

STATE OF WISCONSIN : CIRCUIT COURT : MILWAUKEE COUNTY
BRANCH 46

STATE OF WISCONSIN,

Plaintiff,

-vs-

Case No. 20CF2550

DARRELL BROOKS, JR.,

Defendant.

FEBRUARY 9, 2021

HONORABLE DAVID FEISS
Presiding Judge

bail hearing

APPEARANCES:

JACOB D. CORR, Assistant District
Attorney, appeared on behalf of the State.

JOSEPH T. DOMASK, Attorney-at-Law,
appeared on behalf of the Defendant.

The defendant appeared in person.

Kelly Janowski - Court Reporter

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P-R-O-C-E-E-D-I-N-G-S

THE COURT: This is State of Wisconsin versus Darrell Brooks, Jr. Case 20CF2550. Appearances.

ATTORNEY CORR: State appears by Jacob Corr. Good morning, Your Honor.

ATTORNEY DOMASK: Attorney Joseph Domask appears on behalf of Mr. Brooks. Mr. Brooks is in custody.

THE COURT: We are on the -- We were on the calendar yesterday for speedy jury trial on this case.

The court had approximately six or seven speedy trials and detainer cases. The court is currently in trial on a case that was older than Mr. Brooks' case.

So at this point -- And I had set Mr. Brooks' case over to Tuesday morning just out of caution because since I've been in gun court I think we've picked -- The first three or four juries that we picked we didn't even get to opening statements before something happened with the cases.

So before I gave Mr. Brooks a new court date and/or addressed his bail, I wanted to

1 make sure that the case that I started was actually
2 going to go to trial.

3 We did pick a jury yesterday
4 afternoon. We did swear the jury this morning.
5 We did openings, and we've done three witnesses so
6 far.

7 So there is -- I kept you guys on
8 call, but I'm not able to try Mr. Brooks' case. So
9 we are going to need to set a new trial date, and
10 we are also going to need to discuss bail.

11 It looks like Mr. Brooks made his
12 initial appearance on July 28th of 2020 and a
13 speedy trial demand was entered on August 7th.
14 Originally a speedy jury trial date was set in
15 November.

16 Then I believe we changed that date
17 from November 9th to November 30th. And then on
18 November 30th, we weren't able to try the case.
19 The court did toll speedy trial time limits and set
20 the matter for trial on February 8th.

21 So let's talk about the bail
22 situation. If I'm correct, the bail is currently
23 \$7,500 cash.

24 ATTORNEY DOMASK: I think so. I
25 think that's correct.

1 THE COURT: I think it had been
2 10,000. Yeah. On August 13th, I lowered it to
3 \$7,500 cash.

4 This is now the second speedy trial
5 date. The court hasn't been able to try
6 Mr. Brooks' case.

7 Mr. Domask, what's your position
8 with regard to bail?

9 ATTORNEY DOMASK: I'm asking you
10 that you amend it to a \$7,500 signature bond.

11 THE COURT: Mr. Corr?

12 ATTORNEY CORR: Judge, I think that
13 bail should remain. I think that it's not for -- I
14 mean obviously the state was prepared to go. The
15 defense was prepared to go.

16 I've got two cooperative victims in
17 this case who are very adamant about Mr. Brooks
18 being held accountable for his actions.

19 Both of them want to see Mr. Brooks
20 prosecuted for this case. So they're concerned
21 about this.

22 Mr. Brooks does have some criminal
23 history albeit mostly kind of -- It looks like some
24 DV and drug cases, things like that. He does have
25 it looks like a misdemeanor bail jumping from 2012

1 which would go to his -- kind of his following of
2 court orders. But the state feels that bail is
3 appropriately set.

4 ATTORNEY DOMASK: Judge, just to
5 respond briefly. The most recent conviction that I
6 have is from 2011. This is now I believe at
7 minimum the second and perhaps third time the
8 matter has been set for -- well, second time for
9 trial; but we had that November 9th extension.

10 He's been in custody now for six
11 months on this. I think that a signature bond is
12 appropriate given the speedy trial demand.

13 If you are not inclined to do that
14 and want some cash bail, I think significantly
15 less than the 7,500 is appropriate not to exceed
16 1,000.

17 THE COURT: Does Mr. Brooks have the
18 ability to post any cash?

19 ATTORNEY DOMASK: I think he can
20 come up with a thousand.

21 THE COURT: All right.

22 ATTORNEY DOMASK: That was based on
23 conversations I had with him back in November. I
24 did speak with him on January 27th in preparation
25 for the trial, but we did not discuss anything

1 other than a signature bond if the matter would not
2 be set for -- not be able to be heard for trial.

3 So my hope is that he could still
4 come up with a thousand we talked about in
5 November, but I honestly think a signature bond is
6 what's appropriate here.

7 ATTORNEY CORR: Judge, one other
8 point I would make. Just so the court is aware,
9 from the purposes of the state's perspective,
10 Mr. Brooks -- There is an admission as least as to
11 the felon in possession.

12 So I think that the strength of the
13 state's case is also something to consider. He
14 does admit that -- ultimately admits to firing the
15 firearm, but he denies firing it at the victim. He
16 says he fired it into the ground. Again, that's
17 something I think the court should be aware of.

18 THE COURT: And I appreciate that.
19 From the court's perspective, what makes this a
20 difficult decision is these are serious charges.
21 These are serious allegations.

22 And, you know, it's likely that
23 based upon that admission that at minimum
24 Mr. Brooks as a convicted felon possessed a
25 firearm. And that's obviously -- Even under his

1 version, that's a serious issue within the
2 community.

3 The other side of that coin is
4 Mr. Brooks entered his speedy trial demand back in
5 August. I have tolled this once.

6 I just don't think I can continue to
7 toll speedy trial demands indefinitely. You can
8 make the argument that this -- our inability to try
9 the case is not due to court congestion because of
10 the limited number of trial dates, but we've now
11 set this on a couple of occasions.

12 And I understand it's a strong case.
13 I understand we have cooperative victims. It's
14 disappointing that we weren't able to try the case
15 and that we weren't able to find a spin.

16 But I do believe that Mr. Brooks is
17 entitled to some relief on bail. I can tell you
18 that I'd be more comfortable with a cash bail
19 amount, but I also understand Mr. Domask's
20 position.

21 At this point, I am going to reduce
22 the bail to \$500 cash. I'm going to set a new
23 trial date.

24 Mr. Domask, you'll need to monitor
25 this because -- I can tell you that I'm setting it

1 at that amount with the hope that Mr. Brooks is
2 able to post that amount. That gets him out but
3 also provides some community protection.

4 If that doesn't happen, I think
5 we'll need to revisit this.

6 ATTORNEY DOMASK: Would you like --

7 THE COURT: I'm sorry.

8 ATTORNEY DOMASK: Would you like to
9 set it for a status or something in about two
10 weeks?

11 THE COURT: I can do that. We'll
12 give you a trial -- pick a new trial date and we'll
13 give you a status date.

14 ATTORNEY DOMASK: And I'm hopeful
15 that he can post that. But if not, you're
16 continuing the speedy trial demand?

17 THE COURT: Yeah. At this point,
18 I'm going to toll it at least until the status
19 date.

20 ATTORNEY DOMASK: All right.

21 THE COURT: And I say that because I
22 don't know when we're going to be able to pick a
23 trial date. And if we end up with a June, July,
24 August, trial date, I don't want to in February
25 toll a speedy trial demand that was entered in

1 August of 2020 to August of 2021.

2 And I guess for the record under
3 971.10 I'm going to find that certainly court
4 congestion is a factor today but it's not the sole
5 factor, and that's the reason for the court
6 continuing cash bail at a reduced amount.

7 As prosecutors have pointed out to
8 me when I indicated we were at 50 percent trial
9 capacity, compared to pre-Covid we are actually
10 closer to 25 percent because we don't set any
11 Wednesday trials.

12 So the inability to try Mr. Brooks'
13 case, as I indicated court congestion is a factor
14 but it's not the sole factor.

15 So let's pick a trial date and then
16 we'll set a status date; and on that status date,
17 we can figure out a final pretrial date.

18 THE CLERK: June 28th for trial.

19 ATTORNEY CORR: Was that the 28th?

20 THE COURT: June 28th.

21 ATTORNEY CORR: That would be fine.

22 THE COURT: Mr. Domask?

23 ATTORNEY DOMASK: That's fine. I've
24 got a couple others but this I think would be the
25 only speedy.

1 THE COURT: All right. June 28th,
2 nine a.m. for trial. Let's do a status date in a
3 couple of weeks.

4 THE CLERK: February 25th, 26th.

5 THE COURT: February 25th or 26th for
6 status.

7 ATTORNEY CORR: Either one in the
8 morning is fine.

9 ATTORNEY DOMASK: Let's do the 26th
10 in the morning, please.

11 THE COURT: How about February 26th
12 at 8:30 for status?

13 ATTORNEY CORR: That's fine.

14 THE COURT: Let's also calendar that
15 as a bail review so that the state has victim
16 notification if we need to address bail.

17 ATTORNEY CORR: Okay.

18 THE COURT: Thank you. All right.

19 (Whereupon, the proceedings were
20 adjourned.)

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STATE OF WISCONSIN)
MILWAUKEE COUNTY)

I, Kelly Janowski, do hereby certify that I am a Registered Merit Reporter, that as such I recorded the foregoing proceedings, later transcribed by me, and it is true and correct to the best of my abilities.

Dated this 9th day of December, 2021, at
Milwaukee, Wisconsin.

Electronically file signed by
Kelly Janowski - Court Reporter