

IN THE CRIMINAL COURT OF TENNESSEE FOR THE
THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

VERN BRASWELL ,)	
)	
Petitioner,)	
)	Case No. 05-03038
VS.)	
)	
)	
STATE OF TENNESSEE)	
)	
Respondent.)	

ANNOUNCEMENTS

21 dates given to Court Reporter
See attached list

THE HONORABLE PAULA SKAHAN , PRESIDING JUDGE

Transcribed by:
CHARREL GAMBILL
Official Court Reporter
Thirtieth Judicial District

VARIOUS APPEARANCES:

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1 IN THE CRIMINAL COURT OF SHELBY COUNTY, TENNESSEE
2 DIVISION I
3

4 VERN BRASWELL)
5 Petitioner)
6)
7 VS.)
8)
9 STATE OF TENNESSEE,)
10 Respondent.)

Case No. 05-03038

11
12
13 This cause came on to be heard and was heard on the following
14 dates as set out, heretofore requested to be transcribed by Pam Stark,
15 Assistant District Attorney, before the Honorable Paula Skahan, Judge,
16 holding the Criminal Court for Shelby County, Tennessee and the following
17 proceedings were had, to-wit:

18
19 -----

20 February 8, 2010: NO COURT ON THAT DATE (Monday). CD reflects four
21 days 2-9, 10, 11, 12, 2010. Possibly no Court on this date?

22 March 9, 2010:

23 THE COURT: All right. Vern Braswell, has anybody seen, Taylor
24 Eskridge?

25 MS. CARNESALE-WISEMAN: She has not been in, Judge, today.

1 THE COURT: On Vern Braswell, reset that and if you'll call Ms.
2 Eskridge this afternoon, let's reset that for two weeks, until March 24th, for
3 report. March 24th on Braswell.

4 April 7, 2010:

5 MS. ESKRIDGE: Good Morning, Your Honor, I am here on Vern
6 Braswell. He is in Memphis, but he is not up, they haven't brought him up. I
7 understand that Your Honor's going to trial.

8 THE COURT: They're having a hard time bringing the guys up, a
9 big jail list.

10 MS. ESKRIDGE: Right. And since you're going to trial do you just
11 want me to have it held over until tomorrow?

12 THE COURT: Well, what is it you want to do with it?

13 MS. ESKRIDGE: We are going to be seeking a continuance, but he
14 wanted some more time to talk to me as well and he would like to be in the
15 courtroom, so if you want me to hold it over until tomorrow, or I could
16 request a report date.

17 THE COURT: Okay. So you're going to be requesting a
18 continuance for report date, so you can be talking with him?

19 MS. ESKRIDGE: Well, I am either going to be requesting a
20 continuance to - I don't recall the last time we had a short reset to
21 determine whether or not he was going to be having another attorney
22 substitute in. I haven't had a chance to discuss what his final decision was
23 on that, so I -

24 THE COURT: Why was he having another attorney, I forget. Let
25 me see the jacket on Braswell. I didn't remember that part. What is the

1 problem with you?

2 MS. ESKRIDGE: It's no problem.

3 THE COURT: He doesn't get to – is he going to hire another
4 attorney?

5 MS. ESKRIDGE: A family member wanted to help him by getting
6 him a paid attorney.

7 THE COURT: Oh, I see, well that is different. He can, I guess,
8 choose that way.

9 MS. ESKRIDGE: And I just haven't been able to get a report from
10 him as to what it was they had decided to do.

11 ? THE COURT: Okay. Well then, let's bring him up tomorrow.
12 April 8th on Braswell.

13 MS. ESKRIDGE: Thank you.

14

15 May 10, 2010:

16 (During Calendar Call):

17 MS. TIFFANY TAYLOR: Judge, when he gets up – well, he is
18 probably actually at the Department of Correction.

19 THE COURT: I am not sure if he was brought in today.

20 MS. TIFFANY TAYLOR: It is a report on a post-conviction, it is my
21 understanding that Mr. Ozment substituted in on the last setting; is that
22 correct?

23 THE COURT: Did he? I don't remember that.

24 MR. BRYAN DAVIS: Mr. Copeland did, Judge. You appointed Ms.
25 Eskridge first and then he had been co-counsel with Ms. Eskridge for a while,

1 because at the last report date he came in and said that he was substituting
2 for her. I believe he said because at the time that Mr. Braswell's family had
3 hired him to substitute.

4 MS. TAYLOR: We are hired.

5 THE COURT: Okay. I didn't remember that we had officially done
6 that.

7 MR. DAVIS: That was the announcement that they made to you
8 the last time we were in Court. I don't know whether they entered the
9 appropriate order, or not, but that was the announcement.

10 THE COURT: Okay. We need to bring the jacket up, they didn't
11 bring it up today.

12 MS. TAYLOR: Well, would it be possible to bring it up?

13 THE COURT: We will bring it up, that's fine, we'll hold that
14 temporarily ready.

15 (Later this same date).

16 MS. ZIPPORAH WILLIAMS: Your Honor, I am here on behalf of
17 Taylor Eskridge on Vern Braswell, a petition for post-conviction relief.

18 THE COURT: Yes.

19 MS. WILLIAMS: I just wanted to request a reset date, another
20 report date in this matter. I believe the family is supposed to hire someone
21 else and that kind of fell through, so.

22 THE COURT: We are waiting for the jacket to see if that had
23 already been done, or not. Ms. Tiffany Taylor was here for the other law firm
24 and if that has been done they can just sign on and -

25 THE CLERK: That has been done.

1 THE COURT: Okay. They have been retained, so we will just – if
2 we could go ahead and do the order then.

3 MS. TAYLOR: And Judge, if I could just step outside for just a
4 moment.

5 THE COURT: That's fine. We'll just do the order for substitution
6 of counsel.

7 MS. WILLIAMS: That's fine and I'll let Ms. Eskridge know and she
8 should be over to sign that.

9 THE COURT: But, they need someone to sign it for her.

10 MS. WILLIAMS: Right. Exactly, let me wait on her and see what
11 she wants to do.

12 THE COURT: Okay.

13 (Later this same day).

14 THE COURT: We are going to bring Mr. Braswell up for you.

15 MS. TAYLOR: That's fine, Judge, I'll explain the situation to Mr.
16 Braswell.

17 THE COURT: I think that Officer Yancey went down to bring him
18 up, so we could have him up here.

19 MS. WILLIAMS: Okay. I'll wait.

20 THE COURT: He is an escort for some reason, but it should just
21 be another minute.

22 MS. WILLIAMS: I'll wait, that's fine, Your Honor.

23 (Later this same day).

24 MS. TAYLOR: Judge, on Vern Braswell, he's coming out. On Vern
25 Braswell our office has not been retained. I apologize for the confusion. I

1 understand that the family intends to, but they have not, as of this moment.

2 THE COURT: Have you talked to him this morning?

3 MS. TAYLOR: Mr. Braswell? No.

4 THE COURT: I think he has been brought up. Let's bring Braswell
5 out.

6 (Petitioner present).

7 Mr. Braswell, an attorney was appointed to represent you over
8 two years ago and at the last court setting, I believe, we reset this for you to
9 hire a private counsel, that has not been done. So I need to be - have this case
10 moving.

11 PETITIONER BRASWELL: She was appointed to me last year, in
12 2009 and although we discussed it, the one person that my family spoke with,
13 they did not want to use them and I made it plain and clear with Ms. Eskridge
14 that that was not my intention to hire another attorney, that I was going to
15 remain with her.

16 THE COURT: Okay. But, that is not her understanding, but that's
17 fine, I'll relay that to her and move forward.

18 PETITIONER BRASWELL: Your Honor, although I didn't bring a
19 copy of it, but I clearly communicated that to her.

20 THE COURT: Mr. Braswell, we reset it today for you to hire your
21 attorney, okay. That's fine, but I'm just saying that we need to move forward,
22 okay. And that is great.

23 Now, I understand that you are not hiring the Copeland law firm
24 and we will move forward with Ms. Eskridge, okay. So we will reset it a
25 couple of weeks. You'll be sent back to the penitentiary and we will make

1 sure that Ms. Eskridge gets moving on this, okay.

2 PETITIONER BRASWELL: I have some other questions. I've been
3 trying to communicate with the Court about the fact that I've been having
4 some real trouble getting my hands on some evidence and things that are
5 going to be essential in proving in making a -

6 THE COURT: That's what Ms. Eskridge is on your case for, to
7 obtain that information.

8 PETITIONER BRASWELL: But, I've been unsuccessful in my
9 efforts to work with her. She is extremely nice, she is professional, she is a
10 good person. However, those things, in and of themselves, aren't going to
11 help me to clear the bar of clear and convincing and I really need some
12 assistance for getting and obtaining some evidence that we need. It is my
13 understanding that she is in a firm by herself. I've even asked her if she
14 would address the Court on the possibility of hiring representation so that I
15 could do motions so that I could access subpoena and evidence to do
16 something, because I am of the opinion of Your Honor that we do need to get
17 this moving and if it's the case that she is by herself and I have a certain
18 knowledge, I am not claiming to be a lawyer, I am not claiming to be
19 extremely skilled in the law, but I am literate and I can aid and assist in my
20 own defense. And these are things that I expressed to her from the onset,
21 from the time that we began meeting in April of '09, that hey, I need A, I need
22 B, I need C, I need D and I even went so far as to give her things such as
23 evidentiary sheets, former subpoenas that my original trial lawyers used to
24 show that this evidence had been obtained. And copies of exhibits to show
25 her that the state, themselves, had this evidence. This isn't some mystery

1 things I'm fabricating, these are certain things that are going to be crucial to
2 me, meeting that bar of clear and convincing and I know that I have to meet,
3 to get some post-conviction relief.

4 And I feel, it is frustrating, I feel like I am humping my head, I feel
5 like I'm writing with no response. I am, hy no means saying that I am totally
6 dissatisfied with her representation. Nor am I saying that I want to go, pro-
7 se. I am very aware of the problems when an unskilled lawyer tries to defend
8 and help themselves. I am just saying that I need help getting some additional
9 evidence and I don't feel like I'm getting the help I need and I don't know
10 what to do.

11 THE COURT: Well, the only thing that I can do is have you both
12 here and you can voice that to her. She is an attorney and she knows how to
13 issue subpoenas.

14 PETITIONER BRASWELL: And I've even, I don't know what that
15 would do with my attorney/client privilege with her, but I even have copies
16 of letters that I have communicated with her, that I would hate to turn over to
17 Your Honor that would make her look bad, I don't want to turn her into my
18 adversary. But I just really, really, really need help securing this evidence,
19 like we were saying, so we can move forward, this has been in your Court for
20 a year.

21 There was one stretch, it was over November since I've actually
22 been before you and I've been trying to communicate these things to the
23 Court to try to say, hey I need help. I've got letters that I have sent to Your
24 Honor. I don't know if you read them, I don't know what the deal is on that
25 stand. Hey, I need help, I need help getting evidence and I've been

1 unsuccessful.

2 And I don't even want to make any accusations concerning my
3 attorney.

4 THE COURT: Well, again, the only thing that I can do is have you
5 both here and hear what her response is to that, why she hasn't requested it.
6 Maybe she doesn't think that that will make a difference, I don't know. But, if
7 you would tell her -

8 MS. WILLIAMS: I am going to relay that information to Ms.
9 Eskridge for her.

10 THE COURT: The only thing that we can do is reset it for a couple
11 of weeks and then bring Mr. Braswell back in, so that we can have a little mini
12 hearing on this.

13 PETITIONER BRASWELL: With all due respect, Judge, so Your
14 Honor in two weeks will be the 24th and the only reason I am asking about the
15 dates, I'm actually working on a doctoral program at the penitentiary and
16 I've got classes and all of that and not to minimize this, but I've got the 24th,
17 25th and the 26th, I could come back on one of those days and if y'all should be
18 so kind as to do an order that will just bring me down on the same day?

19 THE COURT: That's fine.

20 PETITIONER BRASWELL: When I come down here for weeks I
21 get behind in my doctoral program.

22 THE COURT: I understand. So you're saying those days are good
23 for you?

24 PETITIONER BRASWELL: One of those days would be absolutely
25 perfect, if we could do an order that would bring me down on the same day.

1 THE COURT: Okay, how about the 25th?

2 MS. WILLIAMS: I'll let her know, Your Honor.

3 THE COURT: Okay. Let's enter an order to have him brought
4 back on the 25th, please. Thank you very much.

5 MS. WILLIAMS: Thank you.

6

7 June 15, 2010:

8 THE COURT: Ms. Eskridge, you are here on Vern Braswell?

9 MS. ESKRIDGE: Yes, ma'am and unfortunately Mr. Braswell did
10 not make it today and I have a huge file to go over with him in the back.

11 THE COURT: He may be here sometime today, I don't know, but
12 we'll check it.

13 MS. ESKRIDGE: Okay.

14 THE COURT: I hate to disappoint you.

15 MS. ESKRIDGE: I know it's one of my monthly pleasures.

16 (Later this same day).

17 THE COURT: All right. On Vern Braswell, let's just reset it to
18 bring him in. How about a couple of weeks? Two weeks is the 29th, bring him
19 in. June 29th on Vern Braswell.

20

21 July 27, 2010:

22 MS. ESKRIDGE: Good morning, Your Honor, I am here on Vern
23 Braswell, he is not here today.

24 THE COURT: Right.

25 MS. ESKRIDGE: If I could request an additional thirty days on

1 this?

2 THE COURT: Okay. We need to get moving on this.

3 MS. ESKRIDGE: I apologize, Your Honor and I'll do my best.

4 THE COURT: Let me see the jacket on that. This is really getting
5 some age on it, Ms. Taylor.

6 MS. ESKRIDGE: I understand, Your Honor, it's just that, as you
7 know, Mr. Braswell indicated lat time, there are some complicated issues and
8 we are trying to move this forward.

9 THE COURT: Well, he may think they are, but –

10 MS. ESKRIDGE: I do think that a lot of it is his perception of this
11 and I'm doing my best, Your Honor, to try to review the evidence.

12 THE COURT: Well, we are going to have to go forward, pretty
13 soon. I'm going to have to set it for a hearing on the next date.

14 MS. ESKRIDGE: Okay.

15 THE COURT: All right. August the 30th.

16 MS. ESKRIDGE: Thank you.

17
18 September 7, 2010:

19 MS. CARNESALE-WISEMAN: Your Honor, Ms. Eskridge is here in
20 the matter of Vern Braswell's post-conviction. She is asking the Court, there
21 are some jail tapes that we introduced at trial and apparently they are still
22 here on the fourth floor and they weren't sent with the Appellate record and
23 she would like to just check those out to review those. I am not opposed to
24 that, obviously. And they need an order.

25 MS. ESKRIDGE: I do have that order, as well, to transfer him and

1 also I can fill in the date that we will return to Court on the other order, once
2 Your Honor gives it to me.

3 THE COURT: All right. October the 4th.

4 MS. ESKRIDGE: Thank you, Your Honor.

5
6 November 16, 2010:

7 MS. JENNIFER FITZGERALD: Good morning, Your Honor. If I
8 could address on Vern Braswell?

9 THE COURT: Sure.

10 MS. FITZGERALD: This is Ms. Eskridge's matter.

11 THE COURT: Right.

12 MS. FITZGERALD: Ms. Eskridge had something that came up this
13 morning. She advised me that she was waiting on the medical examiner to
14 review some pathology slides and she was requesting a January date.

15 THE COURT: She is waiting on someone to review some slides
16 and she needs two months?

17 MS. FITZGERALD: I think that she said that he was just beginning
18 to review them.

19 THE COURT: December the 17th, let he know, please, for report.

20 MS. FITZGERALD: Thank you, Your Honor.

21 -----
22 January 11, 2011:

23 THE COURT: All right, Ms. Eskridge?

24 MS. ESKRIDGE: Good morning, Your Honor, I represent Vern
25 Braswell and he's in custody.

1 THE COURT: Okay. Let's bring Braswell out.
2 (Petitioner present).

3 MS. ESKRIDGE: Your Honor, on our last report date I had
4 reported to you that we were submitting the evidence to our expert for
5 review. That evidence has been submitted to him and is under review by the
6 expert, right now.

7 Also, we are awaiting the Appellate file to be returned. Ms.
8 Carnesale and I were looking for certain tapes that were supposed to be in
9 evidence that are no longer in the prosecutors file, so that evidence is on its
10 way back here, so we can get that, as soon as it gets here, so the clerk says
11 thirty days to have those items returned.

12 THE COURT: Okay. Will February the 15th work for you?

13 MS. ESKRIDGE: February the 15th is fine, Your Honor. Thank you.
14

15 March 25, 2011:

16 MS. ESKRIDGE: Good morning, Your Honor. Vern Braswell is on
17 the docket today.

18 THE COURT: He is.

19 MS. ESKRIDGE: He is in custody.

20 THE COURT: Okay. Let's get him out. What are we going to be
21 doing with Mr. Braswell.

22 MS. ESKRIDGE: We've decided on a hearing date for June 14th, if
23 that date is okay for Your Honor.

24 THE COURT: Okay. Just a second. I won't be here that week, it is
25 Judicial Conference.

1 DEPUTY: Braswell is in the courtroom.

2 THE COURT: All right. And we don't usually set post-convictions
3 that early in the week, we try to set them, like, on Fridays.

4 MS. ESKRIDGE: I'm sorry, let me speak – I meant to say June the
5 17th, which is a Friday.

6 THE COURT: Okay. I still won't be back.

7 MS. ESKRIDGE: Yes, that is still Judicial Conference, so. Is June
8 the 24th, okay?

9 THE COURT: Well, do you just want to set it off that far?

10 MS. ESKRIDGE: Your Honor, there are conflicts on my calendar
11 before those dates and then there are several days that were unavailable for
12 the State.

13 THE COURT: Okay. Well, June the 21st I am showing a motion is
14 set. July the 1st is open, if you want to do it then?

15 MS. ESKRIDGE: July the 1st would be fine, Judge.

16 THE COURT: Right. That is right before the holiday, but we will
17 try to get it started early in the day.

18 MS. ESKRIDGE: I'll be here first thing in the morning on July 1st.

19 THE COURT: Okay. A post conviction hearing date July 1st

20 MS. ESKRIDGE: I'm going to make a change to the order and then
21 I'll pass it up to you.

22 THE COURT: Okay.

23 PETITIONER BRASWELL: Excuse me, Your Honor, last time I was
24 here we were going to have some discussions about some concerns that I was
25 having.

1 THE COURT: Okay. What are those concerns?

2 PETITIONER BRASWELL: I was concerned about the ability to
3 procure some evidence that I thought I needed to meet the clear and
4 convincing bar that I have to reach.

5 THE COURT: Okay. And I thought you had resolved those?

6 PETITIONER BRASWELL: I haven't even - no.

7 THE COURT: Ms. Taylor Eskridge, I'm sorry, Mr. Braswell is
8 saying that he thinks that there is some more information that needs to be
9 prepared to be presented.

10 MS. ESKRIDGE: Respectfully, Your Honor, we just have a
11 difference of opinion as to what is necessary to proceed and what is not. He
12 has addressed Your Honor, several months ago, asking if he could play a
13 significant role in his representation and if he would be able to secure some
14 evidence and you know, I am more than willing to help him do that in any
15 way, it's just some things are not feasible and I don't have access to. Some
16 things were not discoverable at trial and are still not discoverable.

17 THE COURT: Review that with me, because I don't remember.

18 PETITIONER BRASWELL: Okay. Let me give you an example,
19 Your Honor. There are some statements that were made that relate to a
20 person's death in my case, perhaps attributable to another cause, or at least,
21 would make another intervening factor. And I don't know a whole lot, but I
22 thought that there was something that could be helpful, or favorable to me
23 that I'm supposed to get those things and there are statements to that effect.

24 THE COURT: Okay. I don't have the post conviction jacket up
25 here.

1 MS. ESKRIDGE: Your Honor, there were statements from
2 witnesses who were not called at trial, that were interviewed at some point in
3 time by the State, however, those witnesses were not called at trial and those
4 statements were not available at the trial level for review by the defense and
5 they are still not in any format that are available to me now.

6 PETITIONER BRASWELL: But, my argument Your Honor is, if
7 these were statements that were available and my attorney at trial, Jay Bailey
8 did not do his due diligence to have a Brady Hearing, or never even attempted
9 to procure these statements and they have never been reviewed by any
10 representative of the defense, not Jay Bailey at trial and not her now, that
11 somebody ought to –

12 THE COURT: Okay. Well, Ms. Eskridge, those should be available
13 to you. Anything exculpatory, I'm sure if Mr. Carriker is handling this, he'll
14 turn those over to you.

15 Are you handling this for the State?

16 MR. DOUG CARRIKER: When I start breaking into it I will sit
17 down with Ms. Eskridge and we will figure out what is and isn't discoverable
18 and report back to Your Honor.

19 PETITIONER BRASWELL: Again, Your Honor, I have some other
20 things. Would you allow me to speak with Ms. Eskridge for a few minutes and
21 then bring me back in, because we may be able to – if not, unless she doesn't
22 have time. If she doesn't have time then I could – do she have time to speak
23 with me for three to five minutes in the back?

24 THE COURT: I'm sure she has a few minutes to speak with you
25 now.

1 PETITIONER BRASWELL: Thank you.

2 THE COURT: Okay. Let's just hold this for a minute, but
3 tentatively we got a July 1st evidentiary.

4 (Later this same date a bench conference was at, to-wit):

5 THE COURT: Your Honor, I just wanted to approach you briefly
6 about Vern Braswell. A lot of issues have been going on with that and you're
7 aware, but Doug (Carriker), is not aware that there have been several
8 different prosecutors just handing the file over and over and over and over.

9 It was originally, Bryan Davis who has a relationship with Mr.
10 Bailey, who was the trial attorney where, if Your Honor recalls, several – even
11 Larry Copeland ended up approaching me with, Your Honor, regarding me
12 getting discovery in this case. At first, nothing was available to me, not the
13 attorney's file, not the State's file. I was even told that the State's file was
14 located in California, which I have since learned that –

15 MR. CARRIKER: What?

16 MS. ESKRIDGE: And that was not from this attorney. But, that
17 none of the State's files are located in California on any case and it is just an
18 amazing –

19 MR. CARRIKER: In a storage facility?

20 MS. ESKRIDGE: Right.

21 MS. CARRIKER: No, it's across the street.

22 MS. ESKRIDGE: So at this point, most of my request have been
23 either ignored, or just not responded to, at all.

24 I did get Mr. Bailey's file, because Your Honor requested that he
25 give it to Bryan Davis, who then gave it to me, so I've finally went over

1 thoroughly with him on that, regarding the evidence. Mr. Braswell is
2 speaking about if there are some notes in the police records that indicate two
3 or three people were spoken to regarding the case. It doesn't reveal -

4 MR. CARRIKER: Are you talking about witnesses?

5 MS. ESKRIDGE: Witnesses, that weren't called in trial that didn't
6 appear to have any information that was exculpatory, or otherwise as
7 believed that it was determined that they didn't have anything that was -

8 THE COURT: That was material.

9 MS. ESKRIDGE: That was material. However, he feels that they
10 are necessary. Which, if I had access to them, or could get them I would
11 gladly give them to him.

12 MR. CARRIKER: Do you have names?

13 MS. ESKRIDGE: I do have some names and I'll provide you with
14 and to my knowledge there may be some material on the third floor
15 prosecutors property room, which I don't have access to.

16 MR. CARRIKER: I certainly will -

17 MS. ESKRIDGE: And I did have limited access to one item that
18 was located in that third floor file which was - and that was in a storage
19 somewhere else, off-site. The third floor person went and got that file. But I
20 can't remember what it was, but it was one thing that Your Honor specifically
21 gave me permission to go get from that floor. So once I got that reviewed that
22 was no problem. But, the rest of the stuff, is not something that I've ever had
23 available to me.

24 THE COURT: Okay. But, I think that Mr. Carriker will have
25 available to any witness statements, or anything like that.

1 MR. CARRIKER: For the record, when I asked -- when I opened
2 that up today's request is when I ever opened those files.
3 MS. ESKRIDGE: Right. And so he has not denied me anything.
4 MR. CARRIKER: There are thousands of pages available.
5 THE COURT: Right. I was just wondering if we want to set an
6 interim report date and bring him in.
7 MS. ESKRIDGE: Right. And my reason today for going ahead and
8 setting a report date is, Your Honor, we've had so many report dates and I've
9 felt that you wanted me to move it forward.
10 THE COURT: Well, I do.
11 MS. ESKRIDGE: So I am making every effort --
12 THE COURT: I know.
13 MS. ESKRIDGE: -- to move forward.
14 THE COURT: So is everybody.
15 MS. ESKRIDGE: Yes, and I just thought --
16 MR. CARRIKER: Can I make a suggestion? There are two weeks --
17 the first and second week of June you're going to be out for vacation and then
18 there's the week of Judicial Conference?
19 THE COURT: Right.
20 MR. CARRIKER: Why don't you and I get together a few times
21 those two weeks --
22 MS. ESKRIDGE: Okay.
23 MR. CARRIKER: -- make sure you have everything you want.
24 Before that, I know it's kind of off, but there's a -- before that, give me the
25 names, get me any information that you need, it doesn't have to be formal,

1 just put it in a letter and send it to me.

2 MS. ESKRIDGE: Uh-huh.

3 MR. CARRIKER: I'll start digging through that and -

4 THE COURT: The only problem with that is, if there is anything, if
5 she has to subpoena those people she won't have time.

6 MR. CARRIKER: When did we set it, July the 1st?

7 THE COURT: Yes.

8 MR. CARRIKER: The first two weeks -

9 THE COURT: Well, I am also going to be out the first week of
10 April.

11 MR. CARRIKER: Well, why don't we try to meet either Monday,
12 Wednesday, or Friday, or both, or all and try to get through that?

13 MS. ESKRIDGE: That's fine, either way. And then, the second
14 issue is, I believe on the last report date I addressed you regarding jail CD's,
15 jail conversations that were - it is undisputed that Mr. Bailey did not review
16 the jail CD's. The same was said on the record during the trial and -

17 MR. CARRIKER: Was he given those?

18 MS. ESKRIDGE: He was given access to them, he just didn't ask
19 for them to be reviewed. So it would be nice for me to have listened to them,
20 myself.

21 THE COURT: Uh-huh.

22 MS. ESKRIDGE: So the only copy, to the best of my knowledge, is
23 in the Court of Appeals file. The last few prosecutors that I've worked with
24 said that they couldn't find those CD's, so you may -

25 MR. CARRIKER: I mean, is it in that evidence, right there?

1 MS. ESKRIDGE: They weren't - oh, that was what it was. That
2 was what Your Honor gave me explicit permission to go to the third floor
3 property room to look for and the envelope was there, but there was no CD
4 was inside of there. So the only copy is in the Court of Appeals file, which I
5 addressed Your Honor about.

6 I sent an order to send the file back here, once I got it back here,
7 the fourth floor said that their policy is to get written permission from the
8 Court of Appeals to have me open the envelope. I went back to the Court of
9 Appeals with a motion asking for that and the Judge's Clerk called me and
10 said that that is not possible, they don't have an order like that and that the
11 fourth floor's policy is just incorrect, that I do have access to it, but -

12 THE COURT: Honestly, I don't see why I can't give you
13 permission on a post-conviction, it is back here now and --

14 MS. ESKRIDGE: And then, last week they sent it back since we
15 weren't able to get a clear understanding of what the Court of Appeals policy
16 is, versus the fourth floor's policy. So I'm like having to rewrite policy here.

17 THE COURT: Who on the fourth floor was telling you that?

18 MS. ESKRIDGE: Tim (Lewis). And he has been very kind, I don't
19 want to act - create the illusion that he has not been gracious to me, he has
20 been kind. He just said that their policy is that the Court of Appeals needs to
21 send an order saying that I have permission to open the - to listen to it, but
22 the Court of Appeals said they don't do that.

23 THE COURT: This is for a post conviction, did you tell him that?

24 MS. ESKRIDGE: I didn't talk to him directly on this last occasion, I
25 talked to Ms. Leaks. And Ms. Leaks told me just to get that from the Court that

1 it is sent to. Basically, it is just that they have a policy that doesn't work well
2 with the Court of Appeals policy.

3 THE COURT: Okay. It sounds like we need to re-request the
4 record back here again and once you get it back here I'll enter an order that
5 you have access to listen to, or review anything, whether it is sealed, or not
6 sealed.

7 MS. ESKRIDGE: And I am hoping that it is in CD format, because
8 at this point I don't know if it is tapes, or CD's. I am hoping that it is a CD.

9 MR. CARRIKER: In 2005, it is probably a tape.

10 MS. ESKRIDGE: Okay. And that's another thing, so then it will be
11 twenty hours of conversations that I have to stay in that room listening to. So
12 I don't know how feasible that is and I can't imagine how long it will take me
13 to listen to fifty hours worth of jail conversations, because apparently, he did
14 a lot of talking on the phone.

15 THE COURT: Well, okay, we will figure something out. We'll find
16 out what is in there. Let's get it back over here.

17 MS. ESKRIDGE: I'll do that today.

18 THE COURT: And if we need to extend this evidentiary hearing
19 date, we will. But, let's first get the record back here and then we will deal
20 with the Appeals section and getting that available to you and if we don't Mr.
21 Carriker will honor these statements, okay.

22 MR. CARRIKER: And we can do open file, we can copy whatever I
23 think is exculpatory, we can definitely look through anything we have in
24 there.

25 MS. ESKRIDGE: Okay.

1 THE COURT: You can do that and make copies of it.

2 MR. CARRIKER: There shouldn't be anything to hide at this point,
3 since he's already been convicted, so.

4 THE COURT: Yeah, I mean, you can get it from the Freedom of
5 Information Act, so I don't think that should be any problem. But, do you
6 want to set a report date right now, an interim report date on Braswell?

7 MR. CARRIKER: How about after that first week of April, so we
8 can see where we are at at that point?

9 THE COURT: How about April the 20th?

10 MS. ESKRIDGE: Okay. And I will pass forward additional orders
11 to get him here.

12 THE COURT: Sure. And if you want to bring him in, or whatever
13 you're doing with him, that is fine.

14 MS. ESKRIDGE: Okay.

15 THE COURT: April 20th.

16 MS. ESKRIDGE: Thank you.

17

18 JULY 1, 2011:

19 THE COURT: Mr. Sampson?

20 MR. ROSS SAMPSON: Good morning, Your Honor. I don't know if
21 he is here, or not, but I am here for Ms. Taylor Eskridge. Do you have Vern
22 Braswell, is he here?

23 THE COURT: No. He is in the penitentiary, this is a case that is
24 getting a lot of age on it.

25 MR. SAMPSON: Yes, Your Honor, I know, this is a post-conviction

1 matter. Ms. Eskridge is not available, it seems she fell ill. However, I
2 understand that this thing needs to be set for a hearing.

3 I just talked to the State's attorney. It appears that they are
4 working out some evidentiary things, as far as turning over -

5 THE COURT: He is a little demanding.

6 MR. SAMPSON: Yes, he seems a little - yeah, I have no comment
7 there. We are asking for thirty days and I'll shut up.

8 MR. CARRIKER: I told him that I have still got to meet with Ms.
9 Weirich. Our schedules are not aligning right now, so. I've got to meet with
10 her and let her review it, she was the trial lawyer and I want to get with her
11 before I turn over things that she says I shouldn't be turning over.

12 MR. SAMPSON: There are some things they have to clear up on
13 that point.

14 THE COURT: All right. But I mean, really, I'm going to have to set
15 this for a hearing, pretty quickly, before I get in trouble.

16 MR. SAMPSON: I understand.

17 THE COURT: All right. July the 28th for disposition.

18

19 August 31, 2011

20 (CD reflects the week of 8-29-11, Court up 2 days, 9-1-11 and 9-2-11, possibly
21 no Court on this date?)

22

23 November 18, 2011:

24 THE COURT: Mr. Massey?

25 MR. WILLIAM MASSEY: Your Honor, Vern Braswell, a petition for

1 post-conviction relief. We are still working on amending and supplementing
2 that, Your Honor.

3 THE COURT: Okay.

4 MR. MASSEY: Would ask for thirty days?

5 THE COURT: All right. January 5th.

6 MR. MASSEY: Could we get later that week, or the next week?

7 THE COURT: Okay.

8 MR. MASSEY: The 10th, 11th, or 12th?

9 THE COURT: All right, the 10th. January the 10th on Braswell.

10 MR. MASSEY: Thank you, Judge.

11 -----
12 January 13, 2012:

13 MS. LORNA MCCLUSKY: Good morning, Your Honor, in the
14 matter of Vern Braswell.

15 THE COURT: Yes.

16 MS. MCCLUSKY: Mr. Braswell is on your docket, Mr. Braswell is
17 not here, he is in State custody, T.D.O.C. custody, this is a petition for post-
18 conviction relief that Ms. Lauren Fuchs is handling. I know that she is
19 meeting with an expert on that and would like additional time.

20 THE COURT: Okay. How much more time?

21 MS. MCCLUSKY: Thirty days.

22 THE COURT: Okay. February the 9th okay?

23 MS. MCCLUSKY: February 9th is fine.
24
25

1 March 23, 2012:

2 THE COURT: All right. What else?

3 MR. JOSEPH MCCLUSKY: I also have Vern Braswell. That is a case
4 that Ms. Fuchs is working on. She said that she is going to see him next week
5 to discuss some matters. She would like a report date on that, if we could get
6 that same date?

7 THE COURT: Okay, 4/24 for report.
8

9 May 29, 2012:

10 MS. LAUREN FUCHS: Your Honor, I also have Vern Braswell, he
11 was not transferred in for this setting. I've spoken to the State about some
12 things that have arisen here recently. I'm beginning to subpoena some things,
13 if we could get a reset date so that I can get that information?

14 THE COURT: Sure. What about July the 6th?

15 MS. FUCHS: Yes, Your Honor. Thank you.

16 THE COURT: July the 6th for report.
17

18 November 16, 2012:

19 THE COURT: Mr. Massey, you've got a post-conviction hearing set
20 today?

21 MR. MASSEY: Oh, that's Ms. Fuchs and I think she has already
22 spoken with the State on that and they have agreed, subject of course to Your
23 Honor's approval to reschedule that.

24 THE COURT: Okay. Well, we will have to pick a date, won't we?

25 MR. MASSEY: What about a short report date?

1 THE COURT: Like when?
2 MR. MASSEY: I'm sorry?
3 THE COURT: Let's bring Mr. Braswell out.
4 MR. MASSEY: I don't think he is here. He may be, but I don't
5 know.
6 THE COURT: Is Braswell here?
7 DEPUTY: No, Judge.
8 THE COURT: Wasn't brought in? Well, that would have been
9 difficult.
10 (A brief pause was had in the proceedings).
11 THE CLERK: He is here, Your Honor.
12 THE COURT: Okay. Mr. Massey, Mr. Braswell is here. Is Ms.
13 Fuchs going to handle this hearing?
14 MR. MASSEY: Your Honor, it was my understanding from Ms.
15 Fuchs is that she had spoken with the State yesterday and my understanding
16 is that they agreed to reset it for, the reason that they agreed to.
17 May I approach?
18 THE COURT: Yes.
19 MR. MASSEY: My understanding is that the Attorney General,
20 that got it, they had just been assigned to it, or something and they need a
21 transcript bringing them up to date and we told them that we would get them
22 everything they needed to go forward.
23 THE COURT: Well, we have been having that happen a few times.
24 MR. MASSEY: That is the reason why I suggested a report, so we
25 can make sure that all of that has been done.

1 THE COURT: What date are we going to set this? What about
2 January the 8th?

3 MR. MASSEY: That's just fine. Is that for a hearing, or a report,
4 Judge.

5 THE COURT: That is for report. Now, we can pick another
6 hearing date, if you want?

7 MR. MASSEY: We'll pick one in January.

8 THE COURT: All right. January the 8th for report, but we do need
9 someone to send Mr. Braswell back to the penitentiary, okay.

10 MR. MASSEY: I'll fill out the order here in a second.

11 THE COURT: All right.

12

13 February 19, 2013:

14 THE COURT: Good morning, Ms. Fuchs.

15 MS. LAUREN FUCHS: May I address you on Vern Braswell?

16 THE COURT: Sure. Let's bring Vern Braswell out, please.

17 MS. FUCHS: May Mr. Young and I approach?

18 THE COURT: Sure.

19 (A bench conference was had, as follows):

20 MS. FUCHS: Judge, we met on Friday for a decent amount of time
21 and after going over a bunch of stuff, we determined that I think Marquis
22 needs to talk to Doug Carriker about who's the prosecutor that held it, two
23 prosecutors ago and the same with the lawyer before me, but to get the full
24 story on who has dealt with this and what's going on in the case.

25 THE COURT: Okay.

1 MR. MARQUIS YOUNG: One does that, I guess, turn over on both
2 sides. I am the third prosecutor that's been on this post-conviction. I believe
3 that she is the third defense attorney that's been on this case.

4 It is relatively intense, especially one, because I noticed a new
5 amended petition for post-conviction filed, which I have not responded to,
6 but in our talks it has a lot to do deal with scientific information which looks
7 to be highly intensive and in addition I need to speak with the General and/or
8 Betsy Carnesale, who actually tried this case.

9 So it is a lot of parties that is involved in this case, which would
10 be, I guess, it is a joint request for additional time, in addition personal issues.

11 MS. FUCHS: Yes, thank you.

12 MR. YOUNG: But, I don't think that it is the proper time anyway,
13 we are suggesting an April report date to make sure that I have the amended
14 petition, because I believe I would need to file an actual response for this type
15 of case.

16 THE COURT: Okay.

17 MS. FUCHS: And we will have that filed by then.

18 THE COURT: Okay.

19 MR. YOUNG: And I'm saying that there are experts, of other
20 experts outside of here, that are going to be involved, which I, of course, need
21 that information. I guess we will request that April date, I guess, for a report
22 date and because of, of course, opinion, failure to seek, I believe, I'm not sure
23 how you want to work that. I believe she's able to find an April date,
24 weekend, and she can line up and get these dates, of course, she can have her
25 experts come in, from my understanding.

1 THE COURT: Okay.

2 MR. YOUNG: That way that they are available and I think we are
3 looking at, of course, past the – or during the summer, for a hearing.

4 THE COURT: Right.

5 MR. YOUNG: For that date, I'm not sure, we wait until April, until
6 we get all of the information to set the hearing date, or we can set it, now.

7 THE COURT: It may be past summer.

8 MS. FUCHS: Your Honor, I need to hear from when my expert is
9 available. My expert is in Maryland and I need to find out when he can get
10 down here.

11 THE COURT: Right. And the sooner you can let me know the
12 sooner I can pencil that in.

13 MS. FUCHS: We are hoping to have all of that information by the
14 April date.

15 THE COURT: Okay.

16 MS. FUCHS: It won't be me here on the April date, but I will give
17 someone that information.

18 THE COURT: Why don't we just use the April 9th date that we are
19 using, generally, in here for court dates and hope that works.

20 MS. FUCHS: Okay. Thank you.

21 THE COURT: All right. Mr. Braswell, April the 9th for, hopefully,
22 the final report.

23
24 May 16, 2014

25 MR. MICHAEL SCHOLL: Judge, Mr. Massey is in trial across the

1 hall and he asked me if I could step in on Vern Braswell. He said that he
2 needs about thirty days on that, Judge. Is this one of those that the messenger
3 is about to get shot?

4 THE COURT: I'll shoot Mr. Massey.

5 MR. SCHOLL: Okay. If you need to shoot him, Judge, he is across
6 the hall.

7 THE COURT: It's driving me crazy. Let me see Braswell, it was
8 the post conviction jacket. This is ridiculous. He took this over from another
9 lawyer.

10 Do you want to say something, Mr. Young?

11 MR. YOUNG: No, Your Honor.

12 MR. SCHOLL: And Your Honor, I told him – not the same thing
13 about Mr. Massey, I told him, I said, "Bill you really should handle your
14 business before you go into trial". But he said, "You know, Mike, I need to
15 run" and he was acting a little nervous and took off.

16 THE COURT: Right. This was originally filed in February of '07,
17 how is that for a post-conviction. I wouldn't show up in Court, or show my
18 face.

19 MR. SCHOLL: Well now I know why he was rushing off, Judge. I
20 don't want to say anything about Mr. Massey, so.

21 THE COURT: And you don't know his schedule?

22 MR. SCHOLL: He just asked me to ask the Court for thirty days.

23 MR. YOUNG: And if I could shed a little light out?

24 MR. SCHOLL: Marquis, I'll tell him.

25 MR. YOUNG: I am handling the post conviction. Ms. Fuchs is

1 actually handling the post conviction and the last Court setting she called me
2 while she was in labor and she began the – she needed to file an amended
3 petition, she began and then delayed it because of labor and she possibly
4 expected to have it by today, to give to Mr. Massey, or one of the people in her
5 firm, to submit. However, I do not believe it has been filed, so here we are
6 today.

7 MR. SCHOLL: And I still think it is Mr. Massey's fault.

8 THE COURT: Right. Let's hold this over until May the 29th.

9 MR. SCHOLL: May the 29th, okay Judge, I'll let him know. ?

10 THE COURT: Thank you.

11 July 15, 2013

12 MS. FUCHS: Your Honor, may I address you on Vern Braswell.

13 THE COURT: Yes.

14 MS. FUCHS: I don't think he was brought in.

15 THE COURT: Okay. Go ahead.

16 MS. FUCHS: I've been attempting to get a hold of the expert in
17 this from, before I went on maternity leave and then to be honest with the
18 Court I did not try while I was on maternity leave and I've been back for a
19 week.

20 I'm asking the Court if we could hold this until Friday, so I can see
21 if I can try to get a hold of him.

22 THE COURT: Okay. Friday is the 19th, is that enough time for
23 you?

24 MS. FUCHS: Actually, if we could go the 22nd, that would probably
25 be easier.

1 THE COURT: Okay. July the 22nd, on Braswell.

2 MS. FUCHS: Thank you, Your Honor.

3

4 October 11, 2013

5 THE COURT: Ms. Fuchs?

6 MS. FUCHS: I am at the end of the line, but Mr. Young and I
7 needed to ask you a question about –

8 THE COURT: The petition for post-conviction. Is Mr. Braswell up
9 here?

10 MS. FUCHS: He should be.

11 THE COURT: Let's bring Mr. Braswell out.

12 MS. FUCHS: Your Honor, may we approach, it is about, it is just a
13 question?

14 THE COURT: Why do we need to approach if Mr. Braswell is
15 coming out?

16 MS. FUCHS: It's just due to the sensitive nature of it.

17 THE COURT: All right.

18 (A bench conference was had, to-wit):

19 MS. FUCHS: Yesterday we were talking about, well the previous
20 well the secondary issue.

21 MR. YOUNG: Yes.

22 MS. FUCHS: Taylor Eskridge and Doug Carriker are the other
23 attorneys involved and Taylor thought that she remembered you ordering a
24 particular piece of evidence to turn over. It was an envelope that had a sticky
25 writing on the front of it that said, something along the lines of, what Taylor

1 remembered it saying was, "Do not turn over to defense counsel".

2 I talked to Mr. Young about this, because that was not in the file
3 and it has not made itself available. So we went through the file, together, I
4 went to his office and he didn't find it.

5 So then, he and Mr. Carriker went through the office, going
6 through the file and they found something that might be what it is, but it
7 looks different than both Doug Carriker and Taylor Eskridge remember it
8 looking.

9 MR. YOUNG: I'm assuming that you recall this?

10 THE COURT: I do.

11 MS. FUCHS: Was there an order entered for that piece of
12 evidence to be turned over?

13 THE COURT: I don't remember one. I mean, this case has been
14 going on so freakin' long that -

15 MS. FUCHS: We were just discussing that, this is the most in-
16 depth post-conviction either of us have ever worked on.

17 THE COURT: From what I recall, everyone was cooperating and
18 that wasn't the issue. Are you talking about Doug Carriker and Ms. Eskridge?

19 MS. FUCHS: Well, this is probably where the problem occurred,
20 shortly after that happened is when Mr. Carriker was transferred out of this
21 division. And I don't know - I don't even think that you were the next one in
22 line, I think that there was one or two in between.

23 THE COURT: That would depend on who that was.

24 MS. FUCHS: And I don't know if that information ever got passed
25 on. I know when I took over representation Melanie Curry was on it.

1 THE COURT: Melanie Headley?
2 MS. FUCHS: Yes.
3 THE COURT: Same person.
4 MS. FUCHS: And I think that there was somebody before her on
5 it, because I remember her talking about having inherited it from somebody
6 and I didn't –
7 THE COURT: And depending on who that was, if it was Betsy
8 Carnesale, now Betsy Wiseman –
9 MS. FUCHS: She was trial counsel.
10 MR. YOUNG: It was Amy Weirich and Betsy Wiseman for trial
11 counsel.
12 THE COURT: Okay. And Ms. Wiseman was in here for two years,
13 so I don't know even who was dealing with Ms. Eskridge. If there was an
14 order entered it should be in the Court's jacket.
15 MS. FUCHS: I would say that I haven't checked that, I was just, as
16 we were standing here we were like –
17 THE COURT: Now, I don't remember.
18 MS. FUCHS: And I am not accusing Doug Carriker of any bad faith,
19 at all, but –
20 THE COURT: Right. But, it would depend on who the
21 attorney/prosecutor was after him that took it over and if it was the typical
22 prosecutor and I wouldn't have had to enter something like that, but I don't
23 know who it was.
24 MS. FUCHS: Doug's issue was that it was sealed and that he did
25 not feel comfortable opening it, because it was assigned to Amy.

1 THE COURT: I see what you are saying. Okay, then right.

2 MS. FUCHS: And that is where the sensitivity lies.

3 THE COURT: Okay. I don't know, I don't have any idea and I sign
4 these orders all the time. My suggestion is that why don't you look in the
5 jacket.

6 MS. FUCHS: I will, absolutely.

7 THE COURT: So are you saying that we can't go forward with
8 anything today?

9 MS. FUCHS: Mr. Young and I have spoken about that and that
10 seems to be the consensus from both of our standpoints.

11 MR. YOUNG: From my end, I'd further – especially with, again, all
12 of the different issues and possible credibility and the scientific evidence, and
13 if we are going to put forth the defendant, I'll need to know a whole lot more.

14 THE COURT: Right. It's just that whenever we have this ready I
15 am going to have to set a day, or two aside for this.

16 MS. FUCHS: Yes, Your Honor.

17 THE COURT: So, I mean, I don't even know what to tell you, so
18 that you'll know what to tell me.

19 MR. YOUNG: Well, you have a date certain, but also I'll need the
20 final amended petition in which, again, I don't have, because it is still ongoing,
21 because I think that she needs information from the doctor.

22 MS. FUCHS: And I have spoken with him.

23 MR. YOUNG: Yeah, and this part maybe we can do in open Court.

24 MS. FUCHS: Yes, I can do this part in open Court, but that one
25 part we needed –

1 THE COURT: Okay.

2 (End of bench conference)

3 THE COURT: All right. Back in open Court on Vern Braswell.

4 MS. FUCHS: Your Honor, regarding Mr. Braswell, I have contacted
5 Dr. Nichols in this matter, who was an expert originally involved in the case,
6 who there are many issues, specifically dealing with him in the petition for
7 post-conviction relief, on many different levels.

8 It will be necessary for the presentation of this petition for post-
9 conviction relief for Dr. Nichols to be present to testify.

10 In speaking with him the previous date for which he had said that
11 he was available I believe are that for everyone involved, is being that they
12 were Mondays.

13 THE COURT: Right.

14 MS. FUCHS: I have spoken with him about the possibility of
15 finding a Thursday or a Friday date. Unfortunately, he said the nearest
16 Thursday, or Friday date he would have would not be until January.

17 THE COURT: That is fine.

18 MS. FUCHS: But, I was afraid that that would be too far out?

19 THE COURT: No, no. There are the other issues involved.

20 MS. FUCHS: Yes, and that should be enough time to resolve the
21 other issue.

22 THE COURT: Okay. Well, would it be any Thursday or Friday, if
23 we set it out that far?

24 MS. FUCHS: His indication to me was just that he would not have
25 anything available until January. The family had not made – he's finally given

1 me kind of a hard/fast number for accommodations to get here that will be
2 required of Mr. Braswell's family. Your Honor probably, as far out as you
3 would be willing to set it, would probably be -

4 THE COURT: Why don't we just cancel a trial in here?

5 MR. YOUNG: Yes, February the 24th.

6 THE COURT: Okay. We have that week open. How about you?

7 MS. FUCHS: We have a trial set that week, but Your Honor, I don't
8 believe that the trial that I am sitting on, and this will be - that will be fine, I
9 can make sure that our office knows not to overload the docket on top of the
10 trial, for this, but that would work.

11 MR. YOUNG: Judge, I'm lightly concerned, I know that I was
12 actually set on that trial that was originally there, but in case it wasn't going I
13 have it booked, I have a second degree murder in Division V, that week.

14 THE COURT: What is it with you and V, the whole division in V?

15 MR. YOUNG: I don't know.

16 THE COURT: Nag, nag. I don't know when I can set it. Well, all
17 right, if I can set a date, I know, like February the 7th, I've got a DUI starting
18 February the 3rd and I know for sure that we can do that.

19 MS. FUCHS: That week is fine with me, Your Honor.

20 THE COURT: Okay. Mr. Young?

21 MR. YOUNG: Yes.

22 THE COURT: All right. We are just going to set that day for Vern
23 Braswell, nothing else will be set and we will come in here, in the morning
24 and just try to do that post conviction, okay?

25 MS. FUCHS: Yes, Your Honor.

1 THE COURT: And I suspect that it will not be long enough, that
2 day, so.

3 MS. FUCHS: We'll make sure to call – and I don't know if there
4 will be an issue that Mr. Young and I could be able to work out, as far as the
5 order of proof, but make sure that we can get the doctor on the stand, so we
6 can see that there's no concern there.

7 THE COURT: All right. I don't know if we want to pick another
8 date, where we don't have too much set and bifurcate it? I don't have written
9 in my book when we have – how about January the 31st, Mr. Young?

10 And, who is the lawyer being – it is the defense?

11 MS. FUCHS: Jay Bailey. I believe both of us have had some issues
12 getting a hold of him, as well and we will continue, though.

13 MR. YOUNG: I think I have – I need a good contact. I haven't
14 spoken to him for a while, but when I had the issue I found him and had a
15 good contact, so I haven't tried to contact him in a while, but when we had the
16 issues I was able to get a good contact.

17 THE COURT: Well, is January the 31st a good date?

18 MR. YOUNG: Judge, there is a co-defendant, especially aggravated
19 robbery and criminal attempt murder, I know is set that week and I am trying
20 that. The next week, if it is February the 14th I know that it is an aggravated
21 assault and a – I'm sorry, it's an aggravated rape, I thought that was a battery.
22 I just know that the next week is –

23 THE COURT: February the 14th?

24 MS. FUCHS: We have a major, first degree murder trial in
25 Mississippi. The week after that?

1 THE COURT: The 21st?
2 MR. YOUNG: Yes.
3 THE COURT: All right. Is that a short week? President's Day?
4 What do we have set on the 18th?
5 MR. YOUNG: It's a trial, aggravated child abuse.
6 THE COURT: Are you saying Tyron Mass Boyd, I thought that was
7 on the 10th?
8 MS. JENNIFER CASE: Judge, that matter has been disposed of
9 with a plea and that trial is no longer, the date should no longer be out there.
10 THE COURT: Okay. What do you show set on the 18th?
11 MR. YOUNG: I can't read the name there, but it is an aggravated –
12 THE CLERK: John Carter.
13 MR. YOUNG: Blake Ballin and Eric Christensen, I show an
14 aggravated child abuse.
15 THE COURT: All right. John Carter, that's a different one. All
16 right. We've got the February the 7th and you are not available the week of
17 the 10th?
18 MS. FUCHS: No, Your Honor, but that next week I am.
19 THE COURT: That's the 17th and we are booked that week. What
20 about the 24th? Have we already said that is no good?
21 MS. FUCHS: Well I can make sure that the docket would be
22 managed.
23 THE COURT: And is that the week that Mr. Young is not
24 available?
25 MR. YOUNG: I'm just concerned, this is the defendant's second

1 setting on a second degree murder case and the last trial went until Friday.

2 THE COURT: Okay. What about March the 7th?

3 MS. FUCHS: I am supposed to be in a especially aggravated
4 robbery that week, that is my –

5 THE COURT: March the 14th?

6 MS. FUCHS: That day I am available.

7 THE COURT: All right. Mr. Young?

8 MR. YOUNG: It's good, yes, I have a trial that week, but it should
9 be done.

10 THE COURT: Thank you. March the 14th. I'm sorry, everybody,
11 but we had to get that done. All right, February the 7th and March 14th for
12 hearings.

13 MS. FUCHS: Thank you, Your Honor and I'll just make sure that
14 one of those dates, I'll make sure today that one of those dates will be good
15 with Dr. Nichols, so that he can go ahead and make his travel arrangements
16 and I'll let the Court know which one of those dates.

17 THE COURT: Okay. Mr. Braswell, don't look at me like that. You
18 and your attorneys are the reason for the delay.

19 PETITIONER BRASWELL: I apologize.

20 THE COURT: It's frustrating to me, too, trust me.

21 MS. FUCHS: I think that's universally felt at this point.

22 THE COURT: We're doing the best we can, all of us, to get this
23 heard and to have everything ready, okay.

24 PETITIONER BRASWELL: And honestly, you've been most
25 patient and gracious and I am not just trying to brown nose.

1 THE COURT: Not just, but you're trying to do that, too. All right,
2 we'll see you then.

3 PETITIONER BRASWELL: Your Honor, can I stay here for a few
4 weeks. I know that there is some kind of urgency to get us back.

5 THE COURT: As long as you behave and we will need an order to
6 that effect.

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(End of requested proceedings).

1 CERTIFICATE OF REPORTER

2
3 STATE OF TENNESSEE)

4 COUNTY OF SHELBY)

5
6 I, the undersigned, Charrel Gambill, Official Court Reporter
7 for the Thirtieth Judicial District of the State of Tennessee, do hereby certify
8 that the foregoing to be a true, accurate and complete transcript to the best
9 of my knowledge understanding and ability of all the proceedings had and
10 evidence introduced in the announcements and reset dates given in this
11 post-conviction relief hearing matter on the captioned cause, relative to
12 appeal, in the Criminal Court for Shelby County, Tennessee on the
13 miscellaneous dates as set out by the Assistant District Attorney, attached
14 hereto.

15 I do further certify that I am neither of kin, counsel, nor
16 interest to any party hereto.

17 Dated this 5th day of December, 2014.

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Charrel Gambill
Official Court Reporter



My Commission Expires:

June 12, 2018