

**IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT,
IN AND FOR BROWARD COUNTY, FLORIDA**

STATE OF FLORIDA,

CASE NO.: 94-13062CF10B

Plaintiff,

JUDGE: JEFFREY R. LEVENSON

v.

PABLO MANUEL IBAR,

Defendant.

ORDER ON CASE MANAGEMENT CONFERENCE

THIS CAUSE comes before this Court upon the Defendant's Motion for Post Conviction Relief, brought pursuant to Fla. R. Crim. P. 3.851. Having considered the Motion, the State's Response, the Defendant's Reply, having held a Case Management Conference on October 30, 2008, having heard argument of counsel, having considered the Court file, applicable law, and being duly advised in the premises, this Court finds as follows:

An Evidentiary Hearing shall be held on the following issues: Claim II in which the Defendant argued that the State suppressed or failed to disclose exculpatory evidence. *Brady v. Maryland*, 373 U.S. 83 (1963). Specifically, the Defendant argued that the State suppressed evidence of a black long-sleeved shirt, for which a DNA profile was obtained; a lead provided to Miramar Police Officer Ron Peluso that an unidentified informant at Casey's Nickelodeon reported that John Giancarlo Rabino was a possible suspect; information that on the day of the murders that Jean Klimeczko told his mother Michelle that "something bad was going to happen;" and information regarding all persons to whom the images of perpetrators were shown to, but denied a resemblance to the Defendant. (Restated).

The Court also grants an Evidentiary Hearing on Claims I(A) and I(F), in which the Defendant argued that he was denied his constitutional rights to the effective

assistance of counsel because his trial attorney failed to procure the assistance of a facial identification expert to establish the inability to positively identify the Defendant as one of the perpetrators on the crime surveillance video. Specifically, the Defendant argued that trial counsel was ineffective for failing to obtain the assistance of Dr. Mehmet Iscan (who assisted in the co-defendant's defense) to analyze the video. The Defendant also argued that trial counsel was ineffective for failing to obtain the assistance of another facial identification expert. Benjamin Waxman, Esq. has obtained the assistance of British facial identification expert Raymond Evans, who analyzed the video and opined that there were five distinct, observable differences between the Defendant and the perpetrator. (Restated). Thus, the defense shall be permitted to present Evans as a witness at the Evidentiary Hearing.

This Court finds that the remainder of the Defendant's claims do not warrant an Evidentiary Hearing, and this Court shall hold those claims in abeyance until the conclusion of the Evidentiary Hearing and a Final Order is issued. It is hereby

ORDERED AND ADJUDGED that this Court grants an Evidentiary Hearing on the Claims set forth above. At the next Status Hearing this Court shall set the date for the Evidentiary Hearing, and also set the parameters for discovery, including exchange of witness and exhibit lists.

DONE AND ORDERED in Chambers, on this ____ day of December 2008, in Chambers, Fort Lauderdale, Broward County, Florida.

JEFFREY R. LEVENSON
CIRCUIT JUDGE

JEFFREY R. LEVENSON

DEC 15 2008

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Copies to:

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