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Case Summary

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State of Indiana vs. Toby D Johnson

Case Number	79D02-0402-MR-000001	
Court	Tippecanoe Superior Court 2	2
Туре	MR - Murder	
Filed	02/18/2004	
Status	06/06/2005 , Decided	
Delated	Lower Trial Court Case	70404-1711-SD-02692

Parties to the Case Show all party details

- Defendant Johnson, Toby D
- State State of Indiana Plaintiff

Charges

Show all charge details

- 01 01/26/2004 Murder
- □ 02 01/26/2004 Criminal Confinement
- 03 01/26/2004 Criminal Confinement
- 04 01/26/2004 Aggravated Battery ⅎ
- 05 01/26/2004 Battery
- 06 01/26/2004 Battery Committed Resulting in Serious Bodily Injury
- 07 01/26/2004 Battery Resulting in Bodily Injury
- 08 01/26/2004 Intimidation
- 09 01/26/2004 Habitual Substance Offender

Chronological Case Summary

02/19/2004

Converted Event

The State of Indiana appears by Robert E. Dwyer, Deputy Prosecuting Attorney, and files Informations charging the defendant, TOBY JOHNSON, with: COUNT I, MURDER; COUNT II, CONFINEMENT; COUNT III, CONFINEMENT; COUNT IV, AGGRAVATED BATTERY; COUNT VI, BATTERY; COUNT VI, BATTERY COMMITTED BY MEANS OF A DEADLY WEAPON; COUNT VII, BATTERY; and COUNT VIII, INTIMIDATION COMMITTED WHILE ARMED WITH A DEADLY WEAPON. The State also files an Affidavit of Probable Cause for the issuance of a warrant for the arrest of the defendant. The Court examines the Informations and the Affidavit of Probable Cause and finds that they state facts showing probable cause exists for the issuance of a warrant for the arrest of the defendant. The Clerk is now directed to issue a warrant for the arrest of the defendant to the Sheriff of Tippecanoe County, returnable forthwith. No bond. Copy to the Tippecanoe County Prosecuting Attorney and Sheriff. kb

02/19/2004

Converted Event

ALERT ISSUED BENCH WARRANT issued on: 02/18/2004 For: JOHNSON, TOBY

02/19/2004

Converted Event

Defendant appears in person and custody and by Daniel Moore, his attorney. Initial hearing conducted. Status Conference on 6/18/04 at 9:30 a.m.; Pre-Trial Conference on 7/2/04 at 9:30 a.m. and Jury Trial on 7/20/04 at 8:30 a.m. Defendant held without bond. tss

02/19/2004

The Court on it's own motion schedules pre-trial conference Friday, March 19, 2004, at 9:30 am. at which counsel are directed to appear in person. Copy to counsel. bsr

02/20/2004

E. Kent Moore files APPEARANCE as counsel for defendant with certificate of service. File marked 2/19/04. ks

02/20/2004

Converted Event

ALERT SERVED BENCH WARRANT served on: 02/18/2004 For: JOHNSON, TOBY D

03/19/2004

Calendar: Pre-trial conference (Event Code: D2-PTC) (Judge: THOMAS BUSCH) (Time: 09:30:00)

03/29/2004

Converted Event

State of Indiana appears by John H. Meyers and Laura Zeman, Deputy Prosecuting Attorneys. E. Kent Moore and Daniel Moore appear on behalf of defendant. Hearing regarding discovery scheduled for Friday, April 02, 2004, at 9:30 am. Copy to counsel. kb

04/01/2004

State of Indiana files STATE'S DISCOVERY DISCLOSURES with certificate of service. ks

	VISITOR OIL OFFICE
04/02/2004	Converted Event Calendar: Hearing (Event Code: D2-MISC) (Judge: THOMAS BUSCH) (Time: 09:30:00)
04/06/2004	Converted Event Parties appear by counsel. Hearing regarding discovery recheduled for Friday, April 16, 2004, at 9:30 am. Copy to counsel. bsr
04/16/2004	Converted Event By agreement of counsel, criminal status conference rescheduled for Friday, April 30, 2004, at 9:30 am. Copy to counsel. jj (R. Perry Shipman, Senior Judge)
04/16/2004	Converted Event Calendar: hearing (Event Code: D2-HEARING) (Judge: THOMAS BUSCH) (Time: 09:30:00)
04/30/2004	Converted Event Status Conference scheduled for Friday, May 21, 2004, at 9:30 am. as to discovery. Copy to counsel. bsr
04/30/2004	Converted Event
05/21/2004	Calendar: criminal status conference (Event Code: D2-CFSTC) (Judge: THOMAS BUSCH) (Time: 09:30:00) Converted Event Character of the Company
05/25/2004	Calendar: Status Conference (Event Code: D2-STC) (Judge: THOMAS BUSCH) (Time: 09:30:00) Converted Event
	State, by Laura Zeman, files STATE'S DISCOVERY DISCLOSURE with Certificate of Service. jk
05/26/2004	Converted Event Pre-trial conference continued to Monday, May 24, 2004 at 9:30 a.m. bsr
05/26/2004	Converted Event The State appears by John Meyers, Chief Deputy Prosecutor, and by Laura Zeman, Deputy Prosecuting Attorney, and defendant appears by counsel E. Kent Moore and Daniel Moore. Status conference held. Jury trial continued to January 17, 2005 at 8:30 a.m. Jury selection to commence January 13, 2005 at 8:30 a.m. until a jury is seated. Copy to counsel. dl Thomas H. Busch, Judge Result: rescheduled
05/27/2004	Converted Event State, by Laura W Zeman, files STATE'S SUPPLEMENTAL DISCOVERY DISCLOSURE with Certificate of Service. (file marked 05/26/04) jk
06/02/2004	Converted Event State of Indiana files STATE'S SUPPLEMENTAL DISCOVERY DISCLOSURES with certificate of service. File marked 5/28/04. ks
06/17/2004	Converted Event Order Regarding Blood Stain Pattern Analysis of Evidence At ISP Laboratory Issued. Copy to counsel and ISP Laboratory, Lowell, IN. kb Warren B. Thompson, Senior Judge (counsel to distribute)
06/18/2004	Converted Event Calendar: Status Hearing (Event Code: STAT) (Judge: THOMAS BUSCH) (Time: 09:30:00)
06/22/2004	Converted Event Status conference. Event: Status Conference Date: 11/12/2004 Time: 9:30 am Judge: BUSCH, JUDGE THOMAS H Location: SUPERIOR COURT NO.2
06/22/2004	Converted Event Order for June 18,2004. Parties appear by counsel. By agreement, status conference rescheduled to Friday, November 12, 2004, at 9:30 a.m. Pre-trial conference rescheduled to Friday, December 10, 2004, at 9:30 a.m. Trial by jury rescheduled for Monday, January 17, 2005, at 8:30 a.m. reaffirmed. Copy to counsel and Sheriff. bsr Warren B. Thompson, Senior Judge
07/02/2004	Converted Event Calendar: Pre Trial Conference (Event Code: PTC) (Result: CONTINUED) (Judge: THOMAS BUSCH) (Time: 09:30:00)
07/20/2004	Converted Event Calendar: Jury Trial (Event Code: JT) (Result: CONTINUED) (Judge: THOMAS BUSCH) (Time: 08:30:00)
07/29/2004	Converted Event State of Indiana files STATE'S SUPPLEMENTAL DISCOVERY DISCLOSURES with certificate of service. File marked 7/28/04. ks
08/09/2004	Converted Event State of Indiana files STATE'S SUPPLEMENTAL DISCOVERY DISCLOSURES with certificate of service. File marked 8/5/04. ks
08/20/2004	Converted Event Defendant, by counsel, files DEFENDANT'S DISCOVERY DISCLOSURES with Certificate of Service. jk
11/05/2004	Converted Event State of Indiana files INFORMATION OF HABITUAL OFFENDER, ks
11/08/2004	Converted Event State of Indiana files STATE'S SUPPLEMENTAL DISCOVERY DISCLOSURES with certificate of service. File marked 11/5/04. ks
11/12/2004	Converted Event Calendar: Status Conference (Event Code: D2-STC) (Judge: THOMAS BUSCH) (Time: 09:30:00)
11/15/2004	Converted Event Defendant appears in custody and by Daniel Moore, his attorney. Court conducts initial hearing on Habitual Offender count and reaffirms dates presently scheduled. (Tss)
11/19/2004	Converted Event Defendant, by counsel, files PETITION FOR HEARING ON DEFENDANT'S COMPETENCY TO STAND TRIAL with certificate of service. bsr
11/24/2004	Converted Event State of Indiana files STATE'S SUPPLEMENTAL DISCOVERY DISCLOSURES with certificate of service. File marked 11/23/04.ks

11/30/2004	Converted Event
	Order dated 11-15-04 to defendant returned mail - Undeliverable as addressed.cg
11/30/2004	Converted Event The Sheriff of Tippecanoe County is directed to transport TOBY D JOHNSON from the Tippecanoe County Jail to the office of Dr. Rahdart, Wabash Valley, for an appointment on Tuesday, November 30, 2004 at 1:15 p.m. Copy to counsel, Sheriff of Tippecanoe County (c/o Doug Caldwell), and Dr. Rahdart. Copy faxed to Sheriff (Attn: Doug Caldwell - 429-4307) kb
12/01/2004	Converted Event Parties appeared by counsel on November 19, 2004. The Court appointed Dr. Rahdart and Dr. Desai to evaluate the defendant and determine if he is competent to stand trial and file a report with the Court. Status conference scheduled for Friday, December 17, 2004 at 9:30 a.m. Copy to counsel, Dr. Desai and Dr. Rahdart. kb
12/08/2004	Converted Event Wabash Valley files EVALUATION REPORT - put in Pre-sentence file. ks
12/10/2004	Converted Event Calendar: Pre-trial conference (Event Code: D2-PTC) (Judge: THOMAS BUSCH) (Time: 09:30:00)
12/17/2004	Converted Event Final pre-trial conference scheduled for Friday, January 07, 2005, at 8:30 am. Copy to counsel. bsr
12/28/2004	Converted Event The Court vacates the portion of its Order issued December 1, 2004 appointing Dr. Desai to determine if defendant is competent to stand trial. Copy to counsel and Dr. Desai. kb
12/28/2004	Converted Event The Court appoints Dr. Steven Berger to evaluate the defendant and determine if he is competent to stand trial and file a report with the Court. Copy to counsel and Dr. Berger. kb
12/29/2004	Converted Event Copy of charges faxed to Dr. Berger. kb
01/05/2005	Converted Event Based upon reports of Drs. Berger and Rhadert, defendant is found to be competent to stand trial. Copy to counsel. bsr
01/06/2005	Converted Event State of Indiana files STATE'S SUPPLEMENTAL DISCOVERY DISCLOSURES with certificate of service. ks
01/07/2005	Converted Event Initial Hearing Order Issued. Discovery Order entered. [Tippecanoe County Public Defender appointed.] Copy to counsel, defendant, Public Defender, and Sheriff. The following event: Jury Trial scheduled for 01/17/2005 at 8:30 am has been rescheduled as follows: Event: Jury Trial Date: 06/16/2005 Time: 8:30 am Judge: BUSCH, JUDGE THOMAS H Location: SUPERIOR COURT NO.2
01/07/2005	Converted Event Status conference. Event: Status Conference Date: 05/06/2005 Time: 8:30 am Judge: BUSCH, JUDGE THOMAS H Location: SUPERIOR COURT NO.2
01/07/2005	Converted Event Parties appear by counsel. By agreement, jury trial scheduled for January 17, 2005 vacated and rescheduled. Status conference scheduled for May 6, 2005 at 8:30 a.m. Pre-trial conference rescheduled to Friday, May 27, 2005, at 8:30 a.m. Trial by jury rescheduled to Thursday, June 16, 2005 commencing at 8:30 a.m. Copy to counsel and Sheriff. bsr
01/07/2005	Converted Event Calendar: Pre-trial conference (Event Code: D2-PTC) (Judge: THOMAS BUSCH) (Time: 08:30:00)
01/17/2005	Converted Event Calendar: Jury Trial (Event Code: D2-IHJT) (Result: rescheduled) (Judge: THOMAS BUSCH) (Time: 08:30:00)
03/11/2005	Converted Event State of Indiana files STATE'S SUPPLEMENTAL DISCOVERY DISCLOSURES with certificate of service. ks
04/15/2005	Converted Event Defendant, by counsel, files PETITION FOR GOVERNMENT ASSISTANCE IN THE PAYMENT OF REASONABLE AND NECESSARY TRIAL EXPENSES FOR THE DEFENDANT with certificate of service. ks
04/18/2005	Converted Event Hearing on Petition For Governmental Assistance In the Payment of Reasonable and Necessary Trial Expenses For The Defendant scheduled for Friday, May 06, 2005, at 8:30 am. Copy to counsel. kb
04/29/2005	Converted Event State of Indiana files NOITCE OF AGGREVATING SENTENCING FACTORS AND CIRCUMSTANCES with certificate of service. File marked 4/28/05. ks
05/06/2005	Converted Event Calendar: Status Conference (Event Code: D2-STC) (Judge: THOMAS BUSCH) (Time: 08:30:00)
05/06/2005	Converted Event Calendar: Hearing (Event Code: D2-MISC) (Judge: THOMAS BUSCH) (Time: 08:30:00)
05/11/2005	Converted Event State of Indiana appeared by John H. Meyers, Chief Deputy Prosecuting Attorney, and defendant appeared by Daniel Moore, his attorney, on May 6, 2005. Hearing on defendant's motion for governmental assistance in the payment of reasonable and necessary trial expenses continued to Friday, May 13, 2005, at 8:30 am. Copy to counsel. kb
05/13/2005	Converted Event Calendar: Hearing (Event Code: D2-MISC) (Judge: THOMAS BUSCH) (Time: 08:30:00)
05/18/2005	Converted Event Order Issued regarding payment of reasonable and necessary trial expenses. Copy to counsel and Tippecanoe County Public Defender. kb
05/18/2005	Converted Event

	State of Indiana files STATE'S SUPPLEMENTAL DISCOVERY DISCLOSURES with certificate of service. File marked 5/17/05. ks
05/20/2005	Converted Event State of Indiana files STATE'S SUPPLEMENTAL DISCOVERY DISCLOSURES with certificate of service. File marked 5/19/05. ks
05/27/2005	Converted Event On motion of State, pre-trial conference scheduled for Wednesday, June 01, 2005, at 1:15 pm. Copy to counsel.
05/27/2005	Converted Event Calendar: Pre-trial conference (Event Code: D2-PTC) (Judge: THOMAS BUSCH) (Time: 08:30:00)
06/01/2005	Converted Event Calendar: Pre-trial conference (Event Code: D2-PTC) (Judge: THOMAS BUSCH) (Time: 13:15:00)
06/06/2005	Converted Event ORDER FOR JUNE 2, 2005. Comes now the State of Indiana by John H. Meyers, Chief Deputy Prosecuting Attorney. Comes also the defendant in person and by E. Kent Moore and Daniel Moore, his attorneys. This being the time set for entry of guilty plea by the defendant, the Court is advised that the defendant does not wish to proceed with the guilty plea hearing. Counsel for defendant orally moves to withdraw appearance. The Court now denies said motion and the jury trial date of June 16, 2005 is reaffirmed. Copy to counsel. jj
06/06/2005	Converted Event It is ordered that 60 (sixty) names on the regular jury panel of Superior Court No. 2 of Tippecanoe County be summoned by the bailiff of Superior Court No. 2 of Tippecanoe County to appear for service on Thursday, June 16, 2005 at 7:45 a.m. with trial to commence at 8:30 a.m. Trial is scheduled for seven (7) days. Copy to counsel and bailiff. bsr
06/06/2005	Converted Event Guilty Plea Order Issued. Defendant pled guilty to Count I, Murder, and Count III, Confinement With A Deadly Weapon, a Class B felony. Defendant waives thirty-day sentencing requirement. Pre-sentence report due July 7, 2005. Copy to counsel, Sheriff, and Tippecanoe County Probation Department. kb Event: Sent (GP) Date: 07/15/2005 Time: 10:00 am Judge: BUSCH, JUDGE THOMAS H Location: SUPERIOR COURT NO.2
06/06/2005	Judgment Judicial Officer: Busch, Thomas H 01. Murder • Conversion Unknown
06/06/2005	Judgment Judicial Officer: Busch, Thomas H 02. Criminal Confinement
06/06/2005	• Conversion Unknown Judgment
	Judicial Officer: Busch, Thomas H 03. Criminal Confinement • Conversion Unknown
06/06/2005	Judgment Judicial Officer: Busch, Thomas H
	04. Aggravated Battery • Conversion Unknown
06/06/2005	Judgment Judicial Officer: Busch, Thomas H 05. Battery • Conversion Unknown
06/06/2005	Judgment Judicial Officer: Busch, Thomas H
	O6. Battery Committed Resulting in Serious Bodily Injury • Conversion Unknown
06/06/2005	Judgment Judicial Officer: Busch, Thomas H 07. Battery Resulting in Bodily Injury • Conversion Unknown
06/06/2005	Judgment
	Judicial Officer: Busch, Thomas H 08. Intimidation
06/06/2005	Conversion Unknown Judgment Judicial Officer: Busch, Thomas H
	O9. Habitual Substance Offender • Conversion Unknown
06/07/2005	Converted Event Victim's Advocate files Letter from Fran Richardson. ks
06/07/2005	Converted Event Victim's Advocate files Letter from Elizabeth Sp. last name not provided. ks
06/16/2005	Converted Event Calendar: Jury Trial (Event Code: D2-IHJT) (Judge: THOMAS BUSCH) (Time: 08:30:00)

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06/17/2005	Converted Event LETTERS from Mr. and Mrs. Cleon Zachary. KS
06/29/2005	Converted Event PRESENTENCE INVESTIGATION REPORT filed. ks
07/08/2005	Converted Event Letter from Gayle Prewitt. ks
07/14/2005	Converted Event State of Indiana files STATE'S SUPPLEMENTAL SENTENCING DOCUMENTS with certificate of service. ks
07/15/2005	Converted Event Sentencing Order Issued. Defendant sentenced to the Indiana Department of Correction for 65 years on Count I, Murder and 15 years on Count III, Confinement With A Deadley Weapon, a Class B felony. Count III shall be consecutive to Count I. Defendant to pay costs. Defendant entitled to a credit of 585 days. Remaining counts dismissed. Abstract of Judgment Issued. Copies as indicated. kb
07/15/2005	Converted Event Sentencing Order prepared/sent to DOC/Sheriff - attention Sgt. Caldwell on this day .ks
07/15/2005	Converted Event Calendar: Sent (GP) (Event Code: D2-SENTGP) (Judge: THOMAS BUSCH) (Time: 10:00:00)
08/17/2005	Converted Event Daniel Moore appeared and reported that it is a conflict of interest to serve as appointed counsel under the Public Defender Plan. The Court therefore relieves Daniel Moore of the assignment and appoints Bruce Graham as counsel for the appeal on guilty plea and sentencing, Copy to counsel, Daniel Moore, and Bruce Graham. kb
08/26/2005	Converted Event Comes now Bruce W. Graham and files Post Conviction Petition for Belated Notice of Appeal. Order on Petition to File Belated Notice of Appeal issued. Copy to counsel, Clerk and Court Reporter. jj
09/23/2005	Converted Event CORRECTING ENTRY TO DOCKET: The following document was located in the file during verification and does not appear on the docket - LETTER from D Brisco, file marked 07/15/2005.
09/23/2005	Converted Event CORRECTING ENTRY TO DOCKET: Per court reporter, docket entry dated 01/07/2005 (Initial Hearing Conducted) was entered on incorrect case. Docket entry is not applicable to this case.
09/23/2005	Converted Event CORRECTING ENTRY TO DOCKET: The following documents was not located in the file during the verification - ORDER, docket entry date 04/16/2004.
09/23/2005	Converted Event Notice of Completion of Clerk's Record sent to Court of Appeals; CCS certified as of this date. Copy sent to Bruce Graham and Indiana Attorney General.
09/23/2005	Converted Event Issue Date: 09/23/2005 Service: NOTICE SENT Method: *SIGNATURE MAILER Cost Per: \$ 0.00 COURT OF APPEALS CLERK OF THE COURTS 217 STATE HOUSE 200 W WASHINGTON INDIANAPOLIS, IN 46204 Tracking No: Z040009362
09/27/2005	Converted Event SERVICE ON DEFENDANT BY CERTIFIED MAIL Method: *SIGNATURE MAILER Issued: 09/23/2005 Service: NOTICE SENT Served: 09/26/2005 Return: 09/27/2005 On: COURT OF APPEALS Signed By: D LITTLE Reason: CERT. MAIL SERVICE Comment: Tracking #: Z040009362
11/23/2005	Converted Event Reporter files Transcript of Pre-Trial Conference, Guilty Plea Hearing, Sentencing Hearing, Documentary Exhibits and Table of Contents with trial court clerk and sends Notice of Filing of Transcript to all parties of record. jj
11/23/2005	Converted Event Notice of Completion of Transcript sent to Court of Appeals; 1 transcript volume, 1 exhibit volume, and 1 table of contents volume.
12/28/2005	Converted Event At Appellate Clerk's direction, Record on Appeal sent to Appellate Court containing 1 transcript volume, 1 exhibit volume, and 1 table of contents volume.
12/28/2005	Converted Event Issue Date: 12/28/2005 Service: APPELLATE RECORD TO COURT OF APPEALS Method: *SIGNATURE MAILER Cost Per: \$ 0.00 COURT OF APPEALS CLERK OF THE COURTS 217 STATE HOUSE 200 W WASHINGTON INDIANAPOLIS, IN 46204 Tracking No: Z040011184
12/30/2005	Converted Event SERVICE ON DEFENDANT BY CERTIFIED MAIL Method: *SIGNATURE MAILER Issued: 12/28/2005 Service: APPELLATE RECORD TO COURT OF APPEALS Served: 12/29/2005 Return: 12/30/2005 On: COURT OF APPEALS Signed By: L TORRANCE Reason: CERT. MAIL SERVICE Comment: Tracking #: Z040011184
04/05/2006	Converted Event Defendant, pro se, files MOTION TO COMPEL PRODUCTION OF DOCUMENTS. Copy to State of Indiana/Mr. Graham. ks
04/06/2006	Converted Event Comes now the defendant, pro se, and files Motion to Compel Production of Documents. The Court now strikes said motion for the reason the defendant is represented by counsel. Said motion of referred to Bruce W. Graham, counsel for the defendant. Copy to counsel, defendant. jj
08/24/2006	Converted Event Court of Appeals of Indiana faxes MEMORANDUM DECISION . ks
11/03/2006	Converted Event Court of Appeals of Indiana files MEMORANDUM DECISION. ks

01/03/2007	Converted Event The Court corrects its Sentencing Order issued July 15, 2005 as follows: Pursuant to the Order of the Court of Appeals of Indiana, Count III shall be concurrent to Count I for a total sentence of sixty-five (65) years, all executed. Amended Abstract of Judgment Issued. Copy to counsel, Probation Department, and Indiana Department of Corrections. kb
01/29/2014	Converted Event Defendant, pro se, files MOTION FOR APPOINTMENT OF COUNSEL with certificate of service. Proposed order filed. ks (Order entered in 79D02-1312-PC-18)
07/22/2014	Converted Event Defendant, pro se, files LETTER. File marked July 21, 2014. cs
07/23/2014	Converted Event Comes now the defendant, pro se, and files a letter regarding transcripts. The Court now grants the defendant s motion for transcript. The court reporter of Tippecanoe Superior Court #2 is directed to prepare a transcript of the June 20, 2005 hearing where defendant s motion to withdraw guilty plea was denied, at public expense and provide a copy to the defendant. Copy to counsel, defendant and Karen Beard. jj
08/26/2014	Converted Event NOTICE OF FILING OF TRANSCRIPT entered. April E. Wilson, Deputy Court Reporter of Superior Court 2 of Tippecanoe County, hereby notifies the parties that the transcript in this case, for hearings dated June 2, 2005 and June 6, 2005, have been copied and certified. The transcripts were mailed to Defendant on the 26th day of August, 2014. Notice to State. aew
01/05/2018	Order Received from the Court of Appeals Order declining authorization to file PCR petition Order 01/04/2018 Signed:
01/06/2018	Automated ENotice Issued to Parties Order Received from the Court of Appeals 1/5/2018: Bruce Wayne Graham; Brian Patrick Johnson

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