

STATE OF WISCONSIN

CIRCUIT COURT

MANITOWOC COUNTY

STATE OF WISCONSIN,

MANITOWOC COUNTY
STATE OF WISCONSIN
FILED

Plaintiff,

JUN 16 2006

v.

CLERK OF CIRCUIT COURT Case No. 2005-CF-381

STEVEN A. AVERY,

Defendant.

**DEFENDANT'S MOTION TO SUPPRESS STATEMENT
TO MARINETTE COUNTY SHERIFF'S DEPARTMENT**

Steven A. Avery, by counsel, now moves to suppress all statements that he allegedly made to any member of the Marinette County Sheriff's Department or other law enforcement officer after approximately 2:55 p.m. on November 5, 2005. Those statements were made after Mr. Avery expressly and unequivocally invoked his Fifth and Fourteenth Amendment right to counsel and his corresponding right to counsel under Article I, Section 8 of the Wisconsin Constitution. Further, Mr. Avery did not reinitiate conversation with the Marinette County Sheriff's Department or with other law enforcement officers.

Accordingly, any statement by Mr. Avery to the Marinette County Sheriff's Department or to other law enforcement officers after he invoked his right to

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counsel on November 5, 2005, must be suppressed pursuant to the Fifth and Fourteenth Amendments to the United States Constitution, and pursuant to Article I, Section 8 of the Wisconsin Constitution. Mr. Avery requests such an order. Mr. Avery requests further that the Court enter an order suppressing the direct and indirect products of such statements.

In support of his motion, he tenders the accompanying Affidavit of Stephen M. Glynn, with Exhibit A attached. He further requests an evidentiary hearing if the State opposes this motion.

An invocation of the right to counsel requires the police to stop interviewing a suspect, and precludes the police from questioning him again unless the suspect himself initiates a further interview. *Edwards v. Arizona*, 451 U.S. 477, 484-86 (1981); *Arizona v. Roberson*, 486 U.S. 675, 680-85 (1988) (*Edwards* rule bars even new interrogation about unrelated crime). The suspect need not “speak with the discrimination of an Oxford don,” *Davis v. United States*, 512 U.S. 452, 476 (1994) (Souter, J., concurring in judgment), but he “must unambiguously request counsel.” *Davis*, 512 U.S. at 459; see also *State v. Jennings*, 252 Wis. 2d 228, 246-49, 647 N.W.2d 142, 151-52 (2002). In short, law enforcement officers may not continue questioning if “the suspect clearly requests an attorney.” *Davis*, 512 U.S. at 461. Mr. Avery did that here. And he did not initiate renewed questioning.

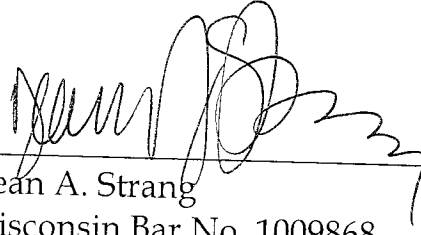
WHEREFORE, Steven A. Avery requests an order suppressing his statements after approximately 2:55 p.m. on November 5, 2005, to any member of the Marinette

County Sheriff's Department or other law enforcement officers and suppressing all direct or indirect products of such statements.

Dated at Madison, Wisconsin, June 15, 2006.

Respectfully submitted,

HURLEY, BURISH & STANTON, S.C.



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