

12-1801

Rayshaun Powell (A631549)

Petitioner,

- AGAINST -

JUDGE JAMES M. BURGE,
COURT OF COMMON PLEAS OF
LORAIN COUNTY, OHIO

Respondent,

CASE NUMBER:

WRIT OF HABEAS CORPUS

FILED
OCT 24 2012
CLERK OF COURT
SUPREME COURT OF OHIO

WRIT OF HABEAS CORPUS

Comes now, "Petitioner" Rayshaun Powell, respectfully moves this Court to "examine" case no. 10CR081771, because of errors claimed in this action. Petitioner demands a judicial review of a case he was illegally found guilty on May 31, 2012 and sentenced to 8 years. A single charge of rape R.C. 2907.02.(A)(2) without sufficient evidence, no medical forensics and contradictory and inconsistent statements violating Petitioner's rights of Due Process and Equal protection under the laws and Constitution of the United States of America.

For the above reasons a constitutional question is at hand.

Respectfully submitted,
Rayshaun Powell
A631549

Memorandum in support of Jurisdiction

Jurisdiction arises under 28 U.S.C. § 2254(a) (2000), Article III Sections 1 & 2 of the United States Constitution; Article IV Sections' 1 & 2(a) (b)

Writ of Habeas Corpus

Article I Section 9 of the U.S. Const.

The privilege of the Writ of Habeas Corpus shall not be suspended, unless, when in Cases of Rebellion or Invasion the public safety may require it.

Article I Section 8 of the Ohio Const.

The privilege of the writ of habeas corpus shall not be suspended, unless, in cases of rebellion or invasion, the public safety require it.

Habeas relief is available to those "in custody in violation of the Constitution or laws or treaties of the United States" and is used primarily by prisoners challenging the legality of their convictions or sentences. see Duke Law Journal Volume 58 October 2008.

I. Introduction

The system of justice in the United States of America was founded on the principle of fairness. Recognizing that an individual accused of a crime faced loss of freedom, the founders of this country through the enactment of the United States Constitution, set out to ensure that all individuals be afforded protection during this most important process. All individuals cloaked with presumption of innocence are guaranteed that justice shall be afforded them by the court, prosecutor, and defense counsel.

Without this protection, this country would be in dire jeopardy of convicting the wrongfully accused.

Respectfully, these rights were not afforded Mr. Powell, as he was caused to defend himself in the matter of State v. Powell. It is now submitted that error occurred in the trial of the instant matter which warrants a new trial. Mr. Powell did not receive the protections and rights that a defendant has been entitled to since the inception of the American legal system.

Mr. Powell was convicted of one count of rape pursuant to 2907.02.(A)(2) and sentenced to 8 years on August 24, 2012. He now appeals the verdict of guilty that was imposed in case no. 10CR081774 by Judge James M. Burge of the Court of Common Pleas of Lorain County, Ohio.

Mr. Powell is seeking a new trial, on the grounds of the following violations,

II. Law and Argument

A. The verdict is against the manifest weight of the evidence in violation of Mr. Powell's rights under the fifth, sixth, and fourteenth Amendments to the United States Constitution, and article I, Section 10 of the Ohio State Constitution.

The test for determining whether the verdict is against the manifest weight of the evidence requires a court to review the entire record, weigh the evidence and all reasonable inferences,

consider the credibility of the witnesses, and to determine whether the trier of fact clearly lost its way and created such a manifest miscarriage of justice that the conviction must be reversed and new trial ordered. State v. Earle (11th Dist., 1997), 120 Ohio App. 3d 457, 473. In making this determination the Ohio Supreme Court has outlined several factors for

consideration: "whether the evidence was uncontradicted, whether a witness was impeached, what was not proved that the reviewing court is not required to accept the incredible as true, the certainty of the evidence, the reliability of the evidence, whether a witness' testimony is self-serving, and whether the evidence is vague, uncertain, conflicting, or fragmentary." State v. Apantovitch (1987), 33 Ohio St. 3d 19, 23-24, citing State v. Mattison (1985), 23 Ohio App. 3d 10.

The trier of fact is the sole judge of the credibility of the witnesses. O.R.C. § 2945.11. The tests for judging the credibility of a witness include:

"his manner of testifying; the reasonableness of the testimony; the opportunity he had to see, hear and know the things concerning which he testified; his accuracy of memory; frankness or lack of it; intelligence; interest and bias, if any; together with all the facts and circumstances surrounding the testimony." 40JI 409.05.

The trier of fact is not required to believe the testimony of any witness. Id. A defendant has a right to not testify, and the fact that he did not testify cannot be considered for any purpose. 40JI 409.07.

In this case, the mother of the complaining witness testified that Mr. Powell never babysitted none of her children and when she did leave the apartment she was staying at temporarily she only stayed out for an hour or two;

She was also questioned if anybody else lived in the apartment other than her, her (4) children, Mr. Powell and his wife Erica Perez, and their (7) children and a "Anthony Taylor Jr" she testified that he was her boyfriend and no one else stayed in the home nor came over, but her daughter the complaining witness testified that also a "Al Johnson" live in the home (he is one of Ms. Perez's child's father); she also testified that a lot of people came in and went out of that home.

In this case, no sufficient evidence was presented all hearsay statements was inconsistent without material evidence: no Medical forensics or collaboration of either.

Mr. Powell testified by force, because of his appointed counsel not subpoenaing his witness(es) on his behalf to prove that he did not live at Mr. Perez's residence and the fact that the allegation that was charged against him is a false accusation.

The fact that the complaining witness complained of vaginal pains supposedly to her mother, afterward, the same day August 15, 2012 she was taken to the (Elyria Memorial Hospital) where she also claimed vaginal pains, was examined by nurses and Doctor Deepprett Sighin who personally examined the young girl declared all systems normal in her medical report, a situation arised when the examining doctor did not declare if the juvenile had a hymen or not and the State of Ohio purposely did not place the doctor who personally examined the juvenile on the witness list of experts, to find facts in the matter of the State of Ohio v. Powell Case no. 10CR081774; nor did Paul Griffin, court-appointed assistance counsel object to the insufficient evidence or investigate the matter if the juvenile had a hymen or not, grounds for reversal. Baylor v. Estelle, 94 F.3d 1321 (9th Cir.) cert. denied 520 U.S. 1151 (1997)

"It is not sufficient if the conclusion must rest wholly upon guess or conjecture." State V. Duganitz (8th Dist. 1991), 76 Ohio App.3d 363, 367; See also, State V. Haynes (1971), 25 Ohio St. 2d 264.

This proffered evidence directly impeaches the credibility of the complaining witness and her version of events.

This exclusion becomes more troubling when considered with the Detective who did not testify to these facts and to give an explanation, why, he claimed that there was no police report of the shooting of Erica Perez's home.

The contradictory statements, testimony, without eye-witnesses and only hearsay that was taken by investigating officer, who also has contradictory in his work assignment creates reasonable doubt as to Defendant's conviction under the rape statute.

This issue is controlled by the Ohio Rules of Evidence. Specifically, Rule 401 defines relevant evidence as: "Evidence having **any** tendency to make the existence of **any fact** that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Ohio Rule of Evidence 401, emphasis added. Rule 402 makes this evidence admissible.

These actions deprived Mr. Powell of his constitutional right to Due Process of Law and a fair trial.

A conviction based on legally insufficient evidence constitutes a denial of "Due Process". See State V. Thompkins (1997), 78 Ohio St.3d 380, 1997 Ohio 52, 678 N.E.2d 541.

The rule of law in Thompkins applies equally to a matter tried before the bench or a jury. State V. Fisher, 6 Dist. No. L-02-1041, 2002. Ohio 7305.

A conviction based upon insufficient evidence must be overturned. See Jackson at 315-18, See also, State V. Thompkins (1997)

LAW AND ARGUMENT. III

B. Mr. Powell was deprived of ineffective counsel and the compulsory process to obtain witnesses in his behalf guaranteed by the 6 Amendment to the United States Constitution of America. Also, the trial court of Judge James M. Burge allowed misconduct to take place within his court ^{in every} ^(of the) ^{element} proceeding of case no. 10CRO81774 Violating Article 6 of the U.S.A. Constitution, also, Mr. Powell was denied his physical liberties and equal protection of the law. Fourteenth Amendment to the U.S.A. Const.

A convicted defendant's claim that counsel's assistance was so defective as to require reversal of a conviction or death sentence has two components: first, defendant must show that counsel's performance was deficient, requiring showing that counsel made errors so serious that counsel was not functioning as the "counsel" guaranteed defendant by the Sixth Amendment and, second, defendant must show that the ~~defendant's~~ deficient performance prejudiced the defense by showing that counsel's errors were so serious as to deprive defendant of a fair trial, a trial whose result is

104 S.Ct. 3562.

A convicted defendant making a claim of ineffective assistance must identify acts or omissions of counsel that are alleged not to have been result of reasonable professional judgment and then court must determine whether, in light of all circumstances, identified acts or omissions were outside wide range of professional competence assistance; in making that determination, court should keep in mind that counsel's function is to make adversarial testing process work in the particular case, U.S.C.A. Const. Amend. 6.

Mr. Powell because of ineffectiveness of counselors, assigned by the court, because of the Defendant being indigent. All worked toward a strategy to prolong Mr. Powell's trial for the prosecutor, because of not knowing the whereabouts of the juvenile and her mother.

This information was given to a Henry Walker and Erica Perez through a phone conversation about Mr. Powell's case which also violates the confidential rule between lawyer and client; Atty: Douglas Merrill was Mr. Powell's counsel at that time.

All court appointed counselor waved speedy trial time without permission or the acknowledgment of Mr. Powell.

Mr. Powell has written up every last court appointed counselors in case no. 10CR081774, because of irreconcilable conflicts between defendant Powell and his lawyers, a ground for reversal of conviction. United States V. Moore, 159 F.3d 1154 (9th Cir. 1999)

A court must take into consideration trial strategy and the various "strategic choices" counsel must make at trial after a thorough investigation of law and the fact. Id. at 690-91.

With respect to the ~~outcome~~ outcome prong, Appellant does not need to demonstrate that the deficient conduct "more likely than not altered the outcome in the case." Id. at 693 (emphasis added). Appellant must only show that there is a "reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would of been different" Id. at 694 (emphasis added)

In this case, the complaining witness declared vaginal pains to her mother supposedly and to the medical examiners no other claims were made.

On September 21, 2012, the juvenile was examined by a Detective Zacharias, from out of Elyria Police Department. She told this detective that she got raped through her rectum area, also, that her vagina was rubbed and she was forced to give oral sex. Counsel did not attack her credibility of why her statements were inconsistent.

Also, the complaining witness's mother was not cooperating with the investigation. Counsel never put the question of why wasn't she cooperating with this serious matter.

It was also discovered by Mr. Powell because of having to stand only in fighting for his innocence, that, on the same day of the accusation of rape, his wife "Erica Perez's" home

was shoot up, by a woman named "Giina" Morales or Yelana the mother of the young juvenile and her boyfriend "Tone or Tony" Anthony Taylor.

According to the police report by (E.P.D) on August 15, 2010 3:35 am, officer responded to a call by Ms. Perez

claiming her home was shoot up, unknown person or persons. At 3:40 am a male by the name of Jason claims he was present when a conversation took place about Ms. Perez kicking Ms. Morales "Giina" and boyfriend "Tone or Tony" Anthony Taylor out of her apartment in Wilkes Villa, between Pratt Blvd and Hodge Ct.

(EXHIBIT NEXT PAGE)

Jason claims in the morning of August 15, 2010 that Mr. Taylor and other males that were present shoot perezs home for kicking them out.

(See Incident report page 2)

Afterward, at 2:34 P.M. a Officer webber was detailed to 630 East River St. (EMH) in reference to a rape. In the statements made by the mother and the daughter (the statements contradict each other.).

Also, Ms. Perez lived at 156 Pratt Blvd, but in the statement the young juvenile made to the detective she claims Ms. Perez lived at 156 Portia Court, which her mother claims that was on the corner of Pratt and Portia which is false.

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INCIDENT #: 2010-00022315 ORI #: E P D INCIDENT TYPE: 5213 P Shot Fired

LOCATION . . . : 156 PRATT BD VENUE: Elyria
NATURE OF CALL:

DATE: TIME:
CALL . . . : 08/15/2010 3:35:56
DISPATCH . . . : 08/15/2010 3:36:21
ARRIVE 1 . . . : 08/15/2010 3:38:28
CLEAR . . . : 08/15/2010 3:44:08

AREA . . : Southwest SECTION : 7C BEAT: WilkesVill
QUADRANT: DISTRICT: GRID: 5

UNIT 1 #: 056 ID # 1: CONSTANTINO, CHRISTOPHE ID # 2: WIMSATT, MICHAEL, D,
UNIT 2 #: 087 ID # 3: EICHENLAUB, NICHOLAS, A, ID # 4:

RECEIVED ORI/ID/TERM : E P D THOMPSON, TINA, L, DISP_G_02A
DISPATCH ORI/ID/TERM : E P D THOMPSON, TINA, L, DISP_G_02A
CLEARING ORI/ID/TERM : E P D POWERS, DEBBIE, S, DISP_G_01A
DISPATCH SHIFT : Night 10-6
SOURCE . . . : Telephone REPORT REQUIRED: NO MUTUAL AID:
DISPOSITION . . : Unfounded PRIORITY . . . : 1

ORIGINAL INFORMATION:
LOCATION : 156 PRATT BD VENUE: Elyria
INCD TYPE: 5213 P Shot Fired PRIORITY: 1

STATUS/DISPOSITIONS:
DISPOSITION: UNIT: DATE: TIME: ID # 1: / ID # 2:
Unfounded 056 08/15/2010 3:44:08 CONSTANTINO, CHRISTOPHER, L,
Unfounded 087 08/15/2010 3:44:08 WIMSATT, MICHAEL, D,
Unfounded 097 08/15/2010 3:44:08 EICHENLAUB, NICHOLAS, A,
Unfounded 178 08/15/2010 3:44:08 FIGULA, JOSEPH, G,
Unfounded 288 08/15/2010 3:44:08 BUCKWAY, RICHARD, T,
KENNEALLY, TERRENCE, J,
WIDMER, JAMES, P,
STRAUB, TODD, B,
SHEPHERD, RAYMOND, W,

ADDITIONAL INFORMATION:
COMP ADV SOMEONE SHOT A GUN IN HER RESIDENCE
UNSURE WHO SHE WAS SLEEPING AND ADVISED SHE

RADIO LOG:
UNIT: TYPE: STATUS: DISPATCH: ARRIVE: CLEAR: ID # 1:
056 PTRL Dispatch 3:36:21
087 PTRL Dispatch 3:36:21 EICHENLAUB, NICHOLAS
178 PTRL Dispatch 3:36:21
288 PTRL Dispatch 3:36:21
Hazards 3:36:27
097 PTRL Dispatch 3:37:54 FIGULA, JOSEPH, G,

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056	PTRL	Arrive	3:38:28	
178	PTRL	Arrive	3:38:28	
288	PTRL	Arrive	3:38:28	
087	PTRL	Arrive	3:38:32	
097	PTRL	Arrive	3:39:30	EICHENLAUB, NICHOLAS
#####		Hazards	3:40:33	FIGULA, JOSEPH, G,
#####		Hazards	3:41:44	
056	PTRL	Clear Call	3:44:08	
087	PTRL	Clear Call	3:44:08	EICHENLAUB, NICHOLAS
097	PTRL	Clear Call	3:44:08	FIGULA, JOSEPH, G,
178	PTRL	Clear Call	3:44:08	
288	PTRL	Clear Call	3:44:08	

DOCUMENTS:

Dispatch Narrative

DIDN'T HEAR ANYONE AS SHE HAD AIR CONDITIONER	POWERS	3:40:20
ON. NO FURTHER INFORMATION GIVEN.	POWERS	3:40:26
178 ADV ALL UNITS CLEAR, NO CAUSE FOR COMPLAINT	POWERS	3:44:03

CAD System Narrative

POWERS CHANGED ADDITIONAL INFORMATION FROM		3:40:27
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Information

A MALE BY THE NAME OF JASON STATED HE WAS IN AN APT. IN WILKES VILLA EARLIER THIS MORNING. JASON STATES A FEMALE BY THE NAME OF BARBARA LIVES IN APT. JASON STATES A FEMALE BY THE NAME OF GINA AND HER BOYFRIEND WHO GOES BY "TONE", WAS ALSO IN THE APT. STATING THEY HAD GOT LICKED OUT OF 156 PRATT BD. BY THE FEMALE THAT LIVES THERE. JASON STATE S ONE WORD LED TO THE NEXT AND TONE DECIDED WITH OTHER MALES TO GO AND SHOOT 156 PRATT UP. JASON STATES HE IS GOING TO FIND OUT THE ADDRESS HE WAS AT AND CALL POLICE BACK.

NAMES:

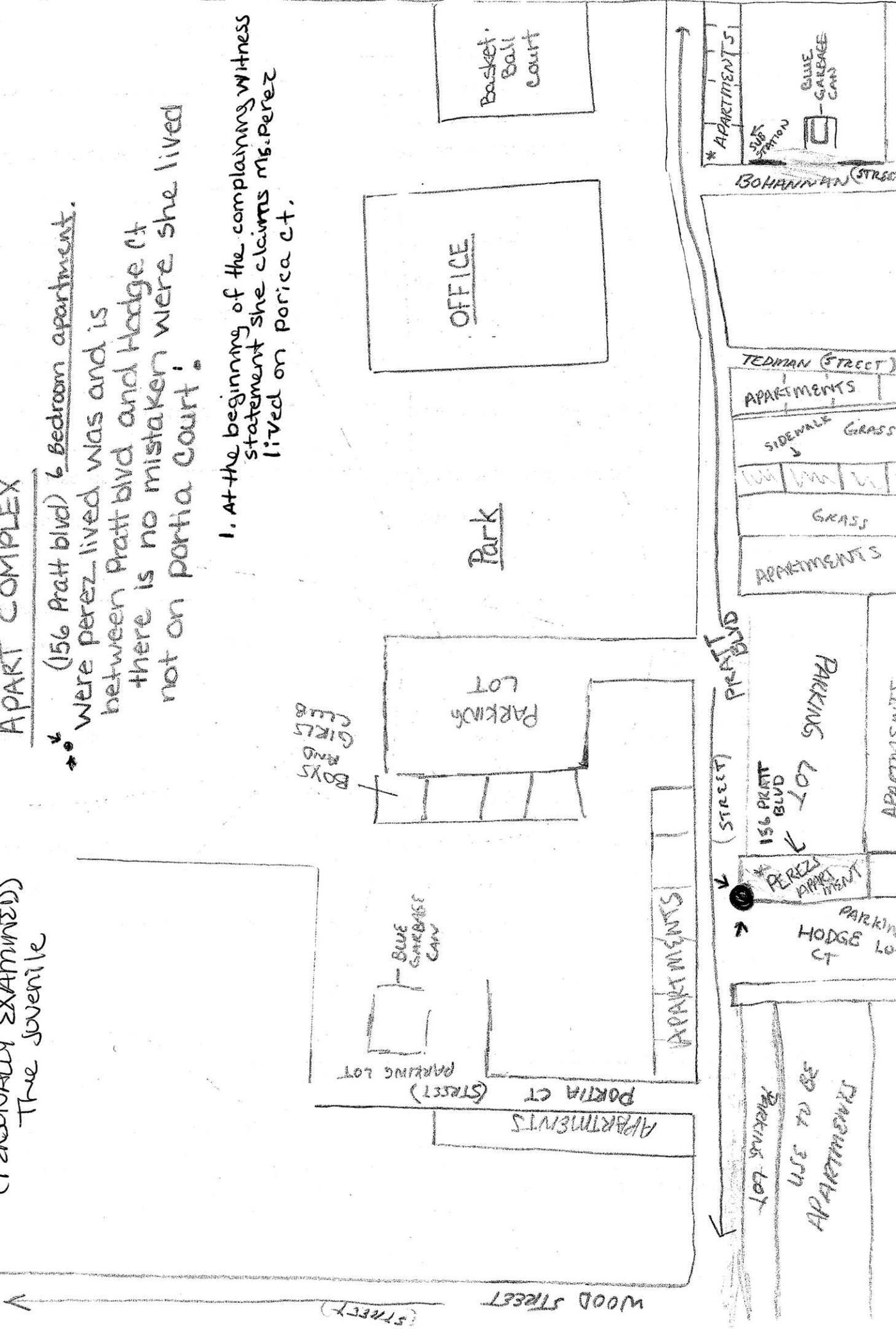
Caller : =PEREZ, ERICA,,

EXHIBIT
SCATCH OF
APART COMPLEX

↓ ↓ (156 Pratt Blvd) 6 Bedroom apartment.
Were Perez lived was and is
between Pratt Blvd and Hodge Ct
there is no mistaken were she lived
not on Portia Court!

1. At the beginning of the complaining witness
statement she claims Ms. Perez
lived on Portia Ct.

- Doctor Deepreet Singh
2620 RIDGEWOOD RD #3
AKRON, OHIO 44313
(PERSONALLY EXAMINED)
The juvenile



Also, because of ineffective assistance of counsel, he was forced to file his own motions to prove or get justice from the court of Judge James M. Burge; but because of his motions being Pro Se he was being prejudiced and treated bias and motions were being denied and some unanswered. See. Docket Info.

Complaints were filed against counselors 1) Douglas Merrill, 2) Kenneth Lieux,³⁾ Frank Janik III and ⁴⁾ Paul Griffin conflict court appointed counselor, who, the court of Judge James M. Burge forced to represent Powell after his making it clear he wanted to represent himself. See. Docket Info Page 5 (2-8-12) Daniels v. Woodford, 428 F.3d 1181 (9th Cir). cert. denied 550 U.S. 968 (2007) Court failed to resolve conflict between appointed Lawyer and Client.

United State v. McKinley, 58 F.3d 1475 (10th Cir. 1995) Court improperly denied defendant self-representation, Mr. Powell's Motion went unanswered.

Also, because of these actions by ineffective counselors the trial of State v. Powell was unfair by not trying to be reasonable of trying to discover the facts of the case.

(A.) Counselors did not investigate regarding lab-reports to see if the juvenile had a hymen,

(B.) Did not question or subpoena none of my witnesses

(C.) In trial, on (5-16-12) the mother was questioned if her daughter ever made false accusations before

because of their family report of Children Services, her family members claimed they wasn't letting the juvenile or her siblings stay at their homes, because of the juvenile always making false rape claims.

The mother says it never happened, her sister has her own responsibilities. But, the juvenile, when she took the stand declared it did happen.

(then counsel was objected by prosecution)

The court sustained the objection Powells defense counsel never argued that fact.

According to Evid. Rule 405 (A)

In all cases in which evidence of character or a trait of character of a person is admissible, proof may be made by testimony as to reputation or by testimony in the form of an opinion. On cross-examination, inquiry is allowable into relevant specific instances of conduct.

According to the juveniles reputation she lies. Also, in her family case record she lies a lot documented by caseworker Debbie McDormick who prosecution held back from testifying about these facts.

Nor did counsel Griffin subpoena the Doctor, Detective or caseworker when Powell told him too.

The evidence is clear that a false allegation was lead on by Detective Zacharias, Prosecutor Hanek and court appointed court on record of case no.

10CR081774.

Conclusion

For the reasons discussed above, this case involves matters of public and great general interest and a substantial Constitutional question. The Petitioner requests that this Court accept jurisdiction in this case so that the important issues presented will be reviewed on the merits.

Respectfully submitted,

Rayshaun Powell A631519
Rayshaun Powell, Pro se
Petitioner

Certificate of service

I certify that the ongoing appeal was sent to the ~~Prosecutors Office at 225 Court Street, Elyria Ohio 44025~~ ^{Supreme court of Ohio} on day 21 of October 2012.

Ryan Pull

Sworn and subscribed before me a duly-appointed notary of public on day 21st of October, 2012.

Allan S Hlebovy

Allan S Hlebovy

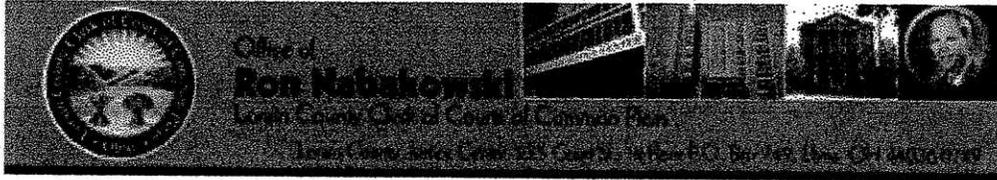
Notary Public - State of Ohio

My Commission Expires March 6, 2017

Notary Public

My commission expires: _____.

A



Public Docket Information

STATE OF OHIO V/S RAYSHAUN N POWELL

Case Number: 10CR081774

Case Details

Type Of Action: Criminal
 Judge: Burge, Judge James
 Filed On: 11/24/2010

Parties

Name	Birth Date	Party	Address	Attorney(s)
STATE OF OHIO	N/A	P		PROSECUTOR, LORAIN COUNTY 225 COURT STREET 3RD FLOOR ELYRIA, OHIO 44035
POWELL, RAYSHAUN N	11/09/81	D	156 PRATT ELYRIA, OHIO 44035	<p>③ JANIK, III, FRANK J 248 PARK AVENUE AMHERST, OHIO 44001 <u>EXCUSED 01/18/2012</u></p> <p>① MERRILL, DOUGLAS W ROTHGERY & ASSOCIATES 230 THIRD STREET ELYRIA, OHIO 44035 <u>EXCUSED 04/08/2011</u></p> <p>④ GRIFFIN, PAUL 600 BROADWAY LORAIN, OHIO 44052</p> <p>② LIEUX, KENNETH M 110 MIDDLE AVENUE, 2ND FL ELYRIA, OHIO 44035 <u>EXCUSED 09/30/2011</u></p>

Open Balance Information		
STATE OF OHIO	Open Balance:	\$ 0.00
	Pending Payment:	\$ 0.00
	Pending Balance:	\$ 0.00
This case/party is not currently eligible to pay online.		
POWELL, RAYSHAUN N	Open Balance:	\$ 0.00
	Pending Payment:	\$ 0.00
	Pending Balance:	\$ 0.00
This case/party is not currently eligible to pay online.		

Note: We do not support Safari or Chrome browsers. The recommended browsers are: Firefox 4.0 or higher or Internet Explorer IE7 or higher

Filter Docket

<input type="checkbox"/> Show All	<input type="checkbox"/> ARRAIGNMEN	<input type="checkbox"/> ATTY APPT
<input type="checkbox"/> BOND	<input type="checkbox"/> FILING	<input type="checkbox"/> INDICTMENT
<input type="checkbox"/> (JMB)	<input type="checkbox"/> JOURNAL	<input type="checkbox"/> Journal Entry
<input type="checkbox"/> MISC	<input type="checkbox"/> MOTION	<input type="checkbox"/> REPORTER
<input type="checkbox"/> RETURN	<input type="checkbox"/> SERVICE	

Date	Type	Description
11/24/2010	INDICTMENT	INDICTMENT FILED. WARRANT TO ARREST W/COPY OF INDICTMENT ISSUED TO LORAIN COUNTY SHERIFF. INDICTMENT FOR: RAPE, 207.02(a)(2) F-1
12/01/2010	SERVICE	CERTIFICATE OF SERVICE FILED.
12/01/2010	RETURN	SHERIFF'S RETURN - I ARRESTED DEFENDANT ON: 11/29/10 PHIL R. STAMMITTI, SHERIFF
12/01/2010	BOND	BOND IS HEREBY SET AT \$25,000.00 PERSONAL RECOGNIZANCE BOND AND \$25,000.00 CASH BOND. DEFENDANT TO HAVE NO CONTACT WITH VICTIM. (JLM)
12/09/2010	ARRAIGNMEN	DEFENDANT ARRAIGNED. WAIVED READING OF INDICTMENT, ENTERED PLEA OF NOT GUILTY. BOND CONTINUED. CASE ASSIGNED TO JUDGE BURGE. PRETRIAL SET FOR 12/17/2010 AT 9:00 A.M. (LINDA BUTLER, MAGISTRATE FOR JLM)
12/09/2010	ATTY APPT	IT APPEARING DEFENDANT IS INDIGENT, THE COURT HEREBY <u>APPOINTS AS COUNSEL FOR DEFENDANT ATTORNEY MERRILL.</u>
12/17/2010	JOURNAL	FIRST PRE-TRIAL CONFERENCE ORDER IN CRIMINAL CASE FILED. THE STATE OF OHIO WILL FURNISH DISCOVERY ON: NO DATE . SECOND PRE-TRIAL IS SET ON: 12/22/10 AT 8:30 A.M. .
12/22/2010	Journal Entry	DEFENDANT WAIVES STATUTORY TIME FOR SPEEDY TRIAL PURSUANT TO R.C. 2945.71 ET. SEQ. PRE-TRIAL HAD. AT THE DEFENDANT'S REQUEST, PRE-TRIAL IS HEREBY CONTINUED UNTIL: 1/14/2011 AT 8:30 A.M. BOND AMENDED AT DEFENDANT'S REQUEST TO \$25,000.00 CASH SUBJECT TO THE 10% RULE IN COURT. DEFENDANT ORDERED TO HAVE NO CONTACT WITH VICTIM AND NO UNSUPERVISED CONTACT WITH ANY CHILD 13 AND UNDER. (JMB)
01/07/2011	FILING	BILL OF PARTICULARS FILED BY STATE
01/07/2011	FILING	REQUEST FOR DISCOVERY FILED BY STATE
		NOTICE OF COMPLIANCE WITH DISCOVERY REQUEST FILED BY

01/07/2011 MISC STATE OF OHIO

01/13/2011 FILING RESPONSE TO STATE'S REQUEST FOR DISCOVERY FILED BY DEFT

01/14/2011 Journal Entry DEFENDANT WAIVES STATUTORY TIME FOR SPEEDY TRIAL PURSUANT TO R.C. 2945.71 ET. SEQ. PRE-TRIAL HAD. AT THE DEFENDANT'S REQUEST, PRE-TRIAL IS HEREBY CONTINUED UNTIL: 2/18/2011 AT 8:30 A.M. (JMB)

02/18/2011 Journal Entry PRETRIAL HAD. AT THE DEFENDANT'S REQUEST, PRE-TRIAL IS HEREBY CONTINUED UNTIL: 2/25/2011 AT 8:30 A.M. (JMB)

02/25/2011 Journal Entry DEFENDANT WAIVES STATUTORY TIME FOR SPEEDY TRIAL PURSUANT TO R.C. 2945.71 ET. SEQ. PRE-TRIAL HAD. AT THE DEFENDANT'S REQUEST, PRE-TRIAL IS HEREBY CONTINUED UNTIL: 4/1/11 AT 8:30 A.M.

04/01/2011 (JMB) PRETRIAL HAD. AT DEFENDANT'S REQUEST, PRETRIAL IS HEREBY CONTINUED UNTIL 4/8/2011 AT 8:30 A.M.

04/01/2011 MOTION * MOTION FILED BY ATTORNEY MERRILL TO WITHDRAW AS COUNSEL

04/06/2011 (JMB) * A HEARING ON ATTORNEY MERRILL'S MOTION TO WITHDRAW AS COUNSEL OF RECORD WILL BE HELD ON APRIL 8, 2011 AT 9:00 A.M.

04/08/2011 Journal Entry * DEFENDANT WAIVES STATUTORY TIME FOR SPEEDY TRIAL PURSUANT TO R.C. 2945.71 ET. SEQ. PRE-TRIAL HAD. AT THE DEFENDANT'S REQUEST, PRE-TRIAL IS HEREBY CONTINUED UNTIL: 4/29/11 AT 8:30AM. ATTY MERRILL PERMITTED TO WITHDRAW; ATTY LIEUX APPOINTED TO REPRESENT DEFT.

04/13/2011 FILING REQUEST FOR IN-CAMERA INSPECTION AND NOTICE OF SUBPOENA W/ ORAL HEARING REQUESTED FILED BY DEFT

04/28/2011 MOTION MOTION FILED BY STATE TO QUASH DISCOVERY REQUEST AND FOR PROTECTIVE ORDER OR A IN CAMERA INSPECTION

* 05/03/2011 Journal Entry DEFENDANT WAIVES STATUTORY TIME FOR SPEEDY TRIAL PURSUANT TO R.C. 2945.71 ET. SEQ. PRE-TRIAL HAD. AT THE DEFENDANT'S REQUEST, PRE-TRIAL IS HEREBY CONTINUED UNTIL: 5/20/2011 AT 8:30 A.M. (JMB)

05/06/2011 MOTION MOTION FOR APPROPRIATION OF FUNDS FOR EXPERT ASSISTANCE FILED BY DEFENDANT.

05/09/2011 (JMB) A HEARING ON DEFT'S MOTION FOR APPROPRIATION OF FUNDS FOR EXPERT ASSISTANCE IS SCHEDULED FOR 5/20/11 AT 9:30 A.M.

05/10/2011 (JMB) A HEARING ON THE STATE'S MOTION TO QUASH SUBPOENA IS SCHEDULED FOR 5/20/11 AT 10:00 A.M.

* 05/23/2011 Journal Entry DEFENDANT WAIVES STATUTORY TIME FOR SPEEDY TRIAL PURSUANT TO R.C. 2945.71 ET. SEQ. PRE-TRIAL HAD. AT THE DEFENDANT'S REQUEST, PRE-TRIAL AND MOTIONS HEARING IS HEREBY CONTINUED UNTIL: 6/2/11 AT 1:30 P.M. ATTY LIEUX IN TRIAL.

06/03/2011 MOTION MOTION FILED BY DEFT, PRO SE, FOR BOND REDUCTION, REQUEST FOR COURT APPEARANCE

06/03/2011 Journal Entry * DEFENDANT WAIVES STATUTORY TIME FOR SPEEDY TRIAL PURSUANT TO R.C. 2945.71 ET. SEQ. PRE-TRIAL HAD. AT THE DEFENDANT'S REQUEST, PRE-TRIAL IS HEREBY CONTINUED UNTIL: 7/8/11 AT 8:30 AM. DEFENDANT TO UNDER GO POLYGRAPH WITH WILLIAM EVANS. STATE'S MOTION TO QUASH SUBPOENA IS MOOT.

06/07/2011 (JMB) DEFENDANT'S MOTION TO MODIFY BAIL IS DENIED. - NO REASON

07/08/2011 Journal Entry PRE-TRIAL HAD. AT THE DEFENDANT'S REQUEST, PRE-TRIAL IS HEREBY CONTINUED UNTIL: 8/5/11 AT 8:30 AM. POLYGRAPH TO BE SCHEDULED. JURY TRIAL SET FOR 10/31/11 AT 8:30 AM.

08/03/2011 MOTION MOTION TO DISMISS INDICTMENT FOR LACK OF SPEEDY TRIAL FILED BY DEFT, PRO SE

DEFENDANT WAIVES STATUTORY TIME FOR SPEEDY TRIAL PURSUANT TO R.C. 2945.71 ET SEQ. PRETRIAL HAD. AT THE

DID NOT WAIVE

I DIDN'T SEE MY ATTY. HOW DID I WAIVE?

DID NOT WAIVE

DID NOT WAIVE

DID NOT WAIVE

08/05/2011 Journal Entry	DEFENDANT'S REQUEST, FINAL PRETRIAL SET FOR: 9/29/11 AT 1:30 P.M. JURY TRIAL SET FOR 10/31/11 AT 8:30 A.M. POLYGRAPH TAKING PLACE ON 8/15/11.	
08/24/2011 MOTION	MOTION FILED BY DEFT, PRO SE, TO DISMISS INDICTMENT FOR LACK OF SPEEDY TRIAL	NEVER ANSWERED
08/31/2011 MOTION	MOTION FILED BY DEFT, PRO SE, TO DISMISS INDICTMENT PURSUANT TO CRIM RULE 16 (B)(F) AND DISCRIMINATORY PROSECUTION OF SOMEONE ACTUALLY INNOCENT	
09/06/2011 MOTION	MOTION FILED BY DEFENDANT POWELL, PRO SE TO DISMISS INDICTMENT PURSUANT TO CRIMINAL RULE 16 (B)(f); AND DISCRIMINATORY PROSECUTION OF SOMEONE ACTUALLY INNOCENT.	
*09/30/2011 (JMB)	DEFENSE COUNSEL REQUESTED (VIA ORAL MOTION), MOTION TO WITHDRAW AS COUNSEL. MOTION GRANTED AS DEFT HAS FILED A GRIEVANCE AGAINST ATTY LIEUX. NEW COUNSEL TO BE APPOINTED DUE TO THE ABOVE CONFLICT. ATTY FRANK JANIK HEREBY APPOINTED AS NEW COUNSEL.	
09/30/2011 Journal Entry	DEFENDANT WAIVES STATUTORY TIME FOR SPEEDY TRIAL PURSUANT TO R.C. 2945.71 ET SEQ. PRETRIAL HAD. AT THE DEFENDANT'S REQUEST, FINAL PRETRIAL SET FOR: 10/14/11 AT 8:30 A.M.	NEVER WAIVED TIME
09/30/2011 REPORTER	COURT REPORTER CERTIFICATION FILED THURSDAY, SEPTEMBER 29, 2011	
10/05/2011 MOTION	MOTION FOR A BILL OF PARTICULARS FILED BY DEFENDANT.	WHY WAS THIS FILED
10/05/2011 FILING	DEMAND FOR DISCOVERY FILED BY DEFENDANT.	
10/12/2011 FILING	LETTER FROM DEFENDANT FILED	
10/14/2011 FILING	NOTICE OF SUPPLEMENTAL DISCOVERY FILED BY STATE	
10/17/2011 Journal Entry	DEFENDANT WAIVES STATUTORY TIME FOR SPEEDY TRIAL PURSUANT TO R.C. 2945.71 ET. SEQ. PRE-TRIAL HAD. AT THE DEFENDANT'S REQUEST, PRE-TRIAL IS HEREBY CONTINUED UNTIL: 10/21/11 AT 8:30 A.M. CASE TO BE SET FOR TRIAL. (JMB)	NEVER WAIVED TIME
10/18/2011 Journal Entry	DEFENDANT HAVING BEEN ORDERED TO REIMBURSE COUNTY APPOINTED ATTORNEY FEES, THE COURT FINDS THAT COURT APPOINTED ATTORNEY FEES ARE: \$844.00 THE DEFENDANT IS TO PAY SAID AMOUNT TO THE LORAIN COUNTY CLERK OF COMMON PLEAS COURT. THE LORAIN COUNTY CLERK OF COURTS SHALL PAY SAID FUNDS TO THE LORAIN COUNTY TREASURER.	FOR WHAT
10/21/2011 (JMB)	PRE-TRIAL HAD. AT DEFT'S REQUEST, PRE-TRIAL IS HEREBY CONTINUED UNTIL 11/4/11 AT 8:30 A.M. JURY TRIAL SET FOR 10/31/11 CANCELED AT DEFENSE COUNSEL REQUEST AS DEFENSE COUNSEL WAS JUST RECENTLY APPOINTED.	
11/04/2011 Journal Entry	DEFENDANT WAIVES STATUTORY TIME FOR SPEEDY TRIAL PURSUANT TO R.C. 2945.71 ET SEQ. AT THE DEFENDANT'S REQUEST, SECOND PRETRIAL SET FOR 11/18/11 AT 8:30 A.M. (JMB)	NEVER WAIVED TIME
11/18/2011 (JMB)	PRE-TRIAL HAD. AT THE DEFENDANT'S REQUEST, FINAL PRE-TRIAL SET FOR 12/16/2011 AT 8:30 A.M. AND BENCH TRIAL SET FOR 1/18/2012 AT 8:30 A.M.	
12/16/2011 Journal Entry	DEFENDANT WAIVES STATUTORY TIME FOR SPEEDY TRIAL PURSUANT TO R.C. 2945.71 ET SEQ. PRETRIAL HAD. AT THE DEFENDANT'S REQUEST, FINAL PRETRIAL SET FOR: 12/22/11 AT 8:30 A.M. BENCH/JURY TRIAL SET FOR 1/18/12 AT 8:30 A.M. (JMB)	NEVER WAIVED TIME
12/22/2011 Journal Entry	DEFENDANT WAIVES STATUTORY TIME FOR SPEEDY TRIAL PURSUANT TO R.C. 2945.71 ET SEQ. BENCH TRIAL REMAINS SET FOR 1/18/12 AT 8:30 A.M. (JMB)	NEVER WAIVED TIME
01/18/2012 (JMB)	AT THE DEFENDANT'S REQUEST, THE PRETRIAL IS HEREBY CONTINUED UNTIL 1/27/12 AT 8:30 AM. ATTORNEY F. JANIK HERBY REMOVED AS COUNSEL. ATTORNEY P. GRIFFIN HEREBY APPOINTED.	WHY →
01/27/2012 MOTION	MOTION FILED BY DEFT, PRO SE, TO EXERCISE RIGHT TO REPRESENT SELF, REQUEST FOR HEARING	

01/27/2012 (JMB) PRE-TRIAL HAD. AT THE DEFENDANT'S REQUEST, FINAL PRE-TRIAL SET FOR 2/23/12 AT 1:30 P.M. AND BENCH/JURY TRIAL SET FOR 4/11/12 AT 1:30 P.M. PREVIOUSLY WAIVED--DEFT. DOES NOT WISH TO SIGN.

01/30/2012 (JMB) A HEARING ON DEFENDANT'S MOTION TO REPRESENT HIMSELF IS SCHEDULED FOR FEBRUARY 23, 2012 AT 1:30 P.M. FOLLOWING FINAL PRETRIAL. (JMB)

02/02/2012 Journal Entry DEFENDANT HAVING BEEN ORDERED TO REIMBURSE COUNTY APPOINTED ATTORNEY FEES, THE COURT FINDS THAT COURT APPOINTED ATTORNEY FEES ARE: \$434.00. THE DEFENDANT IS TO PAY SAID AMOUNT TO THE LORAIN COUNTY CLERK OF COMMON PLEAS COURT. THE LORAIN COUNTY CLERK OF COURTS SHALL PAY SAID FUNDS TO THE LORAIN COUNTY TREASURER.

02/02/2012 N/A Cost Bill Entry

02/06/2012 MOTION MOTION FILED BY DEFT, PRO SE, TO RELEIVE COUNSEL OF RECORD OF COURT APPOINTED DUTIES, INEFFECTIVE ASSISTANCE OF COUNSEL, SIXTH AMENDMENT VIOLATION F.R. CRIM P. 44

02/08/2012 (JMB) A HEARING ON DEFENDANT'S MOTION TO DISMISS COUNSEL AND TO REPRESENT HIMSELF IS SCHEDULED FOR FEBRUARY 16, 2012 AT 1:30 P.M. (JMB)

02/24/2012 (JMB) PRTRIAL CONTINUED TO: THURSDAY 3/1/2012 AT 1:30 P.M. AS THE STATE OF OHIO IS IN TRIAL IN CASE # 11CR082625, STATE V. CHARLOTE WILSON. (JMB)

02/27/2012 (JMB) DEFENDANT'S MOTION TO DISMISS THE INDICTMENT IS DENIED. (JMB)

03/01/2012 FILING LETTER TO JUDGE FILED BY DEFT

03/02/2012 REPORTER COURT REPORTER CERTIFICATION FILED THURSDAY, MARCH 1, 2012

03/02/2012 Journal Entry DEFENDANT WAIVES STATUTORY TIME FOR SPEEDY TRIAL PURSUANT TO R.C. 2945.71 ET SEQ. PRETRIAL HAD. AT THE DEFENDANT'S REQUEST, FINAL PRETRIAL SET FOR: 3/8/2012 AT 1:30 P.M. JURY TRIAL REMAINS SET FOR 4/11/12 AT 8:30 A.M. (JMB)

03/09/2012 (JMB) PRE-TRIAL HAD. AT DEFENDANT'S REQUEST, PRE-TRIAL IS HEREBY CONTINUED UNTIL 3/16/12 AT 8:30 A.M.

03/16/2012 (JMB) STATE MOTION TO CONTINUE GRANTED OVER THE OBJECTION OF DEFENSE COUNSEL. BENCH TRIAL CONTINUES MAY 16, 2012 AT 8:30 A.M. (JMB)

03/23/2012 MOTION MOTION FILED BY DEFT, PRO SE, TO DISMISS INDICTMENT FOR DISCRIMINATORY PROSECUTION AND LACK OF SPEEDY TRIAL

03/23/2012 MOTION MOTION FILED BY DEFT, PRO SE, TO REVOKE WAIVERS OF TIME

03/27/2012 (JMB) DEFT'S WAIVER OF RIGHT TO SPEEDY TRIAL UNDER R.C. 2945.71 IS WITHDRAWN.

04/11/2012 FILING LETTER TO JUDGE FILED BY DEFT

04/16/2012 (JMB) DEFT'S MOTION TO DISMISS IS DENIED.

05/09/2012 (JMB) IT IS HEREBY ORDERED THAT ELYRIA MEMORIAL HOSPITAL PROVIDE THE LORAIN COUNTY PROSECUTOR'S OFFICE CERTIFIED COPY OF ALL MEDICAL RECORDS FOR THE APPROXIMATELY DATE OF 8/15/10 TO PRESENT TREATMENT OF VICTIM. A CERTIFIED COPT OF THE RECORDS WILL BE ACCEPTED IN LIEU OF THE CUSTODIAN OF RECORDS AUTHENTICATION OF THE ORIGINAL CHART. PLEASE SEND THE RECORDS TO PROSECUTOR NICK HANEK, 225 COURT ST, ELYRIA, OHIO 44035. IT IS FURTHER ORDERED THAT ELYRIA MEMORIAL HOSPITAL HAS NOT VIOLATED ANY PHYSICIAN/ PATIENT CONFIDENTIALITY BY PROVIDING SAID MEDICAL RECORDS PURSUANT TO THIS ORDER.

05/16/2012 (JMB) DEFT HAVING BEEN ADVISED OF HIS RIGHT UNDER OHIO CONSTITUTION AND UNDER THE UNITED STATE CONSTITUTION TO TRIAL BY 12 JURORS, EACH OF WHOM MUST AGREE FOR THE JURY TO RETURN A VERDICT OF GUILTY, WAIVES HIS RIGHT TO A

1

DID NOT GO TO COURT.

NEVER WAIVED TIME

DID NOT GO TO COURT ON THIS DAY.

2

05/16/2012 (JMB)

05/29/2012 N/A

HOLIDAY
NO COURT
ON THIS DAY.

05/31/2012 (JMB)

06/01/2012 MOTION

06/05/2012 (JMB)

TRIAL BY JURY, AND ELECTS TO TRY HIS CASE TO THE COURT.
BENCH TRIAL STARTED. TRIAL TO BE CONTINUED TO 5/25/12 AT 11:00AM.

BENCH TRIAL COMPLETED. VERDICT TO BE RENDERED 5/31/12 AT 1:30PM. DEFT TO BE TRANSPORTED. 1 CC TO SHERIFF.

CASE CALLED FOR TRIAL TO THE COURT. JURY WAIVER EXECUTED IN OPEN COURT AND FILED WITH THE CLERK OF COURT. UPON THE EVIDENCE, DEFENDANT FOUND GUILTY OF RAPE, R.C. 2907.02(A)(2), A FIRST DEGREE FELONY. DEFENDANT REFERRED TO LORAIN COUNTY ADULT PROBATION DEPT. FOR A PRE-SENTENCE INVESTIGATION AND REPORT. BOND CONTINUE. MOTION TO DISMISS INDICTMENT FOR DISCRIMINATORY PROSECUTION W/ HEARING REQUESTED FILED BY DEFT, PRO SE DEFENDANT'S MOTION TO DISMISS DENIED.

Print Docket Close