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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT CENTRAL 130

HON. WILLIAM C. RYAN, JUDGE

PEOPLE OF THE STATE OF CALIFORNIA,)
)
) PLAINTIFF,)
)
) VS.)
)
) CRAIG A. LAWSON,)
)
) DEFENDANT.)

CASE NO. BA298847

COPY

REPORTER'S TRANSCRIPT OF PROCEEDINGS

MONDAY, OCTOBER 30, 2006

APPEARANCES:

FOR THE PEOPLE: STEVE COOLEY
DISTRICT ATTORNEY
BY: JAMES BELNA
DEPUTY DISTRICT ATTORNEY

FOR DEFENDANT: RONALD N. RICHARDS, ESQ.
ATTORNEY AT LAW

RONALD H. KIM, CSR #12299, RPR.
OFFICIAL REPORTER

1 CASE NUMBER: BA298847
2 CASE NAME: PEOPLE VS. CRAIG A. LAWSON
3 LOS ANGELES, CA. MONDAY, OCTOBER 30, 2006
4 DEPARTMENT C-130 HON. WILLIAM C. RYAN, JUDGE
5 REPORTER: RONALD KIM, CSR NO. 12299

6 APPEARANCES: DEFENDANT CRAIG A LAWSON; PRESENT
7 WITH COUNSEL, RONALD N. RICHARDS; JAMES BELNA,
8 REPRESENTING THE PEOPLE OF THE STATE OF
9 CALIFORNIA.

10

11 **THE COURT:** People versus Craig Lawson, BA298847.

12 **MR. RICHARDS:** Good morning, Ronald Richards
13 appearing for Mr. Lawson, who's present in court.

14 **MR. BELNA:** James Belna, deputy district attorney,
15 for the People.

16 **THE COURT:** This is here for motion to dismiss
17 based on the destruction of evidence.

18 **MR. RICHARDS:** Yes, Your Honor. The last time in
19 court, I had a speedy trial motion.

20 **THE COURT:** Which I denied.

21 **MR. RICHARDS:** Yes, without prejudice, and you
22 invited me to file the Trombetta motion based on the
23 destruction of the evidence, and so we filed a motion
24 which encompassed three separate grounds for dismissal.
25 There was the Trombetta grounds, which I cited the Tenth
26 Circuit case and Ninth circuit case and the Sixth
27 Amendment ground, ineffective assistance of counsel, and
28 then the statutory grounds under Penal Code section 1054.

1 The case that's most closely on the point
2 is United States versus Boil where they destroyed the
3 nonconforming --

4 **THE COURT:** Let me stop you, Counsel.

5 Mr. Belna, I'm inclined to grant the motion
6 on the Trombetta grounds and deny on the other grounds.
7 Do you wish to be heard?

8 **MR. BELNA:** Yes. I think that --

9 **THE COURT:** Go ahead.

10 **MR. BELNA:** I think the distinction has to be made
11 in this case with other cases where the nature of the
12 evidence was such that it would be apparent that it was
13 susceptible to some sort of, I think, forensic
14 examination, which could have resulted in another
15 conclusion in the case, such as, the steel case that
16 counsel referred to where certainly, if metallurgical
17 content was in dispute, there would be testing that could
18 be done that may well resolve something in the
19 defendant's favor.

20 Here, I don't think we have that. I think
21 we have merely a dispute as to what the actual evidence
22 is or what it looked like when it was booked into
23 evidence, and that I think is something that has to be
24 determined by the trier of fact in this case.

25 There was nothing -- and if the evidence
26 was as described by the police when it was booked into
27 evidence, I don't think there's anything intrinsic to it
28 in terms of being susceptible to further testing to find

1 something exculpatory about it.

2 But, secondly, the other prong is on the
3 Trombetta grounds, I think the Cooper case is clear that
4 there has to be some showing of bad faith on the part of
5 the prosecution in terms of the circumstances surrounding
6 the destruction of the case. I don't think that's even
7 really alleged here, but if it was, I don't think there's
8 sufficient evidence to demonstrate that.

9 **THE COURT:** All right. Mr. Richards, you want to
10 respond to any of that?

11 **MR. RICHARDS:** Well, what we set forth, Your
12 Honor, was that this was a color scan. There was no test
13 done.

14 **THE COURT:** By that, you mean it's a color copy?

15 **MR. RICHARDS:** No, a color scan.

16 **THE COURT:** What's the difference between that and
17 the color copy?

18 **MR. RICHARDS:** Good question, Your Honor. If you
19 scan it -- if you scan a check in like a scanner, it
20 still could look like an original check.

21 **THE COURT:** So could a color copy?

22 **MR. RICHARDS:** Well, sometimes a color copy may
23 create the void. It could -- normally, Your Honor, a
24 scanner doesn't pick up the words "Void" on it because
25 it's not copied, and it's just scanning the document.

26 It is a difference, and we set forth that
27 this document did not contain the "might" or the magnetic
28 ink character recognition on it and that the police did

1 no tests to verify what this document was. They merely
2 copied it and put it in a drawer and then lost it or
3 destroyed it, I mean.

4 **THE COURT:** Okay. Let's assume all that's true.
5 Where's the bad faith?

6 **MR. RICHARDS:** The bad faith is that Detective
7 Hardemon has had a long history with this defendant and
8 has had two motions to suppress granted for him violating
9 constitutional rights in this case. He picked up my
10 client unauthorized from the Hawthorne Police Department
11 when he was released when the first case got dismissed on
12 his own and taunted him all the way down to the station
13 telling him that he had him on the perjury charge and
14 Detective Hardemon has had a long history in this case.

15 To tell you how bad this evidence has been
16 on the other defendant in this case, Mr. Belna merely
17 offered to pay some of the restitution on Cedric Wright,
18 the ringleader, and the case was going to be dismissed
19 without even the charge. The original charges in this
20 case, out of the ten or more against Mr. Lawson, this is
21 the only one remaining.

22 And Detective Hardemon absolutely knew that
23 this evidence was essential to us to show that the check
24 was unusable, and by destroying it, we don't have to have
25 him admit that he acted in bad faith. It's ipso facto
26 bad faith by the fact that he has a color scan of the
27 check, and then he doesn't have the postal inspector
28 bring that out to show the alleged victim. They just

1 bring a copy which says "Void," and then I go to do my
2 defense, and then I find out just within the last three
3 weeks that now he's destroyed the check and never did any
4 test to see whether this is a legitimate check, never
5 brought it to the bank to see if it was a usable check,
6 and then Detective Hardemon has creatively now
7 eviscerated my entire defense, and that's why I'm
8 prejudiced because I cannot call my expert to show that
9 this check has no wet signature or no micro --

10 **THE COURT:** I don't know what a wet signature is.

11 **MR. RICHARDS:** A wet signature is, Your Honor,
12 when you sign a check, you have a blue pen, and it's a
13 real signature meaning it's a legit signature. In this
14 case, if you destroy the actual document --

15 **THE COURT:** In law, we call that a sign manual.

16 **MR. RICHARDS:** A sign manual?

17 **THE COURT:** Yeah.

18 **MR. RICHARDS:** No problem.

19 **THE COURT:** Signed by your own hand.

20 **MR. RICHARDS:** Element 4 of the possession charge,
21 which I've cited at Page 4 in my brief says that the
22 defendant has to have a genuine document. By Detective
23 Hardemon having the evidence destroyed, he now has
24 prevented us from showing that this document all along
25 was an unusable document in the letter that he had that
26 he had showed the alleged victim was dated two days after
27 the check.

28 I mean all Detective Hardemon had was a

1 copy. He knew very well that at the time he arrested
2 Mr. Lawson for the parole violation, it was a factual
3 impossibility for there to be any crime committed because
4 even the letter was dated two days after this potential
5 crime was alleged to have occurred.

6 This is not just some officer that's come
7 out of the blue. He's had a long history of tormenting
8 my client, and I don't believe that the cases on Boil or
9 the Ninth Circuit case of Cooper require the defense to
10 absolutely show that the officer hated the defendant. We
11 had -- it's very rare.

12 I've never had a case in my career where
13 the officer has a critical document, the essential corpus
14 delicti and then intentionally destroys it and then
15 blames it on his own department for destroying his own
16 evidence. I mean, that's very convenient, but what we're
17 really looking at is what's fair in a trial.

18 All along, I've been operating for six
19 years under the assumption that I'm going to be able to
20 show that this check is not usable, and then after my
21 arraignment in front of this court I find out --

22 **THE COURT REPORTER:** Can you slow down please.

23 **MR. RICHARDS:** I find out that the detective has
24 intentionally destroyed the only thing I had to show that
25 this wasn't a usable item. That's not fair, and it's not
26 my client's fault, and I don't think that the police
27 should be rewarded to have to now have him sit through a
28 trial to put on a defense that was a easy winner that was

1 created by the People themselves.

2 That's the prejudice. That's why he's
3 prejudiced on the speedy trial grounds because due to
4 this delay, he's now lost the essential evidence, and I
5 think that the Court's tentative is what's fair and
6 what's right.

7 How many times has this court seen cases
8 where the police just destroy the critical piece of
9 evidence? That's like losing the blood, the semen. It's
10 gone, and that's why I can't effectively defend him
11 without it. I can't pursue his defense, and they had a
12 statutory obligation. He's trying to cabin the Court in
13 simply constitutional analysis, but there's also
14 statutory analysis.

15 The People have --

16 **THE COURT REPORTER:** You need to slow down please.

17 **THE COURT:** Mr. Richards, if you don't slow down,
18 I'm going to strike your argument.

19 **MR. RICHARDS:** Sorry.

20 The People are required to keep all of the
21 discovery pursuant to 1054. They're not allowed to
22 destroy the real evidence obtained as part of the case.
23 If there is no other remedy to make up for the destroyed
24 evidence that the People destroyed in this matter and to
25 just try to make some very high bar that is only bad
26 faith, is the analysis really ignores the rest of my
27 brief.

28 I did not just cite constitutional grounds.

1 I've cited numerous other grounds, and it would be
2 laughable to suggest Mr. Lawson could have effective
3 assistance of counsel when the custodian responsible for
4 holding onto the evidence destroyed my evidence.

5 I would have been happy to hold this
6 evidence, but I wouldn't certainly look to the People if
7 I lost my own evidence because the People have that
8 burden. They have the burden to maintain the evidence,
9 and this is the case where not only were we ready to go
10 when he was arrested originally, but then he spent 60
11 days in custody in this case because the People waited
12 the entire time, and then we were unable to proceed after
13 60 days and got those charges dismissed.

14 I mean this is not a case where the defense
15 has done anything but diligently and diligently pursued
16 Mr. Lawson's statutory rights in this case.

17 **THE COURT:** Anything you want to add Mr. Belna?
18 He does get the last word.

19 **MR. BELNA:** If I can just briefly.

20 First, I mean, in terms of Counsel talking
21 about being ready for last -- having certain expectations
22 for the past six years, Mr. Lawson hasn't been on this
23 case for six years. He was arrested on a parole warrant
24 last December, and part of that, we have no idea where he
25 was.

26 **THE COURT:** Apparently in state prison.

27 **MR. BELNA:** No. He was -- no. During that
28 period, he wasn't in state prison. Well, whatever.

1 **THE COURT:** You filed this first in March of 2006;
2 right?

3 **MR. BELNA:** No. We filed it back in 2001.

4 **THE COURT:** Is there a different case number?

5 **MR. BELNA:** Yes.

6 **THE COURT:** I see. What happened to that case?

7 **MR. BELNA:** Well, that case there were four
8 defendants. Three of them were resolved, and then
9 Mr. Lawson was never arrested on that despite efforts to
10 find him.

11 **MR. RICHARDS:** Objection.

12 **MR. BELNA:** Well, whatever. I'm just telling you
13 what our -- you can contest whether we have that or not,
14 but I'm just saying he was not arrested at that time.
15 The other ones were, and those cases were resolved.

16 And then Mr. Lawson was picked up
17 concurrent with our arrest warrant. His parole officer
18 had put a hold on him for not reporting, to my
19 understanding.

20 **THE COURT:** Okay.

21 **MR. BELNA:** He got picked up last December.

22 **THE WITNESS:** And that's when this case started?

23 **MR. BELNA:** Well, on the original case -- previous
24 case number to these charges, multiple charges actually.

25 After that period of time, we tried to put
26 the case together within the original statutory period,
27 discovered our evidence had been destroyed and ended up
28 dismissing and refileing and then under a new case number,

1 here we are.

2 **THE COURT:** Here we are.

3 **MR. BELNA:** The only point I want to make is,
4 first, I really wasn't too clear about what Counsel was
5 talking about in his motion in terms of what he's lost,
6 but if the motion is somehow he's lost some forensic test
7 on his signature on the composition of the paper, I was
8 not relying on that anyway.

9 I think my evidence is going to be this
10 looks like enough of a check that it was useful to the
11 defendant in terms of committing a fraud, and that was
12 our evidence.

13 I wasn't relying on that it could have gone
14 onto a particular machine and negotiated and whatever,
15 and I don't think that's --

16 **THE COURT:** But with respect, you know, you're not
17 the expert. You're the prosecutor.

18 **MR. BELNA:** I'm the prosecutor, but my point is,
19 if it hinges on him not being able to say this was a
20 particular type of signature or there wasn't particular
21 type of a security thing on there that it could have
22 been, if I have to, I'll take an adverse stipulation as
23 to that, an adverse finding, which presumably would
24 resolve counsel's issue, but I don't think it affects my
25 case.

26 Quite frankly, I think under the fact that
27 there was no bad faith here, I'm not even required to do
28 that. But to the extent that I am required or the Court

1 thinks it's fair, I'll take an adverse stipulation as to
2 whatever findings Counsel is purporting to say he would
3 have had this -- you know, the Court can make an adverse
4 finding against me saying this is what it would have
5 shown had it been tested, and then, you know, we can go
6 from there, and Counsel hasn't lost anything.

7 **THE COURT:** Mr. Richards, you get the last word.

8 **MR. RICHARDS:** Thank you.

9 With respect, Your Honor, it is not a crime
10 to possess a copy of the check. That's the element of
11 the offense that he's charged with. Without being able
12 to show that there's no original signature, if he
13 stipulated that it wasn't a usable document, then I would
14 ask that he dismiss the case right now because that's the
15 element of the offense.

16 So you can't arrest somebody for possession
17 of a copy of a forged instrument or a potential forged
18 instrument, and this is exactly why I was waiting to be
19 able to cross-examine Detective Hardemon because I knew
20 that he never did that test on the document.

21 And so I don't have to tell him my defense
22 strategy in advance, and I was willing to -- I was
23 waiting to do that, and by destroying it, they prevented
24 me from put putting on his defense, and that's the
25 prejudice, and it's not fair.

26 **THE COURT:** Okay. The Trombetta motion is
27 granted, and the case is dismissed 1385.

28 **MR. RICHARDS:** The bond is exonerated?

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THE COURT: Is he out on bond?

MR. RICHARDS: \$100 bond.

THE COURT: Bond is exonerated.

(Whereupon the proceedings were concluded.)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT CENTRAL 130

HON. WILLIAM C. RYAN, JUDGE

PEOPLE OF THE STATE OF CALIFORNIA,)

PLAINTIFF,)

VS.)

CRAIG A. LAWSON,)


DEFENDANT.)

CASE NO. BA298847

REPORTER'S
CERTIFICATE

I, RONALD H. KIM, OFFICIAL REPORTER OF THE
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PAGES, 1 THROUGH 12, COMPRISE A FULL, TRUE AND CORRECT
TRANSCRIPT OF THE PROCEEDINGS AND TESTIMONY TAKEN IN THE
ABOVE-ENTITLED CAUSE ON OCTOBER 30, 2006.

DATED THIS 30TH DAY OF OCTOBER, 2006.


_____, CSR #12299, RPR.
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