

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO COUNTY, STATE OF FLORIDA

STATE OF FLORIDA,

Plaintiff,

v.

Case No. CRC14-00216CFAES

CURTIS JUDSON REEVES,

Defendant.

PROCEEDINGS:

ADVISORY HEARING

DATE:

January 14, 2014

BEFORE:

The Honorable LYNN TEPPER
Circuit Court Judge
Sixth Judicial Circuit

PLACE:

Robert D. Sumner Judicial Building
38053 Live Oak Avenue
Dade City, FL

TRANSCRIPTION BY:

Diane B. O'Nan
Digital Court Reporter

*Paula S. O'Neil
Clerk & Comptroller
Pasco County, Florida*

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PASCO COUNTY, FLORIDA

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APPEARING ON BEHALF OF

THE STATE OF FLORIDA:

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P R O C E E D I N G S

1 THE COURT: By the way, do I have a Defense
2 attorney for Curtis Reeves?

3 MR. ESCOBAR: Good afternoon, Your Honor.
4 Richard Escobar for --

5 THE COURT: You need to have a seat.

6 MR. ESCOBAR: Yes, Your Honor.

7 THE COURT: Richard Escobar --

8 MR. ESCOBAR: Yes, Your Honor.

9 THE COURT: -- that's how the mike works.

10 MR. ESCOBAR: Thank you, Your Honor.

11 THE COURT: And the --

12 MR. MICHAELS: Also appearing for Mr. Reeves, Dino
13 Michaels.

14 THE COURT: One more time.

15 MR. MICHAELS: Dino Michaels.

16 THE COURT: Sorry for the delay here.

17 And we have an echo issue.

18 Jail, can you hear me?

19 UNIDENTIFIED SPEAKER: Yes, but there's an echo
20 and a lot of feedback.

21 THE COURT: We need a visual. We need to solve
22 the problem.

23 MS. LOTRE: (Indiscernible).

24 THE COURT: Who are you going to call?

1 MS. LOTRE: (Indiscernible).

2 THE COURT: All right.

3 I presume you got a copy of the PC.

4 MR. ESCOBAR: I did, Your Honor.

5 THE COURT: Do I have any other private attorneys
6 here on any of the cases on the dockets?

7 And, Counsel, can you confirm that the address on
8 the PC is the mailing address for your client --

9 MR. ESCOBAR: It is --

10 THE COURT: -- or do you --

11 MR. ESCOBAR: -- Your Honor.

12 THE COURT: -- not know if that's the mailing
13 address.

14 MR. ESCOBAR: It is.

15 THE COURT: Do we need to go somewhere else,
16 Tricia?

17 THE BAILIFF: Yeah. She's going to go to the back
18 room to fiddle with some wires.

19 THE COURT: What?

20 THE BAILIFF: Play with some wires.

21 THE COURT: All right.

22 MS. LOTRE: Sean's checking on it right now.

23 THE COURT: Can --

24 MS. LOTRE: Sean's checking on it.

25 THE COURT: Is there another courtroom available?

1 MS. LOTRE: I can check.

2 THE COURT: No?

3 MS. LOTRE: Yeah, I do think so. I believe we can
4 use A.

5 THE COURT: It's not ideal.

6 MS. LOTRE: I know.

7 THE COURT: I hate Courtroom D.

8 MS. LOTRE: I apologize.

9 THE COURT: Is that the only choice?

10 MS. LOTRE: If you can give me, like, five
11 minutes.

12 THE COURT: Okay.

13 MS. LOTRE: What do you think?

14 THE COURT: All right. Fine.

15 I would propose by the way, State and Defense,
16 that we could talk about, if you're prepared on your
17 own without any input from your client, to talk about
18 the probable cause and the connections to the community
19 for purposes of setting a bond if you would like.

20 MR. ESCOBAR: I am prepared, Your Honor.

21 THE COURT: All right. Jail, if you want to mute
22 us over there, be my guest. We're going to do some
23 legal matters right now on Curtis Reeves.

24 Can you mute that?

25 Thank you.

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I shut off the video conference.

Your client can't hear us; is that all right with you?

MR. ESCOBAR: That's fine, Your Honor.

THE COURT: Okay. Well, hopefully they'll still work on it.

And, Millie, alert Connie that you just did that.

THE BAILIFF: Connie's right here.

THE COURT: Go tell Tricia, if it's going to create a problem with the wires, I turned off the video conference.

Thank you.

Proceed.

MR. ESCOBAR: Your Honor, I have reviewed the criminal report affidavit. I find it to be quite weak with the allegations concerning second-degree murder.

As the Court can see, it is clear by the affidavit itself that witnesses there at the scene had indicated that certainly the individual that was the initial aggressor was the alleged victim in this matter.

I think that it is clear based upon reading the affidavit that this was a theatre, it was dark, the --

THE COURT: How would I know it's dark?

Is that an assumption you're asking me to make?

MR. ESCOBAR: No, Your Honor, I'm not.

1 THE COURT: Okay.

2 MR. ESCOBAR: But the movie would have started and
3 there's -- there's --

4 THE COURT: Where does it say the movie started?

5 MR. ESCOBAR: It does not.

6 THE COURT: Just so we're only -- because I can
7 only go by the four corners of the instrument. So,
8 let's stick to that.

9 MR. ESCOBAR: I will, Your Honor.

10 You're in a -- you're in a theatre. Clearly it
11 indicates that the aggressor was the alleged victim,
12 and the allegation there is that the victim threw a bag
13 of popcorn.

14 I think what's important is that the interview of
15 Mr. Reeves indicates that, number one, the alleged
16 victim attacked him, struck him with an object, which
17 resulted in the -- in the gunfire.

18 So I think that certainly the facts and
19 circumstances alleged in the affidavit are extremely
20 weak for second-degree murder.

21 THE COURT: State, as to PC?

22 MR. GARCIA: Judge, I would submit to the Court
23 that there is probable cause for second-degree murder
24 based upon the facts and the circumstances, and based
25 upon Detective Proctor, along with Detective Harris and

1 Detective Erin Smith's investigation into this
2 homicide.

3 THE COURT: Well, I'm only considering the four
4 corners of the instrument.

5 Do you have any response to the allegations that
6 the throwing of the popcorn removes this from
7 second-degree murder?

8 MR. GARCIA: No, I don't, Judge.

9 The throwing of the popcorn, there's no indication
10 in here, other than the Defendant saying that he was
11 struck.

12 All of the eyewitnesses that were interviewed by
13 the Pasco County Sheriff's Office indicate that they
14 never saw the victim, strike, threaten or hit
15 Mr. Reeves in this case.

16 MR. ESCOBAR: Judge, if I could just --

17 THE COURT: Briefly.

18 MR. ESCOBAR: -- briefly have that.

19 What started the incident may have been the bag of
20 popcorn, according to the affidavit, but what's
21 important here is the officer's interview of
22 Mr. Reeves, which clearly indicate that he was
23 attacked, he was hit with a -- in the face with an
24 unknown object. At that point in time he has every
25 right to defend himself concerning that particular

1 of years and also served in the reserves. He started
2 to work for the Tampa Police Department in 1966. He is
3 married to his wife, Vivian, who he married in 1967.
4 And they moved to Lutz in 1968. He retired, Your
5 Honor, and after retirement from the police force --

6 THE COURT: When?

7 MR. ESCOBAR: He retired from the police force,
8 Your Honor, in 2003 and moved to Brooksville, Florida,
9 in 2005.

10 Again, he has his -- his two children here in this
11 particular community.

12 THE COURT: Which community? Pasco?

13 MR. ESCOBAR: In the Pasco and Brooksville
14 community.

15 When he retired -- and excuse me, Your Honor, he
16 retired actually in 1993 from the Tampa Police
17 Department. He retired as a captain in the tactical
18 division. In fact, he was responsible for cofounding
19 the tactical response team for Tampa Police Department.

20 He was a commander for 16-to-17 years; was on
21 Selective Enforcement Unit; was a homicide detective;
22 was a property crimes detective; and taught various
23 courses at the Tampa Police Academy.

24 After his retirement in 1993, Your Honor, he
25 served as a Director of Security for Busch

1 Entertainment Corporation, which is Busch Gardens,
2 where he obtained various certifications in security.

3 As I indicated to Your Honor, he currently attends
4 church at First Baptist Church.

5 I've got various -- this entire room just about is
6 filled with friends and family and colleges. I've got
7 numerous retired police officers that are here to talk
8 about his great character.

9 THE COURT: That's not relevant.

10 MR. ESCOBAR: I -- I realize that, but I've got
11 individuals who talk about his great character, as well
12 as his ties to the community, and the fact that he has
13 no propensity whatsoever for violence.

14 I've got numerous witnesses that would come
15 before Your Honor and testify that if this Court were
16 to set a bond, that there is absolutely no issue
17 whatsoever that he would come to every court appearance
18 and face these particular charges.

19 Likewise, for --

20 THE COURT: I'm sorry. You want people to tell me
21 that he will come?

22 MR. ESCOBAR: Well, Your Honor, in their opinion,
23 there is no threat of him not coming.

24 They will also tell you that for practically the
25 majority of his life, he has been a law-abiding

1 individual with no prior criminal history whatsoever.
2 He's an individual, in fact, in his law enforcement
3 capacity that he has been actually protecting the
4 people of -- of his community from individuals that do
5 commit crime.

6 At the -- at the time of this particular incident,
7 and I think the prosecution would agree, there was no
8 attempt to flee whatsoever, cooperated fully with law
9 enforcement from beginning to end.

10 So his ties to the community are -- are great,
11 Your Honor. And I believe that his -- his danger to
12 the community is nonexistent.

13 THE COURT: Could we clarify, he does reside in
14 Hernando County, correct?

15 MR. ESCOBAR: He does. Brooksville.

16 THE COURT: And how long has he been at his
17 current address that's listed on the PC?

18 MR. ESCOBAR: Since 2005, I believe, Your Honor.

19 THE COURT: Anything else you want to share with
20 the Court as to 3.131 before I hear from the State?

21 MR. ESCOBAR: No, Your Honor.

22 THE COURT: State?

23 (Staff conversation.)

24 THE COURT: We can move to Courtroom A if
25 everybody would like. It's the only way you're going

1 to get video.

2 And it's an indulgence, but out of fairness, I
3 think we can do that.

4 I am going to, while anybody who's interested in
5 the Reeves case moves over there, I am going to start
6 with some of the other advisories if they -- they
7 didn't fix the mike, so we still have the feedback. I
8 can't even do those.

9 All right. We'll just move over to Courtroom A as
10 quickly as we can.

11 MR. ESCOBAR: Thank you, Your Honor.

12 THE COURT: Let me tell the jail.

13 Jail, we're moving over to Courtroom A. We'll
14 call you over there. My apologies.

15 (Recess.)

16 THE COURT: All right. Jail, can you hear me?

17 UNIDENTIFIED SPEAKER: Yes, Your Honor.

18 THE COURT: All right. Could you just -- forgive
19 me, but move the camera's so that I could see everybody
20 shake their head yes or no to this. Just shift it to
21 my right so I can see the inmates.

22 UNIDENTIFIED SPEAKER: I'm trying.

23 THE COURT: The -- you're just going closer,
24 you're not going --

25 UNIDENTIFIED SPEAKER: Okay.

1 THE COURT: You can't shift it to the right?

2 All right. We won't.

3 UNIDENTIFIED SPEAKER: It's not working.

4 THE COURT: Okay. Addressing all of the
5 prisoners, can you, by shaking your head yes or no,
6 advise me whether or not you saw the video explaining
7 what an advisory or first appearance is.

8 Yes?

9 Okay. Very good.

10 In addition, please advise the attorney the -- and
11 the Clerk's Office and any bonding agent should you
12 change your address in the next -- before your court
13 case is over.

14 We're going to begin with Mr. Reeves who can come
15 forward -- Reeves to the podium, please.

16 When I tell you who is next, you'll be standing in
17 the doorway. Right now I just need Mr. Reeves up at
18 the podium.

19 You'll need to adjust the camera; I can only see
20 his chin.

21 Thank you.

22 Mr. Reeves, your counsel is here. And when we did
23 not have this working, they were explaining to me your
24 ties to the community. And we did so with your
25 attorney's permission.

1 Now, State, number one, do you have any dispute as
2 to the accuracy of the statements by Defense counsel as
3 to his ties to the community and his work history.

4 MR. GARCIA: Not as to those --

5 THE COURT: Use a mike, please.

6 MR. GARCIA: -- issues, Your Honor.

7 I'm sorry, Judge. Not as to those issues. No,
8 ma'am.

9 THE COURT: All right. What is the State seeking
10 and what is your argument?

11 MR. GARCIA: Judge, I think one issue that I need
12 to bring to this Court's attention is the -- the
13 Defense has indicated the lack of propensity for him to
14 commit other violent acts.

15 It was brought to my attention by Detective Allen
16 Proctor, last night at approximately 10:30 P.M., he was
17 contacted by Jamira Dixon, who indicated to him that on
18 December 28th of 2013, she was at the Cobb Movie
19 Theatre, when she was confronted by the Defendant for
20 texting. She felt very uncomfortable about it and
21 indicated that he was glaring at her the entire time,
22 throughout the movie and afterwards. She felt very
23 uncomfortable with this.

24 THE COURT: And that is a third party?

25 MR. GARCIA: I'm sorry?

1 THE COURT: A third party who may have responded
2 to news?

3 MR. GARCIA: Yes, Judge.

4 And he also followed her to the bathroom when she
5 had gone -- gotten up to go to the restroom and made
6 her feel very uncomfortable about his actions.

7 THE COURT: Of course, none of this would have
8 been recorded.

9 MR. GARCIA: Correct.

10 THE COURT: All right. And what is the State
11 asking for bond?

12 MR. GARCIA: Judge, in light of the probable cause
13 affidavit that was actually signed by Detective
14 Proctor, I believe the Court is familiar with the case
15 that indicates that on -- accused is entitled to
16 pretrial release unless charged with a capital life
17 felony or an offense punishable by life in prison --
18 imprisonment. Obviously he is facing a possibility of
19 life imprisonment.

20 I would submit to the Court that the probable
21 cause affidavit establishes that proof of guilt is
22 evident or the presumption is great.

23 And, therefore, we would ask this Court to leave
24 bond at -- set at zero.

25 THE COURT: Your response.

1 MR. ESCOBAR: Your Honor, we would agree that at
2 this point in time if they're moving for pretrial
3 detention, that the Court's burden, at this point in
4 time, is to determine whether, number one, proof of
5 guilt is evident or presumption is great.

6 They can't do that by a proffer, they have to do
7 that by live testimony. And, so, we would object at
8 this point in time -- or ask the Court to find that
9 they haven't met their burden because they can't do it
10 by a proffer.

11 THE COURT: Do you wish to respond to that,
12 Mr. Garcia?

13 MR. GARCIA: Judge, the case law is clear. You
14 can prove that by an affidavit and it's an affidavit
15 form. The probable cause affidavit should be
16 sufficient.

17 THE COURT: The Court is finding that I do believe
18 that I can rely upon the probable cause affidavit, if I
19 find the contents of the probable cause affidavit do
20 indicate that the proof of guilt is evident and that
21 the -- there certainly -- while you have inferenced
22 that there may be lawful defenses, the Court does not
23 find that there is anything other than a presumption.
24 That there is proof of evident -- sorry.

25 The evidence of guilt is significant. And the

1 Court finds that the proof is great in the probable
2 cause affidavit that a second-degree murder took place,
3 and Mr. Reeves, I'm sure, has already been advised by
4 his attorney, who is facing life in prison.

5 Obviously the State needs to further investigate
6 this in order to decide precisely what they will be
7 filing. But I find that since I do believe the State
8 has in their probable cause affidavit, which includes
9 referencing that witnesses in this theatre were
10 questioned, including the Defendant's own statement,
11 that the proof of guilt is evident.

12 And I am finding that regardless of his ties to
13 this community, that the State can seek a no-bond and
14 are entitled to no bond, without prejudice, for a
15 hearing in front of Judge Siracusa to be heard further
16 on bond, and to have -- if you wish to have a full
17 blown hearing.

18 But I am ruling that there is no bond.

19 MR. ESCOBAR: Your Honor, if I could just make
20 some arguments in reference to the affidavit that the
21 Court is relying on.

22 THE COURT: I gave you an opportunity to make an
23 argument as to probable cause.

24 What is it that you think does not rise to the
25 level that the proof of guilt is evident?

1 MR. ESCOBAR: Your Honor, the case law is clear
2 that when you're at this stage of pretrial detention,
3 there has to be live testimony concerning the proof
4 that the Court is relying on. You can't supply an
5 affidavit. Even if the charges were actually filed,
6 you can't supply an indictment or a criminal
7 information.

8 THE COURT: I disagree.

9 MR. ESCOBAR: The -- the importance of that and
10 the reason for that, Your Honor, is that we have the
11 right to confront these particular issues when, in
12 fact, you --

13 THE COURT: As I said, I'm setting it at zero
14 bond. You can schedule a hearing with Judge Siracusa,
15 or if Judge Siracusa is in right now and he wants all
16 of you to march into his courtroom, you can go do it
17 now, but I don't know if he's available or not. He is
18 the criminal judge who will be handling this case.

19 MR. ESCOBAR: Your Honor, we would just object for
20 the record then and --

21 THE COURT: So noted.

22 MR. ESCOBAR: Thank you, Your Honor.

23 THE COURT: Now, inasmuch as I'm not setting a
24 bond, I do want to caution you that Judge Siracusa, if
25 a bond is set, will require that your client not be

1 permitted to waive his appearance at any court hearings
2 without the judge's specific permission. And should
3 the judge later grant a bond, will not allow him to
4 possess any weapons.

5 Is that clear?

6 MR. ESCOBAR: Yes, Your Honor.

7 THE COURT: Just to anticipate that possibility.

8 MR. ESCOBAR: Absolutely, Your Honor.

9 THE COURT: Therefore, Mr. Reeves, apparently you
10 can afford your own attorney?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: All right. We will show you're hiring
13 your own attorney. And, of course, you are entitled,
14 as the video explains, to access to the phone to
15 communicate with your family or your counsel.

16 I presume you don't want me to have him say
17 anything?

18 But did you have any questions for the Court or
19 you want to simply ask your attorney when you speak to
20 your attorney in confidence?

21 It's no bond. You're remanded to custody.

22 MR. ESCOBAR: Mr. Reeves, we'll -- we'll speak in
23 confidence.

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Thank you.

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You may step back.
(Proceedings concluded.)

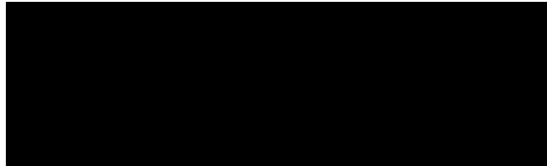
CERTIFICATE OF COURT REPORTER

STATE OF FLORIDA

COUNTY OF PASCO

I, Diane B. O'Nan, a digital court reporter for the Sixth Judicial Circuit, do hereby certify that I was authorized to and did transcribe the foregoing proceedings and that the transcript is a true and correct record of said proceedings.

DATED this 21st day of January, 2014.



Diane B. O'Nan
Digital Court Reporter
Sixth Judicial Circuit