

ORIGINAL

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

CENTRAL COURT

COMMONWEALTH OF PENNSYLVANIA ;
vs. : No. 2162 of 2008
JOHN NOBLE

TRANSCRIPT of audiotaped
recording of testimony taken and proceedings
had in the above-entitled PRELIMINARY HEARING
before MAGISTERIAL DISTRICT JUSTICE C. DOUGLAS
LOUGHNER in Court Room No. 3, Courthouse,
Beaver, Pennsylvania, on Monday, October 6,
2008, commencing at 11:38 o'clock a.m.,
prevailing time.

- -

APPEARANCES:

FRANK MARTOCCI, Esquire,
Assistant District Attorney,
appearing on behalf of the
Commonwealth.

STEPHEN D. COLAFELLA, Esquire,
Assistant Public Defender,
appearing on behalf of the Defendant.

- - -

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

L N D E X

FOR THE COM'WEALTH: DIRECT CROSS REDR. RECR. D.J.

John Atkinson, Sr. 4 14 -- -- --

Shawn Schexnaildre 22 40 52 -- --

FOR THE DEFENDANT:

(None)

P R O C E E D I N G S

1
2 DISTRICT JUSTICE: Greetings. We are here
3 today, October 6, 2008, in Court Room No. 3 of
4 the Beaver County Court House. A preliminary
5 hearing has been scheduled for Criminal Matter
6 345 of 2008. This Information identifies the
7 Defendant as John Noble of Willowbrook Drive in
8 Industry, Pennsylvania.

9 This matter is being recorded by way of a
10 digital audio recording system. The attorneys
11 involved in this case, please identify
12 themselves as well as the parties they
13 represent. Attorney Colafella, you are
14 representing Mr. Noble in this matter at 345 of
15 2008?

16 MR. COLAFELLA: I am, Your Honor, Steve
17 Colafella for John Noble. Your Honor, I have
18 **here** a two count Complaint. I don't understand
19 that there are going to be any additional
20 amendments. So, I've obviously had the
21 opportunity to review that with Mr. Noble. **We**
22 have no additions or corrections, and we waive
23 full reading of the Complaint and further enter
24 a plea of not guilty and request a hearing at
25 this time. I don't believe there's a need,

1 after conferring with Mr. Martocci, that
2 there's a need for sequestration. I believe
3 there's only two witnesses, one of whom is the
4 affiant.

5 DISTRICT JUSTICE: Okay. With that being
6 said, Counselor, is the Commonwealth ready to
7 **proceed?**

8 MR. MARTOCCI: Yes, Your Honor, we are.

9 DISTRICT JUSTICE: Would you like to call
10 your first witness, please?

11 MR. MARTOCCI: I'd like to call John
12 Atkinson to the stand.

13 DISTRICT JUSTICE: Would you step forward,
14 sir, to be sworn?

15 JOHN ATKINSON, called as a
16 witness on behalf of the
17 Commonwealth, having been
18 first duly sworn, testified
19 as follows:

20 DISTRICT JUSTICE: Will you have a seat in
21 the witness chair? It's right on the other
22 side of this wall. Be seated there, and try to
23 speak up for the benefit of everyone here,
24 please.

25 DIRECT EXAMINATION

1 BY MR. MARTOCCI:

2 Q. Your voice will be picked up by this microphone
3 as long as you speak up loud; okay?

4 Would you tell us your full name, please?

5 A. John H. Atkinson, Sr.

6 Q. And what town do you live in, sir?

7 A. Beaver.

8 Q. And what do you do for a living?

9 A. Automotive salesman,

10 Q. How long have you been doing that?

11 A. Seventeen years.

12 Q. And do you have a family?

13 A. Yes, sir.

14 Q. And what constitutes your family?

15 A. My wife and my son, John, Jr., and my daughter,
16 Nicole.

17 Q. And how old are your children?

18 A. My son is eighteen; my daughter is sixteen.

19 Q. Now, you say you live in Beaver?

20 A. Yes, Vanport Township.

21 Q. And around August 29th of 2008, what was going
22 on in Beaver that day?

23 A. There was a presidential rally for Mr. Obama
24 and Mr. Biden.

25 Q. And did you attend that?

1 A. Yes, I did.
2 Q. And where was that being held?
3 A. In the park across the street.
4 Q. The park across the street here from the
5 Courthouse?
6 A. Yeah, across from the Courthouse.
7 Q. And what was your intention that day? What
8 were you going to do?
9 A. Just listen to Mr. Obama, you know, what he had
10 to say, try to make my decision on who I want
11 to vote for.
12 Q. Did you attend that gathering with anyone in
13 particular?
14 A. Yes, my wife, my family, my daughter, and my
15 son and her boyfriend.
16 Q. And how old is he?
17 A. Seventeen.
18 Q. Now, obviously you weren't the only people who
19 were there at this event. How many people were
20 in the area where you were, approximately?
21 A. Approximately, I'd say, 2 to 300 people because
22 they just opened the park up to let people come
23 in.
24 Q. And what time did you get there? Do you
25 remember?

1 A. Five-thirty.

2 Q. Now, at this event, were you able to observe
3 what type of. I guess, security that was there?

4 A. Yes, sir.

5 Q. And what did you see?

6 A. There **was** lots of security there. They moved
7 us two different times from the positions where
8 we was standing, the crowds. They moved us
9 back and blocked off the street where the post
10 **office** is over to the buildings. They escorted
11 everybody out of that **area over** behind. Then
12 they opened the park and told us all to go into
13 the park.

14 Q. And so were **you subject** to being moved because
15 of those security concerns?

16 A. Yes, sir.

17 Q. And was it you and the rest of the couple
18 hundred people that you are talking about?

19 A. Yes, sir.

20 Q. Now, let me **ask** you: While you were there, I
21 mean, did you talk to anybody within your
22 family?

23 A. Oh, yes, sir, other people standing around.

24 Q. Other people you know there that were there?

25 A. No, just general people.

1 Q. **And** did you bring any, I guess a chair to sit
2 on or anything like that?

3 A. I brought a chair for my wife, who she is
4 disabled, yes.

5 Q. And was she seated most of the time?

6 A. Yes.

7 Q. **And** once you were situated in the area where
8 you were told to go, **did** you, in relation to
9 the Courthouse, what park are we talking about
10 that you were told to move to?

11 A. Directly, we was directly across **the** street
12 from the pavilion there, gazebo, in this park
13 directly across from the Courthouse.

14 Q. So, you were in the park that--are those two
15 parks separated by the street there?

16 A. Yes, sir.

17 Q. And that's where you were placed by the
18 security people?

19 A. Yes, sir, because it was a secured area, and
20 then they opened it up and told us to go there.

21 Q. Did you notice any other personnel who were
22 providing security for the event after you were
23 placed in that area of the park?

24 A. Police officers, Secret Service, people on the
25 Courthouse roof, post office roof, you know,

1 State Police, County Sheriffs with, you know,
2 dogs, canines.

3 Q. And **you** were able to see all these people all
4 around; right?

5 A. Plain sight.

6 Q. Now, again, your intention to go into this
7 event was to, as you stated earlier, just
8 listen to the speakers; right?

9 A. Correct.

10 Q. And after a period of time, **did** you notice, **I**
11 guess, anything that caught your attention?

12 A. Yes, sir.

13 Q. And what was that?

14 A. I saw Mr., the Defendant there coming through
15 the **secured** area tape, and he had a Bible in
16 his hand and some literature.

17 Q. Now you said "the tape." Where is that tape?

18 A. From the post office across the street to the
19 telephone pole.

20 Q. And you saw him enter into that area?

21 A. Yeah.

22 Q. And when you said "the Defendant," could you
23 point him out? Do you see him here in the
24 courtroom?

25 A. Yes, the gentleman in the green shirt.

1 Q. And what did you first observe when you saw him
2 go in that area?

3 A. I observed him with a Bible in his hands and
4 some papers he was passing out, and then I
5 observed a firearm on his side, exposed.

6 Q. When you say you observed a firearm on his
7 side, could you show Magistrate Loughner where
8 this was on his body?

9 A. It was on his right hip; it was not concealed.
10 It was exposed, outside.

11 Q. Did he have a coat on or a jacket overtop?

12 A. No, sir.

13 Q. And when you say "a firearm," are you familiar
14 with firearms?

15 A. Yes, I am.

16 Q. How is that?

17 A. I have, I have a carrying permit myself.

18 Q. And--

19 A. And I own several different handguns.

20 Q. You own handguns?

21 A. Uh-huh.

22 Q. And you, yourself, you said, "I have a permit
23 to carry"?

24 A. Yes, sir.

25 Q. Were you carrying a firearm that day yourself?

1 A. No, sir. There's a time and a place in my
2 opinion, and with all the, you know, security
3 and presidential event, it wasn't, nobody in
4 their right **mind** would bring--

5 MR. COLAFELLA: Your Honor, I'm going to
6 object to it being irrelevant, this gentleman's
7 opinion.

8 DISTRICT JUSTICE: Sustained.

9 MR. MARTOCCI: Well, Your Honor, I guess
10 the main question I wanted to ask him was his
11 familiarity with firearms. He was able to
12 identify what was on the Defendant, and he may
13 have gone a little long on the answer.

14 DISTRICT JUSTICE: Yeah, he went a little
15 long with that.

16 THE WITNESS: I'm sorry.

17 DISTRICT JUSTICE: If you'd like to ask
18 additional questions, Counselor, go right
19 ahead.

20 BY MR. MARTOCCI:

21 Q. Now, getting back to your familiarity with
22 firearms and as you stated, you have a license
23 to carry those type of things, what is it you
24 observed? What did it look like that the
25 Defendant had on him?

1 A. He had a Glock on him.

2 Q. A Glock?

3 A. Yeah.

4 Q. And what's that? Is that a type?

5 A. It's a Glock. There's several different
6 Glockes, Glock 19, Glock 40's, but I could
7 identify that it was a Glock, 9 millimeter.

8 Q. What color was it?

9 A. Black.

10 Q. And what, how was it being held on his side?

11 A. They come with a plastic hard case, carrying
12 case.

13 Q. And is there any kind of mechanism that holds
14 that in that, I guess, holster or clip?

15 A. Not to my knowledge there's not.

16 Q. Did you see anything on there other than being
17 slid into the--

18 A. Not on his.

19 Q. Now, what did you, I guess what did you feel
20 when you first saw that?

21 A. Um, I mean, I was concerned, scared for my
22 family. You know, I didn't know what was going
23 to happen. You know, he's a very large guy,
24 you know, carrying a pistol and a Bible. You
25 know, I was concerned for my family's sake, you

1 know, scared for my family and myself, you
2 know, and the people around me.

3 Q. How close did he come into contact with you?

4 A. Um, two feet.

5 Q. And your family?

6 A. Two feet.

7 Q. And from your vantage point, were they all able
8 to observe this?

9 A. Yes, they was.

10 Q. And did you observe any of the reaction of **the**
11 people around there when you noticed this?

12 MR. COLAFELLA: Your Honor, I'm going to
13 object. It calls for speculation.

14 MR. MARTOCCI: No, it doesn't call for
15 speculation, Your Honor. I'm just asking him
16 to state what he observed as far as what the
17 other people did.

18 DISTRICT JUSTICE: Objection overruled.

19 THE WITNESS: The people, several people
20 started leaving the area, getting away from Mr.
21 Noble, walking away from him quickly.

22 BY MR. MARTOCCI:

23 Q. You said "quickly"?

24 A. Uh-huh.

25 Q. What did you do then?

1 A. I notified the Sheriff's Department, the
2 officer with the canine.

3 Q. How did you do that?

4 A. I told him that, you know, there's a gentleman
5 behind the crowd carrying an exposed firearm,
6 you know, with a Bible.

7 Q. And I guess the Sheriff, did they respond?

8 A. Yes, they did.

9 MR. MARTOCCI: That's all I have.

10 CROSS-EXAMINATION

11 BY MR. COLAFELLA:

12 Q. Sir, you didn't know Mr. Noble prior to this
13 day, I assume?

14 A. No, sir.

15 Q. And the area where you were, I heard you refer
16 to it as a secured area. Let me ask you this
17 first: Was it your intentions to go--strike
18 that. Were there different areas where the
19 rally was being held versus where other
20 spectators may have been?

21 A. Yeah. Can you repeat that?

22 Q. Were there separate areas? Was there any sort
23 of demarcation between the area where the rally
24 was taking place and where members of the
25 general public could sit or stand?

1 A. Yeah, there was different areas.

2 Q. Okay, and did you observe the area where the
3 rally was actually taking place, where the
4 stage was?

5 A. Yes, sir.

6 Q. From your perspective, did you observe any
7 security measures or anything that were in
8 place?

9 A. Yes, sir.

10 Q. Can you characterize that, please?

11 A. They had secured areas from the post office,
12 across the street to the parks. The whole park
13 was roped off from the general public.

14 Q. The area where you were, was that outside of
15 the area that was roped off where the rally was
16 to take place?

17 A. No. The area we were, it was a secured area.

18 Q. Secured area? Was that where the stage was?

19 A. No.

20 Q. Did you have to go through any certain metal
21 detectors or screening to get into that area?

22 A. To that area? No.

23 Q. To the **area** where you were, how did you get
24 into the area where you were?

25 A. We walked up the street, and we had to go

1 around buildings to get where we were.

2 Q. Did anybody prevent you from entering into that
3 area?

4 A. At first, yes.

5 Q. But you were able to access that area without
6 any search or inquiries as to what you were
7 doing there?

8 A. After a while, no.

9 Q. Did anybody stop you to inquire as to where you
10 were going, what your business was?

11 A. No, because I was still actually on, I was on
12 the corner. I was still in the not secured
13 area.

14 Q. This secured area that you have referred to
15 where you sort of went with the rest of these
16 people, that's the same area, just so the
17 Record is clear, that's the same area where you
18 observed Mr. Noble?

19 A. No, I observed Mr. Noble coming from the
20 nonsecured area, crossing the lines that we
21 weren't supposed to cross, and coming into the
22 park.

23 Q. But he came into the area where you were?

24 A. Yes.

25 Q. Okay, and were all these members of the public

1 who had not paid a fee or gone through
2 anything, they were just sort of screening them
3 to (inaudible); is that correct?

4 A. Yes.

5 Q. And you indicated at some point you see him
6 openly carrying a firearm?

7 A. Yes, sir.

8 Q. And he comes into close proximity to where you
9 were. Characterize for the Court: What was he
10 doing?

11 A. ,Hewas passing out gun right literature.

12 Q. Did you actually see him passing out any
13 literature?

14 A. **Sure did.**

15 Q. He's holding a Bible in one hand?

16 A. Uh-huh.

17 Q. Did you observe him holding an apple in the
18 other hand?

19 A. No, I did not.

20 Q. Now, the area where we're referring to where
21 he's engaging in that activity, there's a heavy
22 security presence there, is there not?

23 A. Pardon me?

24 Q. Heavy security presence? Were there a number
25 of law enforcement personnel in that area?

1 A. The area we was in?

2 Q. Right.

3 A. No, no.

4 Q. No? Well, I heard you testify on direct
5 examination you observed Secret Service,
6 uniformed police officers. You were readily
7 able to identify those people, were you not?

8 A. Yes, sir. They was--

9 Q. Would they be in the same general vicinity that
10 we are talking about where you made your
11 observation of Mr. Noble?

12 A. Yeah, they was on the other side. They had an
13 orange fence up; so, they was on the other side
14 of the fence.

15 Q. If you were able to make the observation, is
16 that the same area that Mr. Noble would have
17 had to traverse--

18 A. Yeah.

19 Q. --to get to the area where you were?

20 A. where he had to go through to get to where I
21 was?

22 Q. Yes, by all these law enforcement people. Did
23 he have to go by all the law enforcement people
24 to get to where you were in this secured area
25 as you referred to it?

- 1 A. Not necessarily because of the way he came in.
- 2 Q. Okay. So, your actions when you see Mr. Noble
- 3 openly carrying this firearm, let me ask you:
- 4 Did you find it unusual that he was doing that?
- 5 A. Yes, sir.
- 6 Q. Have you ever seen anybody do that before?
- 7 A. At a political rally?
- 8 Q. Anywhere.
- 9 A. No, sir.
- 10 Q. Anywhere involved.
- 11 A. No.
- 12 Q. Pavilion, first time?
- 13 A. Uh-huh.
- 14 Q. Did it seem a little unusual?
- 15 A. Oh, yes, sir.
- 16 Q. So, then your course is to then go and notify
- 17 somebody in law enforcement?
- 18 A. Yes, sir.
- 19 Q. And I'm sorry, who did you notify?
- 20 A. Um, the Deputy Sheriff with the canine unit.
- 21 He had the dog.
- 22 Q. Was he alone or with another Trooper?
- 23 A. He was alone.
- 24 Q. And so were you present when Mr Noble was
- 25 approached by him or others?

- 1 A. Yes, sir.
- 2 Q. How far were you from the area where he was
3 first confronted, "he" being Mr. Noble, was
4 first confronted by law enforcement?
- 5 A. Five feet behind him.
- 6 Q. So, you actually went over to the area of where
7 they had confronted him. Did you have to walk
8 to that area?
- 9 A. Yes, sir.
- 10 Q. So, rather than stay back, you go, proceed to
11 the area where they're actually confronting
12 him?
- 13 A. They asked me to identify who I was speaking of
14 because they could not see through the crowd.
- 15 Q. Okay. Did you remain in that area while they
16 spoke with **him**?
- 17 A. No. As soon as I identified him, I turned and
18 walked away.
- 19 Q. Did you have contact with those in law
20 enforcement after that?
- 21 A. Yes, I did.
- 22 Q. Did they ask you to make a statement or
23 anything like that?
- 24 A. Yes, sir.
- 25 Q. Did you do that in writing?

1 A. No, sir.

2 Q. Do you recall who you talked to?

3 A. I talked to Mr., Officer, **PSP** Officer Mr.
4 Schexnaildre, if I'm pronouncing his name
5 right, and the Beaver County Sheriff's
6 Department.

7 Q. So, after you make that identification, you
8 leave, and that's the extent of it?

9 A. After they, yeah, after they asked me what
10 happened and took my information.

11 MR. COLAFELLA: That's all I have.

12 DISTRICT JUSTICE: Anything further,
13 Counselor?

14 MR. MARTOCCI: No, Your Honor, no
15 questions.

16 DISTRICT JUSTICE: All right. Thank you.
17 You may step down.

18 (Witness excused)

19 DISTRICT JUSTICE: Additional Commonwealth
20 witness?

21 MR. MARTOCCI: **Yes.** I'd like to call
22 Trooper Schexnaildre.

23 DISTRICT JUSTICE: Would you raise your
24 right hand for me, please?

25 SHAWN SCHEXNAILDRE, called

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

as a witness on behalf of
the Commonwealth, having
been first duly sworn,
testified as follows:

DISTRICT JUSTICE: Have a seat, please.
Go right ahead, Counselor.

MR. MARTOCCI: Thank you.

DIRECT EXAMINATION

BY MR. MARTOCCI:

Q. Tell us your full name, please.

A. Trooper Shawn Schexnaildre.

Q. Trooper, obviously you are with the
Pennsylvania State Police; is that right?

A. Yes, sir.

Q. And how long have you been with the State
Police?

A. Three years.

Q. And what other capacities have you worked in
law enforcement?

A. I am a sixteen year veteran, did twelve years
in the Baton Rouge City Police in Louisiana.

Q. And were you in the military?

A. Yes, sir, I was.

Q. And what branch?

A. I was in the Army.

1 Q. How long ago was that?

2 A. 1988 to 1992.

3 Q. And where did you serve?

4 A. Overseas in the European Theatre and then
5 throughout the Desert Storm campaign.

6 Q. Now, I want to call your attention to August
7 29th of 2008. Obviously you have been present
8 when Mr. Atkinson testified; is that right?

9 A. Yes, sir.

10 Q. First I want you to explain to the Court: What
11 was your involvement in being present at the
12 Obama rally?

13 A. On that particular day I was assigned by my
14 command to be part of Mr., Senator Obama and
15 Senator Biden's personal protection unit. I
16 was coupled with a Secret Service agent.

17 Q. And was this obviously prearranged before the
18 event was to take place?

19 A. That's correct.

20 Q. And was everyone given certain assignments
21 through the Secret Service?

22 A. Yes, .sir.

23 Q. And, again, your assignment was personal
24 protection?

25 A. Yes, sir. I was actually the, what I will

1 refer to as the reconnaissance unit. I went
2 out to the properties prior to Mr. Obama,
3 Senator Obama and Senator Biden's arrival and
4 assured security, and then upon their arrival
5 participated in their personal protection.
6 Q. And what were your responsibilities as far as
7 providing personal protection that day?
8 A. Same as the other enforcement agent and Secret
9 Service agents involved I was there to
10 prevent any harm to the Senators and their
11 constituents.
12 Q. Now, being involved in this, could you give a
13 rough estimate as to how many security people
14 were there including all the different law
15 enforcement agencies?
16 A. The meeting that I went to prior to our
17 separating into groups, there was at least 25
18 State Troopers and Secret Service agents
19 combined. Once I got here to this rally, I
20 would say that number doubled easily.
21 Q. So, somewhere in upwards of 50 as far as you
22 know yourself?
23 A. And I'm somewhat guessing, but based on what I
24 saw, I would think that's a safe guess as to
25 how many total were there.

1 Q. And are you familiar with the area where this
2 rally took place?

3 A. Yes. Well, that is **only** my second time being
4 there, but yes.

5 Q. And was there areas that were, as Mr. Atkinson
6 testified to, sectioned off by, you know, tape
7 or some kind of barricade, some markings as to
8 where you could go?

9 A. That's correct, and additionally, the roads
10 were blocked off utilizing the local fire
11 departments, fire trucks, heavy vehicles, to
12 the extent that when I entered the perimeter, I
13 had to identify myself to be allowed to come in
14 with a vehicle.

15 Q. And based on your knowledge of the event itself
16 and also the different security areas, were
17 citizens allowed to just go wherever they
18 pleased in this, once they got into the
19 perimeter of this?

20 A. There was two distinct perimeters, the first
21 being: If you were to face out of the front of
22 the Courthouse, the park to the right, where
23 the statue is, and the park to the left where
24 the podium is, I would keep them separated
25 using those descriptions. The park to the

1 right where the statue is was taped off with a
2 perimeter tape, much like a crime scene tape.
3 Additionally, those intersections to the right
4 as we're facing out the front of the Courthouse
5 where the statue is, those roadways were
6 blocked and manned with security personnel.
7 The outer, what I'll call the statue area, was
8 corded off to keep people in that area and off
9 the street.

10 The left side where the podium was was
11 upgraded security. There was only one way in
12 and one way out as best I could tell, and in
13 order to enter that area, I believe you had to
14 have a pass, you had to be identified, and you
15 had to go through a metal detector.

16 Q. Now, there's a street that is: If we are
17 looking, like you said, straight out from the
18 Courthouse, there is a park on one side, a park
19 on the other, a street that runs, I guess it
20 would be perpendicular, and is there a parallel
21 street that runs to the main street in front of
22 the Courthouse that's in front of the post
23 office?

24 A. That's correct.

25 Q. And did the public have access, free access to

1 that area?

2 A. No. That area was heavily secured because that
3 is the way that the convoy came in, the
4 motorcade can bring in the Senators.

5 Q. And so that street was the ingress for the
6 well, like you said, the motorcade for Obama,
7 Biden, and everybody else that came in through
8 there?

9 A. They came in and made a loop and came down that
10 street and parked directly in front of the
11 Courthouse. If my memory serves me correctly,
12 as you go down this road and hit the road that
13 you've described as parallel where the post
14 office is, directly across the street from that
15 is an apartment complex. That area, too, was
16 secured in addition to multiple officers on the
17 roof of the post office, including a sniper
18 element, I believe.

19 Q. Now, on this, on this particular date, how is
20 it you came into contact with this case that
21 Mr. Atkinson was testifying to? What was your
22 initial involvement?

23 A. I was dressed as I am now, coupled with a
24 Secret Service agent that I said before, and
25 him and I were simply moving through **the** crowd,

1 observing. There was a small group of pro-life
2 activists on the corner. We made our way
3 around and through them and came back across
4 when I was approached by Deputy Joseph O'Sche
5 of the Beaver County Sheriff's Office.

6 Q. Now, why is it that you are in civilian clothes
7 like a student and just kind of walking around
8 making observations? What's your purpose?
9 What are you trying to do there?

10 A. To blend as well as I could and to be an
11 observation element for problems.

12 Q. Okay, and when was it that you came into
13 contact with Deputy O'Sche?

14 A. As I was making my way around, I had met Deputy
15 O'Sche just prior to that. He knew who I was.
16 He knew I was a State Trooper, and he knew I
17 was with a Secret Service agent. Once Mr.
18 Noble, who I'll identify now, sitting left of
19 Counsel in a green shirt was apprehended,
20 Deputy O'Sche sought out myself and the Secret
21 Service agent to explain that the problem, the
22 problem had happened, what had happened.

23 Q. When did you first observe the Defendant?

24 A. I met Mr. Noble sitting in the driver's side
25 rear seat of a Beaver County or Beaver Borough,

1 I don't recall which, Suburban. It looked to
2 be the front vehicle of their tactical unit.

3 Q. And what did you initially observe about him?

4 A. About Mr. Noble? Um, he was in the vehicle.

5 The Deputies explained to me what had happened.

6 I was the only Trooper on scene. They asked me

7 to assist. I opened the door to the Suburban,

8 showed Mr. Noble my badge and identification,

9 gave him his rights per Miranda because he was

10 handcuffed at the time and asked him very

11 simply, "Why did you bring the gun?"

12 Q. And what did he say?

13 A. He looked me right in the eye and said, "I'm

14 here to show Mr. Obama that Pennsylvanians do,

15 in fact, cling to their guns and religion."

16 Q. Did he say anything about just the event itself
17 going on that day?

18 A. Well, at that point, being a sixteen year

19 veteran of law enforcement and an ex-soldier,

20 someone who's dealt with similar incidents, the

21 word "show" is open to a great amount of

22 interpretation. What does that mean? I give

23 him a break, backed away, conversed with the

24 Secret Service agent. They determined at that

25 time since he had not crossed into the more

1 secure perimeter that we spoke about that
2 Federal charges would not be applicable and
3 therefore State was the only way to go. I
4 opened the vehicle again and spoke to Mr. Noble
5 again.

6 Q. And what did he tell you? well, did you
7 re-Mirandize him?

8 A. I reminded him of his Miranda warnings, that's
9 correct.

10 Q. And what did he say?

11 A. He said that he was a member of the
12 Pennsylvania Firearms Association, I believe is
13 the way it's titled, and that he was there
14 passing out flyers and propaganda on gun
15 rights.

16 Q. And did he have any flyers on him at the time?

17 A. I didn't see any on him. Obviously he was
18 handcuffed, but I had the opportunity to meet
19 his wife, and at that time the Bible and the
20 flyers had been passed on to her, and I did see
21 the flyers, and that is exactly what it was.
22 It was a printout of the Pennsylvania
23 applicable statutes for open carry.

24 Q. And what else did he tell you?

25 A. Um, that--well, at that time the Secret Service

1 determined that they needed a bio, what they
2 call a bio data sheet on Mr. Noble, just in
3 case he was a future threat to any political
4 party. He was informed that he was under
5 arrest, and he was transported to the Beaver
6 Barracks of the Pennsylvania State Police.

7 Q. And did you, I guess, go there with him?

8 A. Yes. Shortly thereafter, I went there with the
9 Secret Service agent.

10 Q. And did you question the Defendant further?

11 A. I did talk to him briefly. The interview that
12 the Secret Service did was extensive. I did
13 talk to him briefly. He was a pleasant
14 gentleman. He was not hostile in any way. He
15 was very open. He waived his Miranda warnings
16 in writing and verbally to the Secret Service
17 and again verbally to me. He emphasized his
18 participation in the Pennsylvania Firearms
19 Owners Association and that he was there to do
20 exactly what he said. He was there to show Mr.
21 Obama that Pennsylvanians do cling to their
22 guns and religion.

23 Q. Did he tell you at any point either at the
24 scene here in front of the Courthouse in the
25 car or up at the police barracks about his own

1 prior knowledge as to what was going on that
2 day?

3 A. He did. He told me that he didn't think that
4 he would get close to, "within a mile" were the
5 words he used--I'm sure he was just speaking--
6 but within a mile of Senator Obama. He didn't
7 think he would get that close. The podium
8 was--

9 Q. What about the purpose to the event itself?
10 Did he tell you anything about that?

11 A. He had **no** idea what was going on, that he was
12 just there to pass out flyers. He didn't think
13 he'd get anywhere near Mr. Obama or anywhere
14 close to him, didn't even know what time he was
15 going to be there.

16 Q. And when did he tell you that?

17 A. **Here** and there, here and at the Barracks, you
18 know; he had no idea what was going on prior to
19 him coming with the gun.

20 Q. But he did say then later the quote **you** said
21 about he was going to show about the clinging
22 of the **gun**?

23 A. Right. It was a contradiction in statements;
24 you know, "I didn't think I would get even
25 close **to** him, but I'm there to show him." The

1 fact of the matter is: When he crossed the
2 area of the park that was taped off on the
3 statue side, I wasn't there when he was
4 actually apprehended. However, based on what I
5 was told, he was well within 100 yards of the
6 podium itself where Senators Obama and Biden
7 would have been.

8 Q. Well, now I'm going to go back to information
9 that you got from Mr. Noble himself, the
10 Defendant. He told you he belonged to certain
11 organizations, including the Pennsylvania
12 Firearms Owners Association. Is that accurate?

13 A. I do believe so, yes, sir.

14 Q. Did you get any information as to if he uses
15 any other names?

16 A. His user name in that website is "Mountain
17 Jack," and during the course of the interview.
18 I'm accustomed to asking people how do they
19 like to be called. If he had told me he'd like
20 to be called "Mr. Noble," that's what I would
21 have called him. So, I try to develop a
22 rapport, and he told me he liked to go by
23 "Jack." So, it made sense.

24 Q. Now, "Mountain Jack," you said that's his user
25 name. How did that come up?

1 A Well, because of the postings that I found on
2 the website when I dug into this investigation.

3 Q. That's what I want to kind of go over like a
4 little more chronologically. Did you get his
5 user name while he was at the State Police
6 Barracks?

7 A. No, I got that after; I got that after.

8 Q. How is it you got that?

9 A. It was based on the statements that he gave me
10 and the statements posted on the website; they
11 matched. He told me he liked to go by "Jack."
12 He was from Industry, Pennsylvania. Everything
13 that was posted on the website versus what I
14 knew firsthand, it was very, very obvious to
15 see that we was speaking about the same Mr.
16 John Noble from Industry, PA.

17 Q. And when you said when you started the
18 investigation, when was it that you went online
19 to confirm the verbal statements that he gave
20 you at the State Police Barracks?

21 A. Unfortunately, the fire wall for the State
22 Police Barracks wouldn't allow me to access
23 that website. So, that night when I got home,
24 using my personal computer, I accessed the
25 website and read the statements posted by Mr.

1 Noble prior to the Obama-Biden rally.

2 Q. And were they posted under that user name,
3 "Mountain Jack"?

4 A. That is correct. There was actually another
5 website called opencarry.org where similar
6 statements and postings were held, were posted.

7 Q. By who?

8 A. Mr. Noble.

9 Q. Okay. As what name?

10 A. "Mountain Jack," or if I recall correctly, the
11 two were very similar in nature.

12 Q. And what were the nature of the postings
13 regarding the rally itself?

14 A. Prior to the rally, the date of, if I may refer
15 to my report so I get them exactly right, the
16 website, opencarry.org, Mr. Obama, excuse me,
17 Mr. Noble wrote, "Bring your gun and Bible to
18 Beaver tonight. Let's show Obama how we hug
19 our Bibles and guns," and then **the** second entry
20 was, "Come to Beaver and show Obama what a
21 bible toting gun owner looks like. My **woman**
22 **and** I will be there with both in the open."

23 Q. And then you said those postings you read,
24 those were made the day of the event; is **that**
25 right?

1 A. That's correct, just prior. I read them
2 myself, and then they were confirmed in the
3 multiple newspaper articles that have followed
4 this case.

5 Q. What about anything before those two postings
6 that you mentioned that were made the day of
7 the event? Is there anything else that you
8 noticed relating to the event that may have
9 been earlier than those?

10 A. A couple days prior to, if I recall correctly,
11 Mr. Noble, again I will refer to my report,
12 under his user name "Mountain Jack" said that
13 he was going to take his gun to the event,
14 exposed in open carry, to test what would
15 happen. Again, open to interpretation.

16 Q. And you saw that, "to test what would happen,"
17 and that was a couple days before?

18 A. Yeah, I read that myself. Now, I'm basing the
19 time frame on the website itself. Obviously
20 I'm reading what was there. How they do the
21 postings, I'm not certain.

22 Q. Other than the time that you talked with the
23 Defendant at the State Police Barracks, did you
24 ever talk to him again directly?

25 A. No, the first time I'm seeing him since then.

1 Q. But you have looked and read on these different
2 websites under his user name?

3 A. That's correct, and again I need to, I want to
4 emphasize that based on what he told me versus
5 what I read were, you know, direct mirror
6 images of each other. It was the same agenda,
7 same agenda.

8 Q. That's what I mean. I mean, you talked to him
9 first?

10 A. That's correct, but the only way that I knew
11 that the website existed, because I had never
12 visited it before, was based on what he told
13 me.

14 Q. Now, did you seize the firearm in question?

15 A. Yes, sir, I did.

16 Q. And did you collect that as evidence?

17 A. Yes, sir, I did.

18 Q. What I'm going to ask you to do, if you could
19 open this, and then I'm going to show it to Mr.
20 Colafella.

21 A. It's a weapon. Your Honor, may I clear the
22 weapon just to ensure it's safe?

23 DISTRICT JUSTICE: I wish you would, yes.

24 THE WITNESS: Safe way. I am going to
25 bring it out of battery as well. Ammunition is

1 in here, magazine, firearm.

2 BY MR. **MARTOCCI**:

3 Q. Now, when **you** received this in evidence, was it
4 apart like this?

5 A. **No**, no. Whenever it was handed to me, the
6 magazine was fully, fully charged.

7 Q. What do you mean, fully charged?

8 A. I mean, it was loaded to capacity, I do
9 believe. I do know that I cleared the weapon
10 myself, and at the time it was handed **to** me,
11 there was no longer a bullet in the chamber,
12 but I was told by Deputy O'Sche that the weapon
13 was loaded, but being a responsible police
14 officer, he rendered the gun safe at that
15 point. There's one silver-tipped hollow point
16 and thirteen, what we'll call, full metal
17 jacket which are generally used for practice, 9
18 millimeter rounds.

19 Q. And how many does this gun hold?

20 A. The magazine has a capacity of fifteen and then
21 one in the chamber. **So**, it has a total
22 capacity of sixteen. **So**, he was two short **of**
23 being fully loaded.

24 Q. And that's how it was when it was discovered
25 and turned over **to** you?

1 A. That is correct; that is correct.

2 Q. What's "one in the chamber" mean? What's that
3 mean?

4 A. It means one in battery, one ready to go. A
5 Glock has no safety other than a secondary
6 safety on the trigger. The **only** thing that's
7 for is: If the weapon was to fall, it wouldn't
8 discharge. If the weapon was struck in the
9 rear, the firing pin would not engage the
10 primer and discharge the weapon. However,
11 there is no manual safety on a Glock other than
12 that. When you point and pull the trigger,
13 it's ready to go. That weapon was ready to go.

14 Q. Did you see the holster that was used?

15 A. I saw it. Um, I didn't get a good look at it.
16 Mr. Noble had it on, but it looked to me like
17 an Israeli-built plastic holster. They are
18 designed for concealed carry mainly, and
19 they're designed for rapid deployment, meaning
20 quick draw.

21 Q. Is there--I know like I think Trooper Harrison
22 has one on, but on his holster it has like a
23 strap or something down there, anything like
24 that?

25 A. That weapon is called a multi-safety weapon.

1 It has safety devices built in. We have to
2 unstrap it a certain way and draw it a certain
3 way. The holster we are talking about that Mr.
4 Noble had on had no such features that I saw.

5 MR. MARTOCCI: All right. That's all I
6 have.

7 CROSS-EXAMINATION

8 BY MR. COLAFELLA:

9 Q. Trooper, I just want to go over a few things
10 with you. Your attention became focused on Mr.
11 Noble when he was reported to you by the
12 Sheriff's Department; is that correct?

13 A. Yes, sir.

14 Q. And I've heard you refer in the course of your
15 testimony to being apprehended.

16 A. Yes, sir.

17 Q. Placed in handcuffs?

18 A. Yes, sir, he was.

19 Q. If you know, what was he apprehended for?

20 A. You'd have to ask Deputy O'Sche that. He's not
21 available today.

22 Q. What was your understanding of what had
23 happened?

24 A. For creating a public disturbance as those
25 Deputies and Borough police officers had been

1 notified by a civilian participant of the rally
2 that there was a man with a gun.

3 Q. So, we know that this gentleman who just
4 testified notified the Sheriffs that he had a
5 firearm, and he was placed in handcuffs?

6 A. Again, Deputy O'Sche, yeah. When I got to him,
7 he was in the Suburban.

8 Q. And your conversation with him in the Suburban,
9 do you have any idea how long that may have
10 lasted?

11 A. Two separate conversations, maybe a total of
12 two minutes.

13 Q. When you say "two separate conversations," two
14 separate conversations in the Suburban or that
15 coupled with what occurred at the Barracks?

16 A. Oh, no. We are talking about in the Suburban
17 here on scene.

18 Q. And then how about at the Barracks? How long
19 are we talking about?

20 A. Again, the majority of his time was spent with
21 the Secret Service. When I talked to him, it
22 was: Maybe I had a total of ten minutes of his
23 time, maybe, and it was basically him giving me
24 his explanation as to why he had the gun.

25 Q. And let's, just for the Record, you appear to

1 acknowledge, appear to seem to acknowledge in
2 the Affidavit of Probable Cause it's perfectly
3 legal to openly carry a firearm?

4 A. According to Pennsylvania law, no question
5 about it, can't argue with that, Counselor.

6 Q. But by virtue of where he was and what was
7 going on at that time, you wanted to
8 investigate that to ensure he had no ill
9 intent, if that's something you'd need to be
10 concerned about?

11 A. Given the totality of the circumstances, I
12 believe that he was taken into custody
13 absolutely correctly. Where we were, what we
14 were doing, the overt presence of law
15 enforcement, no question.

16 Q. And that's all really being done as sort of a
17 precautionary measure in view of the forum we
18 are talking?

19 A. Again, Deputy O'Sche.

20 Q. And you indicated that as you're making your
21 way through the crowd, I think Mr. Martocci had
22 asked why you were in plain clothes and why you
23 were making your rounds in the manner that you
24 were. I heard you made reference to some
25 pro-life activists. You went over in that

1 area.

2 A. Yes, sir. That's where I was.

3 Q. Is it fair to suggest that perhaps given the
4 forum and the circumstances that we're talking
5 about here you may have some heightened
6 awareness when it comes to people who are
7 demonstrating or protesting in terms of: You
8 try to be a little bit more guarded about what
9 their intent might be?

10 A. Um--

11 Q. From your perspective.

12 A. Well, to an extent I'll agree with you, except
13 for the fact that standing there with a poster
14 saying that abortion is murder and walking
15 through the crowd with a gun on your hip in
16 that forum two totally different worlds.

17 Q. A little unusual?

18 A. Quite.

19 Q. But nonetheless, you subsequently determined
20 that Mr. Noble, in fact, had some flyers on
21 him?

22 A. I did, yes.

23 Q. And was intending to distribute those?

24 A. That's correct.

25 Q. And the area where he was located, you didn't

1 see him until he's in the Suburban, and I know
2 you were involved somewhat with logistics here,
3 but the area where he was located, any member
4 of the public could have gone into that area;
5 correct?

6 A. The people had filtered their way in. Once the
7 crowd got to a point where it was very
8 difficult for the number of law enforcement
9 there to keep them filtered, they were doing
10 their best to move them, but, yes, you're
11 absolutely correct, that at that point, the
12 crowd could have gained access to that area.

13 Q. I mean, as far as the tape that was put up in
14 that area, that was more or less, I am
15 assuming--I don't want to put words in your
16 mouth--would it be fair to suggest that was
17 done more or less to contain the general crowd
18 who was not going to go through the more
19 heightened screening, if you know?

20 A. I wouldn't know. I didn't design the
21 perimeters. I couldn't say one way or the
22 other.

23 Q. You had referred in your direct testimony to
24 the fact that Mr. Noble was arrested at one
25 point and transported to the Barracks?

- 1 A. Yes.
- 2 Q. Did you participate in that?
- 3 A. Yes. That, that is where I took over.
- 4 Q. What was he arrested for at that time?
- 5 A. At that time he was arrested for the two
- 6 charges listed on the Affidavit.
- 7 Q. Did you tell Mr. Noble at that time that he was
- 8 going to be charged with disorderly conduct?
- 9 A. Here at the Suburban?
- 10 Q. Yes.
- 11 A. No.
- 12 Q. At any time when you placed him under arrest.
- 13 A. No, I told him he was under arrest.
- 14 Q. You didn't elaborate on why?
- 15 A. I didn't go into specifics at that point. We
- 16 were trying to regain a sense of normalcy with
- 17 the population there. We had drawn quite a
- 18 crowd.
- 19 Q. You had?
- 20 A. Well, the incident had.
- 21 Q. The incident had.
- 22 A. Yes.
- 23 Q. And I understand that after he's searched
- 24 somewhat, in fact, his background is reviewed,
- 25 there's some bio prepared, he's subsequently

1 released?

2 A. That's correct.

3 Q. During that entire period of time he was candid
4 and cooperative; is that right?

5 A. Absolutely.

6 Q. And subsequent to that, after he's released, I
7 understand that you then go and do some
8 research for any postings that he may have made
9 in anticipation of this rally?

10 A. Again, the only reason that I had to wait is
11 because we have to obtain permission from
12 Harrisburg to pull websites of that nature up
13 onto the State Police network. So, as soon as
14 I was relieved, I did that on my own time, the
15 same night.

16 Q. And you reviewed the postings in the days
17 preceding this rally?

18 A. Correct.

19 Q. Did you preserve any of those?

20 A. Unfortunately, my server at home, I was not
21 able to print them out unless I was willing to
22 join, which is something I wasn't willing to do
23 at that time. It wouldn't allow me to print
24 the page I was reading. However, I did read it
25 very thoroughly and am willing to swear under

1 oath that I read exactly what I put in my
2 report.

3 MR. COLAFELLA: May I approach, Your
4 Honor?

5 DISTRICT JUSTICE: *Yes.*

6 BY MR. COLAFELLA:

7 Q. Trooper, I'm going to show you what I have
8 referred to as Defendant's Exhibit A. If you
9 could just take a moment and look at that?
10 Would you just identify what it is I'm showing
11 you?

12 A. It's a printout with the firearms discussion
13 forum, Pennsylvania Firearms Association
14 discussion forum.

15 Q. Is that among the pieces that you read?

16 A. This is--I don't recall seeing this. This
17 looks more like an e-mail to me. I don't
18 recall seeing the reference here, like an
19 e-mail that was forwarded when I read it, but
20 the context is very, is close. I mean, I don't
21 recall seeing this, a/k referencing the
22 Republican Vice President nominee. I don't
23 recall any of that.

24 Q. If I can refer your attention to the first blog
25 that appears here, the statement appears to be,

1 "Bring your guns and Bibles to Beaver tonight.
2 Let's show Obama how we hug our Bibles and
3 guns."

4 A. I did see that.

5 Q. Do you recall reading that?

6 A. Not in this particular sentence, but, yes, I
7 saw that.

8 Q. Okay.

9 A. Apparently it was written more than once.

10 Q. What is the date and time that appears on that?

11 A. The same day as the rally, August 29th at 11:33
12 a.m.

13 MR. COLAFELLA: Thank you. Your Honor, I
14 move for the admission of that.

15 BY MR. COLAFELLA:

16 Q. What time was that rally supposed to begin that
17 day; do you know?

18 A. You know, the only thing that I remember was
19 that it was two hours late. No, I don't
20 recall. It was an eighteen hour day for me.

21 Q. I heard you make reference to a statement that
22 Mr. Noble wanted to test what would happen.
23 You don't have that particular chat blog on
24 this?

25 A. No and again, I apologize. I was unable to

1 print it out.

2 Q. Are you certain that you got that off that
3 website blog?

4 A. It was either the opencarry.org or the
5 Pennsylvania Firearms Association. I don't
6 recall exactly which.

7 Q. Is it possible that you read that in the
8 newspaper?

9 A. Oh, I saw it in the newspaper after I read it,
10 yes, sir, that's correct.

11 Q. And you indicated also that you actually saw
12 the flyer that Mr. Noble had been distributing?

13 A. I saw one of them, yeah.

14 Q. Did you confiscate or preserve one of those?

15 A. I did not, no. Secret Service did.

16 MR. COLAFELLA: May I approach, Your
17 Honor?

18 DISTRICT JUSTICE: Yes, sir.

19 BY MR. COLAFELLA:

20 Q. Trooper, I'm going to show you what's been
21 marked as Defendant's Exhibit B.

22 A. Sure.

23 Q. Tell the Court if you recognize what it is that
24 I'm showing you.

25 A. I do believe this is it. If I recall

1 correctly, there was more than one sheet
2 stapled together. I don't know if it was front
3 and back, but I do believe you have an accurate
4 representation of what was being passed out
5 that day.

6 Q. And just for the Record, that flyer indicates
7 "your Pennsylvania gun rights"; is that
8 correct?

9 A. Uh-huh.

10 Q. And it contains references to a number of
11 websites for what appear to be firearm related
12 organizations?

13 A. Correct.

14 Q. And there's also some reference, statutory
15 reference to carrying a firearm without a
16 license and what the statutory guidelines are?

17 A. That's correct.

18 MR. COLAFELLA: I move for admission of
19 Defendant's Exhibit B.

20 BY MR. COLAFELLA:

21 Q. Just to summarize, Mr. Noble is relinquished
22 into your custody for questioning; is that
23 right? You don't know what transpired prior to
24 that other than the fact that he was taken into
25 custody with an open firearm?

1 A. Correct.

2 Q. Okay, and from there you engaged in some
3 conversation with him, and he informed you that
4 he's there to show Senator Obama how they cling
5 to their guns and their Bibles?

6 A. Correct.

7 Q. The gun and the Bible were both seized?

8 A. No, the Bible was not. The Bible was returned
9 to his wife. I'm a Christian. The Bible is
10 not going into evidence unless it was covered
11 in blood.

12 Q. Did you observe that Bible?

13 A. I saw it in her hand. I didn't look at it. I
14 couldn't tell you what denomination it was or
15 what version.

16 Q. And you called him cooperative, conversational
17 during the course of his custody?

18 A. No doubt.

19 Q. And subsequently was released?

20 A. That's correct.

21 Q. How many law enforcement people altogether
22 participated in this event from the time he's
23 taken into custody or apprehended as you
24 indicated to the time he's released generally?

25 A. I couldn't tell you.

1 Q. More than three or four?

2 A. I couldn't tell you. I don't know how many
3 were there. The only point I talked to was
4 Deputy O'Sche, and then after that, he was
5 transported by another Beaver Borough officer
6 to the Barracks, and then he dealt strictly
7 with me and the Secret Service agent.

8 MR. COLAFELLA: That's all I have. Thank
9 you.

10 DISTRICT JUSTICE: Redirect?

11 MR. MARTOCCI: Yeah.

12 REDIRECT EXAMINATION

13 BY MR. MARTOCCI:

14 Q. You said, you mentioned a crowd that had
15 gathered. **Where** was that?

16 A. The Suburban was on a line straight outside the
17 front doors of the Courthouse with a trailer
18 attached. It had kind of--as they pulled it
19 around to block the street, it had kind of
20 taken a semi A. The crowd was around us in the
21 front of the Suburban and then would have been
22 around the other way. I would imagine we had
23 the attention of at least 100 people.

24 Q. And you were asked some questions about who you
25 talked to in relation to this incident. Did

1 you, in fact, interview Mr. Atkinson who
2 testified earlier?

3 A. Yes, I did speak to him, identified him, and he
4 was released. There was no way to get a solid
5 statement from him at that point.

6 Q.. So, it isn't like you just got information from
7 any old person?

8 A. No.

9 Q. This was the person who reported it?

10 A. Exactly correct. That's why he's here today.

11 MR. MARTOCCI: And, Your Honor, I was
12 negligent in not asking that the firearm be
13 labeled as Commonwealth Exhibit 1, and I would
14 ask--

15 DISTRICT JUSTICE: Okay. That's okay.
16 It's still the Commonwealth's case, and I have
17 two defense exhibits here. So, go right ahead.

18 MR. MARTOCCI: Well, I would ask if that
19 could be labeled or considered Commonwealth's
20 Exhibit No. 1 and ask you to move that into
21 evidence.

22 DISTRICT JUSTICE: Very well.

23 MR. MARTOCCI: And that's all I have.

24 DISTRICT JUSTICE: Finished with this
25 witness?

1 MR. COLAFELLA: Yes, Your Honor.

2 DISTRICT JUSTICE: Thank you. You may
3 step down.

4 THE WITNESS: Thank you.

5 (Witness excused)

6 MR. MARTOCCI: And the Commonwealth rests.

7 DISTRICT JUSTICE: For the defense,
8 Counsel?

9 MR. COLAFELLA: Your Honor, we don't
10 intend to introduce any witnesses or testimony,
11 just argument.

12 DISTRICT JUSTICE: Okay. Are you prepared
13 to do that at this time?

14 MR. COLAFELLA: I am, Your Honor.

15 DISTRICT JUSTICE: Very well.

16 MR. COLAFELLA: Your Honor, I would be
17 redundant. I am sure the Court knows where I'm
18 going to go. What we have, Your Honor, is:
19 Mr. Noble is doing a perfectly lawful activity
20 in a public place. Let me preface by saying
21 that there may be a difference of opinion in
22 terms of whether people believe that what he
23 was doing and where he was doing it was
24 appropriate, but that's a matter of opinion or
25 certainly it was the opinion expressed by Mr.

1 Atkinson who testified who indicated he had
2 never seen anybody open carrying in public that
3 way. Given the context in which he observed
4 it, he reports it to law enforcement. One
5 individual testified to that.

6 We have--I think we can at least agree
7 that what Mr. Noble was doing at that time was
8 perfectly legal. The question is the context
9 in which he did it, does that constitute one of
10 public alarm, and is there evidence that he
11 intended to cause public alarm? We're being
12 asked to make that inference by virtue of the
13 fact that one individual was alarmed by it, but
14 the fact of the matter is, Your Honor: Mr.
15 Noble was there with a legitimate intent,
16 certainly exercising his constitutional right,
17 freedom of assembly and freedom to carry his
18 firearm on the second event. He wasn't doing
19 anything illegal. In fact, he was distributing
20 information explaining gun rights and what is
21 legal and what is not legal.

22 The fact of the matter is: The
23 disturbance that the Commonwealth is suggesting
24 he created is largely attributed to the heavy
25 police presence and the fact that he's escorted

1 all the way through a park with hundreds of
2 people with Secret Service, State Police,
3 Sheriffs, whoever else was there. To the
4 extent there was public alarm, the Court to
5 find a prima facie case of public alarm by
6 virtue of one witness' testimony that he found
7 it to be unusual and alarming and that he had a
8 firearm openly carried doesn't demonstrate that
9 there's public alarm, really that one
10 individual found it unusual enough to report
11 it.

12 The fact is: There is no evidence, Your
13 Honor, that my client intended to disrupt this
14 public meeting or did disrupt this public
15 gathering or meeting or, two, that it was his
16 intent to do either, create public
17 inconvenience, annoyance or alarm or to disrupt
18 this public gathering. They want you to infer
19 that by virtue of the fact that he may have
20 posted things on a website, which he's
21 perfectly entitled to do. He merely indicates,
22 "Let's go down 'there and show them how we hug
23 our Bibles and our guns." It's just his
24 constitutional right to do that, as much as
25 it's anyone's right to say, "Let's go down

1 there and demonstrate against abortion" or
2 "protest an increase in taxes." There's no
3 inference, Your Honor, of any ill will or bad
4 intent by virtue of the fact that he announced
5 his intention to go down there and quietly
6 demonstrate, which is all that he did and which
7 is his right, Your Honor.

8 So, I am going to ask that both counts be
9 dismissed, Your Honor, because there's no prima
10 facie case showing with respect to either one.
11 He was engaged in a perfectly legal activity in
12 a perfectly legal setting. The only thing the
13 Commonwealth would argue if you read the
14 Affidavit of Probable Cause, Your Honor, it's
15 laced with opinions. It's almost like a
16 mission statement as to why Mr. Noble shouldn't
17 have been where he was at that time, but to the
18 extent that the laws were broken, Your Honor, I
19 would submit that (inaudible). Thank you.

20 DISTRICT JUSTICE: Thank you. And for the
21 Commonwealth, Counselor?

22 MR. MARTOCCI: Yes, Your Honor. I'd like
23 to take a look at Defendant's Exhibit A, if I
24 could, for my remarks. I think, Your Honor,
25 and I was anticipating that the argument was

1 going to be, "Well, he has rights. He has
2 rights, he has rights, he has rights, and he
3 has a right to bear arms. He has a right to
4 freedom of speech. He has a right to
5 assembly," all those things, and I don't
6 dispute that at all, I mean, but that's where
7 the defense has completely misse^d the boat
8 because this case isn't about hi right to bear
9 arms or his right to freedom of speech. It's
10 not about that in any way, shape, or form

11 What it's actually about is that the
12 Government has to provide a safe area for an
13 event like this; okay? That's the Government's
14 job, to protect the public welfare, and all
15 those hundreds of people that were there, yeah,
16 they all have rights, too. They have a right
17 to expect that they are going to be able to
18 attend something like that, a political rally,
19 a public event, and not feel threatened, not
20 have to be concerned, n t have to worry about
21 if someone is going to ome with a gun or if
22 somebody else is going oo pull that gun out of
23 that holster and do the unspeakable.

24 So, that's, that's what this case really
25 is about It's not about that--it's not about

1 what--it's not really in dispute. I'm not
2 trying to say, you know, that's in dispute in
3 any way, shape, or form, but when you look at
4 it in that context, look at it in the context
5 of the other people that were there, that was
6 **the** intent of the Statute. That's why he was
7 charged with the things he was charged with.
8 He's not charged with any firearms charge or
9 anything like that.

10 He's charged with disrupting meetings and
11 processions. That's the name of the Statute,
12 and it's very short, and all the elements are
13 there. "A person commits a misdemeanor of the
14 third degree if, with the intent to prevent or
15 disrupt a lawful meeting, procession, or
16 gathering, he disturbs or interrupts it."
17 Well, everything you heard fits that. He
18 intended to do it going in, and using the
19 Defendant's exhibits, "Bring your gun and Bible
20 to Beaver tonight, and let's show Obama how we
21 hug our Bibles and guns." That right there
22 establishes intent. He wrote that on August
23 29th, 2008 at eleven-thirty in the morning.
24 This was in the evening, that event. So,
25 there's intent to disrupt based just on those

1 words.

2 And how we know that also is that a couple
3 **days** before that, there was information that
4 was posted that said he's going to take this
5 gun to the event to test what would happen.
6 Well, we all know that this event was highly
7 secured. There are areas of **both parks** that
8 were sectioned off. The area that we're
9 talking about in particular was very close to
10 the, and that's where the Defendant came from
11 according to the testimony, **the** area that was
12 totally restricted, was where the motorcade was
13 coming in. **So**, this isn't like, this is not an
14 area where you just go around freely and walk
15 around as you want to. **It's** secured for a
16 reason. It's secured because the people who
17 are there have a right to expect that they are
18 not going to be placed in any danger.

19 That's the right section we are dealing
20 with here, and I think the way the Statute
21 reads, that the intent was established, that he
22 went there and did, in fact, cause a disruption
23 to that event because as the Trooper stated and
24 as Mr. Atkinson stated, after he pointed him
25 out and identified **him**, there **was** a gathering

1 of a couple hundred people all around, and he
2 had to get this event back to normalcy as was
3 stated, and he intended to do exactly what he
4 did, which was disrupt the proceeding, and
5 that's what this count lists, and that's what
6 all the evidence you heard establishes, a prima
7 facie case for that.

8 The disorderly conduct count that he
9 faces, it says here "which creates a hazardous
10 or physically offensive condition or any act
11 which serves no legitimate purpose of the
12 actor." Okay? Now, his argument is that his
13 purpose was to promote gun rights, but he also
14 created a physically offensive, hazardous
15 condition by bringing that loaded Glock that
16 you saw with a bullet in the chamber in a
17 holster that's exposed, came this close to
18 contact with hundreds of people. That creates
19 a physically offensive or hazardous condition
20 because not only can he pull it out rather
21 easily but anybody who bumps into him could do
22 the same thing, and again, the purpose of the
23 heightened security, the purpose of having the
24 Trooper there and all the other Secret Service
25 people there, again, is to provide a safe haven

1 for all the people who have all the same rights
2 to expect that at that time at that rally which
3 he disrupted.

4 And I think that when you look at it in
5 that light, we have established a prima facie
6 case to both of those counts because of his
7 intention and because of his actions and again,
8 and also applying the common sense argument, if
9 he wanted to pass out literature on firearms or
10 if he wanted to speak about what was in the
11 Bible that he was carrying around, go ahead.
12 Why not? You can hand all that stuff out and
13 do whatever you want, but maybe you don't bring
14 a gun.

15 When you bring the gun itself, that
16 certainly creates the situation that the
17 Statute was intended for. We're not saying he
18 can't say whatever he wanted to say about gun
19 rights. You can do that. Or you can go
20 further. You can go with the gun not loaded,
21 but the facts are: He's there with a loaded
22 firearm that's easily accessible to himself and
23 others and places everyone at risk who's around
24 him in that area and also violates that
25 security that was all set up there for that

1 purpose and to protect the hundreds, if not
2 thousands, of people that were there.

3 So, I ask you to hold this over because
4 all the elements are there, including the
5 intent, the act, on the Section 5508 and also
6 under 5503, creating a physically hazardous
7 condition.

8 DISTRICT JUSTICE: Thank you. Okay, and
9 now in this matter which again has been been
10 docketed as Criminal Matter 345 of 2008, after
11 a full and complete hearing regarding the fact
12 pattern on this particular date, I do want to
13 say that Attorney Colafella as well as Attorney
14 Martocci both have compelling arguments.

15 After considering the evidence that's been.
16 presented before the Court today, the docket
17 transcript in this matter at 345 of 2008 will
18 be held for further Court action, and this
19 hearing is adjourned at this point.

20 Mr. Colafella, there's a Booking Order for
21 your client, if you can wait just a moment.

22 MR. COLAFELLA: Sure.

23 DISTRICT JUSTICE: Have a good day.

24 TROOPER SCHEXNAILDRE: Thank you, Your
25 Honor.

(Proceedings closed)

STENOGRAPHER'S CERTIFICATE

1
2 I hereby certify that the
3 audiotaped evidence and proceedings in the
4 above-entitled matter were transcribed fully
5 and accurately to the best of my ability and
6 that this copy is a full, true, and accurate
7 transcript of the above.
8
9

10 Carole A. Carland
11 Official Stenographer
12
13
14
15
16
17
18
19
20
21
22
23
24
25