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c/o FFUP / The Legal Project
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Mr. Biese,

In this letter I try to lay out a very complex trial in the briefest terms possible in order for you to plainly see the massive miscarriage of justice that has befallen me. I humbly request that you please look over my case and evaluate it for any potential ways to overturn this wrongful conviction and get a new trial. On March 16th 2018 I was wrongfully convicted of 1st degree reckless homicide by delivery of a controlled substance and sentenced to 18 years in prison. At the time I was 53 years old and due to the sentencing laws in Wisconsin I have effectively been given a life sentence without parole. My co-defendants who are in their thirties were only sentenced to 4 and 6 ½ years as part of their plea deals.

I went to trial because I knew that Matthew Poyner my co-defendant was lying when he implicated me as the source of the drugs in his statement to the police. Special jury instructions were read at the beginning of the trial. The instructions read to the jury regarded the need to give the testimony of drug addicts extra scrutiny because drug addicts have more reasons to lie than a normal person. One of the reasons given was that an addict's worst fear is being cut off from their drug supply. The irony of those jury instructions is that Poyner indeed gave false testimony for that very reason. In one fell swoop he manipulated the police, framed me, minimized his prison time and protected his friend the true source of the fatal dose of drugs.

During the trial the defense was totally unaware of where the fatal dose of drugs came from. However, my appellate attorney's investigator Mr. Rick McCluskey of Wisconsin Investigative Services interviewed a friend of Poyner's named Najee Crain. Crain informed Mr. McCluskey that Poyner had told him prior to their being incarcerated that he bought the drugs that killed his father in law from his friend, a drug dealer named Mike Cooper. Cooper has since my trial has been charged with 1st degree reckless homicide by delivery of a controlled substance on an unrelated case.

At the start of the investigation Poyner watched the police conduct a search of the victim's apartment. He then gave an unsolicited statement to the officer in charge of the investigation that he was in possession of more drugs and that those drugs were stashed in his car. When the officers that were actually conducting the investigation searched the vehicle for the drugs, the drugs were not recovered. It wasn't until several months after my trial when it was revealed that the same police officer that Poyner told about the drugs stored in his car and his wife were arrested for possession of marijuana, prescription opiate drugs and theft. There is a possibility that those drugs were removed by the police officer that Poyner reported their existence to because that same officer was recorded on camera stealing drugs from his

departments secure evidence locker. It was reported that Captain Dennis Linn stole those opiate drugs to feed his wife's addiction. Because there are literally thousands of stories of people that began their opiate addiction by using legally prescribed opiate pain medications that were cut off by their provider. Out of desperation and the fear of withdrawal symptoms those people have turned to heroin I feel that it is very likely that Captain Linn stole those drugs. The scandals that his thefts created caused him resign his prestigious position as the second in command of the Twin Lakes, Wisconsin police department or risk being fired and losing his pension. I have the police reports that show that Captain Linn was the only person other than Poyner that had knowledge of the drugs existence and their location within a vehicle that he had sole access to.

There is also the issue of the Milwaukee county medical examiner that submitted inaccurate, incomplete autopsy and toxicology reports. The medical examiner mentioned in his autopsy final diagnosis heart enlargement, left ventricular hypertrophy and nephrosclerosis. He failed to include several other issues that he found that are indicators of congestive heart failure, a cause of death that presents like an overdose. This same medical examiner then proceeded to under the guise of an expert witness commit several counts of perjury regarding the victim's terminal heart and kidney conditions. I realize that I am not a pathologist; however, using the research conducted by doctors and pathologists it appears that the medical examiner purposefully hid the terminal state of the victim's health in order to help the State convict me.

In addition the toxicology report that was submitted into evidence by the State revealed that there were seven samples that were taken for toxicological examination. However, only the results of three of the samples were listed on the entire report that was used to determine that the victim died from acute mixed drug intoxication. According to several fentanyl toxicity lawsuits there is a scientifically proven process called postmortem redistribution. Postmortem redistribution is a process in which drugs that are absorbed into the major organs during life are released back into the bloodstream after death. This causes the amount of drugs measured after a person dies to be much higher than the amount of drugs in the system right before death. Also the victim was known to have been a habitual abuser of cocaine. However, the toxicology report showed no trace of cocaine. The missing sample results were the very samples that could have confirmed the presence of cocaine.

Since my conviction I am forced to advocate for my own freedom because the current situation that I find myself in as an indigent and incarcerated person severely hampers my ability to get the type of assistance my case needs. The State has brought its powerful resources to bear in its effort to wrongfully convict me that is why I need an aggressive legal expert of your caliber to even the playing field. I have also included a summary of the investigation conducted by Mr. McCluskey and his assessment that I have been wrongfully convicted.

Sincerely,

Harold L. Wilcher

03-25-2019

Attorney Dianne Erickson

Case: Harold Wilcher

Narrative Report on Additional Work

Who is "Mike", Poyner's other guy and who we believe sold Poyner the lethal heroin that killed Anthony Niccolai on June 19, 2017.

- I am comfortable identifying "Mike" as Michael Cooper, DOB 07-27-1978.
- In the Kenosha County Case Number 2019CF000027, he is charged with 1st Degree Reckless Homicide/Delivery Drugs.
- The address listed for Cooper on that document is 5416 61st Street in the City of Kenosha.
- A visual check of the house by myself confirmed the address is also for the second house west on 54th Ave. and just west of 61st Street
- This house is also the same house described by Najee Crain as being the home of where Poyner's "his other guy" resided and from where Poyner bought heroin for himself, Crain and Brooks on two separate occasions.
- Crain and Brooks also described Poyner using 61st St to walk south from George's Highview Bar parking lot then west on 54th Ave as the route Poyner used to get to Cooper's house.
- Crain goes so far as saying "Mike's" house is the second one west of 54th Ave on the north side of 61st St, and the address of that house is 5416 61st St, and again, is the same address listed for Cooper on the Kenosha County Case.
- Although Brooks said she lost sight of Poyner once he turned west onto 54th Ave from 61st St, she does place Poyner very close proximity of Cooper's house, a known drug dealer to herself through her association with Poyner when he bought heroin for herself and Crain and then again for herself.
- According to Crain and Brooks, Cooper is a heroin dealer.
- According to Crain and Brooks, Cooper and Poyner are very good friends.
- According to Crain and Brooks, Poyner buys heroin from Cooper.
- According to Crain and Brooks, Poyner routinely refers to Cooper as "his other guy" before and after buying heroin from him.
- According to Crain and Brooks, Poyner made two separate purchases of heroin from "his other guy" who they both identified as "Mike" and who lived at the location and address they and the DA identified as 5416 61st St.

- The tag "his other guy" becomes very important to Wilcher's case when Poyner called Brooks the day after Niccolai died and tells her not to worry, that the stuff that killed Niccolai did not come from her or Wilcher but from "his other guy," who has been identified as Mike Cooper.
- Although the information Crain and Brooks suggests the heroin that killed Niccolai came from another person other than either Brooks or Wilcher, it does not rise to the level of valuable evidence to win an appeal on its own in my mind.
- However, when all of their statements (see respective interview reports) are combined with Poyner's after the fact spontaneous utterance to Brooks as to who he bought the heroin from that ultimately killed Niccolai, Cooper being identified as a known heroin drug dealer and charged by the Kenosha DA with a similar crime to Wilcher's, I cannot rule out the worrisome possibility Wilcher was falsely charged and convicted of the death of Anthony Niccolai.
- I believe the toxic heroin Anthony Niccolai took came from Mike Cooper.

The Colosseum Video Store

- There are records of Poyner visiting the store on several days selling video games. Two have dates, one does not.
- Because our interest lay primarily on or about the time of Niccolai's death on 06-19-2017, the check included the week prior to 06-19-17 to the week after.
- On 06-19-2017 Poyner sold thirty-three (33) video games for a total of \$12.00.
- On an undated receipt (though the owner said it fell between 06-19-17 and 06-23-17) Poyner sold six (6) videos for \$11.25.
- On 06-23-2017 Poyner sold an unknown recorded type and number of videos for what appears to be \$10. Writing is hard to decipher. Could be \$15.
- The owner described all the above videos as being the small versions used in handheld pocket video games, although two on the 06-19-17 receipt have a designator of being PS2 videos.
- Other than the two videos mentioned above, none of the other videos were described as being used by a Play Station or X Box as the kind Brooks had described seeing in Poyner's car the day she and Poyner split one of the two bags of heroin he bought from her on 06-19-17.
- The records I saw were poorly filed. None were in a file cabinet and all were loose and contained within a cardboard box.
- I was not permitted to go through the files by myself, although many of those I saw were missing names of sellers, what items were being sold, and in some the amount paid for the items.
- It is possible the games Brooks saw could have been sold elsewhere, to another person or even to Cooper as barter for the heroin.
- Ultimately, it is not possible to determine if he sold all the games he had to Colosseum.

- The amount he did receive, \$12, is not sufficient to buy the regular .2 grams baggie. They cost \$20.
- Having said that, it is possible Poyner had additional money on his person, made the purchase from Cooper after selling the videos or short of funds, worked out a deal with him.
- All of Poyner's receipts did have his Wisconsin Identification card which when copied came out blurred and unreadable. (See Attached copies).

Rick W. McCluskey
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