

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

United States of America,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 1:23CR21
	)	
Barndon Jamal Thurmond,	)	
	)	
Defendant.	)	
_____	)	

ARRAIGNMENT
BEFORE THE HONORABLE BRIAN K. EPPS
UNITED STATES MAGISTRATE JUDGE
MONDAY, APRIL 17, 2023; 2:07 P.M.

FOR THE PLAINTIFF:

Jennifer A. Stanley, Esquire
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FOR THE DEFENDANT:

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1 (Call to Order at 2:07 p.m.)

2 THE CLERK: The court calls case 1:23CR21, the United
3 States of America v Brandon Jamal Thurmond. Jennifer Stanley
4 for the government. Michon Walker for the defendant. Here for
5 arraignment.

6 THE COURT: Good afternoon, everybody.

7 MRS. WALKER: Good afternoon, Your Honor.

8 MS. STANLEY: Good afternoon.

9 THE COURT: Mrs. Walker, it's always good to see you.
10 I appreciate you being here to represent this defendant. When
11 I saw him last week I talked with him for a minute, made a
12 finding he was competent. Do you agree with that assessment?

13 MRS. WALKER: I do, Your Honor.

14 THE COURT: Okay. After reviewing his financial
15 affidavit he certainly qualifies for court-appointed counsel
16 and I hereby appoint you to represent him.

17 Let me say, Mr. Thurmond, that Mrs. Walker has been
18 doing this work here for a long time and she does it very well.
19 We have a -- what we call a panel of attorneys who are in
20 private practice -- very busy and have clients every day come
21 off the street and hire them to represent them in criminal
22 matters in this court and in state court. Those private
23 attorneys volunteer to be on a panel of people to take these
24 cases.

25 At the end of the case Mrs. Walker will bill the court

1 for the time that she's spent representing you and I'm very
2 proud of the quality of the lawyers that we have doing this
3 work in this court. If you made a list of the top 10 criminal
4 defense attorneys in the Augusta area, I'm pretty sure probably
5 9, if not 10, out of 10 of them are on this court appointed
6 panel that we have. That shows you the quality of the
7 representation and we demand a lot out of them.

8 We demand a very high level of excellence in the work
9 that they do for their clients. If we see any sign that
10 they're not living up to that standard, we just don't give them
11 cases any more. So, we monitor this system -- this panel --
12 very carefully and Mrs. Walker has been doing that work here
13 very well for a very long time and Mrs. Walker, I think, does
14 it because she understands the importance to our community of
15 having lawyers who are highly trained and skilled represent
16 people who can't otherwise afford to hire someone to represent
17 them.

18 I'm proud we live in a country where we take freedom
19 that seriously -- right? -- to make sure that even when you
20 can't afford one that a lawyer is by your side to make sure
21 that your case is heard and so I guess the simplest way to say
22 it is you're in good hands with her as you go through this
23 process and I appreciate her being here to represent you.

24 We already went through his basic rights to legal
25 representation, his right to remain silent. We reviewed the

1 charges last time and made sure he understood both those and
2 the maximum penalties and we made sure he had copies of the
3 documents as well. So, really, there is not much left to be
4 done.

5 Mrs. Walker, after talking with him is it his wish to
6 waive a formal reading of the Indictment and enter a plea of
7 not guilty?

8 MRS. WALKER: Yes, Your Honor.

9 THE COURT: Okay. What is the discovery policy of the
10 government and the status of providing discovery to
11 Mrs. Walker?

12 MS. STANLEY: Your Honor, the government is providing
13 discovery in this case pursuant to its expanded discovery
14 policy. This will be provided by hand delivery. I received a
15 thumb drive from Mrs. Walker this afternoon and we will upload
16 it to that thumb drive when I return to the office. The
17 discovery in this initial production is approximately 250
18 gigabytes in size. It consists generally of FBI reports,
19 records obtained by subpoena from various financial
20 institutions, internet service providers and phone service
21 providers, audio recordings of interviews, loan files,
22 Unemployment Insurance files, documents relating to a search of
23 defendant La'Kyera Thurmond's residence, data from cellphones
24 and laptops seized during that search of defendant La'Kyera
25 Thurmond's residence, documents relating to a seizure of funds

1 from defendant Brandon Thurmond's Navy Federal Credit Union
2 account as well as other items. An index of the discovery will
3 be included with that production.

4 The grand jury transcript has not yet been received by
5 our office but that will be turned over when we receive it.
6 There are also two body camera videos that will be turned over
7 when they are received. This is all known discoverable
8 material generated by any state and/or federal law enforcement
9 agency in this case and should satisfy the local rules, Rule 16
10 of the Federal Rules of Criminal Procedure and any relevant
11 Supreme Court precedent including *Brady*, *Jencks*, and *Giglio* and
12 their progeny.

13 This production excludes items protected by the
14 Attorney Work Product Doctrine, the attorney-client privilege,
15 and the Bank Secrecy Act. The government is, of course, aware
16 of its continuing discovery obligations and if we receive any
17 additional discoverable material it will be promptly
18 transmitted to the defendant.

19 THE COURT: Okay. I thank you for that.

20 Mrs. Walker, knowing what you know about the case so
21 far, how much time do you think you need for filing pretrial
22 motions?

23 MRS. WALKER: Your Honor, based upon the email that I
24 received the information is voluminous. So the normal 14 to 21
25 days will not be adequate.

1 THE COURT: I imagined that would be the case.

2 MRS. WALKER: Not having spoken with the
3 co-defendant's counsel, I would think maybe three months.

4 THE COURT: Okay. All right. We'll set that deadline
5 at three months then.

6 And will the government -- will that be sufficient
7 time for the government to make its government witness expert
8 disclosures under Rule 16 and to file any pretrial motions the
9 government may have?

10 MS. STANLEY: Yes, Your Honor.

11 THE COURT: Okay. All right. We'll set that deadline
12 then and, of course, by that date the government will disclose
13 any expert witnesses that it would like to use at trial.

14 How much time will you need after you see their
15 disclosures to decide whether you want to hire any defense
16 expert witnesses and to make those disclosures back to the
17 government?

18 MRS. WALKER: 45 days, Your Honor.

19 THE COURT: I'm sorry?

20 MRS. WALKER: 45 days.

21 THE COURT: 45 days? Okay.

22 MRS. WALKER: Yes, Your Honor.

23 THE COURT: Well, let's put that at an even 60, too,
24 maybe.

25 MRS. WALKER: Yes, Your Honor.

1 THE COURT: It is just a lot of work. A lot of
2 defense attorneys, I think, are underestimating the time and I
3 would rather give you more than enough to take care of it
4 unless you think that's too long.

5 MRS. WALKER: No, Your Honor. That's sufficient.

6 THE COURT: Okay. Let's do that then. The first
7 deadline at 60 and the second one at 60 as well.

8 All right. I want you to understand what we just
9 talked about because it's very important to your case and if I
10 were in your shoes, Mr. Thurmond, I wouldn't understand. The
11 government has conducted an investigation and it's obviously
12 collected a lot of information about this case and as a matter
13 of common sense and fairness you should be able to receive a
14 lot of that information so that you can get ready for trial and
15 that's what the rules say.

16 Federal Rule of Criminal Procedure 16 sets forth a
17 list of the types of documents that a government prosecutor
18 must disclose in a case like this to the defendant. Local
19 rules of this court also talk about those same disclosure
20 obligations. The Supreme Court of the United States from time
21 to time has issued decisions talking about prosecutorial
22 disclosure obligations in cases you may have heard of. *Brady*,
23 *Giglio*, and *Jencks* are the three most well known of those cases
24 and there are other statutes passed by Congress over time that
25 also further defined those disclosure obligations and what you

1 heard Ms. Stanley provide you just a couple of minutes ago is
2 consistent with what I hear in almost every case over the 10
3 years that I've been on the bench which is a very broad
4 assurance to you that at the very beginning of the case the
5 government is providing to your attorney all of the information
6 that you're entitled to receive as you prepare for trial in
7 this matter under every authority that governs this process.

8 I have given Mrs. Walker time to look through that
9 information and decide whether to file any pretrial motions on
10 your behalf. Pretrial motions are documents filed with the
11 court asking the court to take certain action in advance of
12 trial and in some cases those motions need to be filed; they're
13 necessary; and should be filed. In other cases it's completely
14 a waste of time. It is unnecessary. It just depends on the
15 facts of your case, the manner in which the investigation was
16 conducted, the manner in which the charges and the nature of
17 the charges brought against you and a host of other factors
18 that Mrs. Walker is very familiar with.

19 So over the next couple of months she'll be reviewing
20 the information provided by the government, talking with you
21 about it and telling you whether she's decided to file any
22 pretrial motions or whether she thinks the best thing to do is
23 to focus on getting ready for the trial of the case. Do you
24 understand that?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Okay. Pursuant to the Due Process
2 Protections Act I hereby confirm the government's obligation to
3 produce all exculpatory information to this defendant pursuant
4 to *Brady versus Maryland* and its progeny and I hereby order the
5 government to do so. Failure to do so in a timely manner may
6 result in consequences that could include, but may not be
7 limited to, dismissal of charges, sanctions, and maybe limiting
8 instructions at the trial of the case.

9 So that just reaffirms what we just talked about as
10 you just heard me say. The consequences of a prosecutor not
11 disclosing information to you as they're required under law can
12 lead to pretty severe consequences for the prosecution. So I
13 think that should give you some reassurance that what she's
14 told you she's given you today here in court is an accurate
15 representation of what actually is being given to your
16 attorney.

17 All right. We already talked about the fact that it
18 appears even if we had a bond hearing it wouldn't really
19 accomplish anything, but he is still entitled to one,
20 Mrs. Walker. Have you talked with him about that situation?
21 Does he want a bond hearing now or would he like to waive it
22 now with a personal assurance from me that if at any time he
23 changes his mind I'm glad to have a hearing?

24 MRS. WALKER: Your Honor, we would choose to waive it
25 now --

1 THE COURT: Okay.

2 MRS. WALKER: -- with the ability to request a
3 detention hearing in the future.

4 THE COURT: Okay. Mrs. Stanley?

5 MS. STANLEY: Your Honor, I'd indicated at the initial
6 appearance that we were moving for detention and I spoke with
7 Mrs. Walker just before this hearing. I'd like to withdraw
8 that. The government is not seeking detention of this
9 defendant.

10 THE COURT: Okay. All right. And so he'll be
11 transported back to state custody ---

12 MRS. WALKER: Your Honor, we would ask that he be --
13 remain in Lincoln County.

14 THE COURT: Yeah, well, so where is he serving his
15 term?

16 Where are you serving your term of imprisonment?

17 THE DEFENDANT: Wheeler.

18 THE COURT: I'm sorry?

19 THE DEFENDANT: Wheeler Correctional Facility.

20 THE COURT: Where?

21 THE DEFENDANT: Wheeler in Alamo, Georgia.

22 THE COURT: Alamo. How far is that from here?

23 THE DEFENDANT: About two hours and something like 40
24 minutes.

25 THE COURT: Ms. Stanley, well, I mean, I have never in

1 10 years seen the government do that. Almost every time -- I
2 think every time a defendant has been incarcerated in a state
3 facility the government sought detention I think in part for
4 the benefit of the defendant. What would be the difference
5 here?

6 MS. STANLEY: Mrs. Walker and I did discuss this, Your
7 Honor. I think candidly there is very little evidence under
8 the statute that would allow the government to prove that the
9 defendant is a risk of flight and that is why I don't think
10 it's appropriate for us to seek detention. That's the only
11 statutory basis that we could move for detention. I do
12 understand there might be some opposition ---

13 THE COURT: Danger to the community?

14 MS. STANLEY: I don't believe under the statute that
15 that would be a basis here, Your Honor --

16 THE COURT: Okay.

17 MS. STANLEY: -- given the charge, but I think that
18 there was some opposition by the defendant to being housed in
19 Lincoln County. I know that Jefferson County is also an option
20 and so if that would be more convenient for both the defendant
21 and his attorney, the government wouldn't have any objection
22 with that.

23 THE COURT: Okay. Well, but the preliminary threshold
24 issue is whether the government is seeking detention or not.
25 If the government is not -- and I am not telling you what to

1 do. It's your call in that regard. I don't think he's a
2 flight risk and so especially since he is going to be
3 incarcerated in state --

4 MS. STANLEY: Right. It is really a moot question.

5 THE COURT: -- it's up to the government, you know,
6 whether you're moving for detention or not in the first
7 instance.

8 MS. STANLEY: We're not moving for detention, Your
9 Honor.

10 THE COURT: All right. He will be remanded to the
11 custody of the state officials because I don't really have any
12 control over that, Mrs. Walker.

13 MRS. WALKER: Okay. Your Honor.

14 THE COURT: Okay. Is there anything further from the
15 defense perspective we need to talk about?

16 MRS. WALKER: No, Your Honor.

17 THE COURT: Anything further from the government's
18 perspective?

19 MS. STANLEY: No, Your Honor.

20 THE COURT: Okay. We're adjourned.

21 (The hearing is concluded.)
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1 CERTIFICATE OF OFFICIAL REPORTER

2
3
4 I, Lisa H. Davenport, Federal Official Court Reporter, in
5 and for the United States District Court for the Southern
6 District of Georgia, do hereby certify that pursuant to Section
7 753, Title 28, United States Code that the foregoing is a true
8 and correct transcript of record of the digitally-recorded
9 proceedings to the best of my ability and that the transcript
10 page format is in conformance with the regulations of the
11 Judicial Conference of the United States.

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15 Lisa H. Davenport, RPR, FCRR
16 Federal Official Court Reporter
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