

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF WISCONSIN : CIRCUIT COURT : MANITOWOC COUNTY  
BRANCH 3

STATE OF WISCONSIN,  
PLAINTIFF, MOTION HEARING  
vs. Case No. 06 CF 88  
BRENDAN R. DASSEY,  
DEFENDANT.

MANITOWOC COUNTY  
STATE OF WISCONSIN  
**FILED**

**DATE:** MAY 26, 2006 DEC 11 2007  
**BEFORE:** Hon. Jerome L. Fox  
Circuit Court Judge **CLERK OF CIRCUIT COURT**

**APPEARANCES:**  
KENNETH R. KRATZ  
Special Prosecutor  
On behalf of the State of Wisconsin.  
LEONARD D. KACHINSKY  
Attorney at Law  
On behalf of the Defendant.  
BRENDAN R. DASSEY  
Defendant  
Appeared in person.

\* \* \* \* \*

**TRANSCRIPT OF PROCEEDINGS**

Reported by Jennifer K. Hau, RPR  
Official Court Reporter

1                   THE COURT: Afternoon, Counsel. Afternoon,  
2 ladies and gentlemen. This is the matter of State  
3 of Wisconsin vs. Brendan R. Dassey. It's 06 CF 88.  
4 We were last in court on May 12, 2006. Court ruled  
5 on a motion brought by the defense to suppress a  
6 number of statements. After the Court's ruling, we  
7 started to discuss another motion that the defense  
8 had brought relating to, uh, surety for bail. Uh,  
9 the district attorney at that time, or the special  
10 prosecutor, I should say, uh, requested time to file  
11 his own motion, and I'll -- I'll get into that in --  
12 in -- in just a minute.

13                   I've had a chance to -- to talk to  
14 counsel in chambers prior to coming on the bench,  
15 and before we start with this hearing, I'm going  
16 to address myself to the defendant. Mr. Dassey,  
17 would you pull that microphone close, please?  
18 Uh, Mr. Dassey, counsel and I -- and I'm  
19 referring here in -- in this case both to defense  
20 counsel and to the special prosecutor -- talked,  
21 as I mentioned a moment ago, in chambers before  
22 we came here, and I'm going to ask you a question  
23 and I want you to answer it for me, okay?

24                   THE DEFENDANT: Um-hmm.

25                   THE COURT: You have to answer out loud.

1 THE DEFENDANT: Yeah.

2 THE COURT: Are you requesting that your  
3 current counsel be replaced by someone else?

4 THE DEFENDANT: Yes.

5 THE COURT: And you've made that request of  
6 him, have you?

7 THE DEFENDANT: Yeah.

8 THE COURT: You understand that in the  
9 event he is replaced by someone else, you can't  
10 simply go on requesting that new counsel be  
11 appointed for you?

12 THE DEFENDANT: Yeah.

13 THE COURT: That, essentially, you may, and  
14 I'm not saying you will, you may get only one shot  
15 at this --

16 THE DEFENDANT: Yeah.

17 THE COURT: -- you understand that?  
18 Mr. Kachinsky, uh, have you -- And I'm not asking  
19 you to reveal anything here that would violate any  
20 lawyer-client relationship. But, uh, you are, I  
21 take it, aware that there is -- that -- that -- that  
22 uh, uh, Mr. Dassey had raised some questions; is  
23 that right?

24 ATTORNEY KACHINSKY: Um, yes, Your Honor at  
25 the end of a discussion we had earlier this week.

1 THE COURT: Do you believe that, based  
2 on -- And, again, I'm not asking you to -- to -- to  
3 reveal anything that would violate the rule of  
4 confidentiality. But do you believe that this  
5 request is his free and unfettered choice?

6 ATTORNEY KACHINSKY: Um, I'm not sure about  
7 that, Your Honor. I have, uh, received information  
8 that there has been an ongoing campaign by  
9 Mr. Dassey's co-defendant to, uh, encourage him to,  
10 um, obtain new counsel, that, uh, might be more to  
11 his co-defendant's, uh, liking.

12 THE COURT: So, you are, without saying so  
13 directly, suggesting that others may be, uh, trying  
14 to control the -- the determination of who  
15 represents whom here?

16 ATTORNEY KACHINSKY: I -- I believe there's  
17 at least a reasonable possibility of that, Your  
18 Honor, because my interactions with Mr. Dassey have  
19 been quite pleasant. We haven't had any, um,  
20 substantial arguments or anything of that nature.

21 THE COURT: All right. I'm going to turn  
22 to the special prosecutor. Do you wish to be heard,  
23 Mr. Kratz?

24 ATTORNEY KRATZ: Well, Judge, eventually I  
25 do. If, in fact, there's going to be a request of

1 the Court for substitution of counsel, and if, uh,  
2 Mr. Kachinsky, uh, is indicating to the Court, which  
3 I believe he is, that there's a possibility of some  
4 unexpected influence on Mr. Dassey or on this  
5 decision for the appointment, uh, of counsel that  
6 comes from somebody other than Mr. Dassey, that is  
7 certainly something that the State has an interest,  
8 uh, in being heard on.

9 Uh, if, uh, the Court agrees that this  
10 is something that is appropriate for an  
11 evidentiary hearing, I'm going to ask the Court  
12 to direct Mr. Kachinsky to submit, on  
13 Mr. Dassey's behalf, a written request for  
14 substitution of counsel giving the State an  
15 opportunity, uh, not only to investigate, but to  
16 be heard, and that in a very, uh, short time  
17 frame the Court does schedule an evidentiary  
18 hearing to decide on that request.

19 THE COURT: All right. The Court is -- is  
20 reluctant at this point to -- to proceed even on  
21 this motion when we have the expression of the  
22 defendant that -- that he, uh, wishes replacement  
23 counsel. Whether this is really his expression or  
24 whether it is -- it is something that is coming from  
25 elsewhere, I don't know. But before, Mr. Kachinsky,

1 I think you -- you can or should be replaced, uh, I  
2 think we ought to have some sort of evidentiary  
3 hearing.

4 I would request that you submit, then,  
5 in -- in writing, uh, a request for -- for  
6 substitution. And -- and, again, this is a  
7 request for substitution. Uh, this isn't  
8 necessarily guaranteed to be granted. But the  
9 Court, uh, in the past, uh, has -- has given  
10 great leeway to that. On the other hand,  
11 there -- there may be some other issues here that  
12 should be explored before there is any successor  
13 counsel appointed if, indeed, there is.

14 Uh, with that said, uh, I -- I'm  
15 unwilling to proceed today on -- on this motion.  
16 Uh, I'm the -- as I pointed out to you, I think  
17 once the -- the defendant says that, uh, he  
18 wishes someone else for ill or good reason, uh, I  
19 don't believe that, uh, this Court ought to be  
20 proceeding. Anything else, gentlemen?

21 ATTORNEY KRATZ: No, Judge, just the  
22 scheduling of that hearing.

23 THE COURT: How about Friday, June 2, the  
24 afternoon?

25 ATTORNEY KACHINSKY: I've got a couple of,

1           uh -- I've got a felony sentencing in Oshkosh. I  
2           could ask the judge to, uh, move it if the Court  
3           wants me to.

4           THE COURT: Would you do that, please?

5           ATTORNEY KACHINSKY: Okay.

6           THE COURT: How about you, Mr. Kratz?

7           ATTORNEY KRATZ: Uh, I think that, uh --  
8           I think that would be available. Certainly  
9           Wednesday or Thursday I know it, uh, would be  
10          easier but I can -- I can make it work, Judge, on  
11          the 2nd.

12          THE COURT: Yeah. I have trials scheduled  
13          all day on Wednesday and Thursday. Otherwise, I'd  
14          certainly try to accommodate the both of you, but,  
15          uh, I would propose 1:30, Friday afternoon, June 2?

16          ATTORNEY KRATZ: That will be fine, Judge.

17          THE COURT: Uh, in the event the defendant,  
18          uh, is no longer of the position that he enunciated  
19          here today, we'll simply proceed with the -- the  
20          motions on bail at that time. All right? Anything  
21          else?

22          ATTORNEY KRATZ: I don't believe so, Judge.  
23          Thank you.

24          ATTORNEY KACHINSKY: No, Your Honor.

25          THE COURT: All right. We're adjourned.

