

1 APPEARANCES

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4 ON BEHALF OF THE STATE:

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6 BRIAN JOHNSON

7 DEPUTY PROSECUTING ATTORNEY

8 AND

9 JOSEPH KISOR

10 CHIEF DEPUTY PROSECUTING ATTORNEY

11 215 WEST HIGH STREET

12 LAWRENCEBURG, IN 47025

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15 ON BEHALF OF THE DEFENDANT:

16 BRYAN BARRETT

17 RUSH COUNTY PUBLIC DEFENDER'S OFFICE

18 101 EAST SECOND STREET, ROOM 315

19 RUSHVILLE, IN 46173

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1 **DANIEL BREWINGTON – HEARING ON JULY 18, 2011**

2 COURT: We're here in Case No. 15D02-1103-FD-84, State
3 of Indiana versus Daniel Brewington. Let the
4 record reflect that the State appears by Deputy
5 Prosecuting Attorney, Mr. Kisor, and the Defendant
6 appears in person and by counsel, Bryan Barrett.
7 This matter is set today for a pre-trial conference
8 and a bond reduction hearing, however the State had
9 file a Motion to Continue that bond reduction
10 hearing due to the fact that a material witness for
11 that hearing would be unavailable on today's date
12 and while I have not signed that in writing, I have
13 indicated telephonically both to the prosecutor's
14 office and to defense counsel, I would be granting
15 that motion as to the bond reduction hearing and
16 perhaps maybe get a solid date scheduled on today's
17 date for that and also it was indicated to me that the
18 parties wish to have this pre-trial conference. Right
19 now we have a jury trial setting of August 16th, to
20 commence that trial at 8:30 a.m. on that morning.
21 Are there any specific issues that the State wishes to
22 address today, Mr. Kisor?

23 MR. KISOR: No your honor.

24 COURT: And Mr. Barrett anything aside from scheduling that
25 bond reduction hearing?

1 MR. BARRETT: Um, well I'm still trying to get discovery. I've been
2 through some this morning with Mr. Brewington
3 and I will get that from Mr. Watson I guess as soon
4 as possible Judge but at this point, no. When is the
5 Court looking at the bond hearing?

6 COURT: Well I just grabbed a few dates on my calendar at
7 home before I left. If we wanted it earlier, we can
8 get on the phone with my office and see. That first
9 week of August, there's August 1st, I have the whole
10 afternoon and August 3rd and August 5th, all those
11 afternoon dates. I don't know if those may work
12 with counsel and we don't have to have an answer
13 right here, if we want to.

14 MR. BARRETT: The 1st, the 3rd, and the 5th? Is that what you said?

15 COURT: Yes, all in the p.m. Maybe counsel and I can
16 discuss that after the hearing and see and make any
17 of those a solid date.

18 MR. KISOR: That would work, what I would like to do, if we can
19 have an opportunity to talk to the witness who is
20 unavailable today to make sure with that much
21 notice that whatever date we set, we would not miss
22 the position of not having him here for that next
23 hearing.

24 COURT: Would that be possible to do this afternoon?

25 MR. KISOR: I believe I could reach him by cell phone. I would

1 hope.

2 MR. BARRETT: I know I have a jury trial in Franklin County that's

3 currently set on the 1st. I've moved to continue that

4 but I don't know if that's been granted or not. As

5 far as I know the 3rd or the 5th would be fine, Judge.

6 COURT: Okay.

7 MR. BARRETT: Obviously my client is eager to have that hearing as

8 quickly as possible.

9 COURT: I understand that.

10 MR. BARRETT: And I think that probably has a lot to do with

11 whether or not...

12 COURT: Well and that's why, I was hoping to do this on the

13 same time...

14 MR. BARRETT: ...exactly...

15 COURT: ...but it's not going to happen but I thought maybe

16 that would have some bearing on your position as

17 far as the jury trial. As far as the discovery and

18 everything goes...

19 MR. BARRETT: I don't have any reason to believe I can't get it from

20 Mr. Watson. Obviously Mr. Brewington has a

21 substantial amount here himself but I don't, he's

22 obviously in custody so I don't actually have access

23 to that on a regular basis.

24 MR. KISOR: Your honor, we would be happy to provide a

25 duplicate copy if you want to stop down in the

1 office, I'm sure we could get this, whatever we've
2 got, we could either reprint it or if there's something
3 we could put on a disk for you, we would be glad
4 to...

5 MR. BARRETT: Okay.

6 MR. KISOR: The paralegal is down there that would be able to do
7 that and I could go down with you.

8 MR. BARRETT: Okay.

9 COURT: So aside from getting that scheduled maybe we can
10 deal with some of the discovery after this hearing.

11 MR. BARRETT: Can I have just a minute Judge? I'm sorry.

12 COURT: Sure, go ahead.

13 MR. BARRETT: The inquiry that my client is making and obviously
14 I'm at some disadvantage Judge as what specific,
15 the informations in the indictments, the information
16 and indictments are pretty general, I guess and they
17 cover broad periods of time and I'm just obviously
18 wondering what the specific things the government
19 is saying that my client did that constituted
20 intimidation and the various other offenses but
21 obviously that's a discovery issue and probably for
22 another hearing.

23 COURT: Okay.

24 MR. BARRETT: And obviously that was kind of the purpose of the
25 bond hearing as well was those can certainly be

1 used for that purpose as well.

2 COURT: Well maybe I'm presuming wrong, I would
3 anticipate the State's going to be putting on some
4 specific evidence at that, for purposes of the bond
5 hearing.

6 MR. KISOR: Uh, possibly, although there were some other
7 matters unrelated to the indictments that were
8 pertinent to the issue of bond, some subsequent
9 matters.

10 COURT: Okay, I understand but I presume we'll hear...

11 MR. KISOR: Yes, I mean, if particularly the Court would make
12 that request. There is a, as far as I know, a complete
13 transcript of the grand jury proceedings.

14 MR. BARRETT: I do have that.

15 MR. KISOR: So I mean that would be what the grand jury
16 determined.

17 MR. BARRETT: I have not had an opportunity to go over that with
18 Mr. Brewington, but that's generally the
19 information that you're relying upon?

20 MR. KISOR: Yes.

21 MR. BARRETT: Okay.

22 MR. KISOR: And I would be glad to talk to you more specifically
23 more about that.

24 COURT: Anything else that needs to be addressed on the
25 record at this time, Mr. Barrett?

1 MR. BARRETT: No Judge, we would request that the trial date be
2 left at this point in time.

3 COURT: Okay, I'll leave that jury trial setting on and we will
4 discuss matters, I'll allow the parties to make some
5 phone calls and maybe contact that witness and see
6 if we can be back here on the 3rd or the 5th of
7 August, sometime in one of those afternoons. That
8 will be all for this hearing for today.

9 MR. BARRETT: Thank you, your honor.

10 MR. KISOR: Thank you, your honor.