

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

STATE OF OHIO)	CASE NO. CR 2020-03-1008
)	
Plaintiff,)	JUDGE KELLY McLAUGHLIN
)	
-vs-)	
)	
SYDNEY NICOLE POWELL)	<u>MOTION FOR SURREBUTTAL</u>
)	
Defendant.)	

Sydney Powell is charged with Murder and other related offenses as a result of her mother’s death on March 3, 2020. Ms. Powell entered a plea of Not Guilty by reason of Insanity (NGRI).

R.C. 2901.01(A) (14)

“A person is not guilty by reason of insanity relative to a charge of an offense only if the person proves, in the manner specified in Section 2901.05 of the revised code (i.e. by a preponderance of the evidence), that at the time of the commission of the offense, the person did not know, as a result of a severe mental disease or defect, the wrongfulness of the person’s acts.”

Assuming the State calls its only identified expert on sanity, Dr. Sylvia O’Bradovitch or any other witnesses on rebuttal to refute NGRI, Ms. Powell is entitled to surrebuttal to challenge the credibility and/or conclusions of the State’s rebuttal witnesses.

The Ohio Supreme Court has held that “a party has an unconditional right to present rebuttal testimony on matters which are first addressed in an opponent’s case in chief.” Phung vs. Waste Mgmt. Inc., 71 Ohio St. 3d 4808, 410 (1994).

“Rebuttal evidence is that given to explain, refute, or disprove new facts introduced into evidence by the adverse party.” State v. McNeill, 83 Ohio St. 3d 438, 446 (1998); St. v. Grinnell, 112 Ohio App 3d. 124, 146 1996).

The Ninth District Court of Appeals addressed a Defendant’s right to surrebuttal in State v. Carrasquillo, 2010 Ohio 5063, decided October, 18, 2010. Pamela Carrasquillo was charged with Attempted Murder for shooting her husband. Ms. Carrasquillo testified on direct that she did not shoot her husband. The State called three jail house snitches to testify that Ms. Carrasquillo confessed to shooting her husband. The defense attempted to call surrebuttal jail inmates who would have testified that the State’s snitch was lying. The trial court prevented the defense from calling the surrebuttal witnesses.

The Ninth District Court of Appeals reversed holding: “This court reverses because the trial court should have let Ms. Carrasquillo’s “surrebuttal” witnesses testify.” Id. paragraph 1.

Accordingly, Ms. Powell has an “unconditional right” to present surrebuttal testimony to challenge any evidence offered by the State in rebuttal.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify on August 28, 2023, the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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