

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

4
5 STATE OF FLORIDA, CASE NUMBER(S)
2014-CF-005586-CFAWS

6 Plaintiff,

7 vs.

8 ADAM MATOS,

9 Defendant.

10 _____/

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PROCEEDINGS: MOTION HEARING

12

BEFORE: HONORABLE MARY HANDSEL
Circuit Court Judge
Sixth Judicial Circuit
New Port Richey, Florida

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15 DATE: September 7, 2017

16 PLACE: West Pasco Judicial Center
7530 Little Road
17 New Port Richey, Fl

18 REPORTER: JENNIFER M. SCHWANER
Notary Public
19 State of Florida at Large

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APPEARANCES

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3 APPEARING ON BEHALF OF
4 THE STATE OF FLORIDA:
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6 BRIAN SARABIA, ESQUIRE
7 Office of Bernie McCabe
8 New Port Richey, Fl

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8 NICHOLAS MICHAÏLOS, ESQUIRE
9 DEAN LIVERMORE, ESQUIRE
10 Office of Bob Dillinger
11 New Port Richey, Florida

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1 PROCEEDINGS

2 THE COURT: So the other matter that we
3 had set for this afternoon is the Adam Matos
4 matter, which is Case Number 14-5586.
5 Mr. Matos is here with his attorney. The State
6 is here. I did grand jury this morning and
7 into this afternoon. When I returned for the
8 grand jury's presentment, I was presented with
9 a new indictment for Adam Matos that has the
10 right wording. So I went ahead and filed that,
11 but at this time, I need to go ahead and
12 arraign Mr. Matos on the new indictment.

13 So the grand jury this morning, which is a
14 new grand jury returned an indictment for four
15 counts of first-degree murder same date, same
16 times, and it was filed today in open court.
17 It alleges the exact same facts except in
18 Counts III and IV in the State of Florida
19 impaneled and sworn to inquire the true charge
20 of made blah, blah, blah, blah, everything is
21 the same.

22 So, Defense, do you want to enter a not
23 guilty plea on the new indictment?

24 MR. MICHAILOS: Yes, ma'am.

25 THE COURT: So I will find that Mr. Matos

1 is pleading not guilty to the indictment that
2 was entered today on September 7th, and enter a
3 not guilty plea on that, and therefore the
4 motion to dismiss for lack of jurisdiction is
5 moot. But I will have to tell you,
6 Mr. Livermore, I did research it and I had case
7 law and they didn't tell me they were doing the
8 indictment. So I found out about an hour ago
9 when I took the indictment back.

10 So, I guess that resolves that matter.
11 They weren't comfortable with -- they believed
12 at least enough in your argument. So, then we
13 were talking about the trial, and dates to move
14 the trial to.

15 State, you were going to make some
16 inquiries, where do we stand?

17 MR. SARABIA: Couple of things, Judge.
18 First, we are also filing an amended or a new
19 notice of intent to seek the death penalty. So
20 we cite the new rule in there so we know there
21 is no issue with regards to that. Otherwise
22 the same. And in terms of our inquiries, it
23 looks doable.

24 THE COURT: In regards to the other one,
25 the new notice of intent to seek death under

1 the statute, you allege two aggravators,
2 correct?

3 MR. SARABIA: Correct.

4 THE COURT: And you have listed them in
5 the notice of intent to seek death as required
6 by the new statute?

7 MR. SARABIA: Correct, and for the record,
8 we have previously done that, but there is now
9 a new criminal rule of procedure, since all the
10 stuff which we now cite, I think it is
11 otherwise identical but we now cite it. So, we
12 have not been able to get in contact with
13 everybody yet. I suspect that could in part be
14 due to evacuations occurring for some of these
15 people, but thus far no one has had any issues
16 with a couple of caveats, September --
17 November 10, a Friday, is Veteran's Day. There
18 are a couple of people who are unavailable on
19 the 9th. And they are people that we may want
20 to be calling at approximately that time. So
21 if we get there, as long as the Court is
22 willing to work with us about maybe calling
23 those people on the 13th and having to end
24 early on the nine, we should be okay.

25 And also the witness we were worried about

1 being on the ship is, in fact, going to be away
2 until the 8th which would work -- that would
3 still work. Part of the big question mark is
4 nobody knows exactly how long it is going to
5 take to get a jury. I think there has been an
6 estimate of two to three days. That's a big
7 difference. If it is two days, we gain a day
8 versus three or four days where it is pushing
9 us to two or three days further.

10 So as long as the Court is willing to work
11 with us on if we run out of witnesses for a
12 day, knowing that we will have them in the next
13 day or two or trial days then we are good to go
14 thus far. But we would ask, we still have all
15 motions in limine, if we can do those in the
16 next two to three weeks when we would have been
17 trying this case any way, we would probably
18 have better answers from the witnesses anyway.

19 THE COURT: Okay, at this point, I'm going
20 to go ahead and reset Mr. Matos' trial to begin
21 on October 30th, at 9:00 A.M., and I'm
22 reserving from October 30th to November 22.

23 MR. SARABIA: I'm sorry?

24 THE COURT: I'm setting aside from
25 October 30 to November 22, for the dates to try

1 the case, and the reason I'm doing that is
2 because of Veteran's Day being in the middle
3 there, and there is a possibility that I will
4 also give them -- I'm going to give them off
5 the 10th, because that's Veteran's Day. I may
6 also give them off the 17th, which is the
7 following Friday just because this case is
8 going to take so long. I think that it is
9 asking a lot of jurors to sit here day after
10 day after day and then that next, and the next
11 three days is a non-trial week for me, and it
12 goes to the Thanksgiving Holiday so I have made
13 those three days my -- I have them in case of
14 emergency days.

15 MR. SARABIA: Okay.

16 THE COURT: In case jury selection goes
17 too long, whatever, I have three actual days
18 set aside that are overflow days or if there
19 is -- let's say in worse case scenario for
20 Mr. Matos and there is a conviction and they
21 need a day to do some penalty phase work or the
22 State needs a day to have their expert, you
23 know, talk to him after the jury if the verdict
24 is returned guilty and unanimous and it is
25 first-degree and all that, I have some days

1 built in in case there is something that comes
2 up you guys need either a half day or a day to
3 complete for the penalty part of it. Since we
4 don't know if we are going to get there, I just
5 felt like I needed to put that in there. I
6 haven't set much on those days anyway, because
7 every time I try to pick those days, everybody
8 is that's the week of Thanksgiving and I can't
9 come. So right now I have seven pretrials and
10 one VOP hearing.

11 So I'm actually going to set aside from
12 8:30 to 9:30 every day on my court calendar to
13 do pretrials and motions and we are going to
14 start court every day after we pick the jury at
15 ten at go until six. So we are going to go
16 start at ten and go to six and have an hour for
17 lunch, and do that every day. So I'm going to
18 stop at 6:00. So if you run out of witnesses I
19 guess we are stopping earlier, but I would like
20 the jury if they are going to be here this
21 long, to have some sort of idea how long they
22 are going to be here every day and that makes
23 it consistent. They don't have to be here too
24 early because, you know, parking out there is
25 pretty hard first thing in the morning. So it

1 will be easier if I tell them to come at 9:30
2 for 10:00. We will start court and we will
3 stop at six before it is dark so everybody can
4 be home for dinner and it was not too
5 difficult, if they have children to drop off at
6 school. All schools start by 9:30. So I
7 should cover those issues of dropping off at
8 school, and being home for dinner. So that was
9 my reason and I can still handle a considerable
10 amount of my own work without pushing it off on
11 other people.

12 Right now we will reset the trial for
13 October 30 at nine and I have set aside from
14 October 30 to November 22 and for the trial and
15 again, we will start -- jury selection, we will
16 do like we normally do and we will start on the
17 normal days, Monday, Tuesday and Wednesday, we
18 will start as soon as you get up here.

19 I have jurors coming in right now on the
20 30th and the 31st. So I have asked them to
21 bring jurors in 500 jurors on the 30th and 500
22 jurors on the 31st. Hopefully we can get a
23 panel from that. That means we are going to be
24 holding over jurors from day to day but there
25 are other trials set in other divisions on

1 Monday. So our juror selection on Monday, may
2 be a little harder than Tuesday. But I figure
3 we will be in a good spot on Tuesday with other
4 jurors to move on.

5 Just so you all know, we had to rearrange,
6 kind of how we are doing jury selection. I
7 have asked that on the 13th, as soon as they
8 check in all the jurors, they are going to pick
9 a panel of 100 and they are going to bring that
10 panel of 100 to my courtroom. They are not
11 swearing them. I don't want them to show the
12 video, I don't want them do anything. I want
13 those 100 people brought up here and we are
14 going to give them their special -- we are
15 going to give them the regular questionnaire,
16 give them the supplemental questionnaire, and
17 we can go in the jury room and do some of what
18 we need to do in there because I will have a
19 court reporter.

20 So, we can bring jurors one by one into
21 the jury room to talk them after they fill out
22 the questionnaires. Okay.

23 So it is a little different than normal
24 but I have done it before in other cases, and
25 that's to get rid of -- you know when they are

1 in here, I can ask times and days and
2 everything, but I'm talking about did they read
3 anything in the newspaper, had they had a
4 family member close to the victims, do they
5 live in the neighborhood, those types of
6 things. The ones that even if you talk up here
7 could, in fact, be heard by the whole jury and
8 I'm sure you are going to have a lot more
9 questions for those people.

10 Anybody that has ever been involved in an
11 first-degree murder case before, anybody who
12 has ever been on a jury of a first-degree
13 murder case, this will give you an opportunity
14 if we do it in the jury room to ask a lot more
15 questions than just doing it up here at the
16 bench. So that's what we are probably going to
17 do. So that takes care of that.

18 Let's pick a date for the motions in
19 limine and the additional motions that we have.
20 I can do next Thursday. I can go into the week
21 of September 25th. What do you guys want to
22 do?

23 MR. SARABIA: Let's do to the 14th.

24 THE COURT: You want to do the 14th?

25 MR. SARABIA: Yeah. We would like to do

1 that. We were scheduled to be here in front of
2 you on this case, so I'm available.

3 THE COURT: So we will reset all pending
4 motions for September 14, at 9:00 A.M. and that
5 should take care of all pending matters.

6 I'm still working with the clerk's office
7 about the situation with the item that is on
8 the clerk's docket. I'm going to wait until
9 the Chief Judge Rondolino gets back, because
10 nobody could tell me whether it was done by
11 court order or administrative order from the
12 chief judge, because he is not here, and so I'm
13 going to go through his office. I don't
14 believe that it was, but even if it was, I
15 think he should probably since Judge McGrady
16 did it the first time, I'm going to have Judge
17 Rondolino do the order or at least agree that I
18 can do the order with his approval.

19 MR. LABRUZZO: To that point, soon as you
20 get that done, the State has no objection to
21 doing it as soon as you want to get it done.

22 THE COURT: The clerk supervisors who I
23 spoke to yesterday would like me to do it
24 yesterday, so they have no problem. It is
25 something that takes extreme amount of time for

1 them, so if I get it done, it helps the clerk's
2 office, because they have to specially go
3 through all of the docketing and do special
4 things to them to put them on this website. So
5 I mean it is no different than the other ones
6 that they have to put it through a special
7 system.

8 MR. LABRUZZO: Why did they do it to begin
9 with if it is more trouble?

10 THE COURT: It wasn't me because I would
11 have said no. If they would have asked me to
12 do it, I would have said no.

13 MR. SARABIA: I forgot to check with the
14 family and they feel it would be better on the
15 14th, to do the motions if they can do it at
16 1:30 for them.

17 THE COURT: That's fine. We will do it
18 September 14, at 1:30. I think that's easier
19 for transportation of Mr. Matos any way.

20 MR. MICHAÏLOS: I have advisories that
21 next week. Never mind.

22 MR. LIVERMORE: I'm sure your supervisor
23 will get somebody to cover for you.

24 THE COURT: Anything else we need to
25 address at this time?

1 MR. MICHAÏLOS: Just curious, other stuff
2 you have set for trial during that period of
3 time get continued or get resolved?

4 THE COURT: I don't know. I'm working on
5 that. There's senior judges. There's other
6 judges. Right now the biggest hurdle to
7 someone else doing those trials is a courtroom.
8 So that's the biggest issue that we have that
9 doesn't involve any of ya'll is finding a
10 courtroom for it to be done. I actually have
11 judges who have agreed to do my work, but they
12 don't have their own courtrooms. So if I can't
13 find a courtroom I can't have someone else do
14 it. So, that's why we are working on that.

15 Delgado and Duncan, my JA is going to be
16 contacting -- this doesn't involve you guys any
17 way, they are going to be contacting the State
18 about moving those motions that we have set to
19 some of the dates that we just freed up for
20 Matos.

21 MR. SARABIA: Got it.

22 THE COURT: I know we worked it in because
23 of Matos, so hopefully I can back track and put
24 it back on the week of September 25. Hopefully
25 since you were going to be in trial, you should

1 be available to do it. But I'm working on
2 that.

3 So everybody knows Monday court is closed
4 already. The order came out. What I did for
5 the Public Defender's Office, this doesn't have
6 anything again with Mr. Matos. My JA has
7 actually locked, stock and barrel taken those
8 pretrials and put them on another date and the
9 State is renoticing for that date. So, your
10 assistants, your secretaries have received that
11 memo from my JA, and we moved them, however,
12 for Mr. Michailos and Ms. Garrett who is here,
13 if there is anybody on your calendar for
14 Monday, who you believe were going to plea, you
15 call Pauline on Tuesday and you can set them
16 for a change of plea on Friday. And I can have
17 them brought over especially those in custody.

18 She said if you call her on Tuesday
19 morning, she will take those people and put
20 them on a change of plea calendar on Friday.
21 So, if you had people and you had it all worked
22 out, I don't want them to sit in any longer
23 than they need to. We can bring them over on
24 Friday. And the only reason I say Friday
25 because the State needs time to notice the

1 victim, right. So. All right, anything else?

2 (No further proceeding were had on this
3 matter.)

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C E R T I F I C A T E

STATE OF FLORIDA

COUNTY OF PASCO

I, Jennifer Schwaner, Stenographic Court reporter and Notary Public, State of Florida at Large, do hereby certify that I was authorized to and did stenographically report the foregoing proceedings and that the foregoing pages, numbered 1 through 126 inclusive, constitute a true and correct record of the proceedings to the best of my ability.

I FURTHER CERTIFY that I am not a relative or employee or attorney or counsel of any of the parties hereto, nor a relative or employee of such attorney or counsel, nor am I financially interested in the action.

WITNESS MY HAND AND OFFICIAL SEAL this 24th day of August 2018, New Port Richey, Pasco County, Florida.


JENNIFER SCHWANER
Stenographic Court Reporter