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COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss.

NEW BEDFORD DISTRICT COURT
DOCKET NO. 2333CR001135

*
COMMONWEALTH OF MASSACHUSETTS *
*
vs. *
*
STEPHEN GREANY *
*

MOTION HEARING
BEFORE THE HONORABLE SABINE COYNE

APPEARANCES:

For the Commonwealth:
Bristol County District Attorney's Office
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Fall River, Massachusetts 02721
By: Maxwell A. Mitrokostas,
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By: John Brooks Seed, Esq.

New Bedford, Massachusetts
Courtroom 4
December 5, 2023

I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
JONATHAN LAGOA				
(By Mr. Mitrokostas)	3			
(By Mr. Seed)		11		
TIMOTHY SOARES				
(By Mr. Mitrokostas)	26			
(By Mr. Seed)		36		
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None				
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1 (Court called to order.)

2 (12:17 p.m.)

3 THE CLERK: That leaves Stephen Greany.

4 Okay, Stephen Greany.

5 MR. MITROKOSTAS: Thank you, Your Honor.

6 MR. SEED: Defendant.

7 THE COURT: All right. Commonwealth?

8 MR. MITROKOSTAS: The officers were right behind
9 me.

10 THE COURT: Okay.

11 MR. MITROKOSTAS: My first witness, Your Honor,
12 would be Jonathan Lagoa.

13 JONATHAN LAGOA, Sworn

14 THE WITNESS: I do.

15 THE COURT: Go ahead, Commonwealth.

16 MR. MITROKOSTAS: Thank you, Your Honor.

17 DIRECT EXAMINATION

18 BY MR. MITROKOSTAS:

19 Q Good afternoon.

20 A Good afternoon.

21 Q In a nice, loud voice, could you introduce
22 yourself to the Judge and spell your last name?

23 A Jonathan, last name Lagoa, L-a-g-o-a.

24 Q And who do you work for?

25 A The New Bedford Police Department.

1 Q And how long have you worked for them?

2 A Since 2003.

3 Q And what is your current assignment with New
4 Bedford Police?

5 A Narcotics supervisor.

6 Q And how long have you been the narcotics
7 supervisor?

8 A Five years.

9 Q Okay. And what's your current rank with them?

10 A Sergeant.

11 Q Okay. Now, turning back to March 8th of 2023,
12 were you working for the New Bedford Police
13 Department on that date?

14 A That's correct.

15 THE COURT: I'm sorry. I missed the date. March
16 9th?

17 MR. MITROKOSTAS: March 8th, Your Honor.

18 THE COURT: March 8th, got it.

19 BY MR. MITROKOSTAS:

20 Q Okay. And on that day, were you contacted by the
21 chief of police?

22 A That's correct.

23 Q Why were you contacted by Chief Oliveira?

24 A In regards to a city employee that was taking
25 city-owned property and bringing it to their

1 residence.

2 Q And as a result of -- what did you learn from the
3 chief besides what you just told us?

4 A That a city employee, identified as Steve Greany,
5 was bringing property that was owned by the city of
6 New Bedford to his residence during hours of his work
7 schedule.

8 Q And as a result of learning that information,
9 what did you begin to do?

10 A I set up surveillance outside his residence.

11 Q And where was that?

12 A 108 Francis Street.

13 Q And approximately what time was that?

14 A I think around 11 o'clock.

15 THE COURT: 11 a.m.?

16 THE WITNESS: Yes, ma'am.

17 BY MR. MITROKOSTAS:

18 Q And did you observe anything while you were
19 conducting surveillance?

20 A Yes. During the time of surveillance, the city,
21 a city truck had pulled up to the front of the
22 residence. The passenger, which I identified as
23 Steve Greany, exited with a dartboard, which was one
24 of the items of interest that was the city-owned
25 property.

1 He proceeded to the residence, went in through
2 the side door, and then came out without the
3 dartboard now.

4 Q And why specifically was that dartboard of
5 interest?

6 A It was identified as city-owned property.

7 Q And after making those observations, what
8 happened next in the investigation?

9 A Mr. Greaney had exited the residence, returned
10 back to work, and he was later approached an hour, an
11 hour or so after with myself, Chief Paul Oliveira,
12 and Detective Timothy Soares.

13 Q And where did this encounter take place?

14 A In the parking lot of the Howland Green Library.

15 Q And who was present when you arrived on scene?

16 A It was Mr. Greany and his coworker, Mr. Duarte
17 (phonetic). I forgot his first name.

18 Q And did you begin to speak with Mr. Greany?

19 A Not at that time, no.

20 Q Did Detective Soares begin to speak to him?

21 A That's correct.

22 Q Okay. After Detective Soares spoke to him, what
23 happened next?

24 A After a brief conversation, we -- myself,
25 Detective Soares, and Mr. Greany -- all continued

1 back to 108 Francis Street.

2 Q And at that point, how did you get back to 108
3 Francis Street?

4 A Detective Soares transported myself and
5 Mr. Greany.

6 Q And now -- in a cruiser?

7 A That's correct. Unmarked cruiser.

8 Q Unmarked cruiser, okay.

9 And before that, before leaving the area of the
10 library, did you go over anything with Mr. Greany?

11 A Detective Soares had provided him his Miranda
12 rights, and a Consent to Search Form was explained to
13 him. I'm not sure if it was while we were in transit
14 to 108 Francis or when we were outside of 108 Francis
15 Street.

16 MR. SEED: Your Honor, may I approach? Thank
17 you.

18 BY MR. MITROKOSTAS:

19 Q Detective, I'm going to hand you a document. Do
20 you recognize what that document is?

21 A Yes.

22 Q What is that document?

23 A This is a New Bedford Police Department consent
24 to search, or permission to search form, that was
25 provided to Mr. Greany, explained to Mr. Greany, in

1 which Mr. Greany signed, along with myself and
2 Detective Soares.

3 Q Is that a fair and accurate copy of the form that
4 was used that day?

5 A Yeah. Besides that, the form is yellow.

6 MR. MITROKOSTAS: Thank you. I'd move to admit
7 that.

8 MS. WILLIAMS: No objection.

9 THE COURT: Exhibit 1.

10 (The clerk marks the Consent to Search Form as
11 Exhibit No. 1, in evidence.)

12 BY MR. MITROKOSTAS:

13 Q Now, did you or Detective Soares explain the form
14 to Mr. Greany?

15 A I did.

16 Q Okay. And what was the nature of the
17 conversation that you, conversational tone that you
18 used?

19 A As I'm talking now, it was very casual. All of
20 the conversations with Mr. Greany were very casual,
21 and he was very cooperative.

22 Q At this point, was he ever placed in handcuffs
23 before arriving at the residence?

24 A I don't believe so, no.

25 Q Once you arrive at the residence, what happens?

1 A He unlocked the door. There was a dog. I think
2 he put the dog away or something so it didn't
3 interfere, and we walked directly down to the
4 basement. The basement door was right in back of the
5 side door at 108 Francis Street.

6 Q And when you went to go into this residence, was
7 it locked or unlocked?

8 A It was locked.

9 Q Okay. And how did it become unlocked?

10 A Mr. Greany unlocked it.

11 Q And when you went to the basement, what did you
12 observe?

13 A It was a basement. There was black bags in the
14 middle of the floor which ended up being like old
15 fireboxes. There was, there was a lot of shelving on
16 each side of the walls. Towards the west wall, I
17 think it was like a desk set up with a computer.
18 That's mostly what I recall.

19 Q And these items that you described, where were
20 they located in the basement?

21 A The fireboxes were almost right in the middle of
22 the floor. They were, like I said, they were mostly
23 in (indiscernible at 12:25:57 - low audio) bags. The
24 dartboard I think was leaning against the chair when
25 we saw it.

1 Q Now, was there also a safe in that area?

2 A Yes.

3 Q Could you describe what you remember about the
4 safe, please?

5 A The safe was on the floor, and I believe it would
6 be the west wall right next to the desk. It was
7 locked, and Mr. Greany provided the code and unlocked
8 it for us.

9 Q Did you ask him for the code, or did he willingly
10 open the safe for you?

11 A He willingly opened the safe. I think at first
12 he was, he had said that he didn't want to open it
13 because there was some photographs that he didn't
14 wish for us to see.

15 Q And then how did he go about opening it after
16 that?

17 A He opened it for us.

18 Q And did you look inside the safe?

19 A Yes.

20 Q What did you find in the safe?

21 A I don't, I don't recall exactly.

22 Q Is your memory exhausted?

23 A Yes.

24 Q Would reviewing the police report refresh your
25 recollection?

1 A Yes, if you wouldn't mind, please?

2 Q Yes.

3 MR. MITROKOSTAS: Your Honor, may I approach?

4 THE COURT: Sure.

5 MR. MITROKOSTAS: Thank you.

6 BY MR. MITROKOSTAS:

7 Q I'm going to have you review those paragraphs to
8 yourself quietly, and then just look up when you're
9 done.

10 Sergeant, is your memory refreshed?

11 A Yes.

12 Q Okay. What did you find in the safe?

13 A There was some Suboxone; some vials of steroids;
14 and some pills, alprazolam, I believe they were.

15 Q And what was significant about the Suboxone?

16 A He didn't have a script for them.

17 MR. MITROKOSTAS: I have no other questions, Your
18 Honor.

19 THE COURT: May I inquire?

20 THE COURT: Counsel, yes.

21 CROSS-EXAMINATION

22 BY MS. WILLIAMS:

23 Q Good afternoon, Sergeant.

24 A Good afternoon.

25 Q So, Sergeant, you stated that on March 8th, you

1 were directed to essentially begin surveillance on
2 Mr. Greany, correct?

3 A On his residence; yes, sir.

4 Q Okay. Prior to that date, had you been informed
5 about Mr. Greany at all with respect to this issue?

6 A No, sir.

7 Q Okay. And so, on the morning of March 8th, a
8 chief of police himself contacted you?

9 A That's correct, sir.

10 Q And he noted that there was an ongoing
11 investigation regarding a city employee, correct?

12 A That's correct, sir.

13 Q Okay. And do you know what department Mr. Greany
14 was working for at that time?

15 A I do not. DPI or some, something of that
16 (indiscernible at 12:29:20 - low audio).

17 Q Essentially, he was working for the Facilities
18 Department, correct?

19 A Yes.

20 Q Okay. And so, you noted that you had, you seen
21 Mr. Greany walking with a dartboard, correct?

22 A From the truck, yes, sir.

23 Q Okay. And that was at his house, correct?

24 A That's correct, sir.

25 Q Okay. And so, you later learned that that

1 dartboard was taken from the Senior Center in the
2 South End, correct?

3 A That's correct, sir.

4 Q At Hazelwood Park?

5 A I'm not sure exactly what location.

6 Q And come to find out, sir, in your investigation,
7 that all of that property was property that was being
8 discarded from those, from those developments,
9 correct?

10 A I'm not sure exactly. I think Mr. Greany
11 indicated that they were being discarded. I never
12 had confirmation with the people who run those
13 buildings to see what was like surplus stock or not.

14 Q Okay. And so, fair to say that at the time you
15 were doing the surveillance, you did not have that
16 knowledge as to whether or not he could be in
17 possession of any of that, correct?

18 A In possession of what?

19 Q The dartboard, anything that you found him with?

20 A From what the chief of police indicated was that
21 that -- that property was city property.

22 Q And, but in terms of your own personal knowledge
23 in doing this surveillance, you were unaware as to
24 whether he could or could not have possession of the
25 property you had seen?

1 A I heard inference that (indiscernible at 12:30:50
2 - low audio) me to set up surveillance at his
3 location, and that he's in possession of these items
4 that are potentially being concealed that he was not
5 supposed to be in possession of.

6 Q Sure. I appreciate the inference, but in an
7 actual knowledge, you didn't have it at that point,
8 correct?

9 A Based on all the indications that were given to
10 me, that's my, that's the inference I drew from this.

11 Q All right. But for certain you weren't, you
12 weren't sure?

13 A I was not 100 percent certain.

14 Q Okay. And you stated that when he arrived, he
15 was a passenger in this city truck, correct?

16 A That's correct, sir.

17 Q Who was operating that truck, Duarte?

18 A Yes.

19 Q Okay. And you stated that Mr. Greany got out,
20 and you noticed the dartboard, correct?

21 A That's correct.

22 Q Was he just carrying it?

23 A That's correct.

24 Q It wasn't covered by anything? It wasn't wrapped
25 in a blanket or anything like that, correct?

1 A No, sir.

2 Q Okay. Did you observe him with anything else as
3 he got out of the truck?

4 A I believe he had a backpack.

5 Q Okay. And you saw him going to the home,
6 correct?

7 A That's correct, sir.

8 Q Mr. Duarte get out of the truck at all, do you
9 recall?

10 A Not that I recall. No, sir.

11 Q Were you with anyone else doing surveillance at
12 this time?

13 A I was the sole one surveilling his house.

14 Q And you noted that -- about how long was he
15 inside the house for?

16 A Briefly. I would say 5 to 10 minutes.

17 Q Okay. And this was -- do you recall what time of
18 day this was?

19 A I think it was 11 o'clock, right around their
20 lunch break.

21 Q Okay. And so, after that, did you follow that
22 city vehicle as it left the residence?

23 A No, sir.

24 Q At some point you were made aware that that had
25 gone to the library, correct?

1 A That's correct, sir.

2 Q And that library, do you recall what part of the
3 city that's in?

4 A Yes. Howland-Green, south end, intersects Cove
5 Street and (indiscernible at 12:32:37 - low audio).

6 Q Okay. And when you got there, where was Mr.
7 Greany?

8 A He was either -- they were outside, either in the
9 rear parking lot or on the perimeter of Howland-
10 Green. I think they were like picking up trash or
11 doing some exterior maintenance.

12 Q So they were working outside of that library,
13 correct?

14 A That's correct, sir.

15 Q And so, when you arrived, how many other officers
16 were there?

17 A It was me, Chief Oliveira, and Detective Soares.

18 Q Okay. And you've been an officer since 2003,
19 correct?

20 A I've been a police officer since 2006. I was
21 employed as a city call taker since 2003 to 2006.

22 Q Okay. And you've been with the Narcotics Unit
23 for how long now?

24 A In total, 11 and a half years.

25 Q And you said five, the last five you've been a

1 sergeant and a supervisor, correct?

2 A That's correct, sir.

3 Q Okay. In those last five years, Sergeant Lagoa,
4 is it common for the chief of police to contact you
5 to get involved in a search?

6 A It's not uncommon. If there's a complaint that
7 are reached to him through community meetings, he
8 will call us and let us know. Are you talking about
9 like intimately like involved in the investigations?

10 Q Yeah, well, in the situation, he's in the home
11 when you're searching the basement, correct?

12 A Yes.

13 Q Has that happened to you before?

14 A No.

15 Q Not really, right?

16 A No.

17 Q So, and in this situation, again, your time in
18 narcotics, a lot of your cases are involving illegal
19 drugs, correct, Fentanyl, cocaine, correct,
20 trafficking?

21 A Correct, sir.

22 Q Okay. And you're involved in a lot of search
23 warrants that are authored and/or supervised in the
24 city, correct?

25 A That's correct, sir.

1 Q Okay. Fair to say that you're not often involved
2 in dartboards taken from Senior Centers in the South
3 End, correct?

4 A That's correct.

5 Q So when you saw Mr. Greany, three of you
6 approached him, correct?

7 A That's correct.

8 Q Okay. Now, were there any marked cruisers there?

9 A No, sir.

10 Q All right. And you guys are all in plain
11 clothes?

12 A Correct, sir.

13 Q And you went up, and you spoke to Mr. Greany.
14 You identified yourself, correct?

15 A I did not speak to Mr. Greany. I spoke to Mr.
16 Duarte at that time. Detective Soares and Chief
17 Oliveira spoke with Mr. Greany.

18 Q Okay. And do you recall about how far apart the
19 two of them were, Duarte and my client?

20 A I believe they were at kind of like the rear of
21 the truck, of the city-owned truck, and I was talking
22 to him on the grass, like kind of in the front of the
23 truck; so about 15, 20 feet.

24 Q Okay. And at some point, Mr. Greany was informed
25 that the officers were going to be going back to his

1 home, correct?

2 A That's correct.

3 Q And you stated that Detective Soares transported
4 both you and Mr. Greany back to 108 Francis Street,
5 correct?

6 A That's correct.

7 Q And do you recall where 108 Francis Street is
8 located within the city of New Bedford?

9 A Yes. It's in the West End, about a block away
10 from Buttonwood Park, just north of Court Street.

11 Q So I'd say about 7 to 10 minutes to get there
12 from that library?

13 A That's accurate.

14 Q Okay. And during that transport, you go over
15 this Consent to Search Form with my client, correct?

16 A Yes. Like I explained before, I'm not sure if it
17 was in transit or if it was in front of the house.
18 But while we were inside the vehicle, we went over
19 that form, yes.

20 Q Okay. And in your conversation with him, did you
21 ever mention getting a search warrant for that home?

22 A I probably indicated that it was an option, yes.

23 Q And you stated that at some point Mr. Greany, it
24 looks like at 2:53 p.m., signed the consent form,
25 correct?

1 A That's correct.

2 Q Okay. And is it fair to say that you are in the
3 vehicle at this point still?

4 A Yes.

5 Q Okay. And when you arrive at that 108 Francis
6 Street, are you joined by other officers?

7 A No.

8 Q Okay. At some point Chief Oliveira arrives,
9 correct?

10 A Oh, yes. I'm sorry. I thought you meant like
11 other than the ones I already identified, so I
12 apologize.

13 Q That's okay. Was he already there?

14 A He might have showed up right after we did, or a
15 short time after.

16 Q Okay. And, again, based on your limited
17 involvement, this is the same day that you are
18 learning about this information, correct, the day of
19 the search?

20 A That's correct.

21 Q Okay. So prior to that, you had no knowledge
22 about any of this property, correct?

23 A That's correct.

24 Q And so, to the best of your knowledge, you
25 personally, you're going into that basement to look

1 for city property that's allegedly been taken from
2 whatever city property that's been maintained by
3 facilities, correct?

4 A That's correct.

5 Q And so, Mr. Greany allows you guys to go into the
6 home, correct?

7 A Correct.

8 Q He unlocks the door?

9 A That's correct.

10 Q You stated he put the dog somewhere?

11 A That's correct.

12 Q Any other individuals inside that home related to
13 Mr. Greany?

14 A There was talk about his daughter. I'm not sure
15 if she was home at the time or not. She didn't, she
16 wasn't there during the search warrant. I think we,
17 he had arranged to have her picked up or taken off
18 the bus. I'm not really sure if she was in the house
19 when we were there or --

20 Q Well, there was no search warrant either,
21 correct?

22 A That's correct. Did I say search warrant?

23 Q You did.

24 A Oh, I apologize.

25 Q That's all right.

1 A There was no search warrant, Your Honor.

2 Q What kind of home is it, single-family?

3 A Yes, single-family. I think a cape.

4 Q And so, you noted that, I believe you said on
5 direct that the basement door was locked, correct?

6 A No, the front, the side door was locked. The
7 basement door was located directly in back of the
8 side door.

9 Q Okay. And there was no lock on that that you
10 recall?

11 A Not that I recall.

12 Q And so, you brought my client down there,
13 correct?

14 A That's correct.

15 Q Chief Oliveira down there, as well?

16 A Yes.

17 Q Detective Soares?

18 A That's correct.

19 Q Any other officers?

20 A No, sir.

21 Q Okay. And so, in view, in plain view as you go
22 down the stairs, you see what appears to be fire
23 alarms, correct, fireboxes?

24 A There's a bigger firebox that's about -- the
25 older ones that were on the corners that you pull.

1 Q Right. Okay. And so, you had received no
2 information about those, correct?

3 A That's correct.

4 Q Okay. So, again, you have no idea whether those
5 are stolen, given to him, whether he purchased them,
6 where they actually came from? You're not sure at
7 that time when you see them, correct?

8 A That's correct.

9 Q Okay. You do see the dartboard that I'm assuming
10 you saw earlier in your surveillance, correct?

11 A That's correct.

12 Q And that was just leaning up against the wall?

13 A Or against a chair or something like that. It
14 was definitely leaning in plain view.

15 Q Okay. But it's clear that there is some older
16 property in that basement, correct?

17 A That's correct.

18 Q And Mr. Greany tells you and the other officers
19 that all these items were just being discarded by the
20 city. They were ordered to go to the trash, correct?

21 A That was his word, yes.

22 Q Okay. And at some point, you locate a safe,
23 correct?

24 A That's correct.

25 Q Where was that located in the house?

1 A It was on the west wall. Like there was a desk
2 and a chair, and I think it was to the bottom right
3 of that on the floor.

4 Q Okay. And was it a key or a combination-type
5 safe?

6 A Combination.

7 Q All right. And, again, in your surveillance and
8 your information, at no point were you aware that
9 there may be a safe involved in your search, correct?

10 A That's correct.

11 Q Right? And the property that you observed, it's
12 clear to see that none of that would fit inside that
13 safe, correct?

14 A That's correct.

15 Q And so, again, you told, whether it was you or
16 one of the other officers, did you make Mr. Greany
17 aware that you would apply for a search warrant for
18 that safe?

19 A Yes. We said that was an option.

20 Q And at this point, he opened the safe for you?

21 A That's correct.

22 Q But he had stated that he didn't want you to look
23 in there because of some photographs, correct?

24 A That's correct.

25 Q Okay. At any point was -- my client was never

1 placed in handcuffs, correct?

2 A That's correct.

3 Q Okay. And you stated that he was compliant and
4 cooperative the whole time, correct?

5 A That's correct.

6 Q And in your conversations with the chief, were
7 you made aware of other individuals in the city that
8 had been taking property?

9 A No, sir.

10 Q It seemed to focus solely on him, correct?

11 A That's correct.

12 Q Okay. And are you aware of Mr. Greany's former
13 employment prior to being in the Facilities
14 Department?

15 A Yes.

16 Q Are you aware that he was formerly a police
17 officer, correct?

18 A I was, I was made aware that, yes.

19 MR. SEED: Okay. No further questions.

20 THE COURT: Anything else, Commonwealth?

21 MR. MITROKOSTAS: No, thank you, Your Honor.

22 THE COURT: You may step down, Sergeant. Thank
23 you.

24 Next witness.

25 MR. MITROKOSTAS: Timothy Soares, Your Honor.

1 TIMOTHY SOARES, Sworn

2 THE WITNESS: Yes, I do.

3 THE COURT: You may inquire.

4 MR. MITROKOSTAS: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY MITROKOSTAS:

7 Q Good afternoon.

8 A Good afternoon.

9 Q In a nice, loud voice, could you introduce
10 yourself to the Judge and spell your last name?

11 A Timothy Soares. Last name is S-o-a-r-e-s.

12 Q And who do you work for?

13 A New Bedford Police Department.

14 Q How long have you worked for New Bedford PD?

15 A Approximately 11 years.

16 Q And what's your current role with the New Bedford
17 Police Department?

18 A Detective with the Major Crimes Unit.

19 Q And back in March of 2023, what was your role
20 with the New Bedford Police Department?

21 A Detective of the Major Crimes Unit.

22 Q Now, turning back, turning back now to March 8th
23 of 2023, did you begin an investigation into an
24 individual named Stephen Greany?

25 A Yes.

1 Q How did you become involved in that
2 investigation?

3 A I was contacted by Chief of Police Paul Oliveira.

4 Q Okay. And what did you learn from him before the
5 investigation began?

6 A He informed me that he received word from the
7 (indiscernible at 12:32:37 - low audio) supervisor
8 that Greany had been stealing some items from the
9 city.

10 Q And as a result of learning that information, did
11 you and Sergeant Lagoa begin the investigation?

12 A Yes.

13 Q Okay. At what point did you join the
14 investigation that day?

15 A After being briefed by Chief Oliveira I joined
16 when we encountered Mr. Greany down at the Howland-
17 Green Library.

18 Q And what kind of cruiser were you operating that
19 day?

20 A Unmarked cruiser. No decals. It's equipped with
21 emergency blue lights though.

22 Q And how were you dressed?

23 A In -- I was wearing I believe slacks, a shirt,
24 and a tie.

25 Q Kind of like you are right now?

1 A Yes.

2 Q Okay. And when you arrived at the Howland-Green
3 Library, what did you observe?

4 A I observed the two males, one being Mr. Greany
5 and another male identified as Joseph Duarte,
6 standing outside by the city vehicle.

7 Q And once, once you observed them, who did you
8 speak to?

9 A Myself and Chief Oliveira spoke with Greany;
10 Lagoa spoke with Mr. Duarte.

11 Q When you approached Mr. Greany, what did you tell
12 him?

13 A I saw the chief over there. Just basically just
14 brief them on what was going on.

15 Q And when you say brief them on what's going on,
16 what did, what did you tell them was going on?

17 A That we received information that he took some
18 items from some city buildings.

19 Q Okay. And at that point did he tell you
20 anything?

21 A Yes. These items were supposed to be thrown
22 away.

23 Q Okay. And at some point did you provide any
24 Miranda warnings?

25 A Yes.

1 Q How did you do that?

2 A From a card that I had in my possession.

3 MR. MITROKOSTAS: May I approach, Your Honor?

4 THE COURT: Sure.

5 BY MITROKOSTAS:

6 Q Detective, I'm going to hand you a document. Do
7 you recognize that document?

8 A Yes.

9 Q How do recognize that?

10 A Same as the Miranda card that I keep in my
11 possession.

12 Q And is that the same Miranda card that you
13 utilized the day we've been talking about, or a copy
14 of the card that you use?

15 A Yes.

16 Q Fair and accurate copy?

17 A Yes.

18 MR. MITROKOSTAS: Your Honor, I'd move to admit
19 that.

20 MR. SEED: No objection.

21 THE COURT: Okay. Exhibit 2.

22 (The clerk marks the copy of the Miranda card as
23 Exhibit No. 2, in evidence.)

24 BY MR. MITROKOSTAS:

25 Q Detective, I'm going to hand you back Exhibit 2.

1 When you provided your warnings to, those
2 warnings to Mr. Greany, could you just tell the Court
3 what warnings you gave? You can read them from the
4 exhibit.

5 A Yes.

6 You have the right to remain silent. Anything
7 you say can and will be used against you in a court
8 of law.

9 You have the right to talk to a lawyer and have
10 him present while you're being questioned.

11 If you cannot afford to hire a lawyer, one will
12 be appointed to represent you before any questioning
13 if you wish.

14 You can decide at any time (indiscernible at
15 12:45:51 - low audio) these rights and not answer
16 these questions or make any statements.

17 Q And once you read them to Mr. Greany on the day
18 in question, what did he say to you?

19 A He said he knew his rights.

20 Q Okay. And did you begin to have conversations,
21 further conversations?

22 A Yes.

23 Q What did you tell him?

24 A Basically explained that we could obtain a search
25 warrant for his home based on what was observed by

1 Sergeant Lagoa earlier, or he could sign a Consent to
2 Search Form.

3 Q And what did he elect to do?

4 A He signed the Consent to Search Form.

5 Q Okay. And did he tell you anything about the
6 search warrant or -- when you say he wanted to sign
7 the form, what did he tell you?

8 A He said he didn't want us to obtain a search
9 warrant. He'd rather sign the Consent to Search.

10 Q And eventually you went back to his residence?

11 A Yes.

12 Q Did you at any point go over the Consent to
13 Search Form with him, or was that only Sergeant
14 Lagoa?

15 A It was only Sergeant Lagoa.

16 Q And, ultimately, that Consent to Search Form was
17 signed?

18 A Yes.

19 Q When you got back to his house at 108 Francis
20 Street, what happened?

21 A He unlocked the side door with his key, let us
22 down to the basement where he said these items were.

23 Q Okay. And when you got to the basement, what did
24 you observe?

25 A He had -- it was a basement. They were using it

1 for storage, for shelving, with a desk.

2 Q And did he point out particular items to you?

3 A Yes. The, I believe the dartboard in question, a
4 Nintendo Wii. Also pointed out some, I believe some
5 lightbulbs.

6 Q Some (indiscernible at 12:47:41 - low audio)
7 lightbulbs? Okay.

8 And why were the, what did he tell you about the
9 Wii system and the dartboard?

10 A That they had been taken from the (indiscernible
11 at 12:47:51 - low audio) Senior Center.

12 Q And what else did he tell you about those?

13 A They're supposed to be thrown away.

14 Q Okay. And did he tell you about what he planned
15 to do with them?

16 A Put them on eBay for profit.

17 Q What else did you find in the basement besides
18 the Wii and the dartboard?

19 A They said there was some lightbulbs, fire alarms
20 that were taken from, I believe they were taken from
21 the (indiscernible at 12:48:20 - low audio) building;
22 over 1,000 grams of marijuana.

23 Q And where was that?

24 A That was found in the basement, I believe by
25 Sergeant Lagoa.

1 Q And besides the 1,000 grams of marijuana, what
2 else?

3 A Rounds of 22 ammunition.

4 Q Okay.

5 A Some Suboxone.

6 THE COURT: Were those all found in the safe?

7 Where were these items found?

8 A I'd have to refer to the report.

9 BY MR. MITROKOSTAS:

10 Q Is your memory exhausted?

11 A (Indiscernible at 12:48:56 - low audio.)

12 Q Detective, I'm going to hand you your report. If
13 you could just read it silently to yourself and then
14 look up when you're done.

15 Is your memory refreshed?

16 A Yes.

17 Q We'll break it down. Where was the Suboxone
18 found?

19 A In the safe.

20 Q Where was the marijuana found?

21 A It was found in the area by the desk.

22 Q But not in the safe?

23 A No.

24 Q Okay. Where were the rounds of ammunition found?

25 A It was also near the desk.

1 Q Okay. And anything else found in the desk area?

2 A There was another small safe located with United
3 States currency.

4 Q Approximate how much United States currency?

5 A 6,400 approximately.

6 Q Okay. And where was that in relation to the
7 marijuana and rounds of ammunition?

8 A It was all in the same approximate area.

9 Q Okay. And did you find a scale?

10 A Yes.

11 Q Where was the scale found?

12 A Right near the marijuana.

13 THE COURT: So the only thing found in the safe
14 was the Suboxone?

15 THE WITNESS: Suboxone, and I believe there was
16 alprazolam tabs.

17 THE COURT: Pills?

18 THE WITNESS: And some vials of testosterone.

19 THE COURT: Got it.

20 BY MR. MITROKOSTAS:

21 Q Now, you said there were some fire alarms that
22 were found. Can you describe where they were found?

23 A I believe they were found in the basement,
24 another area, (indiscernible at 12:51:00 - low audio)
25 on the floor.

1 Q And did you learn anything from Mr. Greany about
2 what he planned to do with the fire alarms or where
3 they came from?

4 A He said they came from the (indiscernible at
5 12:51:10 - low audio) building, a city building.

6 Q Okay.

7 MR. MITROKOSTAS: Your Honor, may I approach?

8 THE COURT: Yes.

9 BY MR. MITROKOSTAS:

10 Q Detective, I'm going to hand you two photos. Do
11 you recognize the two photos that are in front of
12 you?

13 A Yes.

14 Q What do you recognize those photos to be?

15 A The items seized from Mr. Greany's basement.

16 Q And the two photos you have in front of you are
17 all the items seized except for the drug and
18 ammunition pictured in there?

19 A (Indiscernible at 12:51:43 - low audio), yes.

20 MR. MITROKOSTAS: Your Honor, I'd move to admit
21 this.

22 MR. SEED: No objection.

23 THE COURT: All right, Exhibits 3 and 4.

24 (The clerk marks a photograph as Exhibit No. 3, in
25 evidence.)

1 (The clerk marks a photograph as Exhibit No. 4, in
2 evidence.)

3 BY MR. MITROKOSTAS:

4 Q Now, in speaking with Mr. Greany, do you see him
5 in court today?

6 A I do.

7 Q Can you tell the Court something that he's
8 wearing?

9 A Sitting next to Counsel wearing a blue sweater.

10 MR. MITROKOSTAS: Your Honor, may the record
11 reflect identification?

12 THE COURT: So reflected.

13 BY MR. MITROKOSTAS:

14 Q What else did you learn from Mr. Greany about
15 these items?

16 A I believe they were taken, they were supposed to
17 be, they were taken and supposed to be thrown away
18 from city buildings.

19 MR. MITROKOSTAS: Thank you. I have no other
20 questions, Your Honor.

21 THE COURT: Counsel?

22 MR. SEED: Thank you.

23 CROSS-EXAMINATION

24 BY MR. SEED:

25 Q Good afternoon, Detective Soares.

1 A Good afternoon.

2 Q So, Detective, fair to say the first time you
3 learned about any investigation into my client was on
4 March 8th of 2023, correct?

5 A Yes.

6 Q Prior to that date, you had no knowledge of any
7 property being taken from city buildings, correct?

8 A No.

9 Q Okay. Prior to that date, you knew who
10 Mr. Greany was though, correct?

11 A Yes.

12 Q Okay. And so, on March 8th, you state that you
13 received a call, you have a meeting with Chief
14 Oliveira, correct?

15 A Yes. A phone call.

16 Q And he informs you and Sergeant Lagoa that a city
17 supervisor states that some employees are taking city
18 property from buildings, correct?

19 A Yes.

20 Q Are you ever aware of who this city supervisor
21 is?

22 A Yes.

23 Q Okay. Were you aware at the time you wrote this
24 report?

25 A Yes.

1 Q Okay. Did you speak to that person?

2 A Directly, no.

3 Q Okay. You did not go to Mr. Greany's house in
4 the morning hours, correct?

5 A No.

6 Q That was Sergeant Lagoa?

7 A Yes.

8 Q Okay. And during that time, was the first time
9 you reported to the library with respect to this
10 investigation?

11 A Yes.

12 Q And so, you had been made aware by Sergeant Lagoa
13 that he observed Mr. Greany with a dartboard,
14 correct?

15 A Yes.

16 Q Okay. At that point, did you have any idea where
17 that dartboard came from?

18 A At that point, no.

19 Q Okay. There's nothing inherently illegal about a
20 dartboard, correct?

21 A No.

22 Q Okay. And at some point, you report back to the
23 library where Mr. Greany is with a Joseph Duarte,
24 correct?

25 A Correct.

1 Q And Joseph is also a city employee, correct?

2 A Yes.

3 Q Okay. Did you speak with Joseph at all?

4 A No.

5 Q Were you made aware of Joseph by Chief Oliveira?

6 A Just that he was working with Mr. Greany.

7 Q Okay. And then this investigation that's going
8 on, were you made aware of any other city employees
9 who were doing this?

10 A No.

11 Q You just limit it to him?

12 A Yes.

13 Q Okay. To the best of your knowledge, correct?

14 A Yes.

15 Q Okay. And so, you stated you've had 11 years on
16 the force, correct?

17 A Correct

18 Q How long have you been with Major Crimes?

19 A Just over a year.

20 Q Okay. You were in Narcotics before that?

21 A Yes.

22 Q Okay. How long were you in Narcotics for?

23 A Just over six years.

24 Q Okay. And in your six years, you've authored and
25 been involved in many search warrants, correct?

1 A Yes.

2 Q And establishing affidavits for those search
3 warrants, correct?

4 A Yes.

5 Q And you're aware, because you had the experience
6 in doing it, that you oftentimes, you have to create
7 probable cause in that affidavit in order for a clerk
8 to search, to sign off on it, correct?

9 A Correct.

10 Q Okay. And oftentimes, Detective Soares, in your,
11 in your search warrants, they often don't take place
12 on the same date, correct?

13 A Correct.

14 Q There's an ongoing investigation that you're
15 involved in, correct?

16 A Yes.

17 Q Observations that you made, correct?

18 A Yes.

19 Q Informants that you use, correct?

20 A Correct.

21 Q Okay. In this situation, there's none of that?

22 A No.

23 Q Okay. And you're informed essentially hours
24 before confronting Mr. Greany, correct?

25 A Yes.

1 Q Okay. So at that point, we're working off of
2 essentially totem pole hearsay that you're getting
3 this information from, correct?

4 A Essentially.

5 Q So Chief's telling you, correct?

6 A Yes.

7 Q From something that someone's telling him?

8 A Yes.

9 Q Okay. And authoring a search warrant, you would
10 never utilize that type of information to convince a
11 clerk to issue a search warrant, correct?

12 A I mean, it depends on the circumstance.

13 Q Well, I'm going to win that motion if that
14 happens, correct? Okay.

15 So, in this situation though, you observe
16 Mr. Greany standing at the library, correct?

17 A Yes.

18 Q He's got nothing in his hands?

19 A No.

20 Q Having conversation with Mr. Duarte?

21 A Yes.

22 Q Okay. And he's -- what were they doing? Were
23 they working at that time?

24 A I think they probably just been working and
25 probably standing around talking, getting ready to

1 wrap up.

2 Q Okay. And you're dressed like you are today,
3 correct?

4 A Yes.

5 Q Not in uniform, correct?

6 A No.

7 Q No marked cruisers in the area?

8 A No.

9 Q Okay. Were there three different unmarked
10 vehicles that you guys were in?

11 A I believe just two. I believe Sergeant Lagoa
12 came with the chief.

13 Q Okay. And, again, in your six years in
14 narcotics, your one year now in Major Crimes, how
15 many times have you had a joint search with the chief
16 of police, whether it was Chief Cordeiro or now this
17 chief?

18 A Never.

19 Q Probably zero, right?

20 A Correct.

21 Q And, in fact, how often are you getting
22 information from the chief of police?

23 A Not often.

24 Q Okay. And, in fact, you guys just had a vote of
25 no-confidence for this chief, correct?

1 A Correct.

2 Q Okay. And so, the chief decides he's going to
3 get involved and speak to Mr. Greany. Were you aware
4 that the two of them had worked together as police
5 officers in New Bedford in the past?

6 A I knew that they had worked around the same time
7 frame.

8 Q Okay. So you were aware of that?

9 A Yes.

10 Q Okay. That there was a history, the two of them
11 knew each other?

12 A I knew that they were on the job around the same
13 time.

14 Q And so you approach him with the chief, correct?

15 A Correct.

16 Q Behind the truck?

17 A Yes.

18 Q And start speaking to him, correct?

19 A Yes.

20 Q And you confront him about this allegation of
21 property being taken from different areas of the
22 city, different city-owned buildings, correct?

23 A Yes.

24 Q And at that time he told you those are items
25 that were deemed to be trashed for them to throw out,

1 correct?

2 A Yes.

3 Q And at that moment, did you confirm that with
4 anybody?

5 A No.

6 Q You didn't discuss that with this supervisor
7 who's making the allegations with the chief, correct?

8 A I believe that she was informing the chief that
9 she couldn't, that he can't do that.

10 Q You're not aware of that though, correct?

11 A No.

12 Q Okay. And if property is being thrown out, to
13 give you an example, if you're searching someone's
14 trash outside of their home, you're able to get
15 whatever's in that trash, correct?

16 A (Indiscernible at 12:58:39 - low audio) property.

17 Q Okay. And this incident we're talking about,
18 again, fire alarms and a dartboard, correct?

19 A Correct.

20 Q And so, Mr. Greany is told that he's essentially
21 got two options here, correct? Either we're going to
22 get a search warrant or you sign this Consent to
23 Search, correct?

24 A Correct.

25 Q And at that time, you could not have believed

1 that you would have had probable cause for a search
2 warrant, correct?

3 MR. MITROKOSTAS: I'm going to object to that,
4 Your Honor.

5 THE COURT: Objection's sustained.

6 BY MR. SEED:

7 Q And so, Mr. Greany stated what, that he would
8 sign the consent form?

9 A Yes (indiscernible at 12:59:14 - low audio).

10 Q And he didn't do that outside the library,
11 correct?

12 A No. I believe (indiscernible at 12:59:21 - low
13 audio).

14 Q Okay. So he got into the vehicle with -- you
15 were driving it, correct?

16 A Yes.

17 Q Lagoa is in the backseat?

18 A Reading the instructions and the Consent to
19 Search.

20 Q I'm sorry. Say that again?

21 A Just reading the Consent to Search Form,
22 essentially the instructions.

23 Q Okay. And he was sitting behind you, correct?

24 A Yes.

25 Q Mr. Greany was next to him?

1 A Yes.

2 Q And he wasn't handcuffed, correct?

3 A No.

4 Q And you could hear Detective, excuse me, Sergeant
5 Lagoa going over the form with him?

6 A Yes.

7 Q Okay. And about 10 minutes to get to his house,
8 thereabouts, maybe a little less?

9 A Yes.

10 Q And when you get there, again, do you go over the
11 form with him at all?

12 A No.

13 Q You had already given him his Miranda warnings,
14 correct?

15 A Yes.

16 Q You get out of the car, and Mr. Greany leads you
17 to the side door, correct?

18 A Yes.

19 Q The house is locked?

20 A Yes.

21 Q Okay. Did you ask him to open it?

22 A Yes.

23 Q And he complied with it?

24 A Yes.

25 Q And when you opened, when he opened the door,

1 there was a basement door close to that area,
2 correct?

3 A Yes.

4 Q And he told you that anything from the city that
5 he took is downstairs?

6 A Yes, down in the basement.

7 Q Okay. And so, the three of you go downstairs, or
8 the four of you?

9 A Initially it was me and Lagoa, and the chief
10 joined us a couple of minutes later.

11 Q So where was he?

12 A He was with me and Lagoa.

13 Q And he went downstairs?

14 A Yes.

15 Q Okay. And there was property that was just
16 laying on the floor, correct?

17 A Yes.

18 Q And he told you again that that's property from
19 the city that was ordered to be thrown out?

20 A Yes.

21 Q In relation to where that property was, there was
22 a safe located in the basement?

23 A Yes.

24 Q Where was that?

25 A That was near a wall. So he had a desk -- you

1 walk down the stairs, there was a desk over to the
2 left-hand side. It was against that wall.

3 Q Okay. And did you ask him what was in the safe?

4 A I believe Sergeant Lagoa did.

5 Q Okay. It's fair to say though you saw, the
6 amount of property you saw that was in plain view
7 would not fit in a safe that size, correct?

8 A Correct.

9 Q Okay. And at some point, somebody asked him to
10 open the safe?

11 A Yes.

12 Q And at first he did not want to?

13 A I believe he did not.

14 Q Okay. Do you recall him saying that there were
15 some pictures in there that he didn't want anyone to
16 see?

17 A Yes.

18 Q Okay. Was anyone, did anyone inform him about a
19 potential for a search warrant for the safe?

20 A I don't recall.

21 Q But at some point he opens the safe you?

22 A Yes.

23 Q Okay. And, again, to the best of your knowledge,
24 you're going into this home to look for property that
25 has been taken from city buildings?

1 A Yes.

2 Q Nothing more? You have no information about
3 anything more than that?

4 A No.

5 MR. SEED: Nothing further, Your Honor.

6 THE COURT: Anything else?

7 MR. MITROKOSTAS: No, thank you, Your Honor.

8 THE COURT: You may step down. Thank you,

9 Detective.

10 Commonwealth?

11 MR. MITROKOSTAS: No other witnesses, Your Honor.

12 The Commonwealth rests.

13 THE COURT: Counsel?

14 MR. SEED: Defense rests.

15 THE COURT: Okay. I'll hear argument.

16 Did you want me to come back after lunch, at two,
17 or do you think you can wrap up your arguments in a
18 few minutes? I don't want to rush you.

19 MR. SEED: I think I can wrap it up, Judge, and a
20 lot of it's contained within my memorandum --

21 THE COURT: Yes, which I've read.

22 MR. SEED: -- been provided.

23 Obviously, the Commonwealth -- it's a unique
24 situation with the Commonwealth here where we have an
25 actual Consent to Search Form.

1 THE COURT: So you're challenging the consent
2 form, you're challenging the scope of the search
3 saying that there are items in plain view, and you're
4 challenging the search of the safe --

5 MR. SEED: Right.

6 THE COURT: -- right?

7 MR. SEED: As being outside the scope of what --

8 THE COURT: Got it.

9 MR. SEED: -- I would deem is impermissible
10 anyway. But, getting to that point of it, I would
11 say that's outside of the scope of what they were
12 looking for.

13 THE COURT: Are you saying that the search that
14 was signed was not voluntary consent?

15 MR. SEED: I think -- I do. I don't think it was
16 voluntary. I don't think he had much of a choice in
17 this situation. And I think it's, you know, you can
18 see that there's some history here that is alluded to
19 in the direct, excuse me, the cross-examination.

20 But, essentially, as I, as I stated to Detective
21 Soares, it's essentially totem pole hearsay how this
22 information is getting to Lagoa and to Soares; that
23 it's coming from the chief to them from some
24 supervisor, who's not named or not talked about
25 within the hearing today or the police report, that

1 some city employee is taking property from city
2 buildings and selling them on eBay.

3 Everything happens within the same, I mean, it's
4 literally a two-hour period, or maybe a two- to
5 three-hour period that this information from the
6 chief of police gets to the head of the Major Crimes
7 and someone who's been in Narcotics for the last six
8 years, which, again, to me is just unfathomable with
9 what we deal with on a regular basis here.

10 It boils down to he's then seen going to his
11 house with a dartboard, a dartboard. He's getting
12 out of a truck with a dartboard. There's nothing
13 illegal about that. There's nothing that would
14 warrant any further investigation with respect to
15 that. And there's really nothing presented from the
16 Commonwealth in terms of the witnesses as to whether
17 or not that property was not supposed to be taken.
18 We don't have enough information that it was illegal,
19 which is what is going to have to be established
20 here. If it was a drug case and somebody is selling
21 cocaine or buying cocaine, yes, that's inherently
22 illegal; it's a narcotic. Somebody walking with a
23 dartboard, there's nothing wrong with that. Nothing
24 out of the ordinary. It would warrant more of an
25 investigation.

1 Perhaps if this went on for another week or two
2 and there was more to establish it, then they could
3 have gotten a search warrant, or they would have had
4 better grounds to say to him, we're going to get a
5 search warrant or your consent. I still think if he
6 consents at that point, it's still not truly
7 voluntary.

8 And, again, given his background in law
9 enforcement, I think that comes into play too in
10 terms of his mindset, state of mind as to what is
11 going to happen here if I consent to the search or if
12 there's a search warrant that's applied for by the
13 police. He's trying to cooperate as best he can
14 because of what these officers are telling him during
15 the timeframe.

16 I've never seen, nor has any of these police
17 officers, a chief of police involved in the beginning
18 of a police report and then at the residence search.

19 THE COURT: So what's your inference? Your
20 inference is that he had an ax to grind, personal
21 vendetta? Like, so what?

22 MR. SEED: There's more to this. From the city
23 perspective, from the top, not knowing who this comes
24 from and why is he singled out in terms of what is
25 going on here. If this is something that's truly

1 happening, that people are taking property from the
2 city, he's not the only one, I can tell you that.
3 And so there's an issue there.

4 But I would state it's a premature search by the
5 New Bedford Police in this situation. There's got to
6 be more. There has to be more that's established to
7 create probable cause to, again, if they had gotten a
8 search warrant, to get one. And in this case, to
9 stop somebody, to essentially detain them and bring
10 them back to the house, to consent to a search of
11 their home is unbelievably invasive. It's not a
12 search of a car. It's not a search of that city
13 truck they were in. There's no talk about that.
14 Nobody talked about what was in the truck. Did they
15 look in the truck? Did they ask to look in the
16 truck? Nothing, nothing of that. But because he's
17 seen with a dartboard going into his house for 20
18 minutes at lunchtime and coming out without it,
19 that's the genesis of how we end up in his basement
20 at 2:30 that same day.

21 So, Judge, in the totality of it, I'm not going
22 to rehash the entire hearing. I think you've heard
23 it, and it's pretty much laid out in my memorandum,
24 but the totality of everything that took place that
25 day, I don't believe it was a voluntary search, a

1 consent to search by my client. If you do find that
2 it is, I would argue that beyond the property that is
3 immediately visible to them upon their entry into the
4 basement, everything else should be out as it's
5 outside the scope of what they're looking for,
6 especially what's inside the safe. That's completely
7 outside of the scope of what they're looking for.
8 And that's not in plain view.

9 You also didn't hear anything in terms of the
10 marijuana, the ammunition. There's no clear evidence
11 as to where that was located in the house, other than
12 it was near the desk area. No photographs of it. We
13 have no idea where exactly that was, whether that was
14 covered up by anything, or whereabouts it was in the
15 basement. So I would ask that that be suppressed, as
16 well.

17 Thank you.

18 THE COURT: Commonwealth?

19 MR. MITROKOSTAS: Thank you, Your Honor.

20 I ask that you deny the motion starting first
21 here with the investigation. Just because it was a
22 more rapidly developing, a quick investigation,
23 doesn't automatically mean that there's something
24 wrong with it. The chief received information from
25 the city department. I think that's reasonable. I

1 don't think a city department would just call 911 and
2 say, can you send me a random patrol officer. They
3 may want to work within their organizational
4 structure to make this type of, to begin this type of
5 investigation.

6 I think when you look at all the factors here,
7 they approached him in a public place outside the
8 city, one of the city libraries. It was, as the
9 detective testified, a conversational nature such
10 that Sergeant Lagoa described it as just like we are
11 talking now, plain clothes. This is not a marked
12 unit that comes, you know, screaming into a parking
13 lot, you know, running lights and sirens, two, three
14 at one point. Detectives and the chief walk up in
15 their plain clothes and unmarked cruiser and begin a
16 conversation.

17 I think here we have a unique situation as well
18 given Mr. Greany's background working as a police
19 officer. I mean, when we look at some of these
20 things, whether consent was voluntary, whether he
21 understood, and whether it was a knowing and
22 intelligent and voluntary waiver, I think he's in a
23 unique position given his background. This is not
24 Joe citizen off the street that's never encountered
25 the police before. This is someone that actually did

1 the job that Detective Soares, Sergeant Lagoa, and
2 Cheap Oliveira did, and is intimately familiar, I
3 would suggest, with what a consent to search is, what
4 a search warrant is, his rights. He even tells the
5 officers when the Miranda warnings were given, I know
6 my rights.

7 So this is not a layperson who's never heard
8 these concepts and is not aware of consequences or
9 what he can and can't do. I also think when we look
10 at the search form the Court has, Exhibit 1, when you
11 read it, you know, knowing of my lawful right to
12 refuse such consent, I am willing to give my
13 permission, I think it's right away when the sergeant
14 said, when Sergeant Lagoa says, oh, well, we can
15 either have a Consent to Search or we'll get a search
16 warrant --

17 THE COURT: What do you say specifically about
18 the safe being outside the scope?

19 MR. MITROKOSTAS: Well, Your Honor, if we look at
20 that, it doesn't really -- this Consent to Search
21 Form doesn't limit it to -- there's no limiting
22 instruction --

23 THE COURT: It says cars. It says vehicle --

24 MR. MITROKOSTAS: -- it says we can --

25 THE COURT: -- house.

1 MR. MITROKOSTAS: -- conduct a complete search of
2 the premises and property, including all buildings
3 and vehicles, both inside and outside.

4 THE COURT: Yeah, buildings and vehicles, right?

5 MR. MITROKOSTAS: Yes.

6 THE COURT: Do you have it?

7 MR. MITROKOSTAS: I believe I gave it to --

8 THE COURT: The exhibit. Thanks.

9 Go ahead.

10 MR. MITROKOSTAS: So, Your Honor, when we look at
11 I think the second paragraph there, knowing of my
12 lawful right to refuse to consent to a search, I
13 willingly give my permission to the above-named
14 officers to conduct a complete search of the premises
15 and property. Now, there is no situation here where
16 that is limited to please don't go into the upstairs,
17 please don't go here, don't open this.

18 THE COURT: Locked safe; that's what I want you
19 to focus on.

20 MR. MITROKOSTAS: Right. I understand that, Your
21 Honor. I think that the fact that when they asked
22 would you open it, and then eventually he does say I
23 will provide the combination and open it, I think
24 that's still part of the valid consent. I think the
25 officers through this Consent to Search Form were

1 able to ask him to unlock the safe. It was in the
2 area that was contained in there. They had seen city
3 property that was stolen. Just because they had
4 originally seen a dartboard, and as they're learning,
5 they're learning about other things, fireboxes as the
6 Court can see, lightbulbs. Those are different
7 sizes. So I think it is reasonable that they can say
8 within this consent here, would you unlock this
9 locked safe? It's within the house. It's within the
10 premises covered by the Consent to Search, and he
11 ultimately does open that safe where we find those
12 Suboxone strips, the steroids, and the alprazolam.

13 Going forward I think the marijuana and those
14 other items that are also found within that same
15 area, that kind of desk, plain view area, and I think
16 it is reasonable under this to not just have a
17 consent to search where you literally just kind of do
18 a cursory glance, so if I don't see it, I don't, you
19 know, right away I don't get to look forward. I
20 think it's reasonable that when you have this type of
21 search going on, that things can be moved, things can
22 be looked under, and based on that, I ask you to deny
23 the motion.

24 THE COURT: I'll take it under advisement. Pick
25 a status date, please.

1 MR. SEED: Can we have January 23rd?

2 THE CLERK: That's fine. All set.

3 THE COURT: Thanks.

4 Can you do me a favor, John?

5 THE CLERK: Sure.

6 THE COURT: After lunch, can you just give me a
7 copy of the exhibits and this, please?

8 THE CLERK: Sure.

9 THE COURT: Thank you. I don't want to take it
10 with me.

11 All right. Have a good lunch. Thank you.

12 MR. MITROKOSTAS: Thank you, Your Honor.

13 MR. SEED: Thank you, Your Honor.

14 (Hearing concluded at 1:12 p.m.)

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