

Office of Paula S. O'Neil
Clerk & Comptroller
Pasco County, Florida

ON APPEAL TO THE DISTRICT COURT OF APPEALS OF FLORIDA
SECOND DISTRICT

Shannon Stephen

Appellant

VS.

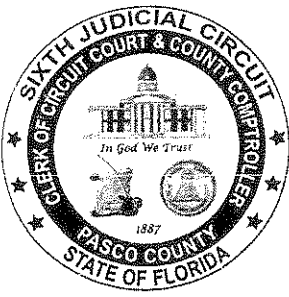
State of Florida

Appellee

Case: 06-1591CFAWS

Appeal: 10-4018

Supplemental
Transcript of Record on Appeal
Volume I



*Office of Paula S. O'Neil
Clerk & Comptroller
Pasco County, Florida*

ON APPEAL TO THE DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

Shannon Stephen,
Appellant,

vs.

State of Florida,
Appellee.

FIRST SUPPLEMENTAL

Transcript of Record in the case of State of Florida, Plaintiff(s) vs. Shannon Stephen, Defendant(s). Circuit Criminal Number(s) 06-1591CFAWS in the Circuit Court of the Sixth Circuit in and for the County of Pasco, State of Florida, prepared for use on appeal to the District Court of Appeals, Second District.

Robert Harper, Esq.
325 W. Park Avenue
Tallahassee, FL 32301
Attorney for Appellant

Office of Attorney General
Concourse Center
3507 East Frontage Road, Suite 200
Tampa, FL 33607
Attorney for Appellee

Presiding Judge: Honorable Shawn Crane

SHANNON STEPHEN
VS.
STATE OF FLORIDA
CT.CR.NO. 06-1591
APPEAL NO. 10-4018
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SHANNON STEPHEN
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IN THE
SIXTH JUDICIAL CIRCUIT COURT

PASCO COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

v.

SHANNON STEPHEN,

Defendant.

Case No.: 2006-CF-1591

MS

Paula D. Neff
Clerk & Controller
Pasco County, Florida

2011 JUL 20 AM 10:55

FILED FOR RECORD
PASCO COUNTY, FLORIDA

**DESIGNATION TO COURT REPORTER
AND REPORTER'S ACKNOWLEDGMENT**

I. DESIGNATION

The Defendant, SHANNON STEPHEN, files this Designation to Reporter and directs the court reporter to transcribe an original and two copies of the following proceedings to be used in this appeal:

1. The pretrial conferences, motions, and trial as follows:

Pretrial - 12 February 2007 (digital recording)
Pretrial - 23 April 2007 (digital recording)
Trial - 30 April 2007 (digital recording)
Pretrial - 18 June 2007 (digital recording)
Trial - 25 June 2007 (digital recording)
Pretrial - 24 September 2007 (digital recording)
Trial - 01 October 2007 (digital recording)
Pretrial - 22 October 2007 (digital recording)
Pretrial - 03 December 2007 (digital recording)
Trial - 10 December 2007 (digital recording)
Trial - 22 January 2008 (digital recording)
Pretrial - 28 January 2008 (digital recording)
Trial - 19 February 2008 (digital recording)
Motions - 05 March 2008 (digital recording)

000328

Motions - 26 March 2008 (digital recording)
Motions - 27 March 2008 (digital recording)
Motions - 31 March 2008 (digital recording)
Motions - 11 April 2008 (digital recording)
Trial - 05 May 2008 (digital recording)
Motions - 14 May 2008 (digital recording)
Motions - 06 June 2008 (digital recording)
Trial - 16 June 2008 (digital recording)
Trial - 17 June 2008 (digital recording)
Motions - 10 July 2008 (digital recording)
Motions - 14 August 2008 (digital recording)
Pretrial - 22 September 2008 (digital recording)
Motions - 08 October 2008 (digital recording)
Motions - 13 October 2008 (digital recording)
Trial - 13 October 2008 (digital recording)
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Motions - 24 October 2008 (digital recording)
Pretrial - 12 December 2008 (digital recording)
Motions - 12 December 2008 (digital recording)
Trial - 18 June 2008 (digital recording)
Pretrial - 12 February 2009 (digital recording)
Motions - 12 February 2009 (digital recording)
Pretrial - 12 March 2009 (digital recording)
Motions - 26 March 2009 (digital recording)
Motions - 18 June 2009 (digital recording)
Pretrial - 25 June 2009 (digital recording)
Pretrial - 30 July 2009 (digital recording)
Motions - 30 July 2009 (digital recording)
Motions - 11 September 2009 (digital recording)
Pretrial - 11 September 2009 (digital recording)
Motions - 09 October 2009 (digital recording)
Trial - 12 October 2009 (digital recording)
Motions - 28 October 2009 (digital recording)
Motions - 12 November 2009 (digital recording)
Motions - 23 November 2009 (digital recording)
Motions - 18 December 2009 (digital recording)
Pretrial - 18 December 2009 (digital recording)
Pretrial - 03 February 2010 (digital recording)
Trial - 23 February 2010 (digital recording)
Motions - 26 February 2010 (digital recording)
Trial - 01 March 2010 (digital recording)
Trial - 26 April 2010 (digital recording)

Motions - 28 April 2010 (digital recording)
Motions - 29 April 2010 (digital recording)
Trial - 24 May 2010 (digital recording)
Trial - 29 May 2010 (digital recording)
Motions - 29 June 2010 (digital recording)
Trial - 14 July 2010 (digital recording)
Sentencing - 14 July 2010 (digital recording)
Trial - 27 July 2010 (digital recording)
Trial - 30 July 2010 (digital recording)
Motions - 03 August 2010 (digital recording)

The court reporter is directed to file an original and two copies of said proceedings with the Clerk of the Circuit Court, Pasco County, Florida, attention: Brenda McBee, who after indexing is requested to send the Record on Appeal to each of the following:

- a. Harper & Harper Law Firm, P.A.
325 West Park Avenue
Tallahassee, Florida 32301-1413
- b. Office of the Attorney General
Criminal Appeals Division
Concourse Center 4
3507 E. Frontage Road, Suite 200
Tampa, Florida 33607-7013
- c. Office of the Clerk
District Court of Appeal
Second Appellate Court
1005 E. Memorial Boulevard
Lakeland, Florida 33801

I, Counsel for Appellant, certify that satisfactory financial arrangements have been made with the court reporters for preparation of the transcript.



ROBERT AUGUSTUS HARPER, JR.

II. REPORTER'S ACKNOWLEDGMENT

1. The foregoing designation was served on _____, 2011, and received on _____, 2011.
2. Satisfactory arrangements have () have not () been made for payment of the transcript cost. These financial arrangements were completed on _____.
3. Number of trial or hearing days _____.
4. Estimated number of transcript pages _____.
5. a. The transcript will be available within thirty (30) days of service of the foregoing designation and will be filed on or before the _____ day of _____, 2011.

OR

- b. For the following reason(s) the court reporter requests an extension of time of _____ days for preparation of the transcript which will be filed on or before the _____ day of _____ 2011: _____

6. Completion and filing of this acknowledgment by the court reporter constitutes submission to the jurisdiction of the Court for all purposes in connection with these appellate proceedings.

7. The undersigned court reporter certifies that the foregoing is true and correct and that a copy has been furnished by mail () hand delivery () this _____ day of _____, 2011, to each of the parties or their counsel.

Laurel Palumbo
COURT REPORTER

ADDRESS: 7530 Little Road
New Port Richey, Florida 34654

CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing instrument has been furnished

to:

Eric Rosario
Office of the State Attorney
7530 Little Road, Suite 214
New Port Richey, Florida 34654

by ~~hand~~/mail delivery this 17th day of July, 2011;

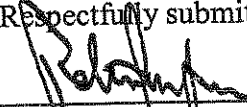
Laurel Palumbo
Official Court Reporter
7530 Little Road
New Port Richey, Florida 34654

by ~~hand~~/mail delivery this 18th day of July, 2011;

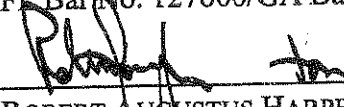
Office of the Attorney General
Criminal Appeals Division
Concourse Center 4
3507 E. Frontage Road, Suite 200
Tampa, Florida 33607-7013

by ~~hand~~/mail delivery this 18th day of July, 2011.

Respectfully submitted,



ROBERT AUGUSTUS HARPER, JR.
Harper & Harper Law Firm, P.A.
325 West Park Avenue
Tallahassee, Florida 32301-1413
(850) 224-5900/fax (850) 224-9800
FL Bar No. 127600/GA Bar No. 328360



ROBERT AUGUSTUS HARPER, III
Harper & Harper Law Firm, P.A.
FL Bar No. 0881791

Counsel for Defendant STEPHEN

xc: Shannon Stephen

000332

IN THE
SIXTH JUDICIAL CIRCUIT COURT
PASCO COUNTY, FLORIDA

<p>STATE OF FLORIDA, Plaintiff, v. SHANNON STEPHEN, Defendant.</p>	<p>FILED FOR RECORD PASCO COUNTY, FLORIDA 2011 JUL 20 AM 10:55 Paula S. Pyne Clerk & Comptroller Pasco County, Florida Case No.: 2006-CF-1591 3 S</p>
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**DESIGNATION TO COURT REPORTER
AND REPORTER'S ACKNOWLEDGMENT**

I. DESIGNATION

The Defendant, SHANNON STEPHEN, files this Designation to Reporter and directs the court reporter to transcribe an original and two copies of the following proceedings to be used in this appeal:

- Pretrial - 18 December 2006 (Judy Moukazis, Court Reporter)
- Arraignment - 09 May 2006 (Judy Moukazis, Court Reporter)
- Pretrial - 05 June 2006 (Judy Moukazis, Court Reporter)
- Pretrial - 17 July 2006 (Judy Moukazis, Court Reporter)
- Pretrial - 11 September 2006 (Judy Moukazis, Court Reporter)
- Pretrial - 12 October 2006 (Judy Moukazis, Court Reporter)
- Order - 12 June 2008 (Judy Moukazis, Court Reporter)

The court reporter is directed to file an original and two copies of said proceedings with the Clerk of the Circuit Court, Pasco County, Florida, attention: Brenda McBee, who after indexing is requested to send the Record on Appeal to each of the following:

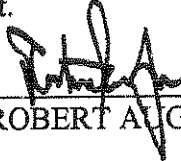
- a. Harper & Harper Law Firm, P.A.
325 West Park Avenue
Tallahassee, Florida 32301-1413

000333

- b. Office of the Attorney General
Criminal Appeals Division
Concourse Center 4
3507 E. Frontage Road, Suite 200
Tampa, Florida 33607-7013

- c. Office of the Clerk
District Court of Appeal
Second Appellate Court
1005 E. Memorial Boulevard
Lakeland, Florida 33801

I, Counsel for Appellant, certify that satisfactory financial arrangements have been made with the court reporters for preparation of the transcript.



ROBERT AUGUSTUS HARPER, JR.

II. REPORTER'S ACKNOWLEDGMENT

1. The foregoing designation was served on _____, 2011, and received on _____, 2011.

2. Satisfactory arrangements have () have not () been made for payment of the transcript cost. These financial arrangements were completed on _____.

3. Number of trial or hearing days _____.

4. Estimated number of transcript pages _____.

5. a. The transcript will be available within thirty (30) days of service of the foregoing designation and will be filed on or before the _____ day of _____, 2011.

OR

b. For the following reason(s) the court reporter requests an extension of time of _____ days for preparation of the transcript which will be filed on or before the _____ day of _____ 2011: _____

6. Completion and filing of this acknowledgment by the court reporter constitutes submission to the jurisdiction of the Court for all purposes in connection with these appellate proceedings.

7. The undersigned court reporter certifies that the foregoing is true and correct and that a copy has been furnished by mail () hand delivery () this _____ day of _____, 2011, to each of the parties or their counsel.

Judy G. Moukazis & Associates
COURT REPORTER

ADDRESS: 8624 Government Drive, #102
New Port Richey, Florida 34654

CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing instrument has been furnished

to:

Eric Rosario
Office of the State Attorney
7530 Little Road, Suite 214
New Port Richey, Florida 34654

by ~~hand~~/mail delivery this 18 day of July, 2011;

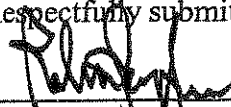
Judy G. Moukazis & Associates
Court Reporter
8624 Government Drive, #102
New Port Richey, Florida 34654

by ~~hand~~/mail delivery this 18 day of July, 2011;

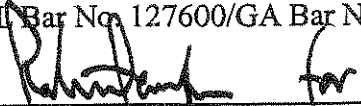
Office of the Attorney General
Criminal Appeals Division
Concourse Center 4
3507 E. Frontage Road, Suite 200
Tampa, Florida 33607-7013

by ~~hand~~/mail delivery this 18 day of July, 2011.

Respectfully submitted,



ROBERT AUGUSTUS HARPER, JR.
Harper & Harper Law Firm, P.A.
325 West Park Avenue
Tallahassee, Florida 32301-1413
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FL Bar No. 127600/GA Bar No. 328360



ROBERT AUGUSTUS HARPER, III
Harper & Harper Law Firm, P.A.
FL Bar No. 0881791

Counsel for Defendant **STEPHEN**

xc: Shannon Stephen

IN THE
SIXTH JUDICIAL CIRCUIT COURT
PASCO COUNTY, FLORIDA

<p>STATE OF FLORIDA, Plaintiff, v. SHANNON STEPHEN, Defendant.</p>	<p>Case No.: 2006-CF-1591 CFW</p> <p>FILED FOR RECORD PASCO COUNTY, FLORIDA 2011 AUG 23 PM 1:34 Paula S. O'Neil Clerk & Comptroller Pasco County, Florida</p>
--	---

**AFFIDAVIT OF INSOLVENCY TO SUPPORT
ADJUDICATION OF INSOLVENCY FOR APPELLATE COSTS (ONLY)**

STATE OF FLORIDA :
COUNTY OF TAYLOR :

Affiant, SHANNON STEPHEN, after being first duly sworn, on oath deposes and says:

1. Affiant is unable to pay for the costs of appeal, (and the services of an attorney), including costs of transcripts.
2. Affiant requests the Court to adjudge him indigent for future purposes of costs only herein.
3. Affiant hereby acknowledges that he understands that the Court may later require him to reimburse the County for costs.
4. Affiant's gross income is zero.
5. Affiant does not own any cash.
6. Affiant does not have ownership of, or equity in, any intangible or tangible personal property or any real property or the expectancy of an interest in any such property.

000337

CERTIFICATE OF SERVICE

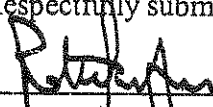
I HEREBY CERTIFY a true and correct copy of the foregoing instrument has been furnished

to:

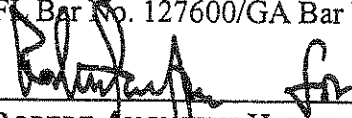
Eric Rosario
Office of the State Attorney
7530 Little Road, Suite 214
New Port Richey, Florida 34654

by ~~hand~~/mail delivery this 20th day of January, 2011.

Respectfully submitted,



ROBERT AUGUSTUS HARPER, JR.
Harper & Harper Law Firm, P.A.
325 West Park Avenue
Tallahassee, Florida 32301-1413
(850) 224-5900/fax (850) 224-9800
FL Bar No. 127600/GA Bar No. 328360



ROBERT AUGUSTUS HARPER, III
Harper & Harper Law Firm, P.A.
FL Bar No. 0881791

Counsel for Defendant STEPHEN

xc: Shannon Stephen

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, COUNTY OF PASCO

STATE OF FLORIDA,

Plaintiff,

Case No. CRC0601591CFAWS

Vs.

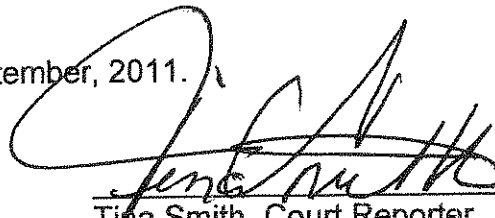
SHANNON STEPHEN,

Defendant.

CERTIFICATE OF NON-EXISTENCE OF RECORD

Comes now, Tina Smith, Court Reporter, and certifies that after a diligent search of records, no court reporter was present nor backup recording made on the date(s) of 7/27/2010 and 7/30/2010 relating to the above-styled case.

Dated this 20th day of September, 2011.



Tina Smith, Court Reporter
West Pasco County
Administrative Office of the Courts
Court Reporting Department
7530 Little Road
New Port Richey, FL 34653

Paula S. O'Neil
Clerk & Comptroller
Pasco County, Florida

2011 SEP 21 PM 2:20

FILED FOR RECORD
PASCO COUNTY, FLORIDA

Cc:

Clerk of the Circuit Court, Appeals 38053 Live Oak Ave., Dade City, FL 33525
James Birkhold, Clerk of the Appellate Court, Second District Court of Appeal,
P.O. Box 327, Lakeland, FL 33802

Office of the Attorney General, 3507 E. Frontage Road #200, Tampa, FL 33607
Robert A. Harper, Jr. Esq.; Harper and Harper; 325 West Park Avenue;
Tallahassee, FL 32301

Court Reporting Dept.; Administrative Assistant, Administrative Office of the Courts,
New Port Richey, FL

000361

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO COUNTY, FLORIDA

Shannon Leyland Stephen,
Appellant
VS.
State of Florida,
Appellee


Case: 06-1591CFAWS
Appeal: 10-4018 Seq: 01
SPN: 00497502 Div: 03

FILED FOR RECORD
PASCO COUNTY, FLORIDA
2011 SEP 26 AM 11:16
Paula S. O'Neil
Clerk & Comptroller
Pasco County, Florida

ORDER OF INDIGENCY

It, appearing to this Court that the above named appellant has filed a Notice of Appeal and an Affidavit of Insolvency to Support Adjudication of Insolvency for Appellate Costs (Only), it is thereupon ordered and adjudged that the appellant is hereby declared to be indigent within the meaning of the law for purpose of appeal.

Done and ordered this 23rd day of Sept, 2011.


Circuit Judge

CC:

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR PASCO COUNTY

STATE OF FLORIDA,
Plaintiff,

vs.

SHANNON STEPHEN,
Defendant.

COPY

CASE NUMBER
CRC0601591CFAWS

PROCEEDING: MOTION CONTINUATION RESET

BEFORE: HONORABLE SHAWN CRANE
Circuit Court Judge
Sixth Judicial Circuit
New Port Richey, Florida

DATE: July 30, 2009

PLACE: West Pasco Judicial Center
7530 Little Road
New Port Richey, FL 34654

TRANSCRIBED BY: Debra Denamen
Court Reporter

Debra Denamen
Court Reporter
2011 OCT 26 PM 2:11

FILED FOR RECORD
PASCO COUNTY, FLORIDA

Administrative Office of the Courts
Court Reporting Department
West Pasco Judicial Center
7530 Little Road
New Port Richey, FL 34654
Telephone: (727)847-8156 Fax: (727)847-8159

000363

APPEARANCES

APPEARING ON BEHALF OF
THE STATE OF FLORIDA:

Bryan Sarabia, Assistant State Attorney
Office of Bernie McCabe, State Attorney
Sixth Judicial Circuit, Pasco County
New Port Richey, Florida

APPEARING ON BEHALF OF
THE DEFENDANT SHANNON STEPHEN:

Kenneth Foote, Esq.
6521 Ridge Road Suite 4
Port Richey, Florida

* * *

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P R O C E E D I N G S

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THE BAILIFF: Oh, Judge, that Shannon Stephen -- is that what we're talking about?

THE CLERK: Yes.

THE BAILIFF: Judge, it's on the 1:00 calendar for a pretrial. I just spoke to Mr. Rosario. I guess they're going to do whatever was on this morning at 1:00.

THE COURT: All right. Is that a continuation of the motion?

THE BAILIFF: That's what it says here, but she's on a pretrial calendar at 1:00, W3A1.

THE COURT: I mean, we have other things on that calendar for this afternoon, correct?

THE BAILIFF: On the 1:00 there's two cases: there's Shannon Stephen, Paul Morman. And at 2:00 you have a Michael Bennett for a departure hearing, and then a change of plea at 3:00 with Michael Rogers.

THE COURT: Yes. So, we don't -- I don't think -- I guess it's just a pretrial.

THE BAILIFF: We have advisories. So, I'm assuming all the calendars probably won't be starting until 2:00 or better.

THE COURT: Right.

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1 MR. SARABIA: And, Judge, I can say that I
2 don't believe the Michael Rogers will take very
3 long at all, the departure hearing. I don't
4 believe the defense has provided us with any
5 information regarding that. So, that might, also,
6 be a fairly quick situation.

7 Like I said, I don't know if Mr. Rosario
8 intends -- I'm not sure what's going on with the
9 Stephens case.

10 THE COURT: Okay.

11 (PROCEEDINGS CONCLUDED.)

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STATE OF FLORIDA)
)
COUNTY OF PASCO)

I, Debra Denamen, Court Reporter, certify that I was
authorized to and did transcribe the foregoing
proceedings and that the transcript is a true record.

DATED this 26th day of October, 2011.

/S/ Debra Denamen

Debra Denamen, Court Reporter

000387

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR PASCO COUNTY

THE STATE OF FLORIDA, :
 :
 :
 Plaintiff, :
 :
 vs. :
 :
 SHANNON STEPHEN, :
 :
 :
 Defendant. :

CASE NUMBER: 0601591CFAWS

060600

 **COPY**

PROCEEDINGS: Pretrial Conference
BEFORE: The Honorable William R. Webb
Circuit Court Judge
DATE: April 23, 2007
PLACE: West Pasco Judicial Center
7530 Little Road
New Port Richey, Florida
REPORTED BY: Corinne Lembo
Notary Public
State of Florida at Large

Corinne S. O'Neil
2011 APR 25 AM 9:54
FILED FOR RECORD
PASCO COUNTY, FLORIDA

JUDY G. MOUKAZIS & ASSOCIATES, INC.
8630 Government Drive
Building 3, Suite 103
New Port Richey, Florida 34654
(727) 817-1268

000340

APPEARANCES:

EVA VERGOS, Esquire
Assistant State Attorney
New Port Richey, Florida
Appearing on behalf of
the State of Florida

KENNETH L. FOOTE, Esquire
6521 Ridge Road, Suite 4
Port Richey, Florida 34668
Appearing on behalf of
the defendant

000341

1 Thereupon,

2 P-R-O-C-E-E-D-I-N-G-S

3 MR. FOOTE: I have Shannon Stephen on Page 2.
4 She is present and approaching the podium. The Court
5 set this for trial at the last pretrial for next
6 week. I've spoken to the State and they have agreed
7 to stipulate to a continuance of the trial for
8 several reasons.

9 Number 1, I have a trial, a drug trafficking, in
10 custody, next week in front of Judge Covert. It is
11 definitely going. I believe Mr. Harris mentioned to
12 me that you have a murder trial that he is on with
13 Mr. Hammond that is also definitely going next week.

14 Outside of the conflicts between both counsels,
15 we are still in the process of trying to get
16 depositions set. The last depositions were set on
17 April 13th. We had six set, most of which were law
18 enforcement, and only one showed up.

19 There are also two other witnesses that the
20 State listed that are no longer living at those
21 addresses. We are trying to get better addresses for
22 two lay witnesses. One of the troopers is no longer
23 with FHP. There is no further information. I
24 understand he may have gone to a federal law
25 enforcement agency. We are trying to find that out.
26 One was on vacation and another one was called into

000342

1 Iraq. We don't anticipate talking to him and I don't
2 think he is an essential one that the State is going
3 to go ahead and use.

4 But out of all the depositions that we set last
5 time on April 13th, only one out of six showed up.
6 Outside of that, we have an accident reconstruction
7 expert that was listed by the State and he is in
8 Gainesville. The State and I have been trying to
9 coordinate so that we can depose him. We have to
10 depose him in Gainesville.

11 So with that, we have an agreed upon stipulation
12 to continue the matter.

13 THE COURT: Ms. Vergos, can you confirm?

14 MS. VERGOS: Yes. I do agree and I have spoken
15 with Mr. Harris. He left notes on his file on this
16 and it says no objection to the motion for
17 continuance as long as the Court sets another trial
18 date at this point.

19 THE COURT: Okay. I will grant that. I can
20 offer 6-25 for trial at 8:30, and give you a pretrial
21 on June 18th.

22 MR. FOOTE: That will be fine, Judge, the 25th
23 for trial.

24 THE COURT: 8:30 or 10:30?

25 MR. FOOTE: On June 18th, 10:30.

000343

1 THE COURT: I know everyone's hesitant to do an
2 order to show cause on law enforcement but you might
3 have to.

4 MR. FOOTE: I understand, Judge. I understand
5 the one that was on vacation and although the
6 subpoena was accepted prior to that with no problems
7 and no notification of vacation, the other one is no
8 longer employed. The State is attempting to locate
9 him. We spoke to the actual law enforcement agency
10 and they do not know what other agency they are with.

11 THE COURT: I thought there were some that were
12 served and just didn't show up.

13 MR. FOOTE: Yes, that has been happening. So we
14 have been trying to squeeze them in and, again, as in
15 the last case, we have been speaking with Mr.
16 Halketis and attempting to get all of these set at
17 one time, rather than setting one on one day and two
18 on another day. This is a serious case and I want to
19 make sure that discovery is completed.

20 THE COURT: Of course.

21 MR. FOOTE: Thank you, Judge.

22 END OF PROCEEDING.

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000344

1 STATE OF FLORIDA)

2 COUNTY OF PASCO)

3 I, Corinne Lembo, Court Reporter, do hereby certify
4 that proceedings were held in the above-entitled case at
5 the time and place set forth in the caption thereof; that
6 I was authorized to and did stenographically report the
7 foregoing proceedings, and that the foregoing pages,
8 numbered 1 to 6, inclusive constitutes a true and correct
9 transcript of my said stenographic notes.

10

11 DATED this 23rd day of August, 2011.

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Corinne Lembo

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1 IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
2 OF THE STATE OF FLORIDA IN AND FOR PASCO COUNTY

3

4

5 STATE OF FLORIDA,]

6 Plaintiff,]

7 vs.]

8 SHANNON STEPHEN,]

9 Defendant.]

 **COPY**

CASE NO.: 06-01591CFAWS

10

11

12 PROCEEDINGS: Motion

13 BEFORE: HONORABLE JACK DAY
Circuit Court Judge

14 DATE: March 31, 2008

15 PLACE: West Pasco Judicial Center
7530 Little Road
16 New Port Richey, Florida

17 REPORTED BY: Heidi L. Johnson
Notary Public
18 State of Florida at Large

19

20

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22

23 JUDY G. MOUKAZIS & ASSOCIATES, INC.
8630 Government Drive, Building 3
24 Suite 103
New Port Richey, Florida 34654
25 (727)817-1268

861581

Paula S. O'Veil
Clerk & Comptroller
Pasco County, Florida
2011 AUG 26 PM 3:37

FILED FOR RECORD
PASCO COUNTY, FLORIDA

000346

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2

3 APPEARANCES:

4

5

Eric Rosario, Esquire
Assistant State Attorney
New Port Richey, Florida
Appearing on behalf of
the State of Florida.

6

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9

Kenneth Foote, Esquire
6521 Ridge Road, Suite 4
Port Richey, Florida
Appearing on behalf of
the Defendant.

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1 Thereupon,

2 P-R-O-C-E-E-D-I-N-G-S

3 MR. ROSARIO: Judge, may I take a
4 matter out of order; is that okay with you?

5 THE COURT: Of course.

6 MR. ROSARIO: Judge, I'm here on a
7 motion to continue Shannon Stephen. Mr. Foote
8 is here. I filed a motion.

9 THE COURT: Yes. We talked about
10 this last week. This is not an agreed upon
11 motion?

12 MR. FOOTE: It's not a what?

13 THE COURT: It's not agreed upon.
14 Are you opposed to the motion?

15 MR. FOOTE: Yes, Judge.

16 THE COURT: Okay.

17 MR. ROSARIO: Judge, my motion asks
18 for the trial to be moved forward to April
19 21st.

20 THE COURT: Wait. Bearing in mind I
21 don't have it in front of me --

22 MR. ROSARIO: Here you go, I brought
23 an extra copy.

24 THE COURT: Okay. 060159, and this
25 is a courtesy copy that I can scribble on?

1 MR. ROSARIO: Yes.

2 THE COURT: Is Mr. Shannon in
3 custody?

4 MR. ROSARIO: No, he's out of
5 custody, Judge.

6 THE COURT: I've read the motion. I
7 was going to turn to Mr. Foote and ask him what
8 the opposition was. Did you want to enhance the
9 motion?

10 MR. ROSARIO: Well, Judge, the only
11 other issue is we have a deposition to
12 perpetuate and that's set for April 11th at
13 2:00.

14 If we move the trial forward the trooper
15 would still be here and there would be no need
16 for a deposition to perpetuate. However, when
17 we set the case initially, I know Mr. Foote was
18 planning on being out of the country for the
19 April 21st trial date.

20 So that's why I made an option of going
21 forward or backwards. If we go backwards to
22 June 16th, I'm anticipating picking and going on
23 Monday because I think it's a four-and-a-half
24 day week. And I'll turn it over to Mr. Foote as
25 far as any opposition.

1 THE COURT: Mr. Foote, I'm just
2 going to guess that you feel like the April 21st
3 date would be a non-starter.

4 MR. FOOTE: Correct, Judge.

5 THE COURT: So, Mr. Foote?

6 MR. FOOTE: Judge, also we object to
7 this motion. This case has been going on for
8 over two years now this past week. The last
9 couple of times the Defense asked for a
10 continuance and basically the objection was that
11 we were dragging on the case.

12 I do understand it's a complex case. The
13 last time we were here Your Honor was --

14 THE COURT: Have you asked for any
15 continuances that I haven't granted?

16 MR. FOOTE: You haven't been here
17 when the case actually came up. The last time
18 you were out, Judge Roberts sat in for you. We
19 were set for trial, actually.

20 THE COURT: So you were granted a
21 continuance?

22 MR. FOOTE: Well, we were forced to
23 ask for a continuance after a three day holiday
24 weekend. We were supposed to pick a jury on
25 Tuesday. The State pulled up a witness on

1 Friday, the day before trial, and then stated
2 that they were ready to proceed and then it was
3 a giant fan fair with the victim's family and
4 everything else like that.

5 We've been preparing. We're ready to go,
6 so we would object to the continuance.

7 THE COURT: Okay. Apart from hard
8 feelings and personal schedules, is there any
9 way your client is prejudiced to this trial
10 being moved to June 16th?

11 MR. FOOTE: Not prejudiced, Judge.

12 THE COURT: Okay. I'm going to
13 grant the motion and reset the trial to June
14 16th. I just need to be on an airplane the
15 first thing in the morning.

16 MR. ROSARIO: On Friday?

17 THE COURT: On Saturday.

18 MR. ROSARIO: Okay. All right.

19 THE COURT: We're not going to have
20 the jury coming back Saturday morning.

21 MR. ROSARIO: That's fine, Judge.

22 Thank you. May I be excused?

23 THE COURT: Okay. Yes.

24 (Whereupon, proceedings were concluded.)

25 .

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2

3 STATE OF FLORIDA)

4 COUNTY OF PASCO)

5 I, Heidi L. Johnson, Court Reporter,

6 do hereby certify that proceedings were held in the

7 above-entitled case at the time and place set forth

8 in the caption thereof; that I was authorized to and

9 did stenographically report the foregoing

10 proceedings, and that the foregoing pages, numbered 1

11 to 7, inclusive constitutes a true and correct

12 transcript of my said stenographic notes.

13

14 DATED this 25th day of August, 2011.

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Heidi L. Johnson

 HEIDI L. JOHNSON
 Notary Public -- State of Florida

1 IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
2 OF THE STATE OF FLORIDA IN AND FOR PASCO COUNTY

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5 STATE OF FLORIDA,]

6 Plaintiff,]

7 vs.]

CASE NO.: 06-01591CFAWS

8 SHANNON STEPHEN,]

9 Defendant.]

10

11

12 PROCEEDINGS: Motion

13 BEFORE: HONORABLE JACK DAY
Circuit Court Judge

14

15 DATE: May 14, 2008

16 PLACE: West Pasco Judicial Center
7530 Little Road
New Port Richey, Florida

17 REPORTED BY: Heidi L. Johnson
Notary Public
State of Florida at Large

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JUDY G. MOUKAZIS & ASSOCIATES, INC.
8630 Government Drive, Building 3
Suite 103
New Port Richey, Florida 34654
(727)817-1268

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Handwritten: Paula S. O'Neil
Clerk & Comptroller
Pasco County, Florida
2011 AUG 25 PM 3:37

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PASCO COUNTY, FLORIDA

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APPEARANCES:

Eva Vergos, Esquire
Assistant State Attorney
New Port Richey, Florida
 Appearing on behalf of
the State of Florida.

Kenneth Foote, Esquire
6521 Ridge Road, Suite 4
Port Richey, Florida
 Appearing on behalf of
the Defendant.

1 Thereupon,

2 P-R-O-C-E-E-D-I-N-G-S

3 THE COURT: Here's one for you,
4 Mr. Foote, Shannon Stephen on the motions'
5 calendar.

6 MR. FOOTE: May I have a moment,
7 Judge?

8 THE COURT: Yes.

9 MR. FOOTE: Judge, on that case
10 we're going to withdraw that motion.

11 THE COURT: Yeah. I didn't get a
12 copy of that motion.

13 MR. FOOTE: We're going to withdraw
14 that and reset it and that concludes our
15 business.

16 THE COURT: Have a nice day. I
17 think now would be a good time to take a recess.
18 We'll reconvene at eight minutes til eleven.

19 (Whereupon, proceedings were concluded.)

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3 STATE OF FLORIDA)

4 COUNTY OF PASCO)

5 I, Heidi L. Johnson, Court Reporter,

6 do hereby certify that proceedings were held in the

7 above-entitled case at the time and place set forth

8 in the caption thereof; that I was authorized to and

9 did stenographically report the foregoing

10 proceedings, and that the foregoing pages, numbered 1

11 to 4, inclusive constitutes a true and correct

12 transcript of my said stenographic notes.

13

14 DATED this 19th day of August, 2011.

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HEIDI L. JOHNSON
Notary Public -- State of Florida

000356

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR PASCO COUNTY

THE STATE OF FLORIDA, :

Plaintiff, :

vs. :

SHANNON STEPHEN, :

Defendant. :

CASE NUMBER: 0601591CFAWS

861513

PROCEEDINGS:

Pretrial Conference

BEFORE:

The Honorable William R. Webb
Circuit Court Judge

DATE:

June 25, 2007

PLACE:

West Pasco Judicial Center
7530 Little Road
New Port Richey, Florida

REPORTED BY:

Corinne Lembo
Notary Public
State of Florida at Large

2007 JUN 25 PM 3:36
Paula S. O'Neil
Clerk & Comptroller
Pasco County, Florida

FILED FOR RECORD
PASCO COUNTY, FLORIDA

copy

JUDY G. MOUKAZIS & ASSOCIATES, INC.

8630 Government Drive
Building 3, Suite 103
New Port Richey, Florida 34654
(727) 817-1268

000357

APPEARANCES:

EVA VERGOS, Esquire
Assistant State Attorney
New Port Richey, Florida
Appearing on behalf of
the State of Florida

000358

PROCEEDINGS

MS. VERGOS: Judge, Shannon Stephens, trial October .

THE COURT: And a pretrial September 24 at 10:30.

MS. VERGOS: I didn't have that.

END OF PROCEEDING.

000359

1 STATE OF FLORIDA)

2 COUNTY OF PASCO)

3 I, Corinne Lembo, Court Reporter, do hereby certify that proceedings were held in
4 the above-entitled case at the time and place set forth in the caption thereof; that I was
5 authorized to and did stenographically report the foregoing proceedings, and that the
6 foregoing pages, numbered 1 to 4, inclusive constitutes a true and correct transcript of
7 my said stenographic notes.

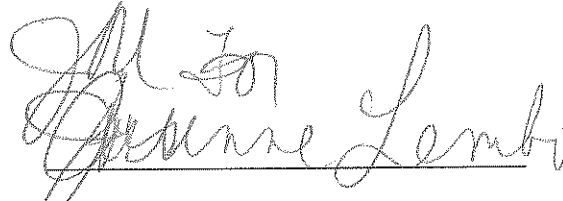
8

9 DATED this 26th day of August, 2011.

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Corinne Lembo

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000360

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR PASCO COUNTY

STATE OF FLORIDA,
Plaintiff,

COPY

vs.

CASE NUMBER
CRC0601591CFAWS

SHANNON STEPHEN,
Defendant.

PROCEEDINGS: MOTION TO CONTINUE
BEFORE: HONORABLE WILLIAM WEBB
Circuit Court Judge
Sixth Judicial Circuit
New Port Richey, Florida
DATE: October 22, 2007
PLACE: West Pasco Judicial Center
7530 Little Road
New Port Richey, FL 34654
TRANSCRIBED BY: Debra Denamen
Court Reporter

888808

Debra S. O'Veil
Court Reporter
Pasco County, FL
2011 NOV -2 PM 1:49

FILED FOR RECORD
PASCO COUNTY, FLORIDA

Administrative Office of the Courts
Court Reporting Department
West Pasco Judicial Center
7530 Little Road
New Port Richey, FL 34654
Telephone: (727)847-8156 Fax: (727)847-8159

000410

APPEARANCES

APPEARING ON BEHALF OF
THE STATE OF FLORIDA:

EVA VERGOS, Assistant State Attorney
Office of Bernie McCabe, State Attorney
Sixth Judicial Circuit, Pasco County
New Port Richey, Florida

APPEARING ON BEHALF OF
THE DEFENDANT SHANNON STEPHEN:

Kenneth Foote, Esq.
621 Ridge Road Suite 4
Port Richey, Florida

* * *

000411

P R O C E E D I N G S

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THE COURT: And, Mr. Foote, good morning.
What cases would you like to take up first?

MR. FOOTE: Judge, if we could do Shannon
Stephen first.

THE COURT: Yes, sir.

MR. FOOTE: Judge, this matter, the last time
we had reset it because, I think, the State
indicated that it was assigned to Mr. Rosario who
needs to get up to speed on the case to be able to
go ahead and try it. So, we agreed to take it off
the trial calendar. We, also, indicated that we
had a witness -- an expert -- that we retained
that have to go and look at the vehicle and
download some data from that vehicle. That was
done on Friday at the FHP impound lot.

I anticipate that the State is going to want
to depose that witness. That's all we have as far
as discovery wise. We're 95 percent done with all
the State's witnesses that they've listed.

So, with that, we would ask to continue it
out and allow the State to, I guess, depose our
witness and then see what they're pleasure is from
there.

THE COURT: Okay. I could set this for trial

000412

1 for 12/10.

2 MR. FOOTE: 12/10 is fine with us. I don't
3 know if Mr. Rosario will be ready, but --

4 THE COURT: I guess we'll find out.

5 MR. FOOTE: That's been our indication. I
6 know he's had it for a few weeks.

7 THE COURT: I'll set it for 12/10 at 8:30.
8 I'll set it, also, for pretrial for 12/3. Do you
9 want 10:30?

10 MR. FOOTE: 10:30 will be fine.

11 THE COURT: At 10:30. Thank you, sir.

12 MR. FOOTE: Thank you.

13 (PROCEEDINGS CONCLUDED.)

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STATE OF FLORIDA)
)
COUNTY OF PASCO)

I, Debra Denamen, Court Reporter, certify that I was
authorized to and did transcribe the foregoing
proceedings and that the transcript is a true record.

DATED this 1st day of November, 2011.

/S/ Debra Denamen

Debra Denamen, Court Reporter

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR PASCO COUNTY

STATE OF FLORIDA,

Plaintiff,

vs.

SHANNON STEPHEN,

Defendant.

COPY

CASE NUMBER
CRC0601591CFAWS

PROCEEDINGS: MOTION

BEFORE: HONORABLE JACK DAY
Circuit Court Judge
Sixth Judicial Circuit
New Port Richey, Florida

DATE: December 12, 2008

PLACE: West Pasco Judicial Center
7530 Little Road
New Port Richey, FL 34654

TRANSCRIBED BY: Debra Denamen
Court Reporter

888805

Paula S. O'Neil
Clerk & Computer Officer
Pasco County, Florida

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000415

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APPEARING ON BEHALF OF
THE DEFENDANT SHANNON STEPHEN:

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6521 Ridge Road Suite 4
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* * *

000416

P R O C E E D I N G S

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THE COURT: Mr. Foote, you're here about this
afternoon?

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MR. FOOTE: Correct, Judge.

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THE COURT: I've been told you have witness
problems and you wish to reschedule your motion to
suppress.

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MR. FOOTE: Only if you have nothing else to
do and want to hear from us today. Do you have a
packed schedule?

11

12

THE COURT: Yes. You don't want to
reschedule --

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MR. FOOTE: Yes, I do, Judge. It was an
attempt at humor --

15

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THE COURT: I'm sorry. I think Wednesday
afternoon sometime I lost that. I've just got to
get recharged over the weekend.

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MR. FOOTE: If you have nothing else to do
then we'll keep it on but, I'm sure you have other
things to do.

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THE COURT: I get it. I get it. I don't
know if I'd want to be sentenced by a judge that
didn't get that.

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MR. FOOTE: We set the motion --

THE COURT: Yeah. And that's on this

000417

1 afternoon -- you just want another date, right?

2 MR. FOOTE: Well, I want to clear it so that
3 you can, obviously, make whatever adjustments you
4 need to instead of coming right up at that time.

5 THE COURT: It's scheduled for this
6 afternoon.

7 MR. FOOTE: It's scheduled for this afternoon
8 at 2:00 or 1:00?

9 MR. ROSARIO: I thought it was at 1:00.

10 THE COURT: Okay. We are overbooked this
11 afternoon so that works out -- I'm sorry -- I'm
12 jumping to conclusions.

13 Mr. Rosario, are you -- do you have grounds
14 to oppose his motion?

15 MR. ROSARIO: No.

16 THE COURT: Okay. Thank you. Commendable
17 brevity.

18 This is for the record, this is State versus
19 Shannon Stephen; right?

20 MR. FOOTE: Correct.

21 THE COURT: -- that we're talking about.
22 Your motion to suppress set for this afternoon --
23 is there a trial date set in that case?

24 MR. FOOTE: That was stasured for today for a
25 trial date.

000418

1 THE COURT: Okay. I'm looking at -- for a
2 motion to suppress -- I'm looking at the morning
3 of January 29th. Does that sound viable from
4 everybody's standpoint?

5 MR. ROSARIO: Judge, I should be in trial on
6 a Jimmy Ryce case that week.

7 THE COURT: All week long that week, right?

8 MR. ROSARIO: Yes, Judge.

9 THE COURT: Because on my Friday afternoon I
10 might be could do it. Well, let's look at
11 February.

12 MR. FOOTE: I'm actually free the whole day.

13 THE COURT: Well, how about February 12th at
14 9:00?

15 MR. ROSARIO: That should work, Judge.

16 MR. FOOTE: February 12th at 9:00 to
17 reschedule the motion to suppress?

18 THE COURT: Yes, for the motion to suppress.

19 MR. FOOTE: That will work, Judge.

20 THE COURT: Now, shall we also make that a
21 pretrial or do you want to try to nail down a
22 trial date sooner?

23 MR. FOOTE: Why don't we set that as a
24 pretrial date?

25 THE COURT: Okay. Mr. Rosario, do you concur

000419

1 with that?

2 MR. ROSARIO: Set that as a pretrial date?

3 THE COURT: Yes.

4 MR. ROSARIO: That's fine, Judge.

5 THE COURT: And really the main question is
6 as opposed to try to schedule a trial date at this
7 time.

8 MR. ROSARIO: That's fine, Judge.

9 THE COURT: All right. Okay. So, that will
10 be a pretrial and motion at that date and time.

11 MR. FOOTE: 2/12/09 at 9:00 a.m.?

12 THE COURT: Yes.

13 MR. FOOTE: That will be fine.

14 THE COURT: Okie doke.

15 (PROCEEDINGS CONCLUDED.)

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STATE OF FLORIDA)
)
COUNTY OF PASCO)

I, Debra Denamen, Court Reporter, certify that I was authorized to and did transcribe the foregoing proceedings and that the transcript is a true record.

DATED this 1st day of November, 2011.

/S/ Debra Denamen

Debra Denamen, Court Reporter

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR PASCO COUNTY

STATE OF FLORIDA,
Plaintiff,

COPY

vs.

CASE NUMBER
CRC0601591CFAWS

SHANNON STEPHEN,
Defendant.

PROCEEDINGS: MOTION TO SUPPRESS AND
PRETRIAL

BEFORE: HONORABLE SHAWN CRANE
Circuit Court Judge
Sixth Judicial Circuit
New Port Richey, Florida

DATE: February 12, 2009

PLACE: West Pasco Judicial Center
7530 Little Road
New Port Richey, FL 34654

TRANSCRIBED BY: Debra Denamen
Court Reporter

888802

2011 NOV -2 PM 1:49

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PASCO COUNTY, FLORIDA

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C00422

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THE DEFENDANT SHANNON STEPHEN:

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* * *

000423

P R O C E E D I N G S

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2 MR. ROSARIO: Judge, Mr. Foote and I have a
3 case this morning that we both -- I forgot it was
4 a pretrial -- it was supposed to be a motion to
5 suppress that was continued, it was also set for
6 pretrial, Judge. I just checked the calendar.

7 Can we set for it just for administrative
8 purposes for another pretrial? I know Mr. Foote
9 has a motion that he wants to run. I just
10 provided him with some new discovery so setting a
11 trial date, at this point, might be ambitious.

12 THE COURT: All right. And what's that --

13 MR. ROSARIO: Shannon Stephen, its
14 061591CFAWS.

15 THE COURT: 1591?

16 MR. ROSARIO: 1591. It's a DUI manslaughter.
17 Mr. Foote and I have been tussling with this for
18 quite a while now.

19 MR. FOOTE: It's been tried one time,
20 already. Hung jury.

21 THE COURT: And the last name is Stephens?

22 MR. ROSARIO: Stephen. S-t-e-p-h-e-n.

23 THE COURT: Okay. All right. We'll set it
24 for a -- gosh, let's set that one for a pretty
25 quick pretrial. That's an old case. That case

000424

1 has got to get moving.

2 MR. FOOTE: Judge, one of the issues of the
3 DUI manslaughter is the main homicide investigator
4 has been out on extensive medical leave. So,
5 that's why it keeps getting -- the same motion
6 keeps having to be continued because this trooper
7 is still out.

8 I don't have any indication -- every time we
9 go to serve him at FHP they won't accept it and
10 they say it's indefinite.

11 MR. ROSARIO: The most recent information I
12 have is that he goes to the doctor for medical
13 clearance on Friday. So, I'll know sometime
14 either Friday or Monday as to whether he is
15 available and then, of course, I will update
16 Mr. Foote.

17 So if we set it for a pretrial in early March
18 that would be fine.

19 THE COURT: All right. Well, I can set it
20 for March 12th at 8:30.

21 So, after the trial we're -- there's a motion
22 being filed after the first trial in the case?

23 MR. ROSARIO: Yes, sir. It's a defense
24 motion.

25 THE COURT: That's interesting.

000425

1 MR. FOOTE: It's a very interesting case.

2 THE COURT: And this trooper has already
3 testified once in trial?

4 MR. FOOTE: No.

5 MR. ROSARIO: No, he did not. He didn't
6 testify at trial.

7 THE COURT: All right. Well, on an '06 case
8 something's got to be getting going on that.

9 MR. FOOTE: Judge, while we're here on that
10 matter, the State recently, yesterday provided
11 some new discovery and I anticipate a new witness
12 list is going to be coming along.

13 MR. ROSARIO: I just did one today.

14 MR. FOOTE: So, I'm going to have to take
15 depositions in that. With regards to phone
16 records, I don't know, I know it's an off calendar
17 situation, but we are going to be looking to
18 subpoena similar records to his, so I don't know
19 if we set a different date just to ask for us to
20 have the Clerk issue a subpoena or can we get that
21 granted so we can get records from the phone
22 company?

23 THE COURT: The difficulty -- I'm not sure
24 how we can handle that. There's, obviously, some
25 issues with the phone company if they have a

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1 problem with that. If they don't have a problem
2 with that, if the State's in agreement with that,
3 if the State's not in agreement with that, kind of
4 all that sort of thing.

5 MR. FOOTE: It's been a very phone record
6 kind of case. The first trial was that way.
7 We've had a number of subpoenas out. Just to cut
8 some time they provided us with something, we just
9 want to go back to the same company and ask for
10 something else. I think the State has any
11 objection to that.

12 THE COURT: Well, I guess it depends on what
13 you ask for. If you're asking for two years worth
14 of phone records --

15 MR. FOOTE: No. One month. They provided --
16 this incident happened on March 26th, 2006, they
17 provided documents starting in -- March 26th. We
18 just want the month so that we can show it to our
19 expert to review it. It's not over broad --

20 MR. ROSARIO: Judge, I -- before we ponder
21 this, at this point, I think that if Mr. Foote
22 files a motion I'd be able to address this more.

23 MR. FOOTE: That's fine.

24 MR. ROSARIO: I, also, think -- I don't know
25 if Mr. Foote understands what he's asking for and

000427

1 how phenomenally expensive it might very well be.

2 MR. FOOTE: Then we'll just file a motion.

3 THE COURT: A whole month and a whole month
4 -- and even that may be a bit over broad, if
5 that's not an issue for the defense.

6 MR. FOOTE: No. They provided 10 days of
7 records and it came out to be eight pages. So, 30
8 days would probably be 25 pages.

9 THE COURT: Well, I know, but remember --

10 MR. ROSARIO: It's not even five bucks a
11 page. It's a little more complicated than that.
12 I have to speak with Mr. Foote and explain to him
13 what type of report this was.

14 This is an archive report, which, as I
15 understand it, comes out to \$50 an hour with a
16 minimum of \$4 or four hours of prep time and that
17 was just for -- and I only asked for one hour.
18 They gave me the extra.

19 But it could be a lot more expensive for them
20 to pay for what they're going to get. And I just
21 want make sure he knows all the facts.

22 THE COURT: Well, and plus, you know, the
23 question is, obviously, there's going to be an
24 issue in regard to over breath. I mean, a month,
25 you know, is it reasonable to get someone's cell

000428

1 phone bills or records for a month if that's not
2 the time really in question.

3 MR. ROSARIO: Exactly, Judge. And relevance
4 is the other issue.

5 MR. FOOTE: I'll file a motion, Judge.

6 THE COURT: I mean, I can see right before
7 hand and right afterwards. That all sounds like
8 that all makes perfect sense. And I'm just, kind
9 of, shooting from the hip here.

10 MR. FOOTE: Judge, we'll do -- we'll wait
11 until they give us their witness. What we want to
12 do is to get to depose this expert testimony. I
13 want to be able to go into things not from a
14 specific point in time that they picked out.

15 But they're going to be explaining some
16 technical stuff and I just want to be -- like the
17 breathalyzer -- I want to show that things
18 operated beforehand, during and after. And the 30
19 days wouldn't be over broad, but I'll set it for
20 you. We're just trying to move an old case -- I
21 just don't want anyone saying we're dragging the
22 case out. But I will file a motion --

23 MR. ROSARIO: You are.

24 MR. FOOTE: But I will file a motion and
25 we'll argue it then, unless the State just wants

C00429

1 to agree to give it to us.

2 MR. ROSARIO: Isn't there a illegal
3 presumption that it's the defense's fault?

4 MR. FOOTE: It always is.

5 MR. ROSARIO: Thank you, Judge.

6 (PROCEEDINGS CONCLUDED.)

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STATE OF FLORIDA)
)
COUNTY OF PASCO)

I, Debra Denamen, Court Reporter, certify that I was authorized to and did transcribe the foregoing proceedings and that the transcript is a true record.

DATED this 1st day of November, 2011.

/S/ Debra Denamen
Debra Denamen, Court Reporter

000431

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR PASCO COUNTY

STATE OF FLORIDA,

Plaintiff,

vs.

SHANNON STEPHEN,

Defendant.

COPY
CASE NUMBER
CRC0601591CFAWS

888799

PROCEEDINGS: MOTION

BEFORE: HONORABLE SHAWN CRANE
Circuit Court Judge
Sixth Judicial Circuit
New Port Richey, Florida

DATE: August 3, 2010

PLACE: West Pasco Judicial Center
7530 Little Road
New Port Richey, FL 34654

TRANSCRIBED BY: Debra Denamen
Court Reporter

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Clerk of Court
Pasco County, Florida
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000432

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P R O C E E D I N G S

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THE COURT: Who would like to go next?

Mr. Foote?

MR. FOOTE: I guess I'm the only one.

THE COURT: I guess you are.

MR. FOOTE: Judge, we have Shannon Stephen's matter on the calendar. We pretty much -- we're readdressing, Judge, a couple of the housekeeping issues regarding the text messaging to Kara Wallace.

THE COURT: I have a motion here for protective order is all I have on the calendar.

MR. FOOTE: Yeah. That's what it is, Judge. I titled the wrong thing, basically, and I've spoken with the State about this.

The last time we were all together we did not have the phone number for Ms. Wallace, she had gone up to the court reporter and given in private not in open court on the record. We had to order that transcript.

We've gotten that transcript back and pretty much, we're asking the Court today to give us permission to preserve those records by AT&T. We've spoken with their subpoena compliance because it is text messages and they would want a

000434

1 warrant and we're going to be in the process of
2 preparing warrants for that purpose of obtaining
3 the text messages. But to give them an order to
4 protect that information today -- I've spoken to
5 the State and they don't have an objection to that
6 portion of it.

7 So that's all we have on the calendar for
8 today.

9 THE COURT: All right. What says the State?

10 MR. SARABIA: And, Judge, we have no
11 objection to the Court asking that AT&T to
12 preserve any records that they still have, at this
13 time.

14 We do object to some of the language in the
15 motion regarding Ms. Wallace texting or text
16 messaging because that was not the testimony.
17 However, aside from that, we have no objection to
18 that order being issued.

19 THE COURT: All right. And did you have a
20 copy of that order -- that proposed order?

21 MR. FOOTE: I do, Judge, and it's titled
22 order on motion for protective order. I think it
23 should be order on --

24 THE COURT: Well, if you want to re-do it
25 that's fine and just do me a favor and just run

000435

1 that through Mr. Sarabia and once you-all agree
2 upon the language, just send it to me and I'll go
3 ahead and sign it.

4 MR. FOOTE: I think the language would be the
5 same, I think just the title that's going to
6 change.

7 THE COURT: Okay. Like I said, however
8 you-all want to do that.

9 MR. FOOTE: Also, Judge, procedurally,
10 because they need a warrant, it would be our
11 position that we would prepare a warrant for the
12 Court to review. That would be something, I
13 guess, that we would just approach the Court on.

14 THE COURT: Well, that's going to be kind of
15 an interesting process because --

16 MR. FOOTE: It's normally the State --

17 THE COURT: -- warrants are -- well, no --
18 warrants are specifically provided for law
19 enforcement.

20 MR. FOOTE: Right.

21 THE COURT: So, it's kind of an interesting
22 -- I don't know if I've ever done a non-law
23 enforcement warrant.

24 MR. FOOTE: There was one that came up, it
25 was actually -- it received a lot of attention

000436

1 because there is no prohibition against anyone
2 doing a warrant if the Judge believes there is
3 probable cause. It's just customary that law
4 enforcement bring one.

5 Now, current Judge Susan Gardner, when she
6 was a public defender, actually, did a defense
7 search warrant before.

8 We're doing it because I don't know if the
9 State would agree that -- you know, we want to get
10 this information -- I don't know if they want that
11 information from AT&T regarding this witness. We
12 think that's kind of important, obviously, for
13 appellate reasons as well. That appellate time is
14 running and so we're going to prepare the warrant
15 itself and approach the Court for it to determine
16 whether or not it has sufficient information to
17 grant that warrant.

18 What we're asking the Court to do is to
19 request the State assist us in a template -- a
20 blank template for the warrant that would be able
21 to expedite this matter. Since the last time I
22 wrote a warrant was when I was on 49th Street.

23 THE COURT: Okay. And that's something --
24 Mr. Sarabia?

25 MR. SARABIA: Well, Judge, that was not

000437

1 brought to my attention prior to the hearing today
2 and I didn't speak with Mr. Rosario about that.
3 I'm sure he has no objection to assisting
4 Mr. Foote as far as he can, but I do know that he
5 is very busy and he's the one who does that sort
6 of thing for our office and he is the only one
7 that has knowledge about it. But I would
8 appreciate it if the Court would not enter an
9 order compelling us to do something like that.

10 THE COURT: Well, I think that's what I'm
11 going to do and based upon that representation I'm
12 not going to enter an order that necessarily
13 requires that. But that may be something that the
14 State may surely want to assist in and perhaps
15 even be the primary agency, for lack of a better
16 phrase, that brings that order forward just so
17 that issue can be, specifically, addressed to see
18 if it is an issue or see if it's not an issue.

19 MR. FOOTE: And the last time we spoke,
20 Judge, and what I'm asking for is -- and I
21 understand that they are busy -- but they,
22 obviously, have templates that they can -- all I'm
23 asking for is a blank template so that we make
24 sure that form is right. I'm not requesting that
25 a prosecutor sit down and write it. If they are

000438

1 offering that assistance I will certainly take
2 that.

3 THE COURT: Well, I'm not going to order them
4 to give up any of that.

5 MR. FOOTE: But I'm not doing motions for
6 that because I know the last time Mr. Rosario said
7 that he would and the Court said maybe we can come
8 together and stipulate to expedite the matter.
9 That is what we're pretty much asking.

10 THE COURT: They won't even accept a court
11 order, that's interesting.

12 MR. FOOTE: And I was educated by the State
13 and the Court in regard to that because text
14 messaging --

15 THE COURT: Well, I know -- I knew that there
16 were times --

17 MR. FOOTE: Phone records would go by
18 subpoena's because they keep them.

19 THE COURT: Right.

20 MR. FOOTE: The text messaging has a
21 different level of information.

22 THE COURT: I know some things has to get a
23 search warrant for and some they have to get --

24 MR. FOOTE: Right.

25 THE COURT: -- some of the court orders are

000439

1 sufficient for -- and that's kind of unique to
2 each carrier, as well, I think, depending upon
3 their legal department, I guess.

4 MR. FOOTE: That is correct, Judge.

5 THE COURT: And, so, I guess, you know, I
6 think that's probably a fairly fluid issue too,
7 depending upon who is giving the -- you know, each
8 provider the information.

9 But -- and once again, you-all get together
10 on that. I have certainly no reason to doubt
11 Mr. Sarabia when he says that they'll give you
12 whatever assistance they can. But I just don't
13 think it would be prudent for me to issue an order
14 requiring them to turn over forms and that sort of
15 thing.

16 MR. FOOTE: No. And that's not my motion,
17 Judge. But I would think that in the interest of
18 all parties --

19 THE COURT: Well, that's what I mean, that's
20 the point I made. I think that, you know, that
21 would be something to either address if there
22 truly was an issue there or if there truly was not
23 an issue there.

24 MR. FOOTE: Correct, Judge.

25 THE COURT: That's, kind of, getting to the

000440

1 bottom of it and deciding what's going on.

2 MR FOOTE: We've been moving expeditiously,
3 obviously, the 30 days is about to run for the
4 notice of appeal and once we file that the Court,
5 I believe, relinquishes jurisdiction and so that's
6 why we're moving on a quick note to, pretty much,
7 have that done. I know there was some events that
8 have come up both involving Mr. Rosario and
9 different things that have come up that is out of
10 everyone's control, that kind of done this thing
11 so that's why we're, kind of, moving, kind of,
12 quickly now, so that I can preserve my client's
13 rights of appeal.

14 THE COURT: Well, and that may be, you know,
15 obviously, you can't let that 30 days run.

16 MR. FOOTE: Correct. But we're going to be
17 prepared in the next 24 hours. In fact, I'm going
18 to go up to the State now if they're able to give
19 me that template and we're going to try to see
20 Your Honor as soon as possible with that.

21 THE COURT: So, well, like I said, well I
22 can't tell you how to do your job.

23 MR. FOOTE: Right.

24 THE COURT: But you can't let that 30 days
25 run and you can always ask the circuit court to --

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1 or the appellate court -- if there was an issue to
2 relinquish jurisdiction.

3 MR. FOOTE: Right. Correct.

4 THE COURT: Because there's no telling that
5 they're going to be able to get you that
6 information -- or how long it's going to take them
7 to produce that information.

8 MR. FOOTE: That's correct. We -- I mean --
9 right, we're not going to wait for them to
10 actually do that. However if that --

11 THE COURT: But, I mean, even once they get
12 the order, I mean, very rarely is it ever
13 instantaneous.

14 MR. FOOTE: Right. All right then. I will
15 prepare an order and the heading will be changed
16 but the language will, pretty much, stay the same,
17 if that's acceptable to the State, we'll bring
18 that to the Court to be forwarded to preserve the
19 materials.

20 THE COURT: All right.

21 MR. FOOTE: And that's all we have before the
22 Court, Judge.

23 THE COURT: Thank you.

24 MR. FOOTE: Thank you.

25 (PROCEEDINGS CONCLUDED.)

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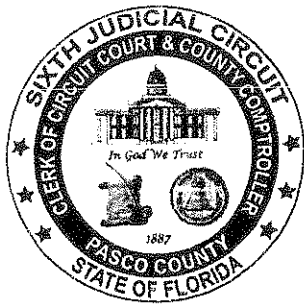
COUNTY OF PASCO)

I, Debra Denamen, Court Reporter, certify that I was
authorized to and did transcribe the foregoing
proceedings and that the transcript is a true record.

DATED this 1st day of November, 2011.

S/ Debra Denamen

Debra Denamen, Court Reporter



*Office of Paula S. O'Neil
Clerk & Comptroller
Pasco County, Florida*

STATE OF FLORIDA }
 {
COUNTY OF PASCO }

I, Paula S. O'Neil, Clerk & Comptroller of Circuit Court for the County of Pasco, State of Florida, do hereby certify that the foregoing pages 328-1444 & 1-1085 & 1-1735, inclusive, contain a correct Supplemental Transcript of the Record in the case of State Of Florida, Plaintiff(s) vs. Shannon Stephen, Defendant(s), being Case Number(s) 06-1591, Circuit Criminal, and a true and correct recital and copy of all such papers and proceedings in said cause as appears from the records and files of my office that have been directed to be included in the record by the directions furnished to me.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Court this 4 day of February, 2013.

By: Brenda M. B. ed
Deputy Clerk

