

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

THE PEOPLE OF THE STATE OF MICHIGAN,

v

Case No. 2019-272593-FC

NICHOLAS MAXIMILLIAN REMINGTON,

Defendant./

STATUS CONFERENCE

BEFORE THE HONORABLE JAMES M. ALEXANDER, CIRCUIT JUDGE

Pontiac, Michigan - Monday, November 2, 2020

APPEARANCES:

For the People: MS. BETH HAND (P47057)
Oakland County Prosecutor's Office
1200 North Telegraph, West Wing -
Building #14E
Pontiac, Michigan 48341
(248) 858-0656

For the Defendant: MR. NEIL S. ROCKIND (P48618)
Rockind Law
36400 Woodward Avenue, Suite 210
Bloomfield Hills, Michigan 48304
(248)208-3800

Co-Counsel for
Defendant: MR. RANDALL M. LEWIS (P46134)
Lewis & Dickstein, PLLC
2000 Town Center, Suite 2350
Southfield, Michigan 48075
(248)263-6800

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(734)368-9960

Transcribed by: Alison Joersz, CER #9320

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WITNESSES

None

EXHIBITS

None offered.

RECEIVED

1 Pontiac, Michigan

2 Monday, November 2, 2020 - 3:01 p.m.

3 * * * * *

4 (hearing held via Zoom videoconferencing)

5 THE CLERK: Now calling People versus Nicholas
6 Remington, case number 2019-272593-FC. And this video may
7 be made public.

8 THE COURT: Can I have your appearances, please?
9 Beth?

10 MS. HAND: Hi. Good afternoon, Your Honor. I'm
11 Beth Hand appearing on behalf of the People.

12 MR. ROCKIND: Neil Rockind, co-counsel for
13 Nicholas Remington, Your Honor. Good afternoon.

14 MR. LEWIS: Good afternoon, Your Honor --

15 THE COURT: (indiscernible) --

16 MR. LEWIS: Randall Lewis, co-counsel for
17 Nicholas Remington.

18 THE COURT: So, what's up, folks?

19 MS. HAND: Your Honor, Friday was the day that
20 we had scheduled for an in person hearing on, I think,
21 (indiscernible) six motions that Defense Counsel filed and
22 one that I filed on, uh, this case. And given the fact
23 that the Court is no -- not doing in person, uh, I
24 suggested that we go forward by Zoom. Uh, Defense Counsel
25 does -- you know, does not want to. Uh, and so, I wanted

1 to make a record of the fact that, uh, Judge, I don't
2 believe he has a right to an in person on motion hearings.

3 I mean, the Court technically could decide the
4 motions without oral argument altogether. So, I asked Mr.
5 Rockind what legal authority he was relying on that he had
6 the right to be in person as opposed to, uh, Zoom. And I
7 looked at the order of Judge Kumar as well as the Supreme
8 Court order and it appears that the, uh -- both courts are
9 indicating that matters to move along. Uh, obviously,
10 this -- Your Honor is leaving at the end of the year.
11 Congratulations on your retirement. Uh --

12 THE COURT: Thank you very much.

13 MS. HAND: You're welcome. Uh, in any event, I
14 -- I -- I see this as a delay tactic in that, uh, by
15 pushing it off till next year, this Court isn't going to
16 have the opportunity to decide motions that have been
17 pending before it for many months now. Uh, and so, the
18 People are requesting -- it doesn't have to be Friday.
19 But before the Court, uh, ends its term, uh, that the
20 Court make a ruling on the motions. And if that requires
21 that we argue by Zoom, so be it.

22 MR. ROCKIND: Judge, good afternoon.

23 THE COURT: Any (indiscernible) --

24 MR. ROCKIND: Judge, we've, uh -- we've made our
25 position known to Ms. Hand for, uh -- for some time and to

1 the Court. We've, uh -- our client is, uh -- has insisted
2 on a -- on a live hearing. We have, uh, adjourned the
3 case, uh, with a live hearing in mind. We had a status
4 conference back in June where we had set, uh, a live
5 hearing for September. That got moved to November. Ms.
6 Hand and I had communications about, uh, the -- the fact
7 that we weren't gonna be able to do a live hearing. And
8 the initial understanding I had was that she just wanted
9 to make a record to ob -- to -- to go on the record and
10 assert that any delay was attributable to the Defendant.
11 I said, absolutely.

12 Uh, I offered to send an email to your staff
13 which I did. Asserting that the time was attributable and
14 charged to the Defendant which we agreed that it was. And
15 then, there was a -- a -- essentially a sea change in the
16 position of the People. Uh, which was now, uh, artic -- I
17 -- I guess insisting that we have to state some legal
18 position. We had to do some other things. And I -- and I
19 opposed it. And I've said -- and I -- and I said the
20 position is -- is that Mr. Remington -- these -- these are
21 serious motions. They're involved motions. We have all
22 along adjourned the case wi -- for a live hearing, for an
23 in person hearing. That's been our position. We're still
24 seeking an in person hearing for these motions. And so,
25 nothing has changed from the Defense.

1 Your Honor had essentially back in June had --
2 had indicated that you accepted our representation that we
3 wanted a live hearing and that you agreed to a live
4 hearing. I understand that -- that you may not be able to
5 conduct one. But the fact of the matter is is that --
6 that that request was already made and essentially granted
7 and the People didn't even object. So, that's -- that's
8 what we're seeking.

9 THE COURT: Is any -- is there any -- any
10 authority that I have to have a live body in front of me
11 on a motion?

12 MR. ROCKIND: Well, our -- our client is -- our
13 client -- I mean, if -- if the Court wants me to brief the
14 issue, I certainly will do that. I have been representing
15 to my client all along that he was -- that we were holding
16 out for a live hearing. That we believe the motions were
17 significant enough to --

18 THE COURT: I mean --

19 MR. ROCKIND: -- to -- to --

20 THE COURT: I mean, this is -- this is the
21 practical problem. The practical problem is it is
22 November 2nd. I have 60 days left. Uh, we have -- really,
23 I've got about 45. The -- the way I'm looking at it right
24 now.

25 Uh, if I were to do a live hearing, Ms. Hand,

1 that's -- or if I was do this -- grant you your request,
2 do a hearing, it would -- I mean, if I was practicing law,
3 I'd do the hearing in front of the judge that's here and
4 then the minute -- on January 2nd, I'd file a motion for
5 reconsideration in front of the new judge. And I have no
6 idea who that's gonna be. It could be Judge Valentine.
7 Or it could be, uh, one of the new -- you know, the -- one
8 of the two new judges who's coming on. Uh, so, we're
9 really just kind of spinning wheels if we do it. Aren't
10 we?

11 MS. HAND: Well, Judge, I don't know necessarily
12 that a motion for reconsideration -- I mean, they'd have
13 to show that you made a palpable error. It's not as
14 though, uh -- you know, if I want a second bite of the
15 apple. Uh, I understand what the Court is saying. I
16 mean, I think the (indiscernible) would be for either side
17 of a -- either side, uh, depending on how the Court rules.
18 Uh, you know, would be an -- an appeal of the Court's
19 decision. Not necessarily a motion for reconsideration.
20 I guess that -- it's one option if somebody can show that
21 you made a palpable legal error. Uh, but that's, you know
22 -- I don't -- I don't know that the Court's going to make
23 a palpable legal error. And -- you know, for either
24 party. So, and really, the Court is very thorough at
25 researching and making sound --

1 THE COURT: Tell you what --
2 MS. HAND: -- decisions.
3 MR. ROCKIND: Judge I -- I --
4 THE COURT: Go ahead.
5 MR. ROCKIND: -- (indiscernible). I -- I'm just
6 -- I'm -- I'm not -- look at it. I'm -- I'm not here to -
7 - I -- I know you're a good judge. And I appreciate that.
8 I know you're thorough. So, I don't think sitting here
9 and going through those things is going to -- gonna move
10 the ball. I just --
11 THE COURT: All right. Why don't you guys, uh -
12 MR. ROCKIND: My client has just wanted a live
13 hearing on these very important motions. And so --
14 THE COURT: Give me -- give me -- give me some
15 law. Both of you. Get it to me by a week from today and
16 I will give you an opinion one way or the other.
17 MR. ROCKIND: An opinion on whether -- on --
18 THE COURT: (indiscernible) --
19 MR. ROCKIND: Okay, Your Honor.
20 THE COURT: On whether or not your clie --
21 whether or not the Defendant has a right to a live hearing
22 on a criminal motion. I mean, I think, since I'm sitting
23 here thinking about it, there's gonna be testimony, right?
24 MR. ROCKIND: There could be --
25 MS. HAND: No. It --

1 MR. ROCKIND: -- Your Honor. Yes. I think
2 there could be --

3 MS. HAND: No. Not --

4 MR. ROCKIND: Yes.

5 MS. HAND: Judge, not on the motions. They --
6 they haven't -- they've -- part of the motions is
7 requesting a hearing. But as far as the motions, it's
8 just an argument whether or not the Defendant's entitled -
9 - entitled to a hearing. And that's on only one of the
10 motions.

11 MR. ROCKIND: And Judge, you see -- you --
12 Judge, you -- you've zeroed in on one of the significant
13 issues. Which is that once we -- there is a -- a motion,
14 there's a -- a -- a ruling then there could be subsequent
15 hearing with testimony. Then there could be a motion for
16 reconsideration. Then that could be before -- I -- I'm --
17 I'm sorry to say. We've been asking for a live hearing
18 for a while because we believe that that's what we've been
19 representing to our client all the while that he was --

20 THE COURT: (indiscernible) --

21 MR. ROCKIND: And I -- and I think Your Honor
22 has zeroed in on that. And so, I'm not sure what the
23 current -- what the interest is in the next 45 days of --
24 of changing what Ms. Hand is essentially already agreed to
25 a while ago. We -- we even agreed a week ago. And it --

1 essentially just sent an email to the Court and I said
2 okay. And then, I got a -- a -- a reversal of opinion.
3 And so, uh, not sure what the change is but that -- that's
4 -- that's our position. So, and I --

5 THE COURT: (indiscernible) --

6 MS. HAND: That's not --

7 MR. ROCKIND: -- (indiscernible) --

8 MS. HAND: That's -- that's not --

9 THE COURT: (indiscernible) --

10 MS. HAND: -- a hundred percent accurate. I --
11 I indicated -- I never asked Mr. Rockind to send an email
12 to the Court. I indicated I had heard that the Court
13 would -- may not be going live until the end of the year
14 and that I would, uh, contact your staff to see if in fact
15 that was the case. Uh, because I knew Mr. Rockind wanted
16 a live hearing. I didn't know if the November 6th date was
17 going to be realistic. And then, Mr. Rockind took it upon
18 himself to send an email to the Court. Uh, several. Uh,
19 so, my -- my only question to Mr. Rockind was -- and his
20 response to me was seriously -- was do you have any legal
21 authority that you're entitled to this? Now, he is
22 correct. I re -- from the September date until the
23 November date, I didn't object. Because, Judge, I still
24 thought at this point, November was realistic that we
25 would be in person. Obviously, nobody can control, uh,

1 this pandemic that is occurring. Nobody -- wh -- it's
2 beyond our control. Uh, but I -- as any --
3 THE COURT: It's gonna be over --
4 MS. HAND: -- attorney has a right --
5 THE COURT: -- (indiscernible). It'll be over
6 Wednesday after the election. We've turned the corner.
7 MS. HAND: In any event --
8 THE COURT: (indiscernible) --
9 MS. HAND: -- Judge --
10 THE COURT: All right. I'll tell you what --
11 MS. HAND: That -- that's --
12 MR. ROCKIND: And -- and so, I -- I just --
13 anyway, Judge. I don't wanna go back and forth. I think
14 that we can do better than this. And I -- I genuinely --
15 we've been advising our client all along that we have --
16 our position has not changed one bit about our desire to
17 conduct a live hearing --
18 THE COURT: Okay. Give me some law. Make it
19 quick and dirty. Get it to me by --
20 MR. ROCKIND: Could we have two weeks?
21 THE COURT: -- I'd love to --
22 MR. ROCKIND: Could we have two weeks, Your
23 Honor? 'Cause I'm gonna be out of town for -- for, uh,
24 (indiscernible) --
25 THE COURT: You got two weeks, you guys are not

1 gonna get a live hearing. 'Cause I'm starting Simon
2 versus Taubet (ph) on the 16th of November. And that's
3 pretty much gonna take me the rest of my career.
4 MR. ROCKIND: I under -- I understand, Judge. I
5 --
6 THE COURT: So --
7 MR. ROCKIND: -- (indiscernible) --
8 THE COURT: -- get it to me by Monday.
9 MR. ROCKIND: By -- by Monday?
10 THE COURT: Lewis is perfectly capable of
11 writing the brief, Mr. Rockind.
12 MR. ROCKIND: Okay.
13 THE COURT: By Monday and I'll give you guys an
14 opinion very quickly thereafter.
15 MS. HAND: All right. Thank you, Judge.
16 MR. ROCKIND: Okay.
17 THE COURT: Thank you. Have a good one. Stay
18 safe.
19 MR. ROCKIND: You, too. Thank you.
20 MR. LEWIS: Thank you.
21 MS. HAND: You, too, Judge.
22 (At 3:11 p.m., proceeding concluded)
23 * * * * *

STATE OF MICHIGAN)
COUNTY OF OAKLAND) ss.

I certify that this transcript is a true and accurate transcription to the best of my ability of the proceeding in this case before the Honorable James M. Alexander, as recorded by the clerk.

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Dated: December 26, 2023

/s/ Alison Joersz
Alison Joersz, CER #9320