

1 THE COURT: Total?

2 THE WITNESS: Yes, sir.

3 Q From your time of arrival until the firearm
4 was actually found, how long approximately had passed?

5 A Very quickly. Until we got into the room, it
6 was very quick. It was only a minute or two for

7 C [REDACTED] to get inside the bathroom and Officer
8 S [REDACTED] observed the bullets on top of the dresser.

9 MS. L [REDACTED]: I have no further questions
10 for this witness.

11 THE COURT: Cross examine, Mr. Sisto?

12 MR. SISTO: Yes, Your Honor.

13 CROSS EXAMINATION BY MR. SISTO:

14 Q Officer, you made a point to testify that the
15 warrant that you were there to serve for Mr. W [REDACTED]
16 said, "use caution," correct?

17 A Yes, sir.

18 Q And you believe that the basis for that was a
19 resisting arrest conviction Mr. W [REDACTED] had?

20 A Something like that, sir.

21 Q Well, tell me exactly what you believe the
22 basis was to use caution?

23 A I would have to check the NCIS. It said
24 something in there -- something with the officers --
25 resisting or -- I don't recall exactly what it said,

1 but use caution was on top of the first page we
2 received the warrant on so we did the NCIS hit and
3 there was additional information on that.

4 Q Were you aware that this resisting charge you
5 previously alluded to was disposed of in municipal
6 court?

7 A No, sir. The NCIS gives you a little footnote
8 explaining to use caution.

9 Q Were you aware, sir, that this charge
10 disposed of in municipal court was disposed of in some
11 time in the 1980's?

12 A No, sir.

13 Q Now, you testified that upon entering the
14 home, J [REDACTED] asked you if he can get dressed, correct?

15 A We were still in the breezeway when he asked
16 that.

17 Q The breezeway is part of the home; is it not,
18 sir?

19 A We were at the doorway of it. It's a little
20 combination of both. It's a glass breezeway and --

21 Q You have to go through a door to enter the
22 breezeway, correct?

23 A The door was opened.

24 Q Sir, do you understand my question?

25 A Not really.

1 Q This breezeway isn't just an open gazebo type
2 where any passerby would expect to walk into, correct?

3 A No, sir.

4 Q This is an area that someone needs permission
5 to go into, correct?

6 A Yes, sir.

7 Q It's connected to the home?

8 A It was locked, yes, sir.

9 Q And you stated that Mr. W [REDACTED] was not
10 handcuffed while he was in the bedroom?

11 A No. That is where we did handcuff him, in the
12 bedroom.

13 Q But you stated that he was not handcuffed at
14 the time that he was placed under arrest, right or --
15 excuse me. You are saying that he wasn't handcuffed
16 at the time he made the statement about the gun?

17 A Correct, sir.

18 Q And you also stated that you just did a quick
19 search of the bathroom and the bedroom?

20 A Yes. The bathroom inside the bedroom.

21 Q There is nothing to stop you from searching
22 the bathroom as thoroughly as you wanted, right, sir?

23 A I was just looking for persons or objects that
24 can harm me.

25 Q Can you hear me, okay, sir?

1 A Yes, sir.

2 Q Did anyone try to stop you from searching the
3 bathroom as thoroughly as you wanted?

4 A No, sir.

5 Q Now, you didn't have a warrant to search the
6 home of the residence, correct?

7 A Correct, sir.

8 Q You did have arrest warrants for both J [REDACTED]
9 W [REDACTED] and C [REDACTED] M [REDACTED], correct?

10 A Yes, sir.

11 Q You were aware that they both lived at 239
12 [REDACTED] Road?

13 A Yes.

14 Q Now, if they both presented themselves at the
15 front door, you would have no reason to enter the
16 home, correct?

17 A Unless they requested to get dressed, yes.

18 Q Is that a yes?

19 MS. L [REDACTED]: I think he did answer it,
20 Your Honor.

21 A Unless he asked me to get dressed, I wouldn't
22 have entered the house. Did I answer your question?

23 Q You also had an arrest warrant for O [REDACTED]?

24 A Yes, but she didn't come to the front door, yes.

25 Q If they both presented themselves at the

1 front door, they would have been arrested at the front
2 door, correct?

3 A As long as they had proper clothing on.

4 Q And from the front door, they would have been
5 transported to the police station?

6 A Yes, sir.

7 Q There was a man named W [REDACTED] J [REDACTED] that
8 answered the knock at the door, right?

9 A Yes.

10 Q And this was around 5:40 a.m.?

11 A Yes.

12 Q And you asked W [REDACTED] if J [REDACTED] was home?

13 A Yes.

14 Q You said nothing about C [REDACTED] at the time?

15 A No, sir.

16 Q You concede that you did have an arrest
17 warrant at the time for her, correct?

18 A I did have an arrest warrant for her.

19 Q So you gave W [REDACTED] no reason to ask for
20 C [REDACTED] to come to the door?

21 A Correct.

22 Q You expected that C [REDACTED] and J [REDACTED] would be
23 sleeping at 5:40 in the morning, right?

24 A Sure.

25 Q W [REDACTED] J [REDACTED] was asleep when you arrived

1 there, right?

2 A Yes.

3 Q And at 5:40 in the morning, that came as no
4 surprise, did it?

5 A That he was sleeping?

6 Q Yes.

7 A I don't think so, no.

8 Q And W [REDACTED] went to get J [REDACTED] as per your
9 request, right?

10 A Yes.

11 Q And J [REDACTED] came to the door moments later?

12 A Yes, sir.

13 Q So W [REDACTED] was cooperating with you when he
14 went and got J [REDACTED]?

15 A Yes.

16 Q And J [REDACTED] cooperated when he came to the door
17 moments later, correct?

18 A Yes, sir.

19 Q J [REDACTED] then cooperated by identifying himself
20 when he came to the door, right?

21 A Yes, sir.

22 Q And you testified during the direct you had a
23 picture of Mr. W [REDACTED], right?

24 A Yes, sir.

25 Q There's no mention of this picture in your

1 police report, is there?

2 A No, sir.

3 Q Now, when J [REDACTED] came and identified himself,
4 he didn't intend to flee, did he?

5 A No, sir.

6 Q He didn't give you any indication he was
7 going to flee, did he?

8 A No, sir.

9 Q None of the arrest warrants that you were
10 there to serve were for violent crimes, were they?

11 A No.

12 Q So when J [REDACTED] identified himself at the door,
13 you and Officer S [REDACTED] entered the home, correct?

14 A No, not immediately. I guess the breezeway,
15 is that what you are saying?

16 Q Well, we've established that the breezeway is
17 connected to the home, right, sir?

18 A Since he opened the door, yes. I informed him
19 he had arrest warrants for him.

20 Q Well, whether the door is open or closed, the
21 breezeway is still connected to the home, right?

22 A Yes.

23 Q Not an area you would expect a passerby to
24 just walk into, correct?

25 A Correct.

1 Q It's an area that they maintain a privacy
2 interest in, right?

3 A Yes, sir.

4 THE COURT: Before we go on so that I'm clear
5 and the record is clear, when you first came to the
6 home, you went to the side entrance where the
7 breezeway was. Was the door shut?

8 THE WITNESS: Yes, sir.

9 THE COURT: What did you do? Did you call
10 out? My understanding is you called out to an
11 individual who was sleeping, right?

12 THE WITNESS: Yes, sir.

13 THE COURT: What happened then?

14 THE WITNESS: Before that we went to the
15 front door and got no answer. I then went to the side
16 door. He immediately awakened and I asked him, "Is
17 J [REDACTED] here," and he said, "yes."

18 THE COURT: When you were speaking to him,
19 was the door shut to the breezeway?

20 THE WITNESS: Yes, sir.

21 THE COURT: Were you standing inside or
22 outside the breezeway?

23 THE WITNESS: Outside.

24 THE COURT: Was there a point in time that
25 you entered the breezeway?

1 THE WITNESS: Yes, sir.

2 THE COURT: And when did that happen?

3 THE WITNESS: When J [REDACTED] opened the door for
4 us.

5 THE COURT: Was that after he went and -- you
6 say J [REDACTED].

7 THE WITNESS: Mr. W [REDACTED].

8 THE COURT: Mr. W [REDACTED], okay. So he came to
9 the door and opened the door to the breezeway and you
10 entered at that point.

11 THE WITNESS: Yes, sir.

12 THE COURT: Did you recognize him as the
13 defendant, as someone that was a subject to the
14 warrants?

15 THE WITNESS: Yes, sir, from the picture that
16 we had in our file.

17 THE COURT: Did he also identify himself by
18 name?

19 THE WITNESS: Yes, sir.

20 THE COURT: Was it after that you entered the
21 breezeway?

22 THE WITNESS: Yes, sir.

23 THE COURT: All right. Counsel continue.

24 CONT'D CROSS:

25 Q Sir, you didn't ask J [REDACTED] to step outside the

1 home, correct?

2 A No.

3 Q And he was being cooperative we've
4 established, correct?

5 A Yes.

6 Q He gave no indication that he was going to
7 flee when he answered the door, did he?

8 A No, sir.

9 Q J [REDACTED] was then placed under arrest, right?

10 A Verbally, not handcuffed.

11 Q You've gone out of your way to say that sir,
12 but my question is was J [REDACTED] placed under arrest?

13 A Yes, sir.

14 Q And your report makes no mention of only
15 being verbally arrested, right?

16 A Right.

17 Q A verbal arrest, is that something that is
18 common?

19 A When I inform someone that they are under
20 arrest, that's enough to let them know they are not
21 free to leave.

22 Q A verbal arrest is different than actually
23 placing someone under arrest, isn't it?

24 A Being handcuffed, but a verbal arrest is the
25 same as being informed he has warrants and he is under

1 arrest.

2 Q When you hear an officer say --

3 MS. L [REDACTED]: I am going to object at this
4 point. I think we are getting into the legal argument
5 which is for Counsel and myself to argue before the
6 Court. The officer has been very clear that he told
7 Mr. W [REDACTED] he was under arrest, but he wasn't
8 handcuffed. Any other legal argument should be dealt
9 with in oral argument before Your Honor.

10 THE COURT: The Rules of Court actually
11 recognize a custodial and noncustodial arrest so I
12 will sustain the objection. You can continue your
13 questioning.

14 Q Sir, if you had an officer tell you, "I
15 placed that man under arrest," you would presume that
16 they put handcuffs on them, wouldn't you?

17 A No, sir.

18 Q You wouldn't?

19 A No.

20 Q It was after J [REDACTED] was placed under arrest
21 that he was asked if his girlfriend C [REDACTED] was home,
22 right?

23 A No. We walked to the back bedroom. I located
24 her -- located somebody sleeping in the bed.

25 Q So it would be a lie to say J [REDACTED] was asked

1 about C[REDACTED] once he was placed under arrest?

2 A I did not ask her -- I did not ask ask him
3 about C[REDACTED].

4 Q Did your partner Officer S[REDACTED] ask him
5 about C[REDACTED] once he was placed under arrest?

6 A I did not hear if he did or did not.

7 Q Well, you were standing next to him at the
8 time, weren't you, sir?

9 A Yes.

10 Q It was soon after J[REDACTED] was placed under
11 arrest, that he lead you and Officer S[REDACTED] to the
12 bedroom that he shared with C[REDACTED], correct?

13 A Yes, sir.

14 Q It was there you found C[REDACTED] laying in bed?

15 A Yes, sir.

16 Q She was then advised she was under arrest for
17 the warrants that you were at the home to serve,
18 correct?

19 A Yes, sir.

20 Q And W[REDACTED], the man who answered the door,
21 he remained at the scene after you entered the home?

22 A In the breezeway.

23 Q Is that a yes?

24 A Yes, sir.

25 Q You could have asked W[REDACTED] to get C[REDACTED],

1 couldn't you?

2 A I wasn't too sure if she was there or not.

3 Q Well, sir, you weren't sure if J [REDACTED] was
4 there when he came to the door right?

5 A That was the first person that I asked when I
6 asked if J [REDACTED] was here. When the fax came over, it
7 was for J [REDACTED] W [REDACTED].

8 Q My question is, sir, when you knocked at the
9 door, were you sure that J [REDACTED] was there?

10 A No, sir.

11 Q And despite not being sure if James was
12 there, you asked W [REDACTED] to get J [REDACTED], right?

13 A Yes.

14 Q So to return to my previous question, you
15 could have asked W [REDACTED] to get C [REDACTED] for you
16 despite not being sure whether or not she was there?

17 A I could have.

18 Q Yes?

19 A I could have, yes.

20 Q You could have asked W [REDACTED] to get a shirt
21 for J [REDACTED] if he needed one, right?

22 A I didn't request him -- he asked for the shirt.
23 I didn't ask for a shirt.

24 Q My question is, sir, there was nothing that
25 stopped you from asking W [REDACTED] to get a shirt for

1 J [REDACTED] if he needed one, correct?

2 A It's J [REDACTED] room. It would have been up to
3 J [REDACTED] to ask W [REDACTED]. I wouldn't have asked somebody
4 to go in somebody else's room to get something.

5 Q But there was nothing from stopping you from
6 doing so?

7 MS. L [REDACTED]: It's been asked and
8 answered.

9 A I wouldn't do that, sir, if that is what you're
10 asking me. I wouldn't ask somebody else to get
11 someone else's belongings.

12 THE COURT: I think the officer has answered
13 the question.

14 Q If W [REDACTED] got C [REDACTED] for you as he got
15 J [REDACTED], you would have no reason to step into the
16 house, correct?

17 A Mr. W [REDACTED] asked for a shirt. He asked to get
18 dressed.

19 Q Let's pretend for a moment he didn't ask --

20 MS. L [REDACTED]: I'm going to object. This
21 is now a hypothetical.

22 THE COURT: I will sustain the objection.
23 What's at issue here is what happened.

24 Q You never asked W [REDACTED] for C [REDACTED], right?

25 A No, sir.

1 Q And you were there to serve warrants for
2 C [REDACTED] as well?

3 A If I located her. If she was there, yes.

4 Q Same thing for J [REDACTED], if he was there, right?

5 A Yes, sir.

6 Q Your purpose for going there was to serve
7 arrest warrants on both of them, right?

8 A The fax came over for J [REDACTED] so the Sheriff's
9 Department often does that.

10 MR. SISTO: Your Honor, I am going to object
11 to that. It's unresponsive.

12 MS. L [REDACTED]: I think it is responsive.

13 THE COURT: It's cross examination. Just
14 listen to the question and answer it as best you can.

15 THE WITNESS: Yes, sir.

16 Q Your purpose in going to the home was to
17 serve arrest warrants on J [REDACTED] and C [REDACTED], correct?

18 A Yes, sir.

19 Q Now, J [REDACTED] was seated on a chair in the
20 bedroom while you waited for C [REDACTED] to get dressed,
21 correct?

22 A Yes.

23 Q And you're saying he wasn't in handcuffs at
24 the time, right?

25 A Correct.

1 MR. SISTO: I'd like the record to reflect I
2 am showing opposing Counsel D-1 for identification.
3 May I approach the witness?

4 THE COURT: Yes, you may.

5 Q Sir, I am showing you what has been marked
6 D-1 for identification. Can you take a look at it,
7 please?

8 A Yes, sir.

9 Q This is one of the reports that you generated
10 from the date in question, correct?

11 A Yes.

12 Q You know that because your signature and name
13 are at the bottom, right?

14 A Yes, sir.

15 Q Your testimony thus far has been that
16 although J [REDACTED] was placed under arrest when he
17 entered, this was a verbal arrest, right?

18 A Yes, sir.

19 Q You would agree looking at your report -- you
20 can look at this. We are half way down the page.
21 These are your words: "Moments later, a black male
22 came to the front door identifying himself as J [REDACTED] H.
23 W [REDACTED]," right?

24 A Yes, sir.

25 Q Your next line, "PO S [REDACTED] and myself

1 stepped through the doorway into the breezeway,"
2 right?

3 A Yes.

4 Q And the next line is, "At this time, I
5 advised Mr. W [REDACTED] he had warrants out for his arrest
6 and placed him under arrest," right?

7 A Yes, sir.

8 Q Those are your exact words, "placed him under
9 arrest," right?

10 A Yes, sir.

11 Q Now, when you talk about a verbal arrest,
12 you're talking about your words, right, telling him
13 you're under arrest?

14 A Yes.

15 Q And despite you using the term, "placed him
16 under arrest," you're saying that he wasn't placed in
17 handcuffs at that time?

18 A Correct.

19 Q You realize he was placed under arrest at the
20 time -- strike that. We will get to that later.

21 Both you and Officer S [REDACTED] were with J [REDACTED]
22 and C [REDACTED] in the bedroom, correct?

23 A Correct.

24 Q Sergeant M [REDACTED] was with W [REDACTED] by the
25 front door?

1 A Correct.

2 Q So there were three officers inside the home
3 while you were in J [REDACTED] bedroom, correct?

4 A Correct.

5 Q Now, the gun that is at issue here was seized
6 by Officer S [REDACTED]?

7 A Correct.

8 Q It was seized from a closet in the hallway
9 right?

10 A Yes, sir.

11 Q That is distinct from any closets that would
12 have been inside the bedroom, right?

13 A Yes, sir.

14 Q At the time the gun was seized from the
15 hallway closet, J [REDACTED] was in the bedroom, right?

16 A Right.

17 Q You were in the bedroom?

18 A Yes, sir.

19 Q C [REDACTED] was in the bedroom?

20 A In the bathroom.

21 Q The bathroom is connected to the bedroom?

22 A Yes, sir.

23 Q Officer S [REDACTED] was in the bedroom, right?

24 A Yes, sir.

25 Q Again, J [REDACTED] was placed under arrest right

1 after he presented himself at the front door, right?

2 A Yes, sir.

3 Q Then some words were exchanged with him,
4 right?

5 A Yes.

6 Q You then accompanied J [REDACTED] down a long
7 hallway to the bedroom?

8 A Yes.

9 Q Once you entered, some words were exchanged
10 with C [REDACTED]?

11 A Yes, sir.

12 Q Some time passed while C [REDACTED] was getting
13 dressed?

14 A Yes, sir.

15 Q It was during this time Officer S [REDACTED]
16 observed the bullets on the dresser, right?

17 A Yes, sir.

18 Q After he saw the bullets, some words were
19 exchanged with J [REDACTED], correct.

20 A Yes, sir.

21 Q And it was then that Officer S [REDACTED]
22 searched the hall closet and found the gun, right?

23 A Yes, sir.

24 Q You conceded that both J [REDACTED] and C [REDACTED] had
25 arrest warrants for nonviolent offenses, right?

1 A The warrants for that day, yes, sir.

2 Q And you also conceded they weren't even for
3 what we refer to as indictable offenses, right?

4 A Yes, sir.

5 Q For municipal court matters?

6 A No, no. There was a criminal warrant from the
7 county that he had and C [REDACTED] had a bad checks
8 warrant out of some town. I don't recall. I would of
9 to look at my report, sir.

10 Q Feel free to refer to it. My question is
11 were any of their warrants for indictable offenses?

12 A No, sir.

13 Q C [REDACTED]'s warrants again, just like J [REDACTED],
14 were for nonviolent municipal court matters, right?

15 A Yes, sir.

16 Q You allowed W [REDACTED] J [REDACTED] to leave your
17 sight when he went back in the house to get J [REDACTED],
18 right?

19 A Yes, sir.

20 Q You had no reason to believe that W [REDACTED]
21 presented a danger at that time, right?

22 A No, sir.

23 Q You walked down a long hallway to get from
24 the front door to J [REDACTED]' bedroom right?

25 A You said he did or I did?

1 Q Both of you did, right?

2 A Yes.

3 Q And the bedroom was located in the rear of
4 the home?

5 A Yes.

6 Q And you walked from the front of the home to
7 the rear of the home, right?

8 A More of the side of the home. More of the side
9 of the home to the other side of the home. It's a
10 ranch.

11 Q Okay. You covered almost the entire home
12 from one side to the other, right?

13 A Yes.

14 Q There's just a garage to the right of the
15 ranch?

16 A Yes, sir.

17 Q You had no indication any one was in the
18 garage, did you?

19 A Not that I knew of.

20 Q During that walk from one side of the house
21 to the other, there was no indication that any one
22 other than C [REDACTED] was in the home, right?

23 A I wasn't sure.

24 Q Did you hear anything that indicated someone
25 was in the home?

1 A I didn't hear anything, but the doors were
2 closed.

3 Q Sir, isn't it true that whenever you enter
4 someone's home, you never know for sure whether there
5 are additional people inside?

6 A Yes, sir.

7 Q You would need X-ray vision for that, right,
8 sir?

9 A Yes, sir.

10 Q For which your department doesn't provided,
11 correct?

12 A Yes.

13 Q And you understand that this uncertainty,
14 this inherent uncertainty when you enter the home,
15 that doesn't give you a right to search the home,
16 correct?

17 MS. L [REDACTED]: I am going to object. I
18 don't know if we are talking about factual scenarios
19 and again, we are getting into -- -

20 THE COURT: It's a legal conclusion. What is
21 at issue here is what this officer did. What he
22 believed the law may or may not have been to the
23 extent when he executed this arrest, is really not
24 relevant unless there was some communication by some
25 other person that this was important. In any event, I

1 haven't heard anything in that regard. I will sustain
2 the objection.

3 Q You arrived at the home, sir, with two other
4 officers, correct?

5 A Yes.

6 Q That was Officer S [REDACTED] and Sergeant
7 M [REDACTED]?

8 A Yes.

9 Q Now, wasn't Officer M [REDACTED] F [REDACTED] also at
10 the scene at some point?

11 A No, sir.

12 Q Wasn't Officer J [REDACTED] D [REDACTED] also at the
13 scene in question?

14 A No, sir.

15 MR. SISTO: Let the record reflect I am
16 showing opposing counsel what's been marked D-3 for
17 identification. May I approach the witness, Your
18 Honor?

19 THE COURT: Yes.

20 Q Sir, I am showing you what's been marked D-3
21 for identification. Please take a look at it.

22 A Yes, sir.

23 Q Your testimony is that an Officer M [REDACTED]
24 F [REDACTED] was not at the scene on the day in question?

25 A Yes, sir.

1 Q And Officer J [REDACTED] D [REDACTED] was not at the
2 scene on the day in question?

3 A Yes, sir.

4 Q Now, this is a General Complaint from your
5 police department, right?

6 A Yes, sir.

7 Q And it's generated by dispatch, correct?

8 A Yes.

9 Q It pertains to the day in question, right?

10 A Yes, sir.

11 Q And you know that because you have been a
12 police officer there and you are familiar with a
13 General Complaint, right?

14 A Yes, sir.

15 Q Now, it lists some officers names in the
16 middle of it, right?

17 A Yes.

18 Q It talks about the time that they were
19 dispatched to the scene, right?

20 A Yes.

21 Q Now, with respect to M [REDACTED] F [REDACTED], who
22 you said was not there, M [REDACTED] F [REDACTED] is listed,
23 right?

24 A Yes.

25 Q It talks about him being dispatched at 5:26

1 a.m., right?

2 A Yes.

3 Q That is the same time that -- well, it's four
4 minutes after you were dispatched, right?

5 A Dispatch time, yes.

6 Q And the location on this form is 239 [REDACTED]
7 [REDACTED] Road?

8 A Yes, sir.

9 Q You also testified that there was no Officer
10 J [REDACTED] D [REDACTED] there involved in the day in
11 question?

12 A Not at this location.

13 Q But it does list his name here, right?

14 A Yes, sir.

15 Q And this General Complaint only refers to 239
16 [REDACTED] Road?

17 A Accept where this says 62 Renee Court. That is
18 the only thing.

19 Q What's Renee Court have to do --

20 A Renee Court is location in town also.

21 Q Why would that be included in the form that
22 at the very top is entitled 239 [REDACTED] Road?

23 A A computer error or mistake on the dispatcher's
24 part.

25 Q You agree that you were there, right, sir.

1 A Yes, sir.

2 Q And you testified earlier -- you told the
3 Honorable Judge that you were on the scene for
4 approximately 28 minutes?

5 A Approximately, yes.

6 Q Now, the report lists your name, right,
7 M [REDACTED] G [REDACTED]?

8 A Yes.

9 Q It's listed twice actually, right?

10 A Twice.

11 Q And both times, it lists your arrival time at
12 the scene at 5:26 a.m., right?

13 A 5:26, yes, sir.

14 Q And both times it lists your time as clearing
15 the scene at 11:01 a.m., right?

16 A Correct.

17 Q So there is about six hours between those two
18 times, right?

19 A Yes, sir.

20 Q And that is six hours between the arrival
21 time and the clear time, right?

22 A Yes, sir.

23 Q And six hours is more than 28 minutes, right,
24 sir?

25 A The six hours total is complete of the job,

1 sir. When we transported him to Ocean County Jail. I
2 think the time your asking me for is when we were out
3 of headquarters.

4 Q Is it fair to say the three people that you
5 encountered in the home, they cooperated with the
6 officers, right?

7 A Yes, sir.

8 Q And J [REDACTED] was, in your words, "verbally under
9 arrest," at the time Officer S [REDACTED] noticed the
10 bullets, right?

11 A Yes, sir.

12 Q And he was guarded in the bedroom by yourself
13 and Officer S [REDACTED], right?

14 A Yes, sir.

15 Q And C [REDACTED] was also being watched in the
16 bedroom, right?

17 A She was actually in the bathroom, but, yes in
18 the bedroom.

19 Q She entered the bathroom after you cleared
20 it, right?

21 A She entered the bathroom after I cleared it.

22 Q And while you were in the bedroom, Sergeant
23 M [REDACTED] was with W [REDACTED] by the front door area,
24 right?

25 A Yes, sir.

1 Q And it was during this time that J [REDACTED] made
2 the statement about the gun being in the closet,
3 right?

4 A Yes.

5 Q After he was, in your words, verbally placed
6 under arrest, right?

7 A Yes.

8 Q After while he was being guarded by you and
9 another officer, right, sir?

10 A Yes, sir.

11 Q It was after he made the statement that
12 Office S [REDACTED] went into the hall closet and
13 retrieved the gun, correct?

14 A Yes, sir. Yeah, yeah. He pointed to the
15 closet right behind Officer S [REDACTED].

16 Q It was after J [REDACTED] made the statement that
17 Officer S [REDACTED] went to the hall closet, right?

18 A Yes.

19 Q No one attempted to get a search warrant by
20 phoning the radio before he went into the closet, did
21 they?

22 A No, sir.

23 Q Mr. W [REDACTED] was never informed of his Miranda
24 Rights on the day in question?

25 A No, sir.

1 A They were on another assignment, I believe.

2 Q Could that refer to this --

3 A Renee Court. That would be correct.

4 MS. L [REDACTED]: I have no further questions
5 for this witness, Your Honor.

6 THE COURT: Cross examine?

7 MR. SISTO: Thank you, Your Honor.

8 CROSS EXAMINATION BY MR. SISTO:

9 Q Sir, you referred to a warrant that was
10 stamped cautioned, correct.

11 A Correct, sir.

12 Q You also referred to a resisting against
13 police officers that you believed applied to Mr.
14 W [REDACTED]?

15 A Yes, sir.

16 Q Were you aware that this resisting charge was
17 from the 1980's?

18 A No, sir. I wasn't aware what year it was from.

19 Q Were you aware it was disposed in municipal
20 court?

21 A No, sir.

22 Q Were you aware that it was a resisting arrest
23 charge disposed of in municipal court was a resisting
24 without violence?

25 A No, sir.

1 Q You've been a police officer for 20 years,
2 correct?

3 A Twenty-six years, sir.

4 Q And you testified on direct that you were
5 not familiar with Mr. W [REDACTED] prior to arriving at that
6 home?

7 A I never had any contact with him before, sir.

8 Q My question was you were not familiar with
9 him at all?

10 A No, sir.

11 MR. SISTO: Your Honor, I'd like to have this
12 marked for identification.

13 THE COURT: Okay.

14 (Whereupon, a transcript, dated September 30,
15 2008, was marked D-4 for identification.)

16 Let the record reflect I am showing what has
17 been marked D-4 for identification to opposing
18 Counsel.

19 Q Sir, some minutes have passed with regard to
20 your testimony with the prosecutor on direct, but you
21 had indicated that you were not familiar with Mr.
22 Wesley prior to the day in question, correct?

23 A Yes.

24 Q I am showing you D-4 for identification.
25 Would you take a look at it, please? You don't need

1 to read the whole thing. It's a transcript of your
2 grand jury testimony, right?

3 A I would have to read it, sir.

4 Q Take as much time as you need. Just let me
5 know that you are ready.

6 A minute so far has passed. It appears to be
7 a transcript of your grand jury testimony, correct?

8 A Okay, sir. I don't recall the testimony, but I
9 am reading it.

10 Q Okay. The front page of this document reads,
11 "Before the Ocean County Grand Jury," correct?

12 A Correct.

13 Q When I open it up, there is one witness
14 listed for the State, correct?

15 A Correct.

16 Q It reads Patrolman A [REDACTED] S [REDACTED], that is
17 you, correct?

18 A That is me, yes, sir.

19 Q You have no reason to believe that this
20 document has been falsified, do you?

21 A No, sir.

22 Q I am going to direct your attention to the
23 very last page, page eight. You were placed under
24 oath when you testified before the grand jury, right?

25 A Yes.

1 Q Just like you were placed under oath today,
2 correct?

3 A Yes.

4 Q Returning to my original question before that
5 dealt with this document. You testified at the time
6 you went to the home, you were not familiar with J [REDACTED]
7 W [REDACTED], right?

8 A Right.

9 Q And you were asked before the grand jury
10 questions by Ms. W [REDACTED], that is a prosecutor, right?

11 A Yes, sir.

12 Q "Officer, was it your understanding Mr.
13 W [REDACTED] and Ms. M [REDACTED] had been residing in that
14 residence for quite some time." Your answer, "Yes,
15 they had," right?

16 A Yes, sir, that is what I answered.

17 Q Then, "Question, do you know approximately
18 how long?" You answered, "Personally, I know they
19 lived there for at least three years," right?

20 A Correct, sir.

21 Q You testified before the grand jury on
22 September 30, 2008, right?

23 A Correct, sir.

24 Q So at least three years before then would be
25 some time in 2005, right?

1 A Correct, sir.

2 Q Essentially, your testimony was that you knew
3 that J [REDACTED] W [REDACTED] lived at that residence?

4 A I knew where he lived, yes, sir.

5 Q Now, you also testified during direct that
6 Mr. W [REDACTED] came to the door in his underwear, right?

7 A I believe it was underwear, a pair of shorts,
8 something like that. He asked to get dressed.

9 Q You didn't say anything about a pair of
10 shorts on direct, did you?

11 A Sir?

12 Q Do you recall saying anything about a pair of
13 shorts?

14 A Shorts, boxers, underwear. I refer to them as
15 the same. That is what most people wear to bed.

16 Q And your testimony is that Mr. W [REDACTED] asked
17 to get dressed, correct?

18 A Correct.

19 Q You wrote a detailed police report about the
20 day in question, correct?

21 A Correct.

22 Q No where in that report does it say anything
23 about J [REDACTED] asking to get dressed, does it?

24 A I'd have to refer to my report, sir.

25 MR. SISTO: If the record could reflect I am

1 showing opposing Counsel D-2 for identification.

2 May I approach the witness?

3 THE COURT: Yes.

4 Q Sir, I see that you have a copy of your
5 report.

6 A I do.

7 Q I would ask that you turn that over during
8 your testimony. I'm going to show you what has been
9 marked D-2 for identification. This is a copy of your
10 report, right?

11 A Yes, sir.

12 Q The one that you were just looking at when I
13 approached you?

14 A Yes, sir.

15 Q My original question to you is this.
16 Anywhere in that detailed report, does it say anything
17 about J [REDACTED] asking to get dressed?

18 A No, sir.

19 Q It doesn't say anything about that in your
20 report now that you've had time to look at it,
21 correct?

22 A In my report, no sir.

23 Q Sir, you also testified during direct that
24 you would not have gone into the residence, but for
25 which you say was J [REDACTED] request to get dressed,

1 correct?

2 A Correct.

3 Q Now, isn't it true, sir, you went there with
4 the intention to arrest C [REDACTED] M [REDACTED] as well?

5 A If she was present, yes, sir.

6 Q So when you said that you wouldn't have gone
7 in, but for J [REDACTED] request, you then followed up by
8 stating that you would have taken him to the police
9 station, right?

10 A I don't follow, sir.

11 Q You said during direct examination your
12 testimony was that but for J [REDACTED] request to get
13 dressed, we would have just taken him to the police
14 station from the front door, correct?

15 A Yes, sir.

16 Q That would have left Miss M [REDACTED] in the
17 residence, correct?

18 A Correct.

19 Q And you were there to serve her with an
20 arrest warrant as well, correct?

21 A Well, we would have worked it differently. We
22 would have asked Mr. J [REDACTED] if she was there or we
23 would have asked him if she was there afterwards.

24 Q You never asked Mr. J [REDACTED] if she was there,
25 though.

1 A We didn't have to, sir.

2 Q But still you would agree that your testimony
3 was that you would have just left had J [REDACTED] not
4 allegedly asked to get dressed, right?

5 A You're asking me something that didn't happen
6 so I don't know how to testify to it, sir.

7 Q Let me rephrase, sir. You agree that you
8 testified during direct examination that had J [REDACTED] not
9 asked to get dressed, you would have arrested him at
10 the doorway, right?

11 A Correct, sir. We would have arrested him at
12 the door and just left.

13 Q You also agree that you were there to serve
14 Colleen with arrest warrants, correct?

15 A And again, sir, I don't follow you.

16 Q Did you go to the home to arrest C [REDACTED]
17 M [REDACTED] as well?

18 A We went to the home to arrest J [REDACTED] W [REDACTED]. If
19 C [REDACTED] was there, yeah, she was going to get arrested
20 too, if we encountered her.

21 Q You knew going into the home there were
22 active warrants for C [REDACTED], right?

23 A Yes, sir, we did.

24 Q Now, you also testified during direct
25 examination, sir, that there was a point in time where

1 you were in the bedroom with J [REDACTED], right?

2 A Yes, sir.

3 Q And that he indicated to you where the gun
4 was in the hallway closet, right?

5 A Correct.

6 Q And you testified during direct examination
7 -- actually, you made the motion that he physically
8 pointed to the hallway closet, correct?

9 A He pointed passed me.

10 Q And again, sir, referring you to the detailed
11 report, you didn't write anything in your police
12 report that he was using his hand to point passed you
13 in the closet, did you?

14 A No, sir, I did not.

15 Q Finally, sir, you also testified on direct
16 that it was after the gun was seized from the closet
17 that J [REDACTED] made the statement about it belonging to
18 J [REDACTED]'s brother, correct?

19 A Correct, sir.

20 MR. SISTO: May the record reflect I am
21 showing D-2 for identification to opposing Counsel.
22 May I approach the witness, Your Honor?

23 THE COURT: Yes.

24 Q I am showing you what has been marked D-2 for
25 identification, correct?

1 A Correct.

2 Q This is your police report?

3 A Yes.

4 Q And what we have established is that your
5 testimony today has been that it was after you seized
6 the gun that J [REDACTED] made the statement that the gun
7 belonged to J [REDACTED]'s brother right?

8 A Correct, sir.

9 Q Now, I draw your attention to this report.
10 The second to the last paragraph, the top line, about
11 14 lines down, okay?

12 A Okay.

13 Q What it says in there is this, sir: "This
14 Officer advised Officer G [REDACTED] of my observation,
15 at which time W [REDACTED] stated the gun was in the
16 closet." That's what it says, right?

17 A Yes.

18 Q And then we move down in the report, right?

19 A Correct.

20 Q Down lower in the report, it then says,
21 "This Officer looked into the closet and observed a
22 semi-automatic, long barreled rifle," right?

23 A Right.

24 Q So it was actually after J [REDACTED] allegedly made
25 the statement?

1 A I was incorrect. It's what he said first and
2 then I got the gun.

3 Q Can I have that back, sir?

4 A Sure.

5 Q Thank you. You would agree that testimony
6 was wrong that you provided?

7 A Right. I said I was incorrect, yes, sir.

8 Q Sir, it was after J [REDACTED] was placed under
9 arrest, that he was asked if his girlfriend C [REDACTED]
10 was home, right?

11 A I don't recall, sir.

12 MR. SISTO: May I approach the witness?

13 THE COURT: Yes.

14 Q I am showing you D-2 for identification.
15 Again, this is your police report I am showing you,
16 right?

17 A Yes.

18 Q Now, take a look at it and I would ask you to
19 look at the first page of your report, about ten lines
20 down and I'll ask you again. It was after James was
21 placed under arrest when he was asked if his
22 girlfriend C [REDACTED] was home, correct? If you go to
23 the bottom of the first paragraph, it would be four
24 lines up. There is a statement that begins, "W [REDACTED]
25 was asked if his girlfriend C [REDACTED] was at the

1 residence to which he stated, yes, she's in bed,"
2 correct?

3 A Okay.

4 Q Right before that on the same line -- excuse
5 me, two lines up, it states, "P.O. G [REDACTED] and this
6 Officer stepped through the doorway and into the
7 breezeway and advised W [REDACTED] he was under arrest
8 concerning active warrants," right?

9 A Yes.

10 Q And right after that it says, "W [REDACTED] was
11 asked if his girlfriend M [REDACTED] was in the residence,"
12 right?

13 A Yes.

14 Q So again, sir, it was after J [REDACTED] was placed
15 under arrest when he was asked if C [REDACTED] was at the
16 residence, right?

17 A Right, sir.

18 Q J [REDACTED] then replied that C [REDACTED] was in bed,
19 right?

20 A Yes.

21 Q You and Officer G [REDACTED] then accompanied
22 J [REDACTED] to the bedroom, right?

23 A Correct.

24 Q Your purpose in going into the bedroom was to
25 arrest C [REDACTED] for her active warrants, correct?

1 A If she was down there, yes, she was going to be
2 arrested.

3 Q Now, again, sir, with respect to detailed
4 report, you didn't note anything in that report about
5 J [REDACTED] going to the bedroom to get a T-shirt, did you?

6 A About who getting a T-shirt?

7 Q J [REDACTED].

8 A J [REDACTED] just asked to get dressed. He didn't
9 specify which clothes. He just requested if he can
10 get dressed.

11 Q We previously established that there is
12 nothing in your report about him asking to get
13 dressed, right?

14 A Correct, sir.

15 Q Now, W [REDACTED] J [REDACTED] remained on the scene
16 after you went to the home, right?

17 A He is the gentleman that laid back on the couch
18 on the breezeway.

19 Q Was that a yes?

20 A You're asking me if he remained in the
21 residence?

22 Q On the scene in the residence.

23 A I am telling you he was in the breezeway.

24 Q The breezeway. He remained in the breezeway
25 of the home, correct?

1 A Correct, sir.

2 Q While you were in the bedroom, Sergeant
3 M [REDACTED] was with W [REDACTED]?

4 A Sergeant M [REDACTED] was with Mr. J [REDACTED].

5 Q The breezeway is connected to the front door;
6 is it not, sir?

7 A Yes.

8 Q My question is while you were in the bedroom,
9 Sergeant [REDACTED] was with W [REDACTED] at the front door?

10 A I don't know if they were by the front door. I
11 just know when I left them, they were in the
12 breezeway.

13 Q While you were in the bedroom with J [REDACTED],
14 J [REDACTED] made the statement about the gun being in the
15 closet, right?

16 A Correct.

17 Q And J [REDACTED] was placed under arrest before he
18 made that statement about the gun being in the closet,
19 right?

20 A Physically under arrest and in handcuffs, no.

21 Q He was verbally placed under arrest, right?

22 A He was told he was being placed under arrest,
23 yes, sir.

24 Q Is it standard procedure when you place
25 someone under arrest only to verbally place them under

1 arrest?

2 A If I advice somebody they are verbally under
3 arrest, that doesn't mean they are in handcuffs. In
4 this case, he requested to get dressed. Its's kind of
5 difficult to get dressed in handcuffs. That is why we
6 didn't cuff him.

7 Q His request is not included in your report,
8 correct?

9 A It's not in my report. Maybe in Officer
10 G [REDACTED]'s report, sir.

11 Q J [REDACTED] made the statement about the gun in
12 response to something you observed, the bullets,
13 right?

14 A He made the statement upon me stating to Officer
15 G [REDACTED] that there were bullets on the dresser.

16 Q It was right after you made the statement
17 about the bullets that J [REDACTED] made the statement about
18 the gun, right?

19 A He made -- I'm the one that made the statement
20 about the bullets. Is that what you are asking me,
21 sir?

22 Q No. I am asking you this, sir. Was it
23 immediately after you said something about the bullets
24 that J [REDACTED] said something about the gun?

25 A Correct, sir.

1 Q Isn't it true, sir, that you actually asked
2 J [REDACTED] where is the gun that goes with these bullets?

3 A No, sir, it's not true.

4 Q Sir, you know it's true that if you admitted
5 to questioning J [REDACTED] directly --

6 MS L [REDACTED]: Objection.

7 THE COURT: There is an objection. I will
8 sustain the objection. It is a speculative question.
9 You can ask him what he did.

10 Q Sir, you don't want to be responsible for
11 having this gun suppressed, do you?

12 MS. L [REDACTED]: Objection.

13 THE COURT: I will sustain that objection.

14 Q J [REDACTED] told you that the gun in the closet
15 belongs to W [REDACTED] J [REDACTED]'s brother, right?

16 A He made that statement, sir.

17 Q J [REDACTED] was in the bedroom when he made that
18 statement, right?

19 A Yes, sir.

20 Q You would agree that W [REDACTED] J [REDACTED] was with
21 Sergeant M [REDACTED] in the breezeway when J [REDACTED] made that
22 statement?

23 A Yes, sir.

24 Q It was after J [REDACTED] made that statement that
25 you walked through the long hallway back to the

1 breezeway, right?

2 A After J [REDACTED] made that statement, I walked --
3 you're asking me if I walked down the hallway into the
4 breezeway?

5 Q Yes.

6 A No. After J [REDACTED] made that statement, I opened
7 the closet door, removed the weapon and cleared it.

8 Q And after that, you walked back to the
9 breezeway, right?

10 A Not at that point.

11 Q Well, you did advise Sergeant M [REDACTED] of the
12 gun you found, right?

13 A Later on I did. That is correct.

14 Q Sergeant M [REDACTED] was on the breezeway,
15 correct?

16 A Correct.

17 Q It was then that W [REDACTED] J [REDACTED] stated that
18 the gun belonged to his brother, right?

19 A That's what he said, yes, sir.

20 Q That is exactly what J [REDACTED] said, right?

21 A Yes.

22 MS. LINARDAKIS: O [REDACTED]. I don't know
23 what the relevance of this in a suppression hearing
24 is.

25 THE COURT: I will allow the question.

1 A That is correct.

2 Q Moreover, W [REDACTED] said he was using the gun
3 with his brother to shoot groundhogs, right?

4 A No, that is not what he said.

5 MR. SISTO: Again, Your Honor, let the record
6 reflect I am showing opposing Counsel D-2 for
7 identification.

8 Q To save you some time, perhaps you may refer
9 to the report in front of you.

10 A Yes, sir.

11 Q At the very bottom of the report, first of
12 all, you deny that W [REDACTED] said in your presence that
13 he was using the gun with his brother to shoot
14 groundhogs, right?

15 A That is not what you just asked me. You said,
16 "he was." I believe what he said was, "they were."
17 That is why I wanted to check the report, sir.

18 Q What they were you referring to?

19 A There was only --

20 MS. L [REDACTED]: Objection. They is
21 speculative. He can't testify to what somebody else
22 means by they.

23 THE COURT: Well, if you can answer the
24 question, I will allow him to answer.

25 Q I am going to show you D-2 for

1 identification.

2 A Your question, sir -- you are asking me would he
3 refer to as they? It was only two of them in the
4 house. I assume he was referring to himself and Mr.
5 W [REDACTED].

6 Q Your words that you use in your report, sir.
7 Drawing your attention to the bottom. "This officer
8 looked into the closet and observed a semi-automatic
9 long barreled rifle." That is what it says, right?

10 A I thought we were talking about what Mr.
11 J [REDACTED] said. I'm mistaken then. I thought your
12 question was what Mr. J [REDACTED] said.

13 Q I'm getting to that, sir. Just listen to my
14 question. If you don't think it's a fair question,
15 you can tell me that.

16 A I didn't know we were on another question.

17 Q The bottom of the page of your report reads
18 this: "This officer looked into the closet and
19 observed a semi-automatic long barreled rifle,"
20 correct?

21 A Correct, sir.

22 Q The very next sentence states, "Sergeant
23 M [REDACTED] had entered into to the breezeway and was
24 conversing with J [REDACTED] when I advised him of the
25 found weapon," right?

1 A Yes.

2 Q "J [REDACTED] stated that it belonged to his
3 brother and that they were using it to shoot
4 groundhogs in the backyard," right?

5 A Correct.

6 Q And it's your testimony here today that the
7 they that he's referring to, given that context, was
8 B [REDACTED] and J [REDACTED]?

9 THE COURT: If he knows. He is just
10 reporting what he said, "they."

11 At this point, I think we are a little far
12 field. I don't know whether it's a question you want
13 to ask at this point in any event, but they, he is
14 just quoting -- and correct me if I am wrong, Officer.
15 You were just quoting Mr. J [REDACTED] using "they?"

16 THE WITNESS: Correct, Your Honor.

17 Q Sir, your report didn't use quotations around
18 that statement, did it?

19 A No, sir, it did not.

20 Q But you did use quotations around the word,
21 B [REDACTED], right?

22 A Correct.

23 Q So you could have used quotations, right?

24 A I guess I could have.

25 Q Now, the charge that you charged Mr. W [REDACTED]

1 with was his unlawful possession, right?

2 A Officer G [REDACTED] charged him with that.

3 Q Don't you think it would have been relevant
4 to include in your report specifically that J [REDACTED]
5 stated that he saw J [REDACTED] use the weapon?

6 MS. L [REDACTED]: Objection. Again, I don't
7 know why this goes for the suppression hearing.

8 THE COURT: It's getting a little far field.
9 This may be relevant for the trial, but it's not
10 relevant for our suppression purposes. I am going to
11 sustain the objection.

12 MR. SISTO: If I can be heard on that
13 subject?

14 THE COURT: I will hear you.

15 MR. SISTO: I'd ask the Court to consider
16 that credibility is always at issue here. Whether it
17 goes to the credibility of their alleged facts
18 surrounding the search or otherwise. I think it's
19 extremely credible that we have an officer here who is
20 ignoring inculpatory evidence looking at other
21 exculpatory evidence.

22 THE COURT: Well, let me ask, Counsel, if he
23 was doing that, why did he include at all the
24 explanation for the weapon? If he was looking just to
25 have inculpatory evidence, he wouldn't put an

1 explanation at all for the weapon. In any event, my
2 ruling as it may be relevant for trial, it's not for
3 the purposes of this evidence hearing.

4 Q So you're denying that W [REDACTED] admitted to
5 using the gun, right?

6 MS. L [REDACTED]: I am going to make the same
7 objection. We are far afield at this point.

8 THE COURT: I think we are limited to what he
9 wrote in his report at this point.

10 Officer, I will just ask you this. Is that
11 an accurate reflection of what you recall Mr. J [REDACTED]
12 saying to you?

13 THE WITNESS: Yes, sir. That is what I wrote
14 in my report.

15 THE COURT: Okay, and for purposes of what
16 you testified, you could have put quotation marks
17 around it because that is exactly what he said, in
18 your recollection?

19 THE WITNESS: Correct, sir.

20 Q J [REDACTED] never said that he used the gun, did
21 he?

22 MS. L [REDACTED]: Again, I am going to object.
23 The question of whether the seizure of the weapon was
24 proper is the question before the Court.

25 THE COURT: Well, I will allow that one

1 question. Did the defendant ever say he used the gun?

2 THE WITNESS: I believe -- if I can refer to
3 my report, but I indicated earlier, I believed Mr.
4 W [REDACTED] made the statement that they were shooting
5 groundhogs with it, if I can refer to my report.

6 THE COURT: Okay. When you say they, that is
7 exactly a quotation of what he is referring to as
8 they?

9 THE WITNESS: Right.

10 Q So your testimony is now J [REDACTED] said they
11 were using the gun?

12 A Sir, if I can refer to my report?

13 Q Sure.

14 A He just states that the gun didn't belong to him,
15 that it was J [REDACTED]'s brother's gun.

16 Q So again, J [REDACTED] never indicated that he used
17 the gun?

18 A No, sir, he did not.

19 Q You also noted that the home the gun was
20 found in belonged to W [REDACTED]'s late father, correct

21 A Mr. J [REDACTED]'s late father, yes, sir.

22 Q You heard from Sergeant M [REDACTED] that W [REDACTED]
23 had a home on a different street, right?

24 A On Pitney Lane, sir.

25 Q Yet, you only charged J [REDACTED] with the unlawful

1 possession of the weapon, right?

2 A Yes, sir.

3 Q You charged J [REDACTED] with the unlawful
4 possession of the weapon because he had a prior
5 conviction for narcotics, right?

6 A Officer G [REDACTED] charged him, sir. I was
7 just assisting.

8 MS. L [REDACTED]: I am just going to object
9 again. I don't believe it is a suppression issue.

10 THE COURT: I will allow it.

11 Q Did you know W [REDACTED] also has a prior
12 conviction for narcotics?

13 A Yes, sir.

14 Q Yet you chose not to charge him with the
15 weapon as well?

16 A He didn't tell me where the gun was. He was
17 only staying there, from what Sergeant M [REDACTED]
18 informed me, for that one night because he had an
19 argument with his wife. He wasn't residing there.

20 Q Is that a no, sir? Do you remember my
21 question?

22 A You asked me why I didn't charge Mr. J [REDACTED]
23 with the possession of the weapon.

24 Q I didn't say why, sir. Knowing about his
25 narcotics conviction, you chose not to charge him as a

1 certain persons, right?

2 A You're losing me here. It's the same
3 difference as what you are asking me why I didn't
4 charge Mr. J[REDACTED]. Is that what you are asking me?

5 Q I didn't say why. Can you hear me okay?

6 A I can hear you fine, sir.

7 Q You knew that Mr. J[REDACTED] had a prior
8 narcotic conviction, right?

9 A Yes.

10 Q You know that it's illegal for someone with a
11 narcotics conviction to be in possession or control of
12 a weapon like that, right?

13 A Yes, sir.

14 Q Isn't it true that you did not charge Mr.
15 J[REDACTED] with being a certain person not to have a
16 weapon?

17 A Mr. J[REDACTED] did not get charged.

18 Q The fact is you yourself have arrested
19 W[REDACTED] J[REDACTED] in the past, right?

20 MS. L[REDACTED]: Objection, again. What is
21 the relevance?

22 THE COURT: As to the suppression motion, I
23 will allow some limited questioning in this area. If
24 you just can wrap it up quickly.

25 Q Sir, you yourself have arrested W[REDACTED]

1 J [REDACTED] in the past, correct?

2 A Correct.

3 Q And you have a history with W [REDACTED] J [REDACTED],
4 right?

5 A I know who W [REDACTED] J [REDACTED] is, yes, sir.

6 Q You made no mention of that in your report,
7 did you, sir?

8 A There's no need to.

9 Q Is that a no?

10 A That is a no.

11 MR. SISTO: No further questions.

12 THE COURT: Any redirect?

13 Q I have just one question. Officer, how is it
14 that if you didn't have any personal interaction with
15 Mr. W [REDACTED], but you knew that he resided at the
16 residence for three years?

17 A I was in the detective bureau for numerous years.
18 Mr. W [REDACTED] was a subject of question. Even though,
19 like I stated, that I had no contact with him ever
20 before, I knew who he was and I knew where he lived.

21 MS. L [REDACTED]: No further questions.

22 THE COURT: Any recross?

23 MR. SISTO: No recross.

24 THE COURT: Thank you, Officer, You may step
25 down.