

CASE NUMBER: ^{#1090} 17F008

CASE NAME: IN RE THE MATTER OF: **CRYSTAL HOLMES**

PASADENA, CALIFORNIA FRIDAY, AUGUST 11, 2017

DEPARTMENT NE-C HON. DARRELL MAVIS, JUDGE

REPORTER: MARTHA EMERICH, CSR NO. 6864

TIME: 8:58 A.M.

APPEARANCES:

PETITIONER HOLMES, PRESENT, REPRESENTED BY
 GARY WENKLE SMITH, ATTORNEY AT LAW; CHRISTOPHER
 STOGEL, DEPUTY DISTRICT ATTORNEY, REPRESENTING
 THE PEOPLE OF THE STATE OF CALIFORNIA.

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THE COURT: THIS IS IN THE MATTER OF CRYSTAL
 HOLMES, 17F008.

MR. SMITH: GOOD MORNING, YOUR HONOR.

GARY SMITH FOR MS. HOLMES, WHO IS PRESENT
 IN COURT OUT OF CUSTODY.

MR. STOGEL: CHRISTOPHER STOGEL FOR THE PEOPLE.

YOUR HONOR, WE'RE HERE FOR THE PETITION
 TO -- UNDER 851.8. AT THIS POINT THE PEOPLE ARE NOT GOING
 TO SUBMIT ON THE MOTION, BUT I AM ASKING THE COURT -- I
 HAVE A COPY OF THE POLICE REPORT ISSUED, AS WELL AS
 THERE'S A VIDEO THAT CAPTURED THE EVENT, AND I JUST ASK
 THE COURT TO REVIEW THAT. IT'S APPROXIMATELY A
 30-SECOND-LONG VIDEO, AND THE REPORT IS FIVE PAGES OR
 EIGHT PAGES TOTAL WITH THE PROPERTY LIST IN IT. AND THEN
 THE COURT CAN MAKE THE RULING, IF THAT'S HOW THE COURT

WANTS TO PROCEED.

THE COURT: OKAY.

WELL, IF THERE'S NOT AN AGREEMENT, THEN WE WOULD, ESSENTIALLY, DO THE HEARING.

MR. SMITH: WELL, WE'RE PREPARED TO DO THAT, YOUR HONOR. I SPOKE WITH COUNSEL THIS MORNING, AND HIS POSITION SEEMS TO BE THAT IF THE COURT FINDS WHAT WAS -- WHAT WAS DETERMINED BY BOTH DETECTIVE TAYLOR, WHO IS PRESENT, YOUR HONOR, WHO WILL BE TESTIFYING, SHOULD IT BECOME NECESSARY, AND WE'LL REVIEW THE VIDEO, THAT THE COURT WOULD ARRIVE AT THE SAME CONCLUSION, THAT THE ALLEGATION IS CONTRADICTED BY THE VIDEO EVIDENCE AND THAT WAS WHY THERE WAS A REQUEST FOR NO FILING. IT WAS SIGNED BY BOTH DETECTIVE TAYLOR, AND --

AM I SAYING HIS NAME CORRECTLY, DVER?

MR. STOGEL: DVER.

MR. SMITH: -- DEPUTY DISTRICT ATTORNEY ROB DVER.

AND I BELIEVE THAT DETECTIVE TAYLOR ALSO REVIEWED IT WITH DEPUTY DISTRICT ATTORNEY STOGEL, AND I THINK WHAT I AM GETTING FROM MR. STOGEL IS HIS OFFICE DOESN'T WANT TO STIPULATE, BUT HE WANTS YOU TO MAKE THAT DECISION, AND HE BELIEVES THAT'S IN YOUR HANDS.

THE COURT: OKAY.

CAN I SEE THE VIDEO.

MR. STOGEL: YES.

YOU MIND IF I JUST APPROACH WITH MY LAPTOP?

THE COURT: WELL, COULD I JUST TAKE -- DO YOU HAVE IT -- IS IT ON A C.D.?

MR. STOGEL: YES. #.1092

THE COURT: CAN I JUST TAKE A LOOK AT IT IN CHAMBERS.

(A DISCUSSION HELD BETWEEN THE COURT CLERK AND THE COURT, NOT REPORTED.)

THE COURT: BECAUSE I AM ESSENTIALLY -- YOU CAN CONDUCT THE HEARING. IF BOTH OF YOU ARE AGREEING TO SUBMIT ON THE DOCUMENTS, I MEAN, THERE'S NO OBJECTION, THEN I CAN.

MR. STOGEL: I WOULD THINK AT THIS POINT IF THE COURT, AFTER SEEING THE VIDEO, WHICH I WILL MARK AS PEOPLE'S 1, AND THEN I WILL MARK THE LOS ANGELES SHERIFF'S COUNTY REPORT WHICH IS EIGHT PAGES COLLECTIVELY AS PEOPLE'S 2, I CAN SUBMIT THIS TO THE COURT. THE COURT CAN REVIEW THEM, AND I WOULD -- IF THE COURT OPENS THE VIDEO WITH QUICK TIME PLAYER, IT WILL PLAY IN THE CORRECT ANGLE.

THE COURT: RIGHT.

MR. SMITH: AND I AM GOOD WITH THAT, YOUR HONOR.

THE COURT: 1 AND 2 ARE ADMITTED.

MR. SMITH: CERTAINLY.

THE COURT CLERK: BY REFERENCE?

THE COURT: BY REFERENCE.

(PEOPLE'S EXHIBIT NOS. 1 AND 2, A CD-ROM DISK AND POLICE REPORT, WERE MARKED AND RECEIVED BY REFERENCE.)

THE COURT: IS THERE ANYTHING ELSE YOU WANT ME TO REVIEW?

MR. SMITH: ONLY, YOUR HONOR, I BELIEVE THERE'S ALSO ATTACHED TO THE POLICE REPORT WHAT WE CALL A TURN-DOWN OR THE REJECTION SHEET. I WANT YOU TO REVIEW THAT, TOO, AND THEN WERE YOUR HONOR TO HAVE ANY QUESTIONS AFTERWARDS, PERHAPS I MIGHT NEED TO CALL DETECTIVE TAYLOR.

THE COURT: OKAY.

MR. SMITH: I ANTICIPATE THAT YOU WON'T.

THE COURT: OKAY.

I'LL LOOK AT IT.

MR. SMITH: THANK YOU.

(BRIEF RECESS.)

THE COURT: WE'RE BACK ON THE RECORD IN THE MATTER OF CRYSTAL HOLMES. ALL COUNSEL ARE PRESENT.

MR. SMITH: YES, YOUR HONOR.

THE COURT: AND I HAVE REVIEWED THE VIDEO AND THE ARREST REPORT.

MR. SMITH: MAY I BE HEARD?

THE COURT: PLEASE.

MR. SMITH: THANK YOU, YOUR HONOR.

AND, AGAIN, SHOULD YOUR HONOR NEED TESTIMONY, WE DO HAVE DETECTIVE TAYLOR, WHO HAS VIEWED WHAT YOU HAVE SEEN. BUT MIGHT I SUGGEST THAT BASED UPON THE POLICE REPORT, AND MS. HARRIS TOLD THE ARRESTING OFFICER THAT SHE OBSERVED MS. HOLMES DRIVE HER CAR TOWARD

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HER AND THAT SHE WAS FEARFUL AND SHE HAD TO SCOOT TO GET OUT OF THE WAY. AND BASED UPON THE VIDEO -- AND I HAVE SEEN IT MYSELF A NUMBER OF TIMES, AND DETECTIVE TAYLOR HAS; I THINK WE ALL HAVE NOW -- IT'S OBVIOUS THAT'S NOT TRUE.

IN FACT, WHEN SHE WAS WALKING ACROSS THE STREET, SHE IS, PART OF THE TIME, LOOKING AT HER CELL PHONE, AND SHE IS SMILING AS SHE COMES ACROSS THE STREET. IT WASN'T UNTIL HER FATHER, MR. HARRIS, SAID SOMETHING TO HER THAT SHE BEGINS TO SHOW ANY KIND OF CONCERN. SHE NEVER REALLY DID SEEM TO SHOW ANY KIND OF CONCERN, YOUR HONOR.

AND SO BASED UPON THE OBVIOUS WHICH IS SHOWN BY VIDEO AND WAS BELIEVED BY BOTH DETECTIVE TAYLOR AND DEPUTY DISTRICT ATTORNEY DVER THAT THE VIDEO DOES NOT SUPPORT MS. HARRIS'S CLAIM THAT MS. HOLMES ATTEMPTED TO RUN HER OVER OR HIT HER WITH HER CAR, AND, I BELIEVE, YOUR HONOR, BASED UPON THE HISTORY OF MS. HOLMES HERSELF, THAT SHE'S THE EXACT PERSON THAT 851.8 WAS WRITTEN FOR, EXACT KIND OF PERSON. SHE HAS NO CRIMINAL HISTORY. SHE IS INNOCENT OF THIS CHARGE. SHE SHOULD NOT HAVE BEEN ARRESTED HAD THE VIDEO BEEN SEEN BY THE DEPUTIES WHO DID ARREST HER.

BUT HAVING BEEN SEEN BY THE INVESTIGATING OFFICER, DETECTIVE TAYLOR, HAVING BEEN SEEN BY DEPUTY DISTRICT ATTORNEY DVER AND YOUR HONOR, IT'S OBVIOUS THAT THIS WOMAN WASN'T TELLING THE TRUTH. AND THERE'S A MENTION OF SOME HISTORY BETWEEN THEM WHICH WAS THE SUBJECT

OF SOME OTHER LITIGATION IN THE PAST, YOUR HONOR. THAT WOULD -- THAT WOULD GIVE THE COURT AN IDEA WHY SOMEONE MIGHT MAKE UP SOMETHING LIKE THIS. BUT IT'S CLEAR THAT SHE DID. IT'S CLEAR THAT SHE MADE IT UP; THAT IT DIDN'T HAPPEN; THAT MS. HOLMES DIDN'T TRY AND HIT HER, HAD NOTHING TO DO WITH HER, THAT SHE WASN'T SCARED AT ALL. SHE WAS SMILING.

SO I AM IMPLORING YOUR HONOR TO GRANT THIS PETITION.

THE COURT: MR. STOGEL?

MR. STOGEL: THE PEOPLE WOULD SUBMIT BASED ON THE ARREST REPORT AND VIDEO PROVIDED TO THE COURT.

THE COURT: YEAH, I DON'T SEE THAT THERE'S -- I THINK -- CERTAINLY I SEE THAT THE PEOPLE DIDN'T FILE THIS CASE BECAUSE THE EVIDENCE DOESN'T SUPPORT THE CHARGE. THE COURT IS GOING TO SIGN THE ORDER.

ANY OBJECTION TO THE PROPOSED ORDER?

MR. STOGEL: NO, YOUR HONOR.

THE COURT: OKAY.

THEN THE COURT WILL -- HAS SIGNED THE PROPOSED ORDER AND REFLECTING THE FACT THAT THE PETITION TO SEAL AND DESTROY THE RECORDS IS GRANTED.

MR. SMITH: THANK YOU SO MUCH, YOUR HONOR. VERY MUCH.

THE COURT: AND I AM GOING TO RETURN THE EXHIBITS BACK TO THE PEOPLE.

MR. STOGEL: THANK YOU.

MR. SMITH: NO OBJECTION TO THAT, YOUR HONOR.

THANK YOU.

THE COURT: OKAY.

HAVE A GOOD DAY, OKAY.

(PROCEEDINGS CONCLUDED.)

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CASE NUMBER:

#1097
17F008

CASE NAME:

IN RE THE MATTER OF: **CRYSTAL HOLMES**

PASADENA, CALIFORNIA

FRIDAY, OCTOBER 13, 2017

DEPARTMENT NE-C

HON. DARRELL MAVIS, JUDGE

REPORTER:

MARTHA EMERICH, CSR NO. 6864

TIME:

8:57 A.M.

APPEARANCES:

PETITIONER HOLMES, PRESENT, REPRESENTED BY
GARY WENKLE SMITH, ATTORNEY AT LAW; RYAN ERLICH,
DEPUTY DISTRICT ATTORNEY, REPRESENTING THE
PEOPLE OF THE STATE OF CALIFORNIA.

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THE COURT: PEOPLE VERSUS HOLMES -- EXCUSE ME, IN
THE MATTER OF CRYSTAL HOLMES IS 17F008.

MR. SMITH: GOOD MORNING, YOUR HONOR.

GARY SMITH FOR MS. HOLMES, WHO IS PRESENT
BEFORE THE COURT, SITTING IN THE AUDIENCE.

IF YOU'D LIKE HER TO COME FORWARD, SHE
WILL.

THE COURT: PLEASE.

MR. ERLICH: RYAN ERLICH FOR THE PEOPLE.

THE COURT: OKAY.

IS THIS HERE TO -- FOR A MOTION TO SEAL?

MR. SMITH: YOUR HONOR GRANTED THAT.

THE COURT: OKAY.

MR. SMITH: THAT WAS THE PETITION FOR FINDING OF
FACTUAL INNOCENCE, AND THIS IS A FOLLOW-UP, YOUR HONOR,

#1098

WHICH I BELIEVE SHOULD BE GRANTED ONCE THERE IS A FINDING OF FACTUAL INNOCENCE, WHICH IS A PETITION TO EXPUNGE THE D.N.A. PROFILES AND SAMPLES. AND THE WAY IT GOES IS ONCE THE COURT ISSUES THE ORDER AND IT'S RECEIVED, THEN THE DEPARTMENT OF JUSTICE MUST DESTROY THE SAMPLE AND THEN ELIMINATE FROM THE SYSTEM THE PROFILE, AND THAT'S WHAT WE'RE ASKING THE COURT TO DO.

THE COURT: MR. ERLICH?

MR. ERLICH: I AM GOING TO SUBMIT ON THE MOTION, YOUR HONOR.

I DID HAVE A CHANCE TO LOOK AT THE COURT ORDER RELATED TO THE FINDING OF FACTUAL INNOCENCE, AND I DID CONSULT THE CODE. IT APPEARS TO ME THAT EVERYTHING IS IN ORDER AND MS. HOLMES IS ENTITLED TO THE EXPUNGEMENT OF HER D.N.A. PROFILE AND SAMPLE.

THE COURT: OKAY.

I HAVE -- I AM GOING TO GRANT THAT AND SIGN THE ORDER THAT IS HERE IN THE COURT FILE.

IS THERE ANYTHING ELSE?

MR. SMITH: NOTHING MORE, YOUR HONOR.

THANK YOU VERY MUCH.

THE COURT: OKAY.

THANK YOU VERY MUCH FOR YOUR PATIENCE.

MR. SMITH: OH, WELL, IT'S A PLEASURE BEING HERE. IT IS.

THE COURT: GOOD LUCK.

(PROCEEDINGS CONCLUDED.)

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