

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

FILED
DEC 15 2022
Eric Cantor of Wisconsin
CIRCUIT CLERK

IN THE CIRCUIT COURT OF THE NINETEENTH
JUDICIAL CIRCUIT, LAKE COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS)
)
 vs.) GENERAL NO. 00 CF 1920
)
MARVIN WILLIFORD)

**STATE'S AMENDED RESPONSE TO DEFENSE MOTIONS TO COMPEL
DISCOVERY AND TO CONDUCT LIMITED DISCOVERY**

Now come the People of the State of Illinois, by and through Eric F. Rinehart, Lake County State's Attorney, and Kevin Malia, Assistant State's Attorney, and move this Honorable Court to deny the defendant's request for additional discovery in this matter.

Statement of Facts

1. On August 28, 2004, the defendant was found guilty of first-degree murder (in addition to other offenses).
2. On October 6, 2004, he was sentenced to eighty (80) years in the Illinois Department of Corrections.
3. In 2014, as a result of post-conviction DNA testing, ordered pursuant to 725 ILCS 5/116-3, it was determined that DNA found on an item used in the commission of this offense (a 2x4 board) matched the DNA profile of biological evidence from a separate rape and murder that occurred in Waukegan in 1992 (Staker case).
4. On June 2, 2015, an order was issued instructing all parties in possession of any evidence related to the aforementioned 1992 murder to preserve said evidence and to give Williford, through his counsel, 14 days' notice if any evidence were to be disposed of.
5. In an effort to connect the DNA profile identified on both the 2x4 used in the commission of this offense and the biological evidence found in the Staker case to an actual person, the State requested the assistance of an outside agency.

6. As a result of their work on this matter, this outside agency has produced four (4) reports.
7. Because the work done by the outside agency was related to the DNA found on the 2x4 used in the commission of this offense the State agreed to tender to the defendant the four (4) reports.
8. To date, the State has tendered to the defendant copies of all reports (4) received from the outside agency.
9. Because the investigation of the 1992 murder is ongoing, said reports were tendered pursuant to a Confidentiality Agreement (attached as Exhibit to Defendant's Motion to Compel), and a subsequent Addendum, entered into by the defendant, through his counsel, and the Lake County State's Attorney's Office.
10. In addition, consistent with the terms of said Agreement, on October 25, 2022, the State tendered to the defendant a summary, or an "investigative update," of the work done by the Waukegan Police Department related to their efforts to assist the outside agency.
11. The defendant/petitioner now seeks an order to compel the State to provide the defendant:
 - a. Any document, field note, report, transcription, photograph, witness interview, "lead" sheet, communication, or any other tangible document related to the ongoing investigation of either the murder of Holly Staker and/or the home invasion of Delwin Foxworth;
 - b. Any and all communications to or from any member of the State's Attorney's Office and any employee, agent, or affiliate of [the outside agency] between July 24, 2017 and the present;
 - c. Any and all reports, "lead" sheets, suspect inquiries, analysis of DNA, etc. to or from [the outside agency] or other [similar outside agency] conducted by the State in regards to any evidence derived from the murder of Holly Staker and/or the home invasion of Delwin Foxworth.
 - d. Any other relief this Court believes is appropriate, including but not limited to sanctions and costs for Williford having been required to file this motion, to present it to this Court, and to demand discovery from the State informally for more than seven months.

12. The defendant is also seeking leave to conduct limited discovery in this matter. Specifically, the defendant is asking this Court to grant him leave to subpoena additional information from [the outside agency] and to order the State to provide additional information regarding communications with the Northern Illinois Regional Crime Laboratory (NIRCL) and any other “Brady” material.

Argument

13. The defendant’s argument that he is entitled to additional discovery in this matter is based on the theory that the individual whose DNA has been found at both the Staker murder and the 2x4 used in this matter amounts to an “alternative suspect” in this matter.
14. That argument is flawed in multiple ways. (Some of which were previously addressed by this Court in its May 31, 2018 opinion and order denying the defendant’s post-conviction and 735 ILCS 5/2-1401 petitions)
15. Initially, it is important to note that the 2x4 in question was inside the victim’s residence prior to the incident that ultimately led to his death. There is no reason to believe that the only people whose DNA would be on that board would be that of the perpetrators of this offense.
16. Additionally, it is alleged that multiple people were involved in the commission of this offense.
17. As a result, identifying ~~of~~ the individual whose DNA is on the 2x4 does not automatically exclude the defendant from having been involved in this incident.
18. And finally, based on the evidence adduced at trial, the lone eyewitness could not say for certain whether or not the perpetrators were wearing gloves.
19. This calls into further question the relevance to Mr. Willford’s claim of innocence of the identity of the individual whose DNA has been found at both the Staker murder and on the 2x4.
20. Ultimately, it would be “too remote [and] speculative” to consider this individual an “alternative suspect” and therefore additional discovery should not be allowed. *People v. Beaman*, 229 Ill.2d 56, 75 (2008)

WHEREFORE, the People of the State of Illinois respectfully move this Honorable Court to deny the defendant's Motions to Compel Discovery and to Conduct Limited Discovery.

Respectfully submitted,
ERIC F. RINEHART
State's Attorney for Lake County



Kevin Malia
Assistant State's Attorney