

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

PEOPLE OF THE STATE OF MICHIGAN,

vs

Case No. 19-272593-FC

NICHOLAS MAXIMILLIAN REMINGTON,

Defendant.

BOND MOTION

BEFORE THE HONORABLE VICTORIA A. VALENTINE

PONTIAC, MICHIGAN - TUESDAY, MARCH 9, 2021

APPEARANCES:

For the People: MARC ANDREW KEAST (P69842)
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For the Defendant: NEIL S. ROCKIND (P48618)
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Cheryl McKinney, CSMR-5594
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WITNESS

PAGE

(None.)

EXHIBITS:

(None offered.)

1 Pontiac, Michigan

2 Tuesday, March 9, 2021

3 - - -

4 (At 3:34 p.m., proceedings convened.)

5 THE CLERK: Your Honor, now calling the case
6 People v Remington, 2019-272593-FC.

7 MR. KEAST: Thank you. Marc Keast on behalf of
8 the People.

9 THE COURT: Thank you.

10 MR. ROCKIND: Neil Rockind, P-number 48618, on
11 behalf of Nicholas Remington. And we would consent to
12 this hearing via Zoom and to waiving Mr. Remington's
13 presence for this proceeding.

14 THE COURT: Thank you.

15 I am in receipt of an order, stipulated order
16 requesting to reduce bond from \$1 million to 10,000 and a
17 tether. Correct?

18 MR. KEAST: That is correct, Judge.

19 MR. ROCKIND: Yes, Your Honor.

20 THE COURT: Mr. Keast, why don't you go ahead
21 and address the bond issue.

22 MR. KEAST: Yes, Judge.

23 As the Court knows, I was assigned the case in
24 January of this year. I spoke with Mr. Rockind a number
25 of times regarding some issues regarding discovery I did

1 discover from the beginning, in January, obtained a copy
2 of the police report from beginning to end, and sent it to
3 defense counsel. I think January the 28th of 2021, are
4 what my notes reflect.

5 Counsel and co-counsel, Randy Lewis, went
6 through the discovery. They made me aware last Tuesday
7 night that there were two reports in particular that were
8 not turned over to defense. It appears that those two
9 reports were in the prosecutor's office possession in
10 September or October of 2019. In my opinion, those two
11 reports are exculpatory in nature and should have been
12 turned over in a timely fashion. They were not.

13 I believe Mr. Rockind and his office may be
14 filing a motion regarding that. I have suggested my own
15 remedy to Mr. Rockind. That is included in the stipulated
16 order, Judge. In my opinion, a remand, at a minimum, is
17 necessary in this case. That will cause further delay to
18 this case being adjudicated. Defendant has been in
19 custody, I believe since the beginning of this case. In
20 my opinion, the delay, at this point moving forward, is
21 attributable to the State.

22 So because of that, I do believe that a
23 stipulated order to the effect that was submitted to this
24 Court is appropriate in this case. I have informed the
25 officer in charge, as well as the victim's mother, of the

1 decision that we have made. They both understand the
2 situation that we're in, Judge.

3 THE COURT: Okay. With regard to the bond
4 conditions, for some reason it won't let me scroll down on
5 the proposed order. Read me the bond conditions.

6 MR. KEAST: Mr. Rockind, do you have that in
7 front of you?

8 MR. ROCKIND: I do.

9 Your Honor, I'm going to, if you don't mind, I'm
10 actually in a sweatshirt.

11 THE COURT: That's fine.

12 MR. ROCKIND: So with permission -- I mean, I
13 can come on if you want the video or I could just do an
14 audio feed. It's entirely up to you. I hope you don't
15 mind if I -- it's really up to you. I just don't want to
16 offend the decorum of the court by appearing in a
17 sweatshirt.

18 THE COURT: I am more than aware of the fact
19 that I gave you about five minutes to choose to go on --

20 MR. ROCKIND: Mine says "Family is everything,
21 hustle all day," or something like that.

22 THE COURT: Whatever you're comfortable with,
23 Mr. Rockind.

24 MR. ROCKIND: Oh, I don't mind appearing, I
25 mean, it's fine, I just didn't want to, you know, to

1 undermine the solemnity of the court proceedings.

2 THE COURT: No, I'm fine with that, sir.

3 MR. ROCKIND: So the bond conditions currently,
4 according to the order, proposed, order, will reduce the
5 bond to a \$10,000 cash surety, no 10 percent bond.
6 Mr. Remington will be subject to global position
7 electronic monitoring and home confinement. We envision
8 that that will involve one specific tether unit, and the
9 purpose of that tether unit would be that he would be on
10 home confinement. The tether unit will have the ability
11 to track his global positioning if he's permitted to leave
12 for any of the permitted travel. And I don't mean travel
13 out of state, I mean travel from his home other than --

14 THE COURT: Right, to meet with you and
15 something else, right?

16 MR. ROCKIND: I'm sorry?

17 THE COURT: Is that to meet with you?

18 MR. ROCKIND: To meet with us, to meet at my
19 office. And we will certainly give Pretrial Services my
20 office address. And if he has any scheduled medical and
21 dental visits. And if those are -- if he has those, we'll
22 of course provide proof or verification that he has them
23 in advance and that he attended them after.

24 He's a student at the University of Michigan and
25 he will be able to attend college university via virtual

1 classes but not actually go to campus or go to a college
2 campus. So he will be on what is the equivalent of home
3 confinement other than for what I would call essential --
4 for some essentials. And those essentials are specified
5 as lawyer's office, doctor's office, dentist's office.
6 After that, he's going to be at home.

7 He's not to have contact with anybody who is
8 identified as a witness in the case. He shall be
9 prohibited from the use of any controlled substances or
10 alcohol. And he will -- and he's prohibited from the use
11 of social media.

12 I didn't want to get into, I can if the Court
13 wants me to get into the Brady issues, but they're really
14 -- I alluded to them once during our last pretrial
15 conference. I think I alluded to them in a letter
16 regarding the status of the case --

17 THE COURT: I read everything. I'm pretty
18 familiar.

19 MR. ROCKIND: Okay. No doubt. And there's
20 more, and we have some motions to file. The purpose of
21 today is because we anticipate that there could be some
22 delays related to this issue, and as a result we are
23 stipulating to a reduction of Mr. Remington's bond.

24 THE COURT: Are you also stipulating to go back
25 down to the district court for a preliminary exam?

1 MR. ROCKIND: No, not at this point, Your Honor.

2 THE COURT: Okay.

3 MR. ROCKIND: I know the People -- if you'll

4 permit me to say this. Mr. Keast and I have had a lot of

5 conversations back and forth about this case. I attempted

6 to apprise Mr. Keast of what I believe were some of the

7 disclosure issues. He has been -- he has been, I think,

8 patient and diligent and has been responsive to what I

9 have -- what I have advised him I believe to have

10 occurred. And he's, I think, done his own investigation

11 to look into that.

12 I think the disagreement at the moment is -- I

13 don't even know if the disagreement is to the extent of

14 it. I think the real disagreement at the moment is

15 probably of what is the remedy. We have a view of what

16 the remedy is. The State has a view of what the remedy

17 is. And I think that's going to -- that may have to be

18 fleshed out in some kind of a motion. And we've got a

19 motion to -- a couple of motions that we're prepared to

20 file.

21 MR. KEAST: If I might just add on to that,

22 Judge. That is why that sentence is included about a

23 potential remand, because defense is not prepared to

24 stipulate, and that's fine. But I would agree with

25 Mr. Rockind, I think the disagreement at this point -- and

1 I say "this point" because as I come into this case, I
2 come in with, I guess, a fresh look, and I'm open to
3 really everything; as I discover things I speak with Mr.
4 Rockind. But I think at this point we have a disagreement
5 as to the ultimate remedy, so that is why -- the remand is
6 one potential, but either way I believe there will be
7 additional delay in this case.

8 THE COURT: Okay. Couple things. I can't pull
9 this up at all. I have to restart my computer.

10 The bond conditions, I want there to be no drug
11 paraphernalia. No drugs. Not being around anybody with
12 regard to drugs. I know it's only to leave the home, but
13 I don't want people coming there either.

14 MR. ROCKIND: Can we just add, so I have -- we
15 can add it to the proposed order. So no drug
16 paraphernalia. Okay.

17 THE COURT: No drugs.

18 MR. ROCKIND: Right, we have that.

19 THE COURT: No one -- not be around anybody who
20 is using any illegal substance.

21 MR. ROCKIND: Okay, not to be --

22 THE COURT: No contact with anybody.

23 MR. ROCKIND: It says not to be in the company
24 or presence of someone using illicit drugs --

25 THE COURT: Possession, not just using.

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MR. ROCKIND: Possession, okay.

THE COURT: Does he have a criminal record?

MR. ROCKIND: He does, Your Honor. He's actually -- he's on -- this is -- he's on probation to Judge Poles. So he's on HYTA probation to Judge Poles. There's a bond in that case.

THE COURT: There's a bond?

MR. ROCKIND: There is a bond in that case, correct.

THE COURT: And what was the case for?

MR. ROCKIND: I believe that was a possession case. But I don't, you know, I don't want to speak out of turn, because I don't represent him in that case. I haven't. Mr. Lewis did.

MR. KEAST: It looks like a possession of controlled substance, that's correct.

THE COURT: User or dealer?

MR. ROCKIND: It was a possession case. It was not (indiscernible).

MR. KEAST: That's correct.

THE COURT: Twenty-five or less?

MR. KEAST: From the charge code, I can't tell if it was 25 or less for the cocaine or heroin, or if it was just a controlled substance, which could be methamphetamine or any other type of drug. I'm going to

1 see if I can find that out.

2 THE COURT: Mr. Busch, Mr. Soba [ph], can you
3 pull that case and give me a case number?

4 THE CLERK: Do you happen to know what year that
5 was filed?

6 MR. ROCKIND: I can tell you in one second.
7 Give me a second here.

8 Judge, to be frank with you, I have not looked
9 at Mr. Remington's criminal history in a very long time.

10 THE COURT: That's okay.

11 THE COURT: I believe there may have been some
12 misdemeanors, but I don't want -- again, I don't --

13 MR. KEAST: I have a CCH now.

14 MR. ROCKIND: Okay. I don't want to misstate
15 something. I'll rely on what the prosecutor has to say
16 about that.

17 MR. KEAST: It looks like we have a conviction
18 of an ordinance violation, destruction of personal
19 property -- I'm sorry, that was dismissed. In 2018, a
20 trespass, misdemeanor trespass, out of Northville
21 Township. In 2017, there were two counts of possession.
22 One was possession of analogs. Judge, that tells me it
23 could be anything from an amphetamine pill, Vicodin,
24 Xanax, of the like. As well as a possession of marijuana.
25 Those were both from 2017. Both have been taken under

1 74-11 status. And I believe he was on probation for those
2 offenses, if I'm not mistaken.

3 MR. ROCKIND: Then, you know what, you can be
4 right, it would be 74-11 as opposed to HYTA. Again, I
5 didn't handle -- I haven't appeared on that case, and so
6 I'll rely on whatever Mr. Keast says is his criminal
7 history.

8 MR. KEAST: That's from this court, so that
9 would make sense.

10 THE COURT: Can you read me -- was that
11 everything, Mr. Rockind, with regard to what's on the bond
12 order?

13 MR. ROCKIND: That's everything that we had on
14 our proposed stipulation. The remaining -- I should add,
15 Judge, that there's an additional provision at the bottom
16 which says all other bond conditions imposed by the
17 52-1 District Court shall remain in place. And I could
18 try to pull up that bond order. Again, I didn't look at
19 it very carefully at the time because -- in fact, let's
20 see if I have it here.

21 I do have it in front of me. I can share it, if
22 you want to see it, Judge.

23 THE COURT: Yeah, can you share it?

24 MR. ROCKIND: I can.

25 THE COURT: You're going to have to refile your

1 stip, too, because with the change I just indicated, it's
2 not even letting me log back in to pull it out.

3 MR. ROCKIND: Can you see this?

4 THE COURT: Yep.

5 MR. ROCKIND: So this is from this case. I can
6 blow it up if you want, but Nicholas Remington --

7 THE COURT: (Indiscernible).

8 MR. ROCKIND: Yes, ma'am.

9 So it was no contact with the family of Denis
10 Preka or any witnesses. Standard conditions here,
11 Pretrial Services, no new offenses, drug tests, GPS tether
12 prior to release, no contact with witnesses.

13 THE COURT: I think there's a couple more
14 witnesses that aren't named on there.

15 MR. KEAST: That must have been from the initial
16 witness list --

17 MR. ROCKIND: That was from the -- this was
18 actually at his arraignment. So I would -- I would -- I
19 think that an appropriate order is going to prohibit him,
20 as it would, I think, any defendant, from having contact
21 with any listed witness. And there's an information
22 that's filed which contains a list of the witnesses and
23 we'll certainly reference that, if we need to, in an
24 additional order.

25 THE COURT: Yeah, but don't you have an issue

1 because the prosecutor's office, you're indicating, didn't
2 disclose certain witnesses; isn't that, Mr. Keast, what
3 you were indicating?

4 MR. KEAST: Not witnesses, Judge, material.

5 MR. ROCKIND: So to give the Court just -- I'm
6 going to give the Court as much of an impartial thumbnail
7 sketch as I can. There's a couple of -- there's a couple
8 of potential -- so one is Detective Balog. He's at the
9 center of one of these issues. There's not going to be
10 any contact with Detective Balog. He's the officer in
11 charge of the case.

12 The other was an investigator from -- who's part
13 of a disclosure issue that we've raised before, who I
14 believe was a now-retired investigator from the
15 prosecutor's office. His name is Terry Healey [ph]. I
16 don't foresee there being any contact between a private
17 investigator, or an investigator who used to work for the
18 prosecutor's office, having any contact with Mr. Remington
19 voluntarily one way or the other.

20 The issues that are now the subject to our
21 motions and of this stip and order relate to Snapchats
22 that came from Mr. Remington's, or I should say the
23 account that was identified as Mr. Remington's account,
24 while he was in jail and could not have sent them. And so
25 that information is the information --

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THE COURT: Okay.

MR. ROCKIND: And there was a lot of information that Mr. Keast and I have talked about. There were actual Snapchats. There were search warrants and affidavits. There were letters written to Snapchat. There was investigation into it. There were disclosures. None of that was provided to us during the preliminary examination when these issues were being litigated and during the subsequent year up until Your Honor taking over the -- I should say Your Honor being assigned to the case.

And I think more importantly, Mr. Keast taking over the case, and he and I having frank conversations about the Brady issues that I was concerned about and Mr. Keast just doing a total review of the file and delivering to us what he had. So it's not really any witnesses that weren't identified, I think it's more that there was evidence, exculpatory evidence that was not disclosed to the defense during the preliminary examination, during the original motion filings, including our motion to quash and the State's response to the motion to quash, that were not disclosed that I think we agree -- well, I want to state, I believe that could have made a difference in the outcome of the decision of the magistrate. I'm not saying it would have, but it certainly -- so one of the issues we're addressing -- so I

1 don't think that -- I don't think that's going to be an
2 issue. There's no new witnesses that were identified with
3 whom he could have, Mr. Remington could have contact.

4 THE COURT: Okay. You have on there, no social
5 media?

6 MR. ROCKIND: We have no social media on there.
7 Mr. Keast believed that that was an important condition.
8 And I had a suspicion that the Court would probably
9 prohibit Mr. Remington, if it were inclined to grant the
10 order, to prohibit social media because, look, freedom is
11 more important than social media.

12 THE COURT: Right. So with regard to the social
13 media by his own act or a third party's. I don't want any
14 -- anything out there with regard to social media at all.
15 And I know that he's going to have to use a computer,
16 you're indicating, for his classes --

17 MR. ROCKIND: Let me be frank. I mean, I know
18 some of these conditions sometimes are not -- I think
19 they're difficult to enforce. But we take very seriously
20 the fact that Mr. Remington has the potential to be
21 released on bond throughout the pendency of the case. I
22 know that's not an easy decision that's reached by the
23 prosecutor's office. I don't think it's an easy decision
24 that is to be reached by the Court and agreeing to the
25 stipulated order.

1 We're going to make sure that Mr. Remington is
2 aware of that when -- when we're referring to social
3 media, we mean, you know, nothing; not doing it, not
4 asking someone to do it. And I have a -- I just think
5 that if there was a hint that Mr. Remington was directing
6 others to post on social media that it would -- there are
7 enough people that are watching what Mr. Remington is
8 doing or watching the case that I think that it would get
9 discovered.

10 THE COURT: You said he's in school at U of M?

11 MR. ROCKIND: He goes to University of Michigan,
12 correct.

13 THE COURT: Okay.

14 MR. ROCKIND: Ann Arbor.

15 THE COURT: Anything else that you want to
16 state, Mr. Keast?

17 MR. KEAST: No, Judge. I appreciate the
18 opportunity to amend the order on the record here today.
19 I agree with everything that we have in the stipulated
20 order and everything the Court has said as well.

21 THE COURT: Okay. I do need a new order and I
22 need --

23 MR. ROCKIND: (Indiscernible), Your Honor, for
24 us to, for Mr. Keast and I to work on that now? I can
25 send it to him via DocuSign, or if he's more comfortable

1 preparing, amending it and sending it to me and I can
2 DocuSign and we can get it to the Court?

3 THE COURT: Yeah, that's fine. My issue is, can
4 you send it both via the upload and email it to my staff?

5 MR. ROCKIND: Yes.

6 THE COURT: It's not letting me in my signing
7 mechanism at all.

8 MR. ROCKIND: Your Honor, just so you know, that
9 was how I wanted to do it originally, I wanted to send you
10 the stip and order to your chambers and I -- and I was
11 told to just file -- I'm not blaming your staff. I mean,
12 I'm sure you guys are inundated with all kinds of stuff.

13 THE COURT: No, no, no, no, that's how we would
14 choose to do it, I just have -- there's some issue going
15 on where it's not letting me into the document at all.

16 MR. ROCKIND: Can we review, just so -- because
17 I'm going to type up the order as soon as I get off the
18 phone. Can we just review what the additional conditions
19 are besides what's on the stip and order? So I have no
20 drug -- additionally, besides what's already on there, no
21 drug paraphernalia, no drugs, not to be in the company or
22 presence of anyone using and/or possessing illicit drugs.
23 What else, just so I --

24 THE COURT: I hate to lawyer it up, but just, I
25 mean, as far as the defendant in this case, I don't want

1 him to be in possession of any drugs either, not just
2 using or paraphernalia, but no possession of any drugs
3 whatsoever as well.

4 MR. ROCKIND: We will reiterate no possession or
5 use by defendant.

6 THE COURT: And then not in the presence of
7 anybody in possession, use. I actually don't want him --
8 I want him on home arrest, I'm just having a caveat in
9 case someone comes to his home, that they say, well, it's
10 my parents' friend or something.

11 MR. ROCKIND: Got it. Okay.

12 THE COURT: Cousin or whatever.

13 MR. ROCKIND: And then we have the no use of
14 social media, and we have the -- do you want -- Judge,
15 there's provisions within the 52-1 District Court order
16 that require him to test four times a week for alcohol and
17 drugs. He would have to leave the house to do that. Is
18 that a condition that you still want to be in place?

19 THE COURT: Yeah.

20 MR. ROCKIND: Okay. And Pretrial Services
21 monitoring.

22 THE COURT: Yeah. So that means tether from
23 them. And I don't know if they tether him before he gets
24 out.

25 MR. ROCKIND: I think they do, don't they? I

1 mean, that's --

2 THE COURT: Depends if it's Pretrial Services or
3 MDOC, right, Mr. Keast?

4 MR. ROCKIND: I don't think it would be an MDOC
5 tether because he's not in prison, so I think it'd have to
6 be -- it'd have to be Pretrial Services.

7 MR. KEAST: If it's a condition they'll tether
8 him before he's let out.

9 MR. ROCKIND: I think they won't let him out of
10 the jail without a tether.

11 THE COURT: Okay. I don't know what his other
12 bond conditions were, of the other case.

13 Did he VOP on that case, then?

14 MR. KEAST: The violation is a result of --

15 MR. ROCKIND: This is the basis for the
16 probation violation, this charge.

17 THE COURT: I know, but has he gone in front of
18 the judge on a VOP?

19 MR. ROCKIND: He's gone in front of Judge Jarbou
20 and that case has been adjourned for the pendency of --
21 the outcome of this case.

22 THE COURT: Okay. Yeah, so the only reason I
23 want you to send me that order two ways is because I can't
24 get into the system, which I normally would not tell you
25 to email it at all because --

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MR. ROCKIND: I will do it now.

THE COURT: Okay.

MR. ROCKIND: So I'm going to do exactly what we added with the conditions that you have here.

THE COURT: Okay. And Mr. Keast, you're in agreement with all the conditions and you're stipulating, it's your stipulation with regard to reducing the bond from the million to 10,000?

MR. KEAST: That's correct, Judge.

THE COURT: Okay. With the tether. Okay. Okay, thank you.

MR. ROCKIND: Thank you very much, Judge.

(At 3:55 p.m., proceedings concluded.)

- - -

CERTIFICATION

I certify that this transcript, consisting of 22 pages, is a true and accurate transcription, to the best of my ability, of the video proceeding in this case before the Honorable Victoria A. Valentine on Tuesday, March 9, 2021, as recorded by the clerk.

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/s/ Cheryl McKinney, CSMR-5594
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