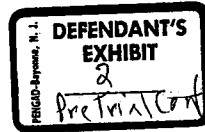


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BEFORE DISTRICT MAGISTRATE SHIRLEY R. TRKULA
IN AND FOR ALLEGHENY COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA,)
Plaintiff,)
-vs-)
WILLIAM R. NEEL,)
Defendant.)



TRANSCRIPT OF PROCEEDINGS

held before District Magistrate Shirley R. Trkula, 923 Fifth Avenue, Coraopolis, Pennsylvania 15108, commencing at 10:38 a.m. on Thursday, October 31, 2002.

APPEARANCES:

On behalf of the Defendant:

THOMAS J. FARRELL, ESQ.
Thieman & Farrell
2312 Koppers Building
436 Seventh Avenue
Pittsburgh, Pennsylvania 15219

P R O C E E D I N G S

- - -

1
2
3 MAGISTRATE TRKULA: Whoever is going to
4 testify, raise your right hand and I'll swear you
5 in.

- - -

6
7 (Whereupon, the witness were sworn by
8 Magistrate Trkula.)

- - -

9
10 MAGISTRATE TRKULA: So we have Mr. Neel.

11 And what was your name again, sir?

12 THE WITNESS: Detective John Ianachione,
13 County Police.

14 MAGISTRATE TRKULA: Ianachhione. Okay.

15 Do you want to start? Tell us how this all
16 occurred.

17 Wasn't your wife arrested?

18 MR. NEEL: No. My sister.

19 MR.. FARRELL: His sister.

20 MAGISTRATE TRKULA: Sister. We're not
21 having those together? Was it a different officer?

22 DETECTIVE IANACHIONE: Yes. I issued the
23 citation to Mr. Neel.

1 MR. NEEL: May I say something? She asked
2 if she could be at this --

3 MAGISTRATE TRKULA: Anyone's allowed at a
4 hearing. Oh, you mean she wanted to have her
5 hearing at the same time?

6 MR. NEEL: Yeah, but they refused her.

7 MAGISTRATE TRKULA: Well, you know what,
8 she probably sent in her money later.

9 MR. NEEL: Okay.

10 MAGISTRATE TRKULA: As we get them -- You
11 know, we can't tell who was arrested with who. We
12 just, as they come in, we just put them together.

13 - - -

14 DETECTIVE JOHN IANACHIONE

15 having been duly sworn,
16 was examined and testified as follows:

17 - - -

18 DIRECT EXAMINATION

19 - - -

20 MAGISTRATE TRKULA: Okay, Detective, let me
21 hear what you have to say.

22 THE WITNESS: Yes, Your Honor.

23 On September 2nd, President Bush was coming

1 to town, and over on Neville Island there, and I was
2 assigned to a uniformed detail, and I was
3 specifically assigned to the firehouse area along
4 the main route of travel into town.

5 There was an assembly permit established
6 for the memorial park area for protesters at that
7 site.

8 My duties were pretty much to guide
9 protesters into the assembly area, made sure that
10 all the protesters went into the assembly area.
11 It's a large fenced-in baseball field.

12 MAGISTRATE TRKULA: Who applied for the
13 permit? The protesters --

14 THE WITNESS: It was the protest group,
15 yes.

16 MAGISTRATE TRKULA: -- applied for the
17 permit --

18 THE WITNESS: Yes, Your Honor.

19 MAGISTRATE TRKULA: -- to --

20 THE WITNESS: Assemble in that area.

21 MAGISTRATE TRKULA: -- protest and assemble
22 in the memorial park?

23 THE WITNESS: Yes, ma'am.

1 MAGISTRATE TRKULA: Okay. But that is if
2 they were just going to protest?

3 THE WITNESS: Yes.

4 MAGISTRATE TRKULA: Okay. So does that
5 mean all protesters had to go in the park?

6 THE WITNESS: Yes. That was my --

7 MAGISTRATE TRKULA: If they belonged to
8 that group. What if they didn't belong to that
9 group? What if they lived on the island?

10 THE WITNESS: Well, it was my understanding
11 if they were exhibiting themselves as a protester,
12 they were to go in that area.

13 MAGISTRATE TRKULA: Who told you that?

14 THE WITNESS: My supervisors.

15 MAGISTRATE TRKULA: Okay.

16 THE WITNESS: And also the Secret Service.

17 Like I said, I was there. We were
18 guiding -- All the protesters went in except for
19 Mr. Neel and his sister at that time, Joyce Lynn
20 Neel.

21 They were asked numerous times over and
22 over to go into the area. They were exhibiting this
23 sign here.

1 We explained to them that --

2 MAGISTRATE TRKULA: I can't see it.

3 THE WITNESS: We explained that they had to

4 go there or they would be detained and arrested.

5 MR. NEEL: That --

6 MAGISTRATE TRKULA: You don't say anything.

7 THE WITNESS: But anyways, we continued to,

8 you know, ask them to go in there. They refused.

9 They were arrested at that point. They

10 were taken right into the adjacent firehouse, and

11 myself and Detective Mett sat there with Mr. Neel

12 and Mrs. Neel until the President was done and he

13 left town.

14 MAGISTRATE TRKULA: Okay.

15 THE WITNESS: That's my understanding of

16 the situation. That's all really I have to say.

17 MAGISTRATE TRKULA: Okay. So you wrote him

18 up under disorderly conduct.

19 THE WITNESS: Yes, I just issued a citation

20 for disorderly conduct and that was all.

21 MAGISTRATE TRKULA: Okay.

22 - - -

23 ////

CROSS-EXAMINATION

- - -

BY MR. FARRELL:

Q. Detective, you said you were instructed that protesters had to go into this fenced-in area?

A. Yes, sir.

Q. And by protesters, what do you mean?

A. Basically my understanding, people exhibiting themselves as protesters, in particular carrying signs, and readily apparent as protesters. I can't describe that any further than that.

Q. I'm sorry, maybe I --

A. People that were there making a statement pretty much against the President and his views.

Q. Okay. So by protesters, you mean people with signs critical of the President?

A. Yes. Yes, sir.

Q. And there were also people walking around outside Memorial Field, weren't there?

A. There were lots of people traveling along the path to go to the podium area.

Q. The podium area was south of Memorial Field?

1 A. Yes, sir. Right by the carpenters union.

2 Q. Okay. And the people who were walking
3 outside that fenced-in area, did that also include
4 folks with signs supportive of the President?

5 A. It could have, but I really didn't notice
6 if it did or not. I didn't really take notice of
7 all the signs.

8 Q. All right. In terms of people you selected
9 to direct behind the fence, it was only folks with
10 signs critical of the President?

11 A. They were pretty much the only signs I saw,
12 sir.

13 Q. All right.

14 A. I didn't really notice any supportive signs
15 of this nature or anything like that.

16 Q. Well, how about your directions -- I'm
17 sorry.

18 A. I'm not saying there wasn't any, but --

19 Q. Uh-huh. But your directions were only
20 those folks with signs critical of the President
21 needed to be in the protest area?

22 A. Yes, sir, people as I would understand to
23 be in protest.

1 Q. Okay. And you were given those directions
2 by who?

3 A. My direct chain of command was Sergeant
4 Gorcheck and the Secret Service. I'm sorry, I don't
5 know the names of the Secret Service.

6 Q. Were you at a meeting before the 2nd with
7 the Secret Service?

8 A. There was a brief meeting. People were
9 detailed to different areas and it was explained the
10 assembly area was there, and the people protesting
11 were to go into the assembly area where there was a
12 permit obtained for that area for that purpose.

13 Q. And you were told that by both Sergeant
14 Gorcheck and the Secret Service at this briefing
15 before the protest?

16 A. Yes, sir.

17 Q. And the briefing, was it that day or the
18 day before? When was it?

19 A. It was that day.

20 Q. Okay. And you say the Secret Service. Was
21 it the Secret Service or were these folks White
22 House staff? Do you know?

23 A. Primarily, as I understood, they were

1 Secret Service that gave the briefing.

2 Q. Did they identify themselves as being from
3 the Secret Service?

4 A. Yes, sir.

5 Q. All right. Let me show you -- When you saw
6 Mr. Neel, he was standing outside the fence?

7 A. Yes, sir. Right, pretty much right in
8 front of the area.

9 Q. With his back right up against the fence
10 pretty much?

11 A. He was pretty much coming towards me. I
12 didn't detect his exact body position, but we were
13 there for quite some time talking to Mr. Neel trying
14 to get him to go in there.

15 Q. All right. When you talked to Mr. Neel,
16 did he make any threatening gestures toward you?

17 A. Nothing threatening, no, sir.

18 Q. Did he raise his voice to you?

19 A. No, sir.

20 Q. Did he use any obscenities or vulgarities
21 in talking to you?

22 A. No, sir.

23 Q. And the sign he had, the sign, he was

1 holding it so that it displayed toward the road, the
2 side of the sign -- Which side?

3 A. Pretty much this side.

4 Q. The side that says, "The Bush family must
5 surely love the poor. They have made so many of
6 us"? Is that the side that was being displayed
7 toward the road?

8 A. Pretty much he was holding the sign as I
9 recall. Both sides were visible. I'm not sure
10 exactly which side he had out at the time.

11 Q. Okay. But you could see that it was a sign
12 of protest against the President?

13 A. Yes, sir. That's how it appeared to me.

14 Q. There's nothing obscene or vulgar on that
15 sign, is there?

16 A. No, sir.

17 - - -

18 (Whereupon, Defense Exhibit Number 1 was
19 marked for identification.)

20 - - -

21 BY MR. FARRELL:

22 Q. Let me show you a photo I've marked
23 Exhibit 1 for identification.

- 1 A. That's pretty much how I recall.
- 2 Q. Okay. So Exhibit 1 accurately shows where
3 Mr. Neel was standing on September 2nd?
- 4 A. Yes, sir. In that general area there, yes.
- 5 Q. All right. And so he was -- If you would,
6 this street out here is Grand Avenue, the street in
7 front of him?
- 8 A. Yes, sir.
- 9 Q. And off Grand Avenue, there's then a
10 concrete berm or shoulder of about seven feet?
- 11 A. Yes, sir.
- 12 Q. And Mr. Neel wasn't standing on -- Well, he
13 wasn't standing in the street, first of all, was he?
- 14 A. I think initially he was walking up along
15 the roadway here.
- 16 Q. Uh-huh.
- 17 A. And we were pretty much in this area here
18 along with a number of state police officers.
- 19 Q. Okay. I'm sorry, you'll have to say -- He
20 was --
- 21 A. This is the firehouse here.
- 22 Q. Yes.
- 23 A. And we were pretty much located in this

1 area here.

2 Q. The parking lot of the firehouse?

3 A. Yes, sir. Mr. Neel was -- intended to
4 proceed down the path towards the assembly area down
5 further.

6 Q. Okay, he was walking south on Grand Avenue?

7 A. Yes, sir.

8 Q. And he -- was he walking along the grass or
9 the berm?

10 A. Pretty much right along the berm here, as I
11 recall.

12 Q. All right. Were people able to get by him?

13 A. Yes.

14 Q. And people were walking by him?

15 A. Yes, sir.

16 Q. He wasn't blocking either vehicular or
17 pedestrian traffic?

18 A. No, there was a number of people, lots of
19 people walking through.

20 Q. He wasn't starting any fights with people,
21 bystanders, was he?

22 A. No, sir.

23 Q. He wasn't shouting to the general public?

1 A. No, sir.

2 Q. Was any sort of crowd, unruly or not,
3 gathering around him?

4 A. (No audible response.)

5 Q. Before you approached him.

6 A. Not so much anyone unruly. I mean there
7 was lots of chants and shouts from the other
8 protesters who had assembled in the area there.

9 Q. The protesters who were within the
10 fenced-in area?

11 A. Yes, sir. Yes, sir.

12 Q. Okay. But not from Mr. Neel?

13 A. No, sir.

14 MR. FARRELL: Your Honor, I'd move for the
15 admission of Exhibit 1. And here, you can take a
16 look.

17 - - -

18 (Whereupon, Defense Exhibit Number 2 was
19 marked for identification.)

20 - - -

21 BY MR. FARRELL:

22 Q. I show you Exhibit 2. Does that also
23 accurately show where Mr. Neel was when you

1 approached him?

2 A. In that general area, yes, sir.

3 Q. Okay. So just to his left there was a
4 telephone pole?

5 A. No, I don't recall the exact -- Yes,
6 there's a telephone pole there. He was -- We were
7 pretty much all along this area in front of the
8 fence.

9 Q. Uh-huh.

10 A. As he was walking up. And at which point
11 he was asked to go into the assembly area, at which
12 point he firmly refused.

13 Q. Uh-huh. You say firmly refused. Do you
14 remember what he said to you?

15 A. He was pretty much stating his rights. He
16 did not have to go into the assembly area. That he
17 had a right to be right outside the assembly area
18 where he wanted to be.

19 Q. Uh-huh. And you said that you asked him
20 several times, you say?

21 A. Numerous times.

22 Q. Okay. During the times that you asked him,
23 did he become violent or aggressive at all with you?

1 A. No, sir.

2 Q. And when you told him he was under arrest,
3 did he go with you peacefully?

4 A. Yes, sir.

5 MR. FARRELL: And finally, I'd move for the
6 admission of Exhibit 2 and just let you see it, Your
7 Honor.

8 BY MR. FARRELL:

9 Q. Oh, the telephone pole, you do remember
10 there being a telephone pole out there?

11 A. There's telephone poles all along the road,
12 sir. I --

13 Q. I mean that folks would have to walk around
14 as they were walking south on Grand.

15 A. I don't know about the passage, but there's
16 telephone poles there, yes, sir.

17 - - -

18 (Whereupon, Defense Exhibit Number 3 was
19 marked for identification.)

20 - - -

21 BY MR. FARRELL:

22 Q. And finally, if you'd just look at
23 Exhibit 3, does -- is that -- does that show more

1 closely the sign that Mr. Neel was displaying?

2 A. Yes, sir.

3 Q. Okay. And is that how the sign more or
4 less appeared on September 2nd?

5 A. Yes, sir.

6 MR. FARRELL: I'd move for the admission of
7 Exhibit 3.

8 And I have no other questions, Your Honor.

9 MAGISTRATE TRKULA: Okay.

10 MR. FARRELL: Thank you, detective.

11 THE WITNESS: You're welcome, sir.

12 MR. FARRELL: If the Commonwealth is done,
13 I would move to dismiss the charge before we need to
14 present evidence as it just doesn't make out
15 disorderly conduct. Mr. Neel was not behaving in a
16 disorderly fashion. He was actually pretty polite
17 and peaceful.

18 Oh, if I may, one other question.

19 BY MR. FARRELL:

20 Q. Did you ever determine whether or not
21 Mr. Neel belonged to the group that had obtained the
22 permit?

23 A. Well, they pretty much at first said that

1 they weren't part of the group. We did talk to
2 Mr. Neel and his sister.

3 Q. Uh-huh.

4 A. And they were familiar with the people
5 there.

6 Q. Uh-huh.

7 A. And it was apparent that they knew the
8 people there.

9 Q. But they said they were not part of the
10 group?

11 A. Yes. You know, their acquaintance with the
12 people, I don't know that that registers them as
13 part of the group or not, but --

14 Q. Uh-huh.

15 MAGISTRATE TRKULA: Okay. I have a
16 question.

17 There were a lot of people along the road,
18 they live on Neville Island, I'm very familiar with
19 the --

20 THE WITNESS: Yes, sir. Lots of people.

21 MAGISTRATE TRKULA: All right. If they
22 would have had a derogatory sign sitting on their
23 property, would they have been arrested?

1 THE WITNESS: I can't answer that. I don't
2 believe so, Your Honor.

3 MAGISTRATE TRKULA: I saw in the paper
4 where a woman was very happy to see the President
5 and she had a sign.

6 THE WITNESS: I mean as far as I know, if
7 it's their property, they're free to --

8 MAGISTRATE TRKULA: What were the orders
9 given?

10 THE WITNESS: The orders given to me
11 directly were to --

12 MAGISTRATE TRKULA: Anybody that has a
13 sign --

14 THE WITNESS: -- guide all the protesters,
15 as such, into the fence where the assembly area was,
16 where the permit for assembly was.

17 MAGISTRATE TRKULA: Guide them behind the
18 fence.

19 Yeah, but what if you didn't belong to that
20 group? What if they didn't like you?

21 THE WITNESS: Well, Your Honor, I did my
22 best at the time to discern that, in fact, Mr. Neel
23 was in protest.

1 MAGISTRATE TRKULA: Okay. All right.

2 Yeah, I understand.

3 I understand where you're coming from, and
4 I understand where you're coming from, because it's
5 a critical time. And I guess because of 9/11
6 they're a little more careful than before.

7 But I do not believe that this rises to the
8 charge of disorderly conduct. And I believe this is
9 America, and that's why our forefathers came here,
10 for freedom of speech. And I don't -- Once you stop
11 that, whatever happened to I may not agree with what
12 you say, but I'll defend to my death your right to
13 say it?

14 THE WITNESS: Your Honor, I was just --

15 MAGISTRATE TRKULA: So I'll dismiss this,
16 and good luck to you, and maybe the next time find a
17 different way to protest. I don't know. So you
18 don't have to end up in here.

19 MR. FARRELL: What were you going to say?

20 THE WITNESS: I was following my orders for
21 the day.

22 MAGISTRATE TRKULA: That's right, he was
23 following his orders and --

1 MR. FARRELL: I should say, whether it's
2 for the record or not, I mean Mr. Neel has told me
3 many times that the officers were very polite and
4 courteous to him.

5 MAGISTRATE TRKULA: He was very polite now.
6 I'd be scared to death in front of this group.

7 Off the record.

8 - - -
9 (Whereupon, at 10:54 a.m., the hearing was
10 closed.)

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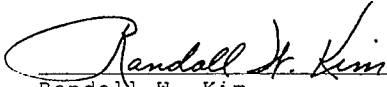
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C E R T I F I C A T E

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I, Randall W. Kim, the undersigned, do hereby
 certify that the foregoing is a true and correct
 transcription of the proceedings held before
 District Magistrate Shirley R. Trkula, 923 Fifth
 Avenue, Coraopolis, Pennsylvania 15108, commencing
 at 10:38 a.m. on Thursday, October 31, 2002.



 Randall W. Kim
 Court Reporter.

Pittsburgh, Pennsylvania
 November 16, 2002.

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