

July 23, 2013

ASA Rob Peterson, Esq.
411 S. 2nd Street
Fort Pierce, FL 34950

**RE: State v. Yvette Shane McClain
Case No. 562013CF1246A**

Dear Mr. Peterson:

I represent the legal interests of Ms. McClain. I understand that on July 24, 2013 you will be conducting the SA hearing in the above-styled case.

It is my understanding that the alleged victim in this case is Denyel McPhall. The warrant affidavit (I am not privy to the original report listed therein) states that on February 21, 2013, Ms. McPhall is alleged to have been riding with Ms. McClain in a "newer model" black Chevrolet Malibu (more on this fact to follow) being driven by an African American male going by the moniker "Black." According to McPhall, Ms. McClain and Black picked her up from her residence to go partying that afternoon. Subsequently, she was beaten by both and was pushed from the vehicle.

As shown below, the information my investigator has uncovered has made this scenario incredible, if not preposterous.

Initially, note that the time of this alleged incident, McPhall was being prosecuted by your office for aggravated battery with a deadly weapon for attempting to run my client over with a motor vehicle, case no. 562012CF482. The sentencing guidelines score sheet prepared in that case indicate that the level 7 charge would have required a minimum sentence of 21 prison months.

My client was arrested in July from an incident in February. Why did it take so long? Did not McPhall advise the authorities that she was the defendant in a case where my client was the victim, so that law enforcement could arrest my client immediately? Or did McPhall simply forget to mention that to the investigators?

The warrant affidavit indicates that law enforcement contacted Ms. McPhall at approximately 5:34 pm at Lawnwood Hospital. The responding deputies were informed by McPhall that the incident had taken place earlier in the afternoon, and thereafter McPhall had been seen by a motorist on the roadside and driven to the hospital. Therefore, it is reasonable to assume that this incident took place perhaps one to two hours before the deputies responded.

Ms. McClain currently resides with her mother in Vero Beach, where she had been living for some months prior to this alleged incident. Apparently, McPhall had moved from the Weatherbee residence where she lived when she committed the battery upon Ms. McClain to Crosspoint Drive in Port St. Lucie. Other than court appearances, Ms. McClain had no contact with McPhall after she struck her with a car. My client changed her telephone and telephone number. She had no idea where McPhall was living at the time of this incident.

Ms. McClain is the proud mother of two minor children. Both children attend different schools in Fort Pierce. On February 21, 2013, Ms. McClain picked up her youngest child, Asia McClain, from VPK at The Teacher's Place, 3386 S. 25th Street, Fort Pierce. She signed out her daughter at 3:30 p.m. The sign-out sheet is an attachment. Her oldest, Lamya Smith, attends Samuel S. Gaines Academy located at 2250 S. Jenkins Road, Fort Pierce. The school schedule runs from 9:30a.m. to 4:00p.m. Ms. McClain picked this child up at the parent pick-up spot at 4:00 p.m.

After retrieving her two daughters, Ms. McClain returned to the home she shares with her mother at 350 112th Road, Vero Beach. She arrived home and stayed there the remainder of the day. A MapQuest report (an attachment) indicates that the driving time from Samuel S. Gaines to 350th 12th Road, a distance of 13.58 miles, is 22 minutes. (I live near that street, and believe that the 22 minutes is very generous, and does not take into full account traffic patterns and stoplights.) That would place Ms. McClain arriving home in Vero at approximately 4:30 p.m., at a time when she supposedly is careening around Fort Pierce in a black Malibu with a man called Black.

We have obtained Ms. McClain's phone records from that day, which are sent as an attachment. As you can see, they indicate that from 1:46 p.m. to 4:21 p.m. she received seven phone calls. The last two calls, answered at 3:56 p.m. and 4:21 p.m., were from her boyfriend, and lasted approximately 17 minutes and 38 minutes, respectively. Again, while she supposedly was with this other man named Black. The other calls were answered at times when supposedly she was falsely imprisoning McPhall.

Luckily, McPhall's incident occurred on a Thursday. My client's mother, Ms. Adeleine Baker, is employed as a CNA. She works a night shift. Thursdays she has off. I have attached a copy of her relevant employment records. On February 21, 2013, Ms. Baker was home. She is prepared to testify that her daughter also was at home that day, leaving only to retrieve her children from their respective schools, as indicated above.

To further show the implausibility of McPhall's story, I have attached injunction pleadings she filed against my client, case no. 562012DR346. Therein, McPhall alleges that she was the person attacked and victimized when she was arrested for aggravated battery. McPhall also claims that she is in fear of her life, as my client, "has repeatedly threatened to kill me... [Ms. McClain] has said she is going to cut me up with her machete when I least expect...."

It is incredible to believe that McPhall would entertain the thought of getting into a car with someone who was threatening to end her life in such a vicious manner.

McPhall also filed an injunction petition against Minechael Jones, the eyewitness who reported to authorities the attempt to run my client over with a vehicle.

Of course, McPhall's injunction petitions, which she filed on Monday, February 13, 2012, the next business day after her aggravated battery arrest on Friday, February 10, 2012, were dismissed.

I have also attached copies of other injunction petitions McPhall has filed or been served as respondent. One in particular warrants special consideration. It is case no. 10DR4293, filed against McPhall by Kerlina Estima. McPhall earlier had filed against Ms. Estima. The injunctions both were granted by the circuit court. However, the allegations in Ms. Estima's petition state that McPhall threw a brick through Estima's bathroom window. Ms. Estima wrote: "I heard a big [crash]...I ran outside and saw Denyal entering the passenger side of a blk [sic] car...."

Subsequently, McPhall was prosecuted for her actions against Ms. Estima (case no. 562011CF69A). She entered a plea to criminal mischief and was given probation and completion of anger management. That is not what is intriguing.

My investigator pulled the original complaint affidavit from the criminal case, prepared by the initial responding officer, Fort Pierce Police Officer Michael Dini. His complaint affidavit reads, "Estima stated that she then ran out the front door and saw Denyel McPhall get into the passenger side of a *black Chevy Malibu* and leave the scene."

Apparently, McPhall actually knows an individual who drives the very same car that picked her up on February 21, 2013. An amazing coincidence? Or the same individual who battered McPhall and then pushed her from his car? Did McPhall seize the opportunity to use her injuries not against the real criminal whom she knew, but rather against the person whom she believed had gotten her arrested, prosecuted and facing a prison sentence?

The foregoing scenario, coupled with the other information I have provided that shows my client could not have been riding in a car with McPhall that afternoon, points to the conclusion that Denyal McPhall filed a false police report.

I ask that you enter a no information in this matter and dismiss the charge against Yvette McClain, and take appropriate action against Denyal McPhall.

Thank you for your time and consideration in this matter. Should you have any questions, feel free to contact me at your convenience.

Sincerely,

A handwritten signature in blue ink, appearing to read 'TCS' followed by a stylized flourish.

T. Charles Shafer, Esq.

cc: client