

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

STATE OF FLORIDA,

Plaintiff,

vs.

CASE NO.: 2012-001083-CFA

GEORGE ZIMMERMAN,

Defendant.

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D.C.

DEFENDANT'S RESPONSE TO STATE'S MOTION IN LIMINE REGARDING
TRAYVON MARTIN

COMES NOW the defendant, GEORGE ZIMMERMAN, by and through his undersigned counsel, and files his response¹ to the State's Motion in Limine Regarding Trayvon Martin and therefore states as follows:

In its recent filing, the state asks this Court to limit evidence it fears will be offered by the defense "concerning or related to certain facts or opinions associated with Trayvon Martin" and claims that it "has reason to believe that Defendant will attempt, since such was done during deposition or other pretrial proceedings, in the instant case, to introduce evidence, testimony, questioning, or other reference to words and actions (whether true or not²) attributed to Trayvon Martin, the homicide victim in the present case,"

¹ It is evident upon any review of the actual evidence in this case that the manipulation of Trayvon Martin's public image by his supporters and by his detractors has been purposefully designed to create a post mortem revisionist portrayal that is neither as good or as bad as Trayvon Martin was in life. The jury should be allowed to consider all relevant evidence admissible under our rules, nothing more and nothing less.

² The defense has no intention to offer evidence it does not have a good faith basis to believe is true and would urge the state to do the same.

The state then lists several areas of concern. The first inquiry should then be whether the evidence the state seeks to limit is true and whether the defense has a good faith basis to offer it, if otherwise relevant. Then the Court would consider admissibility at the time the evidence is offered. The evidence sought to be limited supports the theory of defense that Trayvon Martin, for reasons known and at this time unknown, decided to confront and physically attack George Zimmerman; that Trayvon Martin continued to attack George Zimmerman even though George Zimmerman was screaming for help and Trayvon Martin put George Zimmerman in reasonable fear that serious bodily harm was imminent and would continue. It is premature for the Court to rule outside the context of when the evidence will be offered, as its relevance and admissibility will only then become clear.

a. Had ever been suspended from school.

There is a good faith basis for this evidence because Trayvon Martin's school suspensions are supported by the testimony of family members, school officials and school records and it has been publicly acknowledged by representatives of the Martin family that Trayvon Martin was in Sanford at the time of his death because he was serving an out of school suspension for possession of a baggie containing marijuana residue. Further, Trayvon Martin states in text messages that he was suspended from school at various times.

b. Communicated about, or previously used, marijuana

There is a good faith basis for this evidence if otherwise admissible because Trayvon Martin tested positive for marijuana use following his death. He sent text messages about marijuana and was known to members of his family and to his friends as a marijuana user. Mr. Martin has pictures of himself using marijuana on his phone and has pictures of growing marijuana plants on his phone. There are text messages from Mr. Martin to others that appear to

be in connection with the purchase of drugs and social media posts to Mr. Martin referencing street terms for marijuana. Mr. Martin told friends that he was bringing marijuana with him to Sanford. It is established in research literature that marijuana can affect one's judgment and demeanor and is known to cause paranoia and aggression in some.

c. Had ever allegedly been in a fight

There is a good faith basis to believe that Trayvon Martin had been involved in at least one pre-arranged fight and that he was a participant or a spectator at others. Mr. Martin told a friend of his in February 2012 that he had previously been in a fight and that he had won the fight. Mr. Martin described the fight to others by text message and said that he had lost the first round of the fight because the other participant got him on the ground and that he was unable to defend himself, but that he won the other rounds and was able to hit the other participant in the nose, drawing blood. This evidence is admissible in support of Mr. Zimmerman's self-defense claim regarding the abilities and capacity of Trayvon Martin as an experienced fighter.

d. Communicated (or that has been attributed to Trayvon Martin) and had "screen names" via social media, regardless of format, and the contents of such communications

It is well established that Mr. Martin used social media and chose screen names by which he became known to his followers and friends. At least one of Mr. Martin's screen names is highly provocative and offensive and if taken literally would reflect an attitude toward life without self-imposed limits. Mr. Martin regularly communicated through Facebook, Twitter and other social media and the contents of those messages may become relevant depending on other evidence in the case and the approach taken by the prosecution.

e. Had ever possessed or worn a set of (false) gold teeth

It is confirmed that Mr. Martin owned and sometimes wore removable gold color caps on some of his lower and upper teeth. He displays them in his Twitter profile picture. This is the social media account where Mr. Martin chose the provocative screen name and appears to be offering a particular public image reflecting a “tough” or “street-wise” attitude. This evidence may become relevant depending on other evidence in the case and the approach taken by the prosecution.

f. Any aspect of Trayvon Martin's school records and/or performance in school

Mr. Martin's school records including disciplinary history, attendance history and academic performance may become relevant depending on the other evidence in the case and the testimony of witnesses where such school records evidence would be relevant as impeachment. The fact of Mr. Martin's suspension resulting in him being in Sanford on February 26, 2012 is inextricably intertwined with the events surrounding his death and is separately admissible.

g. The contents of any text message received by or sent by Trayvon Martin prior to February 26, 2012

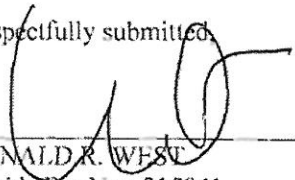
The contents of text messages (Facebook posts, Twitter posts and other social media content) received or sent by Trayvon Martin prior to February 26, 2012 are relevant to establish his marijuana use, his interest and experience in fighting, his efforts to acquire an illegal firearm, and to impeach the testimony of other witnesses who may misrepresent Mr. Martin's background and character (or their own), if otherwise relevant.

h. The contents of any text message received by or sent by Trayvon Martin on February 26, 2012, until the relevance and admissibility of the same has been ruled upon by the Court.

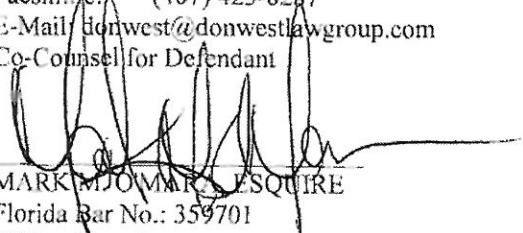
The text messages from February 26, 2012 are mostly with Witness 8. These text messages show that Witness 8 were arguing and were hostile and angry with each other at various points throughout the day. This is relevant to Mr. Martin's overall demeanor that day and relevant to his emotional state and may assist the jury in understanding why Trayvon Martin chose to hide and then confront George Zimmerman rather than simply going home.

WHEREFORE, the defendant urges this Honorable Court to deny the state's motion.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by E-Mail/Facsimile this 23rd day of May, 2013 to Bernie de la Rionda, Assistant State Attorney and John Guy, Assistant State Attorney, Office of the State Attorney, 220 East Bay Street, Jacksonville, Florida 32202-3429.



DONALD R. WEST