

IN THE DISTRICT COURT OF TULSA COUNTY  
STATE OF OKLAHOMA

LARRY WAYNE BARNES SR,  
and LINDA SUE BARNES,  
Plaintiffs,

vs.

JEFF HENDERSON,

Defendant.

)  
)  
DISTRICT COURT  
**FILED**

)  
JUN 27 2011  
)

)  
SALLY HOWE SMITH, COURT CLERK  
STATE OF OKLA. TULSA COUNTY

Case No.: CJ-2010-2502  
The Honorable Carlos Chappelle

**MOTION TO RECONSIDER THE PROTECTIVE ORDER  
PREVENTING THE DEPOSITION OF STAN MONROE**

Defendant moves the Court for an order granting a new hearing in this action regarding allowing the defendant to take the deposition of Stan Monroe – an attorney representing Ryan Logsdon. The Court granted Mr. Monroe a Protective Order after a hearing on June 17, 2011, preventing defense counsel from taking Mr. Monroe’s deposition due to the proposition that the deposition would violate the attorney-client privilege. Defendant moves the Court to vacate the Order and to grant a hearing, pursuant to 12 O.S. § 651, for the following reasons:

1. There was an irregularity in the proceedings – specifically in the manner in which the subject of the discovery was granted a Protective Order to protect a privilege that he did not hold. The privilege is the client’s, not the attorney’s. As it will be shown below, the client has waived that privilege. This would also account for an abuse of discretion, to protect a waived privilege for a proposed deponent who does not hold the privilege.

2. The Order is not sustained by sufficient evidence. Mr. Monroe’s attorney asserted that there was not a good faith basis for taking the deposition, while defense counsel asserted that he had recordings of Mr. Monroe’s client waiving the privilege. Some excerpts of those recordings follow:

AGENT: Holy shit. So you got a federal attorney, I guess, huh?

LOGSDON: Yeah, Stan Monroe.

AGENT: Oooh, I've used Stan before.

LOGSDON: He's not bad, is he?

AGENT: No, he's good, he's good.

LOGSDON: He knows his shit. But you know what? I ain't facin' no charges.

AGENT: Its (INAUDIBLE)

LOGSDON: No, I used him on, to talk to the FBI about, what was I talking about... Charge me \$175 for like a half an hour. He made 2 phone calls to the FBI, and 2 phone calls to me, and sent me a bill for \$175 – like point 5 – it was half an hour.

...

LOGSDON: Well what happened was, what the deal was on that is, me and my attorney started taping all the conversations between me and McFadden about the Barnes deal? Well, he went to the FBI about it.

AGENT: Who, Barnes?

LOGSDON: No, my attorney! At first they wouldn't believe me, [Agent]! Oh, Ryan's just another dope dealer that says they planted dope on. Okay, okay. They wanted us to release the tapes to the FBI. My attorney said, "Nope, we're holdin on to them. We've got some evidence here. We've got people in prison that shouldn't fuckin' be there. Da-da-da, this and that." So we fuckin' got into adversity with the FBI. Here's the deal: they ran a motherfuckin' war on the house – the FBI did – to try to catch me dirty to get me to talk. Didn't work, there wasn't nothing here. So then we went ahead and brought it all forward. Three weeks after the search warrant here, the Barneses got out. That's when we released the tapes to them.

AGENT: How long's Larry been outta prison?

LOGSDON: They were gone for 18 months. They get 700,000 for every year they were in there.

AGENT: Damn.

LOGSDON: They were in there for a year and a half, so a little over a million. Larita gets it too, that's per person. Any wrongful accusation of imprisonment, its 700—

AGENT: Yeah but it's not like they're some clean motherfuckers either, ya' know what I mean?

LOGSDON: That's what the FBI said too; "They've been sellin dope forever, we could never catch em'." I said, "Hey, I don't know about that," and I fuckin' denied it. And I saw Larry at the Casino, he goes, "I read your statement." He goes, "I appreciate that." I said, "Yes, that's goddamn right." I said, "I'm the one that got you out." He said "Yeah you did, and I appreciate that too." But yeah, he's been sellin dope for a long time.

...

LOGSDON: Yeah, the FBI played those tapes that me and my lawyer had of McFadden, me and McFadden talking on the phone, and talking in person. I had a little recorder, little digital recorder my attorney bought for me, when I turned informant. He curled up, curls up right there. They indicted him, he drove all the way down to Texas and turned himself in, when he turned himself the FBI was waitin' for him at the county jail, took him in a room, and played some tapes to him. There was a bunch more shit out there, [Agent], they said there's shit about murders.

...

LOGSDON: Man, I... I got some cash, I wanna go buy a truck, man, but I can't buy it right now. The lawyer told me, "Don't do nothing." He told me, he goes, "Man, do not do nothing Ryan. Don't sell no more dope; don't do nothing right now. Man, you got a good thing goin' for you, man." And he stressed it too, and that was about two months ago he told me that. Last week when we talked to him some more indictments were comin' out on other cops. Ya' know?

...

LOGSDON: Fuck yeah it will. Attorneys, bonds, attorneys. This here so far is gonna cost me \$175, so far. He goes "Ryan there's no need in hiring me and giving me a retainer because you're a victim. The FBI considers you a victim from day one when they came and planted dope on you." I might have to testify against one of the cops, which would be fine with me. He goes, "There's no point in giving me a retainer or nothing; it'll just be a waste of money." I'm glad he was honest with me.

AGENT: He'll get part of the settlement.

LOGSDON: Yeah, yeah. He goes, "I'll get a little bit of that when I do that case for ya. That there takes a year and a half, two years." The civil suit. Gonna take care of the Barnes's first, this Haley guy, he just got out. He did four years on 22. They just let him out the 21<sup>st</sup> of this month.

...

**LOGSDON:** Rico Yarborough, the black cop? Back in '05, '06 – the only thing he was doin' was tippin' off guys. “Hey man, they gonna hit your house tomorrow.” He was takin' a little bit of money, but he wasn't stealin' dope and shit. He wasn't sendin nobody to prison like this. This is big shit man, since Oklahoma's established, this has never happened, this is huge man. And Stan keeps stressin' to me “this is big, this is big!” I'm like hope I get some big fuckin' money – because that's what I'm in it for.

...

**LOGSDON:** I was sittin' down there, when this shit first went down; I was talking to the FBI. Stan's there with me. I was talkin' to 'em. I told the FBI, “I gotta get me a fuckin' gun.” He goes “well” – this is comin from the FBI agent – he goes “Ryan, you're not supposed to be around firearms. But in this case, we'll basically overlook it.” Because he understands, they can't protect me at all times, they can't be with me 24/7; they can't. I don't know if he basically was telling me to get one or what, but I told him I said, “Look” – his name's Gary, Gary Graff; last name is Graff – I said “Look, Gary, I don't wanna get caught with it.” He said, “I understand your point, but you're in a rock and a hard spot.” I go, “I sure fuckin' am.”

...

**LOGSDON:** But when they asked me about that darn Barnes deal, that night they pulled up in my driveway, it fucked me up. I went to Stan – said, “They're askin me to do shit I just don't wanna do.” He goes, “Ryan, we're just gonna have to fire back.” ...

...

**LOGSDON:** Stan's got a shitload of little civil suits he's goin after now. One, the Barnes' (INAUDIBLE) on the stand, two, plantin the dope, the search warrants, putting my life in danger by selling all that dope for them. It's a violation of civil rights. He said he's never settled one case in Tulsa for violation of civil rights under \$400,000. If I can get that, I'd be happy as a fuckin' — I might start usin'.

**AGENT:** (LAUGHS) Like, “Can we do it again boys?”

**LOGSDON:** (LAUGHS) “One more time, guys!” But yeah, he said he's never settled one for under \$400,000. He's got a guy, six months ago, he said it took a year and a half to settle it out, they planted a joint on him, he got a quarter of a million. ...

The recordings were made in more than one session in the late spring/early summer of 2010 by a person working with the defense herein. These are not the full extent of the recording

transcripts, but give a sound basis to believe that Mr. Logsdon has waived any potential attorney client privilege he may have had.

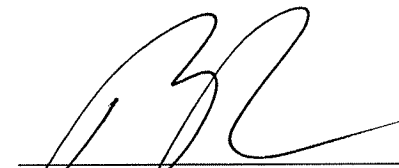
3. Defendant asserts that the Protective Order contains an error of law and/or is contrary to the law for all of the reasons mentioned above.

4. Defendant also alleges that, due to the witnesses misleading information as he provided to the Court as described above, the Order would result in an error concerning the availability of discovery to the defendant.

5. A timely filed motion seeking reconsideration, modification or vacation of a judgment or final order may be regarded as the “functional equivalent” of a motion for new trial regardless of whether it seeks reconsideration of a dispositive order following a trial. Horizons, Inc. v. Keo Leasing Co., 1984 OK 24, P 4, 681 P.2d 757, 759.

6. District Court Rule 4 does not apply to this Motion. Record v. Record, 1991 OK 85, P 5, 816 P.2d 1139, 1141.

Respectfully Submitted,



---

Anthony L. Allen – OBA No. 19738  
GRAHAM, ALLEN & BROWN  
Philtower Building  
427 S. Boston Ave., Suite 355  
Tulsa, OK 74103  
Phone: (918) 948-6171  
Fax: (800) 460-3446

## CERTIFICATE OF SERVICE

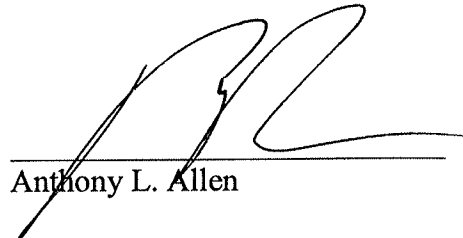
In compliance with the Statutes of the State of Oklahoma, I hereby certify that on the 27<sup>th</sup> day of June 2011, I delivered a true and correct copy of the foregoing document to all attorneys of record and/or unrepresented parties at the addresses provided as follows:

E. Terrill Corley, Esq.  
J. Derek Ingle, Esq.  
1809 East 15<sup>th</sup> Street  
Tulsa, Oklahoma 74104-4610  
Fax: (918) 747-4921  
[terrill@corley-associates.com](mailto:terrill@corley-associates.com)  
[derek@corley-associates.com](mailto:derek@corley-associates.com)

E. Anthony Mareshie, Esq.  
6528 D-1 East 101<sup>st</sup> St., Box 208  
Tulsa, OK 74133-1202  
Fax: (918) 970-6927  
[tulsalegal@gmail.com](mailto:tulsalegal@gmail.com)

Art Fleak, Esq.  
403 S Cheyenne, Suite 1200  
Tulsa, OK 74103  
[fleakart@hotmail.com](mailto:fleakart@hotmail.com)

Stan Monroe  
15 W. 6<sup>th</sup> Street  
Tulsa, OK 74119  
Fax: (918) 592-1149  
[smonroe@monroe-associates.com](mailto:smonroe@monroe-associates.com)



Anthony L. Allen