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PRESS STATEMENT

November 5, 2010

State v. China Arnold 2006-CR-4928

We are astonished that the Court of Appeals reversed the defendant's conviction.

The prosecutor's office provided copies of all witness statements to the defendant's attorneys. Not only was this done well before trial, it was above and beyond what was required. Moreover, the Prosecutor's Office arranged for defense counsel to interview the witness in question in a private office before she testified. Any and all testimony given by the witness at trial was consistent with the statements that were provided to defense counsel in discovery. There were no surprises in the witness's trial testimony, and there was no ambush.

The defendant never argued, either at trial or on appeal, that an inadequate opportunity to interview this witness before the first trial hampered her defense in the second. In fact, the trial judge conducted a conference with the defense attorneys and the assistant prosecutors who tried this case days before the first trial began. At that conference it was established that the State had provided the Defendant with the address of the witness in question five days before the witness testified. We are concerned that the appellate court made no reference in its opinion to this conference and the decisions that the trial judge made at that time.

In reality, not only did the defense have an investigator hired to assist in locating witnesses, the defense was in a better position than the State to find her. Defense counsel were well acquainted with the witness, having actually been her lawyers in an unrelated criminal case while the aggravated murder charges against the defendant were pending. The State will file a motion asking the Court of Appeals to reconsider its decision, given the existence of facts in the record that made clear the defense had more than ample opportunity to prepare the examination of this witness and that the defendant was provided a fair trial.

For additional information, contact: Mr. Greg Flannagan, Public Information Officer, 937-225-5610

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