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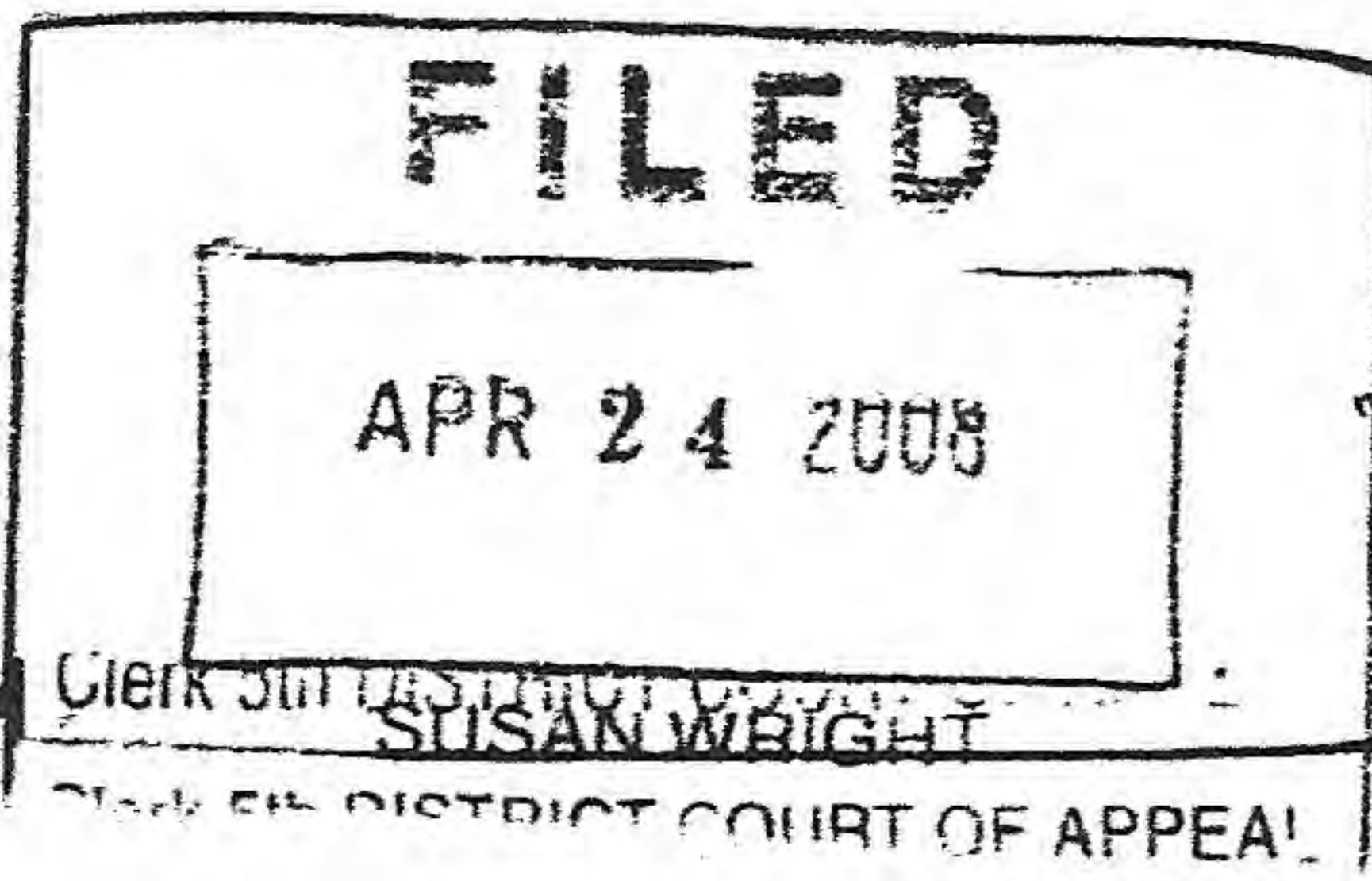
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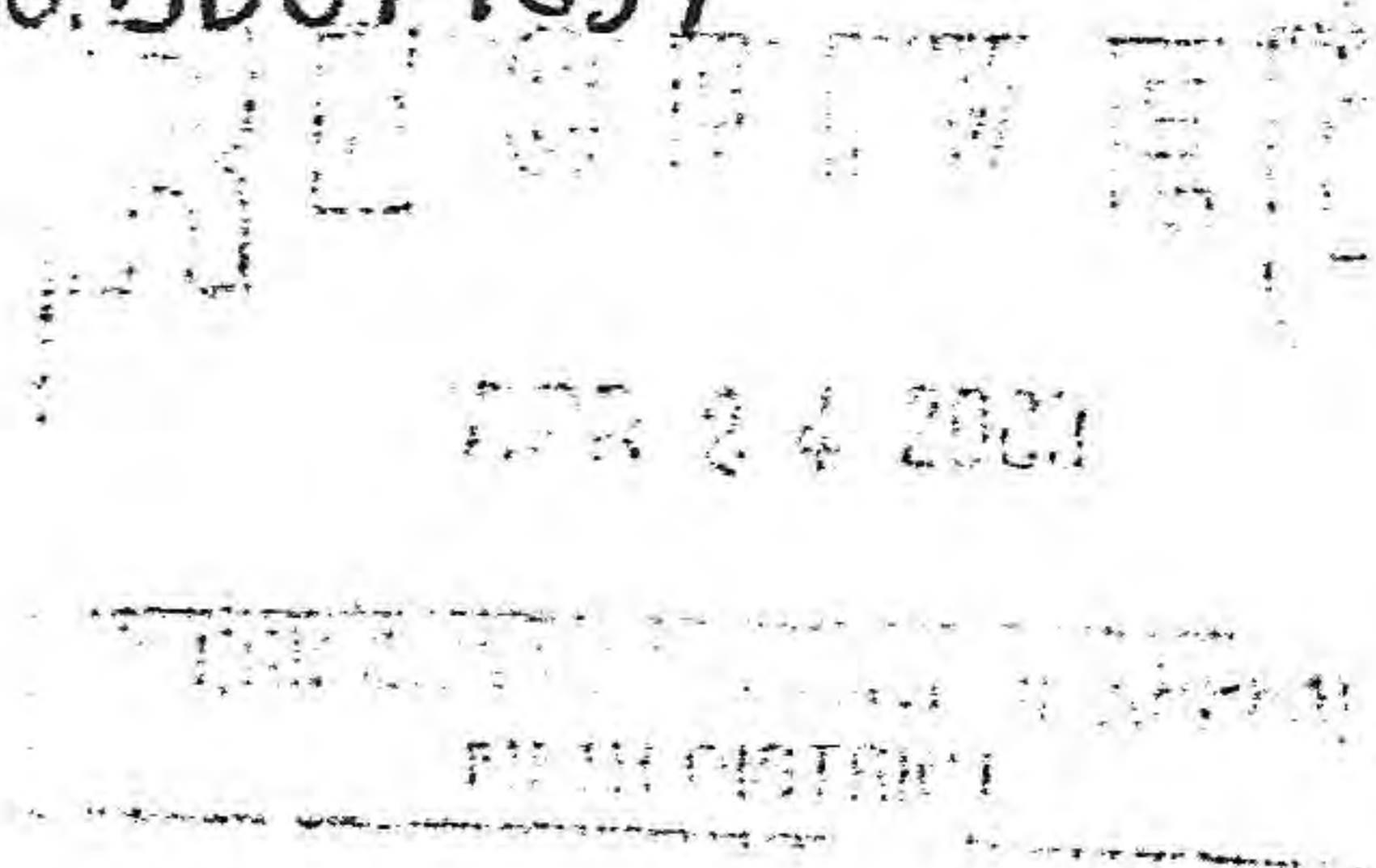
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In the District Court of Appeal  
Fifth District of the State of Florida

John Dobbs,  
Appellant,  
vs.  
State of Florida  
Appellee.



DCA Case No. 5D07-1057



Motion to supplement the record

Appellant, respectfully request that this Honorable Court accept his sincere apology for making the following corrections of what was actually said by the Appellant at the sentencing hearing March 8, 2007. As stated before the transcripts are inaccurate. The sentencing transcript page 24 Line 14 thru page 33 Line 17 consist of many inaccuracies, some of which are not minor. Appellant previously submitted what he called corrections to the transcript, with his motion to supplement the record mailed to this Honorable Court April 15, 2008. On page 6 of that motion, he made the Court aware that he had written 4 versions of his pre written statement before the sentencing hearing. Appellant is deeply embarrassed, for the circumstances, making this particular part of this motion to supplement; necessary.

Of the 4 versions, the Appellant had sent 2 to his mother Celeste Dobbs, one of which was actually stated for the record. The other 3 versions were merely rough drafts. In the April 15, 2008, motion the corrections were still based on the rough drafts and phone conversations between him and his mother; who could not find the correct version. Appellant, with his motion placed a 'under penalties of perjury' clause and thus, is obligated to make these corrections, now that he possesses a copy of his exact statement. And ask that this Honorable Court disregard the corrections made to the sentencing transcript in (c) of the April 15, 2008 motion. Appellant asserts this situation as an example of the confusion caused by inaccurate transcripts. Thus, Appellant provides these corrections;



per line in need. An accurate transcript would differ in lines, as some lines would overlap into others (just as with the omissions of some statements by the trial transcript, would change the lines that the Appellant refers to in his brief; ie. the statements referenced in Appellant's 'Pro Se Amended Initial Brief' which was to be added to the amended initial brief of former counsel filed with this Honorable Court January 29, 2008) and with the transcripts being uncertified, the Appellant fears that perhaps he and this Honorable Court may be reviewing almost completely different transcripts.

As previously brought before this Court (in Appellant's motion to supplement the record filed March 31, 2008) the record failed to reflect over 100 pages of the transcribed interviews conducted by Orange County Sheriff's Detectives, the night of the incident, which were provided to the defense when the State first disclosed discovery December 2006. The record does not reflect the transcripts of the 2 pre-trial hearings, held before Judge Stan Strickland; one on January 17<sup>th</sup>, 2007, and the other on either February 14<sup>th</sup>, or 15<sup>th</sup>, 2007. As well the record does not provide a copy of Appellant's conviction in New York, which is his only prior felony conviction, and was also provided with his discovery. His only prior felony conviction as argued in 'Point II' of his 'Pro Se Initial Brief' (p. 37 and p. 48) is a 'D' class felony, the equivalent of a misdemeanor in the state of Florida. Appellant sent his copy provided with his discovery to his mother who in turn misplaced it and has therefore ordered a copy of it from New York and awaits its arrival so that he can provide it to this Honorable Court as (special exhibit (2<sup>K</sup>)) mentioned in his brief.

Also Judge Strickland's 'Order granting in part and denying in part the defendant's motion to suppress statements' page 1 thru 5, is not found in the record and thus is provided with this motion. This 'Order' is what Appellant refers to page 27 Lines 1 thru 4 of the 'Sentencing Transcript'. Which stands as proof that the State sought to convict, even though it recognized the Appellant's self defense claim as being trustworthy. Page 1 of 5 of this 'Order' Judge Strickland states that the State argued



that the totality of the circumstances surrounding the defendant's interview and statement indicated his statements were trustworthy, and admissible for impeachment purposes should the defendant choose to testify. Proving the State prosecutor herself did not believe the defendant guilty beyond a reasonable doubt as implied in her closing argument. As the Appellant testified consistent with his interview and the State sought to convince the jury that he was lying. Therefore pursuing inconsistent theories for conviction. Thus, Appellant, also moves to supplement the record with the following 'Order' which should have been provided in the record. This 'Order' is not certified, thus, with this motion Appellant provides his copy to this Honorable Court and a handwritten copy to the Attorney General's office, because he will not have access to the copier machine for ~~another~~ about a week.

As to Appellee's 'Motion to Strike Pro Se Brief' certified April 10, 2008. Appellant asserts that formulation of a Pro Se Initial Brief <sup>is</sup> under these circumstances to be very complex to a incarcerated layman, and had he been able to have his brief typed, it would more than likely, not have exceeded 50 pages. But since there is only one typist available at his Correctional facility, who is more than 2 months back logged, he provided a brief of 60 handwritten pages, with a motion to enlarge, based on sound reasoning as explained in the motion.

Appellant is sorry for any aggravation brought about by his unprofessionalism and prays this Honorable Court continue to show understanding and accept his motions. These corrections provide a clear interpretation of what was stated and implied, as well as show how minor alterations to any of his transcripts, can change the implication of statements, thus making it harder to find a statement or combination of statements to bring out certain facts. As stated in the March 31<sup>st</sup> and April 15<sup>th</sup> motions, the audio would clarify.



Sentencing Transcript  
(corrections)

Page 24

Line 14 reads: 'Okay. I am charging Orange County, in the State of'

Should read: "Okay. I have been charging Orange County, and the state of"

Line 16 reads: 'January 17<sup>th</sup>, to date, that amounts to \$17.5 million. I'

Should read: "January 17<sup>th</sup>. Today that amounts to \$17.5 million. I"

Line 17 reads: 'am adding the charge of one million dollars per day to'

Should read: "am adding a charge of one million dollars per day to"

Line 18 reads: 'what I am already charging Orange County, in the state of'

Should read: "what I am already charging Orange County, and the State of"

page 25

Line 17 reads: 'artist, talking of strategies with misdirection. They'

Should read: "artist, talking of strategies with no direction. They"

Line 25 reads: 'times -- and time - consuming. She merely quoted law and'

Should read: "time consuming. She merely quoted the laws and"

Page 26

Line 2 reads: 'She allowed herself to seem at a loss of support of'

Should read: "She allowed herself to seem at a loss of supportive"

Line 25 reads: 'I fear that they intended to bring certain evidence'

Should read: "I fear that they intended to block certain evidence"

Page 27

Line 11 reads: 'evidence and transcripts, and by not submitting the swab'

Should read: "evidence in transcripts and by not submitting the swab"

Line 21 reads: 'and think something fatal might happen to me in prison'

Should read: "and I think something fatal might happen to me in prison"

Go to Next Page



Sentencing Transcripts  
(corrections continued)

page 28

Line 1 reads: 'for me to react in defense of myself, danger need not be'  
Should read: "for me to react in defense of myself, the danger need not be"

Line 8 reads: 'testimony that I was surrounded by all but one of the'  
Should read: "testimony that I was surrounded or all but one of the"

Line 11 reads: 'They did not respect that no one but me and'  
Should read: "They did not respect that no one but me admits"

Line 12 reads: 'Mr. Talton (sic) having seen any knife, or any other'  
Should read: "to having a knife, having seen a knife, or any other"

Line 22 reads: 'hearing that he ran over saw Andre approach me and start'

Should read: "hearing that he ran over after he saw Andre approach me and start"

Line 24 reads: 'me by my shirt and was punching me in my neck. Obvious'

Should read: "me by my shirt and was punching me in my neck. A obvious"

page 29

Line 4 reads: 'Jury did not recognize that Andre Blanco was saying'

Should read: "The jury did not recognize that Andre Blanco saying"

Line 6 reads: 'the fight against me, meaning that at the time that'

Should read: "the fight against me, means that at the time that"

Line 9 reads: "The only important question during the course of the"  
(Line 9 reads correct)

Line 21 reads: 'pretty small club. And although Philip Westmore (sic)'

Should read: "pretty small club. And although Phillip Westfall"

Line 24 reads: 'Still, though I believe -- though I believe'

Go to Next Page



Sentencing Transcript  
(corrections continued)

page 29 (continued)

Should read: "Still, though I believe"

Line 25 reads: 'unintentionally -- Philip Westmore describes that they'

should read: "unintentionally, Phillip Westfall describes that they"

page 30

Line 2 reads: 'hearing. And Justin Idle describes the malice of the'

Should read: "hearing. And Justin Idle describes the malice of their"

Line 11 reads: 'closest to the club, giving them no reason to have went'

Should read: "closest to the club, gives them no reason to have went"

Line 15 reads: 'Myself, Andre Blanco, Francisco Gotay, Anthony Riollano'

Should read: "Myself and Deanna of course. Plus Francisco Gotay, Anthony Riollano and"

Line 17 reads: 'front of this, State prosecutor, to committing a felony'

Should read: "front of the State prosecutor, to committing a felony"

Line 25 reads: 'which I was arrested upon, is the only one accusing me of'

Should read: "upon which I was arrested, is the only one accusing me of"

page 31

Line 15 reads: 'seconds. I was helpless and out of control, screaming'

Should read: "seconds. I was helpless and out of control, swinging"

page 32

Line 10 reads: 'I warned him.'

Should read: "I warned him off."

Line 19 reads: 'of 24. I imagine these guys drunk, after leaving a strip'

Should read: "of 24. I imagine these guys drunk, after leaving three strip"

Line 20 reads: 'club, and seeing me alone with my girl.'

Should read: "clubs and seeing me alone with my girl."

page 33

Line 14 reads: 'of George Bush, Steiner (ph), on the rule of law: Only'



Sentencing Transcript  
(corrections continued)

page 33 (continued)

Should read: " of George Bush, senior, on the rule of law. Only "

Line 15 reads: " the United States of America has the more leader-  
ship and "

Should read: " the United States of America has the moral leader-  
ship and "

Line 16 reads: " means to back it up. "

Should read: " the means to back it up. "

Note: page 25 Line 24 reads Catherine's closing argument  
was repetitions and at. It should read simply "Catherine's closing  
argument was repetitions and "

Under the penalties of perjury I swear that the  
aforementioned corrections and facts are true, on this 20th day of  
April 2008. Sincerely, John Dobbz DC# 0-C00618

Certificate of Service

I hereby certify that the aforementioned corrections  
and facts of this 'Motion to Supplement the record' by way of hand  
written copy as well as the following 5 pages of the 'Order granting  
in part and denying in part the defendant's Motion to Suppress  
Statements' by way of hand written copy has been mailed to:  
The Honorable Bill McCollum, Attorney General, 444 Seabreeze  
Boulevard, Fifth Floor, Daytona Beach, Florida 32118, and (with the  
exception that they are receiving appellant's personal copy of the order)  
to the Clerk of Court, Fifth District Court of Appeal, 300 South  
Beach Street, Daytona Beach, Florida 32114.

Respectfully  
Submitted  
John Dobbz DC#  
0-C00618



4/21/08  
DATE

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IN THE CIRCUIT COURT OF THE  
NINTH JUDICIAL CIRCUIT, IN AND  
FOR ORANGE COUNTY, FLORIDA

STATE OF FLORIDA,

CASE NO.: 2006-CF-015201-O

Plaintiff,

DIVISION: 16

vs.

JOHN W. DOBBS,

Defendant.

*I John Dobbs had wrote and called attorney along with my mother Celeste Dobbs assistance as well as requested face to face with my att Public Defender that we withdraw the motion prior to the hearing. When I asked her why she wanted to suppress the video when I only had a problem with the transcript she said "I dont like when you talk about seeing yo Kike"*

**ORDER GRANTING IN PART AND DENYING IN PART  
THE DEFENDANT'S MOTION TO SUPPRESS STATEMENTS**

This matter came on for hearing on the defendant's Motion to Suppress Statements. Prior to the motion being heard the parties stipulated that the defendant's Miranda warnings were incomplete, and that the state would not attempt to admit the defendant's statements into evidence during its case. Even so, the state argued that the totality of the circumstances surrounding the defendant's interview and statement indicated his statements were trustworthy, and admissible for impeachment purposes should the defendant choose to testify. The defendant contended his statements were not voluntarily made, and were not admissible for any purpose, including impeachment.

In addition to the testimony of Detective Phelan and the defendant, a portion of the videotaped statement of the defendant was shown at the hearing. Additionally, a written transcript was prepared subsequent to the interview and admitted into evidence. Since the entire videotaped interview was not made available to defense counsel for purposes of this motion, the



court informed defense counsel that it would not rule on the motion until defense counsel had had an opportunity to review the entire videotape to see whether she had any further objections.

While the videotape the state provided at the hearing apparently contained the entire interview, there were also lengthy periods of time both before the interview began and after it concluded in which, according to the detective, the defendant sat alone in the interview room without being interrogated. Defense counsel wished to view the entire tape to make sure no inappropriate exchanges occurred.

After reviewing the entire tape of the interview, as well as the transcript, defense counsel objected to certain portions of the transcript reported as inaudible, and requested a rehearing.

Specifically, defense counsel pointed to page 18, lines 18 to 23 of the written transcript reported as follows:

A: The only reason I was trying to stand cause the guy was holding my shirt.

Q: Okay, I've been in some fights before, okay, and I know (inaudible).

A: (Inaudible) I told you everything man. (Inaudible)

Q: What's it to you, I mean you couldn't, you couldn't explain it to us if you want to or I mean, but I'm here to try to help you, that's all I'm trying to do but, these guys are . . .

Upon reviewing the videotape, defense counsel argues that the interrogation actually transpired as follows:

Mr. Dobbs: The only reason I was really probably trying standing cause the guy was holding my shirt.

Q: Okay, I've been in some fights before, okay and I know when a fight's going on . . .

Interruption by Mr. Dobbs: Listen, listen, I don't want to talk about it no more.

Q: (Continued talking by Detective Talton) You're excited.

Mr. Dobbs: Listen, I don't want to talk about it no more. I told you everything man.



(Pause) I'm not going to put myself in that position no more. Than . . . that's all (

Q: Well, that's up to you, I mean you could you could explain to us if you want to or I mean but I'm here to try to help you man is all I'm trying to do. But, these guys are . . .

Defense counsel contends that certain portions of the written transcript indicated to be inaudible are actually audible, and include the defendant's request that the interrogation be halted. Having now personally watched the videotape on several occasions, this court agrees. While the court may have a minor disagreement with defense counsel as to the exact words uttered by the defendant as reported on page 18 of the transcript, it is clear to the court that the defendant did state, on two occasions, that he did not want to talk about it anymore. Following the second time the defendant makes the request, there is a fairly lengthy pause in the questioning before Detective Talton then implores the defendant to continue the discussion and appeals to him by stating "but I'm here to try to help you man, is all I'm trying to do."

It seems clear that the detective recognized the defendant's request to halt the interrogation because on line 1 of page 19 he states as follows:

Q: John, John, okay, okay, okay let me ask you this last thing, now when you went to your car did you go and sit inside of your car or were you standing out on the side of your car the entire time? (Emphasis supplied.)

The detective's request to ask one final question would indicate to a reasonable listener that he understood a request had been made to have the interview terminated. Ultimately, the defendant answered the detective's question and then continued to answer them for the rest of the interview. It is clear to the court that the defendant requested that the interview and interrogation be halted roughly midway through the interview. Specifically, the court finds that all portions of



the interview beginning with line 19 of page 18 and following were not rendered voluntarily.

Even so, all portions of the interview before that demarcation point are admissible for impeachment purposes since they were voluntary. Viewing the first portion of the videotape the court finds that the defendant's statements were not induced by violence, threats, promises or other improper influence. The tone and demeanor of the detectives was neither threatening nor coercive. The defendant was alert and coherent, had no difficulty speaking, and was aware of his surroundings at all times. While the defendant had several cuts and bruises, and later had stitches in his arm, he had previously been examined at the scene by emergency personnel who indicated he did not need to go to the hospital. Further, the interrogation length was not terribly long (roughly 40 minutes), the defendant is a man of some intellect<sup>1</sup>, and was told early on in the interview that the detectives were from homicide.

Examining the totality of the circumstances surrounding the statement, the court concludes that that portion of the defendant's interview completed before page 18, line 19 of the transcript is admissible for impeachment purposes. To that extent, the defendant's Motion to Suppress is denied. The balance of the transcript and videotaped testimony will not be admissible for any purpose. The defendant's Motion to Suppress is granted with regard to that portion of the statement and videotape.

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<sup>1</sup> Throughout the interview, the defendant argues his right to self defense, and at one point indicates that his father was a lawyer and that they were "going to figure something out".



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of  
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**DONE AND ORDERED in Chambers, at Orlando, Orange County, Florida, this 20<sup>th</sup> day  
of February, 2007.**

\_\_\_\_\_  
**STAN STRICKLAND**  
Circuit Judge

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing order has been furnished via U.S. Mail or hand delivery to Kimberly Laskoff, Esquire, Office of the State Attorney, 415 North Orange Avenue, Orlando, Florida 32801; and to the attorney for the defendant, Catherine Chien, Esquire, Office of the Public Defender, 435 North Orange Avenue, Orlando, Florida 32801, this 20<sup>th</sup> day of February, 2007.

\_\_\_\_\_  
Judicial Assistant