

**IN THE CRIMINAL COURT OF DAVIDSON COUNTY, TENNESSEE
DIVISION I**

STATE OF TENNESSEE)	
)	
)	
v)	NO. 2014-C-2484
)	
)	
DAVID CHASE)	

STATE’S NOTICE OF DISMISSAL

Comes now the State of Tennessee, by and through the office of the District Attorney General, and hereby gives notice of dismissal of the above-styled indictment with prejudice. As grounds, the facts and law in this case compel dismissal. Primarily, three factors dictate this decision:

1. Lauren Bull is not a credible witness, she has admitted to testifying falsely and independent witnesses contradict her testimony.
2. Physical evidence and phone records contradict Lauren Bull’s allegations.
3. Evidence has been manipulated and/or destroyed by Lauren Bull.

INVESTIGATION RESULTS

The credibility of Ms. Bull is undermined by the following facts:

1. Disinterested witness Kayla Howell’s statement and sworn testimony regarding the events leading to and following Count 1 completely contradict Ms. Bull’s account. (Transcript date 5-29-15, page 175). Ms. Howell testified that Ms. Bull stumbled out of the door and dropped her purse. Ms. Bull testified that he dragged her out by the pony tail and threw her outside, and threw her purse out with her (6-19-14, page 9).
2. Ms. Bull’s prior testimony that a disinterested neighbor, Thao Vu, helped clean up her injuries and put ice on her lip and called 911 after the second incident was false and contradicted by that witness (6-19-14 page 18).
3. Ms. Bull’s claim that Mr. Chase caused a cut on her neck is contradicted by the observations of the police at the time of the incident and the video

surveillance. Officer Schmitt and Officer Rivera testified they did not see a scratch on her neck. Exh #1 and Exh #2.

4. Ms. Bull's sworn testimony about how her cell phone was damaged was completely contrary to what she told the police at Mr. Chase's apartment and the testimony of Metro Police Officers. "He took it on his leg and broke it that way." (10-2-14, page 65). He took it from me and snapped it in half (6-19-14, page 18). Officer Pedro Rivera testified that Lauren Bull told him that David Chase grabbed the phone and threw it against the wall and that's how it got broken." (10-2-14, page 403-404).
5. Ms. Bull told the police that she lived at 2312 Elliston Place in Mr. Chase's apartment and listed this as her address on her sworn arrest warrant affidavit. This was not true. (10-2-14, page 182), Exh #3. David Chase had given her the entire day of June 5, 2014 to move her belongings out. She did not do so.
6. Ms. Bull testified she returned to Mr. Chase's apartment to get her personal belongings, yet remained there for 4 hours without taking any steps to actually remove them. Ms. Bull remained in Mr. Chase's apartment even after she was notified by VINE that Mr. Chase was being released. She then told the arresting officers that Mr. Chase "kicked the door in." Exh #4. Ms. Bull later admitted under oath that that statement was not true. (6-19-14, page 65).
7. While Mr. Chase was in jail and Ms. Bull was alone in his apartment, Ms. Bull repeatedly attempted to access Mr. Chase's cell phone but could not correctly guess his passcode. After approximately 19 failed attempts, Mr. Chase's cell phone became locked. Ms. Bull attempted to explain this in court, testifying that "the phone was on the couch beside me it kept ringing. I was trying to see who was calling." (10-2-14, page 188). Ms. Bull would have been able to see who was calling without trying to hack into Mr. Chase's phone. Lauren Bull later testified that Mr. Chase's phone was charging in the bathroom. (10-2-14, pages 212-215).
8. Ms. Bull extensively Google searched for signs of strangulation on June 18, 2014, the night before she first testified about the events of this case. Exh #5.
9. On June 8, 2014, mere hours after Ms. Bull swore out the warrants in this case, Ms. Bull requested that her friend Amber, who was with her on the night of June 7, 2014, immediately prior to Ms. Bull showing up at Mr. Chase's apartment at 3:41 a.m., delete everything from Amber's Facebook page, advising that she had already deleted everything from her Facebook page.. Exh #6.
10. The cut on Ms. Bull's neck that Ms. Bull presented to Detective Cahill as proof of her injury from David Chase was not present at the time of arrest and

only appeared days later. Exh #7. In fact, Lauren Bull testified she was not bleeding at the time of Mr. Chase's arrest. (5-29-15, page 67).

11. Ms. Bull testified on October 2, 2014, that she had not spoken to a civil attorney. This statement was not true. In fact Ms. Bull had spoken to a civil attorney continuously for nearly four months at that time and even on the very morning that the testimony was given in court. Ms. Bull texted others that she expected to receive a civil settlement, that she had a civil attorney, and that she would be seeking three million dollars. Ms. Bull's Google search history includes researching Richard Branson, the CEO of Virgin Group and Dean Chase, the founder of D.F. Chase, Inc., indicating that she was seeking a multimillion dollar windfall. Ms. Bull even promised to share her windfall with a friend. Furthermore, Ms. Bull engaged in text messages about the fact that she needed to keep it a secret that she was consulting a civil attorney about seeking a settlement. Ms. Bull's false testimony about speaking with a civil attorney under oath was a clear attempt to hide the truth. (5-29-15, page 13-14). Exh #8.

LEGAL ANALYSIS

The District Attorney General is under an ethical and legal obligation to refrain from prosecuting a charge that the District Attorney knows is not supported by probable cause. Tennessee Supreme Court Rule 8 contains the Rules of Professional Conduct for attorneys in Tennessee. In particular, the role and responsibilities of a prosecuting state's attorney is contained in Rule 3.8. This rule provides:

Special Responsibilities of a Prosecutor

The prosecutor in a criminal case:

- (a) Shall refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause.

In addition, the Tennessee Supreme Court has described the duties of the district attorney general in the face of the wide discretion with which he is empowered and that must exist to uphold his ethical duty. In *State v. Superior Oil*, 875 S.W.2d 658, 661 (Tenn. 1994), the Court quoted with approval from *Cooper v. State*:

Although there are various statutes which assign duties to the elected constitutional office of district attorney general, there are no statutory criteria governing the exercise of the

prosecutorial discretion traditionally vested in the officer in determining whether, when and against whom to institute criminal proceedings. Indeed it has been often recognized that the “prosecutorial discretion in the charging process is very broad.” *Cooper v. State*, 847 S.W.2d 521, 536 (Tenn. Crim.App. 1992).

The Court in *Superior Oil, Inc.*, also noted, “As a corollary of the wide discretion vested in a district attorney general, it has long been recognized that the office has the inherent responsibility and duty to seek justice rather than to be just an advocate for the State’s victory at any cost.” *Id.*

This same ethical duty has been mandated by the United States Supreme Court on attorneys prosecuting for the federal government. In *Berger v. United States*, 295 U.S. 78, 88, 55 S.Ct. 629, 633 (1935), the United States Supreme Court stated:

The United States Attorney 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. It is as much his duty to refrain from improper methods as it is to use every legitimate means to bring about a just one.

In the context of a potential prosecution where the district attorney general is aware that false testimony has been given in the proceedings, the Tennessee Court of Criminal Appeals has adopted the mandates of the United States Supreme Court:

In *Napue* the United States Supreme Court, holding that the prosecution was required to correct a false answer given by a prosecution witness, stated:

The principle that a State may not knowingly use false evidence, including false testimony, to obtain a tainted conviction, implicit in any concept of ordered liberty, does not cease to apply merely *because the false testimony goes only to the credibility of the witness. The jury's estimate of the truthfulness and reliability of a given witness may well be determinative of guilt or innocence, and it is upon such subtle factors as the possible interest of the witness in testifying falsely that a defendant's life or liberty may depend.* (Emphasis in original opinion) *State v. Spurlock*, 874 S.W.2d 602, 617 (Tenn.Crim.App. 1993) (quoting *Napue v. Illinois*, 360 U.S. 264, 269, 79 S.Ct. 1173, 1177 (1959)).

The Court in *Spurlock* further held:

It is a well established principle of law that the state's knowing use of false testimony to convict an accused is violative of the right to a fair and impartial trial as embodied in the Due Process Clause of the Fourteenth Amendment to the United States Constitution and Article I, §§ 8 and 9 of the Tennessee Constitution. *Id.* (citing *Pyle v. Kansas*, 317 U.S. 213, 63 S.Ct. 177 (1942); *Mooney v. Holohan*, 294 U.S. 103, 55 S.Ct. 340 (1935)).

Finally, the *Spurlock* Court clearly mandated the duty of a prosecutor when faced with false testimony:

In summary, a district attorney general has both a legal as well as ethical duty to furnish the accused with exculpatory evidence or favorable information; and he has both a legal and ethical duty to refrain from suppressing such evidence, to correct the false testimony of a prosecution witness, and to refrain from using false evidence to convict an accused. *Id.* At 611-612.

In this case, Ms. Bull has admitted to giving false testimony on both June 19, 2014 and October 2, 2014. Other disinterested witnesses have contradicted Ms. Bull's

allegations on crucial issues. As a result, this Office has a constitutional and ethical duty to refrain from further prosecution of this case.

CONCLUSION

Prosecutors are expected “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.” *State v. Culbreath*, 30 S.W.3d 309, 314 (Tenn. 2000). Based on the facts outlined above, the State has determined that although there was initially probable cause to bring these charges, the State is unable to proceed with prosecution based on prior testimony under oath on the record in this matter. The State has a responsibility and duty to seek justice rather than advocate for victory at any cost; therefore, the ethical and legal obligations of the Office of the District Attorney require the State to dismiss this indictment.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been mailed to Richard McGee, Attorney for Defendant, 1308 Rosa L. Parks Boulevard, Nashville, TN 37208, on this the ____ day of July, 2015.

Katrin Novak Miller