STATE OF MICHIGAN

IN THE MECOSTA COUNTY 77th DISTRICT COURT

PEOPLE OF THE STATE OF MICHIGAN,	**ANSWER TO PROSECUTOR'S MOTIONS TO QUASH SUBPOENAS AND PROOF OF SERVICE**
Plaintiff,	
-vs-	**FILE NO.: 15-45978-FY**
KEITH ERIC WOOD,	**HON. KIMBERLY L. BOOHER**
Defendant. /	

Brian E. Thiede (P32796)
Mecosta County Prosecutor
Attorney for Plaintiff
400 Elm Street, Room 206
Big Rapids, MI 49307
231-592-0141

David A. Kallman (P34200)
Stephen P. Kallman (P75622)
Kallman Legal Group, PLLC
Attorneys for Defendant
5600 West Mount Hope Hwy.
Lansing, MI 48917
(517) 322-3207/Fax: (517) 322-3208

NOW COMES the Defendant, **KEITH ERIC WOOD**, by and through his attorneys, Kallman Legal Group, PLLC, and in answer to Prosecutor's Motions to Quash Subpoenas hereby states as follows:

STATEMENT OF FACTS

Mr. Keith Wood was on a public sidewalk in front of the Mecosta County courthouse on the morning of November 24, 2015. Mr. Wood was handing out a pamphlet which informed juries of their rights established under Michigan law (see attached copy of *People v. St. Cyr*, 129 Mich App 471 (1983)). Mecosta County District Court Judge Peter Jaklevic took issue with Mr. Wood handing out information outside the courthouse and discussed the issue with Deputy Jeff Roberts.

Peter Jaklevic ordered Deputy Roberts to go outside and bring suspect into the courthouse to speak with him. Deputy Roberts also spoke with Detective Janet Erlandson and Prosecutor Brian Thiede about Mr. Wood handing out pieces of paper. Mr. Thiede also instructed Detective Erlandson and Deputy Roberts to bring Mr. Wood inside the courthouse to meet with Judge Jaklevic. Detective Erlandson and Deputy Roberts confronted Mr. Wood outside on the public sidewalk and demanded to see his papers. After being coerced and threatened with arrest by Deputy Roberts, Mr. Wood came inside the courthouse (please see the attached police reports).

Mr. Wood was escorted inside the courthouse and brought into a hallway where Judge Jaklevic, Mr. Thiede, and Assistant Prosecutor Nathan Hull were waiting. Mr. Wood never distributed any of the pamphlets inside the courthouse. Mr. Theide then directly questioned Mr. Wood. Upon information and belief, Mr. Thiede helped confiscate the pamphlets from Mr. Wood, thus placing Mr. Thiede in the chain of custody. Judge Jaklevic then ordered that Mr. Wood be arrested for jury tampering. At the time Mr. Wood was arrested, no jury had been sworn in on any case. In fact, no jury was sworn in at time that day in Mecosta County District Court.

After twelve hours in jail, Mr. Wood was arraigned on one felony charge of Obstruction of Justice and one misdemeanor charge of Jury Tampering. Despite being married with seven children, having his own small business in the area, and being no flight risk whatsoever, Magistrate Thomas Lyon set an excessive an unconstitutional bond of $150,000.00. Mr. Wood also requested a court-appointed attorney, but the District Court denied his request.

Kallman Legal Group, PLLC was retained by Mr. Wood on November 30, 2015. Mr. Wood's counsel received information from the prosecutor's office on December 3, 2015, including two police reports. Because of the information contained in the police reports, Mr. Wood's counsel filed subpoenas on December 4, 2015 for Judge Jaklevic, Magistrate Lyons, Mr. Theide, and Assistant Prosecutor Hull to appear, testify, and produce information and documents at the preliminary examination. Assistant Prosecutor Hull subsequently filed motions to quash all four subpoenas on Monday, December 7, 2015.

ARGUMENT

I. PROSECUTOR THIEDE IS A NECESSARY WITNESS.

Mr. Wood intends to call Mr. Thiede as a necessary and material witness at trial. The Court of Appeals has held:

> MRPC 3.7 provides, in pertinent part: (a) A lawyer shall not act as an advocate at a trial in which the lawyer is likely to be a necessary witness except where:
> (1) the testimony relates to an uncontested issue;
> (2) the testimony relates to the nature and value of legal services rendered in the case; or
> (3) disqualification of the lawyer would work substantial hardship on the client.
>
> **This rule is especially salient in criminal cases.** In *United States v. Birdman*, 602 F.2d 547 (C.A.3, 1979), the court offered four reasons why our justice system would be undermined if prosecutors could serve the dual roles of trial advocate and witness: (1) the risk that a prosecutor would not be a fully objective witness, (2) the prosecutor's position may artificially enhance his credibility, (3) jurors might fail to differentiate between the prosecutor's testimony and argument, and treat the latter as evidence, and (4) public confidence in the administration of justice could be undermined.

People v. Holtzman, 234 Mich. App. 166, 185-186 (1999) (emphasis added).

The prosecutor cites *People v. Tesen*, 276 Mich. App. 134, 144 (2006) as stating that "attorneys are not necessary witnesses if the substance of their testimony can be elicited from other witnesses." However, the prosecutor did not quote the entire sentence. The full sentence from *Tesen* reads:

> While there is no Michigan case explicitly defining the term "necessary witness," both the Michigan Supreme Court and this Court have found that attorneys are not necessary witnesses if the substance of their testimony can be elicited from other witnesses **and the party seeking disqualification did not previously state an intent to call the attorney as a witness.**

Id. (emphasis added). There are two requirements for a witness to not be considered necessary. It is not only whether other witnesses may be able to testify, it is also that the party seeking disqualification did not previously state an intent to call the attorney as a witness. Since Mr. Wood's counsel filed a subpoena of Mr. Theide one day after receiving initial discovery in the case, it is clear that there is an intent to call Mr. Thiede as a witness, thus making him a necessary witness.

The prosecutor also cites *People v. Petri*, 279 Mich. App. 407 (2008) to support his contention that Mr. Thiede is not a necessary witness. Again, the prosecutor only cites the first

prong of the test, whether there are other witnesses who can testify. However, the court further held:

> We find *Tesen* distinguishable, because here defendant did not make a timely demand to disqualify the prosecutor, nor did he demonstrate that the prosecutor would be a necessary witness at trial.

Id. at 418. In *Petri*, the defendant failed both requirements of the necessary witness test. In this case, Mr. Wood has made a timely demand for the prosecutor to be a witness which would clearly disqualify him from being prosecutor in this case.

Mr. Wood's reasons for calling Mr. Thiede as a witness are numerous. To begin, it appears Mr. Thiede took on a role beyond that of prosecutor, i.e. as a lead investigator. Mr. Thiede discussed the issue with Judge Jaklevic, worked with Judge Jaklevic and the police to improperly coerce Mr. Wood to come into the courthouse to ostensibly speak with the Judge, directly questioned Mr. Wood, and helped confiscate evidence of the alleged crime from Mr. Wood. Mr. Wood has a right to call Mr. Thiede as a witness to question him regarding everything that he did that day.

Beyond Mr. Thiede being a material witness to the alleged criminal activity, Mr. Wood's entire defense in this case is that Mr. Thiede, Judge Jaklevic, and other officials violated his First Amendment right to freedom of speech. The Court of Appeals has held:

> Judicial review is appropriate only where prosecutorial decisions are **"unconstitutional, illegal, or ultra vires or where the prosecutor has abused the power confided in him."** *People v Jackson*, 192 Mich.App. 10, 15; 480 N.W.2d 283 (1991) (citations omitted). Absent any such challenge **(which may require examination of the prosecutor's thought processes)**, e.g., an equal protection claim alleging racially biased prosecutions, the ability of the prosecutor to effectively carry out his constitutional responsibilities is undermined when the courts obtain access to documents such as the disposition record.

People v. Gilmore, 222 Mich. App. 442, 457-458 (1997) (emphasis added). Mr. Wood's main defense is that the prosecutorial decision in this case was completely unconstitutional. Mr. Wood is challenging Mr. Thiede's decision to criminalize his protected First Amendment expression. Moreover, as the Court of Appeals has indicated, it is appropriate and acceptable to require examination of the prosecutor's thought processes when constitutional rights are at stake. Mr. Theide's thought processes can only be examined if Mr. Thiede is a witness and under oath. Further, it would be impossible to examine the thought process of Mr. Thiede's unconstitutional behavior unless he is a witness, thus making him an absolutely necessary witness.

II. MR. WOOD'S SUBPOENAS ARE WITHIN THE SCOPE OF DISCOVERY.

The test to determine the scope of discovery in a criminal case is not whether the evidence is admissible, it is whether fundamental fairness requires the defendant have access to it. See *People v. Walton*, 71 Mich. App. 478 (1976). The Court of Appeals stated in Walton:

> It goes without saying that statements made by other witnesses are equally important for trial preparation. **This is particularly true, as in the case at bar, where the question of credibility may be preeminent. Any inconsistent or conflicting statements may have considerable impact upon the determination of the credibility of the parties and witnesses and may therefore be determinative of the outcome of this prosecution. Also, without an examination of the requested information, it is impossible to see if such information would be relevant and whether its suppression would lead to a failure of justice.**

Id. at 484 (emphasis added). Mr. Wood's subpoenas requested communications related to this case, not only from witnesses the prosecution is going to call, i.e. Judge Jaklevic and Magistrate Lyons, but also of any other potential witnesses who made or received statements regarding this case. If a potential witness made a statement about what occurred at the courthouse that day, Mr. Wood has a right to have a copy of the statement which could be useful in his defense.

MCR 6.201(B) states:

> Discovery of Information Known to the Prosecuting Attorney. Upon request, the prosecuting attorney must provide each defendant:
> (1) any exculpatory information or evidence known to the prosecuting attorney;

The United States Supreme Court held in *United States v. Bagley*, 473 U.S. 667, 676 (1985) that "[t]his Court has rejected any such distinction between impeachment evidence and exculpatory evidence." The Supreme Court went on to state:

> In the present case, **the prosecutor failed to disclose evidence that the defense might have used to impeach the Government's witnesses by showing bias or interest.** Impeachment evidence, however, as well as exculpatory evidence, falls within the Brady rule. See *Giglio v. United States*, 405 U.S. 150, 154 (1972). **Such evidence is "evidence favorable to an accused," Brady, 373 U.S. at 87, so that, if disclosed and used effectively, it may make the difference between conviction and acquittal.** *Cf. Napue v. Illinois*, 360 U.S. 264, 269 (1959) ("**The jury's estimate of the truthfulness and reliability of a given witness may well be determinative of guilt or innocence, and it is upon such subtle factors as the possible interest of the witness in testifying falsely that a defendant's life or liberty may depend**").

Id. (emphasis added). The court rule and case law are clear, the prosecutor must turn over all evidence which may be exculpatory or used for impeachment purposes. This would include all

statements of any potential witnesses who communicated with the prosecutor's office, Judge Jaklevic, or Magistrate Lyons. Mr. Wood has a right to that evidence and it cannot be withheld.

Since a sitting District Court Judge is a key witness for the prosecution in this case and judges have an implied amount of credibility, it is doubly important that Mr. Wood have access to all statements which could possibly be used for impeachment purposes. This includes not only statements made by Judge Jaklevic to the prosecutor's office, but also any statements Judge Jaklevic made to any Mecosta County employee, or the jury pool itself. It would be a severe miscarriage of justice to allow the prosecutor to call Judge Jaklevic as a witness, while barring Mr. Wood from access to all prior statements or impeachment evidence. Effectively, such a result would violate Mr. Wood's Sixth Amendment right to cross-examine a witness.

Further, since Mr. Thiede will also be a necessary witness in this case, and prosecutors also enjoy a certain level of implied credibility, any statements Mr. Thiede made to Judge Jaklevic, Magistrate Lyons, or anyone else must also be provided for impeachment purposes.

III. THERE IS GOOD CAUSE FOR MR. WOOD'S SUBPOENAS TO BE ENFORCED.

In the alternative, even if this court were to rule that Mr. Wood's subpoenas do not fall under the standard criminal discovery rules of MCR 6.201(A) or (B), the court should permit the subpoenas under MCR 6.201(I). MCR 6.201(I) states:

> Modification. On good cause shown, the court may order a modification of the requirements and prohibitions of this rule.

As stated above, the United States Supreme Court has placed a high priority on exculpatory and impeachment evidence. Since Mr. Wood's rights are at stake, the prosecutor's conduct must be examined because he inserted himself into this case. Moreover, since a judge and magistrate are testifying as witnesses, it is of the utmost importance that all evidence be made available to the defense. Again, the credibility of all witnesses will be at issue in this case. Mr. Wood must be given the opportunity to discover what statements those individuals have made regarding this case.

IV. MR. WOOD'S SUBPOENAS DO NOT VIOLATE THE WORK PRODUCT DOCTRINE.

The prosecutor argues that he does not have to comply with any part of Mr. Wood's subpoenas because apparently everything requested violates the work product doctrine. The Court of Appeals has held:

> The privilege from disclosure of attorney work product is most closely associated with the liberal discovery rules that attend to litigation in the state and federal courts in this country. "Under this rule any notes, working papers, memoranda or similar

> materials, prepared by an attorney in anticipation of litigation, are protected from discovery." Black's Law Dictionary (6th ed., 1990), p. 1606, citing F.R. Civ. P. 26(b)(3).

Messenger v. Ingham County Prosecutor, 232 Mich. App. 633, 637-638 (1999).

To begin, this doctrine is limited to things "prepared by" the prosecutor. Mr. Wood's subpoenas requested all communications sent to Mr. Thiede related to the case. By definition, a statement or communication sent by someone else to Mr. Thiede was not prepared by him, therefore, it cannot be protected by the work product doctrine. This would include any and all statements and communications that Judge Jaklevic, Magistrate Lyons, or others sent to Mr. Thiede related to this case. The Court of Appeals addressed this issue in *People v. Johnson*, 168 Mich. App. 581 (1988). In *Johnson*, the court held that it was proper for the trial court to order discovery of a letter written by the defendant's girlfriend to defense counsel because the letter did not constitute attorney work product and the girlfriend was not acting as an agent for the attorney. In the same way, letters or communications sent to the prosecutor's office related to this case cannot be attorney work product.

Apparently the prosecutor is arguing that he has working so closely with Judge Jaklevic, Magistrate Lyons, and all Mecosta County employees to facilitate the arrest and prosecution of Mr. Wood that all communications requested in the subpoenas are protected by the work product doctrine because they are all agents of the prosecutor. To argue such an expansion of the work product doctrine is not supported by any cited cases or court rule.

To be clear, Defendant is not requesting communications sent within the prosecutor's office between prosecutors or the prosecutor's office staff, as that would be protected by the work product doctrine. What Mr. Wood is requesting is that all communications with or from any other Mecosta County employee or Mecosta County Court employee, including Judge Jaklevic and Magistrate Lyons, be provided to Mr. Wood.

Finally, the prosecutor waived any possible work product doctrine privilege when he communicated with individuals outside of his office. The Court of Appeals has held that "[l]ike the attorney-client privilege, a party may waive work-product protections." *Augustine v. Allstate Ins. Co.*, 292 Mich. App. 408, 421 (2011). Also, just like attorney-client privilege, work product privilege can be waived by revealing the information to third parties. Even if this Court were to rule that all communications to all witnesses at the courthouse were attorney work-product of the prosecution, that privilege was waived when the prosecutor's office communicated it with third

parties. Defendant is at a loss as to how communications to or from the prosecutor's office with the judicial branch, its employees, or others, is protected by the work product doctrine.

V. DISQUALIFICATION OF PROSECUTOR.

Mr. Thiede is the head prosecutor for Mecosta County. Mr. Hull is his assistant. Because both are necessary witnesses and have violated Mr. Wood's constitutional rights, and for all the reasons stated above, it is clear that they and their office cannot continue as prosecutor in this case. Pursuant to MCL 49.160, Mr. Thiede should file a request with the Michigan Attorney General's office requesting a special prosecutor be appointed in this case. If Mr. Thiede refuses to disqualify himself, Mr. Wood will be filing a request with the Attorney General to have his office disqualified from the case.

WHEREFORE, Defendant Keith Wood respectfully requests that this Honorable Court deny the prosecutor's motions to quash Mr. Wood's subpoenas and grant such other and further relief as is just and appropriate.

Dated: December 8, 2015.

David A. Kallman
Attorney for Keith Wood

PROOF OF SERVICE

I, David A. Kallman, hereby affirm that on the date stated below I delivered a copy of the above Answer to Prosecutor's Motions to Quash Subpoenas upon the Mecosta County Prosecutor via First Class Mail, postage prepaid thereon, by fax to (231) 796-3050, and by e-mail to bthiede@co.mecosta.mi.us. I hereby declare that this statement is true to the best of my information, knowledge and belief.

Dated: December 8, 2015.

David A. Kallman

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129 Mich.App. 471 (Mich.App. 1983)

341 N.W.2d 533

PEOPLE of the State of Michigan, Plaintiff-Appellee,

v.

Rodney Leo ST. CYR, Defendant-Appellant.

Docket No. 62638.

Court of Appeals of Michigan.

October 10, 1983

Submitted March 8, 1983.

Released for Publication Dec. 15, 1983.

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Frank J. Kelley, Atty. Gen., Louis J. Caruso, Sol. Gen., George B. Mullison, Pros. Atty., and Thomas J. Rasdale, Asst. Pros. Atty., for the People.

State Appellate Defender by Richard B. Ginsberg, for defendant-appellant on appeal.

Before KELLY, P.J., and GRIBBS and TAHVONEN, [*] JJ.

TAHVONEN, Judge.

Defendant was convicted by a jury of armed robbery, M.C.L. Sec. 750.529; M.S.A. Sec. 28.797, and was sentenced to a term of 9 **[341 N.W.2d 534]** to 30 years in prison. He appeals as of right.

At trial, defendant did not deny that he committed the robbery. On the contrary, he testified extensively concerning his actions in planning and carrying out the robbery. However, he testified that his sole motivation in committing the robbery was to obtain money so that he could purchase food and Christmas presents for his daughter and fiancee. The trial court denied his request that the following instruction be given to the jury:

"The very essence of the jury's function is its role as

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spokesman for the community conscience in determining whether or not blame can be imposed. Many considerations enter into a jury's verdict which cannot be itemized and weighted in a chart of legal instructions. A jury is expected to stay within the bounds of reason, yet they may indulge tender mercies even to the point of acquitting the plainly guilty. Accordingly, you are entitled to act upon your conscientious feeling about what is a fair result in this case and acquit the defendant if you believe that justice requires such a result."

It appears that the issue of a criminal defendant's right to a jury "nullification" instruction has not been addressed in this state. Federal courts have uniformly held that no such right exists. See *United States v. Wiley,* 503 F.2d 106, 107 fn. 4 (CA 8, 1974), and cases cited therein. An exhaustive analysis of the issue is set forth in *United States v. Dougherty,* 154 U.S.App.D.C. 76, 93-100, 473 F.2d 1113, 1130-1137 (1972), cited with approval in *People v. Chamblis,* 395 Mich. 408, 426, 236 N.W.2d 473 (1975). See also *People v. Cazal,* 412 Mich. 680, 688, 316 N.W.2d 705 (1982). In Dougherty, supra, the court traced the historical development of the Anglo-American jury system. Although the court recognized that a jury in a criminal case does have unreviewable and irreversible power to acquit in disregard of the instructions given by the trial judge, the court declined to hold that the jury should be instructed concerning that power:

"The fact that there is widespread existence of the jury's prerogative [to dispense mercy], and approval of its existence as a 'necessary counter to case-hardened judges and arbitrary prosecutors,' does not establish as an imperative that the jury must be informed by the judge of that power. On the contrary, it is pragmatically useful to structure instructions in such wise that the jury must feel strongly about the values involved in

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the case, so strongly that it must itself identify the case as establishing a call of high conscience, and must independently initiate and undertake an act in contravention of the established instructions. This requirement of independent jury conception confines the happening of the lawless jury to the occasional instance that does not violate, and viewed as an exception may even enhance, the over-all normative effect of the rule of law. An explicit instruction to a jury conveys an implied approval that runs the risk of degrading the legal structure requisite for true freedom, for an ordered liberty that protects against anarchy as well as tyranny." Dougherty, supra, pp. 99-100, 473 F.2d 1136-1137.

Our Supreme Court has also recognized that juries in criminal cases have the power to dispense mercy by

returning verdicts less than warranted by the evidence. *People v. Vaughn,* 409 Mich. 463, 466, 295 N.W.2d 354 (1980); *People v. Lewis,* 415 Mich. 443, 449-450, 330 N.W.2d 16 (1982). However, the Supreme Court has also held that, although the jury has the power to disregard the trial court's instructions, it does not have the right to do so. *People v. Ward,* 381 Mich. 624, 628, 166 N.W.2d 451 (1969). See also *People v. Lambert,* 395 Mich. 296, 304, 235 N.W.2d 338 (1975). The trial court correctly denied defendant's requested instruction.

Defendant next complains that his Sixth Amendment right to counsel was violated by an on-the-scene identification which took **[341 N.W.2d 535]** place following his arrest without the presence of counsel.

We agree that the on-the-scene identification without counsel was improper since the police possessed strong evidence at the time they apprehended defendant that he was the culprit. *People v. Turner,* 120 Mich.App. 23, 35-36, 328 N.W.2d 5 (1982); *People v. Fields,* 125 Mich.App. 377, 336

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N.W.2d 478 (1983). However, we note that defendant's participation in these events was not in issue at trial. On the contrary, defendant fully admitted perpetrating the robbery. In any event, there was overwhelming independent evidence presented on this issue at trial, evidence which included inculpatory statements made by defendant prior to the time the complained-of identification took place. Therefore, we find the error to be harmless beyond a reasonable doubt. *People v. Robinson,* 386 Mich. 551, 563, 194 N.W.2d 709 (1972).

We also reject defendant's claim that the trial court erred in admitting statements defendant made to police following his arrest. The trial court's findings on this issue related to credibility. Its rulings that defendant waived his Miranda rights [*Miranda v. Arizona,* 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966)] and that his confession was voluntary were not clearly erroneous. *People v. Anglin,* 111 Mich.App. 268, 279-280, 314 N.W.2d 581 (1981).

Contrary to defendant's next claim, we do not believe that questioning of defendant by the prosecutor related to other crimes in which defendant was involved. *People v. DerMartzex,* 390 Mich. 410, 413, 213 N.W.2d 97 (1973). On the contrary, the prosecutor's questioning of defendant concerning his place of residence was designed to refute defendant's claim that he lived with his fiancee and child and provided for their support. Although defendant may have been prejudiced had the prosecutor been permitted to inquire more fully into this subject, the trial court's action in limiting that line of questioning removed any potential for prejudice.

Defendant finally contends that the prosecutor

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attempted to present improper rebuttal testimony on a collateral matter. The evidence was not objected to on this basis below. In any event, the trial court instructed the jury to disregard the evidence. No manifest injustice resulted from the prosecutor's attempt to question the witness on this issue. *People v. Bell,* 101 Mich.App. 779, 785, 300 N.W.2d 691 (1980).

Affirmed.

Notes:

[*] Randy L. Tahvonen, 29th Judicial Circuit Judge, sitting on Court of Appeals by assignment pursuant to Const.1963, Art. 6, Sec. 23, as amended 1968.

Michigan Department of Natural Resources

Environmental Investigation Section
Investigation Report

CASE #: 16-009
REPORT DATE: 11/24/15 COUNTY: Mecosta INVESTIGATOR: Det. Janet Erlandson

DATE OF OFFENSE: 11/24/15 TIME OF OFFENSE: DISTRICT COURT: 77

PLACE OF OFFENSE: 400 Elm Street

Case #: 16-009 Suspect #: 16-009-01 Alias:

First Name: Keith Middle: Eric Last: Wood

DOB: 04/27/1976 OPS #: W300465234323 SS #:

Race: W Sex: M Hair: Brown Eyes: Brown Height: 5' 07 Weight: 155

Address: 400 Elm Street City: Mecosta

State: Mi Zip: 49307 Home Phone: Work Phone:

Work Address: Work City:

Work State: Work Zip: FBI #: SID #:

☐ In Custody ☐ LEIN ☐ CCH MID #: Corp ID #:

Corporation Name /Company:

DBA County Clerk Registration: Resident Agent:

Registered Office:

Count #: 1 Suspect #: 16-009-01

Violation: Obstruction of Justice (Fugitive)

MCL: 750.483a PACC: 750.483a Charge: Misdemeanor

Comments: Jury Tampering/Attempting to Influence 750.120 A1

Michigan Department of Natural Resources
Environmental Investigation Section
Investigation Report

CASE #: 16-009
REPORT DATE: 11/24/15 COUNTY: Mecosta INVESTIGATOR: Det. Janet Erlandson

Narrative

Initial Information
On November 24, 2015, I assisted Court Bailiff Jeff Roberts in the arrest of a suspect for Jury Tampering after he was witnesses and admitted to handing out pamphlet's advising potential jurors to disregard the evidence presented in trial and they have the right to find the person not guilty at the Mecosta County District Court.

Suspect:
Keith Eric Wood
4/27/1976 W/M
8304 90th Avenue
Mecosta, Michigan

Investigation

I was scheduled to attend and testify in a misdemeanor trial against Andrew Yoder for violation of the Natural Resources and Environmental Protection Act, Part 301 Inland Lakes and streams and Wetlands Protection Part 303. Upon arrival, I observed a white male, wearing a blue jacket and jeans with brown hair cut short, handing out pamphlets to everyone heading into district court.

As I approached, I believe the subject later identified as Keith Wood, did observe my duty weapon, badge, handcuffs and additional magazine of duty ammunition concealed underneath my blazer. He stated you do not want one of my pamphlets do you. I asked what they were. He said they explained jury rights. I said any jury is explained their rights clearly by any presiding judge so that pamphlet is not necessary. I told him he could not block the sidewalk. He said he was a Christian and was a father of 7 and strongly believed in right and wrong. I said so did I and to move on. He asked if I was a person as I was walking up the steps and I said yes I am obviously a person and went inside. I did not take a pamphlet.

Just after I went inside, Department of Environmental Quality employee Brandie Stefanski walked up and said I was just handed a pamphlet from a guy outside. Then Nicole Marshall, Senior Legal Assistant/Victim Advocate took the pamphlet and looked at it and then handed it to the Assistant Prosecutor. A decision was then made by the Prosecutor Brian Thiede to bring Mr. Wood inside to see the judge. Deputy Roberts and I then went outside to see if Mr. Wood was still there. While the decision was being made, Deputy Roberts did go and retrieve many pamphlets from potential jury members.

Arrest

Deputy Roberts and I then went outside the courthouse and once outside, Deputy Roberts yelled at a group of Amish to come forward if they were handing out pamphlets. I told Deputy Roberts that it was not them. I pointed to Mr. Wood at the bottom of the sidewalk, the same place I had seen him earlier and told him to move away. I walked up to him and asked him to go inside, which the judge wanted to speak to him. He took 2 steps and then yelled, "Am I being detained?" Deputy Roberts told him if he did not come in the city police would come up and arrest him.

I asked Mr. Wood to accompany me up the sidewalk to the steps. I told him I did not know what

Michigan Department of Natural Resources
Environmental Investigation Section
Investigation Report

CASE #: 16-009
REPORT DATE: 11/24/15 COUNTY: Mecosta INVESTIGATOR: Det. Janet Erlandson

was going to happen other than the judge did want to talk to him. I did ask him prior to entering the building if he was carrying any bazookas or machetes. He said no. Mr. Wood came up the stairs voluntarily. Once inside there were approximately 80 Amish citizens in the lobby area, blocking our path. I then placed my hand on Mr. Wood's back to steer him through the crowd. He then said in a loud voice "Don't man handle me!" I told Mr. Wood that if I was going to man handle him that he would have already been face down on the ground. Mr. Wood said "Oh, Okay". He continued to walk. We then met with Mr. Thiede, Assistant Prosecutor Hull, and Judge Jaklevich. Mr. Wood was asked a few questions by Prosecutor Brian Thiede. Mr. Thiede then advised that Mr. Wood was to be arrested for Jury Tampering.

At that point, Deputy Roberts placed the handcuffs on Mr. Wood in the front and conducted a cursory pat down. I then escorted Deputy Roberts down the hall to the jail that adjoins the court building.

Statute Violation:

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

750.120a Willfully attempting to influence juror by intimidation or other improper means; retaliating against person for having performed duties as juror; penalties.
Sec. 120a.
(1) A person who willfully attempts to influence the decision of a juror in any case by argument or persuasion, other than as part of the proceedings in open court in the trial of the case, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

Status:
TOT Prosecutors Office Mecosta County

☐ PHOTOGRAPHS ☐ PROPERTY SEIZED ☐ EVIDENCE TO LAB ☐ RESTITUTION REQUESTED

INVESTIGATING OFFICER: Det. Janet Erlandson #910 Date:

SUPPERVISOR: # Approval ☐

CC:

☐ ADDITIONAL SUSPECTS: ☐ ADDITIONAL CHARGES: ☐ RELATED CASES:

Det J Erlandson
Investigator's Signature

DATE: 11/24/2015

TIME: 0900 HRS.

LOCATION: MECOSTA COUNTY COURTHOUSE

NAME: WOOD, KEITH ERIC W300465234323

8304 90th Ave.

Mecosta, Mich. 49332

CHARGES: FELONY OBSTRUCTION/JURY TAMPERING

COMP. #: 6743-15

INITIAL INFORMATION: On 11/24/2015 at approx. 0900 hrs., I was signing in possible Jurors for a 2 day trial that was scheduled in District Court.

INVESTIGATION: While signing in jurors, Judge Jaklevic came to me inquiring about some pamphlets being handed out to jurors. I advised him that I had not seen anyone handing out any pamphlets to anyone. Judge Jaklevic showed me a yellow pamphlet and I advised him that I had seen several people come in with them, but did not see what they were or saw anyone handing them the pamphlet. I was then told to go into the court room and collect all the pamphlets that were in there. At this point, I had approx. 25-30 jurors checked in and collected approx. 15 pamphlets. I was then told to go outside and bring the suspect into the building to speek with Judge Jaklevic.

I exited the north end of the building where I was informed that the suspect was. I saw a man on the sidewalk with a handful of yellow pamphlets and advised him to come into the building with me. He initially refused to come with me even after I advised him that the Judge wanted to speek with him, but eventually he did come in.

ACTION TAKEN: I escorted the man into the building where Judge Jaklevic and Mr. Thiede were waiting in the hallway. I advised that this was the man handing out the pamphlets. Judge Jaklevic advised me to take him to jail for jury tampering. I handcuffed the suspect in front and checked for tightness and double locked my cuffs. I immediatly escorted to suspect to the court door and handed him over to C.O. Thompson and advised him what he was charged with. I then reported back to the District Court door to finish signing in jurors. A pamphlet is attached

to this report.

Sincerely submitted: Deputy Jeff Roberts 54/41