

EXHIBIT

A

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
WILL COUNTY, JOLIET, ILLINOIS

FILED
SEP 14 AM 11:24
CIRCUIT COURT
WILL COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,

Plaintiff,

v.

No. 16 CF 1489

ISIAH STEVENSON,

Defendant.

MOTION TO DISMISS INDICTMENT

Isiah Stevenson, defendant, by his attorneys Alex Mendoza Law, LLC, moves this Honorable Court pursuant to 725 ILCS 5/114 to dismiss the indictment entered by the Will County Grand Jury on July 27, 2016, and in support states:

I. History of Events

On July 1, 2016, Stevenson was a rear seated passenger in a car that was chased by Illinois State Police and City of Chicago Police first on I-57 and then in the City of Chicago, until it crashed at or near the intersection of 124th St. and Union Ave. He was injured in the crash and taken by ambulance to Christ Medical Center and admitted. Upon his release he was taken into custody on July 5, 2016, by the Tinley Park Police and transported to their police facility.

On July 5, 2016, Officer Tencza (#50) of the Tinley Park Police took Stevenson into an audio/video equipt interview room and interviewed Stevenson about the July 1, 2016, Robbery at Arby's in Tinley Park (see attached disc received from the State, marked as "Interview with Stevenson"). Thereafter, on July 28, 2016, Officer Tencza appeared before the empaneled Will County Grand Jury and gave sworn testimony (see attached transcript of "Proceeding Before the Grand Jury on 7-27-16"). As a result of Officer Tencza's testimony (he was the only witness

who gave live testimony: no other evidence was presented in any form) the Grand Jurors returned a Bill of Indictment against Stevenson for Robbery.

II. Laws Involved

725 ILCS 5/114-1 is titled "Motion to Dismiss Charge". Sub-section (a) provides that upon written motion of the defendant made prior to trial... the Court may dismiss the indictment, information, or complaint upon any of enumerated grounds listed in sub-sections (s) (1) through (11).

Additionally, an indictment may be dismissed by the Court where it finds a clear denial of Defendant's due process rights. See:

- (1) *People v. Rogers*, 93 Ill. 2d 283 (1982)
- (2) *People v. Creque*, 72 Ill. 2d 515 (1978)
- (3) *U.S. v. Basurto*, 497 F 2d 781 (1974)
- (4) *People v. Fassler*, 153 Ill. 2d 49 (1992)
- (5) *People v. DiVincenzo*, 183 Ill. 2d 239 (1997)
- (6) *People v. Oliver*, 368 Ill. App. 3d 690 (2006)
- (7) *People V. Mattis*, 367 Ill. App. 3d 432 (2006)

III. Argument

The function of a grand jury is to act as a shield against arbitrary prosecutions. It does not finally adjudicate guilt or innocence. Its function is to return an indictment against a person only when the evidence presented to it indicates that the person has committed a public offense. It is not a Star Chamber tribunal empowered to return arbitrary indictments unsupported by evidence. The trial court has inherent supervisory authority to review grand jury transcripts. *People v. Linzy*, 78 Ill. 2d 106 (1979); *People v. Lawson*, 67 Ill. 2d 449 (1977). Questions whether Defendant's due process rights were violated or prejudicially denied is reviewed "de novo". A Defendant can show that his due process rights were violated/denied by showing that the grand jury was prevented from returning a meaningful indictment by (1) prosecutorial misconduct, (2)

the presentation of inaccurate or deceptive testimony, (3) the use of false testimony, (4) the mischaracterizing of the statement of a Defendant, or (5) the failure to present exculpatory evidence suggesting Defendant's innocence.

In the case at bar Officer Tencza first interviewed Stevenson on July 5, 2016, and then testified about his interview of Stevenson to the Grand Jury on July 27, 2016. During the taped interview Stevenson clearly told Tencza that he was not involved in a robbery on July 1, 2016; that while the police were chasing the vehicle he was in, the driver (Jimmy) passed the money to the rear seat passenger next to Stevenson; and that when he learned why the police were chasing them he argued with the driver telling him to stop and telling him to let him out of the car when the car exited I-57 in Chicago. However, when Officer Tencza testified before the Grand Jury he said:

[Page 5:]

Q- What did Mr. Stevenson tell you?

A- He stated that he was picked up by the subjects, after they committed the robbery, in Matteson, Illinois. As they were driving back into the City of Chicago they were talking about committing the robbery and splitting up the money, at which time they observed the Illinois State Police positioning themselves on the off ramp or on a ramp to the interstate, and then he said a pursuit ensued. When I started questioning him on timing and the fact that it could not have occurred that way, he asked for his attorney.

Stevenson, during the interview, clearly never said that there was a discussion in the car about splitting the money. Officer Tencza fabricated this alleged conversation and falsely testified while under oath before the Grand Jury. He clearly did this to mislead the jurors and as a result, Stevenson's due process rights were denied and violated. Additionally, it was prosecutorial misconduct to present Officer Tencza as the State's only evidence, and allow him to mislead the juror's with false and misleading testimony. The State had access to the recorded

interview with Stevenson before placing Officer Tencza before the Grand Jury. The State could have (1) shown interview tape to the jurors, instead of allowing Tencza to falsely report on what was not said and to mischaracterize what Stevenson did say; (2) presented other officers who interviewed the victim and the witness, who all said they did not know how many persons were in the robbery car and they could not identify the person who actually grabbed the money; and (3) presented the victim and witness to the Grand Jury to tell their story. The State only presented the false testimony of Tencza, all resulting in the denial of Stevenson's due process rights.

IV. Conclusion

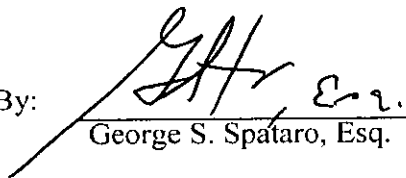
Stevenson's due process rights were violated and deprived, and as a result the Grand Jury was prevented from returning a fair and informed decision. Therefore the indictment herein must be dismissed.

Additionally, Stevenson's charge of Robbery must be also dismissed due to a lack of information/evidence to support the charge.

Respectfully submitted,

ALEX MENDOZA LAW, LLC

By:


George S. Spataro, Esq.

George S. Spataro, Esq.
Alex Mendoza Law, LLC
120 S. State St, 4th Floor
Chicago, IL 60603
(219) 200-2000