

Office of the Prosecuting Attorney

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Sgt. Darin Taylor

February 26, 2019

Eastern Michigan University Police Department

1200 Oakwood St.

Ypsilanti, MI 48197

RE: denial of request for charges;

Eastern Michigan University Police report 19-1610; Washtenaw County Prosecutor's file CTN 19-871

Dear Sgt. Taylor,

On or about 2/10/2019, [redacted] hung a doll from a dorm room's bathroom shower curtain rod. The doll was suspended from the curtain rod by securing a belt around the doll's neck. The doll was discovered by [redacted] on 2/11/2019 hanging from the shower curtain rod. The doll depicted an infant African-American female. The bathroom was shared by [redacted]; [redacted] had access to the bathroom because of her relationship with [redacted]. The Eastern Michigan University Police Department conducted an investigation after being notified by [redacted]. Subsequently, the Eastern Michigan University Police Department submitted a warrant request to this office that requested [redacted] be charged with Ethnic Intimidation. There is no Michigan criminal law titled Hate Crime.

The Ethnic Intimidation statute is found at Michigan Compiled Law 750.147b. The Ethnic Intimidation statute reads as follows:

Sec. 147b.

(1) A person is guilty of ethnic intimidation if that person maliciously, and with specific intent to intimidate or harass another person because of that person's race, color, religion, gender, or national origin, does any of the following:

(a) Causes physical contact with another person.

(b) Damages, destroys, or defaces any real or personal property of another person.

(c) Threatens, by word or act, to do an act described in subdivision (a) or (b), if there is reasonable cause to believe that an act described in subdivision (a) or (b) will occur.

(2) Ethnic intimidation is a felony punishable by imprisonment for not more than 2 years, or by a fine of not more than \$5,000.00, or both.

(3) Regardless of the existence or outcome of any criminal prosecution, a person who suffers injury to his or her person or damage to his or her property as a result of ethnic intimidation may bring a civil cause of action against the person who commits the offense to secure an injunction, actual damages, including damages for emotional distress, or other appropriate relief. A plaintiff who prevails in a civil action brought pursuant to this section may recover both of the following:

(a) Damages in the amount of 3 times the actual damages described in this subsection or \$2,000.00, whichever is greater.

(b) Reasonable attorney fees and costs.

My review included reading Eastern Michigan Police report 19-1610, viewing recorded interviews of _____, viewing the video depicting the doll hanging from the shower curtain rod, and reviewing Michigan Compiled Law 750.147b, Criminal Jury Instruction 2nd 17.34, and *People v Schutter*, 265 Mich. App. 423 (2005). _____ is African-American.

_____ claimed she hung the doll from the shower curtain rod as a prank. That claim offends the common sense of any reasonable person. The only reasonable interpretation of _____ conduct is that she intended to harass _____ because of his race. However, that conduct alone, does not constitute a violation of the Ethnic Intimidation statute. No physical contact occurred with _____

Furthermore, no property owned by _____ was damaged. While _____ was offended and harassed by _____ conduct, there was no evidence he was in fear of physical contact or damage occurring to his property and nor was there reasonable cause to believe such an act would occur. After a thorough review of the evidence and applicable law, it is evident that the statute does not proscribe _____ conduct. Therefore, pursuant to my legal and ethical duties, I must decline to authorize an Ethnic Intimidation charge.

Sincerely,

Konrad L. Siller

First Assistant Prosecuting Attorney

Warrant Division Supervisor

District Court Division Supervisor