

6 May 2022

RECEIVED

MAY 09 2022

SC Court of Appeals

Alan Nix
c/o Michael & Taryn Lazroff
1401 Densmore Circle
Mt. Pleasant, SC 29466

✓ Jenny Abbott-Kitchings
Clerk of Court, SC Court of Appeals
1220 Senate St.
Columbia, SC 29201

RE: transcript to be filed with case number 2022-00064

Dear Ms. Abbott-Kitchings,

Please file the eleven page transcript with case number 2022-00064. It may require further modifications once I get the actual recording of the proceedings but wanted to file this version with the case for the time being.

Thank you in for your assistance.

Best regards,



Alan Nix

PS. Please note the even though Ms. Smith has the transcript dated as being as of 17 March 2022, it was corrected and provided on 25 April 2022.

cc.

Scarlett Wilson

Alan Wilson

Troy Thames

Kevin Mims

Hervery Young

Ashley Pennington

State of South Carolina)	Court of General Sessions
)	Ninth Judicial Circuit
County of Charleston)	Case No. 2021-GS-10-02599
)	Case No. 2021-GS-10-02600
)	
)	
State of South Carolina,)	
)	
Plaintiff,)	
)	
-vs-)	Transcript of Record
)	
)	
Alan Gregory Nix,)	
)	
Defendant.)	
)	

January 7, 2022
Charleston, South Carolina

B E F O R E:

The Honorable R. Ferrell Cothran, Judge

RECEIVED

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

MAY 09 2022

Nicholas Oricchio, Esquire
Attorney for the State

SC Court of Appeals

Ashley Pennington, Esquire
Attorney for the Defendant

Proceedings taken down electronically

Transcribed by:
Krystal J. Smith
Official Circuit Court Reporter

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

I N D E X

<u>WITNESS/DESCRIPTION</u>	<u>PAGE NUMBER</u>
Request for Competency Evaluation.....	4
Ruling.....	9
Court Reporter Certification.....	11

1 JANUARY 7, 2022

2 (WHEREUPON, the proceedings began at 9:43 a.m.)

3 THE COURT: Good morning.

4 MR. URICCHIO: Good morning. Your Honor, we are here
5 today for a motion to clarify judgment. The defendant did
6 not show.

7 Your Honor, this is a situation where I believe we have
8 probably a competency and a mental health issue. The
9 defendant has sent me multiple letters a day, multiple
10 emails. He attaches everybody on his emails. It seems like
11 he has a fixation on a prior foreclosure which involves his
12 criminal charges. He sent us an email at 4:45 last night,
13 attached pretty much everyone in Charleston County that's an
14 attorney or otherwise.

15 He has not showed today. We don't believe he's going to
16 show today. The State would request a competency evaluation
17 for this defendant.

18 MR. PENNINGTON: May it please the Court, Your Honor?

19 THE COURT: Yes.

20 MR. PENNINGTON: Ashley Pennington. I'm standing in for
21 Benjamin Mack, who is counsel of record, but as you know, I'm
22 the manager of the office and I've been involved with this
23 Nix case for the last year.

24 To give the Court some context, Mr. Nix was arrested in
25 January of last year related to the fact that he hadn't been

1 paying what I understand were regime fees in his neighborhood
2 in Dunes West, and he was evicted for that and then there was
3 communications with deputies.

4 THE COURT: Wait a minute. So tell me -- I missed that.
5 He was evicted for what?

6 MR. PENNINGTON: He apparently -- and the solicitor
7 probably knows more than I do, but he was supposed to be
8 paying regime fees in --

9 THE COURT: Oh, okay.

10 MR. PENNINGTON: -- Dunes West.

11 THE COURT: I missed that part. I understand. Okay.

12 MR. PENNINGTON: So that ultimately, surprisingly, led
13 to an eviction, and his response was to resist the eviction.
14 He did not leave on time. There was some communications with
15 the county attorney's office that were viewed as threatening,
16 and so he was arrested for trespassing, opposing legal
17 process, and intimidation of court officials.

18 He was put in on a composite bond of 65,000. He's not
19 violated that bond. He's been released and I believe he's
20 living out of county, although his whereabouts are not
21 entirely clear to us. I'll explain why that hasn't been an
22 issue.

23 We have -- we picked him up during the about eight days
24 that he was in jail. He couldn't be -- he was not physically
25 screened by us. He was screened virtually, and he was

1 accepting of that representation at that time. We requested
2 a prelim, discovery, and started communications with him.
3 He's maintained that communication abundantly. He's a
4 prolific writer. He has a very thoughtful, analytical mind,
5 but he only sees trees. He can't see the forest.

6 And where we've been, Judge, is that we've attempted to
7 have a private evaluation to help us understand where we are.
8 He initially agreed, then resisted.

9 We had a preliminary hearing, and at that time at the
10 preliminary hearing we tried to get him to appear at that,
11 but he interpreted the bond as not allowing him to. And
12 that's not completely odd in that there were restrictions
13 about coming to court facilities. When we tried to clarify
14 that, we couldn't quite get there.

15 He -- this is a hearing we filed for. He has not -- we
16 were asking for clarification about our representation
17 because he began to object to our actions.

18 I did a couple of these Monday with Judge Jefferson with
19 folks that are in custody. She has commonly approached this
20 that if there are indications that the person is having
21 trouble trusting their attorney or understanding the context
22 of their litigation that she would order a competency
23 evaluation. So I'm here to say that and my guess is that
24 that would be indicated in this case.

25 He is still out on bond and what I perceive will happen

1 downstream is that we will give him a date to appear as an
2 outpatient at the local MUSC evaluator's office. He'll have
3 to make a decision if he shows up or not. If he fails to
4 appear, then I would imagine there might be a rule that would
5 be filed and we would deal with it at that time, but I do
6 want to stress that this is not a case where we -- he has at
7 this point violated his bond.

8 THE COURT: Okay. Now, what -- as far as the crime is
9 concerned, how serious does the Solicitor's Office take what
10 he's done? I mean we're fixing to spend a lot of money and a
11 lot of time, and I don't want to do all this and y'all nolle
12 pros the case.

13 Because I got somebody -- I mean I have -- and I -- I
14 was a solicitor for 25 years and we had similar people. And
15 when it was all said and done, we should have dropped the
16 charges I mean and then if he wasn't a future threat. We
17 ended up buying a ticket to Albuquerque and we sent him to
18 Albuquerque, we've sent him to Buffalo, we've sent him -- so
19 before I do all this, are y'all's intentions to press forward
20 with these charges and have him answer this crime?

21 MR. URICCHIO: Your Honor, the charges themselves I will
22 say at this time yes. What basically happened was there was
23 a foreclosure order filed on his home. He started emailing
24 the Charleston County Sheriff's Office, among others,
25 basically saying he was not going to comply with the

1 foreclosure.

2 He also went to the county attorney's office, handwrote
3 a note, and I -- I'm paraphrasing. I don't have the exact
4 wording in front of me, but basically was this is the
5 headline in the paper tomorrow: Shootout with Wrongful
6 Foreclosed Owner and the Charleston County Sheriff's Office.

7 Charleston County sheriffs kept emailing with him and to
8 try and see if they could work something out to have him
9 removed from the property. At one point in his emails, he
10 writes rules of engagement. I'm once again paraphrasing
11 because I don't have the email exactly in front of me, but
12 basically says anybody who steps foot in my home will be
13 considered a threat.

14 THE COURT: Okay.

15 MR. URICCHIO: So -- and then when he finally left the
16 premises, he was arrested. Nothing happened. However, when
17 they went into the home to start the foreclosure process, he
18 had a perch set up in his house overlooking the front door
19 with ammunition and weapons. So it looked like he was going
20 to carry out the threat.

21 THE COURT: Okay.

22 MR. URICCHIO: We have dismissed the intimidation of the
23 court official charge. However, we have directly indicted
24 him for threatening the life of a public official, which is
25 the appropriate charge.

1 Today I planned on serving that direct indictment on him
2 if he had shown. He did not show today. And like I said, we
3 have serious concerns about his competency and mental
4 stability.

5 THE COURT: All right.

6 MR. URICCHIO: And that's why we'd be asking.

7 THE COURT: And so if y'all prepare me an order.

8 Now, are we going to just do competency and we're not
9 doing M'Naghten?

10 MR. PENNINGTON: That's correct.

11 THE COURT: Okay. Somebody prepare me an order and I'll
12 be glad to sign it. Now, if he doesn't comply and he doesn't
13 show up, I mean what is y'all -- if he's in custody, that
14 makes it pretty easy. When he doesn't, where do we go from
15 there?

16 MR. URICCHIO: I mean the next -- the next -- the next
17 move I would intend to make would be to either do a rule to
18 show cause and ask for a bench warrant or I would like -- and
19 I'll probably make a motion to arraign him on the direct
20 indictment. If he doesn't show up then, I think that's more
21 than enough to issue a bench warrant.

22 THE COURT: Okay. Okay.

23 MR. PENNINGTON: We'll prepare an order, Judge.

24 THE COURT: Thank you.

25 MR. URICCHIO: Thank you for your time, Your Honor.

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

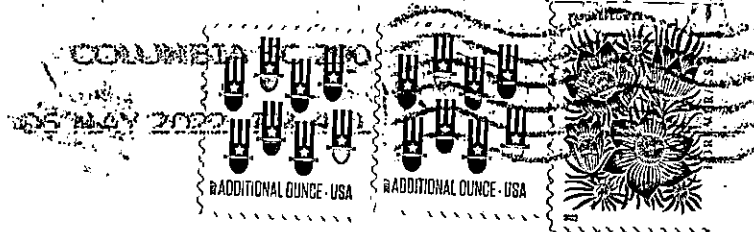
MR. PENNINGTON: Thank you.

(WHEREUPON, the proceedings ended at 9:50 a.m.)

--- END REQUESTED TRANSCRIPT ---



Nix
 1401 Densmore Circle
 Mount Pleasant, SC 29466



JENNY ABBOTT - KITCHINGS
 CLERK OF COURT
 SC COURT OF APPEALS
 1220 SENATE ST.
 COLUMBIA, SC 29201

RECEIVED

MAY 09 2022

SC Court of Appeals

29201-376999

