



1 THE COURT: We are going to go ahead and call Sean  
2 Paul Reyes.

3 Is your client on Zoom or is he here?

4 MR. JENKS: For the record James Jenks, J-e-n-k-s.  
5 He is on Zoom. We are going to answer ready.

6 THE COURT: The call is going to go very slow  
7 today, just to let you know. You can tell your client  
8 that he can leave Zoom and tell his supporters that  
9 they can too because I wouldn't be starting you -- come  
10 back around 11:00 o'clock to see where I am.

11 MS. DUNBAR: Your Honor, if I could inquire first.  
12 This was for potential hearing. Counsel had filed a  
13 Motion to Dismiss. I filed a written response. I want  
14 to make sure that everything has been reviewed  
15 sufficiently to do the hearing today. I am more than  
16 happy to come downstairs.

17 THE COURT: I haven't reviewed anything. I didn't  
18 know this was up today.

19 MR. JENKS: It is up for hearing.

20 THE COURT: I didn't know that because we rotate  
21 judges here. So I do not have a copy of your motion in  
22 the file. Can you give me a copy of your motion?

23 MR. JENKS: I will make a copy for 11:00 o'clock as  
24 well.

1 THE COURT: And then, counsel, whenever we take a  
2 break, you can run down your response and I will need  
3 time to review that. You know what, we are going put  
4 this down for noon because it's already 9:30. It's  
5 going to take me a while. Noon. So noon for hearing.

6 MS. DUNBAR: Your Honor, is there not a response  
7 copy in the file? I did submit it to the clerk.

8 THE COURT: No. Nothing here. So we will call  
9 this later.

10 (Whereupon, the above-entitled cause was  
11 passed and recalled, after which the  
12 following proceedings were had:)

13 THE COURT: I am going to call Sean Paul Reyes  
14 because I had a question.

15 Counsel, if you could please step up and just  
16 identify yourself for the record.

17 MR. JENKS: James Jenks, J-e-n-k-s, on behalf of  
18 Mr. Reyes, who is present on Zoom.

19 THE COURT: Okay. Is your client going to be  
20 coming here in person for the hearing or is he going to  
21 be participating via Zoom?

22 MR. JENKS: He will be over Zoom since he's in New  
23 York.

24 THE COURT: You know he's not going to be able to

1 hear you.

2 MR. JENKS: I understand. We discussed it on the  
3 last date.

4 THE COURT: Did he sign a waiver?

5 MR. JENKS: The judge said he put it on the order  
6 that he can do it over Zoom.

7 MS. DUNBAR: Your Honor, I have that note on the  
8 file as well.

9 THE COURT: Then I will just go through  
10 admonishments then before we start.

11 MR. JENKS: Sounds good.

12 THE COURT: So you have a copy of that motion?

13 MR. JENKS: I do have a copy. Here you go.

14 MS. DUNBAR: Your Honor, when we are ready to  
15 proceed, please let me know so I can come downstairs.

16 THE COURT: We are going to finish the call first.

17 He has given me a copy of the Motion to  
18 Dismiss and a copy of the State's response to the  
19 Motion to Dismiss. So I do have your response.

20 I assume that you did not want to file a reply  
21 to her Motion to Dismiss.

22 MR. JENKS: No, Judge. We are ready.

23 THE COURT: Okay. So have a seat counsel. You are  
24 number one on the hearing call.

1 MR. JENKS: Thank you.

2 (Whereupon, the above-entitled cause was  
3 passed and recalled, after which the  
4 following proceedings were had:)

5 THE COURT: We are going to go ahead now and we are  
6 going to call Sean Paul Reyes.

7 If both counsels could please identify  
8 themselves for the record.

9 MR. JENKS: For the record James Jenks, J-e-n-k-s.

10 MS. DUNBAR: For the record Assistant State's  
11 Attorney Alyssa Dunbar, D-u-n-b-a-r.

12 THE COURT: Okay. Before we start, I want to  
13 remind everybody in the courtroom and on Zoom that any  
14 recording of this proceeding or any other court  
15 proceeding is strictly prohibited. They are monitoring  
16 this Zoom, just so that everybody knows. You can be  
17 held in contempt of Court for videotaping. So, please,  
18 do not do that.

19 If you want a copy of the transcript, you are  
20 more than welcome to get that. You can purchase that  
21 from the Court Reporter's Office. That is open to the  
22 public. You just have to pay the fee if you want a  
23 copy of the transcript.

24 Okay. So, first, I have to go through

1 these. Mr. Sean Paul Reyes, I need you to unmute  
2 yourself and turn your camera on, sir.

3 THE DEFENDANT: I'm here, Judge.

4 THE COURT: Good afternoon, sir. Sir, this up  
5 today for hearing on a motion to dismiss. Do you  
6 understand that you have the right to be addressed in  
7 open Court in person?

8 THE DEFENDANT: Yes.

9 THE COURT: Do you want to waive or give up that  
10 right by appearing before the Court via Zoom today?

11 THE DEFENDANT: Yes, Judge.

12 THE COURT: Have you had an opportunity to talk to  
13 your lawyer to consider his advice regarding this  
14 decision?

15 THE DEFENDANT: Yes.

16 THE COURT: Are you waiving or giving up your right  
17 to appear in person in open court freely and  
18 voluntarily without pressure or force?

19 THE DEFENDANT: Yes.

20 THE COURT: Do you understand that this remote  
21 appearance means that you, your lawyer and myself --  
22 well, you and your lawyer mainly are appearing in  
23 separate locations. You understand that?

24 THE DEFENDANT: Yes.

1 THE COURT: You understand that your lawyer is here  
2 in my courtroom. And because I do not have a speaker  
3 -- I can turn it on. We will see if it works. There's  
4 a very good chance that you are not going to hear what  
5 your lawyer is saying nor what the State's Attorney is  
6 saying. The only person you're going to really hear is  
7 probably me. Do you understand that, sir?

8 THE DEFENDANT: Yes, Judge.

9 THE COURT: Okay. And do you understand that this  
10 remote appearance is viewable by everybody that is  
11 currently on Zoom and in my courtroom?

12 THE DEFENDANT: Yes, Judge.

13 THE COURT: And you understand, sir, that the legal  
14 effect of this remote appearance and this remote  
15 hearing will have the same effect as if you were  
16 standing right here in my courtroom?

17 THE DEFENDANT: Yes, Judge.

18 THE COURT: And you understand that because this is  
19 a hybrid hearing, meaning that you are on Zoom and your  
20 lawyer is my courtroom, you cannot hear everything that  
21 is being said and that is not a reason for  
22 reconsideration of any ruling that I might give today  
23 because you could not hear. Do you understand that?

24 THE DEFENDANT: Yes.

1 THE COURT: Okay. For the record the Court finds  
2 that the defendant knowingly, freely and  
3 understandingly waives his right to appear in person in  
4 open Court and would like to proceed via Zoom.

5 Okay. So, unfortunately, because you are on  
6 Zoom and your lawyer is in court, you are not going to  
7 be able to confer with your lawyer. However, I will  
8 allow you, Mr. Reyes, if you need to, to text your  
9 lawyer. Okay? I will allow you to do that so that you  
10 can communicate with him. And I will allow counsel to  
11 text his client if he needs to. Okay.

12 So what I'm going to do is put everybody on  
13 mute. I ask that everybody stay on mute. Thank you.

14 MR. JENKS: Judge, if I may.

15 THE COURT: Yes.

16 MR. JENKS: Would it be all right if I maybe put  
17 the Zoom on my phone on and put it on podium? They  
18 might be able to hear the audio that way if we are both  
19 speaking at the podium.

20 MS. DUNBAR: Your Honor, as far as hearing is  
21 concerned, I think the microphone is working currently.

22 THE COURT: Okay. We are going to use the mic.

23 MS. DUNBAR: If he's on Zoom it creates an echo  
24 with a really high pitch noise.

1 THE COURT: So I ask both counsel to speak into the  
2 mic on the podium. It is on and it is on the highest  
3 volume. The mic is down there. Make sure, you know,  
4 you talk into the mic and not talking all the way back  
5 here.

6 MR. JENKS: Sounds good, Judge.

7 THE COURT: I have had an opportunity to read both  
8 the Motion to Dismiss that was presented to me on  
9 behalf of Sean Paul Reyes by his attorney,  
10 Mr. Jenks; and I also have had an opportunity to review  
11 the response that was submitted by the State's  
12 Attorney, Ms. Dunbar.

13 I asked Mr. Reyes' attorney if he wanted an  
14 opportunity to file a written reply to the response  
15 that was given by State's Attorney. He has declined to  
16 do so. He has notified me that he is ready to proceed  
17 for hearing today on the Motion to Dismiss. So I will  
18 go ahead and proceed.

19 Counsel, you can go ahead and use the podium.  
20 And I want to remind everyone in the courtroom, the  
21 people that are speaking on record get to take their  
22 mask off when they are speaking on record. Those of  
23 you in the courtroom, like the gentleman right back  
24 there, you have to keep your mask on. Okay? Because

1 you are not testifying or giving any type of testimony  
2 or participating in the hearing.

3 Go ahead, Mr. Jenks. You may proceed.

4 MR. JENKS: Thank you, Judge.

5 So on the date in question my client,  
6 Mr. Reyes, entered the Berwyn City Hall building. He  
7 is an independent journalist. He travels around the  
8 country promoting government transparency with public  
9 officials.

10 On that date, he entered the Berwyn City Hall.  
11 And on the front of the building there is a sign, No  
12 cameras or recording devices without prior approval per  
13 Statute 720 ILCS 5, Article 14.

14 Now, as he entered the building, he entered a  
15 public area. He never went anywhere that was off  
16 limits to the public. He was in public areas at all  
17 times. And he also has a First Amendment right to  
18 film. There is a fundamental right. This is  
19 well-established law. He did have individuals who are  
20 Village administrators, one being the complaining  
21 witness, approach him and ask him to stop recording.  
22 He declined. But while the complaining witness  
23 directed him saying he can't record, and as an example  
24 referred to the sign posted on the front door; however,

1 that sign per that statute was found unconstitutional  
2 in Illinois back in 2014, which is the eavesdropping  
3 statute, which had to do with surreptitious recordings.

4 THE COURT: What case found that unconstitutional?  
5 Do you have that?

6 MR. JENKS: I thought I listed it. I may not have.  
7 I can supplement that, Judge.

8 THE COURT: Okay. Go ahead.

9 MR. JENKS: So that statute was found  
10 unconstitutional per the eavesdropping statute. Even  
11 if such the -- that eavesdropping statute, which he was  
12 not charged with, he was initially arrested for it  
13 after he left the building, but he was never charge per  
14 that statute due to its unconstitutionality. He was  
15 later charged with the disorderly conduct, which we are  
16 here for today. There is nothing that they allege,  
17 besides his filming, was found -- that caused the  
18 ultimate arrest.

19 For the disorderly conduct, it has to be an  
20 unreasonable action that causes the alarm. Most  
21 importantly being the unreasonableness, so being a  
22 constitutional fundamental right that can't be deemed  
23 unreasonable under the circumstances. Nothing of his  
24 actions besides the filming itself and them asking him

1 to stop and his declining is what caused the  
2 complaining witness to say that she was alarmed. No  
3 other actions, no yelling, no screaming. He was very  
4 polite. It's not alleged that he did anything besides  
5 filming that caused the charge of disorderly conduct.

6 Again, this is a -- the complaining witness is  
7 a Village administrator. So she obviously is a public  
8 official. And the cases I cited, ACLU versus Alvarez,  
9 Seventh Circuit case from 2012, affirmed a First  
10 Circuit case, Glik v. Cunniffe, 655 F. 3d 78. The  
11 Alvarez case from the 7th Circuit affirmed the position  
12 taken in the Glik case where Boston police officers  
13 were being filmed by a citizen, the same way this was.  
14 That First Circuit held a citizen's right to film  
15 government officials in the discharge of their duties  
16 in a public space is basic, vital and well-established  
17 liberty safeguarded by the First Amendment.

18 It's not disputed that the complaining witness  
19 in this case is a public official, as she is a Village  
20 administrator in Berwyn. It's not alleged that  
21 Mr. Reyes entered anywhere that wasn't public. He was  
22 in the public hallway of the town hall. That is  
23 obviously a public place. And he was filming a public  
24 administrator in the action of her duties.

1           There is an Illinois case where -- of  
2 disorderly conduct where in People v. Cody there must  
3 be some relationship between the accused's conduct and  
4 public order or between the conduct and right of others  
5 not to be harmed or molested. And the defendant --  
6 pretty much the case law as it stands has to do with  
7 the unreasonableness of the action. It's the  
8 culpability revolves around not only the type of  
9 conduct but is dependent around its entirety and  
10 surrounding circumstances.

11           In People v. Bergeson, 255 Illinois Appellate  
12 Court 3d 601, a 1991 case, the defendant in that case  
13 was charged with disorderly conduct. This is on Page 4  
14 of my motion.

15           THE COURT: I do see it.

16           MR. JENKS: The defendant in that case was charged  
17 with disorderly conduct. He was in a common area of  
18 his apartment complex, and they accused him of peeping  
19 in a window of a woman undressing in her apartment.  
20 They charged him with disorderly conduct. However, the  
21 Court said his conduct was not unreasonable because he  
22 was in a public place, somewhere he was permitted to  
23 be, and that he didn't do anything wrong being in a  
24 public place, simply viewing something from that public

1 place. Even though the woman was undressing in her  
2 apartment, he had a right to be there so it can't be  
3 deemed unreasonable. Even though it was alleged that  
4 he was staring in a window, the burden is on her to  
5 close her window.

6 In public, Judge, there's no expectation of  
7 privacy. This is well-established law. It's the same  
8 doctrine that the police use for plain-view searches  
9 against a warrant exception -- one of the warrant  
10 exceptions. If something is in plain view where  
11 they're permitted to be legally out in public, they can  
12 get around the warrant requirement because it is in  
13 plain view. This goes to the same thing: If it's in a  
14 public place, you can see it. You have a First  
15 Amendment right to film it. There is no difference if  
16 I can see with my eyes and then filming it with my  
17 camera. Being in a public building, filming a public  
18 administrator in the act of fulfilling her duties as a  
19 public official, he completely has a right to do it.  
20 He didn't -- he wasn't asked -- he was asked to leave,  
21 but he does have a First Amendment right.

22 He initially -- after he leaves the building,  
23 the police approached him and again keep referring to  
24 the sign, which was already found unconstitutional.

1 They initially arrested him for that. Then I believe  
2 that they kind of bumped it down to disorderly conduct,  
3 pretty much, to protect themselves from a false arrest  
4 lawsuit. I think that -- and that's my opinion. That  
5 appears to be what they are doing, especially since she  
6 is a representative administrator for the City.

7 The eavesdropping statute, which they kept  
8 referring to which was found unconstitutional and the  
9 State keeps referring to in her response, has to do  
10 with surreptitious recording. He was open and obvious.  
11 His camera was out. They knew he was filming. He  
12 wasn't hiding anything. So even if it was still good  
13 law, the eavesdropping statute still would not apply.

14 The entirety of the State's response and  
15 position had to do with consent. We mentioned in my  
16 motion that due to the security cameras being  
17 throughout the Village Hall, she should not be alarmed  
18 by someone else filming them without them interfering.  
19 The defendant was simply just filming from his camera.  
20 And you can't sit there and feign alarm simply for  
21 being filmed when you are being filmed all day by  
22 security cameras.

23 The State incorrectly argues that that's a  
24 consent issue. My argument was based on the alarm,

1 which is required under the disorderly conduct statute.

2           The State incorrectly argues that we mention  
3 the security cameras based on consent, that she has  
4 consented to being filmed by security cameras. This  
5 isn't a consent issue. When you are in a public place,  
6 you don't have to consent to being filmed. There is no  
7 expectation of privacy in a public place, so consent  
8 isn't even a relevant argument.

9           And pretty much the entirety of the State's  
10 position is that they didn't consent to being search --  
11 consent to being filmed and, therefore, their First  
12 Amendment -- Mr. Reyes' First Amendment right is  
13 somehow null and void. If that was the case, anytime  
14 someone has a protest or someone has -- uses any of  
15 their First Amendment rights to videotape, to protest,  
16 freedom of speech and it bothers one individual  
17 subjectively, even though that would completely remove  
18 any First Amendment rights because one person is  
19 bothered based on fundamental protective activity. He  
20 has a First Amendment right to film. He's in a public  
21 place filming a public official. Besides that, there's  
22 nothing that the State has argued based on his actions  
23 that could even be found to be unreasonable. And then  
24 if they're going to argue that he needs permission from

1 people from the Village to record, then we get into  
2 prior restraint arguments for those same constitutional  
3 rights.

4 Based on all of that, nothing he's alleged to  
5 have done, based on his First Amendment protected  
6 activity and filming the public official, nothing can  
7 be deemed unreasonable. If it's not unreasonable then  
8 the disorderly conduct statute and charge can't stand.

9 Thank you, Judge.

10 THE COURT: Okay. State, you can go ahead and  
11 proceed.

12 MS. DUNBAR: Thank you, your Honor.

13 First and foremost, your Honor, I would just  
14 like to make very clear, there is no allegation in this  
15 matter that Mr. Reyes was in any way prevented or told  
16 that he could not be present in the public location of  
17 Berwyn City Hall.

18 Now, throughout counsel's argument he had  
19 referenced the administrators who were present. Your  
20 Honor, it's very clear in the police report that the  
21 complaining witness in this matter, Ruth Siaba Green,  
22 did sign off on the complaint. She is the City  
23 Administrator. However, there are multiple additional  
24 witnesses who are listed throughout the police report.

1           Your Honor, upon signing the complaint -- I'm  
2 sorry. Upon notifying the police who are located in  
3 the same building, Ms. Siaba Green did indicate there  
4 were people who had brought Mr. Reyes to her attention,  
5 as well as several of the employees working in her  
6 stead who felt uncomfortable by his presence and  
7 consistent recording.

8           Your Honor, one of the followup arguments that  
9 was made by counsel is with regards to filming and  
10 effectively saying that people working at City Hall  
11 were feigning alarm when they notified the police that  
12 multiple people that were employed by the Village City  
13 Hall were made uncomfortable by his actions.

14           Your Honor, the State referenced in our  
15 response to counsel's motion that Mr. Reyes was filming  
16 these recordings, as counsel indicated, for  
17 dissemination based on his, you know, status as a  
18 journalist. The filming that takes place within City  
19 Hall very specifically and very intentionally based on  
20 State requirements is visual only. It only records  
21 what people are doing. There is no audio recording  
22 whatsoever. And, your Honor, the video that was taken  
23 by Mr. Reyes and eventually disseminated through his  
24 YouTube channel was both audio as well as a visual

1 recording. The State made reference in our response  
2 that the State of Illinois is a two-party consent  
3 State.

4 If your Honor chooses to take a position that  
5 the secretary as well as the administrator who  
6 represented them working in City Hall are fully  
7 considered under the public official requirement that,  
8 you know, they can be recorded in public, that does not  
9 take into any consideration who was continuously  
10 mentioned in the State's response of the private  
11 citizens. Because this is a public building there are  
12 private citizens located within Berwyn City Hall.  
13 There were multiple people that were on the phone with  
14 City administrators. And by Mr. Reyes being present  
15 and both audio and visually recording these people, he  
16 was recording their private conversations that were  
17 being had. And, your Honor, the requirement of that is  
18 laid out in the State's response that people do have a  
19 protected right to not have their phone conversations  
20 intercepted by a third party, not only intercepted,  
21 your Honor, but disseminate through his YouTube  
22 channel.

23 With Illinois being a dual-party consent  
24 State, there was no indication that people even knew

1 that they were being recorded, let alone their  
2 conversations were being taken down on video and put  
3 out on a YouTube channel. Your Honor, this is entirely  
4 unlawful. And based on that he was asked to merely  
5 stop recording. He wasn't told that he couldn't file  
6 what he went in to file. He wasn't told that he  
7 couldn't be there. He was merely asked to stop  
8 recording and he refused.

9 Your Honor, in response to Mr. Jenks'  
10 statement regarding feigning alarm by the complaining  
11 witness. Your Honor, the State would ask the Court to  
12 take judicial notice that upon arrest Mr. Reyes was --  
13 his information was input into the LEADS system and an  
14 arrest card was generated. Your Honor, both the arrest  
15 card and a LEADS showing defendant's criminal history  
16 that he may or may not have indicates that he is listed  
17 as 6 foot 2 inches tall and 270 pounds. Now, your  
18 Honor, counsel is in no position to tell someone what  
19 alarms, disturbs them or disturbs their peace,  
20 particularly when someone of that stature entered into  
21 City Hall is recording conversations that are not only  
22 going on between employees of City Hall, anyone working  
23 underneath them, anyone fielding phone calls, and any  
24 of the private citizens that are present. He also is

1 not in a position that when they ask him to stop  
2 recording, specifically to stop audio recording those  
3 conversations between the private citizens and he  
4 refuses, he's not in a position to decide whether or  
5 not that alarmed someone when their conversations are  
6 being recorded.

7 Now, your Honor, the case law that was cited  
8 by counsel, as I stated in my response, is almost  
9 entirely specific to the recording of police officers,  
10 and we would ask that the Court give it appropriate  
11 weight based on that. Adopting all of the additional  
12 argument that is included within my motion, your Honor,  
13 we would ask that you strike down counsel's Motion to  
14 Dismiss based first and foremost on the fact that he  
15 was recording and disseminating private conversations  
16 without consent of any of the parties, which the  
17 State's position is an initial disturbance of the  
18 peace; and finally upon being asked to stop recording  
19 those conversations, refusing to do so, therefore  
20 further disturbing the peace before it was, again,  
21 disseminated without consent of any of the parties.

22 And, again, an adaptation of all arguments  
23 included in my written motion, we would ask that you  
24 deny counsel's motion.

1 THE COURT: Okay. Any rebuttal, counsel?

2 MR. JENKS: Yes, Judge.

3 So the State continues to mention private  
4 citizens that were being recorded. It's not relevant  
5 whether there's private citizens being recorded or not.  
6 This is a public space. There is no expectation of  
7 privacy in a public space. The complaining witness is  
8 not a private citizen. So arguing that a private  
9 citizen who is not even a complaining witness is  
10 somehow alarmed isn't even relevant in this argument  
11 because none of them signed the complaint. They have  
12 nothing to do with this. And the State alleging that  
13 some of them made complaints doesn't matter. Even if  
14 the alarm by the complaining witness was real, even if  
15 she actually was alarmed, it still does not take away  
16 the fact that she's a public official in a public place  
17 with no expectation of privacy, being filmed by  
18 Mr. Reyes, which he has a First Amendment right to do.  
19 Even if one individual is actually alarmed, Mr. Reyes'  
20 conduct was not unreasonable and that's the standard on  
21 disorderly conduct. Were his actions unreasonable,  
22 objectively unreasonable, that that would cause the  
23 alarm and somehow be found guilty under disorderly  
24 conduct. Doesn't matter if she was actually alarmed.

1 If that was the standard, if the slippery slope is  
2 removed, fundamental right. The First Amendment right  
3 would be gone if any protest, any filming of anyone  
4 simply because one subjected person is alarmed. Again,  
5 he's not alleged to have yelled. He's not alleged to  
6 have approached her in a threatening manner. The only  
7 conduct by Mr. Reyes that is alleged to have cause  
8 alarm is simply filming and being asked to stop and  
9 saying no. It doesn't matter how big he is. Simply  
10 filming does not somehow impose a threat objectively on  
11 the complaining witness.

12           The State also mentioned that Illinois is a  
13 two-party consent State. Again, she's arguing the  
14 unconstitutional law for eavesdropping. Eavesdropping  
15 has to be done surreptitiously, not out in the open.  
16 It has to do with secretly recording conversations  
17 between people, private conversations. Eavesdropping  
18 in Illinois has to do with surreptitiously recording  
19 private conversation. It cannot be assumed to be a  
20 private conversation when you are out in public. Being  
21 out in public, again, has no expectation of privacy.  
22 Anyone out having a conversation, the people next to  
23 you can hear. If you are in public, you can record it.  
24 If you can see it, you can record it. If you can hear

1 it, you can record it, as long as it's not  
2 surreptitiously of a private conversation. So the  
3 eavesdropping statute that the State continues to argue  
4 isn't relevant as well.

5 This would be the same relative to an attorney  
6 having a conversation with a client in public. We know  
7 that that privilege is waived and they can't use that  
8 privilege if there is somebody nearby that can hear  
9 because you are not in a private setting. This would  
10 go back to the same type of situation where if you are  
11 in public, there is no expectation of privacy and that  
12 is the strongest argument in favor of Mr. Reyes.

13 Again, this is well-established law. This is  
14 a fundamental right and simply cannot just be taken  
15 away -- you simply cannot take away someone's First  
16 Amendment right to film simply because one person is  
17 alarmed, even if that alarm is -- even if they are  
18 actually alarmed, it still doesn't matter. It has to  
19 be done on the objective unreasonableness of the  
20 person's action. And a fundamental right cannot in and  
21 of itself be deemed unreasonable.

22 Thank you, Judge.

23 THE COURT: Thank you, counsel.

24 As I stated before I did read both the Motion

1 to Dismiss and the response in its entirety. I  
2 understand defendant's counsel's arguments. The thing  
3 is, Mr. Reyes was not charged with violating the  
4 statute regarding no recording devices. He was charged  
5 with disorderly conduct, which is a very fact driven  
6 case. I have lots of questions, but I can't ask you  
7 any of those questions, counsel, because your client  
8 has a right to remain silent. You all don't have to do  
9 anything, just show up and watch. It's the State's  
10 burden when this case goes to trial, and it looks like  
11 it's definitely going to trial, to show that under the  
12 disorderly conduct statute here in Illinois that your  
13 client committed -- was disorderly conduct beyond a  
14 reasonable doubt. That's their burden. I have not  
15 heard any testimony from any of the witnesses, the  
16 police officers. I have no idea what they are going to  
17 say. Your client doesn't have to say anything. So  
18 because I have not heard anything and I have no idea  
19 whether or not your client committed disorderly conduct  
20 under the statute, I cannot dismiss it.

21           The State's attorney has a right to charge  
22 whatever the State's attorney wants to charge. I have  
23 had cases before where they charged -- the defendant  
24 was charged with the wrong thing. They have to show

1 beyond a reasonable doubt, under the statute, that your  
2 client committed disorderly conduct and that is a  
3 question of fact. So based on that, your Motion to  
4 Dismiss is going to be denied.

5 I think we should go ahead and set this for  
6 trial. Just so that you know, I don't do hybrid  
7 trials, meaning that the defendant is not here in  
8 person.

9 MR. JENKS: No, no. He knows if he had to come for  
10 trial, it would be in person.

11 THE COURT: Very good. Just wanted to make sure of  
12 that.

13 As far as a trial date, I don't know if you  
14 know the officers' availability, complaining witnesses'  
15 availability. If you want to set this for one final  
16 status so that both sides can determine the  
17 availability of any witnesses they might want to call.  
18 I don't know you won't know until --

19 MR. JENKS: Mine will just be my client.

20 THE COURT: Okay.

21 MS. DUNBAR: I would appreciate a status date, your  
22 Honor, to confirm availability.

23 THE COURT: We are going to do is continue this  
24 then by agreement to July 8th, 2022.

1 MS. DUNBAR: July?

2 THE COURT: June 8th. I'm sorry. June 8th, 2022.  
3 This is to set a trial date.

4 MS. DUNBAR: Do you want to set it at a specific  
5 time?

6 MR. JENKS: This is just setting it for trial.

7 THE COURT: If you can remind me to call this first  
8 so that Mr. Reyes' supporters don't have to wait three  
9 hours to find out when the trial date is. Okay? Is  
10 there anything else, counsels?

11 MR. JENKS: No.

12 MS. DUNBAR: Nothing by the State.

13 THE COURT: Court is adjourned and I will be  
14 closing down Zoom.

15 (Whereupon, the above-entitled cause was  
16 continued to June 8, 2022.)

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1 STATE OF ILLINOIS )  
 ) SS  
2 COUNTY OF COOK )

3  
4 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
MUNICIPAL DEPARTMENT-FOURTH MUNICIPAL DISTRICT  
5

6  
7 I, JUNE M. DAKURAS, Official Court Reporter  
8 for the Circuit Court of Cook County, County  
9 Department-Criminal Division, do hereby certify that I  
10 reported in shorthand the proceedings had at the  
11 hearing in the aforementioned cause; that I thereafter  
12 caused the foregoing to be transcribed into  
13 typewriting, which I hereby certify to be a true and  
14 accurate transcript of the Report of Proceedings had  
15 before the Honorable CELESTIA MAYS, Judge of said  
16 court.

17  
18  
19  
20 June M Dakuras  
Official Court Reporter  
#084-003618

21  
22  
23 Dated this 22nd day  
24 of July, 2022.