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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
2009 FEB -9 PM 3:19

IN AND FOR THE COUNTY OF APACHE
SUE HALL, CLERK
APACHE COUNTY SUPERIOR COURT

In re the Matter of:)	
)	
CHRISTIAN RYAN ROMERO)	CASE NO. JV 2008065
)	
A person under 18 years of age)	
)	
)	

TRANSCRIPT OF STATUS CONFERENCE

December 22, 2008

BEFORE THE HONORABLE MICHAEL P. ROCA

Lynne McSeaton
Certified Electronic Reporter and
Transcriber No. 00281

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ALSO PRESENT:

ERYN BLOOMFIELD,
Parent of the Juvenile

JULIE NICHOLSON,
Juvenile Probation Counselor

MIKE CALDWELL
ANDREW MAESTES,
Juvenile Probation Department

P R O C E E D I N G S

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(Proceedings commenced at 9:06:12 a.m.)

THE COURT: Okay. Show the Court's endorsing a tendered order regarding Mr. Garsha's services and a modification of the tendered order regarding Mr. Haag.

Okay. What else can we deal with?

MR. BREWER: Judge, along those lines, I did file a motion to -- or an amended motion to have Betty Beaumont be the therapist for Christian, and that, I don't believe, has been -- has taken place. I changed the language quite significantly. Hopefully, that will be agreeable to the Court, and so I would ask --

THE COURT: Okay.

MR. BREWER: -- that the Court grant that.

THE COURT: I did not see the amended motion. My apologies. Is it --

MR. CARLYON: The Petitioner has not either. We have not received a copy.

THE COURT: Mr. Brewer --

MR. BREWER: Judge, I mean, all my --

THE COURT: -- customarily your office is the best around as far as document handling. Once in a while, something may have slipped up. Is there a possibility it didn't get here?

1 MR. BREWER: Oh, I'm certain if both parties don't
2 have it, Judge, you know, there's --

3 THE COURT: Okay. I just -- I just haven't seen it.
4 Okay. Is it something we can deal with orally, or do you want
5 me to see the writing before we --

6 MR. BREWER: I would hope so, Judge. I was waiting
7 for the -- you know, and I was waiting for the Court's order,
8 and apparently that's why it didn't come; because the Court
9 didn't have it. I basically took out all the language other
10 than what her requirements are as far as her own ethics goes
11 --

12 THE COURT: Uh-huh.

13 MR. BREWER: -- as far as what she can talk about.

14 THE COURT: Right.

15 MR. BREWER: So basically that's it.

16 THE COURT: Okay.

17 MR. BREWER: But I just wanted her to be able to get
18 in there and speak with Christian. They have -- they have got
19 a good rapport going. Right now, she can only see him through
20 the glass. And one of the things, I'd like them to be able to
21 meet in private and that she be able to bring in objects and
22 things that she needs to be able to maybe facilitate stuff.
23 But I believe those are the only additions to that.

24 THE COURT: Yeah. Subject to screening, of course.

25 MR. BREWER: Yeah, right.

1 THE COURT: Okay.

2 MR. BREWER: Everything she brings in has to be
3 subject to the detention staff.

4 THE COURT: Okay. Mr. Carlyon, as outlined in
5 principle, do you have any objection?

6 MR. CARLYON: As outlined in principle, though, I'd
7 like to see the actual --

8 THE COURT: I was --

9 MR. CARLYON: -- language used.

10 THE COURT: I'm not suggesting that you commit at
11 this point, but --

12 MR. CARLYON: That, and I have not had a chance to
13 talk to juvenile detention to see if they have any precepts.

14 THE COURT: Okay.

15 MR. CARLYON: But those two caveats.

16 THE COURT: All right. Can I impose on you to
17 forward copies?

18 MR. BREWER: I will get that today, Judge.

19 THE COURT: Okay.

20 MR. BREWER: And I apologize.

21 THE COURT: All right. Your request for additional
22 disclosure directed to Lieutenant Jones, generated a report
23 and materials related to that, where are we on it?

24 MR. CARLYON: Your Honor, we're having difficulties
25 with the disc with the recordings on that. We have sent it

1 out to try to see if somebody can save the material.

2 Otherwise --

3 THE COURT: Okay. This is Lieutenant Jones'
4 recorder that he had on his person?

5 MR. CARLYON: Yes.

6 THE COURT: Okay.

7 MR. CARLYON: Otherwise, I believe that they have
8 the requested material.

9 THE COURT: Okay.

10 MR. BREWER: That -- that's an important part,
11 Judge, just because there was some discussion that there had
12 been conflict between two officers as to what was said, and
13 there's a recording apparently, and so we would like to have
14 that --

15 THE COURT: Okay.

16 MR. BREWER: -- to see what happened.

17 MR. CARLYON: I'll give you what I have, but nobody
18 can hear it.

19 THE COURT: You have videos and photographs already
20 taken care of, huh?

21 MR. CARLYON: Yes.

22 THE COURT: Okay. And as well as the narrative
23 report?

24 MR. CARLYON: Yes.

25 THE COURT: Okay. What else can we address?

1 MR. BREWER: Judge, there was just a blanket request
2 for initial disclosure. The State has been providing --

3 THE COURT: It was a little shrill.

4 MR. BREWER: Well, they've been providing numerous
5 names that have been fairly limited with regard to contact
6 information and very limited in regard to reports that may be
7 written. I understand that he's getting that information out,
8 but, in the same vein, we would like to have the reports as
9 soon as possible of those individuals relative to them.
10 Otherwise, it doesn't do us any good to try to interview those
11 people without having -- or having a reason to know what
12 they've said or done with regard to this case.

13 THE COURT: Okay. All right. I'm looking at the
14 December 16th motion, and it, too, is a wee bit general. Can
15 you provide the State -- you don't have to provide the Court
16 -- with the specifics of what it is you want in addition to
17 what you got?

18 MR. BREWER: We can do that, Judge.

19 THE COURT: I would appreciate it. I mean, if it's
20 names and address of people associated with the police
21 department, you just go to Mello's Restaurant.

22 MR. BREWER: Go to what?

23 THE COURT: The police department used to be a
24 restaurant.

25 MR. CARLYON: Before Mr. Brewer's time.

1 THE COURT: It was a restaurant in Round Valley, and
2 they moved the whole building over here.

3 MR. BREWER: Okay. Do we get to eat there, too,
4 Judge, or...?

5 THE COURT: I wouldn't recommend it. The green
6 chili was a little thin, and the tortillas were a few days
7 old.

8 Anyway, where are we going from there?

9 MR. BREWER: Judge, with regard -- with regard to
10 how things are proceeding, we would be asking for an actual
11 pre-adjudication hearing in the next setting at a time
12 different from the Monday calendar. Hopefully, things will be
13 -- something will have been done by then.

14 THE COURT: Some fine Wednesday?

15 MR. BREWER: Right; we'll have something at that
16 point in time. We're going to be filing our motion to
17 suppress statements based on voluntariness grounds and *Miranda*
18 grounds in addition to any Fourth Amendment motion to
19 suppress. That's going to be filed this week; both of those
20 will be.

21 And I understand the Court's ruling regarding those
22 not being able to be heard until the competency is determined,
23 but we're still in the mode of proceeding forward, and that's
24 what we're going to do. But given that and given the 10 days
25 that's allotted for an individual to write out their

1 evaluation report, I think that the next setting should be
2 something where we have Mr. Romero here and do something of
3 substance if we can.

4 THE COURT: Okay. I question whether or not we're
5 going to be able to really deal with anything substantive at that
6 point. I think once we've got the minor fully examined as far
7 as competency issues are concerned, aren't we going to have to
8 more than likely have a -- have a hearing?

9 MR. BREWER: I can't answer that, Judge. I would --
10 it just depends on what it said presumably, but --

11 THE COURT: Mr. Carlyon?

12 MR. CARLYON: I would suggest before we do the pre-
13 adjudicatory hearing, that we have one more status; one, to
14 see if the competency evaluation is in. So I suggest early or
15 the first of 2009 because that'll need to be addressed before
16 we do any of the other motions that Mr. Brewer has discussed.

17 Two, there's also a transition in the administration
18 in the County Attorney's Office. I do not know for certain if
19 Mr. Whiting wishes to keep me on or change things. He will
20 need to take affirmative steps after the first of the year.

21 MR. BREWER: I mean --

22 THE COURT: How far after the first of the year?

23 MR. CARLYON: I'd say the first week -- first full
24 week.

25 THE COURT: January 5's going to be a whole lot of

1 fun already. Do you really want to do it then?

2 MR. BREWER: I wouldn't want to go much later. If
3 we can go earlier, that's fine, but --

4 THE COURT: Well --

5 MR. CARLYON: If we can go -- I know Mr. Brewer's
6 here other days of the week. It may make sense to do it
7 another day of the week.

8 Like I said, Mr. Whiting will have to take
9 affirmative action for me to reappear. I believe that the
10 order that Mr. Candelaria signed only advised his
11 administration; not Mr. Whiting's administration.

12 THE COURT: I thought that was pretty open-ended.

13 MR. CARLYON: But I think it only advised his
14 administration; not Mr. Whiting's.

15 THE COURT: I'm not sure I agree.

16 MR. CARLYON: I don't know.

17 THE COURT: Be that as it may --

18 MR. CARLYON: I think the key will be who Mr.
19 Whiting agrees on.

20 THE COURT: Yeah. Mr. Whiting may have independent
21 reasons for leaving things just exactly as they are.

22 MR. CARLYON: But, yeah, I think he needs to make an
23 official decision, which he cannot do until the first of
24 January.

25 THE COURT: All right.

1 MR. BREWER: Judge, and I guess it's just a name,
2 really. I don't know if a status versus a pre-adjudication
3 hearing --

4 THE COURT: Yeah, it's --

5 MR. BREWER: -- has a whole lot of significance, but
6 I think -- I think Christian should be present if we're going
7 to be doing anything substantive. And if there is a
8 possibility that that could occur --

9 THE COURT: Well --

10 MR. BREWER: -- I would like him here.

11 THE COURT: Okay. Well, let's try the January 5.
12 It's not going to make anybody happy; in with the rest of the
13 long motion calendar.

14 MR. BREWER: What time would that be, Judge?

15 THE COURT: 9:00 a.m. Isn't that your time?

16 MR. BREWER: So that's a Monday?

17 THE COURT: Yeah.

18 MR. BREWER: Okay. I -- just for -- I don't know if
19 that's going to create any problems if we have the juvenile
20 and adults in custody. I don't know if the Court can hold off
21 having the adults brought up or -- but I think that could get
22 us --

23 THE COURT: Sheriff is generally more than happy to
24 -- the alternative is we can do it the following day. Do you
25 want to?

1 MR. BREWER: I would rather do it the following day,
2 Judge.

3 THE COURT: Mr. Carlyon, assume for the moment that
4 you're going to continue to hold the bag. Is January 6th
5 workable for you?

6 MR. CARLYON: I'll make it workable.

7 THE COURT: Okay. Do you want to try it at nine
8 o'clock again? Mister -- the reason I suggest nine o'clock
9 rather than 9:30 is that Mr. Lassen has a 10 o'clock matter
10 here, and it may not -- it may necessitate him being late if
11 we schedule it as late as 9:30. So --

12 MR. BREWER: That's fine, Judge.

13 THE COURT: Okay. All right. Further status
14 conference, January 6th, 9:00 a.m. There's something else we
15 could deal with on --

16 MR. BREWER: There is, Judge; if we could find out
17 the State's position with regard to any status of a special
18 action being filed. I filed an objection to the State --

19 THE COURT: I noticed. It's overruled.

20 MR. BREWER: And I just -- well, I'd like to know
21 what the --

22 MR. CARLYON: It should be delivered tomorrow --

23 THE COURT: Okay.

24 MR. CARLYON: -- should be filed tomorrow. Then
25 with the holidays, we hope to --

1 THE COURT: I was surprised to find in my research
2 that laches is sufficiently expandable; that doesn't
3 necessarily attach until four or five months later. In some
4 cases, the Court of Appeals is extremely liberal in this
5 division. I've never understood that, but they'll take them,
6 you know, just about whenever they come in.

7 MR. BREWER: And the other question, Judge, it may
8 sound a bit unusual, but I've had some interviews with folks
9 that I would characterize as victims in the case. I'd like to
10 know who the State is characterizing as victims in the case so
11 I don't get crosswise with anything.

12 THE COURT: Okay. Who's --

13 MR. BREWER: I believe I know who it is, but --

14 THE COURT: Who is the official victim's rep, if
15 anyone?

16 MR. CARLYON: There are two of them. For Vincent
17 Romero, it's Tiffany Romero.

18 THE COURT: Uh-huh.

19 MR. CARLYON: (Clears throat.) Excuse me. And the
20 other one is -- the other victim in this matter is Tanya
21 Romans.

22 THE COURT: Okay. Widows?

23 MR. CARLYON: Yes.

24 THE COURT: Both? Okay. And no one else
25 technically is a victim within the meaning of the statute?

1 MR. CARLYON: Technically, no.

2 THE COURT: Okay. So there's your answer.

3 MR. BREWER: Okay.

4 THE COURT: Where are we from the State's point of
5 view?

6 MR. CARLYON: On which...?

7 THE COURT: On anything else.

8 MR. CARLYON: We're waiting for the evaluation so we
9 can conduct a competency hearing.

10 THE COURT: Okay. Anything else?

11 MR. CARLYON: I think that's the crux of what needs
12 to be accomplished to know where to proceed.

13 THE COURT: Any -- anything else we can accomplish
14 other than those matters that are necessarily under seal?

15 MR. CARLYON: No.

16 MR. BREWER: I have one other issue, Judge. And I
17 admit it's probably something that may not be able to be
18 addressed by this Court, but it is a concern of my client, so
19 I'm going to address it. He has some property that has been
20 -- that he has in his house that is his that means a great
21 deal to him, and I made a request to the State to get that
22 property. The State indicates they don't have that, and then
23 they're -- they don't need it -- I mean, they -- and I
24 understand that they don't have that and they don't -- it's
25 not their responsibility --

1 THE COURT: It wasn't seized, and therefore they
2 have no control over it?

3 MR. BREWER: Right, right. And so I'm -- you know
4 --

5 THE COURT: Okay.

6 MR. BREWER: -- I don't know where I'm -- where I'm
7 going at this point in time, but there are -- there is some
8 property that means a great deal to my client that is in the
9 possession, presumably, of Tiffany Romero, and we would like
10 to --

11 THE COURT: Whom you cannot contact.

12 MR. BREWER: Right.

13 THE COURT: Mr. Carlyon, Mr. Brewer cannot contact
14 the victim or at least --

15 MR. CARLYON: Your Honor, I don't want to get in the
16 middle of a civil fight. These are things --

17 THE COURT: I understand that.

18 MR. CARLYON: -- over like bedroom furniture, a dog,
19 books. I can forward the letter, but that's as far as I want
20 to take it because I think it's more of a civil matter than
21 anything in the criminal context.

22 MR. BREWER: And that would be appreciated, Judge.

23 THE COURT: Okay. Would you be so kind just to do
24 that?

25 Mr. Lassen, as the Guardian Ad Litem, can you --

1 MR. LASSEN: Yeah.

2 THE COURT: -- step into Mr. Brewer's shoes for the
3 purpose of discussing that and Mister --

4 MR. LASSEN: I can do that, Judge.

5 THE COURT: -- Mr. Carlyon, may Mr. Lassen contact
6 Ms. Romero?

7 MR. CARLYON: I don't think there's any
8 prohibition in the rules since he doesn't represent the
9 juvenile in the juvenile proceedings.

10 THE COURT: Okay. Can you facilitate their contact?
11 I don't necessarily anticipate that the effort's going to be
12 successful, but...

13 MR. CARLYON: I will have the -- I will ask the
14 Apache County Attorney's staff to assist in that.

15 THE COURT: Okay. All right. Anything else we can
16 address at this point?

17 MR. BREWER: Not in open court, Judge.

18 THE COURT: Okay. Do you want to retire to chambers
19 at this point? Do you want to deal the rest of the nine
20 o'clock list?

21 MR. BREWER: I would just prefer to get it done if
22 -- all my people are in custody. I don't know if they've been
23 brought up yet or not, but --

24 THE COURT: I don't think they have. They're, I
25 think, scheduled for 9:30.

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MR. BREWER: Uh-huh.

THE COURT: Okay. I'll see counsel in chambers.

(Whereupon, the proceedings were concluded at 9:20:44
a.m.)

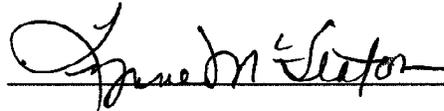
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C E R T I F I C A T E

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3 I, LYNNE McSEATON, CERT, do hereby certify that the
4 foregoing pages numbered 1 through 17 constitute a full, true,
5 and accurate transcript from a copy of the electronic
6 recording of the proceedings had in the foregoing matter, all
7 done to the best of my skill and ability.

8 I further certify that I am in no way related to any
9 of the parties and that I am not in any way interested in the
10 outcome thereof.

11 SIGNED and dated this 30th day of January, 2009.

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14 Lynne McSeaton

15 Certified Electronic Court Reporter
16 and Transcriber No. 00281
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