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**APPELLATE COURT**  
OF THE  
**STATE OF CONNECTICUT**

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Judicial District of Stamford-Norwalk at Stamford

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**AC 43952**

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**STATE OF CONNECTICUT**  
v.  
**TERRANCE POLICE**

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DEFENDANT'S APPENDIX  
PARTS 1 & 2

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Part 1

Appendix in AC 43952 *State v. Terrance Police*

**INFORMATION**

STATE OF CONNECTICUT  
SUPERIOR COURT

RX

Disposition date
Agency number CT0010300

Police Case number  
1200054140

Agency name  
Norwalk Police Department

**Title, Allegation and Counts**

State of Connecticut vs. (Name of accused) Doe, John		Residence (Town) of accused	Docket number
Address Unknown ST		Date of birth	The undersigned Prosecuting Authority of the Superior Court of the State of Connecticut charges that:
To be held at (Town) Stamford	Geographical area number GA1	Court date	
Count One — Did commit the offense of: ROBBERY 1		Continued to	Purpose
At (Town) Norwalk	On or about (Date) 10/10/2012	In violation of General Statute number 53a-134	Reason
Count Two — Did commit the offense of: ASSAULT 1		Continued to	Purpose
At (Town) Norwalk	On or about (Date) 10/10/2012	In violation of General Statute number 53a-59	Reason
Count Three — Did commit the offense of:		Continued to	Purpose
At (Town)	On or about (Date)	In violation of General Statute number	Reason
<input type="checkbox"/> See other sheet for additional counts	Date 9/20/17	Signed (Prosecuting Authority)	

**Court Action**

Defendant advised of rights before plea (Judge)		Bond	Surety	<input type="checkbox"/> 10 % <input type="checkbox"/> Cash	Election (Date) <input type="checkbox"/> CT <input type="checkbox"/> JY			
<input type="checkbox"/> Attorney <input type="checkbox"/> Public defender	Guardian	Bond change		Seized property inventory number				
Count	Plea date	Plea	Plea withdrawn Date	New plea	Verdict finding	Fine	Remit	Additional disposition
1						\$	\$	
2						\$	\$	
3						\$	\$	

Date	Other Court Action	Judge

Receipt number	Cost <input type="checkbox"/> IMP <input type="checkbox"/> NCI	Bond information <input type="checkbox"/> Bond forfeited <input type="checkbox"/> Forfeiture vacated <input type="checkbox"/> Forfeiture vacated and bond reinstated		
Application fee - receipt number if paid	Circle one W I Q	Program fee - receipt number if paid	Circle one W I Q	Probation fee - receipt number if paid
Prosecutor on original disposition	Reporter/monitor on original disposition	Signed (Clerk)		Signed (Judge)

This is page 1 of a 2 page information



**ARREST WARRANT APPLICATION**

JD-CR-64b Rev. 3-11  
C.G.S. §54-2a  
Pr. Bk. Sec. 36-1, 36-2, 36-3

**STATE OF CONNECTICUT  
SUPERIOR COURT**  
www.jud.ct.gov

For Court Use Only	
Supporting Affidavits sealed	
<input type="checkbox"/> Yes	<input type="checkbox"/> No

Police Case number 1200054140	Agency name Norwalk Police Department	Agency number CT0010300
Name (Last, First, Middle Initial) Doe, John	Residence (Town) of accused	Court to be held at (Town) Stamford Geographical Area number GA1

**Application For Arrest Warrant  
To: A Judge of the Superior Court**

The undersigned hereby applies for a warrant for the arrest of the above-named accused on the basis of the facts set forth in the:  Affidavit Below.  Affidavit(s) Attached.

Date 4/20/17	Signed (Prosecuting authority) <i>[Signature]</i>	Type/print name of prosecuting authority Colangelo
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**Affidavit**

**The undersigned affiant, being duly sworn, deposes and says:**

- 1) The affiant, Tomasz Podgorski, has been a Police Officer within the Norwalk Police Department since June 25, 2012. The affiant was promoted to the rank of Detective on September 1, 2016 and is currently assigned to the Detective Division, within the Norwalk Police Department. The undersigned has investigated numerous violations of Connecticut State Statutes, which have concluded successfully with arrests and convictions. At all relevant times mentioned herein, the affiant was acting in his official capacity of said member of the aforementioned unit. The affiant has personal knowledge of the facts, and circumstances herein after related as a result of the affiant's own investigative efforts, and those of other Law Enforcement Investigators.
- 2) That, since the date of this incident Detectives Orr, Paulino, and Evarts have been promoted to the rank of Sergeant, Detective Giannattasio has returned to Patrol Officer, and Sergeant Roncinske has been promoted to the rank of Lieutenant and will be referred to as such in this warrant.
- 3) That, on October 10, 2012 at approximately 1340 hours Norwalk Police was dispatched to a complaint of a robbery at 385 Connecticut Avenue (Stop and Shop). Dispatch advised there was a victim with a gunshot wound.
- 4) That, Officer Matsen arrived and began tending to the victim, Francoise Williams. Officer Matsen advised there were visible blood stains on Mrs. Williams' shirt and a small circular wound was observed. Officer Matsen

(This is page 1 of a 7 page Affidavit)

Date 4-6-17	Signed (Affiant) Tomasz Podgorski Det. <i>[Signature]</i>
Jurat Subscribed and sworn to before me on (Date) 4-6-17	Signed (Judge/Clerk, Commissioner of Superior Court, Notary Public) SGT <i>[Signature]</i>

**Finding**

The foregoing Application for an arrest warrant, and affidavit(s) attached to said Application, having been submitted to and considered by the undersigned, the undersigned finds from said affidavit(s) that there is probable cause to believe that an offense has been committed and that the accused committed it and, therefore, that probable cause exists for the issuance of a warrant for the arrest of the above-named accused.

Date and Signature	Signed at (City or town) STAMFORD	On (Date) 5-1-17	Signed (Judge / Judge Trial Referee) <i>[Signature]</i>	Name of Judge/Judge Trial Referee WHITE
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ARREST WARRANT APPLICATION

JD-CR-64a Rev. 3-11  
 C.G.S. § 54-2a  
 Pr. Bk. Sec. 36-1, 36-2, 36-3  
 CFS #: 1200054140

STATE OF CONNECTICUT  
 SUPERIOR COURT

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Norwalk Police Department

Name (Last, First, Middle Initial) Doe, John	Residence (Town) of accused	Court to be held at (Town) Stamford	Geographical Area number GA1
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**Affidavit - Continued**

tended to Mrs. Williams' injures and then responded to Norwalk Hospital in the ambulance with Mrs. Williams.

5) That, Mrs. Williams would later provide a sworn written statement to Sergeant Orr in which she stated on October 10, 2012 she was in Norwalk, Connecticut and proceeded to Stop and Shop in Norwalk (385 Connecticut Avenue) where she planned to quickly walk her dog. Mrs. Williams stated she parked at the far end of the parking lot closer to the gas station side and took the dog out of the car for a walk. Mrs. Williams stated after the walk she returned back to her car, put the dog in the back seat, and decided to reply to an e-mail before going to get gas. Mrs. Williams stated as she was writing the e-mail on her Iphone-4 the attacker opened the driver's side door and pushed her into the car. Mrs. Williams tried to push him back as she thought he was planning to steal the car with her in it. Mrs. Williams stated the attacker appeared to be a black male with a medium build, about five feet eleven inches to six feet tall, and between eighteen and thirty years old with a light beard. Mrs. Williams stated the male wore jeans and a dark hooded (blue or black) sweatshirt with the hood covering his head and parts of his face. Mrs. Williams stated the male had the sleeves pulled down over his hands. Mrs. Williams stated she had trouble hearing him as he spoke softly and did not recall if the male asked her for her jewelry and Iphone before taking out a small silver gun. Mrs. Williams stated the male pointed the gun at her stomach and said, "I have a gun" and then fired the gun into her abdomen. Mrs. Williams stated it seemed like the male meant to shoot her in the stomach. Mrs. Williams stated she then took off her rings and gave the male her Iphone immediately. Mrs. Williams stated the attacker stole a white Apple Iphone-4 with a pink, flexible Kate Spade case cover with white polka dots on the back, a platinum emerald cut diamond engagement ring with two baguettes on either side worth \$17,400.00, a platinum wedding band worth \$1,975.00 and two platinum and diamond rings containing alternating baguette and round diamonds. Mrs. Williams stated the attacker left the Stop and Shop parking lot and ran across Connecticut Avenue towards the Best Buy shopping center.

6) That, upon his arrival on scene Officer Wright located Diane Garrison who stated she saw the robbery take place. Garrison later provided a sworn written statement to Sergeant Orr. In her statement Garrison stated on the afternoon of October 10, 2012 she was driving into Stop and Shop on Connecticut Avenue when she saw a young black man bent over fiddling with his right foot. Garrison stated she could not tell if he was taking something out of his sock or out of his shoe, but his backside was facing her and he remained bent over as he turned his head and looked directly at her. Garrison stated the man was about fifteen feet directly behind the victim's white Mercedes Benz. As Garrison continued towards him he remained bent over and scooted forward to let Garrison pass by. Garrison stated the man was light skinned black, in his mid twenties, with none or very little facial hair, was about six feet tall, with a slender build, wearing a dark charcoal colored

(This is page 2 of a 6 page Affidavit)

Date 4-6-17	Signed (Affiant) <i>[Signature]</i>		
Jurat	Subscribed and sworn before me on (Date) 4-6-17	Signed (Judge/Clerk, Commissioner of Superior Court, Notary Public) <i>[Signature]</i>	
Reviewed (Prosecutorial Official) <i>[Signature]</i>	Date 4/28/17	Reviewed (Judge, Judge Trial Referee) <i>[Signature]</i>	Date 3-1-17

**ARREST WARRANT APPLICATION**

JD-CR-64a Rev. 3-11  
 C.G.S. § 54-2a  
 Pr. Bk. Sec. 36-1, 36-2, 36-3  
 CFS #: 1200054140

**STATE OF CONNECTICUT  
 SUPERIOR COURT**

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Norwalk Police Department

Name (Last, First, Middle Initial) Doe, John	Residence (Town) of accused	Court to be held at (Town) Stamford	Geographical Area number GA1
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**Affidavit - Continued**

hooded zip-up sweatshirt, dark colored relaxed jeans, and newer black canvass or cloth style slip on shoes with white soles and without laces. Garrison stated she pulled her car into a spot about thirty feet from the victim's car, put it into park, and took a bite of her sandwich. Garrison stated she then heard a woman's scream coming from the area of the victim's car. Garrison stated she looked in that direction and saw the young black man's feet dangling from the open driver's door of the victim's car. Garrison stated the male's legs were flailing around and it appeared that he was attacking whoever was seated in the car. Garrison stated she jumped out of her car and told an elderly couple nearby that a woman was being attacked and to call 911. Garrison stated as she got back into her car and started hitting the horn, she heard one gun shot. Garrison stated she looked over towards the victim's car and saw the man running away towards Connecticut Avenue. Garrison stated the man ran across Connecticut Avenue and to the left of Pearl Vision. The male turned left and ran along the side of Rio Restaurant, towards the backside of that building. Garrison stated the victim got out of her car and walked directly towards her saying, "I've been shot! I've been shot!"

7) That, the description of the suspect was then broadcast to all patrol units, but the individual was not located at that time. No other persons with pertinent information were located at that time and the Norwalk Police Identification Unit responded to process the scene.

8) That, Sergeant Orr then responded to Norwalk Hospital and met with Officer Matsen in the Operating Room area who advised Mrs. Williams was still in surgery and handed over clothing and property belonging to Mrs. Williams. Officer Matsen also turned over a sealed plastic cup which contained a small bullet projectile. Officer Matsen advised the bullet had been removed from Mrs. Williams' person and was turned over to him by Nurse Pirhala. Sergeant Orr transported the property and bullet projectile back to Police Headquarters and turned them over to Lieutenant Weisgerber for processing.

9) That, Sergeant Orr later received medical records for Mrs. Williams' treatment from October 10, 2012 to October 15, 2012. The Norwalk Hospital Emergency Record indicated that Mrs. Williams was admitted at 2:04 P.M. with a gunshot wound to her abdomen. The report indicated that no exit wound was located and the actual gunshot wound was located to the right of Mrs. Williams' navel. Radiological examinations indicated that abdominal x-rays showed a bullet overlying the right hemi pelvis. Physician documentation also indicated injuries to the small intestines and uterus.

10) That, on October 11, 2012 Lieutenant Weisgerber examined the base of the recovered projectile and determined the size to fit in the US caliber diameter for .22-.226 caliber. The nose of the projectile was found

(This is page 3 of a 6 page Affidavit)

Date	4-6-17	Signed (Affiant)	Det. [Signature]	
Jurat	Subscribed and sworn before me on (Date) 4-6-17	Signed (Judge/Clerk, Commissioner of Superior Court, Notary Public) SGT. [Signature]		
Reviewed (Prosecutorial Official)	Date	Reviewed (Judge / Judge Trial Referee)	Date	
[Signature]	7/20/17	[Signature]	5-1-17	

**ARREST WARRANT APPLICATION**

JD-CR-64a Rev. 3-11  
 C.G.S. § 54-2a  
 Pr. Bk. Sec. 36-1, 36-2, 36-3  
 CFS #: 1200054140

**STATE OF CONNECTICUT  
 SUPERIOR COURT**

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Norwalk Police Department

Name (Last, First, Middle Initial) Doe, John	Residence (Town) of accused	Court to be held at (Town) Stamford	Geographical Area number GA1
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**Affidavit - Continued**

to be flat at its point.

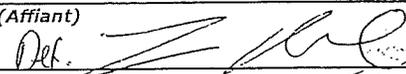
11) That, on October 13, 2012 Sergeant Orr spoke with a waitress from 330 Connecticut Avenue (RIO Restaurant), Maria Garcia. Garcia stated on the afternoon of October 10, 2012 she was working as a waitress at RIO Restaurant, which is located directly across the street from Stop and Shop. Garcia stated around 1:30 P.M. she saw a man running towards RIO Restaurant from the area of the entrance to 330 Connecticut Avenue.

Garcia stated the man was looking around as he ran, and that he appeared "scared". Garcia stated the man had one hand in his pocket and the other was swinging at his side as he ran. Garcia stated the man ran down the side of the restaurant towards the back and that she was immediately suspicious of the man. Garcia described the man as a black male, about thirty two years old, with a bald head, skinny face, about five feet ten inches tall, weighing one hundred and seventy pounds, and that he was wearing a blue sweatshirt or jacket, dark blue jeans, and stated that his head was not covered.

12) That, Sergeant Orr then viewed surveillance footage from RIO Restaurant and observed the suspect running from the area of the Connecticut Avenue driveway entrance of 330 Connecticut Avenue and into the parking lot of RIO Restaurant. The suspect was observed running with his left arm swinging by his side and his right hand tucked into his pocket. The suspect appeared to be a black male with a bald head, wearing black sneakers, dark jeans, a dark colored zip-up style hooded sweatshirt (hood down) layered over a dark colored v-neck and white shirt. The suspect was then observed running down the driveway adjacent to RIO Restaurant towards the back of the building with only his right hand still in his pocket. The suspect then used his left hand to pull the hood of his sweatshirt over his head. The suspect continued running towards the back of the building and eventually ran along the rear of the building. On an alternate camera from the same system, the suspect was then observed walking away from RIO Restaurant and towards the rear of TJ Maxx. The suspect looked to his rear for a moment as he continued walking away from RIO Restaurant before he finally ran towards the rear of Best Buy and out of view.

13) That, on October 13, 2012 based on the surveillance footage from Rio Restaurant and description and travel of the suspect, Sergeant Evarts and Officer Giannattasio responded to the area behind RIO Restaurant, TJ Maxx, and Best Buy at 330 Connecticut Avenue to conduct a thorough search for any remaining evidence. Officer Giannattasio then advised he found a dark blue zip-up style hooded sweatshirt on the outside of a stockade fence that lined most of the rear area of the shopping center. Officer Giannattasio advised it appeared the sweatshirt had recently been discarded behind the fence.

(This is page 4 of a 6 page Affidavit

Date	4-6-17	Signed (Affiant)	
Jurat	Subscribed and sworn before me on (Date) 4-6-17	Signed (Judge/Clerk/Commissioner of Superior Court, Notary Public) SGT [Signature]	
Reviewed (Prosecutorial Official)	Date 4/20/17	Reviewed (Judge / Judge Trial Referee)	Date 5-4-17

**ARREST WARRANT APPLICATION**

JD-CR-64a Rev. 3-11  
 C.G.S. § 54-2a  
 Pr. Bk. Sec. 36-21, 36-24, 36-53  
 CFS #: 1200054140

**STATE OF CONNECTICUT  
 SUPERIOR COURT**

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Norwalk Police Department

Name (Last, First, Middle Initial) Doe, John	Residence (Town) of accused	Court to be held at (Town) Stamford	Geographical Area number GA1
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**Affidavit - Continued**

14) That, Sergeant Evarts then began to check the area where the sweatshirt was located and also found a small, silver colored handgun. Sergeant Evarts stated the handgun appeared to be of a low caliber as it was very small and described the handle as black and paddle like.

15) That, Sergeant Orr and Lieutenant Roncinske responded to the location, photographed both items, and secured them in separate brown paper evidence bags. The items were later held in the Norwalk Police Department Identification Unit for processing.

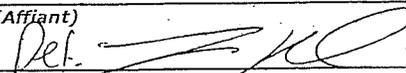
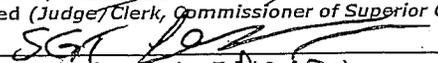
16) That, on October 15, 2012 Sergeant Tolnay examined the recovered handgun and found it to be a North American Arms, Inc. .22 magnum caliber five-shot revolver. It contained two spent .22 magnum shell casings and three live .22 magnum bullets. Sergeant Tolnay located one live bullet between the two spent shell casings in the cylinder and it did not appear to have a strike mark on the strike face.

17) That, Lieutenant Weisgerber examined the photos of the unfired bullets that were found in the revolver and the projectiles were found to be full metal jacketed with a flat nose, the same type of projectile that was recovered from Mrs. Williams' person. A direct comparative was later conducted at the State Laboratory of the recovered projectile and found revolver. The projectile was found to have been fired through the barrel of the revolver. An ATF trace as well as an NCIC check were conducted on the revolver and it was found to be registered to Robert Martens of 23 Strathmore Road West Haven, Connecticut. Further investigation revealed Martens died on January 19, 2009 and all subsequent investigatory leads regarding the revolver were exhausted.

18) That, on October 15, 2012 Lieutenant Weisgerber prepared the evidence collected from the incident for transfer to the State Laboratory. Among the evidence sent was the sweatshirt located by Officer Giannattasio, the revolver, cap-shure swabs of the revolver and cap-shure swabs from Mrs. Williams' vehicle.

19) That, on November 6, 2012 Sergeant Orr received a copy of the Forensic Biology Report from the Division of Scientific Services at the Connecticut State Forensic Lab. The report indicated a pink cell phone type case was located in the left pocket of the sweatshirt. The report also indicated saliva had been located on the lower front left side of the sweatshirt and that DNA samples were collected from the inside sleeve cuffs and neck hem of the sweatshirt. A sample was also collected from the outside of the cell phone type cover. The report indicated the samples collected from those items had been sent to the DNA Unit for further analysis.

(This is page 5 of a 6 page Affidavit)

Date	4-6-17	Signed (Affiant)		
Jurat	Subscribed and sworn before me on (Date) 4-6-17	Signed (Judge/Clerk, Commissioner of Superior Court, Notary Public) 		
Reviewed (Prosecutorial Official)	Date 4/20/17	Reviewed (Judge/Judge Trial Referee)	Date 5-1-17	

**ARREST WARRANT APPLICATION**

JD-CR-64a Rev. 3-11  
 C.G.S. § 54-2a  
 Pr. Bk. Sec. 36-1, 36-2, 36-3  
 CFS #: 1200054140

**STATE OF CONNECTICUT  
 SUPERIOR COURT**

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Norwalk Police Department

Name (Last, First, Middle Initial) Doe, John	Residence (Town) of accused	Court to be held at (Town) Stamford	Geographical Area number GA1
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**Affidavit - Continued**

20) That, on January 11, 2013 Sergeant Orr received a DNA Database Search Report from the Connecticut State Forensic Laboratory of the Department of Emergency Services and Public Protection Division of Scientific Services (laboratory case number ID12-001734). The report contained the results of the amplified items with Identifiler Plus Alleles Detected. For item listed as #6-S1 (Swab tips - inside sleeve cuffs and neck hem of sweatshirt) Identifiler Plus Alleles Detected were identified as D8S1179: 12, 13, 14; D21S11: 30; D7S820: 9, 10; CSF1PO: 12; D3S1358: 15, 16; TH01: 7; D13S317: 11, 12; D16S539: 9, D2S1338: 20, 21; D19S433: 11, 15.2; vWA: 16; TPOX: 11; D18S51: 16; AMEL: X, Y; D5S818: 11; and FGA: 24. For item listed as #6S-2 (Swab tips - outside of cell phone-type cover) Identifiler Plus Alleles Detected were identified as D8S1179: 12, 13, 14, 15; D21S11: 30, 31; D7S820: 9, 10; CSF1PO: 10, 12; D3S1358: 14, 15, 16; TH01: 7, 8; D13S317: 11, 12; D16S539: 9, 11; D2S1338: 19, 20, 21; D19S433: 11, 15.2; vWA: 15, 16, 18; TPOX: 9, 11, 12; D18S51: 16, 17; AMEL: X, Y; D5S818: 9, 10, 11, 13; and FGA: 23, 24, and 26. For item listed as #6-S3 (Cutting - left pocket of sweatshirt) Identifiler Plus Alleles Detected were identified as D8S1179: 12, 13, 14, 15; D21S11: 28, 30, 30.2, 31, 35; D7S820: 8, 9, 10, 11, 12; CSF1PO: 7, 10, 11, 12; D3S1358: 14, 15, 16, 17; TH01: 6, 7, 8; D13S317: 10, 11, 12; D16S539: 9, 10, 11, 12, 13; D2S1338: 17, 18, 20, 21, 22, 26; D19S433: 11, 12, 13, 13.2, 14, 15.2; vWA: 14, 15, 16, 17, 18; TPOX: 6, 8, 9, 11, 12; D18S51: 13, 15, 16, 20, 21; AMEL: X, Y; D5S818: 11, 12, 13; and FGA: 22, 23, 24, 25, 26, and 29.

21) That, the victim, Francoise Williams, confirmed the pink Kate Spade cell phone case found in the suspect's sweatshirt was her cell phone case. Williams was eliminated as the source of or as a contributor to the DNA profiles from the above listed items: The profiles gained from the items have been searched against Connecticut and National DNA Databases on a weekly basis with negative results.

22) That, on March 29, 2017 Officer Giannattasio, Detective Hudyma, and the affiant responded to the rear of Best Buy where the suspect's sweatshirt and revolver were originally located. Officer Giannattasio pointed out the general location of where the items were located and Detective Hudyma and the affiant used a metal detector to check the area for Williams' rings. However, the rings were not located.

23) That, based on the above facts and circumstances, this Affiant believes there is probable cause for the statute of limitations to be halted until the pending arrest of John Doe, an unknown male identifiable by the above listed DNA profile for the following violations of Connecticut General Statute: 53a-134, Robbery in the First Degree; and 53a-59, Assault in the First Degree.

(This is page 6 of a 6 page Affidavit)

Date	4-6-17	Signed (Affiant)		
Jurat	Subscribed and sworn before me on (Date) 4-6-17	Signed (Judge/Clerk, Commissioner of Superior Court, Notary Public)		
Reviewed (Prosecutorial Official)		Date	4/20/17	Reviewed (Judge / Judge Trial Referee)
				Date 5-1-17

**AFFIDAVIT AND APPLICATION  
SEARCH AND SEIZURE WARRANT**  
JD-CR-61 Rev. 3-10  
C.G.S. §§ 54-33a, 54-33c, 54-33j

STATE OF CONNECTICUT  
SUPERIOR COURT  
www.jud.ct.gov



Form JD-CR-52 must also be completed

Instructions to Applicant

The application for the warrant and all affidavits upon which the warrant is based with the clerk of the court for the geographical area within which any person who may be arrested in connection with or subsequent to the execution of the search warrant would be presented, together with the return of the warrant.

Instructions to G.A. Clerk

Upon execution and return of the warrant, affidavits which are the subject of an order dispensing with the requirement of giving a copy to the owner, occupant or person within forty-eight hours shall remain in the custody of the clerk's office in a secure location apart from the remainder of the court file.

Police Case number 1200054140

TO: A Judge of the Superior Court or a Judge Trial Referee

The undersigned, being duly sworn, complains on oath that the undersigned has probable cause to believe that certain property, to wit:

The DNA of Terrence Police, date of birth 08/21/1984, to be obtained using two foam tipped applicators swabbed in Police's mouth, as required by the Connecticut Forensic Science Laboratory, so his DNA profile can be obtained for confirmatory comparison.

- is possessed, controlled, designed or intended for use or which is or has been or may be used as the means of committing the criminal offense of:
- was stolen or embezzled from:
- constitutes evidence of the following offense or that a particular person participated in the commission of the offense of: 53a-134, Robbery in the first degree
- is in the possession, custody or control of a journalist or news organization, to wit:
  - and such person or organization has committed or is committing the following offense which is related to such property:
  - and such property constitutes contraband or an instrumentality of the criminal offense of:

And is within or upon a certain person, place, or thing, to wit:

The mouth cheek cells and saliva of Terrence Police, date of birth 08/21/1984. The cheek cells and saliva will be collected on two foam tipped applicators.

(This is page 1 of a 12 page Affidavit and Application.)

City/Town	Date	Signature and Title of Affiant
Stamford	04/06/2018	Detective
Stamford	04/06/2018	Detective
Jurat	Subscribed and sworn to before me on <u>4-6-18</u> (Date)	Signed (Judge/Judge Trial Referee)

And that the facts establishing the grounds for issuing a Search and Seizure Warrant are the following:

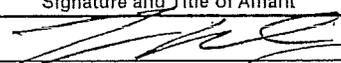
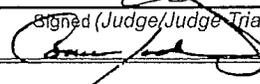
1) The affiant, Tomasz Podgorski, has been a Police Officer within the Norwalk Police Department since June 25, 2012. The affiant was promoted to the rank of Detective on September 1, 2016 and is currently assigned to the Detective Division, within the Norwalk Police Department. The undersigned has investigated numerous violations of Connecticut State Statutes, which have concluded successfully with arrests and convictions. At all relevant times mentioned herein, the affiant was acting in his official capacity of said member of the aforementioned unit. The affiant has personal knowledge of the facts, and circumstances herein after related as a result of the affiant's own investigative efforts, and those of other Law Enforcement Investigators.

2) The affiant, Detective Chris Imperato, has been a regular member of the Norwalk Department of Police Services since February 5, 2009. The affiant was promoted to the rank of Detective in April 2014 and is currently assigned to the Detective Bureau. The affiant's duties include the investigation of serious felony offenses, including homicides, assaults, robberies and any other cases assigned within the Bureau. At all times mentioned herein, the affiant was acting in his official capacity as a member of the aforementioned agency. The following facts and circumstances are from personal knowledge and/or observations, including information related to the affiant by police officers or other persons with knowledge of the facts and circumstances.

3) That, on October 10, 2012 at approximately 1340 hours Norwalk Police was dispatched to a complaint of a robbery at 385 Connecticut Avenue (Stop and Shop). Dispatch advised there was a victim with a gunshot wound. Officer Matsen arrived and began tending to the victim, Francoise Williams. Officer Matsen advised there were visible blood stains on Mrs. Williams' shirt and a small circular wound was observed. Officer Matsen tended to Mrs. Williams' injuries and then responded to Norwalk Hospital in the ambulance with Mrs. Williams. Medical records revealed Mrs. Williams suffered a gunshot wound to her abdomen.

4) That, Mrs. Williams would later provide a sworn written statement to Sergeant Orr in which she stated on October 10, 2012 she was in Norwalk and proceeded to Stop and Shop (385 Connecticut Avenue) where she planned to quickly walk her dog. Mrs. Williams stated she parked at the far end of the parking lot closer to the gas station side and took the dog out of the car for a walk. Mrs. Williams stated after the walk she returned back to her car, put the dog in the back seat, and decided to reply to an e-mail before going to get gas. Mrs. Williams stated as she was writing the e-mail on her Iphone-4 the attacker opened the driver's side door and pushed her into the car. Mrs. Williams tried to push him back as she thought he was planning to steal the car with her in it. Mrs. Williams stated the attacker appeared to be a black male with a medium build, about five feet eleven inches to six feet tall, and between eighteen and thirty years old with a light beard. Mrs. Williams stated the male wore jeans and a dark hooded (blue or black) sweatshirt

*(This is page 2 of a 12 page Affidavit and Application.)*

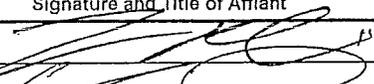
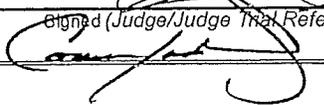
City/Town	Date	Signature and Title of Affiant
Stamford	4/6/2018	Detective 
Stamford	4/6/2018	Detective 
Jurat	Subscribed and sworn to before me on (Date) 4-6-18	Signed (Judge/Judge Trial Referee) 

with the hood covering his head and parts of his face. Mrs. Williams stated the male had the sleeves pulled down over his hands. Mrs. Williams stated she had trouble hearing him as he spoke softly and did not recall if the male asked her for her jewelry and Iphone before taking out a small silver gun. Mrs. Williams stated the male pointed the gun at her stomach and said, "I have a gun" and then fired the gun into her abdomen. Mrs. Williams stated it seemed like the male meant to shoot her in the stomach. Mrs. Williams stated she then took off her rings and gave the male her Iphone immediately. Mrs. Williams stated the attacker stole a white Apple Iphone-4 with a pink, flexible Kate Spade case cover with white polka dots on the back, a platinum emerald cut diamond engagement ring with two baguettes on either side worth \$17,400.00, a platinum wedding band worth \$1,975.00 and two platinum and diamond rings containing alternating baguette and round diamonds. Mrs. Williams stated the attacker left the Stop and Shop parking lot and ran across Connecticut Avenue towards the Best Buy shopping center.

5) That, upon his arrival on scene Officer Wright located Diane Garrison who stated she saw the robbery take place. Garrison later provided a sworn written statement to Sergeant Orr. In her statement Garrison stated on the afternoon of October 10, 2012 she was driving into Stop and Shop on Connecticut Avenue when she saw a young black man bent over fiddling with his right foot. Garrison stated she could not tell if he was taking something out of his sock or out of his shoe, but his backside was facing her and he remained bent over as he turned his head and looked directly at her. Garrison stated the man was about fifteen feet directly behind the victim's white Mercedes Benz. As Garrison continued towards him he remained bent over and scooted forward to let Garrison pass by. Garrison stated the man was light skinned black, in his mid twenties, with none or very little facial hair, was about six feet tall, with a slender build, wearing a dark charcoal colored hooded zip-up sweatshirt, dark colored relaxed jeans, and newer black canvass or cloth style slip on shoes with white soles and without laces. Garrison stated she pulled her car into a spot about thirty feet from the victim's car, put it into park, and took a bite of her sandwich. Garrison stated she then heard a woman's scream coming from the area of the victim's car. Garrison stated she looked in that direction and saw the young black man's feet dangling from the open driver's door of the victim's car. Garrison stated the male's legs were flailing around and it appeared that he was attacking whoever was seated in the car. Garrison stated she jumped out of her car and told an elderly couple nearby that a woman was being attacked and to call 911. Garrison stated as she got back into her car and started hitting the horn, she heard one gun shot. Garrison stated she looked over towards the victim's car and saw the man running away towards Connecticut Avenue. Garrison stated the man ran across Connecticut Avenue and to the left of Pearl Vision. The male turned left and ran along the side of Rio Restaurant, towards the backside of that building. Garrison stated the victim got out of her car and walked directly towards her saying, "I've been shot! I've been shot!"

6) That, Sergeant Orr also spoke with an individual who wished to remain anonymous. The individual stated he/she was in the area during the time of the shooting and boarded the 2:30 P.M. city bus at 493 Connecticut Avenue. The individual stated he/she observed a light skinned black male in his mid 20's to

*(This is page 3 of a 12 page Affidavit and Application)*

City/Town	Date	Signature and Title of Affiant
Stamford	4/6/2018	Detective 
Stamford	4/6/2018	Detective 
Jurat	Subscribed and sworn to before me on (Date) 4-6-18	Signed (Judge/Judge Trial Referee) 

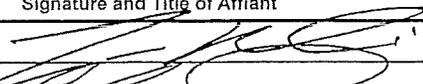
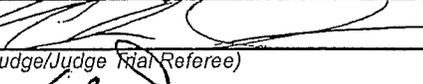
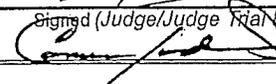
30 years old, with a tear drop or circle tattoo under his left eye, wearing a white t-shirt, dark blue jeans and black canvass sneakers with white laces and white trim soles sitting in the seat directly across the aisle from him/her. The individual stated the male was talking on a non-flip style cell phone. The individual stated the male stated over the phone, "Meet me at the train station," and then quickly replied, "Well, GPS it then." The individual stated the bus traveled past the crime scene and the male bent down and pretended to tie his shoe or fix the cuff on his pants as if to not be seen by police. The individual stated the male again bent down when the bus passed a construction site with a police officer. The individual stated he exited the bus on lower Ely Avenue and the male remained on the bus.

7) That, on October 13, 2012 Sergeant Orr spoke with a waitress from 330 Connecticut Avenue. (RIO Restaurant), Maria Garcia. Garcia stated on the afternoon of October 10, 2012 she was working as a waitress at RIO Restaurant, which is located directly across the street from Stop and Shop. Garcia stated around 1:30 P.M. she saw a man running towards RIO Restaurant from the area of the entrance to 330 Connecticut Avenue. Garcia stated the man was looking around as he ran, and that he appeared "scared". Garcia stated the man had one hand in his pocket and the other was swinging at his side as he ran. Garcia stated the man ran down the side of the restaurant towards the back and that she was immediately suspicious of the man. Garcia described the man as a black male, about thirty two years old, with a bald head, skinny face, about five feet ten inches tall, weighing one hundred and seventy pounds, and that he was wearing a blue sweatshirt or jacket, dark blue jeans, and stated that his head was not covered.

8) That, Sergeant Orr then viewed surveillance footage from RIO Restaurant and observed the suspect running from the area of the Connecticut Avenue driveway entrance of 330 Connecticut Avenue and into the parking lot of RIO Restaurant. The suspect was observed running with his left arm swinging by his side and his right hand tucked into his pocket. The suspect appeared to be a black male with a bald head, wearing black sneakers, dark jeans, a dark colored zip-up style hooded sweatshirt (hood down) layered over a dark colored v-neck and white shirt. The suspect was then observed running down the driveway adjacent to RIO Restaurant towards the back of the building with only his right hand still in his pocket. The suspect then used his left hand to pull the hood of his sweatshirt over his head. The suspect continued running towards the back of the building and eventually ran along the rear of the building. On an alternate camera from the same system, the suspect was then observed walking away from RIO Restaurant and towards the rear of TJ Maxx. The suspect looked to his rear for a moment as he continued walking away from RIO Restaurant before he finally ran towards the rear of Best Buy and out of view.

9) That, images of the suspect running through the parking lot of Rio were then disseminated to the media. Also, on October 13, 2012 based on the surveillance footage, Sergeant Evarts and Officer Giannattasio responded to the area behind RIO Restaurant, TJ Maxx, and Best Buy at 330 Connecticut Avenue to conduct a thorough search for any remaining evidence. Officer Giannattasio then advised he found a dark blue zip-up style hooded sweatshirt on the outside of a stockade fence that lined most of the

*(This is page 4 of a 12 page Affidavit and Application)*

City/Town	Date	Signature and Title of Affiant
Stamford	4/6/2018	Detective 
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rear area of the shopping center. Officer Giannattasio advised it appeared the sweatshirt had recently been discarded behind the fence. Sergeant Evarts then began to check the area where the sweatshirt was located and also found a small, silver colored handgun. Sergeant Evarts stated the handgun appeared to be of a low caliber as it was very small and described the handle as black and paddle like.

10) That, the recovered firearm, a North American Arms Inc. .22 caliber revolver, was found to be the gun the projectile was shot from that struck the victim, Francoise Williams. Also, October 15, 2012 Lieutenant Weisgerber prepared the evidence collected from the incident for transfer to the State Laboratory. Among the evidence sent was the sweatshirt, the revolver, cap-shure swabs of the revolver and cap-shure swabs from Mrs. Williams' vehicle.

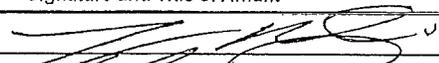
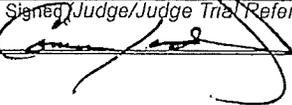
11) That, on November 6, 2012 Sergeant Orr received a copy of the Forensic Biology Report from the Connecticut State Forensic Laboratory. The report indicated a pink cell phone type case was located in the left pocket of the sweatshirt, which the victim, Francoise Williams, would later confirm was hers. The report also indicated saliva had been located on the lower front left side of the sweatshirt and that DNA samples were collected from the inside sleeve cuffs and neck hem of the sweatshirt. A sample was also collected from the outside of the cell phone type cover. The report indicated the samples collected from those items had been sent to the DNA Unit for further analysis and were later entered into the Connecticut and National CODIS databases with negative results.

12) That, on December 29, 2012 an unnamed individual contacted the detective bureau and advised he believed his cousin, Terrance Police, looked identical to the male in the surveillance footage that was released to the media. The individual stated his mother questioned Terrance about the incident, but he stated that it was not him. The caller went on to state that Terrance told other people in the family that it was him who shot the victim. Terrance was found to be a convicted felon and his DNA was on file in CODIS as of 2008. Terrance was ruled out as a potential suspect at that time as his DNA in CODIS did not result in any matches to the DNA recovered from the items.

13) That, in July of 2013 all investigative leads were exhausted. The DNA profiles from the items recovered on scene were periodically checked through CODIS with negative results. Thus in May 2017 the affiant completed a John Doe arrest warrant based on the DNA profiles recovered from the items to halt the statute of limitations.

14) That, on April 2, 2018 the affiant was advised by Detective Sura that he spoke with Officer Girardi from Bridgeport Police Department. Detective Sura advised Officer Girardi responded to a police call involving Shakeema Gill (8/12/1986). Shakeema stated her child's father, Terrance Police, did the Stop and Shop shooting in October 2012.

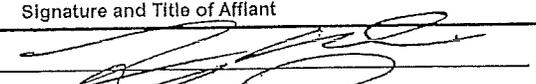
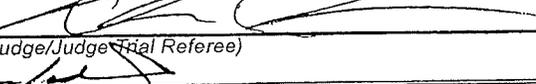
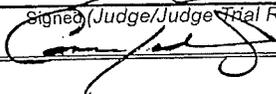
*(This is page 5 of a 12 page Affidavit and Application)*

City/Town	Date	Signature and Title of Affiant
Stamford	4/6/2018	Detective 
Stamford	4/6/2018	Detective 
Jurat	Subscribed and sworn to before me on (Date) 4-6-18	Signed (Judge/Judge Trial Referee) 

15) That, on April 5, 2018 Detective Imperato and the affiant spoke with Shakeema who provided a sworn written statement. Shakeema stated she has known Terrance Police since she was 12 years old. Shakeema stated she has a five year old son with Terrance, but added she is not dating him. Shakeema stated that in 2012 she was living in Ansonia with Terrance and she was pregnant with his son. Shakeema stated that sometime in October 2012 she had a doctor's appointment for a check up and Terrance did not want to go with her. Shakeema stated that prior to her leaving for the doctor's appointment Terrance left the house wearing jeans, black sneakers with white soles, a white t-shirt and a black hooded sweatshirt. Shakeema stated she went to the doctor's office alone. Shakeema stated she remembers the day because of her doctor's appointment. Shakeema stated later in the day she received a phone call from Terrance's mother, Lori Thompson. Shakeema stated Lori asked her if she saw the news about a robbery that occurred in Norwalk. Shakeema stated Lori told her the robbery was at Stop and Shop in Norwalk and that her son, Terrance Police, was the suspect. Shakeema stated she turned on the news and saw the news clips of the male suspect running through a parking lot and then also images of him in the train station in Norwalk. Shakeema stated she immediately recognized him as Terrance Police. Shakeema stated she called Terrance and started asking him where he was. Shakeema stated Terrance was very frantic while speaking with her and he told her he was at the Norwalk train station. Shakeema stated Terrance told her he was in Norwalk for an interview. However, Shakeema stated she did not believe he was at an interview as he left the house earlier in the day wearing a black sweatshirt. Shakeema stated she did not ask Terrance anymore questions and waited for him to come home. Shakeema stated Terrance came home wearing a jacket with no undershirt. Shakeema stated Terrance was not wearing the sweatshirt or undershirt that he left the house in earlier that day. Shakeema stated she began to ask Terrance questions about where he was and what happened. Shakeema stated while she was speaking with Terrance and asking him questions about the robbery, Lori called her cell phone and she placed her on speaker phone. Shakeema stated Lori was accusing Terrance of committing the robbery and being the individual on the news. Shakeema stated Terrance took the phone from her and then began talking to her before eventually hanging up the phone. Shakeema stated Terrance turned off his cell phone because he was afraid the police were going to trace his location. Shakeema stated she began to ask Terrance questions about the robbery and he claimed it was not him. Shakeema stated she turned on the news in front of him and again he denied it was him. Shakeema stated eventually Terrance admitted he was the male in the footage and then told her about the robbery.

16) That, Shakeema stated Terrance told her he robbed an older white lady who was sitting in her white SUV in the Stop and Shop parking lot. Shakeema stated Terrance told her he did not mean to shoot the lady, however, he stated she fought back when he asked her for her possessions. Shakeema stated Terrance told her he accidentally shot the lady in the stomach. Shakeema stated Terrance told her he stole jewelry from the lady and added she believe he stated it was rings. Shakeema stated Terrance told her he ran towards a housing project and ran to an unknown lady's apartment. Shakeema stated Terrance told her the lady let him into the apartment, but then saw blood on his t-shirt and kicked him out.

*(This is page 6 of a 12 page Affidavit and Application)*

City/Town	Date	Signature and Title of Affiant
Stamford	4/6/2018	Detective 
Stamford	4/6/2018	Detective 
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Shakeema stated Terrance told her he said something to the lady about a phone number being given, but she stated she did not recall what exactly Terrance told her. Shakeema stated Terrance told her he threw his gun somewhere in the dirt after shooting the lady. Shakeema stated Terrance told her he then hopped on a city bus and took it to the train station. Shakeema stated Terrance told her that while he was on the bus he was worried someone was going to see the blood on his t-shirt, but he stated no one did. Shakeema stated sometime soon after the shooting took place Terrance attempted to give her a ring. Shakeema stated she refused to take it from him because she knew it came from the robbery. Shakeema stated that approximately one or two weeks after the shooting Terrance went to New York and traded the jewelry for cash. Shakeema stated Terrance bought her a gift with the money and she refused to take the gift because she knew where the money came from. Shakeema stated Terrance told her he split some of the money he got from selling the jewelry with another guy. Shakeema stated Terrance told her he gave the guy \$1,500.00. Shakeema stated Terrance told her the guy's name, but she stated she did not want to provide his name out of fear for her safety. Shakeema stated after the incident occurred Terrance began to grow his hair out so that he looked different from the individual in the footage. Shakeema stated there were numerous times that she wanted to come forward to the police department with information in regards to the shooting, however, Terrance would threaten her and held it over her head. Shakeema stated this information has been weighing on her conscience but she was afraid to say something because she was afraid for not only her safety but her kids' safety as well.

17) That, the affiant contacted Bridgeport Police Department and learned Terrance was arrested for two armed robberies that occurred on August 4, 2014 and August 6, 2014. In both incidents Terrance was armed with a handgun and was clad in dark colored sweatshirts with the hood over his head. Also, Terrance was a suspect in armed robberies in Milford and Stamford. Terrance was found to be a black male weighing approximately 170 pounds, approximately 5' 9" tall, with a thin build. Terrance's physical description was found to match the description provided by witnesses of the robbery.

18) That, the affiant contacted the Connecticut State Forensic Laboratory and spoke with Forensic Science Examiner Jessica Best. Jessica advised that even though Terrance's DNA was in CODIS, it was possible that no match was made to the DNA found on the items because of the low quality. The affiant was advised that because the DNA profiles that were found were mixtures it would be best to do a direct comparison to the suspect's DNA.

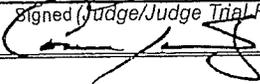
19) That, the information Shakeema provided about the stolen rings, the victim being shot in the stomach and the gun being dropped in the dirt were not released to the media and were not known by the general public and the information she provided about Terrance's encounter with the unknown female in the housing project was confirmed to be true and accurate as on the date of the robbery Dominique Sinclair of 196 Suncrest Road reported an individual matching Terrance's description with a bloody right hand attempted to enter her home after the incident. In addition, Terrance's physical descriptor's match

*(This is page 7 of a 12 page Affidavit and Application)*

City/Town	Date	Signature and Title of Affiant
Stamford	4/6/2018	Detective 
Stamford	4/6/2018	Detective 
Jurat	Subscribed and sworn to before me on (Date) 4-6-18	Signed (Judge/Judge Trial Referee) 

the suspect's descriptions provided by witnesses and that Terrance has a history of armed robberies the affiants respectfully request a search warrant be issued for Terrance Police's DNA, date of birth August 21, 1984, as it will be directly compared to the DNA recovered from the items left behind by the suspect.

*(This is page 8 of a 12 page Affidavit and Application)*

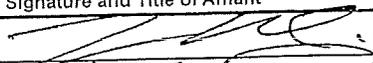
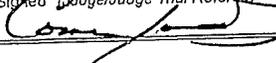
City/Town	Date	Signature and Title of Affiant
Stamford	4/6/2018	Detective 
Stamford	4/6/2018	Detective 
Jurat	Subscribed and sworn to before me on (Date) 4-6-18	Signed (Judge/Judge Trial Referee) 

The undersigned ("X" One)  has not presented this application in any other court or to any other judge or judge trial referee.  
 has presented this application in another court or to another judge or judge trial referee (specify)

Wherefore the undersigned requests that a warrant may issue commanding a proper officer to search said  
 location or to enter into or upon said place or thing, search the same, and take into custody all such property.

And to submit the property described in the foregoing affidavit and application to laboratory analysis and examination:

*(This is page 9 of a 12 page Affidavit and Application.)*

City/Town	Date	Signature and Title of Affiant
Stamford	04/06/2018	Detective 
Stamford	04/06/2018	Detective 
Jurat	Subscribed and sworn to before me on (Date) 4-6-18	Signed (Judge/Judge Trial Referee) 

**AFFIDAVIT REQUESTING DISPENSATION WITH  
REQUIREMENT OF DELIVERY**  
pursuant to § 54-33c, Connecticut General Statutes

**TO: A Judge of the Superior Court or a Judge Trial Referee**

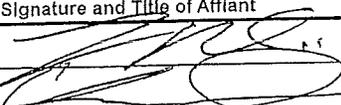
On the reasons set forth below, the undersigned, being duly sworn, requests that the judge/judge trial referee dispense with the requirement of C.G.S. § 54-33c that a copy of the application for the warrant and a copy of any affidavit(s) in support of the warrant be given to the owner, occupant or person named therein within forty-eight hours of the search:

- The personal safety of a confidential informant would be jeopardized by the giving of a copy of the affidavits at such time;
- The search is part of a continuing investigation which would be adversely affected by the giving of a copy of the affidavits at such time;
- The giving of such affidavits at such time would require disclosure of information or material prohibited from being disclosed by chapter 959a of the general statutes;
- In addition, it is requested that the requirement of advance service of this warrant upon the customer whose financial records are being sought, be waived pursuant to C.G.S. § 36a-43(a);

and the specific details with regard to such reasons are as follows:

The undersigned further requests that this affidavit also be included in such nondelivery.

*(This is page 10 of a 12 page Affidavit and Application.)*

City/Town	Date	Signature and Title of Affiant
Stamford	4/6/2018	Detective 
Stamford	4/6/2018	Detective 
Jurat	Subscribed and sworn to before me on (Date)	Signed (Judge/Judge Trial Referee)

SEARCH AND SEIZURE WARRANT

STATE OF CONNECTICUT  
SUPERIOR COURT

SEARCH AND SEIZURE WARRANT

The foregoing Affidavit and Application for Search and Seizure Warrant having been presented to and been considered by the undersigned, a Judge of the Superior Court or a Judge Trial Referee, and the foregoing Affidavit having been subscribed and sworn to by the affiant(s) before me at the time it was presented, the undersigned (a) is satisfied therefrom that grounds exists for said application, and (b) finds that said affidavit established grounds and probable cause for the undersigned to issue this Search and Seizure Warrant, such probable cause being the following: From said affidavit, the undersigned finds that there is probable cause for the undersigned to believe that the property described in the foregoing affidavit and application is within or upon the person, if any, named or described in the foregoing affidavit and application, or the place or thing, if any, described in the foregoing affidavit and application, under the conditions and circumstances set forth in the foregoing affidavit and application, and that, therefore, a Search and Seizure warrant should issue for said property.

NOW THEREFORE, by Authority of the State of Connecticut, I hereby command any Police Officer of a regularly organized police department, any State Police Officer, any inspector in the Division of Criminal Justice, or any conservation officer, special conservation officer or patrol officer acting pursuant to C.G.S. § 26-6 to whom these presents shall come within ten days after the date of this warrant to enter into or upon and search the place or thing described in the foregoing affidavit and application, or search the person described in the foregoing affidavit and application or both, to wit:

The mouth cheek cells and saliva of Terrence Police, date of birth 08/21/1984. The cheek cells and saliva will be collected on two foam tipped applicators.

for the property described in the foregoing affidavit and application, to wit:

The DNA of Terrence Police, date of birth 08/21/1984, to be obtained using two foam tipped applicators swabbed in Police's mouth, as required by the Connecticut Forensic Science Laboratory, so his DNA profile can be obtained for confirmatory comparison.

submit the property described in the foregoing affidavit and application to laboratory analysis and examination:

and upon finding said property to seize the same, take and keep it in custody until the further order of the court, and with reasonable promptness make due return of this warrant accompanied by a written inventory of all property seized.

The foregoing request that the judge or judge trial referee dispense with the requirement of C.G.S. § 54-33c that a copy of the warrant application and affidavit(s) in support of the warrant be given to the owner, occupant or person named therein and that the affidavit in support of such request also be included in such nondelivery is hereby:

GRANTED for a period of NOT TO EXCEED 2 WEEKS BEYOND DATE WARRANT IS EXECUTED

This order, or any extension thereof, dispensing with said requirement shall not limit disclosure of such application and affidavits to the attorney for a person arrested in connection with or subsequent to the execution of the search warrant unless, upon motion of the prosecuting authority within two weeks of such arraignment the court finds that the state's interest in continuing nondisclosure substantially outweighs the defendant's right to disclosure.

DENIED

Service of this Search Warrant upon the customer whose financial records are being sought is hereby waived, pursuant to C.G.S. § 36a-43 (a).

(NOTE: AFFIANT'S OATH MUST BE TAKEN PRIOR TO JUDGE/JUDGE TRIAL REFEREE SIGNING BELOW)

(This is page 11 of a 12 page Affidavit and Application.)

Signed at <u>Plainfield</u> , Connecticut, on:	Date <u>4-6-18</u>	At (Time) <u>9:15</u>	<input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m.
Signed <u>[Signature]</u> (Judge/Judge Trial Referee)	Print name of Judicial Official <u>Conrad</u>		

RETURN FOR AND INVENTORY  
PROPERTY SEIZED ON SEARCH AND SEIZURE WARRANT

			Inventory control number
Judicial District of Stamford	G.A. GA1	AT (Address of Court) 123 Hoyt Street, Stamford 06905	
Date of seizure 04/06/2018			
Case number CR-	Uniform arrest number	Police Case number 1200054140	Companion case number

Then and there by virtue of and pursuant to the authority of the foregoing warrant, I searched the person, place or thing named therein, to wit:

The mouth cheek cells and saliva of Terrence Police, date of birth 08/21/1984. The cheek cells and saliva will be collected on two foam tipped applicators.

and found thereon or therein, seized, and now hold in custody, the following property :

Total Cash Seized: \$ .00, consisting of

2 Buccal Swabs, Terrance Police

and I gave a copy of such warrant to Terrance Police, the owner or occupant of the dwelling, structure, motor vehicle or place designated therein, or to \_\_\_\_\_ the person named therein, on (Date): 04/06/2018

(This is page 12 of a 12 page Affidavit and Application.)

Date 4.6.18 Signed (Officer's Signature and department) [Signature] Norwalk

NOTE: Form JD-CR-61, pages 1 - 12 must be supplemented by Form JD-CR-52.

INFORMATION

STATE OF CONNECTICUT  
SUPERIOR COURT

PCX

JD-CR-. 1 REV. 3-11

Police Case number

1200054140

Agency name

Norwalk Police Department

Disposition date

Agency number

CT0010300

Title, Allegation and Counts

State of Connecticut vs. (Name of accused) **Doe, John** Residence (Town) of accused Court date **04/14/17**

Address **Unknown ST** Date of birth **The undersigned Prosecuting Authority of the Superior Court of the State of Connecticut charges that:**

To be held at (Town) **Stamford** Geographical area number **GA1** Court date

Count One — Did commit the offense of: **ROBBERY 1** Continued to Purpose Reason

At (Town) **Norwalk** On or about (Date) **10/10/2012** In violation of General Statute number **53a-134**

Count Two — Did commit the offense of: **ASSAULT 1**

At (Town) **Norwalk** On or about (Date) **10/10/2012** In violation of General Statute number **53a-59**

Count Three — Did commit the offense of:

At (Town) On or about (Date) In violation of General Statute number

See other sheet for additional counts Date **7/20/17** Signed (Prosecuting Authority)

Court Action

Defendant advised of rights before plea (Judge) **Hernandez** (Date) **5/7/17** Bond **150,000 CW** Surety  10 %  Cash Election (Date)  CT  JY

Attorney  Public defender Guardian Bond change Seized property inventory number

Count Plea date Plea Plea withdrawn Date New plea Verdict finding Fine Remit Additional disposition

1 \$ \$

2 \$ \$

3 \$ \$

Date **5/7/18** Other Court Action **pd bond only** Judge **Hernandez**

**First + last name are correct**

**Transfer to part A GA1**

Receipt number Cost  IMP  NCI Bond information  Bond forfeited  Forfeiture vacated  Forfeiture vacated and bond reinstated

Application fee - receipt number if paid Circle one **W I Q** Program fee - receipt number if paid Circle one **W I Q** Probation fee - receipt number if paid Circle one **W I Q**

Prosecutor on original disposition Reporter/monitor on original disposition Signed (Clerk) Signed (Judge)



ORIGINAL INFORMATION: YES  
COURT DATE: 05/07/2018  
AT: GA20 - NORWALK

DISPOSITION DATE:  
DOCKET NO.: FST -CR18-0146497-T

The undersigned Prosecuting Authority of the Superior Court of the State of Connecticut charges that

POLICE TERRANCE



73 EASTON AVENUE, WATERBURY, CT 06704

Did commit the offenses recited below:

Count: 1 ROBBERY 1ST DEG Type/Class: F/B At: NORWALK  
On or About: 10/10/2012 In Violation Of CGS/PA No: 53a-134

Count: 2 ASSAULT 1ST DEG Type/Class: F/B At: NORWALK  
On or About: 10/10/2012 In Violation Of CGS/PA No: 53a-59

SEE OTHER SHEETS FOR ADDITIONAL COUNTS	DATE	SIGNED (PROSECUTING AUTHORITY)
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COURT ACTION									
DEFENDANT ADVISED OF RIGHTS BEFORE PLEA (JUDGE)				BOND		SURETY		ELECTION	
<input type="checkbox"/> ATTY. <input type="checkbox"/> PUB. DEFENDER				(\$150000) <i>cls</i>		<input type="checkbox"/> CASH <input type="checkbox"/> COURT <input type="checkbox"/> JURY		<input type="checkbox"/> SEIZED PROPERTY	
COUNT NO.	PLEA DATE	PLEA	PLEA WITHDRAWN DATE	NEW PLEA	VERDICT FINDING	FINE	JAIL	ADDITIONAL DISPOSITION	
1	8/21/18	NG						#1011703/14	
2	8/21/18	NG							

DATE	OTHER COURT ACTION	JUDGE	CONTINUANCES		
			DATE	PURPOSE	REASON
5/21/18	D>ZOTER	White			
2/18/19	HEARING - MOTION TO DISMISS	Blaug	9-5-19	X	
3/21/19	Motion to dismiss hearing day 2	Blaug	17-19	X	
7/19/19	Motion to Dismiss due to Statute of Limitations - Denied	Blaug	3-11-19	X	
11/4/19	D SUB INFO	WHITE	4.		
			5.		
			6.		
			7.		
			8.		
			9.		
			10.		

FINE PAID	RECEIPT NO.	MITTIMUS DATE	TRIAL TOWN	<input type="checkbox"/> SEE REVERSE SIDE
PROSECUTOR ON ORIGINAL DISPOSITION	REPORTER ON ORIGINAL DISPOSITION	SIGNED CLERK	SIGNED JUDGE	

**INFORMATION**  
JD-CR-71.5 Rev. 1-03

STATE OF CONNECTICUT  
**SUPERIOR COURT**

DISPOSITION DATE  
**12-3-2019**

**OFFENSE(S) AND PLEA(S)**

STATE OF CONNECTICUT VS. (Name of accused)  
**TERENCE POUL**

G.A. NO. DOCKET NO.  
**EST CR 18-16493**

ADDRESS

TO BE HELD AT (Town) COURT DATE

The undersigned Deputy Assistant State's Attorney of the Superior Court of the State of Connecticut on oath of office charges:

FIRST COUNT - DID COMMIT THE OFFENSE OF	CONTINUED TO	PURPOSE	REASON
<b>Robbery in the first degree</b> AT (Town) <b>Normalis</b> ON OR ABOUT (Date) <b>12/10/12</b> IN VIOLATION OF GENERAL STATUTE NO. <b>53a-134(a)(2)</b>			
<b>Assault with a firearm</b> AT (Town) <b>Normalis</b> ON OR ABOUT (Date) <b>12/10/12</b> IN VIOLATION OF GENERAL STATUTE NO. <b>53a-59(a)(1)</b>			
THIRD COUNT - DID COMMIT THE OFFENSE OF			
AT (Town) ON OR ABOUT (Date) IN VIOLATION OF GENERAL STATUTE NO.			

SEE OTHER SHEET(S) FOR ADDITIONAL COUNTS

DATE **12/4/19** SIGNED (Deputy Asst. State's Attorney)

**COURT ACTION**

DEFENDANT ADVISED OF RIGHTS BEFORE PLEA (JUDGE) (DATE)

BOND SURETY  10%  CASH ELECTION (Date)  CT  JY

ATTORNEY  PUB. DEFENDER  GUARDIAN BOND CHANGE SEIZED PROP. INVENTORY NO.

COUNT	PLEA DATE	PLEA	PLEA WITHDRAWN		VERDICT FINDING	FINE	REMIT	ADDITIONAL DISPOSITION
			DATE	NEW PLEA				
1	11/4/19	WILD contendre			ny	\$	\$	10 years up to state commitment (5 years mand. min)
2	11/4/19	WILD contendre			ny	\$	\$	10 years up to state (5 years mand. min) commitment
3						\$	\$	

DATE	OTHER COURT ACTION	JUDGE
11/4/19	sentance stayed to 12/3/19 PSI (W) no contendre on both counts resus right to appeal PLEA MADE KNOWINGLY, INTELLIGENTLY & VOLUNTARILY WITH UNDERSTANDING OF FACTUAL BASIS OF STATE CHARGES AND THE ADVICE OF COMPETENT COUNSEL. IMMIGRATION WARNING GIVEN DNA ADVISEMENT GIVEN	WHITE
12-3-2019	stay lifted. T&S = 10 years to serve. pre-costs waived	HUDOCK

RECEIPT NO. COST  IMP  NCI BOND INFORMATION  BOND FORFEITED  FORFEITURE VACATED  FORFEITURE VACATED AND BOND REINSTITATED

APPLICATION FEE - RECEIPT NO. IF PAID CIRCLE ONE W I Q PROGRAM FEE - RECEIPT NO. IF PAID CIRCLE ONE W I Q PROBATION FEE - RECEIPT NO. IF PAID CIRCLE ONE W I Q

STATE'S ATTORNEY ON ORIGINAL DISPOSITION **R. Colangelo** REPORTER/MONITOR ON ORIG. DISP. **T. McCloud** SIGNED (Clerk) **J. Baraso** SIGNED (Judge)

SEE BACK OF PAGE 1



DOCKET NO.: CR-18-0146497-T : SUPERIOR COURT  
STATE OF CONNECTICUT : J.D. OF STAMFORD  
VS. : AT STAMFORD  
TERRENCE POLICE : NOVEMBER 30, 2018

MOTION TO DISMISS DUE TO THE STATUTE OF LIMITATIONS

Pursuant to U.S. Const. Amend. VI, VIII and XIV; Connecticut Const. Art. 1 §8 and §9; Conn. Gen. Stat. §54-56 and § 54-193 (b); Conn. Prac. Book §41-8 (3), the Defendant, through his undersigned counsel, moves to dismiss the charges because the statute of limitation has expired.

FACTS

On October 10, 2012 at approximately 1340 hours Norwalk Police responded to a complaint about a robbery and a shooting in the Stop and Shop parking lot on Connecticut Avenue. The victim reported that after walking her dog and placing the dog in the back seat while standing next to her parked car and writing an email an individual opened her driver's side door and pushed her in the car. She described her attacker as appearing to be a black male with medium build, about five feet eleven inches to six feet tall, between the ages of eighteen to thirty years old with a light beard. The complainant described the male as wearing jeans and a dark hooded sweat shirt, either blue or black in color. The hood was covering his head and parts of his face. She stated that the male had his sleeves pulled down over his hands. He told her he had a gun and put a small silver handgun into her stomach and fired. She believed he fired the gun intentionally. She gave the male her rings and her apple iphone-4 immediately. The attacker stole her iphone-4 with a pink flexible Kate Spade case cover with white polka dots on the back. Her

platinum emerald cut diamond engagement ring, her wedding ring and two platinum and diamond rings with alternating baguettes and diamonds were stolen. The victim indicated that this male then left the Stop and Shop parking lot and ran across Connecticut Avenue toward the Best Buy shopping center.

A witness who stated that about fifteen feet away from the victim's car she saw a black male bent over fiddling with his right foot and although his back was towards her he turned and looked directly at her. He scooted over to let her pass by. She described him as a light skinned black, in his mid-twenties with little or no facial hair. She indicated that the male was about six feet tall with a slender build, wearing a dark charcoal colored hooded zip up sweatshirt, dark colored relaxed jeans, and newer black canvass or cloth style slip on shoes with white soles without laces. The witness stated that she pulled into a spot and parked thirty feet away from the victim's car. She heard a woman's scream coming from the victim's car and she saw the young black man's feet dangling from the open driver's door and described his feet as flailing around and he appeared to be attacking the woman. She stated that she exited her car and asked an elderly couple to call 911 and she got back in her car and started hitting the horn. She then heard a gunshot. The witness stated that she saw the male run across Connecticut Avenue and to the left of Pearl Vision. The male turned left and ran along the side of Rio Restaurant towards the back of that building. The victim got out of her car and stated that she had been shot. Police broadcast the suspect's description to all patrol units. Sargent Orr responded to Norwalk Hospital and was advised that the victim was in surgery. He recovered the victim's clothing and property as well as a small plastic cup containing a small bullet projectile. On October 11<sup>th</sup>, 2012, Lieutenant Weisgerber examined the base of the projectile and determined it fit the size diameter for a .22-226 caliber.

A waitress at the Rio Restaurant stated that on the afternoon of October 10, 2012, she saw a man running toward Rio from the entrance to 3330 Connecticut Avenue and he appeared to be scared and looking around as he ran. She stated that he had one hand in his pocket and the other swinging at his side as he ran. This witness described him as a black male, about thirty years old, with a bald head, skinny face, about five feet ten inches tall, about one hundred and seventy pounds, wearing a blue sweatshirt or jacket, dark blue jeans, and that his head was not covered.

Sargent Orr subsequently viewed surveillance footage from Rio Restaurant and observed the suspect running from the area of the Connecticut Avenue entrance to 330 Connecticut Avenue. The suspect was observed to have his right hand tucked into his pocket. The suspect appeared to be a black male with a bald head, wearing black sneakers, dark jeans, a dark colored zip-up style hooded sweatshirt (hood down) layered over a dark colored v-neck and white shirt. Surveillance video then shows the suspect running down the driveway adjacent to Rio Restaurant towards the back of the building with his right hand in his pocket. The suspect is seen using his left hand to pull the hood over his head. The alternate camera on this system shows the suspect walking away from Rio Restaurant toward TJ Maxx. And then running to the rear of Best Buy and out of view.

On October 13, 2012, based on the above mentioned surveillance Sargent Evarts and Officer Giannattasio searched the area behind Rio Restaurant, TJ Maxx and Best Buys. Officer Giannattasio located a dark blue zip-up style hooded sweatshirt on the outside of a stockade fence. Also found was small silver colored handgun. Sargent Orr and Lieutenant and secured them in An evidence bag. Roncinske responded to the location and photographed both items in separate brown evidence bags.

The handgun was found to be North American Arms 22 magnum five shot revolver. It contained two spent 22 magnum shell casings and three live 22 magnum bullets. The projectile recovered was compared to the found revolver and determined by the State Laboratory that the recovered projectile was found to have been fired through the barrel of the revolver.

On October 15, 2012, Lieutenant Weisgerber prepared the evidence collected from the incident for transport to the State Laboratory. Among the evidence sent was the sweatshirt, the revolver and cap sure swabs taken from the complainant's vehicle. On November 6, 2012, The Forensic Biology Report from the Division of Scientific Services at the Connecticut State Lab issued a report indicating that a pink cell phone type case was located in the left pocket of the sweatshirt and that saliva had been located on the lower front left side of the sweatshirt and DNA samples were collected from the inside sleeve cuffs and neck hem sweatshirt. A sample was also collected from the outside of the cell phone type cover. Samples from those items were sent to the DNA unit for further analysis. On January 11, 2013, Sargent Orr received a DNA Database Search Report from the Connecticut State Forensic Laboratory (Laboratory Case Number ID12-001734). The report contains the results of the amplified items with Identfyer Plus Alleles Detected. (Report attached) The victim confirmed that the pink Kate Spade cell phone case found in the suspect's sweatshirt.

On December 29, 2012 an unnamed individual contacted the Detective Bureau and indicated that his cousin Terrence Police, looked identical to the male in the surveillance footage that was released to the media. The individual said that his mother questioned Terrence about the incident but that he said it was not him. The unnamed male related that Terrence admitted to other family members that he in fact shot the victim. Norwalk detectives indicate that Terrence was convicted felon and that his DNA profile was in the CODIS system as of 2008. At that time

in 2012 no matches were found connecting Mr. Police to the DNA profile.

The profiles derived from items sent to the DNA unit of the State Forensic laboratory have been searched against Connecticut and National DNA Databases on a weekly basis according to the affidavit in support of the John Doe warrant dated April 6, 2017 and signed by the State's Attorney on April 20, 2017 and finally signed by the honorable Judge White on May 1, 2017. According to said affidavit, the officers believed there was probable cause for the statute of limitations to be halted until the pending arrest of John Doe, an unknown male identifiable by the above listed DNA profile (See Attached), for violations of CGS 53A-134, Robbery in the First Degree and CGS 53A- 59 Assault in the First Degree.

On April 6, 2017, prior to the expiration of the Statute of Limitations the officers composed the affidavit for an arrest warrant for a John Doe unknown suspect. The John Doe warrant was signed by the court on May 1, 2017 and remained unserved as the five year Statute of Limitations in this case expired five months later. Another seven months went by before officer's arrested the defendant Terrence Police on this expired John Doe warrant. Subsequently the Norwalk Police obtained a DNA swab sample from Terrence Police. On April 13, 2018, The State of Connecticut Division of Scientific Services submitted Supplemental DNA Report 11 with conclusions that:

Item #6-S1 (Swab tips- inside sleeve cuffs and neck hem of a sweatshirt) the results are consistent with the DNA profile from item #6-S1 being a mixture of four contributors with at least three of them being male. Assuming four contributors, the DNA profile from item #6-S1 at least 100 billion times more likely to occur if it originated from Terrence Police and three unknown individuals than if it originated from four unknown individuals.

Item #6-S2 (Outside of cell phone cover). The results are consistent with the Identifiler DNA profile from item #6-S2 being a mixture of three contributors with at least one of them being male. Assuming three contributors, the Identifiler DNA profile from item #6-S2 is at least 1.2 billion times more likely to occur if it originated from Terrence Police and two unknown individuals than if it originated from three unknown individuals.

Item #8-2 (Swabbing – “22 magnum revolver right handle”) The results are consistent with the DNA profile from item #8-2 being a mixture of three contributors with at least one of them being male. Assuming three contributors, the DNA profile from item #8-2 is at least 100 billion times more likely to occur if it originated from Terrence Police and two unknown individuals than if it originated from three unknown individuals.

Item #9-S1 (Swab tips-inside sleeve cuffs and neck hem of sweater). The results are consistent with the DNA profile from Item #9-S1 being a mixture of four contributors with at least two of them being male. Assuming four contributors, the DNA profile from item #9-S1 is at least 100 billion times likely to occur if it originated from Terrence Police and three unknown individuals than if it originated from four unknown individuals.

### **LEGAL ARGUMENT Introduction**

Pursuant to §54-56, Practice Book §41-8(8), Article I, §§8 & 9 of the Connecticut Constitution and the 8<sup>th</sup> & 14<sup>th</sup> Amendments to the United States Constitution the defendant requests that the court dismiss the Charge of Robbery in the First Degree and Assault in the First

Degree because there is no basis or cause to justify the bringing or continuing of such prosecution for this particular charge since the alleged conduct took place back on October 12, 2012 and therefore is beyond the Statute of Limitations of five years. No similar motion has been filed or ruled upon in this case. All courts having the jurisdiction of criminal cases...may, at any time, upon motion by the defendant, dismiss any [notice] ...if, in the opinion of the court, there is not sufficient evidence or cause to justify the bringing or continuing of such [notice] or the placing of the person accused therein on trial.” §54-56. See also Practice Book §41-8(8).

"A motion to dismiss . . . properly attacks the jurisdiction of the court, essentially asserting that the [state] cannot as a matter of law and fact state a cause of action that should be heard by the court . . . A motion to dismiss tests, inter alia, whether, on the face of the record, the court is without jurisdiction . . . In determining whether the evidence proffered by the state is adequate to avoid dismissal, such proof must be viewed in the light most favorable to the state . . ." State v. Howell, 98 Conn.App. 369, 377-785 (2006).

A statute of limitations is the primary safeguard by which a citizen is protected from stale prosecutions. United States v. Marion, 404 U.S. 307, 322 (1971); United States v. Ewell, 383 U.S. 116, 122 (1966); State v. Baker, 164 Conn. 295, 296 (1973). The purpose of a statute of limitations is to limit exposure to criminal prosecution to a certain fixed period of time following the occurrence of those acts the legislature has decided to punish by criminal sanctions. Such a limitation is designed to protect individuals from having to defend themselves against charges when the basic facts may have become obscured by the passage of time and to minimize the danger of official punishment because of acts in the far-distant past." Toussie v. United States, 397 U.S. 112, 114-15 (1970). A statute of limitations protects a defendant from stale prosecutions; State v. Kruelski, 41 Conn.App. 476, 479 cert. denied, 238 Conn. 903 (1996); and "[ensures] that a defendant receives notice, within a prescribed time, of the acts with which he is

charged, so that he and his lawyers can assemble the relevant evidence [to prepare a defense] before documents are lost [and] memories fade . . ." State v. Almeda, 211 Conn. 441, 446 (1989). Connecticut has long recognized the importance of statutes of limitations in our criminal jurisprudence, see, generally Newell v. State, 2 Conn. 38, 40 (1816).

While it is axiomatic that statutes of limitation in criminal cases are to be construed liberally in favor of the accused. State v Paradise, 189 Conn. 346, 352 (1983) (citations omitted), overruled in part on other issues in Skakel v. State, 295 Conn. 447, 540 (2010), "[o]n a motion to dismiss an information, the proffered proof is to be viewed in the light most favorable to the state." (Citations omitted.) State v. Morrill, 193 Conn. 602, 611, 478 A.2d 994 (1984).

In 1970 the Supreme Court laid out the contours of the continuing offense doctrine and set forth a two prong test for determining when there has been a continuing offense, in Toussie v. U.S. 397 U.S. 112, 114-115 (1970). The Court stated "criminal limitations statutes are to be liberally interpreted in favor of repose" and "statutes of limitations normally begin to run when the crime is complete." Id. at 115 (quotation marks and citations omitted). The Court instructed that "the doctrine of continuing offenses should be applied in only limited circumstances since . . . the tension between the purpose of a statute of limitations and the continuing offense doctrine is apparent." Id. (quotation marks and citation omitted). Statutes of limitation fix a time limit by which the State must prosecute an individual following the occurrence of a criminal act, and "the latter, for all practical purposes, extends [this time limit] beyond [the statutory] term." Id. As a result, the Supreme Court held a court should not construe an offense as a "continuing offense" unless (1) "the explicit language of the substantive criminal statute compels such a conclusion"; or (2) "the nature of the offense is conspiracy." United States v Yashar, 166 F.3d 873, 875 (7<sup>th</sup> Cir. 1999). "A "continuing offense" is, in general, one that involves a prolonged course of

*conduct*; its commission is not complete until the *conduct* has run its course.” United States v. Rivera-Ventura, 72 F.3d 277, 281 (2d Cir. 1995) (emphasis added). The Toussie doctrine does not permit construing “offenses as continuing ones based upon our perception of the seriousness of the crimes charged.” United States v. Del Percio, 870 F.2d 1090, 1096 (6th Cir. Mich. 1989). Clearly, the present prosecution of Mr. Police cannot in any fashion be construed as a continuing offense, but rather it is a single alleged robbery and assault. Finally, this is not a case where the Statute of Limitations was tolled because the defendant fled the state.

Here, Conn. Gen. Stat. § 54-193 provides in relevant part that an individual may be prosecuted for a felony (other than a Class A felony or a Sexual Assault Felony), only if prosecution commences within five years after the offense was committed. Accordingly the matter must be dismissed.

**THE LEGISLATURE AND NOT THE COURTS PROVIDE THE LIMITS ON PROSECUTIONS AND EXCEPTIONS THERETO.**

The Connecticut Legislature has changed the Statute of Limitations for certain crimes when it felt it was appropriate and provided for no Statute of Limitations in certain A Felonies such as Murder, Capital Felony and Kidnapping in the First Degree. The legislature has more than once changed and extended the Statute of Limitations in Sexual Assault prosecutions. This was done after bills were proposed and submitted, debated and amended and passed after rigorous discussions of the consequences of said legislation. Additionally, sexual assault cases where the victim notifies the state within five years of the offense and the identity of the person who committed the offense is established with DNA evidence collected at the time of the offense

has no statute of Limitations. State that have altered their Statute of Limitations in this manner really may have no need to utilize John Doe warrants. The Legislature clearly could have extended the Statute of Limitations in robbery and assault cases as it did for sexual assault prosecutions but did not choose to do so. The Legislature in this sense has preserved the purpose and policy behind the Statute of Limitations. It is still the case that the Statute of Limitations in this prosecution is five years.

### **THE USE OF JOHN DOE WARRANTS THWARTS THE INTENT AND PURPOSE OF THE STATUTE OF LIMITATIONS.**

It is axiomatic that the purpose, intent and policy reasons behind a Statute of Limitations is to allow the future accused to be provided with notice of an allegation and to allow for the preparation of a defense. The presentation of a defense is one of those bedrock fundamental constitutional rights, In Re Winship 397 U.S. 358 (1970). In Re Winship the united States Supreme Court stated that “We explicitly hold that the due process clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact to constitute the crime for which he is charged. The reasonable doubt standard plays a vital role in the American scheme of criminal procedure. It is a prime instrument for reducing the risks of convictions resting upon factual error. The standard provides that bedrock “axiomatic and elementary” principle whose enforcement lies at the foundation of the administration of our criminal law” Coffin v U.S. 56 US 432 (1895). Without notice and the ability to produce witnesses and present evidence the right to present a defense and the presumption of innocence and the proof beyond a reasonable doubt standard are thwarted.

Allowing the facade or fiction of an indictment or probable cause for an arrest warrant of a John Doe warrant as a placeholder for some future prosecution can violate the defendant's state and federal constitutional rights to present a defense. The purpose and policy reasons behind a Statute of Limitations are frustrated and thwarted if extended in such an unlimited way since memories can fade with time, witnesses for the defense can move away or otherwise be unavailable or even perish and alibis might not be corroborated or even established. Additionally, evidence can degrade over time. It has been said that such Statutes of Limitations promote repose, decrease uncertainty and that "society's need for retribution diminish with time and law enforcement continue to have incentive to exercise due diligence in their investigation. (U Pa Law Review Vol 150.1079 at 1089-90) The Statute of Limitations is not created for the prosecution or the law enforcement but for anyone accused or about to be accused. The Statute of Limitations protects criminal defendants during the prearrest and preaccusation stages. United States v Marion (1971) 404 U.S. 307, 322-23, 301 L. Ed.2d 468,479-480). The purpose of requiring that an accused is adequately described is to provide the accused with notice of a charge or charges against him. One wonders how one can be put on notice by a warrant identifying a person by their genetic code and DNA profile. Unlike descriptions alongside an alias, the accused cannot be put on proper notice by such DNA profiles unless the accused happens to know his own DNA profile and genetic code. Most commonly arrest warrants issued must require that a defendant be described by name or if the name is not known, a description by which the accused can be identified with reasonable certainty. The Federal Rules of Criminal Procedure are illustrative and Rule 4(b) (1) (A)-(D) provide that: A Warrant must

(A) Contain the defendant's name, or if it is unknown, a name or description by which the defendant can be identified with reasonable certainty

(B) Describe the offense charged in the complaint

(C) Command that the defendant be arrested and brought without unnecessary delay before a magistrate judge or, if none is reasonably available, before a state or local judicial officer and

(D) Be signed by a judge.

**WHILE SOME STATES HAVE ALLOWED A JOHN DOE WARRANT TO TOLL THE STATUTE OF LIMITATION OTHERS HAVE NOT AND CONNECTICUT SHOULD NOT ALLOW JOHN DOE WARRANTS TO TOLL ITS STATUTE**

In Wisconsin v Dabney 264 Wisc. 843, 663 NW 2d 366 (Wisc. CT. App. 2003), a fifteen year old was kidnapped and sexually assaulted. Although police obtained a semen sample they were not able to match it. Six years later and three days before the statute of limitations expired an arrest warrant was issued for the unidentified person who matched the DNA profile. Four months later the DNA profile matched Bobby Dabney. After he was convicted at trial the appellate court rejected Dabney's argument that the statute had run, thus becoming the first state to uphold an arrest warrant for an unidentified suspect matching a DNA profile.

In People v Robinson 222 P.3d 55(Cal 2010), a conviction of five counts of sexual assault was confirmed in a rape case where the defendant was arrested based on his DNA profile. In 1994 a woman called to report that she had been raped. A rape kit that was done at the hospital when semen was collected and allowed for the creation of the DNA profile. Four days prior to the expiration of the Statute of Limitations a John Doe warrant was issued against an "unknown male" described in the 13-locus DNA profile. Within three weeks a cold hit match identified the DNA profile of Paul Robinson. The John Doe Warrant was amended to reflect the

identification of Mr. Robinson. The court held that the DNA profile identifies the defendant with reasonable certainty Id. It further held that the “issuance of a John Doe warrant is sufficient to toll the Statute of Limitations Id. Like the Dabney court California ruled that for “purposes of identifying a particular person as the defendant, a DNA profile is arguably the most discreet exclusive means of personal identification as possible”. Id at 372

Unlike People v Robinson, where the defendant was identified within three weeks of the profile being run through the database, more than seven months went by in Mr. Police’s case, despite frequent and consistent runs through Connecticut’s DNA database without the defendant’s DNA profile triggering a cold hit. Justice Moreno in a dissenting opinion in Robinson stated that “the Statute of Limitations is not satisfied by a John Doe warrant containing only a DNA profile because the warrant cannot be used to arrest anyone....the flaw is not that the warrant authorized the arrest of too many people, but that it authorizes the arrest of no one at all” Id. Justice Moreno concluded that John Doe Warrants are a “shell” “a clever artifice designed to satisfy the Statute of Limitations so the criminal investigation could continue indefinitely until a perpetrator was identified.” Id. Also pointed out by Justice Moreno in his dissent, California law currently allows cases like People v Robinson to come within the Statutory time for prosecution, ironically without the use of John Doe warrants, since California penal code section 803(g)(1) now provides one year from the date a DNA match is made to charge the defendant with certain sexual offenses notwithstanding the amount of time that had that had transpired since the crime occurred. According to some commentators, legislation such as this can be used to argue against John Doe Warrants. “Notably, the legislators did not opt to legitimize the use of “John Doe” warrants or indictments in the legislation. They only opted to extend the statute of limitations under certain circumstances. Meeting the Statute or Beating it: Using John Doe Indictments

based on DNA to meet the Statute of Limitations. Meredith Bieber, U of Pa Law Review, Vol. 150:1079. 1093.

Other states allowing the use of John Doe Warrants include People v Martinez, 855 N.Y.S.2d 522(App. Div. 2008) (Affirming an indictment identifying the Defendant by his DNA profile and rejecting his claim of lack of notice, State v Danley, 853 N.E.2d 1224 (Ohio Ct. C.P. 2006) affirming the denial of a motion to dismiss the charges following a DNA profile indictment after the Statute of Limitations had run. State v Belt, 179P.3D 443,447,450 (Kan. 2008) ( approving the use of DNA warrants in theory) but affirming the granting of a motion to dismiss the charges of the arrest warrant in Belt because it included DNA profile “information shared by every human being”. In Belt, expert testimony indicated that DNA profile information was found in two loci would be unique ....to one in five hundred people. Id at 448.The Kansas Supreme Court concluded that the warrant provided “insufficient identifying information...concluding that the warrants failed to sufficiently set forth identifying information particular to the defendant and dismissed the charges”. Id at 451

In People v Martinez, id at 523, New York “embraced the use of DNA testing to identify potential defendants.” Subsequently in 2006 the New York state legislature amended their statute and abolished the statute of limitations for certain sex crimes including first degree rape, first degree sexual abuse and sexual conduct with a child. (Pressing Pause: Tolling Statutes of limitations for Sex Offenses while Rape Kits remained untested.) Hunter Grolman, Journal of Gender, Social Policy and the Law. Vol.26.3 page 973. Additionally, Martinez held that the defendant’s right to notice was fulfilled when the incitement against him was provided to him, “attaching at his arraignment”. Id at 525.

Almost all the cases involving John Doe warrants and tolling of the Statute of Limitations pertain to prosecutions for sexual assault and sex offenses. The present prosecution against Terrence Police is simply not a sexual offense prosecution at all. Similar to the present case, albeit still a sexual offence, the Court of Appeals in Ohio decided State of Ohio v Gulley. In State v Gulley, 2015-Ohio-3582, the court of Appeals concluded that dismissal of the indictment was proper since the State of Limitations had expired. The court of Appeals noted that R.C. 2901.13 Ohio's relevant Statute of Limitations was "intended to discourage inefficiency or dilatory law enforcement rather than give offenders the chance to avoid criminal responsibility for the conduct." citing State v Climaco 85 Ohio St. 3d 582, 709 N.E. 2d 1192(1999). The rationale for limiting criminal prosecutions is that they should be based on reasonably fresh, and therefore, more trustworthy evidence" Id., quoting State v Hensley 59 Ohio St.3d 136,571 N.E.2D 711 (1991). The state, the court noted, bears the burden of establishing that the offense was prosecuted and commenced within the applicable time limitation State v King 103 Ohio App.3d 210,212, 658 N.E. 2d 1138 (10<sup>th</sup> District).

In Gulley, it was undisputed that the rape occurred on October 13 or 14, 1993. The court was troubled by the indictment of a "John Doe" attaching the DNA profile on October 11, 2013, a few days before the expiration of the Statute of Limitations since "Gulley was a named suspect at the time of the rape and the victim had identified Gulley in a photo array several days prior to the expiration of the Statute of Limitations". The court acknowledged that John Doe warrants can be used if "reasonable diligence was used by law enforcement in its attempts to identify the defendant, and all attempts have failed." Danley supra, State v Younge, 2013 UT 71, 321 p.3D 1127, Commonwealth v Dixon, 458 Mass 446, 938 N.E.2d 878 (2010), Robinson Id, Martinez Id, Dabney Id and Beiber, 150 U Pa.L.Rev.(1079,1081-1086 (2002). The court pointed out that

“the above cases, unlike the instant case Gulley, all concerned unknown defendants.” The police in Gulley has the suspect’s name “but simply failed to investigate the matter further when the victim failed to show up for her interview. And reasonable diligence does not support the use of John Doe warrant.” Id. In Danley, the court listed as a factor in deciding if the Statute of Limitations was tolled, “the reason for the delay was that the only way to locate and identify the defendant was the DNA profile, which could be matched only as the information became available from the incarcerated defendant.” Which was not the situation at all in Gulley. Danley Id. Gulley is analogous to our present case. Mr. Police was a named known suspect as of December 29, 2012 just about ten weeks after the robbery and assault. The police had Mr. Police’s full name and information that he had admitted the crime to other family members but failed to investigate the matter further just like law enforcement in Gulley.

The Statute of Limitations in criminal cases has its stated purpose, intent and policy reasons as stated above and the legislature could, if it saw fit after proposal and debate, change the Statute of Limitations but has not done so. While Connecticut can weigh in on either side of the issue of whether the Statute of Limitations could be tolled by the use of a John Doe warrant, the particular facts of this single isolated non sexual assault case call for the dismissal of charges in this matter.

WHEREFORE, for all of the foregoing reasons, the Motion to Dismiss should be granted.

THE DEFENDANT

By Barry A. Butler  
Barry A. Butler

This is to certify that a copy of the foregoing has been delivered pursuant to Conn. Prac. Book §10-12 et seq, this the 30<sup>th</sup> day of November , 2018, to the following

State's Attorney  
Stamford, CT 06905

A handwritten signature in cursive script, reading "B. A. Butler", is written over a horizontal line.

Barry A. Butler  
Public Defender

ORDER

The above motion having been heard it is hereby ordered: GRANTED / DENIED.

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JUDGE / CLERK

FST - CR18 - 0146497- T : SUPERIOR COURT  
STATE OF CONNECTICUT : JUDICIAL DISTRICT  
V. : OF STAMFORD/NORWALK  
TERRANCE POLICE : JULY 19, 2019

TRIAL COURT'S MEMORANDUM OF DECISION ON  
DEFENDANT'S MOTION TO DISMISS DUE TO STATUTE OF LIMITATIONS

It was Sigmund Freud who allegedly wrote many years ago that "biology is destiny." This motion to dismiss certain criminal charges tests Dr. Freud's proposition in light of twenty-first century advances in the biological science of DNA technology. More specifically, it requires this court to consider the legal sufficiency of the accurate identification of these biological markers that are unique to each human being, because DNA technology is an increasingly prevalent tool used by law enforcement in the conduct of criminal investigations. The state has long recognized this scientific reality and the probative value of DNA testing, having enacted a statutory framework for the maintenance of a searchable DNA database for the benefit of law enforcement. This database is a statewide repository of the DNA profiles of known convicted felons. This case presents an issue of first impression in the state of Connecticut, namely the interaction between the statute of limitations and an arrest warrant for an otherwise unnamed criminal suspect based upon his DNA profile. For a variety of public policy reasons, the Connecticut legislature has decreed that the police have a fixed and limited period of time following the commission of a crime (other than murder) within which to bring charges. Otherwise, any prosecution for such crimes must be forever time-barred. These legal time restrictions vary by the degree of the particular offense charged, and are referred to collectively as the "statute of limitations."

Notice sent to all counsel of record: 7/19/19 (MF)  
Barry Butler, Esq., Office of Public Defender  
123 Hwy 1 St. Stamford, CT 06905  
Richard Colangelo, Office of State's Attorney  
123 Hwy 1 St. Stamford, CT 06905  
emailed to official Reporter

The defendant, Terrance Police, is charged with robbery in the first degree, in violation of General Statutes § 53a-134, and assault in the first degree, in violation of General Statutes § 53-59. The applicable statute of limitations for both of these charges is five years from the date of offense, as provided in General Statutes § 54-193 (b). The issue before this court involves an arrest warrant served upon the defendant, a warrant for a “John Doe” perpetrator that the Norwalk Police applied for and were granted within the five-year statute of limitations. More specifically, this initial John Doe identification of the defendant was based upon the presence of his consistent DNA profile allegedly obtained from the forensic DNA testing. This DNA testing was conducted on certain personal property belonging to the victim and taken by the perpetrator of the robbery and assault; items either touched or handled by the perpetrator; or property discarded by the perpetrator in his flight from the crime scene. For several reasons that are more fully set forth herein, while a DNA profile of a perpetrator was developed well within the statute of limitations, the Norwalk Police did not come to believe that this DNA profile belonged to the defendant himself until more than five years had passed since the commission of the crime. This discovery allowed the police to attach the defendant’s name to the previously signed John Doe warrant, and place him under arrest for these charges.

It is undisputed that the defendant was not identified by name when the arrest warrant was first signed. Nor was the defendant served with the warrant itself following the confirmatory matching of his name with his DNA profile until after the five-year statute of limitations had expired. The defendant has now filed a motion to dismiss, challenging his arrest on the grounds that such a John Doe warrant is legally insufficient, because the prosecution was not properly commenced within the statute of limitations. The defendant argues that the particularity requirements of the fourth amendment to the United States constitution, and article first, § 7 of the

Connecticut constitution were not satisfied by the use of a DNA profile as a description in the John Doe arrest warrant. Alternatively, the defendant argues that the Norwalk Police failed to investigate the crime in a timely manner, and that the resulting delay was both unreasonable and caused him substantial prejudice. The state objects to the motion to dismiss, and argues that the signing of a John Doe arrest warrant within the statute of limitations for an unknown perpetrator based upon his/her DNA profile is legally sufficient. The state contends that the particularity requirement was satisfied by this warrant, which initially identified the defendant by his unique DNA profile. The state also argues that the Norwalk Police diligently pursued their investigation into this crime, and that their actions in the years following the commission of the crime, and the steps that detectives either took or did not take, were all based upon information that was later determined to be erroneous, but was reasonably believed to be reliable at the time. The state also maintains that the defendant has failed to demonstrate or to articulate any prejudice. Both parties submitted supporting memoranda of law, and were given the opportunity to argue their respective positions during two days of hearings on this motion. In addition, the court heard from two of the members of the Norwalk Police Department who at different times were the lead investigators in this case. It also heard testimony from an expert witness in DNA technology employed by the State Department of Emergency Services and Public Protection, Division of Scientific Services, Forensic Science Laboratory (the "Lab").

"A motion to dismiss . . . properly attacks the jurisdiction of the court, essentially asserting that the [state] cannot as a matter of law and fact state a cause of action that should be heard by the court. . . . A motion to dismiss tests, inter alia, whether, on the face of the record, the court is without jurisdiction. . . . In determining whether the evidence proffered by the state is adequate to avoid dismissal, such proof must be viewed in the light most favorable to the state." (Citation

omitted; internal quotation marks omitted.) *State v. Howell*, 98 Conn. App. 369, 377-78, 908 A.2d 1145 (2006). Practice Book § 41-8 (3) expressly provides that a defendant may file a pre-trial motion to dismiss an information based upon the statute of limitations, if the issue is capable of determination without a trial of the general issue. This court finds that the record developed by the parties provides an adequate factual basis upon which to rule, and accordingly makes the following findings of fact and conclusions of law.

### Discussion

On the afternoon of October 10, 2012, Norwalk Police responded to the Stop & Shop located at 385 Connecticut Avenue on a report of a robbery and a woman suffering from a gunshot wound. The victim, who had in fact been shot, was found by police in the store's parking lot. She reported that she was standing outside her car looking at her iPhone when she was approached by an unknown black male between the ages of eighteen and thirty years old with a medium build and light beard, wearing jeans and a dark hooded sweatshirt. The suspect suddenly opened the victim's driver's side door and attacked, pushing her into her car. He then shot her in the abdomen with a small silver handgun as she screamed and struggled with him inside the car. After she was shot, the seriously injured victim surrendered various items of jewelry, including her wedding and engagement rings, and also gave the suspect her iPhone with a pink Kate Spade cover. The suspect then fled the scene on foot and with the victim's property, running across Connecticut Avenue and behind the Best Buy shopping center located across the street from the Stop & Shop. The victim was rushed to Norwalk hospital, where she successfully underwent emergency surgery to treat her gunshot wound. During surgery, doctors were able to remove a lead bullet lodged near the victim's pelvis, a bullet that had also damaged her uterus and small intestines. That projectile was taken into evidence by the Norwalk Police.

The Norwalk Police interviewed several eyewitnesses who corroborated much of the information provided by the victim. One of those witnesses worked nearby as a waitress at the Rio Restaurant, which was located along the perpetrator's path of escape from the Stop & Shop parking lot. The waitress reported seeing the perpetrator running away, appearing to be scared and looking around him as he ran. Police also learned that the Stop & Shop, Rio Restaurant and the Best Buy all maintained outdoor security surveillance systems that had captured relevant footage on separate cameras, including the time frame immediately following the shooting and robbery. At one point, the perpetrator may be seen running from the area of Connecticut Avenue with his right hand inside his pocket, wearing a dark colored zip-up hooded sweatshirt. At another point, the perpetrator is seen using his left hand to pull the hood up over his head. A description was broadcast to all units, but the perpetrator was not located at that time. Based upon the video evidence, Norwalk Police later searched the area of a stockade fence behind the Best Buy. There they recovered a sweater and a dark blue zip-up sweatshirt with a pink Kate Spade cell phone cover located in the pocket. The victim later confirmed ownership of her iPhone case. In the same location as the discarded clothing, police also recovered a small silver .22 caliber magnum five shot pistol, a firearm containing two spent shell casings and three live rounds. That pistol, as well as the slug removed from the victim's person during surgery were tested by the firearms section of the Lab. The slug was confirmed to be a .22 caliber projectile that had been fired from the handgun recovered. Among other evidence, the articles of discarded clothing were also transported to the Lab for various forensic testing. The Lab issued a forensic biology report stating that it had located saliva on a portion of the sweatshirt, and also took DNA samples from the inside sleeve cuffs and neck hem of the sweatshirt, and the outside of the victim's cell phone cover. These samples were sent to the DNA Unit of the Lab for further analysis, which thereafter issued reports

containing the results of the amplified items with identifier plus alleles detected. Those detailed and specific identifiers plus alleles constituted a DNA profile, one that would later be recited at length in the body of the arrest warrant affidavit for John Doe.

In an effort to apprehend the perpetrator, the Norwalk Police released some of the footage from surveillance videos to enlist the help of the general public. On December 29, 2012, an anonymous caller contacted the police and stated that the man seen on the video looked like his cousin, the defendant. This individual also stated that the defendant denied committing the crime when asked by his mother, but had admitted his involvement to other family members. Before the court can address what steps the police took upon receipt of this anonymous tip, some additional facts and circumstances about DNA evidence, as well as the state's DNA database, are necessary to provide the proper context for the events that followed.

The court heard testimony from Patricia Johannes, who is employed by the Lab as a DNA analyst. However, equally important in terms of the issues raised by the defendant's motion to dismiss are Johannes' other professional responsibilities involving DNA at the Lab. Johannes serves as Connecticut's state administrator of the CODIS program. CODIS is an acronym for the Combined DNA Index System. By the terms of General Statutes § 54-102g, persons convicted of felonies in the state of Connecticut are required to submit to the taking of a DNA sample. The statutory scheme for the CODIS database in place today traces its origins back to 1994, at which time it was limited to sex offenders. The law has since been amended several times over the last quarter century, most notably in 2003 (P.A. 03-242), when the legislature expanded the statute's scope to require that all felons, not simply sex offenders, submit a DNA sample to be profiled for inclusion in CODIS. The CODIS database is a searchable statewide index of the DNA profiles of convicted felons, and Johannes estimated that it currently contains approximately 116,000 DNA

profiles. Law enforcement agencies, including the Norwalk Police Department, have the ability to request CODIS searches against the results of DNA profiles obtained from the forensic DNA testing of evidence collected at crime scenes. This would include the DNA deposited onto evidence by a suspect, all in an effort to find a match or a “hit” with a known individual already in the CODIS database. “[A]ll fifty states have enacted statutes similar to Connecticut’s that require convicted felons to submit a DNA sample in order to aid in criminal investigations. . . . In challenges to those statutory schemes, our sister courts have regularly held that the collection of DNA in this context is regulatory and not punitive.” (Citation omitted.) *State v. Banks*, 321 Conn. 821, 834, 146 A.3d 1 (2016).

Given the high risk of recidivism among the population of convicted felony offenders, the process of providing DNA samples is mandatory. If it were otherwise, the CODIS databank could not be considered a comprehensive and useful tool in criminal investigations. As the Supreme Court noted in *Banks*, “the statute necessarily included the option of enforcing compliance through reasonable force, because allowing incarcerated felons to simply refuse to provide DNA samples would substantially frustrate the legislature’s goal of creating a comprehensive DNA data bank to aid in criminal investigations.” *Id.*, 827. However, it is axiomatic that the CODIS database – or any database for that matter, especially one containing such critical data implicating the welfare and safety of the public - is only as useful as it is a) accurate and b) complete. “The purpose of collecting DNA samples is . . . to bolster the usefulness of the DNA data bank in criminal investigations.” *Id.*, 837. However, the facts of this case demonstrate that for whatever reason, ‘the system’ failed in this instance. As far as this investigation was concerned, the CODIS data bank was not only *not* useful, it actually worked against the investigating officers and the prompt arrest of the defendant, because it was tragically and inexplicably incomplete. The evidence shows that

the defendant was in fact previously convicted of a felony in 2008. Therefore, while the defendant's DNA profile should definitely have been included in the searchable CODIS database as of October 10, 2012, the date of this Norwalk shooting and robbery, his DNA profile was not. This error was perpetuated during the ensuing weeks and months as the five-year statute of limitations in this case ticked away. This was a major omission, one that was compounded by the error in the official record that was relied upon by the investigating Norwalk detectives when they first focused on the defendant as a potential suspect, based upon the report from the anonymous tipster. That record erroneously indicated that a DNA sample was taken from the defendant on May 8, 2008, and that it was part of the CODIS database.

Johannes testified that individuals with a qualifying felony conviction have their DNA samples collected by one of several state agencies. One of the primary agencies tasked with this important responsibility, and the source of the initial error that permeated this investigation and delayed the defendant's apprehension, is the Connecticut Department of Corrections (Corrections). Johannes explained that Corrections completes a "face sheet" for each individual inmate, a form officially known as an RT50. These completed RT50 forms are all accessible and searchable by agencies such as the Norwalk Police Department through a shared law enforcement computer network. One field on the face sheet asks whether the inmate is qualified to have a DNA sample taken. If so, the second field on the face sheet contains the date that the sample was collected. In this particular case, the RT50 form for the defendant correctly stated in one field that he qualified to provide a sample. However, the second field on the defendant's face sheet erroneously stated that a DNA sample was collected from him on May 8, 2008. Therefore, in terms of the defendant's DNA being part of the CODIS database, his inaccurate RT50 form may be considered a "false positive." As previously noted, "[Correction's] ability to use reasonable force to obtain a DNA

sample is implicit in the statute *as its fundamental purpose would be subverted* otherwise.” (Emphasis added.) Id., 839. This false positive meant that for all practical purposes in terms of this investigation, the fundamental purpose of CODIS *was* tragically subverted. However, the court finds that regardless of the reason for the defendant’s non-inclusion in CODIS, such an error cannot inure to his benefit under the facts of this case, such that a dismissal is warranted.

Between the time that the police received the report from the Lab as to the DNA results from the evidence it submitted, and the date that the John Doe warrant was signed, a period of almost five years, Norwalk detectives requested weekly searches of both the Connecticut and national DNA databases. However, no matches were ever found during those hundreds of attempts at connecting a name to the John Doe DNA profile. At a hearing on the defendant’s motion, the lead detective on this case, Norwalk Police sergeant David Orr testified that after receiving the December 29, 2012 tip from the defendant’s cousin, he did follow up, but that the defendant was eliminated as a suspect at the time. Based on the defendant’s RT50 that he had viewed and relied upon, Orr believed that the defendant’s DNA profile was already in the CODIS database for comparison purposes. Orr testified that the defendant “was checked in the database with no hits. It effectively vetted [the defendant] in our opinion, as a suspect at that time.” Orr went one step further, contacting the Lab to ensure and confirm that all DNA profiles had been entered into CODIS, and that the database was therefore current. Sergeant Orr testified that, “if the DOC face sheet did not indicate that a DNA swab had been obtained from [the defendant], I would have pursued him vigorously as a suspect.”

On April 6, 2017, approximately five months before the expiration of the five-year statute of limitations in October 2017, Norwalk Police drafted an arrest warrant affidavit for a John Doe, in which they claimed that there was probable cause for the statute of limitations to be tolled

pending the arrest of an unknown male for this 2012 assault and robbery, a perpetrator identifiable only by his DNA profile obtained from the evidence. The arrest warrant was signed by the court (*White, J.*) on May 1, 2017. Approximately eleven months later, on April 2, 2018, a woman called the Norwalk Police to report that she had also seen the video released to the public, and immediately recognized the suspect as her child's father, the defendant, who had admitted that he committed the assault and robbery of the woman at the Stop & Shop in 2012. Armed with this new identification evidence, sergeant Paul Podgorski contacted the Lab and spoke with forensic science examiner Jessica Best about this latest development. She advised that even though the defendant's DNA was in CODIS (at this time the error on the RT50 was still unknown), it was possible that no match was ever made to the DNA found on the items because of the low quality of his previous sample, and the fact that the DNA profiles from the evidence were found to be mixtures. Best recommended a direct comparison with a new sample of the defendant's DNA via a buccal swabbing, which led to a search warrant signed by the court (*Comerford, J.*) on April 6, 2018. On April 13, 2018, the Lab was finally able to test the defendant's DNA profile against the DNA evidence recovered from the crime scene. The Lab concluded that: (1) the results from the sleeve cuffs and neck hem of the sweatshirt are consistent with the DNA profile being a mixture of four contributors, with it being at least 100 billion times more likely to occur if it originated from the defendant and three unknown individuals, than if it originated from four unknown individuals; (2) the results from the victim's cell phone cover are consistent with the DNA profile being a mixture of three contributors, with it being at least 1.2 billion times more likely to occur if it originated from the defendant and two unknown individuals, than if it originated from three unknown individuals; (3) the results from the .22 caliber handgun are consistent with the DNA profile being a mixture of three contributors, with it being at least 100 billion times more likely to occur if it

originated from the defendant and two unknown individuals, than if it originated from three unknown individuals; and (4) the results from the inside sleeve cuffs and neck hem of sweatshirt are consistent with the DNA profile being a mixture of four contributors, with it being at least 100 billion times more likely to occur if it originated from the defendant and three unknown individuals, rather than if it originated from four unknown individuals.

Johannes also testified as to the steps she took after being notified that the defendant was identified by name and arrested, and that there was an error as to his omission from the CODIS database. She explained that as part of the chain of custody, the Lab keeps paper transmittal sheets of every DNA sample that it receives. Johannes personally examined every transmittal sheet from March to December of 2008, but did not find the defendant listed anywhere. She also checked the CODIS computer system by using the defendant's personal identifying numbers, including his State Police Bureau of Identification (SPBI) number, inmate number, social security number, and FBI number without success. Johannes concluded that if the defendant's DNA sample had been taken, it was not sent to the Lab to be entered into the CODIS database. Johannes further reached out to Elizabeth Tugie, her point of contact at Corrections, to inquire as to whether that agency could locate any documentation on their end to support the assertion on the defendant's RT50 form that a DNA sample was taken from him. Finding none after searching the defendant's master files within Corrections, Tugie concluded that the face sheet for the defendant was incorrect. Tugie could not otherwise explain how the mistake may have happened, or who within Corrections might have been responsible for it.

#### **A. John Doe DNA Arrest Warrant and the Statute of Limitations**

The defendant has moved to dismiss the complaint by arguing that the state failed to bring charges against him within the five-year statute of limitations. The defendant first argues that it is

the role of the legislature and not the courts to determine statutes of limitations and any exceptions thereto.<sup>1</sup> The defendant also asserts that the state's use of a John Doe DNA arrest warrant to satisfy the statute of limitations thwarts the intent and purpose of the statute, and does not meet the particularity requirements of the fourth amendment to the United States constitution as well as the reasonable certainty requirement under Connecticut law. The defendant further argues that the court should not be guided by cases from other jurisdictions that have allowed John Doe DNA warrants to toll the statute of limitations, because those cases concerned charges of serious sexual assaults, while the charges in the present case are for robbery and assault.

The state counters that a John Doe DNA arrest warrant may toll the statute of limitations where it meets the particularity requirements of the fourth amendment to the United States constitution, as well as the reasonable certainty requirement under Connecticut law. The state contends that the arrest warrant requirements were met in the present case by the combination of the DNA evidence with (1) a detailed and consistent physical description of the accused; (2) the description of the suspect's attire; (3) the fact that the affidavit states that the suspect was wearing a dark colored sweatshirt and had touched the victim's cell phone cover; and (4) DNA evidence belonging to the suspect was found on each of these items of evidence. The state also urges the court to be guided by the majority of jurisdictions that have previously considered this specific issue.

Pursuant to General Statutes § 54-193 (b), violations of General Statutes § 53a-134, robbery in the first degree, and General Statutes § 53a-59, assault in the first degree, are each subject to a five-year statute of limitations. Our Supreme Court has provided that "[i]n this state,

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<sup>1</sup> In its objection to the defendant's motion to dismiss, the state does not address the defendant's separation of powers argument. The court need not reach it either, because it finds that the John Doe arrest warrant satisfies the particularity and reasonable certainty requirements.

the initial step to commence a prosecution, when an arrest is to be made by virtue of a warrant, is the presentation of an application for a warrant, which is accompanied by an affidavit, by a prosecutorial official to a judicial authority. If the judicial authority finds that the accompanying affidavit shows probable cause to believe that an offense has been committed, and that the person complained against committed it, the judicial authority may issue an arrest warrant.” *State v. Crawford*, 202 Conn. 443, 449, 521 A.2d 1034 (1987). Practice Book § 36-3 provides, in relevant part, that an arrest warrant “shall contain the name of the accused person, *or if such name is unknown, any name or description by which the accused can be identified with reasonable certainty . . .*” The issuance of an arrest warrant within the time limitations set forth in § 54-193 (b) “toll[s] the statute of limitations . . .” (Emphasis added.) *Crawford*, *supra*, 202 Conn. 447.

The fourth amendment to the United States constitution provides that “no [w]arrants shall issue, but upon probable cause, supported by [o]ath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” Pursuant to Rule 4 (b) (1) of the Federal Rules of Criminal Procedure, a warrant shall “contain the defendant’s name or, if it is unknown, a name or description by which the defendant can be identified with reasonable certainty.” Additionally, article first, § 7 of the Connecticut constitution provides that “no warrant . . . to seize any person . . . shall issue without describing them as nearly as may be, nor without probable cause supported by oath or affirmation.”

The defendant argues that an arrest warrant that identifies an unnamed defendant by his DNA profile does not satisfy the particularity requirement and therefore, cannot toll the statute of limitations as a matter of law. However, decades before DNA was ever known, the United States Supreme Court held that an arrest warrant need not necessarily provide a suspect’s name, as long as it describes the suspect “sufficiently to identify him.” *West v. Cabell*, 153 U.S. 78, 85, 14 S. Ct.

752, 38 L. Ed. 643 (1894). “Generally, arrest warrants either describing the suspect only as ‘John Doe’ or inaccurately naming an individual without some other identifying description have been ruled insufficient under the naming requirement of the Fourth Amendment.” *State v. Burdick*, 395 S.W.3d 120, 126 (2012); see, e.g., *United States v. Doe*, 703 F.2d 745, 747-48 (3d Cir. 1983); *United States v. Jarvis*, 560 F.2d 494, 497 (2d Cir. 1977), cert. denied, 435 U.S. 934, 98 S. Ct. 1511, 55 L. Ed. 2d 532 (1978). Furthermore, “[n]o matter how detailed the written description on a warrant is, extrinsic information will be necessary to execute it. . . . The written description cannot conceivably eliminate all possibilities of erroneous execution, nor does the fourth amendment so require.” *United States v. Doe*, supra, 703 F.2d 748. Without any DNA evidence, or a John Doe warrant based solely upon eyewitness identification, such reasoning would be persuasive. However, when an accurate DNA profile may be established, as in this case, it can “eliminate all possibilities of erroneous execution,” despite the initial use of a John Doe pseudonym. Id.

Scientific advancements in the use and reliability of DNA evidence are increasingly requiring courts to evaluate whether a suspect’s DNA profile is sufficient to meet the fourth amendment particularity requirement, as well as the reasonable certainty requirement. The United States Supreme Court has not yet specifically addressed the use of John Doe arrest warrants based on a DNA profile. However, the Court recently explained that “[t]he advent of DNA technology is one of the most significant scientific advancements of our era. The full potential for use of genetic markers in medicine and science is still being explored, but the utility of DNA identification in the criminal justice system is already undisputed. Since the first use of forensic DNA analysis to catch a rapist and murderer in England in 1986 . . . *the courts have acknowledged DNA testing’s unparalleled ability . . . to identify the guilty.* It has the potential to significantly

improve both the criminal justice system and police investigative practices.” (Emphasis added; citation omitted; internal quotation marks omitted.) *Maryland v. King*, 569 U.S. 435, 442, 133 S. Ct. 1958, 186 L. Ed. 2d 1 (2013); *District Attorney’s Office for Third Judicial District v. Osborne*, 557 U.S. 52, 55, 129 S. Ct. 2308, 174 L. Ed. 2d 38 (2009).

As previously stated, the use of a John Doe DNA arrest warrant is one of first impression in Connecticut. This same issue, however, has been considered by several other jurisdictions. The Wisconsin Court of Appeals first considered whether a DNA profile satisfies the constitutional and statutory requirements to arrest an otherwise unknown defendant. In *State v. Dabney*, 2003 WI App. 108, 264 Wis.2d 843, 663 N.W.2d 366 (2003), the state charged ‘John Doe’ with kidnapping and four counts of first degree sexual assault. *Id.*, 369. The state initially identified the defendant Bobby Dabney by his DNA profile after testing evidence recovered from a 15 year old victim that Dabney was convicted of abducting and repeatedly raping. *Id.* Wisconsin law provided that an arrest warrant “[s]tate the name of the person to be arrested, if known, or if not known, designate the person to be arrested by any description by which the person to be arrested can be identified with reasonable certainty.” *Id.*, 371 (citing Wis. Stat. § 968.04 (3) (a) (4)). The court, in finding that an unknown defendant’s DNA profile satisfied the particularity and reasonable certainty requirements, explained that DNA is “arguably the most discrete, exclusive means of personal identification possible” and that “a genetic code describes a person with far greater precision than a physical description or a name.” *Id.*, 372.

Since *Dabney*, several other jurisdictions have also addressed the use of John Doe DNA warrants, including New York, California, Ohio and Tennessee. All of them have concluded that an individual’s unique DNA profile sufficiently describes a person in a manner that satisfies both constitutional and statutory requirements. See, e.g. *State v. Danley*, 138 Ohio Misc. 2d 1, 853

N.E.2d 1224, 1226-28 (Com. Pl. 2006) (statute of limitations tolled when defendant was served with a John Doe warrant based on DNA evidence); *People v. Martinez*, 52 App. Div. 3d 68, 70-71, 855 N.Y.S.2d 522 (2008) (rejecting argument that a John Doe DNA indictment did not sufficiently describe the defendant); *People v. Robinson*, 47 Cal. 4th 1104, 1135, 224 P.3d 55, 104 Cal. Rptr. 3d 727 (2010) (holding that a John Doe DNA warrant identified the defendant with “sufficient particularity”); *State v. Burdick*, 395 S.W.3d 120, 128 (Tenn. 2012) (holding that “a DNA profile exclusively identifies an accused with nearly irrefutable precision and, as a general rule, satisfies the particularity requirements”); *State v. Younge*, 321 P.3d 1127, 1131-33 (Utah 2013) (upholding validity of charging a John Doe defendant based on a DNA profile); *State v. Carlson*, 845 N.W.2d 827, 831 (Minn. Ct. App. 2014) (holding that a DNA profile meets the particularity requirements and the reasonable certainty statutory requirements “because of its ability to describe a person with much greater accuracy than a person’s name or physical description”); *State v. Neese*, 239 Ariz. 84, 87, 366 P.3d 561 (Ariz. Ct. App. 2016) (holding that where the suspect’s name is unknown, a DNA profile is sufficient to describe the suspect with reasonable certainty). Notably, there do not appear to be any jurisdictions that have disallowed the use of a John Doe DNA warrant in cases where the DNA profile results from the crime scene evidence are found to be extraordinarily likely to match with the defendant’s DNA profile.<sup>2</sup>

This court is persuaded that this arrest warrant based on a DNA profile does in fact identify the defendant with “nearly irrefutable precision,” despite the initial use of the John Doe pseudonym. It thereby satisfies the particularity requirements of both the fourth amendment to the

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<sup>2</sup> In *State v. Belt*, 285 Kan. 949, 960, 179 P.3d 443 (2008), the Kansas court held that a John Doe DNA warrant that “mentioned only DNA loci common to all humans” was invalid, because it contained insufficiently specific identifying information. However, this court finds that *Belt* is readily distinguishable from the other jurisdictions that have previously addressed this issue, because in each of those cases, as well as the instant case that is the subject of this motion to dismiss, the DNA profiles identified particular unknown defendants with extraordinary precision.

United States constitution and article first, § 7 of the Connecticut constitution. Furthermore, a DNA profile also satisfies the reasonable certainty requirement of Practice Book § 36-3, because it adequately describes a defendant whose name may be unknown at the time that the warrant is signed. In the present case, the arrest warrant identified the defendant with nearly irrefutable proof, such that there was essentially no possibility that the DNA profile of the perpetrator originated from another human being.<sup>3</sup> In accordance with the holdings from a majority of jurisdictions that have previously considered this issue, the court finds that the extraordinarily detailed DNA profile is sufficient to meet the particularity and reasonable certainty requirements under Connecticut law.

Moreover, the warrant affidavit itself further supports this conclusion, demonstrating the degree of contact the defendant had with the items tested for DNA evidence. The affidavit includes details from sworn statements given by witnesses, much of which is corroborated by surveillance footage. Additionally, the victim confirmed ownership of the Kate Spade cell phone cover found inside the abandoned sweatshirt containing the defendant's DNA, a phone cover that contained a mixture of her DNA and the defendant's. The nearly irrefutable DNA profile matching the defendant, coupled with the sworn statements from witnesses and the victim, further support the court's determination that the particularity and reasonable certainty requirements were satisfied.

The defendant also argues that the court should not be guided by case law from other jurisdictions that have allowed John Doe DNA warrants, because each of those cases involved prosecutions for serious sexual assaults, rather than the robbery and assault charges at issue in this case. The court is not persuaded. In fact, this exact argument that the degree of offense charged

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<sup>3</sup> The DNA report in the John Doe arrest warrant indicated that for both the discarded sweatshirt and handgun, a mixture of four persons was detected. The Lab opined that it was at least 100 billion times more likely that the DNA profile came from the defendant and three other unknown individuals, rather than from four unknown individuals. The DNA report also indicated that for the victim's cell phone cover that was tested, a mixture of three persons was detected. The Lab opined that it was at least 1.2 billion times more likely that the DNA profile came from the defendant and two other unknown individuals, instead of three unknown individuals.

should somehow have special relevance was also raised in a 2014 Minnesota case, where prosecutors obtained an unknown defendant's DNA profile, and later used it as a basis to bring charges against him for burglary. See *State v. Carlson*, supra, 845 N.W.2d 832. In *Carlson*, all of the cases relied upon by the parties involved serious sexual assault offenses. Id., 830-31. In rejecting the defendant's argument, the court explained that the applicable state statute codified the federal and state standards for arrest warrants, and "applies uniformly to all complaints for probable cause, irrespective of the nature of the crime." Id., 832. The provisions of Connecticut Practice Book § 36-3 requiring that an arrest warrant identify an accused with reasonable certainty are nearly identical to the Minnesota statute relied upon by the *Carlson* court. The Practice Book rule applies to *all* arrest warrants, regardless of the crime charged. Accordingly, the court will be guided by the growing consensus of case law from other jurisdictions in allowing the use of a defendant's DNA profile to meet the particularity and reasonable certainty requirements.

### **B. Pre-Accusation Delay**

The defendant also argues that the complaint should be dismissed based on an unreasonable pre-accusation delay, claiming that the police knew the defendant's identity based upon the anonymous tip from December 29, 2012, but failed to use reasonable diligence to investigate further. "The role of due process protections with respect to pre-accusation delay has been characterized as a limited one. . . . [T]he Due Process Clause does not permit courts to abort criminal prosecutions simply because they disagree with a prosecutor's judgment as to when to seek an indictment. . . . This court need only determine whether the action complained of . . . violates those fundamental conceptions of justice which lie at the base of our civil and political institutions . . . and which define the community's sense of fair play and decency. . . . The due process clause has not replaced the applicable statute of limitations . . . [as] . . . the primary

guarantee against bringing overly stale criminal charges.” (Citation omitted; internal quotation marks omitted.) *State v. Crosby*, 182 Conn. App. 373, 391-92, 190 A.3d 1, cert. denied, 330 Conn. 911, 193 A.3d 559 (2018). “[T]o establish a due process violation because of pre-accusation delay, the defendant must show both that actual substantial prejudice resulted from the delay *and* that the reasons for the delay were wholly unjustifiable, as where the state seeks to gain a tactical advantage over the defendant. . . . [P]roof of prejudice is generally a necessary but not sufficient element of a due process claim . . . . [Additionally] the due process inquiry must consider the reasons for the delay as well as the prejudice to the accused.” (Emphasis in original; internal quotation marks omitted.) *State v. Roger B.*, 297 Conn. 607, 614, 999 A.2d 752 (2010).

The court has already discussed some of the parameters of the CODIS database, *infra*. General Statutes § 54-102j (a) provides in relevant part that “[i]t shall be the duty of the [Lab] . . . to receive . . . biological samples and to analyze, classify and file the results of DNA identification characteristics profiles of . . . biological samples submitted pursuant to § 54-102g and to make such information available. . . . The results of an analysis and comparison of the identification characteristics from two or more . . . biological samples shall be made available directly to federal, state and local law enforcement officers upon request made in furtherance of an official investigation of any criminal offense. Only when a sample or DNA profile supplied by the person making the request satisfactorily matches a profile in the data bank shall the existence of data in the data bank be confirmed or identifying information from the data bank be disseminated, except that if the results of an analysis and comparison do not reveal a match between the sample . . . supplied and a DNA profile contained in the data bank, the [Lab] may, upon request of the law enforcement officer, indicate whether the DNA profile of a named individual is contained in the

data bank provided the law enforcement officer has a reasonable and articulable suspicion that such individual has committed the criminal offense being investigated.”

The defendant argues that by December 29, 2012, he was a known suspect, and that despite having this information, Norwalk Police failed to reasonably conduct any further investigation of him. However, the evidence does not support this argument. The failure to apprehend the defendant in a timelier manner was due to the bad information on the defendant’s RT50, not on a lack of good faith investigative effort by the Norwalk Police. For over five years, the evidence shows that the police were laboring under the false, yet entirely reasonable, belief that the defendant’s DNA profile did not match the DNA profile obtained from the crime scene evidence. The defendant argues that the present case is analogous to *State v. Gulley*, 8<sup>th</sup> Dist. Cuyahoga No. 101527 (Ohio Ct. App. 2015), where the Ohio Court of Appeals dismissed a John Doe indictment for unreasonable pre-indictment delay. In *Gulley*, the victim alleged that she was sexually assaulted in 1993, and submitted to a rape kit where evidence of an assault was collected. She also identified the defendant as the perpetrator. *Id.*, ¶ 3. The police then interviewed the defendant, who provided his address and social security number. However, the substance of that conversation was not memorialized by police. *Id.*, ¶ 10. The police closed their investigation one month after the initial complaint was lodged after the victim failed to provide a formal statement. *Id.* ¶ 3. The case thereafter lay dormant for nineteen years. In 2012, to address a backlog of untested rape kits, the evidence collected from the victim back in 1993 was sent to the state lab for testing. The test generated a DNA profile. In 2013, the victim again identified the defendant, this time in a photo array. Despite these two prior identifications, charges were subsequently brought against an unknown John Doe. *Id.*, ¶¶ 4-5. In 2014, there was a match between the DNA from the rape kit and the defendant’s DNA profile. The state thereafter attached the defendant’s name to the

indictment. Id., ¶ 4-6. In dismissing the case, the court held that “where law enforcement had [the defendant’s] name but simply failed to investigate the matter further when the victim failed to appear for her interview, reasonable diligence does not support the use of a John Doe-DNA indictment.” Id., ¶ 16.

The court finds the present case to be readily distinguishable from *Gulley*, and is therefore unpersuaded. The court in *Gulley* determined that the delay was unreasonable and the DNA match to the defendant was unnecessary to indict him, because the police already had the victim’s identification of the defendant, as well as his name, address, social security number. In the present case, however, any delay in identifying the defendant by name was clearly caused by human error that can be readily attributed here to the Department of Corrections, and not to any lack of reasonable diligence by the police, as in *Gulley*. Far from an inactive police investigation into this particular crime, there was mention at the hearing that “the case never really went cold,” and reference was also made during cross examination of a Norwalk detective of a “book of six hundred reports” generated by this case alone. Accordingly, the court finds no substantial prejudice against the defendant, and that any pre-accusation delay was justifiable.

#### Conclusion

For the foregoing reasons, the defendant’s motion to dismiss is DENIED.

**IT IS SO ORDERED,**

  
Blawie, J.

PLEA OF NOLO CONTENDERE (No Contest) — CONDITIONAL PLEA OF NOLO CONTENDERE (No Contest)

STATE OF CONNECTICUT  
SUPERIOR COURT  
www.jud.ct.gov

JD-CR-60 Rev. 7/10  
Pr. Bk. 39-18, 39-22, 61-6 C.G.S. 54-94a

Docket number  
FST CR18-146497

State of Connecticut vs. <i>Tenence Police</i>	G.A. number or Judicial District <i>JD</i>	Held at (City or town) <i>Stamford</i>	On (Date) <i>11-4-19</i>
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**Plea Of Nolo Contendere (No Contest)**

I am the defendant in the case named above and:

- I have personally been in the court and have been advised of my rights;
- I have had the complaint in this case read to me or gave up my right to have the complaint read to me;
- I do not want to contest the claims of the State of Connecticut that are in the complaint; and,
- I will not contend with the State of Connecticut about the complaint.

By signing this paper, I plead nolo contendere (no contest) and put myself on the clemency of the court.

Dated at (City or town) <i>Stamford</i>	On (Date) <i>11-4-19</i>	Signed (Defendant) X <i>[Signature]</i>
Signed (Parent or guardian of minor defendant) X		Signed (Attorney for defendant) X <i>B. A. Butler</i>

The Judicial authority accepts the defendant's plea of nolo contendere:

(Judicial Authority must specify yes or no)

Yes  No

Signed (Judge/Assistant Clerk)

**Conditional Plea Of Nolo Contendere (No Contest)**

I am in the defendant in the case named above and:

- I have personally been in the court and have been advised of my rights;
- I have had the complaint in this case read to me or gave up my right to have the complaint read to me;
- I do not want to contest the claims of the State of Connecticut that are in the complaint; and,
- I will not contend with the State of Connecticut about the complaint.

By signing this paper, I plead nolo contendere (no contest) and put myself on the clemency of the court on the condition that I have the right to take an appeal under section 54-94a of the Connecticut General Statutes.

I understand that I can file an appeal of a motion to suppress or a motion to dismiss only if I do so within the time allowed by law and only if the trial court has determined that a ruling on the motion would be dispositive of the case.

Subject to the above, I reserve for review the rulings on the following specific motions to suppress or dismiss:

(Specify the motion(s) for which review is sought)

Dated at (City or town) <i>Stamford</i>	On (Date) <i>11-4-19</i>	Signed (Defendant) X <i>[Signature]</i>
Signed (Parent or guardian of minor defendant) X		Signed (Attorney for defendant) X <i>B. A. Butler</i>

**A Trial Court Determined that a Ruling on the Above Motions to Suppress or Motion to Dismiss Would Be Dispositive of the Case:**

(Judicial Authority must specify yes or no)

Yes  No

Signed (Judge)	Date
----------------	------

The Judicial Authority accepts the defendant's conditional plea of nolo contendere:

(Judicial Authority must specify yes or no)

Yes  No

Signed (Judge) <i>(White, J.)</i> <i>M. Hanagan, Asst Clerk</i>	Date <i>11-4-19</i>
---	------------------------

State of Connecticut

Docket #: FSTCR18-0146497-T  
State of Connecticut

v.

Terrance Police

\*  
\*  
\*  
\*  
\*  
\*

Superior Court  
Judicial District  
Stamford/Norwalk  
At Stamford  
February 27, 2020

Present: Hon. Gary White

**Judgment**

On May 4, 2016 the defendant was arrested by warrant on the charges of Count 1. Robbery 1<sup>st</sup> Degree in violation of C.G.S. Sec. 53a-134; Count 2. Assault 1st Degree in violation of C.G.S. Sec. 53a-59.

On May 7, 2018 the defendant was arraigned at the Norwalk Superior Court before the Honorable Judge Hernandez. The court set the bond at \$150,000 cash or surety, appointed a public defender for bond purposes only and transferred the case to Stamford Judicial District.

On June 26, 2015 the defendant was arraigned at Stamford Superior Court before the Honorable Judge Hernandez. The court found probable cause, appointed public defender Benjamin Aponte to represent the defendant and set bond in the amount of \$500,000 cash or surety. The court transferred the case to Stamford Judicial District.

On February 8, 2019 a hearing on defendant’s motion to dismiss began before the Honorable Judge Blawie.

On July 19, 2019 Judge Blawie issued a memorandum of decision denying defendant’s motion to dismiss.

On November 4, 2019 the state filed a substitute information charging the defendant with Count 1. Robbery 1<sup>st</sup> Degree in violation of C.G.S. section 53a-134(a)(2) and Count 2. Assault 1<sup>st</sup> Degree in violation of C.G.S. Section 53a-59(a)(1). The defendant entered a conditional nolo contendere to both counts reserving his right to appeal. The Honorable Judge White accepted the plea. The defendant waived a pre-sentence investigation. Judge White sentenced the defendant as follows:

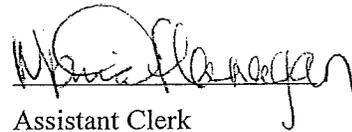
Count 1. 10 years to serve (5 years mandatory minimum)

Count 2. 10 years to serve (5 years mandatory minimum)

Both sentences ran concurrent and were stayed to December 3, 2019 with a “no body mittimus”.

On December 3, 2019 the Honorable Judge Hudock lifted the stay on the above sentence and waived fees and costs.

Monica Flanagan



Assistant Clerk

Sentencing Judge: Gary White

Defense Counsel: Barry Butler

State's Attorney: Richard Colangelo

APPEAL     JOINT APPEAL     CROSS APPEAL     AMENDED APPEAL     CORRECTED FORM

JD-SC-33 Rev. 7-16  
P.B. Sections 3-8, 60-7, 60-8, 62-7, 62-8, 63-3, 63-4, 63-10  
C.G.S. Sections 31-301b, 51-197f, 52-470

All appeals must be filed electronically unless an exemption from the requirements of electronic filing has been granted or you are an incarcerated self-represented party. For further information about e-filing or this form, see the Appeal Instructions, form JD-SC-34.

To Supreme Court     To Appellate Court

Name of case (State full name of case)

STATE OF CONNECTICUT v TERRANCE POLICE

Type of appellate matter

Appeal

<b>Trial Court History</b>	Tried to <b>Court</b>	Trial court location <b>STAMFORD JD COURTHOUSE 123 HOYT STREET STAMFORD CT 06905</b>		
	Trial court judges being appealed <b>HON. JOHN F. BLAWIE Continued</b>	List all trial court docket numbers, including location prefixes <b>FST-CR-18-0146497-T</b>		
	All other trial court judges who were involved with the case <b>HON. GARY J. WHITE Continued</b>	Judgment for (Where there are multiple parties, specify those for whom judgment was rendered) <b>STATE OF CONNECTICUT</b>		
	Date of judgment(s) or decision(s) being appealed <b>07/19/2019 Continued</b>	Date of issuance of notice on any order on any motion that would render judgment ineffective	Date for filing appeal extended to	
	Case type <b>Criminal</b>	For Juvenile Cases <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Order of Temporary Custody		
	For Civil/Family Case Types, Major/Minor code: <b>CR</b>	<input type="checkbox"/> Other		

<b>Appeal</b>	Appeal filed by (Party name(s)) <b>TERRANCE POLICE</b>			
	From (the action that constitutes the appealable judgment or decision) <b>Denial of Defendant's Motion to Dismiss pursuant to C.G.S. Sec. 54-94a and C.P.B. 61-6</b>			
	If this appeal is taken by the State of Connecticut, provide the name of the judge who granted permission to appeal and the date of the order			
	Statutory Basis for Appeal to Supreme Court			
	By (Signature of counsel of record) <b>▶ 401722</b>	Telephone number <b>203-574-0029</b>	Fax number <b>203-574-0038</b>	Juris number (If applicable) <b>401722</b>

<b>Appearance</b>	Type name and address of counsel of record filing this appellate matter (This is your appearance; see Practice Book Section 62-8) <b>CHIEF PUBLIC DEFENDER-LEGAL SERVICES 55 WEST MAIN STREET SUITE 430 WATERBURY CT 06702</b>	E-mail address <b>legalservicesunit@jud.ct.gov</b>
	<input type="checkbox"/> Counsel or self-represented party who files this appeal will be deemed to have appeared in addition to counsel of record who appeared in the trial court. <input checked="" type="checkbox"/> Counsel or self-represented party who files this appeal is appearing in place of:	

<b>Certification</b>	<input type="checkbox"/> one if applicable <input type="checkbox"/> Counsel or self-represented party who files this appeal will be deemed to have appeared in addition to counsel of record who appeared in the trial court. <input checked="" type="checkbox"/> Counsel or self-represented party who files this appeal is appearing in place of:		Name of counsel of record <b>Barry A. Butler &amp; all previous counsel of reco</b>	Juris number (If applicable) <b>401785</b>
	I certify that a copy of the appeal form I am filing will immediately be delivered to each other counsel of record and I have included their names, addresses, e-mail addresses and telephone and facsimile numbers; the appeal form has been redacted or does not contain any names or other personal identifying information that is prohibited from disclosure by rule, statute, court order or case law; and the appeal form complies with all applicable rules of appellate procedure in accordance with Practice Book Sections 62-7 and 63-3. Date to be delivered <b>02/21/2020</b>		If this appeal is a criminal or habeas corpus matter, I certify that a copy of this appeal form will immediately be delivered to the Office of the Chief State's Attorney Appellate Bureau. Date to be delivered <b>02/21/2020</b>	

<b>Required Documents</b>	To be filed with the Appellate Clerk within ten days of the filing of the appeal, if applicable. See Practice Book Section 63-4.		Signed (Counsel of record) <b>▶ 401722</b>		Date signed <b>02/21/2020</b>
	1. Preliminary Statement of the Issues	2. Court Reporter's Acknowledgment or Certificate that no transcript is necessary	3. Docketing Statement	4. Statement for Preargument Conference (form JD-SC-28A)	5. Constitutionality Notice

<input type="checkbox"/> Entry Fee Paid <input type="checkbox"/> No Fees Required <input checked="" type="checkbox"/> Fees, Costs, and Security waived by Judge (enter Judge's name below)	<i>Court Use Only</i> Date and time filed
--	--

Judge <b>Hon. Gary J. White</b>	Date waived <b>02/20/2020</b>
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## Appeal Form (continued)

**CASE NAME:**

STATE OF CONNECTICUT v TERRANCE POLICE

**TRIAL COURT JUDGES**

HON. JOHN F. BLAWIE  
HON. BRUCE P. HUDOCK

**OTHER TRIAL COURT JUDGES**

HON. GARY J. WHITE  
HON. ALEX V. HERNANDEZ

**JUDGMENT DATES**

07/19/2019  
12/03/2019

### Parties & Appearances

**PARTY/PARTIES INITIATING THE APPEAL**

**TERRANCE POLICE**

Juris: 401722 CHIEF PUBLIC DEFENDER-LEGAL SERVICES  
55 WEST MAIN STREET  
SUITE 430  
WATERBURY, CT 06702  
Phone: (203) 574-0029 Fax: (203) 574-0038  
Email:

**ALL OTHER PARTIES AND APPEARANCES**

**STATE OF CONNECTICUT - Judgment For**

Juris: 407922 STATE ATTORNEY

Phone: Fax:

Email:

Revised Information: Richard J. Colangelo, 123 Hoyt St, Stamford, CT 06905 203-965-5215 richard.colangelo@ct.gov

**TERRANCE POLICE - Manually Added Party**

Juris: 401785 BARRY BUTLER

PUBLIC DEFENDER'S OFFICE

30 TRINITY ST, 4TH FLOOR

HARTFORD, CT 06106

Phone: Fax:

Email:

Revised Information: 123 Hoyt St., Stamford, CT 06905 T.203-965-5245 barry.butler@jud.ct.gov

AC 43952 : STATE OF CONNECTICUT  
STATE OF CONNECTICUT : APPELLATE COURT  
v. : JUD. DIST. of STAMFORD-NORWALK  
TERRANCE POLICE : JULY 22, 2020

**AMENDED DOCKETING STATEMENT**

The defendant-appellant submits pursuant to Conn. Prac. Bk. § 63-4 (a) (3), the d the following information:

A. Parties:

Mr. Terrance Police (defendant-appellant)  
Inmate # 287907  
MacDougall-Walker Correctional Institution  
1153 East Street South  
Suffield, CT 06080

Attorney Barry A. Butler (trial counsel)  
Public Defender  
Juris No. 401785  
Office of the Public Defender  
123 Hoyt Street  
Stamford, CT 06905  
Tel. (203) 965-5245/Fax (203) 965-5795  
Email: [barry.butler@jud.ct.gov](mailto:barry.butler@jud.ct.gov)

Richard J. Colangelo, Jr. (trial prosecutor)  
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123 Hoyt Street  
Stamford, CT 06905  
Tel. (203) 965-5215  
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Email: [richard.colangelo@ct.gov](mailto:richard.colangelo@ct.gov)

Attorney Mark Rademacher (appellate counsel)  
Assistant Public Defender  
Juris No. 102675  
Office of Chief Public Defender-Appellate Unit  
55 West Main Street, Suite 430  
Waterbury, CT 06702  
Tel. (203) 574-0029/Fax (203) 574-0038  
Email: [legalservicesunit@ct.gov](mailto:legalservicesunit@ct.gov)

Attorney Bruce Lockwood  
Supervisory Assistant State's Attorney  
Office of the Chief State's Attorney - Appellate  
Juris No. 401795  
300 Corporate Place  
Rocky Hill, CT 06067  
Tel. (860) 258-5807  
Fax (860) 258-5828  
Email: [DCJ.OCSA.Appellate@ct.gov](mailto:DCJ.OCSA.Appellate@ct.gov)

- B. None known or reasonably ascertainable, except parties to the appeal, trial and appellate counsel for the state and the defendant and judges of record.
- C. There were no known or reasonably ascertainable criminal protective orders requested or issued during the underlying proceedings.
- D. There were exhibits in the trial court.
- E. Following the defendant's denial of his motion to dismiss, the defendant entered a plea of nolo contendere reserving his right to appeal the denial of his motion to dismiss which was accepted by the court, *White, J.* He was convicted of robbery in the first degree, in violation of Conn. Gen. Stat. § 53a-134 (a) (2) and assault in the first degree, in violation of Conn. Gen. Stat. § 53a-59 (a) (1). He was sentenced to serve 10 years of incarceration, 5 years mandatory minimum. The defendant currently is incarcerated.

Respectfully submitted,

Defendant-Appellant  
Terrance Police

BY: /s/ Mark Rademacher  
Attorney Mark Rademacher  
Assistant Public Defender  
Juris No. 102675  
Office of Chief Public Defender  
55 West Main Street, Suite 430  
Waterbury, Ct 06702  
Tel. (203) 574-0029; Fax (203) 574-0038  
[mark.rademacher@jud.ct.gov](mailto:mark.rademacher@jud.ct.gov)

## CERTIFICATION

The defendant certifies pursuant to Conn. Prac. Bk. §§ 62-7 and 66-3 that a copy of the foregoing was sent electronically this 22nd day of July 2020 to:

Attorney Bruce Lockwood  
Supervisory Assistant State's Attorney  
Office of the Chief State's Attorney - Appellate  
Juris No. 401795  
300 Corporate Place  
Rocky Hill, CT 06067  
Tel. (860) 258-5807  
Fax (860) 258-5828  
Email: [DCJ.OCSA.Appellate@ct.gov](mailto:DCJ.OCSA.Appellate@ct.gov)

It is also certified that this document has been redacted or does not contain any names or other personal identifying information that is prohibited from disclosure by rule, statute, court order or case law.

It is also certified that this document complies with all applicable rules of appellate procedure.

/s/ Mark Rademacher  
Mark Rademacher

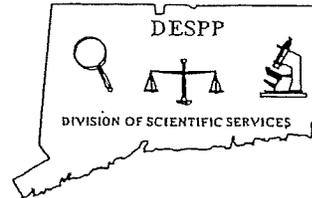
Part 2

Appendix in AC 43952 *State v. Terrance Police*



STATE OF CONNECTICUT

DEPARTMENT OF EMERGENCY SERVICES and PUBLIC PROTECTION
DIVISION OF SCIENTIFIC SERVICES
FORENSIC SCIENCE LABORATORY



Michael Wolf
Interim Division Director

Major William R. Podgorski
Division Administrator

DNA SECTION
DNA DATABASE SEARCH REPORT

LABORATORY CASE #: ID12-001734
SUBMITTING AGENCY: Norwalk Police Department
1 Monroe St
Norwalk, CT 06854
AGENCY CASE #: 1254140
TOWN OF INCIDENT: Norwalk, CT
DATE OF REQUEST: 10/31/12
DATE OF REPORT: 12/21/12
REPORT TO: Chief of above

EVIDENCE EXAMINED:

- #2 Swabs
#2-1 Swabbing - "front driver door upright"
#2-2 Swabbing - "front driver door edge"
#2-3 Swabbing - "front driver door handle (out)"
#5 Swabbing - "driver door handle (from silver C300 Mercedes)"
#6-S1 Swab tips - inside sleeve cuffs and neck hem of sweatshirt
#6-S2 Swab tips - outside of cell phone-type cover
#6-S3 Cutting - left pocket of sweatshirt
#8 Swabs
#8-1 Swabbing - ".22 mag revolver left handle"
#8-2 Swabbing - ".22 mag revolver right handle"
#8-3 Swabbing - ".22 mag revolver pin"
#8-4 Swabbing - ".22 mag revolver cylinder"
#8-5 Swabbing - ".22 mag revolver left frame"
#8-6 Swabbing - ".22 mag revolver right frame"
#8-7 Swabbing - ".22 mag revolver trigger"
#8-8 Swabbing - ".22 mag bullets"
#9-S1 Swab tips - inside sleeve cuffs and neck hem of sweater
#10 Known buccal sample - F. Williams

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DNA DATABASE SEARCH REPORT

RESULTS OF EXAMINATION:

1. DNA was extracted from items #2-1, #2-2, #2-3, #6-S1, #6-S2, #6-S3, #8-1, #8-2, #8-3, #8-4, #9-S1, and submissions #5 and #10. DNA was purified according to standard laboratory protocols. Items #8-5, #8-6, #8-7, and #8-8 were not tested at this time.

2A. Extracted material obtained from items #2-1, #2-2, #2-3, #6-S1, #6-S2, #6-S3, #8-1, #8-2, #8-3, #8-4, #9-S1, and submissions #5 and #10 was amplified by the AmpF/STR Identifier procedure as described in laboratory protocols. STR alleles were separated and detected by standard laboratory protocols.

2B. The following results were obtained on the amplified items:

Identifier Alleles Detected

Item #	D8S1179	D21S11	D7S820	CSF1PO	D3S1358	TH01	D13S317	D16S539	D2S1338
2-1	*	NR	NR	NR	NR	NR	NR	NR	NR
2-2	NR	NR	NR	NR	NR	NR	NR	NR	NR
2-3	*	NR	NR	NR	NR	7	NR	NR	NR
5	10, 12	29, 29.2, *	8	12	17	9, 9.3	8, 10	11, 13	17, 23
6-S1	12, 13, 14, *	30	9, 10	12	15, 16	7, *	11, 12	9	20, 21
6-S2	12, 13, 14, 15	30, 31, *	9, 10	10, 12	14, 15, 16	7, 8, *	11, 12, *	9, 11, *	19, 20, 21, *
6-S3	12, 13, 14, 15	28, 30, 30.2, 31, 35	8, 9, 10, 11, 12	7, 10, 11, 12, *	14, 15, 16, 17	6, 7, 8	10, 11, 12	9, 10, 11, 12, 13	17, 18, 20, 21, 22, 26
8-1	NR	NR	NR	NR	*	NR	NR	NR	NR
8-2	12, 13	NR	NR	NR	15, *	7, *	NR	NR	NR
8-3	*	NR	NR	NR	NR	NR	NR	NR	NR
8-4	*	NR	NR	NR	NR	NR	NR	NR	NR
9-S1	10, 11, 12, 13, 14, 15	30, 31, 35	9, 10, 12	10, 11, 12	15, 16	7, 8, 9	10, 11, 12	9, 11, 12	20, 21, 22
10	13	30, 31.2	10, 11	11, 12	14, 18	8, 9	8, 12	9, 13	17, 23

DNA DATABASE SEARCH REPORT

RESULTS OF EXAMINATION  
 CONTINUED:

Identifiler Alleles Detected (continued)

Item #	D19S433	vWA	TPOX	D18S51	AMEL	D5S818	FGA
2-1	*	NR	*	NR	NR	*	NR
2-2	NR	NR	NR	NR	NR	*	NR
2-3	NR	NR	NR	NR	X	*	NR
5	13, 14	16, 18	8, 10	14	X, Y	8, 11	24, 27
6-S1	11, 15.2	16	11	16, *	X, Y	11	24
6-S2	11, 15.2, *	15, 16, 18	9, 11, 12	16, 17, *	X, Y	9, 10, 11, 13	23, 24, 26
6-S3	11, 12, 13, 13.2, 14, 15.2	14, 15, 16, 17, 18	6, 8, 9, 11, 12	13, 15, 16, 20, 21	X, Y	11, 12, 13	22, 23, 24, 25, 26, 29, *
8-1	NR	NR	NR	NR	NR	NR	NR
8-2	11	16	11	*	X	11	NR
8-3	13.2	17	NR	NR	*	NR	*
8-4	NR	NR	NR	NR	Y	NR	NR
9-S1	11, 12, 13, 15.2	15, 16, *	6, 9, 11, 12	13, 14, 16, 17, 21	X, Y	11, 12, 13	23, 24, 25, 26, *
10	12, 14	15, 16	8, 9	14, 17	X	10, 12	21, 23

\* = additional minor peak(s) detected. NR = No Results.

3. Items #2-1, #2-2, #2-3, #6-S1, #6-S2, #8-1, #8-2, #8-3, #8-4, #9-S1, and submission #5 were consumed in testing. Item #6-S3 and a sample from submission #10 were retained at the laboratory. Items #8-5, #8-6, #8-7, #8-8, and submission #10 were returned to the submitting agency.

CONCLUSIONS:

4. F. Williams (submission #10) is eliminated as the source of or as a contributor to the DNA profiles from items #2-3 (swabbing – “front driver door handle (out)”), #6-S1 (swab tips – inside sleeve cuffs and neck hem of sweatshirt), #6-S2 (swab tips – outside of cell phone-type cover), #6-S3 (cutting – left pocket of sweatshirt), #8-2 (swabbing – “.22 mag revolver right handle”), #8-3 (swabbing – “.22 mag revolver pin”), #8-4 (swabbing – “.22 mag revolver cylinder”), #9-S1 (swab tips – inside sleeve cuffs and neck hem of sweater), and submission #5 (swabbing – “driver door handle (from silver C300 Mercedes)”).

5. F. Williams (submission #10) is eliminated as the source of the minor peaks from items #2-1 (swabbing – “front driver door upright”), #2-2 (swabbing – “front driver door edge”), and #8-1 (swabbing – “.22 mag revolver left handle”).

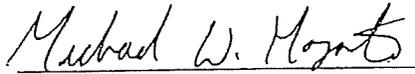
DNA DATABASE SEARCH REPORT

CONCLUSIONS  
CONTINUED:

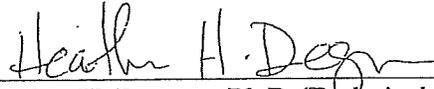
6. The profiles from items #6-S1, #6-S2, #6-S3, and submission #5 were searched against the Connecticut and National DNA Databases. No matching profiles were found. These results will be searched periodically. If a suspect is developed, please notify the examiner as soon as possible.

7. The profiles from items #2-1, #2-2, #2-3, #8-1, #8-2, #8-3, #8-4, and #9-S1 are not appropriate for entry into the Connecticut and National DNA Databases.

This report reflects the test results, conclusions, interpretations, and/or the findings of the analyst as indicated by their signature below.



Michael W. Morganti (Analyst)  
Forensic Science Examiner 1

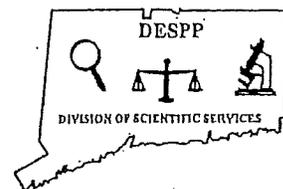


Heather H. Degnan, Ph.D (Technical Reviewer)  
Forensic Science Examiner 1



STATE OF CONNECTICUT

DEPARTMENT OF EMERGENCY SERVICES and PUBLIC PROTECTION DIVISION OF SCIENTIFIC SERVICES



Guy M. Vallaro, Ph.D. Director

SUPPLEMENTAL DNA REPORT II

Laboratory Case ID-12-001734

Submitting Agency Norwalk Police Department 1 Monroe St Norwalk, CT 06854

Date of Request 4/10/2018

Agency Case 12-54140

Date of Report 4/13/2018

EVIDENCE DESCRIPTION

- #2-1 Swabbing - "front driver door upright"
#2-3 Swabbing - "front driver door handle (out)"
#5 Swabbing - "driver door handle (from silver C300 Mercedes)"
#6-S1 Swab tips - inside sleeve cuffs and neck hem of sweatshirt
#6-S2 Swab tips - outside of cell phone-type cover
#6-S3 Cutting - left pocket of sweatshirt
#8-1 Swabbing - ".22 mag revolver left handle"
#8-2 Swabbing - ".22 mag revolver right handle"
#8-3 Swabbing - ".22 mag revolver pin"
#8-4 Swabbing - ".22 mag revolver cylinder"
#9-S1 Swab tips - inside sleeve cuffs and neck hem of sweater
#13 Known buccal sample, Terrance Police

TESTING SUMMARY

DNA was previously extracted and analyzed with Fusion 6C from items #2-1, #2-3, #5, #6-S1, #6-S2, #6-S3, #8-1, #8-2, #8-3, #8-4 and #9-S1 (see Supplemental DNA Report dated 2/13/2018).

Table with 3 columns: Item #, Profile Obtained^1 (F6C), CODIS Entry. Row 1: 13, Yes, [blacked out]

^1F6C = Fusion 6C STR DNA amplification kit

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SUPPLEMENTAL DNA REPORT II

CONCLUSIONS SUMMARY

Item #	Description	Type	Terrance Police (#13)
2-1	Swabbing - "front driver door upright"	Mixture	Eliminated
2-3	Swabbing - "front driver door handle (out)"	Mixture	Eliminated
5	Swabbing - "driver door handle (from silver C300 Mercedes)"	Mixture	Eliminated
6-S1	Swab tips - inside sleeve cuffs and neck hem of sweatshirt	Mixture	Included
6-S2	Swab tips - outside of cell phone-type cover	Mixture	No Comparison
6-S3	Cutting - left pocket of sweatshirt	Mixture	No Comparison
8-1	Swabbing - ".22 mag revolver left handle"	Mixture	Inconclusive
8-2	Swabbing - ".22 mag revolver right handle"	Mixture	Cannot be Eliminated
8-3	Swabbing - ".22 mag revolver pin"	Mixture	Eliminated
8-4	Swabbing - ".22 mag revolver cylinder"	Mixture	Eliminated
9-S1	Swab tips - inside sleeve cuffs and neck hem of sweater	Mixture	Included

CONCLUSIONS

1. #2-1 (Swabbing - "front driver door upright")

The results are consistent with the DNA profile from item #2-1 being a mixture of two contributors. Terrance Police is eliminated as a contributor to the DNA profile from item #2-1.

2. #2-3 (Swabbing - "front driver door handle (out)")

The results are consistent with the DNA profile from item #2-3 being a mixture of two contributors with at least one of them being male. Terrance Police is eliminated as a contributor to the DNA profile from item #2-3.

3. #5 (Swabbing - "driver door handle (from silver C300 Mercedes)")

The results are consistent with the DNA profile from item #5 being a mixture of two contributors with at least one of them being male. Terrance Police is eliminated as a contributor to the DNA profile from item #5.

4. #6-S1 (Swab tips - inside sleeve cuffs and neck hem of sweatshirt)

The results are consistent with the DNA profile from item #6-S1 being a mixture of four contributors with at least three of them being male. Assuming four contributors, the DNA profile from item #6-S1 is at least 100 billion times more likely to occur if it originated from Terrance Police and three unknown individuals than if it originated from four unknown individuals.<sup>1</sup>

**SUPPLEMENTAL DNA REPORT II**

5. #6-S2 (Swab tips - outside of cell phone-type cover)

The results indicate that the DNA profile from item #6-S2 is a mixture that is too complex for STRmix interpretation. Due to the complexity of the DNA profile from item #6-S2, no comparisons will be made.

6. #6-S3 (Cutting - left pocket of sweatshirt)

The results indicate that the DNA profile from item #6-S3 is a mixture that is too complex for STRmix interpretation. Due to the complexity of the DNA profile from item #6-S3, no comparisons will be made.

7. #8-1 (Swabbing - ".22 mag revolver left handle")

The results are consistent with the DNA profile from item #8-1 being a mixture of two contributors. Assuming two contributors, given the low likelihood ratios calculated, the results are inconclusive as to whether Terrance Police could be a contributor to the DNA profile from item #8-1.<sup>1</sup>

8. #8-2 (Swabbing - ".22 mag revolver right handle")

The results are consistent with the DNA profile from item #8-2 being a mixture of three contributors with at least one of them being male. Assuming three contributors, the DNA profile from item #8-2 is at least 100 billion times more likely to occur if it originated from Terrance Police and two unknown individuals than if it originated from three unknown individuals.<sup>1</sup>

9. #8-3 (Swabbing - ".22 mag revolver pin")

The results are consistent with the DNA profile from item #8-3 being a mixture of two contributors with at least one of them being male. Terrance Police is eliminated as a contributor to the DNA profile from item #8-3.

10. #8-4 (Swabbing - ".22 mag revolver cylinder")

The results are consistent with the DNA profile from item #8-4 being a mixture of two contributors with at least one of them being male. Terrance Police is eliminated as a contributor to the DNA profile from item #8-4.

11. #9-S1 (Swab tips - inside sleeve cuffs and neck hem of sweater)

The results are consistent with the DNA profile from item #9-S1 being a mixture of four contributors with at least two of them being male. Assuming four contributors, the DNA profile from item #9-S1 is at least 100 billion times more likely to occur if it originated from Terrance Police and three unknown individuals than if it originated from four unknown individuals.<sup>1</sup>

<sup>1</sup>Profile analyzed and comparison made using STRmix™ analysis software.

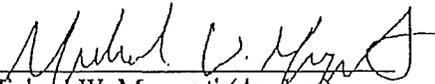
**REMARKS**

A sample from item #13 was retained at the laboratory. Item #13 was returned to the submitting agency.

A known sample from any additional suspect developed is requested for comparison to the evidentiary results.

**SUPPLEMENTAL DNA REPORT II**

This report reflects the test results, conclusions, interpretations, and/or the findings of the analyst as indicated by their signature below.

  
 Michael W. Morganti (Analyst)  
 Forensic Science Examiner 1

  
 Carl Ladd, Ph.D. (Technical Reviewer)  
 Forensic Science Examiner 3

**APPENDIX**

Fusion 6C STR Alleles Detected

Item #	AMEL	D3S1358	D1S1656	D2S441	D10S1248	D13S317	Penta E	D16S539	D18S51
2-1	NR	15, 18	16.3	NR	13, 14	NR	NR	9, 13	14, 16, 17
2-3	X, Y	15, 18	11	NR	12, 16	NR	NR	11, 12, 13	NR
5	X, Y	17	12, 14	11.3, 12.3	13, 17	8, 10	10, 11	11, 13	13, 14, 16
6-S1	X, Y	14, 15, 16, 17	12.3, 13, 14, 16, 17.3	11, 11.3, 12, 15	12, 13, 14, 15	10, 11, 12, 13	7, 11, 12, 15	9, 11, 12, 13	13, 15, 16, 17, 18, 21
6-S2	X, Y	14, 15, 16, 17, 18	11, 12.3, 13, 14, 15, 16, 17.3, 18.3	10, 11, 12, 14, 15	12, 13, 14, 15, 16	8, 10, 11, 12	11, 12, 14, 15	9, 11, 12, 13	13, 14, 15, 16, 17, 20, 21
6-S3	X, Y	14, 15, 16, 17	12.3, 13, 15.3, 16, 17.3, 18.3	11, 12, 14, 15	12, 13, 14, 15	10, 11, 12	7, 10, 11, 12, 13, 14, 15	9, 10, 11, 12, 13	13, 15, 16, 17, 19, 20, 21
8-1	X	NR	14, 15	NR	NR	NR	NR	9	16
8-2	X, Y	15, 16	15, 16, 17.3, 18	11	11, 13	11, 12	NR	9, 11	12, 15, 16, 18
8-3	X, Y	15, 16	NR	11, 13, 14.3	NR	NR	NR	12	12, 18
8-4	X, Y	15, 16	11, 13	11, 13	NR	NR	NR	11	12, 18
9-S1	X, Y	14, 15, 16	12.3, 13, 16, 16.3, 17.3, 18.3	11, 12, 14, 15	12, 13, 14, 15, 16	9, 10, 11, 12	5, 10, 11, 12, 15	9, 11, 12	13, 16, 17, 21
13	X, Y	15, 16	16, 17.3	11	13, 14	11, 12	12, 15	9	16

NR = No Results.

SUPPLEMENTAL DNA REPORT II

## Fusion 6C STR Alleles Detected (continued)

Item #	D2S1338	CSF1PO	Penta D	TH01	vWA	D21S11	D7S820	D5S818	TPOX
2-1	NR	NR	NR	7	15, 16	NR	NR	NR	NR
2-3	NR	NR	NR	7	15, 16, 17	NR	NR	NR	NR
5	17, 23	11, 12	9, 11	9, 9.3	16, 18	29, 29.2	8, 12	8, 11	8, 10
6-S1	17, 19, 20, 21, 22	7, 10, 11, 12	5, 8, 9, 10	7, 8, 9	14, 15, 16, 18	28, 30, 31, 35	8, 9, 10, 11, 12	11, 12, 13	8, 9, 11, 12
6-S2	17, 19, 20, 21, 22, 23	10, 11, 12	5, 8, 9, 10, 11, 15	7, 8, 9, 9.3	14, 15, 16, 18	28, 30, 31, 31.2, 35	8, 9, 10, 11, 12	9, 10, 11, 12, 13	8, 9, 11, 12
6-S3	17, 18, 20, 21, 22, 26	7, 10, 11, 12, 13	8, 9, 10, 12, 13	6, 7, 8	14, 15, 16, 18	28, 30, 31, 31.2, 35	8, 9, 10, 12	11, 12, 13	6, 8, 9, 11, 12
8-1	17	NR	NR	7	NR	NR	NR	NR	NR
8-2	29	10, 12	9	7	15, 16, 17	30	9	11	NR
8-3	NR	NR	NR	6	17	NR	NR	NR	NR
8-4	23	11	NR	6, 7	17	30.2	NR	NR	NR
9-S1	16, 20, 21, 22, 23	10, 11, 12	8, 9, 10	6, 7, 8, 9	15, 16, 17, 18	28, 30, 31, 35	9, 10, 11, 12	11, 13	9, 10, 11, 12
13	20, 21	10, 12	9, 10	7	16	30, 31	9, 10	11	11

NR = No Results.

SUPPLEMENTAL DNA REPORT II

Fusion 6C STR Alleles Detected (continued)

Item #	D8S1179	D12S391	D19S433	SE33	D22S1045	DYS391	FGA	DYS576	DYS570
2-1	13	NR	NR	NR	NR	NR	NR	NR	NR
2-3	13	NR	NR	NR	NR	11	20	NR	NR
5	10, 12	15, 17, 18	13, 14	17, 29.2	12, 15	10	24, 27	15	18
6-S1	12, 13, 14, 15	15, 16, 17, 19, 21, 22	11, 13, 14, 15.2	19, 20, 21.2, 27.2	11, 14, 16, 17	10	19, 22, 23, 24, 25, 26, 29	16, 17, 18	16, 17
6-S2	10, 12, 13, 14, 15	15, 16, 17, 18, 22	11, 12, 13, 14, 15.2, 16.2	16, 17, 19, 20, 21.2, 27.2	7, 11, 14, 16, 17	10	19, 21, 22, 23, 24, 26	17	16
6-S3	12, 13, 14, 15	15, 16, 17, 18, 19, 20, 21, 22	11, 13, 14, 14.2, 15.2	16, 17, 18, 20, 21, 21.2, 27.2	11, 14, 16, 17	10	19, 22, 23, 24, 25, 26, 29	16, 17	16, 17
8-1	12, 13	NR	NR	NR	NR	NR	24	NR	NR
8-2	12, 13	15, 16, 17, 22	11, 15.2	29	NR	10	24, 26	NR	NR
8-3	12, 14	15, 16, 18.3	NR	NR	NR	10	NR	NR	NR
8-4	12, 14	15, 16	11	NR	NR	10	NR	NR	NR
9-S1	10, 12, 13, 14, 15	15, 16, 17, 19, 22	11, 15.2	20, 21.2, 26.2, 27.2	7, 11, 14, 16, 17	10	21, 22, 23, 24, 26	17	16, 17
13	12, 13	17, 22	11, 15.2	20, 21.2	14, 17	10	24, 26	17	16

NR = No Results.

## **CONSTITUTIONAL AND STATUTORY PROVISIONS RELIED UPON**

### **United States Constitution**

#### **U.S. Const., amend. 4**

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

### **Connecticut Constitution**

#### **Conn. Const., art., § 7**

The people shall be secure in their persons, houses, papers and possessions from unreasonable searches or seizures; and no warrant to search any place, or to seize any person or things, shall issue without describing them as nearly as may be, nor without probable cause supported by oath or affirmation.

#### **Conn. Const., art. 1, § 9**

No person shall be arrested, detained or punished, except in cases clearly warranted by law.

## **CONNECTICUT GENERAL STATUTES**

#### **Conn. Gen. Stat. § 53a-59 (a) (1) (2012) Assault in the first degree**

(a) A person is guilty of assault in the first degree when: (1) With intent to cause serious physical injury to another person, he causes such injury to such person or to a third person by means of a deadly weapon or a dangerous instrument[.]

#### **Conn. Gen. Stat. § 53a-134 (a) (1) (2012) Robbery in the first degree**

(a) A person is guilty of robbery in the first degree when, in the course of the

commission of the crime of robbery as defined in section 53a-133 or of immediate flight therefrom, he or another participant in the crime: (1) Causes serious physical injury to any person who is not a participant in the crime[.]

**Conn. Gen. Stat. § 54-2a (a) (1) Issuance of bench warrants of arrest**

(a) In all criminal cases the Superior Court, or any judge thereof, or any judge trial referee specifically designated by the Chief Justice to exercise the authority conferred by this section may issue (1) bench warrants of arrest upon application by a prosecutorial official if the court or judge determines that the affidavit accompanying the application shows that there is probable cause to believe that an offense has been committed and that the person complained against committed it[.]

**Conn. Gen. Stat. § 54-94a. Conditional nolo contendere plea. Appeal of denial of motion to suppress or dismiss**

When a defendant, prior to the commencement of trial, enters a plea of nolo contendere conditional on the right to take an appeal from the court's denial of the defendant's motion to suppress or motion to dismiss, the defendant after the imposition of sentence may file an appeal within the time prescribed by law provided a trial court has determined that a ruling on such motion to suppress or motion to dismiss would be dispositive of the case. The issue to be considered in such an appeal shall be limited to whether it was proper for the court to have denied the motion to suppress or the motion to dismiss. A plea of nolo contendere by a defendant under this section shall not constitute a waiver by the defendant of nonjurisdictional defects in the criminal prosecution.

**Conn. Gen. Stat. § 54-193. Limitation of prosecution for certain violations or offenses**

(a) There shall be no limitation of time within which a person may be prosecuted for (1) (A) a capital felony under the provisions of section 53a-54b in effect prior to April 25,

2012, a class A felony or a violation of section 53a-54d or 53a-169, or (B) any other offense involving sexual abuse, sexual exploitation or sexual assault if the victim of the offense was a minor at the time of the offense, including, but not limited to, a violation of subdivision (2) of subsection (a) of section 53-21, (2) a violation of section 53a-165aa or 53a-166 in which such person renders criminal assistance to another person who has committed an offense set forth in subdivision (1) of this subsection, (3) a violation of section 53a-156 committed during a proceeding that results in the conviction of another person subsequently determined to be actually innocent of the offense or offenses of which such other person was convicted, or (4) a motor vehicle violation or offense that resulted in the death of another person and involved a violation of subsection (a) of section 14-224.

(b) (1) Except as provided in subsection (a) of this section or subdivision (2) of this subsection, no person may be prosecuted for a violation of a (A) class B felony violation of section 53a-70, 53a-70a or 53a-70b, (B) class C felony violation of section 53a-71 or 53a-72b, or (C) class D felony violation of section 53a-72a, except within twenty years next after the offense has been committed.

(2) Except as provided in subsection (a) of this section, no person may be prosecuted for any offense involving sexual abuse, sexual exploitation or sexual assault of a victim if the victim was eighteen, nineteen or twenty years of age at the time of the offense, except not later than thirty years next after such victim attains the age of twenty-one years.

(3) No person may be prosecuted for a class A misdemeanor violation of section 53a-73a, if the victim at the time of the offense was twenty-one years of age or older, except within ten years next after the offense has been committed.

(c) No person may be prosecuted for any offense, other than an offense set forth in subsection (a) or (b) of this section, for which the punishment is or may be imprisonment in excess of one year, except within five years next after the offense has been committed.

(d) No person may be prosecuted for any offense, other than an offense set forth in subsection (a), (b) or (c) of this section, except within one year next after the offense has been committed.

(e) If the person against whom an indictment, information or complaint for any of said offenses is brought has fled from and resided out of this state during the period so limited, it may be brought against such person at any time within such period, during which such person resides in this state, after the commission of the offense.

(f) When any suit, indictment, information or complaint for any crime may be brought within any other time than is limited by this section, it shall be brought within such time.

**Conn. Gen. Stat. § 54-193b. Limitation of prosecution for sexual assault offenses when DNA evidence available**

Notwithstanding the provisions of section 54-193, there shall be no limitation of time within which a person may be prosecuted for a violation of section 53a-70b of the general statutes, revision of 1958, revised to January 1, 2019, or section 53a-70, 53a-70a, 53a-71, 53a-72a or 53a-72b, provided (1) the victim notified any police officer or state's attorney acting in such police officer's or state's attorney's official capacity of the commission of the offense not later than five years after the commission of the offense, and (2) the identity of the person who allegedly committed the offense has been established through a DNA (deoxyribonucleic acid) profile comparison using evidence collected at the time of the commission of the offense.

## Connecticut Practice Book

### Conn. Prac. Bk. § 36-1 Arrest by Warrant; Issuance

Upon the submission of an application for an arrest warrant by a prosecuting authority, a judicial authority may issue a warrant for the arrest of an accused person if the judicial authority determines that the affidavit accompanying the application shows that there is probable cause to believe that an offense has been committed and that the accused committed it.

### Conn. Prac. Bk. § 36-3 Contents of Warrant

The warrant shall be signed by the judicial authority and shall contain the name of the accused person, or if such name is unknown, any name or description by which the accused can be identified with reasonable certainty, and the conditions of release fixed, if any. It shall state the offense charged and direct any officer authorized to execute it to arrest the accused person and to bring him or her before a judicial authority without undue delay.

### Conn. Prac. Bk. § 60-5 Plain Error

\* \* \* The court may in the interests of justice notice plain error not brought to the attention of the trial court. \* \* \*

### Conn. Prac. Bk. § 61-6 (a) (2) (A) Appeal of Judgment or Ruling in Criminal Case

(a) Appeal by Defendant.

\* \* \*

(2) Appeal of Ruling Following Judgment Rendered upon Conditional Plea of Nolo Contendere.

(A) On motion to dismiss or suppress. When a defendant, prior to the

commencement of trial, enters a plea of nolo contendere conditional on the right to file an appeal from the court's denial of the defendant's motion to suppress or motion to dismiss, the defendant, after the imposition of sentence, may file an appeal within the time prescribed by law. The issue to be considered in such appeal shall be limited to whether it was proper for the court to have denied the motion to suppress or the motion to dismiss. A plea of nolo contendere by a defendant under this subsection shall not constitute a waiver by the defendant of nonjurisdictional defects in the criminal prosecution. The court shall not accept a nolo contendere plea pursuant to this subsection where the denial of the motion to suppress or motion to dismiss would not be dispositive of the case in the trial court. The court shall also decline to accept such a nolo contendere plea where the record available for review of the denial of the motion to suppress or motion to dismiss is inadequate for appellate review of the court's determination thereof.