

OCTOBER 23, 2007

Assist. D.A. Michael Goodbee
Chief Dep. D.A. Tom Quammen
1000 Judicial Center Drive
Brighton CO 80601

Dear Sirs:

In light of the contents of the "McClellan binders" which you recently disclosed to us, I propose the following as an appropriate resolution of the ongoing litigation:

1. The State should confess Tim Masters' request for a new trial, on any grounds it sees fit to state.
2. Tim Masters should be released on a PR or minimal bond pending retrial.

I realize that you have not seen the postconviction motion we are generating, but the information first revealed to Mr. Masters by the "McClellan binders" presents an overwhelming justification for allowing Tim Masters a new trial. No legitimate purpose will be served by requiring Tim Masters to formally raise and litigate the remarkable issues which the McClellan binders present. In the course of hearings to date we have presented more than adequate grounds to justify a new trial for Tim Masters. You are also aware of the abundant exculpatory expert opinions which we have provided to you. It is time to allow Tim Masters a fair trial.

For example:

With the cooperation of the district attorney and involvement and guidance from the FBI, the police conducted a major operation in February of 1988 in an effort to psychologically upset Tim Masters around the anniversary of the homicide. A fake FBI "profile" was created by the Fort Collins police and the FBI and disseminated in the newspaper, TV and radio *via* bogus press releases, also created by the police and FBI. All of this was designed to put psychological pressure on Tim Masters at that time. The bogus newspaper articles were then surreptitiously provided to Tim Masters "via tactical team," since his father did not subscribe to the paper. The idea clearly was to put direct pressure on Tim Masters by means of the media reports and to create a stressful, i.e., hostile atmosphere in the community.

The police also planted an envelope containing some presently unknown material on Tim Masters' juvenile friend's windshield, as part of this same effort to provoke Tim Masters in a psychological fashion. This is especially disturbing since it is the police department and prosecution's theory that Tim Masters committed a particularly heinous homicide. The callous employment of a juvenile in this ploy without his knowledge, consent or notification to his parents is extremely disturbing given the prosecution's continuing theory that Mr. Masters is responsible for the death of Ms. Hettrick. We have never been provided with the exact contents of this falsified psychological ploy.

A substantial and intensive surveillance operation was then conducted around the anniversary date. The FBI predicted that the suspect's behavior would change around the anniversary date. As you are aware, the supposed "anniversary reaction" of Tim Masters to the death of his mother was of enormous significance to Dr. Meloy, the police and the prosecution at trial. Once Tim Masters reacted and behaved differently in response to the anniversary date and the psychological pressure, he was to be strongly interrogated.

The result of this carefully crafted effort to cause Tim Masters to noticeably react on the anniversary of his mother's death and the Hettrick homicide was exactly nothing, contrary to the opinions and expectations of police investigators and FBI advisors. Tim Masters noticeably did not react or deviate from his normal routine in any way, which also bolstered his statements to police about his routine in 1987.

As you are aware, the substantial police reporting of the 1988 24/7 surveillance operation was not provided to trial defense counsel. Neither was any of the material concerning the police/FBI psychological assault, fake profile and false news reports.

The details and results of the 1988 operation were obviously exculpatory in light of Meloy's theories and those of the investigators in 1988. Det. Broderick and perhaps the district attorney decided **not** to provide the large amount of information concerning the fake FBI profile and news stories, and the intensive surveillance of Tim Masters in 1988, to trial defense counsel in discovery. It is undeniable that the police reports were "cherry picked" by Broderick and/or the district attorney. At least some of the 1989 surveillance materials were provided to trial defense counsel.

The January 8, 1988 memo to Dave Feldman from Deryle O'Dell outlining the plan to create the fake profile and plant false information in newspaper articles and other media proclaims that the FBI, which came up with the idea, would deny having done so if the plan backfired and that "only the team investigating this case know of

this option and if used it would be kept that way," *i.e.*, the lies would not be revealed. The memos state that the district attorney would be consulted on the operation, so it appears that the district attorney was aware of this part of the plan.

Now the FBI claims to have lost or otherwise disposed several parts of its file on this case, including claiming that it has no record of its rather extensive involvement in Tim Masters' case through its VICAP and BSU offices.

For many months we have been requesting production of the "FBI profile" which Dr. Meloy said he was provided by Det. Broderick, and which he then summarized in detail in his notes, considered as a basis for his opinions and testified about as such at trial. The 1992 arrest warrant affidavit also refers in detail to an FBI profile which supposedly points directly at Tim Masters. In the course of our efforts we have referenced the newspaper article which refers to the FBI profile which we now find out was planted by the police and FBI. To date, we have been told that no such profile ever existed, without any reasonable explanation having been put forward for the aforementioned evidence.

It thus appears likely that the profile testified to by Dr. Meloy and in the 1992 affidavit was, or was related to, the fake profile created by the Fort Collins Police in 1988 with the contrivance of the FBI.

Although Det. Broderick was the prosecution's advisory witness and the moving force behind Dr. Meloy being enlisted to provide evidence against Tim Masters, Meloy was allowed to testify that such a profile existed and to base his opinions on it. It appears indisputable, at least, that the profile about which Meloy testified either did not exist or was fake. Certainly Broderick knew what was going on, and it is difficult to imagine that the trial prosecutors did not.

The April 3, 1987 memo to the Mayor and City Council and other memos suggest considerable political pressure on the police to resolve the Hettrick case.

The April 3, 1987 memo to the Chief of Police from Lt. Reed states that Tim Masters "is not a prime suspect" in the Hettrick case. No inculpatory evidence against Tim Masters arose subsequently, with the exception of Meloy. As you are aware, Meloy was hired to generate evidence against Tim Masters, not to evaluate the case as an impartial expert.

Based on the foregoing information and all that has been set forth at prior hearings, there is no reasonable basis for continuing to deny Mr. Masters a new trial. To continue to require us and the Courts to expend additional time and costs on this case is unjustifiable. Please let me know your position on this proposal at your earliest convenience.

Sincerely,



Maria Liu



David Wymore

Collins ♦ Liu ♦ Lyons

A limited liability partnership

Northern Colorado's Trial Law Firm

**Assistant D.A. Michael Goodbee
Chief Dep. D.A. Tom Quammen
Concerning Timothy Masters**

HAND DELIVERED