

### **The accused:**

"that he was passenger in a bus. During the trip he was attacked verbally by a couple of passengers. The driver said something to him, and it ended of by, that the driver said, that he should get off. He does not know, why the driver asked him to get off. He would not get off, while he did not believe, that he had done anything criminal. The accused and the driver agreed to wait for the police to arrive. There passes ten minutes, before the police arrived.

The officers started to talk to the driver. The one of them started to talk to the accused. The accused explained the background for the controversy with the driver. There had been a misunderstanding about the payment of a ticket. The accused spoke English with the officers.

The officers asked the accused to get off. That was okay with him. He also said that he would like, that the officers made a report about the driver. One of the officers made a sign to the bus that it could go. The accused complained to the officer, that the driver was gone without given name and so on. Before the accused went out of the bus, the officers said, that he would ask the driver to give his name..

The officer, that had went out of the bus with him, asked his name. The accused gave his first name. He would not give his last name. He said that he wanted to be driven to the police station, where he would speak to the superior of the officers. Not until in the police station would he give his full name.

It was cold, so the accused had his hands in the pockets. It was the pockets of the jacket he was wearing. The officer, who had not been speaking to him, shouted, that he, should take the hands out of the pockets. The accused did take the hands out and showed what he had in his hands. It was among other things a cell phone. **He said that he wanted to call the American embassy.**

The next thing he knew was that he was lying on the ground. He had not done anything that could be perceived as threatening. Both officers were sitting on top of him. One of them had a knee in his neck. The hands were put to the back, and he was handcuffed. He did not resist.

Hereafter one of the officers asked ironically: "How do you feel now? Like a lawyer?" Till that he answered: "Fuck you" and "Fascist". The words were spoken, while he was lying down with his head pressed to the ground. He did not say anything else. He has not threatened to kill the officers, or anything that could be perceived as a treat alike.

He was lying on the ground for 10 to 15 minutes. He did not resist. He was carried into a police car, which had been called.

Asked by the defender the accused explains that he is originally from Cuba. He is American citizen and was Danish married two years ago.

The accused had been at the dentist, where he had had a root canal. When he went on the bus, a misunderstanding about the payment occurred. The accused held the money in front of the driver, and the driver took, what was the price of a ticket. The

accused walked to the middle doors. The driver shouted at him and pointed too. Two passengers, whom had been sitting in the back of the bus, went in front to the driver. Hereafter the driver shouted at the accused and said that he should get off.

The accused was unhappy with the driver and wanted to report him, so the accused agreed that the police came. The only thing he has said while the officers were there was that he wanted to call the American embassy. He has not said that he wanted to talk to a lawyer or his spouse.

While he was lying on the ground, he tried to get in contact with pedestrians and bikers, passing by. He said that he wanted to talk to a doctor and the American embassy.

Every time, he said something, the officer pressed his face further into the ground.

There were four or five officers in the called police car. He was among other things taken under the arms, when he was carried to the police car. It was the grip under the arms, which coursed, that he has broken the shoulder.

An officer told him his rights, but not, why he was arrested.

At the police station at Bellahøj he was put in a holding cell. Before that he went through a visitation. The trousers were removed. The visitation officer made remarks about his private parts and laughed. During the transportation in the police car he was lying on the floor. The hat from the jacket was pulled down over the head, and the legs were put in a leg-lock.

He was in the cell for five hours. Before he could go, he was reading the indictment in the screen of a PC. He had taken his fingerprints, photo and DNA. He said that he wanted a lawyer there, before it happened. The officer said that the only lawyer he could get hold on was in Shanghai."

### **Anders Bitsch:**

"that he and Nicolai Cederskjold were called to Hulgårds Plads. There was a report about an unwanted passenger I a bus. The witness talked to the driver. Cederskjold talked to the accused.

The driver told that there had been a disagreement about the buy of at ticket. The accused had verbally harassed the driver. The accused had kept on shouting, and now the driver would not continue with the accused as passenger. The driver did not want to report the case. Cederskjold was talking to the accused, and it was the witness's opinion, that the accused had an aggressive attitude. The accused went out of the bus as Cederskjold asked him.

The driver had given his name to the witness. Cederskjold told the accused, that he was welcome to take another bus. They did though have to ask for his name, because there had been a police business. They pointed out, that the accused were not

charged for anything. The accused would only give his first name. He would not tell his last name, address and birthday.

Cederskjold asked for it several times and did a lot to tell the accused, why the accused should tell this. Cederskjold explained in English.

**The accused said that he wanted to talk to the American embassy**, and he wanted to complain about, that there was made no report about the driver. The accused was angry. It was especially about the incident in the bus. The accused put his hands into his pocket. The witness asked the accused to take the hands out of the pocket; it is normal procedure of security. Cederskjold repeated it. The accused after this showed – with a forward and aggressive movement – a cell phone and keys, and then he rapidly put it back in his jacket pocket.

The witness held on to, that the accused should take out his hands from the pocket. The accused did not do, what he was asked, while the witness did take the accused by his elbow. The accused pushed the hand of the witness away and at the same time withdraw from them. The witness and Cederskjold then did take each an arm. The witness the right, and Cederskjold the left, after witch the by an 'armsnoningsgreb' (Gitte: the name of a kind of grab used by the police) laid down the accused on the ground.

The accused was told, that he was arrested – and the time. **He was still not told the reason, while they wanted to wait, until things were calmer.** The accused made a lot of resistance and were handcuffed. The accused lifted his head and were spitting after Cederskjold. The witness pressed the face of the accused against the ground, while he at the same time put the hat of the accused between the face of the accused and the ground. The witness offered that the accused could stand up, if he would keep calm. The accused did not do that. He still resisted and was ongoing shouting a lot of times in English: "Fascist", and "I am going to kill you", "You don't know, who you are dealing with". Further more the accused shouted: "Fuck you, mother fucker." The witness's attempt to talk the accused to be calm, did not make any result. The witness has not participated, when the accused was taken to the police car.

Asked by the defence the witness explained that he at that time was officer at Station Bellahøj. The witness and the accused have not offered to drive the accused to the station, so that he could complaint. **They guided him about the opportunity to complain.** The accused would not say anything else than his first name and **he insisted to talk to the American embassy, his spouse and their superior.**

When the witness were presented to the explanation from the police report enclosure 3, I, 2. paragraph, the witness explained, that the accused, besides drawing his elbow away, also battled his way out of the witness's grab on the elbow. An 'armsnoningsgreb' (Gitte: a grab used by the police) is not in itself painful. It is taught in the police school. **They arrested the accused, while he would not give his name and so on, and because of his increasing aggressive attitude.**

He supervised, that the accused were presented to the officer on duty. The accused would not give his full name to the officer on duty either. The officer on duty decided, that the accused should go through a final visitation. That applied, that the accused in

the holding cell were totally undressed. There were three doing the visitation. Two were holding down the accused, while a third was doing the visitation. Beyond that there were one or two more officers present."

**Nicolai Cederskjold:**

"that he was on duty on station Bellahøj. He was called to Hulgårds Plads together with Anders Bitsch while there was an incident in a bus. The college attended the driver, and the witness talked to the accused. He seemed very grumpy and was shouting loud. The accused were unhappy about, that the driver would not drive with him. The accused would not say anything else, but that his first name was Mario. The accused followed the witness's appeal to leave the bus.

They asked the accused to tell his identity. The wanted the information, because there had been a police business. At the same time they told, that he was not charged with anything.

The accused held on to, that he would not say anything else than, that he was named Mario. At the same time he shouted louder and louder. The accused put his hands into the pocket, and they said that he should take them out. They repeated that. The college at this point grabbed the accused in the elbow. The accused hit out the arm.

**He can not say that if it was to get himself free or to hit the college.**  
**Hereafter the accused was arrested.** The grabbed the accused in the arms and put him on the ground. He resisted quite a lot and shouted: "Fuck you, motherfucker", "You do not know, who you are messing with" and "I am going to kill you".

The accused was lying on the ground, until he was driven away in a called police car. While the accused was lying on the ground, he was spitting after the witness. The witness let him know, that he was arrested and the time. **He also believes, that he said, that it was to try to hit the college.**

Asked by the defence the witness explained, that the accused was **hard to understand** and shouting very loud. He understood that it was about problems paying for the bus trip.

Outside the bus the college made a sign to the driver that he could go. It was his overall impression, that the accused was grumpy and aggressive. **It may have been that the accused said, that he would complain about the driver.**

**When the accused was lying on the ground, he said, that he would talk to the American embassy.** It is also possible, that he have said that he would talk to a lawyer.

Presented the explanation to the report, the witness explained, that the college took him by the arm, withdrew the arm and made a hit at the officer.

The witness told the accused his rights during the arrest.

It was while the accused was lying on the ground with his face pointed to the left, that the accused was spitting after the witness. The witness held down the head of the accused. He had not been in the car, which transported the accused to the station. In the holding cell there were four colleges doing the visitation”.

**Comments form the court:**

The accused was involved in an incident about payment of a bus ticket. The driver would not continue with the accused as passenger, and the police was called. Asked by police officer Cederskjold the accused went out from the bus.

The accused was told, that he was not charged with anything, and that he could take another bus. At the same time the officers asked for the accused name and other data. The accused would only give his first name. Beyond that he said, that he would talk to e.g. the American embassy and the officers’ superior. During the discussion, the accused was asked to take his hands out of the pocket, according to police officer Bitsch for security reasons.

When the accused again put the hands in the pocket, Anders Bitsch did take the accused by the elbow. It is reasoned, that the accused made himself free with a movement, that according to the evaluation of the officers could be seen as an attack – under any circumstances according to the resistance, the accused until then had shown to corporate with the police.

The officers then grabbed the accused around the arms and turned him down on the ground. The accused were handcuffed and declared arrested.

It is reasoned, that the accused lying on the ground had said bad words as “fuck you” and “fascists”. It is further more reasoned, that the accused have threatened to kill the officers by expressions mentioned in the indictment. It is further more found proven, that the accused have tried to spit after Nicolai Cederskjold. In the evaluation of the proves there is put weight upon the explanations give from Anders Bitsch and Nicolai Cederskjold, witch truthfulness is not affected by the explanation of the accused.

From what has been presented, there is no reason to determine, that the arrest of the accused was not a legal act of duty. Neither there is reason to determine, that the actions of the accused are free of punishment according to the criminal law § 13, stk. 1 or stk. 2.

Hereafter the accused is found guilty as charged.

The punishment is jail in 10 days, according to the criminal law § 119, stk. 1, and § 121.

According to the circumstances at the act and according to the information’s about the accused personal arrangements and until now no criminal background it is found reasonable to make the punishment conditioned, according to the criminal law § 56, stk. 2.