

TABLE OF CONTENTS

WITNESSES: PEOPLE

John Earl Smith		
Direct Examination by Mr. Bramble		3
Cross Examination by Ms. Ostrander		16
Jacqueline Smith		
Direct Examination by Mr. Bramble		28
Cross Examination by Ms. Ostrander		37
Christopher George Smith		
Direct Examination by Mr. Bramble		51
Cross Examination by Ms. Ostrander		63
Aaron Williams		
Direct Examination by Mr. Bramble		76
Cross Examination by Ms. Ostrander		86

EXHIBITS:

MARKED

RECEIVED

PX - 1	Lineup Photo	36	91
PX - 2	Lineup Photo	36	91
PX - 3, 4, 5	Photo Array	62	91

THIS CAR. DON WAS THE DRIVER - MARSHONE HAD THE 38 AUTO AT THE HOUSE ON FAIR. CARL SAW MARSHONE SHOOTING THE GUN ON FAIR. CARL HAS SEEN THIS GUN AT ERIC + DON'S HOUSE MANY TIMES, IT IS A 38 AUTO WITH SILVER ON THE TOP, BLACK AND A BROWN HANDLS. - AFTER THE SHOTS WERE FIRED THEY WENT HOME RETURNING TO THE HOUSE ON EASTERN WERE CARL, KAHN, TRANT, ERIC, MARKE, MARSHONE + DON, KEITH, TYRONE, + COREY. - THEY DIDN'T ALL COME TOGETHER - THEY SPLIT UP. DON + MARSHONE SHOWED UP A LITTLE LATER THEY HAD BOUGHT THE GUN HOME.

- CARL STATES HE GOT THE 32 AUTO GUN DON + ERIC'S AT A FEW DAYS BEFORE THE INCIDENT ON FAIR ST. A FEW DAYS LATER HE RETURNED THE GUN TO THE ART. HE LEFT IT THERE. - CARL STATES HE HAD THE GUN BECAUSE HE HAD TROUBLE WITH A GUN IN THE NEIGHBORHOOD - HE HAS NO REAL EXPLANATION AS TO WHY HE RETURNED IT. - THE SUN AREA THE SAT THAT THE AIR ON PROSPER WAS BROKEN INTO EIGHTH 6-25 ON 6-18 HE THEN STATES HE'S SURE THAT HE WENT TO DETROIT THE SUN AREA THE BREAK IN AND WENT TO CT IN DETROIT. HE STATES HE HAD TO GO

SUBMITTED BY: _____

Carl Powell

1 the preprinted form -- defendant acknowledged it, and so
2 did the detectives -- and also a couple letters he wrote.
3 I would like to have those marked just for purposes of
4 making sure that these things we referred to are admitted
5 as evidence in this hearing.

6 THE COURT: For a record of this hearing?

7 MR. BRAMBLE: Yes, your Honor.

8 THE COURT: Any objection to that?

9 MR. IDSINGA: I have no objection for this --

10 THE COURT: Pardon?

11 MR. IDSINGA: -- hearing, your Honor. I have no
12 objection for this hearing.

13 THE COURT: All right. I will admit them at this
14 point for purposes of this hearing.

15 MR. BRAMBLE: Thank you.

16 THE COURT: We'll recess till tomorrow morning.

17 MR. IDSINGA: Thank you, your Honor.

18 MR. BRAMBLE: Thank you, your Honor.

19 (Exhibits marked)

20 (Court recessed)

21 - - - -

MILLER REPORTING SERVICE
(616) 754-2672

When will we learn about false confessions?

Convicting those who are innocent costly for taxpayers

When will we learn that innocent individuals can and do confess to crimes they do not commit? Sometimes they even plead guilty.

While we might find ourselves saying, "never," when imagining ourselves in such a situation, the truth is confessions and guilty pleas come from the mouths of the innocent. Of the 208 DNA exonerations nationally, more than 25 percent of the cases involved false confessions or guilty pleas.

Michigan should have learned this lesson in 2002 when Detroit native Eddie Joe Lloyd was found innocent and exonerated of the 1984 rape and murder of 16-year-old Michelle Jackson.

Lloyd was in a mental institution at the time of the investigation of the Jackson case. He contacted police because he wanted to help solve the crime. After three police interviews, Lloyd confessed to the crime. According to the police, Lloyd provided details of the crime that only the perpetrator could have known.

Hauntingly we have heard the same claims in the Claude McCollum case in Lansing. McCollum's "sleepwalking" confession also contained specific details of the crime.

In 1982 in Ada, Okla., Ron Williamson and Dennis Fritz were convicted for the murder of Debbie Carter based largely on Williamson's "dream" confession. Sixteen years later Williamson's confession proved to be false after DNA testing proved Williamson's innocence. Two other men, also convicted in Ada, Tommy Ward and Karl Fontenot, remain in prison today based on Ward's "dream" confession. Many believe these two men are innocent.

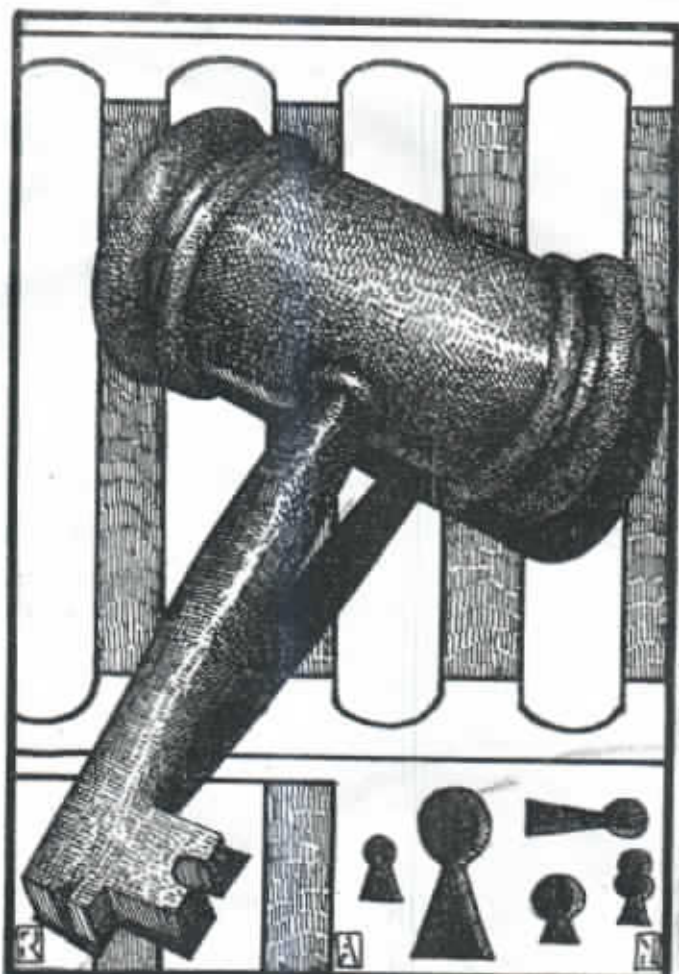
False confessions cost the taxpayers money. Lloyd's civil suit against the city of Detroit settled for \$4 million. Funds to pay the settlement came out of Detroit, Wayne County and state coffers. Part of the settlement included an agreement by Detroit police to videotape confessions in cases in which the suspect faces life imprisonment.

Ken Wyniemko, the second DNA exoneration in Michigan, settled his civil suit against Macomb County officials for more than \$3 million. A jailhouse snitch claimed Wyniemko confessed to him. The two men who were solicited by police to incriminate Wyniemko came forward in the civil suit to set in the record straight.

When will we learn that innocent persons do "confess" to crimes they did not commit?

MARLA MITCHELL-CICHON

is co-director of the Thomas M. Cooley Innocence Project in Lansing.



Los Angeles Times Syndicate

When will we take a serious look at the social science that explains why individuals do falsely confess or plead guilty to crime?

When will we learn that an incriminating statement does not equal factual guilt?

When will we learn that changes to police interrogation practices are needed?

False confessions lead to the prosecution of the wrong person. The real perpetrator may continue to commit crime. It is time to stand up for Eddie Joe Lloyd, Michelle Jackson, Ron Williamson, Dennis Fritz, Debbie Carter, Ken Wyniemko

Learn more

For more information about the causes of wrongful convictions and the cases of Eddie Joe Lloyd, Ron Williamson, Dennis Fritz and Ken Wyniemko, visit www.innocence.org.

For information about Karl Fontenot and Tommy Ward, go to www.wardandfontenot.com.

and others who have been harmed by unreliable, incriminating statements. It is time for Michigan to pass legislation requiring that police interrogations of criminal suspects be videotaped.

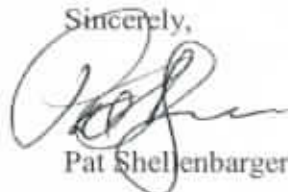
December 17, 2007

Kenneth Colvin Jr. (192744)
Marquette Branch Prison
1960 US 41 South
Marquette, MI 49855-9131

Dear Mr. Colvin,

I have reviewed the materials you sent me and, as you requested, am returning them. I am afraid I will be unable to write about your case, but I wish you luck.

Sincerely,

A handwritten signature in black ink, appearing to read "Pat Shellenbarger", written over the typed name below.

Pat Shellenbarger

Investigative Interview

6-24-94

844 Neland Av SE - Homicide

94-059379

Witness: Kevin Coger, B/M, 3-4-78
1023 Prince St SE
247-0839

1425 hrs.

Kevin told me he was inside his home (NW corner of Prince and Neland...SW from crime scene), upstairs, when he heard about six shots, around 12:30 PM.

He didn't think much of it at first, but then decided to look out the window near the NE corner of the house. All he remembers seeing is a B/M wearing red shorts or sweat pants running up and down the street in front of 844 Neland hollering for the police, that "someone had gotten shot". He said a minute or so later, he thought he also heard a loud explosion, but he's not sure if it had anything to do with the incident on Neland. He does not remember seeing anyone else leave the premises.

Sgt. Ted Quist,
Family Services Team

Note: I also canvassed houses at 1038, 1042, 1043, 1046, 1047, 1050 (boarded up), and 1105 Worden, but discovered they had already been covered, w/statements taken by other officers, or I got no answer at the door, ie. no luck at 1046, 1047, or 1105 Worden (NE corner of Alto).

MICHIGAN JUVENILE PRISON
1000 N.W. 41 South
Marquette, Michigan 49855-1131

December 3, 2007

The Grand Rapids Press
c/o Mr. Pat Shellenbarger
Staff Writer of The Grand Rapids Press
195 Michigan Street, N.W.
Grand Rapids, Michigan 49503

Re: Writing in regards to my wrongful criminal conviction.

Dear Mr. Shellenbarger:

First, I would like to thank you sincerely, in advance, in taking the time out, presumably, out of your very busy work schedule, to read my letter and reviewing the enclosed documents.

My reason for writing you and the Grand Rapids Press today, I am presently living through a continuous absolute nightmare. My brother and I are victims in a wrongful conviction ordeal.

For over the last thirteen frustrating long years, I have been continuously fighting this extremely long wearisome and encumbrance legal battle in proving our innocence. I have been corresponding and sending letters (along with documents) to numerous wrongful conviction organizations, including the Muskegon based organization called, "Innocent!". After receiving my letter back in 2006, Mr. Douglas J. Tjepkas, President of Innocent! kindly sent me an enormously informative and encouraging letter, along with several brochures and wrongful conviction web-sites that had aided me in my struggle in proving our innocence. In one of the organization's brochures, I had discovered your name and a positive endorsement you had made of the organization and its over zealous work in obtaining the freedom of the late Maurice Carter. I additionally read some of your articles in the Grand Rapids Press as well. So, I thought it would be extremely beneficial to us (my brother and I) if I had written you, and explained our current dilemma.

You may have noticed that I have enclosed with this letter, several documents, including a letter from Mr. Tjepkas, dated April 19, 2007. There are eighteen documents (thirty-eight pages in all) which are considerably related to our criminal case. As you now read through this letter, I will explain to you the relevancy of each document enclosed. Please, Mr. Shellenbarger, be patient with me, as I explain my nightmare.

Mr. Shellenbarger, my case involves a drughouse robbery that had occurred in Grand Rapids, Michigan on June 24, 1994. During the robbery, two people were killed and

MICHIGAN DEPARTMENT OF CORRECTIONS
DISBURSEMENT AUTHORIZATION (Prisoner)

4835-2893 3/90
 CAR-893

Prisoners write clearly - illegible forms will not be processed

Date: 01-12-88
 Lock Number: 8-110

1 - 6 7 - 11 14 - 26

198744 Cover _____

Prisoner Number Prisoner's Last Name - Print Clearly (Prisoner Leave Blank)

Pay To: LMF - 104008

Address: _____ Cost/Amount \$ _____

Reason/Description: (If to relative identify relationship) Money to: Unpaid State Department of Justice
40 Mt. Jones Blvd
113 Industrial Boulevard
Warren, D.C. 48090

Prisoner's Signature: [Signature] Total \$ 3.33

DO NOT WRITE BELOW THIS LINE

R.U.M. or Authorized Agent _____ Date _____
 Deputy Warden or Authorized Agent _____ Date _____
 Warden or Authorized Agent _____ Date _____

27 - 28		40 - 46		55 - 59	
Code	Encumbered Amount	Code	Encumbered Amount	Code	Encumbered Amount
	\$		\$		

DISTRIBUTION: White - Prisoner Accounting; Canary - Prisoner; Pink - Counselor

MICHIGAN DEPARTMENT OF CORRECTIONS
DISBURSEMENT AUTHORIZATION (Prisoner)

4835-2893 3/90
 CAR-893

Prisoners write clearly - illegible forms will not be processed

Date: Nov 9, 1989
 Lock Number: A-207

1 - 6 7 - 11 14 - 26

198744 Cover _____

Prisoner Number Prisoner's Last Name - Print Clearly (Prisoner Leave Blank)

Pay To: LMF

Address: _____ Cost/Amount \$ 3.33

Reason/Description: (If to relative identify relationship) POSTAGE TO: GOVERNOR OF MICHIGAN
No. John English
P.O. Box 90019
LANSING, MICHIGAN 48209

Prisoner's Signature: [Signature] Total \$ 3.33

DO NOT WRITE BELOW THIS LINE

R.U.M. or Authorized Agent _____ Date _____
 Deputy Warden or Authorized Agent _____ Date _____
 Warden or Authorized Agent _____ Date _____

27 - 28		40 - 46		55 - 59	
Code	Encumbered Amount	Code	Encumbered Amount	Code	Encumbered Amount
	\$		\$		

TIP 24

INVESTIGATIVE INTERVIEW FORM

NAME CAROLYN GLASPER

CASE _____ NUMBER _____

OFFICER(S) _____

DATE OF INTERVIEW 6-28 TIME 1705 LOCATION _____

INITIAL INTERVIEW Yes No _____ RIGHTS READ Yes _____ No

PERSONAL INFORMATION ON SUBJECT (to be completed on initial interview)

RACE/SEX B/F D.O.B. 12-11-69

ADDRESS 961 BLACK FLINT HOME PHONE _____

EMPLOYER _____ BUSINESS PHONE _____

OTHER INFO (SPECIFY) - VICE INFORMANT -

KEEP OUT OF PUBLICATION

SIGNIFICANCE OF THIS PERSON'S INVOLVEMENT WITH CASE: _____

FUNICK ^{MARIE} WEST 3-7-69 GEORGE
910 DAKOTA SE B- ISABELLA SE
- THEY HAVE AK-47s AND 9mm's -

INTERVIEW NOTES

CAROLYN WAS AT FUNICK'S HOUSE THINGS + TERRON CAME UP TO THE DOOR - SHE STATES THEY DIDNT KNOW SHE WAS THERE. SHE LEFT OUT THE BACK DOOR AND STOOD BY THE BASEMENT STEPS - THEY TOLD HER ~~FE~~ (FUNICK) TO GO GET THE GUY (CARL'S ^{INVEST} BROTHER, AROUND THE CORNER) SHE (FUNICK) DIDNT MOVE FAST ENOUGH SO THEY WERE REMAINING AT HER. CAROLYN THEN LEFT. THE NEXT DAY CAROLYN WENT BACK TO FUNICK'S HOUSE. SHE ASKED FUNICK WHAT HAPPENED WITH THINGS + TERRON. FUNICK SAID THAT THINGS + TERRON WERE ACTING REAL STRANGE, KICKING THINGS, PACING ETC. THINGS LEFT THE BIKE ON THE BACK PORCH. SHE KNEW SOMETHING WAS UP. SHE THOUGHT THEY HAD DONE ANOTHER ROBBERY, (THEY BRAG ABOUT DOING ROBBERY'S IN KENTWOOD + WYO.) AND ALSO

ABOUT A ROBBERY IN THE WINTER TIME, ANTHONI THOMAS
CARLS BROTHER TOLD EUNICE THAT THINGS
HAD SHOT SOME^{ONE} ON NELAND, EUNICE
ALSO SAID THAT THINGS & TERRON HAD SHOT
A GUY ON GRANT OR GRAMM IN A
DRUG ROBBERY WHEN THE GUY DIDNT COOPERATE -

MIKE BLUE & WHITE HOUSE OAK HILL / KAYDO
WHITE TRACKER

everyone stayed up there, so--

DETECTIVE GRABLE: --I advised them also to stay up there because we did not any problems with any kind of an identification that they might make.

MS. OSTRANDER: Certainly, Your Honor, I don't think that it's unreasonable to request that there be no communication regarding physical characteristics or identify--in identifying my client to the--between the spectators here in the courtroom and the potential witnesses.

(?) MR. BRAMBLE: I will do that. And, as a matter of fact, at the lineup, the last lineup we had scheduled, there was some questioning from the witnesses as to why we couldn't go forward. And we simply indicated that we couldn't comply with the--a proper lineup. And we didn't want to tip them off to any characteristics.

THE COURT: Well, obviously identification is a critical issue, and although someone could be wrongly identified, he or she could also be exonerated. And it is truly a very, very important part of the situation and I would presume that nobody wants somebody who is innocent to be found guilty or have anything go wrong. And so we--we'll keep everybody's promise here that you're not going to be discussing anything with witnesses.

SPECTATOR: I don't know nobody here.

THE COURT: Good.

***PROFESSOR CURT BENSON AT COOLEY LAW SCHOOL
WHICH IS THE HOME OF INNOCENCE PROJECT OF MICHIGAN***

"DETROIT FREE PRESS A-4, FEBRUARY 9, 2013"

Wayne Co. judge is suspended without pay

By Eric D. Lawrence
Free Press Staff Writer

A Wayne County Circuit Court judge, previously censured for sending a shirtless photo to a county sheriff's office employee, has been suspended without pay.

Judge Wade McCree's suspension over reported allegations that he had an affair with a plaintiff in a child custody case was announced Friday in an order from the Michigan Supreme Court.



Judge
Wade
McCree

The respondent Wayne Circuit Judge Wade H. McCree is suspended without pay, effective immediately, until further order of this Court. The respondent's salary will be held in escrow pending the

final resolution of these disciplinary proceedings," according to the order.

The court also granted a motion sealing the case, which will prevent the release of any details associated with it.

Messages seeking comment were left for McCree at his office and home.



Kent County, MI Sheriff

FILE NO: 112515

JOHNSON,
TARRON
JOSEPH

DOB: 10/16/72

DOP: 05/05/94

Do Not Duplicate !!!

1 MR. BRAMBLE: Just the identification,
2 just that he said, "It was my brother who went
3 upstairs." Even Kelley Colvin didn't know what his
4 brother did upstairs.

5 MR. LIQUIGLI: Your Honor, that's
6 exactly what we took out of that statement, or the
7 exact purpose, that it was too prejudicial --

8 THE COURT: Yeah.

9 MR. LIQUIGLI: -- to be let in. We're
10 just trying to get it in a different way, and that
11 is going to ask this gentleman to rule on the
12 credibility of these witnesses and whether or not
13 they're accurate because there's corroborating
14 evidence.

15 *THE COURT: I tend to agree,
16 Mr. Bramble. We're compounding error with error.
17 I'm a little weak, I think, in letting in Kelley
18 Colvin's statement in the first place. If I let in
19 the redacted parts now under this theory, I can
20 guarantee a reversal if there is a conviction.

21 I don't mind -- angels walk in -- or
22 fools walk in where angels fear to tread, and I
23 don't want to get into that type of error.

24 If you're going to get in -- if what you
25 want to bring out is that Kelley said his brother

1 they drew, they could get close to that. And, you
2 know, my brother, if he was to draw my mother, it's
3 his version of what she would look like to him.
4 Each person would pick out different ideas or
5 different features that would be most important to
6 them, and I don't think that any of our pictures
7 would look alike, it would be something that would
8 be, you know, but we would all recognize my mother
9 if we saw her.

10 Q And it's a computerized thing?

11 A That's correct. They have a very limited number of
12 views and different parts to the face and such.
13 It's, you know, difficult at best, but it's an
14 investigative tool that gives us an idea of what a
15 person looks like.

16 Q Going back to Exhibit 9, the lineup of
17 Kenneth Colvin, you testified that not one person
18 picked him out, but how many people?

19 A All three people that were shot by him picked him
20 out without any hesitation.

21 Q Would you ever even have had Kenneth Colvin in a
22 lineup had it not been for his brother, the
23 Defendant, Kelley Colvin, identifying him?

24 A No, we had no record of Kenneth Colvin in the City
25 of Grand Rapids, no reports with his name on it, we

Exhibit 12a

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FILED
95 MAR 15 AM 11:52

W. J. HENK. CLERK
U.S. DISTRICT COURT
WESTERN DIST. OF MICH.

KENNETH COLVIN, JR.,
Plaintiff,

File No. 1:95-cv-119
Hon. Benjamin F. Gibson

v.

61ST DISTRICT COURT,
Defendant.

MEMORANDUM OPINION AND
ORDER OF DISMISSAL

Certified As A True Copy
C. Duke Honek, Clerk

By B. Duke
Deputy Clerk

U.S. District Court
Western Dist. of Michigan

DATE: MAR 15 1995

At a session of the Court held in and for said District and Division, in the City of Grand Rapids, Michigan, this 15th day of March, 1995.

PRESENT: HON. BENJAMIN F. GIBSON, U.S. DISTRICT JUDGE

Plaintiff, a pretrial detainee awaiting trial in a state criminal prosecution, brings this civil rights action pursuant to Title 42 United States Code Section 1983. Plaintiff alleges that the transcript of his preliminary examination is not accurate and that the state court denied his request to listen to the tape recording of the proceeding. Accordingly, he requests that this Court order the state court to permit him to listen to the tape recording.

The Supreme Court explained in Younger v. Harris, 401 U.S. 37 (1971), that federal courts should abstain from interfering with state court criminal proceedings absent extraordinary circumstances. "[I]n determining the applicability of the [Younger] abstention rule a federal court should consider at least three separate factors: (1) whether a state proceeding is

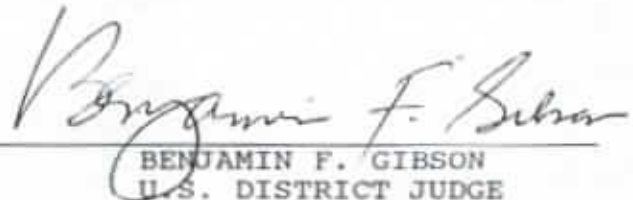
OVER →

pending at the time the federal action is initiated; (2) whether an adequate opportunity is provided to raise the constitutional claims in the state proceeding; and (3) whether there are extraordinary circumstances which nevertheless warrant federal intervention." Foster v. Kassulke, 898 F.2d 1144, 1146 (6th Cir. 1990) (quoting Zalman v. Armstrong, 802 F.2d 199, 202 (6th Cir. 1986).

No extraordinary circumstances exist in this case which warrant federal interference with the Michigan proceedings. Plaintiff will have an adequate opportunity to raise any constitutional claims as part of his defense to the state prosecution and in any state court appeal. Accordingly, the Court will dismiss plaintiff's action pursuant to Younger abstention and Title 28 United States Code Section 1915(d).

NOW, THEREFORE, IT IS HEREBY ORDERED that plaintiff's action is DISMISSED.

IT IS SO ORDERED.


BENJAMIN F. GIBSON
U.S. DISTRICT JUDGE

GRAND RAPIDS POLICE

INVESTIGATIVE

AGENT NO. -074334	REPORTING OFFICER/BADGE BOONE	TIME AND DATE REPORTED 07-31-94	INCIDENT OCCURRENCE BETWEEN	DATE	TIME	DATE
INCIDENT TYPE C C.W. PERSON			INCIDENT ADDRESS DELAWARE, LAFAYETTE, SE			DIST. CO
NAME	AGE	AGE OR DOB INVOLVEMENT	A	ARRIVED IN TIME/DATE	HOME ADDRESS-PLACE OF EMPLOYMENT & HOURS	TR HOME
	10		11 13	18 15		18
			12	17		18 19
L 0		1	2	3	4	5
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31	32	33	34	35
36	37	38	39	40	41	42
43	44	45	46	47	48	49
50	51	52	53	54	55	56
57	58	59	60	61	62	63
64	65	66	67	68	69	70
71	72	73	74	75	76	77
78	79	80	81	82	83	84
85	86	87	88	89	90	91
92	93	94	95	96	97	98
99	100	101	102	103	104	105

R/O'S RADIOED TO OFFICERS COOPER AND MCWATTERS AND THEY CONDUCTED A CITIZEN CONTACT WITH THE B/M THAT KENNY HAD BEEN TALKING TO WHEN R/O'S FIRST OBSERVED HIM. MR. ROBINSON WAS SUBSEQUENTLY ARRESTED FOR FALSE INFO. AND TWO OUTSTANDING WARRANTS. SEE ONFS 94-74349 AND 94-74350 FOR THOSE REPORTS.

R/O'S INFORMED KENNY'S FATHER, KENNY CARTER SR., OF THE CHARGES ON KENNY JR. HE WAS TRANSPORTED TO K.C.C.F. WHERE HE WAS FINGERPRINTED AND THEN WAS LODGED AT JUVENILE DETENTION.

THE GUN WAS TAGGED AS EVIDENCE BY OFFICER SINNEMA. THE ARREST WAS VERBALLY APPROVED BY SGT. SAVAGE WHO WAS AT THE SCENE. THE WEAPON DIDN'T HAVE A ROUND IN THE CHAMBER, HOWEVER, THE CLIP WAS LOADED WITH BOTH .380 CAL. AMMO. (TWO ON TOP) AND SUPER .38 CAL. AMMO.

DESCRIPTION OF GUN: COT GOV'T. MODEL PISTOL CAL. .38 SUPER. SERIAL #A21886.

TRANS. KJD 0310 HOURS 08-31-94

2 ORIGINAL		34		35	
SINNEMA #166	ORIGINAL <input type="checkbox"/>	FOLLOWUP <input type="checkbox"/>	STOLEN S	RECOVERED S	
OTHER OFFICER	36 BADGE	BADGE	REPORT REVIEWED BY	RADGE	CLASS
FOLLOW UP RETURNED TO	SECTION	FOLLOW UP DATE RETURNED BY	RADGE	DATE	INCIDENT TYPE RECLASSIFICATION



Michigan Supreme Court
Lansing, Michigan 48909

James H. Brickley
Chief Justice
Charles L. Levin
Michael F. Cavanaugh
Patricia J. Boyle
Donothy Comstock Riley
Conrad L. Mallett, Jr.
Elizabeth A. Weaver,
Justices

Corbin R. Davis
Clerk

October 20, 1995

Mr. Kenneth Colvin, Jr. #192744
4000 Cooper Street
Jackson, MI 49201

Re: People v Colvin, CoA No.188176

Mr. Colvin:

Your letter of October 12, 1995, to Chief Justice Brickley has been referred to this office for response in keeping with the Justices' policy of not engaging in correspondence regarding matters which could come before the Court for judicial review.

The records of the Court of Appeals reflect that your appeal is pending in that court on a claim of appeal and that you are represented there by the State Appellate Defender Office. If the accuracy of your preliminary examination transcript is an issue you wish to raise, you should discuss that matter with your attorney prior to the filing of your brief in the Court of Appeals.

Because your case could come before this Court on appeal, it would not be appropriate for the Chief Justice to become involved in your matter at this time.

Very truly yours,

CORBIN R. DAVIS,
Clerk

CRD/kc

Court of Appeals, State of Michigan

ORDER

Kenneth Colvin Jr, v 61st District Court

Martin M. Doctoroff
Presiding Judge

Docket # 189952

William B. Murphy

L.C. #

Harold Hood
Judges

The Court orders that the motion to waive fees is GRANTED for this case only.

The Court, pursuant to MCR 3.302(D)(2), orders that the complaint for superintending control is DISMISSED because an appeal, within the context of the claim of appeal filed in docket number 188176, is available to this moving party from the decision made by Judge Benson.



A true copy entered and certified by Ella Williams, Chief Clerk, on

DEC 01 1995

Date

Ella Williams
Chief Clerk

MARTIN H. DOCTOROFF
*CHIEF JUDGE
WILLIAM B. MURPHY
CHIEF JUDGE PRO TEM
DONALD E. HOLBROOK, JR.
MICHAEL J. KELLY
BARBARA B. MACKENZIE
MYRON H. WAHLS
HAROLD HOOD
ROMAN S. GRIBBS
DAVID H. SAWYER
DARYL R. McDONALD
MARK J. CAVANAGH
RICHARD ALLEN GRIFFIN
MARILYN KELLY
JANET T. NEFF



State of Michigan
Court of Appeals

Grand Rapids Office

MAUREEN FULTE REILLY
KATHLEEN JANSEN
E. THOMAS FITZGERALD
CLIFFORD W. TAYLOR
MAURA D. CORRIGAN
HELENE N. WHITE
HENRY WILLIAM SAAD
RICHARD A. BANDSTRA
JOEL P. HOEKSTRA
JANE E. MARKEY
STEPHEN J. MARKMAN
PETER D. O'CONNELL
MICHAEL R. SMOLENSKI
ROBERT P. YOUNG, JR.
JUDGES
ELLA WILLIAMS
CHIEF CLERK

Mr. Kenneth Colvin, Jr.
No. 193744
Standish Maximun Correctional Facility
4713 West M-61
Standish, MI 48658

December 27, 1995

Name of case: **People v Kenneth Colvin, Jr.**
Court of Appeals No. **188176**
Lower Court No. **94-2732 FC**
Document submitted: **Motion to correct transcript error**

Dear Sir or Madam:

Enclosed for return to you find the document which you recently submitted in the above-entitled matter.

You are represented in this Court by assigned counsel. Your attorney is responsible for all filings in this Court. You should discuss this matter with your attorney, who is:

Attorney: **P. E. Bennett**
Phone: **(313) 256-9833**

This Court will only accept a pleading from you when you are represented by counsel if you are attempting to raise a new issue that counsel will not raise (Administrative Order 1981-7, Standard 11).

Sincerely,

ELLA WILLIAMS
Chief Clerk

By: S. Dabakey
S. Dabakey

EW/sd

Enc.: Motion to correct transcript error (original + 3)

cc: P. E. Bennett
Kent County Prosecutor's Office

passed, showed them pictures of the man in the lineup and asked them to choose the one they had seen in the initial photograph. Of 50 members on the first panel, nine selected Newsome's photo; of 500 members on the second panel (which was shown a different photo of Emerson), 15 chose Newsome's photo. Performing a chi-square test, Wells calculated that the probability of all three eyewitnesses independently picking Newsome out of a lineup by chance error was substantially less than one in 1,000, implying that the officers must have manipulated their identifications.

Chicago asked the district judge to exclude Wells' testimony under Fed.R.Evid. 702, which as amended in 2000 codifies (with some variation) the holding of *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579, 113 S.Ct. 2786, 125 L.Ed.2d 469 (1993). The district judge concluded that Wells is an expert on the subject of identification, that his testimony was based on sufficient data, that his methods were reliable by the standards of the field, and that he applied these methods reliably to the facts of Newsome's case. Experiments of the kind that Wells performed are the norm in this branch of science and have met the standard for scholarly publication and acceptance. There were of course potential problems. For example, Wells assumed that Emerson is the killer, so that the witnesses saw him; if anyone other than Emerson committed the murder, the test is invalid. Wells was candid about this vital assumption, which was open to probing and argument by the defendants. Wells also assumed that two-dimensional images (pictures) yield the same effects on memory as three-dimensional views (live action in the victim's grocery store; lineups in the police station; identifications in open court). This may or may not hold, but the claim of equivalence was open to exploration at trial, and it is

them. He did not separately discuss the City's request for monetary sanctions on account of Newsome's failure to reveal his arrest on heroin charges two weeks before the civil trial, his loss of employment as a paralegal, and then his perjury at trial when he described himself as gainfully employed (which enabled counsel to argue that Newsome is a model citizen who rose above a disordered youth). Yet the district judge did conclude that Newsome's deceit does not require a new trial—a decision that Chicago no longer contests—and it was not necessary to discuss separately the possibility that a financial sanction might have been appropriate. It is not clear to us that Chicago adequately alerted the district judge to this possibility (the record does not contain a formal motion seeking monetary sanctions, see Fed. R.Civ.P. 37(e)(1)); but whether it did or not, there was no abuse of discretion in the judge's resolution, even if we might have handled this issue differently.

AFFIRMED.



William T. DIVANE Jr., et al.,
Plaintiffs-Appellees,

v.

KRULL ELECTRIC CO., Defendant,
and

John J. Curry Jr., Respondent—
Appellant.

No. 01-3495.

United States Court of Appeals,
Seventh Circuit.

Argued Sept. 24, 2002.

Decided Feb. 11, 2003.

Following entry of judgment against employer and for trustees of employee

benefit fund in action under Employee Retirement Income Security Act (ERISA), the United States District Court for the Northern District of Illinois, George W. Lindberg, J., 1998 WL 196460, imposed Rule 11 sanctions on employer's counsel, and he appealed. The Court of Appeals, 200 F.3d 1020, vacated initial blanket award of attorney fees and costs and remanded for determination of appropriate amount of sanctions. On appeal following remand, the Court of Appeals, Kanne, Circuit Judge, held that district court acted within its discretion in reducing the amount of original sanction award by figure representing reasonable estimate of what trustees' attorney fees and costs would have been absent sanctionable conduct of employer's counsel.

Affirmed as modified.

1. Federal Civil Procedure — 2723

District courts have wide latitude in setting attorney fee awards and generally district court will only abuse this discretion when no reasonable person could have taken the same view it adopted.

2. Federal Civil Procedure — 2810

In general, the district court enjoys broad discretion in setting a sanction award that it believes will serve the deterrent purpose of Rule 11; in an effort to deter future conduct, it may impose a sanction, it may strike offensive pleadings, or, more commonly, it may direct the offending party to pay the other party's reasonable attorney fees. Fed.Rules Civ. Proc. Rule 11, 28 U.S.C.A.

3. Federal Civil Procedure — 2737.4

In deciding upon a fee award in a case where a plaintiff has only partially pre-

of unconstitutional conduct. See *Johnson v. Jones*, 615 U.S. 304, 313, 115 S.Ct. 2151, 132 L.Ed.2d 288 (1996). To say that a motion for judgment as a matter of law under Rule 50 is addressed to the court does not imply that the court resolves factual disputes; just as with claims of official immunity. *Saucier* made the existence of a constitutional tort the initial inquiry because it's pointless to decide whether the imperviousness of a public actor's conduct was clearly established at the time the conduct occurred, if the conduct was not improper at all. In other words, unless the plaintiff's complaint rests on a good legal theory, and the record presents a triable issue under that theory, the defendant is entitled to prevail expeditiously. When the legal theory is sound, however, and there is a material dispute about the strength of the evidence, then the case must be tried, and the jury's resolution is conclusive. If an interlocutory review tests only the sufficiency of the complaint, a later review may be required to test the sufficiency of the evidence, see *Behrens v. Pelletier*, 516 U.S. 299, 110 S.Ct. 384, 133 L.Ed.2d 773 (1996)—but, as with any other appellate review under Rules 50 or 60, the prevailing party receives the benefit of all reasonable credibility determinations and inferences.

[2] This jury heard *Rounds*. It knew that he was contradicting testimony given at Newsome's criminal trial; it knew that *Rounds* is not the most savory character. But just as many a criminal defendant goes to prison on the testimony of former partners in crime who say that they have at last gone straight, as a jury could believe those witnesses when they decided to sing in a new key. And *Rounds'* testimony about the warning, taken in the light most favorable to the verdict, permitted the jury to find that *McCabe* and *McNally* not only manipulated the identifications (smoothing

that Newsome was the murderer. They did not need testimony; instead they (and Newsome) needed protection from steps that took advantage of memory's frailty, and Newsome's lawyers needed (but did not receive) information vital to probe whether manipulation occurred.

Most persons have difficulty remembering or describing the features of strangers. A person who sees a criminal for only a brief time takes away a vague sense of appearance and behavior—and that sense may be focused by a sketch, photograph, showup, or lineup after the event. Sometimes the witness zeroes in on the correct person, sometimes not; there is an element of chance and an opportunity for manipulation. Once the witness decides that "X is it" the view may be irrevocable. Psychological research has established that the witness's faith is equally strong whether or not the identification is correct. We described these findings in *Krafz v. Eit Lilly & Co.*, 897 P.2d 293 (7th Cir.1995): "An important body of psychological research undermines the lay intuition that confident memories of salient experiences . . . are accurate and do not fade with time unless a person's memory has some pathological impairment. . . . The basic problem about testimony from memory is that most of our recollections are not verifiable. The only warrant for them is our certitude, and certitude is not a reliable test of certainty. . . . [T]he mere fact that we remember something with great confidence is not a powerful warrant for thinking it true." 897 P.2d at 296-97 (citations to the scholarly literature omitted). See Elizabeth P. Loftus & James M. Doyle, *Eyewitness Testimony: Civil and Criminal* (3d ed.1997); Elizabeth F. Loftus, *Eyewitness Testimony* (1979, rev. ed.1996); Daniel L. Schacter, *The Seven Sins of Memory: How the Mind Forgets and Remembers* (1997) (1998). See also *United States v. Hall*, 105 F.3d 1036, 1118-20 (7th Cir.1999)

(concurring opinion). Jurors, however, tend to think that witnesses' memories are reliable (because jurors are confident of their own), and this gap between the actual error rate and the jurors' heavy reliance on eyewitness testimony sets the stage for erroneous convictions when (as in Newsome's prosecution) everything depends on uncorroborated eyewitness testimony by people who do not know the accused. This is why it is vital that evidence about how photo spreads, showups, and lineups are conducted be provided to defense counsel and the court. It is also why the constitutional violation justifying an award of damages is not the conduct of the lineups but the concealment of evidence about them. Securing evidence is not covered by absolute immunity.)

[5] Because recollection is suggestible, it was important in this civil case to explore the question whether the testimony of *Rounds*, *Naah*, and *Williams* identifying Newsome at the criminal trial was attributable to deliberate manipulation or instead to chance. For if chance errors are to blame, and the witnesses would have identified Newsome no matter how the officers prompted them during the lineups, then defendants' conduct did not cause the wrongful conviction and an award of damages would be improper. To explore this issue Newsome presented the testimony of *Gary Wells*, a professor of psychology who has performed experiments and written scholarly works in this field. See, e.g., *Gary L. Wells & Elizabeth A. Olson, Eyewitness Identification*, 54 Ann. Rev. Psych. 277 (2003); *Gary L. Wells, Eyewitness Identifications: A Systems Handbook* (1985). Wells conducted an experiment to determine the likelihood that three persons who saw Emerson nonetheless would identify Newsome. He showed two partially of subjects different pictures of Emerson for 15 seconds then, after some time had

1 During that time, as a patrol officer I
2 was also a field training officer, training new
3 recruits as they came in, and in 1991 I returned to
4 the detective unit.

5 Q During this time period did you come in contact with
6 a lot of weapons?

7 A Yes, I have.

8 Q You've heard a weapon described as a .38 caliber
9 super auto lemon squeeze?

10 A Yes, I have.

11 Q In all your time you've spent, be it in the Major
12 Case Team, as a road officer, airport, whatever, how
13 many weapons have you come into contact like this
14 weapon?

15 A This is the second time I've come in contact with
16 a .38 super auto.

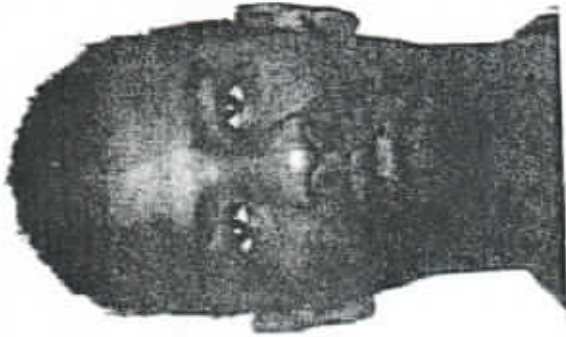
17 Q In how many years?

18 A Including my military time before that, since I have
19 been -- probably in my life, this is the second one
20 that I've come into contact with.

21 Q In your opinion, is it uncommon for people who
22 commit a crime involving a weapon to pass that
23 weapon on to distance themselves from it?

24 A Weapons are traded on the street on a daily basis.

25 This is the second time in a homicide that I've come



1

"SWEET"



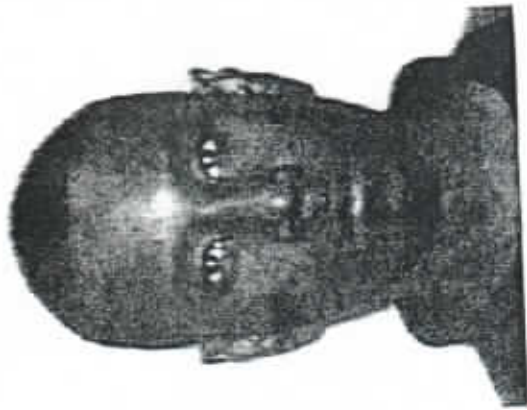
4



2



5



3



6

Hubert Frank Hornum #6
Age 32/2/2001

1 I think if you're critical of their
2 testimony and you listen to their testimony closely,
3 you'll see that it wasn't Kenny Colvin that was with
4 his brother that day, but that it was someone else.

5 And I think you're going to find that
6 the prosecutor has not proven his case beyond a
7 reasonable doubt, and you'll come to the only
8 conclusion that you can, that of not guilty.

9 Thank you.

10 THE COURT: Okay, thank you,
11 Mr. Liquigli.

12 We'll adjourn now, ladies and
13 gentlemen. We'll start -- as you know, tomorrow you
14 have a day off, and we will start on the 17th, which
15 is Wednesday, at 8:30.

16 When you come in in the morning
17 you'll -- today you'll sign out over there. Your
18 cards will be there. Wednesday they will be in the
19 jury room, but you still have to check in in the
20 morning, as you know, to get your parking tickets
21 stamped, and then you'll get the jury badge that
22 will get you in through the side door.

23 So you're free to leave. Just leave
24 your notes there. We'll pick them up and lock them
25 up, and we'll see everybody at 8:30 on Wednesday



STATE OF MICHIGAN

61ST DISTRICT COURT

HALL OF JUSTICE
GRAND RAPIDS, MICHIGAN 49503
PHONE (616) 456-3278
FAX (616) 456-3311

PAUL J. SULLIVAN
Chief Judge
JOEL P. HOEKSTRA
PATRICK C. BOWLER
BENJAMIN H. LOGAN
JANE E. MARKEY
MICHAEL CHRISTENSEN
Judges

JOSEF R. SOPER
Court Administrator
JANIS K. WILLIS
Deputy Court Administrator

January 30, 1995

Mr. Kenneth Colvin Jr.
Kent County Correctional Facility
703 Ball N.E.
Grand Rapids, Michigan 49503

Dear Mr. Colvin,

Your request for a tape copy of your preliminary examination on September 28, 1994 has been denied. By court rule and statute, you are entitled to a transcript of the proceeding which has been provided. There is no entitlement to a copy of the tape and it is the policy of this court not to provide copies of official court record tapes to anyone, including attorneys on the case.

Should you have further questions, they should be directed to your attorney.

Sincerely,

Janis K. Willis
Deputy Court Administrator

cc: Judy Ostrander, Defense Counsel

has only been known by police -and others- as being a drug dealer, and he has never been involved in robberies, ever. I was convicted of robbery back in 1988 (I had robbed a couple of Detroit fast food restaurants in Detroit, but I was using drugs, and when I was on parole, I had maintained steady employment, and I was not using drugs, period. I have my parole file to prove it as well.).

Once my brother was officially charged, dated July 29, 1994, and the detectives received my photo from Detroit, the detectives sent a letter to me, in Detroit, dated August 5, 1994, stating that my name came up in a case that they were investigating, and they wanted me to come a line-up August 11, 1994, or they would have an official photo-drop in which my photo would be included. The photo-drop was held, and on August 31, 1994, I was arrested in Detroit and taken to Grand Rapids by two Grand Rapids' detectives.

During the interrogation, one of the detectives told me that he knew that I did not kill anyone downstairs of the drughouse, but he wanted to let me know that I was identified by the three people who were shot upstairs. He also stated during the tape recording of the interrogation, "It's like I had told you before you were identified by people in the house." (NOTE: The interrogation occurred August 31, 1994, and at that time, allegedly, only one eyewitness was shown my photo during an official photo-drop on August 11, 1994. I was not actually placed in a corporeal line-up, until, September 21, 1994 -in which all three eyewitnesses allegedly picked me out of the line-up without hesitation. So, how is it, according to the detective, by August 31, 1994, I was identified by all three eyewitnesses, when according to his testimony at trial, that only one eyewitness was shown my photo during the August 11, 1994 photo-drop? The only way this could had occurred, is the detective showed my photo to the eyewitnesses, before he had sent me the letter dated August 5, 1994. Also, remember, as I had told you before, one of the eyewitnesses testified that the same detective came out and showed my photo to them -and this was the first part of August of 1994, but her testimony was changed in the transcripts.)

Mr. Shellenbarger, our conviction was based only on misidentification, and my brother's false statement. (NOTE: During my interrogation, I had explained to the detectives that I was at home in Detroit -and my brother was there, and I have never been to Grand Rapids in my life.)

My brother was tried by jury first, and in January of 1995, he was convicted by jury and sentenced to two counts of natural life without the possibility of parole for felony murder, one count of life for armed robbery and two years for felony fire-ara in the commission of a felony.

In May of 1995, I went to trial, and was later convicted and sentenced to two counts of natural life without the possibility of parole for felony murder, three counts of paroleable life for armed robbery and two years for felony fire-ara. (NOTE: The trial judge wrongfully allowed the prosecution to use as evidence against me my brother's "poorly redacted" false confession that he made to the detectives -without informing the jury that my brother recanted the statement, and the detectives made in-direct promises to him.)

The prosecution's theory was my brother and I had went into the drughouse to rob it of money and drugs. He stated that my brother went downstairs, killed two people,

three others were shot.

The eyewitnesses against me stated that they were high on marijuana. At the time the incident had occurred, the eyewitnesses testified that the area in which the shooting had taken place, was dark. At the time the shooter was shooting at them, they only had seconds to see the shooter (the first eyewitness testified that she only had seconds to see the shooter, the second witness testified that he only glanced and had four to five seconds to see the shooter, and the third witness testified that he was crying and kept covering his face). In fact, the first witness during the preliminary examination testified that the detective came out and "privately" showed my photo to them before I was placed in a line-up to be identified, but when I had received my preliminary examination transcripts, the woman's testimony and the judge's question to the witness were changed.

Mr. Smellensberger, it started here: The Grand Rapids Police Department arrested my brother on an unrelated case in Grand Rapids back in July of 1994. The case he was originally arrested for was later discovered to be a self-defense case, and the charges were dismissed on justifiable homicide. While my brother was incarcerated in the Kent County Jail, his name came up in this present case by an alleged unknown jail-house informant. NOTE: I had later discovered this information about the unknown informant from a police tip sheet.

The detectives had placed my brother in a line-up, where one eyewitness -who was high on drugs- had identified him as one of the gunmen. The detectives had later interrogated my brother for three hours -in which only thirty minutes of the entire interrogation was recorded, and during the recording of the end of the interrogation, my brother made a totally false confession that implicated me as the second gunman. It was later revealed during my brother's suppression hearing (Walker hearing) that the detective had made in-direct promises to him for his cooperation. The detective told him that he could see his new born son outside of the prison walls, and see him graduate from high school. The detective told my brother about a friend of the detective who was a preacher, who had been involved in a murder (he had killed his father's secretary, because she discovered that he was embezzling money from his father's firm), and by him cooperating with police, he was sentenced to twenty years, but was released from prison only after serving ten years. In fact, during my brother's hearing and trial, one of the detectives that interrogated my brother agreed that the story was told in hopes that he would cooperate and confess to the crime.

My brother testified at his trial that the confession was false, and he only made the statement because the detectives told him that he would receive twenty years like the preacher, he would be able to get out of prison and see his son again, and that he had feared that he and his son would be killed if he had revealed the individuals who were involved in the incident. NOTE: My brother was nineteen years-old at the time the interrogation took place, and his son was his first new born. Additionally, my brother testified that he requested for his attorney several times, but they refused his request.

From my brother's statement, I became the focus of the investigation. The Grand Rapids Police Department obtained a photo of me from the Detroit Police Department -since I had never been to Grand Rapids and they did not have a photo of me. NOTE: My brother and I are from Detroit. In January of 1994, my brother was arrested in Grand Rapids after the police discovered drugs, over \$12,000.00 in cash, his Rolex watch (and other expensive jewelry), and a gun on his person. My brother

MICHIGAN DEPARTMENT OF
STATE POLICE
FORENSIC SCIENCE DIV

GRAND RAPIDS LABORATORY
720 FULLER AVE. NE
GRAND RAPIDS, MICHIGAN 49503
(616) 242-6650
FAX (616) 242-6682

LABORATORY REPORT



Laboratory No.: 32188-94 Supp.
Received By : Locker Number 509
Delivered By : JAMES GRABLE
Agency : Grand Rapids Police Dept.
Agency No. : 94-59379

Record No. : 9403602
Date Received : 08-04-94
Time Received : 3:08 PM
File Class : 0900-1
Date Completed: 08-08-94

Nature of Offense:

Murder/Nonnegligent Manslaughter

Evidence Received: (Removed from locker #509 on 8-05-94 at 8:00 a.m. by
S. M. Burritt)

- 1 - Manila evidence envelope, (sealed), enclosing:
- 1 - 38 Super automatic caliber Colt, Government model, semiautomatic pistol, serial number A21888.
 - 1 - Empty cartridge magazine.
 - 2 - 38 Super automatic caliber Winchester cartridges. (FMJ)
 - 4 - 380 automatic caliber Remington cartridges. (FMJ)

Results:

Items #F-7 through #F-12, the six cartridges cases, are identified as having been fired in the recovered 38 Super automatic caliber Colt Pistol, serial number A21888.

Items #F-13 through #F-16, the four fired bullets, are identified as having been fired in the recovered 38 Super automatic caliber Colt pistol, serial number A21888.

Disposition of Evidence:

The evidence is being held at the Grand Rapids Laboratory on shelf I-4, vault #6, for the submitting agency to pick up.

S. Michael Burritt

S. Michael Burritt
Specialist (D/Sgt)
Firearms, Tool Marks, and Explosives Subunit

ABOVE ITEMS RECEIVED BY
SIGNED *[Signature]*
AGENCY GRPD
DATE 7-1-94

SMB/jms

(NOTE: THE LABORATORY DOES NOT ATTEMPT TO DETERMINE THE FAIR SHARE INCLUSION AND EXCLUSION OF ITEMS
(IDENTIFIED) IN THIS REPORT, BUT DOES CONDUCT LABORATORY TESTING.)
LAB. NO.: 32190-94.)

EXHIBIT-39

Public Act 35 of 1994 requires: "The investigating officer of each criminal case being adjudicated shall advise the prosecuting attorney if a forensic test has been conducted in the case."

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
816 FEDERAL BUILDING
110 MICHIGAN N.W.
GRAND RAPIDS, MICHIGAN 49503-2363

CHANDERS OF
BENJAMIN F. GIBSON
CHIEF JUDGE

FTS/ COMMERCIAL
TEL: (616) 456-2526
FAX: (616) 456-2072

January 30, 1995

Mr. Kenneth Colvin, Jr.
Kent County Jail
703 Ball Avenue N.E.
Grand Rapids, MI 49503

Dear Mr. Colvin:

In response to your recent letter, because I am a judge I am prohibited from providing you with legal advice.

I will forward a copy of your letter to your attorney. I suggest that you contact your attorney for further assistance.

I regret that I am unable to assist you.

Very truly yours,


Benjamin F. Gibson

BFG:hca

cc/enc. Judy L. Ostrander

1 Q Is he your supervisor?

2 A Yes, he is.

3 Q The items you've described in detail, the weapon,
4 have they been altered or changed in any way?

5 A No, they have not.

6 Q Is that basically the extent of your analysis of the
7 items submitted under that case number and that
8 case?

9 A No, sir.

10 Q What additionally did you do?

11 A In addition to that, the six fired cartridge cases
12 were compared to the test firings from the firearm
13 here.

14 Q Okay, what did that reveal?

15 A That revealed that the six fired cartridge cases,
16 that being the .38 super auto, were identified as
17 also having been fired in this firearm.

18 Q Anything else that you did?

19 A No, sir.

20 MR. BRAMBLE: I have nothing further.

21 THE COURT: Mr. Liquigli?

22 MR. LIQUIGLI: Thank you, your Honor.

23 **CROSS-EXAMINATION**

24 **BY MR. LIQUIGLI:**

25 Q Sergeant, using all of your experience -- you said

ALGER MAXIMUM CORRECTIONAL FACILITY
P.O. BOX 600
Munising, Michigan 49862-0600

July 15, 2007

ASSOCIATION IN DEFENSE OF THE WRONGLY
CONVICTED (AIDWYC)
85 King Street, Suite 318
Toronto, Ontario M5C 1G3 Canada

ATTN:Rubin "Hurricane" Carter

Dear Mr. Carter:

RE: Writing to obtain legal assistance on my brother and I wrongful criminal conviction.

I am writing you in regards to obtaining legal assistance on my wrongful conviction.

Mr. Carter, for the last twelve long frustrating years, I have been fighting for my life and trying to prove my innocence. My brother and I have been wrongfully convicted by a historically totally corrupted criminal justice system out of Kent County -Grand Rapids. A justice system who has been involved in altering transcripts of critical exculpatory testimony from a prosecution's eyewitness, deliberately withholding and concealing exculpatory evidence (both the prosecution and our attorneys were guilty of it), defense attorney -trial and appellate- who sabotaged our defense and who were clandestinely working with, not only the prosecutor, but also the judges in our case, and the list goes on and on. And I have documented proof of it.

Mr. Carter, my case involves a drug house robbery that had occurred in Grand Rapids, Michigan on June 24, 1994. During the robbery, two people were killed and three others were shot.

The three eyewitnesses against me stated that they were high on marijuana. At the time the incident had occurred, the eyewitnesses testified the area in which the shooting took place was dark, at the time the shooter was shooting at them they only had seconds to see the shooter (the first eyewitness testified that she only had less than twenty seconds to see the shooter, the second witness testified that he only glanced and had four to five seconds to see the shooter, and the third witness testified that he was crying and kept covering his face). In fact, the first witness during the preliminary examination testified that the detective came out and "privately" showed my photo to them before I was placed in a line-up to be identified, but when I had received my preliminary examination transcripts, the witness's and the judge's testimony had been altered from what was actually said during the exam.

Mr. Carter, it all started here: The Grand Rapids Police Department arrested my brother on an unrelated case in Grand Rapids back in July of 1994. The case he was originally arrested for was later discovered to be a self-defense case, and the charges were dismissed on justifiable homicide. While my brother was

incarcerated in the Kent County Jail, his name came up in this present case by an alleged unknown jail-house informant. NOTE: I had later discovered this information about the unknown informant from a police tip sheet.

The detectives had placed my brother in a line-up where one eyewitness -whom was high on drugs- had identified him as one of the gunmen. The detectives had later interrogated my brother for over three hours -in which only thirty minutes of the entire interrogation was recorded, and during the recording of the end of the interrogation, my brother made a totally false confession that implicated me as the second gunman. It was later revealed during my brother's suppression hearing (Walker Hearing) that the detective had made in-direct promises to him for his cooperation. The detective told him that he could see his new born son outside of the prison walls, and see him graduate from high school. The detective told my brother about a friend of the detective who was a preacher, who had been involved in a murder (he had killed his father's secretary, because she discovered that he was embezzling money from his father's firm), and by his cooperating with police, he was sentenced to twenty years, but was released from prison after serving ten years. In fact, during my brother's hearing and trial, one of the detectives that interrogated my brother agreed that the story was told in hopes that he would cooperate and confess to the crime.

My brother testified at his trial that the confession was false, and he only made the statement because the detectives told him that he would receive twenty years like the preacher, he would be able to get out of prison and see his son again, and that he had feared that he and his son would be killed if he had revealed the individuals who were involved in the incident. NOTE: My brother was nineteen year-old at the time the interrogation took place, and his son was his first born. Additionally, my brother testified that he requested for his attorney several times, but they refused his request.

From my brother's statement, I became the focus of the investigation. The Grand Rapids Police Department obtained a photo of me from the Detroit Police Department -since I had never been to Grand Rapids and they did not have a photo of me. NOTE: My brother and I are from Detroit. In January of 1994, my brother was arrested in Grand Rapids after police discovered drugs, over \$12,000 in cash, his Rolex watch (and other expensive jewelry), and a gun on his person. My brother has only been known by police -and others- as being a narcotic dealer, and he has never been involved in robberies ever. I was convicted of robbery back in 1988 (I had robbed a couple Detroit fast food restaurants, but I was using drugs, and when I was on parole, I had maintained steady employment, and I was not using drugs, period. I have my parole file to prove it as well.) Once my brother was officially charged dated July 29, 1994, and the detectives received my photo from Detroit, the detectives sent a letter to me, in Detroit, dated August 5, 1994, stating that my name came up in a case that they were investigating, and they wanted me to come to a line-up dated August 11, 1994, or they would have an official photo-drop in which my photo would be included. The photo-drop was held, and on August 31, 1994, I was arrested in Detroit and taken to Grand Rapids by two Grand Rapids' detectives.

During the interrogation, one of the detectives told me that he knew that I did not kill anyone downstairs of the drughouse, but he wanted to let me know that I was identified by the three people who were shot upstairs. He also stated during the tape recording of the interrogation, "It's like I had told you before you were identified by people in the house." (NOTE: The interrogation occurred August 31, 1994, and at that time, allegedly only one eyewitness was shown my photo during the official photo-drop on August 11, 1994. I was not actually placed in a corporeal line-up until September 21, 1994 -in which all three eyewitnesses allegedly picked

me out of the line-up without hesitation. So, how is it, according to the detective, by August 31, 1994, I was identified by all three eyewitnesses, when according to his records and testimony at trial, that only one eyewitness was shown my photo during the August 11, 1994 photo-drop? The only way this could had occurred, if the detective showed my photo to the eyewitnesses, before he had sent me the letter dated August 5, 1994. Also remember, as I had explained earlier in this letter, one of the eyewitnesses testified that the same detective came out and showed my photo to them -and this was the first part of August 1994, but her testimony was changed in the transcripts.)

So, our conviction is based only on misidentification, and my brother's false statement. (NOTE: During my interrogation, I had explained to the detectives that I was at home in Detroit -and my brother was there, and I had never been to Grand Rapids in my life.)

My brother went to trial first, and in January of 1995, he was convicted by jury and sentenced to two counts of natural life without the possibility of parole for felony murder, one count of life for armed robbery and two years for felony fire-arm in the commission of a felony.

In May of 1995, I had went to trial, and I was later convicted and sentenced to two counts of natural life without the possibility of parole for felony murder, three counts of paroleable life for assault with the intent to murder, one count of paroleable life for armed robbery and two years for felony fire-arm. (NOTE: The trial judge wrongfully allowed the prosecution to use as evidence against me, my brother's "poorly recanted" false statement that he made to the detectives -without informing the jury that my brother recanted the statement, and the detectives made in-direct promises to him.)

The prosecution's theory was that my brother and I had went into the drug house to rob it of money and drugs. He stated that my brother went downstairs, killed two people, took drugs, and a bag, and I had went upstairs and shot three people. Mis-identification was our defense.

During my trial stage, I had requested from my attorneys a copy of my client file, because I had excellent reasons to believe that they were not being honest with me and competently representing me as true criminal trial attorneys should. And not surprising, I discovered that they were not.

I discovered only after making countless request -and filing two complaints with the Michigan Attorney Grievance Commission- that the trial attorneys had completely "sabotaged" my brother's and my case. In July of 1998, after our direct appeals were exhausted, I received my client file, and once I had received it, I had discovered several documents and information that were obviously exculpatory information, that would had not only effectively challenged the eyewitnesses' identification testimony, but also created an obvious viable defense -with strong credibility- that would had definitely proved our innocence, and found us not guilty. The first of numerous documents that I had discovered was: 1. Two of three eyewitnesses who identified me as the shooter, had in fact identified other suspects as the gunman, just days after the incident occurred. The eyewitness who stated that he only had glanced at the shooter, called the police dated June 26, 1994, just two days after the incident, and stated that he has seen the guy who shot him and he gave the person name. Next, on July 8, 1994, two weeks after the incident this same eyewitness went to an official photo-drop, and identified two other suspects -one suspect the detectives were investigating after two county jail

informants told police that his friend told them that he and the suspect that the eyewitness picked out the photo-drop and stated, according to the detective, "States he is near certain this is the person who shot him", had committed the robbery. So, this eyewitness identified three different suspects as his shooter, before he identified me as the shooter.

2. The second eyewitness (she is the witness whom testified that the detective privately showed my photo to them) had identified a suspect on the street that the police was questioning dated June 28, 1994, and she stated the suspect was too short, but looked "a lot like the shooter."

3. I had discovered that the third eyewitness, whom testified that he was shot in the arm, at point blank range did not receive any medical treatment for his alleged gunshot wound. The emergency medical services' record office stated in a document requesting by the detectives that the witness did not receive any medical treatment and they did not have any medical records that he had. (NOTE: In his testimony, he claimed that this was how he had seen the shooter -when he was shot.)

4. I had discovered a report from the paralegal service and the police interview notes of the thirteen year-old girl, who was a res gestae witness to the incident. She stated she heard the gunshots and seen the two gunmen leave the drug house. She stated that she knew them, but she did not know where they lived. She told the detective that they were locals, and drove a black jeep and green Cadillac. The description she gave of the suspects were both being between the ages of 17 to 20, both having shaving heads, one being 5'6" and the other being 6' with a goatee. (NOTE: At the time this crime was committed, I was 26 years-old, standing 6'4", and I can not grow a goatee, period. My brother was 19 years-old, standing 6', and he can not grow a goatee.)

5. I discovered documents -Police Interview Notes- in which two informants who were residing in the county jail heard a suspect tell one of the two informants that he and another guy had committed the robbery/homicide, and the suspect described exactly what happened and the exact type firearms that were used. (NOTE: The friend of the suspect whom stated that he and that friend committed the robbery was in fact, the same guy that one of the eyewitnesses picked out an official photo-drop dated July 6, 1994, and stated that he was near certain that he was the one who shot him. It has been stated in several reports that the two suspects had a known reputation in committing these type of robberies. Additionally, the two suspects had fit the eyewitnesses' and the 13 years-old girl's description of the gunman.)

6. I discovered a document -Motion to Endorse Police Witness- that the trial attorney had prepared, but did not file with the trial court requesting that a tech officer be subpoena to testify in regards to drawing the three composite drawings (wanted pictures [posters]) and taking the descriptions from the eyewitnesses of the gunman that shot them. The composite drawing descriptions that the eyewitnesses gave of the shooter were a black male, between the ages of 17 to 20. The composite drawings -which the attorney pointed out to the jury- did not look like me, or eachother.

The attorneys did not tell me that this information existed, and they had refused to give me a copy of this file.

With the programs that I was having in trying to obtain a copy of my client file, I tried to get a copy of the police file -via P.O.I.A.- from the Grand Rapids Police Department's Records Office -which I had programs with them, until I had filed a complaint to State Senator, Honorable Jackie Vaughn, III and explained to him that the Department was refusing to release a copy of the police files to my mother.

1 Q I'm not that familiar with weapons, but what would
2 cause items like this to be left in an area where a
3 gun's been fired?

4 A There's two basic types of handguns. There's a
5 revolver and there's semiautomatic firearms. The
6 caliber that we're dealing with here, the .32
7 automatic caliber and a .38 super automatic caliber,
8 are designed to be fired in semiautomatic handguns.

9 Semiautomatic handguns, if you have a
10 magazine that self-loads upon pulling the trigger so
11 a new cartridge comes into the chamber. To do that
12 process, these fired cartridges are being ejected
13 automatically from the firearm and thrown out, so
14 they would be thrown out on the floor when you
15 discharged a semiautomatic, unlike a revolver, where
16 the cartridge case would stay in the cylinder until
17 they're manually ejected.

18 Q Did you examine these items in relationship to any
19 particular firearm?

20 A I personally examined a .32 automatic handgun, a
21 Colt, and did a comparison between that Colt handgun
22 with the .32 automatic bullets that I examined, and
23 I could not link that handgun up with these bullets,
24 the .32 caliber bullets.

25 Q Do you have what's called an open shooting file?

Mini-riot over mysterious death

by Wazir All Muhammad

GRAND RAPIDS, Mich.—

Suspicion between Black youth and local law enforcement in

West Michigan's largest city remains high after the May 22 death of Thames M. Hawkins in the custody of the Kent County Sheriff's Department.

Preceding only weeks before the internationally publicized Benton Harbor uprising, where a police chase led to days of civil unrest and the declaration of a lo-

5

Death in police custody

cal state of emergency. Black residents say the death of Mr. Hawkins, a "well-liked" neighbor and father of five, is another sign that their lives have little value to the police and sheriff departments.

"I was in the bed sleep and all of a sudden I heard a lot of commotion outside. Someone kept saying, 'Miss C! Miss C! Come downstairs, they got him down on the ground, they're hurting him,'" said Tecelia Price, while fighting back tears and explaining how officers held their knees on her son's neck.

At the time of his arrest, Mr. Hawkins was working on his automobile. According to the police, he had been seen picking up or delivering some products or funds, and that he was allegedly involved in some drug activity.

Police said they used the appropriate force to subdue him. Police then reportedly took him to the Kent County Jail, where he subsequently died while awaiting processing.

W. Paul Mayhue, a commissioner for Kent County's 16th District, told *The Final Call* that Mr. Hawkins' death actually occurred inside the jail.

Local media linked his death to "swallowing cocaine," a story attributed to a "jail house infor-

open meeting where this information was disclosed. Neighbors and friends of the victim's family were also not satisfied with the explanation given for Mr. Hawkins' crushed larynx.

Ms. Price told *The Final Call* that the Sheriff's Department refused to apologize, either for the false statement regarding the cocaine, or for the fact that her son died in their custody.

Neighborhood residents agreed with Commissioner Mayhue, who said that much of the community's anger and frustration could be related to a lack of available activities relevant to Black youth, as well as racist and derogatory language from police and alleged incidents of police brutality.

"I feel that there is no place for derogatory language, and excessive force should not be used," Commissioner Mayhue said. "We've got to try to figure out what (law officers) mean by force and what they mean by excessive force. Particularly with the war on terrorism and all the rights that have been taken away ... not just from African Americans, but from America period. I think it's time to reassess the (weaknesses) of the Civilians' Review Board."

Ms. Price said she is grateful to her brothers and sisters in Christ who have mourned with her during this period of grief and loss. She urges the community, particu-



Thames M. Hawkins

lary Black youth, to reflect upon what could happen to them or their families if law enforcement officials have an excuse to crack down on Black people.

"Violence will not bring my son back nor will it help anything. (It) will only promote more killing, and someone else feeling the same thing I'm feeling," she said. "All that will do is (cause) them to bring in the state troopers and (the) National Guard and give them the license to shoot every one in sight," she said while weeping.

Local television stations reported that once news of the death reached the streets, a mini-riot ensued, in which gunshots were fired at a police cruiser and angry crowds of youth hurled bricks, bottles and rocks.

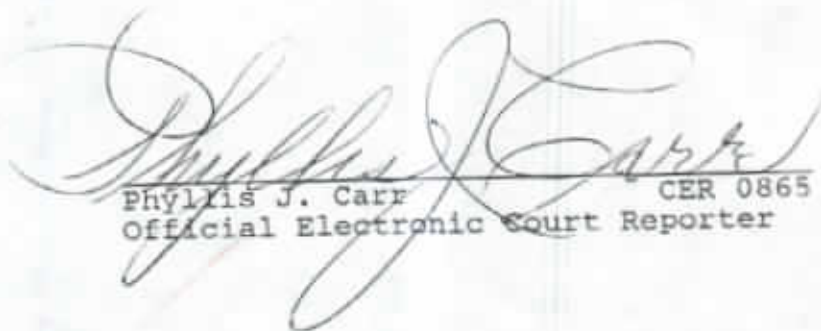
An autopsy report concluded there was no cocaine in Mr. Hawkins' body. However, the coroner, along with the city police chief and the county sheriff, cited "blocked arteries" as the official cause of death—an explanation that aroused deep-seated resentment in residents at the

store.finalcall.com
Log on today!

PHOTO COURTESY OF THE KENT COUNTY SHERIFF'S DEPARTMENT

STATE OF MICHIGAN)
)
COUNTY OF KENT) SS:

This is to certify that this transcript of 101 pages is a full, true and correct transcript of the proceedings and testimony taken in the matter of THE PEOPLE OF THE STATE OF MICHIGAN versus KENNETH COLVIN, JR., #94-2732-FC, at CONTINUANCE held on Wednesday, September 28, 1994.


Phyllis J. Carr CER 0865
Official Electronic Court Reporter

Grand Rapids, Michigan
November 7, 1994

THE UNIVERSITY OF MICHIGAN
LAW SCHOOL
MICHIGAN CLINICAL LAW PROGRAM

363 Legal Research Building
Ann Arbor, Michigan 48109-1215
(734) 763-4319 Fax: (734) 764-4702
mclp@umich.edu

October 12, 1998

Mr. Kenneth Colvin-#192744
Baraga Maximum Correctional Fac.
301 Wadaga Road
Baraga, Michigan 49908

Dear Mr. Colvin:

I writing in reply to your letter that was referred to the Michigan Clinical Law Program by Dean Lehman.

While the clinical program does provide some advice and representation to prisoners in some civil litigation, we are unable to offer assistance to prisoners in criminal appellate proceedings except in very unusual circumstances.

I would suggest that you contact the State Appellate Defenders Offices, Suite 3300, Penobscot Building, 645 Griswold, Detroit, Michigan 48226. They might be able to help or refer you.

Good luck to you in the future.

Sincerely,

MICHIGAN CLINICAL LAW PROGRAM



Andrea D. Lyon
Assistant Clinical Law Professor

2nd brother ordered to stand trial for murder

Grand Rapids Press - SEPTEMBER 29, 1994 - B-1

► *The two Detroit men allegedly killed two people and wounded three others while trying to steal drugs and cash.*

By John Hogan
The Grand Rapids Press

After hearing gunfire coming from the downstairs of her Neland Avenue SE duplex,



Kenneth Colvin Jr.

Jacqueline Smith went into the hallway to investigate and came face to face with a stranger who fired several shots at her without saying a word.

"I couldn't believe he was trying to kill us. He didn't even know us," testified Smith, who was shot in the arm and hip before

she jumped from a second story window to safety.

The alleged gunman, 26-year-old Kenneth Colvin Jr., also shot Smith's brother in a stairwell and her boyfriend through a closed bedroom door before he and a second gunman fled with cash and marijuana, according to testimony.

Police say the second gunman is Colvin's younger brother, Kelley, 19.

Between them, they killed two people and wounded three others during a robbery that netted about \$400 and an ounce of marijuana, according to testimony. The pair came to Grand Rapids from Detroit to deal drugs, according to police and court records.

"They believed they were robbing a house where drugs were being sold," said Kent County Assistant Prosecutor Kevin Bramble. "It appeared they were out to kill everyone."

COLVIN

Witnesses testify about surprise attack

CONTINUED FROM B1

ther sleeping or watching television.

Jacqueline Smith, 29, said she first thought the gunfire was the sound of her daughter's balloons being popped downstairs. And even when she faced the gunman on the steps, she did not realize she had just been shot in the arm.

"When I seen him still shooting, I said, 'This is no joke,'" Smith testified. "That's when I broke and run."

Smith was also struck in the hip before she was able to jump out the bedroom window. She hit her forehead on a metal pipe on the way down, leaving her with a scar above her left eye.

Her boyfriend, 36-year-old Aaron Williams, used his feet to hold the bedroom door closed as bullets penetrated the wood, passing just inches from the couple's 2½-year-old daughter. "He shot through the door and caught me right there," Williams said, pointing to his right arm. "I grabbed my daughter, jumped out the window and ran down the block."

The third shooting victim, 20-year-old Christopher Smith, testified that when he saw the gunmen and heard one announce, "This is a stick-up," he thought it was a joke.

When he realized what was happening, Smith said, he attempted to flee but was grabbed around the waist by Kenneth Colvin Jr., who then pressed a handgun into his side and fired, Smith testified.

"I was on the stairs, screaming," testified Smith, who suffered a grazing wound to his arm.

Under cross-examination from defense attorney Judy Ostrander, Christopher Smith admitted he dealt marijuana from the house but said he did not know the gunmen.

He said he tossed between \$300 and \$400 on the steps when Kenneth Colvin Jr. returned from the upstairs apartment. "He picked up the money and waited for his partner," Smith said.

The pair put the cash, their guns and marijuana taken from the apartment into a backpack. Kenneth wiped the doorknob free of fingerprints, and they walked out, according to testimony.

Kelley Colvin was arrested in late July after police received several tips linking him to the shootings. Kenneth Colvin Jr. was arrested in Detroit, and he was arraigned Sept. 1.

Kenneth Colvin Jr.'s preliminary hearing began Sept. 13, but was adjourned until after he appeared in a jail line-up for the three wounded victims. The trio positively identified him as the gunman.

"I would never, ever forget his face," Jacqueline Smith testified. "How could this man and his brother do this to his own people without no reason?"

Grand Rapids District Judge Jane Markey on Wednesday ordered Kenneth Colvin Jr. to stand trial on several charges, including felony murder and assault with intent to commit murder, for the June 24 shooting at 844 Neland SE.

Although authorities say Kenneth Colvin Jr. did not kill the two people in the downstairs apartment, he was charged with felony murder because the killings occurred while he was participating in other felony offenses.

Kelley Colvin, 19, in August was ordered to stand trial for the slayings. Police say he repeatedly shot Cassandra Tillman, 20, and Kenneth Smith, 30, in the back when the two disobeyed his directive and moved. A third man in the room was not injured.

The shootings occurred about 11 a.m. on a rainy, overcast day as the victims were ei-

see COLVIN, B2

Suspect in double-murder gets day in court Tuesday

► **Kenneth Colvin Jr. and his brother are accused of multiple shootings in June.**

The Grand Rapids Press 9/11/94

A Detroit man who police say shot and wounded three people while his brother killed two others during a June drug-related robbery on Grand Rapids' Southeast Side is scheduled to appear in court Tuesday on six felony charges.

Kenneth Colvin Jr., 26, of Detroit, is charged with two counts of murder, three counts of assault with intent to commit murder and one of armed robbery, all stemming from the June 24 shootout at 844 Neland Ave. SE.

Although police say they do not believe Kenneth Colvin Jr. fired the fatal shots, prosecutors charged him with murder because the killings occurred while he was allegedly participating in other felony offenses.

His brother, 19-year-old Kelley Colvin, has already been charged with two counts of felony murder, and is scheduled to go to trial in October.

Police say they believe the brothers came to Grand Rapids from Detroit to sell drugs. If convicted, they face mandatory life in prison with-

out possibility of parole. Kenneth Colvin Jr. was arrested in Detroit following a two-month search.

He was arrested by a state fugitive task force, said Grand Rapids Police Chief William Hegarty.

He was arraigned on the six felony charges Sept. 1, and has been held without bond in the Kent County Jail pending Tuesday's preliminary hearing in Grand Rapids District Court.

Cassandra Tillman, 20, and Kenneth Smith, 30, died of multiple gunshot wounds suffered in the shooting, the city's first double homicide in more than six years.

Kelley Colvin admitted to shooting the pair when he and a second man — identified as his brother — went to the house to demand money and drugs, police say. Kelley Colvin told police he opened fire when the victims disobeyed his directive and moved, police said earlier.

Authorities say Kenneth Colvin Jr. was upstairs when he opened fire on three people about the same time Tillman and Smith were being shot.

The three, Jacqueline Smith, 29, Aaron Williams, 36, and Christopher Smith, 20, all of the Neland address, were treated at Blodgett Memorial Medical Center for bullet wounds. None of the injuries were life threatening.

SEPTEMBER 11, 1994

SEPTEMBER 14, 1994

9/14/94

Parolee faces lineup in shooting deaths

► *The man's younger brother is charged in the incident that left two people dead. Another three were allegedly wounded by the older man.*

The Grand Rapids Press

A Detroit man on parole for armed robbery is slated to appear in a Kent County Jail lineup before the three victims of a June drug-related shooting that also left two others dead in a Neland Avenue SE home.

Grand Rapids police say they hope the lineup will bolster their case against Kenneth Colvin Jr., 26, who is charged with two counts of felony murder, three counts of assault with intent to commit mur-

der and one of armed robbery, all stemming from the June 24 shootout at 844 Neland.

Judge Jane Markey on Tuesday adjourned Colvin's preliminary hearing in Grand Rapids Circuit Court for two weeks to give police time to conduct the lineup.

Although police say they do not believe Colvin fired the fatal shots, prosecutors charged him with murder because the killings occurred while he was allegedly participating in other felony offenses.

His brother, 19-year-old Kelley Colvin, has already been charged with two counts of felony murder, and is scheduled to go to trial in October.

Kent County Forensic Pathologist Dr. Stephen Cohle on Tuesday testified during the hearing that the two murder victims died of multiple gunshots to the back.

Cassandra Tillman, 20, was shot five times and Kenneth Smith, 30, was shot twice, he testified during Colvin's hearing.

Authorities say Kenneth Colvin Jr. was upstairs when he opened fire on three people about the same time Tillman and Smith were being shot.

The three, Jacqueline Smith, 29, Aaron Williams, 36, and Christopher Smith, 20, all of the Neland address, were treated at Blodgett Memorial Medical Center for bullet wounds. None of the injuries were life threatening.

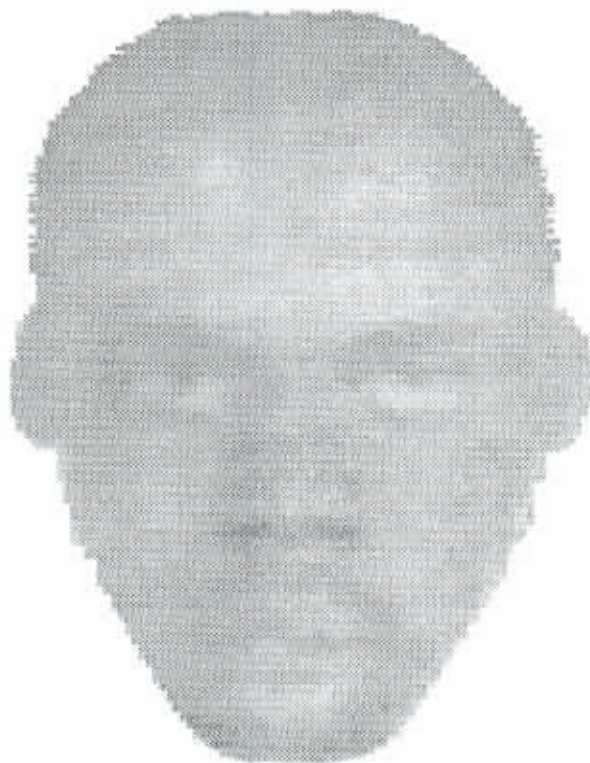
Kelley Colvin admitted to shooting the pair when he and a second man — identified as his brother — went to the house to demand money and drugs, police say. Kelley Colvin told police he opened fire when the victims disobeyed his directive and moved, police said earlier.

Kenneth Colvin Jr. was sentenced in March 1988 to 3 to 15 years in prison for armed and unarmed robbery in Detroit, and was paroled in July 1992, according to the state Department of Corrections.



WANTED

GRAND RAPIDS POLICE DEPARTMENT



WANTED FOR: Double Homicide

DATE: 6-24-94

INCIDENT NO.: 94-59379

LOCATION: 844 Neland SE

TIME: 1300 hrs

DESCRIPTION: B/M approx. 20 yrs old. Tall, thin build, skinny face with nappy short hair. Suspect was wearing a white sweatshirt, khaki pants, and black shoes. Weapon was .22 chrome pistol.

OR FURTHER INFORMATION CONTACT: Det. Grable

PREPARED BY: KSH 652

1 the Crusoe case, People versus Crusoe, C-r-u-s-o-e, 433
2 Michigan 666, controls the facts of this case. It's clear
3 here that there was no right to counsel. Defendant was
4 advised of his rights and advised that he had the right to
5 counsel, and he waived -- voluntarily waived that right, so
6 at that point he agreed to the interrogation, agreed to
7 talk with the officers. He agreed to go ahead without
8 counsel. He had no specific right to counsel by virtue of
9 either counsel on the other case or counsel being present
10 at the lineup on this case. This is a pre-arraignment, a
11 case where the defendant had not yet been formally charged.
12 Even though it was -- the focus was on the defendant, that
13 is not determinative here. And the fact that it was
14 police-initiated is not determinative either. What is
15 crucial here is the fact that it was pre-arraignment. No
16 formal charges had been filed. He was clearly advised of
17 his rights. The Court finds from the testimony here of all
18 witnesses that he understood his rights, and he voluntarily
19 waived his rights. There was nothing unduly coercive here
20 and that he made a voluntary waiver and voluntary
21 statement. So the motion to suppress is denied.

22 We will proceed with picking a jury tomorrow morning.

23 MR. BRAMBLE: Your Honor, one last -- I've a
24 signed -- a copy of the defendant's constitutional rights,

MILLER REPORTING SERVICE
(616) 754-2672



July 20, 2004

Mr. Kenneth Colvin Jr. (192744)
Ionia Maximum Facility
1576 Bluewater Highway
Ionia, MI 48846

Dear Kenneth

Thank you for writing to me. I really enjoy getting feedback from listeners, viewers, concerned citizens and advocates!

Thank you for thinking enough of me to take the time to share your views. Your letter did not fall on deaf ears!

Your situation can only get better! Keep striving, and keep the faith!

I've enclosed some materials that I hope you enjoy.

WARMEST REGARDS,

Tavis Smiley

pressed identification of the defendant. The people appeal by leave granted. Reversed and remanded.

Frank J. Kelley, Attorney General, *Robert A. Derengoski*, Solicitor General, *William L. Cahalan*, Prosecuting Attorney, *Edward Reilly Wilson*, Principal Attorney, Research, Training and Appeals, and *Timothy A. Baughman*, for the people.

Townsend, Haley & Overton, for defendant.

Before: J. H. GULLIS, P. J., and T. M. BURNS and W. VAN VALKENBURG, * JJ.

PER CURIAM. On January 30, 1975, a complaint and warrant were issued, charging defendant with first-degree murder, MCLA 750.316; MSA 28.548, armed robbery, MCLA 750.529; MSA 28.797, carnal knowledge of a female over 16, MCLA 750.520; MSA 28.788, and gross indecency between a male and female, MCLA 750.338(b); MSA 28.570(2). A preliminary examination was held on February 18, 1975, and defendant was bound over on all counts. Following an evidentiary hearing, held on April 29, 1975, wherein the court suppressed identification of the defendant, the case was dismissed on May 19, 1975. Plaintiff now claims appeal, upon leave granted.

The complaining witness identified defendant, in February, 1974, before he was taken into custody, from a photographic display containing approximately 300 photographs. Defendant does not complain of the procedure followed in this identification process nor does the record reveal any irregularity. Thereafter, the complaining witness, frightened because of threats made by defendant during

* Former circuit judge, sitting on the Court of Appeals by assignment pursuant to Const 1963, art 6, § 23 as amended in 1968.

1. CRIMINAL LAW—IDENTIFICATION—WITNESSES—PHOTOGRAPHS—LINEUP

LINEUP

* Privately showing a witness pictures of an accused should not be allowed as a means of preparing a witness for a lineup even where the showing is not for purposes of initial identification of the accused.

2. CRIMINAL LAW—IDENTIFICATION—PHOTOGRAPHS—CUSTODY—IBERT TO COURTEL

Identification of an accused by means of a photographic display should not be used where the accused is in custody, where there is a legitimate reason to use photographs when the defendant is in custody, the defendant has the right to have counsel present.

3. CRIMINAL LAW—IDENTIFICATION—IN-COURT IDENTIFICATION—JURY

PRESENT BASIS

An in-court identification may be received following an earlier improper identification of a defendant where the people have shown that the in-court identification has a basis independent of the prior identification procedure.

Appeal from Recorder's Court of Detroit, Samuel C. Gardner, J. Submitted June 11, 1976, at Detroit. (Docket No. 25741.) Decided June 24, 1976. Leave to appeal applied for.

Bernard J. Gray was charged with first-degree murder, armed robbery, carnal knowledge of a female over 16, and gross indecency between a male and female. The case was dismissed following an evidentiary hearing wherein the court sup-

REFERENCES FOR POINTS IN HEADNOTES

[1-3] 21 Am Jur 2d, Criminal Law §§ 368, 369.

29 Am Jur 2d, Evidence § 371, et seq.

Admissibility of evidence of lineup identification as affected by allegedly suggestive lineup procedures. 39 ALR3d 487.

Michigan Department of Corrections
NOTICE OF PACKAGE/MAIL REJECTION

4835-0316
CSJ-316 11/02

04-0661

Prisoner's name and number: Colvin #192744 Facility/Lock: SMF 5-140

You have received a package mail containing the following: Six (6) Books and One (1) Box of Cards titled "Doing What's Right", published by Anchor Books, "The Best of Tavis Smiley", published by Pines One Publications, "Hard Left", "How To Make

Black America Better", and "Keeping the Faith", published by Doubleday, " On Air, Volume II", and "Empowerment Cards", published by Smiley Books. These books did not come directly from the publisher or was not received from a member of the public from an approved Internet vendor or was not ordered by the prisoner through the established institutional ordering procedures which is prohibited.

From: Tavis Smiley Presents
4434 Crenshaw Blvd
Los Angeles, CA 90043-1208

Note: A copy of this notice is being mailed to sender if rejected pursuant to PD 05.03.118 "Prisoner Mail". The sender has 10 business days to send any opposition to this proposed action to the facility head. The sender will be notified of the final decision. Sender must not use bottom section of this form.

The item(s) identified above will not be delivered to you pursuant to: PD-04.02.105 PD-04.07.112 PD-05.03.118

for the following reasons: PD 05.03.118, Paragraph HH (8) - Subject to Paragraph Y, a book, magazine, newspaper, or other publication that is not received directly from the publisher, an Internet vendor identified on Attachment A, a vendor identified on Attachment B, or, if the prisoner is approved to take a correspondence course pursuant to PD 05.02.119 "Correspondence Course", directly from the approved correspondence school. This does not include an article or a few pages, or copies of a few pages, from a publication that may be included with a letter or other mail, unless it is reasonably believed to be an attempt to circumvent this restriction.....

C. Berry - General Office Assistant E7
Staff - Print Name & Title

C. Berry
Signature

08-18-04
Date

THIS SECTION IS TO BE COMPLETED BY THE PRISONER ONLY

Indicate what you want to have done with the item(s) identified above by marking one of the following.

- Return to sender at my expense.
- Send at my expense to: _____
whose address is: _____
- Hold to be picked up by (photographs, books, magazines & property only): _____
- Destroy (mail and property only).
- Turn over to Prisoner Benefit Fund (funds and postage only).
- Donate to charity (property only).
- Store for me (official documents only, e.g., birth certificate)
- I request a hearing.

Prisoner - Print Name & Number _____ Signature _____ Date _____

Send Reply within 10 business days to: Mail Room Other
Distribution: White to Prisoner Canary to Sender (if required) Pink to Mail Room Goldenrod to Housing Unit
W:\RECORD\WPDATA\Mail Rejection\publications

Grand Rapids Press - June 26, 1994

2 gunmen demanded drugs, cash

▶ A witness says one man put a gun to his head, a police report on the attack shows.

By Roland Wilkerson
The Grand Rapids Press

A pair of gunmen being sought in a chilling double murder on the city's Southeast Side reportedly demanded drugs and money from the occupants before opening fire, according to a police report on the attack released Saturday.

Reports on the Friday killings being investigated by the Grand Rapids police include a statement taken from a witness who said one of the assailants put a gun to his head and wanted to know where he kept "the money" and "the dope." Moments later, the two men who'd barged into the duplex at 844 Neland Ave. SE in broad daylight started shooting.

Police Sgt. Larry Nyquist said that while drugs may have played a part in the attack, nothing had been ruled out at this point. When it comes to suspects, he said, no arrests had been made and "We don't have any names."

The attack came only hours before nearby residents readied a pre-emptive strike to save their inner-city streets from crime in a gathering billed as a "street party for Jesus."

Late into an otherwise dreary night, more than 150 members of Nehemiah Church and residents near the corner of Eastern Avenue and Franklin Street held a rally to sing an energetic message of hope to their neighborhood. It also served as an invitation to gang members and drug deal-

see SLAYINGS, A23

Grand Rapids Press - June 26, 1994

6-26-94

SLAYINGS Gunmen barged in, demanding drugs

CONTINUED FROM A1

ers, delivered on their own turf, to join in the gospel.

For at least two people, however, the plea did not come soon enough. Killed in the Friday afternoon attack were Cassandra Tillman, 20, of 552 Pleasant St. SE and Kenneth Smith, about 30, of 844 Neland. Both died from their injuries after being shot in the downstairs of the homes.

The suspects, ages 17 to 20, entered the home about 12:30 p.m. Friday, with one gunman confronting occupants downstairs and the other going to the upstairs of the home. Aaron Williams and Jacqueline Smith, who escaped from the stairs with their 3-year-old son, were treated for non-life-threatening

bullet wounds.

On Saturday, neighbors living near the home shuddered over the events that played out there only the day before.

"There's just all kinds of stuff going on around here," said Lisa Reynolds, a next-door neighbor and friend of the people living in the home.

She characterized the dwelling as a friendly "party house," where people gathered to drink, play cards and listen to music.

Reynolds said she spent the evening before at the home watching videos. When she heard the gunshots Friday, she chalked it up to pre-Fourth-of-July revelry, until ambulances came screaming up to the home. "I didn't stay here last night. I was pretty scared," she

said. By late Saturday morning, though, she was back home cooking breakfast while her children played on the front porch. "This is where I live," she explained.

Another neighbor, who asked not to be named, took a different view of the home, saying the block club complained to police that drugs were being sold there.

"It doesn't really take a brain to realize what kind of house that was," said the resident, who asked not to be identified out of fear of reprisals. "People would park, run in for a few seconds and run out. Everyone knew what was going on in that house."

Reporter Rick Wilson contributed to this report.

I had finally received the FOIA request dated March of 1999, and I then discovered that the Department had withheld information that I did not see in the attorney's client file.

1. The murder weapon (handgun) that was involved in the robbery/homicide was also involved in another shooting dated June 6, 1994 -just a week and an half before the incident took place that I have been convicted of. The detective had questioned two witness (suspects) who were involved in the June 6, 1994 shooting, and they told the detective that a friend of theirs had possession of both a .32 auto and .38 superauto handguns (these were the same type weapons that were used in the case that I have been convicted of), but explained that the friend told them that he was robbed of them dated June 25 or 26, 1994. (NOTE: The case that I have been convicted of happened June 24, 1994. So, it would be totally impossible for my brother and I to had committed the robbery/homicide if we did not have possession of the weapons. The detectives knew this as well. Also, they knew that we did not know the individuals who had the weapons.)

2. During my trial, the detectives testified falsely when they claimed to only had discovered a .38 superauto handgun (the murder weapon) in Grand Rapids, but I had discovered notes in which they had found two other .38 superauto handguns in Grand Rapids during the investigation.

Additionally, the detectives testified that someone had purchased from a hardware store in Grand Rapids bullets for both weapons, just a couple days before the robbery. But I had discovered in the file a note that stated some bullets were brought on June 17, 1994, in a hardware store in Grand Rapids.

3. The detectives had an informant from the Department's Vice Squad that told them during an interview that just minutes after the drug house was robbed, she seen these same two guys (the individual who told the informants in the county jail that he and his friend had robbed the drug house, and the individual that was picked out the July 8, 1994 photo-drop by one of the eyewitnesses) acting strange, pacing and kicking things, and she later discovered that they had shot someone during a drug house robbery on the same street the incident that I have been convicted of happened. (NOTE: The detectives had these individuals as their prime suspects, and in fact, arrested the one who told the county jail informants that he committed the crime the same day the incident happened on unrelated charges. During the arrest, the police confiscated \$200.00 from him. It was alleged during testimony of one the eyewitnesses that about \$400.00 was taken from him during the robbery.)

There is extremely a lot more information and documents that I had discovered in both files, but I believe both the police and my attorney are withholding more information that would help my case and prove my brother and my innocence. My problem right now is, I do not have an investigator and an attorney in order to properly prove our innocence. My brother and I have been "framed" in this highly publicized case.

I have written everyone, from law schools to major prominent news television and newspaper organizations, but I have not received any assistance. I have written the state attorney generals and Janet Reno, when she was the United States Attorney General, but I have not received any assistance. As you may know, wrongfully convicted prisoners have very limited sources in Michigan for assistance, and the Cooley Law School's Innocence Project only take cases that involves DNA type evidence -our case does not have. Our case does not have physical evidence, period. So, I do not have any other places to turn to.

Could you please take our case. We just simply need an investigator to inspect

the police file, find and question a few witnesses, and review my preliminary examination audio tape, and attorneys to represent us in court. That is it. I know it cost money, but we are indigent. I would deeply appreciate it very much if you would please respond to my letter.

Currently, I have been writing a manuscript (book) about my ordeal and the fact that I was framed of a case that I did not commit. I would like to have it published as well. I was hoping with the book it could shed light on my situation. I also want to put up a website where I can post all the documents and transcripts in order to show the viewer of the actual falsehoods and concealment of evidence -all at the hands of the state (police, prosecutor and defense attorneys).

Thank you for taking the time out to read my letter, and I want to thank you for taking my letter into consideration.

Sincerely,

Kerrath Colvin, Jr.
(#192744)



U.S. Department of Justice

Civil Rights Division

DLP:DCR:fmm
DJ 144-37-0

Washington, D.C. 20530

February 15, 1996

Mr. Kenneth Colvin, Jr.
Number 192744
4000 Cooper Street
Jackson, Mississippi 49201

Dear Mr. Colvin:

This is in reply to your correspondence to the Department.
We apologize for the delay of this response.

The matter you mentioned in your letter is one within the
jurisdiction of the courts or the state. This Department has no
authority to take any action in this matter.

Sincerely,

Deval L. Patrick
Assistant Attorney General
Civil Rights Division

By:

Diane C. Roberts
Diane C. Roberts
Civil Rights Division

1 that by picking a person out of a lineup, that that
2 is as reliable as can be, and it's without fault
3 because it couldn't possibly be wrong.

4 Well, you're going to hear testimony
5 from a Dr. Alexander Daniel Yarmey. Dr. Yarmey is a
6 professor of psychology at the University of
7 Guelph. He's also the author of a book, a book
8 specifically geared towards police work, and in that
9 book he writes extensively on eyewitness
10 identification.

11 He's an expert in that field, and he's
12 going to testify for you.

13 He's going to tell you that eyewitness
14 identifications and eyewitness testimony is among
15 the most unreliable, believe it or no, the most
16 unreliable types of testimony that could be used in
17 convicting an individual.

18 Courts have recognized this. The United
19 States Supreme Court has recognized it. The
20 Michigan Supreme Court has recognized it, and he'll
21 tell you that, too. It's the most unreliable type
22 of testimony you could possibly get. And why is
23 that?

24 Well, memory has several components to
25 it. One is the ability to observe what's going on



NEWS RELEASE

GRAND RAPIDS POLICE DEPARTMENT

APPROVED:

Lieutenant James Farris

FOR FURTHER INFORMATION:
Community Affairs Unit
456-3124

FOR RELEASE: June 24, 1994

At approximately 12:29 P.M. today, the Grand Rapids Police Department responded to 844 Neland Avenue SE on a reported shooting. Upon arrival, officers found five (5) gunshot victims from the address:

1. Kenneth Smith, approximately 30 years old, 844 Neland Avenue SE
2. Cassandra Tillman, 20 years old, of 552 Pleasant Street SE
3. Jacqueline Smith, 29 years old, of 844 Neland Avenue SE
4. Aaron Williams, 36 years old, of 844 Neland Avenue SE
5. Christopher Smith, 20 years old, of 844 Neland Avenue SE

Mr. Kenneth Smith suffered a gunshot wound to the chest and was taken to Blodgett Hospital where he expired. Ms. Cassandra Tillman suffered a gunshot wound to the back and was transported to Saint Mary's Hospital where she also died. Jacqueline Smith and Aaron Williams were each shot in the arm and taken to Blodgett Hospital where they are listed in good condition and expected to be released later today. Mr. Christopher Smith suffered a superficial wound to the arm.

The victims apparently answered a knock at the door when two (2) Black male suspects armed with semi-automatic type handguns entered demanding money. Suspect #1 went upstairs in the dwelling while suspect #2 remained downstairs. Suspect #1 shot victims Jacqueline Smith, Aaron Williams, and Christopher Smith. Jacqueline Smith, Aaron Williams and their three (3) year old child fled through an upstairs window of the residence. Christopher Smith fled through the rear door of the residence. Suspect #2 shot victims Kenneth Smith and Cassandra Tillman. There was one (1) other occupant who was unharmed. The suspect(s) were described as:

1. A Black male, seventeen to twenty (17-20) years old, wearing a cream-colored shirt, black shorts, white shoes, and carried a black back pack.
2. A Black male, Seventeen to twenty (17-20) years old, wearing black jogging pants, white shirt, and white shoes.

The Grand Rapids Police Department Major Case Team is investigating the incident. Anyone with information regarding this incident is asked to call the Grand Rapids Police Department at 456-3404 or Silent Observer at 774-2345.

JUNE 25, 1994

Gunmen enter home, kill two, wound three

▲ *Police say no arrests have been made in what appeared to be a robbery attempt.*

By Doug Guthrie
The Grand Rapids Press

Two men armed with semiautomatic pistols invaded a Southeast Side home Friday afternoon and gunned down five people, killing a man and a woman.

Grand Rapids police said the youthful suspects knocked at the front door of a two-story duplex at 844 Neland Ave. SE and were let inside because the occupants said they thought they were relatives.

Once inside, the strangers said their intention was robbery.

"I don't get it," said a woman watching detectives work in the rain after the shooting. "I know these people and they didn't have jobs. They drove beat-up old cars and they did not have no money. So why would someone want to rob them?"

The dead were identified as Cassandra Tillman, 20, of 552 Pleasant St. SE, and Kenneth Smith, about 30, of 844 Neland



Ave. SE.

No one has been arrested.
Grand Rapids Police Lt. James Farris

see SHOOTING, A4

SHOOTING *Neighbors gather at church to rally*

CONTINUED FROM A1

said one robber kept Tillman and Kenneth Smith at gunpoint downstairs while his accomplice went upstairs to confront Jacqueline Smith, 29, Aaron Williams, 36, and Christopher Smith, 20, all of the Neland address.

The bandits, who entered the house about 12:29 p.m., were inside for an undetermined amount of time before the gunman upstairs opened fire. The second gunman downstairs then shot Tillman and Kenneth Smith, said Farris.

Tillman, shot several times, including at least once in the back, died at Saint Mary's Hospital. She was pronounced dead at 1:12 p.m. "They worked real hard to save her and couldn't," said Saint Mary's spokeswoman Trisha Spaulding.

Kenneth Smith was shot in the chest and died in the emergency room at Blodgett Memorial Medical Center, according to hospital spokesman Bruce Rossman.

Williams, Christopher Smith and Jacqueline Smith were treated at Blodgett for bullet wounds to their extremities. None of their injuries

was considered life-threatening, said Rossman.

Williams and Jacqueline Smith also suffered cuts while making their escape with their 3-year-old son from an upstairs window.

"I heard probably six shots and I looked out my window," said neighbor Terry Coger. "I didn't see anything at first, then I saw a man and woman climbing out that window up over the porch."

Coger said the man appeared to be clutching a child bundled in his arms as he made his way out the window.

"He was yelling that somebody's been shot. I think he may have been saying a name, too, but I couldn't make it out," said Coger, who said called police.

Williams and Jacqueline Smith jumped from the porch roof and ran for help at a house around the corner, at 1046 Prince St. SE, said police.

Numerous spent shell casings were found by investigators inside the Neland home. A single casing was found in the street and slightly to the north, the direction the suspects apparently fled after the shooting.

Neighbors said residents of the duplex had lived there about six months.

"We all keep to ourselves in this neighborhood, but they were kind of noisy," said one neighbor.

"They'd drink and party out there all night," said another, pointing to a table with shade umbrella and chairs on a small patch of lawn beside the front porch.

The suspects were described as black males, 17 to 20 years of age. One wore a cream-colored shirt, black shorts and carried a black backpack. The other wore a white shirt and black jogging pants.

Late Friday evening at Nehemiah Church, just a few blocks from the murder scene, about 60 area residents and church members held a rally to encourage "a sense of hope" in the neighborhood.

"This is in response to all the killings, not just this one," the Rev. Rory Marshall said of the rally, which actually had been planned long before Friday's shootings. "We're just sick and tired of the community acting like it's powerless."

Reporter Rick Wilson contributed to this report.

6-25-94

MR. KENNETH COLVIN, JR. (#192744)

LEGAL DOCUMENTS INDEX

[TOTAL PAGES: 197]

1. Wanted Posters and Composite Sketch Reports (6 pages);
2. Grand Rapids Press News Articles (5 pages);
3. Defense's Opening Statement Transcripts (10 pages [P. 299 to 308]);
4. Defense's Closing Argument Transcripts (16 pages [P. 720 to 735]);
5. T.V. News Network Letters (2 pages);
6. My Grand Rapids Press Letter and Response Letter (12 pages);
7. My Letter to "Merrica" Carter (6 pages);
8. Letters from Worthy Conviction Organization (6 pages);
9. Letters and responses from Government Agencies (5 pages);
10. Application for Parole and Letters from Governors (8 pages);
11. Requests for Grand Rapids Police Files (P.O.I.A.) and responses (6 pages);
12. Editorial Attorney's Letters, Complaint response, and Civil Suit Against Attorney (8 pages);
13. Carl Powell, Trent Chambliss, Fair Street Report, Nancy Carter and Charles Robinson's Reports (14 pages);
14. Michigan State Police Complaint and Response Letter; Forensic Reports (12 pages);
15. Trial Transcript Testimony from Det. James Grable [P. 581; 588-599]; Det. S. M. Barrett [P. 552 and 560] and Det. J. Bullock [P. 538; 547-548] (8 pages);
16. Innocence Denied Article about me; freed after 12 years of exonerated evidence (1 page);
17. Alternate Preliminary Transcripts testimony of Jackie Smith and Judge James Madley [P. 1, 2, 46 and 102] (4 pages);
18. My letter to 61st District Court requesting a tape copy of Preliminary Examination (1 page);
19. People v. Gray, 69 Mich. App. 685 (1976) (2 pages);
20. History of Judge James E. Madley (1 page);
21. Detroit Free Press article with Curt Benson; (Madley's husband and Judge Robert Benson's son) (2 pages);
22. Preliminary Examination Transcripts regarding me not being placed in line-up before Preliminary Examination [P. 29-30] (2 pages);
23. Brother's Trial Transcripts of Detective Grable revealing the fact that they had nothing supporting I ever been to Grand Rapids [P. 489-491] (3 pages);
24. Legal Documents regarding my attempt to correct my transcripts (16 pages);
25. Witnesses who revealed that Terro Johnson/Thomas Haskins committed crime (6 pages);
26. Witness (13 year old girl) who sees ribbons leave drugstore (4 pages);
27. Victim witnesses identifying other suspects (10 pages);
28. Op-ed article about false confessions and article about Clark's verbatim with false confession (2 pages);

LEGAL DOCUMENTS CONTINUED

29. My trial transcript when Judge Benson didn't want to include brother's statement [P. 638] (1 page);
30. Brother's hearing transcripts allowing his statement despite the fact he asked for a attorney [P. 473 to 475] (3 pages);
31. Op-ed article regarding mistakes in identification (1 page);
32. Jet Magazine article about wrongful conviction (1 page);
33. *Newsum v. McCabe*, 319 F.3d 301 (7th cir. 2003) (4 pages);
34. *Cryer Brothers* when witness used Nela's identification (2 pages);
35. Johnson's/Haski's fingerprint comparison request (1 page);
36. Letter from Dr. Henry L. Gibbs, Jr. (1 page);
37. Letter and books from Davis Smiley (1 page);
38. I would receipt from Star Paper from her book "Uncle Sam's Plaster" (1 page).

TOTAL PAGES: 197

1 There's no photographs of hidden cameras
2 filming the burglary in progress. There's no
3 tape-recordings. There's no tire tracks. There's
4 not one piece of physical evidence -- and, by the
5 way, there's not a gun, at least not one that's
6 alleged to have been used by Kenny Colvin.

7 None of these things exist in this case,
8 not one shred of evidence, physical evidence,
9 something you could touch, something you could hold
10 on to, that puts my client at 844 Neland.

11 As the prosecutor said, that's one of
12 the things that he's going to have to prove beyond a
13 reasonable doubt. He says that Ken Colvin
14 participated in this robbery. They're going to have
15 to prove that. They're going to prove that or try
16 to prove it through eyewitness identification.

17 Now, during the voir dire I already
18 touched upon the fact that people make mistakes when
19 they think they see somebody.

20 The prosecutor would like you to believe
21 that face-to-face, eyewitness testimony is as
22 reliable as can be. It's going to be burned into
23 your memory that, "This is what happened and I will
24 never forget this."

25 He's also going to ask you to believe

and ^{went} ~~went~~ to my friend's house on Delaware
 Street inside the screen porch when the police
 car pulled up and the ^{two} officers got out of the car
 and asked me can they talk to me so I
 said yes. So I came off the porch and the officer
 asked me do I know Kit. and I said yes next
 thing I know the officer grabbed me by the back
 of my pants and pushed me towards the car
 and said sweet the gun I said what - what are
 you talking gun. Is it look like a gold gun
 he said sure thing but I don't remember.

So the officers put me in a back seat
 where my mom. By the house 3 bench
 was 7 gold the officer with a bit
 he asked the people who house I was at
 and they said house and the officer asked how old
 and they said they don't know. So the officer asked
 where do I live and I told them 833 1/2

So ^{we} went around there and some of the officers
 went up to my house and asked the about
 my name and the told him anything name
 so we sat in my ~~to~~ drive way for a good deal
 and were playing the guessing game while My Mom
 So the officers got tired playing and said were
 taking you to jail so as we were I decided
 to tell them my really name. And after
 receiving a check it was like I said 3 bench for
 and that's that. ^{Crazy}

The End to a Night

Charles J. Roberts

1 sense when he was sentenced to life in prison on July 12,
2 1995. He knew by his own admission, see paragraph 29 of
3 the Complaint, what the cause of his injury was on July
4 22, 1998, when he received his file from Defendant
5 Liquigli. That is more than six months before July 19,
6 2000. Hence, the six-month period commencing on the date
7 of discovery has also run. As previously stated, Count I
8 is, therefore, dismissed.

9 As to Plaintiff's Count II, which alleges
10 fraud, the Complaint is insufficient to state a claim for
11 fraud pursuant to MCR 2.116(I)(5). Plaintiff must be
12 given time to amend. He therefore has 28 days within
13 which to amend his Complaint to adequately state a claim
14 for fraud, and we will then proceed from that point on.

15 Thank you very much.

16 (Whereupon proceedings concluded at about 4:45 p.m.)

17

-o0o-

1 MR. LIQUIGLI: May it please the Court,
2 Mr. Bramble, ladies and gentlemen of the jury.

3 This indeed was a gruesome killing, and
4 two people are now dead because of the actions of
5 Kelley Colvin. But the prosecutor doesn't have to
6 prove what Kelley Colvin did. He has to prove what
7 Kenneth Colvin did.

8 Kenneth Colvin is the gentleman sitting
9 right here at the defense table, and you are going
10 to see that that proof is not beyond a reasonable
11 doubt.

12 Now, this is the time in my opening
13 statement that I usually talk about physical
14 evidence. I like to get that out of the way first,
15 because there's usually a lot of physical evidence
16 linking the defendant to the crime, and I like to
17 dispel any of that physical evidence right away.

18 I'm at a loss here, because there isn't
19 any physical evidence. This is an eyewitness case,
20 pure and simple. There are no fingerprints. There
21 are no bootprints outside the window where they
22 broke in in a burglary. There's no burglar's
23 tools. There's no hairs or fibers. There's no
24 blood to analyze DNA. There's no body fluids.
25 There's none of that.

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



WILLIAM J. RICHARDS
Deputy Attorney General

P.O. Box 30218
LANSING, MICHIGAN 48909

JENNIFER MULHERN GRANHOLM
ATTORNEY GENERAL

November 29, 1999

Mr. Kenneth Colvin, Jr. #192744
Alger Maximum Correctional Facility
P.O. Box 600
Munising, MI 49862

Dear Mr. Colvin:

Attorney General Granholm has asked that I reply to your recent letter requesting assistance in the defense of a criminal case. I must advise you that the courts view this office as part of the prosecution and as such do not allow us to provide assistance to defendants in criminal cases.

I must therefore advise that you work with your defense attorneys as well as with the office of the prosecutor handling the matter. Should you need assistance in securing appellate counsel or investigative services, you should request assistance from the circuit court which has the authority to appoint attorneys and investigators to indigent defendants at county expense. You may also wish to contact the State Appellate Defender's Office at 3300 Penobscot Building, 645 Griswold, Detroit, Michigan 48226.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert Ianni", with a horizontal line extending to the right.

Robert Ianni
Assistant in Charge
Criminal Division
517-241-6565

RI:map

M **Michigan Law**
UNIVERSITY OF MICHIGAN LAW SCHOOL
MICHIGAN INNOCENCE CLINIC

BRIDGET MCCORMACK
DAVID A. MORAN

1029 Legal Research Bldg.
625 South State Street
Ann Arbor, Michigan 48109-1215
734.763.9353
Fax: 734.764.8242

October 14, 2010

Mr. Kenneth Colvin, Jr.
192744
Ionia Maximum Correctional Facility
1576 W. Bluewater Hwy.
Ionia, MI 48846

Dear Mr. Colvin:

Thank you for submitting a questionnaire to the Michigan Innocence Clinic at the University of Michigan Law School. I regret to inform you that, after carefully reviewing your questionnaire, we have concluded that your case does not meet the criteria for use in the clinic.

We will therefore not be able to take your case or provide you with any legal assistance.

I wish you the very best as you pursue your case.

Sincerely,



David A. Moran

medical request.) I have enclosed Mr. Smith's WANTED POSTER. (See Document 7)

4. I had discovered the enclosed report from Paralegal Services of Michigan, Inc., dated May 15, 1995, and a GRPD Investigative Interview Note of the thirteen year-old girl who gave the detectives the description of the two gunmen just minutes after the incident had occurred. The investigator tried to have the young girl testify to ~~what~~ she saw, but her mother refused, stating that the GRPD's chief of police promised her that they would not be involved in this case. (See Document 8)

(NOTE: At the time this crime was committed, I was 26 years-old, standing 5'4", and I can not grow a goatee, period. My brother was 19 years-old, standing 6', and he can not grow a goatee.)

5. I discovered GRPD Investigative Interview notes of Mr. Willie Meadows and Mr. Calvin L. Jones (who were both informants) who were residing in the county jail, heard Mr. Ferron Johnson tell Mr. Jones (Mr. Meadow overheard the conversation) that he and another guy had committed the Island drughouse robbery/homicide, and he described exactly what had happened and the exact type firearms that were used. (See Documents 9 and 10)

6. I discovered a document - Motion to Enforce Police Witness- that the trial attorney had prepared, but had not file with the trial court, requesting that a tech officer, who aided in drawing the three composite drawings (WANTED POSTERS) and obtaining the descriptions from the eyewitnesses of the gunmen, be subpoenaed to testify about receiving the eyewitnesses' description of the gunmen. The composite drawing descriptions that the eyewitnesses gave of the shooter were a black male, between the ages of 17 to 20. The composite drawings -which the trial attorney presented to the jury- did not look like me, or my brother. (See Documents 2, 5 & 7, and read defense attorney's opening statement, transcript pages: 304/305).

None of my trial attorneys, or appellant attorney tell me that this information existed, and they had refused to give me a copy of the file, despite the fact, I had tried to obtain the client's (discovery) file for over four years. The trial attorney, Mr. Michael Liquigli in May of 1995, after my Appeal of Right had been exhausted, ~~we~~ sent me a letter stating that I must send him a \$150.00 before he would send me a copy of the file (a file of documents that he had received for free).

If you will please read the enclosed transcripts of Mr. Liquigli's Opening Statement, you will see his defense strategy that he presented, including hiring an expert witness, Dr. Alexander Daniel Yarnes (which cost the State \$3000.00) to testify on our behalf. (See Transcript pages: 301/305) With this in mind, I could not understand why Mr. Liquigli decided not to present as evidence of the fact that the eyewitnesses had identified other suspects, just days after the incident, and other evidence that I had presented in this letter. You must admit, that does not make any sense. Also, when you read the transcripts, you will notice that he does not make any reference to this evidence. Why?
(See Transcripts pages: 153/159, 299 through 309 (13 pages)).

With the problems that I was having in trying to obtain a copy of my client file, I tried to obtain a copy of the police case file -via F.O.I.A.- from the Grand Rapids Police Department's Records Office -which I had problems with them, until I had filed a complaint to former State Senator, Honorable Jackie Vaughn, III and

1 at the time you're making an observation. If guns
2 are going off, you're making split-second
3 observations. You're stressful. There's violence
4 going on around you. People are being killed.

5 You are not of the mind to stand there
6 and say, "Let me just take a moment to see what this
7 fellow looks like and see if I can find any
8 distinguishing characteristics so that I could
9 describe him to the police later."

10 You're understandably finding the
11 fastest way out of there to get away from bullets.
12 You're not sitting there saying, "Let me think what
13 this person looks like."

14 Also, alcohol and marijuana have a big
15 factor to play in your ability to remember things,
16 short-term memory and long-term memory.

17 I think you're going to come to the
18 conclusion, after hearing the testimony, that some,
19 if not all, of the people in this house were smoking
20 marijuana or had been smoking shortly before then or
21 had been drinking.

22 Additionally, the retention period is
23 very important, and Dr. Yarmey will testify as to
24 that, also. How much time has passed since you're
25 being asked to, from the event to the time you're

1 being asked to remember something, has it been a
2 long time or a short time.

3 And we discussed in voir dire, you all
4 agreed that your memory is better immediately after
5 the event or only a short time after the event.

6 The lineup in this particular case that
7 Mr. Kenny Colvin participated in was two or three
8 months after the event. Other pieces of evidence
9 and other descriptions occurred immediately after
10 the event, the day of the event, or one or two days
11 after.

12 Let's talk about the witnesses that
13 Mr. Bramble mentioned.

14 We have John Earl Smith. John Earl
15 Smith is confronted by Kelley Colvin, gun placed to
16 his head, screaming going on. He sees his brother's
17 terrified face and two people get shot. He
18 identifies Kelley Colvin without any problem.

19 What does he say about Kenny Colvin --
20 well, first he says Kelley Colvin is six-foot tall,
21 because he's only an inch taller than him. What
22 does he say about Kenny Colvin? He says this, by
23 the way, the day of the crime: He says Kenny Colvin
24 is much shorter, despite the fact that Kenny is
25 six-foot-five and Kelley is six foot.

1 I think the description on the day of
2 the event, shortly thereafter, is much more
3 accurate.

4 Likewise, the three people that
5 identified Mr. Kenny Colvin -- I have to keep on
6 thinking to put "Kenny" in front of his name --
7 Mr. Kenny Colvin gave descriptions to the police the
8 day of the event or shortly thereafter.

9 Arron Williams describes him as 19 to 20
10 years old, six-one to six-two, 160 pounds, and
11 Mr. Williams was good enough and certain enough
12 about his description of the person and his memory
13 of the person to draw or have a composite drawing
14 made.

15 That is the composite drawing that
16 Mr. Arron Williams made of the defendant
17 (indicating). That will be introduced into
18 evidence, and as you can see, it looks nothing like
19 the defendant, two days after.

20 Likewise, two other composite drawings
21 made by eyewitnesses at the time of the event look
22 nothing like the defendant.

23 You'll also notice they don't look
24 anything like each other, either. Three different
25 pictures, none of them look like this man, and yet

1 two months later there's a lineup and, lo and
2 behold, Kenny Colvin is picked out of the lineup.
3 How does that happen? How does that occur?

4 Well, the witnesses will admit and they
5 have admitted that they have talked to each other
6 regarding the identity of this second man. They've
7 talked to each other at great length. Two of their
8 family members, or a family member and a good
9 friend, have been killed. Naturally, this is going
10 to be the topic of discussion for many months to
11 come. I'm certain they're still not done talking
12 about this.

13 This was a tragic event, but yet they
14 start talking and they start influencing each
15 other.

16 You remember how the judge said about
17 the weather. You come to conclusions. We don't
18 talk in facts. We don't say, "Well, he had puffy
19 lips and his cheekbones were high," and so on and so
20 forth. They started talking conclusions, and that's
21 how -- and that's what Dr. Yarmey will tell you, how
22 conversations of that nature will influence people.

23 And that's how three people could draw
24 three different pictures, none of which look like
25 the defendant, who now come to name the defendant as

1 the person, the second person involved in this
2 crime.

3 Also, I'd like you to look and listen to
4 all of their testimony as it relates to specific
5 facts, how things happened. You're going to hear
6 differences between the day of the event, how one
7 witness says something happened. Two days later,
8 two weeks later, the stories are going to change,
9 and that's because the stories aren't certain.
10 They're not certain what happened. They're trying
11 to remember, but they're remembering different
12 things at different times.

13 And again, it goes back to memory, how
14 good was your opportunity to remember something at
15 the time it happened.

16 I say, ladies and gentlemen, that at the
17 time these events were occurring, this was chaos.
18 It had to work its way up to chaos to be as good as
19 chaos. People are dying around these people.
20 Gunshots are being fired, and the ability to
21 remember is not consistent, for all intents and
22 purposes.

23 Again, everyone at the scene close to
24 the time of the event described this man as 18 to 19
25 years old, 19 to 20, and the latest is 20 years

1 The prosecutor has produced eyewitnesses,
2 and the prosecutor would have you believe that, number
3 one, these are very credible people. That they are to
4 be believed and they should be believed, according to
5 him, and that they're very reliable people and that
6 their testimony is reliable.

7 Well, ladies and gentlemen, I submit to
8 you that the only person that said anything credible
9 was Chris, when he said he was a drug dealer and he
10 was smoking marijuana. These are the only two things
11 that he said that have any credibility whatsoever. He
12 admitted to doing things wrong. And there's a concept
13 in the law that says people wouldn't admit to doing
14 things wrong unless it were true.

15 That's a credibility issue. You wouldn't
16 go around admitting something that was illegal unless
17 it was true. You don't admit to things, crimes you
18 haven't done.

19 He admits to dealing drugs out of the
20 house, and that he had smoked a dime bag of
21 marijuana. He's had three to five marijuana
22 cigarettes. Who did he say he smoked it with?
23 Everyone in the house, the whole family, everyone
24 upstairs, "my sister," were just a few of the terms
25 that he used to describe who he smoked this marijuana

1 with.

2 Everybody else in the house, "I didn't
3 smoke marijuana." Maybe they were smoking marijuana
4 downstairs. Everyone said Ken Smith did not smoke
5 marijuana. Everyone said Ken Smith did not drink any
6 alcohol that day.

7 Well, we come back to Dr. Cohle. The one
8 interesting thing he said throughout this whole trial
9 other than two people died was that Ken Smith had both
10 cannabinoid intoxication and ethyl alcohol
11 intoxication. In fact, so much ethyl alcohol
12 intoxication that he was over .10, the legal limit to
13 drive an automobile in this state.

14 Everyone that you heard from, every
15 eyewitness lied about it: "No, Ken wasn't smoking."
16 I don't mean to talk badly about someone who's
17 deceased. He smoked marijuana and he drank alcohol
18 that morning. No reason to be killed, I'm not saying
19 that. View it in relation to what everyone else said
20 about him that day. They're hedging. They're trying
21 to hide something from you.

22 They all lied to the police when they
23 said, "No, we weren't smoking marijuana." John Earl
24 Smith says he took two puffs of a marijuana cigarette
25 and then put it down.

1 First of all, you didn't hear any of these
2 IBO technicians say that they found a half a marijuana
3 cigarette or a marijuana cigarette with just a couple
4 of puffs taken from it. Don't you think that would
5 have been a nice corroborating piece of evidence to
6 bolster up John Earl Smith's testimony, to show that
7 he'd only had those two puffs? Kind of makes me think
8 of President Clinton when he said, "Well, yeah, I
9 smoked marijuana when I was in college, but I really
10 didn't inhale." It's kind of implausible, don't you
11 think?

12 Plus, you have Chris Smith saying, "Yeah,
13 we all split three to five joints." I'd like you to
14 take those things into account when you judge the
15 credibility of these people.

16 Also, I'd like you to take the marijuana
17 smoking into account when you judge their
18 reliability.

19 Now, the prosecutor would have you believe
20 that all Dr. Yarmey is is some sort of hired gun who
21 comes in and testifies for the defense on any occasion
22 he can and makes a ton of money doing it. Well,
23 Dr. Yarmey testified that he was the author of this
24 book, "Understanding Police and Police Work." He also
25 testified that he's a consultant to the United States

MEMBERS
BRIAN D. VINCENT
CHAIRPERSON
THOMAS A. HALLIN
VICE CHAIRPERSON
ROBERT W. McBROOM
SECRETARY
DEBORAH L. MIELA
STEVEN D. DUNNINGS
MARY J. FLEMING
MATTHEW A. SEWARD
RICHARD E. ZUCKERMAN
JAMES M. BULLOCK, M.D.

State of Michigan
Attorney Grievance Commission

SUITE 206, MARQUETTE BUILDING
243 WEST CONGRESS
DETROIT, MICHIGAN 48226-3258
TELEPHONE (313) 961-6285
TELEFAX (313) 961-5819

June 5, 1998

PHILIP J. THOMAS
GRIEVANCE ADMINISTRATOR
ROBERT E. EDICK
DEPUTY ADMINISTRATOR
CYNTHIA C. BULLINGTON
ASSISTANT DEPUTY ADMINISTRATOR
ASSOCIATE COUNSEL
SUSAN E. GILLOOLY
RICHARD L. CUNNINGHAM
DONALD D. CAMPBELL
WENDY A. NEELEY
RUTHANN STEVENS
STEPHEN P. VELLA
PATRICK K. McGLINN
DARRYL W. EASON
KEIRA BOERTZEL-SMITH
FRANCES A. ROSINSKI
MARY S. HICKEY

PERSONAL AND CONFIDENTIAL

Michael Liquigli
Attorney at Law
200 N. Division
Grand Rapids, MI 49503

RE: Kenneth Colvin, Jr. as to Michael Liquigli
File No. 0215/96

Dear Mr. Liquigli:

We received a letter from Kenneth Colvin, Jr., regarding his efforts to obtain his client file from you. Mr. Colvin also forwarded us a copy of your letter of May 14, 1998, which requests a \$150 deposit as a condition of returning the file. I am writing this letter to ask that you reconsider your position.

You are obligated to return the original of the client's file upon request (Informal Ethics Opinions CI-722 and CI-1200). To the extent you want to retain a copy it would be at your expense (CI-845). In the absence of an agreement for the client to pay for the file copies, a lawyer may not ethically charge the client for copying the file (CI-926).

In the event you are required to ship the file to Mr. Colvin, I believe you could require him to pay shipping charges in advance. Please let me know at your earliest convenience whether you are willing to resolve the dispute in this fashion.

Very truly yours,

Robert E. Edick

Robert E. Edick
Deputy Administrator

REE/lw

cc: Kenneth Colvin, Jr. ✓

Mr. Burritt stated: A. No, they have not.

Q. Is that basically the extent of your analysis of the items submitted under that case number and that case?

A. No, Sir.

Q. What additionally did you do?

A. In addition to that, the six fired cartridges were sent compared to the test firings from the Eireann house.

Q. Okay, what did that reveal?

A. That revealed that the six fired cartridges were, that being the .38 super auto, were identified as ~~alls~~ having been fired in this Eireann.

Q. Anything else that you did?

A. No, Sir.

(SEE TRANSCRIPT PAGE 560)

But in fact, Mr. Burritt did. He also tested more casings that were found in the Fair Street shooting incident to the Eireann and discovered that the casings were fired from the same weapon.

Then, during the jury trial, the prosecutor had questioned Mr. Bullock about testing the bullets and casings to a particular handgun.

The Prosecutor stated: Q. Did you examine these items in relationship to any particular firearm?

Mr. Bullock stated: A. I personally examined a .32 automatic handgun, a Colt and did a comparison between that Colt handgun with the .32 automatic bullets that I examined, and I could not link that handgun up with these bullets, the .32 caliber bullets.

Q. Do you have what's called an Open Shooting Club?

A. Yes, I do.

Q. Did you do any examination or try to link the .38 caliber

super auto to any particular weapon?

A. I personally did not. I placed those items in the open shooting file, and then Sergeant Russell later did a comparison when a gun was obtained and submitted, and he did a comparison on those items from the opening shooting file. (SEE EXHIBITS PAGES 47-48).

Now, Mr. Bullock testified that he did test a .32 auto Colt handgun and it did not match the bullets from the Heland Avenue incident. They could of easily testified to the fact that the .38 super auto handgun was involved in another shooting especially, after they had brought us to the jury about the "Charley Shooting File". Had the Toxicologic Laboratory been at the department.

Also, I had discovered a "NOTE" made out by a detective of the Grand Rapids Police Department which stated:

"Bullock - State Police - not firearm from homicide -
Davis .32 Remington - .38 super Colt - Same" (SEE NOTE).

So, there were two other handguns tested and was later discovered not to have been the handguns involved in the Heland Avenue incident, but this was not brought to the attention of the jury and this should have.

Mr. Bullock and Mr. Durrill are required by law to "TELL THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH" (SEE PROVERB V SOLOMON #1, 302 HIGH 231, 254 (1974)) and not to tell half-truths or withhold information especially, to help serve the prosecution.

I would like to know why this information was withheld and not disclosed by the State Police employees as required by law.

I have enclosed the trial transcript of Mr. Bullock's and Mr. Durrill's testimonies (PAGES 538 thru 561), the Note that stated a Davis .32 auto and .38 super Colt handguns not being firearms from homicide, investigative interview form of Mr. Carl Powell (3 PAGES), note from Officer Garrison dated 6-6-94 about casings found in street of Fair Street and Laboratory reports of the .38 super auto handgun-Colt, casings found at the Heland incident (LAB. NO. 32189-94) and the Fair Street incident (LAB. NO. 32190-94) (8 PAGES).

I would like this matter investigated.

Thank you for taking this complaint into consideration.

Sincerely,


KENNETH TRAVIS, JR.
(199748)

MICHIGAN DEPARTMENT OF
STATE POLICE
FORENSIC SCIENCE DIVISION

GRAND RAPIDS LABORATORY
720 FULLER AVE. W.E.
GRAND RAPIDS, MICHIGAN 49503
(616)242-6650
FAX (616)242-6682

LABORATORY REPORT


Record No. : 9403649
Date Received : 08-08-94
Time Received : 12:39 PM
File Class : 1300-1
Date Completed: 08-08-94

Laboratory No.: 32190-94 Supp.
Received By : S. Michael Burritt
Delivered By : James Grable
Agency : Grand Rapids Police Dept.
Agency No. : 94-52338

Nature of Offense:

Non-Aggravated Assaults

Evidence Received: (This case was removed from laboratory evidence vault #6,
drawer I-4, on 8-8-94)

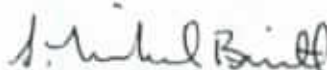
- 1 - 38 Super automatic caliber Winchester fired cartridge case (item #Q-1).
- 1 - 38 Super automatic caliber Winchester fired cartridge case (item #Q-2).
- 1 - 38 Super automatic caliber Winchester fired cartridge case (item #Q-3).

Results:

Items #Q-1 through #Q-3, the three 38 Super automatic caliber cartridge cases, are identified as having been fired in the 38 Super automatic caliber Colt pistol, serial number A21888, submitted on MSP laboratory number 32188-94.

Disposition of Evidence:

The evidence is being held at the Grand Rapids Laboratory on drawer I-4, vault #6, for the submitting agency to pick up.



S. Michael Burritt
Specialist (D/Sgt)
Firearms, Tool Marks and Explosives Subunit

SMB/cmr

(NOTE: THE LABORATORY TEST RESULTS FROM THE NELAND INCIDENTS ARE LISTED [IDENTIFIED] IN THIS REPORT, BUT THE CASE SPECIFIC TEST RESULTS [THE ABOVE TEST RESULTS] ARE NOT CITED IN THE NELAND STREET TEST RESULTS, [SEE: LAB. NO.: 32188-94].)

EXHIBIT-40

1 Justice Department; that he's a consultant to police
2 agencies in Toronto and the surrounding area.

3 I seriously doubt he goes into these
4 agencies and tries to inform them how not to identify
5 people. These agencies do not hire him because he's a
6 defense hired gun and only comes in and testifies for
7 the defense.

8 He's a professor, he's an educator, wasn't
9 being paid by the defendant. He certainly wasn't
10 being paid by me. He was being paid by Kent County, I
11 guess, in a way, by all of us, to come in here and to
12 educate you about some issues regarding eyewitness
13 identification.

14 I submit to you that he is an independent
15 person who has no stake in the outcome of this case,
16 and testified as well as he could to try to educate
17 you in those regards.

18 Now, there were some things that he
19 testified to that I think are noteworthy. The
20 prosecutor would have you only think that some things
21 are noteworthy. I'd like to point out a couple of the
22 other things.

23 Exposure time. You heard people say in
24 this case that -- excuse me. You heard people say in
25 this case that this took anywhere from five to eight



Centurion Ministries

221 Witherspoon Street • Princeton, New Jersey 08542 • www.centurionministries.org

May 12, 2009

Mr. Kenneth Colvin, Jr. #192744
Baraga Max. Corr. Facility
13924 Wadaga Road
Baraga, MI 49908-9204

Dear Mr. Colvin:

As I said in my letter of 1/13/09, we are sorry that our organization has not been able to develop sufficient facts and evidence to assist you in your efforts to prove your innocence, and we are, of course, happy to oblige your request with return of the enclosed documents which you had sent to us.

We hope your quest for justice is successful through whatever other resources you may be able to access, and we wish you well in that on-going effort.

Sincerely,

Carol Kent

Detroit Branch . . . **NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE**



REVEREND WENDELL ANTHONY
President

ATTY. JOHN E. JOHNSON, JR.
Executive Director

February 16, 1999

Kenneth Colvin Jr. #192744
Baraga Maximum Correctional Facility
301 Wadaga Road
Baraga, MI 49908

Dear Mr. Colvin:

This letter is in response to your complaint filed with us on October 15, 1998.

Please know that your issue is very important to us. However our agency does not have the resources to investigate your claim. We recommend that you file an appeal by contacting Michigan Appellate Court at (313) 256-9833.

Thank you for contacting us.

Sincerely,

Maryann Lee
Deputy Director



STATE OF MICHIGAN
THE CIRCUIT COURT
17TH JUDICIAL CIRCUIT

ROBERT A. BENSON
CIRCUIT JUDGE

HALL OF JUSTICE
GRAND RAPIDS, MICHIGAN 49503

January 27, 1995

Mr. Kenneth Colvin
C/O Kent County Jail
703 Ball Avenue, N.E.
Grand Rapids, MI 49503

RE: PEOPLE VS KENNETH COLVIN
KENT COUNTY CIRCUIT COURT CASE #94-2732-FC

Dear Mr. Colvin:

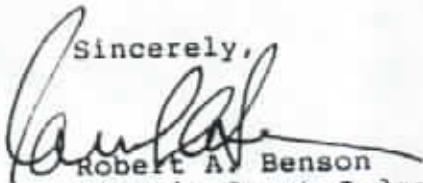
I am returning to you some papers which you recently filed for discovery motions.

These should be handled by your attorney and I would suggest that you file them through your attorney.

I have also made my ruling, on the record, concerning the preliminary exam transcript. First of all, any questions about the improper identification as you claim can be handled at the trial and can be conducted at the course of a pretrial and attempt to exclude her identifying you at the trial if your attorney feels that there is significant grounds for such a motion.

Therefore, I have already ruled that you will not have the preliminary exam transcript, and any other motions you want to take up in connection with the case should be handled through your counsel.

Sincerely,



Robert A. Benson
Circuit Court Judge

RAB/mg

cc: Judy Ostrander
Prosecutor

INNOCENCE DENIED™

PUBLISHER: Innocence Denied Association, U.S.
P.O. Box 18477
Pittsburgh, PA 15236

EDITOR: Darrell van Mastrigt

ASSISTANT EDITORS: Judith Trustone, James Frey, Shane Sisco, Shawn van Mastrigt, Patrick Middleton

RESIDENT OF INNOCENCE DENIED: Shawn van Mastrigt

CONTRIBUTING MATERIALS: James Frey, Shane Sisco, Judith Trustone, Joe Nieves, Reynolds Holding, Dave Wischnowsky, Shari Iretton, T Cris, and other state and federal prisoners who request their identity be withheld anonymous.

INNOCENCE DENIED is a Bi-Monthly Publication. Rates of subscription are: Incarcerated individuals—one year \$6.00. All others including International: \$15.00. Subscriptions may be paid for in U.S. postage stamp equivalent. Your subscription will begin with the next circulated issue. (Please allow an average of 4–6 weeks for delivery of the first issue.) Subscriptions and payment can be mailed to:

Innocence Denied
Subscriptions Department
P.O. Box 18477
Pittsburgh, PA 15236

You can also subscribe to ID via e-mail:

IDnewsletter@innocencedenied.com

Submission of material for the newsletter must be received at ID by the first day of the month of publication. Usually published: February, April, June, August, October, and December. Dated materials or upcoming event notifications should be provided sixty (60) days prior to publishing when possible. Submissions will not be returned unless accompanied by a SASE. ID reserves the right to edit submitted materials for content and space concerns. All submissions should be addressed to the Editor at the above address or emailed to: webmaster@innocencedenied.com

Articles, reports, advice and opinions expressed in the Innocence Denied newsletter represent the views and works of the individual authors, and do not necessarily represent the views of Innocence Denied Association, U.S., the members of the Innocence Denied Advisory Committee, or any financial contributor to the newsletter.

Power Outrage (Continued From Page 1)

harass or coerce a guilty plea" with charges he knows he cannot prove at trial? Davis would bump the probable-cause standard to something requiring more certainty.

The Grand Jury.

The Constitution requires a grand jury to indict a suspect before he can be tried for a federal felony, and about half the states have a similar setup. This panel of ordinary people is supposed to check the prosecutor's power by making him present a preliminary case in a kind of mini-trial, though one without a defense attorney. But because the prosecutor gets to decide which witnesses to call and which questions to ask, Davis wants to make the process less one-sided by requiring prosecutors to tell jurors about evidence that helps the suspect.

Plea Bargaining.

The vast majority of defendants cut deals because fighting charges at trial can result in much longer sentences. Prosecutors and public defenders like to settle cases too, given their massive caseloads. But prosecutors generally hold all the cards: in a cases' early stages, a defendant rarely knows how strong the evidence is against him. And the mandatory minimum sentences for many crimes give prosecutors a clearly defined punishment to hold over a defendant's head. That is the reason Davis wants to make prosecutors open

their files before offering a deal. "Their job, after all, is not to win but to see that justice is done," she says.

As Davis advocates putting these new rules in legal-ethics codes enforced by state bars, prosecutors argue that such changes would tie their hands unnecessarily. But some prosecutors are at least willing to open themselves to scrutiny. In places like Milwaukee, San Diego and Charlotte, N.C., they are letting the nonprofit Vera Institute of Justice examine their charging decisions and plea-bargain offers for discrepancies in how black and white suspects are treated. The three-year study will go through 2008, and these offices have promised to use the results to make their practices fairer. It's a significant start and one Davis hopes will prod other prosecutors to move in the same direction. But if it doesn't there's still the power of fear. After all, she says, "nobody wants to be the next Mike Nifong."

TIME, August 6, 2007

X TRADE

Excluded Evidence Freed Innocent Man After 12 Years

A judge in Jackson, Mississippi ruled that Cedric Willis was to be freed after spending 12 years in prison for a crime he did not commit. Hinds County Circuit Judge Tomie T. Green dismissed murder and armed robbery charges against Cedric after District Attorney Faye Peterson made the motion.

"No one wants an innocent person in prison," Green said.

The New Orleans chapter of the Innocence Project, a national legal-aid clinic organization that has exonerated five wrongfully convicted Louisiana inmates, was instrumental in reopening Cedric's case.

In 1994 Cedric was charged with shooting Carl White, Jr. and robbing White's wife, Gloria, and daughter, Jamilla, at their home in Jackson. Cedric was convicted in 1997 on all charges. Six days later Carl White died and Cedric was given a life sentence in prison.

When the Innocence Project took on his case in May 2005, Emily Maw of the New Orleans Innocence Project said jurors never heard evidence that the gun used in the homicide and robbery had also been used in four cases, including an armed robbery and rape.

Cedric was also indicted on the armed robbery and rape charges. A DNA test excluded him in the rape, Maw said.

Even though prosecutors had dropped the rape and armed robbery charges, jurors never heard that the charges had been dropped at Cedric's trial.

"This struck us as particularly unfair," she said.

If the evidence dismissing charges had been heard by the jury, there would have been a strong reasonable doubt of Cedric's guilt. The fact that charges were dismissed on some of the charges using the same gun would have made juror's consider whether Cedric could have used this gun to commit murder. After being definitively excluded as a the perpetrator on some charges, Cedric had the right to allow the jury to hear this evidence to support his claims of innocence.

Alice S. Grant, GRANT PUBLICATIONS, INC.

P.O. Box 28812, Greenfield, WI 53228 (414) 543-5616

There are many magazine and newspaper subscription services out there seeking your money. Alice offers excellent reduced rates and is prisoner friendly and helpful to you and your loved ones. Send SASE to find out more about her excellent specials and rates. Grant Publications, Inc. is a recommended service by ID.

* ORIGINAL TO NY DISTRICT COURT

ROBINSON HAD BEEN FOLLOWING CARTER AT THE TIME AND ROBINSON APPROACHED THE PATROL CAR, CARTER WAS SEATED IN. CARTER TOLD ROBINSON HE WAS ARRESTED BECAUSE OF THE GUN. CARTER WAS UNDER THE IMPRESSION THAT ROBINSON THEN KNEW THAT CARTER HAD TAKEN HIS GUN.

CARTER STATED THAT THE FIRST TIME HE SAW THE GUN WAS THAT SAT. NIGHT. ROBINSON WOULD NOT TELL CARTER WHY HE HAD THE GUN, NOR WHERE HE GOT IT FROM.

SUBMITTED BY: _____

J. d.

ILLINOIS JUVENILE CONFEDERATION SOCIETY
1576 INDEPENDENT HIGHWAY
EVAN, ILLINOIS 60120

DATE

August 18, 1991

MICHIGAN DEPARTMENT OF JUVENILE JUSTICE
C/O Colonel Richard D. Robinson, Director
714 South Harrison Road
East Lansing, Michigan 48823

RE: Filing a complaint against Mr. James J. Bullock and Mr. Stuart H. Durrill concerning their failure to disclose information to the jury in regard to a firearm (.38 Super Auto, handgun) being involved in a shooting incident independently of the case that I have been convicted of.

Dear Director Robinson:

I am writing you in regards to a matter I feel that needs to be addressed by Internal Affairs of the Michigan State Police involving two of your Security Services Division employees, Mr. James J. Bullock and Mr. Stuart H. Durrill.

The matter involves the officers failing to disclose very important information to the jury in regards to a firearm (.38 Super Auto, handgun) being involved in a shooting incident independently of the case that I have been convicted of.

On June 24, 1994, a drug house on Walnut Avenue in Grand Rapids, Michigan was robbed for money and drugs. During the robbery, five people were shot (two people were killed and three were wounded). There were weapons and bullets found at the scene.

The weapons and bullets were later discovered to have been fired from a .38 auto. caliber handgun and a .38 super auto. caliber handgun. A .38 super auto. caliber handgun was later found and tested. After the testing of the handgun, Mr. Durrill and Mr. Bullock discovered that the .38 super auto. handgun was not only involved in the Walnut Avenue robbery/murder incident but it was also involved in the Fair Street shooting incident on June 6, 1994.

The reason why this information was so important is, there were some individuals who were involved in the Fair Street shooting that stated they had possession of the handgun and in fact, the evening the Walnut Avenue incident had occurred. See Interview Form of Mr. Carl Swell.

Even though the detectives of the Grand Rapids Police Department and the prosecutor who was trying the case concealed this information, Mr. Durrill and Mr. Bullock had an independent affirmative duty to disclose this information to the jury. In fact, during my trial, the prosecutor had asked Mr. Durrill some questions in regards to the weapon .38 super auto. handgun being tested.

The Prosecutor stated: Q. The House you've described in detail, the weapon, have

they been allowed or changed in any way?



WANTED

GRAND RAPIDS POLICE DEPARTMENT



WANTED FOR: ASSAULT W/I MURDER

DATE: 06/24/94

INCIDENT NO.: 94-59379

LOCATION: 844 NELAND SE

TIME:

DESCRIPTION:

B/M, 19-20 YRS, 6'1"-6'2", 160-170 LBS, SLIM BUILD,
WEARING WHITE SHIRT AND BLUE PANTS

FOR FURTHER INFORMATION CONTACT: DET. GRABLE TX 3816 PREPARED BY: KC 657

**SUPPLEMENTAL CRIME SCENE REPORT
GRAND RAPIDS POLICE DEPARTMENT**

Incident No. 94 59379		Technician / Badge Hatch / 652		Date Report 6-26-94		Time Report 1557	
Location 333 Monroe NW				Incident Type Homicides/FU			
Incident Address 844 Neland SE				Incident Date 6-24-94		District 85	
Object of Offense see original				Requested / Badge Grable /			
Point of Entry NA				Other Agency / Incident Peculiarities Jacqueline Smith			
Method of Entry							
LATENT PRINTS		Processed for Latents Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		Latents Recovered Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		Eliminations Obtained Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Name		Name		Name		Name	
PHOTOGRAPHS		B&W No. <input checked="" type="checkbox"/>	No. Rolls	Size	Color No. <input checked="" type="checkbox"/>	No. Rolls	Size
		Polaroid No. <input checked="" type="checkbox"/>	No. Pics.	Type	Video Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
TRACE EVIDENCE		Blood Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Paint Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Shoe Prints Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Hairs or Fibers Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Glass Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
COMPOSITE Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		SKETCH Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		Other		Evidence Disposition	

Narrative

With the assistance of J. Smith, CST completed a composite.

Description given was a B/M approx. 18-19 yrs old. Tall, thin build with a dark complexion. Suspect was wearing a white shirt and khaki pants.

Weapon was a small handgun. Comphotofit numbers used were:

F-371, E-359, N-323, M-302, C-303. Composite was saved under No. 9459379M.



WANTED

GRAND RAPIDS POLICE DEPARTMENT



WANTED FOR: Double Homicide

DATE: 6-24-94

INCIDENT NO.: 94-59379

LOCATION: 844 Neland SE

TIME: 1300 hrs

DESCRIPTION: B/M approx. 18-19 yrs old. Tall, thin build, with dark complexion. Suspect was wearing a white shirt and khaki pants. Weapon was a small handgun.

FOR FURTHER INFORMATION CONTACT: Det. Grable

PREPARED BY: KSH 652

**SUPPLEMENTAL CRIME SCENE REPORT
GRAND RAPIDS POLICE DEPARTMENT**

Incident No. 94 59379	Technician / Badge Hatch / 652	Date Report 6-26-94	Time Report 1557
Location 333 Monroe NW		Incident Type Homicides/PU	
Incident Address 844 Neland SE		Incident Date 6-24-94	District B8
Object of Offense see original		Requested / Badge Grable /	
Point of Entry NA		Other Agency / Incident Peculiarities Chris Smith	
		Method of Entry	

LATENT PRINTS	Processed for Latents Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Latents Recovered Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Eliminations Obtained Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
----------------------	--	--	--

Name	Name	Name
------	------	------

PHOTOGRAPHS	B&W No. <input checked="" type="checkbox"/>	No. Rolls	Size	Color No. <input checked="" type="checkbox"/>	No. Rolls	Size	Polaroid No. <input checked="" type="checkbox"/>	No. Pics.	Type	Video Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
--------------------	---	-----------	------	---	-----------	------	--	-----------	------	---

TRACE EVIDENCE	Blood Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Paint Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Shoe Prints Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Hairs or Fibers Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Glass Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
-----------------------	---	---	---	---	---

COMPOSITE Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	SKETCH Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Other	Evidence Disposition
---	--	-------	----------------------

Narrative

With the assistance of G. Smith, CST completed a composite of suspect described as B/M approx. 20 yrs old. Tall, thin build, skinny face with nappy short hair. Suspect was wearing a white sweatshirt khaki pants and black shoes. Weapon was a .22 chrome pistol. Comphotofit numbers used were: F-329, E-396, N-354, M-373, C-343. Composite was filed under No. 9459379K.

Investigative Interview

6-24-94

844 Neland Av SE - Homicide

94-059379

Witness: Terry Coger, W/M, 9-24-70
1023 Prince St SE
247-0839

1435 hrs.

Terry told me he was inside his home (NW corner of Prince and Neland...SW from crime scene) when he heard about six shots (around 1230 hrs). At first he thought someone was outside shooting in the air again, a frequent occurrence in the neighborhood. After looking out several windows to locate the possible source, about 30 seconds may have passed before he looked out a window at the NE corner of the house; that's when he observed a Black couple, one of which was carrying a small child, crawl out of the upstairs bedroom window (SW corner of the house) at 844 Neland Av SE, onto the roof of the front porch, then leap to the ground. All three then ran south on Neland (E sidewalk), then east on Prince where they ran into a house on the south side of Prince (1026?). He said the female was holding her head as she ran. Moments later a B/M wearing red shorts came out of the house hollering for someone to call the police, that somebody had just "gotten shot"! At the same time another B/M appeared at the same upstairs window the couple had just exited, and started hollering similar calls for help. Terry said he then called 911 and relayed the calls for help to the dispatcher. He saw no one else exit the house.

(the perpetrators may have already exited out the front door by the time Terry first looked out the window affording him a view of the house at 844 Neland)

Sgt. Ted Quist,
Family Services Team

1 A Yes, I do.

2 Q What is that?

3 A An open shooting file is a section in our firearms
4 unit that contains bullets that are collected by
5 agencies from crime scenes that they don't have a
6 suspect firearm. And we place -- we classify the
7 bullets, give the investigator what kind of handgun
8 could have fired those bullets, and we place them in
9 our open shooting file.

10 In that manner, any time we get a gun
11 from another agency that may be in West Michigan
12 that just happens to stop a car and they obtain a
13 gun, they could submit that gun to us, we can take a
14 test shot from that handgun, and we would
15 automatically compare it to the cases on open
16 shootings, in our open shooting file that matches
17 that caliber and those specifications.

18 Q Did you do any examination or try to link the .38
19 caliber super autos to any particular weapon?

20 A I personally did not. I placed those items in the
21 open shooting file, and then Sergeant Burritt later
22 did a comparison when a gun was obtained and
23 submitted, and he did a comparison on those items
24 from the open shooting file.

25 Q Are those the ones you referred to as being his

STATE OF MICHIGAN
DISTRICT COURT FOR THE 61ST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF MICHIGAN,

VS.

KENNETH COLVIN, JR.,

Defendant.

#94-2732-FC

RECORDED
NOV 9 1994
VIA COURIER

VOLUME II

PRELIMINARY EXAMINATION

BEFORE THE HONORABLE JANE E. MARKEY

Grand Rapids, Michigan - Tuesday, September 13, 1994

CONTINUANCE - Wednesday, September 28, 1994

APPEARANCES:

MR. KEVIN M. BRAMBLE, Assistant Prosecuting Attorney
On behalf of the People

MS. JUDY L. OSTRANDER
On behalf of the Defendant

Phyllis J. Carr - CER 0865
Official Court Recorder

MEMBERS
EUGENE D. MOSSNER
CHAIRPERSON
DEBORAH L. MIELA
VICE-CHAIRPERSON
LEON HERSCHFUS, D.D.S.
SECRETARY
THOMAS A. HALLIN
ROBERT W. McBROOM
STEVEN D. DUNNINGS
MARY J. FLEMING
BRIAN D. VINCENT
MATTHEW A. SEWARD

State of Michigan
Attorney Grievance Commission

SUITE 256, MARQUETTE BUILDING
243 WEST CONGRESS
DETROIT, MICHIGAN 48226-3259
TELEPHONE (313) 961-6083
TELEFAX (313) 961-5819

PHILIP J. THOMAS
GRIEVANCE ADMINISTRATOR
JANE SHALLAL
DEPUTY ADMINISTRATOR
CYNTHIA C. BULLINGTON
ASSISTANT DEPUTY ADMINISTRATOR
ASSOCIATE COUNSEL
CHARLES K. HIGLE
RHONDA SPENCER POZEHL
JOAN P. VESTRAND
MARTHA D. MOORE
KANDY CLAY RONAYNE
SUSAN E. GILLOOLY
RICHARD L. CUNNINGHAM
DONALD D. CAMPBELL
ANNE M. ASKER
AMY L. BROWN

March 3, 1995

PERSONAL AND CONFIDENTIAL


Kenneth Colvin, Jr.
703 Ball Ave., NE
Grand Rapids, MI 49503

RE: Kenneth Colvin, Jr. as to Judy L. Ostrander
File No. 0336/95

Dear Mr. Colvin:

We are in receipt of your letter dated February 18, 1995. Our agency is unable to send anyone to listen to the tape. You may send me a copy of the tape you want us to listen to and we will return it to you after it has been reviewed.

Very truly yours,


Philip J. Thomas
Grievance Administrator

PJT/mp

ABC NEWS



PrimeTIME

February 10, 1998

Dear Viewer:

Thank you for your interest in ABC News *PrimeTIME Live*.

Should we need additional information with regard to your subject, we will be in touch with you at that time.

Very Truly Yours,

PrimeTIME Live

DEAR VIEWER:

Thank you for submitting your story idea to Dateline NBC. We have carefully considered your idea and we regret to inform you that we will not be pursuing it at this time.

We receive hundreds of suggestions, but unfortunately, we can air only a few each week. Your idea will be kept on file, however, and it may inform or inspire a future *Dateline* segment.

We always appreciate hearing from our viewers and welcome your informative suggestions. Thank you for taking the time to write.

DATETIME NBC



KENNETH COLVIN #192744
MARQUETTE BRANCH PRISON
PO BOX 779
MARQUETTE, MI 49855

A-34

1 MR. BRAMBLE: Your Honor, at this time
2 the State would call James Bullock.

3 **JAMES BULLOCK,**

4 called by the People at 9:57 a.m. and sworn by the
5 Court, testified:

6 **DIRECT EXAMINATION**

7 **BY MR. BRAMBLE:**

8 Q Mr. Bullock, are you employed?

9 A Yes, sir.

10 Q Where are you employed?

11 A I'm a detective lieutenant laboratory specialist
12 with the Michigan State Police. I'm currently
13 assigned to the Grand Rapids Regional Crime
14 Laboratory.

15 Q How long have you been employed in that capacity?

16 A I have been with the Michigan State Police eighteen
17 years.

18 Q In that eighteen years, what have you done with the
19 Michigan State Police Crime Lab?

20 A Well, the last sixteen years I have been assigned to
21 the firearms and explosives unit in the crime lab.
22 So my primary responsibility is as a firearms
23 examiner.

24 I'm currently the unit supervisor of the
25 firearms unit at the Grand Rapids Crime Lab.

130-5 04/21/05

NASHI NELSON MINISTRY SERVICES

PO BOX 440239

77244-0239 NASHVILLE, TN

INV-8 1/0-55/95 80083191

ORDER # KEISHA

INVOICE # 4360161

SHIP DATE 04/20/05

DEPT:

CUSTOMER P A C K I N G S L I P
SHIP TO ACCOUNT # 404927869
KENNETH COLVIS JR.
SMCF #192744
4713 M61

BILL TO ACCOUNT # 404927869
STAR PARKER/AUTHOR
6033 WEST CENTURY BLVD.
950

STANDISH M1 48659 LOS ANGELES CA 90045

ST	ORDER QTY	SHIP QTY	STOCK NUMBER	ISBN	DESCRIPTION	LIST PRICE	UI	DISCOUNT	NET
----	-----------	----------	--------------	------	-------------	------------	----	----------	-----

	ADULT TRADE AND REFERENCE BOOKS (IN ASCENDING ALPHABETICAL SEQUENCE)								
	1	1	0785262199		UNCLE SAM'S PLANTATION	22.99			

1 TOTAL SHIP QTY
1 TOTAL-CARTONS
93 TOTAL NET WEIGHT SHIPPED

0 CIRCUMB
0 SALES TAX, IF APPLICABLE
0 WILL BE REFLECTED ON YOUR
0 STATEMENT

PAGE 1 OF 1

STATUS CODES: 9 - BACK ORDERED (TRM), 0 - OUT OF STOCK (TRM), 8 - SUBSTITUTE STOCK (TRM), N - NOT YET PUBLISHED, P - OUT OF PRINT

UPS ZONE BR, USPS ZONE BR, DATE SHIPPED 04/20/05, UP e.u.p.s. - COMMER

explained to him that the Department was refusing to release a copy of the police files to my mother. I had finally received the FOIA request dated March of 1999, and I then discovered that the department had withheld information that I did not see in the attorney's client file.

1. The murder weapon (handgun, .38 superauto, that was found on a teen in Grand Rapids) that was involved in the robbery/homicide was also involved in another shooting dated June 6, 1994 -just a week and an half before the incident took place that we have been convicted of. The detective had questioned Mr. Trent Chambliss and Mr. Carl D. Powell (suspects) who were involved in the June 6, 1994 Fair Street shooting, and they told the detective that a friend of theirs had possession of both a .32 auto and .38 superauto handguns (these were the same type weapons that were used in the Neland Street case, the case that we are convicted of. (See Documents 16, 17 & 18)) but he claimed that he was robbed of the weapons, dated June 16, 25 or 26, 1994. (See Documents 14 & 15). NOTE: The case that we have been convicted of happened June 24, 1994. So, it would be totally impossible for my brother and I to had committed the robbery/homicide if we did not have possession of the weapons. The detectives and the prosecutor knew this as well -and this was obviously way they withheld this information. Moreover, they knew that we did not know any of the individuals who had the weapons, and the individuals did not know us.

I had filed a complaint with the Michigan State Police Department and its Forensic Science Division, dated August 17, 2001, explicitly explaining how two of their employees concealed the fact, during testimony at both of our trials, that they had discovered that the recovered .38 superauto handgun, and possibly, the .32 auto casings found in both the Fair and Neland Streets shooting were used by the same weapons. (See Documents 12, 13, 16, 17 & 18) On September 27, 2001, Dr. John A. Juhala, responded to my complaint, stating that the prosecutor was aware that the handguns were involved in both shootings. (See Document 13) If you will review the 57 Forensic Reports of the casings, bullets and gun (.38 superauto) (Document 17 -Lab Report: 32188-94 & Supplement dated: 06/27/94; 07/03/94 & 08/04/94) of the Neland case, you will see that they never presented the cross-reference to the Fair Street case. But in the Fair Street case (Document 18 -Lab Report: 32190-94 & Supplement dated 06/27/94 & 08/03/94) the cross-reference of both cases are listed. This information was withheld.

2. During my trial, the detectives testified falsely when they claimed to only discovered a .38 superauto handgun (the murder weapon) in Grand Rapids, but I had discovered notes in which they had found two other .38 superauto handguns in Grand Rapids during the investigation. Additionally, the detectives testified that someone had purchased from a hardware store in Grand Rapids, bullets for both weapons, just a couple days before the robbery. But I had discovered in the file a note that stated some bullets were brought on June 17, 1994, in a hardware store in Grand Rapids.

3. I had discovered a GRPD Investigative Interview notes of Ms. Carolyn Glasper dated June 26, 1994. (See Document 11) In the notes, she told the detective that she seen both, Mr. Johnson and Mr. Thames Hawkins acting very strange, pacing the floor, and kicking things. She later discovered that Mr. Thames Hawkins had shot someone on Neland Street. (NOTE: The detectives had both Mr. Thames Hawkins and Mr. Terron Johnson as their prime suspects, and in fact, arrested Mr. Johnson on June 24, 1994, on unrelated charges, and the police had confiscated \$200.00 from him. It was alleged, during testimony by Mr. Chris Smith, that \$400.00 was taken from him during the robbery.)

1 When it came right down to it, when it
2 came to the big question, does any of this implicate
3 Kenneth Colvin, you all remember the answer. It was
4 no. They admitted, none of it implicates Kenneth
5 Colvin.

6 We had two doctors testify that people
7 died here. There's no doubt two people met with an
8 ugly, gruesome death. That no matter who they are,
9 drug dealers, girlfriends of drug dealers or anyone
10 else, no one, no one should meet that sort of death.
11 That is absolute, and no one could argue with that.

12 And I think everyone here feels for those
13 people. However, the doctors told you nothing else.
14 They told you nothing about who did this crime, who
15 murdered these people. They specifically said that
16 none of the evidence that they testified to pointed to
17 Ken Colvin.

18 There was only one piece of evidence that
19 I found particularly interesting from the doctors, and
20 we'll get to that in a minute when we talk about
21 credibility.

22 So right now we have absolutely not one
23 piece of physical evidence, not one witness who could
24 say, "Here it is, this is a thing you could touch that
25 ties Kenny Colvin to this crime."

would reveal what African Americans -and others have been suspecting for years, that Kent County's courthouse with its criminal (in)-justice system has been literally, and systematically "railroading" and "framing" African Americans. Our case, is in fact, a classic textbook case of a railroad/frame-up ordeal.

Our case was heavily publicized in the media, including the Grand Rapids Press. In fact, there were articles published in your newspaper that reported the emotional protest of citizens in that neighborhood, in which the crime (as well as other cases) had taken place, demanding that the local government agencies put a stop to the continuous crimes that were occurring.

Additionally, it was a general cycle election year, and Judge Jane Markey was in the election for the Michigan Court of Appeal's bench. So, I definitely believed that her election bid played an enormously significant role in our situation as well.

I have realized years ago, that I need a strong force behind me, in order to prevail against the ones who were responsible in wroagfully convicting my brother and myself. I need powerful people. I acknowledge that my former trial judge, Benson, and his family has a tremendous amount of influence in the State's legal community. I mean his former trial court reporter, Rebecca L. Russo, currently sits on the Michigan Supreme Court's State Court Administrative Office/ Michigan Court Reporting/Recording Board of Review.

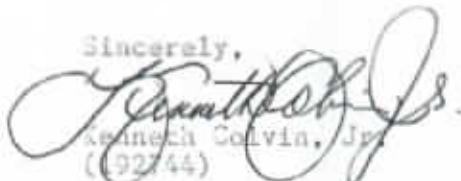
I have written a manuscript (book) about my ordeal with this case, because it is very upsetting to me that I have documented evidence to prove my innocence, and the courts denied it, just to bury it.

In fact, I tried to get the Innocence Project to represent us, and that group denied assisting us. I later discovered that the trial judge, his son, and his daughter-in-law has a connection with the school (Cooley Law School) in which the Innocence Project is located.

I would like for the Grand Rapids Press to investigate our case, because we are innocent. We would deeply appreciate the newspaper assistance.

In closing, I really want to thank you for taking the time out to read my letter, and thank you for taking my letter into consideration.

Sincerely,



Kenneth Colvin, Jr.
(92744)

PS: I will deeply appreciate it very much, once you are finished with the enclosed documents, I would deeply appreciate it very much if you could send it back. Thank you, again!!!

INVESTIGATIVE INTERVIEW FORM

NAME Willie Meadows

CASE Homicide - 844 Neland St. NUMBER 94-59379

OFFICER(S) Wysocki 148 ; Kinstra

DATE OF INTERVIEW 7-1-94 TIME 1545 LOCATION KCCF

INITIAL INTERVIEW Yes X No RIGHTS READ Yes No X

PERSONAL INFORMATION ON SUBJECT (to be completed on initial interview)

RACE/SEX B-m D.O.B. 8-12-59

ADDRESS 1106 Eastern Ave Se. HOME PHONE

EMPLOYER BUSINESS PHONE

OTHER INFO (SPECIFY)

SIGNIFICANCE OF THIS PERSON'S INVOLVEMENT WITH CASE: witness after the fact.

INTERVIEW NOTES

Blo was contacted by Detective John Blouw of the KCCS. He advised that he had just spoken to an inmate, Willie Meadows, who had information on the Neland Homicides.

I met with Blouw who had looked up information on the last arrest + photo of the possible suspect. We then spoke to Meadows.

Meadows is in jail serving a six month sentence for maintaining a drug house. He is scheduled to be released on 8-27-94. His attorney is Larry Woods. He stated he was in the day room area of his cell when he overheard a conversation between inmates Calvin Jones and Tarron Johnson. They were talking while Meadows was nearby on the phone. This conversation occurred on Sunday, the 26th of June. All three subjects have known each other for years. Johnson started talking about the shooting on Neland. (Meadows knows victim Cassandra Tilman's, people). He overheard the following.

Johnson said he and "Streeter" went in the house to Rob it. They went to this house because they know it was a weed house and there would be money in there. They sent someone named "Bog Boy" in first to check it out. He came back out and then Streeter went in followed by Tarron. Streeter started shooting and yelled "where's the dope and money?" Supposedly all they got was dope - no money. Apparently Tarron had been busted recently and needed the money.

Tarron did not say what kind of guns they used but knows him to carry a "9". The only thing Meadows know about Streeter is that he lives on the one-way part of Alexander 2-3 houses from the park (near union) on the right side of the road. Maybe a green or white house.

After the shooting they "broke and ran" to a car parked around the corner. The car belongs to a white male named Jim. He hangs at 910 Oakhill at "Neicy's" house. They subjects give Jim a "rock" for the use of his Brown Ford 4 door.

They put the guns in a grey box and throw it over the bridge on Buchanan near the Limosine place. (Plaster rock). Tarron said they got rid of the gun because they got 2 murders connected with them.

Streeter is dark skinned w/ hair in braids (last time Meadows saw him in winter - early spring).

INVESTIGATIVE INTERVIEW FORM

NAME Calvin Lamont Jones
 CASE Homicide 844 Neland Ave Se NUMBER 94-59379
 OFFICER(S) Wysocki, B. #148 ; Grable, J. #189
 DATE OF INTERVIEW 7-5-94 TIME 1:00 LOCATION KCCF
 INITIAL INTERVIEW Yes No RIGHTS READ Yes No
 PERSONAL INFORMATION ON SUBJECT (to be completed on initial interview)
 RACE/SEX B-m D.O.B. 3-5-75
 ADDRESS 924 Eastern Ave Se HOME PHONE 245-3049
 EMPLOYER _____ BUSINESS PHONE _____
 OTHER INFO (SPECIFY) _____

SIGNIFICANCE OF THIS PERSON'S INVOLVEMENT WITH CASE: witness-after the fact

INTERVIEW NOTES

After a lengthy discussion with Mr. Jones, he finally agreed to tell us what he knew about this incident.

He was in jail - serving a term for a probation violation on a drug charge. He has two weeks to go. He said Terron Johnson came in and told him he "hit a lick". Jones quickly went through the sequence of events involved in the Neland shooting. Started by saying they went there to do a robbery. They parked a car belonging to a white-dope-fren on Prince at Neland. They sent Bay-Bay into the house to do a buy and check things out. He came out saying it was "cool". They (Terron & Skeeter) went walking up to the door and kicked the door in. They went in and saw a lot of people. They started shooting; Terron saw a man on the couch start to reach for something and shot him. Skeeter went upstairs. Terron had a .38 caliber and Skeeter had the other gun - possibly a .22 or 32 (he was sure on the caliber of the second gun.) Terron found the weed on the

on the table and some dope, and money from the basement. They shot up the house and "left out." They ran to the alley between Aince. and Watkins and hid the stuff under a bucket or can. Then they walked back to the car and drove to Cahill then to get something to eat at Burger King on 28th near Madison. (believes it to be that location - but not positive.) The guns were put in a grey metal box and tossed over the bridge, off Buchanan near the K-Mart. Jones was unsure, off which side of the bridge.

Jones asked Johnson why he did this and Johnson said, "I told Street not to do it in the daytime."

Street is described as: B-M 17-18 yrs lives on Alexander with his mother - drives an orange cutlass - hangs ~~in~~ in area of Kalamazoo. Finally remembered his real name to be:
EVERETTE TAYLOR JR.

We asked who shot Cassandra - he asked how many times she was shot - when Grabe said, "Twice", Jones immediately said "Street."

Jones does not want to testify if it can possibly be avoided.

SUBMITTED BY Rebecca Jones

NAME Homicide NUMBER 94-59379
 CASE OFFICER(S) Vazquez, Crum
 DATE OF INTERVIEW 6-24-94 TIME 1420 LOCATION 823 Neland SE
 INITIAL INTERVIEW Yes No RIGHTS READ Yes No
 PERSONAL INFORMATION ON SUBJECT (to be completed on initial interview)
 RACE/SEX B F D.O.B. _____
 ADDRESS 823 Neland SE HOME PHONE _____
 EMPLOYER _____ BUSINESS PHONE _____
 OTHER INFO (SPECIFY) _____

SIGNIFICANCE OF THIS PERSON'S INVOLVEMENT WITH CASE:

She wears blue bandana.

INTERVIEW NOTES

She has seen a fuschia-colored car near the house in the past, but doesn't know if it is connected to the shooting. She saw two black males come out of the house with a black bag and go straight up Worton. They are people she has seen in this area before, most often at Martin Luther King Park and Fannie's Corners. She's seen them in lots of cars, but specifically in a black, hardtop jeep and a long green car. She said she does not know their names or where they live or stay.

She described one man as 6', skinny build with a bald head, moustache and goatee. He was wearing black jogging pants and a white shirt. He also had white shoes.

The second man was shorter, about 5'4" and built "thick". He also had a bald head, cream colored shirt, and black shorts.

The girl refused to give us her name and did not want to be involved in this investigation.

Incident No 9A 152338	Technician / Badge Garrison	1659	Date Report 6-6-94	Time Report 2256
Location 134 Fair SE		Incident Type Assault / Shots Fired		
Incident Address 128 Fair SE		Incident Date Same	District D-2	Requested / Badge Kooyer 1275
Object of Offense Cartridge cases in street		Other Agency / Incident Facilitator .38 Super (3); .32 Auto (7)		
Point of Entry NA		Method of Entry		

LATENT PRINTS	Processed for Latents Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Latents Recovered Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Eliminations Obtained Yes <input type="checkbox"/> No <input type="checkbox"/>
Name	Name	Name	Name

PHOTOGRAPHS	BSW No. <input type="checkbox"/>	No. Rolls	Size	Color No. <input type="checkbox"/>	No. Rolls	Size	Polaroid No. <input type="checkbox"/>	No. Pics.	Type	Video Yes <input type="checkbox"/> No <input type="checkbox"/>	
TRACE EVIDENCE	Blood Yes <input type="checkbox"/> No <input type="checkbox"/>	Paint Yes <input type="checkbox"/> No <input type="checkbox"/>	Shoe Prints Yes <input type="checkbox"/> No <input type="checkbox"/>	Hairs or Fibers Yes <input type="checkbox"/> No <input type="checkbox"/>	Glass Yes <input type="checkbox"/> No <input type="checkbox"/>						
COMPOSITE Yes <input type="checkbox"/> No <input type="checkbox"/>	SKETCH Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Other Cartridge cases		Evidence Disposition PMU							

Narrative
 CST searched, photographed, and measured the roadway north of 128 & 134 Fair SE with special attention to the position and location of three W-W brand .38 Super cartridge cases and seven WIN brand .32 Auto cartridge cases. No other ammunition components or defects were found. The items yielded no usable latents.

[REDACTED]
DATE: 7-8-94 TIME: 1153

WITNESS: AARON ~~S~~ WILLIAMS

NUMBER PICKED: 3

ATTORNEY: CRAIG FREDERICK

REQUESTING AGENCY: GRPD GRABLE
Pros Ward

STATES HE IS NEAR
CERTAIN THIS IS THE PERSON
WHO SHOT HIM

SUSP # 2

[REDACTED]
DATE: 7-8-94 TIME: 1153

WITNESS: AARON WILLIAMS

NUMBER PICKED: 0

ATTORNEY: CRAIG FREDERICK

REQUESTING AGENCY: GRPD GRABLE
Pros Ward

STATES SUSP # 6
LOOKS LIKE HIM

STATE OF MICHIGAN

SEP 15 1998

Baraga Maximum Correctional Facility
301 Wadaga Road
Baraga, Michigan 49908

BOARD OF ETHICS

September 8, 1998

Mr. Stanley Ellis-Ombudsman
State Board of Ethics
Department of Civil Center
400 South Pine
Lansing, Michigan 48909

RE: Requesting an investigation in regards to altering of transcripts.

Dear Mr. Ellis:

I am writing you in regards to a very serious problem that I am having in regards to my preliminary examination transcripts being altered and the state courts refusing to correct them.

See Sir, I was charged and convicted for a felony murder/robbery case of a drug house in Grand Rapids, Michigan back in September of 1994. During the preliminary examination, a witness had stated that a detective had showed my photo to them prior to the detective placing me in a line-up where the witnesses identified me as the alleged assailant (My case is an identification case. So, this is the only evidence they have.). But when I had received my transcripts, the part where the witness had stated about the detective showing my photo was taken out. I have enclosed the altered part of the transcript and an affidavit of what was actually stated.

Now, the trial court refused to correct the error or even allow me to listen to the tape. I have appealed the decision all the way to the Michigan Supreme Court and nothing has been done. I have also, enclosed the Order from the Supreme Court.

I have even filed a complaint against the court recorder (who had died before the complaint was filed) to the Michigan Court Reporting/Recording Board of Review and the complaint was dismissed without them even inspecting the tape or correcting the error.

Now, four years has passed and I still do not have the transcripts corrected and I have exhausted my state appeal remedies in regards to my criminal appeal.

I need your help in getting my transcripts corrected. The courts are violating the law MCL 600.8635(1); Public Acts 1986-No. 308 600.8635. The Act states: "A verbatim record must be taken of the preliminary examination and reduce to writing verbatim." See Mc Louth Steel Corp. v. A.E. Anderson Constr., 48 Mich. App. 424, 210 NW 2d 448 (1978) it states: "Under no circumstances, should a court recorder delete from the record that which actually took place."

As I had stated to you before, I am requesting an investigation and need for your office to listen to those audio tapes of the preliminary examination. I do understand that the court recorder has died but, it very important that someone from your office listen to the tape, please.

tion, such error did not affect the outcome. The finding that Perez did not accept responsibility is not clearly erroneous.

ii. The Other Defendants

[22] The challenges to sentencing brought by the other defendants require only brief discussion. Chavez argues that the district court should have adjusted his sentence downward for his minor role in the offense. Rodriguez argues that his sentence should have been adjusted downward for his minimal, or alternatively minor, role in the offense. We review a district court's findings regarding a defendant's role in an offense for clear error. *United States v. Hamzot*, 217 F.3d 494, 497 (7th Cir.2000).

[23] Given the fact that Chavez executed the important task of securing the warehouse for delivery and Rodriguez took part in planning the delivery, we present at the warehouse for the delivery, and drove the minivan that was to be used to take delivery, we cannot say that the district court was clearly erroneous in finding that both Chavez and Rodriguez played significant roles in the offenses for which they were charged.

[24] Chavez also challenges the upward adjustment he received for obstruction of justice. As noted above we review *de novo* whether the district court made the appropriate findings to support an obstruction of justice enhancement and the underlying findings of fact are reviewed for clear error. The obstruction of justice enhancement was based on the story he told the district court regarding his reasons for securing the warehouse. Chavez testified that he had secured the warehouse because his brother Ramon had called him and asked him to find a garage

district court implicitly considered and rejected the extraordinary case exception argument in determining that it could not grant the downward adjustment.

where they could "scop-out" a truck for a tractor pull. The district court found this story to be implausible and preposterous and therefore adjusted Chavez's offense level upwards for obstruction of justice. Such a conclusion is not clearly erroneous.

[25] Rodriguez also challenges the court's refusal to apply the safety-valve provision to his sentence. As noted above we review a district court's safety-valve determination for clear error. Rodriguez testified at sentencing regarding his involvement in the offense. During this testimony Rodriguez testified that he had no idea drugs were involved in the events of the day. The district court, not surprisingly, found this testimony to be incredible and refused to apply the safety-valve provision. That finding was not clearly erroneous.

III. Conclusion

For the reasons stated above, the convictions and sentences of all the appellants are AFFIRMED.



James NEWSOME, Plaintiff-Appellee,

v.

Helen MCCABE (as personal representative of the estate of John McCabe), Raymond McNally, and City of Chicago, Defendants-Appellants.

Nos. 02-1929, 02-2260, 02-2556 and 02-2357.

United States Court of Appeals,
Seventh Circuit.

Argued Jan. 8, 2003.

Decided Feb. 10, 2003.

Former state prisoner pardoned on ground of innocence brought § 1983 action

against police officers alleging that officers had induced eyewitnesses to falsely identify him. On interlocutory appeal from decision of the United States District Court for the Northern District of Illinois, 2000 WL 528476, Paul E. Plunkett, Senior District Judge, denying summary judgment for two officers, the Court of Appeals, 256 F.3d 747, ruled that officers were not entitled to qualified immunity as to due process claim if they not only had induced witnesses to falsely accuse defendant but also had concealed that fact. On remand, city intervened, and following trial the District Court entered judgment on jury verdict against officers, see 2002 WL 548725. On city's appeal, the Court of Appeals, Eastern District Judge, held that: (1) officers were not entitled to absolute immunity, and (2) District Court did not abuse its discretion in admitting expert testimony concerning eyewitness reliability.

Affirmed.

1. Federal Courts 8776, 858

Although Court of Appeals reviewed question of law when it reviewed federal district court's finding that police officers did not enjoy qualified immunity in § 1983 due process action against them, review neither required nor authorized *de novo* appellate review of evidence; rather, Court initially decided whether, taken in light most favorable to plaintiff, facts alleged showed that officers' conduct violated constitutional right, and if so, any subsequent review of sufficiency of evidence would be deferential. U.S.C.A. Const.Amend. 14, 42 U.S.C.A. § 1983.

2. Civil Rights 8234

Evidence that identifying witness in homicide investigation had been instructed

101-Gomez, 236 F.3d 777, 761 (7th Cir. 2002). Perez cooperated extensively in the arrests of the other defendants. Without Perez there would have been no initial arrests. Perez pleaded guilty even after he had lost the protection of a plea agreement. Throughout the proceedings he admitted his guilt and never took a position necessitating a trial on the question of his culpability. The district court nonetheless refused to grant a downward adjustment for acceptance of responsibility. The district court reasoned: "So I do find that he obstructed justice and I know that that means that he cannot get acceptance of responsibility . . . It seems to me it is not accepting responsibility to get up at trial and lie." While there is a presumption that a defendant who obstructs justice cannot get acceptance of responsibility, *United States v. Trivitt*, 294 F.3d 837, 840 (7th Cir.2002), Perez is right in pointing out that this presumption can be overcome in extraordinary cases, see, e.g., *United States v. Mayberry*, 272 F.3d 945, 949 (7th Cir.2001); *United States v. Lollensend*, 989 F.2d 568, 598 (7th Cir.1993). Perez argues that this shows a legal error in that the district court judge did not recognize the existence of an exception. The government acknowledges this point. They argue instead that the district court provided an assessment of the acceptance of responsibility issue independent of the obstruction issue. The government suggests that this assessment and the resulting conclusion that Perez did not accept responsibility form the basis for the denial of the adjustment. This argument is supported by the record. The district court stated that even if it could grant acceptance of responsibility it would not have done so. Hence, even if the district court did not recognize the extraordinary case exception

1. It is not entirely clear that this concession was necessary. Given the limited scope of the extraordinary case exception and the facts of this case it may have been possible that the



This is in response to your letter, in which you request ACLU assistance.

The American Civil Liberties Union is a private, non-profit membership organization which seeks to preserve and extend constitutional rights through participation in legislation, litigation and community education. Our involvement in most cases is as amicus curiae (Friend of the Court), the outcome of which may effect a change in law or policy.

From our review of your correspondence, it does not appear that your case is one for which we can provide assistance. We are not a public defender, and rarely handle criminal cases directly. All persons accused of serious offenses are entitled to court appointed counsel at both the trial and appellate courts.

You must discuss your criminal case with your court-appointed or privately-retained counsel. You should not, and cannot, rely on ACLU representation. You and your counsel remain responsible for any court deadlines. If your attorney is of the opinion that ACLU intervention in your case is necessary, your attorney must contact us directly.

Sincerely,

Jack Jammui

P.S. What has your Attorney done about the original transcripts? Have him contact us about the matter in question. Thanks.

AMERICAN CIVIL LIBERTIES UNION / AMERICAN CIVIL LIBERTIES UNION FUND OF MICHIGAN
1249 WASHINGTON BLVD., SUITE 2910 • DETROIT, MICHIGAN 48226-1822 • (313) 961-4662 • FAX (313) 961-9005

MICKI LEVIN, *President* • PAUL J. FEALK, *Secretary* • RALPH SIMPSON, *Treasurer* • MARK GRANZOTTO, *General Counsel*
WALTER JOHNSON, *Executive Vice President, ACLU Fund* • EDWARD ICE, *National Board Representative*
Howard L. Simon, *Executive Director* • Paul J. Denenfeld, *Legal Director* • Glenn E. Wegmeyer, *Development Director*
Carolynn G. Tujaka, *Director of Finance and Information Systems* • Donald D. Seaton III, *Legislative Affairs Director*
David Wineman, *Assistant to the Legal Director* • Brenda A. Gove, *Secretary/Receptionist*

Contributions to the American Civil Liberties Union Fund of Michigan are deductible for income tax purposes.

GRAND RAPIDS POLICE DEPARTMENT

STATEMENT FORM

INCIDENT #: 94-059379
 DATE: 08-19-94
 TIME: 1525H
 DETECTIVE: MARKS #053

VICTIM:
 COMPLAINANT:
 WITNESS: X
 SUSPECT:

NAME: C. Truher Robinson D.O.B.: 8-15-69
 ADDRESS: 462 Umatilla S.E. CITY: Grand Rapids
 HOME PHONE #: (616) 243-4779 or 451-9533 WORK PHONE #:
 EMPLOYER: G.M. Kelly Temp HOURS: 3-12

It started like this I was at my Aunt Maxine house just kidding ^(talking) and stuff when my brother ^{came} up and I told him ^{my} ^{brother} ^{was} ^{going} ^{to} ^{use} ^{the} ^{phone} ^{as} ^I ^{went} ^{to} ^{leave} ^{K.C. (Kenny Carlen)} ^{was} ^{walking} ^{down} ^{Lafayette} ^{and} ^I ^{walked} ^{with} ^{him} ^{we} ^{talked} ^{along} ^{the} ^{way} ^{so} ^I ^{stopped} ^{at} ^{the} ^{pay} ^{phone} ^{and} ^{he} ^{stopped} ^{to} ^{so} ^I ^{talked} ^{on} ^{the} ^{phone} ^I ^{even} ^{the} ^{police} ^{ride} ^{down} ^{the} ^{street} ^{and} ^{didn't} ^{think} ^{nothing} ^{of} ^{it} ^{so} ^{Kenny} ^{decide} ^{he} ^{would} ^{leave} ^{so} ^I ^{said} ^{peace} ^{and} ^I ^{could} ^{continue} ^{and} ^{talked} ^{and} ^{Kenny} ^{was} ^{gone} ^{down} ^{Lafayette} ^{street} ^{towards} ^{Delaware} ^{As} ^I ^{was} ^{about} ^{to} ^{get} ^{off} ^{the} ^{phone} ^{another} ^{police} ^{car} ^{came} ^{down} ^{parallel} ^{and} ^{was} ^{on} ^{Lafayette} ^{so} ^I ^{walked} ^{across} ^{the} ^{street} ^{not} ^{thinking} ^{so} ^{as} ^I ^{came} ^{to} ^{my} ^{house} ^I ^{decided} ^{not} ^{to} ^{go} ⁱⁿ ^{instead} ^I ^{decided} ^{to} ^{go} ^{visit} ^a ^{friend} ^{so} ^I ^{kept} ^{walking} ^{down} ^{Lafayette} ^{and} ^I ^{grew} ^{near} ^{Lafayette} ^{and} ^{Delaware} ^I ^{seen} ^{the} ^{police} ^{at} ^{the} ^{corner} ^{of} ^{Lafayette} ^{and} ^{Delaware} ^{so} ^I ^{kept} ^{walking} ^{toward} ^{them} ^{and} ^{looking} ^{to} ^{see} ^{who} ^{they} ^{had} ^{and} ^I ^{seen} ^{it} ^{was} ^{K.C. (Kenny)} ^{so} ^I ^{walked} ^{up} ^{to} ^{the} ^{police} ^{car} ^{and} ^{asked} ^{he} ^{what} ^{was} ^{up} ^{and} ^{asked} ^{him} ^{would} ^{he} ^{like} ^{me} ^{to} ^{get} ^{his} ^{room} ^{out} ^{and} ^{he} ^{said} ^{no} ^{Then} ^{the} ^{police} ^{officers} ^{asked} ^{me} ^{do} ^I ^{know} ^{him} ^{and} ^I ^{said} ^{hey} ^a ^{little} ^{scared} ^{Then} ^{the} ^{officer} ^{told} ^{me} ^{to} ^{move} ^{away} ^{from} ^{the} ^{car} ^{so} ^I ^{did}

INVESTIGATIVE INTERVIEW FORM

NAME: TRENT CHAMBLISS

CASE: _____ NUMBER: _____

OFFICER(S): _____

DATE OF INTERVIEW: 7-5-94 TIME: 1311 LOCATION: ACCF

INITIAL INTERVIEW: YES X NO _____ RIGHTS READ: YES _____ NO X

PERSONAL INFORMATION ON SUBJECT: (to be completed on initial interview)

RACE/SEX: Bm D.O.B. 5-20-70

ADDRESS: 2741 CASTLEBUFFESE #301 HOME PHONE: 270-9748

EMPLOYER: F+M PROTECTION BUSINESS PHONE: _____

OTHER INFO. (specify): _____

SIGNIFICANCE OF THIS PERSON'S INVOLVEMENT WITH CASE: _____

INTERVIEW NOTES

TRENT STATES HE REMEMBERS AN INCIDENT WHICH KAHN ~~SAID~~ HAD PROBLEMS WITH HIS COALFRIEND. TRENT WENT WITH CARL + KAHN AND SOME OTHER PEOPLE. TEARS WERE SHOTS FIRED BUT TRENT DOESN'T KNOW WHO FIRED THEM. TRENT STATES HE THINKS DON + ERIC WERE THERE BUT HE DOESN'T KNOW WHERE OR IN WHICH CARS. TRENT STATES HE WAS NOT PRESENT BUT KNOWS THAT DON SAID HE WAS ROBBED BY 2 GUYS AT HIS APT. DON TOLD HIM ABOUT THE ROBBERY. HE STATES HE DOESN'T KNOW WHO WAS WITH DON. HE SAID IT HAPPENED EITHER 6-18 OR 6-25

GENERAL INCIDENT REPORT

GRAND RAPIDS POLICE

INVESTIGATIVE

41

1-274334	REPORTING OFFICER(S) NAME BOONE	INCIDENT AND DATE REPORTED 072 2345 / 07-31-94	4 INCIDENT OCCURRENCE BETWEEN	DATE	TIME
INCIDENT TYPE C. W. PEEBSON			INCIDENT ADDRESS DELAWARE / LAFAYETTE, SE		
NAME	RS	TYPE OF OFFENSE	4	ARREST ON THIS DATE	HOME ADDRESS PLACE OF EMPLOYMENT & PHONE
WATKINS, KENNE	B/M	06-18-94 SUSPECT	11	11	200 LAFAYETTE, SE
JENKINSON, CHARLES	B/M	06-18-94 WITNESS	4		833 LAFAYETTE, SE
WATKINS, KENNY	B/M	06-18-94 PARENT	N		906 LAFAYETTE, SE
21 CALLED IN AS		22 IN PROGRESS ON ARRIVAL	23 NON-UNIFORM CITIZEN HELP	24 ASK FOR ID OFFICER	25 CIVIL RIGHTS VIOLATION
IP <input type="checkbox"/> JO <input type="checkbox"/> O <input type="checkbox"/>		Y <input type="checkbox"/> N <input type="checkbox"/>	Y <input type="checkbox"/> N <input type="checkbox"/>	Y <input type="checkbox"/> N <input type="checkbox"/>	Y <input type="checkbox"/> N <input type="checkbox"/>
POINT OF ENTRY		29 METHOD OF ENTRY		30 LIGHTING STREET	31 SCENE
					27 TYPE OF PREMISES
INCIDENT PECULIARITIES					

R/O'S WERE WORKING THE AREA OF HIGHLAND/LAFAYETTE FOR V.C.S.A AND WEAPON VIOLATIONS. R/O'S WERE WORKING IN FULL UNIFORM AND WERE DRIVING A FULLY MARKED POLICE CRUISER.

R/O'S WERE STOPPED AT THE STOP SIGN AT S/B LAFAYETTE AV. AND DELAWARE ST., SE. WHEN WE OBSERVED TWO B/M'S STANDING IN THE ROADWAY APPROX. 50 YDS. TO THE WEST OF US. ONE OF THE B/M'S IDENTIFIED AS KENNY CARTER WAS MAKING A MOTION IN THE FRONT WAISTBAND AS IF HE WAS TUCKING SOMETHING IN. KENNY BEGAN WALKING E/B TOWARDS US AND R/O'S TURNED W/B ONTO DELAWARE ST.

R/O'S APPROACHED KENNY AND INITIATED A CITIZEN CONTACT WITH HIM AND HE VERBALLY CONSENTED TO A SEARCH OF HIS PERSON. WHEN R/O ASKED KENNY IF HE HAD ANY GUNS OR DRUGS ON HIS PERSON HE REPLIED "YEAH." R/O ASKED HIM WHAT HE MEANT BY "YEAH" AND HE TOLD US HE HAD A GUN IN HIS WAISTBAND. R/O PLACED KENNY IN HANDCUFFS AND OFFICER SINNEMA REMOVED A SEMI-AUTO HANDGUN FROM HIS WAISTBAND.

AFTER PLACING KENNY IN OUR CRUISER HE SAID HE CARRIED THE GUN BECAUSE HE WAS SHOT AT. HE ALSO TOLD US THAT HE STOLE THE GUN FROM "LANCE" (UNK. LAST NAME), WHO IS FROM DETROIT.

PAGE	OF	ORIGINAL <input type="checkbox"/>	FOLLOW UP <input type="checkbox"/>	STOLEN <input checked="" type="checkbox"/> S	RECOVERED <input checked="" type="checkbox"/> S
1	1	OTHER OFFICER	ORIGINAL	REPORT REVIEWED BY	DATE
H ESTEL		11	8-1		

INVESTIGATIVE INTERVIEW FORM

NAME: Kenneth Carter

CASE: CCW

NUMBER: 94-74334

OFFICER(S): Hertel

DATE OF INTERVIEW: 8-1-94 TIME: 1500 LOCATION: KCCH

INITIAL INTERVIEW: YES NO RIGHTS READ: YES NO

PERSONAL INFORMATION ON SUBJECT: (to be completed on initial interview)

RACE/SEX: BM D.O.B. 6-16-79 (15)

ADDRESS: 1001 Bemis St. SE HOME PHONE: 454-2937

EMPLOYER: Wwestbridge 9th BUSINESS PHONE: _____

OTHER INFO. (specify): Can read and write

SIGNIFICANCE OF THIS PERSON'S INVOLVEMENT WITH CASE: _____

Suspect

INTERVIEW NOTES

CARTER HAS KNOWN LANCE, (ROBINSON) SINCE THE BEGINNING OF SUMMER. A COUPLE WEEKS AGO, SOMEONE WAS SHOOTING AT JEMEL BOWMAN. CARTER HANGS OUT WITH BOWMAN AND LAST NIGHT WAS APPROACHED BY SOME SUBJECTS WHO SHOT THEIR GUNS IN HIS GENERAL DIRECTION.

AFTER BEING SHOT AT, CARTER WENT TO LANCES HOUSE ON LAFAYETTE AND SPOKE TO HIM. THE PREVIOUS SAT., ROBINSON HAD SHOWN CARTER A GUN. CARTER KNEW WHERE ROBINSON HIDE THE GUN. (UNDER BOX SPRINGS).

ROBINSON LEFT THE ROOM WHERE THE GUN WAS AND CARTER TOOK THE GUN AND PUT IT IN HIS WAISTBAND. THE GUN WAS UNDER HIS T-SHIRT, ANOTHER SHIRT, A COAT, ANOTHER LIGHTER COAT. CARTER WALKED OUT OF THE HOUSE WITH THE GUN, WITHOUT THE PERMISSION OF ROBINSON.

CARTER WALKED DOWN THE STREET AND THE POLICE STOPPED HIM. CARTER STATED HE DID NOT HAVE THE GUN OUT BUT WAS ADJUSTING IT IN HIS WAISTBAND.

Date 6-24-94 Hour 1448

To Chief

WHILE YOU WERE OUT

From Alfreda Pettway

Of 840 Yeland

Phone 1 248-0544

<input checked="" type="checkbox"/> Telephoned	<input checked="" type="checkbox"/> Returned Call	<input type="checkbox"/> Please Call
<input type="checkbox"/> Please See Me	<input type="checkbox"/> Will Call Again	<input type="checkbox"/> Important

Message

"I will not be interested until I talk to the Chief. Claims she called 911 with info on shooting today. Det's interview her daughter - Caller very upset"

Feb 6-24-94 at 1540 hrs by BJS

Signed lam

PARALEGAL SERVICES OF WESTERN MICHIGAN, INC.
200 N. DIVISION AVE., GRAND RAPIDS, MI 49503
(616) 451-9141

MAY 15, 1995

ATTORNEY MICHAEL LIQUIGLI
200 N. DIVISION AVE.
GRAND RAPIDS MI 49503

RE: KENNETH COLVIN, JR.

CASE # 94-2732-FC
FILE # 5-725-95

REPORT 1

ON THURSDAY EVENING, MAY 11, 1995, I TRAVELED TO 840 NELAND SE, GRAND RAPIDS, MICHIGAN. I KNOCKED ON SEVERAL DOORS AND ATTEMPTED TO LOCATE ALFREDA PETTWAY. I WENT ACROSS THE STREET FROM 844 NELAND SE, WHERE THE INCIDENT OCCURRED, AND WENT TO THE HOME LOCATED AT 845 NELAND SE AND KNOCKED ON THE DOOR. A BLACK FEMALE WHO WAS APPROXIMATELY 30 YEARS OLD CAME TO THE DOOR. I INQUIRED ABOUT THE SHOOTING THAT HAD OCCURRED ACROSS THE STREET AND ASKED IF SHE OR ANYONE ELSE IN THE HOUSE HAD SEEN OR HEARD ANYTHING. SHE REPLIED, NO THEY HAD NOT. I SPECIFICALLY ASKED FOR ANY KIND OF INFORMATION ABOUT THE TWO FAMILY ACROSS THE STREET WHERE THE INCIDENT HAD OCCURRED AND SHE TOLD ME THAT THE DID NOT SEE OR HEAR ANYTHING AND THERE WAS NOT ANYTHING UNUSUAL THAT WENT ON IN THE NEIGHBORHOOD AND SHE COULD NOT BE ANY HELP.

I THEN WENT TO THE NEXT BUILDING NORTH WHICH WAS 835 NELAND SE. I AGAIN KNOCKED AND A YOUNG BLACK MAN ANSWERED THE DOOR. I AGAIN ASKED FOR INFORMATION REGARDING THE SHOOTING, BUT HE ALSO SAID THEY DID NOT KNOW ANYTHING. HE SAID THAT HE AND HIS BROTHER WERE OUT OF TOWN THE WEEKEND THAT THE SHOOTING OCCURRED AND THEIR PARENTS WERE THERE

ALONE. I ASKED IF HE KNEW ALFREDA PETTWAY AND HE INDICATED THAT IT WAS THE BLUE HOUSE ACROSS THE STREET AT 823 NELAND SE. AGAIN THE YOUNG MAN ASSURED ME THAT HE OR ANYONE ELSE IN THE HOUSE DID NOT SEE OR HEAR ANYTHING SO I WENT ACROSS THE STREET.

I KNOCKED ON THE DOOR AT 823 NELAND SE AND A MIDDLE AGED BLACK WOMAN ANSWERED THE DOOR. SHE IDENTIFIED HERSELF AS ALFREDA PETTWAY. I ASKED HER IF I COULD SPEAK TO HER OR HER DAUGHTER CONCERNING THE SHOOTING THAT OCCURRED AT 844 NELAND SE AND SHE WAS SURPRISED AND BECAME QUITE UPSET THAT I KNEW ABOUT HER NAME. SHE WANTED TO KNOW HOW I HAD FOUND OUT ABOUT HER, AND I EXPLAINED TO HER WHO I WAS AND THAT I WAS WORKING ON THE INVESTIGATION FOR MR. COLVIN. SHE BRISTLED WITH ANGER AND SAID SOMETHING TO THE EFFECT THAT CHIEF HAGGERTY SAID THAT WE WOULDN'T BE INVOLVED IN THIS. SHE REFUSED TO TALK TO ME OR ALLOW HER DAUGHTER TO BE INTERVIEWED CONCERNING THE EVENTS THAT OCCURRED NEAR HER HOUSE AT 844 NELAND SE. I PLEADED WITH HER FOR ABOUT 15 MINUTES THAT I WAS COURT APPOINTED AND THAT I WAS JUST SEEKING THE TRUTH, AND THAT SHE HAD NOTHING TO FEAR. I TOLD HER THAT A MAN WAS GOING TO TRIAL AND HIS LIFE DEPENDED ON THE INFORMATION THAT I COULD GAIN FROM WITNESSES, BUT SHE AGAIN SAID THAT CHIEF HAGGERTY PROMISED THAT THEY WOULD NOT BE INVOLVED. SHE DID ASK FOR MY BUSINESS CARD AND I GAVE IT TO HER AND ASKED THAT SHE GIVE ATTORNEY MIKE LIQUIGLI A CALL AT HIS OFFICE AND SPEAK WITH HIM DIRECTLY.

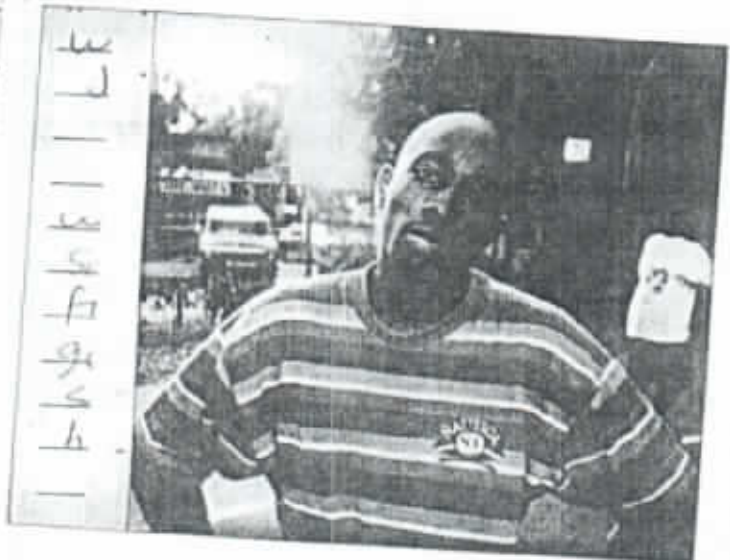
I THEN MOVED ON AND WENT TO THE OTHER SIDE OF THE HOUSE AND KNOCKED ON SEVERAL DOORS. NO ONE ANSWERED AND I AM GOING TO TRY BACK AT DIFFERENT TIMES DURING THE DAY.

END REPORT

GRABLE
#21

INCIDENT 94-61095		OFFICER Beckett		BADGE 177	
REPORT TIME & DATE 19501628		BETWEEN TIME & DATE 1		AND/OR AT TIME & DATE 1	
INCIDENT TYPE Field Interrogation				CLASS 9630	
INCIDENT ADDRESS Cherry St / Eastern Av SE				DISTRICT C-3	
A NAME Hawkins John Whittisett		R/S BIM			
DOB OR AGE 11-1-71		INVOLVEMENT <input checked="" type="checkbox"/> Suspect		ARRESTED <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	
ADDRESS 709 Kellogg St SE				HOME PHONE None	
EMPLOYER None		HOURS WORKED -		BUSINESS PHONE -	
B NAME Smith Jacqueline		R/S BIF			
DOB OR AGE 29 yrs		INVOLVEMENT <input checked="" type="checkbox"/> Witness		ARRESTED <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	
ADDRESS 844 Neland Av SE				HOME PHONE None	
EMPLOYER None		HOURS WORKED -		BUSINESS PHONE -	
C NAME		R/S			
DOB OR AGE		INVOLVEMENT		ARRESTED	
ADDRESS				HOME PHONE	
EMPLOYER		HOURS WORKED		BUSINESS PHONE	

EMF
17
D
DOI
AD
EM
17



18		BUSINESS PHONE	
19		R/S	
20		ASKED-IN TIME & DATE	
21		HOME PHONE	
22		BUSINESS PHONE	
23		V.I.N.	
24		COLOR	
25		NATURE	
26		CONDITION	
27		OWNER NOTIFIED / BY	
28		OFFICER'S NAME / BADGE NO. 139	
29	30	31	32
NOTIFIED	DISPO. RECLASS	DATE	BY

1317

PROPERTY TYPE CODE

VALUE STOLEN

VALUE RECOVERED

Suspect: John Hawkins B/M
5'10", 160 lbs, slight
mustache & Goatee.
Very crooked and yellow
Teeth.

We responded to Cherry St Park
on a report of A person there
who was possibly the homicide
suspect from 844 Neland. (94-59379)

Upon arrival we talked to
A person who matched the description
we were given. This person was
John W. Hawkins.

As we were talking to MR Hawkins
we were approached by Jacqueline
Smith. She is one of the victims
from 844 Neland. She took a
good look at MR Hawkins and
said that he was too short but
he looked a lot like the guy.

We p.p'd John Hawkins and
thanked him for his cooperation.

1 between five and eight times as long as they really
2 happen.

3 He also said that he suspects that the use
4 of marijuana might exaggerate that even more, and as
5 we all know from Chris, the one person that would
6 admit it, everyone in the house was smoking marijuana.

7 Let's look at the observation conditions.
8 Chris said the stairway was not lit, hard to see, very
9 stressful situation. Jackie upstairs said the hallway
10 wasn't lit. She said the bathroom light was on, but
11 the bathroom light was behind the defendant. When
12 questioned on that, she all of a sudden remembered,
13 oh, yeah, there was a light shining in from the other
14 room.

15 She never mentioned that before that.
16 When asked what the lighting was, she said the
17 bathroom light was on. When challenged, she came up
18 with this additional light.

19 The prosecutor mentioned stress. There's
20 stress in every aspect of life. I'm a little stressed
21 right now. I'm giving a closing argument. You're a
22 little stressed. You're going to have to pay
23 attention here. You're paying attention at a certain
24 level of stress. You're awake. There's stressors all
25 the time.

1 You heard the doctor say that a certain
2 amount of stress is good for memory and gathering
3 information and the retention of information.
4 However, you also heard him say it falls off at a
5 certain point, when things become too stressed.

6 I'd submit to you that being shot at is
7 that point where you're going to fall off that scale
8 and you're not going to be paying attention to
9 anything but getting yourself out of there, out of
10 harm's way as soon as possible. As a matter of fact,
11 you heard people testify that Chris Smith turned and
12 ran. He was going to get up those steps as quick as
13 he possibly could, and he had one thing in mind and
14 one thing only: To save himself. To get up those
15 stairs and behind a locked door and get away from this
16 guy who had a gun, once he finally realized something
17 was going on.

18 Well, I don't think he was thinking to
19 himself: Did this guy have big eyes? Did he have a
20 mustache? Geez, what color was his hair? He didn't
21 ask himself all those questions. He didn't take the
22 time, as Dr. Yarmey said, under optimum conditions
23 where you would sit and ponder a face and say, "I'm
24 looking at a brunette," or someone with brown hair or
25 big eyes or big ears.

1 He didn't have that time. He turned and
2 ran, just like he should have.

3 Also, Jackie, up in the hallway, you don't
4 really think she stood there and said to herself,
5 "Gee, I'm going to have to identify this guy in a
6 couple of months. I'd better, you know, take a
7 picture of him in my mind and remember what he looks
8 like." She didn't say that. She got shot in the arm
9 the second he came popping up the stairs. That's what
10 she said, "He came popping up the stairs, shot me in
11 the arm. I looked at my arm, it was bubbling up."

12 I don't know what other people would do if
13 their arm, the flesh in their arm was bubbling up, but
14 I think that'd be a pretty stressful situation and I'd
15 be wanting to turn and run.

16 Yet she says she stood there, I think one
17 of her estimates was 30 seconds looking at this
18 person, staring him face-to-face. And again, she
19 would have you believe that this person after shooting
20 her in the arm, after hearing gunshots downstairs,
21 would then stand there calmly, "I've shot you in the
22 arm, what would you like to do next," and wait 30
23 seconds for her to make a move. Doesn't sound
24 likely.

25 What sounds more accurate is that as soon

1 as she realized she was shot, she turn and ran. And,
2 in fact, in some accounts she said he was running her
3 down.

4 Well, it's kind of inconsistent if they're
5 standing there and staring face-to-face or he was
6 running her down. Which sounds more reasonable to
7 you?

8 Then she says she ran into the bedroom,
9 and now Arron Williams picks it up. He says he ran to
10 the door and looked out the door for a full four to
11 five seconds and looked at this man, who was
12 supposedly running Jackie Smith down.

13 Now, that hallway the picture isn't up
14 there right now, but that hallway did not look big
15 enough for anybody, even someone with my short leg
16 span, to be running for four to five seconds and not
17 cover that space, through the door, and probably
18 through the window. So there were no four to five
19 seconds to look at this man. This is all happening
20 lickety-split. Shots are being fired. There's no
21 opportunity to observe.

22 They're all high. They're all under ←
23 stress. They're all viewing this under lousy, at
24 best, observation conditions.

25 How do we know that? At some point they

1 draw composite pictures, and you all heard them admit
2 and you heard the doctor say that retention is best
3 closer to an event than it is far away. I think all
4 of you admitted that in voir dire. You remember
5 things better the day after it happens than three
6 months after it happens.

7 Well, ladies and gentlemen, these are the
8 three pictures they drew after the event
9 happened -- well, not drew, I'm sorry. I was
10 corrected on that once before and I'll correct myself
11 on it this time. They did not draw these pictures.
12 They described these individuals to a police officer,
13 who then put the pictures together and came up with
14 these pictures.

15 But they all had to say to the officer,
16 "Yeah, that's the guy that did it," or else the
17 officer wouldn't have made these lovely wanted posters
18 that alert the community to who they're looking for in
19 this case.

20 Now, I submit to you, ladies and
21 gentlemen, that at the time that their memory was
22 best, that is what they came up with. They don't look
23 anything like the defendant. They don't look anything
24 like each other. The prosecutor was going to get up
25 and show them to you, but probably thought better of

1 it because they don't look anything like each other.
2 They don't look anything like this man.

3 Yet that's what they came up with from the
4 events that happened that day.

5 Now, you heard Dr. Yarmey say the passage
6 of time affects memory, and also post-event
7 inferences. Now, I'm sure these people talked to each
8 other. I'm sure they talked about the event. You
9 don't have a brother killed and another lady killed in
10 your house and then never talk about it again.

11 During this two-month period from the time
12 they drew these pictures to the time they picked out
13 this lineup, something happened, something strange
14 happened. They somehow put all these three pictures
15 together and came up being able to pick out the one
16 guy who had the biggest eyes in the lineup. Well,
17 they're talking about big eyes, they're talking about
18 big eyes, and now they pick somebody out of the lineup
19 who has big eyes.

20 I submit to you, ladies and gentlemen,
21 that these are an indication of what they saw on the
22 day of the event, and what they've finally produced in
23 a lineup is not what they saw on the day of the
24 event.

25 The judge is going to give you certain

1 instructions on identification. He's going to tell
2 you what the law is with regard to an identification.
3 One of those instructions is that you can consider
4 whether or not a witness gave a description that does
5 not agree with an in-court identification.

6 I submit to you, ladies and gentlemen,
7 that these pictures are what that instruction was
8 written for. That is the purpose of that
9 instruction. These pictures are identifications of
10 the person that their memory best served them at that
11 time.

12 One thing, one last thing I'd like to ask
13 you to do is to not be lulled into a situation where
14 you're finding guilt by association. Just because you
15 would pick a friend to go to the movies and maybe a
16 robber might pick a friend to do a robbery with, that
17 is not proof that Kenny Colvin was there. The fact
18 that his brother may or may not have confessed to this
19 crime is not proof that Kenny Colvin was there.

20 You have heard absolutely no proof
21 whatsoever that Ken Colvin was there, other than these
22 three eyewitnesses who said that these three pictures
23 looked like the person that committed this crime.

24 I think if you look at these three
25 pictures -- here are the exhibits. You're able to

1 take them back into the jury room. If you look at
2 those pictures, you look at what the defendant looks
3 like, you can find nothing but reasonable doubt in
4 this case.

5 I'm sure you will find that. I'm sure
6 you'll come back with a verdict of not guilty.

7 Thank you.

8 MR. BRAMBLE: May I proceed, your Honor?

9 THE COURT: Yes, Mr. Bramble, please.

10 MR. BRAMBLE: Thank you.

11 Despite the fact that defense counsel
12 attempts to in some way -- he says I'm not trying to
13 make any comments on people's life-styles, I'm not
14 trying to make any comment on whether a person ingests
15 alcohol or marijuana. I submit to you that is not
16 true. It's pretty easy to stand up here and trash a
17 person when they can't come up here and speak for
18 themselves. It's pretty easy to trash a person when
19 they're dead.

20 No one in that home denied that there was
21 marijuana being sold out of the home. No one denied
22 that they used it if they used it. Chris Smith spoke
23 of it. John Earl Smith spoke of it. Jacquelyn Smith
24 was probably the most candid of them all. She says,
25 "I didn't have time to do it yet. I was still caring

with error, I'm a little weak, I think, in letting Kelley Colvin's statement in the first place." "...one of the problems I had, if you remember, Mr. Bramble, maybe you don't, in looking at People v. Poole and letting your statement in when they talk about spontaneity, and not the result of questioning and all this, and Officer Crum...Had an hour and a half, almost 90 minutes with witness, which is not on tape, and all of a sudden I get a, quote mark, spontaneous rehearsal or rehash of what was said. Lord only knows what was said for the first 90 minutes not on tape..."

T-638-640

ARGUMENT

Detective Crum in fact committed perjury when he willfully made false testimony under oath in regards to the interrogation with Kelley Colvin. This is a violation of the statute MCLA 750.422; MSA 28.664; MCLA 750.423; MSA 28.665. He has an obligation to tell the Truth, The whole Truth, and nothing but the Truth upon taking the witness stand in a criminal trial. People v. McGillen #1,392 Mich. 251 (1974). By the detective making false testimony, it has hampered the fact finding process of what actually took place in the interrogation with Kelley Colvin. The testimony was very material because, the trial judge wanted to know if Kelley Colvin was in fact questioned, prompted and/or received favors which in fact, was the Poole test. People v. Poole, 444 Mich. 151; 506 NW2d 505 (1993).

The defendant's attorney who represented the defendant at trial was not his attorney of the pretrial hearings in January 30, 1995. So, the defendant's attorney was not aware of Detective Crum's testimony at the pretrial hearing. But the prosecutor knew it was false and did nothing to correct it.

This was in fact prosecutor misconduct and violation of due process. U.S. Const., Aas V, XIV; Const. 1963, art. 1, § 17, 20; U.S. V. Lochmondy, 890 F.2d 817 (C.A.6, 1989); People v. Canter, 197 Mich. App. 550 (1992)

The prosecutor knew that there was a discussion with the

1 And as I told you in my opening statement, there was
2 going to be absolutely no physical evidence that
3 points to Kenneth Colvin. There's a gun. It's never
4 alleged that gun was in Kenneth Colvin's hands.
5 There's bullets. There's no proof Kenneth Colvin shot
6 those bullets.

7 Detectives Grable and Crum have introduced
8 absolutely no evidence that shows Kenneth Colvin was
9 there. We have IBO technicians, people who gathered
10 physical evidence, who I asked, each and every one of
11 them, whether or not any of the evidence, all the
12 bullet casings and particles and pieces of bullets,
13 whether any of that pointed to Ken Colvin. Their
14 answer unanimously was no, it didn't, none of it.

15 We had Officer Boone come in and testify
16 that he picked up a gun off some third party who got
17 the gun, second or third hand, and in no way testified
18 that it came from either Kelley or Kenny Colvin.
19 There's no connection there, absolutely none.

20 We had two fellows from the Michigan State
21 Police who were just superb testifiers. They told you
22 everything you possibly wanted to know about the
23 bullets and about the gun and about marks that bullets
24 make as they go through the barrel and about marks on
25 bullet casings, so on and so forth.

Evidence Received Continued:

- 1 - Manila coin envelope (sealed) enclosing: (C)
 - 1 - 38 Super automatic caliber Winchester fired cartridge case. (item #F-9)
- 1 - Manila coin envelope (sealed) enclosing: (E)
 - 1 - 38 Super automatic caliber Winchester fired cartridge case. (item #F-10)
- 1 - Manila coin envelope (sealed) enclosing: (F)
 - 1 - 38 Super automatic caliber Winchester fired cartridge case. (item #F-11)
- 1 - Manila coin envelope (sealed) enclosing: (G)
 - 1 - 38 Super automatic caliber Winchester fired cartridge case. (item #F-12)

Results:

Items #F-1 through #F-6, the six 32 automatic caliber fired cartridge cases, could have been fired in the same firearm.

Items #F-7 through #F-12, the six 38 Super automatic caliber fired cartridge cases, are identified as having been fired in the same firearm.

Disposition of Evidence:

The above listed evidence was placed into the Open Shooting File and can be returned to the submitting agency on 12/29/94.

S. Michael Burritt

S. Michael Burritt
Specialist (D/Sgt)
Firearms, Tool Marks and Explosives Subunit

SMB/cmr

(NOTE: THE LABORATORY TEST RESULTS FROM THE PATH REPORT UNIFORMS ARE NOT LISTED [IDENTIFIED] IN THIS REPORT, BUT WERE CITED IN LABORATORY REPORT OF LAB. NO.: 32190-94.)

took drugs, and a bag, and I had went upstairs and shot three people. Mis-identification was our defense.

During my trial stage, I had requested from my attorney a copy of my client file, because I had excellent reasons to believe that they were not being honest with me and competently representing me as true criminal trial attorney should. And not surprising, I discovered that they were not.

I discovered only after making numerous request -and filing two complaints with the Michigan Attorney Grievance Commission- that the trial attorney had completely "sabotaged" both of our cases. In July of 1993, after our direct appeals were exhausted, I received my client file, and once I had reviewed it, I had discovered several documents and information that were obviously exculpatory information, that would had not effectively challenged the eyewitnesses' identification testimony, but also created an obvious viable defense -with strong credibility- that would had definitely proved our innocence, and found us not guilty. The first of numerous documents that I had discovered were:

1. Two of the three eyewitnesses who had identified me as the shooter, had in fact identified other suspects as the gunman, just days after the incident occurred.

Mr. Aaron Williams, who stated that he only had glanced at the shooter, called the police dated June 26, 1994, just two days after the incident, and stated that he seen the guy who shot him, and he had given the person's name -which was Mr. Christopher L. Taylor. (See Document 3)

Next, on July 8, 1994, two weeks after the incident, Mr. Williams went to an official photo-drop and identified two other suspects -one suspect, Mr. Thames Hawkins, was being investigated by the detectives after two county jail informants (Mr. Willie Meadows (See Document 9) & Mr. Calvin L. Jones (See Document 10)) told them that Mr. Terron Johnson told them that he, and another person had committed the robbery on Neland. (See Documents 4). Mr. Williams stated during that photo-drop that he was near certain that Mr. Hawkins was the person that shot him. Mr. Williams had identified three different individuals, before he identified me as the shooter. I have enclosed the WANTED POSTER that Mr. Williams had assisted in putting together of the description of the person who shot him. (See Documents 2) (NOTE: Both of the suspects, Mr. Johnson and Mr. Hawkins are now deceased. I had discovered recently that Mr. Johnson was killed during a 1995/96 drughouse robbery that he was involved in, and Mr. Hawkins had died in May/June of 2003, at the Kent County Jail, during intake. It was stated during the investigation that both of these gentlemen were involved in these types of robberies.)

2. Ms. Jacqueline Smith, the second eyewitness, who testified that she had less than twenty seconds to see the shooter (and testified during Preliminary Exams that the detective came out and privately shown my photo to them) had identified a suspect, Mr. John Hawkins, and stated that he was too short, but looked a lot like the guy who shot her. (See Document 5).
I have enclosed Ms. Smith's WANTED POSTER. (See Documents 5)

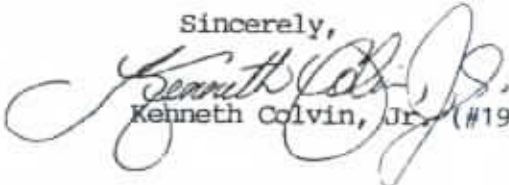
3. The third eyewitness, Mr. Christopher Smith, who testified that he was shot in the arm, at point blank range, was in fact not shot all, pursuant to the hospital report that the detectives received stating that they did not have any recorded of him receiving medical treatment. (NOTE: Mr. Smith testified at trial that he seen the shooter when he had shot him in the arm. I do have a copy of the

I have read the Statute MSA 4.1700(73) Sec. 3(2) and (75) Sec. 5 (1)(a)(b) and I had read the footnote on this subject about investigating former state employees and it stated: **OP ATTY GEN, No. 6046, March 22, 1982** "The State Board of Ethics is empowered by the legislature to investigate and issue an advisory opinion concerning the conduct of a public officer or employee even though the officer or employee is no longer in government service..."

PLEASE HELP ME, PLEASE. I am telling you the truth about what has happened to me. Please, do not ignore my letter. I desperately need your help. I have done everything to make the courts correct the transcript and they refuse to do it. I need your help, before the tape is destroyed. I need for your office to listen to the tape.

Thank you for taking this letter into consideration.

Sincerely,


Kenneth Colvin, Jr. (#192744)

1 minutes. You heard people say that they had 30
2 seconds standing face-to-face with this person before
3 anything else happened. You heard Chris Smith say he
4 walked all the way down the stairs to a man who
5 supposedly intended to come in, shoot up the house,
6 rob everybody in it, and take all the drugs and money
7 out of the house.

8 Yet that man stood there, locked the door,
9 Chris Smith came strolling down the stairs thinking
10 nothing's happening in his marijuana-intoxicated
11 state, came down the stairs, la-di-da, nothing's
12 happening. The man still stood there, didn't do a
13 thing. He walked around the corner and then saw
14 someone else with a gun to his brother's head.

15 In the meantime, the guy at the door did
16 nothing, just stood there. Does that sound reasonable
17 to you, ladies and gentlemen? You're there to shoot
18 up the place. You're there to rob marijuana. You
19 know it's a drug house. You're just going to stand
20 there and wait for somebody to say, "Gee, we're being
21 robbed"? I don't think so.

22 I think that's an exaggeration of time.
23 Just like Dr. Yarmey said, it's an exaggeration of
24 what happened in the time that it took for this to
25 happen. Dr. Yarmey said things are exaggerated

STATE OF MICHIGAN

SS

COUNTY OF KENT

I, Barbara Lynn Wiles, hereby certify that I am a Court-Reporter for the 17th Judicial Circuit of Michigan; that I reported the proceedings had in the aforementioned cause, and that the preceding pages represent a true and correct transcript of the proceedings had in said cause, on said date.

Barbara Lynn Wiles

Barbara Lynn Wiles -- CSR #4288

My commission expires: 2/21/2001

19 January 2001

1 old. The defendant here was 26 at the time, 27
2 years old now, obviously a big discrepancy.

3 There are other discrepancies, who left
4 the house first, who came back into the house first,
5 how much money they got, when they got the money,
6 how much marijuana they got.

7 The games were being played on whether
8 or not this was a drug house or not, and you'll see
9 as time goes on, finally, it was admitted that this
10 was a drug house. That drugs were being sold. That
11 there was a scale. That there was a safe. That
12 beepers were being used. Those things will finally
13 come out.

14 And marijuana was flushed down the
15 toilet by one of the people that got shot, who had
16 enough common sense to go find his marijuana and
17 flush it down the toilet. But he didn't tell the
18 police that until later.

19 So I want you to pay attention to all
20 those things, and really judge the credibility of
21 these witnesses, not that I think they're
22 purposefully lying here, but I don't think they know
23 exactly what happened on that day, and I don't think
24 they had a good opportunity to remember what
25 happened on that day.

PRIORITY EVALUATION
 Low Medium High

SUBJECT
 Name Last: _____ First: CHRIS Middle: _____
 Address: 900 SIGSBEE ST SE City: _____
 Direction to Locate (Hangouts, friends, etc.):
FATHER OF MARYS BABY
 Born: _____ Ht. _____ Wt. _____ Eyes _____ Hair _____
 Veh. Make _____ Style _____ Color _____ Yr. _____ Lic. No. _____
 Works: _____ City _____ Occupation _____
 Home Phone _____ Other Phone _____
 Associates _____

INFORMANT
 Name Last: _____ First: WILLIAMS, AARON Middle: _____
 Address: 270 CHARLES SE City: G.R.
 Can be Contacted At _____
 Home Phone _____ Office Phone _____
 Informant was Contacted At _____

INFORMATION REFERENCE SUBJECT	Yes	No	Yes	No	Yes	No		
Criminal Record Obtained (IB)	<input type="checkbox"/>	<input type="checkbox"/>	Sex Motivated Crime File Check	<input type="checkbox"/>	<input type="checkbox"/>	Handwriting Specimen Obtained	<input type="checkbox"/>	<input type="checkbox"/>
Record Section Checked	<input type="checkbox"/>	<input type="checkbox"/>	Intelligence Check	<input type="checkbox"/>	<input type="checkbox"/>	Hair Specimen Obtained	<input type="checkbox"/>	<input type="checkbox"/>
Photo Available	<input type="checkbox"/>	<input type="checkbox"/>	Operator's License Check	<input type="checkbox"/>	<input type="checkbox"/>	Written Statement Obtained	<input type="checkbox"/>	<input type="checkbox"/>
LEIN Checked	<input type="checkbox"/>	<input type="checkbox"/>	Fingerprints Obtained	<input type="checkbox"/>	<input type="checkbox"/>	Recorded Statement Obtained	<input type="checkbox"/>	<input type="checkbox"/>
Gun File Check	<input type="checkbox"/>	<input type="checkbox"/>	Palmprints Obtained	<input type="checkbox"/>	<input type="checkbox"/>	Updated Photo Obtained	<input type="checkbox"/>	<input type="checkbox"/>

DETAILS OF TIP

REPORT
 (1) SAW SUSPECT AND STATES "HE LOOKS JUST LIKE THE GUY WHO SHOT ME"

Received by: GRAABER Date: 6-26-94 Time: 1950
 Assigned to: _____ Date: _____ Time: _____
 Analyzed/Closed by: _____ Date: _____
 Subject Not Cleared
 Subject Cleared by:
 Witness Was Working Polygraph



**JUDGE
JANE E. MARKEY**

Judge Jane E. Markey was born on May 27, 1951, in Saginaw. She attended Michigan State University from 1969 to 1973, receiving a Bachelor of Arts degree, with high honors. Judge Markey attended the Thomas M. Cooley Law School from 1978 to 1981, where she was editor-in-chief of the *Thomas M. Cooley Law Review*, receiving her Ju-

ris Doctor degree, with honors.

Judge Markey was employed as a teacher and as a caseworker for the Saginaw County Department of Social Services from 1973 to 1978. From 1981 to 1982, she served as a prehearing attorney and a judicial law clerk for the Michigan Court of Appeals. Judge Markey practiced law from 1982 to 1984 with Baxter & Hammond in Grand Rapids, and from 1984 to 1991 with Dykema Gossett in Grand Rapids. Judge Markey was elected to the 61st District Court in Grand Rapids in November 1990 and reelected in November 1992.

Judge Markey is a member of the American Bar Association, the State Bar of Michigan, the Grand Rapids Bar Association, the American Judges Association, and the Women Lawyers Association of Michigan and West Michigan. She also has served as a hearing panelist for the State of Michigan Attorney Discipline Board from 1989 to the present, is a Fellow of the Michigan State Bar Foundation, has served on the faculty of the Hillman Advocacy Program, United States District Court for the Western District of Michigan, the Michigan Judicial Institute, and the Institute

of Continuing Legal Education, and has been a member of the Michigan State Bar Grievance Committee and the Academic Committee for District Court.

Judge Markey is married to attorney Curt Benson. They have two children, Caitlin and Robert, and reside in Grand Rapids.

In November 1994, Judge Markey was elected to the Court of Appeals for an eight-year term ending January 1, 2003.



Michigan Supreme Court
Lansing, Michigan 48909

James H. Brickley
Chief Justice
Charles L. Levin
Michael F. Cavanagh
Patricia J. Boyle
Dorothy Comstock Riley
Conrad L. Mallett, Jr.
Elizabeth A. Weaver
Justices
Corbin R. Davis
Clerk

October 7, 1996

Mr. Kenneth Colvin #192744
MARQUETTE BRANCH PRISON
P O Box 779
Marquette, MI 49855

Mr. Colvin:

On September 30, 1996 this office received your "COMPLAINT FOR SUPERINTENDING CONTROL" and supporting documents.

Your papers are herewith returned for the reason that under our Rules they are not acceptable for filing in this Court. It is apparent that your papers seek to secure an order of this Court correcting the trial court record in your case. Such relief may be sought in the trial court on motion to that court; and if that motion is unsuccessful, you may then take an appeal to the Michigan Court of Appeals and must take such an appeal before leave to appeal or other relief may be sought in this Court.

Very truly yours,

CORBIN R. DAVIS,
Clerk

CRD/kc

Enclosures



1



2



4



5



3



6

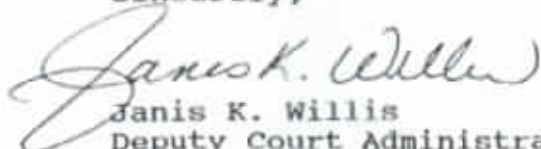
THOMAS HAWKINS

ARSON FEAR THOMAS HAWKINS
AD UICREAR 2019 9/10/2019
DATE 7-6-94

I have not heard from Mr. Colvin or his attorney since that time until receipt of your letter. There is some indication that civil suit has been filed with The U.S. District Court regarding this claim, but this Court has not been officially served.

If you have any further questions or desire additional information, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Janis K. Willis". The signature is written in dark ink and is positioned above the typed name and title.

Janis K. Willis
Deputy Court Administrator

cc: Region 2 Administrator, Kevin J. Bowling



Michigan Supreme Court
State Court Administrative Office
309 N. Washington Square, P.O. Box 30048
Lansing, Michigan 48909
517 373-0130

Marilyn K. Hall
State Court Administrator

John D. Ferry, Jr.
Deputy Administrator

September 18, 1995

James H. Brickley
Chief Justice
Charles L. Levin
Michael F. Cavanagh
Patricia J. Boyle
Dorothy Comstock Riley
Coward L. Mallott, Jr.
Elizabeth A. Weaver
Justices

Mr. Kenneth Colvin, Jr. #192744
Jackson State Prison
4000 Cooper St, PO Box E
Jackson, MI 49201

Mr. Colvin:

Re: Your complaint against Phyllis Carr, deceased
#95-05

The Board considered the materials you submitted in support of your complaint at its September meeting. Jurisdictional boundaries and the fact that the reporter is deceased renders the Board's jurisdiction moot. We are closing our file on this complaint.

Your attorney may be able to advise you of other possible options.

Sincerely,

T. A. Lindsey, Executive Secretary
Michigan Court Reporting/Recording
Board of Review

xc: Janis K. Willis, 61st District Court
Kevin J. Bowling, SCAO Region II Administrator



STATE OF MICHIGAN

61st DISTRICT COURT

HALL OF JUSTICE

GRAND RAPIDS, MICHIGAN 49503

PHONE (616) 456-3278

FAX (616) 456-3311

JOSEF R. SOPER
Court Administrator
JANE E. MARKEY
Deputy Court Administrator

PAUL J. SULLIVAN
Chief Judge
JOEL P. HOEKSTRA
PATRICK C. BOWLER
BENJAMIN H. LOGAN
JANE E. MARKEY
MICHAEL CHRISTENSEN
Judges

March 23, 1995

Michigan Court Reporting/Recording
Board of Review
State Court Administrative Office
611 West Ottawa St., P.O. Box 30048
Lansing, Michigan 48909

Re: File #95-05, complaint filed by Kenneth Colvin against
deceased Court Recorder Phyllis Carr

Prior to her death in December of 1994, Phyllis Carr completed the certified transcript of the preliminary examination of Kenneth Colvin and provided copies as required. The Judge presiding over the preliminary examination was Judge Jane Markey. Effective January 1, 1995, Judge Markey became a Judge for the Michigan Court of Appeals. Until such time as a new Judge was appointed and court recorder selected, I became the guardian of the tapes and records of Phyllis Carr.

In late January, I received a request from Kenneth Colvin for a copy of the preliminary examination transcript tape, claiming that the transcript was inaccurate. Worthy of note is the fact that requests of this nature have been increasing from inmates of the Kent County Jail. In the absence of a Judge being assigned to this case, (a Judge had not yet been appointed to replace Judge Markey), I consulted with another Judge of this court, Judge J. Michael Christensen. He indicated that the tape was an official record of this court and as such, no copy would be reproduced unless ordered by the Circuit Court Judge assigned to Mr. Colvin's case. I forwarded the attached letter to Mr. Colvin and contacted his attorney, Judy Ostrander to inform her of the decision. She indicated that she would discuss the request with the Circuit Court Judge, later telling me that her request had been denied. I also informed her that in another case where the record had been challenged, upon request of the Circuit Court, we had set up a tape recorder with the defendant and all attorneys (defense and prosecution) present to listen to the tape.

In mid-February, at the request of Ms. Ostrander, I did set up a tape recorder and she listened to the portions of the tape that Mr. Colvin has challenged. A request from the Circuit Court Judge to allow Mr. Colvin to listen to the tape has never been received.

★ Curt Benson, a professor at Thomas M. Cooley Law School's Grand Rapids campus, painted the court's order as a dramatic departure from how cases involving most other judges have been handled.

"I can tell you that this is, I believe, only the fourth time in history that the Supreme Court has suspended a judge without pay pending a JTC (Judicial Tenure Commission) investigation. Normally, judges are suspended with pay," Benson said in a news release. "In the other three cases, two judges had already been convicted of felonies and their removals were mere formalities. In the third case, the judge had admitted dereliction of duty before the investigation had even begun. So the evidence against McCree must be quite compelling."

McCree, who was censured in October because of the photo, became embroiled in scandal a second time when Fox 2 News reported on the alleged affair. The case also involved a claim from McCree that a woman "was stalking and attempting to extort him." The case was referred to the Michigan Judicial Tenure Commission after the Wayne County Prosecutor's Office opted not to charge the woman.

According to earlier reports, the woman, Geniene La'Shay Mott of Detroit, claimed to the news station that she was pregnant with McCree's child and shared text messages she said were sent to her from the judge.

CONTACT ERIC D. LAWRENCE
ELAWBYRICE@FREEPRESSA.COM