

## Judge Acquits Marzullo of Battery Calls It "Common Bar Fight"

Berwyn Director of Public Safety Frank Marzullo was acquitted December 11<sup>th</sup> in Fifth District Court in Bridgeview on two counts of battery alleged to have occurred on July 12<sup>th</sup> at The Flame restaurant in Countryside. The bench trial, which had been postponed three times, lasted over four hours and featured the testimony of nine witnesses, including the two complainants. Early in the proceedings Mr. Marzullo waived the right to a jury trial.

The first complainant, Mr. Thomas Lowry, testified that while entering the restaurant with three friends at around 8:45 p.m., an unidentified blonde woman had pushed him out of the way with both hands, stating, "I have to get out of here." Mr. Lowry then testified that while he sat with his friends at the restaurant bar moments later, he was pulled off his bar stool by the ear by Mr. Marzullo, who repeatedly called him an obscene name, stated that the blonde woman "was a friend" of his, and invited Mr. Lowry to "take it outside," motioning with his hands.

The second complainant and friend of Mr. Lowry, Ms. Rose Miglio, who according to testimony stands 5' 4", testified that she told Mr. Marzullo, over six-foot tall according to testimony, to "shut up" and "enough is enough," but was told "Shut up, you c---," to which she responded, "Nobody calls me that."

Ms. Miglio testified that she then got off her bar stool, two feet away from Mr. Marzullo: "The next thing I know, I'm on the floor."

Mr. Lowry testified that he saw Mr. Marzullo strike Ms. Miglio in the "left face and chest area," knocking her over a chair. However, the testimony of other witnesses varied over how close Ms. Miglio was to Mr. Marzullo before being either struck or pushed aside by him, whether she had her hands up to attack him, and how quickly, if at all, she approached him.

In any case, Ms. Miglio testified that when she got up, dazed, she was again knocked to the floor by Mr. Marzullo, and that she later went to the emergency room at LaGrange Hospital. Photographs of bruises to her chest, shoulder, back, and leg from the following day were entered as evidence.

The third witness for the state and friend of the two com-

plainants, Mr. Bill Sauer, testified that he came to blows with Mr. Marzullo when he attempted to get between him and Ms. Miglio after the first time she went to the floor. Various testimony stated that shortly afterwards, the situation became confused as many others in the restaurant—employees and patrons—became involved in the heated but brief altercation, attempting to break it up.

Mr. Sauer testified that before the altercation broke out, the four friends heard Mr. Marzullo yelling but tried to ignore him. The fourth friend and witness for the state, Ms. Maribeth Marinich, stated that eventually "it became clear that the shouting was directed at us" and that Mr. Lowry, who according to testimony would soon be pulled off his bar stool, still didn't notice that he was being addressed.

### Police Have to be Called By Complainants

These four witnesses for the state testified that they asked their (female) bartender as many as four times to call the police, beginning with Mr. Lowry's alleged battery. Ms. Marinich testified that the bartender finally responded, "He is the police."

Ultimately, it was up to the four friends to call the Countryside Police after the brawl had ended and Mr. Marzullo had been escorted outside, accompanied by the unidentified blonde woman in a red-sequined dress, according to Ms. Marinich.

When, after the alleged incident, the four friends sat back down at the bar, the restaurant offered to pick up their bar tab, and also offered them dinner on-the-house, which they declined, according to testimony.

Mr. Lowry and Ms. Miglio are now both planning to launch civil suits against Mr. Marzullo.

All four of these witnesses gave statements to the Countryside Police that evening. None of the witnesses for the defense made statements to the police when they arrived except for bartender John Ferrari of River Forest, who "did not see any part of any fight," but told the police that Mr. Marzullo had been at the restaurant.

Unlike complainant Thomas Lowry, who testified that Mr. Marzullo acted erratically and that his speech was slurred, Mr. Ferrari testified that Mr. Marzullo

was served one drink at around 7:30 p.m., over an hour before the alleged incident began, which remained on the bar only half-consumed. The four state witnesses admitted to having no more than one or two glasses of champagne before arriving at The Flame.

Mr. Ferrari also testified that he grabbed Mr. Marzullo during the melee and eventually got him into the foyer and out the door, but that he did not afterwards hold the doors closed. This contradicted Ms. Marinich's testimony that she tried to get out the doors, saying, "Stop him [Marzullo]! The police are coming!" To which she testified that the bartender, holding the doors closed, responded, "Please sit down," asking everyone to sit down.

### More Conflicting Testimony

The first defense witness, Mr. Ronald Dowling, testified that he had stopped at The Flame for a drink on the way to a gambling boat, was watching TV at the bar, went to the men's room, and returned from it to "yelling." He testified that at first he ignored the argument since it "didn't concern him," but eventually it became "hard to ignore."

Mr. Dowling testified that Ms. Miglio "ran at" Mr. Marzullo from six to eight feet away, and that Mr. Marzullo put up his hands to protect himself, that he "pushed her out of the way," and "she fell."

**The complainants say they asked their bartender as many as four times to call the police, but she responded, "He is the police."**

The second defense witness, Ms. Kristie Staci of Stickney, an employee of Windsor Hair Design in Berwyn for twenty years and an acquaintance of Mr. Dowling, testified that she knew Mr. Marzullo as the Berwyn police chief and as a passing acquaintance whom she might run into once a year and ask about his family.

Ms. Staci testified that she didn't know what was said, but did see Ms. Miglio charge Mr. Marzullo "with her hands up, right in his face", and saw Mr. Marzullo protect himself, with his hands up as well. When the Countryside Police arrived, Ms.

Staci said that she didn't see anything.

She testified that she didn't hear any obscenities, any swearing, or any "call the police," and didn't see a woman with a red dress. But when she saw news reports the next day and they were "totally the opposite of what" she had seen, she promptly called the Berwyn Police, to whom she spoke almost a week later.

The third defense witness, bartender John Ferrari, testified to knowing Mr. Marzullo for the majority of the nine years during which he has tended bar at The Flame. He also testified that after the melee, he overheard the two complainants and their two friends at the bar say something like, "What do you think this is worth?" Under cross-examination, complainant Mr. Lowry had admitted to having spoken to an outside attorney about a civil suit against Mr. Marzullo, but denied having discussed it at the bar.

Mr. Ferrari testified that the altercation with Ms. Miglio was "a personal space problem," that he saw Ms. Miglio charge Mr. Marzullo, within inches, that Mr. Marzullo "brushed her out of the way," and that Mr. Marzullo remained seated or standing at his bar stool throughout the incident. Mr. Ferrari said that he didn't make a formal statement to the police at the time because he "did not see any part of the fight" and "didn't want to get involved."

The last defense eyewitness, Ms. Nancy Margeolis, a waitress at the Flame for thirteen years, testified that she knew Mr. Marzullo and his family, that he was a "gentleman, classy. He's a good man." Ms. Margeolis testified that she heard bartender Ferrari say, "C'mon, Frank, let's get outta here," and that she saw Ms. Miglio jump onto Mr. Marzullo's back, "scratching, punching, pulling his hair... like a wildcat."

Ms. Margeolis testified that she saw that "someone stopped the door;" but didn't tell Countryside Police what she saw when they arrived.

Judge William J. Aukstik termed the case as one of "a common bar fight," with the consistency of testimony ending at the door with the unidentified blonde woman. He stated, "Nobody really saw what happened to Mr. Lowry. The defense witnesses have the least interest in the outcome..."