

IN THE PROVINCIAL COURT OF NOVA SCOTIA**Citation:** R. v. Pictou, 2010 NSPC 3**Date:** January 25, 2010**Docket:** 2061768, 2061770**Registry:** Shubenacadie

Her Majesty the Queen

v.

John Benjamin Pictou

DECISION

Judge: The Honourable Judge Anne S. Derrick

Heard: January 7 and 22, 2010

Decision: January 25, 2010

Charges: Threat, contrary to section 264.1(1)(a) of the *Criminal Code* and possession of a weapon for a purpose dangerous to the public peace contrary to section 88 of the *Criminal Code*

Counsel: Jillian Ryan - Crown Attorney
Michael Taylor - Defence Counsel

By the Court:

Introduction

[1] Originally, Mr. Pictou and his common-law partner, Kim MacEachern were jointly charged with having made, on May 1, 2009, a word of mouth threat to Robyn Duffney, a Mi'kmaq Family and Children Services case worker. They were also charged with having in their possession a Mossberg 12 gauge pump-action shotgun for a purpose dangerous to the public peace. The Crown chose to proceed against Ms. MacEachern only on the threat charge. After the Crown closed its case, counsel for Ms. MacEachern made a motion for a directed verdict of acquittal which I granted. Ms. MacEachern was therefore no longer on trial but did testify as a Defence witness.

General Facts

[2] The events that gave rise to the charges occurred on May 1, 2009 at the Pictou-MacEachern residence in Indian Brook. Mr. Pictou and Ms. MacEachern lived together in a trailer on Meadow Brook Road with their two children, Karen and John Jr.

[3] In the late morning of May 1, a worker with Mi'kmaq Children and Family Services (the Agency) and a case work supervisor accompanied by Cst. Dollimont of the Indian Brook RCMP went to the Pictou-MacEachern home. The worker, Robyn Duffney, and supervisor, Keira Meech, wanted to interview Mr. Pictou and John Jr. because of a complaint they had received from Mr. Pictou's adult daughter, Anna

Pictou, about excessive discipline methods employed in the home. Prior to going to Meadow Brook Road, Cst. Dolliment and Ms. Duffney had interviewed Karen Pictou at school. I am not sure from the evidence if Ms. Meech was also in attendance at that interview but this detail is inconsequential to this trial.

[4] The evidence established that Mr. Pictou was not warmly disposed toward Mi'kmaq Children and Family Services. There may be some question as to how comprehensive these negative feelings were, but at the very least, Mr. Pictou did not like Ms. Duffney and did not want her on his property. I am satisfied that he and Ms. MacEachern had previously told Ms. Duffney not to come to their home looking for Anna Pictou. There had been prior contact between Mr. Pictou and Ms. MacEachern and Ms. Duffney in the context of the Agency's involvement with Anna Pictou's children. There had been no previous involvement with the Agency concerning the Pictou-MacEachern children.

[5] On May 1, when Ms. Duffney went to the Pictou-MacEachern residence, the Anna Pictou excessive discipline complaint was not particularly fresh. It had been made some weeks previously. For some reason, not explained in the evidence, the Agency did not immediately follow it up with Mr. Pictou.

Facts Specific to the Threat Charge

[6] All the events on May 1, 2009 at the Pictou-MacEachern residence that gave rise to the charges happened at the front door of the trailer. I therefore want to set out the context, as I have found it on the evidence, with respect to these events.

[7] The evidence establishes that Ms. Duffney knocked on the door of the trailer and that when she did so, Cst. Dollimont was slightly behind her and to her right. Ms. Meech was standing further back, on the steps leading up to the front deck of the home. I find that Mi'kmaq Children and Family Services had anticipated there might not be warm welcome from Mr. Pictou. Cst. Dollimont's presence suggests this and indeed he said in his evidence that he went along to escort the caseworkers. He was also there to determine, by attending any interview that occurred, whether any criminal acts had been committed in the disciplining of the Pictou children. No call was made to Mr. Pictou to tell him that the Agency workers and Cst. Dollimont were coming to see him. This also may indicate an expectation that Mr. Pictou might not be pleased to see them.

[8] When Mr. Pictou responded to Ms. Duffney's knock on the door he opened the door and saw Ms. Duffney and Cst. Dollimont. He did not see Ms. Meech on the steps to his right. Ms. Duffney told him there were allegations of improper discipline and they wanted to speak to John Jr. Mr. Pictou did not immediately tell Ms. Duffney to leave. He asked what the allegations were and who had made them. He refused a request for Ms. Duffney and the others to come into the house and discuss the matter. He proposed they talk on the front deck. Ms. Duffney indicated this was not how they conducted their investigations and suggested a meeting back at the Agency's offices. Mr. Pictou declined. At some point in the exchange, Mr. Pictou indicated that he wanted to have the allegations in writing and would speak to his lawyer. This did not resolve the issue as Ms. Duffney told Mr. Pictou that would not follow the Agency's policy. It was Cst. Dollimont's evidence, which I accept, that Ms. Duffney said something to Mr. Pictou to the effect that either he complied with their investigation

or they would go through Family Court. She told Mr. Pictou they needed to follow up their investigation and the matter was not going to go away.

[9] Mr. Pictou asked Ms. Duffney to leave. The discussion of options had plainly come to an end.

[10] The Crown witnesses and Mr. Pictou do not agree on the issue of how many times Mr. Pictou told them to leave. Ms. Duffney testified he said it once. Mr. Pictou testified he persistently told them to get off his property while the discussion was ongoing.

[11] There was a dispute in the evidence as to how long Mr. Pictou and Ms. Duffney were engaged in a discussion on the front deck. Mr. Pictou estimated their conversation lasted thirty to forty-five minutes. The Crown witnesses described a time frame that was much shorter. Ms. Duffney estimated less than ten minutes altogether. Cst. Dollimont testified that the discussion had not gone on very long before Mr. Pictou wanted them off his property.

[12] I do not accept Mr. Pictou's estimate of time: it is not reasonable to think that the tense conversation between Mr. Pictou and Ms. Duffney would have continued for as long as he has indicated. A request to meet about the excessive discipline allegations, the options for furthering the Agency investigation, and Mr. Pictou's refusal to either have the workers in his home or go to meet them elsewhere, would not have taken long to canvas. I do not accept that Ms. Duffney and Mr. Pictou kept reiterating their positions for thirty to forty-five minutes. The stalemate was arrived

at within minutes and it would have been pointless to have kept revisiting the issues. I also do not accept that Mr. Pictou would have tolerated Ms. Duffney's presence at his front door for thirty to forty-five minutes. I find that as Cst. Dollimont testified, the discussion at the front door between Ms. Duffney and Mr. Pictou had not gone on very long before Mr. Pictou asked them to leave.

[13] It was the evidence of the Crown witnesses that the events following Mr. Pictou's directing them off the property happened very quickly. Mr. Pictou described a more protracted sequence of events. He testified that he immediately told Ms. Duffney to leave when he heard she had interviewed Karen at the school. Once he was informed that the allegations came from his daughter, Anna, he told Ms. Duffney that what Anna said was wrong. Mr. Pictou testified that Ms. Duffney was insistent that she was going to talk to John Jr. and even said she was coming into the house. Mr. Pictou blocked her access by positioning himself across the doorway. He told Cst. Dollimont to observe the "no trespassing" signs and to get them [the Agency workers] off his property. Mr. Pictou testified that in the face of Ms. Duffney insisting that the interview with John Jr was going to happen that day, he told them to get off the property eight to ten times.

[14] Presumably Mr. Pictou could have simply closed the door once he decided he was not going to comply with Ms. Duffney's request for an interview. Instead, he claims that he spent thirty to forty-five minutes arguing angrily with Ms. Duffney on the front deck. I simply do not believe this. Mr. Pictou does claim that he did try to close the door at one point but it swung back open because someone on the other side had pushed or kicked it to stop it from shutting. Ms. Duffney denied doing anything

like this and neither Cst. Dollimont nor Ms. Meech saw the door closing or any movement by Ms. Duffney with respect to the door. I do not accept, as Mr. Pictou has testified, that after a lengthy argument with Ms. Duffney he finally decided he had had enough and started to shut the door only to have it kicked or pushed open by someone on the front deck.

[15] There is no dispute that Mr. Pictou did want Ms. Duffney off his property. I find that this was indicated to Ms. Duffney quite soon after she arrived at the front door. According to Mr. Pictou he first told Ms. Duffney to leave as soon as she told him about the allegations. Even the Crown witnesses indicate that the request for them to leave the property came during the course of a discussion that did not take very long. Either way, I find that Ms. Duffney had not been standing at Mr. Pictou's front door for more than a matter of minutes before Mr. Pictou asked her to go. I have not accepted that the exchange at the front door went on for as much as thirty to forty-five minutes in total and accordingly I do not believe that the discussion was lengthy enough to afford Mr. Pictou the opportunity to demand eight to ten times that Ms. Duffney and the others get off the property, as he has claimed. I cannot accept that Mr. Pictou would have kept repeating such a demand where it was an option for him to just firmly close the door and end the conversation.

[16] I find that within minutes of Ms. Duffney knocking at the front door and Mr. Pictou answering it, he told her to leave the property. Perhaps Ms. Duffney kept talking - there were questions from Mr. Pictou that she answered - for a few minutes, but as I indicated, I accept that not much time passed before the Agency workers did leave the property. I find that what made them do so was the direction issued by Mr.

Pictou to Ms. MacEachern inside the house to “get me my gun.”

[17] Mr. Pictou does not dispute that he said these words to Ms. MacEachern: “Get me my gun.” He has submitted that he was lawfully entitled to do so because Ms. Duffney would not leave and that as she was a trespasser, he was allowed to effectively run her off his property. He testified he did this by using words that indicated he was to be taken seriously. Mr. Pictou’s evidence was that the purpose of telling Ms. MacEachern to get his gun was to scare the Agency workers off his property. He agreed on cross-examination that he wanted to scare Ms. Duffney and make her think he had a gun.

Analysis Concerning the Threat Charge

[18] The issue for me to determine with respect to the first charge is whether Mr. Pictou’s words, which he admits saying, constituted a threat to Ms. Duffney to cause death or serious bodily harm. I find that they did. I am satisfied beyond a reasonable doubt that Mr. Pictou’s words, looked at objectively in the context in which they were made, would have conveyed to a reasonable person a threat of serious bodily harm. Mr. Pictou used the words “get me my gun” as a “tool of intimidation...designed to instill a sense of fear in its recipient.” (*R. v. McCraw*, [1991] 3 S.C.R. 72, at pp. 81 - 82) Mr. Pictou’s words were uttered to achieve the objective of getting Ms. Duffney off his property. There is no evidence Mr. Pictou intended to use a gun but this is irrelevant. What is relevant is that objectively his words were intended to intimidate Ms. Duffney. I find the words to have been a threat to Ms. Duffney whether Mr. Pictou actually had a gun in his hands when he uttered them, or not. Mr. Pictou

intended to communicate to Ms. Duffney that he had a gun and that if she did not get off his property, she was exposing herself to the risk that the gun would do what guns do at close range, which is cause serious bodily harm or death.

[19] I do not accept the Defence submission that Mr. Pictou was entitled to eject Ms. Duffney from his property as a trespasser. Mr. Pictou was entitled to order Ms. Duffney off his property. Once he did so, she was obliged to leave as she had no lawful authority to stay. However I find that the events occurred within a short time frame. I do not find Mr. Pictou to have acted reasonably in the circumstances. Ms. Duffney did not try to enter Mr. Pictou's home and was not stubbornly refusing to leave after being repeatedly directed by Mr. Pictou to go. If she lingered on the front deck for a few minutes after his demand that she leave, while they talked about the options for dealing with the allegations, Mr. Pictou was not within his rights to threaten her with a gun which is what he did, even though he did not produce the gun and brandish it at her.

[20] Using his superior size alone, Mr. Pictou could have readily kept Ms. Duffney out if she had tried to enter his home. All that was happening was a relatively short discussion on Mr. Pictou's front deck. He may have had enough of it and wanted nothing more to do with the Agency requests for an interview. He could have closed and locked the door. There would have been no choice but for Ms. Duffney to leave. There was a police officer present who would have been responsible to keep the peace and ensure that Ms. Duffney and Ms. Meech acted in accordance with the law.

[21] I do not find that Mr. Pictou and Ms. MacEachern having on previous occasions

ordered Ms. Duffney off the property gave Mr. Pictou the right to threaten her on May 1, 2009. Mr. Pictou used menacing words on May 1, 2009 to scare Ms. Duffney off his property soon after she had arrived there to follow up child-abuse allegations and his use of those menacing words constituted a threat as charged.

The Facts Specific to the Possession of the Shotgun Charge

[22] Mr. Pictou is also charged with possession of a Mossberg 12 gauge pump-action shotgun for a purpose dangerous to the public peace. The charge rests on the evidence of Ms. Duffney who testified to having seen a gun in Mr. Pictou's hand. Mr. Pictou has testified he was never in possession of a Mossberg shotgun while talking with Ms. Duffney at the front door of his house. He admits to having been handed something by Ms. MacEachern but says it was a walking cane. Both a cane and a Mossberg shotgun were found in the Pictou-MacEachern home and entered as exhibits at the trial.

[23] In terms of what may have been in Mr. Pictou's hand, only Ms. Duffney saw anything. Cst. Dollimont and Ms. Meech out on the front deck with Ms. Duffney saw nothing. They were looking at the house and Mr. Pictou from different vantage points than Ms. Duffney.

[24] Ms. Duffney testified that after Mr. Pictou told Ms. MacEachern to "get me my gun", she could be heard asking him, from inside the house, "which one?" Mr. Pictou told her "you know which one." Ms. Duffney's evidence was she could see Ms. MacEachern, through a window near, but not in, the front door, walking across the

dining room with a gun in her hand. She then saw Ms. MacEachern hand Mr. Pictou a long gun, placing it into his right hand such that he was able to swing it behind his back and out of sight. This prompted Ms. Duffney to ask Mr. Pictou if he had a gun. He said “maybe”. Cst. Dollimont, hearing this exchange, told Mr. Pictou that if he had a gun he would be arrested. Ms. Duffney and Ms. Meech testified that Mr. Pictou responded by saying: “Well, then we are going to dance.” Believing Mr. Pictou had a gun, Ms. Duffney wasted no time getting off the front deck taking Ms. Meech with her and leaving the property. She testified that she felt threatened and that “something really bad was going to happen.”

[25] Within seconds of Ms. Duffney and Ms. Meech leaving, Cst. Dollimont asked Mr. Pictou to show his hands. He had nothing in them. Mr. Pictou opened the door wider to show he had no gun. With the Agency workers gone, Mr. Pictou’s demeanour relaxed. Cst. Dollimont was then allowed to enter the house and spoke with Mr. Pictou inside. Mr. Pictou showed him a black walking cane standing in a plant stand near the opening between the dining room and the living room, which were situated to Mr. Pictou’s right when he had been standing with the front door open, facing the front deck. The plant stand and cane were approximately fifteen to sixteen feet from the front door. Mr. Pictou told Cst. Dollimont that this was the walking cane he had held in his hand when Ms. Duffney had been at the front door.

[26] A search warrant executed at the Pictou-MacEachern house that night located a Mossberg 12 gauge pump-action shotgun in a cabinet in the closet in Mr. Pictou’s bedroom.

[27] Much evidence was led about the positioning of the individuals on the front deck, Mr. Pictou's stance in the doorway and the window coverings on the windows visible from the deck, those being windows in the front door and a large window with two smaller, flanking windows that looked into the dining room. Photographs taken shortly before the trial by Defence were used by Crown and Defence to question the witnesses about these details. Six photographs of the front of the house including the front door and front deck were entered as Exhibit 1. Evidence was given by Ms. Duffney that the front door was hung differently from the door depicted in the photographs. Ms. Duffney was positive the door in the photographs had been changed and that on May 1, 2009, the front door to the residence had opened so that Mr. Pictou's right side was exposed rather than his left side as shown in photograph 4 of Exhibit 1. Mr. Pictou rejected this suggestion and testified that the door was the same as it had been for many years. Shown standing in the doorway in Photograph 4 of Exhibit 1, Mr. Pictou's right side is less visible than his left. According to his evidence, this is how he was standing on May 1 when he opened the door to speak with Ms. Duffney. According to Ms. Duffney, when Mr. Pictou opened the door, he was standing with his left side against the door and his right side more visible.

[28] This becomes relevant to the evidence about what happened after Mr. Pictou told Ms. MacEachern to bring him his gun. Ms. MacEachern was in the kitchen area off the dining room and therefore off to Mr. Pictou's right as he stood with the front door open facing Ms. Duffney. By all accounts Ms. MacEachern did bring something to Mr. Pictou in response to his words. The object she brought was slipped into his right hand. That hand was either nearest the edge of the door according to Mr. Pictou's evidence or more exposed with Mr. Pictou's left side being snug against the door

according to Ms. Duffney's recall of how the front door opened on May 1, 2009.

[29] I am not persuaded by Ms. Duffney's evidence that the front door to the Pictou-MacEachern residence was hinged on the opposite side on May 1 from where it is shown to have been hinged in the photographs tendered as evidence. Cst. Dollimont, a trained police officer, recalled seeing Mr. Pictou's left side and hand with the door partially obscuring his right side. This is how the door and Mr. Pictou are pictured in Photograph 4 of Exhibit 1. I accept that, as Mr. Pictou and Ms. MacEachern testified, the front door to their home was hung the same way in May 1, 2009 as is shown in the photographic evidence. I do not know why Ms. Duffney would be so certain the door was different but I do not accept her recollection of this.

[30] Ms. Duffney also testified that through the window flanking the large picture window near the front door, she could see Ms. MacEachern walking across the dining room toward Mr. Pictou with a gun in her hand. It was her evidence that she saw Ms. MacEachern walking with the gun for two to three seconds and then saw her hand off the gun to Mr. Pictou by holding the barrel, and slipping it into his right hand. He took the gun by the grip and swung it behind his back.

[31] In her statement to police later that same day, Ms. Duffney described seeing Mr. Pictou grab the gun from Ms. MacEachern by the barrel: subsequently in the same statement she referred to him grabbing it by the grip. She also described a solidly black gun with a shorter barrel than the Mossberg shotgun entered into evidence. She told police that the gun she saw had a long barrel and a grip like a handgun. Although she did not describe the gun as a handgun, she incorrectly estimated the length of the

barrel, a mistake she testified was due to the fact that she made her assessment of seven to eleven inches of barrel length using Mr. Pictou as a reference. Mr. Pictou is a heavily-built man standing six feet seven inches. Ms. Duffney was effectively indicating that his size dwarfed the gun in her perception of it. She testified she was very stressed during the police interview, saying it had been a very long evening and she was very nervous.

[32] When the police later showed her guns seized from Mr. Pictou, Ms. Duffney identified a Mossberg 12 gauge pump-action shotgun as the gun she saw on May 1, 2009 in Mr. Pictou's possession. The barrel of the gun was measured at trial as twenty inches.

[33] Mr. Pictou testified that Ms. MacEachern had indeed handed him a black object on May 1 but that it was a walking cane, not a shotgun. Both he and Ms. MacEachern testified that the cane came from the plant stand just by the entrance leading from the dining room into the living room. Ms. MacEachern took it over to Mr. Pictou when he asked for his gun. She testified that when Cst. Dollimont told Mr. Pictou he would be arrested if he had a gun, she slipped behind him, removed the cane and deposited it back into the plant stand. Mr. Pictou could not recall if he or Ms. MacEachern had returned the cane to the stand but it is not possible that Mr. Pictou moved an estimated fifteen to sixteen feet away, and then returned to the door without being observed doing this. I accept that whatever Ms. MacEachern placed in Mr. Pictou's hand, she removed.

[34] Seconds after Ms. Duffney and Ms. Meech left the front deck and Mr. Pictou

showed his hands in response to Cst. Dollimont's request, there was nothing in them. Mr. Pictou said nothing to Cst. Dollimont about having only had a cane in his hands. It was once Cst. Dollimont entered the home that Mr. Pictou pointed out the cane and stated that this was the object he had been holding.

[35] The cane has a handle and a long shaft. Its shaft is longer than the Mossberg shotgun barrel and also has a significant amount of red detailing on it. The shotgun is a solid black color.

Analysis Concerning the Possession of the Shotgun Charge

[36] As it is only Ms. Duffney's evidence that places a gun in Mr. Pictou's hands, I have had to assess her ability to have seen Ms. MacEachern put it there. I am certainly skeptical about Ms. Duffney's evidence that she could see Ms. MacEachern through the window next to the door and had a clear enough view that in a two to three second glimpse she was able to observe a gun in her hands. Cst. Dollimont who was standing quite close to Ms. Duffney, testified that he looked at the larger middle window when Mr. Pictou said "get my gun" but due to the reflection and it being dark inside, he could not see anything. It is also possible there were blinds down as Ms. MacEachern testified that they were lowered at that time of day to keep the sun out. (I will note that no one testified to whether May 1, 2009 was sunny or not.) In any event, I am not satisfied that Ms. Duffney was able to see Ms. MacEachern walking with a gun. That leaves me having to assess whether I accept that the evidence establishes beyond a reasonable doubt that she passed Mr. Pictou a gun and not a cane while Mr. Pictou stood with the front door partially opened.

[37] There has been a suggestion by the Defence that Ms. Duffney could not have seen Ms. MacEachern pass anything to Mr. Pictou because of how the door was positioned against his body. I do know from the evidence that Ms. MacEachern did pass Mr. Pictou a long black object which Ms. MacEachern and Mr. Pictou say was a walking cane. It is an established fact then that an object was passed. It has also been established that Ms. Duffney reacted to that happening because she made a comment. She asked Mr. Pictou if he had a gun. According to Cst. Dollimont, Ms. Duffney said: "I saw your wife hand you a gun." So it is reasonable to conclude Ms. Duffney saw something otherwise why would she have commented at the time on her observations? It is not logically consistent to find that even though an object was passed and Ms. Duffney reacted spontaneously to that, she could not have seen anything because Mr. Pictou's large frame and the door obstructed any view of the object being handed to him. So the Defence argument that Ms. Duffney could not have seen the hand-over does not withstand scrutiny. The fact that Cst. Dollimont, standing just behind and off to Ms. Duffney's right, saw nothing other than Mr. Pictou standing in the doorway does not raise a doubt in my mind about Ms. Duffney's evidence on this point, that she saw an object, which she thought was a gun and later described as a gun, pass from Ms. MacEachern into Mr. Pictou's hand. That leaves the issue of whether Ms. Duffney was mistaken in thinking what she saw was a gun when it was instead just a walking cane.

[38] Ms. Duffney reacted to Ms. MacEachern handing Mr. Pictou something as though it was a gun. The other witnesses, including Ms. MacEachern overheard Ms. Duffney ask Mr. Pictou if he had a gun. Mr. Pictou responded by saying "maybe", a comment he was unable to explain when it was suggested to him at trial that he

wanted Ms. Duffney to think he had a gun. Ms. Duffney was able to provide a details that are descriptive of the Mossberg shotgun. She gave a description to police that was consistent with features of the Mossberg. She described a black gun with a barrel and a pistol-grip. She even described a trigger-guard. Ms. Duffney's descriptions to the police and at trial are more consistent with the Mossberg shotgun than the red-detailed thirty inch walking cane from the plant stand.

[39] Other facts confirm my belief that Mr. Pictou was handed a gun. I find it implausible that Ms. MacEachern, upon hearing Cst. Dollimont tell Mr. Pictou that if he had a gun he would be arrested, would react by taking the cane out of Mr. Pictou's hand and depositing it back into the plant stand. Mr. Pictou had been told he was arrestable if he had a gun. If all he had in his hand was a cane then there was nothing either he or Ms. MacEachern on his behalf needed to worry about. I also note that Mr. Pictou testified that the purpose of telling Ms. MacEachern to get his gun was to scare the Agency workers off their property. He went on to say that he has to deal with having drug dealers across the street and people coming onto his property all the time and "bugging" him, "so that is how I deal with it." I do not accept that he was indicating that he deals with unsavory neighbors and intruders onto his property by asking for a gun, but then stands at his door with a cane behind his back.

[40] I have considered Mr. Pictou's evidence very carefully and I do not believe the essential aspects of it where he claims to have been in possession only of a walking cane and not a shotgun. While I do not accept all of Ms. Duffney's evidence as I have indicated, I do accept that she saw Ms. MacEachern pass a black object to Mr. Pictou that looked to her to be a gun, an object she was later able to describe relatively

accurately to police. I also find that Mr. Pictou responded to being asked if he had a gun in a manner that suggests he did and, for the reasons I have set out, I do not accept his denial. I find that Mr. Pictou had the Mossberg shotgun in his possession for a purpose dangerous to the public peace having just uttered menacing words intended to intimidate Ms. Duffney into leaving his property. Consequently, I find that the Crown has proven beyond a reasonable doubt that Mr. Pictou is guilty of the charges of threatening Ms. Duffney and having in his possession a Mossberg shotgun for a purpose dangerous to the public peace.