

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR PINELLAS COUNTY
CASE NUMBER CRC23-03157CFANO

STATE OF FLORIDA,

Plaintiff,

vs.

THOMAS ISAIAH MOSLEY,

Defendant.

PROCEEDINGS: HUNTER HEARING

BEFORE: THE HONORABLE SUSAN ST. JOHN
Circuit Court Judge

DATE: April 18, 2023

PLACE: Courtroom 4
Pinellas County Justice Center
14250 - 49th Street North
Clearwater, Florida 33762

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(Pages 1 to 25)

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(P R O C E E D I N G S)

(UNRELATED CASES WERE HEARD BUT NOT TRANSCRIBED)

THE COURT: I'm going to try to handle two quick issues. They may not be quick, but I'm going to try.

Can we see if Ms. Fletcher is ready to come in from the back, please?

MS. MANUELE: Can we approach real quick, Judge?

THE COURT: We sure can.

THE COURT REPORTER: Do you want this on the record?

MS. MANUELE: No.

(A SIDEBAR CONFERENCE WAS HAD OFF THE RECORD)

* * *

(UNRELATED CASES WERE HEARD BUT NOT TRANSCRIBED)

THE COURT: Did you have a chance to talk with -- Ms. Manuele, did you have a chance to talk with Mr. Mosley about what he wanted to do this afternoon?

MS. MANUELE: We did, your Honor. We are -- we, again, would be willing to waive his presence. We are not in a position where we feel comfortable with him answering any questions under oath.

THE COURT: Okay.

1 MS. MANUELE: So if the Court would not allow
2 us to waive his presence without doing a colloquy
3 with him, then we -- we'll have him brought in.

4 THE COURT: Okay. So Mr. Mosley, if we can
5 have him in and have him seated at counsel table
6 please.

7 We're here on case number 23-03157, State of
8 Florida versus Thomas Mosley.

9 (DEFENDANT ENTERED THE COURTROOM)

10 THE BAILIFF: This way.

11 THE COURT: All right. Mr. Mosley is present
12 and seated in the courtroom with both of his
13 lawyers and the state attorney is present.

14 It's my understanding we're here today because
15 the State has sent a subpoena for some records from
16 St. Anthony's Hospital -- Mr. Mosley's records from
17 St. Anthony's hospital, and defense has filed an
18 objection to that motion. So that's -- that's all
19 we're discussing today, correct?

20 MS. SULLIVAN: Yes.

21 THE COURT: All right. What I'm not sure is
22 what is the scope of what it is you're trying to
23 get?

24 MS. SULLIVAN: Yes, your Honor.

25 THE COURT: If you can explain that to me.

1 MS. SULLIVAN: Courtney Sullivan for the State
2 with Christie Ellis.

3 I would like to approach first with the
4 subpoena request that we made so your Honor can see
5 specifically what we're requesting.

6 THE COURT: Okay. Have you seen the -- I
7 assume you've seen the subpoena?

8 MS. RUSSELL: Yes, your Honor.

9 THE COURT: All right.

10 MS. RUSSELL: We have it.

11 THE COURT: Thank you.

12 All right. So having reviewed the subpoena,
13 is there anything more specific that you want to
14 talk to me about?

15 MS. SULLIVAN: Just my argument and the
16 evidence I'd like to put on the record.

17 THE COURT: Can I ask you some questions?

18 MS. SULLIVAN: Yes.

19 THE COURT: All right. So is Mr. Mosley
20 admitted to the hospital on March 29th of '23?

21 MS. SULLIVAN: Yes.

22 THE COURT: Okay. How long does he stay
23 there?

24 MS. SULLIVAN: He stays there until he is
25 booked into the Pinellas County Jail on March 31st.

1 THE COURT: And are you aware of what sort of
2 treatment he received at St. Anthony's Hospital?

3 MS. SULLIVAN: Yes. Our understanding is that
4 he was admitted with the lacerations to his hands
5 and his arms. He ultimately had to have surgery
6 for those lacerations. And that was the extent, I
7 believe, of his treatments while he was there. And
8 he also was placed under a Baker Act.

9 THE COURT: Are you looking to obtain any
10 medical records related to the Baker Act?

11 MS. SULLIVAN: Not at this time.

12 THE COURT: So is the scope of your subpoena
13 simply wanting to obtain any medical treatment
14 related to lacerations on his hands and arms, any
15 treatment related to those, any surgery related to
16 those, and the names of the folks who treated him
17 for those specific injuries?

18 MS. SULLIVAN: And the blood work, toxicology.

19 THE COURT: Okay. And for Defense, with that
20 understanding of the scope of what it is the State
21 is attempting to obtain, are you objecting to all
22 of it, part of it?

23 MS. RUSSELL: We're objecting to all of it,
24 your Honor.

25 THE COURT: Okay. Is there anything the State

1 wants to present?

2 MS. SULLIVAN: Yes, your Honor. So I provided
3 your Honor case law yesterday afternoon regarding
4 the State relying on the PC affidavit as part of
5 the evidence.

6 THE COURT: Uh-huh.

7 MS. SULLIVAN: I have those two for each of
8 the first degree murders that Mr. Mosley's been
9 charged with. I ask the Court to take judicial
10 notice of them. If I can approach with the two
11 affidavits.

12 THE COURT: Yes. And I assume Defense has
13 seen both of these?

14 MS. RUSSELL: Yes, your Honor.

15 THE COURT: Do you want to see them again
16 before I look at them?

17 MS. RUSSELL: I have them.

18 THE COURT: Okay.

19 MS. RUSSELL: We're aware.

20 THE COURT: And Mr. Mosley went through
21 advisories and probable cause was found, correct?

22 MS. SULLIVAN: He did. Judge Moore advised
23 him the Saturday morning that he was booked into
24 the Pinellas County Jail and PC was found on both
25 counts.

1 THE COURT: All right. These affidavits were
2 previously submitted, obviously, at the time of his
3 booking into the Pinellas County Jail. Probable
4 cause was found. I'm reading them now finding
5 probable cause as well. They were offered by
6 Detective Brian Bilbrey and sworn to under
7 perjury -- penalty of perjury per the affidavit.

8 Anything else the State wants to submit?

9 MS. SULLIVAN: We do have a body cam video
10 regarding -- if the State (sic) wants to see it. I
11 can represent to the Court in argument what that
12 statement is, but we do have it. It's a statement
13 regarding getting the toxicology records.

14 THE COURT: A statement from who?

15 MS. SULLIVAN: Lakita Denson. It's the victim
16 Pashun Jeffery's mother. She gives a statement to
17 the police shortly after it's discovered that
18 Ms. Jeffery is deceased in her apartment. And
19 during that statement she indicates that she, along
20 with other family members and including the
21 defendant, were at Pashun Jeffery's apartment
22 around 4:00 and 5:00 p.m. the date of the
23 homicides, and during that time they were smoking
24 marijuana. So that's her statement. And based on
25 case law and showing the relevancy to the

1 toxicology records, specifically, the State would
2 need to provide some evidence, informed statements
3 or any other observations that there would be drug
4 or alcohol use. And that would be a statement made
5 that within hours of this homicide occurring that
6 there was some marijuana use.

7 THE COURT: Okay. So are you wanting to admit
8 that as evidence and have me watch it today?

9 MS. SULLIVAN: Yes, that was what I -- we put
10 it on a disk so I can move it in evidence.

11 THE COURT: All right. Any objection? Have
12 you seen it?

13 MS. RUSSELL: Your Honor, we haven't seen the
14 CD.

15 THE COURT: Okay. Do you want to watch it now
16 before I see it?

17 MS. RUSSELL: Yes, we'd like to.

18 THE COURT: Okay.

19 MS. RUSSELL: And in fact, if it's lengthy, we
20 could recess --

21 MS. SULLIVAN: It's not.

22 MS. RUSSELL: -- the hearing until another
23 time.

24 MS. SULLIVAN: It's one minute.

25 MS. RUSSELL: Okay.

1 THE COURT: Okay. So is there -- I assume
2 there's audio to it?

3 MS. SULLIVAN: There is audio. And because
4 I'm having to do it on my own office laptop because
5 this laptop was not working, I may have to walk it
6 up to you when you do it.

7 THE COURT: Okay. Well, I want defense to
8 watch it first. So I can step out. You-all can
9 watch it. I'll take a couple minutes. I'll come
10 back in and you can let me know you've seen it and
11 we'll argue as to whether or not it's admissible or
12 not. Okay?

13 MS. RUSSELL: Excellent.

14 THE COURT: All right. I'll be back in a
15 minute.

16 THE BAILIFF: All rise.

17 (RECESS)

18 THE BAILIFF: All rise. Circuit court is back
19 in session.

20 THE COURT: All right. Thank you. You can
21 have a seat.

22 THE BAILIFF: Please be seated.

23 THE COURT: All right. Has Defense had an
24 opportunity to see the video?

25 MS. RUSSELL: Yes, we did, your Honor.

1 THE COURT: All right. And, Ms. Sullivan, do
2 you have that marked?

3 MS. SULLIVAN: I can, but once I take it out
4 of here.

5 THE COURT: Oh. Well --

6 MS. SULLIVAN: It's still in my --

7 THE COURT: -- what are you going to call it,
8 State's Exhibit 1? Any objection to State's 1?

9 MS. RUSSELL: Well, yes, your Honor. You
10 know, we think that it's not relevant to the
11 subject of the subpoena. So we object to its being
12 admitted.

13 THE COURT: Okay. I don't know that I'm going
14 to know that until we see it.

15 MS. RUSSELL: Right.

16 THE COURT: All right. So let's play it.

17 MS. SULLIVAN: Do you mind if I walk it up to
18 your Honor to --

19 THE COURT: No, I don't mind.

20 So, madam clerk, we'll need a tag for State's
21 Exhibit 1, please.

22 THE CLERK: Yes, your Honor.

23 MS. SULLIVAN: The beginning part is silent
24 because the body cam audio hasn't kicked on. Make
25 sure it's loud enough for you.

1 (STATE'S EXHIBIT 1 WAS PUBLISHED TO THE COURT. DUE
2 TO POOR QUALITY OF THE RECORDING, INABILITY TO DISTINGUISH
3 SPEAKERS, SPEED OF CONVERSATION AND/OR SIMULTANEOUS
4 SPEAKING, THE FOLLOWING TRANSCRIPTION IS NOT A VERBATIM
5 RECORD OF SAID VIDEO)

6 UNIDENTIFIED SPEAKER: What's up? I just
7 heard (unintelligible) I just heard
8 (unintelligible) and the baby. Yesterday it
9 happened (unintelligible) birthday. Yesterday was
10 her baby's daddy birthday. Tom, it was his
11 birthday.

12 UNIDENTIFIED SPEAKER: Do you know if they
13 were drinking or anything?

14 UNIDENTIFIED SPEAKER: I just know they were
15 smoking.

16 UNIDENTIFIED SPEAKER: Smoking weed?

17 UNIDENTIFIED SPEAKER: Yes. 'Cause I -- I --
18 I smoke with 'em --

19 UNIDENTIFIED SPEAKER: Okay.

20 UNIDENTIFIED SPEAKER: -- yesterday. And
21 while he's open up his gifts and, um, they was
22 sitting there on the couch.

23 UNIDENTIFIED SPEAKER: Yeah.

24 UNIDENTIFIED SPEAKER: And then she come. We
25 was eating ice cream and stuff. And I go, okay,

1 I'm fittin' to go (unintelligible).

2 UNIDENTIFIED SPEAKER: You gotta be.

3 UNIDENTIFIED SPEAKER: Go call your dad back
4 'cause he worry. I been had him on his -- on the
5 alert (unintelligible).

6 (PUBLISHING CONCLUDED)

7 THE COURT: All right. So I viewed State's
8 Exhibit 1, body cam video. Remind me who was that
9 was again, please.

10 MS. SULLIVAN: That was Lakita, L-A-K-I-T-A,
11 Denson. That is the mother of victim
12 Pashun Jeffery. And that is body cam that was
13 taken on March 30th of 2023, the day that
14 Ms. Jeffery was discovered deceased in her
15 apartment.

16 THE COURT: Okay. Anything else the State is
17 seeking to introduce?

18 MS. SULLIVAN: Not in terms of evidence,
19 your Honor.

20 THE COURT: Did you want to have these
21 affidavits marked?

22 MS. SULLIVAN: Yes. And I guess we can call
23 those two and three.

24 THE COURT: Okay. Any objections to two and
25 three?

1 MS. RUSSELL: No, your Honor.

2 THE COURT: All right.

3 (STATE'S EXHIBIT NUMBERS 1, 2, AND 3 WERE RECEIVED IN
4 EVIDENCE)

5 THE COURT: And, obviously, the State has the
6 burden here, but did Defense wish to admit anything
7 into evidence? I don't know that you would in a
8 hearing like this, but I wanted to offer you that
9 opportunity if there's something you wanted me to
10 view or review.

11 MS. RUSSELL: Thank you, your Honor. No, we
12 don't have anything except the cases that we
13 e-mailed earlier yesterday.

14 THE COURT: Yes, thank you. And I've read all
15 the cases you-all have sent me.

16 All right. So let's get to -- anything else
17 before we get to argument?

18 MS. SULLIVAN: Not from the State.

19 THE COURT: Anything else before we do
20 argument?

21 MS. RUSSELL: No, your Honor.

22 THE COURT: All right. Ms. Sullivan, are you
23 doing the argument?

24 MS. SULLIVAN: Yes.

25 THE COURT: Okay.

1 MS. SULLIVAN: So, your Honor, based on all
2 the case law, it's pretty consistent across the
3 board that the State's burden is to show a
4 reasonable founded suspicion that the materials
5 that we are seeking are relevant to an ongoing
6 criminal investigation.

7 First, in terms of what we just watched on the
8 body cam, the reason why the State provided that
9 specific evidence of the statement by Lakita Denson
10 is because in the *Rodriguez v. State* case that was
11 provided by the defense to your Honor, it says that
12 linking the relevance of toxicology records, it's
13 important to have statements from witnesses who
14 observed the person whose records are being sought
15 close in time to the crime.

16 And that's what we have with Lakita Denson.
17 She makes in her statement she was with the
18 defendant just prior to both the homicides. And
19 she makes reference that the defendant was smoking
20 marijuana along with her and the victim. So that's
21 why we provided that actual evidence of a statement
22 because that *Rodriguez* case requires that when
23 you're discussing toxicology records.

24 In terms of the rest of the records, the
25 medical records and the treatment records regarding

1 his injuries, the State relies on the probable
2 cause affidavits of both Taylen Mosley and
3 Pashun Jeffery. What's important in that affidavit
4 is it sets out the timeline of events that occurred
5 that evening and that the defendant showed up to
6 the hospital within hours of these homicides
7 occurring with the deep laceration wounds to both
8 of his hands that ultimately required surgery.

9 We know from the probable cause affidavit that
10 your Honor is relying on that the victim,
11 Pashun Jeffery, was found deceased in her apartment
12 stabbed many times by a knife. And then at
13 9:03 p.m. this defendant shows up at his parents'
14 house with the severe lacerations and his brother
15 Isaac drives him to St. Anthony's Hospital.

16 So based on the affidavit and how we know
17 Pashun Jeffery was killed that day, these medical
18 records are relevant because it will give the State
19 information in its investigation as to the
20 treatment, how severe these injuries were, how they
21 had to be treated, what the surgery entailed, all
22 of that information which is highly relevant to our
23 crimes of first degree murder.

24 In addition, the timeline being so close to
25 when these homicides occurred, any statements made

1 to treating physicians about how these injuries
2 occurred by the defendant are relevant. Statements
3 made about why he was at the hospital with what
4 appeared to be knife slippage wounds according to
5 the PC affidavit that you're referring to.

6 We aren't asking for the records -- I want to
7 make clear because case law discusses this -- in
8 anticipation of any defenses. That's not why we're
9 asking for these records. We're asking for them
10 because they are very relevant to our investigation
11 and our charges of first degree murder. And that's
12 why I told your Honor we weren't at this point
13 asking for anything regarding Baker Act records.
14 These are purely medical treatment records by the
15 physicians, the nurses that treated him, the
16 statements that they obtained from him in
17 diagnosing his injuries, what treatment he
18 received, and his toxicology results.

19 That's all at this time, your Honor.

20 THE COURT: So if I'm understanding your
21 argument correctly, you believe that his injuries
22 that he was treated for at St. Anthony's Hospital
23 were the result of slippage due to the stabbing?

24 MS. SULLIVAN: Yes.

25 THE COURT: All right. Defense?

1 MS. RUSSELL: Your Honor, at this point we're
2 talking about a probable cause that a murder -- or
3 two murders occurred. There have been no formal
4 charges filed in this case.

5 And the State has heavy burden. They have to
6 show not only relevance, but actually a specific
7 closely tailored nexus between the records and the
8 elements of the crime that they are seeking to
9 prove.

10 Now, in most of the cases cited by defense,
11 they are DUI cases that have to deal with
12 toxicology. You can see why there would be a close
13 nexus in a case like that. Here we're talking
14 about murder. And the two cases that I sent to the
15 Court, *Tyson*, 114 So.3d 443, and *Faber*, 157 So.3d
16 429, are both murder cases where the State sought a
17 broad subpoena for medical records. And in both of
18 those cases the subpoena was quashed and found to
19 be issued in error because people were indicted and
20 charged with first degree murder, and no insanity
21 defense or any affirmative defense had been
22 noticed. And --

23 THE COURT: But in the *Tyson* case they
24 requested medical records that were over 17 years
25 old from various different entities. I think the

1 issue there was the broad scope and not narrowly
2 tailored, right?

3 MS. RUSSELL: Exactly, broad scope, narrowly
4 tailored, but they did -- they did request medical
5 records over a long period of time, including ones
6 that were supposedly tied to the murder.

7 THE COURT: Okay.

8 MS. RUSSELL: Okay? And in *Faber*, same thing,
9 insufficient nexus for the very broad scope.

10 When we're talking about toxicology, right, in
11 this case it's very difficult for me to understand
12 why the State would think that toxicology would
13 have anything to do with the elements of a murder
14 charge.

15 Moving forward, in the words of the subpoena
16 itself, they are seeking all medical records of
17 diagnosis and treatment of patient Thomas Isaiah
18 Mosley. Treatment date commencing on or about
19 3/29, to include, but not limited to: Blood
20 analysis, toxicology, the names of all treating
21 physicians and nurses, and observations and all
22 notes.

23 This is an exceptionally broad subpoena that
24 is in no way narrowly tailored to give the State
25 what it needs and balance Mr. Mosley's critical

1 privacy rights that are protected by the Florida
2 and the United States constitutions.

3 I'd like to also reinforce the fact that many
4 of the State's rationales for requesting these
5 records are actually cumulative. The very probable
6 cause affidavits that they have say that there have
7 been stab wounds to his hands.

8 This is actually referenced in the affidavit
9 where it says: At approximately 2103 hours, the
10 defendant arrived sat his mother's house with
11 severe lacerations to both of his hands and arms
12 consistent with injuries caused by the slippage
13 during knife attack.

14 So if they already have that fact by probable
15 cause in the affidavit, these medical records are
16 actually cumulative and there's no reason to
17 violate Mr. Mosley's privacy rights by providing
18 the State with additional cumulative evidence.

19 If Mr. Mosley's privacy rights are violated by
20 this broad disclosure, it will cause irreparable
21 harm. And all the appellate cases say there is no
22 way to put the toothpaste back in the tube should
23 you grant this overly broad subpoena.

24 I'd just like to add, your Honor, that we also
25 believe that even if you're inclined to allow this

1 overly broad subpoena, that the subpoena would
2 really be premature at this point because the State
3 has not filed formal charges against Mr. Mosley and
4 at this point we have no discovery and no
5 understanding of whether there might have been
6 issues relating toe custodial interrogation at the
7 hospital.

8 Finally, if by any chance you are inclined to
9 grant the subpoena, we would ask for an in-camera
10 review of the hospital records so that you could
11 determine whether or not the records are
12 potentially relevant and narrowly tailored before
13 they are actually turned over to the State.

14 That's all I have. Thank you.

15 THE COURT: All right. Thank you.

16 Anything else that you wanted to add,
17 Ms. Sullivan?

18 MS. SULLIVAN: Yes, your Honor. I just want
19 to put one case on the record in reference to what
20 Ms. Russell just cited. It's on point with what
21 she was just discussing, so I want to make a
22 record. If I may approach with that because I
23 didn't provide it to you before.

24 THE COURT: Sure.

25 MS. SULLIVAN: It's *State v. Rivers*. It's a

1 Second DCA case, 787 So.2d 952. And it's just a
2 response to what Ms. Russell just argued that it's
3 cumulative what the State is asking for.

4 This case specifically addresses that issue
5 when in a DUI case the State already had legal
6 blood but then was asking for medical blood. And
7 it states that that does not preclude the State
8 from getting that additional medical blood and it
9 is not, in fact, a cumulative argument. It is not
10 a good basis to deny our request for medical
11 records.

12 THE COURT: Is it the State's position that
13 Mr. Mosley was under the influence of narcotics at
14 the time of the offense?

15 MS. SULLIVAN: We don't know. And the State's
16 position is to either corroborate or refute the
17 statement made by Lakita Denson regarding that.
18 Our position is that we've established -- our
19 burden is to establish a relevancy to ask for those
20 results based on the statements that he may or may
21 not have been smoking do marijuana. Whether or not
22 that leads to other things in the future, it is
23 still part of our investigation.

24 THE COURT: Okay. All right. I'm going to
25 prepare a written order. I'm not going to rule

1 today. So if you like, I can give you a status
2 check in a week or so for that.

3 Does the State have any sort of timeline on
4 when you expect to file? Do you have a timeline as
5 to when you expect to file?

6 MS. SULLIVAN: It will be within the next 30
7 days, your Honor.

8 THE COURT: Is there any day of the week that
9 is better for you-all to come in?

10 MS. MANUELE: We're here always.

11 MS. RUSSELL: Yes.

12 MS. SULLIVAN: It just depends, your Honor, on
13 the week, but --

14 THE COURT: Okay. Well, let me pick a day and
15 see what works for -- if it works for you-all.
16 May 5?

17 MS. SULLIVAN: That's fine, your Honor.

18 MS. RUSSELL: Yes, your Honor. That's fine
19 with me.

20 THE COURT: For both of --

21 MS. RUSSELL: Yes, it's fine.

22 THE COURT: Okay. Great. May 5th, 8:45.
23 That will be a status check. I guess I can do 8:30
24 status check on order related to medical records
25 for Mr. Mosley.

1 All right. Anything else we need to discuss
2 for Mr. Mosley at this time?

3 MS. SULLIVAN: Not for the State, your Honor.

4 MS. MANUELE: No, your Honor. Can we waive
5 his appearance for the May 5th status check?

6 THE COURT: For the status check? If
7 Mr. Mosley wants to affirmatively waive that on the
8 record, he can do that.

9 My preference would be that he is here. If he
10 wants to waive it, he'd have to under oath tell me
11 he doesn't want to be here. This is a serious case
12 and I'm not willing to allow his appearance to be
13 waived without him indicating that's what he wants
14 to do.

15 MS. MANUELE: He is indicating that he is fine
16 not coming.

17 THE COURT: All right. Mr. Mosley, I need you
18 to stand up and raise your right hand for me.

19 MS. MANUELE: He'll -- he indicated he'll just
20 come, your Honor.

21 THE COURT: Okay. All right. See everyone
22 back here May 5th at 8:30. Thank you.

23 MS. SULLIVAN: Thank you.

24 (HEARING CONCLUDED)

25

CERTIFICATE OF REPORTER

STATE OF FLORIDA)

COUNTY OF PINELLAS)

I, Carla Jessal, Registered Professional Reporter,
certify that I was authorized to and did stenographically
report the foregoing proceedings and that the transcript
is a true record.

DATED this 12th day of April, 2023.

/s Carla Jessal
Carla Jessal
Registered Professional Reporter