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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

STATE OF ARIZONA,)
Plaintiff,)
vs.) No. CR2008-106594 001 DT
JOHN C. STUART)
Defendant.)
_____)

Phoenix, Arizona
March 26, 2008

BEFORE: The Honorable ROLAND J. STEINLE, III
Superior Court Judge

REPORTER'S TRANSCRIPT OF PROCEEDINGS
HEARING

Prepared by: Kristen L. Brown, CSR, CCR
Certified Court Reporter #50708

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FOR THE STATE:

Susie Charbel, Esquire
Deputy County Attorney

FOR THE DEFENDANT:

David Cantor, Esquire
Deputy Public Defender

P R O C E E D I N G S

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3 THE COURT: Number eleven, CR2008-106594, State
4 versus John Stuart.

5 MS. CHARBEL: Susie Charbel on behalf of the
6 State.

7 MR. CANTOR: David Cantor and Todd Nolan on
8 behalf of Mr. Stuart, who is present, in court, out of
9 custody.

10 THE COURT: Do we have the victim's family on
11 the phone or the victim's representative?

12 This is Judge Steinle. Can you hear me?

13 MR. HOWELL: Yes, I can. This is Patrick
14 Howell for the Doyle Law Group who represents the
15 victim, Rebecca Beasley.

16 THE COURT: You're probably going to find it
17 easy to hear me and hard to hear everybody else. I'll
18 try to summarize what's being said.

19 MR. HOWELL: Well, Your Honor, we were just
20 calling in today to waive our appearance for the
21 status conference.

22 THE COURT: Okay. Thank you for calling in.
23 We'll let you waive it and we'll take care of what we
24 need to do then. Thank you.

25 MR. HOWELL: Thank you, Your Honor.

1 THE COURT: Counsel for the State, where are we
2 in terms of your disclosure requirements? Have you
3 turned over to them?

4 MS. CHARBEL: Your Honor, we already turned it
5 over to the previous counsel, and I believe last week
6 Mr. Cantor was having that entire thing, I guess
7 picked up from Osborn Maledon, I believe was the law
8 firm.

9 THE COURT: Do you have everything from Osborn
10 Maledon?

11 MR. CANTOR: Your Honor, I looked through the
12 file and it appears that we're still missing the grand
13 jury transcripts as the one item that we don't seem to
14 have in there.

15 MS. CHARBEL: I ordered those obviously, Judge.

16 THE COURT: Have you ordered it?

17 MR. CANTOR: Well, Your Honor, my understanding
18 was that they had a copy of it, but if not we'll get
19 it. I'd also like to point out I may be a little
20 confused, but I thought at our last court date, which
21 was several business days ago, we vacated this date
22 and continued.

23 THE COURT: Well, we did. I just wanted to
24 make sure that the State had met it's obligations
25 because as long as I have you here today I might as

1 well make sure that things are moving along, so that's
2 why I asked the State whether or not you got
3 everything taken care of as far as they're concerned
4 because then I was going to ask you did you get the
5 file and are you satisfied with the initial State's
6 disclosures.

7 MR. CANTOR: Your Honor, from what we've
8 received we're satisfied. We will -- if there's any
9 problems, we'll file it with the Court.

10 THE COURT: We have another status set for the
11 25th. Counsel, if there are any discovery disputes,
12 whoever feels they need my intervention after you've
13 met and personally consulted with each other, which
14 doesn't mean sending letters back and forth, you can
15 then send me a one page fax or e-mail telling me what
16 the problem is and I'll convene a telephonic
17 conference and solve the problem. If you file the
18 motion I probably won't even see it before the 25th.

19 Okay. We'll see you back on April 25th
20 and we'll talk further at that point in time.

21 MR. CANTOR: Your Honor, if I could just
22 clarify the record. I received information yesterday
23 from Mr. Nolan that he had information that our client
24 had filed a motion or -- excuse me, somebody who is on
25 behalf of our client had filed a motion regarding the

1 bond without our knowledge. We came down to get a
2 copy of that, which I was handed a copy by the
3 prosecutor today, you've just now handed me a copy.
4 This shows this was filed I guess this says March
5 26th, which I guess would be today.

6 THE COURT: Who filed it?

7 THE CLERK: I did.

8 THE COURT: Who prepared the document?

9 MR. CANTOR: Your Honor, Rabbi Rice, R-I-C-E,
10 prepared this document. What I wanted to point out is
11 Todd Coolidge, also an attorney from my office, came
12 down yesterday to get a copy from the Court and it
13 appears he may have been handed the original that was
14 filed.

15 THE COURT: Well, I'm going to strike the
16 pleading and tell Rabbi Rice that my other duty is to
17 sit as the chairperson of the Legal Documents
18 Preparers and I don't see their certificate number on
19 there or a name that he prepared it and so I probably
20 -- after you've had a chance to look at that today and
21 give it back to my clerk, I am duty bound to inform
22 the Board of Legal Document Preparers that Rabbi Rice
23 is preparing documents on behalf of litigants in court
24 not being certified and he'll probably get a cease and
25 desist letter.

1 So I'm putting that on the record today
2 because I feel duty bound to report violations of the
3 code to the board. So I will forward the paperwork
4 after my clerk has properly filed it to the board and
5 they'll probably be contacting the Rabbi, unless he
6 wants to find out the hard way by having a complaint
7 filed against him. You can end up paying a lot of
8 costs and fees for preparing documents on behalf of
9 people when he's not licensed to practice law and he's
10 not a certified professional.

11 MR. CANTOR: Your Honor, again, myself and Mr.
12 Nolan had no knowledge that this was filed.

13 THE COURT: The pleading will be filed and then
14 stricken on the record, but we have to make sure it's
15 in there. And as I said, you can -- your client
16 should tell whoever it is that he's filed it with the
17 wrong court.

18 MR. CANTOR: Your Honor, I've handed back the
19 original to the court clerk.

20 THE COURT: Okay.

21 MR. CANTOR: Thank you, Your Honor.

22 THE COURT: Thank you.

23 (Matter concludes.)
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CERTIFICATE

I, KRISTEN L. BROWN, Certificate # 50708, having been first duly sworn and appointed as Official Court Reporter herein, do hereby certify that I took the foregoing matter in machine shorthand, that the same was transcribed into computer printout under my direction, that the preceding pages constitute a true and complete accounting of all testimony adduced to the best of my skill and ability.

DATED THIS 12th day of June, 2008.

KLB

Kristen L. Brown, CCR, CSR.

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P R O C E E D I N G S

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3 THE COURT: CR2008-106594, State versus John
4 Stuart.

5 MS. CHARBEL: Susie Charbel on behalf of the
6 State.

7 MR. CANTOR: David Cantor on behalf of Mr.
8 Stuart, who is present, out of custody.

9 THE COURT: Judge Ryan brought the paperwork
10 over yesterday. It was set on my calendar today to
11 clear up, that's why I addressed you. Mr. Chornenky.
12 Apparently there is some confusion in reference to the
13 exoneration of bond?

14 MR. CHORNENKY: Would the court like me to
15 explain that briefly?

16 THE COURT: I would appreciate it because
17 apparently what we need to do is clarify some wording
18 in the original exoneration and Judge Ryan indicated
19 you would be the one that would be most knowledgeable
20 on the subject.

21 MR. CHORNENKY: Your Honor, Mr. Stuart was
22 released on \$46,000 bail originally. That was posted
23 that day in cash. Apparently shortly thereafter, IRS
24 put some kind of a lien on that money even though it
25 was not Mr. Stuart's. Mr. Stuart then had \$46,000

1 posted through a bail bond company, and I filed the
2 motion to exonerate the cash bond. By the way, IRS
3 released there lien. So I filed the motion to release
4 the \$46,000 back to Cindy Cantrell, who I represent.
5 I have not represented John Stuart except for the
6 initial appearance. So there is 46,000 in bail bonds
7 posted. I believe they have since posted \$184,000
8 more which should add up to 230,000, so that shouldn't
9 be a question.

10 THE COURT: So the original cash bond needs to
11 be returned to who?

12 MR. CHORNENKY: To Cindy Cantrell who posted
13 it. That's all I asked in the motion. And I filed it
14 as her attorney.

15 THE COURT: Okay. State's position?

16 MS. CHARBEL: Your Honor, that is correct. The
17 problem I think is that it wasn't listed as a cash
18 bond and there was a \$46,000 secured bond that was
19 posted. And I believe that's where the confusion was
20 on Judge Ryan's part.

21 MR. CHORNENKY: It was a cashier's check, which
22 I assume is the same as cash.

23 THE COURT: Okay. The date that the original
24 bond was posted?

25 MR. CHORNENKY: I believe it was either the

1 29th or 30th.

2 MS. CHARBEL: Of January. January 30th.

3 MR. CHORNENKY: January 30th.

4 THE COURT: Okay. The order of March 17th of
5 2008 signed by Judge Ryan will be amended and a minute
6 entry will be signed by me, but we'll do an
7 exoneration of the bond and return the bond.

8 Would you please spell her last name.

9 MR. CHORNENKY: C-A-N-T-R-E-L-L. Cantrell,
10 Cynthia, C-Y-N-T-H-I-A. And she's here, Your Honor.

11 THE COURT: I'll sign that and that should take
12 care of it. If there is a problem, just let me know
13 and we'll put it back on the calendar.

14 MR. CHORNENKY: Thank you, Your Honor. May I
15 be excused?

16 THE COURT: Sure. Do you want the exoneration?

17 MR. CHORNENKY: Yes, I'll wait for the
18 exoneration.

19 THE COURT: Okay. Now, in reference to the
20 case, we originally were set for status next week. We
21 might as well take care of it and find out where we're
22 going in this matter.

23 Mr. Cantor, when are you going to be
24 ready for trial?

25 MR. CANTOR: Judge, we had e-filed yesterday a

1 request for an extension to file the grand jury remand
2 motion. That deadline is Monday and there's been no
3 opposition from the prosecutor for a 30 day extension.
4 I have a copy of that motion. Your Honor, we're
5 picking up the file from Mr. Hammond later on today.
6 We received a message late yesterday that it was ready
7 for pick up.

8 THE COURT: The Court will extend the grand
9 jury remand until Friday, April 18th.

10 Counsel, I'll tell you, under my policies
11 I don't grant extensions of the extension, so you get
12 it filed on the 18th or the issue is gone.

13 MR. CANTOR: It will probably be filed sometime
14 next week.

15 THE COURT: I understand. I'm just saying, I
16 got a phone call the other day from one of the newer
17 judges on criminal who's had three extensions of the
18 grand jury remand that was going back to October. I'm
19 just telling you I give one 30-day extension, either
20 file it or don't file it, that's your choice, but the
21 18th will be the deadline to file it.

22 If the motion is filed by the 18th, if I
23 give the State ten days to respond, I'll know what the
24 issue is. So why don't we set a status conference in
25 this matter for Friday, April 25th and then we'll

1 decide whether or not the motion is ripe to be heard
2 on that date or we'll set it for oral argument.

3 MR. CANTOR: Judge, can I ask for time to
4 reply?

5 THE COURT: On the 25th we'll see what the
6 status is. If you file your motion early maybe we'll
7 have everything taken care of. If you file it a
8 couple days before the 18th, more than likely the
9 State will have the response, then I'll set oral
10 argument giving you time to reply and we'll go from
11 there.

12 But, Counsel, please, when you file my
13 copy of the motion with my staff, would you please
14 also make sure that I have a full transcript of the
15 grand jury. Surprising how I get motions where I'm
16 required to look at the grand jury and no one ever
17 gives me the transcript.

18 MR. CANTOR: Yes, sir.

19 THE COURT: Please bring your calendars,
20 especially the State. I'm sure you have trials
21 scheduled over the next six months and I want to set a
22 trial date on the 25th.

23 MS. CHARBEL: Yes.

24 MR. CANTOR: Your Honor, my understanding is
25 there's been no motion for complex case designation in

1 this case. The autopsy results are not complete. The
2 State expects them sometime next week. We need to
3 hire a biomechanics expert to go through the
4 reenactment of the shooting, so we were anticipating
5 filing a motion for complex case designation.

6 THE COURT: What was the date of arraignment .

7 MR. CANTOR: I believe it was in January,
8 January 29th, so six, seven weeks ago.

9 THE COURT: Did Judge Ryan address that issue
10 when he touched the file?

11 MS. CHARBEL: Your Honor, the only thing that
12 Judge Ryan said is to let him know if it was such a
13 thing or not, and it was never addressed again.

14 THE COURT: Well, under the administrative
15 order, if it's not filed within 60 days from the date
16 of arraignment, then he's going to have to decide it.
17 So you have until the end of next week to file it with
18 me if you wish that I act upon it. More than likely
19 what I'll do is, if I receive it, set it for oral
20 argument on the 25th then decide it, but because it
21 was filed within 60 days, I wouldn't have to defer.

22 MS. CHARBEL: Your Honor, the State is
23 objecting to that. It's not a stipulation.

24 THE COURT: I understand. That's why I'm
25 saying they have to get the motion filed and on the

1 25th we will hear that and if you have all of these
2 experts that you're going to need to lineup and start
3 talking about schedules and why I'm going to need to
4 do it if it's, well, we're going to talk to someone
5 sometime down the road on a specified date, I'm
6 probably not going to be very impressed with that, but
7 if you have someone hired and they have a very
8 specific time line which they're going to get the work
9 done, we'll look at it that way.

10 MR. CANTOR: Most likely, Your Honor, it will
11 be Dr. Banyak from Maryland will be the biomechanics.
12 I'm anticipating well -- we'll wait to see the autopsy
13 results, but we may also bring in a local
14 toxicologist, one, maybe two experts that I know of so
15 far.

16 THE COURT: Get it all lined up if it's what
17 you're going to use to support your motion for a
18 complex designation.

19 Mr. Chornenky, if there's some problem
20 with the clerk's office, let me know for some reason
21 they have they may not follow a court order, but if in
22 fact they follow a court order, you'll get the money.
23 If not, we'll make the necessary phone calls and tell
24 him that in fact I did order it.

25 (Matter concludes.)

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