

crowd. Lafaver seemed to gravitate almost immediately to Julienne, ignoring males and protesters without children, in what protesters perceived as a bullying move.

Lafaver and Sgt. Colleen McMahon claimed at the trial that as Lafaver ordered Julienne to return to the sidewalk, she slapped his hand and struck him in the chest — a blow not visible on any of the four videotapes of the event. The muscular, 195-pound cop then announced he was arresting the petite 5'3" woman for "battery" and began to twist her wrist as her crying child clung to her neck.

Sgt. McMahon and Officer Tripp, standing next to Lafaver at the time, made no mention of the supposed "assault on a peace officer" in their police reports of Lafaver's arrest of Julienne. The videotape shows the officer bending Julienne's wrist back in an extremely painful way in a form not usual for such holds, causing her to writhe and scream. As Lafaver pulled the mother and child in front of Steve Argue, he told Lafaver to stop hurting her several times. When Lafaver ignored him, Argue punched Lafaver in the nose causing him to lose his grip on the woman. Julienne and her child escaped.

Argue was one of five protesters arrested during a string of errors, misjudgments, and allegations of excessive police force. His charges were the most serious of the Santa Cruz 5, but his trial was only the first. Photos and audio tape recordings recorded the event, so activists hoped a jury would not be fooled by police officers on the stand committing perjury — a common practice in the Santa Cruz County court system.

But in the end, the jury — tired, withdrawn, and eager to leave — voted 12-0 for conviction on the first ballot. The jurors were given sanitized and at times muted videotapes in court and did not bother to review any of them not even once. Jurors did not

discuss the definition of "excessive force." They did not consider the totality of events, but responded instinctively in defense of the police, narrowing their focus to the seconds-wide window of choice that Argue had as he saw Julienne surrounded by police and screaming.

True, Judge Attack had censored evidence that Officer Lafaver had tackled Steve Argue, pepper-sprayed him in the eyes at dangerously close range, and then, according to Argue, wedged open his mouth and pepper-sprayed him directly down the throat, and beaten him while in a fetal position, all in front of witnesses and taped by a channel 46 TV crewman.

Fellow protester Nassim Zerriffi begged for the police to douse Argue's eyes after the pepper-spraying. Zerriffi said, "He was having difficulty breathing, and I know there are people who have died from pepper spray, so I was very, very concerned." Zerriffi looked out of the police patrol wagon, knowing nothing of the punch to Lafaver's nose, and begged the nearest officer to help Argue.

Unwittingly, Nassim had asked Officer David Lafaver for help. "Wahh, wahh, wahh. He'll be fine," was Lafaver's response. Argue was not given any treatment for the pepper spray for an hour. Some called the second pepper-spraying down the throat "attempted murder."

District Attorney Toni Allen and Judge Attack made sure the jury never heard of those events or saw that videotape.

Lafaver's past history of police mis-

conduct and hostility to the homeless was suppressed by Judge Attack who gave no reason for his decision. Attack denied Argue's request for a continuance, as many witnesses were UCSC students not back until late September. Attack forced the trial to begin on September 14.

Judge Attack allowed prejudicial prosecution material into the trial, such as an unsupported allegation by Officer Eric Seilly in a strange report filed three months after the protest. Seilly, ineffectual in covering hate crimes against the homeless in Santa Cruz (over 25 assaults since the first of the year), had been publicly accused of harassing clients of the Homeless Services Center. In a new report three months after the protest, Seilly suddenly remembered seeing Julienne strike Lafaver in the chest and claimed he saw homeless activist and *Street Spirit* writer Robert Norse direct Julienne to the front of the van as a "human shield." Coincidentally, Norse was Seilly's principal critic at City Council.

Given free rein by Judge Attack, D.A. Toni Allen dragged in past instances of police harassment of Steve Argue, turning these incidents on their head to stigmatize him as "an unreasonable man who likes to get into trouble with the cops."

Defense Attorney Rice, for his part, intent on avoiding any discussion of the larger political dimensions of the case, ignored the prior harassment of Argue for selling a street newspaper [see *Street Spirit*, October and December, 1998], the towing of Argue's vehicles, numerous unjustified police stops, and a fabricated July 22nd arrest for "resisting arrest" with no underlying charge. The newspaper arrest is now the subject of a civil lawsuit.

D.A. Allen used Argue's explanation that the police were harassing him as evidence that he was paranoid and had a chip on his shoulder. Rice made no effort to

counter this prejudicial fabrication. The jury did not hear how Officer Lafaver had stalked Argue since May 22nd; and how Argue couldn't cross the street without getting a jaywalking ticket.

In the end, the jury evidently didn't care if the first police action that sparked the surrounding of the van was a false arrest. They saw a mother with her child standing in front of a police van and blamed her. "Actions have consequences," intoned one juror piously afterward. They expected Julienne to get carted away. If she was brutalized in the process, well, those are the breaks.

William Ma, also at the protest, witnessed Lafaver's twisting of Julienne's hand. "I'm a martial arts expert," he said. "You don't bend a hand back like that. There is a high chance of snapping the radius and ulna, two small bones in the wrist. The way he was holding her was very, very wrong."

In another blow to his defense, Argue's attorney Ben Rice refused to call Ma and other witnesses Argue wanted. In his closing statement, instead of defending Argue's character and the justness of his actions, Rice referred to the principled activist as a "nut," a fringe element, someone you would normally cross the street to avoid, but still someone deserving of protection.

Argue was particularly upset that Rice painted a picture of a "system big enough to include extremists and zealots" (meaning Argue himself) without consulting his client, who was facing a possible four years in prison. Rice, who admitted he had tried next to no political cases before, also made no defense for the second charge against Argue, "resisting arrest," of which Argue was also found guilty (possibly an additional one year in jail).

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