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January 28, 2016

Mr. Dwayne Deal, C. P. M.
Offender Management Administrator
Nevada Department of Corrections
P.O. Box 7011
5500 Snyder Avenue, Bldg. #17
Carson City, Nevada 89702

Deal Mr. Deal:

By way of brief introduction, I am 84, a retired U.S.A.F. Lt. Col. and a retired professor with a Ph. D. from the University of Illinois.

My interest in the Mortensen case is purely altruistic. I am not related to him and I had no contact with him or with anyone related to his case until 2007. Since then I have been in frequent contact with him, and I have spent a lot of time studying his case. I believe he is innocent and wrongly convicted. The attached article supports my belief, and it also tells where the case is now resting. I believe it will be worth your time, in your busy schedule, to read the article.

During the time he was incarcerated at Lovelock I received 230 letters from him, which I have filed in the order received. In them he documented retaliations by certain staff members after he had filed grievances, relating especially to unprofessional medical treatment there. He never reported such treatment in other correction centers. I believe the record will show that he has been a model prisoner. To avoid further retaliation he should not ever be sent back to the Lovelock Correction Center.

Sincerely,

EW

Ron. F.Y.I.

A Revealing Sequence of Events

The conviction of Ronald L. Mortensen for the drive-by shooting of Daniel Mendoza on December 27, 1996, is old news. In summary, shots were fired out of the passenger window of a truck driven by Christopher Brady. Ronald Mortensen was the passenger.

Does the sequence of events that followed the shooting, described below, show due process under the U. S. Constitution, or does the sequence of events described below show that persons, acting under color of law, conspired to protect Christopher Brady, the drive-by shooter, and convict Ronald Mortensen?

1. Christopher Brady's statement about the drive-by shooting was taken by Brent Becker and another Metro police officer, Paul Bigham. Brent Becker was a close friend and former partner of Christopher Brady's father, Michael Brady, who was a long time Metro detective. Michael Brady sat in on the interview. Michael Brady and Paul Bigham were never asked to testify about the statement, under oath. Although Christopher Brady acknowledged he had reached across Mortensen's chest and pointed his gun out the passenger window, Brent Becker attempted to discount that fact in his trial court testimony. The officers took no statement from Mortensen.
2. Without further investigation, Sheriff Keller reported to the local media, and it was reported in the local media, that Mortensen was guilty of the drive-by shooting.
3. Christopher Brady was not asked to participate in a line-up. Although witness testimony would be suspect given the lighting conditions at the time of night when the shooting occurred, that Brady was not asked to participate is significant.
4. Brady's truck and clothing were not preserved as evidence to check for gun powder. He was allowed to wash his clothing, and modify and paint his truck before it was viewed by the trial jurors.
5. A scheduled preliminary hearing, for which subpoenas had been issued by Mortensen's defense counsel, Frank Cremen, to show Christopher Brady's bad performance record, was preempted by the District Attorney in favor of a secret grand jury proceeding.
6. Before convening the grand jury, which indicted Mortensen, a published report in a local newspaper said the bullet recovered from Mendoza's body came from Mortensen's gun. In fact, the bullet went through Mendoza's body and has never been recovered. Mortensen told me that Glenn Puit, the reporter, told him the false story was leaked by Gary Guymon who went on to prosecute Mortensen. I contacted Glen Puit who told me he does not reveal his sources to anyone. The fact remains that the false story was leaked.
7. Christopher Brady's attorney, Stephen Stein, a friend of Michael Brady, was the first witness before the grand jury. He vouched for the veracity of Christopher Brady, who

was the chief witness against Mortensen. Why Mr. Stein was allowed to vouch for Christopher Brady during the secret grand jury proceeding is suspect; especially given the fact that Nevada case law prevents this type of grand jury vouching

8. Although Cremen, before the grand jury met, notified Chief Deputy District Attorney John P. Lukens, in some detail, that the theory of Mortensen's defense was that Christopher Brady was the shooter, no indication of this was given to the grand jury, even though on two occasions a juror specifically asked about Mortensen's possible defense.
9. After Mortensen was indicted, Lukens wrote to Cremen, "As your client, Mr. Mortensen, has been indicted, there is no need for Metro to produce records pursuant to your subpoena for the preliminary hearing previously scheduled for January 24, 1997." Brady's bad acts were to be undisclosed. This became significant after the trial when the brutish behavior of Brady was revealed. Among other bad acts of threatening, striking, abusing, and pulling guns on Hispanic males, it was revealed that he had forced a woman, whom he had stopped for a violation, to perform fellatio on him.
10. One primary, alleged witness, Ruben Ramirez, had criminal cases pending in the district court at the time of his trial testimony. The defense was not notified by the prosecution of that fact during the trial, and did not discover that fact until after the trial.
11. Although Metro Officer Mark Barry knew that Brady had on several occasions said that he, Brady, would like to do a drive-by shooting, the trial jury was not informed of that fact. It became known when Barry testified under oath in a follow on federal investigation after the Mortensen trial.
12. To validate the prosecutor's opening statement at the trial, that Christopher Brady looked like a Hispanic, Brady was allowed to change his appearance by cutting his hair and darkening his skin.

In 2011, after his petition for writ of habeas corpus was denied by the Nevada District Court and the Nevada Supreme Court, Mortensen filed a habeas petition in the Las Vegas Federal District Court. On Jan. 28, 2013, Judge Kent Dawson ruled there were unexhausted issues remaining in the Nevada courts. At the request of his appointed contract defense attorney, Mario Valencia, Judge Dawson ordered a stay and abeyance, allowing Mortensen to return to the Nevada courts to litigate the unexhausted issues.

Ironically, Mortensen had attempted to litigate those issues in his original petition in Judge Douglas Herndon's Court in 2007, but he was not allowed a full evidentiary hearing. Judge Herndon limited the hearing to review only the reasons why Mortensen's defense counsel, Frank Cremen, did what he did. Then, in denying Mortensen's petition, Herndon, in part, defended his decision on what he said was Frank Cremen's good professional reputation.

Back in the Nevada State District Court, when Mortensen filed his successive habeas petition in 2013 in Judge Jennifer Togliatti's Court, the state cited procedural bars and said that to have gone through every item alleged in his original habeas petition "... would take us all day. " Obviously, the federal court judge believes that items of merit were missed by Judge Herndon. That is, the U.S. Supreme Court ruled in 2005, regarding a stay and abeyance order for a person by a federal district court: "The District Court would abuse its discretion if it were to grant him a stay when his unexhausted claims are plainly meritless."

The above article, which I wrote, was included, mostly verbatim, in an article, "Ron Mortensen Saga Continues", in the Las Vegas Tribune on March 30, 2014. The Las Vegas Tribune does not have a large circulation, but it does get many deliveries to the Las Vegas, Clark County Court House.

In April of 2014, Judge Togliatti ruled for the state and denied Mortensen's successive habeas petition, citing procedural bars. In May of 2014 his habeas appeal was filed in the Nevada Supreme Court. On September 16, 2014, the Nevada Supreme Court affirmed the decision of Judge Togliatti.

Now, with the stay and abeyance lifted, Mortensen filed the Second Amended Petition for a writ of habeas corpus on February 14, 2015 in the United States Federal District Court, District of Nevada.

Following what Mortensen deemed to be counterproductive work by his appointed counsel, Mario Valencia, on April 3, 2015, Mortensen filed a pro per motion asking Judge Kent Dawson to remove him and appoint a substitute defense counsel. Valencia has challenged the right of Mortensen to file pro per motions because Mortensen is represented by counsel, albeit that Valencia does not object to the Judge's appointing of substitute counsel. To date, no action has been taken by Judge Dawson to appoint a substitute counsel. Mortensen's case has in effect been frozen in place. Mortensen continues to wait for his day in federal court to defend the merits of the habeas writ.

I reviewed a letter of March 18, 2015, which Mario Valencia sent to Mortensen, which I believe identifies issues that justify appointment of a substitute defense council. It is not a letter that one would characterize as a letter in which a defense counsel is merely advising a client of the issues he must overcome to win a new trial or an acquittal.

In the letter, Valencia appears not to believe the substance in the writ of habeas corpus, which he, himself filed in behalf of Mortensen. Contrary to what the writ says that Brady's truck was not but should have been preserved as evidence, in the letter Valencia contradicts that. In fact, he appears not to know what is in the writ that he filed. That could be true because the well

prepared writ is largely a re-write of what David Schieck, the state public defender, had written in the state proceedings.

Valencia mocks Mortensen when Mortensen says that his prior counsels believed in his innocence. Valencia writes, "The very same lawyers you hired and, as you wrote in your last letter believed you were innocent, are the very same lawyers you blame for preventing you from presenting experts. If they believed so strongly in your innocence, why didn't they hire experts to investigate those issues (the weapons, the bullets, the different calibers, the wounds, the autopsy report/photos, etc.)? Why didn't they submit expert reports, or affidavits, or even have them testify?" Valencia seems not to realize that this challenge undercuts the *basic premise of the writ that he, himself, filed, which is that Mortensen did not receive effective assistance of counsel.* With a counsel like that, who needs a prosecutor?

Valencia's letter suggests that Mortensen showed poor judgment in being in a truck with Brady. He implies that based on Brady's reputation Mortensen should have known that Brady would fire 6 shots out the passenger window into a group. He fails to note that Brady was Mortensen's acting sergeant and that Mortensen in good faith merely wanted Brady to give him a ride home. Mortensen did not know that Brady would take him on a wild ride to McKellar Circle.

In the letter, Valencia implies that Brady was truthful because the jury believed him. He fails to be persuaded by the writ he filed, which shows that if there had been due diligence by counsel *the writ clearly shows that such due diligence would have shown at trial that Brady was not truthful.*

Valencia appears to believe the witnesses, even though the writ gives abundant reason not to believe them

Valencia downplays the fact that Brady asked Carye Morris to perform fellatio on him, saying that if it had come out at trial, it would have been very damaging to Mortensen because the state would claim that he had been complicit in that, "You helped with the stop and allowed Brady to take Morris *alone* knowing he was going to do something to (or with) her." This is silly: Mortensen had no authority to allow or to disallow Brady to do anything. Mortensen merely showed up to inventory and to tow the car. He had no control or interest in Brady's taking Carye Morris to jail, which is when the incident occurred.

Valencia wrote; "You claim there were "witnesses available" to show Brady had a penchant for going without warning on "wild rides without agreement of passengers." Who are these witnesses?" Again, Valencia seems not to know what is in the writ that he filed. The writ says, "Devi Mohr, who along with Bob Whitley and Troy Barrett, was taken on a "ride" by Brady after they left a bar just a few months prior to the McKellar shooting. Mohr had provided this

information to trial counsel, but the information was not elicited during the trial testimony. These facts could also be found in testimony before a federal grand jury, which was considering the activities of Brady. This is significant because Mortensen had simply believed that Brady would take him home, and not drive to McKellar where the shooting occurred.

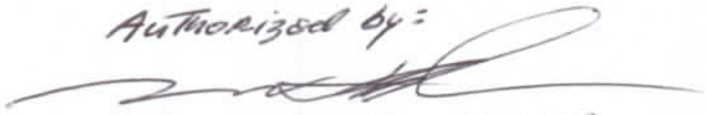
In the letter Valencia does not take seriously the inconsistencies, claimed by Mortensen, in the alleged trajectories of the bullets. That is, the bullets could not have both impacted a wall, as alleged at trial, and at the same time killed Mendoza.

In a *non sequitur* Valencia asks Mortensen if he was afraid to turn himself in, for fear that he would go to jail.

In summary, Valencia appeared either not to have absorbed what was filed in the writ of habeas corpus, or he did not believe it. In either case, the letter did not portend effective assistance by Valencia. For that reason, among others, Mortensen is asking for substitute counsel.

Edwin M. Wagner

January 27, 2016



Ronald L. Mortensen
Feb. 10, 2016

NOV 18, 2015

MY NAME IS CALVIN LESLIE YOU CAN CALL ME COLLECT AT (702) 531-1410 I AM A RESEARCHER I WORK WITH THE WRONGFULLY CONVICTED I AM THE FOUNDER AND EXECUTIVE DIRECTOR I AM INTERESTED IN YOUR CASE TO BRING A PETITION DRIVE AND A RALLY FOR YOUR CASE TO BE RE-OPENED I BELIEVE YOU WERE WRONGFULLY CONVICTED YOU CAN CALL ME ANYTIME I WANT TO COME VISIT YOU PLEASE CALL ME COLLECT I AM INTERESTED TO HELP YOU

Respectfully Submitted

Calvin J. Leslie

Families of the Wrongfully Convicted
Research Center

Families of the Wrongfully Convicted has shed light on the growing number of people who are convicted of crimes but not quilty of those crimes.

Calvin Leslie, lead researcher of cases involving LaTonya Hobson and Roosevelt Moore, who were wrongfully convicted of a crime, has found many unanswered issues surrounding their cases. Even the case of Maurice Carter, incarcerated 28 years, is scheduled to be released by Governor Jennifer Granholm of Michigan based on medical reasons, but his case raises many of the same unanswered concerns. Brother Carter strongly states his "innocence". There should be grevious consequences if innocence is proven, since Brother Carter will die soon of cancer.

Many probably will not care that an innocent person was wrongfully convicted because the system is flawed. Often prosecutors deliberately engage in prejudicial conduct and use false evidence and perjured testimony to get convictions and routinely fail to disclose evidence that would suggest innocence.

Imprisonment is like the board game of Monopoly in which a person is not allowed to pass Go and Collect $200, but sent directly to jail or prison and has no way out. This is why Families of the Wrongfully Convicted is so needed and has helped those families who have loved ones in the correctional system but have had no one to help win their release.

For more information, call Calvin Leslie, (231) 733-7707,

Families of the Wrongfully Convicted

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