

JOIN THE CLEVELAND SCENE PRESS CLUB. BECAUSE NO NEWS IS BAD NEWS.



Share 1.7K

Tweet

Email

Print

Share

SCENE & HEARD

Two Indicted on Felony Assault Charges for Using Megaphones at TownHall Protest

Posted By Sam Allard on Thu, Jan 28, 2021 at 9:45 am



Google Maps

A 21-year-old woman and a 25-year-old man have been indicted on felony assault and menacing charges for using megaphones during a July protest at the Ohio City bar and eatery TownHall.

The protest, the third of three in late June and early July at establishments owned by the George family, were organized by the local nonprofit With Peace We Protest (WPWP) and occurred during a summer of widespread demonstrations against systemic racial injustice in response to the police murder of George Floyd in Minneapolis.

The protests at the George restaurants — Harry Buffalo and Barley House in downtown Cleveland and TownHall in Ohio City — were staged in response to perceived racist and sexist behavior by the owners and managers. In TownHall case, demonstrators were also responding to what **they regarded** as the



Ohio's **#1** Adult-Foc
Online | Accredited | Nonprofit

restaurant's dangerous posture toward the Coronavirus pandemic.

Sydney Yahner and Josiah Douglas were indicted by a Cuyahoga County grand jury last week. They were among a group of roughly 10 protesters standing outside the back patio entrance of TownHall on July 12. Both of them used megaphones that they'd purchased on Amazon to amplify messages and chants at intervals **throughout the demonstration**, which was actively and heavily monitored by local law enforcement.

Jacqueline Boyd is the director of operations at TownHall and the first cousin of owner Bobby George. She was working as a hostess at the back entrance on July 12 and alleged that she suffered permanent hearing loss due to the proximity of the megaphones throughout the event. Indeed, the *weaponization* of the megaphones is the basis for the felony charges. Local civil liberties attorneys and first amendment advocates view the indictments as extreme.

Peter Pattakos is the attorney for Yahner and Douglas. (He also represented Scene in a recent legal dispute with Bobby George). He emailed Cuyahoga County Prosecutor Mike O'Malley late last Friday, expressing disbelief that a grand jury would indict his clients.

"I have every reason to believe that your office has been badly misled as to the basis for this indictment," Pattakos wrote, attaching a related brief which he said would illustrate the "incredibly outrageous" nature of the charges. "I expect that when you read it you will agree, and that your office will immediately dismiss this case."

The brief, filed after Boyd sought a restraining order against Douglas and Yahner in the wake of the July 12 demonstration, advanced the position that Jacqueline Boyd and Bobby George were seeking to leverage their resources to "pervert and subvert clearly established law to serve their own personal interest."

Both the restraining order and the subsequent assault and menacing charges, according to this view, are attempts to silence and retaliate against constitutionally protected speech about the Georges and their business operations.

Among other things, **the September, 2020 brief** disputed the severity of Boyd's alleged hearing loss. Why didn't any of the demonstrators, who were much closer to the megaphones in use that day, suffer hearing loss or require medical attention, the brief inquires. Why wouldn't any of the ample uniformed officers on hand have intervened to stop a felony assault in progress, if indeed one had been occurring? It also noted that in her own testimony, Boyd admitted she was not using a hearing aid nor taking any medication for her alleged blown eardrums. Rather, she was using "natural remedies like yoga."

Pattakos provided the following statement on the recent indictments to Scene.

"My clients, their families, and their attorneys are shocked that the Cuyahoga County Prosecutor's office would pursue any charges, let alone felony charges, here. Not only is the theory of this prosecution constitutionally suspect and ridiculous on its face – that these civil-rights protesters who were engaged in fundamental First Amendment-protected activity committed felony assault by soundwaves emitted from standard-issue megaphones – but the dishonesty and retaliatory motive so-called victim here could hardly be clearer from the evidence, including how video footage from various sources, that [the prosecutor's] office has apparently failed to review."

Cuyahoga County Prosecutor Michael O'Malley told Scene that in his understanding, Jaqueline Boyd had indeed suffered permanent hearing loss, which constitutes serious bodily harm under Ohio law. Hence the felony. He said that a grand jury "composed of citizens of this county" decided that a criminal indictment was warranted, but said that the defendants would have an opportunity to present their case before a judge or jury, and he had every expectation that justice would prevail. (We note for the record that grand juries operate under advisement from prosecutors, who determine which charges to pursue. **Just like in the Breonna Taylor case.**)

But O'Malley said he objected to Pattakos attempting to bully him into dismissing the case by threatening to bring national media attention and outside legal resources to bear, which Pattakos said expressly in his Friday email.

"Make no mistake," O'Malley told Scene, "myself or my office does not make decisions based on bullying or public pressure. We follow the rule of the law."

Andy Geronimo, director of the Case Western Reserve University First Amendment Law Clinic, (who is also representing Scene in a public records dispute with the City of Cleveland), said the indictments were very troubling to him.

"From all appearances, this is a felony prosecution of speech," he wrote in an emailed statement to Scene. "While there have been First Amendment challenges to restrictions on the time, place, and manner of the use of amplified sound, I'm not aware of any criminal prosecution, (apart from this one), where the claimed harm is hearing damage from a megaphone or other amplification system. The Supreme Court has repeatedly held that the First Amendment's guarantee of freedom of speech does not change because the speaker used technology to convey their message, and I hope that the prosecutor's office considers the constitutional implications involved in criminalizing acts of free expression."

Bobby George, the TownHall owner, told Scene that he was "happy and proud" justice had been served in the form of the indictments. He said he didn't know details about Sydney Yahner — the 21-year-old woman from Willoughby — and felt bad about the indictment in her case, but still felt that justice was done.

As for Josiah Douglas, George referred to him as a "terrible human being" and said that in addition to using the megaphone, Douglas had threatened him by announcing his home address and making hand gestures that resembled a gun. George was not at the July 12 event, but had been present at previous WPWP demonstrations. He said he supported peaceful protest, but that in his mind, the demonstration on July 12 crossed a line into physical harm.

"This is a bad guy," George said of Douglas, "but I do believe in second chances, so I hope he learns his lesson."

The case against Yahner and Douglas may yet be dismissed. If the prosecutor's office does not, Pattakos said he's hopeful that a judge will, based on what their team sees as clear evidence in the case and the constitutional premise and purpose of protest.

The September brief included a quote on that topic from the testimony of Chr Piazza, another With Peace We Protest member and Cleveland-Marshall Law student.

"These protesters are supposed to be disruptive," he said. "They're supposed to be offensive. They're supposed to be bothersome. If these protests were just us sitting at home behind our keyboards, nothing would ever happen. We need to be out there. We need to be loud and obnoxious, just to get people's attention. That's the only way we're ever going to affect any change."

Sign up for Scene's weekly newsletters to get the latest on Cleveland news, things to do and places to eat delivered right to your inbox.

Tags: TownHall, protest, Bobby George, Peter Pattakos, felony, megaphone, assault, Mike O'Malley, Image

We welcome readers to submit letters regarding articles and content in *Cleveland Scene*. Letters should be a minimum of 150 words, refer to content that has appeared on *Cleveland Scene*, and must include the writer's full name, address, and phone number for verification purposes. No attachments will be considered. Writers of letters selected for publication will be notified via email. Letters may be edited and shortened for space.

Email us at news@clevescene.com.

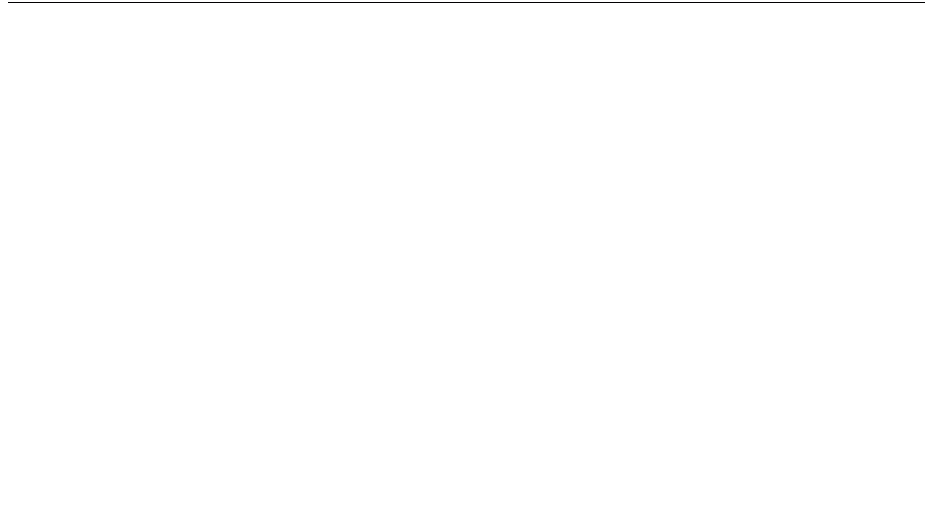
Cleveland Scene works for you, and your support is essential.

Our small but mighty local team works tirelessly to bring you high-quality, uncensored news and cultural coverage of Cleveland and beyond.

Unlike many newspapers, ours is free – and we'd like to keep it that way, because we believe, **now more than ever**, everyone deserves access to accurate, independent coverage of their community.

Whether it's a one-time acknowledgement of this article or an ongoing pledge, your support helps keep Cleveland's true free press **free**.

Donate



Share 1.7K

Tweet

Email

Print

Share

« New Single From Local Artist Unc D... |

Zaytoon Lebanese Kitchen in Playhou... »

More Scene and Heard: Scene's News Blog »

TRENDING

Feds Charge Family Who Formed Dozens of Fake Farming Companies in Northeast Ohio to Get \$7.4 Million in Coronavirus Aid

Grounded by the Pandemic, Dan Savage's HUMP! Film Festival Pi to Virtual Format