

Jul 10 2024**SC Court of Appeals****PETTUS****FARNSWORTH**

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July 10, 2024

Via Electronic Mail
The South Carolina Court of Appeals
ctappfilings@sccourts.org

RE: *The State of South Carolina v. David Mitchell Padgett*
Appellate Case No.: 2024-000359

Dear Sir or Madam,

I hope this finds you well. Please find the enclosed final Transcript for a hearing held on for the above-referenced case. This transcript is for a hearing held on September 29, 2023, was sent by the Court Reporter assigned, and was received by counsel on June 20, 2024.

This letter is to notify this Honorable Court that Counsel for the Appellant has received all requested transcripts and it is our understanding that the Appellant's Initial Brief is now due on July 20, 2024.

Should you have any questions or concerns, please contact our main office at (864) 250-9119 or email me at Dan@FarnsworthLawOffices.com.

Yours very truly,
PETTUS | FARNSWORTH, LLC

Rhapsody Cook

Rhapsody Cook
Legal Assistant to
Daniel J. Farnsworth Jr., Esq.

DF//rc
Cc: Grace Moroney

STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSIONS
COUNTY OF GREENVILLE) 2022A2330210176
)
)
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STATE OF SOUTH CAROLINA,)
)
)
vs.) TRANSCRIPT OF RECORD
)
DAVID MITCHELL PADGETT,)
) DEFENDANT.
)
_____)

September 29, 2023
Greenville, South Carolina

B E F O R E:

THE HONORABLE R. LAWTON MCINTOSH, JUDGE.

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

BRIAN J. MORONEY, JR., ESQ.
Assistant Solicitor

DANIEL J. FARNSWORTH, JR., ESQ.
Attorney for the Defendant

HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(There were no witnesses called.)

E X H I B I T S

(There were no exhibits introduced.)

P R O C E E D I N G S

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THE COURT: This is your bond.

MR. FARNSWORTH: Yes, Your Honor. This is my bond motion, Judge.

This is David Padgett, Your Honor. His -- he's 57 years old. He's been in on these trafficking meth charges since December. He's yet to be granted a bond.

His family's here. His father, mother, and girlfriend are here, Judge. He'd be living with them in Fountain Inn if he was able to make bond -- have a bond set.

Here's what's confusing, Judge, and disappointing to me -- and I know the Solicitor's -- I've talked with -- with Brian several times and met with him recently to review some discovery, some videos. I'm the third lawyer on this case.

The first two lawyers back in -- I think January was his first bond hearing. Judge Kinlaw heard that bond hearing and -- and as he a lot of times does said, Well, let's just wait 90 days and you can come back. No requirement for, you know, a change of circumstance. He just does that a lot. And then he will reconsider a bond.

Well, 90 days, the second lawyer requested it and ended up getting in front of another judge from our circuit. And from my view, information was given to both

1 judges. The second judge denied bond, also. The main
2 reason to deny bond is because an hour before, they filed
3 and served an LWOP notice on him saying, you're looking at
4 life without parole if convicted. Well, of course, that
5 weighs heavily into a judge's decision.

6 Well, it turns out, that was wrong. That was done
7 wrong, incorrectly. I think I had an explanation from
8 Brian recently that a previous solicitor -- I think
9 there's been two. Brian's sort of stepping in now for the
10 current solicitor handling this case who's out on
11 maternity leave, but.

12 So that bond was denied mostly in part of the LWOP
13 notice, which I looked at and -- and pointed out was wrong
14 and there weren't enough -- his prior -- his prior record
15 didn't support it.

16 The first bond hearing, from what I understand
17 because I wasn't there, was -- was the -- the State
18 hammered on the fact that he doesn't work, he's a career
19 drug dealer, all of this stuff. This is meth -- meth
20 stuff here. Well, it turns out, he does work, Judge.

21 And, in fact, the videos that I watched recently with
22 Brian show him at his house, this -- this -- this rental
23 house he's remodeling. It's really nice looking inside.
24 Every day, he's in there. And he has people coming -- a
25 couple people coming to -- to buy meth from him,

1 apparently. Well, so -- so his first two bonds were
2 denied on the false information or, at least, inaccurate
3 information, which mattered.

4 Now, we're here with our bond motion, Judge. It
5 turns out -- I think some of these charges are trafficking
6 based on weight and some are trafficking based on third
7 offense distribution or -- or drug offense. I think
8 that's correct.

9 The two prior drug offenses that he has were all pled
10 on the same day out of the same -- arguably the same, you
11 know, series of events. So I'm not even sure if they
12 would count -- this would count as a third. I do
13 understand there's -- there's weight that the -- that the
14 law enforcement got on my -- my client, which is not,
15 typically, personal use or a little bit here and there,
16 Judge.

17 But what I will tell you is that he's been in for 10
18 months now with no bond. He's not a flight risk, Judge.
19 He's -- he's been here for -- I think he's lived here for
20 13 years. His parents are here and his -- and his
21 girlfriend.

22 He is not a danger to the community, unless every
23 person that sells drugs is a danger to the community. I
24 guess arguably they are. But in this case, for instance,
25 one of the things that Brian and I talked about when

1 reviewing discovery recently is they got, like, six buys
2 on him. Why wouldn't they just get one or two buys and
3 then arrest him? Obviously, they didn't consider him a
4 danger to the community if they left someone who's selling
5 drugs out to -- to have -- repeat, repeat over the course
6 from September all the way through December. So that's
7 our basis as far as not being a specific danger to the
8 community like many which you've seen this morning, Judge.
9 He's not a flight risk.

10 In fact, he does work. He does mill work for -- for
11 a company. They, actually, I think, put in the -- the
12 cabinets for the hospital here in town, also, throughout
13 North Carolina and South Carolina in the past several
14 years, industrial plumbing, Judge.

15 And, again, at the time this -- these buys were being
16 made, they -- this -- apparently, an undercover officer,
17 or undercover informant, or something came to him each
18 time asking for more, asking for more.

19 Apparently, Judge, his best friend -- or former best
20 friend who he had gotten out of trouble before the --
21 before they started coming after him is who brought this
22 informant in to buy from his good friend. I looked up and
23 he has -- just so happens three months or so before these
24 buys started happening from my client -- which, again,
25 this individual named Pittman brings -- brings this

1 undercover person to David. David doesn't go out looking
2 for him. David's not out at schools pushing this stuff.
3 David's working on his house and remodeling, and doing
4 plumbing work, and doing mill work. And people are coming
5 to him for what they shouldn't be coming for.

6 And this fellow had trafficking charges, and
7 possession of stolen vehicles, and all and ended up
8 walking out with a \$15,000 bond. The charges are now
9 dismissed, all of them. He got rearrested again a couple
10 months ago -- maybe a month ago, went into Greenville
11 County jail, and walked out on a \$10,000 bond.

12 What bothers me, also -- and I think would bother
13 anybody -- is in watching briefly just these videos with
14 Brian, who sat down and -- and he's volunteering his time.
15 It's not his case. It's -- it's something he's kind of
16 standing in for right now.

17 And as we were watching these videos, this undercover
18 police officer who they are trying so hard to -- I'll show
19 you the next step in discovery -- which they are trying so
20 hard to hide -- well, he knows who he is.

21 He told on the video -- he says, I'm not really
22 dealing with but a couple people now. I'm trying to get
23 out of this. And this undercover officer begs him to keep
24 selling, keep -- don't -- don't let me down. I know you
25 need the money for child support. Come in here -- can you

1 bring double next time? Eight ounces, instead of four, or
2 two, or whatever it was. And he says, Okay. He said, I
3 need you to help my friend out. He needs -- you know.

4 So this law enforcement officer is talking him into
5 continuing to sell when my guy suggests, hey, I'm getting
6 out of this. I don't need to be in this anymore. I only
7 deal with a couple people.

8 And for some reason -- Brian hasn't done this with
9 me. But for some reason, this thing has been -- this guy
10 has been treated like he's a -- a rapist and a murderer.
11 I know drugs aren't good. I know they're terrible for
12 society, so is alcohol, frankly.

13 But, Judge, the -- the -- the discovery I've got is
14 blacked out almost every page. It's 30 pages of blacked
15 out discovery here, dates on lab analysis requests, dates
16 on property and evidence reports. Again, this isn't
17 Brian. This -- I don't even think it's the current
18 solicitor that has this. There was a retired solicitor
19 that had it before who was -- who was pretty -- pretty
20 challenging and difficult, you know, as far as revealing.
21 But she was a good person.

22 I don't know where this is coming from, Judge. But I
23 do know -- I believe my client is entitled to a bond. He
24 is facing a lot of time under these drug charges. But I'm
25 not sure they're even third offenses, frankly. But he --

1 he has had the book thrown at him for some reason.

2 They've, also, seized two homes, a motorcycle, truck,
3 300,000 worth of things -- of assets they've seized. And
4 I'm not sure that -- from my review, they can't really tie
5 that to a drug transaction scheme, or something, Judge. I
6 mean, this is a guy who's a plumber, a mill worker, and --
7 and a carpenter.

8 And -- and if he's -- if he's -- if they're right and
9 he alleged -- and he sold drugs on the side, some here and
10 there for consenting adults who wanted to come in there
11 and get it, I mean, that's wrong. But I don't think he
12 should be held without bond, Judge. And this is the third
13 chance to try to get him a bond.

14 They have given me a deadline for a plea of 18 years
15 for November. I'd been asking for discovery since -- I
16 guess it was April or May. I got it, finally, in June.
17 And it's all blacked out -- now, not all of it.

18 This is 30 pages of blacked out things. And
19 there's -- there's about 25, 30 pages that's not blacked
20 out. And I -- and I need to address that with -- I guess
21 separately with our Chief Justice of criminal for an
22 in-camera hearing, Judge.

23 But another thing I noticed, I don't have -- and
24 maybe Brian has it and can share with me. I don't have a
25 search warrant from the -- after the six buys, or whatever

1 they did. They went in and broke in with a search
2 warrant, I think. I don't even have a copy of that. I
3 checked with my staff again this morning on what they
4 provided.

5 It's frustrating, Judge. And, you know, law
6 enforcement is supposed to be -- justice is supposed to be
7 equal. And I just don't think it is in this case,
8 regardless.

9 And, again, I may find some things that -- that --
10 that point to my client being not guilty. I know that
11 when they're in there several times in those videos I
12 watched briefly with Brian, there's several other people
13 there each time.

14 The bulk of what the charge -- the heaviest of the
15 charges, Judge, is they went in with a search warrant, got
16 my guy and some other people. I think they arrested
17 several other people. They -- they got some funds from
18 his girlfriend, I think, in the amount of 30-something
19 thousand dollars.

20 They -- they found what -- what they claim weighed
21 three pounds of meth in the -- the home that he was
22 redoing. I think they found it behind some drywall. But
23 he had three or four other people working with him there,
24 Judge, that were constantly there for months that -- they
25 can't show it's his necessarily. What they may be able to

1 show with the video is some transactions of -- of smaller
2 amounts leading up to larger amounts with this -- this --
3 this informant begging him to keep going.

4 So, Judge, I think when you consider all this,
5 it's -- I've never seen anything like this as a
6 prosecutor -- a former drug prosecutor and a defense
7 attorney. Hiding the ball. Sort of going -- going at
8 this fellow who has, again, two previous drug charges that
9 he pled to the same day here, which, I think, usually
10 counts as one -- arguably one -- one offense and wouldn't
11 even make this a third.

12 Judge, but I just would ask you to consider setting a
13 bond. If you need it to be high, Judge, that's fine, you
14 know, house arrest or -- or electronic monitoring, fine.

15 His parents are here, Judge. They -- his father is
16 here who has, actually, retained me to represent him, and
17 his wife, and girlfriend are here, too.

18 Clearly, he may have made a mistake, Judge, in -- in
19 doing what he shouldn't have done with -- with selling
20 some meth to people who come ask for it. But there's a
21 whole lot of things about this case, Judge, that -- that
22 doesn't sit right with me. And I don't think it sits
23 right with -- with the Court.

24 But I would ask that you, please, set a bond. If you
25 want to set something -- a hundred thousand dollars. We

1 asked for 50,000 surety. If you'd like to double that or
2 even more, Judge, that's fine with us. He just needs an
3 opportunity to get out.

4 And -- and he would live with his family in Fountain
5 Inn. They live on Main Street in Fountain Inn. And
6 any -- any curfews or anything, Your Honor, would set, or
7 other conditions, we'd be happy to oblige.

8 Thank you.

9 MR. MORONEY: May it please the Court, Your Honor.

10 THE COURT: Yes, sir.

11 MR. MORONEY: That's correct. I am just filling in
12 on this case. But I'll briefly address just a few of
13 these --

14 THE COURT: Tell me what the -- what the exact
15 charges are, if you would.

16 MR. MORONEY: The exact charges would be trafficking
17 in methamphetamine 100 grams or more, but less than
18 200 grams; trafficking in methamphetamine 400 grams or
19 more third offense; trafficking in methamphetamine
20 28 grams or more, but less than 100 grams third offense.
21 And that -- that's going to be an additional charge, third
22 offense, 28 grams to a hundred grams; an additional 100 to
23 200 grams third offense; a hundred grams to 200 grams
24 third offense; 200 grams to 400 grams third offense. And
25 there's some other lesser charges. But that's the crux of

1 it.

2 THE COURT: Okay.

3 MR. MORONEY: Just to clarify some of the history of
4 this. This is the third motion in General Sessions here
5 to reconsider bond that's already been denied by Judge
6 Kinlaw and Judge Morgan here in our circuit.

7 And to clarify, Mr. Farnsworth previously stated
8 there was no provision for a change in circumstance to be
9 necessary in Judge Kinlaw's order. There was, in fact, a
10 change in circumstance provision there, 90 days with a
11 change in circumstance.

12 This all stems from, as Mr. Farnsworth stated,
13 undercover buys. And this is not involving with -- a
14 confidential informant, but, rather, a sworn law
15 enforcement officer who's acting in an undercover
16 capacity. And these five separate buys were approximately
17 57 in -- 57 grams, 114 grams, 57 grams, 114 grams, 118
18 grams.

19 And after that final sale, a search warrant was
20 executed where over three pounds of methamphetamine was
21 seized between the Defendant's two residences.

22 In the previous two bond hearings here in General
23 Sessions, we brought a law enforcement officer who worked
24 on the case. I did not feel it necessary since this is,
25 quite frankly, cumulative at this point.

1 But to be clear, this is not our run of the mill
2 trafficking case. This is very much a drug dealer who's
3 exclusively a drug dealer. The law enforcement
4 investigation revealed -- they went to the Department of
5 Revenue. And they could not -- they -- within a five-year
6 period prior to this, there are no tax records filed by
7 this Defendant. And this is what he does. He's a drug
8 dealer.

9 So it's our position, of course, that he's very much
10 a danger to the community. With the associated penalties,
11 as Your Honor's well aware, third offenses are mandatory
12 minimums of 25 years. We feel he's a flight risk as well.
13 And, again, Judge Kinlaw and Judge Morgan have ruled on
14 this. And we believe that no bond is appropriate in this
15 matter.

16 With respect to discovery, I met with Mr. Farnsworth
17 last week. We discussed these blacked out portions which
18 comport with the administrative order that's for the
19 preservation of the identity of the undercover officer.
20 And, of course, as we get closer to trial, that will all
21 be unredacted and made available. But he is correct.

22 I just want to put on the record --

23 THE COURT: So you're telling me, on the record, the
24 other -- other areas that seem to be fairly significant
25 only is about the identity of this officer and not

1 anything else that you're redacting out of it?

2 MR. MORONEY: That would be with the redactions that
3 are related to --

4 THE COURT: It seems to me that a lot of information
5 is being redacted just to cover-up the name of somebody.
6 But that's me sitting here and not having a copy.

7 MR. MORONEY: I understand. And I will follow-up
8 with the Prosecutor, specifically, on that matter after
9 this just to --

10 THE COURT: Okay.

11 MR. MORONEY: -- double -- double-check.

12 And just to be clear, for the record, the Defendant's
13 current offer is --

14 THE COURT: I don't care what it is.

15 MR. MORONEY: Okay.

16 THE COURT: What is his prior record?

17 MR. MORONEY: His prior record includes prior
18 convictions -- I want to make sure I have it right. 2014,
19 possession of meth; 2016, this is where he has the two
20 convictions for manufacture of meth, pled on the same
21 date, but from two separate incidents; a DV third
22 degree -- in 2019, DV third degree.

23 MR. FARNSWORTH: Could we double check? Because I
24 think that 2014 possession charge was pled, along with the
25 '16. The two convictions were in 2016, I'm pretty sure.

1 So I believe there's two prior -- two meth charges,
2 Your Honor, that he pled to together on the same day in
3 2016. And then there was a CDV issue.

4 MR. MORONEY: So we got -- so what I have is that
5 there's a 2014 drug conviction and then the two
6 convictions in 2016 as well.

7 MR. FARNSWORTH: I think the way I saw it, there was
8 just two, Judge.

9 THE COURT: Anything --

10 MR. FARNSWORTH: If I could --

11 THE COURT: Hang on.

12 Anything else on the record, counsel? Anything else
13 on his record?

14 MR. MORONEY: I think we've --

15 THE COURT: Anything -- after the DV third, anything
16 else on his record?

17 MR. MORONEY: No, nothing on his record.

18 THE COURT: Okay.

19 MR. FARNSWORTH: Judge, the only thing I'd say is --
20 is, you know, I -- I remember Judge Toal's order coming
21 out saying it was unethical for the solicitor's office to
22 begin negotiations in the case without providing
23 discovery. I understand -- and, like I said, I was a
24 former drug prosecutor 25 years ago in the same
25 courtroom -- well, we had the old courtroom then. But

1 we'd always take out the victims names and phone numbers,
2 all that identifying stuff. But you still put what that
3 person did. Judge, this whole thing's blacked out.

4 And -- and --

5 THE COURT: And you said you need to take that up
6 with Judge Morgan.

7 MR. FARNSWORTH: Well, and I'm going to do that,
8 Judge.

9 But far as tax filings -- and my understanding is
10 that was what the argument was. My point -- again, I
11 tried to make it earlier and I may not have been clear.
12 But they're saying this is cumulative, the judge has
13 already ruled on this. They've ruled on this based on
14 inaccurate information, whether it was intentionally done
15 or incorrectly done, Judge.

16 The -- whether someone files taxes or not -- there's
17 a lot of people that aren't filing taxes out there that
18 work all the time that get cash money. You know, they
19 have 1099s on -- from -- from -- they run a risk by not
20 filing. It doesn't mean he's a -- he's a career drug
21 dealer that's -- that's fuelling his whole families and
22 his wife's and his -- or his girlfriend and his own
23 expenses by that, Judge.

24 We've got documentation. I've got a W-2 I can give
25 you from 2019 from -- from -- his employer contacted me,

1 the plumbing and the mill worker employer, says he has a
2 job waiting on him. They got a job waiting on him.

3 The house that he was remodeling -- he spent months
4 remodeling it. You can tell from the videos -- you'd have
5 to see them, Judge, but nice -- nice job -- has been
6 seized. So he won't be working on that any more. But
7 he's got -- he's got employment waiting on him, Judge.
8 He's got his family to live with who's been supporting
9 him. They've retained me.

10 And -- and, Judge, these third offenses that have all
11 been listed, I really don't think they're but second
12 offenses. Regardless, he's entitled to a bond while we go
13 through this and -- go through it and hash out this very
14 disturbing redaction of -- of entire pages of discovery,
15 30 out of -- out of a 50-page discovery packet.

16 So, Judge, I have a lot I'm complaining about and --
17 and venting about, Judge. And I -- I appreciate -- Brian
18 has -- has met with me and really helped me [inaudible].

19 But I think he's entitled to a bond. I don't think
20 he's a flight risk or a danger to the community, specifically.

21 And if we could -- this is going to be a trial.
22 And -- and I may find some other things. I think I'm --
23 I'm, frankly, shocked that the officer was begging him to
24 keep selling drugs and bringing double the amount next
25 time, which happens to be when they arrested him and found

1 this weight. The officer encouraged him to bring it,
2 which I know that law enforcement is a dirty business
3 sometimes.

4 But, Judge, I would ask you to, please, consider
5 setting him a bond, a reasonable bond. And -- and we're
6 going to work on getting this case resolved or tried,
7 which will probably be -- you've already heard trials
8 are -- are set through May now just about. So it may be
9 summertime before we're able to get to it or -- I wish it
10 would be quicker. But that's all I have, Judge.

11 Thank you.

12 THE COURT: Mr. Farnsworth, I -- I've been knowing
13 you for a long time. And I know you're a fine lawyer.

14 I am not going to give this gentleman a bond. It's
15 clear to me what he's doing. And it seems to be clear to
16 the State. I think that -- that most of those charges are
17 classified as violent, if I'm not mistaken.

18 MR. MORONEY: That's correct.

19 THE COURT: In Article 1, Section 15, I can deny him
20 a bond. But I do think that based on his record and from
21 what I saw here, he is a danger to the community, a drug
22 dealer.

23 So with all due respect to you, I am going to deny
24 bond.

25 *****END OF TRANSCRIPT OF RECORD*****

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 29th day of September, 2023.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

June 20, 2024

Hollie M. Jenkins, Court Reporter

Transcript-State vs. David Padgett

1 message

Jenkins, Hollie M. <HJenkins@sccourts.org>
To: Dan Farnsworth <Dan@farnsworthlawoffices.com>

Thu, Jun 20, 2024 at 7:10 PM

Mr. Farnsworth,


Please find attached the transcript you have requested in the case of State of South Carolina vs. David Mitchell Padgett, and the invoice.

Thank you.

Hollie Jenkins
Circuit Court Reporter
P.O. Box 16506
Greenville, SC 29606

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**2 attachments** **bondhearing-padgett.pdf**  
194K **invoice-1328.docx**  
28K