

STATE OF ILLINOIS        )  
                                  ) SS.  
COUNTY OF COOK         )

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT-MUNICIPAL DIVISION

THE PEOPLE OF THE                 )  
STATE OF ILLINOIS,                )  
                                  )  
                  Plaintiff,        )  
                                  ) Case No. 09MC1-117403  
                                  ) Branch 42  
                                  )  
VS                                    )  
                                  )  
CHRISTOPHER DREW,                 )  
                                  )  
                                  ) Defendant.                )

PRELIMINARY HEARING

REPORT OF PROCEEDINGS of the hearing  
before the Honorable FRANK DEBONI, Judge of said  
Court, on December 9, 2009.

APPEARANCES:

HON. ANITA M. ALVAREZ,  
State's Attorney of Cook County, by:  
MR. MORGAN CREPPEL,  
Assistant State's Attorney,  
for the People of the State of Illinois;

MR. MARK WEINBERG,  
for the Defendant.

Marcie Leone, CSR #084-001348  
Official Court Reporter  
69 W. Washington Rm. 900  
Chicago, Illinois 60602

1 THE CLERK: Christopher Drew.

2 (Witnesses sworn)

3 MR. CREPPEL: Ask leave to amend the  
4 complaint, Judge.

5 THE COURT: Any objection to the amendments  
6 in the complaint, counsel?

7 MR. WEINBERG: No objection.

8 THE COURT: Waive reswearing, re-execution?

9 MR. WEINBERG: Yes.

10 SERGEANT ROBERT MIZERA,  
11 called as a witness herein, having been first  
12 duly sworn, was examined and testified as  
13 follows:

14 DIRECT EXAMINATION

15 BY MR. CREPPEL:

16 Q. Officer, please state your name, star  
17 number, and unit of assignment.

18 A. Sergeant Robert Mizera, 1953, assigned  
19 to the 1st District tactical unit.

20 Q. Calling your attention to December 2,  
21 2009 at about 1:00 in the afternoon, were you on  
22 duty at that time?

23 A. Yes, I was.

24 Q. And what were you doing at that time?

1           A.     I was -- myself and eight other  
2 officers were performing a homeland security  
3 check of the Macy's Department Store, downtown  
4 Chicago.

5           Q.     Was that at 103 North State Street in  
6 Chicago, Cook County, Illinois?

7           A.     Correct.

8           Q.     Did you see anyone at that location  
9 that you now see in court today?

10          A.     Yes, I do.

11          Q.     Could you please point to that person  
12 and describe some clothing they're wearing?

13          A.     The gentleman with the blue shirt.

14          Q.     And at that date, time, and location  
15 what happened there at that spot?

16          A.     I observed the defendant Mr. Drew  
17 wearing a rain poncho with clear pockets on it,  
18 and he had items in the clear pockets and he was  
19 offering them for sale. There was also a sign on  
20 his parka offering them for sale.

21          Q.     And what did you do at that time?

22          A.     I approached him and I informed him  
23 that the downtown area is a restricted area for  
24 street sales.

1 Q. And what did you do after that?

2 A. I asked him if he had a peddler's  
3 license also.

4 Q. And what did he tell you?

5 A. He did not.

6 Q. Did you have a conversation with the  
7 defendant at that time?

8 A. Yes, I did.

9 Q. And what happened then?

10 A. I told him that he couldn't sell in the  
11 Loop and he also needed a peddler's license to  
12 sell. Mr. Drew indicated that it was his First  
13 Amendment right to sell. I told him that I was  
14 not there to discuss that, that if he continued  
15 he would be placed under arrest.

16 Q. And what happened then?

17 A. He said he wanted to be placed under  
18 arrest.

19 Q. And was Mr. Drew taken into custody?

20 A. Yes, he was.

21 Q. Did you process the defendant back at  
22 the station?

23 A. No, I did not. I called for a tactical  
24 car to bring him in and process him so I could

1 continue with the additional security checks that  
2 I had to perform.

3 Q. And when he was processed back at the  
4 district did you become aware of anything that  
5 was found on him pursuant to a custodial search?

6 A. Yes.

7 Q. And what was that?

8 A. When they were inventorying the poncho  
9 they found a micro-cassette recorder recording in  
10 one of the pockets.

11 Q. Did you have any indication whether it  
12 was operational?

13 A. It was on.

14 THE COURT: Was it a recorder or a  
15 recording?

16 THE WITNESS: It was a recorder and it was  
17 recording.

18 THE COURT: A recorder in the on position  
19 recording?

20 THE WITNESS: Yes.

21 THE COURT: Was there a tape in the  
22 recorder?

23 THE WITNESS: Yes. Well, I don't believe it  
24 uses a tape.

1 THE COURT: It's a digital?

2 THE WITNESS: Digital.

3 THE COURT: Go ahead, State.

4 MR. CREPPEL:

5 Q. Did your department recover any  
6 recording from that device?

7 A. Yes.

8 Q. And was that inventoried?

9 A. Yes, it was.

10 Q. Did you learn that anything had been  
11 recorded on that device?

12 A. My entire conversation with the  
13 defendant.

14 Q. And you're referring to the  
15 conversation you had with him on the street at  
16 the initial stop?

17 A. Yes, sir.

18 Q. Did you review that recording yourself?

19 A. Yes, I did.

20 Q. Could you hear your voice on the  
21 recording?

22 A. Yes, I did.

23 Q. Did you give this defendant permission  
24 at any point to record the conversation you had

1 with him on the street?

2 A. No, I did not.

3 Q. Were you aware that he had a recorder  
4 on him when you spoke to him on the street?

5 A. No, I was not.

6 Q. Did he indicate to you when he spoke to  
7 you on the street that he had a recording device  
8 on him and that he was recording his conversation  
9 with you?

10 A. No, he did not.

11 MR. CREPPEL: Nothing further.

12 THE COURT: Cross.

13 CROSS EXAMINATION

14 BY MR. WEINBERG:

15 Q. Sergeant, I'm confused about the time  
16 frame. When did they -- it's your testimony that  
17 they found the tape when --

18 THE COURT: It wasn't a tape.

19 MR. WEINBERG:

20 Q. They found the recording device,  
21 digital recording device when he was brought back  
22 to the police station; correct?

23 A. Correct.

24 Q. But you did not go back to the police

1 station. You continued your homeland security  
2 check; correct?

3 A. Correct.

4 Q. When did you go back to the police  
5 station?

6 A. When I was done doing the homeland  
7 security check.

8 Q. How many hours later was that after the  
9 arrest?

10 MR. CREPPEL: Objection; relevance.

11 THE COURT: Not relevant. Sustained.

12 MR. WEINBERG:

13 Q. So when you went back to the station,  
14 you were told to review the digital recording  
15 device?

16 A. Was I told to review the tape?

17 Q. Yes.

18 A. No.

19 Q. Why did you review the tape?

20 A. The officers indicated there was a  
21 recording device on him and it was running during  
22 the course of when I spoke to him.

23 Q. So is it your testimony that the  
24 officers who did the processing listened to the

1 tape?

2 MR. CREPPEL: Objection to the form of the  
3 question.

4 THE COURT: Sustained.

5 MR. WEINBERG:

6 Q. Do you know if anybody listened to the  
7 tape other than you?

8 MR. CREPPEL: Objection; relevance.

9 THE COURT: Sustained. Not relevant.

10 MR. WEINBERG:

11 Q. Do you have any reason to believe that  
12 the -- do you know that the tape was put on  
13 intentionally?

14 MR. CREPPEL: Objection; relevance.

15 THE COURT: Calls for conjecture,  
16 speculation on the part of the witness.

17 Objection sustained.

18 MR. WEINBERG:

19 Q. Did you write the arrest report?

20 MR. CREPPEL: Objection; relevance.

21 THE COURT: Sustained.

22 MR. WEINBERG:

23 Q. You testified that there were seven  
24 other officers with you on the homeland security

1 mission?

2 A. No. There were eight other officers.

3 Q. So nine total?

4 A. Counting myself, yes.

5 Q. And were they -- were you the only one  
6 that talked to Mr. Drew during the arrest?

7 A. Yes, I was, up to the point of him  
8 being taken into the station.

9 Q. Is there any other conversation on the  
10 tape, any other voices of any other officers on  
11 the tape that you listened to?

12 A. The officers that processed him, their  
13 voices are on the tape also.

14 Q. While back at the police station?

15 A. Correct.

16 Q. When you were arresting Mr. Drew, did  
17 you see anybody else in the vicinity videotaping  
18 the incident?

19 MR. CREPPEL: Objection; relevance.

20 THE COURT: Sustained. Not relevant.

21 MR. WEINBERG: Can I explain why it is  
22 relevant?

23 THE COURT: It's not relevant to the hearing  
24 at hand. It's a simple eavesdropping. What

1 another person is doing on the date and time in  
2 question is not relevant to this charge in front  
3 of the Court.

4 MR. WEINBERG:

5 Q. Did you see anybody else at the  
6 incident while you were arresting Mr. Drew?

7 MR. CREPPEL: Objection.

8 THE COURT: Sustained. Not relevant.

9 MR. WEINBERG:

10 Q. Approximately how long is the tape  
11 recording that you listened to?

12 MR. CREPPEL: Objection; relevance.

13 THE COURT: Overruled. It's cross.

14 THE WITNESS: I believe the tape was running  
15 for over an hour.

16 MR. WEINBERG:

17 Q. And you listened to the whole thing?

18 A. I listened to the part that dealt with  
19 when I -- the part where I encountered the  
20 arrestee.

21 Q. On the street?

22 A. Correct.

23 MR. WEINBERG: I have no further questions.

24 THE COURT: Anything else, State?

1 MR. CREPPEL: Just one other witness.

2 THE COURT: All right. Call your next  
3 witness. Let's go.

4 OFFICER GERMAN DELTORO,  
5 called as a witness herein, having been first  
6 duly sworn, was examined and testified as  
7 follows:

8 DIRECT EXAMINATION

9 BY MR. CREPPEL:

10 Q. Officer, please state your name, star  
11 number, and unit of assignment.

12 A. Officer German Deltoro, badge number  
13 12501, 1st District.

14 Q. Calling your attention to December 2,  
15 2009 in the middle of the afternoon, did you have  
16 occasion to do a custodial search of an  
17 individual at your police district?

18 A. I did a search of his property.

19 Q. And do you see the person whose  
20 property you were doing the search of?

21 A. Yes. He's standing to the right of  
22 counsel wearing a blue shirt and black pants.

23 MR. CREPPEL: If the record could reflect an  
24 in-court identification?

1 THE COURT: Record will so reflect.

2 MR. CREPPEL:

3 Q. And when you did that custodial search  
4 of his property, what did you find?

5 A. I found in his red poncho a digital  
6 voice recorder.

7 Q. And was the recorder when you found it  
8 on or off?

9 A. It was on.

10 Q. Did you recover anything from the  
11 recorder?

12 A. Anything inside, you mean?

13 Q. Yes.

14 A. I guess there was voices on there.

15 Q. Did you ever review or listen to the  
16 recording that came from that recorder?

17 A. Yes, I did.

18 Q. Did you listen to that with the  
19 sergeant who testified today?

20 A. Yes, I did.

21 MR. CREPPEL: I have nothing further of this  
22 witness.

23 THE COURT: Cross.  
24

CROSS EXAMINATION

BY MR. WEINBERG:

Q. What time of day did you process the arrestee?

MR. CREPPEL: Objection.

THE COURT: Overruled.

THE WITNESS: It was in the afternoon. I don't remember the exact time. I'd say approximately 1:30.

MR. WEINBERG:

Q. Is that the same time that you listened to the tape with the sergeant?

A. No, it wasn't.

Q. What time did you listen to the tape with the sergeant?

A. I want to say maybe 3:30.

Q. So a couple of hours after you processed the arrestee?

A. Something like that.

Q. And what was the arrestee doing while you were processing him?

MR. CREPPEL: Objection; relevance.

THE COURT: Sustained.

1 MR. WEINBERG:

2 Q. Did you write the arrest report?

3 MR. CREPPEL: Objection.

4 THE COURT: Overruled.

5 THE WITNESS: No, I didn't.

6 MR. CREPPEL:

7 Q. Do you know who did write the arrest  
8 report?

9 MR. CREPPEL: I object to the relevance.

10 THE COURT: Overruled.

11 THE WITNESS: My partner did the arrest  
12 report.

13 MR. WEINBERG:

14 Q. Is your partner Officer Roman?

15 A. No.

16 Q. Is your partner Officer Reynolds?

17 A. Yes.

18 Q. Did you help him in any way with the  
19 arrest report as far as the narrative regarding  
20 the incident?

1 A. The narrative, no.

2 Q. And do you know when he wrote the  
3 arrest report?

4 MR. CREPPEL: Objection.

1 THE COURT: Sustained. Not relevant.

2 MR. WEINBERG:

3 Q. Did you listen to the tape only with  
4 the sergeant who just testified?

5 MR. CREPPEL: Objection.

6 THE COURT: Sustained. Not relevant.

7 MR. WEINBERG:

8 Q. Do you know anybody else who listened  
9 to the tape?

10 MR. CREPPEL: Objection; relevance.

11 THE COURT: Sustained. Not relevant.

12 MR. WEINBERG: I have no further questions.

13 THE COURT: Anything else, State?

14 MR. CREPPEL: No.

15 THE COURT: Do you have anything that you're  
16 going to offer in defense?

17 MR. WEINBERG: No.

18 THE COURT: Finding of probable cause. Next  
19 court date for the defendant is December 30,  
20 2009, 26th and California, Room 101 at 9:00 a.m.

21 He's got two City charges also.


22 MR. CREPPEL: Motion City non-suit.  
23  
24

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT-MUNICIPAL DIVISION

THE PEOPLE OF THE )  
STATE OF ILLINOIS )  
 )  
VS )  
 )  
CHRISTOPHER DREW )

I, Marcie Leone, Official Court Reporter for the Circuit Court of Cook County, Cook Judicial Circuit of Illinois, do hereby certify that I reported in shorthand the proceedings had in the above-entitled cause; that I thereafter caused the foregoing to be transcribed into typewriting, which I hereby certify to be a true and accurate transcript of the proceedings had before the Honorable FRANK DEBONI, Judge of said Court.



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Marcie Leone, CSR# 084-001348

Dated this 3rd day  
of August, 2010.