

ALTERNATE PUBLIC DEFENDER COMMITTEE

Agenda

March 2, 2007

10:30 a.m.

Washoe County Administrative Complex
HR Large Conference Room, A210
1001 East Ninth Street, Reno, Nevada

Facilities in which this meeting is being held are accessible to the disabled. Persons with disabilities who require special accommodation or assistance (e.g. sign language, interpreters or assisted listening devices) at the meeting should notify the Washoe County Manager's Office, at 328-2000, 24 hours prior to the meeting.

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Supporting documentation for items on the agenda provided to Committee members is available for viewing by members of the public at the County Manager's Office, 1001 E. Ninth St. Bldg. A, 2nd Floor, Reno, Nevada.

Note: Unless otherwise indicated by an asterisk (*), all items on the agenda are action items upon which the committee may take action. Items on the agenda may not necessarily be considered in the order that they appear.

1. Call to order and roll call.
2. Interviews with candidates as follows:
 - a) Jennifer Lunt
 - b) Shelly O'Neill
 - c) Kenneth Ward
3. Discussion and recommendation to Board of County Commission of candidates for interview and possible appointment at their March 20, 2007 meeting.
4. Direction to staff for conducting reference and background checks of top candidates.
- *5. Public Comments – Three-minute time limit per person.
6. Adjournment.

Exhibit N -ACAJ
Document consists of 8 pages.
Entire exhibit prohibited.
Meeting Date: 2-4-16

Dear Board Members:

I am here today to bring to your attention the reasons why Ms. Shelly O'Neill would NOT be the proper choice for the position she is asking to be appointed for. Ms. O'Neill committed perjury during a June 20, 1991 post-conviction hearing, in which, she was the defense counsel for Mr. Nolan Klein.

I would like to make it known, that on February 4, 1992, I had appeared before the Reno City Council when Ms. O'Neill was being considered for the vacant judgeship. I presented to them as I am presenting to you today the testimony of Ms. O'Neill along with the documentation to support her perjured testimony. I will also provide you the documentation which I believe will demonstrate to you the lack of representation she gives to her client as in the case of Mr. Nolan Klein.

In Ms. O'Neill testimony she is explaining her contact with some of the defense witnesses. She testified, pg 43, "I recall specifically going down to Jack's Bar, timing the drive, talking to the bartender, doing the walk between the dinner place and the bar, doing that sort of thing." Ms. O'Neill never spoke with the bartender, Ms. Barbara Hillman. In fact, during the trial testimony of Ms. Hillman in January 1989, she testified that she only spoke with Ms. O'Neill's investigator, and points out the investigator, Mr. Tim Ford in court.

Pgs. 78 - 79, Ms. O'Neill was asked how many times she had visited Mr. Klein at the jail. Her answers varied from "Then I went out on regular basis", "I believe I saw him a couple of times. On the onset we had a falling out. "I told him to correspond or go through his mother with me because he was not getting along with me, although I do maintain contact with someone, although it's not personal, and then toward two or three weeks, maybe a month before the trial I think he realized after people had reported to him that I was investigating, I had been in Carson City, I had been to those places, he had renewed faith." And, frankly, he had no other choice but to work with me, that he decided to cooperate somewhat with me, and then I went out and saw him more often." Ms. O'Neill admitted that she did not communicate with Mr. Klein personally, but instead, she required Mr. Klein to communicate with her through THIRD PARTIES. However, later testified that she could not talk to the third parties about the case unless Mr. Klein signed a waiver of confidentiality, which he had not done. In reality, Ms. O'Neill visited with Mr. Klein only twice, once in the very early stages of the proceeding, and once the day before the trial, when Ms. O'Neill would leave Mr. Klein's witness list behind and would later refuse to call his witnesses. See Washoe County Detention Center sign in sheet of visitors.

Defense witnesses, Hillman, Darnell, Wilkinson, Brown and Richards all gave affidavits stating they never met Ms. O'Neill.

Ms. O'Neill was asked about the tape of suspect's voice, pgs 48 - 49. Ms. O'Neill testified, I believed it DID NOT SOUND like Nolan Klien on the tape recording, and Mr. Kline was adamant that it was not he that telephoned the Sparks Police Department and made that confession."

"So I arranged the exact tape sent to Mr. Pasal, who operates out of Berkeley, I believe,

somewhere in northern California area, and then Mr. Pasal– it's either Mr. or Dr. Pasal called and we made arrangements specifically to the jail that he could do his taping and his analysis by telephone because that's how the tape was made to Mr. Kline. And we set up a very elaborate schedule where Dr. Pasal contacted Mr. Kline, and then Mr. Kline called Mr. Pasal and made the tape recordings. And when all the analysis proceedings, and this cost a great deal of money, came back it was conclusively Mr. Klien..”

Q. As I read the report from the doctor, I thought my understanding was that his conclusion was it was inconclusive as to who the voice was.

A. When I spoke to him on THE PHONE, that was his report based on the discovery. I believe we had a discovery situation. But what he told me on the phone, if he had to make his expert opinion that he would say that it was Mr. Klien..” I personally telephoned Mr. Poza., He stated to me that he never spoken with Ms. O'Neill. That he only sent the report and in the report he stated that it was inconclusive and that Mr. Klein was very cooperative and his cooperativeness very well may show his innocence. He demanded to be contacted to clear up any confusion with regard to his report and that he wanted it known that he would never contradict his own written report and adamantly denied ever speaking with Ms. O'Neill. The District Attorney's office refused to contact him or send for the public defender's telephone log.

On pgs 53 - 56 Mr. Plater who was now representing Mr. Klein had just received some new evidence regarding the prime suspect the police believed was responsible for the crime Mr. Klein was convicted of. Ms. O'Neill was asked Q. If you had had evidence that there was another person who matched the description of Mr. Klien, another possible suspect, and you had information of his name and case number relating to him, wouldn't that have been important to present to the jury regarding your mistaken Identity defense? At this time Ms. O'Neill is reading the police report on the prime suspect, Mr. Ricky Lee Zarsky.. Ms. O'Neill testified that she had her investigator check him out and that she believed Mr. Zarsky was in custody somewhere else.

The police report on Mr. Zarsky contradicts Ms. O'Neill's own testimony. In fact, it shows that he was the strongest possible suspect. I would later contact Mr. Tim Ford. He stated to me that he remembered the case and he remembered me, but, he knew nothing about another suspect. I asked him for an affidavit and he provided me with one with some reluctance. See affidavit of Tim Ford.

In June 1993, I would personally be told by Ms. O'Neill that she did lie and she asked me would it have made a difference had she presented that evidence? She then went on say that if she had 20/20 hindsight that maybe things would have been different. See CD- book pgs 143-157, 229-230

There are other instances where Ms. O'Neill was not being truthful during her testimony. I took all of this information to the Reno City Council Members were they agreed that Ms. O'Neill had committed perjury. On September 15, 1992, I then filed a perjury complaint against Ms. O'Neill with the Reno Police Department, whom they believed me and they sent it over to the District Attorney's Office for possible prosecution.

During the time my complaint sat there a number of incidents had occurred. The assistant District Attorney stated that Ms. O'Neill definitely exaggerated the truth, but did she really lie? When the Asst. DA refused to explain the difference, I then contacted a Washoe County sitting judge to ask him what the difference was. The judge stated that there was no difference between a lie and an exaggerated truth, unless, you go into court and take an oath then it becomes perjury.

Shelly O'Neill would then inform the press that she was fired from the Public Defender's Office and that she was friends with the District Attorney, Dorothy Nash-Holmes. The perjury complaint sat there until that Statute of limitations ran out. When Mr. Dick Gammick became the new District Attorney, I contacted him about pursuing the perjury complaint against Ms. O'Neill. His letter indicates even if wanted to charge her with perjury he cannot because the statute of limitations had run out and the Attorney General's Office confirms the same thing.

See disk pages from the book, 107- 157, 162 - 166, 196 - 203

Now, lets briefly look at some of the unethical behavior of Ms. O'Neill. As an attorney she instructed Mr. Klein to call the prosecutions witness, Ms Louann Gritter, to see what she would be testifying too pgs 69 - 70.

The following year, Ms. Gritter would write to Mr. Klein indicating, "well you know why I did it". If she couldn't have him nobody could. Ms. O'Neill was correct about one thing with regard to Ms. Gritter when she said, "hell hath no fury like a woman scorned."

Pg 34, Ms. O'Neill was asked about Dr. Schenk's hand written medical report indicating that no penetration had occurred. . Even when her own counsel gave her an opportunity to defend herself. " Mr. Klein, in his petition, claims that he was prejudiced because you didn't cross-examine Dr. Schenk regarding a check mark on his reports stating that the victim hadn't suffered any penetration. Do you recall that?" "I recall some discussion about that stemming from the preliminary examination. The victims in this case were quite young. The sexual assault victim was young, and I believe that there were some misunderstanding on her part regarding penetration, probably up to and including the trial." This victim was married and I'm quite sure that she knew the difference between the two.

Pgs 40, 56 - 61 The beard evidence Ms. O'Neill failed to investigate because she was looking at the wrong photo of Mr. Klein. pg 40 Ms. O'Neill testified, And, frankly, looking at the booking pictures Mr. Klien 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" See CD-book pages 41-42 showing Mr. Klein with a full beard and the booking picture Ms. O'Neill refers to was his booking picture taken in September when Mr. Klein had a 2-3 stubble. Ms. O'Neill had reversed the pictures in order to establish the growth of the Mr. Klein's beard that was consistent with the suspect having a beard stubbles as shown in composite sketch of suspect pg, 41 of the CD-book.

Ms. O'Neill failed to investigate the states witness, Mr. Don Lutzenburg. Her reason was that the state's not going to call him, so she's not going to contact him. On June 20, 1991 Mr. Lutzenburg statement would come forward. He had written down the licence plate of the vehicle and it was not Mr. Klein's car.

The victim from April 21, whom the police believed Mr. Zarsky was responsible for also attacking cleared Mr. Klein and his car. However, Ms O'Neill looked into this crime even when it was presented as evidence during the trial. Ms. O'Neill admits and does not deny that she committed perjury.

If Ms O'Neill is given the opportunity to respond, she will probably tell you that the reason I am here is because that I have a vendetta against her. The truth is, that I believe that if you go into court and take an oath to tell the truth, then you should be held accountable for your actions.. And nobody is above the law, that would include private citizens, public officials and yes, even attorney's.

Sincerely,

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

May 2, 2007

Re: Nolan Klein V Don Helling

Judge Skopil, Judge Farris, Judge Ferguson

Dear Judges:

Please forgive me for contacting you, but, I just could not let this information regarding Ms. Shelly O'Neill go without you knowing what has recently and PUBLICALLY come to light. And because of this information I cannot knowing allow another innocent person or their family to go thru what our family has gone thru for 19 years. (May 9, 1988)

On March 2, 2007, Ms. Shelly O'Neill was being considered for the position of the Washoe County Public Defender's Office Conflict Unit. I personally appeared before the committee that was considering her for the position. This public hearing was video taped and recorded by the Human Resources.

Shelly O'Neill was present when I spoke. I informed the committee that Shelly O'Neill had admitted to me in 1993 that she did, in fact, commit perjury during the Nolan Klein's post-conviction hearing. During this hearing Ms. O'Neill did not deny that she had lied about doing an investigation into the prime suspect of one Mr. Ricky Lee Zarsky, and the rest of the evidence that cleared Mr. Klein of the crime. Nor did she deny that because of her not doing her job, that an INNOCENT MAN, was in prison. It was also brought out during this hearing the Ms. O'Neill was given the opportunity to review the manuscript "To Prove His Innocence" and that she had returned the manuscript without comment.

Ms. O'Neill no longer disputes what I have been claiming for years, that Mr. Klein is innocent. That is why I am writing to you to simply ask that if you should ever have another case regarding Ms. O'Neill that you think about my brother's case and how far Ms. O'Neill went to protect her career. In the event you should ever find the opportunity to read the book, To Prove His Innocence, I have provided you with a CD copy of it. The same CD copy that I had provided each and every member during the March 2, 2007.

Sincerely,

Tonja Brown
2907 Lukens Lane
Carson City, Nv 89706

September 4	Shelly O'Neill
September 16	Eunice Wilkinson
September 21	Renee Shoun
September	Eunice Wilkinson
October 3	Renee Shoun
October 5	Tonja Brown
October 6	Eunice Wilkinson
October 15	Renee Shoun
October 17	Eunice Wilkinson
October	Renee Shoun
October 29	Renee Shoun
November 2	Eunice Wilkinson
November 4	Renee Shoun
November 8	Tonja Brown
November 12	Renee Shoun
November 13	Renee Shoun
November 19	Renee Shoun
November 23	Renee Shoun
November 27	Renee Shoun
December 2	Renee Shoun
December 11	Renee Shoun
December 14	Renee Shoun
December 20	Tonja Brown
December 23	Renee Shoun
December 27	Renee Shoun
December 29	Tonja Brown
January 6	Renee Shoun
January 9	Eunice Wilkinson
January	Renee Shoun
January 12	Renee Shoun
January 22	Shelly O'Neill
January 27	Eunice Wilkinson
January 28	Renee Shoun
February 2	Renee Shoun
February 5	Steven Shannon
February 21	Eunice Wilkinson
February 23	Tonja Brown



WASHOE COUNTY

"To Protect and To Serve"



OFFICE OF THE PUBLIC DEFENDER
DAVID G. PARRAGUIRRE, PUBLIC DEFENDER

195 SOUTH SIERRA STREET
POST OFFICE BOX 11130
RENO, NEVADA 89520 - 0027
PHONE (702) 328-3464

January 29, 1990

Nolan Klein #28074
Post Office Box 1989
Ely, Nevada 89301

Dear Mr. Klein:

Thank you for your letter of January 25, 1990.
My file reflects that I have already sent you copies
of the following documents from your file:

- 1) Transcripts of your trial and sentencing;
- 2) Discovery Order;
- 3) Affidavit in Support of Arrest Warrant;
- 4) Seizure Order; and
- 5) Victim statements.

Please find enclosed the following items per your
request:

- 1) Laboratory results of rape kit from victim;
- 2) Laboratory results of rape kit from suspect;
- 3) Fingerprint cards of suspect;
- 4) Laboratory results of SWAT analysis of rape
kit;
- 5) Letter from Fausto Poza to Shelly O'Neill dated
December 20, 1988, indicating results of voice-print
analysis (not introduced at trial);
- 6) Two composite drawings of suspect;
- 7) Supplemental Sparks Police Department Report;
- 8) Information;
- 9) Notice of Alibi;
- 10) Jury instructions.

These things comprise the bulk of what is left
in your trial file. Please let me know if there are
specific additional items you need.

Very truly yours,

DAVID G. PARRAGUIRRE
Washoe County Public Defender

By Karen Grifall
KAREN GRIFALL
Deputy Public Defender

Exhibit 18 a

KG:jp
Original document on file with the Clerk of Court -- Second Judicial District Court, County of Washoe, State of Nevada