

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR PASCO COUNTY
CRC14-00216CFAES

STATE OF FLORIDA

V.

CURTIS J. REEVES

Paula S. O'Neill
Clerk & Comptroller
Pasco County, Florida

2016 MAY -2 PM 2: 09

FILED FOR RECORD
PASCO COUNTY, FLORIDA

**STATE'S APPENDIX IN SUPPORT OF ITS
MOTION TO ENFORCE THE COURT'S ORDER OF
SEPTEMBER 8TH, 2015 TO FORTHRIGHT FILE ALL DEFENSE DISCOVERY
DEPOSITION TRANSCRIPTS WITH THE PASCO COUNTY CLERK OF COURT**

**ISSUES LITIGATED BY THE DEFENDANT BEFORE THE TRIAL COURT AND THE
APPELLATE COURT FOR WHICH THE PRINCIPLE OF RES JUDICATA APPLIES:**

The below factual and legal issues were previously raised by the Defendant in his *Response to State's Motion To Compel The Filing of Original Deposition Transcripts and To Regulate Discovery (RSMC)*, the Defendant's *Petition For Writ of Certiorari (PWC)* and the Defendant's *Motion for Rehearing (MR)*

Factual Issues Raised

Filing of the depositions will create a public record of which the general public will have access prejudicing the Defendant's ability to select an impartial jury. The court's order compelling him to file criminal discovery deposition transcripts with the clerk of court threatens the Defendant's constitutional right to a fair trial. RSMC: pgs. 2, 15-18. PWC: pgs. 8-9, 16-23. MR: pg. 2.

The Defendant has hired a private attorney and his paying for all defense criminal discovery depositions. Therefore, the Administrative Order does not apply to him. RSMC: pgs. 1-2, 3-10. PWC: pg. 8.

The Administrative Order is obsolete because in 2004 county funds no longer paid for criminal deposition transcripts. PWC: pgs. 8, 10. MR: pg. 16.

The Chief Judge lacks authority to issue an Administrative Order that compels a defendant paying for his own transcripts to file the original with the clerk of court. RSMC: pgs. 2, 10-13. PWC: pg. 8

The filing of criminal discovery deposition transcripts would have a chilling effect on the defense attorney's obligation to zealously represent his client by creating a fear of asking certain questions not knowing the answer and what prejudice that answer might create for the client. PWC: pgs. 22-23. MR: pg. 8.

The filing of criminal discovery deposition transcripts infringes on the privacy rights of the Defendant and the witnesses. PWC: pgs. 22-24. MR: pgs. 12-13.

The filing of criminal discovery deposition transcripts results in the State having a financial advantage over the Defendant. PWC: pgs. 23-24.

If the original transcript of the criminal discovery deposition is filed with the clerk of court, the Office of the State Attorney has the opportunity to obtain a free copy from the clerk, thereby depriving the court report a fee for a copy. PWC: pgs. 6, 13.

The court is not authorized to compel the filing of deposition transcripts for the sole purpose of circumventing the prosecution's obligation to purchase their own copies. RSMC: pg. 2.

Legal Arguments Made

The Defendant has no adequate remedy at law (but to seek a Writ of Certiorari) PWC: pg. 25.

The trial court's order departs from the essential requirements of the law, in that:

The Administrative Order is null and void as it was preempted by the revision to the Florida Constitution and legislative mandate funding deposition transcripts with State funds. PWC: pgs. 26, 28-32.

The Administrative Order defacto created a new court rule, which the Chief Judge does not have the power to do. PWC: pgs. 27, 32-38.

The Administrative Order does not apply to the Defendant because he has retained private counsel. PWC: pgs. 27, 43.

The court's order directing compliance with the Administrative Order denies the Defendant the right to conduct discovery in private. MR: pg. 6.

The Chief Judges of the judicial circuits in this District will be allowed to create, as the Sixth Judicial has, a means for the public and the press to have access to the deposition transcripts from each and every criminal prosecution. MR: pg. 9.

The Administration Order dictates the procedure on how court-appointed counsel, public defender and State Attorney obtain deposition transcripts paid for by public funds. RSMC: pg. 2.

The Administrative Order overhauls a centuries old tradition of restricting access to pretrial discovery. MR: pg. 11.

The trial court failed to interpret the Administrative Order in a manner consistent with the canons of statutory construction. PWC: pgs. 38-48.

The Administrative Order does not describe or list applicable factors, criteria, or standards the Chief Judge will consider before granting exemption. PWC: pg. 25.

If the Administrative Order was applied to the Defendant it would impermissibly create a new court rule. RSMC: pgs. 13-15.

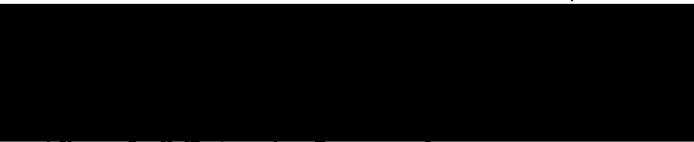
The provision in the Administrative Order that a party may request an exemption from the Chief Judge from filing the deposition is an inadequate remedy to avoid irreparable harm to the Defendant. PWC: pg. 25.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the *State's Appendix In Support Of Its Motion To Enforce The Court's Order Of September 8th, 2015 To Forthright File All Defense Discovery Deposition Transcripts With The Pasco County Clerk Of Court* was furnished to Richard Escobar, Esq., Escobar & Associates, P.A., 2917 West Kennedy Blvd., Ste 100, Tampa, FL 33609, Attorney for the Defendant by U.S. Mail / Hand / Facsimile this 29th day of April, 2016.

BERNIE McCABE, State Attorney
Sixth Judicial Circuit of Florida

By:



Glenn L. Martin, Jr.
Assistant State Attorney