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Orange County District Attorney David M. Hoover  
255-275 Main Street, 4th Floor  
Goshen, NY 10924  
By mail and email: [districtattorney@orangecountygov.com](mailto:districtattorney@orangecountygov.com)

September 8, 2023

Re: Detective Russel Kilgore's Assault of Hector Santiago

Dear D.A. Hoover -

On behalf of Hector Santiago and other concerned citizens of Yonkers, we write to ask you to prosecute Detective Russel Kilgore of the Yonkers Police Department for his assault on Mr. Santiago.

On November 22, 2022, Hector Santiago was assaulted by police officers at a Yonkers City Council meeting. The Westchester County District Attorney recused her office from the occurrence, and it was assigned to your office for investigation and prosecution. Your office chose to prosecute the victim of the crime, Mr. Santiago. As you are aware, all the crimes and violations you charged him with were dismissed except disorderly conduct, and he was acquitted on that final charge at trial. Mr. Santiago has waited to see if your office would now prosecute the perpetrator of the crime, but more than six weeks have passed and there does not appear to be any movement.

Frankly, we are not hopeful that you will pursue charges against Detective Kilgore since the zeal with which you prosecuted him went so far as to cross ethical boundaries. The videos of this incident make clear that Mr. Santiago did not commit a crime and was in fact a victim, yet your office prosecuted him to the bitter end. As I am sure you are aware, Rule 3.8(a) of the NY Rules of Professional Conduct instructs prosecutors not to institute or maintain a prosecution if it is not supported by probable cause. The videos of the incident show that there was no probable cause to institute and continue the prosecution of Mr. Santiago, yet that is what your office did in possible violation of ethics rules.

Even more concerning, your office appears to have suborned perjury in its effort to convict Mr. Santiago. In the Misdemeanor Information signed by Detective Kilgore, he claims that Mr. Santiago "struck [him] in the chest and neck area with his left elbow and

forearm.” In his incident report, Kilgore further claims that he was “forcefully jolt[ed] back”. As the video shows, the accusation is plainly false.

Yet, your office put Detective Kilgore on the stand knowing he would give false testimony under oath in response to the ADA’s questions, and he did just that. ADA Conway knew that Kilgore would give the false testimony because he told the court in his opening statement that “the evidence today is going to show beyond a reasonable doubt... that the defendant did strike Detective Russell Kilgore in the chest and neck area with his left forearm and elbow.” The only “evidence” of that was Detective Kilgore’s false statements. And as foretold in his opening statement, when asked by ADA Conway, Kilgore said “he caught me with an elbow, extended the arm and hit me up around the neck area jolting me back.”

Ethical Consideration 7-26 of the Professional Rules of Conduct provide: “The law and Disciplinary Rules prohibit the use of fraudulent, false, or perjured testimony or evidence. A lawyer who knowingly participates in introduction of such testimony or evidence is subject to discipline. A lawyer should, however, present any admissible evidence the client desires to have presented unless the lawyer knows, or from facts within the lawyer's knowledge should know, that such testimony or evidence is false, fraudulent, or perjured.” It is hard to envision a scenario in which this ethical rule was not breached by your office.

Any reasonable viewer of the video can see that Detective Kilgore wound up and threw a punch striking Mr. Santiago’s face for no legitimate purpose. The Yonkers Police Department has concluded, incredibly, that their detective did nothing wrong.<sup>1</sup> Every good prosecutor believes in accountability and the equal application of the law. We therefore ask that you instruct your office to implement those basic values of our justice system by prosecuting Yonkers Detective Russell Kilgore. Mr. Santiago and I are ready, willing, and able to cooperate. We kindly ask for a response by email no later than 5:00 PM on September 13, 2023.

Sincerely,

S/ *Leo Glickman*

Leo Glickman

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<sup>1</sup> <https://www.lohud.com/story/news/politics/2023/07/26/hector-santiago-punched-by-cop-at-yonkers-meeting-now-acquitted/70458618007/>