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IN THE DISTRICT COURT IN AND FOR CHOCTAW COUNTY,
17th JUDICIAL DISTRICT, STATE OF OKLAHOMA

STATE OF OKLAHOMA,)
)
Plaintiff,)
)
vs.) Case No. CF-2017-29
)
JOHNATHAN LAKEITH BRADLEY,)
)
Defendant.)



TRANSCRIPT OF RECORD MADE
ON NOVEMBER 16, 2017
HUGO, OKLAHOMA
BEFORE THE HON. BILL J. BAZE

A P P E A R A N C E S

TRIAL JUDGE:
Hon. Bill J. Baze
Associate District Judge
Hugo, Oklahoma

FOR THE STATE:
Mr. Jeff Mixon
Assistant District Attorney
300 East Duke
Hugo, Oklahoma 74743

FOR THE DEFENDANT:
Mr. G. Donald Haslam, Jr.
THE HASLAM LAW FIRM, PLLC
3131 McKinney Ave
Suite 600
Dallas, Texas 75204

REPORTED BY:
Ginger G. Baze, CSR No. 1910, Certified Shorthand
Reporter, Hugo, Oklahoma

P R O C E E D I N G S

1
2 THE COURT: Court is in session in
3 Case No. CF-2017-29. The matter comes on for preliminary
4 hearing. State has requested a continuance. The Defendant has
5 objected. The Court previously, off the record, overruled the
6 Defendant's objection. Defendant demanded a record. The Court
7 said he may have a court reporter, but the Court directed
8 Mr. Haslam not to simply repeat what is in his motion as it
9 would be a waste of time and resources. I told him if he
10 violated that, he did so at his peril.

11 Mr. Haslam takes umbrage with my direction.
12 Mr. Haslam wishes to make a record. In addition, the Court has
13 also denied Mr. Haslam's request for a lab analyst pursuant to
14 the case of Office of Chief Medical Examiner vs. Reeves, CF- --
15 or OKC -- 2012 OK CR 10, as well as the case of Randolph vs.
16 State.

17 Mr. Haslam, you may proceed.

18 MR. HASLAM: Two issues, Judge. One, with
19 respect to the denial of the court reporter and, second, with
20 respect to the denial of the motion to continue preliminary
21 hearing.

22 Firstly, not only do I take umbrage with the
23 Court's admonishment about the record that I'm about to make, I
24 also take umbrage and exception to the mischaracterization of
25 what was said off the record by the Court and with respect to

1 the Defendant's several requests for a record. Specifically,
2 when the Defendant -- when I, on behalf of the Defendant,
3 expressly requested a court reporter, the Court denied me that.
4 I had to urge that motion with some vigor -- that request,
5 rather, for a court reporter before the Court acceded to it,
6 and I had to allude to the fact that my client has a right as a
7 matter of law, as a matter of black letter statutory law that
8 is not discretionary, to have a record made of all the
9 proceedings in -- in this matter.

10 The first responses of this Court to the
11 Defendant's request for a record were denials of that right. I
12 would note something that I think that the record is not aware
13 of, but it may be important here. The court reporter in this
14 county is the -- is the Judge's wife.

15 THE COURT: Stop. Do you request another court
16 reporter?

17 MR. HASLAM: Not yet. I'm not done with my
18 record. I may be requesting another judge. For the moment,
19 I'd like to finish the thought that I have --

20 THE COURT: Well, no, no. Here's what -- here's
21 what I'm not going to allow you to do, is wait until everything
22 is over and then point a finger at me as though something is
23 not fair.

24 If you have a problem with her being the court
25 reporter, there is a procedure in place whereby you have an

1 absolute right to have another court reporter present.

2 MR. HASLAM: Consider me advised. May I
3 continue?

4 THE COURT: You may.

5 MR. HASLAM: For the record, the court reporter
6 in this courtroom is Ginger Ward Baze. She is married to the
7 Judge. When I asked for a court reporter, the Court's first
8 response this morning was that it would be a waste of time and
9 resources to bring the court reporter out here for this
10 purpose. I object to that. There has not been any argument
11 made with respect to the -- to the Defendant's objection to the
12 motion to continue. There is legal authority that attains
13 here, and that needs to be preserved for purposes of appeal.
14 And in the absence of a record, that record -- that issue
15 cannot be appealed.

16 So we -- the first thing that I'm taking up and
17 have concluded at this point is making a record of what
18 happened prior to this court reporter being brought into the
19 courtroom to make this record.

20 The second issue --

21 THE COURT: Okay.

22 MR. HASLAM: -- that I want to take up --

23 THE COURT: Before you continue with the second
24 issue, I disagree with your characterization. It was that if
25 you were just going to say what you've already said, that would

1 be a waste of time and resources. I stand by that. And I
2 further note on many occasions you have spent a great deal of
3 time arguing the same thing that was in your motion, repeating
4 yourself time and again. You have earned that admonition,
5 Mr. Haslam.

6 MR. HASLAM: Sounds like the Court has some
7 umbrage itself of Defense counsel. Is that true?

8 THE COURT: I have umbrage of you demanding
9 records when no record is needed.

10 MR. HASLAM: Okay. I will gnaw on that while I
11 finish my record with respect to the second issue. The second
12 issue I need to take up here is the motion to -- the objection
13 to the motion to continue.

14 THE COURT: Proceed.

15 MR. HASLAM: With respect to the motion to
16 continue that the State's filed here, it's -- it is apparent on
17 its -- I don't have a file-stamped copy, as I recited in the
18 objection that I filed today to the State's motion to continue,
19 which Motion to Continue was filed at 2 o'clock or so on the
20 afternoon of the 14th. I'm looking at my Exhibit A to my
21 objection to the motion to continue, and I'm assuming that it
22 is, in all respects, identical to the one that the State has
23 filed.

24 With that observation in hand, I further observe
25 that that motion to continue preliminary hearing --

1 THE COURT: Well, let me -- let me cut you off.
2 Take a look at what's filed, what's of record in the court
3 file. I don't want us arguing about different court documents.

4 MR. HASLAM: May I approach?

5 THE COURT: You may.

6 MR. HASLAM: Your Honor, it appears to me
7 that -- may I approach?

8 THE COURT: You may.

9 MR. HASLAM: -- that the file-stamped copy of
10 the State's motion to continue preliminary hearing is, in all
11 respects, identical to the one e-mailed to me, albeit the one
12 that was e-mailed to me was not file-marked or signed by the
13 State. So with that understanding, I will proceed with respect
14 to this -- this record.

15 The State's motion to continue, in its
16 paragraph 2, reads the following way: "An essential witness,
17 Deputy Epley, is currently out of state and unavailable.
18 Deputy Epley is expected to be back at work in Choctaw County
19 beginning November the 25th, 2017."

20 So what we have is a recitation in the motion to
21 continue for the basis of the continuance. It is clear that --
22 that the law, with respect to motions for continuance, have to
23 be -- motions for continuance have to be supported by an
24 affidavit if the basis for the continuance is the absence of a
25 witness. That affidavit -- the contents of that affidavit are

1 spelled out in the appropriate statutory provisions that are
2 found in Title 12, Section 668 and Section 6- -- 584.

3 Firstly, the threshold observation might be that
4 because those statutes are found in the Code of Civil Procedure
5 they may not attain in the context of a criminal matter, but
6 that's not the case. In *Crosswhite v. State*, the Court of
7 Criminal Appeals held that --

8 THE COURT: Let me cut you off, Mr. Haslam.
9 The -- the Court -- this Court believes that the affidavit
10 should be attached pursuant to statutory rules.

11 MR. HASLAM: Okay. So what we have, then, is
12 a -- a defect in this motion to continue. It does not comport
13 with those statutory provisions. The case law goes on to
14 observe the following: Reading from *Duckett v. State*, 711 P.2d
15 944, 1985 case, Court of Criminal Appeals, "Failure to file an
16 affidavit in support of a motion for a continuance is fatal."
17 This is a fatal defect. This is not a matter of discretion
18 with the Court.

19 So the Defense re-urges its motion to deny the
20 State's motion to continue on the authority that I've cited.
21 This is a fatal defect. It can't be granted and still be in
22 compliance with clear, unambiguous law.

23 That's all I have.

24 THE COURT: Okay. That motion is overruled.
25 The Court hereby grants the State's continuance. The Court has

1 two dates available -- February 8th, February 15th. Are either
2 of those dates amenable?

3 MR. HASLAM: The Defense is available for either
4 of those dates. We would respectfully request that we do it
5 sooner.

6 During this lull in the action, Judge, I want to
7 take the opportunity to just communicate to the court reporter
8 that we're going to want a copy of this record, so we'll look
9 for a price from the court reporter to the extent that it's
10 available as soon as possible.

11 Are we waiting on dates?

12 THE COURT: Yes. She's looking at her calendar
13 right now.

14 When's the next time Judge Brock's going to be
15 here?

16 THE CLERK: He'll be back in December.

17 THE COURT: What's the earliest date that he'll
18 be here in December, not counting motion docket?

19 THE CLERK: He'll be here December the 12th.

20 THE COURT: The matter is set December 12th
21 at 9:30.

22 MR. HASLAM: Judge, I have one other thing --
23 one other record -- bit of record to make here.

24 THE COURT: Proceed.

25 MR. HASLAM: When this motion to continue was

1 filed by the State on the 14th, I pretty promptly called the
2 Court to communicate to the Court that we were going to object,
3 and I got an e-mail back from the Court advising me that the
4 Court was going to deny the motion to continue.

5 THE COURT: I don't recall that.

6 MR. HASLAM: Not true?

7 THE COURT: I don't recall --

8 MR. HASLAM: Maybe I misread that. Maybe it was
9 denying my objection?

10 THE COURT: What date are you referring to,
11 Mr. Haslam?

12 THE CLERK: "The Judge said he is not granting
13 the continuance at this time, and he will call the case
14 Thursday morning." You were not continuing it at that time,
15 and you were going to take it up this morning.

16 MR. HASLAM: So the e-mail that I'm reading from
17 the Court on November 14th is that "Judge said he's not
18 granting a continuance at this time, and he'll call the case on
19 Thursday."

20 So I guess where that leaves us is in that area
21 that we find ourselves now, that the case was -- that the --
22 that the Judge was not going to rule on the motion to continue
23 before we came and appeared today, and it has ruled today.

24 THE COURT: Correct. I wasn't going to grant
25 the State's motion over your objection without giving you a

1 chance to object.

2 MR. HASLAM: Of course.

3 With that, nothing further, Judge. We'll just
4 need a price for the transcript.

5 THE COURT: Court's in recess -- or Court's
6 adjourned.

7 (End of proceedings.)

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