

1 STATE OF SOUTH CAROLINA) IN THE SOUTH CAROLINA CIRCUIT COURT 9
2 COUNTY OF CHARLESTON) COURT C.A NO.. 2022-A1-010-202600

3
4 State of South Carolina,)
5 Plaintiff,)
6 Versus)
7 Margie Brown)
8 Defendant.)

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SC Court of Appeals

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10 H E A R I N G

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12 DATE: July 22, 2024

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14 LOCATION: South Carolina Circuit 9

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16 JUDGE: Deadra L Jefferson

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18 TRANSCRIBED BY: ERIN REILLY

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EXHIBITS

(None marked)

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1 PROCEEDINGS

2 THE COURT: The State of South Carolina versus Margie
3 Brown, 2023GS103740, assault and battery, second degree. Ms.
4 Kozik, and if I mispronounce your name ever, please correct me
5 I'm just getting used to it. For some reason I always want to
6 say Kozak instead of Kozik.

7 MS. KOZIK: You're correct.

8 THE COURT: If I ever make the mistake, again,
9 correct me. Mr. Hales represents Ms. Brown and she filed
10 several motions. One was a pro se motion to be relieved on 9-
11 12-2023. Then she had an amended motion to relieve, which I
12 think makes the first motion moot and I'm going to mark that
13 withdrawn. She had a second motion -- an amended motion that
14 was filed 9-29 of 2023. And then she had a -- then Mr. Hales,
15 you filed a motion for speedy trial but your client is not in
16 custody. So, I don't know that that is from a procedural
17 standpoint something the Court could act on, especially in
18 light of how new this case is in the case management order.

19 MR. HALES: Sure, Your Honor.

20 THE COURT: Now, my first question becomes, have any
21 offers been extended Ms. Kozik?

22 MS. KOZIK: No, I don't believe so.

23 THE COURT: And if not, when will -- when is one
24 going to be offered?

25 MS. KOZIK: Again, I'm fairly new to the office.

1 THE COURT: You just got assigned to it?

2 MS. KOZIK: Yes.

3 THE COURT: Thank you.

4 MS. KOZIK: But based on the notes, I don't believe
5 there was going to be one offered.

6 THE COURT: And when do you-all contemplate putting
7 it on a trial docket?

8 MS. KOZIK: Soon

9 MR. HALES: Your Honor, Ms. Cannon had this case
10 prior to this. She did reach out with a non-offer stating no
11 offerable [indiscernible].

12 THE COURT: Okay. Is your client interested in an
13 offer, does she want a trial?

14 MS. BROWN: No, ma'am. I do not want an offer. I'm
15 no longer interested in an offer.

16 THE COURT: Ma'am, I need Mr. Hales to speak.

17 MS. BROWN: Yes, ma'am.

18 THE COURT: You don't have representation, so he has
19 to speak on your behalf. If I have a question, I'll direct it
20 to you. The question is directed to you, Mr. Hales?

21 MR. HALES: Yes, Your Honor.

22 THE COURT: Are you ready for trial? And has -- does
23 your client want a trial?

24 MR. HALES: My client would like a trial, Your Honor.

25 THE COURT: So, then y'all need to go ahead and put

1 | it on a trial docket?

2 | MS. KOZIK: Yes, Your Honor.

3 | THE COURT: Okay. Now -- and you've explained to
4 | your client pursuant to the case management order, that her
5 | case really is not even at the top of priority list.

6 | MR. HALES: We've had some discussions about the
7 | urgency of cases, Your Honor, because there was no movement on
8 | it. And Ms. Cannon is no longer there. Sort of waiting on a
9 | new solicitor to be assigned to this case, so I can have
10 | dialogue.

11 | THE COURT: And Ms. -- have you gotten all the
12 | discovery?

13 | MR. HALES: Yes, Your Honor. As far as --

14 | THE COURT: Have you gone over the discovery with
15 | your client?

16 | MR. HALES: I provided copies to my client, Your
17 | Honor.

18 | THE COURT: Have you gone over it with her?

19 | MR. HALES: Yes, Your Honor.

20 | THE COURT: When was that?

21 | MR. HALES: Yeah, we have had at least two meetings
22 | in my office, I also met with her at the jail. We discussed
23 | the reasoning or the solicitor's reasoning for not making an
24 | offer of possible felonies. We also did discuss if I was able
25 | to get the solicitor to offer something lower, the

1 possibilities to that and possible interest and try to
2 negotiate something lower. At one point in time, it did seem
3 like that was going to be a possibility, but then Ms. Brown
4 reached back out to me and told me that was no longer a
5 possibility.

6 THE COURT: But you'll be ready for trial, I would
7 assume?

8 MR. HALES: Absolutely.

9 MS. BROWN: Okay. Now, ma'am, you have filed a
10 motion to relieve Mr. Hales. He has been appointed -- were you
11 appointed or retained?

12 MR. HALES: I was appointed.

13 THE COURT: Now, if I -- you get competent counsel
14 but not counsel of your choosing. So, if you fire him, you're
15 going to have to hire somebody to represent you.

16 MS. BROWN: I completely understand that, Your Honor.
17 I no longer want Mr. Hales to represent me. I've been asking
18 for a trial for almost two years. I was --

19 THE COURT: You understand he has no control over
20 that, that we just restarted trials?

21 MS. BROWN: I do.

22 THE COURT: During Covid, the courts were shut down,
23 there were no jury trials.

24 MS. BROWN: I do understand some things, however,
25 I've been asking for a speedy trial. And according to the

1 Sixth Amendment, even though I was out on bond, I still had
2 rights to the speedy trial.

3 THE COURT: Not under the Supreme Court precedent.
4 It appeals -- it applies to people who are in detention they
5 take priority. And with the -- I can tell you that even if it
6 were applicable, you don't meet the criteria. We were shut
7 down for two years during Covid, we have an administrative
8 order that dictates how cases are set for trial and yours does
9 not fall into that criteria yet. It's a 2023 case and we are
10 still dealing with '19s and '18s.

11 MS. BROWN: I was arrested in 2022.

12 THE COURT: We're dealing with '18s, '19, '17, '16,
13 some '13s. They take priority over your case. But I've
14 directed them to set it for trial. How many witnesses do you
15 have, maybe? Give me a ballpark of how long you think it'll
16 take to try it.

17 MS. KOZIK: I know there are at least two to three
18 witnesses.

19 THE COURT: You're muted. So, how many?

20 MS. KOZIK: At least 2 or 3.

21 MS. BROWN: I'm not aware of any of these witnesses,
22 ma'am?

23 THE COURT: Pardon me, ma'am?

24 MS. BROWN: My attorney has not made me aware of any
25 of these alleged witnesses that --

1 THE COURT: Did he give you copies of the discovery?

2 MS. BROWN: He did give me copies of the discovery.

3 THE COURT: So, that has the witnesses in it?

4 MS. BROWN: There was one witness, the African
5 gentleman is no longer at that hotel. So, she's saying two or
6 three. Who are the other two or three? Because Mr. Hales has
7 never made me aware of who these people are, where they're
8 located, phone numbers, address. I no longer want this man to
9 represent me.

10 THE COURT: I want to be muted. Yeah. Thank you.
11 All right, Mr. Hales?

12 MR. HALES: I'd ask you grant her a relief.

13 THE COURT: Do you plan to represent yourself or hire
14 somebody?

15 MS. BROWN: I will figure that out after this
16 situation is over.

17 THE COURT: Okay. You're going to have 30 days to
18 get a lawyer. Are you going to be able to do that?

19 MS. BROWN: I will do my best to try.

20 THE COURT: What I would suggest -- well, you're
21 asking to be put on a trial docket, so you going to have to do
22 better.

23 MS. BROWN: Well, I'll represent myself.

24 THE COURT: We'll have to have Faretta hearing if you
25 want to do that. I'll have to determine if you're qualified to

1 represent yourself.

2 MS. BROWN: I'll try to get an attorney.

3 THE COURT: Okay. You don't -- you think this is
4 irreconcilable? You can't sit down with Mr. Hales and settle
5 this down?

6 MS. BROWN: I have no interest in Mr. Hales
7 representing me, ma'am. That's why I'm here, that's why I
8 filed the motion.

9 THE COURT: Okay. I'm going to relieve Mr. Hales.
10 You have to have an attorney within 30 days of today, because
11 if you don't have an attorney, there's no way for us to put it
12 on a trial docket for trial. And Mr. Hales, before you
13 relieve, do you feel there's any good faith basis under Rule 11
14 to argue a speedy trial motion or did you file this to --

15 MR. HALES: No, Your Honor.

16 THE COURT: You don't think there's good faith or you
17 -- are you telling me you do or you don't?

18 MR. HALES: I don't, Your Honor.

19 MS. BROWN: I do. The solicitor misled the grand
20 jury.

21 THE COURT: Ma'am, that doesn't have anything to do
22 with the speedy trial. That's why you really need a
23 lawyer, so that the circumstances of the system can be
24 explained to you. A speedy trial says that there's undue
25 delay in the trial of the case, which has to be -- it just

1 can't be passage of time, it has to be something on the
2 part of the solicitors. In other words, they have
3 deliberately just not called your case for trial and that
4 is not the case. I can assure you; I've been in court
5 every week trying cases. We have a significant backlog
6 that predated COVID. The Supreme Court has determined how
7 cases are to be tried. Your case is not even at the top
8 of the --

9 MS. BROWN: Ma'am, I have documentation of a man who
10 was arrested for murder and whose case went to court during
11 Covid. So, I'm extremely confused.

12 THE COURT: No, ma'am. You -- it wasn't here.

13 MS. BROWN: Okay. It was in Charleston County in
14 this court.

15 THE COURT: Well, it must have been before the Chief
16 Justice shut the courts down. I can assure you; we have not
17 had court we just restart. When did we restart jury trials?
18 Look at one of the speedy trial orders, it'll be in a footnote,
19 it'll tell you when we restarted trials. Bear with me, I'll
20 tell you when the court shut down and when we started back.
21 But either way, your case is not at the top of the pecking
22 order of setting it.

23 We have -- believe me, I've looked at the dockets, we got
24 some cases much older than yours. People have been sitting in
25 jail for a long time waiting for their cases to be tried. And

1 | it's no fault of -- you know, a nationwide pandemic wasn't
2 | anybody's fault. It is what it is, we just got to deal with it
3 | as it comes.

4 | MS. BROWN: Was I allowed to have a second
5 | appearance?

6 | THE COURT: I'm sure you were not during Covid, they
7 | were done --

8 | MS. BROWN: My case wasn't during Covid, I never
9 | received a second appearance, I never received anything from
10 | solicitors, I never received anything from Mr. Hales.

11 | THE COURT: You would've gotten your second
12 | appearance at the same time you got notice of your first
13 | appearance.

14 | MS. BROWN: Ma'am, I never received it.

15 | THE COURT: Did you come to your first appearance?

16 | MS. BROWN: Mr. Hales says that I --

17 | THE COURT: Did you come to your first appearance?

18 | MS. BROWN: He attended the first appearance.

19 | THE COURT: Answer my -- did you get notification of
20 | her second date with her first appearance?

21 | MR. HALES: I did, Your Honor.

22 | THE COURT: Don't they give that to you at the time
23 | of your bond hearing?

24 | MR. HALES: At that time, Your Honor, that's where
25 | they weren't actually holding second appearances.

1 THE COURT: That's what I thought.

2 MR. HALES: I filed a notice of appearance and there
3 was no --

4 THE COURT: You didn't have to show up, that's what I
5 thought. The administrative order began on March 18th, 2020.
6 We did not resume jury trials until April 5th of 2021 and that
7 depended on whether the county had an approved safety plan.
8 So, not everybody resumed court in 2021. They had to have a
9 safety plan that was approved by the South Carolina Supreme
10 Court. And so, every county resumed jury trials at different
11 dates and even then, we still weren't able to successfully hold
12 jury trials because jurors kept showing up with Covid. So, it
13 was --

14 MS. BROWN: I wasn't aware that I requested a jury
15 trial.

16 THE COURT: It was sketchy at best because every time
17 we had juries come in, we'd end up with 5, 6, 10 people with
18 Covid and we'd end up not being able to have a terminal court.

19 MS. BROWN: Is it mandatory to have a jury trial?

20 THE COURT: If you want one, yes. We'll give you
21 one, but you don't get to dictate when we schedule it. There's
22 a Supreme court order that says how cases are to be scheduled
23 based on their age.

24 MS. BROWN: I understand that but my question was is
25 it mandatory for me to have a jury trial?

1 THE COURT: No. If you request one, you get one.

2 MS. BROWN: I never requested one.

3 THE COURT: So -- but if they're not going to offer
4 you something unless you plead straight up, that's the only way
5 you'll be able to plead guilty. Now, if you want to plead
6 straight up, you can do that but I need you to have a lawyer to
7 do that. I need somebody to explain the consequences of that.
8 What's the range of penalty on the assault and battery Second?
9 What's the range of penalty on the A and B Second?

10 MS. BROWN: My headphones were in so I thought the
11 phone was off. I do apologize.

12 THE COURT: That's okay, don't worry about it. Isn't
13 it zero?

14 MS. KOZIK: Yeah, Isn't 0 to 10?

15 THE COURT: No, I think that's A and B first. I
16 think it's zero to three and/or 5,000.

17 MS. KOZIK: Apologies.

18 THE COURT: Have y'all -- have the victims been
19 compliant in this case?

20 MS. KOZIK: Yes.

21 THE COURT: And let's see. Ma'am, you can -- if the
22 State is amenable, you can plead guilty anytime you want to but
23 if you straight up.

24 MR. HALES: I have no reason of pleading guilty.

25 THE COURT: Okay. So, I don't understand your

1 question and those are the only two options, a jury trial or a
2 plea.

3 MS. BROWN: Oh, that's what I didn't understand,
4 that's why I asked the question.

5 THE COURT: Yeah, those are your only two options.
6 Either you can plead guilty and at any time you can plead
7 guilty as long as the State agrees. And that -- since they
8 don't plan to extend any offer, you'd be pleading straight up,
9 that's why I asked for the range of penalty, which is three
10 years and/or maximum fine of \$5,000. This is an offense that
11 can be suspended to probation.

12 The other thing is the only other option is to have a jury
13 trial or you can have a bench trial. You do have three
14 options. You can have a trial where the Court is the finder of
15 fact and makes a decision about the facts. You can have a jury
16 trial where 12 people decide whether the State has met their --

17 MS. BROWN: I would prefer a bench trial.

18 THE COURT: Well, if -- but I think y'all have to
19 agree to that, don't you?

20 MS. KOZIK: Yes.

21 THE COURT: I can't remember. The State would have
22 to agree to a bench trial. Are y'all -- you want to assess
23 whether y'all are amenable to that?

24 MS. KOZIK: Yeah, if I could have some time to assess
25 that.

1 THE COURT: Okay. So, the State's going to think
2 about whether that's something they can agree to. And if they
3 do, then we would just have to hear it, whenever I have non-
4 jury matters which could be a minute. It just depends, I'd
5 have -- I don't want to make any assurances, I'd have to look
6 at the docket and see what's going on. But it sounds like a
7 short case that probably could be disposed of fairly quickly.

8 And then your other option, like I said you could
9 plead guilty, you could have a jury trial or a bench trial.
10 But the State has to agree to let you plead and they have to
11 agree to a bench trial. But I would suggest you have a lawyer
12 for either any of those options, because you need somebody to
13 explain to you the consequences of all of your decisions
14 because all of your decisions have what we call collateral
15 consequences.

16 So, based on your request and Mr. Hale's consent, I'm
17 going to relieve him as your attorney. You have to hire
18 somebody within 30 days of today. Keep in mind that the longer
19 it takes you to hire someone, the longer it's going to take for
20 you to get a trial. If jury trial or bench trial otherwise.
21 And so, do you have any other questions for the Court?

22 MS. BROWN: No, ma'am.

23 THE COURT: Okay. We'll do an order. Have a good
24 day.

25 MR. HALES: Thank you, Your Honor.

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THE COURT: You're welcome.

[END OF HEARING]

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CERTIFICATE OF TRANSCRIBER

I, ERIN REILLY, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 9, South Carolina, on the 22nd day of July, 2024.

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

August 25th, 2024

ERIN REILLY
TRANSCRIBER

