

Adda

Q. You could see him? The only place you couldn't see him was downstairs in the t.v. room. You could see him when he left?

A. Yes.

Q. Is that right?

A. They came up to say goodbye, etc.

ADDA GONTARZ: Sworn:

BY MR. BANIK:

Q. State your name please?

A. Adda Gontarz.

Q. Where do you reside?

A. 15 Main Street, Lawrenceville. # S O

Q. Joe is your neighbor?

A. Yes. Joe is my neighbor.

Q. On March 9, of this year, it's my understanding you were listening to your police scanner?

A. Yes. I bought a scanner a few months ago. When you buy your scanner, they give you certain frequencies. So I program it in to Tioga County. I don't listen to it all of the time. Just once in a while when I'm upstairs, I turn it on. And I happened to have it on that night.

BY MR. COWLEY: Could we approach?

SIDE BAR CONFERENCE:

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SIDE BAR CONFERENCE AS FOLLOWS:

BY THE COURT: We'll take a short recess and we'll deal with this.

END OF SIDE BAR CONFERENCE:

BY THE COURT: Members of the jury, we're going to take about a ten minute break here to give you an opportunity to stretch. You've been sitting for a while. And when you come back, we'll complete the testimony.

2:36 P.M. - Recess:

JURY TAKEN OUT OF THE COURT ROOM:

SIDE BAR CONFERENCE AS FOLLOWS:

BY THE COURT: Mr. Cowley asked for an offer of proof on this witness that's just been called.

BY MR. BANIK: Mrs. Gontarz was listening to the entire conversation on the police radio. And more importantly, what she did not hear. She did not hear them raise the issue of crossing of the center line or erotic behavior.

BY MR. COWLEY: She can only testify to what she heard.

What did she hear?

BY MR. BANIK: He wouldn't pull over. He was not speeding.

BY MR. COWLEY: All right. That's not inconsistent.

BY MR. BANIK: Basically not inconsistent with what we have already heard.

VRS

BY THE COURT: My recollection of the testimony, which may not be totally accurate, but, I don't recall any officer testifying anything was said about crossing the center line on any of the radio transmissions.

BY MR. BANIK: Right.

BY THE COURT: So that her testimony.....?

BY MR. BANIK: It will be about two minutes. But it may not be necessary to put her on at all.

BY MR. COWLEY: We ask the witness remain sequestered and not discuss the case.

Do you have any more witnesses?

BY MR. BANIK: His mother is all.

BY MR. COWLEY: All right. Ask her not to talk. That's about it.

END OF SIDE BAR CONFERENCE:

2:39 P.M. - RECESS:

2:57 P.M.

VERONICA SNYDER: Sworn:

BY MR. BANIK: Do you want an offer of proof on this one?

SIDE BAR CONFERENCE AS FOLLOWS:

BYMR. BANIK: On prior occasions, Mrs. Snyder would have advised Joe to be cautious as to where he stops for police officers. As to why he would have proceeded. This is for you primarily for the fleeing and eluding.

VPS
She would advise him on prior occasions to be cautious in dealing with the local police and be in a place where there is lighting and not in an urban setting, other than a remote setting.

BY MR. COWLEY: When did these cautionary things take place?

BY MR. BANIK: Prior to the second, between January and March.

BY THE COURT: That's a defense to fleeing and eluding?

BY MR. BANIK: Well, he didn't stop for a purpose. He wanted to get to a more urban environment than a long and deserted highway like 15. From Tioga Township line to the Borough line there is nothing. She advised him to stop in an urban setting.

BY MR. COWLEY: I don't know...

BY MR. BANIK: For your ears. This is on the summary matter.

BY MR. COWLEY: You will have to instruct the jury as to the relevance to the other charges. It's not a defense.

BY MR. BANIK: If you look up fleeing and eluding in Websters, they both require an evasive maneuver or speed, and neither of which we have. I believe I have to convince you there was no attempt to flee and

VRG
elude. No evasive maneuver. No high speed. To some degree he was going slow. I have looked that up.

BY MR. COWLEY: Her testimony may be incriminating on that charge. You can't set up your own rules. He can refuse to respond.

BY MR. BANIK: He was 100 yards from home when he stopped.

BY MR. COWLEY: He doesn't have that choice.

BY THE COURT: No. That's not...the statute of fleeing and eluding doesn't provide a defense of somebody thinking they don't have to stop because it's dark or it was a spot they didn't want to stop at. The statute says refuse to stop when there is a clearly visible light, or siren. I don't know what this lady's testimony will have to do with his violating that section or not. It certainly doesn't provide a defense to it. The fact that she or anybody told him to correctly or incorrectly that they didn't have to stop.

BY MR. BANIK: There is no clear case you have to stop immediately. If you are in a danger zone. It's a question of whether his perception of the officers is hostile towards him personally. If he believes it, he stops in a more urban setting.

BY THE COURT: He didn't testify to that.

BY MR. BANIK: He will.

BY THE COURT: Well, that's fine.

BY MR. COWLEY: Put him on first.

BY THE COURT: But even at that, her testimony, or anybody's testimony, to the effect they told somebody they didn't have to stop...

BY MR. BANIK: Not that you don't have to stop, but, to be careful where you do.

BY THE COURT: That's not the law, Steve.

BY MR. BANIK: I don't see any case law that says you have to stop right there.

BY THE COURT: Show me a case that supports what you're saying.

BY MR. BANIK: I haven't found any to the contrary either.

BY THE COURT: And you're objecting to her testifying?

BY MR. COWLEY: I guess I will object because there is an attempt to interject this alleged defense, which the Commonwealth doesn't believe exists. To taint the police as being vigilantes or a threat to these people. And we get into a whole lot of stuff that's not substantive.

BY THE COURT: I will do this. You have her on the stand, and you can question her. But I will absolutely allow no hearsay. I will allow no opinion on her part. If you want to ask her, did you ever tell your son he

needs to be careful where he stops, say yes or no.

But I'm not going to allow anything else.

BY MR. COWLEY: If you ask why, I'll object.

END OF SIDE BAR CONFERENCE:

BY MR. BANIK TO VERONICA SNYDER:

Q. State your name?

A. My name is Veronica Snyder.

Q. Where do you reside?

A. 40 East Half Hollow Road, Dicks Hill, New York.

Q. You are the mother of Joseph Waikenis?

A. Yes, I am.

Q. At some point did you speak to your son about how he should stop?

A. Well, yes. We were hearing things coming out of the Lawrenceville....

BY MR. COWLEY: Objection on what she may or may not have heard.

BY THE COURT: I'll have to sustain that objection.

BY MR. BANIK TO VERONICA SNYDER:

Q. Hearsay. We have to be careful what we say.

A. Okay. Based on....

BY MR. COWLEY: Objection to based on, because that assumes some things. She can say what she said, what she told him.

BY MR. BANIK TO VERONICA SNYDER:

Q. What did you tell your son?

A. I told my son, first of all, my husband and I discussed these things that we heard. My husband...

BY MR. COWLEY: Objection. I just ask that she be directed to say what she said to her son.

BY THE COURT: The question was asked, what you told your son.

BY VERONICA SNYDER: All right. We told Joe that under no circumstances was he to find himself alone with any of those officers in an out of the way location. Because we feel that there is a possibility...

BY MR. COWLEY: Objection as to what she feels.

BY THE COURT: I'll sustain the objection.

BY MR. COWLEY: She can testify to what she said.

BY THE COURT: You have to confine yourself to the questions being asked.

Any additional questions?

BY MR. BANIK TO VERONICA SNYDER:

Q. Have you spoken to your son concerning the incident in question?

A. Yes, sir.

Q. And when did you speak to him? How quickly after the incident occurred?

VRS
A. I would say we were on the phone, it would be, if not that evening, within a couple days. Because Joe and I are on the phone a lot. My bill is very high.

Q. Were you talking to him before he received any formal citations?

A. Yes.

Q. And do you recall what his anticipation was regarding the charges he anticipated?

A. He really didn't expect any of those charges because he explained that he was released. What he said was that his truck was a mess. And that his mini-micro-recorder was missing. They had impounded it at the Mobil Station in town. And Joe told us that it was impounded at the relative's Mobil Station and I believe it was Kirby Young, at least it was a relative of Kirby Young, who owned that station. And I really thought that was a conflict of interest and kind of unusual to have it impounded at a local gas station.

Q. Did you speak to him about alcohol consumption or did he discuss whether or not he had been....

BY MR. COWLEY: I'm going to object. This is hearsay. What the defendant may have said. Or not have said. It's self-serving. Defense counsel has indicated the defendant is going to testify. She is only relating

in theory what she thinks has been said.

BY THE COURT: I'll sustain the objection.

BY MR. BANIK TO VERONICA SNYDER:

Q. Did Joe indicate whether or not he had been drinking on that evening?

A. No.

BY MR. COWLEY: Objection. He's asking for a consistent statement which is the whole...

BY THE COURT: Sustained.

BY MR. BANIK: Cross-examine.

BY MR. COWLEY TO VERONICA SNYDER:

Q. I have a couple questions. We got off this track.

Is it your understanding that this gas station is owned by Kirby Young or a relative? What's the....?

A. Well, first of all, Lawrenceville is a small town so you do hear a lot of things coming out of there.

Q. Mam. Just answer the question. Is it your understanding that this gas station is owned by Kirby Young?

A. No. No. A relative of Kirby Young.

Q. It's your understanding it's a relative of Kirby Young?

A. Yes. That's what we heard.

Q. Brother, sister, mother, father?

A. I have no idea. Just a relative.

Q. Just a rumor?

VRS

A. Well, yeh....

Q. It's a rumor?

A. It's a rumor.

Q. All right. That's all I wanted to know. Okay.

Thank you.

A. Okay.

Q. Now, you said that your son, does he drink?

A. No, not really. Not drinking as in the matter of
to get drunk. And if he is going to drive...

Q. To your knowledge?

A. No.

Q. How long has it bee since he has been home? I mean
you live in Long Island, I guess?

A. We live in Long Island. Joe comes down to visit us.
When he is down there, we do..you know, we're home
and we have a little something, that's one thing. We
don't get drunk.

Q. He's 32 years old?

A. No. He's 30 years old.

Q. 30 years old?

A. Yes.

Q. And how long has he been away from home?

A. Right now, he has been from Long Island off and on,
the last four years he has been up in Pennsylvania,

but also he stays, when he comes down to Long Island, he stays with us.

Q. How often is he down there?

A. Well, right now he got married so he has only been down twice at this point, for a couple days.

Q. His date of birth is January 26, 1963?

A. Yes, it is.

Q. Do you know his Social Security number?

A. No.

JOSEPH WAIKENIS: Sworn:

BY MR. BANIK:

Q. State your full name please?

A. Joseph C. Waikenis.

Q. And where do you reside?

A. 48 Main Street, in Lawrenceville.

Q. Do you recall the day as it began on March 9, 1993?

A. Yes. Morning basically I got up about 5:00. Had a bite to eat. Went to work at 6:00. At the time, I think, my girlfriend and I got off work around 11:00. Went back to her parents house, and then about 11:30, 12:00, we headed to Sayre to move out the rest of her stuff. Or some of it. Basically. Back to her parents house. In doing so when we came back to her parents house, unloaded the truck, she decided that,