

**CRIMINAL DISTRICT COURT
PARISH OF ORLEANS
SECTION "F"**

**TUESDAY, DECEMBER 5, 1995
HONORABLE DENNIS J. WALDRON, JUDGE PRESIDING
JAKE LEMMON, MINUTE CLERK
DIONNE DAIGLE, COURT REPORTER**

STATE OF LOUISIANA

VS

CHRISTOPHER C. NABORS

CASE NUMBER: 375-409

DOCKET PG. NO: 8

VIOLATION: 14:32.1

ADA: GREG KENNEDY

THE DEFENDANT APPEARED BEFORE THE BAR OF THE COURT ATTENDED BY COUNSEL JOHN REED. FOLLOWING A HEARING ON THIS DATE, THE COURT ORDERED THE DEFENDANT REMANDED WITHOUT BOND PENDING SENTENCING ON FEBRUARY 15, 1996. AN OBJECTION WAS NOTED ON BEHALE OF THE DEFENSE. PLACE THE DEFENDANT ON THE JAIL LIST.

12-05-95

LET
FILED *Sentencing*
2-15-96 8:00
DATE TIME

NOTICE DEPT. _____
CALL BOND _____
ATTY. *[Signature]* _____
SOUTH _____
CO. ALTO *[Signature]* _____
RECEIVED _____
CLERK _____
JURY _____

1 STATE OF LOUISIANA

CRIMINAL DISTRICT COURT

2 VS.

PARISH OF ORLEANS

3 CHRISTOPHER C. NABORS

CASE NO. 375-409, SECTION "F"

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8 MOTION TO SET APPEAL BOND

9 DECEMBER 5, 1995

10 HON. DENNIS J. WALDRON, JUDGE PRESIDING
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16 APPEARANCES:

17 GREG KENNEDY

Assistant District Attorney

18 SHARON ANDREWS

Assistant District Attorney

19 JOHN REED

Attorney for the Defendant

20 MICHAEL CARBO

Attorney for the Defendant

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22 REPORTED BY: Dionne S. Daigle

23 Certified Court Reporter

24 Section "F"
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1 THE COURT:

2 Mr. Nabors, please. This matter comes before the Court
3 for determination as to the status of the defendant's bond. The
4 attorneys for both sides conferred with the Court on Thursday
5 evening in chambers for some time following the verdict of guilty.
6 The State's request was twofold. One, first, the State's position
7 was that the defendant should be remanded to await sentencing, or,
8 in the alternative, to have some different type of bond set. The
9 Defense, of course, requested that the gentleman remain on bond but
10 that the Court allow the defendant the opportunity to make
11 arrangements for some bond if bond was to be set.

12 The Court discussed this with both sides and advised
13 both sides that they should return this morning. The Court did
14 indicate that if -- and the key word is "if" -- if bond was to be
15 set, it would no longer be in the form of a recognizance bond or in
16 the form of a so-called personal surety bond. It would have to
17 either be a commercial surety or a property bond if bond was to be
18 set.

19 Is there anything further that the State wishes to say
20 formally on the record or be heard on?

21 MR. KENNEDY:

22 Judge, not only would we like to just remind the Court
23 of the entire trial, but, also, the State would also like to point
24 out that during the entire trial process and even subsequently
25 after the incident itself, the defendant has continually shown what
26 can be described as a callous disregard for the incident by his
27 actions at the time, as well as continuing actions after the
28 incident. And we would just like to point that out as an example
29 that -- it's been brought to the attention of the Court the type of
30 vehicle which the defendant -- that the defendant subsequently
31 purchased. It's a Ford pickup truck, brand name is "Splash," and
32 it's exhibited on the truck itself. And, your Honor, we point that

1 out to the Court merely to use it as an example to, for the Court
2 to, to be able to understand the defendant's continuing actions
3 and, as I said before, the callous disregard. We feel that the
4 defendant has not shown any remorse over the entire incident and,
5 in fact, has shown quite the opposite effect of that, and it just
6 makes a mockery out of the incident as well as the criminal justice
7 system, and we would like the Court to take that into account and
8 take into account the entire incident itself and the defendant's
9 actions after the car went into the bayou. Thank you.

10 THE COURT:

11 Is there anything further by the State?

12 MR. KENNEDY:

13 No, your Honor.

14 THE COURT:

15 Anything by the Defense?

16 MR. CARBO:

17 Yes, your Honor. Mr. Kennedy is misleading the Court
18 with respect to, to this vehicle. Mr. Nabors was able to purchase
19 a new vehicle. It is not a sports car. It is a four-cylinder
20 truck. It comes with that decal on it. That decal has been
21 removed by Mr. Nabors, and somehow the State has attempted to take
22 something that is on the truck, factory dealer authorized, that has
23 been removed by Mr. Nabors and somehow twist it and convert it into
24 a callous disregard in this matter. That is not the case. That is
25 grossly misleading, and Mr. Kennedy didn't even tell you that that
26 was on the truck when it was bought, and it's a dealer factory
27 decal. That has been removed, and by no stretch of the imagination
28 can that be considered callous disregard. Somehow the State
29 apparently has been checking up on Mr. Nabors to find those types
30 of things but with a full explanation, I think, that you can see
31 that it doesn't pertain to Mr. Nabors' state of mind, motive, lack
32 of remorse, or any of that. And I think that that is highly

1 improper to give half the facts when Mr. Kennedy can know that,
2 because that's a common truck.

3 MR. KENNEDY:

4 Judge, if I could --

5 MR. CARBO:

6 In addition --

7 MR. KENNEDY:

8 I'm sorry.

9 THE COURT:

10 Please.

11 MR. CARBO:

12 In addition, your Honor, with respect to the factors
13 for bond, Mr. Kennedy has not discussed those. Bond pending
14 sentencing is to ensure Mr. Nabors' appearance at sentencing.
15 Mr. Nabors is currently engaged in a residency program where he
16 treats patients. This is part of his schooling, part of his
17 preparation for licensure. He has finished a neurosurgery block.
18 He is currently in an anesthesiology block for the next few months
19 until January, and, after that, he takes a general medicine,
20 including emergency room block, where he assists people with his
21 medical skills.

22 He has been in the area for many years pursuing not
23 only his Ph.D. in anatomy but his medical school program, and,
24 consequently, if Mr. Nabors were remanded to jail, he would not be
25 able to assist people, as he is attempting to do currently. This
26 is, again, part of his medical training, but it shows that he is
27 attempting to move on with his life and to do what he can with
28 respect to the skills that he is being taught. Consequently,
29 remanding to custody is not indicated here.

30 Mr. Nabors has been, indeed, on bond throughout these
31 proceedings, and he is tied to the community not only because he
32 lives here but also because he has a program that ties him here.

1 If he were to leave the jurisdiction, he would not only jeopardize
2 obviously his liberty with respect to this matter but also his
3 whole professional career that may be ahead of him.

4 THE COURT:

5 Anything further by the State?

6 MR. KENNEDY:

7 Yes, your Honor. As to the truck itself, your Honor,
8 we never contended that the defendant put the decal on the truck.
9 We're just merely trying to point that out that the defendant
10 shouldn't have bought that truck in the first place, especially
11 within several weeks after this incident itself. And that --
12 regardless of whether he removed it or not, that's not the point.
13 The point is, he should have never bought it, because it does show
14 a callous disregard for the victim in this case and for the
15 incident as well.

16 Regarding Mr. Nabors' medical background and everything
17 else, Judge, the same argument can be made for an auto mechanic.
18 Regardless of what somebody does for a living, their training, or
19 anything else, for that matter, should not be taken into account
20 here. Whether you're a doctor, an auto mechanic, the situation is
21 still the same, and the fact remains the defendant has yet to spend
22 a day in jail over this entire incident, and the fact also remains
23 that Shelly Haensel was still dead and at the hands of the
24 defendant.

25 This is a callous crime that requires mandatory jail
26 time, and that mandatory jail time should be carried out. And this
27 appeal could go on for years. When is it the point where the
28 defendant is finally going to start paying society for his actions?
29 And he has yet to do so and continuously flaunts it in the face of
30 the criminal justice system by buying this type of truck. Whether
31 he removed the decal or not, he should have never bought it in the
32 first place.

1 MR. REED:

2 Your Honor, could I be heard on that?

3 THE COURT:

4 You may be heard.

5 MR. REED:

6 Your Honor, the determinative point on the entitlement
7 to bond hereafter in these proceedings is a question of the five-
8 year sentence. That is available to the Court, and if a sentence
9 of greater than five years is imposed, then the defendant would
10 have no right to bond. I think it is presumptuous at this point
11 for any of us to know what the Court's sentence would be, and I
12 would suspect that is the case also for the Court. I doubt very
13 much if the Court has been able to determine what his sentence will
14 be in this matter not having heard at least half of what the
15 sentencing factors are and, that is, those that relate to the
16 defendant and the defendant's personal circumstances, which will
17 have to be taken into account, and, that is, of course, the purpose
18 of the presentence investigation and the purpose for whatever we
19 may further submit to the Court.

20 As long as that is the case and the range of
21 sentencings are open in the Court's mind, I think it would be
22 unjust to deny bond at this time when the prospect remains that a
23 sentence of five years or less may be imposed. And as to when
24 Mr. Nabors does or does not pay what he owes to society for what
25 happened, that is dependent, as the Court realizes, on the
26 conviction being sustained by your Honor on post-trial motions and
27 by subsequent courts in the event there are irregularities in this
28 proceeding, as there may be, and the day will come in the days to
29 come. But I think it's presumptuous, at this point, to assume that
30 the Court would give a sentence greater than five years and to
31 incarcerate the defendant as a result. Even if it were more than
32 five years, the Court would have discretion to grant bond, but as

1 long as under five years is a fair consideration in the case, which
2 it has to be in the absence -- given the defendant's history and
3 the absence of the Court's further knowledge, then I think it would
4 be unjust to deny bond at this stage.

5 THE COURT:

6 Thank you. Anything further?

7 MR. KENNEDY:

8 No, your Honor.

9 THE COURT:

10 Let the defendant come forward, please. The Court has
11 heard the entire case, of course. The jury has rendered its
12 verdict in this case. The sentencing range is two to fifteen
13 years. As such, the Court is afforded discretion of granting bond
14 or denying bond pending formal sentencing in the case.

15 This case has caused the Court great concern. I have
16 not been able to place this out of my mind since Thursday
17 afternoon. I've given this great weight, the facts that -- and
18 what facts are those? The facts that I've heard as presented
19 throughout the trial. The crime itself, in my estimation, in my
20 evaluation of the Jury's verdict, I believe the Jury had every
21 right to return the verdict that they returned. There certainly
22 was the crime of vehicular homicide committed. That, of course,
23 concerns the Court greatly. What concerns the Court as well, and
24 perhaps even more, are the actions and evidence of those actions
25 that the Jury heard of the defendant in the hours leading up to
26 this crime and then the hour or so after the crime. I have
27 struggled in my mind, as I always hope I give and try to give, the
28 full benefit, the full benefit of the doubt to the defendant
29 throughout the proceedings, including up until this very moment.
30 I have been very frustrated though in my attempts to conjure up in
31 my mind any possible explanation, any possible mitigation that
32 could explain away, could explain away his actions and the evidence

1 of his actions, as the Jury heard, in roughly the hour or so
2 leading up to the crime and the hour or so after the crime. I have
3 been unable, unable to comprehend in any way how those actions can
4 be explained away. How a man who has worked so hard, and I have no
5 reason to doubt that he has to be a doctor, could tell someone,
6 "You better never come to Charity Hospital." The implication that
7 you would throw the Hippocratic oath aside, cast it to the wind.
8 I know there are those who would say that's just "barroom talk".
9 That's just talk from someone who's had a drink or two, or three,
10 or four, or is under the influence of alcohol, intoxicated or
11 otherwise. How one could do that as a doctor, I don't know. I
12 personally hold doctors on a pedestal. I view a doctor as a person
13 who is to be given the utmost respect. He or she is a person sworn
14 to respect the dignity of life and to do all humanly possible to
15 enhance life, to protect life, to preserve life.

16 The actions and the evidence of the actions of the
17 defendant, of course, the hour or so after the offense speak even
18 louder. Perhaps, the most striking thing is something I never
19 thought about -- I examined the photographs that have been placed
20 into evidence, that the Jury has seen -- was the comment, I
21 believe, of Ms. Andrews during the closing argument, that in all
22 likelihood the defendant even had to step on the victim, who we
23 know was alive when the vehicle struck the water, just as this
24 defendant was, to have the time to open the sunroof of this car, to
25 remove himself, without even attempting to in any way help this
26 lady and never to reveal her presence in the vehicle until some
27 time after he reached the bank of Bayou St. John.

28 By the way, we all think of this as a body of water, a
29 bayou, and perhaps it conjures up in our mind a body of water that
30 is deep, that is wide. Anybody who has traversed that water or
31 even the roadways that adjoin it knows that it's not anything of
32 that sort. In terms of its depth, it's really nothing more than a

1 swimming pool, with all respect to it, eight to ten feet deep.

2 The comments made additionally in reference to who the lady
3 was, her name, the profanity that's been alleged to have been
4 uttered by this gentleman, this man, in terms of the inquiry, the
5 officers in desperation trying to find out if anyone was in this
6 vehicle; who, if anyone, remained in the vehicle, who had been in
7 the vehicle, the conflicting answers that the man gave, the cries
8 that were made as the man swam to shore and people came to his aid,
9 imploring that he tell them was anyone in the water, I simply --
10 I'm overwhelmed by it. I can't begin to picture in my mind anyone,
11 much less a doctor, much less a doctor, having such total and
12 wanton disregard for the life of another. His concerns about his
13 automobile, his job, his insurance rates, that's perhaps a horrible
14 reflection on what a lot of our society is about today,
15 materialism.

16 I have thought long and hard about this and I am going
17 to be quite honest, as I always am, or try to be. I truly
18 don't believe this man is deserving of an appeal bond or a bond
19 pending sentence at this time. As to what his ultimate sentence
20 will be, the numbers in my mind have gone from the minimum to the
21 maximum and everything in between. Mr. Reed, you are right in one
22 thing. I have not yet decided what to do. Everyone in this room
23 has my word that I will wait until I have heard from everyone that
24 wishes to be heard in this matter.

25 This defendant had every right not to take the witness stand
26 and in no way will he ever be punished for that. Why do I say
27 that? Because I want to at least say that not one witness, none of
28 the police officers, none of the lay witnesses on the bank of Bayou
29 St. John, none of the emergency medical technicians or any of this
30 gentleman's contemporaries, his fellow workers at Charity Hospital,
31 not one of them offered one bit of evidence that this man ever
32 expressed in any way, directly or indirectly, remorse for the

1 victim. Not even a word as to is she alive, not even a word as to
2 did she make it, not even a word did they find her, not even a
3 simple I'm sorry. The defendant is remanded.

4 -----
5 CERTIFICATE

6 I, Dionne S. Daigle, certify that the above proceedings were
7 recorded in shorthand by me and were transcribed under my direct
8 supervision, and are true and correct to the best of my ability and
9 understanding.



Dionne S. Daigle

DIONNE S. DAIGLE
Certified Court Reporter
Section "F"

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20 New Orleans, Louisiana

21 December 6, 1995
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