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Order Regarding Further Admission of Evidence of the Durkin Homicide

Judge Ronald Suster
Cuyahoga County Court of Common Pleas

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STATE OF OHIO)
) SS.
CUYAHOGA COUNTY)

IN THE COURT COMMON PLEAS

CASE NO. 312322

ALAN DAVIS, et al.,)
)
Plaintiff,)
)
v.)
)
STATE OF OHIO,)
)
Defendant.)

**ORDER REGARDING FURTHER
ADMISSION OF EVIDENCE OF THE
DURKIN HOMICIDE**

Plaintiff seeks to admit evidence of the Durkin homicide beyond what has already been offered for two purposes. Primarily, Plaintiff contends that there are sufficient similarities between the Durkin and Sheppard homicides to cause the Durkin homicide to be admissible as proof of Richard Eberling's identity as the killer of Mrs. Sheppard. For the reasons stated from the bench, the State of Ohio's motion in *limine* to limit further evidence of the Durkin homicide as proof of Eberling's identity is GRANTED.

Plaintiff's alternative argument is that evidence of Eberling's statement to Scheidler about the Durkin homicide be admitted for the limited purpose of its effect on Eberling's credibility. The Court has been advised this afternoon that the witness Scheidler is unavailable to testify on Wednesday, March 8, 2000, and thus the jury will not be able to hear evidence on this issue, even if the Court determines it to be admissible.

The Court will use the additional time available as a result of the witness' unavailability to continue to take the matter under advisement. Should the Court allow the evidence for this limited purpose and should Plaintiff have rested, Plaintiff will be given leave to re-open its case.

Date: MARCH 7th 2000

Ronald Suster
Judge Ronald Suster