

Tracking #04-6039-10616-4

STATE OF MARYLAND VS. MAHAMU D. KANNEH

D O C K E T I N F O R M A T I O N

CONT'D.

07/17/2007 #316 INTERPRETER SWORN 464 RR
 TYPE: DOCKET
 INTERPRETER SWORN.

07/17/2007 #317 MEMORANDUM 727 RR
 TYPE: DOCKET
 STATE'S MEMORANDUM OF LAW IN SUPPORT OF STATE OPPOSITION TO MOTION TO
 DISMISS, FILED.

07/17/2007 #318 HEARING - NO RULING 773 RR
 TYPE: DOCKET
 CASE CALLED FOR THE PURPOSE OF MOTIONS HEARING (SAVAGE, J.) MS. LYNCH,
 STATE'S ATTORNEY. DEFENDANT APPEARED WITH COUNSEL, MS. CHERNOSKY.
 JUDGE: K SAVAGE
 TAPE# 14-071707 START# 13:34:53 STOP# 14:53:49#SESSIONS 1

07/17/2007 #319 MOTION, DISMISS 19 RR
 TYPE: MOTION STATUS: GRANTED RULING: 320
 DEFENDANT'S ORAL MOTION TO DISMISS CASE BASED ON A SPEEDY TRIAL
 VIOLATION (AS REFERENCED IN THE MEMORANDUM FILED AT TAB #283)

07/17/2007 #320 HEARING 573 RR
 TYPE: RULING STATUS: GRANTED MOTION: 319
 COURT (SAVAGE, J.), J.) GRANTS DEFENDANT'S ORAL MOTION TO DISMISS CASE
 BASED ON A SPEEDY TRIAL VIOLATION (AS REFERENCED IN THE MEMORANDUM
 FILED AT TAB #283)
 JUDGE: K SAVAGE
 TAPE# 14-071707 START# 13:34:53 STOP# 14:53:49#SESSIONS 1

Rule 4-271 Date: Closed

*** END OF INFORMATION FOR CASE #101358C ***

STATE OF MARYLAND

:

V.

:

Criminal No. 101358

MAHAMU KANNEH

:

Defendant

MOTION FOR APPROPRIATE RELIEF

Comes Theresa Chernocky, attorney for Mr. Kanneh, requesting this Court to address the fact that the lead investigator in this case, Detective Omar Hassan is potentially involved in the double dipping scandal. In support the defense states:

1. Mahamu Kanneh is charged with two counts of sexual abuse of a minor, continuing course of conduct with child, rape in the second degree, two counts of sexual offense in the second degree, and three counts of sexual abuse in the third degree.

The Defense filed a motion requesting a subpoena for tangible evidence regarding the Detective Omar Hassan and all officers involved in this case. In previous cases where this issue has arisen the State has responded by filing a motion stating that none of the officers involved in the case were involved in the scandal. The State has filed no such response. As well, Detective Hassan was involved in a case that was tried recently and was not called as a witness.

3. The position of the State's Attorney's Office is that the officers involved in the investigation will not be called as witnesses any case due to their compromised position. Counsel has not been told if any of these officers are not being called in light of the scandal.

4. If in fact that the lead investigator in this case is involved in the double dipping, a serious infringement on the investigators credibility, calls into question the entire investigation in this case. Specifically, the following items should be excluded from trial in this case:

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 JUDGE J. J. COUGHLIN
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him and as Detective Hasan is not able to testify at a motions hearing regarding the statement, the state should not be allowed to use the statement in its case in chief, or as impeachment in the case. The State had previously noted that they would not be using the statement in its case in chief, and therefore, the statement was not litigated. In light of these events, the defense is moving to litigate the statement, or to preclude the State from using the statement in any fashion, including as impeachment.

b. The search and seizure of items from the apartment of Mr. Kanneh. Detective Hasan obtained the search warrant in this case. In that the state is not calling the Detective in this case, the defense moves to suppress the search warrant and all items seized as a result of the search warrant. The Judge signed the search warrant based solely on statements of Detective Hasan regarding his investigation in this case, and in light of the credibility of Detective Hasan, the search warrant becomes an issue for the defense at a motions hearing and at trial. The validity of the search warrant can not be contested at motions without the testimony of Detective Hasan.

c. The swabs of Mr. Kanneh and [REDACTED]. Detective Hasan obtained buccal swabs from Mr. Kanneh and [REDACTED]. Detective Hasan will not be testifying and therefore there will not be sufficient evidence to make the chain of custody on the swabs, and therefore the swabs must be excluded from testimony.

d. The DNA evidence. The DNA evidence in this case is based on the items seized during the search warrant and the swabs of Mr. Kanneh and [REDACTED]. Since both the items and the swabs must be excluded due to the credibility issues regarding Detective Hasan, and his unavailability as a witness for the State, the DNA evidence and results must also be



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W. Lawrence Fitch, J.D., Director
Office of Forensic Services

PRETRIAL EVALUATION UNIT

Joseph G. Poirier, Ph.D.
4315 Sunflower Drive
Rockville, Maryland 20853-1465
PHONE: 301 545-0039
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1 November 2006

NOPT-07-058

The Honorable James F. Ryan
Judge, Circuit Court for Montgomery County, MD
Courthouse
Rockville, MD 20850

CASE OF: Maham Khashash AGE: 22 CIRCUIT COURT CRIMINAL NO: 101358
CHARGE: Child Sexual Abuse
DATE OF ORDER: 22 September 2006 DATE RECEIVED: 11 October 2006
EXAMINED: 966 Hungerford Dr, 14B, Rockville, MD, 30 October 2006

Dear Judge Ryan,

As per your recent order, after being advised that our conversation was not confidential, we evaluated this defendant for competency to stand trial, Criminal Procedure 3-105 *et seq.* We are of the opinion that at the time of our screening assessment Mr. Khashash understood the nature and the object of the proceedings against him and he will be able to adequately assist defense counsel.

Respectfully submitted,

Joseph G. Poirier, Ph.D., ABPP
Clinical Psychologist

cc: Office of the State's Attorney, Maqsa Lynch
Office of the Public Defender, Theresa Charnocky
Bartles Hospital Center, Debra Schriber Hansen, LCSW/C
Medical Office, Thomas Olesby, MD

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MONTGOMERY CO.

The following report addresses the defendant's ~~SENTIMENTALITY~~ needs and is not meant to reflect guilt or innocence. These conclusions are based on observations of the defendant's condition at the time of our evaluation and therefore should not substitute for judicial assessment of behavior manifested at the time of any court appearance.

This twenty-two year old defendant was native to Monrovia, Liberia. Mr. Kannah immigrated to the U.S. in September 2001. His first language was Vai. He was very young when the family relocated as refugees to Guyana. It was during that time that Mr. Kannah was introduced to English. Presently Mr. Kannah's command of English was reasonably good, but he commented that at times he still did not understand English very well and would require continuing explanations until he did understand. Mr. Kannah was aware of the allegations involving child sexual abuse. He was aware of the role of significant courtroom players. We found Mr. Kannah to be responsive and able to meaningfully participate in the screening interview. Likewise, we would anticipate that he will be able to adequately assist defense counsel especially if time is taken to explain to him matters or events that he does not readily grasp because of his language/cultural background.

Joseph G. Poirier, Ph.D., ABPP
Clinical Psychologist

JGP/eal

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STATE OF MARYLAND

vs.

MAHAMU D. KAMNER

Defendant.

Criminal Number: 101358

INDICTMENT

STATE OF MARYLAND, MONTGOMERY COUNTY, to wit:

COUNT ONE: Sexual Abuse of a Minor

The Grand Jurors of the State of Maryland, for the body of Montgomery County, upon their oaths and affirmations, present that MAHAMU D. KAMNER, on or about and between September 1, 2003 and August 5, 2004 (due to the nature of the offense, and the passage of time, and the young age of the victim and the continuing course of conduct the State is unable to further specify a date), in Montgomery County, Maryland, did, while being a family member of [REDACTED], a minor, did cause sexual abuse to [REDACTED] in violation of Section 3-602 of the Criminal Law Article against the peace, government, and dignity of the State.

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Clerk of the Circuit Court
Montgomery County, Md.

COUNT TWO: Continuing Course of Conduct

The Grand Jurors of the State of Maryland, for the body of Montgomery County, upon their oaths and affirmations, present that MAHAMU D. KANNEH, on or about and between September 1, 2003 and August 5, 2004 (due to the nature of the offense, and the passage of time, and the young age of the victim and the continuing course of conduct the State is unable to further specify a date), in Montgomery County, Maryland, did engage in a continuing course of conduct which included three or more acts constituting violations of Section 3-303, 3-304, 3-305, 3-306, and 3-307 of the Criminal Law Article, over a period of 90 days or more, with [REDACTED], a child under the age of 14 years, including second degree rapes and second degree sexual offenses and third degree sexual offenses, in violation of Section 3-315 of the Criminal Law Article against the peace, government, and dignity of the State.

COUNT THREE: Rape in the Second Degree

The Grand Jurors of the State of Maryland, for the body of Montgomery County, upon their oaths and affirmations, present that MAHAMU D. KANNEH, on or about and between September 1, 2003 and August 5, 2004 (due to the nature of the offense, and the passage of time, and the young age of the victim the State is unable to further specify a date), in Montgomery County, Maryland, did commit a rape in the second degree on [REDACTED] in violation of Section 3-304 of the Criminal Law Article against the peace, government, and dignity of the State.

COUNT SIX: Sexual Offense in the Third Degree

The Grand Jurors of the State of Maryland, for the body of Montgomery County, upon their oaths and affirmations, present that **MARANTU D. KANNEH**, on or about and between September 1, 2003 and August 5, 2004 (due to the nature of the offense, and the passage of time, and the young age of the victim the State is unable to further specify a date), in Montgomery County, Maryland, did commit a sexual offense in the third degree, to wit: touched victim's vagina with hand, on [REDACTED] in violation of Section 3-307 of the Criminal Law Article against the peace, government, and dignity of the State.

COUNT SEVEN: Sexual Offense in the Third Degree

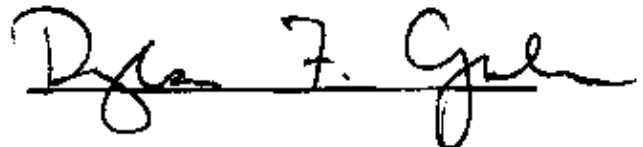
The Grand Jurors of the State of Maryland, for the body of Montgomery County, upon their oaths and affirmations, present that **MARANTU D. KANNEH**, on or about and between September 1, 2003 and August 5, 2004 (due to the nature of the offense, and the passage of time, and the young age of the victim the State is unable to further specify a date), in Montgomery County, Maryland, did commit a sexual offense in the third degree, to wit: touched victim's buttocks with hand, on [REDACTED] in violation of Section 3-307 of the Criminal Law Article against the peace, government, and dignity of the State.

COUNT EIGHT: Sexual Abuse Of a Minor

The Grand Jurors of the State of Maryland, for the body of Montgomery County, upon their oaths and affirmations, present that **WAHABU D. KAMBER**, on or about and between September 1, 2003 and August 5, 2004 (due to the nature of the offense, and the passage of time, and the young age of the victim and the continuing course of conduct the State is unable to further specify a date), in Montgomery County, Maryland, did, while being a family member of **[REDACTED]**, a minor, did cause sexual abuse to **[REDACTED]**, in violation of Section 3-602 of the Criminal Law Article against the peace, government, and dignity of the State.

COUNT NINE: Sexual Offense in the Third Degree

The Grand Jurors of the State of Maryland, for the body of Montgomery County, upon their oaths and affirmations, present that **NAMAMU D. KAMFEN**, on or about and between September 1, 2003 and August 5, 2004 (due to the nature of the offense, and the passage of time, and the young age of the victim the State is unable to further specify a date), in Montgomery County, Maryland, did commit a sexual offense in the third degree, to wit: touched victim's vagina with hand, on [REDACTED], in violation of Section 3-307 of the Criminal Law Article against the peace, government, and dignity of the State.

TRUE BILL**FOREPERSON OF THE GRAND JURY****STATE'S ATTORNEY FOR
MONTGOMERY COUNTY, MARYLAND**

Upon the information of:
Officer Omar Hassan

PH: 12/13/04

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