

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 MOSLEY,

Defendant.

PROCEEDINGS: STATUS CHECK

BEFORE: THE HONORABLE SUSAN ST. JOHN
CIRCUIT JUDGE

DATE: March 20, 2024

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

REPORTER: Robin Fraley
Registered Professional Reporter

(Pages 1 to 18)

Administrative Office of the Courts
Court Reporting Department
Pinellas County Justice Center
14250 - 49th Street North
Clearwater, Florida 33762
Telephone: (727) 453-7233
Fax: (727) 453-7488

APPEARANCES

**APPEARING ON BEHALF OF
THE STATE OF FLORIDA:**

COURTNEY SULLIVAN, ASSISTANT STATE ATTORNEY
CHRISTIE ELLIS, ASSISTANT STATE ATTORNEY
Office of Bruce L. Bartlett, State Attorney
Sixth Judicial Circuit, Pinellas County
14250 - 49th Street North
Clearwater, Florida 33762

**APPEARING ON BEHALF OF
THE DEFENDANT THOMAS MOSLEY:**

MARGARET S. RUSSELL, ASSISTANT PUBLIC DEFENDER
NICHOLE BLAQUIERE, ASSISTANT PUBLIC DEFENDER
Office of Sara B. Mollo, Public Defender
Sixth Judicial Circuit, Pinellas County
14250 - 49th Street North
Clearwater, Florida 33762

* * *

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

2 THE COURT: And we are going to do
3 Mr. Mosley next.

4 MS. RUSSELL: Yes, your Honor.

5 THE COURT: Yes.

6 MS. RUSSELL: Good morning, your Honor.
7 It's Margaret Russell here on behalf of Thomas
8 Mosley. He's on page one of one of your add-on
9 motion calendar for today.

10 THE COURT: Okay.

11 MS. RUSSELL: Unfortunately, Miss Manuele
12 is stuck in depositions, but Miss Nichole
13 Blaquiere is here.

14 THE COURT: Okay. We are going to wait
15 for this gentleman to finish getting his prints
16 rolled and then have Mr. Mosley out.

17 MS. RUSSELL: Okay.

18 THE COURT: Okay. Mr. Mosley, good
19 morning.

20 All right. Miss Russell?

21 MS. RUSSELL: Your Honor, I know that this
22 hearing was scheduled in order to check Miss
23 Manuale's availability on March 22nd for the
24 hearing Friday afternoon. Unfortunately, her
25 trial is still scheduled to go, and she is not

1 available Friday afternoon for the hearing.

2 THE COURT: Okay.

3 MS. RUSSELL: I believe she advised the
4 Court of the possibility when we were
5 scheduling.

6 THE COURT: Yes. We talked about that.
7 What has changed since that time, however, is
8 that we are not doing a full hearing. We are
9 only doing the state hospital doctor, right?

10 MS. RUSSELL: Exactly.

11 THE COURT: And he's got -- Mr. Mosley has
12 three lawyers.

13 MS. RUSSELL: Correct. Unfortunately,
14 only one of them, which is Miss Manuele, is
15 death qualified.

16 THE COURT: Okay.

17 MS. RUSSELL: And since it is a death
18 penalty case, it would be important for her to
19 be present --

20 THE COURT: Okay.

21 MS. RUSSELL: -- as a constitutional
22 matter.

23 THE COURT: Understood. And the one
24 doctor should take how long, do we think? I
25 mean, she is unavailable for trial prep. I

1 understand that. She has got a trial next
2 week. How long are we thinking the one doctor
3 will take?

4 MS. SULLIVAN: A couple of hours, at most.
5 We had -- I don't know how long their
6 cross-examination will be.

7 THE COURT: Your questioning of the doctor
8 would take how long?

9 MS. SULLIVAN: About an hour. Maybe less.

10 THE COURT: Okay.

11 MS. SULLIVAN: We have another thing that
12 we were going to bring up and talk about.

13 THE COURT: Sure.

14 MS. SULLIVAN: Having to do with this.

15 THE COURT: Okay.

16 MS. SULLIVAN: We obviously would want to
17 get -- have said it like a broken record, that
18 testimony on as soon as possible.

19 THE COURT: Right.

20 MS. SULLIVAN: But part two of that is we
21 have bifurcated the hearing, and the Defense,
22 whoever they hire -- I don't know if they have
23 done the evaluations yet --

24 THE COURT: Uh-huh.

25 MS. SULLIVAN: Even if they have, if the

1 second part of the hearing isn't until June,
2 Miss Ellis and I read a lot of case law over
3 the last two days since we were last here, and
4 we have concerns. Ultimately, whenever you get
5 to making a finding on this --

6 THE COURT: Right.

7 MS. SULLIVAN: -- that we could be on the
8 cusp of what the appellate courts say is
9 staleness with regards to both the state
10 hospital evaluation, which happened back in
11 January, and then the defense doctors, whenever
12 they do their evaluation, it could be all of
13 our doctors are now stale because we don't have
14 the hearing until June or it could half of them
15 are, half of them are still good, but the case
16 law, six months is kind of a scary window when
17 you get up to the six months, which is where we
18 will be, that the appellate courts, the Second
19 DCA, specifically, said that was stale.

20 THE COURT: So you are concerned about
21 everything being stale by the time we finish
22 this?

23 MS. SULLIVAN: Yes. So if we got at least
24 our portion on Friday and if they can move
25 theirs up, I think we would be okay. If we

1 could agree because Miss Manuele is not
2 available Friday, to push everything in April
3 and do all of it then, I think we would be
4 okay. But I think we are in a dangerous
5 territory appellate-wise if we wait to finish
6 everything on that June 14th date.

7 THE COURT: Have your evaluations been
8 done yet?

9 MS. RUSSELL: We have, but just to let the
10 Court know, of course, we understand the law of
11 staleness --

12 THE COURT: Right.

13 MS. RUSSELL: -- and of competency, and
14 this is not going to be a problem from the
15 Defense side because we consult with our
16 experts continually and they are continually
17 evaluated, Mr. Mosley for competency --

18 THE COURT: So they are going to go back
19 out and see him again before any hearing that
20 we have?

21 MS. RUSSELL: Obviously, that would be the
22 best case and the best practice.

23 THE COURT: Okay. And we are set right
24 now for part two for June --

25 MS. SULLIVAN: June 14th.

1 MS. RUSSELL: June 14th.

2 MS. SULLIVAN: Now, kind of the second
3 thing to that is Defense was able to give me
4 their availability. There is a couple of dates
5 in April they are available. They said their
6 doctors have patients to see. My response to
7 that is I understand that, but this is a
8 serious case, and at some point we have to
9 prioritize the serious cases of when they are
10 testifying versus, you know, the less serious
11 competency concerns on cases, and the doctor we
12 were going to fly in from Miami also had
13 patients to see but had to clear her schedule
14 because I sent her a subpoena and said that she
15 was Court ordered to be here.

16 So I don't know expect the Defense counsel
17 to start getting into fights with these doctors
18 that I know are busy, but at some point, I
19 don't know if the Court can step in and say,
20 you know, we need to have these hearings
21 timely. The law requires it, requires those
22 hearings to be timely, and if they get a
23 subpoena to come testify, then they need to
24 clear a couple of hours of seeing patients to
25 come do this on such a serious case.

1 So my ultimate preference is try to pick a
2 date in April and we can do everything and then
3 we don't have a staleness situation on either
4 side.

5 THE COURT: Do you have a position on
6 that?

7 MS. RUSSELL: Okay. First of all, I am
8 not of advocating for any staleness issue on
9 the side of the Defense. The staleness issue
10 is wholly a State problem and it's a State
11 problem caused primarily by the fact that they
12 didn't want the Court to reappoint experts,
13 that they have decided in this competent
14 proceeding to rely solely on the state hospital
15 report prepared in January. That fact has been
16 clear since the very beginning.

17 The State could also ask the Court to
18 appoint additional experts who could do an
19 evaluation more presently so that things
20 wouldn't be stale. Okay. So that is one
21 aspect.

22 I want to be clear that the Defense is not
23 making any argument that this hearing needs to
24 be rushed or pushed up in order to meet
25 staleness standards because our Defense experts

1 are continually evaluating and continually
2 analyzing the competency aspects of this case,
3 which are complicated.

4 Putting that aside for a moment, the
5 difficulty again is our Defense experts not
6 only have to see patients, they are also under
7 subpoena for other hearings and depositions in
8 other matters throughout the State of Florida.
9 They are statewide experts who have extremely
10 busy calendars.

11 When I did contact them, I got a number of
12 dates, and at the last hearing when we were
13 here, we decided that June 14th was the first
14 date that the Court's calendar was available,
15 Defense calendar was available, State's
16 calendar was available and expert witness
17 calendar was available. I don't see how there
18 is any procedure for this Court to order
19 experts to be here when they tell me that they
20 are not available.

21 We would have no objection, either if the
22 State would want to invoke their right to have
23 another court appointed expert selected from
24 the list.

25 THE COURT: Okay. Well, here is the

1 problem with April, I have a homicide starting
2 April 15th. That wipes out that whole week,
3 and then the last week in April, first week in
4 May, I am out of town. That gives us a very
5 small window of time.

6 You know, I am not opposed to trying to do
7 it in April. I just don't know if that is
8 going to be realistic. I mean, from my
9 prospective, cases like this take priority, and
10 I will move things around on my schedule to
11 make it work, especially someone who is in
12 custody. We are always going to have the
13 priority time slots, but even if I was to pick
14 a date today, we wouldn't know whether or not
15 today that will work for everybody.

16 So let's just start with this. The 3/22,
17 I will grant the continuance that you are
18 asking for and move that date, but I would like
19 to still have a status check at one-thirty. I
20 would like you-all to check your doctors'
21 availability.

22 MS. RUSSELL: Your Honor, I have actually
23 came prepared with all Defense counsel and
24 expert availability.

25 MS. SULLIVAN: And we have the doctor who

1 was listed to come on Friday, her
2 unavailability as well.

3 THE COURT: Well, fantastic. Let's have a
4 look, April 10, 11, 12?

5 MS. RUSSELL: Counsel for the Defense
6 unavailable.

7 THE COURT: On any of those days?

8 MS. RUSSELL: All of those days,
9 unfortunately.

10 THE COURT: April 23rd, 24th, 25th or
11 26th?

12 MS. RUSSELL: Defense Counsel is in trial.

13 THE COURT: On what kind of case?

14 MS. BLAQUIERE: It's a sexual battery.

15 Miss Manuale and I are --

16 THE COURT: In what division?

17 MS. BLAQUIERE: T.

18 THE COURT: Is that going for sure?

19 MS. BLAQUIERE: For now, yes.

20 THE COURT: Okay.

21 MS. BLAQUIERE: There are no motions to
22 continue, and I know that the State will
23 humanity object and likely prevail on the
24 objection.

25 THE COURT: Because if I set it those

1 days, I would be moving trials to get it done
2 in April.

3 MS. BLAQUIERE: We did already depose the
4 victim.

5 THE COURT: So other than that, I am in a
6 homicide trial starting the 15th through the
7 19th, and then I am out of town April 29th
8 through the 3rd, and then I start another
9 homicide May 6th, which is bookmarked for two
10 weeks.

11 MS. RUSSELL: We have May 20th available
12 on the Defense side for a bifurcated hearing.

13 THE COURT: I am at the dentist that day?

14 MS. RUSSELL: I'm sorry.

15 THE COURT: And so that is the problem we
16 are having. What is your witness'
17 unavailability? How far out did you go?

18 MS. SULLIVAN: I went up until that 6/14
19 date. So the April 25th, 26th, those dates you
20 said were fine. She is out 4/8 to 4/10, 4/30
21 to 5/2, 5/22 to 6/5. Everything else she is
22 available.

23 THE COURT: What do you think about -- did
24 you tell me anything about May 28th?

25 MS. RUSSELL: Defense counsel unavailable

1 on the 28th.

2 THE COURT: May 31?

3 MS. RUSSELL: Defense Counsel unavailable.

4 MS. SULLIVAN: Ours is from 5/22 to 6/5
5 available.

6 THE COURT: Okay. Well, it sounds like
7 the best I'm going to be able to do is do
8 everything on June 14th.

9 MS. SULLIVAN: If we are going to have
10 everything on -- sorry -- if we are going to
11 have everything on 6/14, then at this point,
12 the State would request one court appointed
13 doctor off the list.

14 THE COURT: Okay. I will do that today.
15 I'll appoint a doctor off the list for
16 competency placement and restorability. And
17 what I would like to do is set a status check
18 in two weeks so that we can all learn together
19 who that doctor is, and then you all can decide
20 what if anything you want to send them. Okay?
21 That is just an easy way for me to make sure
22 the doctor has the order and we are moving, and
23 then as soon as we know, I don't care who does
24 it, but checking for that doctor's availability
25 on that date would be very helpful to know, and

1 that way if I need to adjust that June 14th
2 date, I can do that. Okay.

3 Why did we have him on for a status check
4 on 4/22?

5 MS. SULLIVAN: That was the original date
6 we set when he first went to the state
7 hospital.

8 THE COURT: So we can remove, Madam Clerk,
9 the 3/22 and 4/22 dates. Leave it on for 6/14
10 competency evidentiary hearing.

11 THE CLERK: Okay.

12 THE COURT: And then --

13 MS. BLAQUIERE: And I don't know if it can
14 be noted, but I believe Defense has already
15 hired McClain, so she should not be a court
16 appointed -- she is on the list.

17 THE COURT: Another --

18 MS. BLAQUIERE: So I have seen that happen
19 a couple of times.

20 THE COURT: Another good reason for us to
21 check in two weeks. Today is March 20 -- where
22 are we -- March 20th. Let's try April 3rd,
23 status check on doctor appointment.

24 Mr. Mosley is a bring for that day, and
25 all of your folks are available for the June

1 date, correct?

2 MS. SULLIVAN: Yes, your Honor. We ran it
3 up the flag pole.

4 THE COURT: All right.

5 MS. SULLIVAN: Although I will say, now we
6 are going to do the entire hearing with
7 whatever State experts, whether it's state
8 hospital, plus an additional court appointed or
9 not, I think that is going to be a long day.

10 THE COURT: I will pack my dinner.

11 MS. SULLIVAN: Okay.

12 THE COURT: Because we need to get it done
13 that day. You know, I'm completely
14 understanding of trying to get lawyers'
15 schedules and doctors' schedules. So if we
16 have to stay late to get it all done that day
17 because that is when we can get everyone in the
18 room together, that is what we will do.

19 MS. SULLIVAN: Okay.

20 THE COURT: I'll pack a lunch.

21 MS. SULLIVAN: Okay.

22 THE COURT: Okay. All right. I'll see
23 you-all in two weeks to make sure the doctor's
24 been appointed and we can check on the schedule
25 of that doctor. We'll have Mr. Mosley brought

1 over that day, and then we have the hearing set
2 for the 14th of June. All right. We'll see
3 you-all then. Thank you.

4 MS. SULLIVAN: All right.

5 MS. BLAQUIERE: Thank you.

6 MS. RUSSELL: Thank you.

7 (HEARING CONCLUDED)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

