

SUPERIOR COURT  
of the  
State of Delaware

William L. Witham, Jr.  
Judge

Kent County Courthouse  
38 The Green  
Dover, Delaware 19901  
Telephone (302) 739-5332

July 8, 2004

Mr. James G. Wells  
Sussex Correctional Center  
P.O. Box 500  
Georgetown, Delaware 19947

Re: ***State v. James G. Wells***  
***I.D. Nos. 0307019531 & 0308002490***  
***Letter Opinion on Motion for New Counsel***

Dear Mr. Wells:

James G. Wells (“Defendant”) has filed a Motion for New Counsel in connection with very serious charges involving Attempted Murder, Rape First Degree and other charges. In reviewing the speaking motion filed by the Defendant, the areas of concern to him appear to be as follows:

1. That the case is hopeless and his attorney has given up and is not willing to go the “extra mile”.
2. He has communicated with his attorney only a few times.
3. There has been no motion for bail reduction and he is entitled to having his bail reduced.
4. There has been a failure of his attorney to suppress evidence.
5. His attorney has not filed paperwork to get documents that can help his case.

In sum, Defendant believes that he is entitled to new counsel and to have his present counsel removed from the case.

The Defendant raises no issues to give this Court grounds to disqualify his counsel for conflict of interest or any objective and substantial grounds for disqualification that this

Court has granted in the past.<sup>1</sup> He is fully entitled to having defense counsel appointed to represent him under the United States and Delaware constitutions and must accept appointed counsel, absent a substantial reason for substitution.<sup>2</sup> The Defendant is not guaranteed a “meaningful attorney-client relationship.”<sup>3</sup>

A careful review of the response to Defendant’s motion reveals that his attorney has indeed devoted considerable resources in this case, to include utilizing a forensic nurse to review medical records, a psycho-forensic evaluation, and a retired Delaware State Police investigator to assist the defense. He, along with his staff, have examined the physical evidence seized. Therefore, his attorney has not deemed this case as “hopeless” nor has he “given up”. The extra mile is actively being driven by defense counsel.

Likewise, counsel has communicated with the Defendant and kept him informed as evidenced by the letter submissions to him and to the Court. Defendant has been provided with ongoing discovery and has been kept abreast of the developments in the case.

Defense counsel has taken a prudent and practical approach to bail and I find the response to be appropriate to Defendant’s complaint.

There must be a legal and factual basis for any suppression motion and if there is one, counsel is no doubt seeking a basis.

In the case at hand, the Defendant has provided no basis for the Court to remove his present attorney and replace him with a new court appointed one. Accordingly, the Court finds that the motion for new counsel is *denied*.

**IT IS SO ORDERED.**

WLW/dmh

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<sup>1</sup> *Lewis v. State*, 757 A.2d 709 (Del. 2000).

<sup>2</sup> *Henry v. Delaware*, 368 F.Supp. 286 (D. Del. 1973).

<sup>3</sup> *Morris v. Slappy*, 461 U.S. 1 (1983).

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oc: Prothonotary

xc: Mr. James G. Wells - SCI

Paul S. Swierzbinski, Esquire

Christopher R. Parker, Esquire

Marie O'Connor Graham, Esquire

File