

ASSAULT WITH SANDWICH CASE NOTHING BUT BALONEY TO JURY

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It was justice, deli-style.

An Amityville man was found not guilty of assault yesterday for his role in a courthouse struggle that authorities say began when he threw a bologna sandwich at a police officer.

The Riverhead jury did, however, convict Frank Barnett of a misdemeanor charge of obstructing governmental administration.

"The first thing I'm going to do is go home and pray," Barnett, 47, said after the verdict. He said he planned to celebrate his acquittal over some of his mother's cooking. "No more bologna ... Bologna gets me in trouble."

Barnett had faced up to 7 years in prison on the assault charge, a violent felony. The April 8, 2004, incident happened in First District Court in Central Islip, where Barnett was being arraigned after being arrested the previous night on a misdemeanor warrant.

While preparing to transfer Barnett from a holding cell to a bus headed for the Riverhead jail, Suffolk Deputy Sheriff Robert Etheridge handed Barnett the standard inmate lunch - two bologna sandwiches and a container of milk.

When Barnett spotted the Suffolk police officer who arrested him, Stephen Capparelli, Barnett fired the sandwiches in his direction, prosecutors said.

Etheridge said that he immediately tried to handcuff Barnett, but that he resisted and it took three men to subdue him. Etheridge hurt his back in the struggle.

Barnett's attorney, Michael Brown, of Central Islip, said his client never flung the sandwiches. Instead, Brown said, Barnett dropped them and was roughed up by the deputy sheriffs while trying to pick them up. Barnett said he lost eight of his nine teeth during the skirmish, and is still in pain.

“Why would he take his bologna sandwich and just fling it like a Frisbee? That’s the only food he may have for 10 or 15 hours,” Brown told the jury in his closing statement. “It just doesn’t make any sense. It’s just bologna.”

Although Brown said he and his client were “overjoyed” with the verdict, Suffolk Assistant District Attorney Christopher Kirby noted that Barnett still faces up to a year in prison on the misdemeanor conviction. He is free without bail pending sentencing June 21.

As Barnett disappeared down the court hallway yesterday afternoon, Brown shouted some final words of legal advice at him. “Stay away from the cold cuts this weekend, Frank.”