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THOMAS R. FALLOUISI SPOKANE COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR SPOKANE COUNTY

STATE OF WASHINGTON,)
Plaintiff,) NO. 08-1-02037-2
vs.) DECLARATION OF
CHRISTOPHER H. DEVLIN,) JOHN RODGERS
Defendant.)

DECLARATION OF JOHN RODGERS

I. John Rodgers, make this declaration in regard to my representation of Christopher Devlin. I am a practicing attorney in the State of Washington, and the Director of the Spokane Public Defenders Office. I personally represented Mr. Devlin from May 21, 2008 through January 13, 2009 when because of a breakdown in communication I was allowed to withdraw and alternate counsel was appointed. During that time the State alleged that Mr. Devlin had murdered Daniel Heily in order to prevent his testimony in a Second Degree Assault and First Degree Burglary case that was proceeding in the Spokane Superior Court at the time. Because there was a potential of the Death Penalty, I assigned the case to

myself since I have been approved by the panel of the State Supreme Court to represent such persons, SPRC 2.

I filed a request for discovery in District Court prior to the filing of the Information in Superior Court, July 24, 2009, charging him with First Degree Premeditated Homicide with Aggravating Conditions, in violation of RCW 10.95.20. He was arraigned on that charge on July 15, 2008 and on August 11, 2009 I filed on his behalf a motion to change venue to Stevens County. There was a hearing on August 14, 2008 the 30th day after arraignment, Mr. Devlin refused to sign a waiver of the 30 day notice requirement under RCW 10.95.040. He also asked the court for different counsel as he did not think our office was following his desires in the case. He made it known to the court that he wanted to exercise his right to a speedy trial and I moved for a continuance of the trial date to be fully prepared.

I now understand that the Spokane County Prosecutor and Sheriff, had agreed to speak with Mr. Hoskins, who was arrested with Mr. Devlin on May 16, 2008 at Mr. Hoskins' home in Stevens County and charged with the same offense as Mr. Devlin. I have been told that those talks were held on June 28, 2008 and July 8, 2008 and that Mr. Hoskins had told the authorities that he had participated in the crime or the cover up of the death of Mr. Heily and that the murder had occurred at his home in Stevens County. This information was never provided to me, so it was not provided to Mr. Devlin, before arraignment or the filing of the notice of request for special proceeding. It also was not provided to me prior to our hearing on the change of venue motion. This information was of course vital to the motion to change venue, but it was also vital to the decision by Mr. Devlin not to follow my advise and waive the 30 day notice requirement. He was making his decision on false information, believing that Mr. Hoskins would not cooperate with the authorities in which case a speedy trial might make some sense. I also did not

receive crime lab reports on the foam found in his Jeep, and believed to have been used as a silencer, even though the reports say they were revised on July 1, 2008. I therefore could not act in a timely manner to have the foam mattress and the alleged foam silencer forensically analyzed prior to making the decision to waive the 30 day notice requirement.

The failure to provide the information on Mr. Hoskins in June and July of 2008 prejudiced Mr. Devlin because it impacted my overall defense theory, the discovery, my time to prepare, and impacted my change of venue motion filed on August 11, 2008. It also negatively impacted my relation with my client.

The failure to receive reports entitled "Revised July 1, 2008" at any time also prejudiced my preparation, defense and venue motion. Had this information been available to me, I would have been able to position Mr. Devlin's defense with the fact that he would have known that Mr. Hoskins was a witness against him, and this directly affected not only the continuance of the trial date, but the continuance of the time within which to file any Notice of Special Proceedings in this case. Without going into the truth or falsity of Mr. Hoskins various statements, it would have provided Mr. Devlin with the fact that his co-defendant was cooperating with the authorities against his interest and would have been important to the decision as to whether he should waive the 30 day notice requirement.

This information was available to the Spokane County Prosecutor's Office, prior to his arraignment on July 15, 2008. It was available prior to my filing the motion to change venue on August 11, 2008 and prior to The Notice of Special Proceedings which was filed and served August 14, 2008. The July 1, 2008 revised report is one (1) day after Mr. Hoskins' first free talk, and seven (7) days before the second free talk. Had this discovery been received and properly provided to the defense it would have allowed defense to retain with experts to

review footprints at that time, coupled with the knowledge of Mr. Hoskins' statements concerning the commission of the crime.

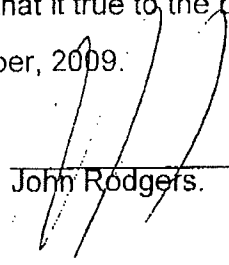
If I would have had this information, and consistent with the standard of care for handling death penalty cases in the State of Washington, I would have been able to properly advise Mr. Devlin and obtain a continuance of the filing of any Notice of Special Proceedings. This prejudiced him because three (3) days after my venue motion, the Notice of Special Proceedings was filed with none of this information available to the defendant so he could make a knowledgeable decision as to any waivers. It also prejudiced him because, if I had known that there was positive evidence that the crime was committed in Stevens County, I could have asked the court to find that there was good cause to extend the notice period to determine which county was the proper jurisdiction to make the decision as to life or death.

The proper county was Stevens County, and a witness against Mr. Devlin was not known. Incredibly, this report of July 1, 2008 describing footprints impacted my defense in this case, preparation and venue motion. I believe I would have received this discovery in Stevens County, and would have been able to marshal a defense.

As this Court is aware, there is an automatic review by the Supreme Court of every case where a Notice of Special Proceedings has been filed. Had I had this information, I would have obtained a continuance, worked on a completely different defense, with witnesses who are named in Mr. Hoskins' statement who are now gone or contaminated by over one year and three months passing of time. I believe the suppression of this information by the Spokane County Prosecutor's Office prejudiced Mr. Devlin at a critical stage of these proceeding.

I have read the above Declaration and under the penalty of perjury of the laws of the State of Washington swear that it true to the best of my knowledge.

Dated this 11th day of September, 2009.



John Rodgers.