

1 **Kenneth Clair**  
2 **550 N. Flower Street**  
3 **Santa Ana, CA 92702**  
4 **Booking Number: 2925186**

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER

DEC 29 2016

DAVID H. YAMASAKI, Clerk of the Court

BY **BRENDA RAAB**, DEPUTY

5 **In: Pro Per**

6 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
7 **FOR THE COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

10 **PEOPLE OF THE STATE OF**

11 **CALIFORNIA,**

12  
13 Plaintiff,

14 vs.

15  
16 **KENNETH CLAIR**

17 Defendant

)  
) **Case No. C-57572**  
)  
) **CONTEMPT OF COURT**  
)  
) **UNDER AB-1909**  
)  
) **DECLARATION OF INVESTIGATOR**  
) **C. J. FORD JR.**  
)  
)  
)  
)  
)  
) **JANUARY 6, 2017 AT 8:30 AM**

**RECEIVED**

19 To The Honorable Judge GOETHALS of Department C45:

DEC 29 2016

20 **KENNETH CLAIR, Defendant in the above matter seeks the assistance of the District Attorney**

OFFICE OF THE DISTRICT ATTORNEY  
CENTRAL JUSTICE CENTER  
SANTA ANA, CA

21 order:

22 Defendant Kenneth Clair request that the Orange County District  
23 Attorney receive full punishment under the law AB-1909 and any  
24 other applicable law, including criminal punishment for willfully  
25 not complying with the discovery bench order issued by the court on  
26 November 10, 2016.  
27  
28

1 **BRIEF HISTORY OF DISCOVERY BENCH ORDER**

2 On or about November 10, 2016 this court placed a bench order on  
3 the Orange County District Attorney to produce discovery relative  
4 to the Discovery motion that was filed timely and heard on November  
5 10, 2016.  
6

7  
8 The district attorney did not comply with the court's bench order  
9 to contact the defendant's investigator C. J. Ford Jr. within the  
10 15 day period that was ordered by this court. Defendant then filed  
11 a motion set to remove the entire Orange County District Attorney's  
12 office from the case. Without the Orange County District Attorney  
13 turning over Brady discovery of the newly discovered evidence and  
14 forensic testing results, locations of the items, and all other  
15 relevant forensic results, the defendant could not pursue a new  
16 trial.  
17  
18

19  
20 Some discovery was made available by the district attorney's office  
21 on December 21, 2016 on or about 3:17 PM. This discovery was made  
22 available well after the 15 day period of time that this court  
23 ordered the Orange County District Attorney to comply. The  
24 discovery did not come until after the defense filed a motion to  
25 have the entire Orange County District Attorney office removed from  
26 the defendant's case.  
27  
28

1 Defense investigator C. J. Ford Jr. picked up the discovery from  
2 the Orange County District Attorney's office on December 22, 2016.  
3 After reviewing the evidence over the holiday that was sent by the  
4 Orange County District Attorney, Ford did not find any evidence  
5 that was bench ordered by this court pertaining to scientific  
6 testing, locations, and results that were granted by the court  
7 pursuant to the bench order issued on November 10, 2016.  
8

9  
10 **THE DISCOVERY THAT THE DEFENSE RECEIVED DID NOT CONTAIN**  
11 **ANY FORENSIC TESTING RESULTS, LOCATIONS OF EVIDENCE,**  
12 **TAPES, OR ANY OTHER NEWLY DISCOVERY EVIDENCE REQUESTED BY**  
13 **ORDER OF THE COURT.**  
14

15  
16  
17 The discovery that the defense received was information that had to  
18 do with the 1985 arrest of Kenneth Clair, and a single recording of  
19 the 1<sup>st</sup> wiring session of Pauline Flores. The defense did not  
20 receive any of the recorded interviews with Pauline Flores where  
21 the Orange County District Attorney claims publicly that they had  
22 with Pauline Flores. These recordings were made to the public on a  
23 7 part mini series made by the Orange County District Attorney. The  
24 Orange County District Attorney claimed that Pauline Flores  
25 voluntarily cooperated with the Orange County District Attorney and  
26 discussed the murder. The district attorney described in detail the  
27  
28

1 information that they received from the interviews, but never  
2 turned over these tapes to the defense. So the defense now knows  
3 factually that the interview tapes exist, but never received this  
4 in discovery.

5  
6  
7 The withholding of the newly discovered forensic test results of  
8 the items, fingerprints, reports, and present locations clearly and  
9 intentionally was concealed in a bad faith effort by the Orange  
10 County District Attorney to hide and conceal relevant exculpatory  
11 materials and information. The Orange County District Attorney is  
12 concealing this exculpatory information because they know that it  
13 is relevant and favorable to the defendant's case and material to a  
14 new trial by the defendant.  
15

16  
17 The Orange County District Attorney has already admitted that none  
18 of the crime scene evidence, DNA results, match the defendant, so  
19 the Orange County District Attorney is criminally in violation of  
20 the bench order, and the defendant's constitutional rights. Without  
21 this information, the defense does not know whether or not the  
22 Orange County District Attorney is just concealing the information,  
23 or has already destroyed the exculpatory evidence. Either way, this  
24 illegal and bad faith effort by the Orange County District Attorney  
25 violates AB-1909 because the defense has a right to know all  
26  
27  
28

1 information relevant to testing, results, and location of the  
2 murder scene evidence.

3  
4 **DEFENSE DISCOVERY MOTION PURSUANT TO COURT BENCH ORDER**

5  
6  
7 Attached is a copy of the defense discovery motion. The Orange  
8 County District Attorney has willfully and criminally withheld  
9 information because the Orange County District Attorney's office  
10 does not respect this court or orders from this court. The Orange  
11 County District Attorney does not respect the law under AB-1909,  
12 and have directly challenged the law by violating it in its  
13 entirety. The Orange County District Attorney cannot be allowed to  
14 violate the law because they have violated it repeatedly in the  
15 past. An example must be set in this situation because if this  
16 court does not enforce the law, the Orange County District Attorney  
17 will continue to repeatedly violate the law because the district  
18 attorney's belief will be that the law will not be enforced.  
19  
20

21  
22 AB-1909 was drafted and voted in by the People of California, who  
23 the Orange County District Attorney claims to represent. This law  
24 was to ensure that prosecutor's be accountable for withholding  
25 exculpatory evidence, as in this case. Now the authority and  
26 validity of the law is being tested by the Orange County District  
27 Attorney's office, so punishment under AB-1909 should be enforced.  
28

1  
2                   LAW AND PUNISHMENT OUTLINED IN AB-1909  
3  
4

5 SECTION 1: SECTION 141 (C) of the Penal Code Reads:

6 A prosecuting attorney who intentionally and in bad faith alters,  
7 modifies, or withholds any physical matter, digital image, video  
8 recording, or relevant exculpatory material or information, knowing  
9 that it is relevant will be concealed or destroyed, or fraudulently  
10 represents as the original evidence upon a trial, proceeding, or  
11 inquiry, is guilty of a felony punishable by imprisonment pursuant  
12 to subdivision (h) of Section 1170 for 16 months, or two or three  
13 years.  
14

15  
16 This is an obvious violation of the law. The Orange County District  
17 Attorney violated AB-1909 willfully with criminal intent to  
18 obstruct the defendant's constitutional rights. The bad faith and  
19 willful violation of AB-1909 was done knowingly, malicious, and  
20 criminal and performed solely because the Orange County District  
21 Attorney believes that this court or any court will not enforce any  
22 law that makes prosecutor's play by the rules.  
23  
24

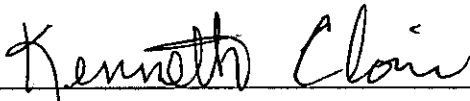
25  
26 The Orange County District Attorney's office truly believes that  
27 they are above the law, the rules and orders of this court, and is  
28 clearly in contempt of this court.

1  
2 The defense feel that this contempt of the court's bench order  
3 should be enforced because if it is not, the Orange County District  
4 Attorney office will continue and repeatedly disobey not only the  
5 orders of this court, but the law of the State, AB-1909.  
6

7  
8 A copy of this Contempt complaint filing is being filed with Patty  
9 Lopez, Assembly Person, who was instrumental in the passing of this  
10 law, so that an official investigation into the illegal and  
11 criminal practices by the Orange County District Attorney can be  
12 officially investigated by the State of California.  
13

14  
15 Dated: December 28, 2016

16 Respectfully Submitted,

17  
18   
19

20 Kenneth Clair/ Defendant in Pro Per  
21  
22  
23  
24  
25  
26  
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1                   **DECLARATION OF C. J. FORD JR., DEFENSE INVESTIGATOR**

2 I, C. J. Ford Jr. swears as follows,

- 3           1. I did not receive any notification within the 15 day  
4           period from the Orange County District Attorney to pick  
5           up the discovery, nor did I receive any notification from  
6           the Orange County District Attorney that they would be  
7           late in complying with the bench ordered discovery.  
8
- 9           2. I received notification on or about December 21, 2016  
10           from someone representing the Orange County District  
11           Attorney's office by a recording left at approximately  
12           3:17 PM that the ordered discovery was available for my  
13           pick-up at their office.  
14
- 15           3. I picked up the discovery on December 22, 2016.
- 16           4. I reviewed the discovery as per the request on the  
17           defense motion for the scientific and forensic, and other  
18           discovery that was granted in the defense motion on  
19           November 10, 2016.  
20
- 21           5. I did not find any relevant discovery as per the defense  
22           request and order. I just received information regarding  
23           the arrest of Kenneth Clair, one tape, and some police  
24           reports.  
25
- 26           6. I was not given any information regarding the scientific  
27           testing results, location of the evidence, or any  
28



1 information that was granted by the bench order for  
2 investigative purposes for a new trial.

3 7. I have been the main investigator on this matter for  
4 about 10 years or more, and this case contains many more  
5 tapes, newly discovered forensic testing of the items,  
6 finger prints, trace evidence results, etc., that was not  
7 part of the discovery.  
8

9 8. I can not conclude as to whether or not the Orange County  
10 District Attorney Office is concealing this evidence,  
11 results, and locations because they have already  
12 destroyed all the physical evidence, in anticipating that  
13 defendant Kenneth Clair was going to be resentenced,  
14 because part of the DA's resentencing request was to  
15 destroy ALL the evidence, or if the DA is just violating  
16 the law.  
17  
18  
19

20 I swear that this declaration is true and correct under the penalty  
21 of perjury.  
22

23 Dated: December 28, 2016

24   
25 \_\_\_\_\_  
26 C. J. Ford Jr.  
27  
28

1 Kenneth Clair  
2 501 City Drive South  
3 Orange, CA. 928868  
4 Booking Number: 2925186

RECEIVED  
OCT 26 2016

FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER

OCT 26 2016

ALAN CARLSON, Clerk of the Court

OFFICE OF THE DISTRICT ATTORNEY  
CENTRAL JUSTICE CENTER  
SANTA ANA, CA

BY: **BRENDA RAAB**  
DEPUTY

In: Pro Per

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
7  
8 FOR THE COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

10 PEOPLE OF THE STATE OF )

Case No. C-57572

11 CALIFORNIA, )

) DISCOVERY MOTION AND  
) TRANSCRIPTS

12 Plaintiff, )

) TO HAVE ALL OF THE  
) DISCOVERY DEVELOPED ON  
) DEFENDANTS CASE AND ALL OF  
) THE TRANSCRIPTS TURNED OVER

14 vs. )

) TO KENNETH CLAIR'S  
) INVESTIGATOR C. J. FORD  
) JR. FOR PREPARATION OF  
) RESENTENCING DEFENSE AND  
) REQUEST FOR NEW TRIAL

16 KENNETH CLAIR

17 Defendant

Hearing Date: Thursday

19 To The Honorable Judge GOETHALS of Department C45:

Nov. 10, 2016

8:30am

20 KENNETH CLAIR, Defendant in the above matter seeks the following

21 order:

22 Kenneth Clair is requesting an order by this court to have all  
23 discovery in the Orange County District Attorney's office regarding  
24 this matter turned over to defendant's investigator C. J. Ford Jr.  
25

26 - 1 -

DISCOVERY MOTION AND TRANSCRIPTS

28 TO HAVE ALL OF THE DISCOVERY DEVELOPED ON DEFENDANTS CASE AND ALL OF THE TRANSCRIPTS TURNED OVER TO  
KENNETH CLAIR'S INVESTIGATOR C. J. FORD JR. FOR PREPARATION OF RESENTENCING DEFENSE AND REQUEST FOR  
NEW TRIAL

EXHIBIT A

1 This includes all briefs and documentation filed or in the  
2 possession of the Orange County District Attorney's office related  
3 to this case.

4  
5 This includes but NOT limited to briefs, police reports, physical  
6 evidence, photos, diagrams, slides, composites, videotapes, crime  
7 scene exhibits, court and exhibits.  
8

9  
10  
11 **SCIENTIFIC EVIDENCE**  
12

13 This request "Scientific" evidence such as DNA information,  
14 reports, communication, test, and results for further evaluation  
15 and investigation for resentencing purposes and to respond to the  
16 district attorney's current motion where the district attorney  
17 claims that this court does not have authority to do any more than  
18 resentence the defendant. The defendant believes that this court  
19 does have, or will have the authority to hear a motion for a new  
20 trial or to handle other matters other than resentencing before or  
21 by the January, 13, 2017 court date. The defendant is preparing a  
22 motion, if necessary, to a higher court to give this court the  
23 authority to hear a motion for a new trial or other matters besides  
24 resentencing.  
25  
26

27 - 2 -

DISCOVERY MOTION AND TRANSCRIPTS

28 TO HAVE ALL OF THE DISCOVERY DEVELOPED ON DEFENDANTS CASE AND ALL OF THE TRANSCRIPTS TURNED OVER TO  
KENNETH CLAIR'S INVESTIGATOR C. J. FORD JR. FOR PREPARATION OF RESENTENCING DEFENSE AND REQUEST FOR  
NEW TRIAL

1 The defendant also request that all "Scientific" evidence in  
2 defendant's case be protected by this court and that the district  
3 attorney, the Santa Ana Police Department, and all other agencies  
4 that have this evidence in their possession be bared from handling,  
5 testing, examinations, transporting, or any handling other way,  
6 being involved with the evidence without a defense expert being  
7 present. The defendant request that all report and testing results  
8 and the locations of all evidence be reported to the defendant and  
9 this court and no other testing is to continue, or any new testing  
10 will be done until the appropriate time agreed to by the defense.  
11  
12

13  
14 The defendant is requesting that the district attorney make the  
15 court and the defendant aware of any current or past testing, any  
16 results if known, and the names of all facilities that are testing  
17 the evidence, and their addresses.  
18  
19

20 **THE DEFENDANT'S 6<sup>TH</sup> AND 14<sup>TH</sup> RIGHTS MUST BE PROTECTED**  
21 **BEFORE THE RESENTENCING HEARING ON JANUARY 13, 2017**  
22  
23

24 The defendant intends in defendant's responding papers to file a  
25 constitutional response for the purpose outlined in defendant's  
26

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27 - 3 -

DISCOVERY MOTION AND TRANSCRIPTS

28 TO HAVE ALL OF THE DISCOVERY DEVELOPED ON DEFENDANT'S CASE AND ALL OF THE TRANSCRIPTS TURNED OVER TO  
KENNETH CLAIR'S INVESTIGATOR C. J. FORD JR. FOR PREPARATION OF RESENTENCING DEFENSE AND REQUEST FOR  
NEW TRIAL

1 upcoming response to challenge the district attorney's assumption  
2 that this court only is authorized to rule on resentencing issues.  
3

4 The defendant believes that this court has not ruled on the  
5 resentencing issue as of this date, and that the defendant should  
6 be allowed to prepare a motion for a new trial in case the court  
7 decides that it has the authority to rule on whether or not the  
8 defendant can file a motion for a new trial. There is no ruling at  
9 this time that would prohibit the defendant from seeking a new  
10 trial as part of his response to the district attorney's moving  
11 papers.  
12  
13

14  
15 The defendant needs the court to protect the defendant's legal  
16 rights guaranteed to him by the 6<sup>th</sup> and 14<sup>th</sup> amendments of the  
17 constitution to be able to prepare for a new trial, and to have his  
18 discovery to prepare.  
19

20  
21 **TRANSCRIPTS OF ACTIVITY IN DEPARTMENT C45**  
22

23 The defendant is also requesting that all transcripts of this  
24 matter heard in department C45 be given to the defense  
25

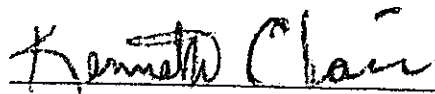
26  
27 - 4 -

DISCOVERY MOTION AND TRANSCRIPTS

28 TO HAVE ALL OF THE DISCOVERY DEVELOPED ON DEFENDANTS CASE AND ALL OF THE TRANSCRIPTS TURNED OVER TO  
KENNETH CLAIR'S INVESTIGATOR C. J. FORD JR. FOR PREPARATION OF RESENTENCING DEFENSE AND REQUEST FOR  
NEW TRIAL

1 investigator, C. J. Ford Jr. for the purpose of delivering to the  
2 defendart without cost because the defendant is pro-per.  
3

4 DATED: October 19, 2016  
5

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8 Kenneth Clair  
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- 5 -

DISCOVERY MOTION AND TRANSCRIPTS

27  
28 TO HAVE ALL OF THE DISCOVERY DEVELOPED ON DEFENDANTS CASE AND ALL OF THE TRANSCRIPTS TURNED OVER TO  
KENNETH CLAIR'S INVESTIGATOR C. J. FORD JR. FOR PREPARATION OF RESENTENCING DEFENSE AND REQUEST FOR  
NEW TRIAL