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SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN FRANCISCO

BEFORE THE HONORABLE JUDGE **CHRISTINE VAN AKEN**, PRESIDING

DEPARTMENT NUMBER 11

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COPY

PEOPLE OF THE STATE OF CALIFORNIA,)	COURT NO.: 19012565
)	
Plaintiff,)	
)	
vs.)	
)	
AUSTIN JAMES VINCENT,)	ARRAIGNMENT
)	
Defendant.)	

Reporter's Transcript of Proceedings

TUESDAY, AUGUST 13, 2019

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APPEARANCES:

FOR THE PEOPLE:

EDWARD CHANG, Assistant District Attorney
OFFICE OF THE DISTRICT ATTORNEY
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SAN FRANCISCO, CA 94103

FOR THE DEFENDANT:

SALEEM BELBAHRI, Deputy Public Defender
OFFICE OF THE PUBLIC DEFENDER
555 SEVENTH STREET
SAN FRANCISCO, CA 94103

Reported By: Linda S. Forster, CSR No. 13286

1 **PROCEEDINGS FOR TUESDAY, AUGUST 13, 2019**

2 **2:31 P.M.**

3 **---oOo---**

4 **THE COURT:** Let's call Line 606, Mr. Austin Vincent's
5 matter.

6 Can I get appearances?

7 **MR. CHANG:** Edward Chang for the People.

8 **MR. BELBAHRI:** Saleem Belbahri with Mr. Vincent who is
9 present in court in custody. Requesting appointment on his
10 behalf.

11 **THE COURT:** Is Austin Vincent your true name, sir?

12 **THE DEFENDANT:** Yes, ma'am.

13 **THE COURT:** Can you afford to hire an attorney to
14 represent you?

15 **THE DEFENDANT:** No.

16 **THE COURT:** I find you eligible for appointed counsel.

17 I do want you to be aware that at the end of the case,
18 there may be a determination made about whether you have the
19 ability to pay for your own attorney's cost, and you may be
20 required to pay if you have the resources.

21 Do you understand that?

22 **THE DEFENDANT:** Absolutely understood.

23 **THE COURT:** I will appoint the Public Defender's Office
24 to represent you.

25 Mr. Belbahri, do you accept the appointment?

26 **MR. BELBAHRI:** I do, Your Honor.

27 Waive instruction on arraignment. Enter pleas of not
28 guilty. Reserve the right to demur. Make an ongoing motion

1 for discovery.

2 I would ask to be heard as to Mr. Vincent's custodial
3 status.

4 **THE COURT:** So I will hear from you, Mr. Belbahri. I
5 received my PSAs late today. I have reviewed the PSA, but I
6 wanted to take a quick look at the police report, and then
7 I'll give you my full attention.

8 **MR. BELBAHRI:** Sure.

9 (Off the record.)

10 **THE COURT:** I have read the police report.
11 I'm ready to hear your argument.

12 **MR. BELBAHRI:** Thank you, Your Honor.

13 Your Honor, I would ask the Court to consider releasing
14 Mr. Vincent with a CASC referral in this case. I think that
15 would be appropriate given some of the circumstances.

16 I don't believe Mr. Vincent is a flight risk nor a
17 threat to public safety. Mr. Vincent has no prior failures
18 to appear on his record. It's reflected by the PSA.

19 He's been in the Bay Area now for three years. I do
20 have a contact number for his family member, who I will be
21 able to contact Mr. Vincent through, as well as a mailing
22 address of his family member.

23 Mr. Vincent, I don't believe, is a threat to public
24 safety. I do understand the Court's likely concern with
25 this type of incident. I think that this is a case that,
26 with a protective order in place, would be able to alleviate
27 any of the Court's concerns of public safety.

28 Mr. Vincent has no prior convictions involving

1 violence. All of his convictions are minor and misdemeanor
2 convictions from New York mostly involving larceny, petty
3 theft.

4 I think it's clear from the facts of this case that
5 Mr. Vincent was at a point of crisis and was at the front
6 door of someone's apartment building and, according to the
7 police report, trying to enter that apartment building.

8 The alleged victim in this case didn't note any --
9 Mr. Vincent having any type of weapons. There were no --
10 there weren't specific threats made by Mr. Vincent.
11 Mr. Vincent was telling this person that there's a robot
12 inside, that he was basically trying to help save this
13 person.

14 So I think a CASC referral would be able to connect
15 Mr. Vincent with some of the services that he obviously
16 needs. There's nothing on his record that indicates any
17 type of similar behavior of any sort.

18 **THE COURT:** I mean, the police report also indicates
19 that Mr. Vincent, you know, told her -- told the victim to
20 give her -- him her car keys, give me your phone, give me
21 your wallet, give me anything you have. I don't think it
22 was just a -- the allegation at least is not that it was
23 simply a moment of crisis but also a robbery.

24 **MR. BELBAHRI:** I read those facts, Your Honor, but also
25 the complaining witness does say that he was shouting --
26 excuse me -- the security guard says that Mr. Vincent was
27 shouting at the complaining witness in this case. He called
28 the desk attendant a robot. He approached the door and

1 tried to prevent the complaining witness from entering the
2 building. He told her he was trying to save her.

3 So I think it's pretty clear that we do have someone
4 that was at a point of crisis and needs some assistance. I
5 don't think that keeping him in custody until the
6 preliminary hearing would help him get the assistance that
7 he obviously needs.

8 **THE COURT:** What are the People requesting?

9 **MR. CHANG:** Your Honor, along the lines of the Court's
10 concerns, we are concerned about the public safety aspect.

11 Looking at the rap, counsel is correct, most of the
12 things are from New York and are petty larceny. There is
13 one misdemeanor, menacing a weapon.

14 So we are going to consider that in addition to the
15 rap.

16 **THE COURT:** How old is that one?

17 **MR. CHANG:** That one, I believe, is 2014.

18 To the defendant's credit, there haven't been
19 anything -- any other convictions since 2014 until now, but
20 not to his credit are the facts of the case.

21 I'm not discounting the fact that defendant might be --
22 might have been at a point of crisis, but there is enough
23 evidence to show that he's a public safety risk.

24 So we agree with the PSA.

25 **MR. BELBAHRI:** Your Honor, would it be possible to have
26 Mr. Vincent fitted with a GPS monitor to stay away from this
27 location?

28 **THE COURT:** Yeah, I want to ask you about his ability

1 to -- I know sometimes when folks are in an unstable housing
2 situation, it can be very difficult to keep a monitor
3 charged, and then they're sort of escalating consequences
4 for failing to do that because then folks end up back in
5 custody, and we have to consider what to do.

6 Have you talked with him about his housing situation?

7 **MR. BELBAHRI:** If I can just have a moment.

8 (Off the record.)

9 **MR. BELBAHRI:** Your Honor, he doesn't have a stable
10 place that he's living, but he does have the ability to be
11 able to keep the monitor charged by going to various
12 locations.

13 **THE COURT:** Many people do it at the public library.

14 The other thing I want to explore -- I am considering
15 releasing Mr. Vincent that is because he doesn't have --
16 these allegations are serious. I'm concerned. I also hear
17 what you're saying about a moment of crisis, and I don't see
18 a violent history in his past.

19 So sometimes when people are unhoused, they sort of
20 stay in certain areas, or they frequent certain areas. Is
21 near 501 Beale Street an area that Mr. Vincent is accustomed
22 to being near?

23 **MR. BELBAHRI:** I apologize, Your Honor. Is that near
24 Embarcadero?

25 **THE COURT:** It's -- it's --

26 **THE DEFENDANT:** Usually I know where I am. It's like
27 20 minutes away from there. So, walking distance.

28 **THE COURT:** Sort of south of Market on the -- close to

1 the water, I think.

2 **MR. BELBAHRI:** Your Honor, he does understand the fact
3 that he does have to stay away from that specific area.

4 **THE COURT:** Submitted?

5 **MR. BELBAHRI:** Submitted.

6 **MR. CHANG:** Yes.

7 **THE COURT:** So the PSA recommends that I not release
8 Mr. Vincent. That's based on a Step 2 Exclusion, and that's
9 simply based on the charges.

10 The charges here are serious, but I also don't see
11 anything in Mr. Vincent's history that suggests to me that
12 he's going to commit a similar offense or be a public safety
13 risk if I release him from custody.

14 I do -- I am intending to sign this stay-away order.
15 Any objection? It protects the victim as well as
16 requires the defendant to stay away from 501 Beale Street.

17 **MR. BELBAHRI:** No objection.

18 **THE COURT:** This is going to be an ACM release rather
19 than a GPS release at this time.

20 I have concerns about GPS release sufficient that I try
21 not to do it unless I think it's really necessary to protect
22 public safety. In view of Mr. Vincent's history, I don't
23 make that finding here.

24 **MR. CHANG:** Your Honor, for the record, I've served
25 counsel and his client copies of the protective order.

26 **THE DEFENDANT:** Thank you, Judge.

27 **MR. BELBAHRI:** Your Honor, could I take the waiver from
28 Mr. Vincent?

1 **THE COURT:** Go ahead.

2 **MR. BELBAHRI:** Mr. Vincent, you have the right to have
3 a preliminary hearing within 10 court days of your
4 arraignment. I'd advise you to give up that right and
5 maintain your right to have a preliminary hearing within 60
6 calendar days of your arraignment.

7 Is that something you would like to do?

8 **THE DEFENDANT:** Whatever you think's right.

9 **THE COURT:** Just so that I am clear --

10 **THE DEFENDANT:** Yes.

11 **THE COURT:** -- and that our record is clear, do you,
12 sir, give up your right to a preliminary hearing within 10
13 court days?

14 **THE DEFENDANT:** Yes, ma'am.

15 **THE COURT:** We have a last day of October 15th.

16 **MR. BELBAHRI:** Does the Court want to short set this
17 case?

18 **THE COURT:** Give me one more moment.

19 What is the injury to the victim in this case,
20 Mr. Chang?

21 **MR. CHANG:** If I could have a moment, Your Honor.

22 **THE COURT:** What I have is just the police report that
23 says there was no visible sign of injury, and the victim
24 refused medical attention.

25 **MR. CHANG:** I see that as well in the fifth paragraph
26 down.

27 **THE COURT:** Just wondering if there's anything that I
28 am missing?

1 **MR. CHANG:** I'm finishing my quick perusal, Your Honor.
2 Your Honor, I don't see a victim articulating any
3 further injuries, which isn't to say that she might not have
4 any.

5 **THE COURT:** All right. My order will stand.
6 So let's go off the record and talk about scheduling.
7 (Off the record.)

8 **THE COURT:** Back on the record.
9 I'll set the matter for a prehearing conference on
10 September 12th at 9:00 a.m. in this department
11 Defendant is ordered present

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1 State of California)
2 City and County of San Francisco)

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I, Linda S. Forster, Official Reporter for the Superior Court of the State of California, City and County of San Francisco, do hereby certify:

That I was present at the time of the above proceedings;

That I took down in machine shorthand notes of all proceedings had and testimony given;

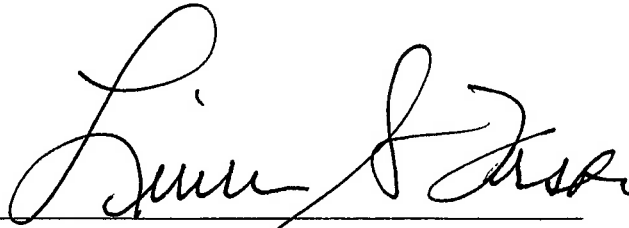
That I thereafter transcribed said shorthand notes with the aid of a computer;

That the above and foregoing is a full, true, and correct transcription of said shorthand notes, and a full, true, and correct transcript of all proceedings had and testimony taken;

That I am not a party to the action or related to a party or counsel;

That I have no financial or other interest in the outcome of the action.

Dated: August 15, 2019


Linda S. Forster, CSR No. 13286