RATIONALE ON FINDINGS

LUKE WALDEN, #34898

B.F. NO. 31674

C.F. NO. 21-001144

WEDNESDAY, FEBRUARY 14, 2024

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MS. AMIN: SO NOW THE BOARD IS NOW READY IN THE MATTER OF LUKE WALDEN, BOX 31674. THE BOARD WILL NOW PROVIDE THE RATIONALE ON ITS FINDINGS.

THIS CASE WAS HEARD DURING TWO HEARING DATES AND INCLUDES THE TESTIMONY FROM THE FOLLOWING FIVE WITNESSES: JOHN JIZMEJIAN, LUKE WALDEN, GREG FIELD, FADIL BIRAIMAH, AND ERIC BIXLER. THE BOARD ADMITTED INTO EVIDENCE DEPARTMENT'S EXHIBITS 1 THROUGH 18, ACCUSED EXHIBITS A THROUGH E, AND BOARD EXHIBIT NO. 1.

THE BOARD HAS CONSIDERED AND CAREFULLY REVIEWED AND WEIGHED ALL OF THE EVIDENCE INTRODUCED. ALTHOUGH OUR RATIONALE INCLUDES CITATIONS TO THE RECORD TO HIGHLIGHT PARTICULAR TESTIMONY OR EXHIBITS, THE BOARD'S FINDINGS AND CONCLUSIONS ARE NOT BASED SOLELY ON THOSE SPECIFIC RECORD CITATIONS BUT RATHER ON THE BOARD'S REVIEW OF THE ENTIRE RECORD OF THIS CASE.

FURTHER, THE BOARD NOTES THAT ITS FINDINGS OF FACT ENCOMPASS THE CREDIBLE TESTIMONY AND EVIDENCE

PRESENTED AT THE HEARING, AS WELL AS LOGICAL INFERENCES DRAWN THEREFROM. A CREDIBILITY DETERMINATION MAY RELY ON A VARIETY OFF FACTORS, INCLUDING THE CONTEXT OF THE WITNESS' TESTIMONY, THE WITNESS' DEMEANOR, THE WEIGHT OF THE RESPECTIVE EVIDENCE, ESTABLISHED OR ADMITTED FACTS, INHERENT PROBABILITIES, AND REASONABLE INFERENCES THAT MAY BE DRAWN FROM THE RECORD AS A WHOLE. CREDIBILITY FINDINGS NEED NOT BE AN ALL-OR-NOTHING PROPOSITION. INDEED, NOTHING IS MORE COMMON IN ALL KINDS OF ADJUDICATORY DECISIONS THAN TO BELIEVE SOME, BUT NOT ALL, OF A WITNESS' TESTIMONY.

THE DEPARTMENT HAS THE BURDEN TO PROVE BY A PREPONDERANCE OF THE EVIDENCE FOR COUNT 1 THAT "ON OR ABOUT MARCH 17, 2021, YOU, WHILE OFF DUTY, ATTEMPTED TO OBTAIN A FIREARM SILENCER."

THE ESSENCE OF THE PARTIES' POSITION IS THAT, ON THE ONE HAND, THE DEPARTMENT ALLEGES THAT WALDEN ATTEMPTED TO PURCHASE A FIREARM SILENCER, WHEREAS DETECTIVE WALDEN MAINTAINED THAT HE INTENDED TO PURCHASE A HIGH-PERFORMANCE FUEL FILTER. DETECTIVE WALDEN EXPLAINED THAT HE IS A CAR ENTHUSIAST, WHO REBUILDS CARS AND HAS A NUMBER OF PENDING AND INCOMPLETE PROJECTS. AMONG OTHER THINGS, HE IS ALSO A WELDER AND HAS BEEN QUALIFIED AS A GUN EXPERT FOR THE

PURPOSES OF TESTIFYING IN STATE COURT PROCEEDINGS.

GREG FIELD, A SENIOR AUTOMOTIVE SUPERVISOR, TESTIFIED THAT THE ITEM CONFISCATED BY CBP CANNOT BE USED AS A FUEL FILTER BECAUSE IT HAS NO FILTRATION COMPONENT INSIDE IT. HE BELIEVED THAT, ACCORDING TO THE ONLINE SEARCHES, THE ITEM PURCHASED, WHICH WAS A NAPA 4003, INTENDED USE IS AS A FIREARM SILENCER.

BOARD EXHIBIT 1 DEPICTS A FEW OF THE URL WEBSITES DETECTIVE WALDEN SEARCHED PRIOR TO THE SUBJECT PURCHASE. MR. FIELD BELIEVED THEM NOT TO BE FUEL FILTERS.

MR. BIRAIMAH, THE FIREARM ANALYST, EXPLAINED THAT THE NAPA 4003 IS A CODE WORD FOR SUPPRESSORS KNOWN TO FIREARM BUYERS. HE FURTHER EXPLAINED THAT FUEL FILTERS AND SOLVENT TRAPS CANNOT BE INTERCHANGEABLY USED. MR. BIRAIMAH EXAMINED THE CONFISCATED ITEM AND DETERMINED IT TO BE A FIREARM SUPPRESSOR COMPATIBLE WITH A NUMBER OF FIREARMS. AND UPON EXAMINING DETECTIVE WALDEN'S LIST OF PURCHASED FIREARMS, MR. BIRAIMAH FOUND A NUMBER OF THOSE FIREARMS COULD BE USED IF MODIFIED.

ERIC BIXLER TESTIFIED THAT ONE OF DETECTIVE WALDEN'S RESPONSIBILITIES WAS TO IDENTIFY SUPPRESSORS, AND THAT DETECTIVE WALDEN WOULD HAVE BEEN AWARE OF THE CONFISCATED ITEM'S PURPOSE AS A SUPPRESSOR.

IN CONCLUSION, THE BOARD FINDS YOU UNANIMOUSLY GUILTY ON COUNT 1.

THIS CONCLUDES THE RATIONALE FOR THE FINDINGS PHASE OF THIS BOR CASE.

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