

COMMONWEALTH OF KENTUCKY
NELSON CIRCUIT COURT
10TH JUDICIAL CIRCUIT
DIVISION ONE
CRIMINAL ACTIONS 23-CR-165 & 23-CR-371

COMMONWEALTH OF KENTUCKY

PLAINTIFF

VS.

STEVEN EUGENE LAWSON

DEFENDANT

**DEFENDANT’S MOTION TO DISMISS OR, IN
THE ALTERNATIVE TO SUPPRESS STATEMENTS**

The Plaintiff will hereby take notice that Defendant, Steven Lawson, by counsel, will on the **21st day of March, 2024 at the hour of 1:00 p.m. EST** or as soon thereafter as counsel may be heard, in the Nelson Circuit Court, Nelson County Judicial Center, Bardstown, Kentucky, will move the Court to dismiss these Indictments as Mr. Lawson was promised immunity in exchange for his cooperation. In the alternative, Mr. Lawson moves to suppress all statements made to the Kentucky State Police and the Nelson County Grand Jury from June 8, 2023 to the present. In support of this motion, the undersigned states as follows:

FACTUAL BACKGROUND

Mr. Lawson voluntarily testified before the Nelson County Grand Jury convened by Nelson County Commonwealth Attorney in 2015. Mr. Lawson was also interviewed by the Federal Bureau of Investigation in 2020. The special prosecutor subpoenaed Mr. Lawson to a new Nelson County Grand Jury on May 10, 2023. Mr. Lawson testified as requested. On May 24, 2023, Mr. Lawson was indicted for tampering with physical evidence by allegedly assisting in moving Crystal Rogers’ car. Mr. Lawson was arrested on June 8, 2023 and taken to the Kentucky State Police Post in Elizabethtown.

From the very beginning of this interview, the prosecutor and police made it clear that Mr. Lawson would get immunity if he cooperated with the investigation. The prosecutor stated from the very beginning that any statements made by Mr. Lawson were made as part of plea negotiations and could not be used against him. The following is a timeline of key statements made by the police and the prosecutor:

6-8-23 interview involving Shane Young and Detectives Luckett and Hardin

Detective Luckett told Mr. Lawson: “My goal is to have you home this evening” *Time Stamp 7:45.*

Detective Luckett told Mr. Lawson: “Our goal is to not ruin your life” *Time Stamp 8:55.*

Detective Luckett told Mr. Lawson: “We do have a prosecutor on hand today, ok, if you was to want some kind of deal ... there could be some kind of immunity, depending on what you say.” *Time Stamp 10.40.*

Detective Luckett told Mr. Lawson: You benefit us. *Time Stamp 15:10.*

Detective Luckett stated: 16:35: “We are wanting you to work with us, we want your cooperation.” *Time Stamp 16:35.*

Detective Luckett stated: “I don’t want you to worry today that if you divulge something you are going to get time. If that’s a worry for you, we have the Commonwealth Attorney on hand, on the property, to where we can make you an offer.” *Time Stamp 21:10.*

Detective Hardin stated: “We are offering you the opportunity of a lifetime. You can say whatever you want, as long as it is 100 percent the truth, regardless of the incriminating nature of what you say and you can walk out of here today.” Detective Luckett walked in the room and stated, “I was just talking to the Commonwealth Attorney - we are good to go.” *Time Stamp 50:50.*

Detective Hardin repeated his statement that Mr. Lawson can say what he wants regardless of the incriminating nature and go home today. *Time Stamp 51:20.*

Detective Luckett stated: “I want you to be comfortable that anything you say, it's not going to be held against you.” Detective Hardin repeated what

Detective Luckett said and advised that the Commonwealth Attorney is on his way). *Time Stamp 1:18.*

Special Prosecutor Shane Young walks into the room and advised Mr. Lawson he is the prosecutor on the case. *Time Stamp 1:24:10-30.*

Prosecutor Young stated: "If you are 100 percent honest with us I am going to help you. I am going to help you. **It's on record, it's on tape, whatever you say to me I am not going to use against you.**" [emphasis added] *Time Stamp 124:45.*

Prosecutor Young stated: "I have the power today, ok? I done talked to the judge. You can roll on home this evening." *Time Stamp 1:25:45.*

Mr. Lawson stated, "I want that in writing, whatever I say is cool." *Time Stamp 1:26:10.*

Prosecutor Young responded: "Let me give you this much. **What you say today is considered plea negotiations. Once I arrive the whole game changes, ok? And it's a rule, there is a criminal rule on it.** [emphasis added]. I don't remember off the top of my head. But anyway, what you say today will not be used against you, ok? I can promise you that. If you are 100 percent honest with me, this all just goes away. Ok? 100 percent honest with me, and that means all of it. You are, I'll take care of you and I'll take care of Rebecca. All right? You hold the key to this. *Time Stamp 1:26:20.*

Mr. Lawson stated, "Ok, I'll talk to these gentlemen then." *Time Stamp 1:26:20.*

Prosecutor Young said, "If you need me, I'll be right out here." (Young walked out to watch the interview on a monitor). *Time Stamp 1:26:20.*

Detective Luckett said: "This is important. The big one. For you to get immunity it has to be 100 percent honest." *Time Stamp 2:18:30.*

Detective Luckett said, "We are going to give your son the same deal." *Time Stamp 2:19:30.*

Prosecutor Young comes back into the room and said, "I've been doing this 25 years. I've never extended this offer to anybody, ever. I've never done it. I've identified people who are involved, but low enough involved that I am willing to give them immunity. You're it for me. *Time Stamp 2:54:20-35.*

Prosecutor Young reentered the room and stated, "I'm listening to this. I'm going to call bullshit on this. Why the fuck would you tell that story. You need to cut the bullshit and you need to come fucking clean. **I'm giving you blanket immunity, take advantage of it.**" [emphasis added]. *Time Stamp 3:57:40.*

Detective Lockett said: "This is your life. You and your wife's freedom is in your hands." *Time Stamp 3:58:30.*

Detective Lockett stated, "You have a blanket to get out of murder." *Time Stamp 5:20:35.*

Prosecutor Young stated: "You're telling most of the truth.... It's getting late. In order for you to not go to jail I got to call a judge." *Time Stamp 5:21:50.*

Detective Lockett said, "You're going to have to come back to the Grand Jury and tell the truth this time." Mr. Lawson said, "I'm confused again." Prosecutor Young said, "No, you're not confused. If you walk out of here I'm treating you as a witness, not a defendant." *Time Stamp 6:37:40.* Prosecutor Young said, "I think you have been about 70 to 80 percent truthful with me. At his point you don't have immunity." *Time Stamp 6:38:45.*

Prosecutor Young stated, "Here in the next couple of days we're going to have to come the rest of the way for you to get this." *Time Stamp 6:39:15.*

June 14, 2023 Grand Jury

At the direction of Prosecutor Young and Detectives Lockett and Hardin working at the direction of Prosecutor Young, Mr. Lawson testified before the Nelson County Grand Jury on June 14, 2023.

June 14, 2023 interview involving Shane Young and Detectives Lockett and Hardin

Detective Lockett stated, "We are going to try to straighten a few things up. You are here based on an agreement between your attorney and the Commonwealth Attorney. That's a full cooperation agreement." *Time Stamp 1:15.*

Detective Hardin said, "The more you tell us the more you help Steve." *Time Stamp 8:50.*

Mr. Lawson said, "I don't want to get things backward, I will get into trouble." *Time Stamp 34:50.*

Detective Hardin stated, "If you want us to go to Shane and tell him you are good you need to make us believe everything you say." *Time Stamp 51:30.*

Detective Lockett said, "You are facing 20 years."¹ *Time Stamp 56:30.*

Prosecutor Young came in the room and spoke with me on the speaker phone. *Time Stamp 2:34:30.*

Prosecutor Young again said that he is offering immunity but that everything has to be truthful. *Time Stamp 2:49:40.*

Detective Lockett said, "When we leave here today, if we uncover something else, I don't know that you will get this deal." *Time Stamp 2:49:40.*

**August 22, 2023 interview involving Shane Young
and Detectives Lockett and Hardin**

Detective Lockett stated, "We're going to kind of start back from the beginning. We're going to get it all on tape. And we're going to get a good statement... **Your attorney is present, the prosecutor is both present and observing in a separate room. There has been some discussion worked out as long as you are honest and truthful.**" [emphasis added]. *Time Stamp 14:25.*

Detective Hardin: "You are at a crossroads. You are going to have to come clean." *Time Stamp 31:30.*

Detective Lockett: "You are going to have to come clean. We are trying to save your ass." *Time Stamp 32:10.*

Detective Lockett: The more stuff you say, the more truth you say, the more freedom.... This is a gift like I aint never seen." *Time Stamp 37:25.*

Mr. Lawson stated, "I've put myself on your side of the table. I want to be on your team more than you will ever know." *Time Stamp 3:18.*

Mr. Lawson: "Boys, I want to be on your all's team." *Time Stamp 3:33.*

Detective Lockett: This is the rest of your life. *Time Stamp 3:35:30.*

¹ At this point, Mr. Lawson had not been charged with conspiracy to commit murder but the immunity offer and the plea negotiations clearly concerned this charge as well because conspiracy to commit murder has a maximum penalty of 20 years. Tampering only has a 5 year maximum.

Detective Luckett: "This is your life. Your attorney has done you a big favor....everybody has done you a big favor, given you this opportunity. You better jump on it." *Time Stamp 3:49:50.*

Detective Hardin: You got to take this all the way home Steve. *Time Stamp 3:50-26.*

Detective Luckett: "You're going to have to get real about this Steve...Steve, I don't want to send you to the penitentiary." *Time Stamp 3:57:50.*

Detective Luckett: "I'm getting ready to walk out - and you know who's going to be going to the penitentiary." *Time Stamp 3:59:45.*

Mr. Lawson: "You all act like I don't want to be on your team." *Time Stamp 4:10.*

**September 12, 2023 interview involving Shane Young
and Detectives Luckett and Hardin**

Again, the undersigned was present along with Prosecutor Young as part of the continuing effort to finalize our negotiations.

Detective Luckett: "Man, before we get started I want you to think about some things. Your mamma, you want to see her, right?... Your mother, your wife, your grandchildren, your retirement? Think about these things. You could take your last breath in the penitentiary. That's not what we want." *Time Stamp 0:10.*

Detective Luckett: "Steve, you got to clean this shit up now....This is for you, your mom is sitting out there now." *Time Stamp 43:05.*

Prosecutor Young walks in the room from viewing the interview on the monitor. Prosecutor Young, "Nobody thinks you hurt her. Get back on point. Take that out. You are frustrating me." Prosecutor Young left the room to again watch on the monitor. *Time Stamp 46:30.*

Detective Luckett: "We got to bring this home tonight Steve." *Time Stamp 1:02:05.*

Mr. Lawson: "Y'all are helping me tremendously, and I hope I've helped y'all" Detectives Luckett and Hardin both responded, "You have!" Mr. Lawson said, "I don't want to get hemmed up and go to prison." *Time Stamp 2:25:10.*

Detective Hardin: "I'm glad you're in the position you are in and not a different one, to have the opportunity that you have. I just ask that you take full advantage of it." *Time Stamp 2:35:50.*

September 20 Grand Jury

At the direction of Prosecutor Young and Detectives Lockett and Hardin working at the direction of Prosecutor Young, Mr. Lawson testified before the Nelson County Grand Jury on September 20, 2023.

Post-September 20 Grand Jury

Mr. Lawson continued to cooperate with the investigation as part of ongoing negotiations. Prosecutor Young refused to offer immunity and indicted Mr. Lawson for conspiracy to commit murder in December 2023 and had him incarcerated.

ARGUMENT

I. Defendant was granted immunity and his charges should be dismissed.

Mr. Lawson was offered immunity on June 8, 2023. Based upon that offer of immunity, he submitted to numerous interviews with Detectives Lockett and Hardin with Prosecutor Young looking on and participating at strategic times. All three of these men promised Mr. Lawson immunity over the course of several interviews. Because of these promises, Mr. Lawson not only sat through multiple hours of interrogation but twice went to the Nelson County Grand Jury. Mr. Lawson said what Prosecutor Young and Detectives Lockett and Hardin wanted him to say yet he still got indicted. The Court should not permit the Commonwealth to welsh on its promise of immunity.

In Workman v. Commonwealth, Ky., 580 S.W.2d 206 (1979), the Kentucky Supreme Court addressed whether the Commonwealth can break its word to a defendant. In Workman, the Commonwealth Attorney agreed to dismiss the defendant's charges if he passed a polygraph examination. The defendant passed. Yet, the Commonwealth Attorney failed to live up to his end

of the bargain. The Kentucky Supreme Court said, “If the government breaks its word, it breeds contempt for integrity and good faith.” “When as here, our historical ideals of fair play and substantial justice do not permit attorneys for the Commonwealth to disregard promises and fail to perform bargains, it does not permit the judge to allow such iniquities to succeed.” The Kentucky Supreme Court ordered the indictment dismissed with prejudice.

Workman requires the Court to dismiss the indictments against Mr. Lawson. Mr. Lawson was offered immunity if he talked with the Commonwealth and its agents. Mr. Lawson talked in reliance on the offer of immunity. He relied on the government’s promises and gave multiple statements upon their demand and they welshed on those promises and indicted him. This is not justice and should not be allowed to stand. Mr. Lawson’s charges should be dismissed.

B. In the alternative, Mr. Lawson’s statements are not admissible.

Kentucky Rule of Evidence 410 specifically states that “evidence ... is not admissible against the defendant who ... was a participant in the plea discussions” which includes; (4) “Any statement made in the course of plea discussions with an attorney for the prosecuting authority which do not result in a plea of guilty ...” From June 8, 2023, all of Mr. Lawson’s statements were made as part of negotiations to secure Prosecutor Young’s immunity offer. Prosecutor Young himself acknowledged that none of Mr. Lawson’s statements could be used against him.

Prosecutor Young said:

Prosecutor Young stated: “If you are 100 percent honest with us I am going to help you. I am going to help you. **It's on record, it's on tape, whatever you say to me I am not going to use against you.**” [emphasis added] *Time Stamp 124:45.*

Prosecutor Young responded: “Let me give you this much. **What you say today is considered plea negotiations. Once I arrive the whole game changes, ok? And it's a rule, there is a criminal rule on it.** [emphasis added]. I don’t remember off the top of my head. But anyway, what you say today will not be used against you, ok? I can promise you that. If you are 100 percent honest with me, this all just goes away. Ok?”

100 percent honest with me, and that means all of it. You are, I'll take care of you and I'll take care of Rebecca. All right? You hold the key to this. *Time Stamp 1:26:20.*

It is as clear cut as it gets, Mr. Lawson's statements from June 8th on are not admissible him per KRE 410.

In Roberts v. Commonwealth, Ky., 896 S.W.2d 4, 5 (1995), the Kentucky Supreme Court defined plea discussions as "discussions in advance of the time for pleading with a view to an agreement whereby the defendant will enter a plea in the hope of receiving certain charge or sentence concessions." United States v. Robertson, 582 F.2d 1356, 1365 (5th Cir. 1978). In Roberts, the Kentucky Supreme Court established a two prong test: 1) "Whether the accused exhibited an actual subjective expectation to negotiate a plea at the time of the discussion;" and 2) "Whether the accused's expectation was reasonable given the totality of the objective circumstances."

In Roberts, the defendant struck a bargain that he would not be charged as a PFO if he gave a truthful statement. The defendant's statement was not truthful so the Court ruled that the Commonwealth was not bound by its agreement and could charge the defendant as a PFO. "But the Court also held that Roberts' statement was clearly made in the course of plea discussions with the prosecutor. Consequently, that statement was not admissible against him at trial." 896 S.W.2d at 6. All of Mr. Lawson's statements were made in the course of plea discussions with the prosecutor.

In Kreps v. Commonwealth, Ky., 286 S.W.3d (2009), the defendant said he would be willing to provide a statement in exchange for reduced charges. Initially, the detective said he did not have the authority to do that but ultimately talked to the prosecutor who said he did not have a problem reducing Class C felonies to Class D felonies. Afterwards, the defendant confessed. The Kentucky Supreme Court reversed the conviction finding that the defendant's

statement should have been excluded pursuant to KRE 410. Kreps makes it clear that the police, who represent they are acting with the authority of the prosecutor, also bind the Commonwealth.

Mr. Lawson clearly exhibited a desire to achieve the immunity promised by Prosecutor Young and the detectives acting on his behalf. Mr. Lawson asked if what he said could be used against him. Mr. Lawson agreed to talk with the police after Prosecutor Young told him that his statement would not be used against him. Throughout the interviews, Mr. Lawson asked the police if he was telling them what they wanted to hear and telling them he wanted to be on their team. There is no question Mr. Lawson “exhibited an actual subjective expectation to negotiate a plea” at the time of the discussions. *See Roberts*.

And, there is no question Mr. Lawson’s expectation that he was negotiating with Prosecutor Young and his police agents from June 8 on was reasonable. Prosecutor Young and his police detectives all dangled the carrot of immunity and repeatedly told him that they needed more and said things like he has to come all the way. After June 8th, the undersigned was present for these interrogations. They were always about Mr. Lawson giving the prosecutor and the police what they wanted to hear to finalize the immunity deal. Mr. Lawson testifying in the Grand Jury was part of giving the prosecutor and the police what they wanted in the hopes of finalizing this immunity deal. Pursuant to Roberts, Kreps and KRE 410, none of Mr. Lawson’s statements from June 8, 2023 to the present are admissible.

WHEREFORE, Defendant, Steven Lawson respectfully requests that the Court grant his motion to dismiss the indictments or, in the alternative, suppress all statements made by Mr. Lawson from June 8, 2023 to the present.

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CERTIFICATE OF SERVICE

This is to that on this 5th day of March, 2024, a copy of the foregoing was electronically filed with notice upon all parties of record.

/s/ Theodore H. Lavit
Counsel for Defendant

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ORDER

Motion having been made, and the Court being sufficiently advised;

IT IS HEREBY ORDERED that these indictments are ***DISMISSED***.

JUDGE, NELSON CIRCUIT COURT

DATE

IT IS HEREBY ORDERED that all statements made by Defendant Steve Lawson from June 8, 2023 to present are **EXCLUDED AS EVIDENCE**.

JUDGE, NELSON CIRCUIT COURT

DATE

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