

Filed in District Court
State of Minnesota

JAN 31 2023

STATE OF MINNESOTA
COUNTY OF WASHINGTON

DISTRICT COURT
TENTH JUDICIAL DISTRICT

Stephen Carl Allwine,
Appellant,

v.

STATE OF MINNESOTA,
Respondent.

REPLY TO RESPONDANT
WASHINGTON COUNTY'S
BRIEF TO THE DISTRICT COURT

DISTRICT COURT CASE #: 82-CV-22-4952

TO: Washington County Court Administrator, Washington County Courthouse, 14949 – 62nd
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55101

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FACTS

Respondent refers to details of the case in question and states that she took those “facts” from the criminal complaint; the Petition to Terminate Parental Rights, which took its information from the criminal complaint; and the child protection investigative summary, which also took its facts from the criminal complaint. (Res. Br., pg. 2)

The criminal complaint is not evidence, it is merely an accusation of a crime (Minn. Stat. §628.01). Pereida v. Wilkinson, 141 S. Ct. 754, 764 (2021) holds, “It is impossible to discern an individual’s offense of conviction without consulting at least some documentary or testimonial evidence.” The Respondent cites no actual evidence to support her position that Appellant committed the underlying crime. Her statement, “Appellant responded, ‘she’s probably dead’” (Res. Br., pg. 2) is mere hearsay and is not correct. There is no evidence to support her claim. In fact there are several claims in the criminal complaint that have now, with actual evidence, been proven to be false.

- We know based on documentary evidence that Appellant didn’t have TOR browser installed until over 6 months after the criminal complaint says that communication with Besa Mafia occurred.
- Contrary to the criminal complaint, we also know by testimonial evidence that Appellant likely never even used the TOR browser because there was no history stored.
- While the criminal complaint claims that the Bitcoin code was on Appellant’s phone, we know by testimonial evidence that the Bitcoin code was never on the Appellant’s phone, and we know by documentary evidence that the code first appear on the internet over 4 months after the file was supposedly delete.
- We know from documentary evidence that Amy was alive at least 45 minutes after the criminal complaint claims that she was dead. We know by testimonial evidence and documentary

evidence that she was seen alive and well over 1.5 hours after the criminal complaint claims that she died.

- The combination of documentary and evidentiary evidence is clear that she was killed after the Appellant left the house and after 5:30PM.

The actual facts, as laid out in the Appellant's brief on page 11, are directly from documentary and testimonial evidence. No one making a "determination" or affirming a determination has cited any actual evidence of wrongdoing on behalf of the Appellant.

Issue I: Whether the Decision of State Agency on Appeal Correctly Applied the Law and Was Supported by Substantial Evidence.

Respondent cites Minn. Stat. §14.69 as the standard for the reviewing court. Item (e) in her list is whether the decision is "unsupported by substantial evidence in view of the entire record as submitted". While she wants you to only look at the criminal complaint, in fact the record includes substantial evidence that shows that Appellant did not commit the underlying crime.

Issue II: The Doctrine of Collateral Estoppel Does Not Preclude Appellant from Relitigating Adjudicated Facts from the Criminal Trial.

Respondent states the factors that are **required** for collateral estoppel to be applied (Res. Br., pg. 7). Number 5 on that list is "The estopped party was given a full and fair opportunity to be heard on the adjudicated issues." Appellant has shown in his brief why the first litigation was not full and fair.

The Respondent continues to simply cite the definition of collateral estoppel without giving any reason why it applies in this case. The U.S. Supreme Court has held that, "no collection of words or phrases, will provide an automatic formula for proper rulings on estoppel pleas." (Blonder-Tongue Labs

v. University of Illinois, 402 U.S. 313, 334) This is what the Respondent is requesting, some automated process.

The Respondent cited Graham v. Special School Dist. No. 1, 472 N.W.2d 114, 118, and in that case it was found that she had a “full and fair hearing” because she was not able to show that she suffered from any lack of discovery, as she had claimed. On the contrary, Appellant has show numerous Constitutional violations that occurred prior to trial, during trial and continue to occur with this Prosecutor’s office.

Gerrard v. Larson, 517 F.2d 1127, 1135 (8th Cir. 1975) says, “The question of who should be bound by a prior adjudication ought to be resolved on a **case by case** basis by an **examination of the underlying facts** and circumstances rather than by reliance solely upon the formal status of persons against whom an estoppel is asserted.” The State is asking this court to ignore those blatant Constitutional violations.

The U.S. Supreme Court has held, “The Plaintiff **must be** permitted to demonstrate, if he can, that he did not have a full opportunity procedurally, substantively, and evidentially to pursue his claim the first time.” (Blonder-Tongue Labs, at 333) Appellant’s **right** to a full and fair opportunity was denied by abuses of judicial discretion, ineffective assistance of counsel, and prosecutorial misconduct. The Court continues in that case, “whether without fault of his own the [Appellant] was deprived of crucial evidence or witnesses in the first litigation.” (Id at 333). The Respondent continues, to this day, to deny crucial evidence in this case.

Issue III: The Commissioner’s Decision was Incorrect and Should Not be Affirmed.

Without a full and fair hearing the facts of the previous adjudication cannot be relied upon as accurate. (Blonder-Tongue Labs at 333) Appellant presented substantial evidence in the case to show

that Amy was killed after respondent left the house and, therefore, **could not** have killed her. This evidence was ignored. The evidence should be reviewed and the Commissioner's determination should be reversed.

Conclusion

Appellant respectfully requests this court to reverse the Decision of the State Agency on appealed issue from August 4, 2022.

Dated: 1/27/2023

Respectfully Submitted



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