

**IN THE CRIMINAL COURT OF HAMILTON COUNTY, TENNESSEE
ELEVENTH JUDICIAL DISTRICT AT CHATTANOOGA**

STATE OF TENNESSEE,)	
)	NO. 316374
)	
v.)	
)	DIVISION II
)	
RAYMOND RZEPLINSKI.)	JUDGE A. DUNN

**MOTION TO TAKE SWORN TESTIMONY
REGARDING ACCESSING AND
DISCLOSURE OF CONFIDENTIAL RECORDS**

COMES NOW defendant, Raymond Rzeplinski, by and through counsel, seeking an order to take sworn testimony from agents of the Hamilton County District Attorney’s Office, the Hamilton County Sherriff’s Office, and the Chattanooga Police Department relating to the procurement and use of certain expunged criminal records.

AS GROUNDS, as discussed in defendant’s *Sentencing Memorandum*, an expungement pursuant to state law requires the government to destroy, subject to narrowly delineated exceptions, all “public records” of the criminal case. *See T.C.A* § 40-32-101(b)(1). It prohibits further dissemination of those now “confidential records or information contained therein” making such unlawful release an A misdemeanor. *See T.C.A* § 40-32-101(c)(1). Once expunged, the remaining confidential material may only be released to “law enforcement agencies for law enforcement purposes.” On this basis, defendant objects to the use and reliance on that material in sentencing.

Almost immediately after filing the defendant’s *Sentencing Memorandum*, counsel spoke with Lisa Chaudhari (nee Wilkey). She was the complainant in a 2016 alleged *Aggravated Domestic Assault*, which was dismissed and expunged also in 2016.

Ms. Chaudhari reported that she had received a subpoena to the Rzeplinski sentencing. In follow up, ADA Nicole Evans spoke to her by telephone and asked questions about the 2016 incident. Ms. Evans appeared to be questioning her based on an *Affidavit of Complaint*¹. According to Ms. Chaudhari, when she had received the subpoena, she had replied by email to the prosecutor. *See attached **Exhibit A**, email from Lisa Chaudhari to Nicole Evans.*

In that email and in conversation Ms. Chaudhari told the prosecutor that Ray was a friend and that she was not going to speak against him, however, Ms. Evans allegedly instructed her that she was subpoenaed to the sentencing and would be appearing. Ms. Chaudhari was shaken by the conversation and today indicated she will appear tomorrow, but in support of Ray. She also communicated information to counsel that indicates she may possess certain privileges against testifying. Testimony from Ms. Evan's is further necessary to determine if she too was made aware of those facts.

Given that the court record in the 2016 matter was expunged, a logical conclusion is that Ms. Evans accessed law enforcement's "confidential records" relating to the expunged incident. Questioning is necessary to determine if Ms. Chaudhari's (then Wilkey) identity and allegations surrounding the incident were obtained from those records, or independent sources. If the former, it is possible that whoever released those records to Ms. Evans may have committed a crime. Further, it is necessary to determine what Ms. Evan's knew about the expungement status of those records at the time she sought and obtained access, as well as exactly what she told the custodian the purpose of the disclosures was. As Ms. Evan's is a prosecutor and not a "law enforcement agency"

¹ Ms. Evan's has also presented this same expunged affidavit in pre-trial hearings related to the alleged use by Mr. Rzeplinski of an alias.

and the purpose of obtaining the expungement information appears to have been to weaponize that information against the defendant at trial or sentencing, sworn testimony is required to determine the constitutional and statutory lawfulness of these actions, as well as questions of civil and administrative liability.

WHEREFORE, irrespective of the State's intention to proceed based on potentially unlawful information obtained from expunged records, a hearing should be convened and testimony taken to address the above referenced evidence.

Respectfully submitted,

SUMMERS, RUFOLO & RODGERS, PC



Benjamin L. McGowan
BPR No. 025560
Counsel for Raymond Rzeplinski
The James Building
735 Broad Street, Suite 800
Chattanooga, Tennessee 37402
bmcgowan@summersfirm.com


CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing document has been duly served upon:

NICOLE EVANS
Assistant District Attorney
600 Market Street, Room 310
Chattanooga, TN 37402

either by hand delivery or by placing a copy of same in the United States mail, properly addressed with sufficient postage affixed thereto to carry same to its destination.

This 2 day of October, 2024



Benjamin L. McGowan



Lisa Chaudhari
To: Nicole.Evans@hcdatn.org >

6:30 PM

Subpoena

Good afternoon, my name is Lisa Wilkey Chaudhari. I received this Subpoena today and I'm unsure why. Ray and I dated very briefly several years ago and our relationship ended on good terms. Ray has been a family friend for many years now. He has been good to me as well as my family. That's why I'm confused about receiving this Subpoena. Thank you for your time.
Sent from my iPhone

SUBPOENA FOR APPEARANCE OF WITNESSES
COUNTY OF HAMILTON, NEW YORK
SUPERIOR COURT
MADISON COUNTY COURTHOUSE

THE STATE OF TENNESSEE VS
MARCUS J. REEFERS

Case Number: 19-00014

THE DATE OF TESTIMONY IS:
Lisa Wilkey
200 Madison
Madison, TN 37059

SPECIAL INSTRUCTIONS:
YOU MUST APPEAR AT THE COURT ON THE DATE AND TIME SPECIFIED IN THIS SUBPOENA. FAILURE TO APPEAR MAY BE CONSIDERED A VIOLATION OF THE LAW AND YOU MAY BE HELD IN CONTEMPT OF COURT.

ON CALL **IN COURT**

UNLESS SPECIALLY DESIGNATED INDICATE YOU ARE TO APPEAR AT:
DATE: October 6, 2024

NAME: K. ADOR AMANDA OLIVER
ADDRESS: 400 MARKET STREET, SUITE 318
CHATTANOOGA, TN 37402

WITNESS: VINCE DEAN, Clerk of Court
M. DEAN, Clerk of Court
August 2025

VINCE DEAN

Account & User:
Assistant District Attorney

PROBATION OFFICER OF THIS JURISDICTION MAY BE RESPONSIBLE FOR MONITORING OF COURT SERVICE RETURN.

