

STATE OF ILLINOIS)
) SS
COUNTY OF MCLEAN)

IN THE CIRCUIT COURT FOR THE ELEVENTH JUDICIAL CIRCUIT
COUNTY OF MCLEAN

JAMES SNOW,)
) No. 99 CF 1016
)
) Petitioner,)
)
)
)
)
) - vs -)
)
)
) THE PEOPLE OF THE STATE OF ILLINOIS,) Hon. Judge Butler
)
) Respondent.)

McLEAN COUNTY
FILED
MAY 11 2016
CIRCUIT CLERK

**PETITIONER’S ARGUMENT IN SUPPORT OF DISCOVERY
RELATED TO CRIME SCENE PHOTOGRAPHS**

NOW COMES Petitioner James Snow, by and through his counsel the ILLINOIS
INNOCENCE PROJECT and THE EXONERATION PROJECT at the University of Chicago
Law School, and replies in support of his motion for DNA and fingerprint testing and motion for
discovery pursuant to 725 ILCS 5/116-3. In support of his motion, Petitioner states as follows:

Introduction

1. On March 30, 2016, this Court entered an order granting Mr. Snow targeted
discovery related to his pending Motion for DNA and Fingerprint Testing Pursuant to 725 ILCS
5/116-3. The purpose of Mr. Snow’s discovery motion was to obtain evidence that would
support his pending motion for testing by either (1) identifying evidence that could be tested; (2)

confirming the chain of custody for which evidence, which is a requirement for testing; and (3) gaining information that would support the materiality of the testing he seeks.

2. The order this Court entered was a targeted, narrow order, and Mr. Snow agrees that discovery received pursuant to 725 ILCS 5/116-3 should be related to the forensic testing issues raised in his motion. The Court's order allowed Mr. Snow to obtain copies of photographs of the crime scene of Mr. Little's murder from the Bloomington Police Department ("BPD") and the Clerk of the Circuit Court, and to issue a subpoena to BPD and the Illinois State Police ("ISP"). During counsel's review of these photographs at BPD, she did scan 6 photographs showing the general scene outside of the gas station. However, on April 26, 2016, while the State and counsel for Mr. Snow were reviewing photographs at BPD, the State objected to counsel scanning some photographs in BPD's possession, including close-up photographs of the gas pumps and photographs of a red car in the parking lot of the gas station, and photographs showing a dark car that appeared to be in a garage. The parties conferred telephonically with the Court, who allowed the parties 14 days to provide argument about whether Petitioner should have access to those photographs. Petitioner's position on these issues is set forth below.

ARGUMENT

3. As Mr. Snow advised the Court in his written filings, he sought discovery related to his forensic testing motion in order to establish that he has satisfied the chain of custody requirement on evidence he seeks to have tested, in order to make sure that he is seeking testing of all available evidence, and in order to establish the materiality of the evidence he seeks to have tested. The Court's March 30 order allows Mr. Snow the ability to satisfy those three goals, while limiting the discovery in this case to discovery appropriately sought under Section 116-3.

This Court should allow Mr. Snow access to the photographs in the custody of the Bloomington Police Department because they are covered by the Court's March 30 order and are relevant to Mr. Snow's motion for forensic testing.

Photographs Showing the Exterior of the Gas Station

4. Mr. Snow generally sought photographs of the crime scene, including the exterior of the gas station, so that he could provide those photographs to a crime scene expert. Mr. Snow has argued in his previous pleadings that the evidence in his possession suggests that there was a struggle between Mr. Little and his killer(s), and that evidence of a struggle supports his arguments that he should be granted leave to subject Mr. Little's clothing to DNA testing in order to find DNA the perpetrator(s) of this crime may have left there. While it is true that photographs specifically of the gas pumps may not seem to have much connection to whether there was a struggle, these are relevant photographs to the gas station that an expert should have an opportunity to review and to take into consideration. Mr. Snow and his counsel are not experts. What may not seem benign to them may be relevant to an expert. Mr. Snow and his counsel do not intend this process to be a fishing expedition, but there seems no harm in providing these photographs, which were technically covered by the Court's March 30 order, to an expert for that purpose.

Photographs Showing a Dark Car Recovered In Relation To This Case

5. The Bloomington Police Department has additional photographs showing a dark-colored car in a garage. Exhibit 1 of Mr. Snow's Motion for DNA and Fingerprint Testing is a crime scene processing report that reflects that the Illinois State Police personnel responsible for the crime scene examined a gray/green "Monte Carlo" at Brown's Wrecker Service in connection

with its investigation of this case. Mr. Snow's counsel was not able to fully examine these photographs, but believe they may depict this Monte Carlo. Crime scene personnel indicated that they "photograph[ed] and process[ed] this vehicle." (Mot. for DNA Testing, Ex. 1 at 4-5, re-attached to this briefing as Exhibit 1.)

6. Based on the limited records that Mr. Snow has at this time, it is unclear whether any forensic evidence was recovered from this car, and what "processing" the car meant. Mr. Snow seeks information related to this car to the extent that forensic evidence was recovered from it. Obviously, without the subpoena results from the Bloomington Police Department and the Illinois State Police, he is not in a position to advise the Court with any confidence whether forensic evidence was recovered. If documents from BPD or ISP answer the question of whether forensic evidence was recovered from this car, then Mr. Snow will seek from this Court photographs of that car.

Photographs Showing A Red Car At the Crime Scene

7. Finally, one of the exterior photographs of the gas station shows a red car, and there is a second photograph showing a close-up of the license plate of the red car. Mr. Snow's counsel believes that this photograph may have been examined and processed by either the Bloomington Police Department or the Illinois State Police, but counsel acknowledges that Mr. Snow does not now have in his possession records that confirm this to be the case.

8. In general, as with the photographs of the gas pumps above, Mr. Snow intends to provide all available photographs of the interior and exterior of the scene to a crime scene expert to give an opinion on whether there was a struggle, which is why he seeks these photographs.

9. Even if the Court does not view these photographs as being of the exterior of the crime scene, if documents from BPD or ISP reflect that forensic evidence was recovered from this car, then Mr. Snow will seek from this Court these photographs of the car in order to support his motion for testing.

Conclusion

10. Mr. Snow is at a disadvantage in stating his position about the specific issues raised in the April 26 telephonic status call with the Court because he has not seen the full set of discovery related to his requests. Mr. Snow expects to receive additional written documents from the Bloomington Police Department and the Illinois State Police in response to his subpoenas to those agencies, as allowed by the Court's March 30 order, and he expects that written discovery will further support the reasons he needs the photographs at issue in this pleading. Mr. Snow acknowledges that the photographs that were originally withheld from him at BPD are far from the most important documents he sought in his motion for discovery, but there are still reasons for this Court to provide those photographs, or to withhold a final decision on whether Mr. Snow should receive them until Mr. Snow receives the written discovery from BPD and ISP in this case.

WHEREFORE, Mr. Snow respectfully requests that this Court allow him to receive the color photographs originally withheld from him at BPD, or to allow him an opportunity to make further argument after he receives written discovery from BPD and ISP.

Respectfully Submitted,


Counsel for Petitioner James Snow

Tara Thompson (ARDC Number 6279922)
THE EXONERATION PROJECT
at the University of Chicago Law School
6020 S. University Avenue
Chicago, Illinois 60637
(312) 789-4955 (tel)
(312) 588-7276 (fax)

John Hanlon (ARDC Number 6185375)
ILLINOIS INNOCENCE PROJECT
University of Illinois Springfield
One University Plaza, MS PAC-451
Springfield, IL 62701
(217) 206-8558 (tel)

Counsel for Petitioner-Defendant

Certificate of Service

I, Tara Thompson, an attorney, hereby certify that on May 10, 2016, I caused to be served by first-class mail a copy of Petitioner's Argument in Support of Discovery Related to Crime Scene Photographs, upon all counsel of record.

Tara Thompson

McLEAN
FILED
MAY 11 2016
CIRCUIT CLERK
COUNTY

ILLINOIS STATE POLICE
 Division of Forensic Services and Identification
 Bureau of Crime Scene Services

Crime Scene Report

			Crime Scene Technician Ed Kallal
Requesting Department Bloomington P.D.	Requesting Department Case Number C91-2150	B.C.S.S. Case Number X91-0120-9-1	Classification Death Investigation
Date, Time, by Whom Notified (Name) 3-31-91 8:35 p.m. Bloomington P.D. Dispatch	Date and Time of Arrival 3-31-91 9:21 p.m. Sunday	Weather Clear	Temperature 40°
Evidence Transported to Laboratory #2, #3, #8, #9 #4, #7 #1, #10	Date and Time Received at Laboratory 4-3-91 10:00 a.m. 4-3-91 10:00 a.m. 4-3-91 10:00 a.m.	Received by Patricia Orr Chris Jacobson Walter Kryszak	B.F.S. Case Number P91-0751
Evidence Retained by Agency #5, #6, #11	Date and Time 4-3-91 1:35 p.m.	Received by Cindy Rousey	Other Laboratory N/A
Photography Yes	Sketch Pending	Latents Yes	Other Evidence Yes
Victim William W. Little M/W, DOB 10-12-72 2 Wilmette Dr. Normal, IL			

On 3-31-91 at 8:35 p.m., Crime Scene Technician Ed Kallal was requested by the Bloomington Police Department to process the scene of an armed robbery/death investigation at the Clark Super 100 Service Station, 802 East Empire Street.

At 9:21 p.m., CST Kallal arrived at the scene and met with McLean County Deputy Coroner Dixie Smith, Bloomington Police Chief Myron Miller, Assistant Police Chief Tim Linskey, Lieutenant Bill Emmett, Sergeant Gene Irvin, Sergeant Dennis O'Brien, Crime Scene Technician Randall McKinley and several uniform officers.

Sgt. Irvin advised CST Kallal that at approximately 8:20 p.m., the Bloomington Police Department received a call from the alarm company of an alarm at the Clark Super 100 Service Station. Officer Paul Williams, the first officer at the scene, found the victim lying on his left side on the floor behind the counter. Officer Williams cut open the victim's shirt and found two (2) gunshot wounds to the chest. Officer Williams began CPR on the victim until two (2) Emergency Medical Team personnel arrived and pronounced the victim dead.

EXHIBIT
1

ILLINOIS STATE POLICE
Division of Forensic Services and Identification
Bureau of Crime Scene Services

X91-0120-9-1

B.C.S.S. Case Number

C91-2150

Requesting Agency Case Number

Crime Scene Report

The scene located at the northeast corner of Linden and Empire Streets, was roped off with yellow tape and both Linden and Empire Streets were lined with people. The scene was a one-story concrete block building that had a gas station in the front portion of the building and storage in the rear portion.

The station consisted of a sales area, storage room, office, and employee's bathroom. There was another bathroom entered from the outside on the east side of the station.

There were three (3) islands containing two (2) gas pumps on each island south of the station.

The east plate glass window had been broken out on an earlier date and was covered with plywood.

The entrance door was located in the center of the south wall. Inside the station was an L-shaped counter along the south wall with a cash register, credit card machine and a gas pump computer on the counter. The gas pump computer showed \$21 and the cash register was open with the cash drawer missing.

Above the counter was a rack contained packs of cigarettes. Just east of the counter was a shelf that contained cigarette lighters, candy and miscellaneous items.

A storage room located north of the counter contained several boxes of candy, cigarettes and soda.

A recessed cooler containing soda was located along the north wall of the station, and just east of the cooler was a sunglasses display rack with several other items hanging on the wall.

CST Kallal observed the victim lying on the floor behind the counter, partially in the doorway of the storage room. The victim was on his back with his black undershirt and gray tee shirt cut away exposing two (2) small caliber gunshot wounds, one (1) to the center upper abdominal area and one (1) to the left shoulder. The victim was wearing a pair of blue jeans with a red belt, a pair of black and white hi-top tennis shoes and white socks.

A small amount of blood was observed on the floor and on the bottom shelf of the counter.

The exterior of the scene was photographed by CST Kallal. The electrostatic lifter was used on the concrete stoop in front of the entrance door and on the floor of the service station, with additional photographs being taken of the footwear impressions by CST Randall McKinley. Measurements were also taken by CST Kallal for preparation of a sketch.

ILLINOIS STATE POLICE
Division of Forensic Services and Identification
Bureau of Crime Scene Services

X91-0120-9-1

B.C.S.S. Case Number

C91-2150

Requesting Agency Case Number

Crime Scene Report

At 10:10 p.m., CST Kallal removed a black wallet from the victim's right rear pants pocket. The wallet contained identification of the victim, William Walter Little, and one (1) \$20 bill. At 10:15 p.m., the wallet and its contents were given to Deputy Coroner Dixie Smith.

At 10:36 p.m., the body was removed from the scene by Metzler Froelich Funeral Home and transported to the McLean County Morgue.

A search of the outside area was completed with two (2) pennies observed on the east side of the dumpster, two (2) pennies on the drive near the center set of gas pumps, and one (1) penny on the drive at the southwest entrance to the station.

At 12:10 a.m. on 4-1-91, CST Kallal received a cash register tape from Reggie Ragland, the territory manager for the Clark Oil Company.

Processing of the scene was completed at 2:50 a.m. on 4-1-91, with the following items of evidential value being collected, packaged and marked by CST Kallal as reflected on the evidence receipt:

- Exhibit #1 Sealed paper bag containing victim's black/white "Nike" hi-top tennis shoes.
- Exhibit #2 Sealed box containing swab of floor near counter.
- Exhibit #3 Sealed box containing control swab of floor near counter.
- Exhibit #4 Eight (8) latent lift cards with latent prints from entrance door.
- Exhibit #11 Sealed paper bag containing cash register tape.

At 3:00 a.m., CST Kallal departed the scene and arrived at the Bloomington Police Department at 3:05 a.m.

At 3:20 a.m., CST Kallal departed the Bloomington Police Department.

At 8:20 a.m. on 4-1-91, CST Kallal returned to the scene and took additional photographs of the outside area around the station.

At 8:40 a.m., a search was conducted for a two (2) to three (3) block area in all directions of the scene by Lieutenant John Swearinger, Officer Robert Franks, Officer Cecil Raydon, CST McKinley and CST Kallal, with negative results.

ILLINOIS STATE POLICE
Division of Forensic Services and Identification
Bureau of Crime Scene Services

X91-0120-9-1

B.C.S.S. Case Number

C91-2150

Requesting Agency Case Number

Crime Scene Report

At 9:40 a.m., CST McKinley and CST Kallal departed the scene, arriving at the McLean County Morgue at 10:15 a.m., and met with Coroner Bill Anderson and Deputy Coroner Dixie Smith.

The victim (still dressed) was x-rayed at that time.

At 11:02 a.m., Dr. Joseph Sapala arrived at the morgue. The autopsy was started at 11:30 a.m. by Dr. Sapala.

Additional photographs were taken of the victim and the victim's wounds by CST Kallal.

A dollar bill, one (1) nickel and one (1) penny, found in the left front pocket of the victim's blue jeans, were given to Coroner Anderson from CST Kallal.

The autopsy was concluded by Dr. Sapala at 12:40 p.m., and will be the subject of a separate report.

The following items of evidential value being collected, packaged, and marked by CST Kallal as reflected on the evidence receipt:

- Exhibit #5 Sealed paper bag containing victim's blue jeans, red belt, white socks and white underwear.
- Exhibit #6 Sealed paper bag containing victim's black undershirt and gray tee shirt.
- Exhibit #7 Sealed envelope containing inked finger and palm prints of victim.
- Exhibit #8 Sealed envelope containing head hair standard of victim.
- Exhibit #9 Sealed container containing blood standard of victim.
- Exhibit #10 Sealed box containing two (2) projectiles (22 caliber) removed from victim.

At 12:45 p.m., CST Kallal departed the McLean County Morgue.

At 1:00 p.m., CST McKinley and CST Kallal arrived at Brown's Wrecker Service located at 308 North Dinsmore Street, where CST McKinley processed a light gray/green 1983 Chevrolet "Monte Carlo" that had been stolen from the east side of Bloomington on 3-31-91, and recovered on the west side of Bloomington on 3-31-91.

3989

ILLINOIS STATE POLICE
Division of Forensic Services and Identification
Bureau of Crime Scene Services

X91-0120-9-1

B.C.S.S. Case Number

C91-2150

Requesting Agency Case Number

Crime Scene Report

This vehicle had 1991 Illinois registration WK9939, VIN 1G1A23791DR108847 and mileage 60,012.7.

CST Kallal observed that the ignition switch and headlight switch were in the on position. The photographing and processing of the vehicle were performed by CST McKinley.

At 2:10 p.m., CST McKinley and CST Kallal departed Brown's Wrecker Service.

The exposed photographic film was mailed to the Bureau of Crime Scene Services Photo Lab in Springfield. Upon receipt, the photographs will be forwarded to the Bloomington Police Department, and the negatives will be maintained in the crime scene case file.

On 4-3-91 at 10:00 a.m., Exhibits #1 through #4 and #7 through #10 were receipted to personnel of the Morton Forensic Science Laboratory from CST Kallal.

On 4-3-91 at 1:35 p.m., Exhibits #5, #6, and #11 were receipted to Records Clerk Cindy Rousey at the Bloomington Police Department from CST Kallal.

398 400

Page	Crime Scene Technician	I.D. Number	Date
		1659	5-2-91