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SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF QUEENS: CRIMINAL TERM: PART K6

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THE PEOPLE OF THE STATE OF NEW YORK,

-against-

Indictment No.  
N10642/10  
HEARING

KAREEM BUDDINGTON,  
Defendant.

-----x

February 1, 2011  
125-01 Queens Boulevard  
Kew Gardens, New York 11415

B E F O R E:

THE HONORABLE STEVEN J. PAYNTER

A P P E A R A N C E S:

RICHARD A. BROWN, ESQ.,  
District Attorney, Queens County  
BY: MICHAEL WHITNEY, ESQ.  
Assistant District Attorney

PATRICK MICHAEL MEGARO, ESQ.,  
Attorney for the Defendant

Nancy Samms,  
Senior Court Reporter

1 THE COURT CLERK: Number nine on the calendar,  
2 Kareem Buddington, N10642 of 2010.

3 MR. MEGARO: Patrick Michael Megaro for Mr.  
4 Buddington.

5 MR. WHITNEY: For the People, Michael Whitney.  
6 Good afternoon.

7 THE COURT: Good afternoon. Why is this the first  
8 time we are calling this case today?

9 MR. MEGARO: I had an issue with a family member  
10 and a doctor's visit earlier this morning. I told  
11 Mr. Whitney late yesterday that I would be coming in late,  
12 and I asked a colleague, Mr. Frederick, to come in and pass  
13 the word along to the clerk. When he came in the clerk was  
14 not in the courtroom. I think he left a message with one of  
15 the court officers.

16 THE COURT: That's not good enough. You don't  
17 leave it with a colleague. You follow up on this yourself or  
18 follow up on the colleague whether he got the message to the  
19 court and, if not, you call the court at 9:30. Got that?

20 MR. MEGARO: Understood, your Honor.

21 THE COURT CLERK: Was there a clerk in the  
22 courtroom at 12:15?

23 THE COURT OFFICER: Yes.

24 THE COURT CLERK: There was a clerk here at 12:15,  
25 so I don't understand the commentary about no clerk being

1 here.

2 MR. MEGARO: I'm sorry. I meant --

3 THE COURT: People call the first witness.

4 MR. WHITNEY: The People call Glenn Ziminski.

5 MR. MEGARO: Before we begin, I notified  
6 Mr. Whitney there is a potential defense witness yet to be  
7 identified for the hearing. The case involves the stop of a  
8 livery cab which my client was a passenger. I do not know  
9 the name of the driver nor does Mr. Whitney, but I suspect  
10 the officer knows.

11 I do have the name of the company that was just  
12 handed over to me in the Rosario that lists the name of the  
13 company for which I am assuming the driver was working for,  
14 but I intend to call the driver.

15 THE COURT: Then you will need a continuance for  
16 your case.

17 People, call your first witness.

18 MR. WHITNEY: The officer does not have that name,  
19 either.

20 THE COURT: Call your first witness.

21 MR. WHITNEY: Glenn Ziminski.

22 (Whereupon, there was a brief pause in the  
23 proceedings.)

24 P.O. G L E N N Z I M I N S K I, having been duly sworn, was  
25 examined and testified as follows:

1 THE COURT OFFICER: The People call New York City  
2 Police Officer Glenn Ziminski, Z-I-M-I-N-S-K-I, shield number  
3 31231, from the 101 Precinct Anti-Crime Unit.

4 THE COURT: Officer, this microphone moves up and  
5 down and sideways, pull up and speak a couple of inches away.  
6 You may inquire.

7 MR. WHITNEY: Thank you.

8 DIRECT EXAMINATION

9 BY MR. WHITNEY:

10 Q Good afternoon.

11 A Good afternoon.

12 Q Who do you work for?

13 A The New York City Police Department.

14 Q How long have you worked for the NYPD for?

15 A Five years.

16 Q What command do you currently work for?

17 A 101 Precinct.

18 Q I would like to direct your attention to November 10th  
19 about 12:35 in the morning, were you working on that date?

20 A Yes.

21 Q What was your assignment?

22 A I was assigned as anti-crime officer.

23 Q What were you doing that night?

24 A Routine patrol.

25 Q Did you have a partner?

1 A Yes.

2 Q What was your partner's name?

3 A Sergeant Patrick Cane.

4 Q Were you in a marked or unmarked car?

5 A Unmarked.

6 Q Were you in uniform or plainclothes?

7 A Plainclothes.

8 Q Inside your unmarked car, where were you?

9 A I was the passenger.

10 Q Sergeant Cane was driving?

11 A Correct.

12 Q Where specifically were you in the vicinity -- well,  
13 withdrawn. Where were you at about 12:35 in the morning on that  
14 night?

15 A We were in the vicinity of 2288 Mott Avenue.

16 THE COURT: 2288 --

17 THE WITNESS: Mott Avenue.

18 Q What county is that located?

19 A Far Rockaway.

20 Q What county is that?

21 A Queens.

22 Q What is at that location 2288 Mott Avenue?

23 A It's residential houses.

24 Q Can you describe what happened while you were in the  
25 vicinity of 2288 Mott Avenue at that time?

1 A Yes. I was -- I observed the defendant Kareem  
2 Buddington enter a livery cab with a box.

3 Q Do you see the individual that you saw enter the livery  
4 cab that night in the courtroom today?

5 A Yes.

6 Q Could you point at him and indicate an article of  
7 clothing?

8 A Yes, the gentleman right there with the stripes.

9 THE COURT: Indicating the defendant for the  
10 record.

11 Q When you first saw Mr. Buddington that night where was  
12 he?

13 A He was by Hollywood Court.

14 MR. MEGARO: I can't hear.

15 THE WITNESS: Hollywood Court.

16 MR. MEGARO: Hollywood Court?

17 THE WITNESS: Yes.

18 Q What was he doing when you first saw him?

19 A He was entering the livery cab with a shoe box.

20 Q What part of the livery cab did he get into?

21 A The rear passenger.

22 Q What happened after you saw him get into the rear of the  
23 livery cab?

24 A They drove off.

25 Q What happened after that?

1           A     They came towards us, and they made a left without  
2 signalling, then they made another left without signalling, and  
3 that's when we pulled them over.

4           Q     When they passed you, what did you and Sergeant Cane do?

5           A     We proceeded to follow them.

6           Q     Can you describe your route of travel, where did you go?

7           A     Straight.

8           Q     Okay. Straight on Mott Avenue?

9           A     Straight on Mott Avenue.

10          Q     Then what happened?

11          A     Then as the livery cab made a left, we followed and made  
12 a left, too.

13          Q     Did the driver use a signal when he made the left?

14          A     No, he did not, that's the reason we pulled him over.

15          Q     What street did you observe the driver of the livery cab  
16 make the left onto when you saw him not use the turn signal?

17          A     Mott and Dickens.

18          Q     Mott Avenue and Dickens?

19          A     Yes.

20          Q     What happened at that time?

21          A     Me and the sergeant got out of the car, we proceeded to  
22 the livery cab.

23          Q     You conducted a traffic stop?

24          A     Yes.

25          Q     When you went to the livery cab, what part of the livery

1 cab did you go to?

2 A I went on the passenger's side.

3 Q Could you see where Sergeant Cane was?

4 A Yes, he was on the driver's side.

5 Q What happened when you got to the livery cab?

6 A It was dark out so I had my flashlight on. I approached  
7 the passenger's side, I looked in the back. I looked at the  
8 driver first then I looked in the back with my flashlight.

9 Q What could you see in the back?

10 A I saw a box sitting next to the defendant.

11 Q Can you describe what else you saw?

12 A It was like a box in like a plastic bag, and it had bags  
13 of marijuana sticking out of it.

14 Q You could see the marijuana coming out of the box?

15 A Yes, it was in plain view.

16 Q After you made the observations, what did you do?

17 A I looked at my sergeant just gave him the heads up that  
18 we had something.

19 Q What did you do after that?

20 A I went back to the rear, opened the door and the smell  
21 of marijuana hit me in the face.

22 Q After that happened, what did you do?

23 A I proceeded to take the defendant out, I did a frisk on  
24 him, made sure he had no weapons or anything.

25 Q Where did you do that frisk?



1 A Outside the livery cab.

2 Q What part of it?

3 A In the back.

4 Q Where was Sergeant Cane at that time?

5 A Sergeant Cane was still at the driver's side. He took  
6 the driver out and placed him in the back where I was standing  
7 with the defendant.

8 Q What happened after that?

9 A Sergeant Cane proceeded to look through the vehicle and  
10 that's where you saw the marijuana.

11 Q What did you do?

12 A He took it out.

13 Q He took what out?

14 A The marijuana the box and the bag.

15 Q What did he do with it?

16 A He placed it on the back, the back of the car and that's  
17 it.

18 Q Did there come a time where you searched Mr. Buddington?

19 A Yes.

20 Q What, if anything, did you recover from him?

21 A We recovered money, a lot of money.

22 Q How much money did you recover?

23 A It was 1329, \$1,329.

24 MR. WHITNEY: Nothing further at this time, your  
25 Honor.

1 THE COURT: Mr. Megaro?

2 CROSS EXAMINATION

3 BY MR. MEGARO:

4 Q At 12:35 A.M. on November 12, 2010 you testified you  
5 were at 2288 Mott Avenue?

6 A The vicinity of 2288 Mott Avenue.

7 Q Well, where were you exactly?

8 A Probably a couple of blocks -- like a block away from  
9 2288.

10 Q Say that again?

11 A A block away from 2288.

12 Q Okay. So what's 2288 Mott Avenue?

13 A It's kind of like a housing development.

14 Q Were you on Mott Avenue or on a different street?

15 A On Mott Avenue.

16 Q Facing which direction?

17 A This would be southbound.

18 Q Facing south?

19 A Yes, we were facing 2288.

20 Q Were you on the southbound side of the street?

21 A Yes, they were facing like the side of 2288. Do you  
22 understand what I'm saying?

23 Q No.

24 A Okay. Our car is parked here, then 2288 is right ahead  
25 of us.

- 1 Q Okay. About a block ahead of you?
- 2 A Yes, I would say a block, two blocks maybe.
- 3 Q Maybe two blocks?
- 4 A Yeah.
- 5 Q Which address were you in front of, do you remember
- 6 that?
- 7 A No, I don't recall.
- 8 Q What house were you in front of?
- 9 A I don't recall the house number we were in front of.
- 10 Q Was it a house or apartment building?
- 11 A It was a house.
- 12 Q Private house?
- 13 A Private house, yes.
- 14 Q Okay. So you said that you saw Mr. Buddington enter a
- 15 livery cab on Hollywood Court?
- 16 A Yes.
- 17 Q Where is Hollywood Court in relation to 2288 Mott
- 18 Avenue?
- 19 A Hollywood is parallel to Mott.
- 20 Q So it runs in the same north south direction as Mott
- 21 Avenue?
- 22 A No, Mott Avenue goes this way north south so it probably
- 23 goes east west.
- 24 Q So Hollywood Court runs perpendicular to Mott Avenue?
- 25 A Yes.

1 Q You said you saw him by Hollywood Court. Was he on  
2 Hollywood Court or on a different street?

3 A He was on Hollywood Court.

4 Q Where on Hollywood Court?

5 A In the front of.

6 Q Is Hollywood Court a dead end street?

7 A Yes.

8 Q Where was he in relation to the dead end on that street?

9 A He was getting into the livery cab on the street.

10 Q Where on the street, closer to the dead end or closer to  
11 the intersection with Mott Avenue?

12 A Closer to the intersection, like it was Hollywood Court  
13 and Mott Avenue, they are close together.

14 Q So is it fair to say that he was around the corner from  
15 2288 Mott Avenue?

16 A Yes, you could you could say that, okay.

17 Q Now, you said you saw him enter the livery cab with a  
18 box, right?

19 A Correct.

20 Q Could you describe the livery cab that he got into?

21 A It was a Crown Victoria livery cab, I believe it was  
22 black.

23 Q Ford black?

24 A Yes.

25 Q Who was driving that livery cab?

1 MR. WHITNEY: Objection.

2 THE COURT: Overruled. Do you know who was driving  
3 the livery cab?

4 A No.

5 Q Is there anything that you would have in your file to  
6 refresh your recollection as to the name of that driver?

7 A No.

8 Q You said that the livery cab drove off after Mr.  
9 Buddington entered the cab with the shoe box in his hands, right?

10 A Yes, correct.

11 Q Which direction did it drive?

12 A It was driving towards us so it would be westbound.

13 Q Not towards the dead end?

14 A Towards Mott Avenue.

15 Q When it reached the intersection of Mott Avenue and  
16 Hollywood Court, which direction did that cab travel in?

17 A Well, it was traveling towards us, and it made a left  
18 down Mott Avenue.

19 Q So the car was coming towards you?

20 A Yes.

21 Q Okay. Did that cab pass you at one point?

22 A Yes.

23 Q You and Sergeant Cane did a U-turn and drove around to  
24 follow that cab?

25 A No, we were facing down Mott Avenue, and they were

1 coming towards us like this. This is our car. This is their car.  
2 They made a left like that and went down Mott Avenue.

3 Q You said you were two blocks back from 2288, right?

4 A Yes.

5 Q 2288 is on the corner of Hollywood and Mott, right?

6 A It's around the corner, like it's hard to explain.

7 Q Give me one second.

8 (Defendant and counsel confer.)

9 Q Go ahead. Explain.

10 A Hollywood Court -- Mott Avenue goes this way and  
11 Hollywood Court --

12 Q When you say goes this way, north south?

13 A North south.

14 Q Okay?

15 A And 2289 is about a block or two over straight ahead.

16 Q So 2288 is or is not on the corner of Hollywood and  
17 Mott?

18 A It is on Mott Avenue.

19 Q What's on the corner of Mott and Hollywood?

20 A Nothing.

21 Q Vacant lot?

22 A It's a residential house.

23 Q So when this cab turns and goes down Mott Avenue it's on  
24 the same side of the street and same direction of the flow of  
25 traffic as you or in the opposite flow of traffic?

1 A No. The livery cab is coming towards us, and we are  
2 parked here so it's going -- it's hard to explain.

3 THE COURT: We have to explain it for the record.  
4 You are holding your hands in a perpendicular way. You are  
5 facing towards the back of the courtroom.

6 You are saying the cab was coming from the side  
7 wall of the courtroom towards your car which was facing  
8 towards the back of the courtroom; is that correct?

9 THE WITNESS: Yes.

10 Q When you were stopped at 12:35 A.M., your car was parked  
11 two blocks down from 2288 Mott Avenue on the corner of Mott and  
12 what?

13 A I don't remember the cross street.

14 Q But it was not Hollywood?

15 A No, it was not Hollywood. Hollywood was down the  
16 street.

17 Q Possibly two blocks down from Hollywood?

18 A Possibly.

19 Q Possibly more?

20 A Probably -- no, about two blocks. It was close. It was  
21 in viewing distance, I could see him.

22 Q Okay. Now, then that car, the cab travels in the same  
23 direction as the flow of traffic as the side of the street of Mott  
24 Avenue that you are on --

25 MR. MEGARO: That was convoluted. Withdrawn.

1 Q When that cab turns onto Mott Avenue, it is going in the  
2 same distribution as the flow of traffic on Mott?

3 A Yes. As soon as it makes a left, it goes in the same  
4 direction.

5 Q How long were you sitting at that location before you  
6 saw the cab?

7 MR. WHITNEY: Objection.

8 THE COURT: It's not relevant, but how long were  
9 you sitting there?

10 A Could have been ten minutes.

11 Q Were you watching a particular house?

12 MR. WHITNEY: Objection.

13 THE COURT: Sustained.

14 A No.

15 Q When that cab drove down Mott Avenue, how far did it  
16 drive before that car was pulled over?

17 A About two blocks.

18 Q Two blocks, okay. Where was that car pulled over?

19 A It was on the corner of Mott and Dickens.

20 Q When the car was pulled over, it was still on Mott  
21 Avenue?

22 A It was on the corner of Mott and Dickens more towards  
23 Dickens.

24 Q But on Mott Avenue?

25 A Yes, it was traveling on am Mott Avenue, then made a



1 left on Dickens, and that's where we pulled it over.

2 Q So the cab was pulled over on Dickens Avenue?

3 A Yes.

4 Q Your testimony was that that driver did not make a left  
5 turn?

6 A Signal.

7 Q Okay?

8 A Yes.

9 Q Did you write him a ticket?

10 A No.

11 Q Did you even have a ticket book to write a traffic  
12 summons?

13 A No.

14 Q Did Sergeant Cane?

15 A No.

16 Q Did Sergeant Cane write him a ticket?

17 A No.

18 Q You said you and the sergeant got out of your car and  
19 went to the cab after it was pulled over, correct?

20 A Correct.

21 Q And you were on which side of the cab when you  
22 approached?

23 A I was on the passenger's side.

24 Q At this time you said you were in plainclothes, right?

25 A Correct.

1 Q And your sergeant was also in plainclothes?

2 A Correct.

3 Q And the car you were driving what type of car?

4 A It was unmarked, Crown Vic, I believe.

5 Q A Crown Victoria, so it looked --

6 A Yes.

7 Q So it looked like a cab also?

8 A Yes.

9 Q No police markings on it whatsoever, right?

10 A Negative.

11 Q You said that you were working an anti-crime detail that  
12 night, correct?

13 A Yes.

14 Q What are the functions of anti-crime?

15 A Patrol Far Rockaway for guns and drugs, try to get the  
16 volume of violent crimes off the streets.

17 Q Mainly violent crimes?

18 A Yes.

19 Q Is there a specific list of conditions or tasks that  
20 officers on anti-crime detail are supposed to do or follow?

21 A No.

22 MR. WHITNEY: Objection.

23 THE COURT: Sustained.

24 A No.

25 THE COURT: When there is an objection, you have to

1 wait before you answer the question.

2 Q Does the function of an anti-crime officer include  
3 writing traffic summonses?

4 MR. WHITNEY: Objection.

5 THE COURT: Sustained.

6 A No.

7 Q You said you saw a shoe box on the back seat, correct?

8 A Yes.

9 Q Did you take any photographs of that shoe box?

10 A No.

11 Q Did any other police officers take any photographs of  
12 that shoe box?

13 A No.

14 Q That shoe box was vouchered?

15 A Can I look at my paperwork?

16 Q Just let me know what you are referring to?

17 THE COURT: There are rules about this stuff, the  
18 attorney is telling you, you can look at it and tell him the  
19 answer.

20 A I don't believe the shoe box was vouchered, no, I am  
21 looking at the voucher. Actually it was. Disregard. It was.

22 Q Are you referring to property clerk R778600?

23 A Yes.

24 Q So that shoe box was vouchered, right?

25 A Yes.

1 Q Did that shoe box have a lid?

2 A No, it didn't. I don't recall. I don't really recall  
3 if it did or not. I just remember it was one Reeboks shoe box.

4 Q Was that shoe box inside of a bag?

5 A Yes, inside of a plastic bag.

6 Q When you say inside of plastic bag, was it like a bag  
7 when you buy groceries?

8 A Yes, like a King Kullen bag.

9 Q What color was the bag?

10 A I believe it was white.

11 Q Not see-through, in other words?

12 A Negative, no.

13 Q You testified before that when you went up to the  
14 passenger's side, you looked in the back seat of that Crown  
15 Victoria, right?

16 A Yes, with my flashlight.

17 Q You saw a man sitting in the back, Mr. Buddington,  
18 right?

19 A Yes.

20 Q How far away were you from him at that point?

21 A He was sitting on the back passenger's side so a couple  
22 of inches, I guess, you could say.

23 Q It's fair to say the front seat?

24 A Yes, to the back seat.

25 Q It's fair to say the front seat was in between you and

1 him?

2 A Yes.

3 Q Was there a barrier or partition separating the front of  
4 the cab from the rear of the cab?

5 A No.

6 Q Was the driver of that cab removed from the vehicle  
7 also?

8 A Yes, he was.

9 Q By whom?

10 A Sergeant Cane.

11 Q At what point?

12 A After I pulled the defendant out and placed him in the  
13 back, Sergeant Cane took the driver out and placed him on the back  
14 with me.

15 Q Placed him on the back also?

16 A Yes.

17 Q Was he handcuffed?

18 A No.

19 Q Was the defendant handcuffed?

20 A After we recovered the marijuana, yes.

21 Q So you pulled him out first and then went and recovered  
22 the marijuana; is that it?

23 A Yes.

24 Q You said you searched him for weapons or any other  
25 contraband?

- 1 A Correct.
- 2 Q The only thing you found was \$1,329 in cash?
- 3 A Correct.
- 4 Q No marijuana in his pockets?
- 5 A Negative.
- 6 Q No drug paraphernalia in his pockets?
- 7 A No.
- 8 Q When you pulled over that cab, did you call back to  
9 central dispatch on the police radio to report a car stop?
- 10 A No.
- 11 Q Did you run the cab driver's license?
- 12 A No.
- 13 Q Did your sergeant run the cab driver's license?
- 14 A No.
- 15 Q There was no check of the cab driver or his documents  
16 whatsoever?
- 17 A No.
- 18 Q Did you even ask him to produce a license to see if he  
19 had one?
- 20 A Yes, Sergeant Cane asked him to produce his license.
- 21 Q I couldn't hear?
- 22 A And his stops of the livery cab where the livery cab  
23 made his stops.
- 24 Q You mean his trip sheet?
- 25 A Yes.

1 Q And that's the log of stops that he had made and picked  
2 up that night?

3 A Correct.

4 Q Did anyone take a copy of that trip sheet?

5 A No, negative.

6 Q All right.

7 MR. MEGARO: No further questions at this time.

8 THE COURT: Anything else?

9 MR. WHITNEY: Nothing further.

10 THE COURT: Thank you. You can step down.

11 (Witness excused.)

12 THE COURT: Do you have any other witnesses?

13 MR. WHITNEY: The People rest, Judge.

14 THE COURT: Let's pick a date to continue this for  
15 the defendant's case. February 14th?

16 MR. MEGARO: That's fine.

17 MR. WHITNEY: I ask that an 18(b) attorney be  
18 present that day.

19 THE COURT: Why is that?

20 MR. WHITNEY: If Mr. Megaro is going to call the  
21 cab driver, he is subjecting himself to either admitting that  
22 he committed a traffic infraction on the stand or possible  
23 perjury on the stand. He needs to have an attorney protect  
24 his rights.

25 THE COURT: What do you mean?

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MR. WHITNEY: There is only two things that  
Mr. Megaro could be calling him for --

THE COURT: Wait a minute. I'm a little slow,  
okay? There is the traffic infraction and now you are  
jumping to perjury?

MR. WHITNEY: Yes, if he gets on the stand and says  
I did not drive --

THE COURT: Turn without signalling?

MR. WHITNEY: Yes, that would be perjury.

THE COURT: I'm not going to worry about that yet.  
If I need an 18(b) attorney, I will find one. February 14th  
for defense case.

(Matter adjourned to February 14, 2011.)

\* \* \* \* \*

The foregoing is certified to be a true and accurate  
transcript of the original stenographic minutes taken of this  
proceeding.



Nancy Samms, SCR



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|----|--------------------------------|----|----|
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| 2  | P.O. G L E N N Z I M I N S K I | 3  | 24 |
| 3  | DIRECT EXAMINATION             | 4  | 8  |
| 4  | BY MR. WHITNEY                 |    |    |
| 5  | CROSS EXAMINATION              | 10 | 2  |
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