

Ex. 25

1 CRIMINAL COURT/STATE OF NEW YORK COUNTY
2 CRIMINAL DIVISION PART AR3

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3 THE PEOPLE OF THE STATE OF NEW YORK : DOCKET #
4 : 91N013081
5 : ARRAIGNMENT
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AGAINST :

5 DOMINIC FRANZA,
6 Defendant. :

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8 100 Centre Street
9 New York, New York 10013
10 February 12, 1991

10 BEFORE:

11 HONORABLE JUDY DAVIS KLUGER,
12 Justice of the Supreme Court

13 APPEARANCES:

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15 For the People: ROBERT MORGENTHAU ESQ.,
16 New York County District Attorney
17 One Hogan Place
18 New York, New York 10013
19 BY: ALBERT LORENZO, ESQ.,
20 Assistant District Attorney

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For the Defense: HELLER & HELLER, ESQ.
105 East 73rd Street
New York, New York

Kimberly Brantley, CSR,
Senior Court Reporter

1 COURT OFFICER: Docket ending 801, Dominic
2 Franza. Step up. Defendant is charged with attempted
3 murder in the second degree, two counts; presworn
4 complaint Officer Ortiz.

5 Counselor, your appearance for the record,
6 please.

7 MR. COONY: William Coony, Coony, of Heller and
8 Heller, 105 East 73rd Street, New York, New York.

9 COURT OFFICER: Waive the reading but not the
10 rights thereunder?

11 MR. COONY: I do.

12 COURT OFFICER: Notices.

13 MR. LORENZO: People are serving felony Grand
14 Jury notice. People have no other notices, your Honor.
15 Your Honor, People will be asking for remand on this
16 defendant. This is a case in which the defendant, Your
17 Honor, attempted to kill his estranged wife and
18 mother-in-law by having another person shoo them -- shoot
19 them. Both the wife and her mother -- and his
20 mother-in-law were shot in the cheek with a .38 caliber
21 gun. The facts are as follows, your Honor....Apparently
22 the defendant and his wife broke -- split up in June of
23 1990, at which time the defendant told his wife that if
24 she left him he would have her and her family killed. On
25 July 17th of 1990, a delivery man came to the door of the

1 home of his wife and her mother. The delivery man claimed
2 he had flowers for the defendant's wife. The
3 mother-in-law opened the door and the delivery man started
4 firing at both her and the defendant's wife, who his wife
5 at the time was exiting a bathroom. The mother-in-law was
6 hit in the cheek and twice in the body. The wife was hit
7 in the cheek. As the wife was being carried to an
8 ambulance, she wrote that he was responsible for the
9 shooting. The delivery man dropped the box, which was a
10 dozen roses and a not indicating where to deliver those
11 flowers.

12 Your Honor, we also have information that the
13 defendant may have disputed with his wife to a point where
14 he is sending pipe bombs through the mail. For those
15 factors, we would ask for remand.

16 THE COURT: What's that last thing you said?

17 MR. LORENZO: Sending pipe bombs through the
18 mail.

19 THE COURT: You are saying she was receiving
20 pipe bombs and they are connected with this defendant?

21 MR. LORENZO: That's what my information is.

22 THE COURT: Was a comparison -- a handwriting
23 comparison done here? That's what I have --

24 MR. LORENZO: Yes, your Honor. There is a
25 handwriting analysis right now which is being done as we

1 speak.

2 THE COURT: What is the condition of both the
3 complainant and her mother, both complainants right now?
4 I know this occurred in July, but I want to know what --

5 MR. LORENZO: I understand. I do not have
6 anything as to their present condition.

7 THE COURT: Well, is there any way you can find
8 that out?

9 MR. LORENZO: I would if you give me a brief
10 second call. I can get the assistant.

11 THE COURT: I will give you a second call.

12 * * * * *

13 COURT OFFICER: This is a recall on docket
14 ending 081, Dominic Franza, step up.

15 THE COURT: All right. Do we have more
16 information?

17 MR. LORENZO: Yes, judge, I was able to get more
18 information, but we still do not know after talking to the
19 assistant exactly what kind of shape the two complaining
20 witnesses are in. We do know that the mother-in-law was
21 shot in the face. However, they're both alive at this
22 point. That's all we know. I do have some more
23 information, however.

24 THE COURT: You don't know if they are still in
25 the hospital?

1 MR. LORENZO: No, apparently not. We do not
2 know if there is any permanent damage.

3 THE COURT: Well, it happened in July, so I
4 would imagine -- maybe defense counsel knows a little bit.

5 MR. COONY: Yes, your Honor.

6 THE COURT: What else did you want to say?

7 MR. COONY: I just wanted to add that, as you
8 spoke about the pipe bomb before, apparently a pipe bomb
9 was placed at her brother-in-law's door shortly after the
10 incident. That was disputed by the NYPD. After that, a
11 pipe bomb was sent last week. Letters were sent to family
12 members of the complaining witnesses stating that he would
13 be sending a gift to the wife's grandmother in Puerto
14 Rico.

15 THE COURT: He, being who?

16 MR. LORENZO: The defendant would send a letter,
17 okay. They received this letter saying that a gift would
18 be sent. It was signed Julio Ortiz, okay. Just very
19 recently, what happened was, Puerto Rican police
20 intercepted a pipe bomb in Puerto Rico sent to that
21 address, and they were able to defuse it.

22 THE COURT: Now, what connects --

23 MR. LORENZO: I might -- it's very complicated.
24 That's why I'm trying to break it down. A search warrant
25 was just done on the defendant's home and documents were

1 found with the name of Julio Ortiz, and that handwriting
2 analysis is being done right now.

3 THE COURT: Right now he hasn't been charged
4 with it.

5 MR. LORENZO: Not right now at this point.

6 THE COURT: Go ahead, Mr. Coony.

7 MR. COONY: Your Honor, first I'd like to give
8 the DA notice that when they send the case to the Grand
9 Jury that we would like to request forty-eight hours prior
10 notification.

11 THE COURT: Is he interested in testifying? Are
12 you serving cross-Grand Jury notice?

13 MR. COONY: Defendant may elect at that that
14 whether he wishes to appear before the Grand Jury.

15 I would like to go through the issue of bail.
16 Your Honor, I'd like to make an application for t6he
17 defendant to be ROR'd. Your Honor, defendant is
18 thirty-eight years old. He is employed as an electrician
19 and he has been in that capacity for the past twelve
20 years. He also has been a life-long resident of New York
21 and has been at the current address for five years. Those
22 charges have been related to an incident which arose over
23 six months ago, and during that time, my client had
24 submitted to a police department lie detector test. The
25 results were favorable. He has also gone at his own

1 expense to two other lie detector services and also those
2 results were favorable. As to the handwriting, my client
3 has indicated that Detective Gerry Giorgio of the 24th
4 Precinct, he looked at his handwriting concerning the note
5 on the box, and his analysis of the handwriting was that
6 it was not my client's handwriting. There seems to be
7 some conflict as to the detectives here.

8 MR. LORENZO: Well, your Honor, there were two
9 handwriting analyses done on the two different letters
10 involved. So I don't know which your speaking of.

11 MR. COONY: The initial --

12 MR. LORENZO: The initial letter, right. There
13 was also one -- the other one which we're doing now was --

14 MR. COONY: I'm not aware of that letter. I'm
15 not talking about that letter. Also, your Honor, my
16 client has also been a victim of two shootings in the
17 recent past, in fact in this past January. Both shootings
18 were reported to the police. They found shells at both
19 sites, and your Honor, I believe this entire incident
20 since July of '90, my client has actually cooperated with
21 the police. He has gone down to the police department,
22 answered their questions and calls in fact before he was
23 arrested, it was a request for him to appear before the
24 local precinct to again give them more information, and he
25 fully cooperated. Your Honor, I believe that in light of

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1 my client's full cooperation with the police he should be
2 released upon his own recognizance. And at present there
3 is no indication that he poses a threat to his wife. My
4 client indicates that his wife is now currently working,
5 and the mother-in-law is residing at her home.

6 THE COURT: That's it, counselor? Anything
7 else?

8 MR. COONY: Your Honor, just that if there is to
9 be bail, certainly there should not be bail in this case,
10 as he has not presented a threat, and the evidence seems
11 to be very slight and at best is shaky. Thank you, your
12 Honor.

13 THE COURT: Bail is set in the amount of two
14 hundred and fifty thousand dollars cash or bond. February
15 15th is the 180.80 day for Part F.

16 COURT OFFICER: Sir, you have the right to
17 communicate free of charge by letter or telephone via the
18 Department of Corrections. Step to your right.

19 MR. COONY: Your Honor, may I have February
20 22nd, that's 180.80. He will be indicted on the 15th or
21 released if there is no indictment, so that's the reason
22 I'm putting it on on that day. If the case goes to Grand
23 Jury and gets an indictment by that day, or else he will
24 be released on his own recognizance.

25 MR. LORENZO: Your are serving cross-Grand Jury

1 notice.

2 THE COURT: He wishes to testify?

3 MR. COONY: Well, we have not decided yet.

4 THE COURT: What's the name of the DA?

5 MR. LORENZO: Steven Cash.

6 THE COURT: So you be in contact with Mr. Cash,
7 as well.

8 MR. LORENZO: So I will just file an order to
9 produce.

10 * * * * *

11 I, Kimberly M. Brantley, do hereby certify that
12 the foregoing transcript is true and accurate to the best
of my knowledge, skill and ability.

13 *Kimberly Brantley C.S.R.*
14 Kimberly M. Brantley, C.S.R.
Senior Court Reporter

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