

**In The Matter Of:**

*Caniglia vs*

*Strom, et al*

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*Major Robert Quirk*

*July 13, 2018*

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**ALLIED**

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1 2015?

2 A. No. I believe that's the first time I've  
3 actually seen the name.

4 Q. They had some prior contact on some unrelated  
5 matters before that with the Cranston Police  
6 Department. Do you recall if you had any  
7 involvement in those other matters?

8 A. Not that I'm aware of.

9 Q. My understanding is -- back up. This case  
10 involves the seizure of Mr. Caniglia's firearms by  
11 the Cranston Police Department, him being sent for  
12 a psychiatric evaluation at Kent Hospital and then  
13 a subsequent issue over the return of his firearms  
14 by the Cranston Police Department. My  
15 understanding is you were not involved in the  
16 seizure of the firearms or sending him for a  
17 psychiatric evaluation?

18 A. That's correct.

19 Q. Okay. So your involvement, my understanding has  
20 to do with the return of the firearms to  
21 Mr. Caniglia?

22 A. That's correct.

23 Q. We're going to talk about that first, and then we  
24 may go back and talk about general policies or  
25 procedures with respect to seizures and so forth

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1           because you have discussed some of that in your  
2           Answers to Interrogatories.

3           A.     Okay.

4       Q.     With respect to the return of Mr. Caniglia's  
5           firearms, why don't you give me an overview of  
6           what your involvement was?

7           A.     Colonel Winquist had received a notification  
8           from a person, I'm not sure on the exact name who  
9           stated he was Mr. -- is it C-a-n-e-e-l-i-a  
10          (phonetic) or Caniglia?

11                       MR. LYONS:   He says Caniglia.  He  
12          hasn't anglicized it.  I say Caniglia, too.

13          A.     Okay, we'll go with Caniglia.  An attorney  
14          had left a message with the Colonel requesting to  
15          have Mr. Caniglia's firearms returned to him.  I'm  
16          not sure on the exact date.  It was after August  
17          of 2015.

18       Q.     Okay.  I'll represent to you that prior to that  
19          letter going out the Caniglias had made some  
20          efforts themselves to get their firearms back  
21          from -- Mr. Caniglia's firearms back from the  
22          Cranston Police Department.  Were you involved or  
23          aware of those efforts?

24          A.     No.  The first I learned of it was with the  
25          request from Mr. Caniglia's attorney.

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1 Q. Okay. All right. Let me show you what has been  
2 previously marked in Colonel Winkvist's deposition  
3 as Exhibit 28 and ask you if that is the letter  
4 you were referring to. Before I ask you that  
5 question I should ask you one first, which is, did  
6 you ever see the letter from the attorney?

7 MS. MURPHY: Objection as to time.  
8 You may answer.

9 A. I don't recall if I saw the letter or not. I  
10 know that, like I said, a request was put in to  
11 the Colonel, and I took it upon myself after  
12 speaking to the Colonel to reach out to  
13 Mr. Caniglia's attorney and speak to him. But as  
14 far as actually observing the letter, I can't be  
15 certain.

16 Q. Okay. So, what you're not certain is whether or  
17 not you actually saw this letter that's been  
18 marked as Exhibit 28?

19 A. That's correct.

20 Q. That's fine, then we don't need to look at it any  
21 more. What did you do after you took it upon  
22 yourself to respond to the letter?

23 A. I spoke to the Colonel, and I had a  
24 discussion about the case at the time, read the  
25 report, and we were both in agreement that I was

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1 to call the attorney and advise him as to our  
2 decision.

3 Q. And do you recall your discussion with the Colonel  
4 about the case?

5 A. Like I mentioned, we discussed the case  
6 itself after reading the report and decided that  
7 the attorney representing Mr. Caniglia would be  
8 called and be informed of the process that he  
9 needed to take.

10 Q. And what was that process?

11 A. The process was that he needed to go ahead  
12 and petition the court, that the guns were --  
13 firearms were taken for safekeeping, and that the  
14 custom and/or practice of the Cranston Police  
15 Department was to have the attorney petition the  
16 court, and if the courts felt as though the person  
17 in possession of the firearms was no longer a  
18 safety risk, they could come back to us at that  
19 point, and we'd return the firearms.

20 Q. Okay. When you discussed that with the Colonel,  
21 did either of you consult with any of the  
22 departments written policies or procedures?

23 A. I don't know whether or not he did.

24 Q. Did you?

25 A. I don't believe so.

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1           general order dealing with mental health  
2           evaluations?

3           A.    Same thing, I'm not certain.

4       Q.    You referred to the custom and practice of the  
5           Cranston Police Department --

6           A.    Yes.

7       Q.    -- about requiring somebody to go for a court  
8           hearing?

9           A.    Yes.

10      Q.    Is that reflected in any written document?

11           A.    I don't know whether or not it's reflected in  
12           any document. I know that's been a long-standing  
13           practice within the Cranston Police Department  
14           pertaining to the return of firearms.

15      Q.    When you say long-standing, how long are we  
16           talking about?

17           A.    As far back as I can remember.

18      Q.    And do you know what the legal basis is for that  
19           custom and practice of requiring somebody to go  
20           have a court hearing?

21                   THE WITNESS: As far as pertaining  
22           to a court hearing?

23                   MR. LYONS: Right.

24      Q.    My understanding is that your understanding is  
25           that the custom and practice of the Cranston

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1 Police Department is that in a situation like this  
2 where a firearm has been seized for safekeeping  
3 because of a perceived mental issue of the  
4 firearms owner, that the Cranston Police  
5 Department requires the person to go to court and  
6 get a court order before he or she can get the  
7 firearm back?

8 A. Yes.

9 MS. MURPHY: Objection as to form.  
10 You may answer.

11 A. Yes.

12 Q. Okay. Are you aware of any legal authority that  
13 supports that custom and practice?

14 THE WITNESS: As far as within the  
15 police department?

16 Q. Well, are you aware, for example, of whether any  
17 attorney has given the Cranston Police Department  
18 an opinion that that is a legally appropriate  
19 procedure?

20 A. No, I'm not aware of that.

21 Q. Are you aware of any decision by any court of law  
22 that says that's a legally appropriate procedure  
23 requirement?

24 A. No, I'm not aware of that.

25 Q. Are you aware of any statute or regulation that

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1 says that's a legally appropriate procedure?

2 A. No, I'm not.

3 Q. Do you know whether before 2015 anyone had ever  
4 challenged whether or not that was a legally  
5 appropriate procedure?

6 A. I'm not sure if they did.

7 Q. Okay. Are you aware, for example, whether my  
8 office in 2012 sued the Cranston Police Department  
9 challenging that policy and procedure?

10 A. No, I wasn't aware of that.

11 Q. When you contacted Mr. Caniglia's attorney, was  
12 that, by the way, Attorney Nick Lambros; does that  
13 name ring a bell?

14 A. I'm not certain of the name of the attorney.

15 Q. Was it the same attorney who had sent a letter to  
16 Colonel Winquist?

17 A. I'm not certain.

18 Q. Was it a phone conversation that you had with the  
19 attorney?

20 A. It was.

21 Q. Okay. Apart from telling him that he needed to go  
22 to court and get a court order, do you recall  
23 anything else about that phone conversation?

24 A. From what I can recall, I explained to him as  
25 to why he needed to go ahead and petition the



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1 court, and the attorney seemed to be, quite  
2 frankly, he seemed to be fine with it, and he  
3 says -- he left it as, okay, I'll take care of it.  
4 He didn't seem to have any concerns, at least  
5 nothing that was relayed to me on the phone.

6 Q. Did you have any further communications with that  
7 attorney?

8 A. I don't believe so. I know originally I  
9 think we were going back and forth playing phone  
10 tag for a bit. But beyond the conversation when I  
11 advised him what he needed to do, I don't believe  
12 we spoke after that.

13 Q. How soon after Colonel Winkvist received the  
14 letter did you and the Colonel discuss what to do  
15 about it?

16 A. I don't know exactly when he received the  
17 letter, datewise.

18 Q. Assuming for the sake of discussion that the  
19 letter is dated October 1st, 2015, and that the  
20 Colonel received it soon thereafterward. Do you  
21 know whether it was in, for example, the first  
22 half of October that you and the Colonel had your  
23 discussion?

24 A. I don't know.

25 Q. Okay. Do you know how soon after you had your

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1 discussion with the Colonel did you call  
2 Mr. Caniglia's attorney?

3 A. Like I said, I may have left a message. We  
4 went back and forth, the messages with his  
5 receptionist, by the time we actually spoke on the  
6 phone.

7 Q. Do you recall how much time passed?

8 A. I don't.

9 Q. All right. Did you report back to the Colonel  
10 after you spoke to Mr. Caniglia's attorney?

11 A. Yes, I did.

12 Q. What did you say?

13 A. Exactly what I relayed to you, that I  
14 explained to the attorney what process he needed  
15 to take, and that he seemed to be okay with it.

16 Q. Okay. Did you have any subsequent conversations  
17 with Colonel Winkvist about Mr. Caniglia's  
18 firearms?

19 A. I don't believe so.

20 Q. Okay. Do you ever recall having a conversation  
21 with Colonel Winkvist in which he instructed you  
22 that Mr. Caniglia's firearms were to be returned  
23 to him without a court order?

24 A. I believe once that may have taken place  
25 once -- I believe there might have been something

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1           that came in from, I don't know if it was the  
2           court or the solicitor, I'm not certain on that.  
3           But something prompted the Colonel to mention that  
4           the guns would be released.

5       Q.    Okay. Do you know when Mr. Caniglia sued Cranston  
6           over the seizure of his firearms?

7           A.    I do not.

8       Q.    If it was in December, if I represented to you it  
9           was in December of 2015, would that refresh your  
10          recollection?

11          A.    No.

12       Q.    All right. Do you know whether or not the guns  
13           were returned before or after he filed suit?

14          A.    That I don't know.

15       Q.    Did you have any discussions, I'm just asking this  
16           as a yes or no question, did you have any  
17           discussions with Cranston's solicitor or any other  
18           lawyer representing the city about the return of  
19           the firearms?

20          A.    I don't believe so.

21       Q.    When you were instructed to return the firearms to  
22           Mr. Caniglia, what did you do?

23          A.    I believe that was -- that may have been  
24           through the BCI division that they actually had  
25           the physical return of the firearms.

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1           who is no longer on the job.

2       Q.    How about Karen Guilbeault?

3           A.   If it was, then she took over right after  
4           Captain Carmody.

5       Q.    Let me show you what was marked as Exhibit 25  
6           during Officer Henry's deposition, and ask you if  
7           you've seen this document before?

8   (PAUSE)

9       Q.    Have you seen that before?

10           A.   No.

11       Q.    That's fine. There appear to be two different  
12           signatures --

13           A.   Right.

14       Q.    -- one of which I'll direct your attention to the  
15           bottom line first, it says captain's signature  
16           denying the return of weapons, and a signature in  
17           what appears to be a date that looks to me like  
18           9-1-15?

19           A.   Right.

20       Q.    Do you know whose signature that is?

21           A.   No idea.

22   (OFF THE RECORD)

23       Q.    And then above that it says captain's signature  
24           authorizing release of firearms, and then there's  
25           a signature there next to a date that appears to

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1 Q. Were you aware of this general order at the time  
2 that you were involved in returning Mr. Caniglia's  
3 firearms to him?

4 A. I may have read it prior to a conversation  
5 with Mr. Caniglia's attorney, but I can't be  
6 certain.

7 Q. Okay. Had you ever read it before then?

8 THE WITNESS: Prior to speaking to  
9 Mr. Caniglia's attorney?

10 MR. LYONS: Yes.

11 A. Possibly.

12 Q. Okay. But you don't have a recollection of it?

13 A. I don't, no.

14 Q. Do you recall having had any discussion with any  
15 other Cranston police officer about this general  
16 order?

17 A. No, I don't recall.

18 Q. Did you speak with any of the Cranston police  
19 officers who had firsthand contact with Mr.  
20 Caniglia before making a decision about returning  
21 his firearms to him?

22 A. No, I did not.

23 Q. Do you know if any of them came to the conclusion  
24 whether Mr. Caniglia was mentally incompetent?

25 A. I'm not sure if they did.