

1 STATE OF MINNESOTA  
2 COUNTY OF HENNEPIN

DISTRICT COURT  
FOURTH JUDICIAL DISTRICT

3  
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5 -----  
6 State of Minnesota,

7 Plaintiff,

CONTINUED FLORENCE HEARING

8 vs.

9 Roxanne Marie Richardson,

FILE NO. 04029890

10 Defendant.  
11  
12 -----

13 The above-entitled matter came on for hearing before  
14 the Honorable Isabel Gomez, one of the Judges of the  
15 above-named Court, on the 22nd day of October, 2004, at  
16 the Hennepin County Government Center, City of  
17 Minneapolis, County of Hennepin, and State of Minnesota.

18 -----  
19 Martha Holton Dimick, Assistant Hennepin County  
20 Attorney, appeared on behalf of the State.

21 Jill Clark, Esq., appeared on behalf of the  
22 Defendant.

23 Defendant personally appeared.

24 CLERK: Miriam Rea.

25 REPORTER: Darlene Heinz.

1 THE COURT: Ms. Holton Dimick, will  
2 you read the case in, please.

3 MS. HOLTON DIMICK: I sure will, Your  
4 Honor.

5 THE COURT: Thank you.

6 MS. HOLTON DIMICK: Your Honor, this  
7 is the matter of the State of Minnesota vs. Roxanne Marie  
8 Richardson. The SIP number on the file is 04029890, the  
9 County Attorney number is 04-5272.

10 I'm Martha Holton Dimick, on behalf of  
11 the State.

12 MS. CLARK: Jill Clark, on behalf of  
13 the defendant, Roxanne Richardson.

14 And my apologies to the Court for the  
15 confusion over scheduling.

16 THE COURT: Oh, I understand you  
17 can't be in two places at once.

18 MS. CLARK: I try, but it doesn't  
19 work.

20 THE COURT: It doesn't work.

21 And I know that Ms. Holton Dimick is  
22 frequently jammed into that situation as well.

23 And we're here today for, essentially,  
24 I think, for continuance of a Florence hearing, in the  
25 sense that the parties have submitted all of the evidence

1 that the Court is required to have to make a decision, and  
2 that the parties have made arguments concerning how the  
3 Court should view that evidence. So, it does not appear  
4 to me that we need additional testimony today.

5 Is there anyone anticipating bringing  
6 additional evidence before the Court?

7 MS. HOLTON DIMICK: Your Honor, the  
8 State does not intend to.

9 MS. CLARK: Your Honor, unless there  
10 is some change in the position of the State as to where  
11 the evidence is concerning the conversations between  
12 Roxanne Richardson and her husband, then no, we would rely  
13 on those conversations.

14 I did just, in the last day or so,  
15 receive on my FAX some transcripts from the prosecutor's  
16 office. But given my current trial situation, I haven't  
17 had a chance to review those yet, so I'm not sure what  
18 they are.

19 THE COURT: I have reviewed them.

20 And at my request --

21 There were a couple of the tapes that  
22 were hard for the Court to hear. And so at my request I  
23 asked Ms. Holton Dimick whether the State had prepared  
24 transcripts of the materials that were submitted to me on  
25 disk and tape.

1                   And the transcript that she has  
2 provided was transcript of some materials that were on  
3 tape and/or disk. So, it did not appear to me that they  
4 were new materials.

5                   So, anything additional from anyone at  
6 this point?

7                   MS. HOLTON DIMICK: Nothing from the  
8 State, Your Honor.

9                   THE COURT: All right.

10                  Then I am finding myself this  
11 afternoon in a really, really unusual position; in that I  
12 am in my 21st year in this Court, and have never before  
13 found that there was not probable cause for a felony case  
14 in its entirety. Sometimes over the years I have found  
15 there was not probable cause for one count or another.

16                  In this case, I have carefully  
17 reviewed, or listened to all of the CD Roms, and tape  
18 recordings -- some of them were duplicative -- that were  
19 provided to me, and considered counsels' argument, and I  
20 simply cannot find probable cause.

21                  And, of course --

22                  And I will say a few things about  
23 where the gaps are. But, frankly, I don't think I need to  
24 say a lot, because it's hard for me to see how any judge  
25 in the Court of Appeals, for example, could put probable

1 cause together here.

2 In fact, I am so much shocked at the  
3 quality of the investigation, in which it appears to me,  
4 early on, the investigators adopted -- they both adopted  
5 Flaco's view that Willie and Roxanne were connected, or  
6 united in a determination to hurt the victim, that he's  
7 assumed to have, or that he is alleged to have  
8 assaulted.

9 They both adopted Flaco's thoughts  
10 about that and, also, led Flaco in the transcript of his  
11 conversation with the sheriff's investigator, to a place  
12 where even he had not gone, or at least he hadn't -- at  
13 least to the extent he had gone there, it's not clear when  
14 he did that.

15 But the problem is, regardless, he  
16 could think whatever he thinks. He is not an  
17 investigator; he is not a prosecutor; he certainly is not  
18 an independent magistrate. And the fact is, that if he  
19 believed that, there sure did not turn ought to be any  
20 evidence of it that I could find.

21 When I look at the interview between  
22 the investigator and Flaco on April 27, we have questions  
23 like -- well, we go from question, on page three of the  
24 transcript, "Were you suppose to find a gun for Roxanne?"

25 Answer: "Yes."

1 Question: "Was she hesitant to talk  
2 to you about the specifics of getting a gun for her?"

3 Answer: "Yes. She told me to come to  
4 her crib in person."

5 Question: "Do you know what she was  
6 going to use that gun for?"

7 Answer: "No."

8 Question: "If you could not find a  
9 gun for her, what were you suppose to do, take care of the  
10 daughter?"

11 Question: "And by that what do you  
12 mean? And by that do you mean kill her?"

13 Answer: "Yes."

14 Question: --

15 And so what's happened there is, first  
16 he says, I think accurately, he doesn't know what she's  
17 going to use the gun for.

18 And then he says --

19 Then the question makes a certain  
20 assumption. If you couldn't find a gun, what were you  
21 going to do.

22 There isn't somewhere else --

23 There isn't anywhere else, that I  
24 could see, where there is a linkage between those two  
25 realities.

1 For the State's position here, we're  
2 going to take it that it's true that he and Willie talked  
3 about killing Lacroshia, that he agrees, or he pretended  
4 to agree that he would kill Lacroshia for a couple of Gs,  
5 as he put it and, part B, he was going to make some deal  
6 with Roxanne about a gun.

7 He says he doesn't know what she's  
8 going to use the gun for. And he says it in two  
9 different ways; he says it negatively, and he says it  
10 affirmatively.

11 And then the question is -- creates  
12 this link, if you couldn't find the gun, then --

13 He hasn't made that link before. He  
14 hasn't said that the deal with Willie was if he couldn't  
15 kill that -- that she was going to kill Lacroshia, and if  
16 she couldn't kill Lacroshia, then he would kill her.  
17 That isn't what he said. He said he agreed to kill  
18 Lacroshia, and he agreed to find a gun.

19 And then the next question is: "So, it  
20 was possible, in your understanding of the situation with  
21 Willie, that Roxanne could possibly use the gun to kill  
22 Lacroshia?"

23 And, obviously, he says probably,  
24 "Yes".

25 Well, I think that question speaks for

1     itself.

2                     So, here is the evidence we have:

3                     We have evidence that Willie and Flaco  
4     made a deal to kill Lacroshia; we have evidence that  
5     Willie told Roxanne, on a tape, that he had been talking  
6     with Flaco, it's not clear about what, actually, about no  
7     good, that's clear, and that Flaco wouldn't return his  
8     calls, and that she should call Flaco and tell Flaco to  
9     take his collect calls from the jail.

10                    And she says, in a couple of places --  
11     she says, and Flaco says, that she called Flaco, left a  
12     message that he should take Willie's calls.     After that  
13     he did take Willie's calls.

14                    There are conversations in which it is  
15     clear that Roxanne Richardson has taken Willie's side in  
16     this crime.     And it is clear that she certainly is not  
17     playing a positive maternal role with Lacroshia, to put it  
18     mildly.

19                    And as she says, herself, at one  
20     point, she really has nothing but negative thoughts about  
21     Lacroshia, including that Lacroshia might hurt her, and  
22     that she might have to move to get away from Lacroshia,  
23     but she's not about to kill her.

24                    So, at the outset we've got a problem  
25     here, because we've got two things allegedly going on that



1 don't match.

2 I mean, either Flaco is going to kill  
3 Lacreshia, or something. How the gun gets --

4 You know, if doesn't make sense that  
5 somehow the gun -- giving a gun to Roxanne is crucial to  
6 Flaco killing Lacreshia.

7 Then we have the tape --

8 Then we have the conversations, two  
9 wired conversations that Flaco has with Roxanne about the  
10 gun.

11 And I think if it could be alleged  
12 that there is a plot to do anything, or an attempt to do  
13 anything on the part of Roxanne, it would be the attempt  
14 to get a gun.

15 But, I've got to say that those  
16 conversations are extraordinarily equivocal in the sense  
17 that it's clear, absolutely crystal clear in those  
18 conversations, that although Roxanne wants a gun, or says  
19 she wants a gun, she wants a small gun that she can use  
20 easily, she sure isn't in any hurry for it. There is no  
21 time line; there is no pressure; there is no nothing about  
22 Roxanne pushing to get that gun.

23 On day one, Flaco, knowing that the  
24 cops are listening, shows up, says, what about the gun,  
25 blah, blah, blah.

1                   She says she absolutely doesn't have  
2 money. And that there is a settlement, maybe there will  
3 be money, she has a court, -- maybe there will be a court,  
4 maybe not, whatever. It's all very vague.

5                   And, frankly, that conversation can be  
6 taken -- it's not the least ambiguous conversation I ever  
7 heard. Because on the one hand, she say she wants the  
8 gun, and I will take it for the sake of this probable  
9 cause hearing that she does and, on the other hand, when  
10 is no big deal.

11                   And we know we've got this trial  
12 coming. Willie is on the tape totally obsessed with what  
13 can he do to get out from under these charges and, you  
14 know, what does the lawyer have to do, and what can the  
15 lawyer be provided with, and how can he prove what a  
16 really rotten person Lacroshia, and blah, blah, blah, all  
17 kinds of stuff, busy, busy, busy, busy.

18                   But there is no business about this  
19 gun. And she says, I will call you when I can get the  
20 money.

21                   Well, then on plot number one, Flaco  
22 wants a picture of Lacroshia. And he's suppose to get it  
23 from Roxanne. Does he? No.

24                   Roxanne has torn up the pictures, or  
25 Roxanne has destroyed the pictures, she doesn't have any

1 pictures, whatever, whatever. There is no picture.

2 If Roxanne is suppose to be killing  
3 Lacreshia, what does Flaco need a picture for?

4 It's clear that -- I think it's clear  
5 that Flaco is carrying out his deal with Willie, or  
6 purporting to anyway, and she doesn't flinch, she doesn't  
7 fork over the picture. And she specifically says that she  
8 can't stand her daughter, but she doesn't want to be  
9 involved. And I think she says something like she  
10 doesn't want to be in this bullshit, she doesn't want to  
11 hear about it, and she doesn't help him.

12 The one piece of help --

13 And you can make all the faces you  
14 want --

15 MS. HOLTON DIMICK: I'm not making  
16 any faces, Judge. I'm looking back at Ms. Lacreshia, who  
17 is the daughter here, and is very upset. I'm just making  
18 sure that she's okay.

19 THE COURT: Well, I'm sorry if she's  
20 not. But the fact is, you know, we're talking about this  
21 case.

22 Roxanne does not do a thing to help  
23 Flaco. Roxanne's one act, that I am supposed to take in  
24 furtherance of something, is calling up to talk to  
25 Flaco -- to leave a message to Flaco to talk to Willie.

1 That's the thing we've got so far.

2 But then, you know, we've got this  
3 noncooperation on the part of Roxanne. And she's suppose  
4 to call him when she has the money. But she doesn't ever  
5 call him.

6 So, after some other time, he comes  
7 back on wired visit number two. This time he's quite a  
8 lot more wanting to get the business done. This time he  
9 says he's actually got the gun.

10 She says, I absolutely don't have any  
11 money whatsoever, so there is nothing I can do about it.  
12 Or, you know, she just says, I don't have any money.

13 He says, well, then, I will offer it  
14 to you at half price.

15 She says, I don't have any money.

16 He says things about, well, what about  
17 the lawnmower, what about the snowblower?

18 And she says the snowblower and  
19 lawnmower are not available as part of this deal, because  
20 she's given them away, or sold them, or something, to  
21 somebody else. So, she's, you know, removing that as any  
22 possible trade.

23 And the deal just absolutely doesn't  
24 go down, because we're back to the thing about, I don't  
25 have any money, I can't get you what I don't have. She

1 says that repeatedly.

2                   And when the police come to arrest  
3 her, she says that she's hostile to her daughter, and that  
4 she has bad thoughts, which has been obvious throughout  
5 this whole thing, but that there is no way she would kill  
6 her.

7                   And so we've got a terrible atmosphere  
8 where this poor young woman -- I'm going to take the  
9 State's view of this -- she is a young woman anyway. I  
10 guess I would feel sorry for her just having this kind of  
11 relationship with her mother, however that turned out.

12                   But I'm going to take it, for the sake  
13 of probable cause, that she is the victim of a serious  
14 assault, and her mother is not standing up for her. Her  
15 mother is standing up for the person who allegedly did  
16 it. And that is terrible for a young woman. This is an  
17 ugly atmosphere.

18                   I'm not going to sit here and act  
19 like, you know, and feel bad about --

20                   You know, the person I feel bad about  
21 is Lacroshia.

22                   But the fact of the matter is, as far  
23 as I'm aware, what we have here is a conspiracy to attempt  
24 to hurt Lacroshia. Thank God, nothing apparently ever  
25 came of it. Whatever it might have been.

1                   But I'm sitting here thinking that it  
2 might have been a plot between Willie and Flaco.

3                   I see no clear evidence of any kind  
4 that Roxanne specifically knew what that was. And I see  
5 time after time when she could join in whatever it is, and  
6 she doesn't, and she won't.

7                   Now, taking her again, taking her at  
8 her word, she was trying to buy a gun.

9                   Why was she trying to buy a gun?

10                  There are a lot of reasons why she  
11 might try to buy a gun. Maybe that is certainly --

12                  But that doesn't go with story number  
13 one. And given her absolute lack of urgency in trying to  
14 get this gun, the Court cannot -- it would take a  
15 substantial stretch of the imagination to come up with the  
16 idea that she's going to use it to kill Lacroshia. That  
17 makes absolutely no sense whatsoever. So, I'm not sure  
18 what the whole gun thing has to do with anything.

19                  There has to be some linkage to this  
20 plot between Willie and Flaco, and it's not there.

21                  Now, I simply cannot find probable  
22 cause here. And as I say, this is not a position I have  
23 taken before, ever, in my entire career.

24                  I have got to say -- although this is  
25 not part of the decision --

1                   The decision is, is it here, or is it  
2 not.    In my view, it is not.

3                   And I must say that the sheriff's  
4 investigator's summaries of what these conversations were  
5 are, first of all, of course, not the basis for probable  
6 cause, and the State is not arguing that they are.

7                   The State provided the stuff that the  
8 sheriff had, and provided it very fully.    But the  
9 sheriff's investigator appears to the Court to have been  
10 doing a lot of wishful thinking, frankly.    It was very  
11 creative investigating, and a lot of leading going on.

12                   And the result is this woman has been  
13 sitting in jail since May.    This is terrible.    I mean,  
14 it's really terrible.    And I'm not --

15                   There is no point in blaming anybody,  
16 but it's terrible.    It's a terrible fact, that there is  
17 no probable cause, and this woman has sat in jail since  
18 the middle of May.

19                   Personally, I have never in my career  
20 been involved in anything like it.

21                   If the Court were to have  
22 underestimated the strength of the State's evidence in  
23 some dimension, we still have the much higher standard of  
24 proof at trial.

25                   So, I don't think I'm doing anything

1 but a favor to the State. I wouldn't want to have to be  
2 the lawyer to stand up in front of a jury with this  
3 mess. I think it would take a jury approximately  
4 three-and-a-half minutes after they swore the foreperson  
5 to say no to this case, and to wonder why they were here.

6 So, everybody is miserable in this  
7 case. And it's a sad, sad situation from beginning to  
8 end.

9 If Ms. Richardson is being a bad  
10 mother, boy, she's getting hammered for it. I don't know  
11 whether she is or not, you know.

12 And so, as of today, I'm dismissing  
13 this case for lack of probable cause.

14 And Ms. Richardson is to be released  
15 as soon as the jail can get her out.

16 MS. CLARK: Thank you, Your Honor.

17 MS. HOLTON DIMICK: Thank you, Your  
18 Honor.

19 Your Honor, if I may, since the Court  
20 did find that there was a potential attempt here, I would  
21 like leave to reconsider charges for an attempt.

22 THE COURT: I didn't find --

23 MS. HOLTON DIMICK: Could I have a  
24 copy of the transcript, please.

25 THE COURT: Let's sit down and clear



1 that up.

2 What did I find an attempt to be?

3 MS. HOLTON DIMICK: You said there  
4 was an attempt to commit an aggravated assault, and --

5 MS. CLARK: I think I know what she's  
6 talking about. The Court was saying --

7 MS. HOLTON DIMICK: I don't need an  
8 explanation.

9 I accept the Judge's decision.

10 And I just want a copy of the  
11 transcript. That's all I'm asking for.

12 THE COURT: Ms. Holton Dimick, I want  
13 to say, unequivocally, right now, if you heard me say that  
14 I found probable cause for anything, you heard me wrong.

15 I find probable cause for nothing. I  
16 do not find probable cause for Ms. Roxanne Richardson to  
17 have done one thing.

18 MS. HOLTON DIMICK: That is fine,  
19 Judge. I accept that.

20 I just want a copy of the transcript.

21 THE COURT: You're absolutely entitled  
22 to that.

23 MS. HOLTON DIMICK: Thank you.

24 MS. CLARK: I assume that pending any  
25 possible motion for reconsideration, there is no bail, and

1 that Ms. Richardson is released?

2 THE COURT: She is.

3 MS. HOLTON DIMICK: And, Your Honor,  
4 you know, I kind of take offense with the Court making  
5 comments about the history of this case, and why this poor  
6 woman sat in jail. I can tell you why this poor woman  
7 sat in jail.

8 She was first represented by  
9 Ms. Waite. And at the time that we had the first  
10 pretrial, Ms. Waite asked for a preplea investigation.

11 THE COURT: No. Ms. Holton  
12 Dimick --

13 MS. HOLTON DIMICK: You made some --

14 THE COURT: -- sit down.

15 MS. HOLTON DIMICK: You made some  
16 comments --

17 THE COURT: Sit down.

18 MS. HOLTON DIMICK: You made some  
19 comments about my case, and I think I have a right to  
20 address the Court on that.

21 THE COURT: You do not have a right  
22 to keep talking when I tell you not to.

23 I specifically --

24 I have looked at the blues here.

25 I have not attacked you for the fact

1 that this has happened. And if you heard it, it's because  
2 you're upset. And you can read the transcript and see  
3 that.

4 I specifically said, I'm not blaming  
5 anybody.

6 I looked at the blues, because in a  
7 case like this, in a court like this, where this Court  
8 prides itself on moving things along, my concern was, what  
9 the heck did the Court -- what has the Court been doing  
10 here since May. I looked at the blues, you know, and I  
11 wondered what had happened.

12 And what I saw was that early on there  
13 was a different attorney, and that there was continuance  
14 after continuance; several of them at the defense's  
15 request.

16 MS. HOLTON DIMICK: Quite a few of  
17 them.

18 THE COURT: I also saw that until  
19 Ms. Clark got on the case, there had been no, apparently,  
20 any clear communication between the defense and the State  
21 about where the, you know, clear demand for discovery, or  
22 whatever. Or, at any rate, that the discovery, you know,  
23 did not -- these tapes and CDs didn't get transferred to  
24 the defense until August or whatever, the end of August, I  
25 think.

1                   So, if you heard me say that you have  
2 been bad, and causing delay, and making this woman sit in  
3 jail, I didn't say that. And I'm not saying it now.

4                   I'm saying it's a crappy case. In  
5 fact, the worst case I have seen in 21 years. I am saying  
6 that.

7                   MS. HOLTON DIMICK: And I'm saying  
8 you're saying that because --

9                   THE COURT: I'm saying --

10                  MS. HOLTON DIMICK: I'd like a copy  
11 of the transcript.

12                  THE COURT: Ms. Holton Dimick --

13                  MS. HOLTON DIMICK: I accept what you  
14 said, Judge.

15                  I would like to go back to my office  
16 so that I don't get upset any more than you say I am  
17 upset.

18                  Okay?

19                  THE COURT: Yes.

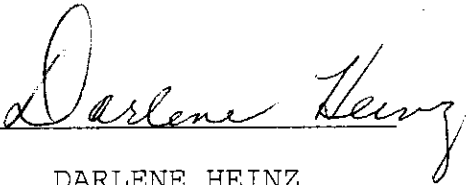
20                  MS. HOLTON DIMICK: Thank you.  
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REPORTER'S CERTIFICATE

I, Darlene Heinz, do hereby certify that the foregoing pages of transcript are a true and accurate transcription of my Stenograph notes, taken at the time and place aforementioned.

DATED: January 28, 2006.

  
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DARLENE HEINZ