

ORIGINAL

NO. 2007-0755

IN THE SUPREME COURT OF OHIO

APPEAL FROM
THE CUYAHOGA COUNTY COURT OF COMMON PLEAS
NO. 475400

STATE OF OHIO,
Plaintiff-Appellee

-vs-

CHARLES MAXWELL,
Defendant-Appellant

**APPENDIX TO APPELLEE'S MEMORANDUM OF LAW IN RESPONSE TO
APPELLANT'S APPLICATION FOR REOPENING**

DEATH PENALTY CASE

Counsel for Defendant-Appellant

OFFICE OF THE
PUBLIC DEFENDER

RACHEL TROUTMAN, ESQ
Supervisor, Death Penalty Division
250 East Broad Street, Suite 1400
Columbus, Ohio 43215

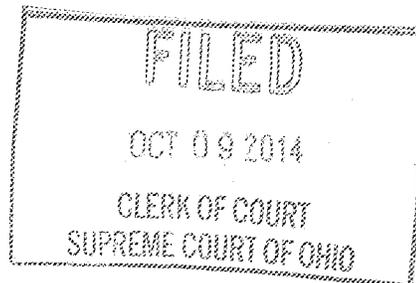
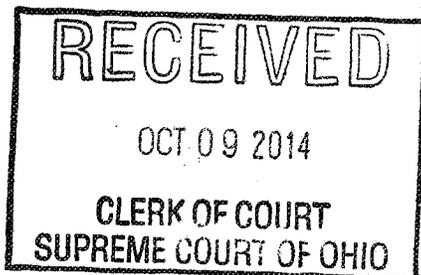
SHAWN WELCH, ESQ
Assistant State Public Defender
250 East Broad Street, Suite 1400
Columbus, Ohio 43215

Counsel for Plaintiff-Appellee

TIMOTHY J. McGINTY
Cuyahoga County Prosecutor

SALEH AWADALLAH (0063422)
Assistant Prosecuting Attorney
*Counsel of Record

Anthony T. Miranda (0090759)
Assistant Prosecuting Attorney
1200 Ontario Street
Cleveland, Ohio 44113
(216) 443-7800



LIST OF ATTACHED EXHIBITS

- A. John Gregg's unsigned statement to police, November 30, 2005
- B. John Gregg's signed statement to police, November 21, 2006
- C. Trial Court, Opinion of the Court, Findings of Fact and Conclusions of Law Regarding Imposition of Death Penalty, March 22, 2007
- D. State's Supplemental Discovery Response to Request for Discovery under Rule 16, filed February 2, 2007
- E. Transcript of Audio Conversation Recorded between John Gregg and Charles Maxwell, excluded by the trial court
- F. State's Supplemental Discovery Response to Request for Discovery Under Rule 16, filed August 15, 2006

Respectfully submitted,

TIMOTHY J. MCGINTY
Cuyahoga County Prosecuting Attorney



~~SALEH AWADALLAH (0063422)~~
Assistant Prosecuting Attorney
The Justice Center, 9th floor
1200 Ontario Street
Cleveland, Ohio 44113
Phone: (216) 443-7800
Fax: (216) 443-7416

CERTIFICATE OF SERVICE

A copy of the foregoing Appendix was provided by U.S. mail this 8th day of October,

2014 to:

RACHEL TROUTMAN, ESQ.
Ohio Public Defender
250 East Broad Street, Suite 1400
Columbus, Ohio 43215

SHAWN WELCH, ESQ.
Assistant State Public Defender
250 East Broad Street, Suite 1400



SALEH AWABALLAH (0063422)
Assistant Prosecuting Attorney

The following is the statement of: John Gregg Date: November 30, 2005 Time: 14:20

AGE: 33 SEX: M RACE: W DOB: 4-24-73 MARITAL STATUS: M

SSN: 275-66-1209 ADDRESS: 2934 South Moreland Blvd. #2 CITY: Cleveland

State: Ohio Zip Code: 44120 Phone: 216-854-7935 (cell)

Employed at: unemployed Address:

City: State: Phone:

Regarding the investigation of: CHARLES ANTHONY MAXWELL

About eight years ago I answered an advertisement in the Plain Dealer for a handy man. It turned out the ad was for a construction company called "United Handyman.com". The company was owned by DURRELL "ANDY" MAXWELL and they did house rehabs. I went to work for him and while I was working there I met "ANDY'S" brother CHARLES ANTHONY MAXWELL. I call him "ANT" I got to know "ANT" and most of his family really well. In fact I socialized with them a great deal. About six and a half years ago "ANT" met a girl named NICHOLE McCORKLE. I got to know her family very well also. Especially NICHOLE'S sister MICHELLE. NICHOLE ended up getting pregnant and "ANT" would say that he wished she had not. They had a love/hate relationship. One minute they were going to get married and the next they wanted to kill each other. They eventually move in together and NICHOLE has the baby. Their relationship was rocky. "ANT" would move out and then back in and at least once about four years ago he went to jail for domestic violence. "ANT" also did a few months in jail for trafficking in drugs. About a month ago "ANT" assaulted NICHOLE and put her in the hospital. She pressed charges and "ANT" had a warrant for his arrest as a result of that. Later "ANT" and NICHOLE talk and she agrees to down play it so he is not in so much trouble. Last Wednesday November 23, 2005 "ANT" called me, I remember the date because it was the day before Thanksgiving. He told me NICHOLE went and testified at the grand jury and when he asked her about her testimony she just sort of blew him off. He said he was going to call NICHOLE on a three way and have me mute my phone so I could listen in on the conversation. He called her and I listened in. "ANT" asked her about court and she pretty much told him she testified truthfully about what he did to her. Then she asked him "Charles what did you do to me?" He said to her "I did what I already told you I did". After she hung up "ANT" was not happy with NICHOLE. He was between aggravated and disappointed that NICHOLE did not lie to the Grand Jury to lessen the trouble he was in. I talked to "ANT" for a short time on Friday of last week but it was just to shoot the shit.

On Sunday November 27, 2005 around 4:00 to 4:15 A.M. I get a call from NICHOLE'S sister MICHELLE. I don't get to the phone fast enough so I miss the call. I had to call her back. MICHELLE told me that NICHOLE got shot, MAXWELL killed her. I knew who she was talking about because the guy I call "ANT" is called MAXWELL by NICHOLE'S family.

I call "ANT'S" number and he answers the phone. I tell him MICHELLE just called and said you killed NICHOLE. He says something to the effect that, yes he had shot her. He then related the events to me.

He said that NICHOLE went out on a date with some guy that her sister LAURETTA set her up with. He followed them to a bar. He waited and then watched when they came out of the bar the guy walked her to her car. NICHOLE got in her car and the guy got into his van. "ANT" said he followed them back to NICHOLE'S house. NICHOLE went into the house and the guy did not, he just drove away. "ANT" said he went into NICHOLE'S house and killed her. After hearing this I'm in shock and did not ask him much more. I did ask where was "MOOKIE", that's their little girl CHEYENE. He said, "she was right there, if I had more bullets I would have shot her too." Since that conversation I have had around six or seven additional conversations with "ANT" and he has told me additional details.

Continued on page two

STATE'S
EXHIBIT

A

I questioned "ANT" because I was hearing things from NICHOLE'S family and from the television that raised questions. "ANT" tells me that he was upset with NICHOLE'S sister LAURETTA because she set up the date NICHOLE want on. Then LAURETTA shows up at NICHOLE'S house talking loud on her cell phone and yelling on the porch. "ANT" says he had a gun and pointed it at LAURETTA and she ran and he fired a shot at her. NICHOLE freaks out because he shot at LAURETTA. "ANT" then says he shot NICHOLE, but he implied he was really mad at LAURETTA. "ANT" says that prior to LAURETTA showing up he was just going to leave.

Q. Showing you a photograph marked 200300004909 do you know this person.

A. Yes, that's CHARLES MAXWELL the guy I call "ANT", although in that picture for some reason he is not wearing his glasses. He has to wear glasses and have very seldom seen him without them.

Q. Have you ever seen "ANT" with a gun?

A. About two years ago he had a .22, I don't know what happened to it. I sold a Smith and Wesson SIGMA 9mm to his brother DURRELL and I know that "ANT" had it for a couple of days but that also was years ago. Lately though I have not seen him with a gun. I don't know where he got the gun he shot NICHOLE with he did not tell me. "ANT" did tell me he shot NICHOLE with a .25. He also told me in one of the conversations we had after the shooting that he got more bullets for the .25.

Q. During the time "ANT" and NICHOLE were together did he ever talk about killing her.

A. Yes, on several occasions he would say things like "that bitch is going to make me kill her". He would say things like that after an argument with her. Some times the argument would be over her thinking he was cheating on her, or him being out late with me or money. They even argued over him eating diner at his mother's house to often.

About three or three and a half weeks ago, it was after he got arrested for the felonious assault on NICHOLE but before she testified at the Grand Jury. "ANT" and I were talking on the phone. I asked "ANT" how NICHOLE was and he said she was OK just 4 or 5 stitches in her head. But he told me he was worried because he saw on TV that some guy who had a felonious assault got 8 years in prison. "ANT" did not want to go to prison again. He said he needed to get a rifle and "take care of that bitch." He asked if I knew where to get a rifle. I told him no. I thought at that moment he was serious, but I figured that after he calmed down common sense would kick in.

Q. From conversations with "ANT" has he told you in his words exactly what happened that night.

A. Yes, "ANT" said he suspected NICHOLE was cheating on him. He has followed her in the past and saw her going out and kissing a guy her sister LAURETTA hooked her up with. He follows them that night, after NICHOLE gets home "ANT" goes into the house and confronts her. "ANT" asks NICHOLE if she fucked the guy, NICHOLE says no. "ANT" tells me she lied to him and he then shot her.

Q. Having read your statement do you find it to be true? A. _____

Signature: REFUSED

Witness: James Gajowski Gajowski relationship/ID# 854

Witness: Hairy Matlock #194 Matlock Relationship/ID# 194

Taken by: Sowa #2377 ID# 2374

Statement taken at: HOMICIDE UNIT Date: November 30, 2005 time: 17:10

The following is the statement of: John Gregg Date: November 21, 2006 Time:08:50

AGE:34 SEX:M RACE:W DOB:4-24-73 MARITAL STATUS:M

SSN: 275-66-1209 ADDRESS: 2934 South Moreland Blvd. #2 CITY: Cleveland

State: Ohio Zip Code:44120 Phone: 216-854-7935 (cell)

Employed at: unemployed Address:

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Regarding the investigation of: CHARLES ANTHONY MAXWELL

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On Sunday November 27, 2005 around 4:00 to 4:15 A.M. I get a call from NICHOLE'S sister MICHELLE. I don't get to the phone fast enough so I miss the call. I had to call her back. MICHELLE told me that "NICHOLE got shot, MAXWELL killed her." I knew who she was talking about because the guy I call "ANT" is called MAXWELL by NICHOLE'S family.

I call "ANT'S" number and he answers the phone. I tell him MICHELLE just called and said you killed NICHOLE. He says something to the effect that, yes he had shot her. He then related the events to me.

He said that even though she had a restraining order against him they were still seeing each other. They were speaking on the phone and meeting each other in person. On that night MAXWELL was suppose to go to a concert with his brother ANDY. NICHOLE talks to MAXWELL sometime in the late afternoon and tells him she wants to go out with him, she was tired of being stuck in the house and wanted to go out. MAXWELL tells her he has plans. NICHOLE then calls her sisters MICHELLE and LORETTA. They are both busy but LORETTA hooks NICHOLE up with some guy that she is going to go out with later. In the early evening MAXWELL and NICHOLE talk again.

CONTINUED ON PAGE TWO (2) OF JOHN GREGG STATEMENT

J.G.

STATE'S
EXHIBIT

B

CONTINUED FROM PAGE ONE (1) OF JOHN GREGG STATEMENT

During that conversation NICHOLE tells MAXWELL she is going to the convenience store to get beer. MAXWELL'S plans had changed and for some reason he was not going to the concert with his brother. In fact MAXWELL was outside her house somewhere. When NICHOLE left her house MAXWELL followed her. NICHOLE should have turned left to go to the convenience store but instead MAXWELL tells me she turned right. MAXWELL thinks, "this bitch is lying." He followed her to some bar and she goes inside. MAXWELL waited outside the bar for a long time but then gets tired off waiting so he goes inside. He sees NICHOLE and some guy making out in the back of the bar. He waited and then watched when they came out of the bar, the guy walked her to her car. NICHOLE got in her car and the guy got into his van. "ANT" said he followed them back to NICHOLE'S house. Either NICHOLE went to the guys van or the guy went over to NICHOLE'S car and they kissed each other goodnight. NICHOLE went into the house and the guy did not, he just drove away. MAXWELL calls NICHOLE and talks to her on the phone. He is talking to her like everything is OK but he is angry. He asks if he can come over and see her. She tells him she's drunk but agrees to see him. When MAXWELL goes into the house NICHOLE tells him she does not feel well so he gets her a trash can and she may have even got sick in it. At some point NICHOLE goes into the bathroom. While she is in the bathroom the phone rings. MAXWELL answers it and it is a guy asking for NICHOLE. MAXWELL tells the guy she's busy and hangs up. The phone rings again and it's the same guy asking for NICHOLE. MAXWELL tells him "I said the bitch is busy, she's sucking my dick." And he hangs up again. MAXWELL tells me he is wondering why NICHOLE is taking so long in the bathroom and when he checks on her he finds that she has taken all her cloths off and is lying naked in bed. The phone rings again and when MAXWELL answers it he finds it is NICHOLE'S sister LORETTA. MAXWELL hangs up on her. She calls right back and talks to NICHOLE. LORETTA wants to know why MAXWELL is there. At some point LORETTA and NICHOLE'S conversation ends. MAXWELL then confronts her about being out with the other guy. They are still in the bedroom. MAXWELL tells me he has a pistol on him and at the same time I get the feeling that NICHOLE knew it too. MAXWELL says he told NICHOLE they were through and he starts to walk away, but NICHOLE'S telling him "No, I love you". They are now downstairs by the front door. MAXWELL tells me he can now hear NICHOLE'S sister LORETTA outside the front door talking loudly on her cell phone. MAXWELL tells me it sounded to him like she was talking to the police. MAXWELL opens the door and points the gun at LORETTA, she runs and he fired a shot at her. NICHOLE freaks out. MAXWELL tells me that he just felt like "What the fuck" and he turned and shot NICHOLE in the head. NICHOLE fell down and MAXWELL said she moved and he shot her again. MAXWELL then left NICHOLE'S house. After hearing this I'm in shock and did not ask him much more. I did ask where was "MOOKIE", that's their little girl CHEYENE. He said, "she was right there, if I had more bullets I would have shot her too." Since that conversation, I have had around six or seven additional conversations with "ANT" and he has told me additional details. I questioned "ANT" because I was hearing things from NICHOLE'S family and from the television that raised questions. "ANT" tells me that he was upset with NICHOLE'S sister LAURETTA because she set up the date NICHOLE want on. Then LAURETTA shows up at NICHOLE'S house talking loud on her cell phone and yelling on the porch. "ANT" says he had a gun and pointed it at LAURETTA and she ran and he fired a shot at her. NICHOLE freaks out because he shot at LAURETTA. "ANT" then says he shot NICHOLE, but he implied he was really mad at LAURETTA. "ANT" says that prior to LAURETTA showing up he was just going to leave. In another conversation with MAXWELL later he tells me that the news reports got it wrong, he did not fire a shot at LORETTA he just pointed the gun at her.

Q. Showing you a photograph marked 200300004909 do you know this person.

A. Yes, that's CHARLES MAXWELL the guy I call "ANT", although in that picture for some reason he is not wearing his glasses. He has to wear glasses and have very seldom seen him without them.

CONTINUED ON PAGE THREE (3) OF JOHN GREGG STATEMENT J.C.

CONTINUED FROM PAGE TWO (2) OF JOHN GREGG STATEMENT

Q. Have you ever seen MAXWELL with a gun?

A. About two years ago he had a .22, I don't know what happened to it. I sold a Smith and Wesson SIGMA 9mm to his brother DURRELL and I know that "ANT" had it for a couple of days but that also was years ago. Lately though I have not seen him with a gun. I don't know where he got the gun he shot NICHOLE with he did not tell me. "ANT" did tell me he shot NICHOLE with a small caliber handgun. He also told me in one of the conversations we had after the shooting that he got more bullets for the gun.

Q. During the time MAXWELL and NICHOLE were together did he ever talk about killing her?

A. Yes, on several occasions he would say things like "that bitch is going to make me kill her". He would say things like that after an argument with her. Some times the argument would be over her thinking he was cheating on her, or him being out late with me or money. They even argued over him eating diner at his mother's house to often. Sometime after the felonious assault on NICHOLE but before she testified at the Grand Jury about it, "ANT" and I were talking on the phone. I asked "ANT" how NICHOLE was and he said she was OK just 4 or 5 stitches in her head. But he told me he was worried because he saw on TV that some guy who had a felonious assault got 8 years in prison. "ANT" did not want to go to prison again. He said he needed to get a gun and "take care of that bitch." He asked if I knew where to get a gun. I told him no but if he was serious he should do it smart and use a rifle so he could be far away. I thought at that moment he was angry, but I also figured that after he calmed down common sense would kick in.

Q. From conversations with "ANT" has he told you in his words exactly what happened that night.

A. Yes, "ANT" said he suspected NICHOLE was cheating on him. He has followed her in the past and saw her going out and kissing a guy her sister LAURETTA hooked her up with. He follows them that night, after NICHOLE gets home "ANT" goes into the house and confronts her. "ANT" asks NICHOLE if she fucked the guy, NICHOLE says no. "ANT" tells me she lied to him and he then shot her.

Q. Did you tape record any of the conversations you had with CHARLES MAXWELL after the murder of NICHOLE McCORKLE?

A. Yes, a few times.

Q. Did you provide to the Cuyahoga County Prosecutors Office any of those tapes?

A. Yes, one.

Q. Showing you a micro cassette tape do you recognize it?

A. Yes, it looks like the tape I gave to the prosecutor.

Q. Did we just pause for a few minutes and listen to portions of both side of the tape I just showed you?

A. Yes, that's defiantly the tape I gave to the Prosecutors Office.

Q. Can you mark the tape at this time with today's date and your initials?

A. Yes I can and in fact I just did on both side of the tape.

Q. Can you identify the voices we were hearing on the tape we just listened to?

A. Yes, Myself, CHARLES MAXWELL and lawyers at a law firm.

Q. How long have you personally known CHARLES MAXWELL?

A. About seven or eight years, something like that. I know him professionally and socially.

Q. What kind of professional relationship did you have with MAXWELL?

A. Construction projects, MAXWELL did painting, drywall, and carpentry. MAXWELL would also meet with homeowners or clients and prepare estimates and bids on projects. He would also purchase supplies and deal with suppliers and other contractors.

Q. Did MAXWELL tell you or do you know where the gun is that killed NICHOLE?

A. No

Q. Having read your statement do you find it to be true?

A. Yes

Signature: [Signature]

Witness: [Signature] Sowa Relationship/ID# 2374

Witness: [Signature] Diaz Relationship/ID# 1001

Taken by: Sowa ID# 2374

Statement taken at: HOMICIDE UNIT Date: November 21, 2006 time: 11:30

GRANTED THE DEFENDANT'S RULE 29 MOTION TO ACQUIT AND DISMISSED COUNTS TWO THROUGH FIVE AND THE FELONY MURDER SPECIFICATION CONTAINED IN COUNT ONE.

PROCEDURAL HISTORY

CHARLES MAXWELL WAS INDICTED BY THE CUYAHOGA COUNTY GRAND JURY WITH AGGRAVATED MURDER IN COUNT ONE OF THE INDICTMENT COUPLED WITH SEVERAL SPECIFICATIONS INCLUDING A RETALIATION FOR TESTIMONY SPECIFICATION AND MURDER TO ESCAPE ACCOUNTING FOR CRIME SPECIFICATION. THESE CHARGES AROSE OUT OF THE NOVEMBER 27, 2005 MURDER OF NICHOLE MCCORKLE.

NICHOLE MCCORKLE WAS THE LONGTIME GIRLFRIEND OF THE DEFENDANT CHARLES MAXWELL AS WELL AS THE MOTHER OF HIS CHILD, CHEYENNE MAXWELL.

THE DEFENDAND PLEAD NOT GUILTY AT HIS ARRAIGNMENT AND THE CASE PROCEEDED TO A JURY TRIAL BEGINNING ON FEBRUARY 7, 2007. THE JURY RETURNED A VERDICT OF GUILTY TO AGGRAVATED MURDER IN COUNT ONE AND GUILTY TO TWO OF THE SPECIFICATIONS THAT ACCOMPANIED THAT COUNT.

THE SENTENCING PHASE COMMENCED ON FEBRUARY 27, 2007. THE TWO

SPECIFICATIONS MERGED AND THE JURY ONLY CONSIDERED THE RETALIATION FOR TESTIMONY SPECIFICATION, THAT CHARLES MAXWELL DID PURPOSELY KILL NICHOLE MCCORKLE IN RETALIATION FOR HER TESTIMONY IN A CRIMINAL PROCEEDING.

IN THE RETALIATION FOR TESTIMONY SPECIFICATION THE STATE PRESENTED EVIDENCE WHICH CONVINCED THE JURY BEYOND A REASONABLE DOUBT THAT CHARLES MAXWELL PURPOSELY KILLED NICHOLE MCCORKLE WITH PRIOR CALCULATION AND DESIGN AS A RESULT OF HER ACTIONS IN TESTIFYING AGAINST HIM IN FRONT OF A CUYAHOGA COUNTY GRAND JURY.

NICHOLE MCCORKLE'S TESTIMONY TO THE GRAND JURY OF CUYAHOGA COUNTY OCCURRED ON NOVEMBER 23, 2005. SHE WAS KILLED BY CHARLES MAXWELL FOUR DAYS LATER ON NOVEMBER 27, 2005. AS A RESULT OF THE GRAND JURY TESTIMONY OF MS. McCORKLE, MR. MAXWELL WAS INDICTED BY THE GRAND JURY FOR THE CRIMES OF FELONIOUS ASSAULT, DOMESTIC VIOLENCE AND ABDUCTION IN CASE NUMBER 473919. THAT CASE REMAINS PENDING ON THIS COURT'S DOCKET. IT SHOULD ALSO BE NOTED THAT THE INDICTMENT RETURNED BY THE GRAND JURY IN CASE NUMBER 473919 WAS RETURNED AFTER THE MURDER.

PURSUANT TO R.C. 2929.04(B), AT THE SENTENCING HEARING, THE JURY WAS INSTRUCTED TO WEIGH WHETHER THE AGGRAVATING CIRCUMSTANCE CONTAINED IN THE RETALIATION FOR TESTIMONY SPECIFICATION OUTWEIGHED BEYOND A REASONABLE DOUBT THE MITIGATING FACTORS.

THE JURY DID FIND BEYOND A REASONABLE DOUBT THAT THE STATE HAD PROVED THAT THE AGGRAVATING CIRCUMSTANCE OF RETALIATION FOR TESTIMONY OUTWEIGHED THE MITIGATING FACTORS.. THE JURY RETURNED A VERDICT RECOMMENDING THE SENTENCE OF DEATH. THE JURY'S RECOMMENDATION WAS RETURNED ON FEBRUARY 28, 2007.

SENTENCING ON THIS CASE WAS ORIGINALLY SET FOR MARCH 15, 2007. THE COURT CONTINUED SENTENCING TO TODAY, MARCH 21, 2007 IN ORDER TO PROVIDE THE DEFENSE AN OPPORTUNITY TO REVIEW THE TRANSCRIPT OF THE SENTENCING PHASE OF TRIAL AND TO PREPARE A SENTENCING MEMORANDUM OUTLINING WHAT THEY BELIEVE TO BE THE MITIGATING FACTORS THAT THIS COURT SHOULD CONSIDER.

PRIOR TO IMPOSING SENTENCE, THE LAW REQUIRES THAT THE COURT CONDUCT ITS OWN INDEPENDENT ANALYSIS AND MAKE ITS OWN FINDING AS TO WHETHER THE AGGRAVATING CIRCUMSTANCE IN THIS CASE OUTWEIGHS THE MITIGATING FACTORS BEYOND A REASONABLE DOUBT. THE COURT MUST CONSIDER THE EVIDENCE PRESENTED AS TO THE AGGRAVATING CIRCUMSTANCE, WHICH TRANSFORMED THIS OFFENSE OF AGGRAVATED MURDER FROM A CASE IN WHICH DEATH WAS NOT A POTENTIAL PENALTY TO ONE WHERE DEATH IS A POSSIBLE PENALTY. THE AGGRAVATING CIRCUMSTANCE MUST THEN BE WEIGHED AGAINST MITIGATING FACTORS ABOUT THE INDIVIDUAL

THE AGGRAVATING CIRCUMSTANCE WHICH IS TO BE WEIGHED AGAINST THE

MITIGATING FACTORS IS THAT CHARLES MAXWELL PURPOSELY KILLED NICHOLE MCCORKEL IN RETALIATION FOR HER TESTIMONY IN A CRIMINAL PROCEEDING.

FINDINGS

THE EVIDENCE AT THE TRIAL PHASE DEMONSTRATED THAT ON OR ABOUT OCTOBER 7, 2005. CHARLES MAXWELL ALLEDGEDLY ASSAULTED NICHOLE MCCORKLE. THE ASSAULT INVOLVED SERIOUS PHYSICAL HARM REQUIRING SEVERAL STITCHES AND A SHORT HOSPITALIZATION. AS A RESULT OF MS. McCORKLE'S TESTIMONY AGAINST HIM TO THE CUYAHOGA COUNTY GRAND JURY, CHARLES MAXWELL PURPOSELY AND BY PRIOR CALCULATION AND DESIGN KILLED NICHOLE MCCORKLE IN RETALIATION FOR HER TESTIMONY.

HAVING INDEPENDENTLY REVIEWED THE EVIDENCE THIS COURT FINDS THAT NICHOLE MCCORKLE TESTIFIED BEFORE A CUYAHOGA COUNTY GRAND JURY ON NOVEMBER 23, 2005. THIS COURT ALSO FINDS BEYOND A REASONABLE DOUBT THAT CHARLES MAXWELL WAS AWARE OF NICHOLE MCCORKLE'S TESTIMONY AGAINST HIM. THIS COURT FURTHER FINDS THAT CHARLES MAXWELL RETALIATED AGAINST NICHOLE MCCORKLE AS A RESULT OF HER GRAND JURY TESTIMONY.

AGGRAVATING CIRCUMSTANCE

THE RETALIATION FOR TESTIMONY AGGRAVATING CIRCUMSTANCE IS A WEIGHTY ONE. IN CONSIDERING HOW MUCH PRESSURE THIS SPECIFICATION

PUTS ON THE SCALES OF JUSTICE ONE HAS TO CONSIDER THE POTENTIAL CHILLING EFFECT RETALIATION HAS ON THE CRIMINAL JUSTICE SYSTEM. OUR SYSTEM OF JUSTICE IS DEPENDANT UPON VICTIMS AND WITNESSES CONFRONTING THE ACCUSED IN OPEN COURT. RETALIATORY ACTS CHILL THE WILLINGNESS OF VICTIMS TO PARTICIPATE IN OUR SYSTEM OF JUSTICE.

THE CIVILIZED SOCIETY WHICH WE ENJOY IN THE UNITED STATES AND THE STATE OF OHIO IS DEPENDANT UPON OUR JUSTICE SYSTEM. OUR CRIMINAL JUSTICE SYSTEM WOULD NOT EXIST IF WITNESSES DID NOT COME FORWARD TO SEEK JUSTICE AND CONFRONT THE INDICTED.

WITHOUT A STONG JUSTICE SYSTEM, THE RULE OF LAW WOULD NOT EXIST. CIVILIZED DEMOCRACIES ARE DEPENDANT UPON THE RULE OF LAW. WITHOUT THE RULE OF LAW, SOCIETY WOULD BE UNRECOGNIZEABLE FROM THE ONE WE LIVE IN TODAY AND HAVE ENJOYED FOR OVER 230 YEARS.

MR. MAXWELL'S AGGRAVATED MURDER OF NICOLE McCORKLE WAS A CRIME AGAINST HER BUT ALSO AN ATTACK ON THE RULE OF LAW.

SCOPE OF INDEPENDENT REVIEW

IN THE COURSE OF THIS COURT'S INDEPENDENT REVIEW OF THE MITIGATING FACTORS, THE COURT REVIEWED THE FOLLOWING:

1. THE DEFENDANT'S SENTENCING MEMORANDUM
2. THE PSYCHOLOGICAL REPORT PREPARED BY MITIGATION EXPERT, SANDRA B. McPHERSON, PhD. DATED 2/26/07
3. THE COMPENTENCY RESTORATION REPORT OF ALICE COOK, Ph.D.,

CLINICAL PSYCHOLOGIST WITH NORTHCOAST BEHAVIORAL HEALTHCARE
CLEVELAND CAMPUS, DATED NOV. 15, 2006.

4. THE COURT PSYCHIATRIC CLINIC REPORT OF MICHAEL ARONOFF, Ph.D.
DATED OCTOBER 2, 2006.

5. THE ENTIRE TRANSCRIPT OF THE SENTENCING PHASE PROCEEDINGS,
INCLUDING THE TESTIMONY OF WILLIAM STEWARD, HERBERT NELSON,
VERONICA NELSON, ROSCOE HORNE, RAYMOND McNEAR, THERESA McNEAR,
SHARON GROVES, ANDY MAXWELL, ERNESTINE BREWER, THE DEFENDANT'S
MOTHER, THE UNSWORN STATEMENT OF CHARLES MAXWELL AND THE
TESTIMONY OF MITIGATION EXPERT SANDRA McPHERSON

6. ALL OF THE TRANSCRIBED TESTIMONY OF JOHN GREGG, INCLUDING
TRIAL TESTIMONY IN THIS CASE THAT THE JURY DID NOT HEAR. THE
SENTENCING TRANSCRIPT OF JOHN GREGG ON CRIMINAL CASE #476741 AND MR.
GREGG'S DEPOSITION GIVEN IN THE CIVIL CASE OUT OF WHICH HIS CRIMINAL
INSURANCE FRAUD CASE AROSE.

7. THE COURT ALSO INDEPENDANTLY REVIEWED THE UNSIGNED
STATEMENT OF MR. GREGG GIVEN TO CLEVELAND POLICE DET. IGNATIUS SOWA
DATED NOVEMBER 30, 2005, AND THE SIGNED STATEMENT OF JOHN GREGG
GIVEN TO DET. SOWA DATED NOV. 21, 2006.

THE ABOVE LIST REPRESENTS A SIGNIFICANT PART OF THIS COURT'S
INDEPENDENT REVIEW, BUT IS NOT TO BE CONSIDERED AS EXCLUDING OTHER
ITEMS FROM THIS COURT'S CONSIDERATION.

MITIGATORY FACTORS

R.C. 2929.04(B) LISTS THE MITIGATING FACTORS A JURY AND JUDGE SHOULD CONSIDER IN THE WEIGHING PROCESS. SIX SPECIFIC FACTORS ARE LISTED FOR CONSIDERATION AND A SEVENTH FACTOR, COMMONLY KNOWN AS THE 'CATCHALL' IS ALSO LISTED FOR CONSIDERATION.

THE DEFENSE'S SENTENCING MEMORANDUM LISTS THE FOLLOWING AS MITIGATORY FACTORS FOR THE COURT'S CONSIDERATION:

1. R.C.2929.04(B)(1) WHETHER THE VICTIM INDUCED THE OFFENSE;
2. R.C. 2929(B)(2) THAT IT WAS UNLIKELY THAT THE OFFENSE WOULD HAVE BEEN COMMITTED BUT FOR THE FACT THAT THE OFFENDER WAS UNDER DURESS, COERCION OR STRONG PROVOCATION;
3. REMORSE;
4. LOVE AND SUPPORT OF FAMILY;
5. THE DEFENDANT'S WORK ETHIC;
6. THE DEFENDANT'S LACK OF SIGNIFICANT CRIMINAL HISTORY;
7. THE DEFENDANT'S CONFORMANCE WHILE INCARCERATED;
8. RESIDUAL DOUBT.

THE COURT ALSO CONSIDERED HIS LOWER ACADEMIC ABILITY AS A MITIGATING FACTOR.

IN THIS COURT'S WEIGHING PROCESS, AS MITIGATION, THIS COURT FINDS

THAT CHARLES MAXWELL HAD A FAIRLY BENIGN CHILDHOOD. HE WAS BORN IN ARKANSAS AND MOVED TO CLEVELAND WHILE IN GRADE SCHOOL. HIS MOTHER MARRIED THOMAS BREWER WHO BECAME MR. MAXWELL'S STEPFATHER.

MR. STEWARD, THE DEFENDANT'S BROTHER, TESTIFIED THAT MR. BREWER WORKED AT LINCOLN ELECTRIC AND WAS "QUITE THE PROVIDER."

MR. MAXWELL WAS AND REMAINS WELL REGARDED BY HIS FAMILY AND FRIENDS. MR. MAXWELL IS A HIGH SCHOOL GRADUATE AND RECEIVED SOME VOCATIONAL TRAINING AFTER HIGH SCHOOL. WHILE HE WAS NOT A STELLAR STUDENT HE DID MANAGE TO GRADUATE AND WAS MAINSTREAMED THROUGHOUT HIS ACADEMIC CAREER. HE DEVELOPED GOOD SKILLS IN OPERATING HEAVY MACHINERY WHICH HE INCORPORATED INTO HIS WORK LIFE.

HERBERT NELSON, MR. MAXWELL'S 1ST COUSIN TESTIFIED THAT MR. MAXWELL WAS A "REALLY GOOD WORKER." MR. NELSON OWNED A TREE SERVICE COMPANY AND THE DEFENDANT WORKED WITH HIM ON OCCASION.

ROSCOE HORNE ALSO TESTIFIED AS TO MR. MAXWELL'S GOOD WORK ETHIC. HIS TESTIMONY ESTABLISHED THAT THE DEFENDANT IS WILLING TO WORK HARD TO HELP FRIENDS AND FAMILY MEMBERS WHEN THEY WERE IN NEED OF ASSISTANCE.

OTHER TESTIMONY WAS RECEIVED THAT MR. MAXWELL ENJOYS FISHING AND HORSES, TWO HOBBIES NOT COMMONLY ASSOCIATED WITH MEN OF VIOLENCE. MR. MAXWELL ALSO TRIED TO INTRODUCE OTHERS TO THE

PLEASURES OF HIS HOBBIES.

THE COURT ALSO CONSIDERED HIS PRIOR CRIMINAL HISTORY AS POTENTIALLY MITIGATORY. IN 1990 MR. MAXWELL WAS SENTENCED TO ONE AND ONE HALF YEARS FOR DRUG TRAFFICKING. THIS WAS THE DEFENDANT'S ONLY PRIOR FELONY, COMMITTED OVER 16 YEARS AGO. DR. McPHERSON TESTIFIED THAT SHE HAD REVIEWED MR. MAXWELL'S PRISON RECORDS FROM THAT INCARCERATION. SHE FOUND THAT THE PAROLE BOARD HAD INDICATED THAT THE DEFENDANT WAS AN EXEMPLARY CANDIDATE FOR RELEASE.

MR. MAXWELL'S GOOD COMPLIANCE WHILE INCARCERATED WAS AGAIN DEMONSTRATED TO DR. ALICE COOK AND IS CONTAINED IN HER COMPETENCY REPORT.

HIS COMPLIANT NATURE AS A PRISONER IS PERHAPS THE WEIGHTIEST MITIGATORY FACTOR THIS COURT HAS CONSIDERED.

IN MY INDEPENDENT WEIGHING PROCESS, I DO NOT AGREE WITH THE DEFENSE'S CONTENTION THAT NICHOLE McCORKLE'S BEHAVIOR ON THE NIGHT OF THE MURDER HAD ANYTHING TO DO WITH MR. MAXWELL'S ACTIONS. I SPECIFICALLY FIND THAT SHE DID NOT INDUCE THE OFFENSE. FURTHER I FIND THAT THE AGGRAVATED MURDER COMMITTED BY MR. MAXWELL WAS NOT DONE WHILE THE DEFENDANT WAS ACTING UNDER DURESS, COERCION OR STRONG PROVOCATION. THEREFORE, I FIND THAT THE MITIGATORY FACTORS LISTED IN R.C. 2929.04(B) (1) AND (2) DO NOT APPLY. ADDITIONALLY, IT SHOULD BE NOTED THAT THE DEFENSE DID NOT REQUEST THE COURT TO INSTRUCT THE

JURY TO CONSIDER THESE TWO MITIGATORY FACTORS.

THE ONLY MITIGATORY FACTORS THE JURY WAS REQUESTED TO CONSIDER WERE THOSE IN THE CATCHALL PROVISION LISTED IN R.C. 2929.04(B) (7). I HAVE ALREADY ADDRESSED MOST OF THOSE.

I FIND THAT MR. MAXWELL'S LIFE, WHILE LAUDABLE IN SOME AREAS, INCLUDING HIM BEING A HIGH SCHOOL GRADUATE, HARD WORKER, AND LOVED BY HIS FAMILY, WAS LACKING IN DEPTH.

MR. MAXWELL NEVER HELD A JOB OF ANY REGULAR STRUCTURE OR DURATION. WHEN ASKED BY FRIENDS AND FAMILY FOR ASSISTANCE, HE WAS THERE; HOWEVER, THE EVIDENCE DID NOT DEMONSTRATE THAT HE WAS A REGULAR PROVIDER FOR HIS FAMILY, INCLUDING HIS DAUGHTER CHEYENNE AND THE VICTIM, NICHOLE McCORKLE.

THE COURT CONCLUDES THAT THE MITIGATORY FACTORS OF MR. MAXWELL'S EDUCATIONAL ATTAINMENT AND WORK ETHIC ARE WITHOUT SIGNIFICANT WEIGHT TO TILT THE SCALES AGAINST THE WEIGHT OF THE AGGRAVATING CIRCUMSTANCE.

LASTLY, THIS COURT HAS CONSIDERED THE ISSUE OF RESIDUAL DOUBT. THOUGH NOT CONSIDERED BY THE JURY, THE COURT FELT IT APPROPRIATE TO COMPARE MR. GREGG'S TWO STATEMENTS. THE LAW CASTS A SUSPICIOUS EYE TOWARD THE TESTIMONY OF THOSE WHO'S TESTIMONY IS ACCOMPANIED BY A *QUID PRO QUO* FROM THE STATE. LET US BE CLEAR HERE, MR. GREGG DID RECEIVE A DEAL FROM THE STATE OF OHIO IN EXCHANGE FOR HIS TESTIMONY

AGAINST MR. MAXWELL. WITHOUT MR. GREGG'S TESTIMONY, THE STATE WOULD HAVE HAD A VERY DIFFICULT TIME PROVING THE AGGRAVATING CIRCUMSTANCE OF RETALIATION.

I HAVE NOT BEEN SHY IN EXPRESSING MY OPINION OF MR. GREGG AS AN INDIVIDUAL. HIS TESTIMONY SHOULD BE VIEWED WITH A VERY JAUNDICED EYE. HE IS A FELON AND A PERJUROR.

I REVIEWED GREGG'S TESTIMONY IN HIS CIVIL CASE AGAINST McDONALDS. IT IS CLEAR THAT HE WAS FAST AND LOOSE WITH THE TRUTH DURING THAT DEPOSITION. SPECIFICALLY, HE IMPLIED THAT MR. MAXWELL WAS A STRANGER TO HIM AT THE TIME OF HIS ALLEDGED FALL IN THE McDONALDS RESTAURANT. THE DEFENSE ATTORNEY DURING DEPOSITION ASKED MR. GREGG WHETHER HE KNEW OF THE TELEPHONE NUMBER OF MR. MAXWELL (THEN CONSIDERED AN INDEPENDENT WITNESS TO MR. GREGG'S SLIP AN FALL). MR. GREGG TESTIFIED UNDER OATH THAT DID NOT KNOW IT, BUT THAT IT COULD BE OBTAINED THROUGH HIS ATTORNEY.

IT SHOULD BE NOTED THAT GREGG TESTIFIED IN THIS TRIAL THAT MAXWELL WAS HIS BEST FRIEND AT THAT TIME AND THAT HE SPOKE TO HIM BY TELEPHONE DAILY. HE CLEARLY LIED DURING HIS CIVIL DEPOSITION.

IN ORDER TO CONFRONT THE ISSUE OF RESIDUAL DOUBT, THIS COURT REVIEWED GREGG'S SIGNED STATEMENT DATED NOV. 21, 2006 WITH HIS UNSIGNED STATEMENT DATED NOV. 30, 2005 AND "GIVEN" THREE DAYS AFTER THE MURDER. THE COURT FINDS THE TWO STATEMENTS TO BE CONSISTENT.

ON NOEMBER 30, 2005, MR. GREGG WAS NOT UNDER INDICTMENT FOR INSURANCE FRAUD IN CRIMINAL CASE 476741. ADDITIONALLY, HE HAD NO REASON TO SUSPECT THAT HE WOULD BE INDICTED AS THE COMTEMPT PENALTY IMPOSED BY JUDGE TIMOTHY McGINTY IN THE McDONALDS CIVIL CASE HAD BEEN REVERSED BY THE COURT OF APPEALS. IN SHORT, HE HAD NO MOTIVATION TO LIE. PARTICULARLY, HE HAD NO MOTIVATION TO LIE ABOUT SOMETHING THAT WOULD SUBJECT HIS BEST FRIEND TO A MURDER INDICTMENT.

WHY HE CHOSE NOT TO SIGN THE STATEMENT IS A MYSTERY KNOWN ONLY TO MR. GREGG. AT TRIAL, GREGG TESTIFIED THAT HE DID NOT SIGN THE STATEMENT, AS HE "GOT SCARED." PERHAPS THIS IS TRUE. PERHAPS THE REALITY THAT HE WOULD BE THE CHIEF WITNESS AGAINST HIS BEST FRIEND IN AN AGGRAVATED MURDER TRIAL WAS MORE THAN HE WANTED TO ACKNOWLEDGE AT THE TIME.

WHAT IS CLEAR IS THAT THE TWO STATEMENTS ATTRIBUTABLE TO MR. GREGG ARE CONSISTENT WITH EACH OTHER. ADDITIONALLY, NO EVIDENCE WAS SUGGESTED OR INTRODUCED SHOWING THAT DET. SOWA HAD ANY MOTIVATION TO ASSIST MR. GREGG IN STATING ANYTHING OTHER THEN TRUTHFUL TESTIMONY.

THE JURY FOUND BEYOND A REASONABLE DOUBT THAT MR. MAXWELL'S PURPOSEFUL MURDER WAS IN RETALIATION FOR THE VICTIM'S TESTIMONY. THE FINDING WAS BASED UPON THE TESTIMONY OF JOHN GREGG.

THIS COURT HOLDS NO RESIDUAL DOUBT THAT THE JURY LOST ITS WAY IN REACHING THEIR VERDICT. THE COURT WILL NOT DISTURB THEIR DECISION NOR WILL THIS COURT PLACE THE SUBJECT OF RESIDUAL DOUBT ON THE SCALE TO BE WEIGHED AGAINST THE AGGRAVATING CIRCUMSTANCE.

AGAIN, THIS COURT FINDS THAT MR. MAXWELL IS LIKELY TO LIVE A COMPLIANT LIFE IN PRISON IF A LIFE SENTENCE WOULD BE IMPOSED. THE COURT FINDS THAT THIS IS THE HEAVIEST MITIGATORY FACTOR.

IN PLACING THE MITIGATORY FACTOR OF PRISONER COMPLIANCE ON THE SAME SIDE OF THE SCALE AS THE MITIGATORY FACTORS OF FAMILY SUPPORT, WORK ETHIC, LOVE FOR HIS CHILD AND ANY REMORSE HE HAS PROFESSED, THIS COURT FINDS THAT THEY COME UP LIGHT.

CONCLUSION

THE COURT FINDS, BEYOND A REASONABLE DOUBT, THAT THE AGGRAVATING CIRCUMSTANCE OF RETALIATION FOR TESTIMONY OUTWEIGHTS THE MITIGATING FACTORS.

THE CRIME COMMITTED IN THIS CASE WAS MORE THAN JUST A CRIME AGAINST NICHOLE McCORKLE. THIS WAS A CRIME AGAINST ORGANIZED SOCIETY. MR. MAXWELL COMMITTED AGGRAVATED MURDER TO QUELCH THE TESTIMONY OF A WITNESS. SUCH CRIMES HAVE A CHILLING EFFECT ON THE JUSTICE SYSTEM AND THE RULE OF LAW. THIS AGGRAVATING CIRCUMSTANCE WEIGHS HEAVILY IN THIS COURT'S EYES AND OUTWEIGHS THE MITIGATORY FACTORS PRESENTED ABOUT MR. MAXWELL'S BENIGN BUT UNIMPRESSIVE LIFE.

THIS COURT WILL FOLLOW THE JURY'S RECOMMENDATION AND IMPOSE A SENTENCE OF DEATH PLUS THREE YEARS FOR THE FIREARM SPECIFICATION ON COUNT ONE. I FIND BEYOND A REASONABLE DOUBT AFTER AN INDEPENDENT ANALYSIS THAT THE AGGRAVATING CIRCUMSTANCE OUTWEIGHTS THE MITIGATING FACTORS.

ON COUNT 7, RETALIATION, AND ON COUNT 8, HAVING A WEAPON WHILE UNDER A DISABILITY, THE DEFENDANT IS SENTENCED TO FIVE YEARS IN PRISON, PLUS THREE YEARS ON THE FIREARM SPECIFICATION ON COUNT 7. ALL COUNTS SHALL RUN CONCURRENTLY AND THE FIREARM SPECIFICATIONS SHALL MERGE INTO ONE THREE YEAR TERM. THE DEFENDANT SHALL ALSO RECEIVE CREDIT FOR TIME SERVED TO THE EXTENT APPLICABLE.

IT IS SO ORDERED.



JUDGE DAVID T. MATIA

3-22-07

CERTIFICATE OF SERVICE

A copy of the foregoing Opinion of the Court Findings of Fact and Conclusions of Law
Regarding Imposition of Death Penalty has been sent by regular U.S. mail this 22nd day of

March, 2007 to:

Thomas Rein, Esq.
526 Superior Avenue
Leader Building, Suite 940
Cleveland, Ohio 44114
Attorney for Defendant

John Luskin, Esq.
5815 Landerbrook Drive
P.O. Box 24237
Cleveland, Ohio 44114
Attorney for Defendant

Saleh Awadallah, Esq. and
Brian McDonough, Esq.
Assistant Cuyahoga County Prosecutors
1200 Ontario Street
Cleveland, Ohio 44113

Marcia Mengel
Ohio Supreme Court
Clerk of Court
65 South Front Street
Columbus, Ohio 43215-3431



DAVID T. MATIA, JUDGE

FILED
CRIMINAL DIVISION
IN THE COURT OF COMMON PLEAS
CRIMINAL DIVISION
2007 FEB 21 9 30 AM
CUYAHOGA COUNTY, OHIO

STATE OF OHIO)
GERALD E. FUERST)
CLERK OF COURTS)
CUYAHOGA COUNTY)
Plaintiff)
vs.)
JUDGE DAVID MATIA)
CHARLES MAXWELL)
Defendant.)

STATE'S SUPPLEMENTAL DISCOVERY RESPONSE
TO REQUEST FOR DISCOVERY UNDER RULE 16

NOW COMES THE STATE OF OHIO, by and through the Cuyahoga County Prosecuting Attorney, William D. Mason, and his undersigned assistants, and pursuant to Ohio Criminal Rule 16, respectfully supplements its previous discovery responses with the following: Witnesses – Heinz F. Kenney I, 2307 Forestdale #304, Cleveland, Ohio 44109, Craig T. Stewart, Official Court Reporter, 1200 Ontario, 10th Floor, Cleveland, Ohio 44113; Evidence: CPD Record Management System Incident Report 2005-331101 (two pages) and 911 call 7/31/05; Plea Agreements - in Case CR 476741, Co-defendant John Gregg, under indictment for Insurance Fraud R.C. 2913.47 a felony of the third degree; Attempted Theft R.C. 2923.02/2913.02, a felony of the fifth degree; and Perjury R.C. 2921.11, a felony of the third degree; as part of a plea agreement, plead guilty to a reduced charge of Insurance Fraud, R.C. 2913.47, a misdemeanor of the first degree, in exchange for testifying truthfully and consistently with previously written statement.

Respectfully Submitted,

WILLIAM D. MASON
CUYAHOGA COUNTY PROSECUTOR

SALEH AWADALLAH (0063422)
BRIAN M. MCDONOUGH (0072954)
Assistant Prosecuting Attorneys
Attorneys for Plaintiff-State of Ohio
The Justice Center
1200 Ontario Street
Cleveland, Ohio 44113
(216) 443-7800

STATE'S
EXHIBIT

D

CERTIFICATE OF SERVICE

A copy of the foregoing *State's Supplemental Discovery Response To Request For Discovery Under Rule 16* was filed and sent by regular U.S. Mail this 2 day of February, 2007 to Thomas Rein, Esq. Leader Building Suite 940, 526 Superior Avenue, Cleveland, Ohio 44114 and John Luskin, Esq. 5252 Meadow Wood Blvd. Suite 121, Cleveland, Ohio 44124, Attorneys for Defendant Charles Maxwell.



BRIAN M. MCDONOUGH (0072954)
Assistant Prosecuting Attorney

Cleveland Police Department CPD RECORD MANAGEMENT SYSTEM PAGE 1
 DATE 02/02/2007 INCIDENT REPORT PU1190
 TIME 11:20:15 GIGANTEJ

 INCIDENT #: 2005-00331101 ORI #: CPD INCIDENT TYPE: DVX P *DVX

LOCATION : 19306 NOTTINGHAM RD VENUE: Cleveland
 PHONE NUMBER : 216-481-7524
 NATURE OF CALL: CALLER'S LIVE IN BOYFRIEND JUST ASLT HER AND

DATE: TIME:
 CALL : 07/31/2005 14:00:14 Sunday #13
 DISPATCH : 07/31/2005 14:03:07
 ENROUTE : 07/31/2005 14:03:07
 ARRIVE 1 : 07/31/2005 14:08:44
 CLEAR : 07/31/2005 15:15:16

AREA : District 6 SECTION : Zone 622 BEAT: 622
 QUADRANT: 301 DISTRICT: District12 GRID: Ward11

UNIT 1 #: U23 ID # 1: ID # 2:
 UNIT 2 #: ID # 3: ID # 4:

RECEIVED ORI/ID : CPD GRAVES, CAROLYN, ,
 DISPATCH ORI/ID : CPD PERRY, CHERYL, ,
 DISPATCH SHIFT : A PLATOON
 SOURCE : E911 REPORT REQUIRED: NO MUTUAL AID:
 DISPOSITION : INFO PRIORITY : 1 CLEARED BY: HUFFSARA
 LICENSE PLATE : LICENSE STATE :

ORIGINAL INFORMATION:

LOCATION : 19306 NOTTINGHAM RD VENUE: Cleveland
 INCD TYPE: DVX P *DVX PRIORITY: 1

STATUS/DISPOSITIONS:

DISPOSITION: UNIT: DATE: TIME: ID # 1: / ID # 2:
 INFO U23 07/31/2005 15:15:16

RADIO LOG:

UNIT:	TYPE:	STATUS:	DISPATCH:	ARRIVE:	CLEAR:	ID # 1:
A622	2MAN	AssgnUnit		14:03:07		
A623	2MAN	Dispatch		14:03:07		
A623	2MAN	En Route		14:03:07		
A623	2MAN	Arrive		14:08:44		
A623	2MAN	Clear Unit		15:15:16		

DOCUMENTS:

Dispatch Narrative
 Additional Information:
 RES #
 IS FOLLOWING HER ALL OVER THE HOUSE FE IS
 AFRAID TO TALK FOR FEAR HE WILL KN SHE IS ON

Information on the units assigned to the call follows.

Unit#: A623 Radio#: 800 Ofcr 1: Ofcr 2:
 DSP: 07/31/05 14:03 ARV: 07/31/05 14:08 CLR: 07/31/05 15:15
 THE PH W/POLICE 14:01:43
 SO INFC ML ASST TO LEAVE NO RPT 15:15:13
 CAD System Narrative

*County
Pros.*

Cleveland Police Department
DATE 02/02/2007
TIME 11:20:15

CPD RECORD MANAGEMENT SYSTEM
INCIDENT REPORT

PAGE 2
PL1190
GIGANTEJ

GRAVESC	CHANGED NATURE OF CALL	14:01:45
GRAVESC	CHANGED ADDITIONAL INFORMATION	14:01:45

NAMES:

Caller : MCCORKLE, NICOLE, ,

JOHN GREGG'S CONVERSATION WITH CHARLES MAXWELL

JOHN
CHARLES
?
??
???
????
S

JOHN GREGG
CHARLES MAXWELL

SKULARSKI

TICKING

PHONE RINGING

CHARLES INAUDIBLE HELLO

JOHN YEAH, I GOT A HORRIBLE RECEPTION BACK THERE, IF
YOU WANT TO STOP INAUDIBLE

CHARLES YEAH

JOHN UM, WHY ARE THEY TALKING ABOUT ABDUCTION?

CHARLES I DON'T KNOW.

JOHN I MEAN BECAUSE, I MEAN, I MEAN, THE ONLY THING
THAT I AM AWARE OF IS THAT YOU CHOKED HER AND
PISTOL-WHIPPED HER WHATEVER, BUT YOU DIDN'T
LIKE TAKE HER INAUDIBLE OR MORE HER WHATEVER
DID YOU?

CHARLES NO UH UH

INAUDIBLE

JOHN WHEN YOU LEFT THE HOUSE DID YOU TAKE ANY BODY
WITH YOU NOT LIKE FORCING BUT DID YOU ANYBODY
GO WITH YOU?

CHARLES OF COURSE NOT.

JOHN WHAT THE HELL

STATE'S
EXHIBIT

CHARLES OH, OH, I KNOW WHAT THEY TALKING ABOUT, WHAT THEY TALKING ABOUT. WHEN I TOOK HER TO MY MOTHER HOUSE AND TERESA TOOK HER TO THE DOCTOR.

JOHN TERESA TOOK HER TO THE DOCTOR, THAT'S THAT ABDUCTION?

CHARLES I GUESS. I DON'T KNOW.

JOHN TAKING HER TO THE DOCTOR, THAT WAS A BAD THING?

CHARLES I GUESS. THEY DIDN'T SAY THAT SHIT AT FIRST, ALL IT WAS FELONIOUS ASSAULT, AND DOMESTIC VIOLENCE

JOHN WHEN SHE WENT IN FRONT OF THE GRAND JURY SOMETHING ELSE MUST HAVE COME UP ABOUT THAT

CHARLES IT HAD TO, IT HAD TO.

JOHN I MEAN, I DON'T KNOW WHEN THEY GOT AN ARRAIGNMENT THOUGH INAUDIBLE

CHARLES I DON'T KNOW THEY GOT ONE EITHER.

JOHN MAYBE SOMEONE ELSE WILL GET ARRAIGNED.

CHARLES CHA INAUDIBLE

JOHN THAT WOULD DO YOU A FAVOR

CHARLES HA HA.

JOHN INAUDIBLE IT WOULD DO YOU A FAVOR.

CHARLES YEAH

JOHN UM, THEY SAY INAUDIBLE EITHER WAY

CHARLES YEAH

JOHN UM, INAUDIBLE DIDN'T SAY ANYTHING DIFFERENT ABOUT CANADA

CHARLES YEAH. HE PROBABLY DIDN'T KNOW WHAT I'M SAYING, HE DIDN'T KNOW SHIT REALLY.

JOHN RIGHT.

CHARLES LET ME GO ASK, LET ME GO ASK, INAUDIBLE YEAH HE
DIDN'T KNOW SHIT.

 BEEP BEEP

 INAUDIBLE TWO BEEPS

JOHN HELLO

???? HEY I FORGOT TO TELL YOU, YOU KNOW THERE WAS
TWO BLACK DUDES OVER HERE YESTERDAY LOOKING
FOR YOU.

JOHN TWO BLACK DUDES LOOKING FOR ME?

???? IN A BLACK UM

JOHN OH LIKE IN AN ACHIEVA OR SOMETHING

 INAUDIBLE

JOHN: FORD

???? IN A BLACK ACHIEVA OR SOMETHING LIKE THAT

JOHN YEAH THAT WAS ROY WASN'T IT?

???? HE HAD AN ACCENT OR SOMETHING

JOHN YEAH, THAT WAS ROY, HE'S JAMAICAN.

???? I DON'T KNOW NO ROY.

JOHN YEAH, ROY HE WAS OVER THERE WITH US, THAT DAY
WHEN WE DID THE ROOF.

???? OH, OH, OKAY YEA

JOHN YEAH

???? OKAY

JOHN I DON'T WHO WAS WITH HIM BUT HE EH.

???? SOME OTHER DUD, YEAH, IN THE BUILDING, YOU HAD HIM WORKING OVER HERE OR SOMETHING.

JOHN HE WORKS FOR PHIL SOMETIMES.

???? OH, OH. OKAY OKAY

JOHN YEAH

???? OKAY I GUESS, BEFORE I COULD THOUGHT ABOUT IT, THAT'S COOL, THAT'S ALL RIGHT, BYE.

JOHN OKAY, I'LL CALL YOU BACK.

???? OKAY HEY, I COULDN'T FIND ANY 2204 OR 205 I DIDN'T GET NONE.

JOHN THERE'S A CHEAPER PLACE I'M SURE THERE IS

???? YEAH, I KNOW BUT I GOT TO DO IT LATER

JOHN YEAH

???? TO GET THE STUFF DONE

JOHN ALL RIGHT

???? ALL RIGHT

JOHN ALL RIGHT, BYE INAUDIBLE

JOHN HELLO

CHARLES YEAH, UM THEY ADDED AN ABDUCTION ON THAT BITH HUH.

JOHN YEAH INAUDIBLE I DON'T KNOW MAN, ITS CRAZY

CHARLES SO SHE WASN'T GOING TO TALK ABOUT I DIDN'T HAVE A GUN SO THEN THEY PUT AN ABDUCTION ON IT.

JOHN BUT ITS STILL FELONIOUS ASSAULT.

CHARLES RIGHT

JOHN SO I DON'T KNOW IF SHE TOLD THEM THAT THERE WAS NO GUN OR NOT I DON'T KNOW.

CHARLES I MEAN THAT'S WHAT SHE WENT DOWN THERE, THAT'S WHAT SHE SAID

JOHN OH, OKAY THAT THE GRAND JURY THEY INDICTED YOU FOR FELONIOUS ASSAULT, NOT JUST DOMESTIC

CHARLES RIGHT

JOHN INAUDIBLE

CHARLES IT WAS ALREADY DOMESTIC AND FELONIOUS ASSAULT.

JOHN OH, OKAY, OKAY, I DIDN'T KNOW THAT. OKAY I THOUGHT THAT THE GUN WAS WHAT MADE IT FELONIOUS ASSAULT..

CHARLES NO SHE WAS SUPPOSED TO WENT DOWN THERE AND TESTIFY THAT I DIDN'T HAVE A GUN

JOHN: OKAY NOW WOULD THAT HAVE GOTTEN RID OF THE FELONIOUS ASSAULT?

CHARLES I WOULD THINK IT WOULD.

JOHN: OH, OKAY. TERISA SHE MUST NOT HAVE THEN

CHARLES SHE MUST NOT HAVE THEN WHE PROPABLY WAS FUCKIN LYING ALL THIS TIME

JOHN YEAH

CHARLES YOU KNOW WHAT I'M SAYING?

JOHN: RIGHT

CHARLES MY MOTHER WAS LIKE THAT BITCH IS GOING TO TURN YOU IN, SHE GOING TURN YOU IN, STAY THE FUCK AWAY FROM HER. INAUDIBLE SHE PROBABLY WOULD HAVE IF HER DUDE WOULD HAVE GOTTEN A SERIOUS RELATIONSHIP, YOU KNOW WHAT I'M SAYING?

JOHN: YEAH, I'LL GO TO THE LIBRARY TO SEE WHAT I CAN
SEE AT INAUDIBLE LIBRARY

CHARLES CAUSE SHE IS A SLEEZY BITCH LIKE THAT, YOU KNOW
WHAT I'M SAYING? INAUDIBLE

JOHN: DAMN, THERE AINT NO WAY YOU CAN FIND OUT
ABOUT CANADA I DON'T KNOW HOU YOU CAN FIND
OUT FOR SURE, BUT, I CAN CALL AND ASK AN
ATTORNEY, BUT THEY TAKE AN OATH NOT TO HELP

CHARLES RIGHT, RIGHT BUT WHEN YOU SAY YOU WAS ALREADY
THERE

JOHN: YEAH, YEAH, I KNOW WHAT YOU MEAN

? COULD I MEAN IF I WAS CAUGHT UP THERE WOULD
THEY EXTRIDITE HIM? SHOULD WE GO GET HIM, AND
BRING HIM BACK TO YOU, KNOW WHAT I'M SAYING?

JOHN INAUDIBLE I GOT THREE THINGS WORKING LET ME GO
AND SEE ABOUT THAT

CHARLES OKAY

? INAUDIBLE

TICKING AGAIN

INAUDIBLE CALL YOU BACK INAUDIBLE

? JOHN?

JOHN YES SIR

.IT'S BRIAN HL, I'M GOING TO TRY TO PULL UP SOME
RECORDS TO SEE THERE'S A CASE NUMBER COURT
COMMON PLEAS?

JOHN TO BE HONEST, I REALLY DON'T KNOW.

? I'M, I'M GOING TO TRY A CHECK IT OUT ON LINE

JOHN INAUDIBLE

? NOT YET THAT'S WHAT I TALKED TO ONE OF THE ATTORNEYS MIKE O'LEAR HE WANTED ME TO ASK YOU IS THIS A DEATH PENALTY CASE OR IF YOU HAVE ANY OTHER INFORMATION.

JOHN INAUDIBLE

? IT COULD HE DID IT POTENTIALLY INAUDIBLE LIKE AT THIS POINT INAUDIBLE THAT IT IS POSSIBLE THAT IT COULD

JOHN INAUDIBLE

? WE'LL HAVE TO FIGURE OUT EXACTLY WHAT THE PROSECUTORS ARE CHARGING HIM WITH, WHETHER THEY'RE SEEKING THE DEATH PENALTY FELONY

JOHN INAUDIBLE

? I, I DON'T KNOW AND I ASKED MAX. YOU'RE SAYING HIS FIRST NAMES CHARLES

INAUDIBLE

? WHAT'S HIS BIRTHDAY?

JOHN PARDON

? IS HIS DATE OF BIRTH FOR SEPTEMBER 12TH, 1966
INAUDIBLE

JOHN INAUDIBLE YES

? YEAH, HE'S A BLACK MALE

JOHN INAUDIBLE

? INAUDIBLE INFORMATION, BECAUSE THERE'S A COUPLE OF TRIALS CASES POPPED OUT

JOHN YES

? CLICKED ON THIS ONE THERE'S AN ARRAIGNMENT SCHEDULED DECEMBER 14TH AT 8:30 A.M.

JOHN ARRAIGNMENT INAUDIBLE DON'T YOU HAVE TO BE IN
CUSTODY FOR ARRAIGNMENT?

? INAUDIBLE, I, I, AGREE, THAT WAS THE NEXT THING
THAT'S SCHEDULED FOR

JOHN INAUDIBLE

? WHAT'S THAT?

JOHN WHAT'S THE CHARGE ON THAT?

? THE CHARGES THAT ARE LISTED HERE SAID FELONIOUS
ASSAULT & DOMESTIC VIOLENCE & ABDUCTION

JOHN ABDUCTION, DOMESTIC AND FELONIOUS ASSAULT
WHATEVER?

? LET ME SEE IF I GOT IT, 11 20 2005.

JOHN INAUDIBLE

? NO, NO, THAT'S WHEN THE INDICTMENT WAS, UM,
INAUDIBLE THE CASE WAS FILED SEPTEMBER 20, 2005.

JOHN INAUDIBLE OCTOBER 20TH

? THEN THAT'S WHEN THE CASE WAS FILED OCTOBER
13:41

JOHN INAUDIBLE I DON'T KNOW ABOUT ANY ABDUCTION
INAUDIBLE THERE COULD BE A FELONIOUS ASSAULT
AND DOMESTIC BUT I DON'T KNOW ABOUT ABDUCTION

? INAUDIBLE AGGRAVATED MURDER

JOHN YEAH, CAUSE, CAUSE, OF THE UH UH RELATIONSHIP

? RIGHT INAUDIBLE DOMESTIC VIOLENCE CHARGE
INAUDIBLE UPDATED THE COMPUTER SYSTEM SO
INAUDIBLE COMPUTER SYSTEM INAUDIBLE

JOHN YEAH, I DON'T KNOW ABOUT A ARRAIGNMENT
BECAUSE NOT IN CUSTODY SO

? I'M JUST TELLING YOU SCHEDULED FOR AN
ARRAIGNMENT ON DECMEBER 14TH.

JOHN OKAY, ALRIGHT UM, OKAY NOW ARE YOU GOING TO
PULL UP THE MURDER CHARGE?

? NO, THAT'S WHAT I'M TALKING ABOUT. AS OF RIGHT
NOW THE COURT'S COMPUTER SYSTEM ISN'T SHOWING
THE MURDER CHARGE IT'S ONLY SHOWING FELONIOUS
ASSAULT DOMESTIC VIOLENCE AND ABDUCTION, BUT
LIKE I WAS SAYING. THEY MIGHT NOT OF HAD A
CHANCE TO PUT IT IN THE COMPUTER SYSTEM YET

JOHN OKAY ALRIGHT UM,

? INAUDIBLE RECORDING IT

JOHN BASED ON YOUR KNOWLEDGE IS IT SOMETHING
TYPICAL? DEATH PENALTY THING OR WHAT?

? I COULDN'T SAY, DEPENDS ON WHO PROSECUTING THE
CASE TO GET THE CASE TO SEE THE JUDGE

JOHN SO, IT'S VERY POSSIBLE THAT IT COULD GO ONTO A
DEATH PENALTY CASE

? IT'S A POSSIBILTY YEAH

SIDE B

? STORY POSTED ON THE WEBSITE IT SAYS THAT
INAUDIBLE SUNDAY JUST BEFORE 3 A.M. CHARLES
SHOT HIS GIRFRIEND AND KILLED HER AND HE ON THE
RUN. SO THESE CHARGES LOOK PRIOR TO .
OKAY.

? INAUDIBLE KILLED HER SO THESE OTHER CHARGES
THEY LOOK LIKE PRIOR TO THIS.

JOHN YEAH THEY ARE

? YEAH

JOHN INAUDIBLE

? EXCEPT THE CHARGES HAVEN'T FILED AS FAR AS FAR AS THE COURT'S SYSTEM YET IS HE RETAINED AN ATTORNEY: HE'S LOOKING TO RETAIN?

JOHN YEAH. INAUDIBLE

? THE LEGAL FEES IN A MURDER CASE? LOOKING AT A MINIMUM \$50,000.00.

JOHN NO INAUDIBLE.

? INAUDIBLE UH-HUH

JOHN IS IT POSSIBLE TO PLEA THIS OUT?

? YEAH, RIGHT INAUDIBLE YEAH, RIGHT POSSIBILITIES

JOHN INAUDIBLE

? INAUDIBLE PLEA AGREEMENT TO LESSER CHARGES THERE TO INAUDIBLE LOT OF POSSIBILITIES

JOHN INAUDIBLE WHAT KIND OF MONEY WOULD IT TAKE TO HIRE YOU GUYS TO LIKE I DON'T KNOW TALK TO THE PROSECUTOR WHAT EVER YOU KNOW WHAT I MEAN? TO FIND OUT IF THERE IS SOME SORT OF AN OPTION IF THERE'S ROOM TO DISCUSS SOMETHING OR WHAT EVER INAUDIBLE START SOMETHING OR WHAT EVER, YOU KNOW WHAT I MEAN?

? MMHMM

JOHN WHAT WOULD SOMETHING LIKE THAT RUN? INAUDIBLE STARTED LIKE THAT.

? I DON'T KNOW, HOLD ON LET ME GO ASK

JOHN OKAY

CAR DOOR OPENING KEY IN IGNITION BELL

LONG PAUSE

? JOHN?

JOHN YES SIR.

THANKS FOR HOLDING OKAY. UM HERE'S THE DEAL,
WE CAN INAUDIBLE PROSECUTOR'S WORK ON THE
CASE WITH THEM INAUDIBLE CHARGED IN THE CASE
CHARGE WITH INAUDIBLE

JOHN

RIGHT

?

IT WOULD BE LIKE \$50,000.00 TO TAKE INAUDIBLE

JOHN

INAUDIBLE SO IF WE GAVE YOU A \$50,000.00 RETAINER
YOU CAN GET STARTED ON THIS AND

?

RIGHT.

JOHN

UM, INAUDIBLE COME BACK AND INAUDIBLE THAT
RIGHT?

?

NO, INAUDIBLE SIT DOWN AND TALK AND THEN WHEN
YOU GUYS INAUDIBLE GOES THROUGH YOU OR HOW
EVER YOU GUYS WANT TO WORK IT OUT. YOU GUYS
ARE GOING TO COME INTO OUR OFFICE, THEN WE'LL
ALL SIT DOWN, TALK ABOUT HOW WE WANT TO GO
FROM HERE RETAINER WORKS IS \$50,000.00 UP FRONT

JOHN

RIGHT

?

DOES IT GET BACK

JOHN

YEAH, YEAH INAUDIBLE, I'M FAMILIAR WITH THE
RETAINER AND HOW IT WORKS. INAUDIBLE CRIMINAL
CASES YOU RUN A RISK AT NOT GETTING PAID SO YOU
GET PAID UP FRONT.

?

INAUDIBLE

JOHN

INAUDIBLE OKAY UM

?

YOU GUYS WANT TO COME IN TODAY?

JOHN

LET ME GO AHEAD AND CALL YOU RIGHT BACK

?

OKAY, DO YOU GOT MY NUMBER?

JOHN

UH, YEAH 696-0900

? INAUDIBLE 5:00 THAT WOULD BE OKAY WITH YOU GUYS?

JOHN OKAY INAUDIBLE 0900 INAUDIBLE 5 O'CLOCK

? INAUDIBLE CALL AND DO IT SOME OTHER TIME OKAY.

JOHN ALL RIGHT, BYE

? BYE

JOHN ALL RIGHT HANG ON A SEC.

PHONE RINGING

CHARLES HELLO

JOHN YEAH, YOU HEAR

CHARLES INAUDIBLE HE DIDN'T NO SHIT

JOHN THE THING IS INAUDIBLE WHAT THE HELL ARE THEY TALKING ABOUT ABDUCTION

CHARLES INAUDIBLE I DON'T KNOW

JOHN THE GIRL SAYS YOU PISTOL WHIPPED THAT JUST THE ASSAULT. YOU DIDN'T TAKE ANYBODY WITH YOU OR ANYTHING LIKE THAT?

CHARLES INAUDIBLE

PHONE RINGING

?? LAW OFFICE CAN I HELP YOU?

JOHN I'M TRYING TO REACH A CRIMINAL ATTORNEY

?? OKAY WHAT TYPE OF CRIMINAL CASE?

JOHN UH, MURDER.

?? OKAY AND WAS IT YOU THAT WAS CHARGED OR A FRIEND?

JOHN INAUDIBLE IS A FRIEND

?? AND THEY ARE IN WHAT FACILITY?

JOHN UH, THERE NOT INAUDIBLE

?? OKAY, SO HAS THERE BEEN A DETERMATION, OUT ON BOND IS HE INAUDIBLE

JOHN NO, NO, NO, HI'S ON THE RUN

?? OKAY, SO HE WANT'S TO HIRE AN ATTORNEY, TO DISCUSS THE CASE, TURN HIMSELF IN ETC.

JOHN YEAH INAUDIBLE

?? AND WHAT TYPE OF FUNDS WOULD HE HAVE? OBVIOUSLY NOT WORKING RIGHT NOW?

JOHN INAUDIBLE

?? OKAY, ALRIGHT, UH WELL I WOULD NEED A CONTACT I GUESS THAT WOULD BE YOU, YOUR NAME

JOHN INAUDIBLE MY NAME WOULD BE JOHN

?? OKAY, YOUR LAST NAME JOHN?

JOHN INAUDIBLE

?? WHAT IS YOUR PHONE NUMBER?

JOHN INAUDIBLE

?? THIS IS YOUR HOME PHONE?

JOHN NO,

?? CELL PHONE (216) 701-3956. DO YOU FEEL MORE COMFORTABLE ME GIVING YOU THE NAME OF AN CRIMINAL ATTORNEY, I'M GOING TO CALL A FEW CRIMINAL ATTORNEYS TO DISCUSS WHETHER THEY WANT TO DO THIS AND HAVE THE TIME TO DO THIS AND THEY CAN EITHER CALL YOU OR I CAN CALL YOU BACK, MY NAME IS MICHAEL KAULFMAN AND THEN GIVE YOU THERE NUMBER OR YOU CAN CALL THEM IF YOU ARE MORE COMFORTABLE

JOHN UM, I DON'T KNOW, SEE WHAT I'M TRYING TO FIND OUT FOR HIM WHAT'S HIS OPTIONS?

??
JOHN RIGHT, WELL SO THAT'S WHAT YOU DON'T, YOU DON'T INAUDIBLE

?? WELL, I, I'M THE POINT PERSON THAT YOU WOULD IN A MEDICAL PARLANCE THAT GO TO A PRIMARY DOCTOR AND THE PRIMARY DOCTOR DOES THE TYPE OF THE PHYSICAL ANALYSIS OF WHAT THE PROBLEM IS AND THEN THEY FIND A SPECIALIST FOR YOU AND THEY REFER YOU TO A SPECIALIST SO THAT'S WHAT I WILL BE DOING

JOHN OKAY

?? IT'S NOT THAT I NEVER DONE CRIMINAL LAW I'VE DONE A SMATTERING OF A WHOLE BUNCH OF DIFFERENT CASES PRACTICING LAW IN CLEVELAND FOR 30 YEARS, SO I KNOW MANY DIFFERENT ATTORNEYS AND I FIND THE ATTORNEY BEST SUITED FOR THE TASK AT HAND.

JOHN OKAY,

?? SO THE UM, WE STILL COMES DOWN TO WHETHER I WILL BE GIVING YOUR NAME JOHN DAVID AND 701 INAUDIBLE

JOHN THAT'S FINE, COULD YOU JUST GIVE US A CALL RIGHT BACK AS SOON AS POSSIBLE

?? YEAH, I WOULD I WOULD DO THAT.

JOHN ALL RIGHT

?? AND I WHAT WAS THE RELATIONSHIP BETWEEN THE PERSON MURDERED AND YOUR FRIEND?

JOHN INAUDIBLE GIRLFRIEND

?? OKAY SO THAT HAS THIS OKAY ALL RIGHT BOYFRIEND, GIRLFRIEND. ALL RIGHT.

JOHN OKAY

?? ALRIGHT JOHN I WILL HAVE SOMEONE CALL YOU
CERTAINLY BEFORE LUNCH

JOHN ALL RIGHT, THANKS

?? OKAY? ALRIGHT, BYE

JOHN OKAY, BYE. I'LL CALL HIM THEN

PHONE RINGING

CHARLES HELLO

JOHN ALRIGHT, I FOUND AND GAVE INAUDIBLE STARTED

CHARLES ALRIGHT

JOHN INAUDIBLE, I DON'T KNOW WHY INAUDIBLE

CHARLES HE DON'T KNOW SHIT

JOHN HE'S JUST THE MIDDLE MAN WANTING TO GET PAID

CHARLES RIGHT

JOHN OKAY, ALRIGHT HANG ON

CHARLES INAUDIBLE

PHONE RINGING

S SKULARSKI

JOHN YEAH, HI, I NEED TO SEE IF I COULD SPEAK WITH AN
ATTORNEY

S OKAY,

JOHN IT'S UH MURDER CASE

S ALL RIGHT GIVE ME A TELEPHONE NUMBER

JOHN ALL RIGHT UH (216) 854-7935

S OKAY, I'LL HAVE ONE GIVE YOU A CALL RIGHT BACK

JOHN ALL RIGHT, DO YOU KNOW ABOUT HOW LONG?
S PROBABLY 15 OR 20 MINUTES.
JOHN OKAY.
S ALRIGHT
JOHN THANKS
S BYE
PHONE RINGING
CHARLES HELLO
JOHN INAUDIBLE
CHARLES INAUDIBLE WHAT YOU CAN DO
JOHN WHAT
CHARLES GOING TO BE LIKE UH LEAVING FOR CANADA, YOU
JUST GO ON AND THE CD ENDS.

FILED IN THE COURT OF COMMON PLEAS
CRIMINAL DIVISION CUYAHOGA COUNTY, OHIO
2006 AUG 15 P 2:41 CRIMINAL DIVISION



STATE OF OHIO : CASE NO. CR 475400
GERALD E. FUERST :
CLERK OF COURTS :
CUYAHOGA COUNTY : JUDGE DAVID MATIA
vs. : SUPPLEMENTAL
: RESPONSE TO REQUEST FOR
: DISCOVERY UNDER RULE 16
CHARLES MAXWELL, :
:
:
Defendant. :

The Prosecuting Attorney will permit the defendant at a time prior to trial and at the convenience of the defense counsel to inspect and copy or photograph:

- (a) () Statement of the defendant or co-defendant.
() Defendant did not make a written statement.
() Co-defendant made (did not make) a written statement.
(X) Defendant made an oral statement.
() Co-defendant made (did not make) an oral statement.
() Recorded testimony of the defendant or a co-defendant before the Grand Jury.
() No Grand Jury Testimony.
- (b) () A copy of the defendant's prior criminal record which is available to or within the possession, custody or control of the State is ATTACHED HERETO:
() None available in Prosecutor's File.
- (c) Prior to trial and at the convenience of defense counsel the Prosecutor will permit inspection, copying and photographing of the items listed in Rule 16(B) (1) (c)
- (d) Prior to trial and at the convenience of defense counsel the Prosecutor will permit inspection, copying and photographing of the items listed in Rule 16 (B) (1) (d)
- (e) All witnesses the Prosecuting Attorney intends to call at trial together with any record of prior felony convictions of any such witnesses: **SEE ATTACHED LIST:**
- (f) (X) Before trial and at the convenience of defense counsel, the Prosecuting Attorney will disclose to counsel or the defendant, all evidence known to the Prosecuting Attorney, favorable to the defendant which is material either to guilt or punishment.
() No exculpatory material is available to or in the possession of the Prosecuting Attorney.

STATE'S EXHIBIT

CR05475400-A 40859425



F

EVIDENCE

SEE ATTACHED

SERVICE

A copy of the foregoing Demand for Discovery has been faxed, mailed and filed this 15 day of AUGUST 2006, to JOHN LUSKIN, Attorney for the Defendant, 5815 LANDERBROOK DR. PO BOX 24237, CLEVELAND, OHIO 44124 (Fax 440-442-7311) and THOMAS REIN, Attorney for Defendant, 526 Superior Ave, Leader Bldg, Suite 940, Cleveland, Ohio 44114.



SALEH AWADALLAH #0063422
Assistant Prosecuting Attorney

Oral Statements by Defendant Charles Maxwell

Defendant was arrested after being found hiding in a crawl space in a bedroom of the upstairs residence at 8406 Jeffries, Cleveland, Ohio on 12-16-05.

Upon arrest Maxwell was asked if he was armed , to which he responded he did not have a gun anymore. He stated that he got rid of the gun that he had.

State v. Charles Maxwell
Supplemental and Amended Witness List

1. Det. Nate Sowa #2374 CPD Homicide
2. Det. James Gajowski #854 CPD Homicide
3. Det. Harry Matlock #194 CPD Homicide
4. Det. Hasan CPD Homicide
5. Det. H. Ververka #607 CPD Homicide
6. Det Michael Beaman #1115 CPD Homicide
7. Sgt. Daniel Rowley CPD Homicide
8. Det. M. Smith #1730 CPD Homicide
9. Det. J. Sandoval #737 CPD Homicide
10. Sgt. Don Robinson 6th District CPD
11. SA Joe Olliver FBI-Fugitive Task Force
12. Deputy Ziskes Cuyahoga County Sheriff's Office-Fugitive Task Force
13. Deputy Michael Domonkos Cuyahoga County Sheriff's Office-Fugitive Task Force
14. Sgt. Christopher Sonnhalter- Cleveland Heights Police Dept
15. Invest. Ralph Frank- National Insurance Crime Bureau
16. Sgt. Michael Palnisek Willoughby Hills Police Department
17. Det. Alberto Sardon #1906 CPD 6th Dist.
18. P.O. Stanley Popek #1785 CPD
19. Theresa McNair (def sister)
20. Lt. Barrow #8467 CPD 6th Dist
21. P.O. Reginald Smith #1109 CPD 6th Dist
22. P.O. Maurice Brown #1067 CPD 6th Dist
23. Det. Charles Teel #8115 CPD SIU
24. Det. Michael Bell CPD SIU
25. Rep. EMS # 12
26. EMT Lawrence Walker
27. EMT Nichole Fuenten
28. Rep Fire Engine # 31
29. Rep. Huron Road Hospital
30. Dr. Chung Huron Road Hospital
31. Lydia James (mother of victim)
32. Raymond James (stepfather of victim)
33. Rep Advance Ambulance
34. Paul Brooks - Advance Ambulance
35. John Kow - Advance Ambulance
36. Attendant Thacker -Cuyahoga County Coroner's Office
37. Attendant Duncan - Cuyahoga County Coroner's Office
38. Martin Keane - Assistant Cuyahoga County Prosecutor
39. Maureen Murphy - Cuyahoga County Prosecutor's Office
40. Representative Alltell
41. Sheena Hutchinson 4141 Greenvale Rd. #207 South Euclid, Ohio
42. Willie Hutchinson 14701 Alder Avenue, East Cleveland, Ohio 44112

43. Nannie Hutchinson 14701 Alder Avenue East Cleveland, Ohio 44112
44. Deena Jackson 8408 Jeffries Avenue, Cleveland, Ohio
45. Anthony Brown
aka Anthony Nelson 3641 E. 108th Street, Cleveland, Ohio
46. Kelvin Parker (friend of Maxwell)
47. Sherlyn Moore 1045 East 146th Street up. Cleveland, Ohio
48. Gertie Moore 1045 East 146th Street dwn, Cleveland, Ohio Hears three shots
49. China Washington 1050 East 146th Street, Cleveland, Ohio (she or husband no info)
50. Vera Stephens 1051 East 146th Street Up, Cleveland, Ohio 451-9633 (wit Def ast Victim)
51. Clara Stephens 1051 East 146th Street dwn, Cleveland, Ohio (possibly heard shot)
52. Edward Johnson 1054 East 146th Street dwn, (nothing of value)?
53. John Gregg 2934 South Moreland Blvd. Apt 2,
54. Theresa Gregg
55. Santa Jackson 19302 Lakeshore Blvd, Up Clev
56. Cheyenne Maxwell
57. Dominique Cowan 1406 East 146th Street
58. Laurretta Kenney 3379 Euclid Hts. Blvd, Cleve Hts.
59. Michelle Kenney 11503 Ablewhite Ave., Cleve,
60. Patricia Brosnatch Victim-Witness
36. Dr. David Dolinak Cuyahoga County Coroner's Office
37. Dr. Elizabeth Balraj Coroners Office
38. Dr. Heather Raaf Coroners Office
39. Rep Cuyahoga County Coroners Office
40. Rep O'Connor Towing
41. P.O. Mullinax Willoughby Hills PD
42. Darryl Maxwell
43. Tonya Kindell Nurse Living at Winchester Apts
44. Latonya Kendall
45. Rep University Hospital
46. Dr. Mukherjee - University Hopital
47. Maguerite Antoine 80 North Creekway, Oxford, GA 33054
48. SA Robert Riddlebarger FBI Taskforce
49. SA Eric C. Rardain FBI Taskforce
50. Officer Tim Bacha Adult Parole Authority
51. Officer Maurice Kennedy CMHA
52. Rep Adult Parole Authority

Evidence List

1. Two swabs of suspected blood
2. 2 morgue pellets recovered
3. 911 tapes
4. CECOM Tapes
5. John Gregg Conversation on tape w/Charles Maxwell
6. Crime Scene Photos
7. .25 caliber shell casing
8. .25 caliber shell casing
9. DNA report
10. Trace Report
11. Autopsy Report
12. Autopsy Protocol
13. Toxicology Report
14. Phone Records
15. Depositions
16. Nicole Kenney's Grand Jury Testimony
17. Gun Poster
18. Clothing
19. Crime Scene Sketch
20. Hospital Records- May, Oct, and Nov. 2005
21. Photos of October injuries to Nicole Kenney
22. Court Docket
- 23.
- 24.