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IN THE SUPERIOR COURT OF WALKER COUNTY
STATE OF GEORGIA

FILED IN OFFICE

STATE OF GEORGIA,

vs.

JAN 6 2004

CASE #'s

03-CR-20884; 03-CR-00885;
03-CR-20886; & 03-CR-20887

TOMMY RAY-BRENT MARSH, *Eric Marshall*
Clerk
Defendant

OBJECTION TO ASSESSMENT OF TRANSCRIPT CHARGE
AND REQUEST FOR RELIEF FROM THE COURT

NOW COMES THE DEFENDANT, through counsel, and hereby files this OBJECTION to the assessment and charge by the court the costs of preparation of transcript on November 17-18, 2003 to the Defendant, and requests relief from said assessment and charge and in support of the same shows as follows:

1.

The Defendant filed a motion for the judicial recognition of his indigent status. During the hearing of the said motion, on November 17-18, 2003, this Honorable Court, sua sponte, ordered a transcript of the testimony of two defense witnesses to be prepared by court reporter Marilyn C. Roe. The court issued the directive to the defense that:

you are going to be paying for the transcript that is going to be prepared. It may or may not be the last thing you pay for here in this but at this point, you are going to pay for it..." (Transcript of November 17-18, 2003 hearings, p. 65, lines 19-23).

2.

The Court cannot legally assess costs *before* a conviction. The Defense did not request or desire a transcription of the excerpts transcribed. Counsel for the Defendant has received a bill in the amount of Two Hundred and Twenty Nine Dollars and Eighty One cents (\$229.81). Counsel for the defendant has long expended all funds paid for

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representation of the Defendant. The Defendant has no funds, no employment and cannot compel his spouse to pay such costs. In support of this objection, Defendant cites O.C.G.A. § 17-11-1 and Article I, Section I, Paragraph XXIV of the Constitution of the State of Georgia.

WHEREFORE, DEFENDANT PRAYS:

- (a) That this Honorable Court relieve the Defendant the burden of paying for a transcript that neither Defendant nor his counsel ordered or requested.
- (b) That the Court review and rescind its earlier order.

Respectfully submitted, this 5th day of January, 2004.



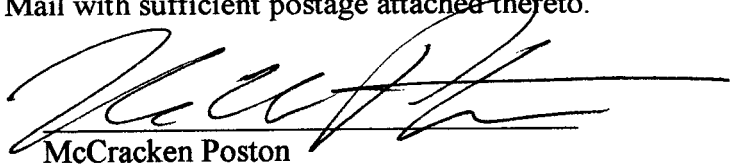
McCRACKEN POSTON
Attorney for Defendant
Georgia Bar #585606

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Ringgold, Georgia 30736
(706) 965-8300

CERTIFICATE OF SERVICE

Now comes McCracken Poston, counsel for Defendant, and hereby certifies that a true and accurate copy of the foregoing pleading has been served upon the District Attorney by posting said copy in the U.S. Mail with sufficient postage attached thereto.

This 5th day of January, 2004.



McCracken Poston