

IN THE DISTRICT COURT OF PAYNE COUNTY
STATE OF OKLAHOMA

IN THE DISTRICT COURT OF
Payne County, Oklahoma

NOV 19 2015

By: LORI ALLEN, Court Clerk
Deputy

STATE OF OKLAHOMA,

Plaintiff,

vs.

ADACIA AVERY CHAMBERS,

Defendant.

Case No.: CF-2015-676



BRIEF IN SUPPORT OF APPLICATION FOR EXPERT WITNESS FUNDS

STATEMENT OF THE FACTS

The Defendant is charged with 4 (four) counts of Murder in the Second Degree under 21 O.S. 701.8 and 46 (fourty six) counts of Assault and Battery by Means or Force Likely to Produce Death under 21 O.S. 652 (C). The accident occurred on October 24, 2015 going southbound on Main Street. According to witnesses the defendant proceeded through the intersection at Boomer and McElroy on a red light. The vehicle Proceeded southbound on the main Street where defendant attempted to drive around a traffic barricade that was positioned to stop southbound traffic at the intersection of Connell and Main but struck the barricade pushing it to the side. After passing the barricade it was observed that the vehicle continued southbound on Main Street without attempting to slow. According to reports, witnesses attempted to flag down the vehicle in attempt to get the vehicle to slow and stop prior to reaching the intersection of the Hall of Fame Avenue and Main Street. The Vehicle proceeded south where a marked Stillwater Police motorcycle was blocking the south bound lanes of Main Street. The motorcycle was parked and angled across the lanes of south bound traffic to stop any vehicular traffic. The vehicle struck the police motorcycle forcing it into the crowd and the defendant

continued south toward a crowd of people gathering along the north edge of the intersection of Hall of Fame Avenue and Main Street, near the crosswalk. The vehicle drove into the crowd, striking several people, then veered to the southwest where it struck people along the west edge of the intersection who were gathered near the crosswalk. The vehicle continued until it came to the rest on the southwest corner of the intersection of Hall of Fame and Main Street. As a result of the impact by the defendant's vehicle, Marvin Lyle Stone age 65, Bonnie Jean Stone age 65, Nikita Nakal age 23, died at the scene from the injuries sustained in the collision. As a result of the impact the defendant's vehicle, Male juvenile N.L. age 2 later died at Children's Hospital in Oklahoma City, OK as a result of his injuries sustained in the collision.

Due to the incident occurring during a parade event Officers were on the scene immediately. In the vehicle the defendant was found to be in the driver's seat, and was The main issues discussed during the initial consultation were custody and was the sole occupant of the vehicle. The defendant was taken into custody at the scene by Officer Shawn Millermon of the Stillwater Police Department on suspicion of driving while under the influence. According to reports, Officer Millermon transported the defendant to the Stillwater Medical Center where her blood was taken by the medical staff for testing. Officer Millermon stood as the medical staff completed the blood draw for the State's test, then secured the test kit as evidence. The defendant was then transported to the Stillwater City Jail where she was processed into jail.

ARGUMENT AND AUTHORITY

This case is on track for trial. For the following reasons, Defendant requests that she be afforded an expert witness in the areas of Psychologist and Accident Reconstruction.

1 – Defendant is alleged to have driven her vehicle in a way that was imminently dangerous to other people, evincing a depraved mind, regardless of human life. It would be in the best interest of justice to require both sides to have an expert witness, with an expertise in psychology, evaluate the defendant to determine her state of mind and provide her the right to adequately prepare and present a defense.

2 - Defendant has a due process right to confront the evidence and witnesses against her and an expert is required to explain the difference between her current state of mind and her state of mind at the time of the incident.

3 – Only an expert in accident reconstruction will be able to explain the intricate formula's used in the reports that outline the defendants vehicle on the day of the incident.

DEFENDANT HAS A RIGHT TO DEFEND

In Ake v. Oklahoma 470 U.S. 68, 105 S Ct. 1087, 84 L.Ed.2d. 53 (1985), the Supreme Court held, “ a court must take steps to assure that the Defendant has an opportunity to present her defense.” The court in this case recognized the constitutional right to expert assistance. The facts of the Ake case and the instant case differ but the rational is the exact same.

In the Ake case, the defendant was on trial for murdering a couple and wounding their children. Due to the Defendant's actions at arraignment the court ordered a psychiatric evaluation. The Defendant's attorney requested that the court appoint a psychiatrist to adequately prepare and present an insanity defense. The trial court denied the request holding the Defendant has no right such assistance.

The Supreme Court held that an indigent criminal defendant in a murder case where death penalty could be assessed had a right to have the state provide a psychiatric evaluation to be used in the defendant's behalf.

The Court arrived at this holding by analyzing three relevant factors:

- (i) The private interest that will be affected by the State's actions
- (ii) The State's interest that will be affected if the safeguard is to be provided; and
- (iii) The probable value of the additional or substitute the safeguards that are sought and the risk of an erroneous deprivation of the affected interest if those safeguards are not provided.

The court explained that the private interest in the accuracy of a criminal proceeding is almost uniquely compelling. *Id* at 78-83.

In this case, the defendant is charged with 4 (four) counts of Murder in the Second Degree and 46 (forty six) counts of Assault and Battery by Means or Force Likely to Produce Death. The Defendant was ordered to submit a blood draw where her BAC count was 0.01. The Defendant has a right to defend herself against the felony charges of 4 (four) counts of Murder in the Second Degree and 46 (forty six) counts of Assault and Battery by Means or Force Likely to Produce Death and the assistance of experts is required because:

- 1- Defendant is indigent , and therefore cannot afford to provide experts at her own expense,
- 2- An experts are needed to explain the results of the psychological evaluations and accident of the scene, and
- 3- Defendant can only be afforded meaningful access to justice by having a psychology expert available as well as an expert available in the field of accident reconstruction.

EXPERT REQUIRED

Under the VI Amendment to the United States Constitution, the Confrontation Clause affords a criminal defendant the opportunity to “confront and cross examine” the witnesses and evidence that is to be used against them. The Defendant requires an expert to cross examine the results of the psychological evaluation conducted on November 17, 2015, which differs from the psychological evaluation conducted on October 26, 2015. Experts are required to explain the procedures used to arrive at a conclusion, as well as explain how the Defendant can present differently during the evaluation process. There is no way for the Defendant to understand the evidence that will be used against her if she is not provided with independent experts. If the Defendant cannot understand the evidence, there is no way they can properly confront or cross examine the evidence which is their constitutional right. An expert in the field of accident reconstruction is required because many formulas and equations will be used in arriving at the way in which the accident occurred and there is no legal way the Defendant can confront those formulas and equations without the assistance of an expert in accident reconstruction. An expert in

accident reconstruction will also be able to offer the court an alternative to the way in which it has been reported this accident occurred.

CONCLUSION

WHEREFORE, the Defendant prays that this court administer appropriate funds to hire independent experts for the Defendant.

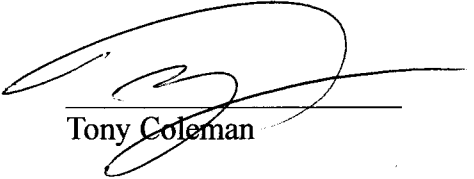
Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Tony Coleman', is written over a horizontal line.

Tony Coleman, OBA #21494
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ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

This is to certify that on the date of filing a true and correct copy of the above foregoing instrument was delivered to the Office of the District Attorney, 1st floor, Payne County District Court, Stillwater, Oklahoma.



Tony Coleman