

#107

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss.

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
NO. 2013-CR-00983

BRISTOL, SS SUPERIOR COURT  
FILED

AUG 13 2014

MARC J. SANTOS, ESQ.  
CLERK/MAGISTRATE

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COMMONWEALTH OF MASSACHUSETTS

v.

AARON HERNANDEZ

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**DEFENDANT’S MOTION FOR LEAVE TO SUBMIT  
TWO POLICE REPORTS  
AS ADDITIONAL EVIDENCE IN SUPPORT OF  
MOTION TO SUPPRESS**

The defendant Aaron Hernandez moves the Court for leave to submit two police reports as additional evidence on the *Valerio* issue in support of his motion to suppress the cell phones and iPads seized during the June 18, 2013 search of the Hernandez home in North Attleborough. In support of this motion, defendant states:

1. Trooper Michael Cherven testified on June 18, 2014 that he had the search warrant and affidavit in his possession in a manilla folder “at all times,” either with him or in his vehicle. Tr. 6/18/14, pp. 28-30.
2. The home video surveillance depicts Trooper Cherven entering the house at about 7:00 p.m. when the search begins. The last appearance that Trooper Cherven makes on the home surveillance system is at about 7:09 p.m., when he left the house, walking down the driveway with another officer and a male in a red-stripped shirt. The surveillance video continues until about 8:00 p.m., when it was disconnected by investigators in order to seize it and remove

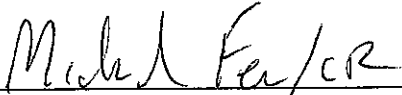
it from the premises. *See Affidavit of Kevin P. Canty*, filed on or about August 8, 2014.

3. In the course of preparing the submission identifying which files contain the video of Trooper Cherven, counsel became concerned that they had perhaps not seen him at a later time in the video, since his testimony suggested that he was present during the entire search.
4. As part of this double-checking, counsel realized that Trooper Cherven had interviewed two men who were present at the Hernandez home on June 18, Donnie Smith and Azia Jenkins. Reports by Trooper Eric Benson, attached hereto as Exhibits 1 and 2, state that he and Trooper Cherven interviewed Smith and Jenkins at the North Attleborough Police Department on June 18. According to the reports, Cherven and Benson interviewed Smith beginning at 7:32 p.m. and Jenkins at 8:38 p.m. Those interviews were videotaped and have been disclosed to the defense. Azia Jenkins appears to be wearing a red-striped shirt during the video recorded interview.
5. The defendant seeks leave to submit these reports as they appear to bear directly on the credibility of Trooper Cherven's testimony at the June 18, 2014 hearing. If Trooper Cherven was interviewing Donnie Smith at the North Attleborough Police Station at 7:32 p.m., he could not have been present throughout the execution of the search warrant at Hernandez's residence which was taking place at the same time.

Respectfully submitted,

**AARON HERNANDEZ**

By his attorneys,



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(617) 720-0011

**CERTIFICATE OF SERVICE**

I hereby certify that I served the foregoing document upon the Commonwealth by e-mailing and mailing a copy thereof, US mail, postage prepaid, to: William McCauley and Roger Michel, Assistant District Attorneys, Bristol County, 888 Purchase Street, New Bedford, MA 02740 on August 11, 2014.



Charles W. Rankin

Massachusetts State Police

ACISS INTERVIEW REPORT 2013-104-0367/16

Report Date: 07/09/2013

Primary Information	
Description:	Donnie Smith Interview 6/18/2013
Occurrence From:	06/18/2013 19:32
Dissemination Code:	report respect the security of its associated case
Reporting LEO:	Benson, Eric (msp3389 / Bristol Homicide Squad / MSP)
Approval Status:	Approved
Approved Date:	09/29/2013
Approved By:	Baker, Paul (msp2597 / Bristol Homicide Squad / MSP)

Synopsis
Donnie Smith Interview 6/18/2013

Record Status Information	
Record Origination Operator:	Benson, Eric (msp3389 / Bristol Homicide Squad / MSP)
Record Origination Date:	07/09/2013 15:54
Last Update Operator:	Baker, Paul (msp2597 / Bristol Homicide Squad / MSP)
Last Update Date:	09/29/2013 20:23

Reporting LEO	Date	Supervisor	Date
Benson, Eric (msp3389 / Bristol Homicide Squad / MSP)		Baker, Paul (msp2597 / Bristol Homicide Squad / MSP)	9/30/2013

Narrative begins on the following page.

**Exhibit 1**

**Massachusetts State Police****Report of Investigation**

1. Station State Police Detective Unit - Bristol District Attorney's Office		2. Case No. 2013-104-0367		
3. Project 09A	4. Controlling Case No. 2013-104-0367	5. Report No. 16	6. Page 1 of 1	
7. Reporting Officer (Rank, First, MI, Last & ID#) Trooper Eric J. Benson #3389		7a. Signature		7b. Date Prepared
8. Approved by (Rank, First, MI, Last & ID#) Lieutenant Michael V. King #1296		8a. Signature		8b. Date Approved
<b>9. Subject: Homicide 6/17/2013: Odin L. Lloyd DOB: 11/14/1985 Donnie Smith Interview on 6/18/2013</b>				

On Tuesday, June 18, 2013, at approximately 7:32 p.m., Trooper Michael Cherven and I, Trooper Eric J. Benson #3389, interviewed Donnie Smith in regard to the homicide of Odin Lloyd. The interview, which was audio and video recorded, took place within an interview room in the Detective Division of the North Attleborough Police Department. The audio and video recording of the interview was burned onto a DVD and entered into evidence at the North Attleborough Police Department (North Attleborough Police Department Property #2013000001332). The substance of Donnie Smith's statement is recorded on the DVD submitted into evidence at the North Attleborough Police Department.

Donnie Smith voluntarily consented to a search of his Nokia cellular telephone associated with telephone number (704)-957-5509. Donnie Smith signed a North Attleborough Police Department Consent to Search Computer Equipment / Electronic Data Form authorizing the search of his Nokia cellular telephone associated with telephone number (704)-957-5509 at approximately 11:00 p.m. on Tuesday, June 18, 2013.

**Name Index**

1.) Interviewed: Donnie T. Smith DOB: 07/10/1974 SS#: 040-66-3356  
2519 Mullis Lane, Matthews, NC, 28105  
(704)-957-5509

Massachusetts State Police

ACISS INTERVIEW REPORT 2013-104-0367/15

Report Date: 07/09/2013

Primary Information

Description: Azia Jenkins Interview 6/18/2013  
Occurrence From: 06/18/2013 20:38  
Dissemination Code: report respect the security of its associated case  
Reporting LEO: Benson, Eric (msp3389 / Bristol Homicide Squad / MSP)  
Approval Status: Approved  
Approved Date: 09/29/2013  
Approved By: Baker, Paul (msp2597 / Bristol Homicide Squad / MSP)

Synopsis

Azia Jenkins Interview 6/18/2013

Record Status Information

Record Origination Operator: Benson, Eric (msp3389 / Bristol Homicide Squad / MSP)  
Record Origination Date: 07/09/2013 15:38  
Last Update Operator: Baker, Paul (msp2597 / Bristol Homicide Squad / MSP)  
Last Update Date: 09/29/2013 20:07

Reporting LEO	Date	Supervisor	Date
Benson, Eric (msp3389 / Bristol Homicide Squad / MSP)		Baker, Paul (msp2597 / Bristol Homicide Squad / MSP)	9/30/2013

Narrative begins on the following page.

**Exhibit 2**

**Massachusetts State Police****Report of Investigation**

1. Station State Police Detective Unit - Bristol District Attorney's Office		2. Case No. 2013-104-0367	
3. Project 09A	4. Controlling Case No. 2013-104-0367	5. Report No. 15	6. Page 1 of 1
7. Reporting Officer (Rank, First, MI, Last & ID#) Trooper Eric J. Benson #3389		7a. Signature	
7b. Date Prepared			
8. Approved by (Rank, First, MI, Last & ID#) Lieutenant Michael V. King #1296		8a. Signature	
8b. Date Approved			
<b>9. Subject: Homicide 6/17/2013: Odin L. Lloyd DOB: 11/14/1985 Azia Jenkins Interview on 6/18/2013</b>			

On Tuesday, June 18, 2013, at approximately 8:38 p.m., Trooper Michael Cherven and I, Trooper Eric J. Benson #3389, interviewed Azia Jenkins in regard to the homicide of Odin Lloyd. The interview, which was audio and video recorded, took place within an interview room in the Detective Division of the North Attleborough Police Department. The audio and video recording of the interview was burned onto a DVD and entered into evidence at the North Attleborough Police Department (North Attleborough Police Department Property #2013000001333). The substance of Azia Jenkins' statement is recorded on the DVD submitted into evidence at the North Attleborough Police Department.

Azia Jenkins voluntarily consented to a search of his Galaxy Note 2 cellular telephone associated with telephone number (203)-464-6405. Azia Jenkins signed a North Attleborough Police Department Consent to Search Computer Equipment / Electronic Data Form authorizing the search of his Galaxy Note 2 cellular telephone associated with telephone number (203)-464-6405 at approximately 10:00 p.m. on Tuesday, June 18, 2013. [The cellular telephone number for the Galaxy Note 2 was initially recorded as (203)-464-6505, but was later determined through Cellebrite to be (203)-464-6405.]

Azia Jenkins also voluntarily consented to a search of his Samsung cellular telephone associated with telephone number (860)-845-7433. Azia Jenkins signed a North Attleborough Police Department Consent to Search Computer Equipment / Electronic Data Form authorizing the search of his Samsung cellular telephone associated with telephone number (860)-845-7433 at approximately 10:17 p.m. on Tuesday, June 18, 2013.

**Name Index**

1.) Interviewed: Azia E. Jenkins      DOB: 10/31/1973      SS#: 040-66-9248  
289 Belden Road, Hamden, CT 06514  
(203)-464-6405 / (860)-845-7433