

1 THE COURT: We'll go on the record in
2 09-CR-496, *State of Kansas versus Trevor Jones*.

3 May I have the appearances, please.

4 MS. BRASSEL: May it please the Court,
5 Your Honor, the State of Kansas appears by Mickie
6 Brassel.

7 MR. COPELAND: May it please the Court,
8 Your Honor, Trevor Jones is present with counsel,
9 Malcolm Copeland.

10 THE COURT: All right, thank you.
11 This matter is set for a plea this morning.

12 Are the parties still ready to proceed with that?

13 MS. BRASSEL: Yes, Your Honor.

14 THE COURT: Has there been a written
15 plea agreement executed?

16 MR. COPELAND: There has not.

17 MS. BRASSEL: No, Your Honor.

18 THE COURT: Oh, okay. Ms. Brassel,
19 would you tell me the agreement, please?

20 MS. BRASSEL: Actually Mr. Copeland is
21 going to put that on the record.

22 THE COURT: Oh, I'm sorry.

23 MS. BRASSEL: That's fine.

24 MR. COPELAND: Thank you, Your Honor.

25 This case originally involved a juvenile complaint,

1 three counts that were in front of Judge Johnson.
2 And as part of long negotiations with the former
3 attorney, Susan Richards, I believe, and counsel, we
4 established, or came to this agreement.

5 My client initially waived juvenile jurisdiction,
6 and he did so with the understanding and agreement
7 with the State that they would file the same charges
8 in juvenile court, and they did, and those are the
9 charges that are in front of you.

10 THE COURT: Okay.

11 MR. COPELAND: And he today will enter a
12 no contest plea as charged to Count 1, criminal
13 desecration; Count 2, conspiracy to commit criminal
14 desecration and; Count 3, arson to property or
15 building.

16 In addition, it is the understanding of the parties
17 that my client is a criminal history "I". And part
18 of the agreement is that the State agreed, in
19 exchange for the plea to this-- there were-- let me
20 give you just a background.

21 There were a number of other charges that were
22 being investigated in which my client was a suspect.
23 And in agreement-- or the agreement calls for the
24 State not to file any charges concerning the alleged
25 theft of some flares from the Maranatha Baptist

1 Church; any damage or alleged vandalism to the
2 Menninger building, or clock tower; the arson that
3 occurred to the Cornerstone Community Church at 21st
4 and Indian Hills; the arson that occurred at Saint
5 David's Church, which for the record, I examined
6 approximately three large three-ring notebook files,
7 and there was no probable cause with regard to the
8 Saint David's church, and my client has always denied
9 any part of that. And then in one of the reports,
10 there was an alleged battery that there was no
11 evidence of, and the State has agreed not to do-- or
12 to file charges on that case.

13 THE COURT: Okay. I'm sorry,
14 Menninger's, Maranatha--

15 MR. COPELAND: Menninger's, Maranatha,
16 Cornerstone--

17 THE COURT: --Saint David's.

18 MR. COPELAND: --Saint David's, and then
19 an alleged battery, and I prefer not to list the
20 name--

21 THE COURT: Right, right.

22 MR. COPELAND: --of the person.

23 THE COURT: Right.

24 MR. COPELAND: And, in addition, as I've
25 stated, we believe my client will be presumptive

1 probation. The State has agreed not to file any
2 Motion for Departure, and has no objection to
3 probation pursuant to the guidelines.

4 And finally, one thing I put in and-- as agreed,
5 based on my reviewing all these documents, there
6 was-- or we had a further agreement that-- and this I
7 suppose is hard to put on the record, but I want to
8 put it on anyway, that there would-- I was given the
9 complete file, I believe, and I wanted to make sure
10 that after my client then waived juvenile
11 jurisdiction and became part of the adult system that
12 there was not going to be any mysterious unknown new
13 cases that popped up and be filed-- file on those.
14 And that was in my original agreement with counsel,
15 and it's my understanding that she agrees to that.

16 So that, I think, is the long and short of it.

17 MS. BRASSEL: That's correct.

18 THE COURT: Okay. All right, thank
19 you.

20 Mr. Jones, would you stand up, please.

21 How old are you at the present time?

22 DEFENDANT JONES: I'm 20.

23 THE COURT: Twenty. Okay. How far
24 did you go in school?

25 DEFENDANT JONES: Up to my senior year in

1 high school.

2 THE COURT: Did you graduate?

3 DEFENDANT JONES: I got my GED.

4 THE COURT: Okay. And what have you
5 been doing since then?

6 DEFENDANT JONES: Just working and--
7 working.

8 THE COURT: Okay. Now-- so these
9 cases have been on file in one form or another for
10 quite some time.

11 When was the first filing in juvenile court?

12 DEFENDANT JONES: It was in--

13 THE COURT: Do you remember?

14 DEFENDANT JONES: It was juvenile court.

15 THE COURT: Do you remember when?
16 Was it 2007, 2008?

17 MR. COPELAND: Judge, I believe they were
18 filed right before the statute of limitations ended,
19 which would have been July of '08.

20 THE COURT: Okay.

21 MR. COPELAND: July of '08, I'm pretty
22 sure is-- does that sound right to you?

23 MS. BRASSEL: That sounds about right,
24 early '08, early to mid '08.

25 THE COURT: Okay. Other than the

1 appearances in juvenile court, have you ever been in
2 Court before?

3 DEFENDANT JONES: Yes, Your Honor.

4 THE COURT: What kind of cases?

5 DEFENDANT JONES: Misdemeanor battery.

6 THE COURT: Okay. Maybe-- any
7 traffic cases?

8 DEFENDANT JONES: No.

9 THE COURT: Okay. The misdemeanor
10 battery case, how did it resolve? What happened with
11 that? Did you plead, did-- was it-- did you go
12 diversion, did it go to trial, what happened?

13 DEFENDANT JONES: I pled to it, Your
14 Honor.

15 THE COURT: Okay. All right. In
16 Kansas, if you're an adult-- well, and if you're a
17 juvenile now too, if you're charged with a felony,
18 you have the right, before you can even be forced to
19 stand trial, to have a preliminary hearing to show
20 that there is what's called probable cause.

21 Now, you waived that hearing back on June 22nd of
22 2009. And then what happens beyond that is the case
23 either goes to trial, it's dismissed, or it's
24 resolved by a plea.

25 Before I can accept your plea, I need to make sure

1 that you understand that you are waiving your right
2 to a jury trial. In other words, you're waiving your
3 right to have your guilt or innocence determined by a
4 jury.

5 Since you've never been before a jury, I need to
6 explain what that is. In a jury trial, 12 people are
7 selected from the community to sit and listen to the
8 statements of the witnesses, to examine any exhibits
9 that are admitted into evidence, and at the
10 conclusion-- while-- in the process of doing that,
11 the State always has the burden of proving you
12 guilty. You never have an obligation to try to prove
13 yourself innocent.

14 Now, how that works is Ms. Brassel or somebody for
15 the State would call the people who were involved in
16 the investigation, or had some interest in the
17 criminal desecration, the conspiracy, and the arson
18 counts. Those people would be called to the stand to
19 testify. It means they would sit over there, they
20 would be put under oath, and they would be subjected
21 to questioning. Mr. Copeland would have an
22 obligation on your behalf to cross-examine them. In
23 other words, ask them questions to explore weaknesses
24 in their testimony, deficiencies in their
25 perceptions, you know, in other words, question how

1 it is that they were in a position to see what they
2 did, hear what they did, gather the evidence that
3 they did, et cetera.

4 You would have had the right to call witnesses, and
5 I could have forced people to come to Court to
6 testify for you even if they didn't want to. We call
7 that using the powers to compel people to testify by
8 issuing subpoenas.

9 You would have had the right to testify, but nobody
10 could have made you do that. That's one of the few
11 rights that you alone have and decisions that you
12 have to make. What you typically do is to ask Mr.
13 Copeland for his advice, whether or not he thought it
14 was a good idea for you to do so. But it would be
15 your right to testify or your right to decline to.
16 At no time could the-- could your silence be used
17 against you. In fact, a specific instruction is
18 given to the jury, you are not to speculate, you are
19 not to be influenced by the fact that the defendant
20 has exercised his constitutional right not to
21 testify.

22 At the conclusion of the evidence portion, in other
23 words, after the State had called all its witnesses,
24 and you, if you had chosen to, presented any
25 witnesses, then I would give the jury instructions in

1 the law, and I would tell them something to the
2 effect of ladies and gentlemen of the jury, the case
3 is now for you to decide. Upon examination of the
4 evidence, if you have no reasonable doubt as to the
5 claims made by the State, you should find the
6 defendant guilty. If you have reasonable doubt as to
7 any of the claims required to be proved by the State,
8 you should find the defendant not guilty.

9 In a jury trial, I have a different role than what
10 I have here. In a jury trial, I'm sort of a referee.
11 I decide what comes in and what doesn't come in, in
12 terms of the evidence.

13 Sometimes I might make a mistake. If you go to a
14 jury trial and you're convicted, you have an
15 automatic appeal right to a Court-- to the Court of
16 Appeals or Supreme Court. In other words, to have a
17 higher Court look at what I did and examine it for
18 any mistakes.

19 Sometimes mistakes that are made at this level are
20 so big that people get new trials. Every once in a
21 while, it's pretty rare, but it does happen, they're
22 totally exonerated. In other words, the Court of
23 appeals or Supreme Court says you don't get-- you
24 know, you don't get a second chance at the defendant,
25 he's simply free to go. That does happen on

1 occasion.

2 So if you waive your right to a jury trial, you're
3 giving up not only your right to have your guilt
4 determined by a jury, but also the right to appeal,
5 how they obtained, or how-- the process in which you
6 were found guilty during the trial.

7 Does that all make is sense to you?

8 DEFENDANT JONES: Yes, Your Honor.

9 THE COURT: Okay. Is that similar to
10 how Mr. Copeland explained that to you?

11 DEFENDANT JONES: Yes, Your Honor.

12 THE COURT: Okay. So if I accept
13 your plea today, you'll be found just as guilty as if
14 you had gone through the jury trial process. And by
15 pleading no contest, the only information that I'm
16 going to hear is what Ms. Brassel tells me from the
17 police reports and records.

18 Now, you said that you had received your GED, so
19 you're able to read and write without difficulty?

20 DEFENDANT JONES: Yes, Your Honor.

21 THE COURT: Okay. And you don't
22 suffer from any sort of mental problems that make it
23 difficult for you to understand Court?

24 DEFENDANT JONES: No, Your Honor.

25 THE COURT: Have you had any

1 difficulty understanding Mr. Copeland and his
2 explanation of your legal problems?

3 DEFENDANT JONES: No, Your Honor.

4 THE COURT: Do you feel like you've
5 been able to communicate effectively with him? In
6 other words, that you were able to put the words
7 together to ask him questions to help you make
8 decisions in this case?

9 DEFENDANT JONES: Yes, Your Honor.

10 THE COURT: Do you feel like any
11 additional time would be helpful for you before
12 finalizing things today?

13 DEFENDANT JONES: No, Your Honor.

14 THE COURT: Okay. Has anyone
15 threatened or coerced you into entering a plea as
16 opposed to going to trial, other than the plea
17 negotiations?

18 DEFENDANT JONES: No, Your Honor.

19 THE COURT: Now, this case happened
20 some time ago. With that, you know, there may have
21 been difficulties of the State in proving up the case
22 after this long a time; there may not be. I don't
23 know, because I don't look at the records. I only
24 have what people tell me in Court.

25 So you've had a full chance to talk with-- or

1 opportunity to speak with Mr. Copeland over the last
2 two-- over the last year about what kinds of evidence
3 would be presented against you, correct?

4 DEFENDANT JONES: Yes, Your Honor.

5 THE COURT: And you know generally
6 the information that the State's provided to Mr.
7 Copeland?

8 DEFENDANT JONES: Yes, Your Honor.

9 THE COURT: Okay. You're not under
10 the influence of alcohol or drugs today?

11 DEFENDANT JONES: No, Your Honor.

12 THE COURT: Or any sort of medication
13 that effects the way you think or speak?

14 DEFENDANT JONES: No, Your Honor.

15 THE COURT: Okay. The Court will
16 find that the waiver of jury trial is knowingly and
17 voluntarily made with the assistance of counsel, and
18 that the defendant is competent to enter a plea.

19 At this time, Mr. Jones, how do you plead to Counts
20 1, 2, 3? Count 1 as criminal desecration of-- let me
21 get it directly from the complaint. Criminal
22 desecration of--

23 MR. COPELAND: Actually--

24 THE COURT: Which means damaging,
25 defacing or destroying a tomb, monument, memorial,

1 marker, grave, vault, crypt gate, or other property
2 of a cemetery. In this case, approximately 52
3 headstones/monuments, and the value-- the value of
4 that damage at least \$1,000, but less than \$25,000.

5 DEFENDANT JONES: No contest.

6 THE COURT: All right. Count 2,
7 conspiracy, which means agreeing with other persons,
8 those persons-- there's four listed, a Nicholas
9 Sarkesian, and then there's three juveniles, whose
10 initials only appear, which means that you agreed
11 with them to commit that offense.

12 How do you plead to that count?

13 DEFENDANT JONES: No contest, Your Honor.

14 THE COURT: And, Count 3, arson,
15 which would be using fire or explosive to damage a
16 building not a dwelling, which is Hillside Community
17 Church.

18 All of those offenses happening on various dates,
19 July 2006, April 2006, and April 2006, all of those
20 events happening in Shawnee County, Kansas.

21 As to Count 3?

22 DEFENDANT JONES: No contest.

23 THE COURT: Okay. Now, also before
24 accepting it, I have to-- formally accepting it, I
25 have to also make sure that you understand the

1 potential consequences in terms of the sentence.

2 You heard Mr. Copeland and Ms. Brassel talk about
3 your criminal history as "I".

4 Okay. Now, Mr. Copeland has a-- oh, he's got a
5 sheet too. It's kind of like mine, it's color coded,
6 the grid box system from the Kansas Sentencing
7 Guidelines.

8 With these offenses, what happens is that we take
9 your criminal history, and we index that against
10 severity levels of the offenses. In this case, the
11 highest number-- in fact, the most serious felony is
12 Count 3. The arson, which is a Severity Level 7
13 felony, which means it's punishable by-- and it's a
14 non-person felony. If you have no criminal history,
15 or a single misdemeanor, the lowest I could sentence
16 you to the Secretary of Corrections is 11 months.
17 The highest that I could is 34 months.
18 Thirty-four months would put you in what's called
19 presumptive imprisonment, and that would be if you
20 have three plus-- three or more person felonies.

21 Now, we've all talked about criminal history "I".
22 I have to sentence you to-- according to what you
23 actually are, not what you think you are today. So
24 it's very important that you have-- that you know
25 what your history is before I accept your plea.

1 Are you certain of your prior criminal history
2 being an "I"?

3 DEFENDANT JONES: Yes, Your Honor.

4 THE COURT: Okay. In that case, the
5 highest that I could-- the worst that I could do to
6 you is sentence you to prison for 11 to 13 months on
7 the arson. On Count 1, as the criminal desecration,
8 which is a Severity Level 9, it could be five to
9 seven months. And, Count 2, which is a 10, would
10 also be five to seven months.

11 I could stack those. In other words, run them what
12 we call consecutive, which means it would be-- let's
13 say you're in the mid range, it would be 12 months,
14 and then six months, and then six months, giving you
15 a total controlling sentence of 24 months. Do you
16 understand that?

17 DEFENDANT JONES: Yes, Your Honor.

18 THE COURT: Now, I could also run
19 them what we call concurrent, which means all at the
20 same time.

21 Now, how this works when it says presumptive
22 probation, it means you're still sentenced to the
23 Secretary of Corrections. I sentence you to prison.
24 But what I do then is suspend the execution of the
25 sentence and place you on probation. And the

1 Sentencing Guidelines in this case would call for
2 24 months of supervised probation. Do you understand
3 that?

4 DEFENDANT JONES: Yes, Your Honor.

5 THE COURT: If something happened and
6 you violated the terms of your probation and you
7 ended up serving the sentence, then you would also
8 have a post-release supervision period of 24 months.

9 MR. COPELAND: I think it's 12, Judge.

10 THE COURT: Is it 12? Mine says on a
11 7 that it's 24.

12 MR. COPELAND: Then my sheet is wrong.

13 THE COURT: Well--

14 MR. COPELAND: That's okay.

15 THE COURT: I could be wrong. It
16 would be 12 or 24, one of the two. Do you understand
17 that?

18 DEFENDANT JONES: Yes, Your Honor.

19 THE COURT: Okay. I could also
20 impose a fine. I'm sure that I would not in this
21 case though, but there are fines of up to \$100,000
22 for these kinds of offenses. Fines are appropriate
23 where people have the money to pay it.

24 Are you sitting on a gold mine somewhere that we
25 don't know about?

1 DEFENDANT JONES: No, Your Honor.

2 THE COURT: Also, I would assume that
3 whatever money that you have needs to be going to
4 restitution. So I can tell you in advance that a
5 fine is not something that I would be imposing,
6 unless I find out that you have a source of income
7 that could be attached for payment of such a thing.

8 After hearing my entire explanation, are you still
9 persuaded-- are you still convinced that you want me
10 to accept your plea today?

11 DEFENDANT JONES: Yes, Your Honor.

12 THE COURT: All right. Could I have
13 a factual basis from the State?

14 MS. BRASSEL: Yes, Your Honor. If this
15 matter were to proceed to trial, the State would put
16 forth evidence and testimony to establish the
17 following: That on April 30th, 2006, investigator
18 Michael Martin was working as an investigator for the
19 Topeka Fire Department, and was requested to respond
20 to 3420 Southwest Fairlawn Road in Topeka, Shawnee
21 County, Kansas, which was Hillside Community Church,
22 to conduct a fire origin and cause investigation on a
23 structure fire.

24 Investigation revealed the origin of this fire was
25 in the area of the rear of the structure,

1 specifically along the south side of the entrance.

2 Within the area of origin, fire movement and
3 intensity patterns were consistent with fire moving
4 up and out of the interior of the structure. The
5 area of origin was examined for signs of accidental
6 source of admission, but none were detected.

7 Fire investigators Vollentine and Martin conducted
8 an interview with Nick Sarkesian who advised them
9 that he was present during the fire at Hillside
10 Community Church. He advised that he, Trevor Jones,
11 and Eric Fernandez were in a vehicle with Eric
12 Fernandez driving. Mr. Sarkesian and the defendant
13 got out of the car, they approached the eastern side
14 of Hillside Church, and Mr. Sarkesian broke out a
15 glass panel adjacent to the eastern entrance with a
16 brick. The defendant struck a flare, igniting it,
17 and tossed it into the broken window. They then went
18 back to the vehicle and drove southbound along
19 Southwest Fairlawn Road in front of the church, and
20 could see a glow within the church as they fled the
21 area.

22 Ultimately the fire was determined to be
23 intentionally set by human means, which led to an
24 investigation of the crime of arson.

25 On July 24th, 2006, the Topeka Police Department

1 was contacted reference vandalism of cemetery
2 decorative headstones at Mt. Calvary Cemetery located
3 at 801 Southwest Westchester Road in Topeka, Shawnee
4 County, Kansas.

5 The investigation of felony criminal damage was
6 ongoing, and subsequent information was shared with
7 the Topeka Fire Department investigators. Once
8 again, the names of Trevor Jones, Nick Sarkesian, and
9 an Eric Fernandez, along with Kelsey North, were
10 brought to Topeka Police Department and fire
11 investigator's attention.

12 An interview with Ms. North was had, and she stated
13 that damage at the cemetery was done by Trevor Jones,
14 and that he had broken the headstones and taken them
15 to a low water bridge on Wakarusa River and thrown
16 them in.

17 Investigators from the Topeka Fire Department,
18 along with detectives from the Topeka Police
19 Department responded to 97th and Southwest Lewelling
20 Road in rural Shawnee County, Kansas, on the morning
21 of October 29th, 2007. They met with divers from the
22 Shawnee Heights Fire Department.

23 The search was conducted within a small tributary
24 of the Wakarusa River within a creek running parallel
25 to a gravel county road, and adjacent to the low

1 water bridge described by Ms. North.

2 Approximately one and one half hours into the
3 search, a piece of headstone from Mt. Calvary
4 Cemetery was located, which verified the information
5 and gave credence to the information given to
6 investigators by Ms. North.

7 A subsequent interview was had with Nick Sarkesian,
8 and by Topeka Police Department detectives, and Mr.
9 Sarkesian indicated that he went with-- that he and
10 the defendant went to Mt. Calvary Cemetery, prior to
11 planning to go to the cemetery with implements to
12 knock off the headstones of the monuments at Mt.
13 Calvary Cemetery.

14 All of these acts occurred in Shawnee County,
15 Kansas.

16 THE COURT: All right, thank you.
17 And, Mr. Copeland, you said that you had provided
18 information in discovery supporting all of those
19 charges. And is that information consistent with
20 what was provided to you?

21 MR. COPELAND: It is, Your Honor.

22 THE COURT: All right, thank you.
23 Mr. Jones, at this time, I accept your plea and find
24 you guilty of the offenses as listed in the
25 complaint.

1 And with those convictions, order a presentence
2 investigation report by Court Services. The Court
3 finding there is a sufficient factual basis for the
4 plea, that defendant is competent to enter the plea,
5 and that it's knowingly and voluntarily made.

6 Sentencing, I'm looking at September 17th or 18th.

7 MS. BRASSEL: One moment, Your Honor.
8 September 17th is the last day of a jury trial that I
9 have in Division 15, but the 18th looks open.

10 MR. COPELAND: Friday the 18th looks open
11 for me too.

12 THE COURT: All right. 9:00.

13 MR. COPELAND: Yes, ma'am.

14 MS. BRASSEL: Actually could we do it at
15 9:30? I have a pretrial at 9:00.

16 MR. COPELAND: 9:30?

17 MS. BRASSEL: Would that work?

18 THE COURT: Mr. Jones, is that
19 convenient to your work schedule?

20 DEFENDANT JONES: Yes, Your Honor.

21 THE COURT: All right. You're
22 ordered to go down to room 104 to assist in the
23 preparation of the presentence report.

24 You'll remain on whatever conditions of bond were
25 originally set.

1 Are you on any sort of bond supervision?

2 DEFENDANT JONES: No, Your Honor.

3 MS. BRASSEL: This was by summons, Your
4 Honor.

5 THE COURT: Okay. All right. You're
6 ordered to reappear then September 18th at 9:30.

7 All right. Anything further?

8 MS. BRASSEL: No, Your Honor.

9 MR. COPELAND: No, Your Honor. Thanks,
10 Your Honor.

11 THE COURT: Anything else I need to
12 address?

13 MS. BRASSEL: No, Your Honor.

14 THE COURT: Okay. Thank you very
15 much. That will be all.

16 MR. COPELAND: Thank you, Your Honor.

17 MS. BRASSEL: Thank you, Your Honor.

18 (WHEREUPON, the Plea was concluded.)

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C E R T I F I C A T E

1
2 STATE OF KANSAS)
3 COUNTY OF SHAWNEE) ss:
4

5 I, Sarah A. Regnier, the regularly appointed,
6 qualified, and acting official reporter of Division
7 No. 3 of the Third Judicial District of the State of
8 Kansas, do hereby certify that as such Official
9 Reporter, I was present at and reported in Stenotype
10 shorthand the above and foregoing proceedings in Case
11 No. 09-CR-496, *State of Kansas, Plaintiff, vs. Trevor*
12 *Jones, Defendant*, heard on July 23, 2009, before the
13 Honorable Jean M. Schmidt, Judge of Division No. 3 of
14 said Court.

15 I further certify that at the request of Judge Jean
16 Schmidt, a transcript of my shorthand notes was typed
17 and that the foregoing transcript, consisting of 23
18 typewritten pages, is a true copy of said Plea.

19 SIGNED, and delivered (filed with the Clerk of the
20 District Court of Shawnee County, Kansas), this 29th
21 day of October, 2009.

22
23
24 
25 SARAH A. REGNIER #1589

SARAH REGNIER, Official Court Reporter
Third Judicial District, Division 3, 233-8200 X-4205