

NO: S20NCR11-0128328-S : SUPERIOR COURT  
STATE OF CONNECTICUT : G.A. # 20  
V. : AT NORWALK, CONNECTICUT  
DUANE DOUTEL : MAY 20, 2011

BEFORE THE HONORABLE BRUCE HUDOCK, JUDGE

A P P E A R A N C E S :

Representing the State of Connecticut:

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Representing the Defendant:

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1           ATTY. LOCKSHIER: The next matter is Duane  
2 Doutel, line 109.

3           ATTY. BAIRD: Good morning, Your Honor. Rachel  
4 Baird on behalf of Mr. Doutel who is to my left.

5           THE COURT: Good morning, counsel.

6           ATTY. BAIRD: We have provided the prosecution  
7 with a number of motions this morning.

8           THE COURT: All right.

9           ATTY. BAIRD: I'll file them with the Court now.

10           I have a motion to dismiss, a motion for return  
11 of seized property. And also my client has asked  
12 that I file a motion -- he's asking for an immediate  
13 trial in this matter, Your Honor. He's asked that I  
14 file a motion to suspend appearances in lieu of that  
15 trial --

16           ATTY. LOCKSHIER: I'd like to be heard to on  
17 those motions.

18           ATTY. BAIRD: -- to preserve his resources.  
19 Excuse me?

20           ATTY. LOCKSHIER: I'd like to be heard on the  
21 motions.

22           ATTY. BAIRD: I also served a request for  
23 disclosure from the prosecution this morning too.

24           THE COURT: Okay, all right.

25           ATTY. LOCKSHIER: I'd like to be heard on these  
26 motions, Your Honor.

27           THE COURT: Yes?

1           ATTY. LOCKSHIER: First and foremost, the brief  
2 history in this matter is that an AR application was  
3 filed in this matter. It was subsequently withdrawn.  
4 Based on this arrest, Your Honor, the pistol permit  
5 for Mr. Dote was revoked.

6           It came to our attention that he subsequently  
7 applied for a temporary pistol permit and that was  
8 not granted to him. In light of that, Your Honor,  
9 the State is asking that the Court enter an order as  
10 a condition of his release that he possess no  
11 weapons.

12           ATTY. BAIRD: Well, number one Your Honor, if  
13 you look at the facts of this case, it merits  
14 dismissal. The only allegation in this case with  
15 regard to threatening is that Mr. Doutel was  
16 irritated that his doctor did not provide his surgeon  
17 with medical tests required for surgery, and that Mr.  
18 Doutel called the doctor's office and indicated that  
19 if he did not send those medical tests, he would come  
20 down there, it would not be pretty.

21           There's absolutely no direct threat implicit in  
22 that. But merely Mr. Doutel exercises his second  
23 amendment right to keep and bear arms, the police  
24 came to his house, arrested him and seized his  
25 firearms with no risk warrant, and seized the  
26 firearms although they did not constitute any  
27 evidence in this case. Mr. Doutel never made a

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threat with regard to firearms.

What this case entails is that his first amendment right to speak freely has been curtailed because he exercises his second amendment right to keep and bear arms.

Now, I practice before the Board of Firearms Permit Examiners substantially. And it is my practice when someone is revoked because there's a 24 -- there's a 10 to 24 month period and delay before their appeal can be heard, they apply for temporary state permit because there have been circumstances, specifically in Wethersfield and Torrington, where temporary state permits have been issued even though a person is in revocation status.

There is absolutely no cause in this case to make such a request that Mr. Doutel not possess firearms. And even if a protective issued, he would have the right to have a hearing within 14 days on that issue.

So in this case, to issue a blanket order that he not possess firearms, would make it more burdensome than if he had been issued a protective order, which he has not. And we request, if the Court is even to consider this request by the State, that Mr. Doutel not possess firearms, that we have an immediate hearing on the matter before the Judge makes a -- before the Court makes a decision.

1           ATTY. LOCKSHIER: I have the police report if  
2 Your Honor would like to look at it.

3           ATTY. BAIRD: And its attached to my motions as  
4 well.

5           ATTY. LOCKSHIER: Well, that's one of the things  
6 I'd like to -- that's -- I'm going there next.

7           THE COURT: Where are you going?

8           ATTY. LOCKSHIER: I would just like to put some  
9 things on the record with regard to the motions that  
10 I was handed this morning, Your Honor.

11           THE COURT: All right. Well, the question is,  
12 why am I hearing these motions today? Normally  
13 they're set down for a short calendar hearing of some  
14 kind. So the question is why am I hearing all of  
15 this today, as --

16           ATTY. BAIRD: All I did was file the motions,  
17 Your Honor. I was responding to the request by the  
18 State for a condition --

19           THE COURT: Well, there's one motion. There's a  
20 motion in there to waive your -- the client's  
21 appearance; is that what I hear?

22           ATTY. BAIRD: Yes, that the matter be put on the  
23 jury trial list and that --

24           THE COURT: Well, that is denied right now. I  
25 don't waive -- just give general waivers of  
26 appearances for any client, specifically specific  
27 dates or specific reasons. I don't have a problem

1 with continuing cases. But these are criminal  
2 matters, not civil matters. And so I'm not -- I'm  
3 not going to go there, so that is denied as of now.

4 ATTY. LOCKSHIER: I wasn't asking that Your  
5 Honor hear the motions. I would just like to comment  
6 with regard to --

7 THE COURT: Well, I've heard -- I've heard that  
8 one and its -- the rest we can put on a -- the rest  
9 we can schedule for a hearing.

10 ATTY. LOCKSHIER: May I just be heard, Your  
11 Honor?

12 THE COURT: Yes.

13 ATTY. LOCKSHIER: There -- there were some other  
14 motions that were filed. I understand what Your  
15 Honor just said.

16 But with regard to two of the motions -- there's  
17 a motion to dismiss and a motion for return of seized  
18 property. All of the motions indicate on the  
19 certification that they were sent to us via first  
20 class mail, however, they were handed to us.

21 In any event --

22 THE COURT: Yes.

23 ATTY. LOCKSHIER: -- the motions, Your Honor,  
24 for some reason, the police report as well as the  
25 complainant's statements are attached to these  
26 motions. There's no reason for that. Its  
27 inappropriate for that to be attached. That will

1 become part of the clerk's file and part of public  
2 record, so I'd ask that they be detached from the  
3 motions.

4 THE COURT: All right. Well counsel, is there  
5 any need to have those attached? They can be  
6 presented to me at some point. Is there any need for  
7 them to be in the clerk's file?

8 ATTY. BAIRD: No.

9 THE COURT: All right. Okay. Well, then we'll  
10 detach the statements and they can be presented to me  
11 in some fashion other than just placing them in the  
12 clerk's file.

13 ATTY. LOCKSHIER: Well, police reports and  
14 statements.

15 So then I guess on the other motions, they will  
16 be time of trial motions, but the --

17 THE COURT: All right. Now, the --

18 ATTY. LOCKSHIER: -- State would like be heard  
19 on the condition.

20 THE COURT: -- State should file a written  
21 motion regarding the condition of no temporary  
22 permits as well, and I'll hear that motion as well as  
23 these motions at the appropriate time.

24 ATTY. LOCKSHIER: That wasn't the State's  
25 request, Your Honor. The State's request was a --  
26 that Your Honor modify the bond to make a condition  
27 of his release that he not possess any weapons. I

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have the police report if Your Honor would like to read it.

ATTY. BAIRD: Your Honor, if that had been a concern of the police, then certainly they would have applied under 29-38c for a risk warrant. They never applied for such a risk warrant indicating that this defendant presented an imminent danger of harm to himself or others.

They're still free to apply for a risk warrant if that's the way they feel. And certainly if the Court is going to consider this motion that Mr. Doutel not possess any firearms, then we deserve written notice and a chance to respond at a hearing. We would get no less if it were a protective order.

THE COURT: All right. What I will do is this. I will issue a temporary order that he not apply for a special permit or temporary permit, and then I'll hear you on a motion for a permanent condition of the bond. So temporarily, I will issue that order.

ATTY. LOCKSHIER: Which attached to that would be no -- possess no weap -- no firearms.

THE COURT: And possess no firearms.

ATTY. LOCKSHIER: Possess no guns.

ATTY. BAIRD: Your Honor, we high -- that violates Mr. Doutel's second amendment right.

If you look at the allegations in this case, which should be something that's looked at before an



1 additional condition of bond is imposed, absolutely  
2 no reason in this case to place such an ord -- to  
3 impose such an order.

4 No conditions have changed. If the police feel  
5 that Mr. Doutel should not have firearms, then we  
6 have statutes in this state for that purpose.

7 THE COURT: It's a temporary order. You may  
8 wish to have a hearing on it. I will hear you on  
9 that motion, but for now its --

10 ATTY. BAIRD: So is it my understanding since  
11 this order has been imposed --

12 THE COURT: Madame Attorney --

13 ATTY. BAIRD: -- that we are to file the motion,  
14 or the State is --

15 THE COURT: Counsel --

16 ATTY. BAIRD: -- to file the motion?

17 THE COURT: -- counsel, if you wish to file a  
18 motion for a hearing, that is your right to do.

19 ATTY. BAIRD: May the Court articulate the  
20 reasons for this additional condition that Mr. Doutel  
21 not possess firearms?

22 THE COURT: Charge of Threatening in the second  
23 degree.

24 ATTY. BAIRD: A charge that had no relationship  
25 to firearms, Your Honor.

26 We request that the Court --

27 THE COURT: I'm allowing you the opportunity to

1 have a full hearing. I have indicated to you this is  
2 a temporary condition.

3 ATTY. BAIRD: This is a fundamental  
4 constitutional right, Your Honor.

5 THE COURT: It is not an unfettered right and  
6 you know that.

7 ATTY. BAIRD: Being charged with 53-62 is not a  
8 disqualifier.

9 THE COURT: Madame, I'm not going to engage in  
10 further discussion. I've indicated to you that I  
11 will entertain a motion to revise the condition. It  
12 is a temporary order.

13 ATTY. BAIRD: If we were to file a motion today,  
14 Your Honor, how soon would it be heard? Could we get  
15 a date for that today?

16 THE COURT: File your motion. I'm not going to  
17 give it a date today. File your motion.

18 All right. Conditions need to be -- Mr. Kim?

19 CLERK KIM: Yes.

20 ATTY. LOCKSHIER: So we just need another date,  
21 Your Honor. This should either go to the supervised  
22 pre-trial docket, or straight to the firm jury docket  
23 if that's -- counsel has requested --

24 THE COURT: All right. We can put this on the  
25 firm jury list. Status date will be a month from  
26 now. That will be a date at your convenience counsel  
27 for that. And I'll indicate to the Clerk's office

1 about the scheduling of the motions.

2 But in terms of a status date, counsel, a date  
3 at your convenience?

4 ATTY. BAIRD: June 24<sup>th</sup>.

5 THE COURT: June 24 it is.

6 ATTY. BAIRD: And my understanding that the  
7 reason for the additional condition is that Mr.  
8 Doutel is charged with Threatening in the Second  
9 Degree?

10 THE COURT: That is correct.

11 ATTY. BAIRD: Transcript.

12 CLERK KIM: Sign there.

13 ATTY. LOCKSHIER: So the case is on the jury  
14 docket. Your Honor, for the record, the State will  
15 be objecting to any pre-trial diversionary programs  
16 at this time.

17 THE COURT: All right.

18 ATTY. BAIRD: I'm trying to read this. Could  
19 you help me read this?

20 CLERK KIM: Temporary order that defendant not  
21 possess any weapons or apply for a pistol --

22 ATTY. BAIRD: Temporary order that defendant not  
23 possess any weapons or apply for pistol permit.  
24 Okay.

25 CLERK KIM: I just need you to sign it.

26 ATTY. BAIRD: Do you have a pen? Thanks. Do we  
27 get a copy of this?

1           CLERK KIM: Yes. You can go to the Clerk's  
2 office and they can make a copy.

3           ATTY. BAIRD: Okay. Thank you.

4           THE COURT: All right. Thank you, counsel.  
5 What I will do --

6           ATTY. LOCKSHIER: Have a great weekend.

7           THE COURT: -- is I will encourage the Clerk's  
8 office to place this on a -- of course, and you need  
9 to file additional motions I presume as soon as  
10 possible. All right?

11          ATTY. BAIRD: Thank you.

12          THE COURT: Thank you, counsel.

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C E R T I F I C A T I O N

I hereby certify the foregoing pages are a true and correct transcription of the audio recording of the above-referenced case, heard in Superior Court, G.A. #20, Norwalk, Connecticut, before the Honorable Bruce Hudock, Judge, on the 20th day of May 2011.

Dated this 23rd day of May 2011 in Norwalk, Connecticut.

  
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Donna Bonenfant  
Court Recording Monitor