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STATE OF MICHIGAN

IN THE SUPREME COURT

PEOPLE OF THE STATE OF MICHIGAN No. 137830

Plaintiff-Appellee, COA No. 273407

V Emmet CC No. 06-2597-FC

JOEL NATHAN DUFRESNE

Defendant-Appellant.

James R. Linderman (P23088)

Emmet County Prosecutor

200 Division Street

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Attorney for Plaintiff-Appellee

Joel Nathan Dufresne, 257173

Ionia Maximum Correctional Facility

1576 West Bluewater Highway

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In Pro Per

MOTION FOR REHEARING

NOTICE OF HEARING: This pro per motion for rehearing will be heard on Tuesday, May 26th, 2009

NOW COMES Joel Nathan Dufresne, In Pro Per, and moves this Court for rehearing pursuant to MCR 7.313(D) for the following grounds:

1. Defendant-Appellant is in fact innocent, the convictions in this case constitute a miscarriage of justice, and the officer-in-charge gave testimony (Trial Transcript Volume 2, hereafter "T2" pp.117-121) of prosecutorial misconduct by Eric Kaiser (P30457) similar to other serious improprieties by Eric Kaiser (see Attachment A)
2. The convictions in this case rest entirely upon the trial court's determination that Defendant lacks credibility (Trial Court 5/22/2008 Opinion, p.8; COA Opinion, p.3) and the Court of Appeals finding that the sole exculpatory evidence in this case is Defendant's unsupported testimony (COA Opinion, pp. 2-3)
3. Following the 10/14/08 appellate affirmation of Defendant's convictions, Defendant has received, through a non-party, suppressed exculpatory police reports and other exculpatory documents which strongly support Defendant's credibility and verify the testimony of Defendant (see Attachment B)
4. On 3/25/09 Defendant filed a pro per motion to remand due to receiving some suppressed police reports, and on 4/14/09 Defendant received additional suppressed exculpatory documents which Defendant then attached to a pro per defense motion for preemptory reversal. The suppressed exculpatory documents made available through a non-party are not the whole of the exculpatory evidence withheld by the prosecution but the available suppressed exculpatory documents do constitute undeniable substantiation of prosecutorial misconduct directly affecting the Defendant's convictions (see Attachment B)
5. On 4/27/09 Supreme Court Clerk Corbin Davis received Defendant's pro per motion for preemptory reversal, noticed for hearing on 5/5/09.
6. On 4/28/09 the Michigan Supreme Court Clerk's Office ordered Defendant's pro per motion for preemptory reversal returned because it arrived too late to be considered.
7. On 4/28/09, on order of this Court, Defendant's pro per application for leave to appeal the 10/14/08 judgment of the Court of Appeals was considered and was DENIED because this Court was not persuaded that the questions presented should be reviewed by this Court, and Defendant's pro per motion to remand was DENIED without findings or explanation.
8. The prosecutorial misconduct in discovery violation in this case is well-documented (see Attachment B) and so highly material to the dispositive issue of Defendant's credibility (COA Opinion, p.3) that the refusal of this Court to either review the questions presented by Defendant or grant other relief in lieu of granting leave to appeal encourages State prosecutors (see Attachment A) to suppress exculpatory evidence until after appellate review and penalizes Defendant for being subjected to egregious prosecutorial misconduct. It is in the State's interests of maintaining a sound and reputable judicial system to address the undeniable miscarriage of justice in this case immediately; Mich. Const. 1963, Amends. 5,6, and 14.
9. Defendant-Appellant adopts herein by reference the attached brief in support of this motion for rehearing.

WHEREFORE, Defendant-Appellant prays that this Court rehear the pro per application for leave to appeal, grant such other relief as justice requires, or issue findings on why relief could not be appropriate.

Defendant-Appellant affirms and avows that the above facts and circumstances are true to the best of his knowledge, information, and belief.

Date JOEL NATHAN DUFRESNE

Defendant-Appellant In Pro Per

*Attachments(1) is part of Attachment A

Attachment A

Petoskey New-Review, 6/16/08, "Cheboygan assistant prosecutor named in \$75 million civil suit", by Noah Fowle, News-Review Staff Writer; and

15-count complaint in *Hatchett v. City of Sterling Heights et al*, pp.26-28

Cheboygan assistant prosecutor named in \$75 million civil suit

Posted: Monday, June 16, 2008, 12:00 am

By Noah Fowle News-Review Staff Writer

CHEBOYGAN - A civil suit filed downstate last month, named Cheboygan assistant prosecutor Eric Kaiser in a \$75 million civil suit. The case stems from the arrest and conviction of Nathaniel Hatchett for a 1996 Sterling Heights carjacking and criminal sexual assault.

After being found guilty, Hatchett served more than 11 years in prison. He was exonerated by DNA evidence that was ascertained through the Thomas Cooley Law School's Innocence Project earlier this year.

Kaiser, who was the Macomb County prosecutor at the time of the case, is named along with police detectives working the case in **the 15-count complaint**. According to the 48-page complaint, Hatchett was coerced into an inconsistent confession, and Kaiser willingly withheld key DNA evidence during the trial.

Kaiser declined to comment based on advice from his civil counsel, and said only that his side would come out during the forthcoming court proceedings.

Hatchett is being represented by Southfield attorney Chris Kokkinakos.

Noah Fowle439-9374 - nfowle@petoskeynews.com

Attachment (1) is part of A

Attachment B

List and summation of currently-producible suppressed exculpatory documents bolstering credibility of Defendant, unavailable to Defendant prior to 10/14/08:

1. Emmet County Sheriff's Department Incident Report 2001-7116-I; complainant Angela W.'s history of substance abuse, lack of reliability, and abnormally persistent deceitfulness.

2. Emmet County Sheriff's Department Incident Report 2002-520-I; complainant Angela W.'s history of substance abuse, false allegations, lack of reliability, and deceitfulness.

3. Emmet County Sheriff's Department Incident/Investigation Report 2003-6139, with related case documents including:

a. Emmet County Sheriff's Department Case Supplemental Report, Case No. 2003-6139, of Deputy Copeland;

b. Emmet County Sheriff's Department Case Supplemental Report, Case No. 2003-6139, of Deputy Erickson;

c. Emmet County Sheriff's Department Case Supplemental Report, Case No. 2003-6139, of Detective Johnston;

d. Mich. Dept. of State Police Original Incident Report 78-2462-03 (25). File Class 09001;

e. 9/8/03 Statement of CCE Central Dispatch Team Leader Kimberly Idalski; and

f. 9/8/03 Statement of Angela W., complainant in the instant case;

Which together demonstrate complainant's history of substance abuse, deceitfulness, mental illness affecting credibility, familiarity to the Emmet County Prosecutor, and appalling unreliability in the vital matter of a 9-1-1 call, noted by her family, concerning a family death.

4. Emmet County Sheriff's Department Incident/Investigation Report 2004-6056; complainant's history of false allegations against her ex-boyfriends.

5. Emmet County Sheriff's Department Incident/Investigation Report 2005-1792; complainant Angela W.'s lack of reliability and abnormally persistent deceitfulness.

6. Mich. Dept. of State Police Incident Report No. 78-519-06 (DS), Supp. Incident Report 3; written by Trooper Armstrong; complainant Angela W.'s history of false allegations, including rape, against her ex-boyfriends, mental illness affecting credibility, and irrational unprovoked violence; availability of other corroborating witnesses.

7. Munson Medical Center Laboratories Blood Alcohol Request of 6/25/05 for complainant Angela W.; demonstrating knowing use of perjury by the prosecution in complainant's testimony about intoxication and consequent credibility.

8. Petoskey Public Safety Incident/Investigation Report 2005-1146; complainant Angela W.'s history of mental illness affecting credibility, irrational unprovoked violence, lack of reliability, and substance abuse.

9. 2/16/06 Statement of Complainant Angela W. in the instant case; prior inconsistent statement

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10. 2/20/06 Statement of Complainant Angela W. in *W v. Dufresne*, Emmet CC No. 06-9199-PP; prior inconsistent statement, exceptionally material.

List and summation of material exculpatory documents bolstering credibility of Defendant that are known to exist but have been denied to Defendant under complainant's medical records privilege.

11. 32-page Summary of Complainant Angela W.'s Medical Records; prepared by Dr. Samuel Minor, complainant's physician; diagnosis of complainant includes Borderline Personality Disorder/Manic Depressive and substance abuse history.

12. 2/14/06 Rape Kit Results for Complainant Angela W.; best evidence of medical examination in this case; suppressed by prosecution does not appear anywhere in the settled record.