

People v Michael Jaccarino

On November 10, 2012, Michael Jaccarino was arrested for a felony assault in Brooklyn. On February 13, 2013 he pled guilty to a misdemeanor assault and was sentenced. Nothing about this case is unusual until you learn that Michael Jaccarino was an Assistant District Attorney in Brooklyn at the time of the incident and the complaining witness was an Emergency Medical Technician.

We will use this case for a class discussion on October 20, 2015 relating to some controversial issues in the criminal justice system. Your assignment is as follows:

- 1) Thoroughly research the case on the internet or otherwise in an effort to learn as much about the facts as possible. Dig deep for the most details going back to 11/10/12. It will be a good opportunity to practice your fact gathering skills as you would as an attorney handling a criminal law case. What can you learn about the defendant, complainant and the facts of the case to determine what you would argue if you were the prosecutor or the defense attorney? Treat the internet information as if it were statements of the respective witnesses recognizing, however, that they may not be true or accurate. Credit will go to those who find the best facts to argue for an aggressive prosecution and for leniency.
- 2) What exactly was Mr. Jaccarino charged with? What should he have been charged with in your opinion? The latter will require you to first determine the facts and any possible exculpatory information for a defense. I suggest you thoroughly research the Penal Law of NYS to see what all the elements of the possible charges and defenses are and whether you could prove those elements given the facts you have determined. What standard should be used to determine whether the charges could be proven?
- 3) Do you think the initial charges were at all influenced by the job of the complainant and/or the defendant? Should they have been? Should possible defenses be included in the charging decision? Were the initial charges influenced by plea bargaining restrictions?

- 4) What was Mr. Jaccarino offered by the prosecutor as a plea/sentence bargain? What, if anything, would you have offered Mr. Jaccarino as a plea/sentence bargain that is different from what actually happened? Why?
- 5) Should the individual characteristics of the defendant and complainant be considered in structuring a plea/sentence offer? Were they in reality? Was race, gender, occupation, status or other facts unrelated to the offense considered for the ultimate result? Were collateral consequences to the defendant part of the decision? Are any of these relevant considerations?
- 6) If defendant were not a prosecutor and/or complainant not an EMT, would the result have been different? Should it have been?

Be prepared to answer these and more questions in class when called upon at random. I am looking for thoroughness in your fact gathering, legal research and charge selection as well as thoughtfulness in your answers to the questions. Credit will go to the most lawyerlike presentations in your journals and class participation.

Let me know if you have any questions beforehand.