

**Circuit Court of Thompson County, State of Marshall
Criminal Division**

THE STATE OF MARSHALL)
) No. 06 CR 07324
)
V.) The Honorable L. Northcutt, Presiding
)
Donnie Thompson)

Transcript of Proceedings

REPORT OF PROCEEDINGS had at the hearing of the above-entitled cause, before the Honorable L. Northcutt, this the 22nd day of December, 2007.

APPEARANCES:

JOHN DAVIES,
Assistant State's Attorney of Thompson County

GEMMA DIXON
Attorney for Donnie Thompson

CLERK: State v. Donnie Thompson.

DAVIES: John Davies, Assistant State's Attorney, Good morning, Your Honor.

DIXON: Gemma Dixon for Donnie Thompson, The defendant is in court, approaching the bench. Good morning, Your Honor.

THE COURT: Good morning. Nice to see you, Counsel. Okay, I understand that the State has a motion.

DAVIES: Yes. Pursuant to the plea agreement entered into with defense counsel, and in accordance with the approval given by this Court pursuant to Marshall Supreme Court Rule 402, the State of Marshall amends the Indictment against the Defendant, in case number 06 CR 07324, whereby the Defendant is charged with felony retail theft, and substitutes the charge to misdemeanor retail theft as a lesser included offense. The State is reducing the charge to

misdemeanor retail theft. Specifically, the charge now states that quote, on July 4, 2006, the Defendant unlawfully, and without justification or authority, took possession and control of property valued less than \$150.00 from a retail establishment, Burnes Pharmacy, located at 500 North Harlem, Maple Park, Thompson County, State of Marshall, end quote.

THE COURT: Ms. Dixon, is there any objection?

DIXON: No.

DAVIES: Defendant waives the formal requisites of re-swearing and re-execution?

THE COURT: Not necessary, Counsel.

DIXON: Yes.

THE COURT: Defendant, Donnie Thompson, please step forward.

THOMPSON: Yes, Sir, Your Honor.

THE COURT: Donnie, What is your education level?

THOMPSON: I graduated from high school, and have some college credits.

THE COURT: Do you understand the charge against you?

THOMPSON: Yes, Sir.

THE COURT: Do you understand that you have a right to a trial? And that included in that right are other rights, such as the right cross exam witnesses, the right to present evidence, the right to be proven guilty beyond a reasonable doubt; and that if you went to trial you could choose to testify or not to testify; and that during a trial you would be presumed innocent throughout the trial; and that you would also have a right to a jury trial, which means that 12 people from the community would sit in judgment, and all 12 would have to find you guilty. Do you understand that you have all of those rights?

THOMSPON: Yes, Sir.

THE COURT: Ms. Dixon, did you explain all of the defendant's rights to the defendant?

DIXON: Yes, Your Honor. And the defendant has signed Form 55, indicating that defendant understands all those rights. Correct? This is your signature?

THOMPSON: Yes.

THE COURT: Good. And you are satisfied with the representation you have received from Ms. Dixon.

THOMPSON: Oh, yes. Absolutely.

THE COURT: Now, today, you are giving up all of those rights, and you are entering a plea of guilty. Is that correct?

THOMPSON: Yes, Sir.

THE COURT: Okay. Mr. Davies, what is the factual basis for the plea?

DAVIES: On or about July 4, 2006, the Defendant Donnie Thompson entered a retail establishment, Burnes Pharmacy, 500 N. Harlem, in Maple Park, Thompson County, State of Marshall, and unlawfully and without justification and with intent to deprive the owner permanently of the use or benefit of said property, took possession of an Olympus camera, the property of Burnes Pharmacy, a retail establishment, without the permission of Burnes Pharmacy, and then exited Burnes Pharmacy with said camera without paying for it.

THE COURT: Does the defendant accept the factual basis, and understand that that is what is being pled to?

THOMPSON: No, judge. That is not what happened. I was still in the store. I mean I know everybody wants me to say I am guilty, but I was going to pay. I was still . . .

THE COURT: Stop. Just stop. I thought the parties, that you all had reached an agreement pursuant to Rule 402. Counsel, Ms. Dixon, talk to your client. Either we have a plea agreement, or we are setting this down for trial on the original felony charge. Court is in recess for five minutes.

[After a 15 minute recess, court resumed.]

THE COURT: All right, what are we doing?

DIXON: Judge, the defendant was just a little confused. We are going forward with the change of plea, pursuant to the agreed sentence of 6 months' misdemeanor probation.

THE COURT: Then let's get this right. Defendant, step forward.

THOMPSON: Yes, Your Honor.

THE COURT: Okay, just before recess, you heard the State's Attorney here recite the factual basis for your plea. Do you agree that that is the conduct for which you are pleading guilty.

THOMPSON: I guess.

THE COURT: No, that is not good enough. Are you pleading guilty to the conduct that the state described? Yes or no?

THOMPSON: Yes. Yes, Sir.

THE COURT: All right, pursuant to the agreement between the State and the defendant, I will honor that agreement. Even though I can sentence the Defendant anywhere within the range of misdemeanor sentencing, which includes up to 364 days in jail, I will honor the agreement between the State and the Defendant and sentence the Defendant to six months of non-reporting misdemeanor probation. Counsel, please make sure that your client goes directly to probation to provide all necessary contact information Defendant is also to provide the DNA sample and urine sample. Thank you. Defendant, you can withdraw your plea or you can appeal, but you must do so within thirty days. And Happy Holidays.

Thereupon the Court adjourned.

Mort Snerd, Court Reporter