

IN THE CIRCUIT COURT OF
MCLEAN COUNTY, ILLINOIS

FILED

8/19/2024 12:39 PM

DONALD R. EVERHART, JR.
CLERK OF THE CIRCUIT COURT
MCLEAN COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS)

Plaintiff-Respondent)

v.)

TAYLOR BROWN)

Defendant.)

No. 2024 CF 80

Honorable Amy McFarland

Judge Presiding

MOTION FOR SPECIFIC DISCOVERY REGARDING VINDICTIVE PROSECUTION

NOW COMES the Defendant, TAYLOR BROWN, by and through her attorney, ANDREA LYON of LYON LAW LLC, and respectfully moves this Honorable Court to grant her request for discovery regarding a potential claim of vindictive prosecution.

In support whereof Ms. Brown states as follows:

1. On or about February 8, 2023, Taylor Brown was a resident of Normal and attending college in the area.¹
1. Late that evening, a fire erupted in her apartment, in the bedroom of one of Ms. Brown's roommates.
2. Ms. Brown's roommate called 9-1-1 to report the fire immediately while Ms. Brown attempted to put the fire out with water.

¹ The facts provided here are taken from various police reports received from the prosecution in the normal course of discovery production.

3. Upon arrival, the police officers who responded to the call with the fire officials asked Ms. Brown to wait in a squad car that was parked in front of her residence until the officers were ready to speak to her.
4. Shortly thereafter, Officer Cunningham asked Ms. Brown if she would be willing to go to the Normal Police Station to answer questions about the fire. After being assured that she would not be questioned for a long period of time considering how late it was, Ms. Brown agreed to be questioned and was transported to the station by Detective Cunningham.
5. There was no probable cause to arrest Ms. Brown for any crimes at any time before she was transported to the Normal Police Station or at any time during transport.
6. Ms. Brown was left in a room for approximately 40 minutes after she arrived at the station and was not questioned by any Normal Police Officers during that time. Tired, Ms. Brown exited the room and told Detective Cunningham that she wanted to be taken back to her vehicle at that time.
7. Detective Cunningham told Ms. Brown that she would take her back shortly and instructed Ms. Brown to wait for her in the lobby. Ms. Brown went to the lobby and waited as directed.
8. Shortly thereafter, at the direction of Detective Vanwynsberg, Detective Cunningham approached Ms. Brown and requested her cell phone.
9. When Ms. Brown asked Detective Cunningham why she was requesting Ms. Brown's cell phone, Cunningham told Ms. Brown that it was being seized as evidence related to the housefire.
10. There was no probable cause and certainly no warrant to seize Ms. Brown's cell

phone at that time. Ms. Brown was not required under the law to relinquish her cell phone to any police officer at that time.

11. Ms. Brown then placed a video call to her mother, who is a Chicago Police Officer, using FaceTime. During the FaceTime call, Detectives Cunningham, McComber, Kosenesky, and Richmond began to surround Ms. Brown.
12. Detectives Cunningham and Kosenesky approached Ms. Brown and attempted to physically extract the phone from her hands by grabbing her wrists. Ms. Brown dropped to her knees while Detectives Cunningham and Kosenesky continued to try to pull the phone out of Ms. Brown's hand. Once on the ground, Detective McComber kneeled on Ms. Brown's back and forcefully pressed his thumb into Ms. Brown's neck while he simultaneously pushed her head to the ground
13. At the same time, Detective Cunningham kneeled on Ms. Brown's back while she continued to forcefully pull Ms. Brown's arms out from underneath her in an effort to seize the cell phone that was still in Ms. Brown's hand.
14. Detective Richmond held Ms. Brown's legs down. Soon thereafter, Detective Yanor approached Ms. Brown, held Ms. Brown's legs and then pulled Ms. Brown's arms.
15. At the moment that the first Detective officer made physical contact with Ms. Brown's person during this encounter, there was no probable cause to arrest Ms. Brown for any crimes.
16. During this encounter, the phone fell from Ms. Brown's hand causing the FaceTime call to disconnect. Ms. Brown was ultimately handcuffed and arrested.
17. Ms. Brown was not charged with any crimes whatsoever because of her arrest or the preceding house fire that night.

18. Detectives seized Ms. Brown's phone following this arrest. Detective(s) attempted to obtain a search warrant to search Ms. Brown's cell phone, but the warrant was not approved by the State's Attorney.
19. Detectives did not have probable cause to search Ms. Brown's phone or to seize the phone at any time.
20. Ms. Brown was released that night, and police returned her phone to her at approximately 3:30 p.m. on February 9, 2023- approximately two hours after she was released from the custody of the McLean County Jail.
21. Two months later, March 26, 2023, Ms. Brown filed a civil lawsuit against the town of Normal, and Normal Police Officers, Serena Cunningham, Kyle Cunningham, Kyle McComber, Nichols Kosennesky, Landon Richmond, Max Yanor and Tyler Vanwysber (in the United States District Court, Central Division Case No. 23CV1078.)
22. At some point, the McClean County prosecutor's office contacted the State Appellate Prosecutors to take over. Counsel for Ms. Brown does not know when that request occurred.
23. On January 17, 2024, Ms. Brown was charged in the instant indictment, nearly a year after the incident, and approximately nine months after filing her civil suit.
24. This timeline alone raises a reasonable suspicion that this prosecution is related to Ms. Brown's assertion of her civil rights in federal court.

25. A prosecution is vindictive and violates due process if it is undertaken “to punish a person because he has done what the law plainly allows him to do.” *People v. Hall*, 311 Ill. App. 3d 905, 911 (4th Dist. 2000) (quoting *United States v. Goodwin*, 457 U.S. 368, 372 (1982)).

26. Nonetheless, the law requires more than circumstantial evidence of vindictive prosecution; there must be evidence that poses a realistic likelihood of vindictiveness. *Hall*, 311 Ill. App. 3d at 905.

Wherefore, in order to adequately represent Ms. Brown, and in order to properly prepare for such a motion, counsel for Ms. Brown respectfully requests that this Honorable Court order the prosecution to produce certain information relating to these issues, and requests discovery as follows:

- A. Any and all communications between and by police officers in this case with the McClean County State's Attorney's Office and/or the State Appellate Prosecutor's Office including but not limited to emails, texts, requests or other reports relating to this case.
- B. Any and all communications between and by the McClean County State's Attorney's Office and the State Appellate Prosecutor's Office including but not limited to emails, texts, requests or other reports relating to this case.
- C. Any internal memorandum regarding issues of liability in this matter by the McClean County State's Attorney's Office to or from the State Appellate Prosecutor's Office including but not limited to emails, texts, requests or other reports relating to this case.
- D. Any and all information which might be exculpatory in that it would support a Motion to Dismiss for Prosecutorial Vindictiveness.

Respectfully submitted:

/s/ Andrea D. Lyon
ANDREA D. LYON
Attorney for the Defendant
LYON LAW, LLC
53 W. Jackson Blvd, Suite 1650
Chicago, Illinois, 60604
andrea@andrealyon.com
(312) 622-0736
ARDC# 1715208

IN THE CIRCUIT COURT OF
MCLEAN COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Plaintiff,)	
)	
-vs-)	No. 2024 CF 80
)	
)	
TAYLOR BROWN,)	
)	
Defendant.)	

NOTICE AND PROOF OF SERVICE

Mr. Thomas Brown, Special Prosecutor, State's Attorneys Appellate Prosecutor, 725 South Second Street, Springfield, IL 62704, tbrown@ilsaap.org

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. On August 19, 2024, this Motion in for Specific Discovery was filed with the Clerk of the Court using the court's electronic filing system in the above-entitled cause. Upon acceptance of the filing from this Court, persons named above with identified email addresses will be served using the court's electronic filing system.

/s/ Andrea D. Lyon
ANDREA D. LYON
Attorney for the Defendant
LYON LAW, LLC
53 W. Jackson Blvd, Suite 1650
Chicago, Illinois, 60604
andrea@andrealyon.com
(312) 622-0736
ARDC# 1715208