

Supreme Court of Florida

Case No. SC2024-1179

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

v.

STATE OF FLORIDA,
Respondent(s).

TRANSCRIPT OF PROCEEDINGS

Date: October 4, 2023 Part 3

Type of Hearing: Sentencing

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: JONATHAN MILLS,

Defendant: KELLI LYNCH

Ninth Judicial Circuit: 482022CF000688000AOX

6th DCA: 6D2024-1378

1 **THE COURT:** In the break. Mr. Walsh did hand me a Gould
2 v Florida, which is 263 southern third 289. That
3 there's no requirement. I mean, the holding is that
4 there's no requirement that the motion be made in
5 writing. That-

6 **STATE ATTY WALSH:** That is correct. I had made the
7 comment before the break that could not be in or tenuis
8 motion, or at least I made that implication. That's how
9 I remember it. And under Gould and the authorities
10 cited herein or tenuis motion is sufficient in Gould.
11 They reversed, as they did in some of the other cases,
12 because the court just summarily said it's not in
13 writing. Denied. I don't think that's what you have
14 done by playing the video, I'm sorry, the audio, by
15 giving the defendant time to consult, I guess about an
16 hour and a half to consult. I don't know if there are
17 any other additional grounds to be raised, but
18 otherwise I'd ask the court to deny the motion for to
19 withdraw the plea based on insufficient evidence to

1 support it, although under the rule you could grant it
2 a purely discretionary basis. Okay.

3 **THE COURT:** Mr. Mills.

4 **ATTY MILLS:** Judge, I'm honestly not certain if my
5 client still wants to proceed. On the motion to
6 withdraw plea, I would ask to continue the sentencing.
7 I know the state is opposed to that. Um, just to give
8 her some additional time to get her affairs in order,
9 she got some medical problems. And again, I'm not sure
10 if she wants to withdraw her plea. Uh, she did make me
11 aware of a couple of potential additional grounds in
12 the hallway that if she wants to proceed on, that would
13 be a conflict for me to proceed on. So if if that's the
14 case, I would have to move to withdraw. So it's a
15 little bit complicated.

16 **STATE ATTY WALSH:** Yeah. I'm concerned we'll be back in
17 the same spot. And I would be contemplating the court
18 agreeable to withdraw the plea offer, because I think
19 we're going to come back in a week or two and.

1 **THE COURT:** If your going to withdraw **the plea offer**

2 **STATE ATTY WALSH:** She has already entered the plea,

3 **THE COURT:** Well, I mean.

4 **THE COURT:** Do you still think you want to withdraw your
5 plea, ma'am?

6 **THE DEFENDANT:** Um.

7 **THE COURT:** Do you need more time to think about it?

8 **THE DEFENDANT:** If that's possible.

9 **THE COURT:** Okay. Who is this person who keeps shaking
10 their head back there? I've made a comment, like, three
11 times, and they keep shaking their head. Oh. I'm sorry.
12 You can't turn around. Don't worry. So, um.-

13 **THE DEFENDANT:** I know my daughters are here. Two of my
14 daughters are here.

15 **THE COURT:** Oh, you steal my heart! (Laughs)

16 **THE COURT:** -Sorry.

1 **THE COURT:** Um, do you need more time?

2 **THE DEFENDANT:** If that's possible.

3 **THE COURT:** Okay, okay. I'm. I'm concerned that there
4 may be a built in conflict here that we'd be back here
5 anyway at later on down the road.

6 **STATE ATTY WALSH:** However you rule, however you rule is
7 for you to decide, but it is putting the state in a
8 prejudicial situation. Months have gone by. I don't
9 know if I still have witnesses and so forth. So however
10 you feel is appropriate to exercise your discretion.

11 **THE COURT:** I don't feel comfortable going forward with
12 the plea today. I feel comfortable setting a deadline
13 to come back for **the plea.**

14 **STATE ATTY WALSH:** It's the sentencing, not a plea.

15 **THE COURT:** Or sentencing I'm sorry to go forward with
16 the sentencing. I mean, I will set the sentencing
17 today. Um, and if a motion is filed before then, we can
18 hear the motion at sentencing- because sentencing is

1 either going to be a sentencing or if there's a motion
2 filed or a motion brought up, I'll either grant or deny
3 it. So either we deny it, we'll go forward with the
4 sentencing. If we grant it, we'll set it for trial. The
5 only issue with that is if there's a conflict with Mr.
6 Mills and her. I don't know if he could ethically file
7 a motion to.

8 **STATE ATTY WALSH:** He can Withdraw before then-

9 **THE COURT:** -Well,

10 **STATE ATTY WALSH:** I'm saying I just I just don't want
11 to show up again for another time to have to go through
12 this same procedure.

13 **THE COURT:** Let's do November 3rd. That's a month from
14 today. So, November 3rd at 845. I'm going to ask if,
15 uh, I'm going to order, I guess if a motion is going to
16 be pursued that it be filed by. Say, October 23rd. By
17 October 23rd. And, uh, if you're going to withdraw from
18 the case, just try to do it ASAP.

1 **ATTY MILLS:** Yes, sir.

2 **THE COURT:** Okay. All right.

3 --End of Hearing--