

1 THE COURT: Okay. July the 22<sup>nd</sup>, on Braswell.

2 MS. FUCHS: Thank you, Your Honor.

3

4 October 11, 2013

5 THE COURT: Ms. Fuchs?

6 MS. FUCHS: I am at the end of the line, but Mr. Young and I  
7 needed to ask you a question about -

8 THE COURT: The petition for post-conviction. Is Mr. Braswell up  
9 here?

10 MS. FUCHS: He should be.

11 THE COURT: Let's bring Mr. Braswell out.

12 MS. FUCHS: Your Honor, may we approach, it is about, it is just a  
13 question?

14 THE COURT: Why do we need to approach if Mr. Braswell is  
15 coming out?

16 MS. FUCHS: It's just due to the sensitive nature of it.

17 THE COURT: All right.

18 (A bench conference was had, to-wit):

19 MS. FUCHS: Yesterday we were talking about, well the previous  
20 well the secondary issue.

21 MR. YOUNG: Yes.

22 MS. FUCHS: Taylor Eskridge and Doug Carriker are the other  
23 attorneys involved and Taylor thought that she remembered you ordering a  
24 particular piece of evidence to turn over. It was an envelope that had a sticky  
25 writing on the front of it that said, something along the lines of, what Taylor

1 remembered it saying was, "Do not turn over to defense counsel".

2 I talked to Mr. Young about this, because that was not in the file  
3 and it has not made itself available. So we went through the file, together, I  
4 went to his office and he didn't find it.

5 So then, he and Mr. Carriker went through the office, going  
6 through the file and they found something that might be what it is, but it  
7 looks different than both Doug Carriker and Taylor Eskridge remember it  
8 looking.

9 MR. YOUNG: I'm assuming that you recall this?

10 THE COURT: I do.

11 MS. FUCHS: Was there an order entered for that piece of  
12 evidence to be turned over?

13 THE COURT: I don't remember one. I mean, this case has been  
14 going on so freakin' long that -

15 MS. FUCHS: We were just discussing that, this is the most in-  
16 depth post-conviction either of us have ever worked on.

17 THE COURT: From what I recall, everyone was cooperating and  
18 that wasn't the issue. Are you talking about Doug Carriker and Ms. Eskridge?

19 MS. FUCHS: Well, this is probably where the problem occurred,  
20 shortly after that happened is when Mr. Carriker was transferred out of this  
21 division. And I don't know - I don't even think that you were the next one in  
22 line, I think that there was one or two in between.

23 THE COURT: That would depend on who that was.

24 MS. FUCHS: And I don't know if that information ever got passed  
25 on. I know when I took over representation Melanie Curry was on it.

1 THE COURT: Melanie Headley?

2 MS. FUCHS: Yes.

3 THE COURT: Same person.

4 MS. FUCHS: And I think that there was somebody before her on  
5 it, because I remember her talking about having inherited it from somebody  
6 and I didn't -

7 THE COURT: And depending on who that was, if it was Betsy  
8 Carnesale, now Betsy Wiseman -

9 MS. FUCHS: She was trial counsel.

10 MR. YOUNG: It was Amy Weirich and Betsy Wiseman for trial  
11 counsel.

12 THE COURT: Okay. And Ms. Wiseman was in here for two years,  
13 so I don't know even who was dealing with Ms. Eskridge. If there was an  
14 order entered it should be in the Court's jacket.

15 MS. FUCHS: I would say that I haven't checked that, I was just, as  
16 we were standing here we were like -

17 THE COURT: Now, I don't remember.

18 MS. FUCHS: And I am not accusing Doug Carriker of any bad faith,  
19 at all, but -

20 THE COURT: Right. But, it would depend on who the  
21 attorney/prosecutor was after him that took it over and if it was the typical  
22 prosecutor and I wouldn't have had to enter something like that, but I don't  
23 know who it was.

24 MS. FUCHS: Doug's issue was that it was sealed and that he did  
25 not feel comfortable opening it, because it was assigned to Amy.

1 THE COURT: I see what you are saying. Okay, then right.

2 MS. FUCHS: And that is where the sensitivity lies.

3 THE COURT: Okay. I don't know, I don't have any idea and I sign  
4 these orders all the time. My suggestion is that why don't you look in the  
5 jacket.

6 MS. FUCHS: I will, absolutely.

7 THE COURT: So are you saying that we can't go forward with  
8 anything today?

9 MS. FUCHS: Mr. Young and I have spoken about that and that  
10 seems to be the consensus from both of our standpoints.

11 MR. YOUNG: From my end, I'd further - especially with, again, all  
12 of the different issues and possible credibility and the scientific evidence, and  
13 if we are going to put forth the defendant, I'll need to know a whole lot more.

14 THE COURT: Right. It's just that whenever we have this ready I  
15 am going to have to set a day, or two aside for this.

16 MS. FUCHS: Yes, Your Honor.

17 THE COURT: So, I mean, I don't even know what to tell you, so  
18 that you'll know what to tell me.

19 MR. YOUNG: Well, you have a date certain, but also I'll need the  
20 final amended petition in which, again, I don't have, because it is still ongoing,  
21 because I think that she needs information from the doctor.

22 MS. FUCHS: And I have spoken with him.

23 MR. YOUNG: Yeah, and this part maybe we can do in open Court.

24 MS. FUCHS: Yes, I can do this part in open Court, but that one  
25 part we needed -

18 JULY 1, 2011:

19 THE COURT: Mr. Sampson?

20 MR. ROSS SAMPSON: Good morning, Your Honor. I don't know if  
21 he is here, or not, but I am here for Ms. Taylor Eskridge. Do you have Vern  
22 Braswell, is he here?

23 THE COURT: No. He is in the penitentiary, this is a case that is  
24 getting a lot of age on it.

25 MR. SAMPSON: Yes, Your Honor, I know, this is a post-conviction

1 matter. Ms. Eskridge is not available, it seems she fell ill. However, I  
2 understand that this thing needs to be set for a hearing.

3 I just talked to the State's attorney. It appears that they are  
4 working out some evidentiary things, as far as turning over -

5 THE COURT: He is a little demanding.

6 MR. SAMPSON: Yes, he seems a little - yeah, I have no comment  
7 there. We are asking for thirty days and I'll shut up.

8 MR. CARRIKER: I told him that I have still got to meet with Ms.  
9 Weirich. Our schedules are not aligning right now, so. I've got to meet with  
10 her and let her review it, she was the trial lawyer and I want to get with her  
11 before I turn over things that she says I shouldn't be turning over.

12 MR. SAMPSON: There are some things they have to clear up on  
13 that point.

14 THE COURT: All right. But I mean, really, I'm going to have to set  
15 this for a hearing, pretty quickly, before I get in trouble.

16 MR. SAMPSON: I understand.

17 THE COURT: All right. July the 28<sup>th</sup> for disposition.

18

19 August 31, 2011

20 (CD reflects the week of 8-29-11, Court up 2 days, 9-1-11 and 9-2-11, possibly  
21 no Court on this date?)

22

23 November 18, 2011:

24 THE COURT: Mr. Massey?

25 MR. WILLIAM MASSEY: Your Honor, Vern Braswell, a petition for