A - Part 7 (294)
(Brady)

16

LAW OFFICES OF
ROBERT WESLEY
PUBLIC DEFENDER
NINTH JUDICIAL CIRCUIT OF FLORIDA
POST OFFICE BOX 4935
435 N. ORANGE AVE., SUITE 400
ORLANDO, FLORIDA 32801

pubdef@circuit9.org
http://pd.circuit9.org

Telephone: (407) 836-4800
Fax: (407) 836-4799

March 16, 2007

Patricia Ann Toro Savitz, Esq.
The Florida Bar
1200 Edgewater Drive
Orlando, Florida 32804-6314

Re: Florida Bar Inquiry by John Dobbs #06048638
Inquiry No. 2007-31,230(09A)

Dear Ms. Savitz,

Our office was appointed to represent John Dobbs at initial appearance on October 25, 2006 for the charges of Second Degree Murder with a Weapon, 2 counts of Aggravated Battery with a Deadly Weapon or Causing Great Bodily Harm, Aggravated Assault with a Firearm, and Shooting from a Vehicle. An initial letter was sent to Mr. Dobbs on November 3, 2006 but I received his file on November 6, 2006. Trial was originally set for January 30, 2007. On January 26, 2007, the State moved to continue over the defense's objection. Trial was then reset for February 26, 2007. Trial commenced on February 26, 2007 and lasted until February 29, 2007. On February 29, 2007, Mr. Dobbs was found guilty of Second Degree Murder of a Weapon, 2 Counts of Aggravated Battery with a Deadly Weapon or Causing Great Bodily Harm, Aggravated Assault with a firearm, and not guilty of Shooting from a Vehicle.

This date Should say March 1st

I met with Mr. Dobbs on November 7, 2006. My purpose at the initial interview was to get background information as well as information on defense witnesses. I did not have discovery at that time and wanted to wait until I received it, reviewed it, and provided a copy to Mr. Dobbs before we discussed what occurred on the date of the incident. On November 7, 2006, I was obviously not familiar with his case since I had not received his discovery yet. When I did receive a copy of discovery on November 30, 2006, I went to the jail on December 3, 2006 and handed him a copy of his discovery. At that time, Mr. Dobbs explained to me what occurred on the date of the incident.

Although I did contact DJ, it was to see if DJ could provide Mr. Dobbs with a place to stay pending trial. I spoke with DJ sometime after Mr. Dobbs provided me with his phone

number and DJ indicated he would not be able to allow Mr. Dobbs to stay with him because he had no residence until February 2007. Although I did also speak with DJ about Mr. Dobbs whereabouts prior to the incident that occurred at the Dollhouse, I did not think it would be relevant to call DJ as a witness to verify that Mr. Dobbs, his girlfriend, DJ and his girlfriend all met up and played some pool earlier on the night of the incident. That was not an issue at the trial. The only issue at trial was what occurred at the Dollhouse and DJ and his girlfriend did not go to the Dollhouse.

I told her to call DJ as a witness to my whereabouts prior to my arrival at the Doll house because its manager and employees had told the news and newspapers as well as the investigator hired by the defense that my girl had applied for a job there and that we had been sitting in the club for hours. Making it seem as if we were looking for trouble and up set that she didn't get a job there. Had they mentioned that during trial it would prove that they felt it necessary to lie. ~~and~~

The Adversary Preliminary Hearing was rescheduled because after an information is filed, the hearing must be heard with the trial judge. When I initially filed the Adversary Preliminary Hearing on November 20, 2006, I did not see in the computer that an Information had been filed yet. We received hearing time before the judge at the jail. However, once the Information was filed, that hearing before the judge at the jail was cancelled and we received hearing time before the trial judge.

My position with Mr. Dobbs has always been that self-defense is ultimately for the jury to decide. I do recall him asking me if he was going to win and I said I could not tell him if he would win or not. He would then argue with me that even taking all the statements of the state's witnesses, they only support his defense of self-defense.

Prior to the Adversary Preliminary Hearing, Mr. Dobbs asked me to argue before the court that these charges should be dismissed because it was clearly a case of self-defense. I informed him that it was a question for the jury. He wanted me to read his prepared argument in court during the hearing and I refused because it would have been improper for me to argue something that I knew to be improper (i.e. that the charges should be dismissed because it was a case of self-defense while knowing that self-defense is an issue for the trier of fact). His belief that if I argued his prepared argument it would show the State that this was not a case worthy of trial is misplaced.

In regards to a Nelson hearing, when Mr. Dobbs expressed dissatisfaction with my services (i.e. not reading the prepared argument he wanted me to make before the court at the Adversary Preliminary Hearing), I explained that I could set a Nelson hearing. His response was "No, I'm not letting you off that easy." He just wanted me to argue his prepared arguments.

Mr. Dobbs did receive a copy of page 8 of Deanna Washington's statement after the initial discovery as it was missing from the original packet. Once I received page 8 of Deanna Washington's statement, I sent a copy to Mr. Dobbs. As far as the GSR test is concerned, although it may only take only a day to conduct the test, it was sent to FDLE to be tested. FDLE did not provide the results until the middle of trial.

I received video of the inside of the Dollhouse on the afternoon February 23, 2006. I reviewed them and saw nothing relevant. In addition, the incident occurred outside of the Dollhouse, not inside of the Dollhouse.

A - Part 7 (3 of 4)
(Brief

I did not receive a transcript of the Adversary Preliminary Hearing until February 24, 2007 via email. Trial commenced February 26, 2007. Mr. Dobbs was present at the Adversary Preliminary Hearing anyway and was allowed to take notes.

Before the trial yet I never recieved a copy which I requested on many occassions.

I was not able to get the 911 calls. Typically, they are online but I did not see Mr. Dobbs' 911 call online. I asked the State in the middle of trial if they had it and they said no. I did not think the 911 calls would be important because the issue at trial was whether this was a case of self-defense or not. The person who made the call to 911 was not actually seeing the incident. They were told to call 911 by a third party. In addition, because of the limited time I had to prepare since Mr. Dobbs did not want to waive his right to speedy trial, I had to pick which issues to concentrate on to prepare for trial.

The 911 calls would be important to show whether or security all the police saying that I was a fight. 4 or 5 guys acting up 1 guy - if they called 911 they saw their friends stabbed and only called the police realizing that their friend had lost. Which would explain why they down rode the desperation of my situation because they admit to being here from the beginning.

In regards to the new complaints by Mr. Dobbs, he first states that he desired a bench trial rather than a jury trial and that I essentially denied him this right. This is incorrect. Although I did advise Mr. Dobbs that a jury trial would be in his best interest, the Assistant State Attorney refused to agree to a bench trial. On February 15, 2007, in open court, the Defendant's request for a bench trial was denied.

Second, Mr. Dobbs states that I failed to withdraw the Motion to Suppress Statements when he asked me to. That is correct. On February 13, 2007, my supervisor (Melissa Vickers) and I contacted Cynthia Booth at the Florida Bar Ethics Hotline and asked whether the decision to suppress or not suppress a defendant's statement fell within the purview of the attorney's decision. Ms. Booth said yes, it was a tactical decision that was within the attorney's discretion to make. My decision in filing the Motion to Suppress Statements was based on the line of cases that hold when a defendant seeks to introduce his own prior self-serving statement for the truth of the matter stated, it is hearsay and not admissible. Mr. Dobbs thought that he could play the videotape of his interview with the police on the night of the incident to show the jury how he told the police even then that it was self-defense. For the defense to have introduced the videotape would have been hearsay and inadmissible. The Assistant State Attorney even filed a Motion in Limine specifically keeping Mr. Dobbs statements out on those basis that it was inadmissible hearsay unless it was offered by the State. The only way Mr. Dobbs statements would have been admissible would have been if the State was attempting to use any admissions they deemed damaging or to impeach Mr. Dobbs. I did not believe that would be helpful to our case. I also believed that there were some detrimental statements in that recording that would not have been helpful at trial. Mr. Dobbs' belief that I was suppressing his statement to protect the Sherriff's Department is incorrect.

Third, Mr. Dobbs states that he gave me over 250 questions to ask the witnesses and told me the order in which they should be asked. I did receive them and review them. I asked the witnesses questions that were relevant to the case and within the bounds of the Rules of Evidence. I do not recall him specifically asking me to send him back copies of them although I thought he told me I could keep them and that he had made copies of them already. I am unsure.

She did not use them or any question that would bring out their prior in conflicting statements to the police and the jury. The police stated of alledge victim never came to trial during the trial.

I gave her the originals because I didn't have time to make more copies. I asked her to return them through legal mail or during a face to face. She said she would. Prepared for the deceit & also had my mother in California and my father in Detroit send me back copies of the copies I sent them. Please examine the and tell if they are within the bounds of Rules of Evidence.

A - Part 7 (4 of 4)
(Brief)

However, Mr. Dobbs did have copies of those questions as they were sent to the trial judge after the trial had ended.

Mom Check this out → Mr. Dobbs also states that his mother's words of my thoughts on the case were that he was not going to win is incorrect. Mrs. Dobbs asked me several times if we were going to win. I always responded with "I can't say," as I am never able to predict what the outcome of a trial will be.

I deny the allegations in this complaint. If you have any questions, please contact my office at (407) 836-4816. Thank you.

Sincerely,

Catherine Chien
Assistant Public Defender

cc: Mr. John Dobbs #06048638