

STATE OF MINNESOTA
COUNTY OF RAMSEY

DISTRICT COURT
SECOND JUDICIAL DISTRICT

STATE OF MINNESOTA,

Plaintiff,

vs.

Court File No. 62-CR-20-5111

CA File No. 062-0429260

Michael Anthony Forcia,

Defendant.

PRETRIAL SUSPENDED PROSECUTION AGREEMENT

The State of Minnesota, by Assistant County Attorney Sarah Cory, and Michael A. Forcia, the defendant in this matter, personally and with counsel Jack Rice and Willow Anderson, hereby agree to the following Suspended Criminal Prosecution Agreement pursuant to Minnesota Rule of Criminal Procedure 27.05.

Stipulated Facts and Procedural History

1. The investigative file in this matter reveals that on June 10, 2020, a large group of people gathered in front of the Columbus statue on the Minnesota State Capitol grounds, organized and led by Michael Forcia. Mr. Forcia had organized the event via Facebook earlier that day, announcing plans to remove the statue at 5pm. A captain from the Minnesota State Patrol observed the preparations and approached Mr. Forcia, who said he was there to pull the statue down. The captain urged him to follow the statutory process to remove the statue. Nevertheless, Mr. Forcia proceeded. Members of the group scaled the statue, tied a rope around it and pulled it down with the help of others on the ground.
2. The authority responsible for the artwork, memorials and statues on the State Capitol grounds is the Capital Area Architectural Board. The investigation in this matter and meetings of the CAAPB following the removal of the statue revealed that the official process for removing a statue from the Capitol grounds is not clear. Efforts are now underway at the state level to develop a transparent and accessible process for making requests of the CAAPB relating to artwork and memorials on Capitol grounds. <https://mn.gov/caapb/capitol-area/memorials-monuments/task-force.jsp>
3. The estimated cost of repair and replacement totaled \$154,553, however, actual costs are not known because the CAAPB may determine that the statue will not be repaired or returned to its location. The statue is currently in storage, and the CAAPB has started a commission to

review Capitol artwork, including the Columbus Statue. The commission will submit its findings to the CAAPB for review and a vote on whether to remove or replace the Columbus statue. If removal of the statue is approved, the Minnesota Historical Society will take possession and determine the statue's future.

4. The act of toppling the statue and anticipated response to it has garnered a significant amount of public attention.
5. For his actions on June 10, 2020, Mr. Forcia was charged by complaint with Criminal Damage to Property in the First Degree, a felony violation of Minn. Stat. Sec. 609.595, subd. 1. This is a Severity Level 2 offense on the Minnesota Sentencing Guidelines. Punishment for conviction of this offense by a person with no criminal convictions is a probationary sentence, with supervision of up to 5 years.
6. Mr. Forcia did not disguise his identity, or deny his involvement.
7. Michael Forcia has no criminal convictions.
8. Minnesota law recognizes a policy favoring alternatives to conviction and confinement for people who have not previously been convicted of a crime. Minn. Stat. § 401.065.
9. A restorative justice process was initiated in order to explore the underlying reasons for and the impact of the actions that led to the charges in this matter, and to bring forth value-driven recommendations from the community about what would be the most meaningful way to restore harms resulting from these actions. The process began with two separate circles, each made up of a diverse group of people representing several perspectives gained from lived experiences and vocational experiences, and culminated in a joint circle. Participants had vocational experience serving on state and local legislative bodies, in law enforcement, in philanthropy, higher education, community organizing, faith organizations, public media, and social services. Participants included Native people raised in different parts of Minnesota, residents of the Metro area as well as greater Minnesota, and people who grew up outside of Minnesota.
10. **Circle 1** was scheduled for September 23, 2020, from 6 pm – 8:30 pm. Circle 1 centered on the perspective that toppling the statue harmed the community and must be rectified.
11. **Circle 2** was scheduled for September 30, 2020, from 6 pm – 8:30 pm. Circle 2 centered on the perspective that toppling the statue was justified because its presence was harmful and emblematic of a longstanding, traumatic history.
12. **Circle 3** was scheduled for October 12, 2020, from 6 pm – 8:30 pm. All participants of the first two circles were invited to Circle 3. The purpose of the combined circle was to bring together people who had wrestled with the two perspectives to discuss the nuances and complexities of the impact on the greater community, reflect on the history and shared values, and generate ideas about how to repair the harm and begin to heal the historical trauma experienced by the community.

13. At the close of the final session from the restorative processes, consensus around the disposition of this case was unanimous that the response should not involve a conviction or a jail or prison sentence. The opportunity for accountability or restoration through service was recommended in various iterations around the circle, and there were numerous offers to support or join in the service work.

Acknowledgments by the Prosecutor

As a result of the perspectives that emerged from the community during the restorative justice circles, the prosecutor hereby acknowledges the following as essential to the goal of achieving justice, accountability, healing and restoration in this matter:

1. The violence, exploitation and forced assimilation that has been inflicted upon Native people has been perpetuated from colonial times into modern times, and the trauma resulting from it is still present. The impact of those harms is largely unrecognized by or unknown to the dominant culture.
2. Legal processes are reflective of the perspectives of the dominant culture.
3. There have been inquiries into and efforts to seek removal of the Columbus statue even by state legislators that received little to no consideration, and there was not actually a mechanism in place in the law to effect the removal of the statue. We must acknowledge the failure of public systems to address this situation as a contributing factor.
4. There was context for this unlawful act that was committed out of civil disobedience that we should seek to understand and reckon with in determining the legal system's response to this act.

Acknowledgments by Mr. Forcia

As a result of participating in the restorative process, hearing how his actions on June 10, 2020 impacted the greater community and residents across Minnesota, and having had the opportunity to reflect on it all, Michael Forcia makes the following acknowledgements:

1. This has been an exhaustive process which required hard work. It has enlightened my perspective and caused me to think deeply about what I did, why, and the far-reaching effects my actions have had, many of which were unintended. The legal process we used here had broad community involvement with varying viewpoints, all of which were worthy of being heard.

2. The rule of law is an essential element to a peaceful society. I broke the law and was prepared to accept the consequences when I did that. By my actions and service going forward, with the help of those from the circle who have offered their support, I will work to restore community peace and seek to repair the harm that I have caused.
3. I learned about what the statue meant to Italian Americans when it was erected and for their struggle for acceptance. I understand my actions caused harm to those who felt this was an attack on their community.
4. In the Native American community, I hurt those who disagreed with my decision. I was not speaking for them. It created a rift in a community I deeply love which I regret and will continue to work to make amends.

Conditions of Suspended Prosecution

1. Mr. Forcia waives the right to a speedy trial.
2. Mr. Forcia shall perform restitution in the form of 100 hours of service to the community through providing education and participating in other restorative practices in furtherance of repairing the harms and healing the divide identified in the circle process.
3. Financial Restitution for the statue will not be a condition of this agreement due to the lack of certainty around what ultimately will be done with the statue, and the amount of time the decision process is likely to take to complete the thorough engagement the CAAPB has undertaken. This issue is reserved for 90 days from the date of this agreement.
4. Mr. Forcia shall draft a letter acknowledging the harms caused by his actions and the actions he agrees to take to repair those harms.
5. Mr. Forcia is prohibited from committing any offenses that result in new criminal charges (misdemeanor or more serious).
6. **Successful Completion** – If, at the end of the suspended prosecution period, Mr. Forcia has complied with the conditions of this agreement, the State will move to dismiss this case. In order to avoid an unnecessary extension of the agreement, Mr. Forcia, through his counsel, and the prosecutor will review progress toward the goals of this agreement at 90-day intervals (March 5, June 4, September 3, and December 2, 2021.)
7. **Extension of Agreement** – The State reserves the right to move the Court for a stipulated extension of the suspension period, as conditions require, and Mr. Forcia agrees to an extension if any date is set beyond the agreement's expiration date by the Court. Further, if at any time during the pendency of the case a bench warrant is issued for Mr. Forcia's arrest, Mr. Forcia agrees that this agreement shall be automatically extended until at least the date of his next appearance in court on this case.

8. **Non-Compliance** – If, at any time during the deferral period, Mr. Forcia has not complied with the conditions of this agreement, the State may, in accordance with Minn. R. Crim. P. 27.05 Subd. 4, move the court to terminate this agreement and resume prosecution of this case.
9. **Material Misrepresentation** – If any party misrepresented material facts affecting this agreement, any party may move the court to terminate the agreement in accordance with Minn. R. Crim. P. 27.05.
10. **Termination by the Defendant** – At any point during the deferral period, Mr. Forcia may, through written motion, notify the State and the Court of his intention to terminate this agreement, which will resume prosecution of this case.
11. **Review Date** – This matter is suspended until December 6, 2021, when it shall be reviewed for termination of the agreement, unless sooner placed on the District Court Calendar by either party.
12. **Expungement** – following successful completion of this agreement and the appropriate waiting period, the Ramsey County Attorney’s Office will aid in the petition for an expungement if eligible.

By signing below, the parties commit to the above agreement, effective December 7, 2021.

/s/Sarah Cory 12/6/2020

Sarah Cory
Assistant Ramsey County Attorney
Attorney License Number: 0311285

/s/ Michael Forcia

Michael Forcia, Defendant

/s/ Jack Rice

Attorney for Defendant
Attorney License Number: 0279055

/s/ Willow Najjar Anderson

Attorney for Defendant
Attorney License Number: 032987