

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

JULIANNE PANAGACOS, et al.,)	
)	
Plaintiffs,)	No. 3:10-cv-5018 RBL
vs.)	
)	
JOHN J. TOWERY, et al.,)	
)	
Defendants.)	

DEPOSITION UPON ORAL EXAMINATION OF
THOMAS R. RUDD

APRIL 1, 2014

925 Fourth Avenue, Suite 2900
Seattle, Washington 98104

10:25 a.m.

REPORTED BY: Karen M. Grant, CCR NO. 2155
VAN PELT, CORBETT & BELLOWS
401 Second Ave. S., Suite 700
Seattle, Washington 98104
(206) 682-9339

20 Q. Is there anything that you omitted from these
21 **statements?**

22 MR. ANGELIS: Object to the form.

23 A. Because the 15-6 investigating officer had,
24 for lack of a better word, an agenda in how he asked his
25 questions and how he conducted his investigation,

Deposition of Thomas Rudd, 4/1/2014

Page 25

1 there -- there may or may not be things on here that
2 could have or should have been asked, and, if it had
3 been a different investigating officer, might have been
4 asked.

22 Q. (By Mr. Hildes) So you knew that Mr. Towerly
23 was attending meetings of PMR and other groups in what
24 you say were public locations?

25 MR. ANGELIS: Object to the form; asked

Van Pelt, Corbett, Bellows
206682-9339 * www.vanpeltdep.com * 1-888-4WA-depo

1 and answered.

2 A. I believe I answered that "Yes."

3 Q. (By Mr. Hildes) Why didn't you put it in your
4 15-6 statements? All you describe him as doing is --
5 all you describe him as doing in there is standing in
6 the area of public events and doing work for Mr. Adamson
7 that you found out about in May or June of 2007. And
8 the 15-6 review makes much of the fact that those were
9 the activities, and expresses extreme concern that, if
10 Mr. Towery had been doing so while being paid by the
11 Army, there would be a severe legal issue under Posse
12 Comitatus.

13 Why didn't you tell either of the 15-6
14 investigators that Mr. Towery, on payroll, was doing
15 more than mingling in crowds and going to speak to law
16 enforcement about health and safety issues, but was
17 actually attending meetings of PMR and other -- and SDS
18 and the Northwest Anti-Imperialist Coalition and
19 planning sessions for the DNC and RNC protest? Why
20 didn't you bother to tell that to the 15-6
21 investigators?

22 MR. ANGELIS: Object to the form; calls
23 for a legal conclusion, misstates documents, vague, and
24 argumentative.

25 Q. (By Mr. Hildes) You may answer the question.

1 A. I responded during the 15-6, both sessions, to
2 every question, every issue that was raised to me. If
3 you're unhappy with the results of the 15-6, I recommend
4 you take that up with the Army and discuss their 15-6
5 procedures.

6 MR. HILDES: Objection. Move to strike.

7 **Q. (By Mr. Hildes) So you're saying you didn't**
8 **respond simply because you weren't asked that?**

9 MR. ANGELIS: Hold on. Object --

10 **Q. (By Mr. Hildes) Is that correct?**

11 MR. ANGELIS: Object to the form.

12 Go ahead.

13 A. I'm saying I supported the 15-6 investigation
14 to the best of my ability with -- by responding to the
15 15-6 and to the commanders conducting that.

16 The issue with the 15-6, from my perspective,
17 was in fact determining if a Posse Comitatus violation
18 had been made.

19 **Q. (By Mr. Hildes) But you never gave the Army**
20 **the clearest information that might have pointed to a**
21 **Posse Comitatus violation. You never told them you were**
22 **sending him to meetings. Why not?**

23 MR. ANGELIS: Object to the form; calls
24 for a legal conclusion, misstates a document.

25 MR. HILDES: It calls for a legal

1 conclusion as to why he didn't tell them?

2 MR. ANGELIS: Same objections.

3 Go ahead.

4 **Q. (By Mr. Hildes) You may answer.**

5 MR. ANGELIS: If you can.

6 A. The fact that Mr. Towery was going to public
7 venues to meet was not a Posse Comitatus issue.

8 But again I reiterate that, you know, I had a
9 Colonel Deputy U.S. Attorney the first time, I had a
10 Military Police Lieutenant Colonel or Colonel the second
11 time, as the investigating officers. They had legal
12 assistance from the Staff Judge Advocate at Fort Lewis.
13 It was my assumption that they were asking me the proper
14 questions to find out what they needed to know for --
15 for the investigation.

16 **Q. (By Mr. Hildes) But if they are making an**
17 **issue of the fact that Mr. Towery was attending public**
18 **rallies and standing and eavesdropping, what made you**
19 **think they wouldn't want to know that you were sending**
20 **him to meetings of these groups?**

21 MR. ANGELIS: Object to the form;
22 mischaracterizes the document.

23 **Q. (By Mr. Hildes) And that he was paid?**

24 MR. ANGELIS: Hold on. I think the
25 question is now finished. Object to the form; misstates

1 evidence, calls for speculation.

2 Go ahead and answer if you can.

3 THE WITNESS: I ...

4 MR. ANGELIS: Do you want the question
5 read back?

6 THE WITNESS: Could you read back the
7 question?

8 MR. HILDES: We'll object, to the extent
9 that Counsel is coaching the witness.

10 You may read back the question.

11 (Reporter read back as
12 requested.)

13 MR. ANGELIS: Same objections.

14 Go ahead.

15 A. I don't know that the investigating officers
16 and/or the Army was making an issue about Mr. Towery
17 going to rallies. The thrust of the 15-6, to me, seemed
18 to be the potential Posse Comitatus violation.

19 **Q. (By Mr. Hildes) What training do you have in**
20 **Posse Comitatus?**

21 A. Very limited.

22 **Q. So what are you interpreting it based on?**

23 MR. ANGELIS: Object to the form.

24 Go ahead.

25 A. At the -- by the time the 15-6 was ongoing, we

1 had had an opine by the Staff Judge Advocate, Captain
2 Hettinga, who had provided information on the Posse
3 Comitatus as it related to the operations we were doing.

4 **Q. (By Mr. Hildes) And did you tell this Captain**
5 **Hettinga that you were sending Mr. Towery to meetings of**
6 **the political groups that he was providing intel on, off**
7 **base?**

8 MR. ANGELIS: Object to the form;
9 misstates prior testimony.

10 Go ahead.

11 A. It's my recollection that Captain Hettinga,
12 the Staff Judge Advocate, was at a meeting with my
13 commander and with the garrison commander when the issue
14 of Mr. Towery's off-post -- off-post performance came
15 up.

16 **Q. (By Mr. Hildes) And?**

17 MR. ANGELIS: Object to the form.

18 A. I do not recall if I specifically told them
19 that Mr. Towery was going to public venues where
20 meetings of self-described Oly PMR folks were ongoing.

21 **Q. (By Mr. Hildes) Who else is going to describe**
22 **them as Oly PMR folks if they don't describe themselves?**
23 **You?**

24 MR. ANGELIS: Object to the form;
25 argumentative.

1 **Q. (By Mr. Hildes) What do you mean, "self-**
2 **described"?**

3 A. Since I don't personally know anybody in the
4 Oly PMR and I -- I don't know if that's what you want me
5 to refer to that group of people as.

6 **Q. Were you aware --**

7 **So you don't know if you told Captain Hettinga**
8 **or the Staff Judge Advocate that Mr. Towery was**
9 **attending PMR and other political meetings in Olympia/**
10 **Tacoma?**

11 A. I don't know if I informed him that Mr. Towery
12 was going to public venues where meetings of such groups
13 were ongoing; that's correct.

14 **Q. And you certainly didn't inform him that he**
15 **was going to meetings at private venues, correct?**

16 MR. ANGELIS: Object to the form,
17 foundation, and misstates prior testimony.

18 A. As I said earlier, I had no knowledge of him
19 going to private meetings or private residences.

20 **Q. (By Mr. Hildes) Did you ask him if he was**
21 **going to meetings at private venues or private**
22 **residences?**

23 A. No.

24 **Q. Did you verify that the meetings he was going**
25 **to were at public venues when you arranged to have him**

1 **paid overtime or comp time for attending them?**

2 MR. ANGELIS: Object to the form;
3 misstates prior testimony.

4 **Q. (By Mr. Hildes) You may answer.**

5 A. The request for -- overtime and comp time
6 requests that were submitted by Mr. Towery in support of
7 military operations, I made the assumption he wouldn't
8 be submitting those requests unless he was going to
9 public venues.

10 **Q. Did you instruct him not to go to private**
11 **venues?**

12 A. Because I knew that he had, in fact, become a
13 confidential informant for Pierce County Sheriff's
14 Office, that he may, in fact, be going to private
15 venues, but I had no visibility of that.

16 **Q. Was he informing you of any of the information**
17 **he gathered at private venues?**

18 MR. ANGELIS: Object to the form,
19 foundation --

20 **Q. (By Mr. Hildes) To your knowledge?**

21 MR. ANGELIS: Foundation.

22 Go ahead.

23 A. The information-sharing rules that -- that
24 Detective Adamson and Mr. Towery developed split the
25 information-sharing protocols into information with a

1 military nexus and information with a criminal -- or a
2 crime nexus. I -- I saw none of the criminal
3 information.

4 **Q. (By Mr. Hildes) How do you know?**

5 A. How do I know I saw none of the criminal
6 information?

7 **Q. Yes.**

8 A. Because I had no need to know it, for one
9 thing, and for another, all the information that
10 Mr. Towery provided was in support of either ongoing,
11 upcoming, or potential military operations.

12 **Q. So regardless of whether he was going to**
13 **public meetings, private meetings, or social events, you**
14 **were getting the information as to what he perceived and**
15 **you perceived as a military nexus?**

16 MR. ANGELIS: Object to the form,
17 foundation.

18 A. Mr. Towery provided military -- Mr. Towery
19 provided information with a military nexus resulted --
20 related to ongoing planned or future military movements.

21 **Q. (By Mr. Hildes) And he didn't tell you -- did**
22 **he tell you where he was getting that information?**

23 A. No.

24 **Q. Did you ask?**

25 A. No.

1 **this document before?**

2 A. (Perusing; no response.)

3 MR. ANGELIS: I'll just caution you.

4 Independent of any discussions with your counsel, go
5 ahead.

6 MR. HILDES: I'll note for the record
7 again that Counsel was discussing specific exhibits and
8 testimony prior to the deposition as to a previous
9 deposition with his client.

10 MR. ANGELIS: That's categorically false,
11 but you can speculate however you want to.

12 Go ahead.

13 A. This appears to be a Web-site posting from an
14 independent media Web site about a conference. Whether
15 or not I ever saw it on-line, I don't know.

16 **Q. (By Mr. Hildes) Are you aware that Mr. Towery**
17 **was going by "John Jacob" or "John Jacobs"?**

18 A. I've seen multiple newspaper articles and
19 on-line postings to that effect.

20 **Q. I'll direct you to the second page of this**
21 **document: Workshop, on the bottom, from 2:30 to 4:00?**

22 A. I see what you're referring to.

23 **Q. Do you see that that workshop, Workshop 4 and**
24 **Action Planning, is presented by John Jacobs?**

25 A. I see that text, yes.

1 **Q. Were you intending to pay Mr. Towery to**
2 **present workshops, or workshop, at the Northwest**
3 **Anti-Imperialist Direct Action Coalition's founding**
4 **conference?**

5 A. Of course not.

6 **Q. Do you know that he -- that he was paid**
7 **overtime for work that he did on December 5th-6th of**
8 **2008, that he testified the only work he did for you**
9 **that day was attending this conference and giving a**
10 **summary of the workshop?**

11 MR. ANGELIS: Object to the form;
12 misstates prior testimony.

13 MR. HILDES: The record will speak for
14 itself.

15 A. (By Mr. Hildes) No, I do not know that he was
16 paid overtime or comp time for that period of time.

17 **Q. (By Mr. Hildes) Does that cause you concern?**

18 MR. ANGELIS: Object to the form; calls
19 for speculation.

20 MR. HILDES: Can you grab Exhibit 186,
21 please?

22 **Q. (By Mr. Hildes) You may answer the question.**

23 MR. ANGELIS: Same objection.

24 A. I believe your question was whether or not, if
25 he attended an open conference, that caused me concern.

1 Attending an open conference would not cause me concern.
2 Him being paid overtime or given comp time for it,
3 especially if he was, in fact, as this shows, going to
4 be a presenter, that would be a cause for concern.

1 at the road network coming out of Pier 7, it's obvious
2 to a military-trained person that there are multiple
3 points along that route that would allow people to block
4 movements.

5 When you look at the rest of the route between
6 Fort Lewis and the Port of Tacoma, you look at the
7 impacts on I-5 at the various overpasses and ramps
8 that -- that you have to use to get back onto the
9 installation, and you look at the installation access
10 control points, which is the term we use for gates.

11 And then other actions in Tacoma that could
12 divert law enforcement support at the port would be,
13 examples: vandalism or attacks on banks and businesses
14 in the local area of Tacoma, or then actions within
15 Tacoma or on I-5.

16 **Q. (By Mr. Hildes) So none of these things have**
17 **happened in PMR, but you're looking in -- you're looking**
18 **at military tactics that an opposing force might use; is**
19 **that right?**

20 MR. ANGELIS: Object to the form;
21 misstates prior testimony.

22 You can answer.

23 A. If I can use an analogy: Having spent
24 28 years on active duty and -- and about 14 years now as
25 a Department of the Army civilian, my whole life since

1 the time I was 18, 19 years old has been the Army, just
2 as -- I don't know how long you've been a lawyer, but I
3 assume that your training, your experience, and that all
4 plays into how you think, how you speak, how you write.

5 It's -- it's ridiculous that you would take a
6 military-trained person and tell them: "Do this job
7 that supports the military, but don't use a military
8 mindset or a military thought process to do it."

9 **Q. (By Mr. Hildes) The problem is, you're not**
10 **dealing with an opposing military force here, are you?**
11 **You're dealing with a group of nonviolent activists**
12 **accused of engaging in blockades, civil disobedience.**

13 MR. ANGELIS: Object to the form;
14 argumentative, misstates prior testimony.

15 Answer if you can.

16 **Q. (By Mr. Hildes) Does that cause you any**
17 **concern --**

18 MR. ANGELIS: Hold on. Hold on. There's
19 a question pending. Do you want an answer to it or do
20 you want to withdraw it?

21 MR. HILDES: Actually, Theo, you cut me
22 off in the middle of a question.

23 MR. ANGELIS: I don't think I did, but --

24 MR. HILDES: Well, I actually, as the one
25 giving the question, know what I did. And I note that

1 once again you're obstructing with multiple poorly
2 founded objections.

3 I'm going to stipulate that from now on you
4 have a standing objection as to form. You can even have
5 a standing objection as to argumentative on every
6 question. You can preserve that without disrupting the
7 proceeding.

8 **Q. (By Mr. Hildes) So you're saying that**
9 **naturally, no matter who you're viewing as the potential**
10 **adversary, you would naturally view it through a**
11 **military mindset, because that's your experience; is**
12 **that what you're saying?**

13 MR. ANGELIS: Object to the form;
14 misstates prior testimony --

15 MR. HILDES: Theo, I've stipulated. You
16 don't have to keep making the form objections.

17 A. As I do my Threat Assessments, I write them in
18 a format that's understandable by the primary
19 recipients, which is DOD entities, to include the U.S.
20 Army, 1st Corps at Fort Lewis.

21 And the goal of the Threat Assessment is to
22 provide information to planners to support successful
23 completion of the movement of military cargo, personnel,
24 and equipment, without impacting the community, the
25 population, or people involved in peaceful protest

1 activity.

2 **Q. (By Mr. Hildes) If you don't plan on**
3 **impacting their participation in peaceful protest**
4 **activities, why are you monitoring Wally's Live Journal**
5 **and querying to find out if their peaceful protest**
6 **activities on a college campus, away from your goals and**
7 **objectives, is over or still ongoing and wasn't**
8 **successful?**

9 MR. ANGELIS: Object to the form. This is
10 getting close to being something we have to call the
11 Court on.

12 Go ahead.

13 A. I believe you're referring to the questions
14 you were asking about the Evergreen sit-in before
15 lunchtime.

16 **Q. (By Mr. Hildes) That's right --**

17 A. And, as I told you, I don't recall that e-mail
18 or why I was asking those questions.

19 As far as why I look at potential threat
20 courses of actions, I look at them to develop mitigating
21 recommendations as part of a threat-assessment process.

22 **Q. In other words, your job, if you've got a**
23 **group that may engage in civil disobedience, where they**
24 **stand in front of a convoy to prevent it from moving, is**
25 **to make sure that they can't do that, right, so the**

1 **leftists in case you -- in case someone might need that**
2 **information?**

3 MR. ANGELIS: Object to the form.

4 A. I don't have a particular concern with what he
5 was trying to do, no.

6 **Q. (By Mr. Hildes) Do you know if it was legal?**

7 MR. ANGELIS: Object to the form; calls
8 for a legal conclusion, calls for speculation.

9 A. The National Counterintelligence Center and
10 Department of Homeland Security, since 9/11, have
11 stressed the need for cooperation at local, state, and
12 federal levels, and all military installations within
13 the Continental United States have recognized that
14 they're not islands and need to interact with their
15 local and regional partners.

16 **Q. (By Mr. Hildes) So there are no limits**
17 **anymore, is what you're saying?**

18 MR. ANGELIS: Object to the form;
19 argumentative, misstates prior testimony.

20 A. As far as information sharing?

21 **Q. (By Mr. Hildes) Yeah.**

22 MR. ANGELIS: Same objections.

23 A. Information sharing is -- is part and parcel
24 of trying to defend the Homeland.

25 **Q. From whom?**

1 MR. ANGELIS: Object to the form; vague.

2 A. From whatever the threat is today.

3 **Q. (By Mr. Hildes) Including anti-war activists?**

4 MR. ANGELIS: Object to the form.

5 A. I did not characterize anti-war activists as a
6 threat to the Homeland.

7 **Q. (By Mr. Hildes) You're doing Threat**
8 **Assessments on them. Are you not classifying the groups**
9 **that you put into Threat Assessments as a threat to the**
10 **Homeland?**

11 MR. ANGELIS: Object to the form;
12 misstates prior testimony, misstates evidence.

13 A. The purpose of Threat Assessments is to assess
14 risk to the particular operation that they are focused
15 on.

16 **Q. (By Mr. Hildes) And, in this case, are**
17 **leftists and anarchists a threat to -- I'm sorry. I**
18 **can't use that term. The last person who used that**
19 **term, prior to them coming up with Homeland Security,**
20 **had a little mustache and a really bad hair cut.**

21 MR. ANGELIS: Counsel, that's way out of
22 bounds.

23 MR. ANGELIS: Maybe this would be a good
24 time for a break.

25 (Deposition at recess.)