

**IN THE DISTRICT COURT OF TULSA COUNTY,  
STATE OF OKLAHOMA**

STATE OF OKLAHOMA,	)	
	)	
Plaintiff	)	
	)	
v.	)	No. CF-02-3562
	)	Judge Thomas Gillert
	)	
DARRELL LACELLE LEE	)	
	)	
A/K/A DARYL,	)	
	)	
Defendant	)	

**COMBINED MOTION TO SUPPRESS AND ORDER SETTING HEARING THEREON**

COMES NOW, G. Donald Haslam, Jr., counsel for Defendant Darrell Lacelle Lee and hereby enters this motion to suppress the alleged confession in the above-styled cause.

**Statement of facts**

The State’s evidence presented at preliminary hearing was confined to the testimony of one witness, Detective Chuck Haywood. The testimony related to an alleged confession.

**The “confession” testimony**

The alleged confession is fraught with constitutional defects. The Defendant was approached at his home in an apartment complex by *five* (5) Tulsa police officers - including two in uniform - in the middle of a summer day. The police had not advised anyone in the home they were coming. When the Defendant’s girlfriend answered the door she immediately closed it on the officers. Haywood then looked into the window of the home (about which conduct the detective insists in one of many characterizations that appear designed to inoculate the “confession” from attack: he insists that he rather “...went to the window....” and “...attempt(ed) to *see through* the window.”<sup>1</sup> (Emphasis added). Haywood then relates that, while he cannot recall exactly how many times the Defendant objected<sup>2</sup>, the Defendant finally “agreed” to come to the detective division.<sup>3</sup>

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<sup>1</sup>Tr. 28/1-25.

<sup>2</sup>Tr. 29/19-21.

<sup>3</sup>Tr. 29/10,11.

Haywood testified that the Defendant, two other detectives and he drove together in a police car to the detective division after he overcame the Defendant's objections.<sup>4</sup> He testified nonetheless that the Defendant was not under arrest and free to leave at any time.<sup>5</sup> The children were apparently picked up by DHS staff at the same time.

Haywood could not recall how long the Defendant was at the station but free to leave at any time.<sup>6</sup> His testimony ranged from two to three hours<sup>7</sup> to "I'm not sure"<sup>8</sup> to "I think I was talking to him less than an hour, but it could have been a little bit more."<sup>9</sup> In point of fact, two videotapes of Haywood's interrogation exist. The first tape is two hours, one minute and thirty-four seconds in length, and the second tape is another one hour and twenty-five minutes, or a total of roughly *four* hours. Remarkably, the Defendant was Mirandized at the interrogation but told he was *not* under arrest. He formally waived his *Miranda* rights.

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<sup>4</sup>Tr. 31/12,13.

<sup>5</sup>Tr. 30/12,13, 31/14-18.

<sup>6</sup>Tr. 33/24.

<sup>7</sup>Tr. 32/25.

<sup>8</sup>Tr. 33/22.

<sup>9</sup>Tr. 33/14.

In sum, the police-dominated atmosphere of the descent on the Defendant's home in broad daylight, surrounded by an apartment complex full of watchful eyes, the shock of seeing his children seized, the ride to the detective division in a car full of policemen and the four-plus hour hotboxing<sup>10</sup> at the division served to create a situation in which no reasonable man would have felt he was truly free to defy the police presence and leave. **Haywood's testimony is suffused with mischaracterizations of the evidence**

Haywood's testimony included *inter alia* (1) assertions he did not threaten or coerce the defendant's "confession"<sup>11</sup>, (2) the suggestion that the Defendant immediately confessed when confronted with the alleged victim's allegation,<sup>12</sup> and (3) the assertion that the Defendant expressly confessed digital insertion<sup>13</sup>.

The videotapes reveal that Haywood lead the interrogation of the Defendant. The *initial* communication to the Defendant that his girlfriend, Betty Hampton, would be arrested for enabling the Defendant's sexual abuse, however, was by a second, unidentified officer while Haywood was out of the interrogation room.<sup>14</sup> This clearly shocks the Defendant. The officer further indicates that - *without a confession* - DHS will be unlikely to reunify the family. The Defendant seeks clarification twice on this threat and twice the officer affirms the threat. After reentering the room at 48 minutes 57 seconds, Haywood responds to another inquiry by the Defendant that he has "...not made up his mind yet..." about Hampton.<sup>15</sup> At one hour and four minutes, Haywood responds to yet another probe by the Defendant into the Hampton arrest threat that "I'm thinking we may be able to prevent Betty from going to jail." The context of this exchange clearly involves a confession *quid pro quo*. Finally, at one hour ten minutes, Haywood again allows that he

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<sup>10</sup> In response to relentless accusations, the Defendant adamantly denied no less than thirty-five (35) times inserting his finger into the victim's vagina and/or touching her below the chest; nonetheless, when questioned on direct about the Defendant's response to the victim's allegation about insertion, Haywood testified that once he brought up the allegation after the Defendant's initial denial, the Defendant said, "Chuck, I did it." Tr. 17/9-23. Under cross, Haywood testified he could not recall how many times he asked the Defendant about insertion and responded "It may have been." when asked if it was asked more than once. Tr. 26/17-24.

<sup>11</sup>Tr. 13/13-17.

<sup>12</sup> See footnote 22.

<sup>13</sup>Tr. 7/23-18/5, 25/11.

<sup>14</sup> Videotape #2 (V2) of Darrel Lee, at 37 minutes 15 seconds (37:15).

<sup>15</sup> V2, 50:30.

has not yet "...made up my mind about..." Hampton in reply to still another query by the Defendant. *It is only after* the threat of Hampton's arrest that the Defendant began to equivocate on his earlier denials (all thirty-five plus denials). Unsatisfied with the Defendant's attempt to explain the child's allegation as possible confusion over his pushing her towards the center of a pallette on which he and four (4) children were crowded together for a night's sleep, Haywood deftly but shamelessly dangled the arrest threat in front of the Defendant until it was clear that he would accept nothing less than a statement with which he *was* satisfied. *Hampton has not been arrested.*

Haywood's testimony that the Defendant expressly confessed inserting his fingers into the alleged victim's vagina significantly mischaracterizes a "confession" already tainted by coercion. Specifically, as the Defendant migrates towards what is Haywood's required degree of illicit conduct in an obvious effort to avoid the arrest of Hampton, the Defendant never gets further than a tortured contention that he "rubbed" the vagina (and it is unclear whether the Defendant intended to communicate a willful "rubbing" or an inadvertent one in the process of pushing her towards the middle of the pallet). In response to this effort, Haywood leaps to square-peg this conduct by almost demanding that it must have been the bulbous under-knuckle of a finger that, in the "rubbing" process, literally inserted into the vagina. The Defendant *expressly denies insertion* to the very end of the video. Nonetheless, Haywood *expressly describes a confession of insertion* throughout his testimony.

In sum, Haywood's testimony is so marked by mischaracterizations that it approaches perjury. For the immediate purposes of this motion, however, the credibility of this (only) witness must be considered vis-a-vis his representations about the "agreement" of the Defendant to accompany him to the detention center. Absent this agreement, the Defendant was in custody from the time he left his home (and it is the Defendant's position that the police-dominated atmosphere of the home *et seq* results in a custodial situation anyway). As a result, the already confused Miranda-warning-but-no-arrest situation at the detention center is constitutionally tainted by Haywood's express instruction to the Defendant that he was *not* under arrest. Further, the alleged confession is patently apocryphal and coerced by Haywood's threats to arrest Hampton absent a confession. Finally, the extended duration of the interrogation notwithstanding more than thirty-five denials completes the constitutional taint of the confession. The totality of these circumstances must result in the suppression of the confession.

**CONCLUSION**

Because the bind-over order is founded exclusively on the alleged confession testified to by Haywood, the order must be quashed if the confession is suppressed. The confession is so tainted by the police-dominated atmosphere of the home and interview, the credibility of the State's only witness, the coercive threats of arrest of the Defendant's girlfriend and the duration of the interrogation, that the confession must be suppressed.

Wherefore, premises considered, the Defendant does hereby pray that the court grant the Motion to Quash and dismiss this case, or grant any other relief available under the law.

Respectfully submitted,

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**ORDER SETTING HEARING ON MOTION TO SUPPRESS**

Hearing on Defendant's Motion to Suppress as set forth *supra* shall be heard on the \_\_\_\_\_ day of \_\_\_\_\_, 2002 at \_\_\_\_\_ 0'clock \_\_\_\_\_.m. or as soon thereafter the Court may conduct it.

\_\_\_\_\_  
Judge Thomas Gillert

**CERTIFICATE OF SERVICE**

I, G. Donald Haslam, Jr., do certify that on this 4<sup>th</sup> day of October, 2002, I hand-delivered a true and correct copy of the above and foregoing document to the office of the Tulsa County District Attorney.

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G. Donald Haslam, Jr.

