



FILED IN THE DISTRICT COURT
ROGERS COUNTY OKLAHOMA

IN THE DISTRICT COURT IN AND FOR ROGERS COUNTY
STATE OF OKLAHOMA

FEB 27 2023

THE STATE OF OKLAHOMA,)
)
Plaintiff,)
)
-vs-)
)
ROBERT KENT KRAFT,)
)
Defendant.)

CATHI EDWARDS, COURT CLERK
[Signature]
DEPUTY

Case No.: CF-2018-0465
JUDGE: STEPHEN R. PAZZO

SUPPLEMENTAL MOTION TO PRODUCE

Defendant moves that the State be required to disclose and, if a tangible item is involved, to produce for inspection and/or copying by the Defendant all material in the possession and control of the State which may be favorable to the Defendant or which may in any manner assist the Defendant in the investigation into the activities of Isaac Shields and George Gibbs, Jr. which may have resulted in structural error or critically violated his Constitutional Due Process Rights.

Disclosure and production of the material herein requested is to be made without regard to whether the material to be disclosed and produced is considered by the State to be admissible on behalf of the Defendant, and whether or not the State feels the material is exculpatory in nature.

This Supplemental Motion to Produce is the result of information disclosed to the Defendant and is not, in any way, frivolous in nature and may, depending on the evidence provided, or not provided, result in additional Motions to seek the evidence the Defendant is aware exists or should exist.

The information disclosed by Judge Stephen R. Pazzo to Defense Counsel was that during jury deliberations in this trial, Isaac Shields and George Gibbs, Jr. may have observed the jury.

This activity is a felony listed as Title 21. Crimes and Punishment; Part II. Crimes Against Public Justice; § 588. Grand or Petit Juries—Recording of or Listening to Proceedings—Penalty. The portion which applies to the conduct related to Defense Counsel is that the felony occurs when one “listens to or observes, or attempts to listen to or observe,

“
Defense Counsel is aware that evidence exists in the form of video recordings that indicate Isaac Shields observed the jury deliberating for hours from a secure room, normally occupied by Rogers County Sheriff’s Deputies, after a note was given to the Court that the Jury was “hung”. Defense Counsel is aware that evidence exists that George Gibbs, Jr. also observed the jury from the same secure room.

Defense Counsel is aware evidence exists demonstrating how Isaac Shields and George Gibbs, Jr. improperly gained entry into the secure area in order to observe the jury, thus committing a felony.

Defense Counsel is aware Isaac Shields and George Gibbs, Jr. were interviewed by their superior(s).

Defense Counsel is aware Rogers County District Attorney's Office began an internal criminal investigation into the activities of Isaac Shields and George Gibbs, Jr.

Defense Counsel is aware Rogers County District Attorney's Office soon recused itself from the criminal investigation.

Defense Counsel is aware Mr. Brian Hermanson, the District Attorney from Kay and Noble Counties, and current President of the Oklahoma Bar Association, is the current prosecutor in the matter regarding the felony investigation.

Defense Counsel is aware Lt. Brandon Lane of the Oklahoma Bureau of Investigation is the investigating officer of the felony investigation.

Defense Counsel currently has no evidence from any of these investigations and as a result requests disclosure and production of all evidence in the criminal investigation of Isaac Shields and George Gibbs, Jr. which may have introduced structural error in this matter and a violation of the Defendant's Constitutional Due Process Rights requiring a mistrial be declared.

Defendant requests that disclosure and production of said material include, but not limited to, the following:

1. All evidence, electronic or otherwise, including, but not limited to, text messages, phone calls, and/or e-mails as to how the observation of the jury, in violation of the felony, Title 21 O.S. §588, by Isaac Shields and George Gibbs, Jr. came to be known.

- (A) Who was the Deputy that originally revealed the felony violation?.
- (B) Who did the Deputy originally disclose the felony violation to?.
- (C) How did the Rogers County District Attorney and First Assistant come to know of the violation?.

2. Stenographic recordings or transcriptions of any oral statement made by *any* person, specifically Isaac Shields and George Gibbs, Jr., to an agent of the State, an investigator or police officer of the Claremore Police Department, a member of the Rogers County Sheriff's Office, or a member of any other governmental agency in connection with the subject matter of the violations occurring during this case, whether or not,

- (A) The stenographic recordings or transcriptions are a substantially verbatim recital of the statement, or
- (B) The statement was recorded contemporaneously with its making.

3. The transcript of any statement given to the District Attorney's Office during their investigation concerning the subject matter herein by any person, whether or not the State intends to call them at the time of the trial, and whether or not the statements were

recorded.

4. The evidence which exists as to how and when Isaac Shields and George Gibbs, Jr. gained access to the security room allowing them to observe, and perhaps listen to, to jury as they deliberated in the above-styled matter in violation of Title 21 O.S. §588.

5. Investigator Wayne Stinnett's case file on his investigation into the felony violation committed by Isaac Shields and George Gibbs, Jr. during the jury trial of Robert Kraft.

6. All communications between Isaac Shields and George Gibbs, Jr. with each other and any and all members of the Rogers County District Attorney's Office and the Rogers County Sheriff's Office during the deliberation of the Jury in Robert Kraft's trial including, but not limited to, text messages, emails, and conversations which should be reduced to writing.

7. Written or recorded statements or a summary of any such statements made by Isaac Shields and George Gibbs, Jr. in this case or copies of any statements, admissions, confessions, or declarations against interest verbatim or otherwise, which may have been made by Isaac Shields and George Gibbs, Jr. and the names of the person taking such statements.

8. The case file generated by OSBI Agent Lt. Brandon Lane from his investigation into the felonies of which have now been concluded.

9. Any and all other evidence now in the custody of the District Attorney's Office, the Claremore Police Department, the Rogers County Sheriff's Office, or any other agency of the State which may be exculpatory, material or otherwise favorable to the Defendant.

10. Statements made by Isaac Shields and George Gibbs, Jr. to the Rogers County District Attorney or the First Assistant regarding the prosecutors activities during the deliberation of the jury, including, but not limited to, any discrepancies between the statements of Isaac Shields and George Gibbs, Jr. and the actual evidence known to the Rogers County District Attorney or the First Assistant at the time of the interviews..

11. Any physical or tangible objects in the possession of the District Attorney's Office, the Claremore Police Department, the Rogers County Sheriff's Office, or any other governmental agency including, but not limited to, THE VIDEO RECORDING OF ISAAC SHIELDS AND GEORGE GIBBS, JR. OBSERVING THE JURY AS THEY WERE DELIBERATING in violation of the felony Title 21 O.S. § 588. The video recording of how Isaac Shields and George Gibbs, Jr. gained entry into this secure room.

12. Any and all evidence regarding an app that allows access to the cameras within the Rogers County Courthouse. Who has the app and how do they have access to such app.

13. Any and all records as to how the criminal investigation into Isaac Shields and George Gibbs, Jr. resulted in the appointment of Brian Hermanson, the District Attorney of Noble and Kay counties.

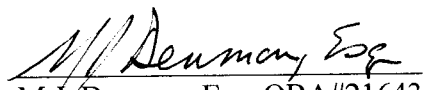
14. Any communications, electronic or otherwise, text, email, phone, or face to face, between any member of the Rogers County District Attorney's Office and any member of the Kay and Noble County District Attorney's Office regarding Isaac Shields and George Gibbs, Jr. as it relates to this matter.

15. Any information which must be turned over regarding Isaac Shields or George Gibbs, Jr. in compliance with *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963), *Giglio v. United States*, 405 U.S. 150, 92 S.Ct. 763, 31 L.Ed.2d 104 (1972).

16. Any information regarding suspensions/dismissals/reprimands of any witnesses in their professional responsibilities who have participated in any form or fashion in the above-styled matter.

The Defendant therefore respectfully requests this Honorable Court to require the State of Oklahoma to produce all material now known or which may become known, or which through the exercise of due diligence may be learned from the investigating officers or witnesses in the case, which is exculpatory in nature or favorable to the accused, or which may lead to exculpatory material or which tends to negate the guilt of the accused as to the offense charged or would tend to reduce the punishment therefor.

Defendant further moves this Court to conduct an *in camera* inspection of the District Attorney's file in order that a neutral and detached judicial officer may determine the existence or nonexistence of such material.


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CERTIFICATE OF DELIVERY

I hereby certify that on the 27th day of February, 2023,
a true and correct copy of the above and foregoing Motion to Produce was delivered to the
District Attorney in and for Rogers County, Oklahoma.

M.J. Denman, Esq.

M.J. Denman, Esq.
Attorney for Defendant