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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MENDOCINO

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

PETER RICHARD KEEGAN,

Defendant.

_____ /

INDICTMENT - VOLUME VI
Pages 717 - 732

Reporter's Transcript of
Grand Jury Indictment Proceedings
Held on Wednesday, August 9, 2017.
Before the Honorable John A. Behnke, Judge.
Reported by Anne Ramirez, C.S.R. 6186.

APPEARANCES OF COUNSEL

For the Plaintiff: TIMOTHY O. STOEN
Deputy District Attorney
Mendocino County Courthouse
Ukiah, California 95482

ADAIR, POTSWALD & HENNESSEY
Certified Shorthand Reporters
P.O. Box 761, Ukiah, California 95482
(707) 462-8420

1 (Proceedings held on Wednesday, August 9, 2017.)

2 - - -

3 (Roll call taken; all jurors present.)

4 JURY FOREPERSON: We're all here and accounted
5 for.

6 Thanks, everybody, for coming back, hopefully
7 for the last day. And I think we have --

8 MR. STOEN: First of all, I want to thank you
9 all for showing up once again and for your attention in
10 this case, and I just need to make a brief statement in
11 the beginning.

12 I presume yesterday you conferred about the
13 issue of whether you wanted our office to obtain
14 additional exculpatory evidence as requested by
15 Dr. Keegan. So I understand you did consider that issue
16 and that a result occurred, and I need that to be
17 announced as to what that result was and a statement as
18 to whether that was a majority vote of the grand jurors.

19 JURY FOREPERSON: Yes. We actually voted on
20 three separate items: The first being if we were to
21 consider -- to consider if we would pursue additional
22 records from the state regarding the prescriptions, and
23 the vote was a majority vote to not pursue additional
24 records.

25 MR. STOEN: You don't have to give me the

1 count of the vote. I just need to know what the
2 majority vote was.

3 JURY FOREPERSON: The majority.

4 MR. STOEN: The way you're stating it is
5 fine.

6 JURY FOREPERSON: And the second item that we
7 considered is if we would -- we read through the letter
8 that he submitted to his attorney. He mentioned that
9 there were names bolded in a letter of witnesses that we
10 should ask to come. We read through the letter,
11 reviewed the additional witnesses, some of which we had
12 already heard from, the others we decided it would not
13 be necessary.

14 MR. STOEN: So you're talking about the
15 second-to-last exhibit, the two-and-a-half-page letter
16 that was submitted by Dr. Keegan.

17 JURY FOREPERSON: Yes.

18 MR. STOEN: Okay.

19 JURY FOREPERSON: And that was a majority vote
20 also.

21 MR. STOEN: Okay.

22 JURY FOREPERSON: And the third item was to
23 pursue or not the computers and the data in those
24 computers.

25 MR. STOEN: Okay.

1 JURY FOREPERSON: And we also took a vote, and
2 it was a majority that we would not pursue trying to get
3 ahold of the computers for the data.

4 MR. STOEN: That means that the evidence in
5 this case has concluded and now it becomes the
6 deliberations, which are in secret. I cannot be here,
7 nor can the court reporter. The court reporter and I
8 will be in the back room if you need us for any
9 questions along the way, but it's all in your hands now.
10 So thanks again.

11 (Jurors retire to deliberate.)

12 - - -

13 THE COURT: Let's convene in the closed grand
14 jury proceeding.

15 And I would call upon the foreperson to take
16 roll.

17 (Roll call taken; all jurors present.)

18 JURY FOREPERSON: We are all accounted for.

19 THE COURT: Okay. Did all of the grand jurors
20 voting on an indictment hear all of the testimony taken?

21 JURY FOREPERSON: Yes.

22 THE COURT: Okay. And did at least 12 grand
23 jurors who heard all the evidence vote to find an
24 indictment?

25 JURY FOREPERSON: Yes.

1 THE COURT: So based on the statement of the
2 foreperson and the taking of the roll, I will find that
3 at least 12 of the grand jurors who heard all the
4 testimony voted to find this indictment.

5 And I will receive the indictment from the
6 foreperson at this time.

7 MR. STOEN: I believe, Your Honor, that I --
8 am I supposed to sign it as well?

9 THE COURT: You know, I don't know the answer
10 to that.

11 MR. STOEN: I think so.

12 JURY FOREPERSON: Yes. And I haven't signed
13 it yet because my instructions said to sign it before --

14 THE COURT: Before the Court.

15 JURY FOREPERSON: -- before the Court, yes.

16 THE COURT: So I would ask that you sign as
17 the foreperson at this time. And if there's a spot for
18 the Deputy DA to sign, I would have him sign as well.

19 MR. STOEN: Thank you, Madam Foreperson.

20 THE COURT: Thank you.

21 Okay. I have before me a form of indictment,
22 a single count of murder in the second degree, felony
23 violation of 187, accusing Peter Richard Keegan of that
24 crime in between November 10 and November 11 of 2010.
25 And I'm going to hand it to the Clerk and direct that it

1 be duly filed.

2 (Brief pause.)

3 THE COURT: Did you file it?

4 THE CLERK: I did. Did you want it back?

5 THE COURT: Yes.

6 So members of the grand jury are prohibited by
7 law from disclosing the fact of the indictment until
8 such time as the defendant has been arrested.

9 And I take it you've instructed the grand jury
10 with respect to their obligation not to disclose the
11 conversations that they had with each other in the
12 course of the deliberations?

13 MR. STOEN: That has been done, Your Honor.

14 THE COURT: Okay. So what the Court will do
15 at this time is I'm going to order a transcript of the
16 grand jury proceedings from the court reporter. And the
17 transcript of any hearing that resulted in an indictment
18 is to be returned within ten calendar days under seal of
19 the court. Recognizing that that may be a little quick
20 under the circumstances, if it is, I can extend it under
21 Penal Code Section 938.1 to 20 calendar days, or I can
22 extend it up to 20 calendar days more.

23 Is ten calendar days too soon?

24 THE REPORTER: No.

25 THE COURT: Okay. Then the transcript should

1 be delivered within ten calendar days.

2 MR. STOEN: Your Honor, is there also a
3 requirement there be an additional ten days to be
4 allowed before any sort of a filing of a motion before
5 any revelation of the transcript by the defense?

6 THE COURT: Well, the way that works is the
7 transcript isn't open to the public until ten calendar
8 days after it's been given either to defense counsel or
9 to the defendant. Is that what you're referring to?

10 MR. STOEN: But I thought there was some
11 reference that after the defense attorney gets it, that
12 he has ten days in which to file for some sort of a
13 sealing order, if he wishes.

14 THE COURT: Well, there is a provision that
15 the defense counsel can bring a motion to keep the
16 proceedings under seal until the conclusion of the case.
17 I believe that's Penal Code Section 938.1(b). The
18 defense, in order to do that, has to show a substantial
19 probability -- I'm sorry -- I guess it's a reasonable
20 likelihood that it would prejudice the defense. And so
21 it can't be made public until ten days after the defense
22 has it.

23 MR. STOEN: That was my point, right.

24 THE COURT: And then during that ten-day
25 period, the defense would have the ability to make a

1 motion to further keep it sealed.

2 And are you asking or requesting that I issue
3 a warrant based on the indictment?

4 MR. STOEN: Yeah, I'm required the law
5 either -- if the defendant was in custody, you would
6 have to remand him, but he's not in custody. But I am
7 required to ask for a bench warrant. And, according to
8 the bail schedule, the bench warrant in this case would
9 be \$300,000 for Penal Code 187, second degree, and an
10 additional \$25,000 under 12022(b), use of a dangerous
11 weapon.

12 THE CLERK: Is that a request for an arrest
13 warrant?

14 THE COURT: Well, that is an arrest warrant.
15 It's a bench warrant or an arrest warrant. And I'm
16 actually going to set it at 300 because the indictment
17 doesn't include --

18 MR. STOEN: That's fine, Your Honor.

19 THE COURT: -- the weapon allegation.

20 MR. STOEN: Your Honor, I would request that
21 the Court order that the grand jury exhibits be ordered
22 into the custody of the District Attorney's Office
23 pending further proceedings.

24 THE COURT: Okay. I will do that. The
25 exhibits are to be turned over to the DA pending further

1 proceedings, and he's charged with keeping them safe.

2 I know that the DA has instructed, but since I
3 wasn't present, I want to just reiterate a couple of
4 things: One, the law provides that every grand juror
5 must keep secret all evidence adduced before the grand
6 jury or anything he or she or any other grand juror may
7 have said or in what manner he or she or any other grand
8 juror may have voted on a matter before them and, by
9 law, it is a misdemeanor to violate such secrecy of the
10 grand jury room or to disclose the finding of an
11 indictment until the defendant has been arrested.

12 Although under certain circumstances a Court
13 may require a grand juror to disclose testimony given
14 before the grand jury, a grand juror cannot be
15 questioned for anything he or she may say or for any
16 vote he or she may give in the grand jury relative to a
17 matter legally pending before the grand jury.

18 And I think actually that's all that I have to
19 say at this time. I know that the prosecutor has
20 instructed you throughout this proceeding outside the
21 Court's presence. So at this point I'm going to
22 discharge you from further duty.

23 Do you have a question?

24 JURY FOREPERSON: I have two questions.

25 THE COURT: Okay.

1 JURY FOREPERSON: So my understanding is that
2 the court reporter has ten days to get the transcripts
3 turned in; correct?

4 THE COURT: Yes.

5 JURY FOREPERSON: And that the defendant has
6 up to ten days to request that that information --

7 THE COURT: Be sealed.

8 JURY FOREPERSON: Okay, good.

9 And then I'm also understanding there's a
10 bench warrant that's going to be -- that has been
11 requested.

12 THE COURT: Right.

13 JURY FOREPERSON: And we can't say anything
14 until that person has been arrested.

15 THE COURT: True, you can't mention the fact
16 of the indictment. But let me explain a couple of
17 things appurtenant to your question. I think it might
18 ease a concern. Number one is that the ten days is for
19 the court reporter to get the transcript under seal to
20 the Court. Okay?

21 JURY FOREPERSON: Yes.

22 THE COURT: The defense counsel will be
23 provided with a copy of the transcript, and then he has
24 ten days after that to make a motion to request that the
25 grand jury proceedings be sealed throughout the case.

1 So there's actually two ten-day periods in that.

2 JURY FOREPERSON: Right.

3 THE COURT: And the second ten-day period
4 doesn't begin to run until the defendant or his counsel
5 have been given a copy of the sealed transcript.

6 The other thing is, although I'm issuing a
7 warrant, which is the conclusion of the indictment
8 proceedings, that does not mean that they can't make an
9 arrangement for the defendant to appear in court without
10 the warrant having been executed. I don't know how
11 that's going to take place. But in an instance like
12 this, given that it's seven years after the alleged act,
13 I will assume that the DA and the defense counsel can be
14 in contact and arrange a time for the defendant to
15 appear in court.

16 MR. STOEN: That's a fair assumption. That's
17 a fair assumption.

18 THE COURT: Okay. Does that get at what you
19 were asking?

20 JURY FOREPERSON: Well, I guess -- if my
21 understanding is correct about if -- is it likely that
22 that arrest will be made with -- within or before that
23 20-day period? Because didn't you also say once the
24 person's been arrested, that we are no longer sworn to
25 secrecy?

1 THE COURT: About the fact of the indictment.
2 You're still essentially sworn to secrecy with respect
3 to how people voted, what they said to each other, the
4 information that was presented to the grand jury and the
5 evidence that was presented to the grand jury. That
6 remains private unless and until a court orders the
7 disclosure of some part of that in a subsequent hearing,
8 which isn't really likely to happen.

9 So the thing that you can reveal once the
10 defendant has been arrested or appeared in court and
11 been arraigned is the fact of the indictment.

12 JURY FOREPERSON: Who it was and what the
13 charges were.

14 THE COURT: Right.

15 JURY FOREPERSON: Because we'll have heard
16 that in court.

17 THE COURT: Right. It will then be
18 essentially a public record that a charge has been filed
19 by indictment, what the charge is and, you know, who was
20 charged. That's what will be made public.

21 JURY FOREPERSON: And my second and final
22 question, I hope, is: That is our stack of personal
23 documents. Am I responsible for --

24 MR. STOEN: No, our job is to retrieve that
25 and shred it.

1 THE COURT: So in a typical jury proceeding
2 where we have a trial, jurors are allowed to, and some
3 instances encouraged to take notes as the proceeding
4 progresses, but it's with an instruction that we give
5 that at the end of the proceeding their notes will be
6 collected and destroyed. And that's appropriate for
7 private notes in this.

8 The record of the proceeding will be the court
9 reporter's record, and that will be essentially the only
10 record of the proceeding, other than the exhibits which
11 you received into evidence, which are being turned over
12 to the prosecution.

13 JURY FOREPERSON: Thank you.

14 THE COURT: Is there anything else I can
15 answer before I dismiss you?

16 So this will exempt you from jury service for
17 the remainder of this year and all of next year, unless
18 you want to come in and volunteer, which you can do.

19 And I do want to thank you on behalf of all
20 the judges of the court for the time and effort that you
21 put in on this. Again, this is the first time in my
22 tenure, I've been on the bench since October of 2005,
23 and we have not convened a criminal grand jury in that
24 time and I have had no experience with that in the rest
25 of my career spanning almost 40 years. So it is an

1 important function, it's a rare function, and we all
2 appreciate the service that you performed to the
3 criminal justice system.

4 And so I'm going to excuse you from further
5 attendance and thank you. I do want you to know that we
6 are going to be issuing some payment for services, I
7 believe it's at a rate of \$40 a day, and then you're
8 also entitled to your mileage.

9 Sir.

10 A JUROR: I just kind of think I could speak
11 for everybody here thanking you for making the effort to
12 come up here for us rather than having us all go down
13 there and try to find parking. That was very thoughtful
14 and kind, and I don't think anybody would deny that we
15 appreciate it.

16 THE COURT: Okay. Well, you know, it's the
17 least we can do. I notice the air conditioning is less
18 than perfect in here and I know it's been a warm, you
19 know, couple of weeks. Normally when I -- or not
20 normally, but occasionally when I do jury trials in my
21 Department H, which is the top of the building, it
22 sometimes get's quite hot; I put up pictures of snow
23 covered mountains to distract the jury from the fact
24 that it's close to 90 degrees. But, really, thanks a
25 lot for the effort you put in, and it's the least we can

1 do to come up and take the indictment.

2 MR. STOEN: Thank you, Your Honor.

3 THE COURT: Thank you very much for your
4 service. Thank you, Foreperson. I know this is
5 probably a bit more of a responsibility than you may
6 have anticipated when you agreed to do it.

7 JURY FOREPERSON: Thank you.

8 THE COURT: Thank you all for your time, and
9 you are dismissed.

10 (Proceedings concluded.)

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REPORTER'S CERTIFICATE

I hereby certify that the above transcript of proceedings was taken down, as stated in the caption, and that the foregoing pages 717 through 731 represent a complete, true and correct transcript of the proceedings had thereon.

Dated: August 17, 2017

Anne Ramirez, C.S.R. 6186
Court Reporter