols Parkway, Kansas City, Jackson County, Missouri.

Based on our review of the evidence, we have probable cause to believe that Nicholas McQuillen recklessly caused physical pain to N.M. during the May 30, 2020 incident.

I. Evidence Presented

Over the course of multiple sessions, we were given access to the file materials which included:

- 1. Incident Report
- 2. Progressive Report: Completed by PO Hall
- 3. Statement from and N.M.
- 4. Transcribed Statement of T.M., Jr.
- 5. Transcribed Statement of C.J.
- 6. Transcribed Statement of ' and N.M.
- 7. Progressive Report and video re: N.M.
- 8. Case Information Report: No Medical Records Regarding N.M.
- 9. Progressive Report: Truman Medical Center Documentation
- 10. Progressive Report: St. Luke's Medical Records
- 11. Recovered Property Report: Recovery of St. Luke's Medical Records
- 12. Department Statements:
 - a. Progressive Report: Sgt. Andrew Henry
 - b. Progressive Report: Sgt. Jason Quint
 - c. Progressive Report: Officer James Oakes
 - d. Progressive Report: Officer John Shipman
 - e. Progressive Report: Officer Devin Jackson
 - f. Progressive Report: Officer Christopher Blevins
 - g. Progressive Report: Officer Erich Kenning-Zweimiller
 - a. Progressive Report: Officer Joy Beseth
 - b. Progressive Report: Officer Carlos Mena

- c. Progressive Report: Officer Shane Mellott
- d. Progressive Report: Officer Slade Whetro
- e. Progressive Report: Officer Taylor Hall
- f. Progressive Report: Officer Bryan Quinn
- 13. Recovered Property: Officer Bryan Quinn's Coban Video
- 14. Case Information Report: Officer James Oakes and Officer Nicholas McQuillen
- 15. Case Information Report: Frank Kuhl's Digital Media Files
- 16. Recovered Property Report: Frank Kuhl's Video and Images
- 17. Case Information Report: Frank Kuhl's Google Share File
- 18. Case Information Report: Search Warrant
- 19. Case Information Report: Search Warrant Response
- 20. Case Information Report: Response to Resistance Policy
- 21. Recovered Property Report: Three Compact Disc
- 22. Recovered Property Report: Twitter Video
- 23. Recovered Property Report: Cell Phone Video
- 24.18 Compact Discs
 - a. disc-Twitter Video
 - b. disc-Air Tape
 - c. disc-St. Luke's medical records for l
 - d. disc-Coban video from patrol wagon
 - e. disc-Video of N.M. hairline provided by attorney
 - f. disc-Photographs taken by Mr. Kuhl
 - g. disc-Information from Facebook search warrant
 - h. disc-DVD Cell Phone Video from Capt. Jackson
 - i. 2 discs-Received at start of investigation, labeled
 - i. 9 discs-Statements

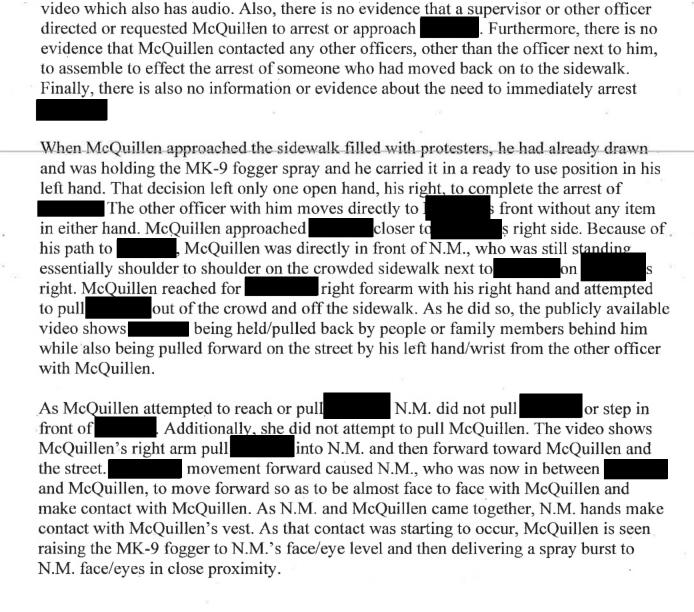
II. Factual Findings

On May 30, 2020, at approximately 5:00 p.m., N.M. arrived at the Country Club Plaza to participate in the organized protest with her father, siblings and others. N.M. and the others in her group were at the protest for approximately 30-45 minutes at or near the Mill Creek Park.

During the course of this investigation, two sergeants, or supervisors above McQuillen, stated that during the protest officers were told to be specifically mindful of attempting to make an arrest of someone if the person they were attempting to arrest moved back into the crowd. Officers were specifically told by supervisors that if someone does move back into the crowd then officers should wait for another time to attempt to arrest that person. Those supervisors noted that not going in to the crowd was beneficial to officer safety. Other officers interviewed in this investigation also noted their understanding of this arrest protocol. In addition, one of these supervisors described a

process where multiple officers, some used to effect the arrest and others used as stand by support, would be involved. Finally, both sergeants noted the general training guidelines on the use of the MK-9 fogger spray. Those guidelines note that, generally, officers should not use the fogger spray on an individual but rather on crowds and officers should, generally, avoid spraying individuals directly in the face or eyes.

Various videos, including KCPD drone footage and cell phone footage from N.M.'s show that the protesters were in the park and on the sidewalks while KCPD Officers lined the streets facing the protesters on the afternoon of May 30, 2020. Those same videos also show that was approached by KCPD officers approximately three times. During the course of the law enforcement investigation of this incident, multiple officers reported that was repeatedly told to remain on the sidewalk or he would be arrested. disputed these allegations and noted that he did not hear the officers provide any such warnings.
Nonetheless, cell phone video and publicly available video showed the moments prior to the incident involving N.M. and McQuillen. Those videos show that immediately prior to McQuillen and another officer approaching. N.M. was standing on the sidewalk to the right of the street. Those statements include:
"Prematurely shooting people" "Prematurely using excessive force" "Take yo[ur] scary a** on somewhere"
appears to make these statements while standing on the street, within a foot or so of the sidewalk. In an around this time, a civilian on a scooter is seen driving on the street in between officers and and the protesters. The officers make no effort to stop or re-direct the person on the scooter.
As finished his final statement, his cell phone footage shows McQuillen's reaction. McQuillen, who is across from turned and got the attention of the officer standing next to him. Then, McQuillen points in a statement direction. Immediately after that, McQuillen and the officer next to him move toward and, as they do so, McQuillen makes a hand signal toward the protesters next to signal is not done at or toward the area where N.M. was standing. As the officers approached and the protesters on the sidwealk, and already stepped back onto the sidewalk. Per and N.M., McQuillen and the other officer do not say anything to and N.M. as they come across the street towards them, including any verbal statement that was under arrest. Likewise, there was no verbal direction to N.M. to move or clear away from the area. The and N.M.'s statements that they heard no such commands or directions or statement that is under arrest is supported by cell phone video which has audio and the publicly available



The spray caused N.M. to immediately reach for her face in pain and moved further back into the crowd. Thereafter, according to her statements and testimony, her contact lens were stuck in her eyes for some time. This led to blurred vision and she experienced pain and a burning sensation when her eyes teared. She also noted minor skin discoloration to her forehead near her hairline for sometime following May 30, 2020 and she also experienced a burning sensation on the skin on her arms. She did not seek medical treatment but rather used home treatments for her pain.

McQuillen declined to provide a statement to investigators.

Submitted by the March 12, 2021 Jackson County Grand Jury,

Grand Jury Foreperson