

1 IN THE DISTRICT COURT IN AND FOR MURRAY COUNTY

2 STATE OF OKLAHOMA

3 STATE OF OKLAHOMA,)

4 Plaintiff,)

5 VS.) Case No. CF-16-159

6 BENJAMIN PETTY,)

7 Defendant.)

8 **FILED**
9 MURRAY COUNTY, OKLAHOMA
10 FEB 01 2018
11 CHRISTIE PITTMAN, Court Clerk
By CA Deputy

12 TRANSCRIPT OF PLEA

13 HEARD BEFORE THE HONORABLE WALLACE COPPEDGE

14 DISTRICT JUDGE

15 MURRAY COUNTY COURTHOUSE

16 SULPHUR, OKLAHOMA

17 JANUARY 19, 2018

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21 ORIGINAL

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25 REPORTED BY: Lacy Ovel, CSR No. 1989, Sulphur, OK

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I N D E X

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FOR THE STATE:

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1 P R O C E E D I N G S

2 January 19, 2018

3 THE COURT: We're here in the matter of the
4 State of Oklahoma versus Benjamin Lawrence Petty, in case
5 No. CF-17-159, District Court of Murray County, State of
6 Oklahoma.

7 Mr. Petty, would you raise your right hand.

8 THE WITNESS: (Witness complies.)

9 THE COURT: Do you promise and swear the
10 testimony you're about to give will be the truth, the
11 whole truth, and nothing but the truth, so help you God?

12 THE WITNESS: I do.

13 BENJAMIN PETTY,

14 called as a witness on behalf of the State, after having
15 been first duly sworn, testified as follows:

16 EXAMINATION

17 BY THE COURT:

18 Q. I have in front of me a plea of guilty form. Is
19 that what you went over with your lawyer?

20 A. Yes, sir.

21 Q. Did you answer all those questions truthfully?

22 A. Yes, sir.

23 Q. Are you thinking clearly today?

24 A. Yes, sir.

25 Q. Have you ever been treated for mental health issues?

1 A. No, sir.

2 Q. Do you understand what you're charged with as set
3 out in paragraph 12; forcible sodomy, rape in the first
4 degree, and rape by instrumentation?

5 A. Yes, sir.

6 Q. Do you understand those carry sentences of --
7 forcible sodomy, up to 20 years, and the rape in the first
8 degree and rape by instrumentation carries from 5 years to
9 life in prison?

10 A. Yes, sir.

11 Q. Paragraph 17 lists all your statutory and
12 constitutional rights, including your right to a jury
13 trial. Do you understand each of those rights?

14 A. Yes, sir.

15 Q. Do you understand when you enter a plea of guilty
16 you give up all of those rights?

17 A. Yes, sir.

18 Q. That includes your right to a jury trial. Do you
19 understand that?

20 A. Yes, sir.

21 Q. And your attorney's name is what?

22 A. Lee Berlin.

23 Q. And have you had a chance to sit down with him on
24 multiple occasions and talk about this case?

25 A. Yes, sir.

1 Q. And he's explained to you your rights, as well as
2 myself; is that correct?

3 A. Yes, sir.

4 Q. Knowing all those things, you think a plea in this
5 case is the best thing for you?

6 A. Yes, sir.

7 Q. There are victims in this case; is that correct?

8 A. Yes, sir.

9 MR. BERLIN: He's asking you --

10 THE WITNESS: Yes, sir.

11 Q (BY THE COURT) Okay. And you understand that they
12 also have a right, if they choose to, to be heard as to
13 what the appropriate sentence is, by virtue of a victim's
14 impact statement, all those kind of things?

15 A. Yes, sir.

16 Q. It says you've reached a plea agreement with the
17 State; is that correct?

18 A. Yes, sir.

19 Q. That is, as to Counts 1, 2, and 3 of the
20 information, you'd receive 15 years in the Department of
21 Corrections, and all of that would suspended.

22 A. Yes, sir.

23 Q. And you'd be ordered to pay court costs.

24 A. Yes, sir.

25 Q. You'd be supervised in -- what is your home county?

1 A. Oklahoma.

2 Q. You'd be supervised in Oklahoma County by the
3 Department of Corrections. You'd be on a 24-month ankle
4 monitor by DOC. All the counts would run concurrently.
5 And you'd be subject to a registration with the -- as a
6 sex offender, and you'd be required to take sexual
7 offender treatment. Is that your understanding of the
8 plea agreement?

9 A. Yes, sir.

10 Q. Do you understand I'm not bound by that agreement,
11 and if I don't accept the plea agreement, I would let you
12 withdraw your plea of guilty, and you'd still retain your
13 right to a jury trial?

14 A. Yes, sir.

15 Q. Do you have prior felony convictions?

16 A. No, sir.

17 Q. What's your plea to Count 1, forcible sodomy?

18 A. Guilty.

19 Q. What's your plea to Count 2, rape in the first
20 degree?

21 A. Guilty.

22 Q. What's your plea to Count 3, rape by
23 instrumentation?

24 A. Guilty.

25 MR. BERLIN: It's at the very end, Judge.

1 Q (BY THE COURT) On Addendum C, which is your
2 statement as to what you did, it says on or about June
3 17th, 2016, you engaged in vaginal and anal intercourse
4 and placed your finger in the vagina of E.B., a
5 13-year-old female. At the time of the incident, you were
6 over the age of 18, 35 years old. And all of these events
7 took place in Murray County, Oklahoma; is that correct?

8 A. Yes, sir.

9 MR. BERLIN: And those are his initials down
10 there, Judge.

11 THE COURT: All right.

12 Q (BY THE COURT) And I put Oklahoma, is the only thing
13 I've changed on that, and I initialed that as well.

14 Is anybody forcing you, abusing you, or has promised
15 you anything, other than this plea, to have you enter your
16 plea?

17 A. No, sir.

18 Q. Is this of your own free will, without any coercion
19 or compulsion of any kind?

20 A. Yes, sir.

21 Q. You have a right to a presentence investigation. Do
22 you want that, or do you want to give up that right?

23 A. Give it up. I give up that right, sir.

24 Q. Thank you. Is this your signature that appears on
25 this form (indicating)?

1 A. I can't see that far, sir. Yes, sir. That is my
2 signature.

3 Q. Are any of the victims or the parents or caretakers
4 here that want to be heard?

5 MR. PYLE: They're not, Judge, but they have
6 agreed with this plea recommendation.

7 THE COURT: Okay.

8 Before we came in, I believe the gentleman to my
9 right indicated you represented the victims in this case.

10 MR. ROBERTSON: I represent the victims, Your
11 Honor.

12 THE COURT: What is your name?

13 MR. ROBERTSON: My name is Bruce Robertson. I'm
14 with the law firm of Ryan Whaley.

15 THE COURT: Do you represent E.B.?

16 MR. ROBERTSON: Yes.

17 THE COURT: And she is still under age; is that
18 correct?

19 MR. ROBERTSON: Yes, Your Honor. I believe
20 she's 15 now. She was 13 at the time.

21 THE COURT: And does she have parents,
22 guardians, who --

23 MR. ROBERTSON: She does.

24 THE COURT: Have you had contact with them?

25 MR. ROBERTSON: I have, Your Honor.

1 THE COURT: Do you think this is -- is this
2 something that they know about, first of all?

3 MR. ROBERTSON: They do know about this, Your
4 Honor.

5 THE COURT: And are they comfortable with the
6 plea?

7 MR. ROBERTSON: Well, they were comfortable with
8 the plea based upon the assertions that have been made
9 that Mr. Petty would, in fact, plead guilty to the three
10 felonies and admit that he had committed --

11 THE COURT: Well, they are or they're not. Are
12 they?

13 MR. ROBERTSON: I'm sorry?

14 THE COURT: They either are or are not.

15 MR. ROBERTSON: Yes, Your Honor.

16 THE COURT: They are?

17 MR. ROBERTSON: Yes.

18 THE COURT: Okay. Do you have anything else you
19 want me to know before I announce my sentence?

20 MR. ROBERTSON: No, Your Honor.

21 THE COURT: Okay. Do you feel like you've had
22 an opportunity to be heard sufficiently?

23 MR. ROBERTSON: I do, Your Honor.

24 THE COURT: All right. The Court makes those
25 findings as set out in paragraph 37, finds that the

1 defendant was sworn and responded to questions under oath.
2 The defendant's pleas of guilty are knowingly and
3 voluntarily entered and accepted by the Court. He is
4 competent for purposes of this hearing. A factual basis
5 exists for the plea. He is guilty as charged after no
6 other prior felony convictions.

7 The Court will follow the recommendation of the
8 State, having considered the statement of Counsel for the
9 victims in the DA's statement, that the victim in this
10 case, by and through her parents and her representation,
11 are satisfied.

12 As to Counts 1, 2, and 3, you're sentenced to 15
13 years in the Department of Corrections with all time
14 suspended under the terms and conditions of the plea
15 agreement that's been announced. What that means -- I
16 think this is one of those cases -- as of November 1,
17 there's going to be something new in the plea form.

18 CLERK PITTMAN: Yes.

19 THE COURT: Do we have that?

20 CLERK PITTMAN: Yes. Classifying on the
21 registration as a sex offender.

22 THE COURT: Right. I've got to classify that.

23 MR. ROBERTSON: It would be the worst one you
24 can get, I'm sure.

25 MR. BERLIN: It's a level 3, Your Honor. And it

1 would actually be, Judge, only if you were -- and in this
2 case, you need to. Since he's not doing any DOC time,
3 there's not a committee that will be reviewing him. So he
4 understands that it's a level 3 aggravated offense,
5 lifetime registration.

6 Q. (BY THE COURT) Do you understand that if you do not
7 participate in good faith with the sexual counseling, that
8 would be a violation of your probation?

9 A. Yes, sir.

10 Q. Do you understand that under the rules and
11 conditions of probation with a sex offender, failure to
12 register would be a violation of your probation?

13 A. Yes, sir.

14 Q. Failure to watch and -- watching child pornography,
15 doing anything along those lines is a violation of your
16 probation.

17 A. Yes, sir.

18 Q. The only reason that I would -- am accepting this
19 plea is I've had assurances that the victim and the family
20 are in agreement with it. And there's a lot of good
21 reasons why they would do that.

22 The pain and discomfort of going in front of a jury
23 and having to explain what you did to a little girl is one
24 of the reasons that I know would play into the part of
25 doing something like this. But do you understand that if

1 you violate any of the terms and conditions of your
2 probation, even though your probation is running
3 concurrently, I don't have to run those concurrently?

4 A. Yes, sir.

5 Q. I could run them consecutive. Do you understand
6 that?

7 A. Yes, sir.

8 Q. You're going to owe fines and costs of \$2,151.50.
9 How can you pay that?

10 MR. BERLIN: He's going to pay that in full
11 today, Judge.

12 THE COURT: Thank you.

13 MR. BERLIN: \$2,151 and --

14 THE COURT: 50 cents.

15 MR. BERLIN: 50 cents. Thanks, Judge.

16 THE COURT: Yes.

17 Q (BY THE COURT) In addition to that, you're going to
18 be ordered to pay DOC supervision. Do you understand
19 that? I think that's \$40 a month.

20 A. Yes, sir.

21 Q. While you're in town, I would want you to go talk to
22 them. Because within a certain time -- I think it's
23 within 72 hours, but I'm not really for sure on that --
24 you would have to -- in order to get it transferred to
25 Oklahoma County, you need to go there quickly. So while

1 you're here, I would encourage you to do that.

2 A. Yes, sir.

3 Q. I'll require that you report to the local DOC within
4 72 hours of today's date.

5 A. I will take care of that today.

6 Q. Thank you.

7 You're ineligible to register to vote, pursuant to
8 Section 4-101 of Title 26. Do you understand that?

9 A. Yes, sir.

10 Q. You have rights to appeal, and that's in a notice of
11 right to appeal form. It's in front of me. Do you
12 remember going over that with your lawyer?

13 A. Yes, sir.

14 Q. Is that your signature on that form (indicating)?

15 A. Yes, sir.

16 Q. Okay. Do you understand your rights to appeal?

17 A. Yes, sir.

18 Q. And I'm going to sign these rules and conditions of
19 supervised probation, but I think there are sexual
20 offender rules and conditions of probation that you may be
21 subject to. But we've already indicated to you, and you
22 indicated you understand, you're a level 3 lifetime
23 registration aggravated sexual crime candidate. Do you
24 understand that?

25 A. Yes, sir.

1 Q. It's also an order of mine that if the DOC -- or if
2 there are other paperwork that needs to be signed that I'm
3 not aware of right now, one of the conditions is that you
4 would come back and you would sign that if I require you
5 to. And I would certainly notify your lawyer if that's
6 necessary since you did have representation. Do you
7 understand that?

8 A. Yes, sir.

9 Q. If, at that time, you didn't have the ability to pay
10 for a lawyer, I would appoint you an attorney for purposes
11 of that proceeding. The only reason I'm saying that is,
12 the law changed in November as to these things, and I'm
13 not sure I have -- I was actually looking at it
14 yesterday -- and I'm not sure I've got all the right
15 paperwork.

16 So the guts of this is correct. You've admitted
17 what you've done. I've sentenced you to what you've
18 agreed to and what the State has recommended, but the
19 other stuff is a matter of paperwork. If I don't get the
20 paperwork right today, I'll get the paperwork right later.
21 Okay?

22 A. Yes, sir.

23 Q. All right.

24 THE COURT: Anything else from the State?

25 MR. PYLE: No, Your Honor.

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THE COURT: Defendant or Counsel?

MR. BERLIN: No, Judge.

THE COURT: Thank you.

(End of proceedings)

C E R T I F I C A T E

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STATE OF OKLAHOMA)
) SS.
COUNTY OF MURRAY)

I, LACY OVEL, a Certified Shorthand Reporter within the State of Oklahoma, CSR No. 1989, do hereby certify that the foregoing transcript is a true and accurate transcription of the proceedings had in Case No. CF-16-159 on the 19th day of January, 2018, before the Honorable Judge Wallace Coppedge, District Judge.

WITNESS MY HAND AND SEAL this the 1st day of February, 2018.



LACY OVEL, CSR
Associate Court Reporter
CSR# 1989



Lacy Ovel
State of Oklahoma
Certified Shorthand Reporter
CSR #1989

My Certificate Expires 12/31/18