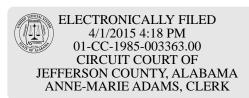
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## IN THE TENTH JUDICIAL CIRCUIT OF THE STATE OF ALABAMA JEFFERSON COUNTY CIRCUIT COURT BIRMINGHAM DIVISION

STATE OF ALABAMA,	)		
Plaintiff,	)		
v.	)	CASE NOS.	CC1985-3363
	)		CC1985-3364
ANTHONY RAY HINTON,	)		
Defendant.	)		

## STATE'S MOTION FOR ORDER OF NOLLE PROSEQUI

Comes now the State of Alabama, by and through its District Attorney for the Tenth Judicial Circuit of Alabama, and respectfully moves this Honorable Court to issue an Order of Nolle Prosequi in the above-stated cases and as grounds therefore, the State avers the following:

- The Defendant is currently charged in case number CC1985-3363 with the capital murder of John Davidson during a robbery in the first degree and in case number CC1985-3364 with the capital murder of Thomas Wayne Vason during a robbery in the first degree.
- 2. John Davidson was murdered on February 24, 1985 during a robbery at the Mrs. Winner's restaurant located at 737 29<sup>th</sup> Street South, Birmingham, Alabama.
- 3. Thomas Wayne Vason was murdered on July 2, 1985 during a robbery at the Captain D's restaurant located at 5901 1<sup>st</sup> Avenue North, Birmingham, Alabama.
- 4. During the course of the investigation of these two crimes, two bullets were recovered from the body of John Davidson and two bullets were also recovered from the body of Thomas Wayne Vason.

- 5. The Defendant was later identified by Sydney Smotherman as the person who robbed and shot him on July 25, 1985 during a robbery at a Quincy's restaurant located in Bessemer, Alabama. Two bullets were also recovered during the investigation of that robbery.
- 6. During the course of the original investigation of these cases in 1985, a Smith & Wesson .38 caliber revolver, serial number 346603, was recovered from the home of the Defendant.
- 7. On March 11, 2015, the two bullets recovered from the body of John Davidson, along with the two bullets recovered from the body of Thomas Wayne Vason, and the two bullets collected during the investigation of the robbery of Sydney Smotherman were resubmitted to the Alabama Department of Forensic Sciences (ADFS) for additional microscopic comparison analysis to each other and to the Smith & Wesson .38 caliber revolver, serial number 346603, recovered from the Defendant's home.
- 8. Three highly-qualified and experienced ADFS forensic scientists, who are experts in the field of firearms and tool mark identification, each performed independent forensic examinations of the submitted bullets and firearm. Utilizing comparison microscopy, each expert inter-compared all six bullets recovered during the investigations of the three crimes to each other and to bullets test fired through the barrel of the firearm taken from the Defendant's insufficient corresponding individual home. Due to microscopic characteristics, all three experts found that they could not conclusively determine that any of the six bullets were or were not fired through the same firearm or that they were fired through the firearm recovered from the Defendant's home.
- 9. The only potential evidence that has ever been available to the State to prove that the Defendant committed the murders of John Davidson and Thomas Wayne Vason depends upon an absolute, conclusive determination that the bullets recovered from their bodies were in fact fired through the barrel of the firearm taken from the Defendant's home.

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10. Based on the microscopic comparisons and conclusions of all three of the ADFS firearms and tool mark identification experts, the State does not have sufficient evidence to warrant further prosecution of these cases.

THEREFORE, the State of Alabama respectfully requests this Honorable Court to enter an Order of Nolle Prosequi in each of these cases.

Respectfully submitted,

/s/ John R. Bowers, Jr.
JOHN R. BOWERS, JR.
Chief Deputy District Attorney
Tenth Judicial Circuit of Alabama

/s/ T. Michael Anderton
T. MICHAEL ANDERTON
Deputy District Attorney

## CERTIFICATE OF SERVICE

I hereby certify that on April 1, 2015, a copy of this motion was filed electronically via AlaFile and a copy was sent to the attorneys of record for the Defendant by placing it in the U.S. Mail addressed to the following:

Bryan A. Stevenson Charlotte R. Morrison Aaryn M. Urell Equal Justice Initiative 122 Commerce Street Montgomery, AL 36104

/s/ John R. Bowers, Jr.
JOHN R. BOWERS, JR.
Chief Deputy District Attorney
Tenth Judicial Circuit of Alabama