

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT, IN AND
FOR SEMINOLE COUNTY, FLORIDA

FILED IN
EAST BRANCH OFFICE
MARYANNE MORSE
CLERK CIRCUIT COURT
13 MAY 21 PM 4:11
BY SEMINOLE CO. FLA.
D.C.

STATE OF FLORIDA,

Plaintiff,

vs.

CASE NO.: 2012-001083-CFA

GEORGE ZIMMERMAN,

Defendant.

DEFENDANT'S REPLY TO STATE'S MOTION FOR PROTECTIVE ORDER/MOTION
IN LIMINE REGARDING TOXICOLOGY

COMES NOW the defendant, GEORGE ZIMMERMAN, by and through his undersigned counsel and files this response to the State's Motion for Protective Order/Motion in Limine Regarding Toxicology and in support thereof would show the following:

The State seeks to exclude any testimony regarding Trayvon Martin's toxicology report that shows the use of marijuana around the time of his death, February 26, 2012. As part of the autopsy protocol, the Medical Examiner submitted Trayvon Martin's blood for laboratory analysis. Among the findings includes a positive level for THC and its metabolite. The active THC was measured at 1.5 ng/mL whereas the metabolite was measured at 7.3 ng/mL. This level is sufficient to cause some impairment (although it is considered to be less than that required for a DUI arrest) according to the State's toxicologist, Dr. Bruce Goldberger. At his deposition, Dr. Goldberger cited to the research of Dr. Marilyn Huestis¹ who studies the residual effects of marijuana on cognitive functioning. Dr. Huestis has found that measurable impairment

¹ Marilyn A. Huestis is a senior investigator and nationally recognized researcher at the National Institute on Drug Abuse.

continues for days or weeks in chronic users. Dr. Goldberger opined that Trayvon Martin may have used marijuana within a couple of hours of his death or that it could have been longer than that depending on whether Trayvon Martin was a chronic user or an occasional user. From other evidence in the case, it is known that Trayvon Martin brought marijuana with him from South Florida to use while he was in Sanford and that he used it at least one time after arriving in Sanford prior to his death. Trayvon Martin was suspended from school for possessing a baggie containing marijuana residue² and was known to smoke marijuana with his friends.

In George Zimmerman's non-emergency call to the police, he describes the person, later identified as Trayvon Martin, as appearing as though he was "on drugs." Additionally, on close inspection of Trayvon Martin's physical appearance at the 7-Eleven, where he was recorded on video within an hour of his death, he "sways" at the counter as if he's under the influence of some substance³. Taken all together, it is likely that Trayvon Martin was under the influence of marijuana at the time of his death and that his thinking and judgment were impaired at least to some degree. This is relevant evidence for the jury to consider when it evaluates Trayvon Martin's actions that night, and the jury should be allowed to give it whatever weight it believes it should.

WHEREFORE, the defendant urges this Honorable Court to deny the State's motion and address the issues in the context of the trial.

² This is why Trayvon Martin was in Sanford rather than in school in Miami where he lived.

³ The above referenced video will be offered at the hearing. It was provided to the defense in discovery.

Respectfully submitted this 21 day of May, 2013.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail/Email/Hand Delivery this 21 day of May, 2013 to Bernie de la Rionda, Assistant State Attorney, Richard Mantei, Assistant State Attorney and John Guy, Assistant State Attorney, Office of the State Attorney, 220 East Bay Street, Jacksonville, Florida 32202-3429, and Mark M. O'Mara, Esquire, 1416 East Concord Avenue, Orlando, Florida 32803.



DONALD R. WEST