

1 VA: IN THE GENERAL DISTRICT COURT
2 FOR THE COUNTY OF AUGUSTA

3)
4)
5 COMMONWEALTH OF VIRGINIA,)

6 Plaintiff,)

7 V.)

8)
9 CAMERON TURLEY, et al,)

10 Defendant.)
11
12

13 JUDGE: HONORABLE STEVEN HELVIN

14 DATE: SEPTEMBER 2ND, 2022

15 TIME: 9:00 A.M.

16 LOCATION: AUGUSTA GENERAL DISTRICT COURT
17 6 EAST JOHNSON STREET
STAUNTON, VIRGINIA 24401

18 REPORTED BY: LAURA B. BALLENGEE, CER
19 SIGNATURE COURT REPORTING, LLC
515 FROG POND ROAD
STAUNTON, VIRGINIA 24401
20 (540) 849-8325
21
22
23
24
25

APPEARANCES

On behalf of the Plaintiff(s):

Lorna Port, Esquire
Commonwealth Attorney's Office
6 East Johnson Street
Staunton VA 24401
(540) 245-5313

On behalf of the Defendant(s):

Amina Matheny-Willard, Esquire
999 Waterside Drive
Norfolk VA 23510
(757) 777-7411

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

EXAMINATIONS	PAGE
TESTIMONY OF LESLIE SNYDER:	
DIRECT EXAMINATION BY MS. PORT.....	12
TESTIMONY OF DUSTY CLYMORE:	
DIRECT EXAMINATION BY MS. PORT.....	15
TESTIMONY OF LESLIE SNYDER:	
DIRECT EXAMINATION BY MS. PORT.....	18
TESTIMONY OF DONALD SMITH:	
DIRECT EXAMINATION BY MS. PORT.....	22
CROSS EXAMINATION BY MS. MATHENY-WILLARD...	26
TESTIMONY OF DUSTY CLYMORE:	
DIRECT EXAMINATION BY MS. PORT.....	29
CROSS EXAMINATION BY MS. MATHENY-WILLARD...	36
EXHIBITS	
Photographs	14

1 P R O C E E D I N G S

2 THE COURT: How are counsel? Nice seeing you
3 again.

4 MS. PORT: Likewise, your Honor.

5 THE COURT: I have some stuff to start off
6 with that's going to hopefully simplify our case a
7 little. This is going to be tried today. No more
8 delays. To the people here, it's been very difficult
9 for you. I was sick and that was the reason. Some of
10 these continuances were on the law and that kind of
11 thing. And they can't be avoided, but it doesn't make
12 your time less important. And I apologize to you, and I
13 appreciate the courteous manner in which y'all have
14 accepted this kind of drag out stuff with the court.
15 But this is important cases in many ways.

16 Counsel, if there's problems with abuse of
17 process or witnesses being subpoenaed and that kind of
18 thing, there are sanctions for this, as y'all both know.
19 Civil. There are criminal sanctions. They're even bar
20 ethics if you call a witness for the purposes of
21 harassment. But I don't decide that because I'm here to
22 decide these people's cases today and not those kind of
23 problems.

24 MS. PORT: Yes, your Honor.

25 THE COURT: If you have them, you know, I

1 won't be deciding them. I read your briefs. And let me
2 compliment, Ms. Port and Ms. Matheny-Willard, on your
3 briefs. They were excellent. Very seldom do you get in
4 General District Court such a good brief. And I've been
5 a judge for 40 years and a good brief is really helpful
6 to a judge.

7 And I took the briefs and studied them and did
8 some research on my own. I have some rulings pre-trial
9 that'll affect the way we do that. The Dillon Rule
10 violation argument, which is troublesome to a lot of us
11 because Virginia is sort of unique in having the Dillon
12 Rule. But I don't think it's per se a violation of the
13 first amendment. It may be unconstitutional in the
14 application in the individual case, but noise ordinances
15 have been pretty much upheld. They're very broad and
16 they're troublesome to me but they've been upheld.

17 But the application to the content is
18 bothersome to me and the content of free speech cannot
19 be abridged by noise ordinance. And that's one of the
20 key issues in this case. This is to you, Ms. Port, the
21 vulgarity statute, I have not run into that. Not
22 surprisingly, I think. I agree with the Commonwealth;
23 there are some problems with that. But is that a
24 separate one issue case?

25 MS. PORT: Yes, Your Honor.

1 THE COURT: Is anybody here in that case?
2 What's the name of the defendant?

3 MS. PORT: There is. The defendant in that
4 case -- pardon me. I'll have to look because there's so
5 many defendants here.

6 THE COURT: Yeah, take your time.

7 MS. PORT: I believe it's Cameron Turley.

8 MS. MATHENY-WILLARD: It's Cameron Turley.

9 THE COURT: Do you represent him?

10 MS. MATHENY-WILLARD: I represent him if
11 you're talking about cursing abuse and disorderly.

12 THE COURT: Oh, listen, by the way, I've got
13 your motion. I've signed it. So you're counsel, okay.
14 And he's in the courtroom. Do you represent him?

15 MS. MATHENY-WILLARD: I do.

16 THE COURT: He brought the charge. How are
17 you, sir?

18 MR. TURLEY: I'm good. How are you?

19 THE COURT: He's the plaintiff?

20 MS. MATHENY-WILLARD: He's the defendant.

21 He's Cameron Turley. You're talking about David
22 Zimmerman. David Zimmerman is not in the courtroom.

23 MS. PORT: He is up in our victim/witness
24 office. It was a citizen complaint by Mr. David
25 Zimmerman.

1 THE COURT: Okay. So we might take that at
2 the end of all the other cases.

3 MS. PORT: I believe at the very end, yes,
4 your Honor.

5 THE COURT: I know you're not prosecuting it
6 or --

7 MS. PORT: I will put -- I will call Mr.
8 Zimmerman as a witness and organize it as I have or as I
9 call the other cases.

10 THE COURT: That'll be good. Okay. Now, I
11 would like to try the cases that are very similar
12 involving the noise ordinance in the parking lot first.

13 MS. PORT: Yes, your Honor.

14 THE COURT: And let's try one and see how we
15 go with that, and we'll decide, you know, from that
16 point. So if you would choose, Madame Commonwealth,
17 your first case and then call your first witness.

18 MS. MATHENY-WILLARD: Okay. So you're just
19 doing one?

20 THE COURT: Yeah. It may be, Ms.
21 Matheny-Willard, there may be -- and by the way, I
22 enjoyed talking to you on the phone the other day.
23 There may be a similarity and, depending on the ruling,
24 it may make the other cases moot.

25 MS. MATHENY-WILLARD: I understand.

1 THE COURT: I'll be quite frank with you. I
2 have some very constitutional reservations about the
3 noise ordinances in action and whether it's appropriate.
4 It may not be unconstitutional per se but, in
5 application, it may be as to content. So let's get to
6 that witness. First witness.

7 MS. PORT: Yes, your Honor.

8 MS. MATHENY-WILLARD: And I'm sorry. The
9 reason I was asking, I had a brief opening. If you're
10 doing just one case, based on what you said, I wasn't
11 going to --

12 THE COURT: Thank you. And you've been very
13 helpful with your brief but I want to get on with the
14 cases. And then I'll hear you.

15 MS. MATHENY-WILLARD: Okay. Well, the opening
16 is in the brief.

17 THE COURT: Opening is not going to decide
18 this case.

19 MS. MATHENY-WILLARD: That's fine. You have
20 enough information, I think.

21 THE COURT: Thank you.

22 MS. PORT: And I will have three witnesses for
23 the first case. Some of them are foundational.

24 THE COURT: Okay. You'll need to tell me who
25 is in the first case.

1 MS. PORT: Absolutely, Your Honor. The very
2 first case -- I think I have a case number for you.
3 This is going to be three defendants for June 25th.
4 Their names are McKenzie McQueary.

5 THE COURT: It's not your fault. It's my
6 hearing. I need to know the name.

7 MS. PORT: Yes, Your Honor. McKenzie
8 McQueary.

9 THE COURT: Okay. You need to come up,
10 please, McKenzie. Are they here? Okay, come on up,
11 please.

12 MS. PORT: And then also Michael Phillips.
13 They were three together at the same time as Michael
14 Phillips.

15 THE COURT: Oh, that were together, okay.

16 MS. PORT: And then a Cameron Turley.

17 THE COURT: Well, let's just try one. Are
18 they all similar?

19 MS. PORT: It was all kind of in concert
20 together on that first incident on June 25th.

21 THE COURT: Well, let's just try one and we'll
22 see where we are. Who would you prefer to try?

23 MS. PORT: And the only reason we're asking to
24 do all three together is because there is about a 20
25 minute video. And instead of playing it three different

1 times, it would be best to --

2 THE COURT: You might have to.

3 MS. PORT: Yes, Your Honor.

4 MS. MATHENY-WILLARD: We could pick one
5 without the video.

6 THE COURT: Once I see it, since there's not a
7 jury here --

8 MS. PORT: Yes, your Honor. Just remember it
9 the second and third times.

10 THE COURT: Right.

11 MS. MATHENY-WILLARD: Your Honor, before we
12 start, there are some corrections on the docket. I
13 don't have to make them now. Normally, I'll make them
14 in advance, but I can do it later. They're just name
15 corrections, but I can do them later.

16 THE COURT: Well, please do and let me know
17 which ones as they come up.

18 MS. MATHENY-WILLARD: Absolutely.

19 THE COURT: Thank you, counsel. All right.

20 MS. PORT: And Michael Phillips is the
21 earliest in time. Case number is GC217025.

22 THE COURT: Okay. Let me find it. Okay.

23 MS. PORT: So we'll start with that one.

24 THE COURT: Okay. Michael Phillips?

25 MS. PORT: Yes, Your Honor.

1 THE COURT: Okay. Is Mr. Phillips here?

2 Yeah, come on up, Mr. Phillips. Where would you like
3 him?

4 MS. MATHENY-WILLARD: He can sit over here.

5 THE COURT: So it's a lot easier. It's
6 important to be able to confer. All right. Let me get
7 the charges here. I see. He's got two charges of the
8 noise ordinance.

9 MS. MATHENY-WILLARD: Yes, your Honor.

10 THE COURT: How does the defendant plea?

11 MS. MATHENY-WILLARD: Not guilty, your Honor,
12 to both.

13 THE COURT: First witness?

14 MS. PORT: My first witness will be Lieutenant
15 Leslie Snyder.

16 THE COURT: Was there a motion to exclude
17 witnesses?

18 MS. MATHENY-WILLARD: Normally I would have
19 done a motion to exclude but I think all of the
20 Commonwealth's witnesses are all out. Is that correct?

21 MS. PORT: I believe so.

22 THE COURT: Is there any reason for them to be
23 out?

24 MS. PORT: Just to keep the courtroom from
25 being over crowded. We've put them all in some

1 different rooms around the building.

2 THE COURT: Well, as long as everybody's
3 happy.

4 MS. MATHENY-WILLARD: Normally I would have a
5 problem with that but there's a lot here.

6 THE COURT: How are you?

7 THE WITNESS: Hello.

8 THE COURT: Thank you for your patience. Do
9 you solemnly swear the evidence you're about to give
10 will be the truth?

11 THE WITNESS: Yes, sir.

12 THE COURT: Your name, please?

13 THE WITNESS: Lieutenant Leslie Snyder,
14 Augusta County Sheriff's Office.

15 THE COURT: Thank you. Go ahead, counsel.

16 L E S L I E S N Y D E R

17 A witness, after first being duly sworn, testified as
18 follows:

19 DIRECT EXAMINATION

20 BY MS. PORT:

21 Q. And Lieutenant Snyder, what is your job title?
22 What are you lieutenant over at the sheriff's office?

23 A. I'm the administrative lieutenant. I oversee
24 the decibel meter, FOIA's, expungements, media
25 relations, IVR reporting.

1 Q. Fun. Let's just talk about the decibel meter.

2 A. Okay.

3 Q. How many does the Augusta County Sheriff's
4 Office have?

5 A. One.

6 Q. Fancy. All right. Are you responsible for
7 making sure that decibel meter is calibrated?

8 A. Yes, ma'am.

9 Q. Were you responsible for making sure that
10 meter had been recently calibrated in June of 2021?

11 A. Yes, ma'am.

12 Q. Did you do so?

13 A. Yes, ma'am.

14 Q. Do you have with you a copy of the calibration
15 certificate from that time frame and can I show you the
16 calibration certificate from the clerk's office?

17 A. Yes.

18 MS. MATHENY-WILLARD: Your Honor, we don't
19 have any objection to the calibration certificate.

20 THE COURT: I'm sorry. I didn't hear?

21 MS. MATHENY-WILLARD: We don't have any
22 objection to the calibration certificate.

23 THE COURT: Thank you.

24 MS. PORT: Would the Court like to review
25 those?

1 THE COURT: All right.

2 MS. MATHENY-WILLARD: Yes, your Honor.

3 BY MS. PORT:

4 Q. Lieutenant Snyder, I've just handed you a
5 stack of photographs. Can you tell me whether those
6 photographs are of the Augusta County Sheriff's Office
7 one decibel meter?

8 A. Yes, ma'am.

9 MS. PORT: Thank you. And your Honor, I'd
10 like to mark these collectively as Commonwealth's One.
11 I will have another witness tell you the significance of
12 them at that time.

13 MS. MATHENY-WILLARD: And no objection subject
14 to cross examination.

15 THE COURT: Okay. Thank you. Exhibit One,
16 there are multiple photographs here. Okay.

17 (WHEREUPON, the document
18 referred to as Exhibit No.
19 #1 was admitted into
20 evidence.)

21 BY MS. PORT:

22 Q. And Lieutenant Snyder, is this decibel meter
23 the only one that was used by Augusta County Sheriff's
24 Office deputies in order to enforce the noise ordinance
25 in June and July of 2021?

1 A. Yes, ma'am.

2 Q. I don't have any additional questions for you.

3 Ms. Matheny-Willard is going to ask you some now.

4 MS. MATHENY-WILLARD: I don't have any
5 questions.

6 THE COURT: Thank you. You may be excused. I
7 think you have more cases, so not totally excused.
8 Excused for this case.

9 MS. PORT: Deputy Clymore.

10 THE COURT: Good morning, sir. Come up and
11 have a seat. Would you raise your right hand? Do you
12 solemnly swear the evidence you're about to give will be
13 the truth?

14 THE WITNESS: Yes, your Honor.

15 THE COURT: If you'll state your name, please?

16 THE WITNESS: Deputy Dusty Clymore, Augusta
17 County Sheriff's Office.

18 THE COURT: All right. Thank you.

19 D U S T Y C L Y M O R E

20 A witness, after first being duly sworn, testified as
21 follows:

22 DIRECT EXAMINATION

23 BY MS. PORT:

24 Q. Deputy Clymore, were you working at the
25 Augusta County Sheriff's Office on June 25th of 2021?

1 A. Yes, I was.

2 Q. Did you do any work specifically in the
3 parking lot?

4 A. Yes.

5 Q. Sounds like a silly question, but is that
6 parking lot in Augusta County?

7 A. Yes, it is.

8 Q. When you were there in the parking lot on June
9 25th of 2021, what were you doing? What was your job
10 there that day?

11 A. So, at one point, I had a decibel meter and I
12 went to the edge of our property line with a decibel
13 meter to get a reading.

14 THE COURT: Where is that, right out here?

15 MS. MATHENY-WILLARD: Your Honor, I'm going to
16 object to him testifying that's the property line. I'm
17 not sure who owns that property, but he's not qualified
18 to testify to the property line.

19 MS. PORT: I do believe he's qualified to
20 testify to the property line. He can explain how he
21 knows that it is someone else's property at that line.
22 He works there. He's also a deputy sheriff for the
23 county.

24 MS. MATHENY-WILLARD: Your Honor, my
25 objection --

1 THE COURT: It's an objection that the only
2 question I have is can the Court take judicial
3 knowledge? And I think, as I remember, the case law --
4 I may be wrong on this -- they could of boundaries
5 between judicial districts. But individual streets are
6 not something that I can take judicial notice of.

7 MS. PORT: Yes, your Honor. I will then
8 recall Lieutenant Snyder.

9 THE COURT: Are you finished with this
10 witness?

11 MS. PORT: I will recall him but I'll
12 establish the property boundaries with the lieutenant
13 from the sheriff's office if the deputy can't do it.

14 THE COURT: Okay. You're still on call. If
15 you will, just do not discuss your testimony until we
16 run you back in here and we excuse you. Okay. Virginia
17 is famous on judicial notice. They won't take notice of
18 a boundary line even though I can look out a window and
19 see it. But they will say -- they took a great case. A
20 turkey will disregard boundary lines. He took judicial
21 notice of it. That's a court that had zero to do. Come
22 on up, please. If you'll raise your right hand.
23 Solemnly swear the evidence you're about to give will be
24 the truth?

25 THE WITNESS: Yes, sir.

1 THE COURT: And what is your name, please?

2 THE WITNESS: Lieutenant Leslie Snyder.

3 THE COURT: Okay. Oh, yes, I'm sorry.

4 THE WITNESS: It's okay.

5 THE COURT: You're still under oath, okay?

6 THE WITNESS: Yes, sir.

7 L I E U T E N A N T L E S L I E S N Y D E R

8 A witness, after first being duly sworn, testified as
9 follows:

10 DIRECT EXAMINATION

11 BY MS. PORT:

12 Q. And Lieutenant Snyder, tell us where the
13 Augusta County Sheriff's Office is located.

14 A. 127 Lee highway.

15 Q. So that's not attached to this building, is
16 it? I'm asking some silly questions. It's not attached
17 to this court building, is it?

18 A. No, it's not attached to this court building.
19 It's in Verona.

20 Q. It's in Verona. Right now we're in Staunton
21 City.

22 A. Yes.

23 Q. The sheriff's office is on 127 highway, you
24 said?

25 A. Yes.

1 Q. And in your capacity as part of the
2 administration of the sheriff's office, are you aware of
3 where the sheriff's office property begins and ends?

4 MS. MATHENY-WILLARD: Your Honor, I'm
5 objecting. I don't know whether she knows or not, but
6 she's not able to -- the specific question is whether
7 she knows the property line.

8 THE COURT: You know, I think I'm going to
9 allow this because it's not crucial. Where this
10 happens, it's very important when you look at time,
11 place, and matter. So I'm going to allow it.

12 MS. MATHENY-WILLARD: So, the statute says it
13 has to be measured from the property line.

14 THE COURT: Oh, I agree. I agree. You're a
15 good lawyer but eventually I'm going to have to
16 determine the place. That's one of the considerations
17 I'll have to make.

18 MS. PORT: Yes, your Honor.

19 MS. MATHENY-WILLARD: Yes, sir.

20 THE WITNESS: I have no idea.

21 BY MS. PORT:

22 Q. Who would be?

23 A. Probably the sheriff.

24 Q. All right. Thank you, ma'am. I don't have
25 any other questions.

1 THE COURT: Any cross?

2 MS. MATHENY-WILLARD: No.

3 THE COURT: Thank you very much.

4 THE WITNESS: Yes, sir.

5 THE COURT: May she be excused?

6 MS. PORT: No, not yet.

7 THE COURT: No objection?

8 MS. MATHENY-WILLARD: No objection.

9 THE COURT: All right. You're excused. Oh,
10 she's got the other cases.

11 MS. PORT: Yes, she'll be back.

12 THE COURT: Thank you. That was helpful.

13 Your next witness?

14 MS. PORT: Sheriff Smith.

15 THE BAILIFF: Might be just a minute. He's
16 upstairs.

17 THE COURT: Okay. That's fine.

18 MS. PORT: And your Honor, I do see that we
19 have a court reporter. May I also have permission to
20 record the proceedings?

21 THE COURT: Pardon me?

22 MS. PORT: I see we have a court reporter, but
23 may I also have permission to record the proceedings so
24 that I have my own copy?

25 THE COURT: Sure.

1 MS. PORT: Thank you, your Honor.

2 THE COURT: You're right to ask that.

3 MS. PORT: Yes, sir.

4 THE COURT: Because unless you have
5 permission, you can't record in a court room.

6 MS. PORT: Yes, sir.

7 MS. MATHENY-WILLARD: Your Honor, before she
8 questions the witness, can I have a few minutes? I
9 think there's a document that I submitted. Did the
10 clerk's office give you a motion this morning; a copy of
11 a motion in opposition to the recusal?

12 THE COURT: I didn't get it, but I --

13 MS. MATHENY-WILLARD: Oh, no. If you have it,
14 I wanted to take a look at it.

15 THE COURT: Oh, okay. Could you give it to
16 her?

17 MS. MATHENY-WILLARD: Did they bring it to you
18 this morning?

19 THE COURT: Yeah, I got one to substitute you
20 as counsel, which I entered.

21 MS. MATHENY-WILLARD: That's the only thing
22 you got this morning? Okay. Give me one second. All
23 right. I will just ask the questions if I need -- oh,
24 wait.

25 THE COURT: Let's go ahead and cross

1 examine --

2 MS. MATHENY-WILLARD: I wanted to voir dire
3 him first.

4 THE COURT: Pardon me?

5 MS. MATHENY-WILLARD: I wanted to voir dire
6 him. I can explain to the Court.

7 THE COURT: No, I won't allow that. This is
8 not a jury trial. We're going to go ahead and hear
9 testimony and you'll cross examine. And I'll try to
10 give you as much latitude as I can.

11 MS. MATHENY-WILLARD: I appreciate that.

12 THE COURT: All right. Have I sworn him?
13 Solemnly swear the evidence you're about to give will be
14 the truth?

15 THE WITNESS: I do.

16 THE COURT: Thank you very much. Go ahead.

17 D O N A L D S M I T H

18 A witness, after first being duly sworn, testified as
19 follows:

20 DIRECT EXAMINATION

21 BY MS. PORT:

22 Q. State your name and occupation, please.

23 A. Donald Smith. I'm the sheriff for Augusta
24 County.

25 Q. And for how long have you been the sheriff for

1 Augusta County?

2 A. Was elected in November of 2015.

3 Q. And as the sheriff of Augusta County, are you
4 familiar with the property boundary lines of your
5 sheriff's office?

6 A. Yes.

7 THE COURT: We've already been through that, I
8 think, haven't we? Go ahead.

9 MS. MATHENY-WILLARD: Your Honor, he said yes
10 but the objection, just to be clear, is that he would
11 not know where the exact boundary line is because he
12 works in the sheriff's office. The owner would know
13 where the boundary line is. Maybe the city, someone
14 from the city or the county, that can determine that.

15 THE COURT: I'll overrule that objection for
16 purposes here and allow his testimony. Go ahead.

17 MS. PORT: Yes, Your Honor.

18 BY MS. PORT:

19 Q. First of all, tell us where the sheriff's
20 office is.

21 A. 127 Lee Highway.

22 Q. That's here in Augusta County, right?

23 A. Yes, ma'am, in Verona.

24 Q. And Lee highway, what direction does that
25 highway run? East/West, North/South?

1 A. North/South.

2 Q. The parking lot, is it parallel to Lee
3 Highway?

4 A. Yes, ma'am. We actually have a parking lot
5 that goes in a horseshoe around the building.

6 Q. Yes, sir.

7 A. So we have the main parking lot up front. We
8 have a side parking lot to the north of the building
9 where the employees park, the deputies park. And then
10 on the south side of the building, there's a parking lot
11 where other law enforcement agencies use, and some of
12 the public use, on the south side.

13 Q. The main public parking lot, which one is
14 that?

15 A. That is on the front side of the building. It
16 runs parallel to Route 11.

17 Q. So between the sheriff's office building and
18 Route 11?

19 A. Yes, ma'am.

20 Q. I'm going to specifically ask you about the
21 north and south boundaries of the Augusta County
22 Sheriff's Office property.

23 A. The north boundary is the employee parking
24 lot, and the parking lot runs up to the -- there's a car
25 dealership that's north of us. And the parking lot runs

1 up to there that it's asphalt and gravel that
2 differentiates. And then at the northwest corner,
3 there's a grass kind of island that we maintain, we mow,
4 and it runs right up to end of where the property
5 begins. On the south side, the parking lot on the south
6 side of the building runs to the main road. There's a
7 road that goes to the government center. So our parking
8 lot runs right to the road.

9 Q. So there's actually a road on the south side
10 that separates properties?

11 A. It separates -- it's my parking lot, the road,
12 and then the Fashion Gallery.

13 Q. Fashion Gallery is the business on the other
14 side?

15 A. Yes.

16 Q. And on the north side, you said the business
17 that's on the other side of your property line was car
18 dealership?

19 A. Yes, ma'am.

20 Q. And does the car dealership occupy that space
21 with cars lined up?

22 A. Yes.

23 Q. Are the cars lined up on your property or
24 theirs?

25 A. Their property. Well, they don't have any

1 vehicle on it.

2 Q. And Sheriff, those are the only questions I
3 have for you. Defense attorney can ask you some
4 questions now.

5 CROSS EXAMINATION

6 BY MS. MATHENY-WILLARD:

7 Q. Have you ever lied to a federal investigator
8 on a federal case?

9 A. No, ma'am.

10 Q. You have not?

11 MS. MATHENY-WILLARD: And I did locate what I
12 was looking for, Your Honor. If I could just have one
13 second.

14 THE COURT: Take your time.

15 BY MS. MATHENY-WILLARD:

16 Q. Okay. Are you familiar with Federal Agent
17 Tammy Ketchum?

18 MS. PORT: And Your Honor, at this time, I
19 would object to any conversation about incidents outside
20 of what we're here to discuss today. Defense counsel
21 has asked the sheriff a question that I think, on its
22 own, is a question she can ask for impeachment purposes.
23 At this point, she appears to be going towards the
24 extrinsic evidence route.

25 THE COURT: I'm going to sustain the objection

1 because it goes to maybe his credibility.

2 MS. MATHENY-WILLARD: Absolutely.

3 THE COURT: He has not testified to anything
4 but what he thinks is boundaries. And don't see how
5 this relates to his credibility on that issue. We'll
6 see where we go with this but that's my ruling.

7 MS. MATHENY-WILLARD: Your Honor, I understand
8 the Court's ruling. I just want the the Court to be
9 aware, in response to the objection, it would've been
10 rebuttal evidence based on what he said. The property
11 line is something that's extremely important based on
12 the ordinance. So even just testifying to that, if I
13 can establish --

14 THE COURT: This is impeachment of that. I
15 appreciate your argument but I'm going to overrule you.
16 All right. Go ahead.

17 MS. PORT: I had no additional questions for
18 this witness.

19 MS. MATHENY-WILLARD: Okay. I had
20 additional -- yes.

21 THE COURT: Okay. Go ahead.

22 BY MS. MATHENY-WILLARD:

23 Q. Have you ever seen a surveyor come out to the
24 property?

25 A. Actually, they've surveyed the property

1 several times trying to locate -- we have what they
2 think is an active spring underneath the building.
3 They're getting ready to put a trench around the
4 building. But as far as me interacting with the
5 surveyor or having any contact with them, no.

6 Q. So you have not talked to the surveyor
7 regarding where the property line is?

8 A. Yeah. I've showed -- I've talked to them and
9 explained to them the same thing that I just told the
10 Court.

11 Q. So you just said you didn't have any
12 conversations with the surveyor.

13 A. No, I've had conversations with the Court, or
14 with the surveyors, but what I'm telling you is --

15 Q. Wait. Let me let me just clarify. Did you
16 have conversations with the surveyor or did you not have
17 conversations?

18 A. I've had conversations with the folks that
19 were doing the work, yes. But as far as the property
20 lines go, I have told them, you know, where the
21 property, you know, what I just explained.

22 Q. You told them where you think the property
23 line is.

24 A. Correct.

25 Q. But you have not talked to the surveyors about

1 their assessment of where the property line is?

2 A. No, ma'am.

3 MS. MATHENY-WILLARD: Okay. I don't have any
4 further questions.

5 THE COURT: Okay. Anything further?

6 MS. PORT: No, your Honor, not from this
7 witness at this time.

8 THE COURT: You're excused.

9 THE WITNESS: Thank you, sir.

10 THE COURT: You might be subject to recall.

11 MS. PORT: I'll re-call Deputy Clymore.

12 THE COURT: Okay. And we've heard from him
13 previously.

14 MS. PORT: Yes, Your Honor.

15 THE COURT: You're still under oath and you
16 can answer counsel's questions.

17 D E P U T Y D U S T Y C L Y M O R E

18 A witness, after previously being duly sworn, testified

19 as follows:

20 DIRECT EXAMINATION

21 BY MS. PORT:

22 Q. Deputy Clymore, I was previously asking you
23 about June 25th, and you mentioned that you had a
24 decibel meter. Without any reference to the property
25 lines, can you tell us where, in layman's terms, where

1 you went with the decibel meter?

2 A. I went outside the building. If you're
3 looking at the building to the left to a gravel parking
4 lot, on the other side of a big RV camper.

5 Q. And is that camper one that belongs to the
6 sheriff's office?

7 A. No, it belongs to a used car lot.

8 THE COURT: It belongs to what?

9 THE WITNESS: A used car lot.

10 BY MS. PORT:

11 Q. Was it on the used car lot?

12 A. Yes, it was.

13 Q. And is that the used car lot that's
14 immediately adjacent next to the sheriff's office?

15 A. Yes.

16 Q. Okay. When you went there with the decibel
17 meter, what did you do?

18 MS. MATHENY-WILLARD: I'm going to object at
19 this point. It sounds like he said that he was on the
20 used car lot property. So if that's where he was, then
21 I'm objecting to relevance to the rest of that. If
22 that's my understanding.

23 THE COURT: Lay a foundation with that, ma'am.

24 MS. PORT: Yes, your Honor.

25 BY MS. PORT:

1 Q. And of course you don't technically know who
2 owns the property, right?

3 A. No.

4 MS. MATHENY-WILLARD: Again, objection.
5 Basically she's testifying for him. He said that it was
6 the used car lot's property.

7 THE COURT: I don't think -- it's questionable
8 it's a leading question. I believe an evidentiary
9 objection -- I don't think it's necessarily a leading
10 question. So I've overruled your objection. But let's
11 get to, you know, what he knows.

12 MS. PORT: Yes, your Honor.

13 BY MS. PORT:

14 Q. Describe it the best you can. Just describe
15 the surroundings without reference to ownership of the
16 property, if you could.

17 A. Okay. So it's a gravel parking lot that has
18 a bunch of vehicles for sale in the parking lot.

19 Q. And in order to get to that parking lot, where
20 did you walk from the sheriff's office?

21 A. Walked outside our front door, through our
22 paved parking lot, and into a gravel parking lot.

23 MS. PORT: And your Honor, at this point, I
24 would like to ask him what he did while he was there.
25 Sheriff Smith testified and described the path to get to

1 the car dealership next to the sheriff's office. I
2 believe this witness has accurately described walking to
3 the place that Sheriff Smith described.

4 THE COURT: Ask your questions.

5 MS. PORT: Yes, your Honor.

6 THE COURT: And I don't want to discourage
7 your objection.

8 MS. MATHENY-WILLARD: I'll just have this as a
9 running objection based on his testimony. It's a
10 relevance objection to it based on where he was saying
11 he was.

12 THE COURT: Okay. I understand that and I've
13 overruled it. I may change my mind. Go ahead.

14 BY Ms. PORT:

15 Q. So while you were standing in that gravel lot
16 with the vehicles that were for sale, what did you do?

17 A. I had the decibel meter in my hand and I took
18 the readings.

19 Q. And as you were taking the readings, were you
20 looking at any specific individuals who were doing some
21 specific thing?

22 A. Well, I was on the other side of the camper at
23 the time. And I knew a couple of them had the
24 megaphones. So at the point at that time, we were just
25 getting the readings with the megaphones.

1 Q. And you said a couple of them had the
2 megaphones. Who were you able to identify as the
3 individuals holding the megaphone?

4 A. At that point, I couldn't identify anybody
5 because I was on the other side of the camper. So then
6 once I got it from that location, I went to another
7 location and I saw female and a white male and then a
8 black male with the megaphones. Because they were
9 yelling at me when I walked in front of the sheriff's
10 office to another location. And they said, "F your
11 decibel meter" and all that kind of stuff. They used
12 that other language, but --

13 Q. And are you specifically describing those
14 three; the female, a white male, and a black male?

15 A. Yes.

16 Q. Okay. And were they saying those things just
17 using their voices?

18 A. No, using the megaphone.

19 Q. Describe how you know that the meter readings
20 you obtained related to those three individuals?

21 A. Because when I started walking back from that
22 lot from the other side of the camper, they're the ones
23 that had the megaphones. When I first got it and walked
24 outside, they were using the megaphones and they were
25 using the whole time.

1 Q. And as you were obtaining the readings, what
2 were you listening for as you were obtaining the
3 readings?

4 A. I just had it and listening to what they were
5 yelling. The deputies were rolling in. They were like,
6 "take your badge off and all this stuff". So I was
7 getting that as they were pulling into the parking lot
8 and everything. And they were saying, excuse my
9 language, but "fuck your decibel meter" and all that
10 kind of stuff.

11 Q. Were you obtaining readings of all noises in
12 your vicinity?

13 A. Yes. It's a continuous reading.

14 Q. Okay, it's a continuous reading. When you
15 chose to, say, lock in a reading, what sounds were you
16 hearing at the time you would lock in a reading?

17 A. The megaphones. Because there was cars going
18 by but it was not picking those up. But you could tell
19 it picked it up. Because when cars were going by, it
20 was lower. But then when they would start shouting, it
21 was going from 84, anywhere from 84, to like 95/96.
22 Because I was getting pictures on my cell phone with
23 those readings.

24 MS. PORT: And your Honor, may I retrieve
25 Commonwealth's One, the stack of photographs?

1 THE COURT: Yes.

2 BY MS. PORT:

3 Q. Deputy Clymore, what are the photographs that
4 I just handed you?

5 A. Readings from my cell phone.

6 Q. And those are photographs you took?

7 A. Yes.

8 Q. And are all those photographs of the decibel
9 readings that you just described when it was taken when
10 the megaphones were sounding?

11 A. Yes.

12 MS. PORT: And your Honor, at this time, I'd
13 move to enter these into evidence as Commonwealth's One.

14 THE COURT: They've already been admitted.

15 MS. PORT: Yes, your Honor. Then I'd ask that
16 our record of sorts reflect that the witness has
17 identified Commonwealth's One as his photographs.

18 THE COURT: All right.

19 BY MS. PORT:

20 Q. And Deputy Clymore, you described three
21 individuals. I want to ask specifically about the white
22 male. Did you identify the individuals at some point?

23 A. At one point, after I got the decibel meter's
24 readings, I went back inside and got a ticket book. And
25 he still -- because I identified him. And then I went

1 back inside and got a summons book and came back outside
2 and he still had the megaphone in his hand. And at that
3 point, I wrote him a ticket for violation of the noise
4 ordinance.

5 Q. And that white male, who was that white male?

6 A. I got his i.d. because he still had the
7 megaphone, and it was Michael Phelps. Or Phillips,
8 sorry.

9 Q. Michael Phillips. And do you see him in the
10 courtroom today?

11 A. Yes. But it's over -- I don't know if he's
12 here or not because it was over a year ago and I'm not
13 one hundred percent sure. Because I have not seen
14 pictures of him lately. Sorry.

15 Q. No problem. I appreciate your honesty,
16 Deputy. And at this time, I don't have any additional
17 questions with respect to this defendant.

18 THE COURT: Cross?

19 MS. MATHENY-WILLARD: Your Honor, I do have
20 cross examination. I was going to make a motion to
21 dismiss with regard to the identification.

22 THE COURT: No, cross. I don't mind the
23 motion but this is not the time.

24 MS. MATHENY-WILLARD: All right.

25 CROSS EXAMINATION

1 BY MS. MATHENY-WILLARD:

2 Q. Okay. So when you said that you were holding
3 the decibel meter, you said that you went to the gravel
4 parking lot?

5 A. Yes.

6 Q. And that's the used car parking lot; is that
7 correct?

8 A. Correct.

9 Q. Okay. So at that point, you were on the other
10 side of the sheriff's department.

11 A. Correct.

12 Q. You indicated that there was a white male, a
13 white female, and black male?

14 A. Yes.

15 Q. And they were all using the megaphones yelling
16 at you?

17 A. Yes. Or yelling at anybody. Like the
18 deputies that came in. They yelled at me, told me, like
19 I said, excuse my language, "fuck your decibel meter."

20 Q. When you did the decibel reading, they were
21 all yelling at you through the megaphones, correct?

22 A. Yelling at me and deputies coming in and
23 everything, but they did not come close to me. They
24 stayed over where they were yelling at everybody in the
25 centralized location.

1 Q. Okay. So it was like voices on top of each
2 other. They were just yelling?

3 A. Yes, with the megaphone, yes.

4 Q. I know you said you didn't want to say what
5 they were saying specifically, but I need you to say
6 specifically what you remember; the statements that you
7 remember.

8 A. Okay. So let me look at my -- one of them
9 said, "fuck your decibel meter." He didn't care about
10 my "fucking decibel meter". I could shove my decibel
11 where I wanted to and "take your badge off. We don't
12 care about your badge" and "fuck the police" and all
13 that stuff. Then they started counting one, two, three,
14 four, five, six, seven, eight, nine, ten, F twelve.
15 They started saying all that kind of stuff. And then,
16 "when I say Donald Smith, you say pedophile". And so
17 they would say Donald Smith or Sheriff Smith in the
18 megaphone and everybody else would chant pedophile. All
19 sorts of stuff.

20 Q. Anything else you remember?

21 A. Not that I can remember, no.

22 Q. Okay. So do you remember how long they had
23 been there before this date? Before the June 25th date,
24 how they how long they had been protesting
25 approximately?

1 A. Not exactly.

2 Q. But at least a month? I mean, it wasn't a
3 day, right?

4 A. No, it wasn't a day.

5 Q. They'd been there for a while.

6 A. Been there for a while, yes.

7 Q. So at least maybe one or two weeks. Was it
8 about 30 days?

9 A. I can't recall how long they were out there.

10 Q. Do you know if it was longer than a week?

11 A. Probably, yes.

12 Q. Longer than two weeks?

13 A. I don't know how long exactly they were --
14 they were there for a while, yes.

15 Q. They were out there for a while before these
16 arrests started?

17 A. Yes.

18 THE COURT: I'm going to ask a question. You
19 object, and I'll sustain your objection. Was this in
20 the same area that you described earlier in the parking
21 lot?

22 THE WITNESS: Yes.

23 THE COURT: Okay. Go ahead. Any further
24 questions?

25 MS. MATHENY-WILLARD: I do, your Honor. I had

1 one follow up right after that, but let me --

2 THE COURT: Take your time.

3 MS. MATHENY-WILLARD: I think that's it.

4 THE COURT: Any further questions? Any
5 redirect?

6 MS. PORT: No, your Honor.

7 THE COURT: Okay. You may stand down.

8 MS. PORT: And your Honor, my next witness
9 will be Warren Cash. And I'll ask if we could have just
10 a moment to hook up the video that Mr. cash can
11 authenticate hopefully.

12 THE COURT: Is this your last witness?

13 MS. PORT: Yes, your Honor. For this case,
14 yes, sir.

15 THE COURT: Sir, can I help you?

16 THE BAILIFF: Mr. Cash, you can come over and
17 sit right here.

18 THE COURT: Raise your right hand. Solemnly
19 swear the evidence you're about to give will be the
20 truth?

21 THE WITNESS: I do, sir.

22 THE COURT: Thank you. I didn't realize you'd
23 been called.

24 MS. PORT: I'm going to have to use the video
25 since we can't use the -- we had previously used the

1 screen but I'm being told now that I can't.

2 THE COURT: Can counsel approach the bench and
3 you too, sir, and look at this. And why don't I come
4 down too so we don't have to aim it in two different
5 directions.

6 MS. PORT: Can you see that, Mr. Cash? This
7 right here; this screen. Can you see that, sir?

8 THE WITNESS: Yes, ma'am.

9 THE COURT: Can we all see?

10 MS. PORT: Yes, sir. I'm going to move out of
11 the way.

12 THE COURT: Is this a witness to authenticate?

13 MS. PORT: Yes, your Honor.

14 THE COURT: Do you agree?

15 MS. MATHENY-WILLARD: You're authenticating
16 the video?

17 MS. PORT: Yes, ma'am.

18 MS. MATHENY-WILLARD: I don't need it to be
19 authenticated.

20 THE COURT: Okay. You can be excused.
21 There's no need to --

22 MS. PORT: Thank you.

23 THE COURT: No problem. It's okay. This is
24 your last?

25 MS. PORT: Yes, your Honor.

1 THE COURT: Okay. It's all right. Now, can
2 everybody see? Huddle up if you can't.

3 MS. PORT: I've seen it so I'll step back and
4 allow everyone to get closer. And your Honor, this
5 video is approximately an hour long. I'm asking to only
6 play the portion that describes the events of this
7 particular citation.

8 THE COURT: Bless you. Bless you.

9 MS. PORT: Yes, your Honor. It is still a
10 bit. It starts at four minutes and 16 seconds.

11 (WHEREUPON, a video
12 recording was played.)

13 THE COURT: Does this give the gist of it?

14 MS. PORT: This video -- if you look in the
15 background of the video, you'll see who is using the
16 megaphones. Now if the Court has the gist of it and has
17 seen individuals with megaphones, I can --

18 THE COURT: Half an hour of that is --

19 MS. PORT: Correct.

20 THE COURT: I've got the idea.

21 MS. PORT: Correct, your Honor. What I aim to
22 show you is the defendant's identity.

23 MS. MATHENY-WILLARD: She has not established
24 that, your Honor.

25 THE COURT: We'll come back to that.

1 MS. PORT: Yes, your Honor. Thank you, sir.

2 THE COURT: Thank you all for your patience.

3 All right. The Commonwealth rests?

4 MS. PORT: Yes, your Honor.

5 THE COURT: I don't need to hear argument.

6 MS. MATHENY-WILLARD: Okay.

7 THE COURT: The Supreme Court of the United
8 States in the Clark case, I think it was like in 1984,
9 decided that for judges in order to protect the first
10 amendment had to look at the government's interest in
11 determining whether the first amendment has been
12 violated. And the Court ruled that you look at the
13 time, the place, and the matter. And that has been the
14 law. Like or not, it's been the law. And the one thing
15 you can't look at is the content. Now, you can in
16 certain instances look at content. But vulgar,
17 discourteous, hateful language is what we brought into
18 when we passed the Bill of Rights First Amendment. And
19 I have to, as Judge, make sure that this is -- now this
20 is the words of the Clark case -- narrowly tailored to
21 this bringing process is to serve the significant
22 government interest.

23 I believe in the first amendment. I dislike a
24 lot of stuff I hear here in the court. And I personally
25 am offended, but that doesn't matter. I'm here as

1 Judge. I'm here to protect that constitution for
2 everybody in this room, no matter what their views are.

3 I heard the language. I listened to some of
4 it. It's reprehensible. But that's why we live in this
5 country. That's why we have this Bill of Rights. So
6 not getting to the identification, that's why I wanted
7 to take this up first. Okay, counsel.

8 MS. PORT: Yes, your Honor.

9 THE COURT: And it has been a pleasure, Ms.
10 Port. And your brief was about as good on this issue as
11 you could make, but you're not going to win it, I don't
12 think, in any court. I'm going to dismiss these two
13 warrants. That's why we're not worried about your
14 information. You now come back to the person. You are
15 now again Michael Phillips and we've identified you.
16 And I'm going to find him not guilty by reason of a
17 violation of the first amendment. The Commonwealth may
18 have a right to appeal this. That statute is unclear to
19 me. The legislators mess that up. I don't know the
20 answer. But it doesn't matter. I do what I think is
21 right on it. And thank you for your patience.

22 I'm not going to comment on the content of
23 your speech either. That's not my place. Okay. All
24 right. He's free to go.

25 MS. MATHENY-WILLARD: I'm assuming that

1 applies to all of them. Do you want them all to come
2 up?

3 THE COURT: This is only in the parking lot
4 cases that I find this. Other cases, I may come to a
5 different result. I don't know. I have to hear them
6 first.

7 MS. MATHENY-WILLARD: Okay.

8 THE COURT: But these are all the people of
9 similar. You and the Commonwealth maybe can agree on
10 who these people are. The Commonwealth, I appreciate
11 your good spirits in this. I know it's a very hard
12 thing. You've worked very hard. But I'm very secure in
13 feeling like this is not appropriate of the first
14 amendment.

15 MS. PORT: Yes, Your Honor. I will go through
16 and identify them.

17 THE COURT: I've got to go through them too.
18 I don't have a clerk here.

19 MS. MATHENY-WILLARD: Oh, you're looking for
20 your clerk.

21 THE COURT: Yeah, I need the clerk to give me
22 the warrants. Could you go through and as the names are
23 called --

24 THE BAILIFF: We have them all filed right
25 here.

1 THE COURT: Oh, you do. Okay. Good. All
2 right. We'll call them up. If your case is called,
3 please come up.

4 MS. PORT: The next defendant has some cases
5 that are similar, and I believe some that are different.
6 So Cameron Turley is the next one on my list. We can
7 identify the ones that are similar.

8 THE COURT: Okay. Well, if there are
9 non-similar cases, we'll wait.

10 MS. PORT: Okay. Sure. McKenzie McQueary.

11 MS. MATHENY-WILLARD: And your Honor, while we
12 call her up, this is one of the corrections on the
13 docket.

14 THE COURT: Okay. Let me say hello to Ms.
15 McQueary. How are you?

16 MS. MCQUEARY: I'm good. How are you?

17 THE COURT: All right. These are the same
18 charges and I assume she pleads not guilty.

19 MS. MATHENY-WILLARD: Correct, your Honor.

20 THE COURT: All right. Counsel, did you want
21 to --

22 MS. MATHENY-WILLARD: Yes. Just on the charge
23 that ends in 7027, the docket has McQuantry. So it's
24 just the M-C-Q-U-E-A-R-Y is the spelling of her last
25 name on that 7027.

1 THE COURT: Last name and then first name?

2 MS. MATHENY-WILLARD: McKenzie is correct.

3 THE COURT: Okay. McKenzie is correct.

4 MS. MATHENY-WILLARD: McQueary is wrong. It
5 has an N instead of an A.

6 THE COURT: Oh, it has an A. Okay.

7 MS. MATHENY-WILLARD: Yes.

8 THE COURT: I'll make that correction.

9 MS. MATHENY-WILLARD: Okay. So do you want me
10 to just let her know that her case is going to be
11 dismissed?

12 THE COURT: Yes. Do you want to be heard on
13 this, counsel?

14 MS. PORT: On the name change?

15 THE COURT: No, no, that's all right. It
16 doesn't matter. Actually, I was an attorney once. Do
17 you have anything on this case?

18 MS. PORT: Oh, I'll submit this to the Court,
19 your Honor.

20 THE COURT: Okay. Again, did you hear what I
21 said on the other about the first amendment?

22 MS. MCQUEARY: Yes.

23 THE COURT: Same applies to you and I'm going
24 to find you not guilty of these charges. Okay?

25 MS. MATHENY-WILLARD: Thanks, your Honor.

1 MS. MCQUEARY: Thank you.

2 MS. PORT: So just to be clear, we dismissed
3 two for McKenzie McQueary and two for Michael Phillips.

4 THE COURT: One second. I've just got to
5 catch up with the paperwork.

6 MS. PORT: Yes, your Honor. Absolutely.

7 THE COURT: Be patient with me. All right.
8 These are all done. I'm giving them back to you. All
9 right.

10 MS. PORT: Mr. Ismael Barrios.

11 THE COURT: All right.

12 MS. MATHENY-WILLARD: And the plea is not
13 guilty.

14 THE COURT: Mr. Barrios, all right. Is this
15 the same deal?

16 MS. PORT: Yes, your Honor. These would be
17 factually similar.

18 THE COURT: I don't encourage it, but does
19 either counsel have anything to say?

20 MS. PORT: No, your Honor.

21 MS. MATHENY-WILLARD: No, your Honor. His
22 plea is not guilty of course.

23 THE COURT: Do you understand what I've said?
24 Do you have any questions?

25 MR. BARRIOS: No.

1 THE COURT: I will find you not guilty. I
2 won't comment on your conduct because that's not my
3 place.

4 MS. MATHENY-WILLARD: Thanks, your Honor.

5 MS. PORT: Cortez Nathan.

6 MS. MATHENY-WILLARD: And there's a spelling
7 question on this one.

8 THE COURT: Okay. One second. Let me get the
9 one over here. How are you, sir?

10 MR. NATHAN: How are you, your Honor?

11 THE COURT: Very well, thank you. And he has,
12 what, three charges?

13 MS. PORT: I only have two. I could be
14 missing one.

15 THE COURT: Disorderly conduct charge?

16 MS. PORT: The disorderly would be a separate
17 incident.

18 THE COURT: I have two noise ordinances.

19 MS. MATHENY-WILLARD: And he'll remain for the
20 disorderly and cursing abuse.

21 THE COURT: Pardon me?

22 MS. MATHENY-WILLARD: He will remain for
23 the -- no, I'm sorry. That's Cameron. Hang on one
24 second.

25 THE COURT: I'm sorry. When you speak down,

1 it's not you. It's me.

2 MS. MATHENY-WILLARD: I was thinking she was
3 talking about Cameron's charges. But for Cortez, yes, I
4 just have two.

5 MS. PORT: And then I did find --

6 THE COURT: We have a noise and disorderly
7 conduct charge.

8 MS. PORT: And the disorderly is a separate
9 incident.

10 THE COURT: We'll try that separately.

11 MS. PORT: Yes, your Honor, thank you.

12 THE COURT: However, I will dismiss the two
13 noise ordinances as I have in the other cases. You'll
14 have to remain. You have a third charge. I'll get to
15 it when we can.

16 MR. NATHAN: Thank you, your Honor.

17 MS. MATHENY-WILLARD: Thanks, your Honor. And
18 I'm sorry, for one of the noise ordinance, there is a
19 name correction if you want to make that.

20 THE COURT: Yeah, I do.

21 MS. MATHENY-WILLARD: On 7442, the court has
22 Cotez, C-O-T-E-Z. It should just be Cortez on 7442.

23 THE COURT: Actually, yeah. Okay. I will
24 make them -- thank you very much.

25 MS. MATHENY-WILLARD: You're welcome, your

1 Honor.

2 THE COURT: It's very helpful for you to do
3 that, Ms. Matheny-Willard. Okay. I'll keep this one in
4 tow, okay?

5 MS. PORT: Yes, your Honor. Ms. Bonnie
6 Chapman has two charges that are both the same facts;
7 parking lot megaphone.

8 THE COURT: Could you tell the bailiff the
9 name again?

10 MS. PORT: Bonnie Chapman.

11 THE COURT: Good morning. Thank you. She
12 pleads not guilty, I assume?

13 MS. MATHENY-WILLARD: Not guilty, yes, on
14 both, your Honor.

15 THE COURT: Do you want to be heard on either?

16 MS. PORT: No, your Honor. Thank you.

17 THE COURT: You might like to be heard but you
18 know it's a waste of your time. Let me say to you like
19 I like to say to everybody. Y'all have been here
20 several times and it's been a long process for you, but
21 it's important we try these cases one way or the other.
22 I may be wrong but it's important. But I think you're
23 not (inaudible).

24 MS. PORT: Thank you, your Honor.

25 MS. MATHENY-WILLARD: Thanks, your Honor.

1 MS. PORT: Anthwhon Suiter.

2 THE COURT: Are you Mr. Suiter?

3 MR. SUITER: Yes, your Honor.

4 MS. MATHENY-WILLARD: Two not guilty pleas,
5 your Honor.

6 THE COURT: Same situation, counsel?

7 MS. PORT: Yes, your Honor. These are both
8 similar facts; megaphone use in the parking lot.

9 THE COURT: Okay. Mr. Suiter, did you hear
10 what I said in the other cases?

11 MR. SUITER: I did.

12 THE COURT: I will find you not guilty of
13 these two charges.

14 MS. MATHENY-WILLARD: Thanks, your Honor.

15 THE COURT: All right.

16 MS. PORT: And the remaining defendants do
17 have some that are separate but some that are similar.
18 So Mr. Stephen Nelson.

19 THE COURT: Okay.

20 MS. MATHENY-WILLARD: Technically, your Honor.
21 Chris Okay didn't substitute out so he's on the docket
22 as his attorney. So we just left it like that.

23 THE COURT: All right. Sir, are you a member
24 of the Virginia Bar?

25 MR. OKAY: Yes, your Honor.

1 THE COURT: Thank you.

2 MR. OKAY: Yes, your Honor.

3 THE COURT: I have to ask it.

4 MR. OKAY: I don't blame you.

5 THE COURT: All right. Let's see. We have
6 two noise violations and a disorderly conduct.
7 Disorderly conduct will be set aside and we'll take care
8 of the noise ordinances charges. Do you understand
9 that?

10 MR. NELSON: Yes, sir.

11 THE COURT: Okay. You have to remain because
12 we're going to try the disorderly conduct. How does the
13 defendant plea?

14 MR. OKAY: He's not guilty, your Honor, of all
15 charges.

16 THE COURT: Well, right now, there are two
17 charges.

18 MR. OKAY: Yes, sir, your Honor.

19 THE COURT: All right. I'm going to find him
20 not guilty and you heard the reason why, haven't you?

21 MR. NELSON: Yes, sir.

22 MR. OKAY? Thank you, your Honor.

23 MS. PORT: Mr. Dylan Jorgensen.

24 THE COURT: Good morning.

25 MR. JORGENSEN: Good morning, Judge.

1 THE COURT: How are you?

2 MR. JORGENSEN: Good. How are you?

3 THE COURT: I'm okay.

4 MS. MATHENY-WILLARD: He's pleading not
5 guilty. There is a name correction spelling.

6 THE COURT: Let me see here. He has a
7 disorder conduct and I'll set that aside. He does have
8 one excessive -- just one charge, right?

9 MS. MATHENY-WILLARD: That's correct. And
10 that's where the name correction is.

11 THE COURT: Okay. What is the correction?

12 MS. MATHENY-WILLARD: Dylan, on your docket,
13 you have D-I-L-L-I-O-N. It's D-Y-L-A-N for his first
14 name.

15 THE COURT: D-I-L-L?

16 MS. MATHENY-WILLARD: No, I think that's what
17 you have. His correct spelling is D-Y.

18 THE COURT: I see. On the disorder conduct,
19 it's different.

20 MS. MATHENY-WILLARD: Yeah. On the disorderly
21 conduct, it's correct.

22 THE COURT: Oh, that's correct.

23 MS. MATHENY-WILLARD: And then on the
24 exceeding max sound, it's not correct.

25 THE COURT: Thank you for your patience.

1 You're getting used to my hearing, I think. Thank you,
2 counsel. All right. On the excessive noise, he will be
3 found not guilty by reason of the first amendment. And
4 that's that. Do you have any questions?

5 MR. JORGENSEN: No. Thank you.

6 THE COURT: You have to remain.

7 MS. PORT: And the last defendant, I believe,
8 is Cameron Turley.

9 THE COURT: All right. We have a noise
10 ordinance charge here and I think I entered an order
11 that you represent him.

12 MS. MATHENY-WILLARD: Yes.

13 THE COURT: He pleads not guilty, I assume?

14 MS. MATHENY-WILLARD: He pleads not guilty,
15 your Honor.

16 THE COURT: I will find you not guilty. Did
17 you hear?

18 MR. TURLEY: Yes.

19 THE COURT: Okay, good. Again, thank you for
20 your patience.

21 MS. MATHENY-WILLARD: And he has two.

22 THE COURT: He has to remain. No, he has just
23 two noise?

24 MS. MATHENY-WILLARD: No, he does have
25 disorderly. I just wanted to make sure you've got it.

1 THE COURT: All right. You have to remain for
2 the disorderly.

3 MS. MATHENY-WILLARD: Thanks, your Honor.

4 THE COURT: Okay. The next one?

5 MS. PORT: And I believe that is all of them,
6 your Honor, for the noise violations.

7 THE COURT: If anybody is in court on the
8 noise ordinance and I haven't tried you, please raise
9 your hand. Okay.

10 MS. MATHENY-WILLARD: Your Honor, I would like
11 to ask for just a --

12 THE COURT: A recess?

13 MS. MATHENY-WILLARD: -- a five minute break
14 to just regroup.

15 THE COURT: Yeah, y'all have been very good.
16 Absolutely.

17 MS. PORT: And before we do that, with all due
18 respect, if the Court could just note the Commonwealth's
19 objection to the Court's ruling.

20 THE COURT: Absolutely. I understand it. And
21 your brief is really good.

22 MS. PORT: Thank you, your Honor.

23 THE COURT: It was no lack of good lawyer.
24 It's just lack of constitutional law.

25 MS. MATHENY-WILLARD: And your Honor, I would

1 ask that the witnesses remain until we figure out who
2 we're going to call.

3 THE COURT: All right. You want them to be
4 here?

5 MS. MATHENY-WILLARD: No, they can be where
6 they are. I just don't want them to leave the building.

7 THE COURT: Let's take about a 10 minute
8 break. It is now 10:15. Let's be back in here by 10:30
9 so you'll have time to do what you want.

10 MS. MATHENY-WILLARD: Thank you, sir.

11 MS. PORT: Thank you, your Honor.

12

13 (WHEREUPON, the above styled
14 proceedings concluded.)

15

16

17

18

19

20

21

22

23

24

25

REPORTER'S CERTIFICATE

COMMONWEALTH OF VIRGINIA

COUNTY OF AUGUSTA, to-wit:

I, the undersigned, Notary Public in and for
the Commonwealth of Virginia, at large, do hereby
certify that the foregoing is, to the best of my skill
and ability, a true and accurate transcript of
proceedings had and evidence adduced at a hearing held
in the above-styled case, on SEPTEMBER 2ND, 2022.

/S/ LAURA B. BALLENGEE, CER

My commission expires SEPTEMBER 30TH, 2024.

Registration No. 352644.