Ex 1

My name is Andrew Cook. I am the majority share holder and CEO of an electronics company Merlin Embedded in San Jose, Costa Rica. My brother Thomas Cook was an employee of the company until November 28, 2012.

While at a trade show in Orlando, FL on November 28, 2012 I called Thomas Cook in San Jose, Costa Rica and informed him that his employment at Merlin Embedded was being terminated. He was told that he would still be allowed to use a company car and a company computer until he could make arrangements for his own transportation and computer. He was told to turn in his door key and all other property belonging to the company.

Thomas Cook entered the Merlin Embedded offices using his electronic door key at around 5am the following morning. Each employee has a card that allows them access to the office during specific hours. The security system logs all entries and exits from the office.

Attachment 1 shows the print out of the security logs. Note that Thomas Cook was experimenting with deleting the security logs on Monday November 26, 2012. There were multiple "Operator logged on" messages that day. The only employees that had a password to log on to the security system were me and Thomas Cook. I was in Orlando, FL from November 25, 2012 through November 29, 2012. Therefore these accesses had to have been by Thomas Cook. Please note that there were also multiple "User data file changed" messages on November 26. These messages indicate that the data logs showing who entered and left the office were either edited or deleted.

The morning after Thomas Cook was terminated, there is an "Operator logged on" message followed by three "User data file changed" messages at 5:45am. Thomas Cook and I were the only ones with cards that allowed access prior to 6am. As stated above, I was in Orlando that morning. The evidence shows that Thomas Cook was in the Merlin Embedded office at 5:45 am the morning after he was terminated. He removed approximately $60,000 worth of finished goods inventory consisting of 14 Video Receiver boards and 5 Fiber Bypass boards.

We did not discover the inventory missing until January 10, 2013 when we received an order from a customer for 4 Video Receiver boards. We searched the office and sent an email to Thomas Cook asking him if he knew where the boards might be in the office. By Monday morning January 14, 2013 Tom had not responded and we had searched the entire office. At that point we decided to review the security logs.

I sent Thomas Cook an email requesting that he return the stolen property. I tried to contact him via telephone but he did not answer the phone. I explained that if he would return the stolen property we would allow him to continue using the company car and pay the severance we had agreed to in December. He refused to reply.

On January 16, 2013 I contacted my twin brother Roy Cook to ask if he could speak to Thomas and convince him to return the stolen property. I did not want to file criminal theft charges against Thomas but I needed the stolen property returned. Roy was angry that I had fired Tom and told me that he could arrange for the return of the stolen property for $30,000.

Vonage phone records From Andrew Cook - victim

		From	To				
Jan 18, 2013	07:24 PM	19013470425	18653220984	0:18:00	$0.00	$0.00	55726988888
Jan 18, 2013	07:55 AM	19013470425	18653220984	0:02:00	$0.00	$0.00	55715373946
Jan 18, 2013	07:52 AM	19013470425	18653220984	0:03:00	$0.00	$0.00	55715347218
Jan 18, 2013	07:50 AM	19013470425	18653220984	0:01:00	$0.00	$0.00	55715328954
Jan 18, 2013	07:48 AM	19013470425	18653220984	0:03:00	$0.00	$0.00	55715312928
[illegible]	[illegible]	[illegible]	[illegible]	0:17:00	$0.00	$0.00	55713540252
[illegible]	[illegible]	[illegible]	[illegible]	0:02:00	$0.00	$0.00	55712760230
Jan 17, 2013	08:09 PM	19013470425	18653220984	0:01:00	$0.00	$0.00	55712724776
[illegible]	[illegible]	[illegible]	[illegible]	0:02:00	$0.00	$0.00	55712712220
Jan 17, 2013	07:58 PM	19013470425	18653220984	0:09:00	$0.00	$0.00	55712688826
Jan 17, 2013	07:55 PM	19013470425	18653220984	0:03:00	$0.00	$0.00	55712575884
Jan 17, 2013	07:54 PM	19013470425	18653220984	0:01:00	$0.00	$0.00	55712541189
[illegible]	[illegible]	[illegible]	[illegible]	0:04:00	$0.00	$0.00	55685661277
Jan 16, 2013	07:37 PM	19013470425	18653220984	0:03:00	$0.00	$0.00	55685635076

Search Mail | Search Web | Hi, Jeff

INBOX | CONTACTS | CALENDAR | Re: Extor... | FW: fran... | FW: laura | FW: to L... | FW: lorena | FW: lette... | FW: merl...

RE: Exto... Compose | Delete | Move | Spam | Actions

Inbox
Conversations
Drafts
Sent
Spam
Trash
FOLDERS
Do Not Delete
Notes
MESSENGER
APPLICATIONS

It's easy to build a BUSINESSWEBSITE

YAHOO! SMALL BUSINESS

RE: Extortion Case

Wed, Apr 24, 2013 at 7:49 PM

From Andrew Cook
To 'Jeff Vittatoe'

Roy's email addresses are:

jekyl9@cs.com
anonymous0040@gmail.com
camm7@cs.com

Thomas Cook's email addresses are:

thomascook.merlinvme@gmail.com
cookeredwarnig@gmail.colm

There might have been a third person involved but I am not sure. His name is Athanasios Pagonis. He was a former sales manager that I terminated in January 2012. If he exchanged any emails with Roy or Tom his address would be tpagonis12@yahoo.com.

I will send you the emails that I have received from Roy since February separately.

Andrew Cook
Merlin Embedded
10415 Willow Ridge Loop
Orlando, FL 32825
Toll Free: (866) 700 7704
Direct: (650) 292 0887
www.merlinembedded.com

-----Original Message-----
From: Jeff Vittatoe [mailto:jeffvittatoe@yahoo.com]
Sent: Wednesday, April 24, 2013 10:34 AM
To: andrew.cook@merlinembedded.com
Subject: Extortion Case

Mr. Cook,
Just wanted to shoot you and email to keep you up to date. I executed a search warrant this morning at Roy's residence in Rockwood. To my surprise, your other brother Thomas was also present. I seized Roy's phone, his laptop, his desktop, some thumb drives, Thomas' laptop and some other items for analysis. Neither of them wanted to discuss the case with me but Roy was really worried about me taking his computers. I also told Roy that if he contacted you any more it would be additional charges so let me know if he does. It will take a while for our forensic computer guy to search the computers and get me a response but our next Grand Jury meets the first week of June. I am planning to indict Roy (and possibly Thomas) at that time. I will keep you posted. One more thing, Thomas and Roy both told me individually that you located the missing computer boards at your home but I haven't heard that from you. Although it would not effect the extortion case I am wondering if it is true?

Thanks,
Jeff Vittatoe

"),

EX 2

Re: my product

From: andrew cook <andrew.cook@merlinembedded.com>
To: jekyl9 <jekyl9@cs.com>
Date: Fri, Mar 8, 2013 10:43 am

EX 3

I left you voicemail on this but decided to give you and Tom more details. Of course I am not allowed to contact Tom because his wife filed a restraining order against me. So please forward this to him.

First let me say to Tom "WELL PLAYED." He had me going for a couple of hours.

I have my circuit boards. I found them yesterday morning. I had moved out of the condo and into a new place last week. I still have some boxes to unpack and I was looking for my coffee pot when I came across two boxes containing the missing circuit boards. I was surprised. I wondered how they ended up here. Clearly they were in the old condo and the movers had simply packed them with the rest of the stuff. I had many questions. How did they end up in my condo? Where were they in the condo? When did they get there? Did Tom come into my condo while I was gone and put them there or did I somehow forget that I had them? Many questions and yet within a couple of hours I had my answers.

The circuit boards consist of two different types: video receivers and fiber bypass. These two products were not manufactured at the same time. The contract assembler here in Costa Rica requires that the person picking up the boards sign a packing slip. The serial numbers on the boards told us when they were manufactuered. The contract assembler emailed me 5 packing slips associated with these two production runs. The signatures were either Gerardo or Helmer. I never picked them up at the contract assembler. The Fiber Bypass boards were done in a production run of 24 units. If I had picked them up there would be 24, not just 4. Same for the Video Receivers. Production run of 20 and yet there are only 14 in the box. So clearly Gerardo and Helmer brought the boards back to the Merlin office.

The boards in the two boxes are finished goods ready to ship. The Video Receivers are missing the front panels but there are test data sheets that are signed and dated. Same with the Fiber Bypass boards. These boards are in anti-static bags with data sheets. They are conformally coated. They were in the Merlin stock room ready to ship as shown by the finished goods inventory file maintained by Tom. The location in the stockroom is even noted in the file. There would have been no reason for me or anyone else to take these boards out of the stock room unless we had an order to fill.

So from this info i was able to determine that I never had possession of the boards. Furthermore, my engineer Brian remembers having the video receiver cards in his office in November when Tom asked him to cut the front panels. Within a couple of hours I had concluded that Tom put the boards somewhere in my condo after he stole them.

This morning, the maid confirmed when the boards first showed up and where they were in my old condo. She said she first saw the box in the closet under the stairs in either late December or early January. She thought it odd that I would store circuit boards at home, but never said anything to me because she just assumed that I put them there.

I normally left my front door to the condo unlocked, as well as the door to the side gate. Tom knew that I kept a spare key under the bonsai tree in the front. At some point in either December or January Tom entered my condo and put the boards in the closet under the stairs. He had plenty of time and easy access. Although the maid is there every morning, she is normally gone by noon. Every Tuesday I take Christopher to Escazu for his appointment with the therapist. I don't get home until 4pm. I spent 10 days at the beach in late December and early January. Tom had access to my condo and plenty of opportunity to hide the circuit boards in my condo. I'm guessing Tom did this while I was at the beach.

So well played for Tom. But I have my boards. And what did Tom gain from all of this. He lost the car. He lost his severance.

On another note, I discovered that Tom had taken the registration out of the car when he gave up the keys. Fanny had set it up with her sister-in-law who has a car rental business to rent the Suziki out for $250/week. It took Jenny about 3 or 4 hours to obtain the new registration. The sad thing is that Tom had paid for the annual registration and six months of insurance (with zero deductible) in December. When I made the decision to rent the car out, I was going to reimburse him for the cost of the insurance and registration since I was using the car. However, once I discovered this petty bullshit, I decided against it.

This entire bullshit ordeal has cost me very little. It has cost Tom thousands of dollars. Was it really worth it? < /font>< /font>

Andrew Cook
Merlin Embedded
10415 Willow Ridge Loop
Orlando, FL 32825
(866) 700 7704
(650) 292 0887
On 1/18/2013 1:14 PM, jekyl9@cs.com wrote:
i have told you on more than one occassion.....STOP EMAILING ME!!!!
-----Original Message-----
From: Andrew Cook <andrew.cook@merlinembedded.com>
To: 'Thomas Cook' <thomascook.merlinvme@gmail.com>; cookaredwarpig <cookaredwarpig@gmail.com>
Cc: jekyl9 <jekyl9@cs.com>
Sent: Fri, Jan 18, 2013 9:12 am
Subject: my product

Gentlemen,

I need my circuit boards. I have to give Kollmorgen a tracking number today.

At this point I believe that Roy has been bullshitting me about being in contact with Tom. This morning he changes the story and says he has the circuit boards in Tennessee. When I pointed out that it would have been impossible for Tom to get the product out of Costa Rica, he then claims that someone else in Costa Rica has the product. He was very vague when asked about whether he had contacted Tom the prior night.

If you two want the money then I will need a photo of at least one of the boards emailed to me to show that Roy is actually working with "the person" who has my circuit boards. Otherwise there will be no money.

Investigative Summary

EX H

Offenses – Attempted Extortion and Harassment
Victim – Andrew Cook
Defendant – Roy Cook (brother)
Investigator – Jeff Vittatoe

In February 2013 I was asked by Attorney General Russell Johnson to investigate the allegation of an extortion attempt on Andrew Cook by his brother, Roy Cook. Andrew Cook owns a U.S. company that is mainly operated out of an office in San Jose, Costa Rica by the name **Merlin Embedded.** This is an electronics design firm that builds and distributes computer software and hardware.

Andrew Cook stated that in November of 2012 he had to terminate his brother Thomas Cook, who was a production manager for the company and lives in Costa Rica as well. Andrew stated that in January of 2013 he discovered approximately $80,000 worth of merchandise was missing from his companies supply room and began to investigate. He stated that after reviewing surveillance video of the area and key code access to the office building he realized that his brother Thomas had stolen the items approximately 2 days before being terminated. Andrew Cook filed a theft report with the San Jose, Costa Rica authorities and they were conducting an investigation into the theft. Andrew Cook stated that the police did not appear to be investigating very aggressively and that he did not believe they would be filing any charges against Thomas Cook for the theft.

Andrew Cook stated that when Thomas would not return any phone calls, he then contacted his other brother, Roy Cook, who lives at 141 Twin Oaks Drive in Rockwood, TN to see if Roy would talk to Thomas about returning the stolen property. Andrew states that Roy Cook then began to "negotiate" the safe return of the stolen property if Andrew would pay approximately $30,000 to a neutral account of Roy's choosing.

After speaking to Roy a couple of times on the phone and realizing that he was really trying to extort money from Andrew, Andrew began to record the telephone conversations. Andrew Cook provided numerous recordings in which Roy Cook was trying to extort money for the return of the property, speaking of how to keep from getting arrested and also trying to make Andrew Cook sign over a company vehicle to Thomas Cook as part of the extortion. These calls were made from both Roy's home phone and cell phone leading me to believe that the extortion was being communicated from Roane County, TN, making the jurisdiction of the crime in the 9th Judicial District. A summary of each call is included in the case file along with the recorded calls. Andrew Cook refused to pay any money and accepted the loss of the product.

On or about April 19, 2013 I received an email from Andrew Cook informing me that Roy Cook had been continually harassing him by email. Andrew Cook stated that Roy had sent emails to his business associates, buyers and family members, as well as Andrew's son's school teachers. Andrew Cook forwarded me a copy of each mail. The emails were sent from an anonymous email account, but were consistent with the tone and threat that Roy had been verbalizing on the recorded calls indicating that Roy most likely was responsible for them.

On April 24, 2013 I executed a search warrant on the residence of Roy Cook, located at 141 Twin Oaks Drive in Rockwood, TN. The purpose of the search was to seize and analyze the electronic communication devices owned and possessed by Roy Cook. Numerous items were seized including multiple computers, telephones, external hard drives and other items that will be forensically analyzed by a forensic expert looking for evidence of the extortion and harassment by Roy Cook.

At the time the search warrant was executed both Roy Cook and Thomas Cook were present at Roy Cook's home in Rockwood. Both Roy and Thomas Cook were Mirandized and neither wanted to speak about the investigation.

I am submitting this case file to the district attorney's office to be presented before the next Grand Jury in Roane County Criminal Court and seeking indictments against Roy Cook for attempted extortion and harassment. I have found no evidence to support Thomas Cook's involvement in the extortion except through the recorded calls with Roy and believe there is insufficient evidence to proceed with charges against Thomas at this time.

Andrew Cook later reported to me that he discovered the stolen items at his residence in Costa Rica but insisted that he had never taken them to his house. Andrew Cook maintains that Thomas had access to his house and schedule, and most likely returned the items while he was not at home to avoid prosecution. If the items were returned to Andrew Cook or even misplaced by Andrew Cook, the elements of the offense of attempted extortion and harassment are still present and valid against Roy Cook. Andrew Cook will be asked to come to Roane County, TN from Costa Rica and participate in the presentment of this case before a Grand Jury.

Existing evidence in this case is the emails, the recorded telephone calls, the telephone records and testimony of Andrew Cook. Additional evidence may be discovered as the items recovered from Roy Cook's home is analyzed and evaluated. The forensic analysis will not be completed by the time this case is presented before the Grand Jury.

Jeff Vittatoe

Criminal Investigator Jeff Vittatoe
District Attorney General's Office
9th Judicial District

Ex 5

Subject: Re: therapy time

From: andrew.cook (andrew.cook@merlinembedded.com)

To: jeffvittatoe@yahoo.com;

Date: Friday, April 19, 2013 11:01 AM

Thank you. I understand the delays and appreciate your efforts.

Andrew Cook
Merlin Embedded
10415 Willow Ridge Loop
Orlando, FL 32825
Toll Free: (866) 700 7704
Direct: (650) 292 0887
www.merlinembedded.com

On Apr 19, 2013, at 8:40 AM, Jeff Vittatoe <jeffvittatoe@yahoo.com> wrote:

> Mr. Cook,
> You have definitely provided enough information for a harassment case and I am hopeful that the Attorney General will approve an indictment for extortion as well. I will be serving a search warrant for documents upon your brother's residence in the coming days. My intention is to seize his computers and any other documentation that may indicate his communication with your other brother in relation to the stolen boards and extortion attempts, as well as proof that he is sending the harassing emails to you.
> I am sorry that your case is not progressing faster and can only tell you that my duties as a drug enforcement agent has taken the majority of my time during recent weeks. I will call you upon completion of the search warrant execution and my interview with your brother. I hope to accomplish both by the end of next week.
> Jeff Vittatoe
>
> **From:** Andrew Cook <andrew.cook@merlinembedded.com>
> **To:** jeffvittatoe@yahoo.com
> **Sent:** Friday, April 19, 2013 9:37 AM
> **Subject:** FW: therapy time
>
> This is the type of harassment and threats that I have had to deal with recently. I have asked that he stop contacting me but he refuses to do so.
>
> I think I have provided enough info to make an extortion case. Do you have any plans on your side to investigate and prosecute?
>
> Andrew Cook
> Merlin Embedded
> 10415 Willow Ridge Loop
> Orlando, FL 32825
> Toll Free: (866) 700 7704
> Direct: (650) 292 0887

EX 6

Office of the District Attorney General
Ninth Judicial District
Serving Loudon, Meigs, Morgan and Roane Counties
Russell Johnson, District Attorney General

September 16, 2016

Jedidiah McKeehan, Esq.
1111 Northshore Drive
Knoxville, TN 37919

Re: State vs. Roy Cook
2013-CR-197
Discovery Request

Dear Jed:

I have received your Motions for Discovery and enclosed is my response. There are two cd discs with this mailing. In light of the many controversies and accusations about discovery I would like to try and provide some history and explanation of various things. First of all the case began before I was with the district attorney's office. At that time discovery was done on an open file basis. Next thing to note is that there has been quite a succession of defense attorneys in the case. Having said all that I would like to give you a history of disclosure of evidence such as I can.

The file shows that open file discovery was provided to Will Wooten of the PD's office on February 5, 2014. At that time there was still apparently outstanding a forensic review of computers seized. That review was related to me various times as not done or if done nothing was found in the computers of evidentiary value either inculpatory or exculpatory. Until recently I never had anything but oral reports from HPD officer Dan Schneider that DA Investigator Jeff Vittatoe had given him some equipment to look at and Dan had asked Shane Harold of the McMinn County Sheriff's Office to look at it. When I first touched this file I was asked by then defense counsel, Walter Johnson, to consider returning the equipment. I located it and Mr. Johnson was told Mr. Cook could pick it up on December 5, 2014 and I am advised that Mr. Cook did pick it up thereafter. Recently, Mr. Cook had made his own inquiries about the forensic assessment and apparently rattled Det. Schneider's cage sufficiently to get him to obtain a written statement from Det. Harold that indicates nothing was found. This was made available

1008 Bradford Way
Kingston, TN 37763

Russell Johnson
www.9thdag.com

Phone: (865) 376-2145
Fax: (865) 376-2148

to me recently but when I offered it to Alan Moore he suggested I wait until successor counsel was appointed so I am including it in this response.

There are two categories of material that I know the defendant believes that the State has but we do not. One is additional email or unredacted copies of email. I have worked this question over and over with Josh Headrick and I cannot produce any more email. Mr. Cook believes we have it but we do not and we do not intent to subpoena any additional email from any source. Mr. Cook has the power to subpoena email if he wants to but the State has turned over all email in the custody of the State except for some items mentioned later in this letter. He questions whether a particular copy of a particular email was redacted to cover up the name of an FBI agent. He has a point in that the copy of the message does appear to have a blank where a name might appear. However, I know of no involvement by the FBI in this case and even if there was a name in the blank spot I am at a loss to explain how it might be relevant to the case or the defense of the charge. Andrew Cook denies redacting a name and Jeff Vittatoe knows nothing about it and did not retain his own copy of that message. The other category is telephone records. The phone records in the file appear to be copies of phone bills. The investigative report of Vittatoe mentions getting more records. However, this does not appear to have been done but once again I am at a loss to explain how the telephone records may be relevant to the prosecution or the defense. He may be able to issue his own subpoena to the telephone company or to the complaining witness for his phone records if he chooses. The State does not have any phone records that have been given to me from any source and I have asked my officers about them. As far as I can tell Det. Vittatoe decided not to follow up on that. The State does not have any records other than some furnished by Andrew Cook concerning harassing calls he says Roy Cook made to him.

Also in the package you will find copies of virtually all of the correspondence in the case that this office has had with anyone. I have omitted some personal comments made by Andrew Cook to me in email that are not pertinent to the case or more strategic in nature. They are not discovery material and contain nothing discoverable. They will be available to you after he testifies at trial under T.R.Cr.P. 26.2.

1008 Bradford Way
Kingston, TN 37763

Russell Johnson
www.9thdag.com

Phone: (865) 376-2145
Fax: (865) 376-2148

There is also a section including all pleadings in the file. This is furnished as a courtesy. Essentially, I am providing open file discovery in a formal form. You are also welcome to come and inspect my complete file at any time with the exception of the strategic emails. The defendant may be suspicious that I am concealing something but frankly that would be a lot more trouble to me to conceal anything than to simply turn it all over. Nonetheless please give me a call or file a motion if you think something has been omitted.

Lastly, I am providing a cd disc with recorded phone calls between the defendant and his brother. There are quite a few with some from 2013 and others from 2015. My understanding of the later group is that they represent harassment of Andrew Cook by the defendant and were accumulated by Andrew Cook in support of a motion to impose a no contact bond condition. The earlier group is documentation of the allegation of extortion.

Looking forward to getting this matter completed with you, I am,

Sincerely,

Robert Edwards
Senior Asst. District Attorney General
865/376-2145, ext. 114

Enc. Discovery and 2 cd discs

FW: Tn vs Roy Cook

From: Robert C. Edwards <rcedwards@tndagc.org>
To: 'Joshua Hedrick' <lawyer.hedrick@gmail.com>
Cc: 'jekyl9@cs.com' <jekyl9@cs.com>
Date: Wed, Feb 24, 2016 4:02 pm
Untitled004.PDF (371 KB)

EX 7

Mr. Headrick:

Attached is a message from you client I received forwarded to you FYI. Of course ethical rules forbid that I communicate with him while he is represented by counsel even though he is seeking to remove you and you are seeking to withdraw. I will not be responding to Mr. Cook unless and until he is representing himself. If you would like to pursue a conversation with me concerning anything raised by Mr. Cook please advise and I will be happy to discuss it with you.

Bob Edwards

From: jekyl9@cs.com [mailto:jekyl9@cs.com]
Sent: Monday, February 22, 2016 2:04 PM
To: Robert C. Edwards
Subject: Tn vs Roy Cook

Mr. Edwards:

In response to you letter to Joshua Hedrick dated 2/15/16 regarding the missing emails, we are NOT on the same page. There are multiple missing emails in addition to the redacted one. I guess we will have to take this up with the judge on 3/7/16.

In addition, I am attaching a phone record that references recorded phone calls however, 1 4 6 7 and 8 are missing. Please send the missing pages or an explanation as to why they are missing. Please also supply the record these were obtained thru.

Until new counsel is supplied please send all requested documents to me.

In reference to the Bill of Particulars that was prepared on 2/15/16 (that was requested in May of 2015) you need to be more "particular". Exactly what evidence do you possess in reference to each bullet point? Please supply me with the specific evidence labeled with each bullet point. When labeling please use bullet points 4, 4a, 4b, 4c, and 4d to label each piece of evidence that supports the allegations in your Bill of Particulars. I find it hard to believe after having 9 months to prepare this document that this is the best you can do. It appears to be a rushed attempt that was prepared the afternoon of 2/15/16 and is completely unacceptable.

Roy Cook 865-322-0984
LEGAL CONFIDENTIAL: The information in this e-mail and in any attachment may contain information that is privileged either legally or otherwise. It is intended only for the attention and use of the named recipient. If you are not the intended recipient, you are not authorized to retain, disclose, copy or distribute the message and/or any of its attachments. If you received this e-mail in error, please notify me and delete this message.

IN THE CRIMINAL COURT FOR ROANE COUNTY

AT KINGSTON, TENNESSEE

NINTH JUDICIAL DISTRICT

COPY

STATE OF TENNESSEE,	*	CASE NO. 2013 CR 197
Appellee,	*	
v.	*	
ROY COOK	*	MOTION TO WITHDRAW ATTORNEY
Appellant.	*	

April 15, 2016

THE HONORABLE JEFFERY WICKS, PRESIDING JUDGE

APPEARANCES

FOR THE APPELLEE:

Mr. Russell Johnson
District Attorney General
State of Tennessee
Ninth Judicial District
P.O. Box 703
Kingston, Tennessee 37763-0703

Mr. Robert Edwards
Asst. District Attorney General
State of Tennessee
Ninth Judicial District
P.O. Box 703
Kingston, Tennessee 37763-0703

FOR THE APPELLANT:

Alan R. Moore
Attorney at Law
501 Adesa Parkway, Suite B210
Lenoir City, TN 37771

IN THE CRIMINAL COURT FOR ROANE COUNTY

AT KINGSTON, TENNESSEE

NINTH JUDICIAL DISTRICT

STATE OF TENNESSEE, * CASE NO. 2013 CR 197

v. *

ROY COOK. * MOTION TO WITHDRAW ATTORNEY

This cause came on to be heard and was heard on the 15th day of April, 2016, before the Honorable Jeffery Wicks, presiding Judge, holding the Criminal Court for Roane County at Kingston, Tennessee, and the following proceedings were had:

ASST. GENERAL ROBERT EDWARDS: Your Honor, Mr. Moore and I have a matter on today's docket.

This is the Roy Cook case. Mr. Cook is present. It's item 24, 2013 CR 197. We are set for status today.

Your Honor had recently replaced Mr. Hedrick with Mr. Moore, at the insistence of Mr. Cook.

THE COURT: Okay.

ASST. GENERAL ROBERT EDWARDS: Mr. Moore is before is before having filed a motion to withdraw as counsel today.

THE COURT: What's the basis for your motion?

ATTORNEY ALAN MOORE: Your Honor, if it pleases the Court, in my motion I detailed several multiple underlying conflicts, which I presented in that motion, that in my opinion permits me from effectively representing Mr. Cook.

Number one, we have material and fundamental disagreement on the defense strategy in this case. I tried to resolve it with Mr. Cook; I've been unable to.

Number two, Mr. Cook has acted in direct contravention to the legal advice that I have given him.

Number three, taking all of that into account, I do believe that the attorney/client relationship and communication at this point, has been damaged to a point to where it cannot be repaired and I would not be able to effectively represent him at this stage.

THE COURT: When did you file that?

ATTORNEY ALAN MOORE: (No audible response)

THE COURT: When did you file that?

ATTORNEY ALAN MOORE: Oh, Wednesday, Your Honor.

I apologize.

THE COURT: What do you have to say about that Mr. Cook?

DEFENDANT ROY COOK: Your Honor, I - Mr. Moore is my third attorney.

THE COURT: I understand that. We are going to run out of them.

DEFENDANT ROY COOK: Every attorney I've had refused to subpoena or investigate evidence. And it's got to the point because they refused to, evidence has disappeared; evidence that may not be able to get anymore.

THE COURT: What has disappeared?

DEFENDANT ROY COOK: Email records, you can no longer subpoena because they are over four months old.

Phone records.

I have evidence right here, dozens of emails between me and Walter Johnson.

THE COURT: Walter Johnson is no longer on your case. (Indiscernible - all talking at once) Mr. Moore.

DEFENDANT ROY COOK: I know. He was my first attorney.

Here's another dozen between me and Mr. Hedrick where I've asked them - Mr. Hedrick served three subpoenas and he put the wrong dates on them and I got (indiscernible) requested the right dates. He never followed up on them. I've got multiple emails here where he said he would follow-up.

THE COURT: Mr. Hedrick's no longer your attorney, let's get to Mr. Moore.

DEFENDANT ROY COOK: Okay.

Mr. Moore is refusing to subpoena a statement from an F. B. I. agent in Knoxville, Tennessee.

ATTORNEY ALAN MOORE: And Your Honor, if I may briefly be heard.

This is part of the motion that Mr. Cook has filed on this case to dismiss and I was informed that if I did not file it he would. And he would argue it, and I would not. And that is the basis of partly my move to withdraw from the case.

I apologize for interrupting.

DEFENDANT ROY COOK: The prosecution has taken stuff to conceal information.

There was a forensic analysis done of three computers that have never been turned over.

The plaintiff, my twin brother turned over his Vonage records, Vonage phone records in an Excel

format to the prosecution. They've never turned those over to me.

I don't know how I can prepare a defense if there is evidence missing.

I've been told that the statement of an F. B. I. - a statement made to an F. B. I. agent, that contradict statements made to the Ninth District Prosecutor are not relevant to my case. And I would like someone to explain to me how that is possible because I don't get it.

I tracked the F. B. I. agent down, they didn't. The way I tracked him down, I finally got the Vonage records that have been concealed and there's also - when I reveal the existence of the F. B. I. agent to Josh Hedrick, my second attorney, we agreed that we would not disclose that to the prosecution. But on a November 16th, hearing where Judge Eblen ordered the prosecution to turn over the non-redacted emails where there is a name whited out, evidence has been tampered with. Mr. Edwards stood up here and said it didn't matter if the name that was redacted was an F. B. I. agent, or some other law enforcement agency. He didn't say T. B. I. I don't even know where he got law enforcement agency. But the words F. B. I. came out of his mouth and it didn't faze Josh Hedrick one bit.

THE COURT: Josh Edwards is no longer

your attorney.

DEFENDANT ROY COOK: I know.

It's my belief and I have evidence here that he divulged confidential information.

I originally requested in August of 2014, August 15th, of 2014-

THE COURT: Let me ask you something. Are you going to represent yourself?

DEFENDANT ROY COOK: Sir, I don't have the ability to represent myself.

THE COURT: We are running out of attorneys. You've gone through three.

DEFENDANT ROY COOK: Well, could you please order the attorney to subpoena pertinent information evidence that would prove me innocent. Order the prosecution to turn over the records. I got proof they have the Vonage records.

Statements from Jeff Vittatoe; Vittatoe, I finally got him on the phone August of last year, maybe it was July, and he told me that the only reason that the prosecution was proceeding with this case was because I did an interview with an internet paper called the Post and Email. I got an email from Josh Hedrick to me that confirms that.

I would like to get a copy of any email

exchange between my attorney and the prosecutor on that. But they botched that subpoena. They put the wrong dates on it.

I tried to call EarthLink to get some of those subpoenas - the email records. The EarthLink - whatever they call him, the guy in charge of that, won't speak to me. Josh Hedrick was supposed to call him dozens of times but never did. I would like to know, how am I supposed to have a competent defense if I'm not allowed to subpoena emails and phone records when the only evidence against me is email and phone records?

THE COURT: Is that a question or a statement?

DEFENDANT ROY COOK: Both.

THE COURT: Are you saying you are not receiving discovery?

DEFENDANT ROY COOK: Yes, Sir.

Lieutenant Dan Snyder did a forensic analysis of the computers.

THE COURT: General where are we-

DEFENDANT ROY COOK: I got the computers back, I can't access-

THE COURT: Just a moment, just a moment, just a moment.

Have you turned over all discovery in

this?

ASST. GENERAL ROBERT EDWARDS: Your Honor, this isn't the first time we've had this conversation. It predates your ascension to the bench.

The discovery that I can tell the Court that I dealt with personally is the email that Mr. Cook has alluded to. I've given Mr. Cook, or his attorneys - I give it to his attorneys. I'm not dealing with Mr. Cook while he's represented - even though he continually tries to get me to respond to emails directly to him, and I will not do that.

But I've given him everything I have, everything Mr. Vittatoe has, everything the victim in this case, Andrew Cook, tells me he has. I understand that there is a name that will appear in one of these emails (indiscernible - someone coughing) not appear. I have no explanation for that. I don't have an email that has that name. Mr. Cook, Mr. Roy Cook, has everything I have in the context of that email.

I'm hearing now about a forensic examination of computers. There were computers that were seized in this matter. They were subsequently returned, it was quite a while before they were returned, no forensic analysis was ever done that the State is aware of. So I don't have anything to turn over with respect to those

computers, they were returned.

I know of no outstanding discovery that Mr. Cook's entitled to. Frankly, as far as I'm concerned I'm as ready to try this case as I'm ever going to be and I'd like to move forward with it.

And the only reason we're going slow is because of this kind of situation that the Court's dealing with this morning.

DEFENDANT ROY COOK: May I respond to that, Your Honor?

THE COURT: (Indiscernible)

DEFENDANT ROY COOK: Here's an evidence log. Nothing goes in, nothing goes out.

They seized this merchandise - the computers from me on April 23rd.

Description of evidence - and I guess this is written by Jeff Vittatoe, see attached to page. Uh, search warrant, and it says all items highlighted have been released May 21st, 2013, to Lieutenant Dan Snyder for forensic analysis. A month they took the merchandise out of my house and they gave it to Lieutenant Dan Snyder for forensic analysis.

I can't get any of my attorneys to speak to Lieutenant Dan Snyder, and he won't speak to me.

ATTORNEY ALAN MOORE: And-

DEFENDANT ROY COOK: Excuse me.

Mr. Moore did suggest one thing. He suggested filing a motion to have you order the prosecution to investigate finally. Well, they had their chance, they hid evidence. It's like - what about the Vonage records, there's plenty of evidence they had it. They doctored it, they've hid it.

Why don't you explain to the Judge while you refused to subpoena or call an F. B. I. agent?

ATTORNEY ALAN MOORE: And Your Honor, to add to the State's statement that they will not speak to my client while he's represented by Counsel, I had advised him not to attempt to speak to Counsel, he has done so. He has told me that he will continue to do so, Your Honor.

I think this is a good example of how far down the communication has gone between my client and I. I'm ordered not to speak on his behalf in a hearing.

DEFENDANT ROY COOK: Answer the question, why would you not go interview the F. B. I. agent and get the statement?

Why is that not pertinent?

I've got an email from Josh Hedrick that said it's not important.

THE COURT: Mr. Moore, I will allow you to withdraw.

Are you going to be able to hire your own counsel?

DEFENDANT ROY COOK: No, Sir, I went out and tried. Everyone I talked to wants anywhere from ten to $40,000.00. But almost everyone that I spoke to said that there was more than enough reason to file a motion to dismiss. I can't get anyone to do it.

THE COURT: Are you going to represent yourself?

DEFENDANT ROY COOK: No, Sir, I can't.

THE COURT: What do you want me to do?

DEFENDANT ROY COOK: I'm not - I can't get them to file a subpoena.

THE COURT: What do you want me to do?

DEFENDANT ROY COOK: I want you to - if I can find my own attorney, will the State pay for it?

I've got them but they're not going to work cheap. And I'm sorry, Your Honor, I didn't start this. I'm entitled to this evidence, I'm entitled to discovery. Nothing was done.

THE COURT: What are you saying you don't have?

DEFENDANT ROY COOK: I don't have the Vonage call logs that come in an Excel format that Andrew Cook supplied to the prosecution. I don't have all the

emails. I don't have the F. B. I. - the statement that Andrew Cook made to the F. B. I. agent where he contradicts himself. I spoke to the F. B. I. agent, he has those records. I don't have that.

I don't have the forensic analysis of the computers and God knows what else they've covered up.

ASST. GENERAL ROBERT EDWARDS: Your Honor, I guess I should at least point out, nothings been covered up. I've given everything in my file to the different attorneys who have asked for it.

I don't think I have any additional records for Vonage that hasn't been seen.

Open filed discovery's been done on this at least more than once. The files available for open file discovery now. What I don't have in it, if it's not in the (indiscernible) possession of the State, I can't produce and I'm not required to produce.

There again, there's no forensic assessment of these computers that I'm aware of. It's never been done. Nothing was ever produced in these computers that the State intends to offer as evidence. That's why they were returned to Mr. Cook. So that's - that's a dead horse as far as I'm concerned.

The Vonage records-

THE COURT: Were the attorneys - I mean

were the computers returned to you?

DEFENDANT ROY COOK: Yes, in December of 2014. I can't access to them because they are password protected. And the person who knew the password died in June of 2014.

The computers were given over to Lieutenant Dan Snyder for forensic analysis.

THE COURT: So you're saying-

DEFENDANT ROY COOK: We have to believe is that you turn them over and then they didn't do anything with them. Why would you turn them over if he wasn't going to forensically examine them? And what is missing in those forensic analysis-

THE COURT: Whoa, whoa, whoa, whoa, we are getting way off track here.

DEFENDANT ROY COOK: Okay.

THE COURT: This is about allowing Mr. Moore to withdraw and appointing you another attorney.

But let me caution you; okay?

You have to cooperate with your attorneys; all right? They're the ones that has been to law school, passed the bar exam. Because you said you can't do that on your own; is that correct?

DEFENDANT ROY COOK: Yes, Sir.

THE COURT: Okay, that's why we

appoint someone to represent you.

DEFENDANT ROY COOK: But what if they are corrupt, Your Honor?

THE COURT: Who's corrupt?

Are you accusing some of the attorneys in this court as being corrupt?

DEFENDANT ROY COOK: I have reason to believe they are, yes, Sir.

ASST. GENERAL ROBERT EDWARDS: I think that list includes the Public Defender's Office, Mr. Hedrick, Mr. Moore, and myself and anyone who preceded me in this case, Your Honor.

DEFENDANT ROY COOK: Why would-

THE COURT: Mr. Cook, this is what I'm going to do. I'm going to think about appointing you another attorney.

Do we have your address where we can send you the information?

DEFENDANT ROY COOK: Yes, Sir.

THE COURT: And this-

DEFENDANT ROY COOK: Can I turn these emails in?

THE COURT: No.

I will get in touch with you and send you an order who your new attorney is going to be.

But I'm going to caution you, this is probably going to be your last attorney. And if you can't get along with this attorney, then you can represent yourself.

DEFENDANT ROY COOK: Your Honor-

THE COURT: Do you understand that?

DEFENDANT ROY COOK: -it's my belief that the reason that my attorney's will not subpoena the evidence I'm asking them to subpoena is because it will - it will expose the multiple Brady violations and the concealment of evidence. That's why I think they are not doing it.

Why would Josh Hedrick - well we can't talk about that now.

THE COURT: All right, we will be in touch with you Mr. Cook.

DEFENDANT ROY COOK: Can I ask one other question?

THE COURT: No, Sir.

DEFENDANT ROY COOK: Okay.

ASST. GENERAL ROBERT EDWARDS: Do we have any court dates in the future, Your Honor. Perhaps we better make sure we have something on the docket.

Mr. Cook, we need to make sure we have another date.

THE COURT: We are going to go ahead and set a status date for your attorney.

What day do you want to set that for?

ASST. GENERAL ROBERT EDWARDS: Maybe toward the end of next term, Your Honor.

Dealing with this case appeals to me, and then again it doesn't quite frankly. Maybe we should put it at the early part of the terms so if there's something that has to be done we can get busy doing it.

THE COURT: How about - what's our non-jury day the week of the fourth? Do we have one?

ASST. GENERAL ROBERT EDWARDS: July 5th.

THE COURT: July 5th.

Okay, July 5th, Mr. Cook.

ASST. GENERAL ROBERT EDWARDS: Thank you, Judge.

ATTORNEY ALAN MOORE: Thank you, Your Honor.

- - - END OF REQUESTED PROCEEDINGS - - -

CERTIFICATE

I, the undersigned, Mary Gooch, Official Court Reporter for the Ninth Judicial District of the State of Tennessee, do certify that the foregoing is a true, accurate and complete transcript of the motion to withdraw attorney hearing of the captioned cause, to the best of my knowledge and ability, in the Criminal Court for Roane County on the 15th of April, 2015.

I do further certify that I am neither of kin, counsel, nor interest to any party thereto.

Mary Gooch

Licensed Court Reporter

LCR #049 Expiration 06/30/2017

10/17/16

Date

COPY

CERTIFICATE OF THE COURT

THIS WAS ALL THE EVIDENCE INTRODUCED AND PROCEEDINGS HAD RELEVANT TO QUESTIONS RAISED ON THE APPEAL OF THIS CAUSE.

Entered this the _____ day of October, 2016.

_____

Judge Jeffery Wicks

FX9

In the recorded phone calls, Andrew floats the idea that he can pay $10,000 for just 7 of the video cards that he needs to fulfill an existing order. When the customer, Kollmorgen, pays Andrew for the 7 video cards, he would then pay Roy another $12,000 for the remaining 7 video cards and ship them to Kollmorgen. When Kollmorgen pays for the second set of video cards, Andrew would pay Roy the final $8,000 for the 5 fiber bypass boards.

At times Roy states that the stolen property is in Tennessee and at other times he says the property is in Costa Rica.

Roy1 25:11 in length
Conversation takes place Jan. 17, 2013 at 6:16pm. In prior unrecorded conversations, Roy Cook states that he has the product in Tennessee and that if the police get involved he will burn the four boxes. He has asked for $30,000 to return the stolen circuit boards. Andrew has stated he only has $10,000.

Conversation starts out with Andrew Cook telling Roy Cook that he needs to ship product by Friday morning.

1:00 Roy mentions that he will need to get in contact with "somebody." He then asks if I can meet "somebody's" attorney the next day. He wants Andrew to sign a statement that he agrees not to file a criminal complaint against "somebody."

The somebody is Tom Cook who stole the boards from Andrew's office on November 29, 2012.

4:20 Roy asks how much total is Andrew willing to pay to make world war 3 disappear.

5:45 Roy asks for more than the $10,000.

7:20 Roy mentions the person that possesses the property as "you know who." He also asks for more than $10,000.

8:40 Andrew asks if Tom will return the property. Roy states that to mention Tom's name would be incriminating.

9:50 Roy states he is trying to protect "you know who."

10:55 Roy wants a guarantee that Andrew will pay the whole $30,000.

12:30 Roy starts to negotiate for the car. Suggests that Andrew take out a loan on the car to pay him.

12:50 Roy mentions Tom's name for the first time. He refers to Tom's attorney.

14:30 Roy asks Andrew about getting a loan on the beach house to get more money.

16:05 Roy asks Andrew to try and come up with some more money. He will also get in touch with "you know who."

16:30 Roy asks for more collateral to prove that Andrew will pay the amount after the first $10,000.

17:30 Roy asks for a contract allowing Thomas Cook to use a Merlin VME S.A. car indefinitely. He also wants a contract stating that Tom was an employee of Merlin VME S.A.

18:20 Roy starts to negotiate for Tom's severance.

19:10 Roy asks for Andrew to sign a company car over to Tom.

23:50 Roy says he will talk to Tom but that Andrew will have to come up with a bit more and that Andrew will have to do something about the car. He then suggests that Andrew ask to borrow money from some friends.

Roy6 1:40 in Length
January 17, 2013 5:04pm
0:45 Roy threatens to send phone records and other information to GE and BAE Systems.

1:25 Roy tells Andrew to "dig a little deeper."

Roy8 1:21 in length
January 17, 2013 5:36pm
0:40 Andrew asks about what it is he is supposed to sign at an attorney's office. Roy replies that he is going to "*try to work out a way tonight and guarantee that everyone walks away from this clean.*"

Roy9 1:48 in length
January 17, 2013 8:09pm
Roy states that if the money is transferred to him then the Costa Rican cops will not be involved.

Roy10 2:07 in length
January 17, 2013 8:13pm
Roy expresses concern that Andrew is trying to get Tom thrown in jail.

Roy7 3:08 in length
January 17, 2013 5:41pm
1:10 Roy talks about getting numbers from Tom to injure Andrew's business.

Roy5 3:34 in length
January 17, 2013 7:50pm
Roy attempts to show Andrew a way to get another $20,000.

2:25 Roy says that he can't get in touch with Tom because Tom is worried about the police showing up. He says he will try to get in touch with Tom but that it will take more than the $10,000. He also wants a statement saying that I will give a car to Tom.

Roy2 16:39 in length
January 17, 2013 9:33pm
0:25 Roy says if I wire money to his account he will have the boards delivered.
0:50 Roy wants me to meet with Tom's attorney and agree to sign over the car.
1:40 Roy says that he has had plans for Andrew for sometime now. He says that if Andrew does fulfill his part of the deal then the car is forfeited and the war is back on. He asks if Andrew thinks that his friend Ed Saltou is the only target. He states that he has called Ed just the one time.
2:30 Roy threatens to cause harm to Ed.
4:20 Roy states that Tom is meeting with Andrew's soon to be ex-wife and her parents.
6:00 Roy states that Andrew created the problem by involving the police.
6:25 Andrew asks Roy to specifically state what has been taken from Tom.
7:55 Roy threatens to bring harm to Arnaldo Echevarria.
8:35 Roy states he will contact Tom as soon as possible.
9:00 Roy says that Andrew owes Tom money but can't be clear about how much.

Phone call
9 min Long

Roy3 11:13 in length
January 17, 2013 8:06pm
0:22 Roy says that he is not worried about the $10,000, but rather the other $20,000.
0:50 Roy asks for Andrew to agree to sign over the car to Tom.
1:20 Roy says that Tom has told Roy about communications with an attorney.
4:00 Roy says that we have agreed to the $30,000.
4:30 Roy demands that Andrew sign over the car to Tom.
5:20 Roy says he will talk about the details with Tom.
5:40 Roy states that for the $30,000 that he will leave Andrew's friends alone.
6:20 Roy threatens Andrew if he contacts police.
6:50 Roy says that Tom will agree to not contact Andrew's ex-wife for the $30,000.
7:50 Roy says Andrew will get the boards as soon as he gets in touch with Tom.

Roy4 7:11 in length
January 17, 2013 5:26pm
0:30 Roy wants a guarantee that Andrew will not file a criminal complaint after the boards are delivered.
2:10 Roy wants the $10,000 delivered to him in Tennessee.
3:10 Roy wants more than the $10,000.

Roy11 17:59 in length
January 18, 8:32pm
1:35 Roy states he will have the product delivered to Andrew within 2 hours of the wire transfer. Andrew must agree that whoever drops off the product will not be arrested.
3:40 Roy threatens Andrew with "*other stuff I have to do.*" He states he will chase Andrew to the end of the earth. Roy states that Tom gave him information to "mess you up."
6:00 Roy says that Andrew could have gotten the boards back if he had not involved the police. He says that he can have the product in Andrew's hand.
6:30 Roy says that if Andrew does not want a lawsuit filed against him by BAE Systems then Andrew needs to *"pay me off."*
9:00 Roy threatens Ed and all of Andrew's clients.
9:50 Roy says he is going to send GE proof of Ed sending Andrew confidential GE information.
12:00 Roy threatens to make Andrew's life a living hell unless he pays $10,000.
17:35 Roy states that something will happen to Andrew every day.

ends
Call 3 8:06 + 11:13 = 8:17
Call 9 starts 8:09
Call 10 starts ~~8:14~~ 8:13
Not possible