

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION

JEREMIAH A. SWEENEY,)	
)	
Plaintiff,)	
)	Civil No.
vs.)	8:19-cv-1289-DLB
)	
RICHARD J. GRAHAM, JR.,)	Baltimore, Maryland
et al,)	
)	May 15, 2025
Defendants.)	1:02 p.m.

TRANSCRIPT OF PROCEEDINGS - STATUS CONFERENCE
via TELECONFERENCE
BEFORE THE HONORABLE DEBORAH L. BOARDMAN

A P P E A R A N C E S

On Behalf of the Petitioner:

Jennifer E. Smith, Esquire

On Behalf of the Respondent:

Andrew DiMiceli, Esquire

Also Present:

Sherri Waldrup, Assistant State's Attorney for Prince
George's County

Proceedings Recorded by Audio Recording
"Transcript Produced By Computer-Aided Transcription"

Reported by: Ronda J. Thomas, RMR, CRR
Federal Official Reporter
101 W. Lombard Street, 4th Floor
Baltimore, Maryland 21201

1 (1:02 p.m.)

2 **THE COURT:** The matter now pending before the court is
3 Civil Docket No. 8:19-cv-01289-DLB, Sweeney v. Graham, Jr., et
4 al. The case is called for a recorded telephonic status
5 conference.

6 Beginning with the Petitioner's counsel, please identify
7 yourself for the record.

8 **MS. SMITH:** Good afternoon. This is Jennifer Smith on
9 behalf of Mr. Sweeney.

10 **MR. DIMICELI:** Good afternoon, Your Honor. This is
11 Andrew DiMiceli, assistant attorney general, on behalf of the
12 Respondents.

13 **THE COURT:** Okay. Any other lawyers on the line? Is
14 there an assistant state's attorney on the line?

15 **THE CLERK:** Yes, Your Honor. Good afternoon, Sherrie
16 Waldrup, assistance state's attorney, chief of the Homicide
17 Unit in the Prince George's County State's Attorney's Office.

18 **THE COURT:** Good afternoon to all of you. So let's
19 figure out where we are. I issued my letter order on May 12th
20 setting this call and telling you what I'd like to talk about.
21 And then I was informed about the Respondent's application to
22 stay the Fourth Circuit's mandate.

23 I guess the first question is, has the mandate actually
24 issued? It was tolled for a bit. Let me start with you,
25 Ms. Smith?

1 **MS. SMITH:** Yes, Your Honor, I believe that the Fourth
2 Circuit denied the request for a further stay on May 8. And --

3 **THE COURT:** Right. Has the mandate issued?

4 **MS. SMITH:** I believe that --

5 (Overlapping speakers.)

6 **MS. SMITH:** The mandate issued -- the stay was on the
7 8th so it may be another week before then.

8 **MR. DIMICELI:** Your Honor, if I may, Andrew DiMiceli
9 for the Respondents?

10 **THE COURT:** Yes.

11 **MR. DIMICELI:** It is my understanding that the mandate
12 has not yet issued. The Court did deny the Respondent's
13 request for a stay last week. It was my understanding under
14 the rules the mandate will issue one week thereafter, which
15 should be sometime today. I haven't seen it come through yet,
16 but as of right now I don't believe the mandate has actually
17 issued.

18 **THE COURT:** Okay. You did file an application of stay
19 before it was actually issued, right?

20 **MR. DIMICELI:** Yes, Your Honor. We submitted it to
21 the Supreme Court yesterday. I had a conversation with the
22 clerk's office earlier today, they indicated to me that they
23 are in the process of bringing it up the chambers. Of course
24 the Supreme Court was hearing oral argument this morning so
25 Chief Justice Roberts was busy, but he hopefully should be able

1 to review our application shortly and will be issuing some sort
2 of ruling. I can't say exactly how quickly, but the clerk's
3 office suggested that it can -- either ruling one way or the
4 other can be issued fairly quickly.

5 **THE COURT:** Okay. So they don't need additional
6 briefing on that unless they ask for it; is that right?

7 **MR. DIMICELI:** It is my understanding. We filed an
8 application for a stay and included in that a request for an
9 immediate administrative stay pending the Court's
10 consideration.

11 My understanding is that if the Court is interested in
12 additional briefing it'll order it, but we hope and perhaps
13 expect that the Court will issue an administrative stay in
14 order to sort of halt things while they consider it.

15 **THE COURT:** Okay. All right. So we've got some
16 procedural things to work out. The bigger picture is, assuming
17 you don't succeed in the United States Supreme Court, maybe you
18 will, but assuming you don't, is the state of Maryland going to
19 retry Mr. Sweeney?

20 **MR. DIMICELI:** Yes, Your Honor. The state does intend
21 to retry Mr. Sweeney.

22 **THE COURT:** All right. Well, let's assume this, just
23 for purposes of our discussion today, that the stay is denied
24 sometime let's say next week, and that means Mr. Sweeney needs
25 to be retried. The Fourth Circuit has directed -- let me get

1 the order out, the opinion out: Remand with instructions to me
2 to issue a conditional order of release unless a new trial is
3 completed within a period determined at the district court's
4 discretion.

5 So, rather than trying to really interpret exactly what
6 that means, let's back into it.

7 When does the state of Maryland believe it can retry
8 Mr. Sweeney?

9 **MR. DIMICELI:** It's our request that the court issue a
10 time frame within 180 days. We think that that would be a
11 reasonable period of time. We choose that number largely
12 because it tracks the Maryland speedy trial rule, the *Hicks*
13 rule. And we would submit that anything less than 180 days
14 would not be reasonable considering that this is an extremely
15 complex and decades old murder case.

16 The previous trial was four days long, the state called 16
17 witnesses, including experts. The state and the defense
18 included are going to need time to contact witnesses, gather
19 evidence, rebuild the case, conduct pretrial discovery and
20 other matters.

21 And so we think 180 days, consistent with the Maryland
22 speedy trial rule, would be a reasonable number.

23 **THE COURT:** Okay. Will you agree to his release
24 pending trial?

25 **MR. DIMICELI:** We would oppose that, Your Honor.

1 **THE COURT:** Okay. Ms. Smith, we're not quite there
2 yet because we don't know what the Supreme Court is going to
3 do, but we're just assuming that we're in a world which the
4 stay of the mandate is denied.

5 So what is your position on the reasonableness of retrying
6 Mr. Sweeney with 180 days?

7 **MS. SMITH:** Your Honor, I -- so I am only representing
8 Mr. Sweeney before the district court. My understanding is
9 that his public attorney will be opposing the administrative
10 stay and the current -- the public defender is being assigned
11 to this case in Prince George's County.

12 So in terms of the 180 days, we would request either that
13 he be retried within 60 days or -- and be released
14 conditionally if he's not retried within 60 days.

15 **THE COURT:** In all candor, does the public defender
16 really believe they could be ready to retry this case, the
17 murder case with 16 witnesses and experts, in 60 days?

18 **MS. SMITH:** Your Honor, I've been working with the
19 Public Defender's Office and they are paneling it out. I don't
20 have the attorney yet. So I can't -- I cannot give an answer
21 to that because I don't have the attorney that will be
22 appointed to represent him at the state, yeah.

23 **THE COURT:** Okay. Why don't we do this, why don't we
24 just wait to see what the Supreme Court does with its
25 application for a stay. I will ask the Respondent to keep me

1 posted. I won't be able to track it, little too much going on
2 here, so I'm going to ask you to do that. Once that is
3 resolved, let me know immediately.

4 I think I need a little more briefing from the Respondents
5 on why 180 days is reasonable and not just the default that
6 that's what the speedy trial is in the state. I don't know if
7 there's case law on this. I haven't looked into it. But I
8 think I need a little bit more guidance on it. And I'll give,
9 of course, Ms. Smith the opportunity to file something in short
10 order. I'll draft it as quickly as I can.

11 So let's come up with some sort of a schedule here that's
12 workable.

13 So, Mr. DiMiceli, how about if you could file something
14 giving me your position and justifying why 180 days is
15 appropriate or is a reasonable period of time to retry him
16 within, let's say, five calendar days of the denial of the
17 stay?

18 **MR. DIMICELI:** Yes, Your Honor.

19 **THE COURT:** If they grant a stay and they want a brief
20 it and grant cert, whole different world. Do you agree
21 Ms. Smith?

22 **MS. SMITH:** Yes, Your Honor.

23 **THE COURT:** Mr. DiMiceli, does that work for you?

24 **MR. DIMICELI:** Yes, Your Honor. That's fine. Five
25 calendar days from the denial of the stay, if that occurs.

1 **THE COURT:** Ms. Smith, how much time do you need to
2 respond? Of course, it's in your client's interest to respond
3 quickly, and I won't let this linger, I'll be waiting for the
4 filing. So how much time do you need in order to respond to
5 that?

6 **MS. SMITH:** Your Honor, it should only be two to three
7 days. The only caveat I will give, I'm in a trial the first
8 week of June. So depending on when the denial of the stay
9 comes in, I may need a few more days.

10 **THE COURT:** All right. Well, I know everyone waits
11 until the last minute because we're lawyers and that's what we
12 do. So you now know what the issues are. Perhaps you could
13 start getting it ready now.

14 **MS. SMITH:** Yeah.

15 **THE COURT:** I'll give you three days to respond and if
16 you need a few more days because you've got a busy calendar,
17 that'll be fine. And then as soon as your response comes in,
18 I'll either issue an order or we'll have another call to
19 resolve it.

20 All right. Anything else that we should address on this
21 call from your perspective, Ms. Smith?

22 **MS. SMITH:** No, Your Honor.

23 **THE COURT:** Okay. Anything else from your
24 perspective, Mr. DiMiceli?

25 **MR. DIMICELI:** No, Your Honor.

1 **THE COURT:** Okay. Give me one sec. Okay. Very good.
2 Then we will -- actually I don't think I clarified this.
3 Mr. DiMiceli, could you notify me as soon as something happens
4 in the Supreme Court to keep me posted?

5 **MR. DIMICELI:** Absolutely. Of course, yes.
6 Immediately, as soon as I get more information.

7 **THE COURT:** All right. Great. And then I'll do a
8 paperless order that says your position on retrial, and the
9 timing for the retrial is due five days after the mandate or
10 the stay issue is resolved. And Ms. Smith will file her
11 position three days later.

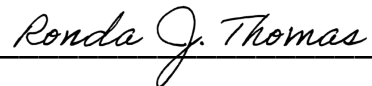
12 Okay. All right. Thank you all very much.

13 (All Counsel - "Thank you, Your Honor.")

14 (Hearing concluded at 1:14 p.m.)
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2 I, Ronda J. Thomas, certify that the foregoing is a true,
3 correct, and complete transcript of the audio-recorded
4 proceedings in the above-entitled matter, audio recorded via
5 FTR Gold on May 15, 2025, and transcribed from the audio
6 recording to the best of my ability, and that said transcript
7 has been compared with the audio recording.

8
9 Dated this 16th day of May 2025.

10
11
12 A handwritten signature in cursive script, reading "Ronda J. Thomas", is positioned above a horizontal line.

13 Ronda J. Thomas, RMR, CRR
14 Federal Official Court Reporter
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<div>MR. DIMICELI: [12]</div> <div>MS. SMITH: [10] 2/8 3/1 3/4 3/6 6/7 6/18 7/22 8/6 8/14 8/22</div> <div>THE CLERK: [1] 2/15</div> <div>THE COURT: [21]</div>	<div>assigned [1] 6/10</div> <div>assistance [1] 2/16</div> <div>assistant [3] 1/18 2/11 2/14</div> <div>assume [1] 4/22</div> <div>assuming [3] 4/16 4/18 6/3</div> <div>attorney [7] 1/18 2/11 2/14 2/16 6/9 6/20 6/21</div> <div>Attorney's [1] 2/17</div> <div>audio [5] 1/22 10/3 10/4 10/5 10/7</div> <div>audio-recorded [1] 10/3</div>	<div>consideration [1] 4/10</div> <div>considering [1] 5/14</div> <div>consistent [1] 5/21</div> <div>contact [1] 5/18</div> <div>conversation [1] 3/21</div> <div>correct [1] 10/3</div> <div>could [4] 6/16 7/13 8/12 9/3</div> <div>counsel [2] 2/6 9/13</div> <div>County [3] 1/18 2/17 6/11</div> <div>course [4] 3/23 7/9 8/2 9/5</div> <div>court [14]</div> <div>court's [2] 4/9 5/3</div> <div>CRR [2] 1/23 10/13</div> <div>current [1] 6/10</div> <div>cv [2] 1/5 2/3</div>	<div>fine [2] 7/24 8/17</div> <div>first [2] 2/23 8/7</div> <div>five [3] 7/16 7/24 9/9</div> <div>Floor [1] 1/24</div> <div>foregoing [1] 10/2</div> <div>four [1] 5/16</div> <div>Fourth [3] 2/22 3/1 4/25</div> <div>frame [1] 5/10</div> <div>FTR [1] 10/5</div> <div>further [1] 3/2</div>	<div>is [29]</div> <div>issue [6] 3/14 4/13 5/2 5/9 8/18 9/10</div> <div>issued [8] 2/19 2/24 3/3 3/6 3/12 3/17 3/19 4/4</div> <div>issues [1] 8/12</div> <div>issuing [1] 4/1</div> <div>it [25]</div> <div>it'll [1] 4/12</div> <div>it's [2] 5/9 8/2</div> <div>its [1] 6/24</div>
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