

IN THE CIRCUIT COURT OF THE TWENTY FIRST JUDICIAL CIRCUIT
COUNTY OF KANKAKEE, STATE OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)
)
 PLAINTIFF)
)
 vs.) CASE NO. 15 CF 428
)
 JULIE AJSTER,)
)
 DEFENDANT)

PEOPLE'S MOTION TO NOLLE PROSEQUI

Now comes the People of the State of Illinois, by Grundy County State's Attorney Jason Helland, and moves as follows:

FACTS

On December 19, 2014, Danny French (hereinafter "French") was charged in La Salle County in case number 2014 CF 528 by criminal information with phone harassment, a class 4 felony, and phone harassment, a class B misdemeanor. A warrant was issued by Judge Dan Bute in the amount of \$50,000/10% for French's arrest. During the course of the pending case, several additional charges were filed against French.

According to the court minutes, Defendant Julie Ajster (hereinafter "Ajster") entered her appearance to represent French in 2014 CF 528 on January 7, 2015, and she appeared in court the next day.

On April 7, 2015, an indictment was returned by the La Salle County grand jury against French including additional charges against him for witness harassment, a class 2 felony; unlawful communication to a witness, a class 3 felony; and witness intimidation, a class 3 felony. As a result of these additional charges, Judge Jansz set French's bond at \$750,000/10%.

After French's bond was set at \$750,000/10%, Ajster filed a motion to reduce bail which included an affidavit that was dated April 9, 2015. (See exhibit #1) This affidavit was not notarized. Next, Ajster then filed the same affidavit which was notarized on April 29, 2015. (See exhibit #2)

Ajster was indicted in La Salle County case number 2015 CF 428 for two counts of perjury, both class 3 felonies. In Ajster's affidavit, she stated that she had a telephone conversation with Brett King on February 5, 2015. Brett King was a material witness against French in 2014 CF 528. Ajster stated that King called to see if he was getting

sued by French because he had sued several people for defamation. Ajster stated that she told King that he was not currently a party to the lawsuit.

The first special prosecutor, Dave Neal, presented evidence to the grand jury that Ajster made false statements in her April 29, 2015, affidavit including the following assertions:

11. Mr. King told me that the only reason he talked to the police in the first place was because Mr. Brandt had threatened not to do business with his father's business King Engineering, if he did not cooperate.

12. Mr. King told me that he had moved to Florida because of this matter and that he did not want to be involved in testifying against Mr. French.

13. Mr. King told me that he was threatened by Mr. Brandt that if he did not cooperate and come back to Illinois to testify against Mr. French that he would make sure that he was arrested.

18. The only concern Mr. King expressed to me during our conversation was that he was afraid of Mr. Brandt and him having a warrant issued for his arrest if he did not testify on his behalf.

(See exhibit #2)

Unknown to Ajster at the time the affidavit was filed with the court, her entire conversation with Brett King on February 5, 2015, was recorded by local authorities pursuant to an eavesdrop order that was signed by Judge Dan Bute. Subsequently, Brett King was interviewed months later and he stated that he did not have any conversations with Ajster after the February 5, 2015, phone call and when Ajster swore to the affidavit on April 29, 2015.

After Ajster's April 29, 2015, affidavit was filed in 2014 CF 528, the court held two bond hearings on May 7, 2015, and May 13, 2015. Judge Jansz presided over both hearings and the transcripts of both hearings totaled 114 pages. (See exhibits #3 and #4) After these two bond hearings were held, the Court disqualified Ajster from representing French on May 20, 2015.

It is noteworthy that the prosecution made a request for an appointment to interview Judge Jansz as a material witness in this case and the request was denied. I was told by a court administrator that Jansz would not agree to meet with me and any questions I may have should be resolved by the record. Based on reading the record of the two bond hearings and the failure of Jansz to agree to be interviewed by the prosecution in reviewing this case, there is no evidence that Jansz even read Ajster's affidavit from April 29, 2015. In addition, Ajster never made any arguments to the Court during the two bond court hearings about the statements Brett King had allegedly made to her when making her argument in support of French's bond reduction. Upon reviewing

the 114 pages of court transcripts, Jansz never mentioned anything that was contained in Ajster's affidavit when ruling on French's bond on May 7, 2015, and May 13, 2015.

It is also noteworthy that the first special prosecutor, Dave Neal, alleged that the first count of perjury occurred on April 29, 2015, yet, he did not seek a bill of indictment until November 3, 2015, for two counts of perjury, both class 3 felonies. It was also unusual that a warrant was not issued for Ajster's arrest and a summons was issued to notify her of the first court date of December 3, 2015.

PERJURY

Any testimony that either aids in proving or disproving the charge against the accused is material and a basis for a perjury charge. *Greene v. People*, 1899, 182 Ill. 278, 55 N.E. 341; *Cronk v. People*, 1889, 131 Ill. 56, 22 N.E. 862; *Sanders v. People*, 1888, 124 Ill. 218, 16 N.E. 81. In order to constitute perjury the testimony involved must be shown by clear, convincing and satisfactory evidence to have been material to the issue tried and not merely cumulative but probably to have controlled the result. *Taylor v. Police Bd. of City of Chicago*, App. 1 Dist.2011, 355 Ill.Dec. 868, 960 N.E.2d 750 For the purpose of establishing perjury, an allegedly perjurious statement is "material" if it influenced, or could have influenced, the trier of fact in its deliberations on the issues presented to it. *People v. Baltzer*, App. 2 Dist.2002, 261 Ill.Dec. 247, 327 Ill.App.3d 222, 762 N.E.2d 1174. Where defendant's evidence deposition was not placed in evidence in trial of another for murder, element of materiality was not proved because trier of fact in that trial was not exposed to the sworn lies in the deposition, and thus no perjury occurred. *People v. Mason*, App. 4 Dist.1978, 17 Ill.Dec. 730, 60 Ill.App.3d 463, 376 N.E.2d 1059.

In order to determine whether any of Ajster's statements made in the affidavit were material, we need to look at the Illinois bond statute to see what factors a court takes into consideration when setting an offender's bond. 725 ILCS 5/110-5 sets forth the guidelines that a court may use when setting a bond on a case. These factors include the following:

- (1) The nature and circumstances of the charge;
- (2) Whether the evidence shows that as part of the offense there was a use of violence or threatened use of violence;
- (3) Whether the offense involved corruption of public officials or employees;
- (4) Whether there was physical harm or threats of physical harm to public officials;
- (5) Whether the offender possessed a firearm or explosives during the commission of the offense;
- (6) Whether the evidence shows that the offense committed was related in furtherance of the criminal activities of an organized gang;
- (7) The impact of the crime on the victim and the victim's concern for their safety if the offender was released on bond;

- (8) Whether the offense was based on racial, religious, sexual orientation, or ethnic hatred;
- (9) The likelihood of filing a more serious charge;
- (10) The likelihood of conviction in the case;
- (11) The sentence applicable upon conviction;
- (12) The weight of the evidence against such defendant;
- (13) The defendant's ability or motivation to flee the jurisdiction;
- (14) The defendant's ties to the local community and ties to other countries where the defendant may flee.
- (15) The defendant's employment, financial resources, character, and mental condition.
- (16) The defendant's criminal history;
- (17) The defendant's prior use of alias names or dates of birth;
- (18) Whether the defendant is currently subject to deportation;
- (19) The amount of unrecovered proceeds lost as a result of the alleged offense;
- (20) The source of bail;
- (21) Whether the offender is engaged in significant possession, manufacture, or delivery of controlled substances;
- (22) Whether the offender committed the crime while out on bond for another offense;
- (23) Whether the offender is on parole from the Illinois Department of Corrections;
- (24) The defendant's record of juvenile delinquency;
- (25) Whether the defendant fled the jurisdiction to avoid apprehension;
- (26) Whether the defendant refused to identify themselves to the authorities;
- (27) Whether the defendant refused to be fingerprinted as required by law.

In this case, there is no evidence that Judge Jansz relied on any statements made in Ajster's affidavit in order to make a decision on French's bond during either the May 7, 2015, or May 13, 2015, bond hearing. Moreover, information used by the court in its findings or stated in or offered in connection with a bond hearing may be made by way of proffer based upon reliable information offered by the prosecution or defense. All evidence shall be admissible if it is relevant and reliable regardless of whether it would be admissible under the rules of evidence at criminal trials. 725 ILCS 5/110-5(a). Therefore, Ajster was not even required by the bond statute to file a sworn affidavit at the bond hearing but rather could have simply offered evidence by way of proffer.

This situation is also discussed in 735 ILCS 5/1-109 which states that an affidavit is subject to perjury when that affidavit is filed with the court because the law requires that the affidavit be sworn to under oath. This is not triggered in this case because Ajster was not required by law to swear to the affidavit in a bond court proceeding.

MAY 7, 2015 BOND HEARING

After conducting a very thorough bond hearing, Judge Jansz made his decision clear about why he reduced French's bond to \$150,000/10% (See exhibit #3, pages 36-

39). Jansz stated his reasons for having the bond set at this amount. The reasons included following: (1) the number of felony offenses for which the grand jury had indicted French on, (2) French's failure to comply with previous bond conditions by committing new offenses while out on bond, (3) French's harassment or coercion of witnesses to alter testimony, (4) the significant period of time that French had a warrant for his arrest, (5) whether French would come back to Illinois, and (6) French's medical conditions. Ajster's affidavit did not influence the trier of fact in reducing French's bond on May 7, 2015. In fact, Judge Jansz stated that he reduced the bond based on the testimony and the arguments that were presented. (Exhibit #4, page 3).

MAY 13, 2015 BOND HEARING

A second bond hearing was held on May 13, 2015, because the previous hearing was conducted as an emergency hearing with little or no notice to the prosecution. Judge Jansz made his decision very clear about why he increased French's bond by an additional \$150,000/10%. (See exhibit #4, pages 58-62). Jansz stated his reasons for having the bond increased. The reasons included the following: (1) the likelihood of French to comply with bond conditions because he continued to violate them, (2) the failure of French to not commit any new criminal offenses while out on bail, (3) French's continual threats to harm witnesses, (4) new charges, (5) the failure of French to voluntarily surrender himself to authorities at a time he knew that there was a warrant for his arrest, (6) the facts that surrounded French's apprehension at his home, and (7) the potential of new criminal charges in Bureau County

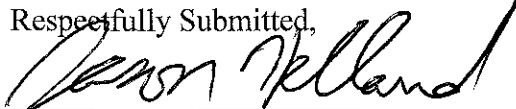
CONCLUSION

The prosecution cannot prove Ajster guilty beyond a reasonable doubt for perjury as charged in two counts in the November 3, 2015, bill of indictment. For the purpose of establishing perjury, an allegedly perjurious statement is "material" if it influenced, or could have influenced, the trier of fact in its deliberations on the issues presented to it. *People v. Baltzer*, App. 2 Dist.2002, 261 Ill.Dec. 247, 327 Ill.App.3d 222, 762 N.E.2d 1174.

In this case, Ajster's affidavit was not material because it did not influence Judge Jansz in making his bond decisions. In the 114 pages of court transcripts, Judge Jansz never even referred to Ajster's affidavit. On the contrary, Judge Jansz stated that he increased French's bond due to his harassment and coercion of witnesses to alter testimony.

Wherefore, in the interests of justice, the People have elected to *Nolle Prosequi* this case.

Respectfully Submitted,



Jason Helland

Grundy County State's Attorney

EXHIBIT

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AFFIDAVIT OF JULIE L. AJSTER

I, Julie L. Ajster, being first duly sworn on oath, do hereby affirm that following statements are true and correct to the best of my knowledge, information and belief:

1. I am Julie L. Ajster and I am the attorney for Danny French with regard to LaSalle County Case-14 CF 528.
2. On February 5, 2015 I received a telephone call from Brett King a witness and alleged victim in the aforementioned matter.
3. Mr. King told me that he had called Mr. French because he had heard about lawsuit against Mr. Brandt and Mr. Venturelli and wanted to know if Mr. French was suing him too.
4. Mr. King stated that Mr. French told him he did not know and to contact me.
5. Mr. King asked me if he had been sued by Mr. French.
6. I advised Mr. King that he was not a Defendant to the lawsuit and that Mr. Brant and Mr. Venturelli were sued not because of the criminal matter against Mr. French but because they were making defamatory statements to people independent of the criminal matter.
7. Mr. King stated that he had received a request from someone to prepare a written statement with regard to Mr. French's criminal case.
8. Mr. King could not recall from whom he had received the request from but he was concerned that if he filled out the statement he would be sued but that if he did not fill out the statement he would be arrested.
9. I told Mr. King that I could not sue him for defamation because of statements he made to law enforcement during an investigation.
10. Mr. King asked me if he had to fill out a statement. I advised him that I could not advise him as to that issue and that he needed to contact his own attorney. I did advise Mr. King that the Peru Police Department's investigation stated that he had already prepared a written statement. Mr. King stated that he had not previously prepared a written statement but that he was asked to prepare the statement and sign it as if he had prepared it back in July and/or August of 2014. I again advised Mr. King to talk to an attorney of his own and ask said attorney if he did prepare a written statement whether he should date the day it was prepared or sign it as if he had prepared it some time ago.
11. Mr. King told me that the only reason he talked to the police in the first place was because Mr. Brandt had threatened not to do business with his father's business, King Engineering, if he did not cooperate.

12. Mr. King told me that he had moved to Florida because of this matter and that he did not want to be involved in testifying against Mr. French.

★ 13. Mr. King told me that he was threatened by Mr. Brandt that if he did not cooperate and come back to Illinois to testify against Mr. French that he would make sure he was arrested.

14. Again, I advised Mr. King that he needed to contact an attorney to discuss this and protect himself.

15. He said that he moved to get away from all the "drama" and that he did not want to be looking over his shoulder every day seeing if he is going to be arrested. He stated he just wanted to live his life but he was scared to death that if he did not fill out the statement he was going to jail.

16. Mr. King never mentioned Mr. French ever threatening or intimidating him.

17. Mr. King never mentioned Mr. French ever harassing him.

18. The only concern Mr. King expressed to me during our conversation was that he was afraid of Mr. Brandt and him having a warrant issued for his arrest if he did not testify on his behalf.

19. I advised Mr. King that he was not to have any more contact with Mr. French.

20. After my February 5, 2015 telephone conversation with Mr. King, he never had any more contact with Mr. French or myself.

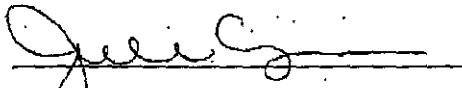
21. I advised the LaSalle County State's Attorney of my conversation with Mr. King in my March 16, 2015 letter.

22. Phone records evidence Mr. King contacted Mr. French three times via telephone from the period of January 22, 2015 through February 5, 2015.

23. Phone records evidence Mr. King contacted Mr. French two times via text message from the period of January 22, 2015 through February 5, 2015.

21. In Mr. King's text message of January 29, 2015 to Mr. French he provided Mr. French with his new Florida telephone number.

Dated: 4-9-15


Julie L. Ajster

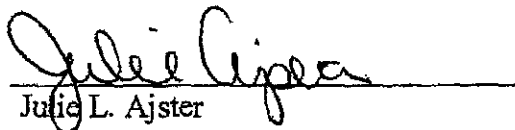
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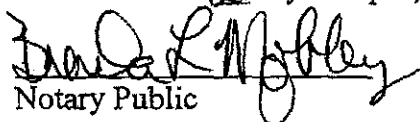
1. I am Julie L. Ajster and I am the attorney for Danny French with regard to LaSalle County Case 14 CF 528.
2. On February 5, 2015 I received a telephone call from Brett King a witness and alleged victim in the aforementioned matter.
3. Mr. King told me that he had called Mr. French because he had heard about lawsuit against Mr. Brandt and Mr. Venturelli and wanted to know if Mr. French was suing him too.
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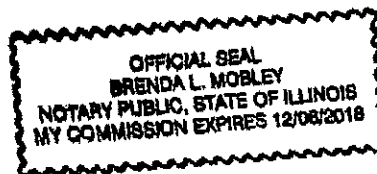
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16. Mr. King never mentioned Mr. French ever threatening or intimidating him.
17. Mr. King never mentioned Mr. French ever harassing him.
18. The only concern Mr. King expressed to me during our conversation was that he was afraid of Mr. Brandt and him having a warrant issued for his arrest if he did not testify on his behalf.
19. I advised Mr. King that he was not to have any more contact with Mr. French.
20. After my February 5, 2015 telephone conversation with Mr. King, he never had any more contact with Mr. French or myself.
21. I advised the LaSalle County State's Attorney of my conversation with Mr. King in my March 16, 2015 letter.
22. Phone records evidence Mr. King contacted Mr. French three times via telephone from the period of January 22, 2015 through February 5, 2015.
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21. In Mr. King's text message of January 29, 2015 to Mr. French he provided Mr. French with his new Florida telephone number.

Dated: 4/29/15


Julie L. Ajster

Subscribe and sworn to and
Before me this 29th day of April, 2015


Notary Public





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IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
LASALLE COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Plaintiff,)
)
 v.) Case No. 14-CF-528
)
 DANNY E. FRENCH,)
)
 Defendant.)

MOTION TO REDUCE BOND & ARRAIGNMENT

REPORT OF PROCEEDINGS of the hearing before ASSOCIATE
JUDGE MICHAEL C. JANSZ, Presiding Judge of the LaSalle County
Courthouse, Ottawa, Illinois, on May 7, 2015.

APPEARANCES:

Mr. Jeremiah Adams
Mr. Matthew J. Kidder
Assistant State's Attorneys

on behalf of the People;

Ms. Julie Ajster
Attorney at Law

on behalf of the Defendant.

Cindy M. Forth, C.S.R.
Official Court Reporter
Ottawa, IL 61350
License #084-002530

1 *THE COURT:* Let the record show this is People of
2 the State of Illinois v. Danny French. It's 2014-CF-528.
3 The matter is before the court on an emergency Motion to
4 Reduce Bond filed by counsel for Mr. French. Counsel, would
5 you each please identify yourselves and your client for the
6 record.

7 *MR. ADAMS:* Judge, Jeremiah Adams and Matt Kidder
8 on behalf of the State's Attorney's Office for LaSalle
9 County.

10 *THE COURT:* Counsel.

11 *MS. AJSTER:* Julie Ajster on behalf of the
12 defendant Danny French.

13 *THE COURT:* Just so the record's clear, Miss Ajster
14 had called my clerk this morning right before the lunch hour
15 and indicated that she was requesting an emergency hearing
16 this afternoon on a Motion to Reduce Bond. It was told to my
17 clerk at that time that Mr. French had been picked up on the
18 warrant. The court indicated that it had a contested Order
19 of Protection hearing set this afternoon but, you know, other
20 than that, it didn't have anything else set. Wasn't sure how
21 long it would take.

22 Miss Ajster has subsequently filed a notice of
23 hearing setting it for today at two o'clock. It's now about
24 a little past quarter after two and the State has received

1 *this, I presume, by fax.*

2 *MR. ADAMS: We got a fax notice of that at one*
3 *o'clock this afternoon, Judge.*

4 *THE COURT: Okay. Does the State object to having*
5 *the hearing on the Motion to Reduce Bond today?*

6 *MR. ADAMS: We do, Judge, and I told Miss Ajster*
7 *that when we met with her at our office. I indicated that*
8 *just the fact that Mr. French is now in custody, we didn't*
9 *believe, constituted an emergency. Obviously, we're aware*
10 *that your Honor has other matters that you need to deal with.*
11 *This court already has issues on this case noticed up for*
12 *either tomorrow or next Wednesday, depending on the trial*
13 *schedule in courtroom 210, and I'd be more than willing to*
14 *entertain this court on that issue as well based on what I*
15 *know from the week's events in courtroom 210. But we can*
16 *deal with that after that. I would just object to hearing*
17 *this. I don't believe we've been properly notified or made*
18 *aware that this is going to be an issue.*

19 *THE COURT: What's your response, Miss Ajster?*

20 *MS. AJSTER: Your Honor, previously the Motion to*
21 *Reduce Bond had been set and the State objected to it as*
22 *being premature because my client wasn't in custody. At that*
23 *time the State made representations that when my client was*
24 *in custody, they'd make attempts to have the bond hearing set*

1 as soon as possible.

2 At this point in time there is a court date for
3 tomorrow which this was noticed up. But we don't know if
4 that's going to go. My client's already been in custody for
5 almost a day now. He has serious health problems and all the
6 parties are here. I don't see there's any reason why it
7 can't proceed given the fact that tomorrow it's set, but we
8 don't know because it might get bumped to the following week
9 and all that time my client would still be in custody.

10 THE COURT: Does the State have any witnesses or
11 evidence that they are unable to produce today because of
12 short notice?

13 MR. ADAMS: No witnesses or evidence, Judge, but I
14 would say that all parties are not present. The fact that
15 Miss Ajster here is here doesn't necessarily overcome the
16 fact that Mr. French himself is not.

17 THE COURT: Is Mr. French currently in the custody
18 of the LaSalle County Sheriff's Department?

19 MS. AJSTER: He is.

20 THE COURT: Is he in the jail?

21 MR. ADAMS: I believe so.

22 MS. AJSTER: I think he's in booking. I think
23 they've kept him there.

24 THE COURT: Well, the court has certainly before

1 and could, again, call the sheriff's department and ask them
2 to have Mr. French brought down and we could probably have a
3 hearing within a half hour or so.

4 MS. AJSTER: But Mr. French has told me that I can
5 just proceed in his absence. That he would just wait for the
6 court's ruling. So, again, he's waived his right to be here
7 and I'm expressing that to the court. I don't have it in
8 writing because of the short notice.

9 THE COURT: What's the State's position? I mean
10 he's in custody, apparently. Is --

11 MR. ADAMS: Well, the -- I apologize, Judge, I
12 didn't mean to cut you off.

13 THE COURT: No, go ahead.

14 MR. ADAMS: The nature of his arrest, I think,
15 might be important when determining whether the defendant is
16 voluntarily waiving his right to appear at this particular
17 hearing. It's my understanding, based on representations
18 from the Bureau County Sheriff's Office and counsel, that
19 when he was taken into custody, Mr. French was making claims
20 with regard to attempts of suicide. I know that he at some
21 point was taken and observed at a hospital. I don't know
22 what the outcome of that is. I know that counsel made
23 representations to me when she was asking to have this
24 brought up, that he is not necessarily in the best frame of

1 mind so -- and not to belabor the issue, certainly since this
2 case has been filed, I've become more aware than I ever was
3 before of a client's ability to not appear in a criminal
4 case. But that has to be done knowingly, voluntarily and
5 intelligently and I'm not certain that Miss Ajster has
6 presented anything to show that that waiver is done
7 appropriately at this point.

8 THE COURT: Miss Ajster, would there be a prejudice
9 to your client if we had the hearing this afternoon but
10 waited for him to be brought down?

11 MS. AJSTER: There wouldn't other than just the
12 timeliness waiting for him to come down. I mean the court
13 can bring him down. As far as his mental state, he was
14 admitted to the hospital for medical problems in addition to
15 mental health problems. He was, apparently, examined and
16 released and released --

17 THE COURT: Okay.

18 MS. AJSTER: -- to the sheriff's department.

19 THE COURT: I guess from the court's perspective,
20 since this is an issue that can be remedied fairly easily by
21 making a phone call.

22 MS. AJSTER: Okay.

23 THE COURT: The Etna Road courthouse is four miles
24 away and depending on the sheriff department's schedule, he

1 could be brought down here so that he could be present for
2 this hearing. And that would eliminate an issue and, as I
3 said, the Order of Protection case I had went away. I did
4 advise counsel that we had six or seven people come in
5 seeking stalking no contact orders against someone but,
6 apparently, according to the clerk's office, they took the
7 paperwork with them and have decided to come back on another
8 day so they can spend some time filling it out. Whether they
9 show up this afternoon, I don't know.

10 But my thought at this point is that I'm going to
11 do -- I'm going to at least have Mr. French here. As far as
12 having the hearing itself, this motion has been on file for
13 probably about three weeks. Since the early part of April
14 and the court has twice said it was premature because he had
15 not been picked up. And I do recall that the State did
16 indicate they would be present. And as long as they don't
17 have any evidence or witnesses that they couldn't get here
18 because of the fact that it's short notice, I think that we
19 can have the hearing on a Motion to Reduce Bond but I do want
20 Mr. French here.

21 MS. AJSTER: Okay. No problem.

22 THE COURT: So what I will do is we'll take a
23 recess. I'll ask my clerk to contact the sheriff's
24 department. If you want to wait a minute, we should get a

1 timeline as to how long they think it'll take and then we'll
2 let everyone know.

3 (Recess taken.)

4 (Court reconvened after recess.)

5 THE COURT: My clerk just called out there and they
6 indicated that it could be a half hour depending on if the
7 jail does it. But if it's somebody, a deputy, it may be a
8 little longer. They're going to call my clerk back and let
9 her know when they have a more definitive time.

10 At this point we're going to go off the record.
11 I'll have my staff -- they don't have to sit around the
12 courtroom. But if counsel wants to wait, as soon as my clerk
13 hears something, we'll let you know, okay.

14 MR. ADAMS: Thank you.

15 (Recess taken.)

16 (Court reconvened after recess.)

17 THE COURT: Let the record show, we are back in
18 court on People of the State of Illinois v. Danny French.
19 It's 2014-CF-528. The matter is before the court on an
20 emergency Motion to Reduce Bail Bond. Counsel, would you
21 please, once again, identify yourself and your clients for
22 the record.

23 MR. ADAMS: Judge, Jeremiah Adams and Matt Kidder
24 on behalf of the LaSalle County State's Attorney's Office.

1 MS. AJSTER: Julie Ajster on behalf of Danny
2 French.

3 THE COURT: And the record should show that Mr.
4 French is present and he is in custody and for the record
5 he's in a wheelchair.

6 The matter is before the court -- I made a record
7 earlier as to how this matter came before the court this
8 afternoon. I don't think we need to go through all that
9 again. The State had objected to having the hearing today
10 because of insufficient notice. The court overruled their
11 objection. As the court said earlier, this petition to
12 reduce bail bond has been on file since, I think, April 9 or
13 April 14. It's been awhile and the State did indicate
14 previously that they would make arrangements to be present as
15 soon as possible, and they've done that today and the court
16 appreciates their willingness to be cooperative.

17 And so, counsel, you ready to proceed?

18 MS. AJSTER: Yes, your Honor.

19 THE COURT: All right.

20 MS. AJSTER: My motion for reduction of bond, I'm
21 asking that my client be released on his own recognizance
22 given the circumstances or at least his bond lowered to an
23 amount that's more reasonable. The statute 725 ILCS 5/110-2
24 clearly states that "Monetary bail should only be implemented

1 when it's determined that there are no other conditions of
2 release that will reasonably assure the defendant's
3 appearance."

4 725, same statute. "Defendant can be released on
5 his own recognizance when the court's of the opinion the
6 defendant will appear and will comply with the conditions of
7 bond." So the purpose of bond is to make sure that Mr.
8 French comes to court and that he's not a danger to himself
9 or others while he's out on bond.

10 Previously, he was arrested and he did post \$5,000
11 cash bond. Subsequent to that and after filing a federal
12 lawsuit against the State's Attorney's Office, three
13 additional charges, felony charges, were filed against him
14 for intimidation and harassment of a witness and the bond was
15 set at \$750,000. I think initially when those charges were
16 presented to the court, it looked like there's harassment,
17 intimidation, threatening bodily harm and damage to property.

18 And then subsequent to that, now that we know the
19 facts, that those are based upon the complaining witness
20 calling or alleging to call Mr. French about a lawsuit which
21 he has subsequently been sued. Now, Mr. King has so --

22 THE COURT: Mr. King has been sued?

23 MS. AJSTER: Yes. Since the date of these filings.

24 THE COURT: Okay. Federal court or state court?

1 MS. AJSTER: State court.

2 THE COURT: Okay.

3 MS. AJSTER: And prior to these, Mr. French had
4 filed suit against the complainant Jonathan Brandt and his
5 secretary and others. As part of that lawsuit, Mr. King
6 contacted Mr. French to see if he was going to be a party to
7 that lawsuit. He was instructed to contact me. By my own
8 admission, my own affidavit, I spoke with Mr. King and
9 advised him that he was not a party to that lawsuit. And
10 that he was worried about not coming back to court and
11 testifying and that he would be arrested, and I told him to
12 seek the advice of counsel in Florida cause he no longer
13 lives in Florida.

14 The charges that are currently against my client
15 are Class 2 and Class 3 felonies, and it appears that there's
16 \$250,000 bond on each count which is inconsistent with what
17 is provided in for other felony cases. For instance, like
18 Class X felony, there's a lady, Connie Steinbach. She's
19 accused of embezzling over a million dollars from her
20 employer. Hers was set at a hundred thousand dollars bond
21 for a Class X felony.

22 There was just recently another gentleman who had a
23 Class X felony for child pornography. His bond is set at a
24 hundred thousand. My client's bond for allegedly threatening

1 to sue someone or subsequently suing someone is set at
2 \$250,000 per charge.

3 THE COURT: Were the two individuals you referenced
4 on bond when they were alleged to have committed the offenses
5 that were Class X felonies?

6 MS. AJSTER: No. And these particular charges, in
7 all honesty to the court, were after my client was arrested,
8 posted bond but before he was arraigned and advised as to the
9 terms of his bond.

10 THE COURT: You talking about the additional
11 indictments that came down?

12 MS. AJSTER: No, I believe that he wasn't -- these
13 alleged communications, we don't even know if they're
14 telephone calls or texts or whatever they are, were alleged
15 to have occurred between January 22 and February 5. I don't
16 believe my client was arraigned until March 6.

17 THE COURT: Okay.

18 MS. AJSTER: So he was technically out on bond and
19 then, additionally, my client was never provided a copy of
20 the conditions of bond. And in the conditions of bond it
21 doesn't state that he can't have communication with any
22 witnesses.

23 THE COURT: Okay.

24 MS. AJSTER: And again --

1 THE COURT: So when he was in front of Judge Bute
2 and your client made an oral motion for substitution of
3 judge, there was no arraignment on that date, correct?

4 MS. AJSTER: No, your Honor.

5 THE COURT: So the arraignment was when he was in
6 front of me on March 6.

7 MS. AJSTER: Correct.

8 THE COURT: Okay. I understand your argument.

9 MS. AJSTER: So he wasn't aware of that.

10 And, additionally, when he posted bond, I placed it
11 for him. I got the conditions of bond and he did not get a
12 copy of the actual bond. That he didn't sign anything saying
13 conditions of bond.

14 And then, additionally, a condition of bond that it
15 doesn't state that you can't have communication with
16 witnesses. I understand that you can't intimidate and harass
17 them. But if someone is calling Mr. French and he says,
18 contact my attorney, and then I speak with this potential
19 witness and advise him to have no more contact with Mr.
20 French, and he doesn't because the communication stopped in
21 February and these charges were brought in April, after or
22 immediately prior to the filing of the federal lawsuit.

23 So, technically, they were while he was out on bond
24 but he was unaware of that and these were communications

1 coming from Mr. King to my client. And then once I learned
2 of it, I instructed my client not to have anymore contact
3 with him. He called and then I advised Mr. King not to have
4 any contact with my client.

5 As far as the bond itself of \$750,000, I mean the
6 purpose of bond is not to be oppressive financially. My
7 client is completely, totally disabled. He gets \$800 a month
8 in social security disability benefits. He currently has
9 \$1100 in a checking account. So to ask him to post \$75,000
10 cash bond, which then if the case is dismissed or the charges
11 are dismissed, they would keep 10 percent of that as a
12 processing fee. You know, that's the equivalent of more than
13 a year's earnings for him. So I think the bond is overly
14 oppressive.

15 My client, as I said, is disabled. In my motion I
16 do supplement it with some medical records. There's a report
17 in there from his family doctor, Dr. Rittmann, stating that
18 he should be using a wheelchair or walker. That he's,
19 basically, bedridden. That he requires assistance for
20 everyday activities and then, additionally, that would be
21 Exhibit A to my motion.

22 THE COURT: Was this the first Motion to Reduce
23 Bail you filed?

24 MS. AJSTER: Yes. So in my emergency motion I

1 referenced the initial --

2 THE COURT: Correct. Yes, I read -- I read the
3 report about Mr. French's need for, basically, home health
4 assistance.

5 MS. AJSTER: Yes.

6 THE COURT: And then I read Exhibit B and Exhibit C
7 which -- I guess Exhibit B which deals with the plan for when
8 people would be coming to his home.

9 MS. AJSTER: Yes.

10 THE COURT: So I did -- I did read those.

11 MS. AJSTER: Yeah. And that was a social worker
12 from the State of Illinois came in and examined him and did a
13 home inspection and determined what was reasonable and
14 necessary.

15 So he's not a flight risk. He doesn't drive. He
16 does have a license but he doesn't drive. I think the last
17 time he probably drove was last year sometime. Probably
18 December, November. So he doesn't drive. He only goes
19 somewhere if someone else takes him. So he's not a flight --
20 flight risk. There's no reason to believe that he's not
21 going to appear at future court dates.

22 Now, granted, there was warrants that were issued
23 for him about three or four weeks ago. Initially, when the
24 first charges came in, he did turn himself in immediately but

1 with the additional charges at the time he was not in the
2 area. He was getting medical treatment.

3 And then as I've represented to the court before,
4 subsequent to that he developed an episode of his Crohn's
5 disease. I mean I don't know if your Honor remembers what he
6 looked like before, but he's lost probably by now about 30,
7 35 pounds.

8 THE COURT: I can't tell that.

9 MS. AJSTER: But, you know, he's lost a significant
10 amount of weight. He just did get recent medical treatment
11 yesterday because he had low iron and potassium levels and
12 things like that. So he's not a flight risk.

13 So as part of this, the intention was for him
14 always to turn himself in and then have a bond hearing.
15 Unfortunately, well, or fortunately, whichever way you look
16 at it, because of his Crohn's and then also he had a recent
17 fall which he didn't have any feeling in his feet and he had
18 contacted his family doctor. Unable to go to his family
19 doctor, his doctor did fax yesterday an order that he go to
20 the ER and be evaluated for his back pain and to make sure
21 there's no spinal injury there.

22 And so that was the initial reason for the medical
23 transport yesterday. That's how he was taken into custody
24 is initially he was going to go to the hospital for that but

1 then because of the stress and the Crohn's, he hadn't slept
2 for like maybe ten days, eight days, any consistent amount.
3 So he was kind of erratic and not with it. So a medical
4 transport was called to take him to the emergency room for
5 evaluation because he had chest pains and racing heart and
6 things like that.

7 THE COURT: After his arrest?

8 MS. AJSTER: No. No.

9 THE COURT: Before?

10 MS. AJSTER: No. There was -- nobody came to the
11 house to arrest him. It was the ambulance personnel 911 who
12 was called for an ambulance transport to take him to the
13 hospital. And then, in addition to that, they asked that
14 police come because he was in the house.

15 Now, when officers arrived, he did -- he was hiding
16 in the house. He doesn't dispute that. But the issue was,
17 you know, he sees probably 12 or 13 police cars outside his
18 house and is wondering what is going on. How he eventually
19 came out is his brother went into the house and said, it's
20 me, everything's okay, you're not going to be hurt. And then
21 that's when he was taken by the ambulance and then taken into
22 custody.

23 THE COURT: So he was initially instructed by his
24 physician to go seek treatment at the hospital?

1 MS. AJSTER: Yes.

2 THE COURT: The hospital or whoever sent the
3 ambulance instructed the police that he was at the home and
4 they, I guess, asked for assistance. And then when your
5 client saw the police there, he then went and hid himself.

6 MS. AJSTER: Yeah.

7 THE COURT: Because of what he saw. But was
8 eventually -- he eventually came out and then went to the
9 hospital and then --

10 MS. AJSTER: Yeah, cause he was concerned with the
11 police coming in and like, you know, you never know. So --
12 cause he was in the house by himself. But then in talking to
13 the police officers on the scene, they were advised that he
14 was not a threat. There was no weapons or anything like that
15 in the house, you know, that he had.

16 THE COURT: Okay.

17 MS. AJSTER: And so then they allowed his brother
18 to go in and just say, hey, it's me, it's me, and then there
19 was some difficulty getting him cause there was a problem
20 with -- with the safe broke. So eventually he came out. He
21 was transported by medical and ambulance and he was
22 accompanied by a sheriff's deputy at that point and then he
23 was taken into custody at that point.

24 And I do have -- I didn't attach it as an exhibit.

1 I do -- but I only have one copy of the fax from yesterday
2 which I can enter as an exhibit.

3 THE COURT: Yes, you can hand it to my bailiff.
4 My bailiff will show it to the prosecutor first please.

5 MS. AJSTER: I'm sorry. Which was a fax that I
6 received yesterday from his doctor, Dr. Rittmann. He had
7 spoke to him on, I believe, it was Tuesday and then again
8 yesterday about, you know, his pain and then this problem
9 with his no feeling in his feet or legs.

10 THE COURT: How do you want -- what do you want to
11 do as marking this as an exhibit?

12 MS. AJSTER: I'll mark it as --

13 THE COURT: Do you want to make it H?

14 MS. AJSTER: Yes.

15 THE COURT: So that way you can attach it because
16 the last exhibit you filed G.

17 MS. AJSTER: Yes.

18 THE COURT: This will just be an additional exhibit
19 to your petition to reduce bond, correct?

20 MS. AJSTER: Yes.

21 THE COURT: So what, counsel, are you suggesting
22 for a bond if it's not personal recognizance?

23 MS. AJSTER: Well, given the fact that -- and these
24 charges, you know, you're looking at the substance of the

1 charges now which we're talking about, you know, it wasn't
2 that he was threatening to kill somebody or that he was
3 saying I'm going to blowup your house or anything. It was,
4 hey, if you lie, I'm going to file a lawsuit against you.
5 And he had already filed prior lawsuits against the other
6 witnesses.

7 And so other than that, you know, it's a situation
8 where he has limited means. He already posted 5,000 which,
9 you know, was a significant amount so I would ask that the
10 bond be no more than 5,000 additional.

11 THE COURT: 5,000?

12 MS. AJSTER: Or \$50,000, 5,000 cash.

13 THE COURT: Okay. Okay.

14 Anything else, counsel?

15 MS. AJSTER: No, your Honor.

16 THE COURT: All right. Thank you.

17 State.

18 MR. ADAMS: Well, Judge, first, and when I was
19 initially given the opportunity by the court to raise the
20 issue of whether we were going to have witnesses who may be
21 expected to testify at a hearing of this nature, we were made
22 notice originally of the defendant's original Motion to
23 Reduce Bond. The nature and circumstances of Mr. French's
24 arrest, I think, have been misrepresented or potentially may

1 have been misrepresented. The willingness of Mr. French to
2 come with law enforcement when they came in, I believe, may
3 be an issue that more appropriately would be dealt with. We
4 don't have the reports yet on his actual arrest. So I guess
5 at this point I would -- I would ask the court maybe for a
6 chance to actually call a witness to testify with regard to
7 that. As I indicated to the court, we were originally made
8 aware of her original Motion to Reduce Bail. We were not
9 given the nature of any sort of emergency. Now, I apologize
10 to the court for not raising it earlier and I certainly would
11 understand whatever ruling your Honor wishes to make with
12 regard to that.

13 THE COURT: Why don't you -- I understand the
14 difficulty here, obviously. It's a unique situation. Mr.
15 French was just put into custody. The motion was on file
16 long before he was actually arrested. I don't know and
17 didn't know any of the circumstances of his apprehension
18 until I heard counsel's statements. I don't know what you
19 have that's contrary to what counsel says.

20 MS. AJSTER: And, your Honor, I could just add that
21 I was personally present so what I'm stating is what I
22 observed.

23 THE COURT: Okay.

24 MS. AJSTER: At the scene.

1 THE COURT: At this point I'm going to ask you to
2 just make your argument, counsel. We'll see after you make
3 your argument if I'm at a point where I feel like I should
4 hear from someone who has some additional information, then
5 I'll consider that. But why don't you make your argument as
6 to what the State's position is with regard to his bond.

7 MR. ADAMS: Your Honor, the warrant that was issued
8 in this case was issued after three additional counts were
9 arraigned or, excuse me, indicted at the grand jury. Counts
10 IV, V and VI in this matter. One for harassment of a
11 witness, a Class 2 felony; one for unlawful communication
12 with a witness, a Class 3 felony; and another for
13 intimidation, a Class 3 felony.

14 At a later date after the warrant was issued on
15 April 21, two additional alternative counts were done for
16 harassment of a witness, a Class 2 felony, and another count
17 for harassment of a witness, a Class 2 felony.

18 The fact that -- the argument that Miss Ajster
19 makes with regard to the defendant being out on bond but not
20 knowing that this was an offense or that it wouldn't be --
21 that he wasn't supposed to commit offenses while he was out
22 on bond is disingenuous because originally when the -- when
23 the court or when I brought before the court the fact that
24 Miss Ajster's representation maybe inappropriate, the one --

1 one of the issues was whether she posted bond on behalf of
2 Mr. French. And at that point it was determined that the
3 defendant had signed, as a certificate of the defendant, on
4 December 23, 2014, his bail bond sheet and on the bail bond
5 sheet the defendant acknowledges that he is aware both front
6 and reverse of the terms and conditions of his bail bond.
7 One of the terms and conditions of bail bond is that the
8 defendant shall not violate any criminal statute of any
9 jurisdiction.

10 And in the State of Illinois under the law you're
11 deemed to be aware of any of the laws that are on the books.
12 The defendant was -- should have been aware and legally is
13 obligated to be aware that harassment or intimidation of a
14 witness is an offense. And he knew that he was committing an
15 offense when he made contact with the defendant. Or at least
16 that's our allegation. That was the allegation that was
17 presented to the grand jury and the grand jury found that
18 probable cause existed.

19 Then also those were the -- that was the nature and
20 circumstances of the facts as presented to your Honor when we
21 requested a warrant for the additional counts. These
22 additional counts were alleged to have committed while out on
23 bond. They're alleged to have been committed against a
24 witness in a case pending before your Honor. The nature --

1 this is an attack on this court and the sanctity of whatever
2 is going to happen to the defendant in this case. So the
3 reason why the bond was requested as high as it was and the
4 reason why we still feel that it's appropriate that the bond
5 be set this high is because this is an attack on the court.

6 The way that the defendant came into -- to be in
7 custody, I think, makes it even more clear that he had little
8 or no interest in presenting himself to this court at all. I
9 don't believe that he came willingly. I don't believe that
10 he came -- and this is, obviously, secondhand. This is based
11 on information that I'm getting from the Bureau County
12 Sheriff's Office and is being relayed to me. But I don't
13 believe that Miss Ajster's assertions that Mr. French was so
14 intending to present himself to the court to deal with this
15 warrant was true at all.

16 I believe the purpose of bond is, obviously, two-
17 fold. It's to require Mr. French to appear and guarantee
18 that he does appear. He's repeatedly not appeared to a
19 number of different motions that have been brought by his
20 counsel while he remained out as a fugitive on a warrant
21 issued by this court. Waiver or not, he's decided that his
22 appearance at this case is not mandatory. And his appearance
23 before the court to deal with the new cases that have been
24 presented to the grand jury and he's been indicted on was

1 also not mandatory. And he's, frankly, stalled this court in
2 a number of its attempts to proceed forward on issues that
3 should be very important to him. But he, apparently, has not
4 felt so.

5 So, clearly, the original bail bond that he posted
6 was not enough to insure his appearance in court. We assert
7 that, require that post the amount that currently is set is
8 even more appropriate. Frankly, I don't think we'd be out of
9 bonds once we get the reports that we've got to potentially
10 ask for further bond to be set considering the nature of the
11 case if we felt it was appropriate.

12 The other purpose of bond besides the fact that --
13 the intent to make him appear is also to prevent him or
14 attempt to prevent him from being a danger to the public.
15 And he's clearly a danger to anyone who appears on the
16 witness list from the State in this case. So we feel that
17 bond is appropriate as set and we'd ask your Honor not to
18 modify it.

19 THE COURT: Counsel, what do you feel happened at
20 the time of his arrest that justifies your belief that Miss
21 Ajster's statements are inaccurate? What were you told?

22 MR. ADAMS: My understanding was that it took a
23 number of officers to deal with him and that he was
24 barricaded in his house and made attempts to try to hide from

1 their attempts to get to him. That is what my understanding
2 is from the officers that participated in the efforts to get
3 Mr. French out of his house.

4 I know that over the weeks -- I believe that over
5 the weeks while he was out on a warrant, officers had made a
6 number of attempts to try to locate him and those were also
7 not successful, obviously, but they had been at the house.
8 I believe he was making an active attempt to try to avoid
9 service of this warrant.

10 THE COURT: And, Mr. French, this case really has
11 two different parts to it. It has the initial indictments.
12 It has the subsequent indictments. With regard to the
13 initial indictments that he posted bond on, he did appear in
14 court when required on those and it has only been since the
15 new warrants were issued that he has not appeared in court;
16 is that correct?

17 MR. ADAMS: That's correct, Judge.

18 THE COURT: Does the State have any position with
19 regard to Mr. French's physical health condition as it
20 relates to his continued incarceration versus his maybe
21 posting bond and being out?

22 MR. ADAMS: Well, one thing that I would make the
23 court aware of is that I -- and I have no idea about the
24 defendant's physical status, but what I do know about the

1 defendant's physical status is that it regularly changes
2 depending on which excuse is going to be the most convenient
3 at the time.

4 Miss Ajster has raised Crohn's disease. We have a
5 phone call made to the LaSalle County Sheriff's Office, which
6 I could present to the court if he wished, where he raised
7 the fact that he had -- I believe it was MS that he brought
8 up. We've been presented with the fact that he has a bad
9 back. These issues that continuously are, apparently, an
10 issue in some sort of personal injury case.

11 I don't know that -- and I guess all I'm saying is
12 that I believe that a number of different excuses for Mr.
13 French's physical or mental issues have been presented but
14 none of which have been substantiated in any way.

15 THE COURT: Any additional argument?

16 MR. ADAMS: No, Judge.

17 THE COURT: Counsel.

18 MS. AJSTER: Just, your Honor, as far as the bail
19 bond, and they said that my client had signed the bail bond
20 indicating the terms and conditions of bail, I don't see his
21 signature on that.

22 THE COURT: It's on the one in the court file.

23 MS. AJSTER: Okay. I don't have it.

24 THE COURT: There is a signature which -- but it's

1 under the box that's certificate of defendant.

2 MR. ADAMS: Just for the court's clarification,
3 this became an issue originally because my copy does not have
4 a signature. And my understanding from the clerk's office,
5 and I believe this was raised as an issue when I decided not
6 to go forward with Miss Ajster having posted bond for the
7 defendant, was that all parties agreed that he had signed
8 this bond sheet originally at the jail, but the copies for
9 the defendant and the State had already been removed from
10 that before the original was signed. When they're in custody
11 and post bond, they sign the original but not the copies.

12 THE COURT: Miss Ajster, you're free to look at the
13 bail bond --

14 MS. AJSTER: No, I --

15 THE COURT: -- form that's in the court file but
16 there is a signature on there.

17 MS. AJSTER: And I see the signature but then I
18 would also like to point out that my client is dyslexic which
19 makes him -- he's never received treatment for it and so
20 he's, basically, illiterate. He doesn't read and write that
21 well. If somebody thinks I'm making that up, they can go
22 back to his worker's comp trial in 2007, which that was one
23 of the grounds for disability, is that given his -- the fact
24 that he's illiterate and can't read and write that well. So

1 I don't doubt that his signature's on it. Whether he read
2 it, I highly doubt it.

3 THE COURT: But you --

4 MS. AJSTER: Initially --

5 THE COURT: Did you explain it to him?

6 MS. AJSTER: I did a little -- a little bit as much
7 as he could understand after the fact.

8 THE COURT: If he hasn't the ability to understand
9 the significance of appearing in court, then what confidence
10 do I have he'll come back in the future?

11 MS. AJSTER: Well, as far as the bond initially
12 that he posted, there's nothing on there that specifically
13 says that you cannot contact any witnesses, okay? And these
14 are -- it's a situation where the witness was contacting my
15 client. So far to the point that he moved to Florida and
16 then texted my client his new cell phone number.

17 And as far as the motions to quash the indictments
18 and later motions to dismiss, I have voice mails from Mr.
19 King saying, hey, Dan, what's up. I'm just wondering why,
20 you know, what's going on. So if somebody is harassing
21 somebody and intimidating you, I don't think you would
22 continue to call that person and talk to them and then give
23 him your new cell phone number so --

24 THE COURT: What significance should I place on the

1 fact that a grand jury in LaSalle County found probable cause
2 to issue the indictments? Without regard to both side's
3 position on what happened, a group of people, citizens of the
4 county, heard evidence, whatever that was, and determined
5 there was probable cause.

6 MS. AJSTER: And I don't have the grand jury
7 transcript but as far as the grand jury goes, I mean, as far
8 as the indictments, my argument later is going to be that
9 they're defective anyway. I mean they don't say -- it says,
10 between this day and this day he communicated. Was that by
11 carrier pigeon? Text mail? Voice mail? Letter? I mean
12 what is it? How I can I defend it if I don't know what the
13 actual allegations are?

14 THE COURT: And I don't know what the grand jury
15 heard but I guess my point is that there was a neutral group
16 of people who heard something and determined there was
17 probable cause. What effect do I give that?

18 MS. AJSTER: I don't think because you give as much
19 -- it's just a probable cause. I'm just of the opinion that
20 I don't think we even should have grand juries because they
21 indict everything because it's all one-sided. Mr. French was
22 indicted on the original count or two counts and his federal
23 lawsuit is based on the fact that false testimony was
24 elicited from the police officers. I mean, that's the

1 grounds of the federal lawsuit. Saying, hey, you indicted me
2 on these because there was false testimony. And I don't have
3 the grand jury transcripts for these so I can't say what
4 there is.

5 All I can say is I've read the indictments and I
6 look at the State's response to my Motion to Reduce Bond, and
7 they allege that my client is a danger to society because he
8 allegedly threatened to sue someone. Well, if that was the
9 case, there would be no lawyers. I mean honestly.

10 I mean it's one thing if somebody says I'm going
11 to, you know, come there and knock you in the head, or I'm
12 going to blow up your house or slash your tires or whatever,
13 but not, well, am I a party to this lawsuit? Well, no, but
14 if you lie, I'm going to sue you. I mean I don't think
15 that's harassment or intimidation of a witness at all. I
16 think that's just a communication with a witness. It's never
17 meant to be harassing or intimidating. The person is still
18 free to do whatever they want.

19 And in my conversations with Mr. King, he never
20 said once that anybody was harassing him or intimidating.
21 He was concerned about being arrested if he didn't comply
22 with the subpoena.

23 THE COURT: The indictments do allege that Mr. King
24 was told he had to lie and change his testimony or he'd be

1 sued which is different than what you've expressed. So, once
2 again, I mean that's what the grand jury found probable cause
3 on. It sounds like there's a dispute as to what happened but
4 I'm not here to determine that dispute today. I'm here to
5 determine bond. What effect do I give to the grand jury's
6 probable cause findings if I just accept everything you said
7 is true? I mean the grand jury did hear testimony. They did
8 hear some evidence.

9 MS. AJSTER: They heard something.

10 THE COURT: I don't know what they heard.

11 MS. AJSTER: And I don't know what it was, but I
12 provided the court with records and my affidavits stating my
13 communications with Mr. King. I even provided cell phone
14 records showing that Mr. King contacted me. I have
15 additional records showing all the phone calls that he placed
16 to my client and the text messages and voice mail messages
17 which I didn't bring today.

18 So as far as, you know, initially and it goes to
19 the same argument as to when these indictments were initially
20 presented to the court and asked for \$750,000 bond. It made
21 it look to appear to be something that it's not now that some
22 of the evidence has flushed out and we have more facts as to
23 what actually transpired.

24 THE COURT: Okay. State have anything else they

1 wanted to add?

2 MR. ADAMS: Well, I think it's hard to -- the only
3 thing I would add is that I think it's hard to except Miss
4 Ajster's assertions as to what the facts will or won't show.
5 She's not in receipt of discovery yet. Your Honor,
6 obviously, hasn't had it presented to you. That's not how
7 the criminal systems works. The grand jury received evidence
8 and determined that there was probable cause to charge these
9 charges against the defendant. Or indict the defendant on
10 these charges.

11 When and if Miss Ajster is allowed to continue as
12 his attorney, which will be dealt with later on, she or
13 whoever is his representative will get the discovery and find
14 out the full nature of the proof that we have against the
15 defendant. It's substantial. And so the factual assertions
16 with regard to the indictments are not -- grand jury found
17 probable cause. The probable cause was used to present to
18 the court in support of the warrant that was issued.

19 THE COURT: You get the last word, counsel.

20 MS. AJSTER: Okay. Just to clarify, too, as far as
21 the indictments, I mean they're alleged to have occurred in
22 LaSalle County. Mr. King is a resident of Florida. My
23 client is a resident of Bureau County and most of the time is
24 bedridden. And I think as part of when I get specific dates,

1 then I'll be able to do pings and see exactly where he was
2 and maybe he was even outside the state. So I don't even
3 know if LaSalle County has jurisdiction over the matter at
4 this point in time. So, yes, there was an indictment because
5 there was initial probable cause but now I think we have more
6 details as to what these charges actually are.

7 And then there was sort of an allegation to, you
8 know, my representation. Well, additionally, I'd like to
9 point out that these three charges were brought the day
10 before my client filed a federal lawsuit against the State's
11 Attorney's Office and the county for false arrest which they
12 knew they were going to be sued. And then they -- last ditch
13 effort they add three additional indictments and then they
14 add two more because now they're like pleading in the
15 alternative because we don't even know if what we pled was
16 sufficient. So now we're going to plead in the alternative.

17 And then, additionally, with regard to the
18 indictments, you know, they get these right before the
19 federal lawsuit in order to hold my client on \$750,000 bond,
20 you know, so I don't really know what validity there is to
21 these charges.

22 THE COURT: They didn't know about the federal
23 lawsuit though when the indictments came down. They knew you
24 said you were going to file one but they didn't know it had

1 *been filed --*

2 *MS. AJSTER: Yes.*

3 *THE COURT: -- correct?*

4 *MS. AJSTER: Correct. Because it was filed the*
5 *next day but I had clearly instructed them that I was going*
6 *to file the federal lawsuit and then I was waiting for the*
7 *rest of the discovery because, additionally, I had added*
8 *additional defendants.*

9 *So in this particular case, you know, you have a*
10 *situation where I don't think that it's necessarily -- and we*
11 *do have motions to disqualify and that's another thing is*
12 *that initially they had brought a motion. They charged Mr.*
13 *French with one count of phone harassment, felony and one*
14 *misdemeanor. Then when I entered my appearance or advised*
15 *the State's Attorney's Office that I'm going to be*
16 *representing him, they tacked on another charge and then*
17 *claimed that I was a witness to that offense in order to*
18 *disqualify me.*

19 *Additionally, with these indictments, it's the same*
20 *thing. Now, they're alleging based upon my letter to them*
21 *and when I was open and honest that I had communication with*
22 *Mr. King and advised him about this, then they say, oh, we're*
23 *going to add these indictments and now we're going to try to*
24 *disqualify her again. So, in my opinion, these indictments*

1 were brought in retaliation for a federal lawsuit and for the
2 purpose of trying to disqualify Mr. French's attorney which
3 is myself.

4 So I think they're highly suspect at this point in
5 time and, like I said, I think things have changed over the
6 last month since they were initially presented to the court.
7 So that's why I would ask that my client, you know, be
8 released on his own recognizance or at least some reasonable
9 amount of bond given his resources.

10 THE COURT: Well, this matter is before the court
11 on the Motion to Reduce Bond and as counsel has pointed out,
12 the purpose of bond is to have a reasonable assurance that
13 the defendant will appear when required. The court believes
14 that a reduction of the bond is warranted under the
15 circumstances. The court does not believe that reduction to
16 personal recognizance is appropriate.

17 There are a number of factors that the court's
18 taking into account. First of all, I recognize that there is
19 significant disagreement between the parties as to what
20 happened and what can be proved. A grand jury did return
21 indictments for, initially, three felonies and then two
22 additional alternative felony counts. And the court has to
23 put some weight in that cause the grand jury would have heard
24 whatever evidence and testimony they heard and they made

1 *their decisions.*

2 *The court is mindful of the fact that these*
3 *additional indictments are alleged to have occurred while*
4 *Mr. French was out on bond. And the bail bond form does*
5 *plainly state that you cannot violate any criminal statute of*
6 *any jurisdiction. It is true that it is not a per se*
7 *violation of a bail bond to contact a witness because*
8 *certainly people have the right to contact witnesses to talk*
9 *about their case.*

10 *The difference here is the allegations are that the*
11 *contact involved some sort of a harassment or a coercion to*
12 *alter testimony or there would be a repercussion. Now, at*
13 *this point Mr. French is, obviously, innocent until proven*
14 *guilty. He enjoys the presumption of innocence. But the*
15 *court is mindful of the fact that a grand jury did determine*
16 *there was probable cause, enough for these charges to be*
17 *filed.*

18 *The court is mindful of the fact that the warrant*
19 *was issued for a significant period of time while Mr. French*
20 *had not presented himself to court for hearings on some of*
21 *the issues that were raised. In fact, much of the court's*
22 *time in this case over the last three weeks has been spent*
23 *debating whether we can go forward on motions before the*
24 *warrant has been served.*

1 And so Mr. French was clearly aware that the
2 warrant was issued because he had filed -- he had instructed
3 his client (sic) orally that he would waive his appearance,
4 and he then signed a document indicating he would waive his
5 appearance at a Motion to Appoint a Special Prosecutor. And
6 so, clearly, Mr. French knew that this bond was out there or
7 this warrant was out there and that these issues presented
8 and he did not come to court.

9 The court was also mindful of the fact that at the
10 defendant's request, it allowed Mr. French to leave the state
11 of Illinois on the initial bond for medical treatment, and so
12 there was some concern as to where Mr. French was. Whether
13 he would present himself back to Illinois.

14 Additionally, the court does take note that these
15 alleged incidents were supposedly -- they supposedly occurred
16 with result to a pending case and the court, I suppose,
17 guards a little more jealously the process and even
18 recognizing the presumption of innocence. When a grand jury
19 determines that there was probable cause that a witness in a
20 criminal case was contacted inappropriately, the court has to
21 keep that in mind because the integrity of the process is
22 important. I don't know that it's a specific attack on the
23 court as counsel argued, but I do know that the court does
24 have a high interest in maintaining the integrity of the

1 proceedings.

2 I have considered the various conditions with
3 relation to bail bond. I do take note of the fact that Mr.
4 French does appear to be more incapacitated today than he was
5 when I saw him on March 6. I can't say that he lost 30
6 pounds. I can say that he was not in a wheelchair when he
7 was here on March 6.

8 Based on all of the evidence presented and given
9 counsel's representations that he can't drive and that he
10 needs a ride, the court is going to reduce his bond to
11 \$150,000, 10 percent to apply. So Mr. French will need
12 \$15,000 to bond out. The court is of the opinion that that
13 amount of money will be sufficient to assure his continued
14 appearance before the court.

15 The court does note that he appeared previously on
16 the underlying charges after he had bonded out. The court
17 also notes that he had posted bond before he was arrested
18 initially, but I think to make it any less would not be
19 appropriate. I think \$150,000, 10 percent to apply is the
20 appropriate amount of bond.

21 With regard to some housekeeping matters, we had a
22 motion set tomorrow afternoon to disqualify the State, and
23 there was an objection filed by the State and a request to
24 reconsider. It strikes me that a lot of the issues we had

1 before are now moot because Mr. French is actually in custody
2 and so we don't need to go through all that.

3 I'm also aware that Mr. Sticka, who is going to do
4 the hearing, is actually engaged in a trial this week and we
5 had kind of agreed that if he was in trial, we would do this
6 next Wednesday and we had a backup date on the 13th in the
7 afternoon.

8 I guess my question is since we now don't have an
9 issue about the appearance of the defendant since he's in
10 court, we can probably do more than one motion but I don't
11 know that we can do them on the 13th because there's a lot on
12 file. There's motions to dismiss. Motions to disqualify.
13 Motions for Bill of Particulars. So I guess I would ask what
14 counsel's thoughts are with regard to these.

15 And it's also kind of important to remember most of
16 those motions deal with the newly filed charges as opposed to
17 the initially filed charges. The motions to disqualify filed
18 by both sides against each other were filed -- well, the
19 State filed theirs before the subsequent indictments. The
20 defendant filed his at a time when the indictment had been
21 returned but he was unaware of it.

22 So I guess I would -- for scheduling purposes we
23 also, obviously, need to figure out if we're going to arraign
24 Mr. French today on the new indictments, or are we going to

1 do that when we come back on a different date?

2 MS. AJSTER: I'd like to do that when we come back
3 just so I have an opportunity to go over them with him in a
4 little bit more detail.

5 THE COURT: You want to go over the indictments,
6 you mean?

7 MS. AJSTER: Yeah.

8 THE COURT: With him?

9 MS. AJSTER: Yeah, the indictments.

10 THE COURT: What's the State's position?

11 MR. ADAMS: My position, I do have one issue with
12 regard to the bond that I'll deal with here in just a moment.
13 It's just a housekeeping matter, as you indicated, but I
14 would prefer if, with the court's indulgence, obviously, I
15 would tender copies of all remaining counts, and I would ask
16 that he acknowledge the counts here in court and,
17 additionally, that he be admonished. Since, potentially, if
18 this waiver issue becomes a problem again in the future,
19 we're going to have to deal with whether he was admonished as
20 to the ability for us to try him in his absence. So I'd ask
21 that the court deal with that today.

22 THE COURT: I absolutely intended to admonish him
23 about being present. The only question is whether it would
24 be in the context of a formal arraignment or whether it would

1 just be admonishing him today and I'll admonish him again.

2 MR. ADAMS: The other issue that I wish to deal
3 with as far as the bond, additionally, the defendant was
4 allowed to leave the state as part of the original bond.
5 Certainly, the court -- obviously, the court felt that it's
6 appropriate to reduce the bond that he currently has pending,
7 but as part of that, we would ask that your Honor rescind his
8 ability to leave the state and if he does have a passport, I
9 forget if that was addressed the last time if he does or not.

10 THE COURT: He does not have a passport.

11 MR. ADAMS: So we'd just ask that he be required to
12 stay within the state of Illinois at this point if that's --
13 if your Honor would entertain that.

14 THE COURT: Counsel.

15 MS. AJSTER: And I would object to that because the
16 need to travel outside is for medical treatment only. So
17 they're saying don't get medical treatment. Stay inside the
18 state of Illinois. I mean if it's a situation where they're
19 concerned, I don't know if it's sufficient to keep his
20 attorney apprised of his whereabouts if he's going out of
21 state for medical treatment, or if you want something just
22 presented to the court staying on this date to this date I
23 will be here as to where I'm going to be. You know, given
24 the fact that he has significant health issues.

1 THE COURT: How much advance notice does he have
2 when he's going to go out of state for health treatment?

3 MS. AJSTER: It's -- it depends on, I guess, who
4 he's going to see. Because sometimes -- I mean to get into
5 certain providers you're waiting months. Sometimes it's, you
6 know, a matter if you can go -- like if you go to the Mayo
7 Clinic, you can go through the emergency room and then be
8 admitted and see specialists that way. So it just depends.

9 THE COURT: I do have a concern about allowing Mr.
10 French to leave the state given the circumstances of what
11 happened. But I also have no desire for Mr. French to have
12 his health get worse because of it. At this point I'm not
13 going to allow him to leave the state.

14 But if defense counsel can provide the State with
15 specific information as to where he'll be and when, if the
16 parties can either work something out or you can ask the
17 court, I might do it on a limited basis if there's treatment,
18 if we know where he's going to be and when, because I'm a
19 little bit concerned about simply a cart blanche you can go
20 wherever whenever given the circumstances of this case. So
21 at this point I am not going to allow him to leave the state
22 absent a specific request and some information about where
23 he's going to be and when because I'm trying to balance the
24 two interests here, and I do have an interest in Mr. French

1 receiving the treatment he needs. I also have an interest in
2 making sure he's here when we want him here.

3 MR. ADAMS: Judge, I've tendered copies of those
4 five counts to Miss Ajster.

5 MS. AJSTER: I acknowledge receipt of the five
6 counts, your Honor.

7 THE COURT: All right. Do you waive reading?

8 MS. AJSTER: Yes.

9 THE COURT: And do you waive explanation of
10 possible penalties?

11 MS. AJSTER: Yes.

12 THE COURT: Okay. Mr. French, I will tell you and
13 I know that you're in custody.

14 THE DEFENDANT: Yes.

15 THE COURT: But if you -- I'm required to advise
16 you that if you bond out or if you escape from custody --

17 THE DEFENDANT: Well, I can't escape. I can't run
18 or hardly talk.

19 THE COURT: Okay. Or fail to appear at any future
20 court dates, your failure to appear could result in a warrant
21 for your arrest as well as a trial and sentencing in your
22 absence. In other words, you need to be here every time we
23 come to court absent -- maybe your attorney will make a
24 motion. But I want you to be aware of the fact that if you

1 fail to appear, you could be tried in your absence and you
2 could also be sentenced in your absence. So it's very
3 important that you're present when your court dates are set.
4 Especially under the circumstances.

5 Your counsel can explain this to you in more detail
6 but I wanted to make it clear on the record. You need to be
7 present at court and you need to be present for trial and you
8 need to be present for sentencing if that becomes something
9 that happens following the trial. And that's not only true
10 of the underlying charges but also of the new -- of the new
11 counts.

12 And with regard to the indictments, you may have
13 said it but your client's plea is?

14 MS. AJSTER: Not guilty.

15 THE COURT: Okay. All right.

16 As far as our future court dates, I'm inclined,
17 since Mr. Sticka is still in his case, to strike tomorrow.
18 If you want to leave the Wednesday date for now, we can.
19 Although I think there is some benefit now that the issue of
20 the defendant's appearance having been served on the warrant
21 is gone. I think we have different issues. So we could
22 reschedule those if you want.

23 MS. AJSTER: Well, I think as far as Wednesday, the
24 most trying matters are the Motion for Special Prosecutor and

1 the Motion to Disqualify.

2 THE COURT: I agree.

3 MS. AJSTER: Because we need to find out who's
4 going to be on the case and, you know, my concern is I need
5 the Motion for Special Prosecutor heard as soon as possible.

6 THE COURT: I hope we can get all that done next
7 Wednesday. I have a pretrial on my other felony case at the
8 Criminal Justice Center. We can do that. I anticipate
9 that's going to be a fairly lengthy process. There's going
10 to be a lot of arguments made both ways. And I don't think I
11 had you coming out until three o'clock or something. I can't
12 remember.

13 MR. ADAMS: It's my understanding we had it set for
14 three o'clock, Judge.

15 THE COURT: Yeah, because my pretrial on my other
16 felony's at 2:30. So it is set at three o'clock at the
17 Criminal Justice Center. We can see where we are that day at
18 that time cause, obviously, it gives us some time. But we've
19 been in here for 50 minutes on the Motion to Reduce Bond and
20 so I think those other motions are going to take awhile. So
21 if we can't get them done then, I will tell counsel that
22 there is a motion filed by the State to continue my other
23 felony case. If that motion to continue is granted, the week
24 of May 18 might have some opportunities for time because I

1 won't be in a felony Class X jury trial. So in the event we
2 can't get it done on the 13th, I'm hopeful that we can pick
3 something the week of the 18th.

4 MR. ADAMS: There is one other issue and I have no
5 objection to that plan, Judge. I think leaving the 13th date
6 stand and see whether there's a chance to get these issues
7 dealt with is appropriate because, obviously, as Miss Ajster
8 indicated, it's important that we figure out who the
9 attorneys are going to be for this case.

10 One thing that I would say or request of the court
11 though is that we've dealt with the issue of waiver of the
12 defendant's appearance back and forth about these pretrial
13 motions. I would suggest that until the issue of his
14 representation is dealt with, that the defendant's presence
15 should not be waived. That once he's properly represented,
16 with no issues with regard to who his counsel is he,
17 obviously, has a right to waive his appearance at court but
18 until that issue is dealt with, we'd suggest that a waiver
19 would not be appropriate.

20 THE COURT: Any response? I mean is there any
21 reason that Mr. French won't be present when we have our
22 hearings?

23 MS. AJSTER: Not at this time, no.

24 THE COURT: Okay.

1 MS. AJSTER: I mean, no.

2 THE COURT: I don't think that request is
3 unreasonable. In other words, the State's position is that
4 until this court makes a decision as to whether you'll be
5 representing Mr. French, your waiving his appearance
6 shouldn't be something that we address. Let's just have Mr.
7 French present until we have that dealt with.

8 MS. AJSTER: And I think he should be present at a
9 Motion to Disqualify his attorney.

10 THE COURT: Yeah, I do, too.

11 Okay. Then counsel will put together an order. Is
12 there anything else we need to do on the record?

13 MS. AJSTER: No.

14 THE COURT: I do want to thank --

15 MS. AJSTER: The date -- tomorrow's date is
16 stricken?

17 THE COURT: Tomorrow's date is stricken.

18 I do want to thank the sheriff's department for
19 their bringing Mr. French down on short notice. I do
20 appreciate the fact that they dropped everything to
21 accommodate us this afternoon and then when you get the order
22 done, I'll sign it. Thank you.

23 Do you have any objection if she writes Exhibit G
24 and H?

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MR. ADAMS: No. No.

THE COURT: And that way it's all in one spot.

I'll let you do that then, counsel.


(Which is all of said proceeding held in said cause
on said date.)

1 IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT

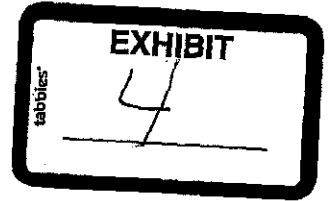
2 LASALLE COUNTY, ILLINOIS

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5
6 CERTIFICATE OF REPORTER

7
8 I, Cindy M. Forth, CSR #084-002530, an Official Court
9 Reporter for the Thirteenth Judicial Circuit of the State of
10 Illinois, reported in machine shorthand the proceedings had
11 on the hearing in the above-entitled cause and transcribed
12 the same which I hereby certify to be a true and accurate
13 transcript of the proceedings had in this cause.

14
15
16 
17 Cindy M. Forth, C.S.R.
18 Official Court Reporter

19
20
21
22
23 Dated this 8th day
24 of May, 2015.



1 STATE OF ILLINOIS)
2 COUNTY OF LASALLE)

3

4 IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
5 LASALLE COUNTY, ILLINOIS

6

7 PEOPLE OF THE STATE OF ILLINOIS,)
8 Plaintiff,)

9 -vs-) No. 2014-CF-528

10 DANNY FRENCH,)
11 Defendant.)

12

13

14 REPORT OF PROCEEDINGS had in the above-entitled
15 matter, at the Criminal Justice Center, Ottawa, Illinois on
16 the 13th day of May, 2015.

17

18 BEFORE: THE HONORABLE JUDGE MICHAEL C. JANSZ

19

20 PRESENT: MR. BRIAN TOWNE

21 MR. GREGORY STICKA

22 appeared on behalf of the People,

23 MS. JULIE AJSTER

24 appeared on behalf of the Defendant.

1 THE COURT: Let the record show this is People of the
2 State of Illinois versus Danny French, 2014-CF-528. Matter
3 is before the Court this afternoon for a hearing on pending
4 motions. Would counsel all please identify themselves and
5 their clients for the record.

6 MR. TOWNE: Brian Towne and Greg Sticka on behalf of
7 the State.

8 MS. AJSTER: Julie Ajster on behalf of Danny French,
9 defendant.

10 THE COURT: This is a case that presents itself in
11 somewhat of an unusual manner. There have been a number of
12 pleadings filed in this case recently. I went through the
13 file. I've looked at it, and it appears to the Court that
14 since April 9th there's been 14 pleadings filed or
15 supplements to pleadings filed by the parties, 7 by the
16 State, 7 by the defense. We've been in court four times
17 since that date on different motions with regard to what's
18 pending. Initially the Court had set the matter for a
19 hearing on the State's request to disqualify defense counsel
20 and defendant's request for a special prosecutor, and the
21 matter was set for either last Friday or for this afternoon.

22 Before the hearing that was set for last Friday there
23 was tendered an emergency motion to reduce bail filed by the
24 defendant asking that the Court have a hearing to reduce or

1 at least consider a reduction in the defendant's bond. The
2 motion was sent out, and it was heard on May 7th. There was
3 a prosecutor present. It was obviously not your customary
4 notice, but the Court did have a hearing on that date, and
5 the Court did reduce the bond based on the testimony or
6 actually the arguments that were presented. On May 8th the
7 State filed a motion to reconsider indicating that their
8 short notice prevented them from presenting the amount of
9 evidence that they had concerning the reasons why the bond
10 should not be decreased. That motion to reconsider or in
11 the alternative to increase the bond was noticed up for this
12 afternoon.

13 I have considered the different motions that are
14 pending. As I said this case is unusual. We actually have
15 cross motions to disqualify both counsel. We've had
16 multiple motions on file to reduce the bond. We've got
17 motions to dismiss. We have motions for a bill of
18 particulars. During most of the time these motions were
19 filed there was a warrant outstanding for Mr. French's
20 arrest that had not been served which was the reason why
21 many of those motions had not been heard. When the Court
22 initially decided to set the hearing on the motion to
23 disqualify the State, the State objected on the basis that
24 Mr. French had not waived his appearance. Counsel

1 subsequently provided her client's signature on a document.

2 The Court essentially ruled that because the motion to
3 disqualify had been filed before he was aware of the new
4 charges and that the Court would hear that motion because it
5 was on a matter in which he had been arraigned. The State
6 filed a motion to reconsider that. I think that's probably
7 moot now because he's actually been arrested, and he's
8 actually here. The only reason I bring all this up is to
9 illustrate the fact that this case has a number of
10 procedural components to it that are unlike probably any
11 case that I've ever read. I've not found a case that's
12 similar to this one in the way it's set up.

13 When the Court had the hearing on the emergency motion
14 to reduce bond last Thursday the State was gracious enough
15 to appear, and it was short notice. They have now filed a
16 motion indicating that the prosecutor who was present did
17 not have the sufficient information that was needed for them
18 to present their side of the case. The Court considers it a
19 matter of fairness that the State be given the opportunity
20 to present what they feel is necessary especially in light
21 of the fact that the notice they received was probably just
22 a couple of hours. It's, therefore, the Court's decision
23 that we will begin this afternoon with a hearing on the
24 State's motion to reconsider the ruling on the motion to

1 decrease the bond or in the alternative to increase the
2 bond. As I said I believe it's a matter of fundamental
3 fairness that the State as indicated in their motion they
4 did not have an adequate opportunity to present the evidence
5 they wanted. They've also made some allegations that there
6 were misrepresentations presented at that hearing and so I'm
7 going to start with the bond hearing and then we'll go from
8 there. Ms. Ajster.

9 MS. AJSTER: Your Honor, if I may. With regard to
10 the bond, I know that it was filed. I was out of my office
11 until this morning. With regard to the motion to reconsider
12 because it raises some issues and some factual issues and
13 some legal issues I would like an opportunity to respond to
14 this in writing. My main concern is this, is that the
15 State's Attorney's Office under the bond statute states
16 under 725 ILCS 5/110-2 when we're talking about release on
17 someone's own recognizance it's up to the Court to determine
18 whether or not the defendant is "a danger to any person or
19 to the community," and the State's Attorney alleges that
20 based upon my client's recent medical treatment and then
21 subsequently him being taken in to custody that he poses a
22 danger to himself or others.

23 My argument is that that is a medical question, and
24 there is case law out there that states that the question as

1 to whether or not someone is a danger to themselves or
2 others is a medical question that needs to be determined by
3 a physician. Now, at this particular time when Mr. French
4 was hospitalized last week he was evaluated by a doctor and
5 was released. I don't have those medical records, but I
6 think those would be sufficient or at least are needed to
7 determine whether or not because the component as to bond is
8 whether or not he's a danger to himself or someone else.

9 THE COURT: You didn't present that evidence when you
10 had your hearing last Thursday. Why is it important now?
11 In other words, you were given tremendous courtesy by having
12 a hearing on very short notice.

13 MS. AJSTER: Correct.

14 THE COURT: And if there's one thing that I will
15 probably admit as a fault is that I have a tendency to want
16 to be overly accommodating to everybody, and at times it
17 comes back to haunt me and so last week as everyone knows I
18 have a call downtown. I had an afternoon where I knew my
19 hearing was going to end, and I knew it was going to end in
20 time for the parties to be present. My question is you had
21 your hearing on short notice. Now the State wants to
22 basically have a chance to present their side, but you want
23 more time to present things you didn't tell me last
24 Thursday?

1 MS. AJSTER: No, not necessarily present things that
2 were not presented last Thursday. Last Thursday there was
3 not an argument that my client was a danger to himself or
4 others. It dealt mostly with the charges and the amount of
5 bond that would be sufficient to secure his presence at
6 court. The State is arguing that my client is now a danger
7 to himself or others and that requiring additional monetary
8 bail makes him less of a danger I guess to society or to
9 himself which I don't understand, but when they're claiming
10 that he -- that they need additional bond because there's
11 this element that he may be a danger to himself or others
12 independent of the charges against him then I think there
13 needs to be some medical testimony as to what his state of
14 mind is and whether he's a danger.

15 THE COURT: But I believe you argued last week that
16 he was disabled and incapacitated and couldn't do anything.
17 That was all presented without medical testimony.

18 MS. AJSTER: That was based upon testimony, but now
19 we're talking about his mental status, not his physical.
20 I'm talking about the fact that he's, you know, disabled.
21 He can't walk without assistance. He has a personal
22 assistant, that medical testimony. Additionally the more we
23 get in to medical testimony the more I have concerns about
24 HIPPA violations and things like. There may be a need for a

1 protective order as far as medical unless he's willing to
2 waive any, you know, because we're going to start getting in
3 to medical records and things like that, and that's my only
4 concern is that the State has presented and attached to
5 their motion the incident report from Deputy Winner. I
6 don't believe he's here so I don't know what testimony
7 they're going to present.

8 THE COURT: I don't know that they're going to
9 present any, but I'll ask you, Mr. Towne, what's your
10 response to counsel's argument?

11 MR. TOWNE: Your Honor, unlike the two to three hours
12 notice that we received via fax last Thursday when Mr.
13 Sticka and I were in the middle of an attempted murder case
14 which both counsel and the Court are well aware where we
15 were when that was occurring we have provided three days
16 notice because we filed this motion to increase bail last
17 Friday. The defense counsel has just stated that the
18 doctor's appointment was last week some time. Ms. Ajster in
19 addition to being the defendant's counsel is also his
20 fiance. I can't imagine why they couldn't have gotten the
21 medical records in three day's time to be able to present
22 them if in fact they needed to. This is a delay tactic in
23 order for us not to proceed on with the most important
24 motion which is that to determine whether or not this man

1 should be taken back in to custody on a higher bail.

2 THE COURT: Any additional response you want to make,
3 counsel?

4 MS. AJSTER: Just with regard to the medical. I mean
5 I would have to send a request for the medical. I don't
6 think I would even be able to get it in three days, but if
7 it's an issue with regard to whether or not we can proceed
8 on the bail and then once the bail is addressed, are we then
9 going to proceed on the motion for special prosecutor?

10 THE COURT: I don't know if we'll have time, but
11 we'll see where we are in the day. I'm not sure because
12 actually my intention right now is to do both the motion to
13 disqualify defense counsel and motion for special prosecutor
14 at the same time.

15 MS. AJSTER: Okay.

16 THE COURT: And that way the Court will hear both and
17 then it will decide what it's going to do. As I said the
18 problem with the case is that there's so many motions filed.
19 It's a difficult task to sort out what should go first and
20 what should go second because there really are a lot of
21 issues. With regard to counsel's request for a continuance
22 on the motion to reconsider, the Court's going to deny that
23 request. If this matter had been -- if the State had made
24 the statement last Thursday if they had time to be ready

1 we'd be in the same boat. Counsel wouldn't have had any
2 medical. She can object to their arguments. That's only
3 one component of their motion to reconsider. There are
4 other parts to it. Frankly the Court is concerned that both
5 sides get a fair shot at presenting the evidence they think
6 is relevant. The Court feels that going forward on this
7 particular motion first is the most fair way to give both
8 sides their opportunity. Mr. Towne, if you wish to proceed.
9 Do you have any evidence, or are you just going to argue?

10 MR. TOWNE: Just argue, Your Honor.

11 THE COURT: You may proceed.

12 MR. TOWNE: Which of course would be the common
13 practice of the LaSalle County courts. The purpose of
14 setting bond, they are two-fold. One is to ensure the
15 appearance of the defendant in court and also to protect the
16 public at large. Ordinarily in any criminal case as the
17 Court is aware we would present argument with regard to why
18 the bail should be what it is. Last Thursday certain
19 representations were made to this Court which I believe were
20 deliberate falsehoods and deliberately stated to mislead
21 this Court in to a reduction of bail. As an attachment to
22 the motion for increased bail and as an attachment for the
23 motion of reconsideration of the reduction of bail we have
24 submitted to you the Bureau County report with regard to how

1 Mr. French was taken in to custody.

2 Now, I need not probably remind the Court of the
3 extensive amount of time to which the defendant was wanted
4 on this warrant to begin with. There were even court dates
5 where documents were submitted by defense counsel about a
6 waiver of appearance while this man was a fugitive from
7 justice. Given the fact that he had full knowledge of the
8 fact that there was a \$750,000.00 warrant for him he was --
9 he did not avail himself to the Court. He submitted waivers
10 apparently so that he didn't have to come to court and
11 subject himself to the warrant or the jurisdiction of the
12 Court, and ultimately as you can see from our attached
13 exhibit what ultimately happened in this matter was while
14 the defendant was in the home of his counsel and fiance that
15 the fiance reported to the police that he was there.

16 The police then were called to the residence. Most of
17 the police force of Bureau County was on scene that night as
18 the man barricaded himself in the residence for an extensive
19 period of time. The report goes on to indicate that Mr.
20 French not only by the admissions of counsel in a police
21 report submitted by Sara Raymond of the Peru Police
22 Department after indicating that he had "gone nuts," and
23 that's a quote and that he was "off his rocker," and that's
24 a quote and that she notified the police of his whereabouts

1 and needed assistance at that point in time.

2 Police then responded, and Ms. Ajster also indicated
3 to the police that he had locked all the doors and windows
4 so that no one could enter the home. Now, the Court's well
5 aware of the fact that both times the defendant has appeared
6 in court both last week and this week he's appeared by aid
7 of wheelchair and today with a nurse. However, somehow he
8 managed to be upstairs, locked all the doors and windows and
9 then go downstairs and lock himself in a gun safe in the
10 basement of the home where he proceeded to not remove
11 himself without the assistance of a family member or until a
12 family member assisted and police assisted, and all the
13 while he was in the gun safe he was yelling that he was
14 going to shoot people through the safe --

15 MR. KENNETH FRENCH: Your Honor, that's not correct.

16 THE COURT: Sir, just a minute --

17 MR. KENNETH FRENCH: That's a false charge. I was in
18 the room --

19 THE COURT: Sir --

20 MR. KENNETH FRENCH: He's lying. I'll leave, Your
21 Honor.

22 MS. AJSTER: He's going to be one of my rebuttal
23 witnesses because he was at so can he just leave the
24 courtroom?

1 (Whereupon Kenneth French was escorted out of the
2 courtroom by LaSalle County deputies.)

3 THE COURT: Go ahead, Mr. Towne.

4 MS. AJSTER: Your Honor, if I may. Can we proceed
5 with my client in the hallway? He needs to -- something is
6 bothering his hands and feet. Can we proceed without him?

7 THE COURT: No, I want him in here.

8 MR. DANNY FRENCH: Can I have my assistant from my
9 disability here to help me get my hands -- they're starting
10 to turn purple.

11 THE COURT: I don't want your hands to turn purple.
12 We'll take a five minute recess. You can unwrap your hands
13 right here. I will say to you, Mr. French, please have your
14 counsel do your speaking for you. It makes it very
15 difficult when I have voices from all the over the courtroom
16 on my court reporter --

17 MR. DANNY FRENCH: Can I just ask you something?

18 THE COURT: At this point, no. We're going to take a
19 five minute recess. You can talk to your attorney. We'll
20 take five minutes.

21 (Recess taken.)

22 THE COURT: Let the record show we are back in court
23 on People of the State of Illinois versus Danny French,
24 2014-CF-528. Record should show the State is present by Mr.

1 Towne and Mr. Sticka, and the defendant is present with his
2 attorney Julie Ajster. We were in the process of the State
3 making their argument on the motion for bond before we had
4 the disruption. Are you ready to continue, counsel?

5 MR. TOWNE: I am, Your Honor.

6 MS. AJSTER: I am, Your Honor.

7 THE COURT: Thank you. Go ahead, Mr. Towne.

8 MR. TOWNE: Your Honor, in addition to the outburst
9 by one of the witnesses there were some complaints and
10 claims made by the defendant with regard to his medical
11 condition. As an officer of the Court I'll represent to the
12 Court at this time that basically all that was done during
13 recess was that he rewrapped his ace bandages so just we're
14 clear there was no medical emergency or no discoloration of
15 skin. I wanted that noted for the record.

16 Now, to continue on with my argument, I would indicate
17 that in the process of trying to take Mr. French in to
18 custody on his \$750,000.00 bail he made several threats to
19 several police officers in Bureau County with regard to not
20 only physical harm but threats of lawsuits as well.
21 Ultimately with the aid of his brother the gun safe was
22 opened, and the individual was taken in to custody where he
23 made statements regarding suicidal tendencies so he was
24 immediately taken to the local hospital in Spring Valley

1 where he remained until the next day and was brought to your
2 courtroom on the following day.

3 All of those issues I raise to the Court for several
4 reasons, for two reasons both directly relating to the
5 setting of his bail. Number one, those are crimes that were
6 committed in Bureau County, and I have discussed these
7 matters with Geno Caffarini the State's Attorney in Bureau
8 County. He had the reports before I did. In fact, he
9 shared them with me, and it is contemplated that Mr. French
10 will be charged with other crimes based on his apprehension
11 on our warrant in Bureau County last week.

12 In addition to those Bureau County related matters
13 which I believe were crimes that were committed while on
14 bail and while attempts were being made to apprehend on your
15 warrant, Your Honor, additionally there were calls that were
16 made to the LaSalle County Sheriff's Office last week from
17 an individual by the name of Andrew Biewer, B-i-e-w-e-r.
18 Mr. Biewer reported to the LaSalle County Sheriff's Office
19 that he used to be a friend of Mr. French's and that because
20 of some fight or dispute over property Mr. Biewer has
21 received voice mails, texts, voice conversations and even
22 some drive-bys by Mr. French where eye contact was made in
23 which he was threatened electronically and threatened in
24 person by Mr. French.

1 This is yet another LaSalle County crime that the
2 defendant has alleged to have committed while out on bail.
3 I'm filing Count IX harassment through electronic
4 communication a Class B misdemeanor with the Court. I've
5 tendered a copy to Ms. Ajster, and I have a copy as well. I
6 believe I set forth the probable cause for that as well, but
7 I will continue by saying that statements in addition to the
8 report made to the sheriff's office wherein Deputy Dyke of
9 the LaSalle County Sheriff's Office made phone contact with
10 Mr. French to try to verify communications between French
11 and Biewer, that French did respond by phone and was
12 threatening to Deputy Dyke both physically and through
13 threats of lawsuits to Deputy Dyke again all the while while
14 he was wanted on a warrant at that time.

15 I will also indicate that as part of the sheriff's
16 investigation of Count IX that a member of the sheriff's
17 office and a member of the investigative staff from my
18 office spoke and interviewed Mr. Biewer where he explained
19 in great detail amongst the other things included in the
20 charges at issue here the fact that he was a friend of
21 French's to a point and that this past March while the
22 defendant was under the jurisdiction of the Court that Ms.
23 Ajster drove Mr. French and Mr. Biewer to the airport where
24 they took a trip to Las Vegas. This was not a

1 medical-related trip. This was a trip where he described in
2 great detail how they walked up and down the strip of Las
3 Vegas and at one point in time they even rode go-carts so
4 that would be a violation of the Court's order where the
5 defendant was only allowed to leave the State of Illinois
6 for purposes of medical treatment.

7 Based on the Bureau County crimes, based on the
8 LaSalle County crimes, based on the violation of the order
9 of this Court not to leave the State of Illinois, there are
10 certainly reasons to suggest that this defendant is a flight
11 risk and does have ties to other states and other
12 opportunities to leave the state and also the fact that to
13 ensure the public protection given the fact that he
14 continues to commit crimes in Bureau County and LaSalle
15 County legally that the bail should have remained at the
16 \$750,000.00 that it was originally set at.

17 THE COURT: All right. Thank you, counsel. Ms.
18 Ajster.

19 MS. AJSTER: Thank you, Your Honor. When we were
20 here before on bond I had asked that my client be released
21 on his own recognizance. According to the bail statute
22 monetary bond should only be imposed when there's no other
23 remedy available to secure the defendant's presence at
24 court. The issue here is that whether or not bond is only

1 to be -- to secure his presence in court. Now, whether he
2 posts a million dollars or \$100,000.00, the courts and the
3 statutes say that, and I'm quoting from 725 ILCS 5/110-2
4 regarding release on his own recognizance, "that when from
5 all the circumstances the court is of the opinion that the
6 defendant will appear as required either before or after
7 conviction and the defendant will not pose a danger to any
8 person or community and that the defendant will comply with
9 the conditions of bond, he shall be released on his own
10 recognizance." Then it says "this section shall be
11 liberally construed to effectuate the purpose of relying
12 upon contempt of court proceedings or criminal sanctions
13 instead of financial loss to secure the appearance of the
14 defendant."

15 Now, when my client was initially charged with one
16 count of phone harassment felony and one count of
17 misdemeanor phone harassment his bond was set at \$50,000.00.
18 He paid the \$5,000.00 cash. Subsequently according to the
19 State's Attorney Office a third count was tacked on for the
20 sole purpose of disqualifying me as Mr. French's counsel.
21 Once their motion to disqualify me as defense counsel was
22 denied, they added another three counts for some alleged
23 witness harassment and witness intimidation. The bond was
24 set at \$750,000.00. Subsequent to that he was called in on

1 a medical emergency last week. He was not arrested at that
2 time. The reason for the law enforcement officials to be at
3 Mr. French's residence, and there was some allegation that
4 it's my house. Mr. French resides at 700 Clancy Drive with
5 me. It is his house. He has just as much legal entitlement
6 to live there as I do. Although I own the property, he has
7 lived there for seven years, and that's his place of abode.

8 Now, last week he was having some medical issues. An
9 ambulance was called. At that particular time I had
10 contacted 911 because he needed treatment and due to the
11 stress of I think these additional charges and the
12 \$750,000.00 bond against him it was too much stress for him
13 in addition to his spinal injuries and his back problems. I
14 called 911. Ambulance personnel arrived, and given the fact
15 that Mr. French was in the house by himself they felt better
16 if there was also law enforcement. Now, the responding
17 officer from Bureau County was Deputy Winner, and attached
18 to the State's motion is a copy of his report. Now, his
19 report reads completely different to what the State's
20 Attorney has just stated with regard to my client.

21 Now, no where in here does Deputy Winner say that my
22 client committed any crime. He never said that he spit at
23 him. He never said that he tried to resist arrest. It
24 wasn't an arrest. It was medical treatment. I have a

1 witness here who's going to testify step by step because he
2 was in the room every single moment of the time. He was the
3 first person in the house after EMT's and law enforcement
4 personnel arrived at the house. He's going to testify since
5 Deputy Winner is not here as to what went on in the house
6 during that time.

7 Now, the State's Attorney can say that they've talked
8 to Mr. Caffarini and that he's looking in to charges. If
9 Mr. French was going to be charged with something he would
10 have been charged at that time. Additionally, I do have a
11 valid FOID card, and I do carry two firearms that I keep in
12 my home. I no longer keep them there, but the Bureau County
13 Sheriff's Department didn't think that Mr. French was such a
14 threat that they should take those firearms in to protective
15 custody at the time that they removed him because again,
16 this was not an arrest situation. It was a medical
17 emergency, medical treatment situation.

18 The people that were there were emergency medical
19 technicians, EMT's and EMS and fire department in order to
20 provide my client with medical assistance. Once he was
21 taken for medical assistance he was transported to the
22 hospital at St. Margaret's, and according to Deputy Winner's
23 report at the request of my client Deputy Winner accompanied
24 him to the hospital, and it says that he was placed in

1 handcuffs and that he was spitting and waiving his hands
2 around, but in this particular case there was no attempt
3 made, none of these gestures were directed at any law
4 enforcement officials. There's nothing in here from Deputy
5 Winner stating that my client was a threat to himself or
6 anyone else, that he was in need of medical attention.

7 Now, with regard to what happened at that particular
8 time, I will call a witness who is stated in the incident
9 report as Kenneth French. He was removed earlier from the
10 courthouse. He is outside. With the Court's permission I
11 would like him to be allowed to come back inside and testify
12 as to what he witnessed since he was the one personally
13 present. He was actually the one that removed my client
14 from the home.

15 THE COURT: If you want to have Mr. French testify,
16 that's up to you. I'll give you that opportunity.

17 MS. AJSTER: Yes.

18 THE COURT: All right. Would someone have him come
19 in, please. Sir, step forward please and raise your right
20 hand to be sworn in.

21 (Witness sworn.)

22 KENNETH FRENCH,
23 called as a witness herein, after having been first duly
24 sworn, was examined and testified as follows:

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DIRECT EXAMINATION BY:

MS. JULIE AJSTER

MR. TOWNE: Your Honor, before the direct begins can I be heard on one issue?

THE COURT: Yes.

MR. TOWNE: At this point in time based on representations by counsel it's my understanding that this individual is going to testify contrary to what's contained in the Bureau County police report which was witnessed to by several police officers. If in fact he intends to testify contrary to that and now that he's been placed under oath I believe he is in jeopardy of committing perjury. Given that fact I would like him Mirandized by one of the police officers in the courtroom before his testimony because as a witness under oath he would be considered not free to leave at this time and if I have to charge him with perjury this will be important to our case.

THE COURT: Response.

MS. AJSTER: Your Honor, I believe that Mr. French is going to testify contrary to what Mr. Towne has presented so perhaps this is a situation where Mr. Towne has perjured himself and presented false testimony and evidence to the Court. Mr. French is the only -- one of several eye witnesses. As a matter of fact, there are no LaSalle County

1 sheriff deputies that are witness to this incident. The
2 only people were EMT's from 1033 Ambulance in Spring Valley,
3 the Dalzell Fire Department, myself, Mr. Ken French, Donna
4 Craig and several others so for someone to testify as to
5 what happened inside the house as no LaSalle County
6 sheriff's deputies were allowed in the house under specific
7 instructions that due to the fact that my client had a
8 pending federal lawsuit against the sheriff's department,
9 none of them were allowed in the house.

10 THE COURT: I guess my question is do you have any
11 objection to your witness being Mirandized before he
12 testifies?

13 MS. AJSTER: I have no objection to it. I don't
14 think he has any concern.

15 THE COURT: All right then.

16 MR. KENNETH FRENCH: Your Honor, I'd like to
17 apologize to you for my outburst.

18 THE COURT: Thank you, sir.

19 MR. KENNETH FRENCH: I just didn't like the false
20 accusations.

21 THE COURT: The Court accepts your apology, sir.

22 MR. KENNETH FRENCH: Thank you, Your Honor.

23 THE COURT: Mr. Towne.

24 MR. TOWNE: Mr. French, under the anticipation of the

1 possibility of future perjury in front of this Court I need
2 to inform you that you do have the right to remain silent.
3 Do you understand that?

4 MR. KENNETH FRENCH: Yes.

5 MR. TOWNE: And anything that you say can and will be
6 used against you in a court of you law. Do you understand
7 that?

8 MR. KENNETH FRENCH: Yes.

9 MR. TOWNE: And that you have a right to talk to a
10 lawyer and have him present with you while you're being
11 questioned. Do you understand that?

12 MR. KENNETH FRENCH: Yes.

13 MR. TOWNE: Do you understand that if you cannot
14 afford a lawyer that one will be appointed for you without
15 cost before any questioning proceeds?

16 MR. KENNETH FRENCH: Yes.

17 MR. TOWNE: And finally, that you can decide at any
18 time to exercise these rights and not answer any questions
19 or make any statements. Do you understand that?

20 MR. KENNETH FRENCH: Yes.

21 MR. TOWNE: And you understand that the lawyer that
22 you would receive would not be Ms. Ajster?

23 MS. AJSTER: Yes.

24 MR. TOWNE: Okay, Your Honor. Thank you.

1 THE COURT: And you're willing to proceed
2 understanding all of that; correct?

3 MR. KENNETH FRENCH: Yes.

4 THE COURT: Counsel, you may ask questions of your
5 witness.

6 BY MS. AJSTER:

7 Q Can you please state your name for the record?

8 A My name is Kenneth David French.

9 Q And where do you currently reside?

10 A I live Mendota, Illinois.

11 Q On the night of May 6th, 2015 were you
12 contacted to go to your brother -- strike that. Is your
13 brother Danny French?

14 A Yes.

15 Q And he is the defendant in this matter?

16 A Yes, ma'am.

17 Q And on May 6th, 2015, was your presence at his
18 home requested?

19 A Yes.

20 Q And did you appear at his residence?

21 A Yes.

22 Q And upon -- if you could just tell us in your
23 own words what happened while you arrived or once you
24 arrived at his home?

1 MR. TOWNE: Objection to the narrative, Your Honor.

2 THE COURT: It's a bond hearing so I'm going let it
3 go only because it will save time so overruled. Go ahead,
4 sir.

5 THE WITNESS: Tell what happened?

6 MS. AJSTER: Yeah.

7 THE WITNESS: From the time I got there?

8 MS. AJSTER: Yes.

9 THE WITNESS: To the time I left?

10 MS. AJSTER: Yes.

11 THE WITNESS: When I got there, Your Honor, got to
12 the house, my fiance was with me, and the house was locked
13 up, and I was knocking on the door. I didn't get no answer
14 so I called my brother-in-law and said where are you guys
15 at? He says we're around the corner so I ran around the
16 house because I thought that they was around the house.
17 There was nobody around the house so I hurried up and got in
18 my truck me and my fiance, and we went around the corner and
19 there they was. There was like an EMT. There was an
20 ambulance, and there's a couple police officers, and the one
21 woman said something about -- I can't exactly remember
22 exactly what she said, and I says ma'am, I says that's not
23 your family in there. I'm going to go in and get him, and
24 there was -- I do remember there was a Spring Valley police

1 officer. It was a woman. There was this other police
2 officer. I don't know if he was county or Spring Valley. I
3 don't know, but he was -- they were both pretty nice to me.
4 Anyways I got out of my truck to go back to the house,
5 and the Spring Valley woman she stopped me and she says Mr.
6 French, I can't let you go in the house and stuff. I says
7 ma'am, that's my brother. I want to be here for him. He
8 needs me now more than ever, and she said okay, Mr. French.
9 Pull your truck over there and just I want to talk to you so
10 I went and pulled my truck -- I got back in my truck and
11 pulled it off to the side of the road there and then I got
12 out, and I went over to her and the officer. He was
13 bald-headed. I can't think of his name offhand. I'm
14 thinking he was a county cop, Bureau County, and they were
15 talking to me, and I said I want to go in there and get my
16 brother. I says I know he'll listen to me. I know because
17 my whole life he's always listened to me in bad situations
18 if they ever arose.

19 I asked them to let me go in there. They said sir, we
20 can't let you go in there. We have to go in with you. I
21 said that's fine. I said but listen, I know my brother. He
22 don't have no guns. He don't have nothing like that in
23 there. They were concerned for their safety. I said that's
24 why I want to go in so I had a light, one of my own personal

1 lights, and Julie had given me the key to the door. I
2 unlocked the front door and unlocked the deadbolt and went
3 to push the door in, and it would not open. I knew they
4 were both unlocked. Well, I kicked the door in, and there
5 was a couple butter knives that was kind of holding in the
6 door, and they fell on the floor, and the door popped right
7 open. I went to go look around and the police officers --
8 the woman and the man, both the police officers were behind
9 me about maybe 10 feet.

10 I asked them prior to going in the house please don't
11 draw any weapons. Don't do anything. Let me get him
12 because I didn't want anybody overreacting, and I went in,
13 and I showed my light because it was dark in there. I said
14 this room is clear, and they said clear. We went in the
15 other room, it's clear. We went in the bathroom, it's
16 clear. We went out towards where it was going to go in to
17 the garage and there was a deadbolt and there was a butter
18 knife thing that was in the thing there so we knew he wasn't
19 in the garage so I said that's clear so we didn't bother
20 going upstairs because I do know my brother does have health
21 issues and he can't climb the stairs. He's not in that good
22 of shape right now and so I said he's probably in his
23 bedroom so I went to go kick in the door, and as I kicked in
24 the door the door opened, and they were behind me another

1 five feet.

2 I'm looking around, and right to the left is another
3 door to the bathroom. That door was locked. I went to
4 wiggle it, and the door wouldn't open so I went to look
5 underneath the bed. I went to go look back where the closet
6 was at. I didn't see him. Well, he has a safe over in the
7 corner of his room which is not down in the basement, Your
8 Honor. It's upstairs in his bedroom on the main floor, and
9 I went to go look behind the safe, and I didn't see him and
10 I said clear, and they said clear, and I don't know what got
11 in me but I shook the safe and that's when Dan started
12 saying things so then we verified that Dan was in the safe,
13 okay, so at that moment in time we had a piece of mind
14 knowing that he was in the safe so I went back outside, and
15 I talked to Julie, and I says is everything going to be all
16 right with Dan? He has no weapons or nothing because I
17 didn't want to put nobody's life in danger, not even my
18 brother, but I wouldn't put a police officer's life in
19 danger and stuff.

20 I wanted to put my own life there because he's my
21 family. He's my blood. I don't believe that that he'd do
22 anything to hurt me nor do I believe he would hurt anybody
23 else so she said no, there's not anything in there so I went
24 to go open up the safe and there was a code thing. It's a

1 big safe, you know, one that you can walk in to, and there's
2 a code thing. I went to go get the code. I got it from
3 Julie to punch it in, and Dan was so scared with everything
4 going on he ripped it right out so I couldn't get in the
5 safe and at the time we were like worrying because we didn't
6 know if he had air. At that time it was just frightful.
7 Well, one of the police officers the one that was in there
8 with me at first the bald-headed one he said to me, he says
9 there's holes here so we had a piece of mind knowing that he
10 was at least getting air so I tried feeding him some water
11 through the hole and this and that. Now we all tried to
12 worry about how to open the safe.

13 THE COURT: Why don't you stop there. Why don't you
14 start asking questions now. I wanted to get him to lead up
15 to this, but now I'd like you to ask questions.

16 BY MS. AJSTER:

17 Q So at some point in time did you open the safe
18 with a key?

19 A Yes.

20 Q And at that point in time were there emergency
21 medical personnel in the room?

22 A No.

23 Q When you opened the safe, your brother was
24 inside the safe?

1 A Yes.

2 Q And did you reach in and grab him?

3 A Absolutely I did.

4 Q And did you grab his hands?

5 A Yes, I did.

6 Q And then did you help him up?

7 A Yes, I did.

8 Q And then did you place him on the floor?

9 A Yes, I did.

10 Q Okay, and at that point in time did you ask law
11 enforcement to cuff him for his own safety as well as
12 theirs?

13 A I did.

14 Q Did law enforcement want to cuff him before you
15 asked them to?

16 A No.

17 Q Okay, and with regard to once you had him on
18 the floor, was he spitting?

19 A You know, he wasn't spitting at anybody
20 indirect, but he was kind of slobbering because he was
21 worried. He was so wet from being in the safe from all the
22 sweat. You know, I don't know if he -- and he wouldn't take
23 the water from us so he had cotton mouth, dry mouth so I
24 don't know if he was slobbering from that, but he wasn't

1 spitting, and I know the law, and I didn't want him spitting
2 at anybody so I just took a shirt, and I sat it over his
3 face. I said Danny, I don't want you spitting. He said
4 okay. I'm not going to be spitting. He's like can't
5 breathe, can't breathe so I lifted up the shirt and I said
6 please don't spit. He said I won't spit so I wiped off his
7 face. I sat the shirt down, and he never did anything like
8 that ever again.

9 Q And once he was on the floor and he was
10 handcuffed, was he flailing his arms around trying to strike
11 any police officer?

12 A No because as soon as we got him out safe and
13 laid him on the floor I grabbed his hands and I told the
14 police officers to put the cuffs on his for his own safety
15 so at that time he was in cuffs the whole time he was on the
16 floor.

17 Q And he never spit at any police officers?

18 A No, he did not.

19 Q Okay, and did he make any direct threats to any
20 police officers or anything like that that you heard of?

21 A No, he did not. My main concern was for his
22 safety. The reason we laid him on the floor is because he
23 has a bad back. He's had surgery, and I didn't want
24 everybody ramrodding him and jumping on him because they

1 didn't know the situation. Every police officer that was in
2 that room I talked to personally and said I don't want it so
3 everyone was there very cooperative with me that night and
4 nobody jumped on him. When we sat him on the floor two
5 police officers got on his feet, and me and the one woman
6 cop was up by his head, and the other -- the bald-headed guy
7 let's put these cuffs on him just for his safety and for
8 everybody's safety, and that's what we did.

9 Q And then did emergency medical personnel come
10 in and provide assistance to you?

11 A And then they came in, that's correct.

12 Q And then he was transported to the hospital for
13 treatment?

14 A Yep.

15 Q And so it's your testimony that the safe was
16 not in the basement as alleged by Mr. Towne?

17 A Yes, and that's the reason why I got up, Your
18 Honor. I'm sorry about that again.

19 Q And what was the distance between your
20 brother's bed and the safe?

21 A Five feet, not even five feet.

22 Q And as far as once you were in the house, did
23 you realize that other doors such as the sliding-glass doors
24 and patio doors were unlocked?

1 A No, I did not.

2 Q But you were able to gain access in with a key;
3 correct?

4 A That's correct.

5 Q And then there was no incident or anything like
6 that. Did you ever talk to the police officers about them
7 making any allegations that your brother tried to assault
8 any of them?

9 A My main concern was for my brother, and when we
10 got him out safe it was a sigh of relief that he's going to
11 be all right, and I kept patting him on the chest Dan,
12 everything's going to be all right. Not one time did he
13 threaten anybody. The time when he was in the safe he did
14 not threaten anybody saying that he was going to kill or
15 shoot or do anything like that. He was feared for his own
16 life.

17 MS. AJSTER: That's all the questions that I have.

18 THE COURT: Cross.

19 CROSS-EXAMINATION BY:

20 MR. BRIAN TOWNE

21 BY MR. TOWNE:

22 Q Mr. French, you entered the residence with a
23 key; right?

24 A I unlocked the locks, and it wouldn't let me

1 in. I had to kick the door in, yes, sir.

2 Q So there was some kind of barricade in the
3 door?

4 A There was a butter knife behind the trim,
5 between the trim and the door, and that's the reason why I
6 couldn't open the door.

7 Q So the door had been barricaded in some
8 fashion?

9 A There was a butter knife, yes, sir.

10 Q And then you were able to get in?

11 A Absolutely.

12 Q How many police officers went in with you?

13 A There was two.

14 Q And can you describe them for me?

15 A Once was a Spring Valley cop. It was a woman
16 and then the other one I'm thinking was a Bureau County
17 police.

18 Q Were both of those police officers present with
19 you when you spoke to your brother while he was locked in
20 the gun safe?

21 A Absolutely.

22 Q Is it your testimony today that at no point in
23 time -- first of all, how long was Mr. French in that safe
24 while you were in the house?

1 A I'd like to say between 35 and 45 minutes.

2 Q And were you in with him and that safe and the
3 police officers for that entire 35 to 45 minutes?

4 A Yeah, I was in the room and then when I went
5 outside to talk to Julie and I came back in, yes, I was, yep
6 and then the Dalzell Police -- some Dalzell department came
7 there, and they wanted to sawzall the thing and then I went
8 out with him. That's the only time I left the room too and
9 when I went out with him to get a sawzall he didn't have one
10 in his truck so he had to go to town and then I came back in
11 and then they came back with the sawzall, but, yeah, other
12 than that I was in the room the whole time, that's correct.

13 Q And during the entire time that you were in the
14 room with your brother in the safe and the police officers,
15 is it your testimony here today under oath that at no point
16 in time did Danny French say that he was going to shoot cops
17 from within the safe?

18 A He did not.

19 Q You also said that when he was removed from the
20 safe that you asked that the defendant be handcuffed for his
21 safety?

22 A For his safety and everybody around too.

23 Q And then you also testified for not only his
24 safety but everybody's safety?

1 A Well, the reason why is because, you know, he
2 was cooped up in this safe for about 45 minutes and when you
3 get out of a safe, you know, you're swinging your arms or
4 whatever. I just wanted all that under control because I
5 didn't want him getting hurt, and I didn't want nobody else
6 getting hurt because I felt like I was the one liable at
7 that time.

8 Q Were you concerned that he might hurt himself?

9 A I didn't want to take any chances.

10 Q Were you concerned --

11 A I was concerned for everybody.

12 Q Well, that's not my question. My question is,
13 yes or no, were you concerned that he might hurt himself?

14 A Not with everybody in the room, no, but I
15 didn't want anybody trying to say that he would hurt them.
16 That's the reason why I wanted the cuffs on him.

17 Q Yes or no?

18 A No, I don't believe he would hurt himself, no.

19 Q Yes or no, were you concerned that he might
20 hurt someone else?

21 A No.

22 Q So when you testified that you wanted him
23 cuffed for his safety and for everybody else's, that was a
24 lie?

1 A No. You don't understand. Let me explain what
2 I mean when I say for his safety. Not for his safety as in
3 for him getting hurt safe, for something happened future
4 down the road to where they can have these accusations
5 against my brother. For that safe part of it, that's what I
6 meant, sir.

7 Q So you think the police officers are setting
8 him up?

9 A I don't know. I know I took every precaution.
10 When I put the shirt over his mouth about the dry mouth, I
11 put it over his mouth because I didn't want them saying that
12 he could spit on them.

13 Q But he was spitting at the time that you put
14 the shirt on?

15 A He wasn't spitting. It was just coming out
16 because he was so cotton mouth it was coming out and he was
17 just so wired and I just put it over. I prevented
18 everything from happening. From the time I went in the safe
19 I covered his body. I grabbed his hands the first thing I
20 did to show everybody so they wouldn't draw any weapons, no
21 weapons in his hands. After we got him out of the safe
22 after we got the cuffs on him we went back in the safe and
23 we showed there's no weapons whatsoever in that safe, none,
24 zero, not a knife, not a nothing.

1 Q Are you finished?

2 A I'm just letting you know. Yes, I'm finished.

3 Q Was there saliva coming out of Danny French's
4 mouth at the time that you put his shirt over his head?

5 A When I speak sometimes when I say things
6 sometimes I have saliva coming out of my mouth. There was.
7 That's the reason why I put it over, but was it intentional
8 towards anybody, no, it wasn't.

9 Q I'm not trying to be difficult. I'm asking yes
10 or no questions.

11 A There was, yes.

12 MR. TOWNE: Thank you. That's all I have, Your
13 Honor.

14 THE COURT: Redirect.

15 MS. AJSTER: Yes.

16 REDIRECT EXAMINATION BY:

17 MS. JULIE AJSTER

18 BY MS. AJSTER:

19 Q With regard to the barricading of the doors,
20 prior to your brother having an arrest warrant for him
21 you're aware of him on prior occasions for security
22 barricading his doors?

23 A Yes.

24 Q And subsequent to his being released on bond,

1 are you aware that he continues to barricade his doors in to
2 his home?

3 A Yes.

4 Q So it's not something in your opinion that was
5 done after a warrant was issued for his arrest?

6 A No. I do know that the front door has been
7 where they couldn't really lock it and maybe he feels more
8 safe with the butter knives in the door, but I do know that.

9 Q So you know that there was a problem with his
10 front door with it locking correctly?

11 A Absolutely.

12 MS. AJSTER: That's all I have, Your Honor.

13 THE COURT: Sir, you may step down.

14 THE WITNESS: Thank you.

15 THE COURT: You're welcome. Any other witnesses?

16 MS. AJSTER: No, Your Honor.

17 THE COURT: Any other evidence or argument you wish
18 to make?

19 MS. AJSTER: Yes, with regard to the bond and these
20 additional -- so contrary to what Mr. Towne has alleged
21 about my client assaulting police officers, spitting at
22 them, flailing his arms around, that did not occur. It's
23 not contained in Deputy Winner's report. Deputy Winner's
24 concern at the time was that my client receive medical

1 treatment. Now, at the time that Mr. French was taken to
2 the hospital it was for a condition for his low back which
3 his doctor had faxed a note for him to be evaluated.
4 Additionally his blood pressure which was taken by me was
5 extremely high that night. He was extremely agitated and
6 not being able to speak coherently so for that concern I had
7 called emergency medical personnel to come to the house and
8 treat him which they did.

9 Subsequent to once he was at the hospital he was
10 signed in on a 24 hour involuntary hold just because of his
11 mental status --

12 MR. TOWNE: Your Honor, I'm going to object at this
13 point in time. Once again, and this has been an issue
14 through this entire case, Ms. Ajster is now a witness in the
15 case, and she's not under oath up there testifying, but
16 she's telling you the whole story.

17 THE COURT: What's your response because I think that
18 point is well taken?

19 MS. AJSTER: If you want to put me under oath, I can
20 testify.

21 THE COURT: I don't want anyone under oath but --

22 MS. AJSTER: I will tell under oath as to what was
23 there since I am a witness to this. Now --

24 MR. TOWNE: Now we need another lawyer, Your Honor.

1 THE COURT: See the problem --

2 MS. AJSTER: We don't need another lawyer because
3 with regard to the bond, the purpose of lawyer as witness is
4 for trial purposes. It's to avoid confusion to the court.
5 Your Honor is not going to be confused by me being Mr.
6 French's attorney as well as a witness to an incident that
7 now the State's Attorney's Office is raising as an issue
8 that should not be an issue.

9 THE COURT: I'm going to -- this is obviously in my
10 mind a very difficult and troubling situation. It was a
11 concern that I had following the bond hearing last Thursday.
12 I think you should refrain from making arguments that are
13 based on your personal knowledge and make arguments based on
14 other information that you have so we avoid at least the
15 appearance that you're both representing and testifying at
16 the same time so to the extent that's what you did I sustain
17 counsel's objection.

18 MS. AJSTER: With regard to Mr. French's medical
19 treatment, it is in the incident report that he was
20 transported to St. Margaret's Hospital. Deputy Winner
21 prepared documentation for Mr. French to be held on a 24
22 hour hold. Mr. French was released the following morning
23 after consulting with medical personnel at the hospital. He
24 was discharged. He was not put on a psych hold which would

1 indicate that he was a danger to himself or others. He was
2 released freely by Dr. Bailey who was the admitting
3 physician who admitted him to the ICU and the 24 hour hold
4 was then released so at that point in time the hospital did
5 not feel that he was a danger to himself.

6 Now, with regard to this incident, again, I can't
7 stress enough that it's not a situation where police went in
8 to his home, kicked the door in and arrested him. He was
9 getting medical treatment. Subsequent to being treated for
10 medical purposes and once he was at the hospital he was
11 taken in to custody upon his release from the hospital and
12 then he was transported to LaSalle County Jail. There's no
13 evidence that my client is a danger to himself or others
14 that has been presented.

15 Now, the State says that my client was spitting at
16 officers and threatening to shoot them. That's contained in
17 a police report by Deputy Winner saying that he was going to
18 sue people and was shooting people. He said that he was
19 agitated, spitting and waiving his hands around. It didn't
20 indicate that he had any aggression towards any specific
21 officer. Deputy Winner is not here to testify, but he was
22 the one that prepared the report. No charges have been
23 filed as a result of this. The State is saying well, we may
24 file charges so let's use that against him right now. Now,

1 subsequently if there's charges filed in Bureau County I
2 think that's a matter to address at that time, but right now
3 it's pure speculation as to what is going to be charged.
4 There's no arrest. It's an incident report, and if you look
5 at the top it says category, non crime reports which
6 indicates that there was not a crime, offense 9088 medical
7 assistance residence private weapons none so according to
8 this incident report it is a non crime report. It's a non
9 criminal incident report. It was a medical necessity,
10 medical assist report, and the State's Attorney's Office is
11 trying to turn it in to something that it's not.

12 They have made false allegations as to what's
13 contained in the report as well as what happened at the
14 scene. You've had the testimony of Mr. French's brother who
15 was there from the very beginning, was the first person in
16 the house and the last person to leave the house that night
17 who testified that Mr. French was not a danger to himself or
18 anyone else, that he took precautions just in the event that
19 he was concerned about his brother's health and safety and
20 safety as far as false allegations from law enforcement
21 saying that he spit at them or he tried to hit them or
22 anything like that.

23 As far as additional bond of \$750,000.00 they're using
24 this to get additional -- to get bond with regard to the

1 charges against my client with regard to Mr. Brett King.
2 Now, with regard to those five charges that the State
3 alleges that my client harassed and intimidated Mr. King to
4 the point that he was distressed, I would like to play a
5 voice mail from Mr. King placed to Mr. French's cell phone
6 on February 5th. The allegation in the indictments and the
7 purpose of the bond, the request for the \$750,000.00 bond is
8 that my client harassed him, intimidated him, caused him
9 mental anguish and there's one voice mail February 5th so
10 after this two week period of harassment and intimidation
11 from Mr. King to Mr. French. Mr. King specifically
12 identifies himself, and the message says something to the
13 affect of hi, Dan. It's me Brett. Just wondering if you've
14 heard anything or have any advice for me. Please give me a
15 call back. I can play that for the Court, but to me it
16 doesn't sound like somebody who's undergone two weeks of
17 harassment and intimidation by the defendant.

18 THE COURT: Anything else?

19 MS. AJSTER: Does the Court want to hear the voice
20 mail?

21 THE COURT: It's not for me to decide.

22 MS. AJSTER: Do you have an objection to it?

23 THE COURT: It's not for me to object. It's for me
24 to rule.

1 MS. AJSTER: I'm talking to Mr. Towne.

2 MR. TOWNE: I'm going to object. This isn't the
3 trial on the harassment. This is the setting of bail. If
4 we want to try that case here today, then I will play the
5 recordings that we have of Mr. French and Ms. Ajster that we
6 have on overhear that we're about to tender in discovery
7 where the threats were actually made and this whole incident
8 was discussed so we can have the whole trial today.

9 THE COURT: We're not going to have the whole trial
10 today. This is a bond hearing. I'm not going to -- first
11 of all, I'm not going to allow you to play that. There's an
12 objection to the cell phone being played. I'm going to
13 sustain the objection. I'm not going to do that today.
14 Your representations, counsel, is sufficient at this point.

15 MS. AJSTER: Because, again, Your Honor, the bond
16 that they're requesting is for these additional charges as
17 they relate to intimidation and harassment of Mr. King.
18 What I've presented to the Court and in addition to the
19 motions to quash the indictments and the motions to dismiss
20 and arguments of lack of jurisdiction with regard to these,
21 the question comes down to will my client appear at court
22 proceedings which he has. Prior to these additional charges
23 he's appeared at every court appearance. He appears here
24 today even though it takes about three hours to get him

1 ready to come to court. He's here.

2 Now, with regard to the additional count that the
3 State has now lodged against him I guess, I don't know if
4 they're asking for additional bond on that one or if that's
5 part of the request for the \$750,000.00.

6 THE COURT: I assume it was part of the request for
7 the \$750,000.00.

8 MR. TOWNE: It is.

9 MS. AJSTER: Now, if I may address that issue with
10 regard to Mr. Biewer, I guess this is the first that I've
11 seen of the count against my client, but every time we come
12 to court it appears that there's additional charges that
13 have now been filed against my client. With regard to Mr.
14 Biewer, I don't have anything entered in to evidence as to
15 what he has said with regard to this trip to Las Vegas or
16 any incident reports. All we have is the testimony or the
17 representation of Mr. Towne as to what was said.

18 Now, with regard to the representation from Mr. Towne
19 as to the incident report, it was inaccurate and some of
20 them were false when he said my client made it up and down
21 stairs, that he was in a safe and that he was ambulating
22 fine so as far as what has been presented to the Court as
23 far as Mr. Biewer's account as to what happened, I find it
24 suspect. I think if they want to say that my client left

1 the State of Illinois for some reason other than to see Dr.
2 Bruck a neurosurgeon at the University of Las Vegas, Nevada
3 I think that they would have to Mr. Biewer here and have
4 some evidence to that. They're asking that my client pay
5 additional money because -- and I don't know what their
6 allegation is. If the allegation is that he's more apt to
7 come to court the more money he pays or if they're claiming
8 that he's a danger to himself or society, but there is
9 absolutely no evidence entered before the Court that with
10 regard to these charges anything different than last week
11 when we were here before the Court, and I ask the Court to
12 release my client on his own recognizance.

13 THE COURT: What's new today that I didn't hear last
14 week was the information contained within the police report
15 and the specifics of his apprehension for lack of a better
16 word at the home on the night of the incident. That's
17 different than what I heard last week.

18 MS. AJSTER: And I don't believe that it's -- I mean
19 I don't know what Your Honor thinks is different. I mean it
20 was a medical necessity call. I explained that the Court.
21 He was taken in to custody. Other than the allegations of
22 trying to shoot police or threatening to shoot police even
23 though he had no weapons on him and he was never charged
24 with anything.

1 THE COURT: The State offered no specifics when the
2 Court had this matter before it last Thursday with regard to
3 what happened at the home. You offered some representations
4 about what happened, but the State at that point did not
5 indicate they had a police report or had any specific
6 information. That information is information that I didn't
7 have last Thursday.

8 MS. AJSTER: So as far as bail, if they're asking for
9 an increase in bail I would make an oral motion to refund
10 the \$15,000.00 that my client has already posted as based
11 upon the incident report that he's not a danger to himself.
12 He's now appeared in court. I think we're getting off
13 topic. The purpose of bond is to make sure that my client
14 comes to court and whether he's posted \$5,000.00 or
15 \$20,000.00, the intent is to get him to court. The statute
16 specifically says that money should not be used as the
17 reason to get him to court. If it's the only reason that
18 was -- if that's the only remedy that will secure his
19 presence at court then bond should be imposed, but in this
20 particular case as I stated previously which is contained in
21 my motion for reduction of bond previously, my client is
22 disabled.

23 This thing about my client driving to Mr. Biewer's
24 house and threatening him, I mean that allegation is false.

1 My client has not driven in months. He's incapable of
2 driving. He has not left his home and then additionally
3 with regard to Mr. Biewer, I don't know how much the Court
4 is giving Mr. Biewer's allegations to the State, but I will
5 state to the Court and Mr. French could testify to this. He
6 did go to Las Vegas for medical treatment. Subsequent to
7 that treatment -- to that trip he and Mr. Biewer had a
8 falling out given the fact that Mr. Biewer stole his
9 prescriptions and went to every pharmacy in Las Vegas --

10 MR. TOWNE: Again, Your Honor, Ms. Ajster is a
11 witness in the new case.

12 MS. AJSTER: Okay. Strike that. I would call Mr.
13 French as a witness, Your Honor, to testify as to his trip
14 to Las Vegas.

15 MR. TOWNE: You know what, I've got to stop this,
16 Your Honor.

17 THE COURT: So do I.

18 MR. TOWNE: There's a motion to disqualify her and
19 now she's going to put him on the stand.

20 THE COURT: You know, the problem is I'm not having
21 the trial today. Okay. It was set this afternoon, and I
22 decided to do the motion to reduce bond, and the problem is
23 that the arguments are crossing over. I mean there's just
24 -- like I said it's a case like none I've ever seen. The

1 Court is considering what it's heard this afternoon, but at
2 some point there's got to be a logical end. It's also 4:30
3 which is when the courthouse normally closes so my staff is
4 now going to be working over so we can continue to do this
5 which I'm mindful of. I'm not going to have -- I don't want
6 this to be a stream of consciousness every time we have a
7 new thought we call a new witness which is kind of what's
8 happening here. We had a hearing last week without any
9 witnesses and now we had a witness testify. You make your
10 arguments, counsel, based on information. The Court can
11 consider any evidence even if it wouldn't be admissible at a
12 hearing when considering what to set at bond so just go
13 ahead and make your argument.

14 MS. AJSTER: With regard to the State's motion to
15 reconsider, I don't believe that any facts have changed
16 since last week. There is the incident report, but in there
17 it does not state that my client was a danger to himself or
18 anyone else, and specifically I keep stressing the fact that
19 monetary bond is for the purpose of securing his appearance
20 at court. He was here last Thursday before the Court on an
21 emergency motion. He's here again today even though he's in
22 poor health and needs assistance. He is not a danger to
23 himself or anyone else. He was hospitalized last week. He
24 was released. Apparently medical personnel did not think

1 that he was threat to himself or anyone else. Otherwise
2 they would not have released him. Regardless of the
3 additional charge or the additional misdemeanor charge
4 against my client which is based upon just solely the
5 representation of Mr. Towne who continues to keep adding
6 criminal charges against my client even when there is a
7 motion to disqualify him and ask for a special prosecutor,
8 at this point in time going back to the law the purpose of
9 bail is to secure my client's presence at court. He is not
10 a flight risk. He does not drive. He does not walk
11 independently. He has an assistant three hours a day
12 through the State of Illinois. Your Honor has it in my
13 prior motions for reduction of bond. At this point in time
14 I don't see that there's a need to increase the bond because
15 there hasn't been anything significant that would appear to
16 show that my client is not going to appear at court. Again,
17 that's the purpose of the bond statute to make sure that my
18 client comes here and sits right here for every court
19 appearance which he has since he was arrested the first time
20 and every time subsequently.

21 Now, the State says that for three weeks this warrant
22 was outstanding. Well, my client is under absolutely no
23 obligation to come and turn himself in to court. Once he's
24 arrested and bond is set the purpose of bond is to make sure

1 he comes to every single court appearance subsequently which
2 he has. He has never missed a court date in this particular
3 case, and right now the State is holding \$20,000.00 of his
4 money to make sure that he comes, and again, my client
5 coming to court is not because the State is holding his
6 money. It's because if he doesn't come to court the Court
7 has other remedies such as an arrest warrant or other
8 sanctions against him to make him come to court or penalize
9 him for not coming to court.

10 I think we keep straying away from that the State is
11 saying the more money he pays the more likely he is to come
12 to court. Again, he should be released on his own
13 recognizance. He's not a flight risk. He has complied with
14 all the conditions of bail. Your Honor said he could leave
15 the state for medical treatment. He left the state for
16 medical treatment. He is now back. He's been in court for
17 every court appearance that he's been required to and to
18 make him keep paying more money and more money given his
19 financial status -- the statute says you cannot make it
20 punitive and overly financially burdensome to him. In this
21 particular case to have somebody post \$20,000.00 bond who
22 gets \$800.00 a month in Social Security I would argue is
23 punitive and financially burdensome to him so at this
24 particular time I would ask there be no increase in bond and

1 he actually be released on his own recognizance. Thank you.

2 THE COURT: Thank you, counsel. Mr. Towne.

3 MR. TOWNE: Brief response. Your Honor, Ms. Ajster
4 is completely forgetting one purpose of bail and glossing
5 over the other. The two purposes of bail is to ensure the
6 defendant's appearance and to ensure the protection of the
7 public. She doesn't want to talk about protection of public
8 except to complain that I keep filing charges against her
9 client. It's not my fault that he keeps committing crimes.
10 Every time he commits a new crime he's charged. He
11 continues to commit crimes against witnesses of this court
12 and other individuals in our communities, and he needs to
13 have a bail that will recognize the fact that he can't
14 harass people plain and simple. We need protection for the
15 public from this man.

16 Her suggestion as she glosses over his court
17 appearances, of course he appeared last week. The police
18 brought him to you. That's why he appeared last week. A
19 warrant has been out for several weeks. On April 9th he
20 very generously agreed to waive his appearance in front of
21 this Court for purposes of hearing a motion to get me out of
22 the case so no, he's not -- you're right. He doesn't have
23 to walk over to the courthouse or wheel himself over to the
24 courthouse, but he sure as heck didn't make himself

1 available. He said you can do this without me. He needs to
2 appear for his court dates.

3 There is a lot of issue as far as whether he will or
4 not and whether the emotionally invested brother who
5 testified in this case is right or wrong, police officers
6 prepared a report where they indicated that he threatened to
7 shoot them through the safe. That is a crime, yet another
8 crime and the fact that it hasn't been charged in Bureau
9 County yet probably has something to do with the fact that
10 when he was taken in to custody and when Geno Caffarini got
11 this report everyone was under the assumption that Mr.
12 French was going to be in jail on a \$750,000.00 warrant, and
13 that was reduced.

14 THE COURT: They would have known after last Thursday
15 that didn't happen. They've had enough time since then if
16 they wanted to fix that. I'm not going to take
17 responsibility for Bureau County's decision.

18 MR. TOWNE: I'm not blaming you for their decisions
19 at all, but when the hospital released him and when Geno
20 Caffarini didn't file the charges that night it was because
21 there was a \$750,000.00 warrant. As Mr. Ajster complained
22 that the police didn't take any guns that night, it was
23 because there was a \$750,000.00 warrant. Lastly, Your
24 Honor, because I think we beat this dead horse the only

1 other thing I would suggest is that it is disingenuous for
2 Ms. Ajster to argue that there's nothing wrong with Mr.
3 French when according to the last paragraph of this police
4 report which is attached in this exhibit it indicates that
5 Julie completed involuntary admission papers to have Danny
6 committed for further evaluation. She can't have it both
7 ways, Your Honor. She filled out the paper work and now
8 she's going to say there's nothing wrong with him? Bond
9 should be increased. It should be put back where it was
10 before these misrepresentations were made to the Court last
11 Thursday. Thank you.

12 THE COURT: You're welcome.

13 MS. AJSTER: Your Honor, can I address one thing
14 quickly?

15 THE COURT: What is it?

16 MS. AJSTER: As far as the involuntary hold, we don't
17 have the paper work here. It was due to the fact that Mr.
18 French and his medications. It was not -- it's a long form.
19 It states why you need him there, he's a danger himself, to
20 others, he's suicidal. There was one in there about not
21 taking prescriptions correctly.

22 MR. TOWNE: That sounds dangerous to me, Your Honor.

23 MS. AJSTER: I'm not getting in to medical testimony
24 because it's a situation where had we had the opportunity to

1 present medical evidence, but it was that recently Mr.
2 French's medications had been switched. He had a drug
3 interaction. He no longer takes that medication. His
4 doctor erroneously prescribed Xanax and Elavil. I have
5 medical literature that states that you cannot combine the
6 two. It was an involuntary hold. The hospital released him
7 not because he was a danger to himself or anyone else.

8 THE COURT: This matter is before the Court on a
9 motion filed by the State to reconsider the ruling on the
10 motion to decrease bond or in the alternative to increase
11 the defendant's bond. The Court has considered the
12 arguments and the evidence presented, and the Court would
13 note as it said earlier that the initial bond reduction
14 motion was heard on short notice to the State, and the Court
15 did ask the State that day whether there's any evidence that
16 they needed that they didn't have available, and there
17 wasn't any identified. After Ms. Ajster made some
18 representations the State then said that they might want to
19 have some evidence and at that point the Court said we
20 started the hearing. It was a little late so we continued
21 the hearing. We're having this hearing today because the
22 Court basically is trying to be fair to both sides to make
23 sure the State has the ability to put in the information
24 they think is relevant. There is a number of thoughts that

1 the Court had.

2 First of all, in determining the amount of bail a
3 court is instructed that in determining the amount of
4 monetary bail or a condition of release if any which will
5 reasonably ensure the appearance of the defendant as
6 required or the safety of any other person or the community
7 and the likelihood of compliance by the defendant with all
8 the conditions of bail. Even though no one argued it this
9 Court is quite frankly focused on the likelihood of
10 compliance by the defendant with all the conditions of bail.
11 One of the conditions of bail is that a person not commit
12 any criminal offenses while they're out on bail. The reason
13 the original bond was set -- let me strike that.

14 The reason the bond was set on the subsequently filed
15 indictments of \$750,000.00 was because one, Mr. French was
16 out on bond and number two, the Court had given him
17 permission to leave the State of Illinois for medical
18 purposes and so the Court was concerned that the allegations
19 contained within the indictments went to the integrity of
20 the process. In other words, they were alleged to have been
21 Mr. French contacting a witness to intimidate or harass the
22 witness to change a witness's testimony at the trial, and
23 the Court said last Thursday that it zealously guards the
24 integrity of the system and the intent for people to be in

1 court to have a hearing and for that to happen without those
2 types of issues. It's very troubling that today the Court
3 is provided Count IX which alleges that on May 5th Mr.
4 French is alleged to have threatened another individual this
5 time by saying he was going to send people to harm him.

6 Now, I am aware it's not an indictment. I'm aware
7 it's a criminal information filed by the State's Attorney,
8 and I'm aware that it's an information filed by the State's
9 Attorney that the defendant feels shouldn't be doing the
10 case anyway, but it is a criminal information. It does
11 carry some weight. The Court does not believe that the
12 State's Attorney would file false charges. He must feel
13 that he has a reason to do this. This would be the second
14 time that the Court has been asked to review charges while
15 Mr. French was on bond. It is true that he has appeared in
16 court the one time that he had been required in front of me
17 on March 6th. It is true that he's here today. It is also
18 true that there was a warrant outstanding for his arrest.
19 While that warrant was outstanding multiple efforts were
20 made to litigate his rights without him being present. One
21 of the things the Court learned today was that he had been
22 apparently in the area or the state for two weeks before
23 this incident occurred that led to his arrest on the
24 warrant.

1 The Court fully thinks that there's a back story here
2 that's much deeper and broader than what the little bit of
3 evidence adduced today signifies, but at a minimum the Court
4 found out that defense counsel was at the home. She was
5 outside the home. She made the call. Apparently you can
6 just kind of put two and two together. Mr. French must have
7 barricaded himself in to the home after this person he lives
8 with left because the front door was barricaded. There was
9 also testimony from a witness that the barricades went out
10 to that other door. That signifies to the Court a desire
11 not to be -- I don't know if you want to say apprehended but
12 at least not to be bothered or have anybody come in. That's
13 a concern for me.

14 I'm very concerned by these additional allegations.
15 Also when all these things were happening there is, and I
16 understand there's a dispute as to whether there was
17 spitting or not, but the police report does indicate that he
18 was flailing his arms and spitting. There was allegations
19 that he was indicating that he was going to -- that the FBI
20 told him to do that and he was going to sue everybody.
21 Ultimately what this Court is concerned with is the
22 inability or the unwillingness of Mr. French to avoid at
23 least being charged with criminal offenses while he's on
24 bond. That is a trouble for me. That is one the factors

1 the Court is to consider whether or not someone's going to
2 comply with the conditions of bail. Right now I've not seen
3 a case where there's been this many allegations of someone
4 who's not complied with the conditions of bail or that you
5 avoid additional criminal activity.

6 Had the Court been in possession of the information
7 that it's in possession of now last Thursday, if the
8 prosecutor would have been able to present this information
9 the Court would have still reduced the bond from the
10 \$750,000.00. When it was lowered to the \$150,000.00, part
11 of the reason the Court did that was based on some of the
12 representations made. Given the totality of what I've heard
13 and given the fact that there's been a new count filed the
14 Court is going to increase Mr. French's bond. I'm going to
15 increase the bond from what I lowered it to 150 to
16 \$300,000.00. He needs an additional \$150,000.00 in bond to
17 be released. The purpose of this is not to punish Mr.
18 French. It's to impress upon him the fact that conditions
19 of bond are that he is not to commit any violations of
20 criminal statutes which has happened at least on two
21 different occasions. Ultimately the jury will determine
22 whether he's guilty beyond a reasonable doubt. As he sits
23 here today he is presumed innocent. The mere fact that the
24 Court is being confronted with additional charges causes the

1 Court some concern. The Court is going to grant the motion
2 to increase the bond. It's going to be increased by an
3 additional \$150,000.00. Mr. French will be taken in to
4 custody so he can post that bond if he's able.

5 We need to get a new court date because we have
6 multiple other petitions set. My intention is to have a
7 hearing on the motions to disqualify the attorneys on both
8 sides. If everyone is available I would like to do it next
9 Wednesday May 20th at 2:00 o'clock or 2:30. At 2:00 o'clock
10 I'm going to be out north anyway. I'm going to have another
11 Class X felony case that I have a hearing on so we can do
12 the hearing after that. Are you available?

13 MR. TOWNE: I am available because I'm on that other
14 matter. The only other thing I would ask Your Honor is can
15 we also make as a condition of bail that Mr. French should
16 he post bail have no contact with Andrew Biewer during the
17 pendency of the case and up until the point in which Ms.
18 Ajster is determined whether she should be disqualified or
19 not she not have any contact with Mr. Biewer.

20 MS. AJSTER: I would object to that. Mr. Biewer has
21 an \$8,000.00 Ranger of mine sitting in his garage which I
22 attempted to get last week which was the reason for him
23 coming up with these allegations and then additionally he
24 tried to break in to my storage facility so I would like to

1 at least get my property back from him. I can do that with
2 a LaSalle County sheriff deputy and perhaps a K-9 dog so
3 they can search his premises.

4 THE COURT: The Court will grant your request that
5 Mr. French not contact Mr. Biewer, but I'm not going to at
6 this point limit Ms. Ajster because technically she is still
7 the attorney for Mr. French so she does have a right to
8 interview witnesses. Although obviously there's shall we
9 say some issues below the surface here that need to be taken
10 in to account by anybody who's going to have contact with
11 him. If you would do an order, please, reflecting what I've
12 said continuing the case until next Wednesday at 2:00
13 o'clock for the hearing on the petition for special
14 prosecutor and motion for defense counsel. Is the
15 information that you provided to the Court the original for
16 the court file?

17 MR. TOWNE: Yes, Your Honor.

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1 STATE OF ILLINOIS)

2) SS:

3 COUNTY OF LASALLE)

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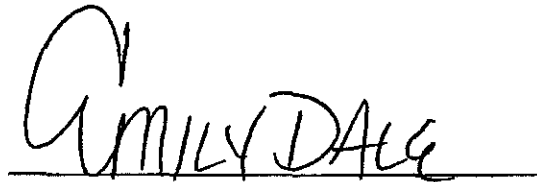
5 I, EMILY DALE, a Certified Shorthand Reporter of
6 the State of Illinois, do hereby certify that I reported in
7 shorthand the proceedings had aforesaid, and that the
8 foregoing is a true, complete and correct transcript of the
9 proceedings as appears from my stenographic notes so taken
10 and transcribed by me.

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14

A handwritten signature in cursive script that reads "EMILY DALE". The signature is written in black ink and is positioned above a solid horizontal line.

15

EMILY DALE, C.S.R.

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C.S.R. No. 084-004301

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