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EXHIBIT A

1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF ARIZONA

3
4 Manuel de Jesus Ortega)
Melendres, et al.,)
5)
Plaintiffs,) CV 07-2513-PHX-GMS
6)
vs.) Phoenix, Arizona
7) April 21, 2015
Joseph M. Arpaio, et al.,) 9 o'clock a.m.
8)
Defendants.)
9 _____)

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15 REPORTER'S TRANSCRIPT OF PROCEEDINGS

16 BEFORE THE HONORABLE G. MURRAY SNOW

17 (Evidentiary Hearing)

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19
20
21
22 Court Reporter: Gary Moll
401 W. Washington Street, SPC #38
23 Phoenix, Arizona 85003
(602) 322-7263

24 Proceedings taken by stenographic court reporter
25 Transcript prepared by computer-aided transcription

1 A. If I may take a moment to read?

2 Q. Sure.

3 A. I don't see anything else in there that's inaccurate.

4 Q. Chief Trombi, at some point in May 14, 2014 you had another
5 conversation with Chief Sheridan regarding your dissemination
6 of your e-mail, correct?

7 A. Yes.

8 Q. That was later in the night?

9 A. Late afternoon, I believe.

10 Q. Who else was present?

11 A. Counsel, Ms. Stutz.

12 Q. In your conversation with Chief Sheridan regarding your
13 e-mail, what was discussed?

14 A. That he had mentioned to me that the -- that Chief Warshaw
15 had just left and that they were going to formulate a plan on
16 how to collect video.

17 Q. Did you -- were you surprised?

18 A. Yes.

19 Q. Why?

20 A. Because I quickly informed the chief deputy that I had
21 already sent an e-mail out at his direction to do that.

22 Q. What was -- what, if anything, was Chief Sheridan's
23 reaction?

24 A. Shock. Surprise.

25 Q. Well, he was the one that gave you the directive.

1 A. Correct.

2 Q. So did he explain to you why he was shocked or surprised?

3 A. He simply said he'd forgotten that he told me to do so.

4 Q. Now, did he share with you anything further regarding his
5 discussion with the monitors?

6 A. Nothing other than he had already told Chief Warshaw that
7 we hadn't done anything.

8 Q. And that indeed was inaccurate, correct?

9 A. Correct.

10 Q. There was some discussion on your direct examination
11 regarding supervision of Deputy Armendariz.

12 Do you recall that?

13 A. Yes.

14 Q. And you were shown two documents, Exhibit 118, which is in
15 evidence, and 133, which is not.

16 Do you have those two in front of you?

17 A. I do.

18 Q. We're just going to show 118.

19 In the e-mail from Lieutenant Jakowinicz, what was the
20 purpose of this memo to you, if you know?

21 A. That he had taken steps to address issues related to
22 complaints that Deputy Armendariz was receiving; that those
23 complaints are not observed.

24 Q. Well, let me stop you right there. "Are not observed." I
25 don't know what you mean.

1 MS. WANG: Your Honor, I would ask the witness again
2 whether he could state what his opinion was.

3 MR. COMO: Same objection, Your Honor.

4 THE COURT: I'll allow it.

5 BY MS. WANG:

14:08:09

6 Q. Sergeant, what's your opinion about why the proposed
7 training never took place?

8 A. It was contrary to the goals and objectives of the sheriff.

9 Q. Sergeant, did you ever have an argument with the sheriff
10 that related to the content of the judge's preliminary
11 injunction order?

14:08:36

12 A. Yes.

13 Q. When did that take place?

14 A. Near the end of December 2012, possibly into January
15 2013 -- I'm sorry. Near the end of December 2011, into January
16 2012 is the corrected statement. I'm not sure when, but it was
17 very shortly following the judge's order on December 23rd,
18 2011.

14:08:55

19 Q. So roughly within a month of the judge's order?

20 A. Yes, ma'am.

14:09:10

21 Q. Okay. Can you describe what happened leading to that
22 argument.

23 A. The HSU interdiction teams were conducting interdiction on
24 known human smuggling groups on highway. A vehicle stop had
25 been made of a suspected human smuggling load vehicle. In the

14:09:28

1 course of investigation from the stop it was determined that
2 there was strong reasonable suspicion, even probable cause, to
3 believe it was violating the state human smuggling statutes,
4 and in accordance with training and information we received
5 through the MCSO chain of command, as well as the Maricopa
6 County Attorney's Office, we detained the entire occupants in
7 the vehicle, removed them to our Enforcement Support Division
8 for continued investigation.

14:09:51

9 Q. Let me stop you there, Sergeant.

10 To clarify, there were a number of occupants of that
11 vehicle that was stopped, is that right?

14:10:06

12 A. Yes.

13 Q. Did you have -- on the scene -- were you present at the
14 stop?

15 A. I don't recall. I be -- I know I was supervising the stop,
16 but Sergeant Trowbridge was also working that night, so I don't
17 recall which one of us was actually on scene with it. I very
18 likely could have been. And there would be a police report
19 that would reflect that.

14:10:17

20 Q. But you were certainly involved in this investigation?

14:10:33

21 A. Yes.

22 Q. Personally.

23 A. Yes.

24 Q. Okay. Are you aware, based on your involvement in the
25 investigation, whether the deputies on the scene of the stop

14:10:43

1 THE COURT: Can you establish that, please,
2 Ms. Iafrate?

3 MS. IAFRATE: Sure, Your Honor.

4 BY MS. IAFRATE:

5 Q. There was some discussion on cross-examination -- or excuse 15:40:49
6 me, direct examination -- where you were dealing with an
7 incident that occurred at an HSU interdiction in which you were
8 describing that there was strong reasonable suspicion or PC.

9 Do you recall testifying to that?

10 A. Yes. 15:41:08

11 Q. What were you referring to when you were talking about
12 strong reasonable suspicion or probable cause?

13 A. Again, I apologize for the use of the word "strong" in that
14 terminology, but real suspicion stands by itself. All I'm
15 trying to indicate is that the detective on scene at the 15:41:20
16 traffic stop had enough facts, articulable evidence,
17 statements, observations, to ascertain that a crime in human
18 smuggling was afoot, had occurred, was about to occur, was
19 occurring.

20 Q. For all individuals within that vehicle? 15:41:38

21 A. That's my understanding, yes.

22 Q. What do you base your understanding on?

23 A. The fact that the individuals were transported back to the
24 Enforcement Support Division for continued investigation.

25 Q. So one of your understandings regarding the preliminary 15:41:52

1 injunction was that if there was an ongoing investigation, the
2 person could continue to be detained, correct?

3 A. Per instructions received through the chain of command at
4 MCAO, yes, ma'am.

5 Q. MCAO, you're talking about the County Attorney's Office? 15:42:11

6 A. Yes.

7 Q. So that was your belief back then, correct?

8 A. Yes.

9 Q. You know that not to be accurate, correct?

10 A. I do not believe that's accurate now, no. 15:42:19

11 Q. When to your satisfaction the investigation was concluded
12 and you made a determination that there would not be charges
13 against three to five of the individuals, it was your decision
14 to then contact ICE to have them transported?

15 A. My decision with instructions I'd received, yes. 15:42:49

16 Q. And ICE refused to accept these individuals, correct?

17 A. Yes.

18 Q. And so then you took it upon yourself to call Border
19 Patrol, correct?

20 A. Yes. 15:43:00

21 Q. And you understand now that the holding of these
22 individuals for a period of time and the transport likewise
23 violates the preliminary injunction.

24 Are you aware of that now?

25 A. Yes, that's my understanding. 15:43:11

1 A. I don't believe there is.

2 Q. Is there any video record of that informal training?

3 A. No.

4 Q. Is there a written record of who attended that informal
5 training?

16:10:03

6 A. No.

7 Q. Now, Ms. Iafrate also asked you about circumstances in
8 which an HSU deputy might have had reasonable suspicion about a
9 violation of Arizona's human smuggling statute.

10 Do you recall that?

16:10:22

11 A. Yes.

12 Q. You mentioned that you had gotten information about how to
13 apply the judge's preliminary injunction order in the context
14 of load vehicles, is that right?

15 A. Yes.

16:10:39

16 Q. And that your understanding was that the Maricopa County
17 Attorney's Office was involved in developing that information,
18 is that correct?

19 A. That is my understanding, yes.

20 Q. What was that understanding about Maricopa County
21 Attorney's Office involvement in that information based upon?

16:10:52

22 A. My understanding, and what I received from Lieutenant
23 Sousa, was that the order had been reviewed by the chain of
24 command above Lieutenant Sousa, and that Maricopa County
25 Attorney's Office had also been consulted with, was my

16:11:17

1 understanding -- I didn't consult with them, but that was my
2 understanding -- and that we were given direction that if HSU
3 were to in the course of duty come across a suspected human
4 smuggling load vehicle, conduct a traffic stop and obtain
5 indicators of it being a human smuggling load vehicle, we'd be 16:11:34
6 able to detain the occupants in furtherance of a criminal
7 investigation under state law.

8 Q. And you're aware that the Maricopa County Attorney's Office
9 has different divisions within it, correct?

10 A. Yes. 16:11:49

11 Q. Are you aware that Mr. Liddy, who is counsel for the
12 sheriff in this case, is an employee of the Maricopa County
13 Attorney's Office?

14 A. Yes.

15 Q. And you're also aware that there are other divisions of the 16:12:00
16 MCAO that handle criminal prosecutions, is that right?

17 A. Yes.

18 Q. In fact, MCSO works with the MCAO to make criminal cases,
19 is that right?

20 A. Yes. 16:12:12

21 Q. Did you have an understanding as to which part of MCAO
22 contributed to the information you received?

23 A. No.

24 Q. It could have been the criminal prosecutors?

25 A. I assumed at the time it was our criminal prosecutors that 16:12:25

1 prosecuted our human load vehicles, but I don't know for
2 certain.

3 Q. They were the ones that would have had the legal knowledge
4 on the subject, is that right?

5 A. Yes. 16:12:39

6 Q. And they also would be interested in this topic because
7 they still had to prosecute those human smuggling cases,
8 correct?

9 A. Yes.

10 Q. Is that why you made that assumption? 16:12:47

11 A. Yes.

12 Q. Now, I want to drill down a little bit on what Ms. Iafrate
13 was asking you about. I'm going to give you a hypothetical and
14 then I'll ask you some questions about it, if I may.

15 If HSU deputies pulled over a vehicle with four 16:13:08
16 occupants, okay, one driver and three passengers, and developed
17 probable cause to believe that the driver and the front
18 passenger, the front seat passenger, were violating the Arizona
19 state human smuggling statute, but only had information that
20 the two other passengers were illegally in the United States, 16:13:31
21 first let me set out that hypothetical.

22 Do you understand that?

23 A. Yes, ma'am.

24 Q. When you gave the informal training to HSU, did your
25 training address that situation? 16:13:46

1 A. Yes.

2 Q. And it refers to the Court's order of December 23, 2011?

3 A. Correct.

4 MR. YOUNG: I'm going to move to admit Exhibit 187.

5 MR. COMO: No objection.

16:23:28

6 MR. WALKER: I haven't seen the document, Your Honor.

7 It's on the screen.

8 MR. YOUNG: I wonder whether Ms. Romanow could give

9 Mr. Walker --

10 (Pause in proceedings.)

16:23:59

11 MR. WALKER: No objection, Your Honor.

12 MS. IAFRATE: No objection, Your Honor.

13 THE COURT: All right. Exhibit 187 is admitted.

14 (Exhibit No. 187 is admitted into evidence.)

15 BY MR. YOUNG:

16:24:14

16 Q. I'm going to ask you, Chief Sands, about some discussions
17 you had in the period very shortly after the Court's
18 preliminary injunction was issued. You had a discussion with
19 Mr. Casey, correct?

20 A. Correct.

16:24:25

21 Q. Okay. And that discussion was perhaps within hours after
22 the preliminary injunction order was issued?

23 A. I believe so.

24 Q. What did you and Mr. Casey discuss?

25 A. The -- basically, the court order, briefly. And I recall

16:24:39

1 my -- my question to Mr. Casey at the time was: How does this
2 affect our -- our Human Smuggling Unit? And he also mentioned
3 that we should curtail the saturation patrols.

4 Q. And did you have an understanding of -- do you recall
5 anything else that you and Mr. Casey discussed in that
6 conversation? 16:25:15

7 A. No. When -- when the issue was mentioned about the human
8 smuggling unit, he made -- he made the statement that he felt
9 that they could still perform their duties.

10 Q. And that was to investigate the state crime of human
11 smuggling, correct? 16:25:32

12 A. I believe so, yeah.

13 Q. Did you understand from Mr. Casey what he was going to do
14 next after talking to you?

15 A. He said he was going to -- 16:25:47

16 MS. IAFRATE: Your Honor, this is attorney-client
17 privilege, the conversations that are being had.

18 MR. YOUNG: Well, Your Honor, this is what Mr. Sands
19 told the monitor, and I don't think there was an objection at
20 that time from Ms. Iafrate's office. And the testimony's
21 already been given. 16:26:06

22 MS. IAFRATE: Over objection, Your Honor.

23 THE COURT: When was the testimony given over
24 objection, Ms. Iafrate?

25 MS. IAFRATE: Would be during his deposition, Your 16:26:25

1 Honor.

2 MR. YOUNG: Actually, Your Honor, I don't think that
3 he actually testified to that during his deposition. He did
4 say it to the monitor, and I think that he should be able to
5 say it here since the privilege to that conversation has been
6 waived. 16:26:42

7 There is a broader waiver question which we'll
8 probably bring up to you at some later point after today, but
9 for this particular question I think there is no privilege at
10 this time that remains. 16:26:57

11 THE COURT: Was -- and I believe that I did provide
12 that you can have lawyers present during Mr. Sands' interview
13 by the monitor. Was there any objection made at that time?

14 MS. IAFRATE: No, Your Honor.

15 THE COURT: All right. Then you may answer the
16 question. 16:27:10

17 BY MR. YOUNG:

18 Q. So my question, Chief Sands, was: Did you have an
19 understanding from Mr. Casey as to what he was going to do
20 after talking to you? 16:27:20

21 A. Yes. He was going to speak with the chief deputy and the
22 sheriff.

23 Q. Now, moving on to another conversation, did you discuss the
24 injunction with Deputy Chief MacIntyre in the period after it
25 was issued? 16:27:35

1 Q. Please tell us where and when that conversation took place.

2 A. It was sometime after that conversation I had with the
3 sheriff with Chief Sheridan present. As I remember it was a
4 telephone conversation. I was following up to see if the
5 deputies in HSU had been briefed, and his comment to me was he 16:34:26
6 had talked to them, but they hadn't talked to the -- to the
7 deputies. And I remembered telling Lieutenant Sousa that it
8 was the chief deputy's direction that Casey would formulate
9 some training for the HSU deputies and asked him if --

10 Q. Let me ask you a clarifying question. I think -- is it 16:34:56
11 correct that you asked Lieutenant Sousa whether Mr. Casey had
12 talked to the deputies, and Lieutenant Sousa told you that
13 Mr. Casey had talked to Lieutenant Sousa, but had not talked to
14 the deputies, is that correct?

15 A. Correct. 16:35:16

16 Q. And what was your response to that?

17 A. I told Sousa that that was direction from the chief deputy,
18 and that if -- if he needed me to call Mr. Casey, I would do
19 it.

20 Q. And why did you offer to call Mr. Casey? 16:35:31

21 A. Because I wanted to make sure it was done.

22 Q. What was Lieutenant Sousa's response?

23 A. He told me no, I will -- I will take care of it.

24 Q. And then, to your knowledge, what happened after that in
25 that regard? 16:35:49

1 A. I can't remember, really.

2 Q. Okay. Well, did you believe that Lieutenant Sousa was
3 going to take care of it, as he told you he would do?

4 A. I would hope so, yes.

5 Q. Now, at some point Lieutenant Sousa was replaced as head of 16:36:03
6 the HSU by Lieutenant Jakowinicz, is that correct?

7 A. Correct.

8 Q. Did you ever discuss the preliminary injunction with
9 Lieutenant Jakowinicz?

10 A. I did tell him about the preliminary injunction and that he 16:36:17
11 should read it and study it.

12 Q. Did you tell Lieutenant Jakowinicz that he should review
13 the preliminary injunction with Mr. Casey?

14 A. I don't -- I don't remember that, no.

15 Q. How long did your discussion with Lieutenant Jakowinicz 16:36:40
16 about the injunction last?

17 A. Just a few minutes.

18 Q. Was it in person or by phone?

19 A. It was in person.

20 Q. Was that after he became the supervisor over the HSU? 16:36:50

21 A. Yeah, or it was sometime during the transition.

22 Q. Okay. Now, I want to ask you a little bit about the
23 appellate process with respect to the injunction and how
24 decisions about appealing things like that were made within the
25 MCSO. 16:37:13

1 told anyone else in the MCSO that the MCSO should make sure to
2 follow the injunction?

3 A. No.

4 Q. Now, it appears, would you agree with me, that the MCSO
5 acted in a way the sheriff wanted in that drop-house scenario,
6 and not the way that you wanted, is that correct?

16:52:14

7 A. I -- I would say that's -- that is correct, yes.

8 Q. I'm going to ask that you be shown Exhibit 189, which is a
9 series of training scenarios that Sergeant Palmer has just
10 testified about. You heard Sergeant Palmer's testimony about
11 the training scenarios that he drafted, correct?

16:52:48

12 A. I did, yes.

13 Q. Do you ever recall seeing these training scenarios that --

14 A. I don't recall seeing them, no.

15 Q. Do you recall ever talking to anyone about the training
16 scenarios?

16:53:07

17 A. No, I don't recall that.

18 Q. Do you know why they were never used?

19 A. No.

20 Q. Is it possible that someone other than you said that the
21 training scenarios should not be used and you were not aware of
22 that?

16:53:17

23 A. No, I don't know of anything like that.

24 Q. Okay. Well, is it possible that someone else somewhere in
25 the MCSO could have said, or someone, could have said or

16:53:36

1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF ARIZONA

3
4 Manuel de Jesus Ortega)
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7) April 22, 2015
Joseph M. Arpaio, et al.,) 8:36 a.m.
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15 REPORTER'S TRANSCRIPT OF PROCEEDINGS

16 BEFORE THE HONORABLE G. MURRAY SNOW

17 (Evidentiary Hearing Day 2, pages 286-511)
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20
21

22 Court Reporter: Gary Moll
23 401 W. Washington Street, SPC #38
Phoenix, Arizona 85003
24 (602) 322-7263

25 Proceedings taken by stenographic court reporter
Transcript prepared by computer-aided transcription

1 A. No.

2 Q. I want to go back to the training scenarios. And I'm not
3 going to go through them piece by piece, but can you put up
4 189?

5 Do you prefer a paper copy or on the screen?

11:44:49

6 A. Either one.

7 Q. Okay. Let's just stop -- stop right there.

8 Chief Sands, as you sit here today, do you now recall
9 receiving these, or you don't have a recollection of receiving
10 them?

11:45:20

11 A. No, I don't -- I really don't remember seeing them.

12 Q. What happens sometimes when you look at the monitor is you
13 have to go back to the mic so that we can pick it up, okay?

14 A. Okay.

15 THE COURT: If you need to, Chief, you can pull that
16 whole mic over by the monitor if it's easiest to look at the
17 monitor and speak at the same time.

11:45:35

18 THE WITNESS: Thank you, Your Honor.

19 BY MS. IAFRATE:

20 Q. Sorry about that.

11:45:48

21 So even after reviewing them today, you don't recall
22 receiving these back in January 2012?

23 A. No.

24 Q. It wasn't a practice of yours to review training materials,
25 was it?

11:46:00

1 Q. Okay.

2 A. -- showed it to me.

3 Q. So you're now aware that you received that, correct?

4 A. Yes, sir.

5 MR. SEGURA: Okay. So could we show the witness
6 Exhibit 189, which has already been admitted.

13:24:34

7 BY MR. SEGURA:

8 Q. I would like you to turn to the page that has the
9 number 165691 at the bottom. It's the first page of the
10 e-mail.

13:25:05

11 A. I'm not sure, say again.

12 Q. The first page of the e-mail within this exhibit.

13 A. Page 1 of 5?

14 Q. Yes.

15 A. Okay.

13:25:16

16 Q. And at the bottom do you see an e-mail from
17 Lieutenant Sousa in which you are cc'd?

18 A. Yes, sir.

19 Q. And why do you believe you received this e-mail?

20 A. I took it as a heads-up of something that could be coming.

13:25:33

21 Q. And why do you think you were given a heads-up?

22 A. I was in training at the time.

23 Q. And do you remember any follow-up to this e-mail while you
24 were at the training division?

25 A. I don't.

13:25:53

1 you doing this.

2 Q. Would you ever -- would you ever create training on your
3 own without first getting a directive?

4 A. Not that I recall, no.

5 Q. Do you know when you were made aware that you were moving
6 from training to HSU?

14:02:50

7 A. It was just before my transfer date.

8 Q. Within days?

9 A. I don't recall; probably.

10 Q. Is that typical that you'd get short notice and then you're
11 transferred to another unit?

14:03:17

12 A. It can be. Sometimes you can get a little bit more head
13 start.

14 Q. Well, you knew that you were asked to go to HSU, correct?

15 A. Yes.

14:03:31

16 Q. And there was a time frame where you were allowed to make
17 calls to inquire whether that was something that you thought
18 suited you, correct?

19 A. Yes.

20 Q. How long of a time frame did you get in order to do that?

14:03:42

21 A. I think it was about three days from when -- three, four,
22 five days from when Chief Trombi had called me to when I spoke
23 to him and said yes, I'd be interested in coming over.

24 Q. I want to show you what was shown to you in direct
25 examination. It's Exhibit 189, which is in evidence.

14:04:06

1 MR. SEGURA: 199? 189.

2 BY MS. IAFRATE:

3 Q. Do you still have that in front of you?

4 A. Yes, ma'am.

5 Q. Okay. So go down -- it's five pages. I want you -- do you 14:04:26
6 see at the bottom of 5691 it shows an e-mail chain where you
7 are also cc'd on it, correct?

8 A. Yes.

9 Q. And it's highlighted on the screen also, if that's easier.

10 Do you see your name there? 14:04:49

11 A. Yes. It's not highlighted on here, but --

12 Q. Well, it's enlarged on the screen. Do you see your name
13 there?

14 A. Yes, ma'am.

15 Q. When you received -- first of all, do you recall receiving 14:05:00
16 this e-mail string?

17 A. I think the first time I ever recall seeing this was in my
18 deposition, the first time I remember seeing it.

19 Q. Have you had an opportunity to review this e-mail string?

20 A. I don't know that I have or if I haven't. 14:05:21

21 Q. Why don't you take a moment and look at it and see if you
22 recall if you have read this e-mail string before.

23 A. Yes. I think I read this during one of the depositions.

24 Q. And that was the first time you recall seeing it?

25 A. That I remembered seeing it, yes. 14:05:41

1 when you read it in May 2013?

2 A. Yes.

3 Q. Okay. So let's go back to when you first read it. What
4 was your understanding of what the preliminary injunction
5 stated?

14:09:28

6 A. I think I might be confusing the preliminary injunction for
7 the May 2013 injunction.

8 Q. Okay. So let's go back. Did you ever read the preliminary
9 injunction?

10 A. I did.

14:09:40

11 Q. When?

12 A. I don't recall the date. I know I did receive an e-mail
13 with it.

14 Q. From whom?

15 A. I don't recall who it is now.

14:09:47

16 Q. Did you understand it?

17 A. Like I said, I thought I did.

18 Q. Okay. So what's different now versus what you believed it
19 to be back when you first read the preliminary injunction?

20 A. Now it's clear that you can't detain anybody without state
21 charges and then turn them over to ICE or Border Patrol.

14:10:05

22 Q. When you had that conversation with Sheriff Arpaio that was
23 discussed during your -- during your direct examination, at
24 that time you believed that it was still appropriate that you
25 could detain someone and turn them over to ICE or Border

14:10:32

1 Q. And if you read this at the time, you would have recognized
2 that there was some unfinished business regarding the training
3 scenarios?

4 A. Yes, sir.

5 Q. And if you had scrolled down to the prior e-mails, you
6 would see that that unfinished business had been pending for
7 approximately two months? Just after the prior e-mail where
8 you were copied on, January 24.

14:34:03

9 A. Yes, sir.

10 Q. Let me just -- on January 24, Lieutenant Sousa asked Tim
11 Casey to weigh in on the scenarios, right?

14:34:22

12 A. Yes, sir.

13 Q. And then on March 27, Lieutenant Sousa's reporting to
14 Sergeant Palmer, We still haven't heard from Tim Casey,
15 essentially, right?

14:34:43

16 A. Yes, sir.

17 Q. When you took over HSU, did you do anything to move along
18 this unfinished business that you had inherited?

19 A. I remember speaking with Lieutenant Sousa about this,
20 asking about it.

14:34:57

21 Q. Do you remember what he said?

22 A. It was pretty simple. It was it's still with the lawyers.

23 Q. Okay. Did you direct -- once you took over HSU, did you
24 direct Sergeant Palmer to follow up with Mr. Casey?

25 A. Not that I recall.

14:35:14

1 Q. Did you personally follow up with Mr. Casey?

2 A. I don't -- reference this scenario, I --

3 Q. Yes, that's what I'm referring to, uh-huh.

4 A. Not that I recall.

5 Q. Now, on this March 27 e-mail, Chief Sands is not copied on 14:35:30
6 that, correct?

7 A. Correct.

8 Q. So unless somebody that was copied on it told him, he would
9 have no way of knowing about this e-mail or what the status
10 was, would you agree? 14:35:46

11 A. Correct, sir.

12 Q. All right. You did not go to Chief Sands and say: Chief,
13 we seem to have a log jam here with the lawyers. Can you help
14 us out? Can you get us past this?

15 A. I don't recall. 14:36:01

16 MR. COMO: Okay. That's all the questions I have.
17 Thank you.

18 THE COURT: Thank you.

19 Redirect?

20 MR. SEGURA: A few questions, Your Honor. 14:36:09

21 REDIRECT EXAMINATION

22 BY MR. SEGURA:

23 Q. After an interdiction event when a potential load vehicle
24 is stopped, do the deputies involved in that stop produce any
25 documentation of it? 14:36:28

1 A. Let me say this. I del -- delegated this court order to my
2 subordinates, and also to the counsel that represented me.

3 Q. Well, I'm going to ask you to look at your March 25, 2015,
4 deposition, at page 42.

5 A. I have it here.

16:20:05

6 THE COURT: It will be coming up, I think.

7 BY MR. YOUNG:

8 Q. Would you like a paper copy of your deposition, Sheriff?

9 A. No, I can read it here.

10 Q. Okay. Page 42. And at line 4 you were asked:

16:20:15

11 "Did you ever feel that you needed to have the Court
12 explain or clarify what it meant by paragraph 5 of the
13 injunction."

14 Your response was: "I don't recall. That would be
15 something that the attorneys would look at."

16:20:34

16 Was that testimony correct?

17 A. Yes.

18 Q. Now, you don't remember one way or the other whether you
19 ever obtained any opinions from your attorneys about the
20 meaning of paragraph 5 of the Court's December 23, 2011, order,
21 is that right?

16:20:52

22 A. Not that I can recall.

23 Q. Okay. You appealed that order, correct?

24 A. My attorneys did, yes.

25 Q. You were the ultimate decision maker on the decision

16:21:11

1 THE WITNESS: Thank you.

2 THE COURT: -- you can pull it over so you can look at
3 the screen.

4 BY MR. YOUNG:

5 Q. At all times since your agency's 287(g) authority was
6 removed, you have understood that that sentence is correct, is
7 that right?

16:24:50

8 A. What year was this, can I ask?

9 Q. Well, this is --

10 A. 2011?

16:25:22

11 Q. This is page 39 of the Court's December 23, 2011, order.
12 My question to you was: Ever since your 287(g) authority was
13 removed, you have always known that it is true that, quote,
14 "local law enforcement agencies, such as the MCSO, may not
15 enforce civil federal immigration law." Is that right?

16:25:46

16 A. I'm only pausing because I believe there was controversy
17 that year on whether it was a federal or civil offense, but
18 that would be accurate if it was a civil immigration law that
19 you're talking about.

20 Q. Okay. So you knew that you did not have the authority to
21 enforce civil federal immigration law, is that right?

16:26:12

22 A. Once again, I didn't have all the facts of that order. I
23 delegated that to my counsel and relied on them to abide by
24 this order. So I'm not sure at that time whether I was
25 informed about the civil part of it.

16:26:43

1 Q. Well, you knew, just based on the fact that you no longer
2 had 287(g) authority for traffic stops, outside of your jails,
3 that you did not have the authority that you used to have under
4 287(g) to enforce federal civil immigration law, is that right?

5 A. Civil and criminal on the 287(g) --

16:27:07

6 Q. Right.

7 A. -- but that would be correct then.

8 Q. And then the next sentence of that same paragraph states,
9 quote: "Defendants are therefore enjoined from detaining

10 individuals in order to investigate civil violations of federal
11 immigration law."

16:27:24

12 Do you see that?

13 A. Yes.

14 Q. You knew that when you learned of the injunction, right?

15 A. Well, I don't know which time of that year, but it's
16 possible that that came to my attention.

16:27:33

17 Q. As of April 2014, which is when your deposition in the
18 Department of Justice case was taken, you could not recall
19 directing that anything be done to make sure that your office
20 was going to comply with the injunction, is that right?

16:28:09

21 A. Can you repeat that question?

22 Q. At the time of your Department of Justice deposition in
23 April 2014, you could not recall directing that anything be
24 done to make sure that your office was going to comply with the
25 injunction, is that correct?

16:28:29

1 A. No, it's not correct. I mentioned previously that this was
2 delegated to my staff and to the -- and the counsel was looking
3 into it.

4 Q. I'm going to ask that you look at page 67 of that April 29,
5 2014, deposition, starting at line 21. And you were asked:
6 "As to paragraph 5 on page 40" -- referring to the injunction
7 order -- "did you direct that anything be done to make sure
8 your office was going to comply with that part?"

16:28:51

9 And your response was: "I don't recall."

10 Was that testimony correct?

16:29:16

11 A. Once again, I mentioned that this order was reviewed by the
12 counsel and it was delegated to my staff to carry it out.

13 Q. Did you have a chance to review your Department of Justice
14 deposition transcript?

15 A. Which one are you talking about?

16:29:38

16 Q. The one that we're looking at right now from April 29,
17 2014.

18 A. I'm not sure whether I reviewed it.

19 Q. Did you make any changes to it?

20 A. Did I make changes?

16:29:53

21 Q. Yes.

22 A. In what form?

23 Q. Any form. Do you recall making any changes to it at all?

24 A. No.

25 Q. You never asked either Chief Deputy Sheridan or Chief Sands

16:30:05

1 Chief Sands because your office failed to obey the injunction,
2 correct?

3 A. Yes.

4 Q. Now, I want to talk with you a bit about Chief Sands.

5 You know Chief Sands generally to be a truthful
6 person, correct?

16:33:19

7 A. To the best of my knowledge, yes.

8 Q. You cannot recall any instance where Chief Sands ever lied
9 about anything, is that right?

10 A. I don't recall.

16:33:34

11 Q. You don't recall any instance where he lied, is that right?

12 A. Correct.

13 Q. Now, Chief Sands says that he wanted, and told you that he
14 wanted, that all deputies in the entire MCSO learn about the
15 injunction, but that you told him that it should go out only to
16 the Human Smuggling Unit.

16:33:55

17 You don't deny that, correct?

18 A. Pursuant to the advice of my attorney.

19 Q. All right. Well, with that caveat, you don't contradict or
20 you don't have any reason to doubt Chief Sands' testimony on
21 that point, is that right?

16:34:17

22 A. That's correct.

23 Q. Now, Chief Sands also testified about a discussion he had
24 with you after the injunction was granted when he told you that
25 where there were no state charges, he thought that your office

16:34:36

1 he discussed with you this issue.

2 A. Well, we had -- I had a little problem with that regarding
3 the drop-house investigation. When you have a drop house,
4 unfortunately, many of the people coming into our country are
5 held hostage in these drop houses. So my only point was would 16:36:17
6 it be possible to call the Phoenix Police, or even use some of
7 the occupants as material witnesses to the human smuggling
8 investigation. That was what I was thinking of and may have
9 told him that.

10 Q. Sheriff, that wasn't my question. My question was, and you 16:36:40
11 heard Chief Sands' testimony here yesterday, do you deny
12 Chief Sands' testimony here under oath today?

13 A. He may have said that, and I gave you my response as to
14 why.

15 Q. So you're saying he may have said that to you sometime 16:37:00
16 shortly after the injunction, correct?

17 A. I think he said it only took him two minutes to make that
18 observation talking to me, two minutes, he said.

19 Q. You do not recall ever asking an attorney what to do in the
20 situation where you were not going to bring state charges 16:37:31
21 against someone who was an illegal immigrant, is that right?

22 A. I may have talked to counsel.

23 Q. Well, you don't actually recall an instance where you did
24 talk to counsel about what your office should do in that
25 situation, is that right? 16:37:51

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF ARIZONA
3

4 Manuel de Jesus Ortega)
Melendres, et al.,)
5)
Plaintiffs,) CV 07-2513-PHX-GMS
6)
vs.) Phoenix, Arizona
7) April 23, 2015
Joseph M. Arpaio, et al.,) 8:34 a.m.
8)
Defendants.)
9 _____)

10
11
12
13
14
15 REPORTER'S TRANSCRIPT OF PROCEEDINGS
16 BEFORE THE HONORABLE G. MURRAY SNOW
17 (Evidentiary Hearing Day 3, pages 512-817)
18
19
20
21

22 Court Reporter: Gary Moll
23 401 W. Washington Street, SPC #38
Phoenix, Arizona 85003
24 (602) 322-7263

25 Proceedings taken by stenographic court reporter
Transcript prepared by computer-aided transcription

1 Q. Now, what you were thinking of in June 2012 was what later
2 became the backup plan that you had to take to the Border
3 Patrol people whom ICE would not accept, is that right?

4 A. I'm not sure if that occurred at that time about a backup
5 plan.

08:57:15

6 Q. Did you have other backup plans or other possible
7 strategies in mind at that time?

8 A. I don't recall.

9 Q. Well, you were thinking of something, right? You just
10 don't remember what it is now?

08:57:28

11 A. Yes.

12 Q. On June 26, 2012, you did an interview with Fox News, and
13 I'm going to ask you whether you recall doing that, after
14 looking at Exhibit 197A.

15 (Video clip played as follows:)

08:57:47

16 INTERVIEWER: You have to rely on the feds. When
17 you're -- when you're checking the license and registration,
18 aren't you calling the feds to say: All right. Is Joe Smith,
19 is this person here illegally or not? If the feds want to make
20 that stop take extra long before they get back to you with the
21 information, thus causing constitutional problems, they can do
22 it, can they not?

08:58:02

23 SHERIFF ARPAIO: Yeah, I guess they could, but the
24 worst part of it is they may not respond to pick up the illegal
25 aliens. They have a new policy only felons and, you know,

08:58:15

1 out to be, right?

2 A. You mean my six prior?

3 Q. Yes, your six prior elections. The 2012 election was
4 closer than those other elections, right?

5 A. Yes.

09:26:58

6 Q. At the time that you issued your September 21 press release
7 in 2012 declaring your backup plan, you knew that this Court's
8 preliminary injunction was still in place, correct?

9 A. I knew that there was an injunction, yes.

10 Q. You do not recall receiving any legal advice on the backup
11 plan that was -- that you discuss in that press release,
12 correct?

09:27:24

13 A. I think I mention, and I -- I can't remember who, but I --
14 on something like this I would definitely ask other people's
15 opinions.

09:27:45

16 Q. Well, going back to your March 25, 2015, deposition,
17 Sheriff, at page 79, at lines 17 to 19 -- I'd ask that to be
18 put on the screen for you -- you were asked this question:

19 "Do you recall receiving any legal advice on the
20 backup plan?

09:28:11

21 "Answer: No."

22 Was that testimony correct?

23 A. Well, once again, I recall re -- running this by someone,
24 and I don't recall if it was a lawyer or law enforcement. I
25 think I just said that previously.

09:28:36

1 Q. Well, you ran it by Lieutenant Jakowinicz, right, when you
2 made the suggestion to him, pounding your fist on the table,
3 that he should take those people to the Border Patrol.

4 A. I don't recall what -- what incident that was, what the
5 circumstances were, or pounding my fist, I sure don't remember
6 that.

09:28:54

7 Q. Did you consult with Lieutenant Jakowinicz about that
8 issue?

9 A. I don't recall if I consulted with him, but when we were
10 talking about the Border Patrol I'm sure that I ran it by
11 someone, and I don't recall who it was.

09:29:08

12 Q. Well, you said that you made a suggestion rather than
13 giving an order to Lieutenant Jakowinicz, and that you did
14 consult with people about your backup plan.

15 Did you consider your interaction with Lieutenant
16 Jakowinicz to be a consultation?

09:29:26

17 A. No.

18 Q. So you weren't looking for advice from Lieutenant
19 Jakowinicz, right?

20 A. No.

09:29:40

21 Q. In fact, you don't recall thinking about whether you should
22 get legal advice on whether your backup plan complied with the
23 injunction, is that right?

24 A. Once again, I'm -- I don't have -- I can't recall. It
25 possibly could have happened.

09:30:04

1 Q. But you don't recall one way or the other whether you have
2 ever even thought about whether you should get legal advice on
3 whether your backup plan complied with the injunction, is that
4 right?

5 A. I'm going to say I may have talked on some legal aspects,
6 but I don't recall who and when.

7 Q. Or whether, is that right? You don't recall whether.

8 A. You can throw that in there, too.

9 Q. And you did not think about whether you should ask the
10 Court whether your backup plan complied with its injunction
11 order, is that right?

12 A. That's correct.

13 Q. Let's take a look at another press release that you issued
14 at about the same time, dated September 20. It's Exhibit 78.

15 THE COURT: Is this in evidence?

16 MR. YOUNG: Not yet, Your Honor.

17 THE COURT: All right.

18 BY MR. YOUNG:

19 Q. Now, this is a press release involving an employer raid,
20 correct?

21 A. Yes.

22 MR. YOUNG: Okay. I move for the admission of
23 Exhibit 78.

24 MS. IAFRATE: Relevance, Your Honor.

25 THE COURT: Overruled.

09:30:17

09:30:38

09:31:08

09:31:21

09:31:32

1 A. Yes.

2 Q. So breaking a law would not be congruent with your oath of
3 office, correct?

4 A. No.

5 Q. I want to show you what is in evidence as Exhibit 67.

10:38:22

6 Can you go to the top so that we can just see the
7 date.

8 Sheriff, are you familiar with an order by this Court
9 that was filed on December 23, 2011?

10 A. There's been many orders. I'm not sure about this one
11 unless you --

10:39:00

12 Q. Well, I'm not going to have you read the whole thing.

13 You're aware that we're here today regarding this
14 Court's preliminary injunction, correct?

15 A. Oh, okay, this order, yes, the December 23, yes.

10:39:15

16 Q. 2011.

17 A. Yes.

18 Q. Do you recall receiving that preliminary injunction?

19 A. I -- initially I was out of state when that came out, or
20 the day after, but I don't think I received it for many, many
21 months later.

10:39:40

22 Q. Did you ever get a paper copy that you read?

23 A. No, until many months later, I believe.

24 Q. Were you involved with a phone call with Brian Sands and
25 Tim Casey on the date the order was issued?

10:40:02

1 A. No. Which -- let me clarify that. It was not on an e-mail
2 that he sent out.

3 Q. No, understood. So you didn't receive it by e-mail,
4 correct?

5 A. I didn't receive the message by e-mail that there was this
6 order.

10:40:24

7 Q. And you -- you don't get e-mails, do you?

8 A. No.

9 Q. And you didn't receive a phone call on the date that it was
10 issued regarding that order, correct?

10:40:39

11 A. I don't recall.

12 Q. You didn't read this order on the date that it was filed,
13 correct?

14 A. No.

15 Q. Do you ever recall reading the order?

10:40:47

16 A. May have been many, many months later.

17 Q. When a court issues orders, not just in this case, but
18 generally, how do you normally get informed of the order?

19 A. You talking about lawsuits or an order?

20 Q. Just generally.

10:41:18

21 A. I may have -- people may have mentioned it to me, but --

22 Q. Sheriff, generally, if an order comes down or lawsuit gets
23 filed, how do you get informed of that?

24 A. I don't get all of them, but when I do, I just give them to
25 the subordinates. I don't get involved. Usually my attorneys

10:41:39

1 look into it.

2 Q. So when you say your attorneys, you're talking about people
3 from the Maricopa County Attorney's Office?

4 A. Or those that are hired by the County Attorney's Office.

5 Q. What they call outside attorneys?

10:41:55

6 A. Yes.

7 Q. So you rely on your attorneys to give you information
8 regarding issues in lawsuits, correct?

9 MR. YOUNG: Objection, leading.

10 THE WITNESS: Information, or if they need --

10:42:08

11 THE COURT: Sheriff --

12 THE WITNESS: I'm sorry.

13 THE COURT: Sustained.

14 BY MS. IAFRATE:

15 Q. So my question is: How is it that you generally get the
16 information regarding what's going on in the lawsuits?

10:42:14

17 A. It's usually the attorney that will mention it, I guess, at
18 the appropriate time.

19 Q. Do you recall who told you about the preliminary
20 injunction?

10:42:35

21 A. No.

22 Q. Do you recall when you were told about the preliminary
23 injunction?

24 A. As far as being told, and there's a little confusion
25 because I left the state day after Christmas and was not back

10:42:57

1 to the office till after New Year's, but I don't recall if
2 someone mentioned that there was an order. Possibly, yes.

3 Q. Did you meet with attorneys regarding the preliminary
4 injunction?

5 A. At what time?

10:43:17

6 Q. Ever.

7 A. I may have once or twice, I can't remember, but not
8 constantly.

9 Q. You mentioned something earlier that when you got
10 information or lawsuits, you would give it to your
11 subordinates. What did you mean by that?

10:43:39

12 A. Well, we have a legal division. It would go down to the
13 legal division, our internal legal division -- excuse me -- and
14 then I presume the County would appoint an attorney to handle
15 the lawsuit.

10:44:02

16 Q. Let me go back. When you say "legal division," do you have
17 in-house lawyers in that legal division?

18 A. No. We have people that process legal documents.

19 Q. Do they make legal decisions in that legal department?

20 A. No.

10:44:18

21 Q. You were shown many press releases and video clips, some
22 dating back all the way to 2008. You would agree that you are
23 in the media frequently?

24 A. Am I in the media frequently?

25 Q. Yes.

10:44:46

1 Q. Chief Sheridan told him to send out the e-mail?

2 A. I believe he did.

3 Q. Did anyone in the room object to that directive?

4 A. No.

5 Q. Not even counsel?

11:08:34

6 A. No.

7 Q. Do you know what happened as a result of that e-mail that
8 was sent out by Chief Trombi?

9 A. You mean after the fact?

10 Q. Yes.

11:09:12

11 A. Well, I don't directly know, but I believe they were trying
12 to obtain videos.

13 Q. Do you know if videos were obtained?

14 A. I believe they were.

15 Q. Sheriff, on direct examination you were asked do you think
16 there should be consequences for your actions.

11:09:25

17 Do you recall that?

18 A. Yes.

19 MS. IAFRATE: And in fact, can you put up 71, page 2.

20 BY MS. IAFRATE:

11:10:11

21 Q. This was the document that we started your testimony with.
22 In fact, in this document that was filed, with your permission
23 and your consent, says, on the second line, that there are
24 consequences for these violations, correct?

25 A. What number --

11:10:32

1 today and -- and think back, you know, three years ago, I mean,
2 the bottom line is this was a policy decision and affected the
3 office -- I mean, the entire office. So to me it falls on the
4 sheriff and the chief deputy to make those decisions and get
5 them done."

16:03:14

6 And that's where Ms. Wang stopped, right?

7 A. Yes, ma'am.

8 Q. But there's more to your answer, correct?

9 It goes on to say: "I look at how we're handling
10 things right now after the 2013 order. Everything is going
11 out. It's very matter of fact. The Briefing Boards are broken
12 down into cop talk, not a lot of lingo -- legal lingo. I mean,
13 we're not lawyers. We're cops. None of that happened in
14 2011."

16:03:24

15 Did I read that accurately?

16:03:46

16 A. Yes, ma'am.

17 Q. And that was your testimony, correct?

18 A. Yes, ma'am.

19 Q. One of the things that you said to Ms. Wang during your
20 direct examination was, "nobody told me to change anything."

16:04:04

21 That was in 2011, correct?

22 A. Yes, ma'am.

23 Q. Did that include counsel? Counsel didn't tell you to
24 change anything?

25 A. Yes, ma'am.

16:04:18

1 Q. I want to show you what is marked as Exhibit 187. It's in
2 evidence.

3 MS. IAFRATE: May I please have it changed back?

4 Thank you.

5 So if you could go ahead and scroll down.

16:04:45

6 BY MS. IAFRATE:

7 Q. This is an e-mail to Tim Casey -- from Tim Casey to a
8 variety of people, including you, correct?

9 A. Yes, ma'am.

10 Q. And it provided a quick summary, correct?

16:05:01

11 A. Yes, ma'am.

12 Q. And it provided the preliminary injunction?

13 A. Yes, ma'am.

14 Q. When you received the preliminary injunction, what did you
15 do?

16:05:16

16 A. I spoke with Chief Sands.

17 Q. Before or after you read it?

18 A. After I read it.

19 Q. Did you understand it when you read it?

20 A. I -- I understood it, I thought, then. As we sit here now
21 today, I got it wrong.

16:05:26

22 Q. Okay. So after you read it you spoke to Chief Sands?

23 A. Yes, ma'am.

24 Q. And did the two of you discuss the preliminary injunction?

25 A. I can't remember the exact words, but I gave him my opinion

16:05:39

1 of what I thought.

2 Q. The opinion of how you interpreted the preliminary
3 injunction?

4 A. In 2011, yes, ma'am.

5 Q. Okay. What was your interpretation?

16:05:48

6 A. My interpretation that we weren't violating it because it
7 was 280- -- when we lost the 287(g), it was so ingrained in me
8 that we couldn't make the federal arrests, and we did it, and
9 during the course of a traffic stop we would call ICE.

10 Q. Okay. I'm a little bit confused. Let's go back.

16:06:05

11 In 2011, you believed that nothing needed to change.

12 A. Personally, yes, ma'am.

13 Q. And when you talked to Chief Sands, did you share that
14 opinion with him?

15 A. Yes, ma'am.

16:06:18

16 Q. And did he agree or disagree with you?

17 A. I don't -- I don't -- he did not disagree, ma'am.

18 Q. Did you talk to anyone else regarding the preliminary
19 injunction?

20 A. I talked to Mr. Casey.

16:06:28

21 Q. Did you share with him your opinion regarding nothing
22 needed to change?

23 A. Yes, ma'am.

24 Q. Did he agree or disagree with you?

25 A. I don't remember his exact words, but he did not tell me to

16:06:38

1 change anything I was doing.

2 Q. So based on your conversations with Chief Sands and Tim
3 Casey, did you change the way that HSU was operating?

4 A. No, ma'am.

5 Q. You also mentioned to Ms. Wang that there was a point where
6 you had a quick conversation with Sheriff Arpaio regarding the
7 preliminary injunction. Do you recall that?

16:06:55

8 MS. WANG: Objection, Your Honor, leading, and I think
9 it mischaracterizes the testimony.

10 THE COURT: I'll allow the question to stand. I
11 remember the testimony pretty well.

16:07:14

12 THE WITNESS: Yes, ma'am.

13 BY MS. IAFRATE:

14 Q. What was discussed during that conversation?

15 A. I gave him my -- my personal opinion.

16:07:24

16 Q. That nothing needed to change?

17 A. Yes, ma'am.

18 Q. And you had already had that conversation with counsel in
19 the case, correct?

20 A. Yes, ma'am.

16:07:34

21 Q. And your chief in your chain of command, correct?

22 A. Yes, ma'am.

23 Q. One of your chiefs?

24 A. Yes, ma'am.

25 Q. Did you discuss it with Chief Trombi?

16:07:41

1 a detective, so --

2 A. I think that's pretty clear today.

3 Q. Is it possible that Chief Sands directed you to do that?

4 A. It's -- I have no -- I don't have a hundred percent

5 recollection, so it's -- it's definitely possible.

16:38:03

6 Q. Chief Sands testified, I guess it was yesterday, it seems
7 like a week ago, but testified that shortly after the
8 preliminary injunction was issued he had a telephone call with
9 you where he told you that Chief Deputy Sheridan wanted you and
10 Mr. Casey to get together and instruct the HSU deputies on the
11 order.

16:38:27

12 Do you have any memory of that phone call?

13 A. I don't recall it. Not to say it didn't happen, I just
14 don't remember, sir.

15 Q. Fair enough.

16:38:42

16 If you'd take a look at Exhibit No. 35, please, which
17 is in evidence. These are interrogatory answers that your
18 lawyers have provided in this case.

19 If you'd turn to page 8. Have you seen these
20 interrogatory answers, by the way?

16:39:07

21 A. I don't remember if I did or didn't, ma'am. Sir.

22 Q. That's fine.

23 A. I apologize.

24 Q. On page 8, if you go down to -- well, the interrogatory
25 number 10 is asking about the date, time, and location of

16:39:25

1 of years ago Deputy Chief MacIntyre acknowledged that he
2 received a discovery hold, whether it should have gone to him
3 or not, he did not rapidly disperse it, and he acknowledged
4 that fact, and the Court in fact sanctioned the sheriff's
5 office as a result of that.

17:15:30

6 With all due respect, Your Honor, one, that has
7 nothing to do with the discovery abuses alleged in connection
8 with the OSC; and two, it's not one of the three subjects that
9 the Court has directed us to address here.

10 So I do understand that -- that you believe there is a
11 history that shows that Mr. MacIntyre had some involvement in a
12 discovery hold back in I think it was 2008. But that's all
13 there is, Your Honor, and that's not evidence, let alone --

17:15:46

14 THE COURT: But with all due respect, Mr. Birnbaum --

15 MR. BIRNBAUM: Yes, sir.

17:16:09

16 THE COURT: And you've given me respect; I want to
17 give you respect. You're a very fine advocate.

18 -- I'm not going to do it. Because I do believe there
19 are issues of fact I want to hear from Chief Deputy MacIntyre,
20 although I haven't heard anything, and I'll say this, I haven't
21 heard anything yet that would suggest that there's any criminal
22 responsibility for contempt to be laid at Chief MacIntyre's
23 door.

17:16:22

24 What I will say is I've heard plenty of evidence that
25 the way that the MCSO goes about responding to discovery and

17:16:37

1 document production requests is abominable. And we spent weeks
2 and resolved the trial based on only partial information
3 because requests were made and never answered.

4 Now, that may turn out not to be the case. I'm not
5 prohibiting you, Ms. Iafrate, from -- from presenting your 17:16:59
6 evidence and argument to the contrary.

7 But if you're asking what I've heard to date, I've
8 certainly heard plenty that says that that was terribly,
9 terribly, terribly insufficient. And I also have evidence that
10 Chief MacIntyre was involved at some level, and so I'm not 17:17:17
11 going to grant your motion.

12 MR. BIRNBAUM: Well, Your Honor, one last try, if I
13 may, before we go home?

14 THE COURT: Yes, but please make it quick.

15 MR. BIRNBAUM: Two parts. One, I don't know what 17:17:29
16 evidence you're referring to that Deputy Chief MacIntyre was
17 involved in the discovery issues that are in the OSC. There is
18 no such evidence that we know.

19 And then finally, Your Honor, let me just say one
20 thing about the tactics of being a defense lawyer. We believe, 17:17:48
21 and to some extent you've just confirmed, we believe that
22 there's no reason for us to call a witness in the defense of
23 Deputy Chief MacIntyre. I don't want to call him, and I don't
24 believe, at least on these issues, MacIntyre's conduct, I don't
25 believe Ms. Iafrate sees any reason to call him. 17:18:14

1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF ARIZONA

3
4 Manuel de Jesus Ortega)
Melendres, et al.,)
5)
Plaintiffs,) CV 07-2513-PHX-GMS
6)
vs.) Phoenix, Arizona
7) April 24, 2015
Joseph M. Arpaio, et al.,) 8:41 a.m.
8)
Defendants.)
9 _____)

10
11
12
13
14
15 REPORTER'S TRANSCRIPT OF PROCEEDINGS

16 BEFORE THE HONORABLE G. MURRAY SNOW

17 (Evidentiary Hearing Day 4, pages 818-1018)
18
19
20
21

22 Court Reporter: Gary Moll
23 401 W. Washington Street, SPC #38
Phoenix, Arizona 85003
24 (602) 322-7263

25 Proceedings taken by stenographic court reporter
Transcript prepared by computer-aided transcription

1 A. It's possible.

2 Q. Since these commanders were told to gather the
3 video recordings, but weren't told that this was an effort to
4 do so quietly, correct?

5 A. Yes.

09:13:28

6 Q. Is that "yes"?

7 A. Yes.

8 Q. Thank you.

9 Now, after you left the meeting with the monitor -- so
10 that would have been quite late in the afternoon by that point,
11 maybe 4:30, is that right? 09:13:41

12 A. Might have even been a little bit later, closer to 5:00.

13 Q. All right. After you left the meeting with the monitor you
14 met separately with Christine Stutz and Chief Trombi, is that
15 right? 09:14:01

16 A. That's correct.

17 Q. What did you discuss during that meeting?

18 MS. IAFRATE: Objection, Your Honor, attorney-client
19 privilege.

20 MS. WANG: Your Honor, Ms. Iafrate elicited testimony
21 from Chief Trombi on the subject of this very conversation, and
22 the privilege was waived. 09:14:06

23 THE COURT: Do you have any response to that,
24 Ms. Iafrate?

25 MS. IAFRATE: I did not discuss the content of the 09:14:20

1 communication.

2 MS. WANG: I believe she did, Your Honor.

3 THE COURT: Do you have a copy of the transcript?

4 MS. WANG: I think I do. I'll try to find the page
5 and line reference.

09:14:34

6 THE COURT: All right.

7 MS. WANG: It's on page 115 of the April 21st
8 transcript, Your Honor.

9 THE COURT: Can you bring it up, Gary?

10 MS. WANG: Your Honor, I can give you a copy of the
11 relevant page.

09:15:35

12 (Pause in proceedings.)

13 THE COURT: I'm going to sustain the objection.

14 And the reason I'm going to do so, Ms. Wang, is in the
15 transcript you provided me, the questioning was about the
16 conversation between Chief Trombi and deputy -- or Chief Deputy
17 Sheridan, and so I don't believe the attorney-client privilege
18 was implicated by anything they discussed, because there was no
19 indication that anybody was asking for legal advice.

09:16:27

20 So if you want to -- if you want to ask chief -- or if
21 you want to ask Chief Deputy Sheridan about what he said to
22 Chief Trombi that doesn't relate to the request of legal
23 advice, I'm going to -- I'll let you do that, but -- and
24 maybe -- I didn't look at your precise question. Maybe your
25 precise question doesn't implicate the attorney-client

09:16:50

09:17:17

1 privilege. But clearly, any communication with Ms. Stutz, or
2 any request to Ms. Stutz about legal advice or legal counsel,
3 is not waived by what you've just shown me.

4 The other part of my ruling, though, is what you've
5 just shown me doesn't implicate the attorney-client privilege
6 at all. I don't know if that's clear for you.

09:17:35

7 Do you understand my ruling?

8 MS. WANG: I think I understand, Your Honor, but my --
9 well, perhaps I should ask the witness a few more questions
10 and --

09:17:46

11 THE COURT: Yes, please do.

12 MS. WANG: Okay.

13 THE COURT: Because as I understand it, the
14 attorney-client privilege does not relate to all communications
15 in which an attorney is present. It only relates to
16 communications where legal advice is sought or received. And
17 it does not seem to me that the testimony that was elicited
18 from Chief Trombi discussed any -- even though Ms. Stutz was
19 present, does not implicate the attorney-client privilege.

09:17:53

20 MS. WANG: All right. Thank you, Your Honor.

09:18:10

21 BY MS. WANG:

22 Q. Chief Sheridan, when you left the monitor's office you met
23 with two people, correct?

24 A. Yes, ma'am.

25 Q. Christine Stutz and Dave Trombi, correct?

09:18:17

1 A. Yes.

2 Q. The three of you met together, is that right?

3 A. Yes.

4 Q. Were you seeking Ms. Stutz's legal advice during that
5 meeting?

09:18:27

6 A. No.

7 MS. WANG: Your Honor, I believe that it was not a
8 privileged communication at all and that --

9 THE COURT: It doesn't sound like it was.

10 MS. WANG: All right. Thank you.

09:18:36

11 BY MS. WANG:

12 Q. So, Chief, what happened during that meeting with Stutz and
13 Trombi?

14 A. I called Dave Trombi in and told him that I needed him to
15 implement this decision that we had made during the meeting
16 with the monitors, and he looked at me and he said, You told me
17 to send out an e-mail earlier, and I already did it.

09:18:53

18 Q. Okay. Did Ms. Stutz say anything during that conversation?

19 A. Yes, she did.

20 Q. What did she say?

09:19:20

21 A. She told me that I didn't tell the monitor that I had told
22 Trombi to do something different during the meeting.

23 Q. Did she suggest that you tell the monitor what had
24 happened? Or was that your idea?

25 A. Well, I think it was a combination of both our ideas right

09:19:50

1 individual who was the chief deputy for 20 of those 22 years
2 and he's never given me one reason to ever doubt his integrity,
3 his credibility, his work ethic, or any other reason
4 whatsoever, yes, I would take his word.

5 Q. Do you believe that undivided loyalty should be rewarded in 13:57:22
6 that situation?

7 A. I don't believe that's what we're talking about here is
8 loyalty. What we're talking about is knowing an individual's
9 integrity level.

10 Q. And based on someone's past record, you would take their 13:57:40
11 word for when they give you a version of events --

12 A. Yes.

13 Q. -- is that right?

14 A. Yes, ma'am.

15 Q. You would not investigate? 13:57:50

16 A. No, I would not.

17 Q. Sir, I'm going to turn to the subject of the Court's
18 preliminary injunction order now.

19 On December 23rd, 2011, you were the chief deputy,
20 correct? 13:58:07

21 A. Yes, ma'am.

22 Q. And are you aware sitting here now that Judge Snow issued a
23 preliminary injunction order on that date?

24 A. Yes, I am.

25 Q. When did you become aware of that preliminary injunction 13:58:18

1 order for the first time?

2 A. The first time I recall being aware of that was during a
3 deposition that I gave in March of 2014 with the Department of
4 Justice.

5 Q. And that was a deposition you gave in the United States
6 versus Maricopa County case?

7 A. That's correct.

8 Q. So your testimony is that the judge issued his order on
9 December 23rd of 2011, and you did not find about it -- find
10 out about it in 2012, or 2013, or in 2014 until your deposition 13:58:59
11 in March?

12 A. I'm saying that's the first time I recall hearing about it
13 and actually seeing the document itself.

14 Q. Sir, I'm going to have you --

15 Do you have Exhibit 187 in front of you? 13:59:17

16 MS. WANG: This is in evidence, so, Your Honor, I'd
17 ask that this be published.

18 THE COURT: It may be published.

19 MS. WANG: Thank you.

20 Let's enlarge the first half of this. 13:59:39

21 BY MS. WANG:

22 Q. Sir, do you see that this is an e-mail that Tim Casey wrote
23 to you and others on Friday, December 23rd, 2011, at 5:22 p.m.?

24 A. Yes, ma'am.

25 Q. And do you also see that this e-mail indicates that the 13:59:53

1 order, the judge's order, was attached?

2 A. Yes.

3 Q. And do you also see that Tim Casey marked this e-mail as
4 being of high importance?

5 A. Yes.

14:00:11

6 Q. Do you contend that you never saw this e-mail at the time
7 it was sent?

8 A. That's correct.

9 Q. Now, I note that in the first sentence Mr. Casey wrote --
10 he indicates that this is a follow-up to his recent telephone
11 call.

14:00:26

12 Do you see that?

13 A. Yes.

14 Q. Do you recall having a telephone conversation with
15 Mr. Casey on the subject of this litigation?

14:00:39

16 A. No, ma'am.

17 Q. Or the motions that led up to the Court's order on December
18 23rd, 2011?

19 A. No, ma'am, I don't.

20 Q. Well, as of that date you knew who Mr. Casey was, correct?

14:00:48

21 A. Yes.

22 Q. You knew that he was the lawyer representing the MCSO and
23 Sheriff Arpaio, correct?

24 A. I did.

25 Q. And as of December 23rd, 2011, you were aware of this

14:01:00

1 the rule of exclusion has been invoked, while we appreciate
2 your attendance, we're going to excuse you.

3 Do you understand that?

4 MR. CASEY: I do, sir.

5 THE COURT: Thank you very much.

14:07:18

6 MS. CLARK: Does that include me, Judge?

7 THE COURT: No, it does not include you.

8 MR. CASEY: Thank you, Your Honor.

9 THE COURT: Thank you.

10 Ms. Wang.

14:07:25

11 MS. WANG: Thank you, Your Honor.

12 BY MS. WANG:

13 Q. So, Chief, we were looking at the second page of
14 defendants' privilege log and I was asking whether you
15 recognize that it indicates that on January 30th, 2012, you
16 received an e-mail from Tim Casey regarding settlement
17 discussions with plaintiffs referencing relief previously
18 granted by the Court.

14:07:38

19 Do you see that?

20 A. Yes, ma'am.

14:07:51

21 Q. Do you contend that you did not look at that e-mail from
22 Tim Casey?

23 A. I -- I don't recall getting an e-mail.

24 Q. Sir, at that time you were the chief deputy, correct?

25 A. Yes.

14:08:06

1 not a stand-up routine.

2 MR. LIDDY: No, Your Honor, I'm quite serious.

3 THE COURT: Are you? You are not prohibited from
4 leaving, Mr. Liddy. As I said, we -- we've got you in sort of
5 a strange capacity. I excused you from counsel table based on 14:12:44
6 your assertion that you had ethical problems, and as far as I
7 know you haven't been participating in the defense actively
8 other than to assist the parties with respect to documents,
9 information, preparation, and other matters. And I assume that
10 you'll continue to do that in good faith as you indicated to 14:13:03
11 the Court you would. But that doesn't mean --

12 MR. LIDDY: I have an ethical obligation to do so,
13 Your Honor.

14 THE COURT: But that does not mean that I'm
15 prohibiting you from leaving, as long as you can come or go 14:13:15
16 consistent with your ethical obligations.

17 MR. LIDDY: Thank you, Your Honor.

18 THE COURT: Ms. Wang.

19 MS. WANG: Thank you, Your Honor.

20 BY MS. WANG: 14:13:22

21 Q. Sir, you heard Sergeant Trowbridge testify earlier this
22 week that he attended a meeting in Sheriff Arpaio's office
23 where the preliminary injunction was discussed and that you
24 were present.

25 Do you recall that testimony? 14:13:34

1 A. Yes, ma'am.

2 Q. Do you disagree with Sergeant Trowbridge's testimony?

3 A. I don't recall being at that meeting.

4 Q. Do you generally know Sergeant Trowbridge to be truthful?

5 A. Yes.

14:13:51

6 Q. Sir, you also heard Chief Sands testify that he had a
7 meeting with you and Sheriff Arpaio to discuss the preliminary
8 injunction order.

9 Do you recall that testimony?

10 A. I do.

14:14:05

11 Q. And do you recall being in such a meeting with Sheriff
12 Arpaio and Chief Sands discussing the preliminary injunction
13 order?

14 A. I do not.

15 Q. Do you generally know Chief Sands to be honest and
16 truthful?

14:14:18

17 A. I guess so.

18 MS. CLARK: Excuse me. I'm asking for a sidebar with
19 Your Honor and counsel.

20 THE COURT: This is an exciting afternoon. Sidebar,
21 please.

14:14:43

22 (Pause in proceedings.)

23 THE COURT: It will be my inclination, Mr. McDonald,
24 to let you join, but first -- and any other limited-purpose
25 counsel who wants to, I'm going to check to see if there's any

14:15:30

1 executive, correct?

2 A. Yes.

3 Q. And as of December 23rd, 2011, you subscribed to The
4 Arizona Republic newspaper, correct?

5 A. I did.

14:18:50

6 Q. You had it delivered to your home?

7 A. Yes.

8 Q. Sir, I'm going to have you take a look at Exhibits 120,
9 122, and 124. These are not in evidence, and I actually don't
10 intend to move them into evidence.

14:19:07

11 Do you see that -- well, first let me ask you: Are
12 you aware sitting here today that the hearing on the motions
13 that led to the preliminary injunction order took place on
14 December 22nd of 2011?

15 A. No.

14:19:31

16 Q. You are not aware of that sitting here right now?

17 A. No.

18 Q. Okay. You should see in front of you that on December 22nd
19 of 2011, The Arizona Republic ran an article on the front page
20 of the Valley and State section.

14:19:49

21 A. I'm sorry, which --

22 Q. Exhibit 120, sir.

23 A. Can you repeat your question, please?

24 Q. Yes, sir. Do you see there that based on Exhibit 120, you
25 can see that on December 22nd of 2011 The Arizona Republic ran

14:20:10

1 a story on the front page of the Valley and State section that
2 concerned this litigation.

3 Do you see that?

4 A. Yes, ma'am.

5 Q. Do you also see on the second page of Exhibit 120 that the 14:20:21
6 article mentions that the hearing in this case was happening
7 just one week after the U.S. Department of Justice released its
8 finding that MCSO had engaged in a wide-ranging pattern of
9 discrimination against Latinos?

10 Do you see that? 14:20:40

11 MS. IAFRATE: Objection, Your Honor, hearsay.

12 MS. WANG: I'm asking him if he sees that on
13 Exhibit 120.

14 THE COURT: I'll overrule the objection. I don't
15 think it's asking for the truth of the matter asserted. 14:20:49

16 MS. WANG: Thank you, Your Honor.

17 THE WITNESS: Yes, I do.

18 BY MS. WANG:

19 Q. Now, sir, you were very much engaged in MCSO's response to
20 that Justice Department investigation, correct? 14:20:59

21 A. Yes, I was.

22 Q. And is it your testimony you did not see this page B1
23 article in The Arizona Republic on December 22nd, 2011?

24 A. I don't recall seeing it.

25 Q. Take a look at Exhibit 122. 14:21:15

1 Exhibit 122 indicates that on December 23rd, 2011, The
2 Arizona Republic ran another page B1 -- excuse me -- article
3 that also discussed this litigation.

4 Do you see that?

5 A. Yes.

14:21:43

6 Q. And do you contend that you didn't see this article either?

7 A. I don't recall seeing it, no.

8 Q. All right. Take a look now at Exhibit 124.

9 Sir, Exhibit 124 indicates that on December 24th,
10 2011, The Arizona Republic ran a front-page story, page A1
11 story, that had a headline: Judge curbs MCSO tactics.

14:22:12

12 A. I'm sorry, you said 120- --

13 Q. 124, I believe it is.

14 A. Maybe 121?

15 Q. Let's see. I beg your pardon, it's 123.

14:22:30

16 Thank you, Mr. Young.

17 Exhibit 123, sir.

18 A. I have 121 and 124. I don't see 123.

19 MS. WANG: Oh, I beg your pardon. Could I ask the
20 clerk to hand over Exhibit 123? Apologies.

14:23:10

21 THE CLERK: (Handing exhibit to witness.)

22 THE WITNESS: Thank you.

23 THE CLERK: You're welcome.

24 THE WITNESS: Okay.

25 BY MS. WANG:

14:23:35

1 Q. Do you see it now, sir?

2 A. Yes.

3 Q. So you see that this Exhibit 123 indicates that on December
4 24th, 2011, The Arizona Republic ran a front-page story titled:
5 Judge curbs MCSO tactics?

14:23:47

6 A. I do.

7 Q. And it reflects on Judge Snow's preliminary injunction
8 order that issued the previous day, the 23rd?

9 A. Yes.

10 Q. And did you see this when the article ran in The Republic
11 on the front page?

14:23:58

12 A. I'm sorry, I don't recall.

13 Q. Is it possible you saw these articles at the time they were
14 published?

15 A. I could have.

14:24:12

16 Q. Now, are you aware sitting here now that the sheriff filed
17 an appeal of the preliminary injunction order in January 2012?

18 A. I'm sorry. Can you state that again?

19 Q. Are you aware sitting here now that the sheriff filed an
20 appeal to the U.S. Court of Appeals for the Ninth Circuit of
21 Judge Snow's preliminary injunction order --

14:24:30

22 A. Yes.

23 Q. -- and that -- and that appeal was filed in January 2012?

24 A. Yes, I'm aware of that.

25 Q. Do you contend you did not know about the filing of that

14:24:41

1 appeal at the time?

2 A. I -- I don't recall anything about that.

3 Q. And are you aware sitting here now that the U.S. Court of
4 Appeals affirmed Judge Snow's order in September of 2012?

5 A. Yes, I'm --

14:24:55

6 Q. In other words, MCSO lost its appeal. Do you understand
7 that?

8 A. Yes, ma'am.

9 Q. Do you contend you were not aware that MCSO lost a case in
10 the U.S. Court of Appeals on the preliminary injunction order
11 in September of 2012?

14:25:04

12 A. That's what I'm saying.

13 Q. And -- well, you were aware, I believe, that Judge Snow
14 heard the trial in this case in the summer of 2012.

15 Do you know that?

14:25:22

16 A. I knew there was a trial, yes.

17 Q. You were aware that the trial was happening?

18 A. Yes, ma'am.

19 Q. And are you also aware that in May of 2013, Judge Snow
20 issued his trial ruling?

14:25:34

21 A. Yes.

22 Q. And you read that order, correct?

23 A. I did.

24 Q. You read the whole thing?

25 A. Yes, ma'am.

14:25:44

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Manuel de Jesus Ortega Melendres,)	
et al.,)	
)	
Plaintiffs,)	
)	
vs.)	No. CV-07-02513-PHX-GMS
)	
Joseph M. Arpaio, et al.,)	
)	
Defendants.)	
_____)	

VIDEOTAPED DEPOSITION OF JOSEPH M. ARPAIO

Phoenix, Arizona
March 25, 2015
9:11 a.m.

REPORTED BY:
CATHY J. TAYLOR, RPR
Certified Reporter
Certificate No. 50111

PREPARED FOR:
ASCII/CONDENSED
(CERTIFIED COPY)



1 Do you have any reason to doubt the accuracy
2 of that statement?

3 A. I have no knowledge if I don't recall the meeting.

4 Q. Do you know where this information came from?

5 A. No.

6 Q. Do you recall having any meeting with Tim Casey in
7 the aftermath of the preliminary injunction order?

8 A. Oh, I met with him a few times. I can't remember
9 times or place or -- but it wasn't that often.

10 Q. Did you and Mr. Casey talk about the preliminary
11 injunction?

12 A. May have.

13 Q. Okay. Did he give you -- well, what did you and he
14 talk about with respect to the preliminary injunction?

15 MS. IAFRATE: Objection. Privileged.

16 THE WITNESS: So --

17 MS. IAFRATE: Sheriff Arpaio, I'm going to
18 tell you not to answer.

19 THE WITNESS: Okay.

20 BY MR. YOUNG:

21 Q. Will you follow your attorney's instruction in that
22 regard?

23 A. Yes.

24 Q. Do you recall any meetings with anyone where you
25 discussed the subject of the preliminary injunction that the

1 Q. Okay.

2 A. It could have been many things that should be
3 clarified.

4 Q. Did you ever feel that you needed to have the Court
5 explain or clarify what it meant by paragraph 5 of the
6 injunction?

7 A. I don't recall. That would be something that the
8 attorneys would look at.

9 Q. Okay. Did you ever obtain any opinions from your
10 attorneys about the meaning of paragraph 5 of the
11 December 23, 2011, order?

12 A. I may have.

13 Q. Well, do you remember one way or the other whether
14 you received any such opinions?

15 A. No.

16 Q. Okay. Do you recall what any such opinions would
17 have been, if you did receive them?

18 A. If -- if he had his input and so on, probably I
19 would.

20 Q. All right. Okay. Well, can you tell me anything
21 that you remember about what any input from your attorneys
22 would have been about the meaning of that paragraph in the
23 injunction?

24 MS. IAFRATE: Objection. That's privileged if
25 it's coming from your attorney. I instruct you not to

1 answer.

2 BY MR. YOUNG:

3 Q. Will you follow your attorney's instruction?

4 A. Yes.

5 (Exhibit 76 marked for identification.)

6 BY MR. YOUNG:

7 Q. Exhibit 76 is a February 9, 2012, press release
8 issued by your office; correct?

9 A. Yes.

10 Q. Okay. Now, there you, through your press release,
11 stated that you would continue to, quote, "crack down on
12 immigration and will not be deterred by activists groups and
13 politicians for enforcing all immigration laws," end quote.

14 Do you see that?

15 A. Yes.

16 Q. What did you mean by activist groups?

17 A. The groups that continue to demonstrate against me
18 constantly that appear at arrests at my office. So I would
19 presume they would be called activists.

20 Q. Okay. Did you include the ACLU in that category?

21 A. No.

22 MS. IAFRATE: Form.

23 BY MR. YOUNG:

24 Q. Why did you put out a press release -- well, strike
25 that.

Page 202

1 BY MR. YOUNG:

2 Q. Have you ever known Chief Sands to lie about
3 anything?

4 A. Not that I can recall.

5 Q. Now, turning to page 90 of Chief Sands' interview
6 transcript, he describes a conversation with Mr. Casey. As
7 he says on page 89, Casey comes to his office. And he says
8 starting at page 90, line 7, quote, "At any rate, we had
9 discussion about how it affects the deputies."

10 And this is about the injunction.

11 Quote, "My question to him was immediately,
12 does that mean we're out of business with the human smuggling
13 and any of this other stuff that we're doing? And he says,
14 no, I don't think that's quite what that means. He says, I
15 think that you can still investigate the state crime of human
16 smuggling, but the Saturation Patrols have got, you know, to
17 end. And he -- so that's where I left with it at. He says
18 to me, I've got to go brief the Chief Deputy," end quote.

19 Do you see that answer that Chief Sands gave?

20 A. Yes.

21 MS. IAFRATE: Objection. I'm just going to
22 assert the privilege as to attorney-client privilege.
23 Obviously, it's already in the transcript. So your question
24 is a valid question, but I'm objecting based on
25 attorney-client privilege.

Page 203

1 BY MR. YOUNG:

2 Q. Sheriff Arpaio, did Mr. Casey ever tell that to
3 you?

4 A. Tell me what --

5 MS. IAFRATE: Form. And also objection.

6 THE WITNESS: Yeah.

7 MS. IAFRATE: Attorney-client privilege as to
8 what Mr. Casey told you.

9 MR. YOUNG: Are you instructing the sheriff
10 not to answer?

11 MS. IAFRATE: Yes.

12 MR. YOUNG: Okay.

13 BY MR. YOUNG:

14 Q. Will you follow that instruction?

15 A. Yes.

16 Q. Now, on page 92 of the transcript -- well, on
17 pages 91 and 92, is it -- I'm going to paraphrase here.
18 Chief Sands says that he asked about whether the deputies
19 would be told about the injunction, and everybody in the
20 Human Smuggling Unit.

21 Do you see that?

22 MS. IAFRATE: Form.

23 BY MR. YOUNG:

24 Q. Well, just to be more specific, on page 89 --
25 page 91, he says with respect to his discussion with

1 A. Yes.

2 Q. And the meeting took place in your office,
3 according to him, immediately after the hearing in
4 Judge Snow's court; is that accurate?

5 MS. IAFRATE: Form.

6 THE WITNESS: I'm not sure it was in my
7 office, but --

8 BY MR. YOUNG:

9 Q. Okay. Do you have any reason --

10 A. -- that's what it says.

11 Q. Do you have any reason to believe that
12 Chief Sheridan's letter is incorrect in that regard?

13 MS. IAFRATE: Form.

14 THE WITNESS: I -- I don't know.

15 BY MR. YOUNG:

16 Q. Okay. And the letter from Chief Sheridan says that
17 present at the meeting were yourself, Tim Casey, Tom Liddy,
18 Christine Stutz, and himself; is that right?

19 MS. IAFRATE: Form.

20 When you say "is that right," is that what's
21 said there, or is that right what happened?

22 MR. YOUNG: Okay. Well, I guess I'm asking
23 the sheriff whether that is what happened.

24 MS. IAFRATE: Form.

25 THE WITNESS: I'm vaguely remembering that

1 meeting.

2 BY MR. YOUNG:

3 Q. Okay. And then there was a discussion, according
4 to Chief Sheridan, of the priorities set by Judge Snow and
5 how to approach achieving them.

6 Do you see that sentence?

7 A. Yes.

8 Q. Okay. What was discussed on that issue in that
9 meeting?

10 MS. IAFRATE: Objection. Attorney-client
11 privilege.

12 MR. YOUNG: You're instructing him not to
13 answer?

14 MS. IAFRATE: Yes.

15 BY MR. YOUNG:

16 Q. And, Sheriff, you'll follow that instruction?

17 A. Yes.

18 Q. Chief Sheridan's letter says in the third paragraph
19 that after a somewhat lengthy discussion, a decision was made
20 to have Deputy Chief David Trombi come into the meeting so
21 action could be taken to move forward. And then it says that
22 he was directed to contact his commanders to have them secure
23 all video recordings and have them forwarded to Internal
24 Affairs.

25 Is that what happened --

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Manuel de Jesus Ortega Melendres,)	
et al.,)	
)	
Plaintiffs,)	
)	
vs.)	No. CV-07-02513-PHX-GMS
)	
Joseph M. Arpaio, et al.,)	
)	
Defendants.)	
_____)	

VIDEOTAPED DEPOSITION OF JOSEPH M. ARPAIO
VOLUME II

Phoenix, Arizona
April 14, 2015
1:20 p.m.

REPORTED BY:
CATHY J. TAYLOR, RPR
Certified Reporter
Certificate No. 50111

PREPARED FOR:
ASCII/CONDENSED
(CERTIFIED COPY)



1 training.

2 BY MR. YOUNG:

3 Q. Okay. Did you ever tell Mr. Casey that he should
4 not approve a training scenario as I just described?

5 MS. IAFRATE: Objection. Attorney-client
6 privilege.

7 Don't answer.

8 BY MR. YOUNG:

9 Q. Are you going to follow your attorney's
10 instruction?

11 A. Yes.

12 Q. Did you ever tell Lieutenant Sousa that he should
13 not train his deputies to release people who were illegal
14 immigrants when they were not going to be charged with
15 crimes?

16 MS. IAFRATE: Form.

17 THE WITNESS: I don't ever recall saying that
18 to him.

19 BY MR. YOUNG:

20 Q. Okay. Do you have any knowledge at all about why
21 the training scenarios that are described in Exhibit 178, or
22 anything like them, were never implemented in your agency?

23 MS. IAFRATE: Form.

24 THE WITNESS: No.

25 (Next page, please.)

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Manuel de Jesus Ortega Melendres,)	
et al.,)	
)	
Plaintiffs,)	
)	
vs.)	No. CV 07-02513-PHX-GMS
)	
Joseph M. Arpaio, et al.,)	
)	
Defendants.)	
_____)	

VIDEOTAPED DEPOSITION OF GERARD SHERIDAN

Phoenix, Arizona
March 20, 2015
8:04 a.m.

REPORTED BY:
CATHY J. TAYLOR, RPR
Certified Reporter
Certificate No. 50111

PREPARED FOR:
ASCII/CONDENSED
(CERTIFIED COPY)



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1 And directly on the heels of that, another
2 very stressful meeting with a -- a relatively new monitor.
3 This whole process was new. I was suffering from a migraine
4 headache in between a couple of those meetings.

5 And so I, for some reason, didn't
6 think/remember, mental fatigue, as I wrote in the letter to
7 Warshaw. I don't know why I didn't think about telling
8 Chief Warshaw about the decision that we had collectively
9 made to comply with the judge's order the way we had made the
10 decision.

11 BY MS. WANG:

12 Q. When you say "we" collectively made a decision
13 about how to collect the videos, you mean the internal MCSO
14 group with Christine Stutz; correct?

15 MS. IAFRATE: Objection. Privileged.

16 BY MS. WANG:

17 Q. I'm just trying to clarify by -- by "we," you don't
18 mean the group that included the monitor team; correct?

19 A. Correct.

20 Q. You had already decided on a course of action
21 during the 12:00 o'clock meeting, the earlier meeting that
22 did not include the monitor; correct?

23 A. Correct.

24 Q. And then you subsequently met with the monitor and
25 acted as if you were starting from scratch developing a plan;

1 any?

2 A. Right now its function is gathering records and
3 information for the monitor team. They no longer do any
4 patrols, any type of enforcement actions, any of those
5 functions.

6 Q. Okay. You mentioned a discussion between
7 Lieutenant Sousa and Sergeant Palmer concerning the
8 preliminary injunction order a few minutes ago; is that
9 right?

10 A. Yes.

11 Q. What do you know about that --

12 A. It was --

13 Q. -- discussion?

14 A. -- an e-mail.

15 Q. I'm sorry?

16 A. There was an e-mail.

17 Q. Okay. Can you describe that e-mail?

18 MS. IAFRATE: Is it privileged?

19 THE WITNESS: Yes.

20 MS. IAFRATE: So that is a privileged e-mail
21 that included Tim Casey.

22 BY MS. WANG:

23 Q. Okay. When was that e-mail sent?

24 A. I believe it was either January or February of
25 2012.

EXHIBIT E

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Manuel de Jesus Ortega Melendres,)	
et al.,)	
)	
Plaintiffs,)	
)	
vs.)	No. CV 07-02513-PHX-GMS
)	
Joseph M. Arpaio, et al.,)	
)	
Defendants.)	
_____)	

VIDEOTAPED DEPOSITION OF GERARD SHERIDAN
VOLUME II

Phoenix, Arizona
March 27, 2015
9:05 a.m.

REPORTED BY:
CATHY J. TAYLOR, RPR
Certified Reporter
Certificate No. 50111

PREPARED FOR:
ASCII/CONDENSED
(CERTIFIED COPY)



1 or did you or the sheriff instigate that meeting?

2 MS. IAFRATE: Form.

3 THE WITNESS: I believe it was Mr. Casey.

4 BY MS. WANG:

5 Q. Okay. Okay. Chief, Brian Sands seems to have a
6 pretty vivid recollection of a conversation with you and the
7 sheriff right after the preliminary injunction order issued.

8 Do you have any idea why he would say this if
9 it is not true?

10 MS. IAFRATE: Form.

11 THE WITNESS: Not a clue.

12 BY MS. WANG:

13 Q. Sir, last Friday during the first part of your
14 deposition, you mentioned that you now know about some
15 commun- -- communications between Lieutenant Sousa and
16 Sergeant Palmer about the prelim- -- preliminary injunction
17 in early 2012.

18 Do you recall that?

19 A. That's correct.

20 Q. Okay. When did you first find out about those
21 communications?

22 A. I believe it was sometime late last year.

23 Q. Okay.

24 A. November/December.

25 Q. And what -- how did you find out about the

1 communications between Sousa and Palmer?

2 A. E-mail. A copy of a e-mail.

3 Q. Okay. Why were you looking into this communication
4 between Sousa and Palmer late last year?

5 A. Because my name wasn't on the headings for the
6 e-mails.

7 Q. I'm sorry. I don't understand what you mean.

8 A. So someone gave me the e-mails, because this whole
9 issue of me being -- like Sands is saying, that I was
10 intricately involved in all of this. Well, my name was very
11 conspicuously absent from this e-mail string. And somebody
12 put this on my desk and thought it would be interesting for
13 me to see that I was not in the loop on any of this.

14 Q. Who put it on your desk?

15 A. I know you asked me that last week on Friday. It
16 was one of the things that I tried to think about, who put
17 that on my desk. And I'm -- I'm not sure --

18 Q. Okay.

19 A. -- who did.

20 Q. So is it fair to say you were trying to look into
21 whether you were involved in the preliminary injunction order
22 compliance early on?

23 MS. IAFRATE: Form.

24 THE WITNESS: Right.

25 (Next page, please.)

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1 BY MS. WANG:

2 Q. Okay.

3 A. Yeah.

4 Q. Can you describe this e-mail string between Sousa
5 and Palmer for me. What was it about?

6 MS. IAFRATE: Objection. Attorney-client
7 privilege. There's one that is not. So if you want to
8 identify the one that's not privileged, he can talk about
9 that one.

10 BY MS. WANG:

11 Q. Well, first, why don't you tell me who -- who --
12 was anyone else one of the people on the -- was anyone else
13 on the e-mail string?

14 A. Yes. Mr. Casey was.

15 Q. Okay. Was he on all of them?

16 A. He was on a couple of them, but I -- I don't
17 remember specifically who was on that -- those -- on those
18 e-mails other than Sousa to Palmer. And then Mr. Casey
19 became involved at the subsequent follow-up --

20 Q. Okay.

21 A. -- e-mail or two.

22 Q. Okay.

23 A. I don't remember if there were other people also
24 cc'd or -- on there. But all I remember is that my name
25 wasn't on there.

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1 BY MS. WANG:

2 Q. Did -- so Palmer and Sousa are e-mailing each other
3 about some training scenarios that would implement the
4 Court's preliminary injunction order. That's basically the
5 gist of it; right?

6 MS. IAFRATE: Form.

7 THE WITNESS: Yes, ma'am.

8 BY MS. WANG:

9 Q. All right. Did that training ever take place? If
10 you know.

11 A. I don't know.

12 Q. Okay. Who would know the answer to that?

13 A. Sergeant Palmer and Lieutenant Sousa.

14 Q. Okay. And sitting here today, you don't know
15 whether the training ever took place?

16 A. That's correct.

17 Q. Okay. Okay. Since we last --

18 MR. YOUNG: Ask her whether it's okay for us
19 to mark it.

20 MS. IAFRATE: It's not. I'm asserting the
21 privilege regarding those, but there is one that has been
22 disclosed.

23 MS. WANG: Okay. And you're asserting the
24 privilege as to all portions other than what you've disclosed
25 to us?

1 out and got a copy of the preliminary injunction from
2 December 23rd, 2011, and showed it to me. And then I --
3 that's when I first recall ever seeing it.

4 Q. Okay. Sir, have you read the May 2013 trial
5 ruling?

6 A. Yes.

7 Q. When did you first read that?

8 A. Either that day or the next day.

9 Q. You mean when it came down in May of 2013?

10 A. Yes, ma'am.

11 Q. All right. Has anyone ever asked you to search for
12 documents in your possession that relate to the preliminary
13 injunction order?

14 A. I -- I don't remember.

15 Q. Okay. Has anyone ever asked you to search for
16 documents relating to immigration enforcement activities of
17 MCSO before 2011?

18 That wasn't clear. Let me clarify that.

19 Before 2011, has -- did anyone ask you to
20 search for documents relating to immigration enforcement
21 activities of MCSO?

22 MS. IAFRATE: Form.

23 THE WITNESS: I don't -- I don't recall.

24 BY MS. WANG:

25 Q. Okay. Sir, have you ever been present at any