

IN THE DISTRICT COURT OF MUSKOGEE COUNTY STATE OF OKLAHOMA

STATE OF OKLAHOMA VS. LAURA BETH PHIPPS

CF-2008-896

ORDER -

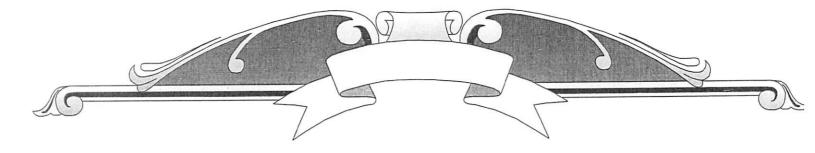
Now on this 7th day of May, 2016 the above styled and numbered case comes on for hearing on Defendant's Motion to Dismiss. State appears by and through Edith Singer, Assistant District Attorney, appointed, and Defendant appears with Allen Smallwood and John Russell, Attorneys at law. Parties agree that the State may introduce, as an exhibit, an Agreement between the Defendant and Lloyd Payton, for the re-payment of certain funds (See State's Exhibit 1, attached).

Parties further announce that they wish to waive oral arguments and allow the Court to rule based upon the existing evidence, Defendant's Motion, and all other filed pleadings.

Therefore, after thorough consideration thereof, the Court finds and rules as follows:

- 1. As to Defendant's Motion to Dismiss based upon Defendant's Right to a Speedy Trial, the Court finds and rules that this specific Right only comes into play once the Defendant has been reduced to capture or is otherwise advised of pending criminal charges and that there has NOT been a violation of her right to Speedy Trial. Defendant's Motion to Dismiss based upon Defendant's Right to Speedy Trial is DENIED.
- 2. As to Defendant's Motion to Dismiss based upon Violation of Due Process the Court finds and rules as follows:
- a) that there was a significant and substantial delay between the time the alleged offense is said to have occurred and the time charges were filed, and that there was a significant and substantial delay between the time charges were filed and the time the Defendant was arrested;





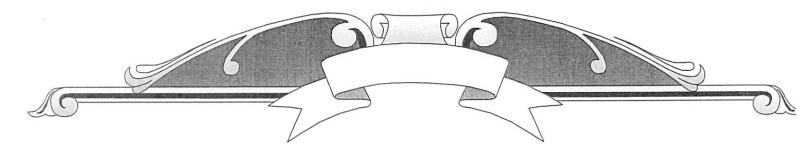
- b) that based upon the above described significant and substantial delays, and the fact that Lloyd Payton (alleged victim and alleged defense witness) and Patti Davis (alleged defense witness) have both died during these delays, that there is a presumption that the Defendant has been prejudiced by these delays which needs to be addressed and/or explained by the State;
- c) that the State failed to offer any explanation for the three year delay in the filing of criminal charges against the Defendant or any explanation for the seven year delay in reducing the Defendant to capture,
- d) the State correctly reflects that charges were filed within the Statute of Limitations, however the issue of the significant and substantial delay continues, and the Court declines to engage in speculation to rationalize these delays;
- e) That the Defendant has been prejudiced by these unexplained delays by virtue of the facts that Lloyd Payton (alleged victim and alleged defense witness) and Patti Davis (alleged defense witness) have died, and with said passing, the Defendant has been denied the right and opportunity to present an appropriate defense and thus Deprived of her Right to Due Process; and therefore;
- f) in the interest of justice, Defendant's Motion to Dismiss based upon a Violation of the Defendant's Right to Due Process should be GRANTED.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Defendant's Motion to Dismiss based upon a Violation of the Defendant's Right to Due Process is GRANTED. This case is hereby DISMISSED WITH PREJUDICE.

Witness my hand this 7th day of June, 2016.

H. Michael Claver District Judge

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CERTIFICATE OF MAILING

I hereby certify that on the 9 day of June, 2016, a true and correct copy of the Court's Order was mailed via U.S. Mail with proper postage paid thereon to:

Edith Singer Assistant District Attorney Rogers County Courthouse 200 So. Lynn Riggs Blvd Claremore, OK 74017

John Russell Attorney at Law 1100 ONEOK Plaza 100 W. 5th Street Tulsa, OK 74103

Allen Smallwood Attorney at Law 1310 South Denver Ave Tulsa, OK 74119

Paula Sexton Court Clerk P.O. Box 1350 Muskogee, OK 74402

Angela Reed, Bailiff / Secretary for H. Michael Claver, District Judge

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STATE'S Exhibit

AGREEMENT

This Agreement is made this ___ day of July, 2006 by and between Lloyd Payton, individually and in behalf of Lloyd Payton, Attorney at Law, and Payton Law office, Inc., herein mutually referred to as "Payton" and Laura Phipps, formerly Laura Starets, herein referred to as "Phipps".

Phipps has heretofore acknowledged that she has taken funds from Payton, and that Payton has a claim for recovery of those funds. Phipps executed an Agreement dated February 3, 2006 regarding this obligation and has surrendered a vehicle to Payton which has been sold for \$21,000.00 and the proceeds applied against the obligation of Phipps to Payton. Now the parties desires to fully and completely resolve all claims and liabilities which may exist between Payton and Phipps, and have agreed to do so as set forth in this Agreement.

In full and complete settlement and compromise of each and every claim of Payton against Phipps, Phipps agrees to pay to Payton, in collected funds, the total sum of Seventy Two Thousand Dollars (\$72,000.00), by paying the sum of \$40,000.00 in collected funds to Payton, receipt of which is acknowledged, and by the further payment of \$32,000.00 as herein set out. Phipps shall pay interest at the rate of 10% per annum on the \$32,000.00 by monthly interest payments of \$266.67 each, with the first payment due on August 11, and on the same day of each month thereafter, and the entire balance of the \$32,000.00 and any unpaid interest being paid on the first year anniversary of the date of this Agreement.

Phipps further grants to Payton a security interest in the engagement ring and diamond earrings purchased from Haley & Lloyd which was delivered to Payton under the February 3, 2006 Agreement, which shall be secured by possession thereof, with the further agreement that Payton may exercise his rights as a secured creditor, without further notice to Phipps, and sell the same at public or private sale, at any time, and without the necessity of default hereunder, with the proceeds to be applied against the principal amount remaining due hereunder.

Upon the payment of the total amount of Seventy Two Thousand Dollars (\$72,000.00), with interest, as herein set out, Payton shall fully and completely release and discharge any further claim Payton may have or assert against Phipps. It is agreed that prior to complete payment hereunder Payton shall not be considered to have waived any right or remedy he may have in relation to the matters which are the subject of this Agreement.

It is a material consideration of this Agreement that, upon the completion of all payments and deliveries herein set out, and not before that time, each party shall fully and completely release and discharge any claim either may have or assert against the other of any kind or nature. This Release shall be construed in the broadest possible manner as a full, final and complete release and settlement between Payton and Phipps.

To that end the parties have executed this Agreement this $\frac{1}{2}$ day of July, 2006.

lend lanton

LAURA PHIPPS