

Tonja Brown, Executrix/Administrator
Estate of Nolan Klein
2907 Lukens Lane
Carson City, NV 89706

IN PROPER PERSON

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

Department No. 7

NOLAN KLEIN
Petitioner,

Case No: Cv10-01057

V

WRIT OF MANDAMUS

WASHOE COUNTY DISTRICT ATTORNEY'S
JOHN AND JANE DOES A – Z

PARDONS BOARD

ATTORNEY GENERAL KATHRINE CORTEZ MASTO
JOHN AND JANE DOES A – Z

_____/Respondents

WRIT OF MANDAMUS

COMES NOW, Petitioner, NOLAN KLEIN, not by nor through his exclusively Motion to Compel District Attorney, Richard Gammick, counsel on record. This above Writ of Mandamus is an extraordinary / extenuating circumstances action, wherein, Counsel is not retained by this honorable Court nor KLEIN, thus, in proper person KLEIN respectfully submits his Writ of Mandamus. This Writ of Mandamus is presented upon the record of cases CR88-1692, (Appeal No. 27514). CR88-1692P, CV90-3087, CV KLEIN v HELLING, , Petition for Writ of Habeas Corpus, Case No. HC-0140892, Seventh Judicial District Court, filed August 19, 1992, Petition for a Writ of Habeas Corpus CV-N-94-193-DWH, United States District Court. KLEIN entitled actions on accompany Points And Authorities, and all the records filed in said enumerated cases, as well as, KLEIN'S Writs of Habeas Corpus CV-N-94-193-DWH, as part of the record and TONJA BROWN'S, appointment as Administrator/Executrix in the Matters of the late Mr. NOLAN KLEIN estate. (attached) Affidavit of Tonja Brown submitted as part of the record.

POINTS AND AUTHORITIES

1. December 17, 2009. Supreme Court State of Nevada, ADKT 427, ORDER; (ID. At 2, first Paragraph) : IT IS HEREBY ORDERED that the Nevada Code of Judicial Conduct shall be repealed and that the Revised Nevada Code of Judicial Conduct, as set forth in Exhibit A, shall be adopted in its place..... (Id. At Exhibit A-Page 25) RULE 2.15 Responding to Judicial and Lawyer Misconduct

(A) “A Judge having knowledge that another judge has committed a violation of the Nevada Rule of professional Conduct that raises a substantial question regarding the lawyer’s honesty, trustworthiness, or fitness as a judge in other respects shall inform the appropriate authority.”

(B) “A Judge having knowledge that a lawyer has committed a violation of the Nevada Rule of professional Conduct that raises a substantial question regarding the lawyer’s honesty, trustworthiness, or fitness as a lawyer in other respects shall inform the appropriate authority.”

(C) “A judge who receives information indicating a substantial likelihood that another judge has committed a violation of this Code shall take appropriate action.”

(D) “A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Nevada Rules of Professional Conduct shall take appropriate action.

COMMENT

[1]. “Taking action to address known misconduct is a judge’s obligation. Paragraphs (A) and (B) impose an obligation on the judge to the appropriate disciplinary authority the known misconduct of another judge or a lawyer that raises a substantial question regarding the honesty, trustworthiness, or fitness of that judge or lawyer. Ignoring or denying known misconduct among one’s fellow judicial colleagues of the legal profession undermines a judge’s responsibility to participate in efforts to ensure public respect for the justice system. This Rule limits the reporting obligation to those offenses that an independent judiciary must vigorously endeavor to prevent.”

[2] “A judge who does not have actual knowledge that another judge or lawyer may have committed misconduct but receives information indicating a substantial likelihood of such misconduct, is required to take appropriate action under paragraphs (C) and (D).

Appropriate action may include, but, is not limited to, communicating directly with the judge who violated this Code, communicating with a supervising judge, or reporting the suspected violation to the appropriate authority or other agency or body. Similarly, actions to be taken in response to information that a lawyer has committed a violation of the Nevada Rules of Professional Conduct may include but are no limited to communicating directly with the lawyer who may have committed the violation or reporting the suspected violation with the appropriate authority or other agency or body.”

ISSUES PRESENTED

PETITIONER, NOLAN EDWARD KLEIN, WAS DENIED HIS RIGHT TO A FAIR TRIAL AND DUE PROCESS, IN VIOLATION OF PETITIONER’S FOURTH, FIFTH, SIXTH, AND FOURTEEN AMENDMENTS, CONSITUTIONAL RIGHTS:

THE HONORABLE: SUPREME COURT CHIEF JUSTICE GIBBONS, JUSTICE HARDESTY, PICKERING, DOUGLAS, SAITTA, PARRAGUIRRE, CHERRY, GOVERNOR JAMES GIBBONS, ATTORNEY GENERAL CATHERINE CORTEZ-MASTO HAD KNOWLEDGE OF LAWYER’S MISCONDUCT AND CRIMES pursuant to ADKT 427 SHALL INFORM THE APPROPRIATE AUTHORITY:

1. The Materiality and Exculpatory Evidence that was withheld in violation of BRADY v MARYLAND, KLEIN’S FOURTH, FIFTH, SIXTH AND FOURTEENTH AMENDMENT. THESE VIOLATION WOULD LEAD TO THE WRONGFUL DEATH OF NOLAN KLEIN.

(a). Washoe County Deputy District Attorney, RONALD RACHOW, was the prosecuting attorney in the above entitled Case CR88-1692 STATE v NOLAN EDWARD KLEIN: Prosecuting Attorney RONALD RACHOW knew that KLEIN’S defense was being based on MISTAKEN IDENTITY and that KLEIN had an alibi placing him in Jack’s Bar in Carson City, NV during the time of the crime. RACHOW knew that he was violating KLEIN’S Constitutional Rights when RACHOW on November 10, 1988 filed a Motion in Opposition of KLEIN’S November 4, 1988 Motion for Discovery And Production of Exculpatory Materials. Rachow intentionally violated Judge Peter Breen’s court ORDER dated December 8, 1988 to turn over all the Materiality and Exculpatory Evidence to the defense. This is proven by RACHOW’S own handwritten notes on defense’s November 4, 1988 Motion for Discovery And Production of Exculpatory Materials. Rachow knew he was defying Judge Breen’s court order and thereby violated BRADY v MARYLAND and KLEIN’S Constitutional Rights to receive a fair trial.

(b) 373 U.S. 83 (1963) Brady held that “the suppression by the prosecutor of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or punishment, irrespective of the good faith or bad faith of the prosecution.” Id at 87. The Court observed: “Society wins not only when the guilty are convicted but when criminal trials are fair; our system or the administration of justice suffers when any accused is treated unfairly.” Id Brady’s constitutional due process standard has been incorporated into an explicit ethical duty upon government attorneys.”

© RACHOW’S acted in Bad faith. KLEIN was deprived due process, loss of liberty and life itself caused directly by Rachow’s deliberate concealment of evidence, done in deliberate indifference to the same, and outright defiance and contempt of court as demonstrated by handwritten notes to withhold exculpatory evidence.

(d) RACHOW violated KLEIN’S Due Process Clause of the 14th Amendment “No State...shall deprive any person of life, liberty, or property without due process of law.” the touchstone constitutional principles which underlies our system of criminal justice in the United States: when the government seeks to deprive one of life or liberty, due process requires the prosecution, the very adversary which seeks to punish the accused, to provide the accused. “There is no crueler tyranny than that which is exercised under cover of law, and with the colors of justice...” US v Jannotte, 673 F. 2d 578, 614 (3d Cir. 1982)

2. RACHOW violated several NRS Statutes under NRS 199, 41, Code of Professional Conduct, Supreme Court regulation ADKT 427 when he intentionally withheld the evidence that was clearly in violation of Brady and KLEIN’S Due Process.

NRS 199.310 Malicious prosecution. A person who maliciously and without probable cause therefore, causes or attempts to cause another person to be arrested or proceeded against for any crime of which that person is innocent:

(a). On June 10, 2009 found in the District Attorney’s file in the above entitled case was RACHOW’S unsigned Memorandum dated November 10, 1988 to Defense Counsel Shelly T. O’Neill. This was typed and never received by Ms. O’Neill, because, everything had been turned over from the Washoe County Public Defender’s to KLEIN . This was presented in KLEIN’S Post-conviction Petition, CV90-3087. This memorandum states. “attached to this memo please find materials that may be exculpatory and/or statements to the defendant. This information is provided to you pursuant to Nevada Revised Statutes Chapter 174 and Brady v Maryland. I have also attached a copy of the rap sheet of defendant.”

“I have reviewed the file as of November 9, 1988, and I believe that the attached material is all that falls within statutory discovery and Brady. If I discover any other material that arguably falls within Brady or within the provisions of the Nevada Revised Statutes chapter 174, it will be provided to you in an expeditious manner.”

(b). It is KLEIN'S belief that RACHOW would not have obtained a legal conviction had he not violated BRADY v MARLAND and had presented to the defense as well as the jury all of the evidence. This is based on the record and the following that during the Jury deliberations the Jury was DEADLOCKED and could not reach a decision until they heard two defense witnesses Barbara Hillman and William Richards's testimonies to be read back. Judge Charles McGee informed the Jury that it would take too long to have both testimonies transcribed so he ordered the Jury to pick one. They picked William Richards testimony. William Richards was a patron of Jack's Bar on the evening of May 9, 1988 during the crime was being committed. RICHARDS testified that he and KLEIN were playing pool until well after the time of the crime was being committed at 9:15 p.m.. This was raised in KLEIN'S Post-Conviction Petition CV90-3087, DV-N-94-193-DWH

3. The Materiality and Exculpatory Evidence that was withheld in violation of BRADY v MARYLAND KLEIN'S FOURTH, FIFTH, SIXTH AND FOURTEENTH AMENDMENT. When Rachow withheld the discrepancies between KLEIN and the Sparks Police Departments, prime suspect ZARSKY who disappeared after the crime.

(a) That under Petitioner's district court criminal case #CR88-1692, there were reports and composite drawings of suspects from three separate robberies, sexual assaults and attempted sexual assaults, of which Petitioner was suspected of committing because of the uncanny resemblance of the suspects in all three cases, i.e., that all three crimes took place in the same general area of Sparks, Nevada; that the victims in all three cases gave virtually the same general description of the perpetrator; and that in two of the cases, the victims said that the perpetrator gave them his name and that he had something wrong with his mouth and/or teeth.

(b) In the case in which Petitioner was convicted, the victims gave the same general description of 5'9" tall, tan complexion, sandy/blond hair, dark/brown eyes, and dirty clothing. During preliminary hearing, Bridgette Sloan testified that the perpetrator had broken teeth. *See*, Preliminary Hearing Transcript, October 3, 1988, pg. 60. At trial Ms. Sloan stated that he had brown eyes. *See*, Trial Transcript, January 24, 1989, pg. 99. Further, at trial the other victim, Theresa Rodela testified that the perpetrator had something wrong with his teeth or mouth, but couldn't remember what, and that he had dark eyes and that the Petitioner's eyes are blue. *See*, Trial Transcript, January 24, 1989, pg. 62-64. These factors pertaining to the description of the perpetrator are of special importance when viewed in light of the two other similar crimes of which Petitioner was suspected of committing.

(c) That the second crime Petitioner was suspected of committing is listed under Sparks Police Department Case No. 88-4238, which was a robbery/Attempted Sexual Assault committed on April 21, 1988. The general description given by that victim and the composite drawing of the perpetrator are virtually identical in most all respects. As in the case Petitioner is convicted of, the victim in the April 21, 1988 case also identified the perpetrator as having teeth chipped/missing and a speech impairment or cleft palate. The victim was also able to describe the perpetrator's vehicle as a possible 1965-67 Pontiac Bonneville - Dirty White. Also, the April 21, 1988 attacker gave the victim a name. All of the above characteristics of the crime and description were also found in the case for which Petitioner was charged and convicted. Furthermore, Petitioner's vehicle closely matched the vehicle description given in the April 21, 1988 attack

(d) That because the descriptions by the victims in SPD Case No. 88-4892 (the case Petitioner was actually charged with), and SPD Case No. 88-4238 (the April 21, 1988 case), were so similar to one another, the police contacted the victim of the April 21, 1988 crime and asked her to come down and try to identify the Petitioner's vehicle as the same vehicle driven by the April 21, 1988 perpetrator, at which time she was driven by Petitioner's vehicle for attempted identification, however, she did not identify the Petitioner's vehicle as the vehicle driven by her attacker on April 21, 1988.

(e) That the third case Petitioner was a suspect in was logged under SPD Case No. 87-11777 that was committed on November 18, 1987. And like the other two cases, the description of the perpetrator bore a remarkable resemblance to one another.

(f) That due to the striking and remarkable resemblance and similarities in the characteristics of the crimes and the descriptions of the suspect, it was the affirmative theory of the investigating detectives that all three crimes were committed by the same person, and that the Petitioner was the prime suspect in all three cases.

(g) That the only reason Petitioner was not charged with the crimes committed in SPD Case Numbers 88-4238 and 87-11777 is that Petitioner was identified by those victims as not being the same person that committed the crimes against them. KLEIN had been cleared and his vehicle all of this was withheld from the defense in violation of KLEIN'S Constitutional Rights in order for RACHOW to secure a conviction.

(h) That Petitioner's defense pursued at trial was mistaken identity and alibi, and evidence of another person committing the crimes alleged to have been committed by Petitioner, would have been consistent with the theory of defense pursued at trial, and was corroborated by the victims' own testimony at trial that the perpetrator had broken teeth or something wrong with him mouth and brown or dark eyes, whereas, Petitioner does not have broken teeth or a mouth deformity, and his eyes are blue, this exculpatory evidence was prejudicial to Petitioner's trial defense.

4. The Materiality and Exculpatory Evidence that was withheld in violation of BRADY v MARYLAND KLEIN'S FOURTH, FIFTH, SIXTH AND FOURTEENTH AMENDMENT.

(a). The fact that Petitioner had been named in Theresa Rodela's lawsuit on November 4, 1988, approximately ten weeks prior to Petitioner's trial ultimately resulted in counsel's failure to present valuable impeachment evidence when Ms. Rodela testified that Petitioner was not named as a defendant in her pending lawsuit, and actually went on to name all the defendants in the lawsuit, with the exception of the Petitioner. Trial Transcript, January 24, 1989, pg. 71.

(b) Whereas Ms. Sloan testified at preliminary hearing that she could not identify the Petitioner as the perpetrator of the crimes at the time she had seen Petitioner in person approximately two weeks after the crime. Preliminary Hearing Transcript, October 3, 1988, pg. 57-61. However, Ms. Sloan still managed to name Petitioner by his true and correct name in a civil suit during the time that she stated she could not positively say that Petitioner was the same person that committed the crimes. The civil complaint was filed several weeks prior to Petitioner even being arrested and a preliminary hearing was held, but still alleged in her civil complaint that Petitioner had committed the offense as alleged in the criminal complaint against him.

© That several times during closing arguments of KLEIN'S trial, RACHOW, expressed his opinion of the victim's motives and veracity by stating, "remember what they look like and remember how positive they were when they said it was him. They have no motive to come in here and lie." "You heard they have a civil suits going. They have civil suits going....but it's not against him. It makes no difference to those girls whether or not this particular individual is convicted except as a victim of the crime. They seek justice." (d) Under cross examination of Sloan when asked, Q. "Do you believe that your composite looks like my client? A. "Somewhat" Q. About a thousand other guys as well? A. "Yeah"

(d) On June 10, 2009 it was discovered in the file of the above entitled case that RACHOW had withheld the letters found in the file that he was corresponding with the Victim's attorney pertaining to the lawsuit back in September 1988. In fact, the attorney representing the victim had named another person other than KLEIN and it was RACHOW that informed them that it was not the person and then named KLEIN.

(f) That prior to KLEIN'S September 15, 1988 arrest, Bridgette Sloan, had filed suit against KLEIN before she was able to identify KLEIN in court at the Preliminary Hearing. Sloan was not given the photo lineup of KLEIN in May 1988, however, Theresa Rodela identified KLEIN thru a Photo line-up taken on May 22, 1988, thereby , making it a positive Identification and in court identification of KLEIN.

(g) That over the years study after study have been done on positive Identification thru eyewitness testimony, and photo line-ups have shown that wrongful convictions have occurred due to these types of photo arrays. In fact, KLEIN'S style of photo line up protocol is no longer being used through out our country because it has lead to wrongful convictions. IT IS ALSO TRUE THAT OF THIS WRITING, KLEIN'S PHOTO LINEUP HAS BEEN SHOWN TO 149 INDIVIDUALS WHO HAVE NO KNOWLEDGE OF WHAT KLEIN OR THE SUSPECT LOOK LIKE AND THEY HAVE PICKED KLEIN, NUMBER 3 OUT OF THE SAME PHOTO LINE UP THAT WAS SHOWN TO RODELA. This photo is what would be best described as tainted, because, the photo array depicts six men three on each side. Five of the men are from the chest up and KLEIN is cut off at the BEARD/CHIN. KLEIN is the darkest one featured and your eyes are drawn to him first unlike the other photos. This is called unconscious transference and this type of photo line up is no longer being used by law enforcement agencies. Neither , victims knew at the time of the crime that KLEIN had a full beard and not a 2-3 day old stubble as described by the victims. Evidence will show later as to why Counsel O'NEILL did not present beard evidence at trial CV-n-94-193-DWH, CV90-3087

(5) The Materiality and Exculpatory Evidence that was withheld in violation of BRADY v MARYLAND KLEIN'S FOURTH, FIFTH, SIXTH AND FOURTEENTH AMENDMENT.

(a) Because of the known discrepancies in the victims' identification testimony as compared to Mr. Klein's actual physical characteristics which would come to light during the trial, RACHOW told the jury that this case was going to come down to identity, and whether they were going to believe the victims or not, and if they did, everything would flow. Trial transcripts January 27, 1989 CV-09-30-87, N-94-193-DWH

(b) KLEIN was denied his right to a fair trial and due process of law to prejudicial prosecutor RACHOW'S misconduct by repeatedly vouching for the credibility of witnesses and accusing

defense witnesses of having motives to lie, in violation of KLEIN'S fifth and fourteenth amendment Constitutional Rights.

(c) RACHOW expressed his personal opinion as to the motives, veracity and credibility of the victims: and (2) RACHOW'S statements were misleading to the jury, where KLEIN was in fact named as a defendant by both victims in two separate lawsuits based upon the events that KLEIN was being tried for.

(d) These lawsuits were settled after trial at an award of nearly three quarters of a million dollars. RACHOW knew about these lawsuits prior to KLEIN being arrested and convicted. (e) Because of RACHOW violating KLEIN'S constitutional Right to due process, RACHOW is responsible for the wrongful conviction of Nolan KLEIN and because of his bad acts that resulted in the facilitation of a conspiracy of others to conceal a crime that RACHOW had violated BRADY v MARYLAND that ultimately lead to the wrongful death of an innocent man, Nolan KLEIN. (e) Because of RACHOW violating KLEIN'S Constitutional Rights and Due Process RACHOW is responsible for the wrongful conviction of NOLAN KLEIN and because of his bad acts, that resulted in the facilitation of the conspiracy of others to CONSPIRE TO CONCEAL A CRIME that RACHOW had violated BRADY v MARYLAND that ultimately lead to the wrongful death of an innocent man

(f) RACHOW is in violation of ADKT 427, Brady v Maryland NRS 199, 41, 174

6. The Materiality and Exculpatory Evidence that was withheld in violation of BRADY v MARYLAND KLEIN'S FOURTH, FIFTH, SIXTH AND FOURTEENTH AMENDMENT.

(a) Because of these discrepancies in the victims' testimony, RACHOW was well aware that he needed to support the state's position that despite these inconsistencies in the descriptions of the suspect as opposed to KLEIN'S physical characteristics, the victims were still correct in their identification of KLEIN. This was a close case. There was no physical or forensic evidence that linked KLEIN to the crime. The Jury seemed concerned about convicting KLEIN whereas it appears that they were giving KLEIN alibi defense serious consideration before informing the court they could not reach a verdict until they had the testimony of two defense witnesses read back to them, however, the court, Judge McGee would only allow one witness's testimony read back to them, Bill Richards. The jury reached a verdict on January 27, 1989, after Bill Richard's testimony was read back.

(b) In January 1990 Tonja Brown would make contact with one of KLEIN'S juror's who would inform her what a reason they convicted KLEIN was. Had Judge McGee given what the jury requested both testimonies. According to the juror, the believed that RICHARDS was being truthful, however, they believed that he was mistaken as to the time he left Jack's Bar in Carson

giving enough time to drive to Sparks to commit the crime. If McGee had given the jury what they requested both testimonies they would know that Richards was not mistaken because HILLMAN'S testimony supports RICHARDS making no mistakes as to the time KLEIN left Jack's Bar in Carson City. Had RACHOW turned over all of the evidence the jury would have had to speculate that RICHARDS was mistaken as to the time KLEIN left the bar.. See CV-n-94-193-DWH, CV90-3087. trial transcripts January 23-25, 1989

- (c) William RICHARDS would later become a Deputy with the Carson City Sheriff's Office who continues to stand by his testimony. Barbara Hillman is now deceased.

7. The Materiality and Exculpatory Evidence that was withheld in violation of BRADY v MARYLAND KLEIN'S FOURTH, FIFTH, SIXTH AND FOURTEENTH AMENDMENT. RACHOW WITHHELD EVIDENCE PERTAINING TO STATE'S WITNESS LOUANNE GRITTER AND PUBLIC DEFENDER SHELLY T. O'NEILL THAT IS NOW BEFORE THE 9TH CIRCUIT COURT OF APPEALS.

(a) That on May 4, 2009 the Honorable Judge Brent Adams issued an Order compelling Washoe County District Attorney Richard Gammick to turn over the DNA test results and the entire file in the above entitled case. On June 10, 2009 newly discovered evidence was found in KLEIN'S FILE pertaining to statements made by state's witness LOUANNE GRITTER that RACHOW withheld from the defense. RACHOW withheld information that showed motive and reason for GRITTER TO LIE. See letter to Steven Quinn filed September 8, 2009 and Writ of Habeas Corpus CV-N-94-193-DWH

(b) That on or about September 4, 2009 that I, Tonja Brown, personally telephoned and spoke to Deputy Attorney General Steven Quinn and informed as to the newly discovered evidence that supports KLEIN'S claims in the 9th Circuit Court of Appeals. On September 8, 2009 I filed a letter written to Deputy Attorney General Steven Quinn detailing our conversation as to the discovery of what was found in the District Attorney's file on KLEIN. I provided him copies of the evidence that supports KLEIN'S claims in the 9th Circuit Court of Appeals that is still pending. Exhibit Letter to Quinn.

© That I personally submitted this information to members of the Pardons Board that have yet to notify or do anything about all of the newly discovered evidence which is violation of the new Supreme Court regulations, ADKT 427 and in violation of NRS 199 Crimes Against Public Justice concealing a crime.

8. The Materiality and Exculpatory Evidence that was withheld in violation of BRADY v MARYLAND KLEIN'S FOURTH, FIFTH, SIXTH AND FOURTEENTH AMENDMENT. RACHOW WITHHELD EVIDENCE PERTAINING TO STATE'S

WITNESS LOUANNE GRITTER AND PUBLIC DEFENDER SHELLY T. O'NEILL
THAT IS NOW BEFORE THE 9TH CIRCUIT COURT OF APPEALS.

(a). That on June 10, 2009 statements found in KLEIN'S file of Louanne GRITTER revealed conversations with members of the District Attorney's office, including, RACHOW. Such as, but not limited too, Gritter calling RACHOW to inform him that KLEIN has been calling him collect to see if he has spoken to his public Defender, Shelly T. O'Neill. Gritter states that she does not want to speak to KLEIN'S public defender O'Neill, because she is afraid that O'Neill will learn about the crimes she has committed. Gritter would make arrangements to see RACHOW to discuss this. RACHOW violated KLEIN'S Constitutional Rights by withholding this information.

(b) Gritter goes on to mention how she has some difficulty identifying KLEIN's voice from others and then later says she will identify his voice on the 911 call. At trial RACHOW would bring state's witness Gritter into identify the voice on the 911 taped call as KLEIN'S. RACHOW would play the tape of the suspect's voice on the 911 call. RACHOW did not bring into court the taped interview of KLEIN'S voice during his detention on May 22, 1988, all without Miranda Warning. Trial transcripts, CV90-3087, CV-N-94-193-DWH

© That during KLEIN'S trial not one defense witness was asked to hear the 911 call. If RACHOW or defense counsel O'Neill had brought the tape of KLEIN'S voice during his May 22, 1988 questioning to play for the defense witnesses and jury to hear that would have concluded that KLEIN was not the one who called the 911 operator. I base this on hearing the 911 tape after trial. The 911 call is not the voice of Mr. KLEIN.

(d) During the June 20 – 21, 1991 Evidentiary hearing when asked of Counsel, O'NEILL about the 911 call tape, she stated, " O'Neill testified 'I believed it did not sound like Nolan Klein on the tape recording, and Mr. Klein was adamant that it was not he that telephoned the Sparks Police Department and made that confession.'"

9. KLEIN'S FOURTH, FIFTH, SIXTH AND FOURTEENTH AMENDMENT WERE VIOLATED BY COUNSEL PUBLIC DEFENDER SHELLY T. O'NEILL WHEN SHE COMMITTED PERJURY DURING THE EVIDENTIARY HEARING.

(a) That during the testimony of Ms. O'Neill she would go onto commit perjury and later in 1993 be confronted with it, wherein, she would admit that she lied during the Evidentiary Hearing of June 20, 1991. A perjury complaint would be filed by Tonja Brown and forward to the Washoe County District Attorney's Office where it would remain. When RICHARD GAMMICK would become the new District Attorney Tonja Brown would receive and continues to possess a letter from GAMMICK stating that the Statute of Limitations had run out on prosecuting O'Neill for perjury. See , Petition for Writ of Habeas Corpus, Case No. HC-0140892, Seventh Judicial District Court, filed August 19, 1992, Petition for a Writ of Habeas Corpus CV-N-94-193-DWH, United States District Court.

(b) That Attorney, Treva Hearne would contact O'NEILL regarding any comment she would like to make pertaining to the book "To Prove His Innocence" that featured Ms. O'NEILL in it. O'NEILL picked up the manuscript and returned it without comment.

© That O'NEILL in 2007 was being considered for the position of the Washoe County Public Defender's Conflict Unit. That Tonja Brown would present the documents supporting O'Neill's perjured testimony of June 20, 1991. O'NEILL would be asked by the Committee if she had anything to say, and she stated. "NO" O'NEILL was not considered for the position. This is on record with Washoe County See Case No. HC-0140892, Seventh Judicial District Court, filed August 19, 1992, CV-N-94-193-DWH, exhibit from book To Prove His Innocence.

(d) That this perjury by O'NEILL would continue to haunt KLEIN'S case that would ultimately be a factor in his cases. See, Letter to Keith Munro in book To Prove His Innocence.

(e) That on June 10, 2009 the Washoe County District Attorney's file on KLEIN would prove that O'NEILL had committed the perjury during the 1991 because, O'Neill could not have known about ZARSKY because RACHOW never turned over the evidence. It also discredits her testimony, credibility, trustworthiness, honesty and integrity. See letters to Steven Quinn and Keith Munro, Case No. HC-0140892, Seventh Judicial District Court, filed August 19, 1992, CV-N-94-193-DWH

(e) That because of O'NEILL'S perjured testimony her actions violated KLEIN'S Constitutional Rights that ultimately lead to the wrongful death of NOLAN KLEIN on September 20, 2009 for which O'NEILL should be prosecuted and disbarred. Attached email to District Attorney Richard Gammick and John Helzer.

9. KLEIN'S FOURTH, FIFTH, SIXTH AND FOURTEENTH AMENDMENT WERE VIOLATED WHEN SEVERAL INDIVIDUALS CONSPIRED TO CONCEAL A CRIME IN ORDER TO PROTECT THE BAD FAITH AND ILLEGAL ACTS COMMITTED BY DEPUTY DISTRICT ATTORNEY, RON RACHOW. (a)-(q) THAT WOULD LEAD TO THE WRONGFUL DEATH OF NOLAN KLEIN.

(a) Deputy District Attorney, Scott Edwards was representing the Washoe County District Attorney Office during KLEIN'S post-conviction. EDWARDS had the District Attorney's file on KLEIN. The same file that contained the newly discovered evidence on June 10, 2009 that RACHOW withheld in violation of Brady v Maryland and Mazzan, 993P.2^d at 37-38, 42-42 and FN1-3, NRS 199 Crimes against public justice, NRS. 193, 197, 205, 207, 252, 41 and the Code of Professional Conduct,

EDWARDS had KLEIN'S Petition raising 33 grounds. Edwards knew that KLEIN was presenting witnesses that he had between a 2-3 inch beard weeks before the crime, the day of the crime, up and to weeks after the crime and the suspect did not.

Edwards knew KLEIN maintained his innocence and that someone else had committed the crime. Some of this evidence that was discovered on June 10, 2009 was received from the Sparks Police Department containing evidence regarding prime suspect Zarsky, but, not all of it. In 1991 we could not prove if the Sparks Police Department turned over this evidence to the District Attorney. KLEIN would receive his entire file from the Public Defender's office and none of this evidence was in KLEIN'S file. On June 10, 2009 the truth was discovered that RACHOW never turned it over to the defense. Thereby, supporting the perjury against O'NEILL that later she would not deny that she had admitted that she had committed the perjury during the post-conviction hearing Edwards continued to fight KLEIN'S Petition know that the handwritten notes from RACHOW were in the file that indicated that RACHOW had withheld evidence in support of KLEIN'S claim that there was someone else responsible for the crime. On June 10, 2009 evidence from Gritter was found in the file, such as, but not limited to a letter to RACHOW when she was being contacted by an investigator during KLEIN's pos-conviction hearing regarding her being the Secret Witness. Statements from Gritter were also found in the file that support KLEIN'S case that is pending before the 9th Circuit Court of Appeals. All of this evidence RACHOW had and withheld and with the help of Edwards to keep this a secret from the defense he would have to conspire to conceal a crime RACHOW violating BRADY v MARYLAND when he intentionally withheld this information from the KLEIN and the Courts. .. See, CV90-3087, CV-N-94-193-DWH.

(b) Deputy District Attorney, Gary Hatlestad, was the prosecuting attorney on appeal. Hatlestad continued to fight KLEIN'S Petition/Appeal knowing there was exculpatory Evidence and Materiality Evidence, such as, but not limited to, the handwritten notes from RACHOW were in the file that indicated that RACHOW had withheld evidence in support of KLEIN'S claim that there was someone else thereby, supporting KLEIN'S defense of mistaken identity. Additional note: John Steven Olausen case is now pending in the Honorable Connie Steinheimer's Court regarding Hatelstad withholding evidence in John Steven Olausen's 1979 trial.

Hatlestad received additional information that was supplemented in that Defense Counsel, SHELLY T. O'NEILL, had been looking at the wrong photo, booking picture of KLEIN, to understand the beard evidence. KLEIN'S defense witnesses informed O'NEILL that KLEIN had a full 2-3 inch beard at the time of the crime. This was shown in the photo lineup taken of KLEIN on May 22, 1988. O'Neill had testified during the Evidentiary Hearing "And, frankly, in looking at the booking pictures, Mr. Klein had what we would term as a three-day growth of beard, or it was one of those situations that fell into it. And I thought it was kind of knit-picky in spite of all the other identification and alibi evidence that we had put forth."

Hatlestad was the attorney of record during the hearing of the missing DNA evidence. The DA's office conceded that the filter cigarette butts were gone but did not know what happened to them. The District Attorney's Office has been receiving Letters of Preservations since May 1989 to secure the evidence for future DNA testing.

That on May 4, 2009 the Honorable Judge Brent Adams issued an Order in the above entitled case for District Attorney Richard GAMMICK to turn over the DNA test results and the entire file in KLEIN'S case. On June 10, HATLESTEAD had the file turned over and newly discovered evidence that was contained within the file was discovered. Including the name of a police officer who had contacted Sparks Police Detective Sherman Boxx regarding a man hitchhiking carrying a blue suitcase that matches the composite sketch of the suspect the day after the crime. The name of the officer was found in the file who was involved in investigating who opened up KLEIN'S DNA evidence that was in the custody and control of the Washoe County Courthouse and the missing DNA filtered cigarette butts that the perpetrator smoked. The DNA tests results that GAMMICK publicly admitted on or about September 22, 2008 to opening up the DNA and testing it that results were not there.

It is KLEIN'S belief that sometime after conviction of January 1989 and after they received the first letter of Preservation May 1989 and before the 1995 discovery by BROWN, that a member of the District Attorney's Office illegally tested such evidence under a fictitious name, John Doe, because, the obtaining of such evidence was illegal could have had it tested at another lab outside the Washoe County area. It is also the belief that the tests results showed someone other than KLEIN and therefore, the tests results were destroyed.

©After Deputy District Attorney, Richard Gammick had been elected to the position of the Washoe County District Attorney he received information from Tonja BROWN pertaining to the perjury complaint filed by Brown against O'NEILL in 1992. GAMMICK would respond because of the Statute of Limitations had run out he could not prosecute O'NEILL for perjury even if his office felt appropriate to do so.

That in 1996 Tonja Brown would receive a letter from the Benjamin Cardozo School of Law, Barry Scheck, from the Innocence Project out of New York. BROWN would receive a letter addressed to Judge Mills Lane from Detective Niles Carson describing how they were going to take my new 1996 police report on the discovery of the missing filtered cigarette butts and place it onto a the closed 1995 case, the opening of KLEIN'S DNA kits. GAMMICK was aware in 1996 that there were ongoing problems with KLEIN'S evidence while in the control and custody of the Washoe County Courthouse, In 2008 GAMMICK admitted that he opened up the DNA and had it tested.

That over the years GAMMICK has made several statements to the public that he knows to be not true regarding KLEIN'S case. As the District Attorney, he was provided the documents in July 2009 that showed RACHOW had violated BRADY n MARYLAND and several members of the District Attorney's Office have conspired to conceal a crime including , GAMMICK himself. I incorporate this © with the following (a – r) as to the knowledge GAMMICK had pertaining to the illegal acts that have been perpetrated against KLEIN for the last 21 years. Including, but not limited, the 1996 interview given by GAMMICK regarding the ongoing investigation into the missing DNA evidence. In 2000 the presence of GAMMICK into KLEIN'S evidence while in the control and

custody of the Washoe County Courthouse, while a court order Issued by Justice Springer in September 1998 was still in effect that no exhibits were to be sent and no case was before the District Court, thereby, giving no reason for GAMMICK to be into the evidence when attorney, Ms. Treva Hearne would see the Index Tracking Cards indicating that GAMMICK had been into the evidence just days before she was viewing it. That District Attorney's Office had signed out the evidence and now even more evidence was missing. That KLEIN filed within the Court, Dept. 2 regarding this issue and Judge Charles McGee had denied KLEIN a hearing . The Supreme Court upheld that decision. Ms. Hearne gave an affidavit as to what she witnessed with regarding to KLEIN'S evidence and the notions made on the INDEX Tracking cards.

GAMMICK also received information that KLEIN was appearing before the October 2008 Pardons Board. That KLEIN'S health was failing. GAMMICK knew that RACHOW violated BRADY and conspired to conceal a crime by not disclosing what RACHOW had done.

(d) On or about February 16, 1996 Tonja BROWN received a letter from Barry Scheck and Innocence Project. After speaking to Detective Niles Carson regarding this letter and the brand new 1996 Police Report I filed in January 1996. He stated that when I contacted him in December of 1995 regarding this matter he had made contact with Judge Mills Lane who instructed NILES to wait until he became head of the Court in 1996. Brown had asked for a copy of the letter he wrote to Judge Lane so that she could provide this letter to Mr. Scheck. Carson said he would and then instructed BROWN to contact Judge Mills Lane regarding the missing filter cigarette butts and the Innocence Project. BROWN contacted Judge Lane to find out what keeps happening to KLEIN'S evidence and to inform LANE that the Innocence Project was taking on KLEIN'S case. LANE instructed BROWN to contact Judge McGee to set up a meeting with McGee and LANW. Brown did as instructed and called McGee's office. The office confirmed that McGee had received a copy of the letter from Detective Niles Carson to Judge Mills Lane and was then informed to contact District Attorney Richard Gammick to join this meeting. BROWN contacted GAMMICK and was informed that GAMMICK was not going to join this meeting and for BROWN to get an attorney. BROWN called McGee's Office back and informed him that GAMMICK would not join the meeting. McGee's office said that McGee said that he won't have ex-parte communications if GAMMICK isn't coming. BROWN then contacted LANE'S office and left him the message. No meeting took place. Judge Mills LANE conspired to conceal a crime, the missing cigarette butts, when he went along with Detective Niles Carson to place this brand new 1996 case onto a closed 1995 thereby hiding the ongoing problem with KLEIN'S evidence.

(f) Washoe County Judge Charles McGee was the presiding Judge over KLEIN'S trial, Post-conviction, Writ of Habeas Corpus, missing DNA evidence hearing and in 2000 when KLEIN discovered that the District Attorney's Office have been into KLEIN'S evidence for years and Exculpatory evidence keeps disappearing when the District Attorney's Office returns the evidence after they check it out.

McGEE conspired to conceal a crime, the missing cigarette butts, when he went along with Detective Niles Carson to place this brand new 1996 case onto a closed 1995 thereby hiding and then held a hearing in his Court and dismissing the case.

(g) Deputy District Attorney, John Helzer, conspired to conceal a crime, when he spoke before the Nevada Pardons Board on October 29, 2008. This was placed on the record when I appeared before the member of the Pardons Board on June 24, 2009

“ As an Advocate for the Innocent I am here to ask this Pardons Board to adopt a policy holding those accountable for misleading the Members of the Pardons Board. The Pardons Board is expected to make a fair, unbiased, informative decision based on the information that is provided to them.

I am now in possession of newly discovered exculpatory evidence as a result of the litigation that Washoe County Assistant District Attorney, Mr. Helzer, said we needed to litigate the disappearance of the missing cigarette filters that Justice Gibbons asked ADA Helzer about.

During the October 29, 2008 Pardons Board hearing in which my innocent brother, Nolan Klein was being considered for a Pardon, KLEIN’S Attorney, and Mr. Hager repeatedly stated to this Pardons Board that Mr. Klein has always maintained his innocence and the Parole Board will not grant parole unless he admits guilt. Mr. Hager went on to say and provided to you a copy of the television interview of Washoe County District Attorney, Dick Gammick, who publicly admitted that he had opened up the DNA and tested it. Mr. Hager then demanded to know where the DNA test Results were?

Immediately following Mr. Hager representation of my brother ADA Helzer spoke to the Pardons Board as to why Mr. Klein should not be given a Pardon. He went on to say. “Now before I came here, it’s kind of interesting, but before I even knew this was going to be considered for a Pardon, I was reviewing his file because I wanted to know more about it. I KEPT HEARING THINGS. I went over and talked to Commander Asher at the Sparks Police Department.” He continued on “And what is amazing to me, is that we have this continued denial in the sense that you are SUPPOSE TO BUY INTO IT.

On June 10, 2009 for the first time the Defense saw evidence that the prosecutor Ron Rachow hid from us. And after 21 years of incarceration it finally saw the light of day with Mr. Rachow’s personal handwritten notes on it.

According to Commander Asher’s report it would appear to be the THEORY OF THE Sparks Police Dept. that Mr. Zarsky committed this crime for which my brother was convicted of. In the documents provided to you the Prime Suspect’s report of Zarsky refers to other crimes and the other victims that they believed Mr. Zarsky committed too. However, those victims from those crimes had cleared my brother and his car.

Don’t you believe that as an Officer of the court ADA Helzer had a responsibility to speak the truth to you and the truth would be to inform you that while reviewing the file there was evidence that another person had committed the crime thus supporting my brother’s claim of innocence? Clearly this information that has been withheld from us for

all of these years is in violation of Brady and ADA Rachow makes a reference to Brady.

I ask that the Pardons Board adopt a policy, that when an inmate who maintains their innocence and appears before you, the District Attorney MUST DISCLOSE any evidence that was located in the file and inform the Pardons Board whether or not the evidence in the file was actually turned over during Discovery. If they do not and it is discovered that they new about this and deliberately withheld it they must be sanctioned and or disbarred and this must be carried out. (Placed on the record Pardons Board minutes of June 24, 2009 and the Pardons Board Hearing of November 19, 2009

That on or about July 1, 2009 BROWN contacted Commander Asher of the Sparks Police Department. ASHER was the Patrol Officer on May 9th 1988. ASHER was the one who discovered prime suspect RICKY LEE ZARSKY. ASHER was the one who took the victim from April 21, 1988 to KLEIN'S car and down to the Police Department who Cleared KLEIN of the crime. Zarsky police report. ASHER stated to BROWN that he had not spoken to Helzer regarding this case and when asked why he never said anything about ZARSKY or the victim from April 21st at KLEIN'S January 1989 trial, he stated, "because he was never asked."

July 13, 2009

Sparks City Council Members:

As an Advocate for the Innocent I base my request for the following. I ask that you place on your upcoming Agenda to discuss a future Oversight Policy regarding the Sparks Police Department's evidence and the way it is handled when it is turned over to the District Attorney's Office. I ask that the policy be that the Defense must be provided a copy of the list of evidence that was provided to the District Attorney Office.

We must put in place safeguards for those who have maintained their Innocence and in all fairness that a Defendant receives a fair an impartial trial. The Innocent should not have wait years if not decades because of an Honest Mistake that was made with regard to the evidence or it being intentionally withheld to get a conviction by an overzealous prosecutor. There are no laws that preclude a law enforcement agency from providing the Defense with a copy of what was provided to the District Attorney's office. Nor should there be.

I base this information on what has come to light after 21 years. Recently, a Washoe County District Court Judge has ordered District Attorney, Dick Gammick to turn over the entire file in Mr. Nolan Klein's case. Mr. Klein has always maintained his innocence and his defense were based on MISTAKEN IDENTITY, that someone else had committed the crime. We now know that there have more innocent people wrongfully convicted thru eyewitness testimony than any and all other factors combined.

It now appears that ADA Ron Rachow purposely withheld from the Defense all of the Exculpatory Evidence in this case. Including Commander Steve Asher's police report attached on their prime suspect, one Mr. Ricky Lee Zarsky. This report along with

several other pieces of evidence that was turned over by the Sparks Police Department in 1988 never made it trial because Ron Rachow withheld this evidence.

For 21 years the Washoe County District Attorney's have kept this secret buried until now. ADA Mr. Helzer even went to the Pardons Board knowing that this information was withheld from the Defense and he said nothing, however, he went so far as to state that he spoke to Commander Asher about this case. On July 1, 2009 I had a long conversation with Commander Asher. At first Commander Asher stated to me that he has not talked about this case since the late 1980,s or 1990's, since trial. I asked Commander Asher why he never mentioned Mr. Zarsky's during the trial. He said because he wasn't asked. When I asked if he had spoken to Mr. Helzer he said "NO". He then asked me why he would be speaking to Mr. Helzer. I then informed him about what Mr. Helzer said at the Pardons Board. Commander Asher went from NOT ever speaking to Mr. Helzer about this case to him to not recalling whether or not he did or didn't speak to him about Mr. Klein.

I ask the Sparks City Council to implement a policy for the Sparks Police Department that when they turn over the evidence to the District Attorney, that they also provide to the Defense a copy of what was turned over to the DA. This will secure any chances of an honest mistake being made or malicious intent. Then it will be left up to the court to decide what is or is not admissible for trial.

I also ask that you please notify me of the upcoming Agenda so that I may be present and provide you with any other documents that may be needed in support of this new policy. Placed on the record with the Sparks City Council. Tonja Brown

On or about July 13, 2009 Washoe County District Attorney, Richard GAMMICK received this information and the documents that Deputy District Attorney, John Helzer had conspired to conceal a crime that RACHOW had violated BRADY v MARYLAND in July 2009.

District Attorney Richard Gammick, Gary Hatlstead, Scott Edwards, John Helzer and JOHN and JANE DOES a-z, with information in hand of the clear miscarriage of justice further obstructed justice and further deprived KLEIN of life and liberty and basic freedom from incarceration. Their actions lead to the wrongful death on Nolan Klein. They are in violation of ADKT 427, NRS 199 Crimes Against Public Justice the Nevada Code of Professional Conduct.

(g) The Federal Public Defender was now representing KLEIN and had sent their investigators to investigate KLEIN's case. Judge/Justice James Hardesty was the head of the Court when KLEIN wrote Judge Hardesty a letter detailing the recent development of KLEIN'S evidence while in the control and custody of the Washoe County District Courthouse. BROWN notified Hardesty and spoke with Judge Hardesty regarding the ongoing problems with KLEIN'S evidence. It would appear now that the evidence had changed its appearance again and now some how the remaining cigarette butts had now grown in size. As head of the Courts Judge Hardesty never looked into the matter.

On October 29, 2008 KLEIN appeared before the Nevada Pardons Board. KLEIN'S attorney Robert Hager provided the members of the Pardons Board a copy of the interview given by Washoe County District Attorney Richard GAMMICK that clearly showed that BRADY had been violated. The Pardons Board, Gammick, Helzer knew that KLEIN'S health was declining.

When Chief Justice Gibbons asked ADA John HELZER about the missing DNA evidence that GAMMICK admitted to testing, HELZER stated he didn't know anything about it and that KLEIN could litigate the matter. KLEIN was not spoken to by any member of the Pardons Board, unlike the others who were appearing before them. KLEIN was denied a pardon.

On October 29, 2008, June 24, 2009 and November 19, 2009 Justice HARDESTY as a member of the Pardons Board was given the documents of the newly discovered evidence that confirmed that RACHOW violated BRADY by withholding the Exculpatory and Materiality Evidence. They were also given the documents in support KLEIN'S claim in the 9th Circuit Court of Appeals.

Nowhere in the Nevada Supreme Court's regulation ADKT 427 does it state that the Nevada Supreme Court Justice is excluded from their own regulation. Nor does it state that any State, County, Federal employee, elected official is excluded from this regulation. This regulation concerns the Public Welfare and this regulation does not state that it is or is not to be applied retroactive therefore, it must be considered retroactive.

Everyday that Justice HARDESTY dose not inform the 9th Circuit Court of Appeals and the Honorable Judge Brent Adams regarding of this discovery is another day they are concealing a crime and therefore, violating their own Supreme Court regulation and KLEIN'S constitutional rights. Nor does it say under NRS 199 Crimes Against Public Justice does a Supreme Court Justice is excluded from violating ones Constitutional Rights.

JUSTICE HARDESTY by remaining silent and not taking action to correct this miscarriage of justice done to KLEIN by RACHOW, Edwards, Hatlestead, Gammick, Helzer, and John and Jane Does, He is in violation of ADKT 427 and NRS 199 Crimes Against Public Justice

(h) On October 29, 2008, June 24, 2009 and November 19, 2009 Justice PARRAGUIRRE as a member of the Pardons Board was given the documents of the newly discovered evidence that confirmed that RACHOW violated BRADY by withholding the Exculpatory and Materiality Evidence. They were also given the documents in support KLEIN'S claim in the 9th Circuit Court of Appeals.

Nowhere in the Nevada Supreme Court's regulation ADKT 427 does it state that the Nevada Supreme Court Justice is precluded from this regulation. This regulation

concerns the Public Welfare and this regulation does not state that it is or is not to be applied retroactive therefore, it must be considered retroactive.

Everyday that Justice Parraguirre dose not inform the 9th Circuit Court of Appeals or take any kind of action against those who conspired to conceal a crime, including himself, is another day they are concealing a crime and therefore, violating their own Supreme Court regulation and KLEIN'S constitutional rights. Nor does it say under NRS 199 Crimes Against Public Justice does a Supreme Court Justice is excluded from violating ones Constitutional Rights.

JUSTICE PARRAGUIRRE by remaining silent and not taking action to correct this miscarriage of justice done to KLEIN by RACHOW, Edwards, Hatlestead, Gammick, Helzer, and John and Jane Does, He is in violation of ADKT 427 and NRS 199 Crimes Against Public Justice

(i) On October 29, 2008, June 24, 2009 and November 19, 2009 Justice CHERRY as a member of the Pardons Board was given the documents of the newly discovered evidence that confirmed that RACHOW violated BRADY by withholding the Exculpatory and Materiality Evidence. They were also given the documents in support KLEIN'S claim in the 9th Circuit Court of Appeals.

Nowhere in the Nevada Supreme Court's regulation ADKT 427 does it state that the Nevada Supreme Court Justice is precluded from this regulation. This regulation concerns the Public Welfare and this regulation does not state that it is or is not to be applied retroactive therefore, it must be considered retroactive.

Everyday that Justice CHERRY dose not inform the 9th Circuit Court of Appeals or take any kind of action against those who conspired to conceal a crime, including himself, is another day they are concealing a crime and therefore, violating their own Supreme Court regulation and KLEIN'S constitutional rights. Nor does it say under NRS 199 Crimes Against Public Justice does a Supreme Court Justice is excluded from violating ones Constitutional Rights.

JUSTICE CHERRY by remaining silent and not taking action to correct this miscarriage of justice done to KLEIN by RACHOW, Edwards, Hatlestead, Gammick, Helzer, and John and Jane Does, He is in violation of ADKT 427. (j) On October 29, 2008, June 24, 2009 and November 19, 2009 Justice CHERRY as a member of the Pardons Board was given the documents of the newly discovered evidence that confirmed that RACHOW violated BRADY by withholding the Exculpatory and Materiality Evidence. They were also given the documents in support KLEIN'S claim in the 9th Circuit Court of Appeals.

Nowhere in the Nevada Supreme Court's regulation ADKT 427 does it state that the Nevada Supreme Court Justice is precluded from this regulation. This regulation concerns the Public Welfare and this regulation does not state that it is or is not to be applied retroactive therefore, it must be considered retroactive.

Everyday that Justice CHERRY dose not inform the 9th Circuit Court of Appeals or take any kind of action against those who conspired to conceal a crime, including himself, is another day they are concealing a crime and therefore, violating their own Supreme Court regulation and KLEIN'S constitutional rights. Nor does it say under NRS 199 Crimes Against Public Justice does a Supreme Court Justice is excluded from violating ones Constitutional Rights.

JUSTICE CHERRY by remaining silent and not taking action to correct this miscarriage of justice done to KLEIN by RACHOW, Edwards, Hatlestead, Gammick, Helzer, and John and Jane Does, He is in violation of ADKT 427 and NRS 199 Crimes Against Public Justice

(j) On October 29, 2008, June 24, 2009 and November 19, 2009 Justice SAITTA as a member of the Pardons Board was given the documents of the newly discovered evidence that confirmed that RACHOW violated BRADY by withholding the Exculpatory and Materiality Evidence. They were also given the documents in support KLEIN'S claim in the 9th Circuit Court of Appeals.

Nowhere in the Nevada Supreme Court's regulation ADKT 427 does it state that the Nevada Supreme Court Justice is precluded from this regulation. This regulation concerns the Public Welfare and this regulation does not state that it is or is not to be applied retroactive therefore, it must be considered retroactive.

Everyday that Justice SAITTA dose not inform the 9th Circuit Court of Appeals or take any kind of action against those who conspired to conceal a crime, including himself, is another day they are concealing a crime and therefore, violating their own Supreme Court regulation and KLEIN'S constitutional rights. Nor does it say under NRS 199 Crimes Against Public Justice does a Supreme Court Justice is excluded from violating ones Constitutional Rights.

JUSTICE SAITTA by remaining silent and not taking action to correct this miscarriage of justice done to KLEIN by RACHOW, Edwards, Hatlestead, Gammick, Helzer, and John and Jane Does, He is in violation of ADKT 427 and NRS 199 Crimes Against Public Justice

(k) On October 29, 2008, June 24, 2009 and November 19, 2009 Justice DOUGLAS as a member of the Pardons Board was given the documents of the newly discovered evidence that confirmed that RACHOW violated BRADY by withholding the Exculpatory and Materiality Evidence. They were also given the documents in support KLEIN'S claim in the 9th Circuit Court of Appeals.

Nowhere in the Nevada Supreme Court's regulation ADKT 427 does it state that the Nevada Supreme Court Justice is precluded from this regulation. This regulation concerns the Public Welfare and this regulation does not state that it is or is not to be applied retroactive therefore, it must be considered retroactive.

Everyday that Justice DOUGLAS dose not inform the 9th Circuit Court of Appeals or take any kind of action against those who conspired to conceal a crime, including himself, is another day they are concealing a crime and therefore, violating their own Supreme Court regulation and KLEIN'S constitutional rights. Nor does it say under NRS 199 Crimes Against Public Justice does a Supreme Court Justice is excluded from JUSTICE DOUGLAS by remaining silent and not taking action to correct this miscarriage of justice done to KLEIN by RACHOW, Edwards, Hatlestead, Gammick, Helzer, and John and Jane Does, He is in violation of ADKT 427 and NRS 199 Crimes Against Public Justice

(l) On October 29, 2008, June 24, 2009 and November 19, 2009 Justice PICKERING as a member of the Pardons Board was given the documents of the newly discovered evidence that confirmed that RACHOW violated BRADY by withholding the Exculpatory and Materiality Evidence. They were also given the documents in support KLEIN'S claim in the 9th Circuit Court of Appeals.

Nowhere in the Nevada Supreme Court's regulation ADKT 427 does it state that the Nevada Supreme Court Justice is precluded from this regulation. This regulation concerns the Public Welfare and this regulation does not state that it is or is not to be applied retroactive therefore, it must be considered retroactive.

Everyday that Justice PICKERING dose not inform the 9th Circuit Court of Appeals or take any kind of action against those who conspired to conceal a crime, including himself, is another day they are concealing a crime and therefore, violating their own Supreme Court regulation and KLEIN'S constitutional rights. Nor does it say under NRS 199 Crimes Against Public Justice does a Supreme Court Justice is excluded from violating ones Constitutional Rights.

JUSTICE PICKERING by remaining silent and not taking action to correct this miscarriage of justice done to KLEIN by RACHOW, Edwards, Hatlestead, Gammick, Helzer, and John and Jane Does, She is in violation of ADKT 427.

(m) On October 29, 2008, June 24, 2009 and November 19, 2009 JUSTICE GIBBONS as a member of the Pardons Board was given the documents of the newly discovered evidence that confirmed that RACHOW violated BRADY by withholding the Exculpatory and Materiality Evidence. They were also given the documents in support KLEIN'S claim in the 9th Circuit Court of Appeals.

Nowhere in the Nevada Supreme Court's regulation ADKT 427 does it state that the Nevada Supreme Court Justice is precluded from this regulation. This regulation concerns the Public Welfare and this regulation does not state that it is or is not to be applied retroactive therefore, it must be considered retroactive.

Everyday that Justice GIBBONS dose not inform the 9th Circuit Court of Appeals or take any kind of action against those who conspired to conceal a crime, including

himself, is another day they are concealing a crime and therefore, violating their own Supreme Court regulation and KLEIN'S constitutional rights. Nor does it say under NRS 199 Crimes Against Public Justice does a Supreme Court Justice is excluded from violating ones Constitutional Rights.

JUSTICE GIBBONS by remaining silent and not taking action to correct this miscarriage of justice done to KLEIN by RACHOW, Edwards, Hatlestead, Gammick, Helzer, and John and Jane Does, He is in violation of ADKT 427 and NRS 199 Crimes Against Public Justice.

(n) On October 29, 2008, June 24, 2009 and November 19, 2009 GOVERNOR JAMES GIBBONS as a member of the Pardons Board was given the documents of the newly discovered evidence that confirmed that RACHOW violated BRADY by withholding the Exculpatory and Materiality Evidence. They were also given the documents in support KLEIN'S claim in the 9th Circuit Court of Appeals.

Nowhere in the Nevada Supreme Court's regulation ADKT 427 does it state that the Nevada Supreme Court Justice is precluded from this regulation. This regulation concerns the Public Welfare and this regulation does not state that it is or is not to be applied retroactive therefore, it must be considered retroactive.

Everyday that GOVERNOR JAMES GIBBONS dose not inform the 9th Circuit Court of Appeals or take any kind of action against those who conspired to conceal a crime, including himself, is another day they are concealing a crime and therefore, violating their own Supreme Court regulation and KLEIN'S constitutional rights. Nor does it say under NRS 199 Crimes Against Public Justice does a Supreme Court Justice is excluded from violating ones Constitutional Rights.

GOVERNOR JAMES GIBBONS by remaining silent and not taking action to correct this miscarriage of justice done to KLEIN by RACHOW, Edwards, Hatlestead, Gammick, Helzer, and John and Jane Does, He is in violation of ADKT 427 and NRS 199 Crimes Against Public Justice

(o) On October 29, 2008, June 24, 2009 and November 19, ATTORNEY GENERAL CATHERINE CORTEZ-MASTO as a member of the Pardons Board was given the documents of the newly discovered evidence that confirmed that RACHOW violated BRADY by withholding the Exculpatory and Materiality Evidence. They were also given the documents in support KLEIN'S claim in the 9th Circuit Court of Appeals.

Nowhere in the Nevada Supreme Court's regulation ADKT 427 does it state that the Nevada Supreme Court Justice is precluded from this regulation. This regulation concerns the Public Welfare and this regulation does not state that it is or is not to be applied retroactive therefore, it must be considered retroactive.

Everyday that ATTORNEY GENERAL CATHERINE CORTEZ-MASTO dose not inform the 9th Circuit Court of Appeals or take any kind of action against those who

conspired to conceal a crime, including himself, is another day they are concealing a crime and therefore, violating their own Supreme Court regulation and KLEIN'S constitutional rights. Nor does it say under NRS 199 Crimes Against Public Justice does a Supreme Court Justice is excluded from violating ones Constitutional Rights.

ATTORNEY GENERAL CATHERINE CORTEZ-MASTO by remaining silent and not taking action to correct this miscarriage of justice done to KLEIN by RACHOW. She is in violation of ADKT 427 and NRS 199 Crimes Against Public Justice.

(p) On or about September 4, 2009 I contacted and spoke to Deputy Attorney General, Steven Quinn, to inform him of the newly discovered evidence that supported KLEIN'S claims that are pending in the 9th Circuit Court of Appeals. Quinn stated that he would turn over the documents to Deputy Attorney Robert Weiland and ask him if it were in the best interest of the State to pull out of the 9th Circuit Court of Appeals then they would do it. I wrote a letter detailing our discussions and personally took it in and had it filed with the Attorney General's Office on September 8, 2009. KLEIN died a few days later and instead of notifying the 9th Circuit Court of Appeals the Attorney General's Office filed a notice of death, however, as the Administrator of Nolan Klein's estate, all of KLEIN'S cases are moving forward. Deputy Attorney General is violation of NRS Crimes Against Public Justice and in violation of ADKT 427

(q) According to Deputy Attorney General Steven Quinn he would be receiving the documents. If QUINN did in fact, turn over the documents to WEILAND then WEILAND too is in violation ADKT 427 and NRS 199 Crimes Against Public Justice,

® Deputy District Attorney John Helzer state to the Pardons Board that he heard things and looked in the file. Because of this statement it would apply to all the unknown JOHN AND JANE DOES who to looked in the file and said nothing.

RELIEF SOUGHT

That the Honorable Judge Brent Adams, pursuant to ADKT 427, 12-17-2009, New Set. ORDER, Report Washoe County District Attorney Richard Gammick, Deputy District Attorney Ronald Rachow, Deputy District Attorney Scott Edwards, Deputy District Attorney Gary Hatlestead, Deputy District Attorney John Helzer, All the members of the Nevada Pardons Board, Attorney General Catherine Cortez-Masto, Deputy Attorney General Steven Quinn, Deputy Attorney Robert Weiland, and all John and Jane Does A-Z to the proper authority, agency under this regulation ADKT 427.

Based on the newly discovered evidence that former prosecuting attorney, RON RACHOW,, had violated BRADY V MARYLAND and Nevada Revised Statutes Chapter 174. NOLAN KLEIN who has maintained his innocence from the first day of his questioning throughout his entire Court proceedings and in his final days leading to his wrongful death, KLEIN, asks this Court to consider every document, pleading, Exhibit, Grounds raised in Post-conviction, writs of Habeas Corpus, Writ of Mandamus as to where the grounds' - issues have or have not been fully addressed, or have reached the merits on or not in any of the state and federal Courts

KLEIN asks this Court to notify the Ninth Circuit Court of Appeals and inform them as to the newly discovered evidence that was found in the Washoe County District Attorney's on June 10, 2009 that RACHOW withheld the Materiality and Exculpatory Evidence that supports KLEIN'S case.

KLEIN asks this Court to Order a Hearing in the above entitled action.

KLEIN ask this Court to file criminal charges against those who violated BRADY v MARYLAND. Those who facilitated a wrongful death when they conspired to conceal a crime when they violated the NRS Statutes. Those who have violated the Nevada Code of Professional Conduct. Those who have violated ADKT 427. I ask this Court to file complaints with the State Bar of Nevada on those individuals who violated KLEIN'S Constitutional Rights and be disbarred from every practicing law in the State of Nevada.

Wherefore, KLEIN prays that the Honorable Court grant KLEIN'S Writ of Mandamus and overturn his conviction based on the newly discovered evidence that was in violation of BRADY v MARLAND and the Bad Faith that had perpetrated against KLEIN by several members of our judicial system.

TONJA BROWN, ADMINISTRATOR/EXECUTRIX OF
THE ESTATE OF NOLAN KLEIN.

2907 Lukens Lane
Carson City, NV 89706
775-882-2744

Affirmation:

The undersigned does hereby affirm that the proceeding document does not contain the social security number of any person.

Dated: _____, 2010

Signature_____

Tonja Brown
2907 Lukens Lane
Carson city, NV 89706
775-882-27744

Proper Person

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

NOLAN KLEIN
Petitioner,

Case No: CV-01057

Department 7

V

AFFIDAVIT OF TONJA BROWN

WASHOE COUNTY DISTRICT ATTORNEY'S
JOHN AND JANE DOES A-Z

PARDONS BOARD

ATTORNEY GENERAL KATHRING CORTEZ-MASTO
JOHN AND JANE DOES A-Z

AFFIDAVIT

Under penalty of perjury, I, TONJA BROWN, sister of the deceased, NOLAN KLEIN, who passed away on September 20, 2009 at the Northern Nevada Correctional Center in Carson City, NV.

That I appeared before the Honorable Judge Todd Russell in Dept 1 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN FOR THE COUNTY OF CARSON CITY. On October 26, 2009 and December 1, 2009 I was appointed the Executrix/Administrator of the Estate of NOLAN KLEIN to carry on with

all of KLEIN'S legal matter that are still pending within the Federal District Court and the 9th Circuit Court of Appeals and any future proceedings on behalf of the Estate of the late Mr. NOLAN KLEIN..

That I am over the age of 18 years old, that I have personal knowledge of all matters contained herein and competent to testify thereon. That I witnessed and am in possession of the evidence mentioned within Writ of Mandamus. That I have personally seen the injustice that has been done to Mr. KLEIN. That it was, I, Tonja Brown who conducted the investigation after Nolan KLEIN'S 1989 conviction. That I have personally seen the corruption, the cover up, the conspiracy, and lies that has gone on in Mr. KLEIN'S case. The evidence in my possession confirms this.

That Mr. KLEIN'S dying request was that I continue on to pursue justice for him to clear his name. That when DNA technology has advanced enough to test the minute semen sample left by the perpetrator of the May 9, 1988 crime that is being preserved within the Washoe County Crime lab that it is to be tested per new 2009 law on DNA testing.

That immediately after KLEIN'S death I made arrangements to preserve his DNA at the Washoe County Medical Examiner's Office, in Reno, NV where it remains today.

DATED this _____ day of _____,

TONJA BROWN

TONJA BROWN, Executrix
2907 Lukens Lane
Carson City, NV 89706
775-882-2744

In Proper Person

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

In the Matter of the Estate of
NOLAN KLEIN
Petitioner,

Case No: CV-01057

Department 7

WASHOE COUNTY DISTRICT ATTORNEY'S
JOHN AND JANE DOES A-Z

PARDONS BOARD

ATTORNEY GENERAL KATHRING CORTEZ-MASTO
JOHN AND JANE DOES A-Z

REQUEST TO SUBMIT

AFFIDAVIT OF TONJA BROWN
IN SUPPORT OF WRIT OF MANDAMUS

COMES NOW, Tonja Brown, in proper person, and hereby requests that the
AFFIDAVIT OF TONJA BROWN IN SUPPORT OF WRIT OF MANDAMUS,

Previously filed in the above-entitled matter on the _____ day of _____,
2010, be submitted to the Court for consideration.

DATED this _____ day of _____, 2010.

Tonja Brown
2907 Lukens Lane
Carson City, NV 89706
775-882-2744

CERTIFICATE OF MAILING

I, TONJA BROWN, do hereby Certify that on this _____ day of March, 2010, I placed in the mail a true and correct copy of the foregoing and attached Writ of Mandamus, and Affidavit in support of Writ of Mandamus for mailing, addressed to:

Washoe County District Attorney Office,
District Attorney, Richard Gammick
1 South Sierra Street
Reno, NV 89501-1928

Pardons Board
1677 OLD HOT SPRINGS ROAD. SUITE A.
Carson City, NV 89706

Attorney General Catherine Cortez-Masto
100 North Carson Street
Carson City, Nevada 89701-4717

EVIDENCE WILL BE PRESTED AT HEARING

William Richards:

“Q: Do you recall being with him on a night wherein a particular event was supposed to happen the next day?

A: Yes.

Q: And would you describe that?

A: We were discussing the possibility of Los Angeles falling in the ocean the next day, May 10th. It was in all the newspapers, and Nolan and myself and several other people in the bar were discussing that fact.

Q: What bar was this?

A: Jack's Bar.

Q: Who else was present?

A: There was Nolan, his brother Marty, his mother Pinkie, J.D. and Barbara, the bartender.

Q: And do you recall approximately what time you got there, Mr. Richards?

A: Five.

Q: And who was there when you got there?

A: Nolan, myself and his brother Marty.

Q: Did anyone leave during the course of the evening?

A: We were all there, and Pinkie and J.D. left around 9:00 o'clock that night.

Q: Why were you so sure about that time?

A: Because it was just starting to get dark.

Q: Do you recall what time Nolan left?

A: The best of my knowledge, we were there until ten, eleven o'clock that evening.

Q: Did you leave together?

A: No.

Q: Who left first?

A: Nolan left first.

Q: And could that have been any earlier than 10:00 o'clock at night?

A: No.

Q: Why do believe that?

A: Because I looked at the clock, gauging what time to go home.

Q: And why are you so sure that this was May 9th, 1988?

A: Because we were discussing the possibility of May 10th the following day, of Nostradamus' prediction coming true.

Are you sure it's May 9th?

A: It was during the course of that weekend or on Monday I read it in the paper and heard it on Eyewitness News, as well.

(Cross Examination by Rachow)

Q: Do you know Nolan Klien by any other name?

A: No, sir.

Q: Ever heard him called "Ed"?

A: No, not to my recollection.

Q: What kind of contact have you had with Nolan in the past?

A: We worked together at Reno Flying Service. And then we met on several occasions at Jack's Bar, went out to the river a few times.

Q: Do you patronize Jack's Bar on a frequent basis.

A: Yeah.

Q: Nolan do that, too?

A: At the time.

Q: When did he stop?

A: During the summer. I started to work and so I kind of lost contact with a lot of people.

Q: Were you still seeing him there in June?

A: In June? I believe so.

Q: Now, after May 9th, did you ever talk about Nostradamus again?

A: Not to my knowledge.

Q: And you never talked with anybody about it, just on this one occasion?

A: Just on this occasion, because it had been publicized. We were joking about having ocean-side property.

Q: Did you go back on Tuesday to the bar?

A: Possibly. Like I said, I frequented it quite often at that time because I lived right near.

Q: How did you happen to recall this particular date. Wasn't it because Pinkie came to you in July and asked you about it?

A: She asked me if I remembered discussing Nostradamus; and I said, yes. And had it been any other time, I wouldn't have remembered, but I remember Barbara worked on Mondays and Tuesdays, and I remember the date of the prediction, which is Tuesday, May 10th, and we were there discussing it the evening before.

Q: All right. But it was Pinkie that approached you in July?

A: She asked me if I remembered that evening and who was there.

(O'Neill on redirect)

Q: Mr. Richards, were you aware that at some during the summer Mr. Klien left to work in another area?

A: I believe he had mentioned something about going to California to work.

Q: Have you given similar statements to the statement you made today to other investigators?

A: I talked to Miss Ford back there, or Miss Cook.

Q: And have you been consistent in your testimony all the way along?

A: I believe so.

Q: Is there any question about the date in your mind?

A: No, none whatsoever.

Bill Richards would go on to become a Deputy with the Carson City Sheriff's Department where he continues to stand by his testimony that KLEIN and He were together during the time 9:15 – 10:19 pm the crime was being committed is Sparks, NV some 39 plus miles away.

BARBARA HILLMAN called as a witness herein

Q: What do you do for a living?

A: I'm a bartender.

Q: In May of 1988, where were you employed?

A: At Jack's Bar, Carson City.

Q: Approximately a year?

A: Yeah.

Q: Do you have a regular crowd in a bar like Jack's Bar?

A: Yes.

Q: Do you know the gentleman seated to my left?

A: Yes.

Q: And who is he?

A: Nolan.

Q: Do you know other members of his family, as well?

A: Yes.

Q: Who do you know?

A: I know his mother and his brother.

Q: Are they regular customers?

A: Well, his mother is; and the two of them come and go.

Q: Do you recall them all being present in your bar on a Monday night?

A: Yes.

Q: Was something unusual discussed that particular Monday night?

A: Well, we were all talking about California was supposed to drop off the next day, so we talked about that all —

Q: California was supposed to drop off where?

A: Into the ocean.

Q: And who was talking about that?

A: Nolan; his brother; his mother; myself; J.D.; and Bill.

Q: What was the time of your shift?

A: I came on at 6:00.

Q: Do you recall if Nolan Klien was present when you had arrived at work?

A: I believe he was.

Q: How long does your shift usually go?

A: Till 2:00.

Q: What happened during the course of the evening.

A: We just sat there and talked. Then Pinkie—Nolan's mother—and J.D. got up to go to dinner; and Nolan and Bill and his brother were still there. We just talked and, like I said, it wasn't busy and they drank.

Q: And that was approximately 9:00 o'clock?

A: Yeah. In fact, it was after that. I would say probably maybe 10:00, 10:30.

Q: And you would have recalled if Nolan left earlier than 9:00 o'clock?

A: Yeah, yeah, because we were all there. Nobody left.

Q: And you've let this fact be known from the onset of this case; correct?

A: Right.

Q: Are you related to Nolan Klein in any way?

A: No

Q: Is there anyway that you'd take the stand and testify falsely for him?

A: No.

Q: And you believe it was May 9th that you were all together?

A: Yes.

(Rachow cross examined)

Q: Ma'am, obviously California didn't fall into the ocean. Did you discuss this Tuesday in the bar?

A: Probably, yeah.

Q: Isn't it true, ma'am, that the first time you brought this forward was when Nolan's mother's Pinkie came forward to refresh your memory on the 4th of July?

A: She asked me if I remembered that night. And like I say, that's the only reason I remember that night.

Q: Didn't she help you with the details?

A: No.

Q: You're sure about that?

A: Yes.

Q: It would be a true statement that people come in time after time, right?

A: Usually.

Q: And yet it was only one night that this crowd ever talked about Nostradamus?

A: Yes, because that's—we were all waiting for California to drop off.

Q: Hadn't talked about it Sunday?

Q: I don't remember. Maybe we did.

Q: Did you see Pinkie on Sunday?

A: I don't know.

Q: See Nolan on Sunday?

A: No.

Q: See any of those people on Sunday?

A: I didn't see anybody on Sunday, because I don't work Sunday.

Q: Okay. So—And you don't know whether you saw them on Tuesday?

A: I didn't see Nolan on Tuesday. I don't know, Pinkie might have been in Tuesday. I don't pay attention, you know. They're just everyday people that come in.

Q: What time did Nolan leave that night?

A: I couldn't swear for sure, but I know it couldn't have been before ten o'clock.

Q: Who did he leave with?

A: I don't know that either.

Q: What was he wearing?

A: I have no idea.

Q: What was he driving?

A: I have no idea. I didn't see his car.

No further questions.

(O'Neill on re-direct)

Q: Is the lady that you spoke to in court today from the DA's office? The lady in purple seated behind me?

A: I spoke to people over the phone. I talked to a man in the bar that came in a gave me the subpoena.

Q: Would that have been my investigator, Tim Ford, in the gray jacket?

A: Yes.

Q: Had you provided a written document saying that you would be happy to testify and you provided that back in the summer, correct?

A: Right.

Q: Have you ever changed your position?

A: No.

Q: And has anyone promised you or given you anything in exchange for your testimony?

A: No.

(Cross by Rachow)

Q: Miss Hillman, you're telling the truth as best you remember it; right?

A: That's right.

Q: It is not possible you might be mistaken on a date?

A: No, none.

Q: You're absolutely sure?

A: Absolutely

Victim #1 Theresa Rodela May 9, 1988

Victim #2 Bridgette Bridgett Sloane May 9, 1988

Victim #3 case # 88-4238 April 21, 1988

Victim #4 Terri Colgrove

Victim #5 case 87-11777 November 18, 1987

Age: 30-35

Race: White

Sex: Male

Height: 5'5" - 5'10"

Weight: 135-140

Hair: Brown, sandy blonde

Eyes: Brown, dark

Facial Hair: 2-3 day old beard Stubbles, unshaven.

Build: Slender

Clothing: Levi jeans, white T-shirt, levi jean jacket, tennis shoes, brown belt, red/white flannel jacket.

Weapon: Red and Black knife, Exhibit C-2, simulated hand gun Exhibit H

Vehicle: Possible 1965-1967 Bonneville, BENCH seat April 21, 1988, Exhibit A-2 (c)

Location: Prater Way, Sparks, Prater and McCarran, Sparks, Oddie and El Rancho, Sparks.

Similarities: All 5 suspects have brown/dark eyes, hair parted on the side, brown/sandy blonde hair, 2-3 day old beard stubble, unshaven levi's and t-shirt, in his early thirties. crime located in Sparks, NV.

SUSPECTS from victims 1, 2,& 3 have BROWN EYES, CHIPPED FRONT TEETH SOMETHING WRONG WITH HIS MOUTH, RED AND BLACK KNIFE, GAVE A NAME, COMPOSITES MATCH THAT OF SUSPECT RICKY LEE ZARSKY PHOTOGRAPHS THAT WERE OBSERVED BY SPARKS PATROL OFFICER STEVEN ASHER AND DETECTIVE SHERMAN BOXX.

Victim's # 1 & 2 stated that the suspect was very dirty.

Victim #3 was withheld from the defense and jury. Exhibit C-5

Victims #4 said she saw a picture of him (composite) and it was the same man.

Zarsky? This information was withheld from the defense and jury. Exhibit G

1

Victim #5 composite resembles the same composites done from victims #1-4

Victim #5 was withheld from the defense and jury. Exhibit H

All of these cases were combined and placed in one file that came forward at the 1991 Post-Conviction Hearing.

Identifying marks: CHIPPED FRONT TEETH, SOMETHING WRONG WITH HIS MOUTH.

Eyewitnesses: Victim's #1 Theresa, Victim #2 Bridgette Exhibit 1, 2, 3, 4, & C-1- C-5

Detective Sherman Boxx identified the Ricky Lee Zarsky photograph's from the Nevada Plasma and Reno Plasma Center resembling that of the Composites from all three victims. Detective Boxx put together 3 separate photo lineups. Two of the three photo line ups were shown to victim #2. (The TAINTED photo line up

that Mr. Klein appeared in was shown only to victim #1, wherein, she positively identified Mr. Klein. Just as Commissioner/Public Defender Phil Kohn has along with 132 other people.) Exhibit #2, 3, 5, 7, & Exhibit D

Detective was aware of Victim #3 that she was never shown any photo line up of Mr. Klein, because, she had seen him in person and his vehicle and had CLEARED MR. KLEIN on May 22, 1988. This eyewitness could not go to the jury, because, this would have supported Mr. Klein's defense on MISTAKEN IDENTITY when all three victims stated that he had something wrong with his mouth and chipped teeth and brandished red and black knife. Exhibit 3, C-2 & D <http://www.leg.state.nv.us/74th/Exhibits/Senate/JUD/SJUD486E.pdf> for April 21, 1988 statement that is on file in the 117 pages of exhibits.

Detective Frank Torres: Compiled the composite sketch from victim's 1 & 2 Exhibit 5

This report Exhibit D on Mr. Ricky Lee Zarsky was withheld from the defense and jury. DA's response to the Supreme Court on the prime suspect Zarsky . "For some reason, this issue was not addressed by Judge McGee in his Order Denying Post-Conviction Relief. See Exhibit E

PRIME SUSPECT: RICKY LEE ZARSKY Exhibit D disappeared the day after the crime never to be seen. After the hearing I went to find Zarsky. In 1991 according to the Karl's Silver Club Personal Department Mr. Zarsky's NEVER PICKED UP OR SENT FOR HIS LAST

PAYCHECK. By law, they were required to hold it for him. I have since then ran a check on Mr. Zarsky thru his SSN. I know that since, May 9, 1988. Mr. Zarsky has never gone by the spelling of Ricky Lee Zarsky the name that was on the May 10, 1988 police report, Exhibit D. He is continuing to use different spellings of his name and changing his name around, such as, Lee Zarsky among other spellings, however, he has continued to use his SSN for the different spellings. In the most recent search he is going by the name Rickey Zarsky. Exhibit I

2

Suspect/Defendant: NOLAN KLEIN

Age: 33

Race: White

Sex: Male

Height: 5'11"

Weight: 150

Hair: Blonde

Eyes: Blue, bright

Facial Hair: 2-3 inch BEARD

Build: slender

Clothing: Levi's and black T-shirt

Weapon: Owned a brown wooden buck knife with brass ends

Vehicle: 1967 Impala with BUCKET seats and a counsel

Location: Jack's Bar, Carson City, NV

Similarities: Within in the age, height, weight group, wore similar type clothing, owned a knife, and drove a car similar to the one victim #3 had gotten into and cleared Mr. Klein and his car on May 22, 1988.

Identifying Marks: Tattoo's

Eyewitnesses: Barbara Hillman, Bartender at Jack's Bar Exhibit #9

William Richards, playing pool with Mr. Klein. Exhibit # 10

John Darnell, present at Jack's Bar in Carson City. Exhibit # 11

Eunice Wilkinson, Mother and was present at Jack's Bar. Exhibit # 12

Tonja Brown, sister, called Mr. Klein at Jack's Bar Exhibit # 13

CarlaJo Marsh, eyewitness that was never called to testify

at trial, however, testified at Post-Conviction Hearing June

20, 1991. Exhibit J Cindy Haas, eyewitness that was never called to testify at

Trial, however, evidence was presented at Post-Conviction Exhibit K

Barbara Hillman gave an affidavit that she was shown a picture (Composite) by Ms. Wilkinson in the Summer of 1988. She said that the reason when she said no when she was asked if the composite looked like Mr. Klein, was because, Mr. Klein had a full beard on May 9, 1988 and the photo(composite) did not.

Other witnesses came forward to testify that Mr. Klein was seen having a full beard weeks before the May 9" crime, including the day of to several day's later. Exhibit 7 photo line up shows beard. Composite sketch does not.

Ms. Shelly O'Neill, Public Defender, testified with regard to why

She did not present the beard evidence, Prime suspect Ricky Lee

Zarsky and inconsistencies in the victims testimonies. Exhibit B

Mr. Don Lutzenberg, saw the suspect and wrote down Vehicle licence plate.

Mr. Lutzenberg was never contacted by the defense.

Bartender from the Abbey Hotel, identified the composite as one RICKY LEE ZARSKY. This witness was withheld from the defense and jury. Exhibit D

Jeff Petty was the room mate of Mr. Zarsky. Mr. Petty informed the police the

Mr. Zarsky was selling his blood that day and had sold his blood back in April.

Which would have shown to the jury that Mr. Zarsky was desperate for MONEY.

This witness was withheld from the defense and jury. Exhibit D

Because of the known discrepancies in the victims' identification testimony as compared to Mr. Klein's actual physical characteristics which would come to light during trial, the prosecutor told the jury that this case was going to come down to identity, and whether they were going to believe the victims or not, and if they did, everything would flow. For instance, the sexual assault victim ("Victim") described the perpetrator to police on the night of the crime as having broken front teeth or something else wrong with them, and that he had brown eyes. She acknowledged that Mr. Klein has blue eyes, even though she could not see that well from the distance in the courtroom, and was actually closer at the time of the crimes.

She went on to state that she was sure the suspect had dark eyes and that Mr.

Klein has blue eyes. Victim 1 picked Mr. Klein out of the photo line--up

prepared by Detective Boxx, but acknowledged that Boxx had informed her that they had arrested a man for the crime the night before, but had to let him leave. She had worked 12 hours that day, she did not turn around and look at the man, and only saw the man clearly when he came to the bathroom door, but after she came out it was dark in the back room and there wasn't enough light to see. The robbery victim ("Victim 2") said she got a good look at the man that he had brown eyes and the only difference in his appearance in court was that he was clean shaven. She had seen Mr. Klein on May 22, 1988, just two weeks after the crime, but could not identify him as the suspect because he was cleaner, which was no different than his appearance in court, nor was she able to identify Klein from any photo line-ups, because, Mr. Klein was not in the first two photo line ups because Detective Boxx said, " Because she had seen the defendant on the day the picture was taken, and I felt that would taint whether or not she **could objectively pick the subject out**" When asked, "**So you were going on victim identity alone?**" **Detective Boxx, answered, "yes"**. If you look at Exhibit 7 the photo line up picture #3 showing Mr. Klein with a full beard, you will see that he is cut off at the chin, he is the darkest picture compared to the other photo's making it a very suggestive photo line up. When you compare this Exhibit 7 to Exhibit 3 the composite sketch they are not the same person. If you look at Exhibits N & O, Mr. Klein is seen with no broken teeth or anything wrong with his mouth.

Then you must take into consideration the person who put together the photo lineup Detective Frank **Torres' testimony, that he even states that it was SOMEWHAT UNUSUAL** that Detective **Boxx** put a photo line up together with all the men having blue eyes when the suspect had either brown or dark eyes. Exhibit 6 Essentially, Victim #2 was unable to identify Mr. Klein until she saw him at preliminary hearing dressed in jail garb, yet filed and served a civil lawsuit on Mr. Klein prior to ever identifying him in court, from which Mr. Klein was dismissed after the preliminary hearing.

This is what Judge Charles McGee classifies as an IN COURT IDENTIFICATION

THAT WAS POWERFUL AND OVERWHELMING. Exhibit P Because of these discrepancies in the victims' testimony, the prosecutor was well aware that he needed to support the state's position that despite these inconsistencies in the descriptions of the suspect as

opposed to Mr. Klein's physical characteristics, the victims were still correct in their identification of Mr. Klein.

This was a close case. There was no physical or forensic evidence that **linked Mr. Klein to the crime. The jury seemed concerned about convicting Mr. Klein**, whereas it appears that they were giving Mr. Klein's alibi defense serious consideration, in that, on the first day of deliberations the jury deliberated approximately nine (9) hours before informing the court that they could not reach a verdict until they had the testimony of two defense witnesses read back to them; however, the court, Judge McGee would only allow one witness's testimony read back to them. The jury chose Bill Richards. The jury reached a verdict on January 27, 1989, after Bill Richards' testimony was read back.

However, one must wonder what would the outcome have been if all of the evidence from all of the witnesses and victims had testified at trial? Would the jury have convicted Mr. Klein if they had known that he had a full beard at the time of the crime, which was inconsistent with the suspect having a STUBBLE.

TONJA BROWN, Executrix/Administrator
2907 Lukens Lane
Carson City, NV 89706
775-882-2744

In Proper Person

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

ESTATE OF NOLAN KLEIN

Petitioner,

Case No: CV10-01057

Department 7

Vs

REQUEST TO SUBMIT

MOTION FOR CLARIFICATION

WASHOE COUNTY DISTRICT ATTORNEY'S
JOHN AND JANE DOES A-Z

PARDONS BOARD

ATTORNEY GENERAL KATHRINE CORTEZ-MASTO
JOHN AND JANE DOES A-Z

COMES NOW, Tonja Brown, in proper person, and hereby requests that the MOTION
FOR CLARIFICATION, Previously filed in the above-entitled matter on the _____
day of _____, 2010, be submitted to the Court for consideration.

DATED this _____ day of _____, 2010.

Tonja Brown
2907 Lukens Lane
Carson City, NV 89706
775-882-2744

TONJA BROWN, Executrix/Administrator
2907 Lukens Lane
Carson City, NV 89706
775-882-2744

In Proper Person

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

ESTATE OF NOLAN KLEIN

Petitioner,

_____/

vs.

Case No: CV10-01057

Department 7

WASHOE COUNTY DISTRICT ATTORNEY'S
JOHN AND JANE DOES A-Z

PARDONS BOARD

ATTORNEY GENERAL KATHRINE CORTEZ-MASTO
JOHN AND JANE DOES A-Z

MOTION FOR CLARIFICATION

COMES NOW, Petitioner, NOLAN KLEIN by and through Tonja Brown, Executrix/Administrator of the Estate of Nolan Klein do hereby ask the Court for Clarification on the recently issued ORDER by the Honorable Judge Patrick Flanagan dated May 18, 2010.

In the recent May 18, 2010 ORDER, the Honorable Judge Patrick Flanagan made reference to the Respondents as the District Attorney's John and Jane Does A-Z file a Response to the Petition for the Writ of Mandamus within 30 days of the date of the Order.

I ask the Honorable Judge Patrick Flanagan for Clarification on the other Respondents the Pardons Board, Attorney General Katherine Cortez Masto, John and Jane Does A-Z that were named in the Writ of Mandamus, The Petitioner is somewhat confused on whether or not the District Attorney Richard Gammick is to respond on behalf of the other Respondents named, Pardons Board, Attorney General Katherine Cortez Masto and John and Jane Does A-Z as well as responding to the John and Jane Does A-Z within the District Attorney's Office.

The Pardons Board and the Attorney General Katherine Cortez Masto, John and Jane Does within the Attorney General's Office went outside the scope of their professional duties when they refused to contact the Courts when they received the newly discovered evidence. Under ADKT 427 and NRS'199 they do not have immunity from what was raised in the Writ of Mandamus. These individuals are put in place to protect the rights of the citizens of our State, not to protect the wrongdoings of others at the expense of the innocent or the life of another.

The Petitioner asks the Court for a Clarification on who will be responding on behalf of the other Respondents named? Or is the Petitioner required to take the Pardons Board and the Attorney General Katherine Cortez Masto and John and Jane Does to another jurisdiction and if so which jurisdiction under this new regulation ADKT 427?

Tonja Brown, Executrix/Administrator
2907 Lukens Lane
Carson City, NV 89706
775-882-2744

CERTIFICATE OF MAILING

I, TONJA BROWN, do hereby Certify that on this _____ day of May, 2010, I placed in the mail a true and correct copy of the foregoing and attached a copy of the Motion for Clarification and Request to Submit for mailing, addressed to:

Washoe County District Attorney Office,
District Attorney, Richard Gammick
1 South Sierra Street
Reno, NV 89501-1928

Pardons Board
1677 OLD HOT SPRINGS ROAD. SUITE A.
Carson City, NV 89706

Attorney General Catherine Cortez-Masto
100 North Carson Street
Carson City, Nevada 89701-4717

Tonja Brown, Executrix/Administrator

TONJA BROWN, Executrix/Administrator
2907 Lukens Lane
Carson City, NV 89706
775-882-2744

In Proper Person

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

ESTATE OF NOLAN KLEIN

Petitioner,

Case No: CV10-01057

Department 7

Vs

REQUEST TO SUBMIT

MOTION FOR CLARIFICATION

WASHOE COUNTY DISTRICT ATTORNEY'S
JOHN AND JANE DOES A-Z

PARDONS BOARD

ATTORNEY GENERAL KATHRINE CORTEZ-MASTO
JOHN AND JANE DOES A-Z

COMES NOW, Tonja Brown, in proper person, and hereby requests that the MOTION
FOR CLARIFICATION, Previously filed in the above-entitled matter on the _____
day of _____, 2010, be submitted to the Court for consideration.

DATED this _____ day of _____, 2010.

Tonja Brown
2907 Lukens Lane
Carson City, NV 89706
775-882-2744

