



CITY OF NEW BEDFORD

JONATHAN F. MITCHELL, MAYOR

The Honorable Bernadette L. Sabra
First Justice, New Bedford District Court
New Bedford District Court
75 N. Sixth Street
New Bedford, Massachusetts 02740

Re: Commonwealth v. Kyle Pollock et al., 1133CR-6326, 6227 and 6328

Dear Judge Sabra:

As Mayor of the City of New Bedford, I write to express the City's strong support for the Commonwealth's recommended sentence of one year incarceration of defendants Shawn Marrow and Reddick Vaughn.¹ The defendants -- grown men from Rhode Island -- vandalized city landmarks in a deliberate, wanton attack on New Bedford's very identity. A significant period of incarceration is necessary to match the gravity of their offenses and to deter others from defacing properties in a city that already suffers from far too much vandalism.

It is important to acknowledge up front what this case is *not* about. The offenses were not the product of youthful indiscretion. The defendants were not bored teenagers seeking an outlet to express themselves. They were not youth gang members purporting to mark their territory. They were not artists.

The predatory nature of the offenses, the number and significance of the properties involved, and the age of the defendants, make this unlike any vandalism case in the City's history. On October 14, 2011, the defendants had little if any connection to New Bedford when they checked into a local hotel for the final preparations for their assault on the City. They secreted paint cans and stenciling templates, and waited until late at night. They emerged in the early morning hours and descended on their target of choice: New Bedford's historic district. Together they defaced one historic property after another, including the Zeiterion Performing Arts Center, the United States Customs House, the Seamen's Bethel, and the Mariners Home, along with several privately owned buildings and National Park Service historical plaques. A concerned citizen called police after spotting the three standing together in front of the Customs House while one spray-painted its granite surface. When the police arrived in the area, they could smell the odor of spray paint on Johnny Cake Hill before observing three men who fit the

¹ The District Attorney's Office has informed me that the third defendant, Kyle Pollock, does not intend to enter guilty pleas this week. The arguments in this letter apply to him, as a joint venture in the criminal activity, with equal force.

description of the defendants. When the first officer approached Vaughn, he resisted arrest and had to be subdued. Marrow fled the scene, throwing paint cans at the pursuing officer while sprinting up Union Street. Marrow fought with the police officer before being subdued, and he continued to resist arrest even after he was brought back to the place where the chase began. At the time of arrest, both Marrow and Vaughn were carrying paint cans that matched spray painted markings nearby. Police later determined that the defendants defaced a total of sixteen historic district properties.

The worst damage was to properties that figured prominently in New Bedford's glorious history. For instance, the defendants painted over the historical marker of the recruiting station of the 54th Massachusetts Infantry Regiment, a site that forever marks New Bedford's central role in the abolition of slavery and the Civil Rights Movement. It was where New Bedford resident William H. Carney, the first African American to be awarded the Congressional Medal of Honor, enlisted in the Union Army. The defendants also defaced the façade of the Seamen's Bethel, the church made famous in *Moby Dick* as a spiritual center of New Bedford's whale men, and arguably the most prominent whaling era landmark in the City. The defendants also etched three paint marks on the United States Customs House, a classical style, granite structure built by the administration of Andrew Jackson that holds the distinction of being the oldest operating customs house in the country (one of the defendants' markings is depicted in the first attached photograph). The National Park Service describes the building as "the largest, most elaborate and arguably the finest of the series of four granite Greek Revival customs houses in New England designed by Robert Mills between 1834 and 1836." The Park Service could not entirely remove the paint from the building's granite surface; according to the U.S. General Services Administration, the images will remain partially visible on the building for at least ten years.

What is most appalling about this case is that it was a deliberate assault on a community. It is hard to imagine a spate of vandalism that was more planned, with the defendants even securing a hotel room as a rally point for their assault. The area targeted by the defendants speaks volumes about what they had in mind. New Bedford is thirteen miles long and has thousands of buildings. Without greater difficulty, the defendants could have painted an equal number of properties in other neighborhoods. Had they merely painted the usual targets of graffiti, such as empty mill buildings or traffic signs, relatively few people would have noticed. Instead they chose a location where their handiwork would generate maximum publicity. Defacing iconic New Bedford properties inevitably would be front page news in the region, as it was.

But the fact that the defendants were not from New Bedford suggests that attention alone was not what they were after. Had they vandalized similarly prominent properties near their own communities, for instance in Providence, one might expect them to have derived some warped satisfaction from the expressions of outrage of people they knew. Without any personal connection to New Bedford, however, that could not have been what they had in mind. The only plausible explanation of their motives in defacing property so central to a city's identity, a city

some thirty miles away from their homes, is that they sought to take pleasure in witnessing the citizens of New Bedford suffer some measure of loss. The defendants' spite, indeed cruelty, was unambiguously expressed on the historical marker in front of the City's historic Mariners' Home, on which they boldly painted the word "History."

Sadism can manifest itself not only in a physical assault, but also in the deliberate harming of things people hold sacred. Consider this: how would the case be viewed if it involved a group of men that romped through Washington, D.C. and spray-painted the U.S. Capitol, the Lincoln Memorial and the Washington Monument? And what would be an appropriate punishment? For a City steeped in history like New Bedford, the properties vandalized by the defendants are indeed similarly regarded to be hallowed ground. Although this case did not involve acts of violence, any sentence that does not include a significant period of incarceration would be out of proportion to the sheer wantonness of the defendants' conduct, and erode respect for the rule of law in this City.

The defendants cannot credibly claim any excuses. They were grown men, not teenagers. They knew better. Any claim of physical ailment also should be viewed with skepticism. They were fit enough to work their way through the historic district and to resist arrest. Although one or both defendants may have family at home and may be indigent, that would hardly make them unique among criminal defendants. Marrow, *who is 35 years old*, especially should have known better. Twelve years ago he was charged with "tagging" and admitted to facts sufficient to find him guilty. His prior brush with the law invites the question, could his spraying spree in New Bedford's historic district be the first time he has tagged property since he was charged the first time twelve years ago? In any event, his probation sentence back then failed to get the message across.

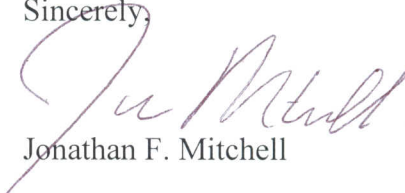
A jail sentence in this case is critically important to deter vandalism. New Bedford suffers from an epidemic of graffiti. It has spread to every neighborhood and is no longer limited to public buildings, but has found its way onto private homes and schools. The broken window theory of criminal behavior applies in spades to graffiti. Even the casual observer, here and in other cities, cannot overlook the fact that graffiti begets more graffiti. It creates a sense of disorder in neighborhoods, reduces property values, and invites more crime. In a city that strives to maintain the vibrancy of its neighborhoods, graffiti poses a real threat to New Bedford's public safety and livability.

While our city government devotes considerable attention and resources to remove graffiti (I personally carry spray paint cans in my car so that I can cover tagged public properties when opportunities present themselves), remediation is only a partial solution. In the effort to stem the tide of graffiti, it is indispensable that those who might deface properties will suffer a serious consequence if caught. The difficulty is that it is extremely difficult to catch graffiti vandals in the act. It takes but moment to spray a tag on a hard surface, and spray paint cans readily be hidden in a backpack or tossed away. And vandals do their business almost always

alone and at night. It is therefore imperative that in those rare instances when they are caught, courts must punish them in ways that will cause others to think twice before defacing another's property. No punishment sends a clearer general deterrence message of course than a term of incarceration. If there was ever a "graffiti case" that warranted jail time, this is it. If the Court decides not to incarcerate these adult defendants who coordinated a general defacing of the City's most precious properties, however, other vandals will logically conclude that they will have little to lose by tagging the usual targets.

For the foregoing reasons, I respectfully request that the Court follow the District Attorney's recommendation of a one year period of incarceration for defendants Marrow and Vaughn.

Sincerely,



Jonathan F. Mitchell