

CHY CT  
MINUTE 259 PAGE 238

IN THE CIRCUIT COURT, SEVENTH  
JUDICIAL CIRCUIT, IN AND FOR  
ST. JOHNS COUNTY, FLORIDA

CASE NO. 83-1440-CF

STATE OF FLORIDA

vs.

JERRY LAYNE ROGERS,

Defendant.

FILED  
MAY 23 11:51 AM '02  
CLERK OF COURT  
ST. JOHNS COUNTY  
FLORIDA

**ORDER DISPOSING OF ALL PENDING  
PRETRIAL MOTIONS**

THIS CAUSE came before the court upon a number of pretrial motions that had been filed by the defense and State, the court having spent all day on May 22, 2002 and part of the day on May 23, 2002 hearing, weighing and considering said matters, having received the submissions by counsel, having reviewed the case authority provided, and being otherwise fully advised in the premises, it is

ORDERED AND ADJUDGED as follows:

1. The Motions for Admission of Helen D. Mould and John J. Fuson, *Pro Hac Vice*, be and the same are hereby granted.
2. Based on an agreement of the parties, the Motion to Suppress Rogers' Pretrial Statement be and the same is hereby granted for purposes of its use as part of the State's case in chief.
3. The Defendant's Motion in Limine to Preclude Reference to or Reliance on Rogers' Prior Trial Testimony as Substantive Evidence is denied as to that portion of the testimony presented at the earlier trial while the defendant was

Page 1 of 5

BD198

CIVIL  
MINUTE 259 PAGE 239

under oath but granted as to any statements made by the defendant that were not under oath while he was conducting his defense.

4. The Defendant's Motion to Exclude Identification Testimony of Ketsy Day is denied.

5. The Defendant's Motion in Limine to Preclude Reference to or Introduction of Deposition Testimony of Billy B. Rogers be and the same is hereby granted.

6. The Defendant's Motion for Clarification of the Court's Sanctions Ruling if the Defense Presents Two Categories of Evidence of Argument at Trial be and the same is hereby denied, however, the court did provide counsel with copies of cases that described the standard by which the court should judge when the "door is opened" concerning such matters.

7. The Defendant's Motion in Limine to Preclude Reference to or Evidence of Supposed "Escape Plan" be and the same is hereby denied.

8. The Defendant's Motion in Limine to Preclude Evidence of or Reference to Rogers' Supposed "Fabrication" of Two Documents is denied as to the police report but granted as to the calendar in light of the State's indication that the calendar would not be used at trial.

9. The Defendant's Motion in Limine to Limit Testimony of the State's Firearm Expert is denied, the court having found that there is a longstanding history of accepting expert testimony from qualified firearms experts dating back a century in Florida and throughout the country, the details of which were shared with counsel at the hearing.

10. The Defendant's Motion in Limine to Preclude Testimony Concerning the Manner of the Shooting and to Preclude Reference to the Shooting as an "Execution Style" Killing is granted. Should the State wish to use such reference, it will be necessary for the State to either proffer to the court or seek an exception to this ruling.

11. The Defendant's Motion to Dismiss Indictment Because of Prejudicial

Delay is denied.

12. The Defendant's Motion for Transfer of Venue is taken under advisement for later consideration should the court conclude that a fair and impartial jury cannot be selected from the St. Johns County venire.
13. The Defendant's Motion for a Jury Information Questionnaire and Individualized Sequestered Voir Dire be and the same is hereby granted, however, the court has imposed a more limited version of the questionnaire to be used by the prospective jurors than requested by the defendant, the details of which were announced in open court as the court and the parties drafted the final questionnaire.
14. The Defendant's Motion to Preclude Reference to the Defendant's Prior Conviction and Sentence is granted and the Motion for Preliminary Charge Explaining the Timing of Trial is granted. The language proposed by the defendant will be used with the deletion of the description of evidence as "withheld".
15. The Defendant's Motion in Limine to Preclude References to the Fact That Defense Counsel are From Out of State is granted.
16. The Defendant's Motion to Disclose Any Deals Between the State and Any Witness is granted to the extent that the State is directed to advise the defense, as soon as is practicable, of any plea bargains that have been entered into with any of the witnesses to be called by the State and any direct or indirect benefits that have been conferred upon such witness as a result of such involvement in the criminal justice system.
17. The court takes under advisement the Defendant's Motion to Bar Imposition of Death Sentence on Basis of Florida's Sentencing Procedure on the basis that Florida's Sentencing Procedure is unconstitutional under apprendi based on agreement of the parties that the motion may be argued after a verdict in the guilt phase, if appropriate.
18. The State's Motion to Compel Reciprocal Discovery is granted.

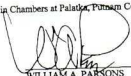
19. The State's Motion to Transfer Exhibits was previously granted by separate order.

~~19. THE STATE'S MOTION TO TRANSFER EXHIBITS WAS PREVIOUSLY GRANTED BY~~  
separate order.

20. The defendant's *ore tenus* motion for a witness list of witnesses to be called by the State has been resolved by way of an instruction from the court directing the State to delete from its witness list all witnesses it does not plan to call at time of trial and by way of a direction to counsel for both parties to provide each other the names of the witnesses that will be called the following day before the close of business of the preceding day so that all sides will have a fair and reasonable opportunity to prepare for those witnesses expected to be called on any given day and so that neither side will be required to diffusely prepare for all potential witnesses, many of which may not be called at all.

21. The court in entering this order compliments counsel for both the State and the defense for the orderly presentation that they have made concerning an array of complicated and involved matters which have been resolved. The court has indicated that it would reconsider the Motion in Limine to Preclude Reference to or Reliance on Rogers' Prior Trial Testimony as Substantive Evidence if requested by the defense so as to allow the defense additional time to conduct research and investigation into the matters discussed at hearing.

DONE AND ORDERED in Chambers at Palatka, Putnam County, Florida,  
this 23rd day of May, 2002.

  
WILLIAM A. PARSONS  
CIRCUIT JUDGE