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August 8, 2018

Okanogan County Sheriff's Department
Attention: Sheriff Frank Rogers
123 5th Ave
Okanogan WA, 98840

Re: State v. James Faire
Okanogan County Superior Court Cause No. 15-1-00202-1

COMPLAINT

James Faire, by and through his counsel of record, Stephen Pidgeon, now brings this complaint in respect of the actions of Detective Kreg Sloan in regard to his actions concerning the criminal prosecution of James Faire.

We are demanding for the Sheriff's Office to conduct an administrative investigation into the actions of Detective Kreg Sloan that ultimately led to the Dismissal With Prejudice of All Charges brought against James Faire.

The Honorable Christopher E. Culp made the following findings of fact, set forth in material part here:

7. When Mr. Faire and Ms. Nobilis were arrested their cell phones or other electronic devices were seized by police. The Court cannot determine from the record before it exactly who else's devices were taken—whether cell phones or tablets—but for purposes of this motion, the Court specifically finds that some of those devices remain in the custody of law enforcement today.

8. It was not until June 23, 2015 that Detective Sloan came to believe the phone found located next to Ms. Long's body was not actually hers; rather that it could be the property of George Abrantes. Abrantes was not at the scene when law enforcement took possession of the cell phone on June 18, 2015. Mr. Abrantes contacted Detective Sloan and asked about the return of his phone. The detective told Abrantes that he would confer with the prosecutor [Ed. Note: not the Sheriff] to see whether the phone could be returned.

9. Detective Sloan contacted Karl Sloan, the Prosecuting Attorney handling the case at that time, and discussed the phone's return with him. The Prosecutor advised that the phone could be returned after all data was extracted as the state would have no further use for it as evidence. The Prosecutor instructed Detective Sloan to return the phone after a search of it.

...

12. Law enforcement did not turn on or otherwise view any data or information on the cell phone until they were contacted by Mr. Abrantes. Upon learning the phone could be Mr. Abrantes' property and conferring with the prosecutor, Detective Sloan sought a search warrant. The warrant was issued and executed in order to perform a software and hardware extraction of data contained on the phone. The search warrant itself is not in question.

13. On June 24, 2015, six (6) days after the alleged homicide, the cell phone was returned to Mr. Abrantes. See Field Division Memo dated June 24, 2015, filed as Appendix A to State's Response to Defendant's Motion to Dismiss, attached hereto as Exhibit C, and per sworn testimony of Detective Sloan on June 28, 2018. At that time, no other investigation of the phone or its contents, by either the state or defendant, had occurred. No one, other than law enforcement, had possession of the phone from the time it was seized by police at the scene on June 18, 2015 until it was returned on June 24, 2015.

...

16. Detective Sloan did not ever attempt to contact Mr. Abrantes and try to regain possession of the phone. When asked why during testimony on June 28, 2018, he replied "I didn't".

In late March, 2018, the defendant's current attorney, Stephen Pidgeon, met with Detective Sloan and new Prosecutor Branden Platter in Okanogan, Washington to view various items of evidence. At this time the former Prosecutor Karl Sloan was no longer involved in the case, having resigned from the position in the summer of 2017.

20. At the time of the March 2018 meeting, there was apparently **no mention of any problem with the data dump** from the Abrantes phone. [Bold added].

...

22. On July 6, 2015, Mr. Faire's then attorney, Nicholas Blount filed the Defendant's Omnibus Application and Order. ...

23. Paragraph 19 requires the prosecutor to “[d]isclose all evidence within plaintiff’s knowledge or in plaintiff’s possession favorable to the defendant or which tends to negate defendant’s guilt.”

24. Paragraph 24 requires the prosecutor to “[s]upply any reports or tests of physical . . . examinations in the control of the prosecution.”

25. Paragraph 25 requires the prosecutor to “[s]upply any reports of scientific tests, experiments or comparisons . . . pertaining to this case.”

26. Paragraph 36 requires the prosecutor to “[s]upply as soon as practical all discoverable information which subsequently comes into the hands or control of the prosecution.”

The Court went on to find as follows:

“The state acted unilaterally and arbitrarily in returning the phone to Mr. Abrantes six days after the alleged incident on June 24, 2015. The decision to return the phone was strictly within the control of the state. No one else had the ability to decide. Nowhere in the record is there mention of discussing the return with defense counsel otherwise allowing or offering an inspection of it. . . . The state’s choice to willfully return the phone violates the first requirement for an 8.3(b) violation.

“[T]here is no question but that the decision to return the phone to Mr. Abrantes was extremely or remarkably bad. . . . but for the decision to return the phone, it is highly unlikely that the Court would be facing this issue today.”

“There can be no excuse for a thirty-two (32) month delay (August 12, 2015 to late April 2018) before law enforcement notified the prosecutor of the lost evidence.”

“In this case the Abrantes phone was intentionally returned to Mr. Abrantes before any attempt was made to ensure the data extracted from it was retrievable. The decision to return the phone was not accidental or inadvertent; it was deliberate.”

Therefore, Mr. Faire makes the following allegations:

1. Detective Kreg Sloan was a "knowing and willing participant" in Karl Sloan's Brady Violation – i.e., Kreg Sloan was a party to Karl Sloan's egregious misconduct.
2. Detective Kreg Sloan either "knew or should have known" that Karl Sloan's directive to return the cell phone(s) to George Abrantes was a total violation of standard police practices and procedures regarding the preservation of evidence in a capital crime.
3. Prosecutor Karl Sloan directed his brother Detective Kreg Sloan to commit the act which Kreg Sloan knew or should have known was an egregious violation of

commonly accepted police practices and procedures in capital cases. Detective Kreg Sloan had a "duty and obligation" to seek approval and/or authorization from Sheriff Frank Rogers before returning this evidence to George Abrantes, and the record does not reflect that at any point such contact was made.

Please serve justice in this case by properly sanctioning or dismissing Kreg Sloan for his actions.

Please contact me as soon as possible with your decision.

Sincerely,



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Cc:

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