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COMMON PLEAS COURT
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IN THE COURT OF COMMON PLEAS OF LUCAS COUNTY, OHIO

STATE OF OHIO	*	CASE NO: CR23-1889
	*	
Plaintiff,	*	Judge Joseph V. McNamara
	*	
vs.	*	**STATE'S RESPONSE TO**
	*	**DEFENDANT'S MOTION**
	*	**FOR TRANSCRIPTS**
	*	
LESLIE HAYWARD	*	Mark Hanusz (103870)
	*	Assistant Prosecuting Attorney
Defendant.	*	Lucas County Prosecutor's Office
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Now comes the State of Ohio, by and through its undersigned counsel, and hereby opposes the Defendant's April 18, 2024 motion for the following reasons:

I. UNTIMELINESS OF DEFENDANT'S MOTION

The Defendant's motion fails to comply with Ohio Criminal Rule 7(D), which requires that motions be filed no less than seven days before the start of trial. This motion was filed on April 18, 2024, for a trial scheduled to commence on April 23, 2024. This timing, being only five days before trial, does not meet the required standard, rendering the motion untimely.

II. LACK OF SUPPORTING LEGAL AUTHORITY

The motion does not cite any relevant criminal rules or case law that would necessitate the transcription of the 911 call and audio recordings by a court reporter. Contrary to the Defendant's assertions, the Ohio Supreme Court in *State v. Froman*, 162 Ohio St.3d 435, 2020-Ohio-4523, has clearly established that when there are no material differences between a tape admitted into evidence and a transcript or captions used as a listening aid, the use of such aids does not constitute prejudicial error. This precedent supports the admissibility of the audio recordings with captions as long as the captions accurately reflect the content of the recordings.

III. AUTHENTICATION AND ADMISSIBILITY OF CAPTIONS

The State contends that the authenticity of the *original* audio file is paramount and that the captions serve only as an aid for understanding this authenticated content. Therefore, if the captions are an accurate representation of the audio, they do not require separate authentication by a court reporter to be admissible.

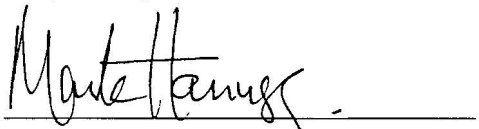
IV. PROPOSED RESOLUTIONS TO AVOID FURTHER DELAY

To avoid unnecessary delay in a case already pending for 290 days since arraignment, the State offers the following solutions:

- If the court agrees with the defense that *only* a court reporter can verify the accuracy of the captions by providing a transcript, then the State will not admit the captions into evidence, opting instead to utilize them solely as a demonstrative aid for the jury and only seek admission of the authenticated audio file.
- Alternatively, if the court agrees that other qualified individuals, such as native English-speaking attorneys, can confirm the accuracy of these captions, we propose that both parties collaborate to verify the captions, marking any disputed sections as "inaudible."
- Lastly, the State could admit both the uncaptioned and captioned audio files into evidence with a clear instruction from yourself to the jury that in the event of any discrepancy, the uncaptioned audio file is controlling.

WHEREFORE, the State respectfully requests that this Court deny the Defendant's motion and consider the proposed solutions to proceed efficiently with the trial.

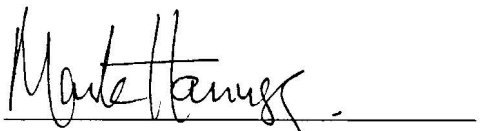
Respectfully submitted,



Mark Hanusz (103870)
Assistant Prosecuting Attorney

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Motion was served on Abbey Flynn, counsel for the defendant, via email to flynnabbeymae@gmail.com April 19, 2024.



Mark Hanusz (103870)
Assistant Prosecuting Attorney