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CASE

HIGBIE, et al. v JAMES, et al.

HELD

Thursday, September 19, 2024

WITNESS

SHERIFF KYLE BOURGAULT



Exhibit 3

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ACR Job#: 2024-0919SS_Wit 1 of 2

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THROUGHOUT NEW YORK STATE AND BEYOND

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

----- X

CARL HIGBIE, JOSEPH HARRIS, and
MICHAEL VOTRUBA,

Plaintiffs, Civil Action No:

-v- 1:24-cv-00174-MAD-TWD

STEVEN G. JAMES, in his Official Capacity as
Superintendent of the New York State Police,
SHERIFF KYLE BOURGAULT, in his Official
Capacity as the Sheriff of Rensselaer County,
New York, SHERIFF DONALD J. KRAPP, in his
Official Capacity as the Sheriff of Columbia
County, New York, and JOHN DOES 1-10,
Defendants.

----- X

EXAMINATION BEFORE TRIAL

OF

ONE OF THE DEFENDANTS HEREIN,

SUPERINTENDENT OF THE NEW YORK STATE POLICE

SHERIFF KYLE BOURGAULT

HELD: Thursday, September 19, 2024

10 a.m.- 10:34 a.m.

JOB # PC 2024-0919SSW1

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2 This is the EXAMINATION BEFORE TRIAL of one of
3 the Defendants, SHERIFF KYLE BOURGAULT, taken
4 pursuant to NOTICE, held at:

5

6 ALBANY COURT REPORTING
7 125 Wolf Road
8 Albany, New York 12207

9

10 said witness being duly sworn and record
11 reported via steno writer by STEPHEN P.
12 SUDANO, Certified Court Reporter and Notary
13 Public within and for the State of New York.

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I N D E X

TO TESTIMONY

WITNESS: KYLE BOURGAULT

EXAMINATION BY	PAGE
MR. STAMBOULIEH	10
MR. GALLAGHER	39

TO EXHIBITS MARKED

PLAINTIFF'S	DESCRIPTION	PAGE
Exhibit 1	Sheriff Kyle Bourgault's Notice of Deposition, consisting of 2 page(s); attached hereto	 17
Exhibit 2	Form PBB-3, State of New York Pistol/Revolver License Application, consisting of 4 page(s); attached hereto	 34

F E D E R A L S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED, by and between the attorneys for the respective parties hereto, that filing, sealing, and certifications of the within deposition are hereby waived;

IT IS FURTHER STIPULATED AND AGREED that the original of the within deposition may be sworn to and signed before any officer authorized to administer an oath, with the same force and effect as if signed and sworn to before the Court;

IT IS FURTHER STIPULATED AND AGREED that an unsigned copy of the deposition may be used with the same force and effect as if signed by the witness, 30 days after service of the original & one copy of same upon counsel for the witness.

IT IS FURTHER STIPULATED AND AGREED that all parties shall bear their own costs in the conduct of this deposition.

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1 F E D E R A L S T I P U L A T I O N S

2 IT IS FURTHER STIPULATED AND AGREED that
3 all objections except as to form, are reserved
4 to the time of trial.

5
6 IT IS FURTHER STIPULATED AND AGREED that
7 exhibits may be marked by the attorney
8 presenting the exhibit to the witness; and
9 THAT a copy of any exhibit presented to a
10 witness shall be emailed to or otherwise in
11 possession of all counsel prior to any
12 questioning of a witness regarding the exhibit
13 in question; and

14
15 THAT all parties shall bear their own costs
16 in the conduct of this deposition.

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1 SHERIFF KYLE BOURGAULT - September 19, 2024
2 THIS IS THE ORAL DEPOSITION OF SHERIFF KYLE
3 BOURGAULT,
4 one of the DEFENDANTS herein, produced
5 pursuant to NOTICE, on THURSDAY, SEPTEMBER 19,
6 2024, before STEPHEN P. SUDANO, a Court
7 Reporter and Notary Public in and for the
8 State of New York.

9 * * * * *

10 (Whereupon the witness,
11 SHERIFF KYLE BOURGAULT,
12 presented their driver's license
13 for identification.)

14 * * * * *

15 SHERIFF KYLE BOURGAULT
16 called as the witness, hereinbefore named,
17 being first duly cautioned and sworn or
18 affirmed by STEPHEN P. SUDANO, the Court
19 Reporter and Notary Public herein, to tell the
20 truth, the whole truth, and nothing but the
21 truth, was examined and testified as follows:

22 THE REPORTER: Please state
23 your name for the record.

24 THE WITNESS: Kyle Bourgault.

25 THE REPORTER: Is your

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2 present work address 4000 Main
3 Street, Troy, New York 12180?

4 THE WITNESS: Yes.

5 EXAMINATION

6 BY MR. STAMBOULIEH:

7 Q. Good morning, Sheriff. I
8 appreciate you being here.

9 My name is Stephen Stamboulieh, and
10 I represent the plaintiffs in this case.

11 Have you ever given a deposition
12 before?

13 A. I have not.

14 Q. Perfect.

15 well, I'll break you in really
16 quickly.

17 I have just a couple questions that
18 I want to ask you, based on the facts of
19 this case and your understanding of New
20 York law.

21 Real quick, since you've never
22 given a deposition, this is kind of going
23 to be how it is.

24 You've got your attorney right
25 there. I'm going to sit here and ask

1 SHERIFF KYLE BOURGAULT - September 19, 2024
2 questions. If at any point I ask an
3 inartful question or you don't understand
4 it, please don't answer it. Tell me that
5 you don't understand it, and I'll be happy
6 to rephrase it.

7 Give your attorney a couple seconds
8 to object, if there's going to be any
9 objections, so the attorneys can get
10 everything on the record.

11 As you see, we have a court
12 reporter here that's taking down all of
13 the words that we speak. And for that
14 reason, I need you to answer in a "yes" or
15 a "no" rather than shaking your head or
16 saying "uh-huh" or "uh-uh," because it
17 looks very similar on the transcript, and
18 we want to make sure that we have a good
19 transcript.

20 I do have a tendency to start
21 talking a little quickly if I get really
22 excited about a question or an answer. So
23 if I talk too quickly, please let me know.
24 I'll try to do my best to slow down.

25 If, at any time, you need to take a

1 SHERIFF KYLE BOURGAULT - September 19, 2024
2 break -- I don't think we're going to be
3 here very long for you -- but if any time
4 you need to take a break, my only rule
5 that I have is to answer the question
6 that's posed on the table, and then feel
7 free to go take a break, use the restroom,
8 whatever you need to do.

9 Do you understand all of that?

10 A. Understood.

11 Q. Perfect.

12 So you are the current sheriff of
13 -- is it Rensselaer County?

14 A. Yes, I am.

15 Q. Okay. And when were you elected?

16 A. I was elected in November of 2023;
17 started serving on January 1st of 2024.

18 Q. And before that, what was your role
19 at the sheriff's office?

20 A. My role was pistol permit
21 clerk/evidence custodian.

22 Q. And for your role in the pistol
23 permit -- is the --

24 You said pistol permit clerk?

25 A. Background investigator, clerk. I

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2 don't know what the official title was.
3 But that's basically the job duties that I
4 did.

5 Q. Okay. And what would you say --
6 Like, for the pistol permit clerk
7 only, what was the job duties that you
8 performed as that role?

9 A. So I would schedule appointments
10 for people to come down and submit their
11 pistol permit applications.

12 I would accept their applications
13 when they came down for their appointment.

14 I would conduct the background
15 investigation on the individual.

16 I would --

17 At the time of their submission, I
18 would issue four reference forms, as well
19 as instructions on how to get their
20 fingerprints.

21 I would conduct the background
22 information -- or investigation.

23 And when the four reference forms
24 and their fingerprints were complete, I
25 would put their packet together.

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2 I would send it up to the county
3 clerk's office, to the pistol permit
4 clerk, at which time he would distribute
5 it accordingly.

6 Q. So the four reference forms, those
7 are not --

8 Those are separate forms that
9 Rensselaer has that are not just the "sign
10 here" on the application, the PPB-3?

11 A. Correct.

12 Q. Okay. And that form is on the
13 website or --

14 A. That's --

15 Q. -- is that a form that you handed
16 out to people only?

17 A. That is a form that we hand out to
18 people.

19 Q. It's not on the website, then?

20 A. As far as I know, it's not.

21 Q. Okay. Perfect.

22 One other rule, and I have a
23 tendency to do this as well: Let me
24 finish my question, and I'll let you
25 finish your answer so we don't have that

1 SHERIFF KYLE BOURGAULT - September 19, 2024
2 happen.

3 A. Understood.

4 Q. Okay. What do the reference forms
5 request? Do you recall?

6 A. I can say there's eight questions
7 on it.

8 They typically ask, um, is there
9 any reason why an applicant shouldn't be
10 given a pistol permit; how long have you
11 known the applicant.

12 I believe it's something to the
13 effect of, um, is the applicant known to
14 do any drugs or anything that would
15 prohibit him from getting a pistol permit.

16 We didn't develop the form so --
17 it's through the county clerk's office, so
18 I don't know. I can't remember exactly
19 what the form says, but those are
20 generally the questions that are asked.

21 Q. And did the county clerk develop
22 the form?

23 A. Correct.

24 Q. Okay. As far as --

25 who would qualify in Rensselaer as

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2 a reference?

3 A. So in the pistol permit instruction
4 page, which is, again, developed by the
5 county clerk, references must be within
6 the Capital District. No references would
7 be accepted outside of New York State, and
8 the reason I believe that was put on there
9 was because we border two states.

10 Q. Uh-huh.

11 A. In Rensselaer County. Um...

12 Q. I'm sorry to interrupt you.

13 You said the "Capital District."

14 For someone that is not from New York,
15 what is the Capital District?

16 A. Capital District typically consists
17 of Albany, Schenectady, Troy. Um, say, a
18 25- or 30-mile geographic area is kind of
19 the ballpark that we have gone by.

20 But again, the reason we put no
21 references outside of New York State is
22 because, obviously, Massachusetts and
23 Vermont is much closer than 25 or 30
24 miles.

25 Q. Okay. So if --

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2 Is it your testimony, then --

3 So if an applicant didn't have
4 someone from the Capital District but
5 like, let's say, Rochester or Buffalo,
6 that you would still accept those as
7 character references, perhaps?

8 A. We have accepted them.

9 What goes on past our acceptance
10 and what the judge does with them is --
11 I can't speak for that.

12 Q. Up to them. Perfect.

13 MR. STAMBOULIEH: I forgot to
14 do this.

15 Can we mark this as the first
16 exhibit? It is the notice of
17 his deposition.

18 * * * * *

19 (Sheriff Kyle Bourgault's
20 Notice of Deposition, consisting
21 of 2 pages, was marked as
22 Plaintiff's Exhibit 1 for
23 identification as of this date;
24 attached hereto.)

25 * * * * *

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1 SHERIFF KYLE BOURGAULT - September 19, 2024

2 BY MR. STAMBOULIEH:

3 Q. Now, you explained what your role
4 was as the pistol permit clerk. But now
5 that you're the sheriff, do you have a
6 role in issuing pistol licenses at this
7 point?

8 A. I can say that we've never had a
9 role in issuing pistol licenses. We have
10 only accepted the applications and
11 conducted the background checks. The
12 judges have always been the ones that
13 issue pistol permits.

14 Q. Okay. And I understand what you're
15 saying about you don't physically issue
16 the permits.

17 Is that what you're saying?

18 A. That's correct.

19 Q. As far as --

20 The sheriff's office has a role,
21 though, in the background investigation
22 and accepting the applications, right?

23 A. Correct.

24 Q. And that is, from my understanding,
25 the only role of the sheriff?

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2 A. Correct.

3 Q. As the current sheriff, do you
4 participate in any of the background
5 investigations that go on when you accept
6 an application?

7 A. I do not.

8 Q. Okay. So you personally, as the
9 sheriff, you have no role in it other than
10 your office accepts the applications and
11 does the investigation?

12 A. That's correct.

13 And because I had previously done
14 the job, if there's any questions that
15 pertain to that, I will get asked them and
16 I will answer them.

17 But other than that, I have no role
18 in issuing -- or accepting background
19 packets.

20 Q. Perfect.

21 You know, prior to you being
22 sheriff, in your role as the pistol permit
23 clerk do you recall speaking with
24 Plaintiff Votruba?

25 A. I recall speaking with somebody

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2 that is very similar to the complaint that
3 was received. I can't say that I knew his
4 name because I don't believe I was ever
5 told it.

6 Yes.

7 Q. Okay. So you spoke with someone,
8 but you don't know if it was him?

9 A. Correct.

10 Q. Okay. And do you recall the
11 conversation that you had with that
12 person?

13 A. I vaguely do.

14 Q. Okay. Can you tell me your
15 recollection of that conversation?

16 A. What I can recall is, is that we
17 received a phone call, and the gentleman
18 on the other line said he was interested
19 in submitting a pistol permit application
20 in New York State. And that he lived in
21 Massachusetts and if it was possible for
22 him to submit the application.

23 Q. And what did you tell him?

24 A. I told him it was not --

25 Rensselaer County does not accept

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2 applications from out-of-state residents.

3 Q. Did that person also ask you if he
4 could carry on a Massachusetts permit?

5 A. He did.

6 Q. And what was your answer to that?

7 A. We told him that he could not. I
8 believe I said, New York State does not
9 allow for that.

10 Q. Okay. And do you understand the
11 term "reciprocity"?

12 A. I do.

13 Q. And can you tell us what that
14 means?

15 A. It means that another state --
16 In this instance, another state
17 would be willing to allow another state's
18 background check and pistol permit to be
19 able to carry in New York State.

20 Q. For instance, someone with a
21 Massachusetts permit could carry in New
22 York?

23 A. Correct. I understand that.

24 * * * * *

25 (At which time, there was a

1 SHERIFF KYLE BOURGAULT - September 19, 2024
2 brief pause in the proceedings.)

3 * * * * *

4 BY MR. STAMBOULIEH:

5 Q. The answer is no, someone with a
6 Massachusetts permit could not carry a
7 pistol on that Massachusetts permit --

8 A. That's correct.

9 Q. -- in New York?

10 A. According to New York law.

11 Q. Okay. For an applicant to be
12 able --

13 I'm going to do my best to slow
14 down.

15 For an applicant to apply for a New
16 York permit, what are the requirements?

17 A. Must be 21 years of age.

18 And I'm trying to cite this as best
19 I can without looking at anything.

20 Twenty-one years of age; um, must
21 reside in New York State. And I believe
22 that might be the only two prerequisites.

23 Q. If they primarily work in New York,
24 is that another --

25 A. Yes. I'm -- I'm --

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2 I didn't mean to cut you off.

3 Yes, that's correct. Primary
4 employment or residence.

5 Q. How about if they just own land?

6 A. That does not qualify, as far as I
7 know.

8 There have been times that if you
9 have a nondriver ID because you own land
10 in New York State, and you can -- you can
11 assign yourself to that property through a
12 nondriver ID, that the judges may have
13 issued a pistol permit.

14 I can't say if they have or
15 haven't.

16 Q. Is there a residency requirement,
17 like a specific time that an applicant
18 would have to live in Rensselaer before
19 they're able to apply?

20 A. There's no specific time that they
21 have to live there; although, we --

22 On the application page,
23 instruction page that is issued by the
24 county clerk, it says References in the
25 Capital District must be known to somebody

1 SHERIFF KYLE BOURGAULT - September 19, 2024
2 for five years.

3 Q. So the character reference has to
4 know you, as the person they're
5 attesting's, that your character is fine
6 for a minimum of five years?

7 A. Correct.

8 Q. Let me ask you this, then: So if
9 I, as somebody who doesn't know anyone in
10 New York except for the people at this
11 table, and I don't think I've known anyone
12 here for more than five years; if I moved
13 to Rensselaer and don't know anyone, would
14 I not be able to get a permit, then?

15 A. I can't speak for that. All I can
16 say is the instructions say that you must
17 know them for five years.

18 Q. That would be up to the judge?

19 A. Correct.

20 Q. Do you know, as the pistol permit
21 clerk and now the sheriff, has your office
22 ever accepted an application for an
23 out-of-state resident who doesn't meet any
24 of the exceptions to be issued a permit?

25 A. To my knowledge, no.

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2 Q. Have you spoken to your clerk --
3 Let me ask you this: who is your
4 clerk?

5 A. Frank Merola.

6 Q. Have you ever spoken to Mr. Merola
7 about this issue, about accepting
8 out-of-state applications?

9 A. I have.

10 Q. And what was that conversation
11 like?

12 A. The conversation arose from this
13 complaint.

14 I talked with Frank Merola about
15 the possibility of accepting them, and his
16 response was, New York State doesn't allow
17 us to accept them.

18 Q. So if New York State law allowed
19 out-of-state applicants, do you have an
20 opinion as to whether Mr. Merola would
21 accept those applications?

22 A. I can't speak for Frank Merola.

23 But I can tell you that if New York
24 State allowed for out-of-state
25 applications, that I, as the sheriff,

1 SHERIFF KYLE BOURGAULT - September 19, 2024
2 would certainly accept them to conduct a
3 background check on them.

4 And I can't speak for what would
5 happen once I was done with it.

6 Q. Did Mr. Merola give you an
7 indication that he wouldn't continue to
8 follow the law?

9 A. No.

10 Q. Like, for instance, if New York
11 changed its law, would Mr. Merola say,
12 "I'm still not going to accept them"?

13 A. I didn't have that discussion with
14 him.

15 Q. Okay. Have you had any discussions
16 with the New York State Police about
17 out-of-state residents applying for
18 permits?

19 A. I have not.

20 Q. Okay. Have you had any discussions
21 with the New York City Police Department
22 with their recent change in policy on
23 allowing out-of-state residents to apply
24 now?

25 A. I have not.

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2 Q. Did you know that New York City has
3 changed their policy on allowing
4 out-of-state residents to apply?

5 A. I did not.

6 Q. Do you recall --
7 when we spoke earlier about the
8 person that called, did you speak to a
9 second person that called or was it just
10 that one?

11 A. I believe it was just that one.

12 Q. Okay.

13 A. That's the only recollection I
14 have, is one individual calling.

15 Q. Okay. To your knowledge, does New
16 York have reciprocity with any other
17 state?

18 A. To my knowledge, they do not.

19 MR. STAMBOULIEH: Give me one
20 second, please.

21 * * * * *

22 (At which time, there was a
23 brief pause in the proceedings.)

24 * * * * *

25

1 SHERIFF KYLE BOURGAULT - September 19, 2024

2 BY MR. STAMBOULIEH:

3 Q. who is Charles Daniels?

4 A. Charles Daniels is the pistol
5 permit clerk at the county clerk's office.

6 Q. Is he -- he's not the --

7 Is he the person that took over
8 your old position as the pistol permit
9 clerk?

10 A. No.

11 Q. So he doesn't work for the
12 sheriff's office, then?

13 A. Correct.

14 Q. So he works for Mr. Merola?

15 A. That's correct.

16 Q. And what is his role?

17 A. He's the pistol permit clerk for
18 the County.

19 Q. Okay. Explain to me what that
20 means.

21 A. So, Charles is in charge of
22 distributing applications once they're
23 given to him, to the Rensselaer County
24 court clerk, who then assigns them to a
25 judge.

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2 when they become approved, then
3 Charles is in charge of printing the
4 pistol permits and dealing with
5 amendments.

6 If somebody wants to add a gun to
7 their -- to their, um -- to their permit,
8 if they want to take a gun off their
9 permit, if they want to change their
10 address, Charles tracks and keeps track of
11 all that information.

12 Q. So you said if they want to "add a
13 gun."

14 Does that mean that all of the guns
15 that someone wants to carry is going to be
16 on their permit?

17 A. That's correct.

18 Q. So if, for instance, someone gets,
19 I don't know, stopped on the street with a
20 gun that's not on their permit, that's
21 arrestable?

22 Is that arrestable?

23 A. That --

24 I'm not sure. I can't answer that
25 question.

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2 Q. Okay. But in any event, it's a
3 requirement of --

4 Is it New York law, or is that your
5 policy?

6 A. New York law --

7 I'm sorry. I believe New York law
8 states that every handgun is registered in
9 New York State on your permit.

10 MR. STAMBOULIEH: I don't
11 have a lot of these, but it's
12 the standard PPB-3 form.

13 * * * * *

14 (At which time, there was a
15 brief pause in the proceedings.)

16 * * * * *

17 MR. GALLAGHER: Do you want
18 to mark --

19 MR. STAMBOULIEH: Not yet,
20 but soon.

21 MR. GALLAGHER: Okay.

22 * * * * *

23 (At which time, what will
24 be marked Plaintiff's Exhibit 2
25 was handed to the witness by

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2 counsel for review.)

3 * * * * *

4 BY MR. STAMBOULIEH:

5 Q. Are you familiar with that form,
6 Sheriff?

7 * * * * *

8 (Brief pause while witness
9 reviews document.)

10 * * * * *

11 A. Is this the amended form, recently,
12 or is this the --

13 what's the date on that? 12/23.

14 So yes, I am very familiar with
15 this (Indicating) form.

16 Q. Is this the most current form, to
17 your knowledge?

18 A. I'm looking for --

19 Q. The date's on the top left.

20 A. I believe that there is a revised
21 form.

22 Q. Okay. And I'll tell you I pulled
23 this from the troopers' website two days
24 ago, and this is the only form that was
25 listed on their website, if that helps

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2 out.

3 A. Then my understanding would be that
4 this would be the most current.

5 Q. Okay. And you said you're very
6 familiar with this?

7 A. Correct.

8 Q. Are you familiar with how this form
9 is created?

10 A. I'm not sure what you mean by that.

11 Q. Who creates this form?

12 A. To my understanding, the New York
13 State Police create this form.

14 Q. And if I can direct your attention
15 to where it says, "Personal Information."

16 * * * * *

17 (Brief pause while witness
18 reviews document.)

19 * * * * *

20 BY MR. STAMBOULIEH:

21 Q. Do you see where it requests a New
22 York driver's license number?

23 It's in the middle of the "Personal
24 Information."

25 A. Yes. Yes.

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2 Q. Okay. It doesn't say, "Texas
3 driver's license" or just "driver's
4 license." It specifically calls for a New
5 York driver's license number, doesn't it?

6 A. That's correct.

7 And that is why I believe this may
8 be the older form. Because I believe that
9 may have been changed, but I don't know
10 because I haven't really seen them lately.

11 Q. Changed to not require a New York
12 driver's license?

13 A. I don't know what it would have
14 been changed to, but I believe it may have
15 been changed.

16 But if you printed this two days
17 ago, this would most likely be the most
18 up-to-date version.

19 Q. Is this the license application
20 that Rensselaer County would accept from
21 an applicant?

22 A. That's correct.

23 Q. And also the character reference
24 forms and any other attendant forms that
25 you would give to the applicant?

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2 A. That's correct.

3 MR. STAMBOULIEH: I would
4 like to mark his copy as Exhibit
5 2, please.

6 * * * * *

7 (Form PBB-3, State of New
8 York Pistol/Revolver License
9 Application, consisting of 4
10 page(s), was marked as
11 Plaintiff's Exhibit 2 for
12 identification as of this date;
13 attached hereto.)

14 * * * * *

15 BY MR. STAMBOULIEH:

16 Q. Have you ever had a situation where
17 an applicant couldn't provide four
18 character references for the application?

19 A. I have.

20 Q. And what happens in that situation?

21 A. I have asked them to come back when
22 they were able to provide the fourth.

23 Part of your application submission
24 is completing four reference forms.

25 Q. So until they come back with the

1 SHERIFF KYLE BOURGAULT - September 19, 2024
2 fourth, does that application just not get
3 accepted?

4 A. Correct.

5 Q. Can you walk me through just the
6 typical application process for receiving
7 a carry permit here in New York?

8 A. When somebody calls and asks that
9 very question, we direct them to the
10 Rensselaer County website, where they can
11 print the pistol permit instruction page,
12 where they can print the application.

13 But we also advise them of the
14 entire process, what the pistol permit
15 instruction page entails.

16 So we ask them to go --

17 We say, Start with the application.
18 The application has to be print -- or
19 typed online because it's in PDF form.
20 When you get done typing it all in, you
21 can print two copies of it. The only
22 thing that can be in ink is the signature
23 of your references and the signature of
24 yourself on the back.

25 Once that's complete, you have your

1 SHERIFF KYLE BOURGAULT - September 19, 2024
2 four references on there, you can come
3 down and submit your application.

4 We get a copy of your driver's
5 license, birth certificate, Social
6 Security card, and two passport-quality
7 photos.

8 And, um, at that point, the
9 appointment's scheduled.

10 They come down. They submit their
11 application. We go through it, review,
12 make sure everything's filled out
13 correctly.

14 And at that time, we print the four
15 reference forms of the same names that are
16 on the application.

17 We give them the four reference
18 forms, ask them to hand them out to their
19 references.

20 Give them the information for their
21 fingerprinting. We used to do
22 fingerprinting at the Rensselaer County
23 jail, but we don't do it anymore. We have
24 outsourced it to a company called
25 IdentoGO.

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2 So we give them the information to
3 schedule an appointment with IdentoGO to
4 get their fingerprints done.

5 Once their fingerprints and their
6 reference forms are done, we ask them to
7 drop those reference forms back off at our
8 office.

9 And then once we have those items
10 in our possession and the background check
11 is complete, we package it all together,
12 and we send it up to the county clerk,
13 Charles Daniels, the pistol permit clerk.

14 Q. From the time of application to the
15 time that you send it to Mr. Daniels, how
16 long does that usually -- estimate time --

17 A. That all depends on how fast they
18 get their fingerprints and return their
19 reference forms.

20 From the time that we receive their
21 reference forms and their fingerprint is
22 typically within a couple of days.

23 Q. To do the background investigation?

24 A. Once we have them back.

25 So they have to return their

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2 reference forms. They have to return
3 their fingerprint receipt.

4 Once we are in receipt of both of
5 those things, it's typically within a
6 couple days that it goes up to the county
7 clerk's office.

8 Q. Do you have full-time staff that
9 work --

10 Do you have full-time staff that
11 work on doing all this background
12 investigation, or is this something that
13 they do in their off-time or maybe not
14 full-time positions?

15 A. Full-time position.

16 MR. STAMBOULIEH: well,
17 Sheriff, that appears to be the
18 only questions that I have for
19 you.

20 I'll tender the witness.

21 MR. KEMPF: I have nothing.

22 MR. GALLAGHER: I think we
23 have a few questions, but can we
24 take a quick break?

25 MR. STAMBOULIEH: Yeah, of

1 SHERIFF KYLE BOURGAULT - September 19, 2024
2 course.

3 MR. GALLAGHER: Okay. Five
4 to ten minutes.

5 * * * * *

6 (At which time, a brief
7 recess was held.)

8 * * * * *

9 MR. GALLAGHER: Sheriff
10 Bourgault, my name is Matthew
11 Gallagher. I represent
12 Commissioner Steven James from
13 the New York State Police -- or
14 Superintendent Steven James for
15 the New York State Police. I
16 just have a few questions for
17 you.

18 EXAMINATION

19 BY MR. GALLAGHER:

20 Q. With regard to accepting
21 applications for pistol permits or
22 regarding any licensing within Rensselaer
23 County, are you, or is anyone within your
24 office, an agent of the New York State
25 Police?

1 SHERIFF KYLE BOURGAULT - September 19, 2024

2 A. They're not.

3 Q. Okay. Does the New York State
4 Police have any authority over Rensselaer
5 County's acceptance or nonacceptance of
6 pistol permit applications?

7 A. They do not.

8 Q. Okay. And, to your knowledge, does
9 the New York State Police have any
10 authority over the issuing authorities
11 within Rensselaer County?

12 A. To my knowledge, they do not.

13 Q. And just to be clear, when I say
14 "issuing authorities," you understand that
15 that means the judges who actually review
16 the applications and issue the permits?

17 A. That's correct. I do understand
18 that.

19 MR. GALLAGHER: Thank you. I
20 have no further questions.

21 MR. FITZSIMMONS: No
22 questions.

23 THE REPORTER: Does Columbia
24 County order a copy of today's
25 transcript?

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2 MR. FITZSIMMONS: We probably
3 will, yeah.

4 THE REPORTER: Okay. Thank
5 you.

6 And does the AG's office
7 order a copy?

8 MR. GALLAGHER: Yes, please.

9 THE REPORTER: Thank you.

10 * * * * *

11 (At which time, a
12 discussion was held off the
13 record.)

14 * * * * *

15 MR. KEMPF: We'll get a copy
16 of the transcript for you to
17 review and go through, read, you
18 know, and take some time to
19 digest it; make sure it's
20 accurate; your answers are
21 properly recorded, and to make
22 any comments or edits on that.
23 So we'll --

24 You'll have that opportunity
25 to do that.

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THE WITNESS: Okay.
Understood.

* * * * *

(Whereupon, the examination
of SHERIFF KYLE BOURGAULT
concluded at 10:34 a.m.)

1

2

This is the Deposition of

3

SHERIFF KYLE BOURGAULT

4

taken in the matter, on the date, and at the

5

time and place set out on the title page

6

hereof.

7

8

It was requested that the deposition be taken

9

by the reporter and that same be reduced to

10

typewritten form.

11

12

It was agreed by and between counsel and the

13

parties that the Deponent will be reading and

14

signing the transcript of said deposition.

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1 DEPONENT'S CERTIFICATE

2 STATE OF_____:

3 COUNTY/CITY OF_____:

4
5 Before me, this day, personally
6 appeared SHERIFF KYLE BOURGAULT, who, being
7 duly sworn, states that the foregoing
8 transcript of his/her Deposition, taken in the
9 matter, on the date, and at the time and place
10 set out on the title page hereof, constitutes
11 a true and accurate transcript of said
12 deposition.

13
14
15 SHERIFF KYLE BOURGAULT
16
17
18

19 Signed and subscribed to before me
20 this____day of_____,20____.

21
22 _____
23 NOTARY PUBLIC, STATE OF NEW YORK
24
25

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1 DEPONENT'S DECLARATION

3 DECLARATION UNDER PENALTY OF PERJURY

4 I, SHERIFF KYLE BOURGAULT, declare, under
5 penalty of perjury, that I have read the
6 entire transcript of my Deposition taken in
7 the above-captioned matter, or the same has
8 been read to me, and the same is true and
9 accurate, save and except for changes and/or
10 corrections, if any, as indicated by me on the
11 ERRATA SHEET hereof, with the understanding
12 that I offer these changes as if still under
13 oath. I would like changes made to my
14 deposition transcript as indicated on the
15 following page.

16
17 Signed on the ____day of _____, 20____.

18
19 _____
20 SHERIFF KYLE BOURGAULT
21
22
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24
25

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1 ERRATA SHEET

2 INSTRUCTIONS: After reading the transcript of
3 your testimony, please note any change,
4 addition or deletion on this sheet. DO NOT
make any marks or notations on the actual
transcript.

5 WITNESS: SHERIFF KYLE BOURGAULT

6 JOB NO.: PC 2024-0919SSW1

7 CASE NAME: HIGBIE, ET AL V JAMES, ET AL.

8 HELD: THURSDAY, SEPTEMBER 19, 2024

9 Page Line CORRECTION

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23 Signature_____Date_____

24 SHERIFF KYLE BOURGAULT

25

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1	ERRATA SHEET		
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23	Signature_____		Date_____
24	SHERIFF KYLE BOURGAULT		
25			

1 REPORTER'S CERTIFICATION

2 I, Stephen P. Sudano, Court
3 Reporter, do hereby certify that I recorded
4 stenographically the proceedings herein at the
5 time and place noted in the heading hereof,
6 and that the foregoing transcript is true and
7 accurate to the best of my knowledge, skill
8 and ability.

9 IN WITNESS WHEREOF, I have hereunto
10 set my hand.

11
12 

13 Stephen P. Sudano
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HIGBIE, et al. v.

JAMES, et al.

Witness: SERGEANT KYLE BOURGAULT

Held: Thursday, September 19, 2024

<p>BY MR. GALLAGHER: [1] 39/19</p> <p>BY MR. STAMBOULIEH: [7] 10/6 18/2 22/4 27/25 31/4 32/20 34/15</p> <p>MR. FITZSIMMONS: [2] 40/21 41/1</p> <p>MR. GALLAGHER: [7] 30/17 30/21 38/22 39/3 39/9 40/19 41/8</p> <p>MR. KEMPF: [2] 38/21 41/15</p> <p>MR. STAMBOULIEH: [7] 17/13 27/19 30/10 30/19 34/3 38/16 38/25</p> <p>THE REPORTER: [5] 9/22 9/25 40/23 41/4 41/9</p> <p>THE WITNESS: [3] 9/24 10/4 42/1</p>	<p>10 [2] 1/15 1/24</p> <p>10005 [1] 3/19</p> <p>10:34 [2] 1/24 42/7</p> <p>12/23 [1] 31/13</p> <p>12061 [1] 4/17</p> <p>12180 [1] 10/3</p> <p>12207 [1] 2/7</p> <p>12224 [1] 4/7</p> <p>125 [1] 2/6</p> <p>12534 [1] 5/6</p> <p>19 [3] 1/23 9/5 46/8</p> <p>1:24-cv-00174-MAD-TWD [1] 1/8</p> <p>1st [1] 12/17</p> <p>2</p> <p>20 [1] 45/17</p> <p>2023 [1] 12/16</p> <p>2024 [4] 1/23 9/6 12/17 46/8</p> <p>2024-0919SSW1 [2] 1/25 46/6</p> <p>21 [1] 22/17</p> <p>212 [1] 3/20</p> <p>23 [1] 31/13</p> <p>25 [2] 16/18 16/23</p> <p>270-2900 [1] 4/18</p> <p>28 [1] 3/18</p> <p>2900 [1] 4/18</p> <p>2B [1] 5/5</p>	<p>416-8250 [1] 3/20</p> <p>428 [1] 3/5</p> <p>5</p> <p>518 [2] 4/18 5/7</p> <p>6</p> <p>601 [1] 3/7</p> <p>7</p> <p>771-7755 [1] 4/8</p> <p>7755 [1] 4/8</p> <p>8</p> <p>800 [1] 4/8</p> <p>8250 [1] 3/20</p> <p>828-3303 [1] 5/7</p> <p>852-3440 [1] 3/7</p> <p>9</p> <p>99 [1] 4/16</p> <p>A</p> <p>a.m [3] 1/24 1/24 42/7</p> <p>above [1] 45/7</p> <p>accept [9] 13/12 17/6 19/5 20/25 25/17 25/21 26/2 26/12 33/20</p> <p>acceptance [2] 17/9 40/5</p> <p>accepted [5] 16/7 17/8 18/10 24/22 35/3</p> <p>accepting [5] 18/22 19/18 25/7 25/15 39/20</p> <p>accepts [1] 19/10</p> <p>According [1] 22/10</p> <p>accordingly [1]</p>	<p>14/5</p> <p>accurate [4] 41/20 44/11 45/9 48/7</p> <p>Action [1] 1/7</p> <p>actual [1] 46/3</p> <p>add [2] 29/6 29/12</p> <p>addition [1] 46/3</p> <p>address [2] 10/2 29/10</p> <p>administer [1] 7/10</p> <p>advise [1] 35/13</p> <p>affirmed [1] 9/18</p> <p>after [2] 7/16 46/2</p> <p>AG's [1] 41/6</p> <p>ag.ny.gov [2] 3/22 4/10</p> <p>again [2] 16/4 16/20</p> <p>agent [1] 39/24</p> <p>ago [2] 31/24 33/17</p> <p>agreed [7] 7/2 7/7 7/13 7/19 8/2 8/6 43/12</p> <p>AL [2] 46/7 46/7</p> <p>ALBANY [4] 2/6 2/7 4/7 16/17</p> <p>allow [3] 21/9 21/17 25/16</p> <p>allowed [2] 25/18 25/24</p> <p>allowing [2] 26/23 27/3</p> <p>although [1] 23/21</p> <p>amended [1] 31/11</p> <p>AMENDMENT [1] 3/15</p> <p>amendments [1] 29/5</p> <p>another [4] 21/15 21/16 21/17 22/24</p> <p>answer [9] 11/4</p>
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HIGBIE, et al. v.

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Witness: SERGEANT KYLE BOURGAULT

Held: Thursday, September 19, 2024

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