

IN THE DISTRICT COURT OF PITTSBURG COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA,)
Plaintiff,)
vs.)
TYLER LEROY JANZ,)
Defendant.)

Case No.: CM-23-103
(DYM)

2023
MAR - 8 AM 11:03
OKLA

MOTION FOR "BRADY" LETTER

Comes now the defendant, Tyler Janz, by and through her attorney of record, Brecken A. Wagner of Wagner & Lynch, and for her Motion present the following:

FACTS

On February 21, 2023 t approximately 2:00 A.M., Deputy David Woody came to the home of Mr. Janz. The Department had received a call from Mr. Janz's significant other, Whitney Ronk, who had discontinued the call before its completion. Ms. Ronk informed Deputy Woody that Mr. Janz was in the back yard possibly under the influence of a narcotic. Deputy Woody asked Ms. Ronk if "she wanted him gone" and she hesitated and said that she was seven months pregnant and didn't need to be arguing with him.

Deputy Woody proceeded to the backyard. According to Deputy Woody's sworn affidavit he observed the following:

"I went around the house to the back yard and noticed a male with orange short sleeves shirt on sweating heavily, banging his head against the house wall and yelling while outside with in direct view of the neighborhood."

Deputy Woody would go on to explain in his sworn affidavit under the penalty of perjury, that Mr. Janz was very aggressive and was booked into the Pittsburg County Jail for Public Intoxication.

The video evidence obtained from the Deputy's body worn camera shows a very different story. In the video footage, as Deputy Woody enters the back yard to deafening silence. He shines his flashlight on Mr. Janz, who is sitting on the back porch neither making any noise or banging his head in way. Deputy Woody makes contact with Mr. Janz and tells him that he's not in trouble, Mr. Janz replies good, because he hasn't done anything.

Deputy Woody then walks back to his patrol unit and calls for backup. After doing this he returns to where Mr. Janz is continuing to quietly sit on his back porch not banging his head against anything. Deputy Woody lures Mr. Janz from his spot on the porch to his patrol vehicle where he puts cuffs on him, but insists he is not under arrest. Deputy Woody then goes to speak to Ms. Ronk and tells her that he is taking Mr. Janz to jail for Public Intoxication.

On February 22, 2023, the Pittsburg County District Attorney's office brings charges against Mr. Janz for Disturbing the Peace. One cannot be charged with public intoxication in their back yard, so one must assume the District Attorney chose a charge that was possible to prosecute from the Officer's sworn affidavit. Mr. Janz was charged on the narrative that he was "banging his head against the house wall and yelling."

ARGUMENT AND AUTHORITY

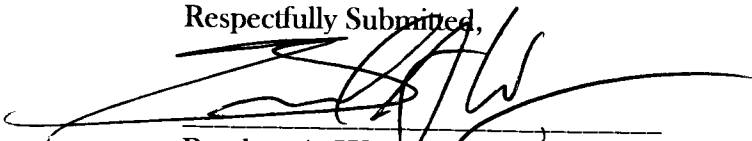
"As long ago as *Mooney v. Holhan*, 294 U.S. 103, 112 (1935), this Court made clear that deliberate deception of a court and jurors by the presentation of known false evidence is compatible with 'rudimentary demands of justice.'" *Giglio v. United States*, 405 U.S. 150, 153, 92 S. Ct. 763, 766 (1972) "The same result obtains when the State, although not soliciting false evidence, allows it to go uncorrected when it appears." *Id.*; Citing *Napue v. Illinois*, 360 U.S. 264 at 269 (1959). When the reliability of a given witness may well be determinative of guilt or innocence,' nondisclosure of evidence affecting credibility falls within this general rule." *Id.* Citing *Napue*, *supra* at 269. "This Court views police investigators, police officers, OSBI officials, independent and police

technicians or test analyzers as State actors when their testimony or reports are used by the prosecutor against a defendant in a criminal case.” *Sadler v. State*, 1993 OK CR 2, ¶ 15, 846 P.2d 377, 382 See *Moore v. State*, 740 P.2d 731, 736 (Okl.Cr. 1987); *Van White v. State* 752 P.2d 814, 819 (Okl.Cr.1988); *Durant v. State*, 717 P.2d 1161, 1164 (Okl.Cr.1986).

Deputy Woody has shown that he is willing to lie under oath by executing a probable cause affidavit which contains facts he knows to be false. In the instant case it was Deputy Woody’s untruthful statement that the District Attorney’s Office relied upon to bring a false allegation against Mr. Janz,. A witness that is will to lie under oath is an inherently unreliable witness. Mr. Janz and every other citizen should be free from having to be concerned that a government employee would be willing to falsify a statement which could result in their imprisonment, violation of civil rights, and loss of property in the form of money spent to defend the lie. This court should find that Deputy David Woody is not a reliable witness, and a letter created and kept by the government to inform any citizen in the future, should Deputy Woody be a witness against them.

WHEREFORE, the Defendant prays that this Honorable Court hold an evidentiary hearing and act in accordance with both federal and state law, and order parties to draft a Brady letter detailing the untrue statements of the officer and document Officer O’Dell’s lack of credibility as a witness, and any other relief that she may be entitled to as a matter of law.

Respectfully Submitted,



Brecken A. Wagner QBA#20122
Wagner & Lynch
109 E. Washington Ave
McAlester, OK 74501
(918) 421-8843 phone
(918) 421-8853 facsimile
Attorney for Defendant

CERTIFICATE OF MAILING

I, Brecken A. Wagner, do hereby certify that on the 8th day of March, 2023, I sent via facsimile, mailed, and or hand delivered a true and correct copy of the above and foregoing instrument to Pittsburg County District Attorney, 109 E. Carl Albert Parkway, McAlester, OK 74501.



Brecken A. Wagner