

IN THE FIRST JUDICIAL DISTRICT
MUNICIPAL COURT OF PHILADELPHIA
CRIMINAL JUSTICE CENTER
1301 FILBERT STREET
COURTROOM 603

COMMONWEALTH

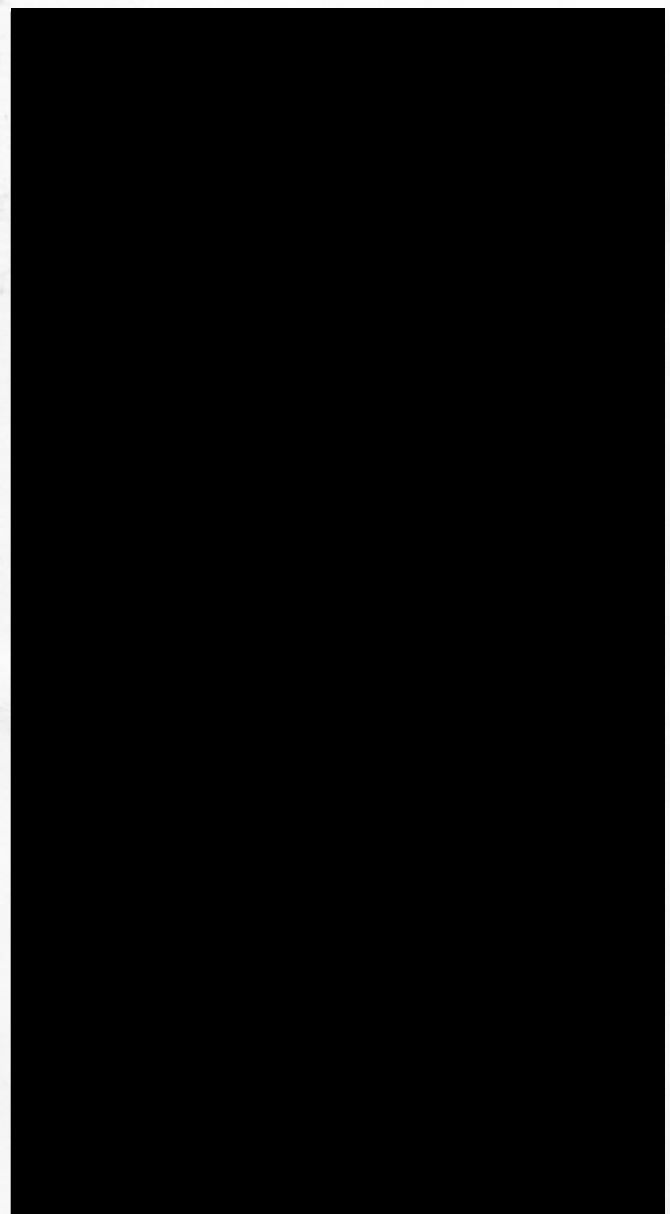
VS.

NADINE PELLEGRINO

COMMONWEALTH

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NADINE PELLEGRINO



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PHILADELPHIA, PENNSYLVANIA

- - -

JANUARY 24, 2008

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BEFORE: THE HONORABLE THOMAS F. GEHRET, JUDGE

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APPEARANCES:

CHRISTY TUTTLE, ESQUIRE
ASSISTANT DISTRICT ATTORNEY
FOR THE COMMONWEALTH

JOHN ELBERT, ESQUIRE
COUNSEL FOR THE DEFENDANT

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REPORTED BY:

SALVATORE NATALE,
OFFICIAL COURT REPORTER

THE CRIER: YOUR HONOR, THIS IS CASE
NUMBER 48 AND 49 ON YOUR LIST, NADINE
PELLEGRINO.

MR. ELBERT: YOUR HONOR, DO YOU WANT
TO DO THIS IN CAMERA?

THE COURT: I DON'T KNOW IF ANYTHING
IS GOING TO COME UP --

MR. ELBERT: THE NOTES OF TESTIMONY
WILL BE BROUGHT UP.

MS. TUTTLE: THERE IS AN ATTORNEY
FROM THE TSA. SHE HAS NO OBJECTION TO IT
HAPPENING IN OPEN COURT.

THE COURT: WHERE'S THE OTHER
ATTORNEY?

WE'RE DOING THE CASE NOW.

DO YOU WANT TO COME UP?

MS. SCULLY: YOUR HONOR, PATRICE
SCULLY, FOR THE TRANSPORTATION SECURITY
ADMINISTRATION.

MR. ELBERT: THIS IS A MOTION TO
DISMISS THE CRIMINAL COMPLAINT AGAINST
MY CLIENT, NADINE PELLEGRINO.

THE COURT: TO DISMISS OR TO SUPPRESS?

MR. ELBERT: TO DISMISS AND SUPPRESS.

YOU SUPPRESS THE EVIDENCE, THE CASE
WILL BE DISMISSED.

THE COURT: THAT'S UP TO THEM.

WHAT EVIDENCE DO YOU WANT TO
SUPPRESS?

MR. ELBERT: LET ME PUT IT THIS WAY,
ANY EVIDENCE THAT WOULD HAVE TO DO WITH THE
TESTIMONY.

THE COURT: YOU DON'T WANT TO HEAR
TESTIMONY OF EVIDENCE THAT WOULD HAVE BEEN
ON TAPE. THAT TAPE IS THE BEST EVIDENCE.

MR. ELBERT: THAT'S CORRECT.

THAT'S ONE THING.

IN ADDITION, WE'RE FILING A MOTION
TO DISMISS BECAUSE THE TAPE IS ALSO THE BEST
EVIDENCE AND WE HAVE NOT BEEN PROVIDED THAT
TAPE.

THE COURT: THAT IS WHAT I --

MR. ELBERT: THERE WAS AN IN-CAMERA
HEARING ABOUT THAT.

TSA TOLD THE COURT A PARTICULAR AREA
THAT WE'RE TALKING ABOUT WAS NOT COVERED
BY THE VIDEOTAPE, WHICH WOULD HAVE BEEN
THE ENCLOSED ROOM. ONLY THE COMMON AREA
WOULD BE COVERED BY THE VIDEOTAPE.

THERE'S TESTIMONY IN THE PRELIMINARY HEARING NOTES THAT NOT ONLY THINGS OCCURRED INSIDE THE ROOM, BUT ALSO IN THE COMMON AREA, WHICH WOULD HAVE BEEN COVERED BY THE VIDEOTAPE.

THE COURT: WE'RE GOING TO HEAR TESTIMONY WHAT IS INSIDE THE ROOM.

MR. ELBERT: NOW, WHAT I AM SAYING NOW, BECAUSE --

THE COURT: THAT'S WHAT YOU WANT?

MR. ELBERT: NO.

WHAT I WANT IS A DISMISSAL.

THE VIDEOTAPE WOULD SHOW, FOR EXAMPLE, THE COMPLAINANT, MALIK (SIC), TESTIFIED AT THE PRELIMINARY HEARING THAT SHE HAD REMOVED CERTAIN BAGS FROM THE BELT AND TOOK THEM INTO THE ROOM.

THE COURT: THIS VIDEOTAPE WILL SHOW SHE DID NOT DO THAT --

MR. ELBERT: THE TAPE WOULD SHOW THAT MY CLIENT'S HUSBAND DID THAT.

THE COURT: WHY IS THAT IMPORTANT?

MR. ELBERT: CREDIBILITY.

SECONDLY, THE COMPLAINANT, MALIK, TESTIFIED THAT MY CLIENT STOMPED OUT OF THE ROOM, ANGRILY, TOSSED SHOES OUT OF THE ROOM, AND HIT THE SUPERVISOR.

THE COURT: THAT WILL NOT BE ALLOWED
IN THE TESTIMONY IF I GRANT YOUR MOTION.

MR. ELBERT: THE TSA AGENT SAID,
IN ORDER FOR THEM TO SECURE THE VIDEOTAPE,
THEY WOULD HAVE TO BE NOTIFIED IN THIRTY DAYS.

THE COURT: IS THAT AGREED ABOUT
THE TAPE?

IF THEY HAVE PROCEDURES, THAT'S
THEIR PROBLEM; OKAY?

MR. ELBERT: WE DID EVERYTHING
WE COULD.

THE COURT: I AGREE.

MR. ELBERT: IN ADDITION, THE TSA
AGENT TESTIFIED, WHEN A CRIMINAL COMPLAINT
IS FILED OR A CIVIL ACTION IS FILED, THE AGENT
OR POLICE OR THE AIRPORT ADMINISTRATOR WOULD
REQUEST THOSE TAPES AS A MATTER OF COURSE.
IN THIS INSTANCE, THEY WERE NOT.

THE COURT: LISTEN, MY WHOLE POINT IS,
IF I GRANT YOUR MOTION, THE EVIDENCE THAT
WOULD HAVE BEEN ON THE TAPE CAN BE SUPPRESSED
EVIDENCE; ANYTHING SHE DID IN THE ROOM WOULD NOT
BE SUPPRESSED BECAUSE THAT WAS NOT ON THE TAPE.

DO YOU UNDERSTAND?

MR. ELBERT: I UNDERSTAND YOUR
REASONING, YOUR HONOR.

THE EVIDENCE THAT WOULD HAVE BEEN
ON THE TAPE --

THE COURT: I'M TRYING TO CLARIFY
WHAT HE IS ASKING FOR.

MR. ELBERT: THE EVIDENCE THAT WOULD
HAVE BEEN ON THE TAPE WOULD HAVE SUPPORTED
MY CLIENT'S CONTENTION SHE DID NOTHING WRONG.

THE COURT: COMMONWEALTH?

MS. TUTTLE: FIRST OF ALL, I DON'T
THINK WE RUN INTO THE BEST EVIDENCE PROBLEM
WITH THE VIDEOTAPE. WE HAVE LIVE WITNESSES
THAT SAW IT. IT'S NOT LIKE A CLOSED CIRCUIT
SET. IT WAS VIEWED BY A CAMERA.

WE'RE WILLING TO PUT ON LIVE
TESTIMONY FROM THE WITNESSES WHAT THEY SAW
WITH THEIR OWN EYES AT THE PLACE.

THE REASON WHY THE VIDEO --

MR. ELBERT: WAS NOT PULLED, THE TSA
TOOK A LOOK AND KNEW THERE WAS NO VIDEO CAMERA
IN THE ROOM AND ENTRANCE OF THE DOOR.

PAGE 20 OF THE NOTES OF TESTIMONY INDICATES, FOR THAT REASON, IT WAS NOT PULLED.

I HAVE A COPY OF THE LETTER BY MR. GIULIANI. THE DATE I HAVE, 8/29/06, THIRTY DAYS AFTER THE INCIDENT.

THAT DATE STAMP APPLIES TO WHEN IT WOULD HAVE BEEN GOTTEN IN THE OFFICE OR WHEN IT WAS RECEIVED BY THE AIRPORT, AS TOLD BY THE TESTIMONY, INDICATING THAT WAS NOT RECEIVED, PHYSICALLY, BY THE PERSON THAT WOULD MAKE THE CALL, UNTIL AFTER THE THIRTY DAYS, AND, IN ADDITION, IT WAS BY A CIVILIAN.

THE COURT: THIS THIRTY-DAY THING IS LUDICROUS TO ME.

MS. TUTTLE: NORMALLY, WHEN THERE'S AN INCIDENT, THEY WOULD PULL THE TAPE IN THIS -- THERE WAS AN INCIDENT WHERE THERE ARE VIDEOTAPES --

THE COURT: YOU'RE SAYING THAT EVERYTHING HAPPENED IN THE ROOM.

MS. TUTTLE: AND THE ENTRANCE OF THE DOORWAY.

THAT AREA IS NOT COVERED BY THE
VIDEOTAPE.

MR. ELBERT: WE DON'T KNOW THAT.
THAT'S NOT CLEAR FROM THE NOTES.

WE KNOW THE CAMERA COVERED THE
COMMON AREA. AT THE PRELIMINARY HEARING,
IT WAS TESTIFIED TO.

THE COURT: I HAVE THE PRELIMINARY
HEARING -- WHAT I HAVE IS, THE MAJORITY OF
THE INCIDENT TOOK PLACE IN THE PRIVATE
SCREENING ROOM, WHERE THERE'S NO VIDEO.

MR. ELBERT: NOR WAS THERE ONE AT
THE ENTRANCE OF THE DOORWAY.

MS. TUTTLE: THE ENTRANCE OF THE
DOORWAY AND ROOM.

MR. ELBERT: WHEN MY CLIENT CAME OUT
OF THE ROOM, SHE DID OTHER THINGS.

THE POINT IS, THE POLICY OF THE TSA
OR POLICE, WHENEVER A CRIMINAL COMPLAINT IS
FILED, IT'S THE POLICY, AS STATED IN THE
IN-CAMERA PROCEEDING, FOR THEM TO PULL THOSE
TAPES.

OUR CONTENTION IS, THE REASON
THESE TAPES ARE IMPORTANT, NOT ONLY
WOULD THEY SUPPORT MY CLIENT'S CONTENTION

SHE DID NOTHING WRONG EITHER INSIDE OR OUTSIDE THE ROOM, THE TSA -- IT'S THEIR OWN POLICY TO PULL THE TAPES -- THEY'RE NOT TAPES, THIS IS A DIGITAL RECORDING -- ANYTIME A CRIMINAL COMPLAINT OR A CIVIL COMPLAINT IS FILED -- IN THIS CASE, WE HAVE BOTH, AND NOBODY REQUESTED IT FROM THE GOVERNMENT'S SIDE TO REQUEST THOSE DIGITAL RECORDINGS.

THE COURT: YOU DON'T HAVE WITNESSES?

MS. TUTTLE: NO.

THAT'S TRUE, THAT'S THEIR POLICY.

THEY PURPORT THAT THERE WAS NOT A VIDEO SURVEILLANCE AT THE PLACE WHERE THE INCIDENT TOOK PLACE.

THE COURT: I UNDERSTAND THAT.

DO YOU HAVE ANYTHING TO SAY, MS. SCULLY?

MR. ELBERT: I OBJECT TO THIS PERSON TESTIFYING. MY CLIENT IS NOT HERE.

THE COURT: I WANT TO HEAR WHAT SHE HAS TO SAY.

MS. SCULLY: THE CAMERAS ARE NOT OWNED OR CONTROLLED BY THE TSA, THEY ARE OWNED AND CONTROLLED BY THE AIRPORT.

THE TSA -- I WOULD LIKE TO MAKE IT CLEAR, THE TSA HAVE TO MAKE THE REQUEST TO GET THE TAPES. IT'S THE AIRPORT POLICY. THEY TOOK OVER THEM AFTER THIRTY DAYS, NOT THE TSA.

MR. ELBERT: THAT'S NOT WHAT WAS STATED IN THE IN-CAMERA PROCEEDING.

IN THE IN-CAMERA PROCEEDING, IT WAS STATED THE TSA OR AIRPORT OR POLICE WOULD SECURE THE TAPES.

MS. TUTTLE: I DON'T THINK THAT SHE WOULD DISPUTE THAT.

THE TSA HAS ONE WAY OF REQUESTING IT, OR THE POLICE.

THE COURT: I HEARD IT ALL. I READ THE NOTES. I VIEWED THE DOCUMENTS.

HERE'S WHAT IS GRANTED IN YOUR MOTION TO SUPPRESS, OKAY, THE ONLY EVIDENCE THAT WILL BE HEARD FROM WITNESS IS WHAT HAPPENED IN THE ROOM, ONLY WHAT HAPPENED IN THE ROOM, ONLY. NO EVIDENCE WAS SHOWN TO ME BY THE COMMONWEALTH OR THE AIRPORT OR THE TSA ABOUT WHAT VIEW THESE CAMERAS HAVE,

AND I HAVE ON THE RECORD THERE WAS NO CAMERA
IN THE SCREENING ROOM. THAT'S THE ONLY AREA
I WOULD HEAR TESTIMONY ON.

MS. TUTTLE: YOUR HONOR --

THE COURT: THAT'S THE DECISION.
IT'S DONE.

I SEE NO REASON FOR A RECUSAL.
I'LL KEEP IT, BOTH SIDES; OKAY WITH THAT?

MR. ELBERT: IT'S A PROTRACTED CASE.
IT'S A PROTRACTED HEARING.

THE COURT: IT IS?

MS. TUTTLE: HOW MANY WITNESSES --

MR. ELBERT: WELL, WE HAVE,
PROBABLY, FIVE OR SIX.

THE COURT: AND HOW MANY DO YOU
HAVE?

MS. TUTTLE: TWO.

THE COURT: SEVEN WITNESSES.

MS. TUTTLE: FOR CLARIFICATION,
WHEN YOU SAID, "INSIDE THE ROOM," DOES THAT
MEAN THE DOORWAY?

THE COURT: JUST WHAT HAPPENED
INSIDE THE ROOM.

AGAIN, IF THEY WANTED TO USE THE
DOORWAY, THEY SHOULD HAVE PROVIDED ME WITH
SOMETHING TO VIEW AND EXCLUDE THE DOORWAY.
I DON'T HAVE THAT.

ALL I KNOW FOR SURE IS THERE'S NO
CAMERA IN THE ROOM. THAT'S ALL I AM ALLOWING
TESTIMONY ON. ANYTHING THAT HAPPENED OUTSIDE
THE ROOM, THERE WILL BE NO TESTIMONY.

MR. NATALE, COULD YOU GET THE NOTES
FOR ME?

THE COURT REPORTER: YES, YOUR HONOR.

THE COURT: GIVE IT A DATE.

THE CRIER: APRIL 10TH, IN 1003.

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I HEREBY CERTIFY THAT THE PROCEEDINGS
AND EVIDENCE ARE CONTAINED FULLY AND ACCURATELY
IN THE NOTES TAKEN BY ME ON THE TRIAL OF THE
ABOVE CAUSE, AND THAT THIS COPY IS A CORRECT
TRANSCRIPTION OF THE SAME.

SALVATORE NATALE,
OFFICIAL COURT REPORTER