Supreme Court of Ohio Clerk of Court - Filed December 01, 2014 - Case No. 2014-1905

2-21-13 Transcript

STATE OF OHIO,)
COUNTY OF CUYAHOGA,) SS
CITY OF CLEVELAND.)

STOKES, A. R., J.

IN THE MUNICIPAL COURT

- - -

CITY OF CLEVELAND, Plaintiff,	)	
vs.	)	Case No. 2013TRD002588
MATTHEW J. LEWANDOWSKI, Defendant.	)	

- - -

Transcript of digitally recorded proceedings had before the Honorable Judge Angela R. Stokes on Thursday, February 21, 2013 in Courtroom 15-C.

- - -

APPEARANCES:

On behalf of the plaintiff:

Victor R. Perez, Chief Police Prosecutor
By: Ashley Garrett, Assistant Police Prosecutor.

On behalf of the defendant:

NO APPEARANCE

Sylvester A. White

P R O C E E D I N G S

THE COURT: Mr. Lewandowski, on docket number -- let me get your journal entry. (Inaudible) in just a moment. This is docket number 58. The license required to operate charge, sir, is a first degree misdemeanor. It does carry a maximum fine of $1,000 and up to six months or up to 180 days in jail. Do you understand?

THE DEFENDANT: Yes.

THE COURT: So you aren't -- you have a right to be represented by an attorney. Did you go to the Public Defender's Office or anything?

THE DEFENDANT: No, your Honor. I've been trying to job seek for -- to pay all fines and everything.

THE COURT: But if you cannot afford to hire an attorney you understand you can go to the Public Defender's Office.

THE DEFENDANT: Yes.

THE COURT: And they'll give you free legal representation. But if you can hire an attorney, financial means to do so, that's fine.

THE DEFENDANT: Yes, ma'am.
THE COURT: So at this time you would like to have a continuance for legal -- to seek legal representation, correct?
THE DEFENDANT: Yes. And can I ask for that public defender information, too?
THE COURT: Yes. The bailiffs will give you that.
THE DEFENDANT: Okay.
THE COURT: You have a hold for two jurisdictions, University Heights and the Ravenna Police Department. The bailiffs are gonna take you into custody while they're checking to see if those are good warrants and if those jurisdictions plan to take you into custody. But on this case continued at the defendant's request set for a pretrial March the 5th, 2013. That will be at 9:00 a.m. She has to take you into custody while they check on the warrant.
THE DEFENDANT: Okay.
THE COURT: If they are not good warrants, you'll be released. If they are good warrants and they plan to take you into

custody, they'll do so. You might as well place him in the holding cell until -- you don't have enough help -- and then I'll keep -- and we'll give him a copy of his driver's license history form in a moment.

THE BAILIFF: Okay.

THE COURT: You're welcome.

*****

THE COURT: All right. I don't have the file, but Mr. Lewandowski.

THE DEFENDANT: Yes, your Honor.

THE COURT: I believe the bailiff checked on the warrants. They're good warrants but you're out of their pick-up radius. So I expect to you take care of these matters before you return to court on your next court date. Did you get your slip for your next court date?

THE BAILIFF: Yes, he --

THE DEFENDANT: (Inaudible.)

THE COURT: Okay. Did he receive a copy of his driver's -- did we give you a copy of your driver's license history form?

THE DEFENDANT: No. I never had a driver's license.

THE COURT: I mean what -- but just one second. We need to give that to you so you can take it to the attorney who's going to be representing you. Do we have an extra copy, Kathy? Let me see.

THE BAILIFF: I have it, judge.

THE COURT: Oh, here's -- is that the bailiff's copy?

THE BAILIFF: It's written. I wrote notes.

THE COURT: Okay. Why don't you give them this one and then that one we can put in the file. I think his file's over there. I think it's over there. Oh no, I'm sorry, Kathy. It's still on the bench. It hasn't been written up yet. I'll put that copy in here unless you all need this.

THE BAILIFF: No, we don't need it.

THE COURT: So Mr. Lewandowski.

THE DEFENDANT: Yes.

THE COURT: You need to take care of this.

THE BAILIFF: University Heights (inaudible).

THE BAILIFF: Something (inaudible).

THE COURT: You have to take care of this matter in University Heights, Mr. Lewandowski and Ravenna before you come back. You need to do that, okay.

THE DEFENDANT: Yes, ma'am.

THE COURT: All right. All right. They're not going to take you into custody so you're free to go.

THE DEFENDANT: Thank you, ma'am. You have a great day.

THE COURT: You too.

- - -

C E R T I F I C A T E

State of Ohio,)
County of Cuyahoga,) SS:
City of Cleveland.)

City of Cleveland,)
)
vs.)
)
Matthew J. Lewandowski)

I, Sylvester A. White, court reporter, do hereby certify that as a reporter employed by the Cleveland Municipal Court, I took down in stenotype all of the digitally recorded proceedings in the above-captioned case on the date set forth; that I have transcribed my said stenotype notes into typewritten form as appears in the foregoing transcript of the proceedings; that said transcript is a complete record of the digitally recorded proceedings had in the hearing of said case and constitutes a true and correct transcript of the taped proceedings had therein.

Dated this 10th day of November, 2014.

Sylvester A. White

OFFICIAL COURT REPORTER
CLEVELAND MUNICIPAL COURT
Cleveland, Ohio 44113

STATE OF OHIO,)
COUNTY OF CUYAHOGA,) SS STOKES, A. R., J.
CITY OF CLEVELAND.)

IN THE MUNICIPAL COURT

- - -

CITY OF CLEVELAND,)
)
Plaintiff,)
)
vs.) Case No.
) 2013TRD002588
MATTHEW J. LEWANDOWSKI,)
)
Defendant.)

- - -

Transcript of digitally recorded proceedings had before the Honorable Judge Angela R. Stokes on Wednesday, March 5, 2013 in Courtroom 15-C.

- - -

APPEARANCES:

On behalf of the plaintiff:

Victor R. Perez, Chief Police Prosecutor
By: Ashley Garrett, Assistant Police Prosecutor.

On behalf of the defendant:

Tina Tricarichi, Esq.

Sylvester A. White

P R O C E E D I N G S

THE COURT: Attorney Tricarichi.

MS. TRICARICHI: Yes.

THE COURT: This is for sentencing for Mr. Lewandowski. He's here for sentencing.

MS. TRICARICHI: I'm sorry. It says pretrial.

THE COURT: Oh, I'm sorry. I apologize.

MS. TRICARICHI: No, it says --

THE COURT: It's a pretrial.

MS. TRICARICHI: It is a pretrial.

THE COURT: Have you pre-tried --

MS. TRICARICHI: Yes.

THE COURT: -- his cases?

MS. TRICARICHI: Yes.

MS. GARRETT: We have, your Honor. And it's my understanding he'll plead no contest, consent to a finding of guilt to count one and count two, the license required to operate as well as the failure to stop. And if that plea is forthcoming the city moves to nolle count three.

MS. TRICARICHI: That's correct, judge.

THE COURT: Thank you. Mr. Lewandowski, on docket 52, count one, the license required to operate charge is a first degree misdemeanor carrying a maximum fine of $1,000 and up to six months or up to 180 days in jail. Do you understand?

THE DEFENDANT: Yes, your Honor.

THE COURT: This citation is dated January 9th, 2013 operating a 2005 Ford at 2151 West 47th Street in the city of Cleveland, Ohio. Do you recall and understand this charge?

THE DEFENDANT: Yes, your Honor.

THE COURT: To the license required to operate charge is it your desire to withdraw your not guilty plea, enter a plea of no contest and to consent to a finding of guilty to this charge?

THE DEFENDANT: Yes, your Honor.

THE COURT: And count two is failure to stop after an accident on the street. It is a first degree misdemeanor. It does carry maximum fine of $1,000 and up to six months in jail. Do you understand that?

THE DEFENDANT: Yes, your Honor.
THE COURT: And the Bureau of Motor Vehicles will assess six points against your driver's license. Do you understand?
THE DEFENDANT: Yes, your Honor.
THE COURT: This is from the same citation January 9th, 2013 operating a 2005 Ford at 2151 West 47th Street, city of Cleveland, Ohio. It says you failed to stop after an accident on the street. And -- can you tell what it says on the front of this citation? He admitted to driving and losing control of the motor vehicle, talks about the expired temporary driver's license. And there was a crash report. All right. It says the offender refused EMS. I guess EMS was called to the scene?
THE DEFENDANT: No. No EMS was called. They just -- the person that I was driving with didn't want no medical attention. He wasn't hurt.
THE COURT: So -- did this involve another vehicle or just his vehicle?
MS. TRICARICHI: It involved another vehicle, parked. No -- no person in the

other vehicle.

THE COURT: And that person in the vehicle with him refused EMS; is that correct?

MS. TRICARICHI: Right.

THE COURT: There was another car involved. So do you understand the basis for the failure to stop after an accident on the street charge?

THE DEFENDANT: Yes, your Honor.

THE COURT: And to that charge would you like to withdraw your not guilty plea, enter a plea of no contest and consent to a finding of guilty?

THE DEFENDANT: Yes, your Honor.

THE COURT: By changing your pleas to both of these first degree misdemeanor charges you are waiving or giving up your right to have either a bench trial tried to the judge or a jury trial tried to eight jurors. Do you understand?

THE COMPLAINANT: Yes, your Honor.

THE COURT: You are presumed or considered to be innocent until the city of Cleveland proves your guilt beyond a

reasonable doubt if your guilt is to be proven at a -- at a trial. Do you understand?

THE DEFENDANT: Yes your Honor.

THE COURT: And if you were to have a trial you have a right to remain silent. No one can force you to testify or to say anything at a trial. Do you understand?

THE DEFENDANT: Yes, your Honor.

THE COURT: You're also giving up your right to subpoena witnesses who could testify at a trial if you were to have one. Do you understand?

THE DEFENDANT: Yes, your Honor.

THE COURT: And you're giving up your right to confront your accusers at a trial. Do you understand?

THE DEFENDANT: Yes, your Honor.

THE COURT: Have there been any threats or promises made to force to you change your pleas to these two charges?

THE DEFENDANT: No, your Honor.

THE COURT: Are you satisfied with your attorney's representation?

THE DEFENDANT: Yes, your Honor.

THE COURT: Do you have any questions regarding the rights you are giving up?

THE DEFENDANT: No, your Honor.

THE COURT: Any questions regarding the penalties that can be imposed by the Court?

THE DEFENDANT: No, your Honor.

THE COURT: Are you a citizen of the United States?

THE DEFENDANT: Yes, your Honor.

THE COURT: Do you have any questions?

THE DEFENDANT: No, your Honor.

THE COURT: I will accept your change of plea to the license required to operate charge and to the failure to stop after an accident on the street charge. The minor misdemeanor failure to control charge will be nolled or dismissed. Shall I refer this matter to probation and pass for sentencing to get the presentencing investigation report?

MS. TRICARICHI: Is that what you want, your Honor?

THE COURT: Yes.
MS. TRICARICHI: Okay.
THE COURT: What is reflected on the Leads?
MS. GARRETT: Your Honor, there are no prior convictions.
THE COURT: Okay. But there -- there may be restitution issues regarding the parked vehicle that was --
MS. GARRETT: There may be.
MS. TRICARICHI: He is paying on that, but he doesn't have a printed document. He has the information, but --
THE COURT: But he could bring that back --
MS. TRICARICHI: Right.
THE COURT: -- maybe at the time of sentencing.
MS. TRICARICHI: That's what I said to him.
THE COURT: Okay. I'll refer Mr. Lewandowski's case to probation. Pass for sentencing at the defendant's request and at the city's request. Does the city have the accident report that the probation

department can --

MS. GARRETT: We (inaudible), your Honor.

THE COURT: Okay. We'll place a copy on in the file for the --

MS. GARRETT: Sure.

THE COURT: -- probation department. What about the 26th of March? Would that date be acceptable, attorney Tricarichi?

MS. TRICARICHI: Pardon.

THE COURT: March 26th?

MS. TRICARICHI: That's fine.

THE COURT: Date of sentencing, March 26th, 2013. And that will be at 9:00 a.m. He will have to submit to a urinalysis test and he'll pay his $9. Does he have his $9 for the urinalysis test in the probation department, attorney Tricarichi?

MS. TRICARICHI: Judge, he has to submit to a urinalysis test?

THE COURT: Yes, he does. He left the scene of the accident. I don't know why he left -- for alcohol or drug reasons -- I have no idea, but he will submit to a

urinalysis test today. That's fine. Probation has the money. He will have a urinalysis test. Have a seat. It will be done.

MS. TRICARICHI: That's despite there's nothing to do with alcohol in the charge?

THE COURT: I don't know. He left the scene of the accident, so he will have a urinalysis test and the funds are in the probation department. It's $9. Have a seat. You'll be escorted to the probation department in just a few moments.

MS. TRICARICHI: He did want to tell you he was walking to the owner's home, which was clear by. I said --

THE COURT: I'm sorry.

MS. TRICARICHI: -- "You can't leave the scene."

THE COURT: All right.

MS. TRICARICHI: But that -- that's what he told the police.

THE COURT: Thank you, attorney Tricarichi.

MS. TRICARICHI: Thank you.

THE COURT: Did we get a copy of

the accident report that we can make a copy?

MS. GARRETT: I did.

THE COURT: Thank you. All right.

MS. TRICARICHI: Can I get --

THE COURT: Oh sure.

A VOICE: Two copies.

THE COURT: One for attorney Tricarichi, one for the probation department.

- - -

C E R T I F I C A T E

State of Ohio,)
County of Cuyahoga,) SS:
City of Cleveland.)

City of Cleveland,)
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vs.)
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Matthew J. Lewandowski)

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Dated this 10th day of November, 2014.

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OFFICIAL COURT REPORTER
CLEVELAND MUNICIPAL COURT
Cleveland, Ohio 44113

3-5-13 Transcript

STATE OF OHIO,)
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CITY OF CLEVELAND.)

STOKES, A. R., J.

IN THE MUNICIPAL COURT

- - -

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	)	
Plaintiff,	)	
	)	
vs.	)	Case No.
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THE DEFENDANT: No, your Honor.

THE COURT: Are you satisfied with your attorney's representation?

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Dated this 10th day of November, 2014.

Sylvester A. White

OFFICIAL COURT REPORTER
CLEVELAND MUNICIPAL COURT
Cleveland, Ohio 44113

3-26-13 Transcript

STATE OF OHIO,)
COUNTY OF CUYAHOGA,) SS: STOKES, A. R., J.
CITY OF CLEVELAND,)

IN THE MUNICIPAL COURT

- - -

CITY OF CLEVELAND,)

Plaintiff,)

V.) Case No. 2013TRD002588

MATTHEW J. LEWANDOWSKI.)

Defendant.)

- - -

Transcript of digitally recorded proceedings had before the Honorable Judge Angela R. Stokes, on Tuesday, the 26th day of March, 2013, in Courtroom 15C.

- - -

APPEARANCES:

On behalf of the plaintiff:
Victor Perez, Chief Police Prosecutor
By: Ashley Garrett, Assistant Police Prosecutor

On behalf of the defendant:
Scott Hurley, P.D.

- - -

Cindy L. LaRosa, RPR, CRI, MSCJ

OFFICIAL COURT REPORTER
CLEVELAND MUNICIPAL COURT
Cleveland, Ohio 44113

P-R-O-C-E-E-D-I-N-G-S

THE COURT: Docket number 25, docket number 43, Matthew Lewandowski's case.

Does Attorney Hurley have a probation report?

MR. HURLEY: Judge, I have it. Thank you, your Honor.

THE COURT: Is a victim present on this matter?

MS. GARRETT: There is, your Honor.

THE COURT: Thank you.

MR. HURLEY: Mr. Lewandowski -- (inaudible).

THE COURT: Okay. The record will reflect that Sharona Ponomrenko -- is that how you pronounce it --

THE COMPLAINANT: Sharon Ponomrenko.

THE COURT: -- thank you. Is present.

Prosecutor Garrett, the presentencing investigation report indicates that the Probation Department tried to contact the victim, a Mr. Timothy K. Ridings, in this matter? Who is that? They don't have any

mention of Miss Ponomrenko.

THE COMPLAINANT: Ponomrenko.

THE COURT: Miss Ponomrenko.

MR. HURLEY: May I illuminate the Court?

THE COURT: Yes, please.

MR. HURLEY: There are really two different cars here at stake.

THE COURT: Two cars?

MR. HURLEY: The car that I believe this lady owns is the one that he was driving and caused damage to.

THE COURT: Okay. So she's the owner of the vehicle that the defendant was operating?

MR. HURLEY: Correct.

THE COURT: Okay.

MR. HURLEY: There is also another vehicle that was damaged.

THE COURT: I see. And that's Mr. Timothy Ridings' case?

MR. HURLEY: Correct.

THE COURT: Was he subpoenaed to be present here today?

MS. GARRETT: He was, your Honor.

THE COURT: And let's see what that subpoena says. Is this the address that is incorrect? The bailiffs were not able to serve the subpoena due to an incorrect address. I don't think that -- I think the Probation Department tried the phone number with no success.

Has the City tried to reach this gentleman by the phone number? So I know what to do? I don't know if I should proceed with sentencing, or proceed with sentencing and hold a restitution hearing later, or --

MS. GARRETT: Judge, would you like me to try?

THE COURT: And what is Miss Ponomrenko's issues regarding restitution? Does she have restitution since it was her vehicle?

MS. GARRETT: Yes, your Honor, her vehicle was damaged. She did pay out of pocket of $500 deductible that she would be looking for.

THE COURT: Is she looking for reimbursement of the $500 deductible?

MS. GARRETT: That's correct. Yes.
THE COURT: How did Mr. Lewandowski have your vehicle?
THE COMPLAINANT: Okay.
THE COURT: You gave him permission?
THE COMPLAINANT: No. No, no, no. What happened, your Honor, is that I have a car that my late husband, who just passed away a couple of years ago, gave me, and I paid it off with the credit union. And my granddaughter, who lives with me, has a baby, and I was going to give her the car, and switch it over into her name so she could have a decent vehicle because of the baby. I guess she was at her boyfriend's house out in Cleveland, and I live in Parma.

Anyway, I got a phone call from my granddaughter saying that my car was stolen, and that Matt smashed it. My car was totally demolished. And I never --
THE COURT: Does your granddaughter know Mr. Lewandowski?
THE COMPLAINANT: I guess. I don't even know her friends.

THE COURT: I see.
THE COMPLAINANT: But I never gave him permission, nor did I know him. All I know is my granddaughter is the only one that is on my insurance and that was allowed to drive the car.
THE COURT: Okay.
MR. HURLEY: Defense agrees with that statement of fact.
THE COURT: Okay.
MR. HURLEY: If I could make a suggestion?
THE COURT: Sure.
MR. HURLEY: Well, obviously, there's going to be a $500 deductible that he will owe as restitution relative to this lady's vehicle; do you understand that?
THE DEFENDANT: Yes.
MR. HURLEY: There is kind of a mystery out there as to whether or not there is another person who is seeking damages, and there is also one other part of this puzzle, Judge. And that is when he was here last and entered a plea, you had him referred to -- he submitted a sample that

was positive for marijuana.

There were -- there was, at the time, by the way, two other warrants from other jurisdictions. One in University Heights, which he was picked up on while he was here on that day, and went to University Heights and spend five days in jail. Because of that, he missed some interactions with his probation officer.

THE COURT: Okay.

MR. HURLEY: On top of everything, he still had a Portage matter that has never been addressed.

I guess what I would suggest if we could at least get beyond the issue of the restitution or the amount that is owed to this lady, if the Court is inclined to take any additional steps to try to seek that other individual's knowledge about this matter, I will be back here on the date in April, and perhaps in the interim you may refer him for an assessment or something. But that's a suggestion.

THE COURT: Okay. Prosecutor -- thank you. Prosecutor Garrett, do you think

you should try to reach Mr. Timothy Ridings to determine if there are any restitution issues, and if he wants to come to court on a date, and we could figure out what date if I need to continue this matter?

MS. GARRETT: Yes, I could try to contact him.

THE COURT: And then maybe try to get a correct address because the bailiffs are saying it's an incorrect address --

MS. GARRETT: Right.

THE COURT: There is a phone number that you probably have in the accident report. There is also a phone number that the Probation Department lists --

MS. GARRETT: Correct.

THE COURT: -- on Mr. Ridings, and maybe you can check and see if you have the correct number.

MS. GARRETT: Yes, that I could do that.

THE COURT: And if you could get him on the phone, maybe you and I, and Attorney Hurley can join in, and try to figure out what we should do?

MS. GARRETT: Okay. I'll do that.

THE COURT: Do you want to make the phone call, and I'll recall the case in just a few moments?

MR. HURLEY: Thank you, Judge.

THE COURT: You're welcome.

MR. HURLEY: Stand over there.

*****

THE COURT: Prosecutor Garrett, I'm recalling Mr. Lewandowski case, docket number 43.

The bailiff was able to call the Witness-Victim Advocate's office, and they will have someone here in 15 minutes.

MS. GARRETT: Right.

THE COURT: So if Miss Ponomrenko can just be patient, there will be an advocate for her in 15 minutes, okay?

MS. GARRETT: Okay. Thank you, Judge.

THE COURT: You're welcome.

*****

THE COURT: I would like to recall Mr. Lewandowski's case, please.

MR. HURLEY: I think so.

THE COURT: Where is that file?

MR. HURLEY: Shall we approach?

THE COURT: Oh, sure. I think there is an advocate here on behalf of Miss Ponomrenko.

- - -

(Thereupon, the following proceedings were conducted at Side Bar:)

- - -

THE COURT: Attorney Hurley, I just think that she just wants to see -- (inaudible) -- with respect to her.

MR. HURLEY: Yes.

THE COURT: Can we just sentence him, and then come back on the docket for restitution regarding any issues that Mr. -- regarding any issues Mr. Ridings may have.

MR. HURLEY: I'm okay with however you choose to proceed. Obviously --

THE COURT: He won't have anything different.

MR. HURLEY: I got you. Okay. That's fine. Without objection, we're set for sentencing today.

THE COURT: Because he's got a

terrible record, Attorney Hurley. He's going to spend a couple of days in jail, and one year of active probation. He'll have the alcohol drug abuse assessment. $500 restitution. He can put on the record how he can make those payments, when he can begin, and then when he comes back to Court regarding restitution. That's the only issue, I think, if there should be restitution paid to Mr. Ridings.

MR. HURLEY: From my understanding, you will supervise -- (inaudible) -- establish -- I understand.

THE COURT: That will be just for restitution regarding Mr. Ridings.

MR. HURLEY: Correct.

THE COURT: That is it.

MR. HURLEY: Got it.

MS. GARRETT: Judge -- she brought a bunch of paperwork with her -- (inaudible). $500

MR. HURLEY: Well, we could waive it. That's a non-issue, as far as I'm concerned.

THE COURT: She can if that's what

she chooses to do.

MS. GARRETT: (Inaudible) would she be able to bring it to the Clerk's Office tomorrow?

THE COURT: She can, but I don't have the file, so...yes, she can. If she chooses to do it.

MS. GARRETT: Shall I bring it?

THE COURT: Does she want to do it on the 16th?

MS. GARRETT: I could ask her if she would prefer the 16th -- (inaudible).

THE COURT: She probably prefers tomorrow because she doesn't have to come here. She could just go to the Clerk's Office.

MS. GARRETT: I think so.

THE COURT: That's fine with me if that's okay with Attorney Hurley.

MR. HURLEY: Sure.

THE COURT: Okay. Attorney Hurley -- (inaudible.)

MR. HURLEY: Thank you, Judge.

THE COURT: I guess two to three days.

MR. HURLEY: Thank, you Judge.

- - -

(Thereupon, the following proceedings were had in open court.)

- - -

THE COURT: Do you all want to tell me real fast, or do I have to have you here when I recall this case. If so, let me just finish this sentencing.

A VOICE: (Inaudible).

THE COURT: That's why I called you both up here.

A VOICE: It doesn't make a whole lot of sense.

THE COURT: There is something wrong, there is something wrong there.

Okay. Well, why is that? What's his name? I'm just trying to make sure they don't have warrants. There is so many of them that have warrants.

A VOICE: (Inaudible).

THE COURT: Is that the man that just left the courtroom?

A VOICE: (Inaudible).

THE COURT: Maybe I need to call

that case. What's his name?

A VOICE: (Inaudible) -- first name --(inaudible).

THE COURT: May I have the file, please?

Just one second, Attorney Hurley, I'm sorry.

MR. HURLEY: Sure, Judge.

THE COURT: Have a seat.

Attorney Hurley --

MR. HURLEY: Yes.

THE COURT: -- may I call -- just give me one second -- let me call the case where you represent the person, okay?

MR. HURLEY: Okay.

THE COURT: They're telling me the person's ill, you know, I don't know.

MR. HURLEY: Okay.

THE COURT: Just give me two seconds.

*****

THE COURT: Mr. Lewandowski has a warrant, too, but I'm getting ready to call his case. I'm going to call his case.

THE BAILIFF: Yes, your Honor.

THE COURT: The gentleman who needs to go downstairs to Probation, where is that file? Has it been written on?

THE BAILIFF: I'm sorry?

THE COURT: The gentleman who needs to go to the Probation Department --

THE BAILIFF: Here is the file. I've wrote on it, your Honor.

THE COURT: Okay. So --

THE BAILIFF: Gallagher is here.

THE COURT: Do you want -- oh, Gallagher is here?

THE BAILIFF: Right here, your Honor.

THE COURT: So what's that man's name again?

THE BAILIFF: This is Mr. Albert Benjamin.

THE COURT: Mr. Benjamin, you could go to the 6th floor Probation Department at this time.

(Inaudible) -- yes, this goes with that. Thank you. I'm going to put that with this so I don't mix it up.

Let me do Lewandowski, and then I'm going to call Mr. Mraz.

THE BAILIFF: Okay.

THE COURT: Oh, my gosh.

I would like to recall Mr. Lewandowski's case, and then I'll call Mr. Mraz's case. All right.

This is recalling docket number 43, for Mr. Matthew Lewandowski. I would like to thank the advocate for coming on behalf of Miss Ponomrenko.

THE ADVOCATE: Yes, your Honor.

THE COURT: Prosecutor Garrett, I should probably just summarize when we went into the back with Attorney Hurley and Miss Ponomrenko and the defendant, the Prosecutor had called Mr. -- what was his name? Ridings?

MS. GARRETT: Timothy Ridings.

THE COURT: Ridings. Okay. And he just had not received any notification from the Probation Department, or from the Prosecutor's office. I think because of a wrong address or something.

But, we're going to proceed with sentencing today, and then we'll have a restitution hearing regarding Mr. Ridings on

April 16th at 2 p.m. when Attorney Hurley is back in the courtroom.

Miss Ponomrenko, is there anything that you would like to say?

THE COMPLAINANT: Yes, your Honor. Okay. I just want the courts to note that what Mr. Lewandowski has done, okay, made me a victim because the car that I had, I took care of it, my late husband gave it to me, and he stole it, and he demolished it. And it's been two years since --

THE COURT: This just can't -- is that this floor? I guess we're okay.

What does he think is so funny? Why are you disturbing the courtroom, sir? Have him have a seat over here.

THE BAILIFF: I apologize, Judge.

THE COURT: The gentleman over in the corner. He knows who he is.

I'm sorry for the disruption, but go right ahead. She needs some tissues. They are in my office, Durch. Do you want to go in my office and get Kleenex, please? I'm okay. I'm all right.

THE BAILIFF: (Inaudible) -- all

gone, your Honor.

THE COURT: Just go in and look on the table, as soon as you walk, in the side door, there is tissues. Can you just go and get them?

THE BAILIFF: Yes, your Honor.

THE COURT: Thank you. Go ahead.

THE COMPLAINANT: Yesterday's been two years since my husband's death. And Mr. Lewandowski was bragging on the Internet, he's laughing about it, he thinks it's a joke.

THE COURT: About your husband's death?

THE COMPLAINANT: No, about stealing my car or demolishing it and everything. And he knows what I'm going through. And he's making a joke out of it, he thinks it's funny. He's bragging on the Internet. He tells my granddaughter. And it's like to him, it's a big joke. And this is very emotional for me. I'm not out for revenge, but it's not fair that he did this to me because it's costing me a lot. I'm sorry, your Honor, but this is very emotional for

me because he thinks it's a joke.

THE COURT: Well, we had a conversation in the back when we were talking to Mr. Ridings on the phone where Attorney Hurley made very clear there may or may not be a pending felony, but at this point, it's not before this Court, okay. The felony will never be before this Court.

So, I have to focus on this charge of Failure to Stop After an Accident on the Street. Mr. Lewandowski is not before this Court on Grand Theft of a Motor Vehicle or anything like that. So, I have to focus on narrow issues before the Court, which would be like damage to your vehicle, how this has affected you. But I understand why you are bringing in that information, but he hasn't been charged with a Felony II. To my knowledge yet, he may be, but I cannot judge him based upon something -- I can't judge him on a felony, okay?

THE COMPLAINANT: Yeah, I understand that.

THE COURT: But I understand. Is there anything else you would like to say?

You are looking for restitution with respect to the $500 deductible; is that correct?

THE COMPLAINANT: Yes, your Honor.

THE COURT: And your insurance carrier took care of the total vehicle?

THE COMPLAINANT: Yeah, they took the vehicle. They gave me the value of the car, and I paid $500 deductible.

THE COURT: Okay. Okay. Thank you very much. Thank you.

Anything else, Prosecutor Garrett, or the advocate?

MS. GARRETT: No, your Honor.

THE COURT: Anything that you would like to say on his behalf, Attorney Hurley?

MR. HURLEY: I thank the Court for making it clear it may seem strange we have to segregate these issues out relative to what's charged in this court system and what may or may not be charged elsewhere.

The fact of the matter is in my interactions with Mr. Lewandowski, there has never been any situation other than him, I know, feeling ultimately responsible for the things that he has done here, and his every

desire to make her whole as best as he can. He can't give her that car back, but he could at least make her financially where she was, I suppose, out of pocket. And I'm going to ask the Court to give him the opportunity to do that.

Obviously, he's got other headaches on top of all this, too. He's going to be making sure that there is no drugs or alcohol in his system in the interim here. My expectation is that there's going to be an assessment conducted, and this is, hopefully, going to be a chance for him to prove her wrong about him as a young man. And hopefully, he could demonstrate to her as well as the Court that he's got his head screwed on straight about this, and he's going to do what he can to show this Court and the lady whose car he damaged that he is never going to be in this situation again.

Do you understand me?

THE DEFENDANT: Yes.

THE COURT: Thank you.

Mr. Lewandowski, would you like to say anything?

THE DEFENDANT: Yes, your Honor. I wanted to apologize on my behalf for being behind a motor vehicle without license or insurance, and a vehicle that was not mine. And I really do -- I am here for my mistakes, and I am trying to admit up to my mistakes, and get these situations dealt with.

THE COURT: Thank you. The maximum fine on the charge of Failure to Stop After an Accident on the Street is $1,000 and up to 180 days in jail.

On this case, Attorney Hurley, I don't think Mr. Lewandowski served any time in jail on this case on the Court's docket?

MR. HURLEY: That's correct. He got arrested on the warrant while he was at the probation office.

THE COURT: Right, but that's for another jurisdiction?

MR. HURLEY: Correct.

THE COURT: So, it might be best for this Court to have, since he has warrants in two other jurisdictions, I believe, I think he has two other warrants.

MR. HURLEY: University Heights is no longer a warrant --

THE COURT: But he has one in Portage County, right?

MR. HURLEY: Portage is still pending, correct.

THE COURT: So maybe it's best for this Court to order the assessment while he's still in custody. He's testing positive for marijuana, he has a warrant out for another jurisdiction, which he hasn't taken care of, since he's been on the Court's docket. The Court is not that far away for him to take care of that warrant.

THE DEFENDANT: Excuse me, your Honor?

THE COURT: And I am hoping this Deputy Chief here, Mr. Jenkins, could order your assessment, even if he has to give you that March 29th one that he has in his hand for another defendant on my docket.

This is terrible. The other gentleman that we talked to, Mr. Ryan -- what was his name?

MS. GARRETT: Mr. Ridings, your Honor.

THE COURT: Ridings. He indicates that his car was totalled, too.

MR. HURLEY: I don't think he said totalled. He did say --

THE COURT: He said damaged.

MR. HURLEY: Yes.

THE COURT: And a $250 deductible, but we weren't really sure.

MR. HURLEY: Right.

THE COURT: But we don't know how much damage. But there are two victims here because of your conduct. Two victims.

Do you think he could get it done? No?

Attorney Hurley, but you are here on the 16th. They may make an exception and allow me to bring him back on a Tuesday. Usually, the prisoners, in person, are on a Thursday, in person, and by video conference on Wednesdays. But you won't be here on either one like on the 18th, right?

They may make a special exception, and I'll order him on that date. Maybe they'll allow.

MR. HURLEY: I guess that I had a different idea.

THE COURT: Well, I did, too, until I realized how horrible this is. I mean there are two victims, and you left the scene of the accident, and he's still testing positive for marijuana. He has warrants. He has a matter pending, which I can't hold that against him, criminal damaging, I think, in Shaker Heights, and a warrant out in Portage County.

MR. HURLEY: I want him to be out and working and paying for this --

THE COURT: He doesn't have a job. He doesn't even have a job to pay any restitution. According to the probation report, he has no employment.

THE DEFENDANT: Your Honor, may I speak?

MR. HURLEY: I could advise you not to. Frankly, I think that you've said too much already.

THE DEFENDANT: Well, I'm getting a job.

MR. HURLEY: Okay. Well --

THE COURT: Does he have employment, Attorney Hurley?

MR. HURLEY: Not at this time.

THE COURT: How is he going to pay restitution --

MR. HURLEY: He could get himself employed. He's got something lined up. And that will be the way that he's going to do this. That's as good as a plan he's going to come up with. Obviously, he has to take --

THE COURT: Who is going to hire him with an outstanding warrant in Portage County that he won't take care of?

MR. HURLEY: Great point, Judge.

THE COURT: You need to take care of it. I'm not changing my mind. There are two victims on this matter.

And I will try to get special permission, Attorney Hurley, if there is any way they could bring him in.

Can you be here the morning of -- we'll leave it at 2 o'clock. I will just order him returned with his personal clothes and belongings with the intention of releasing him on the 16th when you come.

I'm ordering him returned with his

personal clothes and belongings so he could be released. He should have had the assessment by then; is that okay?

MR. HURLEY: I understand your decision, Judge. I guess, I was expecting that you were going to impose some jail days and have him back here on his own on the 16th. That was my expectation.

THE COURT: Well, I had thought about that, but he has this Portage County hold, and there are two victims. And this victim is really devastated by all of this.

I don't know about any laughing on Facebook, and all that. I have no idea. Let's hope that he's not doing anything like that. But I'm going to issue a No Contact Order with respect to this victim. Just wisdom would tell you not to post anything about her --

THE DEFENDANT: (Inaudible.)

THE COURT: I don't know if it's true. I'm just saying --

MR. HURLEY: Don't say anything.

THE COURT: -- please don't do that. I don't know if it's true.

Do you think that you could get him assessed by the 16th?

PROBATION OFFICER: Of April?

THE COURT: Yes.

PROBATION OFFICER: Oh, yeah.

THE COURT: So you think today is like the 26th. So you're saying that I should bring him back before? Do you think that you would be done by the 10th?

THE DEFENDANT: I've got an interview coming up for work.

MR. HURLEY: (Inaudible) -- right now I'm doing my best for you. I'm sorry that you are disappointed in my efforts.

PROBATION OFFICER: We could probably have something on that day.

THE DEFENDANT: I'm going to jail because a woman is crying.

THE COURT: What is he saying?

MR. HURLEY: The less you say, the better.

THE COURT: What is he saying, Attorney Hurley?

MR. HURLEY: He's going to jail because she's crying. And in a way, now

you're crying, okay?

THE COURT: He's going to jail because this Court could impose -- excuse me --

THE DEFENDANT: -- my eyes.

THE COURT: The Court could impose 180 days.

MR. HURLEY: Don't get cutesy, don't get cutesy. There is a camera on both of us right now, and I'm doing my best to be the effective lawyer that I can for you 50 years after Gideon versus Wainwright puts a lawyer standing next to you. I'm doing the best I can; do you understand me?

And don't kid yourself. You are the guy that crashes this car into some other car --

THE DEFENDANT: Yes, I understand that.

MR. HURLEY: You are going to make her whole, right? Then stop feeling sorry for yourself --

THE DEFENDANT: Now, how do I make her feel whole if I'm in jail where I can't pay no fines or nothing.

THE COURT: You know what? Because you don't comprehend this, I might just

impose 180 days because I don't think you're ever going to pay her or the other gentleman.

THE DEFENDANT: I am.

THE COURT: You are not going to act up in this courtroom. Your record is terrible. I don't have to put all of this on the record. All of these -- it's just ridiculous.

You have to change things around in your life, Mr. Lewandowski, and not blame anyone else but yourself. And this is the Court's decision.

THE DEFENDANT: Yes, ma'am.

THE COURT: You have two victims here.

THE DEFENDANT: Yes, ma'am.

THE COURT: Why do you think a judge is just going to say one or two days and let you out?

THE DEFENDANT: No.

THE COURT: Right? Two victims here. This is horrible.

THE DEFENDANT: I understand that.

THE COURT: So you should be

thankful that you are coming back on the 16th of April.

Attorney Hurley, I do have to get special permission to bring him back on a Tuesday because I'm not really allowed to do prisoners. But I think Mr. Michael Negray will give special permission if I'm ordering him returned with personal clothes --

MR. HURLEY: Thank you.

THE COURT: -- and belongings where they're not transporting him back --

MR. HURLEY: I understand.

THE COURT: -- to the Cleveland House of Corrections.

MR. HURLEY: I appreciate the Court's indulgence on that.

THE COURT: And then we will set for a restitution -- oh, I'm sorry. So, at this time, this sentence ordered into execution will be 180 days, but you are not going to be there that long. You are coming back to be released on April 16th; do you understand?

THE DEFENDANT: Yes, ma'am.

THE COURT: And I'll suspend -- I'm

going to suspend all of the fine, Attorney Hurley --

MR. HURLEY: Thank you.

THE COURT: -- because I believe he's going to try to do the right thing with respect to restitution for Miss Ponomrenko where he's going to pay her $500. And we won't know the amount for the other gentleman, until he comes in, or until we have more information on April 16th.

MR. HURLEY: Correct.

THE COURT: Do you have any motions regarding court costs?

MR. HURLEY: Judge, he is obviously indigent for purposes of costs. I'll ask the Court to consider a waiver of costs that will also keep his money going towards making these people whole instead of the court system.

THE COURT: Any objection?

MS. GARRETT: No, your Honor.

THE COURT: The court costs will be suspended based upon a finding of indigency. I'm going to say two years of active probation, formal alcohol or drug abuse

assessment, treatment and counseling as warranted. And then the restitution that we've already put on the record. There will be random Breathalyzer urinalysis tests. You know not to consume any alcohol, and not to use any illegal substances; do you understand?

THE DEFENDANT: Yes, ma'am.

THE COURT: And then I understand that Miss Ponomrenko will file the proper documentation with the Clerk of Courts tomorrow --

MS. GARRETT: That's correct.

THE COURT: -- with the green form, okay. And she doesn't need to come back to court.

Now, I can't tell you when Mr. Lewandowski is going to be able to make payments regarding your restitution because he doesn't have a job right now, because he has warrants for other jurisdictions. He has a lot to clean up. But when he comes back on the 16th, and he's being released from this courtroom, I don't know what we'll put on the record about that. He has to

find a job before he could make any payments.

But he has two years -- he's on two years of active probation. But one of his conditions of employment will be to obtain gainful employment so he can pay restitution to both victims, okay?

THE COMPLAINANT: Yes, your Honor.

THE COURT: So you have to be patient. Keep in touch with the Probation Department. We'll give you a number to check on when he'll be making the restitution payments. Right now we don't know because he's in custody, and he doesn't have a job, okay.

THE COMPLAINANT: Yes, your Honor.

THE COURT: Thank you for being present. Does she have a subpoena for me to stamp today? At least you could get some reimbursement through the Clerk's Office regarding the subpoena.

MS. GARRETT: Judge, may I approach?

THE COURT: Sure. Thank you.

I thank the advocate for coming on her behalf. You'll tell her how to keep in

touch with the Probation Department to check on restitution issues and so forth. Okay.

MS. GARRETT: Thank you, Judge.

MR. HURLEY: I understand.

THE COMPLAINANT: (Inaudible) -- 18 years old -- (inaudible.)

MR. HURLEY: Anything further, Judge?

THE COURT: No.

MR. HURLEY: All right.

THE COURT: Except I need to put down no proof of insurance, right?

MR. HURLEY: That's correct.

THE COURT: He did not have proof of insurance?

MR. HURLEY: Right.

THE COURT: Okay. That's all.

MR. HURLEY: My expectation is is he going to have an assessment conducted in the coming days?

THE COURT: Deputy Chief Dean Jenkins says he's going to make certain it happens, and that we have assessment results -- I mean recommendations by April 16th, for certain.

MR. HURLEY: Thank you, Judge.

THE COURT: And the assessment way before the 16th.

*****

THE COURT: Recalling docket number 43 -- you're welcome -- Mr. Matthew Lewandowski's case. Do you want him to approach side bar?

MR. HURLEY: If we may, Judge, just for a moment. Come on. Come on. No, come on up with me.

- - -

(Thereupon, the following proceedings were conducted at Side Bar:)

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MR. HURLEY: Listen, just to be clear, first of all, he has, by the way, in the past, he was taking medications for anxiety disorders. It got awful claustrophobic back there for him, and he was struggling with that. I think he's got his breath. I think he's okay. I don't see any reason for 9-1-1 to be called right now.

But I will tell you, that while he has no reason to harm to himself or others, his

mental health history here that maybe relevant eventually.

THE COURT: Do you want me to make a referal to the Court Psychiatric Clinic? We could do the evaluation while he's in custody.

MR. HURLEY: If the Court is inclined to do that, I could understand why.

THE COURT: I can, but what is his diagnosis?

MR. HURLEY: Depression and anxiety?

THE DEFENDANT: I have anxiety and I'm depressed. Bipolar. OCC.

MR. HURLEY: (Inaudible)-- is that right?

THE DEFENDANT: (Inaudible) -- I was -- (inaudible) --

MR. HURLEY: Focus on one question at a time here, okay. All we're really trying to do is get a picture so bad we need you plugged into the right resources in the community; do you understand?

Do you want to sit down? (Inaudible.)

THE COURT: Is he -- are you presently under the care of a psychiatrist?

THE DEFENDANT: Not right now. I was trying to get back over -- (inaudible.)
MR. HURLEY: One question at a time. Listen to the question. Do you know what the name of this somebody -- (inaudible.)
THE DEFENDANT: No.
MR. HURLEY: That's fine, okay. And this was through Bellefaire. He did have services through Bellefaire at some point.
THE DEFENDANT: I was in -- in --
THE COURT: How long ago?
MR. HURLEY: Two years ago.
THE DEFENDANT: 2010 or 3.
THE COURT: Did he give you this information? He didn't give you this information when he was interviewed in the Probation Department?
MR. HURLEY: That's correct.
THE COURT: Okay. I didn't think -- if I had seen it, I would have made the referral.
MR. HURLEY: (Inaudible) -- today.
THE COURT: Thank you.
The diagnoses are Bipolar Disorder,

anxiety, and -- there was another one? OCC?

THE DEFENDANT: OCC.

MR. HURLEY: Obsessive Compulsive Disorder.

Are you on medications for that, too?

THE DEFENDANT: No, my last medication is -- (inaudible.)

MR. HURLEY: The ultimate question is do those medications help you when you take them?

THE DEFENDANT: (Inaudible.)

MR. HURLEY: That's good.

THE COURT: And he hasn't seen a psychiatric since 2010; is that right?

MR. HURLEY: That sounds accurate.

Now, listen -- (inaudible) -- sign a request to release information -- (inaudible) -- prior -- (inaudible) -- that's a good thing, because that, at least, gives us a reference for medications that work. If it didn't work, give you new medications, okay. But you need to address those issues, and you mind as well address them now; do you see when I'm saying?

THE COURT: You said Abilify and

Seroquel?

THE DEFENDANT: Yes, ma'am.

THE COURT: At this time, do you think that you're going to harm yourself? Do you think you will harm anyone else?

THE DEFENDANT: No.

THE COURT: Do you think you are suicidal which is harming yourself?

THE DEFENDANT: No.

THE COURT: Are you depressed?

THE DEFENDANT: Yes.

THE COURT: Okay. Are you having any hallucinations, like seeing things or hearing things?

THE DEFENDANT: No.

THE COURT: Anything else you would like to say? Okay.

I don't have the address because I think the probation report went downstairs.

THE DEFENDANT: Yes.

THE COURT: I think it went downstairs already.

What is your current address?

THE DEFENDANT: Pardon me?

MR. HURLEY: What is your current

address?
THE DEFENDANT: 3717 West 137th Street.
MR. HURLEY: 3717 West --
THE DEFENDANT: 137th.
MR. HURLEY: 137th.
THE COURT: Is that a home?
THE DEFENDANT: Yes, that's my mailing address. That's my mom's.
THE COURT: Where do you live? That's what I need to know. Where do you live?
THE DEFENDANT: 3182 West 41st. Sorry.
THE COURT: 3182?
THE DEFENDANT: West 41st.
THE COURT: What address did you give the Probation Department?
THE DEFENDANT: It was the same one as 3717, and I wasn't even -- I didn't even see my probation officer. I dropped a urine, and the bailiffs came, and got me for the warrants.
THE COURT: What is the zip code for 3182 West 41st Street?
THE DEFENDANT: I believe it is 44109.
THE COURT: Who lives there?

THE DEFENDANT: Me.
THE COURT: That's your own place?
THE DEFENDANT: Yes, that's my own --
THE COURT: And this other address is the mailing address?
THE DEFENDANT: That's my mother's address. Because I just moved into my apartment.
THE COURT: Do you have a phone number, sir?
THE DEFENDANT: My mom's number is 216-799-9982.
THE COURT: Okay. And is there a apartment number for 3182 West 41st Street?
THE DEFENDANT: That's -- down back.
THE COURT: All right. I think I have enough information to refer.

And the journalizer pointed out to me that I did not sentence on Count 1 which is the License Required to Operate. I need to do that.

MR. HURLEY: That's fine.
THE COURT: Can I do that?
MR. HURLEY: Sure, we can do it right now.

THE COURT: Thank you.

- - -

(Thereupon, the following proceedings were had in open Court:)

- - -

MR. HURLEY: (Inaudible) -- I got you -- (inaudible). Do you want to sit down?

Judge, whenever you are ready.

THE COURT: For sentencing on the Count 1, License Required to Operate, it's $1,000 and up to 180 days in jail.

It's a little bit difficult to suspend days and order days, so I'm just going to keep this consistent, if that's okay?

MR. HURLEY: I understand.

THE COURT: None of the days will be suspended. I'll suspend $900 of the fine. And the fine of $100 is deemed satisfied --

MR. HURLEY: Thank you.

THE COURT: -- based upon the days served.

MR. HURLEY: Thank you.

THE COURT: Cases set on the docket

for April 16th at 2 p.m. where he will be coming in with his personal clothes and belongings --

MR. HURLEY: Yes.

THE COURT: -- to be released, hopefully, on that date.

In the meantime, he could remain in the courtroom --

MR. HURLEY: Please.

THE COURT: -- until all of the paperwork has been finished which hopefully it will be finished in just a few moments.

MR. HURLEY: All right. That's good news, Judge.

THE COURT: And then they will be able to escort him --

THE DEFENDANT: (Inaudible) -- some water --

MR. HURLEY: We'll get you something to drink in a minute here.

THE COURT: Does he want water? Or something like that?

MR. HURLEY: Please, if possible.

THE COURT: Kartan, can you handle that for me, please.

MR. HURLEY: Have a seat right there.

THE COURT: Let him just have a seat. He needs to sit in the courtroom.

Thank you, Mr. Hurley.

MR. HURLEY: Thank you, Judge.

THE COURT: And let the record reflect that I have made a referal to the Court Psychiatric Clinic based upon the information provided at side bar.

If you go in my office, there should be water in the refrigerator or if not, there is water in the jury deliberation room that's cold.

THE BAILIFF: Okay.

THE COURT: This is ready to be journalized for Mr. Lewandowski. Here is his psychiatric -- we just need the case number. I forgot to write it down.

What is his date of birth?

THE BAILIFF: 2-24-92.

THE COURT: And his case number?

THE BAILIFF: 2013TRD002588.

Here is his probation report, if you need it, your Honor.

THE COURT: This is good. Thanks.

Okay.

- - -

C E R T I F I C A T E

State of Ohio,)
County of Cuyahoga,) SS:
City of Cleveland.)

City of Cleveland,)
V.)
Matthew J. Lewandowski.)

I, Cindy L. LaRosa, Registered Professional Reporter, do hereby certify that as a reporter employed by the Cleveland Municipal Court, I took down in stenotype all of the digitally recorded proceedings had in said Cleveland Municipal Court in the above-entitled case on the date set forth; that I have transcribed my said stenotype notes into typewritten form as appears in the foregoing transcript of the proceedings; that said transcript is a complete record of the proceedings had in the hearing of said case and constitutes a true and correct transcript of the proceedings had therein.

Dated this 12th day of November, 2014.

Cindy L. LaRosa

Cindy L. LaRosa, RPR, CRI, MSCJ

OFFICIAL COURT REPORTER
CLEVELAND MUNICIPAL COURT
Cleveland, Ohio 44113

4-16-13 Transcript

STATE OF OHIO,)
COUNTY OF CUYAHOGA,) SS: STOKES, A. R., J.
CITY OF CLEVELAND,)

IN THE MUNICIPAL COURT

- - -

CITY OF CLEVELAND,)

Plaintiff,)

V.) Case No. 2013TRD002588

MATTHEW J. LEWANDOWSKI.)

Defendant.)

- - -

Transcript of digitally recorded proceedings had before the Honorable Judge Angela R. Stokes, on Tuesday, the 16th day of April, 2013, in Courtroom 15C.

- - -

APPEARANCES:

On behalf of the plaintiff:
Victor Perez, Chief Police Prosecutor
By: Joanna Lopez, Assistant Police Prosecutor

On behalf of the defendant:
Scott Hurley, P.D.

- - -

Cindy L. LaRosa, RPR, CRI, MSCJ

OFFICIAL COURT REPORTER
CLEVELAND MUNICIPAL COURT
Cleveland, Ohio 44113

P-R-O-C-E-E-D-I-N-G-S

THE COURT: You have two -- well, Lewandowski, that's just a continuance.

Will the bailiffs bring out Lewandowski, so we can just do the continuance.

MR. HURLEY: Thank you.

THE COURT: They all have to -- the bailiffs, please, sir, help us, and bring Mr. Lewandowski into the courtroom. He's in the holding cell.

This is docket number 33 for Mr. Matthew Lewandowski. Attorney Hurley, I know that you reviewed the psychiatric report which is dated April 8, 2013.

MR. HURLEY: Yes, your Honor.

THE COURT: It does give different diagnoses, and that was by Dr. Susan Kimmel, but she indicates that Mr. Lewandowski does not meet the criteria for his case to be transferred to the Mental Health Court docket; do you agree or disagree?

MR. HURLEY: I will stipulate to that conclusion. And I don't know see the source of the disorders that would bring on -- (inaudible).

THE COURT: And I understand from -- I don't know -- I think I've seen the probation report -- but here it is. He's scheduled for an alcohol drug abuse assessment tomorrow, April 17th.

MR. HURLEY: Yes.

THE COURT: And that should be ready in seven days.

MR. HURLEY: Yes.

THE COURT: So do you understand all of this, Mr. Lewandowski?

MR. HURLEY: Yes, ma'am.

THE COURT: So, if he has it on the 17th, should be, results 1 o'clock for video conference on the 24th; is that acceptable, Attorney --

MR. HURLEY: If the Court's inclined if that's the next available time to make that request, that is a good day.

THE COURT: Do you understand that, Mr. Lewandowski?

THE DEFENDANT: Yes, ma'am.

THE COURT: Tomorrow, you will have your alcohol substance abuse assessment; do you understand that?

The results of that, the recommendations will be ready one week later, which would be on April 24th at 1 p.m.

THE DEFENDANT: Okay.

MR. HURLEY: And it's based upon the recommendations of that assessment that this Judge will decide what to do with you. When she sees what they recommend, for example, intensive inpatient treatment, well, now we're looking for a bed. If they see that you are eligible for intensive outpatient treatment, then my request will be that you be released and that you be allowed to be in the community to satisfy her -- to continue what you are doing while you are in this institution.

Judge, he did want to make sure that you know (inaudible) that he understood the first step.

THE COURT: That's good.

MR. HURLEY: Have you taken any medications since I saw you last?

THE DEFENDANT: No.

MR. HURLEY: So you are medication free?

THE DEFENDANT: Yes.
MR. HURLEY: Do you feel better today than you did last time?
THE DEFENDANT: Yes.
MR. HURLEY: All right. Well, I know it's disappointing to hear that you are not getting out today, but this Judge needs that assessment before she can even consider releasing you.
THE DEFENDANT: Yes.
THE COURT: And this case is on the docket today regarding restitution to a second victim, but there is no one else here today; is that correct? Or do you have --
MS. LOPEZ: It's set for 2 o'clock. So -- should I call the victim and let them know. Or see if he shows up at 2?
THE COURT: You know, well, Mr. Lewandowski, that -- because I don't think that the probation report has any information regarding that second victim. Let's see.
MR. HURLEY: I think the Court --
THE COURT: I'll just bring him back at 2? He'll get lunch in 120, and

bring him back at 2? I don't want him to miss his TASC assessment tomorrow, but he would be here, anyway. So --

MR. HURLEY: I could waive his presence here this afternoon.

THE COURT: Are you sure?

MR. HURLEY: Yes. So, that --

THE COURT: That's okay. If you are approving that, that's fine with the Court.

MR. HURLEY: Please.

You understand, that this is the second person, the second victim, that is to say. There was the lady whose car he was apparently driving that was upset the last time around and escalated. Then there was the car on the street that someone tried to reach and no one ever reached that person. So that's what we're waiting for. We could be showing a ghost. If not, we'll deal with it. But I don't want him to be slowed down here at this point, or to continue this until next week.

THE COURT: That's fine.

MR. HURLEY: Thank you.

THE COURT: That's fine.

MR. HURLEY: All right.

THE COURT: Anything else, Mr. Lewandowski?

THE DEFENDANT: No, ma'am.

THE COURT: Okay.

MR. HURLEY: All right. Thank you, Judge.

Hang in there.

THE COURT: Attorney Hurley?

MR. HURLEY: Yes.

*****

THE COURT: So is there a victim here?

MR. HEFFERNAN: There is no victim.

THE COURT: They gave me a blue form. I don't know, a blue form would be for a victim.

Is it, is there -- oh, there is a victim here on Mr. Lewandowski's case. Who is that? Okay. What is your last name, sir? You could step up to the podium, please.

It's hard for me to read your writing.

Where is Mr. Lewandowski's file? I saw it over here somewhere, okay.

Okay. Mr. Lewandowski was here this morning, but we were expecting you to be here, I think, at 2 --

THE COMPLAINANT: Yes, ma'am.

THE COURT: -- regarding restitution issues.

And then will you need to speak to the prosecuting attorney. When she comes in, she will be at this table. Her name is Prosecutor Lopez, okay?

THE COMPLAINANT: Okay.

THE COURT: She should be here -- she may not be here until about 2:10, 2:15. Can you wait --

THE COMPLAINANT: Yes.

THE COURT: -- until she comes? And then she'll talk to you about the restitution issues on Mr. Lewandowski's case, okay?

THE COMPLAINANT: Okay, ma'am.

THE COURT: All right.

THE COMPLAINANT: Your Honor, would it be all right to step downstairs to have a cigarette, won't it?

THE COURT: Absolutely. Just come

back by 10 after 2.

THE COMPLAINANT: Okay. You know, I don't want to be in Contempt of Court or whatever.

THE COURT: No, you won't be. It's fine to go take a little break.

THE COMPLAINANT: Okay. Thank you.

THE COURT: You're welcome. All right.

*****

THE COURT: Ask Attorney Hurley to come back into the courtroom regarding Matthew Lewandowski's case.

Prosecutor Lopez, I'm not sure. Did the victim come back? Is Mr. -- (inaudible) --

A VOICE: (Inaudible.)

THE COURT: Let me see here.

A VOICE: Here he is.

MR. HURLEY: Yes, yes.

THE COURT: This is Mr. Ridings, Attorney Hurley?

MR. HURLEY: Yes.

THE COURT: This is the gentlemen for Mr. Matthew Lewandowski.

MR. HURLEY: Right.

THE COURT: Recalling docket number 33. Where you waived his appearance, but this is the -- sir, this is the Prosecutor. This is the victim, who is scheduled to come in at 2 o'clock this afternoon. This is Mr. Ridings, Timothy Ridings.

Do you have Mr. Essex's file? I think it's over there.

- - -

(Thereupon, a discussion was had off the record.)

- - -

MR. HURLEY: Yeah. Without objection, we will agree to what was so stipulated, et cetera.

All right. Whenever you are ready, Judge.

THE COURT: Okay. This is recalling docket number 33, for Matthew Lewandowski, who was here this morning.

And Mr. Ridings, did he submit -- does he have restitution issues that he's concerned about?

MS. LOPEZ: There is a $50 deductible that he would like to be

reimbursed for by the defendant.

THE COURT: Okay. Did he bring the documentation so I can file the proper restitution documentation with the Clerk of Courts?

THE COMPLAINANT: (Inaudible.)

THE COURT: No? No? But, you could show him the green restitution form.

Mr. Ridings?

THE COMPLAINANT: Yes, your Honor.

THE COURT: The process is for you to be reimbursed, and for me to make it a condition of probation. There is a green restitution form that you will need to fill out. The Prosecutor could help you do that now. And then you have to bring your supporting documentation -- or maybe even your insurance carrier could fax it to you, so you don't have to come back. We can give you a fax number.

Would you be able to call your insurance carrier so they could show documentation that you had to pay a $50 deductible?

THE COMPLAINANT: (Inaudible.)

THE COURT: We could give you the

phone number, that way you don't have to come back. Shall we do it that way?

THE COMPLAINANT: Yeah. I could call them.

THE COURT: Okay. You think so?

MR. HURLEY: Just so you understand, I'm the guy that's represents the guy that damaged your car; do you understand that?

THE COMPLAINANT: Yeah.

MR. HURLEY: Try to listen carefully. We'll try to make you whole as far as your deductible. So you're saying you were only out $50 for the thing?

THE COMPLAINANT: That's what it -- see, what I got is after every year, they take an amount off --

THE COURT: Uh-huh.

THE COMPLAINANT: -- and so now, I only have to pay $50 --

MR. HURLEY: We just want to make sure that you're -- he's paying for your damage, that's all. You paid $50. That's what he's going to pay you. But they have to do the paperwork right so it shows up in the correctly in the journal entry.

THE COURT: Did your insurance carrier pay for the damage to your vehicle?

THE COMPLAINANT: They paid partial because I had to take it into their place.

THE COURT: Do you have a balance left, sir?

THE COMPLAINANT: Yeah, all I have to pay is the $50, and, you know, they'll fix it.

THE COURT: So what I'm saying is that after you pay the $50, do you have anything else that you have to pay?

THE COMPLAINANT: According to them, no.

THE COURT: Okay. So just the $50?

THE COMPLAINANT: Yes, your Honor.

THE COURT: So for him to file that documentation, Attorney Hurley, he needs to file the $50 form, unless -- because the payments are made through the Clerk of Courts.

MR. HURLEY: I understand. I just, you know, we stipulate to that amount. We stipulate that --

THE COURT: I'll note than on the journal entry.

MR. HURLEY: Thank you.

THE COURT: And then --

THE COMPLAINANT: I -- (inaudible.)

THE COURT: Do you want your insurance carrier to fax something showing that you had to pay the $50 deductible?

Then you could attach it to the green restitution form, and then the bailiff could take you downstairs and get that document filed?

THE COMPLAINANT: Yes, your Honor. I'll contact my insurance company.

THE COURT: Do you want to call them now so they could fax it and then you don't have to go all the way home and come back?

THE COMPLAINANT: Yeah, I could.

THE COURT: Prosecutor Lopez, if you will approach? I don't know if he's understanding, but here is the number, here is the fax number. Does he understand his insurance carrier could fax something and then we'll have it in a few moments. And then we could have a bailiff take him downstairs to file the green restitution form.

And then he knows to come back to the courtroom? Okay?

MS. LOPEZ: Uh-huh.

THE COURT: Okay. Attorney Hurley?

MR. HURLEY: Yes.

THE COURT: Would you like to approach for a moment?

MR. HURLEY: Please.

- - -

(Thereupon, a discussion was had off the record with the mics muted.)

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THE COURT: Prosecutor -- I would like to recall Matthew Lewandowski's case, docket number 33.

Prosecutor Lopez, Mr. Ridings, now is that the information that he needs to attach to the --

MS. LOPEZ: Yes.

THE COURT: -- restitution form that needs to be filed with the Clerk of Courts?

Does he need a copy for his records?

I'll have a bailiff -- will you call for

a file runner to come up to the courtroom, please?

THE BAILIFF: Yes, your Honor.

(Inaudible.)

THE COURT: Mr. Ridings, what you have to understand is that Mr. Lewandowski is still in jail. He's going to have an alcohol drug abuse assessment tomorrow. He doesn't come back to the courtroom until April 24th. On April 24th, he may be released from custody, but it's going to take a while before you receive your restitution payment. Mr. Lewandowski has to make the payments to the Clerk of Courts, and the Clerk must mail the payments to you; do you understand?

THE COMPLAINANT: Yes, your Honor.

THE COURT: Okay. So it may take a while. But I'm going to have a bailiff walk you downstairs to get this document filed and get you copies, okay?

THE COMPLAINANT: Yeah.

THE COURT: That will take just a few moments. Why don't you just have a seat in the courtroom, right behind the

Prosecutor. And as soon as a bailiff comes we'll have them help you file that documentation with the Clerk of Courts. We'll make you a copy.

Will you -- once they time-stamp it -- do you want him to have a copy of it once it's been time-stamped? Or do you want us to make a copy of everything but the green sheet, and then they could make that copy downstairs for him?

MS. LOPEZ: Yes, that will be fine.

THE COURT: Okay. Will you make a copy? Just make one copy of everything, yeah.

THE BAILIFF: Not the green sheets?

THE COURT: I don't think the green sheet, because once they time-stamp it downstairs, hopefully, they will make him a copy of that. I hope. Here.

Linda, you need to approach so you could do this, please.

This was journalized this morning, but remember the victim was coming back at 2 o'clock. We did the prisoner in the morning. Now you just have to add this line

in the journal entry that he's agreed to pay, and then they need to take the file downstairs so we can file the restitution form. So -- it doesn't change. We don't need any of that.

We just need that.

Okay. So you just needed to add that. Everything remains same.

Now, the defendant's agreed to pay restitution, so that's the only thing that needs to be journalized on that.

THE BAILIFF: Your Honor?

THE COURT: He could get a copy. I don't know if we should staple it up here for him. Is this his copy? Is this what's going to be attached to the green restitution form?

THE BAILIFF: I have it. This is the original here.

THE COURT: Okay. Did you all call for a file runner?

THE BAILIFF: On their way.

THE COURT: Is the file runner still not here?

THE BAILIFF: (Inaudible).

THE COURT: Are they on their way to the courtroom? Did someone responded?

THE BAILIFF: Someone responded and I'll check again.

15C to file runner. Copy.

THE COURT: Karthan, just wait for the file to be ready in just a second.

This is a copy for the victim. You are going to escort the victim downstairs.

Mr. Oriti, would you -- do you want to go to your office? I told the bailiffs I'll call you when I'm ready to call the case, sir.

PROBATION OFFICER: Very good.

THE COURT: And you are disturbing the Court.

PROBATION OFFICER: Thank you.

THE COURT: The victim -- I'm trying to find him. He's in the plaid.

THE BAILIFF: Yes, your Honor.

THE COURT: Now that's his copy.

THE BAILIFF: Yes, your Honor.

THE COURT: He has the green restitution form, and this --

THE BAILIFF: Uh-huh.

THE COURT: That will be filed with the Clerk, and that goes in the case file. But he needs a copy for his records. But when he goes downstairs, he needs a copy of the green form. He did not make a copy of the green form because it has to be time-stamped --

THE BAILIFF: Okay.

THE COURT: -- so make certain he gets a copy of the green form and then attaches it to that.

THE BAILIFF: Yes.

THE COURT: And you could go as soon as Miss Linda journalizes one sentence on that.

THE BAILIFF: Okay. Do you need me to come back after that, your Honor?

THE COURT: Huh-uh. I don't think so. Because it goes to Probation. Once they file that green restitution form, I don't know what the Clerk's Office does. I think they set up a file or something, but that file does need to go to Probation.

THE BAILIFF: Yes, your Honor.

THE COURT: To Kim Oxner.

THE BAILIFF: Okay. Okay.

THE COURT: She just has once sentence.

Since you are there, would you just kindly hand this to the journalizer?

THE BAILIFF: Sure.

THE COURT: (Inaudible.) Thanks.

Make sure that gets in the file that's already over there, please? And this one, too. It just goes in the blue file.

Linda, is that file ready yet for Lewandowski?

Karthan, just hand it to her. Karthan, she could put the yellow forms in the files.

THE BAILIFF: Okay. Yes, ma'am.

THE COURT: And then, is that Lewandowski's file?

THE BAILIFF: Yes, your Honor.

THE COURT: I think it's written up. I'm not sure. I hope it is. Thank you.

Make sure he gets that copy because everything that he has is going to be filed in the file.

THE BAILIFF: Yes, your Honor.

THE COURT: Thank you for helping him.

Is there a probation report over there for Lewandowski? Or are there any probation reports on the chair? Is it empty? It probably went down already. Thank you.

- - -

C E R T I F I C A T E

State of Ohio,)
County of Cuyahoga,) SS:
City of Cleveland.)

City of Cleveland,)
V.)
Matthew J. Lewandowski.)

I, Cindy L. LaRosa, Registered Professional Reporter, do hereby certify that as a reporter employed by the Cleveland Municipal Court, I took down in stenotype all of the digitally recorded proceedings had in said Cleveland Municipal Court in the above-entitled case on the date set forth; that I have transcribed my said stenotype notes into typewritten form as appears in the foregoing transcript of the proceedings; that said transcript is a complete record of the proceedings had in the hearing of said case and constitutes a true and correct transcript of the proceedings had therein.

Dated this 7th day of November, 2014.

Cindy L. LaRosa

Cindy L. LaRosa, RPR, CRI, MSCJ

OFFICIAL COURT REPORTER
CLEVELAND MUNICIPAL COURT
Cleveland, Ohio 44113

5-1-13 Transcript

STATE OF OHIO,)
COUNTY OF CUYAHOGA,) SS: STOKES, A. R., J.
CITY OF CLEVELAND,)

IN THE MUNICIPAL COURT

- - -

CITY OF CLEVELAND,)

Plaintiff,)

V.) Case No. 2013TRD002588

MATTHEW J. LEWANDOWSKI.)

Defendant.)

- - -

Transcript of digitally recorded proceedings via video conferencing had before the Honorable Judge Angela R. Stokes, on Wednesday, the 1st day of May, 2013, in Courtroom 15C.

- - -

APPEARANCES:

On behalf of the plaintiff:
Victor Perez, Chief Police Prosecutor
By: Joanna Lopez, Assistant Police Prosecutor

On behalf of the defendant:
Scott Malbasa, P.D.

- - -

Cindy L. LaRosa, RPR, CRI, MSCJ

OFFICIAL COURT REPORTER
CLEVELAND MUNICIPAL COURT
Cleveland, Ohio 44113

P-R-O-C-E-E-D-I-N-G-S

THE COURT: Matthew Lewandowski. I think that's somebody that I could release, I believe.

Mr. Matthew Lewandowski?

THE BAILIFF: Matthew Lewandowski.

THE COURT: I just finished -- (inaudible.)

MR. MALBASA: It's a mitigation hearing, your Honor.

THE COURT: Okay. I'm going to get to that in just one second.

May I have the report for Mr. Lewandowski? It's in that stack right there.

This is docket number 43 for Mr. Matthew Lewandowski. Mr. -- the probation report is right there.

THE BAILIFF: Oh.

THE COURT: That's okay. I'll get it. It's not in front of me, okay.

Mr. Lewandowski?

THE DEFENDANT: Yes, your Honor.

THE COURT: Good afternoon.

THE DEFENDANT: Good afternoon. How

are you?

THE COURT: Fine. Thank you. We have your assessment recommendations for intensive outpatient treatment.

THE DEFENDANT: Yes.

THE COURT: And so do you have a place to reside in the community, sir?

THE DEFENDANT: Yes, your Honor.

THE COURT: All right. Any motions, Attorney Malbasa?

MR. MALBASA: Motion to Mitigate, Judge.

THE COURT: That Motion is granted, Mr. Lewandowski. I'll give you credit for time served. I'll calculate that in just one moment -- which will be --

THE DEFENDANT: 36.

THE COURT: 1, 2, 3, 4, 5 more days -- I think it's a total of 37 days; does that sound right?

THE DEFENDANT: Yes, your Honor.

THE COURT: I'll suspend 143 days on both counts: The License Required to Operate charge, and also on the Failure to Stop After an Accident on the Street. And

active probation continues until March 26, 2015 with the conditions we've previously ordered.

You are paying a $500 deductible restitution to Mr. Ponomrenko. I suspended the court costs. I want to make sure.

You have to follow through with your intensive outpatient treatment. No use of any alcohol, no use of any illegal substances. And I'll mitigate the $100 fine. It seems like I -- the fine will be deemed satisfied based upon the days served.

THE DEFENDANT: Okay.

THE COURT: And I already suspended the court costs. So you will be released from custody sometime later this evening. Please report to your probation officer. Do you know who that is?

THE DEFENDANT: I think it was Howell, I believe?

THE COURT: Oh, Shari Howell? Okay.

THE DEFENDANT: I believe so.

THE COURT: Let me just look at one other thing. And then also, he's paying $50

restitution to Timothy Ridings, so he's got a lot to do.

The only thing is I'm looking for the note regarding the psychiatric evaluation.

Mr. Lewandowski, did you have the psychiatric evaluation done, sir?

THE DEFENDANT: Yes, your Honor, I did. And you told me last time I came to court that it was looking -- it looked good. I had that fine and juggle my assessment, your Honor.

THE COURT: All right. I remember that Attorney Hurley wanted that, but I don't think that your case was transferable to the -- I think it was because of the panic attack; is that right?

THE DEFENDANT: Yes, it was, your Honor.

THE COURT: He did not meet the criteria for the mental health court docket --

THE DEFENDANT: No, I didn't.

THE COURT: -- but I wanted to make sure.

Okay. You will be released this

evening. Please report to your probation officer tomorrow. Are you able to do that?

THE DEFENDANT: Yes, your Honor.

THE COURT: Okay.

THE DEFENDANT: Okay. Thank you, your Honor.

THE COURT: I hope you do well. Thank you.

- - -

C E R T I F I C A T E

State of Ohio,)
County of Cuyahoga,) SS:
City of Cleveland.)

City of Cleveland,)
V.)
Matthew J. Lewandowski.)

I, Cindy L. LaRosa, Registered Professional Reporter, do hereby certify that as a reporter employed by the Cleveland Municipal Court, I took down in stenotype all of the digitally recorded proceedings via video conference had in said Cleveland Municipal Court in the above-entitled case on the date set forth; that I have transcribed my said stenotype notes into typewritten form as appears in the foregoing transcript of the proceedings; that said transcript is a complete record of the proceedings had in the hearing of said case and constitutes a true and correct transcript of the proceedings had therein.

Dated this 7th day of November, 2014.

Cindy L. LaRosa

Cindy L. LaRosa, RPR, CRI, MSCJ

OFFICIAL COURT REPORTER
CLEVELAND MUNICIPAL COURT
Cleveland, Ohio 44113

STATE OF OHIO,)
COUNTY OF CUYAHOGA,) SS ADRINE, R. B., J.
CITY OF CLEVELAND.)

IN THE MUNICIPAL COURT

- - -

CITY OF CLEVELAND,)
)
Plaintiff,)
)
vs.) 2013TRD002588
)
MATTHEW J. LEWANDOWSKI,)
)
Defendant.)

- - -

Transcript of digitally recorded proceedings had before the Honorable Judge Ronald B. Adrine, on Monday, June 23, 2014, in Courtroom 15-A.

- - -

APPEARANCES:

On behalf of the plaintiff:

Victor R. Perez, Chief Police Prosecutor
By: Katherine Maurath, Ass't Police Pros.

On behalf of the defendant:

Gusty A. Rini, Esq.

Grace Evangelou, RPR

OFFICIAL COURT REPORTER
CLEVELAND MUNICIPAL COURT
Cleveland, Ohio 44113

P R O C E E D I N G S

THE COURT: What do you have left, Gus?

MR. RINI: I'm sorry, what?

THE COURT: What do you have left?

MR. RINI: Mr. Lewandowski. Kelsey filed a Motion to get it back before the Court. I'm not sure he was ever notified though of a court date. I don't see anything in the file. The file was just left on my desk this morning, so --

THE COURT: Was this a capias recall?

MR. RINI: Yes. It was a Stokes' case, judge? I was just tracking her Motion right now.

It looks like he served a number -- a significant number of days on the matter. And it was a traffic matter, but I think he was also supposed to be going, dropping urine and stuff for a traffic matter. It's the usual that we've encountered.

I think several days he was put back, or several times he was put back in jail and given credit. I don't know if it was a

cumulative amount or each day, or for every time he came before her. She just totalled the number of days he had received. And according to Kelsey's notes it was one point in time he was supposed to be given like I think it was --

THE COURT: Was it the only -- I mean the major charge on this was the No Drivers License?

MR. RINI: And a Hit Skip. There was a Hit Skip too.

THE COURT: And he pled to both of those?

MR. RINI: That's my understanding, judge. There was one point he was supposed to be given 21 days and wound up sitting there for 37 days.

If he were here, I'd make a Motion to terminate probation and give him credit.

THE COURT: Well, you know, you could still make the Motion.

MR. RINI: Okay, judge. With that in mind, let me make the Motion to terminate probation, give him credit for time served, which I believe is in excess of 47 days, and

it may be more than that. I was just trying to calculate, based on what I've seen here. But the paperwork isn't -- doesn't seem to be accurate.

THE COURT: But there is at least 44 days that the Court gave him credit for.

MR. RINI: I know. And I saw more days. Then I saw a note about at one point he was supposed to do 21 days, but wound up sitting there for 37 days before he was brought back, so I think that may be in addition to other days he got.

So if the Court would consider recalling the capias, releasing the warrant block, giving him credit for time served, and terminating his probation, I will waive the hearing and see about notifying him (inaudible) results.

THE COURT: He was referred for both a psychiatric evaluation and formal alcohol drug assessment.

MR. RINI: I didn't know about the psychiatric. I knew about the alcohol assessment.

THE COURT: All done at the same

time of sentencing. What is the basis for the psychiatric exam, do you know?

MR. RINI: Judge, I wasn't there. I think Kelsey may have been. I -- she did it often times. I mean I don't --

THE COURT: Prior psychiatric history. It says defendant has not seen a psychiatrist since 2010 and used to take medications for anxiety, and then treated at Bellefaire. That defendant's diagnosis are bipolar.

MR. RINI: (Inaudible) is unrelated to the traffic matter.

THE COURT: Depression, anxiety, panic attacks, and obsessive/compulsive disorder.

MR. RINI: No relationship to what he was before the Court on?

THE COURT: Probation violation hearing having been waived, defendant is found in violation of probation. Sentence is resuspended. Probation is terminated.

MR. RINI: Thank you, judge.

THE COURT: You're welcome.

MR. RINI: And I need the capias

recalled, the warrant block --

THE COURT: Capias is recalled. The warrant block is released. Warrant block fee is waived.

MR. RINI: Thank you very much. Thank you very much, judge.

THE COURT: You're welcome.

- - -

C E R T I F I C A T E

State of Ohio,)
County of Cuyahoga,) SS:
City of Cleveland.)

City of Cleveland,)
)
vs.)
)
Matthew J. Lewandowski.)

I, Grace Evangelou, court reporter, do hereby certify that as a reporter employed by the Cleveland Municipal Court, I took down in stenotype all of the digitally recorded proceedings in the above-captioned case on the date set forth; that I have transcribed my said stenotype notes into typewritten form as appears in the foregoing transcript of the proceedings; that said transcript is a complete record of the digitally recorded proceedings had in the hearing of said case and constitutes a true and correct transcript of the taped proceedings had therein.

Dated this 10th day of November, 2014.

Grace Evangelou

OFFICIAL COURT REPORTER
CLEVELAND MUNICIPAL COURT
Cleveland, Ohio 44113

6-23-13 Transcript

STATE OF OHIO,)
COUNTY OF CUYAHOGA,) SS ADRINE, R. B., J.
CITY OF CLEVELAND.)

IN THE MUNICIPAL COURT

- - -

CITY OF CLEVELAND,)
)
Plaintiff,)
)
vs.) 2013TRD002588
)
MATTHEW J. LEWANDOWSKI,)
)
Defendant.)

- - -

Transcript of digitally recorded proceedings had before the Honorable Judge Ronald B. Adrine, on Monday, June 23, 2014, in Courtroom 15-A.

- - -

APPEARANCES:

On behalf of the plaintiff:

Victor R. Perez, Chief Police Prosecutor
By: Katherine Maurath, Ass't Police Pros.

On behalf of the defendant:

Gusty A. Rini, Esq.

Grace Evangelou, RPR

P R O C E E D I N G S

THE COURT: What do you have left, Gus?

MR. RINI: I'm sorry, what?

THE COURT: What do you have left?

MR. RINI: Mr. Lewandowski. Kelsey filed a Motion to get it back before the Court. I'm not sure he was ever notified though of a court date. I don't see anything in the file. The file was just left on my desk this morning, so --

THE COURT: Was this a capias recall?

MR. RINI: Yes. It was a Stokes' case, judge? I was just tracking her Motion right now.

It looks like he served a number -- a significant number of days on the matter. And it was a traffic matter, but I think he was also supposed to be going, dropping urine and stuff for a traffic matter. It's the usual that we've encountered.

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MR. RINI: No relationship to what he was before the Court on?

THE COURT: Probation violation hearing having been waived, defendant is found in violation of probation. Sentence is resuspended. Probation is terminated.

MR. RINI: Thank you, judge.

THE COURT: You're welcome.

MR. RINI: And I need the capias

recalled, the warrant block --

THE COURT: Capias is recalled. The warrant block is released. Warrant block fee is waived.

MR. RINI: Thank you very much. Thank you very much, judge.

THE COURT: You're welcome.

- - -

C E R T I F I C A T E

State of Ohio,)
County of Cuyahoga,) SS:
City of Cleveland.)

City of Cleveland,)
)
vs.)
)
Matthew J. Lewandowski.)

I, Grace Evangelou, court reporter, do hereby certify that as a reporter employed by the Cleveland Municipal Court, I took down in stenotype all of the digitally recorded proceedings in the above-captioned case on the date set forth; that I have transcribed my said stenotype notes into typewritten form as appears in the foregoing transcript of the proceedings; that said transcript is a complete record of the digitally recorded proceedings had in the hearing of said case and constitutes a true and correct transcript of the taped proceedings had therein.

Dated this 10th day of November, 2014.

Grace Evangelou

OFFICIAL COURT REPORTER
CLEVELAND MUNICIPAL COURT
Cleveland, Ohio 44113

7-10-13 Transcript

STATE OF OHIO,)
COUNTY OF CUYAHOGA,) SS: STOKES, A. R., J.
CITY OF CLEVELAND,)

IN THE MUNICIPAL COURT

- - -

CITY OF CLEVELAND,)

Plaintiff,)

V.) Case No. 2013TRD002588

MATTHEW J. LEWANDOWSKI.)

Defendant.)

- - -

Transcript of digitally recorded proceedings had before the Honorable Judge Angela R. Stokes, on Wednesday, the 10th of July, 2013, in Courtroom 15C.

- - -

APPEARANCES:

On behalf of the plaintiff:
Victor Perez, Chief Police Prosecutor
By: Karyn Lynn, Assistant Police Prosecutor

On behalf of the defendant:
Scott Malbasa, P.D.

- - -

Cindy L. LaRosa, RPR, CRI, MSCJ

OFFICIAL COURT REPORTER
CLEVELAND MUNICIPAL COURT
Cleveland, Ohio 44113

P-R-O-C-E-E-D-I-N-G-S

THE COURT: Let's see. Do we have a Matthew Lewandowski present? I just need the file so I could do the capias. Thank you.

I don't know if it's a capias. Where is Lewandowski -- (inaudible).

It's a probation capias. No bond to be set until Mr. Lewandowski appears before Judge Stokes.

I will do that later -- (inaudible).

- - -

C E R T I F I C A T E

State of Ohio,)
County of Cuyahoga,) SS:
City of Cleveland.)

City of Cleveland,)

V.)

Matthew J. Lewandowski.)

I, Cindy L. LaRosa, Registered Professional Reporter, do hereby certify that as a reporter employed by the Cleveland Municipal Court, I took down in stenotype all of the digitally recorded proceedings had in said Cleveland Municipal Court in the above-entitled case on the date set forth; that I have transcribed my said stenotype notes into typewritten form as appears in the foregoing transcript of the proceedings; that said transcript is a complete record of the proceedings had in the hearing of said case and constitutes a true and correct transcript of the proceedings had therein.

Dated this 7th day of November, 2014.

Cindy L. LaRosa

Cindy L. LaRosa, RPR, CRI, MSCJ

OFFICIAL COURT REPORTER
CLEVELAND MUNICIPAL COURT
Cleveland, Ohio 44113

STATE OF OHIO,)
COUNTY OF CUYAHOGA,) SS
CITY OF CLEVELAND.)

STOKES, A. R., J.

IN THE MUNICIPAL COURT

- - -

CITY OF CLEVELAND,)
)
Plaintiff,)
)
vs.) 2013TRD002588
)
MATTHEW J. LEWANDOWSKI,)
)
Defendant.)

- - -

Transcript of digitally recorded proceedings had before the Honorable Judge Angela R. Stokes on Wednesday, November 13, 2013, in Courtroom 15-C.

- - -

APPEARANCES:

On behalf of the plaintiff:

Victor R. Perez, Chief Police Prosecutor
By: Aric Kinast, Ass't Police Prosecutor.

On behalf of the defendant:

James D. London, Esq.

Grace Evangelou, RPR

OFFICIAL COURT REPORTER
CLEVELAND MUNICIPAL COURT
Cleveland, Ohio 44113

P R O C E E D I N G S

THE COURT: Mr. Lewandowski. Mr. --

A VOICE: Lewandowski.

THE COURT: Yes, please. And then Attorney London, is there one last person? Is that Mr. White?

MR. LONDON: Richard White, yes.

A VOICE: Yeah, White. Yeah, that's the last one, your Honor. Thank you.

THE COURT: Is this Lewandowski?

THE DEFENDANT: Yes. Good afternoon, your Honor.

THE COURT: Good afternoon, Mr. Lewandowski. This is a case they actually had on yesterday's docket, but they mixed it up. It should have been for today, 2013 TRD 002588.

And this matter was set for a probation violation hearing also, Attorney London. But you saw his probation report?

MR. LONDON: Yes.

THE COURT: And I believe the capias was issued July 10th, 2013, when he failed to appear for a probation violation hearing; testing positive for marijuana on

June 5th, 2013, and that he was referred for urinalyses test June 4th, 2013, and left without submitting a sample.

MR. LONDON: And he's waiving the hearing, your Honor.

THE COURT: Do you understand all of that, Mr. Lewandowski?

THE DEFENDANT: Yes, I do, your Honor. I apologize for my irresponsibility. I should have been down there and took my test and everything and seen her.

THE COURT: Bobby, did you find me the journal entry from yesterday? I'm assuming, I don't know, maybe she can just print a journal entry because they have the days -- the Clerk's office and Central Scheduling have the days mixed up.

So Mr. Lewandowski, how were you arrested on this matter?

THE DEFENDANT: I was going down the street with my brother and someone had called the cops saying that we were doing something that we weren't supposed to, but we weren't. So they just ran our names and I had a warrant, so they took me to jail. I

told them that I had the warrant too, so --

THE COURT: And why did you stop reporting to your probation officer?

THE DEFENDANT: I became homeless in the months that I was doing it. So I called my dad and my father came and picked me up, and I went out to Youngstown to his house. And that's why I missed everything. I'm not giving no excuses. I take full responsibility for what I've done, and I apologize.

If you let me go home, I'll follow everything I need to do.

MR. LONDON: He indicates that he currently does live in Cleveland now, your Honor, at 3198 West 56th Street, Apartment No. 2, here in Cleveland with his girlfriend, Melissa Sheplick (phonetic). And he has a phone number, a cell phone number, which I can also give the Court.

THE COURT: I'm willing to give him another chance. That's all I can do is give him a chance because he still has to pay restitution to the victim. He needs help with his substance abuse issues.

Probation violation hearing waived. Found in violation of probation. How many days have you been in custody, Mr. Lewandowski?

MR. LONDON: The warrant was verified --

THE DEFENDANT: Since Thursday night.

MR. LONDON: 11-7, your Honor. Warrant verified 11-7. It's the second document on the other side where they have all the documents. They put the warrant verification form --

THE COURT: I don't see a warrant verified date. I see when he was in custody on May 13th. I don't see a date. What date were you arrested, sir?

THE DEFENDANT: The 7th.

THE COURT: Okay.

THE DEFENDANT: November 7th, 2013?

THE COURT: I'll give him credit for time served, once they get me a journal entry. Suspend the balance of the days. Active probation remains on this case until March 26th, 2015. Same conditions apply. This is your last time, Mr. Lewandowski.

If you violate again you're going to serve the balance of your days. You are to report to your probation officer.

Do you know who your probation officer is?

THE DEFENDANT: I forget her name. I know I was going to 117th.

THE COURT: Shari Howell. Shari Howell.

THE DEFENDANT: Yes.

THE COURT: Report to her tomorrow by 10 a.m. Your failure to do so, I'm just going to issue a warrant again. Do you understand?

THE DEFENDANT: Okay. Yes, your Honor.

THE COURT: You have random urinalyses testing. You have to pay the restitution to the victim, okay?

THE DEFENDANT: Okay, your Honor.

THE COURT: All right.

THE DEFENDANT: Thank you, your Honor. You have a great evening.

THE COURT: Thank you. You too. Thank you. Just need a journal entry.

- - -

C E R T I F I C A T E

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County of Cuyahoga,) SS:
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OFFICIAL COURT REPORTER
CLEVELAND MUNICIPAL COURT
Cleveland, Ohio 44113

11-13-13 Transcript

STATE OF OHIO,)
COUNTY OF CUYAHOGA,) SS STOKES, A. R., J.
CITY OF CLEVELAND.)

IN THE MUNICIPAL COURT

- - -

CITY OF CLEVELAND,)
)
Plaintiff,)
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vs.) 2013TRD002588
)
MATTHEW J. LEWANDOWSKI,)
)
Defendant.)

- - -

Transcript of digitally recorded proceedings had before the Honorable Judge Angela R. Stokes on Wednesday, November 13, 2013, in Courtroom 15-C.

- - -

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By: Aric Kinast, Ass't Police Prosecutor.

On behalf of the defendant:

James D. London, Esq.

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OFFICIAL COURT REPORTER
CLEVELAND MUNICIPAL COURT
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P R O C E E D I N G S

THE COURT: Mr. Lewandowski. Mr. --

A VOICE: Lewandowski.

THE COURT: Yes, please. And then Attorney London, is there one last person? Is that Mr. White?

MR. LONDON: Richard White, yes.

A VOICE: Yeah, White. Yeah, that's the last one, your Honor. Thank you.

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