

IN THE CIRCUIT COURT OF THE
17TH JUDICIAL CIRCUIT IN AND
FOR BROWARD COUNTY, FLORIDA

CASE NO: 06-2974 CF10A
JUDGE: JOHN J. MURPHY, III

STATE OF FLORIDA,

Plaintiff,

vs.

JOSE L. RODRIGUEZ, a/k/a

REDDICK, MIKE

Defendant.

)

COPY

APPEARING ON BEHALF OF THE PLAINTIFF:
OFFICE OF THE STATE ATTORNEY
201 SOUTHEAST 6TH STREET
FORT LAUDERDALE, FLORIDA 33301
BY: BLOOM, ESQUIRE.

APPEARING ON BEHALF OF THE DEFENDANT:
GARY OSTROW, ESQUIRE.

201 Southeast 6th Street
Fort Lauderdale, Florida
February 5, 2009

Hearing in above-styled cause taken before Judge
John J. Murphy, III, reported by Rosemarie Valente,
Certified Shorthand Reporter and Notary Public in and
for the State of Florida at Large, pursuant to Notice
filed in the above cause, and being an excerpt thereof.

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1 THEREUPON:

2 MR. LOWE: Judge, can I ask the Court's
3 indulgence once Gary's ready to listen?

4 MR. OSTROW: Hey, Tony, how are you?

5 MR. LOWE: Good morning. How are you?

6 MR. OSTROW: Good. The first jury trial was with
7 this guy about 27 years ago, him and Russell Williams,
8 remember that?

9 MR. LOWE: Yep, all too well. I was telling
10 Nicole about that. I still have migraines periodically.

11 Judge, Tony Lowe on behalf of the State of
12 Florida. With respect to the case that you're trying
13 where Mr. Ostrow is defense counsel, we have gone to
14 great, great lengths to attempt to locate Officer Chang.

15 We learned late yesterday afternoon that
16 Mr. Chang apparently is on a cruise. If he was on a
17 vacation, we'd fly him back, he'd be here. He's on a
18 cruise. He's incommunicado.

19 We have talked to the chief of police; we've
20 talked to the assistant chief of police; we've talked to
21 the assistant chief of police again this morning; we've
22 talked to his road patrol fellow officers; we've talked
23 to sergeants, and he is out of the country. He's on a
24 boat someplace and we can't get him back. He comes back
25 into port on Saturday night.

1 If this were a possession of cocaine case, I'm
2 sure we could resolve it one way or another. It's not.
3 We made a plea offer, and certainly it's the defendant's
4 right to reject our plea offer, we felt it was
5 reasonable and fair given the nature and the
6 circumstances of the case and the fact that we have a
7 witness problem. He's rejected it, so now we're between
8 a rock and a hard place.

9 I know you've got cases set next week. I don't
10 want to impinge upon that, however, in the interest of
11 justice I'm here this morning to say, Judge, please
12 understand, I'm sorry it happened, we've done everything
13 we possibly can and we can't get him here until Monday
14 morning.

15 THE COURT: Well, one of the things I asked
16 Ms. Bloom and Ms. Bandell yesterday was regarding the
17 officer, was he under subpoena, and I was advised he was
18 served with a subpoena.

19 MR. LOWE: That's my understanding as well. When
20 I talked to the assistant chief this morning he said
21 there's going to be some administrative proceedings that
22 are going to take place with respect to that officer.

23 THE COURT: You know, it's curious to me, it's
24 something totally unrelated, we were trying to get a
25 hearing on a motion to suppress yesterday when I

1 concluded this trial, I called another case in for a
2 motion to suppress, and the City of Hollywood advised
3 that they wouldn't honor it because they release their
4 witnesses at 11:00 and they wouldn't honor the subpoena,
5 you have to tell them in the morning prior to 11:00 if
6 you're going to call them in that day.

7 And it's curious to me that they take a hard line
8 on that, and I don't know what the contract or the
9 agreement is, but when they have a police officer who is
10 under subpoena, called in to testify, and the case has
11 been rolled a day to get him here that, you know, they
12 still can't honor the subpoena, I don't understand that.

13 MR. LOWE: But I think the difference, or the
14 distinction is administratively the command staff is
15 furious that that officer isn't here in your courtroom,
16 in that chair, taking the oath, being direct examined
17 and cross-examined by Mr. Ostrow, they're furious.

18 THE COURT: Right.

19 MR. LOWE: It's just we can't -- normally if
20 somebody is in the Continental United States I find them
21 and I procure them no matter what. Just, he's not here.

22 THE COURT: Mr. Ostrow.

23 MR. OSTROW: You know, Judge, the Court indicated
24 its position clearly the last two times, or three times
25 you discussed it with the State, they've been given more

1 than enough opportunity. Unfortunately for them the guy
2 was under subpoena.

3 You know, it's certainly no fault of my client.
4 We've been here, we've been ready. I've had to adjust
5 my schedule several times. We've got juror issues as to
6 their ability to sit never mind next week, for today,
7 thinking the case would have been resolved in a day and
8 a half.

9 So, I strenuously object to any further
10 continuances. They've been permitted a continuance
11 already and they still are not going to have the witness
12 here this week, is what the Court clearly indicated its
13 position was going to be unyieldingly.

14 You know, when Mr. Lowe said if it was any other
15 kind of case, like a possession of cocaine case, Judge,
16 this is a case of a guy walking into a laundry room,
17 allegedly taking a pair of underwear, if he did, out of
18 the laundry room, I mean, that's what it is.

19 So, I disagree with the position Mr. Lowe takes
20 and the reason for that position based on that
21 assessment. I would just simply ask the Court to stick
22 to its guns and its position that it maintained with the
23 State previously.

24 They're coming in here saying that the guy was
25 served, he was under subpoena, he was on notice, he knew

1 he had to be here, and he took it upon himself to go.
2 I'd like to be on a cruise right now. I'd like to be in
3 the Caribbean myself. I'm here with my client, you
4 know, working everyday at this Court's pleasure, here
5 when I have to be, a few minutes late today, but
6 whatever the Court wants me to do I'm doing.

7 THE COURT: You don't have to limit it to today,
8 Mr. Ostrow, it's a few minutes late everyday.

9 MR. OSTROW: That's not true, Judge. I've been
10 early. I've been early.

11 THE COURT: I'm teasing you.

12 MR. OSTROW: Okay.

13 MR. LOWE: So the record's clear, Judge, it's my
14 understanding that the defendant had a capias out for
15 his arrest for a year. The State's never asked for a
16 continuance in this case, and there's been a number of
17 defense continuances. I'm sorry, I really am.

18 THE COURT: Mr. Lowe, it's not your issue. And
19 to be candid, you know, one of the things, one of the
20 courtesies I tried to extend to Ms. Bloom, this is not
21 my case, it's Judge Siegel's case. Judge Siegal said
22 everybody's here, they're ready to go, and I took the
23 case, we're going to try it.

24 And Ms. Bloom had announced that she was ready to
25 go, although she had indicated to me it wasn't her case,

1 she was pinch hitting, which I didn't realize that, I
2 didn't know that, and Mr. Ostrow said he was ready to
3 go.

4 It's a case that's an older case. I don't how
5 old it is. I didn't know he was on - the defendant was
6 on *capias* status. Really that's not playing into my
7 consideration. Everybody announced ready. It was
8 going. The jury's been inconvenienced.

9 I rolled it based upon Ms. Bloom's representation
10 to me. And that's why I rolled it for a day, because
11 she told me the witness was under subpoena, and I
12 accepted her representation. And I looked at it and I
13 thought it would be an injustice not to give the State
14 some time to get that witness in here, and that's why I
15 rolled it for a day. I'm not willing to just continue
16 it.

17 As Mr. Ostrow indicated, one of the jurors didn't
18 want to come back to begin with, he indicated he had a
19 hardship, that was the alternate though, but he's here,
20 the other jurors are here. We originally told them it
21 would be a one to two day case. This is the third day
22 coming back. I'm not really interested in continuing
23 it.

24 I know it's a serious case. I treat all felonies
25 serious. It affects somebody's liberty. It doesn't

1 matter to me. They all affect the defendant's liberty.

2 He's here, Mr. Ostrow's here.

3 You know, if the State had asked for a
4 continuance prior to the jury being sworn it's a
5 different story, I don't have a real concern about it.

6 The jury's been sworn. The man's under subpoena.
7 And from what I've been told by Ms. Bloom in open
8 court -- we had a conversation yesterday with Mr. Ostrow
9 and Ms. Bandell yesterday afternoon, the parties agreed
10 that we could because it was a scheduling issue, we
11 could be off the record and talk about it.

12 I was advised that he was under subpoena, he
13 showed up for work on Monday and, you know, took off on
14 vacation, put his vacation time in when he was
15 acknowledged he was under subpoena. That's the position
16 we're in. I'm not willing to continue it. Okay?

17 Ms. Bloom, you had indicated to me yesterday you
18 thought you could proceed with the case, is that still
19 your thought?

20 MS. BLOOM: Judge, if forced to do so without
21 Officer Chang the State does believe that it could do
22 so. However, Your Honor, without Officer Chang the
23 State's case is greatly hampered and I believe that, you
24 know, justice would best be served with Officer Chang's
25 testimony and the public would be best served and the

1 victim in this case would be best be served as well.

2 THE COURT: Understood, but I'm not willing to
3 continue it, counsel.

4 MR. OSTROW: You know what, Judge, if you could
5 give us, me and Ms. Bloom, a moment out in the hallway
6 to talk maybe, I doubt it, but it's worth discussing the
7 prospect of something, something being better than
8 nothing.

9 THE COURT: A okay. You have a couple minutes,
10 guys.

11 MR. OSTROW: Thank you.

12 THE COURT: Thank you.

13 MS. BLOOM: And just so I may correct the record,
14 I'm not sure if Your Honor understood, or if I
15 understand Your Honor's understanding of Hollywood
16 Police Department's protocol with respect to standby.

17 The officers are on standby for the two week
18 period. If they're not called in by 11:00 in the
19 morning, their liaison calls them off for that day, but
20 that does not in any way excuse them from their standby
21 subpoena for the rest of the two week period.

22 THE COURT: Yes, that's what I was advised. If I
23 didn't state it accurately I'm sorry.

24 MS. BLOOM: I'm sorry if it was a
25 misunderstanding on my behalf.

1 THE COURT: No problem.

2 MS. BLOOM: If it was my misunderstanding I'm
3 sorry.

4 THE COURT: No problem. Thank you. We'll be in
5 recess.

6 (Thereupon, a recess was taken, after which the
7 following proceedings were had:)

8 * * * * *

9 THE COURT: Call your next witness, please.

10 MS. BLOOM: Yes, Your Honor. The State would
11 call Vanessa Brombley.

12 THE COURT: Good morning.

13 THE WITNESS: Good morning.

14 THE COURT: Come on up here, please. This is our
15 witness chair, ma'am. When you get there, if you'd
16 remain standing for a bit, just face the clerk, raise
17 your right hand. Here's our clerk, Marlene. Raise your
18 right hand and be sworn.

19 COURT CLERK: Do you solemnly swear or affirm the
20 testimony you're about to give will be the truth, the
21 whole truth, nothing but the truth?

22 THE WITNESS: Yes.

23 COURT CLERK: Please state your full name and
24 spell your last name for the record.

25 THE WITNESS: My name is Vanessa Lee Bromley.