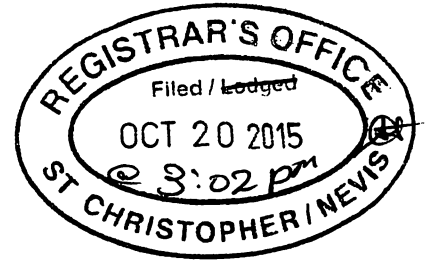


Filed on behalf of : Applicant
Deponent : K. Horstwood
Affidavit No : Sixth
Exhibits : KH 1
Sworn : 20th Oct' 2015
Filed : 20th Oct' 2015

THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
FEDERATION OF SAINT CHRISTOPHER AND NEVIS
SAINT CHRISTOPHER CIRCUIT
(CRIMINAL) AD 2015



Claim No. SKBHCR 2012/0054

Between: KEVIN ANDREW HORSTWOOD
And

DIRECTOR OF PUBLIC PROSECUTIONS

Applicant

Respondent

SIXTH AFFIDAVIT OF KEVIN ANDREW HORSTWOOD

I, KEVIN ANDREW HORSTWOOD of Rawlins Plantation, Mount Pleasant, in the island of Saint Christopher, but currently on remand at HMP, Cayon Street, Basseterre, St Kitts, MAKE OATH and say as follows:-

1. I am a hotelier, the owner and operator of Rawlins Plantation Inn.
2. I am the Applicant herein.

3. I am charged with the crime of murder which I did not commit. I have been incarcerated on remand for more than three years and nine months.
4. I make this Affidavit because of an important discovery with respect to evidence, which occurred after my previous Affidavit (my Fifth) was written.
5. I have previously been requesting the disclosure of my MacBook laptop, which was confiscated from my premises Rawlins Plantation during the execution of a search warrant on 1st January 2012.
6. The prosecution in this matter have previously told the Court that, the police say that the MacBook was stolen from a policeman's house and last heard of in Tortola. No explanation was given as to how it got to be at a policeman's house (or Tortola) from the police Evidence Room, where the police statement of PC 562 Damian Challenger states that it was secured after the search warrant execution at Rawlins Plantation.
7. On 11th May 2015, the Honourable Justice Carter insisted that it must be disclosed, "by the end of the June assizes".
8. On 6th October 2015, the policeman Charles Smithen,

(in charge of this case) delivered a MacBook to the chambers of Mitcham and Benjamin, in late compliance of the ruling of Justice Carter.

9. My MacBook laptop was in pristine condition when it was taken from me at my premises. The MacBook delivered to Mitcham and Benjamin by Charles Smithen is severely damaged.
10. On Monday 19th October 2015, after inordinate efforts and three letters to the Chief Officer at HMP, I gained permission for an examination by a local computer expert, of the MacBook at the chambers of Mitcham and Benjamin.
11. The examination was only permitted to last 30 minutes by the prison management. I witnessed the examination.
12. The damage to the machine means that only limited functions are working. The touch pad is unserviceable.
13. After 20 minutes, and by using an external mouse the computer expert managed to access the machine.
14. The files on the desktop and the screen saver are not mine, however, there are files on the machine from 2011 which are my files, and could not have

been obtained elsewhere. It seems clear that this is my MacBook, albeit seriously damaged, and with many of my files missing.

15. In the remaining 10 minutes of the examination, the computer expert showed me that someone had entered the machine and created a file on 27th July 2012, which is a date after my incarceration (which was on 31st December 2011)
16. The expert also showed me many other files of a personal nature and files of a business nature created by someone using the MacBook in 2012, 2013, 2014, and 2015.
17. That person is without doubt a police officer or officers, by the nature of the material. The expert in the final two minutes of the examination managed to print one of the documents on my laptop from 2013. I exhibit hereto the first page of the thirteen page document which he printed, sworn to and marked as "Exhibit KH 1". The document is a missive of, "Matters of interest" and is bearing the crest of the RSKNPF, it is addressed to Commissioner CG Watwyn.
18. There is a large amount of personal and police related material on the machine. It will not be difficult,

given time, to identify the individual, or individuals involved.

19. Crucially for me, the local expert advised that the functions allowing him to access the depths of the hard drive are not working. I specifically wanted my MacBook back, to access the electronic records on the hard drive to show my activities on the night of 29th December 2011.
20. In respect of my MacBook laptop, we now know as follows:
 - (i) It was confiscated on 31st December 2011 and locked in the police 'Evidence Room'.
 - (ii) On or around 27th July 2012 it was removed, and on 27th July 2012 it was tampered with, and began being used by a police person or persons.
 - (iii) It has had personal, and police related, usage in 2012, 2013, 2014 and 2015.
 - (iv) Files belonging to me were removed.
 - (v) After being used in working condition in 2015, it has been impacted severely on the bottom

left corner, causing damage to it which now means that it is inoperable in a normal usage mode.

(vi) The local computer expert, given time, will be able to retrieve all files placed on the machine by the person or persons who have had access to it, to enable the culprits to be apprehended.

(vii) Access to the specific hard drive memory function that I seek, might be able to be gained by an international expert with computer forensic skills.

21. I hereby request a ruling by this Honourable Court that the police must fund the costs of bringing an appropriate international expert, nominated by myself, to St Kitts, to gain the evidence from the hard drive, which I could ordinarily have got from the hard drive during the 30 minute examination by the local computer expert.

22. Most sadly, I have no option but to request that, in the light of the tampering with my evidence by the police, resulting in the denial to me of the information that will show my innocence, and also because of the three issues raised in my submission dated 25th September 2015, that I must request

that the Court vacates the proposed trial date of
2nd November 2015.

I make this Affidavit honestly and sincerely knowing the
contents to be true and correct to the best of my belief.

SWORN at the Registrars Office)
Judicial and Legal Services complex) Kevin Horstwood
East Independence Square street) KEVIN ANDREW HORSTWOOD
Basseterre, St Kitts, this 20th day)
of October 2015.

BEFORE ME:

Mr. Jose Loya
A COMMISSIONER OF OATHS
for ST. CHRISTOPHER (ST. KITTS) & NEVIS

THE ROYAL ST. CHRISTOPHER AND NEVIS POLICE FORCE



EXHIBIT KH1

TO: Commissioner of Police
Mr. C. G. Walwyn

Date: 06th May, 2013

CRIMES OFFENCES AND MATTERS OF INTEREST REPORT TO THE POLICE FOR THE PAST 24 HOURS ENDING 06:00 HRS ON 06th May, 2013

BASSETERRE STATION

1. **DISCHARGED:-** Insp Smithen reported that he has discharged the prisoner 16 years old CF of Pond Hill, Gingerland, Nevis in the custody of his mother pending further enquiries.
2. **SICK REPORT:-** No 241 WPC Williams called this station and reported sick suffering from headache and dizziness. No 219 Sgt Browne was informed. **Re-Sick Report:** On instructions given by No 219 Sgt Browne, No 684 Const Hodge of the Cayon Police Station went to the home of No 241 WPC Williams to talk to her and escort her to the hospital for medical attention and the older sister to the WPC came out to him and told him that WPC Williams was sleeping. This visit and conversation took place at about 16:20 hrs on

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Kevin Andrew Horstwood
HMP, Basseterre,
St Kitts, WI