

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
FLAGLER COUNTY, FLORIDA

STATE OF FLORIDA,

v.

TERRENCE MANCEL MCMANUS,
Defendant.

CASE NO.: 2019-00699-CFFA
JUDGE TERENCE R. PERKINS

NOTICE OF FILING TRANSCRIPT

COMES NOW the defendant by and through the undersigned court-appointed attorney,
and hereby gives notice of the filing within the Court files the following:

Deposition of Sgt. Austin Yelvington taken on January 30, 2020.

The above-referenced case is scheduled for trial before Judge Perkins on Monday,
October 19, 2020.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by delivery to:
Philip Bavington, Assistant State Attorney, 1769 East Moody Blvd., Bldg. #1, Bunnell, FL
32110, on September 21, 2020.

/s/ William M. Bookhammer

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Sergeant Austin Yelvington
January 30, 2020

1 IN THE CIRCUIT COURT, SEVENTH
2 JUDICIAL CIRCUIT, IN AND FOR
3 FLAGLER COUNTY, FLORIDA

4 STATE OF FLORIDA,

5 vs.

CASE NO.: 2019-00699-CFFA

JUDGE: TERENCE R. PERKINS

6 TERRENCE MANCEL MCMANUS,

7 Defendant.
8 _____/

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11 TELEPHONIC STATEMENT OF SERGEANT AUSTIN YELVINGTON

12 Taken on Behalf of the Defendant

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16 DATE TAKEN: Thursday, January 30, 2020

17 TIME: 3:30 p.m. - 3:41 p.m.

18 PLACE: Office of the Public Defender
19 1769 East Moody Boulevard, Building 1
20 Bunnell, Florida

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Stenographically Reported by:
Melanie E. Szafran, RPR, FPR
Registered Professional Reporter

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APPEARANCES:

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TESTIMONY OF SERGEANT AUSTIN YELVINGTON

DIRECT EXAMINATION BY MR. BOOKHAMMER

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REPORTER'S CERTIFICATE

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EXHIBITS

(None)

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PROCEEDINGS

SERGEANT AUSTIN YELVINGTON, called as a witness by the Defendant, testified as follows:

MR. BOOKHAMMER: Okay. We're just going to do this as a telephonic statement. I don't think there's anybody there to swear you in. So we can go ahead and start.

DIRECT EXAMINATION

BY MR. BOOKHAMMER:

Q Just tell us your name, sir.

A Austin Yelvington. I am a sergeant with Flagler Beach Police.

Q And how long have you been with Flagler Beach, sir?

A A little over seven years.

Q And prior to that, did you have any law enforcement experience, sir?

A I did not.

Q As you know, we're here for the case of the State of Florida versus Terrence McManus, and you were obviously involved in this case.

So if you could just start with how you became involved in this, sir.

A Okay. So it was Officer Cozzone who had checked out with Mr. McManus. He had found him in the construction

1 zone on A1A, and he called for backup, and that was the
2 reason I got involved is, I was his backup for the call.

3 Q When you arrived at the area, what did you see?

4 A I saw Mr. McManus's golf cart. It was stuck in
5 the construction zone, you know, like buried -- it was
6 actually buried to where it was sitting on the axles, and it
7 was actually a lifted golf cart with, you know, like little
8 off-road tires on it. And I think he was still on the golf
9 cart, if I remember correctly.

10 Q You said it was his golf cart. How did you know
11 it was his?

12 A After we -- I believe after we ran it, it came
13 back to him, plus it had an Ocean Palm Golf Course sticker
14 on it, which, you know, he's the controller of the actual
15 golf course for the city.

16 Q When you say you ran it, does this thing have any
17 kind of license plate on it or anything?

18 A I don't recall. Some of them in the city do, and
19 I can't remember if that one did or not, but I'm pretty sure
20 it had serial numbers on it to where we could run it. But
21 it might have had a tag on it. I don't recall.

22 Q Can you run serial numbers on a golf cart?

23 A Yeah.

24 Q Oh, okay.

25 A Yeah.

1 Q Who do you run it through?

2 A You can run them through our, you know, dispatch
3 system to make sure they're not stolen.

4 Q Okay. I mean, there's not a registered owner to a
5 golf cart necessarily?

6 A Right, yeah. Only if it, you know, had a license
7 plate. Then it would be registered as a low speed vehicle.

8 Q And it was one of the golf carts that was the
9 property of Ocean Palms Golf Course?

10 A I believe so, yes.

11 Q Have you ever seen Mr. McManus operate that golf
12 cart before?

13 A No.

14 Q Did you know Mr. McManus before this encounter?

15 A No, I did not.

16 Q You said that he is the owner or operator of the
17 Ocean Palms?

18 A Yeah. The city actually owns the golf course, but
19 he's like the -- I guess if you want to call it "controller"
20 of the actual -- I guess it would be the golf course -- of
21 Ocean Palm Golf Club, I guess you could say.

22 Q Okay. And I know I asked it before, I don't mean
23 it to be a trick question.

24 You never met with him prior to then, even just
25 through casual conversation when he's over possibly on Ocean

1 Palms property?

2 A No. I don't think so, no.

3 Q And you said that this thing was stuck up to the
4 axle; that being the golf cart?

5 A Correct.

6 Q And I've seen pictures of it. It was in the sand
7 where the road was being reconstructed?

8 A Yes. It was like a mixture of sand and where the
9 construction crews had like dumped a pile of, you know, like
10 gravel or rock, whatever you want to call it.

11 Q Did either you or Officer Cozzone try to get the
12 thing out of the roadway?

13 A Yes.

14 Q How did you try to remove it?

15 A Just by, you know, hitting the gas and getting it
16 to move. But it wouldn't. The tow truck actually had to
17 drag it out because it was so stuck.

18 Q So without the tow truck, would it have been able
19 to have been moved?

20 A No.

21 Q How'd they pull it out? Did they wench it out or
22 did they have to put a chain on it?

23 A Yeah, they used the cable on the back of the
24 flatbed, you know, that they use to put vehicles on the back
25 of the bed.

1 Q Do you know what company you used to get it?

2 A No, I don't recall.

3 Q And you said --

4 A It would be in Officer Cozzone's report.

5 Q Okay. And you said you tried to remove it, you
6 said, literally just by starting it up and trying to put it
7 in gear and moving it forward and reverse?

8 A Correct.

9 Q Do you know how long you and Officer Cozzone tried
10 to do that before you decided it was not going to move?

11 A Just maybe a minute, two minutes, tops.

12 Q Do you recall any statements made by Mr. McManus?

13 There's some statements attributed to him in
14 Officer Cozzone's report, but you, yourself, sir?

15 A No, I do not.

16 Q Can you describe Mr. McManus's condition? That
17 is, you know, obviously dealing with sobriety, intoxicated.

18 A He was one of the most intoxicated people I've
19 ever come across, to put it in simple terms.

20 Q And while you were there with Mr. McManus, did
21 anybody else come up to talk to him? You know, friends or
22 family, that you know of.

23 A No. He was by himself.

24 Q Now, without you guessing, do you know how that
25 golf cart ended up there, who drove it in there?

1 A He did.

2 Q How do you know?

3 A He was the only person in the area.

4 Q Well, I said without --

5 A He was sitting in the driver's seat with the keys
6 in the ignition and the lights still on.

7 Q Okay. But nobody saw him operating it on A1A,
8 that you're aware of, as it was in motion?

9 A I did not, no.

10 Q Okay.

11 A I don't know if Officer Cozzone did, but I did not
12 see him operating it.

13 Q That's why I said not to assume, because, you
14 know, the natural inclination would be if you looked at that
15 situation, you'd say he must have driven it in there,
16 because there he is, he's on top of it and it's stuck in the
17 sand.

18 Okay. Did you-all locate any alcohol nearby;
19 coolers, loose cans, bottles, anything that you can recall
20 there, Officer Yelvington? Or excuse me, Sergeant.

21 A Yes. There was alcoholic beverages within the
22 area. I don't recall exactly where, but, yes, there was.

23 Q Was this an electric cart or gas? Do you recall
24 at all?

25 A I don't recall.

1 Q Okay.

2 A Usually I review, you know, and look over the case
3 and our reports before I have a deposition. And I had
4 called a couple weeks ago to get this cancelled, but, you
5 know, it somehow fell through and didn't get cancelled. So
6 I don't remember a lot of the details, because, like I said,
7 I didn't get to review anything, since we've, you know, been
8 out of town.

9 Q Okay. I'm just reading it over. I think I'm
10 pretty much done.

11 A Okay.

12 Q Let me just finish up here, sir. I don't think I
13 have any other questions. Just give me one brief second. I
14 appreciate you calling in.

15 A That's fine. No rush.

16 MR. BOOKHAMMER: I don't have any other
17 questions right now.

18 Mr. Bavington?

19 MR. BAVINGTON: Sergeant, this is Phil
20 Bavington with the State Attorney's Office. I
21 don't have any questions for you. But thanks
22 for calling in on your vacation. We appreciate
23 it.

24 THE WITNESS: You're welcome.

25 MR. BOOKHAMMER: All right. Again, thanks

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a lot, man. You take care.

THE WITNESS: You're welcome. I
appreciate it, guys.

(WHEREUPON, the statement was concluded at
3:41 p.m.)

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REPORTER'S CERTIFICATE

STATE OF FLORIDA)

COUNTY OF FLAGLER)

I, Melanie E. Szafran, Court Reporter and Notary Public in and for the State of Florida at large, hereby certify that I was authorized to and did stenographically and electronically report the foregoing telephonic statement, and that the transcript is a true and complete record of my stenographic notes and recordings thereof.

I FURTHER CERTIFY that I am neither an attorney, nor counsel for the parties to this cause, nor a relative or employee of any attorney or party connected with this litigation, nor am I financially interested in the outcome of this action.

DATED THIS 25th day of February, 2020.



Melanie E. Szafran, RPR, FPR

<p>3</p>	<p>assume 9:13 at 5:3 9:14, 24 11:4</p>	<p>C</p>	<p>correctly 5:9 could 4:22 5:20 6:21</p>
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