

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**Case No. 05-CR-145**

**RASHID ABDULLAH SALAHUDDIN,**

**Defendant.**

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**RECOMMENDATION TO CHIEF JUDGE RUDOLPH T. RANDA**

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The case of United States of America against Rashid Abdullah Salahuddin (“Salahuddin”) has a long procedural history that is recounted in the Seventh Circuit Court of Appeals’ decision remanding this case to the district court for consideration of Salahuddin’s motion to suppress, and therefore this history shall not be recounted here. See United States v. Salahuddin, 509 F.3d 858 (7th Cir. 2007). Following the Court of Appeals’ decision, Chief Judge Rudolph T. Randa referred the defendant’s motion to suppress to this court, and on April 30, 2008, the court conducted an evidentiary hearing. A summary of the evidence adduced at the evidentiary hearing is set forth below. At the conclusion of the hearing, the court ordered the parties to submit post-hearing briefs. The pleadings on the defendant’s motion to suppress are closed and the matter is ready for resolution.

**EVIDENTIARY HEARING SUMMARY**

**Milwaukee County Sheriff Detective James Ford**

Ford was a Milwaukee County Sheriff Detective assigned to the warrant squad in January of 2003. (Tr. 5-6.) His responsibilities included locating and arresting persons who had open warrants.

(Tr. 6.) During this period he was the lead detective assigned to investigate a person known as Willie Gray, also known as Rashid Abdullah Salahuddin, (Tr. 10), who had a felony warrant out for his arrest. (Tr. 6.) As part of his efforts to attempt to locate Willie Gray, Ford began by compiling some basic information about Willie Gray such as his last known address, next of kin, and similar information that is generally maintained by the Milwaukee County Jail. (Tr. 8.) From the jail records, Ford learned that Willie Gray's last known address was 7510 West Thurston Avenue, where he resided with his wife. (Tr. 8, 35-36.)

On January 13, 2003, at approximately 4:30 PM, Ford, along with Milwaukee County Sheriff Detectives Greg Zimmer, Scott Stiff, and Luke Chang, went to this Thurston Avenue residence. (Tr. 9.) This residence was a multiunit apartment building with a locked common lobby, and Willie Gray was believed to live in apartment number one. (Tr. 9.) Ford rang the doorbell to apartment one but received no answer. (Tr. 10.) Ford had a telephone number for the apartment and called the apartment, making contact with a woman. (Tr. 10.) Ford identified himself to this woman, who identified herself as Rose, (Tr. 11), and explained that he was looking for Willie Gray. (Tr. 10.) At Ford's request, the female came to the door. (Tr. 10-11.) On both days, the detectives wore in full uniform, described as a black military-style khaki uniform with cargo style pants, embroidered badge and patches, and a nylon gun belt. (Tr. 38-39.) All of the detectives were armed. (Tr. 39.)

Rose informed Ford that Willie Gray was not at the residence and Ford asked if they could come into the apartment to make sure he was not there. (Tr. 12.) Ford did not inform Rose that she had a right to refuse to consent. (Tr. 44-45.) Rose verbally consented to allow Ford, Chang, and Zimmer into the apartment to look for Willie Gray. (Tr. 12.) Ford did not obtain written consent from Rose; Ford described his conversation with Rose as cordial and in a normal conversational

tone and free of any threats. (Tr. 12.) Children were also present in the apartment with Rose. (Tr. 60.)

All rooms of the apartment were searched, but Ford does not recall if the basement was searched. (Tr. 44.) While searching the apartment for Willie Gray, Chang found two long guns, a 20 gauge shotgun and a .22 caliber rifle, in a bedroom closet. (Tr. 13-14.) Nearby those guns was a bag of various caliber rounds of ammunition. (Tr. 14.) In the bedroom where the firearms were found were numerous pieces of paperwork and mail in the defendant's name as well as clothing that appeared to be for a male. (Tr. 16.) These firearms and ammunition were subsequently recovered and removed by the detectives, in part, because Rose said she knew nothing about the guns, and the guns were loaded and unsecured in an area accessible to the children in the apartment. (Tr. 60, 65-66.)

Ford questioned Rose about the firearms and Rose stated that the firearms did not belong to her and they belonged to the defendant. (Tr. 14.) Rose further stated that the defendant used to live at the residence but that they were now separated. (Tr. 14-15.) Ford asked Rose if they could search the residence for additional firearms and Rose said, "No." (Tr. 16-17.) Her demeanor remained calm, cooperative, and conversational. (Tr. 17.) At this point the detectives ended their search and left the apartment with the recovered weapons and bag of ammunition. (Tr. 17, 65-66.)

Based upon the property he observed inside the residence, Ford believed that the defendant was still living at the residence, and therefore he sought and obtained permission from his supervisors to conduct surveillance on the residence. (Tr. 17.) Later that evening, Ford and other sheriff detectives began surveillance of the residence and remained at the residence throughout the night. (Tr. 18.) At approximately 7:00 AM, Rose was observed leaving the residence and Ford followed her as she dropped the children off with another person and continued to her place of work. (Tr. 19-20.) At approximately 10:30 AM, detectives conducting surveillance on the residence

observed the defendant arrive at the residence on West Thurston Avenue. (Tr. 18-20.) The defendant was observed in a car that was registered to him, and Detective Carter confirmed his identity based upon booking photographs he had with him. (Tr. 18-19.)

Detective Carter communicated to the other detective on surveillance by way of police radio that the defendant approached the door of the apartment building, took out a key, opened the door, and entered the residence. (Tr. 20.) The detectives then gathered about a block away from the residence to formulate a plan to arrest the defendant. (Tr. 20.)

At approximately 11:11 AM, Detectives Ford, Chang, Zimmer, and Stiff approached the residence, knocked on the exterior door and announced their presence. There was no response and after 25 seconds, they forced entry through the door leading into the building's common lobby. (R. 21-22.) The detectives then arrived at the door to apartment number one, knocked and announced again, and after waiting roughly 25 seconds and not receiving a response, the detectives forced entry into the apartment. (R. 22-23.) Inside the apartment the detectives identified themselves as police and defendant called out that he was in a back bedroom and he was not armed. (Tr. 23.) Ford instructed the defendant to come out of the bedroom slowly and to show his hands. (Tr. 23-24.) The defendant complied and was handcuffed by Ford. (Tr. 24.) Contemporaneously with Ford handcuffing the defendant, Ford asked the defendant if there were any weapons in the house. (Tr. 24.) Ford was concerned because the day before when the officers recovered the weapons, they also recovered 9mm ammunition but did not recover a 9mm firearm. (Tr. 24.) In response to Ford's question, Ford stated that there were two guns in a bedroom closet and indicated towards the bedroom from which the detectives had removed the firearms the day before. (Tr. 24.)

Ford did not provide the defendant with his Miranda warnings before asking him about the firearms. (Tr. 25.) Ford did not Mirandize the defendant because the question regarding weapons was a standard question asked for the purpose of ensuring the safety of the officers and the suspect.

(Tr. 25.) After taking the defendant into custody, the detectives conducted a protective sweep of the residence to ensure there were no other subjects in the residence. (Tr. 26.) The detectives then took time to make sure the defendant was able to get dressed, and then he was transported by another deputy to the sheriff's department's Criminal Investigation Bureau, which is located in downtown Milwaukee. (Tr. 26-27, 52.) The detectives were in the residence for a short period of time, perhaps twenty-minutes. (Tr. 63.)

At the Criminal Investigation Bureau the defendant was placed in an interview room, which is a room roughly six-by-eight feet with a bench. (Tr. 27.) Some of these rooms have desks but Ford does not recall if the room the defendant was placed into had a desk. (Tr. 27.) At 3:03 PM, Ford read the defendant his Miranda rights from a card; the rights Ford read from the card are the same as those reflected on the Milwaukee County Sheriff Department's standard statement of rights form, which Ford provided to the defendant to read and sign. (Tr. 27-28.) After the defendant signed the form, Ford asked him if he would answer questions. (Tr. 29.) The defendant responded that it depended upon what questions Ford asked. (Tr. 29.) The defendant wrote "Yes" next to the question of whether he understood his rights, but when it came to the question about whether he wished to make a statement, the defendant wrote a question mark. (Tr. 54.)

Ford asked the defendant about whether he lived at the residence and about his relationship with Rose. (Tr. 30-31.) He said he used to live at the Thurston Avenue address, and he is married to Rose but they were having problems. (Tr. 30-31.) When asked about the guns, the defendant said they belonged to Rose. (Tr. 31.) The defendant then said that he was not a felon in possession of firearms and that he did not want to answer any more gun questions. (Tr. 30, 32.) At this point Ford terminated the interview. (Tr. 32.) This interview was not audio or video taped. (Tr. 56.)

### **Milwaukee County Deputy Sheriff Luke Chang**

At the time of the relevant events in January of 2003, Chang was a detective in the sheriff's

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