

Incident/Investigation Report

Agency: SPPD

Case Number: 2009-027283
Report Type: TRESPASSING

Date: 05/20/2009 16:30:51
(35554) GUESS, MARION J

Incident Information

Date/Time Reported 04/18/2009 20:21	Date/Time From 04/18/2009 20:21	Date/Time To 04/18/2009 20:21	Officer (35554) GUESS, MARION J
Incident Location 770 34th St N, St Petersburg, FL 33713			Approving Officer (29623) JONES, JAMES A
Case Status: FURTHER INVESTIGATION			Case Disposition:

Incident Report Dissemination State Attorney CASA **Other:**

Charges

1	Charge Type State	Description TRESPASS IN STRUCTURE OR CONVEYANCE	Statute 810.08	UCR 90J	<input type="checkbox"/> Att <input checked="" type="checkbox"/> Com
	Alcohol, Drugs or Computers Used <input type="checkbox"/> Alcohol <input type="checkbox"/> Drugs <input type="checkbox"/> Computers	Location Type RESTAURANT	Premises Entered	Forced Entry <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Weapons 1. 2. 3.
Entry	Exit	Criminal Activity			
Bias Motivation	Bias Target	Bias Circumstances	Hate Group		

Victims

Seq. # 1	Type BUSINESS	Injuries None	Residency Status		Ethnicity	
Name (Last, First, M) KFC			Race	Sex	DOB	Age
Address 770 34TH ST N, ST PETERSBURG, FL 33713					Home Phone (727) 323-5016	
Employer Name/Address MARCYES, MELODY M					Business Phone	
Victim of Crimes 1	Height	Weight 0	Hair	Eyes	Place of Birth	
Missing Person/Runaway Notes						

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Suspects

Seq. # 1	Type INDIVIDUAL	Name (Last, First, M) CONGEMI, PAUL JOSEPH						
AKA			Race W	Sex M	DOB 12/28/1956	Age 52	Height	Weight
Address 4819 8TH AV N APT. 304, ST PETERSBURG, FL 33713							Home Phone (727) 327-3749	
Employer Name/Address SELF EMPLOYED							Business Phone	
Scars, Marks, Tattoos or other distinguishing features								
Physical Characteristics								

Suspect Details and Notes

Witnesses

Seq. # 1	Name (Last, First, M) WYNN, DONTE LAMAR	Race B	Sex M	DOB 02/09/1989	Age 20
Address 5151 3RD AV S, ST PETERSBURG, FL 33707					Home Phone
Employer Name/Address					Business Phone
Witness Type					

Witness Notes

Seq. # 2	Name (Last, First, M) SMAROWSKY, JOSEPH JAMES	Race W	Sex M	DOB 05/06/1979	Age 29
Address 10301 60 CT N, PINELLAS PARK, FL					Home Phone
Employer Name/Address					Business Phone
Witness Type					

Witness Notes

Other Persons Involved

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Name Code Complainant	Seq. # 1	Name (Last, First, M) MARCYES, MELODY	Race W	Sex F
Address 770 34 ST N, ST PETERSBURG, FL			Home Phone 327-9757	
Employer Name/Address			Business Phone	

Assisting Officers

(29623) JONES, JAMES A

(30569) COLLINS, JOSEPH H

(44490) GAINER, BRIAN L

Incident Report Narrative

This report is written by Ofc. Gainer under the supervision of field training Ofc. Guess.

Narrative

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This report is reference to a Trouble With a Individual/ Trespass at 770 34 St N, KFC restaurant. Upon arrival we met with the stores Assistant Manager Melody M. Marcyes who stated that she wanted an individual trespassed from her store. She then proceeded to point out the individual later known to us as Paul Congemi and explained what happened. Marcyes stated that she tried to get the attention of the suspect who had his back turned to the counter facing the juke box to inform him that his 8-pc chicken was ready. Congemi then turned to face her and stated "THATS NOT MY FUCKING FOOD"! Marcyes replied "I apologize sir" and continued to look for the person who ordered the chicken. Congemi then stated "WHAT THE FUCK DO YOU WANT". Startled, Marcyes stated "I don`t want anything" thats when Congemi then replied "THEN WHAT THE FUCK ARE YOU LOOKING AT".

Donte L. Wynn an employee of the restaurant came up to the counter laughing at something that previously happened, when Congemi stated "HEY BOY DONT LAUGH AT ME"! Congemi approached the counter and pointed at Wynn. Wynn states that he took Congemi`s statement offensive and very racist. Wynn understands that (BOY) used in such a way is a derogatory term because he is African American. The cashier, Joseph J. Smarowsky, spoke to Congemi advising him, "Sir if you`re are not ordering food we`re going to have to ask you to leave". The suspect looked at Smarowsky, then pointed to his friend and stated "IM NOT GOING ANYWHERE HE`S BUYING YOU FAT MOTHERFUCKER"! Smarowsky stated that he asked his manager if he could throw the suspect out. Marcyes stated that she was calling the police.

After hearing her statement, we approached Congemi and asked him to stand up and come with me outside because the assistant manager wanted Congemi out of the restaurant. He refused to leave his seat. I asked him again "Sir please stand up and follow me outside". Congemi at this point was at passive resistance which is a subjects verbal and or physical refusal to comply with an officers lawful command. I then put the palm of my right hand on the bottom of his left elbow and guided him up then stated "Sir Get up and lets talk outside". At this point Congemi began to stand. Once Congemi stood up and I asked him if I can pat him down for weapons for my safety, he replied "YES". Once I patted him down I told him lets go outside and talk. Congemi looked at Ofc Guess and stated that "I DONT LIKE YOU, YOU GAVE ME A TICKET". Congemi took about five steps from the booth where he was sitting toward the door and stopped, tensed up, turned to me, and stated "WHAT IF I DONT WANT TO GO"! The subjects resistance level then rose to Active resistance which is a subjects use of physically evasive movements such as bracing, tensing pushing or pulling to prevent the officer from accomplishing his lawful objective. I told the suspect "Sir lets go outside and talk". Congemi looked at the cashier at the counter and said "WHAT THE FUCK ARE YOU LAUGHING AT"! Thats when I placed the palm of my right hand on the lower part of his left arm just above his elbow and guided him outside. Congemi stated "DONT TOUCH ME I AM

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RUNNING FOR MAYOR AND ONCE I GET ELECTED YOU WILL BE FIRED"! While escorting Congemi outside of the restaurant he stated repeatedly "YOU ARE MANHANDLING ME" I politely stated, "no sir I am not, just come talk to me outside".

Once outside, the assistant manager of the restaurant stated that she wanted him trespassed from the premises. The subject identified himself as Paul J. Congemi and stated again that he is running for Mayor and once he is elected he will fire Ofc Guess and I. I proceeded to ask Congemi what happened inside of the restaurant? Congemi ignored the question. Congemi took his pen out of the left front pocket of his shirt and grasped it in his right hand. Congemi began to swing the pen very animated. In concern for Ofc. Guess and my safety, I then told Congemi "Sir please put away your pen". Congemi stated "NO" then took his pen threw it down and said "IS THAT BETTER". I then asked him for some form of identification. Congemi stated that his I.D is in his bag and that I can look inside his bag and grab his I.D card. After getting his I.D. I told Congemi he is not under arrest but I requested him to sit in the backseat of the car while I fill out a trespass. Congemi then stated "I AM NOT SITTING IN THE CAR I AM NOT A FUCKING CRIMINAL"! I told Congemi that I know he was not a criminal and reassured him that he is not under arrest. I advised him that he just needs to relax. Congemi sat in the back left side of the car, not in handcuffs with the backdoor open and his feet placed outside on the pavement. Congemi was sat in the back of the car because of his aggressive manner, and the fact that we were considering a potential charge based upon his behavior.

I asked Congemi if he understood what a trespass means. Congemi replied, "YES, AND I DONT EAT HERE ANYWAY". While outside the restaurant with Congemi he repeatedly stated "I WANT YOUR BADGE NUMBER AND I WANT TO SPEAK TO YOUR SUPERVISOR". I stated to Congemi "when I finish with the trespass I will be more than happy to call my supervisor". Upon completion of the trespass I asked Congemi to sign the trespass and explained the trespass in detail. Congemi stated "WHAT ARE YOU GOING TO DO IF I DONT SIGN THE TICKET"! I told Congemi, "if you do not sign, it is still valid and you will still be trespassed". Congemi still refused to sign the trespass, so I signed refused to sign where his name goes and gave Congemi a copy and also the assistant manager of the restaurant a copy of the trespass.

After the copies of the trespassed was distributed, Congemi was asked to leave the property. Congemi was advised that he could be arrested for disorderly conduct, but was not being taken into custody because the store only wanted him trespassed. While Congemi was gathering his belongings he removed campaign literature from his bag and attempted to give it to me. The campaign literature was returned to Congemi because as public servants we are not allowed to take political sides during an Mayoral election. Congemi was advised to properly park along 8th Ave and standby while we requested a Sergeant to respond. After completion of the trespass Sgt. Jones and Sgt. Collins was contacted, and responded to speak to Congemi. The video from the store will be checked by Sgt. Jones and Sgt. Collins when available. I took no further action.
EOR END OF INCIDENT NARRATIVE