

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CRIMINAL DIVISION

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DISTRICT OF COLUMBIA : Docket Number: CDC-24676-09
:
vs. :
:
:
LERoy THORPE, :
:
Defendant. :
:
: Tuesday, May 4, 2010
----- x Washington, D.C.

The above-entitled action came on for a hearing
before the Honorable FREDERICK SULLIVAN, Magistrate Judge,
in Courtroom Number 120.

APPEARANCES:

On Behalf of the Government:

VANESSA PHILLIPS, Esquire
Office of the Attorney General for the
District of Columbia

On Behalf of the Defendant:

E. SCOTT FIRELSON, Esquire
Washington, D.C.

10-02761

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1 THE WITNESS: I'm sorry. You want me to read --

2 BY MS. PHILLIPS:

3 Q Lines one through two please.

4 A It says event chronology location equal 1704 5th
5 Street, Northwest, Washington, D.C. Cross street R
6 Street, Northwest, Rhode Island Avenue. Line number two,
7 name equals Thorpe. First name Leroy J. Jr. Address
8 equals 1704 5th Street, Northwest, Washington, D.C.
9 Calling source --, phone number equals 202-387-1596. Line
10 three, agency, MPD. Group equals 3D, which means the
11 Third District. Beat equals 308, that's the PSA. Status
12 equals priority two. ETA zero, hold type zero, primary
13 member zero, et cetera. Line number four type civil
14 protection order.

15 Q Thank you, Mr. Shelton.

16 A Yes, ma'am.

17 Q Mr. Shelton, are the event chronology kept in
18 the ordinary business of the unified communications
19 office?

20 A Yes, ma'am, it is. It's kept in the sense that
21 it is a part of the CAD system and it's available when a
22 query is done using a central complaint number.

23 MS. PHILLIPS: At this time, Your Honor, the
24 Government offers the event chronology as Government's
25 Exhibit No. 4.

1 MR. FIREISON: We object, Your Honor. We object
2 because as Mr. -- as the gentleman has testified these
3 documents are maintained in the event of a query, which
4 means they are maintained for testimonial purposes. Of
5 course that's what it's being used for here today. I
6 would, I would submit that Mr. Shelton?

7 THE WITNESS: Yes, sir.

8 MR. FIREISON: Mr. Shelton clearly by his
9 position did not produce this document. Therefore the
10 party who actually produced the document, I mean,
11 according to the Sixth Amendment again, Your Honor, is
12 supposed to be here, then we stand on that objection, Your
13 Honor.

14 THE COURT: How is --

15 MS. PHILLIPS: Your Honor --

16 THE COURT: How was the document produced?

17 THE WITNESS: The document was produced as a
18 result of the police requiring a central complaint number
19 based on an event that happened on a specific date at a
20 specific location.

21 MR. FIREISON: Your Honor, I will address this
22 on cross, Your Honor.

23 MS. PHILLIPS: The witness produced this this
24 morning. He is the one that printed this out.

25 THE COURT: Well, that's okay. We'll -- I'll

1 tell you I'll hold off until cross-examination.

2 MR. FIREISON: All right.

3 (Pause.)

4 MS. PHILLIPS: I'm sorry, Your Honor. I didn't
5 hear what you said.

6 THE COURT: I'm just going to hold off --

7 MS. PHILLIPS: Okay.

8 THE COURT: -- on admission until
9 cross-examination.

10 MS. PHILLIPS: Okay.

11 MR. FIREISON: I'll withdraw the objection until
12 we get to cross.

13 MS. PHILLIPS: Very well.

14 THE COURT: All right, go ahead, Mr. Fireison.

15 **CROSS-EXAMINATION**

16 BY MR. FIREISON:

17 Q Mr. Shelton, sir, prior to today, sir, had you
18 pulled a copy of this recording?

19 A No.

20 Q If a copy of the recording was produced by your
21 agency who would have done that?

22 A I would have been there.

23 Q You don't recall at any time prior to today
24 being required to do this?

25 A You mean for this specific event or for any

1 event?

2 Q For this specific event?

3 A No. Prior to today, no.

4 Q You would have been the party to do that?

5 A Either myself or my colleague.

6 Q Would there have been some sort of record
7 maintained as to a prior request for this particular run?

8 A Yes, it would have been.

9 Q In satisfying the requirement this morning to
10 produce this, did you by chance check those records to see
11 whether prior requests had been submitted?

12 A No, I did not.

13 Q Would there have been any way for it to become
14 known to you during the process of recording or satisfying
15 this request that a prior recording had been done?

16 A Would you ask me that question one more time?

17 Q I'm sorry. It was confusing. As you were
18 satisfying the current request for production of this
19 disc, would there be something in the system that would
20 have automatically popped up to let you know, oh, a prior
21 request has been submitted for this tape?

22 A Not necessarily, counsel.

23 Q Sir, with respect to the recording that we just
24 heard, is it your testimony that that recording is
25 reflected on this event chronology?

1 A Yes, it is.

2 Q You know, I'm reading this and I see a lot of
3 information but there were specific words that were stated
4 by both of the parties that were on that call. Do you
5 have this in front of you?

6 A No, I don't.

7 (Pause.)

8 Q Look at that, sir, and again reflecting what was
9 on the tape, can you find that dialogue there on that
10 form?

11 A Not the specific narrative of verbatim, no, I
12 don't.

13 Q So, the event chronology is not a verbatim
14 narrative of what's on the tape?

15 A No, the event chronology is more of a modified
16 version of the event in a sort of succinct way of putting
17 it.

18 Q So, someone -- thank you, sir. So, someone
19 listens to the tape and then they put in what they thought
20 they heard, is that correct?

21 A No, sir.

22 Q They do not.

23 A No.

24 Q You said it was a modified version.

25 A No, what the -- the event chronology reflects a

1 narrative of the event in a modified version. The tape,
2 the 911 call you heard is the actual recording of the 911
3 call.

4 Q So, when we're talking about the event
5 chronology versus the tape we're simply saying one is a
6 modified narrative of the event, the tape is the actual
7 recording of the event, and the person who actually does
8 the event chronology is?

9 A Myself or someone from my office.

10 Q Because I'm looking at this and I don't see
11 anything that says Mr. Thorpe said or that the dispatcher
12 said or even the specific words that they said. I mean,
13 I've got addresses on her. I've got who's calling, but
14 the specific of what happened or the chronology, as you
15 said the narrative of what happened, that's not here.

16 Q Okay.

17 A So, if I did not have --

18 MS. PHILLIPS: Objection, Your Honor.

19 THE WITNESS: I'm sorry I was --

20 MS. PHILLIPS: Objection, Your Honor. It
21 already has been asked and answered. Mr. Shelton has
22 already explained that this is not a verbatim transfer of
23 what's on the 911 call. He's already explained that.

24 THE COURT: It's a summary isn't it?

25 MS. PHILLIPS: It's a summary as Mr. Shelton has

1 already stated.

2 MR. FIREISON: Well, Your Honor, I would even
3 argue that it's not even the summary. What it is is a
4 compilation of information that's very -- what -- I mean
5 the parties --

6 THE COURT: Well, it's a compilation of what
7 they consider to be on the call. I can understand what it
8 is and --

9 MR. FIREISON: Okay, and then again, Your Honor
10 -- well, I'll save that.

11 (Pause.)

12 BY MR. FIREISON:

13 Q One other thing. This event chronology here
14 identifies Mr. Leroy Thorpe. On the call I didn't hear
15 any names except Mr. Molten's name.

16 A Okay.

17 Q Okay. So, --

18 A Is there --

19 Q Oh, yeah. In fact --. Now, so I guess my
20 question will be if the tape doesn't have Mr. Leroy
21 Thorpe's name on it, your event chronology does have Mr.
22 Leroy Thorpe's name on it. How did that happen?

23 A Are you sure about what --

24 Q Well, I heard the tape. I, you know, so -- I
25 mean, heard what was played here and Mr. Thorpe did not

1 identify himself on the tape. He identified Mr. Molten on
2 the tape, but his name is on your event chronology here.

3 A Is Mr. Thorpe's phone number on that event
4 chronology?

5 (Pause.)

6 Q Yeah, in fact, midway on the page here -- well,
7 there's a phone number there, but I don't know whether
8 it's Mr. Thorpe's or not. So, are you saying --

9 A I'm saying that our 911 system will actually
10 pull up a person's name if it's related to an address in
11 the District of Columbia. If it's in the --.

12 Q So, if I'm calling from my home --

13 A Yes, sir.

14 Q -- and I'm talking even though I don't tell who
15 I am or whatever the system, the CAD system --

16 A Yes, sir.

17 Q -- will put into the event chronology where I'm
18 calling from?

19 A If your name is so listed under that address.

20 Q Okay.

21 A In the records under the -- it will pull your
22 name up.

23 Q Well, whatever name is listed at that phone
24 number, right?

25 A At that address. At that phone number, under

1 that phone number, absolutely.

2 Q So, if I'm calling from my neighbor's house it
3 will put my neighbor's information in there.

4 A It certainly will.

5 Q All right, sir, or if somebody's calling from my
6 house it will put my address and stuff in there?

7 A Yes, it will, counsel.

8 Q All right.

9 MR. FIREISON: Your Honor, that's all I have.

10 THE COURT: Okay.

11 MS. PHILLIPS: Your Honor, at this time the
12 Government requests to --

13 THE COURT: Are you done with this witness?

14 MS. PHILLIPS: Yes, Your Honor.

15 THE COURT: You can step down. Thank you, sir.

16 THE WITNESS: Thank you, Your Honor.

17 (Witness excused.)

18 MS. PHILLIPS: At this time the Government
19 requests to put Government's Exhibit No. 4 into evidence,
20 Your Honor.

21 THE COURT: Okay.

22 (Pause.)

23 THE COURT: Defense.

24 MR. FIREISON: Court's indulgence, Your Honor.

25 (Pause.)

1 MR. FIREISON: Are you, are you done?

2 MS. PHILLIPS: No. Your Honor, the Government
3 requests to call Amber Chesla to the stand one more time.

4 THE COURT: Okay.

5 (Pause.)

6 DIRECT EXAMINATION

7 BY MS. PHILLIPS:

8 Q Officer Chesla, can you state your name again
9 for the record?

10 A Detective Amber Chesla. My last name is spelled
11 C-H-E-L-S-A.

12 Q Officer Chesla, did you complete a report in
13 relation to this case?

14 A Yes.

15 Q On that report did you put any identifying
16 information about the defendant?

17 A Yes.

18 Q What information would that be?

19 A Name, date of birth, address, things of that
20 nature.

21 Q Is the report that you drafted with your
22 signature?

23 A Yes.

24 (Pause.)

25 MS. PHILLIPS: Your Honor, the Government is