

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. :

Second Degree Murder

CURTIS J. REEVES, :
Defendant :

**STATE MOTION TO COMEL THE FILING OF ORIGINAL
DEPOSITION TRANSCRIPTS AND TO REGULATE DISCOVERY**

COMES NOW, BERNIE McCABE, State Attorney for the Sixth Judicial Circuit, in and for Pasco County, Florida by and through the undersigned Assistant State Attorney, hereby requests this Honorable Court to enter an order directing defense counselor to file in the court file of the above-styled cause all original transcripts of the discovery depositions previously taken or that will be taken in the above-styled cause and as grounds therefor would state:

1. The Defendant in the above-styled cause is charged with Second Degree Murder. Discovery was requested by the Defendant's defense counsel and pursuant to Fla. R. Crim. P. 3.220(b)(1)(a) was initially supplied by the State in 2014 and periodically updated thereafter.

2. In compliance with the Defendant's request, the State choose to provide the Defendant with a witness list without category designation. After receiving the witness list, the Defendant proceeded to take the depositions of virtually all of the listed witnesses. Presently, over 100 witnesses have been deposed and approximately 20 more depositions are expected. Defense counsel hired Independent Reporting Service, 418 E. Madison St., Tampa, FL 33602 to provide court reporters to attend the depositions and to transcribe them.

3. As of August 3, 2015, none of these depositions have been filed in the court file of the above-styled cause. According to Administrative Order No. PA/PI-Cir-99-35 B. 1. "[t]he original transcript of a deposition or other proceeding in a criminal case shall be filed in the court file, unless upon an attorney's request the chief judge authorizes otherwise". See attached, Exhibit #1. Counsel for the Defendant has not sought an exception to this requirement from the chief judge. Undersigned counsel is aware as of July 29, 2015 approximately 37 depositions have been transcribed and provided to defense counsel. The State reasonably believes that the Defendant, through counsel will order the transcription of the great majority of the remaining discovery depositions

FILED IN OPEN COURT
THIS 7 DAY OF August, 2015
PAULA S. O'NEIL, CLERK & COMPTROLLER
PASCO COUNTY, FLORIDA

BY [REDACTED] D.C.

4. Counsel for the Defendant and his employees or independent contractors are subject to the jurisdiction of the court where the crime is being prosecuted, including the local rules of the circuit. The fact that other circuits in Florida do not have the same local rules is not grounds for counsel for the Defendant to ignore the local rules of the circuit or to encourage his employees or independent contractors to not follow the local rules of the circuit.

5. Counsel for the Defendant has informed undersigned counsel that he has no intention of complying with Administrative Order No. PA/PI-Cir-99-35. Counsel for the Defendant stated that he feels the requirements of said order are not fair to the court reporting service providing deposition transcripts to private defense counsel in a criminal case.

6. Even though defense counsel may feel the rule is unfair, there is no legal impediment to the filing of the original transcript of the defense discovery deposition in the court file and counsel for the Defendant has not attempted to assert one. Discovery deposition transcripts are not privileged attorney/client communications or are they attorney work product as contemplated by Fla. R. Crim. P. 3.220(g)(1) 2015.

WHEREFORE, the State respectfully requests this Honorable Court enforce the Chief Judge's lawfully promulgated 1999 Sixth Judicial Circuit Administrative Order that has regulated the transcription of depositions in Pasco County for the last 15 years by entering an order directing counsel for the Defendant to immediately file the original transcripts of the defense discovery depositions that are currently transcribed in the above-described court file at the Dade City, Pasco County, Clerk of Court and to order that all future original transcripts of defense discovery depositions be filed in the above-described court file at the Dade City, Pasco County, Clerk of Court within 5 days from the date the court reporter completes the transcription of the deposition; not from the date counsel for the Defendant requests or receives the original or copy of the deposition transcript.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the *State's Motion to Compel The Filing of Original Deposition Transcripts and To Regulate Discovery* 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 5th day of August, 2015.

BERNIE McCABE, State Attorney
Sixth Judicial Circuit of Florida

By: 

 Glenn L. Martin, Jr.
Assistant State Attorney

**IN THE CIRCUIT COURT, SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO AND PINELLAS COUNTIES, FLORIDA**

ADMINISTRATIVE ORDER NO. PA/PI-CIR-99-35

RE: TRANSCRIPTS - DEPOSITIONS/OTHER CRIMINAL PROCEEDINGS

Because the transcription of all depositions in criminal cases are not necessary in order for counsel for the defendant and counsel for the state to proceed through a criminal prosecution while also providing the defendant with all protection and rights guaranteed by the federal and state constitutions, Florida Rules of Criminal Procedure, and Florida Statutes; and

Because the original transcript of a trial proceeding designated for appeal is required to be forwarded to the appellate court and is not maintained by the trial court; and

In order to provide for the uniform treatment throughout the circuit of transcripts of depositions and other proceedings in criminal cases; and

In order to provide copies of depositions and other transcripts in criminal proceedings at a reasonable rate when the cost is paid with county funds; and

In order to provide a means whereby Fla. R. Crim. P. 3.220(d)(2) may be administered; it is hereby

ORDERED:

A. TRANSCRIPTION

1. No transcript of a deposition for which Pasco or Pinellas County may be obligated to expend funds shall be ordered by a party unless it is ordered by the Court on a showing that the deposed witness is material or on showing of good cause.

2. Motions to transcribe shall be filed in a timely manner and shall be heard by

the applicable Criminal Administrative Judge in Pinellas County or the Pasco Administrative Judge or his or her designee. A motion to transcribe stating good cause as grounds may be considered by the Court *ex parte* or *in camera*.

3. No court contract court reporter shall transcribe a deposition taken in a criminal case upon the request of a party absent a copy of a court order authorizing the transcription.

B. FILING OF TRANSCRIPTS

1. The original transcript of a deposition or other proceeding in a criminal case shall

Exhibit #1

be filed in the court file, unless upon an attorney's request the chief judge authorizes otherwise.

2. At the time of filing an original deposition or other transcript in a criminal proceeding filed in Pasco County, the court contract court reporters providing services in Pasco County shall provide a photocopy of the original transcript to the Office of the State Attorney, the Office of the Public Defender or the court appointed counsel for an indigent defendant.

3. At the time of filing an original deposition or other transcript in a criminal proceeding filed in Pinellas County, the Clerk of the Circuit Court for Pinellas County shall provide a photocopy of the original transcript to the Office of the State Attorney, the Office of the Public Defender or the court appointed counsel for an indigent defendant.

C. COSTS OF TRANSCRIPTION

1. When the costs are paid with county funds, the court contract court reporters providing services in Pasco County and the Clerk of the Circuit Court for Pinellas County may charge a fee to copy an original transcript; however, such fee shall not exceed \$.25 per page.

2. Transcription costs of court appointed counsel shall be assessed in accordance with the contracts between the Court and the Court Contract Court Reporters.

3. Fla. R. App. P. 9.140 requires that the original transcript designated for appeal be included in the record submitted by the Clerk of the lower tribunal. The Clerks of Court for

Pasco and Pinellas Counties may, at their own expense, maintain a copy of any such transcript.

Administrative Orders PA/PI-CIR-97-20 and 97-25 are hereby rescinded.

DONE AND ORDERED in Chambers at St. Petersburg, Pinellas County, Florida, this 29 day of April, 1999.

Susan F. Schaeffer, Chief Judge