

Supreme Court of Florida

Case No. SC2024-1179

RUSTY MILLER, et al.,
Petitioner(s),

v.

STATE OF FLORIDA,
Respondent(s).

TRANSCRIPT OF PROCEEDINGS

Date: November 16, 2023

Type of Hearing: Status Hearing

State of Florida v. Kelli Lynch

Case #: 482022CF000688000AOX (Orange County)

Original Hearing Location: Orange County Courthouse

6C 425 N. Orange Avenue, Orlando, Florida 32801

Presiding Judge: HONORABLE DIEGO MADRIGAL III

Appearances:

For the State: RICHARD WALSH,

For the Defense: GARY SCHWARTZ,

Defendant: KELLI LYNCH

Ninth Judicial Circuit: 482022CF000688000AOX

6th DCA: 6D2024-1378

1 **THE COURT:** So Mr. Schwartz, I don't know if you're
2 caught up on this case or not. There is a executed plea
3 form. This is from. June 23rd, when she came for her
4 sentencing. The first time, Miss Lynch said this hadn't
5 been explained to her. I played the audio from my plea
6 colloquy for her, which she said it had been explained
7 to her. She subsequently or subsequently, a conflict
8 developed between her and Mr. Mills. He withdrew from
9 the case. She had filed a pro se motion to withdraw her
10 plea, which was stricken. More concerningly to me. Who
11 the heck is Rusty?

12 **THE DEFENDANT:** He's here somewhere.

13 **THE COURT:** Who is Rusty? I'm asking you.

14 **THE DEFENDANT:** Who is he? He's my best friend. He's
15 helping me.

16 **THE COURT:** So it became fairly apparent to me that a
17 character named Rusty Miller was filing motions on your
18 behalf in the court file, which is a crime to to give

1 legal advice without having a proper license is a
2 crime. And he did the state the favor of signing them
3 and putting his name on them. I don't know if the
4 state's going to pursue charges against him, but that's
5 between them. And...

6 **STATE ATTY WALSH:** I'm aware of the situation. I don't
7 think he filed them. I think he prepared them.

8 **THE COURT:** Well preparing.

9 **STATE ATTY WALSH:** If I'm not right. I'm just...

10 **THE COURT:** And it was fairly clear that he was giving
11 legal advice because he filed text messages that he had
12 exchanged. I'm very concerned with this. If Rusty is
13 here, I will tell him. I'm going to tell you! Don't
14 listen to Rusty. Rusty is not a lawyer! What's the
15 maximum penalty on this case?

16 **STATE ATTY WALSH:** On this charge? The mandatory
17 minimum?

18 **THE COURT:** No, no. The maximum.

1 **STATE ATTY WALSH:** The maximum?

2 **THE COURT:** Not what she pled to.

3 **STATE ATTY WALSH:**

4 Right!.....30.....60.....75.....80.

5 **THE COURT:** All right, so you face 80 years in prison.

6 And due to Rusty's advice! Due to Rusty's advice, you
7 have decided it is a good idea to withdraw your plea
8 To...Was it three years? Is that what it was?

9 **STATE ATTY WALSH:** I believe so.

10 **THE COURT:** It was a three year, minimum mandatory
11 sentence, and risk 80 years in prison because of Rusty!
12 Who's not a lawyer. So, Mr. Schwartz.

13 **ATTY. SCHWARTZ:** So, judge.

14 **THE COURT:** You want to continue withdrawing her plea?

15 **ATTY. SCHWARTZ:** I'm asking the court to allow to to
16 give us a little more time to talk about it. I've
17 spoken to rusty, so I'm familiar with.

1 **THE COURT:** Where's Rusty? Is he here? I'd like to talk
2 to Rusty!

3 **THE DEFENDANT:** But he's not the one that filed-

4 **THE COURT:** I'd like to talk to.

5 **THE DEFENDANT:** - the motions, though.

6 **THE COURT:** He put his name and It said, my name is
7 Rusty Miller. I'm filing this.

8 **THE DEFENDANT:** With the plea?

9 **THE COURT:** Like I can read. You know, I can read.

10 **THE DEFENDANT:** He didn't write his name on that.

11 **THE COURT:** He writes like a one president said, I went
12 to really fancy colleges that are really fancy
13 education.

14 **THE DEFENDANT:** Yes, I, I understand that Your Honor.

15 **ATTY. SCHWARTZ:** So, but because of the fact that
16 there's been a lot of information sort of floating

1 about in this matter, what I'm asking is I want to I
2 want to make sure. So I want to make sure that that the
3 Miss Lynch makes the right call in this case. So I. I'm
4 asking just to continue it. We've I think we've just
5 got to reappointed just about a week ago.

6 **THE COURT:** You did.

7 **ATTY. SCHWARTZ:** So I just want to make sure that this.

8 **THE COURT:** I'm just a little bit tired of the games
9 being played on this case. It's a. It was a very good
10 resolution for her. It was a very good my based on.
11 Based on the things that were filed publicly in the
12 court file. I believe the proffer that was part was
13 described as a disaster. Described as a disaster in the
14 plea. Or maybe that's my word. Did not go well. The
15 proffer did not go well. And. So. um.

16 **STATE ATTY WALSH:** Judge, if I. If I may, I've already
17 indicated and nothing has changed, that the state's
18 position is whatever the defendant wants. If she wants
19 to go to sentencing, fine. If she wants to withdraw her

1 plea, fine. The only thing I asked for is let's not
2 keep stalling this off. I have victims, real people who
3 want to get this resolved. It'll be next year at the
4 earliest. We have-

5 **THE COURT:** This plea was entered in June. We're at six
6 months. Six months from a plea for a sentence. It's
7 absurd. It's absurd. And this knucklehead named Rusty.
8 This knucklehead named Rusty, who's giving you Lord
9 knows what advice. He's not a lawyer. He's not going to
10 be sitting in jail with you when you might be doing 80
11 years. You understand that. He's going to be at home
12 probably forgetting. Don't talk to me until I say you
13 can talk. He's going to be at home. Sitting at home
14 watching football forgetting about you. He's not going
15 to be thinking about you. He may come visit for the
16 first six months, but then he's not even going to visit
17 you.

18 **THE COURT:** Okay?! You're going to be alone in jail
19 because of his advice. Okay?! **You got three years. You**
20 **got an amazing offer! Okay?**

1 **THE DEFENDANT:** Okay. Can I speak?

2 **THE COURT:** Not yet. Okay? So, you keep bringing people
3 with you too court. You bring-.

4 **THE COURT:** (screams) Will you look at me when I talk to
5 you.

6 **THE DEFENDANT:** Sorry.

7 **THE COURT:** You keep bringing people with you to court.
8 You always bring a whole entourage with you to court!
9 And I see these people. They're whispering. They're
10 talking to you back there. The only people you should
11 be talking to are your attorney. Okay? I'm going to set
12 this for trial right now! And we're either going to go
13 to a plea or we're going to set it for trial. I'm not
14 going to. I'm done. No more continuances on your case.
15 I'm done. I'm going to set it for trial on January 8th.
16 On January 8th. Time certain. So I'm not sending you
17 for this trial period. Okay? The last day, I will
18 accept a negotiated plea on your case will be December-
19 .

1 **STATE ATTY WALSH:** But.

2 **THE COURT:** When do you want to be the last day? That
3 we, either. We either withdraw the plea or we, we take
4 it.

5 **STATE ATTY WALSH:** I, of course, have no idea what my
6 witness's availability is for that date at this point,
7 so I need to check on that. I would say.

8 **THE COURT:** Would it be fair to say December 14th or
9 sorry, December 18th trial case management?

10 **STATE ATTY WALSH:** I would like to know if they want to
11 withdraw their plea by December-. Was is it? Fourth?

12 **THE COURT:** That's the third week of this trial period.

13 **STATE ATTY WALSH:** Right. But they just one time to talk
14 about it, and if they want to come in-. And-. So-. Or is
15 the court granting the motion to withdraw. Because I'm
16 not [understanding]-.

17 **THE COURT:** There's no motion, I don't think!

1 **STATE ATTY WALSH:** I know there's no motion to withdraw
2 the plea at this stage, because the one that was filed
3 was a nullity!

4 **THE COURT:** I think Mr. Schwartz wants to talk to her.

5 **ATTY. SCHWARTZ:** Right.

6 **THE COURT:** I mean, you still realize you're still under
7 the auspices of the Quartermaster's agreement. If you
8 break the law between now and then. And part of the
9 agreement is that you will not withdraw your your plea.
10 I don't have to allow you to withdraw your plea. I
11 mean, I understand even if the state stipulates, I
12 don't have to go along with it. You understand that,
13 right?

14 **THE DEFENDANT:** Yes.

15 **THE COURT:** Okay. How much time do you need to talk to
16 Mr. Schwartz about that decision to withdraw or not
17 withdraw your plea?

1 **THE DEFENDANT:** I. Mean, I've got to speak with him
2 once, I think maybe twice really quick. So, I mean, a
3 little bit of time to speak with him. That would be
4 nice. I don't-

5 **THE COURT:** Who are you not going to talk to about your
6 decision?

7 **THE DEFENDANT:** I understand.

8 **THE COURT:** Tell me exactly who, you- Say: you will not
9 talk to Rusty Miller for any legal advice.

10 **THE DEFENDANT:** Correct.

11 **THE COURT:** I want you to hear you say that sentence!

12 **THE DEFENDANT:** I will not take any legal advice from
13 Mr. Miller.

14 **THE COURT:** Okay!

15 **ATTY. SCHWARTZ:** Your honor, I just want to make it
16 clear. For the record, I'm not being disrespectful. I'm
17 just- just giving the dates to my assistant.

1 **THE COURT:** Oh, on your phone? Okay. Yeah! (distracted)

2 -Anything further on this case?

3 **STATE ATTY WALSH:** So we set time certain for January
4 the 8th.

5 **THE COURT:** Pending any motions that may address a
6 conflict in witness schedules.

7 **STATE ATTY WALSH:** All right. And so the court is, in
8 fact, granting the withdrawal of the plea.

9 **THE COURT:** I'm not granting anything.

10 **STATE ATTY WALSH:** Okay?

11 **THE COURT:** They want time to talk about it, don't you?
12 Or do you want to withdraw the plea?

13 **ATTY. SCHWARTZ:** So that that's-. That's what I want to
14 have more time to talk about, judge.

15 **ATTY. SCHWARTZ:** So-. And I'm sorry, did the court say
16 we got to know by 12/4? Is that the date that was-?

1 **STATE ATTY WALSH:** That's the date I asked for.

2 **THE COURT:** Is that sufficient time?

3 **ATTY. SCHWARTZ:** I think that'll be sufficient time,
4 judge- yeah.

5 **THE COURT:** Is it Rusty Christopher Miller? All right. A
6 guy who's had charges for- Defrauding an innkeeper- and
7 fraud- and defrauding an innkeeper- and grand theft
8 third degree- and fraudulent use of credit card- and
9 defrauding an innkeeper- and grand theft third degree-
10 and expired or revoked credit cards- and possession of
11 methamphetamines- and having a fugitive warrant out of
12 the state [Georgia]- and trafficking amphetamines- and
13 illegal drugs- conspired to traffic [drugs]- and DUIs-
14 and careless driving. This is the guy we're talking
15 about? This is a guy?

16 **THE DEFENDANT:** I wasn't aware of all of that!

17 **THE COURT:** Okay- all right. Okay-. He your boyfriend?

18 **THE DEFENDANT:** No-

1 **THE COURT:** Okay. All right-. All right. We'll see you
2 guys January 8th.Or do you want to set it for the TCM?
3 Another thing-

4 **STATE ATTY WALSH:** That would be a good idea, Your
5 Honor.

6 **THE COURT:** All right, so that TCM is December 18th, one
7 week before Christmas.

8 **ATTY. SCHWARTZ:** December 18th?

9 **THE COURT:** Or Hanukkah. I don't know what Hanukkah is
10 this year, Mr. Schwartz.

11 **ATTY. SCHWARTZ:** I also don't know.

12 **THE COURT:** What time you want it?

13 **STATE ATTY WALSH:** Whatever is Good.

14 **THE COURT:** So we have TCM, so it's all day, so we can
15 do-.

16 **STATE ATTY WALSH:** Judge, let's do 11. That okay?

1 **ATTY. SCHWARTZ:** Yeah.

2 **THE COURT:** 11:00.

3 **COURT REPORTER:** Appearance required?

4 **THE COURT:** Yes. All right.

5 **ATTY. SCHWARTZ:** (Whispers to Lynch) Okay. I'll talk to
6 you tomorrow. And-

7 **THE COURT:** I just want to make clear one thing. I'm not
8 saying you would get 80 years. Okay? So, I don't want
9 you to think that I'm, like, saying-. I'm saying that's
10 the maximum penalty! One of the things that I just
11 would like you all to understand is, right now, it's
12 just words on a page- right? The allegations are just
13 words on a page. So, you know, we make independent
14 recommendations about words on a page. When people come
15 in and testify- and if you're convicted- which is not a
16 guarantee. But if you're convicted. Then they have a
17 chance to give an impact statement on how the case has
18 impacted them.

1 **THE COURT:** So potentially perhaps I'd go-

2 **THE COURT:** Your attorney presents evidence I would go
3 below that offer after after trial.

4 **THE COURT:** (chuckles) Maybe.

5 **THE COURT:** But once if you're convicted- and once
6 people-

7 **THE COURT:** I can't go below the minimum though.

8 **THE COURT:** Once people testify and say how it affects
9 them- the penalty could get worse.

10 **THE COURT:** That's all I'm saying!

11 **THE COURT:** So I'm not saying i'm going to like- if
12 you're convicted- you're getting 80 years.

13 **THE COURT:** I don't want you to- by any means- take this
14 as me saying that.

15 **THE COURT:** I will give you a fair and impartial
16 sentence if you're convicted, based on the evidence

1 that I hear and the impact statements that may be
2 provided after the trial.

3 **THE COURT:** So I think it's very unlikely you would come
4 anywhere near the maximum, to be honest with you.

5 **THE COURT:** Like anywhere close.

6 **THE COURT:** Even- no matter what.

7 **THE COURT:** But it is a possibility!

8 **THE COURT:** So anything else from the state?

9 **STATE ATTY WALSH:** No, Your Honor.

10 **THE COURT:** Anything else from defense?

11 **ATTY. SCHWARTZ:** No, sir. Thank you.

12 **THE COURT:** All right!

13 --End of Hearing--