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IN THE VERMONT SUPERIOR COURT  
CHITTENDEN CRIMINAL DIVISION

STATE OF VERMONT, . Case No. 3994-10-13Cr  
. .  
Plaintiff, .  
. Chittenden, 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  
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<u>WITNESSES FOR THE PLAINTIFF:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Lt. Margaret Heller	4	17		

WITNESSES FOR THE  
DEFENDANT:  
NONE

PLAINTIFF'S EXHIBITS

<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>	<u>MARKED</u>	<u>RECEIVED</u>
1	Photograph of Bag Contents	17	17

DEFENDANT'S EXHIBITS

<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>	<u>MARKED</u>	<u>RECEIVED</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 3994-10-13Cr, 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  
9 office.

10 Q. And did anybody else join you?

11 A. Officer Scalini was already there.

12 Q. And who is Officer Scalini?

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

16 Q. And what was discussed in that room?

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

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

1 received?

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

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

8 MR. McHENRY: That's fine. I'll go on.

9 THE COURT: Okay.

10 BY MR. McHENRY:

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

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

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

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

21 Q. And why did you do that?

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

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

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

9 Q. Who else did you call?

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

15 Q. And what was the strategy?

16 A. It took probably maybe 10 (or ten) minutes before Chief  
17 Laffredo called me back, and then we talked about -- I said  
18 that my druthers, although it was completely his prerogative to  
19 dismiss it, was that I felt I was pretty good at negotiating  
20 with people; that if I could get Anthony on the phone, I might  
21 be able to bring this thing to a peaceful 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 all  
7 right, and then make sure that he was, you know, going to talk  
8 to us, come out, maybe present himself to us, so that we could  
9 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." And I said, "Put your hands on  
23 your head." He put them right on the top of his head. He told  
24 me it was his -- I'm sorry, he told me it was in his front  
25 waistband. I reached over, took it. He stood over to the

1 right, and I sort of got myself in between Mr. Scalini and the  
2 truck where the baby was sitting.

3 Q. Were you concerned that Mr. Scalini would do something to  
4 the child?

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

8 Q. Describe the gun that you took from Mr. Scalini's  
9 waistband.

10 A. It's a Glock.

11 Q. What's a Glock?

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

14 Q. Was it loaded?

15 A. Yes.

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

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

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

25 A. I have no idea what his mental attitude is. I have no

1 idea. He's a solid man.

2 Q. Solid physically speaking --

3 A. Yeah.

4 Q. -- or mentally speaking?

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

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

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

18 Q. And you take the baby out of the truck and bring the baby  
19 inside.

20 A. Right.

21 Q. Who do you bring the baby to?

22 A. Officer Scalini, her mother.

23 Q. What do you do next?

24 A. I went through the -- I had asked Mr. Scalini if there were  
25 any other weapons, and he said he didn't have any others.

1 He said there's ammo and there's a magazine in the -- it turned  
2 out to be a camera bag. So I took that when I took the baby  
3 into the station, and brought the bag in and gave --

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

6 A. It was.

7 Q. And when you brought the bag inside, describe what you saw.  
8 Describe the contents inside the bag.

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

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

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

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

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

21 Q. What are those?

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

23 MR. MCHENRY: Judge, I'd like to mark this photo as  
24 Plaintiff's Exhibit 1.

25 THE COURT: Ms. Jefferson, do you have any objection



1 to this?

2 MS. JEFFERSON: No, Your Honor.

3 THE COURT: Exhibit 1 is admitted.

4 (Plaintiff's Exhibit 1 marked and received into  
5 evidence.)

6 BY MR. MCHENRY:

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

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

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

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

14 (or ?)

15 BY MR. MCHENRY:

16 Q When you saw the contents of the bag, what was he  
17 thinking?

18 THE COURT: Sustained.

19 MR. MCHENRY: In that case, no more questions, Your  
20 Honor.

21 THE COURT: Cross, Ms. Jefferson.

22 MS. JEFFERSON: Just briefly, Your Honor.

23 CROSS-EXAMINATION

24 BY MS. JEFFERSON:

25 Q. Lieutenant Heller, did you -- this all happened on the

1 24th of September. Is that correct?

2 A. Yes.

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

5 A. No.

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

7 A. Yes.

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

9 A. Yes.

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

12 A. Yes.

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

14 A. Yes.

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

16 A. Yes.

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

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

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

23 A. I guess, yes.

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

25 A. Yes.

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

3 A. Yes.

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

7 A. Yes.

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

9 A. Yes.

10 Q. And he didn't offer any resistance or any aggression  
11 towards you?

12 A. No.

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

16 A. Yes.

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

18 A. Yes.

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

20 A. Yes.

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

23 A. No.

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

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

3 Q. And have you done a records check?

4 A. I have not.

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

6 A. Correct.

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

9 A. Yes.

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

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

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

16 MR. MCHENRY: -- being over what.

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

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

22 THE COURT: I think what you're both talking about  
23 is a point of argument, and so that if you want to ask him  
24 questions regarding his affect and what he displayed while  
25 was talking about having these moments of catharsism, to make

1       that point during argument, I think that's fair.

2               MS. JEFFERSON:   Okay.

3               THE COURT:    I'll allow that.

4               MS. JEFFERSON:   All right.

5   BY MS. JEFFERSON:

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

9   A.   Anger directed at me?

10   Q.   Correct.

11   A.   No.

12   Q.   Anger directed at anyone?

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

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

18   A.   Yeah.

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

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

24

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CERTIFICATE

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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

\_\_\_\_\_  
DATE