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CASE

HIGBIE, et al. v JAMES, et al.

HELD

Thursday, September 19, 2024

WITNESS

Defendant DONALD KRAPF



Exhibit 4

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Reported by: Stephan Sudano

ACR Job#: 2024-0919SS_Wit 2 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,

SHERIFF DONALD J. KRAPP

HELD: Thursday, September 19, 2024

11:40 a.m.- 12:16 p.m.

JOB # PC 2024-0919SSW2

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2 This is the EXAMINATION BEFORE TRIAL of one of
3 the Defendants, SHERIFF DONALD J. KRAPP, taken
4 pursuant to Notice, held at:

5

6

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125 Wolf Road
Albany, New York 12207

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

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A P P E A R A N C E S

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1 I N D E X

2 TO TESTIMONY

3 WITNESS: DONALD J. KRAPP

4 EXAMINATION BY PAGE

5 MR. STAMBOULIEH 11

6 MR. THOMPSON 40

7

8 TO EXHIBITS MARKED

9 PLAINTIFF'S DESCRIPTION PAGE

10 Exhibit 2 Form PBB-3 previously marked 25

11 Exhibit 3 Sheriff Donald J. Krapf's 10
12 Notice of Deposition,
13 consisting of 2 pages;
14 attached hereto15 Exhibit 4 Columbia County Sheriff's 28
16 Office Pistol/Revolver License
17 Application, Semi-Automatic
18 Rifle License Application,
19 Application #2024-174,
20 consisting of 24 page(s);
21 attached hereto22 Exhibit 5 Columbia County Sheriff's 35
23 Office references information
24 document, consisting of 2
25 page(s); attached hereto

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

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

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

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

22

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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.

17

18 * * * * *

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

8 * * * * *

9 (Whereupon the witness,
10 SHERIFF DONALD J. KRAPP,
11 presented their driver's license
12 for identification.)

13 * * * * *

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

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

23 THE WITNESS: Donald J.
24 Krapf.

25 THE REPORTER: Is your

1 SHERIFF DONALD J. KRAPP - September 19, 2024
2 present work address 85
3 Industrial Tract, Hudson, New
4 York 12534?

5 THE WITNESS: Yes.

6 * * * * *

7 MR. STAMBOULIEH: I'm just
8 going to start off better this
9 time.

10 That's the notice of the
11 deposition. I'm going to make
12 that the next exhibit, which is
13 Exhibit Number 3.

14 * * * * *

15 (Sheriff Donald J. Krapf's
16 Notice of Deposition, consisting
17 of 2 pages, was marked as
18 Plaintiff's Exhibit 3 for
19 identification as of this date
20 by the Court Reporter; attached
21 hereto.)

22 * * * * *

23

24

25

1 SHERIFF DONALD J. KRAPP - September 19, 2024

2 EXAMINATION

3 BY MR. STAMBOULIEH:

4 Q. Good morning, Sheriff.

5 A. Good morning.

6 Q. My name is Stephen Stamboulieh. I
7 represent the plaintiffs in this case.

8 Have you ever been deposed before?

9 A. Yes.

10 Q. Okay. For this deposition --

11 I just kind of like to set some of
12 the rules for the deposition.

13 If I, at any time, speak too
14 quickly, besides the court reporter,
15 please tell me that I'm speaking too
16 quickly and to slow down.

17 If I've posed a question to you,
18 please answer "yes" or "no," rather than
19 shaking your head yes or no or saying
20 "uh-huh" or "uh-uh," as they tend to look
21 very similar on the transcript.

22 As you see, the court reporter is
23 taking down everything that you and I will
24 be saying today. And so for us to have a
25 clean transcript, if you can agree with me

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1 SHERIFF DONALD J. KRAPP - September 19, 2024
2 that I will not interrupt you and you
3 won't interrupt me, and so we can allow
4 the court reporter to get everything down.

5 If at any point you need to take a
6 break -- I don't think you're going to be
7 here very long today -- but if for some
8 reason you need to use the restroom, I'll
9 only ask that you answer my question
10 first, and then we can take a break and
11 you can do whatever you need to do.

12 Is that okay with you?

13 A. That's fine.

14 Q. Okay. And you stated your name.

15 Is it okay if I just address you as
16 "Sheriff"?

17 A. Yes, sir.

18 Q. Awesome.

19 How long have you been the sheriff
20 of Columbia County?

21 A. Approximately three years.

22 Q. Okay. And what were you doing
23 before you were the sheriff?

24 A. I was employed at the Columbia
25 County Sheriff's Office in multiple

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1 SHERIFF DONALD J. KRAPP - September 19, 2024
2 positions.

3 Q. And the time prior to being
4 sheriff, what was your position?

5 A. First sergeant.

6 Q. As --

7 In your role with the Columbia
8 County Sheriff's Office, have you had any
9 responsibilities for dealing with any part
10 of the pistol permit applications?

11 A. Just as the department head, office
12 head, as the sheriff.

13 Q. As the sheriff now.

14 A. Correct.

15 Q. And what does that role entail?

16 A. Overseeing the Columbia County
17 Sheriff's Office in its entirety.

18 Q. Okay. Do you personally have any
19 involvement in accepting applications,
20 issuing applications to people that want
21 to apply, or anything with that process?

22 A. No.

23 Q. Who at your office would be the
24 person that has the most responsibility
25 with that process?

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1 SHERIFF DONALD J. KRAPP - September 19, 2024

2 A. Um, the accepting of the
3 applications?

4 Q. Yes, sir.

5 A. That would be Stephanie.

6 Q. Is Stephanie someone that answers
7 phones or speaks with potential applicants
8 about what the permit process entails?

9 A. Primarily, yes.

10 Q. And what's Stephanie's last name?

11 A. Hickey.

12 Q. H-I-C-K-E-Y?

13 A. Correct.

14 Q. Do you know if Stephanie spoke with
15 any of the plaintiffs in this case?

16 A. I do not.

17 Q. Have you spoken with any of the
18 plaintiffs in this case?

19 A. Not to my knowledge, no.

20 Q. Okay. Would it be something that a
21 sheriff would do, answer the phones and
22 talk to people that want to apply for
23 pistol licenses?

24 A. No.

25 Q. Okay. Can you explain what your

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2 office's role is in the pistol process?

3 A. We basically sell the permits to
4 those who fit the criteria, and receive
5 the permits, make sure they're completed
6 in their entirety, and forward them to the
7 Columbia County courthouse for judge --
8 for the judge or the licensing officer.

9 Q. Do you do any type of background
10 investigation on the applicant?

11 A. Um, we have the -- it goes from the
12 collection point, which is at the front
13 office. Then it will go to the
14 undersheriff. The undersheriff will do a
15 basic overview of the application to make
16 sure it's complete in its entirety and
17 then forward it to the licensing officer
18 at the courthouse.

19 Q. So the sheriff's office doesn't do
20 any type of -- make a sure he's not a
21 criminal, make sure he has his four
22 character references, or anything with the
23 references?

24 A. We just make sure it's complete in
25 its entirety. So the character references

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1 SHERIFF DONALD J. KRAPP - September 19, 2024
2 will need to be part and parcel to that
3 package.

4 Q. Okay. Do you accept out-of --
5 Do you accept applications for
6 out-of-state residents?

7 A. We do not.

8 Q. Okay. Are you familiar with New
9 York Penal Law Subsection 3 that discusses
10 where someone can apply for a permit?

11 A. Subsection 3 of what?

12 Q. Of Penal Law 400. Thank you.
13 Sorry.

14 A. Yes, I am familiar.

15 Q. Okay. And can you tell me what
16 those requirements are for someone to
17 apply?

18 A. They need to be a resident of the
19 county which -- a resident of the county.
20 They also need to have -- or have their
21 primary place of employment in that
22 jurisdiction. Or, I believe, the third
23 criteria is to be a storekeeper or shop
24 owner in that specific jurisdiction.

25 Q. Since your time at working with

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2 Columbia County Sheriff's Office,
3 including back before you were sheriff, do
4 you have any recollection of Columbia
5 County accepting out-of-state resident
6 applications?

7 A. Not to my knowledge, no.

8 Q. Are you familiar with the term
9 "reciprocity"?

10 A. Yes.

11 Q. Can you tell us what that means?

12 A. It means that, for example, what
13 would be accepted in New York would be
14 accepted in another state.

15 Q. Okay. Do you know if New York has
16 reciprocity with any other state?

17 A. I do not.

18 Q. I'm sorry, let me just clarify.
19 You don't know, or New York doesn't accept
20 any other permits?

21 A. Not that I'm aware of, no. I have
22 no idea if they do or do not. But it's my
23 understanding they do not.

24 Just for clarification, if I may.

25 Q. Yes, sir.

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2 A. Are you saying accepting permits or

3 --

4 * * * * *

5 (At which time, there was a
6 brief pause in the proceedings.)

7 * * * * *

8 A. Are you specifically asking if it's
9 reciprocity if a person possesses a permit
10 in New York State?

11 BY MR. STAMBOULIEH:

12 Q. Yes, sir.

13 A. No, New York does not.

14 Q. Does not accept permits from out of
15 state.

16 A. No.

17 Q. Okay. Who is Jacqueline Salvatore?

18 A. She is the undersheriff.

19 Q. Okay. Does she have any
20 information in the permitting process?

21 A. She reviews the permit to make sure
22 that it's complete.

23 MR. FITZSIMMONS: Just for a
24 point of order, we're using the
25 term "permit." I think we mean

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1 SHERIFF DONALD J. KRAPP - September 19, 2024
2 application.

3 MR. STAMBOULIEH: I do mean
4 that. Thank you.

5 Yes, the application process.

6 THE WITNESS: Thank you.

7 BY MR. STAMBOULIEH:

8 Q. Yes.

9 So she just reviews it for
10 completeness?

11 A. Correct.

12 Q. What about -- I'm going to say this
13 wrong -- Ian Boehme?

14 A. Boehme.

15 Q. Boehme?

16 A. He's the first sergeant in charge
17 of the civil division.

18 Q. Does he have any responsibilities
19 in the application process?

20 A. He oversees the front office, which
21 accepts the initial application.

22 Q. And Stephanie Hickey's job title is
23 what, again?

24 A. She is a, um -- technical title's
25 going to slip my mind. Um, she's a clerk

1 SHERIFF DONALD J. KRAPP - September 19, 2024
2 in the front office. The specific title
3 is slipping my mind.

4 Q. Like pistol permit clerk?

5 A. No, she's in charge -- well, she
6 would be in charge of receiving the pistol
7 permits, but she would not be the only
8 one. If she was out that day, there would
9 be someone else. She's a clerk, typist.

10 Q. How many licensing officials for
11 pistol applications or for issuing pistol
12 permits does Columbia County have?

13 A. To my knowledge, two.

14 Q. And can you identify them, please.

15 A. That would be Judge Howard and, um,
16 Judge Herman.

17 Q. Herman?

18 A. Herman, correct.

19 Q. Rensselaer County sheriff testified
20 that there's also a clerk that's involved.
21 Do you have a clerk in Columbia County
22 that's involved in the pistol application
23 process?

24 A. That person would reside at the
25 county clerk's office.

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2 Q. And who would Columbia County's
3 county clerk be?

4 A. Holly Tanner is the county clerk.

5 Q. Neither Judge Howard nor Judge
6 Herman nor Holly Tanner would be the
7 person responsible for accepting an
8 application from an applicant, would they?

9 A. Primarily, no.

10 Q. That would go to Ms. Hickey?

11 A. Or someone else in the front office
12 in her absence.

13 Q. Okay. Are you aware of the subject
14 matter of this lawsuit?

15 A. Yes.

16 Q. Okay. This might be a tricky
17 question, and I don't intend it to be.

18 How is it that two of the sheriffs,
19 both you and Sheriff Bourgault, are under
20 the impression that New York does not
21 allow out-of-state residents to apply for
22 permits?

23 A. Based off the criteria and the
24 wording of Penal Law 400, Sub 3.

25 Q. And you're basing that decision on

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2 New York State law?

3 A. Correct.

4 Q. Okay. Is there anything else that
5 that opinion is based upon?

6 A. No, just the wording of 400, Sub 3.

7 Q. Okay. And I guess I can ask it
8 differently.

9 Have you had any conversations with
10 anyone at the New York State Police asking
11 questions about whether or not you can
12 accept applications from out-of-state
13 residents?

14 A. No.

15 Q. Any attorney general opinions that
16 you base that position on?

17 A. No.

18 Q. And besides -- you haven't had any
19 conversations at all with the New York
20 State Police on nonresident permitting.

21 A. No.

22 Q. Okay. Are you aware that New York
23 City recently changed their law to allow
24 out-of-state residents to apply?

25 A. Yes.

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1 SHERIFF DONALD J. KRAPP - September 19, 2024

2 Q. Do you know why they did that?

3 A. No.

4 Q. Have you had any conversations with
5 New York City about why they did that?

6 A. No.

7 Q. Have you had any conversations with
8 your staff, Ms. Hickey or any of your
9 other staff, about accepting or not
10 accepting out-of-state applications for
11 permits?

12 A. Only briefly in regards to the --
13 you know, the wording of 400.3, to make
14 sure that we follow the guidelines that
15 are within that statute.

16 Q. Okay. And were those conversations
17 prior to this lawsuit or post this
18 lawsuit?

19 A. I honestly don't recall. I believe
20 it was prior.

21 Q. Okay. Does your office receive a
22 lot of phone calls, if you know, about
23 out-of-state permitting?

24 A. I do not know.

25 Q. Have you had any conversations with

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1 SHERIFF DONALD J. KRAPP - September 19, 2024
2 Stephanie Hickey about whether or not
3 either of the plaintiffs called her to ask
4 her about out-of-state resident
5 applications for permits?

6 A. No.

7 Q. Since you responded to our request
8 for admissions back in June, has your
9 office issued any -- or I'm sorry, has
10 your office accepted any out-of-state
11 permit applications?

12 A. Not that I'm aware of.

13 Q. If New York Penal Law Subsection 3
14 was changed or we get an order from the
15 court saying that you could accept
16 out-of-state permit applications, would
17 your office accept those?

18 A. If the law granted us the ability
19 to, absolutely.

20 MR. STAMBOULIEH: I'm going
21 to hand you what's been
22 previously marked as Exhibit 2.

23 MR. FITZSIMMONS: Yes,
24 recognized.

25 * * * * *

1 SHERIFF DONALD J. KRAPP - September 19, 2024

2 (At which time, Form PBB-3,
3 previously marked and identified
4 as Plaintiff's Exhibit 2 at the
5 deposition of Sheriff Kyle
6 Bourgault, was shown to the
7 witness.)

8 * * * * *

9 BY MR. STAMBOULIEH:

10 Q. Okay. If you'd take a minute to
11 review that, please, sir.

12 * * * * *

13 (Brief pause while witness
14 reviews document.)

15 * * * * *

16 A. Okay.

17 BY MR. STAMBOULIEH:

18 Q. Are you familiar with that form,
19 sir?

20 A. Very little knowledge of this form.
21 But I -- I have seen it before and do
22 recognize it.

23 Q. Can you identify what that form is?

24 A. It's the pistol and semiautomatic
25 rifle license application for the State of

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1 SHERIFF DONALD J. KRAPP - September 19, 2024
2 New York.

3 Q. Do you know if your office uses
4 this form for pistol applications?

5 A. Our application is unique to the
6 Columbia County Sheriff's Office, contains
7 all the information here within.

8 Q. So you use your own application?

9 A. Yes.

10 MR. STAMBOULIEH: Okay. Can
11 I have that form back, please.

12 (Document handed back to
13 counsel by the witness per
14 counsel's request.)

15 MR. STAMBOULIEH: Thank you,
16 sir.

17 MR. FITZSIMMONS: (Perusing.)

18 BY MR. STAMBOULIEH:

19 Q. Can I ask you to take a minute and
20 review that, please?

21 A. Yes.

22 * * * * *

23 (Brief pause while witness
24 reviews document.)

25 * * * * *

1 SHERIFF DONALD J. KRAPP - September 19, 2024

2 A. Okay.

3 BY MR. STAMBOULIEH:

4 Q. Can you identify what this packet
5 of information I handed you is?

6 A. It is a copy of the Columbia County
7 Sheriff's Office Pistol Revolver License
8 Application and Semi-Automatic Rifle
9 License Application.

10 Q. Okay. And if I can get you to flip
11 to the next page, is this the same part of
12 the application that I handed you that was
13 previously marked as Exhibit 2?

14 A. It appears to be, yes.

15 Q. Okay.

16 MR. STAMBOULIEH: I would
17 like this marked as the next
18 exhibit, which I believe is 4,
19 please.

20 (At which time, Mr. Kempf
21 exited the room.)

22 * * * * *

23 (Columbia County Sheriff's
24 Office Pistol/Revolver License
25 Application, Semi-Automatic

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1 SHERIFF DONALD J. KRAPP - September 19, 2024
2 Rifle License Application,
3 Application #2024-174,
4 consisting of 24 page(s), was
5 marked as Plaintiff's Exhibit 4
6 for identification as of this
7 date; attached hereto.)

8 * * * * *

9 (At which time, Plaintiff's
10 Exhibit 4 was shown to the
11 witness for review.)

12 * * * * *

13 BY MR. STAMBOULIEH:

14 Q. I'm going to hand you back Exhibit
15 4, sir.

16 If I can ask you to flip to the
17 first page -- on the back of the first
18 page, please.

19 * * * * *

20 (Brief pause while witness
21 reviews document.)

22 * * * * *

23 BY MR. STAMBOULIEH:

24 Q. And can I direct your attention to
25 where it says, "References."

1 SHERIFF DONALD J. KRAPP - September 19, 2024

2 A. Yes.

3 Q. Is this for character references
4 for the pistol application?

5 A. Yes.

6 Q. (Reading from Document)

7 It says here, "The references you
8 provide must reside in Columbia County."

9 Did I read that correctly?

10 A. Yes.

11 Q. If Columbia County were allowed, by
12 New York Penal Law 400, Subsection 3, to
13 accept applications from out-of-state
14 residents, how would they be able to get
15 -- how would those applicants be able to
16 get Columbia County residents to give them
17 references?

18 A. That, I can't answer.

19 Q. Is this a policy that you
20 implemented, or did this precede you?

21 A. This policy preceded my term in
22 office.

23 Q. If the law were changed or the
24 court ordered that you were, in fact,
25 allowed to accept applications, would you

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2 change this policy to allow out-of-state
3 or nonresident references?

4 A. I would have to review that to see
5 how we could actually make contact with
6 those individuals outside of our
7 geographical area of employment.

8 Q. would you agree with me that New
9 York State law does not require the
10 character references to have a residency
11 requirement for a county?

12 A. Yes.

13 Q. Okay. If I can ask you to look at
14 that PPB-3 right there.

15 A. (Indicating)?

16 Q. Yes, sir.

17 In Personal Information, it asks
18 for a New York driver's license number.

19 Do you see that?

20 A. Yes.

21 Q. Okay. Perfect.

22 (At which time, Mr. Kempf
23 re-entered the room.)

24 BY MR. STAMBOULIEH:

25 Q. And it doesn't specifically say

1 SHERIFF DONALD J. KRAPP - September 19, 2024
2 driver's license. It specifically says,
3 "New York driver's license."

4 A. Yes.

5 Q. Okay. And you don't get to change
6 anything on the PPB-3 form, do you?

7 A. No.

8 Q. Do you know who controls that form?

9 A. No, I do not.

10 Q. would it surprise you to learn that
11 the superintendent gets to approve this
12 form?

13 A. No, it would not.

14 Q. Does your office have any
15 responsibility to checking the four
16 character references that are provided to
17 you?

18 A. Do we have any responsibility?

19 Q. Yes, sir.

20 A. Yes, we do.

21 Q. And what's that responsibility?

22 A. To make sure that the addresses are
23 valid, the person's resided at the
24 address, and all the information listed is
25 correct.

1 SHERIFF DONALD J. KRAPP - September 19, 2024

2 Q. Do you physically contact these
3 references to make sure that they have
4 given you the correct address or any of
5 the information that they've listed on
6 their character reference sheet?

7 A. I would have to check on that
8 process with the undersheriff or someone
9 else who actually does that process.

10 Q. It's because you don't personally
11 do it, so you don't know.

12 A. I do not know the process of making
13 sure that all the information is correct.

14 Q. That's fair enough. That's fair
15 enough.

16 what happens to an application if
17 the person can't have four character
18 references return the form on time?

19 A. If there's -- if the form is
20 incomplete in any way, including the lack
21 of character references, it's not accepted
22 at our office, and it's not presented to
23 the licensing officer.

24 Q. Has that ever happened while you
25 have been working at the Columbia County

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1 SHERIFF DONALD J. KRAPP - September 19, 2024
2 Sheriff's Office?

3 A. I can't say for certain, but I'm
4 sure it has on several occasions.

5 Q. And I noticed in your application,
6 it says that you must have resided in
7 Columbia County for at least six months
8 prior to applying. Applicants must be a
9 legal resident of Columbia County for at
10 least six months?

11 A. That predated my term.

12 Q. Okay. And do you know why that's a
13 policy in Columbia County?

14 A. I do not, but I'm in the process of
15 finding out.

16 Q. Okay. Do you know --

17 And I don't, so I'm asking you, and
18 it's okay if you don't know.

19 Do you know if it's required under
20 New York law for someone to be a resident
21 of a specific county for six months prior
22 to applying for a license?

23 A. I have no knowledge of that being,
24 you know, a policy or a requirement.

25 Q. Okay.

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2 MR. STAMBOULIEH: I'm going
3 to hand you another document.

4 * * * * *

5 (At which time, what will
6 be marked Plaintiff's Exhibit 5
7 was shared with the witness and
8 all parties present.)

9 * * * * *

10 MR. FITZSIMMONS: (Perusing).
11 (Handing to Witness.)

12 BY MR. STAMBOULIEH:

13 Q. Can you identify that document
14 please, sir?

15 * * * * *

16 (Brief pause while witness
17 reviews document.)

18 * * * * *

19 A. I can.

20 BY MR. STAMBOULIEH:

21 Q. Can you tell us what that document
22 is, please?

23 A. This is a letter from my office as
24 -- identifying a personal character
25 reference.

1 SHERIFF DONALD J. KRAPP - September 19, 2024

2 Q. And if you would flip to the back
3 of that page.

4 (The witness complied with
5 counsel's request.)

6 BY MR. STAMBOULIEH:

7 Q. What is that?

8 A. This is the references information.

9 Q. Okay.

10 MR. STAMBOULIEH: I would
11 like this marked as Exhibit 5,
12 please.

13 * * * * *

14 (Columbia County Sheriff's
15 Office references information
16 document, consisting of 2
17 page(s), was marked as
18 Plaintiff's Exhibit 5 for
19 identification as of this date;
20 attached hereto.)

21 * * * * *

22 (At which time, Plaintiff's
23 Exhibit 5 was shown to the
24 witness for review.)

25 * * * * *

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2 BY MR. STAMBOULIEH:

3 Q. (Reading from Document)

4 I'm going to hand back what's been
5 marked as Exhibit 5, and I want to direct
6 your attention to Number 6 on this form,
7 where it says, "Do you recommend the
8 issuance of a pistol license?"

9 Do you see that?

10 A. Yes.

11 Q. Now, this is going to a character
12 reference, right?

13 A. Yes.

14 Q. Do you know, if someone on a
15 character reference form says no to this
16 question -- I don't recommend the issuance
17 of a pistol license -- do you know how
18 that's interpreted by your office in the
19 application process?

20 A. To the best of my knowledge, the
21 only interpretation is that the form is
22 completed in its entirety and then sent to
23 the licensing officer.

24 Q. So you don't care what the answers
25 are as long as the form is completed.

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2 A. No.

3 Q. Okay. So if someone left Number 6
4 blank because they didn't want to say
5 "yes" or "no," then is that an incomplete
6 application?

7 A. It could be seen as one if there
8 was other missing criteria on the form.

9 Q. Is there a specific amount of time
10 that someone needs to know a character
11 reference before that character reference
12 is accepted?

13 A. Not to my knowledge.

14 Q. Okay. Since the plaintiffs filed
15 this lawsuit, have you had any
16 conversations with Stephanie Hickey about
17 what she says on the phone about not
18 accepting out-of-state applications?

19 A. Personally, no.

20 Q. Okay. Have you instructed any of
21 your undersheriffs, first sergeant, anyone
22 to have conversations about not accepting
23 or accepting out-of-state pistol
24 applications?

25 A. To the best of my knowledge, the

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2 only conversation that was had is to
3 ensure that we were complying with Penal
4 Law 400.3.

5 Q. I think I already asked you this,
6 but I'm going to ask it again, so my
7 apologies. If you were allowed to accept
8 them, in your opinion, out-of-state
9 applications, would your office accept
10 them?

11 A. If New York State law allowed us to
12 sell an application to someone out of
13 state, we would sell an application to
14 someone out of state.

15 Q. Now, when you say "sell," what do
16 you mean by that?

17 A. Provide an application. Um, it
18 costs -- there's a fee for the
19 application.

20 Q. Uh-huh.

21 A. So it's selling the application.

22 Q. Oh, okay.

23 A. Hopefully, that's understandable.
24 Provide an application, make sure that
25 one's available.

1 SHERIFF DONALD J. KRAPP - September 19, 2024

2 Q. It's understandable now that you
3 said that. I was just making sure.

4 Do you have any personal opinions
5 on whether it's constitutional to not
6 allow someone like me -- take me, for
7 instance; I don't live in New York, don't
8 own property, don't work in New York -- to
9 not allow me to carry a handgun for
10 self-defense?

11 A. As a sheriff, I don't give personal
12 opinions.

13 Q. What a great answer.

14 MR. STAMBOULIEH: That's all
15 the questions I have for you,
16 Sheriff.

17 THE WITNESS: Thank you, sir.

18 MR. STAMBOULIEH: Thank you.
19 I'll tender the witness.

20 MR. FITZSIMMONS: No
21 questions.

22 MR. THOMPSON: Just a handful
23 of quick questions from us.

24 Sheriff, thank you very much.
25 My name is James Thompson. I'm

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2 from the Attorney General's
3 office, and we represent the
4 Superintendent of State Police.
5 Just a couple of very quick
6 questions.

7 EXAMINATION

8 BY MR. THOMPSON:

9 Q. First of all, are you or your
10 office in any way an agent of the state
11 police?

12 A. No.

13 Q. Does the state police have any
14 authority over your office accepting or
15 not accepting an application for a pistol
16 permit?

17 A. No.

18 Q. And does the state police have any
19 authority over the ultimate decision of
20 the licensing officer on that permit
21 application?

22 A. Not that I'm aware of.

23 MR. THOMPSON: That's all I
24 have. Thank you.

25 MR. KEMPF: I don't have

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2 anything.

3 MR. STAMBOULIEH: Okay.

4 Do you want to explain to him
5 about reading and signing?

6 MR. FITZSIMMONS: Sure.

7 what's going to happen is,
8 this transcript's going to be
9 generated by the court reporter,
10 and it will be presented to you
11 to review. And at that time,
12 you can review it, and there
13 will be a correction sheet.

14 If you find anything that
15 needs to be corrected, you would
16 make that correction and sign
17 the deposition transcript as
18 accurate and return it.

19 THE WITNESS: Understood.

20 THE REPORTER: Before I
21 conclude the record, does
22 Rensselaer County order a copy
23 of today's transcript?

24 MR. KEMPF: Yes, we will.

25 THE REPORTER: Thank you.

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1

2

And does the AG's office
order a copy of today's
transcript?

4

5

MR. THOMPSON: Yes. Just one
copy.

6

7

THE REPORTER: Thank you.

8

* * * * *

9

10

(Whereupon, the examination
of SHERIFF DONALD J. KRAPF
concluded at 12:16 p.m.)

11

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This is the Deposition of

3

SHERIFF DONALD J. KRAPP

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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DEPONENT'S CERTIFICATE

STATE OF _____:

COUNTY/CITY OF _____:

Before me, this day, personally appeared SHERIFF DONALD J. KRAPP, who, being duly sworn, states that the foregoing transcript of his/her Deposition, taken in the matter, on the date, and at the time and place set out on the title page hereof, constitutes a true and accurate transcript of said deposition.

SHERIFF DONALD J. KRAPP

Signed and subscribed to before me
this ____ day of _____, 20__.

NOTARY PUBLIC, STATE OF NEW YORK

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1 DEPONENT'S DECLARATION

3 DECLARATION UNDER PENALTY OF PERJURY

4 I, SHERIFF DONALD J. KRAPP, 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 DONALD J. KRAPP
21
22
23
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 DONALD J. KRAPF

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 DONALD J. KRAPF

25

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1 ERRATA SHEET

2 Page Line CORRECTION

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23 Signature_____Date_____

24 SHERIFF DONALD J. KRAPF

25

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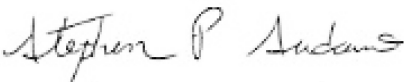
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1 REPORTER'S CERTIFICATION

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.

Witness: SHERIFF DONALD J. KRAPP

JAMES, et al.

Held: Thursday, September 19, 2024

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