



## WHITMAN COUNTY PROSECUTING ATTORNEY

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September 26, 2016

Kyle Medina  
By mail and email

And  
John Hart  
Attorney At Law  
By email

Dear Mr. Medina and Mr. Hart:

I am writing to inform you of my decision as to the criminal investigation into the incident in Pullman on August 24, 2016, which resulted in serious injury to Mr. Medina. The Pullman Police Department forwarded to me the results of their thorough investigation. I have carefully reviewed it. I have decided not to file any criminal charges in this matter. I reviewed this on the phone with you today, but since I anticipate that you or others may have questions, I will explain the decision in this letter.

In this state, the county prosecutor decides what criminal charges to bring. In making that decision, I first keep in mind the law of this state and the fact that any allegation that I make must be able to be proven by evidence beyond a reasonable doubt.

In Washington, a criminal assault occurs when one person intentionally touches another in an offensive way, if that touching is not done in self defense. If that touching results in a broken bone (or broken nose), then the assault is a felony. If the touching is less serious, then the assault is a gross misdemeanor. In order to prove that any person committed the crime of assault, the prosecutor must prove beyond a reasonable doubt that there was both an offensive touching and that the act was not done in self defense. Someone acts in self defense if they have a reasonable belief that they are in imminent danger of harm and if they use a reasonable amount of force to protect themselves.

In this matter, I have carefully reviewed the police report and accompanying videos to determine what I can prove beyond a reasonable doubt. In this case, I believe there is enough evidence from which a jury could conclude beyond a reasonable doubt that Mr. Luani hit Mr. Medina, once, with a fist to the nose, breaking the nose. However, as noted above, in order to prove that a criminal assault happened, the prosecutor must not only prove that the suspect hit someone, but the prosecutor must also prove beyond a reasonable doubt that the suspect was not acting in self defense. In this case, it is my view that no reasonable jury could conclude beyond a reasonable doubt that Mr. Luani was not acting in self defense.

The reports and video show that there was pushing and pulling back and forth inside the

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pizza place, with the physical contact between Mr. Medina and Mr. Luani being started by Mr. Medina. It concluded with Mr. Luani pushing Mr. Medina in the face, while Mr. Medina pulls his head back, and while Mr. Luani is walking away. Although there does appear to be some physical contact in that push, Mr. Medina is not injured in any way. Mr. Medina quickly follows Mr. Luani outside, and is in turn quickly followed by a number of other young men. Mr. Medina and other young men confront Mr. Luani outside.

There is no video for what happened outside, but according to witness statements, Mr. Medina “came after” Mr. Luani, in order to “retaliate” for being pushed. There were at least four young men, including Mr. Medina, that were confronting Mr. Luani, and more than one of them were being “aggressive” in their words. In the ensuing altercation, Mr. Medina was hit once and got the broken nose. Mr. Luani may have hit other of the men that were confronting him. Mr. Luani was hit multiple times, and according to witnesses was pushed to the ground, and possibly had his head pushed into a parked car. He suffered multiple injuries to his face and head, had his shirt ripped, and according to a medical report, suffered a concussion. A friend of Mr. Luani happened to be passing and saw him being hit and stepped in to stop the fight. Given all of that, in my opinion no reasonable jury could conclude beyond a reasonable doubt that the punch to Mr. Medina’s nose was not in self defense. Since I cannot prove that Mr. Luani was not acting in self defense, I cannot prove that he committed a criminal assault. Therefore, I have decided not to charge Mr. Luani with assault based on what happened outside the pizza parlor.

I also reviewed this report with an eye towards whether to file a criminal charge based on the conduct of Mr. Luani and the conduct of Mr. Medina inside the pizza parlor. I concluded that there was enough evidence for a jury to find that Mr. Medina assaulted Mr. Luani by grabbing and pulling him. I also concluded that there was enough evidence for a jury to find that Mr. Luani assaulted Mr. Medina by pushing Mr. Medina in response. However, both Mr. Medina and Mr. Luani, as the victims of these minor assaults, have requested that no charges be filed against the other. I therefore have decided not to charge them with assaulting each other by pushing / pulling each other inside the pizza place.

This letter concludes this case. However, if you have questions or would like to discuss this further, please feel free to contact me.

Sincerely,



Denis Tracy

Cc: Det. Heidi Lambley, PPD