

IN THE JUSTICE COURT OF LAFAYETTE COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VS.

CAUSE NOS. 9290609 , 9290610,
9291197 , 9291198, 9291202

MATTHEW REARDON

MOTION TO ALTER OR AMEND JUDGEMENT UNDER M.R.C.P 59(E)
OR IN THE ALTERNATIVE TO VACATE JUDGEMENT ENTERED PURSUANT TO M.R.C.P
60(B)(1,2,4,6)

Comes now before the court Matthew Reardon, your Defendant, whom respectfully moves this court under the above-mentioned cause numbers to grant Defendant's MOTION TO ALTER OR AMEND JUDGEMENT or in the alternative TO VACATE THE JUDGEMENT ENTERED. On Multiple Occasions prior to trial commencing, Defendant made the State known of major deficiencies which were inconsistent with Due Process of Law, and in fact the violations amounted to a complete deprivation of Defendant's Due Process Rights Defendant offers the following justifying facts and reasons for this request to be GRANTED in support of his motion:

I. The Introduction and Use of Knowingly Perjurious Testimony in Order to Procure a Conviction

1. In the police reports of Dixon and Tidwell, both deputies made distinct reference to Defendant verbalizing "No" three separate times. However, Defendant never once said No as the deputies claimed in their statements, and as such Defendant has alleged that this dangerous discovery would raise much more than a suspicion that these two deputies conspired together to falsely justify their very physical arrest that never should have been made, and in doing so certainly demonstrates a conspiracy between two officers on behalf of the state acting under color of law to deprive a private citizen of his civil/constitutional rights which he was trying to protect when he commuted to the Lafayette County Sheriffs Office on 12/28/2020 in the first place.

2. Dixon and Tidwell both stated that Defendant was advised he was under arrest and told to place his hands behind his back. This was shown to be untrue when viewing the video surveillance and listening to the captured audio, yet remained uncorrected by the Prosecutor and the prosecutor even referenced both deputies perjurious statements when making final arguments. The audio recording proves that Dixon never audibly said that defendant was under arrest, nor did he ever ask Reardon to place his hands behind his back when initiating the aggressive takedown and subsequent arrest to follow. Dixon told Defendant to move and Defendant moved.

3. Sheriff Joey East testified to Defendant's arrival to the Sheriffs Department that day, stating that he pulled in and went to the back of his truck for a short time to see if Defendant would approach him. However, when the video evidence was slowed down and played, the evidence shows he never went to the back of his vehicle as stated and instead rushed inside the sheriffs department clearly intent on avoiding conversation about Defendant and his grievance which fell in the Sheriff's Jurisdiction.

4. A criminal conviction procured by the state prosecuting authorities solely by the use of perjured testimony known by them to be perjured and knowingly used by them in order to procure the conviction is without due process of law, and in violation of the Fourteenth Amendment. *Mooney Vs Holohan* P. [294 U. S. 112](#).

5. The due process clause of the Fourteenth Amendment governs any action of a State through its legislature, its courts, or its executive officers, including action through its prosecuting officers. P. [294 U. S. 112](#).

6. When a Conviction is obtained by the presentation of testimony known to the prosecuting authorities to have been perjured, Due Process has been violated. This clause cannot be deemed to be satisfied by mere notice, and hearing.
7. If the prosecutor knew or should have known that testimony given to the trial was perjured, the conviction must be set aside if there is any reasonable likelihood that the false testimony could have affected the judgment of the jury (427 U.S. v Agurs 103, 104)
8. If a state has contrived a conviction, through the pretense of a trial, which in truth is but used as a means of depriving a defendant of liberty through a deliberate, deception of the court and jury through the presentation of testimony known to be perjured, it is without due process of law and in violation of the Fourteenth Amendment.

II. Suppression of Evidence / Failure to Preserve Evidence Crucial to Trial

1. In *Brady v. Maryland*, the Court held that the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, *irrespective of the good faith or bad faith of the prosecution*
2. The heart of the holding in *Brady* is the prosecution's suppression of evidence, in the face of a defense production request, where the evidence is favorable to the accused and is material either to guilt or to punishment. Important, then, are:
 - a) Suppression by the prosecution after a request by the defense
 - b) The evidence's favorable character for the defense
 - c) The materiality of the evidence.

3. In *United States v. Agurs*, the Court summarized and expanded the prosecutor's obligation to disclose to the defense exculpatory evidence in his possession, even in the absence of a request, or upon a general request, by defendant
4. **If the defense specifically requested certain evidence and the prosecutor withheld it, *the conviction must be set aside*** if the suppressed evidence might have affected the outcome of the trial. (427 *Brady v. Maryland* 104, 106)
5. If the defense did not make a request at all, or simply asked for all *Brady* material or for anything exculpatory, a duty resides in the prosecution to reveal to the defense obviously exculpatory evidence. (427 US v. *Agurs* 106, 114)
6. If the prosecutor did not reveal the relevant information, **reversal of a conviction may be required** if the undisclosed evidence creates a reasonable doubt as to the defendant's guilt (427 US v *Agurs* 106, 114)
7. Evidence is considered to be material if there is a reasonable probability that, had the evidence been disclosed to the defense, the outcome of the proceeding would have been different (US v *Bagley*)
8. The standard applied in US Vs *Bagley* not only applies to exculpatory material, but also to material that would be relevant to the impeachment of witnesses
9. The Court has held that *Brady* suppression occurs when the government fails to turn over even evidence that is 'known only to police investigators and not to the prosecutor
10. The prosecutor has a duty to learn of any favorable evidence known to others acting on the

government's behalf in the case, including police. *Youngblood v. West Virginia*, 547 U.S. 867

III. Sufficiency of Witness Testimony and Evidence

1. The State has the necessary burden of proving beyond a reasonable doubt every fact necessary to constitute the crime charged.
2. The Defense unwaveringly feels that the State of Mississippi has ***failed*** in proving every fact necessary to constitute the crime of DUI charged through the combined testimony of Deputy Beavers and Deputy Williford. Not only do statements made by Beavers and Williford contradict themselves, but the prosecutor in this matter seemingly has condoned the actions of the Lafayette County Sheriff's Department in their failure to preserve and maintain key evidence that was requested by Defense for the purposes of trial. Defendant further states the following key facts:
 - a) Neither Deputy Beavers nor Deputy Williford had a dash camera in their patrol vehicle
 - b) Neither Deputy wore a body camera at that time
 - c) Deputy Williford testified to a headlight being out as the cause of the traffic stop, not swerving or any other sign of an intoxicated driver would generally show.
 - d) Defendant verbally expressed his right and desire to speak with an attorney when Deputy Beavers insisted on transporting Defendant away from the site of the traffic stop to the Lafayette County Detention Center for the purpose of conducting a field sobriety test.
 - e) Lafayette County Sheriff's Department retained zero video evidence of the standard field sobriety test being administered in the Sallyport of Lafayette County Sheriffs

Department

- f) Sheriff Joey East confirmed at trial that the camera(s) footage in the sallyport was not preserved despite timely requests by the Defendant.
- g) Defendant stated in advance that he did not consent to transport from the site of the traffic stop to the Lafayette County Detention Center for the purposes of a field sobriety test being administered. Defendant asked to speak to an attorney as he thought this was an extremely odd request and Defendant wanted to perform the test out in the open in the presence of his spouse in order to have video evidence and an eye witness to the test being administered.
- h) Despite all places Defendant could have been administered a standard field sobriety test (SFST) in view of a camera/video, Deputy Beavers insisted upon the Sallyport of the Lafayette County Sheriffs Department, a supposed “secure” environment. However despite multiple requests for the video cameras in the sallyport which would have captured the SFST being administered, Defendant was advised on the week leading up to trial commencing that the Lafayette County Sheriff never retained the video from the Sallyport. Why would Beavers or East not ensure that video evidence of the SFST was retained, and particularly given all other transpired events?
- i) Defendant’s vehicle was never truly searched by Deputy Williford which Defendant’s spouse was an eye witness to. Even more bizarre was that the Defendant was never searched until being booked in for the alleged charge of DUI at the Lafayette County Detention Center. Both deputies alleged that the source of odor of burnt marijuana came from the vehicle and not the body of Defendant. However, both deputies

allowed Defendant's wife to drive his vehicle away after Defendant was placed in the back of Beaver's patrol car for transport to LCDC for a SFST to be administered. In the eyes of Defendant, this in particular demonstrates that the deputies either knew that know illegal substance was present, or simply didn't care and solely cared about getting Defendant onto their turf and further dismissing the presence of Defendant's spouse.

3. The Defense unwaveringly feels that the State of Mississippi has failed in proving every fact necessary to constitute the crime of Disorderly Conduct and Resisting Arrest, and that the record reflects some of the most obnoxious, skewed, perjurious testimony and statements which Defendant asserts is a conspiracy between two officers under color of law attempting to deprive a private citizen of his constitutional rights, through a rogue deviation of policy and procedure. To supplement this, Defendant attests to the following facts:
 - a) Defendant went to the Sheriff's Department that particular day to attempt to (ideally) enlist the assistance of the Lafayette County Sheriff after Defendant stated over and over that he had fallen victim to steady ongoing attacks of criminal conspiracy by his ex-girlfriend/mother of his first-born child.
 - b) Defendant audio recorded the encounter with Deputy Dixon whom told Reardon he needed to move his car. Defendant would note that at this point it was after normal business hours, and that the sign in front of the spot he parked in stated "Reserved For Sheriffs Dept". It didn't state reserved for Sheriffs Deputies Only, It didn't state authorized vehicles only. Not to mention there has been no mention of any county or state ordinance which delegates the authority to limit parking in such a way, and

Defendant was at the Sheriffs Department on official business to speak to the Sheriff whom ignored Defendant's emails seeking assistance with his grievances

- c) That pursuant to Article 3 Section 5 of the Mississippi Constitution, Government Originates in the People. Further, Section 6 allows for the regulation of Government, and Section 11 gives right to Peaceful Assemblage; Right to Petition the Government. Defendant hasn't waived since the beginning that his sole goal was to get help from the Sheriff whom wouldn't respond to his grievance via email. Therefore he (the people whom Government originates) attempted to regulate a government entity in attempting to get the Sheriff to enforce the laws evenly and equally, providing equal protections under the laws of the state after he already had identified ongoing situations in which he was victim to crimes that were directed to him. This is not unlawful and it most certainly did not warrant and justify the takedown/assault by Courtney Dixon and Ethan Tidwell simply for him stating that he wanted to speak to Sheriff Joey East and stating that he wasn't being disorderly while turning his shoulders attempting to just move his car to another spot which is shown on the video and audio evidence.

- d) Deputy Dixon also stated in his sworn affidavit to justify the additional stacked charge of Resisting Arrest that Defendant "Resisted by violence and running away from his lawful arrest by Courtney Dixon, a state law enforcement officer in Lafayette County". This simply was not the case and the video evidence goes to further proving that Dixon once again provided perjured testimony, as the story at trial became that Defendant tensed up when tackled to the ground. However, defendant states that tensing up when

being tackled especially in such situation would be a pretty common occurrence unintended to be resisting in nature.

- e) Dixon and Tidwell both stated that Defendant was advised he was under arrest and told to place his hands behind his back. This again was untrue and further builds the intended conspiracy committed by these deputies as the audio recording proves that Dixon never audibly said that defendant was under arrest, nor did he ever ask Reardon to place his hands behind his back when initiating the aggressive takedown and subsequent arrest to follow.

- f) Sheriff Joey East testified to Defendant's arrival to the Sheriffs Department that day, stating that he pulled in and went to the back of his truck to see if Defendant would approach him. However when the video evidence was slowed down and played, the evidence shows he never went to the back of his vehicle as stated and instead rushed inside the sheriffs department clearly intent on avoiding conversation about Defendant and his grievance which fell in the Sheriff's Jurisdiction.

- g) It is at this point that Defendant alleges the Sheriff sent Dixon out to "do his bidding" and get the Defendant to leave, through one way or another. Tidwell meets Dixon whom is exiting the side exit of the Sheriffs Department to provide backup. The Lafayette County Sheriff then gives unbelievably sloppy and unprofessional testimony to the fact that he heard what sounded like a girl being attacked and screaming outside to which he then exited the Sheriff's Department and proceeded out to the scene of the arrest.

IV. Defendant was DENIED the right to a Trial by Jury of his peers

1) Defendant hereby raises the constitutionality of such ruling and seeks review of such by Federal Question to be filed in the US District Court for the Northern District of Mississippi

2) Miss Code Ann 99-33-9 specifies the state's right to a Jury Trial. It specifies that if potential incarceration is more than 6 months the Defendant is entitled that right. On the contrary, if the potential incarceration is less than 6 months the defendant is not entitled to a Jury Trial.

There are two matters in particular which are not addressed and those issues include:

a) An alleged crime which sees potential incarceration of 6 months even.

- The state statute specifically defines more than 6 months as a guaranteed right to a trial by jury and less than 6 months potential incarceration as there being no right to trial by jury... What about 6 months even?

b) Multiple alleged crimes/charges in which the potential concurrent stacking of potential incarceration far exceeds that of a total of 6-month's time.

- If potential sentence can be consecutively executed, would this not amount to egregious violation of the sixth amendment of the Federal Constitution along with Article 3 section 31 of the State of Mississippi Constitution detailed out in its Bill of Rights?

3) Defendant stood trial for 9 separate criminal complaints brought by Lafayette County Sheriffs Department and Liz Crowder which Defendant has stated since day one were brought improperly with ill intention, in retaliation on Defendant for his seeking vindication

and justice for a matter in 2017, and in an effort to knowingly interfere with ongoing legal matters that presently sit before the MS Supreme Court and Court of Appeals.

V. **Defendant alleges that the verdict lacked sufficient evidence and was derived from knowingly perjurious testimony being introduced at trial by the Lafayette County Prosecutor, and that Defendant feels that the verdict reached influenced by mob-domination by the Lafayette County Sheriffs Department whom filled one side of the courtroom.**

VI. **Deprivation of Due Process Rights and violations of 14th Amendment (Equal Protections under the laws) without Corrective Process afforded;**

1. That requirement in safeguarding the liberty of the citizen against deprivation through the action of the state embodies the fundamental conceptions of justice, which lies at the base of our civil and political institutions (Mooney v. Holohan, 294 U.S. 103, 112 (1935))
2. In the action of prosecuting officers on behalf of the state, those that set laws and enforce laws may constitute state action within the purview of the 14th amendment, that amendment governs any action of a state, whether through its legislature, through its courts, or through its executive or administrative officers.
3. The principal in enunciated has required state officials to controvert allegations that knowingly false testimony had been used to convict and has upset convictions found to have been so procured, extending the principle.

(Carter vs Texas, Rogers vs Alabama, Chicago, Burlington, & Quincy vs Chicago)

4. In each instance, time after time over the past 30 years, the Supreme Court has held that the 14th Amendment cannot tolerate a state criminal conviction obtained by the knowing use of

false evidence (Mooney vs Holohan) It has further elaborated in subsequent rulings that there has been no deviation from that established principle and there can be no retreat from that principle here. (Navoo vs Illinois, Ohio vs Kansas, Alcorda vs Texas)

5. If the defense specifically requested certain evidence, and the prosecutor withheld it, the conviction must be set aside *if the suppressed evidence might have affected the outcome of the trial.* (Brady v Maryland)
6. If the defense did not make a request at all, or simply asked for all Brady material, or for anything exculpatory, a duty resides in the prosecution to reveal to the defense obvious exculpatory evidence. Furthermore, If the prosecutor did not reveal the relevant information, reversal of a conviction may be required if the undisclosed evidence creates a reasonable doubt as to the defendant's Guilt. (*US vs Augers*)
7. A state is not free, to have no corrective process in which defendants may pursue remedies for federal constitutional violations. In *Frank v. Mangum*, the Court asserted that a conviction obtained in a mob-dominated trial was contrary to due process: if the State, supplying no corrective process, carries into execution a judgment of death or imprisonment based upon a verdict thus produced by mob domination, the State deprives the accused of his life or liberty without due process of law.
8. The Supreme Court has stated numerous times that the absence of some form of corrective process when the convicted defendant alleges a federal constitutional violation contravenes the Fourteenth Amendment, and the Court has held that to burden this process, such as by limiting the right to petition for habeas corpus, is to deny the convicted defendant his constitutional rights.

VII. Jurisdictional Challenge

1. In light of the alleged deficiencies and errors which Defendant feels are manifest in nature and thus require the resulting conviction to be set aside pursuant to the many well established cases cited, Defendant would raise a jurisdictional challenge due to the stated federal constitutional rights violations and it would be Defendant's position and intention to move for removal of these matters to the proper Federal Forum (US District Court) should Defendant's motion go unanswered or denied

WHEREFORE ALL PREMISES CONSIDERED

Defendant would respectfully request that all findings of guilt be set aside and rendered void due to the aforementioned significant issues and grievances primarily regarding insufficient evidence/lack of evidence, violations of Defendant's Due Process Rights, and the introduction of knowingly perjured testimony without any corrective process by the Prosecutor. Defendant prays that the matters within be dismissed with prejudice due to fraud committed on the court. In the alternative, Defendant would seek a new trial by jury of his peers in order to assess all evidence and determine guilt. If denied of the relief sought, Defendant asserts his intent to seek remedy through removal to the US District Court of Northern Mississippi due to Federal Questions arising, for the purposes of properly litigating the Constitutional issues at hand, which raises a proper jurisdictional challenge, In order for these matters to tried before a jury panel. In the interest of Judicial Economy and apparent confusion with both Justice and Circuit court on where Defendant need to file this motion, please take Judicial Notice of this Motion to serve as Defendant's Notice of Intent to Appeal the Judgement/Order in order to preserve Defendant's absolute right to appeal.

Respectfully Submitted this 6th Day of December 2021

Matthew Reardon

Matt Reardon
Defendant
117 CR 401 Oxford, MS 38655
matt@mattreardon.com
662-550-9752