

REPORTER'S RECORD
VOLUME 1 OF 1 VOLUME
1/24/23 WRIT DOCKET

EXCERPT FROM 1/24/23 DOCKET

On the 24th day of January, 2023, the following proceedings came on to be heard in the above-entitled and numbered cause before the Honorable Todd Blomerth, Retired Senior District Judge presiding, held remotely via videoconference;

Proceedings reported by machine shorthand.

A P P E A R A N C E S

1
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1 (Simulcast on YouTube.)

2 (Excerpt as requested.)

3 THE COURT: Good morning, Ms. Jindal.

4 MS. JINDAL: Good morning, Judge.

5 THE COURT: I can tell you're
6 heartbroken that you didn't have to drive to Kinney
7 County over --

8 MS. JINDAL: Well, I will still be
9 driving today, so in some ways I'm wishing that I left
10 yesterday because it is raining pretty heavily today.

11 But, Judge, I did want to address the
12 matters that we discussed in -- on Saturday with
13 respect to counsel in these two cases. I'm not sure if
14 the Court saw, but yesterday morning the State filed --

15 THE COURT: I am not --

16 MS. JINDAL: -- two motions --

17 THE COURT: I'm not going to hear it
18 today.

19 MS. JINDAL: Okay.

20 THE COURT: I'm not going to get to
21 that matter today. This needs to get mattered[sic] for
22 -- the only thing I'm worried about now is these two
23 gentlemen involved, you need to get -- I need to get
24 these presumingly on the plea docket. They're still
25 locked up in jail. They've been locked up in jail.

1 MS. JINDAL: Yes.

2 THE COURT: I never heard back from
3 that lawyer by the way. I understand he did contact
4 somebody at the clerk's office or Ms. -- Madison or
5 Kimberly, one of you guys called me yesterday and I --
6 or I couldn't quite hear you, but I'm not sure what --
7 about something, but --

8 THE COORDINATOR: Yes, Judge. No. He
9 has not contacted the -- our staff at all.

10 THE COURT: Okay.

11 MS. JINDAL: And, Judge, we --

12 THE COURT: Mr. Hackebeil.

13 MS. JINDAL: Oh. Go ahead.

14 MR. HACKEBEIL: Your Honor, I can
15 report to you that several of us have tried to make
16 contact with him. Oddly enough I believe it was
17 yesterday afternoon I saw an email from Mr. Wolbert in
18 response to a -- to Judge Powell.

19 You may or may not know that at the
20 conclusion of the hearing on Friday Judge Powell
21 instructed Mr. Wolbert to file the orders denying the
22 relief that he was seeking in those applications for
23 writ. After that, nobody heard from him, but I did see
24 an email where he said, I have sent the orders to be
25 eFiled that denied the relief in the writ hearings that

1 were on Friday morning. That's the only -- that's the
2 only communication we've had.

3 I spoke to the individual who owns the
4 office space in which Mr. Wolbert practices or works.
5 He had a concern and was reaching out to him as well,
6 but I've not heard back from either of those
7 individuals.

8 THE COURT: Okay. Here's what I want
9 Ms. Jindal to do.

10 We'll deal with your motion later. We're
11 not going to deal with it today.

12 Here's what I want to do. I want to set
13 both of those cases on the docket with someone that you
14 have assigned to deal with this for a plea because I'm
15 assuming that's kind of where we were going with this,
16 and I -- and I -- and I think so.

17 So these are going to be set on the plea
18 docket. They're both -- these gentlemen are locked up
19 in jail. They've been there and are subject, based
20 upon what I'm hearing, to negotiated pleas that will at
21 least kick them out of those units, and -- for whatever
22 reason.

23 I want those set. We'll set those on
24 February the 9th. That gives you plenty of time to --
25 to file a substitution of attorney in this case or

1 someone else making sure that person has the authority
2 to -- and that person has a -- gets down and talks to
3 these people and let's get these -- let's get these two
4 cases dealt with.

5 I'll look at Mr. Hackebeil's motion better
6 later on, and -- and if it needs to be set, I'll set
7 it, but that's -- that's going to be -- what's going to
8 happen today.

9 MS. JINDAL: Understood, Judge. Is
10 there a date any sooner? I mean, I -- I think the
11 attorney will probably pursue a plea in absentia, but I
12 think we can get this taken of by tomorrow. We've
13 already spoken with the clients, so I think it will be
14 a pretty quick turnaround.

15 THE COURT: Well, I tell you what.
16 I -- I don't think there -- let's see. The 26th? Do I
17 have something on the 26th also, Ms. Muñoz?

18 THE COORDINATOR: One moment, Judge. I
19 believe so but we're double-checking. One second,
20 please.

21 MR. HACKEBEIL: Your Honor, do you mind
22 if I make a comment about that?

23 THE COURT: Sure. Go ahead.

24 MR. HACKEBEIL: Okay.

25 THE COURT: Go ahead.

1 MR. HACKEBEIL: Look. This is -- this
2 is difficult for me too because I am concerned about
3 the plight of these individuals, and I always have been
4 from the day I started working in this program, but let
5 me just say that the result of Mr. Wolbert's action or
6 inaction has given us an opportunity to raise the issue
7 that we -- that the Court says you will hear about at
8 some other time that concerns our motion.

9 I -- I want to make it clear on the record
10 that I made plea offers to Mr. Wolbert in these cases
11 months ago, at a minimum two months ago.

12 THE COURT: I understand.

13 MR. HACKEBEIL: And because of the way
14 this has evolved into now our ability and our desire to
15 focus on the issue that has been raised regarding LPDO
16 removing and reassigning cases -- I don't want to get
17 into the argument -- but because it has allowed us to
18 raise that issue, I would like to see that issue
19 resolved.

20 THE COURT: Well, here's what's going
21 to happen.

22 MR. HACKEBEIL: At least --

23 THE COURT: I'm not going to hear it
24 today, but I -- I put -- I think I made it clear on
25 Friday -- Saturday, is somebody else substitutes in and

1 the case is already set for a hearing or whatever, that
2 lawyer takes on the -- the onus of that hearing, and,
3 you know, I've been a lawyer where I've taken -- taken
4 a deep breath and for whatever reason stepped in at the
5 last minute to take over. Well, I know and -- that I
6 would be held accountable or subject to accountability
7 by a Judge on whether or not I get to hear it. So
8 that's -- Ms. Jindal's authority to do so, removing
9 these people is -- does not in my mind, as my
10 judge[sic], it doesn't grant you.

11 Now, sometimes there's a valid reason to do
12 that. Obviously the last hearing based upon what we've
13 seen so far and -- or what we haven't seen so far from
14 this lawyer is a legitimate basis, but generally you
15 run another lawyer in on this thing. It doesn't matter
16 whether you've appointed or retained under whatever
17 service, it doesn't change the docket.

18 And as far as this Court's concerned, unless
19 there's some compelling -- very compelling reason, and
20 most misdemeanors, having been a prosecutor and a
21 defense lawyer on most misdemeanors and having read
22 thousands of files as misdemeanor prosecutor and
23 misdemeanor defense lawyer, don't take a whole lot of
24 effort to get through and know exactly what the facts
25 are and two -- one-week, two-week, four-week

1 continuances are generally not going to be granted.

2 Now, that's all I'm going to say on that.
3 I'm not doing your hearing today, but, Ms. Jindal, I
4 put her on notice, and -- and I've told the State my
5 thoughts about that. So that's where we're going
6 today.

7 Let's get this person set, and if I've
8 got -- I'm still waiting on -- let's see whether we
9 have -- what we have -- whether I have something on
10 Thursday or not.

11 THE COORDINATOR: Judge, we have --

12 MR. HACKEBEIL: Well, at the -- at the
13 risk of causing a little rift, I have to say, Judge,
14 that I'm not convinced, and Ms. Jindal has never said,
15 that they would be filing a motion to substitute or --

16 THE COURT: They're going to.

17 MR. HACKEBEIL: -- have Mr. Wolbert
18 file a motion to withdraw.

19 THE COURT: Well, I understand that,
20 but they're going to. Otherwise I'm not going to take
21 the plea. So the substitution will be granted once she
22 files that, and if she can get that done along with the
23 documents with the new lawyer -- what about it,
24 Ms. Muñoz?

25 THE COORDINATOR: Your Honor, we

1 actually have you next scheduled on February 2nd.

2 THE COURT: Okay. February 2nd.

3 Ms. Jindal, would that work for you or do we have
4 somebody else here in the meantime? How about --

5 THE COORDINATOR: Your Honor --

6 THE COURT: Judge Powell is going to be
7 here on the 31st, isn't she[sic]?

8 THE COORDINATOR: Yes, Your Honor. We
9 have court on the 31st and the 1st as well. We do have
10 a really heavy docket on Monday the 30th, so we would
11 ask for the 31st.

12 MR. SHAPLEIGH: Judge, we're going to
13 ask for --

14 (Simultaneous talking.)

15 MR. SHAPLEIGH: We're going to ask for
16 the February the 2nd, because we -- we think it's
17 important that you hear this matter. It -- it arose
18 before you and I think it would --

19 THE COURT: All right.

20 MR. SHAPLEIGH: -- only confuse Judge
21 Powell or Judge Larsen or Judge Alcalá or, you know,
22 that's --

23 THE COURT: Okay. The 2nd which is
24 next week. Okay. That's the best we can do.

25 MS. JINDAL: That's fine, Judge.

1 Again, I will get a new attorney on this case --

2 (Simultaneous talking.)

3 MS. JINDAL: -- immediately and, Judge,
4 just so the Court is aware and so the State is aware,
5 in light of everything that happened on Saturday, the
6 events raised by the State on Friday, LPDO, my office,
7 has terminated our contract with this attorney. I
8 still have not heard from him. So I am pretty shocked
9 that he has not responded to the Court or to me. So we
10 have term -- we've advised him that we have terminated
11 our contract with him.

12 THE COURT: Okay. I think we're riding
13 a dead horse here. We understand that.

14 The 2nd is for the pleas on those two
15 gentlemen. Let's get them -- let's get their -- get
16 their issues resolved, and we'll hear it on the next
17 week on the -- on the 2nd which is -- that's on a
18 Thursday? Okay. *Hijo*. I thought I was going to be
19 hearing cases on Monday -- I mean Tuesday, but they --

20 THE COORDINATOR: Yes, Judge. That was
21 a date we just were not able to fill --

22 THE COURT: Okay. No problem.

23 THE COORDINATOR: -- otherwise. We're
24 still working on accommodating you.

25 THE COURT: (Spanish spoken.)

1 Okay. Anything else today, gentlemen?

2 MR. SHAPLEIGH: I'd like to clarify for
3 the record that the motion that was filed yester --
4 what is -- yesterday morning, Judge, I filed it under
5 my signature because I had not spoken to either the
6 County Attorney Brent Smith or the Assistant County
7 Attorney Tony Hackebeil, and it was only to put that
8 into the record.

9 Now, I struggled with the kind of a motion
10 that ought to be filed, and so it seems to me that the
11 Court's action today moots out the thrust of that
12 motion which is to prohibit the removal of that lawyer,
13 but it doesn't thrust out -- it doesn't moot out the
14 prayer for relief which alternatively is for LPDO so
15 show authority for doing what they do in terms of
16 terminating the representation.

17 THE COURT: I understand that,
18 Mr. Shapleigh.

19 MR. SHAPLEIGH: Okay.

20 THE COURT: I'm not going there today.

21 MR. SHAPLEIGH: Yes, sir.

22 (End of requested excerpt.)
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1 REPORTER'S CERTIFICATE

2 THE STATE OF TEXAS)

3 COUNTY OF KENDALL)

4 I, Lisa C. Greenwalt, Certified Shorthand
 5 Reporter in and for the State of Texas, do hereby
 6 certify that the above and foregoing contains a true
 7 and correct transcription of all portions of evidence
 8 and other proceedings requested in writing by counsel
 9 for the parties to be included in this volume of the
 10 Reporter's Record, in the above-styled and numbered
 11 cause, all of which occurred in open court via
 12 videoconference and simulcast on YouTube and were
 13 reported by me.

14 I further certify that this Reporter's Record of
 15 the proceedings truly and correctly reflects the
 16 exhibits, if any, admitted by the respective parties.

17 I further certify that the total cost for the
 18 preparation of this Reporter's Record is \$ _____
 19 and was paid / will be paid by _____.

20 WITNESS MY OFFICIAL HAND this the 31st day of
 21 January, 2023.

22 /s/ Lisa C. Greenwalt
 23 Lisa C. Greenwalt, CSR 6067
 24 Expiration Date: 04/30/24
 25 Greenwalt Court Reporting
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