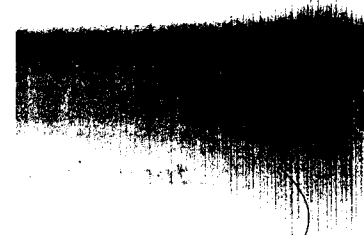




PN-NY-002-010



IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

NICOLE SARNICOLA,

PLAINTIFF

vs

01 Civ 6078 (CM) (MDF)
AFFIDAVIT OF
NICOLE SARNICOLA

THE COUNTY OF WESTCHESTER,
etc., et al.,

DEFENDANTS

STATE OF NEW YORK

SS.:

COUNTY OF NEW YORK

Nicole Sarnicola, being first duly sworn, deposes and says:

1. I am the Plaintiff in this action.

2. I execute this Affidavit in order to provide some additional information related to my arrest on April 26, 2001 and in order to clarify responses which I gave in my deposition to the extent that, in reviewing my deposition transcript, some clarification may be appropriate.

3. When I was arrested on the street in Tarrytown, New York on April 26, 2001, I was not subjected to a frisk or any kind of search before I was placed in the police vehicle and transported to a police facility.

4. Until I was subjected to the strip search on April 26, 2001 at the Westchester County Police Department facility, I was never subjected to any kind of search. I was not subjected to any kind of frisk search or pat search.

5. When I was arrested, I was not given or read any rights; and I did not receive any rights until some point in time when I was in the Westchester County Police Department facility where I was strip searched and subjected to an interrogation. My recollection is that, prior to being strip searched, I was given my rights. I was only given my rights once and it was while I was waiting for the female officer to arrive before I was then subjected to the strip search. I was not given my rights, again,

at the time that I was interrogated and then wrote out my statement. although, at the time I wrote out my statement, I did fill out a document related to rights. However, I was first given the rights -and only given the advisement of my rights, prior to the female officer coming to the facility in order to conduct my strip search.

6. When I was approached by police officers, I was asked where I was from; and I responded indicating "Brooklyn". I was not asked my name and I was never asked why I was in Tarrytown or what I was doing or what my purpose was in being in Tarrytown.

7. During the journey from Brooklyn, New York to Tarrytown, Michael Tricardo did speak on his cell telephone. The only thing that I heard him say or ask was when we would arrive.

8. When I exited the vehicle in the parking lot in Tarrytown, I did not come together with any of the three other individuals [Michael Tricardo, Gabe [REDACTED] Frank Rossi]. I did not see any huddle of individuals; and I was not a participant in a huddle type configuration.

9. I did not observe any individuals giving high fives. I did not give any high five to anyone.

10. As I got out of the vehicle, I indicated that I was going to the bathroom, having indicated that I needed to go to the bathroom while I was in the car.

11. I asked Frank Rossi if he wanted to go with me and he indicated he would.

12. I was not part of any other exchange and I did not hear or observe any other exchange between any of the individuals present in the parking lot. I do not even know whether there were any exchanges between Michael Tricardo and Gabe [REDACTED]

13. I walked out of the parking lot with Frank Rossi. My belief was that Gabe [REDACTED] and Michael Tricardo were in the parking lot behind me and Frank Rossi and it was my belief that they would be in or about the parking lot when, after going to the bathroom, Frank Rossi and I returned to the parking lot. My belief was that we would, then, go to a restaurant which, as I understood it from the beginning, was the reason why we had traveled to Westchester [what I believed was the Yonkers area].

14. I simply had to go to the bathroom; and I did not think in any manner or fashion about going to the restaurant for that purpose. I simply wanted to find a place, where I could go to the bathroom, as soon as possible.

15. Frank Rossi and I walked out of the lot together. We exited right and walked about a block to a store which sold tea;

and it was in that store that I found a bathroom.

16. Frank Rossi and I did not walk with Gabe [REDACTED] out of the parking lot and we did not walk with him on the street.

17. The last time that I saw Gabe [REDACTED] and Michael Tricardo they were in the parking lot where I believed I left them [at some location] when Frank Rossi and I exited right on to the sidewalk and where I expected them to be when I returned with Frank Rossi from the store where I anticipated going to the bathroom.

18. When I was arrested, I was closer to the parking lot than to the tea store where I went to the bathroom. At most, I was a half a block from the parking lot when arrested [maybe not even that distance].

19. I did not see either Michael Tricardo or Gabe [REDACTED] on the street at any time once I exited the parking lot and I do not know where they were as of the time that I was arrested.

20. I never looked into or observed any vehicle when I left the parking lot.

21. After I gave my statement at the Westchester County Police facility, I signed it and dated it. It was approximately 8:45 P.M.

22. When I inquired about whether or when I could leave, I was told "soon". I asked such periodically when or if I could leave; and I was continuously told "soon".

23. It was not until perhaps 11:30 P.M. that I was informed that I could leave and that a ride was available.

24. Until I was told that I could leave at or about 11:30 P.M., I never believed that I was free to leave.

25. I believe that it was unreasonable not to tell me that I could not leave; and I believe that it was unreasonable not to let me leave once I had completed the statement at or about 8:45 P.M. If I had been informed that I could leave, I would have left, in a heartbeat. I would have endeavored to locate a train and take the train back to the City. I had actually inquired, right after I finished writing out my statement, whether there was a bus or train that I could get to return to the City. It was at that time that I was informed that I would be able to leave "soon".

26. I had no knowledge or information whatsoever at any time that Michael Tricardo had traveled to Westchester County on April 26, 2001 in order to engage in a drug transaction with Gabe [REDACTED] and/or to be present when Gabe [REDACTED] engaged in a drug transaction. I only learned about such after I was taken into custody. I was shocked when I learned about it. Figuratively speaking, "my face hit the floor."

DATED: New York, New York
February 16, 2002

Nicole Sarnicola
NICOLE SARNICOLA

Sworn to and subscribed before me
this 16th day of February, 2002.

[Signature]
NOTARY PUBLIC
My Commission Expires: _____

STATE OF NEW YORK
Notary Public for the State of New York
Qualified to perform notary duty
Term expires on 2/03



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