

defendant and a co-defendant each openly possessed audio/video cameras as they attempted to record bail procedures at the Franklin County House of Corrections involving another person. The two were eventually arrested for trespassing and their video/audio recording equipment apparently confiscated by police. Were these activities of openly video and audio recording the only basis for the alleged wiretap violation the defendant would be entitled to dismissal. However, the police report also indicates that an additional allegedly hidden cellular phone device possessed by either the defendant or the co-defendant secretly intercepted and either recorded or otherwise transmitted conversations with Greenfield Police Sergeant Todd Dodge during his interactions with the defendant and his co-defendant at the House of Corrections. The secret interception and transmission of this conversation was discovered during the booking procedure and had already been published to a website. This second alleged interception provides ample probable cause for the wiretap violation.

The defendant further contends in his second Motion that the Massachusetts wiretap law does not apply to "public officials conducting their public duty." This court holds that it is not relevant that the person whose conversation was secretly intercepted in the present case was a police officer acting in the line of duty. *Commonwealth v. Hyde*, 434 Mass. 594 (2001)(wiretap law proscribes secret interception or recording of a police officer or other public official when on duty and interacting with the public).

Therefore, the defendant's second Motion to Dismiss is denied.

April 28, 2011



William F. Mazanec
First Justice
Greenfield District Court