

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

MICHAEL ELBERY,	)	
Plaintiff	)	
	)	
v.	)	CIVIL ACTION
	)	NO. 97-11743-MLW
DANIEL SKLUT, JAMES CARLIN,	)	
STEPHEN FAUCHER, CARL HANSON,	)	
CHESTER JOHNSON, JAMES HURLEY,	)	
WAYNE SAMPSON, ROBERT MCGINLEY	)	
and THE TOWN OF SHREWSBURY,	)	
Defendants	)	

**DEFENDANT, TOWN OF SHREWSBURY'S, ANSWERS TO  
PLAINTIFF'S FIRST SET OF INTERROGATORIES**

**Interrogatory No. 1:**

State when did any member of the S.P.D. (hereinafter the Shrewsbury Police Department) first learned (sic) that Michael Elbery had an invalid F.I.D. card.

- (a) State the name of that member, the date, and time that member of the S.P.D. acquired that information.
- (b) State the circumstances surrounding the acquisition by this same S.P.D. member of this information.

**Answer No. 1:**

a.-b. The defendant objects to this interrogatory on the grounds that it seeks disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of the defendant's representative. The defendant further objects to this interrogatory on the grounds that it assumes a fact which the defendant denies - namely, that Michael Elbery possessed a valid F.I.D. card on August 5, 1994.

Without waiving this objection, or any others which may apply, the defendant states that by August 5, 1994, Michael Elbery was statutorily disqualified from possessing a valid F.I.D. card, as he was a convicted felon. This would have been known by any police officer doing a CORI check on the plaintiff. His license to carry had already been revoked.

Interrogatory No. 2:

State when any member of the S.P.D. first asked this plaintiff, Michael Elbery, if he had a valid F.I.D. card.

- (a) State that member's name and date and time that member asked this plaintiff if he had a valid F.I.D. card.

Answer No. 2:

I have no personal knowledge.

Interrogatory No. 3:

State exactly what efforts or procedures any and all members of the S.P.D. took to determine if Michael Elbery had a valid F.I.D. card on 8-5-94.

- (a) State the names of the S.P.D. officials or officers or members who took the above efforts.
- (b) State the time, date that these efforts to determine if this plaintiff had a valid F.I.D. card on 8-5-94.
- (c) State the results of those efforts as above #3 and 3a. And 3b.

Answer No. 3:

a.-c. The defendant objects to this interrogatory on the grounds that it is overbroad, it is overly burdensome, it is not properly limited as to time, and it seeks information which is irrelevant to the subject matter of this action, which will be inadmissible at the trial of this action, and which is not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving these objections, or any others which may apply, the defendant states that on August 5, 1994, the majority of the officers of the Shrewsbury Police Department at the fire scene had personal knowledge that Michael Elbery was a convicted felon, that his license to carry was revoked by the Worcester Police Department and that Michael Elbery was statutorily prohibited from possessing an F.I.D. card. Hurley had specific knowledge of this also from the plaintiff's statements to them of this as well as the plaintiff's prior arrest.

Interrogatory No. 4:

State exactly what any members of the S.P.D. or any other police/government organization communicated to any and all members of the S.P.D. on or after 8-5-94 regarding the

possession of any gun licenses including an F.I.D. card or a license to carry firearms.

- (a) State the name or names of the police and government officials communicating this information.
- (b) State the names of the S.P.D. member or officer that received this information.
- (c) State the date and time of this information or communications.

Answer No. 4:

a.-c. The defendant objects to this interrogatory on the grounds that it is overbroad, it is overly burdensome, it is not properly limited as to time, and it seeks information which is irrelevant to the subject matter of this action, which will be inadmissible at the trial of this action, and which is not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving this objection, or any others which may apply, the defendant states:

1. There was conversation among various Shrewsbury Police Department officers on August 5, 1994 about plaintiff's revoked license to carry as well as Elbery's statement of his felony record to Sergeant Hurley at the fire scene.

2. There was conversation with the District Attorney's office on or about March 20, 1995, in which we were advised that Elbery's defense on the illegal possession of gun charges was his invalid F.I.D. card. There was conversation in March, 1995, among various Shrewsbury Police Department officers concerning plaintiff's invalid F.I.D. card and Chief McGinley formally notifying Elbery in writing of his invalid F.I.D. card.

3. On or about August 9, 1997 when we received notice of this lawsuit, we contacted the Worcester Police to obtain written documentation concerning the revocation of Elbery's license to carry. Detective/Lieutenant James Hurley spoke on October 8, 1997 with Officer Michael Sacco of Worcester Police Department concerning this issue.

Interrogatory No. 5:

State S.P.D. policy concerning demand for an F.I.D. card when a member of its department encounters a citizen in possession of a firearm.

- (a) State that policy when the citizen has possession of a firearm in his residence or place of business, or location under his personal control only.
- (b) State that policy when the citizen has possession of a firearm outside his residence or business or place not under his sole control.

Answer No. 5:

The defendant objects to this interrogatory on the grounds that it is overbroad, it is overly burdensome, it is not properly limited as to time, and it seeks information which is irrelevant to the subject matter of this action, which will be inadmissible at the trial of this action, and which is not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving this objection, or any others which may apply, the defendant states:

a.-b. Police officers are guided by Massachusetts General Laws and case law.

Interrogatory No. 6:

State your contention as to how it is that this plaintiff was guilty of Mass. C. 269 § 10a on 8-5-94.

- (a) State your contention as to how it is this plaintiff was guilty as charged by the S.P.D. on 8-5-94 of a violation of Mass. C. 269 10a when he never produced a license to carry, yet was found *not guilty* of this charge by a Massachusetts judge.

Answer No. 6:

The defendant objects to this interrogatory on the grounds that it seeks an opinion of law beyond the application of law to fact permitted by Fed. R. Civ. P. 33(b).

Without waiving this objection, or any others which may apply, the defendant states:

- a. Michael Elbery was then a convicted felon so he was then statutorily disqualified from possessing a valid F.I.D. card. His license to carry had already been revoked.

Interrogatory No. 7:

State why the S.P.D. was not represented at the 4-5-95 trial of this plaintiff for the 8-5-94 gun charges by the S.P.D.

Answer No. 7:

I have no personal knowledge.

Interrogatory No. 8:

State where the record of this plaintiff's F.I.D., as issued by the S.P.D., was kept by the

S.P.D. on 8-5-94.

- (a) What was the policy concerning filing of records of issued F.I.D. cards by the S.P.D.

Answer No. 8:

On August 5, 1994, the Shrewsbury Police Department records indicated that Mr. Elbery had applied for an F.I.D., but the records did not indicate that it was issued. Further, any record of an F.I.D. card that was issued in 1983 would have been in restricted storage.

- (a) Records were filed in the normal course of business.

Interrogatory No. 9:

State whether the S.P.D. forwarded a copy of any type of documents to the Mass. Dept. of Public Safety as a result of issuing to this plaintiff an F.I.D. card, or upon application by this plaintiff of an F.I.D. card.

Answer No. 9:

I have no personal knowledge of this precise application. However, in the normal course of business, the Department does forward a copy of F.I.D. cards to the Department of Public Safety.

Interrogatory No. 10:

State whether it was the policy of the S.P.D. to conform to Mass. law C. 140 s. 129C-part s (as amended 1991) on 8-5-94 regarding possession of a citizen of firearms.

Answer No. 10:

The defendant objects to this interrogatory on the grounds that it is overbroad, it is overly burdensome, it is not properly limited as to time, and it seeks information which is irrelevant to the subject matter of this action, which will be inadmissible at the trial of this action, and which is not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving these objections, or any others which may apply, the defendant states that it is the policy of the Shrewsbury Police Department to comply with the Massachusetts General Laws.

Interrogatory No. 11:

State any and all efforts known to any and all members of the S.P.D. made by Attorney

Fr G  
Robert Scheketoff to inform the S.P.D. or anybody including the Worcester D.A.'s Office that this plaintiff had a valid F.I.D. card on 8-5-94.

- a. State when and how Scheketoff relayed this information in No. 11 and 11a.

Answer No. 11 and 11a:

I have no personal knowledge.

Interrogatory No. 12:

State the policy the S.P.D. had on 8-5-94 for checking whether a citizen has a valid F.I.D. card.

- (a) When the citizen is a resident of Shrewsbury.  
(b) When that citizen was issued an F.I.D. card by the S.P.D.

Answer No. 12:

The defendant objects to this interrogatory on the grounds that it seeks disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of the defendant's representative.

The defendant objects to this interrogatory on the grounds that it is overbroad, it is overly burdensome, it is not properly limited as to time, and it seeks information which is irrelevant to the subject matter of this action, which will be inadmissible at the trial of this action, and which is not reasonably calculated to lead to the discovery of admissible evidence.

The defendant objects to this interrogatory on the grounds that it seeks an opinion of law beyond the application of law to fact permitted by Fed. R. Civ. P. 33(b).

Without waiving this objection, or any others which may apply, the defendant states that the Shrewsbury Police Department would check the Pamet computer records system. Each officer would also rely on his/her personal knowledge that a convicted felon is statutorily disqualified from having a F.I.D. card.

Interrogatory No. 13:

State the names and ranks of all S.P.D. personnel with a rank of sergeant or higher at 8-5-94.

Answer No. 13:

McGinley, Sampson, Sklut, Dagle, Carlin, Faucher, Hanson, Johnson, and Hurley.

Interrogatory No. 14:

State the names of all S.P.D. officers and, or personnel that participated in the arrest of this plaintiff on 8-5-94 for various charges at E-Z Mini Storage on Route 9 Shrewsbury, Mass.

Answer No. 14:

Sampson, James Carlin, James Coates and Hurley.

Interrogatory No. 15:

If a member, on 8-5-94, of the S.P.D. encountered a citizen in possession of handguns and rifles in that citizen's garage (the garage being attached to the citizen's residence) what steps or action would that member of the S.P.D. take in order to insure that any and all laws of the Commonwealth are enforced.

- (a) State which S.P.D. policies the S.P.D. member would be in compliance with in taking these actions or steps as above.
- (b) State which Massachusetts laws the S.P.D. member would be in compliance with in taking that action.
- (c) State which Massachusetts licenses would be required under this situation for the citizen to be in compliance with Massachusetts law.
- (d) State whether there would be any change in the above answers, 15 through 15c, if that citizen had a Storage unit at E-Z Mini Storage on Route 9, Shrewsbury, Mass.

Answer No. 15:

a.-d. The defendant objects to this interrogatory on the grounds that it is overbroad, it is overly burdensome, it is not properly limited as to time, and it seeks information which is irrelevant to the subject matter of this action, which will be inadmissible at the trial of this action, and which is not reasonably calculated to lead to the discovery of admissible evidence.

The defendant objects to this interrogatory on the grounds that it seeks an opinion of law beyond the application of law to fact permitted by Fed. R. Civ. P. 33(b).

Interrogatory No. 16:

State for the situations above 15 and 15d what the S.P.D. member would do, if the citizen did not have his F.I.D. care on his person.

- (a) State the S.P.D. policy on this situation.
- (b) State the Massachusetts law, at 8-5-94, regarding this situation and whether the S.P.D. would comply with this law.
- (c) State whether the citizen should be arrested for unlawful firearms possession or should he be allowed to produce his F.I.D. card.
- (d) State how long should a citizen be allowed in order to produce the F.I.D. card.

Answer No. 16:

a.-d. The defendant objects to this interrogatory on the grounds that it is overbroad, it is overly burdensome, it is not properly limited as to time, and it seeks information which is irrelevant to the subject matter of this action, which will be inadmissible at the trial of this action, and which is not reasonably calculated to lead to the discovery of admissible evidence.

The defendant objects to this interrogatory on the grounds that it seeks an opinion of law beyond the application of law to fact permitted by Fed. R. Civ. P. 33(b).

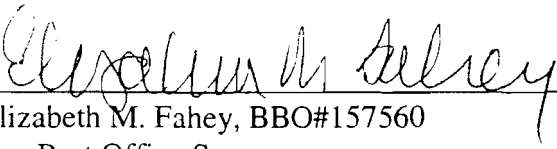
The undersigned deposes and says that he is the Chief of Police for the Shrewsbury Police Department of the Town of Shrewsbury, named defendant in the above-captioned action, and that he signs the enclosed Answers to Interrogatories for and on behalf of the Town of Shrewsbury and is authorized to do so; that the matters stated in the foregoing Answers are not all within his personal knowledge and that he is informed that there is no officer or employee of said Town of Shrewsbury who has personal knowledge of all such matters; that such facts as are stated in said Answers which are not within the personal knowledge of the deponent have been assembled by authorized agents, employees and counsel of said defendant; and the deponent is informed and believes that the facts stated in said Answers are true and so states under the pains and penalties of perjury this 7 day of May, 1999.

A. Wayne Sampson  
A. Wayne Sampson, Chief of Police  
Shrewsbury Police Department  
Town of Shrewsbury



AS TO OBJECTIONS:

PIERCE, DAVIS, FAHEY & PERRITANO, LLP

  
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Boston, Massachusetts 02110  
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I hereby certify that a true copy of the  
above document was served upon (each  
party appearing pro se and) the attorney  
of record for each (other) party by mail  
(by hand) on 5/18/99  
