

# Supreme Court of Florida

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Case No. SC2024-1179

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

v.

STATE OF FLORIDA,  
Respondent(s).

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## TRANSCRIPT OF PROCEEDINGS

Date: November 3, 2023

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

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Presiding Judge: HONORABLE DIEGO MADRIGAL III

Appearances:

For the State: RICHARD WALSH,

For the Defense: JONATHAN MILLS,

Defendant: KELLI LYNCH

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Ninth Judicial Circuit: 482022CF000688000AOX

6<sup>th</sup> DCA: 6D2024-1378

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1 **COURT CLERK:** She just handed this to the deputy.

2 **THE COURT:** All right, so full disclosure to Mr. Mills  
3 and Mr. Walsh. Miss Lynch just handed a document to the  
4 deputy. And Ms. Lynch just to make sure that you wrote  
5 this or something. You just do me a favor and sign it.

6 **THE DEFENDANT:** Sure.

7 **THE COURT:** Yeah. Just Where her name is on the second  
8 page.

9 **DEPUTY:** Right next to your name. Signing it.

10 **THE COURT:** The document that I was handed is somewhat  
11 contradictory. It is a request for a new attorney and  
12 objection to a withdrawal which seem to be  
13 contradictory.

14 **STATE ATTY WALSH:** I had received a copy of E-filed.  
15 Looks like pro se motion to withdraw plea notice for  
16 demand for discovery. Motion to continue. They were all  
17 filed back on October 20th in the afternoon. Of course,

1 they were filed pro se while there was an attorney of  
2 record.

3 **THE COURT:** And that's somewhat of what one of the  
4 things I wanted to discuss with you off the bench, but  
5 we'll just discuss it out in the open. So they're filed  
6 pro se while you have an attorney. So it's a legal  
7 nullity. Once you have an attorney or the attorney can  
8 file things on your behalf. Mr. Mills does have a  
9 motion to withdraw set on the case. And my concern, and  
10 I guess. Let me ask Miss Lynch, do you want an attorney  
11 or do you want to represent yourself?

12 **THE DEFENDANT:** No, I mean, I would like an attorney,  
13 please.

14 **THE COURT:** So the logistical issue that would come up  
15 is Mr. Mills has indicated a conflict. If that motion  
16 is well taken, which I anticipate it, it will be  
17 granted. She's requesting an attorney. I don't think we  
18 can proceed on anything else, including the motion to  
19 withdraw plea or sentencing because she's requesting an

1 attorney. And there's no attorney here to represent her  
2 on those pending motions. I think we have to address  
3 the withdrawal first because of the conflict,

4 **STATE ATTY WALSH:** To help the court just know where  
5 we're going. And I've communicated this with counsel,  
6 is that once we sort through the logistics of it and  
7 the legalities, the state is not going to oppose the  
8 withdrawal of the plea. So right now, I don't think the  
9 court could grant this pro se motion.

10 **THE COURT:** Well, there is. No pro se motion, I'm  
11 striking it.

12 **STATE ATTY WALSH:** Right, because you're striking it.  
13 But ultimately, if in fact, after Miss Lynch gets her  
14 new attorney appointed or retained, if she decides that  
15 she does want to withdraw the plea, the state is not  
16 going to object.

17 **THE COURT:** I think your assessment is accurate. No,  
18 I'll explain all that to you if you'd like. Okay. So is  
19 this. You have right to counsel. Okay. So if there's a

1 conflict which Mr. Mills has alleged in the description  
2 of the characters conflicts you're opposing the  
3 withdrawal, but you're asking for a new attorney, which  
4 I'm confused. Like you, you don't want them to get off  
5 your case, but you want a new lawyer, which seems like  
6 you would want him to get off the case. And you want a  
7 new lawyer because you can't have two.

8 **THE DEFENDANT:** Yes, Your Honor. The thing about it is,  
9 is with Mr. Mills, I could never get a phone call back.  
10 There was a lot of miscommunication, and he was saying  
11 there's a conflict due to ...

12 **THE COURT:** eh eh eh ...Before you go further,  
13 everything. You've spoken about him with him, I should  
14 say even after he withdraws is confidential. You don't  
15 have to tell me anything. I don't really need to know.  
16 What was said or what do you agree? There's a conflict?

17 **THE DEFENDANT:** Yes, I do agree.

18 **THE COURT:** Okay. All right, So first thing I'm going to  
19 do is I'm going to grant his motion to withdraw. Okay.

1 You'll be relieved of his duties on the case. Second  
2 thing that happened is you filed motions pro se while  
3 you had an attorney. So that's not allowed under the  
4 rules. So I'm going to get rid of those motions. Those  
5 motions will be our legal nullities are stricken from  
6 the record. Okay, so that's second thing. However, I  
7 would anticipate your new attorney. So I'm going to  
8 reappoint you, Office of Regional Conflict Counsel, to  
9 represent you on this case. It'll probably be Mr.  
10 Schwartz. He's the one who's assigned to our division.  
11 But two when they're refiled, which we anticipate they  
12 will be refiled. Mr. Walsh has indicated they are not  
13 going to object to you withdrawing your plea. Okay. If  
14 there's no objection to withdrawing the plea, I will  
15 probably go along and I'll go along with it.

16 **STATE ATTY WALSH:** My only concern is that she needs to  
17 have counsel to discuss that with. Because there was a  
18 favorable plea offer which would then disappear. So  
19 rather than prejudice her, just let her discuss that  
20 with new counsel.

1   **THE COURT:** We're not.Having.

2   **STATE ATTY WALSH:** Oh, okay.

3   **THE COURT:** I mean, I'm not saying it's- But it's  
4   stricken from the record. So if it's refiled, you're  
5   going to agree with it. If it's not refiled,

6   **STATE ATTY WALSH:** thats correct.

7   **THE COURT:** Sentence her.

8   **STATE ATTY WALSH:** Right.

9   **THE COURT:** You me get that.

10   **THE DEFENDANT:** Okay.

11   **THE COURT:** But there's no motion filed, so you're gonna  
12   have to talk to them about refiling. The motion. Okay.  
13   Mr. Walsh has indicated if the motion is refiled, he's  
14   not going to oppose me granting that motion. Right now,  
15   there's no motion. So I'm not going to sentence you  
16   because you don't have an attorney here today.

1   **STATE ATTY WALSH:** Judge, I have no objection if the  
2   court wants to excuse Ms. Lynch From coming in.

3   **THE COURT:** Yeah. You don't have to come that day  
4   because this is what's going to happen that day. We're  
5   going to say, Mr. Schwartz, you just got appointed on  
6   this case. What do you want to do? And he's like, I'm  
7   going to need more time to talk to her. Okay. I mean,  
8   if you want to come for that, you're more I mean, if  
9   you want to come, you're more than welcome to come. But  
10  we're saying is you don't have to come. Okay.

11  --End of Hearing--