

CASE SUMMARY

The defendant Max Grabelsky, an FBI agent assigned to the Organized Crime Task Force (OCTF) of the Buffalo-Niagara Police Department, has been charged with Conspiracy in the Second Degree, Burglary in the First Degree, Grand Larceny in the First Degree and Felony Murder stemming from his alleged complicity in the theft of approximately two and a quarter million dollars from the Off Track Betting (OTB) of Buffalo-Niagara which resulted in the deaths of Luther Bybel, an OTB employee who was allegedly in on the theft and one Chester Krupczyk, an OTB patron who was present at the OTB parlor when the theft took place.

The Commonwealth alleges that Agent Grabelsky, while purporting to be working undercover as a member of the White Russians, and organized crime (O.C.) group, facilitated the crime by purposely withholding critical information about the crime until the eleventh hour and then intentionally giving the OCTF false, inaccurate or misleading information about the details of the theft with the result that the OCTF agents went to the wrong OTB branch while Grabelsky and his White Russian co-conspirators, Lyman Zygra, Kyser Sosay and White Russian kingpin, Rolo Tomassi, were committing the crime at another OTB location.

During the course of the crime, Tomassi murdered Luther Bybel by breaking his neck inside the OTB vault and then shot Chester Krupczyk in the abdomen as he exited the parlor. Before expiring, Krupczyk, an inveterate gambler, pulled out a gun and shot Zyrga in the posterior as he left the OTB parlor behind Agent Grabelsky. By the time the OCTF agents arrived on the scene in response to a 911 call, Zyrga was incapacitated from his injury, Agent Grabelsky was tending to the dying Krupczyk and Sosay and Tomassi had gotten away. They are still at large.

Captain Karl Kowalski of the OCTF interviewed Lyman Zyrga who, after retaining counsel, agreed to cooperate with the OCTF and testify against Agent Grabelsky (and against Tomassi and Sosay if they are ever apprehended), in exchange for a guilty plea to Burglary in the First Degree upon a 10-year sentence commitment in lieu of a potential 25 years to life sentence for Felony Murder.

The Commonwealth contends that Agent Grabelsky purposely misled the OCTF about the OTB theft to get back at Captain Kowalski for exerting what he (Grabelsky) believed was excessive influence in the prosecution of his older brother, Ziggy Grabelsky, a lifelong Tomassi friend and enforcer, who got fifteen years on an Assault charge after refusing to roll over on Tomassi. This circumstance prompted the Grabelskys' ailing father, Edward Grabelsky to take his own life.

The defense denies that Agent Grabelsky, a decorated war hero and highly regarded FBI agent, misled the OCTF in any way. They contend that Agent Grabelsky kept the OCTF fully apprised of all of his undercover activities with the White Russians and advised

Captain Kowalski of certain late-developing changes in the OTB theft plan as soon as he could without jeopardizing his own life.

According to the defense it was Captain Kowalski's misinterpretation of Agent Grabelsky's message that resulted in the OCTF's going to the wrong OTB location. The defense further alleges that Captain Kowalski was so bitter over his failure to make a case against Rolo Tomassi and advance his own career, that he blamed Agent Grabelsky for the OCTF's colossal error in this case on the word of an organized-crime figure (Zygra) who has cut a deal for his testimony.