

IN THE COUNTY COURT FOR
PINELLAS COUNTY, FLORIDA
Criminal Division E

-----x CASE NO. CTC 01-00101-MMANO
STATE OF FLORIDA : POSSESSION OF MARIJUANA
: :
vs. : :
: :
JESSE PRINCE : :
SPN 02157727 : :
-----x

ORIGINAL

DEPONENT: MR. JOSEPH FABRIZIO
DATE: May 18, 2001
TIME: 2:20 p.m. - 3:15 p.m.
LOCATION: Criminal Justice Center
14250 49th Street North
Room 1100
Clearwater, FL 33762
REPORTER: Crissy Cladakis
Stenographic Reporter
Notary Public
State of Florida at Large

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I N D E X

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1 BY MRS. WARDELL: I just wanted to place on
2 the record that yesterday the Court ordered this
3 deposition and it was the defense request to take this
4 deposition. He did go ahead and abrogate the private
5 investigative privileges, I understood, in order for
6 you to appear today.

7 In furtherance of your appearance, my office
8 prepared a subpoena to that effect, but it wasn't
9 intended or to be construed as the State subpoena.
10 And therefore, it doesn't carry with it the immunities
11 that would normally carry with it. I just wanted to
12 make sure there's no false impressions with regards to
13 that.

14 THE DEPONENT: Okay.

15 -----
16 **JOSEPH FABRIZIO,**

17 WAS CALLED AND AFTER BEING DULY SWORN WAS EXAMINED AND
18 TESTIFIED AS FOLLOWS:

19
20 DIRECT EXAMINATION

21 BY MR. de VLAMING:

22 Q. Are we ready?

23 A. Yeah.

24 Q. Would you please state your full name.

25 A. Joseph C. Fabrizio.

1 Q. Spell your last name.

2 A. F-a-b-r-i-z-i-o.

3 Q. And your date of birth, Joe?

4 A. 3/15/45.

5 Q. And what do you do for a living?

6 A. Retired law enforcement officer and I'm a
7 private investigator and president of J.F. Charles &
8 Associates, Incorporated.

9 Q. And is that a private investigative firm?

10 A. Yes, it is.

11 Q. Who is Mr. Charles?

12 A. That's my middle name.

13 Q. Oh, okay. You are Mr. Charles or there is no
14 Mr. Charles, one of the two?

15 A. I'm one -- being Italian, it's very difficult
16 for people to pronounce my name, so I figured they
17 can't go wrong with Charles. So subsequently, I named
18 the corporation J.F. Charles and Associates, Inc.

19 Q. And how long have you been a private
20 investigator?

21 A. Since August 5th, 1993.

22 Q. And are you licensed to carry a firearm?

23 A. Yes, I am.

24 Q. Are you licensed as a PI or do you have a
25 concealed firearm permit or both?

1 A. I have the W license to carry as a Florida
2 citizen. I also have a G license, statewide permit,
3 to carry a loaded, concealed weapon on my person.

4 Q. And you said you had prior law enforcement
5 experience. What would that have been?

6 A. Twenty-five years retired as a detective,
7 Mercer County Prosecutor's Office, Mercer County, New
8 Jersey.

9 Q. Did you do any private investigative work in
10 New Jersey or did that start once you came to Florida?

11 A. It's a conflict of interest in New Jersey, so
12 it started in Florida.

13 Q. As a private investigator, were you hired on
14 a particular job that involved working with a man,
15 another private investigator, by the name of Barry
16 Gaston?

17 A. That's correct.

18 Q. Do you remember when that work began?

19 A. Approximately, February the 7th. Although, I
20 had meetings with him the later part of January,
21 beginning of February.

22 Q. How were you introduced to him?

23 A. Barry --

24 MRS. KOBRIN: Can we just clarify what year
25 you're talking about, then. He didn't say what year.

1 BY MR. de VLAMING:

2 Q. I'm assuming the year 2000.

3 A. Yes. Barry belongs -- in response to your
4 question, Barry belongs to a professional private
5 investigator's association called FALI, Florida
6 Association of Licenced Investigators, and he is a
7 member and I am also.

8 Q. How did you locate him?

9 A. I was -- I knew of him. And I was introduced
10 to him by one of the regional directors.

11 Q. Why was he chosen for this particular task?

12 A. Because the area in which we were going to be
13 working was a black neighborhood. So therefore, I had
14 to use a black investigator.

15 Q. Had you worked with Mr. Gaston before this
16 project?

17 A. No.

18 Q. And did you explain to Mr. Gaston what his
19 job duties would be?

20 A. Yes.

21 Q. Were they basically surveillance?

22 A. Investigative. Basically, it was to acquire
23 information, intelligence. That was the purpose.

24 Q. For what purpose to require intelligence
25 information?

1 A. To ascertain their -- basically, when I was
2 hired from -- by the law firm, they wanted -- it was a
3 security matter where -- to protect -- for the
4 protection of the members of the congregation.

5 Q. Congregation of what?

6 A. The congregation of the church.

7 Q. Of Scientology?

8 A. Yes.

9 Q. And was one person thought to be a breach to
10 that security?

11 A. Well, there was -- it was indicated to me
12 that -- that there was --

13 MRS. KOBRIN: I just want to assert a
14 work-product objection to the extent it's not related
15 to this investigation.

16 BY MR. de VLAMING:

17 Q. Okay. Related to this investigation, then.

18 A. There was a continuing harassment of both
19 members and staff. There was -- there was a number of
20 occasions where people, members, and the staff were
21 targeted as Scientologists, so it was my duties to
22 gain -- get intelligence and gain information with
23 respect to people that may be involved or responsible.

24 Q. And was Jesse Prince the primary target in
25 this particular project?

1 A. I wouldn't call him a target. He was one
2 individual, in particular, that we were looking at.

3 Q. As it related to Mr. Gaston's duties, were
4 there any other individuals involved, or was it
5 primarily Mr. Prince?

6 A. Well, Barry Gaston subcontracted with me, so
7 I was responsible for Barry Gaston.

8 Q. In other words, he reported to you?

9 A. Yes, he did.

10 Q. But my question is: Did Mr. Gaston -- was he
11 hired specifically to investigate Jesse Prince?

12 A. Well, to gain information and intelligence
13 about Mr. Prince.

14 Q. But it was Mr. Prince involving Mr. Gaston,
15 not Mr. Prince and others?

16 A. No, not necessarily. If there were others,
17 then it would have been indicated in the reports.

18 Q. Okay.

19 A. Basically, the information I'm giving you is
20 what is contained in the reports that were written by
21 Mr. Gaston.

22 Q. Did you write any written reports?

23 A. No, I did not.

24 Q. Did you take any notes of any of your
25 meetings?

1 A. No, I did not.

2 Q. Did you have an opportunity to review the
3 notes that have been given to us by Mr. Gaston?

4 A. Oh, yes.

5 Q. To your knowledge, are they accurate?

6 A. Yes.

7 Q. In those notes, he talks about, basically, at
8 the end of each chronicle day having a meeting. Most
9 of the meetings seem to be with you and some with you
10 and Raftery, and some with you Raftery and Raftery's
11 son. I think there was a couple of them with his son.

12 What would the purpose of those
13 end-of-the-day meetings be?

14 A. Basically what had occurred, what information
15 was obtained, discussed different strategies on how we
16 can legally -- without violating the law or doing
17 anything unethical or immoral in order to obtain the
18 results. I always -- I always stress that it has to
19 be within the law. We can't violate anyone's rights.

20 Q. Well, for example, many of these beginning
21 meetings -- not meetings, reports chronicle Gaston
22 going to a lounge in a black community called
23 Maccabee's?

24 A. That's correct.

25 Q. I think it's Maccabee's, M-a-c-c-a-b-e-e-s.

1 A. Yes, I'm familiar with it.

2 Q. And in the beginning, Mr. Prince didn't show
3 up. There were quite a few in the beginning where
4 they would surveil -- Gaston would sit at a bar stool.
5 He would wait and he would chronicle the time and so
6 forth, and finally say that he didn't come into the
7 target section, is the way he put it, and he would
8 leave.

9 Would you have meetings at the end of the day
10 about what should be the done the next day in order to
11 try to conduct proper surveillance?

12 A. Yeah. And I would -- I would -- we would
13 discuss different strategies on how we can obtain and
14 gather intelligence and information.

15 Q. Would you ever receive communications
16 primarily by telephone from other PIs, particularly
17 Brian Raftery, of the whereabouts of Mr. Prince so
18 that he could be surveilled at those given locations?

19 A. That's correct.

20 Q. And did you, yourself, ever call Barry Gaston
21 and give him a lead as to where he might find
22 Mr. Prince?

23 A. Yes.

24 Q. And when they went to these places, what was
25 Mr. Gaston's responsibilities as far as interacting

1 with Prince?

2 A. Well, he wasn't -- he wasn't instructed to
3 interact, personally, with Mr. Prince. He was to --
4 he was there to -- again, to observe. He was an
5 extension of me. He was my eyes and ears. And
6 actually, it was Mr. Prince who, from the outset,
7 started a relationship with Barry Gaston.

8 Q. When Mr. Gaston first came back to you and
9 said that he had met Mr. Prince and Mr. Prince's
10 girlfriend, I believe the first time was at Wilson's
11 Liquor Store where there were pleasantries
12 expressed --

13 A. Right.

14 Q. -- did you have a meeting with him after that
15 and did he tell you that he had actually shaken his
16 hand and met him?

17 A. Oh, yes, yeah.

18 Q. Were there any directions given to Mr. Gaston
19 as far as pursuing a friendship with Mr. Prince?

20 A. I told him that he can continue to do
21 whatever he felt comfortable with as long as it didn't
22 violate anyone's rights.

23 Q. Did he ultimately tell you that he forged a
24 friendship with Mr. Prince and that Mr. Prince had
25 invited him to his home?

1 A. He told me that Mr. Prince had invited him to
2 his house; that anytime he was in the area, that he
3 could stop in with a friend or without a friend and
4 give him a call.

5 Q. And again, was that discussed with
6 Mr. Gaston, as far as how far he could take it? In
7 other words, whether he could go to the Prince home
8 and go inside Mr. Prince's house?

9 A. I told him if he felt comfortable. I wasn't
10 ordering him to do that, but if he felt comfortable in
11 gaining entrance to the house, it was fine with me.

12 Q. Since the subject came up of him potentially
13 going into the Prince household, was he given any
14 instructions about what he has to do inside
15 Mr. Prince's house at all?

16 A. There were no instructions whatsoever as to
17 what he should do or look for while in the residence.

18 Q. Okay. Was the purpose of this investigation,
19 though, to see if Mr. Prince was doing anything
20 illegal or immoral?

21 A. It was initially to gather -- the way it was
22 presented to me by Mr. Kendrick Moxon was to gather
23 information.

24 MRS. KOBRIN: All right. I want to make sure
25 you're limiting this precisely to this investigation.

1 Because anything outside of this is work product or
2 investigator's privilege, and that is not abrogated if
3 it's not directly related to this.

4 MR. de VLAMING: Yeah, to this investigation,
5 right.

6 THE DEPONENT: Would you restate the
7 question, then?

8 MR. de VLAMING: Yeah.

9 Can you read it back?

10 COURT REPORTER: Yes.

11 MRS. WARDELL: Well, what was your
12 directive --

13 MR. de VLAMING: That's all right.

14 MRS. WARDELL: -- as it relates to
15 Mr. Gaston's involvement?

16 THE DEPONENT: Well, I mean, in other words,
17 it wasn't -- he wasn't told to go into the house. I
18 told him that if he felt comfortable with that, that
19 was fine, but he was not going in there with the
20 intent or the instructions of me to look for any
21 illegal activity. It was to maintain -- to gather
22 intelligence and information.

23 BY MR. de VLAMING:

24 Q. And just a little bit more pointed than
25 Mrs. Wardell's question: Was part of this

1 investigation to find out whether Mr. Prince, in his
2 life, was doing anything illegal or immoral and report
3 back to your employer?

4 A. I would say that if there was something
5 illegal being -- that was being done that was illegal,
6 that would be reported to me. But that wasn't the
7 expressed intent and purpose of him to gain entrance
8 to the house or his car or cars or anything like along
9 those lines.

10 Q. What information was sought that ultimately
11 was to be used for some benefit?

12 A. Well, there is -- it was mentioned to me that
13 there may be future litigation, and if we could
14 impeach this subject based upon the information that
15 we got, then we could utilize that or the law firm
16 could utilize that to their benefit.

17 Q. Now, how long did this investigative project
18 of Mr. Prince, in this case, take?

19 A. February 7th to approximately August 13th or
20 up until the point when was arrested.

21 Q. Did you, yourself, ever make any calls to
22 either the police department, Largo Police Department,
23 or the office of the state attorney concerning this
24 investigation?

25 A. No. At the time -- I personally did not. At

1 the time I -- at the time I realized that it was -- it
2 was going to be criminal, then I knew that it was our
3 obligation to notify the necessary authorities.

4 Q. What did you learn from Mr. Gaston that lead
5 you to believe that the investigation had turned
6 criminal?

7 A. When Jesse Prince told them, would you like
8 to see my pets. And he took them out to the pool deck
9 area and he showed them a variety of marijuana plants,
10 some as high as 5 feet, some less than 3 feet. And
11 Mr. Gaston, having 14 -- almost 15 years of law
12 enforcement experience, knew what marijuana plants
13 looked like, and it was at that point.

14 And then during that same particular time,
15 Mr. Jesse Prince went into a bedroom. He exited the
16 bedroom with a metal -- a metallic, metal box with a
17 -- black with a flower pattern on it, opened it up and
18 proceeded with papers, probably Zig Zag Papers and
19 started to roll a joint. And there were other seeds
20 and other residue in that same box. He smoked a joint
21 and passed it to around to Deneen.

22 And on the first occasion was -- it was
23 denied, Barry denied putting it anywhere near him.

24 Q. About when was that? About what date was
25 that?

1 A. I don't -- it's not contained in the reports.
2 I wouldn't be able to give you a specific date;
3 although, I'm familiar with the report.

4 Q. Is that before law enforcement became
5 involved?

6 A. Yes. That's just prior to it.

7 Q. Did Mr. Gaston ever tell you that he
8 possessed marijuana during the course of this
9 investigation of Jesse Prince?

10 A. That he possessed? Clarify that for me, will
11 you.

12 Q. Did he hold something in his hand that
13 appeared to be marijuana?

14 A. At some point, he mimicked what -- by placing
15 the cigarette near his lips to mimic that he was
16 smoking the cigarette. Because most people that use
17 drugs want their associates or friends to partake of
18 the drug.

19 He did not inhale it. Barry is very straight
20 and narrow. He doesn't even smoke cigarettes. He's
21 not a drinker.

22 Q. Did he tell you about how many times that he
23 held marijuana in his hands and simulated the smoking
24 of the marijuana?

25 A. It was only -- there was only two occasions

1 that I'm aware of -- or three, three occasions; once
2 in the presence of the undercover law enforcement
3 officer who had to do the same.

4 Q. And did --

5 A. And two other times; once in a car, in the
6 back seat of a car, and once in the house.

7 Q. And did any of those take place before
8 Mr. Crosby contacted him to make him a confidential
9 informant?

10 A. There was two instances; once at the house,
11 once when Barry was in the back seat of a car. There
12 was two females that were friends of Deneen and
13 Jesse's who were coming in from Memphis, Tennessee,
14 and Jesse wanted them to bring marijuana, drugs, and
15 they were. So what they did was they bought oversized
16 bras. They stuffed their bras with bags of marijuana,
17 got on a commercial airline and flew in. Nobody
18 checked them or bothered to check.

19 Q. I think my question was: Did Barry Gaston
20 possess marijuana before he became a confidential
21 informant as it relates to this investigation?

22 A. He didn't possess it. He held the cigarette
23 in the back seat of the car.

24 Q. Well, how is that not possession?

25 A. Well, I mean, when you say "possession," that

1 could mean many things. I cannot hold a cigarette up
2 to my mouth and possess it in my pocket.

3 Q. Right.

4 A. He mimicked smoking with Jesse behind the
5 wheel and Deneen in the passenger seat. But of course
6 -- and in a dark car, they couldn't tell whether or
7 not he was actually -- he was just mimicking what a
8 person who uses marijuana would do with that
9 cigarette.

10 Q. I think the confusion of the question is,
11 you're talking about simulating the smoking of it.
12 I'm talking about possessing it or touching it or
13 holding it.

14 So my question is: Did Barry Gaston possess
15 marijuana -- and I'm not talking about inhaling it,
16 did he possess it before he became a confidential
17 informant?

18 A. He -- the cigarette was passed from Jesse to
19 Deneen, to Deneen to Barry and Barry back to Jesse.

20 Q. Before he became a confidential informant?

21 A. That's correct.

22 Q. All right. Now, you're a private
23 investigator?

24 A. That's correct.

25 Q. Are private investigators allowed to possess

1 drugs as part of their duties?

2 A. It depends on the situation and the case that
3 you're working on in that -- let me clarify that. As
4 long as you notify the authorities that the case that
5 you're working on may or may not be criminal, and you
6 advise the proper authorities -- in order to
7 facilitate working on the case, you may have to hold
8 -- hold the cigarette.

9 Q. Have you ever --

10 MRS. KOBRIN: I'm going to object to this
11 question on the basis that it calls for a legal
12 conclusion. I'm not sure he's qualified to do that.

13 MR. de VLAMING: Okay. Let me ask it this
14 way. I'll ask it in a factual way.

15 MR. de VLAMING:

16 Q. Have you ever contacted a local law
17 enforcement agency in and around Pinellas County that
18 would give you permission to possess drugs as a
19 private investigator when they are not directly
20 supervising you?

21 A. I have never inquired about that, because
22 I've never ran into this type of situation.

23 Q. But you believe that you would be able to do
24 that?

25 A. I really -- really, I'm not qualified to

1 answer that. I would want to research it.

2 MRS. WARDELL: Can I just ask something?

3 MR. de VLAMING: Go ahead.

4 MRS. WARDELL: With regards to the testimony
5 that you're giving today in answering these questions,
6 are you relying on the information contained in the
7 reports that Barry Gaston wrote as far as dates?

8 THE DEPONENT: That's correct.

9 MR. de VLAMING: Go ahead, if you want to
10 follow up.

11 MRS. WARDELL: Well, I just wanted to place
12 on the record that April 15th was the date that the
13 defendant referred to the plants as his "pet" at his
14 home when Mr. Gaston was there. April 22nd was the
15 date at Wilson's where he observed the drugs in the
16 car, what he believed to be cocaine and crack.
17 April 24th is when law enforcement is verbally
18 notified. May 5th is when Mr. Gaston gets in the car
19 with the marijuana. That may change a little bit,
20 either way.

21 THE DEPONENT: Okay. Thank you.

22 MRS. WARDELL: And it's my understanding,
23 based on the reports, neither the 15th or the 22nd he
24 consumed or participated in the passing, but perhaps
25 participated on May 5th.

1 BY MR. de VLAMING:

2 Q. You would not say, though, based upon the
3 reading of the reports, that Mr. Gaston possessed or
4 passed marijuana in this investigation more than a
5 half-dozen times or a half-dozen or more times?

6 A. To my knowledge, three times. And that
7 includes when Howard Crosby, known as a/k/a Mitch, was
8 in the house and also was passed the marijuana
9 cigarette.

10 MRS. KOBRIN: I want to clarify something on
11 the record. He's saying to his knowledge, but I want
12 to make sure it's clear that he has no firsthand
13 knowledge.

14 MR. de VLAMING: Right, right.

15 MRS. KOBRIN: He didn't personally observe
16 any of this.

17 MR. de VLAMING: Correct. To his understand
18 it was three times, approximately.

19 MRS. KOBRIN: So --

20 THE DEPONENT: I have never seen Jesse
21 Prince. Jesse Prince has never met me. I've never
22 been by Jesse Prince's house. I don't even know what
23 his house looks like. I know what the address is,
24 only.

25 BY MR. de VLAMING:

1 Q. Have you ever surveilled him yourself?

2 A. Absolutely no.

3 Q. Is this the first project concerning Jesse
4 Prince that you've been on?

5 A. That's the only project, yeah.

6 Q. Have you done other work for The Church of
7 Scientology?

8 MRS. KOBRIN: Objection. Outside the scope.

9 A. It's not relevant.

10 BY MR. de VLAMING:

11 Q. Can you tell me approximately how much you
12 got paid for this particular project?

13 A. That's personal.

14 MR. de VLAMING: No, I think the prosecutor
15 will tell you that's cross-examinable.

16 MRS. WARDELL: You can answer the question.

17 THE DEPONENT: How much in dollars and cents?

18 MR. de VLAMING: Yes, sir.

19 MRS. KOBRIN: If you know, for this project.

20 THE DEPONENT: I really don't know. I'd have
21 to --

22 MRS. WARDELL: Is it an hourly rate?

23 THE DEPONENT: An hourly rate, I would say.

24 MRS. WARDELL: How many hours did you spend
25 as it relates to the involvement of Barry Gaston?

1 THE DEPONENT: This is now 2001, May 2001. I
2 -- those records are shredded. I just use them for
3 income tax purposes only.

4 BY MR. de VLAMING:

5 Q. Well, let me see if I can help you.
6 Mr. Gaston said he was paid approximately \$7,000. And
7 from reading all of this, it appears as if you were
8 the PI closest to working with him of the PIs
9 assigned.

10 Does that help you in arriving at
11 approximately how much you were paid for this
12 particular assignment?

13 A. It would only be a guesstimate, and I really
14 wouldn't want to mention a number and then find out
15 that my number is either under or over.

16 Q. What is your hourly rate?

17 A. Fifty dollars an hour.

18 Q. Can you guesstimate the number of hours you
19 put into this project?

20 A. There was a time when I could have given you
21 the exact number of hours. Now I could not, in all
22 honesty.

23 Q. Did you know that a warrant was going to be
24 issued for the search of Jesse Prince's house?

25 A. I knew that. Although I didn't participate

1 in the meeting, I knew that Barry was going to be
2 meeting with the authorities.

3 Q. But did you know that a warrant was going to
4 be issued?

5 A. No, I did not.

6 Q. It appears as if Brian Raftery videotaped
7 Mr. Prince's arrest by being across the street, and
8 that has been provided to us by your lawyer to the
9 left.

10 Were you aware that it was going to be
11 videotaped?

12 A. No, I was not. In fact, I didn't even -- I
13 wasn't even aware he was going to be across the street
14 or anything.

15 Q. When Mr. Gaston was in town, did you often
16 speak with Mr. Raftery to get his aid and assistance
17 in locating Mr. Prince so you could pass it on to
18 Mr. Gaston?

19 A. Oh, yeah.

20 Q. What were Mr. Raftery's duties in respect to
21 this particular investigation?

22 A. Well, I'm an agency owner and so is Barry and
23 so is Brian, so I really didn't get involved. He
24 wasn't subcontracted with me, so therefore I didn't
25 know. It was on a need-to-know basis, so I really

1 didn't question him about that.

2 Q. It seems from these report that you all met
3 rather regularly, however, and discussed strategy and
4 what to do the following day and so on and so forth.

5 Did you have certain duties and obligations
6 and did Mr. Raftery have certain duties or obligations
7 or were you just told to work together?

8 A. I don't know. I didn't -- Brian Raftery did
9 not work for me. He wasn't accountable to me;
10 however, Barry was. So I was responsible for Barry.
11 And if Brian wanted certain things done, he would have
12 to go through me to get -- in order for me to -- in
13 other words, Barry took orders -- did not take orders
14 from Brian Raftery.

15 Q. You were the one he reported to?

16 A. He reported to me, yes.

17 Q. But Mr. Raftery helped out as far as
18 surveillance of Mr. Prince so it could be passed on to
19 either you or Mr. Gaston?

20 A. He would indicate where we might find
21 Mr. Prince, where he might be, where he was at one
22 particular time or another.

23 Q. From February to August of the year 2000,
24 did Mr. Raftery on almost a daily basis, at some time
25 during the day, surveil Mr. Prince, to your knowledge?

1 A. Not to my knowledge.

2 Q. If he did, he didn't report to you or tell
3 you?

4 A. Yeah, if he did, I was unaware of it.

5 Q. Did Mr. Gaston ever tell you that at the
6 Prince house, when the two ladies had come into town
7 to visit Deneen -- that's Jesse fiancee -- that he got
8 intoxicated?

9 A. No, he did not.

10 Q. So intoxicated that he was asked to stay at
11 the house and offered a place to sleep so that he
12 wouldn't drive?

13 A. It was -- I was led to believe that not
14 because he was inebriated or intoxicated, they were
15 offering that as a -- just as a convenience so he
16 didn't have to drive as far as he would have.

17 Q. Do you know the incident I'm talking about,
18 when the two ladies who came into town and they all
19 were at Mr. Prince's residence?

20 A. Right.

21 Q. Did you meet with Brian -- excuse me. Did
22 you meet with --

23 MRS. WARDELL: Gaston?

24 MR. de VLAMING: Thank you.

25 BY MR. de VLAMING:

1 Q. -- that evening?

2 A. Did I meet with Barry?

3 Q. Yes.

4 A. Oh, yes.

5 Q. That evening?

6 A. Yes.

7 Q. After he had left the girls?

8 A. He had indicated that there was two woman
9 that had stuffed their bras with narcotics.

10 Q. So you can say he was not intoxicated that
11 night?

12 A. No. His -- he wasn't -- he wasn't swaying.
13 He was standing outside the car. His speech wasn't
14 slurred.

15 Q. Okay.

16 MRS. WARDELL: For the record, that was
17 July 28th.

18 BY MR. de VLAMING:

19 Q. Does that sound about right, July 28th?

20 A. Yes.

21 MRS. WARDELL: Into the early morning hours
22 of the 29th.

23 BY MR. de VLAMING:

24 Q. Did Mr. Gaston ever discuss Deneen's
25 children, two boys?

1 A. Yeah. I believe they were nine and thirteen.
2 And him being a father, he was concerned that drugs
3 were being cultivated in a pool area where the
4 children used the pool and drugs were also passed and
5 openly used in the living room while the children were
6 in the house.

7 Q. So your answer to my question, did he mention
8 that they had children, was yes?

9 A. Yes.

10 Q. Okay. Did he ever mention taking any
11 evidence out of the Prince home while he was an
12 invited guest?

13 A. No, not to my knowledge.

14 Q. Let me read something to you. Tell me
15 whether you recall reading this. This is July 3rd,
16 while he was a confidential informant, and this is at
17 the Jesse Prince residence.

18 "This writer noticed a marijuana plant in a
19 white ceramic flower pot. This writer pulled off a
20 leaf to be sure it was marijuana. It was later found
21 to be marijuana. The pot was sitting on a table
22 toward the southwest of the pool."

23 Did he ever mention that he took evidence
24 without a warrant from Jesse Prince's house?

25 A. No.

1 Q. Did you read this report?

2 A. I read that. But I'm saying I was not aware
3 of that.

4 Q. Did you question him and tell him that the
5 removal of any evidence from a house without a warrant
6 would be illegal?

7 A. It's illegal search and seizure, yeah.

8 Q. Did you discuss it with Mr. Gaston when you
9 read this?

10 A. Well, after I read the report, I discussed it
11 with him. But I wasn't aware of it prior to the
12 report.

13 Q. Do you remember what he said in response to
14 you telling him it was illegal?

15 A. Yes.

16 Q. What did he say?

17 A. He wanted to make sure that it was -- it was
18 in fact tested and to be marijuana.

19 Q. Do you remember where it was tested?

20 A. I have no knowledge of that.

21 Q. Well, was it tested in a lab or was it tested
22 in a private solution?

23 A. I have no way of answering that. I really
24 don't know.

25 Q. You know it was tested, but you don't know

1 where or how?

2 A. I was -- based upon what he told me, it was
3 tested and I didn't -- we didn't go any further.

4 MRS. WARDELL: Did he bring it to the
5 attention of law enforcement?

6 THE DEPONENT: I imagine so. I really can't
7 answer that. I don't know because all the
8 conversations between the undercover agent and Barry
9 were kept confidential from me.

10 MRS. WARDELL: After you read it, did you
11 bring it to the attention of law enforcement?

12 THE DEPONENT: I had no contact. They really
13 didn't -- they didn't -- actually, they never
14 contacted me or discussed anything with me with
15 regards to Barry being a CI or the marijuana leaf.

16 MRS. KOBRIN: I want to just put an objection
17 on the record, and it's a continuing objection. I
18 mean, you're -- he's being asked about things which he
19 doesn't have any personal knowledge.

20 And you've deposed the person who has the
21 personal knowledge. You've got the reports of the
22 notes of the person with the personal knowledge, and
23 he really doesn't have something to add to that. I
24 mean, if he says something that's the same or he says
25 something that's different, it's just a memory of

1 something that was hearsay in the first place. So I
2 just have an objection on that basis.

3 MRS. WARDELL: I just think on this issue we
4 were -- defense, and now the State, was interested in
5 any conversation he may have had with Gaston after
6 learning that the leaf was taken out of the residence.

7 MR. de VLAMING: We didn't know that until we
8 got the report.

9 MRS. WARDELL: So neither one of us was able
10 to question Mr. Gaston about it.

11 MR. de VLAMING:

12 Q. Did Mr. Gaston ever tell you that he believed
13 Jesse Prince was an alcoholic?

14 A. No. He's never -- he never made that comment
15 to me.

16 Q. So he never said to you that Jesse Prince had
17 a drinking problem?

18 A. No, he never mentioned that to me.

19 Q. Did Mr. Gaston ever say that every time he
20 got in Mr. Prince's car that Mr. Prince would smoke
21 marijuana?

22 A. I'm not sure. I would have to use the report
23 as a basis for recollection because I'm not clear on
24 that.

25 Q. Was it ever discussed during one of these

1 evening debriefings that there would be any gifts
2 purchased for Mr. Prince or his family?

3 A. Once, by Mr. Raftery.

4 Q. And what was proposed?

5 A. It was -- it was proposed that several gifts
6 would be given to the undercover law enforcement
7 agent --

8 Q. Would that be the --

9 A. -- and given to Jesse Prince.

10 Q. That would be the wine and the Hawaiian nuts
11 and the crackers and so forth?

12 A. Macadamia nuts, yeah.

13 Q. And what was the purpose of offering those
14 gifts to Mr. Prince?

15 A. To facilitate the idea that Mitch, Howard
16 Crosby, undercover law enforcement agent, was in
17 Hawaii on vacation and that's why he wasn't around.

18 Q. Was it ever discussed that Mr. Gaston would
19 bring hard liquor to the house as gifts?

20 A. Only once did he -- to my knowledge that he
21 did that, because he didn't want to seem like a mooch.

22 Q. And do you know what he brought?

23 A. Puerto Rican rum, I think it was. I'm not
24 sure.

25 Q. That's what the report indicates, on two

1 occasions. Does that sound about right to you?

2 A. Not on two occasions. One occasion I know of
3 Puerto Rican rum.

4 Q. Just once?

5 A. Once that I'm aware of. Now, again, you
6 know, whatever -- if the report says more than once,
7 then you'd have to use that as a basis.

8 Q. Was Mr. Gaston ever given spending money by
9 you for this project?

10 A. He would use his own spending money. Only
11 once did he ever borrow \$20 from me.

12 Q. By using his own spending money -- in other
13 words, if he went to Wilson's Liquor or he bought a
14 drink for Jesse and Deneen and so forth, he would use
15 his own money and then get reimbursed later?

16 A. He would get reimbursed from me and I would
17 get reimbursed from the law firm.

18 Q. And would you reimburse with a check or cash?

19 A. Cash.

20 Q. Would he tell you how much he spent or would
21 he hand you receipts, which you later gave the law
22 firm?

23 A. No. It's not a good practice to get receipts
24 if you're in that -- in that capacity. So he would
25 just tell me the amount.

1 Q. Why is it not good to get receipts in that
2 capacity?

3 A. Well, because usually if you're buying
4 somebody rounds and drinks and you start asking for
5 receipts, it makes people look at you a little
6 differently. You know, maybe this guy's not who he
7 says he is. So it's not good practice.

8 Q. Oh, you mean receipts from the merchant?

9 A. Yeah. It's not a good practice to get
10 receipts from a merchant when you're buying somebody a
11 drink or a round of drinks.

12 Q. Did you ever affix Mr. Gaston with a
13 transmitting device, a body bug?

14 A. Never.

15 Q. Did he ever have a recording of some kind
16 where he could turn on a pocket micro-cassette
17 recorder or something like that?

18 A. Not with me, no. Not from me, no.

19 Q. And to your knowledge, was there any
20 videotaping of Jesse Prince done pursuant to this
21 investigation?

22 A. No, no videotaping.

23 Q. Did you, yourself, do any audio or
24 videotaping or monitoring of audio or videotapes in
25 this investigation?

1 A. No. There was one instance in the report
2 where it mentioned that I was going to be in a parking
3 lot, and I did have a video camera with me. And a
4 large group of blacks -- that's a, like, white/black
5 neighborhood, and at the time, my Lincoln, it didn't
6 have -- it was the old Lincoln -- it didn't have a
7 tinted windshield, tinted glass. And there was about
8 ten or twelve that were throwing stones at other
9 unoccupied cars, and then my car.

10 Of course I got out of the car, left the
11 camera and chased them and they all dispersed in all
12 different area.

13 Q. So you never did any videotaping?

14 A. Absolutely not.

15 Q. There was one mention in the reports about
16 Mr. Gaston being given a device that looked like a
17 beeper but it appeared to be transmitting device. Do
18 you recall that instance?

19 A. I don't recall. I was told about it
20 afterwards as a safety factor. Assuming that, in the
21 event that a situation turned nasty, then backup would
22 go in there and protect Howard and Barry.

23 Q. While Mr. Gaston was conducting this
24 investigation, did he carry a licensed firearm, to
25 your knowledge?

1 A. He never carried a firearm on his person the
2 whole time during the whole investigation. He is
3 licensed to carry, but he did not have a weapon with
4 him.

5 Q. Did he have one in his vehicle?

6 A. I don't know.

7 Q. Because when you said he didn't carry on his
8 person, to your knowledge, did he have a weapon with
9 him during this assignment?

10 A. I never -- I could -- he always wore clothes
11 that it would be impossible to reveal -- I mean to
12 conceal a weapon. And he never had a weapon on him
13 ever during this whole investigation.

14 Q. Well, how would you know if it was so
15 concealed that you couldn't see it?

16 A. No. I said the clothes that he was wearing,
17 it would be impossible to conceal a weapon --

18 Q. Oh, I'm sorry.

19 A. -- on the clothing that he would wear, that I
20 would see him wear.

21 Q. How about yourself, did you carry a firearm?

22 A. I always carry a firearm. I mentioned to you
23 I have a W license and valid G license.

24 Q. Right.

25 Do you know what Mr. Gaston has? Does he

1 have a W license?

2 MRS. KOBRIN: Only if you know.

3 A. I'm not sure. It's quite possible that he
4 has both, but I'm not sure.

5 BY MR. de VLAMING:

6 Q. I forgot to ask him. I thought maybe you
7 knew.

8 MR. de VLAMING: Do you have any questions?

9 MRS. WARDELL: I have a few.

10 MR. de VLAMING: Go ahead.

11 CROSS-EXAMINATION

12 BY MRS. WARDELL:

13 Q. Did you ever give Mr. Gaston any instructions
14 or advice or directions that once you, in fact, see
15 illegal activity, you need to get law enforcement
16 involved and step out and not go back without law
17 enforcement?

18 A. I gave him instructions that once he observed
19 or heard about illegal activity, that we were
20 obligated to notify the proper authorities.

21 Q. So what I'm having a hard time understanding
22 is on April 15th is when Mr. Prince shows the "pets"
23 at his home to Mr. Gaston. Why isn't law enforcement
24 notified the 16th, 17th? Why weren't they notified
25 after that first visit?

1 A. Actually, he wasn't -- to look at plants and
2 look at drugs, he wasn't positive unless it was
3 tested. So at that point, they could have been plants
4 that looked somewhat like marijuana, but weren't
5 marijuana. So as a result, he didn't feel it was
6 necessary to notify authorities.

7 Q. Well, that same night, on the 15th, was also
8 when a joint was passed in his presence and he
9 declined to smoke it stating that he had to take a
10 urine test the next day. So I understand that he
11 didn't know the plants were, in fact, marijuana at
12 that point and wanted to maybe see them better, but he
13 certainly knows the smell of the marijuana joint, and
14 he put in his report that a joint was passed that
15 night.

16 A. Yes.

17 Q. So my same question: Why not call law
18 enforcement after the 15th?

19 A. I really can't answer that.

20 Q. Are you aware that Mr. Gaston actually got a
21 CI number from law enforcement?

22 A. Afterwards, I found out about it.

23 Q. Okay.

24 A. I did not participate in that -- in that
25 aspect and that was a decision made by the Largo

1 Police Department.

2 Q. So when did you learn that he was actually
3 given a CI number within the police department?

4 A. It was after the fact that he mentioned to me
5 that they were going to be give him CI status and he
6 would be assigned a number.

7 Q. You mean after the arrest or sometime during
8 the investigation?

9 A. No. After the authorities were notified that
10 there was illegal activity.

11 Q. My records indicate that he got a CI number
12 on April 24th. Do you have any idea how close in time
13 to that you learned of the CI number?

14 A. It was after that. It was after that. I
15 wouldn't know. I wouldn't know, you know.

16 Q. Well, was it prior to law enforcement
17 actually going to Mr. Prince's house the first time?

18 A. I think he got the CI status -- and again,
19 I'm not absolutely certain on this, but I think he got
20 it prior to him introducing Mitch, Howard Crosby.

21 Q. Right. And that wasn't my question. My
22 question is: When did you learn? I know he got CI
23 status April 24th, and I know law enforcement went to
24 the home May 7th.

25 So my question is: Did you learn sometime

1 during that week, prior to law enforcement going to
2 the home, that he, in fact, had CI status?

3 A. Yeah, prior. Yeah, in between there.

4 Q. Okay.

5 A. Yeah, prior.

6 Q. Sometime during that week-and-a-half, ten
7 days, maybe two weeks?

8 A. Yeah.

9 Q. So May 7th, law enforcement goes to his home.
10 May 5th, he's in a car at Maccabee's with Mr. Prince
11 and possibly Deneen, the girlfriend, and there, a
12 marijuana joint was passed around.

13 Were you aware that he had CI status at that
14 point?

15 A. I may have at that point. I'm not sure.

16 Q. Were you aware that he -- subsequent to
17 having CI status and subsequent to law enforcement's
18 first visit to the home, were you aware that
19 Mr. Gaston continued to associate with Mr. Prince
20 while narcotics were around?

21 A. At one point, it's indicated in the report
22 Mr. Gaston was told to stop any further contact.

23 Q. So my question is: Were you aware that he
24 continued the contact with the defendant with
25 narcotics without law enforcement subsequent to his CI

1 status?

2 A. No.

3 Q. And with regards to the leaf that was taken
4 on July 3rd, tell me what you think about that as far
5 as your prior law enforcement experience.

6 A. I would have not -- I would have told him not
7 to take it, if I was aware of it. If I was aware that
8 he was contemplating taking anything or removing
9 anything, I always emphasis that I value my license.
10 I got a 25-year unblemished law enforcement record,
11 and that without a search warrant, it's illegal search
12 and seizure, so not to remove anything. But I wasn't
13 -- I wasn't aware of that.

14 Q. Do you know what happened to that leaf?

15 A. To tell you the truth, again, that was -- I
16 wasn't privy to that information because whatever
17 Largo Police Department did between Barry -- him and
18 Barry or them and Barry and supervisors or Howard
19 Crosby, I was not privy to. I never met Howard
20 Crosby. I wouldn't know Howard if I tripped over him.

21 Q. Well, my understanding is the leaf was taken
22 at a visit when law enforcement wasn't present. And
23 in your debriefings, if you will, or your meetings
24 with Mr. Gaston close in time to July 3rd, did you ask
25 him what he did with the leaf when you found out that

1 he had taken?

2 A. He said he was going to have it tested.

3 Q. Did he tell you how?

4 A. No. I assumed that it was going to be given
5 to Largo Police Department for analysis.

6 Q. So you weren't aware if he was going to turn
7 it over to the police?

8 A. Yes.

9 Q. By the reports that you've read and the
10 things that have come to your attention, would you
11 hire Mr. Gaston again for another job?

12 A. I would not, no.

13 REDIRECT EXAMINATION

14 BY MR. de VLAMING:

15 Q. Why?

16 A. It's just like my personal preference.

17 Q. Didn't he follow orders?

18 A. He followed orders. He's a -- he's a good
19 investigator, but it's my just personal preference,
20 and it's not only Barry. Our other investigators, if
21 I don't like the way they work or if I think they're
22 capable of being unethical, that I will not hire.

23 Q. And do you think that Barry Gaston fits
24 within that; that is, he's capable of being unethical
25 or something like that?

1 A. No. It's just my own personal preference. I
2 would not hire Barry in the future, and I haven't
3 hired him since.

4 Q. But I mean, was it on the basis of what
5 Mrs. Wardell said that he's doing things, perhaps
6 being around drugs, when he was told to back away when
7 drugs were around, and things that you since learned
8 about taking things from Mr. Prince's house? Does
9 that go into your thought process of not hiring him?

10 A. Well, yes. But I have other personal reasons
11 why I would not.

12 Q. What are they?

13 MRS. WARDELL: As it relates to this
14 investigation.

15 BY MR. de VLAMING:

16 Q. Yeah, I mean, you only worked with him on
17 this.

18 A. Sometimes people have the tendency to be
19 unsatisfied with the amount of money they're making.
20 And I pay -- whatever I pay is what I make an hour.
21 So I'm not going to pay a person that -- especially
22 when I have the client, I'm not going to pay that
23 person more money an hour than I'm making when I got
24 the client. And as a result, that's why they sign a
25 non-compete clause, a nondisclosure.

1 Q. And did he think that he might be worth more
2 than \$50 an hour? Is that part of it?

3 A. That's possible, yeah. That's the impression
4 I got.

5 Q. That reminded me of a question. When
6 Mr. Prince was arrested, there were several calls made
7 after the fact to him -- excuse me, several calls made
8 after the fact to Barry Gaston after Prince's arrest
9 asking the status of the investigation. Was that you?

10 A. It wasn't me, no. I wasn't even -- I wasn't
11 even -- I don't believe I was working the day he was
12 arrested.

13 Q. Okay. Did you make any subsequent phone
14 calls after the arrest of Mr. Prince or Mr. Gaston?

15 A. No.

16 Q. So the last time you talked to Mr. Gaston was
17 when?

18 A. Oh, God. It was prior to the arrest. I
19 don't -- I can't tell you right off the top of my
20 head.

21 Q. Well, I think you just answered it. So it
22 was sometime --

23 A. If any calls were made, they were not me --
24 certainly not made by me because I wasn't even aware
25 that he was arrested.

1 Q. Did you receive a bonus in this case?

2 A. Absolutely not.

3 Q. And do you feel that as far as your being
4 hired for a job, and in part, to get impeachment
5 information if it is out there on Mr. Prince, do you
6 think you succeeded?

7 A. Well, my purpose -- when you say
8 "impeachment," I mean -- we were trying to impeach his
9 credibility because of --

10 MRS. KOBRIN: I think this is getting into
11 work product.

12 MRS. WARDELL: I'm sorry. I didn't hear the
13 question.

14 MR. de VLAMING: Well, I asked him whether or
15 not he felt that the mission was accomplished about
16 gathering impeachment information from Mr. Gaston.

17 MRS. KOBRIN: I think this is getting --

18 MRS. WARDELL: An issue with regards to he
19 civil suit?

20 MR. de VLAMING: Whatever he eluded to
21 before.

22 MRS. WARDELL: I think he initially said that
23 the mission related to a civil suit, so it's probably
24 outside of the scope of this, but it's not my --

25 MRS. KOBRIN: I think it's out of the scope,

1 because I think it's work product because whether he
2 thinks it succeeded is certainly going to depend on
3 conversations he had with other people.

4 BY MR. de VLAMING:

5 Q. Okay. Since the date of this project, have
6 you done more work for that employer, the church?

7 MRS. KOBRIN: Objection. Work product.

8 A. I'm not going to answer that.

9 BY MR. de VLAMING:

10 Q. Okay.

11 A. With all due respect.

12 Q. With all respect accepted. Thank you.

13 MR. de VLAMING: I don't have any other
14 questions. Do you?

15 MRS. WARDELL: no.

16 MR. de VLAMING: That's all the questions I
17 have, Mr. Fabrizio. I want to thank you for coming.
18 And I know this was a short notice and the fact that
19 you cooperated. I'm grateful for that.

20 THE DEPONENT: Well, it was a pleasure
21 meeting you.

22 MR. de VLAMING: Okay. Thank you. Put him
23 down for a read.

24 (At this time the deposition in the

25 above-captioned matter was concluded at
3:15 p.m.)

CERTIFICATE OF REPORTER

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STATE OF FLORIDA)
COUNTY OF PINELLAS)

I, CRISSY CLADAKIS, Court Reporter, certify that I was authorized to and did stenographically report the foregoing deposition; and that the transcript is a true record of the testimony given by THE DEPONENT.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

I, the undersigned authority, certify that JOSEPH FABRIZIO personally appeared before me and was duly sworn.

WITNESS my hand and official seal this 21st day of May, 2001.

Crissy Cladakis

Crissy Cladakis
Notary Public - State of Florida
My Commission No. CC 736558
Expires: April 23, 2002

