

## Madison man cleared in 2003 flag burning

A state judge Thursday vacated a Madison man's 2003 juvenile conviction after another man stepped forward to say he was the culprit in an attempt to burn American flags owned by Madison Borough.

Still living in Madison, Declan Devlin, now 25, always denied responsibility but was found guilty at age 16 of the petty disorderly persons offense of causing public inconvenience, annoyance or alarm by creating a hazardous or physically dangerous condition on March 25, 2003.

Superior Court Family Division Judge Thomas Critchley had found Devlin guilty after a trial in 2003 but on Thursday, after hearing testimony, vacated his juvenile conviction and said the arrest would "be treated as if it did not occur."

The judge noted that the Morris County Prosecutor's Office was disadvantaged in trying to fight the petition because of the passage of time and because the prosecutor who tried it has retired. But, Critchley said, he was impressed by Devlin's effort to try to clear his name and he said "there's an adequate basis to doubt my judgment" on the original conviction.

"I'm glad he cares enough about the symbolic value" to return to court, Critchley

said. Back in 2003, he had imposed a punishment of 50 hours of community service and gave credit for the three days that Devlin spent in a detention center.

Devlin, who works in the real estate industry in New York City, had hired the nationally-known criminal defense and civil rights firm of Ronald L. Kuby. Kuby, partner Lea Spiess and Morristown attorney Jeffrey S. Mandel all appeared in family court to help with Devlin's petition to get the conviction vacated or, alternatively, receive a new trial.

"I didn't want my name associated with this. I've been waiting to right this wrong for 10 years and it's just important the truth is told," said Devlin, after Critchley's ruling. Devlin said others in the borough might have forgotten the event but he felt it was critical to clear his name.

A 22-year-old Chatham resident, Michael Sullivan, testified to the judge that he was to blame for the March 25, 2003, event. Sullivan said that in 2009 he was talking to a

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friend, who now is deceased, and the friend mentioned a long-ago flag-igniting incident that was pinned on his other friend, Declan Devlin.

Sullivan said he immediately remembered the 2003 incident, but not the exact date, because he had skipped school, stole some dry gas from a CVS and plucked an American flag from a ground post in Madison and ignited it. Sullivan told the judge that his late friend introduced him to Devlin and he agreed to assist in helping to clear his name.

"I feel actually somewhat guilty," Sullivan said. "It doesn't seem fair to me" that another person was convicted for the crime. He cannot be prosecuted because the statute of limitations long ago expired.

Devlin had been accused of pouring flammable dry gas on flags that were bundled together in a plastic barrel in the back of a Madison Public Works Department truck. Workers that day were hanging American flags from lampposts in support of U.S. troops fighting the war in Iraq.

Sullivan told the judge he grabbed one flag from the ground and lit it but heard a person yell at him so he tossed it aside, believing it probably landed in the back of a pickup truck. He ran away from the scene and said he never knew until 2009 that Devlin had been charged with the crime. As a 13-year-old, he said, he didn't pay attention to the news.

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