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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF PIERCE  
DEPARTMENT 15

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STATE OF WASHINGTON, )  
 )  
 Plaintiff, )  
 )  
 vs. ) No. 09-1-03166-7  
 )  
 MAURICE CLEMMONS, )  
 )  
 Defendant. )  
 )

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VERBATIM REPORT OF PROCEEDINGS

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July 24, 2009  
Pierce County Courthouse  
Tacoma, Washington  
before the  
HONORABLE THOMAS J. FELNAGLE

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A P P E A R A N C E S

For the Plaintiff: MS. ANGELICA McGAHA  
Deputy Prosecuting Attorney

For the Defendant: MR. DANIEL J. MURPHY, JR.  
Attorney at Law

1 JULY 24, 2009

2 AFTERNOON SESSION

3 \* \* \* \* \*

4 MS. McGAHA: Your Honor, we are ready on  
5 Maurice Clemmons. Your Honor, this is State of Washington  
6 versus Maurice Clemmons; 09-1-03166-7. Angelica McGaha on  
7 behalf of the State. The defendant is present in custody,  
8 standing to my right, represented by his attorney of  
9 record, Daniel Murphy. We are on today for a bail hearing  
10 set by the defendant yesterday.

11 For the Court's information, I handed forward  
12 to the Court a motion that is to be set for next week.  
13 I've provided a copy of all that information to  
14 Mr. Murphy, as well. The only thing I would say before we  
15 begin the bail hearing, Your Honor, is that it looks like  
16 bail was addressed on July 2nd and that the bail wasn't  
17 reserved, so I don't even know that there's been a change  
18 in conditions.

19 On July 2nd, the State requested \$200,000.  
20 Mr. Murphy was present and requested \$20,000, and the  
21 Court set it at \$150,000. I don't show bail was reserved,  
22 so I don't think it's properly before this Court.

23 THE COURT: Well, as I understand, there was a  
24 detainer on him before or --

25 MR. MURPHY: Correct.

1 THE COURT: -- he had an extradition hold,  
2 fugitive warrant.

3 MR. MURPHY: Daniel Murphy on behalf of  
4 Maurice Clemmons. There was a fugitive warrant out of  
5 Arkansas holding us all up. That was terminated last  
6 Thursday out of Arkansas, it's my understanding, just  
7 moments ago. It wasn't dismissed yet up here, but it  
8 takes a while to show up.

9 So, when we were there on the 2nd, His Honor  
10 said we would reset a bail hearing as soon as we had the  
11 fugitive matter taken care of. We set one last Friday,  
12 because, again, we thought the Arkansas information would  
13 have been up here rather quickly. However, it took a  
14 week, so we got deferred last week to this week or to  
15 whenever the fugitive matter was lifted, which is when we  
16 could come back in, and that's why we are here today.

17 I know I spoke with madam prosecutor about  
18 this issue yesterday and the day before. Essentially,  
19 this case has been around for a couple of weeks now, and  
20 we were held up primarily on the fugitive matter.

21 MS. MCGAHA: I would also note that the case  
22 is pre-assigned to Judge van Doorninck, Your Honor, but --

23 THE COURT: She asked me to handle it today if  
24 a motion was necessary.

25 MS. MCGAHA: Well, it said the defendant's

1 motion, so I will let him go first before I respond.

2 MR. MURPHY: Your Honor, essentially, to try  
3 to be brief here with the Court, I would argue that  
4 Mr. Clemmons is not a flight risk, as we were here on 7-2.  
5 We were here on that day when he got arrested on this  
6 particular case. Essentially, we submitted ourselves in,  
7 so I don't believe he's a flight risk. He was actually  
8 here twice that day, once at 8:30, and the hearing was at  
9 1:30, and he returned for that.

10 The threat to the community, I don't believe  
11 we have a problem with that, as well, at this point, Your  
12 Honor. He has been seeing a counselor, himself, that he  
13 would like to go back to seeing, a Timothy Bean (phonetic  
14 spelling), who was actually here present last Friday for  
15 the hearing. He couldn't make it today. I did inform  
16 folks that Your Honor probably would not want to entertain  
17 hearing from him anyway, but I would just note that he  
18 does have a counselor that he'd like to be seeing.

19 He's the sole income earner for his family, as  
20 well. He has been in the area a number of years. His  
21 family is here, out in the audience; his wife, aunt,  
22 brother, sister. Like I said, he's the sole income  
23 earner, running a pressure washing and landscaping  
24 business himself. His wife is in school. She's not  
25 working. They are having financial difficulties right

1 now.

2 He is a property owner of a number of  
3 different properties that needs his attention at this  
4 point. Apparently, there's some financial stuff going on  
5 with that to where they require, you know, his signatures  
6 and things like that, and that's kind of causing problems  
7 here lately.

8 He does have a separate address to go to. He  
9 would not be going back to the family home. He would go  
10 to a different address, which I have. Essentially, we  
11 have no problem, also, with a no-contact order with the  
12 child in this case.

13 We have actually, obviously, noted a not  
14 guilty plea. I won't get into the facts of the case, Your  
15 Honor. This isn't the time for it, but I have discussed  
16 it with the prosecution that we believe that we have some  
17 good evidence on our side to disprove these allegations.  
18 Essentially, that's basically it, Your Honor.

19 MS. MCGAHA: Your Honor, in response, this is  
20 not Mr. Clemmons' only matter pending before this court.  
21 He also has an Assault 3, malicious mischief case in  
22 Team 1 with Mr. Birgenheier. He was arrested on that on  
23 May 9th. He was booked into the Pierce County Jail, and  
24 he was released on May 10th on \$10,000 bond with a promise  
25 to appear on May 12th. He failed to appear on May 12th

1 for that arraignment.

2 In the interim, on May 10th, in the early  
3 morning hours of May 10th is when he is alleged to have  
4 committed this most recent crime, Your Honor, raping his  
5 12-year-old stepdaughter. So, immediately upon release  
6 from the Pierce County Jail is when he is alleged to have  
7 committed these most current acts. He failed to appear on  
8 May 12th, and in the interim, Pierce County detectives  
9 were looking for him to try to question him about the most  
10 recent allegation.

11 He had plenty of time to set up a quash  
12 warrant hearing. That wasn't done until July 1st. That's  
13 when the hearing was set. The hearing was set by  
14 Mr. Murphy on June 26th. He was arrested on July 1st by  
15 Pierce County detectives, and during the course of that  
16 booking process, he admitted fully that he had been in  
17 contact with the victim on this case, the 12-year-old  
18 stepdaughter; that he had been allowed into the home. So,  
19 to say that he's not -- and that he had been to New York  
20 in the interim between May and July when he was arrested.

21 So, to say he's not a flight risk is not  
22 accurate, Your Honor. He has ties to Arkansas. He has  
23 significant criminal history in Arkansas. He's got theft,  
24 robbery, and burglary in Arkansas, which is what the  
25 warrants were for, for a parole hold violation. I don't

1 know the full extent of his criminal history in Arkansas,  
2 because we are still looking into that, as I informed  
3 Mr. Murphy.

4 He has ties to Arkansas. He has ties to New  
5 York. He has the means to go to these places. He's  
6 already failed to appear on one prior occasion. He has  
7 multiple cases before this Court, and as Your Honor can  
8 see, I have significant concerns about his mental health  
9 status, so I believe that he is a threat to the community.  
10 I believe that to release him would put the community in  
11 jeopardy. I believe it would put the victim in jeopardy,  
12 as the family doesn't seem to have any qualms about him  
13 having contact with her.

14 So, I think, if anything, the bail should be  
15 raised from \$150,000, Your Honor. I don't think it should  
16 be reduced at all.

17 THE COURT: Thank you. Any reply?

18 MR. MURPHY: Yes, Your Honor. Regarding the  
19 Arkansas matters, Your Honor, those were, from my  
20 understanding, from 15 to 20 years ago when he was a  
21 juvenile, for one.

22 The flight risk issue, he had submitted  
23 himself in here, Your Honor. He came to court and was  
24 arrested that day on those charges that apparently they  
25 were investigating him on. At the time he was here, he

1 didn't know they were trying to arrest him at all. In  
2 fact, they arrested him when he was here in court. So,  
3 Your Honor, essentially, we, at this point, would be  
4 requesting a bail reduction down to, say, something around  
5 the neighborhood of \$50,000 to see if he could post that  
6 to go and actually get some counseling with his counselor.

7 There are some issues, as the madam prosecutor  
8 just brought up, about certain mental health status that,  
9 essentially, Your Honor, we would like to get him to our  
10 folks, and that, right now, I think would be in his best  
11 interest.

12 THE COURT: Okay. There are serious  
13 allegations against him. I am told that he has multiple  
14 criminal matters, counting this one and the other one,  
15 coming in rapid succession. He has a significant criminal  
16 history. He's described as acting crazy in the  
17 Declaration of Probable Cause. There's at least concern  
18 enough that somebody is going to be bringing a motion for  
19 an examination.

20 The warning signs are all over the place. I  
21 think the bail is appropriately set, and I am going to  
22 decline to change it.

23 MR. MURPHY: Thank you, Your Honor.

24 (Proceedings concluded.)  
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