

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: STATUS CHECK HEARING

BEFORE: The Honorable Susan St. John
Circuit Court Judge

DATE: March 24, 2025

PLACE: Courtroom 2
Pinellas County Justice Center
14250 - 49th Street North
Clearwater, Florida 33762

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(Pages 1 to 17)

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* * *

P R O C E E D I N G S

THE COURT: Good morning.

MS. SEIFER-SMITH: Good morning.

THE COURT: Madame Court Reporter, are you ready?

THE COURT REPORTER: Yes, ma'am, I am.

MS. SEIFER-SMITH: Julia Seifer-Smith here on Thomas Mosley. He is on page 17, and 18, and 19 of your motion calendar this morning, your Honor.

THE COURT: Okay.

MS. SEIFER-SMITH: If I may I approach?

THE COURT: Sure.

MS. SEIFER-SMITH: On Friday, we filed this motion to ask the Court to reconfigure the competency evaluations that are going forward due to suspected intellectual disability.

THE COURT: Okay. Have you seen the motion?

MS. SULLIVAN: I have.

THE COURT: Okay. When I signed the transport order to bring him back, I appointed two doctors. And I don't -- I don't see a note as to who they are --

MS. SEIFER-SMITH: It's Dr. -- Dr. Railey and Dr. Torrealday, your Honor.

THE COURT: Who's the first one?

1 MS. SEIFER-SMITH: Dr. Railey.

2 THE COURT: That's a new doctor to me.

3 MS. SEIFER-SMITH: It is.

4 THE COURT: Okay. So do you want me to
5 substitute one of those out for an APD doctor?

6 Is that what you're asking me to do?

7 MS. SEIFER-SMITH: Sure.

8 THE COURT: You look --

9 MS. SEIFER-SMITH: Well, I was going to say
10 that she was --

11 (SIMULTANEOUS TALKING)

12 THE COURT: Are they --

13 MS. SEIFER-SMITH: -- the two of them.

14 THE COURT: -- on the list already?

15 MS. SEIFER-SMITH: As it turns out --

16 THE COURT: Okay. Perfect.

17 MS. SULLIVAN: And I know one of them has an
18 evaluation scheduled tomorrow morning at 9:00 a.m.
19 I forget who it was.

20 MS. SEIFER-SMITH: Dr. Railey. But, your
21 Honor, that is another issue we need to bring up in
22 front of the Court.

23 THE COURT: Let me log on here. Sorry. My
24 computer is not working today, quite well.

25 Okay. You have my full attention.

1 MS. SEIFER-SMITH: In deference to the Court's
2 order, we did speak with Dr. Railey and
3 Dr. Torrealday in an effort to try to get these
4 evaluations scheduled in compliance with the time
5 limits and Rule 3.210, 3.211 and 3.212.

6 We're here today because of an intellectual
7 disability aspect and ask you to waive those time
8 limits for a good cause.

9 I would like to just take a minute to explain
10 to the Court the issues that we have.

11 THE COURT: Sure.

12 MS. SEIFER-SMITH: Okay. The State hospital
13 filed a report. Dr. Lana Tenaglia filed her report
14 from February 28th of 2025. In that report, she
15 diagnosed Mr. Mosely with one thing, which is a
16 non-diagnosis, of malingering.

17 Nonetheless, the report also states that
18 Mr. Mosely has been prescribed Prolixin, which is a
19 strong antipsychotic; Zoloft and Desyrel, two
20 antidepressants. Knowing what we know about
21 medication and that medical doctors are usually not
22 in the business of prescribing antipsychotics for
23 people who don't have psychosis or antidepressants
24 for people who don't have depression, we have some
25 real concerns about what happened there.

1 Nonetheless, the State hospital also gave him
2 an outdated version of the Wechsler Intelligence
3 Scale and found him to have an IQ of 46. In the
4 days following, they also gave him a test called
5 the VIP and another one called the M-FAST. Those
6 are two measures that are, according to the test
7 manuals, never to be used in the context of someone
8 with a potential cognitive problem or cognitive
9 disability.

10 The issue there is that, as the test manuals
11 say -- and there's a lot of research to back it
12 up -- that they often give false positives for
13 malingering, which is a problem in a case like
14 this.

15 Here we are stuck with an IQ of 46, which
16 tells all of us, including the entire world, that
17 we may have an issue with intellectual disability
18 or cognitive deficits. And it really triggers the
19 need for a full look at the intellectual disability
20 in Mr. Mosley's case.

21 Now, how are we going to take a look at that?
22 Well, we need all the records and test results from
23 South Florida. Unfortunately, we requested, first,
24 all the records and test results. We have gotten
25 some of them. But we haven't gotten any of the

1 things having to do with Wechsler Intelligence
2 Scale, with the VIP, or with other M-FAST that was
3 given. That would include the raw data testing and
4 -- (inaudible) -- the raw test results so they can
5 be viewed by the experts, not just the defense
6 experts but also the Court appointed experts.

7 Now, in general, the DSM5, and pretty much
8 every psychological protocol, will say the doctor
9 should look at all the documents before they do the
10 in-person evaluations.

11 So we would like to have an opportunity to do
12 this correctly since it is a death penalty case and
13 since intellectual disability is now at issue,
14 which could potentially bar the death penalty from
15 application in this case, to be able to collect the
16 records and the tests and the evaluations that they
17 did at the state hospital -- or, I'm sorry, the
18 South Florida Evaluation Treatment Center so we can
19 provide those to not only our defense experts but
20 also to the evaluating court appointed experts so
21 they can do a full and proper evaluation.

22 My guess is that we won't have those for at
23 least a month. I did send the subpoena out with
24 all the appropriate waivers for March 7th. We
25 really are rushing to try to get it done. But I

1 think it's premature to hold the evaluations
2 according to the Court's order and the deadline in
3 that order before we can get all these records.

4 THE COURT: Okay. Response?

5 MS. SULLIVAN: Courtney Sullivan for the
6 State.

7 As I said last time we were here, I don't want
8 to have this -- issue come back up again with the
9 evaluations from the state hospital. And I feel
10 like that's the situation, if the State agreed to
11 any of this, we would be in. I want to keep it
12 moving.

13 It's been a second time coming back from the
14 treatment center saying that it's malingering. He
15 was there longer this time, a pretty thorough eval.
16 He's got the IQ of 46, but it also says that, that
17 is due to his malingering. So I was happy that at
18 least one of the doctors got with us.

19 And I actually have talked to Dr. Torrealday,
20 too. And she is going to apprise the State and
21 defense when she picks an evaluation date as well.
22 So I've been in communication with her a couple
23 weeks ago. So I was hopeful in getting the eval
24 done.

25 And if we're heading towards a hearing to get

1 that set as soon as possible, that's always going
2 to be our request; to keep this moving and get a
3 hearing as soon as possible.

4 THE COURT: When is Dr. Torrealday's
5 evaluation?

6 MS. SULLIVAN: I haven't been told --
7 (inaudible) -- the date.

8 THE COURT: Did you get a date from her?

9 MS. SEIFER-SMITH: We do not have a date from
10 her yet. We also explained to her the issue with
11 the records. And she said, Of course I would like
12 to review the records before I do the evaluation.

13 THE COURT: Okay.

14 MS. SEIFER-SMITH: I'd like to just point out
15 one other issue, your Honor, that intellectual
16 disability is a lot different than a mental health
17 issue because intellectual disability is more
18 consistent. With mental health, medication,
19 location, and circumstances, can really change
20 someone's competency status. It can wax and wane.
21 But intellectual disability is more of a consistent
22 state.

23 So while we do understand that there still can
24 be issues of staleness, with intellectual
25 disability, there's a lot less of change from one

1 time to another over time. It's more of a
2 consistent state.

3 THE COURT: Okay. So are you going to have
4 Dr. hall evaluate him again?

5 MS. SEIFER-SMITH: Both Dr. Hall and
6 Dr. McClain?

7 THE COURT: You're going to hire them both
8 again to do new evaluations?

9 MS. SEIFER-SMITH: Yes, your Honor. They have
10 actually already been retained.

11 THE COURT: Okay. And -- okay. Do you know
12 when they're scheduled for?

13 MS. SEIFER-SMITH: I think it's probably some
14 time in the next -- I feel like Dr.mic lane is
15 scheduled at the end of the month, and Dr. Hall in
16 early April.

17 THE COURT: So they're going to do their
18 evaluations without the --

19 (SIMULTANEOUS TALKING)

20 MS. SEIFER-SMITH: No. We provided them all
21 the records. We provided them all the records, and
22 it turns out we don't have the raw data. Then, you
23 know, we'll have to wait on that.

24 THE COURT: Okay. So then let's do this then:
25 Ask the doctor who's scheduled for tomorrow to set

1 it out to the end of April. And the same
2 with -- you know, that's how it's going to go with
3 Dr. Hall and Dr. McClain; that it's going to be
4 what it's going to be, and they're going to have
5 what they have. And then we'll do that with the
6 state hospital, the court-appointed doctor and ask
7 them all to get their evaluations done and reports
8 done by mid May, right?

9 Do you have any -- I know it's not ideal --

10 MS. SULLIVAN: I'm having Déjà vu.

11 THE COURT: I understand.

12 MS. SULLIVAN: The one thing I can help with,
13 the raw data is not supposed to go to the lawyers,
14 ever. It's supposed to go from doctor to doctor.

15 THE COURT: Correct.

16 MS. SULLIVAN: So -- (inaudible) -- we can
17 have the treatment center facilitate the raw data
18 directly to --

19 THE COURT: Sooner would be better than later.

20 MS. SULLIVAN: Yes.

21 THE COURT: And I assume you want that going
22 to Dr. Hall and Dr. McClain as well?

23 MS. SEIFER-SMITH: Right. We actually did, in
24 our subpoena -- we did tell them if raw data
25 itself -- raw data, test manuals, and all

1 handwritten notes and bench notes that they might
2 have done in conducting the exam.

3 But that all of that should go to Dr. McClain.
4 And we provided Dr. McClain's contact information.

5 THE COURT: Okay. So let's, in an abundance
6 of caution, if you're going to make arrangements to
7 have that done, make sure Dr. McClain's getting a
8 copy as well that way in case something goes wrong
9 with the subpoena, everybody has what they need.

10 So if the thought is the doctors are going to
11 do their evals and have them done before May, with
12 reports, hopefully, by mid May, let's set -- let's
13 set a hearing. I don't see this getting resolved
14 without a hearing. And considering it took four
15 Fridays, we should probably set aside some time so
16 we don't have to do four Fridays in a row again.

17 It was delightful spending Friday afternoon
18 with you-all, but I would rather, if we can, get it
19 all done -- (inaudible) -- consecutive dates and
20 just be done with it, if that works for you?

21 MS. SULLIVAN: Yes.

22 THE COURT: I know getting doctors to agree
23 with that is hard because of their schedules,
24 but -- let's see if we can get records from our
25 doctors.

1 Any day of the week easier for you-all to come
2 in?

3 MS. SEIFER-SMITH: No.

4 MS. SULLIVAN: No.

5 THE COURT: I'm looking at --

6 MS. SULLIVAN: Depends, sometimes, on the
7 week.

8 THE COURT: Well, look at May 14th -- that's a
9 Wednesday --

10 MS. SULLIVAN: That's fine.

11 THE COURT: -- for pretrial.

12 And then we'll do a status check on doctors'
13 reports that day.

14 MS. SEIFER-SMITH: That works.

15 THE COURT: Does that work for you?

16 MS. SEIFER-SMITH: Yes, your Honor.

17 THE COURT: Okay. And then have a look at the
18 week of April -- I'm sorry, April,
19 jeez -- July 8th.

20 MS. SULLIVAN: I mean, we're available, just
21 really far out.

22 THE COURT: I understand. I'm trying to set
23 it out far enough so everyone can clear their
24 schedules to be available.

25 Right. I mean -- so if I put it in June, I

1 mean, then I could probably do June 3rd. But that
2 gives you two weeks to get the reports back from
3 the doctors and be ready to -- (attorney
4 indicates) -- I understand. I understand you're
5 okay with that. I'd like to build in a little more
6 time for everyone to be ready to go and for the
7 doctors to make themselves available for us.

8 July 8th work for everybody? I'm going to
9 block off July 8th through the 11th. I'm hoping
10 your doctors can find a day that they are available
11 within that schedule. I'm going to treat it like a
12 trial. We'll have our competency evidentiary
13 hearing scheduled.

14 MS. SEIFER-SMITH: That sounds good.

15 THE COURT: Okay.

16 MS. SULLIVAN: That works for us. If I didn't
17 say that out loud, I'm sorry.

18 THE COURT: All right. So I'm going to block
19 off four days. We don't have to take all four
20 days. Just saying I'm blocking off four days.

21 And this is a 2023 case. I would ask your
22 doctors to try and comport to this timeline the
23 best they can. And I'll give them any day in those
24 four days that they need to come in and testify.

25 So you filed your motion. Any objection to

1 the motion -- they're APD doctors anyway -- I'll
2 grant it. The doctors have already been appointed.

3 You filed it in the court file already?

4 MS. SEIFER-SMITH: Yes, your Honor.

5 THE COURT: Okay. Great.

6 Anything else we need to talk about?

7 MS. SEIFER-SMITH: Only to ask when -- the
8 State could let us know when they're able to get
9 that raw data to the experts or at least keep us
10 updated. I was going to try the same with all of
11 them. But I don't particularly hold much weight
12 with South Florida Treatment and Evaluation Center
13 these days.

14 THE COURT: So I would just ask if anyone
15 wants to be present for the evaluations, please
16 make arrangements with the doctors to do so, be
17 present. And then we'll go from there, okay?

18 MS. SULLIVAN: Yes.

19 MS. SEIFER-SMITH: Yes.

20 THE COURT: All right. So let's set -- we
21 have a status check. I gave you a status check in
22 May 14th, right?

23 MS. SEIFER-SMITH: Yes.

24 THE COURT: 5/14 for status check on doctors'
25 reports. And we'll go from there.

1 Okay. I got the evidentiary hearing on the
2 books.

3 All right. Thanks, guys. We'll see you in
4 May.

5 **(PROCEEDINGS CONCLUDED)**

CERTIFICATE OF REPORTER

STATE OF FLORIDA)

COUNTY OF PINELLAS)

I, Karen E. Roman, 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 2nd day of April, 2025.

/s Karen E. Roman

Karen E. Roman

Registered Professional Reporter