
11-27-12 Transcript

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

3 IN THE MUNICIPAL COURT

4)
5 CITY OF CLEVELAND,)
6 Plaintiff,)

7 V.) Case No. 2012 CRB 038736

8 KENNETH TAYLOR.)
9 Defendant.)

10)
11 Transcript of digitally recorded proceedings had
12 before the Honorable Judge Angela R. Stokes, on
13 Tuesday, the 27th day of November, 2012, in Courtroom
14 15C.

15)
16 APPEARANCES:

17 On behalf of the plaintiff:
18 Victor Perez, Chief Assistant Prosecutor
19 By: Bidisha Bagchi, Assistant Police
Prosecutor

20 On behalf of the defendant:
21 Pro se.

22)
23)
24)
25 Cindy L. LaRosa, RPR, CRI

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: What is your name, sir?

THE DEFENDANT: Kenneth Taylor.

MR. HURLEY: Are you asking me for
my clients?

THE COURT: Do you have any more?
I'm just calling those who said they're not
represented by counsel.

So those who are. Docket number 81.
It's over here. This defendant, he filed a
Motion, and the City responded to the
Motion.

MS. BAGCHI: He did not yet. We
proceeded on the 21st and -- (inaudible).

THE COURT: So, the City needs time
to respond --

MS. BAGCHI: Correct.

THE COURT: -- to the defendant's
Motion. Okay. It's continued at the
defendant's request, set for a Motion
hearing.

When will the City respond by? What
date should I place it on the docket for a
motion hearing?

MS. BAGCHI: (Inaudible.)

1 THE COURT: Do you want me to place
2 it on the docket like December 14th at 2 in
3 the afternoon?
4 MS. BAGCHI: That's fine.
5 THE COURT: Is that date okay for
6 you, sir?
7 THE DEFENDANT: Your Honor --
8 THE COURT: What date would you
9 like? That's the only question before you,
10 sir.
11 THE DEFENDANT: Okay. I don't -- I
12 don't know what date. I don't have a
13 calendar in front of me.
14 THE COURT: There's a calendar to
15 your right. Look at the wall. What date?
16 THE DEFENDANT: I can't see that. What
17 date did you have in mind?
18 THE COURT: I said December 14th.
19 It's a Friday --
20 THE DEFENDANT: What day is that?
21 THE COURT: That's a Friday at
22 2 p.m.
23 THE DEFENDANT: Okay. That is fine.
24 THE COURT: Is that okay?
25 THE DEFENDANT: Yes.

1 THE COURT: Continued at the
2 defendant's request, set for a Motion
3 hearing, December 14, 2012 at 2 p.m.
4 THE DEFENDANT: But there is some other
5 --
6 THE COURT: December 14th. That's
7 a Friday, at 2 p.m.
8 THE DEFENDANT: There is some other
9 issues surrounding this case.
10 THE COURT: So it is set for a
11 motion hearing.
12 THE DEFENDANT: Well, I mean --
13 THE COURT: So it is set for a
14 motion hearing, and that can be done on
15 December 14th. The City needs time to
16 respond to your Motion to Dismiss.
17 THE DEFENDANT: But I would like to
18 motion the Court to dismiss the case again
19 today. This is the third time I'm here with
20 no officer.
21 THE COURT: Sir, let me tell you
22 something. That's what you don't
23 understand. You need to hire an attorney
24 because you don't have a clue what you are
25 doing in a courtroom.

1 You filed the motion and the City has a
2 right to respond to that motion. She just
3 got the motion, and she's going to respond.

4 And it's set for a hearing,
5 December 14th, at 2 p.m.

6 Is there anything else?

7 THE DEFENDANT: Yes. I also filed a
8 motion opposing the dismissal and denial of
9 the motion to dismiss the case.

10 THE COURT: It's on the docket.
11 December 14th.

12 Escort him to the elevator, please.
13 Give him a reminder slip. December 14th at
14 2 p.m.

15 THE BAILIFF: Yes.

16 THE COURT: Anything out of line,
17 Flanagan, bring him back to go to the
18 Workhouse. If he says another word.

19
20
21
22
23
24
25

C E R T I F I C A T E

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

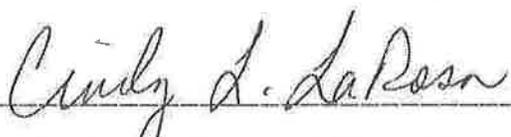
City of Cleveland,)

V.)

Kenneth Taylor.)

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 26th day of August, 2013.


Cindy L. LaRosa, RPR, CRI

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

3 IN THE MUNICIPAL COURT

4 - - -
5 CITY OF CLEVELAND,)
6 Plaintiff,)
7 V.) Case No. 2012 CRB 038736
8 KENNETH TAYLOR.)
9 Defendant.)

10 - - -
11 Transcript of digitally recorded proceedings had
12 before the Honorable Judge Angela R. Stokes, on
13 Friday, the 14th day of December, 2012, in Courtroom
14 15C.

15 - - -
16 APPEARANCES:

17
18 On behalf of the plaintiff:
Victor Perez, Chief Assistant Prosecutor
19 By: Bidisha Bagchi, Assistant Police
Prosecutor

20 On behalf of the defendant:
21 Pro se.

22 - - -
23
24
25 Cindy L. LaRosa, RPR, CRI

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

2 THE COURT: This is Mr. Kenneth
3 Taylor's case, docket number 49.

4 Mr. Kenneth Taylor's case is on the
5 docket, pursuant to the filing of the
6 pleadings. Pending is defendant's Motion --
7 Motion to Dismiss; Defendant's Motion
8 opposing Marginal Denial; Defendant's Motion
9 to Dismiss; and then there's an issue of a
10 Motion to Dismiss for Lack of Evidence. And
11 then there is also a Motion to Compel to
12 Defendant's previous request for Discovery
13 and Bill of Particulars.

14 So, the City has responded to the Motion
15 to Dismiss, correct?

16 All right. So Mr. Taylor, is there
17 anything else that you would like to say?

18 THE DEFENDANT: Good evening, your
19 Honor. First and foremost, I just received
20 the Motion to Dismiss and I'm reading over
21 it and it seems to be riddled with a lot of
22 mistakes here that I just don't understand
23 and I just don't believe the Court has
24 addressed --

25 THE COURT: Well, you are here

1 today --

2 THE DEFENDANT: -- issues, correct.

3 THE COURT: -- to say whatever you
4 would like to say, and then I'll hear from
5 the City --

6 THE DEFENDANT: First of all --

7 THE COURT: Excuse me. You don't
8 talk over the Court.

9 So address whatever you want to say
10 regarding your Motions, and then I'll listen
11 to Prosecutor Bagchi, and then I'll rule on
12 these Motions.

13 THE DEFENDANT: The first Motion that I
14 received today, a few minutes ago --

15 THE COURT: Do you want a little
16 more time to review that pleading before I
17 call this case? I could recall the case if
18 you would like?

19 THE DEFENDANT: No, I would like to
20 answer the Motion in writing if I could
21 because --

22 THE COURT: Sir, this is set for
23 hearing today, and the Court's going to go
24 forward with this, so take your time, and
25 look at it. This is set for oral arguments.

1 This is a Minor Misdemeanor Disorderly
2 Conduct. If you need a little more time to
3 read it, then you could do that, and then
4 we're going to proceed on this matter today.
5 But if you need a little more time to review
6 the City's response you may do so.

7 THE DEFENDANT: No, it was just the
8 first error I seen was -- it says, This
9 matter was set for trial on November 19,
10 2012. On that date, the officer did not
11 appear. Defendant made a Motion to Dismiss
12 which the Court was denied. Defendant
13 stated that he wanted discovery in the
14 matter, and he would like to file the
15 Motions.

16 And the fact of the matter is I already
17 filed my Motions, and the Court was unable
18 to answer those Motions and they asked for
19 time to do so. I didn't ask for additional
20 time to file the Motions. My Motions were
21 already filed in the record, and the Court
22 stated that they didn't have those documents
23 with them. I gave her a courtesy copy at
24 that point, but it had already been filed in
25 the documents.

1 THE COURT: Anything else that you
2 wanted to say regarding your Motions?

3 THE DEFENDANT: And she also states
4 here that defendant's file has Motions which
5 was received on November 21st, and that's
6 inaccurate because I have a time date
7 stamped from the Clerk's Office that says
8 the Motions were filed on November 20th.

9 And so, I'm saying this Motion reply is
10 incorrect and wrong. It has the wrong
11 information in it.

12 THE COURT: Anything else that you
13 wanted to say regarding your pending Motions
14 before the Court?

15 THE DEFENDANT: I have other pending
16 Motions that have not been answered which
17 was Defendant's Motion to Compel. I haven't
18 received any answer on that. The Court
19 hasn't answered anything on the Motion to
20 Compel and the Bill of Particulars.

21 THE COURT: All of these Motions
22 are set for today. The City is going to
23 respond as soon as you finish. Anything
24 else that you wanted to say regarding these
25 matters?

1 THE DEFENDANT: No. I would like to
2 make, while we're here, additional Motion
3 and that Motion would be to dismiss the
4 ticket because the affidavit that the
5 officers filed does not have the time on
6 there. So no time line has been established
7 where he swore he posed, and it is my belief
8 that the affidavit is insufficient because
9 of that matter. It states at no time did
10 this incident took place, so I would like
11 it --

12 THE COURT: Anything else?

13 THE DEFENDANT: -- citation.

14 THE COURT: Anything else? You've
15 repeated that three times. Is there
16 anything else, sir?

17 THE DEFENDANT: No, your Honor.

18 THE COURT: Are you sure?

19 THE DEFENDANT: Yes.

20 THE COURT: Prosecutor Bagchi, you
21 may respond to the Motions -- just one
22 second, sir.

23 (Inaudible discussion had off the record.)

24 THE COURT: Prosecutor Bagchi.

25 MS. BAGCHI: First address the

1 Motion to Discovery, on my -- with regard to
2 the Motion -- Motion to Dismiss. Defendant
3 is correctly talking speedy trial because
4 officer was not here for want of
5 prosecution. I believe the officer was not
6 here. However, on that first date, the
7 matter was here for a pretrial, not a bench
8 trial therefore -- (inaudible) time --
9 because the matter was not set for a bench
10 trial, it was set for a pretrial at the
11 defendant's request, so that I can have time
12 to respond to discovery.

13 After that date, he filed another
14 Motion -- I believe a Motion to Dismiss,
15 received by the Prosecutor's Officer after
16 the Thanksgiving holiday, which is why I did
17 not have time to respond.

18 Today's date is set for a Motion
19 Hearing, but I believe that the defendant
20 doesn't have enough grounds for the City to
21 dismiss. We still have one more opportunity
22 to bring the officer in. So I ask for this
23 matter to be set for a bench trial.

24 THE DEFENDANT: May I make an
25 objection? Objection.

1 THE COURT: Anything else that you
2 would like to say, sir?

3 THE DEFENDANT: Yes, I would like to
4 object to the fact that the Prosecutor
5 continues to state that the initial trial
6 was set for other than a full-blown trial.
7 That was set for a trial with officers
8 subpoenaed to appear.

9 THE COURT: In addition?

10 THE DEFENDANT: No, I just wanted to
11 make that correction in the record.

12 THE COURT: I'm going to go ahead
13 and rule on these. On the very first Court
14 date, according to the file, November 19th,
15 it was set for a bench trial. It was set
16 for a bench trial on the very first Court
17 date, November 19th. However, on the --
18 Mr. Taylor, the defendant, on the same date,
19 at 8:46 in the morning, on November 19,
20 2012, filed a Motion to Dismiss, Lack of
21 Evidence pleading.

22 When Mr. Taylor, when you appeared in
23 court on November 19th, you wanted a hearing
24 on that Motion and the City because you had
25 just filed it that morning, the bench trial

1 was set for 9 o'clock that morning. The
2 City wanted time to respond to your Motion,
3 and the Court gave the City time to respond.
4 So --

5 THE DEFENDANT: Yes, may I say
6 something?

7 THE COURT: Excuse me, you are not
8 going interrupt this Court again. If you
9 do, I'm going to hold you in Contempt of
10 Court.

11 So this matter was continued at the
12 defendant's request because the Motion you
13 had filed, and it was also set for a
14 pretrial, on November 27th, to give the City
15 time to respond at the defendant's request
16 for a pretrial because you didn't want it
17 set for a trial on November 27th.

18 On November 27th, the matter was
19 continued at the defendant's request -- I
20 believe because of subsequent pleadings
21 filed that would have been -- let's see -- I
22 have to find it.

23 On November 20th, you had filed another
24 Motion, Defendant's Motion opposing the
25 Marginal Denial of the Defendant Motion to

1 Dismiss should be reversed or vacated. The
2 Court never ever even ruled on your Motion
3 to Dismiss, so that Motion is denied,
4 because I hadn't even made a ruling on it.
5 Everything was scheduled for today.

6 So then on November the 27th, it was
7 continued at the defendant's request for all
8 of these Motions again, and for the City to
9 respond. And so that's what we're here for
10 today.

11 Regarding your Motion to Compel the
12 Defendant's Previous Request For Discovery
13 in this case, the Prosecutor saying that the
14 only evidence, the only thing that they have
15 to share in a Discovery Request is this
16 citation; is that correct?

17 MS. BAGCHI: (Inaudible.)

18 THE COURT: Is there anything else
19 that the City would have other than the
20 citation, which the defendant had.

21 MS. BAGCHI: (Inaudible.) Only the
22 citation -- (inaudible) we don't have any
23 other information:

24 THE COURT: So Mr. Taylor, when the
25 matter was set for trial, you filed Motions

1 and wanted to have a hearing on all of your
2 Motions. The time does not toll because you
3 filed Motions, and you wanted all of these
4 Motions heard. And you didn't want to set
5 it for a trial, you wanted a Motion hearing,
6 and you wanted to set it for a pretrial.

7 So your Motion to Dismiss for Lack of
8 Evidence, that has no merit. That is denied
9 by the Court.

10 In addition, this Motion for Dismissal
11 for Lack of Prosecution, officer fails to
12 show up for trial and pretrial. That's
13 dismissed because you wanted these matters
14 continued for Motion hearings. So the Court
15 is denying your Motions, and also denying
16 the Motion to Compel regarding Discovery.
17 The only thing that the City has to give
18 you, the only evidence, sir, is the
19 citation. There is nothing else at all for
20 the City to give you.

21 And regarding your -- let me make sure I
22 have addressed all of your Motions. Your
23 Motion opposing Marginal Denial of
24 Defendant's Motion to Dismiss. I never --
25 today is the first date of the Court's

1 ruling, so that's denied also.

2 Your last point is regarding the fact
3 that the citation does not reflect a time on
4 this matter. And the City is requesting a
5 continuance for the matter to be brought to
6 trial. And they could amend this complaint
7 at any time before or on the date of trial.

8 So your Motions don't have merit and the
9 Court's denying them. And this matter can
10 be set for trial. That's all I could do is
11 go forward with trial. There's no other
12 Discovery to be done. The City doesn't have
13 anything other than the citation. The City
14 can amend the citation any time prior to
15 trial, including the day of trial.

16 And so it is set -- we could set this
17 matter for trial. There are no other
18 Motions here. Do you want a trial date on
19 these matters? Really that's all that's
20 left is for a trial to go forth on this
21 matter if you would like to have a trial.

22 But for all the reasons stated in the
23 City's Response to Defendant's Motion to
24 Dismiss, it has merit but at the City has
25 said and the Court is denying these Motions,

1 but you certainly have a right to go to
2 trial on these matters. We could certainly
3 set them for trial, and subpoena -- the City
4 will subpoena the officer to be present. If
5 the officer fails to appear, the City has no
6 objection, then the Court would grant the
7 Motion to Dismiss.

8 All of that could be done prior to this
9 because you've got all of those Motion and
10 you didn't want a trial. You wanted a
11 Motion hearings and a pretrial. So do you
12 want this matter now to be set for trial so
13 the officer can be subpoenaed to be present?
14 Do you want a trial date?

15 THE DEFENDANT: Yes, I want a trial
16 date.

17 THE COURT: Continued at the
18 defendant's request it will be set for a
19 bench trial.

20 Prosecutor Bagchi, would you please
21 subpoena the witnesses to be present. And
22 you certainly can have any witnesses present
23 that you think should be present.

24 Mr. Taylor.

25 THE DEFENDANT: Well, I would certainly

1 hope that the City would bring both
2 officers, who appear on the citation, to the
3 Court. Because there is two badge numbers
4 on the citation, so they should bring --

5 THE COURT: Mr. Taylor, she's
6 indicating she's going to subpoena both of
7 those officers.

8 THE DEFENDANT: And certainly, I would
9 hope that they would amend the complaint to
10 reflect the time that this incident
11 occurred, so I do can respond to the
12 defendant properly.

13 THE COURT: You could amend it at
14 any time prior to trial, or the day of
15 trial.

16 And, okay.

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: There is a date on the
19 citation, it says, November 2, 2012, but it
20 does not have a time on the citation.

21 So, Prosecutor Bagchi, if you are able
22 to ascertain the time prior to the date we
23 set this matter for trial, at the
24 defendant's request, it might be wise if you
25 get that information to share that with

1 Mr. Taylor, prior to the trial date, if you
2 are able to get that information prior to
3 trial.

4 I mean you could share it with him
5 beforehand by Discovery, if you have a means
6 to get in touch with him. If you have a
7 date. If not, you will have to get that
8 information on the date of trial. And the
9 officers have been subpoenaed.

10 But as far as a date for trial, is there
11 a particular date that would be better for
12 you, Mr. Taylor?

13 THE DEFENDANT: Absolutely. Any time
14 after January when the holidays coming up,
15 Christmas.

16 THE COURT: Let me just explain
17 this. If you want to go into January
18 because of the matter of the time it has to
19 be brought to trial, you'll have to sign the
20 statutory waiver of time. But what you
21 could do if you want, is waive the statutory
22 period of time, including up to that day,
23 only --

24 THE DEFENDANT: Yes, I would --

25 THE COURT: If you don't want to

1 say an open ended waiver. But if you want
2 to say all I'm willing to waive to is the
3 date of this trial and that's it. That's
4 what you would write on that form. If the
5 City has no objection, we will accept that.

6 THE DEFENDANT: Yes, I would like to do
7 that.

8 THE COURT: Do you have a
9 particular date in January that would be
10 best for you, sir?

11 THE DEFENDANT: No.

12 THE COURT: It doesn't make any
13 difference?

14 THE DEFENDANT: It doesn't -- well,
15 it's not going to be on the first? So any
16 time after that would be fine.

17 THE COURT: Are you thinking maybe
18 like -- we're going give you a waiver form.
19 You need to read it so you understand, okay.
20 Please read that form.

21 THE DEFENDANT: I understand.

22 THE COURT: Okay. And, you could
23 just put to a particular date.

24 Does the City have an objection to that?

25 MS. BAGCHI: No objection.

1 THE COURT: Okay. So you are
2 waiving through and including the date of
3 the trial.

4 Now we just have to figure out the trial
5 date. Okay. So that means if the officer
6 doesn't appear on the date of the trial, you
7 could always make your oral Motion to
8 Dismiss at that time; do you understand?

9 THE DEFENDANT: Absolutely.

10 THE COURT: Okay. Let's see, maybe
11 January. Do you want maybe January 9th,
12 that's a Wednesday, but we could set it for
13 like two in the afternoon.

14 THE DEFENDANT: That would be fine with
15 me.

16 THE COURT: Is that okay?

17 THE DEFENDANT: Yes.

18 THE COURT: I have January 9th?

19 MS. BAGCHI: I'm sorry.

20 THE COURT: I think I said
21 January 9th but is that date good for every
22 one, or do you want another date in January?

23 THE DEFENDANT: The date is fine for
24 me. I just wanted to get past the holiday.
25 I'm okay.

1 THE COURT: So that's okay?
2 January 9, 2013, at 2 p.m., continued at the
3 defendant's request set for a bench trial.
4 I'll note that the statutory period of time
5 has been waived, but only the statutory
6 period of time has been waived through and
7 including January 9, 2013.

8 And that -- they could put that in the
9 date. Okay. You know what -- you should
10 probably -- now I put on the Journal Entry,
11 but, Mr. Taylor, right on here that you are
12 waiving the statutory period of time only
13 through and including January 9, 2013.
14 Otherwise this will take you beyond that
15 date, and you don't want to go beyond that
16 date, right?

17 THE DEFENDANT: Right.

18 THE COURT: Okay. So that's what
19 you are going to write on there.

20 And Prosecutor Bagchi, if there is any
21 way to find out the time which the defendant
22 feels is very important, can you please make
23 certain you -- (inaudible) -- in writing or
24 whatever.

25 MS. BAGCHI: Sure, I will.

1 THE COURT: Thank you. It's going
2 to be journalized in just a moment by the
3 journalizer. The bailiff is going to give
4 you a reminder slip for January 9th. Did
5 you already get your reminder slip?
6 THE DEFENDANT: Yes, I already have
7 that.
8 THE COURT: January 9, 2013, at 2
9 p.m.
10 THE DEFENDANT: Yes.
11 THE COURT: Statutory period of
12 time only waived through January 9, 2013,
13 set for trial. The Prosecutor's going to
14 subpoena both of those officers to be
15 present for January 9th, and she's also
16 going to try to obtain the information
17 regarding the time of the citation. And if
18 so, she's going to make certain that she's
19 mails that information submitted to you
20 prior to January 9, 2013 if she has it prior
21 to that date, okay? If not, (inaudible),
22 able to get that information when the
23 officers appear if they appear on January 9,
24 2013, then you could deal with those issues,
25 at that time; do you understand?

1 THE DEFENDANT: Absolutely.

2 THE COURT: She's telling me, she's
3 giving me her word she's going to try to
4 obtain it before January 9th. If so, she's
5 going to submit it to you as a Discovery
6 request. Okay. If she doesn't have it
7 before January 9th, she can't do that. But
8 the only way she will be able to get that
9 information is if she hears from the
10 officers prior to January 9th when they
11 appear in this courtroom and she inquires,
12 okay? And that information will be given to
13 you at that time, and then we'll do whatever
14 is necessary at that time. If the officers
15 don't know the time, and if it's a major
16 issue, we'll deal with those issues on
17 January 9th, okay. But I'm asking the
18 Prosecutor if there is any way possible to
19 get you that information before January 9th
20 in order to do that.

21 Is there anything else? Did that take
22 care of everything?

23 THE DEFENDANT: Yes, just one last
24 thing. Will I be able to get the findings
25 of this Court in writing today?

1 THE COURT: They're going to be in
2 the Journal Entry. Simply the way I put it.
3 Motion to Dismiss is denied. That's it. Do
4 you want me to go through every Motion that
5 I've denied, they could give you a copy of
6 the electronic journal, if that's what you
7 want. I have simply have denied them and
8 given the reasons for it.

9 THE DEFENDANT: Okay. I just want to
10 be able to look at them physically --

11 THE COURT: They'll give you a
12 copy.

13 THE DEFENDANT: -- so it's in my head.

14 THE COURT: Sure.

15 THE DEFENDANT: Thank you.

16 THE COURT: You're welcome. Is
17 there anything else?

18 THE DEFENDANT: No. You've been so
19 nice, your Honor.

20 THE COURT: All right. Well, then
21 the Prosecutor, if she gets that
22 information about the time, should she send
23 it to the address on the citation?

24 THE DEFENDANT: The address is a good
25 address.

1 THE COURT: That's a good address.
2 Or how do you do that? What were you going
3 to say?

4 MS. BAGCHI: Oh, (inaudible) --

5 THE COURT: Right. Okay. So, you
6 have everything.

7 Just have a seat. This will be
8 journalized in a moment and she'll print out
9 the electronic journal for you, okay?

10 THE DEFENDANT: Thank you.

11 THE COURT: You're welcome.

12 So Mr. Taylor, let me just explain to
13 you some of the things that you raised in
14 your Motion to Dismiss for Lack of Evidence
15 are matters that would be addressed at a
16 trial; do you understand? It's like when
17 you look at them, when I look at this
18 pleading, you are saying that the way the
19 officer perjured himself, and the
20 information in that citation is not true,
21 that would come forth in a trial what the
22 true state of the evidence is; do you
23 understand?

24 So, when you have the trial, you would
25 be able to cross examine, ask questions of

1 the officers, to try to show the Court if
2 you believe that someone is not telling the
3 truth. But that takes place during the
4 trial; do you understand?

5 THE DEFENDANT: Yes, I do.

6 THE COURT: I can't -- how am I to
7 know on the pleading, they've never even
8 appeared. But when they appear in Court in
9 cross-examination, you could ask questions
10 if you believe that what's contained in the
11 citation is not true; do you understand?

12 THE DEFENDANT: Yes.

13 THE COURT: So though I'm denying
14 the Motion to Dismiss today, at trial,
15 there's certain things that you could bring
16 up; do you understand?

17 THE DEFENDANT: Yes.

18 THE COURT: Okay.

19 THE DEFENDANT: Thank you.

20 THE COURT: You're welcome.

21

22

23

24

25

C E R T I F I C A T E

1

2

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

5

6 City of Cleveland,)

7 V.)

8 Kenneth Taylor.)

9

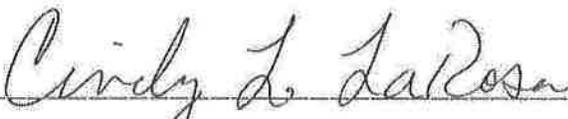
10 I, Cindy L. LaRosa, Registered Professional
 11 Reporter, do hereby certify that as a reporter
 12 employed by the Cleveland Municipal Court, I took
 13 down in stenotype all of the digitally recorded
 14 proceedings had in said Cleveland Municipal Court in
 15 the above-entitled case on the date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

22

Dated this 26th day of August, 2013.

23

24



25

Cindy L. LaRosa, RPR, CRI

12-14-12 Transcript

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

3 IN THE MUNICIPAL COURT

4)
5 CITY OF CLEVELAND,)
6 Plaintiff,)

7 V.) Case No. 2012 CRB 038736

8 KENNETH TAYLOR.)
9 Defendant.)

10)
11 Transcript of digitally recorded proceedings had
12 before the Honorable Judge Angela R. Stokes, on
13 Friday, the 14th day of December, 2012, in Courtroom
14 15C.

15)
16 APPEARANCES:

17)
18 On behalf of the plaintiff:
Victor Perez, Chief Assistant Prosecutor
19 By: Bidisha Bagchi, Assistant Police
Prosecutor

20)
21 On behalf of the defendant:
Pro se.

22)
23)
24)
25 Cindy L. LaRosa, RPR, CRI

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

2 THE COURT: This is Mr. Kenneth
3 Taylor's case, docket number 49.

4 Mr. Kenneth Taylor's case is on the
5 docket, pursuant to the filing of the
6 pleadings. Pending is defendant's Motion --
7 Motion to Dismiss; Defendant's Motion
8 opposing Marginal Denial; Defendant's Motion
9 to Dismiss; and then there's an issue of a
10 Motion to Dismiss for Lack of Evidence. And
11 then there is also a Motion to Compel to
12 Defendant's previous request for Discovery
13 and Bill of Particulars.

14 So, the City has responded to the Motion
15 to Dismiss, correct?

16 All right. So Mr. Taylor, is there
17 anything else that you would like to say?

18 THE DEFENDANT: Good evening, your
19 Honor. First and foremost, I just received
20 the Motion to Dismiss and I'm reading over
21 it and it seems to be riddled with a lot of
22 mistakes here that I just don't understand
23 and I just don't believe the Court has
24 addressed --

25 THE COURT: Well, you are here

1 today --

2 THE DEFENDANT: -- issues, correct.

3 THE COURT: -- to say whatever you
4 would like to say, and then I'll hear from
5 the City --

6 THE DEFENDANT: First of all --

7 THE COURT: Excuse me. You don't
8 talk over the Court.

9 So address whatever you want to say
10 regarding your Motions, and then I'll listen
11 to Prosecutor Bagchi, and then I'll rule on
12 these Motions.

13 THE DEFENDANT: The first Motion that I
14 received today, a few minutes ago --

15 THE COURT: Do you want a little
16 more time to review that pleading before I
17 call this case? I could recall the case if
18 you would like?

19 THE DEFENDANT: No, I would like to
20 answer the Motion in writing if I could
21 because --

22 THE COURT: Sir, this is set for
23 hearing today, and the Court's going to go
24 forward with this, so take your time, and
25 look at it. This is set for oral arguments.

1 This is a Minor Misdemeanor Disorderly
2 Conduct. If you need a little more time to
3 read it, then you could do that, and then
4 we're going to proceed on this matter today.
5 But if you need a little more time to review
6 the City's response you may do so.

7 THE DEFENDANT: No, it was just the
8 first error I seen was -- it says, This
9 matter was set for trial on November 19,
10 2012. On that date, the officer did not
11 appear. Defendant made a Motion to Dismiss
12 which the Court was denied. Defendant
13 stated that he wanted discovery in the
14 matter, and he would like to file the
15 Motions.

16 And the fact of the matter is I already
17 filed my Motions, and the Court was unable
18 to answer those Motions and they asked for
19 time to do so. I didn't ask for additional
20 time to file the Motions. My Motions were
21 already filed in the record, and the Court
22 stated that they didn't have those documents
23 with them. I gave her a courtesy copy at
24 that point, but it had already been filed in
25 the documents.

1 THE COURT: Anything else that you
2 wanted to say regarding your Motions?

3 THE DEFENDANT: And she also states
4 here that defendant's file has Motions which
5 was received on November 21st, and that's
6 inaccurate because I have a time date
7 stamped from the Clerk's Office that says
8 the Motions were filed on November 20th.

9 And so, I'm saying this Motion reply is
10 incorrect and wrong. It has the wrong
11 information in it.

12 THE COURT: Anything else that you
13 wanted to say regarding your pending Motions
14 before the Court?

15 THE DEFENDANT: I have other pending
16 Motions that have not been answered which
17 was Defendant's Motion to Compel. I haven't
18 received any answer on that. The Court
19 hasn't answered anything on the Motion to
20 Compel and the Bill of Particulars.

21 THE COURT: All of these Motions
22 are set for today. The City is going to
23 respond as soon as you finish. Anything
24 else that you wanted to say regarding these
25 matters?

1 THE DEFENDANT: No. I would like to
2 make, while we're here, additional Motion
3 and that Motion would be to dismiss the
4 ticket because the affidavit that the
5 officers filed does not have the time on
6 there. So no time line has been established
7 where he swore he posed, and it is my belief
8 that the affidavit is insufficient because
9 of that matter. It states at no time did
10 this incident took place, so I would like
11 it --

12 THE COURT: Anything else?

13 THE DEFENDANT: -- citation.

14 THE COURT: Anything else? You've
15 repeated that three times. Is there
16 anything else, sir?

17 THE DEFENDANT: No, your Honor.

18 THE COURT: Are you sure?

19 THE DEFENDANT: Yes.

20 THE COURT: Prosecutor Bagchi, you
21 may respond to the Motions -- just one
22 second, sir.

23 (Inaudible discussion had off the record.)

24 THE COURT: Prosecutor Bagchi.

25 MS. BAGCHI: First address the

1 Motion to Discovery, on my -- with regard to
2 the Motion -- Motion to Dismiss. Defendant
3 is correctly talking speedy trial because
4 officer was not here for want of
5 prosecution. I believe the officer was not
6 here. However, on that first date, the
7 matter was here for a pretrial, not a bench
8 trial therefore -- (inaudible) time --
9 because the matter was not set for a bench
10 trial, it was set for a pretrial at the
11 defendant's request, so that I can have time
12 to respond to discovery.

13 After that date, he filed another
14 Motion -- I believe a Motion to Dismiss,
15 received by the Prosecutor's Officer after
16 the Thanksgiving holiday, which is why I did
17 not have time to respond.

18 Today's date is set for a Motion
19 Hearing, but I believe that the defendant
20 doesn't have enough grounds for the City to
21 dismiss. We still have one more opportunity
22 to bring the officer in. So I ask for this
23 matter to be set for a bench trial.

24 THE DEFENDANT: May I make an
25 objection? Objection.

1 THE COURT: Anything else that you
2 would like to say, sir?

3 THE DEFENDANT: Yes, I would like to
4 object to the fact that the Prosecutor
5 continues to state that the initial trial
6 was set for other than a full-blown trial.
7 That was set for a trial with officers
8 subpoenaed to appear.

9 THE COURT: In addition?

10 THE DEFENDANT: No, I just wanted to
11 make that correction in the record.

12 THE COURT: I'm going to go ahead
13 and rule on these. On the very first Court
14 date, according to the file, November 19th,
15 it was set for a bench trial. It was set
16 for a bench trial on the very first Court
17 date, November 19th. However, on the --
18 Mr. Taylor, the defendant, on the same date,
19 at 8:46 in the morning, on November 19,
20 2012, filed a Motion to Dismiss, Lack of
21 Evidence pleading.

22 When Mr. Taylor, when you appeared in
23 court on November 19th, you wanted a hearing
24 on that Motion and the City because you had
25 just filed it that morning, the bench trial

1 was set for 9 o'clock that morning. The
2 City wanted time to respond to your Motion,
3 and the Court gave the City time to respond.
4 So --

5 THE DEFENDANT: Yes, may I say
6 something?

7 THE COURT: Excuse me, you are not
8 going interrupt this Court again. If you
9 do, I'm going to hold you in Contempt of
10 Court.

11 So this matter was continued at the
12 defendant's request because the Motion you
13 had filed, and it was also set for a
14 pretrial, on November 27th, to give the City
15 time to respond at the defendant's request
16 for a pretrial because you didn't want it
17 set for a trial on November 27th.

18 On November 27th, the matter was
19 continued at the defendant's request -- I
20 believe because of subsequent pleadings
21 filed that would have been -- let's see -- I
22 have to find it.

23 On November 20th, you had filed another
24 Motion, Defendant's Motion opposing the
25 Marginal Denial of the Defendant Motion to

1 Dismiss should be reversed or vacated. The
2 Court never ever even ruled on your Motion
3 to Dismiss, so that Motion is denied,
4 because I hadn't even made a ruling on it.
5 Everything was scheduled for today.

6 So then on November the 27th, it was
7 continued at the defendant's request for all
8 of these Motions again, and for the City to
9 respond. And so that's what we're here for
10 today.

11 Regarding your Motion to Compel the
12 Defendant's Previous Request For Discovery
13 in this case, the Prosecutor saying that the
14 only evidence, the only thing that they have
15 to share in a Discovery Request is this
16 citation; is that correct?

17 MS. BAGCHI: (Inaudible.)

18 THE COURT: Is there anything else
19 that the City would have other than the
20 citation, which the defendant had.

21 MS. BAGCHI: (Inaudible.) Only the
22 citation -- (inaudible) we don't have any
23 other information:

24 THE COURT: So Mr. Taylor, when the
25 matter was set for trial, you filed Motions

1 and wanted to have a hearing on all of your
2 Motions. The time does not toll because you
3 filed Motions, and you wanted all of these
4 Motions heard. And you didn't want to set
5 it for a trial, you wanted a Motion hearing,
6 and you wanted to set it for a pretrial.

7 So your Motion to Dismiss for Lack of
8 Evidence, that has no merit. That is denied
9 by the Court.

10 In addition, this Motion for Dismissal
11 for Lack of Prosecution, officer fails to
12 show up for trial and pretrial. That's
13 dismissed because you wanted these matters
14 continued for Motion hearings. So the Court
15 is denying your Motions, and also denying
16 the Motion to Compel regarding Discovery.
17 The only thing that the City has to give
18 you, the only evidence, sir, is the
19 citation. There is nothing else at all for
20 the City to give you.

21 And regarding your -- let me make sure I
22 have addressed all of your Motions. Your
23 Motion opposing Marginal Denial of
24 Defendant's Motion to Dismiss. I never --
25 today is the first date of the Court's

1 ruling, so that's denied also.

2 Your last point is regarding the fact
3 that the citation does not reflect a time on
4 this matter. And the City is requesting a
5 continuance for the matter to be brought to
6 trial. And they could amend this complaint
7 at any time before or on the date of trial.

8 So your Motions don't have merit and the
9 Court's denying them. And this matter can
10 be set for trial. That's all I could do is
11 go forward with trial. There's no other
12 Discovery to be done. The City doesn't have
13 anything other than the citation. The City
14 can amend the citation any time prior to
15 trial, including the day of trial.

16 And so it is set -- we could set this
17 matter for trial. There are no other
18 Motions here. Do you want a trial date on
19 these matters? Really that's all that's
20 left is for a trial to go forth on this
21 matter if you would like to have a trial.

22 But for all the reasons stated in the
23 City's Response to Defendant's Motion to
24 Dismiss, it has merit but at the City has
25 said and the Court is denying these Motions,

1 but you certainly have a right to go to
2 trial on these matters. We could certainly
3 set them for trial, and subpoena -- the City
4 will subpoena the officer to be present. If
5 the officer fails to appear, the City has no
6 objection, then the Court would grant the
7 Motion to Dismiss.

8 All of that could be done prior to this
9 because you've got all of those Motion and
10 you didn't want a trial. You wanted a
11 Motion hearings and a pretrial. So do you
12 want this matter now to be set for trial so
13 the officer can be subpoenaed to be present?
14 Do you want a trial date?

15 THE DEFENDANT: Yes, I want a trial
16 date.

17 THE COURT: Continued at the
18 defendant's request it will be set for a
19 bench trial.

20 Prosecutor Bagchi, would you please
21 subpoena the witnesses to be present. And
22 you certainly can have any witnesses present
23 that you think should be present.

24 Mr. Taylor.

25 THE DEFENDANT: Well, I would certainly

1 hope that the City would bring both
2 officers, who appear on the citation, to the
3 Court. Because there is two badge numbers
4 on the citation, so they should bring --

5 THE COURT: Mr. Taylor, she's
6 indicating she's going to subpoena both of
7 those officers.

8 THE DEFENDANT: And certainly, I would
9 hope that they would amend the complaint to
10 reflect the time that this incident
11 occurred, so I do can respond to the
12 defendant properly.

13 THE COURT: You could amend it at
14 any time prior to trial, or the day of
15 trial.

16 And, okay.

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: There is a date on the
19 citation, it says, November 2, 2012, but it
20 does not have a time on the citation.

21 So, Prosecutor Bagchi, if you are able
22 to ascertain the time prior to the date we
23 set this matter for trial, at the
24 defendant's request, it might be wise if you
25 get that information to share that with

1 Mr. Taylor, prior to the trial date, if you
2 are able to get that information prior to
3 trial.

4 I mean you could share it with him
5 beforehand by Discovery, if you have a means
6 to get in touch with him. If you have a
7 date. If not, you will have to get that
8 information on the date of trial. And the
9 officers have been subpoenaed.

10 But as far as a date for trial, is there
11 a particular date that would be better for
12 you, Mr. Taylor?

13 THE DEFENDANT: Absolutely. Any time
14 after January when the holidays coming up,
15 Christmas.

16 THE COURT: Let me just explain
17 this. If you want to go into January
18 because of the matter of the time it has to
19 be brought to trial, you'll have to sign the
20 statutory waiver of time. But what you
21 could do if you want, is waive the statutory
22 period of time, including up to that day,
23 only --

24 THE DEFENDANT: Yes, I would --

25 THE COURT: If you don't want to

1 say an open ended waiver. But if you want
2 to say all I'm willing to waive to is the
3 date of this trial and that's it. That's
4 what you would write on that form. If the
5 City has no objection, we will accept that.

6 THE DEFENDANT: Yes, I would like to do
7 that.

8 THE COURT: Do you have a
9 particular date in January that would be
10 best for you, sir?

11 THE DEFENDANT: No.

12 THE COURT: It doesn't make any
13 difference?

14 THE DEFENDANT: It doesn't -- well,
15 it's not going to be on the first? So any
16 time after that would be fine.

17 THE COURT: Are you thinking maybe
18 like -- we're going give you a waiver form.
19 You need to read it so you understand, okay.
20 Please read that form.

21 THE DEFENDANT: I understand.

22 THE COURT: Okay. And, you could
23 just put to a particular date.

24 Does the City have an objection to that?

25 MS. BAGCHI: No objection.

1 THE COURT: Okay. So you are
2 waiving through and including the date of
3 the trial.

4 Now we just have to figure out the trial
5 date. Okay. So that means if the officer
6 doesn't appear on the date of the trial, you
7 could always make your oral Motion to
8 Dismiss at that time; do you understand?

9 THE DEFENDANT: Absolutely.

10 THE COURT: Okay. Let's see, maybe
11 January. Do you want maybe January 9th,
12 that's a Wednesday, but we could set it for
13 like two in the afternoon.

14 THE DEFENDANT: That would be fine with
15 me.

16 THE COURT: Is that okay?

17 THE DEFENDANT: Yes.

18 THE COURT: I have January 9th?

19 MS. BAGCHI: I'm sorry.

20 THE COURT: I think I said
21 January 9th but is that date good for every
22 one, or do you want another date in January?

23 THE DEFENDANT: The date is fine for
24 me. I just wanted to get past the holiday.
25 I'm okay.

1 THE COURT: So that's okay?
2 January 9, 2013, at 2 p.m., continued at the
3 defendant's request set for a bench trial.
4 I'll note that the statutory period of time
5 has been waived, but only the statutory
6 period of time has been waived through and
7 including January 9, 2013.

8 And that -- they could put that in the
9 date. Okay. You know what -- you should
10 probably -- now I put on the Journal Entry,
11 but, Mr. Taylor, right on here that you are
12 waiving the statutory period of time only
13 through and including January 9, 2013.
14 Otherwise this will take you beyond that
15 date, and you don't want to go beyond that
16 date, right?

17 THE DEFENDANT: Right.

18 THE COURT: Okay. So that's what
19 you are going to write on there.

20 And Prosecutor Bagchi, if there is any
21 way to find out the time which the defendant
22 feels is very important, can you please make
23 certain you -- (inaudible) -- in writing or
24 whatever.

25 MS. BAGCHI: Sure, I will.

1 THE COURT: Thank you. It's going
2 to be journalized in just a moment by the
3 journalizer. The bailiff is going to give
4 you a reminder slip for January 9th. Did
5 you already get your reminder slip?

6 THE DEFENDANT: Yes, I already have
7 that.

8 THE COURT: January 9, 2013, at 2
9 p.m.

10 THE DEFENDANT: Yes.

11 THE COURT: Statutory period of
12 time only waived through January 9, 2013,
13 set for trial. The Prosecutor's going to
14 subpoena both of those officers to be
15 present for January 9th, and she's also
16 going to try to obtain the information
17 regarding the time of the citation. And if
18 so, she's going to make certain that she's
19 mails that information submitted to you
20 prior to January 9, 2013 if she has it prior
21 to that date, okay? If not, (inaudible),
22 able to get that information when the
23 officers appear if they appear on January 9,
24 2013, then you could deal with those issues,
25 at that time; do you understand?

1 THE DEFENDANT: Absolutely.

2 THE COURT: She's telling me, she's
3 giving me her word she's going to try to
4 obtain it before January 9th. If so, she's
5 going to submit it to you as a Discovery
6 request. Okay. If she doesn't have it
7 before January 9th, she can't do that. But
8 the only way she will be able to get that
9 information is if she hears from the
10 officers prior to January 9th when they
11 appear in this courtroom and she inquires,
12 okay? And that information will be given to
13 you at that time, and then we'll do whatever
14 is necessary at that time. If the officers
15 don't know the time, and if it's a major
16 issue, we'll deal with those issues on
17 January 9th, okay. But I'm asking the
18 Prosecutor if there is any way possible to
19 get you that information before January 9th
20 in order to do that.

21 Is there anything else? Did that take
22 care of everything?

23 THE DEFENDANT: Yes, just one last
24 thing. Will I be able to get the findings
25 of this Court in writing today?

1 THE COURT: They're going to be in
2 the Journal Entry. Simply the way I put it.
3 Motion to Dismiss is denied. That's it. Do
4 you want me to go through every Motion that
5 I've denied, they could give you a copy of
6 the electronic journal, if that's what you
7 want. I have simply have denied them and
8 given the reasons for it.

9 THE DEFENDANT: Okay. I just want to
10 be able to look at them physically --

11 THE COURT: They'll give you a
12 copy.

13 THE DEFENDANT: -- so it's in my head.

14 THE COURT: Sure.

15 THE DEFENDANT: Thank you.

16 THE COURT: You're welcome. Is
17 there anything else?

18 THE DEFENDANT: No. You've been so
19 nice, your Honor.

20 THE COURT: All right. Well, then
21 the Prosecutor, if she gets that
22 information about the time, should she send
23 it to the address on the citation?

24 THE DEFENDANT: The address is a good
25 address.

1 THE COURT: That's a good address.
2 Or how do you do that? What were you going
3 to say?

4 MS. BAGCHI: Oh, (inaudible) --

5 THE COURT: Right. Okay. So, you
6 have everything.

7 Just have a seat. This will be
8 journalized in a moment and she'll print out
9 the electronic journal for you, okay?

10 THE DEFENDANT: Thank you.

11 THE COURT: You're welcome.

12 So Mr. Taylor, let me just explain to
13 you some of the things that you raised in
14 your Motion to Dismiss for Lack of Evidence
15 are matters that would be addressed at a
16 trial; do you understand? It's like when
17 you look at them, when I look at this
18 pleading, you are saying that the way the
19 officer perjured himself, and the
20 information in that citation is not true,
21 that would come forth in a trial what the
22 true state of the evidence is; do you
23 understand?

24 So, when you have the trial, you would
25 be able to cross examine, ask questions of

1 the officers, to try to show the Court if
2 you believe that someone is not telling the
3 truth. But that takes place during the
4 trial; do you understand?

5 THE DEFENDANT: Yes, I do.

6 THE COURT: I can't -- how am I to
7 know on the pleading, they've never even
8 appeared. But when they appear in Court in
9 cross-examination, you could ask questions
10 if you believe that what's contained in the
11 citation is not true; do you understand?

12 THE DEFENDANT: Yes.

13 THE COURT: So though I'm denying
14 the Motion to Dismiss today, at trial,
15 there's certain things that you could bring
16 up; do you understand?

17 THE DEFENDANT: Yes.

18 THE COURT: Okay.

19 THE DEFENDANT: Thank you.

20 THE COURT: You're welcome.

21

22

23

24

25

C E R T I F I C A T E

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

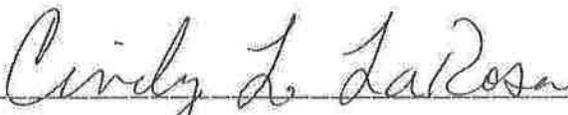
City of Cleveland,)

V.)

Kenneth Taylor.)

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 26th day of August, 2013.



Cindy L. LaRosa, RPR, CRI