

## Schismenos Videos

### Defendant/Suspect:

2007-11-3694 [REDACTED] A and Darian Wright B-This case ended in Darian Wright pleading on 1/30/08. The state dismissed all charges on Joe Jackson 2/6/08 after notation on file indicated Darian Wright took all the responsibility. According to our file: Kirk Migdal viewed our file on 11/20/07 per his signature/Larry Cook viewed our file on 11/29/07.

---

### Notes from Video:

In the file there was 1 video tape 07-32251 dated 10/31/07. This was listed as part of the tagged evidence that states it is video of the incident and interview. The video depicts a car chase with an arrest and seizure of drugs/guns in the trunk of the vehicle. The video then skips to the police station where both defendants are interviewed. After the video ends there were 3 movie/shows recorded on the video.

---

In addition I was provided with two DVD's with the corresponding report number of 07-32251 and date 10/31/07. The DVD does have an unrelated traffic stop in the beginning that is unrelated to this incident. After that traffic stop is over it then corresponds with the above video with the exception of the movies and tv shows.

---

I also reviewed 3 additional DVDs that are titled Seizure -Jackson Wright section1. These videos are the same as the above video tape with the exception of the movie/tv shows.

---

There was also another disc separate from them that had 3 cases on it titled State Trooper, Wright Jackson, and Jesse Gooden. As it relates to the above case the disc had photographs. The photographs were part of the ROI which was provided in discovery.

---

### Compare to Police file/reports:

According to the police report the video listed above was tagged into evidence and provided to defense counsel as part of discovery.

---

### Description from video helpful to prosecutor/defendant:

Video was provided in discovery.

---

### Brady issues:

None.

Redact Name:  Yes  No

Provide video / audio to defense attorney:  Yes  
counsel Migdal on 11/20/07 and Cook 11/29/07

Discovery reviewed by Defense

Person reviewing video-Dustin Roth Date 5/14/13

## Schismenos Videos

**Defendant/Suspect:**

Andrew Burnette

**Notes from Video:**

Audio only. Mr. Burnette was arrested when he ran from police officers, resisted arrest, and police found cocaine in his pockets. This audio is an interview between Mr. Burnette and Ofcr. Schismenos recorded after the arrest. It is not about the arrest itself, but rather information Mr. Burnette claims he has on a homicide that he wants to give in exchange for leniency.

**Compare to Police file/reports:**

Mr. Burnette admits to running from police, which is consistent with the file and police reports. The police report includes Mr. Burnette's offer to police to give information on other cases in exchange for some type of deal or leniency.

**Description from video helpful to prosecutor/defendant:**

Mr. Burnette's admission to running would be helpful to the prosecution's case. As for the information given on the homicide, Ofcr. Schismenos told Mr. Burnette on the audio recording that he could not make any guarantees that the information would gain Mr. Burnette any leniency. It is unknown whether the information given was useful, relevant, or confirmed. Since Mr. Burnette himself volunteered this information and his willingness to cooperate is stated in the police report, Mr. Burnette and his attorney would have been aware of this conversation with Ofcr. Schismenos. The recording merely confirms the conversation took place.

**Brady issues:**

The recorded conversation contains no exculpatory information material to guilt or innocence. However, defense counsel might construe the conversation as material to punishment.

Redact Name: \_\_\_\_\_ Yes  No

Provide video / audio to defense attorney:  Yes \_\_\_\_\_ No

Atty: Joy Chicatelli

Person reviewing video Brian Stano

Date 5-13-14

## Schismenos Videos

### Defendant/Suspect:

Antonio Lee Mapp – Indicted in case 10-12-3452A w/ co-defendant [REDACTED] for events on Dec. 16, 2010.

Mapp also indicted for Part. In Crim. Gang.

[REDACTED] 10-12-3452B ← RECORD SEALED

Anthony Norman – Case 10-08-2269B, Arrested on 8/15/10 for HWUD, dismissed about a month later along with co-defendant Tramontay McWain – 10-08-2269A. Cases not sealed.

### Notes from Video:

Antonio Lee Mapp, appears to be from 10/3/10, Video recording appears to be inside a police wagon. Schis.

Mirandizes Mapp. Asks about tattoos and tears. Mapp states a tattoo on neck stands for member.

[REDACTED] ← RECORD SEALED Asked how long she's been dating Mapp. She doesn't know about any drugs in the car or whose it would be.

Anthony Norman: Video recording of Schismenos and another officer about recovering a .38 revolver and a 380 Ofc. Laughing about photos in the trunk.

### Compare to Police file/reports:

Antonio Lee Mapp – This recorded statement is noted in Schis. ROI. On pg. 3. A counsel stamp only is on the report.

[REDACTED] ← RECORD SEALED Crooks not charged in our court for anything from the 10/3/10 interview

Anthony Norman: Ofc.'s McKeel and O'Brien on the report. Evid. Rpt notes a CD w/ 8 photos on it. Unclear if lead Officers knew Schismenos was recording the search of the car.

### Description from video helpful to prosecutor/defendant:

Mapp: The ROI summary adequately summarizes the video recording. The video corroborates that Mapp was wearing red to bolster the allegation that he was a member of a blood-related gang. Mapp admits on video that the tattoo on his neck stands for member. It may have been helpful to the state had this case gone to trial on the charge of participating in a crim. Gang. However, Mapp pled to a trafficking charge from 12/16/10 only.

[REDACTED] ← RECORD SEALED Her admission that she's dating Mapp and being told there were drugs in her car on 10/3/10 could have bolstered the case against her on 12/16/10

Norman – N/A, case dismissed

### Brady issues:

Mapp: None

[REDACTED] None

Norman: None, case dismissed about a month later. The reason is not in file or on the court's docket for either defendant in case no. 10-08-2269AB.

Redact Name:  Yes (one name above J. C.)  No

Provided video / audio to defense attorney:  Yes / Presumed (existence noted in report)  No

Attorney of Record: Don Hicks - for Mapp

Person reviewing video Colleen Sims

Date 5/16/14

## Schismenos Videos

### Defendant/Suspect:

Melvin Jones 98-06-1566 and Walter Matthews (spelled Mathews on BCI form) 98-08-1894

28 minute video from a "919 Whittier Search", also included in one of 4 excerpts on a DVD labeled "seizure."

### Notes from Video:

28 minute video: begins with 10 minutes of unknown male and female filming themselves having sex. Video continues showing Christmas tree with male dancing and rapping. Jumps to females and males in what appears to be living room. Also includes toddler looking at camera in living room, looking at wrapped Christmas presents and eventually carrying presents into kitchen where male is packaging what appears to be marijuana. The name "Walter Matthews" is spoken and the subject at the table holds his hand up as if to block the camera from filming him. A few other young males are in the room at this time. Video then jumps to outside in the daylight showing house, car and boat. Toddler is then shown climbing into the refrigerator to get something. Video then shows male dancing and rapping in living room, child sits on floor of living room and other males join in sitting on the couch. Video ends.

Excerpt from "Seizure" DVD shows same packaging of marijuana but with some better views of marijuana and the individuals involved.

### Compare to Police file/reports:

28 minute video is listed in the original police reports and its contents are described accurately. Video is logged by APD. The video is also noted on the search warrant return contained in the file. An additional "Supplemental Arrest Report" also notes video.

### Description from video helpful to prosecutor/defendant:

Value of the video and the "seizure" excerpt is that it would be probative value for a prosecutor charging a case of Trafficking in Marijuana. It shows the association of the parties. Jones was indicted in June of 98 and Matthews in August of 98 on Possession of cocaine and Marijuana charges. Both entered Guilty pleas. Videos would likely have prevented either defendant from testifying that they were not engaged in criminal drug activity.

### Brady issues:

None: Evidence of Walter Matthews and others engaged in drug trade in presence of a minor.

Redact Name: \_\_\_\_\_ Yes                       No

Provide video / audio to defense attorney:                       Yes                      \_\_\_\_\_ No

Matthews Counsel: Kerry O'Brien, Jones Counsel: Ellen Kaforey

Person reviewing video: Brad Gessner                      Date: 5-13-14

## Schismenos Videos

**Defendant/Suspect:**

Shawn Foster

**Notes from Video:**

This disk contains (3) separate audio files. Only one portion relates to the above mentioned defendant.

File 1 – (32:00) – audio file of traffic stop and arrest of an individual (name redacted). Defendant is being arrested for failing to give information after being stopped for turn signal and stop sign. Officer's voice appears polite here as defendant is hostile and argumentative. At (21:00) of recording officer comments that Defendant is being arrested for "being an asshole". Unprofessional and inappropriate commentary by officer but no impact on allegations of criminal conduct. Defendant had earlier admitted to traffic violation but recording begins after Defendant is already being arrested for refusal to give the requested information.

File 2 – (25:29) audio file of defendant Shawn Foster after Foster is arrested for Failure to Comply. It appears that defendant has been pepper sprayed for resisting and for kicking at windows of police cruiser when he was secured inside. Defendant is yelling about being beat up by police, complaining about handcuffs and coughing from being sprayed. Defendant misrepresents self as Richard Sharrior. Defendant keeps complaining about being hit with a flashlight. (6:45) – older male witness appears and says he wants to talk to Barberton police, not Akron. (8:15) officers talking about having to spray defendant for kicking windows. (11:17) audio changes to female voice during brief traffic stop (14:30) audio changes, now largely unintelligible, keeps cutting in and out. (17:30) male voice appears to say "he says I was going to throw him off that ledge". (18:30) male voice says "plea to everything" "no deals" "get in room with him" (audio is cutting in and out). (19:30) – audio is back on. (21:00) Officer appears to be placing a food order (25:00) laughing about "diet" with unknown female

File 3 – (3:03) – Male voice laughing, says "already dragged him out". Audio going in and out. Voice then says "grab my belt", later says "put it under his nose", "sprayed him about 18 times", "hitting him on back of head (followed by hollow noise as if officer hit metal object with something to demonstrate). More laughing "sig 39" (1:51) male voice says "he's got a really bad headache now". (2:30) more laughing. Appearance of unprofessional conversation regarding use of force by officers but nothing that impacts on the allegations of criminal conduct by defendant.

**Compare to Police file/reports:**

The portion of the audio that relates to Shawn Foster is on File 2 (25:29) and is from the Escape, Failure to Comply case in case number 1996-05-1297. This is most clearly identified based on discussion of a young child being in the vehicle which Foster fled in which is consistent with the ROI in the above case.

**Description from video helpful to prosecutor/defendant:**

While there is indication of use of force it does not impact on the allegations of criminal conduct by this defendant. On traffic stop, Defendant admits, concedes that he committed traffic violation and didn't give truthful information.

Foster complains about officer's use of force but nothing useful to defense here. Defendant does not even contest his actions when confronted with them by officers.

Redact Name:

Yes

No

Provide video / audio to defense attorney:

Yes

No

Brady issues: None

Defense Attorney: Defense attorney Robert Oldham represented Shawn Michael Foster

Person reviewing video

Tom Kroll

Date

5-13-14

## Schismenos Videos

### Defendant/Suspect:

Shawn Foster – labeled CD/DVD#2 (Chase/Resisting)

### Notes from Video:

Video shows Officers Schismenos and Leeser attempting to stop a car for traffic violations. The car speeds away and there is a chase. While chasing one of the officers makes a comment that he is gonna get his ass beat. The car stops and the defendant jumps out and runs away. There is a child in a car seat/carrier in the car. The video appears to be on the dash of the cruiser so it does not show the foot chase. The defendant is caught and placed in the back of the car and complains about getting beaten up by the officers while he is spitting.

### Compare to Police file/reports:

This video matches our case file 1996-05-1297. Nothing in the paperwork/file documents the existence of a video. The only evidence listed in the APD reports is an SSN card. Based upon the charges and narrative in the reports the video documents events in this case.

### Description from video helpful to prosecutor/defendant:

This video would have been helpful for the prosecution as it shows the defendant committing each and every element of the offenses alleged. It shows him fleeing from the police, running away and the child that was in the car. While there is nothing in this video that provides a defense to the charges, per our office's open file discovery policy, this video would have been placed in the file for review by the defense attorney.

### Brady issues:

Nothing in the video is exculpatory. Nothing in the video shows any type of defense or negates any elements of the crimes with which the defendant was charged.

Redact Name:             Yes                     No

Provide video / audio to defense attorney     Yes                     No

Defense Attorney:    Robert Oldham

Person reviewing video

Magawell Smith

Date

5-14-14

## Schismenos Videos

### **Defendant/Suspect:**

Edward Williams 1996-10-2498

### **Notes from Video:**

APD performed a traffic stop on the Defendant's vehicle. The Defendant's vehicle has a temporary tag that is expired and the rear license plate light is not operational. The Defendant does not follow audible signals to pull his car to the right side of the road. Defendant, instead, made a left turn then pulled to the right side of the curb. Officer Jesse Leaser exits the police cruiser and makes contact with the Defendant driver. Officer Don Schismenos exits the cruiser and makes contact with the female passenger. The video clearly shows the Defendant giving Officer Leaser a difficult time from the audio picked up from Officer Schismenos' microphone and not complying with officer directives. Defendant didn't have his driver's license on his person and was verbally combative with the officer. Officer Schismenos calls for an EMS unit since the passenger claimed her nine month old child (sitting in her lap and not properly strapped into a car seat) was having breathing issues. Officer Leaser continues to have problems with the Defendant and asks him to step out of the car. Defendant slams the car door shut that was just opened by the officer. Officer Schismenos comes to aid Officer Leaser on the driver side of the Defendant's car. Officer Schismenos gives verbal commands to the Defendant to step out of the car. Defendant gets out of the car and is visibly upset (angry) when he steps out. Defendant was asked to place his hands on top of his car and failed to comply with the order. At this point, the officers try to place the Defendant under arrest. The Defendant refuses commands to place his hands behind his back and the officers try to take the Defendant to the ground. The Defendant continued to not comply with the commands given by the officers. Approximately 2 minutes later, EMS arrives and assists the officers in detaining the defendant after observing the struggling officers. The Defendant is finally placed in hand cuffs when EMS and additional backup officers arrive. The female passenger refused the EMS treatment for the child after they arrived. Officer Schismenos comments they thought they (meaning the officers) "were going to lose this battle." In addition, Officer Schismenos states to the Defendant that "you didn't know who he was messing with did you." While they had the Defendant in custody Schismenos stated to an officer's question regarding the charges that the Defendant is now being charged with assault and resisting. Officer Schismenos also states to an officer that "once we tell our story they should be fine."

### **Compare to Police file/reports:**

The file accurately documents everything stated in the report. There was a use of force packet attached to the incident report that accurately portrays the use of force by the officers. What was not seen in the video that was in the report was an observation made by Officer Schismenos when he came to assist Officer Leaser on the driver side of the vehicle. Specifically, the report states that it appeared the Defendant put his keys or gestured to the ignition as if trying to flee from the officers in his car. This observation was not captured by the video based on its angle. In addition there is a portion of the video where the Defendant and officers are out of the view of the camera. The police report documents that the officers were struck by the Defendant but the video did not capture the assault. These strikes that the officers endured by the Defendant may have taken place outside the view of the camera. However, it should be noted the injuries the officers sustained were photographed and tagged into evidence. Those photographs were presented at the trial.

### **Description from video helpful to prosecutor/defendant:**

Prosecutor: the video clearly shows the defendant being non-compliant and combative. It further shows the Defendant resisting arrest and the amount of manpower expended to subdue him. The video also captures the Defendant slamming the door on Officer Leaser and wrestling both officers. After he was finally placed in hand cuffs we can hear an out of breath Officer Schismenos state how difficult it was to place this Defendant into custody ("thought we were going to lose this battle").

Defense: The video does not show the Defendant striking the officers. Rather the video captures the officers striking the Defendant with punches and a baton. However, these were all documented in the officers' incident and use of force reports. In addition, there were moments in the video where the officers and the Defendant were out of the camera frame where the Defendant could have assaulted the officers. Statements that the Defendant didn't know who he was messing with could imply that the officers were overly aggressive. Although this comment is unprofessional, it would not raise to the level of a Brady violation. Additionally the statement

that once the officers gave their side of the story could suggest that they were going to manipulate the facts to justify the use of force. This comment put in the context of the situation simply shows the officer had to use force, and per protocol, have to explain (their story) why they had to use it.

**Brady issues:**

Even though you cannot see the Defendant strike the officers on the video, there were moments of time when the Defendant and the officer were out of the camera view. As stated above, the video would have been useful for both the prosecutors and the defendant. The video not capturing the Defendant hitting the officers is not a Brady issue. It should be noted that the injuries the officers received were documented with photographs and presented at trial.

**Redact Name:**             Yes     No

**Provide video / audio to defendant:**     Yes             No

**Person reviewing video:** Dustin Roth    **Date** 5/13/14





## Schismenos Videos

**Defendant/Suspect:**

Brandon Whiteside Case #2007-01-0275

**Notes from Video:**

3 CD's reviewed, 73 jail calls between Whiteside and friends and family.

**Compare to Police file/reports:**

Schismenos arrested defendant on a warrant and searched the residence. Defendant's warrant was for attempted murder. Schismenos' involvement resulted in drug charges and gang charges.

**Description from video helpful to prosecutor/defendant:**

Talks with gang members from jail.

**Brady issues:**

Notation in the prosecutors file indicates that jail CD was provided (prosecutor normally requests phone calls in addition to officers) so these call appear to have been provided.

**Redact Name:** \_\_\_\_\_ Yes                       No

**Provide video / audio to defense attorney:**  Yes                      \_\_\_\_\_ No

However likely to have been previously provided

Attorney of record: Jana DeLoach

**Person reviewing video : Jon Baumuel    Date: 5-12-14**

## Schismenos Videos

### Defendant/Suspect:

Eddie Smith Cases: 2005-03-1054 and 2009-01-0081

### Notes from Video:

Dash camera on cruiser. Video tape says "KKO Raid at Whitney Eddie Smith." The tape is one hour and 2 minutes in duration. Video is of a cruiser caravan behind an ambulance and police SUV. Vehicles arrived at an unknown house address. Multiple police are seen running on sidewalk. Could not see entry. Unknown officer gets back in cruiser and goes to another unknown house. A number of officers are standing around outside of a house. Eventually, a number of officers exit a house via the front door. More video of officers standing. Does not appear anyone was home.

Dash cam then shows another raid of a house next to hydroponics, Akron Garden Center. An address number of 1748 is visible. However Akron Garden Center is currently located at 434 W. Wilbeth Road. 5-6 years ago they were on Main Street. I called to see if their prior address on Main was 1748 and they hung up on me. Additional dash cam clip. Shows driving around an unknown establishment. Officers enter front door. At 54:07 a chunkie bald white guy is seen walking across the parking lot with his hands in the air. Unknown male was walking behind him. All enter the establishment through the front door. Video does not show if he was under arrest.

Note: This DVD does not have date/time markers. The video lasted one hour, one minute and 58 seconds. These raids appear to have occurred in the Winter as there is a lot of snow.

### Compare to Police file/reports:

The videos do not appear to be connected to the 2005 case as the raids were made in the winter. Defendant's 2005 case occurred on March 23, 2005. However, the 2009 case had a raid that occurred at 410 Whitney in January of 2009.

### Description from video helpful to prosecutor/defendant:

Do not appear to help either prosecutor or defense. Unable to ID the houses raided and cannot determine if there were any arrests made.

### Brady issues:

None, lack of relevance to either of the cases.

Redact Name:  Yes  No

Provide video / audio to defense attorney:  Yes  No

Counsel: Ralph Capriolo <sup>05</sup> & Jana DeLoach <sup>09</sup>

Person reviewing video: Teri Burnside Date: May 13, 2014

