



1 (Court in Session at 11:03 a.m.)

2 THE COURT: I have the case of *United States of America*  
3 *v. Clifton D. Taylor*. The number of the case is 09-112-01-CR-W-  
4 ODS. Let me have the AUSA's appearance, please.

5 MS. RAMANA: Leena Ramana on behalf of the United  
6 States, Your Honor.

7 THE COURT: Counsel for Mr. Taylor, please.

8 MR. POINDEXTER: Good morning, Your Honor. Travis  
9 Poindexter for Mr. Taylor who is present this morning.

10 THE COURT: Okay. We're currently getting a series of  
11 motions by this defendant, which I filed in the record, and I  
12 wanted to get everybody together to see what the deal was. There  
13 are three that have been presented most recently. Their  
14 documents are Number 27, 28, and 29. So, Mr. Poindexter, can you  
15 tell me what's going on here?

16 MR. POINDEXTER: I cannot, Your Honor. Obviously, I did  
17 not present those motions to the Court. Mr. Taylor has done so  
18 on his own direction. I've discussed with him all relevant due  
19 trial -- trial issues that we -- that are practical in the case,  
20 and that's kind of where I stand at this point.

21 THE COURT: Okay. Well, I guess, Mr. Taylor, what seems  
22 to be the difficulty here?

23 MR. TAYLOR: The problem is he gives me the impression  
24 that he's more like working for the prosecutors. His first visit  
25 to come see me, he offered me a plea. And I asked him, I said

1 what are you doing to get me out of here. He said, it is what it  
2 is. I told him I was going to trial and I want certain motions  
3 filed, and he's telling me I can't file no pretrial motions until  
4 after trial. He told me this like three different times. And I  
5 know a pretrial motions is before a trial and --

6 THE COURT: Well, yeah, it is before trial, but the --  
7 what were the motions that you wanted to have filed?

8 MR. TAYLOR: I have them right here. Are these to be  
9 given to you or would you like me to read them?

10 THE COURT: Just tell me what it is you think he should  
11 file.

12 MR. TAYLOR: A motion for alleging Government misconduct  
13 was generally what my basis for that was, for federal agents in  
14 their act in designing and providing false representation of  
15 material to the United States District Court, and this claim is  
16 based on a previous hearing where an unknown federal agent  
17 requested a continuance of my incarceration to extract DNA from a  
18 cup that I use. This claim is supported by a federal agent  
19 Michael Mrachek coming up at a later date to collect DNA by use  
20 of force. And I have a law in here which states, one, it's  
21 intent to deceive when he makes a representation which is, in  
22 fact, false or a reckless disregard. I asked him several times  
23 to file a motion for an evidentiary hearing because --

24 THE COURT: On what? On what? What do you want to have  
25 an evidentiary hearing on?

1 MR. TAYLOR: My cause for that was I request the Court  
2 to challenge the reliability of witness statements being that all  
3 witnesses involved statements that are opposite to each other and  
4 also the disparity in quantum of proof offered against me.

5 THE COURT: Those are all things that are jury  
6 questions. We don't have evidentiary hearings on that, Mr.  
7 Holman [sic]. Those are things that if there's disparity in the  
8 evidence or inconsistencies in the testimony, that's a jury  
9 matter. It's not stuff that we take up at pretrial.

10 MR. TAYLOR: Okay. Well, I --

11 THE COURT: You know, let me just kind of cut to the  
12 chase here and kind of talk to you a little bit about this  
13 because I don't know whether you're doing this or you've got  
14 somebody back at CCA that's feeding you this stuff, and, frankly,  
15 it doesn't matter to me. A lot of this is just simply  
16 nonsensical. We have looked at your letters and I'm not trying  
17 to be critical of you. I'm sure you're frustrated with your  
18 situation. But a lot of it just doesn't make any sense. You  
19 know, you talk about, for example, in Document Number 27 you talk  
20 about that you asked Travis to challenge hearsay statements which  
21 have different stories saying that they're, you know, you've got  
22 inconsistencies in the statements. Well, again, that's stuff  
23 that, you know, there's nothing he can file about that. That's  
24 just people have inconsistent statements and the jury considers  
25 that in determining what evidence they believe and what evidence

1 they don't believe. There's some rather strange things in here.  
2 This is an open file discovery case, right?

3 MS. RAMANA: Yes, Your Honor.

4 THE COURT: And so, you know, all the discovery issues,  
5 the Government which is not required to give you anything other  
6 than basic, primary information like your own statement, if you  
7 made a confession, that and access to exhibits and things like  
8 that. But the Government in this case are giving you their  
9 entire investigative report, which they're not required to do. I  
10 couldn't even order them to do that. So, discovery requests are  
11 simply inappropriate at this point. Has there been anything that  
12 you've withheld from the defense counsel here?

13 MS. RAMANA: No, Your Honor.

14 THE COURT: So, I don't know what -- but then, for  
15 example, there is a -- there is one in which you list yourself as  
16 the plaintiff and the State of Missouri as the defendant, --

17 MR. TAYLOR: Well, --

18 THE COURT: -- and you're complaining about the  
19 continuation of a detention hearing. I mean and -- I mean I  
20 ordered the detention hearing continued, which I do in -- was  
21 there an additional extension other than the usual one that we  
22 give?

23 MR. TAYLOR: I've been there ever since that.

24 THE COURT: Pardon?

25 MR. TAYLOR: I've been there ever since that and I was

1 supposed to went to court on June 7<sup>th</sup> for my DNA results and I'm  
2 still here.

3 THE COURT: Well, I know. What was the continuance? Do  
4 you know what he's talking about for the continuance of a  
5 detention hearing? I mean, we routinely grant the Government's  
6 motion for a continuation of the detention hearing so you can  
7 have a lawyer here. Otherwise, if we did it right on your first  
8 appearance, you would do it without a lawyer. So, I always grant  
9 those requests. I don't know what -- does anybody know what the  
10 deal is about the DNA?

11 MR. TAYLOR: That's what --

12 THE COURT: No, I'm not asking you.

13 MR. TAYLOR: Oh.

14 THE COURT: I'm trying to figure out what they -- do you  
15 know what he's talking about?

16 MS. RAMANA: As far as getting the returns --

17 THE COURT: He's saying that the detention hearing was  
18 continued so that they -- because you guys needed time to extract  
19 DNA from a cup in which he had chewed pieces while in city jail.  
20 Does anybody know what this is about?

21 MR. POINDEXTER: Judge, they have submitted a number of  
22 items for DNA analysis, which we are still waiting upon the  
23 results, but I don't believe the proceeding was continued based  
24 upon that investigation.

25 THE COURT: I mean, if they wanted to get DNA from you,

1 they -- did I order DNA be taken from this defendant?

2 MS. RAMANA: Your Honor, we ended up getting a search  
3 warrant through the District of Kansas and that was the means  
4 that we used to obtain the buccal swabs --

5 THE COURT: Okay.

6 MS. RAMAN: -- from him.

7 THE COURT: And that DNA has been sent off to the lab --

8 MS. RAMAN: Yes.

9 THE COURT: -- and you haven't got that. I don't know  
10 what continuance you're talking about. I don't think anything  
11 has been continued here because of some DNA request. That just  
12 doesn't happen.

13 MR. TAYLOR: I was due for court like a month or two ago  
14 for results on that and I'm still here.

15 THE COURT: In front of me? You were in front of me  
16 about something to do with DNA?

17 MR. TAYLOR: Yes.

18 THE COURT: Well, I don't -- you know, they're entitled  
19 to get, and they've apparently gotten a search warrant from  
20 Kansas to get your DNA. If they've collected unknown samples  
21 that they want to compare to your known DNA, they get to do that.  
22 There's not a problem with that. There's nothing wrong with  
23 that. They get to do it. And are you saying that we've  
24 continued the case because the Government needed to get the DNA  
25 analyzed, is that what you're saying?

1 MR. TAYLOR: The federal agent stated he needed  
2 additional time to extract DNA from the cup. I was due back for  
3 court the next month for analysis of it. But when the next month  
4 came, I was never called back into court and I wrote the Court in  
5 a motion stating that it was unlawful restraint to hold me here  
6 passed that date. And then once I did that, the federal agent  
7 got a search warrant to come and take DNA by force from me. So,  
8 then --

9 THE COURT: Okay.

10 MR. TAYLOR: -- he came up here and --

11 THE COURT: So, you're complaining that you're still --  
12 you think the Speedy Trial Act has run or what?

13 MR. TAYLOR: Well, it's not the speedy trial fact that I  
14 was speaking of. If he made an oath in court that he was  
15 supposed to have DNA results at a certain time, then I believe  
16 they should have had them then.

17 THE COURT: And people all the time -- your lawyer will  
18 ask for continuances, they'll ask for continuances, and we'll  
19 routinely give them. I mean, you know, it's -- if it's a  
20 reasonable request, we're going to give them. I don't think  
21 there's much you can complaint about there. You ask -- in one of  
22 these you ask for a severance of counts. You're only named in  
23 one count. There's only count that you've got.

24 MR. TAYLOR: I understand that.

25 THE COURT: We can't sever that any further than one



1 count.

2 MR. TAYLOR: Well, I'm not entering these as a lawyer.  
3 I'm entering these up under one that don't have knowledge of the  
4 law.

5 THE COURT: Okay. Well, here's the deal. I don't see  
6 anything in what you've provided to me here or what I heard that  
7 causes me concern about Mr. Poindexter representing you. And,  
8 frankly, if I brought in a different lawyer to represent you, I  
9 don't think based on what I've read in front of me that there  
10 would be any different response by that other lawyer. I mean, I  
11 don't think anything that Mr. Poindexter has done or not done  
12 here causes me --

13 MR. TAYLOR: Well, I don't --

14 THE COURT: Let me finish and then you can say whatever  
15 you want to say, but let me kind of get through what I need to  
16 say to you. So, I'm not going to replace him because I don't  
17 think he's done anything or failed to do anything that reflects  
18 on the adequacy of the representation. Now, here are your  
19 choices though. You are not without other options. And so you  
20 need to understand that even though I'm not going to replace Mr.  
21 Poindexter, if you or your family want to hire a private lawyer  
22 to come in here and represent you on this matter, you're free to  
23 do that. But I'm not going to expend additional taxpayer money  
24 to bring in another lawyer for what I see in front of me. That's  
25 not going to happen. Now, the other option -- so your first

1 option is if you want to hire somebody, go ahead and do it. The  
2 second option that you have is that you may represent yourself.  
3 You have a constitutional right to represent yourself and to  
4 proceed as you're doing here by filing these motions, and if  
5 that's what you want to do, then you need to tell me that and  
6 I'll have a rather lengthy hearing with you about the potential  
7 downside to doing that. I'm not going to do it today because,  
8 frankly, I don't have enough time to do it today. But if you  
9 decide -- and I want you to think about it. I want you to think  
10 about it and talk to Mr. Poindexter about it. What I would do,  
11 just so that you're aware. I would allow you probably to  
12 represent yourself and I'd have Mr. Poindexter remain in the case  
13 as what's called standby counsel, which means he doesn't do  
14 anything for you. He doesn't advise you, he doesn't run for  
15 books for you. He doesn't do anything for you. The only thing  
16 he does is if you get tired of representing yourself, which  
17 frequently happens in these kinds of cases, then we have somebody  
18 who can get back into the case and try it. So, those are your  
19 options. Now, I want to give you an opportunity to say what you  
20 wanted to say, Mr. Homan [sic].

21 MR. TAYLOR: Taylor. I want a change of venue, please.

22 THE COURT: Well, that motion is denied. Anything else  
23 that you want to say?

24 MR. TAYLOR: I want a change of venue.

25 THE COURT: Again, that's going to be denied.

1 MR. TAYLOR: Because there's a conflict of interest  
2 involved.

3 THE COURT: Conflict of interest by whom?

4 MR. TAYLOR: My representation and --

5 THE COURT: By your lawyer?

6 MR. TAYLOR: Yes.

7 THE COURT: Okay. Well, --

8 MR. TAYLOR: He hasn't done anything to show favor to me  
9 and my case, nothing. And I'm explaining this to you and you  
10 encouraging me that maybe I should go *pro se*. I'm not here to go  
11 *pro se*.

12 THE COURT: I'm not -- let me make one thing very clear.  
13 I am not encouraging you to go *pro se*. What I am telling you is  
14 you should not go *pro se*, but --

15 MR. TAYLOR: I'm not going to go *pro se*.

16 THE COURT: But I'm not going to bring in another lawyer  
17 where the other lawyer is not going to be able to do anything  
18 different than what Mr. Poindexter has done. I'm not going to do  
19 that. So, but if you want to hire your own lawyer, go ahead and  
20 do it.

21 MR. TAYLOR: I don't want --

22 THE COURT: That's your call.

23 MR. TAYLOR: I want a change of venue.

24 THE COURT: I hear you saying it and I've already ruled  
25 that, so we're not going to rule it again. Anything else on

1 behalf of the United States?

2 MS. RAMANA: No, Your Honor.

3 THE COURT: Mr. Poindexter, anything else that you want  
4 to raise?

5 MR. POINDEXTER: No, Judge.

6 THE COURT: Thank you.

7 (Court Adjourned at 11:17 a.m.)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceeding in the above-entitled matter.

/s/ Lissa C. Whittaker  
Signature of transcriber

January 29, 2010  
Date