

IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

PUBLIC DEFENDER

MAR 03 2009

STATE OF ARIZONA,)

APPEALS RECEIVED

Plaintiff,)

Vs.)

CR 2005-011629-001DT

STEPHEN FRANK KARBAN,)

1-CA-CR 08-0810

Defendant.)

BEFORE THE HONORABLE RAYMOND P. LEE

REPORTER'S TRANSCRIPT OF PROCEEDINGS

STATUTS CONFERENCE

Phoenix, Arizona

December 15th, 2006

9:53 o'clock a.m.

Prepared for: OFFICE OF THE PUBLIC DEFENDER

By: Jovanna Roman, RPR
Certified Reporter
No. 50725

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A-P-P-E-A-R-A-N-C-E-S

Ms. Suzanne Cohen
Deputy County Attorney
Representing the State

Mr. Stephen Karban
Pro Per

Mr. Bruce Peterson
Attorney at Law
Adivsory Counsel to Defendant

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Phoenix, Arizona
December 15, 2006
9:53 o'clock a.m.

THE COURT: This is time set for State versus Stephen Frank Karban, CR2006-011629. Will counsel please state their appearances.

MS. COHEN: Suzanne Cohen for the State.

MR. KARBAN: Stephen Karban, defendant.

MR. PETERSON: And Bruce Peterson acting in the capacity of standby counsel.

THE COURT: I saw Mr. Karban's motion regarding incurring telephone expenses. Have the parties been able to work out some protocol and agreement what is going to be going on? Am I to understand that there are witnesses who are willing to be interviewed and they're willing to absorb the cost? Tell me what is going on.

MS. COHEN: Your Honor, as the way I read that motion, defendant wants the Court or someone else to incur the cost when he calls his own witnesses to talk to them. I don't think that has any bearing on the State and that's up to the jail. I don't think based on what Mr. Karban attached as far as the inmate pro per rights which I actually never seen that before, I don't think the jail will incur the costs of --

1 THE COURT: I don't think the jail will
2 either and I don't think the Court has the authority to
3 order the jail to absorb costs of telephone.

4 MS. COHEN: I don't think so either. Now,
5 if the State's interviewing the defendant's witnesses
6 which I intend to do, I will actually be physically going
7 to Michigan so that there is going to be no telephone
8 costs.

9 THE COURT: Now, who would pay the phone
10 costs, the phone fare when Mr. Karban is -- wants to be
11 involved?

12 MS. COHEN: Well, first of all I'm not sure
13 that Mr. Karban would be involved in those interviews. He
14 would not. It always works in the past -- I've had plenty
15 of unfortunate pro per defendants -- the investigator has
16 always been the one that has done the interviewing with
17 myself. It's not been the defendant. I know Mr. Karban
18 has been writing me letters, have written back. I
19 provided a copy and figure he hadn't received my letter
20 back. My witnesses for example will not be going to the
21 jail to have Mr. Karban interview them. That's just not
22 acceptable.

23 What has always happened his investigator,
24 the pro per investigator, has done the interviewing.
25 They're all taped and provided to the defendant so that he

1 can review them and whatever the investigator does with
2 the defendant for questions can also be done.

3 As far as going to Michigan, my office will
4 be paying my way obviously for me to go to Michigan. I
5 assume OCAC if defense investigator wants to go he of
6 course is welcome to do that.

7 That's the other thing, we're here today
8 because you had asked that we get out to take pictures and
9 do diagrams of the trailer. I was never contacted by
10 anyone. In fact, I e-mailed Mr. Peterson couple days ago
11 see if he heard from anyone. No one has contacted me.

12 THE COURT: Do we know where the trailer is?

13 MS. COHEN: My understanding it's on the
14 property.

15 MR. PETERSON: There's update to that. Mr.
16 Karban, this is your show so you tell them what you want
17 about the investigator.

18 MR. KARBAN: I did meet with the
19 investigator on approximately December 5th.

20 THE COURT: Who is the investigator? What's
21 his or her name?

22 MR. KARBAN: I have his card, but I do not
23 have it with me. Somebody that was assigned through the
24 office of contract counsel did provide him with the
25 address, what I needed as far as the pictures. When he

1 realized that there was a date of December 15th that this
2 was suppose to be done by and I have not heard -- I have
3 not heard from him, any written response, nothing.

4 THE COURT: Mr. Peterson, can you shed some
5 light on this? Have you had any contact with this
6 investigator?

7 MR. PETERSON: Yes, when he was assigned I
8 gave him Mr. Karban's booking number, told him where he
9 was, told him there was an impending deadline. He said
10 that he would go see Mr. Karban and that he -- I got the
11 impression that he was going to be able to meet the
12 deadline of December 15th.

13 I would note yesterday when I was out that
14 he had contacted my office apparently asking for my e-mail
15 address. I haven't received anything from him

16 THE COURT: He, the investigator?

17 MR. PETERSON: Yes. So -- but I haven't
18 been there this morning.

19 THE COURT: Nobody knows. This is suppose
20 to be done.

21 MR. PETERSON: Judge, it's his investigator.
22 I will certainly facilitate. I can call and get the name.
23 I thought original plan he was suppose to be here today
24 with me is what he had told me, investigator told me that.

25 THE COURT: Yes, we had set a deadline, that

1 we had a hearing on the 15th.

2 MS. COHEN: Was that our handwriting?

3 MR. KARBAN: Name was slipping my memory
4 right now.

5 THE COURT: So meantime just keeps dragging
6 on and we're not getting any closer. I realize the
7 State -- I mean State is doing what they're suppose to do,
8 but what do we do regarding the investigator who is not
9 doing his or her --

10 MR. KARBAN: It's a man.

11 THE COURT: Doesn't seem to be doing his
12 job. I'll direct that to Mr. Karban. Again, Mr.
13 Peterson, because the constraints Mr. Karban is operating
14 under this is where it seems that your office would
15 certainly be helpful in facilitating getting this done.

16 MR. PETERSON: I did that. We -- I got
17 him -- contacted him immediately, gave him the booking
18 number, sent him over there. He met with Mr. Karban. I
19 communicated -- I went over to see Mr. Karban, said if he
20 had contact with the investigator. He said yes. And so
21 we did.

22 THE COURT: But as we sit here in court
23 today no one can give me the identity of this individual
24 or his phone number. I would like to call this individual
25 myself and find out what is going on.

1 MR. PETERSON: Why don't we do this, this is
2 my suggestion, Your Honor. I know the prosecutor has
3 grand jury at 10:00. We can recall this matter when she's
4 done with that. You can finish your calendar. I'll go
5 get the name and phone number of the investigator.

6 THE COURT: It might be worth a telephone
7 call so just maybe put a little emphasis behind this
8 process because right now it seems that it's going no
9 place. We're going to recall the case.

10 MR. PETERSON: And I'll go get the number.

11 THE COURT: Thank you.

12 (WHEREUPON a break in the proceedings
13 occurs.)

14 THE COURT: We're recalling the case of
15 State versus Stephen Frank Karban, CR2005-011629.
16 Counsel, please state their appearances.

17 MS. COHEN: Suzanne Cohen for the State.

18 THE COURT: Thank you.

19 MR. KARBAN: Stephen Karban, the defendant.

20 THE COURT: Thank you.

21 MR. PETERSON: Bruce Peterson for the office
22 of legal advocate as standby counsel. Judge, I found the
23 name of the investigator. He is Leland Damner,
24 D-A-M-N-E-R. His phone number is 410-3416. I provided
25 that with -- to my client and the State as well. I did

1 contact him, was able to get ahold of him.

2 What happened was simple miscommunication.
3 I told him about the deadline. He went over to talk to
4 Mr. Karban. Mr. Karban did not have the minute entry
5 reflecting the December 15th deadline. Be that as it may,
6 I talked to him and he said he is available Monday,
7 Tuesday, and Wednesday of next week.

8 THE COURT: That's good. I'm not.

9 MR. PETERSON: For the photographs.

10 THE COURT: Oh, okay.

11 MR. PETERSON: And the prosecutor said she
12 will make her best effort to get the trailer available
13 during those days next week.

14 THE COURT: Exact location of the trailer?

15 MS. COHEN: At the grandparent's house it's
16 my understanding.

17 THE COURT: It's still there?

18 MS. COHEN: It's my understanding, but I
19 don't know. I don't know if the grandparents will be
20 available next week. I didn't ask.

21 THE COURT: Do we have the grandparents'
22 address?

23 MS. COHEN: Yes, we do.

24 MR. KARBAN: Yes.

25 THE COURT: And Mr. Damner will be able to

1 contact that phone number and make arrangements?

2 MS. COHEN: Well, he is my understanding is
3 based on what Mr. Karban said he's probably going to go
4 through me. I didn't know grandparents were denying
5 access to the defense so he's probably going to go through
6 me. I'll work it out. I'll go with him or make
7 arrangements.

8 THE COURT: Because I clearly did order that
9 Mr. Karban or someone on Mr. Karban's behalf will
10 certainly have access to do measurements and photograph.

11 MS. COHEN: And they will. It may be the
12 grandparents either didn't understand when you know
13 someone out of the blue was contacting them from defense.
14 That's my point. Most likely have to be facilitated
15 through me. That shouldn't be a problem.

16 THE COURT: And you'll be pleased to do
17 that.

18 MS. COHEN: I'll be pleased to do that,
19 provided grandparents are there. I don't know. I didn't
20 ask.

21 THE COURT: Hopefully there will be some
22 communication even by the end of the workday, is that
23 possible that there could be contact with the grandparents
24 that can be communicated to Mr. Karban and Mr. Peterson
25 and Mr. Damner?

1 MS. COHEN: I don't think I can get it to
2 Mr. Karban because it has to be in writing, take little
3 bit longer with defendant. Something comes up, i just
4 want to put the Court's mind at ease when something comes
5 up I think the position that I have very seriously I've
6 had numerous requests from Mr. Karban. They have been
7 acted on if not the same day, the next day. I hand
8 deliver things to him. I sent him letters. He has made
9 numerous requests and every one has been acted on. If
10 it's important I go over the same day.

11 THE COURT: I appreciate that. My concern
12 of course I'm not going to be here after 5:00 o'clock
13 today until next year.

14 MS. COHEN: My main contact will be -- and I
15 will contact Mr. Damner. He will have my cell phone.
16 They can contact me any time if there's an issue.

17 THE COURT: When are you going to Michigan?

18 MS. COHEN: I'm looking at the end of
19 February.

20 THE COURT: Kind of warm up there.

21 MS. COHEN: A little.

22 THE COURT: Don't count on it. I'm hoping
23 that will take place quickly because we do have the trial
24 date of April 2nd. I'm confirming that. Our next status
25 conference -- next status conference -- I think we

1 definitely need one in this case. This case calls for
2 intermittent continuing status conferences.

3 MS. COHEN: Well, judge, I'm here on the 2nd
4 on the matter I was here on today. If you want to set
5 status conference the 2nd of January to make sure
6 everything was done.

7 THE COURT: That probably is a good idea.

8 MS. COHEN: We set that for 8:30 in the
9 other matter.

10 THE COURT: Let's set it all for 8:30 on
11 Tuesday, January 2nd in State versus Karban. That will be
12 a good time to find out whether or not Mr. Damner is able
13 to do what he's able to and find out whether Mr. Karban
14 has received that information.

15 What else do we need to talk about today?

16 MR. KARBAN: I had put in motion to exceed
17 the 10 page limit. Did you receive that motion yesterday?

18 THE COURT: I don't think so. 10 page limit
19 for what, motions in limine or what?

20 MR. KARBAN: No, just to submit a motion
21 that exceeds 10 pages.

22 THE COURT: For what purpose? What motion
23 you talking about?

24 MR. KARBAN: It's motion I haven't submitted
25 to you yet.

1 THE COURT: How do you know you need more
2 than 10 pages?

3 MR. KARBAN: Motion is ready, but it exceeds
4 the 10 page limit. It is about 30 pages with attachments.
5 It goes into the prior testimony that was addressed in the
6 different court. That's why it exceeds.

7 THE COURT: It does not need to be 30 pages.
8 How much may I ask is attachments or exhibits?

9 MR. KARBAN: There is probably -- the motion
10 itself exceeds 10 pages. That is about 30 pages. There's
11 also exhibits, medical reports, that kind of thing.

12 THE COURT: Perhaps you might want to confer
13 with Mr. Peterson to figure out how to edit and make that
14 more concise. The rule is 10 pages. I might say couple
15 pages, but three times the amount that's normally allotted
16 I'm not inclined to grant it, Mr. Karban.

17 MR. KARBAN: Yes.

18 THE COURT: Now confer and edit it down and
19 get the important points down. That's the old story, I
20 wrote such a long letter I didn't have time to write you a
21 short one. You know what I'm saying. If you take the
22 time you can get it whiddled down to essentials and
23 everything you need to include can be seems to me. That's
24 what Court is going to order. Again, talk to Mr.
25 Peterson.

1 Again, anything more we need to talk about?

2 MS. COHEN: No.

3 MR. KARBAN: No.

4 (WHEREUPON the proceedings conclude at 9:59

5 o'clock a.m.)

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