

1 IN THE CIRCUIT COURT OF THE
2 FIFTH JUDICIAL CIRCUIT, IN
3 AND 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.

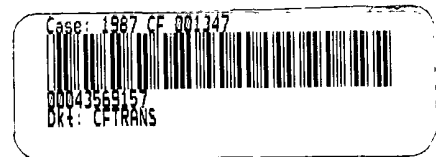
11 THIS CAUSE came on for Hearing, before the Honorable
12 Jerry T. Lockett, Circuit Judge, at Lake County Courthouse,
13 Tavares, Florida 32778, on December 18, 1987.

14 APPEARANCES: Mr. Thomas Hogan, Esquire
15 and

16 Mr. Stephen D. Hurm, 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

24
25
CLERK OF CIRCUIT
AND COUNTY COURTS
LAKE COUNTY, FLORIDA
TAVARES, FLORIDA
AUG 11 2 48 PM '88



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1 (WHEREUPON, COURT CONVENES AT 1:45 P. M.)

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

4 THE COURT: Good afternoon, ladies and gentlemen. We
5 have the State of Florida versus James Aren Duckett, Case
6 87-1347. I believe it is your Motion to Set Bond, Mr.
7 Edmund.

8 MR. EDMUND: Good afternoon, Your Honor. If it please,
9 Your Honor, I have been furnished with several Affidavits
10 and attached documents by the State of Florida, that they
11 wish to present to the Court. I have had an opportunity to
12 briefly peruse them. Without abandoning any attacks or
13 defenses I might have on certain facts that are alleged,
14 I have no objection and would not request any corroboration
15 of what is set forth in the State's exhibit, if it please,
16 Your Honor.

17 THE COURT: Alright. I appreciate that, sir.
18 The record would reflect Mr. Hogan has submitted to me what
19 appears to be the original of this Affidavit with exhibits,
20 that will be filed in the Court file, Madam Clerk, as soon
21 as this hearing is completed, please.

22 MR. EDMUND: If it please, Your Honor, I have my
23 witnesses just outside the courtroom and would rather bring
24 them in one at a time and out again, if it please the Court,
25 and may the Bailiff call Mrs. Micky Mason.

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1 (WHEREUPON, MRS. MICKY MASON IS CALLED AS FIRST WITNESS
2 FOR THE DEFENSE AND IS DULY SWORN BY THE CLERK OF THE COURT)

3 DIRECT EXAMINATION

4 BY MR. EDMUND:

5 Q. Mrs. Mason, would you answer loudly enough so
6 that the Judge can hear you and so these gentlemen here can
7 hear.

8 Would you state your name, please?

9 A. Eva Mason.

10 Q. What is your address, ma'am?

11 A. Right now it is in Winter Park, but my husband and I
12 are developers.

13 Q. What is your business, occupation or profession
14 in addition to that development? Anything at all?

15 A. That is enough.

16 Q. Do you know Jimmie Duckett? James Duckett?

17 A. I have known Jimmie since he was about eight.

18 Q. Are you related to him in any way?

19 A. No.

20 Q. Would you tell the Court how well you have known him
21 over the years since he was eight years old?

22 A. Jim's parents bought land from us in 1964,
23 August of 1964, and Jimmie was just a little boy at that
24 time and I think they built their house the following year.
25 They worked late and Jim was at our house. We took him in

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1 like he belonged to us, because they were late getting home.
2 He always got off the bus at our house. He practically lived
3 at our house, so I have known him all these years.

4 Q. As a result of that, did you make any judgment about
5 his character as to whether it was good or bad?

6 A. I would not have allowed him to not be good.
7 I was his mother.

8 Q. You treated him as you treated your own son?

9 A. Right, the same way.

10 Q. And what were his responses when you would correct
11 him and dictate what he should do?

12 A. I never had any problem with Jimmie. He went to
13 church with us and spent a lot of time at our house.

14 Q. Mrs. Mason, are you aware now that he is charged
15 with the offense of First Degree Murder?

16 A. Yes, I am.

17 Q. And are you aware that if convicted of that offense,
18 that there are two sentences open to the Judge and only two
19 and that is either death or life imprisonment without parole
20 for twenty-five years?

21 A. Yes.

22 Q. Now, Ms. Mason, we have spoken, the people from my
23 office have spoken to you about bond and the purpose of this
24 hearing that we requested to set bond. Is it correct that
25 and have you indicated, ma'am, that if the Judge would set

1 bond in this case, knowing that your land might be lost if
2 Jimmie would run, that you would allow your property to be
3 posted as security for his bond?

4 A. I would have no question about him running.

5 Q. That would be my next question. If he is out, do
6 you have any question at all as to whether he would appear or
7 whether he would abscond?

8 A. No.

9 Q. Is there anything in particular that you would like
10 to tell the Judge about your observations of Jimmie since
11 he has become an adult?

12 A. He is a very steady man and strictly a family man.
13 He has two little boys. He is an excellent father, an
14 excellent husband. He is a good neighbor. He works for me
15 part-time. We have been doing a lot of renovation in our
16 development and Jim has worked for me. I just have no problem.

17 Q. Have you any knowledge of his reputation for violence,
18 Ms. Mason?

19 A. I don't think he has any violence in him.

20 Q. Has there ever been a time during the time you have
21 known Jimmie that you observed any indication that he might
22 be in any way sexually deviated?

23 A. No.

24 Q. Or might be unusually interested for a man of his
25 age in people younger than himself in any sexual sense?

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1 A. Jimmie fell in love with Carla when she was a teen-
2 ager and waited for her to finish highschool before they got
3 married and I thought that showed a lot of good. I just don't
4 think that there is any problem at all.

5 Q. If it please, Your Honor.

6 CROSS EXAMINATION

7 BY MR. HOGAN:

8 Q. Mrs. Mason, do you have a mailing address?

9 A. I have two mailing addresses. I have one in Winter
10 Park. That is where I live with my daughter.

11 Q. Winter Park? What is it?

12 A. 500 Clarrington Avenue, Winter Park, Florida 32749.
13 You need a phone number?

14 Q. That is not necessary.

15 THE COURT: Anything else, gentlemen?

16 MR. EDMUND: If it please, Your Honor, I have no further
17 questions.

18 THE COURT: Fine. You are free to go, ma'am. Thank you
19 very much.

20 MR. EDMUND: We would call, if it please the Court,
21 Mary Jean Mason... McKinney.

22 THE COURT: Alright. Mrs. McKinney.

23 (WHEREUPON, MRS. MARY JEAN MC KINNEY IS CALLED AS NEXT
24 WITNESS AND IS DULY SWORN BY THE CLERK OF THE COURT)

25 DIRECT EXAMINATION

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1 BY MR. EDMUND:
2 Q. Ma'am, please state your name?
3 A. Mary Jean Melissa.
4 Q. Melissa?
5 A. Ahum. (Affirmative response)
6 Q. Ms. Melissa, in what city do you reside, ma'am?
7 A. Winter Park.
8 Q. And how long have you resided in Winter Park?
9 A. Almost four years.
10 Q. Prior to that, where did you live?
11 A. Tallahassee.
12 Q. Do you know James Duckett, sitting at the table here?
13 A. Yes.
14 Q. How long have you known him, ma'am?
15 A. Twenty years.
16 Q. Are you the daughter of Mrs. Mason, who testified
17 here just previously?
18 A. Yes.
19 Q. Did you know then Jimmie when he was a boy?
20 A. Yes.
21 Q. Could you tell the Court the association he had
22 with your family?
23 A. Just a real close association. He didn't live with
24 us, he was just always with us.
25 Q. Was it an association where he was with you during

1 the daylight hours probably even more than with his own
2 family?

3 A. Yes.

4 Q. And was this over a considerable period of time?

5 A. A long time.

6 Q. Do you have a brother named John?

7 A. Yes.

8 Q. Is he present here today also?

9 A. Yes.

10 Q. Now, you are aware that Jimmie is presently charged
11 with the offense of First Degree Murder, are you not?

12 A. Yes.

13 Q. And you are aware that if convicted of that, the
14 only sentence the Judge can impose would be the death penalty
15 or life imprisonment without parole for twenty-five years?

16 A. Yes, sir.

17 Q. Have you discussed with members of the family and
18 with people from my office the possible posting of bond in
19 this matter, have you not?

20 A. Yes.

21 Q. Now, you are aware that if an individual allows
22 their property to be used as security for the posting of a
23 bond and the person for whom the bond was posted absconds or
24 runs, then you lose your property, is that correct?

25 A. Yes, sir.

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1 Q. Have you made any decision in that regard? Would
2 you or would you not allow your property to be used as security
3 if the Court grants the bond for Jimmie?

4 A. Without a doubt.

5 Q. Knowing Jimmie and knowing the severity of the
6 charges, do you have an opinion as to whether or not he would
7 remain and face the trial or whether he would likely abscond?

8 A. I have no doubt that he would remain.

9 Q. Ma'am?

10 A. I have no doubt that he would remain. It is not a
11 question.

12 Q. Thank you, ma'am. Would you tell the Court generally
13 what you base that opinion on, Ms. Melissa?

14 A. I don't know that I could point to facts, but the
15 feeling I have for Jimmie and I have known him for twenty
16 years. I know his character. This is something I know he
17 will see through.

18 Q. During the time you have known Jimmie from his
19 childhood on up to his adult life, have you ever observed
20 anything about his character or his actions that would
21 indicate to you that he was sexually deviant in any manner?

22 A. I have been in every kind of situation with Jimmie
23 Duckett and I have never seen that at all.

24 Q. Thank you very much.

25 THE COURT: Mr. Hogan?

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1 CROSS EXAMINATION

2 BY MR. HOGAN:

3 Q. Mrs. Melissa?

4 A. Ms. Melissa.

5 Q. How long did you live in Tallahassee?

6 A. Six or seven years.

7 Q. Mr. Duckett never lived in Tallahassee, is that
8 correct?

9 A. No.

10 Q. You just kept in casual contact with him during that
11 time period?

12 A. I was away at college and would come home for
13 breaks and things like that.

14 Q. How long has it been since you moved back to this
15 area?

16 A. Three and a half to four years.

17 Q. What do you do for a living?

18 A. I work at Martin Marietta, an aerospace company
19 in engineering.

20 Q. Do you have a mailing address?

21 A. 500 Clarington Avenue, Winter Park.

22 Q. How long have you seen... how often have you seen
23 James Duckett here in the last three and a half years? Every
24 day? Every other day? Once a month?

25 A. Oh, no. I don't know how often. Whenever I go home

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1 and I would say several times a year. Half a dozen times a
2 year. On college break, I would go home. Well, in the last
3 year, it has probably been once or twice a month even.

4 Q. Do you know anything about the facts surrounding
5 the death of Teresa McAbee?

6 A. Just, you know, things you read in the paper.

7 Q. Has Mr. Duckett talked to you about the McAbee case?

8 A. No.

9 Q. Has he told you anything about where he was that
10 night?

11 A. I didn't talk to Jimmie about that.

12 Q. You haven't talked to him or any members of his
13 family about where he was that night or what ...

14 A. I didn't think it was a good idea.

15 Q. Why not?

16 A. Because I thought if I needed to be a witness, I
17 would probably be a better witness not having heard what
18 everybody else said about it.

19 Q. So you haven't tried to find out anything about the
20 death of Teresa McAbee before you came in today?

21 A. Well, I read everything in the paper, but I don't
22 talk to Jimmie.

23 Q. So you did no independent investigation before you
24 came here and asked the Judge to let the Defendant out on
25 bond?

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A. No.

Q. You are basing your request that bond be granted on your feelings for Mr. Duckett that were developed over your childhood years?

A. True.

Q. Nothing further.

THE COURT: Anything further, Mr. Edmund?

MR. EDMUND: I have no further questions, Your Honor.

THE COURT: You can step down, ma'am. Thank you. Please watch your step when you go.

Your next witness, sir?

MR. EDMUND: If it please, Your Honor, may the Bailiff call Mary Francis Tyrrell.

(WHEREUPON, MARY FRANCIS TYRRELL IS CALLED AS NEXT WITNESS FOR THE DEFENSE AND IS DULY SWORN BY THE CLERK OF THE COURT)

DIRECT EXAMINATION

BY MR. EDMUND:

Q. Please state your name, ma'am?

A. Mary Francis Tyrrell.

Q. What is your business or occupation or profession, Ms. Tyrrell?

A. I work for Florida National Bank and I am a supervisor.

Q. How long have you been engaged in that profession?

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1 A. Going on eight years.

2 Q. Within what city do you live or reside? Where do you
3 live?

4 A. I live in Sumter County, a little area called
5 Croom-a-Coochee.

6 Q. Do you know Jimmie Duckett, James Duckett?

7 A. Yes, sir, I do.

8 Q. Your Honor, I have made an assumption that each
9 witness identified Mr. Duckett. Will that be alright?

10 THE COURT: Just make sure the record is clear. We
11 never got through.

12 MR. EDMUND: Would you stipulate with me that the first
13 three witnesses were also referring to my client, James
14 Duckett?

15 MR. HOGAN: Yes, sir.

16 MR. EDMUND: Thank you, Your Honor.

17 THE COURT: It will be noted.

18 Q. Do you see James Duckett in the courtroom at this
19 time?

20 A. Yes, sir, I do.

21 Q. Tell the Court where he is sitting and what he is
22 wearing?

23 A. He is sitting at the table to your left and he is
24 wearing a navy blue outfit.

25 Q. May the record reflect she has identified the Defendant.

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1 THE COURT: Yes, sir, the record would so reflect.

2 Q. How long have you known Jimmie Duckett?

3 A. I have known Jimmie for over seventeen years.

4 Q. In what capacity have you known him, Ms. Tyrrell?

5 A. As a neighbor.

6 Q. Would you describe for the Court the relationship
7 between your family and Jimmie Duckett's family; your family
8 and Jimmie Duckett in particular?

9 A. Yes, sir. I have a son... I have three sons,
10 the older twenty-eight, twenty-six and twenty-four. As I
11 said, we purchased our property back in the seventies.
12 Jimmie became very good friends with my sons. They spent a
13 lot of hours together at my home. Jimmie has stayed in our
14 home. They have just been a lot of good friends and I have
15 known his family even as far as his wife. I have seen him
16 grow up and be among my presence an awful lot.

17 Q. And until this arrest, was your association with
18 him and your knowledge of his comings and goings current or
19 had you drifted away from one another?

20 A. No, sir, there wasn't any day that Jimmie and his
21 family walked the block or rode their bicycle. They always
22 stopped by our home to speak to us. They have spent a lot
23 of time in our home as a family, not only when he was a young
24 man, but after he was married and his children, he spent a
25 lot of time in our home. He was the type of neighbor that he

1 was able to go around the block or go anywhere, without seeing
2 you and presenting himself and speaking to us and being a
3 good neighbor.

4 Q. Have you ever observed anything about his actions or
5 his character that would indicate to you that he had any
6 propensity towards the use of violence?

7 A. No sir, none whatsoever.

8 Q. Or any propensity to engage in any sort of sexual
9 perversion?

10 A. No, sir, none whatsoever. I have a niece who lives
11 right across from my house, who is thirteen years old and she
12 herself has spent a lot of time in the presence of Jimmie
13 in his home. I have a granddaughter, who spends a lot of
14 time with us, goodness knows, she has been in his presence.
15 He has never shown any eye contact or touch contact whatsoever
16 around her. He has always been a gentleman in my presence.

17 Q. You are aware from our conversation that he is
18 charged with First Degree Murder?

19 A. Yes, sir.

20 Q. And you are aware from our conversation what the
21 penalties for that area?

22 A. Yes, sir.

23 Q. That being either the election the Court has only
24 the election of imposing the death penalty or life imprison-
25 ment with twenty-five years without parole?

1 A. Yes, sir.

2 Q. Now, knowing that, did you form any sort of opinion
3 as to whether or not, if granted bond, Jimmie would run or
4 whether he would stay for trial?

5 A. Sir, I would put my total reputation, my home, my
6 name and everything that this young man would not at any time
7 leave. He has the responsibility. He is a responsible person
8 and he will do what the law says.

9 Q. And you understand that if you put your home where
10 you have been talking at this time, and he were to run, that
11 you would lose it?

12 A. Yes, sir, I do.

13 Q. And you would, nevertheless, do that?

14 A. Yes, sir.

15 Q. Thank you, ma'am. If it please, Your Honor.

16 THE COURT: Mr. Hogan?

17 CROSS EXAMINATION

18 BY MR. HOGAN:

19 Q. Ma'am, what is your mailing address?

20 A. 3011 Vaughan Avenue, Webster.

21 Q. Ma'am, do you know anything about the facts
22 surrounding the death of Teresa McAbee last May?

23 A. Only what the media presented.

24 Q. You haven't done any investigation of your own?

25 A. No, sir.

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1 Q. Have you talked to Mr. Duckett about his involvement
2 in that case?

3 A. I have spoken with him.

4 Q. What did he say?

5 A. We mostly didn't bring it up. We just talked our
6 everyday stuff.

7 Q. Well, on the times you didn't mostly bring it up,
8 during the times you did bring it up, what did he say?

9 A. He did not do this.

10 Q. He did not do what?

11 A. He did not do the crime they have said that he has
12 done.

13 Q. What did he say about it?

14 A. Only that he did not do it.

15 Q. Did you ask him if he did it?

16 A. No, sir, I didn't have to.

17 Q. He just brought it up on his own and told you he
18 didn't do it?

19 A. I asked him how things were going for him.

20 Q. What did he say?

21 A. He said they were not going too good for him.

22 Q. Why not?

23 A. Because of the media.

24 Q. He just doesn't like the media?

25 A. No, sir, the fact that the media has really gone a

1 little bit, beyond, I feel, their boundaries and I think he
2 did too. Because they have the wrong person.

3 Q. Where was it that you talked to him?

4 A. In my home.

5 Q. You talked to him in your home?

6 A. Yes, sir.

7 Q. And it was already in the newspaper that he had
8 committed this crime?

9 A. Yes, sir, this was after the first time and he was
10 still out. He still presented himself and worked every day
11 and still was a good neighbor and still with his family did
12 their everyday walk or riding their bicycles; just a good
13 neighbor, and he visits the neighbors.

14 Q. When did you first meet Mr. Duckett?

15 A. Back in 1970. I can't tell you the month, but I
16 know it was in 1970.

17 Q. How did you meet him?

18 A. When we purchased the land right next to his property.

19 Q. Do you know if he has ever been in trouble with the
20 law?

21 A. No, sir.

22 Q. You don't know?

23 A. No, sir, I do not.

24 Q. You don't know whether he has or not?

25 A. No, sir, I do not.

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1 Q. But you are willing to vouch for him, not knowing
2 whether or not he has ever been charged with another crime?

3 A. Yes, sir, I am.

4 Q. What is that based on? A feeling you have that
5 he won't run or the feeling you have that he won't commit
6 any other crimes?

7 A. Because I know Jimmie. I know that he could not have
8 committed the crime. There is no way and I know for a fact
9 too, if the young man wanted to have left, he would have had
10 the opportunity all the time he has been, before he was
11 arrested this last time.

12 Q. Do you know what evidence there is in this case
13 against him?

14 A. No, sir.

15 Q. Thank you.

16 RE-DIRECT EXAMINATION

17 BY MR. EDMUND:

18 Q. Do you know even if there is any evidence in this
19 case?

20 A. No, sir I do not.

21 Q. If it please, Your Honor, no further questions.

22 THE COURT: Anything further, Mr. Hogan?

23 MR. HOGAN: No, sir.

24 THE COURT: You can step down, ma'am. Thank you.
25 Please watch your step.

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1 MR. EDMUND: Your Honor, may the Bailiff call John Mason?
2 THE COURT: John Mason.
3 (WHEREUPON, JOHN MASON IS CALLED AS NEXT WITNESS AND IS
4 DULY SWORN BY THE CLERK OF THE COURT)
5 MR. EDMUND: While this is happening, Your Honor,
6 if I were to call Francis Jones, her testimony would be
7 virtually the same as that of Mrs. Mason, Ms. Melissa, and
8 Mrs. Tyrrell. If I were to call Sarah Waters... I mean
9 Sarah Jordan, her testimony would be that she is the sister-
10 in-law and her testimony would then be virtually the same
11 as the others.
12 THE COURT: Yes, sir.
13 DIRECT EXAMINATION
14 BY MR. EDMUND:
15 Q. If it please, Your Honor. If you are nervous, John,
16 your poker face doesn't show it, but your left hand does.
17 Are you okay?
18 A. Yeah. (Affirmative response)
19 Q. State your name, please?
20 A. John Scott Mason.
21 Q. What is your business, occupation or profession?
22 A. I am a metal framer.
23 Q. How long have you been engaged in that?
24 A. About a year. I have been a carpenter most of my
25 life.

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1 Q. In what town or area do you reside?
2 A. Croom-a-Coochee.
3 Q. How long have you lived there?
4 A. All but a month of my life.
5 Q. Okay, do you know James Duckett?
6 A. Yes, I do.
7 Q. Do you know him as Jimmie Duckett?
8 A. Yes..
9 Q. Is he present in the courtroom today?
10 A. Yes.
11 Q. would you identify him by where he is sitting and
12 what he is wearing?
13 A. Sitting there beside you and wearing a blue jumpsuit.
14 Q. May the record reflect he has identified the Defendant.
15 THE COURT: The record will so reflect.
16 Q. How long have you known Jimmie?
17 A. Ever since I was about six or seven.
18 Q. What has been the nature of that relationship, if
19 any?
20 A. Best friends.
21 Q. Beg pardon?
22 A. Best friends.
23 Q. Best friends? Give the Court some facts upon which
24 to make a determination for himself that you all were best
25 friends?

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1 A. We spent all the time together when we were young.
2 Q. Starting at about what age?
3 A. Six or seven. As soon as he moved up here.
4 Q. Alright, sir.
5 A. We went swimming together and normal things you do
6 in the woods.
7 Q. As he grew in age, did he also grow in size?
8 A. We all do.
9 Q. How big did he finally get?
10 A. About the size he is right now, more or less.
11 Q. Did there come a time when his weight was approaching
12 three hundred pounds?
13 A. Yes.
14 Q. During that period of time, did he make any career
15 change in his life?
16 A. Yes, he did.
17 Q. What was that career change?
18 A. He wanted to be a policeman.
19 Q. Beg pardon?
20 A. He wanted to be a policeman.
21 Q. Will you tell the Court what you observed after he
22 made that decision and how he handled himself and to what ends
23 he went to become a police officer?
24 A. There wasn't going to be anything standing in his
25 way to be a policeman. He worked real hard and was real over-

1 weight. He ran around Croom where we lived and everything
2 until he was going to fall down. We used to tease him and
3 follow him around on a motorcycle and bug him, but he wouldn't
4 quit.

5 Q. Did he make it?

6 A. Yes.

7 Q. Did he get that weight off?

8 A. He sure did. It surprised me.

9 Q. Did he get through whatever course he had to get
10 through in order to qualify to become a police officer?

11 A. Yes, sir.

12 Q. You are aware that he is charged with First Degree
13 Murder, are you not?

14 A. Yes.

15 Q. And from what I told you, you are now aware of what
16 the possible ... what the penalties are if he is convicted?

17 A. Yes, sir.

18 Q. And you understand those to be that the Judge would
19 have two choices, either death or life imprisonment with-
20 out parole for twenty-five years?

21 A. Yes, sir.

22 Q. Are you also aware that we are here today asking the
23 Court to set bond so that Jimmie doesn't have to remain in
24 jail until his trial?

25 A. Yes, sir.

- 24 -

1 Q. And we have discussed various ways that bond can be
2 posted?

3 A. Yes, sir.

4 Q. And we discussed the fact that virtually any way
5 that bond is posted whether by bail bondsman, by posting of
6 property, or cash bond, that someone's property needs to be
7 put in jeopardy by way of security to secure that bond?

8 A. Yes, sir.

9 Q. And if Jimmie should run, whoever puts up their
10 property for security would lose their property?

11 A. Ahum. (Affirmative response)

12 Q. Now, in light of that, have you made any decisions
13 with regard to what you would do with your property if this
14 Court sets a bond for Jimmie?

15 A. I have no problem.

16 Q. You have no problem...?

17 A. I would be more than glad to.

18 Q. Sir?

19 A. I would be more than glad to.

20 Q. Put up your property as security for his bond?

21 A. Yes, sir.

22 Q. During the time you have known Jimmie, have you
23 ever observed anything about his character that would indicate
24 to you that he had a propensity for violence?

25 A. No.

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1 Q. And during the time you have known him, have you
2 ever observed anything about his actions that would indicate
3 to you that he had any sexually deviant characteristics at
4 all?

5 A. No.

6 Q. Alright, sir, if it please, Your Honor.

7 THE COURT: Thank you, sir. Mr. Hogan?

8 CROSS EXAMINATION

9 BY MR. HOGAN:

10 Q. What is your mailing address?

11 A. 2016 Mason Road, Webster.

12 Q. Have you talked to Mr. Duckett about the facts of
13 the death of Teresa McAbee?

14 A. Briefly.

15 Q. What did he tell you?

16 A. Just what was going on. What he was accused of.

17 Q. What did he say he was accused of?

18 A. Killing some little girl.

19 Q. What did he say about that?

20 A. That he didn't do it.

21 Q. Did he say he had seen her that night?

22 A. Yeah, he saw her.

23 Q. What did he tell you about that night?

24 A. He just said that he was called up to the 7-11 or
25 something to run some kids off that had some kind of curfew

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1 or something. That was about all. As far as that goes.

2 Q. That is all he ever told you about the death of
3 Teresa McAbee?

4 A. Oh, he told me where they found the body and things
5 like that. You know, close by and mother and things like
6 that.

7 Q. Where did he tell you they found the body?

8 A. Some pond or something.

9 Q. Did he tell you if he had ever been to that pond
10 before?

11 A. No.

12 Q. He had never been or he just never told you?

13 A. He just never told me.

14 Q. Did he ever tell you about the times he took young
15 girls for rides in his patrol car?

16 A. No.

17 MR. EDMUND: I would object on the grounds that is out-
18 side of direct examination. There is no material relevance
19 to the issue before the Court at this time.

20 MR. HOGAN: This man claims to have superior knowledge
21 about Mr. Duckett and I have a right to ask him if he knows
22 these things...

23 MR. EDMUND: If that is in the Affidavits, I missed it
24 Your Honor, or if the State plans to call witnesses to that,
25 then I would withdraw my objection, but I don't recall any

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1 of that being in any of the affidavits I looked at this
2 morning, Mr. Hogan.

3 THE COURT: I am going to sustain your objection. The
4 witness may have answered. If he did, I am going to strike
5 the answer. You can go ahead, Mr. Hogan.

6 CROSS EXAMINATION CONTINUES

7 BY MR. HOGAN:

8 Q. Have you ever seen Mr. Duckett in a fight?

9 A. No.

10 Q. May I have one moment, Judge?

11 How many times have you been to the jail to see Mr.
12 Duckett?

13 A. I was told I couldn't.

14 Q. Who told you that?

15 A. I was told only family or relatives could.

16 Q. Have you written to him or called him?

17 A. Yes, sir. Written him.

18 Q. Has he written to you?

19 A. Yes, sir.

20 THE COURT: Anything further, Mr. Edmund?

21 MR. EDMUND: I have no further questions. If it please
22 the Court, may the Bailiff call Ronnie Jordan?

23 (WHEREUPON, RONNIE JORDAN IS CALLED AS NEXT WITNESS FOR
24 THE DEFENSE AND IS DULY SWORN BY THE CLERK OF THE COURT)

25 DIRECT EXAMINATION

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1 BY MR. EDMUND:

2 Q. If it please the Court. State your name, please,
3 sir?

4 A. Ronald Jordan.

5 Q. What is your business, profession or occupation?

6 A. Sales with Bartow Ford.

7 Q. How long have you been engaged in the sales
8 profession?

9 A. A year and a half.

10 Q. Where do you live now, Mr. Jordan?

11 A. In Valrico, Florida.

12 Q. Alright, sir, Valrico, Florida being an area just
13 West of the Polk County - Hillsboro County line?

14 A. Yes.

15 Q. And Bartow would be in Polk County?

16 A. Yes.

17 Q. And that being located an hour and a half South of
18 here?

19 A. Yes.

20 Q. Depending on how fast you drive?

21 A. Exactly.

22 Q. Do you know James Duckett?

23 A. Yes, I do.

24 Q. Do you know him a Jimmie Duckett?

25 A. Yes, I do.

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1 Q. Do you see him in the courtroom?

2 A. Yes, I do.

3 Q. Would you describe where he sits and what he is
4 wearing?

5 A. He is sitting there to your left. He is wearing
6 the blue uniform.

7 Q. May the record reflect he has identified the
8 Defendant?

9 THE COURT: Yes, sir, the record will so reflect.

10 Q. Are you related by blood or marriage to Mr. Duckett?

11 A. He is my brother.

12 Q. Now, are you aware from our conversations and of
13 course, from your own personal knowledge, that he is charged
14 with the offense of First Degree Murder?

15 A. Yes, I am aware of it.

16 Q. Are you aware of the penalties for that offense?

17 A. Yes, I am.

18 Q. Are you aware that we are here today requesting bond
19 during the pendency of this until the trial?

20 A. Yes.

21 Q. Now, are you also aware of Jimmie's financial
22 condition in a general sense?

23 A. Yes.

24 Q. Have you made any decisions with regard to any
25 participation you would have in the event the Court sets bond

1 and in the event any requirement was made that people post
2 property as security for that bond?

3 A. Yes, sir.

4 Q. Would you tell the Court what those decisions are,
5 please, Mr. Jordan?

6 A. Anything that myself or any member of my family
7 can do we will do everything possible.

8 Q. Mr. Jordan, do you have another brother who is
9 present in the courthouse at this time?

10 A. Yes, I do.

11 Q. If you would allow me, I will cut out calling him
12 by talking about his brother. And would you state his name,
13 sir?

14 A. Donald Jordan.

15 Q. Have you discussed with Donnie his participation
16 in the event bond were set with regard to the costs and
17 property security?

18 A. Yes, I have.

19 Q. Would you tell the Court whether or not his position
20 is the same as yours?

21 A. Yes, it is.

22 Q. Now, will you also tell the Court that with regard
23 to payments of fees and costs that both you and Donnie have
24 participated actively in that regard?

25 A. Yes, we have.

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1 Q. And have made individual contributions of substantial
2 amounts for the assistance of your brother, up to this point?

3 A. Yes, we have.

4 Q. Tell the Court whether you are prepared to make
5 additional contributions if necessary if the Court should see
6 fit to set a bond?

7 A. Yes, we are.

8 Q. Over the years that you and your brother, Jimmie,
9 have been together, have you ever observed anything about
10 his actions or character that would indicate to you that he
11 has any sort of propensity for violence?

12 A. No, none at all.

13 Q. Or in any way showed any tendencies towards sexual
14 perversion of any sort?

15 A. None.

16 Q. Have you observed him around children?

17 A. Yes.

18 Q. What, if anything, unnatural have you ever seen about
19 his actions around children?

20 A. Nothing. I have a young one.

21 Q. And has he been in that youngster's proximity?

22 A. Oh, many times.

23 Q. Have you ever observed anything that would indicate
24 to you that there was any necessity that you keep him away
25 from your child?

1 A. No.

2 Q. Or any other child you observed him with?

3 A. No.

4 Q. Including his own?

5 A. Including his own.

6 Q. Whether male or female?

7 A. Matters not.

8 Q. Has he discussed the facts of this case with you?

9 A. Well, not really, because the only place that we have

10 been able to talk really is on visitation.

11 Q. Do you have any personal knowledge of any of the

12 facts of this case?

13 A. Yes, some.

14 Q. From where did you get that personal knowledge of

15 the facts?

16 A. From his wife. From other family members.

17 Q. Alright. So they were conveying to you as what the

18 wife and family members knew? Was it also said to you that

19 those facts had been told them by Jimmie or that they were

20 facts that they were aware of themselves?

21 A. Facts that they were aware of.

22 Q. And you have not had any direct conversations with

23 Jimmie regarding the facts of this case?

24 A. We talked, it seems like prior to any charges being

25 levied. We talked on a couple occasions, but nothing that we

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1 really went into any great detail on.

2 Q. Was he aware for some time prior to his arrest that
3 in all probability he would be arrested?

4 A. No.

5 Q. Alright, sir, at what point in time did you get any
6 indication that he was going to be arrested?

7 A. The night my mother called me at work and said that
8 the Grand Jury had called him in.

9 Q. Had he ever had occasion... to your knowledge, was he
10 allowed to go from his home in Webster to the Lake County
11 Jail and report in?

12 A. Yes.

13 Q. Alright, sir, fine. If it please Your Honor.

14 THE COURT: Mr. Hogan?

15 CROSS EXAMINATION

16 BY MR. HOGAN:

17 Q. Sir, you say you have had several conversations
18 with your brother regarding the death of Teresa McAbee?

19 A. Yes.

20 Q. Would you tell me please what he said on those
21 occasions?

22 A. Which brother are we talking about?

23 Q. James Duckett?

24 A. Okay, the information that we talked about was that
25 the incident happened while he was an officer for the City of

1 Mascotte, I believe, and that was it, and then when he was...
2 we really didn't discuss it after he was charged, because he
3 did have to come turn himself in.

4 Q. Did he tell you anything about the facts of the
5 night of May 12th, the night the little girl was killed?

6 A. The information that we talked was that he found
7 the person talking with some other individuals outside a little
8 convenience store and that he separated them and made the
9 youngster go home.

10 Q. Took her home or made her go home?

11 A. Made her go home.

12 Q. What else?

13 A. That was about it and then they had found the body
14 the next morning.

15 Q. That was his only involvement in the case?

16 A. Well, we didn't go into any hard details, because
17 when we were discussing it, his name had not really been
18 brought out, at least to my information, as that he was a
19 prime suspect.

20 Q. Do you know what evidence exists against your brother?

21 A. No, I do not.

22 Q. You say that you have already put up a substantial
23 amount of money?

24 A. The family has, yes.

25 Q. What is a substantial amount?

1 A. Well, the attorney fees have been taken care of.
2 The investigator has been taken care of. You want actual
3 dollar amounts?

4 A. Not necessary. You also stated under Direct Examination
5 that other members of the family had given you facts about
6 the death of Teresa McAbee?

7 A. We had discussed it.

8 Q. What was discussed?

9 A. How other people involved in the case, such as the
10 convenience store operator, had said there was no way that
11 he was involved. That she had seen him go and separate the
12 child from the group she was with. That he had gone in one
13 direction and sent the child in another direction. I have
14 heard a lot of hearsay from other individuals, such as
15 the convenience store operator actually asking him to expose
16 his chest area to see if there were any scratch or claw marks
17 on him and there were none. What information would you like?

18 Q. Whatever you have?

19 A. I really don't have that much information on that.
20 I have not ... I felt that it was my brother's wife's place to
21 correspond with the attorney and not mine, because I didn't
22 feel that I should be involved with it on that extent that it
23 is their family.

24 Q. You really haven't done an investigation of the facts
25 of this case. You are here speaking on behalf of your brother.

1 James Duckett, because he is your brother?

2 A. I am here speaking of behalf of the individual, not
3 because he is my brother, but because I have known him for a
4 long time. I know that he is ... well, he is a non-smoker,
5 a non-drinker. He has just never been one to be of the
6 violent nature.

7 Q. But you don't know anything about the facts of the
8 death of Teresa McAbee?

9 A. No.

10 THE COURT: Anything further from this witness,
11 Mr. Edmund?

12 MR. EDMUND: No, if you please, Your Honor.

13 THE COURT: You can step down. Please watch your step
14 as you leave.

15 MR. EDMUND: If it please the Court, Mr. Hogan, Mr. Hurm,
16 if I were to call Dude Waters and Alan Waters, each would
17 testify that he is the uncle of the Defendant and would identify
18 the Defendant. Each would testify that his character as
19 have the preceding witnesses and each would testify that they
20 would similarly allow their property to be used as security
21 in the event a bond was granted. Would you accept that?

22 MR. HOGAN: Judge, I will be glad to stipulate to
23 these witnesses as long as we can have their addresses.

24 MR. EDMUND: I will get all these addresses to the State
25 if not during or immediately following the hearing and within

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1 the first part of next week, sir.

2 MR. HOGAN: Thank you.

3 MR. EDMUND: As the last witness, if it please the Court,
4 may the Bailiff call Carla Duckett.

5 (WHEREUPON, CARLA DUCKETT IS CALLED AS NEXT WITNESS FOR
6 THE DEFENSE AND IS DULY SWORN BY THE CLERK OF THE COURT)

7 DIRECT EXAMINATION

8 BY MR. EDMUND:

9 Q. If it please the Court. State your name, please,
10 ma'am?

11 A. Carla Ann Duckett.

12 Q. Where do you live, Ms. Duckett?

13 A. 3815 Croom-a-Coochee Drive.

14 Q. Ms. Duckett, do you know the Defendant, James
15 Duckett?

16 A. Yes.

17 Q. That is not a stupid question. It has to be on the
18 record. Is he in the courtroom today?

19 A. Yes.

20 Q. Describe where he is sitting and what he is wearing?

21 A. In the blue right there.

22 Q. Sitting to my left?

23 A. Yes.

24 Q. May the record reflect?

25 THE COURT: Yes, sir.

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Javarez, Florida 32778

1 Q. Are you related by blood or marriage to Jimmie
2 Duckett?

3 A. By marriage.

4 Q. Are you his wife?

5 A. Yes.

6 Q. How long have you all been married?

7 A. Ten years.

8 Q. Do you have children?

9 A. Yes.

10 Q. What are the children's names and ages?

11 A. Justin, five and Joshua, two.

12 Q. During your married life, where have you all lived,

13 Ms. Duckett?

14 A. We lived in Homeland, and Avon Park and Ft. Meade
15 and up in Croom.

16 Q. Alright, now, Homeland is that a small community in
17 Polk County?

18 A. Yes.

19 Q. Between Bartow and Ft. Meade?

20 A. Yes.

21 Q. Is Ft. Meade a small community in Polk County?

22 A. Yes.

23 Q. Alright, is Avon Park a small community in Highlands
24 County?

25 A. Yes.

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1 Q. All of them being generally South and Southwest of
2 here?

3 A. Yes.

4 Q. The last place you say you lived?

5 A. Croom.

6 Q. Is that generally in the Webster area?

7 A. Yes.

8 Q. Of Sumter County?

9 A. Yes.

10 Q. Now, you, of course, are aware of the charges that
11 your husband is presently facing, is that right?

12 A. Yes, sir.

13 Q. Did there come a time prior to his arrest that you
14 and Mr. Duckett became aware that there was a great probability
15 that he would be arrested and charged with this offense?

16 A. Yes.

17 Q. And how long prior to his arrest did this occur?
18 At least a matter of days or more?

19 A. Yes.

20 Q. Did you come to see me prior to the time he got
21 arrested?

22 A. Right before he was arrested.

23 Q. Right. And at that time, was it pretty fair decision
24 that, in fact, he was going to be indicted and arrested?

25 A. Yes.

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1 Q. Did he make any indication to you that he thought he
2 would abscond or run?

3 A. No.

4 Q. On the evening of his arrest, will you tell the Court
5 whether the deputies came to arrest him or whether he, in fact,
6 left your home and reported to the County Jail upon a telephone
7 call?

8 A. He left our home and reported.

9 Q. To the County Jail?

10 A. Yes, sir.

11 Q. Knowing that he was reporting on a First Degree
12 Murder Indictment?

13 A. Yes.

14 Q. And this was a courtesy that was granted us by the
15 State Attorney's Office?

16 A. Yes.

17 Q. Now, if the Court were to grant bond for Jimmie at
18 this time, do you have any money with which to post that
19 bond? Personally?

20 A. No.

21 Q. Have you had indications from the family that they
22 would assist in whatever way they could in securing the
23 posting of bond?

24 A. Yes.

25 Q. Including giving their property as security if called

1 upon?

2 A. Yes.

3 Q. Now, if this Court should grant Jimmie bond, would
4 you tell the Court whether you think he would remain or
5 whether he would run?

6 A. I know he would remain.

7 Q. Are you aware that if he is convicted of First Degree
8 Murder what the only two penalties are that the Court can
9 impose?

10 A. Yes.

11 Q. What are those, Ms. Duckett?

12 A. Life in prison or death penalty.

13 Q. Now, have you and Jimmie discussed the facts of this
14 case to any degree? Any appreciable degree?

15 A. Other than what you have discussed?

16 Q. No, I say have you and Jimmie discussed the facts
17 of this case to any great degree?

18 A. He just told me, you know, what had happened. You know.

19 Q. That is the evening prior to discovery of the little
20 girl's body?

21 A. Right.

22 Q. During the course of your marriage to Jimmie, have you
23 ever observed anything about him that would indicate to you
24 that he had any sort of propensity for violence?

25 A. No, sir.

1 Q. Or any propensity at all for sexual deviation?

2 A. No.

3 Q. Where are you and the children living now?

4 A. At our home.

5 Q. Do you see Jimmie regularly?

6 A. Every day I am allowed to.

7 Q. Has there been anything that you have observed about
8 him during the course of your visits with him while he has
9 been in jail here, that would indicate to you as his wife
10 that he has changed his mind in any way and that he would like
11 to run if he is released from jail?

12 A. No.

13 Q. What has been his position with regard to his
14 guilt or his innocence?

15 A. What?

16 Q. What has been his position with regard to his
17 guilt or his innocence, Ms. Duckett?

18 A. He is innocent.

19 Q. If it please, Your Honor.

20 THE COURT: Yes, sir. Mr. Hogan?

21 CROSS EXAMINATION

22 BY MR. HOGAN:

23 Q. Ms. Duckett, how old are you?

24 A. Twenty-eight.

25 Q. How old is your husband?

1 A. Thirty.

2 Q. How old were you when you first met him?

3 A. Eight years old.

4 Q. You say your husband told you what happened on the
5 night of May 12th, the night the little girl was found dead?

6 A. He only told me that he spoke with her at the Shop
7 and Go and he sent her home.

8 Q. Did he tell you that she had been inside the patrol
9 car?

10 A. Yes, he said that he had set her down. That he had
11 just taken the report and then he sent her home.

12 Q. Did he tell you whether or not she had ever sat on
13 the hood of the car?

14 A. He never said.

15 Q. He never said?

16 A. Well, he didn't say if he knew she had or hadn't.

17 Q. In other words, he never mentioned that fact either
18 way, yes or no?

19 A. No.

20 Q. You say your husband never exhibited any sexual
21 behavior that you would consider deviant, is that correct?

22 A. Right.

23 Q. Would you consider it deviant behavior to have sex
24 with a teenager in his patrol car?

25 MR. EDMUND: Your Honor, if it please the Court, I object.

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1 I ask that that be stricken and ask the Court to disregard it
2 on the previous grounds.

3 MR. HOGAN: Judge, the door was open by the question of
4 sexual deviant. I need to find out what this lady's
5 definition of sexual deviant is.

6 MR. EDMUND: Not, Your Honor, unless the State intends
7 in some way to offer proof of this to the Court at this time.

8 THE COURT: Do you intend to do that, Mr. Hogan?

9 MR. HOGAN: Not at this time, Judge.

10 THE COURT: I grant your Motion to Strike the question
11 from the record and will disregard it.

12 MR. HOGAN: May I have one moment?

13 Q. Have you talked to your husband any other time about
14 what happened on the night Teresa McAbee was killed?

15 A. What do you mean any other time?

16 Q. Well, you told us about one time you talked to him.

17 The only contact he had with her was at the convenience

18 store?

19 A. Right.

20 Q. That is the only story he has ever told you?

21 A. Right.

22 Q. Do you have any recollection at all or can you
23 distinguish the day following the girl's body being discovered,
24 do you remember that day at all?

25 A. Yes, but he was talking on the telephone.

1 Q. He was at home?
2 A. He was at home.
3 Q. What happened?
4 A. He was called ... they kept calling him and he
5 wasn't getting any sleep and so all I can remember is that
6 he asked did they want him to come on over and they said,
7 "Yes", so he got in his uniform and left.
8 Q. Was it the same uniform he had on the night before?
9 A. Yes, sir.
10 Q. Thank you, Judge. Thank you.
11 THE COURT: Anything further from this witness, sir?
12 MR. EDMUND: Two questions.
13 RE-DIRECT EXAMINATION
14 BY MR. EDMUND:
15 Q. How old were you when you and Jimmie started going
16 together?
17 A. Thirteen.
18 Q. And when Jimmie was telling you about having seen
19 the little girl on the night of her death, did he also
20 indicate to you that the only place he had seen the little
21 girl was a public place in the parking lot of the Circle K?
22 A. Yes, sir.
23 Q. Nothing further, Your Honor.
24 THE COURT: Anything further, Mr. Hogan?
25 MR. HOGAN: No, sir.

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1 THE COURT: You can step down, ma'am. Watch your step.
2 Thank you.

3 MR. EDMUND: Can I have just a moment, please, Your Honor?

4 THE COURT: Yes, sir.

5 MR. EDMUND: Your Honor, if it please the Court, the
6 Defendant Movant rests.

7 THE COURT: Mr. Hogan, from the State?

8 MR. HOGAN: Judge, since we have stipulated to the
9 Affidavits in to the fact that they present a case, the facts
10 are sufficient to take this case to the Jury, where we were
11 at this time, I would submit to the Court that while under
12 the case law and Florida law the Court would be permitted
13 to, and it is in your discretion to allow bond to be set
14 for this Defendant. I would argue to the Court that in light
15 of the fact that the Defendant has been charged with First
16 Degree Murder, that he is, at this time, certainly facing
17 the possibility of the death penalty and that under that
18 stress, none of these other people who testified here know
19 him to be in that situation prior to the time. They don't know
20 if he is going to flee or not.

21 Secondly, the Court has another consideration which is
22 to be made when you are talking about setting bond. In this
23 particular case, the evidence that has been stipulated to
24 points to the fact that this Defendant has murdered an
25 eleven year old girl and this Court has an obligation not

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1 only to see that justice is done in this courtroom, and
2 protect the rights of the people in this courtroom, but also
3 to protect the community, and that includes the other eleven
4 year old girls that live in the Circuit.

5 I submit to this Court that based on the Affidavits
6 that have been stipulated to, this man is a danger to the
7 community and that he does represent to the Court a likelihood
8 and substantial likelihood that since he is, in fact, facing
9 the death penalty, he would flee the jurisdiction of this
10 Court and I request that the Court not allow him bond and
11 would cite to the Court State versus Arthur, which is at
12 390 So2d 717, and Driggers versus Carson, at 486 So2d 25,
13 copies of which I have for the Court and for counsel.

14 Basically, I am sure the Court is familiar with the case
15 that sets out the discretionary ruling for the Court, based
16 on whether or not there is a proof of guilt or presumption
17 great that the Defendant, in fact, committed the crime,
18 which we have here stipulated into the Affidavits.

19 The Driggers case is a case in which the Defendant was
20 facing the possibility of the death penalty and the Court said
21 that it would be an abuse of discretion of the Court to allow
22 bond in such a case, and I submit to the Court, in this case,
23 with the cause of death and the Defendant, the propensity,
24 and two, the likelihood that he will flee under the threat
25 of the death penalty, this Court cannot allow him to be out

1 on bond; to set a bond for that would present that possibility.

2 THE COURT: Since we have the press here, before you
3 start, Mr. Edmund, I want to make it apparently clear. You
4 said it, but sometimes we say things that may get missed.

5 You have not stipulated to the facts in this Affidavit
6 other than as for the purposes of this hearing. I think
7 that is clear.

8 MR. EDMUND: Thank you, Your Honor.

9 MR. HOGAN: That was certainly my intent.

10 THE COURT: I know we all understood that and I just
11 wanted to be sure we all understood that. Go ahead,
12 Mr. Edmund.

13 MR. EDMUND: Thank you, Your Honor. Your Honor, if it
14 please the Court, I think that the most closing statment
15 that the State Attorney made was that the facts of this case
16 point to the fact of the guilt of the Defendant and that is not
17 the criteria if it please the Court.

18 The criteria, of course, is set forth in the Arthur
19 case, the State furnished the Court and that is where proof
20 of guilt is evidenced and the presumption is great. The
21 Affidavits before the court indicate a pubic hair that is
22 similar; that is consistent with and I ask Your Honor to
23 take into consideration your experience when the Court is
24 aware that hair is only consistent with and never a positive
25 identification of and is also can be equally consistent with

1 many thousands of others of the same type, the same points on
2 the hair.

3 The other is the tire tracks, if it please, Your Honor,
4 and I think the Affidavit reflects that the tires that were
5 consistent with the tread of the tires consistent with the
6 tire tracks found on several of the Mascotte police cars
7 all having been purchased at the same time and I feel like
8 the Affidavit reflects that on its face.

9 The decision the Court has to make is is the proof of
10 guilt evidenced or the presumption of guilt great and even
11 the State has not argued that. The State has made the type
12 of argument that you would more likely get of the Defense
13 making and that is an emotional type of argument, as opposed
14 to the pure legal argument that all the witnesses have
15 indicated that there is very little likelihood that this
16 Defendant would abscond.

17 The State itself and again I know this was a courtesy
18 to me and I hate to stick it in the State's ear, but certainly
19 some decisions had to be made with regard to this Defendant
20 before the State agrees to allow him to report in after
21 the Indictment upon notification to me and then my notification
22 to him.

23 Again, an indication that if he wished to abscond, he
24 could have absconded at that time. There is also the testimony
25 of Mrs. Duckett that sometime prior to the Indictment, though

1 he was sufficiently concerned of the Indictment, so that
2 they conferred with me with regard to that, which in turn
3 precipitated my contact with the State Attorney's Office.

4 This case is generally, I submit to Your Honor, I have
5 been through the discovery. The State has been most kind
6 and they have been furnishing me with the discovery and
7 it appears to be even including the F. B. I. report of
8 Special Agent Malone, and the report of I think the F. D. L. E.
9 people on the tire tracks, a circumstantial evidence case,
10 thus making it no great presumption of guilt; no real proof
11 of guilt; no proof of guilt as evidence, if it please the
12 Court.

13 I move that you set a reasonable bond. I am not even
14 sure that any bond could be made, but a decision would have to
15 be made as to where the money is coming from and whether it
16 is worth it, but I do feel that sufficient case has been
17 established to indicate he would not run and the other side
18 of the coin is the State has failed to carry its burden
19 to show that the proof of guilt of the Defendant is evident,
20 and the presumption of this man's guilt is great.

21 Thank you, sir.

22 THE COURT: Anything further, Mr. Hogan?

23 MR. HOGAN: Just briefly. I wouldn't expect nothing
24 less from Defense counsel than to try to dismiss the
25 circumstantial evidence in this case, but in fact, the hair

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1 evidence according to the Affidavit, the F. B. I. expert will
2 say that it is consistent with Mr. Duckett's hair as coming
3 from his pubic area found on the body of the victim. That is
4 not the only thing we are relying on. The tire tracks
5 are also consistent with his car and only eight of those
6 tires in Central Florida, and the other four were locked up
7 in the impound yard at the Mascotte Police Department.

8 The other evidence is that the girl's fingerprints on
9 the hood of the car intermingled with his fingerprints on the
10 hood of the car. We are not relying on one single piece of
11 circumstantial evidence, but all of the circumstantial
12 evidence and I submit to the Court that the Affidavits, if
13 these things testified to in Court, they would be enough to
14 take to the Jury, and it would be a jury question.

15 That is what the burden is. I think we have met that
16 burden with these Affidavits and we ask the Court again not
17 to allow this man to have bond.

18 THE COURT: Anything else, Mr. Edmund?

19 MR. EDMUND: If it please, Your Honor. Since the time
20 that the Supreme Court withdrew from the standard jury
21 instructions the instruction on circumstantial evidence, I
22 have taken the position and I have argued at each occasion I
23 have had to argue a Motion for Judgment of Acquittal, that
24 this put a burden on the trial court to substitute the
25 circumstantial evidence criteria at the conclusion of the

1 State's case, and although I ran into a number of Judges who
2 recognize the point to the extent that they granted me a
3 circumstantial evidence instruction to the Jury. I did not
4 find the Court that would, in fact, impose that criteria
5 when making a determination on my Motion for Directed Judgment
6 of Acquittal, but within the past six weeks, a decision has
7 come out of the Third District Court that sets this forth
8 very clearly, Your Honor, so in argument to the State's
9 position that this would go to the Jury, again from Your
10 Honor's indication, I see that you are aware of it and I
11 expected that you were, sir. And as far as some facts that
12 were argued without proof, I am not going to controvert those
13 at this time. Thank you.

14 THE COURT: Gentlemen, the Court has considered the
15 criteria as enunciated in State versus Arthur, 390 So2d 717,
16 Florida Supreme Court decision November 1980, and Florida Rules
17 of Criminal Procedure 3.131, entitled, "Pre-Trial Release".
18 With respect, Mr. Edmund, to the testimony of the good folks
19 who you called here today, and in my own respect, I am going
20 to deny your Motion at this time and I will not set bond in
21 this case.

22 I have two more matters for us to discuss. One is which
23 I intend to have the Affidavit the State filed, as I suggested,
24 filed with Madam Clerk. Is anyone requesting those be sealed
25 at this time?

1 MR. HOGAN: Judge, the only thing that might be sealed,
2 if the Court is concerned about the possibility of a change
3 of venue becoming necessary if they are not sealed, I would
4 suggest we have no objection to them being sealed and I would
5 suggest if they are sealed, that we also go ahead and order
6 the depositions taken to be sealed also.

7 THE COURT: I am not suggesting that I have any particular
8 inclination to seal it. Don't misunderstand. I am asking
9 if you have any request that I do that.

10 MR. EDMUND: Because they are not controverted, Your
11 Honor, and because I think there are some areas that can be,
12 I would move, Your Honor, for them sealed.

13 THE COURT: Do you object to that, Mr. Hogan?

14 MR. HOGAN: No, sir.

15 THE COURT: Madam Clerk, please seal the Affidavits in
16 this case after you have filed them, please. There is already
17 an envelope there with other matters sealed therein.

18 The second question is, I may be very premature, but do
19 we have an estimation as to when each side would be prepared
20 to try this case, if trial should become necessary?

21 MR. EDMUND: Yes, sir, Mr. Hurm and I discussed to some
22 degree, and Mr. Hogan and I very briefly, and both of us, Your
23 Honor, have problems in February. It seems that we discussed
24 something about April... March or April, did we not, sir?
25 And Mr. Hogan also. I also indicated to the State and Your

1 Honor should know this, that should we run into problems with
2 regard to speedy trial, I don't think they are either theirs
3 or mine and would waive, of course, I don't want to jeopardize
4 my client by keeping him in jail forever, but I think if we
5 come to a point where because of Your Honor's schedule and
6 I understand it is quite tight, and the State's... that I can
7 waive and will, if that should occur, Your Honor.

8 THE COURT: I appreciate that. I can tell you for a
9 fact I will be able to try this case in March or April. I
10 will wait your pleasure. If you will confer, let me know as
11 soon as you can and I will give you a trial date certain.

12 MR. EDMUND: You did say you could try in March or April?

13 THE COURT: Yes, sir.

14 MR. EDMUND: Thank you very much, Your Honor.

15 THE COURT: Thank you all very much. Do we have anything
16 further before the Court?

17 MR. HOGAN: No, sir.

18 MR. EDMUND: I think not, sir.

19 THE COURT: Thank you all. We will be adjourned.

20 (WHEREUPON, COURT IS IN RECESS AT 2:50 P. M.)

21 ***** END OF PROCEEDINGS *****
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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 stenographically
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 fifty-six
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, 1988.



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