

**+STATE OF MICHIGAN**  
**IN THE CIRCUIT COURT FOR THE COUNTY OF JACKSON**

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

Case Nos. ~~15-2788-FC,~~  
15-2787-FC,  
15-2789-FC,  
14-4196-FC

v

RODNEY JAMAR MCKEE,  
CLIFFORD MCKEE, and  
CORTEZ A. BUTLER,

Defendants.

RECEIVED  
FEB 05 2016  
Jackson County Prosecutors Office

Hon. Thomas D. Wilson  
TRUE COPY  
OF ORIGINAL FILE

FEB 05 2016

JACKSON CO. CIRCUIT COURT  
AMANDA L. RISKA, CO. CLERK

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LAW OFFICES OF BRANDT & DEHNCKE, PLLC  
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**DEFENDANT RODNEY MCKEE'S MOTION TO SEVER AND SUPPRESS CO-  
DEFENDANT BUTLER'S CONFESSION**

NOW COMES Defendant, RODNEY JAMAR MCKEE, by and through his attorney,  
CHARLES PERLOS, and requests this Court to grant his Motion to Sever, stating the following  
in support:

1. On August 10, 2014, Frances Craig was murdered in her home.
2. Upon questioning, Defendant Cortez Butler confessed to the crime and stated that he was

paid to kill Ryan Marshall<sup>1</sup> by Defendants Rodney and Clifford McKee. The prosecution brings its cases against all three defendants together.

3. Generally, the decision to sever defendants is discretionary for the Court. MCR 6.121(D). Severance is, however, mandatory when a defendant has shown, via either an affidavit or an offer of proof, that severance is “necessary to avoid prejudice to substantial rights of the defendant.” MCR 6.121(C); *People v. Hana*, 447 Mich 325, 346; 524 NW 2d 682, 690 (1994). Where a defendant has shown that his defense and that of his co-defendants are not merely inconsistent but are, in fact, “mutually exclusive or irreconcilable” and where “the tension between defenses [is] so great that a jury would have to believe one defendant at the expense of the other,” a defendant’s substantial rights are so prejudiced and severance must be granted.
4. Here, Defendant Butler states that he killed the victim in this case because he was paid to do so by Defendants Rodney and Clifford McKee. Defendant Rodney McKee will present evidence and testimony indicating that he did not pay Butler to kill anyone and that he had no involvement in either the planning or the perpetration of Ms. Craig’s death. He has attached an affidavit of the same to this Motion, as required under *Hana*. The jury will thus either have to believe that Butler is lying about who paid him, or that Rodney McKee is lying and that he paid Butler to kill Marshall. There is no way for one jury, sitting at one trial of these two defendants together, to believe both men. Defendant Rodney McKee’s substantial rights will certainly be violated if he is required, essentially,

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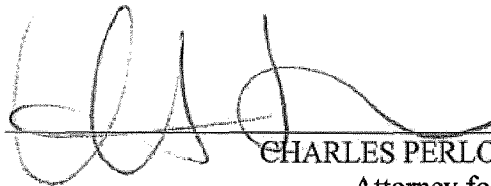
<sup>1</sup> Marshall was a former housemate of the victim and her fiancé. Defendant Butler stated in his confession that he went to the victim’s home to find and kill Marshall but found Ms. Craig instead. Butler killed Ms. Craig to protect his identity.

to assist the prosecution against Defendant Butler so that his own defense will be believed.

5. Additionally, counsel for Defendant believes that it is the intent of the prosecutor's office to admit the confession of Co-Defendant Butler against Defendants Rodney and Clifford McKee. Case law is clear that where, as here, the defendants, Rodney and Clifford McKee, has not been permitted the opportunity to cross-examine his co-defendant (Butler, here) on the co-defendant's confession, it is improper to admit this confession against the McKees. *People v. Watkins*, 438 Mich 627, 475 NW 2d 727 (1991). See attached.

WHEREFORE, as their testimonies are mutually exclusive and irreconcilable and as Co-Defendant Butler's confession cannot be used against the co-defendants, Defendant Rodney McKee respectfully asks the Court to GRANT his Motion to Sever and Suppress in addition to whatever relief the Court deems appropriate.

I DECLARE THAT THE STATEMENTS ABOVE ARE TRUE TO THE BEST OF MY INFORMATION, KNOWLEDGE, AND BELIEF.

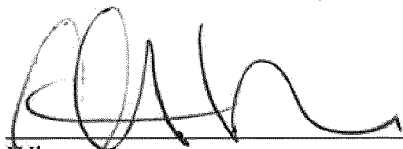


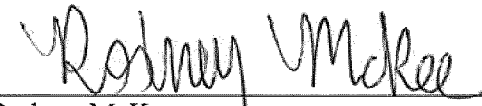
CHARLES PERLOS (P37963)  
Attorney for Defendant

AFFIDAVIT

I, Rodney McKee, being first duly sworn, deposes and states as follows:

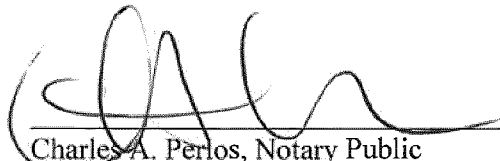
1. I am the Defendant in the matter of the People of the State of Michigan vs Rodney McKee.
2. I am currently charged with the offenses of 1<sup>st</sup> Degree Murder, Solicitation Murder, Open Murder.
3. I plead Not Guilty to all the charges and deny the statements made by the Defendant Butler as untrue.
4. I further sayeth not.

  
 \_\_\_\_\_  
 Witness

  
 \_\_\_\_\_  
 Rodney McKee

STATE OF MICHIGAN     )  
   ) SS.  
 COUNTY OF JACKSON    )

The foregoing instrument was acknowledged before me, a Notary Public, on this 5<sup>th</sup> day of February, 2016, that Rodney McKee personally appeared before me and executed this instrument.

  
 \_\_\_\_\_  
 Charles A. Perlos, Notary Public  
 Jackson County, Michigan  
 My Commission Expires: 12/6/2021

Prepared By:  
 Charles A. Perlos, P37963  
 154 West Michigan Avenue  
 Jackson, Michigan 49201