

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA

v.

EVIDENTIARY HEARING

**RONALD H. VAN DEN HEUVEL
KELLY YESSMAN VAN DEN HEUVEL**

Case No. 16-CR-64

HONORABLE WILLIAM C. GRIESBACH presiding
Proceeding Held: August 11, 2017
Deputy Clerk: Lori

Time Called: 9:07 am
Time Concluded: 4:39 pm
Tape: 081117

Appearances:

UNITED STATES OF AMERICA by: Matthew Dean Krueger, Mel S. Johnson

RONALD H. VAN DEN HEUVEL, in person and by: Robert G. LeBell

KELLY YESSMAN VAN DEN HEUVEL, in person and by : Andrew Porter, Carrie E. DeLange

US PROBATION OFFICE by:

INTERPRETER: None

Interpreter Sworn

9:07 am The Court and parties discuss issues for evidentiary hearing. Mr. LaBelle responds. Mr. Johnson responds.

9:10 am Mr. LaBelle addresses logistical issues as to scope of search. Mr. Johnson responds re: testimony from FDIC agent. Mr. Porter responds – sets forth that government should not be able to use any documents seized in Brown County Search Warrant or conduct document by document analysis closer to trial. as to use Mr. LaBelle responds. Court inquires. Mr. Johnson responds.

9:15 am Mr. Johnson moves to sequester witnesses, no objections. The Court orders sequestration of witnesses. Mr. LeBelle requests to take witnesses out of order, no objections. Mr. LeBelle calls **Philip Reinhart**, witness sworn and testifies under direct examination by Mr. LeBelle.

9:21 am Mr. LeBelle offers Exhibit 1001 Floor Layout of two connecting suites A&B.

9:30 am Mr. Johnson requests clarification as to time being referenced, Court grants.

9:35 am Mr. Johnson objects, clarification, Mr. LeBelle responds.

9:36 am Exhibit 1002 offered, consists of multiple photographs showing shrunk wrap material in front of Lawrence Avenue Suites. Exhibit 1003 offered,

9:41 am Mr. Johnson objects, foundation. Mr. LeBelle responds. Overruled.

9:48 am Mr. LeBelle asks re: August 2016 returned items, inventory addressed.

9:50 am Mr. Johnson objects, leading, sustained.

Court inquires.

9:51 am Mr. Johnson cross-examines witness.

9:53 am Mr. LeBelle objects, no relevance, overruled.
Mr. LeBelle objects, relevance. Court inquires. Mr. Johnson responds. Overruled.
Mr. Porter objects to form. Mr. Johnson rephrases question.

9:55 am Witness requests to confer with counsel. Court takes brief recess.

10:10 am Court resumes. Mr. Johnson continues with cross-examination.

10:17 am Cross examination by Mr. Porter.

10:20 am Re-direct by Mr. LeBelle.
Re-cross by Mr. Johnson.
Witness excused.
Mr. LeBelle moves to admit Exhibit 1001 – 1003. No objections by Mr. Johnson. Received.
Mr. Johnson calls **Sara Hager**, Special Agent FDIC, sworn and testified under direct.

10:27 am Witness identifies Defendant, Mr. Ron Van Den Heuvel, in the courtroom.
Mr. LeBelle inquires as to admission, Mr. Johnson responds.
Exhibit 13 offered, moved to admit, no objections, received.

10:31 am FDIC investigation becomes criminal in February 2013
Mr. Porter objects, hearsay, Mr. Johnson responds (steps taken in advance of the search as to investigation). Mr. Porter responds. Court overrules.
Mr. Johnson offers Exhibit 20 (subpoenas issued), moves to admit, no objections, received.

10:36 am Mr. Porter objects, foundation, overruled.
Exhibit 19 offered, moved to admit, no objections, received.
Testimony as to FDIC investigation re: Horicon Bank, meetings with AUSA Humble and Brown County District Attorney's Office, and straw borrowers interviews.

10:49 am Exhibit 18 offered, moved to admit, no objections, received.

10:52 am Mr. LeBelle objects, by what means and calls for speculation. Mr. Johnson responds. Court instructs. Direct examination continues. Mr. LeBelle objects. Court will allow opinion in as law enforcement agent.

10:56 am Exhibits 14 and 15 offered, moves to admit, no objections, received.
Mr. Porter objections, unclear and irrelevant, foundation, Court inquires. Mr. Johnson continues.
Mr. Porter continues to objects.

11:00 am Court inquires as to car titles.

11:01 am Mr. Porter objection, foundation. Mr. Johnson responds. Court makes inquiry. Mr. Porter continues to object to form of question. Mr. Johnson rephrases.
Reference to Cindy Jelinek, Dana Bald and Dana Collins, Patrick Hoffman.

11:07 am Mr. Porter objects, form. Overruled.
Mr. LeBelle defers to Mr. Porter for cross. Mr. Porter cross-examines witness.
Questioning as to obtaining copies of witness statements Exhibits 14 and 15.

11:14 am Mr. Johnson objects as to relevance. Court inquires. Mr. Porter responds. The Court allows questioning to proceed. Mr. Porter re-states question as to LoCascio and Huntington interview/discussions with Brown County personnel.

11:24 am Mr. Porter offers Exhibit 1004, Report –Interview of Paul Piikkila. (Defendants are sharing exhibits 1000 and beyond).

11:29 am Mr. Porter addresses log that witness is referring to for timeline. Defense asks for copy, marks as Exhibit 1005, moves to admit, no objections, received.

11:44 am Mr. Johnson objects, relevance. Mr. Porter responds. Issue concerning communication between Brown County Law Enforcement and Federal Investigators/Prosecutors from search. The Court overrules the objection. (Meeting 10/29/2015)

12:00 pm Mr. Johnson objects, relevance, overruled.
Mr. Johnson addresses time concerns regarding government witness. The Court and parties discussing remaining witnesses, disputes. Mr. Johnson and Mr. Krueger respond. Mr. Porter addresses his client needs to leave at 2:30 pm. The government does not object. The Court

addresses this with Ms. Kelly Van Den Heuvel. Ms. Kelly Van Den Heuvel responds. Court addresses concerns.

12:05 pm Court recesses.

1:04 pm Court resumes. Mr. LeBelle responds as to CD.
Mr. Porter continues cross-examination of witness.

1:17 pm Mr Johnson objects, relevance. Sustained.

1:22 pm Cross-examination by Mr. LeBell. (Re: Exhibits 14 and 15).

1:28 pm Mr. Johnson objects, relevance. Mr. LeBelle responds. Overruled.

1:29 pm Court makes inquiry.

1:36 pm Mr. Johnson re-direct.
Mr. Porter objects, form- misleading. Sustained.
Witness excused.

1:38 pm Mr. Krueger calls Sgt. Mary Shartner.
Mary Shartner, sworn and testifies under direct.

1:41 pm Mr. LeBelle addresses the line of questioning. The Court responds.

1:44 pm Mr. Porter objections, leading, sustained.

1:47 pm Mr. Porter objects, relevance. Mr. Krueger responds. Court inquires. Mr. Krueger will move on.

1:50 pm Exhibits 1-6 offered.

1:55 pm Lawrence Drive address-Green Box, American Blvd-Patriot Tissue, 540 Fortune Avenue and Parkview Drive address -items were only photographed
Testimony as to search execution.

2:00 pm Mr. LeBelle objects, foundation. Mr. Krueger will lay foundation.
Mr. LeBelle objects, overruled.
Mr. LeBelle objects, no relevance, overruled.
Mr. Porter, objects, leading witness-hearsay, overruled.
Mr. LeBelle objects leading. Mr. Krueger rephrases. Mr. LeBelle objects, objection noted and overruled.

2:07 pm Mr. Krueger moves to admit Exhibits 1-6, no objections, received.
Exhibits 7 and 8 offered.
Plastics to fuel process testing discussed.

2:11 pm Exhibit #9 offered, discussed seizure of computers and documents.
Mr. Krueger moves to admit Exhibits 7, 8, and 9, no objections, received.

2:17 pm Mr. Krueger offers and moves to admit Exhibit10, no objections, received.

2:19 pm Mr. LeBelle objects, Mr. Krueger will re-state question.
(privileged material addressed)

2:21 pm Exhibits 11 and 12 offered, moved to admit, no objections, all exhibits 10-12 received.
Brown County secured boxes/documents in secure access garage.

2:27 pm Mr. LeBelle objects, irrelevant, global terms, overruled.

2:29 pm Mr. Porter asks for question to be repeated.
Seizure of Horicon Bank documents addressed.
Affidavit re: Guy LoCasio and Steven Huntington addressed.

2:33 pm Mr. LeBelle conducts cross-examination.
Mr. Krueger objections, foundation, Court asks to repeat question, Mr. LeBelle repeats question.
Mr. Krueger responds “hypothetical.” Court instructs witness to answer.
RNK Development Inc. addressed.
Waste Tire Recovery LLC addressed.
Waste Poly Recovery Technology addressed.

2:42 pm Court inquires as to if evidentiary question or challenging the warrant.
Mr. LeBelle responds. Court makes inquiry.
Mr. Krueger responds.
Mr. LeBelle responds. Mr. Krueger responds.
Court addresses focus of warrant as to Mr. Van Den Heuvel.

Mr. LeBelle responds.

2:46 pm Mr. LeBelle continues cross.

2:47 pm Mr. LeBelle withdraws question.
Oconto Falls addressed.

2:49 pm Mr. Krueger responds.

2:50 pm Court recesses.

3:00 pm Court resumes.
Mr. Porter asks to address court regarding today's schedule and addresses that his client will need to leave at 4:20 pm. Court inquires as to disputes, fact vs legal issue. Mr. LeBelle addresses sheer volume and scope. Mr. Porter requests witness to be excused for discussions.
The Court excuses witness from stand.
Mr. LeBelle responds to court's inquiry. Mr. Krueger responds. The Court addresses Brown County Search Warrant and makes inquiry. Mr. LeBelle addresses legal dispute. Mr. Krueger responds (3200 documents-some pre-dates search warrant some inside search warrant). The Court and parties discuss relevancy of seizure and arguments. The Court instructs counsel to excuse all other witnesses for the day. Testimony from Mary Shartner will continue.

3:16 pm The Court and parties continue discussions as to arguments. Mr. Johnson responds as to presentation of evidence. Mr. Porter agrees and responds.

3:20 pm Witness returns to the courtroom.
Mr. LeBelle continues with cross-examination.
Exhibit 1025 offered, Exhibit 1008 offered, Exhibit 1009 offered,
Mr. Krueger objects, foundation. Mr. LeBelle responds.
Exhibit 1012 offered,
Mr. Krueger objects foundation. Mr. LeBelle responds. Mr. Krueger responds. Mr. Porter responds. Mr. Krueger responds.
Witness asks counsel to repeat question.
Mr. Krueger sets forth government's position as to seized documents.
Mr. LeBelle responds. Mr. Krueger responds. Mr. Porter interjects.

3:39 pm Exhibit 1015 offered, 1016 offered, Exhibit 1014 offered, Mr. Johnson responds. Exhibit 1011 offered, Exhibit 1021 offered, Exhibits 1028 offered.

3:47 pm Mr. Krueger objects, calls for speculation without a foundation. Mr. LeBelle responds.

3:54 pm Mr. Krueger inquires.
Mr. Krueger objects, leading. Mr. LeBelle rephrases question. Mr. Krueger responds.

3:59 pm The Court instructs counsel to restate the question. Objection, overruled.

4:05 pm Mr. Krueger objects, asked and answered, sustained.

4:07 pm Mr. Krueger objects, foundation.
Mr. Krueger objects, mischaracterizes.
Mr. Krueger objects, mischaracterized. Witness instructed to answer question.
Mr. Krueger objects, foundation. Mr. LeBelle responds. Mr. Krueger responds.
Mr. Krueger objects, foundation.

4:12 pm The Court excuses witness (Sgt. Shartner) for today. The witness and Defendant, Kelly Van Den Heuvel are allowed to leave. The evidentiary portion of hearing is concluded for today. The Court and counsel continue to have discussions. The Court makes inquiries as to warrant.

4:14 pm Mr. LeBelle responds.

4:16 pm Mr. Porter responds and questions what warrant is government defending?
Mr. Krueger responds.
Court makes inquiry of possibility to check every document.
Mr. Johnson responds.

4:20 pm Mr. Porter responds.
Mr. Krueger responds.
Mr. Porter responds.
Mr. Krueger addresses permeation by fraud.

The Court inquires as to proceeding from here as to further testimony.

Mr. Johnson suggests the government will attempt to propose way to minimize need for evidentiary hearing.

Mr. Porter addresses 3200 pages and plain view doctrine.

Mr. Porter addresses documents returned in 2016. Mr. Porter would like the Court to know how many pages were returned and how many documents predated 2010. (percentage returned)

Mr. Krueger responds regarding what testimony of Special Agent Austin would be.

Continuation of Evidentiary Hearing scheduled for August 31 at 9:00 am (and potentially September 1st if needed.)

4:35 pm

Off the record briefly, and back on the record.

Mr. LeBelle requests to have his briefing schedule extended for reply briefs as to issue of severance of counts and facial attack on search warrant.

Mr. Porter also has reply due on grand jury issued by Friday.

Mr. Johnson responds.

Mr. LeBelle requests to extend reply due to staffing issues till after completion of the evidentiary hearing. (Reply on validity of warrant.) The Court will allow.

Mr. LeBelle also addresses severance reply before Judge Jones. The Court instructs to confirm that issue with Judge Jones.

4:39 pm

Adjourned.