

STATE OF NORTH CAROLINA
COUNTY OF GRAHAM

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
11CRS050143

STATE OF NORTH CAROLINA,
Plaintiff,

TRANSCRIPT
VOLUME I of I

versus

STEVIE LEE FRANKLIN,
Defendant.

.....

Transcript of proceedings in the General Court of Justice, Superior Court Division, Graham County, North Carolina, at the April 3, 2014 Superior Court Session, before the Honorable Bradley B. Letts, Judge Presiding.

APPEARANCES:

James Moore, ADA
Office of the District Attorney
P.O. Box 1397
Bryson City, North Carolina 28713
ON BEHALF OF THE STATE OF NORTH CAROLINA

Melissa A. Jackson, Esquire
8511 King Arthur Way
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ON BEHALF OF THE DEFENDANT

Kim R. Mitchell, CVR-M
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1 (The matter of State of North Carolina v.
2 Stevie Lee Franklin; Graham County File No. 11CRS050143;
3 Thursday, April 3, 2014 at 4:57 p.m.)

4 THE COURT: We'll come back to order.

5 The Court would next call to its attention
6 margin 43, 11-CVS-50143, page 14, Stevie Lee Franklin.

7 Are you Mr. Franklin?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: All right.

10 Ms. Jackson, I understand you had a bond
11 motion?

12 MS. JACKSON: I do, Your Honor.

13 THE COURT: I'll hear from you.

14 MS. JACKSON: Your Honor, in Mr. Franklin's
15 matter his original warrant was issued on 2/23 of 2011. He
16 was picked up in Tennessee. He subsequently signed
17 extradition papers voluntarily, I believe within a day of
18 being picked up. That happened on March 1st of 2011. He was
19 indicted here in Graham County on July 3rd, 2011, and his bond
20 was set at \$250,000. I've made subsequent bond motions, eight
21 in total; three in 2011, three in 2012, one in 2013, and one
22 in January of this year. The bond has not been reduced. At
23 this point it's still at \$250,000.

24 At the time of arrest he was 43 years old.
25 He's now 46 years old. He's been in over three years now. He

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1 is a native of Eastern Tennessee in Blount County. His family
2 consists of his two brothers and two sisters, all of which
3 live in Eastern Tennessee in Blount County. He has one
4 daughter who's 31, two grandchildren. As far as employment
5 goes, he's a mechanic by trade. At the time of his arrest, I
6 believe the agents had spoke with him, and he didn't flee, he
7 didn't make any effort to leave the jurisdiction to go
8 somewhere. When he was arrested he voluntarily signed
9 extradition papers.

10 He clearly has a medical condition. And as
11 part of -- obviously you're at an advantage because you have
12 heard some of the testimony here in the trial. His medical
13 condition, he fell off, or was pushed off a porch roof and he
14 is partially paralyzed from the waist down. It would benefit
15 him to get out and to be able to receive some medical
16 treatment.

17 Prior to being arrested he was going to Park
18 West Medical Center in Knoxville and he was receiving
19 rehabilitation services there. Obviously, in custody he's
20 received some rehabilitation but nothing of the extent --
21 nothing that's been able to really get him up and moving.

22 At one point when he was in Swain County he was
23 doing some rehabilitation on his own with a staircase, using
24 the two sides to do some walking but then he fell and all of
25 his advancements have just kind of subsided and he's not been

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1 able to get back up and to move a whole lot. He does have a
2 walker that he's able to move with some but not in a
3 productive manner.

4 While he was receiving those rehabilitation
5 services at Park West Medical Center he also had a caregiver
6 living with him temporarily. At that point the injury was
7 still fresh, obviously, and he had more issues I think then
8 probably than he would have now. Like I said, he would like
9 to pursue some medical treatment.

10 He does have some criminal history. I would
11 point out to the Court, though, that none of that criminal
12 history is really -- there's nothing violent. It's all
13 property -- it's all B&Es, larceny. There's nothing in that
14 criminal history of a violent nature.

15 Your Honor, you've heard a lot of the facts in
16 the case. Like I said, you're at somewhat of an advantage.
17 The facts in the case are -- I mean, it is what it is. I hate
18 to say that but you have heard it.

19 Also, I've talked to the jail. Just while Mr.
20 Franklin has been here the holding costs alone has cost them
21 \$43,800. And then with medical and safekeeping, they've spent
22 over \$75,000 at this point on Mr. Franklin's detention.

23 I would ask at this point with the fact that
24 one of the co-defendants in this case, which is the principal
25 that he is alleged to have committed these crimes with, has

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1 been found not guilty by a jury. And further, due to the fact
2 that he has been in custody over three years now, I think 38
3 months almost, I would ask that his bond be unsecured.

4 And Your Honor, the reason I would ask that is
5 since he has been in custody for three years, he has no
6 resources. His resources, if any, have been depleted. He
7 doesn't have anything. So a \$1,000 bond to him is like no
8 bond at all. So I would ask that his bond be unsecured
9 completely.

10 THE COURT: Okay. Thank you.

11 Mr. Moore?

12 MR. MOORE: Your Honor, obviously, one of the
13 things that has changed is the one co-defendant that has been
14 found not guilty, but we still do have Ms. Moose's charges to
15 go.

16 There has been another thing that has occurred
17 since -- I think since the last time Ms. Jackson made a bond
18 motion, which is he has now been charged in Tennessee with
19 abuse of a corpse, which is the same event that we're talking
20 about here. And my understanding is that is a felony over
21 there that could catch him as much as about six years as well.
22 So -- and I know they set their own bonds and do all that, but
23 it does add to the whole picture here.

24 The evidence has come in through this case
25 which does implicate Mr. Franklin even more so from Mr.

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1 Roberts. Even though some of it didn't get to the jury Your
2 Honor was aware of some of the other things that were said.
3 And those statements will clearly come in as against Mr.
4 Franklin.

5 We believe that it's actually a stronger case
6 now than it was against him previously and would argue against
7 a reduction in bond.

8 THE COURT: Sure.

9 MS. JACKSON: And Your Honor --

10 THE COURT: In the matters -- excuse me.

11 In these matters the Court will modify the
12 bond. It'd be \$50,000 unsecured.

13 If you wish to make a motion to have this
14 matter heard you can file that with Judge Coward.

15 MS. JACKSON: I do, Your Honor.

16 THE COURT: And I'll be happy to reach out to
17 him, and since I'm familiar with the case, I'll be happy to
18 volunteer to come back.

19 Is it July 7th?

20 THE CLERK: Yes, Your Honor.

21 THE COURT: I'll be happy to come back that
22 term for a trial.

23 MS. JACKSON: Thank you, Your Honor.

24 MR. MOORE: Your Honor, may I also make a
25 request of a trial transcript, then, if that's going to be

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1 happening, because we will certainly need it for that trial.

2 THE COURT: Well, I'm not setting a trial.

3 MR. MOORE: I see.

4 THE COURT: That's up to Judge Coward. If any
5 of the co-defendants want to make a motion to have a trial,
6 they can file it. If they make that motion, Judge Coward, I
7 assume, will hear it. I'll just reach out to him and say if
8 he decides he wants to set these folks, I'll be happy to come
9 back in July.

10 MR. MOORE: Yes, sir.

11 THE COURT: So if a motion is made and if
12 they're set, then I think that would be the appropriate time
13 to do a transcript. And I'll be happy to order that and I'm
14 sure Judge Coward, too. But I'll be happy to do that.

15 MR. MOORE: Thank you.

16 MS. JACKSON: Thank you, Your Honor.

17 THE COURT: Okay. Thank you.

18 What else does the State have for me?

19 MR. MOORE: Your Honor, Probation Officer
20 Shuler said he had something else but I don't see him here in
21 the courtroom.

22 (Brief pause in the proceedings.)

23 MR. MOORE: Your Honor, there is a governor's
24 warrant that has -- I just remembered this.

25 Ms. Jackson, there is a governor's warrant that

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1 has been issued for Mr. Franklin. So there will be some
2 process, I guess, that will have to go between here and there.

3 MS. JACKSON: I've already talked to the people
4 in Blount.

5 MR. MOORE: You have?

6 MS. JACKSON: Yes, I have. I'll be
7 representing him in Tennessee as well.

8 THE COURT: Now, is that issued from the
9 Governor?

10 MR. MOORE: Yes, sir.

11 THE COURT: I don't think he's entitled to bond
12 on that, but that's not what's in front of me.

13 MS. JACKSON: I haven't seen anything.

14 THE COURT: I haven't seen anything either.

15 MR. MOORE: I do have it in my car
16 unfortunately.

17 THE COURT: Well, if its filed with the Clerk,
18 I'll look at it.

19 MR. MOORE: Yes, sir.

20 THE COURT: But it's \$50,000 unsecured here.
21 If there is an actual governor's warrant, I'll be happy to
22 take a look at it. But I don't have anything in front of me.

23 MS. JACKSON: I called Blount County and they
24 told me that they don't have any holds on him and they have
25 nothing in their system on him.

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1 THE COURT: You have something from the
2 Governor's office?

3 MR. MOORE: I do. If I can go down and get it.

4 MS. JACKSON: And that may be the case. But
5 I've spoken with them through the week.

6 (Brief pause in the proceedings.)

7 (The Court considered other matters at 5:09 p.m.)

8 (The Court returned to the matter of the State of
9 North Carolina v. Stevie Lee Franklin at 5:18 p.m.)

10 THE COURT: What else you got?

11 MR. MOORE: Your Honor, I do have the
12 governor's warrants here.

13 THE COURT: Let me see. I thought those had to
14 go -- I thought they were transmitted to the clerk.

15 MR. MOORE: Well, these actually --

16 MS. JACKSON: It's not been filed.

17 MR. MOORE: These actually got transmitted to
18 Curtis Cochran because they thought he was the one that was
19 holding Mr. Franklin but turns out he wasn't. He was being
20 held in Clay County.

21 MS. JACKSON: I just don't understand why this
22 governor's warrant has been riding around in a vehicle and
23 hasn't been filed.

24 THE COURT: Hmm. It's almost two months old.

25 (Court reviews document.)

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1 THE COURT: Well, now, Mr. Moore, it says here,
2 please make return of this warrant to my office within 30
3 days.

4 MR. MOORE: And it has not been served so that
5 would be out of date, then.

6 THE COURT: I'm not sure if it's still good.
7 (Court reviews document.)

8 THE COURT: Okay. Anything else from the
9 State?

10 MR. MOORE: Your Honor, I was looking under the
11 issuance of a warrant for arrest -- give me one second.
12 Warrants for arrest, Your Honor, if I'm not mistaken under
13 15A-301, which that would -- I think it would be considered
14 are good for 180 days. 15A-301(d)(2)(a). That does refer to
15 criminal process generally, and I don't know if there is
16 another more specific --

17 THE COURT: There is, and it starts at 15A-721
18 and works through 750.

19 MR. MOORE: And I --

20 THE COURT: I've been looking at 15A-737.

21 If the accused is not arrested under warrant of
22 the governor by the expiration of the time specified in the
23 warrant, the judge may discharge him or may recommit him.

24 MS. JACKSON: And Your Honor, if I may, I've
25 had the jail working on it probably for over lunch and now.

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1 They're not even showing -- they are looking at -- they're not
2 even showing a pending charge. If Mr. -- if he was served
3 with a warrant tonight he would sign extradition papers. But
4 they're not even showing a warrant or a detainer or a charge
5 on him out of Tennessee, is the issue.

6 MR. MOORE: The other issue that goes along
7 with that, though, Your Honor, is whether the -- even if
8 served it doesn't require that he return until we are
9 completed with his cases.

10 THE COURT: That may be true and that may be
11 true, but what I don't see is where he's ever been served.

12 MR. MOORE: He has not been served, Your Honor.

13 And Your Honor, the reason I was delaying Your
14 Honor and Ms. Jackson was is that I do want to give those to
15 the sheriff now that he's here. I wasn't anticipating being
16 here.

17 THE COURT: Well, but I mean, let's be frank.
18 I mean, February 10?

19 MR. MOORE: Yes, sir.

20 MS. JACKSON: And Your Honor, it's not as
21 though they've not known where he is. He's been in custody.

22 MR. MOORE: That's correct, too.

23 (Brief pause in the proceedings.)

24 MR. MOORE: Your Honor, may I address the Court
25 about something?

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1 THE COURT: Yeah. You want to make sure that
2 nothing got taken from the original?

3 MR. MOORE: I was not doing that, Your Honor.
4 I was making sure that you had everything that I have, which
5 was I had this one other letter that was from Connie Eason to
6 -- I'm sorry, from Julianne Davis in the State of Tennessee to
7 Connie Eason. I have what appears to be a copy of the
8 Tennessee Executive Chamber Warrant that you have there. I
9 want to make sure that you had that as well.

10 THE COURT: I have that, or I don't have it?

11 MR. MOORE: I don't think you do.

12 THE COURT: If I could get a copy of that?

13 MR. MOORE: Sorry about that?

14 THE COURT: That's okay.

15 I have examined the paperwork regarding Mr.
16 Stevie Franklin. It would appear to me that there does seem
17 to be a valid governor's warrant in the State of North
18 Carolina. I do have serious concerns about whether that is
19 still active based upon the time limit. However, in reviewing
20 the extradition statute in North Carolina, it appears there is
21 actually nothing before me. The process does not begin until
22 the defendant is actually arrested on the governor's warrant;
23 therefore, there is nothing before me.

24 It is with great sadness I must also include in
25 the record, I find it exceedingly troubling that this

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1 documentation was held by the district attorney in his
2 automobile -- excuse me -- the assistant district attorney's
3 automobile since February the 10th. It was only brought to my
4 attention after I had lowered the bond of the defendant. I'm
5 going to take a look into this and I'm also going to appoint
6 Ms. Jackson, should he be arrested, to begin the process, and
7 I'll be happy to entertain a hearing on a writ of habeas
8 corpus.

9 MS. JACKSON: Thank you, Your Honor.

10 (The above-entitled matter concluded at 5:44 p.m.)

11

END OF TRANSCRIPT