

IN THE SUPERIOR COURT OF ATHENS-CLARKE COUNTY
STATE OF GEORGIA

STATE OF GEORGIA]
]
 vs.] Case No. SU-21-CR-0253-R2
]
NIGEL BROWN,]
]
 Defendant.]

TRANSCRIPT OF PROCEEDINGS
OF SCHEDULED PROBATION REVOCATION HEARING

The following proceedings were heard before
the Honorable H. PATRICK HAGGARD, Judge of
the Superior Courts of the Western Judicial Circuit,
on the 21st day of March, 2023, in Athens, Georgia.

APPEARANCE OF COUNSEL:

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Reported by:
Ann E. Evans
Official Court Reporter
Western Judicial Circuit
Certificate No. B-958

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P R O C E E D I N G S

THE COURT: You ready? We've got two matters, a motion to suppress and a probation revocation; is that correct?

MS. BECK: Yes, Your Honor.

THE COURT: How do you want to proceed, Ms. Gonzalez?

MS. GONZALEZ: I'd like to do the motion to suppress, but I do have an announcement on the probation revocation.

Unfortunately a subpoena was not made to the lead detective from Probation office, so we do not have evidence to present, so I would presume, then, that it would be dismissed.

MS. BECK: We would certainly make that motion, Judge. It's been rescheduled a couple of times already, and even if the detective were able to be here, the detective is not the victim in either of the new charges, so I don't think he would be able to speak to the content of the matter anyway.

THE COURT: Do you believe otherwise? Have you tried to get the detective here today?

MS. GONZALEZ: We have been trying, Your Honor, being unsuccessful.

THE COURT: All right. Let's proceed with the motion to suppress.

MS. GONZALEZ: Thank you, Your Honor.

1 (After the motion to suppress proceedings were heard, the
2 following transpired on the probation matter:)

3 THE COURT: Let's go back to the probation revocation
4 matter that I understand the State -- Well, I'm not sure.
5 Is the State --

6 MS. GONZALEZ: So Your Honor, in this --

7 THE COURT: -- moving to dismiss or is the State
8 asking -- giving that -- giving me the opportunity to rule
9 on that or what are you thinking?

10 MS. GONZALEZ: The State would prefer that it be
11 continued; however, we know that this case was continued
12 before.

13 THE COURT: Right.

14 MS. GONZALEZ: What we do have here is that Officer
15 Teets was first subpoenaed when this was originally going
16 to happen in January. The probation officer informed me
17 this morning that she did not re-subpoena Officer Teets.
18 We have not been able to get in touch with her to have her
19 come. Usually with this, the probation officers do that
20 particular subpoena, but she was not subpoenaed.

21 THE COURT: So I am -- And your office did not
22 subpoena Officer Teets?

23 MS. GONZALEZ: We did not because, again, the way that
24 this had worked in the past was that the Probation office
25 had subpoenaed her, and since they had subpoenaed her in

1 January, it was the understanding that they had subpoenaed
2 her for today as well.

3 THE COURT: But I recall that I think there was a
4 discussion about that when we had to hear part of the
5 revocation petition about who was responsible for
6 subpoenaing Officer Teets. Do you recall that?

7 MS. GONZALEZ: No. I think we were talking about the
8 fact that Officer Cooper had been on FMLA.

9 THE COURT: All right.

10 MS. GONZALEZ: That's what I recall for this part.

11 THE COURT: So you're taking the position that it was
12 Probation's responsibility to issue subpoenas. I think
13 it's important that we figure this out --

14 MS. GONZALEZ: Yes, Your Honor, and I did --

15 THE COURT: -- today because this is a significant
16 event.

17 MS. GONZALEZ: Yes, Your Honor, and the reason why I
18 do say that as well is because in January when this was
19 originally scheduled, Probation did in fact send that
20 subpoena for Officer Teets on that day for that one.

21 THE COURT: Do you want to be heard? Let's get you a
22 microphone.

23 PROBATION OFFICER PRICE: Good morning. For our
24 office, this is a big thing with subpoenas.

25 THE COURT: State your name.

1 PROBATION OFFICER PRICE: Officer Price, Alexis Price.

2 And normally how we do it, we will email the D.A. and
3 ask for a subpoena list. But now our Chief, she tells us
4 to just do it off -- based off of the incident report.

5 For this particular case, I was on maternity leave and
6 then I came back and subpoenaed Officer Teets, and it got
7 moved. So I was under the impression that since it got
8 moved that they were going to inform her of the date that
9 it got continued to.

10 THE COURT: Okay. And I'm going to ask this of both.
11 Nobody looks at that or checks on that between now and --
12 We just come to court and hope everybody is here? Is there
13 no communication with your office with the officer ahead of
14 time?

15 PROBATION OFFICER PRICE: With Officer Teets?

16 THE COURT: Yes.

17 PROBATION OFFICER PRICE: No.

18 THE COURT: Okay. All right.

19 So let me put that question to your office, to you.

20 MS. GONZALEZ: Uh-huh (affirmative response).

21 THE COURT: Is there any communication with a witness
22 that you're going to have in here for a hearing prior?

23 MS. GONZALEZ: Yes, and in fact we did reach out
24 yesterday to find out where it was and what was subpoenaed
25 and we've been reaching out to Officer Teets since then.

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THE COURT: And there's been no response?

MS. GONZALEZ: And there's been no response. We had another case with Officer Teets that she did not show up for a preliminary hearing as well.

I do have a request into the Chief so that we can discuss and get a procedure set up so that this will not happen again.

THE COURT: Okay. Anything else?

MS. GONZALEZ: Nothing else, Your Honor.

THE COURT: All right. Ms. Beck, I'll hear from you.

MS. BECK: It's clear that there's some sort of communication issue going on between Probation and the D.A.'s office. Your Honor may recall, I think it was two weeks prior when Mr. Roberts had a case where the officer was not subpoenaed for a probation revocation hearing, and that was dismissed. So at this point it's a pattern.

We've already continued this once. I don't have a position on whose fault it is except for it's the State of Georgia either way. Mr. Brown shouldn't have to suffer for their failure.

The other thing I will say, Your Honor, is I kind of think it's all a moot point because Officer Teets is not the victim of either of the alleged crimes that is being used to revoke Mr. Brown's probation, so I'm just not certain what Officer Teets could contribute. But setting

1 that aside, they don't have evidence. I'm asking to
2 dismiss the probation revocation.

3 THE COURT: Do you want to respond to that? Is
4 Officer Teets the only witness that you would have?

5 MS. GONZALEZ: Yes. She was the only witness that we
6 were going to bring. This is a probation revocation. The
7 standard is lower, and so we were not going to bring in the
8 witness -- the victim, I'm sorry.

9 THE COURT: And just -- I'm going to ask, and Ms. Beck
10 is not going to want me to ask this, but I'm going to ask,
11 can you proffer what Officer Teets would be testifying
12 about?

13 MS. GONZALEZ: Yes, about the investigation that she
14 did.

15 THE COURT: Okay.

16 MS. GONZALEZ: And why she had probable cause to put
17 in these warrants.

18 THE COURT: Okay. But Officer Teets did not witness
19 any of the alleged violations; is that correct?

20 MS. GONZALEZ: From my understanding, no. But one of
21 the problems that I've had since I have not been able to
22 speak with Officer Teets, I cannot tell you with
23 specificity exactly everything that she would be testifying
24 to.

25 THE COURT: All right. And you -- Well, I'm going to

1 state this, but I'm not expecting you to answer it.

2 MS. GONZALEZ: Okay.

3 THE COURT: But what is in my mind is would not your
4 investigators have talked to Officer Teets over these
5 months to figure out what -- who else, if anyone else,
6 needed to be subpoenaed.

7 MS. GONZALEZ: Uh-huh (affirmative response).

8 THE COURT: That is what is in my mind.

9 MS. GONZALEZ: And I completely understand that, Your
10 Honor. The only other thing I would say is because we are
11 severely understaffed and time is of the essence. I wish I
12 had more hours in a day and I wish I could clone myself,
13 but I can't do either one, and, you know, on many of these
14 we are chasing calendars and trying to get everything that
15 we can get to do, and I don't say that as an excuse. I say
16 that so that Your Honor can understand where we're at.

17 THE COURT: Well, I see that certainly.

18 MS. GONZALEZ: Okay.

19 THE COURT: All right. I am going to grant the motion
20 to dismiss the probation revocation petition by the Defense
21 finding that the State was not prepared to come forward
22 with evidence.

23 MS. BECK: Thank you, Your Honor.

24
25 (Proceedings concluded.)

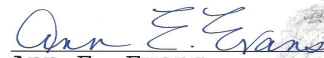
G E O R G I A:

ATHENS-CLARKE COUNTY:

C E R T I F I C A T E

The foregoing proceedings were taken down by me as an Official Court Reporter for the Superior Courts of the Western Judicial Circuit, and the questions and answers, colloquy of counsel, and rulings by the Court were reduced to typewriting by me personally. I hereby certify that pages 2 - 8, inclusive, comprise a complete and correct transcript of said proceedings.

This the 21st day of March, 2023.


Ann E. Evans
Official Court Reporter
Western Judicial Circuit
Certificate No. B-958

