

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN THE VERMONT SUPERIOR COURT
CHITTENDEN CRIMINAL DIVISION

STATE OF VERMONT, . Case No. 3994-10-13Cr
. .
Plaintiff, .
. Williston, Vermont
v. . Friday, October 6, 2013
. 1:15 p.m. (or P.M.)
ANTHONY SCALINI, .
. .
Defendant. .
.....

TRANSCRIPT OF BAIL REVIEW HEARING
BEFORE THE HONORABLE ALISON FLOWERS
SUPERIOR COURT JUDGE

APPEARANCES:

For the Plaintiff: Office of the Attorney General
By: EMERSON MCHENRY, ESQ.
175 Main Street
Williston, Vermont 05401
(802) 863-3269

For the Defendant: Jefferson & Voit, P.C
By: PAULINE JEFFERSON, ESQ.
2415 Tower Street
Suite 3C
Williston, Vermont 05401
(802) 894-3321

Court Reporter: Sarah Smith
(xxx) xxx-xxxx

Transcription Service: A to Z Transcription
P.O. Box 7533
New York, NY 10116
(973) 406-2250

Proceedings recorded by electronic sound recording;
transcript produced by transcription service.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX

WITNESSES FOR THE
PLAINTIFF:
Lt. Margaret Heller

DIRECT CROSS REDIRECT RECROSS
4 17

WITNESSES FOR THE
DEFENDANT:
NONE

PLAINTIFF'S EXHIBITS

<u>EXHIBIT</u>	<u>DESCRIPTION</u>	<u>MARKED</u>	<u>RECEIVED</u>
<u>NO.</u>			
1	Photograph of Bag Contents	16	16

DEFENDANT'S EXHIBITS

<u>EXHIBIT</u>	<u>DESCRIPTION</u>	<u>MARKED</u>	<u>RECEIVED</u>
<u>NO.</u>			
	NONE		

1 WILLISTON, VERMONT, FRIDAY, OCTOBER 6, 2013, 1:15 P.M.

2 (Call to Order of the Court.)

3 THE COURT: Good afternoon. Everyone can be seated.

4 This is Case Number 3994-10-13-Cr, State of Vermont
5 v. (or vs. or versus) Anthony Scalini. Representing the State
6 is Emerson McHenry. The Defendant is here in person and by
7 Counsel, Pauline Jefferson.

8 MS. JEFFERSON: Judge, for the purposes of this
9 hearing, I just ask that my client's hands be unshackled so
10 that he can write and I can pay attention to what's going on.
11 But I need him to be able to write so I can read what he --
12 the input he has without listening in one ear and listening to
13 Mr. McHenry in the other ear.

14 THE COURT: Officer, do you have reason to believe
15 that Mr. Scalini presents a security risk in the courtroom
16 right now based upon your experience with him?

17 THE BAILIFF: No.

18 THE COURT: All right. Then --

19 THE BAILIFF: We haven't had long enough to know.

20 THE COURT: Okay. And during the time that he's
21 been in your custody, has he been disruptive at all?

22 THE BAILIFF: No.

23 THE COURT: Okay. And so, I would ask that he be
24 uncuffed at this time.

25 THE BAILIFF: Both hands or just the right one?

1 THE COURT: I think his writing hand should be
2 sufficient.

3 Is that okay with you, Ms. Jefferson?

4 MS. JEFFERSON: That would be fine, Judge. I just
5 need to have his input, that's all.

6 THE COURT: That's understood. That's fine.

7 Are you ready to proceed, Mr. McHenry?

8 MR. MCHENRY: Yes, Your Honor. Thank you. The
9 State would call Lieutenant Heller.

10 STATE'S WITNESS, LIEUTENANT MARGARET HELLER, SWORN

11 THE COURT: Please be seated. Good afternoon. If
12 you could just keep your voice up for the recording and also
13 for me.

14 THE WITNESS: Sure.

15 THE COURT: Thank you.

16 DIRECT EXAMINATION

17 BY MR. MCHENRY:

18 Q. Madam, please state your name and spell your last name for
19 the record.

20 A. Margaret Heller, H-E-L-L-E-R. (or H-e-l-l-e-r)

21 Q. And how are you employed?

22 A. City of Williston police officer.

23 Q. And how long have you been a police officer with the City
24 of Williston?

25 A. Thirty years.

1 Q. And are you certified by the Vermont Training Council?

2 A. I am.

3 Q. Okay. I'm going to direct your attention to September the
4 24th. Were you on duty as a Williston police officer at the
5 Williston Police Department on September 24th?

6 A. Yes.

7 Q. What was your shift that day?

8 A. I come in around four and I stay 'til four or five-ish. (or
9 ?)

10 Q. And what is your title on that shift, if any?

11 A. I'm the officer in charge.

12 Q. And what is -- what do those duties entail?

13 A. I'm responsible for all law enforcement, for deployment,
14 for making decisions relative to the daily activities for
15 assigning.

16 Q. At some point during your shift on September the 24th,
17 were you approached by Officer Steve Dundee?

18 A. Yes.

19 Q. Were you approached by any other officer with -- and,
20 Lieutenant Heller, correct me if I'm wrong. Is it Corporal
21 Dundee?

22 A. Corporal Dundee, yes.

23 Q. Were you approached by Corporal Dundee?

24 A. I was.

25 Q. Was anybody with Corporal Dundee?

1 A. Not at that time.

2 Q. And where did Corporal Dundee approach you?

3 A. I was eating dinner at the roll call room, which is in the
4 main part of the building.

5 Q. And why did Corporal Dundee approach you?

6 A. He asked if he could speak to me privately. We walked
7 across the hall into a private office. It's the -- actually,
8 it's the identification area. We went into that, that office.

9 Q. And did anybody else join you?

10 A. Officer Scalini was already there.

11 Q. And who is Officer Scalini?

12 A. She is an officer who's been with the Williston probably
13 around a year. (or ?) She came from Oklahoma and just hired
14 on with us.

15 Q. And what was discussed in that room?

16 A. Initial -- the initial conversation from Corporal Dundee
17 was that he had something that he hoped we could keep
18 confidential. And then he said, "We're not going to be able
19 to keep this confidential," and then he just said outright
20 that he and Officer Scalini had had an affair, and that he had
21 just received a threatening -- extremely threatening phone
22 call from -- I didn't know his name at the time, but her
23 husband, now who I know to be Anthony Scalini.

24 Q. And did Corporal Dundee elaborate about the message he
25 received?

1 A. He did. I don't remember the exact words he said, but I
2 could tell he was very agitated, very nervous. He said
3 that --

4 MS. JEFFERSON: Judge, we're going to object to the
5 hearsay nature of the testimony. Officer Dundee is going to
6 testify. He can testify as to what he told.

7 MR. MCHENRY: That's fine. I'll go on.

8 THE COURT: Okay.

9 BY MR. MCHENRY:

10 Q. As a result of what Officer Dundee said to you, what did
11 you do?

12 A. I spoke to Officer Scalini. She filled me in briefly on
13 the, I guess, marital background. Then I just took a moment
14 to gather my thoughts, and then I said, "All right. Give me a
15 few minutes." I left the room, I made a couple of phone
16 calls, and then I sort of devised a plan.

17 Q. I want to stop you right there, Lieutenant Heller. Who
18 did you call?

19 A. Called my boss, Chief Scherer, Mike Scherer.

20 Q. And why did you do that?

21 A. It's essentially his show. He's in charge, and a
22 situation like this needs to be addressed with him.

23 Q. When you say a situation like this, how would you define
24 this situation?

25 A. Two of his officers are involved in a situation that has

1 some dangerous implications. I have to backstep here a little
2 bit. I had known that there was a -- that Scalini have a
3 two-year-old daughter. That she, at the time that this weapon
4 was discharged, was at the house with Mr. Scalini, and that
5 there was some pretty substantial danger involved in what was
6 going on. So he needed to know because it's -- again, I
7 repeat, it's his show and he has to --

8 Q. Who else did you call?

9 A. When I was talking to the chief, because this thing --
10 this incident was occurring in Essex on Maple Way, we decided
11 that I -- I would call Acting Chief Bradley Laffredo at Essex
12 and apprise him of the situation and then, in conjunction with
13 him, we'd come up with a strategy for how to deal with this.

14 Q. And what was the strategy?

15 A. It took probably maybe 10 (or ten) minutes before Chief
16 Laffredo called me back, and then we talked about -- I said
17 that my druthers, although it was completely his prerogative
18 to dismiss it, was that I felt I was pretty good at
19 negotiating with people; that if I could get Anthony on the
20 phone, I might be able to bring this thing to a peaceful
21 resolution.

22 Q. Lieutenant Heller, what were you trying to negotiate?

23 A. Well, negotiate -- well, I have to backtrack a little bit,
24 if I can. There was one text that I was aware of. I didn't
25 see it, but I was told that Anthony had said something -- or

1 Mr. Scalini had said something to Officer Scalini that, I hope
2 Gigi chokes on my blood after I kill myself, or something --
3 (or ,) you know, words to that effect, so that adds another
4 level of severity to this.

5 So, my plan was that, if I could get conversation with
6 Mr. Scalini, that I could first determine that the baby was
7 all right, and then make sure that he was, you know, going to
8 talk to us, come out, maybe present himself to us so that we
9 could deal with this.

10 Q. What was your overriding concern here?

11 A. At the moment it was the baby in the house with this man
12 who had just let off a couple rounds.

13 Q. What steps, if any, did you take to prepare internally at
14 WPD?

15 A. Well, at that moment it was -- there weren't internal
16 preparations. They were mostly in conjunction with Lieutenant
17 Beauregard in Essex PD.

18 Q. At some point in time, did that plan change?

19 A. Well, if you're referring to him leaving the house and
20 coming here, that's -- yeah, that's what happened.

21 Q. So you -- is it fair to say that you learned that
22 Mr. Scalini was en route to WPD?

23 A. Correct.

24 Q. And as a result of learning that information, what did you
25 do?

1 A. I spoke to Officer Scalini, and she said he usually brings
2 the baby to the park side on the south side of the building
3 where Battery Park is. I wasn't exactly sure of the time
4 frame when the cabby picked up, so I walked down to the south
5 side of the building but didn't see anybody there. And as I
6 was on the -- walking back on the south sidewalk adjacent to
7 the police department --

8 Q. I don't want -- I want to stop you right there. Prior to
9 walking outside, did you inquire of weapons?

10 A. Yes, I did.

11 Q. Who did you inquire of weapons to?

12 A. I asked Officer Scalini.

13 Q. What did you specifically ask her?

14 A. I asked her if he had any weapons. She said there's lots
15 of weapons in the house, both long guns and handguns, and that
16 he always carried a Glock.

17 Q. Okay. Was it then that you went outside?

18 A. Yes.

19 Q. And who were you looking for?

20 A. I was looking for a cab. It was a -- I knew specifically
21 it was a Fenway's cab because that's what I heard from Essex,
22 that Fenway's cab had picked him up with the baby and they
23 were en route to W -- to WPD.

24 Q. And at some point in time (,) did you see a Fenway cab?

25 A. I did.

1 Q. And tell us what happened next.

2 A. It didn't pull into the yard, into our police lot. It
3 parked just north. I saw from a distance -- Officer Scalini
4 had described what Anthony looked like. I saw what could have
5 been that -- Anthony Scalini getting out of the cab, bend over
6 the back seat, you know, and then he took the baby, put her
7 over his shoulder, and then walked into the parking lot
8 towards their truck.

9 Q. And what happened next?

10 A. As he rounded the corner, I walked up and I stood at the
11 back end of the truck and I hollered out, "Anthony, it's
12 Margaret." And he said, "I'm coming to see ya."

13 Q. And at any point in time prior to this, Lieutenant Heller,
14 had you sent Anthony a text message yourself?

15 A. I did.

16 Q. And how did you obtain his number?

17 A. From Officer Scalini.

18 Q. And what was the content of the text message that you sent
19 Anthony Scalini?

20 A. It was -- I introduced myself as Margaret Heller. I made
21 two phone calls, too. I introduced myself as Margaret Heller.
22 I said I was a lieutenant. I was the officer in charge for
23 that day. And in one of the texts, I said -- well, I said, "I
24 think I can help. Give me a call."

25 Q. What were you trying to help with?

1 A. Trying to appease the situation, (or . Make) make it so
2 that, you know, if he is angry, if he is anxious, that if he
3 talks to me -- my point was to make sure that the baby was
4 safe overall.

5 Q. Okay. And what was the condition of the baby when you
6 saw --

7 A. Asleep.

8 Q. -- Mr. Scalini? Okay. And did you recognize the vehicle
9 that Mr. Scalini put the baby in?

10 A. Yes.

11 Q. And whose vehicle did you recognize that as?

12 A. I had asked actually earlier what kind of car he would be
13 driving. She said, well, they only have the one truck, and
14 she had it. He traveled by cab whenever -- so it was -- I
15 know -- I've seen Mr. Scalini drop Shannon off in that truck,
16 and I've seen her come to work in that truck that was parked
17 in our lot.

18 Q. And after putting the baby into the truck, what happened
19 next?

20 A. I said -- I'm sorry, he said, "I have a gun."

21 Q. Let me stop you right there. How far away were you from
22 Mr. Scalini?

23 A. I'm not sure the type of truck, but he was in a -- there's
24 a -- like a cab door, I guess. He was putting the baby in the
25 back seat, and I was the full length of the truck, so maybe 6

1 to 10 feet, if that. (or ?)

2 Q. Did you -- (or ,) did you observe Mr. Scalini holding
3 anything?

4 A. He had a satchel about foot by a foot square, I guess.

5 Q. At that point in time, did you know that -- what was in
6 that bag?

7 A. No. No, I didn't. (or No. No. I didn't.) Excuse me. (Not
8 necessary to put "Excuse me." in transcript, but okay.)

9 Q. And what was in your mind at this particular time? What
10 was your goal?

11 A. Right then I'm going to secure the weapon. I want to make
12 sure I can get the gun from him, and I can -- and the baby is
13 fine.

14 Q. Let me take your -- you right through that. So would you
15 agree that, in terms of that goal of the baby being fine, once
16 the baby is in the truck, did you consider the baby to be fine?

17 A. No.

18 Q. Okay. So tell me how you were going to -- going about to
19 accomplish taking care of the baby.

20 A. Once we established that he acknowledged that he had a gun,
21 I said, I don't know, something like, "We're going to take it
22 from you," and he said, "Okay."

23 And I said, "Put your hands on your head." He put them right
24 on the top of his head. He told me it was his -- I'm

25

1 sorry, he told me it was in his front waistband. I reached
2 over, took it. He stood over to the right, and I sort of got
3 myself in between Mr. Scalini and the truck where the baby was
4 sitting.

5 Q. Were you concerned that Mr. Scalini would do something to
6 the child?

7 A. I didn't know. I didn't know him. I didn't know anything
8 about him. I know that this is a man who fired off two rounds
9 and was probably angry.

10 Q. Describe the gun that you took from Mr. Scalini's
11 waistband.

12 A. It's a Glock.

13 Q. What's a Glock?

14 A. It's a .40 caliber -- well, it could be any caliber, I
15 guess. It's -- you know, shoots many rounds.

16 Q. Was it loaded?

17 A. Yes.

18 Q. What did you do when you obtained the gun?

19 A. I put it in my waistband, in the back of my duty belt here
20 (indicating), stuck it in my back. And then Officer Chris
21 Bean, Reserve Officer Chris Bean, was just pulling out of the
22 lot to go on an assignment, and I motioned for him to come
23 over, and I asked him to just stand there with Mr. Scalini.

24 Q. I'm going to stop you right there. What's in your mind
25 that made you pull another officer over to Mr. Scalini, not to

1 leave Mr. Scalini alone?

2 A. I have no idea what his mental attitude is. I have no
3 idea. He's a solid man.

4 Q. Solid physically speaking --

5 A. Yeah.

6 Q. -- or mentally speaking?

7 A. And I know -- physically. And I know he's -- and is a --
8 and is a former police officer. I'm doing my best to be as
9 charming as I can with him just so that he is disarmed, I
10 mean, so he's -- his level of anxiety is lessened. And -- but
11 I want to make sure that nothing happens while I take the baby
12 out of the truck and take her inside.

13 Q. So you ask Officer Bean to come over and to stand. What
14 is your specific instructions to Officer Bean?

15 A. Hmm. I think I said, "Would you mind standing here with"
16 -- I think I introduced him as Anthony -- "with Anthony while
17 I run inside." And I was again trying to keep it at a calm
18 attitude, that once I get the baby inside, I can come back
19 out.

20 Q. And you take the baby out of the truck and bring the baby
21 inside.

22 A. Right.

23 Q. Who do you bring the baby to?

24 A. Officer Scalini, her mother.

25 Q. What do you do next?

1 A. I went through the -- I had asked Mr. Scalini if there
2 were any other weapons, and he said he didn't have any others.
3 He said there's ammo and there's a magazine in the -- it
4 turned out to be a camera bag. So I took that when I took the
5 baby into the station, and brought the bag in and gave --

6 Q. Let me stop you right there. Was this the same bag that
7 you saw Mr. Scalini carrying when he exited the cab?

8 A. It was.

9 Q. And when you brought the bag inside, describe what you
10 saw. Describe the contents inside the bag.

11 A. There was a potential that there could have been another
12 weapon, a smaller 9 millimeter (or .9mm). I forget what make
13 it was. So I opened up the bag, and inside the bag was a
14 camera, several boxes of .40 caliber rounds. I believe there
15 were .40 caliber rounds and a half a dozen magazines maybe for
16 the Glock. (or ?)

17 Q. And how many bullets generally does a magazine have?

18 A. I'm not sure what size that one was, but mine has 15.

19 Q. Well, to the best of your knowledge, were all -- was all
20 the ammunition in the bag, would it be for the Glock?

21 A. Yes. I believe there was a box of .223 rounds there, but
22 I can't be certain.

23 Q. What are those?

24 A. It's another type of bullet that fits a rifle.

25 MR. MCHENRY: Judge, I'd like to mark this photo as

1 Plaintiff's Exhibit 1.

2 THE COURT: Ms. Jefferson, do you have any objection
3 to this?

4 MS. JEFFERSON: No, Your Honor.

5 THE COURT: Exhibit 1 is admitted.

6 (Plaintiff's Exhibit 1 marked and received into
7 evidence.)

8 BY MR. MCHENRY:

9 Q. Okay. When you saw that, what did you think at that
10 moment in time when you saw that ammunition?

11 A. Well, I'm trying to think rapidly, but I know that at that
12 point in time -- I mean, why did someone bring a gun --

13 MS. JEFFERSON: Judge, we're going to object to the
14 speculation on the part of the officer.

15 THE COURT: Would you repeat the question, please.

16 (or ?)

17 BY MR. MCHENRY:

18 Q When you saw the contents of the bag, what was he
19 thinking?

20 THE COURT: Sustained.

21 MR. MCHENRY: In that case, no more questions, Your
22 Honor.

23 THE COURT: Cross, Ms. Jefferson.

24 MS. JEFFERSON: Just briefly, Your Honor.

25 CROSS-EXAMINATION

1 BY MS. JEFFERSON:

2 Q. Lieutenant Heller, did you -- this all happened on the
3 24th of September. Is that correct?

4 A. Yes.

5 Q. And that night in question, the 24th or maybe early
6 morning hours of the 25th, you didn't arrest Anthony?

7 A. No.

8 Q. And he was cooperative with you throughout the evening?

9 A. Yes.

10 Q. The 20 or 30 minutes you were with him?

11 A. Yes.

12 Q. And you had sent him a text or called him to say, I'd like
13 to -- I want to talk to you, or something of that nature.

14 A. Yes.

15 Q. And he took a cab to the WPD?

16 A. Yes.

17 Q. And he indicated to you that he was there to talk to you?

18 A. Yes.

19 Q. Okay. He didn't say that he came to hurt Officer Dundee
20 or anything of that nature?

21 A. No, he did not say that. (or No. He did...)

22 Q. Okay. And apparently he went to WPD in response to your
23 indication you wanted to talk to him in your text or phone
24 call or whatever it was.

25 A. I guess, yes.

1 Q. Okay. And he took a cab there?

2 A. Yes.

3 Q. Okay. And when you first talked to him, he said, "I've
4 come to see you."

5 A. Yes.

6 Q. Okay. He didn't say that he was there to see Officer
7 Dundee. He said he was there to see you in response to your
8 call, basically.

9 A. Yes.

10 Q. Okay. He told you -- he volunteered that he had a gun.

11 A. Yes.

12 Q. And he didn't offer any resistance or any aggression
13 towards you.

14 A. No.

15 Q. As a matter of fact, you told him to put his hands on his
16 head, and he put his hands on his head and said, "The gun's in
17 my belt." Isn't that true?

18 A. Yes.

19 Q. Okay. And was completely cooperative with you?

20 A. Yes.

21 Q. And he was just basically complying with your requests?

22 A. Yes.

23 Q. And there was no -- there's nothing illegal about having
24 guns in Vermont?

25 A. No.

1 Q. Did he tell you he had come there to -- or he just
2 basically wanted to make an impression on Officer Dundee?

3 A. He had not. He didn't tell me he came there to make an
4 impression.

5 Q. And have you done a records check?

6 A. I have not.

7 Q. And you didn't arrest him that night?

8 A. Correct.

9 Q. What you're describing is -- you indicated that he -- when
10 he first discovered the affair, he was angry. Is that
11 correct?

12 A. Yes.

13 Q. And then he had some catharsis or whatever and he seemed
14 to be over it.

15 MR. MCHENRY: Judge, I'm going to object to the term
16 "seemed to be over it." If Mr. Jefferson can -- or
17 Ms. Jefferson can specify --

18 MS. JEFFERSON: Oh, he's --

19 MR. MCHENRY: -- being over what.

20 MS. JEFFERSON: -- he's testified that he seemed to
21 have calmed down. He had a -- he was angry in the beginning,
22 and then basically had a moment and was over his anger.

23 MR. MCHENRY: Well, if Ms. Jefferson is suggesting
24 he's over the affair, or over the anger over the affair?

25 THE COURT: I think what you're both talking about

1 is a point of argument, and so that if you want to ask him
2 questions regarding his effect and what he displayed while he
3 was talking about having these moments of catharsism, to make
4 that point during argument, I think that's fair.

5 MS. JEFFERSON: Okay.

6 THE COURT: I'll allow that.

7 MS. JEFFERSON: All right.

8 BY MS. JEFFERSON:

9 Q. At no point was there any anger directed towards you or to
10 -- on the part of Anthony at that point in your 20 to 30
11 minutes talking to him?

12 A. Anger directed at me?

13 Q. Correct.

14 A. No.

15 Q. Anger directed at anyone?

16 A. Spoke about anger directed at someone, but no -- there was
17 nobody there to whom he could direct his anger because there
18 was nobody there involved in what caused his anger.

19 Q. Did he say something to you about being angry and then
20 calming down?

21 A. Yeah.

22 THE COURT: I'm sorry to interrupt, but I have been
23 advised that there is an urgent matter I must attend to. We
24 will take a 15-minute recess. (Please disregard last comment
25 on audio.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(Recess taken at 3:54 p.m.)

CERTIFICATE

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

Jane Smith, CET

September 14, 2017
DATE