



Registry Matters Podcast

Episode 285

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Announcer 0:00

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Andy 0:18

Baruch ata Adonai -- oh wait, I'm sorry, that's the wrong podcast. Recording live from FYP studios, east and west, transmitting across the internet. This is Episode 285, and not Hanukkah Matters, it's Registry Matters! How are you, sir?

Larry 0:34

Doing awesome. Glad to be back with you people.

Andy 0:37

So. You may not realize this, but I grew up Jewish. And tonight's the second or third night of Hanukkah? ...I can't remember which one it is. And it's interesting that you do something almost like every year, we would light the Hanukkah candles, and we would go through and do the prayer, whatever. And so, for the first maybe fourteen years, I mean, I wouldn't have been doing it the ages of one, two, so maybe like ten years of my "yout", and then for eight nights straight. I have this prayer, all three of them, memorized. And I haven't done them since I was fourteen or fifteen, and they're still in my noodle. Explain that to me.

Larry 0:38

That is a very long time. Now we're talking about a good, what, 60 years?

Andy 0:38

Close to it. I'm not quite as old as you. But in my "yout", I was very young.

Larry 1:18

I would tend to think I could agree with that.

Andy 1:30

(laughs) I did the whole Bar Mitzvah and everything, Larry.

Larry 1:36

Okie dokie.

Andy 1:37

All right. Well, with all of that past aside, what are we doing this evening?

Larry 1:43

Oh, you forgot your lines about podcast apps and YouTube.

Andy 1:47

Yeah, yeah ok.

Larry 1:51

And "Press the Like, and twelve-star reviews" and all that stuff. I'm not good enough to do all that.

Andy 1:57

Okay, well yeah. Make sure that you press Like and Subscribe, and hit the Notification Bell, feed that algorithm (because it's a very hungry one), it'll tell everyone else to like it also. And then, if you can become a Patron, that would be phenomenal. And if what you can do is leave a five-star review, that would also be amazing and much appreciated and spread the word! Look, our people are trying to hide for the most part -- [Hey, look! Will is here! That's unusual] Our people are generally trying to hide, so if you encounter them, perhaps at the PFR office, or in treatment, tell them that we exist! And maybe we can provide some assistance and support to them as well. And happy holidays! So what are we doing tonight?

Larry 2:38

Will hasn't been here for so long, I didn't even know he was still alive!

Andy 2:42

Oh, he's only here because we're going to be talking about, I think, something that relates to him. Maybe.

Larry 2:48

I see. So what are we doing tonight? Well, not very much. We have a question from one of our very loyal patrons and it's complicated to me, so I had to do research. It deals with due process, and I did a little research to make sure that when I'm trying to explain it, I don't botch it too badly. And we have a longer segment coming on a woman who was arrested in the Great State of Georgia, on the beach! You sent this to me, I wouldn't have found it, and you suggested it might be funny. In my warped sense of funny, I looked at it, and it is definitely funny, but sad. But we can use it as an opportunity to reiterate the importance and consequences of talking to the police, or *not* not talking to the police. And we have a brief segment from Maryland, we have some articles, and then I did some mischief on behalf of NARSOL in terms of the Dan Bongino radio show.

Andy 3:46

I have no idea who that is.

Larry 3:48

So we're going to talk about that and go into a little bit of detail. I don't have anything but a link to the NARSOL posting, but my fingerprints are all over that because I put it together.

Andy 4:00

I see. Even though you're not the one that signed it, I believe?

Larry 4:03

It was signed by the NARSOL Director of Communications, and it was on behalf of the Board of Directors, but yes, I put the content together largely, a big part of it. Then the Communications Director edited it, submitted it, made it all pretty; and toned it down just a tad from what I had.

Andy 4:21

(laughs)

Larry 4:23

I'm a little bit higher-strung on what I would have said to Mr. Bongino.

Andy 4:29

I see. She probably was in there and also maybe correcting any misspellings because you did finger-frack of a close mutual friend of ours in the script for tonight.

Larry 4:41

That's because I was doing it in the WordPad and there was no spellcheck, or Notepad, or one of those things.

Andy 4:47

Do you really do it there?

Larry 4:49

I'll do some of it there because I can't figure out how to make the spacing right in Google Docs. I end up with double spaced, triple space, quadruple space, and all sorts of spacing issues. So I sometimes take things that are not looking right and put it in Notepad and just strip out all the formatting, and then I put it back in here.

Andy 5:07

Wow. Okay! We may have to have a conversation one day on just one or two keyboard shortcuts that would make your life a lot easier.

Larry 5:15

I've been trying to tell you that for six years now. You use this Google JUNK and it's more difficult, but I try to work with it, to try to accommodate my partner.

Andy 5:24

I see. Okay, anyhoo. All right. So the first thing on the list is, before we get going, I understand that this is the letter that you worked on with the Communication Director. Who is this "Dan Bongino" individual?

Larry 5:40

Well he has a syndicated talk show and he fills the time slot that was previously held by Rush Limbaugh.

Andy 5:48

That's what I thought, okay, okay.

Larry 5:50

And many of the same stations that carried Rush carry Dan, but not all. He has fewer affiliates on his list than Rush Limbaugh did. But he is a very mean, vile, disgusting individual. I listen to him five days a week, at least a portion of his show, because I need to know the latest gobbledygook of conspiracy theories and nonsense that are coming out and he comes up with some doozies! He was talking just a couple days ago, about the college presidents that were testifying before the House Education and Workforce Committee. A congress lady, Elise Stefanik was asking, "If a person attending the University of Pennsylvania were to call for the expungement and annihilation of Jews, would that violate the UPenn code of conduct?" And the UPenn president Liz Magill said it was "situational". It could, but it would be fact-specific. And

Dan just went ballistic! He said that he agreed with the congresswoman. He said that needed a straight yes-or-no answer. He said, "Anybody who cannot condemn folks who call for the destruction of, or harm to, a group of people, that that's just disgusting!" Now I listen to Dan enough to know that he hates sex offenders, and he hates everything about sex offenders, and he believes the "Democrat Party" coddles, and cradles, and treats sex offenders with kid gloves. And as far as sex offenders being turned loose on society, I know that. But what I wanted to do was try to illustrate his hypocrisy because he says that anybody who calls for the destruction of a group of people, that something oughta be done about it. So, there are bumper stickers out there that say, "Save a deer. Shoot a sex offender". There's advertisements out there, "Target a sex offender, they can't defend themselves, they don't have guns". We challenged Mr. Bongino to condemn that because, according to what he says he believes, then it would be very inconsistent for him not to condemn that. We sent an open letter to him, saying that we would be delighted to have our Executive Director appear with him, and for him to condemn those who target sex offenders. Now we know he's not going to do that! The letter will probably never make it past his staff. But if it *did* make it to him and he did decide to take up the letter, he would be very condemning of NARSOL. He would call NARSOL a pedophile advocacy that's all about abuse of children. I know what he would do. But that would still be okay, because he has millions of listeners in the course of a week. So if he chose to respond, NARSOL would get more publicity than we could ever hope to afford if we were paying for it.

Andy 9:10

Of course.

Larry 9:02

We know he's not going to do it, but my sinister motivation was to hope that I can illuminate to some of the audience, who believes that conservatives are our salvation, that they're *not* our salvation. Neither are the liberals! There was a person who posted, on Twitter or somewhere that Sandy told me about, that said that Geraldo Rivera is often speaking on behalf of underdogs, and maybe wants to reach out to Geraldo Rivera, he's a little bit more liberal. He's not going to do anything either, folks! The Economics of how American broadcasting and media, whether it be traditional media, or whether it be YouTube, or whether it be the modern media, it works on having a popular position, and feeding people what they want to hear. Our business model doesn't usually work very well on telling people what they *don't* want to hear. I mean, there was a congressman in Wyoming named Liz Cheney. She tried that.

Andy 9:12

I've heard of her.

Larry 10:05

Yes.

Andy 10:15

She has a book out recently.

Larry 9:44

Yes, she's been on the interview circuit quite a bit lately. You know, she was in a key leadership position, I forget what position

she held in the House of Representatives, but she was not just a regular member. And they dumped her, like a hot potato. Anyway, we were not going to get any traction from the media on our side. We're just not. Our business model in America does not provide for that. You can't win that battle going out and advocating for a group as unpopular as sex offenders.

Andy 10:35

You know, I never I realize that this is sort of a tangent. I didn't understand how you would question her credentials, considering who her father is, and what she voted for, etc., to then throw her out of office? I really just struggled on how they would justify their, what's the word? "flipping" on her? I can't think of the word that I want to say, of them turning on her.

Larry 11:03

Well, I don't know why you don't understand it. What do you not understand? She wanted to uphold the Constitution, and wanted to certify the election, and to stop the charade about election fraud. She didn't go along with the Kool Aid drinkers. I don't know why that's hard to understand.

Andy 11:22

Okay, it's not hard to understand. It's hard to understand still.

Larry 11:25

Well you just said two different things. You're saying it's not hard to understand and you're saying it is. Which is it?? Is it not hard to understand or is it hard to understand?

Andy 11:33

Maybe it's not hard to understand, but hard to *believe*.

Larry 11:36

Okay, that makes sense.

Andy 11:37

Or accept maybe.

Larry 11:38

Well that I can relate to because I've had these conversations with you privately about, "I never thought I'd live to see the day, that I've seen, in all my life, of what people *accept* now!" Back in the Nixon administration, we would never have thought about keeping a person in office, who was far less crooked than recent occupants, including possibly the one that's in there today, in terms of what's begun to come out on him and his family. I never would have thought I would see the day that such behavior would be rationalized, and overlooked. But this is where we are.

Andy 12:13

Here we are. Now, before we run off every listener, Larry, I was looking through the Patreon comments, there is an exit survey. And somebody said, "We've gone too far away from talking about PFR issues, onto subjects that they don't want to listen to." Now, I don't know what those subjects are, but I'm just going to take a guess that this might be one of them.

Larry 12:34

It very well could be.

Andy 12:36

So, we'll move along to a question from a very long-time and very generous patron that says, "Hi, Andy, I have a question that I hope Larry can answer on one of the podcasts. What is the difference between "substantive" due process rights and "procedural" due process rights? I came across this case, Larry, and the court made this distinction: "substantive due process rights, independent of their procedural due process rights". And that's from Hitt v. McLane No. 19-50441, 10 (Fifth Circuit, May 11, 2021).

Larry 13:16

Well, I understand why she struggles because I generally struggle with that as well. I decided to do a little research so I wouldn't go too far off the rails. Due process is apparently provided under the Fifth and Fourteenth Amendments, and procedural due process addresses which legal procedures are required to be followed in state proceedings. For example, you would be provided with notice, an opportunity to be heard, confrontation and cross examination of witnesses, discovery rights, a right to a written basis of a decision, and possibly even availability of appointed counsel. Those types of things are *procedural* in nature. If the State's going to bring a proceeding against you, they have to provide you "procedural due process". You can't just be summoned to court one day, they don't tell you anything about why you're coming, and they say, "Are you ready to proceed?" And you say, "Well, no, I don't really know why I'm here." They say, "Well, you should have been ready! Let's go. Call your first witness" or whatever. These are things that are required for the *process* to be fair. Does that make sense so far?

Andy 14:37

Kinda sorta. Yeah.

Larry 14:38

So, then you get into "substantive due process". You're not so much looking at the procedure, but you're looking at the law itself, and the action of the state that they're taking, and whether or not they can *actually* do the things that they're wanting to do. And those specific subject areas, for example, might deal with liberty or privacy. So *substantive* due process is used to determine if the action or prohibition itself is unconstitutional. It would be kind of analogous to a "facial challenge", you know, when I talk about a facial challenge, I say a statute would be facially unconstitutional if there's *no* set of circumstances in which the action can be taken. But a state may enact a statute that, in and of itself, violates substantive due process. And I Googled some examples, and I had to take out Roe vs. Wade because it's now been overturned. But according to my research, examples would include the right to privacy, specifically like contraceptives, and that was covered in Griswold vs. Connecticut 381 U.S. 479 (1965), the right to marry a person of a different race, that was Loving vs. Virginia 388 U.S. 1 (1967), back in those damn liberal pointy-headed heydays of the Warren Court and then the right to marry an individual of the same sex. That was more recently, and I can't even pronounce that case.

Andy 16:05

Obergfell!

Larry 16:07

vs. *Hodges* 576 U.S. 644 (2015). But that court was far more liberal than what we have today. We had Justice Stevens still alive, we had Justice, what's his name?

Andy 16:21

Scalia!

Larry 16:21

No, no, he was not on that side of that. But Justice Kennedy, and we had conservative judges that were much more in the mainstream than what those conservative judges are today. Those would be some examples of substantive due process. It's just something the State Can't Do. Now, some of those decisions are under threat. I don't think that we're going to see anything in the way of *Loving vs. Virginia* being overturned, and I'm thinking, possibly that *Obergefell* was probably safe, but you don't know. I think *Griswold vs Connecticut* is under attack. They're trying to do everything they can to stop contraceptives, you know, "We need more control over womens' lives in terms of, they need to be forced to bear children." I don't know why you don't understand that.

Andy 17:15

Larry, what I want to know is literally, if it were 1967, and I were going to marry someone that is not "caucasian", and, I mean that's such a loose term, even now, but let's just say that the person was black. That's against the law, and one of us, or both of us, are going to jail??

Larry 17:33

I don't know if they ever put anybody in jail but, theoretically, they didn't issue the marriage certificate. Why does that highlight keep going across the screen a hundred times on me?

Andy 17:41

Because I keep highlighting it! Because I'm like, flabbergasted, that that's literally a thing that happened, saying that the right to marry a person of a different race.

Larry 17:50

Well, it had to be litigated, it had to go all the way up to the Supreme Court.

Andy 17:55

So go to some county clerk, whatever, and say, "Hi, I'm going to get married", and I walk in and they're like, "Oh, my God! This is a ... the awful N-word? No, you can't have it!""??

Larry 18:07

I don't know why you're so shocked! It wasn't that many years ago, that a county clerk got put in jail for refusing to issue same-sex marriage license. After the court she said, "I ain't goan do that down here in Tennessee!" or wherever it was. It's not that long ago.

Andy 18:24

I know. I know. And they're still trying to fight that issue. I know, it bothers me deeply.

Larry 18:32

Well, I don't know. That shouldn't be shocking. Our country has done some very strange stuff throughout history.

Andy 18:41

Uh, without a doubt, without a doubt. We will not ever, like acknowledge and agree, that we have done some pretty shady shit. And then we're like, "No, we're the best country!" Maybe we are the best country in the world. But that's still some shady shit that we've done and continue to do.

Larry 18:58

But see, you got to understand, if you talk about any of that stuff, you're unpatriotic, do you not understand that? If you talk about how to try to make our country better, that makes you unpatriotic!

Andy 19:12

Alright, Deanna, well, that's the answer to your question, and I hope that helps you? It was pretty much clear as mud, Larry.

Larry 19:20

Well, I'm glad I could be very helpful.

Andy 19:21

(laughs) All right, well, then to move over to "the Maryland issue" and this is from Brenda in Maryland. She goes on to write, "One of our members received a disturbing email from a reporter from the Baltimore Sun, doing an article about abuse in the Catholic Church. She says she is going to publish my name in the article. We are both hopping mad. If she has her story straight, they're publishing over 100 names of absolutely any -- at least former -- Catholic "Marylander" (like the state of Maryland), probably in an authority role at the time, who has been accused of sexual abuse at any time, theoretically, even if they were never sentenced. He is *nicely* asking her what the deadline is to get a response in, and whether they are posting just what he was convicted of, or his dismissed accusations as well. I intend to contact the Sun and the reporter on behalf of FAIR", which is the NARSOL affiliate, which is, "Oh my god, don't ever try to think while you're doing a podcast." I frickin helped them with their website! Anyway, "FAIR" would love to be able to point out any legal problems with this grand plan of the Baltimore Sun's. I can handle all the collateral damage to families, and others who are just trying to quietly move on with their lives. But is this violating any constitutional or civil rights? Especially if someone was never even convicted?" And that is by Brenda Jones, Executive Director. What do you say to that? I'm gonna go look up what FAIR stands for.

Larry 21:01

I'll tell you. It's "Families Advocating Intelligent Registries" - <https://fairregistry.org>.

Andy 21:06

Thank you so very much Families Advocating Intelligent Registries, thank you very much.

Larry 21:10

Okay. Well there's really nothing to see here. The press has the full protection of the US Constitution. It's kind of like the Second Amendment you know, we can't touch anything to do with

weapons, and there's very little leeway to restrict the press's actions. And in fact, if I'm not mistaken, I thought the Conservatives were fighting-mad about various platforms, such as YouTube, restricting what can be said on their platforms. Am I remembering correctly or not?

Andy 21:42

Oh, yeah. They're all over anything that's social media, saying that it's a Lefty propaganda, and they censor The Right.

Larry 21:51

Okay, but, if we are fighting-mad about a company restricting what's being said on its platform, can we tell a newspaper what it can and cannot publish?

Andy 22:07

I believe there *are* limits. I mean, there are national security interests that they shouldn't publish. But as far as the names of people? God that seems really sketchy, Larry. I mean, that's *doxing* people, especially if they haven't been convicted, if it were public record.

Larry 22:25

Well, if they've been arrested and charges were dismissed, like that one that Brenda was referring to, he was asking if it was just gonna be the convicted charges or the dismissed charges. That is, in fact, a public record. It did happen that he was charged with those crimes. Should the press be restricted, saying that they can't report something that is a historical event?

Andy 22:49

I see all of the sketchy ground here. It seems like this would be an editorial decision? To go, "Ehhh, maybe we'll just use, like, initials? Maybe we'll just use first names?" Don't go around doxing people!

Larry 23:01

Well, I agree with you. But then that puts it back into the hands of the private sector, which is what I'm trying to draw the hypocrisy out. That's what YouTube and these platforms are doing. They're using their discretion. And it's driving the Conservatives over the edge. And now magically, you're saying that you would *like* for them to use discretion, so which is it?

Andy 23:24

I want to have all of my cake, and I want to eat it too.

Larry 23:27

(laughs) But from a legal perspective, I don't know that there's anything that can be done. From a moral perspective, I find it objectionable, completely, that a person can never go on with their life. But you know, what we would have to do is something we're not willing to do. We're not willing to have a conversation about the Second Amendment to see if maybe after 250 years of our existence, or whatever it is, that we ought to *rethink* whether it should be as absolute as it's been interpreted to be. And we would have to rethink the right of the freedom of the press, and its protections, and whether it should be, in any way, modified, and if so, what the restrictions would be. How would they be monitored? What would the process be? Because you got to be very careful when you start restricting the press. That's how

authoritarian dictatorships survive, is when they can curtail what people have the right to know.

Andy 24:23

Absolutely.

Larry 24:23

So we've got to be careful when we go down that path. But I'm just pointing out the hypocrisy here. I'm hearing that the media platform here in the case you said, that there ought to be some editorial discretion, where they would do, controlling like maybe initials or maybe not unconvicted charges, they wouldn't report. But that's their prerogative to do that. It's also their prerogative not to do that.

Andy 24:45

Sure. Man, I agree. I'm with you. Ahhh, so Brenda did then follow up with the reporter, and she stated, "I got no response to my letter to her. She was responsive to our PFR member."

Larry 25:02

I'm not particularly surprised by that. Whatever Brenda wrote, and I didn't see it, but I would imagine that it was very direct and blunt, and it was asking, "What valid benefit could be derived?" Some of these people are dead, I think they were talking about going back to 1940. So you're talking about, that's what, 85 years ago, 83 years ago? You're talking about people that are dead. They're probably a very minimal threat if they're deceased. And I just don't understand the benefit. But it's a business model that needs to be fed. And folks, you got to understand that! When you get hired to run a newspaper, they're telling you to get circulation numbers up, so advertising revenue will go up, so that the business will survive. They're not telling you "Well we want to concentrate on being the most moral newspaper there is." They're concentrating on trying to stay in business.

Andy 26:02

If it bleeds, it leads.

Larry 26:06

That would mean we would have to have some discussion about whether our unlimited press should have limitations. And I don't think we're ready for that.

Andy 26:16

I don't think we are. (sighs) All right, then. Let's move over to this Feature Event, if you want to call it that, or "Main Event". Do you want to set it up? I didn't realize this was in Georgia, first of all.

Larry 26:31

Yeah, I think it flashed on at the beginning of the video "Georgia". But some of the gurus out there that are smarter than I am can help us try to figure out what particular jurisdiction in Georgia it is. We'd like to try to track the case. So if you can enhance the video and figure out the agency, by the badge? By the insignia on the uniforms and stuff, that would be helpful to us. I know we got some great brains out there that know how to do stuff that I don't know how to do. And then maybe scroll through the comments. But what happened was this video came to me with "Is this funny?" And I watched it, and I'm always sending you stuff, which most of the time you ignore when I say, "You gotta admit this

funny", because nothing's ever funny that I send you. But I agreed that, in my warped sense of funny, this is funny! Because we did, what? about a five-episode series? about not talking to the police, a couple years back? And we had a fast-talking law professor, where we played him giving lectures about the disadvantages of talking to the police. And in this case, if this woman had not talked to the police, she would be in a far different position today. I'm not going to sit here and say she wouldn't have got arrested. There's a very good chance she still would have gotten arrested. But we're going to dig into what would have happened, how things would have gone down, had she handled it differently. And the posture she's placed herself in by talking, versus the posture she would have been in had she not talked. And I don't know, are you going to play the whole thing or just parts of it? It's like three minutes.

Andy 28:06

It's three. And I think towards the end of it, I think we can start cutting it off. But we need to go through at least one or two sections. I'm going to start from the beginning where they have their encounter, and then we'll have some conversations about her responses and whatnot.

Larry 28:18

Sure.

Andy 28:21

Hopefully, everything's in alignment and ready to go. [loud noise] Is that too loud?

Larry 28:26

A little bit loud. Yeah.

Andy 28:28

All right. Let's turn that down a hair. Let's try that again:

Cop 28:40

We'll get you over there. Go ahead and bring your stuff.

Woman 28:45

Can I ask what the problem is?

Cop 28:46

Alright so, someone called us. We got multiple calls about you, about something pertaining on the beach. Were you doing something you weren't supposed to be doing?

Larry 28:57

[It's a little bit *too* low, now]

Andy 28:59

[Oh, man, I can't please you for nothing]

Cop 29:03

What were you doing on the beach? Like, prior to coming here? Prior to coming here.

Woman 29:12

There was nobody else. I was just sitting on my towel. Nobody was around me.

Cop 29:16

Okay, and you were over at the beach.

Woman 29:17

Like I was, I was near the water.

Cop 29:18

Near the water?

Woman 29:20

Yeah. What did I do? What did I do?

Cop 29:22

So apparently you we ma—[censored content].

Andy 29:23

[quickly] Okay, so. (laughs) For those of you that are just listening, they're trying to delicately dance around ... she was sitting in the restaurant of the beachside bar and they call her out to, what's essentially like the dunes on the beach, and there's a female cop standing behind her and then the one with the body cam footage that we're watching, there in front of her, asking her questions. And she has, at least the way I'm looking at it, Larry, she has a very puzzled look on her face of like, "What in the F- are you guys asking me about?" And she's, I think she's kinda maintaining her cool at this point. Would you agree?

Larry 29:55

I agree, she was doing really well, up to that point. And I don't remember the point where it started deteriorating, but she was doing fantastic at the beginning.

Andy 30:08

It's about to.

Larry 30:09

She was doing exactly what she should have done up to that point.

Andy 30:12

So yeah, she's about to, because they were about to *tell* her what she was doing. Now, let me also Trigger-Warning (and prison-censor warning): There are some words here that may be, for some sensitive ears, it might be a problem? Nothing really that graphic. They're just going to use the "blunt" terms of what's going on. Is that fair to say?

Larry 30:32

I think that's fair.

Andy 30:34

Okay, to continue along:

Cop 30:36

-- masturbating on the beach.

Andy 30:42

She has the most puzzled look on her face, and if you didn't hear what they said, they said that she was doing something naughty on the beach with herself, okay? And she's just like, "Seriously?"

Woman 30:55

Who saw that?

Cop 30:56

A couple of people.

Andy 30:58

Even that one, Larry, she said, "Who saw that?" That's *almost* admitting guilt?

Larry 31:03

That is not an appropriate response. But when she said, "Who saw it?", she should have said, "No one could have possibly seen that". If she was going to engage the cops, the thing to do would be to say, "Denied, denied, denied." But she said, "Who saw that?"

Andy 31:20

Right. That's almost like tacitly admitting it. All right. Then she comes back and denies it, but she's also then gonna blame it on all of her friends, as being a prank.

Woman 31:28

That's not true.

Cop 31:28

Then why would they call us?

Woman 31:30

Nobody was around. It was an anonymous call? Is this one of my buddies? Okay, one of my buddies.

Cop 31:36

No it was not an anonymous call. It's a family.

Woman 31:38

Okay, let me just show you what I did.

Andy 31:42

So now she's moving around, and she's gonna, like actually sit down on the beach and demonstrate how she was sitting.

Cop 31:48

Is there anything in the bag?

Woman 31:50

No!

Cop 31:51

Is it alright if I look through it? I mean, if you can open it. Can I see the contents inside the bag?

Woman 31:55

Yes!

Andy 31:56

Tell me about, like, Fourth Amendment protection. So they're asking if *she* can open it, so *they* can see inside.

Larry 32:02

And at that point, she should have said, "Absolutely not."

Andy 32:07

But doesn't that put you under suspicion, threat, whatever, that they're going to then detain you for whatever reasons? Like she's still walking around with a bottle of beer. They told her to bring it, but she's walking around with a bottle of beer so couldn't they, like "detain" her for not being around the bar property with a beer?

Larry 32:24

I doubt it, if they are the reason why she's not in the bar properly. If they brought her out, I doubt that. But when they asked her, can they look in her property? Remember, you have an absolute right to privacy in your person and in your home, and in your vehicle. And she should have said, "Absolutely not. You cannot look in there."

Andy 32:51

And just to go in the other direction, though, if they believed that she had something of the four letter word that begins with a B and ends in B? then they would have some level of public protection to intervene.

Larry 33:05

I'm not seeing that, based on the complaint that was leveled. She was...

Andy 33:09

No, no, no, no, I'm just saying. I'm just like, to go in a different direction, if they believe that she had an "explosion thing", then they would have the right to intervene.

Larry 33:20

I'm not seeing that. If they believe that she, I mean there could be an exigent circumstance where they could open that bag. But in this scenario, right now, there's absolutely not.

Andy 33:31

I'm with you. Yeah, not in this scenario. Okay. Well, we'll continue.

Woman 33:33

I don't really understand what y'all are saying.

Cop 33:38

We're just here because someone called, and they're very concerned about what they saw.

Woman 33:42

This is really highly offensive to me.

Cop 33:44

I got it, I got you. And that's why I'm trying to figure it out.

Woman 33:46

It's ... okay, it's my vibrator, I was just sitting on the beach. And I just, just [censored content].

Andy 33:46

(laughs) Now she's admitting everything, Larry.

Larry 33:56

So, at this point, they don't necessarily need to *see* in the bag because she's *told* them. She's given them confirmation of the anonymous caller, or the non-anonymous call. She's given them confirmation of what they were called to address. She's first said, "No one saw anything", and then she's confirmed that she has that device in the bag that they're asking to see. Now at this point, they have enough evidence to begin to build a case, but keep going.

Announcer 34:31

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Andy 35:19

I was done. I don't think we need to do anything more because like she admits the rest of -- I don't really want to play the words, Larry, because of transcription and censors. She says she did it, and got it done. (laughs)

Larry 35:31

Yes, she did. But she did say that she had engaged in the action that had been described by the phone caller.

Andy 35:38

Right.

Larry 35:38

... to the police, and that she had done that. So at this point, they have her voluntary admission that she has engaged in an indecent act on a public beach. And I'm fairly certain that that's against the laws of the State of Georgia.

Andy 35:55

(laughs)

Larry 35:58

So, I don't think you can engage in that in public. Would you tend to agree with that?

Andy 36:06

I'm pretty sure that's going to be off the limits. They're not *that* liberal of a state, to let you go walkin around, doing those things to yourself.

Larry 36:14

So at this point, based on what *she* gave the police, they went from having a report of criminality and a beginning of an investigation, to having a full confession, voluntarily given, by a person who arguably *may* have been free to leave, and may have *not* been free to leave. Because that's where you need to be Mirandized, when you're in a custodial interrogation. If law enforcement is going to interrogate you, they don't *have* to place you under arrest. People have this misnomer that they have

to place you under arrest. There was a couple of things that we'll digress with, in terms of an interrogation. The police do not have to Mirandize you just because they arrest you. If they're going to take you straight to jail, ask you no questions, they've already got an open-and-shut case and all they're going to do is book you. There's no danger of you incriminating yourself whatsoever because they're not intending to ask you a single question, other than just your basic name, date of birth, and stuff like that. They aren't gonna ask anything so they don't need to Mirandize you. But in her situation, the test will be: was she free to leave and disengage at any time? I think it's a close call, when you've got two officers standing around you. Would a reasonable person think they're free to go?

Andy 37:46

I'm gonna go with: No.

Larry 37:48

Okay, well then, when she gave her "voluntary confession" then, as a defense attorney's assistant, I'm going to be looking at that video very carefully and I'm going to ask her a lot about her education. I'm going to ask her if she understands the English language (she appears to), gonna ask her if she has any learning disabilities, anything that would preclude her from understanding that she was free to go, or not free to go, and make sure that she has the ability to analyze the situation, intelligently. And I'm gonna say, "Look, now we can make a motion to suppress your confession. But that only gets us partway to where we're trying to go because we've got to suppress your admission, but we've also got to suppress the evidence." Remember what they said they found?

Andy 38:44

Oh, yeah, they (chuckles) towards the end of it, one of the officers says, "You're gonna have to go through and inventory every item, it's a "Bullet Device" is what they call it.

Larry 38:54

A what?

Andy 38:56

A bullet. It's a little, it's like the size of a finger, Larry. It's *tiny*. It's very small.

Larry 39:03

Okay, well, I don't know anything about that, but (laughs), when you place a person under a lawful arrest, which I would consider, on the surface of this, this appears to be a lawful arrest. You have a person who has admitted to felonious behavior, I think that would be an exposure of an aggravated nature, and it would probably be a felony in the state of Georgia. So you've got a person who's admitted to committing a felony and was placed under arrest. At that point, they could have lawfully searched the backpack and her possessions because they need to inventory a car, or anything that's in your possession, correct? You know what an inventory search is, right? When they do the search, they inventory that stuff so your property can be protected and returned to you. At this point, I'd tell her, "Well, we can move to suppress this, and we're going to force the prosecutor to do some work and when we move for the suppression of your confession, we've still got what was a lawful arrest. That's going to be an ugly,

sticky argument because, if I'm the prosecution, I'm gonna say, "Well, the inventory search was very lawful, and so was the arrest. I mean, she (laughs) she made the confession, and what the inventory reflected was consistent with what the witnesses had told us." As a prosecutor, if I have to do all of that work fighting this, I have very little incentive to offer her a sweet deal. Meaning, a sweet deal would be something like, we keep her off the sex offender registry, give her a probated sentence, and hopefully, maybe an expungement, or at least a sealing of the record. Because she looks fairly young and this is not something you'd want to deal with for the rest of your life. I'm trying to figure out, as a strategist, which way we can go with this, in terms of getting the best outcome for her. She has a *very* weak case, in terms of a defense.

Andy 41:12

Because she said she had it, and did it.

Larry 41:15

She basically gave the state a very strong case against her. Therefore, I'm in a weakened position trying to get an outcome that's favorable to her because of her own behavior. Now, let's just say that she had told them, "No." Let's play this through. If she had said, "I don't know what you're talking about." "Well, a witness said that you did something that was unlawful." "Well, what did the witness say?"

Andy 41:48

Yeah.

Larry 41:48

"Well, the witness said you did what they described." "I didn't do any such thing. I don't know why anybody'd tell a lie like that." And "Well, they seen you do it!" "Well, then, if they saw me do it, I think you're probably going to need to call them over here and have them identify me because I don't know anything about what they're talking about." And I'm going to argue about mistaken identity. "How far away were these witnesses?" "Well, I don't know that because we just got the phone call. I haven't interviewed witnesses yet." "Well, you need to go interview the witnesses. But I have no idea what you're talking about. And I'd really like to be on my way. Am I free to go?" Well, at that point, they're gonna say no, "No, you're not free to go. We got an open investigation here." And one of the officers is going to go over and try to find the person who made the phone call. You know, they'll have dispatch call them back, or they'll try to make contact with them, and they're going to ask them, "Are you willing to come over here and identify this person?" And that witness is going to say, "No, I don't want to get involved," or they're gonna say, "I'd be damn glad to, this is the most disgusting thing I've ever seen in my life!" We don't know what that witness is going to say, or if they're even still there at this point. We don't know any of that. But if the witness is no longer available when dispatch tries to call them, and they don't answer their phone, because a lot of people have the same policy you do, "We don't answer incoming calls." So at some point, they've got to end this investigation and they would have to take her name and let her go. I mean they can't hold her there on the beach indefinitely. They would have to round up a witness, have them come over, and make an identification. And they'd have to check with their command staff and see if the identification is enough to arrest her. I cannot begin

to opine whether that would have been enough. Because if I'm in command staff, I'm going to ask them, "How far away was this witness? Do they seem credible?" And, you know, "We're getting ready to refer a felony prosecution for a sexual-type offense, you know. Is this witness credible? I'm going to make sure that we have at least a decent witness." Now I can't say that's what that command staff would do, but that's what I would do; make sure we've got a halfway decent case and it gets more dicey than that. Suppose, on the beach, as we discussed in pre-show, most times people don't visit their own beaches. There's a good chance that she was from out of state, or at least out of the local area, and there's a really good chance that the person there may have been from Idaho!

Andy 41:51

Right.

Larry 42:00

Well, if I'm the prosecution (laughs) and I've got this case, and my star witness is all I have and I don't have the confession to work with that creates a problem. I have just that witness testimony and that person's in Idaho, and I'm gonna have to spend two, three thousand dollars of foreign travel and lodging arrangements, I'm going to think about offering a sweetheart deal. Which, if I'm the defense attorney, I'm going to say, "Look, you know, I *think* I can talk my client into pleading on this ... IF ... you give me what I need, which is a non sex-offense, non-registerable offense. I don't know what we'd have to plead it to, but we have to get something that's not registerable and we have to get some sort of adjudication where this will not follow her for the rest of her life. I think I can convince her to enter a plea, and she'll get treatment, and you know, everything would be fine." But you're in a much stronger position to negotiate that deal with the prosecutor, if that witness, or witnesses, are from another state, because of the expense involved. They don't really need those witnesses at this point because you can rest assured when they took her back to the station, and they sent detectives in to take her statement, you can rest assured she signed a statement. They all do. Because they told her, "You know, we want to get this all cleared up", and "things'll go a whole lot easier on you if you just tell us what happened" and so she's probably given them a written statement about "she was all stressed out" and, you know, "she was relieving...", I forget what she said about stress. But didn't she say something about how she was stressed toward the end of the day?

Andy 45:53

(laughs) She was stressed, so she just kind of [censored content]. I have a statement that I want to say, but I'm not gonna say it.

Larry 46:02

So, the whole dynamics of that case would have been different. I think though, there's at least a 50/50 or better chance they would have arrested her anyway, had they been able to make contact with the complaining person who initiated the phone call. I think they probably would have still put her in handcuffs. But she would be in a far stronger position today. She's in a very poor position today. Now she's at the mercy of finding an attorney who's well-enough connected with the prosecution in that particular jurisdiction, that they're willing to show mercy on her. And what if they don't find such a prosecutor within that jurisdiction? What

happens if the district attorney is up for reelection this coming year 2024? This case is gonna take at least a year to work its way through the court. What happens if they've had some vile sex offenses in that county, and they want to make a statement about how tough they are on sex offenders? There's too many variables, and she sunk her own ship. She did it by opening those loose lips.

Andy 47:06

That's really a mess. It looks like it's Tybee Island. I found a piece of it, towards the end where the cop car camera's looking up at one of the signs of a street nearby.

Larry 47:19

Well you've been there many times. Can you describe that? I've never been there, even though I'm from Georgia.

Andy 47:23

I mean I love Tybee, honestly. I go there as often as I possibly can. I just love it that it's an island so it's kind of challenging to get to, being an island. I mean, there's just one road that goes in and out. But it's just a really chilled out place. It's a preferred place. The water is super warm. (Watch out for jellyfish towards the end of the year.) It's one of my favorite beaches. Not big waves, though, because it's a barrier island. It has stuff in front of it blocking.

Larry 47:54

But now we're not talking about like Panama City Beach or Jacksonville or someplace where there's lots of people, we're talking about a relatively small population, right?

Andy 48:03

Pretty much. Yeah, it's pretty low. Pretty low-key.

Larry 48:07

So it might be that it's a relatively rural county. I know nothing about this. That's why I was asking.

Andy 48:12

It could be Chatham County? I'm not sure if that's the exact right county, that's at least nearby Savannah. I'm not sure if Tybee falls into that same county,

Larry 48:19

But she's at the mercy of the system.

Andy 48:23

It's 30-ish minutes east of Savannah, if that helps any. Oh, yeah, it's totally Tybee, I'm doing maps view, it's totally Tybee.

Larry 48:30

Yeah, she's totally at the mercy of finding a prosecutor, that's going to have some compassion. And I would prefer to be in a position of, if I call up the district attorney and say, "You know, we got this case, and it's kind of ugly, and I'm gonna make you do a lot of work." you know, "Here's what I need: I think I can get a plea. But if you don't get a plea, you're going to bring those witnesses from Idaho, and we're gonna do a three-day trial on this. Or however long I can drag out the trial. And I'm gonna make the trial take as long as possible."

Andy 49:05

So somebody in chat wrote, "Some of her statements could be categorized as a spontaneous utterance." Is that a legal term? Larry?

Larry 49:14

I've heard of it. I've never actually seen any success of people using it. I think it's called an "excited utterance".

Andy 49:23

Okay, that's fair. That seems similar, yeah.

Larry 49:25

I think I've heard of that, but I don't remember any interplay where a motion's been granted on that, in my legal career but yes, I've heard of an excited utterance.

Andy 49:36

And then also, a longtime patron wrote, "By the way, regarding this story, it also would be nice if the cops across the board had a bit more discretion. It's clear this woman didn't *believe* that she was being watched and that she was also not trying to be lewd in public." Do you think that factors into all this going down?

Larry 49:56

Well, this is the downside of technology. When cops used a lot of that discretion, it was when they had far less monitoring. Like right now, I just heard our sheriff on the radio on KKOB Friday, talking about 'in real time,' He said, "I can watch my entire deputy staff in real time, and I can turn on their cameras. They will know I can turn on their body cam so I can watch what they're doing. We can, rather than having to send out a supervisor, we can guide the officers in real time." Well, being that everything is so well documented now, a lot of discretion that used to be allowed in the field has been taken away, because you know *every* move of yours is being tracked, and subject to review and scrutiny. Technology has its downside as well.

Andy 50:47

Oh without a doubt.

Larry 50:48

In yesteryear, there would have probably been an officer that would've felt sorry for her and said, "Get off the beach, don't come back here. If I see you here, we're gonna have trouble. But you know, this kind of thing doesn't go on here." But today ...

Andy 50:59

Because it's all now "camera-ed", and I'm saying that as a verb, because camera-ed, they have to then write the paperwork and now she's created work for them, and it's documented, they *have* to follow through or else they're not doing their job.

Larry 51:12

And beyond that, maybe the command was watching this in real time and that officer wasn't at liberty to say, "Oh, well, I'm just gonna let you go" and turn a blind eye, because what happens when his supervisor is watching his cam in real time?

Andy 51:27

Mm. This is awful, Larry. I don't like this for so many reasons. I think it's obvious she made a dumb decision. But like I wrote in chat, Larry, that it would be okay for you to walk down Bourbon Street, drunk off your ass, and puke all over the place. That would be okay. Maybe you'd get something like drunk and disorderly that would be a misdemeanor and like you just go sit in a drunk tank overnight, but she's going to potentially end up on the registry for the rest of her life.

Larry 52:01

I'm afraid that could happen in this case because it's such a slam dunk. It's almost a slam dunk if I've ever seen one.

Andy 52:12

So now we know it's Tybee, and it's June of '21. It's still two, almost two and a half years ago.

Larry 52:13

It should have probably resolved itself by now. Now all we have to do is do a reverse search all you gurus out there that know how to use, what do you call it, photo recognition?

Andy 52:35

Couldn't we find a case in Tybee where someone did naughty things on the beach at five o'clock in the afternoon on the first of July?

Larry 52:43

But I'm saying, do photo recognition. What is it called, when you convert a photo to a name? And then we'll figure out who she is, and then we can check the court docket for her.

Andy 52:51

Reverse image search. But I don't know that we're going to be able to do that.

Larry 52:55

We've got people out there that know how to do that. Brent used to do that when he was alive.

Andy 53:00

Brent was **clearly** better than me.

Larry 53:03

Yes.

Andy 53:05

Okay, can we move along?

Larry 53:06

Yeah, let's do at least one article.

Andy 53:09

Yeah, we got time for one. It's 52 minutes. All right. Do you want to do the New Jersey Monitor one, the Supreme Court or the other one?

Larry 53:16

Let's see, Jersey Monitor.

Andy 53:19

"Bill advances to end ban on jury service"?

Larry 53:23

Oh, I have to do the prisoners' right to vote because I've got my favorite track in this one.

Andy 53:28

I see. Okay. Let me make sure that I pull this one up. Yeah. Okay. I have this one. "Democratic lawmakers unveil bill to give people in US prisons the right to vote." That one?

Larry 53:39

Yes.

Andy 53:40

Very well. "A Democratic US Representative, Ayanna Pressley," boy, I hope I didn't mess that name up: Ayanna. A. Y. A. N. N. A. Pressley, and US Senator Peter Welch, on Wednesday, unveiled a bill that, if **passed**, would grant the right to vote, nationwide, to people who had been in prison or were **currently** in prison. "The right to vote is sacred in America, and it's essential to citizenship, and all citizens **deserve** a voice in our democracy," Pressley told reporters. Do you think Larry, does this have any chance of passing?

Clip 54:23

(audio track of people laughing hysterically)

Larry 54:30

(laughs) This bill is very unlikely to advance in the House. I think it could possibly get through the Senate, but even that's doubtful because of the 60 votes you need to get past cloture. But in the House, this has virtually no chance because Republicans narrowly control the House of Representatives and bipartisanship is so hard to come by. There's this fear that because it's people who've been in prison, it's automatically gonna be "A Democrat Party" vote, and I just don't see that that would happen. And the lawmakers themselves, that sponsored this, they even acknowledged the headwinds to the legislation.

Andy 55:10

I didn't mention it, but this article is from Reuters. And then Pressley referred to her family's history with the criminal justice system, mentioning that while she was growing up, her father had addiction issues and had been incarcerated before going on to become an author and professor. Welch noted that his State of Vermont was one of the few places in the country where people do **not** lose the right to vote even when they are incarcerated, along with Maine and Washington, DC. Damn Liberal places!

Larry 55:38

I know, isn't it disgusting?

Andy 55:40

(laughs) Terrible!

Larry 55:41

According to the article, "The laws surrounding voting and incarceration are a patchwork across the US, though in recent years, some states have moved to loosen prohibitions on voting

for people who have been incarcerated, or were currently serving a prison sentence." And actually, we're moving in that direction as well, to try to extend the vote to people that are incarcerated. "States may bar voting for people who are currently in prison, for a period of time after release," and that's becoming less common, "or for certain crimes require an additional waiting period or a governor's pardon." I think that's what happens in Virginia. I think that each person has to be pardoned by the governor, "and they require additional actions like payment of fines" like you know what happened in Florida when the citizens...

Andy 56:31

Yes, they overturned Amendment Four. The citizens voted to amend their constitution and I guess repeal Amendment Four. But then the state legislated all these hoops and barriers to get yourself the right to vote back.

Larry 56:49

But yeah, we are moving in that direction, here. We already have the right to vote, when you've served your sentence, it's automatically restored. No pardon, nothing needed here. But we're trying to extend it to when you're released from prison. There's not enough support to have votes taken *while* people are in prison. The election officials... there's too many hoops of how you would do it fairly so, it's very controversial trying to set up polls in prisons. But there's a fair amount of support here to let people vote, upon release, before they've discharged their obligations. And I think we're going to get that passed in the next couple of years.

Andy 57:28

"Nearly 5 million people in the US are directly affected by these policies." So that would be people actually behind bars, and then people on some level of supervision and, in the case of Florida, even after you're done with everything! In like a handful of places still, in the south are where, even if you've *ever* been locked up, you are barred from voting.

Larry 57:49

That would be correct.

Andy 57:53

"Pressley said, Adding that Black Americans were disproportionately affected, the United States is the country with the highest number, and second highest rate, of people in prison, in the *world*, according to the National Institute of Corrections. Black Americans are imprisoned at five times the rate of white Americans, according to the Sentencing Project, an advocacy group." And you say this cannot pass?

Larry 58:16

I don't see it, with the current makeup of Congress, unless we are able to persuade a lot of conservatives to join in, and they just are reluctant. They believe it translates to Democrat votes. I think they're wrong. My personal opinion is that a lot of people in prisons are very *conservative*. A lot of people in our advocacy are very conservative, and they would never vote for a Democrat, ever. But that's the perception, you know, "This is a plot to get millions of Democrats on voter rolls." It's kind of like immigration reform. One of the reasons why we cannot do immigration reform, although it's badly needed. The business community is saying,

"Please do immigration reform. We can't hire workers, we don't have enough bodies." It's controversial from the Democratic side because they say, "It's a PLOT to drive down wages, by Big Business!" and the Conservatives say, "It's a PLOT by the Democrat party, to flood the nation with voters that'll vote Democratic! So you just can't pass this." I don't see this passing in the current political climate as it exists.

Andy 59:20

So even ten-ish, it was probably twelve or thirteen years ago, I read an article in Reason Magazine that laid out, per capita, the US is by far Number One, as far as the number of people in the country compared to the number of people incarcerated. And we were twice as high as country number-two, and country number-two was Russia.

Larry 59:45

I think I remember showing that in a presentation I did in Dallas. Think you might have been there. Were you?

Andy 59:52

No, no, no, no, I wasn't in Dallas. That was the one that you put something up there and (laughs) "You lie!"

Larry 59:58

I did. I had a visual aid showing the rate of incarceration. And I said, "Here we are in Texas, and the Southern States *pride* themselves on how much smarter they are, and how much more common sense they have, than the rest of the country." And I showed the rate of incarceration on the bar graphs of the southern states, and they were the highest. So I did the five highest, and then did the five lowest (which are typically thought of as being liberal states, like Vermont and up in the Northeast, Massachusetts) and I said, "Now what confuses me, I'm here standing in Dallas, Texas, and you guys are in the top five of your rate of incarceration, the South is in the top five," I said. "So, I would like to ask, does that mean Southerners are inherently more prone to criminal behavior? Or does that mean that the liberal states have found suitable alternatives to incarceration?" And I didn't get a lot of applause when I asked that question.

Andy 1:00:57

I can understand that. I mean, again, Larry: I understand, I don't understand.

Larry 1:01:02

You don't? I would have thought I'd have gotten tons of applause because I was showing them factual stuff! (laughs) But I didn't.

Andy 1:01:12

Yeah, facts don't matter because there's always Alternate Facts, Larry.

Larry 1:01:16

I know.

Andy 1:01:17

You gotta watch out for the Alternate Facts.

Larry 1:01:19

I Know.

Andy 1:01:22

Is there anything else before we go, Larry?

Larry 1:01:25

No, we have one more episode and now I think we're gonna have a couple of weeks hiatus, maybe for the Christmas and New Year's holidays.

Andy 1:01:32

Certainly for Christmas because I think Saturday is Christmas? I think. Oh, no, no, no, Monday is Christmas. But still, the twenty third we're not going to have an episode. So the next week. And, then on the thirtieth Larry? I mean, New Year's Eve isn't until the next night. I think we can make it, but maybe not. We'll see.

Larry 1:01:49

All right, well just make sure the audience knows, so that they don't cancel more patrons. I've run off quite a few already, apparently.

Andy 1:01:54

Yes, I believe so. Well, as always, everyone, thank you very much for listening and supporting, and please share it with those around you. We would certainly love to grow the audience, and it means a lot if we can have a much more bigger-er audience. The show notes can be found over at registrymatters.co. And then of course,

go over to patreon.com/registrymatters to become a Patreon supporter, which is very much appreciated. Go find your podcast app of choice, iTunes or others, and leave a review, that looks favorably upon us as well. There's a YouTube channel that you can subscribe to (Larry loves watching that number go up and down), and I hope everybody has a great rest of their weekend. And if it's Tuesday for you when you're listening to this, have a great week! And we'll talk to you next weekend, and not the one after that. Anything else? Did I miss anything?

Larry 1:02:46

You didn't miss a thing.

Andy 1:02:48

Perfect! Have a great night, my friend.

Larry 1:02:49

Good night.

Announcer 1:02:57

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