

EARLEY STORY

Petitioner,

vs

SHELBY COUNTY DISTRICT ATTORNEY GENERAL OFFICE

Respondent.

FILE  
2019 FEB -5 AM 11:30  
CRIMINAL COURT CLERK  
SHELBY COUNTY DISTRICT ATTORNEY GENERAL OFFICE

IN THE SHELBY COUNTY COURT CRIMINAL COURT

DIVISION III/ DIVISION VIII

MEMPHIS, TN.

CASE NO. 97-08560/P-27176

SUPREME COURT NO. W-2001-00529-CCA-CD-R3

**PETITIONERS MOTION FOR A DEFAULT JUDGMENT**

Now comes Earley Story, pro se, to respectfully request the court to examine the history of events, current and past, in considering this motion.

This petitioner prays that the court would be mindful of the United States Constitution in regarding this petition by being fair and equal in the application of the law and the 6<sup>th</sup> amendment rights of self representation!

**I. NARRATIVE**

This motion is being submitted due to the failure of the respondent to timely file an answer to this petitioners writ of error coram nobis, which was filed on October 29,2018.

The writ informed the court of the United States vs Bagley case, in which the rights under the Bradley vs Maryland ruling, concerning due process being violated due to the prosecution withholding of evidence! Evidence that could prove a citizens actual innocence.

The writ details the new evidence that was submitted to federal public defender office regarding a discovery request by Nashville death row attorney, Mr. Paul Bottei.

The request was complied with by the Shelby County compliance attorney, Debra Fessenden, by submitting the payment history of Shelby County Sheriff employed confidential informant, Alfredo Shaw.

Attorney Bottei client, death row inmate Tony Carruthers, mailed the 2 page letter from attorney Fessenden that was dated 12/19/2017.

The letter also enclosed a redacted in and out transaction history of payments that was paid to Alfredo Shaw! CI 2282, Alfredo Shaw, had witnessed and testified at my trial for the Shelby County DA office in my December 1999 trial.

The trial was held in division III court and was presided over by judge John P. Colton jr.

Alfredo Shaw testified under oath that this petitioner, Earley Story, sold 307.0 ounces of marijuana to him on January 22, 1997, and that I received \$850.00 of the drug funds!

No counsel assigned to represent this petitioner have ever requested this evidence and the prosecution have never disclosed this information to this petitioner!

The enclosed redacted form was never made available to this petitioner in the 22 years of trying to prove my innocence!

This petitioner also had some additional information pertaining to Alfredo Shaw that had never been disclosed to attorney Paul Bottei client, Tony Carruthers.

This writer sent to the defender's office a November 18, 1996 warrant that was issued for Shaw's arrest for stealing a 1996 Ford Explorer from a Memphis car dealership, valued at \$22,000.00.

The warrant was issued for Shaw's crime just months after he gave testimony in Tony Carruthers trial in 1996.

The enclosed official court records reveals that Shaw was arrested on 1/8/1997 for the crime and was never prosecuted for being a fugitive from justice!

II. As previously stated, the reason for filing a request for a default judgment is due to the refusal of the respondent to give an answer to the writ!

Since the filing of the writ, on 10/29/2018, the clerk has apparently refused to file the writ because this petitioner respectfully requested an expedited hearing from the court!

Instead of a responding to the writ this petitioner received a threatening letter of incarceration on 1/16/2019 from the clerk's office!

The letter detailed that the court would issue a *capias* for my arrest if I failed to appear in **division VIII** on February 11, 2019. ( This petitioners trial and conviction was in **division III** and post conviction denial was in **division VIII**!)

The court here is not just violating my rights to submit this new evidence in defense of my false arrest, but are in fact disrespecting the rule of law that the court should always obey!

Tennessee Rule 55.01 states that when a specific party has failed to plead or otherwise defend the charges against them, default may be entered!

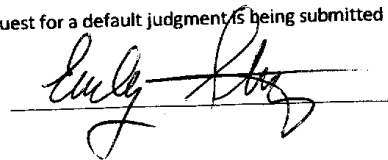
Tennessee Rule 5.06 states "The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court!"

It is the official duty of the clerk to file all papers in a cause presented by the parties, and to endorse the correct date of the filings thereon.

The political implications are clear concerning rights of this petitioner but the new evidence must be respected!

This 2 page letter/affidavit, will hand delivered to the Shelby County Criminal Clerk Office of Mrs. Heidi Kuhn.

The information contained in this 2 page request for a default judgment is being submitted under the penalty of perjury this February 5, 2019.



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