

In the Magistrate Court of Kanawha County
West Virginia

State of West Virginia

CASE NO. 13 M 3079-81

v.

Tami L. Stainfield

Defendant brings a motion to dismiss case based on State Prejudice, thru failure to respond to two subpoena's for evidence, failure of the State to provide evidence to support the charges, States failure to provide a Constitutional and fair trial, the State failure to respond to Prosecutors and Judges illegally hiring a Public Defender and the State failure to respond to the motion to suppress Incident Reports narrative that was modified and is written with witness statements that are written by the plaintiff.

The State provided the defense on July 30th 2013 in court and on January 24th 2014 thru mail their evidence which includes an incomplete and error filled incident report and a modified Plaintiffs statement which that has been altered since the original arrest statement. Furthermore the Plaintiffs never read the defendant Miranda rights, therefore the modified statement remains inadmissible and provides doubt of the accuracy and truthfulness of the original and then modified Plaintiffs statements.

On April 21, 2013 the defendant retained her copy of the arrest paper work and in that No. 2588 the Plaintiffs names a witness, however the State has failed to provide a statement by the witness; and of grave concern the State has provide a Plaintiffs statement with the witness observations from the perspective of the Plaintiff and written by the Plaintiff not from the witness.

The state has failed to provide any evidence to justify the charges filed and the evidence provided is limited thus proof of Prejudice (assuming guilt therefore not investigating, stereotyping, acting in an unprofessional unconstitutional manner). Thus far the State has failed to provide the defendant evidence that would prove the Plaintiffs statements are accurate and the State has failed to provide the defendant the evidence that would prove the Plaintiffs statements are false.

Further evidence of Prejudice and Malicious the Prosecutor and Court cannot provide any evidence that the defendant was notified of the January 27th trial date. The defendant maintains the P.O. Box and her address was accurate. The State then arrested the defendant at her new home; with no warrant in hand and the Sherriff Dept had three officers enter her home without cause. Additionally on about Jan 24, 2014 the Prosecutor mailed Jury instructions which were altered to a level to imply malicious intent, instructing Jurors of inaccurate and incomplete definitions of Statues.

The State also during this 13 month period had Judge Aaron delay the October 2nd trial thru mail, and then proceeded to notify a Public Defender without the consent or authority of the defendant to represent her. In violation of West Virginia Public Defender legislation and the Lawyer Professional Conduct the public defender interviewed persons in State v Stainfield case without consent of the defendant. The behavior was unconstitutional and remains a serious breach of conduct for the State employees and the Public Defender.

Furthermore the Formal Complaint which the Court received a copy and stamped receipt of on April 24, 2013 and the Sherriff Department proved receipt of thru a May 21, 2013 John D. Rutherford letter with a July 16, 2013 stamped mail date. Additional Prejudice by the State for no evidence has been received relating the investigation of the complaint, and the above dates prove and the defendant subpoena's prove that videos were available and may exist today. These videos would provide the Plaintiffs statements were in error; and the Defendant was innocent and justified in bringing her complaint relating to police conduct. Not producing ANY leaves significant doubt to the truthfulness of the Plaintiffs statements. The States failure to investigate or to provide the videos is unethical and prejudice, eliminating the opportunity to defend or conduct a fair trial.

The defendant's subpoenas to Police and Sherriff were not required under West Virginia discovery, for it is component of fair trial and State obligation to protect and uphold citizen's right to a fair trial and the Constitutional arrests and arraignment. The State is left with the condition of 'burden of proof' NOT Citizen "must prove innocent". The evidence requested would prove the Plaintiffs statement inaccurate and the Defendants complaint was accurate. The subpoenas were basic 911, text messages, videos, photographs, name of all officers (Sheriff, Charleston Police, etc). The States failure to produce ANY evidence is Prejudice and a Crime.

Additional evidence of political prejudice and of grave concern handicap prejudice was the local news coverage and Sheriff Dept. statements.

The defendant again requests the charges to be dismissed for lack of evidence to justify the charges defined in West Virginia Statues; failure to provide the evidence that would prove the Plaintiffs statements were not truthful; and failure to provide the evidence that would prove the Defendant complaint was accurate.

The collective behavior of the STATE over the past 15 months is PREJUDICE – assuming guilt therefore failure to investigate, failure to investigate or provide evidence due to personal, professional, and political ideology, favoritism, race, gender, etc.

Defendant asks for immediate dismissal and reimbursement of expenses.