

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR PINELLAS COUNTY
CASE NUMBER CRC23-02935CFANO

STATE OF FLORIDA,

Plaintiff,

vs.

TOMASZ KOSOWSKI,

Defendant.

_____ /

PROCEEDINGS: Motion Hearing

BEFORE: The Honorable Joseph A. Bulone
Circuit Court Judge

DATE: March 6, 2025

PLACE: Courtroom 9
Pinellas County Justice Center
14250 - 49th Street North
Clearwater, Florida 33762

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(Pages 1 to 21)

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P-R-O-C-E-E-D-I-N-G-S

1
2 THE COURT: All right. So are we ready on
3 Kosowski?

4 MR. BRUNVAND: Yes, your Honor.

5 THE COURT: Okay. All right. And then I
6 think you indicated before that the defendant
7 yesterday said he wanted to be here. But then he
8 refused to come over from the jail. So you're
9 gonna waive his presence; is that correct?

10 MR. BRUNVAND: That's correct. We were
11 advised that he refused this morning. I discussed
12 the motion with him yesterday, and so I'll -- for
13 purposes of this motion, I'll waive his presence.

14 THE COURT: All right. And this is a motion
15 by the Sheriff's Office, correct?

16 MS. VANOOSTING: Yes, your Honor.

17 THE COURT: All right. So what says the
18 Sheriff's Office?

19 MS. VANOOSTING: Your Honor, Emily VanOosting
20 on behalf of the Sheriff's Office. I would -- did
21 your Honor receive the amended motion I filed
22 yesterday? Perfect. And I will put -- it was
23 solely amended because Mr. Lindemann has now been
24 served through me. So but the final arguments
25 remain the same. He did not investigate this case.

1 He is not an officer. He is not a deputy. He is
2 an attorney with the Sheriff's Office.

3 Officers from all over the Sheriff's Office
4 handles the RPOs, the risk protection orders -- I'm
5 sorry. I know I'm going fast -- for the entire
6 county. They come to Mr. Lindemann in his legal
7 capacity. At no point does he help investigate
8 these cases. At no point did he investigate
9 Mr. Kosowski's case. I venture to say I don't
10 believe he'd ever even laid eyes on Mr. Kosowski.

11 This was a stipulated risk protection order
12 with Mr. Brunvand and Mr. Kosowski. There is zero
13 legal basis to depose and have Mr. Lindemann
14 testify at a murder trial. And I'd rely on the
15 arguments in my motion.

16 THE COURT: All right. So as I understand it,
17 and then correct me if I'm wrong, there's an RPO
18 after the defendant gets arrested on the first
19 degree murder. So the RPO is based on that.

20 MR. BRUNVAND: Correct.

21 THE COURT: And then, obviously, an RPO
22 hearing gets set after the temporary injunction's
23 in effect. You agree to it.

24 MR. BRUNVAND: We agreed to it.

25 THE COURT: And that's it, right?

1 MR. BRUNVAND: Well, that's not entirely it,
2 but --

3 THE COURT: Okay.

4 MR. BRUNVAND: But that's -- those are
5 certainly accurate aspects of it.

6 THE COURT: All right. So why would you need
7 to depose Mr. Lindemann?

8 MR. BRUNVAND: The reason we need to depose
9 him, your Honor, is, first of all, it's not as an
10 expert. It's based on facts. So it would be a
11 fact witness. So, basically, there's really two
12 separate areas -- it would be a very brief
13 deposition -- but one deals with the allegation
14 that my client may be suffering from a mental
15 illness, which obviously could be relevant for
16 purposes of the penalty phase if we were to get
17 there.

18 The second aspect of it is that there is
19 discrepancies between the particular items that are
20 set forth in the petition itself and the affidavit
21 that's prepared by Detective Compton. And so we
22 need to just be able to depose some -- briefly on
23 that, to find out why there are these
24 discrepancies. There's about three discrepancies
25 in there -- why -- you know, what the basis is for

1 it and the factual basis for it.

2 I can tell you, in this case, we've had
3 similar issues where we've been allowed to depose
4 two separate circuit judges in this case, you know,
5 as it relates to factual issues.

6 THE COURT: Right. Well, that's because they
7 had facts that were relevant. But anyway --

8 MR. BRUNVAND: Well, I understand. And so
9 it's our position that he may have facts that are
10 relevant based on the petition that he filed and as
11 it relates to the mental illness aspect of it, and
12 he may have facts that are relevant as it relates
13 to the discrepancies between his petition and the
14 checked off boxes that he checks off on this form
15 and Compton's affidavit that where there are
16 discrepancies.

17 And so, you know, it wouldn't be a very long
18 disposition, but I think it's important to clear
19 that up. It would be via Zoom. This is a death
20 penalty case. And, you know, it may turn out that
21 he's gonna say he doesn't know, but it may be that
22 he got information from someone else or -- but I
23 think to leave the discrepancies and the issue of
24 the mental health issue open without being able to
25 explore it --

1 THE COURT: All right. Well, I would imagine
2 there was a deputy that brought this to the
3 attention of Mr. Lindemann.

4 MR. BRUNVAND: Right. That's correct.

5 THE COURT: It's not a situation where he read
6 about it in the paper and decided to do an RPO. So
7 it would make some sense that Mr. Brunvand might be
8 able to depose the deputy that did investigate it
9 as opposed to the lawyer that just filed the
10 petition.

11 MR. BRUNVAND: But the deputy wouldn't
12 know -- there's a discrepancy between the affidavit
13 that the deputy prepared and the checklist that's
14 signed off by counsel.

15 THE COURT: Why is that relevant for your
16 case, though?

17 MR. BRUNVAND: Well, because, if, in fact,
18 there is this additional information that he's
19 aware of, you know, I'd like to know where it came
20 from. I would like to know -- because it's not in
21 Compton's affidavit.

22 THE COURT: All right. All right. Well, what
23 additional information are you talking about?

24 MR. BRUNVAND: So there's a checklist. If you
25 look at the petition itself, the temporary risk

1 protection petition, there are checkmarks on
2 page -- I guess this doesn't have any page numbers
3 on it, but it's -- give me one second here.

4 THE COURT: I mean, wouldn't it be work
5 product? I mean, if you had an issue about, say, a
6 prior criminal case, can you depose the prosecutor
7 to find out where the prosecutor got that
8 information from, or are you just allowed to depose
9 the investigating law enforcement officer? It
10 would seem to be the later, wouldn't it?

11 MR. BRUNVAND: So, in the petition and in the
12 affidavit, there are identical boxes to check off.
13 Okay?

14 THE COURT: Yeah.

15 MR. BRUNVAND: So, for example, number two in
16 the petition that was prepared by Mr. Lindemann, he
17 checks off that my client was engaged in an act of
18 or threat of violence, including but not limited to
19 acts and threats of violence against
20 himself/herself within the past 12 months.

21 In the affidavit that's prepared by
22 Detective Compton, that's checked off as no, and in
23 the affidavit that's prepared pursuant to the
24 petition by Attorney Lindemann, it's checked off as
25 yes. So that's one of the issues.

1 Same with number 11, where that indicates that
2 Dr. Kosowski has been arrested for, convicted or
3 had an adjudication withheld or pled nolo
4 contendere of a crime involving violence or a
5 threat of violence in Florida or any other state.
6 Lindemann checks it off as yes, and
7 Detective Compton checks it off as no.

8 And then 16 in the petition indicates -- this
9 is Lindemann's petition -- other additional
10 relevant information may be included as attached
11 exhibits. This may include reports and conclusions
12 for a threat of assessment team, which was not
13 checked off, and we don't know what those items
14 were.

15 So that's -- and then the general allegation
16 about the mental illness, which, you know -- so we
17 want to just confirm, you know, what that is and
18 why the discrepancies are there. It has nothing to
19 do with him as an expert witness, but these are
20 factual issues that we want to make sure are
21 cleared up before this goes to trial in May.

22 THE COURT: All right. Well, wouldn't he get
23 all the information from Deputy Compton as opposed
24 to someone else?

25 MS. VANOOSTING: Yes, your Honor. That

1 is -- excuse me. And that's the Sheriff's Office
2 position. At no point does Mr. Lindemann have any
3 independent factual knowledge about this case.
4 Anything he knows about Dr. Kosowski's case came
5 from fellow officers -- not fellow officers, but
6 from law enforcement officers in seeking a risk
7 protection order.

8 Any fact that is known for the petition, any
9 fact that would have been presented at the hearing,
10 Mr. Lindemann would never have gotten on the stand
11 at the final RPO hearing. It would have come
12 through the actual fact witnesses, such as
13 Deputy Compton, such as if it was -- if they were
14 proceeding on a mental health argument, if there
15 were any doctors that were involved; if he ended
16 up -- normally for when they do Baker Acts, I mean
17 none of them come from Mr. Lindemann. He has no
18 independent knowledge of this case.

19 THE COURT: All right. Well, I don't know of
20 anything in regard to the defendant making suicidal
21 threats previously or having a prior record at all.
22 So are those things just scrivener's errors?

23 MS. VANOOSTING: The boxes are not checked by
24 Mr. Lindemann. They're checked by the officer.
25 And so -- the deputy. So, again, if there are

1 discrepancies between boxes and then later
2 affidavits, that would still come from and need to
3 be questioned with the deputy.

4 THE COURT: All right. So -- so in the
5 affidavit, the deputy says no, but then later the
6 deputy checks yes, right? And Mr. Lindemann is not
7 the one who checked that; is that correct?

8 MS. VANOOSTING: I believe so, yes.

9 MR. BRUNVAND: I mean, I can show you
10 the -- this is clearly prepared by Lindemann and --

11 MS. VANOOSTING: Mr. Lindemann signed it. He
12 reviewed it for legal sufficiency. Once it is
13 reviewed, it is then sent to the judge to review
14 for the temporary petition. The facts in there,
15 the checkboxes, come from the deputy, because,
16 again, Mr. Lindemann has no facts about any of the
17 cases that come in front of us. Everything we're
18 given is from deputies and law enforcement
19 officers.

20 THE COURT: Right.

21 MS. VANOOSTING: And I will argue these civil
22 process, that has nothing to do with the criminal
23 case.

24 THE COURT: Right. But does he, in essence,
25 do an investigation by speaking to Deputy Compton

1 and then he's the one who does the checkmarks or
2 the Xs, whatever they are?

3 MS. VANOOSTING: There is a computer system
4 where these are entered in through, where the
5 deputies can check off boxes. If a criminal
6 history is found or they're arrested, then we
7 can -- there can be a check for the arrest. If
8 they were Baker Acted, which we would again get
9 from the deputy, there is a box checked for Baker
10 Acts, things like that.

11 But Mr. Lindemann is not independently doing
12 anything, and any discussions that he's having with
13 the officers, at that point they are going to him
14 as in his legal capacity.

15 THE COURT: All right. Well, have you deposed
16 Deputy Compton yet?

17 MR. BRUNVAND: We have.

18 THE COURT: All right. What did he have to
19 say about this?

20 MR. BRUNVAND: So as it relates to what's in
21 this petition, he doesn't -- I don't believe he
22 knows. I mean, this is -- that's the problem. I
23 have the affidavit of Compton. And I cannot
24 imagine that Lindemann, whose signature is on this
25 document, that he doesn't have the ability to look

1 at these checked off boxes when he signs off on it
2 to decide -- because the affidavit is a separate
3 attachment. So, you know, clearly they differ.
4 And so I don't know if he talked to someone else.
5 I don't know why there is the discrepancy, but
6 that's what we're trying to find out, those factual
7 issues.

8 It's a 15-minute Zoom. You know, I mean, it's
9 not complicated and it eliminates these issues from
10 being lingering issues as to, you know, why is
11 there this discrepancy. You know, they may not
12 seem significant, but there are discrepancies.

13 THE COURT: Uh-huh. All right. I mean,
14 things that were checked seem to be incorrect. Do
15 you agree with that?

16 MS. VANOOSTING: I don't, because I don't know
17 the underlying facts of this case. Even I don't
18 have independent knowledge of this case.

19 THE COURT: Right. Well, let's ask
20 Mr. Vonderheide over there. He's been working on
21 this case a long time. I mean, are there -- is
22 there any evidence that he was suicidal before this
23 happened allegedly?

24 MR. VONDERHEIDE: I don't have any.

25 THE COURT: Right. No knowledge of that. And

1 there's no prior record that we're aware of.

2 MR. VONDERHEIDE: No prior record, no.

3 THE COURT: Right. So things that were
4 checked appear to be incorrect, and they're
5 probably just scrivener's errors where there's a
6 situation where it was probably from another case
7 or something.

8 And what was the third thing?

9 MR. BRUNVAND: So there's -- the third thing
10 is it's sort of a general all-inclusive checkoff
11 that was not checked off by Compton. I don't know
12 what that means. But we're strictly looking at
13 facts, and, quite frankly, I think it would take 15
14 minutes. And maybe he says, I don't know. It's a
15 scrivener's error, but at least that way we have it
16 cleared up and, you know --

17 THE COURT: All right. And then I don't think
18 any of this really would be relevant for the guilt
19 phase. It might be relevant for the penalty phase
20 in regard to, do you know anything about him having
21 mental illness that no one else knows about, right?

22 MR. BRUNVAND: Right, except, you know, I
23 don't know about -- about the other discrepancies,
24 whether or not they might have relevance or not, I
25 mean, but clearly the mental health thing is

1 absolutely relevant for a potential penalty phase.

2 THE COURT: All right. So I don't know if
3 anyone's ever heard this before, but death is
4 different. So I'm gonna -- I'm going to allow him
5 to depose him on the issue of do you have any
6 information about mental illness or was it a
7 scrivener's error and, if you do have that
8 information, where did you get it from?

9 MR. BRUNVAND: And, your Honor, what about the
10 two other discrepancies?

11 THE COURT: Well, I mean, the prior record is
12 something we can figure out, right?

13 MR. BRUNVAND: Well, but it's not just that.
14 I mean, it's completely opposite on the -- the act
15 of any threat of violence by the respondent within
16 the past 12 months, Compton says no and the Sheriff
17 says yes.

18 THE COURT: All right.

19 MR. BRUNVAND: I just want to know, you know,
20 what's the --

21 THE COURT: All right. Well, threats of
22 violence also.

23 MR. BRUNVAND: Okay.

24 THE COURT: I don't think -- I don't think
25 prior record's something --

1 MR. BRUNVAND: No, no, prior record --

2 MS. VANOOSTING: Your Honor, threats of
3 violence within the last 12 months, it's an alleged
4 murder. That's the threat of violence.

5 THE COURT: Okay. That's the threat of
6 violence?

7 MR. BRUNVAND: So we'll clear it up. If
8 that's what it is --

9 THE COURT: We can answer that then. So, I
10 mean, if his deposition's gonna be taken anyway, he
11 can just answer that, that he doesn't mean a
12 different threat of violence, the threat of
13 violence that allegedly occurred here if that's
14 what the answer is.

15 MR. BRUNVAND: Right.

16 THE COURT: All right. Okay. All right. So
17 I don't want this to be a precedent where you're
18 gonna say, well, Judge Bulone allowed this, blah,
19 blah, blah. Okay? It's a first degree murder case
20 where the State's seeking the death penalty. So
21 it's a little bit different.

22 MR. BRUNVAND: Yes, your Honor.

23 THE COURT: Okay?

24 MR. BRUNVAND: Yes, your Honor.

25 Mr. Vonderheide and I spoke about maybe having a

1 status next week because we're working on some jury
2 questionnaires and --

3 MR. VONDERHEIDE: And I think they go out six
4 weeks before, which is essentially effectively
5 tomorrow. I mean, it's probably the 20th, I think,
6 of March, maybe the 28th of March is when the six
7 weeks the summons will go out. And we will both be
8 seeking a list of the potential venire that the
9 summons have gone out to.

10 And then I have a questionnaire I have
11 prepared for another death penalty case that I'm
12 gonna forward to Mr. Brunvand today. I think it
13 will be simple to come in next week and say we've
14 got an agreement --

15 THE COURT: Okay.

16 MR. VONDERHEIDE: -- and send it to Mr. Burke.

17 THE COURT: Okay.

18 MR. VONDERHEIDE: So if we can come back on
19 Thursday morning, if your Honor has availability,
20 next Thursday, the 13th, I believe.

21 THE COURT: All right. I think I may have
22 that Dunn case next week. Is going next week,
23 Ms. Beck?

24 MS. BECK: Yes. I spoke with Mr. Jones
25 yesterday, and I believe it's still going.

1 THE COURT: All right. So, I mean, the 13th
2 is fine.

3 MR. VONDERHEIDE: Okay.

4 THE COURT: It will probably be day three of a
5 trial, but obviously we can do that before we
6 start.

7 MR. BRUNVAND: It shouldn't take long at all,
8 your Honor.

9 MR. VONDERHEIDE: If there's any controversy,
10 we'll come back a different day and litigate that.

11 THE COURT: Okay. Anything else?

12 MR. BRUNVAND: No, your Honor.

13 THE COURT: All right.

14 THE CLERK: What are the setting on the 13th?

15 THE COURT: A status check.

16 MR. VONDERHEIDE: Status check. Jury
17 questionnaire status check.

18 THE COURT: 8:45 on next Thursday.

19 THE CLERK: Okay. And this motion was denied?

20 MR. BRUNVAND: Granted.

21 MR. VONDERHEIDE: Denied.

22 MR. BRUNVAND: No. Denied. Denied. I'm
23 sorry.

24 MS. VANOOSTING: I love granted. Put that.

25 MR. BRUNVAND: Denied, that's right.

1 THE CLERK: Thank you.

2 MR. BRUNVAND: With qualifications.

3 THE COURT: All right. So do you want

4 Mr. Kosowski for next Thursday or --

5 MR. BRUNVAND: Can we put him on a bring --

6 THE COURT: Okay.

7 MR. BRUNVAND: -- just and then I'll discuss
8 it with him and I'll let you know? If he does not
9 want to come, I'll advise chambers.

10 THE COURT: Great. All right. Thank you.

11 MS. VANOOSTING: And, your Honor, can I -- I'm
12 gonna email you an order because I believe I'll be
13 doing something with it.

14 THE COURT: All right. Okay.

15 MR. BRUNVAND: You believe you would be doing
16 what?

17 MS. VANOOSTING: Appealing it.

18 MR. BRUNVAND: Okay. All right. All right.

19 MS. VANOOSTING: You're in trial today?

20 THE COURT: Yeah.

21 MS. VANOOSTING: I'll still email it.

22 MR. BRUNVAND: Okay.

23 THE COURT: I can do more than one thing at
24 once. So it will be fine.

25 (PROCEEDINGS CONCLUDED)

CERTIFICATE OF REPORTER

STATE OF FLORIDA)

COUNTY OF PINELLAS)

I, Jennifer Fleischer, Registered Merit Reporter,
certify that I was authorized to and did stenographically
report the foregoing proceedings and that the transcript
is a true record.

DATED this 6th day of March, 2025.

/s Jennifer Fleischer
Jennifer Fleischer
Registered Merit Reporter