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Plaintiff's Motion to Compel Production of Documents and Physical Evidence

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IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

2000 Jun 21 PM 4:50

ALAN J. DAVIS, Special Administrator)
of the Estate of SAMUEL H.)
SHEPPARD)

CASE NO. 312322

JUDGE RONALD SUSTER

Plaintiff)

-vs-)

STATE OF OHIO)

Defendant)

PLAINTIFF'S MOTION TO
COMPEL PRODUCTION
OF DOCUMENTS AND
PHYSICAL EVIDENCE

Now comes Plaintiff, by and through undersigned counsel, and moves this Court for an Order compelling the production of records in the possession of the City of Cleveland regarding issues material to this case.

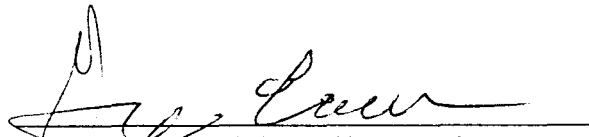
Shortly after the crime for which Plaintiff's decedent is seeking a declaration of wrongful imprisonment, Cleveland Police Department officers were requested to investigate and process the crime scene. Some reports and documents resulting from this investigation are now in the possession of the County Coroner's Office, this file is incomplete. On November 9, 1999, Plaintiff served a subpoena (attached as Exhibit A) upon the Chief of Police for the City of Cleveland in order to obtain any records or physical evidence in the possession of the City. This subpoena has not been meaningfully responded to.

On January 7, 2000, Plaintiff served a second subpoena upon the City, by and through one of its Police detectives, Gary Garisek, to obtain records and evidence relating

to the 1962 murder of Myrtle Fray. Plaintiff has reason to believe that Richard Eberling committed the Fray murder, and seeks discovery in order to test the validity of this belief.

Therefore, Plaintiff now requests an order compelling production of all documents and physical evidence in the possession of the City of Cleveland relating to the murders of Marilyn Sheppard in 1954, and Myrtle Fray in 1962.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Terry H. Gilbert", is written over a horizontal line.

TERRY H. GILBERT (0021948)

GEORGE H. CARR (0069372)

Friedman & Gilbert

1700 Standard Building

1370 Ontario Street

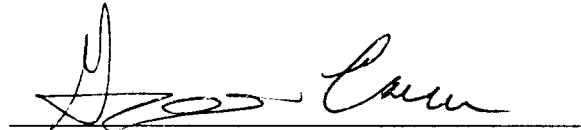
Cleveland, OH 44113

(216) 241-1430

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

A copy of the foregoing Plaintiff's Motion to Compel Production of Documents and Physical Evidence has been hand-delivered, this 20th day of January 2000, to William Mason, Esq., Cuyahoga County Prosecutor, Justice Center, 9th Floor, 1200 Ontario Street, Cleveland, Ohio 44113.

Handwritten signatures of Terry H. Gilbert and George H. Carr, written in black ink over a horizontal line.

TERRY H. GILBERT
GEORGE H. CARR
Attorneys for Plaintiff



IN THE COURT OF COMMON PLEAS

SUBPOENA CIVIL RULE 45

THE STATE OF OHIO

SS.

Cuyahoga County

Alan Davis, et al.

Plaintiff S

No. 312322

State of Ohio

vs.

Judge Ronald Suster

Defendant

To Martin L. Flask, Chief of Police
Cleveland Police Department
1300 Ontario Street
Cleveland, OH 44113

**CONTACT ATTORNEY GILBERT AT
(216) 241-1430 OR ATTORNEY CARR
AT (440) 777-1500 UPON RECEIPT
OF THIS SUBPOENA**

☐ YOU ARE COMMANDED to appear in the Court of Common Pleas to testify as witness on behalf of the (PLAINTIFF/DEFENDANT) in the above entitled case and not depart the Court without leave. Fail not under penalty of the law. Your appearance is required on the _____ of _____ 19 _____ at _____ o'clock _____ .M. in Courtroom No. _____ of the:

☐ Justice Center-Courts Tower
1200 Ontario Street
Cleveland, Ohio 44113

☐ Cuyahoga County Courthouse
One Lakeside Avenue
Cleveland, Ohio 44113

YOU ARE COMMANDED to appear at the place, date and time specified below to testify at the taking of deposition in the above case. Law offices of Friedman & Gilbert, 1700 Standard Building, 1370 Ontario Street, Cleveland, OH 44113

11-22-99 10:00 a.m.

PLACE OF DEPOSITION

DATE

TIME

☒ YOU ARE COMMANDED to produce and permit inspection, copying, testing or sampling of the following documents or objects at the place, date, and time specified below (list documents or objects): ANY AND ALL EVIDENCE, NOTES, AND REPORTS RELATING TO THE 1954 MURDER OF MARILYN SHEPPARD.

RECORDS MAY BE MAILED IN LIEU OF LIVE TESTIMONY

Same

Same

Same

PLACE

DATE

TIME

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE

TIME

To insure taxation of their fees, witnesses must report each attendance to the Clerk of Court of Common Pleas on the first floor of the Justice Center-Courts Tower.

Section 2335.08 of the Ohio Revised Code provides that witnesses are entitled to receive \$12.00 for each full day's attendance and \$8.00 for each half day's attendance, plus ten cents per mile traveled to and from his place of residence outside of the City of Cleveland proper. Such fees are taxed as costs and mailed to the witness upon payment of the costs.

Terry Gilbert, Esq.

Friedman & Gilbert, 1700 Standard Building,

ATTORNEY NAME

ADDRESS 1370 Ontario Street, Cleveland, OH 44113

Plaintiff

11-9-99

SIGNATURE

REPRESENTING

DATE

by Gerald E. Fuerst GERALD E. FUERST, Clerk of Courts
Deputy Clerk