

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

STATE OF GEORGIA)
v.) CASE NO.: SU-22-CR-0603-S
LARRY JERMAYNE BOLTON,)
Defendant.)

STATE OF GEORGIA)
v.) CASE NO.: SU-22-CR-0996-S
COREY TREVON AUSTIN,)
Defendant.)

TRANSCRIPT OF PROCEEDINGS

Heard before the Honorable Lawton E. Stephens, Judge of the Superior Courts of the Western Judicial Circuit, in the Athens-Clarke County Courthouse, 325 East Washington Street, Athens, Georgia, on September 20, 2023.

A P P E A R A N C E S:

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1 THE COURT: Got anybody here from the DA's office?

2 MR. WILTSHIRE: Well, I did hear from Mr. Hunter
3 today by email and corresponded with him. And he tells me
4 that the State is not going to oppose our request for the
5 severance. I did not get an indication that he was not
6 going to be down here to -- I told him, Judge, I would
7 prepare a consent order. I don't know if I specifically
8 said I need you to come and consent.

9 THE COURT: Well, let me -- let me see if we can
10 locate Mr. -- Mr. Hunter and then see if we can take up
11 these two cases on the record. So would you ask Ms.
12 Russell to contact Mr. Hunter and tell him that we need
13 him in the Courtroom 1 of the Athens-Clarke County
14 Courthouse --

15 MS. WHITEN: Yes sir.

16 THE COURT: -- immediately.

17 MS. WHITEN: Yes sir.

18 THE COURT: Actually, it went to Robert Wilson on Mr.
19 Austin's motion. But I know Mr. Hunter was -- was taking
20 that up.

21 MR. WILTSHIRE: I found out -- yeah, I found out that
22 Mr. Hunter was involved in the case by email this
23 afternoon when I --

24 THE COURT: Okay.

25 MR. WILTSHIRE: -- made his acquaintance for the

1 first time.

2 THE COURT: Yes.

3 [Briefly off the record.]

4 THE COURT: Mr. Hunter, you're ten minutes late. Do
5 you have an explanation?

6 MR. HUNTER: No sir, other than I was on a Zoom call
7 and I just completed the Zoom call.

8 THE COURT: Well, I expect you to be here on time,
9 Mr. Hunter, and maybe you should've ended your Zoom call a
10 little bit early and come down to court like you were
11 supposed to.

12 MR. HUNTER: Yes sir.

13 THE COURT: Let that be a word for the future.

14 MR. HUNTER: Yes sir.

15 THE COURT: So we have a -- we had scheduled the
16 matter of the restitution hearing in the State versus
17 Corey Austin. And I had ordered the sheriff to keep Mr.
18 Austin at the Clarke County Jail pending the hearing, but
19 they sent him to the State system in spite of the order.
20 But as I understand now from your email -- I don't know
21 that you sent a copy of it to the defense -- but you're
22 not seeking restitution from Mr. Austin. Is that correct?

23 MR. HUNTER: Well, there's actually been a change in
24 that. The gentleman, Benjamin, evidently wanted to submit
25 something, but we haven't received anything from him.

1 THE COURT: All right. So this morning at 9:00 a.m.
2 I received an email from your office and it says the DA's
3 office has been in contact with the victims Angelina
4 Norton and Benjamin Bernal-Rossel for any restitution
5 claims related to the above-referenced case. I've been
6 informed that Angelina Norton has applied for assistance
7 from the Georgia Crime Victims Compensation Program and
8 will not seek restitution from the Court. I've been
9 informed that the DA's office has been in contact with
10 Benjamin Bernal-Rossel; however, he has never submitted a
11 request for restitution despite requests from the DA's
12 office. So has he now submitted a request for
13 restitution?

14 MR. HUNTER: Your Honor, no, he has not. So we're
15 not asking for any restitution.

16 THE COURT: All right. So I thought you just said
17 there had been a change and that Mr. Rossel did want
18 restitution.

19 MR. HUNTER: He called --

20 THE COURT: Did I not --

21 MR. HUNTER: Yes sir.

22 THE COURT: Go ahead.

23 MR. HUNTER: The email was sent. He called afterward
24 and said that he intended to submit something. I believe
25 that he was instructed to contact Georgia Victims

1 Compensation and make -- if he wanted to file anything
2 there. But he has not -- had not responded to calls to
3 present anything. So we don't have anything to present to
4 the Court.

5 THE COURT: Okay. So --

6 MR. HUNTER: We're not asking --

7 THE COURT: -- what I said originally was that I
8 understood you were not seeking restitution. And then you
9 said well, there's been a change in that, which I thought
10 you were telling me that Mr. Rossel did want a restitution
11 hearing. But now you're telling me he does not want a
12 restitution hearing. Is that correct?

13 MR. HUNTER: Yes sir, you're absolutely correct.

14 THE COURT: All right. Then we won't have a
15 restitution hearing. So that takes care of that. All
16 right?

17 MR. DONNELLY: And so I think then the next thing
18 scheduled in this is December status on the motion for new
19 trial and so we're still waiting the preparation of the
20 transcript.

21 THE COURT: That's where we stand right now. The
22 motion for new trial is set for the 18th of December. So
23 that's the -- that'll be a status on that.

24 MR. DONNELLY: We -- we understand that we will not
25 -- no one needs to prepare a transport order for that.

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That's just a sort of scheduling hearing or just a status to see if the transcript has been prepared and if the parties --

THE COURT: I think so.

MR. DONNELLY: Right. So we don't need his presence. I mean, I don't. That's my understanding. I'm not requesting Mr. Austin's presence at that hearing.

THE COURT: All right. Well, we'll -- we'll just call it a status conference on the 18th. Does that sound right?

COURT REPORTER: Yes sir.

THE COURT: All right.

MR. DONNELLY: Thank you.

THE COURT: Okay. All right. Now we have a hearing on the motion to sever. I guess there was a motion to sever parties. So you may proceed on that, Mr. Wiltshire. It's your motion.

MR. WILTSHIRE: Your Honor, we have a consent order to present to the Court if I may approach.

THE COURT: Is there a Bruton problem with this, Mr. Hunter? Does the State have a Bruton problem?

MR. HUNTER: I'm not exactly sure whether that will be actually -- the thing that will be the biggest problem, Judge, more so is the testimony from the gang expert and any other testimony related to gang affiliation.

1 THE COURT: Okay. But there's no -- you don't have
2 one of -- do you have any confessions from any of the co-
3 defendants that you intend to introduce?

4 MR. HUNTER: No sir.

5 THE COURT: All right. He's severed from the other
6 co-defendants, but he's still on the trial calendar. So
7 we need him to be here tomorrow and see what you want to
8 do with it.

9 MR. WILTSHIRE: Well, I wanted to check with you on
10 that, Your Honor, if you had -- I mean, is there any
11 reason we can't handle -- I don't have a plea offer in the
12 case. So what's on my calendar is a plea status.

13 THE COURT: Okay.

14 MR. WILTSHIRE: There is no --

15 THE COURT: Well, since I've severed it, then I guess
16 we can have -- today could be the -- but he's not here.
17 That's the problem.

18 MR. WILTSHIRE: Mr. Bolton is here. Yes, he is,
19 Judge.

20 THE COURT: Oh, he is?

21 MR. WILTSHIRE: Yes sir. He's in the front row.
22 Yeah, I had him take off work to come on up.

23 THE COURT: Well, come on up and sit with your lawyer
24 then. I didn't know he was here.

25 MR. WILTSHIRE: Yes sir.

1 THE COURT: All right. So as we sit here now, we
2 have two remaining co-defendants. And I don't think
3 either one of them has filed a motion to sever parties,
4 have they?

5 MR. WILTSHIRE: Not to my knowledge, Your Honor.

6 THE COURT: So the case is on the plea calendar
7 tomorrow and on the trial calendar for Monday. And I know
8 Mr. Mizerak has objected to the State's request for a
9 continuance, which I believe was an email.

10 MR. WILTSHIRE: That is my understanding, Your Honor.

11 THE COURT: There's no motion in the file for a
12 continuance that I can find. That's why I wanted to take
13 it up on the record for the other two, which I'll have to
14 do that tomorrow. But I can take up your motion for
15 continuance of Mr. Bolton's.

16 MR. WILTSHIRE: Judge, I had a motion to sever which
17 the Court has granted.

18 THE COURT: Right. But the State wants to continue
19 --

20 MR. WILTSHIRE: Yes sir.

21 THE COURT: I'm assuming the State -- I don't know;
22 does the State want to continue the -- does the State want
23 the case against Mr. Bolton continued from the trial
24 calendar for the 25th?

25 MR. HUNTER: Yes sir. We were asking to actually

1 continue all of the cases.

2 MR. WILTSHIRE: I'm not going to interpose an
3 objection to that request, Your Honor.

4 THE COURT: So have you received any discovery at all
5 in this case?

6 MR. WILTSHIRE: Oh, I've got lots of discovery.

7 THE COURT: Have you?

8 MR. WILTSHIRE: Yes sir. And we just got a bunch
9 more that I think was new to the district attorney's
10 office. I've got a lot.

11 THE COURT: Because my understanding was they wanted
12 a continuance on the gang cases because of the --

13 MR. WILTSHIRE: Well, I can tell you just for
14 informational purposes, there's -- it appears that either
15 the federal or state authorities working together or
16 independently were up on the phones of the suspected gang
17 members, which included the co-defendants.

18 THE COURT: All right. Okay.

19 MR. WILTSHIRE: And we've gotten lots and lots of new
20 intercepts that are pertinent to the case.

21 THE COURT: All right. So you're not objecting to
22 the State's motion to continue Mr. Bolton's trial --

23 MR. WILTSHIRE: No, Your Honor.

24 THE COURT: -- until another trial calendar?

25 MR. WILTSHIRE: No, Your Honor.

1 THE COURT: All right. I'll grant it then. You're
2 off the calendar and you don't have to be here tomorrow.
3 MR. WILTSHIRE: Thank you, Your Honor.
4 THE COURT: All right. I think that's all we have.
5 See you tomorrow morning at 9:00 a.m., Mr. Hunter.
6 MR. HUNTER: Yes sir.
7 THE COURT: And I expect you to be on time.
8 MR. HUNTER: Yes sir.
9 THE COURT: Okay?
10 MR. HUNTER: Yes sir.
11 THE COURT: All right.
12 [Proceedings are concluded.]

CERTIFICATE

STATE OF GEORGIA

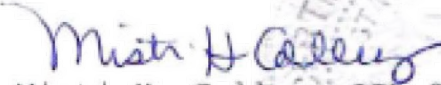
COUNTY OF JACKSON

I, Misti H. Colley, Certified Court Reporter, -2516, hereby certify that the foregoing pages numbered 2 through 10 constitute a true, complete and accurate transcript of proceedings held on September 20, 2023, heard before the Honorable Lawton E. Stephens, Judge of the Superior Courts of the Western Judicial Circuit, taken down by me and transcribed under my supervision to the best of my ability.

I further certify that I am a disinterested party to this action and that I am neither of kin nor counsel to any of the parties hereto.

This certification is expressly withdrawn and denied upon disassembly, photocopying, or duplication in any manner or upon certification of the foregoing transcript or any part thereof by any person or entity other than by me. This certification is further expressly withdrawn and denied absent my original signature and original seal appearing hereon below.

In witness whereof, I hereby affix my hand on this the 22nd day of September, 2023.


Misti H. Colley, CCR-2516

