

# Eagan boy thought he was just playing in the park, but those on social media felt otherwise

The 11-year-old was charged with disorderly conduct and misdemeanor fifth-degree assault, and a judge ordered a kind of probation. But the family's lawyer said he was a "kid being a kid."

By [Erin Adler](#) Star Tribune

December 7, 2019 — 12:37am



Jim Gehrz – Star Tribune

In an email, Dakota County Attorney James Backstrom said the purpose of child delinquency laws is to “reduce juvenile delinquency by ... prohibiting certain behavior and by developing individual responsibility for lawful behavior.”

The social media posts were ominous: A small-framed man in a mask and hoodie was seen behaving strangely on several occasions in an Eagan park. Word was that he was a predator out to hurt people.

A post about three such incidents last summer [on the Eagan Police Facebook page](#) was shared 282 times and garnered 181 comments. Other community Facebook pages shared the post. Residents left related inquiries on friends’ pages and TV news stations picked up the story.

Days later, a woman called police saying the “man” in the mask was in fact her 11-year-old son, a shy boy who liked to play make-believe in the park near their home.

“I figured [police] would probably come talk to him and talk to us,” said Elizabeth Scott. “And then it just spiraled out of control.”

Before the family knew it, Dakota County prosecutors charged her son with disorderly conduct and misdemeanor fifth-degree assault.

“It was shocking,” said Nick Levenson, the boy’s attorney. “I didn’t understand the county attorney’s office’s unwillingness to recognize this as just a kid being a kid.”

In court last week, District Judge Michael Mayer dismissed the assault charge. He withheld judgment on the disorderly conduct charge but ordered a kind of probation: 10 hours of chores for his mother over 90 days.

He won’t have a record. But Levenson said he wasn’t acquitted because, according to the judge, an 11-year-old should have realized he was scaring people the first time it happened.

The boy’s family said the incident, which cost \$3,500 in legal fees and forced them to miss school and work, offers a grim lesson on the dangers of social-media-fueled frenzy.

Greg Scott, the boy’s grandfather, said he believes his grandson never would have been charged with two crimes if not for the online hubbub that magnified the incidents.

Eagan police posts reported witnesses describing the masked “man” as staggering and possibly on drugs; when yelled at, he “slinked back into the woods.” As word spread online, several threatened violence if they came across the suspect.

“It was a viral thing, all over the media,” said Greg Scott, who works in cybersecurity. “This kind of hysteria is going to happen to other families.”

Greg Scott said his grandson, who along with his daughter lives with him, is shy and feels more comfortable in costumes, particularly around the older boys who he said had bullied him at Patrick Eagan Park.

The blue-and-black mask, which he got at a dollar store, is based on the video game and movie *Mortal Kombat*.

## **‘Odd quirks’**

The family knew the boy frequented the park and played in the woods but didn’t know he wore the mask there.

Elizabeth Scott said her son, now 12, is undergoing testing to see if he’s on the autism spectrum. She said he has “odd quirks” but had “never tried to purposefully scare or hurt people”; if he had, she said, she would have wanted him to face the consequences of his actions.

She said her son didn't initially understand he had scared people but started to get it after a visit from an Eagan police detective. He felt bad, she said, and has had "a lot of anxiety and fear" about the experience since then.

Leverson said the assault charge in particular didn't make sense. None of the four witnesses who testified said the boy had touched them or that they feared imminent harm, a requirement of the charge. There was no evidence the boy intended to hurt or frighten people.

"It's a paradox," he said. "You can't have an assault without a victim."

Leverson said he doesn't fault Eagan police, because they thought they were investigating an adult. And he said he understood the judge's desire to create "a teachable moment" about a person's intentions vs. others' perceptions. The family liked the judge's common-sense approach.

But Leverson said he feels differently about the Dakota County Attorney's Office.

"[They] had all the information ... and they charged a child with assault," he said. "That will always stick out to me as a borderline irresponsible way of the state to utilize its funds."

## **Several lessons**

The County Attorney's Office and Eagan police declined to comment on specifics of the case because the boy is a minor, and court documents were unavailable for the same reason.

But Dakota County Attorney James Backstrom said in an e-mail that the purpose of child delinquency laws, according to the state, is to "reduce juvenile delinquency by ... prohibiting certain behavior and by developing individual responsibility for lawful behavior."

Backstrom said Eagan police reported seven incidents involving a masked man. Because the boy frightened several people, meeting the requirements of two misdemeanor charges, he should be "held appropriately accountable" in juvenile court, he said. Everything was done "consistent with the process afforded the juvenile," he added.

Eagan police spokesman Aaron Machtemes said the department last summer believed that the incidents raised concern enough to warrant a Facebook post. Police also used the post to get tips from the community. "I know the activity rose to the level of threatening to the people who were using the park," he said.

Machtemes said the department weighs several factors before posting something on social media, including whether a post could be more a hindrance than a help.

Even so, hindsight is 20/20, he said.

"Sometimes you have to take the approach of, if that was at a park that I go to, would I want to know that there's a person in a mask sneaking up on people?" he said.

Elizabeth Scott said the ordeal left her embarrassed and has soured her trust in law enforcement. Greg Scott thinks there are several lessons for the public.

“He was kid playing in the park in a mask,” he said. “We try to teach our kids and our grandkids to respect law and society ... but we also need to teach them not to allow bullying.”

**Erin Adler** is a suburban reporter covering Dakota and Scott counties for the Star Tribune, working breaking news shifts on Sundays. She previously spent three years covering K-12 education in the south metro and five months covering Carver County.

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