

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

23-02935-CF-D
522023CF002935000APC

STATE OF FLORIDA

v.

MURDER IN THE FIRST DEGREE

TOMASZ ROMAN KOSOWSKI
PID: 312109281

RESPONSE TO DEFENDANT'S MOTION FOR STATEMENT OF PARTICULARS

Comes now, Bruce Bartlett, State Attorney for the Sixth Judicial Circuit of Florida, and files this Response to Defendant's Motion for Statement of Particulars, and would respond as follows:

1. Tomasz Kosowski was arrested for First Degree Murder on March 26, 2023.
2. On March 27, 2023, probable cause was found by the Court and Tomasz Kosowski was held at zero bond.
3. A Grand Jury issued an indictment against Tomasz Kosowski on April 27, 2023.
4. The indictment issued by the Grand Jury pleads the following:

The Grand Jurors of the State of Florida, impaneled and sworn to inquire and true charge make in and for the body of the County of Pinellas, upon their oath do charge that

TOMASZ ROMAN KOSOWSKI

in the County of Pinellas and State of Florida, on the 21st day of March, in the year of our Lord, two thousand twenty-three, in the County and State aforesaid unlawfully and from a premeditated design to effect the death of S.C., did by a criminal act or agency, a better description of which is to the Grand Jury unknown, inflict upon the said S.C. mortal wounds of which said mortal wounds and by the means

aforesaid, and as a direct result thereof the said S.C. died; contrary to Chapter 782.04(1)(a), Florida Statutes, and against the peace and dignity of the State of Florida.

5. On June 7, 2023, Defense filed a motion to dismiss the indictment pursuant Florida Rule of Criminal Procedure 3.140 (0), Florida Rule of Criminal Procedure 3.190 (b), the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution, and Article I, sections 9, 16, and 17 of the Constitution of the State of Florida.
6. The issues alleged by Defense Counsel related to issues of vagueness in the language of the indictment.
7. On July 11, 2023, this Court denied the Motion to Dismiss the Indictment.
8. On September 5, 2024, Defense filed a motion for statement of particulars pursuant to Florida Rule of Criminal Procedure 3.140(n); the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution; and Article I, sections 9, 16, and 17 of the Constitution of the State of Florida.
9. Discovery and depositions have been ongoing since April, 2023.
10. To date, S.C. has not returned to his home nor has he been located.

Legal Argument

A Grand Jury duly heard facts in this case. They issued an indictment after the presentation.

The discretion to grant or deny a Motion for Statement of Particulars lies solely with the trial court. Winslow v. State, 45 So.2d 339 (1949). "A bill of particulars is never required in a criminal case in Florida except in exceptional cases where denial of same constitutes abuse of judicial discretion." Peel

v. State, 154 So.2d 910, 911 (Fla 2d DCA 1963); Saldana v. State, 980 So.2d 1220 (Fla. 2d DCA 2008).

In Williams v. State, the defense sought a Statement of Particulars relating to the time the homicide was committed. Williams, 344 So.2d 927, 928 (Fla. 3d DCA 1977). The State responded that they were unaware of the time the homicide occurred. Id. The trial Court exercised discretion and denied the request for a statement of particulars. Id. The Florida Third District Court reasoned as follows:

We find to be without merit the contention of the appellant that the court committed error by denying defendant's motion for bill of particulars. Thereby defendant had sought particulars as to the date, time and place of the alleged offense. The state responds here by pointing out that the rule (Fla.R.Crim.P. 3.140(n)) calls for statement of particulars to specify 'as definitely as possible' the place, date and other material facts that 'are known to the prosecuting attorney'. The place and date were stated in the indictment. The exact time did not appear to have been known. Id.

In the instant case, the material facts that are known to the prosecution have been provided to the Defense throughout the discovery process. The indictment issued by the Grand Jury has been found sufficient to put the Defendant on notice of the allegations against him as it relates to the known facts.

Most relevant to the instant case is the Florida Supreme Court's ruling in Mendenhall v.State. In Mendenhall, a case where the actual cause of death was unknown, which proceeded to trial, and resulted in a conviction, the Florida Supreme Court found no error in denying a Bill of particulars. Mendendhall v.

State, 71 Fla. 552 (1916). In Mendenhall, the Florida Supreme Court summarized the issue as follows:

As to the motion for a bill of particulars and the subsequent renewal of the motion we need only say that an examination of the evidence clearly discloses that Mendenhall himself was better informed as to the exact cause of the death than any state witness, and that he confesses he does not know the cause, whether by bullet or by blow or by burning; and the dead body was so consumed by fire as to render impossible even a plausible guess as to the cause of death." Id. at 554.

The instant case is no exception as it relates to the denial of a motion for statement of particulars. The indictment having been found to be sufficient to put Defendant on notice of the allegations charged, the extensive discovery provided to Defendant, and the depositions conducted by Defendant, provide sufficient information to deny the Defendant's request for a statement of particulars. Like Williams, the specifics of how Defendant murdered S.C. are unknown to the state. Defendant is, however, on notice that he is responsible for the premeditated death of S.C. Similar to the Defendant in Mendenhall, Defendant is the individual with the best knowledge as to exactly how, exactly when, and exactly why he killed S.C.

WHEREFORE, the State of Florida moves this Honorable Court to deny the Defendant's Motion for Statement of Particulars.

I HEREBY CERTIFY that a copy of the above has been furnished to Bjorn Esq Brunvand, Attorney, BRUNVAND WISE P A, 615 TURNER ST, CLEARWATER, FL 33756, bjorn@acquitter.com, by e-service or personal service or U.S. Mail this 4th day of November, 2024.

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Sixth Judicial Circuit of Florida

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