

The Danville News

Montour County's hometown newspaper
An edition of The Daily Item

Assault charges dismissed against secure treatment unit staffers

Karen Blackledge Mar 9, 2016



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Some of the crowd waits for the start of the preliminary hearing Tuesday of two North Central Secure Treatment staff members. Charges of assaulting a resident were dismissed against them.

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DANVILLE — Following a three and a half hour preliminary hearing Tuesday afternoon, Montour County District Judge Marvin Shrawder dismissed charges against two North Central Secure Treatment Unit staff members accused of assaulting a 17-year-old boy.

After listening to testimony, Shrawder said it was obvious Eddie Rivera, now 18, of Philadelphia, incurred some kind of injury but some witnesses testified it appeared staff acted legitimately when they restrained him and that it took some time to get him restrained

“I don’t think a prima facie case has been met,” he said of aggravated assault, simple assault and recklessly endangering another person charges filed against Michael T. Kurdinsky, 28, of Frackville.

Shrawder said a prima facie case wasn’t met in the case of Keven D. Shaffer, 38, of Watsonstown, who was charged with the same offenses.

Rivera faces charges in juvenile court for assaulting Kurdinsky.

Witnesses testified Shaffer had no contact with Rivera on Sept. 7 while staff was restraining him after he became angry with Kurdinsky, his counselor, for not being allowed to go outside for recreation. Rivera said he didn’t have proper footwear because his sneakers had fallen apart and he tossed them Sept. 6 into the razor fence outside the juvenile detention center in Mahoning Township.

Kurdinsky’s attorney, Pat O’Connell, said Jason Marlow, who trained his client, and witness Joseph Carpentier said the restraint was “by the book.” He said there was no

evidence his client caused serious bodily injury to the teen. “There’s no way aggravated assault and simple assault can go forward,” he said. Rivera threw the first punch, he said. Tpr. David Turnbow testified Rivera intended to harm Kurdinsky, O’Connell said. As for the reckless endangering charge, he said Kurdinsky’s supervisor witnessed the restraint with Rivera thrashing around on the floor saying he was going to “f... these people when he got up,” O’Connell said.

O’Connell said North Central Director Charles Neff wants Kurdinsky to return to work since “he’s well thought of there.”

Attorney Greg Moro, representing Shaffer, said former Montour County District Attorney Rebecca Warren approved filing charges based on Rivera’s statement, the trooper’s brief conversation with an acting director at North Central and after speaking with Shaffer. He said the trooper didn’t interview the witnesses who provided statements about the incident.

“These charges rocked the world” of Shaffer and Kurdinsky, Moro said, adding Rivera’s chart described him as “physically aggressive” with “flags of danger flying.” He had been restrained 35 times in the detention centers where he had been housed, the attorney said.

Moro questioned what injury was caused by whom to Rivera. “The overwhelming evidence suggests no crime has been committed by Mr. Shaffer. Mr. Rivera’s life has not been altered. It would be a catastrophe to let this case go up to court,” he said.

County District Attorney Angela Mattis, who inherited the case, argued there was enough evidence to send the case to county court and that clearly serious injuries were sustained. She said a preliminary hearing doesn’t require all evidence be presented. A video tape of the incident was summarized by the trooper with the tape not shown, she said.

Rivera testified he couldn’t walk after the incident, she said.

A statement by North Central Nurse George O'Garman said Kurdinsky was off and on leaning into Rivera who was screaming, she said.

Mattis called two witnesses — Rivera and Turnbow.

Moro called North Central Nurses Matthew Hyde and Karen Weaver and North Central youth development aide Joseph Carpentier as witnesses. O'Connell called no witnesses.

The hearing was moved to the courtroom, which was nearly full, in the courthouse because of the number of witnesses.

Attorney Elizabeth Wood was on hand to represent Rivera, who was with his parents.

Rivera testified he wasn't facing charges related to the assault. He said he argued with Kurdinsky over not being allowed to go outside for recreation because he didn't have proper footwear. He admitted throwing a punch at Kurdinsky but missing. Three staff members grabbed him, they fell to the floor and the staff called for assistance while in the hallway.

He said one staff member dropped his knee "full force" three times on his face. The third time, he said he was knocked unconscious. When he woke up, he said he was in a seated position. Rivera said he was screaming with Kurdinsky pushing him forward. "I couldn't walk. They dragged me to my room from the hallway," he said. He said he suffered broken facial bones and nerve damage in his back.

He was taken to Geisinger Medical Center about 24 hours after the incident.

He was transferred to the Loysville center where he remained until Dec. 18.

On questioning by O'Connell, Rivera said he was able to resume lifting weights during which the most he has lifted was 225 pounds. He also said he jumped rope and did lunges. At one time, he could squat 600 pounds and bench press 135 pounds, he said.

Rivera said he has been in juvenile detention facilities three times which began with a terroristic threats incident in middle school. He said he was arrested for conspiracy narcotics and was placed at North Central in July because a bench warrant was issued when he was late for court.

O'Connell showed his criminal record which included robbery and thefts in fear of bodily injury. While Rivera said he likes to draw crowns, associated with the Latin Kings, he said he wasn't a gang member.

O'Connell showed an email written about Rivera by a North Central staff member Sept. 2, or five days before the incident, saying "flags of danger are flying," he was "very negative" and "outright against the program."

Turnbow testified he spoke to Rivera who told him he was held against a wall, taken to the floor in a hallway, moved to the right side of the hall with other staff members on his back and a staff member with tattoos on his legs dropped his knee on his face three times. The trooper said he saw Rivera throw a punch on the video tape.

He said he also spoke with Shaffer and an acting director at North Central with Warren saying it wasn't necessary to interview Kurdinsky.