

1988

Utah v. Matsamas : Unknown

Utah Supreme Court

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R. Paul Van Dam; Attorney General; Barbara Bearnson; Assistant Attorney General; Attorneys for Respondents.

Elizabeth Holbrook; Debra K. Loy; Attorneys for Appellant.

Recommended Citation

Legal Brief, *Utah v. Matsamas*, No. 880048.00 (Utah Supreme Court, 1988).
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STATE OF UTAH

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DOCKET NO.

880048

R. PAUL VAN DAM - ATTORNEY GENERAL

236 STATE CAPITOL • SALT LAKE CITY, UTAH 84114 • TELEPHONE 801 538 1015 • FAX NO 801 538 1121

JOSEPH E. TESCH
CHIEF DEPUTY ATTORNEY GENERAL

May 11, 1990

FILED

MAY 11 1990

Clerk, Supreme Court, Utah

Mr. Geoffrey Butler,
Clerk of the Utah Supreme Court
332 State Capitol Building
Salt Lake City, Utah 84111

RE: State v. Matsamas, Case No. 880048
State's Response to Letter Pursuant to Rule 24(j),
Utah Rules of Appellate Procedure

Dear Mr. Butler:

I am writing in response to a letter pursuant to Rule 24(j), Utah Rules of Appellate Procedure, submitted by Elizabeth Holbrook, counsel for Mr. Matsamas, on May 8, 1990. This response is also pursuant to Rule 24(j), which provides for a response within seven days of a letter of supplemental authorities.

The State opposes the attempt of the defense to supplement the record pursuant to Rule 24(j) with the preliminary hearing transcript. The transcript is not "supplemental authority." The request is an effort to modify or supplement the record under Rule 11(h). As the briefing process has been completed and oral argument presented, an attempt to supplement the record, even if in proper form, is inappropriate as the State has not had an opportunity to review or rely upon the record.

The State intends to file a motion to preclude the request to supplement the record and to strike the order of the district court that the county bear the costs of preparation of the transcript (see attached documents).

The State objects to the partial paragraph on page two of the May 8 letter that begins "Additional discovery argument of note" These three sentences consist of argument, which is specifically not countenanced by Rule 24(j).

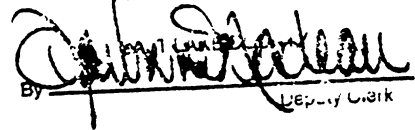
Sincerely,

BARBARA BEARNSON
Assistant Attorney General

BB:bks

ELIZABETH HOLBROOK, #5292
Attorney for Defendant/Appellant
SALT LAKE LEGAL DEFENDER ASSOCIATION
424 East 500 South, Suite 300
Salt Lake City, Utah 84111
Telephone: 532-5444

FILED DISTRICT COURT
Third Judicial District

MAY 10 1990

By Deputy Clerk

IN THE THIRD JUDICIAL DISTRICT COURT OF SALT LAKE COUNTY,
STATE OF UTAH

THE STATE OF UTAH,	:	SUPPLEMENTAL ORDER
Plaintiff/Respondent,	:	
v.	:	
TONY W. MATSAMAS,	:	District Ct. No. CR86-1103
Defendant/Appellant.	:	Circuit Ct. No. 860031078FS
	:	Supreme Ct. No. 880048
	:	JUDGE RAYMOND S. UNO

Upon motion of ELIZABETH HOLBROOK, attorney for the
above-named Defendant/Appellant, and good cause appearing;


THE COURT HEREBY ORDERS Salt Lake County, State of Utah to
bear the cost of preparation, certification and transmittal of a
duplicate transcript of the following hearing before the Honorable
Sheila McCleve, Fifth Circuit Court Judge, as requested in the
Supplemental Designation of Record heretofore filed in the
above-entitled case:

7/29/86 Preliminary hearing

Defense counsel is in possession of a certified copy of the preliminary hearing transcript which was filed with the Fifth Circuit Court on February 16, 1987. The original transcript cannot be located in the Third District Court files or the Supreme Court files. Defense counsel made an oral motion before the Utah Supreme Court on May 8, 1990 to supplement the record with this transcript.


DATED this 10th day of May, 1990.

BY THE COURT:



HONORABLE RAYMOND S. UNO
Third District Court

DELIVERED a copy of the foregoing to the Salt Lake County Attorney's Office, 231 East 400 South, Salt Lake City, Utah 84111; Associated Professional Reporters, 10 West Broadway, Suite 200, Salt Lake City, Utah 84101; the Utah Supreme Court, 332 State Capitol, Salt Lake City, Utah 84114; and the Attorney General's Office, 236 State Capitol, Salt Lake City, Utah 84114, this 10 day of May, 1990.



ELIZABETH HOLBROOK, #5292
Attorney for Defendant/Appellant
SALT LAKE LEGAL DEFENDER ASSOCIATION
424 East 500 South, Suite 300
Salt Lake City, Utah 84111
Telephone: 532-5444

IN THE THIRD JUDICIAL DISTRICT OF SALT LAKE COUNTY,
STATE OF UTAH

THE STATE OF UTAH,	:	SUPPLEMENTAL DESIGNATION OF
Plaintiff/Respondent,	:	RECORD
v.	:	
TONY W. MATSAMAS,	:	District Ct. No. CR86-1103
Defendant/Appellant.	:	Circuit Ct. No. 860031078FS
	:	Supreme Ct. No. 880048
	:	JUDGE RAYMOND S. UNO

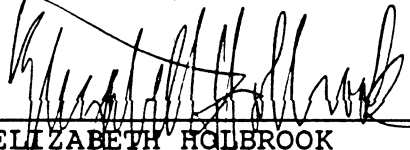
TO THE CLERK OF THE DISTRICT COURT OF SALT LAKE COUNTY:

You are hereby requested to prepare, certify and transmit to the Supreme Court of the State of Utah, with reference to the Notice of Appeal heretofore filed in this case, the transcript of the following hearing before the Honorable Sheila McCleve, Judge, Fifth Circuit Court:

7/29/86

Preliminary hearing

DATED this 10 day of May, 1990.



ELIZABETH HOLBROOK
Attorney for Defendant/Appellant

DELIVERED a copy of the foregoing to the Salt Lake County Attorney's Office, 231 East 400 South, Salt Lake City, Utah 84111; Associated Professional Reporters, 10 West Broadway, Suite 200, Salt Lake City, Utah 84101; the Utah Supreme Court, 332 State Capitol, Salt Lake City, Utah 84114; and the Attorney General's Office, 236 State Capitol, Salt Lake City, Utah 84114, this _____ day of May, 1990.

ELIZABETH HOLBROOK, #5292
Attorney for Defendant/Appellant
SALT LAKE LEGAL DEFENDER ASSOCIATION
424 East 500 South, Suite 300
Salt Lake City, Utah 84111
Telephone: 532-5444

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

THE STATE OF UTAH,	:	SUPPLEMENTAL CERTIFICATE
Plaintiff/Respondent,	:	
v.	:	
TONY W. MATSAMAS,	:	District Ct. No. CR86-1103
Defendant/Appellant.	:	Circuit Ct. No. 860031078FS
	:	Supreme Ct. No. 880048
	:	JUDGE RAYMOND S. UNO

TO THE CLERK OF THE DISTRICT COURT OF SALT LAKE COUNTY:

With reference to the Supplemental Designation of Record heretofore filed by the Defendant/Appellant in the above case, Defendant/Appellant hereby certifies that the transcript of the following hearing before the Honorable Sheila McCleve, Fifth Circuit Court Judge, has been ordered in the above-entitled matter:

7/29/86

Preliminary hearing

DATED this 10 day of May, 1990.



ELIZABETH HOLBROOK
Attorney for Defendant/Appellant

DELIVERED a copy of the foregoing to the Salt Lake County Attorney's Office, 231 East 400 South, Salt Lake City, Utah 84111; Associated Professional Reporters, 10 West Broadway, Suite 200, Salt Lake City, Utah 84101; the Utah Supreme Court, 332 State Capitol, Salt Lake City, Utah 84114; and the Attorney General's Office, 236 State Capitol, Salt Lake City, Utah 84114, this _____ day of May, 1990.

SALT LAKE LEGAL DEFENDER ASSOCIATION

424 EAST FIFTH SOUTH, SUITE 300
SALT LAKE CITY, UTAH 84111
532-5444

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Associated Professional Reporters
10 West Broadway, Suite 200
Salt Lake City, Utah 84101

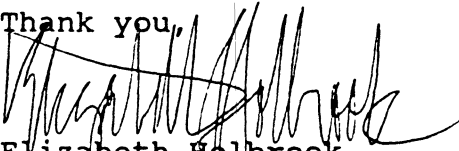
Dear Ms. Butt:

Re: State v. Matsamas
Case No. 880048

My secretary, Kay Lamoreaux, spoke with you about obtaining a duplicate copy of the preliminary hearing transcript in the above-entitled case. Enclosed is a copy of our transcript to aid you in the preparation of the duplicate document. Also enclosed is a copy of the court order and accompanying paperwork.

Please call if you have questions.

Thank you,



Elizabeth Holbrook
Appellate Attorney

EH:k11

Enclosures