

1 R E P O R T E R C E R T I F I C A T E
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4 I, DOREEN PM PICKETT, Certified Shorthand
5 Reporter, in and for the State of Michigan, do hereby
6 certify that the foregoing transcript from my stenographic
7 writing is comprised of a true and accurate transcript of
8 the proceedings taken in the above-entitled matter.
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12 *Doreen Pickett*

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24 Dated: April 13th, 2017
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THE STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

THE PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

v.

Criminal Case
Motion hearing
76-005890-01

MR. CHARLES LEWIS,

Defendant.

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Proceedings had in the above entitled matter
before the HONORABLE QUIANA LILLARD, Circuit Court Judge
for Detroit, Michigan, on February 15th, 2017.

APPEARANCES:

MR. JASON WILLIAMS, ESQ.
1441 St. Antoine Street
Detroit, Michigan 48226

Appearing on behalf of the Plaintiff,
The People of the State of Michigan

MS. VALERIE NEWMAN, ESQ.
645 Griswold Street
Ste 3300
Detroit, Michigan 48226

Appearing on behalf of the Defendant,
Mr. Charles Lewis

REPORTED BY: DOREEN PICKETT, CSR 6695
1441 St. Antoine Street
Detroit, Michigan 48226

1 And I believe that you know that no one can take
2 that away from you if you wish to represent yourself. I
3 think that Judge Kenny will still have to appoint someone
4 to act as standby counsel for you.

5 So, if there is someone you have in mind you
6 think would be good for that I don't know if Judge Kenny
7 will take into account. You should still communicate
8 that, okay.

9 Is there anything else?

10 MS. NEWMAN: Judge, I just want to add that
11 especially if there's any chance that he will be
12 representing himself that we did meet the prosecution and
13 I with David Baxter to recreate the file and turn over
14 documents that's one of the things that created issues
15 with Mr. Lewis he thought I should be providing him
16 documents in regards to that process.

17 But there is now a for good or for bad there is
18 now a I believe a certified court file certified right by
19 the clerk's office.

20 And um, normally, when you withdraw we return
21 the court file to the Court but I never received a court
22 file so there was nothing for me to return. But he will
23 need that the certified court file.

24 So I don't know if there's a way to make that
25 happen so he can have all of the documents as soon as

1 possible so he can see what is actually in that recreated
2 court file.

3 THE COURT: Well, I think that's part of the
4 issue which has to be addressed because Mr. Lewis asserts
5 that your participation in that process violated attorney
6 client privilege.

7 And I don't think that it will violate attorney
8 client privilege because the only things that are
9 privileged are your private communications between you and
10 your client.

11 Documents are not protected by attorney client
12 privilege. Now of course, if you had in your file private
13 communications between you and your client or attorney
14 notes or work product that kind of stuff shouldn't be
15 shared.

16 But the only thing that you all were working
17 with the representative from the Wayne County Clerk's
18 Office to do was to share documents.

19 Just like the Prosecutor's Office was to give
20 you things that came from the court file that you didn't
21 have. And you were to well, you all weren't really giving
22 each other anything, but my understanding is that you all
23 worked with the clerk's office to pull together all of the
24 court documents only, only court documents.

25 No work product from either side was shared,

1 would that be fair to say.

2 MR. LEWIS: No actually --

3 THE COURT: Hold on, not you yet Mr. Lewis.

4 MR. WILLIAMS: On behalf of the People I did not
5 turn over any work product. I never saw any work product
6 in the documents or actually it was a flash drive that
7 defense counsel Ms. Newman gave me there was no work
8 product that I saw in any of those documents.

9 THE COURT: Any notes or private communications
10 between Ms. Newman and her client?

11 MR. WILLIAMS: Not that I saw.

12 THE COURT: And did you receive anything like
13 that from --

14 MS. NEWMAN: I received nothing like that from
15 the Prosecutor your Honor and I can assure you that I went
16 through an extensive process looking at every single piece
17 of paper that was handed over to the prosecutor's office.

18 And that nothing even remotely close to an
19 attorney client product was turned over. The items that
20 were turned over were transcripts and um pleadings.

21 The pleadings are all public documents. You can
22 get them off Pacer you know you can there are multiple way
23 s that you can get them.

24 But we shared I shared the pleadings that I had
25 in my file as well as the transcripts. And that was the

1 extent of any pieces of the lower court file I had which I
2 didn't have much the prosecutor had more of that then I
3 did and that was it.

4 THE COURT: Mr. Lewis is there something you
5 wanted to say?

6 MR. LEWIS: Yeah, you know like you said the
7 transcript and all of that is public records. The County
8 Clerk didn't have any records.

9 The Prosecutor didn't have any records. All of
10 the documents that you have right now are from a
11 reconstructive file came from my foot locker (sic) at one
12 point in time.

13 All of those documents those documents I turned
14 over to Foley and Lerner. And I asked Foley and Lerner to
15 turn them over to SADO with the understanding that they
16 would remain private.

17 I turned them over to Foley and Lerner I didn't
18 turn them over to them so they could turn them over to the
19 Prosecutor.

20 THE COURT: So Mr. Lewis are you saying that you
21 wanted to keep the pleading and the documents for
22 yourself?

23 MR. LEWIS: No, I am saying when I turned them
24 over counsel --

25 THE COURT: To Foley and Lerner?

1 MR. LEWIS: -- when I had Foley and Lerner turn
2 them over to SADO I did that so I could get legal advice
3 from SADO. And I felt like they were privileged documents
4 and SADO didn't have any business turning them over to the
5 Prosecutor.

6 I feel like that violates privilege I didn't
7 give them permission to turn them over.

8 THE COURT: Well, the problem is that I ordered
9 it to be done. I ordered them to turn over any court
10 documents that they had in their possession.

11 I didn't order them to turn them over. I
12 ordered them to work with the Clerk's Office to try to
13 reconstruct the file.

14 So to the extent that that what happened and
15 that was without your consent it is because I ordered it.

16 MR. LEWIS: I feel that was abuse of discretion.

17 THE COURT: All right.

18 And so that is noted and dully preserved for the
19 record. If there was something improper about the Court's
20 order somebody will tell me.

21 But you know the real thing is that it's not
22 exactly true to say that the County Clerk's office never
23 had any records.

24 Now I didn't see them you know that when I got
25 this case the file was missing. But my understanding is

1 from previous counsel for the People as well as previous
2 counsel for from Foley and Lerner for you as well as the
3 representatives that gave testimony from Judge Ewell's
4 staff as well as from the County Clerk's staff that there
5 was a file.

6 And that when Foley and Lerner was working on
7 this case on your behalf there was three red ropes (sic)
8 full of files that somehow came up messing.

9 So I don't know what you had that you gave to
10 Foley and Lerner that they then gave to SADO; I don't know
11 because I was not apart of any of that.

12 All I know is that I'm faced with a situation
13 where I was being asked to make decisions about what did
14 or did not happen in your case without the benefit of a
15 court file.

16 So all could do was try to ask everyone involved
17 that is the Prosecutor, the County Clerk's Office and
18 Defense counsel to work together to try to see what
19 documents everyone had and to make sure that everyone had
20 everything.

21 I didn't want to see a situation where the
22 prosecutor had some things that your lawyer didn't have or
23 your lawyer had things that the prosecutor didn't have and
24 that both sides had things that the County Clerk's Office
25 didn't have and therefore the Court didn't have.

1 So my efforts to try to get everyone to work
2 together and share documents was in no way meant to
3 violate your rights or to do anything that was unfair.

4 But only to try to make sure that everyone had
5 the same documents and that everyone was working with the
6 same benefits of all of the same information.

7 And again, if there was something improper about
8 what I did, we'll know. So at this point, Ms. Newman I'm
9 going to grant your motion to withdraw.

10 Judge Kenny will make a decision as to whether
11 or not he's going to appoint standby counsel and then have
12 a whole full hearing at some point on whether or not this
13 Court should continue to preside over this case and then
14 that will be resolved from there.

15 And then whatever happens happens.

16 MR. LEWIS: Just one point if I may.

17 THE COURT: Sure, Mr. Lewis of course.

18 MR. LEWIS: Um, 90 percent of the documents what
19 you now call a reconstructive file came from me.

20 MS. NEWMAN: That's not true Judge. That is not
21 true. We sat, we sat, we sat --

22 MR. LEWIS: We can go item by item.

23 MS. NEWMAN: -- you had.

24 MR. LEWIS: We can go item by item and you can
25 explain exactly what you talking about.

1 MS. NEWMAN: -- Judge I'm not going to argue
2 with my client on the record. I'm going to represent as
3 counsel of record and um under my ethical duties that the
4 prosecutor had many of the same documents that I have.

5 So while the documents in the recreated records
6 might look like the same documents that Mr. Lewis had it
7 is not that they came from Mr. Lewis file we had documents
8 that overlapped.

9 We had the exact same documents they had all of
10 the pleadings from the attorney generals office. They had
11 transcripts from the attorney general's office.

12 I mean the attorney generals office was able to
13 supply a significant amount of documents to us. So I want
14 to state very clearly for the record, that is not true.

15 THE COURT: Well, the problem is we never got to
16 the point where I addressed anything about what happened
17 with the reconstruction of the file because there was a
18 breakdown between counsel and Mr. Lewis.

19 So I never even got to that point where we've
20 had any hearing about what happened in reconstructing the
21 file because of this issue.

22 So I mean, I would imagine I would hope that 90
23 percent of the documents that are in the file are the same
24 as what Mr. Lewis had.

25 I would hope that there was a situation where

1 everybody was operating with the majority of the content
2 of the actual court file.

3 I think it will be terrible if all of a sudden
4 the prosecutor had boxes and boxes of documents that had
5 never been disclosed or provided to the defense in
6 discovery.

7 So if it turns out Mr. Lewis, that you are
8 correct, that 90 percent of what's in the recreative file
9 is what you already had that's not a bad thing.

10 MR. LEWIS: Yes, it is a bad thing.

11 THE COURT: That's a good thing. Well, you
12 might feel like it's a bad thing Mr. Lewis.

13 MR. LEWIS: It's a bad thing if you have to get
14 the stuff from me to make a reconstructive file.

15 THE COURT: But Mr. Lewis that's the part you're
16 misunderstanding. You are operating under the assumption
17 that just because these things are now in the file that
18 they were things that the prosecutor didn't already have.

19 Remember, only one entities file went missing.
20 The prosecutor's file did not go missing. Your file
21 didn't go missing.

22 It was the court file that went missing. So the
23 -- it will be one thing if you were the only one that had
24 a file then what you are saying would be true.

25 But everyone had a file except for the County

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Clerk's Office.

MR. LEWIS: I disagree with that.

THE COURT: All right.

Well, you can disagree, that's fine and I think we're done here. That concludes there matter. And once Judge Kenny makes a decision about what he's going to do then we'll get another date.

Please go with my deputies Mr. Lewis.

Yes.

MS. NEWMAN: Judge, I did not prepare an order because I was not sure what you were going to do.

THE COURT: Oh, you don't need to prepare an order Ms. Brown has an order.

MS. NEWMAN: Okay.

Thank you your Honor.

THE COURT: You're welcome.

And I am signing it right now and I will have copies for all three of you. You will get your copy as well Mr. Lewis today, okay.

MR. LEWIS: All right.

Thank you.

(Proceedings concluded 9:54 am)

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