

543-1271
IN THE
SUPREME COURT OF FLORIDA

BY _____
CLERK, SUPREME COURT

FILED
THOMAS D. HALL
JUN 28 2013

BRIAN M. CASEY - PETITIONER

APPEAL NO.
LT. NOS. 2D12-5130
10CF019724

VS.

STATE OF FLORIDA - RESPONDENT

PETITIONERS BRIEF IN SUPPORT OF
DISCRETIONARY JURISDICTION

BRIAN M. CASEY 139647
4455 Sam Mitchell Rd
Chipley, FLA. 32428

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STATEMENT OF THE CASE AND FACTS

BRIAN M. CASEY (PETITIONER) WAS ARRESTED AND CHARGED WITH MURDER AND ARSON ON OCTOBER 20, 2010. PRIVATE COUNSEL WAS RETAINED AND A NOTICE OF APPEARANCE AND NOTICE OF INTENT TO PARTICIPATE IN DISCOVERY WAS FILED ON NOVEMBER 8, 2010.

ON NOVEMBER 14, 2010 ARRAIGNMENT WAS CONTINUED BY THE STATE UNTIL FORMAL CHARGES WERE FILED ON NOVEMBER 24, 2010. AN ARRAIGNMENT HEARING WAS HELD ON DECEMBER 6, 2010 BUT WAS ALSO CONTINUED BY THE STATE. HOWEVER, THE STATE FAILED TO FILE DISCOVERY DISCLOSURE PURSUANT TO RULE 3.220.

A MOTION TO PROCEED PRO SE WAS FILED ON JANUARY 4, 2011 AND SELF REPRESENTATION WAS GRANTED ON JANUARY 20, 2011. A MOTION TO COMPEL PURSUANT TO THE STATE'S FAILURE TO PROVIDE DISCOVERY OR CRIMINAL INFORMATION WAS FILED ON JANUARY 25, 2011. ON JANUARY 26, 2011 THE STATE PROVIDED ONLY A TABLE OF CONTENTS OF DISCOVERY BUT NOT THE CONTENTS OF DISCOVERY AND NO CRIMINAL INFORMATION. THEREAFTER THE STATE DISCLOSED ONLY PARTS OF THE LEE COUNTY SHERIFF OFFICE CFS#10-402109 DISCOVERY THAT WAS ALTERED FROM ITS ORIGINAL FORM AS PROVIDED TO THE STATE FROM THE SHERIFF'S OFFICE. (SEE APPENDIX I)

THE TRIAL COURT WOULD NOT REACH THE MERITS OF DEFENSE OBJECTIONS TO DISCOVERY VIOLATIONS. THE DEFENDANT WAS NOT ALLOWED HEARINGS ON PRO SE MOTIONS OR TO COMPEL WITNESSES. THE COURT APPOINTED STANDBY COUNSEL BUT INSTRUCTED COUNSEL NOT TO HELP THE DEFENDANT IN ANY WAY.

ON MARCH 18, 2011 THE COURT STRUCK A DEMAND FOR SPEEDY TRIAL VIA SPORTE WITHOUT MOTION OF THE PROSECUTOR AND IN THE ORDER STATED, "THE DEFENDANT WITHDREW HIS MOTION...." THE DEFENDANT DID NOT WITHDRAW A DEMAND FOR

Speedy trial. The defendants request for transcripts of the hearing in question were denied but the court allowed the state to provide transcripts of the hearing that were not the real record.

A petition for writ of habeas corpus was filed in the Second District Court of Appeal on October 1, 2011, case no 2011-4867, but was denied without an opinion. A petition for writ of habeas corpus was filed pursuant to 907.045 F.S. in this Honorable Court on April 9, 2012, case no. SC12-835. The habeas petition raised substantial issues of fact and alleged that a fundamental injustice was occurring: a denial of constitutionally protected rights and fraud on the court had caused an illegal detention. (See Appendix H). Moreover, the state informed the court on December 5, 2011 that, "Defendant is subject to release because of discovery violations." The trial court refused to accept motions to discharge in open court and thereafter would not allow hearings on motions to discharge. These grounds were also raised in the petition for writ of habeas corpus.

Trial began on May 7, 2012 without formal arraignment or the defendant permitted to have hearings on pro se motions filed. The clerk would not issue out handwritten trial witness subpoenas and the state introduced evidence at trial not previously disclosed over defense objections. The defendant was convicted by a jury trial and sentenced to two life sentences on May 30, 2012.

The petition for writ of habeas corpus filed in this Honorable Court on April 9, 2012 was transferred to the Second District Court of Appeal on September 27, 2012. (See Appendix A). However, the petition for writ

of habeas Corpus was NOT ATTACHED TO THE ORDER OF TRANSFER. (SEE Appendix B)

ON November 1, 2012 THE DISTRICT COURT TREATED THE APPENDICES FILED IN THE CASE AS A PROHIBITION PROCEEDING AND DENIED THE CASE WITHOUT AN OPINION. (SEE Appendix C.) A MOTION FOR CLARIFICATION THEREAFTER FILED WAS DENIED ON DECEMBER 17, 2012. (SEE Appendix D) A MOTION FOR REHEARING THEREAFTER FILED WAS DENIED ON JANUARY 14, 2013. (SEE Appendix E)

THE PETITIONER FILED AN ORIGINAL COPY OF THE PETITION FOR WRIT OF habeas Corpus WITH THE DISTRICT COURT WITH A REQUEST FOR REHEARING. ON April 16, 2013 THE DISTRICT COURT DENIED A REQUEST TO CONSIDER THE COPY FILED BY PETITIONER. (SEE Appendix F). A MOTION TO CORRECT AND SUPPLEMENT THE RECORD WAS FILED REQUESTING AN OPPORTUNITY TO SUPPLEMENT THE RECORD AND REOPEN THE APPEAL. THE DISTRICT COURT DENIED THE REQUEST ON JUNE 7, 2013. (SEE Appendix G)

THIS PETITION FOR DISCRETIONARY JURISDICTION FOLLOWS.

SUMMARY OF ARGUMENT

THE SECOND DISTRICT COURT OF APPEAL'S DETERMINATION OF A habeas PROCEEDING WITHOUT THE RECORD AND DENIAL OF AN OPPORTUNITY TO SUPPLEMENT THE RECORD WAS CONTRARY TO CLEARLY ESTABLISHED FEDERAL LAW AND IN VIOLATION OF FLA. R. APP. P. 9200 (1)(2).

THIS CASE IS A MATTER OF GREAT PUBLIC IMPORTANCE AS A CITIZEN'S CONSTITUTIONAL RIGHT TO A WRIT OF

Habeas Corpus was usurped by governmental interference and access to the courts was seized illegally in contravention of the proper administration of justice.

Scope of Review

This Honorable Court held in Scaldeferrari v. Sandstrom 285 So2d 409, 411 (Fla 1973) that an Appellate Court should correct a manifest injustice in a habeas proceeding.

Ch. 907.045, F.S. provides for a defendant who has been confined for 30 days after arrest without a trial shall be allowed a preliminary hearing upon application of a writ of habeas corpus. Article I, Sect. 13 Fla. Const. states, "THE WRIT OF HABEAS CORPUS shall be grantable of right, freely and without cost. It shall be returnable without delay." Moreover, Fla. R. App P. 9.200 (F)(2) provides, "IF A COURT finds the record is incomplete, it shall direct a party to supply the omitted parts of the record. No proceeding shall be determined, because of an incomplete record, until an opportunity to supplement the record has been given."

ARGUMENT

Article I, Sect. 9, Fla Const. requires, "NO PERSON shall be deprived of life, liberty or property without due process of the law. Section 2 provides, "THE RIGHT to enjoy and defend life and liberty... to acquire,

POSSES AND PROTECT PROPERTY. A CAUSE OF ACTION IS A SPECIES OF PROPERTY PROTECTED BY THE FOURTEENTH AMENDMENT. LOGAN V. ZIMMERMAN BRUSH CO. 455 U.S. 422, 428, 102 S. CT. 1148, 71 LEd 2d (1982). THE WRIT OF HABEAS CORPUS IS A CONSTITUTIONALLY PROTECTED RIGHT UNDER ARTICLE I, SECT. 13, FLA CONST. AND SHOULD NOT BE DIMINISHED UNDER ABUSE OF PROCESS AND NULLIFIED BY VIOLATIONS OF ESTABLISHED RULES OF PROCEDURE BY A COURT.

THE FIRST AMENDMENT GUARANTEES THE RIGHT OF THE PEOPLE TO SEEK REDRESS OF GOVERNMENT WRONGDOING IN COURT. 91 N.W. 2d L. REV 899. THE RIGHT OF ACCESS TO THE COURTS ALSO TRACKS WITH THE PRIVILEGES AND IMMUNITIES ACCORDED CITIZENS UNDER THE FOURTH AMENDMENT. CHAMBERS V BALTIMORE ORR. 307 U.S. 142, 28 S. CT. 34, 51. THE DETERMINATION OF A HABEAS PROCEEDING WITHOUT THE RECORD AND DENIAL OF AN OPPORTUNITY TO SUPPLEMENT THE RECORD BY THE DISTRICT COURT CONSTITUTES AN ILLEGAL SEIZURE OF PROPERTY THAT DENIES ACCESS TO THE COURTS UNDER THE LAWS AND CONSTITUTION OF FLORIDA. THIS FORM OF SELECTIVE PROSECUTION UNDERMINES PUBLIC OPINION AND VIOLATES THE DOCTRINE OF STARE DECISIS. IRWIN V. DEPT. VETERANS AFF. 498 U.S. 89, 100 N. 3, 111 S. CT. 453, 460, N. 3, 112 LEd 2d 435 (1990)

CONCLUSION

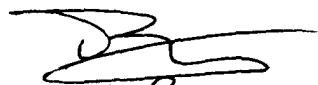
FOR THE ABOVE REASONS THE PETITIONER SEEKS TO INVOKe THE DISCRETIONARY JURISDICTION OF THIS HONORABLE COURT BECAUSE A MANIFEST INJUSTICE WOULD OCCUR IF THE ERROR IS NOT CORRECTED IN THE HABEAS PROCEEDING ABOVE.

STATE V. McBride 848 So2d 29 (Fla 2003). THIS Honorable Court should ACCEPT 'PETITIONERS BRIEF IN SUPPORT OF DISCRETIONARY JURISDICTION' AS A BRIEF ON THE MERITS WITHOUT FURTHER REQUIREMENT OF ADDITIONAL BRIEFING BY PETITIONER AND REMAND THIS CASE TO THE DISTRICT COURT WITH THE COMPLETE RECORD OF CASE NO. SC12-835 WITH DIRECTIONS TO APPLY THE LAW OF THE CASE.

WHEREFORE, based on the foregoing facts, arguments and authorities, PETITIONER prays THIS Honorable Court CORRECT THE ABOVE habeas proceeding and grant any other such just and fair relief deemed meet and proper towards the challenged orders to prevent a manifest injustice from further occurring

CERTIFICATE OF SERVICE

I hereby CERTIFY A TRUE COPY OF THE FOREGOING has been mailed to Hon. Pamela Bondi, P2-01, Capitol Tallahassee, FL 32399 on THIS 24th day of June 2013


Brian W. Casey 139647
4455 Sam Mitchell Rd.
Chipley, FL 32428

APPENDIX

A

Supreme Court of Florida

Lee

THURSDAY, SEPTEMBER 27, 2012

12-5130

CASE NO.: SC12-835

Lower Tribunal No(s): 2010-CF-019724,
2010-CF-019726

BRIAN CASEY

vs. STATE OF FLORIDA

Petitioner(s)

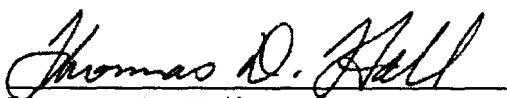
Respondent(s)

The order to show cause is hereby discharged. The petition for writ of habeas corpus is hereby transferred, pursuant to Harvard v. Singletary, 733 So. 2d 1020 (Fla. 1999), to the Second District Court of Appeal. The transfer of this case should not be construed as an adjudication or comment on the merits of the petition, nor as a determination that the transferee court has jurisdiction or that the petition has been properly denominated as a petition for writ of habeas corpus. The transferee court should not interpret the transfer of this case as an indication that it must or should reach the merits of the petition. The transferee court shall treat the petition as if it had been originally filed there on the date it was filed in this Court. Any determination concerning whether a filing fee shall be applicable to this case shall be made by the transferee court. Any and all pending motions in this case are hereby deferred to the transferee court.

Any future pleadings filed regarding this case should be filed in the above mentioned district court at 1005 E. Memorial Boulevard, Lakeland, Florida 33801.

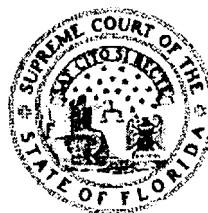
A True Copy

Test:



Thomas D. Hall

Clerk, Supreme Court



kb

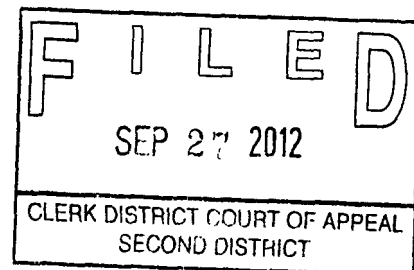
Served:

BRIAN M. CASEY

HON. PAMELA JO BONDI

HON. JAMES BIRKHOOD, CLERK

HON. CHARLIE GREEN, CLERK



3

APPENDIX B

**DISTRICT COURT OF APPEAL
SECOND DISTRICT
P.O. BOX 327
LAKELAND, FLORIDA 33802-0327
(863) 499-2290
Date: February 5, 2013
re: Case Number: 2D12-5130**

In response to your recent communication, please see the paragraph(s) marked below.

___ There appears to be no proceeding pending in the court similar to the one you describe.

___ I am not authorized to provide the legal advice that would provide answers to your inquiry.

___ This case is pending in this court and you (or your attorney if you are represented) will be notified by mail when a decision is reached.

___ The court's mandate was issued on _____. It signifies that the appeal is now closed in this court. Only the original mandate, which is sent to the clerk of the lower court, is accompanied by the opinion issued earlier, which was provided at that time to the parties.

___ The panel assigned to this appeal has given no reason for its ruling and is not required to do so.

___ Canon 3 of the Code of Judicial Conduct prohibits judges from reading or considering your letter.

___ This court cannot act on your request to prompt action by the circuit court unless jurisdiction is conferred upon it by the filing of an original proceeding in mandamus in this court.

___ This court has not yet received the appeal of which you speak. The brief/motion you filed will be linked up to that appeal when it arrives from the circuit court.

___ Your filing will not be considered by the court because you have an attorney representing you and the filing is not authorized.

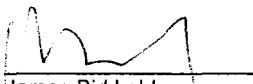
___ Action will not be taken upon your request, nor will it be docketed. Judicial action results only if a formal motion that includes a certificate of service on the opposing party or counsel is filed.

___ Copies from this court's file are available at \$1 per page. If you are still interested in obtaining copies from this court, please advise and by return mail we will indicate the number of pages involved. Alternatively, you may wish to contact your appellate attorney if you have one regarding this request.

___ The name and address of your current attorney is:

___ All parties, whether represented by counsel or not, are required to comply with the Florida Rules of Appellate Procedure. These can be found in law libraries and can be accessed on line at this court's website, <http://www.2dca.org>. This court cannot provide copies of the rules or copies of forms.

Other: We sent you everything transferred here by the Florida Supreme Court on September 27, 2012, in SC12-835. None of those documents is titled as a habeas petition and the court treated the attachments to the FSC's order as the petition I presume.


James Birkhold
Clerk
w:\document\casey

APPENDIX C

**IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
SECOND DISTRICT, POST OFFICE BOX 327, LAKE LAND, FL 33802-0327**

November 1, 2012

CASE NO.: 2D12-5130
L.T. No. : 2010-CF-019724

Brian M. Casey

v. State Of Florida

Appellant / Petitioner(s),

Appellee / Respondent(s).

BY ORDER OF THE COURT:

Petitioner's motion to consolidate is denied.

Petitioner's "motion to consolidate petitions for writ of habeas corpus" is denied.

Petitioner's petition for writ of prohibition is denied.

LaROSE, MORRIS, and BLACK, JJ., Concur.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

Brian M. Casey

Attorney General

Charlie Green, Clerk

aw


James Birkhold
Clerk



APPENDIX D

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
SECOND DISTRICT, POST OFFICE BOX 327, LAKELAND, FL 33802-0327

December 17, 2012

CASE NO.: 2D12-5130
L.T. No. : 2010-CF-019724

Brian M. Casey

v. State Of Florida

Appellant / Petitioner(s),

Appellee / Respondent(s).

BY ORDER OF THE COURT:

The petitioner's motion for clarification is denied.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

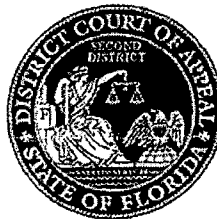
Brian M. Casey

Attorney General

Charlie Green, Clerk

ag


James Birkhold
Clerk



APPENDIX E

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
SECOND DISTRICT, POST OFFICE BOX 327, LAKELAND, FL 33802-0327

January 14, 2013

CASE NO.: 2D12-5130
L.T. No. : 2010-CF-019724

Brian M. Casey

v. State Of Florida

Appellant / Petitioner(s),

Appellee / Respondent(s).

BY ORDER OF THE COURT:

Petitioner's motion for rehearing is denied.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

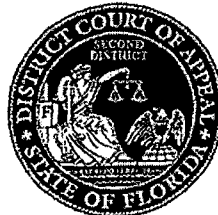
Brian M. Casey

Attorney General

Charlie Green, Clerk

td


James Birkhold
Clerk





APPENDIX F

**IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
SECOND DISTRICT, POST OFFICE BOX 327, LAKELAND, FL 33802-0327**

April 16, 2013

CASE NO.: 2D12-5130
L.T. No. : 2010-CF-019724

Brian M. Casey

v. State Of Florida

Appellant / Petitioner(s),

Appellee / Respondent(s).

BY ORDER OF THE COURT:

The petitioner's motion for leave to file motion for rehearing is granted only to the extent that this court has considered the attached petition for writ of habeas corpus.

It is otherwise denied.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

Brian M. Casey

Attorney General

Linda Doggett, Clerk

ag


James Birkhold
Clerk



APPENDIX G

**IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
SECOND DISTRICT, POST OFFICE BOX 327, LAKELAND, FL 33802-0327**

June 7, 2013

CASE NO.: 2D12-5130
L.T. No. : 2010-CF-019724

Brian M. Casey

v.

State Of Florida

Appellant / Petitioner(s),

Appellee / Respondent(s).

BY ORDER OF THE COURT:

The petitioner's motion to correct and supplement the record is denied. This case is concluded, and judicial attention will not be given to any additional motions submitted by the petitioner in this proceeding.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

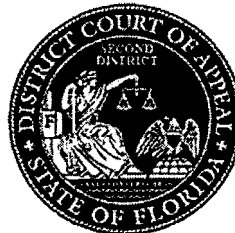
Brian M. Casey

Attorney General

Linda Doggett, Clerk

ag


James Birkhold
Clerk



APPENDIX H

SUPREME COURT OF FLORIDA

BRIAN M. CASEY

v.

STATE OF FLORIDA

Appeal No

LT. No. 2010CF019724

2010CF019726

PETITION FOR WRIT OF HABEAS CORPUS

COMES NOW BRIAN M. CASEY PETITIONER pro se
AND HEREBY PETITIONS THIS COURT FOR THE ISSUANCE
OF A WRIT OF HABEAS CORPUS.

JURISDICTION

ARTICLE I, SECTION 13 OF THE FLORIDA CONSTITUTION, FLORIDA
RULES OF APPELLATE PROCEDURE 9.030 (A)(3) CONFERS UPON THIS
COURT THE JURISDICTION TO ISSUE A WRIT OF HABEAS CORPUS
FOR THE FACTS SET FORTH HEREIN.

STANDARD OF REVIEW

THE WRIT OF HABEAS CORPUS SHALL BE GRANTABLE AS A
RIGHT, FREELY AND WITHOUT COST. IT SHALL BE RETURNABLE
WITHOUT DELAY AND SHALL NEVER BE SUSPENDED UNLESS IN CASE
OF REBELLION OR INVASION, SUSPENSION IS ESSENTIAL TO PUBLIC
SAFETY. ARTICLE I, SECTION 13 FLORIDA CONSTITUTION.

REASON FOR INVOKING ORIGINAL JURISDICTION

THE PETITIONER FILED A PETITION FOR WRIT OF HABEAS CORPUS ON JULY 4, 2011 IN THE TWENTIETH JUDICIAL CIRCUIT COURT AT FT. MYERS SEEKING RELIEF FROM THE SUD SPORTE STRIKING OF A DEMAND FOR SPEEDY TRIAL WITHOUT MOTION OF THE PROSECUTOR BY HON. EDWARD VOLZ, JR. THE ORDER STRIKING DEMAND FOR SPEEDY TRIAL FILED MARCH 18, 2011 STATES, "DEFENDANT WITHDREW HIS MOTION ORALLY WAIVED HIS RIGHT TO A SPEEDY TRIAL IN OPEN COURT ON MARCH 15, 2011." THIS IS NOT WHAT TOOK PLACE ON MARCH 15, 2011. ON JULY 25, 2011 HONORABLE J. FRANK PORTER ENTERED AN ORDER DISMISSING PETITION FOR WRIT OF HABEAS CORPUS CITING GADSON V. JENNE 882 So.2d 531 (Fla. 4th DCA 2004). "ONE CIRCUIT COURT JUDGE DOES NOT HAVE THE AUTHORITY TO REVERSE THE PRIOR ORDER OF ANOTHER CIRCUIT COURT JUDGE." p 11

A PETITION FOR WRIT OF HABEAS CORPUS SEEKING RELIEF FROM FIFTH, SIXTH, AND FOURTEENTH AMENDMENT VIOLATIONS TO THE UNITED STATES CONSTITUTION, ART. I SECT 9, 16 (A) FLORIDA CONSTITUTION AND FLORIDA RULES OF CRIMINAL PROCEDURE 3.191 (A), (b) WAS FILED ON OCTOBER 1, 2011 IN THE SECOND DISTRICT COURT OF APPEALS. ON DECEMBER 5, 2011 THE SECOND DISTRICT COURT OF APPEALS DENIED THE PETITION FOR WRIT OF HABEAS CORPUS WITHOUT AN OPINION. p 12

THIS COURT'S DECISION IN STANWORTH V. MOORE 827 So.2d 914 (Fla. 2002) FORECLOSES THE REVIEW OF EXTRAORDINARY WRIT APPEALS DENIED WITHOUT OPINION. IT IS FOR THIS REASON THAT THE PETITION FOR WRIT OF HABEAS CORPUS FILED WITH THE SECOND DISTRICT COURT OF APPEALS CANNOT BE REVIEWED BY THIS COURT. THE PETITIONER SEEKS TO INVOLVE THE ORIGINAL JURISDICTION OF THIS COURT WITH AN APPLICATION OF AN ORIGINAL WRIT OF HABEAS CORPUS. p 13, 14

CHAPTER 907.045 FLORIDA STATUTES PROVIDES A DEFENDANT WHO HAS BEEN CONFINED FOR 30 DAYS AFTER HER OR HIS ARREST WITHOUT A TRIAL SHALL BE ALLOWED A PRELIMINARY HEARING UPON APPLICATION OF A WRIT OF HABEAS CORPUS.

CONSTITUTIONAL AND STATUTORY PROVISIONS

THE PETITIONER IS BEING HELD IN VIOLATION OF THE FIFTH, SIXTH AND FOURTEENTH AMENDMENT RIGHTS OF THE UNITED STATES CONSTITUTION, ARTICLE I, SECT 9, 16 (A) OF THE FLORIDA CONSTITUTION, AND FLORIDA RULES OF CRIMINAL PROC. 3.191 (A), (B).

STATEMENT OF FACTS

1. THE PETITIONER WAS ARRESTED ON OCTOBER 20, 2010 AND CHARGED WITH FRAUD USE OF ID, DECEASED PERSON. THIS ARREST WAS PRETEXTUAL TO INTERROGATE THE DEFENDANT CONCERNING THE DEATH OF RYAN VANDERSON. THE PETITIONER WAS SUBSEQUENTLY BOOKED INTO THE LEE COUNTY JAIL FOR MURDER AND ARSON.
2. ATTORNEY PATRICK MCKANEY, ESQ. FILED A NOTICE OF APPEARANCE AND A NOTICE OF DISCOVERY ON NOVEMBER 8, 2011.
3. THE STATE FAILED TO DISCLOSE DISCOVERY PURSUANT TO FL. RULES OF CRIM. PROC. 3.220. IN EITHER CASE NO. 2010CF019724, 2010CF019726.
4. A DEMAND FOR SPEEDY TRIAL WAS FILED PRO SE ON DECEMBER 7, 2011 AFTER THE LEE COUNTY SHERIFF'S OFFICE PROVIDED A PRELIMINARY DISCOVERY OF STATEMENTS AGENCY NO. CFS# 10-402109. p. 16.
5. ADMINISTRATIVE JUDGE JOHN CARLIN ORDERED THE REASSIGNMENT AND ORDER REASSIGNING AND CANCELLATION OF ALL PRIOR ORDERS IN ABOVE CASES ON DECEMBER 16, 2010. THIS ORDER REASSIGNED

THE ABOVE CASES FROM JUDGE MARGARET STEINBECK TO JUDGE EDWARD VOLZ, JR.

6. ON December 21, 2010 Honorable MARGARET STEINBECK ENTERED AN ORDER STRIKING THE DEMAND FOR SPEEDY TRIAL AS A NULLITY FOR PETITIONER BEING REPRESENTED BY COUNSEL. P. 18

7. THE DEFENDANT APPEARED FOR ARRAIGNMENT ON NOVEMBER 22, 2010 BEFORE HON. RAMIRO MANDUCH WITHOUT COUNSEL AND DID NOT WAIVE SPEEDY TRIAL. THE STATE CONTINUED THE ARRAIGNMENT.

8. COUNSEL FOR PETITIONER, PATRICK McRANEY, APPEARED BEFORE HON. JACK SCHOONOVER ON DEC. 6, 2010 FOR ARRAIGNMENT AND ASKED FOR A 10 DAY CONTINUANCE TO TEST THE SUFFICIENCY OF THE CHARGES BUT DID NOT WAIVE SPEEDY TRIAL.

9. HONORABLE MARGARET STEINBECK STRUCK A DEMAND FOR SPEEDY TRIAL IN A CASE THAT WAS TRANSFERRED TO ANOTHER JUDGE WITHOUT HAVING MET THE ATTORNEY FOR THE DEFENDANT OR THE DEFENDANT HIMSELF. HONORABLE STEINBECK DO NOT HAVE JURISDICTION OF THE ABOVE CASES TO STRIKE A DEMAND FOR SPEEDY TRIAL.

10. THE DEFENDANT APPEARED BEFORE HONORABLE EDWARD VOLZ, JR. ON JANUARY 20, 2011 AT CASE MANAGEMENT WITHOUT AN ATTORNEY AND UNEQUIVOCAL REQUESTS TO REPRESENT HIMSELF. AT THIS HEARING THE DEFENDANT COMPLAINED OF DISCOVERY VIOLATIONS CONCERNING THE STATE NOT ISSUING DISCOVERY AND REQUESTED A RICHARDSON HEARING. HON. EDWARD VOLZ, JR. ASKED, "RICHARDSON HEARING?" I TOLD HIM "DISCOVERY VIOLATIONS". THE COURT SCREAMED "DISCOVERY VIOLATIONS! I THOUGHT YOU DIDN'T HAVE DISCOVERY!" THE COURT WOULD NOT GRANT A HEARING ON THE STATES FAILURE TO DISCLOSE DISCOVERY. THE CASE WAS SET FOR PRETRIAL ON FEBRUARY 22, 2011.

11. When a discovery violation is called to the trial court's attention by a defendant's timely objection or motion LUCAS V. STATE 376 So2d 1149 (Fla. 1979), the court is required to conduct the hearing prescribed by RICHARDSON V. STATE 246 So2d 771, in which hearing it must determine what effect if any did the violation have upon the ability of the defendant to properly prepare for trial. RAMIREZ V. STATE 241 So2d 744 (Fla. 4th DCA 1970). While it is the state's burden to prove the defendant has not been prejudiced and "the circumstances establishing prejudice or non-prejudice must affirmatively appear on the record." COLLIER V. STATE 353 So2d 1219 (Fla. 3d DCA 1977).

12. On February 11, 2011, the state filed motion to review defendant's demand for speedy trial.

13. On February 16, 2011, the defendant filed a demand for speedy trial in case No. 2010CF019726. This demand was never answered by the court and did expire on April 16, 2011 without trial through no fault of the petitioner.

14. At pretrial conference on February 22, 2011, the court had pending motions to compel discovery, pleadings for due process provisions such as a private investigator and a process server and orders to show cause why the state was not disclosing discovery. The court stated it was "not aware of any pro se motions."

15. The court would not address a pro se motion to dismiss or the state's motion to review defendant's demand for speedy trial at this pretrial hearing.

16. Up to this date, the state's only disclosure of discovery took place on January 26, 2011. Witness transcripts and a table of contents of crime scene and medical examiner photos. The discovery disclosure was a table of contents

only and did not include photos on any CD's. Also a witness list.

17. IN FEBRUARY 7, 2011 THE STATE DISCLOSED SIX CD'S THE PETITIONER NEVER RECEIVED.

18. ALSO BLACK AND WHITE THUMBNAILED PHOTOGRAPHS OF VARIOUS CRIME SCENES.

19. THE DISCOVERY DISCLOSURE STATES COLOR PHOTOS ARE AVAILABLE ON CD.

20. ON FEBRUARY 24, 2011 THE STATE FILED ADDITIONAL DISCOVERY DISCLOSURE STATING THAT IT DISCLOSED COLOR PHOTOGRAPHS COPIES ON FEBRUARY 7, 2011. THIS BELIES THE DISCOVERY DISCLOSURE RECEIPT OF FEBRUARY 7, 2010 THAT STATES ONLY BLACK AND WHITE THUMBNAILED COMPUTER BLACK AND WHITE PICTURES WERE SUPPLIED.

21. THE DISCOVERY RECEIPT ALSO STATES COPIES OF AUDIO FILES WERE GIVEN TO THE PETITIONER. THE ONLY COPIES PROVIDED WERE COMPUTER SCREEN PRINTOUTS OF FILES.

22. ON MARCH 1, 2011 THE STATE DISCLOSED ONLY COMPUTER SCREEN PRINTOUTS BUT THE RECEIPT STATES CD'S WERE DISCLOSED. A STATE ATTORNEY INVESTIGATOR ACKNOWLEDGES NO CD WAS DISCLOSED WITH A SIGNATURE.

23. THE DEFENDANT APPEARED BEFORE THE COURT ON MARCH 7, 2011 ON HEARINGS FOR THE APPOINTMENT OF A PRIVATE INVESTIGATOR, ORDER TO SHOW CAUSE WHY THE STATE WAS NOT PROVIDING DISCOVERY, AND A PLEADING REGARDING THE STATE NOT RECEIPTING THE DISCOVERY ISSUED.

24. AT THIS HEARING THE PETITIONER COMPLAINED THAT THE STATE REMOVED THE REVIEWING DETECTIVES SIGNATURE FROM TRANSCRIPTS, ADDED STATEMENTS TO ADVANCE TRANSCRIPTS, AND REMOVED STATEMENTS FROM THE VIDEO OF THE DEFENDANTS INTERROGATION. THE PROSECUTOR DEMANDED THAT THE PETITIONER...

Refused to even hold hearings on properly filed motions concerning discovery fulfilled with notice of hearings. The Court removed the petitioner from the courtroom.

25. This Hearing has been filed in Case No J010CFV9726.

26. The State began to send all discovery to stand-by counsel Jay Brizel, Esq. on March 8, 2011 the day after above hearings and would not send discovery to petitioner.

27. Standby Counsel was under Court order to not assist the petitioner in any way and Jay Brizel would not forward discovery.

28. A Demand for Speedy trial was filed on March 9, 2011. Along with this Demand for Speedy trial was filed pro se motions to suppress items and statements and an order to show cause why the state was not disclosing discovery. These pro se motions were filed with requests for hearings.

29. On March 15, 2011 Honorable Edward Volz, Jr held a hearing without prior notice on all pro se motions. The Court brought petitioner into the courtroom. The projector was lowered from the ceiling and the detectives were present. The Court denied all pro se motions in quick succession while the defendant was handcuffed, shackled and chained wrists at his side. The Court stated it was going to hold a hearing "Now" on a motion to suppress. I informed the Court I was not prepared to go forward with that motion as I had no defense witnesses or expert testimony. The Court stated we're having it "Now". I screamed out, "NO I WANT TO CALL WITNESSES. I WITHDRAW THE MOTION!" THE COURT ASKED "ALL OF THEM?" I SAID "YES."

30. On March 18, 2011 the Court struck a demand for Speedy trial filed March 9, 2011. This order states, "A Hearing

was held on March 15, 2011 and the defendant withdrew his motion and orally waived his right to speedy trial." The petitioner only withdrew his motion to suppress because the court would not allow a fair hearing. The petitioner did not withdraw a demand for speedy trial.

P 19

31. McNEAL v. STATE 750 S.2d 731 (2000) quoting Landry v. STATE 666 S.2d 12125 (Al. 1995) holding that the rules of criminal process procedure do not authorize the sua sponte denial of a speedy trial; motion by prosecuting attorney is required.
32. A motion for discharge was filed on September 21, 2011 pro se in which the court refused to set a hearing.
33. On December 5, 2011 the state duly informed the court that the petitioner was subject to release because of speedy trial violations at hearing filed under 2010CFR019945.
34. On December 29, 2011 the petitioner filed notice of expiration of speedy trial and motion for discharge.
35. The court held a hearing on January 4, 2011. Honorable Edward Volz being duly advised by the state that petitioner was subject to release stated, "I will only treat the motion for discharge as a 60 day demand for speedy trial. Having found petitioner previously waived speedy trial." The court then set trial for May 7, 2011, 123 days following the denial of hearing on motion to discharge.
36. The court did not make the inquiries required by Fl. Crim. Proc. 3.191(2) though the court did not make the determinations to deny the notice of expiration of speedy trial and allow a recapture period of 10 days for trial required by Rule 3.191(a), (c)(2)-(3). The court did not also set the case for trial.

WITHIN 90 days pursuant to RULE 3.191 WSCD. 90 days has passed since the court refused a hearing on motion to discharge and notice of expiration of speedy trial. IN SUCH CASES THE RULE CLEARLY PROVIDES THAT THE DEFENDANT "SHALL BE FOREVER DISCHARGED FROM THE CRIME." Spolin v. Hon. Jay E. Ulmer 483 S.2d 75 (1986).

37. THE COURT HAS REFUSED HEARINGS CONCERNING DISCOVERY VIOLATIONS AND SPEEDY TRIAL RULE VIOLATIONS. THE COURT HAS BEEN DULY ADVISED BY THE STATE ON THE PREMISES OF THE EXISTENCE OF SAID VIOLATIONS BUT CONTINUES TO DEPART FROM THE ESSENTIAL REQUIREMENTS OF LAW.

38. THE PETITIONER HAS REPEATEDLY ASKED FOR ORDERS FOR DUE PROCESS SERVICE PROVIDERS TO PROVIDE COURTSMART CD'S AND TRANSCRIPTION SERVICES AND HAS BEEN DENIED. THE COURT WILL NOT ALLOW INDIGENT DUE PROCESS SERVICES.
P.20

39. THE COURT WILL ONLY ~~allow~~ THE DEFENDANT TRANSCRIPTS TO BE PROVIDED BY THE STATE IN WHICH NEARLY ALL OF THE TRANSCRIPTS ARE NOT ACTUAL TRUE RECORDINGS OF WHAT TOOK PLACE. THESE TRANSCRIPTS WERE FILED ON FEBRUARY 10th AND 21st, 2012. P.21

40. THE TRANSCRIPT OF MARCH 15, 2011 PROVIDED BY THE STATE IS NOT A REAL RECORD OF WHAT TOOK PLACE AND IS ALTERED.
P.22-37.

41. HONORABLE EDWARD VOLZ, JR. HAS REFUSED TO RULE ON A MOTION TO DISQUALIFY PROPERLY FILED IN GOOD FAITH AND EXCUSED TO BY COUNSEL BEING DULY SERVED ON HON. EDWARD VOLZ ON AUGUST 29, 2011. THIS FAILURE TO RULE WITHIN 30 DAYS REQUIRES AUTOMATIC DISQUALIFICATION. Schister v. State 958 S.2d 503 (2007).

42. A petition for writ of prohibition with the Second District Court of Appeals was amended with a motion to review evidence of altered transcripts of Court hearings and an emergency motion to stay Court proceedings. These motions were denied on March 30, 2012. p. 15

THE ABOVE PETITION FOR WRIT OF PROHIBITION WAS FILED SEEKING RELIEF FROM THE SUP. COURT'S STRIKING OF A DEMAND FOR SPEEDY TRIAL WITHOUT MOTION OF A PROSECUTOR AND THE DENIAL OF THE TRIAL COURT TO HOLD A HEARING ON MOTION TO DISCHARGE.

43. All relief that would be available as prescribed by law is unavailable to the petitioner in the Second District Court of Appeals.

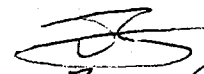
44. THE TRIAL COURT ALLOWS THE STATE TO FILE TRANSCRIPTS THAT ARE NOT TRUE RECORDS WHILE NOT ALLOWING COURT ORDERS FOR TRANSCRIPTION SERVICES.

45. THE PETITIONER SEEKS IMMEDIATE INJUNCTIVE RELIEF FROM THIS COURT WHICH IS DEEMED METE AND PROPER.

WHEREFORE, PETITIONER PRAYS THIS COURT ENTER A WRIT OF HABEAS CORPUS DIRECTED TOWARDS HON. EDWARD VOLZ, JR. TO DISCHARGE THE ABOVE CASES.

I HEREBY CERTIFY UNDER THE PENALTY OF PERJURY THE ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE.

I FURTHER CERTIFY A TRUE COPY OF THE FOREGOING HAS BEEN MAILED TO HON. ANN. BONDI, 3507 E. FRONTAGE RD, #200, TAMPA, FL 33607 ON THIS 2ND DAY OF APRIL 2012


Brian Carson
7115 HURB RD.
FT. MYERS FL 33901

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR
LEE COUNTY, FLORIDA CIVIL ACTION

STATE OF FLORIDA,
Plaintiff/Respondent,

COPY

vs.

Case No. 11-CA-002296


BRIAN M. CASEY,
Defendant/Petitioner.

ORDER DISMISSING PETITION FOR WRIT OF HABEAS CORPUS

THIS CAUSE comes before the Court on the Defendant's pro se "Motion for Habeas Corpus Ad Subjiciendum," filed July 6, 2011, challenging various aspects of the pretrial proceedings in Lee County Case Numbers 10-CF-19724, 10-CF-19726, 10-CF-19945, and 10-CF-17674, which are all pending felony cases. To the extent that Petitioner is seeking review as it relates to a pending circuit felony court case, his petition should have been filed with the Second District Court of Appeal. See Gadson v. Jenne, 882 So. 2d 531 (Fla. 4th DCA 2004) (one circuit court judge does not have the authority to reverse the prior order of another circuit court judge); and Dollar v. State, 909 So. 2d 399 (Fla. 5th DCA 2005). It is, therefore,

ORDERED AND ADJUDGED that Defendant's pro se petition is DISMISSED.

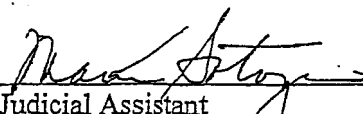
DONE AND ORDERED in Chambers at Fort Myers, Lee County, Florida, this _____
day of 7/25, 2011.



Frank Porter
Circuit Judge

Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the foregoing order has been furnished to Brian M. Casey, ID# 101274, 2115 Martin Luther King Blvd., Fort Myers, FL 33901; Office of the State Attorney, P.O. Box 399, Fort Myers, Florida 33902-0399; and Court Administration (XIX), 1700 Monroe Street, Fort Myers, Florida 33901, this 25 day of July, 2011.

By: 

Judicial Assistant

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
SECOND DISTRICT, POST OFFICE BOX 327, LAKE LAND, FL 33802-0327

December 5, 2011

CASE NO.: 2D11-4867
L.T. No. : 2010CF01-9724

Brian Casey

v. State Of Florida

Appellant / Petitioner(s),

Appellee / Respondent(s).

BY ORDER OF THE COURT:

The petitioner's motion for leave of court to amend petition is granted.
The petition for writ of habeas corpus is denied.

DAVIS, CRENSHAW, and MORRIS, JJ., Concur.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

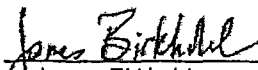
Served:

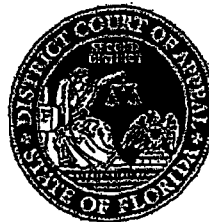
Brian Casey
Charlie Green, Clerk

Attorney General

Masable L. Baker, Esq.

ag


James Birkhold
Clerk



APPENDIX A

Supreme Court of Florida

FRIDAY, DECEMBER 2, 2011

CASE NO.: SC11-2211

Lower Tribunal No(s): 2D11-3894,
2010CF019724,
2010CF019726,
2010CF019945,
2010CF017674

BRIAN M. CASEY

vs. STATE OF FLORIDA

Petitioner(s)

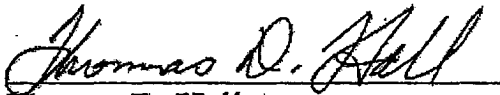
Respondent(s)

Having determined that this Court is without jurisdiction, this case is hereby dismissed. See Stallworth v. Moore, 827 So. 2d 974 (Fla. 2002).

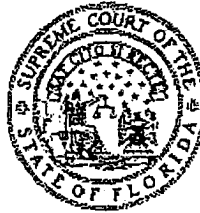
No motion for rehearing will be entertained by the Court.

A True Copy

Test:



Thomas D. Hall
Clerk, Supreme Court



kb

Served:

BRIAN M. CASEY ✓
HON. PAMELA JO BONDI
HON. CHARLIE GREEN, CLERK

APPENDIX C

Supreme Court of Florida

THURSDAY, DECEMBER 22, 2011

CASE NO.: SC11-2211

Lower Tribunal No(s): 2D11-3894,
2010CF019724,
2010CF019726,
2010CF019945,
2010CF017674

BRIAN M. CASEY

vs. STATE OF FLORIDA

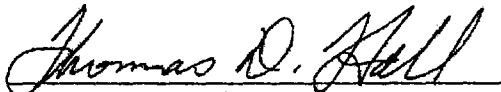
Petitioner(s)

Respondent(s)

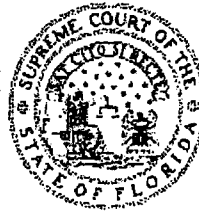
Pursuant to this Court's order dated December 2, 2011, "Defendants Pleading to Review Evidence of Altered Transcripts and Defendants Video Interrogation" and "Defendants Pleading to Review Altered Transcripts of Court Hearings" which have been treated as a Motion for Rehearing are hereby stricken as unauthorized.

A True Copy

Test:



Thomas D. Hall
Clerk, Supreme Court



jn

Served:

BRIAN M. CASEY
HON. PAMELA JO BONDI

Appendix D

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
SECOND DISTRICT, POST OFFICE BOX 327, LAKELAND, FL 33802-0327

March 30, 2012

CASE NO.: 2D12-1489

L.T. No. : 2010CF019724

Brian M. Casey

v.

State Of Florida

Appellant / Petitioner(s),

Appellee / Respondent(s).

BY ORDER OF THE COURT:

Petitioner's "pleading to review evidence of altered transcripts to court hearings" is dismissed.

Petitioner's emergency motion to stay proceedings is denied.

DAVIS, WALLACE, and MORRIS, JJ., Concur.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

Brian M. Casey

Attorney General

Charlie Green, Clerk

aw


James Birkhold
Clerk



IN THE ^{Filer} CIRCUIT COURT OF THE Twelfth Judicial
Circuit in and for LEE COUNTY OF FLORIDA

STATE OF FLORIDA

VS.

Case No. 10-019724 CF

Brian M. Casey

Motion to Demand Fast and Speedy Trial

Now Comes, Brian M. Casey, defendant with counsel, Patrick McKamey, and hereby Demands Fast and Speedy Trial.

The defendant has reviewed the statements and Evidence. The defendant is prepared for trial per Florida Statutes. The defendant will testify at said trial. Defendant demands a fast and speedy trial within 45 days.

I hereby certify that a copy of this foregoing has been placed in the institutional mail to Honorable Stephen B. Russell, State Attorney, Lee County Justice Center Annex, 2000 Main St, Ft. Myers, FL 33901 This 6th day of December 2010.



Brian Casey
2115 MILK BLVD
Ft. Myers FL 33901

FILED

DEC 07 2010

CHARLIE GREEN
CLERK CIRCUIT COURT
PC

Patrick McKamey, 950
12/8/10
copies to Judge Margaret Stanbeck,

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR
LEE COUNTY, FLORIDA CRIMINAL ACTION

STATE OF FLORIDA

CASE NO: 10-CF-019724 - (MOS)

vs.

(DPE)

BRIAN MICHAEL CASEY

ORDER OF REASSIGNMENT AND
ORDER CONTAINING A NOTICE OF HEARING AND
ORDER CANCELING ALL PRIOR ORDERS SETTING ANY HEARING OR TRIAL

THE ABOVE-STYLED cause is hereby reassigned to the HONORABLE EDWARD J. VOLZ, Judge of
said Court.

The Defendant is ordered to appear before the assigned Judge, Edward J. Volz, in court room 8-B
of the Lee County Justice Center, 1700 Monroe Street, Fort Myers, Florida, 33901, on Thursday,
January 20, 2011 at 1:30 PM for a Case Management Conference. All prior orders in this file for any
hearing or trial are hereby canceled.

THE CLERK shall notify all parties hereto.

DONE AND ORDERED in Chambers at Fort Myers, Lee County, Florida this 16 day of
December, 2010.

REASON FOR REASSIGNMENT:

Defendant has Pending Case Number(s): 10CF017674 assigned to: Judge EDWARD J. VOLZ:

John S. Carlin
John S. Carlin
Administrative Judge

cc: Honorable Margaret O. Steinbeck
Honorable Edward J. Volz,
State Attorney's Office
Public Defender's Office
Court Administration
Pretrial Services

RC: sdh PTD (CRIM CASE MGT)

BY _____
D.C.

FILED LEE CO. FLORIDA
CLERK OF COURTS
2010 DEC 20 AM 11:16

**IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR
LEE COUNTY, FLORIDA CRIMINAL ACTION**

STATE OF FLORIDA,

Plaintiff,

vs.

Case No. 10-CF-019724

BRIAN M. CASEY,

Defendant.

ORDER STRIKING PRO SE DEMAND FOR SPEEDY TRIAL

THIS CAUSE comes before the Court on the Defendant's pro se "Motion to Demand Fast and Speedy Trial," filed December 07, 2010. Having reviewed the case file and finding that Defendant currently is represented by counsel, and finding that Defendant has not filed a motion requesting the opportunity for self-representation, it is hereby

ORDERED AND ADJUDGED that the demand is STRICKEN as a nullity, without prejudice for counsel to refile the demand, if appropriate, on Defendant's behalf. Burke v. State, 732 So. 2d 1194 (Fla. 4th DCA 1999).

DONE AND ORDERED in Chambers at Fort Myers, Lee County, Florida, this 21 day of Dec, 2010.

MOST
Margaret O. Steinbeck
Circuit Judge

BY
D.C.

FILED IN LEE COUNTY, FLORIDA
CLERK OF COURTS
2010 DEC 21 PM 3:26

Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the foregoing order has been furnished to Brian M. Casey, ID# 101274, 2115 Martin Luther King Blvd., 3d8, Fort Myers, FL 33901; Patrick R. McKamey, Esquire, Perlet & Shiner, P.A., 515 North Flagler Driver, Suite 701, West Palm Beach, Florida 33401; Office of the State Attorney, P.O. Box 399, Fort Myers, Florida 33902-0399; and Court Administration (XIX), 1700 Monroe Street, Fort Myers, Florida 33901, this 21 day of Dec, 2010.

CHARLIE GREEN
Clerk of Court

By:

D. Nichols

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR
LEE COUNTY, FLORIDA CRIMINAL ACTION

STATE OF FLORIDA

vs.

BRIAN M. CASEY

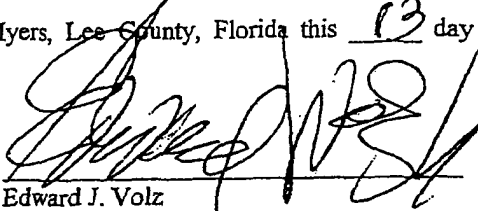
CASE NO: 10-CF-019724 - (EJV)✓
10-CF-019726 - (EJV)
10-CF-019945 - (EJV)

ORDER

THE Defendant's **Demand for Transcripts** having come on for hearing, and the Court having been advised in the premises on both the facts and the law respecting the said Demand, the Court finds this demand unnecessary as the Defendant is entitled to request transcripts without a Court order if he so chooses.

The Court notes that the State of Florida has indicated it will order the recordings of the hearings requested by the Defendant and provide the Defendant with a copy of the recordings and copies of the transcripts upon receipt of the recordings and transcripts.

DONE AND ORDERED in Chambers at Fort Myers, Lee County, Florida this 13 day of January, 2012.

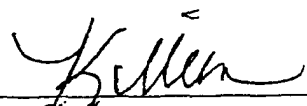

Edward J. Volz
Circuit Judge

CERTIFICATE BY CLERK

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been furnished to Daniel P. Feinberg, Assistant State Attorney, P. O. Box 399, Fort Myers, Florida, 33902; to Brian M. Casey, Lee County Jail, 2115 MLK Blvd. Fort Myers, FL 33901, by Mail/Hand delivery this 17 day of January, 2012.

CHARLIE GREEN, CLERK OF THE COURT

BY:


Deputy Clerk

FILED LEE CO. FLORIDA
CLERK OF COURTS

2012 JAN 14 AM 10:07

BY _____ D.C.

11/17/12


(2)

**IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR
LEE COUNTY, FLORIDA CRIMINAL ACTION**

STATE OF FLORIDA,

Plaintiff,

vs.

Case No. 10-CF-019724

BRIAN M. CASEY,

Defendant.

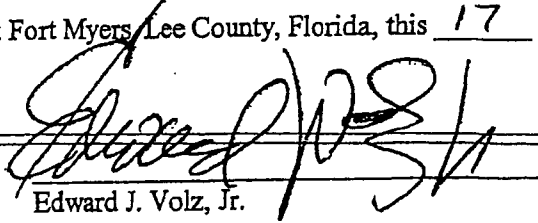
ORDER STRIKING DEMAND FOR FAST AND SPEEDY TRIAL

THIS CAUSE comes before the Court on the Defendant's pro se motion, "Demand for Fast and Speedy Trial," filed March 9, 2011. A hearing was held on March 15, 2011. Defendant withdrew his motion and orally waived his right to speedy trial in open court on March 15, 2011.

Accordingly, it is

ORDERED AND ADJUDGED that Defendant's demand is STRICKEN.

DONE AND ORDERED in Chambers at Fort Myers, Lee County, Florida, this 17 day of March, 2011.


Edward J. Volz, Jr.
Circuit Judge

Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the foregoing order has been furnished to Brian M. Casey, ID# 101274, 2115 Martin Luther King Blvd., Fort Myers, FL 33901; Office of the State Attorney, P.O. Box 399, Fort Myers, Florida 33902-0399; and Court Administration (XIX), 1700 Monroe Street, Fort Myers, Florida 33901, this 21 day of March, 2011.

CHARLIE GREEN
Clerk of Court

By: 

Deputy Clerk

FILED LEE CO. FLORIDA
CLERK OF COURTS

2011 MAR 18 PM 4:11

BY: 

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
IN AND FOR LEE COUNTY, FLORIDA CRIMINAL ACTION

CASE NO. 10-CF-019724

STATE OF FLORIDA,
Plaintiff,

-vs-

BRIAN M. CASEY,
Defendant.

TRANSCRIPT OF PROCEEDINGS

Before the HONORABLE EDWARD J. VOLZ, JR.,
Circuit Court Judge, in the above-styled action held
in the Lee County Justice Center, Courtroom 8-B, Fort
Myers, Florida, on the 15th day of March, 2011.

MARTINA REPORTING SERVICES
2069 First Street, Suite 201
Fort Myers, Florida 33901
(239) 334-6545
FAX (239) 332-2913

ORIGINAL

22

A P P E A R A N C E S

MARILLA PAULY, ASSISTANT STATE ATTORNEY
DANIEL FEINBERG, ASSISTANT STATE ATTORNEY
Office of the State Attorney
20th Judicial Circuit of Florida
2000 Main Street, 6th Floor
Fort Myers, Florida 33901

Representing the State of Florida

JAY M. BRIZEL, ESQUIRE
13100 Westlinks Terrace, Suite 13
Fort Myers, Florida 33913
(239) 217-4742

Representing the Defendant

1 MARCH 15 2011 - MORNING SESSION

2 8:25 A.M.

3 (Thereupon, the following proceedings were had:)

4
5 MS. PAULY: Marilla Pauly on behalf of
6 the State.

7 THE COURT: Good morning.

8 Mr. Brizel, you could have a seat if
9 you wish. All right.

10 MS. PAULY: Mr. Feinberg is on his way
11 over right now. I could begin if Your Honor
12 wishes.

13 THE COURT: No. I have a couple things
14 I have to address here.

15 Okay. In the matter of Case Number
16 10-CF-19724, I have a series of motions,
17 Mr. Casey, that you've filed. Make sure I
18 get the right one here.

19 One of the motions that you filed here
20 is a motion for recusation. All right?

21 I take it that's a motion where you
22 want me to be removed from the case; is that
23 correct?

24 THE DEFENDANT: Your Honor, I filed
25 that motion, correct.

1 THE COURT: All right. That motion is
2 denied as being legally insufficient.

3 You have a motion to suppress on this
4 case did March 5th. That motion at this
5 point is going to be denied because it is
6 legally insufficient.

7 THE DEFENDANT: Which motion was
8 suppressed today, Your Honor?

9 THE COURT: The one dated March 5th.
10 It's legally insufficient.

11 THE DEFENDANT: What was the matter I
12 was moving to suppress?

13 THE COURT: That's why it's legally
14 insufficient.

15 (Daniel Feinberg, Assistant State
16 Attorney, entered the courtroom.)

17 THE COURT: You have a motion to
18 suppress a photo pack dated -- it's not
19 dated. It was received by the -- well, let's
20 see, let's see this -- I'll say the 5th day
21 of March, received by the clerk on the 9th
22 day of March. This is a motion to suppress
23 an illegal photo lineup.

24 At this point I'm going to deny that
25 motion as legally insufficient.

1 You have a motion for a temporary
2 restraining order, you have an order to show
3 cause, both received by the clerk's office on
4 February 2nd, where you're basically asking
5 that the sheriff's office give you some
6 special privileges.

7 And one of the things I expressed to
8 you, that if it is your intention to proceed
9 and represent yourself, you do so with
10 certain pitfalls, and one of those is the
11 fact that you're not going to be treated any
12 differently by the sheriff, by the Court, by
13 the prosecutor.

14 Now, I am not going to order the
15 sheriff to treat you in any special fashion,
16 so those will be denied.

17 Your motion to subpoena records, dated
18 I guess the 1st of February, I've read
19 through this. This appears to be a civil
20 matter and this has to do with matters that
21 are not pertaining to this case.

22 THE DEFENDANT: Which records are
23 those, the medical records I requested from
24 the Lee County Sheriff's Office or the
25 case --

1 THE COURT: No, this is -- this is an
2 ex parte motion to subpoena records directed
3 at Mr. McCamey, where you say "all discovery
4 case files and correspondence related to the
5 defendant, and Mr. McCamey's representation
6 of the matters above and any and all previous
7 representations."

8 THE DEFENDANT: Well, Your Honor --

9 THE COURT: Hold it.

10 "All financial records of monies paid
11 to part let and shiner, bills of accounting,
12 power of attorney, copies, inventory,
13 description of equipment, furniture and
14 products to resolve defendant's business,"
15 that has nothing to do with this case.

16 THE DEFENDANT: It has absolutely
17 everything to do with this case.

18 THE COURT: Okay. That's going to be
19 denied.

20 Then you have a motion -- I see a bunch
21 of -- a motion to suppress the statements.

22 I take it there is a statement. Is
23 there a statement in this case? This is 24.
24 Is there a case -- a statement?

25 MS. PAULY: Several, yes, Your Honor.

1 And the State's prepared to answer to that
2 motion.

3 THE COURT: I have reviewed that
4 motion, Mr. Casey, and I find that it is
5 sufficient to go forward at a hearing. Okay?

6 So we will have a motion as to
7 10-CF-19724 as it deals with any statements
8 which you may or may not have given to the
9 police.

10 THE DEFENDANT: And when do you intend
11 on having that hearing?

12 THE COURT: Right now.

13 THE DEFENDANT: Well, Your Honor, I'm
14 not prepared, because there is -- there are
15 records that need to take place, there are
16 witnesses that need to be subpoenaed.

17 THE COURT: Mr. Casey --

18 THE DEFENDANT: I'm not prepared to --

19 THE COURT: -- last week I told you
20 that today we would have motions and you said
21 that was fine.

22 THE DEFENDANT: I also put in a motion
23 for the -- the subpoena power of the courts.
24 And I have a witness, but -- but you have
25 appointed Mr. Brizel here to sit second

1 chair. I have seen him at the hearings
2 concerning witnesses that I may do him at the
3 hearing. I'm not --

4 THE COURT: No, no, you don't
5 understand. You're running your case. He's
6 only here if you have a question. He's not
7 going to do anything for you.

8 THE DEFENDANT: That's obvious.

9 THE COURT: Okay. Well, again, I would
10 ask that you accept the representation of a
11 lawyer who knows what he's doing in a
12 courtroom. I will appoint Mr. Brizel to
13 represent you.

14 THE DEFENDANT: Well, Your Honor,
15 here's the problem. I took -- I took the
16 Court's consideration or their -- or your
17 advisement, Your Honor, of not representing
18 myself. Mr. Brizel came to see me, we talked
19 about those things in court.

20 I asked to see Mr. Brizel yesterday.
21 He came --

22 THE COURT: Mr. Brizel is not
23 representing you.

24 THE DEFENDANT: Your Honor, here's --

25 THE COURT: He's sitting here as a

1 second chair. If you have a question, you
2 can ask Mr. Brizel. He is not representing
3 you. You have made that perfectly clear, you
4 want to go pro se.

5 Now, if you want him to represent you,
6 I will do that, I will appoint him
7 immediately.

8 THE DEFENDANT: That's -- that is
9 exactly the issue I'm trying to convey to
10 you, Your Honor. I do not want Mr. Brizel
11 representing me.

12 THE COURT: Okay.

13 THE DEFENDANT: When we were in the
14 hearing on the 11th, after I was -- left the
15 hearing, Mr. Brizel was heard to have said on
16 the record that I am difficult and that at
17 times I'm nice and at times I yell at him.

18 When I asked him about this statement
19 yesterday, he claims that he didn't make the
20 statement. But Patrick Buckley was in the
21 courtroom after I left, he did make those
22 statements to Your Honor.

23 THE COURT: Okay.

24 THE DEFENDANT: At no time have I ever
25 yelled at Mr. Brizel.

1 THE COURT: All right.

2 MR. BRIZEL: I suggest we ask
3 Mr. Buckley.

4 THE COURT: I don't know who
5 Mr. Buckley is and Mr. Buckley doesn't have
6 anything to do with this case, so we're going
7 to move forward.

8 MR. BRIZEL: I spoke with Mr. Buckley
9 yesterday.

10 THE COURT: Okay. You spoke with
11 Mr. Buckley yesterday. Okay.

12 So I am prepared to go forward with any
13 statement that was taken on or about
14 21 October, 22 October, something like that?

15 THE DEFENDANT: Your Honor, I'm not
16 prepared to go forward with that.

17 THE COURT: You've demanded a speedy
18 trial.

19 THE DEFENDANT: I've waived my speedy
20 trial.

21 THE COURT: No, sir. I have a demand
22 for speedy trial right here.

23 THE DEFENDANT: What case?

24 THE COURT: It was done after you had
25 waived speedy trial. You then made a demand

1 for speedy trial.

2 I have it right here, it's dated
3 March 5th. Do you have a copy of it there?

4 THE DEFENDANT: On case 019945?

5 THE COURT: 24.

6 THE DEFENDANT: Well, on the 11th I
7 waived that, Your Honor.

8 THE COURT: On the 22nd of February you
9 waived speedy trial. The matter was set down
10 for -- Mr. Brizel was then representing you.
11 The matter was set down for a docket sounding
12 on the 29th of March.

13 On the 29th -- the next day, the
14 following Monday after the 22nd, whatever day
15 that was, I received a whole bunch of motions
16 from you, including that you wanted to fire
17 Mr. Brizel and go pro se, and that at that
18 time you filed a demand for a speedy trial.

19 So, we'll proceed.

20 You were told at that time that this --
21 this hearing would take place, that we would
22 address your motions, so we have a motion to
23 suppress --

24 THE DEFENDANT: Your Honor --

25 THE COURT: The statement, I granted

1 that motion --

2 THE DEFENDANT: When I --

3 THE COURT: -- that we'll have a
4 hearing.

5 THE DEFENDANT: When I originally put
6 in the motion to proceed pro se, there was an
7 attorney here that said that she would sit
8 second chair or even facilitate me
9 representing myself. Her name is Karen
10 Miller. She even offered to do it pro bono
11 at that point in time. I would really like
12 to speak to her before we proceed any
13 further.

14 THE COURT: What are we doing with this
15 demand for speedy trial then?

16 THE DEFENDANT: I'm waiving that, Your
17 Honor.

18 THE COURT: You're going to withdraw
19 this matter -- this motion and you're going
20 to waive speedy trial.

21 THE DEFENDANT: I'm going to withdraw
22 all matters at this time, Your Honor.

23 THE COURT: You're going to withdraw
24 all motions at this time.

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Okay. And you're waiving
2 speedy trial.

3 THE DEFENDANT: Correct.

4 THE COURT: All right. I take it you
5 and Mr. Brizel didn't get along, so you want
6 Karen Miller.

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Are you going to hire Karen
9 Miller?

10 THE DEFENDANT: If that -- if that's
11 what -- financially if that's affordable,
12 yes.

13 THE COURT: And when are you going to
14 do that?

15 THE DEFENDANT: As soon as I could
16 speak to her, Your Honor, on her cell. I
17 don't know if you could have her come see me
18 as soon as possible.

19 THE COURT: Once again, Mr. Casey, I am
20 not --

21 THE DEFENDANT: I'm going to --

22 THE COURT: -- I am not going to direct
23 that the sheriff's office do anything unusual
24 for you.

25 THE DEFENDANT: That's apparent. I

1 haven't asked for anything but my rights,
2 Your Honor.

3 THE COURT: You've asked to be treated
4 differently --

5 THE DEFENDANT: From the very
6 beginning, Your Honor --

7 THE COURT: -- Mr. Casey, and I'm not
8 about to do that.

9 THE DEFENDANT: From the very beginning
10 I've been made out to be --

11 THE COURT: All right. Now, when are
12 you going to contact Ms. Miller?

13 THE DEFENDANT: I'll send her a letter
14 tonight.

15 THE COURT: All right.

16 (Telephone conversation took place with
17 Judge Volz, as follows:

18 THE COURT: Yeah. What does the week
19 of the 21st look like?

20 Uh-huh. Uh-huh. Okay.

21 All right. I'm going to put Casey at
22 10 o'clock on Friday. Okay?

23 (Telephone conversation concluded.)

24 THE COURT: All right. I'm going to
25 put this on -- I'm going to keep this on for

1 the pretrial of March 29th and I'm going to
2 set a status hearing to see who's
3 representing you, if anybody.

4 I encourage you to hire a private
5 attorney, okay?

6 I'm going to hear that and that only on
7 the 25th of March at 10 a.m. in this
8 courtroom. Please have Ms. Miller here.

9 MR. FEINBERG: Judge, would you just
10 consider any different date than the 25th?
11 We both are -- have conflicts that day. I
12 won't be in the State of Florida on the 25th.
13 I would be available on the 29th.

14 I leave on the 23rd, and I had
15 mentioned that in court before. I'm
16 available all -- the 14th through the 18th,
17 the 23rd, the 22nd -- the 23rd through the
18 25th I'm out.

19 MR. SMITH: And I'll be in the CLE in
20 Tampa.

21 THE COURT: Uh-huh.

22 MR. BRIZEL: My opinion on that is,
23 this is only as to who's representing.
24 There's really no substantive argument to
25 make and we still have a hearing on the 29th.

1 THE COURT: It's only to see who's
2 going to be here.

3 MR. FEINBERG: I could have someone
4 cover that --

5 THE COURT: Okay.

6 MR. FEINBERG: -- if that's all that's
7 going to be addressed.

8 THE COURT: That's all that's going to
9 be addressed. On the 25th, the only thing
10 that we're addressing with Mr. Casey is
11 whether or not he has hired an attorney.

12 MR. FEINBERG: And our time is?

13 THE COURT: Ten a.m.

14 MR. FEINBERG: Ten a.m. Thank you,
15 Your Honor.

16 THE COURT: He withdrew everything,
17 right?

18 Mr. Brizel, is that what I heard, he
19 withdrew everything?

20 MR. BRIZEL: Yes, sir. In fact, my
21 notes indicate "withdraws all motions, waives
22 speedy trial and is looking to hire private
23 counsel."

24 THE COURT: Well, the only time -- the
25 only demand I have is on this one.

APPENDIX

I

3. THE TRANSCRIPTS RECEIVED IN NOVEMBER ARE DIFFERENT THAN THE TRANSCRIPTS RECEIVED IN JANUARY.

4. THE JANUARY TRANSCRIPTS CONTAIN STATEMENTS THAT ARE NOT IN THE VIDEO INTERVIEW OF MELISSA ALVAREZ.

5. THE NOVEMBER TRANSCRIPTS CONTAIN STATEMENTS THAT HAVE BEEN EDITED/ERASED FROM THE VIDEO INTERVIEW OF THE DEFENDANT ON NOV. 2, 2010 IN WHICH THIS VIDEO WAS RECEIVED IN JANUARY.

6. THE NOVEMBER TRANSCRIPTS CONTAIN THE LEAD INVESTIGATORS REVIEWING SIGNATURES. (SEE EXHIBIT A AND B)

7. THE JANUARY TRANSCRIPTS HAVE THE LEAD DETECTIVES SIGNATURES REMOVED IN AN EFFORT TO HIDE THE FACT HE WAS AWARE HE WAS PRESENTING A WITNESS HE KNEW WAS LYING IN A SELECTIVE PROSECUTION AND FALSE WITNESS SCHEME. (SEE EXHIBIT C AND D)

8. On many occasions the Lee County Sheriff's Office has entered defendant's cell and removed original documents from his discovery.

The defendant has only been able to preserve documents by making copies and sending them to an attorney.

9. Florida Statute 918.13: Tampering with or fabricating evidence is a third degree felony.

10. These Discovery violations are subject to Giglio v. United States 405 U.S. 150 92 S.Ct. 763, 31 L.Ed 2d 104 1972 to establish a Giglio

violation a petitioner must show that the evidence is false, the prosecutor knew the evidence was false and the evidence was material. Craig v. State 685 So 2d 1224 1226 (Fla 1996).

11. THESE DISCOVERY VIOLATIONS ARE SUBJECT TO BRADY V. MARYLAND 373 U.S. 83, 83 S.Ct. 1194, 10 L. Ed 2d 215 (1963). SUPPRESSED EVIDENCE IS FAVORABLE TO THE ACCUSED AND WAS SUPPRESSED WILLFULLY. IT HAS PREJUDICED THE DEFENDANT.

12. Under Richardson V. STATE 246 So.2d 771 (Fla 1971) "ONCE THE ALLEGED DISCOVERY VIOLATION WAS BROUGHT TO THE COURT'S ATTENTION, THE TRIAL JUDGE WAS REQUIRED TO CONDUCT AN INQUIRY." SEARS V. STATE 656 So.2d 595, 596 (Fla 1st DCA 1995).

13. THE PROSECUTOR IS BOTH AN ADVOCATE, DETERMINED TO CONVICT THE DEFENDANT AND A REPRESENTATIVE OF THE STATE, SAFEGUARDING THE RIGHTS OF ALL INCLUDING THE DEFENDANT. BERGER V. UNITED STATES 285 US 78, 88 1935; TALIAFERRO V. UNITED STATES 47 F.2d 699, 701 (9th Cir 1937); ONEIL V. STATE 189 Wis 259, 261, 207 N.W. 280, 281 (1926). "THE PRIMARY DUTY OF A LAWYER ENGAGED IN PUBLIC PROSECUTION IS NOT TO CONVICT BUT TO SEE THAT JUSTICE IS DONE." CANON 5, A.B.A. CANONS OF PROFESSIONAL ETHICS (1908).

14. THE SUBSTANTIVE DUE PROCESS PRINCIPLES OF THE 5th, 6th, and 14th AMENDMENTS BAR THE GOVERNMENT FROM DEPRIVING ANYONE OF LIFE, LIBERTY, & PROPERTY, WITHOUT DUE PROCESS OF THE LAW.

THE DUE PROCESS CLAUSE OF THE SIXTH AMENDMENT ENSURES A FAIR AND SPEEDY TRIAL WITH COMPETENT AND RELIABLE EVIDENCE.

15. THE ALTERING OF TRANSCRIPTS AND VIDEO INTERVIEWING VIOLATE THE DUE PROCESS CLAUSE OF THE SIXTH AMENDMENT. "THERE IS A REASONABLE PROBABILITY THAT, HAD THE EVIDENCE BEEN DISCLOSED TO THE DEFENSE THE RESULT OF THE PROCEEDING WILL BE DIFFERENT." UNITED STATES V. BAGLEY 473 US 667 (1985). IT HAS DENIED ME A MEANINGFUL OPPORTUNITY TO PRESENT A COMPLETE DEFENSE. CRANE V. KENTUCKY 476 US 688, 800 (1986.)

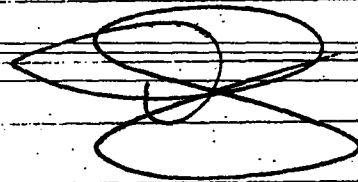
THE ALTERING OF VIDEOS AND TRANSCRIPTS IS AN OUTRIGHT DENIAL OF THE RIGHT OF EFFECTIVE CROSS-EXAMINATION AND A CONSTITUTIONAL ERROR OF THE FIRST MAGNITUDE. DAVIS V. ALASKA 415 US 308 318 (1974).

IN NO OTHER INSTANCE IS THE RIGHT TO CROSS EXAMINATION MORE DIRECTLY CRUCIAL TO THE DETERMINATION OF GUILT OR INNOCENCE THAN WHEN THE ADVERSE WITNESS THE DEFENDANT WISHES TO CONFRONT IS NONE OTHER THAN HIMSELF AND A STATEMENT HE WISHES TO SUBJECT TO THE "CRUCIBLE OF MEANINGFUL ADVERSARIAL TESTING." UNITED STATES V. CRONIC 466 US 648 656 (1984).

WHEREFORE, THE DEFENDANT MOVES THIS COURT
TO CONDUCT AN INQUIRY INTO THESE DISCOVERY
VIOLATIONS AND TAMPERING WITH EVIDENCE.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT A TRUE AND ACCURATE
COPY HAS BEEN MAILED TO THE STATE ATTORNEY,
P.O. BOX 399 FT. MYERS FL THIS 21ST day of
JUNE 2011



Brian Casey

2115 MLK Blvd.

FT. MYERS, FL 33901.

LEE COUNTY SHERIFF'S OFFICE
SWORN STATEMENT OF:

Exhibit B

CFS # 10-402109

CFS NUMBER	: 10-402109	DATE OF INTERVIEW	: October 29, 2010
INTERVIEW OF	: [REDACTED]	TIME OF INTERVIEW	: 12:39 p.m.
INTERVIEWED BY	: [REDACTED] W/M 08-11-10	DATE TRANSCRIBED	: November 11, 2010
LEGEND	: [REDACTED] Travis Hicks [REDACTED]	TRANSCRIBED BY	: [REDACTED]/plh/jmo
LOCATION OF INTERVIEW	: US - Unidentified Speaker Alanann, DBA Modern Movers 5607 8th Street W. Lehigh Acres, FL 33971	TRANSLATOR	:

(The following may contain unintelligible or misunderstood words due to the recording quality.)

TH: This is [REDACTED] Lee County Sheriff's Office, in reference to Lee County Sheriff's Office case number 10-402109, an incident that took place on October 15, 2010, around the approximate time of, um, 7:16 p.m. Um, present before me is [REDACTED] common spelling on William, middle initial, R, last name, J-E-N-S-E-N. He's a white male, born -- date of birth, 8/18/1979. He has a professional address of 5607 8th Street W. in Lehigh Acres, Florida, with a ZIP code of 33971. That address belonging to this, um, place where we are, uh, doin' the interview at, which is Alanann -- or Alanann, DBA Modern Movers, A-L-A-N-A-N-N, DBA Modern Movers. Um, the business, uh, phone number is 239-939-7983, and Mr. Jensen has an alternate number of 239-333-8340.

Um, [REDACTED] do you recognize I'm a law enforcement officer?

WJ: Yes.

TH: The reason I say that is the State of Florida empowers me to take sworn testimony in order to get a truthful statement. If I can get you to raise your right hand for me -- do you swear the testimony you're about to provide will be the truth, the whole truth, and nothing but the truth, to the best of your recollection?

WJ: Yes.

TH: You can place your hand down. Okay. [REDACTED] Mr. Jensen, um, if I'm not mistaken, you're the one who notified the Sheriff's Office that there was a concern that we might be -- should be aware of here?

WJ: Yes, sir.

TH: If you wanna give me a background on that phone call.

WJ: Um, I had a phone -- uh, to the actual Sheriff's Department or the initial phone call that I received from the attorney?

REVIEWED BY DETECTIVE:

[Signature]

ID#

981144

DATE:

11/15/10

17-1

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LEE COUNTY SHERIFF'S OFFICE
SWORN STATEMENT OF:

Exhibit A

~~Kevin Armour~~
CFS # 10-402109

CFS NUMBER : 10-402109 DATE OF INTERVIEW : October 29, 2010
INTERVIEW OF : ~~Kevin Armour~~ TIME OF INTERVIEW : 12:50 p.m.
W/M 09-18-64
INTERVIEWED BY : ~~Detective Travis Hicks~~ DATE TRANSCRIBED : November 11, 2010
LEGEND : ~~Officer Travis Hicks~~ TRANSCRIBED BY : ~~Kevin Armour~~
LOCATION OF : Alan Ann DBA Modern Movers TRANSLATOR :
INTERVIEW : 5607 8th Street West
Lehigh Acres, FL 33971

(The following may contain unintelligible or misunderstood words due to the recording quality.)

TH: This is ~~Kevin Armour~~ Lee County Sheriff's Office, reference Lee County Sheriff's Office case number 10-402109. Uh, incident took place on October 15, 2010, around approximate time of 7:16 p.m. Present before me is ~~Mr. Kevin M. Armour~~ Kevin, common spelling, middle initial of M, last name A-R-M-O-U-R; is that correct?

KA: Yes.

TH: Okay. He's a white male, date of birth 9/18/1964. Has a professional address of 5607 8th Street West in Lehigh Acres, Florida, ZIP code of 33971. Business, uh, phone number of 239-939-7983, with an alternative number of 239-898-3563. Today's date is October 29th, 2010. The approximate time now is 12:50 p.m. We are at the 5607 location, which is Alan Ann DBA Modern Movers, A-L-A-N A-N-N, DBA Modern Movers. Um, Mr. ~~Armour~~ is it okay if I call you ~~Kevin~~?

KA: Yes.

TH: Okay. Um, do you recognize that I'm a law enforcement officer?

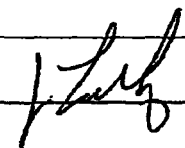
KA: Yes.

TH: The reason I say that is the State of Florida empowers me to take sworn testimony. In order for me to get a truthful statement from you, I gotta swear you in. If I could get you to raise your right hand. Do you swear the testimony you're about to provide will be the truth, the whole and nothin' but the truth, to the best of your recollection?

KA: Yes.

TH: You can place your hand down, sir. Okay, ~~Mr. Armour~~ Um, this interview is in reference to a move that you participated in, um, involving ~~Abrian Casey~~. You familiar with that?

KA: Yes.

REVIEWED BY DETECTIVE:  ID# 98144 DATE: 11/15/10

18-1

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SWORN STATEMENT OF:**Kevin Armour****CFS # 10-402109**

CFS NUMBER	: 10-402109	DATE OF INTERVIEW	: October 29, 2010
INTERVIEW OF	: Kevin Armour W/M 09-18-64	TIME OF INTERVIEW	: 12:50 p.m.
INTERVIEWED BY	: Detective Travis Hicks	DATE TRANSCRIBED	: November 11, 2010
LEGEND	: TH = Detective Travis Hicks KA = Kevin Armour	TRANSCRIBED BY	: KC Shipley-Coble/jmo
LOCATION OF INTERVIEW	: Alan Ann DBA Modern Movers 5607 8th Street West Lehigh Acres, FL 33971	TRANSLATOR	:

(The following may contain unintelligible or misunderstood words due to the recording quality.)

TH: This is Travis Hicks, Lee County Sheriff's Office, reference Lee County Sheriff's Office case number 10-402109. Uh, incident took place on October 15, 2010, around approximate time of 7:16 p.m. Present before me is Mr. Kevin M. Armour, Kevin, common spelling, middle initial of M, last name A-R-M-O-U-R; is that correct?

KA: Yes.

TH: Okay. He's a white male, date of birth 9/18/1964. Has a professional address of 5607 8th Street West in Lehigh Acres, Florida, ZIP code of 33971. Business, uh, phone number of 239-939-7983, with an alternative number of 239-898-3563. Today's date is October 29th, 2010. The approximate time now is 12:50 p.m. We are at the 5607 location, which is Alan Ann DBA Modern Movers, A-L-A-N A-N-N, DBA Modern Movers. Um, Mr. Armour, is it okay if I call you Kevin?

KA: Yes.

TH: Okay. Um, do you recognize that I'm a law enforcement officer?

KA: Yes.

TH: The reason I say that is the State of Florida empowers me to take sworn testimony. In order for me to get a truthful statement from you, I gotta swear you in. If I could get you to raise your right hand. Do you swear the testimony you're about to provide will be the truth, the whole and nothin' but the truth, to the best of your recollection?

KA: Yes.

TH: You can place your hand down, sir. Okay, Mr. Armour. Um, this interview is in reference to a move that you participated in, um, involving a Brian Casey. You familiar with that?

KA: Yes.

REVIEWED BY DETECTIVE: _____ ID# _____ DATE: _____

*57-10**154*

LEE COUNTY SHERIFF'S OFFICE
SWORN STATEMENT OF:

Exhibit D

William R. Jensen
CFS # 10-402109

CFS NUMBER : 10-402109 **DATE OF INTERVIEW** : October 29, 2010
INTERVIEW OF : William R. Jensen **TIME OF INTERVIEW** : 12:39 p.m.
W/M 08-18-79
INTERVIEWED BY : Detective Travis Hicks **DATE TRANSCRIBED** : November 11, 2010
LEGEND : TH = Det. Travis Hicks **TRANSCRIBED BY** : Penny Heiple/plh/jmo
WJ = William Jensen
US = Unidentified Speaker
LOCATION OF INTERVIEW : Alanann, DBA Modern Movers **TRANSLATOR** :
5607 8th Street W.
Lehigh Acres, FL 33971

(The following may contain unintelligible or misunderstood words due to the recording quality.)

TH: This is Travis Hicks, Lee County Sheriff's Office, in reference to Lee County Sheriff's Office case number 10-402109, an incident that took place on October 15, 2010, around the approximate time of, um, 7:16 p.m. Um, present before me is Mr. William R. Jensen, common spelling on William, middle initial, R, last name, J-E-N-S-E-N. He's a white male, born -- date of birth, 8/18/1979. He has a professional address of 5607 8th Street W. in Lehigh Acres, Florida, with a ZIP code of 33971. That address belonging to this, um, place where we are, uh, doin' the interview at, which is Alanonn -- or Alanann, DBA Modern Movers, A-L-A-N-A-N-N, DBA Modern Movers. Um, the business, uh, phone number is 239-939-7983, and Mr. Jensen has an alternate number of 239-333-8340.

Um, Mr. Jensen, do you recognize I'm a law enforcement officer?

WJ: Yes.

TH: The reason I say that is the State of Florida empowers me to take sworn testimony in order to get a truthful statement. If I can get you to raise your right hand for me -- do you swear the testimony you're about to provide will be the truth, the whole truth, and nothing but the truth, to the best of your recollection?

WJ: Yes.

TH: You can place your hand down. Okay. Mr. Jensen, um, if I'm not mistaken, you're the one who notified the Sheriff's Office that there was a concern that we might be -- should be aware of here?

WJ: Yes, sir.

TH: If you wanna give me a background on that phone call.

WJ: Um, I had a phone -- uh, to the actual Sheriff's Department or the initial phone call that I received from the attorney?

REVIEWED BY DETECTIVE: _____ ID# _____ DATE: ____/____/____

52-18

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