

Upper Marlboro, MD
District Court Preliminary Hearing Session
October 14, 2022

There were no trials in Room 262 this morning – the door was locked all morning – so the three of us went to preliminary hearings next door in Room 261. For felony charges, preliminary hearings are the next step after bond hearings. At preliminary hearings the State says which charges they will nolle pros and which they will prosecute. The defense can also argue that probable cause does not exist. Today, the judge refused all such claims by the PD.

Judge Brian Denton presided, the ASA was Elveta Martin, and the PD was Allie Horowitz. Of the 31 cases we heard, 15 had some felonies nolle prossed (with misdemeanors remaining in all of these cases), 7 had some probable cause claims hashed out, 4 were indicted and moved to Circuit Court, 2 waived the right to a preliminary hearing, 2 fugitives waived the right to extradition, and 1 case was continued.

No case was completely nolle prossed, and Denton denied every challenge the defense made to probable cause. So, it was like a steam roller moving the cases forward. Most cases involved people held pretrial. Occasionally, if felonies were nolle prossed and the remaining charges were minor, the defense asked for a bond review. Twice Judge Denton agreed, and once he ordered release under OPS supervision, letting it be known that he didn't like to give OPS an order rather than an option because he didn't want to move some people in front of others in the line waiting for processing by OPS. (Judges could release a lot of people but they don't, so their sudden concern about moving someone to the front of the OPS line and keeping another person in longer, seems disingenuous.)

The case where Denton made the order involved Mr. B, who was charged with first and second degree assault. He has been in jail almost a month while OPS sits on its option – he is on “the wait list,” an OPS official said. Mr. A is 44 and has no other record for the last 20 years. The State nolle prossed the Assault 1 charge today. The alleged victim was not in fear and wanted him released. Attorney Horowitz asked that release under OPS supervision be ordered. Judge Denton tied himself in knots, saying how unfair this was to those waiting in line, but finally said, “I can't believe I'm saying this,” and ordered release at level three supervision.

Judge Denton inquired several times today whether someone should be put into Mental Health Court. He waxed rhapsodic to Mr. C on the alleged benefits of MHC, saying their “wrap-around” services would benefit him. It appeared from the ensuing conversation that Mr. C has mental

health needs well known to the court, which has simply cycled him through its carceral system time after time. When Mr. C did not express great enthusiasm for MHC, the judge went into another spiel about how Mental Health Court is “a crowded thing and I don’t like to just put people in there if they aren’t enthusiastic. I like to put people in who are really going to get into it,” he said.