Filing # 94147354 E-Filed 08/14/2019 11:50:24 AM

IN THE SUPREME COURT OF FLORIDA

FROM THE CIRCUIT COURT OF THE 19TH JUDICIAL CIRCUIT IN AND FOR OKEECHOBEE COUNTY FLORIDA

MICHAEL LAWRENCE WOODBURY
Appellant,
-vs.-
STATE OF FLORIDA
Appellee.

SC#: 19-8
Appealed Cases:
18000164CFAXMX

RECEIVED, 08/14/2019 11:51:29 AM, Clerk, Supreme Court

SUPPLEMENTAL RECORD ON APPEAL

Attorney For Appellant:
Office Of Public Defender
Chief Appellant Division 15th Circuit
421 3rd Street,
West Palm Beach, FL 33401

Attorney For Appellee:
Office of the Attorney General
1515 North Flagler Drive, 9th Floor
West Palm Beach, FL 33401

IN THE SUPREME COURT OF FLORIDA

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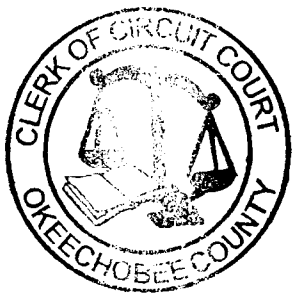
WITNESS my hand and the seal of said Court on 13th of August, 2019.

Sharon Robertson
Clerk of Circuit Court
BY: ana ponce
Deputy Clerk



Filing # 92673282 E-Filed 07/17/2019 09:13:45 AM

Supreme Court of Florida

WEDNESDAY, JULY 17, 2019

CASE NO.: SC19-8
Lower Tribunal No(s).:
472018CF000164CFAXMX;
4D18-3704

MICHAEL LAWRENCE WOODBURY vs. STATE OF FLORIDA

Appellant(s) Appellee(s)

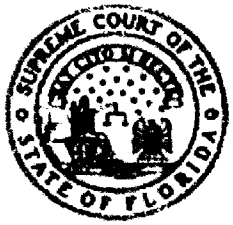
Appellant's Unopposed Motion to Supplement the Record and to Toll Time (copy attached) is granted. The court reporters are directed, on or before August 6, 2019, to file with the trial court clerk the transcript for the hearing held March 15, 2018. Counsel for appellant is directed to deliver a copy of this order to all court reporters involved in the transcription of the above date and to take whatever steps are necessary to ensure that the transcript is filed within the time period designated.

The trial court clerk is directed, on or before August 16, 2019, to supplement the record with the above transcript and serve copies to counsel for the parties. Appellant shall have eight days from the filing of the supplemental record in this Court in which to file the initial brief on the merits.

***THE COVERSHEET SHALL REFLECT "SUPPLEMENTAL RECORD" AND PAGE NUMBERING SHOULD RUN CONSECUTIVELY.**

A True Copy
Test:

John A. Tomasino
Clerk, Supreme Court



cd
Served:

RHONDA GIGER
MARA C. HERBERT
HON. SHARON ROBERTSON, CLERK
ATLANTIC LITIGATION SERVICES

Filing # 92673282 E-Filed 07/17/2019 09:13:45 AM

IN THE SUPREME COURT OF FLORIDA

MICHAEL LAWRENCE WOODBURY,
Appellant,

CASE NO.: SC19-0008
L.T. No.: 472018CF000164A

vs.

STATE OF FLORIDA,
Appellee.
_____/

RECEIVED, 07/16/2019 04:25:29 PM, Clerk, Supreme Court

APPELLANT'S UNOPPOSED MOTION TO SUPPLEMENT THE RECORD AND TO TOLL TIME

Michael Lawrence Woodbury, Appellant, moves that this Court enter its order directing the court reporter to prepare a supplemental transcript and directing the trial court clerk to supplement the record-on-appeal in this cause, and tolling time for all purposes in this cause from the date of the service of this motion until receipt of the supplemental record.

Rhonda Giger, Esq., Assistant Attorney General has authorized the undersigned to represent that Appellee does not oppose this motion.

This is a capital case in which Mr. Woodbury appeals his conviction for first degree murder and sentence of death. Florida law and the Cruel and Unusual Punishment, Due Process, and Equal Protection Clauses of the state and federal constitutions require full and complete review on the basis of a full and complete appellate record. *See* Fla.R.App.Proc. 9.140(f); § 921.141, Fla. Stat.; *Draper v. Washington*, 372 U.S. 487 (1963); *Delap v. State*, 359 So.2d 462 (Fla. 1978);

Proffitt v. Florida, 428 U.S. 242 (1976); *LeDuc v. State*, 365 So.2d 149 (Fla. 1978). The requested supplemental record is necessary for this Court to fulfill its duty of full appellate review under article V, section 3(b)(1) of the state constitution, and for appellant to receive effective assistance of counsel pursuant to the Due Process, Equal Protection, and Counsel Clauses of the state and federal constitutions.

The undersigned cannot file a competent initial brief concerning the issues on appeal, and there cannot be full review of those issues, without the supplemental record. Hence, it would be appropriate to toll time on this appeal until the supplemental record is filed with this Court.

Undersigned counsel has reviewed the present record on appeal including the docketing sheets supplied by the trial court clerk. This review shows a gap in the present record on appeal as follows:

The transcript of the first appearance hearing held on March 15, 2018 is not included in the present record. On this date, Appellant appeared and Judge Jerald Bryant conducted a *Faretta* inquiry. The Public Defender's Office was appointed as standby counsel. A transcript of this hearing is essential to a main issue on appeal; whether the trial court erred in permitting Appellant to proceed pro se.

WHEREFORE, Appellant moves that this Court enter its order:

1. Directing the court reporter to prepare, and the trial court clerk to supplement the record-on-appeal with, the transcript of the March 15, 2018 first appearance hearing.

2. The supplemental record be served on all parties.

3. Tolling time for all purposes in this case to allow for adequate time for the record on appeal to be supplemented; or

4. Granting such other relief as may be appropriate.

Respectfully submitted,

CAREY HAUGHWOUT
Public Defender, 15th Judicial Circuit

/s/ Mara Herbert
Mara Herbert
Assistant Public Defender
15th Judicial Circuit of Florida
421 Third Street/6th Floor
West Palm Beach, Florida 33401
(561) 355-7600
Florida Bar No. 0038532
mherbert@pd15.org

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that this motion has been furnished to Rhonda Giger, Assistant Attorney General, 1515 N. Flagler Dr., Suite 900, West Palm Beach, FL 33401 by e-service at CrimAppWPB@MyFloridaLegal.com; and Court Reporter Kimberly Pogue, Atlantic Litigation Services, 55 S.E. Osceola Street, Suite 201, Stuart, FL 34994 at atlscheduling@litigationservices.com and atlproduction@litigationservices.com, Ana Ponce, Deputy Clerk, 205 N. Dixie Highway, West Palm Beach, FL 33401 at CriminalAppeals@mypalmbeachclerk.com; and electronically filed with this court on the 16th day of July, 2019.

/s/ Mara Herbert
Of Counsel

1 IN THE CIRCUIT COURT OF THE
NINETEENTH JUDICIAL CIRCUIT IN
2 AND FOR OKEECHOBEE COUNTY, FLORIDA

3 CASE NO. 47-2018-CF-000164A

4 STATE OF FLORIDA,

5 Plaintiff,

6 vs.

7 MICHAEL LAWRENCE WOODBURY,

8 Defendant.
_____/
9

10

11 SUPPLEMENTAL RECORD
TRANSCRIPT OF PROCEEDINGS - FIRST APPEARANCE
12 VOLUME 18 (Pages 1922-1934)

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19 This cause came on for hearing before the

20 Honorable Jerald D. Bryant, Judge of the Circuit Court, at

21 the Okeechobee County Judicial Center, Okeechobee, Florida,

22 beginning on March 15, 2018.

23

24 Job No. 471229-R

25

1 APPEARANCES:

2

FOR THE PLAINTIFF:

3

DONALD R. RICHARDSON, ESQ.
4 Assistant State Attorney
Office of the State Attorney
5 312 Northwest 3rd Street, Suite 260
Okeechobee, Florida 34972
6 863-763-5557

7

PRO SE DEFENDANT:

8

MICHAEL LAWRENCE WOODBURY

9

10 STANDBY ATTORNEY FOR THE DEFENDANT:

11 ALEXANDER S. NELSON, ESQ.
Assistant Public Defender
12 Office of the Public Defender
312 NW 3rd Street, Suite 220
13 Okeechobee, Florida 34972
863-763-7977

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1 INDEX

2 SUPPLEMENTAL RECORD

3 VOLUME 18 (Pages 1922-1934)

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8 Appointment of Public Defender as Standby Counsel 1931

9 Court Reporter's Certificate 1934

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1 (Whereupon, the following proceedings were had
2 beginning March 15, 2018 and were transcribed from
3 audiotape.)
4 THE COURT: Mr. Woodbury, I'm going to do your
5 first appearance hearing. You have the right to remain
6 silent. Anything you say today can be used against you
7 later in court. We are recording everything that's being
8 said. You have the right to have a lawyer to represent
9 you. You're leaning against the microphone, please.
10 You have a right to have a lawyer to represent
11 you. If you can't afford one, we can appoint an attorney
12 to represent you. While your incarcerated, you have the
13 right to communicate with your attorney and your friends --
14 friends and family. I'm not sure about at the prison, but
15 at the jail you might have that. But they would make
16 reasonable accommodation for you to do that.
17 Sir, I need for you to raise your right hand to
18 take the oath, please. Do you swear the testimony you give
19 will be the truth and nothing but the truth?
20 MR. WOODBURY: Yes, sir.
21 THE COURT: All right. Tell me your complete
22 legal name.
23 MR. WOODBURY: Michael Lawrence Woodbury.
24 THE COURT: All right. Mr. Woodbury, sir, you've
25 been indicted by the grand jury and you're charged now with

1 first-degree premeditated murder. I do find that there's
2 probable cause to hold you to answer for that charge.
3 Sir, you do have the right to have a lawyer. If
4 you can't afford one, we can -- if you can't afford to hire
5 one, we can appoint one and the State would pay for that
6 lawyer. Sir, do you wish to have a lawyer appointed to
7 represent you?
8 MR. WOODBURY: No, sir. I can represent myself.
9 THE COURT: You're going to represent yourself?
10 MR. WOODBURY: Yes, sir.
11 THE COURT: All right, sir. Sir, you understand
12 if you have a lawyer, the lawyer has experience and
13 knowledge in the -- in the entire trial process?
14 MR. WOODBURY: Yes, sir.
15 THE COURT: The lawyer can call witnesses for
16 you, can question witnesses against you, and present
17 evidence on your behalf. The lawyer can question potential
18 jurors. The lawyer has the experience to know which jurors
19 will be in your best interest. The lawyer can advise you
20 of the harm and consequences of what you say in Court and
21 what you have a right not to say.
22 Do you understand that a lawyer will object to
23 those questions that are improper?
24 MR. WOODBURY: Yes, your Honor.
25 THE COURT: Do you understand that a lawyer has

1 studied the rules of evidence and knows what evidence can
2 or cannot come into your trial?
3 MR. WOODBURY: Yes, your Honor.
4 THE COURT: Do you understand that a lawyer will
5 argue for -- for your side during the whole trial and
6 present the best legal argument for your defense?
7 MR. WOODBURY: Yes, sir.
8 THE COURT: It's almost always unwise to
9 represent yourself in court, so let me tell you some of the
10 advantages that you might have representing yourself. Do
11 you understand you won't get any special treatment by the
12 Court just because you're representing yourself?
13 MR. WOODBURY: Yes, sir.
14 THE COURT: You also must follow all the
15 procedural and substantive rules in the criminal law and
16 the same laws which took lawyers years to learn and abide
17 by. You will also be limited to the resources that are
18 available to you while you're in custody. A lawyer has
19 less restriction in researching your defense than you would
20 have.
21 Do you understand that your access to the State
22 Attorney will be severely reduced as compared to a lawyer
23 who could easily contact the State Attorney?
24 MR. WOODBURY: Yes, your Honor.
25 THE COURT: The State will not go easier on you

1 or give you any special treatment because you're
2 representing yourself. The State will present your case
3 against you using an experienced lawyer.
4 Do you understand that if you are disruptive in
5 the courtroom, that the Court can terminate your
6 self-representation and remove you from the courtroom?
7 MR. WOODBURY: Yes, your Honor.
8 THE COURT: In that situation, the trial will
9 continue on without your presence. If a Stay Away Order is
10 in effect, you will be prohibited from contacting the
11 victim -- this doesn't apply in this case -- or any other
12 witnesses who are a part of the Stay Away Order.
13 On the other hand, the lawyers are allowed to
14 speak to these people and question them regarding your
15 testimony. If you do get convicted, you cannot claim your
16 own incompetence as a basis for appeal. Do you understand
17 that?
18 MR. WOODBURY: Yes, your Honor.
19 THE COURT: Sir, you -- you have not yet received
20 a copy of the charging document against you?
21 MR. WOODBURY: No, sir, but I know what's going
22 on.
23 THE COURT: You understand what the charges are?
24 MR. WOODBURY: Yes, sir.
25 THE COURT: And you understand all the possible

1 penalties if you're found guilty?
2 MR. WOODBURY: Yes, sir.
3 THE COURT: Including death?
4 MR. WOODBURY: Yes, sir.
5 THE COURT: Sir, can you read?
6 MR. WOODBURY: Yes, sir.
7 THE COURT: Can you write?
8 MR. WOODBURY: Yes, sir.
9 THE COURT: And do you have any difficulty
10 understanding English?
11 MR. WOODBURY: No, sir.
12 THE COURT: How much -- how many years of school
13 did you complete?
14 MR. WOODBURY: I graduated.
15 THE COURT: Are you under the influence of any
16 substance or condition today that would cause you not to
17 fully understand what we're doing?
18 MR. WOODBURY: No, sir.
19 THE COURT: Have you ever been diagnosed or
20 treated for a mental illness?
21 MR. WOODBURY: A long time ago.
22 THE COURT: And what was nature of that mental
23 illness?
24 MR. WOODBURY: Bipolar Disorder.
25 THE COURT: Any others?

1 MR. WOODBURY: No, sir.
2 THE COURT: Do you take medication for that?
3 MR. WOODBURY: Yes, sir.
4 THE COURT: What medication?
5 MR. WOODBURY: Tegretol.
6 THE COURT: And how often do you take it?
7 MR. WOODBURY: Twice day.
8 THE COURT: Has anyone told you not to use a
9 lawyer?
10 MR. WOODBURY: No, sir.
11 THE COURT: Has anyone threatened you if you use
12 a lawyer?
13 MR. WOODBURY: No, sir.
14 THE COURT: Do you understand that a lawyer will
15 represent you for free?
16 MR. WOODBURY: Yes, sir.
17 THE COURT: Have you ever represented yourself in
18 a trial?
19 MR. WOODBURY: No, sir.
20 THE COURT: No? Do you have any questions about
21 having a lawyer appointed to defend you?
22 MR. WOODBURY: No, sir.
23 THE COURT: Do you understand the dangers and
24 disadvantages of representing yourself in court?
25 MR. WOODBURY: Yes, sir.

1 THE COURT: Are you certain that you do not want
2 me to appoint a lawyer to defend you?
3 MR. WOODBURY: Absolutely positive, sir.
4 THE COURT: As an alternative to
5 self-representation, if you would like, I could ask the
6 Public Defender to act as standby counsel if you have any
7 questions in the course of these proceedings. Would you
8 like standby counsel?
9 MR. WOODBURY: Yes, sir.
10 THE COURT: All right. I will appoint the Public
11 Defender as standby counsel to represent Mr. Woodbury at
12 this time. Do you have any need to discuss anything with
13 your standby counsel at this time?
14 MR. WOODBURY: Today?
15 THE COURT: Yes, sir.
16 MR. WOODBURY: I would like to ask him a few
17 questions, yes, sir.
18 THE COURT: Before we proceed?
19 MR. WOODBURY: Yeah. Yes, sir, actually.
20 THE COURT: Take a minute.
21 MR. WOODBURY: Just give me about 30 seconds.
22 THE COURT: Take a minute.
23 What's the arraignment date, April 9th?
24 THE CLERK: I believe so.
25 (Discussion off the record.)

1 THE COURT: All right, sir. You had an
2 opportunity talk with your standby counsel?
3 MR. WOODBURY: Yes, sir.
4 THE COURT: All right. Anything else before we
5 proceed?
6 MR. WOODBURY: No, sir.
7 THE COURT: Anything from the State,
8 Mr. Richardson?
9 MR. RICHARDSON: The State simply requests that
10 you hold this defendant without bond. A Transport Order
11 has been signed and he will immediately be transported back
12 to the Department of Corrections.
13 THE COURT: Anything else you want to tell me,
14 sir?
15 MR. WOODBURY: I'm a little concerned about what
16 he just said, being transported back to the Department of
17 Corrections and all that. Because, like, how I am going
18 to, like, fight my case from, like, eight hours away? I
19 mean, are we going to like -- are you going to bring me
20 back every time for every -- that's what I'm trying to
21 figure out.
22 THE COURT: Well, that's something that would
23 have --
24 MR. WOODBURY: Do I have a ride every time?
25 THE COURT: That'll have to be figured out by a

1 different judge.
2 MR. WOODBURY: Okay. That's the only concern I
3 really got.
4 THE COURT: Well, that's one of the things I just
5 told you about with respect to representing yourself.
6 MR. WOODBURY: That's annoying.
7 THE COURT: Sir, and I will order you held
8 without bond, and I'll also order that you're to be
9 returned to the Department of Corrections. Your case is
10 set for April 9th at 9:30 for arraignment in Circuit Court.
11 All right. Anything else we need to do, Mr. Richardson?
12 MR. RICHARDSON: No, sir.
13 THE COURT: Mr. -- Mr. Nelson, anything?
14 MR. NELSON: No, your Honor. I mean, I'll ask
15 him if he wants me to move forward with abeyance and stuff
16 like that, since he is being sent back to Department of
17 Correction, if he wants me to do that.
18 THE COURT: All right. All right, thank you sir.
19 We are in recess.
20 (The hearing concluded.)
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1 CERTIFICATE OF REPORTER

2

STATE OF FLORIDA)
3)
COUNTY OF ST. LUCIE)
4

5

6 I, Deborah Carmela Dew, FPR, Florida Professional
7 Reporter, do hereby certify that in the matter of State of
8 Florida versus Michael Lawrence Woodbury, that I was
9 authorized to transcribe from audiotape the hearing held on
10 March 15, 2018 held before the Honorable Jerald D. Bryant,
11 Circuit Judge, and that the transcript is a true and
12 correct record of the audio recording.

13

14 Dated this 13th day of August, 2019, at Port St.
15 Lucie, St. Lucie County, Florida.

16

17

18

19

20 (THIS TRANSCRIPT IS DIGITALLY SIGNED. SHOULD THERE
BE ANY CHANGE MADE, THE SIGNATURE WILL DISAPPEAR.)
21 Deborah Carmela Dew, FPR,
Florida Professional Reporter

22

23

24

25

IN THE SUPREME COURT OF FLORIDA

FROM THE CIRCUIT COURT OF THE 19TH JUDICIAL CIRCUIT
IN AND FOR OKEECHOBEE COUNTY FLORIDA

MICHAEL LAWRENCE WOODBURY
Appellant,
-vs.-
STATE OF FLORIDA
Appellee.

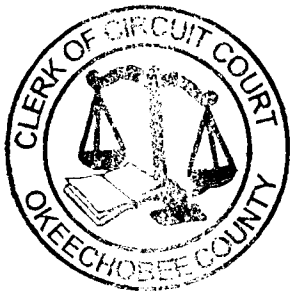
SC#: 19-8
Appealed Cases:
18000164CFAXMX

Supplemental Record
Certificate of Clerk

I, Sharon Robertson, Clerk of Circuit Court for the County of OKEECHOBEE, State of Florida, do hereby certify that the foregoing Pages 643 through 664, inclusive, contain a true and correct recital and inclusion of all such papers and proceedings in said cause as directed to be included by the "Supplemental Directions of the Clerk".

Pages 0 through 0, inclusive, embrace the transcribed notes of the Court Reporter as made at the trial hearings and certified to me by him/her.

WITNESS my hand and the seal of said Court on 13th of August, 2019.



Sharon Robertson
Clerk of Circuit Court
BY: ana ponce
Deputy Clerk

In The Circuit Court of The Nineteenth Judicial Circuit in and for Okeechobee County, Florida

MICHAEL LAWRENCE WOODBURY,
Appellant,

Case No.: 47-2018-CF-000164A
SC No.:19-8

vs

STATE OF FLORIDA,
Appellee

Clerk′s Certificate of Service

I, Sharon Robertson, Clerk of the Circuit Court in and for Okeechobee County, Florida, do hereby certify that the supplemental record has been furnished to the Florida Supreme Court electronically via Florida Courts E-Filing Portal and served the Office of the Attorney General, crimappwpb@myfloridalegal.com, and the Office of the Public Defender, appeals@pd15.org.

Witness my hand and seal this 14th day August, 2019.

Sharon Robertson
Clerk of Circuit Court

By: /s/ Ana Ponce
Deputy Clerk