

IN THE CIRCUIT COURT IN AND FOR ESCAMBIA COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff

Case No. 20015CF005154A

Division: C

Hon. Thomas Dannheisser

Vs.

RONALD CLARK BALL

Defendant

STATE OF FLORIDA

COUNTY OF ESCAMBIA

DEFENDANT'S MOTION TO DISMISS

The Defendant, RONALD CLARK BALL, a Pro Se Litigant, pursuant to Fla. R. Crim. P. 3.190(c)(4), hereby moves to at this time for the Court to dismiss counts 1, 2, 3, 4, and 5 of the charges against the Defendant, and to dismiss the case in its entirety. The State has, through the State Attorney of the 1st District of Florida, knowingly brought charges based upon what the prosecution knew to be a false accuser, who swore a materially perjured Affidavit, that was parroted by a government employee in multiple Affidavits equally impeachable and perjured; that the State intentionally withheld volumes of exculpatory evidence from the Defense that would have exonerated the Defendant, covered up criminality and perjury by the accuser, misappropriated government resources to conduct a "future forfeiture" search for hidden assets of "gold bullion" or hidden cash, annuities from a personal injury settlement, or "inheritance," in

collusion with the accuser's private attorney representing her in a parallel civil case, thus making a government office paid for by Florida Taxpayers, the collection agent for a civil matter and proceedings; the Assistant State Attorney under the direction and approval of the elected State Attorney for the 1st District of Florida and Escambia County, conducted himself during the investigation and in pre-trial hearings in a manner that is indisputably dishonest, with gross misconduct and malfeasance; that the State ignored and made charges, introduced irrelevant discovery, withheld exculpatory evidence from the Defense, showed disregard for the Constitutional rights of the Defendant, Florida laws, statutes of limitations, and codes, resulting in false charges, false imprisonment of the Defendant, and the violation of his civil rights; and finally that the Defendant has introduced through his own evidence and Judicial Notice, that proves the case against him by the State, the claims against him by a false accuser, who was the former business partner, domestic partner and former lover, who lived together, are baseless and without merit.

While the accuser's false and perjured Affidavit, and subsequent repeating by a local state investigator, thus impeaching his own sworn testimony (*Moony v. Holohan*, SUPREME COURT OF THE UNITED STATES, 1935; *Giglio v. U.S.*; *Guzman v. State*) thus impeaching his sworn Affidavits, or the misuse of a government office and resources at the behest of a private law firm, or the intentional withholding of exculpatory evidence (*Brady v. Maryland*, Supreme Court, 1963; *U.S. v. Bagley*), can alone and by themselves result in the cause to be dismissed, it is the totality of the reasons herein that makes the necessity of dismissal justifiable, and to be immediate.

Although the single indisputable instances related to these reasons for dismissal are numerous in their entirety, perhaps too numerous to list here, however a substantive reconciling in this motion to dismiss shall be laid out as follows:

The False Affidavit of the Accuser Rhea Kessler

The Kessler Fund LLC and Noka World Energy (USA) LLC Operating Agreements (previously filed in this case and with 2015CA000813) are the important legally binding documents that establishes the basis for spotlighting the accuser's false statements, and the dozens of checks and transactions in accounts of the LLCs and her private accounts funded by the LLCs, that renders her Affidavit perjured and false. Unfortunately, at the expense of the taxpayers, the State knowingly used her false testimony to create their own litany of false Affidavits, sworn by State Investigator Wells, for a series of warrants, an illegal search, false arrests, false charges, and false imprisonment, at this juncture, all indisputable. *Brady* is virtually on all fours with this case, for the same conclusion would follow from the logic in that decision, particularly when applied to the extraordinary broad false charges in this case. *Brady* was an elaboration of earlier decisions in which the Government obtained convictions by misleading the Court and jury about the true facts—such as by knowingly using perjured testimony, or deliberately withholding key information. See *Brady*, 373 U.S. at 86-88; *Kyles*, 514 U.S. at 432 (“The prosecution’s affirmative duty to disclose evidence favorable to a defendant can trace its origins to early 20th-Century strictures against misrepresentation”).

At the crux of the accuser's Affidavit are the false assertions that Ms. Kessler “entrusted approximately \$1.190 million to Mr. Ball's control for my benefit,” ignoring the fact that funds were loaned to Noka World Energy (USA) LLC, where the Operating Agreement shows both the accuser and the Defendant were equal partners, with each having trading authority and equal control; “Mr. Ball used my money to rent a condo,” when volumes of checks, statements, and signature cards indicated accounts with the address of the condo and the accuser's name printed

on them (see attachment), as well as checks written to the accuser, cashed and deposited by the accuser, and written by the accuser; “Less than \$80,000 of the money managed was spent on my personal expenses,” when dozens of transfers, transactions, charges, payments, statements, all part of the State’s discovery, show usage to be closer to \$500,000, before adding the State’s withheld exculpatory evidence of Kessler’s HCG business account at Hancock and Whitney Banks, Marykay purchases, repairs of properties in Ohio, Florida, North Carolina, and Georgia, and payments to law firms retained by Ms. Kessler are even added to the tally, and yet there are still more expenditures of Ms. Kessler’s as yet undiscovered to date. Last in this listing of the 16 items on the accuser’s Affidavit is the claim that “To date Mr. Ball has not returned any of the \$1,190,000,” which is indisputably false, as a very simple and basic accounting review of the bank accounts, brokerage accounts, credit card statements listing itemized transactions will show. The last statement by the accuser was repeated numerous times by Mr. Wells to obtain various warrants for arrests and search and seizure, as he borrowed her perjury to manufacture his own, at the direction of the State’s Attorney’s Office. (*Thorp v State*, Supreme Court of Florida, Nov: 16, 2000).

In all, of the 16 statements made by Ms. Kessler on her sworn Affidavit of October 16, 2015, only one is remotely true, that “My name is Rhea Kessler, I am over the age of 18 years.”

The State’s Withholding of Exculpatory Evidence

From the Defense

The State, as all Governments in the United States, have a Constitutional duty to disclose evidence. The Fifth and Fourteenth Amendments require the State to disclose specific types of evidence to defendants (*Brady v Maryland*). Due process requires the prosecution to disclose evidence favorable to the accused when such evidence is material to guilt or punishment.

Indisputable is the fact that the State has withheld evidence from the Defense favorable to the Defendant, and has submitted reams of irrelevant discovery such as the Defendant's college transcripts from the University of Florida, dated 1977-1979. The State has not produced any financial forensics of actual losses in accounts at Credit Suisse or elsewhere; or evidence of the numerous lawsuits that the accuser has been involved in; or the huge losses in other investments of the accuser amounting to over \$1,000,000. None of that evidence has been produced by the State, all withheld. Indeed, the State's ongoing efforts to withhold such exculpatory evidence strongly suggest an institutional hostility to Brady that has made the Defendant, and should make the Court, extremely skeptical of any assurance from the State that it understands its *Brady* obligations and would ever intend to honor them. The evidence is pertinent because both LLCs managed and owned equally by the Defendant and the accuser were paying bills associated with those other entities of Ms. Kessler's, that sustained losses. (see attached). The State has intentionally withheld evidence, or covered up that evidence because with that evidence the accuser's allegations and the State's charges indicate a consciousness of knowledge that the cause against the Defendant is indisputably a sham. (Fourteenth Amendment to the Constitution).

The State also withheld or covered up evidence of the accuser's own bad acts, such as trespassing on the Defendant's property, threatening the Defendant's 92-year-old mother, illegally selling HCG diet drops over the internet without a proper license as a dietician, and when the drug had been banned by the FDA (see previous filing). The Defendant has ample cause to know that the State is withholding evidence that casts grave doubts about the accuser, the quality of the State's investigations, including evidence of bad acts, investment losses, and other material financial losses wrought by Ms. Kessler acting on her own, or with others.

The State Acting as Collection Agent

For a Private Law Firm

Although in the five charges the State does not allege any details, only vague generalizations, there are numerous indisputable facts. To begin with, the State, 1.) arrested the Defendant and 2.) pursued charges of Felony Grand Theft and Money Laundering, both in the First Degree, based upon, 3.) the allegations of one accuser, without ever 4.) interviewing the Defendant, and determining the extent of the relationship, business or otherwise, between the accuser and the Defendant, for example that they were 5.) lovers and 6.) lived together. All of the six aforementioned are indisputable. Therefore, what is also indisputable is there was never an investigation before the arrest, and what is now also indisputable, is the fact that the investigation to date has been at best lackluster, focusing instead on asset searches and withholding exculpatory evidence.

The State is obligated to disclose, upon request, any unfavorable evidence to the accuse where evidence is material to guilt or punishment. *Brady v. Maryland*, 373 U.S. 83, 87 (1963); *Giglio v. United States*, 405 U.S. 150, 154 (1972). Favorable evidence includes both evidence that is directly exculpatory and impeachment evidence. *United States v. Bagley*, 473 U.S. 667, 676-77 (1985). Intentionally withheld by the State has been all financial forensics of the alleged stolen \$1,190 million. Indisputable – 1.) no accounting of money spent by and for the accuser and her family, or for other ventures; 2.) no accounting for losses at E*TRADE and Credit Suisse; 3.) no accounting for losses of the accuser on rental properties in Ohio and Georgia, or for the flooding in Florida; 4.) no accounting for losses on the accuser's illegal scheme for internet sales of HCG (in fact, no mention of the illegal scheme, banned by the FDA, what-so-ever); 5.) no accounting for losses on the accuser's Texas-based Life Settlement Limited Partnership. The accounting is the

responsibility of the State, in order to prove their case, not the Defense, where it would be in the civil case of 2015CA000813, or face a summary judgement.

The State has however, spent a great deal of the taxpayer's money in an asset search of the Defendant, not for money missing from the \$1.190 million, because these funds are indisputably accounted for (see attached) from the State's discovery, but instead has conducted an asset search of gold bullion, silver, and art work through the investigation of as Mr. Moore put it, "his entire life." The result has been a fraud on the Court, and the misuse of a Government Office and Resources by a Government Official and employees.

Substantive Misconduct, Malfeasance and Corruption

by the State Attorney's Office

Engaging in plausible deniability is just one of the hallmarks of the State Attorney Mr. Bill Eddins, and his special prosecutor Mr. Russell Edgar's case against the Defendant. Knowingly using undeniably perjured Affidavits of the accuser, and subsequently the State investigator who parroted the accuser's false statements under oath, time and time again, would seemingly insulate Mr. Eddins and Mr. Edgar, that is in theory. In reality, directing the State investigator to use false statements and to cover up the accuser's own crimes, puts both Mr. Eddins and Assistant State Attorney right smack in the middle of violating a slew of ethics codes and regulations.

By Rule 4-8.4, of the Rules Regulating the Florida Bar, the State Attorney, Mr. William Eddins, an elected Government Official, and Mr. Russell Edgar, going rogue while serving as Assistant State Attorney, defined by Rule 4-8.4(a)(c)(d), did violate, or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or through another, engage in conduct involving dishonesty, fraud, deceit and misrepresentation, did engage in conduct in

connection with the practice of law that is prejudicial to the administration of justice, including knowingly and through callous indifference, disparage, humiliate and discriminate against the Defendant, and witnesses, and did so with malfeasance and malicious intent. Specifically follows hereon where Mr. Edgar, and hence Mr. Eddins did:

1. Knowingly withheld and directed another to withhold exculpatory evidence from the Defense in violation of the Defendant's Constitutional Rights to Due Process under the 14th Amendment to the Constitution of the United States of America (*United States v. Agurs*, 427 U.S. 97, 108(1976); *State v. Glosson*, U.S.).
2. Knowingly presented and directed another to present material false testimony of the sole accuser, and failed to correct the false testimony, in violation of the Defendant's Constitutional Rights to Due Process under the 14th Amendment (*Giglio v. U.S.*; *Hayward v. State*, 183 So. b (SCA 2015); *Mungin v. State*, 79, So. 3d 726 (Fla. 2011)).
3. Knowingly covered up, hid or destroyed or directed another to cover up, hide or destroy evidence of criminality and criminal enterprise on the part of the accuser and another witness, including felony grand theft, stock fraud, felony money laundering of narcotics trafficking, illegal drug sales proceeds, and extortion, in addition to other felonies and criminal behavior (*Hurst v. State* 108, U.S. 3d (Fla. 2009); *Bagley*; *Giglio*).
4. Knowingly made false statements about the Defendant, mocked the Defendant, disparaged the Defendant during Court proceedings on November 18, 2015 and February 17, 2016. (Rule 4-8.4; *State v. Kelly*, 4th DCA 1994).
5. Knowingly intimidated an elderly witness, the Defendant's 92-year-old mother in an effort to cover up criminality of the accuser, suppressing sworn testimony of the witnesses of the accuser, Rhea Kessler's criminality, including the Defendant's testimony, and that of the

Defendant's mother, and Michael Measure, a witness (Rule 4-8.4; *State v. Kelly*) (*State v. Del Rio*, DCA Fla., 2nd DIST., 56 So.-3d 848 (2011); *Thorpe v. State*, Supreme Court, Fla. 2000).

Disregard for Laws and Statutes

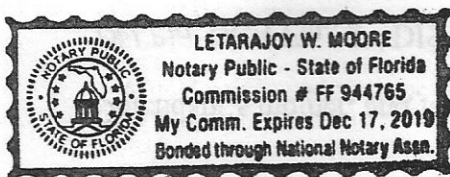
With consciousness of a weak case, the State indisputably did ignore and violate numerous Federal and State laws, statutes, Florida Rules of Criminal Procedure, and rules of evidence including:

1. 14th Amendment to the Constitution of the United States of America and the Defendant's Rights under the Constitution to Due Process.
2. Knowingly using material false testimony to obtain an illegal search warrant in order to conduct an illegal search and seizure of the Defendant's residence (*Franks v. Delaware*, Supreme Court of the United States June 26, 1978).
3. Knowingly disregarding Rule 3.140(e) that "Allegations made in one count shall not be incorporated in another count," in counts 3, 4, and 5, by repeating the charges of theft, and incorporating entire paragraphs verbatim in 3, 4 and 5 (*State v. H.M. Bowness Oil*, App 5 Dist 1988).
4. Knowingly introducing as evidence of criminality, such as fraud, that is beyond the Statute of Limitations of F.S. 775.15, and beyond Statute of Limitations for account opening documents of banks and institutions listed as cause for counts 4 and 5.
5. Knowingly disregarding Social Security Administration Instructions in listing cause for counts 4 and 5.
6. Knowingly disregarding Veterans' Administration Instructions in listing cause for counts 4 and 5.

While any use of the foregoing reasons justifies dismissal of the cause it is the totality, the preponderance of disregard for law, violations of codes of ethics, substantive misconduct by Government Officials and Government employees, perjury by a material witness and sole accuser, and perjury by a Government employee, that makes the case before the Court that much more disturbing. With consciousness of an un-prosecutable case without withholding exculpatory evidence from the Defense, and without knowingly using false testimony of the sole accuser, the State sought to serve as an agent, or was induced to do so, either one equally corruptible, in order to search for assets of the Defendant, by investigating "his entire life," for the accuser's private attorneys at Levin Papantonio. The State also knowingly used false testimony, and themselves made false statements about the Defendant in Court hearings to ensure the false arrest and false imprisonment of the Defendant for intentional purpose of searching for assets while literally handcuffing the Defense with excessive bail in violation of the 8th Amendment, in hopes of providing the benefit of "future forfeiture" for Levin Papantonio and their client, the accuser, in a parallel Civil Case (2015CA000813), as the accuser attempted to accelerate the case to a judgement in default for \$3,570,000. These foregoing facts are all indisputable.

Therefore, I the Defendant in this case, swear under penalty of perjury that I have read this motion and that the statements in it are true.

Respectfully submitted this 3rd of June, 2016




RONALD CLARK BALL
Defendant

Wherefore, based on the foregoing the Defendant would respectfully request dismissal of the above styled cause.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing motion should be forwarded to all concerned parties by the Clerk of Court this 3rd day of June, 2016.

The Hon. Thomas Dannheisser
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