

1 IN THE CIRCUIT COURT OF THE
2 FIFTH JUDICIAL CIRCUIT, IN
3 AND FOR LAKE COUNTY, FLORIDA

4 CASE NO. 87-1347-CF-A-01 and
5 88-262-CF-A-01

6 STATE OF FLORIDA,

7 Plaintiff,

8 v.

9 JAMES AREN DUCKETT,

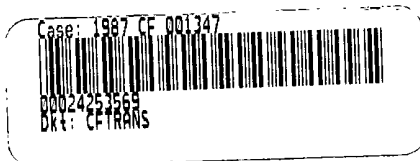
10 Defendant.

11 THIS CAUSE came on for Hearing, before the Honorable
12 Jerry T. Lockett, Circuit Judge, at Lake County Courthouse,
13 Tavares, Florida 32778, on April 22, 1988.

14 APPEARANCES: Mr. Thomas Hogan, Esquire
15 and

16 Mr. Stephen D. Hurm, Esquire
17 Assistant State Attorneys
18 Lake County Courthouse
19 Tavares, Florida 32778

20 Mr. Jack T. Edmund, Esquire - via telephone
21 423 Pool Branch Road
22 Ft. Meade, Florida 33841
23 Attorney for Defendant



FILED
AUG 11 2 40 PM '88
CLERK OF CIRCUIT
AND COUNTY COURTS
LAKE COUNTY
TAVARES, FLORIDA

- 1 -

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135.14

1 (WHEREUPON, THE COURT PLACES CALL TO MR. JACK EDMUND)

2 MR. EDMUND: How are you?

3 THE COURT: I am just fine, sir. I have been served
4 with a State Motion for Continuance which was filed today,
5 at 12:11 P. M. Here in chambers with me is the Court Reporter,
6 and a Clerk, and Mr. Hurm and Mr. Hogan and a Secretary for the
7 State Attorney's Office, and one newspaper reporter.

8 I am certain that you haven't seen the Motion or I don't
9 think he has, has he, Mr. Hogan?

10 MR. HOGAN: No, sir.

11 THE COURT: Let me just go ahead and read it to you, if
12 I could, Mr. Edmund.

13 MR. EDMUND: Thank you, Judge.

14 THE COURT: Comes now the State of Florida, by and
15 through the undersigned Assistant State Attorney, pursuant
16 to Florida Rules of Criminal Procedure, 3.190(G) and moves
17 for a continuance of the trial in this cause, and as grounds
18 therefore, would show onto the Court... it says "has follows",
19 but that is a typo: (1) Defendant was charged by Indictment
20 in this cause on October 27, 1987 and his attorney demanded
21 more discovery on October 29, 1987; (2) The State's response
22 to the discovery demand was filed on November 24, 1987 and
23 the State has continued to disclose the discoverable material
24 to the Defendant on a regular basis since November 24, 1987;
25 (3) The Defendant failed to provide to the State any

- 2 -

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1 reciprocal discovery, including a witness list, as required
2 by Florida Rules of Criminal Procedure 3.220, despite repeated
3 oral requests by the State, until 11:30 A. M. on April 22,
4 1988, the Friday before commencement of the trial on Monday,
5 April 25, 1988; (4) The Defendant has failed to disclose to
6 the State reports compiled by expert witnesses which the
7 Defendant intends to use at trial; (5) The State has been
8 greatly prejudiced and hindered in its ability to prepare for
9 trial by the failure of Defendant to comply with his discovery
10 obligations in a timely manner; (6) The State is unable to
11 proceed to trial on this cause as scheduled on April 25, 1988,
12 since the Defendant's failure to comply with Florida Rules
13 of Criminal Procedure 3.220 has reduced the likelihood of a
14 fair trial to the State; (7) The witness/evidence list
15 provided by the Defendant on April 22, 1988, at 11:30 A. M.
16 includes the names of thirteen witnesses previously unknown
17 to the State and tangible evidence previously unknown to the
18 State; (8) The State dose not have sufficient time to take
19 the deposition of these witnesses or examine the witnesses
20 prior to the commencement of the trial on Monday, April 25,
21 1988; (9) Since the State is not responsible in any way for
22 the delay caused by the Defendant's failure to provide
23 discovery in a timely manner, the continuance of the trial
24 in this cause should be charged to the Defendant; (10) This
25 motion is filed in good faith and not for the purpose of

- 3 -

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1 needless delay.

2 Wherefore, the State respectfully moves for an Order
3 continuing the trial in this cause; said continuance to be
4 charged to the Defendant. Dated this 22nd day of April,
5 1988, Stephen D. Hurm, Assistant State Attorney.

6 Are you able to comprehend the gist of all that,
7 Mr. Edmund?

8 MR. EDMUND: Yes, I have, Judge. As far as the witnesses
9 are concerned, Judge, I have my witness list in front of me.
10 Each witness you will find is listed on the State's witness
11 list, Your Honor, except for character witnesses, which I do
12 not intend to call and they are listed separately.

13 As far as reports from experts are concerned, I have no
14 reports from experts, because during my visit to Tavares
15 earlier this week, I was assured that certain additional
16 information would be furnished to hair analyst expert and
17 fingerprint analysis expert, neither of which has been done
18 and I do not intend to call either and I have no reports
19 from either.

20 That I think speaks directly to the meat and the heart
21 of the Motion, Your Honor. I can't see a witness, as a matter
22 of fact, Carla Duckett might be the only one, but she is
23 subpoenaed by the State, if it please the Court. Don Jordan
24 may not be subpoenaed by the State, but he is not a witness
25 that I would intend to call, if it please, Your Honor.

- 4 -

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1 We are prepared to go to trial without expert testimony
2 of our choosing and we are prepared to go to trial without
3 offering any tangible evidence that may be of any concern to
4 the State, if it please the Court.

5 THE COURT: Mr. Hogan?

6 MR. HOGAN: Well, Judge, my response to that is that
7 he has listed on there tangible evidence, that being shoes
8 and ...

9 MR. EDMUND: Judge, if I decide not to offer evidence
10 such as shoes and things like that, that is my decision,
11 and I make that decision at this moment. I frankly had
12 anticipated this, because I got word that the State has
13 gotten the name of some additional hair expert and that they
14 would like very much to have this hair we examined and I
15 understand this person is someone by the name of Blake from
16 California. I am familiar with the article that refers to
17 this new system that is still in its embryo stage out there
18 and frankly, I had anticipated a Motion to Continue, but I
19 really hadn't anticipated it until Monday morning.

20 THE COURT: Let me be sure I understand your position,
21 exactly, Mr. Edmund. You say that the character witnesses
22 listed on your witness list you will not call?

23 MR. EDMUND: That is correct, Your Honor.

24 THE COURT: The tangible evidence listed on your witness
25 list, which are only the shoes belonging to the Defendant and

1 some photographs of the crime scene, taken by your investigator,
2 you will not use, is that correct?

3 MR. EDMUND: That is correct, Your Honor.

4 THE COURT: And you will not be calling any experts of
5 your own, is that correct?

6 MR. EDMUND: That is correct, Your Honor, and I will not
7 be calling Don Jordan, who may not have been listed on the
8 State's witness list. I am having trouble finding it, but it
9 seems like virtually every one in Lake County was included
10 on that witness list and I would be real surprised if I
11 could find anybody else to put on mine, to be very frank with
12 you.

13 THE COURT: Alright, all those references ...

14 MR. EDMUND: With tongue in cheek, Judge, but seriously,
15 all these witnesses are known to the State.

16 THE COURT: All those representations, what says the
17 State now, Mr. Hogan?

18 MR. HOGAN: It is my understanding, Your Honor, that the
19 Defense is withdrawing the name of Don Jordan and withdrawing
20 all the character witnesses and withdrawing the physical
21 evidence being the shoes and the photographs. With that
22 understanding and also the understanding that no expert
23 testimony will be offered that we are not aware of at this
24 time, which means no expert testimony.

25 MR. EDMUND: That is also correct, Your Honor.

- 6 -

1 MR. EDMUND: That is also correct, Your Honor.

2 MR. HOGAN: Okay, with that understanding then, we
3 withdraw our Motion.

4 THE COURT: We will see you at nine o'clock in courtroom
5 C, Mr. Edmund.

6 MR. EDMUND: Appreciate it, Judge. We will see you all
7 then.

8 THE COURT: Note that the Motion is withdrawn.

9 MR. EDMUND: Thank you, sir.

10 MR. HOGAN: Thank you, Judge. Sorry to bother you,
11 Judge.

12 THE COURT: There you go. Why don't you do a little
13 withdrawal of this, if you would. Is this the original?

14 MR. HURM: No, sir, I believe that is a copy.

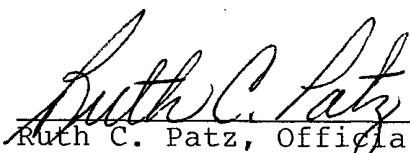
15 ***** END OF PROCEEDINGS *****
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C E R T I F I C A T E

STATE OF FLORIDA)
COUNTY OF LAKE)

I, Ruth C. Patz, Official Court Reporter, do hereby
certify that I was authorized to and did report stenographically
the testimony in the case of STATE OF FLORIDA VERSUS
JAMES AREN DUCKETT, Case Nos. 87-1347-CF-A-01 and 88-262-CF-
A-01, and the above and foregoing pages one through eight
inclusive, are a true and accurate transcript of the said
testimony and proceedings.

IN WITNESS WHEREOF, I set my hand this 9th day of August,
A. D., 1988.


Ruth C. Patz, Official Court
Reporter, Fifth Judicial
Circuit