

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB

THOMAS D'ANGELO,

Plaintiff,

-vs-

No. 2010-000944-NO

Hon. Matthew S. Switalski

PAUL PARENT, CLINTON TOWNSHIP,
a municipal entity, NICHOLAS DYKAS,
JASON FIGURSKI and KEITH WATSON,
in their official and individual capacities,
jointly and severally,

Defendants.



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THOMAS D'ANGELO,

Plaintiff,

Case No. 10-12195

-vs-

Hon. Lawrence P. Zatkoff

CLINTON, TOWNSHIP OF, et al,

Hon. Mona K. Majzoub

Defendants.

The Deposition of OFFICER NICHOLAS DYKAS,
taken in the above-entitled cause before Denise Moorfoot,
(CSR-2275), Court Reporter and Notary Public for the County
of Oakland, State of Michigan, at 10 South Main Street, Suite
400, Mount Clemens, Michigan, on Thursday, January 6, 2011,
commencing at or about the hour of 12:10 p.m.

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1 **Detective Barbera.**
 2 Q And Detective Barbera, do you know how his name is
 3 spelled?
 4 A **Not offhand, no.**
 5 Q Okay. Barbera is listed here?
 6 A **Correct.**
 7 Q Do you know what his first name is or her?
 8 A **Jeffrey.**
 9 Q Jeffrey? Okay.
 10 Do you recall your first involvement with this
 11 particular incident over at the library? How were you
 12 notified of that?
 13 A **We were notified by dispatch over the radio.**
 14 Q Do you recall what you were told by dispatch over the
 15 radio?
 16 A **Not exactly, but the generalization of it was that we were**
 17 **being sent there for a complaint of a patron up there.**
 18 Q Okay. Do you recall, was there any other more specific
 19 detail at that point?
 20 A **Not that I recall.**
 21 Q And your log would indicate when you arrived at the
 22 library?
 23 A **My log would indicate what time we were dispatched to the**
 24 **location, not when we arrived on scene.**
 25 Q Okay. And do you have any recollection of when you

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1 arrived at the library?
 2 A **It was the first run of the day, so it was relatively**
 3 **early.**
 4 Q Okay. So first run, shortly after four, is that what
 5 you're saying?
 6 A **Correct.**
 7 Q Do you know where you were when you got the dispatch?
 8 A **In relation to?**
 9 Q Yeah. I mean, were you still at the station when you got
 10 the dispatch?
 11 A **I don't recall.**
 12 Q When you got to the library, did you have contact with --
 13 With whom did you have contact first?
 14 A **I met with the library employee first.**
 15 Q Okay. And do you recall who that was?
 16 A **She was identified as Debra Bodner.**
 17 Q And where did you meet Debra Bodner that day?
 18 A **Near her desk.**
 19 Q Can you just describe for us approximately, or as best you
 20 can, where her desk was located?
 21 A **It's outside the computer lab.**
 22 Q Okay.
 23 A **In relation to feet or distance, I couldn't tell you.**
 24 Q But it's the desk outside the computer lab?
 25 A **Correct.**

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1 Q And what did Debra Bodner tell you?
 2 A **Debra stated that another patron who was inside the**
 3 **computer lab had come to her complaining about another**
 4 **individual who was also in the computer lab.**
 5 Q Did she tell you anything more at that time?
 6 A **She stated that the other patron, who was later identified**
 7 **as Paul Parent, he advised her that there was a gentleman**
 8 **masturbating in the computer lab area, and he wanted to**
 9 **bring it to her attention.**
 10 Q Okey-doke. Any other details of what Debra Bodner told
 11 you at that time?
 12 A **She stated that she got up from her desk. She never**
 13 **entered the computer lab, but she walked over to the**
 14 **computer lab which is surrounded by windows. She said**
 15 **that when she was looking at the gentleman in question, he**
 16 **had his hand in his pants, and he was moving back and**
 17 **forth, and it appeared to her that he was masturbating.**
 18 Q Okay. Anything else that Debra Bodner told you during
 19 this initial contact with you?
 20 A **I had asked her if she could visibly see his penis**
 21 **exposed. She said that she did not. I had asked her at**
 22 **that time if there was anything else that she had done at**
 23 **that time of the complaint. She told me that based on the**
 24 **library policy, they are to send a computer message to the**
 25 **computer of the problem patron advising them that a**

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1 complaint was made, and they have to pretty much cease and
 2 desist all activity that they're doing, and she said that
 3 she did send the message.
 4 Q Anything else that Debra Bodner told you during that first
 5 initial contact with you?
 6 A **Not that I recall at this time.**
 7 Q Okay. So was Officer Figurski with you as you were
 8 talking with Debra Bodner?
 9 A **No. Officer Figurski was inside the computer lab with Mr.**
 10 **D'Angelo.**
 11 Q Okay. Were there any other officers there at that time
 12 other than you and Officer Figurski?
 13 A **Officer Watson showed up shortly thereafter.**
 14 Q Just so I get the chronology right, was this after you had
 15 talked to Debra Bodner or before you had talked to her or
 16 while you were talking to her?
 17 A **What?**
 18 Q That Officer Watson came.
 19 A **I believe it was shortly thereafter. I had just started**
 20 **speaking with her when he arrived.**
 21 Q Were you able to visually observe what Officer Figurski
 22 was doing while you were talking with Debra Bodner?
 23 A **No.**
 24 Q At any point in time, were you able to see what Officer
 25 Figurski was doing with regard to Mr. D'Angelo inside the

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1 computer room?

2 A While speaking with Debra Bodner?

3 Q No. At any time.

4 A Later on, after speaking with Mr. Parent.

5 Q Okay. So just so that we get this right, what happened

6 next after you had your conversation with Debra Bodner?

7 A After I spoke with Debra Bodner, she identified Paul

8 Parent, who was standing near her desk, as the gentleman

9 who made the formal complaint to her. I walked over to

10 Mr. Parent and had asked him what had happened.

11 Q Okay. And what did Mr. Parent tell you?

12 A Mr. Parent stated that he was in the computer lab for

13 approximately an hour, and 45 minutes during that time

14 frame he was sitting next to Mr. D'Angelo where he

15 observed he had unzipped his pants and taken his penis out

16 and was watching hard-core websites -- hard-core porn

17 websites on his computer, and he was pumping his fist

18 while his penis was in his hand.

19 Q Did Paul Parent tell you anything else at that time?

20 A At that time, no.

21 Q Okay. And so, again, who was present as you talked with

22 Mr. Parent?

23 A Just myself.

24 Q Okay. What did you do next after talking with Mr. Parent?

25 A I walked in -- or I should say I walked over to the

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1 computer lab and advised Officer Figurski and Officer

2 Watson that Mr. D'Angelo be placed under arrest.

3 Q And where was Officer Figurski and Officer Watson at the

4 time you went over to the computer lab?

5 A Officer Watson was in the computer lab with Officer

6 Figurski.

7 Q And where were they with regard to Mr. D'Angelo? Were

8 they in his immediate presence or nearby or --

9 A As I walked into the computer lab, I believe they were

10 standing right behind Mr. D'Angelo.

11 Q Was Mr. D'Angelo still sitting, or was he standing?

12 A I don't recall.

13 Q Okay. And do you recall any of your discussion with -- or

14 the discussion with Officers Watson and Figurski at that

15 point?

16 A Not that I recall.

17 Q So what happened next?

18 A Officer Figurski had taken Mr. D'Angelo to the patrol

19 vehicle.

20 Q Okay. Well, let me just -- I'm sorry if I'm trying to cut

21 this into little, small bits, but you're in the computer

22 lab, right?

23 A I'm outside the computer lab.

24 Q You're outside. They're inside?

25 A Correct.

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1 Q And so are you saying that Officer Figurski then took Mr.

2 D'Angelo out of the computer lab, down to the patrol

3 vehicle?

4 A Correct. After he was handcuffed, after I advised him

5 that he could place him under arrest for the indecent

6 exposure.

7 Q So Officer Figurski handcuffed him?

8 A I believe he did. I'm not 100 percent sure.

9 Q And were you able to see the handcuffing? Do you recall?

10 A Not that I recall.

11 Q Was there any discussion in your presence with Mr.

12 D'Angelo while he was there in the library?

13 A Not with me, no.

14 Q Did you have any further discussion with Officer Figurski

15 while still in the library?

16 A Other than advising him that he was under arrest, no.

17 Q Any further discussion with Officer Watson while you were

18 in the library?

19 A Yes.

20 Q Okay. And can you tell us what discussion you had with

21 Officer Watson while you were in the library? I'm sorry.

22 A We took a look at Mr. D'Angelo's computer that he was on

23 and tried to obtain an Internet site history to see what

24 sites he may have been perusing during his time in the

25 computer lab.

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1 Q And you and Officer Watson were there. Was there anyone

2 else there from the library as you were doing this?

3 A There were other patrons in the computer lab, but as far

4 as employees, no, I don't recall.

5 Q And how did you go about taking a look at the computer?

6 A When I looked at the computer, given the Internet site

7 that he had up, whether it was Windows Explorer or

8 Mozilla, whatever the case may be, I was able to tab down

9 on the Internet history which usually keeps a record of

10 past sites that you have viewed and/or gone to.

11 Q Okay. And what did you learn from that?

12 A When I clicked on the Internet history, it showed no sites

13 were viewed other than the website that he had up

14 currently when we walked in, when Officer Figurski and

15 Officer Watson entered the computer lab.

16 Q And do you recall what site that was?

17 A I don't recall what site it was, but I did indicate that

18 it wasn't a pornographic website.

19 Q Do you recall any details about the website that you saw

20 on the computer screen?

21 A No, I don't.

22 Q Any further discussion with Officer Watson while you were

23 in the library that you recall?

24 A Not that I recall.

25 Q Did you have any further discussion with any library

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1 personnel while you were there other than what you have
2 already related to me?

3 A After I examined the computer, I spoke with Debra Bodner
4 again and asked if they had an in-house computer
5 technician.

6 Q Okay. And what did she have to say?

7 A Debra stated that she did, and his name I don't recall
8 offhand. It was indicated in my report. He wasn't
9 working at the time but gave me a contact number for him.

10 Q Okay. In your report, it indicates a person by the name
11 of Andy Nordin, N-O-R-D-I-N. Does that refresh your
12 memory at all?

13 A It does. That's correct.

14 Q Any further discussion that you recall with Debra Bodner?

15 A I advised Debra that no one else was to use the computer
16 that Mr. D'Angelo had occupied until the library
17 technician could take a closer look at it to see if he
18 might be able to retrieve any past Internet sites that
19 were viewed. She stated she would relay that information
20 to him and that he would not be back at work until Monday,
21 which would have been the 14th.

22 Q Any other discussion that you recall with Debra Bodner
23 while in the library?

24 A I gave her an incident number for the complaint that was
25 made and that there would be a report on file along with

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1 Mr. Parent, and then I went down to the patrol vehicle
2 where Officer Figurski was standing by with Mr. D'Angelo.

3 Q Did you have any further -- or any other discussion with
4 Mr. Parent while at the library that you recall?

5 A Other than advising him that the report was on file and
6 giving him the incident report number, no.

7 MR. PEACOCK: Tom, just for the record, I've
8 been provided two additional pages that we just received
9 today from the Clinton Township PD. It's a Prisoner
10 Property Slip and a Clinton Township Police Department
11 Lock-Up Screening Report, and I'll give that to you now.

12 MR. KUHN: All right.

13 MR. PEACOCK: I just got them, too.

14 BY MR. KUHN:

15 Q So what happened next after you went out of the library?

16 A Officer Figurski advised dispatch that we were 1095, which
17 is a 10 code for an arrested subject being transported to
18 the station.

19 Q All right. And would that sort of thing be on the log?

20 A The log indicates that an arrest was made, so it wouldn't
21 indicate the time of the initial dispatch. They would
22 have that on tape.

23 Q Okay. And when you went out to the vehicle, was Mr.
24 D'Angelo already in the vehicle?

25 A He was.

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1 Q Did you see any part of the movement of Mr. D'Angelo from
2 the library to the patrol car?

3 A No, I did not.

4 Q After Officer Figurski notified dispatch, what happened
5 next?

6 A We went from the library directly to the Clinton Township
7 Police Department.

8 Q Can you give us a rough estimate of how long that
9 typically takes?

10 A Depending on traffic at that time of day, anywhere between
11 five to ten minutes.

12 Q Do you recall any discussion or anything Mr. D'Angelo said
13 in the course of that five- to ten-minute trip to the
14 station?

15 A No.

16 Q Do you recall any other discussion that took place between
17 you and Officer Figurski or whomever in the course of that
18 trip?

19 A Nothing that I can recall.

20 Q Once you got to the station, what happened next?

21 A We pulled into the secure lock-up facility where the car
22 goes in. The garage door was shut, and once all our
23 weapons were taken off our person and locked up, we took
24 Mr. D'Angelo into the booking area.

25 Q Okay. And so both you and Officer Figurski took Mr.

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1 D'Angelo into the booking area?

2 A Correct.

3 Q And what happened there?

4 A From there, I'm not 100 percent sure. I don't believe I
5 was present during the booking procedure. I believe I
6 went to retrieve Mr. D'Angelo's LEIN work after running
7 him through dispatch and began my report. Our report
8 writing area is not in the booking facility.

9 Q So while you were in the station with contact, you know,
10 in the immediate contact with Mr. D'Angelo, was there any
11 further discussion that you recall with him?

12 A With Mr. D'Angelo?

13 Q Yes.

14 A Nothing I recall.

15 Q Now, let me put it this way. In April of 2008, was the
16 booking area -- did it have any video?

17 A It did.

18 Q Did it have audio?

19 A I believe it does but not 100 percent sure.

20 Q Did you have any further contact with Mr. D'Angelo at any
21 point?

22 A After the booking area?

23 Q Yes. After you went to make your report.

24 A No.

25 MR. KUHN: Just for my information, well, let's