

File No. 20CR 053364		Law Enforcement Case No.		LID No.	SID No.	FBI No.												
MAGISTRATE'S ORDER		STATE OF NORTH CAROLINA In The General Court Of Justice District Court Division																
Offense I M-RESISTING PUBLIC OFFICER II T-IMPEDE TRAFFIC SIT/STAND/LIE		<u>ALAMANCE</u> County																
THE STATE OF NORTH CAROLINA VS.																		
Name And Address Of Defendant NOAH WILSON READ 2439 GLENCOE STREET BURLINGTON NC 27217 ALAMANCE COUNTY (336) 260-4399		<p>I, the undersigned, find that the defendant named above has been arrested without a warrant and the defendant's detention is justified because there is probable cause to believe that on or about the date of offense shown and in the county named above the defendant named above unlawfully and willfully did resist, delay and obstruct J. GIANNOTTI, a public officer holding the office of DEPUTY SHERIFF, by STAND AND LOITER IN THE MAIN TRAVELED PORTION, INCLUDING THE SHOULDERS AND MEDIAN, OF ANY STATE HIGHWAY OR STREET, EXCLUDING SIDEWALKS. At the time, the officer was discharging and attempting to discharge a duty of his office by KEEPING INDIVIDUALS FROM LOITERING IN THE MAIN TRAVELED PORTION, INCLUDING THE SHOULDERS AND MEDIAN, OF ANY STATE HIGHWAY OR STREET, EXCLUDING SIDEWALKS.</p> <p>I, the undersigned, find that the defendant named above has been arrested without a warrant and the defendant's detention is justified because there is probable cause to believe that on or about the date of offense shown and in the county named above the defendant named above unlawfully and willfully did STAND AND LOITER IN THE MAIN TRAVELED PORTION, INCLUDING THE SHOULDERS AND MEDIAN, OF ANY STATE HIGHWAY OR STREET, EXCLUDING SIDEWALKS.</p> <p>This act was in violation of the law referred to in this Magistrate's Order. This Magistrate's Order is issued upon information furnished under oath by the arresting officer(s) shown. A copy of this Order has been delivered to the defendant.</p>																
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:15%;">Race W</td> <td style="width:15%;">Sex M</td> <td style="width:20%;">Date Of Birth 12/29/1970</td> <td style="width:10%;">Age</td> </tr> <tr> <td colspan="2">Social Security No. [REDACTED]</td> <td colspan="2">Drivers License No. & State 7820216 NC</td> </tr> <tr> <td colspan="4">Name Of Defendant's Employer</td> </tr> </table>							Race W	Sex M	Date Of Birth 12/29/1970	Age	Social Security No. [REDACTED]		Drivers License No. & State 7820216 NC		Name Of Defendant's Employer			
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Date Of Offense 07/25/2020 through 07/25/2020																		
Date Of Arrest & Check Digit No. (As Shown On Fingerprint Card) 7-25-20 1002UC H																		
Arresting Officer (Name, Address Or Department) MARK A DOCKERY JR JR. ALAMANCE COUNTY SHERIFFS OFFICE 109 SOUTH MAPLE ST GRAHAM NC 27253 ALAMANCE COUNTY (336) 570-6300																		
Names & Addresses Of Witnesses (Including Counties & Telephone Nos.) DAVID SYKES ALAMANCE COUNTY SHERIFFS OFFICE 109 SOUTH MAPLE ST GRAHAM NC 27253 ALAMANCE COUNTY (336) 570-6300																		
<input type="checkbox"/> Misdemeanor Offense Which Requires Fingerprinting Per Fingerprint Plan		Date Issued 07/25/2020		Signature B J NANCE		Location Of Court Alamance County Courthouse; CRMA 212 W ELM ST GRAHAM, NC 27253												
		<input checked="" type="checkbox"/> Magistrate <input type="checkbox"/> Assistant CSC		<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Clerk Of Superior Court		Court Date 08/20/2020 Court Time 09:00 <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM												

District Attorney		<input type="checkbox"/> Waived <input type="checkbox"/> Not Indigent <input type="checkbox"/> Denied		Attorney For Defendant		<input type="checkbox"/> Appointed <input type="checkbox"/> Retained		PRIOR CONVICTIONS: No./Level: 0 I (0) II (1-4) III (5+)		
PLEA: <input type="checkbox"/> guilty <input type="checkbox"/> no contest <input type="checkbox"/> guilty <input type="checkbox"/> no contest <input type="checkbox"/> guilty <input type="checkbox"/> no contest <input type="checkbox"/> not guilty		VERDICT: <input type="checkbox"/> guilty M.CL. <input type="checkbox"/> A1 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> guilty M.CL. <input type="checkbox"/> A1 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> guilty M.CL. <input type="checkbox"/> A1 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> not guilty								
JUDGMENT: The defendant appeared in open court and freely, voluntarily and understandingly entered the above plea; on the above verdict, it is ORDERED that the defendant: <input type="checkbox"/> pay costs and a fine of \$ _____.										
<input type="checkbox"/> be imprisoned for a term of _____ days in the custody of the <input type="checkbox"/> sheriff. <input type="checkbox"/> MCP. <input type="checkbox"/> DAC.* Pretrial credit _____ days served.										
<input type="checkbox"/> Work release <input type="checkbox"/> is recommended. <input type="checkbox"/> is not recommended. [<input type="checkbox"/> is ordered. (use form AOC-CR-602)]										
<input type="checkbox"/> The Court finds that a <input type="checkbox"/> longer <input type="checkbox"/> shorter period of probation, than that which is specified in G.S. 15A-1343.2(d), is necessary.										
<input type="checkbox"/> Execution of the sentence is suspended and the defendant is placed on unsupervised probation* for _____ months, subject to the following conditions: 1. commit no criminal offense in any jurisdiction. 2. possess no firearm, explosive or other deadly weapon listed in G.S. 14-269. 3. remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training, that will equip the defendant for suitable employment, and abide by all rules of the institution. 4. satisfy child support and family obligations, as required by the Court. 5. pay to the Clerk the costs of court and any additional sums shown below.										
Fine \$		Restitution** \$		Attorney's Fee \$		Community Service Fee \$		Other \$		
**Name(s), address(es), and amount(s) for aggrieved party(ies) to receive restitution: NOTE TO CLERK: Record SSN or Tax ID No. of aggrieved party(ies) on AOC-CR-382, "Certification Of Identity (Victims' Restitution)/Certification Of Identity (Witness Attendance)."										
<div style="margin-top: 20px;"> <input type="checkbox"/> 6. complete _____ hours of community service during the first _____ days of probation, as directed by the judicial services coordinator, and pay the fee prescribed by G.S. 143B-708 within _____ days. <input type="checkbox"/> 7. not be found in or on the premises of the complainant or _____ <input type="checkbox"/> 8. not assault, communicate with or be in the presence of the complainant or _____ <input type="checkbox"/> 9. provide a DNA sample pursuant to G.S. 15A-266.4. (AOC-CR-319) <input type="checkbox"/> 10. Other: _____ _____ _____ _____ _____ </div>										
APPEAL ENTRIES										
<input type="checkbox"/> The defendant, in open court, gives notice of appeal to the <input type="checkbox"/> District <input type="checkbox"/> Superior Court. <input type="checkbox"/> The current pretrial release order is modified as follows:										
Date		Signature Of District Court Judge Or Magistrate								
WAIVER OF PROBABLE CAUSE HEARING										
The undersigned defendant, with the consent of his/her attorney, waives the right to a probable cause hearing.										
Date Waived		Signature Of Defendant								
Signature Of Attorney		Date		Name Of District Court Judge Or Magistrate (Type Or Print)			Signature Of District Court Judge Or Magistrate			
CERTIFICATION										
I certify that this Judgment is a true and complete copy of the original which is on file in this case.										
Date		Date Delivered To Sheriff		Signature			<input type="checkbox"/> Dep. CSC <input type="checkbox"/> Asst. CSC <input type="checkbox"/> CSC			

NORTH CAROLINA - LAW ENFORCEMENT INCIDENT DATA SHEET

ALAMANCE

County

Citation/Tracking No.

Y0070566 - 7

File No.

20CR 053364

Date Of Arrest

07/25/2020

Check Digit No. (as shown on fingerprint card)

Date Of Offense

on or about

07/25/2020

through

07/25/2020

Time Of Offense

on or about

09:30 AM

DEFENDANT INFORMATION

Name Of Defendant

READ, NOAH WILSON

Interpreter Needed

Drivers License No.

7820216

State

NC

CDL

Class

Race

WHITE

Sex

MALE

Date Of Birth

12/29/1970

Age

49

Hair

Eyes

Weight

Height

Place Of Birth

VEHICLE INFORMATION

Vehicle License No.

N/A

State

NC

Make

Year

☐ Haz. Mat.☐ CMV

Trailer Type

Vehicle Type

PEDESTRIAN

INCIDENT INFORMATION

Area

Weather

Visibility

Traffic

Accident

Speed

Zone

REGULAR ZONE

☐ Injury Or Serious Injury☐ Passenger(s) Under 18

Offense Location

1 SE COURT SQ GRAHAM, ALAMANCE

☐ Business Route☐ Unpaved

In Vicinity/City Of

At/Near Intersection

OFFICER INFORMATION

Agent/Officer

DOCKERY, MARK A JR.

No.

479

Law Enforcement Agency

ALAMANCE COUNTY SHERIFFS OFFICE

SHP Code

Assisting Agent(s)/Officer(s) And ID Number(s)

Assistance

Wit.

Chemical Analyst

☐ AC☐ Refused ☐ Blood

OFFENSE INFORMATION

#	Statute	Offense Short Description	Offense Type	Probable Cause
1	14-223	RESISTING PUBLIC OFFICER	M	YES
2	20-174.1	IMPEDE TRAFFIC SIT/STAND/LIE	T	YES
3				

NOTES

STATE OF NORTH CAROLINA

ALAMANCE County

File No.

20CR 053364

In The General Court Of Justice

☒ District ☐ Superior Court Division

STATE VERSUS

Name And Address Of Defendant

NOAH WILSON READ
2439 GLENCOE STREET

BURLINGTON NC 27217

CONDITIONS OF RELEASE AND RELEASE ORDER

20RO672685

G.S. Chapter 15A, Art. 25, 26

Amount Of Bond

\$

Offenses And Additional File Numbers

20CR53364 MAG ORDR; M-RESISTING PUBLIC OFFICER; T-IMPEDE TRAFFIC SIT/STAND/LIE

☐ See Attachment

Location Of Court

Alamance County Courthouse; CRMA

☒ District ☐ Superior

Date

08/20/2020

Time

09:00 ☒ AM ☐ PM

To The Defendant Named Above, you are ORDERED to appear before the Court as provided above and at all subsequent continued dates. If you fail to appear, you will be arrested and you may be charged with the crime of willful failure to appear. You also may be arrested without a warrant if you violate any condition of release in this Order or in any document incorporated by reference.

The defendant has been advised of charge(s) against him/her and his/her right to communicate with counsel and friends.

☒ Your release is authorized upon execution of your: ☒ WRITTEN PROMISE to appear ☐ UNSECURED BOND in the amount shown above

☐ CUSTODY RELEASE ☐ SECURED BOND in the amount shown above (NOTE: Give a copy of this order to any surety who posts bond.)

☐ HOUSE ARREST with ELECTRONIC MONITORING administered by (agency) _____ and the SECURED BOND above. You may leave your residence for the purpose(s) of ☐ employment ☐ counseling ☐ course of study ☐ vocational training
UNLESS YOU LIVE OR WORK IN THE CITY OF GRAHAM, YOU ARE TO LEAVE FOR 72 HOURS

☐ Your release is not authorized.

☐ The defendant is required to provide (check all that apply) ☐ fingerprints under G.S. 15A-502. ☐ a DNA sample under G.S. 15A-266.3A.

Prior to release, the defendant shall provide his/her (check all that apply) ☐ fingerprints. ☐ DNA sample.

☐ The defendant has been ☐ (i) charged with a felony while on probation (complete AOC-CR-272, Side One). ☐ (ii) arrested for violation of probation with a pending felony charge or prior conviction requiring registration under G.S. 14, Article 27A (complete AOC-CR-272, Side Two).

☐ This Order is entered upon defendant's warrantless arrest for violation of conditions of release entered previously for the above-captioned case in the Order dated _____.

☐ The defendant was arrested or surrendered after failing to appear as required under a prior release order.

☐ This was the defendant's second or subsequent failure to appear in this case.

☐ Your release is subject to the conditions as shown on the attached ☐ AOC-CR-270. ☐ Other: _____.

Additional Information

Date

07/25/2020

Signature Of Judicial Official

B J NANCE

☒ Magistrate ☐ Deputy CSC ☐ Assistant CSC

☐ Clerk Of Superior Court ☐ District Court Judge ☐ Superior Court Judge

ORDER OF COMMITMENT

To The Custodian Of The Detention Facility Named Below, you are ORDERED to receive in your custody the defendant named above who may be released if authorized above. If the defendant is not sooner released, you are ORDERED to: ☐ produce him/her in Court as provided above.

☐ hold him/her ☐ as provided on the attached AOC-CR-272. ☐ for the following purpose: _____.

☐ [for charges covered by G.S. 15A-534.1 (domestic violence) or 15A-534.7 (threat of mass violence)] produce him/her at the first session of District or Superior Court held in this county after the entry of this Order or, if no session is held before (enter date and time 48 hours after time of arrest) _____.

☐ AM ☐ PM produce him/her before a magistrate of this county at that time to determine conditions of pretrial release.

Name Of Detention Facility

Date

Signature Of Judicial Official

B J NANCE

WRITTEN PROMISE TO APPEAR OR CUSTODY RELEASE

I, the undersigned, promise to appear at all hearings, trials or otherwise as the Court may require and to abide by any restrictions set out above.

I understand and agree that this promise is effective until the entry of judgment in the District Court from which no appeal is taken or until the entry of judgment in Superior Court. If I am released to the custody of another person, I agree to be placed in that person's custody, and that person agrees by his/her signature to supervise me.

Date 7/25/20 Signature Of Defendant Noah Read

Signature Of Person Agreeing To Supervise Defendant

Name Of Person Agreeing To Supervise Defendant (type or print)

Address Of Person Agreeing To Supervise Defendant

DEFENDANT RELEASED ON BAIL

Date 7/25/20

Time 1200 hrs

☐ AM ☒ PM

Signature Of Jailer [Signature]

AOC-CR-200, Rev. 12/18

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ORIGINAL COPY

	CONDITIONS OF RELEASE MODIFICATIONS	
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The Conditions of Release on the reverse are modified as follows:

Modification	Date	Signature Of Judicial Official

	SUPPLEMENTAL ORDERS FOR COMMITMENT	
--	---	--

The defendant is next Ordered produced in Court as follows:

Date	Time	Place	Purpose	Signature Of Judicial Official

	DEFENDANT RECEIVED BY DETENTION FACILITY	
--	---	--

Date	Time	Signature Of Jailer

	DEFENDANT RELEASED FOR COURT APPEARANCE	
--	--	--

Date	Time	Signature Of Jailer

NOTE TO CUSTODIAN: This form shall accompany the defendant to court for all appearances.

STATE OF NORTH CAROLINA
COUNTY OF ALAMANCE

2020 NOV -6 P 2:37

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NUMBER: 20 CR 053364

STATE OF NORTH CAROLINA
ALAMANCE CO., C.S.C.

v.

NOAH READ

Defendants.

MOTION TO DISMISS

COME NOW Defendant Noah Read and moves this Court to dismiss the State's criminal charges against him. In support of his motion, Defendant offers the following:

1. On July 25, 2020, the Alamance Branch of the NAACP ("ANAACP") joined with faith leaders for a peaceful demonstration in the Sesquicentennial Park, located at the corner of North Main and Court Square in downtown Graham. Those gathered were protesting police brutality and other forms of racial oppression and violence against African Americans and other people of color in the wake of the killing of George Floyd by police in May. *See* Declarations of Barrett L. Brown and Walter Allison, Exhibits A and B, respectively, attached hereto.
2. Soon after arriving at the demonstration that morning, Defendant Brown decided to cross Court Square with a "Black Lives Matter" sign and stand next to the Confederate monument located in front of the Historic Courthouse, in the center of the Court Square rotary, to protest white supremacy and racial violence. Ex. A ¶ 8. There was no traffic coming around the Court Square when Defendant Brown crossed, nor is the area where he stood with his sign, beside the monument, open to vehicular traffic. *Id.* ¶¶ 7-8. He was standing in the red-bricked pedestrian area that connects the crosswalk from North Main

to the Courthouse's North entrance. In front of him was an orange and white barrier blocking off the pedestrian area from the Court Square rotary. *See id.* ¶ 8 (photo).

3. On July 25, 2020, the County and ACSO continued to maintain and enforce a policy of prohibiting all protest on the Historic Courthouse Grounds—a policy that was enjoined by a federal district court judge a violative of the First Amendment of the United States Constitution on August 14, 2020. *See* Preliminary Injunction at 1, 1:20-cv-00613-CCE-LPA, Document 63 (Aug. 14, 2020), attached hereto as Ex. C.
4. Enforcing the County's unconstitutional protest ban, Deputy Nash of the Alamance County Sheriff's Office (ACSO) immediately approached Defendant Brown and told him to leave. Defendant Brown refused to leave, stating that he was on public property and had a right to be there with his sign. ACSO's Mark Dockery and David Sykes then arrested Defendant Brown and charged him with Resisting a Public Officer and Impeding Traffic.
5. Defendant Allison, who was participating in the ANAACP demonstration, saw Defendant Brown being arrested, and using the North Main St. crosswalk, crossed Court Square to stand in the pedestrian area beside the Confederate monument with a sign protesting white supremacy. *See* Ex. B ¶ 4 (photo).
6. Enforcing the County's unconstitutional protest ban, Deputy Gionnotti told Defendant Allison to leave, and he, like Defendant Brown and for the same reasons, refused. ACSO's Mark Dockery and David Sykes then arrested Defendant Allison and charged him with Resisting a Public Officer and Impeding Traffic. *Id.*
7. Defendant Read, who was also at the ANAACP demonstration across the street, saw Defendants Brown and Allison being arrested and using the North Main St. crosswalk,

also crossed Court Square to stand with a sign in the pedestrian area beside the Confederate monument to protest white supremacy. Enforcing the County's unconstitutional protest ban, ACSO's Deputy Gionnotti told Defendant Read to leave and when he refused, Sykes and Dockery arrested him and charged him with Resisting a Public Officer and Impeding Traffic. *See* Ex. A ¶ 12.

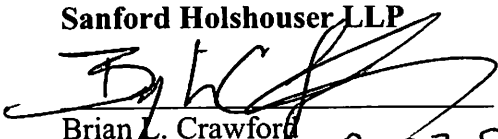
8. N.C.G.S. § 14-223 provides: "If any person shall willfully and unlawfully resist, delay or obstruct a public officer in discharging or attempting to discharge a duty of his office, he shall be guilty of a Class 2 misdemeanor."
9. N.C.G.S. § 20-174.1 provides: "No person shall willfully stand, sit, or lie upon the highway or street in such a manner as to impede the regular flow of traffic," and makes doing so a Class 2 Misdemeanor.
10. Defendant's charging documents falsely accuse Defendant of "stand[ing] and loiter[ing] in the main traveled portion, including the shoulders and median of any state highway or street, excluding sidewalks."
11. The State cannot satisfy the elements of N.C.G.S. § 20-174.1 where Defendant was not standing, sitting or lying upon any highway or street in such a manner as to impede the regular flow of traffic; he was peaceably exercising his First Amendment rights in a public pedestrian area that is not a state highway or street or otherwise open to vehicular traffic.
12. Because he was violating no law but instead exercising his First Amendment rights, Defendant did not "unlawfully resist delay or obstruct" Gionnotti in discharging any lawful duty of office.

13. On August 14, 2020, the Honorable Catherine Eagles of the federal district court in the Middle District of North Carolina restrained and enjoined the ACSO from prohibiting lawful protest on the Courthouse grounds, which the court found to be a traditional public forum. *See* Ex. C. First Amendment rights are at their zenith in traditional public forums—that is, “public places historically associated with the free exercise of expressive activities, such as streets, sidewalks, and parks[.]” *United States v. Grace*, 461 U.S. 171, 177 (1983) (citations and internal quotation marks omitted).
14. The State’s charges against Defendant further fail to satisfy the required elements of N.C.G.S. § 14-223 where prohibiting people from exercising their First Amendment rights in a traditional public forum such as the Historic Courthouse grounds is neither the “duty” nor lawful activity of the ACSO.

WHEREFORE, in light of all of the above, the State cannot prove beyond a reasonable doubt that Defendant unlawfully refused to obey a public officer’s order, because he was in fact exercising his First Amendment rights to protest and the ACSO’s orders for him to leave violated those rights. Nor can the State prove beyond a reasonable doubt that Defendant was standing, sitting or lying in a highway or street in such a way as to impede the flow of traffic. The Court should therefore DISMISS all charges against Defendant.

This the 6th day of November, 2020.

Sanford Holshouser LLP


Brian L. Crawford
N.C. State Bar. No. 28259
brian@shlawgroup.com
209 Lloyd Street, Suite 350
Carrboro, NC 27510
(919) 680-2123

CERTIFICATE OF SERVICE

The foregoing Motion to Dismiss was served on the State by personal hand delivery to District Attorney Sean Boone at 212 West Elm Street, Graham, North Carolina, 27253 on November 6, 2020.

Signed:


Brian Crawford

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
No. 1:20-cv-00613-CCE-LPA**

**NATIONAL ASSOCIATION FOR)
THE ADVANCEMENT OF)
COLORED PEOPLE ALAMANCE)
COUNTY BRANCH, et al.)**

Plaintiffs,)

v.)

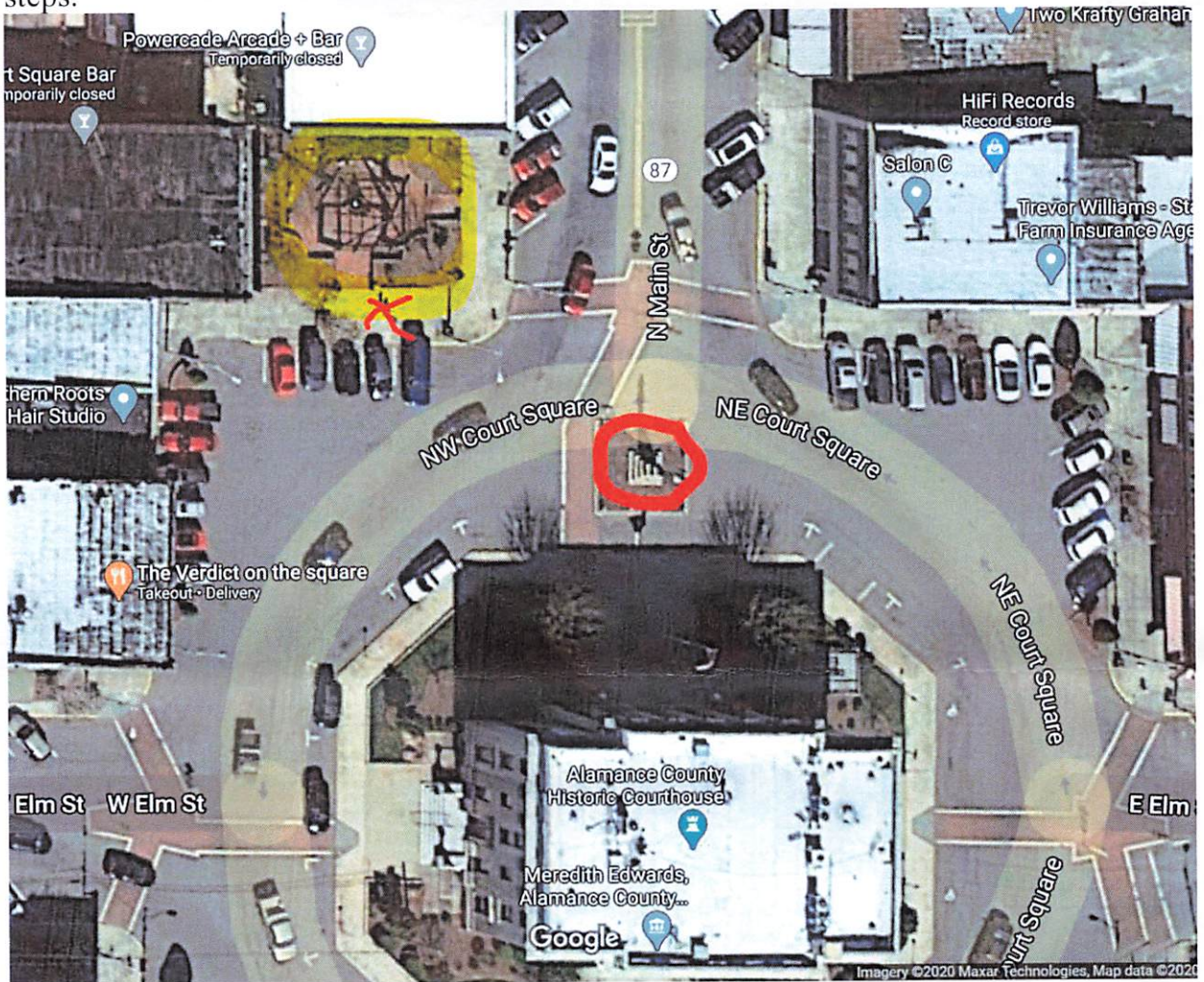
JERRY PETERMAN, et al.,)

Defendants.)

DECLARATION OF BARRETT BROWN

1. My name is Barrett Brown and I am President of the Alamance Branch of the NAACP. I am over the age of eighteen and am competent to provide the information that follows based upon my personal knowledge.
2. On July 25, 2020, I arrived shortly before 9:00 a.m. to participate in the NAACP and faith leaders' demonstration at Sesquicentennial Park in downtown Graham, NC.
3. As soon as I arrived at the Park, I saw the American flag at the Historic Courthouse at half-staff, and realized it was probably for John Lewis. I then noticed that the flag appeared to be at the same level as the top of the Confederate monument.
4. This led me to think about how we in the Alamance Branch of the NAACP and other social justice activists in our community have begged and pleaded with City and County elected leaders about the need to remove the Confederate monument because of its symbolism of government-sanctioned white supremacy and racial oppression.
5. I thought about how the Alamance County Board of Commissioners' ('the Board') response at their July meeting had been to shut down public debate on this issue by limiting the public comment period to 30 minutes, knowing that members of the public wanted to talk about removing the monument. It is as if they have turned the Board into a White Citizens Council.

6. As I thought about these things while standing there with the demonstrators who were all peacefully gathered in the Sesquicentennial Park, I said to myself: "I am not going to stand here on this corner that we've been relegated to. I am going to cross over to that monument and speak out against white supremacy."
7. Below is a Google aerial satellite view of the Court Square, with a red "X" marking where I was standing when I arrived, a yellow circle around Sesquicentennial Park, and a red circle around the monument. Although vehicles travel around the Court Square rotary, and can park along the sidewalk surrounding the Courthouse, the crosswalk adjacent to the monument is not open to any vehicular traffic, nor is the area between the monument and the Courthouse steps.



8. I got a Black Lives Matter sign from the pile of posters near our demonstration, crossed the street at Court Square from the park directly crossing to the monument mound, and stood on the cement border around the monument which is lined with flowers. I recall being very careful at all times to not stand in the roadway. There were no cars traveling in the path I took, and no traffic stopped because of my crossing. Here is a photo of me holding up my sign in front of the monument soon after I crossed:



9. As I stood on the concrete border, a white deputy spoke loudly to me from behind me near the Courthouse steps, "Sir, sir." Then a Black officer came over to me, stood to my left (as shown in the above photo), and said "You cannot stand here." I said, "I disagree." He said "the courthouse is closed," and I said, "I'm not trying to get into the courthouse." He said, "Well you cannot be on the property," and I said "this is county property, and I am a citizen of the county." He said "this property is closed, you can go over there [gesturing across the street to the city sidewalk beside the Sesquicentennial Park]." I said, "I am not going over there, I have every right to be here." He said "You are standing in the middle of the street," and I said "I am not in the street, I am not obstructing traffic." He said, "If you don't move I'll have to detain you," and I said, "Brother, do what you have to

do, I am not moving.” He said, “Are you trying to get arrested?” and I said, “No I am trying to exercise my First Amendment rights to protest this monument.”

10. Then he had a very brief discussion with the other deputies standing behind him about what to do with me. He then said, “Put your hands behind you,” and put handcuffs on me. He did not tell me what I was being arrested for. He then loaded me into van that was parked on the west side of the square. I heard on his radio that he should wait on the circle because there were more arrests—2 males and a female.
11. Right before that point, I was wondering if I had made the right choice; I had not discussed getting arrested with my spouse or anyone else, because I had not planned to do it. But when I heard that three others had been arrested along with me, my heart lifted. Noah Read, one of the men arrested, is a member of the Board of Elections. We have been doing social justice work for 7-8 years together. He saw me get arrested, grabbed a sign and went to stand near the monument, so he was arrested too.
12. Rev. Walter Allison is a Black minister in his 60s who has a jail ministry too. Amy Harrison, the older white woman who was arrested is also a long-time social justice advocate. She saw us getting arrested and decided to join us.
13. All of us were unprepared for this event—we had not planned on being arrested. We sang We Shall Overcome—6 verses—in the Sheriff’s van all the way to the jail.
14. I was at the demonstration a total of approximately 3 minutes from the time I arrived and the time I was taken to the jail.
15. Once in the jail, the deputies were going to take our masks, but not give us new ones. Ms. Harrison told them no, because none of the inmates up in the jail block have masks and she did not want to be exposed to COVID-19.
16. We were processed separately but within earshot of each other. The magistrate asked us questions, reading from some sort of form, about our monthly income, whether we had outstanding warrants, etc. She read from some sort of script when she told us, “if you don’t work or live in Graham, you may not come back into Graham for 72 hours.” The magistrate gave me some papers, copies of which are attached hereto as Exhibits A and B. She told us we had to be back for court on August 20.

17. I live in Graham's Extraterritorial Jurisdiction, 3 blocks from the city boundary. I regularly run for exercise through Graham, and, as I have seen many other pedestrians do, I cross across the Court Square through the courthouse grounds to get to the other side of Elm and Main Streets. People regularly use the courthouse grounds and the sidewalk around it, for this purpose.

18. There has been no "civil unrest" or emergency conditions in Graham in recent months. During the time that I have been a member of the Alamance Branch of the NAACP, we have held multiple demonstrations on the Historic Courthouse steps, including the one photographed here from 2016, which concerned voting rights:



19. I lived and worked in Washington DC years ago. My apartment was three blocks from the National Mall. I am used to monuments being a part of pedestrian life—having lunch on the steps of the Lincoln memorial, for example.

20. I believe the Confederate monument in our town center in Graham should be removed because to me, as a Black man who pays County taxes and lives in Graham, it is racist government speech. I plan to go peacefully protest again at the monument in the next few days with a number of other people who oppose its presence in the Courthouse square.

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 27, 2020.

Barrett Brown

Barrett Brown

EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
No. 1:20-cv-00613-CCE-LPA**

**NATIONAL ASSOCIATION FOR)
THE ADVANCEMENT OF)
COLORED PEOPLE ALAMANCE)
COUNTY BRANCH, et al.)**

Plaintiffs,)

v.)

JERRY PETERMAN, et al.,)

Defendants.)

DECLARATION OF WALTER CLINTON ALLISON, SR.

1. My name is Walter Clinton Allison, Sr., I am a resident of Alamance County, a member of the Alamance Branch of the NAACP (ANAACP), and an Associate Minister of First Baptist Church 508 Apple Street in Burlington, NC. I am over the age of eighteen and am competent to provide the information that follows based upon my personal knowledge.
2. On July 25, 2020, I participated in the ANAACP and faith leaders' demonstration at Sesquicentennial Park in downtown Graham, NC. There were no counterdemonstrators present.
3. Around 9:00am that morning, as I stood on that corner by the Park, I saw the ANAACP President, Barrett Brown, cross the street to stand next to the Confederate monument. Then I saw Mr. Brown being arrested for standing there with his sign. I said to myself, "There is no reason for them to be arresting him." I am African American and experience that monument as government hate speech because it celebrates the Confederacy and enslavement of African Americans. To me, it says, "you will never be equal to Whites."
4. So I picked up a sign and, using the crosswalk at North Main and stopping no traffic, I crossed to stand beside the monument. This is a photo that fairly and accurately depicts me standing next to Noah Read, another ANAACP member, right before we both got arrested:

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

NATIONAL ASSOCIATION FOR)
THE ADVANCEMENT OF)
COLORED PEOPLE ALAMANCE)
COUNTY BRANCH, et al.,)

Plaintiffs,)

v.)

1:20-CV-613

JERRY PETERMAN, et al.,)

Defendants.)

PRELIMINARY INJUNCTION

The plaintiffs Alamance County Branch of the National Association for the Advancement of Colored People, Tamara O. Kersey, Colleen Tenae Turner, Terence Colin Dodd, Destiny Clarke, Annie Simpson, Nerissa Rivera, Adam Rose, and Gregory Drumwright, move pursuant to Fed. R. Civ. P. 65 and LR 65.1 for a preliminary injunction prohibiting the defendants from prohibiting protests on outdoor spaces around the Alamance County Historic Courthouse grounds. After review of the evidence and upon consideration of arguments of counsel, and as found in more detail in the opinion and order filed concomitantly herewith, the Court finds and concludes:

1. The plaintiffs are likely to be successful on their claims that the County Defendants' total prohibition of protests on the steps of, sidewalks surrounding, and grounds of the Alamance County Historic Courthouse violates their First Amendment rights. The long-term total prohibition of protests on these traditional public forums is not a time, place and manner

restriction of speech, nor is it narrowly tailored to protect legitimate governmental interests.

2. The plaintiffs regularly protest and currently plan to protest in the imminent future in the public spaces around the Square in Graham and want to protest in the traditional public forum where the County Defendants have prohibited protests. They are likely to suffer irreparable harm absent preliminary relief.
3. The equities favor a preliminary injunction.
4. A preliminary injunction restraining unconstitutional prohibitions on First Amendment rights serves the public interest.

Based on these findings and conclusions, and for reasons explained in more detail in an Order entered concomitantly herewith, it is **ORDERED** that:

1. The plaintiffs' motion for a preliminary injunction, Doc. 47, is **GRANTED** to the extent stated herein.
2. The defendants **Terry S. Johnson**, in his official capacity as the Sheriff of Alamance County; **Eddie Boswell**, in his official capacity as Alamance County Commissioner; **Steve Carter**, in his official capacity as Alamance County Commissioner; **Bill Lashley**, in his official capacity as Alamance County Commissioner; **Amy Scott Galey**, in her official capacity as Alamance County Commissioner; **Tim Sutton**, in his official capacity as Alamance County Commissioner; and **Bryan Hagood**, in his official capacity as Alamance County Manager, and their officers, attorneys, agents, and employees and other persons who are in active concert or participation with them are hereby **RESTRAINED AND ENJOINED** from prohibiting all protests on the

following spaces in and around the Alamance County Historic Courthouse in Graham, North Carolina:

- a. the steps on the north, east, south, and west sides of the Courthouse steps;
- b. the lawns between the sidewalks and the Courthouse;
- c. the sidewalk encircling the Courthouse and the shorter walkways connecting the steps on each side to that encircling sidewalk; and
- d. the area marked “reserved” between the Courthouse sidewalk and the Confederate monument, where cars do not drive or park.

3. Nothing in this Order prohibits the defendants from imposing reasonable time, place, and manner restrictions for use of Courthouse spaces. Nothing in this Order prohibits the defendants from temporarily restricting access to the outdoor Courthouse spaces set forth in Paragraph 2 during short-term emergency situations.

4. In the Court’s discretion, the bond requirement under Rule 65(c) is waived.

5. Upon receipt, the defendants Johnson and Hagood shall immediately provide Notice of this Injunction to their officers, attorneys, agents, employees, and other persons who are in active concert or participation with them.

This the 14th day of August, 2020, at 4:45 PM.


UNITED STATES DISTRICT JUDGE