

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

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State of Minnesota,

District Court File No.  
27-CR-11-16485

Plaintiff,

TRANSCRIPT OF

v.

PROCEEDINGS

Chrishaun Reed McDonald,

Defendant.

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The above-entitled matter came on for hearing before the Honorable Daniel C. Moreno, one of the judges of the above-named court, at the Hennepin County Government Center, Courtroom 1353, Minneapolis, Minnesota, on May 2, 2012, commencing at approximately 11:35 a.m.

A P P E A R A N C E S

DEBRA LUND and AMY SWEASY, Assistant Hennepin County Attorneys, appeared as counsel on behalf of Plaintiff.

HERSCH IZEK, Esq., and RICHARD LEROY, Esq., appeared as counsel on behalf of Defendant.

The Defendant was present.

Elizabeth Rome, Clerk.

Patricia Weinberg, Court Reporter.

1                   THE COURT: Ms. Lund, would you call Ms.  
2 McDonald's matter?

3                   MS. LUND: Yes, Your Honor. This is State  
4 of Minnesota v. Chrishaun McDonald, Court File No.  
5 CR-11-16485. My name is Debra Lund and, along with  
6 Amy Sweasy, we are the assistant county attorneys of  
7 record representing the State today. Also present  
8 is Ms. McDonald, and she is accompanied by counsel  
9 Hersch Izek and Rick Leroy.

10                  Your Honor, we're before the court today  
11 as we were continuing voir dire in a jury trial.  
12 It's my understanding that Ms. McDonald has accepted  
13 a negotiation that we would ask the Court to review  
14 and adopt; namely, she would plead guilty to an  
15 amended count of Manslaughter in the Second Degree.  
16 That is in violation of Minnesota Statute  
17 609.205(1). She would be committed to the  
18 Commissioner of Corrections for 41 months, which is  
19 the bottom of the box for the guideline sentence.

20                  I believe a plea petition has been  
21 completed and, with that, Your Honor, I would defer  
22 to the Court.

23                  THE COURT: Mr. Izek.

24                  MR. IZEK: That is our -- That is our  
25 understanding, Judge. Would you like us to be here

1 or to --

2 THE COURT: Why don't we have Ms. McDonald  
3 take the stand.

4 Before you do, Ms. McDonald, do you  
5 understand the offer the State has extended to you?

6 DEFENDANT McDONALD: Yes, I do.

7 THE COURT: And do you wish to accept it?

8 DEFENDANT McDONALD: Yes.

9 THE COURT: Why don't you have a seat in  
10 the witness stand.

11 (Defendant McDonald complies.)

12 THE COURT: Ms. McDonald, we're going to  
13 have you arraigned and sworn.

14 THE CLERK: To an amended Count 2 of  
15 Criminal Case File 27-CR-11-16485, Manslaughter in  
16 the Second Degree, occurring on or about June 5,  
17 2011, in Minneapolis, Hennepin County, Minnesota,  
18 how do you plead, guilty or not guilty?

19 DEFENDANT McDONALD: Guilty.

20

21 CHRISHAUN McDONALD,  
22 after having been first duly sworn, testifies and  
23 says on her oath as follows:

24

25 THE CLERK: Thank you.

1 THE COURT: Mr. Izek.

2 EXAMINATION

3 BY MR. IZEK:

4 Q Ms. McDonald, I'm showing you a Petition to Enter a  
5 Plea of Guilty. Do you recognize that?

6 A Yes.

7 Q And I went over it with you, along with Rick Leroy,  
8 another attorney from our office, this morning, is  
9 that correct?

10 A Yes.

11 Q And that is your signature on the bottom of each  
12 page with today's date, is that correct?

13 A Yes, it is.

14 Q And you understand that by pleading guilty, you're  
15 giving up your rights to a trial. At trial, you'd  
16 be presumed innocent. The burden would be on the  
17 county to prove your guilt beyond a reasonable  
18 doubt. I could bring witnesses for you,  
19 cross-examine witnesses by -- brought by the county.  
20 Those are your trial rights and you're giving up  
21 those rights by pleading guilty. Do you understand  
22 that?

23 A Yes.

24 Q Do you have any questions about any of that?

25 A No.

1 Q And when Mr. Leroy and myself talked to you, we went  
2 over this petition point by point, correct?

3 A Yes.

4 Q And we actually read it to you, correct?

5 A Yes.

6 Q Do you have any questions at all about this  
7 petition?

8 A No.

9 Q You mentioned that you, in fact, in the past have  
10 been a patient in a mental hospital, I believe for  
11 depression, is that correct?

12 A Yes, that and some other things, but, yes.

13 Q Okay. And that was back in 2008, I believe?

14 A Yes.

15 Q And what you are telling us here is you are of clear  
16 mind and are under no mental incapacity, correct?

17 A Yes.

18 Q And, at that time, back in approximately 2008, you,  
19 in fact, were treated by a psychiatrist, is that  
20 correct?

21 A Yes.

22 Q Also you mentioned that you are currently taking a  
23 medication, a hormone patch treatment, is that  
24 correct?

25 A Yes.

1 Q That's having no effect on your decision today?

2 A No.

3 Q Your hospitalization has had -- has no effect on  
4 your decision today?

5 A No.

6 Q And your treatment by a psychiatrist or mental  
7 health professional is not having any kind of impact  
8 on your decision today, is that correct?

9 A That is.

10 Q And, in fact, you mentioned that you are not ill at  
11 this time, correct?

12 A Correct.

13 Q Do you understand what you're pleading guilty to?

14 A Yes, I do.

15 Q And you understand what the anticipated consequences  
16 are?

17 A Yes.

18 Q And what the --

19 A That was discussed -- That was discussed between us,  
20 yes.

21 Q Right. You're pleading guilty to an amended charge  
22 of second degree manslaughter with an anticipated  
23 sentence of -- an anticipated -- executed sentence  
24 of 41 months, correct?

25 A Correct.

1 Q Do you have any questions about any of that?

2 A No.

3 MR. IZEK: Okay. Your Honor, I'd submit  
4 the petition at this point.

5 THE COURT: Ms. McDonald, do you  
6 understand what's happening here this morning?

7 DEFENDANT McDONALD: Yes.

8 THE COURT: Have you had enough time to  
9 consult with your attorneys?

10 DEFENDANT McDONALD: Considerably, yes.

11 THE COURT: All right. I know that there  
12 have been discussions about resolving this case  
13 throughout the process. We've had some more  
14 significant discussions this morning. I wanted to  
15 give you a fair opportunity to talk with both your  
16 lawyers. Do you think you've been given that  
17 opportunity?

18 DEFENDANT McDONALD: Yes.

19 THE COURT: And regarding the negotiation,  
20 do you understand all of the terms of the  
21 negotiation?

22 DEFENDANT McDONALD: Yes.

23 THE COURT: You understand exactly what's  
24 going to happen?

25 DEFENDANT McDONALD: Yes.

1                   THE COURT:   And the constitutional rights  
2                   that you and your attorney -- your attorney just  
3                   reviewed, do you understand those rights?

4                   DEFENDANT McDONALD:   Yes.

5                   THE COURT:   Do you have any questions of  
6                   me regarding the rights that you're giving up here  
7                   today?  Obviously, you're aware that we have been in  
8                   the process of selecting a jury and I think we had  
9                   selected ten people thus far, is that right?

10                  DEFENDANT McDONALD:   Yes.

11                  THE COURT:   And you understand that if you  
12                  wanted to, we could proceed with a trial?

13                  DEFENDANT McDONALD:   Yes.

14                  THE COURT:   And -- And you're making a --  
15                  a free and voluntary decision this morning here to  
16                  -- to plead guilty and accept responsibility, is  
17                  that right?

18                  DEFENDANT McDONALD:   Yes.

19                  THE COURT:   The medications that you and  
20                  your attorney just discussed or the prior treatment  
21                  history, do you have a clear mind today?

22                  DEFENDANT McDONALD:   Yes.

23                  THE COURT:   The -- The medications that  
24                  you're taking, do they help you comprehend things  
25                  better or have no effect whatsoever?



1                   DEFENDANT McDONALD: They have no effect  
2                   whatsoever.

3                   THE COURT: So they're not getting in the  
4                   way of your understanding what's happening here?

5                   DEFENDANT McDONALD: No.

6                   THE COURT: Okay. All right. Factual  
7                   basis.

8                   MR. IZEK: Thank you, Your Honor.

9           Q        (By Mr. Izek) Ms. McDonald, I want to take you back  
10           to June 5 of last year. You were living in your  
11           apartment in south Minneapolis in Minneapolis,  
12           Hennepin County, Minnesota, is that right?

13          A        Yes.

14          Q        And you were with your friends at that time,  
15                   correct?

16          A        Yes.

17          Q        And your friends included Larry Thomas, Latavia  
18                   Taylor, Roneal Harris, and Zavawn Smith, correct?

19          A        Yes.

20          Q        And all of you are African-American, correct?

21          A        Yes, we are.

22          Q        And as was clearly made known to -- to the jury as  
23                   we were attempting to pick a jury in this case, you  
24                   are a transgender individual, correct?

25          A        Yes.

- 1 Q You are transitioning from male to female, correct?
- 2 A Yes, I am.
- 3 Q And I believe Roneal Harris identifies himself as a  
4 transsexual individual, correct?
- 5 A Yes.
- 6 Q And Zavawn Smith is gay, correct?
- 7 A Yes.
- 8 Q And all of you were over at your apartment that  
9 night, correct?
- 10 A Yes, we were.
- 11 Q And that was at about midnight or so?
- 12 A Give or take, yeah.
- 13 Q Okay. Well, you started to leave the apartment at  
14 about midnight, correct?
- 15 A Yeah, around that time, yes.
- 16 Q And you were leaving the apartment to go to the  
17 nearby Cub Foods store, correct?
- 18 A Yeah.
- 19 Q And you were going to the Cub Foods store,  
20 obviously, to get food, correct?
- 21 A Yes.
- 22 Q And as you walked to the Cub Foods store, you passed  
23 the Schooner bar, is that correct?
- 24 A Yes.
- 25 Q And outside the Schooner bar were a number of

1 individuals, right?

2 A Yes, it was.

3 Q At least four, correct?

4 A Or more, yes.

5 Q Right. But at least four?

6 A Uh-huh.

7 Q And those included Dean Schmitz, correct?

8 A Yes.

9 Q His ex-girlfriend, Molly Flaherty, correct?

10 A Yes.

11 Q Her new boyfriend, David Crandell, correct?

12 A Yes.

13 Q And Dean Schmitz's new girlfriend, Jenny Thoreson,  
14 correct?

15 A Yes.

16 Q And all four of those individuals are Caucasian,  
17 correct?

18 A Yes, they are.

19 Q Okay. So you walked by the Schooner bar on your way  
20 to Cub, correct?

21 A Yes.

22 Q And, at some point, Molly Flaherty and Dean Schmitz,  
23 as well as perhaps others, started making some  
24 racist remarks and slurs, is that correct?

25 A Yes, they did.

1 Q And those remarks included calling you and others in  
2 your group niggers, correct?

3 A Yes.

4 Q And faggots, correct?

5 A Yes.

6 Q And you heard Dean Schmitz say something to the  
7 effect, Look at that boy dressed like a girl tucking  
8 her dick in, correct?

9 A Yes.

10 Q And when you heard those remarks, you were looking  
11 to walk away, correct?

12 A Yes.

13 Q But you weren't able to do that, right?

14 A No.

15 Q Because, at some point, Molly Flaherty yelled out  
16 something to the effect, I can take all three of you  
17 bitches on, and then, without any provocation,  
18 smashed a glass of alcohol she had in her -- in her  
19 hand against the side of your face, right?

20 A Yes.

21 Q And as a result, you were cut, right --

22 A Yes.

23 Q -- in the face? You suffered lacerations that  
24 required stitches, right?

25 A Yes.

1 Q And you were, in fact, treated over at the Hennepin  
2 County Medical Center later that -- that morning,  
3 right?

4 A Yes.

5 Q Well, after Molly Flaherty smashed that glass  
6 against your face, you ended up in a fight with Ms.  
7 Flaherty attempting to defend yourself, right?

8 A Yes.

9 Q And Dean Schmitz also entered that fight as well,  
10 correct?

11 A Yes.

12 Q And some of your friends entered into that fight as  
13 well attempting to defend you, correct?

14 A Yes.

15 Q Eventually, that fight broke up, correct?

16 A Yes.

17 Q And you attempted to -- to leave the scene in order  
18 to get treatment for your injuries and to just get  
19 out of there, right?

20 A Yes.

21 Q And, in fact, you got as far as the intersection  
22 across from the Schooner bar, right?

23 A Yes.

24 Q And, at some point, Dean Schmitz followed you and  
25 ran after you, right?

- 1 A Yes.
- 2 Q And you turned around to face him because, as you  
3 were leaving, obviously, your back was to the bar,  
4 correct?
- 5 A Yes.
- 6 Q And when you saw Dean Schmitz, you were afraid,  
7 right?
- 8 A Yes.
- 9 Q I mean, you thought that you were going to get  
10 beaten up again, correct?
- 11 A Yes.
- 12 Q And what you did was to pull out a pair of scissors  
13 from your purse and what you are admitting to the  
14 Court is you handled those scissors in such a way  
15 that you created an unreasonable risk to Mr.  
16 Schmitz, correct?
- 17 A Yes.
- 18 Q I mean, he didn't have any weapons in his hand,  
19 correct?
- 20 A Correct.
- 21 Q And, at that point, he hadn't -- Let me back up.  
22 He didn't have a -- any weapon in his hand,  
23 correct?
- 24 A Correct.
- 25 Q And you are telling the Court that you are giving up

1           your claim that at that point you legally acted in  
2           self-defense, correct?

3       A     Yes.

4       Q     And you are also giving up your claim legally that  
5           this was an accident, correct?

6       A     Yes.

7       Q     And you are not saying that -- Dean Schmitz  
8           eventually got stabbed, correct?

9       A     Yes.

10      Q     And you're not saying that it was somebody else who  
11           did it, correct?

12      A     Correct.

13                           MR. IZEK: I have nothing further, Judge.

14                           THE COURT: Ms. Lund, Ms. Sweasy, any  
15           additional questions?

16   EXAMINATION

17      BY MS. SWEASY:

18      Q     Ms. McDonald, I'm not sure if we covered this, but,  
19           obviously, Mr. Schmitz died as a result of that stab  
20           wound?

21      A     Yes.

22      Q     Okay. And prior to those -- to that night on June  
23           5, it's true that you had never met or had no  
24           acquaintance with Mr. Schmitz, Ms. Flaherty, Mr.  
25           Crandell, or Jenny Thoreson?

1 A That is correct.

2 Q So no prior history there.

3 A Right.

4 MS. SWEASY: Okay. If we could have just  
5 one second.

6 THE COURT: Yes.

7 (At this point, Ms. Sweasy and  
8 Ms. Lund spoke privately.)

9 MS. SWEASY: I don't -- I don't think we  
10 have any other questions.

11 THE COURT: Ms. McDonald, at the time that  
12 you confronted Mr. Schmitz in the intersection, you  
13 knew he didn't have any weapons in his hand, is that  
14 right?

15 DEFENDANT McDONALD: From -- From what I  
16 saw, it appeared that he didn't have any weapon.

17 THE COURT REPORTER: I'm sorry. I didn't  
18 understand what you said.

19 DEFENDANT McDONALD: When I saw him, it  
20 didn't seem that he had anything in his hand. I  
21 wouldn't know for sure if he did or didn't.

22 THE COURT: And when you took the scissors  
23 from -- was it your purse?

24 DEFENDANT McDONALD: Yes.

25 THE COURT: From your purse, you



1 understand that you were introducing a weapon into  
2 the conflict?

3 DEFENDANT McDONALD: Yes.

4 THE COURT: And you understand that when  
5 you introduce a weapon into a conflict where the  
6 other person is not armed, there's always the  
7 potential that someone could die, someone could  
8 suffer great bodily harm, is that right?

9 DEFENDANT McDONALD: Yes.

10 THE COURT: And that the law requires that  
11 you have a duty to handle that weapon in such a way  
12 as to avoid that, anyone being harmed?

13 DEFENDANT McDONALD: Yes.

14 THE COURT: And what happened is that Mr.  
15 Schmitz ended up with those scissors in his chest,  
16 is that right?

17 DEFENDANT McDONALD: I assume so, yes.

18 THE COURT: And that's when the two of you  
19 came together?

20 DEFENDANT McDONALD: No, that was after.

21 THE COURT: What was after? How did the  
22 scissors end up in his chest?

23 DEFENDANT McDONALD: From him pulling me  
24 towards him.

25 THE COURT: And the scissors were in your

1 hand at that time -- at that point?

2 DEFENDANT McDONALD: Yes, they were.

3 THE COURT: All right. Any additional  
4 questions from either party?

5 MR. IZEK: No.

6 MS. LUND: Nothing from the State, Your  
7 Honor.

8 THE COURT: You may step down, Ms.  
9 McDonald. I'm going to order that a pre-sentence  
10 investigation be prepared, which practically means  
11 that you're going to meet with a probation officer  
12 and the probation officer is going to prepare a  
13 report, which we will all review. We will return in  
14 about four weeks, probably four to five weeks, and  
15 at that time, we'll proceed to sentencing.

16 Do we have a date selected?

17 MS. LUND: Not yet, Your Honor.

18 THE CLERK: June 4 at 9.

19 MS. SWEASY: I can't do 9. I could do the  
20 afternoon that day.

21 THE CLERK: 1:30.

22 MS. LUND: That's fine.

23 MR. IZEK: What date are we talking about?

24 THE CLERK: June 4. It's a Monday.

25 MR. IZEK: Yeah.

1 THE CLERK: 1:30.

2 THE COURT: All right. The matter is  
3 continued to June 4 at 1:30 for sentencing. Ms.  
4 McDonald will remain in custody until that date.

5 MS. SWEASY: Your Honor, will the court  
6 clerk rescind or quash the arrest warrants -- two  
7 people are in custody now -- for the witnesses on  
8 the case?

9 THE COURT: We will.

10 MS. SWEASY: Do you have -- Do you know --  
11 Do you have all that information?

12 THE COURT: I know Ms. Flaherty is in  
13 custody.

14 MS. SWEASY: Ms. Flaherty. Zavawn Smith,  
15 Z-A-V-A-W-N, Smith is in custody as of this morning.  
16 The third is an -- an outstanding warrant for  
17 Jermaine with a J, Gagnon, G-A-G-N-O-N.

18 THE COURT: We'll recall the warrant.

19 MS. SWEASY: Thank you.

20 MR. IZEK: If I -- If I can have a moment,  
21 Judge.

22 THE COURT: Sure.

23 (At this point, Mr. Izek spoke  
24 privately with Ms. McDonald.)

25 MR. IZEK: Nothing further.

1                   THE COURT: All right. That concludes the  
2 appearance.

3                   Ms. McDonald, you're excused.

4  
5                   (WHEREUPON, the foregoing  
6                   proceedings were concluded.)

7                   \*       \*       \*

8  
9  
10  
11                   REPORTER'S CERTIFICATE

12                   I, Patricia Weinberg, an official court  
13 reporter for the Fourth Judicial District Court,  
14 County of Hennepin, State of Minnesota, hereby  
15 certify that the foregoing is a complete and  
16 accurate transcript of the stenotype notes taken by  
17 me on the hearing of the cause stated herein.

18  
19                   Dated: May 9, 2012.

20  
21  
22                   -----  
23 Patricia Weinberg, RPR  
24 Official Court Reporter  
25