

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR HILLSBOROUGH COUNTY
CIVIL DIVISION

NEIL J. GILLESPIE,
Plaintiff,

CASE NO: 05-CA-7205

vs.

DIVISION: "J"

BARKER, RODEMS & COOK, P.A.,
a Florida corporation; WILLIAM
J. COOK,
Defendants.

_____ /

TRANSCRIPT OF PROCEEDINGS

BEFORE: THE HONORABLE JAMES D. ARNOLD
Circuit Court Judge

TAKEN AT: Hillsborough County Courthouse
Tampa, Florida

DATE AND TIME: June 1, 2011
11:00 a.m.

REPORTED BY: Penny M. Appleton

Berryhill & Associates, Inc.
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A P P E A R A N C E S

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Attorney at Law
Barker, Rodems & Cook, P.A.
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Tampa, Florida 33602
Representing the Defendants

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Tampa, Florida 33672-0910
Representing the Public Defender's Office

1 Thereupon, the following proceedings commenced:

2 THE COURT: Good morning.

3 MR. RODEMS: Good morning, Your Honor.

4 THE COURT: Okay. We're here on an order to show
5 cause. Is that correct?

6 MR. RODEMS: Yes, sir, Your Honor, and I'm
7 Christopher Rodems on behalf of Barker, Rodems & Cook,
8 P.A., and William J. Cook.

9 THE COURT: Okay. I believe Mr. Gillespie was
10 personally served with my order ordering him to appear
11 to show cause why he should not be held in contempt for
12 his failure to give a deposition and to produce
13 documentation. Is that correct?

14 MR. RODEMS: Yes, sir.

15 THE COURT: Okay.

16 MR. RODEMS: The Marion County Sheriff's Office
17 sent me a return of service indicating that he was
18 served on May 11th of 2011. I did file that with the
19 court on May 25th. I've also received, this morning, a
20 fax from Mr. Gillespie, which he faxed to me an e-mail
21 that he send to David A. Roland and several others, and
22 he states in the letter to Mr. Roland, quote, I am not
23 attending the hearing today for the reasons stated in
24 the application to Justice Thomas, period, close quote.
25 I have a copy of this, if the Court would like it.

1 THE COURT: To Justice Thomas?

2 MR. RODEMS: Apparently, he's filed something with
3 the United States Supreme Court. There's a copy of
4 that here as well. Like I said, I'll be happy to --

5 THE COURT: Sure.

6 MR. RODEMS: -- hand it to you.

7 THE COURT: Mr. Peacock, good morning.

8 MR. PEACOCK: Good morning, Your Honor. How are
9 you, sir?

10 THE COURT: Fine. Thank you. How are you?

11 MR. PEACOCK: Fine. I'm here -- if I may just
12 interject, I have a motion. I've provided a copy to
13 counsel. This is a motion for clarification on behalf
14 of the Office of the Public Defender. You'll find
15 attached to that motion an order that was entered by
16 the Clerk of Court appointing Ms. Holt's office to
17 represent who I believe to be the Plaintiff in this
18 cause. I don't believe there's any statutory authority
19 for that appointment. The appointment was actually
20 made on what would be a criminal affidavit of
21 indigency.

22 I cite the particular statutes of 27 -- Chapter 27
23 of Florida Statutes which limit the authority of the
24 Public Defender, and from all information that I am
25 aware of, I have no reason to believe that -- that

1 there's a basis for the appointment of the Office of
2 the Public Defender.

3 Based upon the interim order of the Court, though,
4 which is attached as Exhibit A to the motion, I appear
5 before you today because the clerk's determination
6 pursuant to statute says that the Officer of the Public
7 Defender is appointed until relieved by the Court. I
8 would presume the Court would find it was appropriate
9 to relieve us, and I have prepared an order directing
10 that we be relieved because of the lack of a legal
11 basis for the appointment of Ms. Holt's office.

12 THE COURT: Well, we are here on an order to show
13 cause in a civil contempt proceeding.

14 MR. PEACOCK: I understand.

15 THE COURT: We're not even here on a criminal
16 matter.

17 MR. PEACOCK: I understand that, Your Honor.

18 THE COURT: And I am not appointing a public
19 defender, and I am going to sign an order relieving the
20 public defender because this is not a criminal
21 proceeding.

22 MR. PEACOCK: Thank you, Your Honor.

23 THE COURT: Thank you, Mr. Peacock. Always a
24 pleasure to see you.

25 MR. PEACOCK: Thank you, Your Honor.

1 THE COURT: Take care.

2 All right. Let the record reflect that
3 Mr. Gillespie was personally served with my order
4 ordering him to appear this morning to show cause why
5 he should not be held in civil contempt of court for
6 his failure to give a deposition, appear at a
7 deposition, give a deposition and produce documents
8 requested pursuant to a subpoena duces tecum. Is that
9 correct, counselor?

10 MR. RODEMS: As a party of notice of deposition
11 duces tecum, Your Honor.

12 THE COURT: Therefore, I'm going to issue a
13 warrant for his arrest and order that he be picked up
14 and brought before the Court to show cause why I
15 shouldn't hold him in civil contempt of court. The
16 order is immediate arrest.

17 Is there anything else we need to take up this
18 morning?

19 MR. RODEMS: Your Honor, is that writ that you're
20 referring to -- is that something Your Honor will
21 prepare? I have prepared a proposed one.

22 THE COURT: I'll take a look at your proposed.

23 MR. RODEMS: Yes, sir.

24 THE COURT: This just says for failure to appear
25 for deposition as ordered by the Court. It should be

1 for failure to appear at deposition and produce
2 documents pursuant to the subpoena duces tecum.

3 MR. RODEMS: Yes, sir.

4 THE COURT: The only problem is it says for
5 immediate -- immediately within 48 hours; however, if
6 for some reason the gentleman is picked up in another
7 county, they would have to bring him back, and also the
8 fact that if he was picked up on a Friday evening, say,
9 at seven o'clock on a Friday evening, the 48 hours
10 would run on a Sunday evening, so I'm going to change
11 that to 72 hours. So if we make that change to 72
12 hours.

13 MR. RODEMS: Yes, sir, I will.

14 THE COURT: And also, for -- also, failure to
15 appear at deposition and to produce documents.

16 MR. RODEMS: Yes, sir, I will.

17 THE COURT: And also, your second page appears to
18 be correct. Okay. Can you get me that this afternoon?

19 MR. RODEMS: I'll have it to you before noon, Your
20 Honor.

21 THE COURT: Thank you so much.

22 (The hearing concluded at 11:16 a.m.)

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C E R T I F I C A T E

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

I, Penny M. Appleton, Court Reporter for the
Circuit Court of the Thirteenth Judicial Circuit of the
State of Florida, in and for Hillsborough County,

DO HEREBY CERTIFY, that I was authorized to and
did, report in shorthand the proceedings and evidence in the
above-styled cause, as stated in the caption hereto, and
that the foregoing pages constitute a true and correct
transcription of my shorthand report of said proceedings and
evidence.

IN WITNESS WHEREOF, I have hereunto set my hand in
the City of Tampa, County of Hillsborough, State of Florida
this 2nd day of June, 2011.

Penny M. Appleton

A

a 1:6 2:1,1,1 3:12,17,19
3:21,25 4:3,12,12,13,20
5:1,4,10,13,15,18,20,23
6:6,6,7,8,10,12,21,22
7:8,9,10 8:1,11
above-styled 8:10
actually 4:19
Administrative 2:6
affidavit 4:20
afternoon 7:18
all 4:24 6:2
also 3:19 7:7,14,14,17
Always 5:23
am 3:22 4:24 5:18,19
an 3:4,20 4:15 5:9,12,19
and 1:1,17 3:6,8,12,21,21
4:24 5:9,18,19 6:7,13
6:14 7:1,7,14,15,17 8:7
8:8,9,10,11,12
another 7:6
any 4:18
anything 6:17
Apparently 4:2
appear 3:10 5:4 6:4,6,24
7:1,15
appears 7:17
Appleton 1:19 8:5,24
application 3:24
appointed 5:7
appointing 4:16 5:18
appointment 4:19,19 5:1
5:11
appropriate 5:8
are 4:8,10 5:12
ARNOLD 1:13
arrest 6:13,16
as 4:4 5:4 6:10,25 8:10
Ashley 2:3
Associates 1:23
at 1:15 2:2 6:6,22 7:1,9
7:15,22
attached 4:15 5:4
attending 3:23
Attorney 2:2
authority 4:18,23
authorized 8:8
aware 4:25
a.m 1:17 7:22

B

back 7:7
Barker 1:6 2:3 3:7
Based 5:3
basis 5:1,11
be 3:11 4:4,17,20 5:10 6:5
6:13,25 7:18
because 5:5,10,20
before 1:13 5:5 6:14 7:19
behalf 3:7 4:13
believe 3:9 4:17,18,25
Berryhill 1:23
Boulevard 1:24

Box 2:8

bring 7:7
brought 6:14
by 1:19 4:15 5:7 6:25

C

C 2:1,2 8:1,1
Can 7:18
caption 8:10
care 6:1
CASE 1:4
cause 3:5,11 4:18 5:13
6:4,14 8:10
CERTIFY 8:8
change 7:10,11
Chapter 4:22
Christopher 3:7
Circuit 1:1,1,13 2:7 8:6,6
cite 4:22
City 8:15
civil 1:2 5:13 6:5,15
clarification 4:13
Clerk 4:16
clerk's 5:5
close 3:24
commenced 3:1
concluded 7:22
constitute 8:11
contempt 3:11 5:13 6:5
6:15
Cook 1:6,7 2:3 3:7,8
copy 3:25 4:3,12
corporation 1:6
correct 3:5,13 6:9 7:18
8:11
counsel 2:6 4:13
counselor 6:9
county 1:1,15 3:16 7:7
8:3,7,15
court 1:1,13 3:2,4,9,15,19
3:25 4:1,3,5,7,10,16 5:3
5:7,8,12,15,18,23 6:1,5
6:12,14,15,22,24,25 7:4
7:14,17,21 8:5,6
Courthouse 1:15
criminal 4:20 5:15,20

D

D 1:13
DATE 1:17
David 3:21
day 8:16
Defendants 1:8 2:4
defender 2:7 4:14,24 5:2
5:7,19,20
Defender's 2:9
deposition 3:12 6:6,7,7,10
6:25 7:1,15
determination 5:5
did 3:18 8:9
directing 5:9
DIVISION 1:2,5
DO 8:8

documentation 3:13
documents 6:7 7:2,15
don't 4:18
Drive 2:3
duces 6:8,11 7:2

E

E 1:24 2:1,1,8 8:1,1
else 6:17
entered 4:15
even 5:15
evening 7:8,9,10
evidence 8:9,13
Exhibit 5:4
e-mail 3:20

F

F 8:1
fact 7:8
failure 3:12 6:6,24 7:1,14
fax 3:20
faxed 3:20
Fifth 2:8
file 3:18
filed 4:2
find 4:14 5:8
Fine 4:10,11
Floor 2:8
Florida 1:1,6,15,25 2:4,9
4:23 8:2,7,15
following 3:1
for 1:1 3:11,23 4:13,19
5:1,11 6:5,13,24,25 7:1
7:4,6,14 8:5,7
foregoing 8:11
Friday 7:8,9
from 3:20 4:24

G

gentleman 7:6
get 7:18
Gillespie 1:3 3:9,20 6:3
give 3:12 6:6,7
going 5:19 6:12 7:10
good 3:2,3 4:7,8

H

hand 4:6 8:14
happy 4:4
have 3:25 4:12,25 5:9
6:21 7:7,19 8:14
he 3:11,17,20,21,22 6:5
6:13 7:8
hearing 3:23 7:22
held 3:11 6:5
here 3:4 4:4,11 5:12,15
HEREBY 8:8
hereto 8:10
hereunto 8:14
he's 4:2
Hillsborough 1:1,15 8:3,7
8:15
him 3:10 6:4,15 7:7

his 3:12 6:6,13
hold 6:15
Holt 2:6
Holt's 4:16 5:11
Honor 3:3,6 4:8 5:17,22
5:25 6:11,19,20 7:20
HONORABLE 1:13
hours 7:5,9,11,12
How 4:8,10
however 7:5

I

I 3:9,18,22,25 4:4,11,12
4:17,18,22,24,25 5:4,7
5:9,14,17,18,19 6:14,21
7:13,16 8:1,1,5,8,14
if 3:25 4:11 7:5,8,11
immediate 6:16 7:5
immediately 7:5
in 1:1,1 3:11,22,23 4:17
5:13 6:5,15 7:6 8:7,9,9
8:10,14,14
Inc 1:23
indicating 3:17
indigency 4:21
information 4:24
interim 5:3
interject 4:12
is 3:5,13 4:13 5:4,7,20 6:8
6:16,17,19,20 7:4,6
issue 6:12
it 3:25 4:6 5:8 6:25 7:4,19
I'll 4:4 6:22 7:19
I'm 3:6 4:11 6:12 7:10
I've 3:19 4:12

J

J 1:3,5,7 3:8
JAMES 1:13
Judge 1:13
Judicial 1:1 2:7 8:6
Julianne 2:6
June 1:17 8:16
just 4:11 6:24
Justice 3:24 4:1

K

Kennedy 1:24

L

lack 5:10
Law 2:2,6
legal 5:10
Let 6:2
letter 3:22
like 3:25 4:4
limit 4:23
look 6:22

M

M 1:19 2:6 8:5,24
made 4:20
make 7:11
Marion 3:16

matter 5:16
may 3:18,19 4:11
me 3:17,20 7:18
Mike 2:5
morning 3:2,3,19 4:7,8
6:4,18
motion 4:12,13,15 5:4
Mr 3:3,6,9,14,16,20,22
4:2,6,7,8,11 5:14,17,22
5:23,25 6:3,10,19,23
7:3,13,16,19
Ms 4:16 5:11
much 7:21
my 3:10 6:3 8:12,14

N

N 2:1
need 6:17
NEIL 1:3
no 1:4 4:25
noon 7:19
North 2:3
not 3:11,22 5:15,18,20
6:5
notice 6:10

O

of 1:1,1,1,12 2:6 3:7,17,18
3:25 4:3,14,14,16,20,22
4:23,23,25 5:1,1,3,6,10
5:10,11 6:5,10,10,15
8:2,3,6,6,7,12,12,15,15
8:15,16
office 2:6,9 3:16 4:14,16
5:1,11
Officer 5:6
Okay 3:4,9,15 7:18
on 3:4,7,18,19 4:13,20
5:12,15 7:8,9,10
one 6:21
only 7:4
order 3:4,10 4:15 5:3,9
5:12,19 6:3,13,16
ordered 6:25
ordering 3:10 6:4
others 3:21
o'clock 7:9

P

P 2:1,1
page 7:17
pages 8:11
particular 4:22
party 6:10
Peacock 2:5 4:7,8,11 5:14
5:17,22,23,25
Penny 1:19 8:5,24
period 3:24
personally 3:10 6:3
picked 6:13 7:6,8
Plaintiff 1:4 4:17
pleasure 5:24
PO 2:8

prepare 6:21
prepared 5:9 6:21
presume 5:8
problem 7:4
proceeding 5:13,21
proceedings 1:12 3:1 8:9
 8:12
produce 3:12 6:7 7:1,15
proposed 6:21,22
provided 4:12
public 2:7,9 4:14,24 5:2,6
 5:18,20
pursuant 5:6 6:8 7:2
P.A 1:6 2:3 3:8

Q

quote 3:22,24

R

R 2:1 8:1
reason 4:25 7:6
reasons 3:23
received 3:19
record 6:2
referring 6:20
reflect 6:2
relieve 5:9
relieved 5:7,10
relieving 5:19
report 8:9,12
REPORTED 1:19
Reporter 8:5
represent 4:17
Representing 2:4,9
requested 6:8
return 3:17
right 6:2
Rodems 1:6 2:2,3 3:3,6,7
 3:7,14,16 4:2,6 6:10,19
 6:23 7:3,13,16,19
Roland 3:21,22
run 7:10
Ryan 2:2

S

S 2:1
said 4:4 8:12
say 7:8
says 5:6 6:24 7:4
second 7:17
see 5:24
send 3:21
sent 3:17
served 3:10,18 6:3
service 3:17
set 8:14
seven 7:9
several 3:21
Sheriff's 3:16
shorthand 8:9,12
should 3:11 6:5,25
shouldn't 6:15
show 3:4,11 5:12 6:4,14

sign 5:19
sir 3:6,14 4:9 6:23 7:3,13
 7:16
so 7:10,11,21
some 7:6
something 4:2 6:20
State 1:1 8:2,7,15
stated 3:23 8:10
states 3:22 4:3
statute 5:6
statutes 4:22,23
statutory 4:18
Street 2:8
subpoena 6:8 7:2
Suite 1:24 2:3
Sunday 7:10
Supreme 4:3
Sure 4:5

T

T 8:1,1
take 6:1,17,22
TAKEN 1:15
Tampa 1:15,25 2:4,9 8:15
tecum 6:8,11 7:2
Thank 4:10 5:22,23,25
 7:21
that 3:5,13,17,18,21 4:4
 4:15,15,19,24,25,25 5:6
 5:10,17 6:2,8,13,19,19
 6:20 7:8,11,11,18 8:8
 8:11
the 1:1,1,1,13 2:4,9 3:1,2
 3:4,9,15,16,18,22,23,23
 3:24,25 4:1,3,5,7,10,14
 4:14,16,17,19,22,23,23
 5:1,1,2,3,3,4,5,6,6,7,8
 5:10,11,12,15,18,19,23
 6:1,2,12,14,15,22,24,25
 7:2,4,4,6,7,9,14,17,21
 7:22 8:5,6,6,9,9,10,11
 8:15
there 6:17
Therefore 6:12
Thereupon 3:1
there's 4:3,18 5:1
they 7:7
Thirteenth 1:1 2:7 8:6
this 3:19,25 4:13,17 5:20
 6:4,17,24 7:18 8:16
Thomas 3:24 4:1
though 5:3
TIME 1:17
to 3:4,10,11,12,12,20,21
 3:22,24 4:1,4,6,12,15
 4:16,17,25 5:4,6,9,12
 5:19,24 6:4,4,6,8,12,14
 6:17,20,24 7:1,2,7,10
 7:11,11,14,15,17,19 8:8
today 3:23 5:5
TRANSCRIPT 1:12
transcription 8:12
true 8:11

Twiggs 2:8

U

understand 5:14,17
United 4:3
until 5:7
up 6:13,17 7:6,8
upon 5:3
us 5:9

V

vs 1:5

W

warrant 6:13
was 3:9,17 4:15,19 5:8
 6:3 7:8 8:8
we 5:10,12 6:17 7:11
well 4:4 5:12
We're 3:4 5:15
what 4:20
WHEREOF 8:14
which 3:20 4:23 5:4
who 4:17
why 3:11 6:4,14
will 6:20 7:13,16
William 1:6 3:8
with 3:10,18 4:2 6:3
within 7:5
WITNESS 8:14
would 3:25 4:20 5:8,8 7:7
 7:10
writ 6:19

Y

Yes 3:6,14 6:23 7:3,13,16
you 4:6,9,10,10 5:5,22,23
 5:24,25 7:18,19,21
your 3:3,6 4:8 5:17,22,25
 6:11,19,20,22 7:17,19
You'll 4:14
you're 6:19

0

05-CA-7205 1:4

1

1 1:17
11th 3:18
11:00 1:17
11:16 7:22
172910 2:8

2

2nd 8:16
2011 1:17 3:18 8:16
2100 2:3
229-8225 1:25
25th 3:19
27 4:22,22

3

33602 1:25 2:4
33672-0910 2:9

4

400 2:3
48 7:5,9

5

501 1:24

7

700 2:8
72 7:11,11
775 1:24

8

813 1:25