

DOCKET NOS. FST-CR19-0148553-T : SUPERIOR COURT
FST-CR19-0167364-T
FST-CR20-0241178-T :

STATE OF CONNECTICUT : J.D. OF STAMFORD-NORWALK
VS. : AT STAMFORD
MICHELLE TROCONIS : SEPTEMBER 22, 2021

MOTION TO SUPPRESS STATEMENTS [CONSOLIDATED]

The defendant, Michelle Troconis, by and through undersigned counsel, Jon L. Schoenhorn, moves this court, pursuant to Connecticut Practice Book § 41-12 *et seq.*; Conn. Gen. Stat. §§ 51-352(a), 54-1c, 54-1d; Conn. Code of Evidence §§ 4-2, 4-3, and 8-2; the fourth, fifth, sixth, eighth and fourteenth amendments to the United States Constitution; Article First §§ 7, 8 and 9 of Connecticut's constitution; and the doctrines of *Edwards v. Arizona*, 451 U.S. 477 (1981), *Michigan v. Mosley*, 423 U.S. 96 (1975), *Miranda v. Arizona*, 384 U.S. 436 (1966), *Wong v. United States*, 371 U.S. 471 (1963), *United States v. Szymaniak*, 934 F.2d 434, 435 (2d Cir. 1991), *State v. Purcell*, 331 Conn. 318, 330 (2019), and *State v. Ferrell*, 191 Conn. 37 (1983), to suppress any and all statements, admissions or other remarks during interrogations on June 1, June 2, June 6, and August 13, 2019.

In support hereof, the defendant states as follows:

1. On June 1, 2019, the defendant was arrested shortly before midnight based on an arrest warrant issued by the court (Blawie, J.), accusing her of committing the offenses of tampering with or fabricating physical evidence, in violation of Conn. Gen. Stat. § 53a-155, and hindering prosecution in the first degree, in alleged violation of Conn. Gen. Stat. § 53a-165aa, in the City of Hartford, CT. The warrant was issued without probable cause, and is the subject of separate motions to dismiss and suppress.

2. On September 3, 2019, the court (Blawie, J.) signed a second arrest warrant accusing the defendant of committing the offense of tampering with or fabricating physical evidence, in alleged violation of Conn. Gen. Stat. § 53a-155(a)(1), in the town of Avon, CT. The warrant relied on information unlawfully obtained from the defendant on prior occasions.

3. On January 6, 2020, the court (Blawie, J.) signed a third arrest warrant accusing the

ORAL ARGUMENT REQUESTED/TESTIMONY REQUIRED

defendant of committing the offense of conspiracy to commit murder in alleged violation of Conn. Gen. Stat. §§ 53a-48(a) and 53a-54a(a), in the town of New Canaan, CT. That warrant was based on information unlawfully obtained from the defendant on prior occasions.

4. On August 28, 2020, the Chief State's Attorney filed long form informations in each of the aforementioned docket numbers. In docket number FST-CR19-0148553-T, the Chief State's Attorney substituted the charge of hindering prosecution in the second degree, in violation of Conn. Gen. Stat. §§53a-166(a) and 53a-165(5); and added a count of conspiracy to commit tampering with physical evidence, in violation of Conn. Gen. Stat. §§53a-48(a) and 53a-155(a)(1), without an independent judicial determination of probable cause.

5. In docket number FST-CR19-0167364-T, the Chief State's Attorney, on or about August 28, 2020, added a count of conspiracy to commit tampering with physical evidence, in violation of Conn. Gen. Stat. §§53a-48(a) and 53a-155(a)(1), without an independent judicial determination of probable cause.¹

6. At the time of her arrest on the night of June 1, 2019, the officers and/or detectives knew that English was not the defendant's principal language, and failed to provide her with either *Miranda* rights in Spanish, or a Spanish-speaking officer during subsequent interrogation sessions, including on June 2, June 6 and August 13, 2019.

7. During the aforesaid interrogation sessions, the officers and/or detectives knew or should have known that the defendant had limited English capacity and required an interpreter.

8. To the extent that the defendant was given *Miranda* rights in English, she did not comprehend the nature of those constitutional rights, or the significance of any waiver.

9. To the extent that the state claims the defendant waived her *Miranda* rights, she never knowingly or voluntarily waived her right against self-incrimination.

10. Law enforcement officials intentionally planned the arrest of the defendant late on a Saturday night after unlawfully barring her from her home, in a planned unconstitutional scheme

¹ On or about March 19, 2021 the court (Blawie, J.), granted the state's motion to consolidate the three informations, without prejudice, subject to revisiting the issue after the court rules upon constitutional sufficiency of allegations contained in one or more of the arrest warrants. No reconsideration of this ruling has occurred as of the date of this motion.

to detain and interrogate her at a time when they knew she was caring for her minor child, would be sleep-deprived, subjected her to an unlawful and humiliating strip search the prior evening, and would have difficulty contacting a lawyer, in order to subject her to psychological pressure and intimidation, to break down her resistance to unlawful interrogation.

11. After seizing the defendant in Avon, the officers thereafter unlawfully transported her in a police cruiser to the New Canaan police headquarters, although the arrest warrant and attached information clearly stated that she was accused of committing an offense in the Judicial District in Hartford, requiring that her arraignment take place in the Superior Court for geographical area # 14, as required by Conn. Gen. Stat. §§ 54-1d(b) and (c).²

12. Through information and belief, law enforcement officials provided false *ex parte* information to the judge who signed the arrest warrant on June 1, 2019, to deceive him into believing that the defendant was a flight risk, although no such information existed and the opposite was true, so that said judge would issue an unlawful detention order to deny her the right to be released on bail, in direct violation of state law, court rules, and the state and federal constitutions. The specific purpose of this unconstitutional scheme by law enforcement officials was to ensure that the defendant would remain unlawfully detained in police custody to give them an entire weekend to exert pressure on her to waive her constitutional rights, without informing her that she was denied bail.

13. Both prior to and during her lengthy custodial transport from Avon to the New Canaan police station, the defendant affirmatively and unequivocally asserted her constitutional rights to consult with an attorney prior to questioning; but that request was repeatedly ignored by law enforcement officers, in open defiance of the state and federal constitutions. The detectives induced the defendant to waive her rights through the open use of lies, psychological pressure and deception, including but not limited to telling her that she could get back to her child if she waives her right to counsel.

² To the extent that the state argues that the issuance of improper jurisdiction for arraignment was somehow “waived” *nunc pro tunc* by prior counsel without consultation with the defendant, that claim lacks a sufficient factual basis or, in the alternative, demonstrates ineffective assistance of said prior counsel.

14. Upon arrival at the New Canaan police station after midnight on June 2, 2019, the defendant was placed in an interrogation room where detectives once again tried to interrogate her, ignoring her prior assertion of her right to consult with counsel, and leaving her in that room for a substantial period of time at night even after she showed them her attorney's business card.

15. On June 2, 2019, during a subsequent interrogation session in the presence of counsel who did not speak any Spanish, the defendant indicated that she had limited English comprehension, inquired if the detectives spoke Spanish, but State and New Canaan Police detectives proceeded to interrogate her in English anyway. All three interrogations were conducted only in English.

16. The detectives conducting the various interrogations knew that the defendant's English comprehension was limited and that the interrogators utilized discredited interrogation techniques to prey upon her language deficiency, as well as her physical and mental exhaustion, through repeated interruption to prevent her from responding accurately and fully to multiple questions. Consequently, her verbal responses were neither reliable nor accurately portrayed in subsequent warrant affidavits.

17. During the aforementioned police interrogations, the defendant was denied the constitutional right to competent and effective counsel, within the meaning of the state and federal constitutions.

18. The June 6 and August 13, 2019 statements were the fruit of, and tainted by, the unconstitutional conduct of law enforcement officials between May 31 and June 2, 2019, and their use to obtain subsequent warrants rendered those warrants invalid.

19. Additional motions to suppress have been filed in these cases on other grounds but to date have not been ruled upon.

WHEREFORE, the defendant requests that this motion be granted and that any and all statements obtained from her by law enforcement on or after June 1, 2019 (including during interrogations that occurred on June 6 and August 31, 2021) be suppressed as evidence at trial, and be precluded from admission during the state's case-in-chief.

The defendant also requests that the court schedule an evidentiary hearing concerning the instant motion.

Dated at Hartford, Connecticut this 22nd day of September, 2021.

THE DEFENDANT – MICHELLE TROCONIS

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ORDER

The foregoing motion having been heard by the Court, it is hereby ORDERED, this

_____ day of _____, 2021, that the motion be GRANTED / DENIED.

BY THE COURT:

_____, J.

Superior Court Judge

Clerk/ Assistant Clerk

CERTIFICATION

I hereby certify that a copy of the foregoing was electronically transmitted, on the date of this pleading to the following counsel of record:

Paul Ferencek, Esq.
State's Attorney
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Jon L. Schoenhorn