

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO COUNTY, STATE OF FLORIDA
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA,
Plaintiff,

Case No: CRC-1400216CFAES

vs.

CURTIS J. REEVES,
Defendant.

Division: 1

MOTION TO PRESERVE PHYSICAL EVIDENCE

Defendant, CURTIS J. REEVES, by and through undersigned counsel, moves this Honorable Court to order the Office of the State Attorney, Pasco County and the Pasco County Sheriff's Office to preserve and protect from destruction and spoliation a cellular phone in the Sheriff's possession that was collected from the scene of the alleged offense which resulted in the arrest of Mr. Reeves. Said phone is believed to have belonged to the alleged victim in this case. In support of this motion defendant states that:

1. The defendant was arrested on January 13, 2014, charged with 2nd degree murder.
2. According to Pasco County Complaint Affidavit, agency report number 14-001529, Mr. Reeves, "...advised that the victim turned striking him in the face with an unknown object." *Complaint Affidavit, attached.*
3. That object may be the alleged victim's phone that was collected by police at the scene.
4. The defense moves that the phone be preserved so that future forensic testing may be accomplished. Said testing to include, but not be limited to: DNA, fingerprint and access to stored information on the phone.

FILED FOR RECORD
PASCO COUNTY, FLORIDA
2014 JAN 27 PM 3:27
Paula S. O'Neil
Clerk & Comptroller
Pasco County, Florida

MEMORANDUM IN SUPPORT

1. The right of the accused to examine tangible objects in the possession of the Government is guaranteed by Fla. R. Crim. P. 3.220, the Confrontation Clause of the Sixth Amendment of the U.S. Constitution and the Due Process Clause of the Fourteenth Amendment of the U.S. Constitution. See *Barnard v. Henderson*, 514F.2d 744 (5th Cir. 1975); *Johnson v. State*, 249 So. 2d 470 (Fla. 3d DCA 1971); *Ansley v. State*, 302 So. 2d 797 (Fla. 1st DCA 1974).
2. The right of the defendant to examine physical evidence creates a correlative duty on the part of the prosecution to preserve physical evidence in its actual or constructive possession. *Arizona v. Youngblood*, 488 U.S. 51, 109 S. Ct. 333, 102 L. Ed. 2d 281 (1988); *Louissaint v. State*, 576 So. 2d 316 (Fla. 5th DCA 1990); *Jones v. State*, 360 So. 2d 1293 (Fla. 3d DCA 1978). If evidence in this case is not preserved the accused will be precluded from exercising the fundamental right to examine that evidence.
3. This court has the authority to order preservation of potential evidence. *Vancas v. State*, 377 So. 2d 1000 (Fla. 4th DCA 1979).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by
Hand Delivery/Facsimile to the Office of the State Attorney, Dade City Florida, the Pasco
County Sheriff's Office this 27th day of January, 2014.



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