

TABLE OF CONTENTS

Table of Citations.....	iii
Nature and Stage of Proceedings	1
Summary of Argument	2
Statement of Facts	4
Argument	
I. DEFENDANT’S FEDERAL DUE PROCESS RIGHT TO A FAIR TRIAL WAS VIOLATED BY PROSECUTORIAL MISCONDUCT WHEN THE PROSECUTOR ELICITED PATROLMAN BARNES’ OPINION THAT HE DID NOT BELIEVE THAT THE VICTIM WAS BEING TRUTHFUL WHEN HE STATED HE DID NOT KNOW WHO SHOT HIM.....	13
II. DEFENDANT’S FEDERAL DUE PROCESS RIGHT TO A FAIR TRIAL WAS VIOLATED BY PATROLMAN BARNES’S OPINION THAT HE DID NOT BELIEVE THAT THE VICTIM WAS BEING TRUTHFUL WHEN HE STATED HE DID NOT KNOW WHO SHOT HIM.....	26
III. DEFENDANT’S FEDERAL DUE PROCESS RIGHT TO A FAIR TRIAL WAS VIOLATED BY PROSECUTORIAL MISCONDUCT WHEN THE PROSECUTOR IMPERMISSIBLY BOLSTERED DONALD COOPER’S TESTIMONY BY ELICITING THAT A CONDITION OF HIS PROTECTION AGREEMENT WAS THAT HE TESTIFY TRUTHFULLY.....	28
IV. DEFENDANT’S FEDERAL DUE PROCESS RIGHT TO A FAIR TRIAL WAS VIOLATED BECAUSE COOPER’S PRETRIAL VIDEO STATEMENT SHOULD HAVE BEEN EXCLUDED AS CUMULATIVE AS IT ONLY SERVED TO BOLSTER HIS IN COURT TESTIMONY.....	32

Conclusion 35

Exhibit A – Sentencing Order being appealed from.

TABLE OF CITATIONS

<i>Alan v. State</i> , 878 A.2d 447 (Del. 2005).....	29
<i>Baker v. State</i> , 906 A.2d 139 (Del. 2006).....	13, 22
<i>Capano v. State</i> , 781 A.2d 556, 595 (Del. 2001)	20
<i>Greer v. Miller</i> , 483 U.S. 756, 766 N.8 (1987).....	24
<i>Hughes v. State</i> , 437 A.2d 559, 571 (Del. 1981).....	13, 14, 20, 21
<i>Hunter v. State</i> , 815 A.2d 730 (Del. 2002).....	13, 14
<i>Luttrell v. State</i> , 97 A.3d 70 (Del. 2014).....	21, 22, 27
<i>Marshall v. United States</i> , 360 U.S. 310 (1959).....	25
<i>Pena v. State</i> , 856 A.2d 548, 550-51 (Del. 2004).....	26, 27
<i>Potts v. State</i> , 458 A.2d 1165, 1169 (Del. 1983)	29
<i>Richardson v. Marsh</i> , 481 U.S. 200 (1987).....	24
<i>Richardson v. State</i> , 43 A.3d 906, 910 (Del. 2012).....	20, 34
<i>State v. Albino</i> , 97 A.3rd 478 (Conn. Supr. 2014).....	20
<i>State v. Singh</i> , 793 A.2d 226 (Conn. Supr. 2002)	20
<i>State v. Swims</i> , 569 S.E.2d 784, 793 (2002)	29
<i>United States v. Brooks</i> , 508 F.3d 1205, 1210 (9 th Cir. 2007).....	29
<i>U.S. v. Shaw</i> , 829 F.2d 714, 716 (9 th Cir. 1987).....	30
<i>U.S. v. Stinson</i> , 647 F.3d 1196 (9 th Cir. 2011).....	19
<i>United States v. Wallace</i> , 848 F.2d 1464, 1474 (9 th Cir. 1988).....	30

Whittle v. State, 77 A.3d 239 (Del. 2013)..... 20, 22

Statutes, Rules & Other Authorities

11 Del Code Section 3507..... 2, 3, 33, 34

Del. Supr. Ct. R. 8..... 33

United States Constitution

Fifth Amendment.....passim

Fourteenth Amendment.....passim

NATURE AND STAGE OF PROCEEDINGS

On January 12, 2016, a jury found the Defendant guilty of Murder First-Degree (non-capital), Reckless Endangering First-Degree, two counts of Possession of a Firearm During the Commission of a Felony (PFDCF), and Theft (m) relating to the shooting death of Kyrell Lewis on January 9, 2015. On March 11, 2016, Defendant was sentenced to life in prison at L5 on the Murder First-Degree conviction and an aggregate of 15 years L5 for the remaining charges.

Defendant filed a direct appeal of his convictions. This is his Opening Brief in support of his direct appeal.

SUMMARY OF ARGUMENT

1. The prosecutor engaged in misconduct that unfairly affected the outcome of the trial by impermissibly eliciting a police officer's opinion that he did not believe Kyrell Lewis was being truthful. The most powerful defense argument in this case was that Lewis expressed that he did not know who shot him to the 911 dispatcher, or to Patrolman Reginald Barnes or Patrolman Townsend. This defense was irreparably undermined when the prosecutor improperly elicited from Barnes that he did not believe Lewis was being truthful about who shot him.

2. Even if the Court denies Argument I by finding that the prosecutor did not engage in misconduct, then it is asserted that Patrolman Barnes' improper opinion that Lewis was not truthful establishes an independent violation of Defendant's federal due process right to a fair trial.

3. The prosecutor engaged in misconduct when he vouched for Donald Cooper's credibility by eliciting testimony on the "testify truthfully" provisions of Cooper's Witness Protection Services Agreement on redirect examination.

4. The State played Cooper's pretrial video statement to the jury pursuant to 11 Del Code Section 3507. Cooper's pretrial statement was

consistent with his trial testimony. Since Cooper was not a turncoat witness, the only purpose served by playing the tape was to bolster his testimony. Therefore, there was no basis under Section 3507 to admit his pretrial statement. It was plain error to admit the pretrial statement because it was cumulative and unfairly bolstered Cooper's testimony and likely had a prejudicial effect upon the jury.

STATEMENT OF FACTS

On January 9, 2015, Kyrell Lewis was shot to death in front of his house located at 211 Parma Avenue, New Castle, Delaware. The State's case in chief was based upon the following evidence:

At approximately 6:37 p.m. on January 9, 2015, Tyrell Lewis (a.k.a. "Bubba") received a text message stating "Yo, I'm out here." The message was purportedly sent to Lewis by the Defendant. The text was the final text message in a string of texts that started earlier that night. The text came from phone number 302-401-0493, purportedly the Defendant's phone number. The gist of the messages was a demand that Bubba stop playing him over an alleged unpaid debt.

At approximately 6:37 p.m., Lewis met with an individual outside of his house where an argument ensued. The testimony varied about the number of individuals present during the argument. The argument became heated, and neighbors overheard and watched as the argument escalated. An individual, alleged to be the Defendant, was angry and yelling at Lewis until the argument subsided. As the individual started to walk away, Lewis said something which apparently infuriated that individual, causing him to run up to Lewis and fire four shots at him, and three more shots as he ran away.

Lewis was struck by the gunshots and stumbled inside of his residence and directed his Aunt, Phyllis Shaw, to call the police. Lewis spoke to the 911 dispatcher and stated he did not know who shot him.¹ Shortly thereafter, Lewis told Patrolman Barnes that it was two black men in all-black clothing who shot him.² He then told Patrolman Townsend that he was shot by an unknown individual.³ Finally, he told EMT Brian Reeder that he just heard four pops.⁴

Phyllis Shaw, Lewis's aunt, resided at 211 Parma Ave. and was present at 6:37 p.m. She was in her front bedroom when she heard Lewis walk out of the house. She heard her nephew arguing with another person and looked out the window. She stated that Lewis was arguing with the Defendant, whose nickname was "Mere." Defendant was wearing a purple zip-up hoodie and a gray pair of sweatpants.⁵ His head was covered by the hood.⁶

Shaw walked away from the window but the arguing continued. She briefly looked out the window again and observed the argument continue.

¹ (911 recording; Exhibit 80).

² (A-22, T-47).

³ (A- 24, T-57).

⁴ (A- 34, T-9).

⁵ (A-11, T-56).

⁶ (A-12, T-65).

She walked away from the window briefly and heard gunshots. She went downstairs and observed Tyrell come inside and state that he had been shot. She called 911 at 6:48 p.m. Shaw did not see the shooting or ever see the Defendant with a gun.⁷

Shaw took possession of the victim's cell phone and brought it to the hospital where it was provided to the police. Detective Jamante Cooper extracted information from the victim's phone, including the call log, text messages and contact information. Phone number 302-401-0493 is listed as "Mersey." At 6:27:09 p.m., Mersey texts to Bubba, "When you fucking make nigga stop playing with me FR [for real]." At 6:28 p.m. Bubba texts, "You playing with you, not me. HMP [Hit me up]." 30 seconds later a text from Mersey says, "WYA" [where you at?]" Three minutes later, a text from Mersey states, "What?" "WYA?" The victim responds, "Crib." A text from Mersey says, "ART [All right]. I'm about there. Come out." At 6:37: 28, p.m., a text from Mersey provides, "Yo, I'm out here."⁸

Joe Trawicki, a representative from Sprint, and Brian Dailey, said that Maurice Webster is the subscriber for cell phone number 302-401-0493.

Brian Dailey conducted cell tower analysis for cell phone number 302-401-0493. The calls made from that phone placed it in the general area

⁷ (A-12, T-63, 64).

⁸ (A-20, T-34).

at the time of the shooting, but that a precise location was unable to be established because of the limitations of cell tower analysis.

Nora Luevano and Jorge Lujan were present at 207 Parma Ave. at the time of the shooting. They had gone out for dinner and when they arrived home they observed Lewis arguing with another man in the victim's driveway. There is one townhouse in between 207 Parma Ave. and 211 Parma Ave. They went into the house to watch TV. When the argument continued, Nora decided to go upstairs to the spare bedroom to see what was going on. She saw her neighbor and the other man arguing. The other individual was wearing white pants. A third man walked up and kind of stood behind them.⁹ She saw that the guy who was arguing with Lewis, and the other guy, started to walk off. When they got about 15 feet Lewis said something. This caused the man he was arguing with to turn around, run back at him and fire gunshots at Lewis from about 3½ feet away. He then fired more shots as he was running away. Luevano was certain that the guy who shot Lewis was the same person who was arguing with him in the driveway.¹⁰ Luevano testified that the lighting conditions were not good enough to see the shooter's face. She said the shooter was wearing white

⁹ (A-13, T-96).

¹⁰ (A-14, T-99).

pants, not sweatpants.¹¹ He was wearing a light jacket, but no hood on his head.¹² She was not able to identify the Defendant as the shooter.

Jorge Lujan heard the argument but did not see the shooting. He was not able to identify the Defendant as the individual who was arguing with Lewis.

Douglas Pressley was at 219 Parma Avenue sitting on his car talking to a friend on his cell phone when the shooting occurred. He heard arguing about a sporting event prior to the shooting but did not observe the actual shooting.¹³ One of the bullets pierced Pressley's pants, but did not cause injury.

Pressley was unable to identify the Defendant as one of the individual's at the victim's house at the time of the argument or shooting.¹⁴ He also testified that he observed from 4-5 people present at the scene during the argument with Lewis.¹⁵ Pressley told Officer Zolonowski that he saw Bubba arguing with a group of black males and a white male with a red

¹¹ (A-13, 15, T-97,107).

¹² (A-15, T-108,109).

¹³ (A-16, T-158, 159).

¹⁴ (A-16, T-159).

¹⁵ (A-16, T-158).

beard and red clothing.¹⁶ Pressley first told Detective Sendek that he saw 4-5 males at the scene, but later said it was 5-6 males.¹⁷

Fawwaz Mohammed is a clerk and manager at Newcastle Market, a local convenience store. The police took a surveillance video from him which purportedly shows the Defendant in the store buying minutes for his phone on the date of the offense. The video purportedly showed the Defendant with pants matching Luevano's description of the shooter. The time on the receipt for the minutes purchased did not correspond to the time on the video. Mohammed stated that the dates and times on the video were not accurate or reliable.¹⁸

Defendant was arrested the next day and was taken to Howard R. Young Correctional Institute where he was incarcerated in a pretrial intake pod, Pod 1-A. on January 20, 2015, Donald Cooper, a convicted felon, was arrested for a violation of probation and was placed in the same pod with the Defendant. Cooper knew the Defendant and talked while they were on the pod. Cooper testified that the Defendant admitted to shooting "Bubba" and that he used a 9 mm weapon. Cooper said the Defendant told them that the

¹⁶ (A-17, T-177).

¹⁷ (A-18, 19; T-180, 182).

¹⁸ (A-35, 36; T-93-95).

argument was over a debt and that they had been communicating by cell phone beforehand.

Cooper reached out to the police on February 3, 2015 about the information he learned from the Defendant. He wanted to exchange the information to benefit himself.

Cooper testified that the Defendant admitted that he shot the victim with a 9 mm weapon because of a drug debt. He testified that he was not receiving any benefit in exchange for his testimony - that he was motivated because it was the right thing to do. He entered into a written Witness Services Protection Agreement, and that the terms of the agreement required him to “testify truthfully” if called as a witness. His benefit for testifying was to be relocated for his protection, and that the State would provide relocation assistance.

In January, 2015, Cooper was arrested for a violation of probation based upon a positive urine screen.¹⁹ Following his arrest he was placed in Pod 1-A at the Howard R. Young Correctional Institution. The Defendant was housed in the same pod and he was able to communicate with him. They were on the same pod for about 10, 14 days. He claimed that Defendant told him that “*Bub owed him \$80 for some weed and he had to do it. He wasn’t*

¹⁹ (A-27, T-86).

going to fight Bub, he said or – and he was scared to fight Bub, something like that. And he said that he hit him with a “nine” [a 9 mm handgun]. He said the “nine” was still out there.” He said that somebody handed Lewis’ phone to the police and that the text messages were deleted out of it, either his or Bubs, and he said that it was like they were texting a ghost.

In February, 2015, he spoke to Detective Ziembra and provided him information about what the Defendant had told him.²⁰ He admitted that initially he was cooperating to obtain a benefit in his case. He had an expectation that he would be rewarded for his cooperation, and that his goal was to please the State “so they could please me.”²¹ He entered into a written agreement with the State dated December 29, 2015. He testified that other than protection, he was not expecting anything else for his cooperation.²² He was doing it “because it’s good thing to do.”²³ Pursuant to the terms of the agreement the State was going to file a motion for substantial assistance to reduce his probation so that he can leave the state.²⁴

On redirect, Cooper reviewed the terms of the witness protection services agreement. In response to the prosecutor’s question, Cooper read that his obligation under the terms of the agreement was “*to cooperate fully*

²⁰ (A-28; T-94, 95).

²¹ (A-30; T-112)

²² (A-30, 31, 46; T-113, 114).

²³ (A-31; T-114).

²⁴ (A-31; T-114, 115).

and truthfully with the investigation or prosecution of the State of Delaware v. Maurice Cruz-Webster and to testify truthfully if by a witness by any part during a trial or in any part involving these matters.”²⁵ The other portion of the agreement obligated the Department of Justice to provide certain services for the purpose of protecting his health, safety security and welfare.²⁶ The services included relocation upon completion of trial, including payment of six months’ rent and security deposit at a new location, continuation of living expenses, moving costs and storage fees.²⁷

No gun was recovered. DNA was recovered from the shells located at the scene, but no fingerprints were lifted from the shells. Paul Gilbert of the Division of Forensic Science performed a DNA analysis of the swabs from the shells. His analysis disclosed that the swabs from the shell casings were consistent with being a mixture of at least two individuals, at least one of which was a male.²⁸ The DNA of the major and minor contributors were not consistent with the known DNA profile of Cruz-Webster.²⁹

²⁵ (A-32; T-124).

²⁶ (A-32, 49; T-124, 125).

²⁷ (A-32, 33; T-125, 126).

²⁸ (A-37; T-16).

²⁹ (A- 38; T-17)

ARGUMENT I: DEFENDANT'S FEDERAL DUE PROCESS RIGHT TO A FAIR TRIAL WAS VIOLATED BY PROSECUTORIAL MISCONDUCT WHEN THE PROSECUTOR ELICITED PATROLMAN BARNES' OPINION THAT HE DID NOT BELIEVE THAT THE VICTIM WAS BEING TRUTHFUL WHEN HE STATED HE DID NOT KNOW WHO SHOT HIM.

1. Question Presented: Did the prosecutor engage in misconduct that deprived Defendant of his federal due process right to a fair trial by eliciting a police officer's opinion that he did not believe Kyrell Lewis was being truthful? Defendant preserved this claim by making a timely objection to the improper comment elicited by the prosecutor.³⁰

2. Standard and Scope of Review: This Court reviews *de novo* a claim of prosecutorial misconduct for harmless error.³¹ The first step in the harmless error analysis involves a *de novo* review of the record to determine whether misconduct actually occurred.³² If the Court determines that no misconduct occurred, the analysis ends there. If the Court determines that the trial prosecutor did engage in misconduct, the Court determines whether the misconduct prejudicially affected the Defendant's substantial rights warranting a reversal of the conviction. To determine whether prosecutorial misconduct prejudicially affects a defendant's substantial rights, the Court applies the three factors of the *Hughes* test, which are (1) the closeness of

³⁰ (A-23; T-50).

³¹ *Baker v. State*, 906 A.2d 139 (Del. 2006).

³² *Hunter v. State*, 815 A.2d 730 (Del 2002).

the case; (2) the centrality of the issue affected by the error; and (3) the steps taken to mitigate the effects of the error.³³ Where the prosecutorial misconduct fails the *Hughes* test, the court examines *Hunter* – the final step in the harmless error analysis for prosecutorial misconduct – considering whether the prosecutor’s statements or misconduct are repetitive errors that require reversal because they cast doubt on the integrity of the judicial process.³⁴

3. Merits: The prosecutor engaged in misconduct that unfairly affected the outcome of the trial by impermissibly eliciting an officer’s opinion that Kyrell Lewis was not being truthful. The most powerful defense argument in this case was that Lewis expressed on multiple occasions that he did not know who shot him. First, to the 911 dispatcher, then to Patrolman Reginald Townsend, and then to Patrolman Barnes. This defense was irreparably undermined when the prosecutor improperly elicited from Barnes that he did not believe Lewis was being truthful about who shot him.³⁵

The misconduct occurred during the testimony of Patrolman Reginald Barnes. On direct, he testified that he responded to 211 Parma Avenue and made contact with Kyrell Lewis who was lying on the living room floor.

³³ *Hughes v. State*, 437 A.2d 559, 571 (Del. 1981).

³⁴ *Hunter v. State*, 815 A.2d 730 (Del. 2002).

³⁵ (A- 23; T-50).

Lewis was conscious and alert, was speaking normally, and was not in any distress.³⁶ Barnes asked Lewis *multiple times* what had happened.³⁷ Lewis stated that he was standing on the front steps of his residence and two black males wearing all black shot him and ran towards Memorial Drive after they shot him.³⁸

On cross-examination, defense counsel elicited a response from Barnes merely repeating his direct testimony: that he asked Lewis multiple times what happened, that he consistently said that it was two black males wearing all black, and that he did not provide any names.³⁹

On redirect, the following exchange occurred:

Mr. Kriner: *Why did you ask him multiple times?*

Barnes: *I didn't believe him, essentially. They didn't know...*⁴⁰

Counsel objected on the basis that it is “improper for an officer to comment on the credibility of someone else” and that the “question was asked to invite the officer to comment on whether he believed [that the victim was being truthful].⁴¹

³⁶ (A-21-22; T-45, 46).

³⁷ (A-22, T-46).

³⁸ (A-22; T-47).

³⁹ (A-23, T-50).

⁴⁰ (A-23, T-50)

⁴¹ (A-23; T-50, 51).

While the prosecutor claimed that he was not trying to elicit a response from the officer to comment on the credibility of the victim, a close examination of his explanation betrays that improper motive.⁴² First, his claimed purpose was to elicit that Barnes asked him multiple times what happened because he believed that his response would be “to get more details because he did not give him details.”⁴³ If that is true, why didn’t he simply ask “did you try to get more details?” instead of a question that was likely to elicit the response that was given. Next, why did he ask the question on redirect, instead of direct, when the officer first stated that he asked Lewis “multiple times” what happened? On cross examination, defense counsel did not elicit new facts. He merely confirmed that the officer asked Lewis multiple times what happened, and that the victim’s responses were consistent.

The prosecutor then speculated that the aim of defense counsel’s questioning was to “*leave the jury with the impression because he’s calm and coherent he’s giving truthful information.*”⁴⁴ In other words, the prosecutor wanted to counter the truthfulness inference, and asked the question to elicit a response to rebut the assumed defense objective.

⁴² (A-23, T-50-52).

⁴³ (A-23; T-51).

⁴⁴ (A-23; T-51)(emphasis added).

Note that defense counsel did not elicit the testimony that Lewis was “calm and coherent,” but rather that he was “conscious and alert.”⁴⁵

But more importantly, the prosecutor implicitly reveals that the purpose of his redirect examination - to elicit the officer’s belief that Lewis was not telling the truth - was to rebut the inference that Lewis was “giving truthful information.” He then confesses “*I’m sorry, if the way it turns out is this officer didn’t believe what he said, but that’s the reality of the situation. Now, I know in a courtroom we’re not allowed to say that kind of stuff maybe, but I think this was invited by defense counsel because he went down that road with it.*”⁴⁶

While the prosecutor tried to explain that it “*was not what I was trying to illicit (sp?), only that he did not give a lot of details,*”⁴⁷ his continued explanation establishes that his intent was to elicit the officer’s opinion on his truthfulness:

“And that’s important I think that he did not give a lot of details because I think the inference from that is that he wasn’t being truthful,

⁴⁵ (A-23; T-50).

⁴⁶ (A-23, 34; T-51, 52).

⁴⁷ (A-23; T-52).

but that's why I asked the question Your Honor."⁴⁸ The prosecutor further explained:

Well, I'm assuming defense counsel asked that because he wants to make the argument in closing that he was calm and must have been able to say who shot him if he wanted to."⁴⁹

In other words, the prosecutor asked the question to elicit a response rebutting any suggestion that Lewis was being truthful. The real purpose of the question was to elicit an improper response to rebut an anticipated claim of the victim's credibility. Conversely, in the context of the officer's testimony, it was not logical to expect any other response to the prosecutor's question other than that the officer did not believe Lewis.

Finally, defense counsel did not invite the line of questioning as he merely had the officer confirm certain details of his direct testimony and did not elicit any different testimony.

The Court sustained the objection but found that "I don't think the prosecution intended to elicit that response. Let me make that perfectly clear."⁵⁰ The trial court issued the following curative instruction:

⁴⁸ (A-23; T-51, 52). (emphasis added).

⁴⁹ (A-23, T-52).

⁵⁰ (A-23, T-53). (*This determination is inconsistent with the prosecutor's response, and the context upon which the prosecutor asked the question, and constitutes an abuse of discretion*).

The Court: *Ladies and gentlemen of the jury, I'm going to instruct you to disregard the police officer statement about his disbelief of what the Defendant told him.*⁵¹ *Do you understand? What the police officer thinks about the credibility of a witnesses is not relevant because you are the finders of fact in this case. You determine the credibility of the witnesses and evidence. That's your role. Do you understand?*⁵²

The credibility of Kyrell Lewis was highly exculpatory of Defendant and potentially case determinative. The improper question and response caused unfair prejudice to the Defendant and led to a reasonable likelihood that the error affected the judgment of the jury.

Law

The right to a fair trial and to present an adequate defense is safeguarded by the due process clause of the Fifth and Fourteenth Amendments to the United States Constitution.

Prosecutorial misconduct based upon improper vouching may occur when the prosecutor elicits vouching testimony from a witness.⁵³ A witness may not bolster or vouch for the credibility of another witness by testifying

⁵¹ (After the court advised of this error- stating "Defendant" instead of Lewis-the parties agreed not to take any corrective action.) (A-26; T-68, 69).

⁵² (A-23, 24, T-53, 54).

⁵³ *U.S. v. Stinson*, 647 F.3d 1196 (9th Cir. 2011).

that the other witness is telling the truth.⁵⁴ Impermissible vouching includes testimony that directly or indirectly provides an opinion on the veracity of a particular witness.⁵⁵ Any comments by the police officer, in court or during the course of interrogation of the Defendant, in which the officer expresses doubts as to the Defendant's credibility, is improper.⁵⁶

It is also improper for a prosecutor to ask a witness to comment on the credibility or veracity of another individual.⁵⁷ Several reasons underlie the prohibition on such questions. First, it is well-established that determinations of credibility are for the jury, and not for witnesses. Consequently, the questions that ask a witness to comment on another witness's veracity invade the province of the jury. This is especially true when a police officer is asked to opine on the credibility of another witness as a jury is likely to give weight to an officer's opinion.⁵⁸

⁵⁴ *Richardson v. State*, 43 A.3d 906, 910 (Del. 2012)(citing *Capano v. State*, 781 A.2d 556, 595 (Del. 2001). See also *Whittle v. State*, 77 A.3d 239 (Del. 2013)(prosecutorial vouching).

⁵⁵ *Richardson v. State*, 43 A.3d 906 at 910 (Del. 2012)(citing *Capano v. State*, 781 A.2d 556 at 595 (Del. 2001).

⁵⁶ *Luttrell v. State*, 97 A.3d 70 (Del. 2014).

⁵⁷ *State v. Singh*, 793 A.2d 226 (Conn. Supr. 2002), holding limited by *State v. Albino*, 97 A.3d 478 (Conn. Supr. 2014).

⁵⁸ See also, *Hughes v. State*, Del. Supr., 437 A.2d at 571 (1981). (It is improper to elicit an opinion from a witness whether he believes that another witness was "lying" if the question serves no other purpose than to have the witness state his personal opinion as to the credibility of another witness.)

In *Luttrell*, the defendant was charged with multiple sex offenses involving a juvenile. During the course of the investigation, Luttrell was interviewed by a detective regarding the allegations against him. Luttrell made inconsistent statements to the officer. During its case-in-chief, a video of Luttrell's pre-arrest interview was played for the jury. During the course of the video interview, the detective made comments (the child was "pretty adamant about his allegations" and that "a 10-year-old doesn't really have a reason to make stuff up.") which could be interpreted as bolstering the credibility of the child complainant. Furthermore, the detective testified at trial about Luttrell's alleged inconsistent statements (he would not have arrested Luttrell if he had believed the information that Luttrell had provided during the interview) which could be reasonably interpreted as his opinion that Luttrell was lying. The defense attorney did not object.

This Court agreed that the video of the detective's interrogation of Luttrell, in addition to the detective's testimony about Luttrell's inconsistencies, amounted to impermissible vouching and reversed his convictions for plain error.

Application of *Hughes* Test

On the facts of this case and the context of the patrolman's testimony, the prosecutor's question, whether inartfully worded or consciously intended

to elicit a comment on the victim's credibility, constituted misconduct. The question was a thinly veiled attempt to elicit the officer's opinion that he did not believe Lewis when he stated he did not know who shot him. This fit with the prosecutor's purpose of rebutting any inference of Lewis' truthfulness in order to undermine the primary defense in this case. This Court has found that vouching is reversible error on multiple occasions.⁵⁹

The "closeness of the case" prong is easily met. This was a close case by virtue of the fact that no witness identified the defendant as the shooter, including the victim. No witness saw Defendant possess a gun. Descriptions of the individuals at the scene of the shooting were inconsistent. Shaw's description of the clothing the Defendant was wearing (purple zip up hoodie, gray sweatpants) differed with Luevano's description of the shooter (white pants, light jacket, no hood). Even if defendant was present, testimony varied that there were between 2 and up to 6 individuals present at the time of the shooting.

There was no physical evidence linking Defendant to the crime. The DNA of the major and minor contributors on the shell casings were not consistent with the known DNA profile of Cruz-Webster.⁶⁰ There was no

⁵⁹ *Whittle v. State*, 77 A.3rd 239 (Del. 2013). *Baker v. State*, 906 A.2d 139 (Del. 2006). *Luttrell v. State*, 97 A.3d 70 (Del. 2014).

⁶⁰ (A-37-38, T-17, 18.)

fingerprint evidence linking the defendant to the shell casings. Neither the gun, nor defendant's cell phone, were located.

While Donald Cooper's testimony was harmful, his credibility was questionable.

Obviously, Kyrell Lewis was in the best position to observe who shot him. He told the 911 dispatcher, and two separate officers, that he did not know who shot him. Since it was undisputed that Lewis was friends with the Defendant, his testimony strongly exculpated Cruz-Webster. The circumstantial evidence against the Defendant was marginal. This was a close case by any measure.

The next prong, "centrality of the issue affected by the error," favors the Defendant. The credibility of Lewis was central to the case. This misconduct was devastating to the core of the defense – that while the victim knew the Defendant, he repeatedly stated that he did not know who shot him. The officer's improper opinion invaded the province of the jury and likely influenced it to determine that Lewis was not believable when he stated that he did not know who shot him.

Finally, the "steps taken to mitigate the effects of the error" favors the Defendant because a curative instruction was not effective to sanitize the magnitude of this error and its effect on the defense. A court has two options

when faced with the need to cure the prejudicial effects of inadmissible evidence presented to a jury; it can issue a curative instruction or declare a mistrial. The decision to grant a mistrial generally rests within the sound discretion of the trial court and the primary factor in making that determination is the extent to which the Defendant has been prejudiced.

When a curative instruction has been made to the jury, the question is whether the court's instruction was adequate to cure the prejudice;

“we normally presume that a jury will follow an instruction to disregard inadmissible evidence inadvertently presented to it, and less there is an “overwhelming probability” that the jury will be unable to follow the court's instruction... And a strong likelihood that the effect of the evidence would be “devastating” to the defendant.”⁶¹

The rule that juries are presumed to follow their instructions is a pragmatic one, rooted less in the absolute certitude that the presumption is true than in the belief that it represents a reasonable practical accommodation of the interest of the State and the defendant in criminal justice process.⁶² The exception to the rule [that jury instructions will cure prejudice] occurs where the character of the testimony is such that it will create so strong an impression on the minds of the jurors that they will be

⁶¹ *Greer v. Miller*, 483 U.S. 756, 766 N.8 (1987).

⁶² *Richardson v. Marsh*, 481 U.S. 200 (1987).

unable to disregard it in their consideration of the case, although instructed to do so, in which case, a mistrial should be ordered.⁶³

This is such a case because the testimony improperly elicited by the prosecutor was devastating to the defense. The magnitude of this error could not be sanitized by a curative instruction. It was highly unlikely that the jury could ignore Barnes' opinion, and that it was afforded tremendous weight because of his status as a police officer. It is unrealistic to think that a curative instruction could remove the taint of the improper statement in view of the nature of the assertion and the impact on the defense. Moreover, the curative instruction was potentially confusing to the jury as it mistakenly directed the jury to disregard the officer's statement of what Defendant told him, instead of Lewis.⁶⁴ Despite the curative instruction, there was a substantial risk that the jury did not disregard statement and may have improperly inferred that Lewis was not telling the truth when he stated that he did not know who shot him, thereby undermining the core of Cruz-Webster's defense.

⁶³ *Marshall v. United States*, 360 U.S. 310 (1959).

⁶⁴ (A-23, 24; T-53,54).

ARGUMENT II: DEFENDANT’S FEDERAL DUE PROCESS RIGHT TO A FAIR TRIAL WAS VIOLATED BY PATROLMAN BARNES’ OPINION THAT HE DID NOT BELIEVE THAT THE VICTIM WAS BEING TRUTHFUL WHEN HE STATED HE DID NOT KNOW WHO SHOT HIM.

1. Question Presented: Did the police officer’s opinion that he did not believe that the victim was being truthful when he stated that he did not know who shot him violate Defendant’s due process right to a fair trial. Defendant preserved this claim by making a timely objection to the improper comment elicited by the prosecutor.⁶⁵

2. Standard and Scope of Review: This Court reviews *de novo* a claim of a constitutional violation for harmless error. To determine whether an improper witness statement prejudicially affects a defendant’s substantial rights, the Court applies the four factors of the *Pena* test, which are (1) the nature and frequency of the comments; (2) the likelihood of the resulting prejudice; (3) the closeness of the case, and (4) the sufficiency of the trial judge’s efforts to mitigate any prejudice.⁶⁶

3. Merits: If the Court denies Argument I by finding that the prosecutor did not engage in misconduct, then it is asserted that Patrolman Barnes’ statement establishes an independent violation of Defendant’s federal due process right to a fair trial.

⁶⁵ (A- 23, T-50)

⁶⁶ *Pena v. State*, 856 A.2d 548, 550-51 (Del. 2004).

It is undisputed that Barnes's statement was inadmissible, whether solicited or not.⁶⁷ Applying the *Pena* factors – to determine the impact of unsolicited comments - is favorable to Defendant. The nature of the isolated comment was highly prejudicial because of Barnes's status as a police officer, and because his opinion undermined the core of the defense.

The likelihood of a resulting prejudice is undeniable. The opinion of a police officer that Lewis was not telling the truth was likely given great weight by the jury and was difficult for it to ignore despite the trial court's instructions. His opinion irreparably undermined persuasive exculpatory evidence.

Defendant repeats and incorporates by reference his arguments in Argument I addressing the "closeness of the case," and "the sufficiency of the trial judge's efforts to mitigate any prejudice" factors.

⁶⁷ *Luttrell v. State*, 97 A.3d 70 (Del. 2014).

ARGUMENT III: DEFENDANT’S FEDERAL DUE PROCESS RIGHT TO A FAIR TRIAL WAS VIOLATED BY PROSECUTORIAL MISCONDUCT WHEN THE PROSECUTOR IMPERMISSIBLY BOLSTERED DONALD COOPER’S TESTIMONY BY ELICITING THAT A CONDITION OF HIS PROTECTION AGREEMENT WAS THAT HE TESTIFY TRUTHFULLY.

1. Question Presented. Was Defendant’s federal due process right to a fair trial violated by prosecutorial misconduct when the prosecutor impermissibly bolstered Donald Cooper’s credibility by eliciting that a condition of his Witness Protection Services Agreement was that he testify truthfully? Defendant preserved this issue for appeal by raising the issue in limine.⁶⁸

2. Standard and Scope of Review: This Court reviews *de novo* a claim of prosecutorial misconduct for harmless error as set forth in Argument I herein.

3. Merits: The prosecutor improperly vouched for Cooper’s credibility when he elicited testimony on the truthfulness provisions of Cooper’s Witness Protection Services Agreement on redirect examination. Cooper was asked to recite to the jury the portion of the Agreement that required him “*to cooperate fully and truthfully with the investigation or prosecution of the State of Delaware v. Maurice Cruz-Webster and to testify truthfully if called by a witness by it by any part during a trial or in any part involving*

⁶⁸ (A-25; T-63).

these matters.”⁶⁹ Questioning Cooper about the provision of the protection agreement in which he promised to “testify truthfully” was a thinly veiled attempt by the prosecution to vouch for Cooper’s credibility because the duty to “testify truthfully” was a condition of the agreement. The introduction of Cooper’s promise to “testify truthfully” in return for protection was likely to be interpreted by the jury as the prosecutor’s imprimatur that Cooper was being truthful as required under the terms of his agreement. It implies that the prosecutor has verified the witness’s testimony and that it is truthful. It likely induced the jury to trust the State’s judgment.

Decisions relating to the admission of the “testify truthfully” provisions of a codefendant’s plea agreement are instructive. Courts have found that a witness’s testimony that they were speaking the truth in living up to the terms of their plea agreement may amount to a mild form of vouching.⁷⁰ In *Alan v. State*,⁷¹ this Court held that a codefendants plea agreement may not be used to bolster the testimony of a codefendant.⁷²

⁶⁹ (A-32, T-124)

⁷⁰ *United States v. Brooks*, 508 F.3rd 1205, 1210 (9th Cir. 2007).

⁷¹ 878 A.2d 447 (Del. 2005)

⁷² See also, *State v. Swims*, 569 S.E.2d 784, 793 (2002) (collecting cases and other secondary authority showing the limitations on the prosecution’s ability to introduce a codefendant’s plea agreement). See also, *Potts v. State*, 458 A.2d 1165, 1169 (Del. 1983) (finding that the exclusion of the co-defendants guilty pleas was not considered a denial of due process and finding that the trial court properly exercised its discretion in refusing to admit into evidence the co-defendants guilty pleas as such could be misconstrued by the jury absent a complete examination in the plea bargaining and the charges).

Eliciting testimony on direct examination that a witness entered into a plea agreement that requires “truthful testimony” may constitute vouching.⁷³ That a plea agreement requires a witness to tell the truth might be argued to suggest that a witness, “who might otherwise seem unreliable, has been compelled by the prosecutor’s threats and the government’s promises to reveal the bare truth” and that “the prosecutor can verify the witness’s testimony and thereby enforce the truthfulness condition of its plea agreement.”⁷⁴ This creates the risk that an improper inference will be drawn by a juror.

In closing argument, the prosecutor compounded this violation when she impermissibly vouched for Cooper by giving her opinion that:

*He wouldn’t know this information [details of the murder] unless the defendant told him.*⁷⁵

*He was **told he had to** cooperate fully and truthfully with the investigation or prosecution [of the Defendant] and to testify truthfully if called as a witness.*⁷⁶

⁷³ *United States v. Wallace*, 848 F.2d 1464, 1474 (9th Cir. 1988). But, references to the truthfulness requirement in plea agreements do not constitute improper prosecutorial vouching when made in response to attacks on witness credibility because of plea agreements. *Wallace*, at 1474, citing *U.S. v. Shaw*, 829 F.2d 714, 716 (9th Cir. 1987).

⁷⁴ *Id.*

⁷⁵ (A-39, 40, T- 35, 36). (This argument indicates superior knowledge by the prosecutor and assumes facts not in the record. Cooper had, in fact, heard information about the murder as indicated by his objectionable statement, “Well, before I got arrested I heard that Bub died. And somebody said that they think he [Cruz-Webster] did it.(A-28, T 94).

In rebuttal argument, the State further compounded the violation by impermissibly vouching for Cooper by stating:

What is Donald Cooper's motivation to lie, to fabricate? Maybe back February 3, he had motive to give the police information, right, because he said, at the time, I wanted help on my sentence, which is motive to fabricate. If he had motivation he got from an acquaintance of his, he can bargain that information away to try and help his sentence because it is like currency. *But, he doesn't have-what's the value of false information if he gives false information to Detective Ziembra? How does that help him out? True information is -if he came and gave false information about the 45 caliber that was used, how does that help his sentence? But so he has motivation to give truthful information, right⁷⁷?*

The prosecutor's comments amount to vouching because he is advising the jury that Cooper's information was true, because there would be no value in providing false information. In other words, the prosecutor is vouching for the truthfulness of Cooper's statement because if it were false, it would have no value. Since the prosecution has determined that it does have value – by virtue of the fact it entered into the agreement with Cooper - it must be truthful.

Hughes factors

Defendant repeats and incorporates by reference the “closeness of the case” argument as set forth in Argument I herein.

⁷⁶ (A- 40, T- 36)(*emphasis added*).

⁷⁷ (A- 41, 42, T-111-112)

The jury's determination of Cooper's credibility was central to the outcome of the trial. It necessarily follows that the improper vouching for Cooper's credibility had a pervasive effect on the outcome. The State's circumstantial case was close. The prosecutorial misconduct likely influenced the jury to find that Cooper was credible thereby affecting the outcome of the trial.

Finally, the "steps taken to mitigate the effects of the error" favors the Defendant as no steps were taken to mitigate the effects of the improper vouching stemming from the improper emphasis on the "testify truthfully" provisions of Cooper's agreement.

ARGUMENT IV: DEFENDANT’S FEDERAL DUE PROCESS RIGHT TO A FAIR TRIAL WAS VIOLATED BECAUSE COOPER’S PRETRIAL VIDEO STATEMENT SHOULD HAVE BEEN EXCLUDED AS CUMULATIVE AS IT ONLY SERVED TO BOLSTER HIS IN COURT TESTIMONY.

1. Question Presented: Was Defendant’s federal due process right to a fair trial violated by the admission of Cooper’s pretrial video statement under 11 Del. C. Section 3507 because it was cumulative and only served to bolster his direct testimony? Defendant did not preserve this issue for appeal. The interest of justice exception to Supreme Court Rule 8 applies because this claim involves plain error depriving Defendant of substantial rights under the Fifth and Fourteenth Amendments to the United States Constitution.

2. Standard and Scope of Review: When a defendant has failed to preserve an issue for appeal, the Court will apply the plain error standard of review.⁷⁸

3. Merits: The State played the pretrial video statement Cooper made to Detective Ziembra pursuant to 11 Del. Code 3507.⁷⁹ The taped statement was consistent with Cooper’s testimony on direct examination and was merely cumulative of that testimony. Since Cooper was not a turncoat witness, the only purpose served by playing the tape was to bolster his testimony.

⁷⁸ Del. Supr. Ct. R. 8.

⁷⁹ (A-28, 29; T- 95, 100).

The legislative history of Section 3507 establishes that the statute was enacted to address the problem of a “turncoat” witness. As articulated by the Court in *Richardson v. State*,⁸⁰ “where a witness has full recall of the relevant events, and is not contradicting the out-of-court statement, the prior statement simply buttresses the in court testimony. The statute was not intended to allow witnesses to double the impact of the witness's statement.”

In this case, the taped statement of Cooper served the improper purpose of buttressing his in court testimony. Since the jury’s determination of Cooper’s credibility was central to the outcome of the trial, it necessarily follows that the bolstering effect of his video statement had a pervasive effect on the outcome. The pretrial statement likely had an improper influence on the jury, especially in the context of other efforts to buttress his credibility. It is at least probable, if not likely, that the outcome of the trial would have been different if Cooper’s pretrial statement was not presented to the jury.

⁸⁰ 403 A 3rd 906, 909 (2012)

Conclusion

Defendant respectfully requests this Court to grant the following relief based upon the facts and authorities presented herein:

1. Reverse Defendant's convictions and remand this case to Superior Court for further proceedings.

/s/ Michael W. Modica _____
MICHAEL W. MODICA, ESQUIRE
Bar ID # 2169
Attorney for Maurice Cruz-Webster
P.O. Box 437
Wilmington, DE 19899
(302) 425-3600

Dated August 15, 2016

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE

VS.

MAURICE CRUZ-WEBSTER

Alias: See attached list of alias names.

DOB: 05/18/1994

SBI: 00614945

CASE NUMBER:

1407016317

1501005498

IN AND FOR NEW CASTLE COUNTY

CRIMINAL ACTION NUMBER:

IN15-01-0897

MURDER 1ST(F)

IN15-01-0900

RECK END 1ST(F)

IN15-01-0898

PFDCF(F)

IN15-01-0899

PFDCF(F)

IN14-08-0675

THEFT < \$1500(M)

LIO:ROBBERY 2ND

COMMITMENT

Nolle Prosequi on all remaining charges in this case
SEE NOTES FOR FURTHER COURT ORDER-TERMS/CONDITIONS

SENTENCE ORDER

NOW THIS 11TH DAY OF MARCH, 2016, IT IS THE ORDER OF THE COURT THAT:

The defendant is adjudged guilty of the offense(s) charged. The defendant is to pay the costs of prosecution and all statutory surcharges.

AS TO IN15-01-0897- : TIS
MURDER 1ST

The defendant shall pay his/her restitution as follows: See attached list of payees.

Effective January 10, 2015 the defendant is sentenced as follows:

- The defendant is placed in the custody of the Department of Correction for the balance of his/her natural life at supervision level 5

SPECIAL CONDITIONS BY CHARGE

APPROVED ORDER

1

August 11, 2016 15:54

Exhibit A

[Signature]

STATE OF DELAWARE
VS.
MAURICE CRUZ-WEBSTER
DOB: 05/18/1994
SBI: 00614945

See Notes

AS TO IN15-01-0900- : TIS
RECK END 1ST

- The defendant is placed in the custody of the Department of Correction for 5 year(s) at supervision level 5
- Suspended after 3 year(s) at supervision level 5
- For 2 year(s) supervision level 4 DOC DISCRETION
- Suspended after 6 month(s) at supervision level 4 DOC DISCRETION
- For 18 month(s) supervision level 3
- Hold at supervision level 5
- Until space is available at supervision level 4 DOC DISCRETION

AS TO IN15-01-0898- : TIS
PFDCF

- The defendant is placed in the custody of the Department of Correction for 6 year(s) at supervision level 5

AS TO IN15-01-0899- : TIS
PFDCF

- The defendant is placed in the custody of the Department of Correction for 6 year(s) at supervision level 5

AS TO IN14-08-0675- : TIS
THEFT < \$1500

The defendant is to pay a fine in the amount of \$100.00 plus all surcharges and fees (see attachment).

- The defendant is placed in the custody of the Department of Correction for 1 year(s) at supervision level 5
- Suspended for 1 year(s) at supervision level 2

Probation is concurrent to criminal action number IN15-01-0900 .

APPROVED ORDER

2

August 11, 2016 15:54



SPECIAL CONDITIONS BY ORDER

STATE OF DELAWARE
VS.
MAURICE CRUZ-WEBSTER
DOB: 05/18/1994
SBI: 00614945

CASE NUMBER:
1501005498
1407016317

Defendant shall receive mental health evaluation and comply with all recommendations for counseling and treatment deemed appropriate.

Defendant shall be evaluated for substance abuse and follow recommendation for treatment, counseling and screening.

Pursuant to 29 Del.C. 4713(b)(2), the defendant having been convicted of a Title 11 felony, it is a condition of the defendant's probation that the defendant shall provide a DNA sample at the time of the first meeting with the defendant's probation officer. See statute.

Have no contact with Brian Wyatt.

Have no contact with Sandra Williams.

Have no contact with Red Roof Inn.

NOTES

As to IN15-01-0897 (Murder 1st), starting January 20th, 2017, on the anniversary of Kyrell Lewis' death, the defendant shall spend 24-hours in isolation and shall continue to spend 24-hours in isolation on the 20th day of January each year thereafter.

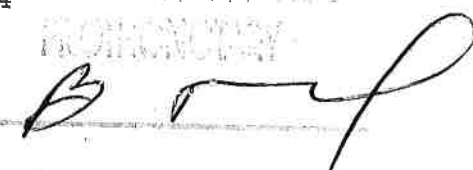
The defendant shall have no contact with the victims, victim's family, residence or property, place of employment, including but not limited to phone, mail or other means.

Aggravators:

- Custody status at time of offense (Defendant was on probation and out on bail at the time of these offenses);
- Undue depreciation of offense;
- Need for correctional treatment

Mitigators (According to Defense Counsel):

APPROVED ORDER 3 August 11, 2016 15:54

BY 

STATE OF DELAWARE

VS.

MAURICE CRUZ-WEBSTER

DOB: 05/18/1994

SBI: 00614945

- The defendant's age;
- Need for treatment.

=====CORRECTED SENTENCE

Now, this 16th day of March, 2016, it is the order of the Court that: The sentence order dated 03/11/2016 is hereby corrected to state "the defendant's age" as opposed to "the defendant's youth" relating to the Mitigators in the notes portion of this sentence.

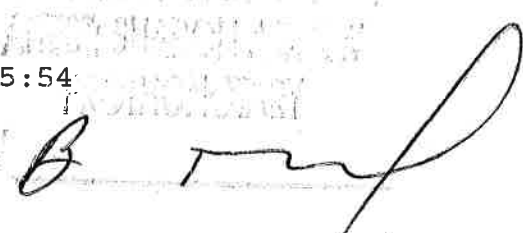
All other terms and conditions shall remain the same.

JUDGE JAN R JURDEN

APPROVED ORDER

4

August 11, 2016 15:54

DELAWARE
JAN R. JURDEN
JUDGE


FINANCIAL SUMMARY

STATE OF DELAWARE
VS.
MAURICE CRUZ-WEBSTER
DOB: 05/18/1994
SBI: 00614945

CASE NUMBER:
1501005498
1407016317

SENTENCE CONTINUED:

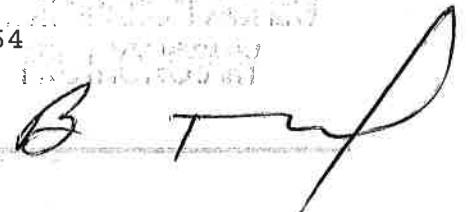
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TOTAL CIVIL PENALTY ORDERED	
TOTAL DRUG REHAB. TREAT. ED. ORDERED	
TOTAL EXTRADITION ORDERED	
TOTAL FINE AMOUNT ORDERED	100.00
FORENSIC FINE ORDERED	
RESTITUTION ORDERED	7594.75
SHERIFF, NCCO ORDERED	630.00
SHERIFF, KENT ORDERED	
SHERIFF, SUSSEX ORDERED	
PUBLIC DEF, FEE ORDERED	100.00
PROSECUTION FEE ORDERED	200.00
VICTIM'S COM ORDERED	18.00
VIDEOPHONE FEE ORDERED	5.00
DELJIS FEE ORDERED	5.00
SECURITY FEE ORDERED	50.00
TRANSPORTATION SURCHARGE ORDERED	
FUND TO COMBAT VIOLENT CRIMES FEE	75.00
SENIOR TRUST FUND FEE	
AMBULANCE FUND FEE	

TOTAL 8,777.75

APPROVED ORDER

5

August 11, 2016 15:54



SURCHARGES

STATE OF DELAWARE
VS.
MAURICE CRUZ-WEBSTER
DOB: 05/18/1994
SBI: 00614945

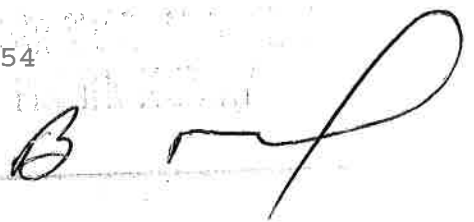
CASE NUMBER:
1501005498
1407016317

<u>CRIM ACTION #</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
IN14-08-0675	VCF	18.00

APPROVED ORDER

6

August 11, 2016 15:54



RESTITUTION SUMMARY

STATE OF DELAWARE
VS.
MAURICE CRUZ-WEBSTER
DOB: 05/18/1994
SBI: 00614945

CASE NUMBER:
1501005498
1407016317

AS TO IN15-01-0897 :
The defendant shall pay restitution as follows:
\$ 2594.75 to FLORENCE SHAW
\$ 5000.00 to DE VICTIMS COMP ASSITANCE PRO

APPROVED ORDER

7

August 11, 2016 15:54

DELAWARE COUNTY
CLERK OF SUPERIOR COURT
RECEIVED
B [Signature]

LIST OF ALIAS NAMES

STATE OF DELAWARE

VS.

MAURICE CRUZ-WEBSTER

DOB: 05/18/1994

SBI: 00614945

CASE NUMBER:

1501005498

1407016317

MAURICE A CRUZ-WEBSTER

MAURICE A CRUZ

MAURICE C WEBSTER

APPROVED ORDER

8

August 11, 2016 15:54

B Tuf

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE

VS.

MAURICE CRUZ-WEBSTER

Alias: See attached list of alias names.

DOB: 05/18/1994

SBI: 00614945

CASE NUMBER:

1407016317

1501005498

IN AND FOR NEW CASTLE COUNTY
CRIMINAL ACTION NUMBER:

IN15-01-0897

MURDER 1ST(F)

IN15-01-0900

RECK END 1ST(F)

IN15-01-0898

PFDCF(F)

IN15-01-0899

PFDCF(F)

IN14-08-0675

THEFT < \$1500(M)

LIO:ROBBERY 2ND

COMMITMENT

Nolle Prosequi on all remaining charges in this case
SEE NOTES FOR FURTHER COURT ORDER-TERMS/CONDITIONS

CORRECTED SENTENCE ORDER

NOW THIS 16TH DAY OF MARCH, 2016, IT IS THE ORDER OF THE
COURT THAT: THE ORDER DATED March 11, 2016 IS HEREBY
CORRECTED AS FOLLOWS:

The defendant is adjudged guilty of the offense(s) charged.
The defendant is to pay the costs of prosecution and all
statutory surcharges.

AS TO IN15-01-0897- : TIS
MURDER 1ST

The defendant shall pay his/her restitution as follows: See
attached list of payees.

Effective January 10, 2015 the defendant is sentenced
as follows:

- The defendant is placed in the custody of the Department
of Correction for the balance of his/her natural life at
supervision level 5

APPROVED ORDER

1

August 11, 2016 15:54



SPECIAL CONDITIONS BY ORDER

STATE OF DELAWARE
VS.
MAURICE CRUZ-WEBSTER
DOB: 05/18/1994
SBI: 00614945

CASE NUMBER:
1501005498
1407016317

Defendant shall receive mental health evaluation and comply with all recommendations for counseling and treatment deemed appropriate.

Defendant shall be evaluated for substance abuse and follow recommendation for treatment, counseling and screening.

Pursuant to 29 Del.C. 4713(b)(2), the defendant having been convicted of a Title 11 felony, it is a condition of the defendant's probation that the defendant shall provide a DNA sample at the time of the first meeting with the defendant's probation officer. See statute.

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NOTES

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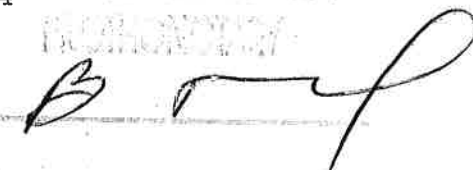
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Aggravators:

- Custody status at time of offense (Defendant was on probation and out on bail at the time of these offenses);
- Undue depreciation of offense;
- Need for correctional treatment

Mitigators (According to Defense Counsel):

APPROVED ORDER 3 August 11, 2016 15:54

BY 

STATE OF DELAWARE
VS.
MAURICE CRUZ-WEBSTER
DOB: 05/18/1994
SBI: 00614945

- The defendant's age;
- Need for treatment.

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=====CORRECTED SENTENCE
Now, this 16th day of March, 2016, it is the order of the Court that: The sentence order dated 03/11/2016 is hereby corrected to state "the defendant's age" as opposed to "the defendant's youth" relating to the Mitigators in the notes portion of this sentence.

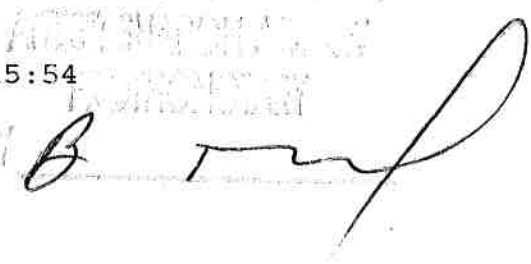
All other terms and conditions shall remain the same.

JUDGE JAN R JURDEN

APPROVED ORDER

4

August 11, 2016 15:54

CLERK OF COURT
DELAWARE
JAN R. JURDEN


FINANCIAL SUMMARY

STATE OF DELAWARE
VS.
MAURICE CRUZ-WEBSTER
DOB: 05/18/1994
SBI: 00614945

CASE NUMBER:
1501005498
1407016317

SENTENCE CONTINUED:

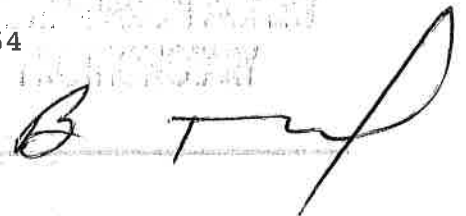
TOTAL DRUG DIVERSION FEE ORDERED	
TOTAL CIVIL PENALTY ORDERED	
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TOTAL 8,777.75

APPROVED ORDER

5

August 11, 2016 15:54



SURCHARGES

STATE OF DELAWARE
VS.
MAURICE CRUZ-WEBSTER
DOB: 05/18/1994
SBI: 00614945

CASE NUMBER:
1501005498
1407016317

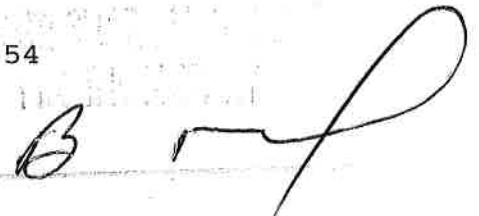
<u>CRIM ACTION #</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
IN14-08-0675	VCF	18.00

APPROVED ORDER

6

August 11, 2016 15:54

BY



RESTITUTION SUMMARY

STATE OF DELAWARE
VS.
MAURICE CRUZ-WEBSTER
DOB: 05/18/1994
SBI: 00614945

CASE NUMBER:
1501005498
1407016317

AS TO IN15-01-0897 :
The defendant shall pay restitution as follows:
\$ 2594.75 to FLORENCE SHAW
\$ 5000.00 to DE VICTIMS COMP ASSITANCE PRO

APPROVED ORDER

7

August 11, 2016 15:54

RECEIVED AS A...
BY B [Signature]

LIST OF ALIAS NAMES

STATE OF DELAWARE
VS.

MAURICE CRUZ-WEBSTER
DOB: 05/18/1994
SBI: 00614945

CASE NUMBER:
1501005498
1407016317

MAURICE A CRUZ-WEBSTER
MAURICE A CRUZ
MAURICE C WEBSTER

APPROVED ORDER

8

August 11, 2016 15:54

MADE AS A TRUE COPY
IN THE PRESENCE OF
THE CLERK OF COURT

B [Signature]