

Part 1

The following are excerpts from: The Commonwealth vs. William Smith

COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.

COMMONWEALTH)
vs.)
WILLIAM SMITH)

MASSACHUSETTS TRIAL COURT
SUPERIOR COURT DEPARTMENT
476-2-6
WILLIAM D. SMITH
MAGISTRATE
DEFENDANT'S BRIEF IN-SUPPORT OF HIS MOTION
FOR SEVERANCE

INTRODUCTION

This brief will first present a background of the case in order to place the Defendant, William Smith's motion for severance in proper perspective. Secondly, argument will follow from those facts as to how the Defendant will be specifically prejudiced by joinder in trial with Carl Drew in the murder of Doreen Levesque. Lastly, a synopsis of applicable law will be presented indicative of recent Court rulings on the matter of prejudicial joinder.

THE BACKGROUND OF THE PRESENT INDICTMENT

The facts giving rise to the present indictment are unusual and arise out of a history of prostitution, rivalry among persons living off the earnings of prostitutes, and intimidation of young women caught in the web of vice. Prior to October 12, 1979, and at all times material thereafter, the practice of this prostitution and the socializing of members of people associated therewith took place for the most part on Bedford Street, in Fall River, at Charlie's Cafe, and the Pier. Prior to October 12, 1979, Robin Murphy (the eventual chief prosecution witness under immunity) had been allied with an Andre Maltais in cultism and prostitution, a relationship which was morbid, sexually abnormal, and continuing since Robin Murphy was 12 years old. Additionally, Robin Murphy was tied into Carl Drew over a long period of time, working for him as a prostitute and participating in various forms of cultism, which he practiced. The three eventual murder victims who will figure in the macabre scenario of the cult

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murders, Doreen Levesque, Barbara Raposa, and Karen Marsden, wandered into the prostitution scene of Bedford Street, and linked themselves in one or another way with Maltais, Murphy, and Drew. Doreen Levesque apparently worked as a free lance prostitute in the Bedford Street area; Barbara Raposa worked for or became the girlfriend of Maltais, and Karen Marsden became the "first girl" of Carl Drew. Robin Murphy's role in the time immediate to October 12, 1979, becomes less clear since according to her statements she was bi-sexual and received earnings from prostitutes for reasons which present discovery leaves unclear.

Discovery as furnished by the Commonwealth, indicates that all of the above parties were known to one another, socialized with one another, and participated with varying degrees of involvement in the trafficking of illicit sex and illegal drugs in Charlie's Bar and the Pier on Bedford Street, Fall River, Massachusetts.

On October 12, 1979, or the morning of October 13, 1979, the victim in the instant case, Doreen Levesque, was murdered by knifing and stoning. On or about November 7, 1979, Barbara Raposa was murdered by stoning and on or about February 8, 1980, or sometime between that date and April, 1980, Karen Marsden was murdered by beheading and stoning.

The evidence may be divided into scientific evidence and testimonial evidence. No scientific evidence exists that William Smith committed the murder of Doreen Levesque, or for that matter, that Carl Drew committed the murder of either Doreen Levesque or Karen Marsden (The murder of Barbara Raposa was eventually to be laid at the door of Andre Maltais and Robin Murphy solely). Rather, at least as far as Doreen Levesque is concerned, all scientific evidence (hair samplings) are indicative of the fact that a third party, an [REDACTED] [REDACTED] was the murderer of Doreen Levesque. The evidence as to both the

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Levesque and Marsden murders will come about principally from Robin Murphy, eventually arrived at by investigators after following her through a maze of inconsistencies, perjury and narrative distortions. From the very beginning of 1980, she obfuscates the facts and plays mental games with investigators, sometimes painting people into pictures she creates and recreates, and sometimes leaving them out, all apparently to some secret purpose of her own. The net result will be police perplexity and inaccuracy in investigation as she leads them in a chase lasting over a year. A summary of the twists and turns in Robin Murphy's story, her hedging and contradictions are here presented:

On February 5, 1980, Andre Maltais came into the District Attorney's office and in the presence of the District Attorney, and the investigating officers of the State Police, and the Fall River Police Department, proceeded to tell them about a "dream; he had concerning the murder of Barbara Raposa. According to Andre Maltais, he was up in the sky on February 5, 1980, looking at the murder of Barbara Raposa. He describes the same in bizarre detail, but with a sufficiency of clinical detail to indicate that he had been involved in that murder. Afterwards, February 11, 1980, Robin Murphy came into the District Attorney's office and in the presence of police officers placed herself at the scene of the murder of Barbara Raposa with Andre Maltais. However, in that stenographic interview, she placed all the blame on Andre Maltais, and exculpated herself as an accomplice stating that she sat in the car a distance from the murder and took no part. Robin Murphy, who was 17 years old at the time of this interview on February 11, 1980, described herself as smoking marijuana on the night of the Barbara Raposa murder, and herself as being "tapped" at the time of this interview. She further talks about herself in the third person at the time of the interview using expressions such as "shut up I don't want to hear into that". In any event, she also places the blame for the Doreen Levesque murder on Andre Maltais. Furthermore, while stating that Andre Maltais murdered Barbara Raposa, and while having Andre Maltais pick up Doreen Levesque on the night she was murdered (a date Robin Murphy has trouble with), she has Andre Maltais engaging in many conversations with her, Robin Murphy, afterwards, indicating a form of insanity on Andre Maltais' part in that he talks about Barbara Raposa as though Robin Murphy were not there at all, and makes statements to the effect that the same person who murdered Barbara Raposa also murdered Doreen Levesque. She has Andre Maltais saying that Barbara Raposa must have gotten involved with pimps or have gotten involved with some "nigger". However, notwithstanding any of these conversations with Andre Maltais, which apparently occurred between the death of Barbara Raposa, and February 11, 1980, she nevertheless states to the police investigators that she "felt that Carl killed Doreen Levesque" for reasons that she apparently does not know. All this time she admits to a deep fear of Carl Drew because she apparently cut into his racketeering.

Robin Murphy is taken into protective custody and lives outside of the state. Upon her return to the state, a stenographic deposition is taken of her on April 9, 1980, in which she denies any knowledge of the whereabouts of Karen Marsden (she will later admit to the murder of Karen Marsden). She basically reiterates her story of the murder of Barbara Raposa, in which she states that Andre Maltais performed abnormal sexual acts on Barbara Raposa, and himself,

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and then killed Barbara Raposa with a rock. In this interview held in the District Attorney's office and stenographically transcribed, she described a fantastic history of pregnancies on her part, and apparent abortions through pills which Andre Maltais gave her.

She denies in that interview knowing anything at all about the Doreen Levesque murder, and avows that she had only a passing acquaintance with Doreen Levesque, knowing her only enough to say "hi" to her on the street.

On April 13, 1980, a skull was found in the woods off Grenada Drive in Westport, Massachusetts, according to experts consulted by the police. The skull belonged to Karen Marsden, and the cause of death was a subdural hematoma secondary to fracture of the skull. The date of the death was set clinically at about February 8, 1980, when she was last seen alive. On April 29, 1980, with Andre Maltais under indictment for the murder of Barbara Raposa upon the prior depositions of Robin Murphy, the police move in on Robin Murphy forcefully. At a conference held on April 29, 1980, in the District Attorney's office with police officers present, she for the first time places herself in the Doreen Levesque murder. She describes Carl Drew and a person by the name of Willie whom Carl Drew picked up at his house. She describes Willie as about Carl Drew's height with short hair which is "kinky, that is, blackman hair." He wasn't big, but he wasn't skinny, he was just about the right size. He was medium built. He wore black sneakers, and that is all she can describe of him. She described him as living with a girl with blonde hair and glasses by the name of Cooky. They then, the three of them, Carl Drew, Willie, and Robin Murphy, picked up Doreen somewhere between Charlie's and Willie's house. They rode around the city smoking marijuana, and then went down to the Diman Field bleacher area. In this interview, no mention is made of Karen Marsden being present. There, as Robin Murphy describes it, a satanic ritualistic bloodletting took place of Doreen Levesque accompanied by abnormal sexuality. Robin Murphy, however, saw no blood on their clothing. It was two hours before 1:30 when Doreen Levesque was supposed to have been picked up by Robin Murphy, Carl Drew, and Willie. Again, she describes Carl Drew as a person who would create fear in anyone just by "looking at them". Throughout that interview of April 29, 1980, Robin Murphy will vacillate, she will describe how she saw what happened - on one hand and how on the other, she did not see what happened, only having an idea of what happened. In addition to the fear that she describes of Carl Drew personally, she describes a crew of people whom she believes to back him up and support him, who can come down from New Hampshire, and sadistically enforce Carl Drew's orders. Further, in that interview, despite all that Robin Murphy claims she saw, she is unsure of whether Doreen Levesque got a beating or whether she was left dead, but she didn't believe that Carl Drew had killed her at that time, because Robin Murphy "didn't know". Robin Murphy goes on to describe various conversations she had with Karen Marsden after the Doreen Levesque murder, in which Karen Marsden was supposed to have been shocked that Willie was involved. In that interview, Robin Murphy describes herself as a person who shoots off her mouth when she gets too high, an apparent reference to an earlier time after the death of Doreen Levesque, when she was telling people that she and Maltais killed Doreen Levesque. On April 29, 1980, she reiterates the story again of Barbara Raposa and then goes on to state how she, Carl Davis, and Carl Drew murdered Karen Marsden, with a denial on Robin Murphy's part that Carol Fletcher was present. This murder also according to Robin Murphy will take place in a form of ritualistic bludgeoning and abnormal sex. In that interview with reference to the Karen Marsden murder, she describes herself at the time of the interview as being sick, "real sick" and again talks about herself in the third person saying words to the effect of "guess what, Robin said that."

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On April 30, 1980, Robin Murphy apparently told the District Attorney that she was not there with Carl Drew, Carl Davis, (and Carol Fletcher) the night that Karen Marsden disappeared. And another deposition, or transcribed interview occurred May 1, 1980. At the May 1, 1980, interview, she indicated that the only thing she knew about Doreen Levesque was that Carl Drew had told Karen Marsden who related it to her was that if Karen was not careful she would end up under the bleachers like Doreen Levesque. Robin Murphy will go on to state that she knows nothing of her own knowledge about the Doreen Levesque murder. With reference to Karen Marsden, however, she states that she was there with Carl Drew, Carl Davis, and Carol Fletcher, and again recites the bizarre details of slitting her throat, tearing out her hair, and observing Carl Drew behead her, followed by a burning of the body of Karen Marsden, and abnormal sexual practices and rituals which parallel her other stories at the other murders. She describes Carl Drew as marking her with blood at the scene, and starting a fire with some gasoline, concerning the whereabouts of which gasoline Robin Murphy is mixed up. A fire was lit using some of the hair of Karen Marsden, and Robin Murphy was told to put her hand in the fire, but upon Robin Murphy's doing so, her hand did not burn. Her hand neither burned, nor did it have a subsequent blister or injury of any kind. Again, Robin Murphy states that she fears Carl Drew, because he worships Satan and he was a big man, and that he had threatened her previously, especially for being gay and lesbian.

Later on January 14, 1981, in a stenographically transcribed proceeding in the Superior Court, with Judge Taveira presiding in which Robin Murphy was under oath, and at which proceeding immunity was sought with reference to the Karen Marsden murder, she agreed with her attorney, Kenneth Sullivan, Esquire, that she had told him before then that she had nothing to do with the Doreen Levesque murder. Subsequently, however, on February 17, 1981, she repeated her original story of the prior year that a Willie and Carl Drew and she were present at the murder of Doreen Levesque. This time, however, she places Karen Marsden into the picture and avows that the Marsden murder by Carl Drew was to silence Karen Marsden for her knowledge of the Doreen Levesque murder. Prior to that February 17, 1981 testimony to the Grand Jury, Robin Murphy "identified" Willie from fourteen photographs in the Superior Courthouse in Boston, after obtaining due assurances of immunity. That identification format in February of 1981 was held and the identification was made despite the fact of prior assertions by Robin Murphy that "all black men look the same to her."

The above narrative constitutes only a silhouette of what was involved in this investigation, the many reversals of her story, and substantive changes in the testimony and interviews of Robin Murphy. To the above must be added the factors of publicity in the trials of Andre Maltais and Carl Drew in which Robin Murphy figured as the chief and for most part only prosecution witness which trials received widespread publicity in all news media including television.

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Part 2

COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.

SUPERIOR COURT
NO. 7626

COMMONWEALTH

VS.

WILLIAM SMITH

FILED
OCT 29 1981

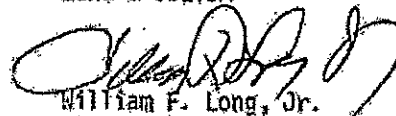
WILLIAM F. LONG
MAGISTRATE

DEFENDANT'S MOTION TO DISMISS THE
INDICTMENT FOR FAILURE OF THE
PROSECUTION TO PRESENT TO THE
GRAND JURY EXCULPATORY EVIDENCE

The Defendant moves that the Bristol County Superior Court indictment against him for the murder of Doreen Levesque, be dismissed for the reason that the prosecution failed to present to the Grand Jury exculpatory and balancing evidence indicative of the innocence of the Defendant, all as in accordance with the affidavit below set forth, incorporated, and made part of this motion.

By his attorneys,

LONG & SILVIA



William F. Long, Jr.
373 North Main Street
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AFFIDAVIT IN SUPPORT OF MOTION TO DISMISS

The Discovery materials, interviews, depositions, exhibits, and transcriptions, furnished by the Commonwealth as part of their continuing obligation to furnish discovery to the Defendant indicate a lack of the following evidence in its possession being furnished the Grand Jury:

BACKGROUND

Three young women were murdered in Fall River or its environs, Doreen Levesque, on October 14, 1979 in Fall River; Barbara Raposa on November 7, 1979 in Fall River; and Karen Marsden on February 9, 1980 in Westport, Massachusetts.

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12/3/82 after hearing denied
Chas. Byrne
Justice

the two first victims by bludgeoning and the third victim apparently by dismemberment. These girls were prostitutes working out of a network of commercial vice in the Fall River area in which various roles figured as living off their earnings. Figuring importantly in this scenario of vice was a satanic cult by which and through which prostitutes were intimidated exploited and generally kept in line. After the first murder (Doreen Levesque, October 14, 1979), a certain Robin Murphy, an Andre Maltais, and Karen Marsden initiated a series of conferences with the police, the general purport of which is that a Carl Drew, as head of the satanic cult was involved in the murder of Doreen Levesque. During that time Barbara Raposa is murdered, a crime for which eventually Andre Maltais alone will be found guilty, with Robin Murphy, the sole witness against him. In any event upon the discovery of the body of Barbara Raposa, Andre Maltais came to the police with an unlikely story of his observing her murder while seated in a tree and in which he described a man bludgeoning her to death. After disclosing facts to the police indicative of a knowledge only the perpetrator of the crime could have, he was arrested. Thereafter, Robin Murphy on February 9, 1980 related to the police her witnessing of the murder of Barbara Raposa by Maltais. At times before and after then, (from Christmas of 1979) to April 29, 1980) Robin Murphy was and will be under various forms of unrestricted protective custody in the Fall River area and in Texas in which she narrates to friends and relatives differing and contradictory versions of how she and others murdered the three young women. Upon discovery of the body of Karen Marsden on April 23, 1980, the police have her returned to the Fall River area April 29, 1981 at which time she confesses to being present at the murders of Doreen Levesque and Karen Marsden. Her narratives then and thereafter will be punctuated by denials, contradictions, and unremembered

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details. On February 9, 1981, at a photograph array in Boston on the same day she receives transactional immunity and a month or so after receiving transactional immunity, she allegedly "identifies" the Defendant as a black Willie present at the scene of the Doreen Levesque murder with her, Carl Davis, and Karen Marsden.

Andre Maltais was tried and convicted of the murder of Barbara Raposa. Carl Drew has been tried and found guilty of the murder of Karen Marsden the motive assigned therefore in that trial was to silence Karen Marsden as an eyewitness to Doreen Levesque. Carl Davis, a co-defendant with Carl Drew in the murder of Karen Marsden awaits trial and the Defendant William Smith and Carl Drew presently await trial for the murder of Doreen Levesque.

TIME SEQUENCE THE NIGHT OF DOREEN LEVESQUE'S MURDER

The police interviewed witnesses who saw the victim at a restaurant in Fall River between 10:30 and 12:30 the night of October 13, 1979, and another witness who saw her getting into a motor vehicle at approximately 1:00 a.m.; but according to Robin Murphy's narrative of what happened, she, Carl Drew, and a "black Willie" picked up Doreen Levesque between 9:00 and 10:00 p.m. the night of the crime and left, rode around with her and murdered her before 1:00 p.m. Robin Murphy narrates, (April 29, May 1, 1980) that she drove around with Carl Drew after 12:45 a.m. and that she was certainly home by 1:30 a.m.

THIRD PARTY GUILT - ANDREW MALTAIS

1. Robin Murphy told a [REDACTED] G [REDACTED] prior to April 29, 1980 that Andrew Maltais killed Doreen Levesque and that she watched.

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2. Robin Murphy according to her had a long, abnormal, and lurid relationship with Andre Maltais as a person who engaged in satanic worship and was violent, knew of strange rituals in Westport, and molested young children.

3. Robin Murphy identified him as someone who knew Doreen Levesque and used to pick her up.

4. An informant (undisclosed in the discovery) told the police "that Maltais killed Doreen Levesque and the other girls."

5. Maltais who has been convicted of the murder of Barbara Raposa told Robin Murphy that the same person killed Barbara Raposa as killed Doreen Levesque, knowing full well that Robin Murphy knew that he murdered Barbara Raposa.

THIRD PARTY GUILT - [REDACTED]

1. His denying knowledge of Carl Drew.

2. Robin Murphy's description to the police and others of the "Willie" at the murder of Doreen Levesque as living with Cookie Powers, whom he beat and with whom he was going to New Hampshire.

3. Robin Murphy saw this "Willie" on Bedford Street in February of 1980 with Cookie at the Golden Pheasant Restaurant.

4. The "Willie" who lived with Cookie Powers was, according to Robin Murphy, connected with people from New Hampshire and (after the Doreen Levesque murder) threatened Karen Marsden.

5. The "Willie" who lived with Cookie Powers and whom Robin Murphy warned Karen Marsden not to visit as one who was at the murder of Doreen Levesque.

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6. The police know the Defendant did not live on [REDACTED] Street and did not live with Cookie Powers.

THIRD PARTY GUILT - [REDACTED] P [REDACTED]

J [REDACTED] P [REDACTED], a companion of A [REDACTED] G [REDACTED] had threatened to kill Doreen Levesque, shortly before Doreen Levesque's death. The reason was for going out with A [REDACTED] G [REDACTED] who from the discovery was a person for whom Doreen Levesque worked as a prostitute and whom Doreen Levesque wanted to accompany to Florida.

THIRD PARTY GUILT - A [REDACTED] C [REDACTED]

1. Doreen Levesque worked as a prostitute for A [REDACTED] G [REDACTED] who lived off her earnings and was a man who allegedly was guilty of a robbery in Fall River approximately the same time.
2. Two days before her murder, he quarreled with her and struck her.
3. His only alibi the night of the murder was that he was "blown out on dope" at a hotel in Portsmouth, Rhode Island.
4. The next day he went non-stop to Florida.
5. Stains indicative of blood were found on the seat of the car he took from Fall River to Florida.
6. A rock with a hair compatible with a sample from him was found in one of the rocks apparently used at the Doreen Levesque murder.
7. An informant told the police he did the crime.
8. A J [REDACTED] J [REDACTED] who was the first to identify Doreen Levesque whose head was bludgeoned, had been a customer of Doreen Levesque and was introduced to her through A [REDACTED] G [REDACTED]

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- 1) rocks and bludgeoning is the mode of the murder,
- 2) a one-car ride with the victim always begins and ends on Bedford Street.

CONTRADICTIONS AND DENIALS OF ROBIN MURPHY

1. She thinks it was Carl Drew, but not sure.
2. In early interviews, did not know the victim before; later, a little; then definitely knew her.
3. Read about the murder in the papers.
4. Before April 29, 1980 identified "Willie" as a Willie who lived with Cookie on Seabury Street and then later called him only "Black Willie" a person she did not know.
5. Contradictions in her story as to when and with whom she first encountered "Black Willie" the night of the murder.
6. Stated that she and Carl Drew did the murder.

UNRESOLVED MOTIVES FOR MURDER OF KAREN MARSDEN

1. That Robin Murphy murdered Karen Marsden "for Sonny Sparta."
2. That Carl Drew and Robin Murphy were economic rivals.
3. That Robin Murphy was jealous of Carl Drew and Sonny Sparta.
4. That according to Carol Fletcher, Karen Marsden was going to leave town and leave the cult.
5. According to District Attorney in one Grand Jury Session, Karen Marsden was murdered because she had been a bother to Robin Murphy.
6. That Karen Marsden witnessed the Doreen Levesque murder.

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IMPROBABILITY OF THE DOREEN LEVESQUE MURDER

1. No yelling or screaming by Doreen Levesque or crying for mercy.

STATEMENTS OF KAREN MARSDEN INDICATIVE OF
NONCOMPLIANCE IN THE DOREEN LEVESQUE MURDER

1. Karen Marsden before her death, told another that she knew who murdered Doreen Levesque and she named them.
2. She was surprised that Willie who lived with Cookie murdered Doreen Levesque.

CONTRADICTORY OPINIONS OF "BLACK WILLIE"

1. Did not know "Willie" in the car.
2. Does not think he is 5'10".
3. Thinks he is 5'9" or 5'8".
4. He is Carl Drew's build.
5. Does not think he is heavy built.
6. "All blacks look the same to her."

CONTRADICTORY STATEMENTS OF ROBIN MURPHY ABOUT
PRIOR FAMILIARITY WITH DOREEN LEVESQUE

1. Robin Murphy stated that she only knew Doreen Levesque to stop by with her bike and smoke a joint with her.
2. Later she told police she met her in Westport in the summer of 1979 or 1978 and knew her on Bedford Street.
3. Later says Doreen was a friend of hers and never could murder her.

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DRUGS THE NIGHT OF THE MURDER

1. Robin Murphy smoked marijuana.
2. Drank beer.
3. When asked by the police "are you sure you know where you were that night, she answered, "That's a good questions too."

OUTRIGHT DENIALS OF ROBIN MURPHY

1. She told the police she knew nothing about the Doreen Levesque murder and read about it in the papers.
2. She "imagined" Doreen Levesque only got a beating and was left there.
3. Did not believe Carl Drew killed her (although on another occasion says she "knows Carl Drew killed her."
4. She said she does not know if "Willie" was there.
5. After the April 29, 1980 statement to the police, she denied everything.
6. On January 14, 1981 on her plea of Guilty to the Karen Marsden murder, she denied knowledge of the Doreen Levesque murder.

LACK OF ANY CERTAINTY ABOUT DETAILS OF
THE DOREEN LEVESQUE AND KAREN MARSDEN MURDERS

1. In both murders, although Robin Murphy avows to being an eye-witness, she lacks any certainty, concerning the following:
 - a) clothes of the victim or other parties,
 - b) a chronological sequence of events,

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- c) the consciousness or unconsciousness of the victim.
- d) in the case of Doreen Levesque, knowledge of or remembrance of stab wounds.

LACK OF CIRCUMSTANTIAL EVIDENCE THAT
KAREN MARSDEN WAS PRESENT AT THE
MURDER OF DOREEN LEVESQUE

The Grand Jury was told that circumstantial evidence indicated that Karen Marsden was present at the murder of Doreen Levesque, but no such evidence was presented or existed.

KAREN MARSDEN'S STATEMENTS BOTH TO THE EFFECT
THAT SHE WAS NOT AT DOREEN LEVESQUE MURDER OR
THAT A WILLIE WAS NOT THERE

1. Carol Fletcher stated that Karen Marsden told her that she was at Doreen Levesque's murder and named participants, but did not name any "Willie".
2. At one juncture, Karen Marsden was surprised that a "Willie" was there.

THE FORENSIC IMPROBABILITY AND IMPOSSIBILITY
OF KAREN MARSDEN MURDER

Although the reason for the murder of Karen Marsden was her presence at the murder of Doreen Levesque, and despite the opinions of Robin Murphy that she (Robin Murphy) was spared because either (a) because of Sonny Sparta, or (b) because of her initiation then into the satanic cult, nevertheless, definite improbabilities and impossibilities existed in the Karen Marsden murder which bothered a prior Grand Jury, but which were not presented to the Grand Jury returning the indictment of the Defendant here set forth as follows:

1. The forensic improbability of cutting a head off by means of a knife.
2. The forensic improbability of "kicking" a severed head into the air.
3. The forensic impossibility of a body being consumed in a fire so as to disappear utterly.
4. The distance between where the body was supposedly consumed by fire and the location of where the head was ultimately found.
5. The fact that the body was not found although all testimonial evidence of Robin Murphy always said it was at or near the vicinity of the murder.

ALIBI OF WILLIAM SMITH AND DELAY OF POLICE

1. Shortly after the Doreen Levesque murder, the Defendant was questioned by the police as an acquaintance of the victim. He gave an account

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SUPERIOR COURT DEPARTMENT

BRISTOL SUPERIOR COURT
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COMMONWEALTH)
VS.)
WILLIAM SMITH)

May 24, 1982
WILLIAM F. LONG
MAGISTRATE

DEFENDANT'S AFFIDAVIT IN SUPPORT OF HIS
MOTION FOR FURTHER DISCOVERY

This affidavit is filed in support of the Defendant's motion for further discovery dated March 1, 1982.

The affiant is William F. Long, Jr., an Attorney at Law with an office at 373 North Main Street, Fall River, Massachusetts, Attorney of Record for William Smith, the Defendant, who being on oath says and deposes that the following is based on Discovery given to defense counsel;

[REDACTED]

1. That Discovery, afforded by the Commonwealth indicates that on October 13-14 of 1979, [REDACTED] a person familiar with Doreen Levesque in New Bedford, Massachusetts and with whom he argued that week concerning accompanying him to Florida, did in fact leave for Florida after spending the night of October 12-13 (the night of the murder) in the Ramada Inn in Portsmouth, Rhode Island, ten miles from the scene of the crime.

2. That he stayed there, according to the story he gave the police with [REDACTED] and was unconscious on drugs.

3. That the motor vehicle he drove to Florida (owned by [REDACTED]) when found approximately ten days later had blood stains on the floors and seats.

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4. Copies of the letters that were found in the Dunkin Donut parking area on or about December 10, 1979 by a Mr. Perry who turned them over to the New Bedford police. Demand is made for the copies of the letters, the two letters that were found and a copy of the label on the prescription and a description of the drugs that were found.'

5. Demand is made for the notes of the autopsy that are in possession of the District Attorney's office as made by the late pathologist, Ambrose Keely, M.D. and all other critical tests and data made in regard to the examination of said body and materials and information as it relates to cause of death.

6. Demand is made for all other items for which copies cannot be forwarded to defendant such as clothing, photographs, and other items in the care of the District Attorney's office so that defense counsel and their agents, servants, or employees may examine said items.

7. Copies of all serological tests made on blood found in the vehicles of R [REDACTED] O [REDACTED] and/or in the possession of A [REDACTED] G [REDACTED].

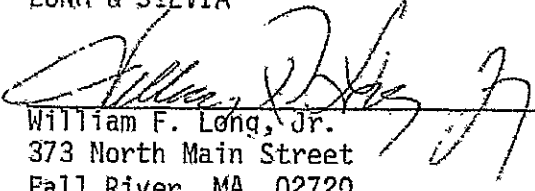
8. Copies of all statements and interviews made by Maureen Sparda concerning the Barbara Raposa, Karen Marsden, or Doreen Levesque.

9. Copies of all statements given to the police by A [REDACTED] [REDACTED] and more particularly his explanation of the blood in his car. (To wit: the R [REDACTED] O [REDACTED] car)

10. Copies of all interviews with anyone in regard to the clothing found at or near the scene of Doreen Levesque's body.

Respectfully submitted,

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COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.

SUPERIOR COURT DEPARTMENT

BRISTOL SUPERIOR COURT
FILED

COMMONWEALTH

VS.

WILLIAM SMITH

May 24, 1982

DEFENDANT'S AFFIDAVIT IN SUPPORT OF HIS
MOTION FOR FURTHER DISCOVERY

This affidavit is filed in support of the Defendant's motion for further discovery dated March 1, 1982.

The affiant is William F. Long, Jr., an Attorney at Law with an office at 373 North Main Street, Fall River, Massachusetts, Attorney of Record for William Smith, the Defendant, who being on oath says and deposes that the following is based on Discovery given to defense counsel:

[REDACTED]

1. That Discovery, afforded by the Commonwealth indicates that on October 13-14 of 1979, [REDACTED] a person familiar with Doreen Levesque in New Bedford, Massachusetts and with whom he argued that week concerning accompanying him to Florida, did in fact leave for Florida after spending the night of October 12-13 (the night of the murder) in the Ramada Inn in Portsmouth, Rhode Island, ten miles from the scene of the crime.

2. That he stayed there, according to the story he gave the police with [REDACTED] and was unconscious on drugs.

3. That the motor vehicle he drove to Florida (owned by [REDACTED]) when found approximately ten days later had blood stains on the floors and seats.

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4. The police conducted serological tests on said blood stains and interviewed A [REDACTED] in Florida together with R [REDACTED] O [REDACTED] his companion on the trip to Florida.

5. The police furthermore investigated the origin and ownership of fishing tackle found near the body of Doreen Levesque whose hands and feet had been tied with fishing line and received from A [REDACTED] in Florida equivocal statements about the "stabbing" of Doreen Levesque and the fact that [REDACTED] did go fishing.

6. That the Commonwealth has furnished the Defendant neither with full copies of all interviews with [REDACTED] and R [REDACTED] to the present, nor the results of said serological tests, nor a complete report of its investigation of the origins of the fishing tackle.

THE PLASTIC BAG WITH CONTENTS OF DOREEN LEVESQUE

1. Discovery previously afforded the Defendant indicates that December 10, 1979, a plastic bag was reported found in the Dunkin Donuts on the east side in New Bedford containing articles of the victim Doreen Levesque including two letters.

2. That said Doreen Levesque worked in New Bedford, and the evidence, i.e., discovery is not conclusive that she was not there October 12-13, 1979.

3. To date copies of the above letters have not been turned over to the Defendant.

THE DEATH OF DOREEN LEVESQUE

1. The discovery afforded to date indicates that the victim, Doreen Levesque was both stabbed in the back and neck, and her head bludgeoned.

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2. The discovery further indicates, according to the story given by Robin Murphy and the "pool of Blood" at her head that the bludgeoning took place at Diman Athletic Field, although the discovery is scant if existing at all as to the place of the stabbings.

3. Autopsy reports given the Defendant today are incomplete on the issue of the cause of death, and specifically on the effect of said stabbings.

4. The notes (copies) of the medical examiner (Dr. Ambrose Keeley, deceased) have not been afforded the Defendant.

5. All said above clinical reports, examinations, and studies are necessary for evaluation by the Defendant's pathologist.


Dated: May 20, 1982


William F. Long, Jr.
Attorney for William Smith

COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.

FALL RIVER MAY 20, 1982

Then personally appeared the above-named, William F. Long, Jr., and swore the above to be true before me.


John Sylvia, Jr. NOTARY PUBLIC
My Commission expires: June 16, 1983

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except for the head. The body has been disposed of in a manner by which it still has not been found. That night, the same night, as the Karen Marsden murder, February 8, 1980, Robin Murphy went to the police and for the first time tells them that she was present at the Barbara Raposa murder and that Andre Maltais murdered Barbara Raposa. It is to be noted at this juncture that Robin Murphy described the murder of Barbara Raposa in exactly the same way as she describes the murder of Doreen Levesque, a later date on April 29, 1980, including the interesting fact that she sat in the motor vehicle and observed the whole event rather obliquely.

Now, in this time slot of February 8, 1980 to April 13, 1980, the latter date being the date on which the skull of Karen Marsden is eventually found, Robin Murphy tells her friends and associates that Maltais was the killer of Doreen Levesque. Moreover, in a series of interviews including a probable cause hearing from February through April of 1980, Robin Murphy denies all personal knowledge of the Doreen Levesque murder and in fact gives very credible evidence that Andre Maltais was at the Doreen Levesque murder. She says that two weeks before her 17th birthday, on or about October 12, 1979, Andre Maltais took Doreen Levesque out for a ride in his car and that he was going out with her.

When the head of Karen Marsden was found on April 13, 1980, and only then, did Robin Murphy start to say it was black Willie and Carl Drew and herself.

It was at this point that we have the trilogy of three days, April 29, 1980, April 30, 1980, and May 1, 1980, which are crucial. On April 29th, Robin Murphy gives a story which is vague, improbable and probably pathologically impossible, describing the murder of Doreen Levesque by herself, Carl Drew and black Willie,

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whose last name she then says she does not know. She also on April 29th confesses to the murder of Karen Marsden. Then on April 30th, she retracts the April 29th confession and tells the District Attorney she knows nothing about the Doreen Levesque and Karen Marsden murders of her own personal knowledge. Then the following day, on May 1, she goes back and she admits to the knowledge of the Karen Marsden murder and her active participation in it. However, she states on May 1, that everything that she said the day before about not knowing anything at all about the Doreen Levesque murder was true, that she did not know anything at all about the Doreen Levesque murder and did not participate in it. In short, her denial of being at the Doreen Levesque murder sticks and remains at this point. As a matter of fact, Robin Murphy, despite other police investigators speaking to her, will remain constant and pat on that May 1, story that she knows nothing about the Doreen Levesque murder through the end of 1980. She then makes a different statement on January 30, 1981.

William Smith's Grand Jury was not presented the above statements, nor was the William Smith Grand Jury presented with any of the retractions nor with any of the twists and turns of her many stories. In particular, they were not presented with the fact that her story of no knowledge of the Doreen Levesque murder continued from May 1, 1980 through January 30, 1981.

There was further omitted from the William Smith Grand Jury the particular similarities of the Doreen Levesque and Barbara Raposa murders. The objective parallels of the tying of the hands and the feet, of the bludgeoning and the stabbing. The less objective parallels were the fact that Robin Murphy had said she stayed in the car and observed both murders obliquely. In line with

the motive for the murder of Levesque and Raposa was evidence known to the police that both Doreen Levesque and Barbara Raposa worked for Carl Drew and probably Robin Murphy. The upshot of the above is that the William Smith Grand Jury had no way of hearing the facts in opposition to the Commonwealth's theory of the case. Consequently, they had no way of weighing the evidence substantiating a contrary proposition of innocence.

In the same vein, the William Smith Grand Jury was not presented with the attempt by the murderers of Karen Marsden, which included Robin Murphy, to dispose of the body of Karen Marsden forever in a manner that could not be discovered. An obvious judgment in these criminal matters would be that they disposed of the body of Karen Marsden in a manner different from the first two murders, since they could not pin any of the murders February 8, 1980 on Andre Maltais because he was confined and all roads, if a body were found, would lead to Robin Murphy and Carl Drew.

The statement of April 29, 1980 made by Robin Murphy was described as by the prosecution in the Grand Jury of Carl Drew in May of 1980, as too vague to bring an indictment against anyone for the murder of Doreen Levesque. This is important because the statement of January 30, 1981, wherein Robin Murphy returns to her April 29th, 1980 story is the same vague and contradictory statement. As a matter of fact, it may even be even more incoherent and descriptive of a murder which is pathologically impossible. While it is the same story of April 29, 1980 in its basic lines, now for the first time, she places Karen Marsden at the Doreen Levesque murder. This is the same Karen Marsden who could have been the defense's star witness of believing everything Robin Murphy said, but who was killed by Robin Murphy. My precise point is that

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the prosecution had the same shoddy merchandise on January 30, 1981 that they had on April 29, 1980, when they admitted that they had no probable cause at all for the Doreen Levesque murder and this admission was made at the Carl Drew Grand Jury.

This brings us to the identification format. According to Robin Murphy's vague stories April 29, 1980 and January 30, 1981, it always remains in doubt apparently by design of Robin Murphy, whether she knew William Smith before October 12, 1979 or not. Even in William Smith's Grand Jury she said she encountered Willie numerous times at intervals before October 12, 1979. In any event at the William Smith Grand Jury she says she knew him since she was 13 years of age. With this long time prior knowledge, the police take to her a photographic format on February 9, 1981. This photographic format was a prop played into the hands of a constant lying witness. Apparently the identification format was designed to give legitimacy to a future Grand Jury proceeding which they did not otherwise have. All prior evidence and the evidence before the Grand Jury indicated that this was merely a confirmatory identification of a prior known familiar of Robin Murphy.

The prosecution furthermore failed to inform the William Smith Grand Jury that on April 29, 1980 and January 30, 1981 Robin Murphy always referred to the Black Willie as the Willie who lived with Cookie on Seabury Street, a description which did not fit William Smith.

When the prosecution accepted Robin Murphy's latest version of the Doreen Levesque murder, namely Marsden was there, thus giving Carl Drew a motive for the murder of Marsden, they had to throw away a great deal of evidence that was prior in time and consequently more reliable than Robin Murphy's belated revelations. Example: Robin Murphy admitted that in November of 1979, she

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told Karen Marsden not to go up to Cookie's house because Cookie lived with Willie and that was the Willie who was at the murder of Doreen Levesque, with the result that Karen Marsden was very much surprised. That fact occurred very shortly after Doreen Levesque's murder and was corroborated by Carol Fletcher, told the police that that is what Karen Marsden told her. Aside from the fact that that bit of information indicates an identification or an attempt at identification of a [REDACTED] who lived with Cookie ---- and I quickly add that the police had a complete statement given by Cookie that she lived with Willie. It also is good evidence that Karen Marsden was not at the murder of Doreen Levesque at all. Of course, a jury would naturally have regarded a statement like this earlier and closer to the time of the crime, as being more dependable than one disclosed for the first time 14 months later while Robin Murphy has a promise of immunity.

The prosecution attempted to present the impression of a witness who was immunized and had candor. The prosecution did not tell the Grand Jury that there were two problems, one that Robin Murphy did not tell a story after immunity different than the story she told before immunity, and two, Robin Murphy believed that she could be re-indicted for the Karen Marsden murder because her nol prosse of the first degree murder to second degree murder was conditioned upon her future co-operation. She did not know that this condition was illegal or improper until we presented it before the full bench in the case of Smith vs. The Commonwealth wherein her immunity and her prior plea were examined by the Court. There is no story after the grant of immunity that is original. The prosecution did not tell the William Smith Grand Jury that she was under a revocable plea, and that was the status when she appeared at that Grand Jury of the Defendant. The District Attorney in his

presentation does not gain probable cause by the immunity grant. The case did not otherwise have.

Let me refer to the pathological details of the Doreen Levesque murder. Those details are equally confusing in her April 29, 1980 story and her January 30, 1981 story. Robin Murphy is confused as to whether or not the hands are tied in front or in the back. Robin Murphy never describes any stab wounds, although three such stab wounds existed in the back of Doreen Levesque. In both stories she is unsure as to the time of death of Doreen Levesque. As a matter of fact, later in the Carl Drew trial, she testifies that Doreen Levesque was dead before she was bashed by the rocks. The tying of the feet of Doreen Levesque takes place before the unclothing of Doreen Levesque, according to Robin Murphy, although Doreen Levesque's clothes except for her blouse were found in the vicinity of her body. No shoes of Doreen Levesque were found at the scene, although, they should be where she was disrobed. Robin Murphy says that Doreen Levesque was thrown down after a beating, yet she could not have been thrown where her body was found; there, she would have to be placed there. There was no evidence presented to the Grand Jury, and Robin Murphy never did mention in any of her stories, that the ear of Robin Murphy was lacerated or cut, there precluding on the part of the Grand Jury the possibility of torture and the reasons therefore. Another discrepancy that was not presented to the Grand Jury was her January 30th statement wherein she says there was a removal of the shirt from Doreen Levesque, when Levesque's shirt was still on her body when found.

When the prosecution presented Robin Murphy to the Grand Jury, they presented just one streamlined theory of the pathological evidence. They did

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not present all of the pathological evidence. They presented merely Robin Murphy's last narrative of this murder and not all of her statements on this murder. For example, an alert jurymen asked "how much did the rock weigh?" and the police officer responded "40 pounds." Yet one of Robin Murphy's stories is that this 40 pound rock was passed around and each at the murder scene hit the head of Doreen Levesque with that rock in one hand. (or two hands). It is not only that details were not given to the Grand Jury, it is that all of the evidence was not given to the Grand Jury for them to deliberate and come up with a finding of probable innocence or a no true bill. Authority for same is Commonwealth vs. Geoghegan, Mass 427 N. E. 2d 941, Commonwealth vs. McCarthy, 430 N. E. 2d 1195, Commonwealth vs. Wilson, 426 N. E. 2d 162, Commonwealth vs. McDunken, 418 N. E. 2d 1259, Commonwealth vs. Wilson, 426 N.E. 2d. 1135, and Payton vs. the United States 87 Supreme Court 606 385 U.S. 993, and 363 F. 2d 996, 1000.

This memorandum and the affidavits in support of the two motions relating to exculpatory evidence are to be considered cumulatively and jointly and all are made part of the record at the request of the defendant.

Respectfully submitted,

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By his attorneys,

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