

T19R-MV24-0276616-S : SUPERIOR COURT
STATE OF CONNECTICUT : G.A. #19
v. : AT ROCKVILLE, CONNECTICUT
JOSEPH FICACELLI : APRIL 5, 2024

TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE KATHLEEN MCNAMARA, JUDGE

A P P E A R A N C E S :

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1 ATTY. GEDANSKY: Your Honor, GA docket today,
2 Joseph Ficacelli.

3 THE COURT: Okay. Mr. Hussey, good morning.

4 ATTY. HUSSEY: Good morning, Judge McNamara.
5 How are you?

6 THE COURT: I'm good. How are you?

7 ATTY. HUSSEY: Fine, thank you.

8 THE COURT: Good morning, sir.

9 THE DEFENDANT: Good morning, Judge.

10 ATTY. GEDANSKY: Your Honor, second state of the
11 IDIP Program. My file shows that he's marked
12 eligible. Is that correct, Madam Clerk?

13 THE CLERK: That's correct.

14 THE COURT: Okay. And what can you tell me about
15 this?

16 ATTY. GEDANSKY: Your Honor, January 28th of
17 this year - -

18 THE COURT: Can I see the form?

19 ATTY. GEDANSKY: - - at about 12:24am, Troop C
20 received a dispatch from a paramedic in Somers,
21 indicating that they were following a vehicle that
22 was operating erratically, and they gave a vehicle
23 description, and to be on the lookout for it. And in
24 fact, the police were dispatched there. The State
25 police were dispatched there.

26 They found the vehicle, along with the
27 paramedic, who was parked about a quarter of a mile

1 down the road, but the vehicle was up ahead on
2 Billings Road near Piper Lane, and it matched the
3 description, including the registration plate.

4 When State Police approached the vehicle, the
5 operator appeared to be under the influence of some
6 substance. And this defendant was actually in the
7 passenger seat, at that moment. When officers told
8 the operator to turn off the vehicle, he appeared to
9 be unclear as to how to do that. He was trying to
10 turn off the radio instead of the vehicle. And
11 ultimately, this defendant, from the passenger seat,
12 turned off the vehicle.

13 When the operator was taken out of the vehicle
14 to perform a Field Sobriety Test, he slowly fell to
15 the ground, and claimed he had a back injury, and
16 stayed there and requested EMS, and - -

17 THE COURT: This is not this party, the
18 operator?

19 ATTY. GEDANSKY: Correct.

20 THE COURT: Okay.

21 ATTY. GEDANSKY: And since there was an
22 ambulance just a quarter of a mile down the road that
23 had called this incident in, they came up to the
24 scene. They alerted the State Police that the person
25 who was in the operator's position who was now on the
26 ground was not the operator when they saw the
27 vehicle. They indicated that this defendant, who was

1 in the passenger seat, was the operator; that it was
2 being - - the vehicle was being operating
3 erratically, crossing over the center line. They
4 stopped the vehicle with their lights and siren, and
5 approached the vehicle, and this defendant was
6 profane to them and used foul language at them. And
7 they said they were just checking him to see if he
8 was having a medical issue.

9 They followed the vehicle, they saw the vehicle
10 stop, and they saw this defendant get out of the
11 operator's position, go around the back of the
12 vehicle, then down to the ground, but then come
13 around and get back into the passenger of the
14 vehicle, and the vehicle proceeded. And that's when
15 the police pulled the vehicle over a short distance
16 away. They stayed about a quarter of a mile back and
17 watched all of this unfold.

18 It appeared that where that vehicle initially
19 stopped and where this defendant got out of the
20 vehicle and went to the back of the vehicle, there
21 was a cell phone on the ground. They alerted the
22 police to that. And in fact, it was this defendant's
23 cell phone.

24 Go back to the scene, the operator, at the time
25 of the stop, he was loaded onto an ambulance, and he
26 was transported. When the police were being told by
27 the ambulance driver that this defendant was the

1 initial operator, they were about to get him out of
2 the vehicle to perform a Field Sobriety Test, and he
3 said he was having chest pains, and he slumped over.
4 He then - - they asked for an ambulance, and this
5 defendant consented.

6 When he was placed on a stretcher and an EKG
7 machine was placed on him, getting into the
8 stretcher, he appeared to be under the influence. He
9 was slurring his words and stumbling. And then, when
10 he got onto the stretcher, he said he was in good
11 health, and he didn't want to go to the hospital.
12 They transported him to the hospital, anyway, and
13 this defendant refused any medical treatment, and
14 also refused any sort of interaction to the police at
15 the hospital, including signing forms, normal just
16 routine forms.

17 So, that's the facts of this case. No objection
18 to the program.

19 THE COURT: Were you driving the vehicle, sir?

20 THE DEFENDANT: Initially, yes.

21 THE COURT: So, you were operating the vehicle?

22 THE DEFENDANT: Yes.

23 THE COURT: And you said you had chest pains?

24 THE DEFENDANT: Correct.

25 THE COURT: Did you have chest pains?

26 THE DEFENDANT: I did, ma'am.

27 THE COURT: Then, why did you sign yourself out

1 of the hospital? I'm curious because chest pains are
2 a very, very serious thing for people to have?

3 ATTY. HUSSEY: If I may, Your Honor?

4 THE COURT: Yes.

5 ATTY. HUSSEY: I'll let him answer that
6 question. But that's not accurate that - - I don't
7 mean to be disrespectful to you.

8 THE COURT: No. No, so what - - tell me what -
9 -

10 ATTY. HUSSEY: He can tell you what happened.

11 THE COURT: Tell me what happened? I'm
12 interested in this because I've never seen such an
13 elaborate attempt to avoid doing a Field Sobriety
14 Test as what you undertook. So, try and help me - -

15 THE DEFENDANT: Sure.

16 THE COURT: - - understand what happened please.

17 THE DEFENDANT: Sure. I was born with a - - not
18 born, but when I was a child, I was diagnosed with a
19 heart condition. I've had quite a few instances at
20 work over the years, trauma related. I was runover
21 and crushed in between two cars. Since that time,
22 I've experienced a number of anxiety attacks, which
23 I've sought treatment for through a cardiologist. I
24 had a grandfather die at 49, a father-in-law die at
25 48 of heart disease. So, every time I get a chest
26 pain or an anxiety attack, I think the worst. I go to
27 a bad place where I think I'm having a heart attack

1 and I'm checking out.

2 THE COURT: So, why wouldn't you go to the
3 hospital and have them perform tests on you to tell
4 you you're having a heart attack or you're having an
5 anxiety attack? You went to the hospital, from what
6 the Prosecutor says. You signed yourself out and
7 declined medical assistance.

8 THE DEFENDANT: That's incorrect. I - - they
9 performed an EKG. What the Prosecutor stated, I
10 believe he maybe misread the report. In her police
11 report, she indicates that I asked to go to St.
12 Francis. That is where my cardiologist is from. I
13 said I didn't want to go to the small hospital up in
14 Stafford.

15 THE COURT: A hospital is a hospital when you
16 have heart problems. It's - -

17 ATTY. GEDANSKY: Your Honor?

18 THE COURT: - - a matter of life or death
19 whether you can get - -

20 ATTY. GEDANSKY: Your Honor, if I can interrupt?
21 The police report is very clear. When the police
22 arrived at the hospital, they heard Mr. Ficacelli
23 yelling and screaming at the nurses. Ficacelli is
24 heard yelling that he refuses any EKG to be done on
25 him. That was at 1:18am. At 1:25 he was read his
26 notice of rights; he refused to sign it. At 1:36 he
27 was asked to perform a Field Sobriety Test; he

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refused to do that. At 1:37 he was read A-44 implied consent. At 1:38 he refused any testimony. And that's very clear in the police report.

THE COURT: You know, I've been doing this job a long time. I've been doing this - - I mean, ask Mr. Hussey; I have been doing this forever. And I usually can tell when something is not right. And what you're telling me, I'm not buying. There's a lot of people that try and evade taking alcohol - - taking Field Sobriety Tests. They could have taken blood at the hospital to - - which they normally do if you're having a heart problem because there are enzymes your body kicks off when you're having a heart attack, and I know that from experiences that I've been through.

So, you say you have chest pains. They do the right thing; they transport you to the hospital. You do not want any treatment. You swear and are impolite to the hospital staff. You refuse to sign paperwork. And I'm supposed to believe what you're trying to tell me? Plus, the fact that you switched seats with the other operator.

What happened with the other operator's case, do you know?

ATTY. GEDANSKY: He was granted the IDIP Program about a month ago, I believe.

THE COURT: Was he cooperative with the

1 authorities?

2 ATTY. GEDANSKY: I believe he refused medical
3 treatment at the hospital. But he at least signed
4 the forms for the hospital and for the police, but he
5 refused any sort of Field Sobriety Test, and he
6 refused medical treatment.

7 THE COURT: Mr. Hussey, can you tell me if your
8 client is doing any treatment for alcohol, or
9 anything else, or for his heart condition that he
10 says he has? What is he doing about that?

11 ATTY. HUSSEY: I think he's a better source.

12 THE DEFENDANT: Ma'am, I've been to my
13 cardiologist. I had a calcium score. I also began to
14 see a psychotherapist. I have been diagnosed with
15 cumulative PTSD that I am on medication for and
16 seeking treatment with her on a weekly basis.

17 THE COURT: Do you have reports to that effect?

18 THE DEFENDANT: Not with me, ma'am, I don't.

19 THE COURT: All right. So, I'm not inclined to
20 believe everything you say, based on your story. Are
21 you - - do you work? Are you still working? Tell me
22 what you do.

23 THE DEFENDANT: Yes, I'm still working, ma'am.

24 THE COURT: And what do you do for work?

25 THE DEFENDANT: I'm a police lieutenant.

26 THE COURT: You're a police officer and you
27 carried on in this fashion? It's just - - you don't

1 have to answer that. You know, normally, people - -
2 every-day people that come in here, they get arrested
3 for operating under the influence, and if they had
4 done half of what you did, I would not even think of
5 granting a program until some things got straightened
6 out. You should be ashamed of yourself. Being a
7 police officer and carrying on like that at a scene
8 when police officers - - was it a town police
9 department or State Police?

10 ATTY. GEDANSKY: These were State Troopers, Your
11 Honor.

12 THE COURT: You have State Troopers that are
13 very - - that don't have enough personnel, and you're
14 playing games. Plus, you're driving under the
15 influence. You know better than that. I can't tell
16 you how many people I have in here being sentenced
17 for driving under the influence because they went out
18 and had a couple, and then they ran over a motorcycle
19 or killed somebody. And you has a police officer did
20 that? Is there an internal affairs investigation
21 about your behavior ongoing?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: And who is doing that investigation?

24 THE DEFENDANT: Deputy Chief Josh Litwin.

25 THE COURT: I'm not prepared to grant the
26 program today, Mr. Hussey. In fact, I'm pretty
27 speechless over this behavior. I would never expect

1 this from a police officer, even a Lieutenant.

2 THE DEFENDANT: Ma'am, if I can speak? I - -

3 THE COURT: No. You know what, no, not yet. I
4 need some time. I am just thoroughly appalled at your
5 behavior. And everyone else in the audience,
6 probably, is appalled, too. And they are here with a
7 DUI and they did the right thing, and you did
8 everything you could to avoid it. There's books out
9 there that say how to avoid being arrested for DUI.
10 I'm sure you've read them. I'm sure you've seen them
11 on the street. And you did the exact thing that they
12 tell you to do; pretend you have an injury, get in an
13 ambulance, sign yourself out of the hospital, refuse
14 treatment. That's not acceptable, sir.

15 When will the internal affairs investigation be
16 over?

17 THE DEFENDANT: I don't know, ma'am.

18 THE COURT: Well, we need to know that. Because
19 before I make any decision, I want to see what they
20 are going to do.

21 Mr. Hussey, I'm sorry, because normally, I would
22 be happy to grant the program, but these
23 circumstances are troubling to me.

24 ATTY. HUSSEY: I appreciate that.

25 THE COURT: I'll be happy to give you any date
26 that you want.

27 You cannot drive while your license is

1 suspended. If you drive, you'll do thirty days,
2 minimum mandatory, with a \$500 fine, regardless of
3 what your job is. Do you understand that?

4 THE DEFENDANT: Yes, ma'am. I haven't been
5 driving.

6 ATTY. HUSSEY: I understand where you are coming
7 from, Your Honor. Whatever pleases the Court for a
8 date.

9 THE COURT: You tell me how long it's going to
10 take for him to get his medical reports, his doctors
11 reports. I want updated reports. If he is going to
12 any alcohol treatment programs. And additionally, I
13 want to know about the status of his internal
14 affairs. Because most officers - - there was an
15 officer, I think in Willimantic, two weeks ago who
16 was intoxicated and hit somebody, and their IA is
17 doing a case. And additionally, they're not - -
18 they're not working, and they're not working without
19 any pay. They are not being paid. They are suspended
20 without pay.

21 Is that the case with you?

22 THE DEFENDANT: No, ma'am.

23 THE COURT: You're getting paid to be out?

24 THE DEFENDANT: I'm not - - I'm on
25 administrative duty.

26 THE COURT: And what does that consist of?

27 THE DEFENDANT: Desk duty.

1 THE COURT: What kind of desk duty?

2 THE DEFENDANT: Whatever I can do from a desk
3 that they ask me to do, paperwork, review reports,
4 things of that nature.

5 THE COURT: You're not involved with internal
6 affairs at all, are you?

7 THE DEFENDANT: No.

8 THE COURT: You're not to be involved with
9 internal affairs while this investigation is ongoing.

10 THE DEFENDANT: I'm not, no.

11 THE COURT: And you're not to have any contact
12 with Mr. Litwin, as long as this investigation is
13 ongoing, unless you are invited into his office for
14 an interview. Do you understand that?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: What date, Mr. Hussey?

17 ATTY. HUSSEY: All things considered, I would
18 say would June 6th be appropriate?

19 THE COURT: June 6th is fine.

20 ATTY. HUSSEY: Thank you.

21 THE COURT: So, you have a lot of work to do
22 before I change my mind about your behavior. But I
23 want you to know if anything happens in the meantime,
24 I am going to find out about it, and I'll bring you
25 back right away.

26 I am just appalled at your behavior. You should
27 be ashamed of yourself.

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: You tarnished that badge of whatever
3 department that is. You tarnished that badge for all
4 of the officers that came before you and all of the
5 officers that are there. You have a lot of authority,
6 but you have more responsibility to the public and to
7 safe driving, and you tarnished that. So, you better
8 prove to me that you've seen the light and your
9 actions changed, sir. Do you understand me?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: All right. I'll see you in June.
12 Thank you.

13 THE DEFENDANT: Thank you.

14 THE COURT: Thank you, Mr. Hussey.

15 (END OF CASE)

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