

IN THE CRIMINAL COURT OF BRADLEY COUNTY, TENNESSEE

STATE OF TENNESSEE)
)
v.) No. 2017-CR-206
)
MIRANDA CHEATHAM) JUDGE FREIBERG

MOTION TO DISQUALIFY THE 10TH JUDICIAL DISTRICT ATTORNEY GENERAL'S OFFICE FROM ANY FURTHER INVOLVEMENT IN THE MATTER OF MIRANDA CHEATHAM

2020 AUG 12 AM 9:16
GAYLA H. MILLER
CRIMINAL COURT

Comes now the Defendant, Miranda Cheatham (hereafter "Defendant" or "Mrs. Cheatham"), by and through counsel, and moves this Honorable Court to disqualify the 10th Judicial District Attorney General and employees of that office from participating in any subsequent, ongoing, and future proceedings pertaining to the criminal case against Miranda Cheatham. As grounds for the motion, Mrs. Cheatham would argue that multiple impermissible acts of prosecutorial misconduct prejudicial to the judicial process in flagrant violation of Mrs. Cheatham's constitutional rights compel disqualification of the 10th Judicial District Attorney General's office. Further participation by the 10th Judicial District Attorney General's office constitutes: (1) an actual conflict of interest; (2) the appearance of impropriety; (3) actual and intentional impropriety; and (4) the 10th Judicial District Attorney General and numerous employees of that office are witnesses in this case who will be required to testify in subsequent post-trial proceedings. In support thereof, Mrs. Cheatham would show the Court as follows:

RELEVANT PROCEDURAL HISTORY OF THE CASE

The indictment in this case charged Mrs. Cheatham with the offense of second degree murder and the lesser included offenses of voluntary manslaughter, reckless homicide, and criminally negligent homicide. The alleged murder took place on the morning of October 31,

2016, when Mrs. Cheatham shot and killed her husband, James Cheatham. At all times Mrs. Cheatham has claimed self-defense in the matter. Following a six day trial, the jury found Mrs. Cheatham guilty of second degree murder. On April 12, 2019, Mrs. Cheatham was sentenced to 18 years in prison.

Mrs. Cheatham filed her Motion for Judgment of Acquittal or in the Alternative, Motion for New Trial, on or about July 9, 2020. In said Motion, she has specifically argued that the State committed a number of acts that constitute prosecutorial misconduct both prior to, and during the trial in this matter. Said misconduct continues to this day.

I. DISTRICT ATTORNEY STEVE CRUMP INTENTIONALLY SUPPRESSED EVIDENCE OF HIS OWN WRONGDOING BY WITHHOLDING THE RECORDING.

On July 16, 2020, counsel for Mrs. Cheatham finally obtained a recording that casts serious doubts on the validity and honesty of the prosecution in this case. Counsel for Mrs. Cheatham has spent months attempting to obtain the recording after first learning of its existence some time ago. Upon information and belief, said recording was in the possession of police investigators and the prosecution had knowledge of the recording before the trial that took place in 2018. Nonetheless, the recording was never produced to defense counsel during discovery. Defense counsel, after filing a Freedom of Information Request, obtained this recording on or about July 16, 2020.

The recording at issue involves a conversation between John Loach (half-brother of Decedent), and Dana Cheatham (sister of Decedent). The conversation took place after the death of Decedent, but before the conviction of Mrs. Cheatham. The recording outlines an affair between Dana Cheatham and D.A. Steve Crump and that Dana Cheatham was effectively threatening/blackmailing D.A. Crump to prosecute the case at issue and to obtain a conviction.

D.A. Crump in his statement to the Chattanooga Times Free Press stated that he had never heard the alleged recording and “knew nothing of its contents” until he read the pleading on social media, though he noted the Cleveland Police Department notified him that “there was a recording which alleged misconduct on his part.” His statement further claims as follows:

“I told them not to share any information about the recording with me. I advised them that they should conduct an independent inquiry to the extent they believed appropriate. If they found even a remote basis to investigate further, I told them I would ask the Tennessee District Attorneys General Conference to appoint a district attorney pro tem and request that the Tennessee bureau of Investigation assist them. There was never a request for either.” (See Times Free Press Article attached as Exhibit 1).

However, a statement by the Cleveland Police Department directly refutes D.A. Crump’s claims. Cleveland Police Department spokeswoman Sgt. Evie West said that as soon as investigators were made aware of the recording, its existence **and content** were discussed with Crump. Sgt. West stated that “as with all investigations, our protocol is to submit all materials of the case to the District Attorney’s Office and it is at their discretion as to what appropriate action needs to be taken based on relevance and evidentiary value in prosecution.” (See Times Free Press Article attached as Exhibit 1).

Additionally, on May 28, 2020, the District Attorney’s office provided defense counsel with a link to its website whereby access was granted to the Miranda Cheatham file¹. Said web link contained all of the documents the District Attorney’s office decided to include into its file and what documents it shared with defense counsel before and during the trial. Conspicuously missing from the file is the recording at issue even though it had been obtained by the Police Department and produced to the District Attorney. (See Index of D.A. File attached as Exhibit 2).

¹ <https://tndagc10.agisent.com/PRODOCS/DEFENSE/index.html>

II. DISTRICT ATTORNEY STEVE CRUMP CONTINUED TO PRACTICE LAW ON BEHALF OF HIS BLACKMAILER.

On December 4, 2018, Steve Crump prepared a Quit Claim Deed on behalf and for the benefit of Dana Cheatham for a property located recorded in Book 2569, Page 644. (See Deed attached as Exhibit 3). This Deed was prepared by D.A. Crump after he secured indictments against Mrs. Cheatham, but before the trial commenced in 2019. On June 22, 2020, D.A. Crump again prepared another Quit Claim Deed on behalf, and for the benefit of, Dana Cheatham for a property recorded in Book 2692, Page 254. (See Deed attached as Exhibit 4). On both deeds the attorney of record is Stephen D. Crump, of Crump and Richardson, PLLC, whose place of business is 3855 N. Ocoee Street, Suite 400, Cleveland, Tennessee 37312. .

LEGAL ARGUMENT

Improper or unethical participation by a prosecutor or a prosecutor's office in a criminal case may implicate the basic constitutional rights of a defendant, “the orderly administration of justice, the dignity of the courts, the honor and trustworthiness of the legal profession[,] and the interests of the public at large....” *State v. Phillips*, 672 S.W.2d 427, 435 (Tenn.Crim.App.1984); see also *State v. Coulter*, 67 S.W.3d 3, 28–29 (Tenn.Crim.App.2001), abrogated on other grounds by *State v. Merriman*, 410 S.W.3d 779, 793 (Tenn.2013). In protecting these concerns, Tennessee courts generally turn for guidance to our Code of Professional Responsibility, as adopted by our supreme court in Tennessee Supreme Court Rule 8, and to court-created principles of professional conduct. *Coulter*, 67 S.W.3d at 28.

It is well-established that a trial court's ruling on the disqualification of a district attorney and of the entire office is subject to an abuse of discretion standard. *Clinard v. Blackwood*, 46 S.W.3d 177, 182 (Tenn.2001); *State v. Culbreath*, 30 S.W.3d 309, 313 (Tenn.2000). For purposes of deciding whether a prosecutor or his office should be disqualified from participation in a

criminal case, our supreme court has adopted the following analytical framework: (1) Do the circumstances of the defendant's case establish an actual conflict of interest that requires the disqualification of a prosecutor? (2) Do the circumstances of the defendant's case create an appearance of impropriety that requires the disqualification of a prosecutor? (3) If either theory requires the disqualification of a prosecutor, is the entire District Attorney General's office likewise disqualified? *Culbreath*, 30 S.W.3d at 312–313.

If there is no actual conflict of interest, the court must nonetheless consider whether the conduct in question created an appearance of impropriety. *See Clinard*, 46 S.W.3d at 186–87; see also Tenn. Sup.Ct. R. 8, RPC 1.10. The appearance of impropriety must be real, reflect an objective public perception rather than the subjective and anxious perceptions of the litigants, and reflect the views of a layperson with a knowledge of all the facts. *Id.* “In sum, an appearance of impropriety exists in those situations in which an ordinary knowledgeable citizen acquainted with the facts would conclude that the ... representation poses substantial risk of disservice to either the public interest or the interest of one of the clients.” *Id.*

In applying these standards to this case, we must first examine the ethical duties and loyalties of the prosecutor. As the Tennessee Supreme Court stated in *Culbreath*, prosecutors hold a unique office in our criminal justice system, and therefore must shoulder unique expectations:

[P]ublic ... prosecutors are expected to be impartial in the sense that they must seek the truth and not merely obtain convictions. They are also to be impartial in the sense that charging decisions should be based upon the evidence, without discrimination or bias for or against any groups or individuals. Yet, at the same time, they are expected to prosecute criminal offenses with zeal and vigor within the bounds of the law and professional conduct. *Culbreath*, 30 S.W.3d at 314.

The United States Supreme Court has also addressed the unique duties of a prosecutor:

[The prosecutor] is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer. He may prosecute with earnestness and vigor—indeed he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones.

Berger v. United States, 295 U.S. 78, 88, 55 S.Ct. 629, 79 L.Ed. 1314 (1935). Tempered only by their impartial search for justice, prosecutors are to keep the interests of the State as their preeminent concern. *Id.*

I. A CLEAR CONFLICT OF INTEREST EXISTS IN THIS CASE AFTER THE STATE INTENTIONALLY SUPPRESSED MATERIAL EVIDENCE THAT CASTS DOUBT ON THE LEGITIMACY OF THE PROSECUTION.

In determining whether there is an actual conflict of interest, the trial court must determine whether the prosecutor cannot exercise his or her independent professional judgment free of “compromising interests and loyalties.” *See id.*, 30 S.W.3d at 312; *see also* Tenn. Sup.Ct. R. 8, RPC 1.7, 1.8, 1.9(c). “An actual conflict of interest is usually defined in the context of one attorney representing two or more parties with divergent interests.” *State v. Tate*, 925 S.W.2d 548, 552 (Tenn.Crim.App.1995). A test for determining a disqualifying conflict in that situation is whether the attorney “made a choice between possible alternative courses of action [that were] helpful to one client but harmful to the other.” *Id.* at 552–53 (citations omitted). “The term has been described as a situation in which regard for one duty tends to lead to [the] disregard of another.” *Id.* (citations omitted). Once an actual conflict of interest is shown, disqualification is the appropriate remedy. *See Moran v. State*, 472 S.W.2d 238, 239–40 (Tenn.Crim.App.1971).

The recording indicates not only a clear conflict of interest within the District Attorney's Office but also casts a significant shadow on the legitimacy of the actual prosecution of the case. If D.A. Crump was being blackmailed to prosecute the case, then it is safe to say that justice and truth played no part in the process. Had the recording been produced before trial, Mrs. Cheatham's defense team would have been able to investigate the claims therein and determined the impact they may have had on the prosecution's handling of the case. D.A. Crump intentionally suppressed the recording either by omission or other acts. In *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963), the Supreme Court held that "suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material² either to guilt or to punishment, irrespective of good faith or bad faith of the prosecution." 373 U.S. at 87, 83 S.Ct. 1194; see also *Sample v. State*, 82 S.W.3d 267, 270 (Tenn.2002). In *United States v. Bagley*, 473 U.S. 667, 676, 105 S.Ct. 3375, 87 L.Ed.2d 481 (1985), the Supreme Court held that both exculpatory and impeachment evidence fall under the

² In *Kyles v. Whitley*, 514 U.S. 419, 434, 115 S.Ct. 1555, 131 L.Ed.2d 490 (1995), the United States Supreme Court explained that "a showing of materiality does not require demonstration by a preponderance that disclosure of the suppressed evidence would have resulted ultimately in the defendant's acquittal...." *Kyles*, 514 U.S. at 434, 115 S.Ct. 1555. Rather, the question is whether the defendant received a fair trial, "understood as a trial resulting in a verdict worthy of confidence," in the absence of the suppressed evidence. *Id.* In order to prove a *Brady* violation, a defendant must show that "the favorable evidence could reasonably be taken to put the whole case in such a different light as to undermine confidence in the verdict." *Id.* at 435, 115 S.Ct. 1555; see also *Strickler v. Greene*, 527 U.S. 263, 289-90, 119 S.Ct. 1936, 144 L.Ed.2d 286 (1999). The Court in *Kyles* urged that the cumulative effect of the suppressed evidence be considered to determine materiality. 514 U.S. at 436, 115 S.Ct. 1555. Thus, the materiality of the suppressed evidence must be evaluated within the context of the entire record as to how it impacts the innocence or guilt of the accused.

Brady rule. The duty to disclose extends to all “favorable information” regardless of whether the evidence is admissible at trial. *Johnson v. State*, 38 S.W.3d 52, 56 (Tenn.2001).³

Naturally, the State’s intentional suppression of this recording raises serious questions as to what other evidence they may have kept hidden and/or failed to produce before or during the trial. If the D.A. was being blackmailed to prosecute the case and to obtain a conviction, then it is highly likely that exculpatory evidence was kept from defense counsel. With such a clear conflict of interest, not only should D.A. Crump not have had a part in choosing in the prosecution’s strategy, or the determination of what evidence was to be produced to Defendant, nor should he have exerted any influence into the investigation itself.

D.A. Crump should recuse himself and his entire office from any further participation in this case based on his personal and political interest in either upholding the current conviction or in convicting and sentencing Mrs. Cheatham again in the event a re-trial is granted, which impair his ability to exercise “independent professional judgment free from ‘compromising interests and loyalties,’” *White*, 114 S.W.3d at 476.

Additionally, D.A. Crump’s private practice of law on behalf of his would be blackmailer, while he holds the office of district attorney, is a per se conflict of interest. In fact D.A. Crump is statutorily prohibited from the very behavior he has engaged in. District attorneys may not in any private capacity represent individuals, because while they are serving as district attorneys general they may not practice law in any other capacity. See T.C.A. 8-7-104.

³ In *Johnson*, our Supreme Court cited with approval a Nevada case stating that evidence is favorable under Brady if “it provides grounds for the defense to attack the reliability, thoroughness, and good faith of the police investigation, to impeach the credibility of the state’s witnesses, or to bolster the defense case against prosecutorial attacks.” *Id.* (citing *Mazzan v. Warden, Ely State Prison*, 116 Nev. 48, 993 P.2d 25, 37 (2000)).

Finally, as an elected official, D.A. Crump's job depends entirely on his ability to present favorably in the eyes of the public. The local, and even regional spotlights, are now on Crump's perceived misconduct, which have undoubtedly affected his professional reputation. The incentive to remedy his reputation is evident in his response to the negative media attention. Mrs. Cheatham's case now presents an opportunity for D.A. Crump to change any negative perception if he would seize on the opportunity by recusing himself and his office from any further involvement in the matter.

II. A STRONG APPEARANCE OF IMPROPRIETY EXISTS IN THIS CASE.

The court must also consider whether the conduct in question created an appearance of impropriety. *See Clinard*, 46 S.W.3d at 186–87; see also Tenn. Sup.Ct. R. 8, RPC 1.10. The appearance of impropriety must be real, reflect an objective public perception rather than the subjective and anxious perceptions of the litigants, and reflect the views of a layperson with knowledge of all the facts. *Id.* “In sum, an appearance of impropriety exists in those situations in which an ordinary knowledgeable citizen acquainted with the facts would conclude that the ... representation poses substantial risk of disservice to either the public interest or the interest of one of the clients.” *Id.*

It simply cannot be argued that any reasonable person hearing the recording at issue could ever conclude that D.A. Crump's participation in the prosecution of this case is anything but improper with a clear appearance of impropriety. The recording⁴, whether ultimately true or not, puts into the public conscience the following facts:

- D. Cheatham is the sister of the Decedent in this murder case.

⁴ (See Recording attached as Exhibit 5).

- D. Cheatham subsequently had an affair with D.A. Crump when he represented her as her attorney. (3:26).

- D. Cheatham then states that she had made it be known that if D.A. Crump did not go forward with the murder trial, that she would make public the fact that they had “slept together” and that she would “fuck his whole life up.” (3:38).

- D. Cheatham went on to admit that she had actually threatened D.A. Crump and that she would do whatever it took to let everyone know that the two had an affair.

- D.A. Crump responded to her threats assuring her that justice would be served and that “it would be done.” (5:19-5:56).

- She went on to state that she would get D.A. Crump “into trouble” and that she did not care because she was single and did not have a marriage to consider. (7:00, 15:20).

- D. Cheatham stated that she knew D.A. Crump’s wife Teresa and that she would tell her about the affair and that she also knew his children and even his daughter’s boyfriend. (6:12).

- She further stated that D.A. Crump knew that she had a short temper and that she would tell on him if he didn’t get the murder case going. (24:00). D. Cheatham stated that she had threatened D.A. Crump in the last six months (before the trial). (7:40).

- D. Cheatham then recounted how the affair began, how D.A. Crump had mishandled her personal lawsuit, how he had forced her to give professional massage services to his wife and children as a form of payment, etc. (10:00-11:00).

- Furthermore, D. Cheatham recalled how D.A. Crump had been one of her massage clients for years. (22:50).

- D. Cheatham asked that Mr. Loach send her one of the pictures so that she in turn could send it to D.A. Crump when he was at work along with the threat that if “something didn’t happen soon” that everyone would learn of the affair. (14:45).

- D. Cheatham went on to recount when she had actually threatened D.A. Crump to his face about his handling of the present matter. She further claims that she directly told him that she would not hesitate to call him out. (27:19).

Furthermore, it is clear that the recording at issue was obtained by the Cleveland Police Department before the trial in this matter; that the Police Department turned the recording over to the D.A.’s office; that the contents of the recording were discussed with D.A. Crump; that the recording subsequently did not make into the D.A.’s electronic file⁵; that D.A. Crump did not recuse himself from the matter and that no actual investigation was conducted to determine his acts of impropriety; that the recording was not produced to defense counsel before or during trial; and that the recording was only produced after an official Freedom of Information Request was filed.

The above pattern of events would lead a reasonable person to conclude that not only did the affair take place and that D.A. Crump was threatened/blackmailed into prosecuting the case (notwithstanding the evidence of self-defense), but that his office actively tried to conceal the recording and its content from defense counsel. The appearance of impropriety is blatant and firmly established. As such, D.A. Crump should be disqualified from any further participation on this case.

⁵ The Sixth Circuit has reasoned that the state's withholding of evidence in violation of an open file policy “can obviously cause great prejudice to a defendant.” *United States v. Atisha*, 804 F.2d 920, 924 (6th Cir.1986).

III. THE CONFLICT OF INTEREST AND APPEARANCE OF IMPROPRIETY REQUIRE DISQUALIFICATION OF THE ENTIRE DISTRICT ATTORNEY GENERAL'S OFFICE.

In any case requiring the disqualification of one prosecutor based on a conflict of interest or appearance of impropriety, "the trial court must also determine whether the conflict of interest or appearance of impropriety requires disqualification of the entire District Attorney General's office." *Culbreath*, 30 S.W.3d at 313 (citing *Tate*, 925 S.W.2d at 550). Courts consider the "particular circumstances" of the case when resolving disqualification issues. See *Tate*, 925 S.W.2d at 556. Generally, disqualification of the entire District Attorney General's office based on the disqualification of one prosecutor is not required if that prosecutor "does not disclose confidences or otherwise participate in the prosecution," *State v. Ownby*, 2009 WL 112582, at *9 (Tenn. Crim. App. Jan. 14, 2009), though "[t]here is a presumption of shared confidences" that would need to be overcome. *Tate*, 925 S.W.2d at 558. Other courts have held that "where the conflict of interest lies with the chief prosecutor (i.e., the District Attorney), the prosecution is barred and the conflict cannot be resolved by delegating the matter to an assistant DA." *Com. v. Brown*, 141 A.3d 491, 497 (Pa. Sup. Ct. 2016).

The particular circumstances of Mrs. Cheatham's case warrant the disqualification of the entire 10th Judicial District Attorney General's Office. As the elected District Attorney General dealing with a high profiled case, D.A. Crump is not simply one prosecutor who can effectively be screened from one case. As the chief prosecutor in the 10th Judicial District Attorney General's Office, D.A. Crump oversees the activities of the entire office and has the ultimate authority to decide whether and how to move forward with or retry Mrs. Cheatham's case. Even if D.A. Crump is screened from the case and a different prosecutor takes charge, it would be difficult to eliminate his influence entirely. Every prosecutor in the office reports to D.A. Crump

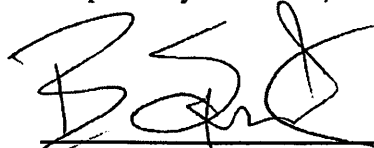
and has a personal and professional interest in carrying out his prosecutorial philosophy and avoiding conflict with him. Delegating Mrs. Cheatham's case to another prosecutor in the 10th Judicial District Attorney General's Office would not ensure Mrs. Cheatham a prosecution, new trial or appeal, that are free of D.A. Crump's involvement.

The recent media attention on Mrs. Cheatham's case further amplifies the need to disqualify the entire 10th Judicial District Attorney General's Office. Because Mrs. Cheatham's case has appeared in news articles exposing D.A. Crump's prosecutorial misconduct-and because the 10th Judicial District Attorney General's Office may now have an opportunity to retry her case, it is highly improbable that Mrs. Cheatham's case has not been a subject of discussion within the office and highly improbable that D.A. Crump has shielded himself from such discussions. In these particular circumstances, the risk is high-and it is presumed-that D.A. Crump has already "disclose[d] confidences" about the case to other prosecutors in the office. *Ownby*, 2009 WL 112582, at *9. To "preserve[] the integrity of the criminal justice system," "the more cautious approach is [therefore] to disqualify the office and appoint an entirely new prosecution team." *Tate*, 925 S.W.2d at 558. As such, Mrs. Cheatham's case should be able to proceed without the distraction of D.A. Crump's office's involvement.

CONCLUSION

For the reasons stated above, this Court should grant Mrs. Cheatham's motion to disqualify the 10th Judicial District Attorney General's Office from involvement in any future proceedings in the case.

Respectfully submitted,



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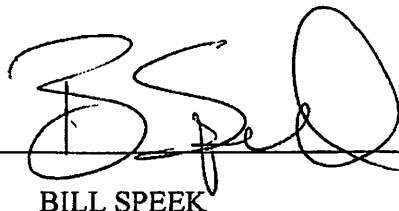
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of this pleading has been served upon counsel for all parties at interest in this case by delivering a true and exact copy of this pleading to the offices of such parties or by placing a true and exact copy of this pleading in the United States Mail, addressed to such party at his or her office and with sufficient postage thereon to carry the same to its destination.

District Attorney General
P.O. Box 1351
Cleveland, Tennessee 37364-1351

This the 11 day of Aug, 2020.

By:



BILL SPEEK

EXHIBIT 1

In service to our community, the Times Free Press is making its online coronavirus coverage accessible for all readers.



Chattanooga Times Free Press



Breaking: These are the Tennessee, Georgia and Alabama COVID-19 cases and deaths by county

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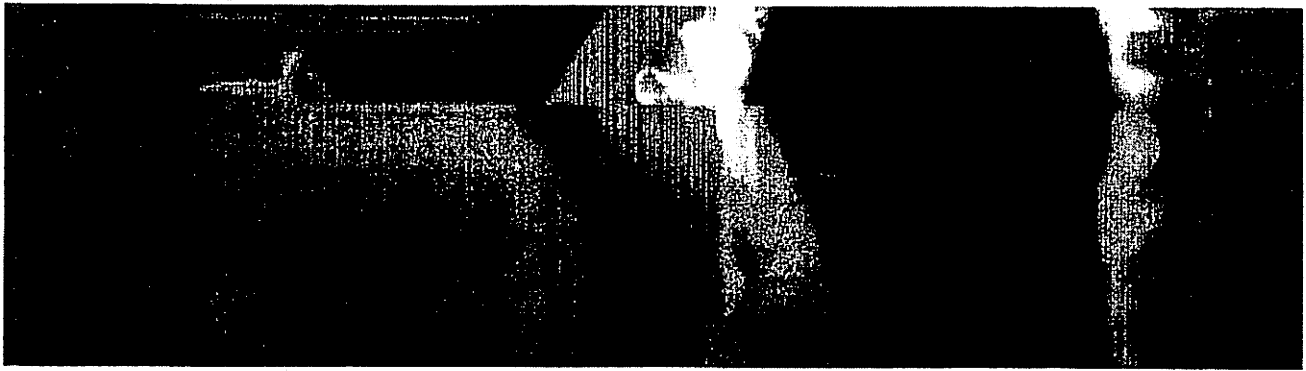
Local Regional News

Cleveland, Tennessee, woman seeks to overturn murder conviction over DA's alleged affair

The district attorney, Steve Crump, says he was not blackmailed into prosecuting victim's wife

August 1st, 2020 | by Rosana Hughes





Staff Photo by Tim Barber/ 10th Judicial District Attorney Steve Crump.

Tenth Judicial District Attorney General Steve Crump has been accused of withholding evidence in a 2018 murder trial in order to hide an alleged affair for which he was purportedly being blackmailed into securing a conviction, according to a motion filed in Bradley County Criminal Court on Friday.

The motion, filed by attorney Bill Speak, professes to detail a recording of a conversation between the siblings of James Cheatham, who was shot and killed in 2016 during a domestic dispute in Cleveland, Tennessee, on Halloween morning.



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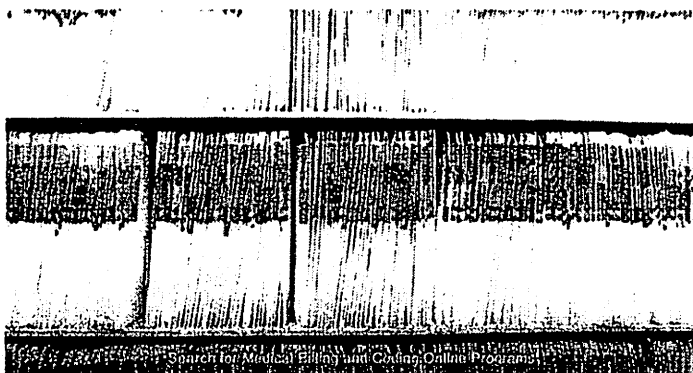
Cheatham's wife, Miranda Cheatham, was convicted of second-degree murder and sentenced to 18 years in prison, the Cleveland Daily Banner reported at the time.

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Miranda Cheatham is seeking an acquittal or at least a new trial, as her defense says it it obtained a recording on July 16 of the allegedly incriminating conversation, arguing it "casts serious doubts on the validity and honesty of the prosecution in this case."

Speek declined comment Saturday morning, stating that the motion speaks for itself.

Crump issued a statement to the Times Free Press saying he could not comment fully on the case, but he did call the allegations untrue.

"There was no inappropriate conduct of any kind by me or my office," he said in the statement, although he did not specifically deny an affair.

According to the defense motion, the recording includes discussion of an affair between Crump and James Cheatham's sister, Dana Cheatham, and that Dana Cheatham "was effectively threatening/blackmailing D.A. Crump to prosecute the case at issue and to obtain a conviction."

DOCUMENT

Motion for continuance



In the conversation, James Cheatham's half-brother John Loach allegedly asks Dana Cheatham about the affair and said he had photos showing her and Crump together.

During the conversation, Dana Cheatham eventually confessed the affair to Loach, according to the motion.

She reportedly told Loach that, for years, Crump had been one of her massage clients, and he allegedly mishandled a personal lawsuit of hers and "forced her to give professional massage services to his wife and children as a form of payment."

According to the court filing, she then went on to say she'd made it known to Crump that she was "willing to use the affair if required to get Mrs. Cheatham convicted for the death of" her brother. And if "something didn't happen soon" with the case, "she would would make public the fact that they had 'slept together' and that she would 'f — his whole life up."

She reportedly said Crump assured her that "justice would be served and that 'it would be done,'" according to the motion.

"Dana Cheatham went on to recount when she had actually threatened DA Crump to his face about his handling of the present matter," the defense filing recounts. "She stated that he assured her that nothing in his personal life would affect his handling of decedent's case."

In his statement Saturday morning, Crump denied being pressured.

"There was no threat, coercion, extortion, or duress offered against me, anyone in my office or in law enforcement in this case by Dana Cheatham. Nor has any person ever done that in any case I have ever prosecuted," his statement said.

DOCUMENT

Crump statement



Crump said he had never heard the alleged recording and "knew nothing of its contents" until he read the pleading on social media, though he noted the Cleveland Police Department notified him that "there was a recording which alleged misconduct on my part."

"I told them not to share any information about the recording with me. I advised them that they should conduct an independent inquiry to the extent they believed appropriate. If they found even a remote basis to investigate further, I told them I would ask the Tennessee District Attorneys General Conference to appoint a district attorney pro tem and request that the Tennessee Bureau of Investigation assist them. There was never a request for either."

Cleveland Police Department spokeswoman Sgt. Evie West said that as soon as investigators were made aware of the recording, its existence and content were discussed with Crump.

"As with all investigations, our protocol is to submit all materials of the case to the District Attorney's Office and it is at their discretion as to what appropriate action needs to be taken based on relevance and evidentiary value in prosecution," she said.

In his statement, Crump added that he wasn't directly involved in the litigation or presentment to the grand jury, as alleged in the defense filing. The case was prosecuted by two of his assistant district attorneys: Drew Robinson and Coty Wamp.

Wamp recently joined the Hamilton County Sheriff's Office in a newly created position as the department's general counsel.

(READ MORE: Hamilton County DA chronicles lack of cooperation for investigation of former deputy)

In the Miranda Cheatham case, Crump said he "did not participate in the trying of the case, although when asked for my opinion on an issue, I gave my best advice as I do in every case that comes into this office."

At Miranda Cheatham's sentencing hearing, Bradley County Criminal Court Judge Andrew Mark Freiberg took notice that James Cheatham's children did not voice much support for their father during their victim impact statements, the Cleveland Daily Banner reported.

"No immediate family member has testified on his behalf," Freiberg said, according to the newspaper. "They are wholly supportive of the defendant. What does it mean when his own children won't testify for him?"

James Cheatham's mother did speak on her son's behalf, according to the Banner, but the children later said they had no relationship with their grandmother.

Miranda Cheatham's defense argues the case is a "textbook example of when a discovery violation should result in acquittal. The withholding of the recording by the state has resulted in irreparable harm to Mrs. Cheatham's defense."

"If DA Crump was being blackmailed to prosecute the case, then it is safe to say that justice and truth played no part in the process," Speek wrote in his motion.

He claims the recording was in the possession of police investigators and that its existence was known, or should have been known, to prosecutors before the trial that took place.

"Nonetheless, the recording was never produced to defense counsel during discovery," Speek argued, noting that had the defense been aware, it would have been able to investigate its contents as part of the defense strategy and requested Crump's complete recusal from the prosecution.

"It is inconceivable that Mrs. Cheatham received a fair trial if the prosecuting DA was being blackmailed/threatened to secure a conviction," Speek argued, pointing out that it's highly likely that evidence that could clear Miranda Cheatham of guilt was kept from the defense if Crump was indeed being blackmailed to obtain a conviction.

"The failure to produce the recording was not inadvertent, but was most likely calculated to not only avoid casting genuine and well-founded doubt on the prosecution and ultimate conviction, but also to shield DA Crump of any embarrassment the recording may produce," Speek wrote.

For his part, Crump said, the case was "prosecuted justly and ethically. A jury of the defendant's peers heard the relevant evidence and spoke with clarity and force and they said 'guilty.'"

He said his office will soon be filing a complete response to the motion in court.

Contact Rosana Hughes at rhughes@timesfreepress.com or follow her on Twitter @HughesRosana.

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NEXT ARTICLE

EXHIBIT 2

filename	category	size
┌ 911 Call 10-31-16 805 sunset ave nw gunshot.mp3	Case File	1.65 MB
┌ april bentley guns.zip	Photos	2.30 MB
┌ Autopsy Report.pdf	Case File	1.08 MB
┌ autopsy and scene pics.zip	Photos	2.11 GB
┌ black mercedes.zip	Photos	8.90 MB
┌ Brandy Brown Body Cam.mp4	Videos	4.40 GB
┌ CAD Operations Report.pdf	Case File	906.82 K
┌ CAD Report.pdf	Case File	660.16 K
┌ Case File Check List.pdf	Case File	247.84 K
┌ Case file cover sheet.pdf	Case File	38.91 K
┌ cheatham firearms report.pdf	Lab Reports	422.10 K
┌ CHEATHAMVERIZON.zip	Case File	12.17 MB
┌ Coleen McCowan.WMA	Case File	6.64 MB
┌ Crime Scene Log.pdf	Case File	329.46 K
┌ crumley - Cheatham.wav	Interviews	22.02 MB

└ DNA Results.pdf	Lab Reports	904.72 K
└ Evidence List.pdf	Case File	550.93 K
└ facebook from shannon burrell phone.jpg	Case File	5.60 MB
└ facebook posts.zip	Case File	5.43 MB
└ facebook subpoena.zip	Case File	790.51 K
└ FB message from Gerald Jerald.png	Case File	259.83 K
└ funeral pictures.zip	Photos	321.73 K
└ Gunshot Residue Results.pdf	Lab Reports	413.93 K
└ Hamilton Co. ME's Office Receipt.pdf	Case File	454.10 K
└ Incident Report.pdf	Case File	1.05 MB
└ Indictment.pdf	Case File	484.68 K
└ int. Amy Barker.MP3	Interviews	53.02 MB
└ int. April Bentley.MP3	Interviews	27.30 MB
└ int. Cathy Bynum.MP3	Interviews	11.17 MB
└ int. Chuck Macdonald.MP3	Interviews	35.61 MB

└ int. Connie Chambers.MP3	Interviews	23.67 MB
└ int. Dana Hicks, John Loach, Larry Cheatham.MP3	Interviews	65.46 MB
└ int. Debbie Johnson.MP3	Interviews	52.51 MB
└ int. jade cheatham.wma	Interviews	25.09 MB
└ int. Jeff Brewer.MP3	Interviews	41.71 MB
└ int. Jeff Cloer.MP3	Interviews	53.03 MB
└ int. Jenny Newberry.MP3	Interviews	44.44 MB
└ int. John Loach.MP3	Interviews	19.25 MB
└ int. Karen Bledsoe.MP3	Interviews	53.78 MB
└ int. Keith Crumley.MP3	Interviews	56.27 MB
└ int. Larry and Tracy Cheatham.MP3	Interviews	41.70 MB
└ int. Shannon Burrell.MP3	Interviews	80.50 MB
└ int. Twla Cody.MP3	Interviews	45.67 MB
└ Jade Cheatham iphone.zip	Case File	5.03 GB
└ Jade Cheatham Phone Report.pdf	Case File	45.45 MB
└ James Cheatham Phone Search Warrant .doc	Case File	261.63 K

└ James Cheatham Phone(2) Search Warrant .doc	Case File	219.13 K
└ Jason McCowan.docx	Case File	11.07 K
└ Laura Hodge CV.pdf	Case File	61.88 K
└ LG Smartphone.zip	Case File	7.35 MB
└ master list.pdf	Case File	368.64 K
└ Microanalysis Report.pdf	Lab Reports	51.10 K
└ Miranda Cheatham Iphone Report.zip	Case File	5.63 GB
└ Miranda Cheatham Iphone.zip	Case File	2.72 GB
└ miranda Cheatham Phone Search Warrant .doc	Case File	2.02 MB
└ Miranda's Verizon Phone Records.pdf	Case File	179.55 K
└ phone record search warrant (423-599-1095).doc	Case File	96.25 K
└ phone record search warrant (JamesCheatham).doc	Case File	95.74 K
└ phone record search warrant (Miranda Cheatham).doc	Case File	95.74 K
└ Photos of Miranda Cheatham's hand.zip	Photos	68.01 MB
└ Photos of Miranda Cheatham, house and phones.zip	Photos	41.42 MB

└ picture of house.pdf	Case File	929.99 K
└ ResponsePacket.zip	Case File	6.45 MB
└ screen shots from noviena cloer.zip	Case File	1.03 MB
└ screen shots from tracey cheatham.zip	Case File	2.92 MB
└ Search Warrant Property 805 Sunset Ave. .doc	Case File	22.11 MB
└ Statement of Jeremy Hardy.pdf	Case File	401.66 K
└ Steve West Body Cam.mp4	Videos	5.54 GB
└ surveillance video.zip	Case File	281.18 MB
└ Suspect DL Photo.pdf	Case File	154.45 K
└ Taylor Thompson body cam.mp4	Videos	4.59 GB
└ TBI Lab Request.pdf	Case File	358.04 K
└ test message larry cheatham.zip	Case File	4.64 MB
└ text message from miranda to max mccann.zip	Case File	992.17 K
└ text messages from jennie newberry.zip	Case File	42.27 MB
└ Tooter's iphone.zip	Case File	6.21 GB
└ Updated Synopsis.pdf	Case File	530.86 K

verizon records.zip	Case File	2.76 MB
Video Interview of Miranda Cheatham (20161103144812.7z)	Video	10.08 GB
Witness List.pdf	Case File	1.48 MB

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Platform v2.4.027, build #12, Engine v2.2, build #20778 (131074)

EXHIBIT 3

2

QUIT CLAIM DEED		STATE OF TENNESSEE COUNTY OF <u>Bradley</u> THE ACTUAL CONSIDERATION OR VALUE, WHICHEVER IS GREATER, FOR THIS TRANSFER IS \$0.00 Dana Cheatham Affiant SUBSCRIBED AND SWORN TO BEFORE ME, THIS THE <u>4th</u> DAY OF DECEMBER, 2018. M. Blackburn Notary Public MY COMMISSION EXPIRES: <u>9-24-21</u> (AFFIX SEAL)
THIS INSTRUMENT WAS PREPARED BY and RETURN TO: STEPHEN D. CRUMP, ATTORNEY CRUMP & RICHARDSON, PLLC, 2043 N. 06035 Street, Cleveland, TN 37311		
ADDRESS NEW OWNER(S) AS FOLLOWS: Dana Cheatham <small>(NAME)</small>	SEND TAX BILLS TO: Dana Cheatham <input checked="" type="checkbox"/> <small>(NAME)</small>	MAP-PARCEL NUMBERS #034-H-D-001 & #034-H-D-008.00
935 Eldredge Circle NW <small>(ADDRESS)</small>	935 Eldredge Circle NW <small>(ADDRESS)</small>	
Cleveland, TN 37312 <small>(CITY) (STATE) (ZIP)</small>	Cleveland, TN 37312 <small>(CITY) (STATE) (ZIP)</small>	

THE PREPARER OF THIS DEED HAS NOT PERFORMED A TITLE SEARCH AND MAKES NO WARRANTY OR REPRESENTATION AS TO THE TITLE OF THE GRANTOR, OR USE MADE OF THE PROPERTY BY GRANTOR, OR THE EXISTENCE OR NON-EXISTENCE OF ANY LIENS, EASEMENTS, RESTRICTIONS, OR OTHER ENCUMBRANCES, OR COMPLIANCE OR NON-COMPLIANCE WITH ANY PLANNING, ZONING, OR OTHER LAWS OF ANY GOVERNMENTAL AUTHORITY, OR SUBDIVISION REGULATIONS OR RESTRICTIONS. THE PREPARER OF THIS DEED MAKES NO WARRANTY NOR REPRESENTATION AS TO THE ACCURACY OF THE DESCRIPTION.

FOR AND CONSIDERATION OF THE SUM OF TEN DOLLARS, CASH IN HAND PAID BY THE HEREINAFTER NAMED GRANTEEES, AND OTHER GOOD AND VALUABLE CONSIDERATIONS, THE RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, I,

Marshall Hicks pursuant to Final Divorce Decree in Bradley County Circuit Court, Docket Number V-15-070

HEREINAFTER CALLED THE GRANTORS, HAVE BARGAINED AND SOLD, AND BY THESE PRESENTS DO TRANSFER AND CONVEY UNTO

Dana Cheatham

HEREINAFTER CALLED THE GRANTEEES, THEIR HEIRS AND ASSIGNS, A CERTAIN TRACT OR PARCEL OF LAND IN ANDERSON COUNTY, STATE OF TENNESSEE, DESCRIBED AS FOLLOWS, TO-WIT: A CERTAIN TRACT OR PARCEL OF LAND IN BRADLEY COUNTY, STATE OF TENNESSEE, DESCRIBED AS FOLLOWS, TO-WIT:

SITUATED in the Third civil District of Bradley County in the First Ward of the City of Cleveland, TN to-wit:

LOT THIRTY-SEVEN (37) and FORTY-TWO, ELDRIDGE ACRES, WEST SECTION, as surveyed august 25, 1961, which plat is duly of record in the Register's Office for Bradley County, Tennessee, in Plat Book 3, Page 38.

TRACT ONE: Said LOT 42 is more particularly described as BEGINNING in the south line of Eldredge Circle at the north west corner of Lot 37 in said Subdivision; thence Southwardly 139.8 feet along the West line of said Lot 37 to the Northeast corner of Lot 41 in the said Subdivision; thence Westwardly along the North line of said Lot 41, 121.4 feet to a corner in the Southeast line of Eldredge Circle, thence in a Northeastwardly direction with the curve of the Southeast line of said Eldredge Circle, 190.9 feet to the BEGINNING corner. Same as prior description.

TRACT TWO: Said Lot 37 in more particular described as BEGINNING in the West line of Circle Drive on the Northeast corner of Lot 36 in said Subdivision, thence Westwardly approximately North 65 degrees 55 minutes West along the North line of said Lot 36 degrees 130 feet to the Southeast corner of Lot 42 in said Subdivision, thence approximately North 24 degrees 05 minutes East along the East line of said Lot 42, 139.8 feet to a corner in the south line of Eldredge circle; thence in a Northeastwardly direction along the South line of Edlredge Circle in an arc, the radius of which is 311.06 feet, the center of the radius lying to the South of said arc, a distance 137.32 feet to the Southwest corner of the intersection of Circle Drive with Eldredge Circle, the said corner of the intersection being rounded pm a 15-foot radial arc; thence southwardly along the West line of Circle Drive, 179.06 feet to the BEGINNING corner. Same a prior description.

PRIOR DEED REFERENCE BOOK 2183 PAGE 249 *Ph. T. B*

unimproved
 This is improved property, known as 935 Eldredge Circle NW, Cleveland, TN 37312
(House Number) (Street) (P.O. Address) (City or Town) (Postal Zip)

Said tract or parcel of land, with the appurtenances, estate, title and interest thereto belonging to the said GRANTEES, their heirs and assigns. Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

Witness our hands this 26th day of November, 2018

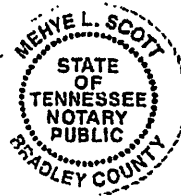
Marshall Hicks
 Marshall Hicks

STATE OF TENNESSEE
 COUNTY OF Bradley

Before me Mehye L. Scott of the state and county mentioned personally appeared Marshall Hicks, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), executed the foregoing instrument for the purpose therein contained.

Witness my hand, at office, this 26th day of November, 2018.

Mehye L. Scott
 Notary Public



My Commission Expires: January 26, 2019

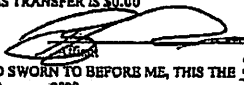


STATE OF TENNESSEE
 COUNTY OF BRADLEY
 I CERTIFY THE FOREGOING IS A TRUE COPY OF THE Deed
 RECORDED IN BOOK 2569 PAGE 644
 IN THE BRADLEY COUNTY REGISTER'S OFFICE. AS OF
 THIS DATE 08/03/2020
Dina Swafford
 DINA SWAFFORD, REGISTER

BK/PG: 2569/644-645
 19000065

2 PGS.-ALL DEEDS	
BONNIE BATCH: 212781 01/02/2018 - 01:38 PM	
VALUE	0.00
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	10.00
ARCHIVE FEE	0.00
DP FEE	2.00
REGISTER'S FEE	0.00
TOTAL AMOUNT	12.00

STATE OF TENNESSEE, BRADLEY COUNTY
 DINA SWAFFORD
 REGISTER OF DEEDS

QUIT CLAIM DEED		STATE OF TENNESSEE COUNTY OF <u>Bradley</u> THE ACTUAL CONSIDERATION OR VALUE, WHICHEVER IS GREATER, FOR THIS TRANSFER IS \$0.00
DANA CHEATHAM PRITCHARD TOOK ORIGINAL		 SUBSCRIBED AND SWORN TO BEFORE ME, THIS THE <u>22nd</u> DAY OF <u>JUNE</u> , 2020. <u>Dana Swafford</u> Notary Public MY COMMISSION EXPIRES: _____ (NOTARY STATE)
		THIS INSTRUMENT WAS PREPARED BY and RETURN TO: STEPHEN D. CRUMP, ATTORNEY CRUMP & RICHARDSON, PLLC, 3855 N. Ocoee Street, Suite 400, Cleveland, TN 37312
ADDRESS NEW OWNER(S) AS FOLLOWS:	SEND TAX BILLS TO:	MAP-PARCEL NUMBERS
Dana Cheatham-Pritchard	Dana Cheatham-Pritchard	#034-H-D-001 & #034-H-D-008.00
(NAME)	(NAME)	
935 Eldredge Circle NW	935 Eldredge Circle NW	
(ADDRESS)	(ADDRESS)	
Cleveland, TN 37312	Cleveland, TN 37312	
(CITY) (STATE) (ZIP)	(CITY) (STATE) (ZIP)	

THE PREPARER OF THIS DEED HAS NOT PERFORMED A TITLE SEARCH AND MAKES NO WARRANTY OR REPRESENTATION AS TO THE TITLE OF THE GRANTOR, OR USE MADE OF THE PROPERTY BY GRANTOR, OR THE EXISTENCE OR NON-EXISTENCE OF ANY LIENS, EASEMENTS, RESTRICTIONS, OR OTHER ENCUMBRANCES, OR COMPLIANCE OR NON-COMPLIANCE WITH ANY PLANNING, ZONING, OR OTHER LAWS OF ANY GOVERNMENTAL AUTHORITY, OR SUBDIVISION REGULATIONS OR RESTRICTIONS. THE PREPARER OF THIS DEED MAKES NO WARRANTY NOR REPRESENTATION AS TO THE ACCURACY OF THE DESCRIPTION.

FOR AND CONSIDERATION OF THE SUM OF TEN DOLLARS, CASH IN HAND PAID BY THE HEREINAFTER NAMED GRANTEEES, AND OTHER GOOD AND VALUABLE CONSIDERATIONS, THE RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, I,

Brian Pritchard

HEREINAFTER CALLED THE GRANTORS, HAVE BARGAINED AND SOLD, AND BY THESE PRESENTS DO TRANSFER AND CONVEY UNTO

Dana Cheatham-Pritchard

HEREINAFTER CALLED THE GRANTEEES, THEIR HEIRS AND ASSIGNS, A CERTAIN TRACT OR PARCEL OF LAND IN ANDERSON COUNTY, STATE OF TENNESSEE, DESCRIBED AS FOLLOWS, TO-WIT:
 A CERTAIN TRACT OR PARCEL OF LAND IN BRADLEY COUNTY, STATE OF TENNESSEE, DESCRIBED AS FOLLOWS, TO-WIT:

SITUATED in the Third Civil District of Bradley County in the First Ward of the City of Cleveland, Tennessee to-wit:

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Prior Deed Ref Book 2612 Page 415 R

unimproved
 This is improved property, known as 935 Eldredge Circle NW, Cleveland, TN 37312
(House Number) (Street) (P.O. Address) (City or Town) (Postal Zip)

Said tract or parcel of land, with the appurtenances, estate, title and interest thereto belonging to the said GRANTEES, their heirs and assigns. Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

Witness our hands this _____ day of _____, 2020

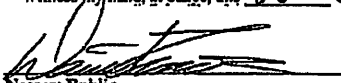


 Brian Pritchard

STATE OF TENNESSEE
COUNTY OF Bradley

Before me Brian Pritchard of the state and county mentioned personally appeared Brian Pritchard, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), executed the foregoing instrument for the purpose therein contained.

Witness my hand, at office, this 22nd day of June, 2020.



 Notary Public

My Commission Expires: 06/15/22



STATE OF TENNESSEE
COUNTY OF BRADLEY

I CERTIFY THE FOREGOING IS A TRUE COPY OF THE Lead
 _____ RECORDED IN _____ BOOK 2692 PAGE(S) 254-255
 IN THE BRADLEY COUNTY REGISTER'S OFFICE. AS OF
 THIS DATE 6/3/20
Dina Swafford R.G.
DINA SWAFFORD, REGISTER

BK/PG: 2692/254-255	
20008409	
2 PGS-AL-ALL DEEDS	
BORNE BATCH: 218821	06/22/2020 - 02:05 PM
MORTGAGE VALUE:	0.00
TRANSFER VALUE:	0.00
MORTGAGE TAX:	0.00
TRANSFER TAX:	0.00
RECORDING FEE:	10.00
DP FEE:	2.00
REGISTER'S FEE:	0.00
TOTAL AMOUNT:	12.00
STATE OF TENNESSEE, BRADLEY COUNTY DINA SWAFFORD REGISTER OF DEEDS	



EXHIBIT 5

**Recording of Dana Cheatham and John Loach
To be filed in person with the court on August 14, 2020**