State of Oregon,

vs.

Jared Essig,
defendant, pro se et pro publica

Multnomah County 24-CR-22957
Demurrer motion
Objection to charging information

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The charging information fails to state why the public area around the PSU library was closed to the students and public at the time the defendant is alleged to have ingressed upon it - and now admits to having done so - and the charging information fails to state why such ingress constitutes "trespass" in such a time when it is normally open.

Intent is substantially at issue, and **the charging information contains no allegation of criminal intent,** or mens rea. But since the mere act of being present at a library is not a crime in any theory of law, the defendant cannot be reasonably accused of a crime for this actus reus alone. The prosecutor should **bring actual charges, or else the court should dismiss the case for failure to state a claim**, since the **trespass statute is vague and overbroad as applied in this case**.[1] Here are some charges on which a competent prosecutor would convict dozens of suspects:

The defense stipulates with the affidavit of probable cause that the library was "*broken into, adversely occupied, and severely vandalized"*, and that after police cleared it, a "*group of people unlawfully occupied the library after it was boarded up*". This was an **attempted burglary of the library building**, which did in fact occur at that time and place, in an undisguised **attempt to extort the university**.[2] But the DA neglects to bring these charges. The collective of militant Palestine activists had openly **published their incitements** and demands, and had openly declared their solidarity in a "united front" with foreign terrorist organizations as "people united [who will]] never be divided" in the struggle to "free Palestine" from the Israelis "by any means necessary", to "justify resistance", and "honor martyrs" who die in the course of this **war of aggression** which they launched and have perpetuated. We allege that it was only to this **conspiracy**[3] of pro-palestinian militants that the police had directed or should have directed their temporary "stay-away order", and not to the learning community of PSU generally. The militants are apparently led by the PSL, DSA, JVP, and AMP/SJP in affiliation with the Marxist-Leninist Samidoun/PFLP, which boasts of participation in the Oct 7th "Al-aqsa flood" operation with its massacres of Israelis and taking of civilian hostages, and does so in solidarity with Palestinian prisoners held in Israeli jails. These were war crimes. The

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1 *Virginia vs. Hicks*, 539 US 113, 119, 123 S Ct 2191, 156, L Ed 2d 148 (2003): "We have provided this expansive remedy out of concern that the threat of enforcement of an overbroad law may deter or 'chill' constitutionally protected speech"

2 ORS 161.405 defines *attempt* as follows; "A person is guilty of an attempt to commit a crime when the person intentionally engages in conduct which constitutes a substantial step toward commission of the crime"

3 ORS 161.450 defines *conspiracy* as follows: "A person is guilty of criminal conspiracy if with intent that conduct constituting a crime punishable as a felony or a class A misdemeanor be performed, the person agrees with one or more persons to engage in or cause the performance of such conduct"

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charging information does not allege that the defendant was part of this **conspiracy to "steal a building", adversely occupy it,** and **vandalize it with blood-libels, incitements to war and war crimes against Israel, and other terrorist propaganda,** to give as a **material gift in support of foreign terrorist organizations**, for use as a propaganda platform and as a tool with which to **extort the university into divestment** from companies doing business with Israel, a US ally, and to train a future generation in the manifestation of Jew-hatred and political-ecclesiastic replacement theology known as anti-zionism. The evidence is abundant and nearly undeniable that these crimes did, in fact, occur, and the DA is negligent in failing to locate the agitators and bring adequate charges.

Since the university faculty and administration have shown themselves inadequate to the task of presenting the historic and moral argument against these pro-terrorist militant adverse occupiers, and since the police were inadequate to effectively remove them, and since the District attorney are local politicians are failing to present a moral and legal argument sufficient to deter future invasions, moral responsibility to do so devolves to the civilians and learning community, and demonstrates the need for counter-protest using scholastic methods of logic, evidence, and argumentation rather than mere use of force. The pen is mightier than the police.

In some Universities and Students' unions, similar attempts at extortion have been successful, underscoring the need for competent prosecution. Pro-Palestine militant protestors have occupied facilities, disrupting work and study, and threatening further disruption of graduation ceremonies unless their demands are met. At UofO in Eugene for example, the administration and student Senate recently capitulated under pressure to demands that campus stores stop selling Sabra hummus and pretzel snack paks. These snack paks are alleged to be part of the world wide zionist war machine and an international conspiracy to manipulate your vending machines and stores, presumably by selling snack food that is healthier and tastier than average. (These also combine some of the best of Arab and German food in a unique and appetizing fusion, and through creative partnership with an Israeli company, this inter-cultural exchange helps both those cultures to atone for the destructive partnership between the Arab High Committee of Palestine and the imperial Nazi German third reich, which were allied during the 30's and 40's) The UO campus occupation and intifada was a **successful attempt at extorting the university and student body** into dropping Sabra snacks, and a similar attempt was made by their PSU affiliates, as part of a national BDS campaign. The DA should charge this crime, and the DOJ should consider prosecute the national organizations, or else the charges of mere trespass are inadequate, beside the point, fail to protect the library patrons and the pretzel and hummus eating public, and also waste the public's resources while failing to

offer the guilty parties a reasonable opportunity to atone by appropriate expressions of remorse and renunciation.

Renunciation is an affirmative defense against "inchoate" crimes such as attempt, conspiracy, and incitement.[4] A public statement of sincere renunciation is the best possible outcome, and it should be the first and foremost condition of any plea bargain that is offered. A defendant who renounces on the same platforms where he had earlier published the incitements or contracted the conspiracy, is significantly less likely to re-offend. Also, a renunciation saves public resources that would be spent on prosecution and incarceration.

If anti-Israel activism is going to be tolerated as act of protected speech, these militants must first renounce the Hamas charter and the hadith quoted in its Article 7, which threatens not merely the destruction of Israel, but the global genocide of Jews wherever they may be found, even in hiding, even without a state of their own. Otherwise, local Jews and their allies are justified in taking action to silence them and punish this incitement to murder Jews and this attempted genocide, just as Israel is justified in eradicating Hamas. Hamas claims to descend from the "Izz ad din Al-Qassam" movement which claims to have led the anti-zionist "Black Hand" of the 1930's and the jihad of 1947/48, under the mistaken theory that Palestine is an Islamic waqf. This war and death cult is therefore responsible for the "Nakba", the palestinian catastrophe that ensued when its war of aggression failed. It is therefore in the interest of all Palestinians that Hamas be dis-allowed from perpetuating its death-cult and from launching future suicidal wars of aggression, and from bringing future catastrophes on the people it claims to defend. It is in the interest of all Portlanders to stop tolerating local Marxist-Leninist militants to commandeer bridges and shut them down at rush hour, or to occupy public buildings in solidarity. They must renounce the Hamas charter and the hadith, and renounce solidarity with the Samidoun/PFLP, which is also a designated FTO, or prosecutors should stop tolerating acts of "globalize the intifada" and rallies for war against Israel, which in context constitute prohibited acts of incitement, and have repeatedly involved "imminent lawless action" and on both counts are not free speech.[5] The public should be taught the law, and the DA and City councilors should teach it, since the teachers unions and most local newspapers have apparently abdicated their role. The city is already suffering a murder epidemic as a result of this "myth of

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4 ORS 161.430, 161.440, 161.460. The OSB 2022 Bar book "Criminal law in Oregon", Chap 19.8-1 states that "The renunciation defense applies to a charge for an inchoate crime if, under circumstances manifesting a voluntary and complete renunciation of criminal intent, the defendant has done everything possible to avoid completion of the criminal scheme. Renunciation is not available as a defense if the defendant abandons the defendant's conduct because of fear of imminent apprehension or because the means chosen for accomplishing the crime have proved inadequate."

5 C.f. *Brandenburg vs. Ohio* 395 US 444 (1969)

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redemptive violence" popularized by the emblematic raised fist. The public should not tolerate more of this incitement.

The DA is significantly undercharging, and failing his public duty-to-act to prevent further such acts of extortion, theft of public spaces and public buildings for use as propaganda platforms, and other material support to foreign and domestic terrorist organizations.

If they wish to prevent further civil unrest, prosecutions are not enough. The District attorney and other County and City officials should lobby the Biden administration's State department to come into compliance with US Law, the 2018 "Taylor Force act" 115th HR 1146, and stop sending U.S. tax dollars to the Palestinian Authority's "Martyr's fund" and stop financing its egregious "pay-to-slay" stipends which are going to Palestinian prisoners and to families of suicide bombers. This perverse incentive is the efficient cause of the murder-martyrdom complex that has taken hold of the Palestinian and now the American youth. The Democratic party should apologize to the public for having restarted this financing of Palestinian terrorism, in fulfillment of a campaign pledge but in violation of US law, when the Biden administration took office in 2021.

The US and Oregon Constitutions guarantee that every member of the university learning community and general public have **a right to use the library for its intended purpose,** and also **a right to counter-protest the library occupation and demonstrate in support of the administration's decision to evict the pro-palestinian occupiers**.

Facts could be presented at a future hearing demonstrating that this counter-protest was what Mr. Essig was on the scene to do, and he has already declared this in public comment before the Portland city council at their regular meeting on the very same afternoon before he was arrested. He is on public record inviting the university chancellors and city councilors to join him in liberating the library for a learn-in on the history of Palestine, a subject in which the pro-palestinian activists are themselves manifestly dis-interested and demonstrably ignorant. Arguments presented in this motion filing should establish these facts of "intent" as probable beyond a reasonable doubt. Although a demurrer hearing is not the appropriate forum to consider the factual questions at issue, the Court should take notice that the charging information fails to provide an appropriate legal framework for consideration of those facts, and is therefore insufficient.

The DA should voluntarily **withdraw these frivolous charges of trespass** and instead do the moral reasoning, establish the legal foundation, complete the detective work, and bring accurate

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criminal charges against all the suspects arrested in this police mission, or else we ask the court to **dismiss the case for failure to state a claim**.