

THE FIRST JUDICIAL DISTRICT COURT
IN AND FOR THE PARISH OF CADDO
STATE OF LOUISIANA

STATE OF LOUISIANA

VERSUS

CRIMINAL CASE NO: 262,256

ERIC MICKELSON

TRANSCRIPT OF THE PROCEEDINGS HAD in
the hearing of the above-styled and numbered cause before HER
HONOR, Katherine C. Dorroh, Judge of the First Judicial District
Court, in and for Caddo Parish, at Shreveport, Louisiana, on the
27th day of October, 2015, A.D.

APPEARANCES:

Counsel for the Plaintiff:
Dale G. Cox
William Edwards

Counsel for the Defendant:
Kathryn Sheely
Mario Guadamud
David Price

EXCERPT OF PROCEEDINGS

COPY

Reported by:
Jennifer Zanmiller
Official Court Reporter

P R O C E E D I N G S

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MR. COX: Call the matter of State v. Mickelson, 262,256. Mickelson is here with his lawyers. State's ready, Your Honor.

THE COURT: All right. Let the record reflect that Mr. Cox, Mr. Edwards are present. Defense is present, Mr. Guadamud, Ms. Sheely, Mr. Price. Mr. Mickelson is present in plain clothes, not restrained.

Okay. At the conclusion of court yesterday, the Defense filed a Motion for Mistrial to Recuse Interim District Attorney Dale Cox, and for an Evidentiary Hearing about alleged death threats received by Mr. Cox and his family, and the threats of physical harm Mr. Cox has made to Defense Counsel during trial.

The Court has reviewed this motion and the cases cited in the motion by Defense Counsel. As I've said, in considering the two prior motions to recuse Mr. Cox, I don't think that your arguments have merit, at all. Mr. Cox's opinion about the death penalty, whether accurately stated in the media or not, have no bearing on this particular case. It is up to the jury to decide Mr. Mickelson's guilt or innocence, and his penalty. It's not Mr. Cox's decision.

And I would note, parenthetically, that it was not Mr. Cox's decision to seek the death penalty back in 2007 when this case came

up. He was not the District Attorney at that time, and so I just find that his personal beliefs have nothing to do with this case, nor do his alleged death threats or threats to his family. They have no bearing on this, whatsoever. And so I'm going to deny the request to recuse Mr. Cox.

I have got a lot more to say, so have a seat. I'm going to deny the Motion to Recuse Mr. Cox and your request for an Evidentiary Hearing. Again, I find that those requests have no merit and are not founded by the facts and/or by law.

The Motion for Mistrial is also going to be denied. Article 775 provides that -- provides certain reasons that a mistrial may be ordered. An operative word in that section is "may", discretionary with the trial judge, what occurred in the courtroom, that's alleged in this motion, and that was put on the record when the Court returned. It happened out of the presence of the jury, happened out of the presence of the Judge, and we went to the further step of having the jury brought in to see if there was any way that they could have overheard what occurred in here.

And while the behavior of Mr. Cox is not in any way being condoned by the Court, if it is, in fact, how it happened and how it was represented by the parties, I don't condone it, but I don't condone much of what's going on between the State and the Defense either.

You don't come to this with clean hands.
You're adversaries, okay? And so, of course,
you're going to be adverse to one another and,
of course, you may not like everything the
other side does. So just because he doesn't
like what you're doing, and just because you
don't like what he's doing doesn't mean
Mr. Mickelson isn't getting a fair trial.

So, the fact that all this happened out
of the presence of the jury and out of my
presence is noteworthy.

Now, as I've said before when things have
gotten heated between this group of lawyers,
if anybody wants to file a Motion for
Sanctions, or a Motion for Contempt, have at
it. File it. We'll have a hearing at a later
date. If you think the behavior of the
prosecutor was sanctionable or contemptible,
we'll have that hearing at a later date.

And that's my ruling, so the motion is
denied in its entirety.

I note your objection for the record.

MR. PRICE: Judge, I would give oral
notice it's my intention to seek supervisory
writs. We'll follow that up with a written
motion today and have a return date set at
that time. I'm also requesting a stay of
proceedings so that we can pursue that writ.

Additionally, I would note, had we been
granted an evidentiary hearing, we would have
put on the record the information that was
done the other day, an additional statement

that Ms. Sheely heard, because she is closer to that end of the table.

MS. SHEELY: Yes, Your Honor, it was a statement that, as I was sitting here preparing for the cross examination of Ms. Arthur, that we were talking. I understood Mr. Cox to tell Mr. Edwards, I was writing it down as it happened, I want to kill everyone in here. I want to cut their fucking throats. I'm just being honest. If any of them want to go outside, we can do it right now.

At some point, in context of responding to discovery about Mr. Mickelson's work history, Mr. Cox responded, whatever, bitch. And when Mr. Price was -- and Mr. Guadamud were talking with Mr. Cox, one of them asked if we can have some sense of professionalism here. And I understood Mr. Cox to say, are you fucking kidding me, professionalism after you assholes signed that public pleading of public record, and you're going to stand behind being professional? Fuck you. Do you want to go outside right now?

MR. PRICE: Again, that's kind of in the nature of a proffer, Judge.

THE COURT: All right. Again, all that happened outside of my presence. All of that happened outside of the jury's presence, and not within the jury's hearing.

MR. PRICE: That's correct.

THE COURT: And I can't know, at this

point, whether any of that is accurate. It's all unfortunate, but I can't attest to the validity of any of that, and so I'm denying the motion.

And I take note of your request to seek a writ to the Second Circuit. And when you present me with an Order, I will sign it and give you a return date of, most likely, tomorrow. And I'm going to deny your request for a stay.

MR. PRICE: I think that takes care of everything related to the motion, Judge.

THE COURT: Thank you. Are we ready for the jury?

MR. COX: State's ready Your Honor.

MR. PRICE: We're ready.

(Excerpt concluded.)

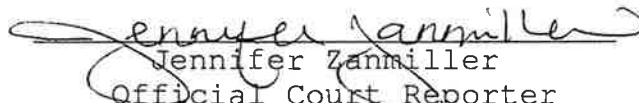
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STATE OF LOUISIANA)

PARISH OF CADDO)

C E R T I F I C A T E

I, Jennifer Zannmiller, Official Court Reporter in and for the State of Louisiana, employed as an official court reporter by the First Judicial District Court for the State of Louisiana, as the officer before whom this testimony was taken, do hereby certify that this testimony was reported by me in the digital reporting method, was prepared and transcribed by me or under my direction and supervision, and is a true and correct transcript to the best of my ability and understanding; that the transcript has been prepared in compliance with transcript format guidelines required by statute or by rules of the board or by the Supreme Court of Louisiana, and that I am not related to counsel or to the parties herein nor am I otherwise interested in the outcome of this matter.


Jennifer Zannmiller
Official Court Reporter
First Judicial District Court