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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.

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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

