United States District Court
Middle District of Florida
Orlando Division

John W. Dobbs,
Petitioner,

V.

Case No. 6:10-CV-663-Orl-18GJK

Secretary, Department of Corrections, Attorney General State of Florida,
Respondents.

Reply to Respondent's supplemental Response

Comes now the Petitioner, John W. Dobbs DC# [illegible], in reply to Respondent's supplemental response filed January 11, 2011, and recieved by Petitioner January 14, 2011.

Exhaution/Procedural Bar

Pursuant to 28 U.S.C. section 2254(b), a court may not grant an application for a writ of habeas corpus on behalf of a person in state custody unless the Petitioner has exhausted the remedies available in state court. Snowden V. Singletary, 135 F.3d 732, 735 (11th Cir.), cert. denied, 525 U.S. 963 (1998). To satisfy the exhaustion requirement, a state prisoner must have presented the state courts with the same factual and legal claims that are asserted in the federal petition. See Picard V. Connor, 404 U.S. 270, 275 (1971); Heath V. Jones, 863 F.2d 815, 818 (11th Cir. 1989); Duncan V. Henry, 513 U.S. 364 (1995).

Respondents claim that although Petitioner did raise the issue of insufficient evidence and that his motion for

judgment of acquittal should have been granted on direct appeal, that he never raised these issues in terms of a due process violation, an equal protection violation, or that he has been subjected to cruel or unusal punishment, and that thereby he has failed to exhaust these claims as such. Petitioner disagrees.

The argument that the verdict is against the weight of the evidence does not need to be preserved. See People V. Roman, 217 A.D. 2d 431, 629 N.Y.S. 2d 744(1995). Still, regarding Grounds One and Two Petitioner exhausted these claims preserving them for federal review where he cited the 5th D.C.A's own case law, which asserted due process and 14th amendment violations concerning such evidence; as well as federal cases and standards which clearly are contrary to the States determination in this case, in pages 6 and 7 of his motion for rehearing of direct appeal in the 5th D.C.A.

The evidence used to present these claims was that of the State's own witnesses, thus, the evidence was presented in light most favorable to the State and proven insufficient as well as favorable to the defense in that light. Clearly, the State court decision resulted in a decision that was based on a unreasonable determination of the facts in light of the evidence presented in the state court proceedings, allowing for federal habeas relief even under AEDPA's "highly deferential" standard of review. Any presumption of correctness is clearly rebutted by the state's own evidence. Based on the sufficiency of the evidence, as a matter of law, the trier of fact lacked the power or jurisdiction to find guilt.

This miscarriage of justice was brought about through

the violations listed in grounds four, five, six, seven and eight. Petitioner's claim of violation of the 8th amendment ban on cruel or unusual punishment is argued as a product subsequent to the State court's final decision.

In Jackson V. Virgina, 443 U.S. 307 (1979), the Court held that the due process requirement of proof beyond a reasonable doubt means not only that a jury must be so instructed, but also that the question whether a properly instructed jury could reasonably have found the evidence to establish guilt beyond a reasonable doubt is itself a federal constitution question. And stated that "the question whether a defendant has been convicted upon inadequate evidence is central to the basic question of guilt or innocence."

Certainly the totality of Blanco's testimony alone or combined with that of the other State witnesses in relation would provide a reasonably instructed juror with reasonable doubt, even viewing the evidence in light most favorable to the state. As well, regarding counts one, two and four, where there is no evidence to rebut the defense, the evidence is naturally insufficient.

While the State's opinion is, on review, entitled to a presumption of correctness (until disproven); it is not evidence and the evidence in this case proves them absurdly wrong. For example, even in Respondent's supplemental response the State confirms the insufficiency of the evidence and reasonable doubt in it's case-in-chief. On page 8 of that response Respondents assert that Blanco testified that Dobbs approached him first and stabbed him in the face, and that this was corroborated by Gotay who testified that Dobbs hit first. Yet on the bottom of page 14 through to page 15 of that same response Respondents assert that Gotay testified that

Blanco walked over to Petitioner and he saw Petitioner hit Blanco although he was not sure who hit who first. Respondent's unreasonable determination of the facts in light of the evidence is manifest just as prominently in this single statement on page 8 of that same response; "Clearly, Petitioner was the aggressor as he threw the first punch which was actually a stab to Blanco's face." A punch and a stab are two distinctly different acts, and one must provide reasonable doubt as to the other. Respondents wish to ignore that doubt which must come with the assertion of both material views on the same matter, and establish Petitioner's guilt without reselving the conflict in it's view of what he is guilty of. The words 'clearly' and 'actually' are used to cover up the reasonable doubt which must exist from the conflict produced by the difference between the two material elements of the statement. Accordingly relief should be granted.

The jury's verdict is not given "free pass" if evidence in light most favorable to the government gives equal or nearly equal circumstantial support to theories of guilt and innocence convictions must be reversed; as evidence that is at least as consistent with innocence as with guilt is insufficient to support a guilty verdict. (See U.S. -v- Martin, 228 F.3d 1 (1st Cir. 2000); and U.S. -v- Berger, 224 F.3d 107 (2nd Cir. 2000)). (See Appendix-Y)

For a more complete view of the facts of grounds one and two see pages 12 thru 44 of the 118 page attachment to Petitioner's second amended petition filed August 2, 2010; or for a thorough easy to read break down of the transcripts view pages 23 thru 77 of the 150 page attachment to Petitioner's petition filed May 13, 2010.

Next, Respondents claim that Petitioner's 'Ground Three' was not exhausted for failure to raise in State court and is

therefore not eligible for habeas review by this Honorable Court. Petitioner disagrees.

Respondent's assertions regarding ground three are fatally flawed for a number of reasons. Primarily in the claim that Petitioner argues "newly discovered evidence". This assertion is false. Throughout his petition Petitioner never claims the evidence to be newly discovered but instead presented his claim through the less narrow federal standard of "new reliable evidence". Though newly discovered evidence may be the sole standard of review of new evidence in state court, this is not so federally. Petitioner relies on the U.S. Supreme Court's views in Schlup V. Delo which provides that the habeas court must make it's determination concerning the petitioner's innocence "in light of all the evidence, including that alleged to have been illegally admitted (but with due regard to any unreliability of it) and evidence tenably claimed to have been wrongly excluded or to have become available only after trial." (See Schlup V. Delo, 513 U.S. 298, 115 S. Ct. 851, 130 L.Ed. 2d 808 (1995)). In fact the Court specifically refered to new evidence as evidence not presented at trial. The Schlup Court concerened itself with the reliability of that evidence and it's probable implications, and expressed that generally regardless of new reliable evidence the petitioner's claim for relief would depend on the validity of his constitutional claims, which, regardless of procedural bars, were now within it's jurisdiction because of the new evidence.

Of course, the evidence presented in Mr. Swift's trial testimony which the jury was not allowed to hear, Leonard Bolanos' written police statement, 118 pages of transcripts of taped interviews conducted by detectives, and evidence presented in the December 22, 2006 adversary preliminary hearing (Records 1-65), which Respondents neglect to mention, is not newly discovered evidence. Petitioner requested

to bring out the evidence in the taped interviews conducted by police during trial (Trial pages 311 thru 315), but was denied when Judge Munyon stated that she would not hear it then.

Respondents appear to claim that Petitioner is procedurally barred from presenting a ground to overcome procedural bars. This argument is flawed for two reasons: First, just as in Brown V. Singletary Respondents fail to recognize the clear distinction between substantive and procedural actual innocence claims (see Brown V. Singletary, 229 F. supp. 2d 1345 (S.D. Fla. 2002)), and second, the evidence supporting this ground was presented on direct appeal as evidence in favor of the defense(see Pro se Initial Brief from direct appeal Point I). Evidence in favor of the defense is certainly evidence of Petitioner's innocence. On March 27, 2008 Petitioner submitted a motion to supplement the record to the 5th D.C.A. which was filed March 31, 2008 regarding the 118 pages of taped interviews. This motion was denied without opinion on May 22, 2008. The State was given ample opportunity to consider the evidence of Petitioners innocence on direct appeal.

Still a claim of actual innocence is not necessarily a constitutional claim in and of itself, but rather, if substantial, a gateway by which constitutional claims which are barred for procedural reasons may be considered by the habeas court to allow federal courts to act on their imperative to correct fundamentally unjust incarcerations, in the extraordinary case, and secure public faith in the judicial process. Petitioner presented this claim not as a ground for relief independently but instead seeking the protection of the gateway it provides so that this Honorable Court may consider his other grounds; which all to the extent of his knowledge were given due consideration by the State courts. Yet, being that Petitioner is not a skilled attorney and realizing

that there are dimensions one must be skilled to comprehend, this ground was implemented as a precaution to overcome any procedural bars that may appear; however unlikely that might be.

The statements of Deanna Washington, Leonard Bolanos, and Andre Blanco's claim that he ran over approaching Dobbs unsure whether he came over fighting or trying to break it up when he chose to "interven", along with the statements of Justin Idle and Phillip Westfall in their taped interviews with detectives the night of the incident, each provide reliable evidence that Petitioner is not guilty of the acts later to be alleged; or atleast provide reasonable doubt as to his guilt therefore providing the probability of innocence necessary to open the gateway for review of his claims. The statements of Blanco, Gotay and Fiollano are evidence of the fabrication or unreliability of their testimony

The standard expressed in Murray V. Carrier reflects the proposition, firmly estabilised in our legal system that the line between innocence and guilt is drawn with reference to a reasonable doubt, (see Murray V. Carrier, 477 U.S. 478, 106 S.Ct. 2639, 91 L.Ed. 2d 397). Under the fundamental miscarriage of justice exception to the procedural default rule, a procedural default will be excused on habeas review if the constitutional violation has probably resulted in the conviction of one who is actually innocent, Clearly the disparity between the police statements and the charges, followed by the evidence and testimony adduced at trial, set Petitioner's claim in the narrow class of "the extraordinary case." (See Ground Three pages 45 thru 75 of the 118 page attachment to Petitioner's second amended petition filed August 2, 2010).

Next, Respondents claim that Petitioner's Ground Four argu-

ment that he was subjected to a selective prosecution violating his 6th, 8th, and 14th amendment rights as law enforcement failed to investigate the likely aggressors and instead prosecuted Petitioner because of his race, status, and his excercising of his equally protected right under state law of justifiable use of force, was never presented at the trial court level challenging the charges as such, and thus, not preserved for appellate review. Petitioner disagrees.

The claim that Petitioner was being wrongly prosecuted because of his race, status, and excercising his right to justifiable use of force was verbally presented by Petitioner at the January 17, 2007 pretrial hearing which is missing from the record, as well as in one of the two written correspondences from Petitioner to Judge Strickland filed on January 3, 2007 and February 22, 2007, also missing from the record. The January 17, 2007 pretrial hearing was retained on December 7, 2006 as shown on the docket of the lower tribunal 9th Judicial Circuit Court of Orange County Florida, case No. 48-2006-CF-015201-O, yet the hearing itself is not shown as having taken place or having been rescheduled. (See Appendix W and Appendix X)

Fortunately, any protection provided by the claim that this ground was waived by Petitioner, was inturn waived by Respondent's assertion on page 6 of Respondent's supplemental response that regardless of preservation, this claim was decided and rejected on direct appeal based on the merits.

Black's Law Dictionary defines the word 'merit' as meaning - the elements or grounds of a claim or defense; the substantive considerations to be taken into account in deciding a case, as opposed to extraneous or technical points, esp. of procedure.

Since the State's 5th District Court of Appeals chose to overlook any procedual default by ruling on the merits, Respondents failed to rebut the elements of this claim entirely, therefore conceding to the facts as presented by Petitioner. Respondents instead presented the flawed argument that Petitioner failed to carry his burden of proving that the State court's decision rejecting his claim on appeal was contrary to or involved an unreasonable application of clearly established federal law. As, clearly Respondents, are aware of Petitioners claim that the decision violated his 6th 8th and 14th amendment rights which are clearly established federal law; as well as provide the evidence by citing the federal cases it's contrary to, presenting the same argument Petitioner used on direct appeal. Accordingly relief should be granted.

An indictment that results from selective prosecution will be dismissed. U.S. V. Mayer, 503 F.3d 740 (9th Cir. 2007). And adding. Selective prosecution challenges arise when a defendant alleges that he is being prosecuted initially for having exercised a constitutional right. U.S. V. Wilson, 639 F.2d 500 (9th Cir. 1981).

For a more thorough look at this ground see pages 76 and 77 of Petitioner's second amended petition filed August 2, 2010.

Next, Respondents attempt to refute 'Ground Five' Petitioner's claim that the Prosecutor Knowingly used perjured testimony; with a flawed argument that only addresses the least poignant supporting fact of his claim. Respondents fail, entirely, to address the other more materially potent facts in the petition at all.

Deliberate deception is inconsistent with any principle implicit in any concept of ordered liberty, Napue V. Illinois, 350 U.S. 264, 3 L.Ed. 2d 1217, 79 S.Ct. 1173 (1959), and with the ethical obligations of prosecutor standards for Criminal Justice Sections 3-3.5, 3-48, and 3-49 (2d ed. 1980).

Due Process must be considered compromised when the state tries a defendant upon information known to be based upon perjured material testimony without informing the court, opposing counsel, and the jury. U.S. V. Agurs, 427 U.S. 97, 49 L.Ed 2d 342, 96 S.Ct. 2392 (1976). This predicated upon the belief that deliberate deception of the court and the jury by presentation of evidence known by the prosecutor to be false involves a corruption of the truth seeking function of the trial process; U.S. V. Agurs, Supra; and is incompatible with rudimentary demands upon justice. Giglio V. U.S., 405 U.S. 150, 31 L.Ed. 2d 104, 92 S.Ct. 763 (1972); U.S. V. Thompson, 117 F.3d 1033 (7th Cir. 1997); Harding V. Walls, 300 F.3d 824 (7th Cir. 2002)

Materiality standard under Giglio is less stringent than under a garden variety Brady claim...; under Giglio, a failure to disclose evidence is material if there is any reasonable likelihood that the false testimony could have affected the judgement of the jury. U.S. V. Svete, 521 F.3d 1302 (11th Cir. 2008).

To show a violation of due process based on the government's suborning perjury, the defendant must demonstrate that (1) the prosecution used perjured testimony (2) the prosecution should have known or actually did know of the perjury, and (3) there was a reasonable likelihood that the perjured testimony

could have affected the jury's verdict. U.S. V. Myers, 503 F.3d 676, certiorari denied 128 S.Ct. 1295, 170 L.Ed. 2d 117 (8th Cir. 2007). The term "use of testimony" includes elicited or uncorrected.

Petitioner argued numerous material inconsistencies provided by the State's witnesses throughout Grounds one, two and three; and because of their combined magnitude directed the Court to these grounds for the supporting facts to this ground; rather than reiterating them; and instead used as a primary example, what he views as the most clear and critical act of perjury committed by Blanco, regarding statements he made at the adversary preliminary hearing and later at trial. Respondents purposely avoid addressing these claims; which were personally provided to them upon delivery of Petitioner's second amended petition, as well as presented on direct appeal; and chose only to address a portion of Petitioner's claim of perjury by Gotay in their supplemental response. Respondents claim that there are no inconsistencies between Gotay's taped interview with police and his trial testimony. Petitioner disagrees.

On page 15 of Respondent's supplemental response, Respondents concede to the inconsistency where they admit that Gotay only makes reference to Troy in his statement to police while making no mention in that statement as to other 'participants in the fight'. In this Respondents are correct. On page 6 of Gotay's taped interview with police (Appendix H-6), when asked if he saw Petitioner and the deceased William Troy fighting he states "I seen them swinging so I, I went over there and grabbed William and I'm seeing what's going on." During the adversary preliminary hearing and the trial he testified only to seeing Blanco and Petitioner fighting and claims

to have come to help Blanco fight Petitioner. Gotay specifically testified at the adversary preliminary hearing page 27 (Records 27) that he never saw Troy in the fight. This is clearly an inconsistency. Obviously, Respondents assume the position that inconsistent statements and testimony not be viewed as inconsistent solely upon their request. Petitioner seeks this Honorable Courts assistance in explaining that unfortunately for Respondents, that is not the standard.

Even more staggering are the inconsistent statements provided by the states star witness Andre Blanco. No explanation or move to correct these materially inconsistent statements were made either by Blanco or the State, nor any mention of memory lapse, unintentional error or oversight, and such can not be assumed beyond a reasonable doubt.

Blanco tells police in his taped interview: (See Appendix G)
Page 1
Line 16 - A - We walked outside the club, I walked to my car. A guy approached me by fighting.
Line 24 - Q - Who was fighting?
Line 25 - A - I don't know thats the whole thing. I was, I mean, I was involved in the fight.
Page 2
Line 5 - Q - Now did you see William Troy in the fight?
Line 6 - A - Not even.
Line 16 - I don't even know. That's the whole thing. I dont even know why the fight started. I dont even; I'm just helping a friend.
Line 19 - A - for whatever reason.
Page 3
Line 10 - Q - Okay. Now after the fight broke out you ran over there, right, to help?

Line 11 - A - Yeah.
Line 13 - A - I don't remember even getting stabbed, that's how, I just drunk or...
Page 4
Line 12 - A - Like when I walked out, I guess I saw a friend fighting.
Line 14 - A - So I intervened.
Line 16 - A - Trying to, I don't Know if I was trying to help or trying to break it up.
Line 17 - Q - Who was the person you saw fighting first?
Line 18 - A - I don't even Know that's the whole thing. I, it's everything's a blur right now.
Page 6
Line 10 - A - I Know I seen a commotion and I walked over there and I don't Know exactly if I fought or if the guy just went to swinging with the blade, I, I don't even Know. That's the whole thing.

Blanco testified at the adversary preliminary hearing: (AKA records 1-65)
Page 16
Line 10 - Q - And when -- when did you actually first see the fight begin?
Line 11 - A - The fight -- when the guy lunged at me.
Line 13 - A - I was the first one to be attacked.
Line 20 - Q - OKay. And was Mr. Troy also involved in this fight?
Line 23 - A - I didn't see it.
Line 24 - Q - And why were you unable to see -- where did the fight actually take place?
Line 25 - A - By my car.
Page 18
Line 15 - Q - OKay. And after Frank -- you saw Frank hit Mr. Dobbs, did you see Mr. Troy or your other friend...
Line 19 - A - They were involved, but I can't tell you what -- what exactly what they did.

Page 19
Line 14 - Q- You mean you couldn't tell that it was three people on one?
Line 15 - A- No. It was never three people on one.
Line 16 - Q- OKay. Well, how would you know that, you weren't looking?
Line 17 - A- OKay. You're right.
Line 18 - Q- OKay. And isn't it correct that you never saw a knife that night?
Line 19 - A- Correct.
Page 21
Line 19 - A- I never actually saw Will getting hit.
Line 20 - Q- OKay. So you never saw them in a confrontation.
Line 21 - A- NO.

Blanco testified at trial:
Page 161
Line 14 - A- Umm, when the guy got into the car and the lady got into the car, they drove like in the parking lot to another section into the parking lot which was parallel to my car, and the gentleman jumped out of the car. When he jumped out, he lunged at my face.
Page 162
Line 3 - Q- And did you approach their car?
Line 4 - A- NO, I did not.
Page 181
Line 22 - Q- OKay. Did you guys attack the defendant?
Line 23 - A- NO. We did not. I attacked after I got stabbed in the face.
Page 182
Line 14 - A- Well, after he stabbed me, he went after Frank, and went to go stab him, I guess, as well. By that time, I

grabbed him by the neck. I started hitting him, but then while I am hitting him I felt faint, so I walked away a little bit to catch my composure. Then I turn around, I see him wrestling with Will. And while he's wrestling with Will, Will is on the ground. He went off someplace I don't recognize because I went towards Will, and that's as much as I remember.

As this claim was thoroughly presented on direct appeal, clearly, Florida's 5th DCA. was in error to deny as denial of relief concidering the facts of this claim is contrary to clearly established federal law and a violation of Petitioner's constitutional rights. Accordingly relief should be granted.

For a more indepth look at this ground see pages 78 thru 81 of Petitioner's second amended petition filed August 2, 2010.

Next, Respondents attempt to categorize Petitioner's claim of prosecutorial misconduct (Ground six) as simply a claim of improper comments, and neglect to address the other facts supporting this claim entirely. As Petitioner argued misconduct by the prosecution for: 1) fraud regarding the charge information; 2) suppressing the defense friendly testimony of both Leonard Bolanos and Deanna Southerland; 3) suppressing and destroying evidence favorable to the defense in the 2 original 911 tapes and transcripts; 4) committing fraud concerning the Criminal Punishment Scoresheet; 5) improperly impeaching Deanna Washington with a false version of her police statement; and 6) intentionally blocking Petitioner's request for a trial by judge with the sole intent of misleading the jury; Respondents failure to respond should allow petitioner to succeed on these claims.

Respondents were provided with these claims in Petitioner's petition filed May 13, 2010 with 150 attached pages, Petitioner's second amended petition filed August 2, 2010, both serviced personally, in full, by way of prison legal mail process from Petitioner; as well as on direct appeal. As explained in Petitioner's 'Notice' filed January 18, 2010; pages 80 thru 94 of the 118 page attachment to his second amended petition, are identical, to pages 112 thru 126 of the 150 page attachment to his petition filed May 13, 2010. Respondents were also served by the clerk of this Honorable Court as ordered by the Honorable Magistrate Judge Gregory J. Kelly on August 25, 2010, who cited that a 118 page document was attached to the petition. By some error (which has since been corrected), it was posted in this Court's files missing pages 80 thru 94. After having the ground for months Respondents now wish to claim this error for themselves.

On the page 15 footnote of Respondent's supplemental response, they claim those facts missing; and that they would address the claim as it was raised on direct appeal. They fail to do even that, as the neglected claims were presented on direct appeal as well.

Respondents claim that Petitioner is entitled to no relief, as error if any, in the prosecutor's closing argument was harmless. Petitioner disagrees.

In light of the State's circumstantial case against petitioner, the prosecutor's improper closing statements played a significant role in securing a guilty verdict. Ben-Yisrayl v. Davis, 431 F.3d 1043, 1053 (7th Cir. 2005). The interest of the United States Attorney as representative of a sovereignty whose obligation is to govern impartially is as compelling as it's 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... 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 calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one. (Citation and internal puncuation omitted) U.S. V. Boyd, 446 F.2d 1267, 1273 (5th Cir. 1971).

Berger V. United States, 55 Sct. 629, 633 (1935). Because "the average jury... has confidence that these obligations will be faithfully observed... improper suggestions [and] insinuations... are apt to carry much weight against the accused when they should properly carry none." Id. at 88, 55 Sct 633. "When such conduct was pronounced and persistent, with a probable cumulative effect upon the jury which can not be disregarded as inconsequential [.] [a] new trial must be awarded".

Federal Courts have held that a defendant's sixth amendment rights are violated even if only one juror was unduly biased or improperly influenced. U.S. -V- Sarkisian, 197 F.3d 966 (9th Cir. 1999). It is highly improper for a prosecutor to call a defendant a liar. U.S. -V- Rodriguez De Jesus, 202 F.3d 482 (1st Cir. 2000). A prosecutor cannot express their personal opinion before the jury. U.S. -V- Galloway, 316 F.3d 624 (6th Cir. 2003). And it is improper for a prosecutor to attempt to bolster witness' testimony, the prosecution may not vouch for witness' credibility. See U.S. -V- Hands, 184 F.3d 1322 (11th Cir. 1999); and U.S. -V- Newton 369 F.3d 659 (2nd Cir. 2004).

Parke V. Runnels, 505 F.3d 922, 928 (9th Cir. 2007) ("fundamental question in determining whether the combined

effect of trial errors violated a defendant's due process rights is whether the errors rendered the criminal defense 'far less persuasive', Chambers, 410, U.S. at 294, and thereby had a 'substantial and injurious effect or influence' on the jury's verdict, Brecht, 507 U.S. at 637"). Fry V. Pliler, 127 S.ct. 2321, 2325, 2330 (2007) Fry Court reiterated Brecht's recognition of a possible "exception...for the 'unusual case' in which a dieliberate and especially egregious error of the trial type, or one that is combined with a pattern of prosecutorial misconduct..., infect[s] the integrity of the proceeding". (Id. at 2330) "We have not been shy in emphasizing that federal habeas courts do not lightly find constitutional error...It follows that when they do find an error, they may not lightly discount it's significance."

For the supporting facts of this ground see pages 82 thru 91 of Petitioners second amended petition filed August 2, 2010.

Next, Respondents claim that Petitioner is entitled to no relief regarding 'Ground Seven'. Petitioner disagrees.

Florida's 3rd D.C.A. held that in some cases a prosecutor's final argument coupled with an error in the jury's instructions, will amount to denial of a defendant's due process rights. See Pollock V. State, 818 So.2d 654, 27 Fla.L. Weekly D1365 (Fla. 3 Dist 2002). Also, when jurors are given instructions that would permit them to find defendant guilty of crime that does not exist, error is fundamental and per se reversible, and must be remanded for retrial, Mosley V. State, 682 So.2d 605, 21 Fla.L. Weekly D2340 (Fla. App. 1st Dist 1996). The Florida Supreme Court determined that 'conviction of a non-existent crime is fundamental error mandating reversal even when error was invited by defendant, as by request for a jury instruction on a non-existent offense'. Guzman V. State, 941 So.2d 1045 (Fla. 2006). 'If the instructions permit the jury to convict of a non existent crime, the fact

that they also permit it to convict of a genuine crime will not save a conviction declared in a general verdict. Yates V. United States, 354 U.S. 298, 77 S.Ct. 1064, 1 L.Ed.2d 1356 (1957). Failure to give a jury instruction that clearly indicated that the government had the burden of disproving self defense is reversible error. U.S. V. Sanchez Lima, 161 F.3d 545 (9th Cir. 1998). As well, Respondents claim the initial provocation instruction to be an initial aggressor instruction without defining a forcable felony. In lay mens terms the words are not synonymous and the jury was not instructed that they were. As argued, the jury may have applied the instruction without viewing Petitioner as the aggressor. Thus, "the instruction tells the jury that the very act the defendant seeks to justify precludes a finding of justification." Giles V. State, 831 So.2d 1263, 1266 (Fla. 4th DCA 2002)

The standards expressed in the petition for this ground derived from this list of cases; the 5th DCA's decision is contrary to: McWhorter V. State, 971 So.2d 154 (4th DCA 2007); Allen V. State, 939 So 2d 273, 276 (Fla 4th DCA 2006); Chavers V. State, 901 So.2d 409 (Fla. 1st DCA 2005); McCain V. State, 995 So.2d 1029, 1034 (Fla. 2nd DCA 2008); United States V. Foley, 73 F.3d 484, 494 (2nd Cir. 1996); Stirone V. United States, 361 U.S. 212, 219 80 S.Ct 270, 274 L.Ed. 2d 252 (1960); U.S.-V- Behety 32 F.3d 503, 508 (11th cir. 1994); U.S.-V- Starke, 62 F.3d at 1380; U.S.-V- Fuentes Coba, 738 F 2d 1191, 1196 (11th Cir 1984); McCoy V. United States, 266 F.3d 1245, 1265 (11th cir. 2001); U.S.-V- Williams, 527 F.3d 1235 (11th cir. 2008); U.S.-V- Watson, 525 F.3d 583 (11th cir. 2008); Griffin V. United States, 502 U.S. 46, 59-60, 112 S.Ct. 466, 116 L.Ed. 2d 371 (1991); and 354 U.S. at 312, 77 S.Ct. at 1073 677 So.2d at 323. Accordingly relief should be granted.

For the supporting facts to this ground see pages 92 thru 106 of Petitioner's second amended petition filed August 2, 2010.

Next, Respondents claim Petitioner is not entitled to relief regard-

ing 'Ground Eight'. Petitioner disagrees.

Respondents, fail to fully address this claim, they fail to explain or acknowledge the significance of the unsigned charge information that was originally filed and provided to Petitioner (see Appendix N). A document filed containing neither signature nor seal of the party purporting to be authorized to take sworn statements is insufficient to constitute an affidavit under Florida Law. Orbe V. Orbe, 651 So.2d 1295 (Fla. 5th DCA 1995). As well, a claim of an unauthorized amendment of an indictment may be presented by motion to dismiss and may be raised subsequent to trial in a habeas corpus proceeding. Wentwork V. Coleman, 121 Fla. 13, 163 So. 316, 101 A.L.R. 1252 (1935). It is well established Florida Law that lack of jurisdiction can be raised at any time. C.W.-V- State, 637 So.2d, 29 (Fla 2nd DCA 1994). Subject matter jurisdiction can not be cured by consent, waiver or acquiescence. Ruble V. Ruble, 884 So. 150 (Fla. 2nd DCA 2004). Accordingly relief should be granted.

For more see pages 107 thru 110 of Petitioner's second amended petition filed August 2, 2010.

Finally, Respondents claim that grounds nine, ten, eleven, and twelve were never raised in State Court. Regarding nine, ten, and eleven, Petitioner disagrees.

On the § 2254 form p.13 Petitioner stated that these grounds weren't presented but were products of the decision. What Petitioner meant was that these claims weren't the original grounds for relief. Of course arguments and motions Petitioner argues that the state court wrongly decided upon, were presented to the state court. Respondents infer that Petitioner should seek relief of these claims in a state post conviction 3.850 motion. Petitioner disagrees. These claims are exhausted.

Claims that were either raised and rejected on direct appeal, or should have been raised on direct appeal, can not be asserted in motion for post conviction relief: See Ethridge V. State, 766 So.2d 413 (Fla 4th DCA 2000).

Regarding 'Ground Nine' Petitioner argued the falsities and thus misconduct of assistant Attorney General Robin A Compton's factual assertions in Point I of Petitioner's reply brief on direct appeal. The State Court's decision to deny relief after, was clearly a unreasonable determination of the facts in light of the evidence. Accordingly relief should be granted. See 'Ground Nine' pages 111 thru 114 of Petitioners second amended petition filed August 2, 2010.

Regarding 'Ground Ten', as argued Petitioner submitted multiple motions to supplement the record asserting that the record was altered and incomplete. Specifically in the motion filed April 24, 2008 Petitioner cited Florida case law asserting that due process is violated when a defendant exercises his right to appeal and is denied a full transcript of the trial court record. Petitioner asserted that a entire hearing was missing as well which took place on January 17th, 2007. Also missing are letters written to the trial court judges. In these missing documents Petitioner challenged many of the issues Respondents claim Petitioner never challenged in the trial court. While Petitioner argued these issues in support of his Motion to extend the page limit of his 'Initial Brief' filed April 7, 2008 which was granted, his motions to supplement were denied.

Defendant was procedurally barred from raising claim in motion for post conviction relief that apellate review was not possible because no reliable transcript of trial existed; such claim should have been raised on direct appeal. Atwater V. State, 788 So.2d 223 (2001). Prisoner was procedurally barred from raising contention that the record

on direct appeal was incomplete, as issue should have been raised on direct appeal. Porter V. State, 788 So.2d 917 (2001), rehearing denied, certiorari denied 122 S.Ct. 484, 534 U.S. 1004, 151 L.Ed. 2d 397).

Petitioner asserts that this Honorable Court has subject matter jurisdiction, if not for preservation than in light of his actual innocence. Accordingly relief should be granted. See 'Ground Ten' pages 115 and 116 of Petitioner's second amended petition filed August 2, 2010.

Regarding 'Ground Eleven', Petitioner submits proof supporting this ground as well as 'Ground Ten' by way of the docket of the lower tribunal 9th Judicial Circuit Court for Orange County, Florida; which notes that on December 7, 2006 a Notice of Pretrial retainment for January 17, 2007 was filed yet the hearing is not shown as having took place; also note that the January 3, 2007 and the February 22, 2007 Correspondences filed from defendant to Judge is not in the records; and Certified proof from the Digital Court Reporter of services performed in Orange County Court for the case of State of Florida vs. John Dobbs case #48-2006-CF-15201-O on January 17, 2007. (See Appendix W and X) Accordingly relief should be granted. See 'Ground Eleven' page 117 of Petitioner's second amended petition filed August 2, 2010.

Clearly the State Court came to an unreasonable determination of the facts in light of the evidence as Petitioner was denied relief for his claims.

Finally regarding 'Ground Twelve', <u>Cumulative prejudical effect of multiple trial errors must be considered in determing whether habeas relief is warranted.</u> Phillips V. Woodford, 267 F3d 966 (9th Cir. 2001).

Appendix

W- Docket of the lower tribunal 9th Judicial Circuit Court of Orange County, Florida case history/register of actions in case No. 48-2006-CF-015201-0. 4 pages.
X- Proof from the digital court reporter that the mysterious January 17, 2007 hearing did take place. 3 pages.
Y- Photos of Petitioner's injuries at time of arrest. 9 pages.

Under penalties of perjury I hereby declare that I have read the foregoing 'Reply to Respondent's supplemental Response' and the statements made in it are true and correct

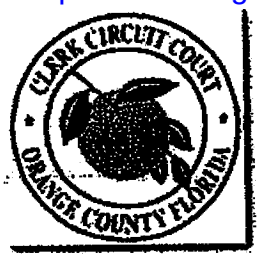
Respectfully submitted,
John Dobbs

Certificate of Service

I hereby certify that a true and correct copy of the foregoing with 'Appendix W thru Y' has been mailed to: The Attorney General for the State of Florida, 444 Seabreez Boulevard, Daytona Beach, Florida 32118; and the U.S. Middle District Court of Florida, Orlando division.

Mailed 1/26/11

John Dobbs
DC# C00618



Back To Search Results

Case History (Docket)

Summary | Parties | History | Events | Payments

*APPEAL FILED *Alliance*

Case Information

Case No:	48-2006-CF-015201-O	Case Name:	DOBBS, JOHN W

Case History/Register of Actions

Date	As To	Description	Amount
12-Jun-2007	A	CORRESPONDENCE FILED FROM DEF TO JUDGE (REF TO JUDGE)	
4-Jun-2007	A	DCA ORDER MOTION FOR ENLARGEMENT OF TIME IS GRANTED AND EXTENDED TO	
1-Jun-2007	A	TRANSCRIPT FILED ADVERSARY PRELIMINARY HEARING (12/22/06)	
1-Jun-2007	A	TRANSCRIPT FILED MOTIONS (1/26/07)	
1-Jun-2007	A	TRANSCRIPT FILED MOTIONS TO SUPPRESS (2/15/07)	
24-May-2007	A	SECOND MOTION FOR EXTENTION OF TIME	
17-May-2007	A	TRANSCRIPT FILED SENTENCING AND PROCEEDINGS (3/8/07)	
17-May-2007	A	TRANSCRIPT FILED TRIAL PROCEEDINGS (2/26-3/1/07)(VOLS I - VI)	
17-May-2007	A	UNIFORM COMMITMENT & RECEIPT FILED	$0.00
8-May-2007	A	CASE SENT TO COLLECTION AGENCY - ALLIANCE ONE	$470.00
17-Apr-2007	A	COURT MINUTES FILED	$0.00
11-Apr-2007	A	DCA ORDER COURT REPORTER'S REQUEST FOR ENLARGEMENT OF TIME IS	
4-Apr-2007	A	CORRESPONDENCE FILED FROM CLERK TO DEFT REF:	
3-Apr-2007	A	REPORTER'S ACKNOWLEDGMENT OF DESIGNATION	
2-Apr-2007	A	CERTIFICATE OF SERVICE	
2-Apr-2007	A	ORDER DISMISSING MOTION TO RENEW PREVIOUSLY SUBMITTED ARGUMENTS AND	
2-Apr-2007	A	BRIEF IN SUPPORT OF MOTIONS FOR DIRECTED VERDICT AND NEW TRIAL	
2-Apr-2007	A	ORDER GRANTING EDWARD DOBBS' VERIFIED MOTION FOR LEAVE TO APPEAR	
29-Mar-2007	A	BRIEF IN SUPPORT OF MOTION FOR DIRECTED VERDICT AND NEW TRIAL	
29-Mar-2007	A	ACKNOWLEDGMENT OF APPEAL FILED 5D07-1057	
28-Mar-2007	A	REQUEST FOR DOCUMENTS	
20-Mar-2007	A	CORRESPONDENCE FILED FROM DEFT TO JUDGE (W/ATTACHMENTS)	
16-Mar-2007	A	ORDER TO TRANSCRIBE FILED GRANTED	
16-Mar-2007	A	VERIFIED MOTION FOR LEAVE TO APPEAR	
15-Mar-2007	A	MOTION TO TRANSCRIBE FILED	$0.00
15-Mar-2007	A	DESIGNATION TO COURT REPORTER	$0.00
15-Mar-2007	A	DIRECTIONS TO THE CLERK FILED	$0.00
15-Mar-2007	A	STATEMENT OF JUDICAL ACTS FILED	$0.00
15-Mar-2007	A	NOTICE OF APPEAL RECORDED AND FILED	
13-Mar-2007	A	VERIFIED MOTION FOR LEAVE TO APPEAR	

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28-Feb-2007	A	STATEMENT FILED OF INEFFECTIVE ASSISTANCE OF COUNSEL	
27-Feb-2007	A	NOTICE OF PROVISION OF SUPPLEMENTAL DISCOVERY	
26-Feb-2007	A	SUPPLEMENTAL STATE WITNESS LIST FILED	
26-Feb-2007	A	NOTICE OF PROVISION OF SUPPLEMENTAL DISCOVERY	
26-Feb-2007	A	SUPPLEMENTAL STATE WITNESS LIST FILED	$0.00
26-Feb-2007	A	NOTICE OF PROVISION OF SUPPLEMENTAL DISCOVERY	$0.00
26-Feb-2007	A	NOTICE OF PROVISION OF SUPPLEMENTAL DISCOVERY	$0.00
23-Feb-2007	A	SUPPLEMENTAL STATE WITNESS LIST FILED	
22-Feb-2007	A	NOTICE OF TAKING DEPOSITION UPON ORAL EXAMINATION	$0.00
22-Feb-2007	A	SUPPLEMENTAL STATE WITNESS LIST FILED	$0.00
22-Feb-2007	A	NOTICE TAKING DEPO FILED	$0.00
22-Feb-2007	A	NOTICE OF PROVISION OF SUPPLEMENTAL DISCOVERY	$0.00
22-Feb-2007	A	CORRESPONDENCE FILED FROM DEFT TO JUDGE DATED 02/15/2007	
22-Feb-2007	A	DEFENSE DISCOVERY	
22-Feb-2007	A	DEFENSE DISCOVERY	
21-Feb-2007	A	DEFENSE WITNESS LIST (SUPPLEMENTED)	
21-Feb-2007	A	ORDER GRANTING IN PART AND DENYING IN PART THE DEFENDANT'S MOTION TO	
20-Feb-2007	A	ORDER ON DEF'S MOTION FOR SUBPEONA DUCES TECUM FOR RECORDS (GRANTED)	
20-Feb-2007	A	MOTION FOR SUBPEONA DUCES TECUM FOR RECORDS	
16-Feb-2007	A	SUPPLEMENTAL ARGUMENT TO THE MOTION TO SUPPRESS STATEMENTS	
16-Feb-2007	A	NOTICE OF PROVISION OF SUPPLEMENTAL DISCOVERY	$0.00
15-Feb-2007	A	COURT MINUTES FILED NO FILE	
15-Feb-2007	A	ORDER MOTION TAKEN UNDER ADVISEMENT REQUEST FOR BENCH TRIAL	
15-Feb-2007	A	DEFENSE WITNESS SWORN AND TESTIFIED *	
15-Feb-2007	A	STATE WITENSS SWORN AND TESTIFIED *	
15-Feb-2007	A	APPEAR. OF ATTORNEY ENTERED	
15-Feb-2007	A	APPEARANCE OF DEFENDANT ENTERED	
15-Feb-2007	A	IN OPEN COURT HEARING MOTION TO SUPPRESS	
15-Feb-2007	A	SUPPLEMENTAL STATE WITNESS LIST FILED	$0.00
14-Feb-2007	A	DEFENSE WITNESS LIST (SUPPLEMENTED)	$0.00
9-Feb-2007	A	NOTICE TAKING DEPO FILED	$0.00
5-Feb-2007	A	NOTICE OF HEARING FILED <02/15/2007> 10:00 A.M.	
30-Jan-2007	A	NOTICE OF TRIAL RTN:<02/26/2007> 09:30 A.M.	
30-Jan-2007	A	NOTICE FOR PRETRIAL RET: <02/14/2007> 09:00 A.M.	
26-Jan-2007	A	MOTION TO SUPPRESS FILED	$0.00
26-Jan-2007	A	MOTION TO SUPPRESS FILED	
26-Jan-2007	A	ORDER FOR CONTINUANCE FILED GRANTED	
26-Jan-2007	A	MOTION FOR CONTINUANCE FILED	$0.00
26-Jan-2007	A	COURT MINUTES FILED	
26-Jan-2007	A	APPEAR. OF ATTORNEY ENTERED	
26-Jan-2007	A	APPEARANCE OF DEFENDANT ENTERED	
26-Jan-2007	A	IN OPEN COURT HEARING ON TRIAL STATUS	
25-Jan-2007	A	NOTICE OF PROVISION OF SUPPLEMENTAL DISCOVERY	$0.00
25-Jan-2007	A	NOTICE OF PROVISION OF SUPPLEMENTAL DISCOVERY	$0.00
25-Jan-2007	A	SUPPLEMENTAL STATE WITNESS LIST FILED	$0.00
19-Jan-2007	A	DEFENSE WITNESS LIST	$0.00
11-Jan-2007	A	NOTICE OF PROVISION OF SUPPLEMENTAL DISCOVERY	$0.00
3-Jan-2007	A	CORRESPONDENCE FILED FROM DEFT TO JUDGE	$0.00
27-Dec-2006	A	NOTICE RETURNED UNSERVED FILED	$0.00
22-Dec-2006	A	COURT MINUTES FILED	
22-Dec-2006	A	ORDER/COURT ENVOKES RULE OF SEQUESTRATION, COURT FIND PROBABLE CAUSE	
22-Dec-2006	A	STATE'S WITNESS LIST FILED	

Appendix W-3 B

22-Dec-2006	A	APPEAR. OF ATTORNEY ENTERED	
22-Dec-2006	A	APPEARANCE OF DEFENDANT ENTERED	
22-Dec-2006	A	IN OPEN COURT HEARING (DEFENSE MTN FOR AN ADVERSARY PRELIMINARY	
21-Dec-2006	A	NOTICE OF HEARING FILED <12/22/2006> 09:30 A.M.	
20-Dec-2006	A	MOTION FOR ADVERSARY PRELIMINARY HEARING	$0.00
20-Dec-2006	A	STATE'S WITNESS LIST FILED	
13-Dec-2006	A	NOTICE OF HEARING FILED <12/22/2006> 09:30 A.M.	
7-Dec-2006	A	NOTICE OF TRIAL RTN:<01/29/2007> 09:30 A.M.	
7-Dec-2006	A	NOTICE FOR PRETRIAL RET: <01/17/2007> 09:00 A.M.	
7-Dec-2006	A	COURT MINUTES FILED	
7-Dec-2006	A	WRITTEN PLEA OF NOT GUILTY ENTERED	
7-Dec-2006	A	ATTORNEY PRESENT PUBLIC DEFENDER	
7-Dec-2006	A	DEFENDANT NOT PRESENT	
7-Dec-2006	A	IN OPEN COURT WRITTEN PLEA OF NOT GUILTY	
27-Nov-2006	A	NOTICE OF HEARING FILED <11/29/2006> 02:30 P.M.	
27-Nov-2006	A	WRITTEN PLEA OF NOT GULTY ARG DATE <12/07/2006> 08:45 A.M.	
20-Nov-2006	A	INFORMATION FILED	
20-Nov-2006	A	MOTION FOR AN ADVERSARY PRELIMINARY HEARING	$0.00
8-Nov-2006	A	WAIVER OF ARRAIGNMENT	$0.00
8-Nov-2006	A	WRITTEN PLEA OF NOT GUILTY BY PD	$40.00
26-Oct-2006	A	DERP FEE OF $40 IMPOSED	
25-Oct-2006	A	BOND STAYED NONE	
25-Oct-2006	A	ORDER APPOINTING PUBLIC DEFENDER	
25-Oct-2006	A	AFF/INSOL FILED REF	
25-Oct-2006	A	ADVICE TO DEFENDANT, FIRST APPEARANCE	
25-Oct-2006	A	ORDER FINDING PROBABLE CAUSE FILED	
25-Oct-2006	A	APPEARANCE OF DEFENDANT ENTERED	
25-Oct-2006	A	IN OPEN COURT INITIAL APPEARANCE	
25-Oct-2006	A	COMPLAINT FILED 10/25/06 NONE 06048638	

New Search Logoff

Appendix W-4

DIGITAL COURT REPORTERS
POST OFFICE BOX 4934
425 NORTH ORANGE AVENUE
ORLANDO, FL 32802-4934
Phone: (407) 836-2270
Fax: (407) 836-0447

Celeste Dobbs
335 Ponmunjom Circle
Oceanside, California 92054

RE: Audio CD copies

Ms. Dobbs,

Enclosed please find the three audio cd's you requested on the matter of State of Florida vs. John Dobbs, 48-2006-CF-15201-O, on December 22, 2006, January 17, 2007 and February 15, 2007 before the Honorable Stan Strickland. The fourth date that you requested, February 26, 2007 was covered by the official court reporters. Please contact Nikki Peters at (407) 836-2280 if you would like to order a transcript of the court proceedings from that date.

Please contact us at (407) 836-2270 if you need further assistance with the CD's enclosed.

Thank you,

Kelli Ray, CER**D
Digital Court Reporter

Appendix X-1

DIGITAL COURT REPORTERS
POST OFFICE BOX 4934
425 NORTH ORANGE AVENUE
ORLANDO, FL 32802-4934
Phone: (407) 836-2270
Fax: (407) 836-0447

Celeste Dobbs
335 Ponmunjom Circle
Oceanside, California 92054

RE: CERTIFICATION OF COURT REPORTER/FINAL BILL

I, Kelli Ray, Digital Court Reporter of the Ninth Judicial Circuit, do hereby certify that court recording services were performed in Orange County Court, State of Florida vs. John Dobbs, 48-2006-CF-15201-O on December 22, 2006, January 17, 2007 and February 15, 2007 before the Honorable Stan Strickland.

Payment for audio is owed to the State of Florida as follows:

AUDIO		
3 CD's @ $15.00		$ 45.00
Paid by cashier's check # 0423145503		$ -45.00
	TOTAL due	**$ 0.00**

Make check or money order payable to: State of Florida

Present payment to: Digital Court Reporters
435 North Orange Avenue
Building A, Suite 102
Orlando, Florida 32801
(407) 836-2270
59-6001885

Dated this 20th day of December, 2007.

Kelli Ray

Kelli Ray, CER
Digital Court Reporter

Appendix X-2

CERTIFICATE

STATE OF FLORIDA:

COUNTY OF ORANGE:

I, Kelli Ray, being a Digital Court Reporter, as authorized by Rule 2.070(c), Florida Rules of Court and Administrative Order of the Ninth Judicial Circuit numbered 07-98-43, certify that the foregoing CD copies of the Proceedings held on December 22, 2006, January 17, 2007 and February 15, 2007, State of Florida vs. John Dobbs, 06-CF-15201-O, held before the Honorable Stan Strickland, are true and correct.

Dated this 20th day of December, 2007, in the City of Orlando, County of Orange, State of Florida.

Kelli Ray

Kelli Ray, CER
Digital Court Reporter

Digital Court Reporters
Ninth Judicial Circuit
Orange County Court Building
425 North Orange Avenue, Bldg. A
Orlando, Florida 32801
(407) 836-2270

Appendix X-3

STATE/PLTF/PET COURT	JOINT	RESP/DEF EXHIBITS
CASE NO. 06 CF - 152010		
DATE 2/1/07	IDENTIFICATION D	
DATE 2/28/07	EXHIBIT # 5	
LYDIA GARDNER, CLERK OF COURT BY [illegible] DEPUTY CLERK		

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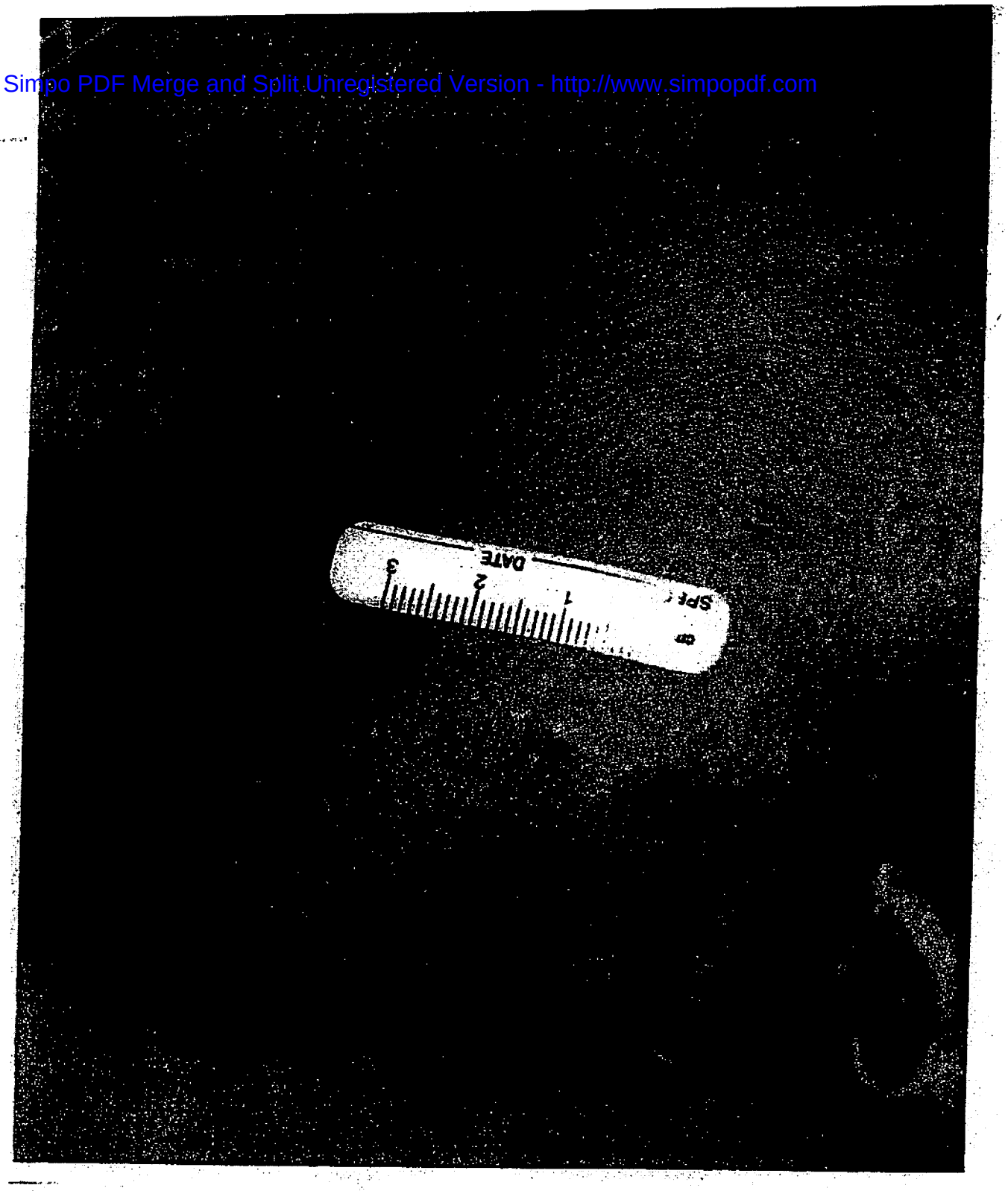

STATE/PLTF/PET COURT	JOINT	RESP/DEFT. EXHIBITS
CASE NO. 06 CF 1520-0		
DATE 2/26/07	IDENTIFICATION	
DATE 2/26/07	EXHIBIT # 4	
LYDIA GARDNER, CLERK OF COURT BY	DEPUTY CLERK	

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STATE/PLTF/PET COURT	JOINT	RESP/DEFT EXHIBITS
CASE NO. 96-CF-15201		
DATE 2/26/08	IDENTIFICATION	
DATE 2/26/08	EXHIBIT # 8	
LYDIA GARTONER, CLERK OF COURT		

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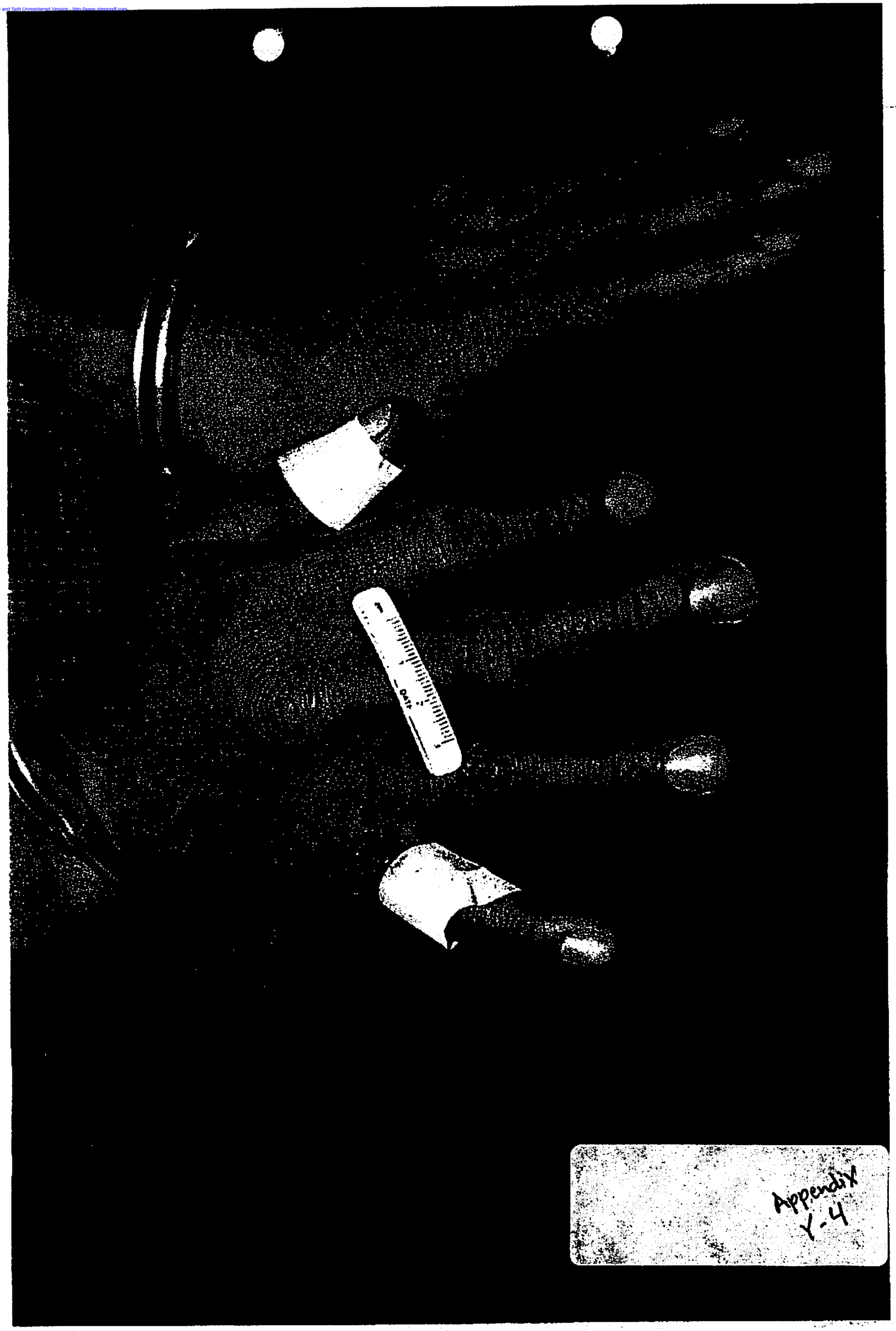

Appendix
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COURT JOINT RESPONDENT EXHIBITS

CASE NO. 06-CE-5201

DATE 3/26/07 IDENTIFICATION A

DATE 3/26/07 EXHIBIT # 9

LYDIA GARDNER, CLERK OF COURT

BY _____ DEPUTY CLERK

STATE/PLTF/PET COURT	JOINT	RESP/DEFT EXHIBITS
CASE NO. 06 CF-5901		
DATE 2Dec07	IDENTIFICATION	F
DATE 2-15-07	EXHIBIT #	7
LYDIA GARDNER, CLERK OF COURT BY		DEPUTY CLERK

Appendix
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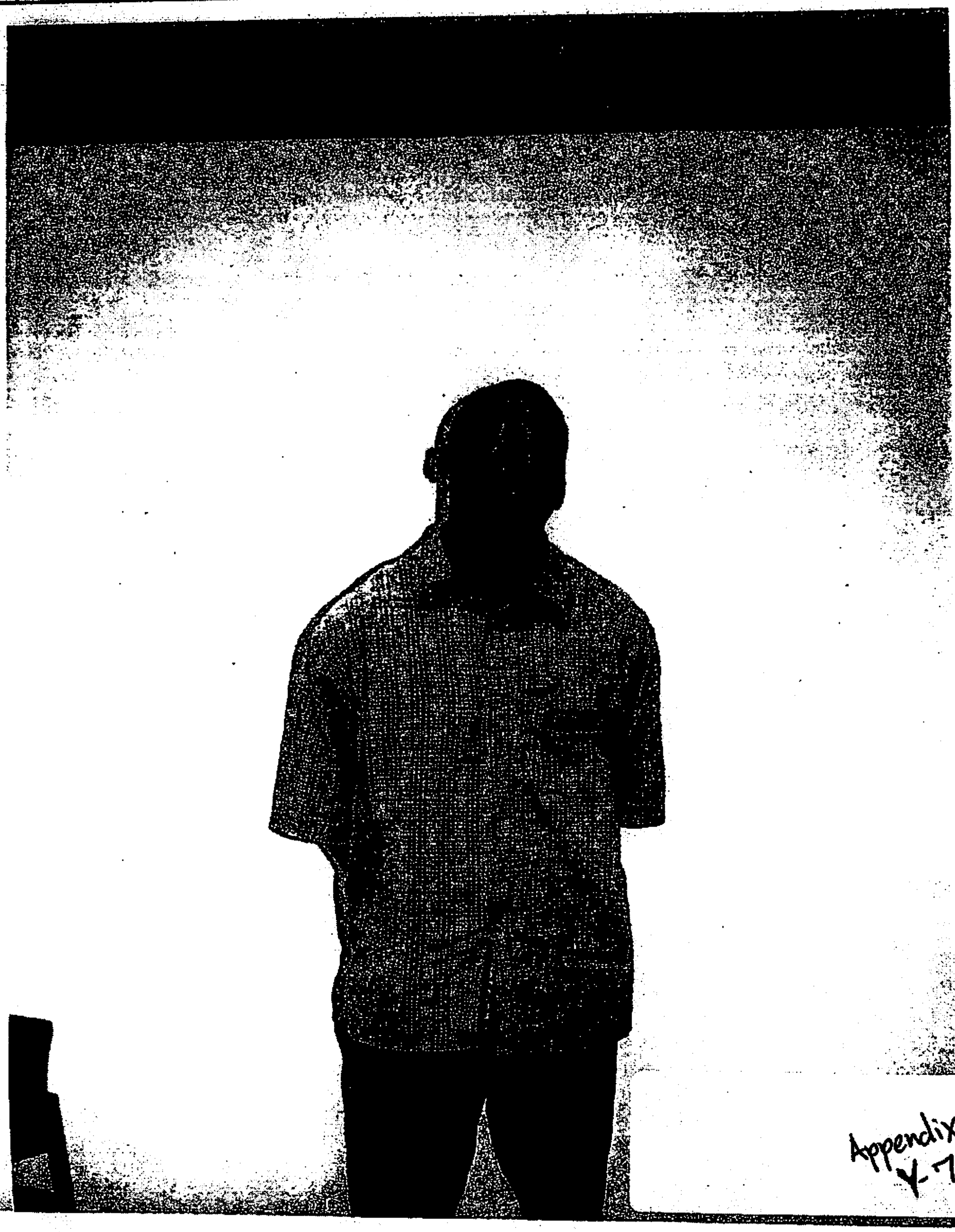
STATE/DEFT'S JOINT RECEIVED
COURT EXHIBITS

CASE NO. 06CF-1520

DATE 2-20-07 IDENTIFICATION A

DATE 2-22-07 EXHIBIT # 2

LYDIA GARDNER, CLERK OF COURT
BY _____ DEPUTY CLERK



Appendix
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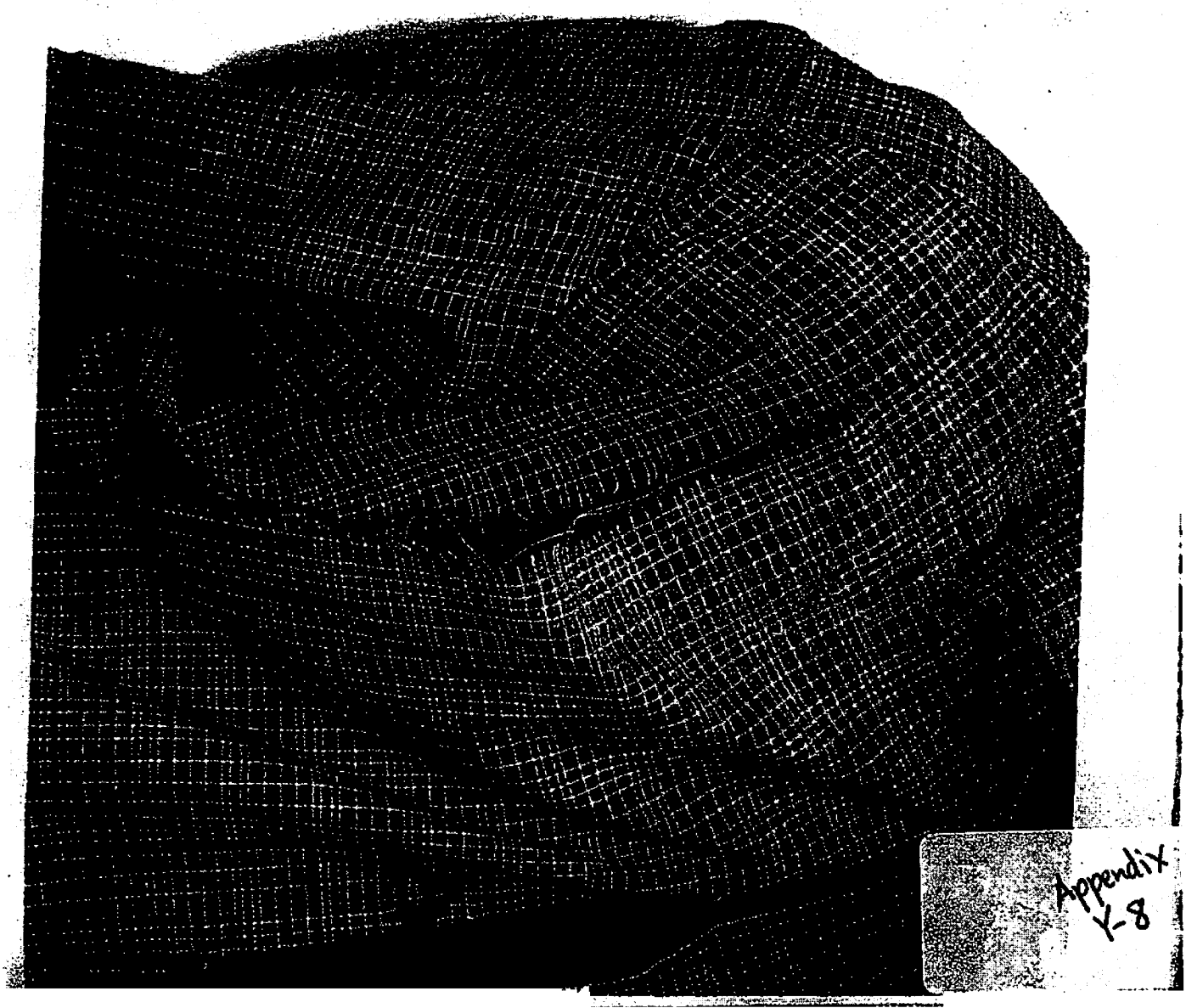
STATE/PLAINTIFF | JOINT | RESPONDENT
COURT | EXHIBITS

CASE NO. 00-CF-15201

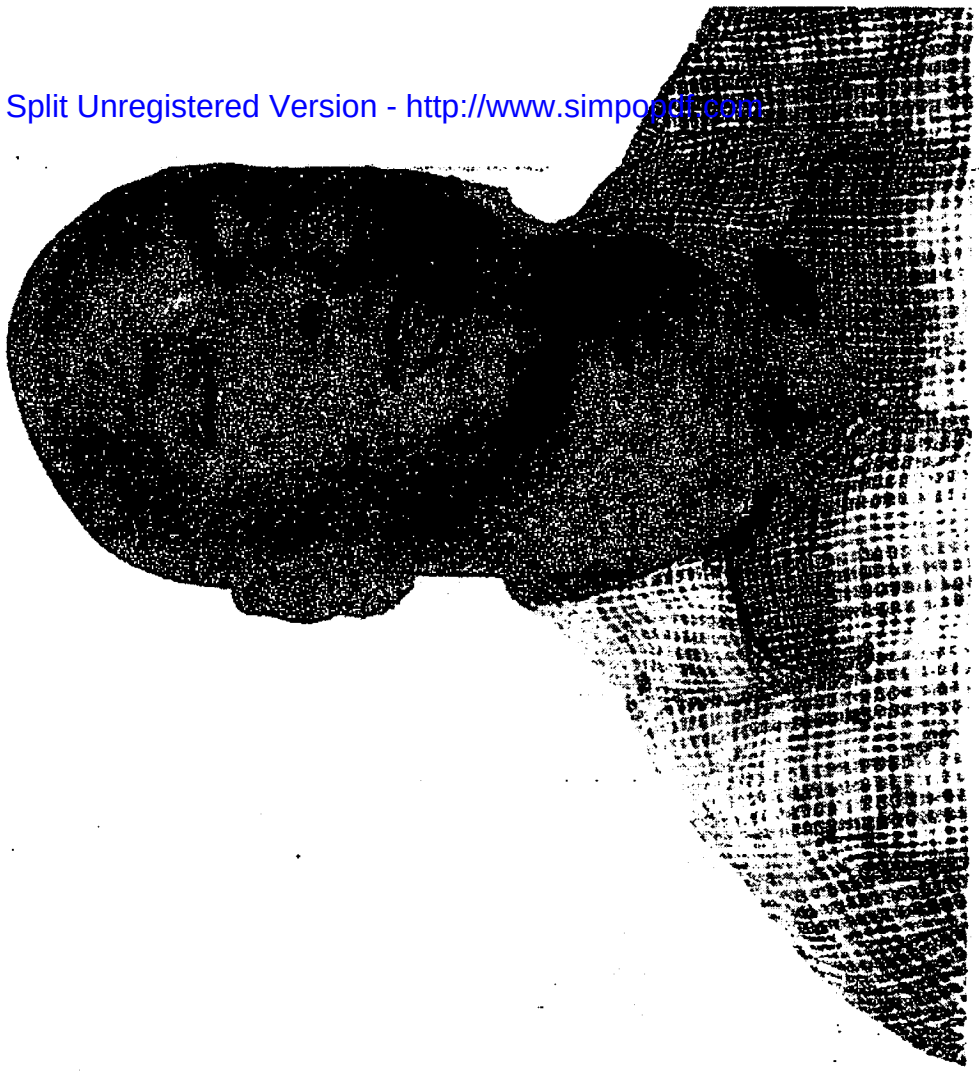
DATE 2/26/07 | IDENTIFICATION E

DATE 2/28/08 | EXHIBIT # 6

CLERK OF COURT



Appendix Y-8



[redacted]

STATE/PLTF/PET COURT	JOINT	RESP/DEFT EXHIBITS
CASE NO: 06CF-15201		
DATE: 2/26/07	IDENTIFICATION: B	
DATE: 2/28/07	EXHIBIT #: 3	
LYDIA GARDNER, CLERK OF COURT BY: [signature] DEPUTY CLERK		

Appendix Y-9