

COPY

1 IN THE CIRCUIT COURT OF WOOD COUNTY, WEST VIRGINIA

2 STATE OF WEST VIRGINIA,

3 Plaintiff,

4 vs.

CASE NOS. 11-F-101
16-F-25

5 THOMAS DEEGAN,

6 Defendant.

7
8 MOTION TO REVOKE HOME CONFINEMENT
9 AND ARRAIGNMENT

10 The following proceeding was held before the Honorable
11 Jeffrey B. Reed, Judge, on the 26th day of January, 2016.

12 APPEARANCES:

13 MR. SAMUEL C. ROGERS, II, Assistant Prosecuting Attorney, 317
14 Market Street, Parkersburg, WV 26101.
Counsel for the Plaintiff.

15 MR. F. JOHN OSHOWAY, Attorney-at-Law, P. O. Box 156,
16 Grantsville, WV 26147.
Standby Counsel for the Defendant.

17 MR. STEVE STEPHENS, Chief Home Confinement Officer.

18 MR. THOMAS DEEGAN, Defendant.

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21
22
23 CYNTHIA A. SUTPHIN, CER, CET
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P R O C E E D I N G S

(Whereupon, the following proceeding was held on the 26th day of January, 2016, beginning at 10:25 a.m. All parties present.)

THE COURT: This is Case Nos. 11-F-101 and 16-F-25, both State of West Virginia vs. Thomas Deegan.

MR. OSHOWAY: May it please the Court, present is Mr. Deegan, and I'm appearing on his behalf.

THE COURT: Okay. Let's see, 16-F-25 is set for an arraignment, and 11-F-101 is set on a motion to revoke home confinement.

We had, I guess, an issue common to both of them, which is counsel. And we were here earlier, and I don't remember when it was, in 11-F-101, I think it might have been at the arraignment in December, and the issue of counsel for Mr. Deegan came up.

And, Mr. Deegan, I certainly don't want to put words in your mouth. I'm trying to understand your position. So if you would please correct me if I'm incorrect when I say this. It's my understanding that you don't want to be represented by a licensed attorney, because the licensed attorney is licensed through the State of West Virginia, and the State of West Virginia is the plaintiff in this case? Is that -- am I correct in that understanding?

THE DEFENDANT: It's close. It's close. If I can find

1 it here. In actuality, there is an open and pending case,
2 the Supreme Court of Appeals against the plaintiff, in which
3 they defaulted on the 11th of September of last year, and it
4 stipulated and agreed many things. You'll have to forgive
5 me, I have a hard time here with cuffs on. I have the exact
6 code. And according to -- this is West Virginia Code, not
7 State of West Virginia Code, but West Virginia Code 51,
8 Section 1, dash, 4a, that it is -- that organizing, governing
9 all attorneys practicing law, it's an administrative agency
10 of the Supreme Court of Appeals of West Virginia, which is a
11 subdivision of the State of West Virginia, it's known as the
12 State Bar, and shall be a part of the judicial department of
13 the state government.

14 So it's a part of the government that is a plaintiff in
15 the case against me, and it's created strictly for enforcing
16 such rules that they may prescribe without constitutional
17 authority.

18 THE COURT: Okay.

19 THE DEFENDANT: And as such, I can't -- I can't see
20 anything other than a conflict of interest being as they say
21 quite clearly in the code that they are part of the judicial
22 department of the state government, and that is who the
23 alleged plaintiff is not only in this case, but in 15-0491,
24 where they've defaulted and dishonored themselves as
25 corporate entities.

1 THE COURT: Okay.

2 THE DEFENDANT: And I feel I'm -- I mean, I feel I can
3 take care of myself at this point. I'm not looking for
4 counsel of any kind. And I mean there's --

5 THE COURT: So you wish to waive your right to be
6 represented by counsel?

7 THE DEFENDANT: Well, I wish to invoke the assistance of
8 counsel as is my right under, what is it, Amendment VI, I
9 believe, the United States Constitution for the United States
10 of America, circa 1791. And at that time it was recognized
11 that I could have persons assist me that were not licensed so
12 that I could -- because I'm unlawfully confined I'm unable to
13 do a lot of research and to file things, and so I need the
14 assistance in that sense.

15 I spoke with him on that back at Magistrate Court. He
16 didn't want to be what he called really a secretary, and
17 that's actually what I need more than anything is someone.
18 I'm going to guide what I'm doing. I don't want someone else
19 guiding it.

20 THE COURT: Well, I just want to make sure you
21 understand, and I'm certainly not trying to change your
22 opinion or -- well, yeah, change your opinion or conclusion,
23 but I want to make sure you understand the significance of
24 what your position is.

25 Under the laws of this state, only a licensed attorney

1 can practice law and only a licensed attorney can represent
2 someone in a court of law. And whether it's someone who's
3 licensed in the State of West Virginia, or whether it's
4 someone who is licensed in another state who has requested to
5 practice what's called pro hac vice, which is someone from
6 out-of-state given the ability to appear in a particular
7 case, even though they may not be licensed in West Virginia.
8 Regardless of where that person comes from, in terms of
9 whether it's from West Virginia or another state, that person
10 still has to be either licensed in West Virginia, or come
11 under the authority of the licensing board of the state.

12 And so, you know, if you maintain that position, and,
13 again, it's up to you, I was just trying to make sure you
14 understand the significance of it, if you maintain that
15 position, there's no way that an attorney can represent you.
16 Do you understand that?

17 THE DEFENDANT: Yeah, I don't want to be represented. I
18 mean, I'm a living soul created in the image of my heavenly
19 father. I don't wish to be brought in as a corporation
20 fiction or an entity or a juristic person. I wish to stay in
21 the capacity and standing that I am, which is a living soul.

22 THE COURT: And while attorneys are licensed and must
23 comply with certain requirements under the law, just like a
24 lot of professionals, like doctors and dentists, people like
25 that, lawyers have an ethical obligation to represent their

1 clients, not to do what the State of West Virginia may want
2 them to do. The State of West Virginia may license them, but
3 the State does not dictate their conduct or how they perform
4 their obligations. Lawyers, even though they may be licensed
5 by the State, have the obligation to represent their clients,
6 which would in this case be you or in any case would be --
7 you know, in criminal cases it would be the defendant,
8 regardless of whether the State may pay them or the
9 individual may pay them.

10 So while I understand your concern that these -- that
11 lawyers may be licensed through the State, the State does not
12 control how they do their job and represent someone. It is
13 their client, which would be you in this case, who they must
14 represent. Do you understand that?

15 THE DEFENDANT: No. No. Because I've seen some of the
16 oaths, and they take an oath to the government, whether it be
17 the government of the United States or the government of West
18 Virginia. So I'm just going by the code and the oaths that
19 I've seen. Their allegiance is not to me, the code
20 specifically states they are strictly to enforce the rules of
21 the Supreme Court of Appeals. It says nothing about
22 representing me or maintaining my best interest. I can't
23 find that anywhere.

24 THE COURT: Well, it's in the Standards of Professional
25 Conduct for Lawyers is where it says that.

1 THE DEFENDANT: Is that codified, in code? Because I'm
2 going by West Virginia Code, which is supposedly the law.

3 THE COURT: Well, it depends on how you define "code."

4 THE DEFENDANT: Well --

5 THE COURT: It is a rule that has been passed,
6 authorized by the Supreme Court, which has the force and
7 effect of a law. And Rule 1.1 of the Rules of Professional
8 Conduct states that:

9 "A lawyer shall provide competent representation
10 to a client. Competent representation requires
11 the knowledge -- legal knowledge, skill,
12 thoroughness and preparation necessary for the
13 representation."

14 And it says, "In a criminal case...", this is Rule 1.2(a),
15 that:

16 "In a criminal case, the lawyer shall abide by
17 the client's decision, after consultation."

18 As to whether a plea to be entered, waive a jury trial,
19 client will testify, things like that.

20 Rule 2.1 of the Rules of Professional Conduct states
21 that:

22 "In representing a client, a lawyer shall
23 exercise independent professional judgment
24 and render candid advice. In rendering advice,
25 a lawyer may refer not only to the law, but to

1 other considerations, such as moral, economic,
2 social and political factors."

3 Rule 5.6 of the Rules of Professional Conduct indicate
4 that:

5 "A lawyer shall not permit a person who
6 recommends, employs or pays the lawyer to
7 render legal services for another to direct or
8 regulate the lawyer's professional judgment."

9 So someone else can't tell Mr. Oshoway how to represent
10 you. You will direct how he represents you, or make the
11 decisions, again, as to whether you testify, and, you know,
12 things like that. So even though someone else may pay him,
13 even though it may be, like I think in the other case, in
14 11-F-101 you had some person, I don't remember his name now,
15 out of the eastern panhandle, I mean, I don't know whether
16 you paid him or not, but he followed your directions --

17 THE DEFENDANT: Not really.

18 THE COURT: -- regardless of who paid him.

19 THE DEFENDANT: Not really. That's, you know --

20 THE COURT: Well, that --

21 THE DEFENDANT: -- that's another problem.

22 THE COURT: Okay.

23 THE DEFENDANT: No. You said it has the effect of law,
24 but it's not actually law, it hasn't been passed by the
25 Legislature. So I'm only going by the code that has been

1 passed.

2 THE COURT: It has not been passed by the Legislature.

3 THE DEFENDANT: Right.

4 THE COURT: But under the laws of this state, a rule
5 passed by the Supreme Court has the same force and effect as
6 legislation.

7 THE DEFENDANT: Well, we address that issue in the case
8 with the Supreme Court of Appeals where they defaulted and
9 dishonor themselves, along with the State of West Virginia,
10 and they don't have the contractual authority to do a lot of
11 what they're doing.

12 THE COURT: Well, so --

13 THE DEFENDANT: So I --

14 THE COURT: -- and the point -- the only reason I'm
15 saying this now is because, you know, I need to try to decide
16 whether you're going to be represented by counsel, whether
17 you're going to have standby counsel, or whether you're going
18 to be representing yourself, and that's the only reason I'm
19 going into this.

20 THE DEFENDANT: Unless an oath in fealty is taken to me,
21 I can't accept a bar attorney, I just can't do it.

22 THE COURT: So you want to waive your right to be
23 represented by counsel?

24 THE DEFENDANT: Well, it's -- they're actually
25 attorneys, I mean, "counsel" is a different term under the

1 original contract, the Constitution. Counsel would be
2 someone that I would choose that would assist me, and he's
3 not willing to assist in doing the clerical things that I
4 need done. We had discussed that before.

5 THE COURT: Well, you seem to have somebody doing all
6 the clerical things, because I've been served with a -- I
7 mean, just this morning I was served with a forty-six page
8 document, and there's been reams --

9 THE DEFENDANT: Yeah.

10 THE COURT: -- of documents filed with the clerk's
11 office. So it doesn't seem like you have any problem with
12 having people do secretarial work for you.

13 THE DEFENDANT: Well, all they're doing is copying. Now
14 I'm running into the problem that I don't have the actual law
15 library needed to facilitate a further defense of any kind.

16 THE COURT: You can have anybody you want do that.

17 THE DEFENDANT: Yeah, but they're not permitted to come
18 to the jail and to give me the stuff that they have.

19 THE COURT: I don't know about that.

20 THE DEFENDANT: That's the problem I'm facing. But, I
21 mean, I have the right, unhindered right to represent myself,
22 and it should be unhindered in being able to defend myself,
23 and so far it has been hindered. A lot of these things have
24 been late in coming. I know that I haven't even -- there
25 wasn't even subpoenas issued. I wasn't at a grand jury

1 hearing with documents were mailed in, certified mail,
2 received, I believe, on the first of the year.

3 THE COURT: See, sir, that's where you're at a -- that's
4 the point I'm trying to make. You don't understand the basic
5 concepts of the grand jury. The defendant has no right to be
6 at a grand jury. The defendant doesn't have the right to
7 present evidence at a grand jury. And so if you have that
8 basic misunderstanding, I'm having problems letting you
9 represent yourself.

10 THE DEFENDANT: Well, no, there was private counsel for
11 a person confined at a grand jury hearing. And that's just
12 one of the issues that was sent in. We have a challenge of
13 jurisdiction, venue and law form that's been unanswered. I
14 mean, we've got -- I've got a whole stack of stuff here
15 that's been unanswered by the State.

16 THE COURT: And do you why?

17 THE DEFENDANT: Well, I've asserted my right to
18 represent myself since day one at the Magistrate's Court.

19 THE COURT: Do you know why those things haven't been
20 answered?

21 THE DEFENDANT: Because they -- in the supposed rules of
22 procedure there is no timeline for them to answer them.

23 THE COURT: No. It's because in reading through them it
24 is difficult, if not impossible, to understand what you're
25 saying.

1 THE DEFENDANT: Oh, it's quite coherent. There's
2 nothing wrong with what I'm saying. I mean, it's quite
3 coherent. It's the English language.

4 THE COURT: Just because you use the English language
5 doesn't mean that it's coherent.

6 THE DEFENDANT: I mean, I could say the same about some
7 of the stuff the State of West Virginia has done, but --

8 THE COURT: All right. So the question all boils down
9 to whether you want to be represented by an attorney who's
10 licensed in this state. Do you wish to or not?

11 THE DEFENDANT: No, I wish to have unfettered assistance
12 of counsel.

13 THE COURT: How do you define "counsel"?

14 THE DEFENDANT: Not representation, but counsel.

15 THE COURT: How do you define "counsel"?

16 THE DEFENDANT: How do I define it?

17 THE COURT: Yeah.

18 THE DEFENDANT: The same way it was defined when the
19 original contract was drawn up.

20 THE COURT: What contract are you talking about?

21 THE DEFENDANT: The Constitution for the United States
22 of America, that's the original contract.

23 THE COURT: Have you ever studied law?

24 THE DEFENDANT: Yes.

25 THE COURT: And do you understand that you're charged

1 with a crime in 16-F-25?

2 THE DEFENDANT: No. I understand that there's an entity
3 charge that appears to be cestui que vie trust, I understand
4 that, and I'm the administrator, the executor, or the
5 custodian, the beneficiary thereof. I'm not the trustee, the
6 surety, the acceptor, the debtor.

7 THE COURT: The law in this state, as I understand it,
8 is that there needs to be an unequivocal waiver of right to
9 counsel before a person can waive their right to counsel, and
10 it has to be knowingly, intelligently and voluntarily done.
11 I think that in this case it is certainly voluntarily done,
12 and, I mean, I think it's knowingly done, in terms of I think
13 the defendant understands the effect of it.

14 My concern is, and this concern is based upon the
15 conversation that just occurred on-the-record, as well as the
16 filings that have occurred in the two cases that are pending
17 in front of me, as well as the filings that have occurred
18 with the clerk's office. And I'm pretty sure that the
19 clerk's office has been advised not to file those documents
20 in a particular case, but I'm now directing the clerk's
21 office not to destroy those files, because I read through
22 those documents, and that's part of the reason why I'm saying
23 that I think that this defendant will be -- will not be able
24 to effectively represent himself because of the assertions
25 that he is making in those documents, which are sometimes not

1 -- well, it doesn't -- it shows a lack of understanding as to
2 how certain procedures are done, and it shows a lack -- well,
3 not a lack, but some of those documents are difficult, if not
4 impossible to understand, and, you know, you can't raise a
5 defense if nobody understands the defense that's raised.

6 And so I just think that, and I would find, that this
7 defendant cannot effectively represent himself, and therefore
8 needs -- I'm going to have standby counsel. I'm going to put
9 your position, Mr. Oshoway, as standby counsel, so that you
10 can give him advice. Like if he wants to issue a subpoena,
11 you can tell him how to issue a subpoena or issue that
12 subpoena for him, things like that, so that -- you know, and
13 if he wants to appear at certain hearings, you know, how he
14 can make that request effectively. And what I'm thinking
15 about is, while I don't think that there's a right for a
16 defendant to appear before a grand jury, the defendant does,
17 I think, have the right to request to appear before a grand
18 jury. And I think the law is that the court that's presiding
19 over the grand jury then makes the decision as to whether --
20 I think that's what the law is. But I don't know whether he
21 made the right request, because I don't know who that request
22 was made to.

23 MR. OSHOWAY: Right. And, Judge, I don't know that
24 either, because in the situation with -- as between Mr.
25 Deegan and myself is, it is such that I am not -- I have not

1 been privy to all of the motions and filings that he has
2 made.

3 The problem I have with acting as standby counsel is,
4 for example, if we have a hearing today, as the hearing is
5 proceeding, if I -- you know, if I, as counsel, perceive that
6 an objection should be made or whatever is appropriate under
7 the circumstances, do I just -- do I counsel Mr. Deegan to do
8 that, or do I do that?

9 THE COURT: Mr. Deegan, do you want his assistance in
10 terms of objections during the presentation of evidence?

11 THE DEFENDANT: Presentation of evidence when?

12 THE COURT: Today.

13 THE DEFENDANT: I haven't even seen -- I mean, we just
14 -- I just got the packet today. I haven't even got to look
15 through it.

16 THE COURT: Do you want his assistance during the
17 presentation of evidence in terms of objections, yes or no?

18 THE DEFENDANT: I mean, I don't want any assistance from
19 anybody, I just want to be able to prepare.

20 THE COURT: Okay. So, Mr. Oshoway, you do not need to
21 advise the defendant whether to object during the
22 presentation of evidence.

23 MR. OSHOWAY: The other problem I have, Judge, is, I
24 have tried to walk the line between, you know, representation
25 and acting as counsel, as apparently Mr. Deegan conceives of

1 it. You know, I have suggested actions to him in the past,
2 which he has not taken. And for some of the reasons that the
3 Court has already highlighted, you know, is -- when we've
4 that discussed his rationale has escaped me, but,
5 nonetheless, there are things that he could have done. For
6 example, you know, he's never filed, to my knowledge, he's
7 never filed a motion for reduction of bond, and I was not
8 permitted to as I understood the relationship that I had with
9 him. There are -- I mean, that's a very -- seems like a very
10 tenuous position for an attorney as things develop.

11 And, again, as the Court has stated, there is much about
12 Mr. Deegan's position on all of these defenses that he's
13 raised and other legal issues that he's raised that simply I
14 don't understand the rationale, or simply disagree with the
15 interpretation that's presented of various statutory or
16 constitutional matters.

17 THE COURT: Well, and, of course, it's my understanding
18 of the law of standby counsel is that there's supposed to be
19 a clear -- clearly spelled out what standby counsel's
20 obligations are. And I think the reason for the law is
21 exactly as you just pointed out, is that you don't want to
22 get the attorney in trouble and you don't want to interfere
23 with the defendant's representations of himself.

24 So as of now, your obligation is to monitor the case, so
25 that if Mr. Deegan has legal questions for you, you can

1 answer those questions. You are to assist him in, I don't
2 want to say technical aspects, but the filing --

3 MR. OSHOWAY: Procedural.

4 THE COURT: Yeah, procedural aspects, in terms of how to
5 request a subpoena, how to file motions properly, different
6 things like that. But, you know, as Mr. Deegan specifically
7 said, he doesn't need your assistance in terms of making
8 objections during the presentation of evidence. So you don't
9 need to do any legal research, unless he specifically asks
10 you to do that, or file any motions, unless he specifically
11 asks you to do that.

12 So hopefully I have delineated your responsibilities.
13 If there is some area that you're not sure of, then I will
14 try my best to be more specific in that area.

15 MR. OSHOWAY: Well, there is an area that concerns me,
16 and you just touched on it just now. For example, Mr. Deegan
17 might, and this is just an example, it's not a real life
18 instance, Mr. Deegan might ask me to research littering law
19 in California. And, you know, I would say, of course, why
20 would you want me to research that, and he has a rationale
21 for that, which, you know, in my view as an attorney doesn't
22 make any sense, you know, it doesn't have any effect or
23 impact on his case as I see it. That's a little bit --
24 that's kind of an extreme example. But, I mean, based on
25 discussions I've had with Mr. Deegan and some of the people

1 that he's associated with, I can easily foresee, you know,
2 requests to research matters that in my view have little or
3 nothing to do with his case or cases. Am I obligated to
4 conduct that research?

5 THE COURT: I don't want to inhibit Mr. Deegan's ability
6 to present any type of defense or any type of argument before
7 the Court. So, yes, unless and until we start running into,
8 you know, a lot of expenses.

9 MR. OSHOWAY: Okay.

10 THE COURT: And at that point, just like in any case,
11 you know, if it's a murder case, and you've got issues and
12 you're running into a lot of expenses, or, you know, some
13 other type of a case, then at that point you need to come
14 back before the Court and say, hey, you know, I'm running
15 into these expenses, and I just want to make sure that it's
16 okay if I, you know, exceed the statutory limits, and, you
17 know, all that.

18 MR. OSHOWAY: Okay.

19 THE COURT: But, you know, I don't want to -- I don't
20 want to limit Mr. Deegan's ability to, you know, make an
21 argument as to -- well, as to anything.

22 MR. OSHOWAY: Okay. Now, one last area of concern.
23 Your Honor stated that I didn't have to file any motions,
24 unless I was specifically requested to file a motion. If I
25 perceive a motion or other legal filing to be dilatory, or

1 frivolous, or --

2 THE COURT: You'll have to look at Rule 11.

3 MR. OSHOWAY: Okay.

4 THE COURT: Your obligat- -- your ethical obligations to
5 the Court.

6 MR. OSHOWAY: Right. And that's where I can perceive an
7 ongoing conflict.

8 THE COURT: Well, if you believe that it is -- I mean,
9 just like with any client, if any client says they want you
10 to file something that you perceive to violate Rule 11, I
11 don't know what the procedure is, because -- I mean, you
12 know, I'm assuming you have to protect yourself. You would
13 have to document that somehow and communicate with your
14 client, I don't believe that this is an appropriate motion.

15 Mr. Deegan can file the motion, I'm not saying he can't
16 file motions --

17 MR. OSHOWAY: Right.

18 THE COURT: -- I'm just saying you are there to advise
19 him as to how to do it properly.

20 MR. OSHOWAY: Okay.

21 THE COURT: Because I suspect that the reason he hasn't
22 heard anything from the Supreme Court is because it wasn't
23 properly done, I mean, I don't know, and so it's probably
24 just sitting down there. I don't know.

25 THE DEFENDANT: Oh, we've had responses in the case.

1 THE COURT: Oh, okay.

2 THE DEFENDANT: I understand the rules and everything.
3 I can read.

4 THE COURT: Okay. All right.

5 THE DEFENDANT: Okay.

6 THE COURT: We have to do an arraignment in 16-F-25.

7 Mr. Deegan, have you received a copy of this indictment?

8 THE DEFENDANT: About twenty minutes ago.

9 THE COURT: Okay. And have you read it?

10 THE DEFENDANT: I've read it.

11 THE COURT: Okay. And discussed it with Mr. Oshoway?

12 THE DEFENDANT: No, I haven't discussed it.

13 THE COURT: Are you prepared to plead to this indictment
14 then?

15 THE DEFENDANT: No.

16 THE COURT: How much time will it take for you to be
17 prepared to plead to this indictment?

18 THE DEFENDANT: I wouldn't be pleading to it. I would
19 just initially challenge in personam subject matter,
20 political and territorial jurisdiction.

21 THE COURT: All right. The Court would interpret that
22 as a not guilty plea.

23 Trial?

24 MR. ROGERS: February 23rd.

25 THE COURT: Mr. Oshoway?

1 MR. OSHOWAY: I have a divorce hearing in Calhoun County
2 set for that day, but I'm sure I can move it.

3 THE COURT: So is February the 23rd acceptable or not
4 acceptable, Mr. Oshoway?

5 (Mr. Oshoway confers with the defendant.)

6 THE DEFENDANT: Absolutely not. I mean, I don't have --
7 I haven't had an answer to anything, so I don't know what --

8 MR. OSHOWAY: I believe we would ask for some additional
9 time.

10 MR. ROGERS: In this term?

11 THE COURT: Yes, in this term.

12 MR. ROGERS: March 15th?

13 MR. OSHOWAY: That's fine with my schedule.

14 THE COURT: Mr. Deegan, March 15?

15 THE DEFENDANT: When would they have to make answers to
16 what I've submitted by, so that I know --

17 THE COURT: See, I don't know what you submitted, so I
18 don't know. Is March 15th an acceptable trial date?

19 THE DEFENDANT: Well, I'm not sure. I'm not sure.

20 THE COURT: All right. Well, we'll set it for
21 3/15/2016, and if you need -- if it's not acceptable, you can
22 make a motion to continue.

23 Any and all motions are to be filed on or before
24 February 19, with a notice attached to the motion setting the
25 matter down for a hearing.

1 All right. Are we ready to proceed on the motion to
2 revoke home confinement?

3 MR. ROGERS: Yes, Your Honor.

4 MR. OSHOWAY: Judge, I would point out that I received
5 discovery in the home confinement case on Thursday of last
6 week. There were a couple of days where I could have picked
7 it up a day or two earlier, but, in fact, I wasn't able to
8 pick it up until Thursday, and was not able to provide Mr.
9 Deegan with a copy of the discovery until this morning.

10 Included with the discovery is two CDs. One, I believe,
11 is transcribed in this discovery, the other is not, and I
12 don't believe I can give Mr. Deegan a compact disc to take
13 with him. So there's discovery that he hasn't seen. So as a
14 result -- well, I just want the Court to be aware of that.

15 (Mr. Oshoway confers with the defendant.)

16 THE DEFENDANT: Yeah, I need -- I absolutely need more
17 time. I was not -- I requested pursuant to Rule 32.1, I
18 believe it was (c), that the evidence that was going to be
19 used against me at the revocation hearing would be provided,
20 and I just got it this morning. I mean, I haven't even got
21 to read through it. So I did ask in a timely manner.

22 THE COURT: Why was it provided so late?

23 MR. ROGERS: Your Honor, if I could for the record,
24 discovery was available, I believe it was on January 14th or
25 15th, one of those two days, I don't have that specific day in

1 front of me. I did receive those, all the documents, and
2 complied it. I received them early in January.

3 The reason that I didn't mail it out, there was -- there
4 were, as Mr. Oshoway stated, two discs. I wanted Mr. Oshoway
5 to get that discovery as soon as possible. I knew that if I
6 mailed it, it would take a while. As Mr. Oshoway stated,
7 there was some miscommunication, and it wasn't picked up
8 until the 21st.

9 THE COURT: Mr. Deegan, how much time do you need?

10 THE DEFENDANT: Well, there's a CD that has not been
11 transcribed from the best I can tell from just look -- I
12 mean, I only had a few minutes to look through it, but it
13 looks like one whole CD has not been transcribed, and I do
14 not believe that I have the means at the jail to be able to
15 hear it.

16 THE COURT: How much is on that CD?

17 MR. ROGERS: Your Honor, that disc actually contains
18 phone calls from the jail. There are a lot of phone calls on
19 that disc. What I can do is provide just the few phone calls
20 that I'll be using for this hearing on disc, and provide the
21 exact files. And then that way it would be limited to
22 probably only a couple -- probably a couple hours.

23 Now, what I'll tell the Court is, I'm not going to use
24 the entire phone calls, but I'll provide that -- those phone
25 calls would be a couple hours. I'd only be using a couple

1 minutes' worth of the phone calls for purposes of this
2 hearing.

3 THE COURT: So how long will it take to transcribe the
4 phone calls that you're wanting to use for this hearing?

5 MR. ROGERS: I apologize, Your Honor, I'm not sure how
6 long that takes. I would assume maybe a week or two. I'm
7 not sure how fast they can get those transcribed.

8 THE COURT: When you say "they," who are you talking
9 about?

10 MR. ROGERS: Whoever my office has transcribe.

11 (Pause.)

12 THE COURT: How is Friday, February the 19th, at one
13 o'clock?

14 MR. OSHOWAY: Judge, I am in an abuse and neglect
15 proceeding in Calhoun County at eleven o'clock that morning.

16 THE COURT: Will that start at 11:00?

17 MR. OSHOWAY: It will start at 11:00, or close to it.

18 THE COURT: Will you go until you get finished?

19 MR. OSHOWAY: It'll be fairly brief. It'll be -- it's
20 not a review, it's a request for visitation by grandparents.

21 So it won't --

22 THE COURT: Do you have anything else scheduled that
23 afternoon?

24 MR. OSHOWAY: No.

25 THE COURT: What time could you be here?

1 MR. OSHOWAY: I could be here at 1:30.

2 THE COURT: Okay. How about 1:30 on Friday, February
3 the 19th?

4 MR. ROGERS: Your Honor, since I have my witnesses here,
5 can I check with them?

6 THE COURT: Okay.

7 (Mr. Rogers leaves room, and returns.)

8 MR. ROGERS: Your Honor, one of my witnesses has a trial
9 in Putnam County that morning. He thinks he'd be available,
10 but it probably -- he says 1:30 would be pushing it. I don't
11 have a problem leaving it at this time, as long as the
12 Court's aware, and if we even may have to take a brief recess
13 to wait on the trooper to arrive.

14 THE COURT: Okay. Or at least we can get something
15 done. All right. We'll reset it then until Friday, February
16 the 19th, at 1:30.

17 And the phone calls that you're going to use, they need
18 to be transcribed and provided to the defendant no later than
19 Friday, February the 5th.

20 MR. OSHOWAY: And, Judge, if I may, does that mean
21 provided to me to provide to Mr. Deegan, or does that mean
22 provided to Mr. Deegan.

23 THE COURT: No, no. Mr. Deegan's representing himself.
24 You are standby counsel.

25 MR. OSHOWAY: Okay.

1 THE COURT: And your obligations don't have anything to
2 do with discovery. So discovery and all that needs to be
3 provided directly to the defendant, not to Mr. Oshoway,
4 because he's not -- his duties as standby counsel don't have
5 anything to do with receiving discovery.

6 MR. OSHOWAY: I would ask that the State provide me with
7 a copy of what they provide Mr. Deegan.

8 THE COURT: Well, that's up to Mr. Deegan as to whether
9 he wants you to get a copy. He may -- I mean, you know --
10 all right. Anything else?

11 MR. ROGERS: No, Your Honor.

12 THE DEFENDANT: Yeah. Can I get some clarification?
13 You said that some of my filings were ramblings, and I would
14 just like clarification as to which ones those were.

15 THE COURT: Well, I don't have a bunch of those in front
16 of me right now, so I --

17 THE DEFENDANT: Because there were approximately twenty
18 or so that have been filed in both matters.

19 THE COURT: Well, I don't know of any that have been
20 filed in 16-F-25. I haven't received anything.

21 THE DEFENDANT: Well, that's because that's the new case
22 number. The case number I had was 15-B-328. At the present
23 time they were filed that was the case number, so they've
24 changed it since then again.

25 THE COURT: Yeah. I guess -- and I don't know whether

1 it's even in here now. Just the title of some of these. It
2 says, "Declaration and Notice of Rebuttals of a Silent
3 Presumptions of Law;" "Declaration and Notice of Commercial
4 Default and Dishonor;" "Declaration and Notice of Demand for
5 Production, Demand and Order of Cease and Desist;" "Second
6 Final Notice, Opportunity to Cure;" "Second Final Notice,
7 Refusal for Cause Without Dishonor." Those things are --
8 that's language that's not used in criminal courts, and
9 that's, you know, where we are.

10 You indicate in here, let's see, I'm trying to find it.
11 Here it is:

12 "I am not in custody by/of custodians, and/or
13 guardians. I am not a persons, corporations
14 and/or fictional entities property. Under
15 no circumstances may I be detained in any way,
16 shape or form at any time and/or any place,
17 nor at any time past, present and future,
18 ab initio, in perpetuity."

19 You also say -- and this is just of the forty-some pages that
20 were filed today.

21 THE DEFENDANT: What I filed today was a cross-complaint
22 and counterclaim.

23 THE COURT: Sir, you asked me if I could provide you
24 with some examples of what I am saying when I said it was
25 hard to understand, and that's what I'm trying to do. I'm

1 not here to debate you on it, I'm just trying to tell you
2 what I --

3 THE DEFENDANT: I know what I filed today. I'm talking
4 about -- you were talking about the past filings, I thought.
5 They were incorporated into today's filing by reference.

6 (Pause.)

7 THE COURT: Well, I must have left the -- the one that I
8 was just quoting from was received on the 12th of January. So
9 I don't have the one that I received today evidently in here.

10 THE DEFENDANT: I have a copy of it right here. It is
11 entitled, "Cross-complaint, Counterclaim, Criminal Complaint,
12 Bill of True Accounting of the Trust."

13 THE COURT: It's not in here, but it contains similar
14 language. And you talk about being a "real man with arms and
15 legs." I mean, you know, I don't know how to respond to
16 things like that, so that's what I'm talking about.

17 THE DEFENDANT: Well, that's from a judicial notice, and
18 that document is created by the government. So I'm using
19 their language, not mine.

20 THE COURT: Okay. All right. Thank you.

21 (Proceeding ended at 11:16 a.m.)

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1 STATE OF WEST VIRGINIA,
2 COUNTY OF WOOD, to-wit:

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4 I, Cynthia A. Sutphin, Certified Electronic Reporter and
5 Transcriber for the Circuit Court of Wood County, West
6 Virginia, do hereby certify that the foregoing is a true and
7 correct transcript of the proceedings held in the matter of
8 STATE OF WEST VIRGINIA, Plaintiff vs. THOMAS DEEGAN,
9 Defendant, Case Nos. 11-F-101 and 16-F-25, as recorded by me
10 on the 26th day of January, 2016.

11 Given under my hand this 10th day of February,
12 2016.

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CYNTHIA A. SUTPHIN, CER, CET

1 STATE OF WEST VIRGINIA,
2 COUNTY OF WOOD, to-wit:

3

4 I, Cynthia A. Sutphin, Certified Electronic Reporter and
5 Transcriber for the Circuit Court of Wood County, West
6 Virginia, do hereby certify that the transcript within meets
7 the requirements of the Code of the State of West Virginia,
8 Chapter 51, Article 7, Section 4 and all rules pertaining
9 thereto as promulgated by the Supreme Court of Appeals.

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CYNTHIA A. SUTPHIN, CER, CET

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DATED: 2/10/16

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