



Village of Caledonia Police Department  
Caledonia, New York

**Voluntary Statement**

Date: 11-06-09 Time: 1615

My name is Inv G Kane of the Livingston County Sheriff's Office.

- 1) You have the right to remain silent.
- 2) Anything you say can and will be used against you in a court of law.
- 3) You have the right to talk to a lawyer and have him present with you while you are being questioned.
- 4) If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning, if you wish one.
- 5) Do you understand each of these rights I have explained to you? ANSWER *Y*
- 6) Having these rights in mind do you wish to talk to me now? ANSWER *Y*

@ENP

*Philip L. Stewart*  
SIGNED

I, Philip L Stewart (05-26-50), make the following statement to Inv G Kane of the Livingston County Sheriff's Office. I make this statement of my own free will and no threats or promises were made to me to have me make this statement. I have read the statement of my rights shown above. I understand what my rights are. I am willing to answer questions and make a statement. I understand what I am doing.

*PLS*

*Cops writing*

*she said I know have a nice day I was laughing*

*MISSTATEMENT*

*NOT TRUE*

*NOT TRUE POLICE MAN I SAID*

*THAT I DON'T REMEMBER HAVING SWORN I WAS NOT UPSET*

*THREW HIM OFF ME*

On November 6, 2009 at around 3:00- 3:30 pm I went into the Five Star Bank in Caledonia. I went to the table in the bank and wrote out a check for cash for thirty-one dollars. I then took the check up to the teller who was a small blonde woman. I was talking to her and asked her if I had to endorse the check on the back and she said that I did. I signed the check and asked the teller to give me the money in small bills, fives and tens. The teller gave me the money and I said to the teller that "she's watching you" meaning that the bank manager was watching: I turned away counting my money and put it in my wallet and then put my wallet in my pocket. When I was about halfway to the door the bank manager asked me to come to her office and talk with her. I followed her to her office and she sat down. She said to me that the girls are complaining about me making vulgar comments to them while I was in the bank. I asked her what she was talking about and she told me that I had said something about a girl named Kitty. I remember saying something to Kitty asking her if people like to pet the kitty. But that was a long time ago. That was all I can remember saying to her or any of the other girls. I did not mean anything sexual in the comment I made to Kitty. I asked the manager to explain more and she would not elaborate. I told the manager that if the tellers are going to take what I say as being offensive then I will just come in and do my banking and not talk to them other than for business reasons. The manager told me that that would be fine. I made some comment to the manager about this being blown out of proportion and I swore. I was upset and felt humiliated. I walked out of her office and I saw this big black guy walking towards the manager's office and me. I turned back to the manager and asked her if she preferred me to do my banking elsewhere. She did not answer that question. The black man came up to me and told me to leave the bank. I tried to ignore him as I was still trying to talk to the manager. The black man did push me towards the door. I went around the black man to the counter and said to the tellers that I hoped that I have never said anything to offend them. I walked up to the blonde teller who waited on me earlier and asked her if I had said anything that offended her today and she said no, and that she wasn't involved with this. The black man came up behind me while I was talking to the teller. The black man said to

*THE BLONDE SAID I KNOW, HAVE A GOOD DAY LAUGHING*

*MANAGER NEVER MADE ANY SPECIFIC QUOTES*

*MENTIONED SPACE COMMENT AS WELL BUT NOT TO MANAGER RETROSPECT*

*POLICE ADDED REPEATED WHAT SHE SAID*

*NOT TRUE*

*HE SAID THATS IT IM THROWING YOU OUT*

*YOUTH'S ARM AND MY NECK*

*HE THREW HIM OFF*

me that I was preventing him from doing his banking. I told him that I was not. He then pushed me a couple of times and was trying to intimidate me. He came towards to me with his arm raised and I thought he was going to hit me with his elbow all the while trying to grab me. He had a very dominant attitude towards me. He never gave me a chance to walk away from him. He was continually in my face and grabbing at me. He put his hands on me and I reached up and threw his hands off of me and he pushed me with his body about ten feet away from the teller. He kept trying to grab me and he raised his forearm again and it was inches away from my face. I thought he was going to hit me. I felt I was losing control of the situation. I reached down towards my gun, I was not going to pull it out but I wanted him to get away from me. The black man saw the gun and started to grab me in the area of my gun trying to grab it. I had to pull my gun out because I didn't want the man to get my gun from me. I did not intentionally point my gun at the man, if I did it was just in the motion of drawing the gun. I told him to leave me alone and get away from me. When he saw the gun he did back off of me. I said to him who the fuck are you, are?, you affiliated with the bank?. Are you a cop or security? and he said no. I asked him if he was just a private citizen and he said he was. I then asked him why he got involved then. I then told him that he had just assaulted me. I told him that I had pulled the gun because he had assaulted me. Not in thirty years have I pulled my gun out on someone but I was compelled too because the man had put me in fear of my health. I put the gun back in my holster and walked towards the door. As I was nearing the door I asked the manager if she wanted me to do my banking elsewhere and she said that she just wanted me to leave. I then left the bank. I walked out the door and got into my car and started to drive away and saw a police car. The policeman then ordered me to stop and I complied with everything that he asked me do. I told the officer that I had been assaulted in the bank. The officer told me that he had a report that I had a gun. I told him that I did have the gun and that I had a permit for it. I just want it known that I have a very fragile health condition in my neck and can not be hit, jostled or grabbed for fear of suffering an injury that could cripple or kill me. I ask that the bank films be reviewed to verify my statement.

OFF THE CONTINUED WOULD FROM COUNTER TO MID FLOOR MISQUOTE MISQUOTE BY POLICE

POLICE AD LIBING - NOT MY WORDS

WRONG TIME FRAME GUN WAS OUT FOR ONLY 3 TO 5 SEC NOT WHEN I WAS AT THE DOOR TALKING TO SIMS

I ASK FOR SIMS TO BE ARRESTED THEY SAID NO ONE @ THIS POINT WAS GOING TO BE ARRESTED. MORE THEY SAID ONCE THEY REFUSED TO ARREST SIMS DESPITE MY CHARGES

MISQUOTE MISQUOTE THAT SHE CALLED POLICE-GUN I WENT TO COP I STOPPED TO TALK TO HIM I WENT TO COPS TO REPORT INCIDENT

PLS \* I ASKED FOR A COPY OF THIS STATEMENT AT LEAST TWICE & THE OFFICE REFUSED HE GAVE COPIES OUT TO AT LEAST 3 OTHER COPS

I have read this statement consisting of 2 page(s) and the facts contained herein are true and correct, and I understand that making a false written statement is a crime under section 210.45 of the penal law of the State of New York.

Affirmed under penalty of perjury this 6 day of November 2009

Signed: Walter L. Stewart  
 Witness: \_\_\_\_\_

WHEN I ASKED TO HAVE SIMS ARRESTED THEY KEPT REFUSING SAY NO ONE WAS GOING TO BE ARRESTED AT THIS TIME - WHY WOULD THEY READ ME ANY RIGHTS? WHICH I DONT REMEMBER THEM BEING THIS IS NOT THE DOCUMENT I SIGNED, IT HAS BEEN REWRITTEN & EDITED - THIS STATEMENT DOESN'T SAY HOW SIMMS THREW HIS ARMS AROUND MY NECK IN A HEAD LOCK, TWICE, & STOLE MY GUN OFF OF ME. HE WAS ATTACKING AND ASSULTING ME

8Dc

Miranda Warning

- 1. You have the right to remain silent and refuse to answer any questions. 1
- 2. Anything you do say can and will be used against you in a court of law. 2
- 3. As we discuss this matter you have a right to stop answering my questions at any time that you desire. 3
- 4. You have the right to a lawyer before speaking to me, to remain silent until you can talk to a lawyer, and to have that lawyer present with you when you are being questioned. 4
- 5. If you do desire a lawyer, but you cannot afford one, one will be provided to you before questioning without cost to you. "YEAH"
- 6. Do you understand each of these rights I have explained to you? "YEAH"
- 7. Now that I have advised you of your rights, are you willing to answer my questions? "YEAH"

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John M. York, Sheriff

4 Court Street  
Geneseo, NY 14454.

General (716) 243-7100  
Emergency dial 911