

IN THE CRIMINAL COURT OF BRADLEY COUNTY, TENNESSEE

STATE OF TENNESSEE

*

Docket No. 14-CR-158-A

v.

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TWANNA BLAIR,

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Defendant.

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MOTION TO DISMISS INDICTMENT

COMES NOW, the Defendant, Twanna Blair, by and through counsel, pursuant to the Double Jeopardy provisions as contained in Article 1, Section 10 of the Tennessee Constitution and the Fifth Amendment to the United States Constitution, made applicable to the States through the Fourteenth Amendment, and would respectfully request this Honorable Court to dismiss the new Indictment filed on March 19, 2014.

The Defendant was acquitted of three separate charges of murder in Indictment 08-455 after a jury trial in 2009, by the trial court. (*See Exhibit A*). Attached as Exhibit B is the notation from the Criminal Court of Bradley County, Tennessee documenting acquittals following the jury trial. (*See Exhibit B*). The state has now indicted her in Indictment 14-CR-158-A in 2014 for the same offense. (*See Exhibit C*). The state and federal constitution bars this prosecution for reasons set forth below. The Defendant respectfully requests that this Indictment be dismissed and that the state be sanctioned for this blatant, knowing and intentional disregard of the law and the Defendant's constitutional rights guaranteed her under the federal and Tennessee constitutions.

This motion to dismiss invokes well-settled principles of double jeopardy jurisprudence. The Fifth Amendment to the United States Constitution is applicable to the states through the

Fourteenth Amendment Due Process Clause and provides that no person shall “be subject to the same offense to be twice put in jeopardy of life or limb.” Similarly, Article I, Section 10 of the Tennessee Constitution provides “[t]hat no person shall, for the same offense, be twice put in jeopardy of life or limb.” The double jeopardy provisions of the state and federal constitutions have heretofore been interpreted as co-extensive. The double jeopardy clauses were designed to protect an individual from being subjected to the hazards of trial and possible conviction more than once for an alleged offense. The underlying idea, one that is deeply ingrained in at least the Anglo–American system of jurisprudence, is that the State with all its resources and power should not be allowed to make repeated attempts to convict an individual for an alleged offense, thereby subjecting him to embarrassment, expense and ordeal and compelling him to live in a continuing state of anxiety and insecurity, as well as enhancing the possibility that even though innocent, he may be found guilty. *Green v. United States*, 355 U.S. 184, 187–88, 78 S.Ct. 221, 223–24, 2 L.Ed.2d 199 (1957); *State v. Maupin*, 859 S.W.2d at 315; *State v. Knight*, 616 S.W.2d 593, 595 (Tenn.1981).⁴⁵ The double jeopardy guarantee affords three separate constitutional protections against, 1) a second prosecution for the same offense after acquittal; 2) a second prosecution for the same offense after conviction; and 3) multiple punishments for the same offense. *North Carolina v. Pearce*, 395 U.S. 711, 716, 89 S.Ct. 2072, 2076, 23 L.Ed.2d 656 (1969); *State v. Mounce*, 859 S.W.2d 319, 321 (Tenn.1993). In application, these protections forbid retrial of a Defendant who has been acquitted. *State v. Harris*, 919 S.W.2d 323, 327 (Tenn.,1996); *State v. Thompson*, 285 S.W.3d 840 (Tenn. 2009).

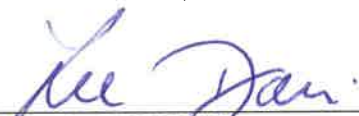
The Double Jeopardy Clause forbids a second trial for the purpose of affording the prosecution another opportunity to supply evidence which it failed to muster in the first proceeding. This is central to the objective of the prohibition against successive trials. The

Clause does not allow “the State . . . to make repeated attempts to convict an individual for an alleged offense,” since “[t]he constitutional prohibition against ‘double jeopardy’ was designed to protect an individual from being subjected to the hazards of trial and possible conviction more than once for an alleged offense.” *Green v. United States*, 355 U.S. 184, 187, 78 S.Ct. 221, 223, 2 L.Ed.2d 199 (1957); see *Serfass v. United States*, 420 U.S. 377, 387-388, 95 S.Ct. 1055, 1061-1062, 43 L.Ed.2d 265 (1975); *United States v. Jorn*, 400 U.S. 470, 479, 91 S.Ct. 547, 554, 27 L.Ed.2d 543 (1971) . See, *Burks v. United States*, 437 U.S. 1, 11, 98 S.Ct. 2141, 2147 (U.S.Tenn.,1978).

WHEREFORE, the Defendant respectfully requests that this Indictment be dismissed and the state be sanctioned for their egregious actions.

Respectfully submitted:

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this Motion has been served upon District Attorney General R. Steven Bebb and Assistant District Attorney Richard Fisher, via First Class U.S. Mail to 93 North Ocoee Street, 2nd Floor, Cleveland, Tennessee, 37311, and via facsimile to (423) 479-4434 on this the 29 day of April, 2014.



LEE DAVIS