

1 IN THE CIRCUIT COURT OF THE
2 FIFTH JUDICIAL CIRCUIT, IN AND
3 FOR LAKE COUNTY, FLORIDA

4 CASE NO. 87-1347-CF-A-01 and
5 88-262-CF-A-01

6 STATE OF FLORIDA,

7 Plaintiff,

8 v.

9 JAMES AREN DUCKETT,

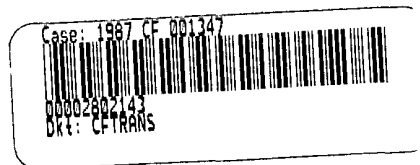
10 Defendant.

11 THIS CAUSE came on for Hearing, before the Honorable
12 Jerry T. Lockett, Circuit Judge, at Lake County Courthouse,
13 Tavares, Florida, on April 19, 1988.

14 APPEARANCES: Mr. Stephen D. Hurm, Esquire
15 and
16 Mr. Thomas Hogan, Esquire
17 Assistant State Attorneys
18 Lake County Courthouse
19 Tavares, Florida 32778

20 Mr. Jack T. Edmund, Esquire
21 423 Pool Branch Road
22 Ft. Meade, Florida 33841
23 Attorney for Defendant

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25
AUG 11 2 40 PM '88
CLERK OF CIRCUIT
AND COUNTY COURTS
LAKE COUNTY
FLORIDA



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Official Court Reporters, Fifth Judicial Circuit
Tavares, Florida 32778

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1 (WHEREUPON, DEFENDANT IS PRESENT IN COURTROOM WITH HIS
2 COUNSEL, MR. JACK T. EDMUND)

3 THE COURT: Good morning, ladies and gentlemen. This is
4 Circuit Court, Criminal Division.

5 We have before the Court the case of the State of
6 Florida versus James Aren Duckett, 87-1347, on a Pre-trial
7 Conference scheduled by the Court.

8 Let's take care of, first of all, gentlemen, if we
9 could, the pending motions. I believe that counsel for the
10 Defendant has a pending Motion in Limine. Mr. Edmund?

11 MR. EDMUND: If it please, Your Honor, now comes the
12 Defendant and moves this Court to allow us to withdraw that
13 Motion in Limine.

14 THE COURT: Any objection?

15 MR. HOGAN: No, sir.

16 THE COURT: We will note that that is withdrawn. I
17 would ask if you would, Mr. Edmund, follow that up in writing.
18 Simply showing in our record that it is withdrawn.

19 MR. EDMUND: Yes, Your Honor.

20 THE COURT: Madam reporter, I know you do this as a
21 matter of practice, but we will note the Defendant is present
22 for the proceedings.

23 Mr. Hurm or Mr. Hogan, the State has a pending Motion
24 to Perpetuate Testimony?

25 MR. HURM: Yes, Your Honor, the State has filed that

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1 and Mr. Edmund has filed additionally, an objection to that.
2 I understand he wishes to withdraw his objection and allow
3 us to go forward with that perpetuation of testimony:

4 MR. EDMUND: That is correct, Your Honor.

5 THE COURT: Alright, sir, I will ask you to follow that
6 up as well in writing.

7 I believe we are scheduled, gentlemen, for Thursday
8 morning at 9:00 A. M. in this courtroom to do the perpetuation
9 of testimony.

10 MR. HURM: Yes, sir, that is correct.

11 MR. EDMUND: Yes, sir.

12 THE COURT: Alright. Madam reporter, I will require
13 the official court reporter for that hearing, as well as
14 the video tape person, who will be with us.

15 Do we have any objection to Mrs. Jonalyn Berry conducting
16 the video tape portion of that Motion for Perpetuation of
17 Testimony?

18 MR. EDMUND: No, Your Honor.

19 MR. HURM: Not from the State.

20 THE COURT: Are there other pending motions before the
21 Court at this time?

22 MR. HURM: Not from the State, Your Honor, that the
23 State is aware of, no, Your Honor.

24 MR. EDMUND: No, Your Honor.

25 THE COURT: The State has filed a Motion to Rely on the

1 Williams Rule in the State of Florida. The Court and with the
2 gracious assistance of my Research Assistant, has spent a
3 great deal of time this week with regard to the Williams Rule.
4 It is this Court's ruling that there will be no pre-trial
5 determination as to whether or not the Williams Rule testimony
6 will or will not be allowed. That the Court will be required
7 to hear the State's case in chief first; then we will recess
8 the trial and hear a proffer on the Williams Rule testimony
9 and at that time, listen to appropriate argument and make a
10 determination as to whether or not that evidence will be
11 admissible. Both counsel understand that?

12 MR. HOGAN: Yes, sir.

13 MR. EDMUND: Yes, Your Honor.

14 THE COURT: As to certain pre-trial matters that we have
15 before us to take care of, if you would, Mr. Bailiff, if you
16 distribute to counsel, Rule 5.03. These are from the
17 Federal Rules, Middle District of Florida regarding the
18 courtroom decorum. I know with counsel's experience and
19 wisdom on both sides of this table, those are unnecessary,
20 but if you would review them, I adopt them as my own rules for
21 purposes of this trial, as I do in every trial.

22 I have received a set of the State's proposed jury
23 instructions. We will require no ruling on those at this
24 time. I will ask Mr. Edmund, after you have had a chance to
25 review them, if you have other proposed instructions, to

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1 provide them sometime during the course of the trial, so
2 that we can all review them.

3 With regard to the Press. I notice we have members of
4 the Press here today, or the media, I supposed I should say.
5 I want to ask all of you to be aware as I am sure you are,
6 but those of you that have your note pads might write this
7 down. There is a Florida Supreme Court case decided April
8 12, 1979, styled In Re: Petition of Post Newsweek Station,
9 Florida Incorporated, or Change in Code of Judicial Conduct.
10 At Appendix III, there is a detailed standards of conduct
11 in technology governing electronic media and still photography
12 coverage of judicial proceedings. I intend to adopt that in
13 its entirety. Copies of these standards will be available
14 to any member of the Press who is here immediately after this
15 hearing, from my secretary upstairs. There is, as well,
16 an Administrative Order in effect in the Fifth Judicial
17 Circuit, signed by Chief Judge Aulls, dated May 7, 1979,
18 that indicates exactly where in this courtroom, and the
19 trial will be held in this courtroom on Monday, where the
20 still photographer and television camera personnel will be.
21 That Administrative Order will also be incorporated and those
22 two will be followed and copies of that will be available
23 upstairs immediately after this proceeding.

24 We have discussed briefly the fact that the State may
25 require an interpreter or translator for a portion of the

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1 testimony in this case. I am going to charge counsel for the
2 State and for the Defendant to consult pre-trial and if you
3 can, stipulate to the qualifications of the interpreter the
4 State wishes to use. If you cannot, bring that to my
5 attention prior to Monday morning, so that we can obtain
6 some otherwise qualified interpreter.

7 With regard to courtroom security during the course of
8 the trial, it is this Court's decision that the Defendant
9 will not be in any form of restraints; no leg irons, handcuffs,
10 or otherwise. Obviously, he is permitted to wear civilian
11 clothes, but that will be of his own production.

12 The Chief Bailiff for the trial will be Mr. Steve Corbett
13 who is standing to my immediate right and your left.
14 Mr. Corbett will be in charge of the Jury. Throughout the
15 course of the trial, he will be dressed exactly as he is
16 now; gray suit, white shirt, black tie, and a badge that
17 identifies him as a courtroom bailiff. There will be no
18 uniformed deputy sheriff's in the courtroom. One bailiff in
19 plain clothes will sit in the first seat in the spectators
20 row behind the Defendant. There will be two uniformed
21 bailiffs at the door, one male and one female. All persons
22 entering and leaving the courtroom will be screened by hand-
23 held metal detectors, in addition to our metal detector
24 system at the front door.

25 Mr. Corbett is aware of this Court's rule that although

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1 he is a cross-deputized deputy with the Sheriff's Department,
2 he will make no reference to that in the presence of any
3 prospective juror or the jury. I state this because there is
4 a case on appeal from Marion County, where the issue is
5 whether or not a uniformed bailiff who was in charge of the
6 Jury, was improper. We are attempting to avoid that
7 particular problem.

8 We have the issue of the voir dire of the Jury. We will
9 proceed with fourteen jurors, twelve regular jurors and two
10 alternates and death qualifications of the Jury.

11 Gentlemen, if you all would share with the Court your
12 thoughts on the state of the law with regard to death
13 qualifying the Jury.

14 MR. HOGAN: Judge, it goes without saying Witherspoon,
15 and the Texas case, I think the State is entitled to go
16 into opinions on capital punishment; how they feel about the
17 death penalty; and if you get someone absolutely opposed
18 to the death penalty, he cannot follow the law that we are
19 entitled to strike for cause. That is basically it.

20 MR. EDMUND: As long as they stay within that, Your
21 Honor, I have no problem with it. I think that perhaps it
22 gets more ...

23 THE COURT: I am going to request both of you gentlemen,
24 and I know you are extremely busy, I would like about a one
25 page letter memo on exactly what you understand to be the

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1 state of the law with regard to the appropriate questions
2 to death qualify a jury and the appropriate standard to be
3 applied. Not some great legal treatise. You understand?
4 Just a one page basic summation of what you understand the
5 law to be. Monday morning will be fine for that.

6 With regard to jury sequestration, I have provided
7 counsel for both the State and the Defense with some proposed
8 rules on jury sequestration, which we drafted in another case.
9 I am going to ask both of you to review those. I know you
10 just got them this morning, so you haven't had an opportunity.
11 If you can reach a written stipulation with regard to jury
12 sequestration, which can be incorporated into a Court Order
13 to that effect. If you cannot agree on all the aspects,
14 bring it to my attention, that which you cannot agree on and
15 we will draft an appropriate order. My preliminary thoughts
16 are that as soon as this jury is selected, they will be
17 sequestered, throughout the course of the trial and including
18 deliberations. We have at least a hundred persons subpoenaed
19 who will be here for purposes of trial. We have subpoenaed
20 several hundred, but I intend to have at least a hundred bodies
21 here.

22 Do we have other matters before the Court at the Pre-
23 trial Conference at this time?

24 MR. HURM: Not from the State.

25 MR. EDMUND: No, Your Honor.

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1 MR. HOGAN: I do have one matter. I need to put on the
2 record and make clear that it is my understanding that Defense
3 has engaged several experts who have, as of this time, now
4 forwarded their report to Defense counsel, but did not give
5 them to me. I would like to make it clear that I would like
6 to have those reports prior to the voir dire and prior to
7 swearing the jury, so that the State can have a fair trial.
8 I don't want to get those reports after we rest and find out
9 we have some reports.

10 THE COURT: Mr. Edmund has represented the moment he
11 has those reports, they will be in your hands.

12 MR. HOGAN: Well, I understand, but if he doesn't get
13 them until after we start the trial...

14 THE COURT: Then that will postpone the trial. That is
15 the only thing I can see at this stage that would conceivably
16 postpone the trial and I know your experts are making every
17 effort to compile those reports.

18 MR. EDMUND: Yes, sir.

19 THE COURT: Anything else?

20 MR. HOGAN: No, sir.

21 THE COURT: Alright. As to this case at this time,
22 we will be adjourned.

23 (WHEREUPON, WE ARE IN RECESS AT 10:12 A. M.)

24 **** END OF PROCEEDINGS ****

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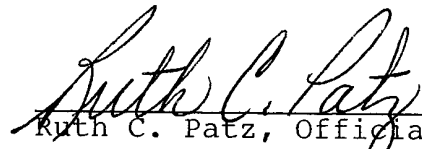
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C E R T I F I C A T E

STATE OF FLORIDA)
)
COUNTY OF LAKE)

I, Ruth C. Patz, Official Court Reporter, do hereby
certify that I was authorized to and did report stenograph-
ically the testimony in the case of STATE OF FLORIDA VERSUS
JAMES AREN DUCKETT, Case Nos. 87-1347-CF-A-01 and
88-262-CF-A-01, and the above and foregoing pages one through
ten inclusive, are a true and accurate transcript of the
said testimony and proceedings.

IN WITNESS WHEREOF, I set my hand this 9th day of
August, A. D., 1988.



Ruth C. Patz, Official Court
Reporter, Fifth Judicial
Circuit