

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR CLAY
COUNTY, FLORIDA.

CASE NO.: 10-2009-000610-CFA
DIVISION: CFA

STATE OF FLORIDA

VS.

KENNETH MCBRIDE

MOTION TO COMPEL
TURN OVER OF COMPUTER

2010 FEB 17 A 10:44
JAMES H. HILL, CLERK, CLAY

The Defendant, Kenneth McBride by and through the undersigned counsel, moves this Honorable Court for an order directing the State to turn over to Defense Counsel the computer obtained by Clay County Sheriffs Office in the possession of and owned by Mary Barone. The basis for said motion is as follows:

1. Defendant is charged with First Degree Murder.
2. Allegedly the Defendant, Mary [REDACTED] and Roberta [REDACTED] were roommates. The Defendant had a relationship with both.
3. Mary [REDACTED] is the key witness for the State and was the person who informed law enforcement that Kenneth McBride was the one responsible for Roberta [REDACTED] death. For some reason Mary [REDACTED] was never charged with the killing of Roberta [REDACTED].
4. Early on in the representation of the Defendant it became apparent that the hard drive of Mary [REDACTED] contained critical and probably exculpatory messages.
5. Early on Defense Counsel hand delivered a motion to the prosecutor Steve Nelson seeking the contents of Mary [REDACTED]'s hard drive.
6. The prosecution on numerous occasions ensured Counsel that the requested data would be forth coming. Months went by and the requested discovery was never provided.
7. During the deposition of Clay County Sheriff Officer Sgt. Joey Jett, one of the lead investigators in the above styled case revealed that over six months prior a deputy R. G. Monson was attempting to remove the hard drive from Mary [REDACTED] computer, when he did

something which caused the computer to catch on fire and smolder. Monson declared the computer a total loss, and the Sheriffs Office paid to Mary [REDACTED] funds necessary for the purchase of a new computer.

8. The Sheriff's Office and the prosecution are of the opinion that all data contained on the destroyed computer cannot be retrieved and viewed. Defendant with the destruction of the computer lost valuable evidence, which would have proved critical.

9. Defense Counsel upon hearing of the computer being destroyed was discussing the incompetence of the technician who attempted to remove the hard drive with [REDACTED] who is trained and work for the Public Defenders Office. The technician believes that the hard drive might not have been destroyed and the data may still be salvageable.

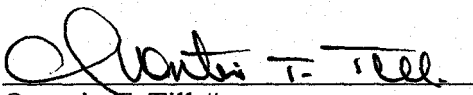
10. Defense Counsel wants the Court to issue and order directing the Clay County Sheriffs Office to release to representatives of the Public Defenders Office the computer (lap top) in question and allow qualified computer technician the time to work on retrieving the data from the computer hard drive.

11. The data contained on Mary [REDACTED]'s computer is critical for the Defense of Kenneth McBride. Said data will reveal exculpatory evidence which could exonerate the Defendant, rather than inculpate the Defendant or reduce his culpability.

I HEREBY CERTIFY that a copy of the above and foregoing Motion has been furnished to the Office of the State Attorney, by hand, this 11th day of February 2010.

Respectfully submitted,

MATT SHIRK
PUBLIC DEFENDER

BY: 
Quentin T. Till # 0121330
Assistant Public Defender

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