

COURT REPORTER'S MINUTES

Criminal Court of the City of New York

Part AR-2A, County of KINGS

THE PEOPLE OF THE STATE OF NEW YORK

on the completion of

DAVID BERKOWITZ.

Defendant

BEFORE

Hon. RICHARD A. BROWN.

Judge.

August 11th, 1977

CHARGE : 125.25, 110/125.25,
120.10 & 265.03.

TRIAL(or)HEARING ARRAIGNMENT

APPEARANCES:

For the People.

SEE APPEARANCE PAGE

For the Defense

WITNESS

DIRECT

CROSS

RE-DIRECT

RE-CROSS

GLENN GREENSPAN

Official Court Reporter

CRIMINAL COURT OF THE CITY OF NEW YORK

COUNTY OF KINGS

PART AR-2A

-----X

THE PEOPLE OF THE STATE OF NEW YORK : DOCKET NUMBER:
: K-739287

-VS-

:
:
CHARGE: 125.25
110/125.25
120.10
265.03

DAVID BERKOWITZ,

:
Defendant : ARRAIGNMENT

-----X

August 11th, 1977

Central Courts Building
120 Schermerhorn Street
Brooklyn, New York

B E F O R E :

HON. RICHARD A. BROWN,

Judge.

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GLENN GREENSPAN
Official Court Reporter

A P P E A R A N C E S :

For the People:

EUGENE GOLD
DISTRICT ATTORNEY
COUNTY OF KINGS
Municipal Building
Brooklyn, New York 11201

BY: EUGENE GOLD, ESQ.,
District Attorney
RONNIE AIELLO, ESQ.,
Assistant District Attorney

For the Defendant:

PHILLIP PELTZ, ESQ.
Attorney At Law
32 Court Street
Brooklyn, New York 11242

LEON STERN, ESQ.,
Attorney At Law
82 Main Street
Mineola, New York

Jim Imperatrice, U.C.O.,
Bridgeman

BRIDGEMAN: Docket K-739287,
David Berkowitz, charged with 125.25,
110/125.25, 120.10, 265.03.

Counsel, your name for the
record.

THE COURT: Who is appearing
for the defendant?

MR. PELTZ: Phillip Peltz,
Brooklyn, New York.

MR. STERN: Leon Stern, Mineola,
New York.

THE COURT: Counsel, do I
understand that each of you are retained
in this proceeding?

MR. PELTZ: Your Honor, I was
called and asked to take care of things
this morning subject to a further
communication later today.

MR. STERN: My office early
this morning received a call from a member
of the family, request that my office
represent this defendant in connection
with any and all charges now pending
against him in four jurisdictions.

THE COURT: Are each of you gentlemen members of the 18B panel authorized to handle cases pursuant to the provisions of Section 125.00?

MR. STERN: I am a member of the 18B council in Nassau County.

MR. PELTZ: I am on the homicide panel.

THE COURT: In any event, you are assigned together in this juncture to represent the defendant for the purposes of this arraignment.

Counsel, what I'm prepared to do at this juncture is to formally arraign the defendant.

You, sir, are David R. Berkowitz?

THE DEFENDANT: Yes, sir.

THE COURT: You are charged, Mr. Berkowitz, upon a felony complaint which I have before me with four separate and distinct violations of the Penal Law of the State of New York. Violation of Penal Law 125.25, murder in

the second degree; violation of 110/125.25, attempted murder in the second degree; 120.10, assault in the first degree; and 265.03, criminal possession of a weapon.

It is charged upon the affidavit that I have before me which has been sworn before the Court by Detective John Falotico, F-a-l-o-t-i-c-o, Shield Number 1341 of the 10th Homicide Zone, Kings County that on July 31st, 1977 at 2:42 a.m. at Shore Parkway two-hundred feet east of a foot-bridge in Kings County that you at that time and place in pursuant to a police investigation are charged with the intent to cause the death of one Stacey Moskowitz. Charged further that you did with a .44 caliber revolver, Charter ARms, shoot and kill Stacey Moskowitz. It is further charged with intent to cause the death of one Robert Viulante with the same .44 caliber revolver, that you did shoot and

seriously injure Robert Viante, to wit: blindness of one eye and possible blindness of the other. It is charged further by the Detective that you were in knowing and unlawful possession of a dangerous weapon, to wit: a .44 caliber revolver, Charter Arms type, loaded with intent to use.

Now, the primary purpose of these proceedings upon this felony complaint at this time is to determine whether you should be held for the action of the grand jury with respect to these charges. You have a right to a prompt hearing upon the issue of whether there is sufficient evidence to warrant the court holding you for the action of the grand jury, or you may waive this right and have the case go directly to the grand jury. You have the right to counsel at the arraignment and at every subsequent stage of the action. You have the right to an adjournment for the purpose of obtaining counsel and you may communicate

free of charge, by letter or telephone for the purpose of obtaining counsel and informing a relative or friend of the charges against you. If you are financially unable to obtain counsel, the court will assign counsel to you.

At this junction is the District Attorney desirous of serving notices?

MR. GOLD: If your Honor please, I am not sure the Detective is yet sworn.

THE COURT: I understood he did so swear as he came out.

Less there be any question about that: Detective, raise your right hand. Do you swear to the felony complaint that you presented to me and your signature as attested thereto?

DET. FALOTICO: I do.

THE COURT: Any notices to be served by the District Attorney?

MR. GOLD: If your Honor please,

Eugene Gold, District Attorney, Kings County for the People. Ronnie Aiello, Assistant, will represent the People at this arraignment.

MR. AIELLO: Your Honor, at this time I'd like the record to indicate I will serve upon defense Counsel for the defendant the following notices: Section 190.50 subdivision 5 of the Criminal Procedure Law. In addition to, Section 250.20 and notice under 710.30 of the Criminal Procedure Law upon the defendant.

THE COURT: Very good. Does the District Attorney want to be heard with respect to the issue of bail?

MR. AIELLO: Yes, I do, your Honor. Your Honor has just indicated by reading the complaint to the defendant, it is charged that this defendant, David Berkowitz, did in fact on July 31st of 1977 at approximately 2:42 a.m. on Shore Parkway in the County of Kings

caused the death of Stacey Moskowitz by shooting her with a .44 caliber gun. In addition, it's also charged, your Honor, as indicated in the complaint, that the defendant on the same date and at the same time did attempt to cause the death of Robert Violante by shooting him with a .44 caliber gun. It is the position of the People, your Honor, that your Honor does have before you today the .44 Caliber Killer also known as Son of Sam. And it is the position of the People, your Honor, that this defendant be held without bail pending further proceedings.

MR. GOLD: May I add one thing to that? In considering the bail application, I believe your Honor should know that the grand jury proceeding will begin this afternoon and it is our expectation to present all of the evidence in the possession of the District Attorney to the grand jury very

very quickly and it is our hope that there will be a resolution before the grand jury very shortly.

MR. PELTZ: May It please the Court, it would appear that the rights of the defendant as well as those of the People can best be preserved in this case by having an Article 730, medical competency examination. Without going into any matters of confidential communication with the accused at this state of the proceedings, I think that the information available to all of us from the nature of the charges and the media coverage thus far suggests that this is clearly a case of a 730 examination. Counsel have, among ourselves, agreed to withhold and reserve our rights for any application for bail at this point.

MR. STERN: With respect to any other motions that may be referable in connection with this arraignment, Judge.

MR. PELTZ: Certainly would be in the best interest of the defendant that he not be at liberty at this point and we would make special requests to your Honor that every precaution be made by the Department of Corrections at this point to avoid having David Berkowitz be transferred to the Brooklyn House of Detention, to the Mental Hygiene Clinic or the Psychiatric Unit, but rather he be transferred directly to the G Ward at KCH and he there be withheld from population even within that unit.

THE COURT: Does the District Attorney take any position on defense Counsel's application?

MR. GOLD: That's a matter, I believe, for the Court to decide.

THE COURT: Under all the facts and circumstances here present and based upon the allegation contained in the felony complaint and the statements

that have been made here at this arraignment, I am of the opinion that the defendant may be an incapacitated person within the provisions of Article 730 of the Criminal Procedure Law and an incapacitated person is defined under said article as one who as a result of mental disease or defect lacks capacity to understand the proceedings against him or to assist in his own defense.

I point out I am not making any determination at this juncture. Suffice it to say that I am of the opinion the defendant may be an incapacitated person. Accordingly, he is remanded to the custody of the Commissioner of Corrections without bail. He is to be transmitted forthwith to Kings County Hospital; a close watch is to be kept upon the defendant by the Commissioner of Corrections, and further, he is to be segregated from other prisoners and held under maximum security positions.

Anything you care to add,
gentlemen?

MR. PELTZ: It may or may not
be within your power at this time,
but perhaps you might want to reiterate
to Counsel for both sides that
statements as to guilt or conclusions
with regard to this case be withheld
from the public.

THE COURT: I think that goes
without saying. I think I'd be less
than candid if I didn't state that there
has been wide and extensive media
coverage with respect to this matter
and certainly the conclusion that
defense Counsel makes is well taken.

MR. GOLD: I think it should
be pointed out since defense Counsel
has made the request which I think was
inappropriate considering the back-
ground of this case, that the District
Attorney of this county has not uttered
one single thing or word concerning the

facts of this case, nor has the District Attorney of this county expressed any opinion whatever concerning that which may not be true as it applies to others. But this District Attorney of this county has not done that.

THE COURT: I don't know that that was implied by defense Counsel. Perhaps defense Counsel would care to make a further statement.

MR. STERN: There is no indication of any wrong doing or any inappropriate conduct on part of the District Attorney. What co-Counsel in this particular instance intended as I heard the language that was uttered from his mouth, if your Honor pleases, was simply that no further statements be made with respect to the facts in this case.

MR. PELTZ: Your Honor, may I add to my prior remarks by saying that Messers Gold and Aiello are among the

few public officials who have thus far conducted themselves in the highest standards of the profession and have not called press conferences even though this case is now within their jurisdiction.

THE COURT: Very good, gentlemen. Defendant is remanded without bail to the custody of the Commissioner of Corrections in pursuant to the order of this Court. The return date will be September 9th.

BRIDGEMAN: Return the defendant to the Department of Corrections.

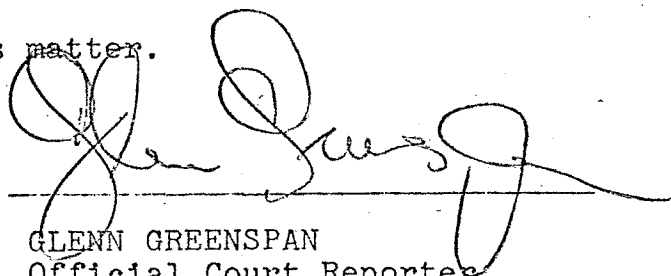
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C E R T I F I C A T E

I, GLENN GREENSPAN, An Official Court Reporter within and for the City of New York, do hereby certify:

That the witness whose examination is hereinbefore set forth was duly sworn and that such examination is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this matter by blood or marriage, and that I am in no way interested in the outcome of this matter.



GLENN GREENSPAN
Official Court Reporter