STATE OF MAINE
SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT

LAW COURT DKT. NO. CUM-24-547

STATE OF MAINE

Plaintiff-Appellee

v.

MICHAEL DOYLE

Defendant-Appellant

ON APPEAL FROM THE UNIFIED CRIMINAL DOCKET
CUMBERLAND COUNTY
DOCKET NO. CR-2021-02209

BRIEF OF APPELLANT

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Constitutions **Page(s)**

Statutes

Cases

Secondary Sources

INTRODUCTION

This case involves the scope of the protections afforded to all citizens to freely exercise their rights ensured by the Federal and State Constitutions. Primarily, it concerns the right, fundamental in any free society, to the free expression of potentially controversial opinions in the public forum without fear of retribution by the State. Specially, Mr. Michael Doyle argues that a no-trespass order served on him on May 15, 2021 was based on insufficient legal justification and resulted in the unconstitutional restriction of his rights, including the freedom of speech, freedom of assembly, as well as freedom of the press and the right to petition the government, as protected by the First Amendment.

On the campus of MSAD #51 in the Town of Cumberland there is a chain link fence surrounding a water retention area. During the Covid-19 pandemic, that fencing was used as a public billboard by the community, as MSAD #51 school officials allowed many community members to place a wide array of signs and other items on the fencing. One such example was a very large sign with a message supportive of the MSAD #51 school board in the midst of an ongoing school board election. This sign was not immediately removed by the school superintendent, nor was the sign's owner trespassed from MSAD #51 property, and evidence suggested the sign remained on the fencing for many days.

In response, Appellant, Mr. Michael Doyle, allowed a small sign, containing a critical of a specific school board member, to be placed on the same fencing on the

morning of May 15, 2021. His sign was removed within minutes of its placement, under the supervision of law enforcement. Mr. Doyle was served with a no trespass order on May 15, 2021, which barred him from all MSAD #51 property without the prior approval of the school superintendent. Subsequently, Mr. Doyle was arrested for violating the no trespass order when he attempted to attend a public meeting of the MSAD #51 school board on May 24, 2021.

Mr. Doyle's conviction for criminal trespass should be vacated for three reasons: first, the State engaged in unconstitutional viewpoint discrimination against Mr. Doyle when he engaged in a non-verbal act of passive political expression as protected by the Federal and State Constitutions; second, the no trespass order was insufficiently justified because there was no evidence Mr. Doyle was disorderly in any way and there was not sufficient, specific and compelling evidence that his conduct caused any disruption to the school; and third, the requirement to obtain the personal permission of the school superintendent, Mr. Porter, constituted an unlawful prior restraint on protected conduct, including the rights to petition, freedom to assemble and the freedom of the press.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

Procedural History

On or about July 13, 2021 the State filed a criminal complaint charging Mr. Michael Doyle with one count of Criminal Trespass in violation of 17-A M.R.S. § 402(1)(D), a Class E offense, alleged to have occurred on May 24, 2021. (Appendix hereinafter A. 1, 11)

17-A M.R.S. § 402(1)(D) states:

> 1. A person is guilty of criminal trespass if, knowing that that person is not licensed or privileged to do so, that person:
> D. Remains in any place in defiance of a lawful order to leave that was personally communicated to that person by the owner or another authorized person. Violation of this paragraph is a Class E crime.

17-A M.R.S. § 402(1)(D).

On April 23, 2024, Mr. Doyle was found guilty of Criminal Trespass after a one day trial held. (A. 8, 10).

Prior to trial, Defendant filed multiple motions to dismiss.[1] (A. 2-3; Tr. 13). The trial judge, Justice McKeon, initially denied the motion to dismiss, then reserved making a ruling on the motion. (Tr. 14, 150, 167-168, 222). Defendant made an oral motion for a judgment of acquittal at the close of state's evidence, which was denied (Tr. 167-168)

[1] Prior to the appointment of counsel, the Defendant filed three motions to dismiss, one of which was denied by the court on October 14, 2021, the second was dismissed by the court on December 14, 2021, and the third was deferred to trial. Justice McKeon specifically stated "With respect to the First Amendment arguments, again, I haven't had an opportunity to fully review the motion to dismiss. But the defendant is free, in the event there is a conviction, to raise those arguments" post-conviction. (Tr. 168)

On October 7, 2024 Mr. Doyle was sentenced on the Criminal Trespassing conviction and a fine was imposed. On October 28, 2024, Defendant filed a post-sentencing Motion for Judgement of Acquittal and a renewed Motion to Dismiss. (A. 18-26). Notice of this appeal was also filed at the same time.

Factual Background

Mr. Michael Doyle is the owner and operator of an online news website called Falmouth Today. (Tr. 172, 192). Mr. Doyle is in his 70s and has run the website for approximately the last decade. (Tr. 172). Mr. Doyle testified that his website "in the last three years, had 10 million hits" with "54,000 new readers in three years." (Tr. 182) Mr. Doyle writes, edits and publishes articles on the site covering a range of topics, including local political news. (Tr. 173). During his trial, Mr. Doyle noted he is a member of the National Press Club and described himself as a member of the press, a reporter, and an independent journalist. (Tr. 176, 182, 191-192).

Over the past decade, Mr. Doyle has attended countless public meetings, including school board meetings, all over the state so that he could observe and document public meetings for his website. (Tr. 173). Prior to the events which led to his arrest, Mr. Doyle had posted several articles about the MSAD #51 (Cumberland) school board in particular. (Tr. 182). Mr. Doyle has attended, and spoken at, "three or four" prior MSAD #51 school board meetings and Mr. Doyle denied causing any disruption at those prior meetings. (Tr. 179). The superintendent of MSAD #51 is

Jeffrey Porter. (Tr. 37-38). Mr. Porter recalled that Mr. Doyle spoke "a few times" during prior school board meetings, but testified that "there's no physical disruptions at all" that he recalled being caused by Mr. Doyle at any prior meetings. (Tr. 70-72).

On a portion of the MSAD #51 school campus in the town of Cumberland there is a water retaining pond surrounded by chain-link fencing. (Tr. 54, 134-135; *see* Defendant's Exhibits A, C, D, E, F). The school superintendent described the area of the school campus where the chain-link fencing was located as a "public place" and a "very public area." (Tr. 81-82). Mr. Porter testified that the school allowed a variety of signs to be placed on the fencing but was inconsistent in describing how signs would be approved for placement on the fence area. (Tr. 38-39, 54-55). Mr. Porter initially stated the typical procedure for placing signs on school property was to obtain "prior authorization" before signs could be placed, but the superintendent immediately contradicted this supposed policy by stating that the school had "blanket authorization" for signs from some sports teams, recreation groups and the like. (Tr. 38-39). Mr. Porter testified he did not in fact personally authorize in advance every sign that ended up placed on the chain-link fencing and described so-called "standard signs" which could go up without pre-approval from the superintendent's office. (Tr. 55).

Mr. Porter testified that on May 15, 2021 he was made aware of a single sign which was placed on the fence by way of "a photo that was sent to me of Mr. Doyle and someone else putting the sign up on the fence." (Tr. 39). Mr. Porter testified that the only knowledge he had at the time came from an unnamed community member who

forwarded him a photograph of Mr. Doyle and "another person" standing by the fencing, attached to which were two, differently sized, signs.[2] (Tr. 52-54). Mr. Porter then called Chief Rumsey to dispatch an officer to assist in the removal of the signs and issue no trespass warnings. (Tr. 90-91).

Mr. Porter testified that on the morning of May 15, 2021, it was his understanding that there was "a huge sign that was chained to the fence without authorization." (Tr. 61-62) Mr. Porter's testimony regarding the supposed disruption related to the presence of a single sign. (Tr. 52-53). Mr. Porter stated that "I think the sign was the disrupting factor in our mind when related to our trespass order" and "the disruption was the sign that was on the fence." (Tr. 66, 73). Only after Mr. Porter was shown, on cross-examination, a photograph of the area of the fencing in question, did he also recognize that there was a smaller second sign preset. (Tr. 59-61, Def. Ex. C). It was this second, smaller sign which belonged to Mr. Doyle. (Tr. 90-91, 174, 176, 179, 191, 193, 195; Def. Ex. C). Mr. Porter, critically, was unable to state who placed which sign. (Tr. 54). He admitted that he "would not have known the difference on that day, who was doing what. There were two people there on the photograph, and there was that big sign. Whether the small sign or the big sign were part of it, we wouldn't know." (Tr. 62). Mr. Porter then, despite his lack of awareness of the ownership or number of the signs, opined that "those signs were disruptive because they were in a

[2] The photograph itself was not offered into evidence and the individual who supposedly created it and then contacted the superintended was not called to testify.

public place, and there were students on campus." (Tr. 81).

May 15, 2021 was a Saturday and school was not in session. (Tr. 41). Two differently sized signs were hung on the fence on Saturday morning at approximately 9:00 am. (Tr. 53, 82, 133, 141, 174-175). Mr. Porter, who was not present on scene that day, testified that there were "students on campus for other purposes that day" but could not specify the number, nature or specific location, of these groups. (Tr. 73-74). Mr. Porter was unable to confirm if any students saw either sign placed on the fencing on May 15, 2021, simply stating that there was "some sort of a program" occurring "somewhere on campus" around the same time. (Tr. 83). No testimony was introduced from any MSAD #51 students, teachers, or staff. There is no indication the school closed in any way or went into a 'lockdown.' Mr. Porter made the entirely conclusory statement that the placement of a sign on May 15, 2021 sign itself "was disruptive," without providing any details of how he made that conclusion. (Tr. 41). The superintendent failed to describe what school function, if any, was in fact disrupted, and could not even identify who actually noticed the signs.

Mr. Doyle described Mr. Porter as "untruthful" during his testimony stating "he testified that I was putting signs up when the schools were in session, and when kids could see it, and stuff like that. None of that ever happened." (Tr. 175-176). Specifically, Mr. Doyle recalled that "on that Saturday morning at 8:50, there were no school children visible anyplace on the campus. So if they were on the campus, they were not anywhere near where Shawn put the signs on the fence." (Tr. 176). When

asked if he saw any students present when the signs were placed or removed, Mr. Doyle testified there were "None. None. 9:00 Saturday morning, nobody was there." (Tr. 180).

Officer Ryan Pynchon was tasked by Chief Rumsey to "keep the peace" while Don Foster, the MSAD 51 facilities director, removed the signs from the fence on May 15. (Tr. 130). Officer Pynchon testified that when he first arrived on the scene only Mr. Foster was present, joined shortly thereafter by Shawn McBreairty, who lived across the street and who then called Mr. Doyle who likewise arrived shortly thereafter. (Tr. 131). Officer Pynchon did not recall the exact timing of the arrivals, but testified things happened "pretty quick" and within minutes. (Tr. 137). Mr. Doyle claimed ownership of the smaller of the two signs. (Tr. 133, 141). Mr. Doyle testified that both of the signs were placed on the fencing sometime between 8:30 and 9:00am on the morning of May 15th by Mr. McBreairty. (Tr. 174). Mr. Doyle estimated that the signs were present on the fence for "probably less than ten minutes," based in part on the time it took for him to return to the area and his recollection of recording the removal of the signs around 9:05 am. (Tr. 175).

Officer Pynchon described his interactions with Mr. Doyle as "very brief" and noted Mr. Doyle cooperated by answering any questions posed by the officer. (Tr. 132). Officer Pynchon testified that he observed no disorderly conduct by Mr. Doyle and described Mr. Doyle as civil throughout their interaction. (Tr. 138). Critically, when describing the May 15th sign 'incident' the officer stated that "there was no disturbance

caused at this specific incident." (Tr. 138). The officer agreed that there was "no disturbance at all" throughout his entire encounter with Mr. Doyle. (Tr. 142). Officer Pynchon also testified that there was "no difficulty" with the removal of the sign and likewise there was no disruption caused by the removal of the sign. (Tr. 141-142). Mr. Doyle stated that his sign was removed quickly and easily by a school employee and that there was no confrontation with the police during his presence. (Tr. 180). Mr. Doyle was cooperative with the Cumberland Police and was not disorderly when he was served with the no trespass notice later in the day on May 15th, even agreeing to go in person to the police station to be served. (Tr. 180-181). Mr. Doyle was not given any verbal or informal warnings from Mr. Porter regarding the placement of the signs prior to the issuance of the no trespass order. (Tr. 182-183).

There was no evidence presented by any witness that Mr. Doyle personally placed any signs on school property on May 15, 2021 or on any previous dates.[3] (Tr. 45, 50-53, 118, 137). Mr. Doyle repeatedly denied physically placing any signs on the chain link fence on May 15th, testifying that he gave his sign to Shawn McBreairty,

[3] There was testimony from Mr. Porter that "a few weeks before the May 15th incident" where "some signs that were placed around the school campus" which he suspected were placed by Mr. Doyle, however Mr. Porter conceded that he did not know if Mr. Doyle had in fact placed those supposed prior signs at all. (Tr. 40, 50-51). Mr. Doyle denied placing any signs around the school campus prior to May 15, 2021 and likewise denied causing any prior disturbance on school property whatsoever. (Tr. 175, 178). Mr. Porter stated he suspected Mr. Doyle placed those prior signs based on non-specific secondhand information, but conceded "I don't have any evidence" of Mr. Doyle's involvement. (Tr. 67). In fact Mr. Porter was not able to describe the number, location, size, or content of any signs supposedly placed prior to May 15, 2021, nor was he able to state how he came to the belief those signs were placed by Mr. Doyle. (Tr. 40, 45-49). Mr. Porter testified he did not see these prior signs personally, so did not recall the number or content of the signs, or their location. (Tr. 47). When asked if these non-specifically described signs had an effect on the school, Mr. Porter made the entirely conclusory statement that "It was disruptive," without providing any basis or support for this conclusion. (Tr. 40). There was no testimony these prior signs impacted the normal course of the school day, besides Mr. Porte noting that the school "had the signs removed by our staff." (Tr. 40). There was no testimony that any specific individuals saw those signs, where there were seen, or even what was seen, and Mr. Porter did not testify as to the nature of the alleged disruption.

who then attached both Mr. Doyle's small sign and Shawn's larger sign on the fence. (Tr. 174, 176, 179, 191, 193, 195).

Around the same time as the removal of the two signs belonging to Mr. Doyle and Mr. McBreairty, multiple other signs were present on the fencing including signs for athletic teams, signs advertising for local events, as well as a large spray-painted bedsheet which occupied an entire section of the chain link fencing. (Tr. 56-59, 135, 184; Defendant's Exhibits A, D, E, F). Mr. Doyle testified that he "absolutely" believed that the fence was being used as a public billboard around May 2021, based on the presence of the numerous signs from multiple organizations as well as the lack of any posted notice on or near the fencing stating that signs were not allowed except with school approval. (Tr. 186).

In particular, around the same time that Mr. Doyle had his small sign on the fencing, there was also a large spray-painted bedsheet, attached to a different section of the fencing, which was supportive of the local school board and contained the message "honk to support our school board." (Def. Ex. A). Mr. Porter testified that this "fairly large sign," which appeared to occupied an entire section of the chain link fence, did not have the school's prior authorization to be placed on the fence. (Tr. 56, 58). Mr. Porter admitted he did not call the police to remove the 'Honk to support our school board sign' and they "just took the sign down" themselves. (Tr. 76). Mr. Porter testified that he did not know who placed the large, pro-school board sign, when it was placed or when it was removed. (Tr. 59). Mr. Doyle testified that the pro-school board sign

was on the fence for a week to ten days before May 15th and that the bedsheet sign remained present "for another five days afterwards. So when Mr. Porter said it was taken down, he's lying about that." (Tr. 177, 184). Officer Pynchon confirmed that the Cumberland police department was not involved in the removal of this bedsheet sign. (Tr. 135-136). However, the police were called to supervise the removal of Mr. Doyle's sign at the specific request of Superintendent Porter. (Tr. 76, 136).

At the time, around May 2021, there was an ongoing election campaign for the MSAD #51 school board. (Tr. 177). Mr. Doyle testified that the purpose of allowing Mr. McBreairty to place his sign on the fence was "to express my displeasure with the woman running for re-election" who was depicted in the sign itself. (Tr. 176). Mr. Doyle specifically stated that it was the continued presence of the large, pro-school board sign, that "motivated Shawn to put his sign up there, to see that sign. He says, 'I'm going to go and put my sign over there.' He says, 'Give me one of yours and we'll put both of them up.' I said, 'Okay.'" (Tr. 178). When asked if he believed he had the right to place a sign on the fencing, Mr. Doyle stated "I absolutely did think we had a right. Shawn and I both had a right." (Tr. 179). Mr. Doyle testified that this belief was based, at least in part, on the continued presence of the large, pro-school board sign. (Tr. 179; *see* Def. Ex. C – composite of two photos, one showing the large spraypainted sheet with the words 'honk to support our school board' the other showings the two signs placed by Mr. McBreairty, the large sign which belonged with Mr. McBreairty himself as well as the much smaller sign belonging to Mr. Doyle). Mr. Doyle testified

that he believed Superintendent Porter "left it up there because of supporting the school board, which is, essentially, his boss." (Tr. 177).

Mr. Porter also testified that, around the same time in mid-May 2021, there was a student group which had, with school approval, placed a number of decorative paper hearts on the chain-link fencing. Mr. Porter stated he approved of the installation of the paper hearts because "there was no message. It was just decorative" and therefore not disruptive. (Tr. 84-85) In contrast, when asked if it was the content of Mr. Doyle's message on his sign, which was critical of the school board, caused a disruption, Mr. Porter testified "Well, it was -- there was the speech part, yes -- or the visual part of it. Yes, it was causing a disruption." (Tr. 85). The sign contained no profanity, vulgarity, inciting language or fighting words because, as noted by Chief Rumsey, the sign only contained a "picture of one of our school board members named Ann Maksymowicz, and then some comments about her political affiliations." (Tr. 91).

Mr. Porter testified that his reason for seeking the no-trespass order "was to keep [Doyle] off of MSAD 51 property" entirely (Tr. 75). Mr. Porter also testified that a "secondary reason" for the order was to effectively ban Mr. Doyle from attending public meetings, including school board meetings, which were held on the property. (Tr. 75). Mr. Porter testified that he requested that the no-trespass order against Mr. Doyle include the handwritten additional language that Mr. Doyle can, with prior authorization obtained from Mr. Porter, be on the school property. (Tr. 68; Def. Ex. B). Mr. Porter specifically testified that it was his intent to have Mr. Doyle personally ask

his permission in the likely event Mr. Doyle wanted to attend future school board meetings on school property. (Tr. 69). When asked about this requirement to ask permission to prior to attending public meetings, Mr. Doyle repeatedly testified that he believed that the no trespass order did not prohibit him attending the public meeting in his capacity as a journalist but believed he would need permission if he planned to attend as a private citizen. (Tr. 186-189, 192-193).

On May 24, 2021 there was a public meeting of the MSAD #51 school board for which an invitation, in the form of a public notice, was sent out. (Tr. 70). Mr. Doyle testified he then became aware of a public school board meeting being held on May 24th. He stated that notices for the meetings are typically posted on the school website and believed that was how he found out about the meeting. (Tr. 181). Mr. Doyle testified that he believed he had the right to attend the public meeting and "wouldn't have gone there if I didn't think I had the right. I didn't go there to get arrested. I went there to report on what was being done at the school board." (Tr. 181). Mr. Porter did not remember if Mr. Doyle had asked to attend the school board meeting via Zoom or not. He also did not recall if attendance via Zoom was even an option for the May 24, 2021 school board meeting. (Tr. 69-70). Mr. Doyle testified that he was not aware if there was an option to attend the May 24 meeting via Zoom or not. (Tr. 193).

Officer Joseph Burke was one of the Cumberland police officers assigned to "school board detail" for the MSAD #51 campus on May 24, 2021. (Tr. 153-154). Officer Burke observed Mr. Doyle walking towards the performing arts center, which

is on MSAD #51 property, were the public school board meeting was scheduled to be held. (Tr. 154, 161). The police confronted Mr. Doyle in the building's entryway and prior to the start of the meeting. (Tr. 161). Officers then warned Mr. Doyle that he would be arrested if he failed to leave the property. (Tr. 155). Officer Burke conceded that prior to confronting Mr. Doyle he did not confirm if there was in fact an active no trespass order and admitted he was not aware of the exception in the order which would have allowed Mr. Doyle to be present with the prior authorization of Superintendent Porter. (Tr. 157-158).

Officer Burke denied that Mr. Doyle was being disorderly in any way on May 24, 2021. (Tr. 160). When asked if Mr. Doyle was being "civil and not causing a disruption," Officer Burke stated "Yes, in my observations; that is correct." (Tr. 161-162). Officer Burke testified that Mr. Doyle stated to the officers that he believed he had the right to be present at that time. (Tr. 160). Mr. Doyle testified that he told the arresting officers that he had a right to attend the meeting, telling the officers that "You can't arrest reporters at a public meeting." (Tr. 183-184). Mr. Doyle was then arrested and physically removed from the building. (Tr. 187). During his removal, Mr. Doyle complained of chest pain and required emergency medical transportation off the scene for treatment. (Tr. 162). Mr. Doyle was arrested by the police prior to attending or speaking at the public meeting. (Tr. 183). In fact, the public meeting had not yet started when Mr. Doyle was arrested. (Tr. 161).

STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

1. Whether Mr. Doyle's conviction pursuant to 17-A M.R.S. § 402(1)(D) was unconstitutional as-applied based on the specific facts in this case.

2. Whether the May 15, 2021 no trespass order, as well as the subsequent order to leave on May 24, 2021, were lawful orders.

3. Whether the requirement to obtain the prior authorization of the MSAD #51 superintendent before attending public school board meetings constituted an unlawful prior restraint on Mr. Doyle's Constitutionally protected rights.

SUMMARY OF ARGUMENT

Mr. Doyle was excising his Constituitionally protected rights when he allowed a sign that he owned to be placed on school property and then attempted to attend a public school board meeting a few days later. The May 15, 2021 Prohibited Conduct Warning, or no-trespass order, which prohibited Mr. Doyle from entering onto or remaining on all MSAD #51 schools and properties, as well as the subsequent order to leave the property on May 24, 2021, were unlawful because they amounted to unconstitutional viewpoint discrimination in a public forum and they were not reasonable given the circumstances. The no trespass order ultimately resulted in the unconstitutional restriction of Mr. Doyle's protected rights when he was arrested on May 24, 2021 when attempting to attend a public meeting of the MSAD #51 school board which was being held on school property.

Further, the May 15 and May 24, 2021 orders to leave were unlawful. In order to sustain a conviction for criminal trespass, the State must prove beyond a reasonable doubt that there was sufficient justification for the orders, based on the prior disorderly and disruptive misconduct of the individual subject to the order. The State failed to introduce sufficient evidence that the Superintendent of MSAD #51 had the requisite justification for the prohibited conduct order against Mr. Doyle, which effectively barred him from all MSAD #51 property. The only

sufficient justification for such a restriction would be if Mr. Doyle was, at some time prior to the issuance of such order, engaged in disruptive and disorderly conduct on MSAD #51 school property. Far from being disorderly, the evidence showed Mr. Doyle's conduct was entirely civil and orderly. Likewise, there was no specific or compelling evidence that his actions caused any disruption to the functioning of the MSAD #51 school district on the Saturday morning of May 15, 2021, when school was not even in session.

Finally, the requirement to obtain the personal permission of the school superintendent Mr. Porter constituted an unlawful prior restraint on protected conduct, including the rights to petition, freedom to assemble and the freedom of the press.

ARGUMENT

I. THE MAY 15, 2021 NO TRESPASS ORDER, THE MAY 24, 2021 ORDERS TO LEAVE ALL MSAD #51 PROPERTY, AND MR. DOYLE'S SUBSEQUENT ARREST VIOLATED HIS CONSTITUTIONALLY PROTECTED RIGHTS

The Federal Constitution, by way of the Fourteenth Amendment, and the Maine Constitution guarantee to the people multiple rights, including the freedom of speech, freedom of assembly, as well as freedom of the press and the right to petition the government. *See* U.S. Const. amend. I; U.S. Const. amend. XIV; Me. Const. art. I, §§ 4, 15. It is in the context of protecting the free exercise of these rights that this Court must consider Mr. Doyle's appeal and find that the criminal

trespass statute, 17-A M.R.S. §402(1)(D), as-applied based on the specific facts in this case, resulted in an unconstitutional restriction on the rights protected by those foundational documents.[4]

Mr. Doyle's conviction pursuant to 17-A M.R.S. § 402(1)(D) was unconstitutional as-applied based on the specific facts in this case because MSAD #51 engaged in impermissible viewpoint discrimination and also because it imposed an unreasonable restriction on Mr. Doyle's ability to engage in conduct protected by the First Amendment, as applied to the States by the Fourteenth Amendment, including his ability to attend a public meeting of the MSAD#51 school board.

Such constitutionally-based challenges are reviewed de novo. *State v. Heffron*, 2018 ME 102, ¶ 11, 190 A.3d 232, 236; *City of Bangor v. Diva's, Inc.*, 2003 ME 51, ¶ 10, 830 A.2d 898. The Court interprets Main''s Constitution and statutes de novo as questions of law. *See Avangrid Networks, Inc. v. Sec'y of State*, 2020 ME 109, ¶ 13, 237 A.3d 882; *Reed v. Sec'y of State*, 2020 ME 57, ¶ 14, 232 A.3d 202.

"Congress shall make no law... abridging the freedom of speech...." U.S. Const. amend. I. "Every citizen may freely speak, write and publish sentiments on

[4] Defendant properly preserved this First Amendment challenge, as evidenced by multiple trial objections and argument, multiple statements by the trial judge, as well as in the form of multiple motions to dismiss and motions for acquittal as outlined above. See e.g. A. 12, 18, 21; Tr. 150-151, 168

any subject, being responsible for the abuse of this liberty....” Me. Const art. I, § 4. The freedom of speech as “secured by the First Amendment against abridgment by the United States, [is] among the fundamental personal rights and liberties which are secured to all persons by the Fourteenth Amendment against abridgment by a State.” *Meyer v. Grant*, 486 U.S. 414, 420 (1988); see *New York Times Co. v. Sullivan*, 376 U.S. 254, 277 (1964). As this Court noted in *Childs v. Ballou*, “[b]oth the United States Constitution and the Maine Constitution place great value on the freedom of speech.” *Childs v. Ballou*, 2016 ME 142, ¶ 14, 148 A.3d 291, 295–96.

The First Amendment prevents the State from restricting or punishing expressive conduct based solely on its disapproval of the ideas expressed. *See R.A.V. v. City of St. Paul*, 505 U.S. 377, 382 (1992). In particular, “core speech, enjoying the fullest constitutional protection, involves “discussions of candidates, structures and forms of government, the manner in which government is operated or should be operated, and all such matters relating to political processes, speech directed at educating the public, or more generally, speech addressing matters of public concern.” *Cent. Maine Power Co. v. Pub. Utilities Comm'n*, 1999 ME 119, ¶ 9, 734 A.2d 1120, 1126 (overruled on other grounds by *Conservation L. Found. v. Pub. Utilities Comm'n*, 2018 ME 120, ¶ 9, 192 A.3d 596) (internal quotation marks and citations omitted).

First Amendment claims proceed in a three-step analysis. The Court must

first decide if Mr. Doyle was engaged in conduct protected by the First Amendment, then "must identify the nature of the forum, because the extent to which the Government may limit access depends on whether the forum is public or nonpublic," and third the Court "must assess whether the justifications for exclusion from the relevant forum satisfy the requisite standard." *Cornelius v. NAACP Legal Def. & Educ. Fund, Inc.*, 473 U.S. 788, 797 (1985).

There is no dispute that the act of placing the sign, or allowing the sign to be placed, was protected conduct as the contents of Mr. Doyle's sign was expressive political speech. The sign contained no profanity, vulgarity, inciting language or fighting words as consisted solely of a picture of a then-member of the MSAD #51 school board and advocated her removal from the board, during an election season, with language critical of her perceived politics. (Tr. 91, 176). This Court has found that "certain nonverbal conduct is capable of categorization as expression which may be constitutionally protected." *State v. Drake*, 325 A.2d 52, 55 (Me. 1974).

Additionally, Mr. Doyle testified that the purpose of allowing Mr. McBreairty to place his sign on the fence was "to express my displeasure with the woman running for re-election" who was depicted in the sign itself. (Tr. 176). "A protester's non-verbal communication in a context in which the message is understood by those present constitutes protected speech within the ambit of the First Amendment." *State v. Armen*, 537 A.2d 1143, 1148 (Me. 1988) (Scolnik, J.,

dissenting) (citations omitted). Mr. Doyle was engaging in a similar form of passive, non-verbal conduct by placing a small sign in a public area of the MSAD #51 campus. Likewise, Mr. Doyle's attempt to attend the May 24, 2021 public meeting of the MSAD #51 school board was protected conduct. *See City of Madison, Joint Sch. Dist. No. 8 v. Wis. Emp. Rels. Comm'n*, 429 U.S. 167, 174–75 (1976) (holding that the First Amendment protects the rights of speakers at school board meetings that are opened for citizen involvement and public participation).

Turning to step two, the chain-link fencing in this case is most appropriately viewed as a limited public forum for First Amendment purposes. A limited public forum is one which has been opened to the public but is "limited to use by certain groups or dedicated solely to the discussion of certain subjects." *Christian Legal Soc'y Chapter of the Univ. of Cal., Hastings Coll. of the L. v. Martinez*, 561 U.S. 661, 679 n.11 (2010) (citation omitted). An instructive case on this issue is *McBreairty v. Sch. Bd. of RSU 22*, which, coincidently, also involves the same Mr. McBreairty who was involved in Mr. Doyle's matter. *See McBreairty v. Sch. Bd. of RSU 22*, 616 F. Supp. 3d 79 (D. Me. 2022). In that case, Mr. McBreairty was granted a temporary restraining order enjoining the RSU 22 school board from banning Mr. McBreairty from entering RSU 22 school property. The US District Court judge noted that "Neither the First Circuit nor the Supreme Court has yet addressed how school board meetings should be classified, but most courts

that have considered the issue have found that they fall in the limited public forum category. I agree with these assessments and find that the public comment period of the RSU 22 School Board meetings are likely a limited public forum." *Id*. at 91-92.

In this case, the school board opened a public area of its campus to expressive conduct by allowing a number of different signs and items to be attached to the fence, sometimes with prior approval and sometimes without, and on a range of topics including a message supportive of the local school board during an election cycle. (Tr. 38-39, 55-59, 81-82, 84-85, 135, 177, 184; *see* Defendant's Exhibits A, C, D, E, F). Mr. Doyle specifically testified that it was the continued presence of the large, pro-school board sign, which he believed was left up intentionally by the superintendent to be supportive of "essentially, his boss," that motivated the placement of his sign so that a contrary opinion could be voiced. (Tr. 176-179).

In limited public forums, the State may restrict expression so long as the restriction does "not discriminate against speech on the basis of viewpoint" and is "reasonable in light of the purpose served by the forum." *Good News Club v. Milford Cent. Sch.*, 533 U.S. 98, 106–07 (2001) (internal quotation marks omitted); *see Perry Educ. Ass'n v. Perry Loc. Educators' Ass'n*, 460 U.S. 37, 46 (1983) ("In addition to time, place, and manner regulations, the state may reserve the forum for

its intended purposes, communicative or otherwise, as long as the regulation on speech is reasonable and not an effort to suppress expression merely because public officials oppose the speaker's view."). "Viewpoint discrimination ... is presumed impermissible when directed against speech otherwise within the forum's limitations." *Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 830 (1995). As the First Circuit has explained, "the essence of viewpoint discrimination is not that the government incidentally prevents certain viewpoints from being heard in the course of suppressing certain general topics of speech, rather, it is a governmental intent to intervene in a way that prefers one particular viewpoint in speech over other perspectives on the same topic." *Ridley v. Mass. Bay Transp. Auth.*, 390 F.3d 65, 82 (1st Cir. 2004).

In this case, it is evident that the school's decision to request the no trespass order against Mr. was not viewpoint neutral. The most direct evidence of viewpoint discrimination comes from the testimony of the school's superintendent himself, who, when asked if it was the nature of Mr. Doyle's message on his sign, which expressed a viewpoint critical of the school board, caused a disruption, Mr. Porter testified "Well, it was -- there was the speech part, yes -- or the visual part of it. Yes, it was causing a disruption." (Tr. 85). Evidence of viewpoint discrimination is also gleaned from the school's disparate response to the, far larger, pro-schoolboard sign which contained a message generally supportive of

the local school board. The pro-school board sign was on the fence for a week to ten days before May 15, 2021 and that sign remained present "for another five days afterwards." (Tr. 177, 184).[5] The police department was not involved in the removal of that larger sign, but were called to supervise the removal of Mr. Doyle's sign at the specific request of Superintendent Porter. (Tr. 76, 135-136).

Additionally, the year-long ban from all MSAD #51 was not reasonable, nor was the requirement to obtain the prior personal approval from Mr. Porter before Mr. Doyle could attend an otherwise public meeting on school grounds. In *McBreairty v. Sch. Bd. of RSU 22*, the Court held that "Regardless, whether the School Board's application of its Policy to Mr. McBreairty is in fact a viewpoint-neutral restriction, the *eight-month* ban on his attendance at any RSU 22 school-related meeting or function fails the reasonableness requirement" based on Mr. McBreairty's orderly and civil conduct at prior school meetings. *McBreairty,* 616 F. Supp. 3d at 96. (D. Me. 2022) (emphasis added). The Court noted that despite the lack of any prior violations of the school board meeting rules by Mr. McBreairty, "the School Board's response has been to categorically exclude all of his future school-related speech on school grounds for eight months. Singling out one individual, banning his (perhaps disfavored) speech, and essentially preventing him from engaging in a form of civil discourse that is available to everyone else in

[5] Mr. Porter testified that he did not know or recall when the larger sign was placed or when it was removed. (Tr. 59)

RSU 22—is unreasonable." *McBreairty*, 616 F. Supp. 3d at 96. (D. Me. 2022); *see* *Cyr v. Addison Rutland Supervisory Union*, 60 F. Supp. 3d 536, 549 (D. Vt. 2014) ("[A] categorical ban on expressive speech singling out an individual does not even satisfy the lower threshold of reasonableness review.").

Likewise, Mr. Doyle was singled out for his civil expression of a message disfavored by the school and the resulting no trespass order had the intended effect of banning him from all MSAD #51 property, including preventing Mr. Doyle from attending public school board meetings. This was even recognized by Mr. Porter who testified that a "secondary reason" for the order was to effectively ban Mr. Doyle from attending public school board meetings held on the property, despite conceding that Mr. Doyle had not been disruptive at prior meetings of the school board. (Tr. 71-72, 75). Therefore even if Mr. Doyle's conduct was subject only to reasonable time, place and manner restrictions, the decision to order his trespass and subsequent arrest does not constitute reasonable restrictions on speech in the circumstances presented. Additionally, there is no evidence in the record of any governmental interest, significant or trivial, that was served by Mr. Doyle's arrest.

II. THE ORDERS FOR MR. DOYLE TO LEAVE MSAD #51 WERE UNLAWFUL BECAUSE THERE WAS NOT SUFFICIENT CREDIBLE OR SPECIFIC EVIDENCE OF PRIOR DISORDERLY OR DISRUPTIVE CONDUCT

Even if the Court finds a lack of a First Amendment violation, there was

insufficient evidence presented at trial that Mr. Doyle's actions generated a lawful justification for a no trespass order barring him from public property. The lawfulness of the no trespass order was not proven in this case as there was not sufficient evidence of disruptive or even disorderly conduct by Mr. Doyle.

When an appellant challenges the sufficiency of the evidence, the Court will, under the deferential clear error standard of review, "consider the evidence in the light most favorable to the State to determine whether the trier of fact rationally could have found beyond a reasonable doubt every element of the offense charged." *State v. Nugent*, 2007 ME 44, ¶ 10, 917 A.2d 127. "We defer to all credibility determinations and reasonable inferences drawn by the fact-finder, even if those inferences are contradicted by parts of the direct evidence." *State v. Hall*, 2019 ME 126, ¶ 16, 214 A.3d 19. A judgment entered upon a jury verdict should be vacated "where no trier of fact rationally could find proof of guilt beyond a reasonable doubt." *State v. Woodard*, 2013 ME 36, ¶ 19, 68 A.3d 1250, 1257. A "clear error" determination involves review of three issues:

> A finding of fact is clearly erroneous when: (1) no competent evidence supporting the findings exists in the record; (2) the fact-finder clearly misapprehended the meaning of the evidence; or (3) the force and effect of the evidence, taken as a whole, rationally persuades us to a certainty that the finding is so against the great preponderance of the believable evidence that it does not represent the truth and right of the case.

Alexander, *Maine Appellate Practice* § 416(b)(1) at 257 (6th ed. 2022).

To sustain a conviction for criminal trespass, the State must prove sufficient justification exists for the order in the form of specific and competent evidence from witnesses with firsthand knowledge that the person subject to the order was disorderly while at the property subject to the order. *State v. Tauvar*, 461 A.2d 1065, 1067 (Me. 1983). While "it is plainly not an element of the crime of trespass that a defendant have committed another crime in the place from which he is ordered," when a no trespass order prevents an individual from entering property to which the general public is invited to enter, that order is "'lawful' for the purposes of the criminal trespass status **only if** the person sought to be ejected is disorderly." (*State v. Chiapetta*, 513 A.d 831, 834 (Me. 1986); *Tauvar*, 461 A.2d at 1067 (emphasis added).

Tauvar involved the removal of an "unwanted guest" from a Jehovah's Witnesses Hall, at the request of a church administrator Mr. Creamer. *Tauvar*, 461 A.2d at 1066. Mr. Creamer testified regarding the disruptive conduct of Mr. Tauvar at the meeting hall, prior to the incident which led to his arrest for criminal trespassing. *Id.* at 1067. Therefore the Court in *Tauvar* held that "the State presented evidence that in the past the defendant had created a disturbance at the meeting hall. This evidence is sufficient to generate the issue of the lawfulness of the order." *Id.* The Court noted an example of disorderly conduct justifying a lawful order was a case involving a "boisterous patron of Dunkin Donuts" as there was evidence that

Defendant, while present in the restaurant, was talking loudly, swearing and generally being disorderly. *See* State v. Gordon, 437 A.2d 855, 857 (Me. 1981).

However, when, as in Mr. Doyle's case, the State fails to prove the lawfulness of a no trespassing order by introduction of sufficient evidence of disorderly or disruptive conduct by the individual subject to a no trespass order, a conviction for criminal trespass must be vacated. *See* State v. Anthony, 202 ME 94, ¶ 6, 798 A.2d 1099 ("In this case, the State simply failed to generate any evidence as to the lawfulness of the order").

In this case, there was no evidence Mr. Doyle engaged in disorderly conduct on school property. If, for example, there was evidence Mr. Doyle had created a physical disturbance at a town hall meeting in the past, that could justify a no-trespass order that bars him from future school board meetings, however the exact opposite was the case here. (Tr. 70-72, 179). All evidence introduced at trial was that Mr. Doyle was engaged in a passive, silent expression of protected political speech and the only eyewitness present when the signs were removed testified that Mr. Doyle was civil, cooperative and not disorderly throughout their interaction. (Tr. 132, 138). Specifically, Officer Pynchon agreed there was "no disturbance at all" on May 15, 2021. (Tr. 142).

Revealingly, during argument in the absence of the jury, the State conceded they would be unable to prove this required element, with State's attorney noting "I

mean, the threshold for disorderly, I don't think, is – isn't one of -- we won't be able to hit based on the -- you know, the hanging of the signs." (Tr. 103). This is correct, as there was no evidence introduced regarding any disorderly conduct by Mr. Doyle at any time on May 15 or May 24, 2021, or any time previously on MSAD #51 property. Further, as outlined in Appellant's First Amendment argument, the act of hanging of a sign in a public forum is protected, silent and passive, expressive conduct and therefore cannot, by itself, constitute disorderly conduct.

Mr. Doyle's conduct is markedly distinct from the clearly disorderly and disruptive conduct at issue in *Chiapetta*. In that case, the Defendant was at a town's voter registration office and "in a loud voice, he harangued the registrar" and the "outburst brought the registration of other voters to a standstill." *Chiapetta*, 513 A.d at 832. The Defendant was asked several times to leave by both town officials and uniformed police but the Defendant "refused to leave and persisted in his noisy protest." *Id*. The conduct at issue in *Chiapetta* occurred in nonpublic forum and was therefore subject to reasonable restrictions as to time, place, and manner. *Id*. at 832-833 ("Chiapetta was arrested solely because his protest was vented at a time (election day) and place (voter registration office) and in a manner (with a loud voice) that disrupted the essential functions of a government office."). The Court in *Chiapetta* held that the Defendant's arrest for criminal trespass was an appropriate limitation on his freedom of speech in order "to protect the public from the kind of boisterous

and threatening conduct that disturbs the tranquility of spots selected by the people... [and for] buildings that require peace and quiet to carry out their functions." *Id.* at 833.

Here, there is no evidence that Mr. Doyle's conduct was 'boisterous and threatening' or disturbed any individual present at the time. The signs were placed on a Saturday when school was not in session. (Tr. 41). There was no testimony from any staff, teachers, students, parents or community members who may have seen the May 15th signs. Indeed there was no testimony from any witness who saw the signs being placed besides Mr. Doyle, who repeatedly testified that no school children were visible near where the signs were located on the fence. (Tr. 175-176, 180). The only firsthand testimony from a non-party witness who actually saw the May 15, 2021 signs was from Officer Pynchon, who testified as to the orderly conduct of Mr. Doyle and the lack of any "disturbance at all" throughout his entire encounter with Mr. Doyle on May 15, 2021. (Tr. 142). Mr. Porter was unable to confirm if any students saw either sign placed on the fencing on May 15, 2021, simply stating that there was "some sort of a program," occurring "somewhere on campus," around the same time. (Tr. 83).

Further, in addition to the different type of public forum in which the conduct occurred, another key distinction from *Chiapetta* is that the Defendant in that case did "not contend, nor on this record could he contend with any plausibility, that he

was arrested because the authorities disapproved of the content of his speech." *Chiapetta*, 513 A.d at 832. That is clearly not the case with Mr. Doyle, who does directly contend, as argued above, that the views expressed in by his sign was precisely what motivated the suppression of his speech by MSAD #51.

Additionally, while Mr. Doyle was engaging in a similar form of passive, non-verbal but politically expressive conduct as present in *Armen*, the conduct at issue in that case is notably distinguishable in several ways. *State v. Armen*, 537 A.2d 1143 (Me. 1988). That case involved an individual who sought a meeting with then U.S. Representative Olympia Snow but "on at least one prior occasion he had been arrested at the district office by members of the Presque Isle Police Department." *Armen*, 537 A.2d at 1444. Mr. Armen then returned to the district office in a further attempt to meet with Representative Snow But after speaking with the office manager, Ms. Higgins, at the office in person, the office manager testified that "an eventual meeting was unlikely" and she asked Armen to leave and Armen refused to leave. *Id*. at 1144-1145. Trial testimony established that while Armen "was not belligerent or abusive," the office manager "felt that his remaining in the office prevented her from doing her job." *Id*. at 1145.

However, in this case there is no indication Mr. Doyle was disruptive on prior occasions before the issuance of the no trespass order. If, for example, there was evidence that at a prior school board meeting Mr. Doyle was belligerent,

violated meeting rules, or had to be been ejected and removed, those could provide valid justifications for a no trespass order. There was no evidence that was the case and in fact the evidence introduced at trial was that Mr. Doyle had not caused any disruption or been disorderly in any way at prior school board meetings. (Tr. 70-72, 179). Likewise, there was not sufficient credible or specific evidence that there was any disruption to the functioning of MSAD #51 caused by Mr. Doyle on either May 15 or May 24, 2021. The only evidence of disruptive conduct was the entirely conclusory opinion offered by Mr. Porter. (Tr. 41, 61-62, 66, 73, 81). Critically, Mr. Porter was unable to specify how exactly the presence of the sign caused a disturbance and likewise was unable to specify what function of the school was prevented from occurring that morning.[6] The evidence showed that the signs were on the fence for a very short amount of time and were quickly removed without any disturbance. (Tr. 138, 141-142).

Justice Scolnik's dissent in ***Armen*** is prescient to the present case. *See* ***Armen***, 537 A.2d at 1148 (Scolnik, J., *dissenting*). The Justice warned that he was "disturbed by the precedent that will be created by affirming a criminal trespass

[6] Justice Scolnik's dissent in ***Armen*** highlights precisely the weakness of relying on such unsupported and conclusory statements regarding allegedly 'disruptive' conduct, noting that in that case "The only evidence the court is able to cite in support of its conclusion that the District Court could have rationally found that" the office manager's order to leave was justified is that she " 'felt' [Armen's] presence in Rep. Snowe's office was an interference with the operation of the office" and assessed that aside from her " 'feelings,' there is insufficient evidence in the record before us to indicate that Armen was interfering with the functioning of the office. A mere unelaborated assertion of a feeling or fear that one single protester's presence will cause a disturbance is insufficient justification for an order to leave." ***State v. Armen***, 537 A.2d 1143, 1148 (Me. 1988) (Scolnik, J., *dissenting*) (citations omitted).

conviction of a citizen peaceably exercising his rights of free speech in a public place. I am concerned that public officials will now find approval for the arbitrary removal of a non-disruptive but persistently questioning citizen from a public office." *Id*. at 1149 (citations omitted). "Despite his undisturbing manner of conduct, Armen was considered a nuisance and was ordered to leave. Elected representatives and their employees in the field must expect and tolerate dissident expression. The right to communicate one's views to elected public officials is an essential part of our representative political system. This court should not affirm the criminal conviction of a citizen exercising this right." *Id*. The same principle and concerns apply in Mr. Doyle's case, where he and his sign were subjected to arbitrary removal by a public official who could not tolerate even passive, silent dissent from a 'non-disruptive but persistently questioning citizen.'

While the Court in *Armen* rejected similar constitutional arguments as raised by Mr. Doyle, there are two additional key distinctions in the present case. First, the Court in *Armen* concluded that "there is no evidence in the record that [the office manager] asked Armen to leave or that the police arrested Armen because of the content of his message…The District Court rationally could have found beyond a reasonable doubt that Armen was ordered to leave and finally arrested because his presence interfered with the operation of the office, not because he conveyed a particular political message." *Id*. at 1145. Again, this is not the case with Mr. Doyle

for multiple reasons as outline above, including the express admission by Mr. Porter that he found the message in the sign itself to be disruptive. (Tr. 85).

Second, the Court in Armen also ruled that "the District Court could have found beyond a reasonable doubt that Armen had concluded his business with the field representative before being asked to leave. Thus, any 'restriction' came after Armen had exercised his rights." *Armen*, 537 A.2d at 1145. "Members of the public are invited to enter to express their concerns and obtain information on legislation. Because of the public invitation, Armen's initial entry was not a trespass. Upon completion of his legitimate business, Armen was not privileged to remain." *Id.* at 1146. Again, this is not the case with Mr. Doyle as it relates to his attempt to attend the May 21, 2021 public school board meeting because he was arrested prior to entering the area of the school where the meeting was being held and prior to the meeting even starting. (Tr. 161, 183). Therefore no reasonable trier of fact could have concluded Mr. Doyle had concluded his business at MSAD 51 on May 21, 2021.

III. THE REQUIREMENT TO OBTAIN THE PERSONAL PERMISSION OF THE MSAD #51 SUPERINTENDENT BEFORE ATTENDING A PUBLIC SCHOOL BOARD MEETINGS CONSTITUTED AN UNLAWFUL PRIOR RESTRAINT

"The freedom of speech and of the press guaranteed by the Constitution embraces at the least the liberty to discuss publicly and truthfully all matters of

public concern without previous restraint or fear of subsequent punishment." *Thornhill v. State of Alabama*, 310 U.S. 88, 101–02 (1940). "The concept of prior restraint refers to "administrative and judicial orders forbidding certain communications when issued in advance of the time that such communications are to occur." *Cent. Maine Power Co. v. Pub. Utilities Comm'n*, 1999 ME 119, ¶ 12, 734 A.2d 1120, 1127, (overruled on other grounds by *Conservation L. Found. v. Pub. Utilities Comm'n*, 2018 ME 120, ¶ 12, 192 A.3d 596). "Because prior restraints have an immediate and irreversible sanction of suppressing speech before it occurs, there is a heavy presumption against their constitutional validity. *Id.* (citations omitted)

The May 15, 2021 no trespass order amounted to an unconstitutional prior restraint on Mr. Doyle's protected conduct based on the language of the order itself, added at the specific request of the school superintendent, which required him to obtain the prior authorization from the school superintendent to attend a meeting of the school board held on school grounds. (Tr. 68; Def. Ex. B). Mr. Porter specifically testified that it was his intent to have Mr. Doyle personally ask his permission in the likely event Mr. Doyle wanted to attend future school board meetings on school property. (Tr. 69). This prior restraint had an immediate, chilling effect on Mr. Doyle's ability to attend, speak at or write about the public meeting of the MSAD #51 school board, as evidenced by is arrest prior to

attending, speaking at or writing about the May 24, 2021 public meeting.

CONCLUSION

WHEREFORE, for the reasons outline above the Court should vacate Mr. Doyle's conviction for criminal trespass. The May 15, 2021 no trespass order, the May 24, 2021 order to leave the property, and Mr. Doyle's subsequent arrest all violated his constitutionally protected rights, including to petition, freedom of speech, and freedom of assembly as well as freedom of the press. Further, there was insufficient justification for this unconstitutional restraint on protected conduct because the State presented insufficient evidence that Mr. Doyle was himself disorderly or that the presence of his sign, barely larger than a sheet of paper, caused any sort of disruption to the functioning of the MSAD #51 school district.

Respectfully submitted, dated at Brunswick, Maine this 3rd day of February, 2025.

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CERTIFICATE OF SERVICE

I, Andrew D. Emerson, certify that I served two copies of this Brief of Appellant upon the other parties in this matter by regular U.S. mail, postage paid, with a copy by email, at the addresses below:

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