

Felony  JUDGE/Assigned Trial  
 Offense  MAGISTRATE 5004/17  
 Minor  650 3  
 District Office  
 U.S. CODE  
 18: 2113  
 18: 2113  
 U.S. Attorney  
 AUSA Ric

Mo. 75 Docket No. 246 Def. 1  
 1  
 UNITS  
 1  
 1  
 LCD  
 MAGR. CASE NO. 75-285M  
 BAIL \* RELEASE  
 Personal Recog.  
 Unsecured Bond  
 Conditional Release  
 Set (000)  10% Deposit  
 \$ 35  Surety Bond  
 10/23/75 date  Collateral  
 Bail Not Made  3rd Party Custody  
 Bail Status Changed  PSA  
 (See Docket)

12/30/76 - 6TH CCA REMANDED CASE TO DISTRICT COURT - VACATED JUDGMENT  
 6/13/77 - PET. CERT. GRANTED

ARREST: 10/23/75 or U.S. Custody Began on Above Charges  
 INDICTMENT: 11-19-75 Information  High Risk Defn. & Date Design'd  
 12-1-75 1st Plea " Final Plea  
 TRIAL: Trial Set For 1-15-76  
 Not Guilty  Nolo  Guilty  Not Guilty  Nolo  Guilty  
 SENTENCE: Disposition 2-25-76  
 Convicted  On All Charges  On Lesser\* Offense(s)  
 Acquitted  Dismissed; Ct. 2  WOP;  WP\*  
 Nolle/Discontinued\*

Search Warrant	Issued	DATE	INITIAL/No.	INITIAL APPEARANCE	INITIAL/No.	OUTCOME
	Return			PRELIMINARY EXAMINATION OR REMOVAL HEARING		<input type="checkbox"/> Dismissed <input checked="" type="checkbox"/> Held for District GJ <input type="checkbox"/> Held to Answer to U. S. District Court AT: Nashville Magistrate's Initials <i>[Signature]</i>
Summons	Issued			<input type="checkbox"/> Waived <input checked="" type="checkbox"/> Not Waived		
Arrest Warrant	Served	10/23/75	KS 500E	<input type="checkbox"/> Intervening Indictment		
COMPLAINT		10/23/75	KS 500E	Tape No.	INITIAL/No.	
OFFENSE (In Complaint)	Bank robbery		10-28-75 \$5,000 Cash bond deposited by Thomas Moon for V. E. Burks			

\* Show last names and suffix numbers of other defendants on same indictment/information 3-10-76 V. E. Burks #11103 \$5,000.00 Bond Refund

DATE	PROCEEDINGS	V. Excludable Delay			
		(a)	(b)	(c)	(d)
10/28/75	Bail Review Hrg held - Bond made - See Appearance Bond and Conditions of Release.				
11-19-75	Indictment filed. BOD Papers included in file				
12-2-75	Dec. 1, 1975. Entered. Deft. P.N.G. Ordered deft allowed ten days from this date time within which to file pre-trial motions. Ordered case reset for trial January 15, 1976. Copy to USA. USP. USM. deft. and Atty. Durham.				
12-9-75	Order for Psychiatric Examination entered. Df to report to Dr. Farrer Dec. 8, 1975 at 3:00 p.m. Ordered report be made to this Court, with copies to the U.S.A. & Atty. Durham Att copy USA. USP. USM. deft. and Atty. Durham and Dr. Farrer.				
12-9-75	Motion for Psychiatric Examination of defendant at Govt expense filed by Atty. Curham. C/S				
12-9-75	Filed: Motion to declare death penalty provision of 18 USA 2113(e) unconstitutional by Atty. Durham. C/S				
12-18-75	Filed: Petition to be declared pauper by Atty. Bart Durham C/S				

DATE	IV. PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
		(a)	(b)	(c)	(d)
1-5-76	Filed: Motion for Continuance by Atty. Bart Durham. C/S				
1-7-76	Entered: Upon mot. for cont. by df of trial set for Jan. 15, 1976, for reason that df is undergoing psychiatric evaluation & such evaluation will not be completed by Jan. 15, 1976, Ordered trial be reset to Feb. 18, 1976, Courtroom No. 1. Copy to USA. USP. USM. df. and Atty of record.	3	1-15-76 2-17-76	A	33
1-9-76	Motion to Declare df. indigent; Affidavit of Bart Durham attached, Affidavit of David Burks filed by Atty. Durham. Copy to USA.				
1-14-76	T/S proceedings of 10-28-76 filed. 6 pages. By Ann Davis.				
1-16-76	Entered: The Motion filed 1-9-76 to declare deft. indigent marked GRANTED BY HON. FRANK GRAY, JR. 1/15/76 Copy to USA. USP. USM. Deft. and Atty. B. Durham.				
1-29-76	1-29-76 Entered. For good cause shown ordered the trial heretofore set for Feb. 18, 1976 is reset to Feb. 17, 1976. Copy to USA. USP. USM. Deft. & Att. Bart Durham.				
1-30-76	Filed: Government's request for reciprocal disclosure by AUSA Windsor. C/S				
2-4-76	Filed: Opposition of defendant to Government's Request for Reciprocal Disclosure by Atty. Bart Durham. C/S				
2-4-76	Filed: R. James Farrer, M.D. Psychiatric Examination of Deft.				
2-12-76	Renewal of Government's Request for Reciprocal Disclosure filed by AUSA Windsor. C/S				
2-12-76	Affidavit in Support of Renewal of Government's Request for Reciprocal Disclosure filed by AUSA Windsor.				
2-12-76	Motion for Subpoenas at Government Expense filed by defendant's attorney, Bart Durham. C/S Witnesses: L. D. Hutt, Ph.D.; Kenneth Munden, M.D.; Landrum S. Tucker, M.D.; Mr. V. E. Burks, Mrs. V. E. Burks.				
2-12-76	Motion to Exclude Evidence filed by AUSA Windsor. C/S				
2-12-76	Government's Response to Defendant's Motion for Subpoenas, filed by AUSA Windsor. C/S				
2-13-76	Order entered that subpoenas be issued in forma pauperis to L. D. Hutt, Ph.D. and Kenneth Munden, M.D. Cp. to USA, USM, USP, deft. and Atty. Durham 2-13-76				
2-13-76	Government's request for reciprocal disclosure GRANTED by Order entered 2/13/76. Cp. USA, USP, USM, Deft. Burks, Atty. Durham.				
2-17-76	Motion for Waiver of Jury filed by Bart Durham and Tom Moon, Attys. for deft. C/S				
2-19-76	Filed: Note received by Court from jury as follows: "The law that constitutes mental illness that Judge Gray read to us".				

## CRIMINAL DOCKET

DATE	PROCEEDINGS
2-19-76	Request for jury instruction filed by AUSA Windsor DENIED by Order of Court. Cp. to USA, USP, USM, deft., Atty. Durham 2-20-76.
2-24-76	Petition for Susp. Sent. or in the Alternative to Defer Sent. filed by Bart Durham, Atty. on behalf of deft. C/S 5 attachments with petition.
2-25-76	Judgment and Commitment Order of 2-25-76 entered. PNG; verdict guilty; impr. 20 yrs.; sent. imposed under 18:4208(a)(2), under which deft. may become eligible for parole at such time as Board of Parole may determine. 1 Certified cp. to USA, USP, Attys. Durham and Moon and deft.; 2 certified cps. to USM, 2/25/76.
3-3-76	Motion for New Trial filed by Thomas W. Moon for deft. C/S
3-3-76	Notice of Appeal filed by Atty. Moon on behalf of deft. C/S
3-4-76	Motion filed by Atty. Moon on behalf of deft., and moves the Court to allow him to proceed in forma pauperis in his appeal to CCA and further moves the Court to enter an Order directing that the cost for transcribing the proceedings be paid by the Plaintiff. C/S
3/8/76	Filed: Official Transcript of Partial Testimony on 2/17-2/19, 1976
3-9-76	Government's Response to the Allegations Contained in Par. 3 of the Deft.'s Motion for a New Trial. C/S
3/10/76	ORDER entered for Clerk to draw check in amount of \$5,000 payable to V. E. Burks for refund of bail posted 10/28/75 Cy USA, USP, USM, Deft and Atty Durham 3/11/76 and Atty Moon
3/12/76	Order entered: Deft's Motion for New Trial DENIED Cy USA, USM, USP, Deft and Atty Durham 3/15/76
3/17/76	Motion filed by Atty. Moon on behalf of deft. to allow him to proceed in forma pauperis in his appeal to CCA and moves that the cost for transcribing the proceedings be paid by the Plf. C/S
3/17/76	Notice of Appeal filed by Atty. Moon on behalf of deft. C/S
3/19/76	Cp. USA, USM, USP, and John Tummel, Court Reporter 3/24/76. Order entered that deft. allowed to proceed in forma pauperis with an appeal and that the Court Reporter will prepare a transcript of the proceedings at the expense of the U.S. Cp. to USA, Attys. Moon and Durham, deft., John Tummel, Court Reporter 3/22/76.
3/24/76	Statement of Docket Entries and Criminal Appeals Form and att. cp. Notice of Appeal filed 3/17/76 mailed to CCA.
3/11/76	Judgment and Commitment returned exec. by delivering deft. on 3/4/76 to U. S. Penitentiary, Terre Haute, Ind.
4/16/76	Official Transcript of Proceedings on February 17-19, 1976. Volume I (Pages 1-303) and Volume II (Pages 304-591) filed
4/23/76	Record mailed to 6th CCA Cy Index of Record and Docket Sheet to USA, Deft and Attys Moon & Durham 4/23/76
6-15-76	Record on Appeal filed 6th C.C.A. 5-18-76. Assigned No. 76-1596.
6/24/76	FILED: Motion for Bond filed by Atty Durham on behalf of Deft C/S

DATE

PROCEEDINGS

- 6/29/76 FILED: Gov't Response to Deft-Appellant's Motion for Bond filed by AUSA Rick Windsor C/S
- 7/2/76 FILED: Deft's Reply to Gov'ts Response to Deft-Appellant's Motion for Bond filed by Atty Durham on behalf of Deft Burks C/S
- 3-26-76 Order of Hon. Frank Gray, Jr. entered. Counsel for deft Burks has filed motion for bail pending appeal. In order to eliminate any question as to whether the motion was filed at request of deft or at request of parents of deft, appropriate affidavits will be filed within 5 days from date of this Order. Cys to USA USM, USP, Deft Burks & Atty Durham.
- 3-31-76 Filed: Notice of Filing of Affidavits 2 attachments. Affidavit Mr. & Mrs. V. E. Burks and David Wayne Burks by Atty Durham.
- 3-3-76 Order to Produce Prisoner Ad Prosequendum entered by Judge Gray. Deft. Burks to be delivered before Court 9:00 a.m., 9-17-76. 3 cys to USM, 1 USA
- 3-3-76 Filed: Letter from Donald E. Burks, M. D. to Hon. Frank Gray, Chief Judge, dated 8-31-76.
- 3-20-76 Order dated 9-17-76 entered. Hearing on deft's motion for bond. After hearing testimony of witnesses offered by parties, it is ordered that motion as stated is denied. Cy to USA, USM, USP, Deft & Atty Durham
- 9-22-76 Supplemental Record on Appeal No. 1 mailed to Court of Appeals for Sixth Circuit. Cy Clerk's cert & docket sheet to USA, Atty Durham, Deft Burks.
- 9/27/76 Supplemental Record on Appeal # 1 docketed 6th CCA 9/23/76 76-1596
- 10/12/76 Order to Produce Prisoner Deft Burks ad Prosequendum ret. exec. by delivering deft on 9/6/76 to Sumner Co. Jail, Gall, TN and on 9/22/76 delivering deft Burks to USP, Terre Haute, Indiana
- 4-8-77 Motion for Appellate Bond filed on behalf of deft.
- 4/25/77 FILED: Motion for Early Hrg on motion for bond filed 4/8/77 w/Memo in Support by Atty Durham on behalf deft C/S
- 4/28/77 ENTERED: Order to Produce Deft Burks Ad Prosequendum in Courtroom Annex-1, 5/6/77 (incarcerated FCI, Butner, N.C.) CY USA, 3 att cy USM
- 5/5/77 ENTERED: On Motion of deft, ORDERED bond hrg set for 5/6/77 cont'd until 5/27/77 CY USA, USM, USP, Deft & Atty Durham 5/6/77
- 5-18-77 Motion for Psychiatric Examination filed by Atty Durham. C/S
- 5-18-77 Motion to Set Hearing Specially filed by Atty Durham. C/S
- 5/18/77 ENTERED: On motion deft, ORDERED deft be transported by USM to Dr. R. James Farrer for psy. eval. on 5/23/77 at 2:00 p.m. and be returned to Sumner Co. Jail This exam is not at expense of Gov't CY USA, USM (3 att) USP, Deft, Atty Durham, Sheriff Sumner Co. Jail (att cy), Dr. Farrer (att cy 5/19/77
- 5-23-77 Motion to Transport Prisoner to Nashville on 5-25-77 for Psychiatric Examination filed by Bart Durham, Atty. C/S

DATE	PROCEEDINGS
5/23/77	FILED: Motion to Subpoena Witnesses at Gov't Expense by Atty Durham on behalf of deft C/S
5-24-77	Entered: Order Granting Motion filed 5-23-77 to transport Prisoner to Nashville on 5-25-77 for Psychiatric Exam. Cy USA,USM,USP, deft., Atty. Durham.
5/26/77	FILED: Sworn Statement of Dr. R. James Farrer taken on behalf of deft 5/24/77 (P. 1 - 11)
6-6-77	Official Transcript of Proceedings on 5-25-77 filed by OCR John Tummel. 1 Vol. marked "Clerk's Copy", 50 pages.
5/26/77	Order for Psy. Eval. on 5/23/77 by Dr. Farrer ret. exec.
6/23/77	ENTERED: Bond is DENIED CY USA,USM,USP, Deft, Atty Durham
6-28-77	Opposition to Motion for Psychiatric Examination filed by Atty Bart Durham. C/S
7-1-77	Filed: Pl. motion for disclosure of information by the deft. under R.16 of the FRCrP, with exhibits A,B,C attached. C/S.
7-1-77	Filed: Govt. Memorandum of law in support of motion for disclosure of information by deft. under R.16, FRCrP.C/S.
7/5/77	FILED: Response of Deft Burks to Motion of U.S. for Disclosure by Deft under R. 16 C/S
7/5/77	FILED: Motion to Use Prior Testimony or Alternatively for Gov't Funds under 18:3006A(e)(1) and Depositions at Gov't Expense C/S
7/5/77	FILED: Motion to Waive Jury and to Stipulate Elements of Offense C/S
7/5/77	FILED: Brief for Burks in Support of Motion to Quash Indictment. C/S
20/77	FILED: Motion to be Allowed to Confer w/Attorney Pending Appeal C/S
7/21/77	ENTERED: Deft's Motion to Be Allowed to Confer w/Attorney Pending Appeal marked "Granted until August 15, 1977" CY USA,USM,USP, Deft & Atty Durham
8-11-77	Filed: Deft. motion to extend time to confer with counsel. C/S.
8/12/77	ENTERED: _____ retained k CY USA,
6/9/77	FILED: THIS IS DOCKETED ON CRIMINAL NO. Aff. in Support
6/9/77	75-246-NA-CR AS SECTION 2255 WAS CITED 2255)
6/13/77	IN PETITION. PURS. TO INSTRUCTIONS
6/9/77	ALL HABEAS CORPUS 2255 ACTIONS ARE TED"
6/14/77	Above FILED OPENED UNDER CIVIL NO. BUT DOCKETED ON
6/15/77	FILE CRIMINAL. bits

DATE	PROCEEDINGS
5/23/77	FILED: Motion to Subpoena Witnesses at Gov't Expense by Atty Durham on behalf of deft C/S
5-24-77	Entered: Order Granting Motion filed 5-23-77 to transport Prisoner to Nashville on 5-25-77 for Psychiatric Exam. Cy USA,USM,USP, deft., Atty. Durham.
5/26/77	FILED: Sworn Statement of Dr. R. James Farrer taken on behalf of deft 5/24/77 (P. 1 - 11)
6-6-77	Official Transcript of Proceedings on 5-25-77 filed by OCR John Tummel. 1 Vol. marked "Clerk's Copy", 50 pages.
5/26/77	Order for Psy. Eval. on 5/23/77 by Dr. Farrer ret. exec.
6/23/77	ENTERED: Bond is DENIED CY USA,USM,USP, Deft, Atty Durham
6-28-77	Opposition to Motion for Psychiatric Examination filed by Atty Bart Durham. C/S
7-1-77	Filed: Pl. motion for disclosure of information by the deft. under R.16 of the FRCrP, with exhibits A,B,C attached. C/S.
7-1-77	Filed: Govt. Memorandum of law in support of motion for disclosure of information by deft. under R.16, FRCrP.C/S.
7/5/77	FILED: Response of Deft Burks to Motion of U.S. for Disclosure by Deft under R. 16 C/S
7/5/77	FILED: Motion to Use Prior Testimony or Alternatively for Gov't Funds under 18:3006A(e)(1) and Depositions at Gov't Expense C/S
7/5/77	FILED: Motion to Waive Jury and to Stipulate Elements of Offense C/S
7/5/77	FILED: Brief for Burks in Support of Motion to Quash Indictment C/S
0/77	FILED: Motion to be Allowed to Confer w/Attorney Pending Appeal C/S
7/21/77	ENTERED: Deft's Motion to Be Allowed to Confer w/Attorney Pending Appeal marked "Granted until August 15, 1977" CY USA,USM,USP, Deft & Atty Durham
8-11-77	Filed: Deft. motion to extend time to confer with counsel. C/S.
8/12/77	ENTERED: Pursuant to motion filed 8/11/77, ORDERED deft retained by USM at Gallatin Jail to and including 8/30/77 CY USA, USM (3 att),USP, Deft & Atty Durham 8/15/77
6/9/77	FILED: Motion for Leave to Proceed in Forma Pauperis w/Aff. in Support
6/9/77	Petition to Quash Parole Violator's Warrant and Motion for Bond (juris purs. 28:1331(a) and 2255)
6/13/77	Affidavit in Support of Request to Proceed in Forma Pauperis REFERENCE: 77-3272-NA-CV
6/9/77	Motion to Proceed in Forma Pauperis marked "GRANTED" by Judge Gray
6/14/77	Above documents w/USM-285 to USM for service Cy to USA FILED: Interim Response to Defts Petition to Quash by
6/15/77	AUSA Brown C/S FILED: Supplement to Motion for Bond, Affidavit, Exhibits 1,2 & 3 C/S

DATE

PROCEEDINGS

- NOTE: All documents re. this habeas corpus will appear on criminal No. 75-246-NA-~~CR~~ Reference : 77-3272-NA-CV
- 3/31/77 FILED: Cy Ltr to Deft Burks from AUSA Windsor dtd 8/30/77
- 3/31/77 FILED: Motion to Prohibit Transfer of Prisoner by Atty Durham on behalf Petitioner C/S
- 8/31/77 FILED: Gov'ts Response to David Wayne Burks' Motion to Prohibit Transfer of Prisoner w/Memo of Law attached C/S
- 9/1/77 ENTERED: Deft's Motion to Prohibit Transfer of Prisoner marked "DENIED" by Judge Morton CY USA,USM,USP, Deft & Atty Durham
- 9-6-77 Filed: Cy of Motion for Leave to Proceed in Forma Pauperis, & Petition for Writ of Prohibition filed by deft. Burks in 6CCA.
- 9-28-77 FILED: Marshal's return delivering prisoner on 5-5-77 from the U.S. Pen. Lewisburg PA to Sumner Co. Jail, Gallatin TN; Also Ret. prisoner to USP Terre Haute on Sept. 21, 1977.
- 10-25-77 Filed: Motion To Transfer Prisoner behalf deft. C/S
- 10-25-77 Filed: Affidavit of Bart Durham in support of Motion to Transfer filed 10-25-77.
- 10-28-77 ENTERED: ORDER & MEMORANDUM contemporaneously filed; ORDERED that the Motion to Transfer Prisoner filed by Defendant is DENIED. CY: USA, USM, USP, Deft. and Atty Bart Durham.
- 12-2-77 ENTERED: Order from the 6th CCA of Appeals. ORDERED that the Respondents file an answer with this court within twenty days from the entry of this order, Rule 21(c), Federal Rules of Appellant Procedure. CY for Civil file 77-3272
- 12-15-77 Entered: Order. It is hereby ordered that a hearing to determine whether the court has jurisdiction over the subject matter of this action will be held on Friday, December 30, 1977, at 9:00 a.m. Because the questions to be determined at the hearing involve solely questions of law, petitioner need not be brought to Nashville for this hearing. Case Not No. 1
- 1-10-78 Filed: Motion to Produce Prisoner behalf Burks, C/S
- 1-10-78 ENTERED: Motion to Produce Prisoner DENIED. CY: USA, USM, USP, Deft. Atty Durham.
- 1/24/78 Filed: Clerk's Resume of Court Proceedings. Hearing on Motion for Continuance. See for March 15, 1978 at 8:30 A.M.
- 1/31/78 Filed: OCR's Transcript of Proceedings on 1/24/78 Vol. P. 1 - 10)
- 2/10/78 Filed: Order from Sixth Circuit. Motion of petier denied asking that U.S. Attorney be held in contempt and that he be transferred back to the Gallatin, Tennessee, federal facility.
- 3/1/78 Entered: Order Dismissing Case Without Prejudice. Came retained counsel, Bart Durham, Esq., for plf Burks, and represented to the Court that Mr. Burks had orally and in writing at Ashland, Ky on 2/26/78 requested that this case be dismissed. Wherefore, on motion of plf and with the consent of the USA, it is ordered that this case be dismissed without prejudice. Copy to USA;USM; USP; Deft's Atty and Deft

DATE	PROCEEDINGS (continued) (Document No.)	V. EXCLUDABLE DELAY			
		(a)	(b)	(c)	(d)
6-30-78	ENTERED: Order to Withdraw Exhibits. CY: USA, Atty Durham.				
7-13-78	Entered : Order: Indictment is Dismissed. ( Supreme Court having ruled no retrial & USA's time for filing petition to rehear having elapsed with no petition having been filed). Cy USA, USM,USP, deft., atty. Durham.				
8/9/78	Entered: Order. The Supreme Court of the United States having reversed the decision of this court and remanded the case for proceedings consistent with its opinion...and the U. S. Court of Appeals for the Sixth Circuit on 8/1/78, having remanded this case to this court with directions to enter a judgment of acquittal, on motion of counsel for defendant-appellant it is hereby Ordered that a judgment of acquittal be entered. CC to USM; USA; USP; Deft and Deft's Atty.				
8/18/78	Filed: Order of the Sixth Circuit: This case is now remanded to the district court with directions to enter a judgment of acquittal. Issued as Mandate: August 15, 1978.				
8/18/78	Filed: Opinion of the Sixth Circuit decided and filed 12/30/76				
8/18/78	Field: Judgment: Ordered and adjudged by this Court that the judgment of the said District Court in this cause be and the same is hereby vacated and the cause is remanded for further proceedings. No costs taxed.				
6-11-79	ENTERED: Ordered that all exhibits be released to Govt. CY to USA, USM, USP, Atty.				
1-4-84	ORDER: ALL Government exhibits be released to the U.s. Attorney and also, that the Government may dispose of, or destroy, all weapons introduced as Government exhibits in this case. Cy to USA,USM,USP, Atty,defdt.				