

No. 23-50

IN THE
Supreme Court of the United States

JASCHA CHIAVERINI, ET AL.,

Petitioners,

v.

NICHOLAS EVANOFF, ET AL.,

Respondents.

On Writ of Certiorari
to the United States Court of Appeals
for the Sixth Circuit

JOINT APPENDIX

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Petition for Writ of Certiorari Filed: July 14, 2023
Certiorari Granted: December 13, 2023

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[COVER PAGE]

* * *

[8]

**PROCEDURES MANUAL
NAPOLEON POLICE DEPARTMENT**

2. Mustaches shall be neatly trimmed, shall not extend down over the edge of the upper lip, and shall not extend down below the corner of the mouth.
 3. Hair grooming – shall mean that the hair be neatly trimmed, not extending into the eyes. Hair shall not be groomed in a bushy or shaggy manner. Hair shall terminate above the shirt collar at the rear of the neck. Civilian employees may not be held to the length (rear) standard. Variance to this standard by civilian employees is subject to the approval of the Chief of Police
 4. Exceptions to Section 1.31 A are permitted if based on recognized cultural diversity.
- B.) Personnel assigned to plain clothes duty, shall observe the same regulations, with respect to personal appearance and courteous conduct, as though they were in uniform, unless the nature of their assignment necessitates special dress and appearance.
- C.) No member of the department shall wear his/her uniform when off duty, and no part of the uniform shall be worn with civilian clothes. The police cap is a part of the police uniform, it is not required to be worn while on station, in a car or a place of business, while at court, or in a place of worship

or while at a council meeting. At all times, when wearing said cap, it shall be militarily squared on the head of the wearer. At no time shall the cap be cocked or turned to such an extent that the band in the front of said cap rests on any area other than the forehead.

Section 1.32 Telephones

- A.) Members of the police department shall have a telephone by which they can be contacted and shall as soon as possible, report any changes in telephone numbers or addresses, to the department, by leaving that information with the Chief of Police.
- B.) The department telephones are not intended for personal calls or for personal business, except in cases of necessity, and no personal long-distance calls shall be made from, or charged to, this department, unless they have first been authorized by the Chief of Police or a superior officer.

Section 1.33 Departmental Reports

- A.) Members of the police department shall submit all necessary reports on time and in accordance with established departmental procedures. Reports submitted by members shall be truthful and complete and no member shall knowingly enter or cause to be entered any inaccurate, false, or improper information, or alter, remove, or destroy any report once filed for the purpose of obstructing justice, misleading superior officers, or altering the natural order of information.
- B.) No member of the department shall make a false official report, or knowingly give any false or

misleading information to his superiors, or to [9] any other member of the department, knowing the same to be false or misleading.

- C.) Officers shall not interfere with cases being handled by other officers of the department or by any other government agency, unless:
 - 1. Ordered to intervene by a superior officer; or
 - 2. The intervening officer believes beyond a reasonable doubt that a manifest injustice would result from a failure to take immediate police action.
- D.) No member of this department shall make any changes, alterations, or entries upon any jog sheet, investigative report, or other official report, without having initialed, physically or electronically, and dated such document by the person making the change or addition.
- E.) No member of the department shall allow the examination of any official documents or reports, except by the authority of the Chief of Police, or by established procedure.
- F.) Except as otherwise provided by law, no information concerning the department, or obtained by the department, or by any member of the department, shall be released as public information, except by the authority of the Chief of Police or established procedure. (*See Article 25*)

Section 1.34 Processing Property And Evidence

Property or evidence which has been discovered, gathered, or received in connection with departmental responsibilities will be processed in

accordance with established departmental procedures (*See Article 23*). Members of the police department shall not convert to their own use, manufacture, conceal, falsify, destroy, remove, tamper with, or withhold any property or evidence in connection with an investigation or other police action, except in accordance with established departmental procedure.

Section 1.35 Abuse Of Process

Officers shall not intentionally make false accusations of a criminal or traffic charge.

Section 1.36 Use of Department Equipment

- A.) Members of the department shall utilize department equipment only for its intended purpose in accordance with established departmental procedures and shall not abuse, damage, or lose department equipment. All department equipment issued to members shall be maintained in a proper order.
- B.) No member of the department shall loan, sell, or give away, any city property or equipment, further he/she shall, at all times, show proper respect and protect the same from damage, waste or abuse. He/she shall not loan any part of the prescribed uniform to any person other than a

[* * *]

Case: 3:17-cv-02527-JJH Doc #: 98-26 Filed: 01/23/20 1 of 7 PageID #: 2682

For value received I have this day bargained, sold and conveyed, and by those presents to bargain, sell and convey unto

DIAMOND & GOLD OUTLET

All my right, title and interest in the following described property to wit and I hereby certify that I am the sole and lawful owner of said property and the proper person to dispose of the same.

Date 11-16-16

Time 1:27pm

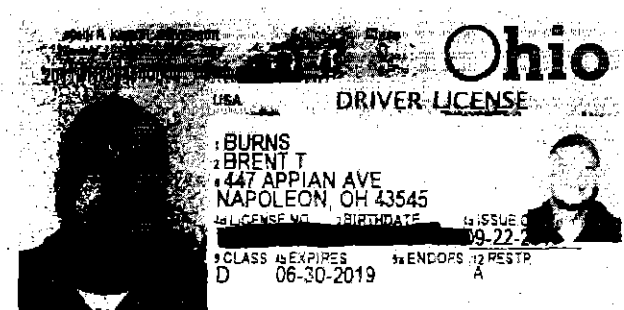
Amount \$45⁰⁰

I.D. Used →

D.O.B. [REDACTED]

Clerk A/JC

IDENTIFICATION(S)



Ohio DRIVER LICENSE

1 BURNS
2 BRENT T
3 447 APPIAN AVE
4 NAPOLEON, OH 43545
5 LICENSE NO. [REDACTED] 6 BIRTHDATE 09-22-81
7 CLASS 8 EXPIRES 06-30-2019 9 ENDOPS 10 RESTR A

11 Sex: M 12 Hgt: 6-00 13 Wgt: 185
14 Eyes: HAZ 15 Hair: BLN

B. Burns

DESCRIPTION(S)

DIAMOND & GOLD OUTLET

Division of
Chiaverini, Inc.

125 E. Maumée
Napoleon, OH 43545

419-599-1900

SIGNATURE *B. Burns*

NAME (PRINT) Brent Burns

ADDRESS

CITY STATE ZIP

RACE	SEX	AGE	HEIGHT	WEIGHT	HAIR	EYES
	M	35				

Received Copy

Declined Copy

B. Burns

Initial 11-16-16

Date

EXHIBIT

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**STEWARD NARRATIVE SUPPLEMENT
11/16/2016**

Narrative Supplement Incident Number 16-009538

Victim	Offense	Incident Date and Time
Hill, David J	Theft Beyond Express/Implied	11/16/2016 16:10
<p>On November 16th, 2016, I was dispatched to the Diamond and Gold Outlet for a Theft complaint. Upon arrival I was greeted by the Victim, David Hill. It was at this time that David established that his ring was stolen, and he suspected that the individual that he believed to have stolen it, sold it to Jascha Chiaverini.</p> <p>David suspected that his wife's cousin, Brent Burns, stole his ring from his home and sold it to Jascha. David called the Diamond and Gold Outlet earlier in the day to ask if his ring was there, he adequately described the ring, but Jascha was unwilling to assist him initially. After his shift at Campbell's Soup, David went to the Diamond and Gold Outlet to discuss the ring in further detail with Jascha. It's at this time that we were called, since Jascha no longer wanted David on his property.</p> <p>I took the report of the stolen ring from David, including the last time that he saw the ring, which was "Sunday or Monday." While I was talking with David, Ptl. Evanoff advised that he would speak with Jascha. David believed, adamantly, that Brent had stolen the ring because he was at his home earlier this week.</p>		

At this time Ptl. Evanoff returned from inside the store, and told me that Jascha did in fact purchase the ring that David was describing. Jascha also told Ptl. Evanoff that Brent frequented the Outlet to sell fake jewelry, and that Brent told Jascha that he would be in today to sell him real jewelry. Jascha then provided Ptl. Evanoff with the purchase receipt which had a photograph of Brent Burns license, the time of the transaction, and the amount in which he sold the ring for. Along with the receipt, Jascha also provided Ptl. Evanoff with numerous photographs of pieces of jewelry, one of which was a ring with three recessed settings and six clear stones. At this point it was abundantly clear to me that the ring that Brent Burns had stolen and subsequently sold, was the same ring that David Hill was missing. Ptl. Evanoff requested that Jascha hold the items in question, and not sell them, because they were confirmed to be stolen from David.

During the exchange of photographs from Ptl. Evanoff to myself, David Hill's wife, Christina Hill, arrived at the Outlet. She had her cell phone in her hand with a picture of the same ring that was photographed by Jascha and described by David. Christina has since e-mailed the picture to us which has been added to the case file. Christina also said that she had a single earring missing, also with a clear stone, in a square shape. I also noted that in the photographs from Jascha, there was a picture of an earring that fit the description of the earring Christina was missing.

At no point in time did I show the pictures to the victims. They described the items to us without us

providing any information that we gathered from Jascha.

We made contact with Derek from Adult Probation, who happens to be Brent's Probation officer. We notified him of the theft complaint and the evidence that we had against him. Derek advised that he was in the area that Brent resides in, and that he was going to make contact with the Putnam County Sheriff's Office, and have them go to Brent's residence to pick him up. At this point Derek claimed that Henry County's Sheriff's Office would meet the Putnam County Sheriff's Office at the county line, so that they could take him to CCNO.

Shortly after my phone call with Derek, Christina Hill called the Police Department to let us know that her grandmother was also missing some items, and that David Hill was prescribed Adderall, which is also missing.

Reason cleared	***	***	***	***	Date Cleared
Reporting Officer Ptl. Steward	Badge No. 21DS			Date 11/16/2016	
Approving Officer #7 Lt. Moll	Badge No. 07CM			Date 11/19/2016	

**LETTER OF DAVID STEWARD TO DIAMOND
AND GOLD OUTLET**

[November 17, 2016]

[SEAL] 310 Glenwood Ave
Box 151
Napoleon Ohio
43545
419-599-2810
Fax 419-599-7969
www.napoleonohio.com

**Napoleon City
Police
Department**

TO: DIAMOND AND GOLD OUTLET

125 E. Maumee Ave.
Napoleon, OH 43545
419-599-1900

**REF: MENS RING WHITE GOLD WITH 6 STONES IN
3 RECESSED SETTINGS
EARRING WITH CLEAR STONE
NPD CASE #16-009538**

I have confirmed that a men's ring, white gold with six stones in three recessed settings and a princess cut diamond stud earring was sold to your store on November 16, 2016 for a price of \$45.00. These items were stolen regarding case #16-009538 in the City of Napoleon, Henry County Ohio.

I am formerly requesting that you hold this item as in ORC 4727.12 states, as evidence of the crime of Theft.

Please accept this letter as the official request for retaining the items that are confirmed to be stolen and the rightful owner being David Hill, 413 Rohrs St., in Napoleon, Ohio 43545. Please release these items to David or Christina Hill.


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Thank you in advance for your assistance.

/s/ _____
Ptl. David Steward

/s/ _____
Chief Robert Weitzel
11-17-2016

EVANOFF NARRATIVE SUPPLEMENT 12/2/2016

NARRATIVE SUPPLEMENT		Incident Number 16-009881			
Victim	Offense Additional prohibited activiti[]	Incident Date and Time 12/02/2016 10:15			
<p>On 12-2-2016 Ptl. Steward, Det. Mendez and I met with Pros. Harmon regarding the case (16-0009538). Speaking with him a search warrant request was prepared so that we can locate the ring and earring Jascha refuses to return to the victim, Christina Hill.</p> <p>Also included in this request for a warrant was any information regarding Jascha conducting his business (buying precious metals) since 6-30-2013 without the proper precious metal dealers license required by the State of Ohio. It was confirmed by Ptl. Steward and I that he did not have the proper permit to be doing this by checking the State of Ohio web site. The web site showed that the precious metal license issued to Diamond and Gold Outlet was canceled on 6-30-2013.</p>					
Reason cleared	***	F 	***	***	Date Cleared 12/02/2016
Reporting Officer Ptl. Evanoff	Badge No. 05NE			Date 12/02/2016	
Approving Officer #17 Lt. Legg	Badge No. 17EL			Date 01/17/2017	

**STEWARD NARRATIVE SUPPLEMENT
11/16/2016, AS EDITED ON 12/2/2016**

Narrative Supplement Incident Number 16-009538

Victim	Offense	Incident Date and Time
Hill, David J	Theft Beyond Express/Implied	11/16/2016 16:10
<p>On November 16th, 2016, I was dispatched to the Diamond and Gold Outlet for a Theft complaint. Upon arrival I was greeted by the Victim, David Hill. It was at this time that David established that his ring was stolen from his residence at 413 Rohrs St., and he suspected that the individual that he believed to have stolen it, sold it to Jascha Chiaverini.</p> <p>David suspected that his wife's cousin, Brent Burns, stole his ring from his home and sold it to Jascha. David called the Diamond and Gold Outlet earlier in the day to ask if his ring was there, he adequately described the ring, but Jascha was unwilling to assist him initially. After his shift at Campbell's Soup, David went to the Diamond and Gold Outlet to discuss the ring in further detail with Jascha. It's at this time that we were called, since Jascha no longer wanted David on his property.</p> <p>I took the report of the stolen ring from David, including the last time that he saw the ring, which was "Sunday or Monday." While I was talking with David, Ptl. Evanoff advised that he would speak with Jascha. David believed, adamantly, that Brent had stolen the ring because he was at his home earlier this week.</p>		

At this time Ptl. Evanoff returned from inside the store, and told me that Jascha did in fact purchase the ring that David was describing. Jascha advised Ptl. Evanoff that the reason he bought the ring and kept records regarding the purchase, was because he suspected that it was in fact stolen. Jascha also told Ptl. Evanoff that Brent frequented the Outlet to sell fake jewelry, and that Brent told Jascha that he would be in today to sell him real jewelry. Jascha then provided Ptl. Evanoff with the purchase receipt which had a photograph of Brent Burns license, the time of the transaction, and the amount in which he sold the ring for. Along with the receipt, Jascha also provided Ptl. Evanoff with numerous photographs of pieces of jewelry, one of which was a ring with three recessed settings and six clear stones. At this point it was abundantly clear to me that the ring that Brent Burns had stolen and subsequently sold, was the same ring that David Hill was missing. Ptl. Evanoff requested that Jascha hold the items in question, and not sell them, because they were confirmed to be stolen from David.

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At no point in time did I show the pictures to the victims. They described the items to us without us providing any information that we gathered from Jascha.

We made contact with Derek from Adult Probation, who happens to be Brent's Probation officer. We notified him of the theft complaint and the evidence that we had against him. Derek advised that he was in the area that Brent resides in, and that he was going to make contact with the Putnam County Sheriff's Office, and have them to Brent's residence to pick him up. At this point Derek claimed that Henry County's Sheriff's Office would meet the Putnam County Sheriff's Office at the county line, so that they could take him to CCNO.

Shortly after my phone call with Derek, Christina Hill called the Police Department to let us know that her grandmother was also missing some items, and that David Hill was prescribed Adderall, which is also missing.

Reason cleared	***	***	***	J <input type="checkbox"/> Closed	Date Cleared
Reporting Officer Ptl. Steward	Badge No. 21DS			Date 11/16/2016	
Approving Officer #7 Lt. Moll	Badge No. 07CM			Date 11/19/2016	

Napoleon Municipal Court
1819 Oakwood Avenue
Napoleon, Ohio 43545
1-419-592-2851

**Law Enforcement Arrest
Report
Probable Cause Affidavit**

Case Number:
16-NPD000009881

Court Case # CR-B 1601276A, B

The State of Ohio

SS:

Henry County

The Affiant, Ptl Nicholas Evanoff, being first sworn, says there is probable cause to believe the defendant, Jascha J Chiaverini, committed an offense based on the summary of the facts below:

On 11-16-2016 at 16:10 HRS Ptl. Evanoff and Ptl. Steward were dispatched to 125 E. Maumee Ave., Diamond and Gold Outlet, in the City of Napoleon, Henry County Ohio for a report of stolen property being sold there. Through investigation it was learned that Jascha Chiaverini, the Defendant bought a ring while suspecting that it was stolen, and was later informed by the Napoleon Police Department that this item was confirmed stolen. The Defendant furthered the commission of corrupt activity by refusing the return of this stolen property. The Defendant was also learned to be operating this business without the proper license's required by the State of Ohio since 06-30-2013.

A warrant is being requested due to this charge being a Felony of Third (3rd) degree, and to ensure the Defendants appearance in court.

Defendant:

Jascha J Chiaverini

Further Affiant Sayeth Not.

/s/
Affiant Signature

310 Glenwood Ave.
Affiant Address & Phone

*Sworn to and subscribed before me
by the Affiant on 12/2/2016*

/s/
Notary Public/Authorized Peace
Officer/Clerk of the Court

* * *

**IN THE NAPOLEON MUNICIPAL COURT OF
HENRY COUNTY, OHIO**

IN THE MATTER OF:

Diamond and Gold	CASE NO.
Outlet	SEARCH WARRANT
125 E. Maumee Ave.	
City of Napoleon,	
State of Ohio	

To, Chief of Napoleon Police Department and/ or his officers or any Law Enforcement Officer with Authority in the City of Napoleon, County of Henry, State of Ohio:

WHEREAS affidavit having been made before me, Amy Rosebrook, Judge, by Officer Nick Evanoff of the Napoleon Police Dept. of Napoleon, Henry County, Ohio, subsequent to being duly sworn, deposed and said that he has reason to believe that at the premises known as: Diamond and Gold Outlet 125 E. Maumee Ave, City of Napoleon, located in the County of Henry, State of Ohio, more specifically described as a retail business structure, brown in color building, with a sign above the front window clearly says DG Diamond and Gold Outlet, including any locked or unlocked safes and curtilage area, to wit: there is now being concealed certain property, including but not limited to the following: jewelry specifically men's wedding band silver in color white gold six clear stones recessed inside, licenses, records of sales and purchases both hard copy and digital, all which are evidence of the commission of a criminal offense, to wit: in violation of Section 2913.51 (Receiving Stolen Property), Section 4728.02 (License Required for Precious Metals

Dealer), Section 1315.55 (Money Laundering), and Section 2923.32 (Engaging in Pattern of Corrupt Activity) or contraband, the fruits of a crime, or other things otherwise criminally possessed.

Further, I am satisfied that there is probable cause to believe that the above property so described is being concealed on the premises above described and that the foregoing grounds for application for issuance of the search warrant pursuant to Rule 41(b) of the Ohio Rules of Criminal Procedure exist.

YOU ARE HEREBY COMMANDED to search forthwith the place named for the property specified, the court finding reasonable cause has been shown for authorizing the execution of this **SEARCH WARRANT** and making the search in times of (**X**) **day time only** () **day time or night time**; and if the property be found there to seize it, leaving a copy of this **WARRANT** and a receipt for the property seized and return this Warrant together with a written inventory of the property taken before me within three (3) days of this date, as required by law.

Dated this 2 day of December, 2016.

/s/ _____

Honorable Amy Rosebrook, Judge
of the Napoleon Municipal Court,
Henry County, State of Ohio

NAPOLEON POLICE DEPARTMENT

ARREST RECORD

CFS No.: 16-009881

Fingerprints Requested at Jail

PD Arrest No.: 1 _____ Date: 12/02/2016 Time: 10:15
2 _____ Arrest Location: 125 E
3 _____ Maumee Ave 200 Napoleon, OH
4 _____ 43545
5 _____ Offense Location: _____

NAME: CHIAVERINI, JASCHA J Alias: _____ SSN: _____
Address: 10351 County Road 03 City: Napoleon State: OH Zip: 43545

Home Phone: (419) 599-1900 Cell Phone: _____ Other: _____

DOB: 12/23/1954 Age: 61 Sex: M Hgt: 510 Wgt: 245

Hair: BRO Eyes: BRO

Build: _____ S/M/T: _____ Occupation: _____ Employer: _____

OLN: RT341970 State: OH Race: _____ Marital Status: _____

Birth Place: _____ Education: _____

Vehicle Plate: _____ State: _____ Yr: _____ Make: _____ Model: _____ Color: _____

To Appear in Court: 12-08-2016 at 900

Court: Napoleon Municipal Court

Venue: Henry County, Ohio

CHARGES:

<u>ORC/ORD</u>	<u>ORC/ORD Description</u>	<u>F/M</u>	<u>Case #</u>
1. <u>1315.55</u>	<u>Additional prohibited activities. (MONEY LAUNDERING)</u>	<u>F-3</u>	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____

Arrest Disposition: _____

Arresting Officer: Ptl. Evanoff-05NE Transporting Officer: _____

Next of Kin: _____ Relation: _____

Address: _____ Phone: _____

NAPOLEON POLICE DEPARTMENT

Page 2 of 2

COMMENTS:

On 11-16-2016 at 16:10 HRS Ptl. Evanoff and Ptl. Steward were dispatched to 125 E. Maumee Ave., Diamond and Gold Outlet, in the City of Napoleon, Henry County Ohio for a report of stolen property being sold there.

Through investigation it was learned that Jascha Chiaverini, the Defendant bought a ring and earring while suspecting that they were stolen.

The Defendant was later informed by the Napoleon Police Department that these items were confirmed as stolen. The Defendant furthered the commission of corrupt activity by refusing the return of the stolen property.

It was also learned that the Defendant was acting as a precious metals dealer without first having obtained a license from the Division of Financial Institutions in the Department of Commerce, and has been operating as a precious metals dealer without the proper license's required by the State of Ohio since 06-30-2013.

PTL. N EVANOFF U-5

- 0 YES SEIZED EVIDENCE ARE REQUESTED TO BE DESTROYED OR FORFEITED
- 0 NO RESTITUTION OWED TO WHO ____ AMOUNT \$____
- 0 YESCCH CHECKED
- 0 NO BOND REQUESTED
- 0 YESLOCAL RECORD CHECKED
- 0 YESPRIOR CONVICTIONS

1/23/2014 SALES TAX NAPOLEON MUNICIPAL COURT

property has been obtained through commission of a theft offense.

TO WIT:

In violation of Section 2913.51(A) of the Ohio Revised Code.

VALUE OF PROPERTY/ \$ 350.00
SERVICES:

DESCRIPTION OF PROPERTY/ MENS RING WHITE GOLD
SERVICES: WITH 6 STONES IN 3
RECESSED SETTINGS,
WHITE GOLD EARRING
WITH CLEAR STONE-
PRINCESS CUT

PENALTY:

First Degree Misdemeanor
Six (6) Months and/or \$1,000.00 Fine

/s/ _____

Complainant: Ptl Nicholas Evanoff

*Sworn to and subscribed before me by the
Complainant on December 02, 2016*

/s/ _____

Notary Public/Authorized Peace
Officer/Clerk of the Court

Court Date: 12/5/2016 9:00:00 AM

Request for Warrant

Court Copy Defendant Copy Return Copy Extra Copy

* * *

purpose of committing or furthering the commission of corrupt activity.

TO WIT:

In violation of Section 1315.55(A)(1) of the Ohio Revised Code.

PENALTY:

Third Degree Felony
9, 12, 18, 24, 30, 36 Months
and/or \$10,000 fine

/s/ _____

Complainant: Ptl Nicholas Evanoff

Sworn to and subscribed before me by the Complainant on December 02, 2016

/s/ _____

Notary Public/Authorized Peace Officer/Clerk of the Court

Court Date: 12/5/2016 9:00:00 AM

Request for Warrant

Court Copy Defendant Copy Return Copy Extra Copy

* * *

TO WIT:

In violation of Section 4728.02 of the
Ordinances of Napoleon, Ohio.

PENALTY:

First Degree Misdemeanor
Six (6) Months and/or
\$1,000.00 fine

/s/
Complainant: Ptl Nicholas Evanoff

*Sworn to and subscribed before me by the
Complainant on December 02, 2016*

/s/
Notary Public/Authorized Peace
Officer/Clerk of the Court

Court Date: 12/5/2016 9:00:00 AM
Request for Warrant

Court Copy Defendant Copy Return Copy Extra Copy

* * *

**EMAIL CORRESPONDENCE BETWEEN
ROBERT WEITZEL AND BILLY HARMON**

Re: Re[2]: D & G

Hawken Flanagan <hawken@outlook.com>

Thu 12/8/2016 4:14 PM

2016-12

To: Robert Weitzel <rwelt.zel@napoleonohio.com>;

Cc: Jamie L. Mende, <jmendez@napoleonohio.com>;

Billy Harmon <bharmon@napoleonohio.com>; Nick

Evanoff <nevanoff@napoleonohlo.com>;

Thank you all for your efforts in this matter. The case has been set for a preliminary hearing on Monday at 1:00. Whoever is coming from the PD, we will definitely have a hearing. I'm sure we can get past the preliminary, but I know Jascha and his attorney, George Rogers, are very intent on getting rid of the laundering charge.

Thank you,

Hawken

From: Robert Weitzel <rweitzel@napoleonohio.com>

Sent: Wednesday, December 7, 2016 4:32 PM

To: Hawken Flanagan

Cc: Jamie Mendez; Billy Harmon; Nick Evanoff

Subject: Re(2): D & G

Sir,

Thank you for including me in this post. I sent an earlier email and am not sure if it went out. Our small server is having issues.

I have attached a narrative from the original theft case that was reported by the owner of the ring, Mr. Hill. Please note the 4th paragraph where Jascha tells my officer that he purchased the ring and kept the record because he thought it was stolen. The purchase was a day or two earlier than this report and Jascha never called us.

I hope this helps settle your mind on this issue.

See attached

-----Original Message-----

From: "Hawken Flanagan" <hawken@outlook.com>

To: "Billy Harmon" <bharmon@napoleonohio.com>

Cc: "Robert Weitzel" <rweitzel@napoleonohio.com>, "Jamie Mendez" <jmendez@napoleonohio.com>, "Nicholas Evanoff" <nevanoff@napoleonohio.com>

Date: 12/07/16 14:14

Subject: Re: D & G

Gentlemen,

My concern with the money laundering charge – under any subsection is that it requires the defendant conducts a transaction with purpose to commit/promote corrupt activity. At this point, my understanding is the corrupt activity forming the basis for the charge is receiving stolen property. Do we have evidence that he knew the property was stolen when he purchased it? If I'm trying to prove that he conducted the transaction with purpose to commit/promote corrupt activity, I have to prove that in purchasing the ring, it was his specific intent to

commit or promote activity In violation of r.c. 2913.51 (receiving stolen property).

I have not been involved in this investigation throughout. Maybe there is evidence of this.

From: Billy Harmon” <bharmon@napoleonohio.com>
Sent: Wednesday, December 7, 2016 10:34 AM
To: hawken@outlook.com
Cc: Robert Weitzel; Jamie Mendez; Nicholas Evanoff
Subject: D & G

Hawken,

Just as a heads up I wanted to let you know that PD will be adding 1315.55(A)(3) to Chiaverini’s charge . In my opinion this section of the code will be easier to handle than the (A)(1) section if/when you are pushed to put evidence on at a prelim. (A)(3) states that “No person shall conduct or attempt to conduct a transaction with the purpose to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on of corrupt activity.” I believe that this fits easier than (A)(1) because you will not have to deal with licensing issues in order to show that 1. he conducted a transaction 2. with the purpose of (choose a verb listed such as) carrying on “corrupt activity.” The definition of corrupt activity includes, by statute, receiving stolen property. So you will simply have to show that he 1. conducted a transaction (should be easy enough) 2. with the purpose of (again choose your verb) promoting, carrying on, etc. “corrupt activity” as statutorily defined. I think you should have a fairly easy time

getting this (A)(3) charge past a probable cause hearing.

Additionally, and not needed to get the (A)(3) charge past a prelim, Chiaverini has admitted that he does not have a license to operate as a precious metals dealer. In court I would expect that he will claim an exemption to the licensing requirement. The exemptions to the licensing requirements under R.C. 4728 are in 4728.11. The exemption he has so far claimed is based on percentage of sales. Section (E) of 4728.11 contains the myriad of provisions he must comply with in order to claim such an exemption. 4728.12 imposes further duties on a person claiming such an exemption. Further 4728.13(C) states "In any proceeding or action brought under this chapter, the burden of proving an exemption from a requirement of this chapter falls on the person claiming the benefit of the exemption." PD is still going through the evidence seized last week. I hope this gives you an initial idea of where to start in preparation for the eventual prelim in this case.

I am available to assist in preparing for the upcoming preliminary hearings. I imagine we could get Gwen scheduled as well for further assistance. After we get past the prelim stage we need to speak with Jaime's contacts at the state in preparation for an eventual indictment. Please call or otherwise respond if you have any questions.

Billy D. Harmon

[1] IN THE CITY OF NAPOLEON
MUNICIPAL COURT
OF NAPOLEON, OHIO

STATE OF OHIO, Plaintiff, -vs.- JASCHA CHIAVERINI, Defendant.	Case No. 16CRB1276 16CRA1275 16CRA1312 TRANSCRIPT OF PROCEEDINGS
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HEARD:

December 12, 2016

BEFORE:

HON. AMY ROSEBROOK,

JUDGE

APPEARANCES:

Hawken Flanagan, Henry County Prosecuting Attorney,
on behalf of PLAINTIFF

George C. Rogers, Esq.,
on behalf of DEFENDANT.

Prepared by:
Andrea M. Burgel
Official Court Reporter
Court of Common Pleas
Henry County Courthouse
Napoleon, Ohio

* * *

[37:25]

[DIRECT EXAMINATION OF
JASCHA CHIAVERINI]

[BY MR. ROGERS]:

MR. ROGERS: And during [38] that period of time have you called the police department to alert them that something that you bought you think is suspicious?

MR. CHIAVERINI: Many times.

MR. ROGERS: More than twenty times?

MR. CHIAVERINI: Oh yes, more than twenty. We used to have an officer stop in, Officer Nicely used to come in once a week or thereabouts and officer, I can't remember his name right now, he was supposed to come in every Tuesday and pick up our cards.

MR. ROGERS: So you keep buy cards and when you buy something from someone you put there, you take their driver's license...

MR. CHIAVERINI: Well, it's a, we go above and beyond, because what we get, we take, we photograph their ID, we also, our buy card is very thorough, a matter of fact I'm very proud of that, our buy card is that backbone of our business, we ask the person, we put down the description of the property, we have recently, ever since 2013 started photograph all the stuff, even if it is insignificant, we still photograph it, we get very detailed in everything we do on it and then even to the point where we read to the person so that there is no question whatsoever, we read to the person [39] what the card says and pretty much the card says that you are the true and lawful

owner of this property and you have the right to convey it to us at this price that we discussed today and we even go so far to say if all the information on your driver's license or the ID presented to us if it's correct, if it's not correct please correct it and then sign and then we also offer them a copy of it and say according to the statute that they could, if they wish to have a copy of it, either accept it or decline it.

MR. ROGERS: Now I also understand you take photographs of the stuff you're buying now.

MR. CHIAVERINI: Oh yes, very adamant about the photographs of everything we purchase and details of what it is.

MR. ROGERS: And up until, what, a few months ago, when you still had Officer Nicely and others, you were readily making all the buy cards available to the Napoleon Police Department on a regular basis so they could examine exactly what you bought, who you bought it from and so forth.

MR. CHIAVERINI: Absolutely. And it's something, if we would give, in this particular incident, we made the purchase in the morning I assume and then we got a phone call from somebody asking us about a ring we may have bought and the person was giving a [40] very vague information, the name that they said that we would have bought it from, this Brent Burns, I kept saying to the person, call the police and make a police report, call the police, make a police report.

MR. ROGERS: Now let's talk about that process, why do you then tell the person to call the police department.

MR. CHIAVERINI: Because I'm not going to say to a person, by the way, excuse me for acknowledging, John Smith sold us a ring, next thing you know they go out and beat up John Smith, I want the police involved all along, so basically what I say is, make a police report immediately and then, we're not going to discuss it with you because we don't want to damage the police possibility of prosecution where they're going to say, well, he described the ring to us and then next thing you know they can't properly prosecute so, the fact is, if this gentleman said to me, called me three times, I kept saying, he was describing a three stone ring instead of a six stone and I was like, he said a two tone, everything was not making sense, I said, just make your police report, finally when he said he bought it from Brent Burns I said sir, stop, this conversation is going to end right now, call the police and hung up the phone and then my next phone call was to the Napoleon PD saying that I believe that I just bought a stolen ring earlier. Now, at the time I didn't know, [41] I treat every, I shouldn't say I treat every, I treat everything with respect to the point that I want to...

MR. ROGERS: The point is, you're the one who called the police?

MR. CHIAVERINI: I'm the one that called the police and told them that I may have bought a stolen ring earlier and they came and the officer came into my store and picked up my card that had the pictures of it on there and went out and had the person at that point start identifying the jewelry off of my pictures and stuff.

MR. ROGERS: Okay. Now, you've retained property that was allegedly stolen before during the

time that the cases were presented criminal court, in particular when you were operating in the City of Toledo.

MR. CHIAVERINI: Oh yeah, absolutely. The Chief of Police gave me this letter and in the past there was a confusion that the officer said that they were going to release it and I pretty much said that they, since the Chief of Police which is, according to the Division of Consumer Finance I must take my orders from him and only him, or his agent that he appointed, directly appointed to me. He never appointed this David Stewart, he said that an agent was Officer Nicely, then it was supposed to be this officer here.

* * *

[59:3]

[CROSS-EXAMINATION]

[BY MR. FLANAGAN]:

MR. FLANAGAN: Okay. When you received the, or when you made that purchase of the ring and the earring from Mr. Burns, did you contact law enforcement personnel to advise them that you believed it was stolen?

MR. CHIAVERINI: After I had gotten, received three phone calls from the victim, or alleged victim, and they were not even describing the proper stuff. After he did say, he mentioned the man's name and each and every phone call per the, even the audible recording you hear me say it, we instructed them to call the police three, four, five, six times, every time, we didn't even want to talk to them but he get trying to describe it. I said, well, I didn't buy anything. Did you buy a wedding engagement ring? No I didn't. And there was a two tone ring; I said no I didn't buy a

two tone ring. It was confusing. Finally I said, after he did specifically state and the recording will show, the minute he said you would have bought it from this man I said, this conversation ends, you need to call the police now and hung up the phone. Not even ten seconds later I'm on the phone calling the Napoleon Police Department summoning them to our establishment because I stated, "I may have boughten some stolen property; I want you to come pick up my card."

[60]

MR. FLANAGAN: Now did you also advise law enforcement personnel that at the time of the purchase you believed that it was stolen?

MR. CHIAVERINI: No, I treat everything that comes into that store, when we photograph it and we do everything, is in compliance to the Ohio precious metals Division of Consumer Finance. We don't know, but we certainly want to make sure that there is no question whatsoever.

MR. FLANAGAN: You were sitting right here, Officer Evanoff was testifying, you heard him state that when he spoke with you, you advised him that when you made the purchase you believed that it was stolen property.

MR. CHIAVERINI: No sir. Again...

MR. FLANAGAN: Was that a lie?

MR. CHIAVERINI: That was incorrect sir. The current of events, I called them and I stated to them after the person called me, the victim called me, made three phone calls, that's when I called the police and said, I may have purchased some stolen property, come in to my store and pick up my card.

MR. FLANAGAN: When [61] Officer Evanoff was in your store speaking to you in person did you advise him, as he testified, that when you purchased the property from Brent Burns you believed it might be stolen?

MR. CHIAVERINI: No, never did, never made any type of a comment like that.

MR. FLANAGAN: Okay. So it's your testimony that when Brent Burns brought the property in you had no indication or suspicion that it was stolen property.

MR. CHIAVERINI: We don't even go through the point sir.

MR. FLANAGAN: It's a yes or no question.

THE COURT: You need to answer the question that was asked sir.

MR. CHIAVERINI: No, we had absolutely, we have absolutely, we absolutely had no idea that it was stolen property.

MR. FLANAGAN: Okay. Had you purchased items of jewelry or reported jewelry from Mr. Burns before?

MR. CHIAVERINI: Yes we have.

MR. FLANAGAN: And were those items often fake?

* * *

[74:21]

THE COURT: You can argue whether the statute under 1315.55 is overbroad, vague can cram other numerous violations into it and make it a felony, make that argument whether that should be a statute,

that should be a law, that should be a criminal violation, you could [75] certainly make that same argument about the RICO statutes, about these money laundering statutes, but the fact of the matter is they are there. They are on the books, they are on the Ohio Legislature saw fit to make those criminal violations and so this Court is obligated to follow those laws. That statute, first of all, under (1) says no person shall conduct or attempt to conduct a transaction knowing that the property involved in the transaction is proceeds of some unlawful activity with the purpose of committing the further commission of a corrupt activity. And also under the (A)(3) no person shall conduct or attempt to conduct a transaction with the purpose to promote, manage, establish, carry on and facilitate the promotion, management, establish or carrying on of corrupt activity. I think that a corrupt activity and this statute, that with the receiving stolen property violation, does fall under the definition of a corrupt activity as contemplated by 1315.55. So I believe that the receiving stolen property is related to this offense and that it constitutes the furthering of the alleged furthering of the corrupt activity. That receiving stolen property says that, alleges that the defendant received, retained or disposed of property of another knowing or having reasonable cause to believe that the property the defendant made the commission of a theft offense. I do not see the ambiguity of the letter sent to the defendant in Defendant's Exhibit #1. The last sentence of that letter [76] states, please release these items to David or Christina Hill. It was further testified that Ms. Hill went to the store with two uniformed police, and that letter was signed by the Chief of Police, the testimony was that Ms. Hill and

two officers in uniform went to the store and were not released that property. And the property was only then obtained after the conduct of the search warrant in conjunction with the arrest of the defendant on these charges. Certainly with the sending of this letter the defendant, I find that there was probable cause that the defendant had probable cause to believe these items were stolen and he retained them contrary to the clear statement of the Chief of Police and the patrolman whose case this was. Did the defendant conduct or attempt to conduct the transaction knowing that the property involved in this transaction was proceeds? That's the other question involved in this. As I tell people, jury's that you cannot look into the mind of another, knowledge is determined from all the facts and circumstances in evidence. IN this case, there were conflicting evidence that there was testimony that the defendant said he knew that the property or he knew that the property was likely to be stolen at the time he bought it from Mr. Burns. And in fact Mr. Burns has been charged with a theft offense. The defendant did testify that was not the case. But given the other circumstances surrounding the retention of this property, in the face of what I determine to be clear evidence [77] and clear direction to give this property back. To me that speak with his purpose in the matter as well. Therefore I am going to find that there is probable cause to believe a crime has been committed and that the defendant committed that crime in these cases and I'm going to bind over this case, both of the felony cases to the Court of Common Pleas for further proceeding. Therefore I am going to has been in these find that committed cases and there is probable cause to believe a crime and that

the defendant committed that crime I'm going to bind over this case, both of the felony cases to the Court of Common Pleas for further proceeding. The misdemeanor charge I find is a companion case to the felony charges and pursuant to Criminal Rule 5 those charges will be bound over to the Court of Common Pleas as well. Bond will continue as previously set however you do need to sign a new OR bond form with the clerk before you leave. That will be all.

* * *

IN THE COURT OF COMMON PLEAS OF HENRY
COUNTY, OHIO GENERAL DIVISION

Jascha Chiaverini
10-351 County Road 0-3
Napoleon, OH 43545

and

Chiaverini, Inc.
125 E. Maumee Ave.
Napoleon, Ohio 43545

Plaintiffs

vs.

City of Napoleon
255 W. Riverview Avenue
Napoleon, Ohio 43545

and

Nicholas Evanoff, as an
individual
310 Glenwood Ave.
Napoleon, Ohio 43545

and

David Steward, as an
individual
310 Glenwood Ave.
Napoleon, Ohio 43545.

and

Jamie Mendez, as an
individual
310 Glenwood Ave.
Napoleon, Ohio 43545

and

Case No. 17CV0126

Judge

**COMPLAINT
WITH JURY DEMAND
ENDORSED HEREON**

Matthew O. Hutchinson
(#0076345)

SHINDLER NEFF LLP
6135 Trust Drive, Suite 115
Holland, OH 43528
(419) 243-6281

mhutchinson@shindlernerneff.com
Attorney for Plaintiff

Robert Weitzel, as an
individual
310 Glenwood Ave.
Napoleon, Ohio 43545

and

David Hill
413 Rohrs Street
Napoleon, Ohio 43545

and

Christina Hill
413 Rohrs Street
Napoleon, Ohio 43545

and

John Doe, unknown persons

Defendants

Plaintiffs, Jascha Chiaverini and Chiaverini, Inc., state for their Complaint against the City of Napoleon, Nicholas Evanoff, David Steward, Jamie Mendez, Robert Weitzel, David Hill, and Christina Hill as follows:

1. Plaintiff, Jascha Chiaverini, is an individual who resides at 10-351 County Road 0-3, Napoleon, Ohio 43545.
2. Chiaverini, Inc., d/b/a the Diamond and Gold Outlet, is an Ohio corporation, with its principle place of business located at 125 E. Maumee Avenue, Napoleon, Ohio 43545.
3. Mr. Chiaverini is a manager at the Diamond and Gold Outlet, a retail jewelry store, which has its principle place of business located at 125 E. Maumee Avenue, Napoleon, Ohio 43545. The

Diamond and Gold Outlet is owned and operated by Chiaverini, Inc., an Ohio Corporation.

4. Defendants, Nicholas Evanoff, David Steward, and Jamie Mendez, were, at all times relevant, police officers, employed by Defendant, City of Napoleon. Defendant, Robert Weitzel, was, at all times relevant, employed by Defendant., City of Napoleon, as the Chief of Police. Although this action is filed against Defendants Evanoff, Stewart, Mendez, and Weitzel in their individual capacities, the acts set forth herein were committed by said Defendants in their capacities as Napoleon Police Officers.
5. Defendants, David Hill and Christina Hill, are married individuals that reside at 413 Rohrs Street, Napoleon, Ohio 43545.
6. At all times relevant, all Defendants acted under color of law.

Summary of the Facts

7. Plaintiffs incorporate paragraphs 1 through 6 as if stated herein.
8. On, or about, December 2, 2016, Defendant Evanoff, filed a criminal complaint in the Napoleon Municipal Court charging Mr. Chiaverini with one count of money laundering, which he claimed was an alleged violation of Ohio Revised Code 1315.55(A)(1), a felony of the third degree, licenses requirements under Ohio's precious metals dealers act, which was an alleged violation of Ohio Revised Code 4782.02, a misdemeanor of the first degree, and receiving stolen property, an alleged violation of Ohio Revised Code 2913.51(A), a misdemeanor of the

first degree. On December 8, 2012, Defendant Evanoff filed an additional criminal complaint in the Napoleon Municipal Court charging Mr. Chiaverini with a second count of money laundering, which he claimed was a violation of Ohio Revised Code 1315.55(A)(3), a felony of the third degree.

9. Defendant Evanoff arrested Mr. Chiaverini on, or about, December 2, 2016, and incarcerated Mr. Chiaverini at the Corrections Center for Northwest Ohio (CCNO) for four days without bail. While incarcerated, Mr. Chiaverini was strip-searched, deprived of his liberty, and later injured.
10. The criminal complaints pertained to a November 16, 2016 transaction, whereby the Diamond and Gold Outlet had purchased a men's ring and a diamond earring from Brent T. Burns for \$45. The Diamond and Gold Outlet intended to scrap the ring and earring for approximately \$56.
11. At all times relevant to the transaction at issue, Mr. Chiaverini was acting in his capacity as the manager of Chiaverini, Inc. d/b/a the Diamond and Gold Outlet.
12. Defendant Burns represented that he was the owner of the men's ring and diamond earring.
13. In compliance with the Diamond and Gold Outlet's policies and procedures, which exceed State of Ohio and other governmental standards, Mr. Chiaverini required Defendant Burns to execute a store buy card and provide a copy of his driver's license. Mr. Chiaverini photographed the ring and earring pursuant to its policy.

14. Later on November 16, 2016, Defendants, David Hill and Christina Hill, contacted the Diamond and Gold Outlet and spoke to Mr. Chiaverini about a ring David Hill claimed had been stolen.
15. David Hill contacted the Diamond and Gold Outlet two more times inquiring about the purportedly stolen ring.
16. Because Defendant Hill had not yet reported the ring stolen, Mr. Chiaverini advised Defendant Hill to make an appropriate report to the Napoleon Police Department.
17. When David Hill refused to initiate a police report, Mr. Chiaverini contacted the Napoleon Police Department to request assistance since David Hill was claiming the ring was stolen.
18. Defendant Evanoff and Defendant Steward responded to the Diamond and Gold Outlet and initiated an investigation.
19. On November 17, 2016, Defendant Steward, and purportedly Defendant Weitzel, executed a letter to the Diamond and Gold Outlet stating that they believed the ring and earring in question were stolen.
20. In the November 17, 2016 letter, Defendant Weitzel and Defendant Steward requested that the Diamond and Gold Outlet “hold this item as in [Ohio Revised Code] 4727.12¹ states, [sic] as evidence of the crime of Theft.”

¹ Ohio Revised Code 4727.12 pertains to pawnbrokers, not precious metals dealers. Ohio Revised Code 4728.01, *et seq.* pertains to precious metals dealers.

21. In the November 17, 2016 letter, Defendant Weitzel and Defendant Steward further requested, “Please accept this letter as the official request for retaining the items that are confirmed to be stolen and the rightful owner being David Hill, 413 Rohrs Street, in Napoleon, Ohio 43545.”
22. In the November 17, 2016 letter, Defendant Weitzel and Defendant Steward, further stated, “Please release these items to David or Christina Hill.”
23. On, or about, November 17, 2016, Defendant Christina Hill came to the Diamond and Gold Outlet and demanded the return of the ring and earring in question. Mr. Chiaverini, as the agent for the Diamond and Gold Outlet, declined to return the ring citing the November 17, 2016 letter from Defendants Weitzel and Steward instructing the Diamond and Gold Outlet to hold the items.
24. When Mr. Chiaverini, as an agent for the Diamond and Gold Outlet, declined to return the items, Defendants Evanoff and Stewart were summoned to the Diamond and Gold Outlet.
25. Defendants Evanoff and Steward advised that if the Diamond and Gold Outlet agreed to relinquish the ring and earring in question, it would be treated as a “co-victim.”
26. Concerned that Ohio Revised Code 4728.09 and the November 16, 2017 letter had ordered the Diamond and Gold Outlet to hold the items, Mr. Chiaverini, on behalf of the Diamond and Gold Outlet, requested the advice of attorney, George Rogers, the then-attorney for the Diamond and

Gold Outlet. Defendants Evanoff and Steward refused to stay to talk to attorney Rogers, and left.

27. Mr. Hill refused to initiate a police report against Mr. Burns because he has a familial relationship with Mr. Burns.
28. Further, Mr. Hill has never filed a civil lawsuit seeking to recover the ring and earring that he claims belong to him.
29. On, or about, December 2, 2016, Defendant Evanoff executed an affidavit in support of his request for a search warrant from Judge Amy Rosebrook of the Napoleon Municipal Court.
30. Defendant Evanoff did not consult with the Napoleon City Law Director or Henry County Prosecutor prior to requesting the search warrant.
31. Based upon information and belief, the policies and procedures of the Napoleon City Law Director and/or Henry County Prosecutor require officers to consult with a prosecuting attorney prior to seeking a search warrant.
32. Defendant Evanoff averred, among other claims, that Mr. Chiaverini and/or the Diamond and Gold Outlet had committed the offenses of receiving stolen property, an alleged violation of R.C. 2913.51, precious metals dealers license requirements, an alleged violation of R.C. 4728.02, money laundering, an alleged violation of 1315.55, and engaging in a corrupt activity, an alleged violation of R.C. 2923.32.
33. Ohio Revised Code 2923.31(1)(2)(c), which defines "corrupt activities," provides that theft offenses, pursuant to Ohio Revised Code 2913.02, and receiving stolen property offenses, pursuant to

Ohio Revised Code 2913.51, are only “corrupt activities,” if the value of the property exceeds one thousand dollars.

34. Defendant Evanoff averred in the criminal complaint he filed against Mr. Chiaverini that the value of the property was \$350, so according to Defendant Evanoff, under oath, the value of the property did not exceed one thousand dollars.
35. Defendant Evanoff knew, or should have known, that the definition of corrupt activity pursuant to Ohio Revised Code 2923.31(1)(2)(c) required that the property at issue have a value exceeding one thousand dollars.
36. As such, Defendant Evanoff knew, or should have known, that he did not have probable cause for the money laundering and engaging in corrupt activity claims because the property did not have a value exceeding one thousand dollars.
37. Defendant Evanoff’s claims that the Diamond and Gold Outlet and/or Mr. Chiaverini had committed money laundering and engaging in corrupt activity were false and misleading.
38. Defendant Evanoff further concealed from Judge Rosebrook the November 17, 2016 letter advising the Diamond and Gold Outlet to hold the ring and earring in question and otherwise failed to notify Judge Rosebrook as to the existence of the letter.
39. By concealing the November 17, 2016 letter, Defendant Evanoff intentionally misled Judge Rosebrook, and or acted with a conscious disregard that his affidavit would have a tendency to mislead Judge Rosebrook.

40. Defendant Evanoff did not have probable cause that the Diamond and Gold Outlet and/or Mr. Chiaverini possessed stolen property because the November 17, 2016 letter from Defendants Weitzel and Steward had specifically requested that the Diamond and Gold Outlet hold the items at issue.
41. Defendant Evanoff did not otherwise have probable cause for the receiving stolen property claim against the Diamond and Gold Outlet and/or Mr. Chiaverini.
42. The November 17, 2016 letter was clearly exculpatory or contained information that would have impeached the claims in Defendant Evanoff's affidavit, and was relevant to Judge Rosebrook's consideration of Defendant Evanoff's request for a search warrant.
43. Had Officer Evanoff disclosed the existence of the November 17, 2016 letter, a reasonable judge would not have issued the search warrant.
44. As such, Defendant Evanoff did not provide Judge Rosebrook with a full and fair disclosure of all the material facts.
45. Pursuant to Ohio Revised Code 4728.01, a "precious metals dealer" is defined as "a person who is engaged in the business of purchasing articles made of or containing gold, silver, platinum, or other precious metals or jewels of any description *if, in any manner, including any form of advertising or solicitation of customers, the person holds himself, herself or itself out to the public as willing to purchase such articles.*"

46. Mr. Chiaverini, in his individual capacity, does not purchase precious metals or jewels from the public.
47. Defendant Evanoff knew, or should have known, that Mr. Chiaverini, in his individual capacity, did not purchase precious metals or jewels from the public.
48. As such, Defendant Evanoff did not have probable cause that Mr. Chiaverini, in his individual capacity, did not violate Ohio's precious metals dealers license requirements.
49. Defendant Evanoff knew, or should have known, that he did not have probable cause that Mr. Chiaverini, in his individual capacity, violated Ohio's precious metals dealers license requirements.
50. At all times relevant, the Diamond and Gold Outlet did not advertise, solicit customers, or hold itself out to the public as willing to purchase precious metals.
51. Defendant Evanoff knew, or should have known, that the Diamond and Gold Outlet had not, at all times relevant, advertised, solicited, or held themselves out to the public as willing to purchase precious metals.
52. As such, Defendant Evanoff did not have probable cause that the Diamond and Gold Outlet had violated Ohio's precious metals dealers license requirements.
53. Defendant Evanoff knew, or should have known, he did not have probable cause for the precious metals dealers license violation claim against the Diamond and Gold Outlet.

54. Further, Ohio Revised Code 4728.11, provides that a person is exempt from license requirements if the person is engaged in a retail jewelry or silverware business, has a valid vendor's license, maintains a fixed place of business in Ohio, and where the total value of the person's purchases from the public represents less than 25% of the person's total retail sales.
55. The Diamond and Gold Outlet is exempt from having to maintain a precious metals dealers license because its purchases from the public does not exceed 25% of its total retail sales and it otherwise qualifies for the exemption.
56. Defendant Evanoff knew or should have known that he did not have probable cause for the license requirements claim because the Diamond and Gold Outlet is exempt from the license requirements.
57. Defendant Evanoff and Defendant Mendez unreasonably relied upon information from the Ohio Department of Finance indicating the Diamond and Gold Outlet did not have a precious metals dealers license, but Defendant Evanoff and Defendant Mendez never inquired as to whether the Diamond and Gold Outlet *was required* to have a license.
58. Defendant Evanoff further acted without jurisdiction in investigating and filing the license requirement claims because, pursuant to Ohio Revised Code 4728.05 and 4728.10, the superintendent of finance has jurisdiction to investigate matters pursuant to Ohio Revised Code 4728.01, *et seq.*

59. Defendant Evanoff knew, or should have known, that the superintendent of finance has jurisdiction to investigate and file license requirement claims.
60. Further, Mr. Chiaverini, on behalf of the Diamond and Gold Outlet, had previously complained to Defendant City of Napoleon about other precious metals dealers advertising in the area without a precious metals dealers license.
61. Defendant City of Napoleon advised that the Napoleon Police Department did not have jurisdiction to investigate precious metals dealers license complaints.
62. As such, Defendant Evanoff knew, or should have known, that he violated the Napoleon Police Department's policy and/or practice that it did not have jurisdiction to investigate and file precious metals dealers license complaints.
63. Based upon information and belief, Defendant Evanoff is, or was, a licensed pawnbroker, or is, or was, a principle in a business entity that was a licensed pawnbroker.
64. Pawnbrokers have similar statutory duties and license requirements, and exemptions, as precious metals dealers.
65. Pursuant to Ohio Revised Code 4728.02, a pawnbroker is not required to obtain a separate precious metals dealers license.
66. As such, Defendant Evanoff has personal knowledge about Ohio's precious metals dealers license requirements beyond his law enforcement training and experience.

67. Because Defendant Evanoff did not have probable cause, and further had concealed the November 17, 2016 letter, the December 2, 2016 search warrant issued by the Napoleon Municipal Court was unlawful.
68. On December 2, 2016, officers of the Napoleon Police Department executed the unlawful search warrant at the Diamond and Gold Outlet, and seized and removed not only the ring and earring in question, but also documents, computers, and other jewelry owned by the Diamond and Gold Outlet.
69. The Defendant officers knew, or should have known, the search warrant was unlawful.
70. On December 2, 2016, Defendant Evanoff, filed in the Napoleon Municipal Court criminal complaints against Mr. Chiaverini, individually, for money laundering, receiving stolen property, and precious metals dealers license requirements.
71. Defendant Evanoff did not consult with the Napoleon City Law Director or Henry County Prosecutor prior to filing the criminal complaints against Mr. Chiaverini.
72. Based upon information and belief, the policies and procedures of the Napoleon City Law Director and/or Henry County Prosecutor require officers to consult with a prosecuting attorney prior to filing a felony criminal complaint.
73. On December 8, 2016, Officer Evanoff filed an additional criminal complaint for money laundering, claiming, in addition to the charges filed on December 2, 2016, that Mr. Chiaverini had violated Ohio Revised Code 1315.55(A)(3).

74. Even though the Henry County Prosecutor was already involved in the pending case, which was scheduled for a pretrial conference that morning, Officer Evanoff did not consult with the prosecuting attorney, nor seek his approval for the additional charge prior to filing the complaint.
75. For the reasons set forth herein as to the search warrant affidavit, Defendant Evanoff, likewise, did not have probable cause to file the criminal complaints for money laundering, precious metals dealers license requirements, and receiving stolen property.
76. As to the precious metals dealers license requirements charge, Defendant Evanoff claimed that Mr. Chiaverini violated "Section 4728.02 of the Ordinances of Napoleon, Ohio."
77. Defendant Evanoff knew, or should have known, that the Napoleon City Ordinances are not numbered beyond 1519, and therefore, that there was no "Section 4728.02 of the Ordinances of Napoleon, Ohio."
78. For the reasons set forth herein as to the precious metals dealers license requirement charge, Defendant Evanoff did not have jurisdiction or authority to file the criminal complaint.
79. Defendant Evanoff did not have probable cause to charge Mr. Chiaverini individually for any of the charges he filed because Mr. Chiaverini, at all times relevant, was merely acting as an agent of the Diamond and Gold Outlet.
80. Defendant Evanoff knew or should have known that he did not have probable cause for the any of

the charges he filed against Mr. Chiaverini as an individual.

81. The Criminal Rule 4 document issued by the Napoleon Municipal Court, stated “SUMMONS — WARRANT ON COMPLAINT.”
82. Judge Rosebrook further failed to check either, “You MAY issue summons in lieu of arrest... or after arrest” or “You MAY NOT issue summons...”
83. When Defendant Mendez served Mr. Chiaverini with the criminal complaints and the Criminal Rule 4 document, attorney Rogers advised that the Criminal Rule 4 document did not clarify whether it was a “summons” or a “warrant.” Defendant Mendez crossed out the word, “summons” and said that the Criminal Rule 4 document was a “warrant.”
84. Mr. Chiaverini was neither a flight risk nor a threat to harm anyone.
85. By comparison, the Defendant police offices only issued a summons for Defendant Burns, who, if Defendants David and Christina Hill are to be believed, committed the theft offense at issue.
86. Defendants Evanoff and Mendez wrongfully arrested and incarcerated Mr. Chiaverini while issuing a mere summons to Defendant Burns.
87. In requesting the search warrant, filing the criminal charges, and arresting Mr. Chiaverini, Defendants City of Napoleon, Evanoff, Steward, and Mendez unreasonably relied upon a July 20, 2015 law enforcement policy issued by Ron O’Brien, Franklin County Prosecutor, and Richard C. Pfeiffer, Jr., City Attorney for the City of

Columbus. That policy pertained to alleged stolen property being held by pawnbrokers.

88. The Franklin County Prosecutor and Columbus City Attorney withdrew the policy after being notified of numerous problems with the policy.
89. Defendants City of Napoleon, Evanoff, Steward, and Mendez knew, or should have known, that the Franklin County Prosecutor and Columbus City Attorney had withdrawn the policy.
90. On, or about, December 21, 2016, Defendant City of Napoleon returned to the Diamond and Gold Outlet, the computers that were seized. Other items were returned on August 17, 2017. Defendant City of Napoleon, however, refuses to return the police hold letters that were seized during the execution of the unlawful search warrant.
91. On September 26, 2017, Mr. Chiaverini delivered to Defendant City of Napoleon a public records request requesting copies of police hold letters that had been provided to the Diamond and Gold Outlet.
92. As of November 16, 2017, Defendant City of Napoleon has yet to provide any documents in response to the public records request, or otherwise provide a written response.
93. Defendants pursued and continued criminal prosecution of Mr. Chiaverini in retaliation for his lawful refusal, as a manager at the Diamond and Gold Outlet, to comply with their demands to release the ring and earring to Defendant David Hill, even though the November 17, 2016 letter

had specifically requested that the Diamond and Gold Outlet hold the items.

94. Defendants aided and abetted one another and conspired together to cause the wrongful search and seizure of Plaintiffs' property, and the arrest, detention, and malicious prosecution of Mr. Chiaverini in violation of Plaintiffs' Constitutional and statutory rights.

COUNT ONE: MALICIOUS PROSECUTION

95. Mr. Chiaverini incorporates paragraphs 1 through 94 as if fully rewritten herein.
96. Defendants acted with malice in instituting and continuing the prosecution of Mr. Chiaverini.
97. Defendants did not have probable cause for the criminal prosecution of Mr. Chiaverini.
98. Because Defendants did not have probable cause for the prosecution, Mr. Chiaverini is entitled to an inference that the proceedings were actuated by malice.
99. As a direct and proximate cause of the wrongful and malicious prosecution, Mr. Chiaverini suffered a deprivation of liberty and incurred damages in excess of \$25,000.
100. The criminal proceeding was resolved in Mr. Chiaverini's favor when the Henry County Common Pleas Court dismissed the case against Mr. Chiaverini and later when the prosecuting attorneys decided not to pursue an indictment or further prosecution.
101. Defendant City of Napoleon has recently represented affirmatively that criminal charges

will not be further pursued against Mr. Chiaverini or the Diamond and Gold Outlet.

**COUNT TWO: FALSE ARREST
AND FALSE IMPRISONMENT**

102. Mr. Chiaverini incorporates paragraphs 1 through 101 as if fully rewritten herein.
103. Defendants intentionally arrested and caused the detention of Mr. Chiaverini at CCNO from December 2, 2016 to December 5, 2016.
104. Said arrest and detention were done without Mr. Chiaverini's consent and without privilege.
105. As a direct and proximate result of Defendant's wrongful arrest and imprisonment of Mr. Chiaverini, Mr. Chiaverini suffered a deprivation of liberty and he incurred damages in excess of \$25,000.

COUNT THREE: 42 U.S.C. Sec. 1983

106. Mr. Chiaverini incorporates paragraphs 1 through 105 as if fully rewritten herein.
107. Pursuant to 42 U.S.C. Sec. 1983, government and government officials may be held liable for violation of a person's Constitutional and statutory rights.
108. The Fourth Amendment to the United States Constitution prohibits the government and government officials from pursuing an unlawful search and seizure, and further from pursuing and continuing a malicious prosecution.
109. The Fourteenth Amendment to the United States Constitution prohibits states and its political subdivisions, and their officials, from pursuing an unlawful search and seizure, and

further from pursuing and continuing a malicious prosecution.

110. Defendants made, influenced, and/or participated in the decision to search and seize property from Plaintiffs, and to initiate a criminal prosecution against Mr. Chiaverini, including, but not limited to, arresting Mr. Chiaverini on December 2, 2016, incarcerating him without bail, and filing criminal complaints against him for money laundering, receiving stolen property, and license requirements.
111. Defendants did not have probable cause for search and seizure of Plaintiffs' property, or the criminal prosecution of Mr. Chiaverini.
112. Defendants acted with malice in the search and seizure of Plaintiffs' property, and in pursuing and continuing the criminal prosecution of Mr. Chiaverini, including his unlawful arrest and incarceration without bail.
113. As a direct and proximate cause of Defendants' violation of 42 U.S.C. Sec. 1983, Plaintiffs have incurred damages in excess of \$3 million.

COUNT FOUR: CIVIL CONSPIRACY

114. Plaintiffs incorporate paragraphs 1 through 113 as if fully rewritten herein.
115. Defendants acted as a malicious combination to cause injury to Plaintiffs.
116. As a direct and proximate result of Defendants' wrongful conspiracy, Plaintiffs have incurred damages in excess of \$25,000.

COUNT FIVE: CONSPIRACY AGAINST RIGHTS

117. Plaintiffs incorporate paragraphs 1 through 116 as if fully rewritten herein.
118. Defendants violated 18 U.S.C. sec. 241 when they conspired to injure, oppress, threaten, and intimidate Plaintiffs in the exercise of their constitutional rights.
119. Defendants violated 18 U.S.C. sec. 241 by conspiring to injure, oppress, threaten, and intimidate Plaintiffs for exercising their constitutional rights.
120. As a direct and proximate result of Defendants' conspiracy against Plaintiffs' rights, Plaintiffs have incurred damages in excess of \$3 million.

COUNT SIX: DEPRIVATION OF RIGHTS

121. Plaintiffs incorporate paragraphs 1 through 120 as if fully rewritten herein.
122. Defendants violated 18 U.S.C. sec. 242 by, under color of law, willfully subjecting Plaintiffs to the deprivation of constitutional rights, privileges, or immunities.
123. As a direct and proximate result of Defendants' wrongful deprivation of Plaintiffs' rights, Plaintiffs have incurred damages in excess of \$3 million.

COUNT SIX: NO QUALIFIED IMMUNITY

124. Mr. Chiaverini incorporates paragraphs 1 through 123 as if fully rewritten herein.
125. Defendants City of Napoleon, Evanoff, Steward, Mendez, and Weitzel are not entitled to

qualified immunity because they knew or should have known that their actions violated Plaintiffs' clearly-established statutory and constitutional rights.

126. Defendants Weitzel and Steward specifically requested in their November 17, 2016 letter that the Diamond and Gold Outlet hold the items. The Defendant police officers pursued and continued the criminal prosecution of Mr. Chiaverini because he failed to comply with their demands that he, as a manager of the Diamond and Gold Outlet, return the ring and earring, even though the Defendant police officers knew, or should have known, that Ohio Revised Code 4728.09 and the November 17, 2016 letter specifically directed otherwise.
127. Defendant City of Napoleon and the Defendant police officers knew or should have known that the money laundering claims, receiving stolen property claims, and license requirement claims were not supported by probable cause and knew or should have known that the Franklin County/ City of Columbus policy, upon which they relied, was rescinded.

COUNT SEVEN: REPLEVIN

128. Plaintiffs incorporate paragraphs 1 through 127, as if rewritten herein.
129. Defendant City of Napoleon, through its officers and agents, unlawfully seized property belonging to the Diamond and Gold Outlet.
130. Said property was seized pursuant to an unlawful search warrant.
131. Defendant City of Napoleon has refused to return certain police hold letters that were seized.

132. As a direct and proximate result of Defendant City of Napoleon's wrongful seizure and withholding of the Diamond and Gold Outlet's property, including the continuing withholding of property, the Diamond and Gold Outlet has incurred damages.

COUNT EIGHT: PUBLIC RECORDS REQUEST

133. Plaintiffs incorporate paragraphs 1 through 132, as if fully rewritten herein.

134. Defendant City of Napoleon has willfully failed to provide the public records requested by Mr. Chiaverini and has otherwise failed to provide a written response or explanation for why the requested records have not been provided.

135. As a direct and proximate result of Defendant City of Napoleon's willful failure to respond to Mr. Chiaverini's public records request, Mr. Chiaverini is entitled to a writ of mandamus ordering Defendant City of Napoleon to forthwith provide or make available the requested documents and, further for statutory damages in the sum of \$100 per day since the date of the request.

136. Mr. Chiaverini is further entitled to an award of reasonable attorneys' fees and costs.

COUNT NINE: PUNITIVE DAMAGES

137. Mr. Chiaverini incorporates paragraphs 1 through 136 as if fully rewritten herein.

138. Punitive damages are appropriate and necessary in this case because Defendants' conduct was willful, intentional, and deliberate, and done with a conscious and reckless indifference to the rights of Mr. Chiaverini.

COUNT TEN: ATTORNEYS' FEES

139. Mr. Chiaverini incorporates paragraphs 1 through 138 as if fully rewritten herein.
140. Attorney fees are appropriate and necessary in this case pursuant to 42 U.S.C. sec 1988.
141. Attorney fees are appropriate and necessary in this case pursuant to Ohio Revised Code 149.43.
142. Attorney fees are further appropriate and necessary in this case pursuant to Ohio law.

WHEREFORE, Plaintiffs respectfully request that the Court issue judgment against Defendants in an amount exceeding \$25,000 for violations of Ohio law; a judgement against Defendants in an amount exceeding \$3 million for the violations of Defendants' civil rights; for an order of replevin ordering Defendant City of Napoleon to return the police hold letters; for an writ of mandamus ordering that Defendant City of Napoleon forthwith provide or make available for inspection, the public records requested by Mr. Chiaverini; for an award of punitive damages; for an award of reasonable attorneys' fees and costs; and for such other relief as the Court may find in law or equity.

SHINDLER NEFF LLP

By: */s/ Matthew O. Hutchinson*

Matthew O. Hutchinson (#0076345)

Attorney for Plaintiff

JURY DEMAND

Plaintiff hereby demands a trial by jury.

/s/ Matthew O. Hutchinson

Matthew O. Hutchinson (#0076345)

Attorney for Plaintiff

PRAECIPE

To the clerk:

Please issue a summons and a copy of the foregoing complaint to the sheriff for personal or residential service upon the Defendants at the addresses set forth in the caption pursuant to the Ohio Rules of Civil Procedure.

/s/ Matthew O. Hutchinson

Matthew O. Hutchinson (#0076345)

Attorney for Plaintiff

[1] UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

JASCHA CHIAVERINI, et al., Plaintiffs, vs. CITY OF NAPOLEON, et al., Defendants.	Case No. 3:17CV2527 Judge Jack Zouhary
--	---

DEPOSITION OF JASCHA CHIAVERINI

DATE: November 29, 2018 at 9:16 a.m.
PLACE: Spengler Nathanson
900 Adams Street
Toledo, Ohio 43604

REPORTER: Michelle K. Schlade, RPR
Notary Public

[2] APPEARANCES:

On behalf of the Plaintiffs:
SHINDLER NEFF:
Matthew O. Hutchinson
6135 Trust Drive, Suite 115
Holland, Ohio 43528

On behalf of the Defendants:
SPENGLER NATHANSON:
Teresa L. Grigsby
900 Adams Street
Toledo, Ohio 43604

ALSO PRESENT:
Jamie Mendez

[169:2]

[BY MS. GRIGSBY]:

Q. Just for purposes of the record, just a copy of the docket sheet on that Burns criminal conviction.

Now, he came in, you said, late morning. You made the transaction. And then you started to describe for me – back up. What steps did you take, other than having him fill out the statement on the buy card and take his license number, to assure yourself that this was not stolen property at the time that you acquired it?

A. Okay. Here's exactly what is done. This is procedure. This has been procedure at the Diamond and Gold Outlet. It's been procedure of Chiaverini, Incorporated, for many, many, many years.

We write down all the information. We photocopy the ID. We mark down – up here, it says date. We mark down the date. We mark down the time to exactness, 1:27 p.m. We mark down the amount, \$45. ID used, which we pointed over here. Now, the DOB comes off of the driver's license. And then it says AJ/JC.

Now, we also verify the ID per the State of Ohio. They gave us a way they want us to do it. They say ask the person something that you could identify that that's a true ID. I asked the State – Matt Walker was probably the person or the lady at the thing says if you [170] ask a person their age, you can compute pretty quickly. And say like Brent Burns says, oh, I'm 40. Wait a minute. It adds up to 35. So we always ask the person to tell us what their age is, which we do. In this case, Amanda put down M, male.

Then what we do is this here: We proceed to get the property, what it is. And we turn the document to the person, and we also point down with our pen and we say to that person that what this is saying – please read this. What this is saying in layman’s terms is that you are selling this or conveying it to the Diamond and Gold Outlet – and I point down to the Diamond and Gold Outlet, the name – for the amount that we discussed at the time that – and I point at each one of these. We point out to them what we discussed, what we did, and for the amount that we did.

And what this bottom section is saying is that, very clearly, you are the true and lawful owner of the this property and you have the right to sell.

Q. So you’re relying upon the statement of the seller that they are the lawful owner and they have the right to sell?

A. Well, not only that. You’re going to hear what I’m going to finish saying. We’re going to actually ask them verbally, you [171] are the true and lawful owner of this property and you have the right to sell to us. If everything is correct on your ID – which we specifically ask them because we don’t want them to question are they presenting a false ID to us. If everything is correct on your ID, please sign and print your name.

Q: Okay.

A: If there is anything wrong on your ID, like address, not the correct address or something inappropriate, we want you, with your handwriting, to print it down.

Now, one of the next little things that we do that we don’t normally have to do, we look at the person and say to them, do you wish to have a copy of this buy card for your records. And then they say yes or no. If

they say no, then you have to put an X, initial it and date it in your handwriting. And then when we hand them the cash, hand them \$45, and give them back their ID, we specifically state again you are the true and lawful owner of this property; is that correct. And we give them – at any time, they can back out and say no, we're going to walk away; I don't want to sell this to you.

Q. Do you ask questions about – did you ask him where did you acquire this jewelry?

A. I don't recall.

[172]

Q. Do you require asking anybody any questions of him that would enable you to identify where he may have acquired it?

A. If, indeed, a person comes in and starts to talk to us and says something to the effect of, like, oh, this is my girlfriend's ring or something, we will refuse to conduct business with them.

Q. You would agree that anybody can lie and say they're the rightful owner?

A. Ma'am, you're absolutely right. There's no protection on that issue. I did everything prudently possible. We do everything prudently possible. You know, there's nothing – no guarantee. I mean, I can go buy a car from a car dealer, and it can be a phoney title or a stolen car or something. There's no guarantee in that aspect. But I do everything prudently possible to attempt to make sure we're not going to get – you know, that we identify. At any point, that person can back away and say I'm not going to sell it to you. Fine.

Q. You could ask questions about where they acquired it.

A. Ma'am, if you look at that statute, if you look at the State of Ohio statute –

Q. Could you have asked those questions?

* * *

[181:3]

[BY MS. GRIGSBY]:

Q. So you can't tell me one way or the other the nature of the conversations that David Steward had with the Hills while you were not there?

A. I have no idea. Hill was not welcome in my store.

Q. Okay. And so your testimony is that Mr. Evanoff left the store with the buy card?

A. Yes.

Q. And you remained in the store?

A. Absolutely.

Q. And you don't know what happened outside with Mr. Evanoff, Officer Evanoff, Officer Steward –

A. No idea other than what was seen on video.

Q. Okay.

A. No.

Q. Isn't it true that you told an officer of the Napoleon Police Department that the reason you would not return the items to the Hills is because you were so upset about your intersection with David Hill?

A. No. Yes. I said – first off, let's go further. The officers came in. Officer Mendez came into the store on the 17th and handed me a –

Q. Well, okay. So is this a separate – you talked [182] about – let's get the dates right. You testified earlier that the officers came in on the 16th.

A. The 16th and took my report, took this buy card.

Q. And you said that at that time –

A. No, I never said that at that time.

Q. No, no. You said that at that time, the Hills were on the premises as well?

A. No. David Hill was outside. He was very disruptive in our store. I said I don't want him in our store.

Q. Okay. So that's the 16th?

A. He was screaming and yelling on the 16th.

Q. Okay. Now on the 17th.

A. On the 17th, Officer Mendez comes into our store and walks in the front of the watch counter, hands me a paper, which was a hold letter, and I nodded. He says you know – the word was, you know what this is. I says yeah, I know what this is, and I nodded at him, thank you, have a nice day. He walked away. I took the hold letter at that time. The hold letter was given to me. I said okay, we have a situation now. At that time, I got the hold letter, which I don't have here in front of me.

Q. We'll talk about that in a moment. I want to get the sequence of events.

[183]

A. The fact of the matter is, is that the officers came in – or no. I was there, got the hold letter. I had to return some product to New York. Keep in mind, now, we're under the insurance laws –

Q. Just focus on the question.

A. The question is what happened. You're asking me what –

Q. Let me ask a question.

A. Go ahead and ask it.

Q. We've discussed in full your interactions with the Hills on the 16th?

A. On the 16th, yes.

Q. And do you remember any other conversations that you had with police officers on the 16th with respect to the transaction?

A. I believe Officer Evanoff might have said, yeah, this is – you're going to have to hold this, Jasch, we'll issue you a hold letter.

Q. So at that point, you were aware that there was a suspicion that something you had purchased from Burns was stolen?

A. Well, yeah. That's what the whole purpose of a hold letter is.

Q. Do you remember any other statements made by any of the officers on the scene on the 16th?

[184]

A. That was – nothing else was ever said to me on the 16th other than they'll be back in contact with me.

Q. Okay.

A. Which we have to hold it five days anyway. But they – normally, it's a mandatory hold five days.

Q. So the next day, you testified that Detective Mendez came to the store and handed you a hold letter?

A. Correct.

Q. And tell me everything you can remember about the conversations you had at that time.

A. Well, okay. Officer Mendez came in, gave us a hold letter. And of course, at that time, I took it, went in the back room with it or whatever. I think we had customers in the store at that point. I didn't want him to disrupt any of our customers.

And when I got the hold letter, I looked at it and said, huh, this doesn't make any sense. And right off the bat, I immediately called Mr. Rogers. Okay.

Q. This is while the officers were still in the store?

A. The officers weren't there. Like I said, Officer Mendez came and gave me the hold letter and left. And this was probably – I don't know the exact time off the top of my head. It might have been like 2:00, 11:00, 12:00. I don't know what time he gave me the hold
[* * *]

[185]

* * *

[215:13-19]

[BY MS. GRIGSBY]:

Q. Okay. Okay. So when you were arrested and taken into custody on Friday, December 2nd, 2016, this was not the first time you had been taken into custody or incarcerated, correct?

MR. HUTCHINSON: Objection.

You can answer.

A. No.

* * *

[217:2-218:16]

Q. Did the officer who transported you mistreat you in any way?

A. No. Very nice.

Q. Okay. And you were ultimately taken to CCNO, correct?

A. Correct.

Q. And you were there until you were released on December 5th, 2016?

A. Yes.

Q. So you spent roughly three days in custody at CCNO?

A. Over three days.

Q. Less than four days in custody at CCNO?

A. Yes.

Q. How is it you came to be released?

A. I think the Judge ordered OR bond.

Q. Well, that's what I'm asking. Did you post bond?

A. I believe the Judge gave, you know, video arraignment or something.

Q. Do you know one way or the other how you came to be released, sitting here today, without speculating?

A. The Judge said I can be released. I was on video. I wasn't present in front of the Judge.

Q. You had a video arraignment?

[218]

A. Correct.

Q. Were you represented during that arraignment by Mr. Rogers?

A. Yes.

Q. Okay. Do you have any recollection of whether or not you had to post bond?

A. I think it was considered OR, if I look at my paperwork.

Q. So you didn't have to produce any funds out-of-pocket in order to secure your release?

A. We were prepared to, yes.

Q. But you didn't —

A. We didn't have to.

Q. Okay. So you didn't lose any money by way of having to post a bond?

A. No.

* * *

**IN THE COURT OF COMMON PLEAS
OF HENRY COUNTY, OHIO**

CHIAVERINI, INC., Plaintiff, v. CITY OF NAPOLEON, Defendant.	Case No. 17-CV-0056 Hon. John C. Collier AFFIDAVIT OF CHRISTINA HILL
--	---

STATE OF OHIO

ss:

COUNTY OF HENRY

I, CHRISTINA HILL, being first duly sworn, do hereby state:

1. In mid-November 2016, items were stolen from the home I shared in Napoleon with my husband David Hill. The items included a men's white gold ring with six stones in three recessed settings and a princess cut earring with a clear stone.

2. My husband and I later learned that the items were sold at the Diamond and Gold Outlet in Napoleon operated by Jascha Chiaverini. We told Mr. Chiaverini that the jewelry had been stolen from us, and asked him to return it to us. He refused to do so.

3. We contacted the Napoleon Police for help. On November 16, 2016, my husband and I met with the police at the Diamond and Gold Outlet. We described the jewelry and showed the police pictures of it. The police confirmed that the description and pictures matched jewelry that had been sold at the Diamond

and Gold Outlet. The police told Mr. Chiaverini not to sell our jewelry to anybody else.

4. The police said they would give Mr. Chiaverini a letter telling him not to sell the jewelry and to return in to us. The next day I went to the Diamond and Gold Outlet to retrieve the jewelry. Mr. Chiaverini refused to give it to me. The police were called. He still refused to give return our jewelry. Mr. Chiaverini continued to keep our jewelry even after he knew it was stolen, and he never returned it to us.

5. The man who stole the jewelry was prosecuted for theft because of this situation. I understand he pled guilty to the charge.

1/7/2019
Date

/s/ _____
Christina Hill

NOTARY CERTIFICATION

Sworn to before me and subscribed in my presence this
7th day of January, 2019.

/s/ Teresa Grigsby
Notary Public

My commission expires

[Notarial Seal, State of Ohio]

[1] UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

JASCHA CHIAVERINI, ET AL.,

Plaintiffs,

vs.

NICHOLAS EVANOFF, ET AL.,

Defendants.

Case No. 3:17CV2527

Judge Jeffrey L. Helmick

DEPOSITION OF ROBERT WEITZEL

DATE: September 27, 2019 at 9:33 a.m.

PLACE: Henry County Court of Common Pleas
Law Library, Third Floor
Napoleon, Ohio 43545

REPORTER: Michelle K. Schlade, RPR
Notary Public

* * *

[2] APPEARANCES:

On behalf of Plaintiff Jascha Chiaverini:

SHINDLER NEFF:
Matthew O. Hutchinson
6135 Trust Drive, Suite 115
Holland, Ohio 43528

On behalf of Plaintiff Chiaverini, Inc., and as Co-
Counsel for Jascha Chiaverini:

Michael Stahl
William V. Stephenson
316 North Michigan Street, Suite 600
Toledo, Ohio 43604

On behalf of the Defendants:

SPENGLER NATHANSON:

Teresa L. Grigsby
900 Adams Street
Toledo, Ohio 43604

ALSO PRESENT:

Jascha Chiaverini
John Adkins, Videographer

* * *

[33:2]

[BY MR. HUTCHINSON]:

Q. But I mean, for somebody accused of receiving stolen property, calling the police might be considered evidence of innocence, correct?

MS. GRIGSBY: Objection.

You can answer.

THE WITNESS: I can go ahead and answer?

MS. GRIGSBY: Go ahead and answer.

BY MR. HUTCHINSON:

A. Might be. Not necessarily, but might be.

Q. But that's the relevance of your comment in the December 7th email is that had he called us, that might be evidence of innocence?

MS. GRIGSBY: Objection.

You can answer.

A. I don't know that was my intent, no.

Q: Just as a personal opinion, would you take somebody as more innocent than not if they contact the police?

MS. GRIGSBY: Objection.

You can answer.

A. Oh, in my experience in all of my years, the answer to that is no, I never take that because I've seen many, many cases where somebody rushes to the phone to make excuses.

[34]

Q. I guess I mean in terms of a receiving stolen property case, not domestic violence or other types. But just specifically with regard to receiving stolen property, if somebody reports something to the police, would you agree with me that that would be indicative of innocence?

A. I would not. I just can't say that.

* * *

[41:2]

[BY MR. HUTCHINSON]:

Q. All right. Now as you're reviewing Exhibit 3A and 6, you would agree with me that it would appear that this narrative supplement was altered or changed?

A. It was updated, yes.

Q. All right. Based on what you have in front of you, do you have the ability to discern when it was changed?

A. No. You just can't tell. You have to look at the computer program's audit to see that.

Q. So the computer program has, you called it, an audit?

A. Yes.

Q. And what is that? Is that like a change log?

A. Yes, yeah, uh-huh.

Q. All right. Would either you or someone else have the ability, after a narrative supplement like this is changed, to go back and get the original version, if you know?

A. The program wouldn't do that. If it was copied – after it was originally created, if it was copied and there was a file copy kept, then I would say yes, you could go back and get it, but that would probably be the only way, if it was copied before an update was done.

Q. So the only way either you or someone else would [42] know that a narrative supplement such as 3A and 6 was changed would be to go into this audit? Is that –

A. Yeah. I don't even know if – yes, I think we can – we can view the audit. I don't know if that's – yeah, I think we can view the audit. I don't remember ever looking at the audit, but the computer has audit capability and keeps a record of when things are done and –

Q. As a matter of course, does the Napoleon Police Department provide the audit to the prosecuting attorney?

A. No. It's a computer-generated thing. I don't even know if we can get it. I think it might be a programmer's thing, and we may have to call the company for that. It's not like a part of the record. It's a part of the computer program, I think.

Q. And just for clarification, if I understand your testimony, you were not aware of the Exhibit 6 version of this narrative supplement until this morning?

MS. GRIGSBY: Objection.

You can answer.

A. I don't remember if I was or not. The reason why I remember the 3A is because that was specifically told to me in a conversation. I had never even seen that, to my knowledge. I can't remember seeing it. I shouldn't [43] say never. To my knowledge, I don't remember even seeing it.

But I remember the conversation. And when I read the email, I said I remember a conversation where they said he had purchased this knowing it was stolen. That has to be in the report. So that was when we went and found the narrative or I went and found the narrative and went – I think I found the narrative. It might have been told to me which narrative or handed to me which narrative. Again, I don't remember that specifically. But at that point, I knew it was in the report and attached it and sent it.

Q. As part of that conversation, was it ever brought to your attention that that sentence had been added?

A. I just don't remember. I just don't remember. If it wasn't in there and it was added later, it was a good update to put in because it was definitely evidentiary.

Q. Well, we're going to get there.

I'll show you what's been marked as Exhibit 7.

A. Would you like me to read the whole thing?

MS. GRIGSBY: Yes. Take all the time you need.

A. All right.

Q. Have you ever seen Exhibit 7 before?

[44]

A. No.

Q. All right. It purports to be an affidavit of David Steward that was filed in the Chiaverini,

Incorporated, versus City of Napoleon replevin case here in the Henry County Common Pleas Court.

I direct your attention to paragraph 4. You can see that he admits in this affidavit that on or around December 2, 2016, I added additional details concerning the discussion in the narrative supplement.

A. Okay.

Q. Do you see that?

A. Yes.

Q. Does Exhibit 7 in any way change your recollection and say, oh, I do remember Steward told me that or anything like that?

A. I just remember I was told. I don't remember if it was Steward. It could have been any one of the other officers that heard that conversation. I just don't remember.

Q. Does it change your recollection as to ever being informed that the sentence in 3A had been added?

A. I'm not saying it does or doesn't. I'm just not sure.

I mean, criminal investigations are quite detailed and sometimes laborious. And you write – [45] originally, you write things, and then you remember things later, oh, I needed to go back and put this in or something. It happens. I can't say that a report stays exactly the same through its life.

So could it have been added later because somebody said, hey, we forgot to put it in or wasn't that said, shouldn't that be in there. Those conversations take place. I'm just not sure.

Q. Now, from all the way from auxiliary officer to Chief of Police, I presume you'd agree with me that writing reports is maybe not a fun part but an important part of a police officer's job?

A. Yes, yes.

Q. And the reports aren't just relied upon by the officer but, in fact, they're relied upon within the department, correct?

A. Yes.

Q. Other officers are going to look at, whether it be the narrative supplement or other parts of a report or an incident report, and it will impact perhaps what they do either on that case or maybe a different case?

A. Yes.

Q. It's relied on by prosecuting attorneys?

A. Yes.

Q. Defense attorneys?

[46]

A. Yes.

Q. It's part of the decisionmaking on whether maybe somebody takes a plea or not, correct?

A. I would say yes.

Q. And judges rely on it, do they not?

A. I don't know if judges see the reports, but I suppose, you know, in testimony, yes.

Q. Are you familiar that sometimes officers write a report Dear Your Honor. Have you ever seen that?

A. Well, statements of fact for cases, yes.

Q. And sometimes even probation officers might go back, even if it's not pertaining to that particular case,

but they want to know what happened with somebody's priors?

A. Yes.

Q. It will have an impact on that too perhaps?

A. I suppose it could.

Q. And reports are routinely made exhibits in court, are they not?

A. Yes.

Q. Exhibits like today?

A. Yes.

Q. Fair to say that accuracy is important?

A. Yes.

Q. Now, does the Napoleon Police Department in any [47] way limit the amount of time an officer can spend writing a particular report?

A. No. I mean, we want them filed timely. We want them written timely because it's important to put down as much as you can as soon as you can, again, to inform other people what's going on.

But again, these are – these are live documents. They grow. They change. The investigations go different directions. You remember something you should have put in. You go back and put it in or you forgot to put something in and somebody reminds you to put it in. I mean, things like this happen on a fairly regular basis. And I know, since I wrote a lot of reports over time, that I would reread and go back and fix reports, change things that I didn't make clear, those types of things over my career.

Q. But you wouldn't suggest an officer sacrifice accuracy just to get a report out quick?

A. I don't think so, no. Any sacrifice of accuracy would be a mistake. It would just be an accident and they would hopefully catch it and fix it.

* * *

[57:3]

[BY MR. HUTCHINSON]:

Q. Would you agree with me that the circumstances could be – this could have come into play in a couple different circumstances. Let me explain.

One option is as you read Exhibit 3A and 6, that Evanoff could have come out of the Diamond and Gold Outlet, having talked to Jasch, and told Steward right away and Steward just –

A. Missed it.

Q. – missed it and forgot to put –

A. Yes.

Q. – it in his report?

A. Yes.

Q. That's an option?

A. That is an option.

Q. It's also an option that Evanoff came out and didn't say that at that time?

A. At that time.

Q. And sometime later, says to Steward something to the effect of, oh, I forgot. Jascha told me this back on the 16th.

A. Yes.

Q. And I guess it's also possible that it's just made up, right, that Jascha never said it and they added [58] it?

MS. GRIGSBY: Objection.

Q. It's possible?

MS. GRIGSBY: Objection.

A. I don't like to say that. I never ever thought anyone ever did that on purpose ever while I was there. I just never – if I would have thought that, I wouldn't have them working for me. I just, you know – I just don't feel that it's appropriate to say.

Q. But it's possible.

MS. GRIGSBY: Objection.

A. I'd hate to speculate.

Q. And even in this scenario where sometime later, Evanoff says to Steward, oh, I forgot to tell you, but Jascha told me this –

A. If, in fact, that took place.

Q. – the way Steward did this report is appropriate, in your opinion?

A. It was okay. Like I said, there's no fast and hard rule as to how it could have been done as long as it's done. I mean, the accuracy was the important part. The ease of reading the report is also important so that it flows, so that you can get a good understanding of what is trying to be expressed here.

So I think it was very appropriate to go and edit [59] a paragraph to make it read appropriately instead of adding it as a narrative later on. I just – I think it was.

Q. So Chief, if – and take my dates as hypotheticals. If on December 2nd, Evanoff goes to Steward and says, I forgot to tell you back on the 16th, but Jascha told me this, wouldn't it have been better for Steward to write a new narrative supplement that says on

December 2nd, Evanoff told me that Jascha had said this back on November 16th?

MS. GRIGSBY: Objection.

A. I just don't know. I just hesitate to second guess an investigator creating his report as accurately as he can possibly create it. I don't like to tell them how to write. That the facts are in there the way they understand them to the best of their ability and that it reads well is very important because of all of the people that need to read this. So I can't say it was better.

Q. I mean, you reference people that have to read this. That includes prosecutors, defense attorneys, and judges, correct?

A. Correct.

Q. And you've been in court. You've been – you've testified. You understand how that goes?

[60]

A. Yes.

Q. Would you agree with me that – and let's start with this. I mean, this was an important sentence because it was important enough for Hawken Flanagan to ask the question, and it was important enough for you to respond specifically about that particular sentence, and it was important enough for an officer to have a discussion with you about this particular sentence that's in 3A?

A. Yes, Yes.

Q. Do you think a defense attorney, if they know that the specific sentence was added to the report sometime after the original report, and in this case, more than two weeks later by Steward's affidavit, don't you think a defense attorney would use that in the case?

MS. GRIGSBY: Objection.

You can answer if you can.

A. I could only speculate. Do I think a defense attorney would bring that up? Probably would.

Q. And do you think a prosecuting attorney would want to know that that critical sentence was added to the narrative supplement more than two weeks later?

MS. GRIGSBY: Objection.

A. You're asking me to speculate. I will only say this: I wanted my reports and my officers' reports to [61] be as accurate as possible. That it was added because it was an accurate part of the report was important to do. If it was left out, it left a big hole in a report that needed to have its – the best of accuracy. So it was important for it to be there.

Is it important for me to tell every possible player to see that report that I have made a correction or a change? I just don't think it is. I think the important part is, is what they have in front of them is as complete as possible and as accurate as possible to the best of our abilities to do the investigation. That's the important part.

Q. But when you say accuracy, you're assuming Jascha Chiaverini actually said that on November 16th?

A. Yes, I do.

A. If Jascha Chiaverini did not say that on November 16th, we're now fabricating the report by inserting something that may not have ever been said?

MS. GRIGSBY: Objection.

A. I'm not going to speculate on a fabrication. It says that because someone said he said it. It went into the report. I'm not second guessing the officer's recollection of what was told to him or her.

Q. Chief, if I use the word exculpatory evidence, is that a term you use –

[62]

A. Yes.

Q. – as a police officer?

A. I understand it. No, not as a police officer, but I understand it. I've heard it enough times.

Q. All right. What's your understand about what exculpatory evidence means?

A. Evidence that might tend to make someone – to show someone did not commit a crime would be exculpatory.

Q. And as Chief of Police, are you aware of the term Brady violation?

A. That one is a little bit more nebulous to me. I've heard of Brady.

Q. All right.

A. That deals with guns and things like that, as far as I know, but that's all –

MR. STAHL: Different Brady.

Q. You're thinking –

A. I'm sorry. I'm not a lawyer. I will say right now I did not study law. I was a street cop.

Q. You're thinking –

MR. STAHL: That's okay. They're both Brady. Two different issues.

BY MR. HUTCHINSON:

Q. You're thinking Ronald Reagan's defense [63] secretary's the Brady Bill.

A. Brady Bill is the stuff I know about.

Q. As a police officer, Chief of Police, are you aware of a requirement that prosecutors have to provide evidence favorable to the defense?

A. Yes. That would be that exculpatory evidence, yeah.

Q. And is that something that you've had – I'll start with you specifically. Is that something you specifically had training on?

A. Specifically for exculpatory evidence, no. I mean, I would say it's common sense and general knowledge when you present everything that you have. There's everything.

Q. All right. And I'm not going to ask – when I talk about discussions with a prosecuting attorney, I'm not asking about specific cases involving exculpatory evidence, but have you ever had generalized discussion with the county prosecuting attorney about the requirements for disclosure of exculpatory evidence?

A. I don't remember talking to a county prosecutor about that, no.

Q. All right. And likewise, and same thing, not particular to any specific case with the city law director, but in general, have you had discussions with [64] the city law director about the requirement to disclose exculpatory evidence?

A. Over my career?

Q. Yes.

A. The answer is yes.

Q. All right. How many times have you discussed a generalized need for disclosure of exculpatory evidence with a city law director?

A. I can remember once specifically.

Q. All right. And which city law director?

A. I'm trying to remember his name. It's many years ago.

Q. I can't help you if it's before David Grahn.

A. Well before David Grahn. I can't remember his name. I can't remember his name.

Q. So this would have been in the '80s or '90s?

A. Could have been '80s, early '90s.

Q. And do you remember any specific instructions or information provided about this disclosure of exculpatory evidence?

A. I gave him the information. I said I discovered information that might make this person not guilty, and he had the information.

Q. And that was in regards to a very specific case?

A. Yes.

* * *

[137:2]

[BY MR. HUTCHINSON]:

Q. Jasch wasn't going to be a flight risk, right? You would not have considered him a flight risk in December 2016?

MS. GRIGSBY: Objection.

You can answer.

A. I don't know what to say about that. I don't know what you mean by flight risk.

Q. Like had the police waited instead of Friday afternoon, waited until Monday, Jascha wasn't going to –

A. That wasn't up to us. That was the prosecutor's issuing of the papers that got the warrant. That was the procedure.

Q. If Nicholas Evanoff is the one that procured the warrant, would that change your opinion?

A. No. That procedure isn't ours. If there was a felony charge, we would have executed the warrant. We didn't wait to execute the warrant. We execute the warrant. And if it says –

Q. But if the affidavit and the request for the warrant was done by Nicholas Evanoff, who is in your department, then the department did have control over the timing?

A. Of when we presented –

[138]

Q. Correct.

A. We don't sit around and wait to present things like that. Why would you do that?

Q. Well, that's my question.

You were aware that one of the charges against Jascha was money laundering?

A. Yes.

Q. We saw the email correspondence about that?

A. I was not aware of anything other than what the original charges were thought to be, which was

receiving stolen property. The rest of it came from the prosecutor's office.

Q. So the first time you heard about money laundering was when?

A. I don't know the date, but it was – I think it was Jamie was the one that walked in my office and said, well, this is what we're doing, just updating me. Here's where we're at. We're going to charge this, this, and this. I went what. That's interesting. Where did that come from. He said, well, we talked to the prosecutor and he said that it fit. I went okay. I don't even know what that statute says.

Q. Did he give you any indication as to where that charge – where the idea originated for charging the money laundering?

[139]

A. The prosecutor's office.

Q. In all your years as a police officer, am I going too far to surmise you would not have thought of money laundering in that circumstance?

A. Yeah. I never read the statute.

Q. Me either.

As a police officer, you certainly were familiar with receiving stolen property?

A. Yeah.

Q. That's a fairly unfortunate routine kind of charge, run-of-the-mill?

A. Yes, yes.

Q. And with receiving stolen property, you understand it's a misdemeanor, but if the property is over a certain value, it gets kicked up to a felony?

That's pretty commonly understood among police officers?

A. Yeah.

Q. And if you look at Exhibit 5, the threshold amount at that point was \$1,000?

A. It changes over time, doesn't it.

Q. They like to keep us on our toes. It's right there. If you look at the bottom, it says under subsection D.

A. \$500. D. Okay.

Q. Oh, I'm sorry. It probably actually is under C.

[140]

A. It depends on what type of things. If the value of the property is \$1,000 or more and is less than \$7,500, if the property involved is one of those properties in 2913.71, receiving stolen property is a felony.

Q. You don't have to read the whole thing. The threshold amount is \$1,000.

If you look at the complaint, Exhibit Number 20 –

A. Yes.

Q. Nicholas Evanoff, who signed this, indicates what he's alleging the value of the property to be, correct?

A. Yes.

Q. And what is that value?

A. \$350.

Q. All right. And from what you know, if everything he's saying there is true, that's properly a misdemeanor and not a felony, just given the amount?

A. Yes.

Q. At any point in time, did it occur to you to be like, wait a minute, how are we charging money laundering

as a third degree felony when the receiving stolen property, which is the underlying offense, is a misdemeanor? Did that kind of logical disconnect ever occur to you?

[141]

MS. GRIGSBY: Objection.

A. I never read the statute or dealt with the statute on money laundering. When Billy Harmon explained to me that he saw the element of the crimes, it made perfectly good sense to me. But this is the last thing I needed to do, to study law in ten minutes. I did not study this section. I took my prosecutor's learned experience. He said money laundering. I went okay, boss, if you say it is, it is.

Q. And this communication, is this the email we looked at earlier?

A. No. I had a conversation with him. I saw him all the time. When I went in our city hall, I'd stop in the prosecutor's office, ask are we doing a good job. I'm constantly interfacing with him. Are we getting reports to you on time, are they accurate, complete. Not always. Fix this. Help me with that. We'd have conversations. We got to be where we could have normal just chat conversations, and I just went would you explain this to me. This, this, this, this. Sounds good. You're the boss.

Q. I mean, is that to say in your mind, it didn't make sense?

A. No.

Q. This –

[142]

A. I just never had the concept because I never read the code. And it was outside my area of influence. I wasn't dealing with it. It was beyond me. My investigators were investigating the case and brought forth the information. The prosecutor decided the charges. I'm paying the bills, making sure the lights don't go off. That's my job.

Q. And by the same token, did it ever occur to you, like, well, if we can have money laundering here, why don't we have money laundering in all of our receiving stolen property cases?

A. I don't have time to think about those things. I didn't really clearly understand the money laundering thing. A lawyer was telling me it was money laundering. I would have never thought of it, like I said earlier. I had no idea that was something – that was outside of anything I'd done in 39 years. I don't know. I took my counsel's advice on that – or actually my officers, my department took my counsel's advice.

Q. When, if ever, did you become aware that the county prosecutor was going to abandon the money laundering charge?

A. I don't remember when.

Q. And this would have been Gwen Howe-Gebbers?

A. Yes. It was a long time.

[143]

Q. Did Gwen Howe-Gebbers discuss that with you personally?

A. No.

Q. How did you find out the money laundering charges were going to be abandoned?

A. I can't remember if I was still in office, to be honest with you. I just don't remember when it was decided.

And we had practically no conversations between her and I. I saw Hawken before that, but I can't say I ever sat down and had a conversation with Gwen.

Q. So the information, it just kind of got to you through the grapevine? It wasn't a specific person?

A. I don't remember exactly how. I don't remember exactly how. If you could tell me the date that it was decided and then compare that to the date I retired, I could tell you if I was in office or not.

Q. If someone can tell me the exact date. It just kind of went away, from my perspective.

A. Well, yes. It was very disheartening.

Q. Was that discussed, why it was abandoned?

A. I heard why it was.

Q. What did you hear?

MS. GRIGSBY: Objection.

You can answer.

[144]

A. It had to do with the amount of the jewelry. There was a threshold. There was a case note somewhere. That's the way I understood. There was a case note. You wouldn't have read it in the statute. You'd have to look and find a case note that was decided. It had to be a threshold.

Q. Knowing what you know about receiving stolen property, does that make a little bit more sense as to how money laundering can come about, if it meets the threshold amount?

MS. GRIGSBY: Objection.

A. In my mind, the threshold changes all the time. I'd have to see it myself. It could have been \$100 at one time and then someone decided they're swamped with cases and wanted it raised to \$2,000. I don't know what their purpose is in changing the numbers. They have changed so much over my career that it was very hard to decide immediately. If you said it was receiving stolen property and what is the level of the offense, boss, I'd say, I will be right back with you. I have to go look it up.

Q. Did officers ever talk about – I don't mean Jascha Chiaverini in the sense of investigating the case. But does he have a reputation amongst officers?

MS. GRIGSBY: Objection.

* * *

[1] UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

JASCHA CHIAVERINI, ET AL.,

Plaintiffs,

Vs.

Case No. 3:17cv2527

NICHOLAS EVANOFF, ET AL.,

Defendants.

**THE VIDEOTAPED DEPOSITION OF
NICHOLAS EVANOFF**

October 30, 2019

* * *

[2] The videotaped deposition of NICHOLAS EVANOFF, taken on behalf of the Plaintiffs, pursuant to Notice on October 30, 2019, beginning at approximately 11:03 am at the Federal Correctional Institution, Forrest City, Arkansas.

This deposition is taken in accordance with the terms and provisions of the Federal Rules of Civil Procedure.

The signature of the witness is waived.

[3] APPEARANCES

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* * *

[74]

MS. GRIGSBY: I'm going to object to that question.

You can answer if you can.

A. Define closed "case is closed."

BY MR. HUTCHINSON:

Q. My understanding from previous testimony is at some point a report is closed and sent off to like the FBI for reporting.

After that's done, it's my understanding changes just can't be made without reaccessing the – my understanding is to be able to reaccess the report after it has been closed that a supervising officer or a dispatcher would have to create access again?

A. I believe so.

Q. All right. What terminology would you use for it? I used “reopen,” but —

A. “Reopen” would be correct, but there is different — I — I thought there was different forms of closed. You can close a report by clicking a little button down here that says “closed” to denote it, or I believe what you’re referring to would be sent for approval.

Q. Once it’s sent for approval and it’s approved by a supervising officer, at that point, a patrolman can’t just go in and change it. He would have to reopen the [75] case?

A. Correct.

Q. And to do that, he would have to get a supervising officer to do it, or, I believe, dispatchers had the ability?

MS. GRIGSBY: I’m going to object to the form.

You can answer.

A. Correct.

BY MR. HUTCHINSON:

Q. All right. So did you ever show — and I’m not just saying in this particular case, just in general, did you ever show Patrolman Steward how to get a supervising officer or dispatcher to reopen a case?

A. I didn’t have access to show him how to do that. We just had to go to the supervisor or dispatcher and ask them.

Q. Did you show them that procedure, though, that you have to go to these people to get it reopened?

A. I don’t remember that offhand, but —

Q. Do you remember Patrolman Steward coming to you specifically and saying, I need to reopen a case; how do I do it?

A. I don't recall offhand.

Q. Doesn't have to be those verbatim words?

[76]

A. I don't recall offhand.

Q. If Patrolman Steward says he changed this narrative supplement on December 2, 2016, would you have any information one way or the other as to the date he did that?

A. I don't recall that.

Q. You would have no reason to disagree with him if that's his testimony?

A. No.

Q. And if I understand your testimony, this isn't a situation where – let me strike that.

If I understand your testimony, are you saying you went out of the Diamond & Gold Outlet on November 16th and told Patrolman Steward, among the other things that you told him, that Jascha had admitted to you that he knew the ring and earring were stolen?

A. I would have relayed all pertinent information that I learned to him

Q. On November 16th?

A. I would assume so.

Q. All right. This isn't a case where your recollection is at some point later, closer to December 2nd, you said, Oh, Patrolman Steward, I forgot about this thing that Jascha told me?

[77]

A. I wouldn't believe so, no.

Q. So as you look at the narrative supplement in Exhibit Number 8, which doesn't include that information, is it your testimony that you told Patrolman Steward and it just didn't make that version of the narrative supplement?

A. I would have told him all pertinent information that I had.

Q. My question is it's not in this narrative supplement that's in Exhibit Number 8, is it?

A. Clearly, no.

Q. So as to what happened, did Nicholas Evanoff forget to tell Patrolman Steward on November 16th and remember it sometime later or did Nicholas Evanoff tell Patrolman Steward but Patrolman Steward didn't put it in his narrative supplement, you are saying it's the second of those options?

A. What was the second option again?

Q. That you told him on November 16th and it didn't make the original narrative supplement he wrote.

A. I would have relayed all pertinent information to him.

Q. All right. So if it's not in the narrative supplement, you don't know why that is, and Patrolman Steward would have to answer that question?

[78]

A. I can't speak to why it is or isn't, but like I said, these things are working documents. They always change.

Q. But what I'm getting at is you're saying, Mr. Hutchinson, I did everything correctly, I told him this pertinent information, and if it didn't make his original narrative supplement, he is going to have to answer that question?

A. I can't speak for him. I'm just saying I would have relayed all pertinent information to him.

Q. I mean, you are saying "would have." Do you specifically recall telling him?

A. I don't recall.

Q. Is it possible that you didn't tell him that day and told him sometime later?

A. I can't speak for possibilities. I don't know.

Q. You just – you don't specifically recall when you told him that the reason he bought the ring and kept records regarding the purchase was because he suspected that it was, in fact, stolen?

A. I don't recall.

Q. You don't specifically recall today when you told him?

A. No.

You're just saying —

[79]

A. I would have assumed that I would have relayed – I would have relayed all important information to him.

Q. Mr. Evanoff, I want to go back to Exhibit Number 3, the affidavit in support of search warrant, and I'm specifically looking on the first page, the second paragraph from the bottom.

MS. GRIGSBY: First page?

MR. HUTCHINSON: First page.

BY MR. HUTCHINSON:

Q. Do you see where I'm looking at? It says, Wednesday, March 15, 2016, and that's just a typo. You meant November 16, I assume?

A. I believe so, yes.

Q. All right. The victim, David Hiller [sic], reported that his white gold men's ring had been stolen from his residence by a Brent Burns and was then sold to Jascha Chiaverini, who is the owner and salesman of Diamond & Gold Outlet. Officer spoke with Jascha Chiaverini who did admit to purchasing the ring from Brent Burns. Jascha Chiaverini produced pictures of the ring and a receipt of the transaction. The victim's wife, Christina Hill, was also able to produce pictures of the ring which showed the same ring. At this point, it was confirmed to be the same ring.

Now, you will agree with me omitted from that [80] paragraph is any reference to Jascha admitting to knowing that the ring and earring were stolen when it was purchased. Is that correct?

A. It would appear it's not in there, correct.

Q. That's omitted from this document as well? In fact – you can answer that question. Is it omitted from that paragraph of the document first?

A. It appears to be, yes.

Q. In fact, as you read the rest of the writing that's in the affidavit, it's omitted, in fact, from the entire document.

A. Okay.

Q. Correct?

A. Correct.

Q. But if you go to Exhibit Number 4, which is the probable cause affidavit, you did make the allegation there, did you not, that the defendant bought a ring while suspecting that it was stolen. Correct?

A. Where are you referring to?

Q. Second paragraph starts, [“]Through investigation learned that Jascha Chiaverini, the defendant, bought a ring while suspecting that it was stolen.[”] Correct?

A. Right.

Q. So you say it was not omitted from Exhibit Number 4?

[81]

A. Correct.

Q. Is that the first time you have realized that it was omitted from the search warrant affidavit —

A. I believe so, yes.

Q. – today?

Now that you have the reports in front of you, does it refresh your recollection as to going to the Diamond & Gold Outlet on November 17th?

A. Which document are you referring to?

Q. I believe it is going to be in Exhibit Number 6. I apologize. I wanted to ask about November 23rd, which I believe is the next page. Do you see a narrative supplement written by Patrolman Steward dated November 23rd?

A. Correct.

Q. It says, [“]On November 23rd, 2016, met with Mr. Manahan.[”]

A. Regarding the stolen property?

Q. Correct.

A. Yes.

Q. And, again, that comports with your recollection, Mr. Manahan suggested making him a co-victim, and then shortly after meeting with Mr. Manahan —

MS. GRIGSBY: Well, it asked him to return the property.

[82]

* * *

[1] UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

JASCHA CHIAVERINI, ET AL.,

Plaintiffs,

Vs.

Case No. 3:17CV2527

NICHOLAS EVANOFF, ET AL.,

Defendants.

DEPOSITION OF DAVID STEWARD

DATE: December 5, 2019 at 3:17 p.m.

PLACE: Spengler Nathanson
900 Adams Street
Toledo, Ohio 43604

REPORTER: Michelle K. Schlade, RPR
Notary Public

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[2] APPEARANCES:

On behalf of Plaintiff Jascha Chiaverini:

SHINDLER NEFF:
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On behalf of Plaintiff Chiaverini, Inc., and as Co-
Counsel for Jascha Chiaverini:

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On behalf of the Defendants:

SPENGLER NATHANSON:

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Toledo, Ohio 43604

ALSO PRESENT:

Jascha Chiaverini
Jamie Mendez
John Adkins, Videographer

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[57:8-18]

[BY MR. HUTCHINSON]:

Q. * * *

Now, why did you insert this sentence into the November 16 narrative supplement?

A. Well, because it was now important information. Right? I mean, the narrative is simply a synopsis of the events that transpired. At the time, Jascha wasn't under investigation for receiving stolen property on the 16th. It was Brent Burns being investigated for the theft. It got added to that report because that's where it fit. And due to, I would say, my limited tenure here, it didn't get put on a new narrative. It, instead, got updated into this one.

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[60:6-15]

Q. Even if the investigation was only Brent Burns, if the allegation is that Jascha knew it was stolen, wouldn't that somehow be good information to have even against Brent Burns, that, hey, somebody else

must have known it was stolen or has information that it was stolen?

A. I don't necessarily know that it's important to call out a local business owner for receiving stolen property in a theft report at the time of the theft. Brent Burns was the suspect, not Jascha.

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