

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

STATE OF DELAWARE)	
)	
V.)	
)	ID: 9707012190
Freddy L. Flonnory,)	
<i>Defendant</i>)	

OPINION AND ORDER

Now this 30th day of December 2003, it appears to the Court:

- 1) Defendant in this First Degree Murder case has moved to exclude the introduction into evidence of a statement purportedly made by a witness Joy Watson to FBI Agent Stranahan.
- 2) The statement made was not recorded in its entirety but a summary of the statement was included in a report filed by the Agent in this case.
- 3) The summary of the statement did not purport to be a verbatim record of what the witness had told Agent Stranahan.
- 4) The defendant argues that the statement should not be admissible through 11 Del. C. § 3507 because it was not a verbatim record of what the witness said but rather was the Agent's interpretation of her statement. *See Huggins v. State*, 337 A 2d 28 (Del. 1975).
- 5) It is clear that a witness' actual statement, recorded, video taped or written would be preferable to another witness' recollection of that statement.
- 6) In this case the Agent did not record the statement verbatim even though the statement was purportedly taken to confirm the facts in a statement made by Akhee Flonnory that was taped verbatim.
- 7) The Court can not conclude at this point that the Agent's rendition or recollection of Ms. Watson's statement, assuming a proper foundation is laid, will not comply with 11 Del. C. § 3507 as that section is not restricted to recorded or written statements.
- 8) The defendant, Ms. Watson, indicated that she voluntarily came in to the police station and gave this statement to help her boyfriend.
- 9) The declarant disputes that the recollection of Agent Stranahan is accurate and denies saying many of the comments attributed to her.
- 10) The purpose of this statute is in part to remedy the situation of a "turncoat witness;" and thus her denial of the details of the statement becomes an issue of credibility for the jury.

Wherefore, defendant's Motion in *Limine* is Denied.

IT IS SO ORDERED.

The Honorable Richard S. Gebelein

Orig: Prothonotary
cc: All counsel of Record