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November 12, 2008

Hand Delivered:

Mr. Richard Gammick
Washoe County District Attorney
1 Sierra Street
Reno, Nevada 89501

Re: ***Nolan Klein***

Dear Mr Gammick:

Sometime in the week of September 22, 2008, you stated to a Channel 4 television producer that the sealed evidence envelope in the case of ***State v. Nolan Klein*** was opened and "used for testing." I represent Mr. Klein.

This letter is a formal demand for all documents reflecting the results of any and all tests performed on any and all evidence that was collected in that case. Also, please explain why the evidence was signed out of the evidence room in the basement of the Washoe County District Courthouse by someone from the Washoe County District Attorney's Office after the trial, and provide the name of the representative of the DA's office who removed the evidence in that case from the evidence room after the trial. Finally, please provide a court order or other documentation reflecting the authority under which the evidence was removed from the evidence room after the trial in that case. Please provide the documents and information requested within ten days.

Very truly yours,


Robert R. Hager

Advisory Commission on Admin. of Justice
Exhibit 6 pg 1 of 9 Date: 11-21-08
Submitted by: T. Brown

Pardons Board rejects pleas by nine of 15 petitioners

BY
NEVADA APPEAL CAPITOL BUREAU,

The Pardons Board on Wednesday rejected pleas for clemency by nine of 15 prison inmates, including John Olausen, convicted in the murder of undercover Reno police officer James Hoff.

Olausen was 18 when he participated in the 1979 murder, which occurred during a drug deal gone wrong. He has now served nearly 30 years on a sentence of life without possible parole.

Although Olausen said he regrets the killing "to the depths of my soul," Reno Police officer Dave Jenkins — one of the few officers still active who knew Hoff — said giving him a chance would be "an offense to every member of this community."

He asked the board to keep Olausen in prison and the board agreed, unanimously. When the board hit the cases of Robert Stoltz, given life for a Reno murder in the 1980s, and Jamie Cunningham, sentenced to life as an habitual criminal 15 years ago, they ran into a legal problem. David Smith of the Parole Board said even if those two were given the possibility of parole by the Pardons Board, parole officials couldn't release them because of a statute that precludes release from a life sentence if the inmate has a prior criminal history.

Justice Jim Hardesty said the conflict raises a public policy question and a possible conflict with the state constitution.

Attorney Richard Cornell, who represented both men, said Cunningham even has the support of the victim's father who believes him innocent of the crime.

In Stoltz's case, he said he has everything going right, "but because of this stolen check case from 1979, we can't give parole."

The board granted Amalia Boyer parole eligibility on her second degree murder conviction out of Clark County. She shot her best friend in the head when she was 16 and has spent the past 11 years in prison.

Jesus Avelar was released from his drug trafficking conviction and turned over to immigration authorities. He will be deported to Mexico and said he plans to work on the family's farm.

While Mark McKinney of Las Vegas was denied relief on his request to run 15 conviction sentences concurrently instead of consecutively, Michael Smith won concurrent sentencing on his 21 sentences. The difference, in the eyes of the board, was the extensive programs Smith has involved himself in including not only psychological counseling and substance abuse courses but educational classes. He will be eligible for parole in 2011.

The board continued the petition by Thomas Welsh, who pleaded guilty to first degree murder in Clark County and agreed to a life sentence without parole. Justice Michael Cherry said he wants to see the transcript of the sentencing hearing and the plea agreement to determine why Welsh basically got nothing out of the agreement except the maximum possible sentence.

The board also denied 76-year-old Janine Hillman, who was convicted of executing a Sparks 71-year-old 21 years ago. The victim's son, Dave Galleron, urged the board to reject the plea saying she held him prisoner, tortured and killed him, then spent three days draining his bank accounts while the victim's body lay in a hot tub. And the board denied Nolan Klein, who was convicted of sexual assault some 19 years ago. Attorney Robert Hager raised serious questions about the evidence in that case saying the district attorney and sheriff's office have allowed cigarette butts with DNA evidence on them to disappear from the evidence despite Klein's request they be maintained so they could be tested.

Klein has always maintained he is innocent of the crime.

Hager said the disappearance of the evidence is especially serious in the wake of a recent TV appearance by Washoe District Attorney Dick Gammick in which he told an interviewer Klein's evidence was tested.

"Where is that report?" Hager demanded, saying it could exonerate Klein of the crime. "It would either be exculpatory or incriminating."

After the denial, Hager said the issue will be raised in Klein's ongoing federal case.

Contact reporter Geoff Dornan at

or 687-8750.

To Prove His Innocence

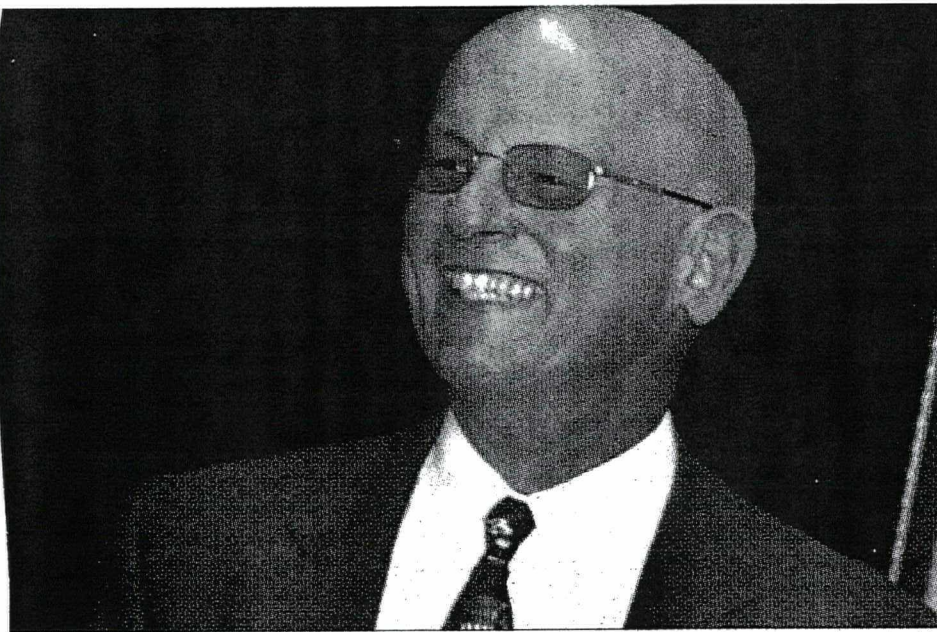
So, I, Tonja Brown, am asking that this letter will be placed in the file of Mr. Klein at the Pardons Board for the sole purpose of those who are viewing this case for the first time, really look deep into the pages where the lies of others have manifested and remained dormant for so many years. I have personally pointed out to you, the Members of the Pardons Board, where to look, and

where these lies have originated from and by whom. I have hopes and dreams that someday, there will come a day, when decisions will be based on the truth and the laws of our justice system will be followed, and not by what is the politically correct thing to do at the expense of the innocent, and that of the innocent, is worth saving no matter what the ramifications may hold. Isn't it?

I hope that there will be a day, when a new breed of Justices' will walk the corridors of our Nevada Supreme Court Building, who will have the courage to do the right thing, and no longer will the eyes of justice be blinded to what is staring them right in the face, that Mr. Klein, is in fact, INNOCENT."

Apparently, In 2008 our Nevada Supreme Court Justices and Pardons Board are not that new breed afterall!

Tonja Brown



Washoe County District Attorney Richard Gammick is at the center of an array of charges in a sexual harassment lawsuit.

Lawsuit challenges Gammick

Washoe D.A. is accused of tolerating manufacture of evidence to damage sexual harassment complainants in his office

The Washoe County District Attorney's office has been accused of manufacturing evidence and then destroying evidence of that manufacture in an effort to suppress a sexual harassment complaint against office employee Jay Mannlein.

by
Dennis Myers

A federal lawsuit was filed in U.S. District Court by veteran D.A. office employees Amy Peterson and Anje Earl, who deliver summonses for the district attorney. One of their fellow office workers, Jay Mannlein is charged in the lawsuit with engaging in "vulgar, misogynistic

cutions in Washoe County by revealing a willingness by the office to cross ethical lines to obtain convictions.

"Defendant Washoe County has a history of tolerating workplace violence, e.g., defendant tolerated violent ideation [forming ideas or mental images] from one of its employees, which was regularly directed at another employee, over a span of years," the lawsuit charges. "District Attorney Richard Gammick had personal knowledge of this course of conduct and minimized such. District Attorney Gammick, on occasion, laughed at the statements. Defendant [Washoe] County tolerated other forms of workplace violence, e.g., the employee, on two occasions, held a knife to the throat of the same victim in a threatening manner. This conduct was minimized and tolerated by District Attorney Gammick, and at least one other manager, via a claim, 'he's a good guy and has had a long career,' and 'that's the way he is.'"

Mark Mausert
Attorney

"Defendant Washoe County has a history of tolerating workplace violence."

statements" and violent language, such as—in describing an office employee he previously dated—"I'm going to chop the bitch up and bury her by the side of the road."

The charge that evidence was manufactured and then evidence of the manufacture concealed could, if substantiated, throw doubt on prose-

she failed to report Mannlein's "chop the bitch up" statement in a timely manner. (She reported it three days after he allegedly made it.)

- The office "investigation" of Peterson and Earl's charges was used to threaten Earl and her attorney, Mark Mausert.

- The two plaintiffs were retaliated against in the office, including in a way that threatened their personal safety when they were transferred to office space where they could not use software that aided them in delivering summonses in the safest possible manner.

- The plaintiffs received positive job evaluations until they reported their sexual harassment complaints.

The lawsuit names office employees Cynthia Wyatt, Marc Covington and Lidia Osmetti, though it does not fully explain why all of them were named. Covington is accused of destroying manufactured evidence. The lawsuit says that Earl was given a cell phone to use in her official duties, and that the phone already had a group of lurid phone messages on it when it was given to her, apparently to paint Earl as someone whose conduct invited such messages. Earl found the messages on the phone, the lawsuit says, and quickly returned it to Covington, who then deleted the messages. "Defendant [Washoe] County maintains an actual policy, in contravention of the written policies it purports to enforce, which allows for the manufacture of evidence, when convenient to serve the purposes of the District Attorney's Office," the lawsuit claims.

In addition, the lawsuit charges that Gammick or someone representing him "repeatedly attempt[ed] to effect substantive *ex parte* contact with plaintiffs, while knowing plaintiffs ... had expressed a desire to effect all substantive contact through counsel."

Mannlein, a native of Brooklyn, has "Women" listed after "Interested in" on his Facebook page. The suit says Gammick failed to act on "Mannlein's vulgar, misogynistic statements, and of Mannlein's propensity for threatening female employees."

The filing went on, "Mr. Mannlein is a large man, who has acquired and maintained a reputation of projecting a threatening mien, and of indulging in vulgar, misogynistic statements. ... The course of conduct which rendered

The lawsuit also charges that:
• Earl was penalized by being suspended for a day and received written discipline on the pretext that

NOLAN KLEIN #28074
Pardons Board Application
July 2008

Page 3 of 4

In 2007 the Board reinstated 4 expired sentences so that they could revoke them even though the law was pointed out to them which devastated them of jurisdiction over sentences which expired and no longer existed. Again in 2007 the Board was given advance notice that my upcoming parole hearing would be continued. I was informed that I would not be going and as such the prison did not generate the required parole report or take any other steps necessary for the hearing. Nevertheless, although I was told there would be a hearing, I later received a 2 yr. parole denial in the mail. Therefore, I believe the Board's position as stated to me on more than one occasion that until I relinquish my personal values, convictions, rights and truth, I will never be released. Although I know this I still know the truth and have maintained my innocence, simply because I should not have to lie to earn my liberty back and should not continue to be punished for doing what I have a right to do. I'm sorry it has to be this way for them, but it does and for that I feel I am condemned to die in prison.

Therefore, I believe the Pardons Board is my only hope. Even in the event the Federal Court was to provide relief, it could be another 10 years or longer as far as I know, during which time I could die from existing medical problems.

As for my medical issues, there are several. Most recently I almost died from MRSA which got into my bloodstream and attacked my internal organs. I am still being treated for it, and recently had to be treated for one of the infections that came from it. At present it is unclear how things will progress or regress, but the infections and treatment have left me with serious deficiencies in my blood, bone marrow, skin and ~~muscle~~ muscles, as well as my liver. Additionally, I now suffer from severe arthritis, especially in my feet, hands, knees and shoulders to the point that I am in pain consistently. The prison cannot provide anything for pain due to the blood issues, and medication that would not adversely affect the blood is unavailable in a prison setting. Therefore, in order to obtain any type of relief I would have to go to the V.A. or other public medical provider.

The Nevada "Psych Panel" pursuant to NRS 213.1214 has certified me as incompetent.

observation while confined in the institution of the Department of Corrections and does not represent a high and/or substantial risk to re-offend.

Also, I have consistently performed all of my job assignments diligently and to the best of my ability; have done volunteer work teaching literacy, reading and writing programs, as well as, the Vietnam Veterans of America as a member, a Director of the Board and also President of the Chapter. In addition, I have been involved in raising money to assist in breast cancer treatment, and raising money through the community to aid cancer victims in obtaining financial assistance in the treatment and care of cancer through Cancer Advocates. I have also participated in and completed several programs offered through grants and the NDCC in order to better understand some of the downfalls of my young adult life, as well as the consequences of my acts to myself, and more importantly, to others. I am currently unassigned due to medical issues.

I have earned a two-year Paralegal degree, as well as utilized other educational services offered through local schools and community colleges.

I have very close family ties and support in the local community. My mother is in poor health, and my son, Shane, is attending college in Arizona.

I have been offered and guaranteed employment by Robert R. Hager, Esq. in his law office located in Reno, Nevada, as a Paralegal. My family has accumulated approximately \$2,000.00 to place in an account in my name for the purpose of obtaining suitable housing and basic living necessities in the event I should receive favorable treatment from the Board and eventually released from prison.

Wherefore, I respectfully pray that the Pardons Board consider my application and for the foregoing reasons grant me the relief I seek herein.

Respectfully submitted,

Nolan Klein

BOARD OF PARDONS

Application for Commutation of Sentence - Page 1 of 2

Name: NOLAN KLEIN Location: NACC NDOC # 28074

This application is designed for inmates currently serving a sentence imposed by a Nevada Court. Applications that are not complete may be rejected. Once your application is complete, return to your caseworker for forwarding to the NDOC Director, or mail completed applications to the NDOC Director at PO Box 7011, Carson City, NV 89702 or 5500 Snyder Ave, Building 17, Carson City, NV 89701. Applications must be received by 5:00 P.M. on August 8, 2008.

Please indicate your answer by checking the YES or NO box after each question.

| | YES | NO |
|---|-----|----|
| Have you been housed in disciplinary segregation for any period of time within the past 36 months? | | X |
| Have you been found guilty of a major disciplinary infraction within the past 24 months or do you have a major disciplinary charge pending? | | X |
| Have you been found guilty of three or more minor/general disciplinary infractions within the past 18 months? | | X |
| Are you eligible for release on parole <u>to the community</u> within 12 months? | | X |
| Were you revoked on your current sentence <u>or</u> are you serving a single sentence that you received while you were on parole? | | X |
| Have you been denied release on parole <u>to the community</u> on your current sentence? | | X |
| Do you have any unresolved criminal charges? | X | |
| Is your case under appeal in a Nevada or Federal Court, <u>or</u> do you have plans to appeal your case in the future? | | X |
| Are you projected to discharge from prison before December 2009? | | X |
| Have you served <u>less than 36 months</u> on this current period of confinement? | | X |

If you answered 'YES' to any of the above questions, please provide an explanation as to why your case should be considered relative to the question you answered 'YES' to:

I have consistently maintained my innocence despite the fact that in 1996 the Parole Board made clear to me that I would never be released as long as I maintained this position or had an appeal pending, and have reiterated this fact at least 3 times since then. Therefore, this is my only chance for any action unless I choose to relinquish my values, convictions and truth with respect to this case. The Parole Board says I will die in prison. I do not feel this is fair, especially since all I seek is a trial where my evidence is clear.

If you are serving a sentence of Death or Life Without, please answer the following:

What year did you commit the offense that resulted in a sentence of Death or Life Without?

Pardons Board Inmate Case Agenda (Amended 10/13/2008)

Meeting of October 29, 2008

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| | | |
|--|-----|--|
| | e.* | Huffman, Lynn #21999 <ul style="list-style-type: none"> • Convicted in Washoe County for: • Case # 85998 Murder 1st Degree (Count I), Use of a Deadly Weapon Enhancement (Count I) • Serving: Life without the Possibility of Parole, CS Life without the Possibility of Parole • Inmate requests both sentences to be commuted to one sentence of Life with the possibility of parole. |
| | f.* | Davis, Roger #23363 <ul style="list-style-type: none"> • Convicted in White Pine County for: • Case # 1799 Murder 1st Degree (Count I), Use of a Deadly Weapon Enhancement (Count I) • Serving: Life without the Possibility of Parole, CS Life without the Possibility of Parole • Inmate requests sentences be commuted to allow the possibility of parole. |
| | g.* | Hillman, Janine #25689 <ul style="list-style-type: none"> • Convicted in Washoe County for: • Case # 871200 Murder 1st Degree (Count I), Use of a Deadly Weapon Enhancement (Count I) • Serving: Life without the Possibility of Parole, CS Life without the Possibility of Parole • Inmate requests commutation of sentences to Life with the possibility of parole. |
| | h.* | Klein, Nolan #28074 <ul style="list-style-type: none"> • Convicted in Washoe County for: • Case # 881692 Sexual Assault (Count IV) • Case # 88169 Use of a Deadly Weapon Enhancement (Count IV) • Serving: Life with Parole, CS Life with Parole • Inmate requests commutation of sentences to defined number of years to be served. |
| | i.* | Welsh, Thomas #28147 <ul style="list-style-type: none"> • Convicted in Clark County for: • Case # 85131 Murder 1st Degree (Count I) • Serving: Life without the Possibility of Parole • Inmate requests commutation of sentence to allow the possibility of parole. |

SUN EDITORIAL:

Unlock DNA evidence

Testing of biological evidence should be allowed even after a conviction

Sat, Nov 8, 2008 (2:06 a.m.)

Common sense has led 44 states and the federal government to pass laws allowing DNA testing after someone has been convicted at trial and appeals have been exhausted.

Alaska is a state where people convicted in local district courts are not covered by such a law. A case there has now gone to the U.S. Supreme Court, which agreed Monday to decide whether post-conviction DNA testing is a constitutional right.

The case involves a prison inmate convicted in 1994 of kidnapping, beating and raping a prostitute. The 9th U.S. Circuit Court of Appeals ruled in April that prosecutors should turn over biological evidence used to convict the man, so that it could be tested using today's much more precise methods.

Alaska prosecutors appealed to the Supreme Court, saying the appeals court had "created from whole cloth" a constitutional right of post-conviction access to DNA evidence, according to a story in The New York Times.

Yet the U.S. Constitution, which should and does evolve with the times, was written to safeguard people's rights. We believe an unqualified right for imprisoned people to have access to biological evidence that could determine their guilt or innocence through DNA testing would be in keeping with the intent of the Constitution.

We hope the Supreme Court shares our view. More than 200 convicted people in this country, including 17 who had been sentenced to death, have been exonerated through post-conviction DNA testing. Certainly they had a right to have their sentences overturned.