

# Fname Inname essay samples

[Law](#), [Evidence](#)



## **Charges against Gorski**

According to the case at hand, Gorski has a lot of federal charges against him. As the U. S. Attorney responsible for the case, the federal charges that one is most likely to levy on Gorski are as follows:

- Refusal to cooperate with authorities: The scenario poses a situation whereby Gorski refused to provide the authorities with the encryption key. As such, he appears to hinder the investigation process. Any instances whereby an individual knowingly refuses to comply with authorities in the investigation are likely to attract charges of non-compliance. The particular instance may have such charges levied on Gorski that are crimes punishable in a court of law.
- Counterfeiting: Gorski is also liable for counterfeiting crime. Counterfeiting involves the use of and production of counterfeit goods and by law indicates a form of fraudulent activity. Such an act constitutes a federal crime. In the case scenario, Gorski takes part in a criminal activity that involves the transportation of sixty counterfeit cards produced by Sergei and his associates and sold those to an organized crime gang located in Los Angeles. As such, he is liable for counterfeiting charges that constitute a form of fraud.
- Credit Card Fraud: This is also another likely charge for Gorski. It involves conducting fraudulent activities by means of credit cards. The fraud normally happens whenever a party obtains or forges credit cards that belong to other people and use the forged credit cards to conduct illegal activities or steal from the real cardholders. From the case scenario, the cards in transportation by Gorski are associated with fraudulent intentions. As such,

Gorski is liable for credit card fraud charges that are punishable in a court of law.

- Identity Theft: Gorski faces numerous charges of Identity theft. Identity theft happens to be among the fastest growing crimes worldwide. The crime involves robbing individuals of time and money and involves using the internet to acquire sensitive data. In the case scenario, the production of counterfeit credit cards has the malicious intent of using such cards to access bank account information of original parties. Gorski being a participant of such an arrangement is liable for identity theft charges.

### **Gorski's Attorney Defense Counsel**

Laptops usually carry a lot of personal information including family photos and banking information among a variety of other activities. The U. S. constitution enshrines protections that prevent authorities from snooping on other people's laptops in all kinds of manner. However, such privacy protections have limited applications for travelers across the borders. Authorities can search and access electronic devices and search through files for security purposes. As a defense attorney for Gorski intending to suppress the evidence seized from Gorski, one may proceed as follows:

One may challenge the seizure of the briefcase, cards, computer, and smartphone at Los Angeles by the Customs and Border Protection agent. The argument is that authorities should not go into details scrutinizing every single item. Authorities should only search documents for long enough to establish the availability of contrabands. As for the conduct of deputized agent Randall Nichols breaking the encryption algorithm, one may raise privacy concerns and argue in favor of such violations. Arguments against

the forensic examination of the computer and smartphone may have grounds on the questionable processes used to collect such evidence and the expertise of a forensic expert.

The arguments in favor of the defendant in an effort to suppress charges held against them may not fully exonerate them but may in a way serve to afford a more lenient punishment than it would be without them.

### **Sergei's Defense Counsel**

As Sergei's defense counsel, in an effort to suppress forensic evidence attained by using data seized from Sergei's smartphone, one may argue by questioning the proficiency of the Forensic Expert, who conducted the investigation. The challenge here would be to prove the authenticity and integrity of the forensic data.

Another argument that the defense counsel may bring to the table in favor of Sergei's case is the admissibility of the forensic evidence in a court of law.

One may argue that the methods used to collect and analyze such evidence were not carried out in a controlled environment and as such, the evidence may not be authentic to hold waters in courtroom.

### **Charges against members of the LA gang**

The LA gang may have racketeering charges imposed on them. Some of the specific charges include the following:

- Racketeering

Racketeering constitutes of a crime involving organized groups that conduct illegal businesses. From the given case scenario, Secret Service Agent Bruce McSlide devised a plan to lure Sergei and the La gang to meet for criminal

type of arrangement. The plan worked, and both parties got arrested. The implication is that the LA gang is a group that conducts illegal activities and, therefore, racketeering charges on the group are most likely.

#### - Counterfeiting

Counterfeiting involves the use of counterfeit products in place of the real ones. In the given case scenario, Sergei and his associates produced sixty counterfeit cards and sold those cards to the organized crime gang located in Los Angeles. Such is pure evidence that clearly shows the involvement of the LA gang in criminal activities involving counterfeits. As such, counterfeiting charges are also likely charges for the gang.

## **Qualifications of a Witness**

The forensic examiner may appear as a witness in a court of law. For the forensic examiner to qualify as a witness, he must be proficient in forensic related technology. Such proficiency may be manifest in knowledge, practical experience, training or a combination of these characteristics. At a minimum, the forensic officer must know be aware of the fundamental methodology and procedures that for the basis for opinions. If the court of law identifies the forensic as an expert, he will be allowed to provide evidence. On the contrary, the court will not allow the examiner to provide evidence if it does not consider him an expert.

Communication printouts from forensic examination may have admission in a court of law as evidence only when the court considers the forensic examiner an expert in the field and the evidence proves to be authentic. In almost all cases, forensic evidence is hard to destroy and as such, it provides a solid form of evidence. It is important to note that the court may however

employ additional criteria in making such a decision. One of the criteria is the best evidence rule.

### **Swafford's Defense Counsel**

As Swafford's defense council intending to suppress evidence against marijuana, one may argue that the presence of such images does not necessarily mean that Swafford was peddling or even using Marijuana. Physical evidence does not exist to link Swafford directly to the Marijuana apart from the image files. As such, Swafford should not be held liable for Marijuana related charges.

As for the child pornography images, there is also no evidence that directly links Swafford to the involvement of child pornography. She may have heard the files for other reasons such as research. One may also argue that there were only two files relating to such an incidence. In normal circumstances, numerous images of different participants are likely to confirm the charges of child pornography. The particular instance of only two images does not constitute enough evidence to hold Swafford liable for child pornography related charges.

As for the email communication, one may argue that the contents of the particular emails have encryptions and as such, Swafford could not have known the contents of such communication. Though it may not hold waters, one may argue that Swafford forwarded the emails innocently without knowledge of the related repercussions.

## **Federal Rights Action**

The supposed unconstitutional search and seizure of the contents of their file cabinets in Johnson's and Swafford's respective cubicles may attract criticism. One may argue that there was no search warrant in place to enforce such a conduct. All searches must have accompanying warrant documents as a form of authorization. In any case, the search happened before the dismissal of both Johnson and Swafford. On the contrary, it is possible to argue in favor of the government authorities. Evidently, there had been proof of misconduct from the defendants, way before approaching the company. As such, there was a reason to believe instances of crime committed by the parties and the search conducted in the company was only the effort of looking for more evidence.

The unconstitutional search and seizure of the recent e-mail communications may equally attract criticism. It's possible to argue that the company was negligent for failing to arrest such use of confidential information way before it got out of hand. However, one can argue for the government authorities that the defendants consciously went ahead to use confidential information for ill motives despite their prohibition of such behavior in the company. As for the email communications, one is most likely to argue on the utter violation of the Wiretap Act in support of the defendants. On the contrary, the fact that there was an already existing crime that necessitated the strict measures of such an act may be a form of argument in favor of the government's actions. In such a scenario, the court would most certainly find the defendants guilty of the alleged crimes.

## **Works Cited**

Admissibility in Evidence of Computer Records and Other Documents:

Working Paper. Perth: Commission, 1978. Print.

Newman, Robert C. Computer Forensics: Evidence Collection and Management. Boca Raton, FL: Auerbach Publications, 2007. Print.

Scheb, John M., and John M. Scheb. Criminal Law and Procedure. 7th ed.

Belmont, CA: Wadsworth Cengage Learning, 2011. Print.