

How Too?

(Sex, Lies and Audiotape, Part VIII)

by Edgar J. Steele

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Original Copies

I find it extraordinarily odd that FBI Special Agent Sotka continually lied about possessing the original recordings, until he was cross-examined on the witness stand at my trial. You see, we subpoenaed to trial the *actual recorder* that Larry supposedly used to make the two recordings that were the *only* evidence against me. Claiming all along that he had provided the *originals* to both the FBI labs and to my sound experts, Sotka finally acknowledged under oath that he could *not* produce the actual original recordings. Why? Because he *destroyed* them shortly after they were made! We never even got to *see* that recorder. So much for confronting the evidence against me.

Here's the problem with our not being allowed to test the recorder: In the pretrial "Daubert" hearing challenging my (world-class) sound experts, a key point made by the government was that their recorder's "floor" volume limit and "ceiling" frequency limit accounted for those "electronic signatures." Sorry, the judge told us, but the recorder is "too secret" to let us verify *any* of the government's claims about the limitations of their recorder. How convenient for the government. How tragic for *me*. Guess my world-class experts just must be dumb.

Agent Sotka *did* claim to have copied the original recordings to a different format, but he continued to call those copies "originals." Most people, including my experts, would call those copies simply copies, second generation, at that, but not Agent Sotka. Agent Sotka steadfastly insisted upon calling them "originals." Oh, my...

Incidentally...

The *same* FBI Agent who told all those lies and made several startling admissions at trial, Michael Sotka, *also* finally admitted that he had violated *several* FBI rules of protocol in securing his "recordings" (the same ones that even Sotka claimed never to have heard before he *destroyed* them):

1. The alleged conversations between Fairfax and me were *not simultaneously monitored* by the FBI (by radio) as they were being made (and, incidentally, as Sotka at first falsely *claimed* to have done).
2. There was *no second (or more) FBI agent(s)* present to observe the proceedings. *Just Sotka.*
3. There was *no visual sighting* of the target (me) at *any time* during either "recording session."
4. *The originals* (and first-generation copies) *were destroyed* by Agent Sotka, never having been heard by *anybody*.

Tell me, just how obvious does it have to be in order to produce reasonable doubt at trial? Answer: That depends upon your lawyer and the degree of corruption involved (both topics for a future installment I call, "*Thrown Under the Bus*").

Juries Love a Man in Uniform

My jury, like virtually all juries, accorded Agent Sotka's testimony the same weight that *all juries* give to the testimony of police and other agents of the government: *They took it as gospel.* Only on TV do juries manage to disbelieve government agents - trust me on this one, because *I am a trial lawyer* (I know how that sounds, but for once I don't say it as a joke). Else, how do you explain their verdict after hearing Agent Sotka's startling admission?

But why would FBI Agent Sotka even participate in, let alone mastermind, a fraud like this? *How do you think FBI agents get promoted?*

The FBI has maintained a large task force in Northern Idaho since the days of Richard Butler's Aryan Nations (both of whom I represented at a very high-profile trial several years ago, don't forget). That task force has had little to do. How often have you heard about structure fires surreptitiously being set by over-ambitious firemen with too much time on their hands?

Is It Memorex or...?

Why was Sotka so quick to *deny* to my wife knowing who I was? Why was he so eager, the morning of my arrest, to assure me that the FBI was *not* out to get me? Is the fear of putting the lie to these two assertions the reason they won't let us hear that *third* recording?

After stalling Cyndi for 10 days before allowing her to hear his "original" two recordings, why did Agent Sotka then tell her he couldn't play the third tape for her because it "wasn't yet ready?" *It wasn't ready?* Excuse me...isn't this the same tape that one of the FBI agents shook beneath the nose of Dr. Banks shortly after my arrest, saying, "I've got everything we need right here?" Not "ready?" After *ten days?* What, exactly, needed to be done to that tape, such that it "wasn't ready" ten days later for my wife to hear?

Do you suppose that Agent Sotka hadn't yet made his "original" from that tape, similar to the two "originals" (second-generation copies, by his own admission at trial) that required ten days before *they* were "ready" for Cyndi to hear? Was it, too, a "work in progress" at that time, as the other two recordings seem to have been, since they subtly changed each time my wife heard them?

Speak No Evil

It seems likely to me that FBI Agent Sotka was in on the fraud, at a minimum. But the judge refused to let us *say* so, directly or through witnesses. He also refused to let us tell the jury, directly or through two of the leading forensic audiologists in the world, that the *only* evidence against me was fabricated. *Why?* The judge also literally forbade my attorney from eliciting *any* testimony casting the FBI in a bad light.

Are you beginning to see how it is done? Spare me the blather about how I *must* be guilty, else how could 12 jurors, good and true, *say* that I was guilty? *Easily*. How do you think the Feds *get* that 97% conviction rate of which they are so proud? Fair trial? Not even close, boys and girls. *Not even close*.

All My Trials

Hope springs eternal. Though wrongly convicted and sitting in a jail cell as I write this, while awaiting that same Federal trial judge to sentence me (to a mandatory *minimum* 50 years), I (naively?) hope to be granted a new trial on appeal - a trial that will be *fair* enough (I have plans for ensuring that) to enable me to clear my name and walk free, then to spend my declining years in the arms of my beloved Cyndi, just as we first planned, 27 years ago.

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