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SUPREME COURT
OF THE
STATE OF CONNECTICUT

S.C. 20802

STATE of CONNECTICUT
v.
WILLIE McFARLAND

BRIEF OF THE DEFENDANT-APPELLANT WITH ATTACHED APPENDIX

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II. WHETHER THE TRIAL COURT ABUSED ITS DISCRETION BY REFUSING TO ORDER A SECOND IN-HOSPITAL COMPETENCY EVALUATION WHERE THE DEFENDANT REFUSED TO MEET WITH DEFENSE COUNSEL FOR TWO YEARS AND REFUSED TO COOPERATE WITH THE TRIAL COURT'S CANVASES OR TO EVEN BE PRESENT IN THE COURTROOM DURING THIS CASE?

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III. WHETHER THE TRIAL COURT ABUSED ITS DISCRETION BY EXCLUDING STATEMENTS UNDER THE RESIDUAL HEARSAY RULE MADE BY A DECEASED WITNESS WHO TOLD POLICE THAT SHE SAW TWO OTHER MEN KILL THE VICTIMS AND PROVIDED DETAILS OF THAT WHICH WERE NOT PUBLICALLY KNOWN?

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5. INTRODUCTION

Willie McFarland was arrested in 2019 for two murders committed in 1987. In the intervening thirty-two years, witnesses who had told police about a third-party culprit died. A neighbor who told police that she saw one of the victims alive after McFarland's arrest on unrelated charges could no longer recall that distant day. McFarland himself had developed a serious mental illness and a delusion that this prosecution was retaliation for a civil suit that did not, in fact, exist.

First, the trial court applied a balancing test to McFarland's due process challenge to the lengthy prearrest delay under our state constitution. It found that the defendant was not prejudiced by the deceased witnesses and that the State was justified in waiting until a single DNA test was able to provide weak evidence supporting McFarland's conviction.

Second, despite McFarland's attorneys utter inability to discuss the case with McFarland and McFarland's unwillingness to answer the court's questions or even be present in the courtroom, the court denied defense counsel's requests for an in-hospital evaluation about whether he had the ability to assist in his defense or whether his long-held delusions precluded him from doing so. The entire trial was held in McFarland's absence – he remained in lockup listening to the proceedings by audio.

Finally, the court also precluded the defense from offering the statements of a witness who identified two friends of the younger victim as the culprits under the residual hearsay rule. In this rare and exceptional case, doing so violated the defendant's due process rights, right to present a defense, and the spirit of the residual hearsay rule.

McFarland's conviction for two counts of murder and his 120

year sentence is unjust and unconstitutional.

6. NATURE OF PROCEEDINGS

McFarland was arrested and charged with two counts of murder in the August 21, 1987, deaths of Fred and Gregory (Greg) Harris. See 10/25/22T36-37 At his arraignment he said, "I ain't never commit no murder." 12/2/19T10 He told his psychiatric evaluators that the evidence against him was fabricated. 5/6/21T18

The trial court ordered a competency evaluation. 12/11/19T8-9 McFarland was found not competent and sent to Whiting. 1/21/20T13 After treatment, McFarland was found competent to stand trial. 8/6/20T5-7

When McFarland said he wanted to represent himself, the court ordered an additional in-hospital competency examination. 9/4/21T4 McFarland was found not competent to represent himself. 5/26/21T19-20; see 10/25/22T8-98; 5/26/21MEx1, 2 His assigned counsel would represent him. 9/4/20T4; 5/26/21T20

Counsel questioned McFarland's competency on the eve of voir dire – McFarland had not spoken with his attorneys for nearly two years. After a hearing, the trial court (Vitale, J) found McFarland competent to stand trial. 10/25/22T10-30 Motions to reconsider McFarland's competence were denied. 10/25/22T31-34; 10/31/22T1-3; 11/10/22T79-80; 11/18/22T16

Probable cause was found after a hearing. 10/6/21T McFarland's motions to dismiss for prearrest delay was denied. 11/14/22T1-9; CA62

Jury selection began on October 25, 2022. (Vitale, J) 10/25/22T35 McFarland did not want to be present; the court found that he had waived his right to be present. 10/25/22T1-7; 10/26/22T2;

10/28/22T2; 10/31/22T1; 11/1/22T1 An audio system allowed McFarland to hear the courtroom. 11/8/22T1-2; 11/10/22T1-2

The State began to present its evidence on November 14th. McFarland was not present. 11/14/22T1; 11/15/22T1-2; 11/16/22T1; 11/17/22T187-88

McFarland's Motion for Judgment of Acquittal was denied. 11/17/22T189-193

He was convicted of both counts of Murder (11/22/22T6-7) and was sentenced to a total effective sentence of 120 years. 1/31/23T20

This appeal followed.

7. STATEMENT OF FACTS

The Initial Investigation

On August 27, 1987, police went to an apartment for a welfare check and found the bodies of Fred and Greg Harris. 11/14/22T34-35, 44-45, 77 There was a strong odor of decomposition – the bodies had been there for a while.[1] 11/14/22T43 The room around them was "a mess" and looked like it had been ransacked. 11/14/22T46; 11/15/22T112

The living room had sticks of butter on the floor and a wallet that included a badge. 11/14/22T66, 68; 11/15/22T111 There was a pizza box with three slices of pizza on a table. 11/14/22T64-65, 97 A silvery square baking pan in the bedroom near the bodies contained melted butter. 11/14/22T79; 11/15/22T111 A "boom box" had a

[1]At least 24 hours, and more likely several days, had passed between their deaths and their discovery. 11/15/22T31, 35, 60

damaged speaker. 11/15/22T112 Police found a left-handed yellow glove near the bodies. 11/14/22T58-59, 77-78; 100, 103, 130-32 They also found a black-handled knife in the bathroom sink. 11/14/22T66, 71-72, 126; Ex:45

Both victims had fatal throat lacerations. 11/15/22T32, 45, 47, 58, 60-61 Greg also had a non-fatal stab wound to his chest, and his wrists had been bound with gold cord or wire.[2] 11/15/22T32 He was naked from the waist down. 11/15/22T113-14; Ex11,15, 16

Fred had two stab wounds to his chest and a cut on his chin. 11/15/22T47-48 His hand and legs had been bound with black cord or wire, in part coiled like a telephone cord. 11/14/22T77, 83; 11/15/22T49-50 He was wearing blue pants with a black check pattern, unfastened to show his underwear. Ex11,15, 16

Neither the police nor the medical examiner noted any signs of sexual assault. 11/14/22T102-03; 11/15/22T44, 57, 61-62

On August 30th (three days after the bodies were discovered), a neighbor told police that his wife saw Fred and Greg Harris on Sunday, August 23rd. ExB (ID) A few days later, Louise Salvati, another neighbor, told police she saw Greg at around 11 a.m. on Saturday, August 22nd. (ExA)

On September 4, 1987, police interviewed McFarland, who was in custody on other charges.[3] 11/14/22T141; T67:2 In that interview,

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[2]A cut lamp cord in the living room and a speaker wire from a bedroom speaker seemed to match the "electrical wire or cord" ligatures. 11/14/22T68, 76-77, 83, 95, 133, 194; 11/15/22T50, 54-55, 77, 83, 108, 111, 113; Ex46

[3]McFarland had been released from custody on unrelated charges on August 20, 1987. He was arrested for first-degree sexual

police showed McFarland pictures of the victims – McFarland denied knowing them or having anything to do with their deaths. T67:1-2 11/14/22T150

Police told him their names, ages, and that they had been killed. T67:3-4 Police asked him if he worked at a car wash in Hamden. T67:9 McFarland said he had worked there in January, but did not recall working with Greg. T67:9; 11/15/22T100-01 When McFarland asked why they were questioning him, they explained that he had a lot of blood on him when he was arrested. T67:4-5, 10-11 He said it was all his. T67:5, 15, 17

McFarland said he didn't kill anyone – he had never assaulted anyone, he just stole cars. T67:15-16

Copeland Becomes a Suspect

Police interviewed Lee Copeland two days after the bodies were found. CA:64 Copeland told police that he, Bruce Hankins, and Veronica Saars Doyle were all friends with Greg.[4] ExD(ID) Copeland said that Hankins was the only person he knew that could commit a crime like the murders. ExD(ID)

Police called Copeland's girlfriend (Doyle). ExD(ID). Doyle thought Copeland and Hankins were capable of the crime. ExD(ID)

Doyle provided a motive – Copeland needed money to get his car out of an impound yard. ExI(ID); see ExG(ID) Copeland and Hankins

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assault involving a woman he knew and other charges, early on the morning of August 22nd. 11/14/22T151, 153; 11/15/22T101-02; T67:2, 4. He would later plead guilty to those charges. See 11/16/22T103

[4]There is no evidence suggesting any acquaintance between McFarland and Copeland, Hankins, and Doyle.

knew that the Harris family had recently sold a condominium; Greg would not lend Copeland money from that sale. ExF(ID) Doyle said it was normal for Copeland to coerce Greg into giving him money, either by physical threats or by physical assaults. ExF (ID); ExG(ID) Hankins confirmed that he and Copeland knew about the condominium sale and that Copeland wanted a piece of the money. ExL(ID)

In February, 1988, Doyle said she had left Connecticut on a Friday (from context August 21st) after Copeland said he was going to Greg's house to borrow some money, and that if Greg wouldn't lend him the money, he'd knock Greg over the head. ExG(ID) Copeland said she didn't know who killed the victims. ExG(ID)

In July, 1990, Doyle said in a statement to police that on August 21st, she, Copeland and Hankins met Greg and gave him a ride home; Copeland wanted to borrow money from Greg. ExC (ID); ExI(ID) Copeland and Greg went into the apartment – Copeland put on a pair of yellow gloves, of the same type that were found at the scene. ExC (ID) After thirty minutes, Copeland returned to the car without the gloves. ExC (ID) Copeland told her that he "bound and gagged [Greg], tied him up and slit his throat." ExC (ID); ExI(ID) Copeland also told her that Hankins and another man beat up Greg's father. ExC (ID); ExI(ID)

Copeland also told her that the victims were killed with a black-handled knife; that Copeland and Hankins had stabbed the father a lot; that Copeland had oral and maybe anal sex with both victims; and that Copeland and Hankins tortured both victims by melting hot butter on the stove, dripping it on them, and forcing them to drink it. ExC (ID); ExI(ID)

Doyle said that Copeland and Hankins had tied up the victims with telephone cord and wire from the apartment; that they were

looking for money in the apartment; and that Copeland, Hankins, and the other man stabbed Fred so Greg would tell them where the money was. ExC (ID); ExI(ID)

Doyle later told police that she was in the apartment and saw Copeland stab Fred with a knife and saw Hankins stab both victims; she was afraid of Copeland. ExK (ID); ExM (ID)

McFarland Speaks with Police in 1996-97 – eleven years after the murders

On March 20, 1996, McFarland contacted the police from Northern Correctional Institution. 11/16/22T56 McFarland said he was serving a 21 year sentence, was ill, and thought he was going to die in prison. 11/16/22T61 He said he wanted to confess to the murders and asked for money to buy a radio and asked if he could be moved to another prison. 11/16/22T62-64 In a recording, police said McFarland would get $300 for his statement, and another $300 if he testified. T73:87-88; see *id*:69

Over the course of several phone calls and visits, McFarland told a series of stories about the murders. 11/16/22T56-114; 11/172/22T25-28; T73

McFarland said he was hired to kill Greg because Greg owed someone, perhaps the Latin Kings, money. T73:3-4, 34-35, 41, 45, 85, 96-97 In his early statements, McFarland was one of several culprits. T73:10-19, 38-40, 66-67, 81,85 By the fourth version, he was alone. T73:95

Police asked him about something taken from the refrigerator. T73:5, 20, 65-66 McFarland explained that he melted some butter in a black frying pan because he was hungry. T73:52; see T73:5, 20-21, 50-52, 101-102 (The melted butter was in a silvery square baking pan in

the bedroom. 11/14/22T79) McFarland never mentioned the three slices of pizza on the table. 11/14/22T64-65, 97 When police continued to ask about the butter, McFarland eventually claimed he used the butter to have anal sex with Greg. T73:6 (Neither the police nor the medical examiner noted any butter on Greg's body. McFarland's two sexual assault convictions had involved women he knew, not a male near-stranger.)

Some of what McFarland said was consistent with the evidence. He knew their ages, T73:10, but police told him their ages earlier. T67:3-4. He correctly described the position of the bodies, but incorrectly said that Fred had been stabbed only once. T73:41, 44-45, 54, 99, 103

In one statement, he said both victims' hands and feet were tied, T73:7; in another he said that only Greg's hands were bound, T73:43; in a third he wasn't sure if he tied up Greg's feet. T73:99 He said the victims had been bound with telephone cord. T73:43 (Two different kinds of electrical wire or cord were used – gold cord used to bind Greg and black cord used to bind Fred.)

McFarland correctly described both men as wearing white t-shirts, but was only partially correct when he described Fred as wearing blue jeans with the zipper and button left undone. T73:8, 46, 100 (Fred was wearing light blue pants with a black check pattern.) He wrongly said that Greg was wearing grey sweatpants pants. T73:8, 47 (Greg was naked from the waist down.)

McFarland wrongly described the victims lying on a green or blue green rug. T73:44, 99 (The rug was red and black.) McFarland correctly described a damaged boom box, and Fred's wallet and a badge. T73:48-49, 101, 106-109 McFarland was unsure, or denied that he was wearing gloves. T73:62-63; Ex91 He said a dark brown steak

knife was used to kill the victims and was rinsed in the sink. Ex73:39-40, 47-48, 101 But twice he wrongly claimed he took the knife with him or threw it outside, before saying he left it in the bathroom. Ex73:54-55, 102, 109 McFarland also wrongly claimed there was a bottle of Dial liquid soap in the bathroom. T73:106-107, 109 (It does not appear in the crime scene pictures.)

Police did not arrest McFarland as a result of these statements. 11/17/22T28 There is no evidence the police asked him to provide a DNA sample at that time.

DNA Collected in 2006 – 19 years after the murders

On December 21, 2006, police collected a DNA sample from McFarland. 11/15/22T68-70; Ex72

At that time, McFarland was housed in Garner Correctional Institution for mental health treatment. See 11/15/22T69 When police took the sample, McFarland was uncooperative and said he believed it was being taken as retaliation for a lawsuit. See Ex72

"Records describe Mr. McFarland as guarded, paranoid, and tangental. He had become isolated in his cell; he was agitated and refused to answer questions or interact with staff. He reportedly indicated that he was distrustful of staff and that he believed those in DOC were conspiring against him." (8/6/20MExB)

DNA first tested in 2009 – 3 years after collection and 21 years after the murders

In 2009, McFarland's DNA was compared to items from the crime scene. McFarland was eliminated as a contributor to any of the items, including the left glove. 10/6/21T100; 11/8/22T73, 79; 11/15/22T100, 108-09; 11/8/22MExA; Ex92

McFarland's Psychiatric Treatment – 2011 to 2019

McFarland was released from custody and living in a supervised residential program from 2011 to 2019. 7/16/20T20-21; 1/31/23T3 He began outpatient treatment with Connecticut Mental Health Center (CMCH) in December, 2011. In 2012, he was diagnosed with, inter alia "Schizophrenia, Paranoid-Type". *Id*. Records from 2017 and 2018 noted increasing paranoia., *Id*. In June, 2019, he was diagnosed with schizophrenia following admission to Yale-New Haven Hospital. *Id*.

A Positive DNA Result in 2019 – 32 years after the murders

In 2019, the State Laboratory re-tested various items. 10/6/21T102; 11/8/22T85 At that point, the DNA was "clearly degraded". 11/8/22T121; see 11/10/21T31

As Dr. Bourke explained, DNA testing has been continuously improving in its sensitivity – how little DNA is needed to generate a profile – and its discriminating power – how well one can differentiate samples in a mixture. 10/6/21T78, 105 The DNA testing kit used in 2019 was six to eight times more sensitive than the one used in 2009. 10/6/21T102-03, 126

McFarland was linked to a sample taken from inside a left-handed glove found at the scene. 10/6/21TT108; 11/15/22T107; 11/8/22MExBB; Ex98 The laboratory found a four-person mixture of DNA from which McFarland could not be eliminated. 11/1722T149, 153-55, 166-69

It was a tiny sample – 15 cells-worth of DNA. 11/17/22T167 McFarland could not be ruled out as the contributor of those 15 cells – it was at least 1.5 million times more likely that he was the contributor than an unknown individual. 10/6/21T108, 138, 11/17/22T153, 157-58 See CA43

Three subsequent tests of the interior of the glove could not confirm this result – McFarland was excluded in three of the four tests made in 2019-2020. See 11/8/22T115-16, 117-18; 11/8/22MExDD, EE; Ex96, 97

Greg was one of the other contributors to the mixture; the results were inconclusive as to Fred. 11/17/22T156 Copeland was excluded from this mixture. See CA53 The fourth contributor is unknown.11/17/22T172

McFarland was arrested in November 17, 2019, after this result was received. 12/2/19T17; 11/17/22T28

Pre-Trial Refusal to Talk to Defense Counsel

From the beginning, McFarland refused to meet with or even speak to counsel. See 11/12/19T1; 12/11/19T5; see 9/4/20T2 At the start of the case, he spoke briefly with a public defender in lockup, and said he didn't want them to represent him. 1/21/20T5 He met once with his assigned counsel in September, 2020, then refused to meet counsel at every other attempt to do so at his facility. 5/6/21T20; 10/6/21T4-5; 1/13/22T3; 9/8/22T2, 7-8; 10/19/22T3

McFarland did not respond to legal mail and started refusing it – many letters returned unopened. 10/6/21T5; 9/8/22T9; 10/19/22T3 McFarland would not meet with a defense investigator. 1/13/22T3 Generally, McFarland pretended that counsel was not there when counsel approached him in lockup. 10/6/21T71; 9/8/22T12; 10/25/22T6; 10/28/22T1; 10/31/22T2; 1/31/23T8

McFarland repeatedly told various courts that he was done with the courtroom or was done talking, and wanted to go back to lockup. 12/2/19T6, 9-10, 12, 14; 1/21/20T2-4; 9/4/20T3; 5/6/21T2-6; 10/6/21T2-4; 1/13/22T1-3; 9/8/22T2-5; 10/20/22T2-5; 10/25.22T2-6

He refused to talk to the bail commissioner. 111219T1. He refused to talk to psychiatric evaluators about his case. 12/2/19T7; 7/16/20T16, 18, 29; 10/19/22T2; 10/20/22T41, 48 He would not sign a waiver to allow a psychiatric evaluator to look at his records. 10/20/22T41 He refused to talk with the writer of the pre-sentence report about it or to look at the report. 1/31/23T1, 3

A Trial without the Defendant

As will be further discussed below, the trial court concluded that McFarland had waived his right to be present for his trial. 10/25/22T6-7 McFarland could hear the proceedings from lockup. 10/25/22T10; 11/14/22T1; 11/15/22T1; 11/16/22T1; 11/17/22T187-88; 11/18/22T15-16; 11/22/22T1

The venire and later the jury were told to disregard his absence. 10/25/22T9; 11/14/22T10

Every day, defense counsel asked McFarland if he wanted to come to the courtroom. Every day, he declined. See 11/14/22T1, 105; 11/15/22T1, 85; 11/16/22T1; 11/17/22T1, 125; 11/18/22T11-13, 15; 11/21/22T1; 11/22/22T1 He also declined to participate in sentencing. 1/31/23T2

The Trial Evidence

The prosecution's case was based on McFarland's 1996-97 confessions and the 2019 DNA test result.

Without McFarland's participation or assistance in his defense, his attorneys had little to work with. Defense efforts to introduce Doyle's statements and other evidence that Copeland had committed the murders were thwarted by her death and by the trial court's rulings excluding their statements under the residual hearsay

exception.

The defense argued that if the DNA found in that single 2019 test was McFarland's, it could have come from innocent access to the glove. McFarland was once Greg's co-worker. Or it could be a misleading result due to degradation during the glove's twelve years in storage prior to being first tested in 2009. The defense argued that McFarland's confessions were unreliable – a concoction of guesses and inferences intended to get McFarland a transfer out of Northern when McFarland assumed he would soon die.

8. ARGUMENT

8A. Prosecuting McFarland for Two Murders 32 Years Later Violated his State and Federal Due Process Protection Against Lengthy Prearrest Delay.

McFarland was arrested thirty-two years after Greg and Fred Harris were murdered. Police did not arrest him in 1996-97, after he confessed to the murders. They did not ask for or seize his DNA while he was incarcerated and cooperating with them. They did not try to test the evidence they had to see if he, Copeland, or Hankins, killed the victims.

Police did not arrest McFarland in 2009, when DNA tests excluded him from all of the seized evidence and he was still incarcerated. Again, they did not test the evidence to see if Copeland or Hankins had left DNA at the scene.

Police arrested McFarland in 2019, while he was in a supervised residential program, after DNA technology had improved to the point where, in only one of four tests, the State Laboratory found 15 cells in

a four-person mixture on a glove found at the scene which were 1.5 million times more likely to come from McFarland than from a random stranger. It was consistent with McFarland, but did not rule out the possibility that the DNA belonged to someone else. At this point, police finally obtained and tested Copeland's DNA. Hankins had died; his DNA was no longer available.

In the meantime, Doyle, who had identified Copeland as the killer, had died. She had signed two statements. The trial court excluded these reports and statements from evidence under the residual hearsay exception.

Other witnesses could no longer be found or their memories had faded. A neighbor, Salvati, testified that she had told police that she saw Greg alive hours after McFarland had been arrested on unrelated charges, but she was no longer certain of that memory.

McFarland himself had changed. There is no indication that his competency was questioned or that he had difficulties working with defense counsel in unrelated cases in 1987 to 1993. In 1996-97, he was able to talk to police about the incident and discussed whether he should consult an attorney. T73:69-71, 77 The first evidence of his delusions about a civil suit, a retaliatory prosecution, and a general unwillingness to cooperate with authorities is in 2006, when he was incarcerated at Garner and resisted giving a DNA sample.

As discussed, infra 8B, not once did McFarland have a rational discussion about this case with any defense attorney, judge, or even the psychiatric evaluators. He was unable to assist in his defense – handicapping his attorneys' efforts to explain to the jury why he would falsely confess to the murders when he thought he was dying and wanted a transfer out of Northern.

This case is unique in Connecticut. There is no other case with

such a long delay between crime and arrest – the gap in the next-closest case, *State v. Skakel*, 276 Conn. 633 (2006), was twenty-four years.

The trial court denied McFarland's motion to dismiss under the federal constitution. It found that his state constitutional rights were broader than his federal constitutional rights, but still not violated in this case.

The state constitutional issue is one of first impression.[5]

8A1. Facts and Standard of Review.

McFarland moved to dismiss this case for unreasonable pre-arrest delay – infringing on his state and federal due process rights. CA42 McFarland's defense was prejudiced by his inability to offer third-party culprit evidence that Copeland killed the victims. 10/6/21T214-15; see CA48

Virtually all of the other witnesses police spoke to during the initial investigation had died, were difficult to locate, or no longer recalled facts related to the crime. CA49 This left the defense in a difficult position to rebut a single DNA test showing similarities between McFarland's DNA and the material left inside the glove. 11/10/22T9

McFarland argued that any delay following the defendant's statements in 1996-97 was unjustified. CA49 The State waited until

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[5]A similar issue was raised in *State v. Pugh*, 190 Conn. App. 794, 805 n.3, cert. denied 333 Conn. 914 (2019), but did not include a full *Geisler* analysis.

2006[6] to collect McFarland's DNA, another three years to test it, and another ten years before additional testing yielded a single result from which McFarland could not be excluded. CA50

The State responded that the long delay in this case was justified because it wanted to corroborate McFarland's 1996-97 confessions. CA57

The trial court (Vitale, J) held that McFarland's federal constitutional rights were not violated because he had not shown bad faith or improper prosecutorial motives for the delay. CA62 n.1 , 68

The court concluded that the Connecticut constitution affords defendants greater protection against prearrest delay than the United States Constitution. CA70 It employed a balancing test – the defendant must first show that he has been prejudiced by the prearrest delay at issue. CA75 The Court then considers the state's justification for the delay. CA77. Here, the trial court concluded that McFarland was not substantially prejudiced because it found Doyle unreliable and that the State was justified in delaying prosecution to obtain DNA evidence in light of the conflicting nature of both McFarland's claims of responsibility and Doyle and Hankins' statements about Copeland's guilt. CA77-78 The motion was denied. CA78

McFarland later noted in his Motion for Judgment of Acquittal that the delays, loss of witnesses who said that they saw the victims alive after McFarland's arrest on other charges or said that Copeland and Hankins committed the crime, and the trial court's rulings limiting the defense's ability to tell the jury about these reports were

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[6] DNA testing was mentioned for the first time in *State v. Johnson*, 26 Conn. App. 433 (1992), suggesting it was available in the early 1990s.

all harms related to his motion to dismiss. 11/17/22T189-90 The motion for judgment of acquittal was denied. 11/17/22T192

The defendant preserved this issue through his motion to dismiss and renewal of his claims in his motion for judgment of acquittal. This Court's review of a trial court's legal conclusions and ultimate denial of a motion to dismiss is de novo. *State v. Crosby*, 182 Conn. App. 373, 383 cert. denied. 330 Conn. 911 (2018). The factual findings underlying the court's decision will not be disturbed unless clearly erroneous. *Id*.

To the extent that this Court disagrees that the issue was preserved, or the defendant makes additional arguments for dismissal on appeal, he relies upon the familiar four prongs of of *State v. Golding*, 213 Conn. 233 (1989) as modified by *In re Yasiel R.*, 317 Conn. 773 (2015). The record is adequate for appellate review. McFarland's federal and state constitutional rights to due process were violated because the State delayed arresting and prosecuting him for three decades during which key witnesses died; other witnesses became unavailable; the defendant's mental health deteriorated to the point where he could not aid in his own defense; and the physical evidence degraded in storage.

This is a claim of constitutional magnitude, alleging the violation of fundamental rights. As set forth below, the violation clearly exists and clearly deprived McFarland of his due process rights. Prosecuting McFarland for two murders under these circumstances is not harmless beyond a reasonable doubt.

8A2. McFarland's Federal Due Process Rights Were Violated by the Thirty-Two Year Delay in this Prosecution.

Statutes of limitations are the primary guarantee against bringing overly stale criminal charges. *United States v. Marion*, 404 U.S. 307, 322 (1971). They protect individuals from having to defend themselves against charges when the basic facts may have become obscured by the passage of time; minimize the danger of official punishment because of acts in the far-distant past; and encourage law enforcement to promptly investigate suspected criminal activity. *State v. Police*, 343 Conn. 274, 292 (2022)

Connecticut does not have a statue of limitations barring untimely prosecutions for murder. General Statutes § 54-193(a)(1)(A). Until this case, the longest delay between a murder and a defendant's prosecution was 24 years. See *Skakel*:633 This case pushes that boundary by another 8 years.

The United States Supreme Court first addressed due process rights and pre-indictment delays in *Marion*:324 (3 year delay), holding that

> the Due Process Clause of the Fifth Amendment would require dismissal of the indictment if it were shown at trial that the pre-indictment delay in this case caused substantial prejudice to appellees' rights to a fair trial and that the delay was an intentional device to gain tactical advantage over the accused.

(footnote omitted). *Marion* concluded that the Sixth Amendment guarantee of a speedy trial did not apply prior to arrest and the start of formal proceedings. *Marion*:313-15. In most cases, statutes of limitations can act as the appropriate safeguard against stale claims. See *Marion*:323

Six years later, the Court returned to this issue in *United States v. Lovasco*, 431 U.S. 783 (1977) (18 month delay). The Court noted that

"*Marion* makes clear that proof of prejudice is generally a necessary but not sufficient element of a due process claim". *Lovasco*:790. "[T]he due process inquiry must consider the reason for the delay as well as the prejudice to the accused." *Id*. A court must determine whether the delay in a given case offends "those fundamental conceptions of justice which lie at the base of our civil and political institutions". *Id*.

Lovasco distinguished between delay for investigative purposes and delay intended to gain prosecutorial advantage "precisely because investigative delay is not so one-sided." *Lovasco*:795 Although two important witnesses had died during the 18 month delay, the Court concluded that "to prosecute a defendant following investigative delay does not deprive him of due process, even if his defense might have been somewhat prejudiced by the lapse of time." *Id*:796

This Court has held that a defendant must show both that actual prejudice resulted from the delayed prosecution and that the reasons for the delay were wholly unjustifiable in order to show a violation of their federal due process rights. See *State v. Roger B*, 297 Conn. 607, 614 (2010) (4½ year delay); *State v. Morrill*, 197 Conn. 507 (1985) (13 months). Neither this Court, nor the United States Supreme Court have faced this issue in the context of a three-decade delay.

McFarland did not argue that the prearrest delay was due to bad faith or impermissible prosecutorial motives. CA:68 Thus, the trial court concluded he could not prevail under the federal constitution.

The trial court was bound by this Court's decisions in *Roger B* and *Morrill* which require the defense to show bad faith or bad motives in order to prevail under the federal constitution. McFarland asks this Court to reconsider its interpretation of *Marion* and *Lovasco*, and to adopt a balancing test under the federal constitution.

Marion:324 held that "the Due Process Clause of the Fifth Amendment would require dismissal of the indictment if it were shown at trial that the pre-indictment delay in this case caused substantial prejudice to appellees' rights to a fair trial and that the delay was an intentional device to gain tactical advantage over the accused."

These were not exclusive requirements, the lower courts were left to "determine when and in what circumstances actual prejudice resulting from pre-accusation delays requires the dismissal of the prosecution." *Id*. The Court reasoned that "[t]o accommodate the sound administration of justice to the rights of the defendant to a fair trial will necessarily involve a delicate judgment based on the circumstances of each case," and warned that "[i]t would be unwise at this juncture to attempt to forecast our decision in such cases." *Id*:325.

Lovasco:790 requires a court to consider the reason for the delay as well as the prejudice to the accused. It did not say that improper motive is always necessary to show a due process violation, only that it was sufficient. *Lovasco*:796 also left it to the lower courts to flesh out other "circumstances in which preaccusation delay would require dismissing prosecutions" under the Due Process Clause.

In light of this language, The Fourth and Ninth circuits, and fifteen states have rejected a rigid improper-motive test. The Fourth Circuit does so because "[t]aking this position to its logical conclusion would mean that no matter how egregious the prejudice to a defendant, and no matter how long the preindictment delay, if a defendant cannot prove improper prosecutorial motive, then no due process violation has occurred." *Howell v. Barker*, 904 F.2d 889, 895 (4th Cir. 1990). "This conclusion . . . would violate fundamental conceptions of justice, as well as the community's sense of fair play. Moreover, this conclusion does not contemplate the difficulty

defendants either have encountered or will encounter in attempting to prove improper prosecutorial motive." *Id.* See *United States v. Moran*, 759 F.2d 777, 782 (9th Cir. 1985). See also *State v. Oppelt*, 257 P.3d 653, 660 (Wash. 2011) (rejecting improper-motives requirement as unduly "formalistic and rigid"); *State v. Gray*, 917 S.W.2d 668 (Tenn. 1996) (40 year delay) (improper-motives test would force "unconstitutional, unwarranted, and unfair" result).

The trial court applied a balancing test under the Connecticut Constitution. CA:68-78 McFarland asks this Court to reconsider its interpretation of *Marion* and *Lovasco* as a matter of federal constitutional law and apply a balancing test under the federal constitution as well as under the state constitution.

Under a properly applied balancing test the Motion to Dismiss should have been granted. McFarland's federal constitutional rights were violated by not doing so.

8A3. McFarland's State Due Process Rights Were Also Violated by the Thirty-Two Year Prearrest Delay.

The trial court found that McFarland's state constitutional rights were broader than his federal rights and applied a balancing test under the state constitution. CA:68-78 If this Court disagrees with the use of a balancing test under the federal constitution, then McFarland asks it to adopt a balancing test under the Connecticut Constitution. This is an issue of first impression.

The trial court considered the state constitutional claim under *State v. Geisler*, 222 Conn. 672, 684-86 (1992) CA:70-74 It noted the split between the Fourth and Ninth Circuits and the other circuits about the requirement that the prosecution delay be intentional or a

matter of bad faith. CA:71 It also noted this Court's broad interpretation of article first, § 8 in cases like *State v. Marsala*, 216 Conn. 150, 151 (1990); *State v. Morales*, 232 Conn. 707, 717 (1995); and *State v. Santiago*, 318 Conn. 1, 16-17 (2015). CA:72-73

The trial court observed that most state appellate courts have required a showing of bad faith in the context of pre-arrest delays. CA:73; see DuBosar, *Pre-Accusation Delay: An Issue Ripe for Adjudication by the United States Supreme Court*, 40 FLA. ST. U. L. REV. 659, 672-76 (2013). Fifteen states reject a strict test and employ a balancing test if actual prejudice is found. DuBosar,:676-681; see CA:73 n. 16. The law in six states is unclear. DuBostar:681-85.

The court also noted that our Court has frequently rejected a litmus test that has only once factor and instead required a balancing test when ruling on due process and fundamental fairness. CA:73 citing *Morales*:720

The court also discussed *State v. Hodge*, 153 Conn. 564, 568 (1966) (3 weeks) which preceded *Marion* and *Lovasco*. *Hodge* considered a prearrest delay claim under article first, § 9 (the speedy trial clause) and concluded that a court must consider "all the circumstances, including the length of delay, the reason for the delay, prejudice to the defendant, and a timely presentation of the claim to the trial court." Although *Hodge* considered this issue under the speedy trial clause, rather than the due process clause, its analysis should guide the Court in this case.

The trial court did not discuss *Geisler*'s sixth prong – "contemporary understandings of applicable economic and sociological norms, or as otherwise described, relevant public policies".

Marion was decided in 1971; *Lovasco* in 1977. Forensic science was in its infancy. DNA testing would not exist for another 20 years.

The Court could not anticipate that one might bring a murder case thirty years after the fact based on biological evidence (15 cells) too small to see.

Memories fade over time, but courts have often held that this disadvantages the prosecution and defense alike. However, the prosecution holds some advantage because the memory of its witnesses can be "refreshed by notes or other records." *United States v. Jones*, 524 F.2d 834, 844 n.21 (D.C. Cir. 1975), while the defendant and their witnesses might have no reason to record or note their activities at a specific time months or years in the past.

Even with written notes, witness may be unable to recall the events underlying their statements, as Salvati was in this case, limiting the persuasive power of their testimony. Over time, the officers who take statements, are unlikely to recall more than what is in their reports[7], again making it difficult for either side to probe the accuracy of recorded memories or to satisfy multi-level hearsay issues.

The *Marion* court recognized that the passage of time can deprive the defense of witness who die or become unable to be located. *Marion*:321 *Marion* and *Lovasco* involved relatively short delays – 4 ½ years and 18 months respectively. The longer the delay, the greater risk of losing defense witnesses. With a three-decade delay the loss of witnesses is inevitable.

The United States Supreme Court was not faced with the interaction between lengthy pre-arrest delays and hearsay rules

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[7]For example, Sgt Komorski, retired, talked about interviewing McFarland in 1987. 11/14/22T139 The prosecution had to refresh his memory about details of the interview. 11/14/22T151 He did not recall interviewing Salavati or other neighbors. 11/14/22T155-61

strictly limiting the defendant's ability to use statements made by witnesses who died in the interim. Not only is the defendant dependent on the original police investigation, he must depend on the investigators so thoroughly questioning witnesses and documenting their statements that the results are deemed reliable under the residual hearsay exception.

Here, Doyle's death deprived McFarland of a person who told police that she saw Copeland kill the victims. As discussed herein at 8C, both McFarland and Doyle's statements were consistent with the crime scene in some ways, and inconsistent in others. Doyle's death deprived the State of the potential of cross-examining her about her memories of a night thirty-years in the past, but it also deprived McFarland of the potential of a live witness emotionally describing Copeland and Hankins killing the victims.

To the extent that a defendant makes statements against his interest, the lack of a complete recording, such as one now required by General Statutes § 54-1o, forces the defense to rely on police recollections of what was said when the tape recorder was not running. Here, some of McFarland's 1996-97 interviews were only partly recorded. Had police recorded the entirety of their meetings, the jury would have been more able to tell whether the details McFarland provided came from his memories, or from police inadvertently leaking of information to him as they questioned him.

Evidence can be lost or destroyed; the risk grows as the time expands. Here Hankins, Copeland's alleged accomplice, had died. His DNA was not obtained before he died and could not be compared to the crime scene evidence.

As Dr. Bourke explained, the ability of DNA testing to find evidence in ever smaller samples, and to tease apart complex mixtures

improved over the past thirty years and continues to improve. This is entirely to the prosecution's advantage in a delayed prosecution case – McFarland would not have been arrested had a single 2019 DNA test not concluded that he could not be eliminated from contributing to a mixture in the glove.

The State determines what evidence to collect, to store (and how to store it), and to test. DNA evidence appears objective and difficult to challenge. Here the prosecutor presented the jury with results derived from 15 cells and a 1 in 1.5 million chance that someone other than the defendant touched a glove found next to the bodies. The defendant's memory of whether he had innocently borrowed and worn that glove when he and Greg worked together at the car wash would have long since faded. Memories of any other witness that could have corroborated an innocent use of that glove would be faded, even if such witness could be located three decades later.

Contemporary understandings of the ability of forensics to bring decades-old cold cases to trial is a change which also supports adopting a balancing test under *Geisler*.

Under a balancing test, McFarland showed that he had been prejudiced by the delay. Doyle was dead. Hankins was dead; his DNA could not be tested against the crime scene evidence. The neighbors, Bradley and Salvati, could no longer remember having seen the victims alive hours after McFarland had been arrested. They could not provide vivid, certain testimony that could have exculpated McFarland.

The trial court did not think much of Doyle and Hankins; it

excluded their statements from evidence. CA:76[8] However, Doyle's statements contained details about the ligatures; wounds; and the butter found in the bedroom that police never made public or deliberately shared with McFarland (or presumably Doyle). See 11/16/22T78-79 (certain details kept from press/witnesses) If the presence of those details bolstered the reliability of McFarland's credibility, CA:64-65, then they must do the same for Doyle's.

In sum, McFarland was prejudiced by Doyle's death and the neighbors' loss of memory.

The court also did not address the prejudicial effects of the delay on McFarland himself. When he gave his statements to the police, McFarland coherently discussed the crimes. Had police arrested him at that time, there is no indication that he would not have been able to work with defense counsel and to make the vital decisions reserved to the defendant himself such as considering a plea offer or taking the stand.

By the time police came to take a buccal swab in 2006, McFarland was housed at Garner, a facility used for mental health treatment. In a recording of police taking the swab, McFarland shouted about his lawsuit against the state and his belief that this criminal case was retaliation for that suit. There is no indication that he was able then, or throughout the trial, to have a conversation with

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[8]The trial court relied on *State v. Watson*, 827 N.W.2d 507 (Neb. 2013), CA:78, a 33-year-old murder case based on DNA evidence. The Nebraska court held that Watson was not prejudiced because, in part "Watson was permitted to read into evidence police reports from witnesses given to police shortly after the crimes." *Watson*:515

defense counsel about his case, his options, or his defense.

The trial court weighed against this prejudice the State's reasons for delay. The State had concerns about proceeding based on McFarland's statements in light of Doyle and Hankins, who implicated Copeland and who could have testified had the State arrested McFarland in 1996-97. In 2019, that obstacle was gone – Doyle and Hankins were dead; their hearsay statements were kept from the jury.

The State did not seek McFarland, Copeland, or Hankins' DNA in 1996-97. The glove was left in police storage, not a climate-controlled freezer at the lab, until 2009. See 11/8/22T5, 19, 23, 25; 11/17/22T159-60 (DNA degrades over time making it harder to test later. 11/17/22T123-24, 128-30; see 11/16/22T33-34) The State showed no interest in scientific testing to support a prosecution at that time.

Instead, police waited until 2006 – ten years after McFarland's statements – to take a buccal swab from him, and waited three more years before first testing that swab. It still did not seek Copeland's DNA – it waited until 2019 to obtain a sample. It did not seek Hankins' DNA before he died.

The trial court's conclusion that the State had to wait until 2019 for a DNA test sensitive enough to link McFarland to the glove is unproven. We don't know what could have been found in 1996-97. We know that in 2009, McFarland was excluded from the mixture in the glove. 11/17/22T153 We know that ten years after that, he could not be excluded from the same mixture in only one of four tests with a more sensitive test. 11/17/22T154-55, 167-69

The trial court suggests that "it is in the interest of all parties to acquire, and thus, rely on more advanced scientific evidence, if and when available." CA:78 It is not in the defendant's interest to have his

evidence – witnesses, physical evidence, and his own mental state deteriorate while the State Laboratory grows ever more capable of teasing weak inculpatory evidence from invisible fragments of DNA in a complex mixture.

Under a properly applied balancing test, McFarland's federal and state due process rights were violated. His motion to dismiss should have been granted.

8B. The Trial Court Abused its Discretion when it Denied Multiple Requests for an In-Hospital Competency Evaluation due to McFarland's Inability to Assist or Participate in this Case.

McFarland had a long history of mental illness. Since 2006, he believed that this criminal proceeding was based on falsified evidence and was retaliation for a civil suit that he claimed he had brought against the state.[9] He refused to work with any defense attorney,

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[9]McFarland referred to the civil suit in the 2006 recording of the buccal swab procedure. Ex72 at 11:05-:06 When he was admitted to Yale-New Haven Hospital in June, 2019, he "remained preoccupied with his purported lawsuit against the State of Connecticut." 8/6/20MExB

During his 2020 evaluation at Whiting, he said that his pending charges "were a false attempt at coercion, specifically citing retaliation for the lawsuit he claimed to have filed." 8/6/20MExB

An April 9, 2021, evaluation by CMHC found that McFarland agreed that there are "messages all over the place", and the "state playing me messages" because of the alleged lawsuit. 5/6/21MEx1

believing they were agents of the State working against him.

There is no indication that McFarland could assist in his own defense. He could not consult with his lawyer with a reasonable degree of rational understanding. He did not have a factual understanding of the proceedings against him.

McFarland refused to answer questions or listen to the trial judges' colloquies. He only met once with defense counsel two years prior to trial – otherwise refusing visits.

The jury never saw McFarland in person – he spent the entire voir dire and trial in lockup, able to listen to the proceedings if he wished. Each day he was asked if he wanted to come to the courtroom, each day he declined.

McFarland would not explain why he would not participate. He didn't care what happened because he believed that it would be remedied in a civil case. There was no civil case – it was a delusion.

McFarland asked to represent himself in 2020. When he was found not competent to do so in 2021, he didn't repeat his request. He didn't try to persuade his evaluators of his competence. He just continued to refused to participate, believing he would be vindicated in his non-existent civil suit.

In another report, McFarland again said that his current charges were retaliation for a civil suit he filed against the State. 5/6/21MEx2 He told the trial court several times that he had a restraining order against any State prosecution due to his pending lawsuit. 11/12/19T1; 12/2/19T1; 12/11/19T12-14

Defense counsel could find no indication a civil suit ever existed. 10/19/22T5 McFarland refused to participate in his trial because of a fixed delusional belief in a non-existent case.

McFarland did not trust defense counsel, whether public or private – "they would be manipulated by the state." He would not use a law book, and claimed he knew all the requisite information. 5/6/21MEx2 When asked what he would do if given the police report so he could review the allegations, McFarland stated, "I'll rip it up. It's garbage." 5/6/21MEx2

He told evaluators that "police lie a lot, fabrication, it's not fair." 5/6/21MEx1 He reiterated that the "prosecutor altered evidence, they found no evidence". 5/6/21MEx1 He believed that the charges were "gonna disappear when I deal with the media and the grand jury". When asked to describe the potential penalties if he were convicted, Mr. McFarland replied, "nothing happens, I ain't gonna be guilty." *Id*.

McFarland was not competent – the same rigid thinking and inability to discuss his legal issues with evaluators without becoming upset or seeming to believe that his evaluator was part of a conspiracy against him, 5/6/21T9, kept him from being able to participate in his own defense.

The trial court abused its discretion by not sending McFarland back for an in-hospital evaluation on this specific question, where evaluators would have time to observe him and question him about his ability to assist in his own defense over time and in different ways.

8B1. Facts and Standard of Review.

McFarland was found competent to stand trial in 2020. 8/6/20T6-7 See General Statutes § 54-56d After additional examination, he was found not competent to represent himself. 5/26/21T19-20 He "exhibited deficits in coherent, logical, and rational communication that would interfere with his ability to present his

defense in court or to the jury." 5/6/21MEx1 His rigid beliefs about the injustice of his prosecution "preclude[d] him from a rational understanding of the implications to his serious criminal proceedings and how he presents himself in court." *Id*. He was not competent to represent himself because of "his rigid thought process, extreme suspicions and distrust of the legal system, insistence on only presenting his case to the media, and difficulty with sustained attention and concentration". 5/6/21MEx1; see 5/6/21T8

Two years later, defense counsel asked the Court to reconsider the issue because of counsel's observations of, and interactions with, the defendant. 9/8/22T1-2, 9-10.

McFarland, who was in the courtroom, interrupted saying he didn't want to be there, he wanted to be downstairs in the lockup – "you all do whatever. I'll deal with that when it's time for me to go to civil court, and I'll deal with that then." *Id*:2

When the Court asked if he understood that his trial was starting that day, McFarland said "I understand all that. I know everything. I -- I don't want to talk. I want to be downstairs." Id:3-4

When the Court asked him if he understood that the trial would start once the jury was picked he said: "Do whatever you feel you can get away with." *Id*:4 When asked if he understood that he was facing two counts of murder, he said "Do whatever you feel you can get away with. I'll deal with that later." *Id:*4 When asked if he understood he had a right to be present, he said "I just told you I understand it." Id:5

When asked if he understood that being absent from the courtroom would be detrimental this case, he said "Whatever. Whatever, man. I want to wait downstairs with the officer." Id:5

The trial court let the marshal remove him. Id:5

After referring the Court to the various psychological reports in

the record, Id:6-7, counsel explained that he was appointed after that finding and went to meet McFarland.

> [I] visited him for the first time in September of 2020, and honestly, I thought that he was thinking psychotically and delusionally, but because he had just been found competent two months before, I figured it was not an issue that I could fairly look into. * * * That was the only in-person meeting that I've ever had with Mr. McFarland at the prison. I have tried to visit him on numerous occasions throughout these past two years. * * * November 5, 2020, he declined to speak to me in court, and he told the marshals to tell me not to ever talk to him. I -- I respected that until May 5, 2021. When I tried to visit him at Cheshire, he refused the visit. I went back on May 11, 2021. I tried to visit him. He refused the visit. At the hearing on his competency to represent himself on May 7, he did a performance substantially similar to this one. He came up, acknowledged that he was in court, and that he didn't want to be here, and went [] back downstairs. And I tried to visit him again on July 13, 2021. He refused that one. I tried to visit him again on October 5, 2021. He refused that one, because that was the eve of his probable cause hearing, which I didn't even know if could waive because he hadn't talked to me about it. So we had the probable cause hearing on October 6, and he declined to participate in that. Then we came back on January 13, 2022, and in this courthouse he rejected all offers. He again refused to acknowledge me. I tried to tell him on the record, Mr. McFarland, please cooperate

> with me because you're hamstringing your own defense, and he only got more annoyed and left the courtroom. I tried to visit him again on April 4, 2022 and the day after that on April 5, 2022, at which point he sent a corrections officer to come to see me and tell me in no uncertain terms he does not want you to visit him. Then we were called into court to discuss jury selection and evidence, and once we settled on that I wrote him a letter on July 20 telling him our schedule, and on August 2 that letter returned to me unopened with a stamp on it that said refused. Prior to this, I had written him other letters on September 10, 2020, April 12, 2021, May 6, 2021, June 3, 2021, October 26, 2021, and November 23, 2021, none of which he had ever acknowledged, but none of them came back refused. They got to him, I guess. Only the most recent letter, the one where I told him that we're doing jury selection was refused, unopened. * * * I hear his language about how he'll resolve this in his civil case -- There is no civil case. It doesn't exist. I -- I am deeply concerned that he is -- that his paranoid schizophrenia is causing him to fail to understand in a deeply meaningful way exactly what's happening here. And -- and certainly, it goes without saying at this point, that he is not able to assist me in his defense.

Id:7-10

The trial court responded that the mere fact that a defendant is refusing to cooperate or being obstreperous is not enough to show mental impairment. *Id*:10 It suggested that McFarland might disagree with the order that he could not represent himself. *Id*:11

Counsel responded that he had represented a lot of clients with competency issues and that a client who refused to cooperate due to obstreperousness or an attempt to delay "is a fish of a different color from somebody who has an actual diagnosis of this delusion that is manifesting itself in the very few conversations that you had with him" *Id*:12 He refused to talk to counsel that morning – if it was volitional, counsel believed he would be in the courtroom because he wanted to tell his story to a jury. *Id*:12 But McFarland was still "not cooperating, and that's crazy, and I want him to be evaluated." *Id*:12

The State argued that McFarland could be mentally ill and still competent. It interpreted his behavior as wanting to represent himself, unhappiness with various decisions, and not wanting to avail himself of this process. *Id*:13 It rested its argument on the presumption of competence and the two-year old finding that he was competent. *Id*:13 The Court ordered a competency examination. *Id*:17

CMCH attempted to evaluate McFarland via an on-line meeting. He refused to participate – he stood up and walked out of the room. 10/19/22T2 Defense counsel again referred to McFarland's long history of mental illness and asked the Court to find him incompetent, and requested that he be sent to a hospital where he could be monitored over time. *Id*:3-5 McFarland "absolutely fails at helping me help him and his understanding of the proceedings is demonstrative irrational." *Id*:6

The State responded that there was no evidence that McFarland was incompetent. He had been found competent in 2020 and a 2021 report said that he understood the nature of these specific proceedings and legal proceedings in general. *Id*:7-8

The trial court concluded that McFarland was being obstreperous and uncooperative, but allowed the parties to offer

evidence about his current condition. 10/9/22T9

The State offered testimony from a Corrections counselor that McFarland was in a protective custody unit at Cheshire because of the high profile nature of this case. 10/20/22T8-13 McFarland interacted with him appropriately and conversed with other inmates. 10/20/22T13-17 McFarland never talked to the counselor about his criminal case, his pending charges, or his civil case. The counselor had no training regarding psychiatric illness; he knew McFarland received regular medications, but not what they were for. 10/20/22T18-21

Dr. Zonana testified for the defense. 10/20/22T24-63 He was concerned that McFarland suffered from a narrow delusion that did not affect social interactions, but would interfere with his ability to discuss the subject of his delusion. 10/20/22T27-30 McFarland could know about the legal system but still not be able to interact around a particular case because of fixed deluded beliefs. *Id*:30

Dr. Zonana was concerned that during the 2020 evaluation, McFarland would not talk about his case. *Id*:31 The 2021 reports were consistent with a delusion about this case – that he would not cooperate about these charges because they're all against him. *Id*:35 McFarland's 2006 claims about a civil suit and retaliation were consistent with a fixed delusion and would explain why he refused to meet with counsel, did not ask for new attorneys, and did not explain why his relationship with defense counsel wasn't working. *Id*:36-37 Dr. Zonana did not feel that McFarland was trying to delay for his own reasons; his behavior was part of his delusional thoughts. *Id*:37

Dr. Zonana agreed that the 2020 report concluded that McFarland had the capacity to assist the defense if he chose to do so. *Id*:56 Those evaluators did not believe he had a mental illness or delusion that was sufficiently strong to block him from doing that.

Id:56, 60 Dr. Zonana believed that McFarland's mental illness could vary over time, and that it was a significant possibility that McFarland could be refusing to participate due to delusions affecting his competence. *Id*:56-58, 60

The trial court relied on the 2022 report that said that at no point during the evaluators' brief interaction before McFarland walked out of the room did McFarland appear to be experiencing psychiatric symptoms or cognitive impairment. 10/25/22T13. The court said this agreed with its observations. *Id*:13 It relied on the 2020 report that McFarland had not exhibited any signs of psychoses or mood disturbance. *Id*:15 His thinking was logical, relevant and goal directed. *Id*:15 There were no indications that he was suffering from true paranoia or delusions that affect his thinking or functioning. *Id*:15 He had sufficient understanding of the proceedings against him and the capacity to assist his defense should he choose to do so. *Id*:16

The court concluded that it had not been presented with any evidence or testimony that established by a preponderance of the evidence that McFarland's failure to communicate with counsel or cooperate with the 2022 evaluation was due to a lack of competency to stand trial. *Id*:18 McFarland had the ability to participate but chose not to. *Id*:29 The defense did not produce any evidence that the defendant's condition has changed at all, let alone materially, since the his competency evaluations in 2020 and 2021. *Id*:29 The court concluded that there was no substantial evidence that raised a reasonable doubt as to McFarland's competency and found him competent to stand trial. *Id*:30

The court denied counsel's repeated requests for reconsideration of this decision based on McFarland's disruptive conduct and continuing refusal to assist, or even participate in, in his own defense.

10/25/22T31-34; 10/28/22T1-2; 11/18/22T16; 1/31/23T8-12

When counsel again questioned McFarland's competence at sentencing, 1/31/23T8, the court responded that it had addressed the issue at length and that it believed McFarland was unwilling, not unable to participate in his case. 1/31/23T14-15

There was no dispute that McFarland was not competent to defend himself given his rigid thought processes, difficultly in communicating with evaluators and with the courts, and the delusions and suspicions about this proceeding. He had been found competent to stand trial, but only with the aid of defense counsel – counsel he refused to engage with in any way. No evaluator seemed to have linked the 2021 conclusion that McFarland could not communicate with courts on his own, with Whiting's 2020 belief that he could work with defense counsel. Once it became clear that McFarland was not meeting with counsel, the trial court should have ordered an in-hospital evaluation of this specific question.

McFarland's state and federal due process rights were violated.

The conviction of "an accused person who is not legally competent to stand trial violates the due process of law guaranteed by the state and federal constitutions." *State v. Johnson*, 253 Conn. 1, 20 (2000). "[A] defendant is not competent if he is unable to understand the proceedings against him or to assist in his own defense." General Statutes § 54-56d (a). He must be able to consult with his lawyer with a reasonable degree of rational understanding and have a rational as well as factual understanding of the proceedings against him. *Johnson*:21

"Even when a defendant is competent at the commencement of

his trial, a trial court must always be alert to circumstances suggesting a change that would render the accused unable to meet the standards of competence to stand trial." *Johnson*:21 Whenever there is substantial evidence of mental impairment, the trial court must order a competency examination. *Id*. "[A] trial court must order a competency hearing at any time that facts arise to raise a reasonable doubt about the defendant's competency to continue with the trial." *State v. DesLaurier*, 230 Conn. 572, 589-90 n. 12 (1994)

This Court reviews a finding of competency for abuse of discretion, making every reasonable presumption in favor of the correctness of the trial court's actions. *Johnson*:25; *State v. Norris*, 213 Conn. App. 253, 268, cert. denied, 345 Conn. 910 (2022)

In most cases, the trial court's opinion of a defendant's competence is highly significant because of its ability to observe the defendant's conduct during trial. *State v. Campbell*, 328 Conn. 444, 486 (2018) Here the trial court had little opportunity to interact with him. The defendant rarely came into the courtroom. Whenever the court tried to engage with him, his answers were irrational – he didn't care what happened because he believed he would be ultimately vindicated in a non-existent civil lawsuit.

8B2. The Trial Court Abused its Discretion in Relying on a Two-Year-Old Competency Report in Light of Counsel's Representations about McFarland's Inability to Assist in his Defense.

McFarland's competency to stand trial was evaluated in 2020. His competency to represent himself was evaluated in 2021. The 2021 reports raised serious questions about his thought processes and

ability to relate to anyone who challenged his fixed delusional views about his case. Before trying the defendant for two counts of murder, the trial court abused its discretion in not sending McFarland for a second in-hospital evaluation, where trained staff would have time to observe him and multiple opportunities to question him about his ability to work with any defense attorney in light of his refusal to do so for the past two years.

The trial court, when deciding whether to order another competency evaluation, must consider whether the defendant's condition has materially changed since a previous finding of competence. *State v. Jordan*, 151 Conn. App. 1, 37 (2014) "Even when a defendant is competent at the commencement of his trial, a trial court must always be alert to circumstances suggesting a change that would render the accused unable to meet the standards of competence to stand trial." (Internal quotation marks omitted) *Johnson*: 21

The 2020 report concluded that McFarland had the capacity to engage in discussions with someone attempting to disabuse him of his fixed notions about his lawsuit and the charges against him; he would be able to interact with defense counsel. 7/16/20T27 This evaluation was early in the case – McFarland did not yet have a long history of refusing to work with either a public defender or assigned counsel.

By November, 2022, it was evident that McFarland was not interacting with defense counsel. He never spoke in detail to any attorney about the case. He met once with his assigned counsel in 2020, and otherwise refused to interact with the defense. He refused to cooperate with the trial court.

This conduct, in light of McFarland's long psychiatric history, was a sign of a material change – the 2020 belief that McFarland would engage with assigned counsel was not borne out.

Although the trial court opined that McFarland's refusal to cooperate was based on a wish to represent himself, there was no evidence of that. McFarland did not ask any court to revisit the issue after he was found incompetent to do so. 5/26/21T19-20 He did not try to persuade his evaluators he was competent represent himself. He made no complaint about his attorneys. He filed no motions. He made no legal arguments. He refused to participate because of his fixed delusional beliefs about a non-existent civil lawsuit that would vindicate him.

This case is different from *Campbell*:487-93. There, the defendant refused to talk to defense counsel about the case because he said God told him not to. Experts disagreed about whether his failure to communicate was based on a cognitive deficit or irrational, psychotic process. *Id*:487-88. There, this Court upheld the trial court's finding of competence, particularly where the trial judge had been able to observe Campbell in the courtroom for two-and-a-half months, and there was a question of malingering.

Here, the evaluators did not question McFarland's sincerity – he had fixed beliefs about the non-existent civil lawsuit he claimed governed this case since 2006. Here, no judge had been able to observe McFarland in the courtroom for an extended time.

Campbell also had some trust in his attorneys – "he did believe that he could 'sort of' be honest with his attorneys and that they were out for his best interest". *State v. Campbell*, State's Brief: 48 n.32. McFarland had no trust his attorney. He would not consult law books – he thought he knew everything needed. He would not look at the State's evidence – he said he would throw it away as garbage. There was no evidence that McFarland could assist in his own defense given the issues that also precluded him from representing himself.

This case is also different from *State v. Bigelow*, 120 Conn. App. 632 (2010). There the defendant could discuss his charges and possible penalties. Bigelow distrusted the legal system, but said he was willing to listen to his attorney and work with him. An evaluator said that Bigelow's views that some of the evidence had been forged were not fixed false beliefs and that he did not suffer from a mental illness. Here, McFarland knew what the charges against him were, but would not discuss the specifics of his case with anyone.

The trial court abused its discretion in finding McFarland competent to stand trial for two murders without an in-hospital evaluation focused on his ability to assist in his own defense in light of his refusal to do so for two years.

8B3. McFarland's Unwillingness to Cooperate with Psychiatric Evaluations was, in Light of his History, Not a Reason to find him Competent.

"Once the court grants a motion for a competency examination, the burden rests on the [defendant as] moving party to prove that [he] is not competent.... The burden remains on the defendant, as the moving party, to prove that he has not been restored to competency." (Internal citations and quotation marks omitted) *State v. Hines*, 165 Conn. App. 1, 14 (2016). Here, McFarland would not cooperate with evaluators – his attorneys could not meet its burden because, it argued, the defendant was too impaired by his delusions to do so. It asked the trial court, repeatedly, for an in-hospital evaluation where McFarland could be observed over time by professionals who could assess whether he assist in his own defense or whether the infirmities that precluded him from representing himself also precluded him from

working with counsel.

In *State v. Glen S*, 207 Conn. App. 56, 76-77, cert denied 340 Conn. 909 (2021), the Appellate Court concluded that a defendant who refused to cooperate with the competency evaluators could not rebut the presumption of competence. This is a Catch-22. McFarland had demonstrated a delusional belief about a non-existent civil lawsuit that would protect him from this prosecution since 2006. The fact that he would not cooperate with the evaluators in brief meetings or video chats was evidence of his inability to assist in his own defense, not a reason to deny an in-hospital evaluation.

Defense counsel's opinion about a client's competence "is unquestionably a factor which should be considered when a trial court is attempting to discern whether a request for a competency examination has merit" (internal quotation mark omitted) *State v. Dort*, 315 Conn. 151, 172 (2014). Defense counsel emphatically and repeatedly argued that McFarland was not competent to assist his defense.

As Dr. Zonana explained, McFarland's ability to interact with others socially for some purposes was not proof that he could interact with the court and defense counsel about this case. McFarland had shown no signs of any ability to do so. He needed to be evaluated, in-hospital, on the specific question of whether he was competent to make the decisions reserved to him, to waive his rights to participate in his trial, and to aid in his own defense. Those questions were never answered.

8B4. The Trial Court had No Substantive Interaction with McFarland.

The trial court did not have any in-depth conversations with the defendant about the case. Contra *Norris*:273 (several in-depth conversations and lengthy exchanges); *Glen S*:72, 76 (defendant engaged in colloquy with court, tried to examine a witness pro se); *Campbell*:490 (court observed defendant on almost daily basis for 2½ months); *Hines*:9 (lengthy colloquy at competency hearing); *Jordan*:37 (calm, coherent, appropriate responses in canvas, tried to file his own motions, testified at trial) While the trial court could observe McFarland's demeanor and his conduct when he was briefly present in the courtroom, at no point did McFarland demonstrate an understanding of this specific case or ability to assist in his defense.

In *Norris*, there was evidence that the defendant simply did not want to go forward. Here, McFarland believed he was immune from prosecution due to a non-existent civil lawsuit. He believed that this prosecution did not matter – that he would be ultimately vindicated in that non-existent proceeding. He was not trying to delay the case, he simply didn't think it was important.

There was little urgency to justify pushing forward with this case without an in-hospital evaluation. The prosecution depended on the testimony of police officers and experts from the state laboratory – these were not witnesses who would be inconvenienced by a delay.

Had the court granted the request for an in-hospital evaluation, the result would either have been a specific finding based on prolonged observations that McFarland's conduct was voluntary and not a product of his delusional beliefs, or a finding that he was not competent to stand trial because his delusions prevented him from working with any defense attorney. Without an evaluation based on such observations, McFarland's constitutional rights were violated.

8C. The Trial Court Abused its Discretion and Violated McFarland's Rights to Due Process and to Present a Defense By Excluding Doyle's Statements Inculpating Copeland as one of the Murderers.

As discussed infra 8A, McFarland argued that he was prejudiced because he was unable to show the jury Doyle's sworn statements and police reports about conversations with her implicating Copeland as the murderer and providing a different explanation for the crime and the crime scene.

The trial court concluded that Doyle's[10] statements did not fall within the residual hearsay clause, Code of Evidence § 8-9, because it did not find them sufficiently reliable in the absence of the State's ability to cross-examine the now-deceased declarant.

There is a tension between the prearrest delay doctrine and the residual hearsay rule. The three-decades delay in this case made it likely that witnesses like Doyle would die, but so long as the delay was neither in bad faith or intentional, McFarland's federal due process rights were not violated under this Court's decisions to date.

The defendant's state constitutional rights were not violated under a balancing test, the trial court concluded, because the trial court found Doyle unreliable. The police questioning of Doyle did not

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[10]The defense made the same arguments as to Hankins' statements. 11/15/22T160 For purposes of this appeal, McFarland focuses on Doyle's statements, particularly her admission that she was in the Harris' apartment and saw Copeland and Hankins kill the victims. ExK(ID)

delve deeply enough into the inconsistencies in her statements and her ability to perceive and recall events. McFarland could be prosecuted, but could not call the jury's attention to a witness who also could provide non-public details of the crime scene and pointed to a different culprit with a motive to kill both victims. This result violates McFarland's due process rights, his rights to present a defense, and is an unreasonable application of the residual hearsay rule.

As this Court has said, "we rely on the good sense and judgment of American juries to weigh evidence with some element of untrustworthiness since such evidence 'is customary grist for the jury mill.'" *State v. Fullerwood*, 193 Conn. 238, 254 (1984). Under the unique circumstances of this case, the jury should have heard Doyle statements. The inconsistencies and questions about Doyle's drug abuse and mental health issues would have gone to the statements' weight, not their admissibility.

8C1. Facts and Standard of Review.

The defense first tried to question Detective Dolan about Doyle's statement that inculpated Copeland as one of the culprits in the murder. 11/15/22T115-135, 148-52; 11/16/22T3 11/17/22T50

The State argued that Doyle's statements were inconsistent with each other and with some of the crime scene evidence. 11/15/22T137-38, 140-43, 145-46 Doyle had also admitted to memory issue and drinking a lot. 11/15/22T138, 143, 146

The defense argued that the statements were admissible under the residual clause of the hearsay exception. Code of Evidence § 8-9; 11/15/22T153 That clause allows a trial court to admit hearsay

evidence not admissible under any of the established exceptions if: (1) there is a reasonable necessity for the admission of the statement, and (2) the statement is supported by the equivalent guarantees of reliability and trustworthiness essential to other evidence admitted under the traditional hearsay exceptions. *State v. Bennett*, 324 Conn. 744, 762 (2017)

Doyle's statements were necessary because she died; and because of the motion to dismiss, 11/15/22T154, 158-59 They were reliable because they were given in 1990, three years after the murders, but still at a time when her memory would be fresh. 11/15/22T156 Her statements were given to police. Two were signed (ExG(ID); ExI(ID)); one was hand-corrected. ExI(ID) Doyle's story was inconsistent, but it evolved in a way that inculpated Doyle further each time. The important part, McFarland argued, was what Doyle was right about – the yellow gloves, the use of the butter, the use of the upstairs bathroom, the method of killing, and that a knife was left in the sink. 11/15/22T154, 157

The State objected, arguing that this was being offered to support a third-party culprit defense. 11/15/22T161 The hearsay was multi-layered – statements by Doyle as recorded by police being offered through another officer. 11/15/22T161-62 The statements were unreliable due to their inconsistencies and Doyle's remarks about her memory. 11/15/22T162 Doyle was dead and could not be cross-examined. 11/16/22T162-63

The trial court held that the residual hearsay exception argument foundered with respect to the guarantees of reliability and trustworthiness. Doyle could not be cross-examined about her ability to perceive or recall what she claimed. 11/16/22T4 Doyle's statements were untrustworthy because of their internal inconsistencies, the gap

between the murders and the statements, and her admission of memory problems due to alcohol and substance abuse. 11/16/22T8

The Court also noted that the statements, if offered through Dolan, would be hearsay within hearsay. 11/16/22T8-9 Because of the trustworthiness issues, it also did not find that the statement were admissible as a matter of fairness. 11/16/22T9

The Court also noted that there was no physical evidence linking Copeland to the crime.[11] 11/16/22T12

The jury only heard that there were other suspects, including Copeland. 11/16/22T19-20. The lab had not found Copeland's DNA on the recovered evidence. 11/16/22T22-26 Copeland had denied involvement. 11/16/22T24

Trial counsel explained how this evidentiary issue was intertwined with McFarland's due process protection against lengthy prearrest delay. He did not specifically refer to a defendant's right to present a defense. To the extent that this Court disagrees that McFarland's constitutional claims were preserved, or the defendant makes additional arguments for dismissal on appeal, he relies upon the familiar four prongs of *Golding* as modified by *In re Yasiel R.*. The record is adequate for appellate review. McFarland's federal and state constitutional rights to due process and to present a defense were violated by keeping Doyle's statements from the jury.

This is a claim of constitutional magnitude, alleging the

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[11]The absence of Copeland's DNA from the 32-year-old evidence does not mean that he was not the culprit. Even when a person touches an object, detectable amounts of DNA may not have been left behind. *Police*:300

violation of fundamental rights. As set forth below, the violation clearly exists and clearly deprived McFarland of his rights to due process and to present a defense. Prosecuting McFarland for two murders without letting the jury hear Doyle's statements implicating Copeland is not harmless beyond a reasonable doubt.

When a statement against penal interest bears significant assurances of trustworthiness and is crucial to the defendant's theory of defense, the due process clause bars exclusion of the statement. *Chambers v. Mississippi*, 410 U.S. 284, 302 (1973) When constitutional rights directly affecting the ascertainment of guilt are implicated, "the hearsay rule may not be applied mechanistically to defeat the ends of justice." *Id*.

However, this Court has been reluctant to expand a defendant's ability to introduce evidence that does not fall within the evidence rules to protect the defendant's due process rights or rights to present a defense.

For example, *Bennet*:760 held that:

> [a] defendant has a constitutional right to present a defense, ... he is nonetheless bound by the rules of evidence in presenting a defense....Although exclusionary rules of evidence cannot be applied mechanistically to deprive a defendant of his rights, the constitution does not require that a defendant be permitted to present every piece of evidence he wishes....Accordingly, if the proffered evidence is not relevant or constitutes inadmissible hearsay, the defendant's right to confrontation is not affected, and the evidence was properly excluded.

(Brackets, citation and internal quotation marks omitted) Where a

"trial court's evidentiary ruling was not improper, the defendant's claim of an infringement on his constitutional right to present a defense [in failing to admit that evidence] must fail." *Bennett*:764

This Court reviews the trial court's evidentiary rulings for an abuse of discretion, making every reasonable presumption in favor of upholding the trial court's ruling. *Bennett*:761-62

8C2. The Trial Court Abused Its Discretion in Finding Doyle's Statements too Unreliable to Admit Under the Residual Hearsay Exception.

The court abused its discretion on excluding Doyle's statements to police as unreliable and multi-level hearsay. The statements were necessary to McFarland's defense – they were the only evidence that someone else had a motive to kill the victims and had done so.

As to reliability, the court should not have considered whether there was physical evidence implicating Copeland. "The trustworthiness of a statement offered under this exception is to be tested solely on its own merits, without reference to other corroborating evidence". Prescott, TAIT'S HANDBOOK OF CONNECTICUT EVIDENCE, § 8.41.4, p 662 (6th ED. 2018); *State v. Merriam*, 264 Conn. 617, 642 (2003). The trustworthiness or reliability of a statement offered as defense evidence should not be based on whether it corroborated the state's case.

Second, the court did not properly weigh what Doyle said that was consistent with the crime scene, and had not been shared with the public. It was focused only on where her statements differed from the crime scene. Both consistencies and inconsistencies are important to a reliability analysis.

Third, the Court did not properly weigh the passage of time, and what, realistically could be expected if Doyle had been alive and available for questioning.

Salvati (a neighbor) testified that she had no memory about giving police a statement that she saw Greg alive at around 11 a.m. on Saturday the 22nd (hours after McFarland's arrest on other charges), but wouldn't have had any reason to lie. 11/21/22T16 The defense introduced a transcription of her statement as past recollection recorded – the taped recording had been lost. 11/21/22T16-22; ExA

If Doyle had been alive and available for questioning, her memory of this thirty-two year old incident might not be any better than Salvati's. If she were available for cross-examination, she might not have been able to shed any light on her ability to perceive and recall events three decades in the past. But her statements could then have been admitted, as Salvati's were, as past recollection recorded. If her present memory differed from her statements, they might have been admissible as prior inconsistent statements under *Whelan*.[12] The jury would then be faced with determining their weight – a normal task for a jury.

Doyle was questioned in a double murder case. Police were trying to solve a serious crime. They had an incentive to probe her ability to perceive and to recall, her motives for implicating Copeland and Hankins, and her prior statements denying involvement in the

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[12]*State v. Whalen*, 200 Conn. 743 (1986). One of the reasons why statements were admissible under *Whalen* is because "the witness' memory would be fresher, and there would be less likelihood that "the statement is the product of corruption, false suggestion, intimidation, or appeals to sympathy." *Whalen*:750

murders. While the State may be handicapped because the police did not probe more deeply, the defense was also handicapped by written statements instead of a live witness accusing Copeland of the murders. See *State v. Watson*, 827 N.W.3d 507, 515 (Neb. 2013) (33 year delay, defense was permitted to read into evidence police reports from witnesses given to police shortly after the crimes).

The trial court was concerned about the timing of Doyle's statements. Doyle's final statement was made in 1990 – almost three years after the murders. Doyle was terrified of Copeland. ExK(ID) It took police time to gain her trust. She did not directly implicate herself in the murders, but she placed herself at the scene of the murder, with Copeland and Hankins, immediately before and during the murders. ExK(ID) See *Skakel v. State*, 295 Conn. 447, 593 (2010) (Palmer, J dissenting)

Doyle's statements were inconsistent. Doyle's admission that she was present (ExK(ID)) is inconsistent with her prior statements denying her presence, but hinting at Copeland and Hankins' involvement. Doyle lied previously because she was afraid of Copeland, who had threatened to kill her. ExK(ID) Many cases involve witnesses who initially deny knowledge of serious crimes and slowly come forward with details after repeated interviews with police. A series of inconsistent statements, and witnesses admitting in later statements that they had falsely denied involvement earlier is customary grist for the jury's mill – it is a question of weight, not admissibility.

In her 1990 statement, Doyle acknowledged that if she intentionally gave a false statement, she could be prosecuted under General Statutes § 53a-157. ExI(ID); *State v. Faison*, 112 Conn. App. 373, 384 (2009) (prospect of prosecution provides motive to be truthful) To that extent, the statement was against her penal interest which

weighs in favor of its reliability.

What Doyle said has a ring of truth – she explained that she, Greg, Copeland, and Hanks were all friends. ExD(ID) She provided a motive. ExI(ID); see ExG(ID) Her description of Fred's multiple wounds was consistent with the autopsy. ExK(ID); 11/15/22T47-48. Her description of the ligatures as telephone cord or cords you could find in the house (ExI(ID)) was consistent with the telephone and lamp cords used. She described the yellow work gloves. ExF(ID); ExC(ID)

Even where her statements seemed inconsistent – in one statement, for example, she said that Copeland told her that he had slit Greg's throat, tied him up and bound him and had claimed to have hit Greg in the head with a lead pipe and gagged him (ExI(ID)) – her claims were not disproved by the evidence. The autopsy did not uncover damage to Greg's skull (Ex75), and he was not gagged when found, but that does not mean that the victims were not gagged at some point during the murders or that Copeland did not hit Greg with a pipe, but not hard enough to fracture the skull.

Similarly, Doyle described Copeland boiling butter to torture people. ExI(ID):ExC(ID) The autopsies did not mention burns on the victims' skin, but the bodies were badly decomposed when found. The lack of visible burn injuries given the condition of the bodies does not mean that they were not tortured before death.

Doyle's statements provide enough non-public evidence about the crime to be sufficiently reliable to allow the jury to consider them. The State could have pointed out the inconsistences by asking Dolan to compare her statements to the crime scene evidence so that the jury could take that into account in weighting them for itself.

The court abused its discretion in excluding Doyle's statements as unreliable.

8C3. Doyle's Statements were Admissible Despite Multi-Level Hearsay.

Doyle's statements and the police reports contained a second level of hearsay, because they were made to four police officers. The defense sought to admit them through Detective Dolan, who had reviewed all of the reports as part of his investigation.

When hearsay evidence is offered, "the burden is on the proponent of the evidence, upon timely objection, to establish that the evidence is admissible." (Internal quotation marks omitted) *State v. Tinsley*, 59 Conn. App. 4, 11 (2000) When a statement "contains hearsay within hearsay, each level of hearsay must itself be supported by an exception to the hearsay rule in order for that level of hearsay to be admissible." *State v. Lewis*. 245 Conn. 779, 802 (1998).

There is no evidence about whether the four officers who spoke to Doyle decades earlier were still alive, available, or had any independent recollection of interviews taken so long ago. This case is distinct from *State v. McClendon*, 248 Conn. 572 (1999), where the defense sought to introduce a detective's report about a witness' statement – the detective having died prior to trial. *Id*:582. In *McClendon*, the witness denied having made the statement reflected in the detective's report; the Court concluded it was inadmissible under the residual clause without the ability to cross-examine the detective. *Id*:582-84.

Here, the State did not claim that the police reports were inaccurate or that Doyle had not said what they recorded. It only claimed that police had not probed Doyle's ability to perceive and her reasons for her inconsistent statements deeply enough at that time.

Under these circumstances, the inability to offer the officers' testimony did not make Doyle's statements less reliable.

If decades-old cases can be prosecuted, this Court will increasingly face admissibility issues involving reports by officers who are unavailable, or have no memory of the interview outside of their reports. In this case, the officers' testimony was not necessary to show that their reports were reliable – their reports should have been admitted despite the second level of hearsay.

The court abused its discretion in excluding Doyle's statements because of the second level of hearsay involved.

8C4. McFarland's Constitutional Rights to Due Process and to Present a Defense Mandate a More Flexible Approach to the Residual Hearsay Exception in this Case.

If this Court concludes that excluding Doyle's statements were within the trial court's discretion, then McFarland's federal and state due process protections against lengthy prearrest delays were discussed above. He also must be given a meaningful opportunity to present a complete defense.

> The sixth amendment ... [guarantees] the right to offer the testimony of witnesses, and to compel their attendance, if necessary, [and] is in plain terms the right to present a defense, the right to present the defendant's version of the facts as well as the prosecution's to the jury so that it may decide where the truth lies.

(Internal quotation marks and citation omitted) *State v. Cerreta*, 260 Conn. 251, 260-61 (2002).

This case presents a rare interaction between two doctrines –

the effect of a lengthy prearrest delay on the defendant's ability to defend against the prosecution's charges, and evidentiary rules which preclude the defense from offering evidence gathered by police during the decades-old investigation because the witnesses are now dead or unavailable and the prosecution cannot cross-examine the witnesses about their past statements.

The three-decades long delay meant that key witnesses died and their memories dimmed. Even had Doyle been alive, she may not have remembered details of the events beyond her statement. One would not expect the officers who took her statements to recall details beyond their notes of an investigation so long in the past.

The police chose what evidence to preserve and test in this case. It chose what witnesses to question and what to ask them. It chose not to bring charges in 1990 based on Doyle's statements. It chose not to bring charges in 1997 based on McFarland's statements. It chose not to gather and test Copeland, Hankins, or McFarland's DNA in 1997. It chose not to gather and test Copeland and Hankins' DNA in 2009, after McFarland was excluded. It chose to wait until 2019 to bring these charges. That three-decades delay risked the loss of witness memories and the witnesses themselves, handicapping the defense.

Under these circumstances, McFarland urges this Court to apply a more flexible reliability standard to police reports and witness statements offered by the defense to challenge the State's case to protect his due process rights and his right to present a defense to the serious charges in this case.

8C5. The Exclusion of Doyle's Statements Harmed McFarland's Defense.

The excluded statements cast this case in an entirely different light. Doyle, a friend of Greg, told police she witnessed the murders; provided an motive for third-party culprits, who were also Greg's friends and had a history of violent conduct towards Greg; and provided details of the crime that were not publically known.

To the extent that the State argued that McFarland's statements also contained some accurate non-public details and were trustworthy, the same logic applies to Doyle's statements. (There is no alleged contact or relationship between McFarland, and Doyle, Copeland, or Hankins.)

There is weak DNA evidence inculpating McFarland. A mixture of DNA, from which McFarland cannot be excluded and is 1.5 million times more likely to have contributed to than a random person, was found inside of a glove found at the scene. It was found in only 1 of 4 tests in 2019-2020. This evidence cannot explain how this DNA came to be within the glove, nor exclude the possibility that McFarland innocently touched the glove when working with Greg at the car wash. See *Police*:301-04 (finding someone's DNA on an object found near a crime scene is less significant to a determination of guilt or innocence of a suspect)

Copeland's DNA was not found on the crime scene evidence, but his DNA was not tested until 2019. Traces of Copeland's DNA had three decades to degrade below the ability of even the 2019 tests to discern. Hankins' DNA was never tested.

Doyle's statements were vital evidence for the jury to hear and consider. This was the strongest defense evidence McFarland could offer – juxtaposing (1) statements about two third-party culprits who was friends with Greg, had a motive to kill him, were equal in number to the two adult male victims, explained that the melted butter had

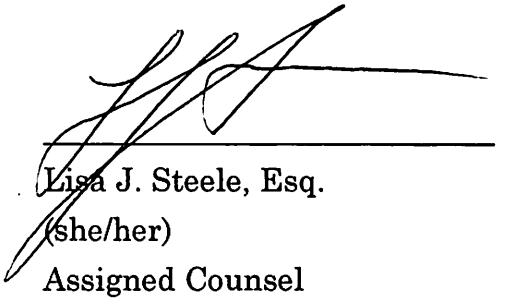
been used to torture the victims, and provided details of the killing that were not publically known against (2) the McFarland's multiple inconsistent statements claiming that an unknown Hispanic man paid him to kill the victims on behalf of the Latin Kings; that he alone overpowered and bound both men; and that during the course of that killing he decided to cook the butter (ignoring the pizza on the table) and then used that butter to sexually assault Greg – leaving no evidence of a sexual assault evident at the crime scene or autopsy.

This case is one of those rare, extraordinary cases that calls for the use of the residual or catch-all hearsay rule. There is not a fair assurance here that this evidence would not have substantially swayed the jury. *State v. Sawyer*, 279 Conn. 331, 352 (2006). The trial court abused its discretion in this case and violated McFarland's constitutional rights.

9. CONCLUSION

For the reasons set forth herein, McFarland's conviction should be dismissed as a violation of his due process rights against stale prosecutions. In the alternative, the case should be remanded for new trial following an in-hospital competency evaluation, at which his attorney can present Doyle's statements to the jury.

Respectfully submitted
The Defendant
By his attorney,



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10. TABLE OF CONTENTS TO APPENDIX

General Statutes

Sec. 54-56d. (Formerly Sec. 54-40). Competency to stand trial.

(a) Competency requirement. Definition. A defendant shall not be tried, convicted or sentenced while the defendant is not competent. For the purposes of this section, a defendant is not competent if the defendant is unable to understand the proceedings against him or her or to assist in his or her own defense.

(b) Presumption of competency. A defendant is presumed to be competent. The burden of proving that the defendant is not competent by a preponderance of the evidence and the burden of going forward with the evidence are on the party raising the issue. The burden of going forward with the evidence shall be on the state if the court raises the issue. The court may call its own witnesses and conduct its own inquiry.

(c) Request for examination. If, at any time during a criminal proceeding, it appears that the defendant is not competent, counsel for the defendant or for the state, or the court, on its own motion, may request an examination to determine the defendant's competency.

(d) Examination of defendant. Report. If the court finds that the request for an examination is justified and that, in accordance with procedures established by the judges of the Superior Court, there is probable cause to believe that the defendant has committed the crime for which the defendant is charged, the court shall order an examination of the defendant as to his or her competency. The court

may (1) appoint one or more physicians specializing in psychiatry to examine the defendant, or (2) order the Commissioner of Mental Health and Addiction Services to conduct the examination either (A) by a clinical team consisting of a physician specializing in psychiatry, a clinical psychologist and one of the following: A clinical social worker licensed pursuant to chapter 383b or a psychiatric nurse clinical specialist holding a master's degree in nursing, or (B) by one or more physicians specializing in psychiatry, except that no employee of the Department of Mental Health and Addiction Services who has served as a member of a clinical team in the course of such employment for at least five years prior to October 1, 1995, shall be precluded from being appointed as a member of a clinical team. If the Commissioner of Mental Health and Addiction Services is ordered to conduct the examination, the commissioner shall select the members of the clinical team or the physician or physicians. When performing an examination under this section, the examiners shall have access to information on treatment dates and locations in the defendant's treatment history contained in the Department of Mental Health and Addiction Services' database of treatment episodes for the purpose of requesting a release of treatment information from the defendant. If the examiners determine that the defendant is not competent, the examiners shall then determine whether there is a substantial probability that the defendant, if provided with a course of treatment, will regain competency within the maximum period of any placement order under this section. If the examiners determine that there is a substantial probability that the defendant, if provided with a course of treatment, will regain competency within the maximum period of any placement order under this section, the examiners shall then determine whether the defendant appears to be eligible for civil commitment, with

monitoring by the Court Support Services Division, pursuant to subdivision (2) of subsection (h) of this section. If the examiners determine that there is not a substantial probability that the defendant, if provided with a course of treatment, will regain competency within the maximum period of any placement order under this section, the examiners shall then determine whether the defendant appears to be eligible for civil commitment to a hospital for psychiatric disabilities pursuant to subsection (m) of this section and make a recommendation to the court regarding the appropriateness of such civil commitment. The court may authorize a physician specializing in psychiatry, a clinical psychologist, a clinical social worker licensed pursuant to chapter 383b or a psychiatric nurse clinical specialist holding a master's degree in nursing selected by the defendant to observe the examination. Counsel for the defendant may observe the examination. The examination shall be completed within fifteen business days from the date it was ordered and the examiners shall prepare and sign, without notarization, a written report and file such report with the court within twenty-one business days of the date of the order. On receipt of the written report, the clerk of the court shall cause copies to be delivered immediately to the state's attorney and to counsel for the defendant.

(e) Hearing. Evidence. The court shall hold a hearing as to the competency of the defendant not later than ten days after the court receives the written report. Any evidence regarding the defendant's competency, including the written report, may be introduced at the hearing by either the defendant or the state, except that no treatment information contained in the Department of Mental Health and Addiction Services' database of treatment episodes may be included in

the written report or introduced at the hearing unless the defendant released the treatment information pursuant to subsection (d) of this section. If the written report is introduced, at least one of the examiners shall be present to testify as to the determinations in the report, unless the examiner's presence is waived by the defendant and the state. Any member of the clinical team shall be considered competent to testify as to the team's determinations. A defendant and the defendant's counsel may waive the court hearing only if the examiners, in the written report, determine without qualification that the defendant is competent. Nothing in this subsection shall limit any other release or use of information from said database permitted by law.

(f) Court finding of competency or incompetency. If the court, after the hearing, finds that the defendant is competent, the court shall continue with the criminal proceedings. If the court finds that the defendant is not competent, the court shall also find whether there is a substantial probability that the defendant, if provided with a course of treatment, will regain competency within the maximum period of any placement order permitted under this section.

(g) Court procedure if finding that defendant will not regain competency. If, at the hearing, the court finds that there is not a substantial probability that the defendant, if provided with a course of treatment, will regain competency within the period of any placement order under this section, the court shall follow the procedure set forth in subsection (m) of this section.

(h) Court procedure if finding that defendant will regain

competency. Placement of defendant for treatment or pending civil commitment proceedings. Progress report.

(1) If, at the hearing, the court finds that there is a substantial probability that the defendant, if provided with a course of treatment, will regain competency within the period of any placement order under this section, the court shall either (A) order placement of the defendant for treatment for the purpose of rendering the defendant competent, or (B) order placement of the defendant at a treatment facility pending civil commitment proceedings pursuant to subdivision (2) of this subsection.

(2) (A) Except as provided in subparagraph (B) of this subdivision, if the court makes a finding pursuant to subdivision (1) of this subsection and does not order placement pursuant to subparagraph (A) of said subdivision, the court shall, on its own motion or on motion of the state or the defendant, order placement of the defendant in the custody of the Commissioner of Mental Health and Addiction Services at a treatment facility pending civil commitment proceedings. The treatment facility shall be determined by the Commissioner of Mental Health and Addiction Services. Such order shall: (i) Include an authorization for the Commissioner of Mental Health and Addiction Services to apply for civil commitment of such defendant pursuant to sections 17a-495 to 17a-528, inclusive; (ii) permit the defendant to agree to request voluntarily to be admitted under section 17a-506 and participate voluntarily in a treatment plan prepared by the Commissioner of Mental Health and Addiction Services, and require that the defendant comply with such

treatment plan; and (iii) provide that if the application for civil commitment is denied or not pursued by the Commissioner of Mental Health and Addiction Services, or if the defendant is unwilling or unable to comply with a treatment plan despite reasonable efforts of the treatment facility to encourage the defendant's compliance, the person in charge of the treatment facility, or such person's designee, shall submit a written progress report to the court and the defendant shall be returned to the court for a hearing pursuant to subsection (k) of this section. Such written progress report shall include the status of any civil commitment proceedings concerning the defendant, the defendant's compliance with the treatment plan, an opinion regarding the defendant's current competency to stand trial, the clinical findings of the person submitting the report and the facts upon which the findings are based, and any other information concerning the defendant requested by the court, including, but not limited to, the method of treatment or the type, dosage and effect of any medication the defendant is receiving. The Court Support Services Division shall monitor the defendant's compliance with any applicable provisions of such order. The period of placement and monitoring under such order shall not exceed the period of the maximum sentence which the defendant could receive on conviction of the charges against such defendant, or eighteen months, whichever is less. If the defendant has complied with such treatment plan and any applicable provisions of such order, at the end of the period of placement and monitoring, the court shall approve the entry of a nolle prosequi to the charges against the defendant or shall dismiss such charges.

(B) This subdivision shall not apply: (i) To any person charged with a class A felony, a class B felony, except a violation of section 53a-122 that does not involve the use, attempted use or threatened use of physical force against another person, or a violation of section 53a-70b of the general statutes, revision of 1958, revised to January 1, 2019, or section 14-227a or 14-227m, subdivision (1) or (2) of subsection (a) of section 14-227n, subdivision (2) of subsection (a) of section 53-21 or section 53a-56b, 53a-60d, 53a-70, 53a-70a, 53a-71, 53a-72a or 53a-72b; (ii) to any person charged with a crime or motor vehicle violation who, as a result of the commission of such crime or motor vehicle violation, causes the death of another person; or (iii) unless good cause is shown, to any person charged with a class C felony.

(i) Placement for treatment. Conditions. The placement of the defendant for treatment for the purpose of rendering the defendant competent shall comply with the following conditions: (1) The period of placement under the order or combination of orders shall not exceed the period of the maximum sentence which the defendant could receive on conviction of the charges against the defendant or eighteen months, whichever is less; (2) the placement shall be either (A) in the custody of the Commissioner of Mental Health and Addiction Services, the Commissioner of Children and Families or the Commissioner of Developmental Services, except that any defendant placed for treatment with the Commissioner of Mental Health and Addiction Services may remain in the custody of the Department of Correction pursuant to subsection (p) of this section; or, (B) if the defendant or the appropriate commissioner agrees to provide payment, in the custody of any appropriate mental health facility or treatment program which

agrees to provide treatment to the defendant and to adhere to the requirements of this section; and (3) the court shall order the placement, on either an inpatient or an outpatient basis, which the court finds is the least restrictive placement appropriate and available to restore competency. If outpatient treatment is the least restrictive placement for a defendant who has not yet been released from a correctional facility, the court shall consider whether the availability of such treatment is a sufficient basis on which to release the defendant on a promise to appear, conditions of release, cash bail or bond. If the court determines that the defendant may not be so released, the court shall order treatment of the defendant on an inpatient basis at a mental health facility or facility for persons with intellectual disability. Not later than twenty-four hours after the court orders placement of the defendant for treatment for the purpose of rendering the defendant competent, the examiners shall transmit information obtained about the defendant during the course of an examination pursuant to subsection (d) of this section to the health care provider named in the court's order.

(j) Progress reports re treatment. The person in charge of the treatment facility, or such person's designee, or the Commissioner of Mental Health and Addiction Services with respect to any defendant who is in the custody of the Commissioner of Correction pursuant to subsection (p) of this section, shall submit a written progress report to the court (1) at least seven days prior to the date of any hearing on the issue of the defendant's competency; (2) whenever he or she believes that the defendant has attained competency; (3) whenever he or she believes that there is not a substantial probability that the defendant will attain competency within the period covered by the placement

order; (4) whenever, within the first one hundred twenty days of the period covered by the placement order, he or she believes that the defendant would be eligible for civil commitment pursuant to subdivision (2) of subsection (h) of this section; or (5) whenever he or she believes that the defendant is still not competent but has improved sufficiently such that continued inpatient commitment is no longer the least restrictive placement appropriate and available to restore competency. The progress report shall contain: (A) The clinical findings of the person submitting the report and the facts on which the findings are based; (B) the opinion of the person submitting the report as to whether the defendant has attained competency or as to whether the defendant is making progress, under treatment, toward attaining competency within the period covered by the placement order; (C) the opinion of the person submitting the report as to whether the defendant appears to be eligible for civil commitment to a hospital for psychiatric disabilities pursuant to subsection (m) of this section and the appropriateness of such civil commitment, if there is not a substantial probability that the defendant will attain competency within the period covered by the placement order; and (D) any other information concerning the defendant requested by the court, including, but not limited to, the method of treatment or the type, dosage and effect of any medication the defendant is receiving. Not later than five business days after the court finds either that the defendant will not attain competency within the period of any placement order under this section or that the defendant has regained competency, the person in charge of the treatment facility, or such person's designee, or the Commissioner of Mental Health and Addiction Services with respect to any defendant who is in the custody of the Commissioner of Correction pursuant to subsection (p) of this

section, shall provide a copy of the written progress report to the examiners who examined the defendant pursuant to subsection (d) of this section.

(k) Reconsideration of competency. Hearing. Involuntary medication. Appointment and duties of health care guardian.

(1) Whenever any placement order for treatment is rendered or continued, the court shall set a date for a hearing, to be held within ninety days, for reconsideration of the issue of the defendant's competency. Whenever the court (A) receives a report pursuant to subsection (j) of this section which indicates that (i) the defendant has attained competency, (ii) the defendant will not attain competency within the remainder of the period covered by the placement order, (iii) the defendant will not attain competency within the remainder of the period covered by the placement order absent administration of psychiatric medication for which the defendant is unwilling or unable to provide consent, (iv) the defendant would be eligible for civil commitment pursuant to subdivision (2) of subsection (h) of this section, or (v) the defendant is still not competent but has improved sufficiently such that continued inpatient commitment is no longer the least restrictive placement appropriate and available to restore competency, or (B) receives a report pursuant to subparagraph (A)(iii) of subdivision (2) of subsection (h) of this section which indicates that (i) the application for civil commitment of the defendant has been denied or has not been pursued by the Commissioner of Mental Health and Addiction Services, or (ii) the defendant is unwilling

or unable to comply with a treatment plan despite reasonable efforts of the treatment facility to encourage the defendant's compliance, the court shall set the matter for a hearing not later than ten days after the report is received. The hearing may be waived by the defendant only if the report indicates that the defendant is competent. With respect to a defendant who is in the custody of the Commissioner of Correction pursuant to subsection (p) of this section, the Commissioner of Mental Health and Addiction Services shall retain responsibility for providing testimony at any hearing under this subsection. The court shall determine whether the defendant is competent or is making progress toward attaining competency within the period covered by the placement order. If the court finds that the defendant is competent, the defendant shall be returned to the custody of the Commissioner of Correction or released, if the defendant has met the conditions for release, and the court shall continue with the criminal proceedings. If the court finds that the defendant is still not competent but that the defendant is making progress toward attaining competency, the court may continue or modify the placement order. If the court finds that the defendant is still not competent but that the defendant is making progress toward attaining competency and inpatient placement is no longer the least restrictive placement appropriate and available to restore competency, the court shall consider whether the availability of such less restrictive placement is a sufficient basis on which to release the defendant on a promise to appear, conditions of release, cash bail or bond and may order continued treatment to restore competency on an outpatient basis. If the court finds that the defendant is still not

competent and will not attain competency within the remainder of the period covered by the placement order absent administration of psychiatric medication for which the defendant is unwilling or unable to provide consent, the court shall proceed as provided in subdivisions (2), (3) and (4) of this subsection. If the court finds that the defendant is eligible for civil commitment, the court may order placement of the defendant at a treatment facility pending civil commitment proceedings pursuant to subdivision (2) of subsection (h) of this section.

(2) If the court finds that the defendant will not attain competency within the remainder of the period covered by the placement order absent administration of psychiatric medication for which the defendant is unwilling or unable to provide consent, and after any hearing held pursuant to subdivision (3) of this subsection, the court may order the involuntary medication of the defendant if the court finds by clear and convincing evidence that: (A) To a reasonable degree of medical certainty, involuntary medication of the defendant will render the defendant competent to stand trial, (B) an adjudication of guilt or innocence cannot be had using less intrusive means, (C) the proposed treatment plan is narrowly tailored to minimize intrusion on the defendant's liberty and privacy interests, (D) the proposed drug regimen will not cause an unnecessary risk to the defendant's health, and (E) the seriousness of the alleged crime is such that the criminal law enforcement interest of the state in fairly and accurately determining the defendant's guilt or innocence overrides the defendant's interest in

self-determination.

(3) (A) If the court finds that the defendant is unwilling or unable to provide consent for the administration of psychiatric medication, and prior to deciding whether to order the involuntary medication of the defendant under subdivision (2) of this subsection, the court shall appoint a health care guardian who shall be a licensed health care provider with specialized training in the treatment of persons with psychiatric disabilities to represent the health care interests of the defendant before the court. Notwithstanding the provisions of section 52-146e, such health care guardian shall have access to the psychiatric records of the defendant. Such health care guardian shall file a report with the court not later than thirty days after his or her appointment. The report shall set forth such health care guardian's findings and recommendations concerning the administration of psychiatric medication to the defendant, including the risks and benefits of such medication, the likelihood and seriousness of any adverse side effects and the prognosis with and without such medication. The court shall hold a hearing on the matter not later than ten days after receipt of such health care guardian's report and shall, in deciding whether to order the involuntary medication of the defendant, take into account such health care guardian's opinion concerning the health care interests of the defendant.

(B) The court, in anticipation of considering continued involuntary medication of the defendant under subdivision (4) of this subsection, shall order the health care guardian to file a

supplemental report updating the findings and recommendations contained in the health care guardian's report filed under subparagraph (A) of this subdivision.

(4) If, after the defendant has been found to have attained competency by means of involuntary medication ordered under subdivision (2) of this subsection, the court determines by clear and convincing evidence that the defendant will not remain competent absent the continued administration of psychiatric medication for which the defendant is unable to provide consent, and after any hearing held pursuant to subdivision (3) of this subsection and consideration of the supplemental report of the health care guardian, the court may order continued involuntary medication of the defendant if the court finds by clear and convincing evidence that: (A) To a reasonable degree of medical certainty, continued involuntary medication of the defendant will maintain the defendant's competency to stand trial, (B) an adjudication of guilt or innocence cannot be had using less intrusive means, (C) the proposed treatment plan is narrowly tailored to minimize intrusion on the defendant's liberty and privacy interests, (D) the proposed drug regimen will not cause an unnecessary risk to the defendant's health, and (E) the seriousness of the alleged crime is such that the criminal law enforcement interest of the state in fairly and accurately determining the defendant's guilt or innocence overrides the defendant's interest in self-determination. Continued involuntary medication ordered under this subdivision may be administered to the defendant while the criminal charges against the defendant are pending and the defendant is in the

custody of the Commissioner of Correction or the Commissioner of Mental Health and Addiction Services. An order for continued involuntary medication of the defendant under this subdivision shall be reviewed by the court every one hundred eighty days while such order remains in effect. The court shall order the health care guardian to file a supplemental report for each such review. After any hearing held pursuant to subdivision (3) of this subsection and consideration of the supplemental report of the health care guardian, the court may continue such order if the court finds, by clear and convincing evidence, that the criteria enumerated in subparagraphs (A) to (E), inclusive, of this subdivision are met.

(5) The state shall hold harmless and indemnify any health care guardian appointed by the court pursuant to subdivision (3) of this subsection from financial loss and expense arising out of any claim, demand, suit or judgment by reason of such health care guardian's alleged negligence or alleged deprivation of any person's civil rights or other act or omission resulting in damage or injury, provided the health care guardian is found to have been acting in the discharge of his or her duties pursuant to said subdivision and such act or omission is found not to have been wanton, reckless or malicious. The provisions of subsections (b), (c) and (d) of section 5-141d shall apply to such health care guardian. The provisions of chapter 53 shall not apply to a claim against such health care guardian.

(l) Failure of defendant to return to treatment facility in accordance with terms and conditions of release. If a defendant who

has been ordered placed for treatment on an inpatient basis at a mental health facility or a facility for persons with intellectual disability is released from such facility on a furlough or for work, therapy or any other reason and fails to return to the facility in accordance with the terms and conditions of the defendant's release, the person in charge of the facility, or such person's designee, shall, within twenty-four hours of the defendant's failure to return, report such failure to the prosecuting authority for the court location which ordered the placement of the defendant. Upon receipt of such a report, the prosecuting authority shall, within available resources, make reasonable efforts to notify any victim or victims of the crime for which the defendant is charged of such defendant's failure to return to the facility. No civil liability shall be incurred by the state or the prosecuting authority for failure to notify any victim or victims in accordance with this subsection. The failure of a defendant to return to the facility in which the defendant has been placed may constitute sufficient cause for the defendant's rearrest upon order by the court.

(m) Release or placement of defendant who will not attain competency. Report to court prior to release from placement.

(1) If at any time the court determines that there is not a substantial probability that the defendant will attain competency within the period of treatment allowed by this section, or if at the end of such period the court finds that the defendant is still not competent, the court shall consider any recommendation made by the examiners pursuant to subsection (d) of this section and any opinion submitted by the treatment facility pursuant to subparagraph (C) of subsection (j) of this

section regarding eligibility for, and the appropriateness of, civil commitment to a hospital for psychiatric disabilities and shall either release the defendant from custody or order the defendant placed in the custody of the Commissioner of Mental Health and Addiction Services, the Commissioner of Children and Families or the Commissioner of Developmental Services. If the court orders the defendant placed in the custody of the Commissioner of Children and Families or the Commissioner of Developmental Services, the commissioner given custody, or the commissioner's designee, shall then apply for civil commitment in accordance with sections 17a-75 to 17a-83, inclusive, or 17a-270 to 17a-282, inclusive. If the court orders the defendant placed in the custody of the Commissioner of Mental Health and Addiction Services, the court may order the commissioner, or the commissioner's designee, to apply for civil commitment in accordance with sections 17a-495 to 17a-528, inclusive, or order the commissioner, or the commissioner's designee, to provide services to the defendant in a less restrictive setting, provided the examiners have determined in the written report filed pursuant to subsection (d) of this section or have testified pursuant to subsection (e) of this section that such services are available and appropriate. If the court orders the defendant placed in the custody of the Commissioner of Mental Health and Addiction Services and orders the commissioner to apply for civil commitment pursuant to this subsection, the court may order the commissioner to give the court notice when the defendant is released from the commissioner's custody if such release is prior to the expiration of the time within which the defendant may be prosecuted for the crime with which the defendant is charged,

provided such order indicates when such time expires. If the court orders the defendant placed in the custody of the Commissioner of Developmental Services for purposes of commitment under any provision of sections 17a-270 to 17a-282, inclusive, the court may order the Commissioner of Developmental Services to give the court notice when the defendant's commitment is terminated if such termination is prior to the expiration of the time within which the defendant may be prosecuted for the crime with which the defendant is charged, provided such order indicates when such time expires.

(2) The court shall hear arguments as to whether the defendant should be released or should be placed in the custody of the Commissioner of Mental Health and Addiction Services, the Commissioner of Children and Families or the Commissioner of Developmental Services.

(3) If the court orders the release of a defendant charged with the commission of a crime that resulted in the death or serious physical injury, as defined in section 53a-3, of another person, or with a violation of section 53a-70b of the general statutes, revision of 1958, revised to January 1, 2019, or subdivision (2) of subsection (a) of section 53-21, subdivision (2) of subsection (a) of section 53a-60 or section 53a-60a, 53a-70, 53a-70a, 53a-71, 53a-72a or 53a-72b, or orders the placement of such defendant in the custody of the Commissioner of Mental Health and Addiction Services or the Commissioner of Developmental Services, the court may, on its own motion or on motion of the prosecuting authority, order, as a condition of such release or

placement, periodic examinations of the defendant as to the defendant's competency at intervals of not less than six months. If, at any time after the initial periodic examination, the court finds again, based upon an examiner's recommendation, that there is a substantial probability that the defendant, if provided with a course of treatment, will never regain competency, then any subsequent periodic examination of the defendant as to the defendant's competency shall be at intervals of not less than eighteen months. Such an examination shall be conducted in accordance with subsection (d) of this section. Periodic examinations ordered by the court under this subsection shall continue until the court finds that the defendant has attained competency or until the time within which the defendant may be prosecuted for the crime with which the defendant is charged, as provided in section 54-193, has expired, whichever occurs first.

(4) Upon receipt of the written report as provided in subsection (d) of this section, the court shall, upon the request of either party filed not later than thirty days after the court receives such report, conduct a hearing as provided in subsection (e) of this section. Such hearing shall be held not later than ninety days after the court receives such report. If the court finds that the defendant has attained competency, the defendant shall be returned to the custody of the Commissioner of Correction or released, if the defendant has met the conditions for release, and the court shall continue with the criminal proceedings.

(5) The court shall dismiss, with or without prejudice, any charges for which a nolle prosequi is not entered when the time

within which the defendant may be prosecuted for the crime with which the defendant is charged, as provided in section 54-193, has expired. Notwithstanding the record erasure provisions of section 54-142a, police and court records and records of any state's attorney pertaining to a charge which is nolled or dismissed without prejudice while the defendant is not competent shall not be erased until the time for the prosecution of the defendant expires under section 54-193. A defendant who is not civilly committed as a result of an application made by the Commissioner of Mental Health and Addiction Services, the Commissioner of Children and Families or the Commissioner of Developmental Services pursuant to this section shall be released. A defendant who is civilly committed pursuant to such an application shall be treated in the same manner as any other civilly committed person.

(n) Payment of costs. The cost of the examination effected by the Commissioner of Mental Health and Addiction Services and of testimony of persons conducting the examination effected by the commissioner shall be paid by the Department of Mental Health and Addiction Services. The cost of the examination and testimony by physicians appointed by the court shall be paid by the Judicial Department. If the defendant is indigent, the fee of the person selected by the defendant to observe the examination and to testify on the defendant's behalf shall be paid by the Public Defender Services Commission. The expense of treating a defendant placed in the custody of the Commissioner of Mental Health and Addiction Services, the Commissioner of Children and Families or the Commissioner of Developmental Services pursuant to subdivision (2) of subsection (h) of

this section or subsection (i) of this section shall be computed and paid for in the same manner as is provided for persons committed by a probate court under the provisions of sections 17b-122, 17b-124 to 17b-132, inclusive, 17b-136 to 17b-138, inclusive, 17b-194 to 17b-197, inclusive, 17b-222 to 17b-250, inclusive, 17b-263, 17b-340 to 17b-350, inclusive, 17b-689b and 17b-743 to 17b-747, inclusive.

(o) Custody of defendant prior to hearing. Until the hearing is held, the defendant, if not released on a promise to appear, conditions of release, cash bail or bond, shall remain in the custody of the Commissioner of Correction unless hospitalized as provided in sections 17a-512 to 17a-517, inclusive.

(p) Placement of defendant who presents significant security, safety or medical risk. Defendant remaining in custody of Commissioner of Correction.

(1) This section shall not be construed to require the Commissioner of Mental Health and Addiction Services to place any defendant who presents a significant security, safety or medical risk in a hospital for psychiatric disabilities which does not have the trained staff, facilities or security to accommodate such a person, as determined by the Commissioner of Mental Health and Addiction Services in consultation with the Commissioner of Correction.

(2) If a defendant is placed for treatment with the Commissioner of Mental Health and Addiction Services pursuant to subsection (i) of this section and such defendant is not placed in a hospital

for psychiatric disabilities pursuant to a determination made by the Commissioner of Mental Health and Addiction Services under subdivision (1) of this subsection, the defendant shall remain in the custody of the Commissioner of Correction. The Commissioner of Correction shall be responsible for the medical and psychiatric care of the defendant, and the Commissioner of Mental Health and Addiction Services shall remain responsible to provide other appropriate services to restore competency.

(3) If a defendant remains in the custody of the Commissioner of Correction pursuant to subdivision (2) of this subsection and the court finds that the defendant is still not competent and will not attain competency within the remainder of the period covered by the placement order absent administration of psychiatric medication for which the defendant is unwilling or unable to provide consent, the court shall proceed as provided in subdivisions (2), (3) and (4) of subsection (k) of this section. Nothing in this subdivision shall prevent the court from making any other finding or order set forth in subsection (k) of this section.

(q) Defense of defendant prior to trial. This section shall not prevent counsel for the defendant from raising, prior to trial and while the defendant is not competent, any issue susceptible of fair determination.

(r) Credit for time in confinement on inpatient basis. Actual time spent in confinement on an inpatient basis pursuant to this section shall be credited against any sentence imposed on the defendant in the

pending criminal case or in any other case arising out of the same conduct in the same manner as time is credited for time spent in a correctional facility awaiting trial.

Sec. 54-193. Limitation of prosecution for certain violations or offenses.

(a) There shall be no limitation of time within which a person may be prosecuted for (1) (A) a capital felony under the provisions of section 53a-54b in effect prior to April 25, 2012, a class A felony or a violation of section 53a-54d or 53a-169, or (B) any other offense involving sexual abuse, sexual exploitation or sexual assault if the victim of the offense was a minor at the time of the offense, including, but not limited to, a violation of subdivision (2) of subsection (a) of section 53-21, (2) a violation of section 53a-165aa or 53a-166 in which such person renders criminal assistance to another person who has committed an offense set forth in subdivision (1) of this subsection, (3) a violation of section 53a-156 committed during a proceeding that results in the conviction of another person subsequently determined to be actually innocent of the offense or offenses of which such other person was convicted, or (4) a motor vehicle violation or offense that resulted in the death of another person and involved a violation of subsection (a) of section 14-224.

(b) (1) Except as provided in subsection (a) of this section or subdivision (2) of this subsection, no person may be prosecuted for a violation of a (A) class B felony violation of section 53a-70, 53a-70a or 53a-70b, (B) class C felony violation of section 53a-71 or 53a-72b, or (C) class D felony violation of section 53a-72a, except within twenty years

next after the offense has been committed.

(2) Except as provided in subsection (a) of this section, no person may be prosecuted for any offense involving sexual abuse, sexual exploitation or sexual assault of a victim if the victim was eighteen, nineteen or twenty years of age at the time of the offense, except not later than thirty years next after such victim attains the age of twenty-one years.

(3) No person may be prosecuted for a class A misdemeanor violation of section 53a-73a if the victim at the time of the offense was twenty-one years of age or older, except within ten years next after the offense has been committed.

(c) No person may be prosecuted for any offense, other than an offense set forth in subsection (a) or (b) of this section, for which the punishment is or may be imprisonment in excess of one year, except within five years next after the offense has been committed.

(d) No person may be prosecuted for any offense, other than an offense set forth in subsection (a), (b) or (c) of this section, except within one year next after the offense has been committed.

(e) If the person against whom an indictment, information or complaint for any of said offenses is brought has fled from and resided out of this state during the period so limited, it may be brought against such person at any time within such period, during which such person resides in this state, after the commission of the offense.

(f) When any suit, indictment, information or complaint for any crime may be brought within any other time than is limited by this section, it shall be brought within such time.

Code of Evidence

Sec. 8-9. Residual Exception

A statement that is not admissible under any of the foregoing exceptions is admissible if the court determines that (1) there is a reasonable necessity for the admission of the statement, and (2) the statement is supported by equivalent guarantees of trustworthiness and reliability that are essential to other evidence admitted under traditional exceptions to the hearsay rule.

NNH-CR19-0342524-T	:	SUPERIOR COURT
STATE OF CONNECTICUT	:	JUDICIAL DISTRICT NEW HAVEN
v.	:	AT NEW HAVEN, CONNECTICUT
WILLIE MCFARLAND	:	SEPTEMBER 8, 2022

TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE ELPEDIO N. VITALE, JUDGE

A P P E A R A N C E S :

Representing the State of Connecticut:

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Recorded and Transcribed By:
Christine Bachman
Court Recording Monitor
235 Church Street
New Haven, CT 06510

THE COURT: Good morning, marshal. Good morning, everyone.

ATTY. KOCH: Good morning.

ATTY. GARBARSKY: Good morning.

ATTY. D'ANGELO: Good morning.

THE COURT: All right. Before the Court is the matter of State versus Willie McFarland. Can counsel identify themselves for the record, please?

ATTY. GARBARSKY: Seth Garbarsky for the State of Connecticut.

ATTY. D'ANGELO: Lisa D'Angelo for the State of Connecticut.

ATTY. KOCH: Good morning, your Honor. Theodore Koch for Mr. McFarland. With me is Michael Brown.

ATTY. BROWN: Good morning, your Honor.

THE COURT: Good morning, counsel. All right. Is Mr. McFarland up?

THE MARSHAL: He is, your Honor.

THE COURT: Okay. All right. Good morning, Mr. McFarland. All right. The Court is ready to proceed with jury selection this morning in this matter. The State has filed a long form Information alleging two counts of murder. However, it's my understanding, Mr. Koch, that you may wish to address the Court on an issue.

ATTY. KOCH: Yes, your Honor. I -- I'm concerned about Mr. McFarland's competency to stand

trial. The basis of my concerns is that I have not been in an in-person meeting with him in almost exactly two years. I have not known why he has not wanted to meet me; although, there are certain -- That one conversation that I had gave me pause about his grasp of the proceedings against him and his ability to help me in his defense. I --

THE COURT: All right. So what are the specific factual allegations that you are raising that if true would constitute substantial evidence of mental impairment?

MR. MCFARLAND: Your Honor. Excuse me, your Honor. I don't want to be here. I'm not going to go through this. I don't want to be upstairs. I don't want the (indiscernible). I'm not withstanding this, you know, talk about a (indiscernible). I don't want to be here. I want to be downstairs, and you all do whatever. I'll deal with that when it's time for me to go to civil court, and I'll deal with that then. So I'm asking to please be removed from here, back downstairs.

THE COURT: All right. So, Mr. -- Mr. McFarland, do you understand that today your case is scheduled to start trial?

MR. MCFARLAND: I don't care about nothing. I don't care about that. Do whatever. I don't want to know about that. Whatever you think you could do, do

it. I'll deal with that later. All I'm asking now is bring me back downstairs. I don't want to hear none of that stuff. It's making me -- It's making aggravated. You all do what the hell you do and you get away with it.

THE COURT: Okay.

MR. MCFARLAND: I don't want to talk about it. I want to wait downstairs.

THE COURT: All right. I'll let you -- You can -- you can address the Court when I finish asking you some questions though. I need to make sure you understand --

MR. MCFARLAND: I understand. You talking --

THE COURT: -- what's happening right now --

MR. MCFARLAND: You're not listening, your Honor. Your Honor, you're not listening. I don't want to --

THE COURT: -- what's happening right now and the rights that you're giving up by you stating that you don't want to be here today.

MR. MCFARLAND: You're not listening. I don't want to hear all that. I want to go downstairs. I don't care about none of the talk -- talking.

THE COURT: Do you understand that jury selection is scheduled to start today?

MR. MCFARLAND: I understand all that. I know everything. I -- I don't want to talk. I want to be

downstairs.

THE COURT: And you understand that your lawyer will be questioning people as potential jurors who will sit in this case?

MR. MCFARLAND: First of all, I ain't got no lawyer. I don't have no lawyer. That's -- that's not happening.

THE COURT: Okay. And you understand that if we pick the jury, evidence in this case is scheduled to start in -- at the end of September, September 28?

MR. MCFARLAND: Do whatever you feel you can get away with.

THE COURT: And you're facing two counts of murder. Do you understand that?

MR. MCFARLAND: Do whatever you feel you can get away with. I'll deal with that later.

THE COURT: All right.

MR. MCFARLAND: I'm asking you nice to please be removed to downstairs. And, obviously, you're not listening to me. You're carrying on, but you're not --

THE COURT: All right. Obviously, you're not listening to me.

MR. MCFARLAND: Because it doesn't matter to me what you all say.

THE COURT: Do you understand -- I want to make sure that you understand you have --

MR. MCFARLAND: I --

THE COURT: -- a constitutional right to have -- to be present --

MR. MCFARLAND: My -- I just told you I understand it.

THE COURT: -- during all stages of the proceedings. Do you understand that?

MR. MCFARLAND: I just told you, I understand it.

THE COURT: Okay. And do you understand that if you exercise --

MR. MCFARLAND: And obviously you're not listening because you're carrying on with nothing. I want to go downstairs.

THE COURT: If you don't exercise that right to be present in order to see and hear the witnesses, that's going to be detrimental to your case. Do you understand that?

MR. MCFARLAND: Whatever. Whatever, man. I want to wait downstairs with the officer.

THE COURT: All right. Marshal, go ahead. All right. Go ahead. You can go.

(Mr. McFarland was brought out of the courtroom.)

THE COURT: All right. The record should reflect the Court attempted to explain to Mr. McFarland obviously, first, his constitutional right

to be present in the courtroom at all stages of the proceedings against him, the fact that it was important for him to exercise that right to be present in order to hear and see witnesses and to assist his attorney, and his responses to the Court indicated that despite the fact that he knew the trial was going to continue in his absence, he wished to voluntarily absent himself from the courtroom. My understanding based on my review of the court file, that this is not the first time Mr. McFarland has engaged in this type of conduct. Apparently, during the course of the probable cause hearing that was conducted before another judge, a similar situation arose in which he voluntarily absented himself from the courtroom. Is that accurate, Mr. Koch and Mr. Garbarsky?

ATTY. GARBARSKY: Yes, your Honor.

ATTY. KOCH: Yes, your Honor.

THE COURT: Okay. So, Mr. Koch, as I was saying, despite that, I still need you to put on the record what you claim are specific factual allegations which if true would constitute evidence of substantial impairment -- evidence -- excuse me -- substantial evidence of mental impairment.

ATTY. KOCH: I guess I'll go in chronological order, your Honor. I have a -- in my file, a report from 2017 before he was arrested in this matter.

That he was diagnosed with paranoid schizophrenia. Come to 2019, he was arrested for this, and before I was his lawyer there was a question as to his competency. He was found to be not competent, partially due to psychotic thinking and other thought disorders that he expressed to the team. He cursed them out, in addition. Then he was sent to Connecticut Valley Hospital and restored to competency, and this was in the height of COVID. So there were delays, and then several months later when there -- when there wasn't a hearing on the issue, he was found -- He was evaluated again and found that he remained competent. That was in July of 2020. I was appointed and visited him for the first time in September of 2020, and honestly, I thought that he was thinking psychotically and delusionally, but because he had just been found competent two months before, I figured it was not an issue that I could fairly look into. That -- that ended up being the only -- And Mr. Brown was there as well. That was the only in-person meeting that I've ever had with Mr. McFarland at the prison. I have tried to visit him on numerous occasions throughout these past two years. And if your Honor would like, I could go -- I can put the exact dates on the record but --

THE COURT: Go ahead.

ATTY. KOCH: All right. One moment, please.

November 5, 2020, he declined to speak to me in court, and he told the marshals to tell me not to ever talk to him. I -- I respected that until May 5, 2021. When I tried to visit him at Cheshire, he refused the visit. I went back on May 11, 2021. I tried to visit him. He refused the visit. At the hearing on his competency to represent himself on May 26, he did a performance substantially similar to this one. He came up, acknowledged that he was in court, and that he didn't want to be here, and went down -- back downstairs. And I tried to visit him again on July 13, 2021. He refused that one. I tried to visit him again on October 5, 2021. He refused that one, because that was the eve of his probable cause hearing, which I didn't even know if I could waive because he hadn’t talked to me about it. So we had the probable cause hearing on October 6, and he declined to participate in that. Then we came back on January 13, 2022, and in this courthouse he rejected all offers. He again refused to acknowledge me. I tried to tell him on the record, Mr. McFarland, please cooperate with me because you’re hamstringing your own defense, and he only got more annoyed and left the courtroom. I tried to visit him again on April 4, 2022 and the day after that on April 5, 2022, at which point he sent a corrections officer to come to see me and tell me in no uncertain

terms he does not want you to visit him. Then we were called into court to discuss jury selection and evidence, and once we settled on that I wrote him a letter on July 20 telling him our scheduled, and on August 2 that letter returned to me unopened with a stamp on it that said refused. Prior to this, I had written him other letters on September 10, 2020, April 12, 2021, May 6, 2021, June 3, 2021, October 26, 2021, and November 23, 2021, none of which he had ever acknowledged, but none of them came back refused. They got to him, I guess. Only the most recent letter, the one where I told him that we're doing jury selection was refused, unopened. So I know that a person is presumed competent, and I was -- I am reluctant to bring this motion. I know it is an annoyance, and I know that it is a hassle to the State. I wish that we could proceed, but I have just -- As -- When I saw the 2017 evaluation, and then I saw the way the recent competency reports read, and then I put together his behavior towards me and his absolute refusal to cooperate with the process, and then even sitting right here, I hear his language about how he'll resolve this in his civil case -- There is no civil case. It doesn't exist. I -- I am deeply concerned that he is -- that his paranoid schizophrenia is causing him to fail to understand in a deeply meaningful way exactly what's

happening here. And -- and certainly, it goes without saying at this point, that he is not able to assist me in his defense. So I understand that if he -- Well moving forward, we'll see what happens, but I just -- I wish that I could proceed at this point, but I in good conscience cannot. And again, I'm sorry for the lateness of the notice. It's just something that really became clear to me once I was pretty much ready to go to trial.

THE COURT: All right. So but, I mean, the case law is that, you know, the mere fact standing alone that someone is refusing to cooperate or is being obstreperous either with the Court or counsel is not sufficient in and of itself for the Court to find that there is substantial evidence of mental impairment. So, but I mean, in terms of other things other than his lack of cooperation with you, are you pointing to anything else in the records?

ATTY. KOCH: Well his diagnosis, the fact that he was found not competent, the fact that paranoid schizophrenia is a -- is a -- is a mental disease that can come and go in terms of how it impacts your competence. It's -- it's distinct from something like cognitive disability. Where somebody who has a very low IQ, they can never be restored to competency. A paranoid schizophrenic can if they have the right medication and the right treatment,

and I don't -- He's been in Cheshire. I have no idea what kind of medication they have him on. And -- and also that whenever he has tried to address -- to explain why he is doing what he is doing, it has been based on these references to these kind of delusions, a civil case that doesn't exist. He'll handle it later. I'm -- He -- he doesn't have a lawyer, as he just said. Well he does have a lawyer. Does that mean he doesn't think I'm his lawyer? Does it mean he doesn't think I'm a lawyer? Does -- I don't know what it means.

THE COURT: Well it may mean that he disagrees with Judge Harmon's order, which I saw in the clerk's file, that he was not competent to represent himself, and that he is manifesting his disagreement with that finding by the Court by saying essentially I don't recognize you as my lawyer because I want to represent myself. But the question really though is whether his ability to assist in his own defense by cooperating with you or providing information is volitional or whether it's the product of a mental disorder. That's really what the problem is before the Court.

ATTY. KOCH: Yes.

THE COURT: Okay.

ATTY. KOCH: And I -- I'm sorry. Were you --

THE COURT: No, go ahead.

ATTY. KOCH: I -- When I first started, I did a lot of work in GA-10 in New London, and there are a lot -- There -- I got a lot of competency clients. And I can say that somebody who refuses to cooperate simply out of being obstreperous or trying to delay, or whatever, is a fish of a different color from somebody who has an actual diagnosis of this delusion that is manifesting itself in the very few conversations that you had with him, and I -- I'm not an expert. I don't know if it's volitional. I was hoping that it was, and I was hoping as he had -- He has said on the record that he's waiting for the Grand Jury and the media to be present, and at that point, he will cooperate. I sanguinely interpreted that to mean that he's waiting for jury selection. So that's kind of also why I waited until today to bring this up. And he refused to talk to me today, and I hollered at him through the bars of the cell, we're here for jury selection, and I was hoping that that would get -- If it was volitional, and that's what he's been saying, and he's sane about saying that, then he would be here picking the jury today because he would get what he -- what he wanted. But we don't have a Grand Jury for him, and we don't have the media for him, and he's not cooperating, and that's crazy, and I want him to be evaluated.

THE COURT: Okay.

ATTY. KOCH: And that's as plainly as I could put it.

THE COURT: All right. Thank you, Mr. Koch. Does the State wish to be heard?

ATTY. GARBARSKY: Briefly, your Honor. I don't see how both things can't be true. He could suffer from a mental illness or disease or defect and still be competent. The case law is relatively clear. It draws a distinction between someone that's incapable in assisting in their defense and unwilling. And I'm not a mental health expert, nor do I profess to be, but I've seen this behavior repeated every time Mr. McFarland has been to court. He feels very strongly that he wants to represent himself. He's not happy with the decisions that have previously been made, and quite frankly, he wishes not to avail himself of this process. That doesn't mean he's incompetent. And furthermore, he's already been found competent. So besides the presumption of competence that Attorney Koch just brought up, he's actually already been found competent. There's been nothing that's changed in the last two years that I've heard supplied on the record that would substitute that finding of competence which would require a further evaluation.

THE COURT: All right. I mean it would have been helpful, I suppose, if the Court had been

provided with evidence of his medication status while he's been incarcerated in the last couple of years, but that apparently is not to be. I am aware of what the case law says. I'm aware -- And I don't know that I necessarily disagree with the argument that's been advanced by the State that this is merely a volitional decision on the part of Mr. McFarland to act in this fashion because he's unhappy with Judge Harmon's ruling with respect to representing himself. The difficulty for the Court though is that we have a situation where -- and it has not been contested by the State, and it's in the file, the clerk's file, that there's a prior history of a competency examination being requested. He's initially found not competent. He was later restored. That restoration, however, occurred two years ago. And, I, like counsel, am not a mental health expert. I am aware though that paranoid schizophrenia is not an insignificant mental health diagnosis. And so that is the backdrop for the Court's consideration and the arguments being made here today. The Court would have attempted to canvass the -- the defendant with respect to specific questions regarding his competency, which is something that's discussed at length in the case law, most recent case law, which I'll get to in a second. His essential -- His answers essentially were, when the Court attempted to

explain to him that it was not in his best interest to absent himself from the proceedings, it was essentially I'm not participating. Now whether that's the product of a mental disorder or not, that behavior is really the same consideration the Court has to consider with respect to whether a competency examination is warranted yet again. Because the Court could have after canvassing him, specifically with respect to whether I believe he was competent to stand trial, would to have to have gone through a number of questions to satisfy the Court that there was not substantial evidence of mental impairment or that the Court did not have a reasonable doubt as to his competency despite the fact that the motion is being made. So the difficulty for the Court, obviously, given the context of all this, is the Court is unable to make such a determination based on a canvass because he refuses to cooperate and kept saying he wanted to go downstairs. He kept standing up. And finally the Court, because I don't need to have anybody get involved in a fracas here, allowed him to -- to leave.

So the most recent cases that discuss this, State versus Campbell being on of them, 328 Connecticut 444, a 2018 case, where there were competing opinions as to whether or not the person, Mr. Campbell, was competent versus not competent, and

whether the defendant's refusal to cooperate was volitional or the product of mental disorder. This is what the issue is before this Court, and I -- Based on that and that case and the language in that case and also State versus Dort, which came out in 2014 at 315 Connecticut 151, the Court -- And it goes through a lengthy explanation as to whether or not a competency examination based on the record being made is justified and the Court's requirement to conduct an independent inquiry into the defendant's competence whenever specific factual allegations if made were true would constitute substantial evidence of mental impairment. But I've been hamstrung by that by the defendant's conduct. Now whether I'm going to find -- going to sit here now and say he's doing that because he's just being obstreperous or because he's got a mental disorder that's preventing him from -- from cooperating either with the Court or with his lawyer is not something that the Court at this point is prepared to say is not the result of mental disorder. Now it may be that it's going to turn out that way. That, meaning that it's fully volitional. And if that's the case, and he decides he's not going to cooperate with the proceedings and wants to stay downstairs, fine. I'll address that then. But at this point, based on the past history and the statements on the record by Mr. Koch, the

Court is not prepared at this point to say that the request is not justified. So I understand the State's concerns. I understand that this has been pending for some time. I understand it -- I understand it's likely there have been arrangements made for witnesses because we were supposed to start picking today. We picked a start date. The better practice would have been, frankly, when this was set down a month ago for scheduling, that this request was brought to the Court's attention then. That's water under the bridge now or over the bridge I believe is the saying. So I understand all that, but it is what it is at this point. So the motion is granted for a competency examination. The report date I believe is 20 days. That would be Wednesday, September -- Today is the 8th. It would be Wednesday, September 28. Do either counsel wish to be heard on that date?

ATTY. GARBARSKY: No, your Honor.

ATTY. KOCH: No. No, your Honor.

THE COURT: Okay. So he is to be transported for examination by the team at Whiting with a report due by the 28th. Anything further?

ATTY. GARBARSKY: Not from the State.

THE COURT: Okay. We're adjourned.

ATTY. KOCH: I'm sorry, your Honor. I have one thought that might avoid future things. I don't know

NNH-CR19-0342524-T	:	SUPERIOR COURT
STATE OF CONNECTICUT	:	JUDICIAL DISTRICT NEW HAVEN
v.	:	AT NEW HAVEN, CONNECTICUT
WILLIE MCFARLAND	:	OCTOBER 25, 2022

TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE ELPEDIO N. VITALE, JUDGE

A P P E A R A N C E S :

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system to be activated so that the defendant while he's in that anteroom, while he be out of the presence of the jurors and he will not be able to see the proceedings, he will in fact be able to hear what is transpiring here in the courtroom. Thus, the defendant (as stated) has taken steps to allow the defendant, who is able to sit, to be in close proximity to the proceedings, to hear all the proceedings related to his case, including jury selection, the Court's rulings and so forth. The jurors will not be able to see him in that room but he can hear everything, and counsel will have the opportunity to confer with Mr. McFarland at regular intervals to advise him of his right to be present and certainly his right to come back any time he wishes to if he's able to comport himself appropriately.

Okay. Turning to the immediate issue at hand. With respect to the defendant's motion made for a competency examination, there's a request that the Court issue a finding that he is incompetent to stand trial. I'll apologize for this in advance. The Court is going to read its decision into the record. This matter was originally scheduled to commence trial, specifically jury selection on September the 8th of 2022. On that date, the record will reflect, that after an on-the-record discussion with Attorney

Koch and State's Attorney Garbarsky regarding the start of the trial, the Court granted Attorney Koch's request for a competency examination pursuant to Connecticut General Statute 54-56d. The defendant himself engaged the Court at that time, and as he had with prior court appearances before other judges, and as he has again demonstrated yet again this morning, wished to voluntarily absent himself from the proceedings. For the reasons I will not again belabor for the record, the Court granted the defendant's request and ordered a competency examination be conducted. An evidentiary hearing was conducted on October 20, 2021 in connection with the results of the requested competency examination. The Court received exhibits into evidence and heard testimony from Paolo Santilli from the Department of Corrections and Dr. Howard Zonana. The Court also heard oral argument that day on the question of the defendant's competency to stand trial. In reaching its conclusions, the Court has fairly and impartially considered all the evidence received at trial, evaluated the credibility of the witnesses, assessed the weight, if any, to be given specific evidence, and measured the probative force of conflicting evidence, reviewed all exhibits, relevant statutes, and caselaw, and has drawn such inferences from the evidence or facts established by the evidence that it

deems reasonable and logical. To the extent it is necessary to further amplify, the Court's credibility determinations for each witness were made among other things on the basis of the conduct, demeanor, and attitude of the witness -- witnesses, as well as all the other factors relevant for each witnesses -- each witness with respect to the credibility evaluation. LaPointe versus Commissioner of Corrections, 316 Connecticut 225, 268 to 271. Additionally, any other evidence on the record not specifically mentioned in the Court's decision that would support a contrary conclusion, whether said evidence was contested or uncontested by the parties was considered and rejected by the Court. State versus Edmonds, 323 Connecticut 34. Preliminarily, the Court notes that the Defendant's -- excuse me -- that Defendant's Exhibit A is the report from the CMHC team task to evaluate the defendant's competency based on this Court's September 8, 2022 order. The defendant declined to participate in the evaluation. Exhibit A contains a synopsis of the team's observations. The defendant was, quote, adamant he was not going to participate in the competency evaluation. However, the team, consisting of Lisa Blumenthal, Madelon Baranoski, and Dr. Olalekan O-l-a-o-l-u, madam monitor, pointed out that the defendant was not agitated or disorganized in his interactions with the

team. At no point during their, quote, brief interaction the team indicated did the -- did the defendant appear to be experiencing psychiatric symptoms or cognitive impairment, and his grooming, hygiene, appearance, and demeanor were all within normal limits. The defendant's appearances before this Court on September 8, 2022 and October 20, 2022 are consistent with the conduct and observations documented by the team in Defendant's Exhibit A. The Court in reaching its conclusions carefully reviewed the July 10, 2020 report generated by the Whiting Forensic Hospital in connection with competence to stand trial, which was marked by this Court -- I just want to make sure I get this right -- as Court's Exhibit 1, but had been introduced for purposes of an earlier hearing in -- with respect to a competency to stand trial hearing as an exhibit on July 10, 2020. It was I believe marked as Defendant's Exhibit A at that particular hearing, but it has been marked as Court's Exhibit 1 by this Court in connection with the hearing this Court conducted on October the 20th. The defendant's initial presentation, as documented in Defendant's Exhibit B, while he was incarcerated at Garner C.I., is noteworthy for the following indications. Reports from staff of disorganized thinking, irritable mood, would not leave his cell, very, quote, paranoid, very, quote, psychotic. Had

not showered in weeks, poor hygiene. Had not been returning -- Excuse me. Had been refusing his medications while at Cheshire Correctional Institute before being sent to Garner. Acute psychiatric symptoms. He was transferred to Whiting and engaged in a course of treatment concluding -- including, I should say, medication. And as the July 20, 2020 report, marked as Court's Exhibit -- Just a second. Excuse me. The July 10, 2020 report from Whiting, which has been marked as Court's Exhibit 1, documents his progress and their conclusion that he was restored to competency. I will not place on the record the entirety of the findings and observations of Whiting at that time, but the salient sections note as follows in Court's Exhibit 1. Mr. McFarland followed the unit rules and routines, and he was able to approach staff with concerns in order to have his needs met. For the most part, he was polite, conversational, and enjoyed good nature and exchanges with patients and staff alike. When he was not in structured groups, he filled his time by reading, listening to music, playing board games, and talking on the telephones. Although he agreed to meet with staff members, including this writer, he refused to comply with our efforts to conduct a formal evaluation of his competency. In doing so, he was polite and respectful, but remained adamant that he

would not discuss legal matters in detail with staff in the hospital. Mr. McFarland remains on the same medication regimen, as indicated in our original report, and his mental status has remained stable. He has not exhibited any signs of psychosis or mood disturbance. His attention, concentration, and memory are excellent. His thinking is logical, relevant, and goal directed. During this lengthy hospitalization, we have had the opportunity to observe and to interact with Mr. McFarland on a daily basis, which has served to further inform our assessment. Mr. McFarland persists in his assertion that the Judicial System is conspiring against him, and he bitterly complains about the injustices that he believes exist. However, there have been no indications that he is suffering from true paranoia or delusions that affect any aspect of his thinking or functioning. He has shown that he has the capacity to understand his current circumstances and the court process and that he is capable of participating in it to the extent necessary to resolve his legal matters. He has managed to resolve numerous court cases in the past, and it is our opinion that he still possesses those capacities at this time. Based on all available information, it remains the opinion of this evaluator and the treatment team that Willie McFarland still

demonstrates a sufficient understanding of the proceedings against him and has the capacity to assist in his defense should he choose to do so. It continues to be the recommendation of Whiting Forensic Hospital that Willie McFarland be found competent to stand trial at the next hearing on this matter. In our opinion, he is not in need of hospital level care at this time. The Court did reference State versus Campbell, 328 Connecticut 444, in considering whether to grant the defendant's request for another competency examination in order to attempt to gain additional information as to whether the defendant's refusal to cooperate with his attorney and efforts to voluntarily absent himself in the proceedings was volitional or the product of a cognitive deficit suggestive of a lack -- suggestive of a lack of competence to stand trial. The burden of proving that the defendant is not competent by a preponderance of the evidence and the burden of going forward with the evidence are on the defendant, having raised the issue. The defendant is statutorily presumed competent. State versus Johnson, 253 Connecticut 1, pages 30 to 31. The defendants obstreperous, uncooperative, or belligerent behavior and hostility toward his attorney did not necessarily indicate the defendant's incompetency. State versus DeAngelis, 200

Connecticut 224 at 230. Competence to stand trial is not defined in terms of mental illness. An accused may be suffering from a mental illness and nonetheless be able to understand the charges against him and assist in his own defense. The fact that the defendant was or is receiving medication and would require medication during the course of the trial does not render him incompetent. Illness, if any, is not per say evidence of incompetence. State versus Ross, 269 Connecticut 213 at 273. In order to overcome the presumption of competency, the defendant was required to demonstrate that there was a reasonable doubt about his competence and reasonable doubt is established by substantial evidence, not mere allegations of incompetence or mere legal conclusions offered by counsel. Jarrett versus Commissioner of Corrections, 108 Conn. App. 59, cert denied, 288 Connecticut 910. State versus Ross cited in Jarrett stated that a competent but mentally ill criminal defendant can choose not to follow the advice of counsel and choose a course others think clearly is not in best interest. And that's State versus Ross at page 273. This Court has also reviewed in connection with this issue State versus Bagley, 101 Conn. App. 653; State versus Jordan, 151 Conn. App. 1, cert denied at 314 Connecticut 909; State versus Hines, 165 Conn. App. 1, cert denied at

321 Connecticut 920. State versus Frances 148 Conn. App. 788, cert was granted, and it was reversed on other grounds, however. As well as State versus Campbell and State versus Dort, which I previously noted in my September 8, 2022 remarks. The Court concludes that it has not been presented with any evidence or testimony that establishes by a preponderance of the evidence that the defendant's failure to communicate with counsel or cooperate fully with the team tasked with evaluating him as a result of this Court's September 8, 2022 order was a result of a lack of competency to stand trial. Again, I am not going to go over line by line the entirety of all the reports introduced into evidence, but I will refer to certain salient parts of those exhibits. The case law instructs that there is no single approach or factor that is most important in establishing competency. The Court has considered the testimony from Paolo Santilli and Dr. Zonana, as well as the exhibits introduced and discussed at the hearing. As stated in State versus Jordan, 151 Conn. App. 1, cert denied 314 Connecticut 909, there is no case law that establishes a bright line rule as to when a competency report becomes stale. According to State versus Hines at 165 Conn. App. 1, cert denied at 321 Connecticut 920, the standard to be applied is the same regardless of whether the defendant was

previously found incompetent. Mr. Santilli, who is employed as a correctional counselor at the Department of Corrections and is assigned to Cheshire Correctional Institution, has had essentially day-to-day contact with the defendant since 2019 while the defendant has been placed in the institution's Protective Custody Unit, because the defendant's case is considered, quote, high profile. His, quote, regular contact with the defendant has included not only observations but also face-to-face interactions and communications with the defendant during that time. In summary, his interactions and observations of the defendant have shown him to be very cordial and very, quote, to the point. No aggressive behavior or violence. He provided appropriate and contextual responses during conversations they've had. He tells jokes. Holds -- This is meaning the defendant. Holds conversations with other inmates, sits with others inmates, read books -- reads books, watches TV, writes, maintains good hygiene, asks for soap, asked about commissary money, and also generally keeps a low profile. Mr. Santilli is aware that the defendant takes medication which is administered by a nurse following a routine, sometimes twice -- sometimes twice a day following that routine. There is no evidence that the defendant failed to take his medication. And

according to Mr. Santilli, quote, as far as he knows, the defendant does take it. He has not, meaning Mr. Santilli, seen any evidence of thought disturbance, mental disorganization, or confusion on the part of the defendant based on his conversations and communications. Dr. Zonana acknowledged that he did not personally participate in any of the prior hearings involving the defendant, but merely was part of a, quote -- was really part of, quote, reviewing evaluations and reports. He has never met the defendant, never done any psychological testing of the defendant, nor has he observed the defendant while the defendant was at Whiting. Although Dr. Zonana spoke merely in general terms of delusions, Dr. -- Dr. Zonana indicated that people with delusions can nevertheless act volitionally or purposefully. When asked about the impact of a delusion related to what was called and the question, quote, a legal case with respect to someone's choice to cooperate or not with his attorney, Dr. Zonana said that you, quote, try to explore that, and quote, to see if there is a particular reason involved with that choice. He stated, quote, if you get some kind of a rationale that may be based on reality, then sometimes they are correct too, end quote. And has been placed on the record a number of times and it's contained in the reports, the defendant has had what

he considers negative experiences with the Criminal Justice System based on his lengthy criminal record and his disciplinary tickets while in corrections. Although, Dr. Zonana referenced the reports as indicating, quote, delusional thoughts over a number years, he conceded that the staff at Whiting in Defendant's Exhibit C indicated no evidence of delusional thinking after four months of observation. He also conceded that, quote, it could occur, and quote, that individuals charged with serious offenses would have some distrust and paranoia about the Criminal Justice System. He also said, quote, it was possible, and quote, that someone's hatred or animosity toward the judicial system could interfere with that person's reluctance or inability to work with his attorney. As was the case in State versus Campbell, a somewhat analogous -- somewhat analogous to this situation, the Whiting team did not indicate that the defendant's silence was due to a cognitive deficit or an irrational psychotic process. His testimony conveyed varying -- meaning Dr. Zonana's. His testimony conveyed varying levels of certainty regarding a possible link between the defendant's behavior and any mental disorder, compounded by the fact that he was merely testifying from a review of certain reports and not personal knowledge of having interacted with the defendant. When asked directly

by defense counsel in the following question, quote: You cannot make a conclusion here today as to whether Mr. McFarland is or is not competent to stand trial; is that right? End quote. Dr. Zonana expressly indicated that, quote, on the basis of me not having done the evaluation myself, I can just say what I think about the reports, but I generally don't make opinions if I haven't, end quote. Dr. Zonana agreed that many of the tools and techniques used during an ordinary competency evaluation were utilized on the defendant during the competency to represent himself evaluation. Of particular interest to this Court, as referenced by Dr. Zonana is Defendant's Exhibits C and E, reports from CMHC dated April 13, 2020 and April 19, 2021, respectively, and signed by Dr. Lori Hauser from Whiting and Dr. Vitiello, who is a colleague of Dr. Zonana.

Defendant's Exhibit C, and evaluation by the Whiting Forensic Team, the defendant was observed at Whiting for about three to four months. Some salient aspects of that report are as follows. According to the observations of the team, Dr. Hauser and Susan McKinley, a licensed clinical social worker forensic monitor, indicated with regard to Mr. McFarland, his thought processes were logical, organized, and goal directed with no evidence of paranoia or delusional thinking. His attention, concentration, and memory

were excellent. His mood was generally bright and stable. As he became familiar with staff and patients alike, he engaged in good natured banter with occasional loud and boisterous exchanges. Mr. McFarland consistently reverted to the same persecutory things. He expressed mistrust of the court system, except to indicate that he would not provide detailed explanations, except to indicate that it stemmed from abuse and mistreatment that he had suffered as an inmate in the DOC. And that was in connection with a -- a question about a civil suit which he references throughout the evaluation. Apart from those ideas, Mr. McFarland exhibited no difficulty in functioning. He demonstrated that he understand and was quite capable of complying with the unit rules and routines. Psychological testing was not conducted during the course of the hospitalization. The team's psychologist approached Mr. McFarland on several occasions in an attempt to engage him in that aspect of the evaluation. On those occasions, he politely but adamantly refused testing. Throughout this period of hospitalization, Mr. McFarland's mental status was evaluated daily by multiple staff across all shifts. He was known to be guarded at times, but he did not display symptoms that were indicative of florid psychosis. His mood was stable and at no time did he appear dysregulated.

In fact, there was no evidence that there were any symptoms interfering with Mr. McFarland's ability to understand the proceedings or participate in a defense of his charges. During continued attempts to engage him on a formal competency interview, Mr. McFarland was consistently polite but adamant in his refusal. Based on the above information, it is the opinion of this evaluator and the treatment team that Mr. Willie McFarland demonstrates a sufficient understanding of the proceedings against him and has the capacity to assist in his defense should he choose to do so. He did throughout this -- He did not express other notions that suggested he was paranoid or delusional. In fact, there were no other indications that he was experiencing psychiatric symptoms that would prevent him from considering his options and moving forward with resolving his legal matters. Mr. McFarland has extensive experience with the Criminal Justice System, and on that basis possess the knowledge necessary to make reasoned decision about proceeding with his pending charges. In light of these conclusions, it is the recommendation of the Whiting Forensic Hospital that Mr. Willie McFarland be found competent to stand trial at the next hearing on this matter.

Turning now to Defendant's Exhibit E, dated April 9, 2021, the conclusions of CHMC regarding an

assessment of the defendant's ability to represent himself in a murder trial with consequences as serious as that of a murder trial. And in that report, the Whiting findings are discussed as well. In that report it is noted, psychological testing was also attempted on several occasions, but he quietly but adamantly refused testing, noting that it was not necessary. It was felt that there was no evidence that there were any symptoms interfering with Mr. McFarland's ability to understand the proceedings or participate in a defense of his charges. He expressed ideas of suspiciousness -- His expressed ideas of suspiciousness appeared to be a function of his character in which he cast himself as the victim and a world view borne of a lifetime of interfacing with the Criminal Justice System. He accepted all prescribed medications, cooperated with unit rules, and complied with medical assessments. He further did not endorse any auditory or visual hallucinations, stating my mind doesn't play tricks on me. He then appeared to respond to internal stimuli during the evaluation. On formal cognitive evaluation, Mr. McFarland was alert and oriented with respect to his name, date of birth, location, date, and context for the evaluation. He exhibited some deficits in his attention and concentration. Mr. McFarland's overall fund of knowledge was assessed to

be in the average range. He performed simple calculations correctly. He was -- Mr. McFarland was able to identify similarities between multiple paired items, stating dog and lion are animals, orange and banana are fruit, coat and suit are clothes, table and chair are furniture. When asked for the meaning of the common proverb what goes around comes around, Mr. McFarland stated you're going to get yours. He stated no -- no sense crying over spilled milk. Spilled milk meant it happened, let it go, don't worry about. He gave appropriate responses to various situations assessing social awareness. Mr. -- With respect to the section captioned understanding of proceedings, Mr. McFarland reported that he is facing, quote, murder, two people, end quote, and further described that it was a, quote, cold case. Mr. McFarland reported that, quote, a felony is more serious, higher crime. He identified his charges are felonies. When asked to describe the role of a defense attorney, Mr. McFarland stated I don't like attorneys. They are supposed to represent you to the fullest, help you out. Mr. McFarland described the role of the prosecutor as, quote, want to be held responsible for actions on state side. Mr. McFarland was able to identify various pleas. He stated guilty means the defendant did it and not guilty means didn't do it. He could further describe

Alford as not saying you did it but the evidence is there enough to convict. When asked to describe plea bargaining, Mr. McFarland stated in involves, quote, making a deal, compromise. Mr. McFarland described that certain people could not serve in a jury, including felons and friends. He was also aware -- Excuse me. He was aware that jurors are selected, stating, quote, it's between you and the prosecutor to select jurors. When asked to describe what evidence means, Mr. McFarland stated there is no evidence. He expects distrust that I was seeking for specifics about his case that could be shared with the Court. Mr. McFarland shared many beliefs regarding the unfair practices of the Court and the, quote, system in general as it relates to leadership or, quote, the top. Of particular relevance giving -- Of particular relevance given Dr. Zonana's acknowledgement that many of the tools and techniques used during an ordinary competency examination are utilized in a competency to represent himself, evaluation of a following indication is noted in sections captioned understanding of the proceedings, which I've just gone through. He has a -- He has an extreme suspiciousness and distrust of the legal system borne of his lifetime of interface with that system.

Defendant's Exhibit D, dated May 21, 2021, which

is an addendum of -- to the 4-9-21 report, indicates as follows. A -- In salient parts. A repeat mental status examination was attempted on May 10, 2021. Mr. McFarland was minimally cooperative with cognitive testing. In a psychiatric review assistance, he stated that he was taking some medications but he could not remember the names. He did not endorse any auditory or visual hallucinations. He did not appear to respond to internal stimuli during the evaluation as some people with psychosis will do. He stated his civil rights were violated, specifically his 8th and 14th Amendment rights. He provided a factually correct understanding of those two amendments. Mr. McFarland stated that my evaluation was an attempt by the State to obtain facts about his case that could be used against him. The Court finds the opinions of the experts who actually performed or attempted to perform competency evaluations of the defendant, both at Whiting and CHMC, to have more persuasive weight than the expert Dr. Zonana who did not. Dr. Zonana conceded consistent with the case law that someone suffering from a mental illness can nevertheless be competent to stand trial, and further acknowledged that his testimony was not simply because someone has delusions they are automatically not competent. He also recognized with respect to Defendant's Exhibit C

that a team found him competent not just one individual after observing him for approximately four months. He also acknowledged that the defendant was motivated to cooperate with the evaluators when he deemed it to be in his own self-interest with respect to the issue of whether he could proceed as a self-represented party. Thus, the defendant did demonstrate an ability to participate in the proceedings and chooses not to because of what he believes to be his own self-interest, a position arguably borne of his lengthy past and presumably negative interactions with the Criminal Justice System and periods of incarcerations which has created a mistrust of the legal system in him. The defendant presents much differently at present in Corrections than he did upon initial admission to Whiting, as discussed earlier by the Court, in connection with Court's Exhibit 1. That -- Or excuse me. In connection with the report dated January 16, 2020. The defendant has the ability to participate but chooses not to. The defendant did not produce any evidence that the defendant's condition has changed at all, let alone materially, since the dates of his most recent competency evaluations dated July of 2020, April 13, 2020, April 9, 2021, and May 21, 2021. Although, this Court has attempted to canvass the defendant personally on 9-8 and 10-20 and then

again today, State versus Hines and other cases hold that a trial court is not required to canvass the defendant personally as part of this independent inquiry into his competency to stand trial. The defendant's demeanor and position has remained essentially unchanged since the most recent evaluations I have just referenced in that he distrusts a system which he feels has treated him unfairly in the past and has consequently refused to cooperate with evaluators. State versus Edwards, 158 Conn. App. 119, cert denied 318 Connecticut 906. The testimony of Mr. Santilli in conjunction with the opinions and observations of the evaluators who actually met with and interacted with the defendant does not demonstrate confusion, thought disturbance, or any form of mental illness impairing the defendant’s ability to understand his legal predicament and to assist in his own defense. State versus Jordan, 151 Conn. App.

Based on what has been presented to the Court, there is no substantial evidences that raises a reasonable doubt as to the defendant's competency. The defendant has failed to overcome the statutory presumption of competency by a preponderance of the evidence. Therefore, for the reasons I have articulated, the Court finds the defendant competent to stand trial.

Okay. With that, we're ready to begin jury selection. Mr. Clerk, if you can summon the panel. I'll meet with counsel in chambers to discuss scheduling. Okay. Recess.

(Whereupon a brief recess was taken.)

THE COURT: Thank you, marshal. All right. We have a panel ready. Anything I need to take up, counsel, before I summon the panel?

ATTY. GARBARSKY: No, your Honor.

ATTY. KOCH: Yes, your Honor. I'm -- I'm asking for a reconsideration of the competency ruling based on what was happening as the Court was issuing its ruling. Mr. McFarland is in a little room to my left. He started knocking on the door. He was singing loudly. I could hear him singing. He was talking to himself. If he continues to do this, it's a -- it's going to be a problem, because the marshals have to open the door every 15 minutes to check on him, and that's a mistrial waiting to happen. At this point, it's not that he's not cooperating with me in his defense, it's that he's sabotaging his defense, because it's distracting to me, and I don't think the answer is to send him downstairs. As I've said, I think the answer is to send him to Whiting. I think that he has a fixed delusion that is specifically related to this proceeding, and that if the Court sends him to Whiting, that Whiting should

press on what's going on in this proceeding. The way he was singing just now is reminiscent of the way he was singing in the 2006 video after he was forced to give a DNA swab. First, he talked about his civil case. Then they strapped him down and took his swab, and then as he walked through the hallways he was singing just like that. That's -- that's my pitch.

THE COURT: Okay. Does the State wish to be heard?

ATTY. GARBARSKY: No, your Honor.

THE COURT: All right. Well, the Court attempted to balance obviously his ability to voluntarily absent himself from the proceedings with what the Court believes is the importance of the defendant nevertheless being able to hear at least what's occurring in the courtroom, and we have the technologic ability to attempt to do that. Now, obviously if he was being disruptive like this in the courtroom in the presence of everyone, that disruptive behavior would permit the Court to remove him whether he wanted to be removed or not, because the Court can't permit -- The caselaw indicates the Court doesn't have to permit disruptive behavior in the courtroom to thwart the proceedings. So, you know, what his motivations are in attempting to do this I think is just another example of his efforts to disrupt the proceedings, to thwart the case from

moving forward, because he can hear what's happening now because he's in that room, and therefore is attempting by his conduct to, you know, be removed from proximity to -- to the proceedings. So I've indicated to the marshals that in the event that this occurred, because quite frankly, you know, based on his reactions here in front of me, that it's not -- was not unforeseeable that when he realized things were continuing in his absence, because he could hear everything that was happening, that this type of a reaction would be engendered in Mr. McFarland in an effort to thwart the proceedings. So obviously I don't want a situation where the jury is able to hear him in his carrying on. And well I say carrying on, but I can hear him, and you can hear him talking, and you can hear him singing. I have no idea what he's saying or what he's singing, frankly. But be that as it may, if I can hear it from Bench, there's a possibility the jurors are going to be able to hear it as well. So the Court, the record should reflect, did make an effort, because the capability was there, in balancing the -- the rights of the defendant with the need not to have the proceedings disrupted, seek a middle ground to have him not physically be here but able to hear. Evidently, that accommodation is not going to -- to be something the defendant is receptive to. And for that reason, I'm not going to

have the proceedings jeopardized because the jurors can hear him in the back there. So, marshal, if you could please, then you can bring him downstairs to the lockup. The -- the record should reflect by the way that I did confer with the marshals. The room he's in, which has got the speaker, is essentially the same size dimension-wise as where he's going to be placed in the lockup in the basement of the building. So in terms of the nature of the accommodations, the accommodations in fact, I'm told, are actually a little bit larger than where he's going to be downstairs. But as I said, the Court can't allow him to disrupt the proceedings. So by his conduct now he has forced the Court to remove him for a -- from a place where he can hear and bring him back downstairs. Mr. Koch, obviously as I said earlier, I'm going to give you the opportunity at intervals to report back to the Court whether Mr. McFarland's position and attitude has changed with respect to being present here in the courtroom. In terms of your request for reconsideration, that's denied. I placed all my reasons on the record. Nothing has occurred today that in any way changes the Court opinion -- changes the Court's opinion as to the reasons for its decision. Okay. So, marshal, you can bring him downstairs. So let me know when that's done before I bring in the panel.

NNH-CR19-0342524-T	:	SUPERIOR COURT
STATE OF CONNECTICUT	:	JUDICIAL DISTRICT OF NEW HAVEN
v.	:	AT NEW HAVEN, CONNECTICUT
WILLIE MCFARLAND	:	NOVEMBER 16, 2022

TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE ELPEDIO VITALE, JUDGE

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THE MARSHAL: All rise. The Honorable Superior Court for the Judicial District of New Haven at New Haven for the transaction of criminal business is now open and in session in its place.

The Honorable Judge Vitale presiding.

Good morning, your Honor.

THE COURT: Good morning. Thank you, Marshal.

Good morning, everyone.

ATTY. KOCH: Good morning, your Honor.

ATTY. D'ANGELO: Good morning.

THE COURT: All right. Excuse me.

Mr. Koch, have you had an opportunity to meet with Mr. McFarland here and any news to report?

ATTY. KOCH: Yes. And he does not want to come up.

THE COURT: All right. And as I've indicated throughout, that despite Mr. McFarland's unwillingness to be present, he has been afforded, through technology which has been employed throughout since it's been put in place, the ability to see and hear all of the proceedings that are taking place in the courtroom.

All right. The Court is prepared to rule on certain claims that were made late yesterday afternoon. And the claims have to do with certain questions that the defendant wanted to ask of Detective Dolan which the State has objected to as

calling for hearsay.

The defendant has argued that the questions and answers are admissible for three different reasons which I will address in turn. Looking back at what the questions were initially to Detective Dolan that Mr. Koch wished to pose, those questions are as follows: Did you read that Veronica Sars-Doyle told police she was present for the murders? Did you read that she told police Bruce Hankins committed the murders. Did you read that she said Lee Copeland wore yellow work gloves at the scene. Did you read she told police she used the bathroom? Did you read she said the murder weapon was left in the sink?

With respect to Mr. Hankins, the questions to be posed were: Did you read that Bruce Hankins said Lee Copeland confessed? Did you read Hankins said Copeland was looking for money? Did you read that Hankins was a suspect? Did you read that Hankins was a street person? Did you read that Hankins used knives? Did you read Hankins received a large amount of money shortly after the murders? And I think the -- there was a general question thereafter, what did you do?

The Court conducted a hearing yesterday regarding the defendant's proffer of certain hearsay statements, I'll just put on the record, alleged to have been made by Veronica Sars-Doyle and Donald

Bruce Hankins in connection with the deaths of Fred and Gregory Harris. The defendant seeks to introduce said statements as relevant to third-party guilt. The Court heard testimony yesterday generally from Detective Sean Dolan about the contents of certain taped statements in all declarations and memorialized in police reports. In the absence of the jury, the defendant introduced certain exhibits. Defendant's Exhibit A though L for ID only for purposes of the hearing. The Court has thoroughly reviewed all of the exhibits introduced at the hearing. Mr. Hankins and Ms. Sars-Doyle are now deceased.

Although Detective Dolan testified as to the contents of certain of these exhibits, he was merely repeating what was in those reports and statements as told by Hankin and Sars-Doyle to other police officers. In other words, Detective Dolan was not the direct recipient of the information allegedly provided by Hankins or Sars-Doyle. Other officers authored the reports and interviewed both of these individuals. The defendant seeks to have Detective Dolan, nevertheless, testify as to the contents of said statements and reports.

It asserts, first, that they are admissible under Connecticut Code Evidence 8-9, the residual hearsay exception. As State v. Bennett, 324 Conn. 744 at 762, a 2017 case noted, as a general rule

hearsay is not admissible unless it falls under one of several well-established exceptions. The purpose behind the hearsay rule is to effectuate the policy of requiring testimony be given in open court under oath and subject to cross-examination. The residual exception allows the admission of hearsay evidence not admissible under any of the established exceptions if one, there is a reasonable necessity for the admission of the statement; and two, the statement is supported by equivalent guarantees of reliability and trustworthiness essential to other evidence admitted under traditional hearsay exceptions.

State v. Bennett goes on to say that the residual hearsay exception should be applied in the quote, rarest of cases. The defendant's claim that the residual hearsay exception founders with respect to the prong which requires equivalent guarantees of reliability and trustworthiness for the following reasons: Neither Sars-Doyle or Hankins had ever been subjected to cross-examination regarding the circumstances surrounding their observations or recollection of alleged statements made by Lee Copeland. Particularly with respect to Sars-Doyle given the state of her overall mental and physical health at the time of the crime at issue, which I'll get to in a minute, she was never subject to cross-

examination to further explore her ability to properly observe or hear events she claims to have seen and heard.

So turning first to Sars-Doyle, Defendant's G for ID reflects that on February 9th of 1988 she denied any firsthand knowledge of the deaths of either of the Harrises and claimed to have been driving around Wallingford and North Guilford at relevant times. She claims that she got details of their deaths from her sister and indicated -- indicates that those details were provided by her sister; mentioned that the victims were, quote, gagged. No evidence of that has been presented from the crime scene.

She also denied specifically speaking to Lee Copeland about the crimes. She also mentioned Copeland's participation which she characterized as satanic rituals. And she swore to the truth of the contents of that statement. And she discussed going to Florida. This interview occurs at, obviously, many months after the crimes were committed.

And Sars-Doyle, in declarations contained in Defendant's K for ID contained in a police report dated July 24th of 1990, it's indicated she came to the police department to quote, sign a statement. The officer goes -- attempts to question her about the veracity of the that statement, particularly a

component of that statement where she apparently claimed that she could hear a hairdryer from her car while the hair drying was being used allegedly, from what I can gather, inside 655 Fitch Street, claimed to be able to hear that from her car while the radio was on. She agreed to answer questions but insisted this account not be tape recorded. Her declarations to police in this report in the Court's view strain credulity with respect to how and why she claims to be inside the apartment. There's no explanation as to how the apartment was entered.

The Court will note that from what the Court's heard so far when police entered, they found a T.V. on and pizza box on the table. There's no mention of where the Harrises were at the time they entered. She claims to witness certain things while on the second-floor bathroom. Claims that Mr. Copeland used an eight to ten-inch knife and there was no explanation for the material found in the kitchen sink.

Regarding Defendant's I for ID, a July 23rd, 1996 taped statement, so almost ten years after the crimes, she described that at the time of the crimes she had major medical issues including problems with her ears, eyes, nose, throat, respiratory, epileptic problems and that her memory of that night was quote, kind of blank. She used to drink a lot. And I'll

note parenthetically Mr. Hankins claimed she was a cocaine user. But now her memory is, she says, totally clear.

I am going to go into exquisite detail about the narrative portions of this statement, particularly on pages four, five, and six. Suffice it to say, the Court finds this account to be not only disjointed but largely incoherent as she rebuffs efforts by the interviewer to clarify. She claimed Copeland, for example, was wearing a white t-shirt, but noticed no blood which is odd given the nature and extent of the stab wounds the Court has heard about.

On page nine, for example, she indicated Mr. Copeland's pants had what she said were red spots that she at one point characterized as rust stains and then mentioned that they could have been dried with a hair dryer after being prompted by the interviewer to describe the clothing.

She also said Mr. Copeland hit Mr. Harris with a pipe over the head and gagged him and she then denied going into the apartment in contrast to a previous statement. Also for the first time she mentions a random person named Gus who she says was there because she could see shadows. And that Mr. Copeland mentioned a machete. She also noted she had started taking epileptic pills about two to two and a half months ago. And another point mentioned Mr. Copeland

being in possession of a crowbar.

Defendant's Exhibit C for ID, which was an interview of July 23rd, '90, she claims Mr. Copeland brought yellow gloves to the scene but also mentions various other gloves as well which would appear to be at odds with the testimony the Court is aware of regarding the presence of one of the victim's DNA on the inside of that glove as a major contributor.

Defendant's J which is her then boyfriend, he tells the police that Miss Sars-Doyle told him that she was in the car and never went in and that this was about a debt collection.

The Court concludes that because of the existence of internal inconsistencies within these statements by Miss Sars-Doyle, whether oral or tape recorded, the obvious inconsistencies between her statements over the years, the length of time gaps between the statements themselves and the gap between the first statement and the crime, her stated mental, physical, and substance abuse infirmities. She mentions drinking alcohol in many of these statements, that these declarations lack sufficient guarantees of trustworthiness, in addition, I'll note to actually being hearsay within hearsay as being offered through Detective Dolan. I'll make reference with respect to that Connecticut Code of Evidence 8-7 and also the Court will note State v. McClendon 248

Conn. 572.

The Court is well aware with respect to the defendant's claims that the overarching claim here with respect to both Miss Sars-Doyle and Mr. Hankin with respect to third party guilt, and what is argued to be the interest of fairness but is noted in State v. Hines, 243 Conn. 796 at page 11, footnote 9. That is not an overriding test. This is a situation where the Court, as a gatekeeper, determines that under the totality of the circumstances equivalent guarantees of trustworthiness do not exist. To satisfy the Court that these statements are reliable enough to be admitted as noted in State v. Rosario, 99 Conn. App. 92, cert was denied. It is not the case that any exculpatory evidence is required to be admitted regardless of its admissibility under evidentiary rules.

Turning now to claims regarding Mr. Hankins, the Court reaches a similar conclusion for the same general reasons and others. As I already noted, there's no cross-examination and as noted for Veronica Sars-Doyle, the same principles apply with respect to cross-examination.

Defendant's Exhibit L for ID is an interview that took place apparently on September the 2nd of '87. Mr. Hankin is alleged to have said that he last saw Mr. Copeland on September 1st and that prior that

it had been I believe six to eight weeks earlier. At one point, I believe he said he had last seen Copeland one time in the last three months and said he saw Copeland six times in the past year only. He also claimed he heard about the murder from T.V. and newspaper accounts.

The Court already yesterday from -- as did the jury, from Detective Dolan that general details had been released to the public. And also recounted a conversation he heard -- he had with Mr. Copeland. The Court notes that at this point, the account claimed to have originated from Mr. Copeland contained in the exhibit, the Court believes is nebulous at best. Meaning that immediately after telling the police that he, meaning Mr. Hankins, heard about the crime from T.V. and newspapers, the interviewer then asks, what did Lee tell you. Response is he told me, quote, Greg got hurt but he didn't say he was stabbed and stuff, end quote. Hankins asked if it was the same Greg. He said, yeah, I turned around and said, the father was -- I turned around and he said the father was bound and gagged, throat clashed -- slashed and got stabbed, that's all I know. Hankins asked why. In the report there's no answer given.

It isn't clear to the Court whether Mr. Hankins is referencing some kind of admission, claimed

admissions by Mr. Copeland or whether Mr. Copeland is merely parroting media reports despite the effort by the defense in a question calling this a quote, confession. Unhelpfully, the police did not ask any follow up questions to clarify what the Court believes to be a statement that is ambiguous at best.

Mr. Hankins, at least according to Defendant's Exhibit L for ID, at that time does -- does not appear to have been overly close to Mr. Copeland based on the number and nature of their contact and their apparent differences over women over the years. It's unclear where this conversation with Mr. Copeland occurred based on Defendant's Exhibit L for ID. For what it's worth, it's also inconsistent with Veronica Sars-Doyle. And I'll note that Mr. Copeland merely says Greg got, quote, hurt. And obviously he got more than hurt, he was killed. And again, there's a reference to gagging for which the crime scene developed no evidence of.

This also once again hearsay within hearsay coming from Detective Dolan, Connecticut Code of Evidence 8-7 and again noting State v. McClendon at 248 Conn.

The Court also observes that the alleged comments by Mr. Copeland to Mr. Hankin were made as they talked about quote, getting high and, quote, we talked about Greg. The nature of the drug was not

explored. He denied getting high with Mr. Copeland often. But he said that he did not have occasion to get high -- excuse me. But he said that he did have occasion to get high with him. Saw him periodically. I don't want to be bothered, he said. I don't want to get high with him, according to Mr. Copeland.

It would appear that at least according to Defendant's L, Mr. Hankin would be -- excuse me. It would not appear that at least according to Defendant's L, Mr. Hankin would be a person Mr. Copeland would suddenly make an alleged admission to if that's in fact what it was. And again, the Court has no idea based on the state of the evidence with respect to Mr. Copeland's -- excuse me. Mr. Hankins' overall state, meaning whether he suffered any infirmities related to his health or mental health at the time this alleged statement was made.

So based on the legal principles already articulated, the Court finds that that account, limited as it is from Mr. Hankins still lacks sufficient guarantees of trustworthiness to satisfy the residual hearsay exception. Parenthetically, I'll note there is no physical evidence that links Mr. Copeland to the crime.

With respect to the claim advanced that the statements from Miss Sars-Doyle and Mr. Hankin are merely being offered for their effect on the hearer

and thus so characterized do not constitute hearsay, the Court concludes as well that that claim must fail. The defendant by making such a claim of admissibility by definition is asserting that the statements by Sars-Doyle and Miss Hankins, are not being offered for the truth of what they assert.

The defense has already argued that those very same statements were admissible as residual hearsay and relevant to third-party guilt. Meaning, substantive evidence the defendant demonstrates a direct connection to a third party's culpability for these crimes. The state of mind of the officers who received this information is not relevant to the issue the jury has to decide in this case, whether the State has met its burden of proof beyond a reasonable doubt with respect to the defendant, Willie McFarland. The issue for the jury is not why the police did or did not do something. The officer's state of mind is not relevant to the guilt of a defendant. As a result, the substance of the statements are thus -- are thus relevant only if they are true.

The proffering party bears the burden of establishing the relevance of the offered testimony. The Court has considered and found instructive language in State v. Cruz, 212 Conn. 351 to 357, State v. Collymore, 168 Conn. App. 487, cert granted

on other grounds. And it was affirmed. That is a case where the substance of a witness' statements that came in through a police witness only because those witnesses had already testified and had been cross-examined at trial. And that's obviously not the case here. And State v. Armadore, 338 Conn. 407, 2021 case.

The Court also finds the language in State v. Ramos, 182 Conn. -- excuse me. Sorry, Madam Monitor. -- State v. Ramos, 182 Conn. App. 604, 619, 2018, cert denied, to be instructive in an analogous situation where the Court, in footnote 12, noted an attempt to backdoor third party -- a third-party culpability defense by other means.

I will also note in my 39 years of practice, either as a lawyer or as a Judge, I have never before heard in connection with a hearsay objection either the name of Sir Walter Raleigh or the -- the concept of ancient documents used which I'm now gonna get to.

In terms of the ancient document claim under Connecticut Code of Evidence 8-3(9), the document must be in existence for more than thirty years if produced from proper custody and, quote, otherwise free from suspicion. The contents of the reports regarding Veronica Sars-Doyle and Mr. Hankins, the Court has already determined to not contain sufficient guarantees of trustworthiness, to be

reliable. Which of course impacts the requirement that the writer be, quote, free from suspicion. Most cases dealt with, that I researched, ancient deeds and maps. And the Court was not directed to any authority referencing police reports or witness' statements as is the case here.

With respect to the teletype, that -- that claim involves multiple layers of hearsay and it has not been demonstrated to be even relevant to this case.

With respect to Dr. Lee, there has been no showing that he is unavailable. And again, you seem, meaning the defense to link it -- link it to Mr. Copeland. So unless there's some other admissible evidence with respect to Mr. Copeland, I don't know that Dr. Lee is necessarily going to be relevant in connection with this, if he does appear. But as it was also noted, apparently Mr. McFarland is left-handed as well. The -- if the claim was, as I understood it, that he was able to divine, apparently, that the perpetrator was left-handed, that's -- anyway. So I'll leave it at that.

So for all those reasons, the objection is sustained to the series of questions that were asked in the absence of the jury which I've already placed on the record.

Obviously, you know, he's still on the stand, meaning Detective Dolan. I'm not sure, what other

avenues are going to be pursued. I'm just dealing with what was presented to me at that time.

The Court is also, because there's was a question, Madam Monitor, that was asked, I believe at 2:41:11 of Detective Dolan, which incorporated in the question what Ms. Sars-Doyle said to other police. The Court is gonna order that stricken for the reasons I've just articulated.

Anything else I need to address before I summon the jury?

ATTY. KOCH: Yes, your Honor.

THE COURT: Okay.

ATTY. KOCH: Just very quickly, I just want to reassert that this information that I -- I know you just denied it. I just want to say it -- I still think it's admissible under State v. Prudhomme, 210 Conn. App. 176. That use of evidence of the allegedly incomplete and biased police investigation in determining whether the -- the defendant was guilty of the charged offenses is -- is relevant.

THE COURT: Well let me stop you there. I have not addressed any claim or any question related to what is being characterized, I think by that comment as the adequacy of the police investigation. So --

ATTY. KOCH: That was my --

THE COURT: -- I have not -- I have not, nor should it be interpreted as foreclosing questions

Ex:C (ID)

ARTMENT OF POLICE SERVICE — SOUTH CENTRAL REGION CASE/INCI[illegible] REPORT — SUPPLEMENTA ☑

CASE NO.	DAY	TIME OF INCIDENT	DATE OF REPORT	TIME OF REPORT	TYPE OF INCIDENT	INCIDENT CODE	INVESTIGATING OFFICER	BADGE NO.	DIVISION	CAR NO.
30810	8/27/87			7/25/90	939	HOMICIDE	0101	Capt. L. Perver	106	D	

STREET NO	STREET NAME AND TYPE	APARTMENT NO /LOCATION	TOWN CODE	INTERSECTING STREET NAME AND TYPE	REFERRALS	TYPIST	DATE TYPED	TIME TYPED
655	Fitch St.	B-6	062					

STATUS CODE: C = COMPLAINANT - V = VICTIM - A = ARRESTEE - AX = ARRESTEE DANGEROUS - W = WANTED ON WARRANT - J = JUVENILE REFERRED - O = OTHERS - M = MISSING

Status	LAST NAME	FIRST NAME	MIDDLE INITIAL	SEX	RACE	DATE OF BIRTH MONTH	DAY	YEAR	TELEPHONE	ADDRESS	REG. #
O	SAARS DOYLE	Veronica		F	W	8	1	61	235-7359	127 Springdale Ave. Meriden	
O	SCHAFRICK	Richard		M	W	4	18	62	666-1607	61 Cambridge Dr. Newington	
O	PERRY	L. pd 062									

DETAILS:

A) NARRATIVE SUMMARY:

On 7/23/90 at approximately 1730 hrs. this Detective was contacted by Sgt. Lewis Perry who stated that one Veronica Saars Doyle was presently at the Hamden Police Department and wanted to talk to him regarding the murders of Greg and Fred Harris that happened in 1987. Sgt. Perry stated that she was willing to talk to me and give a statement as to her knowledge.

On 7/23/90 Veronica Sarrs Doyle was interviewed and she willingly gave a taped statement to Sgt. Perry which was witnessed by this Detective.

In her statement Veronica Saars Doyle stated that on the night that Greg Harris and his father, Fred were killed, she drove Lee Copeland and Bruce Hankins to their apartment and that she believed they killed the Harris father and son.

Veronica Saars Doyle stated that on FRiday eveining (would be 8/21/87) she met Lee Copeland at the American Steak House where he worked and that she drove to Hamden and that in the area of Harris residence picked up Greg Harris and gave him a ride home. Also in the car was Bruce Hankins. She stated they drove to her mother apartmnet ant that Bruce stayed in her car and she, Lee and Greg went into visit her mother. She stated that after a while they left her mothers and she drove Greg home to his apt. in Hamden. She stated that she pulled into a parking lot and parked next to a dumpster by the fence.

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SIGNED Capt J Perry

DATE 7/24/90 PAGES 1 of 3

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Veronica then stated that Bruce Hankins got out of the car and walked and walked away. She said she thought he was going to the bathroom but never came back. Her, Lee Copeland and Greg Harris stayed in the car a while and the Lee and Greg went into Gregs apt. Veronica stated that when Lee Copeland got out of her car he put on a pair of yellowish gloves.

At this time Veronica was shown a pair of "Chore" work gloves made by Shelby Consumer Products and she stated they were the same gloves Lee was wearing that night. These gloves were they same type found at the murder scene at Fitch St.

She stated at this time that Lee Copeland had wanted to borrow money from Greg Harris and that was why he went into his apt. Veronica said that about 30 minutes later Lee came back to her car and he didn't have the gloves with him. She said he also had red spots on his pants and his shirt and when she asked him what it was he told her it was rust spots from work. She was positve that they were not on his clothes when he went into the apt. When she asked Lee why he was gone so long, Veronica said Lee told her "I hit him over the head with a pipe". Veronica stated she then told Lee she didn't need money that bad and asked if he really hit Greg with a lead pipe. Veronica stated that Lee then told her "no, I bound and gagged him, tied him up and slit his throat". Veronica then related that Lee Copelnad told her to shut up and if she ever told anybodyhe'd slice her throat.

Veronica then stated she started to cry and then Lee told her that Bruce and "Gus" beat up Gregs father. Veronica said the "Gus" is a black male who is friends with Bruce Hankins.

In her staement Veronica related that she has tried to block out the events of that night, but several months ago started to take different medication for an epileptic problem and that the events have started to come back and bother her. She stated she was scared to say anything to any one because Lee Copeland had told her that if she went to the Police he would kill her like he did to Greg, by slicing her throat, and it would be a slow death.

At this point Veronica statred to calm down and seemed more at ease as she spoke. She then stated that several details of the killings were discussed. She said that the Harris were killed with a black handle knife and that they, Lee and Bruce, had stabbed the father a lot. At this point Veronica stated that Lee was into worshipping the devil and that he had oral sex and maybe anal sex with the Harris father and son. She said that Lee and Bruce also tortured the fater and son by melting hot butter on the stove and drip in on them and force them to drink it.

Veronica stated that before she, Bruce Hankins and Lee Copeland even went to the Harris apt. they had been drinking heavily and taking various narcotics, namely base rock and L.S.D. At this time she made reference to the movies Hellraiser 1 and 2, and said to watch them and learn.

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DATE 7/24/93 PAGES 2 of 3

At this time Veronica stated that Lee Copeland is heavily into satanic type things. His bedroom is painted black with pictures of Jesus hanging on the walls. He is also into the satanic bible.

Veronica then was asked if she had ever read news articles or had any discussions with Police Officers as to any of the specifics of the murders and she stated she had not.

She then went on to stated that Lee Copeland and Bruce Hankins had tied up the two Harris' with telephone cord and some type of wire they found in the apt.She also said that the father and son were bound up on the bottom floor and then dragged upstairs to the bedroom. She said that they were looking for money that they thought the Harris' had got for selling the condo. However, the only money the found was about $250.00 in a bedroom dresser drawer.

She then stated that when both Harris' were tied up and Greg wouldn't tell where the money was that Bruce and Lee and "Gus" started to stab the father so the Grag would tell them. When he didn't Lee Copeland slit the fathers throat and then did the same to Greg Harris.

Veronica stated that after the two were killed that Lee washed his had in the upstairs bathroom sink. Lee Copeland then went into the kitchen, made a sandwhich and washed his hands in the kitchen sink.

Veronica stated that once he was in her car that Lee gave her a small knife (brown handle) that he took out of the apt. and that she still has it someplace. Veronica stated she would locate it and turn it in.

During her statment Veronica made mention of Lee Copeland washing stains off his pants and drying them with a hair drier. At this ime she wuold not elaborate on it.

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SIGNED Cpt Hays

DATE 7/24/90 PAGES 3 of 3

Ex:D (ID)

86-08

T OF POLICE SERVICE

SOUTH CE[illegible] REGION
CASE/INC[illegible] REPORT

SUPPLEMEN[illegible]

COMPLAINT NO.	DATE OF INCIDENT	DAY	TIME OF INCIDENT	DATE OF REPORT	TIME OF REPORT	TYPE OF INCIDENT	INCIDENT CODE	INVESTIGATING OFFICER	BADGE NO.	DIVISION	CAR NO
30810	08-27-87	Fri	2347	08-31-87	1055	HOMICIDE	0100	DET. ROBERT CLARK	'21	D	

STREET NO	STREET NAME AND TYPE	APARTMENT NO./LOCATION	TOWN CODE	INTERSECTING STREET NAME AND TYPE	REFERRALS	TYPIST	DATE TYPED	TIME TYPED
655	Fitch St.	'6B'	062	Arch St.		br	09-04-87	

STATUS CODE: C = COMPLAINANT - V = VICTIM - A = ARRESTEE - AX = ARRESTEE DANGEROUS - W = WANTED ON WARRANT - J = JUVENILE REFERRED - O = OTHERS - M = MISSING

Status	LAST NAME	FIRST NAME	MIDDLE INITIAL	SEX	RACE	DATE OF BIRTH MONTH	DAY	YEAR	TELEPHONE	ADDRESS	REG. #
	Copeland	Lee	-	M	W	11	06	69	393-0605	53 Munson Road, Bethany, Conn.	
	Saras	Veronica	-	F	W	11	06	69	265-4461	Wallingford, Conn.	
	Harrison	Bruce	-	M	B	Unk			Unk.	(Unknown)	
	Cahill Inv.	S. PD062									

ETAILS:

NARRATIVE SUMMARY:

at on)8-29-87, these detective, while interviewing LEE COPELAND, discovered that VERONICA SARAS, COPELAND'S girlfriend, s introduced to COPELAND by a BRUCE HANKINS, MR. HANKINS having been previously mentioned by a ROBERT WARNER. COPELAND ated that, VERONIA and GREG HARRIS were good friends, and that on several occasions, been in each other's company, and at GREG had been to SARAS'S house, and SARAS had been to GREG'S house. He further stated that HARRIS, HANKINS and SARAS l were good friends.

should be noted, that without any coaching, COPELAND stated that he felt the only person he knew capable of committing ch a crime, and based only on the knowledge that the person has a lengthly police record, would be BRUCE HANKINS. An attempt locate VERONICA SARAS, it was determined that SARAS had left home on or about the time of the homicide, and that she is urrently in Florida. SARAS did call long distance, and contacted DET. SGT. PERRY, at which me she stated to SGT. PERRY, without any coaching, that she felt that COPELAND and HANKINS re capable of committing such a crime. That she felt they were the possible SUSPECTS.

RECOMMENDATION: That the case remain OPEN pending further information.

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SIGNED Robert Clark

DATE 9-4-87 PAGES 1

SUBSCRIBED AND SWORN TO BEFORE ME

THIS DAY OF 19

SIGNED

☐ NOTARY PUBLIC ☐ 1-24 CGS

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...NT OF POLICE SERVICE — CASE/INCIDENT REPORT — SUPPLEMENTARY [X]

87-08

COMPLAINT	DAY	TIME OF INCIDENT	DATE OF REPORT	TIME OF REPORT	TYPE OF INCIDENT	INCIDENT CODE	INVESTIGATING OFFICER	BADGE NO.	CAR NO.
30810	08-27-87 Thu	2337	09-21-87		HOMICIDE	0100	SGT. LEWIS PERRY	123	D

STREET NO.	STREET NAME AND TYPE	APARTMENT NO./LOCATION	TOWN CODE	INTERSECTING STREET NAME AND TYPE	REFERRALS	TYPIST	DATE TYPED	TIME TYPED
655	Fitch St.	B-6	062	Arch St.		br	09-24-87	

STATUS CODE: C = COMPLAINANT - V = VICTIM - A = ARRESTEE - AX = ARRESTEE DANGEROUS - W = WANTED ON WARRANT - J = JUVENILE REFERRED - O = OTHERS - M = MISSING

Status	LAST NAME	FIRST NAME	MIDDLE INITIAL	SEX	RACE	DATE OF BIRTH MONTH	DAY	YEAR	TELEPHONE	ADDRESS	REG. #
O	Saars	Veronica	L	F	L	08	01	61	265-4461	New Haven, Connecticut	

DETAILS:

A) NARRATIVE SUMMARY:

On August 30, 1987, at approximately 12:45 PM, this detective received a telephone call from a female, identifying herself as VERONICA LYNN SAARS, and stated that she was in Florida, and would refuse to stay where she was, in Florida. She stated that she heard that we were looking for her, in regards to the HARRIS Homicide, and that she was being alibide by LEE COPELAND.

At this time, MISS SAARS was asked by this detective if she knew GREG HARRIS, in which she stated that she did, and she also knew MR. LEE COPELAND, who she was dating at this time. She stated that the last time she saw GREG HARRIS, was when she and LEE COPELAND, and GREG, went out to Nick's Pizza on August 12, 1987, and that after having Pizza, they took GREG home and then they went their separate ways. She stated that the last time she saw LEE COPELAND, was Friday, August 21st, at the American Steak House in Amity, where she asked LEE for approximately ($30.00) - ($35.00) as she had an argument with her mother, and was leaving on a bus to Florida. She stated she then left on a bus from New Haven, at approxkximately 9:30 PM, and left for Florida. She stated that she would contact this detective upon her return to Connecticut, if and when, she does return.

C) RECOMMENDATION: That this case to remain OPEN pending further investigation/

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SIGNED Sgt. Lewis Perry

DATE 9/24/87 PAGES 1

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...T OF POLICE SERVICE

SOUTH CENTRAL REGION
CASE/IN... REPORT

SUPPLEME... X

COMPLAINT NO.	DATE OF INCIDENT	DAY	TIME OF INCIDENT	DATE OF REPORT	TIME OF REPORT	TYPE OF INCIDENT	INCIDENT CODE	INVESTIGATING OFFICER	BADGE NO.	DIVISION	CAR NO.
30810	08-27-87			12-23-87	1330	HOMICIDE INVESTIGATION	0100	DET. ROBERT MATURO	5	D	

STREET NO.	STREET NAME AND TYPE	APARTMENT NO./LOCATION	TOWN CODE	INTERSECTING STREET NAME AND TYPE	REFERRALS	TYPIST	DATE TYPED	TIME TYPED
655	Fitch St.	B6	062	Arch St.		br	12-23-87	

STATUS CODE: C = COMPLAINANT - V = VICTIM - A = ARRESTEE - AX = ARRESTEE DANGEROUS - W = WANTED ON WARRANT - J = JUVENILE REFERRED - O = OTHERS - M = MISSING

Status	LAST NAME	FIRST NAME	MIDDLE INITIAL	SEX	RACE	DATE OF BIRTH MONTH	DAY	YEAR	TELEPHONE	ADDRESS	REG. #
O	Saars	Veronica									

DETAILS:

A) NARRATIVE SUMMARY:

On 12-23-87, this detective telephonically contacted VERONICA SAARS, at her residence in Florida, due to the fact that VERONICA SAARS had attempted to telephonically contact this detective on this date.

During said conversation, via the telephone, this detective questioned VERONICA SAARS in regard to her knowledge of the HARRIS Homicide and other possible information she had regarding this investigation. At this time, VERONICA SAARS stated that she, at first, would be agreeable to the interview and questioned by detecgives from this departmnet, regarding the above investigation. VERONICA SAARS stated that she had knowledge of homosexual activities between LEE COPELAND, BRUCE HANKINS, and GREGG HARRIS.

VERONICA SAARS was questioned regarding her knowledge of any yellow work gloves, which might have been in the possession of any friends or acquaintances of GREGG HARRIS, to which she responded that she was aware that LEE COPELAND was in possession of yellow gloves, cloth in nature, but she would have to view a sample of said gloves to be positive and make an identification on similar gloves. VERONICA SAARS further stated that LEE COPELAND and BRUCE HANKINS were aware of the sale of the Condominium by the HARRIS Family, and that LEE COPELAND had made comments to GREGG, that he would want to borrow money from the sale of the Condominium, to which GREGG stated that he could not give LEE COPELAND money, due to the fact that the money from the sale of the Condominium belonged to his father, FRED HARRIS, and that he did not have access to said money. VERONICA SAARS stated that it was normal procedure for LEE to coerce GREGG into giving him money, by either physical threats, or actual physical assaults.

Due to the long duration of the telephone conversation, this detective decided to tape said

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SIGNED R. Maturo

DATE 1-4-88 PAGES 1 of 2

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30810

conversation, which was not started until after a few minutes had transpired from the beginning of said call. (Refer to said taped conversation for additional information regarding the information obtained from VERONICA SAARS, during this conversation.

DETECTIVE RUGGIERO and SGT. PERRY were advised of the above telephone conversation, and reviewed said taped portion of the telephone conversation.

D) RECOMMENDATION: That this case remain OPEN pending further investigation.

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SIGNED R. Matura

DATE 1-4-88 PAGES 2 of 2

Ex:G (ID)

JNT NO. 10

STATEMENT OF VERONICA SARRS

DATE OF STATEMENT: FEBRUARY 9, 1988
TIME OF STATEMENT: 1115 Hours
STATEMENT TRANSCRIBED FROM TAPE ON: FEBRAURY 9, 1988 - DA

I, VERONICA SARRS, GIVE THE FOLLOWING STATEMENT TO DETECTIVE JOSEPH RUGGIERO, WHOM I KNOW TO BE A MEMBER OF THE HAMDEN POLICE DEPARTMENT. I MAKE THIS STATEMENT OF MY OWN FREE WILL. NO THREATS OR PROMISES HAVE BEEN MADE TO ME AND I KNOW THIS STATEMENT CAN BE USED IN A COURT OF LAW. I ALSO KNOW THAT IF I INTENTIONALLY MAKE A FALSE STATEMENT INTENDED TO MISLEAD A PUBLIC SERVANT IN THE PERFORMANCE OF HIS OFFICIAL DUTIES, I CAN BE PUNISHED BY LAW FOR VIOLATION OF SECTION 53a-157 OF THE CONNECTICUT GENERAL STATUTES.

Q. What is your full name and address?
A. Veronica Lynn Sarrs Doyle, 20 Mansfield Drive, Apartment 3, Northford, CT., 06472.

Q. When and where were you born?
A. I was born in New Haven, CT., August 1, 1961.

Q. Are you employed and if so, where?
A. I'm unemployed right at the present time.

Q. Are you familiar with a party by the name of Greg Harris?
A. Yes I am.

Q. Can you tell me how you know him?
A. I met him back in 1980 through Jeff Robinson, 1981 or 1982.

Q. And where did that take place?
A. Sarah and Joey Pilanus in New Haven, CT.

Q. And what was your association with Gregory Harris?
A. He was just a friend of mine.

Q. How often did you see Gregory Harris?
A. I saw him once every couple of months because I came from Florida to Connecticut, back and forth.

Q. When was the last time that you seen Gregory Harris, that you could recall?
A. It was a Wednesday night or a Tuesday night, we went for pizza, I picked him up in front of the gas station in Hamden.

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SIGNED Veronica Sarrs
DATE 2/11/88 PAGES

STATEMENT OF VERONICA SARRS

Q. Do you recall approximately what time of year or what month that would have been?
A. It was in August of 1987.

Q. Was anyone else with you during that meeting?
A. Yes, Lee Copeland.

Q. What time of day or evening did this take place?
A. It had to be about four or five, it was daylight.

Q. How long were you in each other's company?
A. Until about 11:00 maybe.

Q. And what did you then do?
A. Drove Lee up to the house, at his father's house, and then he had to get a change of clothes, and I brought him back to my mother's apartment in Wallingford.

Q. And where was Greg Harris at this time?
A. Supposedly at home in bed asleep.

Q. When did you take Greg Harris home?
A. I guess it was before eleven or around eleven, I dropped him off in the back of the building at his apartment in Hamden.

Q. Were you ever in Greg Harris' apartment in Hamden?
A. No, never.

Q. When you left the pizza place did you take Gregory Harris directly home?
A. No I did not. I brought him to meet my mother because I was really proud of Greg to be a friend only, and I went to my mother's house after pizza, stopped to get a six-pack of beer, and we sat down at the table when we got to the house and introduced everybody, and I said Greg you want a beer?, and he wanted a beer, and Lee wanted a beer, and I didn't drink one. They didn't want to play cards. My mom and Lee and Greg were talking, I was in the bathroom.

Q. How long did you stay at your mother's house?
A. I guess we arrived about 9:30, somewhere in there. We stayed for about 45 minutes the latest.

Q. Then you took Greg Harris home? Is that correct?
A. We went for a cruise and went straight to Greg's apartment from my mother's house.

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SIGNED Veronica Sarrs
DATE 2/11/88 PAGES

STATEMENT OF VERONICA SARRS

Q. And when you say we, that included Lee Copeland, yourself, and Greg. Is that correct?
A. Right.

Q. Was there anyone else?
A. No.

Q. Did you see Gregory Harris any time after that?
A. No. We were supposed to have a going away party for him, because he was moving to Florida at the end of August.

Q. You mentioned that you were in the company of Lee Copeland, how do you know Mr. Lee Copeland?
A. I met him through Jeff Robinson and Sarah and Joey Pilanus.

Q. And how long ago was that?
A. After I got out of the drug program, 1980.

Q. What was your relationship with Lee Copeland?
A. He was just a friend and he wanted to be a boyfriend and I refused.

Q. Did you date him frequently?
A. No I did not. We were just friends but I almost went out with him but I never dated a younger man before.

Q. After the pizza night with Gregory Harris and Lee Copeland, did you see Lee Copeland any other times after that?
A. Yes I have.

Q. Approximately how many times and what were the occasions?
A. Every day and every night, just for a get together, to have a couple of beers.

Q. And where did this get together take place?
A. At my mother's apartment.

Q. Did Lee arrive at your mother's apartment or did you pick him up?
A. His father always dropped him off, so he says.

Q. And that was every evening?
A. Not every evening, there was two or three, maybe four nights out of the whole time that I did not see him and I could not reach him by phone when he told me to call, nobody answered the phone.

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STATEMENT OF VERONICA SARRS

Q. When was the last time that you saw Lee Copeland?
A. It was a Friday night, approximately 6:40, 6:30, somewhere in there.

Q. And what time of the year was that or what month if you could recall?
A. It was in August of 1987 and it was a Friday night, I don't remember the date.

Q. Where did you see him?
A. The American Steak House.

Q. Was this the same Friday night that you left New Haven on a bus to Florida?
A. Yes it was.

Q. The Steak House, is that the one in Woodbridge where Mr. Copeland wsa employed?
A. Yes.

Q. Was he working that evening?
A. Yes.

Q. And what was the extent of your meeting, the purpose of your meeting?
A. I needed to borrow $30.00 to pay back my mother for taking my car out of tow in Meriden and then he handed me $70.00 cold cash and he couldn't get his check cashed until 9:00 and I don't know where he got the money.

Q. You stated he could not get his check cashed until after 9?
A. That's right.

Q. Did you inform Mr. Copeland that you were leaving that evening for Florida?
A. No I did not.

Q. Did you have any conversation pertaining to Greg Harris that evening?
A. Yes we did, it was in the afternoon of the Friday I left.

Q. And what conversation was that?
A. He woke me up at 2:00 in the afternoon by the phone and I told him about the money I needed to pay my mother back unless I couldn't go out and then he said that he's going to go to Greg's house and borrow some money from him and if not he was going to knock him over the head, and I said don't touch Greg, if he ain't got it don't worry I'll get the money someplace else, I'll borrow it from my mother, but we just needed the car to go out that night.

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SIGNED Veronica Sarrs
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STATEMENT OF VERONICA SARRS

Q. Did Lee Copeland ever use or take advantage of Greg Harris in your presence?
A. Yes he has.

Q. Can you name specific incidences?
A. About five years ago Lee thought Greg and I were fooling around, we never did we were just friends, and Lee took a lead pipe to Greg's head.

Q. Are there any other times more recent?
A. Yeah, on the night of the pizza he pulled a blade out and he said I ought to slit your throat, and he said it like this here out loud, and I said Lee put that fucking thing away please.

Q. You said he pulled out a blade, are you referring to a knife?
A. Yes a switchblade.

Q. And who was he referring to that he was going to cut their throat?
A. Greg Harris.

Q. Why was he making that statement?
A. Jealousy, I don't know. Because he wanted me to be his girlfriend and I told him no.

Q. Why would he direct that toward Gregory then?
A. Because anyone that even came near me or looked me or whatever, Lee always went off the wall.

Q. Then during the night that you were having pizza with Gregory and Lee, Lee had an argument with Gregory over you, is that correct?
A. We were sitting there having pizza, yes, but me and Greg just sat there and laughed, and we told Lee hey why don't you take a shower, and he was getting mad, and then we laughed somemore and then every time I come back into town I always call Greg so we could have a get together because he's a good boy, he was a little younger than me but we were just friends, that was it. We were just breaking Lee's chops, we were just playing around, that was just a family get together there.

Q. And Lee did not think it was funny and made that threat to Greg, is that correct?
A. Yes he did that in the car earlier in the day, when we picked him up for pizza that Tuesday or Wednesday.

Q. It was not in the restaurant then?
A. No, well he pulled the switchblade in the restaurant.

Q. What was Gregory's response to that?
A. Greg didn't see the knife but I did. I slapped Lee and said put that f'ing thing away or else I'll smack you silly and then Greg got a little nervous and I just

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looked at him and Lee took his beer, and I said hey leave his beer alone.

Q. Let me try and recall what just took place. You say that you were in the restaurant and Lee Copeland stated to Gregory that he was going to cut his throat and pulled out a knife that was not exposed to Gregory, is that correct?
A. Right on the exposing part but see Lee threatened Greg that day earlier when we picked him up. He said Howard was going to get you, he swore he was going to get you, and I said who's Howard, and then Lee says you don't know him, and I says yeah I know one, he's in Florida, and he said not the same one just shut up, shut up. Then Lee said you know he said he was going to slit your throat or whatever, and then Greg and I just laughed, I said Lee just shut up.

Q. What kind of knife did Lee expose at this time?
A. This was a blade about this long, but it was a switchblade type thing, like my buck knife in my case.

Q. Do you know why Lee pulled a knife out?
A. Yeah, because he was angry because we were making jokes and he knows that I was only kidding around.

Q. When you received the money from Mr. Copeland at his place of employment, what did you then do?
A. He couldn't even put the money in my pocket, he couldn't even put it in my hand, he was shaking so bad, he backed up into the corner and he grabbed me and I said Lee what's wrong? and he said nothing, nothing, nothing. I said Lee you're lying to me, I know you.

Q. After you received the money from Mr. Copeland did you leave his place of employment?
A. Immediately. I knew something was wrong but I didn't know what so I just took it really slow and I said to myself I'm getting the heck out of here, I already had my bus ticket.

Q. Where did you go after leaving Mr. Copeland?
A. I went to the gas station on Whalley Avenue, I forgot the name of the gas station, and I pulled out some money, I didn't even look at the money but when I pulled it out there was a five dollar bill, it looked like blood to me but I thought it was rust, I said the heck with it and I gave the five dollar bill to the gas station attendant who was black.

Q. And what time was this?
A. Right before quarter to seven.

Q. Where did you go after the gas station?
A. Immediately home to start packing to get on a bus to Florida.

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Q. Who's vehicle did you have at this time?
A. Janet Esposito.

Q. Janet Esposito, that is your mother is that correct?
A. Yeah.

Q. On this Friday that you met with Mr. Copeland at his place of employment, was Mr. Copeland over your house prior to that?
A. Yes.

Q. When was that?
A. Thursday.

Q. And he spent the night, Thursday night?
A. Right.

Q. And what time did you take him home Friday?
A. I did not take him home. He called his father finally and his father was supposed to pick him up at 1:00 by the phone in Wallingford, off of 91, and we went there and waited for a half hour and his father never showed so Lee said let's go get a six-pack of beer, he didn't have any money on him but he said he had some money left and I took him to the package store and I went in and got a six-pack of beer and his father showed up out of the blue.

Q. Did Lee then go with his father?
A. Yes he did.

Q. And what did you do after that?
A. I took a cruise to go find my cousin.

Q. And where is that?
A. North Guilford, CT.

Q. And approxiamtely what time was this?
A. This was about 2:00.

Q. And did you locate your cousin?
A. No, I got lost and then I went for directions at this donut place and then I went and found the route and I went down to the house and I found his van, he was back in town.

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Q. What color is his van?
A. Red and silver.

Q. What is your cousin's name?
A. Ronald Ralph Pensinal.

Q. Why did you not stop in?
A. Because my cousin Bruce would have told me he wasn't there and they wouldn't let me see him.

Q. Why wouldn't they let you see him?
A. I have no idea, mo mother probably.

Q. This is an assumption on your part, you did not try to enter is that correct?
A. That's right, I just rode by but then when I realized he was home I tried to call and Bruce said he wasn't there but I knew he was there.

Q. Did you then go back home to Wallingford?
A. Yes I did.

Q. And what time was that?
A. I was home by four, 3:15 excuse me.

Q. Was your mother home at that time?
A. Yes she was.

Q. And your mother gave you permission to use her car during this time, is that correct?
A. Yes she did.

Q. When you came home at this time did you plan on going to Florida?
A. No.

Q. You had no intentions of leaving to go to Florida at this time?
A. No I did not. I wanted to see my cousing because I was having some problems with this guy in Florida and whenever I have problems I call my cousin.

Q. Did you receive any money or a letter from a gentleman by the name of Terry from Florida to come down to see him?
A. Yes I did.

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Q. When was that?
A. In August.

Q. Was this around the same time?
A. Yes.

Q. Did you then make arrangements with Terry that you would go down and see him?
A. Yes, not until Wednesday night, somebody answered the phone John?

Q. Did you make arrangements to leave this particular Friday?
A. Yes I did. Terry paid for the ticket.

Q. Then why when you went home that Friday after your cruise did you not plan on leving for Florida?
A. I wasn't going to go back but I knew something was wrong for some reason, I don't know.

Q. What do you think was wrong?
A. I don't know.

Q. Was wrong in Florida or wrong in Connecticut?
A. Both.

Q. You just stated that you went for a cruise and went back to your apartment about 3:15, is that correct?
A. Right.

Q. How long were you home at that time before you went back to see Lee at his place of employment?
A. Four hours.

Q. So approximately 7:15 you left to go see Lee at the steak house, is that correct?
A. To the steak house approximately 6:30.

Q. Did you use your mother's car to go visit Lee at the steak house?
A. Yes I did.

Q. And that is where you had the conversation with Lee and obtained $70.00?
A. Right.

Q. And you did not inform him that you were leaving for Florida, is that correct?
A. Right.

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Q. After you left Lee the second time what did you then do?
A. Stopped for gas and then I went home.

Q. At approximately what time were you back at your mother's house?
A. It was by 7:30 the latest, no it was before then because I wanted to take the 7:15 bus but I knew I wouldn't make it so I was going to take the 8:15.

Q. When during this time period did you decide to leave for Florida?
A. I decided at 8:00.

Q. Why did you decide to all of a sudden want to go to Florida?
A. Because I had a fight with my mother over my boyfriend, Brad, and they lied to me and they said that he wanted me back.

Q. Then you were not planning to go to Florida even with the money that Terry sent up?
A. I wouldn't of gone but I've been trying to break up with him for a year and a half but he threatened to blow his shit away on the front lawn.

Q. You're talking about Terry?
A. Yes.

Q. You were in Florida prior to coming back to Connecticut in August of 1987, is that correct?
A. Right I was in Florida.

Q. And when did you arrive in Connecticut?
A. The 5th of August.

Q. How did you get to the bus station on that Friday in August?
A. I had to give my mother $30.00 cash and the title to my car for a ride.

Q. And what time did you arrive at the bus station?
A. 9:01.

Q. And how did you get there?
A. My mother drove me.

Q. Was anyone else in the car with you?
A. No.

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STATEMENT OF VERONICA SARRS

Q. Did you call anyone prior to leaving?
A. Yes I called Terry Young, Howard Doyle and that was it.

Q. And these are the people in Florida, is that correct?
A. Right.

Q. Was that to inform them that you were coming down?
A. Yes.

Q. How long did your mother stay with you at the bus station?
A. Half of a half of a second.

Q. Did you have any transportation once she left?
A. No.

Q. Do you recall what time you took the bus from the bus station?
A. I wanted the 9:15, the 10:40, it had to be, I arrived in New York at exactly 12:07 and I was stuck there until 7:00 in the morning.

Q. Was that due to a bus problem?
A. Yes.

Q. When did you arrive in Florida?
A. 1:30 in the afternoon on a Sunday.

Q. When you arrived in Florida did you ever contact Mr. Lee Copeland and inform him that you were there?
A. No.

Q. Did Mr. Copeland ever contact you?
A. No.

Q. When and how were you informed that Gregory Harris and his father Fred were the victims of a homicide in Hamden?
A. My sister came to Terry Young's house and said you're not in any trouble, I just said Oh Jesus.

Q. Your sister Sherrie, is that correct?
A. Right.

Q. What did she mean by you were not in any trouble?
A. She informed me that Greg and his father were killed, she explained everything quickly to me, and I got hysterical and Terry asked in a weird voice who was Greg?

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STATEMENT OF VERONICA SARRS

Q. Why did your sister contact you in regards to Gregory and his father being the victims of a homicide?
A. She said because they were both bound and gagged, Greg had his throat slit.

Q. Did your sister tell you how she knew the details of the homicide?
A. She said my mother told her and that the cops told my mother.

Q. Did she say that the Police were trying to contact you?
A. Yes she did.

Q. And this was the first time that you heard of the Harris' being the victims of a homicide, is that correct?
A. Yes.

Q. Did you have any conversation with Lee Copeland in regards to the Harris' being victims of a homicide?
A. No.

Q. Did you contact Lee Copeland at any time after you heard what had taken place with the Harris'?
A. Yes I tried to call and every time nobody answered the phone.

Q. So you did not make contact with Mr. Copeland?
A. No I did not.

Q. Did he attempt to make contact with you?
A. No.

Q. Veronica, do you have any knowledge of who may have committed the homicides on Gregory and his father in Hamden?
A. I don't know.

Q. Have you had any conversations with Mr. Copeland since you have returned to Connecticut in regards to the homicide?
A. No.

Q. Veronica, to kind of repeat what has transpired with yourself on the Friday that you left, you had Mr. Lee Copeland sleeping over your mother's house Thursday prior to your leaving, is that correct?
A. Right.

Q. That Friday you took Mr. Copeland to meet his father in Woodbridge, is that correct?
A. No Wallingford.

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AINT NO. 310 STATEMENT OF VERONICA SARRS

Q. Mr. Copeland then went with his father is that correct?
A. Yes.

Q. You then took a cruise into the North Guilford part of Connecticut but did not stop at anyone's house, is that correct?
A. Right.

Q. You then returned back to your mother's residence at about 3:15 that Friday, is that correct?
A. Yes.

Q. And you stated at this time you did not have any intention of leaving for Florida, is that correct?
A. Yes.

Q. You also stated that you had received letters and money from Terry Young to go to Florida, is that correct?
A. Yes.

Q. Did you have any pre-arrangements to go on a particular date to Florida to meet Terry Young?
A. Yes.

Q. And what date was that?
A. That was on a Sunday, I told him I would leave on a Sunday but I left Friday.

Q. You then on that Friday that you left went to Mr. Copeland at his place of employment and borrowed $70.00, is that correct?
A. I only wanted $30, he handed me $70.

Q. And at this time you did not have a conversation about you going to Florida, is that correct?
A. No.

Q. You then returned home and your mother drove you to the bus depot in New Haven, CT., at approximately 9:00, is that correct?
A. Yes.

Q. You then stayed around the bus depot until approximately 11:30, missing two of the other buses leaving, is that correct?
A. There was one bus that showed up and went to Springfield but I arrived in New York at twelve so I don't really know what time the bus got there, it was about eleven something.

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310 STATEMENT OF VERONICA SARRS

Q. Do you recall how many buses came and left at the time you were there?
A. There was about two or three that came and left, but only one was going north that was the Springfield bus.

Q. Did you have a bus schedule knowing that a bus came every hour on the hour to go to New York?
A. I didn't know that.

Q. How did you know when to take the 11:30 bus?
A. I didn't know.

Q. You just got on the bus not knowing where it was going?
A. I knew it was going to New York.

Q. When did you purchase your ticket to go to Florida?
A. I didn't purchase the ticket, Terry Young purchased the ticket Friday by 5:00 the night I left, that afternoon.

Q. And he purchased that in Florida and sent it to you?
A. Yes.

Q. How did you get the ticket the same day that he purchased it?
A. Because I couldn't find him on a Wednesday night but he called me Friday, I guess it was about 2:30, and he said the ticket would be there by 5:00 and to pick it up exactly at 5:00.

Q. Where did you pick the ticket up?
A. New Haven Greyhound Bus Station.

Q. So then you already had arrangements to leave Friday with Terry?
A. No, I was leaving on the bus Friday but that was the arrangement, but then I really didn't want to go but I went anyway because of them.

Q. Because you had an argument with your mother?
A. Yes over Brad.

Q. You did not leave because of Lee Copeland's involvement in the homicide of the Harris'?
A. No that's not the reason why I left.

Q. Do you have any knowledge that may help us in the investigation of the homicide involving the Harris' victims?
A. No I don't know.

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AINT NO.
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STATEMENT OF VERONICA SARRS

Q. Veronica, is there anything you can add to this statement at this time that may help us in this investigation?
A. Anything you want to know just ask.

Q. Is there anything that you know that may help us in this investigation? Yes or no?
A. All I do know is that Lee was constantly trying to hurt Greg.

Q. Do you know of any other associates of Mr. Lee Copeland?
A. Yes I do.

Q. And whom may that be?
A. Jeff Robinson, Bruce Hankins, Darlene Robinson, Alfred Kidd, Michael Mitchell, this guy Ace.

Q. Did you see Mr. Copeland with any of those individuals on the Friday that you left for Florida?
A. No, but he told me that he saw Jeff headed towards the jail to visit somebody, I said god Lee you didn't tell him that I was here did you? And he said no and I know he's lying.

Q. Do you know if Lee Copeland's relationship with Greg was sexually active?
A. It was not.

Q. Was Mr. Copeland ever involved in any occult or rituals?
A. Yes.

Q. Can you give me an example of some of the rituals that he was involved in?
A. Satanic.

Q. How do you know this?
A. Go look in his bedroom, his walls are pure black and he's got a picture of Jesus Christ on there.

Q. Jesus Christ is Christian not satanic.
A. He's holy.

Q. Then you are saying that Mr. Copeland is more religious?
A. No he is not.

Q. What type of acts have you seen Mr. Copeland perform in the occult for any type of ritual?
A. I've seen him in bed with men before, I've seen him kill a cat before, I've seen him slap a female before.

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810 STATEMENT OF VERONICA SARRS

Q. I'm referring to any type of ritual involving some type of religious cult?
A. I've seen him drink blood.

Q. What type of blood and what were the surroundings that occurred?
A. I don't know, I've just seen him drink it.

Q. Where did you see him drink it?
A. When I lived on Orange Street.

Q. Where was he when he was drinking the blood?
A. In my apartment with Lee Dunser.

Q. Was it in a jar? Where did he get the blood from?
A. I don't know.

Q. How do you know it was blood?
A. Stupid question.

Q. How do you know it was blood?
A. Because I do know,you know blood is blood for Christ sakes.

Q. Why did he say he was drinking it?
A. He said he was drinking it because he wanted to be close to Jesus, he's a fucking liar, excuse my french.

Q. Were you ever involved in any occults with Mr. Copeland?
A. No.

Q. Did Mr. Copeland ever refer to any type of torture treatments in regards to his occult religion?
A. Yes.

Q. What type of torture?
A. He's slapped women, he's hit people.

Q. Did he ever use any type of instruments or substance in torturing people?
A. Yes, I'm talking like blades, his fists, his feet.

Q. Did you ever see him use anything in his rituals involving butter?
A. Yes, I've seen him try to make eggs, spread it on the bread.

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COPY B

AINT NO. 810 STATEMENT OF VERONICA SARRS

Q. I'm referring to using butter or hot oil or something like that to torture someone. Have you ever seen that?
A. Well when he was making eggs in my apartment the oil splattered on me.

Q. You've never seen him purposely melt any butter or heat any kind of liquid to torture someone?
A. He said that he took some butter and threw it at somebody one time.

Q. Is this a true statement?
A. God as my witness.

Q. Is there anything you would like to add to this statement at this time?
A. Whatever you want just ask.

STATEMENT TERMINATED ON 02/09/88.

Subscribed to and Sworn Before Me
This 11th Day of February 1988.

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SIGNED Veronica Sarrs

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Ex. I (ID)

POLICE SERVICE

SOUTH CENT[illegible] RE[illegible]ON
CASE/INCIDE[illegible] R[illegible] RT

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INT NO. 10

STATEMENT OF VERONICA SAARS DOYLE

DATE OF STATEMENT: 07/23/90
TIME OF STATEMENT: 1839 Hours
STATEMENT TRANSCRIBED FROM TAPE ON: 07/24/90 - DA

I, VERONICA SAARS DOYLE, MAKE THE FOLLOWING STATEMENT TO SGT. LEWIS PERRY, IN THE PRESENCE OF CAPTAIN LAWRENCE PERYER, WHOM I KNOW TO BE A MEMBER OF THE HAMDEN POLICE DEPARTMENT. I MAKE THIS STATEMENT OF MY OWN FREE WILL. NO THREATS OR PROMISES HAVE BEEN MADE TO ME AND I KNOW THIS STATEMENT CAN BE USED IN A COURT OF LAW. I ALSO KNOW THAT IF I INTENTIONALLY MAKE A FALSE STATEMENT INTENDED TO MISLEAD A PUBLIC SERVANT IN THE PERFORMANCE OF HIS OFFICIAL DUTIES, I CAN BE PUNISHED BY LAW FOR VIOLATION OF SECTION 53a-157 OF THE CONNECTICUT GENERAL STATUTES.

What is your full name and address?
My name is Veronica Lynn Doyle, my maiden name is Saars, S-a-a-r-s, my present address is 127 Springdale Avenue, Meriden, Connecticut, third floor apartment.

When and where were you born?
New Haven, August 1st, 1961.

Back in February 1988 you were at the Hamden Police Department and gave a statement in regards to a homicide investigation, is that correct?
Yes I did.

At that time you refused to sign your statement, is that correct?
No I signed my statement.

You stated on this date that you wished to make another statement regarding what took place back in August of 1987?
Yes I'd give another statement.

LDP

Why are you giving another statement at this time?
Because I had serious major medical problems and all the testing was just finished and I found out also besides ears, eyes, nose, and throat and respiratory, epileptic problems, and my memory of the night was kind of like a blank because I used to drink a lot, and now I no longer drink, and I'm totally healthy, and my memory is totally clear.

Do you want to start in your own words as to what you can recall on, what took place on that evening? Back in August 21st, 1987 did you have a meeting with Lee Copeland at the American Steak House?
Yes I did.

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SIGNED Veronica L. Doyle

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STATEMENT OF VERONICA SAARS DOYLE

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Did you have a vehicle with you at that time and if you did whose was it?
Yes I had a vehicle, it was Janet Esposito's, my mother's car.

Do you recall what time you met Lee at American Steak House?
Yes I remember the time, just give me a second, between three and four in the afternoon.

Can you tell me the nature of your conversation with Mr. Copeland at this time?
Yes, he was lending me money to get my car out of the, what do you call that yard, you know trying to get my car out of the impound yard, and ~~that said to get a couple~~ a few extra dollars so I could get something to eat, okay, something was really wrong with him, when I walked in the door I asked him what was wrong with him, and he told me he ~~did not know~~ nothing was wrong and he said there was nothing wrong with him, I mean, and I said to him, I said well I said, you know I said you're acting funny Lee, I said you better just tell me what the hell you did, again about 6X I said did you do something wrong, and he said no, I said tell me the truth, he said no but he was acting really funny, he was shaking like a leaf, by the wall he asked me if I wanted something, I said No

Did you and Lee go anywhere in your mother's car that night?
Yes we did.

Where did you go?
We went to Greg home.

You went to take Greg home, are you referring to Greg Harris?
Yeah.

Is that in Hamden, is that correct?
Yes.

Where was Greg that you were taking him home?
Where we picked him up at?

Where did you pick him up from?
Just a second, I picked up Greg and Lee over at Lee's father's.

Was this after Lee was out of work?
No, hold on a minute, just a minute, we picked up Greg by the gas station, he came running across the street from the gas station by his house, because I don't know, he didn't want me to come to the house, because I already had Lee with me, so then you know I remember, just wait a

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minute, then we went across, he came across the street and we were, I said I need cigarettes we were in my mother's car, I had Lee in the front seat, he was in the backseat on the driver's side, on the passenger's side in the backseat, and we went across into the gas station parking lot, it was like a little store, not a gas station, a little store, and he went in there, I said Greg go get me a pack of cigarettes, I said haul ass and get in there and get me a pack of cigarettes, so he went in there and he came running right out, got in the car and we left.

Do you know what time this was, was this after Lee got out of work or before?
This was just a second, this was after Lee got out of work.

Was anyone else in the car with Lee and Greg and yourself?
I believe Bruce Hankins was in the car.

When did Bruce get into the vehicle?
When we went, wait a minute, I guess we picked him up right down the road from getting cigarettes, I believe that's where he, right down, we took a right, you know.

Is this in Woodbridge where Lee works?
Hamden.

It was in Hamden?
Yes, Hamden.

This was all after work from when Lee got out of work, is that correct?
Yes.

Do you recall what time that was?
It was between three and four because Lee didn't stay at work the whole day.

Where did you go, the four of you at this time?
We went to Janet Esposito, up at 160 Southwinds Drive apartments, apartment # I can't remember the apartment number, we went there because it got dark, and we went there and I went to go to the bathroom because I had weak kidneys, because I used to drink a lot, you know, not anymore, so we went into the house, I said come on Greg I want you to meet my mother, because before that I said Greg do you want to meet my mom, he goes yeah, so we hauled ass first we went over, well before we went to go to my mom's, we went over to go see my cousin Ronnie Pennsanol.

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STATEMENT OF VERONICA SAARS DOYLE

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This is not the night that you left for Florida, is that correct?
~~RIGHT, CORRECT~~ This is The night I left for Fla — Yes — Veronica Lynn Doyle

I wish that you would speak about the night that you left for Florida and who you had in the car and where you went at that time?
Okay I promise I'll try, okay we went to Janet Esposito's apartment, I told you, I already gave you the address, okay we went there, we all went there and Bruce wasn't, he didn't come in the house, because my mother she was freaked, you know, she would of got upset, so me and, me, Greg and Lee went into the house okay, and I introduced Greg and my mother, I made a sandwich I believe, and a cup of coffee, and then I, I went and I, I had hearing problems back then, okay so I went into the bathroom and Greg and Lee, Greg was telling my mother about his move to Florida and my mom was asking him all these questions and stuff like that, and so was Lee, but Lee was asking all the questions, okay, so what I did is I I says excuse me, I didn't want to hear any, I didn't need to talk about Greg leaving town, you know, because you know it just upset because he was my buddy, that was all, so I went into the bathroom and I closed the door tight, I went to the bathroom, you know because when I have weak kidneys it takes a long time, so when I got done, I was having a real bad earache, okay, as well as being a little bit intoxicated, so I went and I turned around and I went, closed the, wait a minute, no don't shut it off, okay so then I got out, I flushed the toilet and all that crap, I opened the door slightly because they were talking about money and I could hear Lee saying how much when's the [illegible] coming, asking all kinds of questions, you know my mother could verify it because I was in the bathroom but I had the door slightly open because I was getting ready to come back out and I said oh God I got to go again, so I went to the bathroom again and I did then I washed my hands, then I opened the door again to fix my belt, okay then I, so I went and I had the door still slightly open and I could hear them, I could hear Lee asking Greg about this money and I could hear Greg giving this figure amount, all I heard, I can't remember, I can't remember the first couple of you know digits were thousands, but then I heard thousands, and my mother said how much, and then he said it again, and Lee goes what, how much, like that, and I said oh shit, you know why do they always concern about money, is what I was thinking to myself, so I became got pissed so I just jammed my belt on tight, I flush the toilet, washed my hands, I said you know guys let's just get out of here, and I finished my sandwich, I said ma I'll talk to you later, she goes okay, she goes don't, don't drive too fast, and I go okay no problem, and I got Greg and Lee, because I was hungry, you know I needed something to eat because sometimes I don't eat, and we got back in the car and we left. We took a ride, in this here, we took a ride by my cousin's house, no it was not that night, then we took, we took Greg home, we were going to take Greg home back to his house, and then I was going to take Lee back to his house, okay, now what I did, this was all in a short time because I got on the bus at nine something, because the bus was late, alright, let me, wait a minute, okay so what I did is I went to take

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Greg home, okay, over in Hamden, alright, now went into the parking, into the parking and Lee said park over by the garbage, the dumpster, and Lee, and Greg said no, park right up by the fence, so I parked up by the fence, in the process Bruce got out of the car and walked around the car, and I didn't see him after that, I thought he went behind the dumpster to go to the bathroom, alright so then I said I need to go to the bathroom again, and he goes yeah come on up, you know and Lee said I'm coming with her and Greg said no, he said you can't come up there, my father will be home shortly, he said and if he sees you there all hell's going to break loose and Lee says I don't care, I don't give a fuck, I'm coming up with her anyway, he said no, I said oh never mind Greg I could hold it, you know, which I couldn't but I did, and then I turned around and they disappeared, Lee said I got to go to the bathroom, okay and then he, Bruce still wasn't back yet you know, and then they went, I don't know, wait a minute, don't turn it off, so then when I went to, I was sitting in the car all by myself for about a good 25 to 30 minutes, it had to be about 31 minutes exact, okay, then I went, then they came, I don't know what was going on up there, you know, they were, you know I didn't hear nothing, I saw the lights on and then I saw them go off, you know because Greg had pointed out which apartment, I've never been there before, somewhere on the second floor over there, it was either second or third window upstairs, and Greg, and Lee said no something about downstairs, I don't know what the hell they were talking about, I was still in the car and they took about 31 minutes and then they came, alright, Bruce was nowhere to be found, okay he wasn't there, he didn't come back from going to the bathroom, and then Lee came, Lee came down the stairs very calmly, he had on a white T-shirt that Greg had given him that night, okay, and a pair of jeans that Greg had given him earlier, okay, and Bruce still wasn't around, then Lee came down calmly with the T-shirt on and the jeans, then he had on those brown boots, you know like workboots, and wait a minute, no don't shut it off, then he got in the car very calmly, he just looked up and flew him the bird, I believe, yeah he just turned around he said fuck you mother fucker, is what he said, okay, Bruce was still not there, okay, and then I don't know what happened, Bruce never showed back up, I don't remember Bruce being back, but Bruce didn't show back up, wait a minute, let me finish, so Lee got into the car and he had something over here, it looked, I don't know like it was washed off and dried with a hairdryer, and the reason why I didn't hear nothing because I had the radio on full blast because of my hearing problems, okay, and I saw a couple of shadows, you know, well, I'm going to say one, one went to the left, alright, and they took off, I could of swore I saw another shadow to the right but I'm not too accurate on the right one, probably but I'll just the one to the left, okay, and then Lee calmly, and when he got back into the car he was sitting there, he had this right here and someplace on his boots, I don't know his hands were different, like he had just cleaned his hands, you know what I mean, because you could see in the nail crevices they were really, really dark, and before that when I picked him up he had taken

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a shower and they weren't like that, okay, let me finish, so then, then he got back in the car, I said where the hell is Bruce, he said oh Bruce is going to stay here awhile and he'll meet us back down the green, he said if he ain't at the green you got to take me home, I said look Lee, I got to go, I got to go and I got to go talk to my mother, I got to make a phone call, this, that and the other, and what I did is I took Lee back to his house, his father's house, okay, it was really dark and I saw somebody light a lighter, okay, in the back, and then I saw a flashlight, and then, then what else I see, I saw in his father's yard when I pulled in, usually there's a light on, there was no light on, okay, and in the car, this black car on the right, there's a car there okay, which Lee had the keys to, you know, and there was somebody in the car because I saw another lighter there, alright, and then there was no light on in the house and Lee says okay, we talked a little bit and he said something about picking it back up, I don't remember, he said to pick him back up, and I said okay about 9, 9:30, I took him back to the restaurant first and then I took him to the house, because he was supposed to be at work and he booked off work, okay, so he took me, I took him home after all that, like I just said, took him in the driveway, gave me a kiss on the cheek or where the hell, I don't remember, and then he went down the driveway, now he had that white T-shirt on, okay, now what it was is that I stayed in the driveway with the lights on so he could see to get down, down the road, okay, now he somehow, he, there was a couple of cars like I'd never seen before, there was a truck in there and a few other ones, I don't remember, just let me finish okay, so he went, he went and then he ducked, okay he ducked, he went behind the white shed, okay, I said oh shit and I left, I jammed it, I took it slowly out of there because I didn't want him to think that I knew something was wrong, and I left, and there was a white car there, alright, all's I know, I don't remember about that, okay, alright so I went, I slowly pulled out of there, okay and then I looked in the back rearview, I saw somebody run across the street in the white T-shirt, and somebody with the dark, so that must of meant that Bruce, I don't know, so wait a minute, yeah it was probably Bruce, and both of them were running through the backyard, by the shed across by the benches, something, I don't know, right on the same street, okay, right across from his father's house, you run across there's a, I guess there's a warehouse, there's a store on the top there, well I looked back because the store was lit up and there was something over here that was lit up where he used to work, where Lee used to work, and I, what I did is I saw them run, okay, and I saw Lee mainly, and I saw Bruce because of the dark jeans and he stole a pair of blue jeans from me with a pocket missing, which he had them on, okay, so what I did is I went and I took it slow and there was, there was, I think I waited for the traffic for a minute, yeah I did, I jammed up the music to find a station to switch it so that I could remain calm, so then I went and I took my left and I went totally calm down by, they had a state trooper right over there, building down there, and then somewhere around the curve I just hauled out of there, and I got back to my mother's in Wallingford, excuse

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me, I went to my mother's back in Wallingford, Janet's, and I got to her house and what I did is I went inside, I threw the ticket at her, because in between picking Lee up from the station, I picked up my bus ticket, so I threw the bus ticket at her, I said I'm out of here, I'm leaving, I'm tired of your shit and all this, okay, and then she gave me a ride to the bus station, now when they gave me a ride down to the bus station, you know the rest from there.

When Lee and Bruce got out of the vehicle at Greg's house, did they have anything else on their hands or on their head or anything else, other than just their shirt and pants?
Yeah, wait a minute, let me think a second, he had on the white T-shirt and the jeans and a dark black shirt when he left his father's house, you mean Greg's house or his father's house.

When you arrived at Greg's house and they went into Greg's house, did you stop at any other stores or anybody's house and pick up any other items of clothing in the car, such as gloves or hats or scarfs or anything?
Lee showed me earlier a pair of gloves and I said oh those are faggot looking gloves, they looked like brown leather, and then he had a couple of other pairs, he had a black leather pair.

Did he go into the house, Greg's house with them?
He had cut offs here, huh?

Did he go into Greg's house with them that night?
He had them on him in his pocket but I told him to leave them at my mother's house earlier and he said he didn't have them but when we went back to the house, I know he went into the bedroom because then later on he painted his boots from brown to black.

GLOVES

We have a pair of gloves that we're going to show you and can you tell me if these were similar to the ones that Greg was wearing or not?
Greg?

Correction, Lee?
Yes. Yes, I described them the first time I was here, remember.

Did Lee say why he would be wearing gloves in August to go to Greg's house?
Because he said he worked for, say that again?

Did Lee mention why he was wearing gloves in the middle of August when he was going into Greg's house?
He, see he had them in his pocket, or in his boots or in his sock, or

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underneath the black shirt, underneath in here someplace, because he said that he needed them for work because he worked for this place up by his father's house, it was like a plant, plant and flower type of landscaping place.

Was he working there as well as the American Steak House?
He said part time yes.

This was up by his house, is that correct?
Yes.

Do you know what days he worked there?
Something about Monday, Wednesdays and Fridays, and half a day Saturdays.

Do you know the name of the place that he was supposedly working?
I'd have to take you there to show you.

When you go out of Lee's street in, which direction would you go?
Backing up, so you'd back up, go to the left to the light right there, towards New Haven, you know, there's a little store here, the landscape place here, on the corner.

Was it a large place or a small place?
Yeah it was kind of like small but it had this large looking, like a bullet type looking thing, I don't know, it looked like a, like a, I don't know, like one of them tick looking things, gray looking thing.

How far from American Steak House was that?
It's pretty a distance, it's a distance.

How from from Lee's house?
Not much further, it's just right on the corner.

To the left of the store?
Yeah, because there's a little store where you could get ice cream, soda and cigarettes in there, okay, and it's left, because it's a landscaping place, they got flowers, you know, stuff like that, it has to be on the left from where I could remember.

Did Lee have any money on him after he left Greg's house or say anything about what took place in Greg's house?
No but he gave me $50.00 and next and I told him I'd be back shortly, and he gave me money, he gave me $50.00, all in small bills, okay, there

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was a couple of twenties, tens, no there was no tens, there was twenties and fives, because I was going to get $10.00 worth of gas in my mother's car earlier, or something, I can't remember.

Did Lee and Bruce say that why they were going to Greg's house?
To drop him off, to borrow money so they could get my car out of the impound yard.

Did they borrow money from Greg before?
Yes, but Lee has hit him over the head with a cast iron, with a lead pipe before, so he told me that Bruce did that to him too, and then Lee has hit Bruce across the face with a lead pipe before.

When Lee returned to the car did he appear to have any blood on him, or was he, his clothes in any other manner than when he went in?
Yeah, yeah, yeah, he was totally clean because I did laundry earlier that day before, the day before I mean.

You say he was totally clean, there was nothing on his clothes?
He took a shower, yes.

When he came out of Greg's house there was nothing on his clothes?
There was something on his clothes.

Where?
Excuse me, spots, it looked like blood or rust, but it had to have been blood now that I think about it because it looked like it was washed and dried with a hairdryer and I didn't, I thought I heard a hairdryer, now that I remember, when I lowered the music, because I thought I heard something funny, I thought I heard a hairdryer, now that I remember that, yeah, I said oh shit I must be going crazy you know, so then I just jammed up the music again, he had spots here and a couple down here and on his boots, because when he came out his boots were no longer brown, they were black.

JDF

When he came out of Greg's house?
Hmm, hmmm, there was, yeah, wait a minute, let me think a minute, a shirt over that, okay he came out with, he had the black shirt in his hand, he had it in here and he switched it to here, okay, you know when he came down the stairs, when I, yeah he had a couple spots on him, yeah.

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Did he have the gloves with him when he came back?
I do not know, I don't think so, I didn't even see him having them, because he was supposed to leave them at his father's or my mother's, because I told him there's no sense in taking them when you was just going out.

Did you question him as to what he had on his clothes?
Yeah he said it was rust from working, either at the plant haven type of thing, because you can you know, because I used to be into landscaping, but then after, from the grill, he said from the grill at work.

Before Lee went into Greg's house did he have those spots on his clothes?
No, he was totally clean, he had his hair was still wet, I said what are you doing with them faggot looking pants on, you know, because you got the pants, you know, and they were totally clean. Was Greg alright, they said oh yeah he's fine, because a car pulled up, it must of been his father, yeah, describe his father's car to me, tell me it was his father's car, there was lights that pulled up too, one pulled in and backed out, that's how Bruce got up to Bethany so quick, that's the way, I'm telling you, that was the left one, and on the right his father pulled in right next to me, there was a man that got out, okay, there was a man that got out, he was an older gent, I don't know, he was I can't remember the size of the man offhand, okay, and when Lee came down he said, I said what's going on up there, what took you so long, he goes oh I just hit him over the head with a lead pipe to make him, to have me lend that money to ~~him~~, the $50.00, I said, I said Lee, I said you shouldn't have done that man, I don't need the car out that bad, I said I got my mother's car right here.

Is that why he's saying he had the marks on his clothes, because he hit him with the pipe?
No he said that he had gotten them from work, and from the grill.

Is there anything else that Lee told you that took place in Greg's apartment that night?
Well when he came back down he told me, he said that, after the lead pipe thing I said come on, you didn't really do that, you know, he goes no I hit him over the head with a lead pipe and I slit his throat, and I tied him up, bound him and gagged him he said, that's what he said, and then he said, he said well don't worry about it, don't ever tell anybody or I'll slice your throat if I ever find out you told anybody, and then he goes, he said I'll kill you, that's what he said, he said I'll kill you if you ever remember.

Was Bruce with him when he was telling you this?
What? Back down from the apartment, no, Bruce was no longer there.

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But Bruce did go into the apartment with him?
Yes, yes, yes.

Did you at anytime go into the apartment at all?
No, no. I just went to the bathroom and give them a ride home. - So I could get to VLD Bus Station

When he told you he bound them and slit his throat, what did you then do?
I said oh my God, I said no you didn't, I freaked, started to cry, I threw myself back and I said you son of a bitch I'll kill you if you even thought about doing that, is what I told him, he goes no come on, I was only kidding, that's what he said, and then I said come on Lee you better tell me, and he told me yeah he did, yeah, that's what he told me, I was nowhere in that place.

Did he say anything about Greg's father?
Yeah.

What did he say about Greg's father?
He said that him and Bruce and Gus beat him up.

Did he say anything, it's the first time you mentioned the name Gus, do you know Gus' last name?
No he's in the line up that you showed me before.

Where did Gus come from?
He said George I don't know but he's been in New Haven, I don't know.

I mean that night, where did Gus come from, was he in your car?
No, he was nowhere near me, or the car VLD

How do you know that Gus was there?
Because of the shadow and the black thing that he wears on his head sometimes, he wears this black thing, you know how them blacks do.

Gus is a black fellow?
Yes, short and ugly.

Does he associate with Bruce Hankin?
Yes he does.

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Did Lee say anything about what he used to cut the throats of Greg?
He said something about a machetti, or it was a black handle, like what was it, you got to tell me so I know, you guys said there was something left there, and then I can tell you what he said.

Where did you take Lee when leaving Greg's house?
To his father's house.

And then you went home?
Yes.

The Hamden Police Department somehow got a message to you in Florida and then you called us, is that correct?
Yes I did.

When you learned that Greg and his father were killed, what was your reaction? I was stunned VLD
My sister came through the, I was at Terry Young's house in Vero, Sherry came through the door, knocked on the door, she had the kids with her, and she said to me, she goes you got to get a hold of the Hamden Police, I said what for what did you know I didn't do nothing, and she goes Ronnie, Greg and his father were killed, I said oh my God, I went down like this, I started rocking back and forth, crying, screaming, I said oh no, you know, I said no you know, and she goes calm down, calm down, calm down, I said I couldn't, I freaked, I did smoke cigarettes and I freaked really bad, and then I talked to you guys and you guys were going to come get me, I said hell no way with that, I'm coming up there, because they were my friends. Greg was VLD

Did you have intentions on telling us that time what Lee and Bruce did?
Yes. and I was VLD

And what happened between then and now?
Medical problems, it's no excuse I understand but I had ears, eyes, nose and throat and respiratory problems and heart problems, and I just, they just finished the last testing of epileptic, not epilepsy, that's a form of drug abuse, epileptic, I've been one all my life and they taken, they tried to change all my medications to see what would suit me best. plus I was in the State of Shock, and have been sin VLD

Did you tell anyone else about what took place that night?
Only one person.

JDP

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And who was that?
You.

And Captain Peryer?
And Captain Peryer.

Did you have any conversations with anyone else?

And when did you have this conversation?

Yes.
Friday, because I went out of town Saturday, I left Friday night, I saw him Friday, and Friday night I left at 11:30, 12, I went with my uncle, well not my uncle, soon to be ex-boyfriend, went with my boyfriend.

What made you talk to Rick about this incident?
Because I just started to remember because I just started on my epileptic pills about two months ago, maybe two and a half, and I just started to remember, and I remembered a lot of things and I just was blocking it, because there was something blocking it, and it was probably because of my epileptic pills for my health, and that's what it was, and then when I started to remember I told Rick, I talked to Rick everyday about it.

What is [redacted] relationship to you?
Fiance, ex-fiance.

You were living with him at the time?
Yeah, just say, you're going to have to just say a friend.

Did Lee Copeland ever threaten you with any type of violence if you went to the Police?
Yes.

What threat did he make to you?
He threatened to kill me the same way he killed Greg, by slicing my throat and making it a slow death.

You mention a slow death, do you know of any other things that they may have done to Greg and his father, other than slicing their throat, did he mention any other things?

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Yeah, he said that he stabbed his father a lot, and I don't, they, something about locked in the closet, I don't know.

Did Lee mention any form of torture to either one of the individuals?
Yes.

What form of torture did he mention?
I know something sexual I guess, I'm not too sure, as they say.

This was when he came back out of Greg's house, is that correct?
Yes.

Do you have any idea what that might of been?
I don't, I don't know, whatever the sexual terms are, I don't know, you ask me and I'll tell you.

Well you don't have to use specific terms, if you can describe it to the best of your ability, if you know what Lee was referring to?
Yeah, you know the exit that you don't go in, you know where you take a shit, you know what I mean, I'm sorry but.

Are you saying that, are you saying that Lee had oral sex and anal sex with Greg that night?
That's what he said that he made him do.

And with Mr. Harris too, is that correct?
That's what he said, and he said he was worshipping the devil and I told him thou shall not kill, you know no sacrifice.

Who was worshipping the devil, Lee?
Lee and Bruce.

JDP

Do you know if they used any type of ointments or anything during those sexual acts?
Yeah, butter, oil, something like KY jelly, vasoline.

How would they utilize the butter?
How would they utilize the butter? They would boil it up on the stove and torture him with the hot butter, but nobody would ever find out about it.

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Where did that type of torture come into play, have you ever seen them do that before?
I never seen it but I studied enough to know.

And where have you heard about that type of torture treatment before?
Through the Bible, and Christian Doctrine.

That they would melt butter and use it to torture people?
Yeah that too and

Is that through the satan worshipping?
Yes and then they take, cut the heads off, slice their throats, stab them, sexual stuff.

Do you know if Lee used any of those type ointments or butter that night with Greg?
He said, he said yes he did, he said yes, he said he used butter, what did he say to me when he got in the car, he said butter and oil, and something else, I don't know, wait a minute, let me think, some kind of herb, I don't remember.

Did he say why he was torturing Greg and his father?
He said because he wouldn't give him the money to lend him so he can get my car out of the impound yard so he could go out and buy some beer, and some alcohol, because he was a heavy drinker, and he was on drugs, heavy drugs.

Was Lee and Bruce on any type of narcotics or alcohol that night?
Yes.

Can you tell me which?
A lot of rum, a lot of vodka, some Jack Daniels but not much because I threw the bottle out, what else, give me a minute, they do it all.

Can you tell me what they were using that night?
Yeah, they were, for drugs they were using Heroin, LSD, Cocaine, needles, marijuana, alcohol, smoking like base rock, you name it, there's just so many I can't remember, but I just remembered.

JDP

Have you and Bruce and Lee ever done any satanic religious rituals?
No, I have never.

Do you know of Lee and Bruce to have done any?
Yes.

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What type?
It has to be satanic, because it's also evil demon type of thing because of the fact he's got, Lee had his bedroom painted black with a picture of Jesus on there, but you see that is not satanic, you know satanic, there's a satanic bible out there, I've read that too, I've checked into all, all types of religions and you know I believe in Jesus Christ as hebrew, okay, and what they, refresh the question?

Have you read anywhere in any newspaper article or did any Police Officer tell you details as to what took place in the Harris' apartment that night, as to how they were killed?
No.

Did you ever read any articles in the newspaper regarding the Harris homicide?
No.

When you talked to the Police the last time that you were here, did they go into any detail as to how Greg and his father were killed?
No, I don't think so.

Did Lee or Bruce tell you what type of weapon that they used?
Yeah, a knife and a lead pipe, something about a lead pipe also, and a crowbar, I don't know.

Did they say where they got the knife or the other items from?
Well I seen the crowbar in Lee's yard, which is you know one was taken out of my car but I got it back, which ain't the same one, the you know that thingy, what do you call that, the thing with the black handle?

A knife?
A knife, like a type of sword, like a knife, I don't know, I don't know.

Did you see any weapons on Lee or Bruce?
Yes I did.

jop

Before they went into the apartment?
Before and after.

And what type of weapons did you see?
Okay, now with Bruce after the murder, after the murder he had in a black case, he had from the New Haven mall, about this long with a snap on it, and he took it out, it had jagged edges on it, no his had a pure blade, his girlfriend had the jagged edges I believe, one of them had the jagged edges, Bruce's girlfriend or Lee, I can't remember which one,

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SIGNED Veronica L. Doyle
DATE 1/24/90 PAGES

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INT NO. 710

STATEMENT OF VERONICA SAARS DOYLE

but they, Bruce had the big long black case, I said where the hell did you get that thing, you know, so it was a gift, I said oh yeah, so it was like, I mean, because I held it, like about that, like that, okay, it came down like this, okay but his came straight down like this, do you know what I mean, a notch, you know what I mean, and his girlfriend, wait, his girlfriend had a smaller version, okay, now Lee, he gave me a knife, okay, and I already showed you people that and I guess that wasn't the one, I don't know.

The knife that he gave you was when he came out of Greg's house, is that what you're saying, that night?
That's when he gave it to me yeah.

And that's the knife that you turned over to the Police Department back when you came back from Florida?
Yeah, I still have it too.

You still have the knife?
Yes.

So you did not turn it over to the Police Department?
No.

When Lee told you how he tortured Greg and his father and that they were bound and gagged, did he tell you how they tied them or what they tied them with?
It was like a, like rope or a telephone cord, is what he said, and some kind of, what else did he say, some kind of, oh wait a minute, let me think, it was rope, wires, telephone cords, any kind of cords that you could find in the household, anything that you can find in the household.

Lee did not go into Greg's house with any rope or wires, is that correct?
This is true, no he didn't, not that I know of.

Did Lee say anything about searching the house for any items?
Yes he said he was searching the house for money.

JOP

Did he say he found any?
He said that he didn't find any money but he gave me $50.00, but he said that he might, he said oh yeah, he goes I found like $200.00, $250.00, I believe that's what he said, yeah he said $250.00.

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Ex:J (ID)

...MENT OF POLICE SERVICE

SOUTH CENTRAL REGION
CASE/INCI...T REPORT

SUPPLEMENTA...

87-08-

COMPLAINT NO.	DATE OF INCIDENT	DAY	TIME OF INCIDENT	DATE OF REPORT	TIME OF REPORT	TYPE OF INCIDENT	INCIDENT CODE	INVESTIGATING OFFICER	BADGE NO.	DIVISION	CAR NO.
30810	8/27/87			7/26/90		Homicide	101	Capt. L. Peryer	106	D	

STREET NO.	STREET NAME AND TYPE	APARTMENT NO./LOCATION	TOWN CODE	INTERSECTING STREET NAME AND TYPE	REFERRALS	TYPIST	DATE TYPED	TIME TYPED

STATUS CODE: C = COMPLAINANT - V = VICTIM - A = ARRESTEE - AX = ARRESTEE DANGEROUS - W = WANTED ON WARRANT - J = JUVENILE REFERRED - O = OTHERS - M = MISSING

Status	LAST NAME	FIRST NAME	MIDDLE INITIAL	SEX	RACE	DATE OF BIRTH MONTH	DAY	YEAR	TELEPHONE	ADDRESS	REG. #
O	SCHAFRICK	Richard	M	M	W	4	18	62		61 Cambridge Dr. Newington	
O	PERRY	L. PD 062									

DETAILS:

A) NARRATIVE SUMMARY:

On 7/24/90 Richard Schafrick arrived at the Hamden Police Department with his girl friend, Veronica Saare Doyle. While this Detective was interviewing Veronica and letting her review her taped statement, Sgt. Perry spoke with Richard Schafrick regarding any knowledge he, Schafrick, had about the Harris' homicides.

At that time Schafrick informed Sgt. Perry that Veronica had informed him that she was having very bad dreams about the murder in Hamden. She informed Richard at the time that Lee and bruce had gone to the Harris home to collect some money that was owed them. She had told Richard she drove the two to the Harris home and stayed in her car.

Richard stated that he a future conversation with Veronica she told him that Lee and Bruce had killed the Harris' He ,Richard, also said that Veronica told him Lee was wearing gloves at the time.

Richard Schafrick gave a taped statement as to the above.

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SIGNED Capt J Peryer

DATE 7/25/90 PAGES 1

SUBSCRIBED AND SWORN TO BEFORE ME

THIS DAY OF 19

SIGNED

☐ NOTARY PUBLIC ☐ 1-24 CGS

COPY A

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SOUTH CENTR REGION
CASE/INCIDE REPORT

CONTINUATION PAGE ____ ____

Ex:K (ID)

COMPLAINT NO.
30810

On 7/24/90 Veronica Saars Doyle arrived at the Hamden Police Detective Division for the purpose of reviewing and signing her statement. She was with her boy-friend Richard Schafrick at the time.

After she began to review her statement she was asked if there was anything else she could remember, specifically how she heard the hair dryer from her car. At that time she began to sob and stated that she would talk to me, but not with a tape recorder on. She then admitted to being in the apt. and stated she was scared because Lee Copeland said he would kill her if she spoke to the Police. Veronica then went on to state that she, Greg Harris and Lee Copeland entered the apt. and were on the first floor level when she had to go to the toilet. She said she went into the bathroom on the second floor which is to the left of the bedroom. She stated she entered the bathroom and was confronted by Bruce Hankins who was hiding in the shower behind the curtain. He pushed her, told her to shut up and left the bathroom. She stated she then went to the toilet (urinated) and wiped herself with a piece of toilet paper. The bathroom door was partially ajar and she heard Greg Harris yelling at some one to leave his father alone. She stated she then looked out the bathroom door and saw Lee Copeland stabbing Fred Harris, she said she saw him stab the elder Harris several times.

At this time I called Sgt. Perry and Richard Schafrick into the Office and asked ~~asked~~ Veronica to repeat what she had just told me. She then repeated that she saw Lee Copeland stabbing Fred Harris with a knife. She described the knife as being about 8 to 10" long having a black handle. She further stated she then saw Copeland slit the throat of Fred Harris. She further stated that Bruce Hankins had a similar type knife and she saw him stab both Harris' but that Lee Copeland was the one that slit there throats.

Once again Veronica stated that she never said anything sooner because she was afraid of Lee Copeland and he had threatened to slit her throat if she spoke to the Police. She stated that she has been having bad nightmares about the incident and had to speak with some one about it.

It should be noted that during this conversation with Veronica she mad no mention of "Gus" and stated that only she, Lee Copeland and Bruce Hankins were in the Harris apt. during the homicides.

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SIGNED Cpt. Hwy

DATE 7/24/90 PAGES 1

COPY B

CERTIFICATION

The undersigned attorney hereby certifies, pursuant to Practice Book § 67-2, that:

(1) The last known address and email for the prosecutor is: Timothy F. Costello, Esq., Office of the Chief State's Attorney, 300 Corporate Place, Rocky Hill, CT 06067; DCJ, OCSA.Appellate <OCSA.Appellate.DCJ@ct.gov>

(2) The defendant is in custody as a result of this case. This brief was sent to him at:
Mr. Willie McFarland
#128602
Cheshire Correctional Center
900 Highland Ave.
Cheshire, CT 06410

The undersigned also certifies that on 11/15/23:

(3) the electronically submitted e-brief and appendix have been delivered electronically to the last known e-mail address of each counsel of record for whom an e-mail address has been provided;

(4) the electronically submitted e-brief and appendix and the filed paper e-brief and appendix do not contain any names or other personal identifying information that is prohibited from disclosure by rule, statute, court order or case law;

(5) a copy of the e-brief and appendix have been sent to each counsel of record in compliance with § 62-7, on 11/15/23, two

physical copies will be filed with this Court and one copy will be mailed to the defendant at his last known address;

(6) the e-brief and appendix being filed with the appellate clerk are true copies of the e-brief and appendix that were submitted electronically;

(7) the e-brief and appendix are filed in compliance with the e-briefing guidelines and no deviations were requested; and

(8) the e-brief contains 15,460 words as counted by WordPerfect 2021 starting with the introduction and ending with the conclusion, including footnotes;

   (a) this total includes an additional 2,000 words requested under Practice Book § 67-3A by letter of 10/17/23, which have been used solely for the state constitutional claim in Section 8A3 of this brief; and

(9) the e-brief and appendix comply with all provisions of this rule.

_/s/_____
Lisa J. Steele, Esq.