

FILED
DATE 4-7-16 12:29 PM
Rhonda Wharton, Clerk
By ABC

IN THE CIRCUIT COURT OF FAULKNER COUNTY ARKANSAS
2ND DIVISION

STATE OF ARKANSAS

PLAINTIFF

VS.

23CR-15-569

HUNTER DREXLER

DEFENDANT

MOTION FOR BOND AND IMMEDIATE HEARING

In support, Defendant states:

1. The Defendant, Hunter Drexler, is currently charged with several offenses, which are Capital Murder (2 counts); Aggravated Robbery (2 counts); Theft of Property (2 counts); and Abuse of a Corpse (2 counts). Drexler has maintained his innocence to all of these charges.

2. The purported theory of the State's case is contained within the Affidavit for Arrest that was attached to the Information outlining the charges. This information was filed on August 7, 2015.

3. The State's initial theory, based upon the reading of the Information, is that Drexler, along with his co-defendant Justin Staton, were the active parties involved in the murder of both Robert and Pat Cogdell. This theory was based entirely upon the statements of Drexler's other co-defendants, Conner Atchely and Anastasia Roberts. A review of that affidavit indicates that Conway Police Department (hereinafter, "CPD"), in particular the affiant, Detective Welsh, picked out the facts that he felt would best support the theory. Indeed, both Atchely and Roberts each give three (3) different statements that contradict each other in very important details. Usually these contradictions are addressed at trial. However, it appears that law enforcement has discovered "new information" regarding these statements that prove that both Atchley and Roberts were not truthful

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regarding a key issue – which would suggest that one (1) or both Atchley and Roberts were not in the master bedroom of the Cogdell residence during the incident that brought forth the charges. This information was discovered on February 25, 2016. The law enforcement indicated in these reports that follow up conversations with Atchley and Roberts were needed.

4. On March 16, 2016 interviews with Atchley and Roberts took place with law enforcement while their attorneys were present. During these interviews they both were confronted with the evidence that made their initial versions untrue. Versions that were relied heavily upon by law enforcement who prepared the affidavit for search warrant. Also during these interviews both Atchley and Roberts make statements that contradict their previous versions even more. As with their previous versions they do not align with the physical evidence that was collected from the scene. In light of these statements, Drexler has filed a Motion for Bill of Particulars.

5. On Saturday, April 2, 2016, Drexler was given breakfast around 5:00 a.m. Subsequent to breakfast, he was asked to step out of his POD by Corporal B. Kelley with the Faulkner County Sheriff's Department. While out in the hall in front of POD 203, Kelley advised Drexler that he had located his commissary that had been missing since February. Kelley then stated that "I know you shot that man." Drexler responded, "no I did not, I was in the bathroom!" Kelley indicated that he did not believe him. Then Kelley stated, "well, you helped move the bodies." Drexler stated, "no, I did not." Kelley then advised Drexler that "if he wanted to talk to him, he would keep it between them." Drexler went into his POD. He contacted his mother, Kimberly Ison, to report the contact to counsel. On April 3, 2016, counsel authored a letter and had it served by a process server to Sheriff Matt Rice. See Exhibit 1, Letter. Drexler requested a copy of the audio recording as he has prepared a conditional waiver of his Sixth Amendment right to counsel so long as law enforcement and/or cooperating individuals have a recording device on their

person. The video outside of POD 203 has been requested so ast to show the interaction between Kelley and Drexler. Exhibit 2, FOIA Drexler believes that this contact was in violation of his Sixth Amendment right to counsel.

6. In the early morning hours of Monday, April 4, 2016, two (2) other deputy sheriffs approached Drexler while he was reading in the day room. They approached Drexler and asked "did you really do it?" Again, Drexler said "No, I did not." The deputies asked no more questions and left the pod. This tape recording has also been requested. Exhibit 2, FOIA

7. There has been a significant change of circumstances since the Court last visited the issue of bond. First, the affidavit for search warrant outlined a theory of the case that as of March 16, 2016 appears to be abandoned by law enforcement and the State. There is been a change in evidence on several very key issues. Second, the Faulkner County Sheriff's Department continual violation of Drexler's Sixth Amendment rights should be a concern to both the State and the Court.

8. Drexler is requesting an immediate hearing to address the concerns outlined herein and to request a reconsideration of bond in light of these events and change of circumstances.

WHEREFORE, premises considered, Drexler is requesting a bond hearing at the Court's earliest convenience.

Respectfully submitted,



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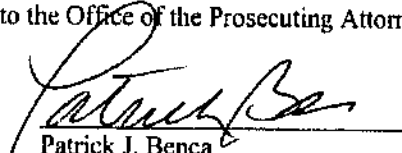
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Attorneys for Defendant

CERTIFICATE OF SERVICE

I certify that a copy was faxed or mailed to the Office of the Prosecuting Attorney on April 7, 2016.


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April 3, 2016

Matt Rice, Sheriff
Faulkner County
801 Locust Street
Conway, Arkansas 72034-5330

Re: Hunter Drexler, Jail Unit 1

Sheriff Rice,

My name is Patrick Benca and I represent Mr. Drexler in *State v. Hunter Drexler* (CR 15-569). He is charged with two (2) counts of Capital Murder; two (2) counts of Aggravated Robbery; and two (2) counts of Abuse of a Corpse. This matter was scheduled to go to trial on April 4, 2016 but was rescheduled to start on June 24, 2016. As you are aware, Mr. Drexler is presently in pre-trial custody on the adult side of Jail Unit 1.

Since my initial contact with Mr. Drexler he has been adamant in his innocence. Indeed, the evidence that I have reviewed corroborates this position. Out of concern that a so-called "snitch" would fabricate a claim that Mr. Drexler confessed to the crimes for which he is charged, he prepared a conditional waiver of his Sixth Amendment rights to allow "snitches" or law enforcement to record these purported confessions. A copy of this waiver was sent to the jail and to the Faulkner County Prosecuting Attorney's Office. I have attached another copy for your convenience. The obvious goal of this waiver was to prevent an innocent young man to be subject to a false claim that he confessed to these crimes.

I bring the forgoing to your attention because of an incident that occurred on April 2, 2016. Mr. Drexler was approached by Corporal B. Kelly in Jail Unit 1. Kelly stated to Mr. Drexler that "he knew that he killed the old man." Mr. Drexler told Kelly that he "did not" do such a thing. Kelly then advised him that "[Drexler] could trust him not to say anything." After advising Kelly that he did not, Mr. Drexler contacted his mom, Kimberly Ison and reported the incident to her so that I could be notified of the incident. I was told the evening of April 2, 2016, as soon as Miss Ison got off the phone with Hunter.

The fact that Kelly approached Hunter means one of two things. First, the contact was in violation of Mr. Drexler's Sixth Amendment right to counsel as such inquiries, while a person is represented by counsel, are in violation of that constitutional right. Second, that the contact was made while Kelly was recorded in which case Mr. Drexler has expressly waived his right to counsel. In this instance, Kelly would have recorded the conversation.

I suspect that Kelly does not have a recording of this contact with Mr. Drexler on April 2, 2016. If I am wrong then I would expect to get a copy of that recording as it is exculpatory under *Brady v. Maryland*.

Please advise as to how this incident is handled by your office. I have much respect and appreciation for a majority of your deputies who watch over Mr. Drexler in your facility. That respect has never extended to Corporal Kelly. There are a variety of reasons for my position. I would be happy to outline those instances for you.

Thank you for your assistance regarding this matter.

Sincerely,

ORIGINAL SIGNED

Patrick Benca

cc: Cody Hiland, Prosecuting Attorney
Hugh Finkelstein, Chief Deputy Prosecuting Attorney
File

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April 6, 2016

Matt Rice, Sheriff
Faulkner County
801 Locust Street
Conway, Arkansas 72034-5330

Re: Hunter Drexler, Jail Unit 1

Sheriff Rice,

I am making a request pursuant to Arkansas' Freedom of Information Act. There are two (2) video tapes from a camera outside POD 203 on the second level of Jail Unit 1. The dates and times for the requested videos are as follows:

- a. On April 2, 2016 at 5:00 a.m. (breakfast starts) through 8:00 a.m. on the same date.
- b. On April 4, 2016 from 2:00 a.m. until 5:00 a.m.

Thank you for your assistance regarding this matter.

Sincerely,

ORIGINAL SIGNED
Patrick Benca

cc: File