

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT
THOMAS F. EAGLETON U.S. COURTHOUSE
111 SOUTH 10TH STREET, ROOM 24.329
ST. LOUIS, MISSOURI 63102

PATRICIA S. THYER

v.

UNITED STATES OF AMERICA

CIVIL CASE NO: 06-3343-CV-S-RED
CRIM. CASE NO: 04-3105-01-CR-S-RED
APPEAL NO: 07-3145

Richard Dorr, Judge
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION

PETITION FOR PANEL REHEARING
SUGGESTION FOR REHEARING EN BANC

FRAP 40A
FRAP 35A

SUBMITTED BY:

Patricia S. Thyer
FCI Tallahassee
501 Capital Circle, NE
Tallahassee, Florida 32301

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Case No: 6:06-CR-0304-RED, USA v. Brown

NOW COMES Petitioner, Patricia Thyer (hereinafter "Thyer"), to request of this Honorable Court a Panel Rehearing pursuant to FRAP 40A, and suggest Rehearing En Banc pursuant to FRAP 35A, if the panel does not substantially modify its decision once it takes into account Thyer's supplementary filing received by the Eighth Circuit on 2/4/08, a filing which was ignored in the 2/4/08 denial of her Certificate of Appealability.

The 2/4/08 Order further conflicts with decisions of the United States Supreme Court and of the Eighth Circuit, and consideration of the full court may be necessary to secure and maintain uniformity of the Court's decision.

There is also a question of exceptional importance:

Whether the rush to judgment in which the panel disregarded Thyer's supplemental pleading denied her the right to due process?

"A petition for rehearing is designed to bring to the attention points of law or fact that it may have overlooked". See Missouri v. Jenkins, 495 U.S. 33, 46, n. 14 (1990). Thyer submits that such a condition exists in the instant case.

I.

On July 15, 2004, Thyer was charged in a criminal complaint in the U.S. District Court in Springfield, Missouri, charging her with 18 U.S.C. §1958, Use of a Facility of Interstate Commerce for Murder-For-Hire, and 18 U.S.C. §924(c), Possession of a Firearm during and in relation to a crime of violence. Thyer was 55 years old at the time with no prior criminal history.

Thyer was initially represented by Michelle Nahon from the Public Defender's Office. Thyer told Nahon that she had been set

up by David Thyer right after he learned that she had gone to attorney David Pointer on 5/3/04 to execute a divorce decree judgment of \$594,000 against him in response to him telling her he wanted to leave her for good in April, 2004. The two had been divorced in 1999, but had continued to live together in Mountain Grove, Missouri until the time of her arrest (R. 46, ¶23). The Thyers had been married in 1988, with land and businesses financed by Patricia Thyer's parents (¶51, PSR). She raised David Thyer's two children and cared for his elderly father, Cecil, until his death in 2003. After learning of the 5/3/04 visit to the Pointer Law Office, David Thyer had gone berserk, beating her so badly that she believes a stroke she suffered several months later was due to this beating. She told Nahon that she had been the victim of years of physical abuse (¶50, PSR). Thyer wanted to go to trial on an entrapment/battered spouse defense.

Nahon, however, would not take the case to trial, so Thyer contacted Pointer, who orchestrated her defense through his associate, Susan Faust. Pointer and Faust promised to take the case to trial, indicating that they would hire outside counsel, John Picerno, an experienced trial attorney. Both Faust and Picerno replaced Nahon as counsel of record on the docket on 3/25/05 (R. 28).

A parcel of 400 acres of land and a parcel of 7.44 acres with a house, where the Thyers had lived, had been purchased for cash in 2000 and recorded under Patricia Thyer's name. After David Thyer's father passed away in 2003, David had Patricia Thyer put the deeds in his name (See Exh. 1; Exh. N to §2255, R. 17). After Patricia Thyer's arrest, she continued with the execution of the divorce

decree judgment as planned with the Pointer Law Office filing a "Petition for Filing Foreign Judgment" filed in the Wright County and Texas County Courts on 11/29/04 by Susan Faust (See Exh. 2). A Notice of Sale was filed in the courts on 3/17/05. David Pointer and Susan Faust visited Thyer on 3/25/05 at the Osceola County Jail advising her that Pointer had purchased her 400 acres of real estate out of "foreclosure" on the courthouse's front steps. There had been no mortgages or other liens on the property. Also on 3/25/05, Pointer filed the Articles of Organization for his Little Creek, Acres, LLC, with the Missouri Secretary of State (See Exh. 3; Exh. I to R. 7) in which the 400 acres of paid-for land has remained to the current day. There is an on-going complaint from 8/30/06 that Patricia Thyer filed with the Missouri Bar Association (Exh. E & F to R. 7) and the Fee Resolution Committee in regards to Pointer taking all of her real estate for his own personal use, reneging on his agreement that Thyer be accorded two-thirds of it, and that his associate and the attorney he hired take her case to trial. Pointer also failed to pursue the 7.44 acres and home that he had agreed to obtain for her. The 400 acres was valued at \$400,000. If Thyer had wanted to do a plea bargain, she could have remained with Nahon; she certainly would not have needed to hire different defense counsel, thereby losing real estate valued at \$400,000.

The one-third land value fee, or \$133,000, would have been a grossly excessive fee for what consisted of no more than a plea agreement, but \$400,000 is simply outrageous. It cannot be rationally argued that any normal individual is going to agree that such a fee was reasonable in these circumstances. It is all the more unreasonable when the victim of such a predatory group of

attorneys had her liberty at stake based on such misconduct. In a 1/4/08 teleconference regarding Thyer's dispute with Pointer, as mediated by A.J. Seier, Esq., Pointer finally admitted he had valued Thyer's 400 acres at only \$100,000. This under-valuation is borne out by the Pointer Law Office invoice of May 8, 2006, in which on 6/1/05, her "trust account" was credited with \$70,000 (See Exh. 4; Exh. H, Att. 10 to R. 7); \$30,000 being the amount that had been charged against Thyer's land for her defense (R. 17-2,p.7).

In essence, just as soon as the Pointer Law Office had full control of Thyer's land, crediting her on 6/1/05, they disposed of her criminal case on 6/2/05 (R. 41) by forcing her to plead guilty. According to attorney Mark Rector, public records indicate Little Creek Acres, LLC, Pointer's company, obtained \$200,000 from Town & Country Bank (See Exh. 5), against 160 acres which was less than half of Thyer's real estate, thus establishing the land had been worth at least \$400,000. This proves Pointer and Faust deliberately deceived Thyer regarding their fees and the value of Thyer's land.

These attorneys were also aware that Thyer had no children of her own and that she was in poor health. After they had her plead guilty, they discovered that she had been abused by David Thyer, (See Exh. 6, Exh. A to R. &), but they did not suggest this as a mitigating factor or even that she should have a reduction in her sentence as a first-time offender. In essence, they abdicated any advocacy for Thyer once they had seized her land. There certainly is cause to argue that it would have been in their own best personal interests to see Thyer obtain as long of a sentence as possible so that their fraud remain undiscovered.

According to Baker v. Humphrey, 101 U.S. 494 (1897), "An

attorney cannot deal for himself or herself in the subject matter of litigation to the prejudice of the client's interest".

According to 7 Am. Juris. 2d, Attorneys at Law, §59 Business relations with Client, "[C]oncerns are raised where the fee arrangement gives the attorney an ownership interest in a client's property that has a greater value than the amount agreed upon in fees". §56, Failure to act honestly and in good faith, "An attorney is guilty of misconduct if he or she--enters into a contingent fee contract in a criminal case or if he attempts to exonerate himself or herself from liability to a client for personal malpractice". Pointer in fact engaged in such conduct from 3/06 until 9/06, after the Bar Association Complaint is filed, refusing to send Thyer even commissary money if she did not sign a "release" absolving his firm of any liability. (See Exh. 7; Exh. E; Att. 1 to R. 7).

In spite of these facts, the district court found no conflict of interest by Thyer's defense counsel (R. 18, p. 3), which Thyer submits is an unreasonable and erroneous finding.

In Thyer's Motion brought under 28 U.S.C. §2255 filed at the district court, she had brought forward in addition to the main issue of ineffective assistance of counsel, the issues of a Bailey type of issue regarding the gun count, entrapment, that federal jurisdiction had been manufactured in order to proceed, and prosecutorial misconduct.

The district court further erroneously determined that defense counsel was not ineffective because they had conducted a proper investigation (R. 18, p. 2). Federal jurisdiction was found to be derived from a phone call from David Thyer to Patricia Thyer (R. 18, p. 4, referring to R. 14, p. 9, Government's response), suggesting

the active involvement of David Thyer in setting up his ex-wife. The remaining claims were deemed procedurally barred (R. 18, p. 4).

Thyer filed a Motion for Reconsideration under Fed. Rules Civ. Proc. 52(a) & (b) (R. 20), contesting the district court's finding of facts. According to Laws v. Armontrout, 863 F 2d 1377 (8th Cir., 1988), cert. denied, 490 U.S. 1040 (1989), reh. den., 490 U.S. 1117 (1989), the findings of fact in habeas corpus proceeding are reviewable under clearly erroneous standard.

Thyer argued in this motion the district court's determination that counsel had conducted an investigation, and it was a "strategy" decision to have her plead guilty (R. 18, pg. 2-3), was clearly erroneous and contrary to the evidence presented in her pleading under §2255. Exhibit H, Att. 10, attached to the §2255 Brief (R. 7), established beyond a reasonable doubt that the first invoice by the Pointer Law Office's investigator, Greg Martin, was billed to Thyer on 6/6/05, and had nothing to do with her criminal case (See Exh. 4). The next invoice dated 6/30/05, after Thyer was forced to plead guilty on 6/2/05, establishes that it was not until after 6/30/05 that Greg Martin did any investigation into Thyer's claims of spousal abuse (See Exh. 6, Exh. A to R. 7), almost a month after the defense attorneys made their "strategy" decision to have Thyer plead guilty.

Martin discloses to Faust in an 8/18/05 e-mail that Counselor Dorothy (Miller) Haley "remembered Pat Thyer's case vividly". Haley stated "the mental abuse that Pat endured was horrible and that social services was contacted for physical abuse to the children" (See Exh. 6, Exh. A to R. 7). Faust's letter of 8/12/05 disclosed "Pat McDonald is Ms. Thyer's former employer. One investigator

interviewed her recently and acknowledged that she had seen Ms. Thyer several times with bruises on her face and/or arms". Further, "an employee named "Corky" [Lyle Corkrill] cooberrated [sic] that they (Corky & Pat McDonald) had seen Ms. Thyer show up for work with bruises" (See Exh. 8; Exh. M to R. 7).

Defense counsel had promised to seek the services of "expert" witness, Dr. Marilyn Hutchinson in the March 2005 meeting for trial. Battered spouse syndrome is "some evidence to be considered in support of a defense, such as self-defense, duress, compulsion, and coercion," according to United States v. Brown, 891 F Supp. 1501 (D. Ks., 1995). "Evidence that [defendant] suffers from the battered woman syndrome is 'more than impeaching or cumulative'. It is new evidence that helps explain [defendant's] acts and state of mind, and furthermore, it supports her defense of compulsion. The court finds such evidence will probably produce an acquittal". Id. at 1510. Dr. Hutchinson was the "expert" witness used by the defense in the Brown case. On 6/22/05, there is a billing against Thyer's account for Hutchinson's services (See Exh. 4), however, Thyer does not first meet with her until after 6/30/05 (See Exh. 9). As the result, Dr. Hutchinson could not have prepared her psychological report until long after the decision was made to plead Thyer out (See Exh. 10).

In a 5/25/05 letter, after the defense team had Thyer's land, but prior to Martin's investigation, Picerno advises Thyer he believes the defense of Battered Spouse Syndrome would not be admissible in court (See Exh. 11; Exh. L to R. 7). No mention is made at sentencing of any of the evidence later uncovered by the Pointer Law Office investigator to establish spousal abuse.

In the district court's Order of 8/10/07 finding that Thyer's counsel was not ineffective, the court erroneously finds in contradiction to all of this evidence:

Ms. Thyer first argues that her attorneys were ineffective because they failed to investigate her psychological condition, and such investigation may have given rise to a finding of battered spouse syndrome. Ms. Thyer admits, however, that her attorneys had a psychological report prepared by a doctor on her behalf. Accordingly, counsel's investigation was proper. Counsel's decision to recommend that Ms. Thyer plead guilty after such investigation was conducted is a strategy decision and strategy decisions are "virtually unchallengeable unless they are based on improper investigation". Link v. Luebbers, 469 F 3d 1197, 1204 (8th Cir., 2006). There is no evidence that counsel's investigation was improper.

(R. 18, pgs. 2-3).

The district court denies Thyer's Motion for Reconsideration because it did "not present any new evidence or arguments that merit reconsideration of the Court's decision" (R. 23).

The Eighth Circuit Court of Appeals has the supervisory authority to make different findings in order to grant Thyer relief as she had requested in her §2255 Brief.

Miller-El v. Cockrell, 537 U.S. 322, 340 (2003), has held, "[D]eference does not imply abandonment or abdication of judicial review. Deference does not by definition preclude relief". Relief can be granted if the "decision was unreasonable or that the factual premise was incorrect by clear and convincing evidence". "Clear and convincing evidence" exists to find defense counsel ineffective for personal conflicts of interest and lack of an investigation.

II.

On 1/31/08, Thyer sent by certified mail a "Supplement to Motion for Certificate of Appealability" (See Exh. 11). This pleading contained the evidence, including a sworn affidavit, that there

was at least one other case in the Western District of Missouri in which a woman was battered and her life threatened in a pernicious scheme orchestrated by law enforcement so that an estranged male spouse might be aided who did not want to split the marital assets and/or lose control of the children.

Thyer has maintained from the start that she was the victim of such a scheme, however, no one would listen to her as she did not have the evidence to prove the scheme originated with law enforcement. In November, 2007, Thyer met another inmate from the same district (045) at FCI Tallahassee, Kari J. Brown, who had recently arrived there. Brown indicated that she too had been beaten, her life repeatedly threatened, and local law enforcement would not respond or help her, but in addition, Brown had her children stolen from her in order to set up the crime. Like Thyer, Brown was provided a contact name for "help" by someone close to her husband, only to later find that this individual was a federal law enforcement agent seeking to set up a sting operation. Neither woman sought out this agent's "services"; in both cases, his contact information was brought to them at home. In both cases, the threats by the women's husbands escalated with graphic threats of violence made on a daily basis. Intense pressure was applied in order to push these women to the breaking point and into making contact with Dennis Deason, the federal agent.

In Thyer's case, her ex-husband, David, had purchased a commercial meat saw, threatening to kill her and cut her up into small pieces to be fed to the coyotes. He called her every night on her cell phone, threatening her for hours. His friend, Wendell Cook, came to Thyer's home and gave Deason's number to her (p. 11,

R. 7).

In Brown's case, after Randy filed for a divorce in December, 2005, "pure hell" began for her, with threats that he would kill her and contacts to local law enforcement not only resulting in no help, but the threat that they would get DFS involved and her children taken from her. Akasha Brown, Randy's daughter, came to Kari's home, stating Randy was beating on Brittany, age 6, and what was Kari going to do about it, giving her Deason's number (See Exh. 12, Brown sworn statement). Once Brown was told Randy had taken the children to Mexico, she called Deason.

Thyer was not adding a new claim to her Motion for Certificate of Appealability over the denial of her §2255 in her Supplementary filing made on 1/31/08 including the Brown affidavit, as Issue III, Entrapment was already included in the original §2255 Brief. The district court had refused to consider this issue holding it was procedurally barred. This denied Thyer her right to due process.

Rule 12(f) of the Rules of Criminal Procedure further indicates that the failure of a party to raise a defense shall constitute waiver thereof, but for "good cause, the court may grant relief from the waiver". Miranda v. Arizona, 384 U.S. 436, (1966), held where rights secured by the Federal constitution are involved, there can be no rule-making or legislation which would abrogate them.

The record is clear in the instant case that Thyer wanted to go to trial; not plead guilty. Unfortunately, due to the severe beating she had endured at David Thyer's hands just preceding the conduct charged in the indictment, she suffered a stroke. She was in no physical condition to conduct a trial herself, therefore, she

had no choice but to plead guilty when her highly compensated defense team abandoned her. She signed the Plea Agreement, "All Rights Reserved", in order to preserve the right to fight the conviction once she had access to a law library at prison.

Thyer should have her conviction reversed as she was entrapped as a matter of law. According to United States v. Brooks, 215 F 3d 842 (8th Cir., 2000), "the evidence must clearly have indicated that a government agent originated the criminal design; that the agent implanted in the mind of an innocent person the disposition to commit the offense; and that the defendant then committed the criminal act at the urging of the government agent". "The critical question for us to consider is whether the defendant was predisposed to committing the crime independent of the government's meddling". See also Jacobson v. United States, 503 U.S. 540, 549 (1992); Sorrells v. United States, 287 U.S. 435, 451 (1932). "In considering a defendant's predisposition, we must examine the defendant's personal background". See United States v. Kummer, 15 F 3d 1455, 1459 (8th Cir., 1994). "We also examine the extent to which the government instigated or induced the defendant's criminal activity". Id. "[T]he government's conduct [can be] so outrageous as to violate due process independent of his disposition, a claim wholly independent of the entrapment defense. Id., n. 9. Finally, "ignorance of its agents' action does not relieve the government of responsibility for the conduct of its agents". Brooks, 215 F 3d at 845; also Sherman v. United States, 356 U.S. 369, 374-75 (1958) (attributing informant's egregious conduct to government despite government's alleged ignorance of informant's coercive tactics:

"[t]he Government cannot make such use of an informer and then claim disassociation through ignorance".).

Thyer was middle-aged and had been a law-abiding, productive member of society (¶44, PSR). She had no motive other than self-defense or duress as she was the one who held a \$594,000 divorce decree judgment, a tremendous predicament for the ex-husband who wished to rid himself of her. According to the PSR, she "made a poor choice out of fear for her life due to allegations of death threats made by David Thyer" (¶29, PSR). There was no evidence presented that Patricia Thyer had been actively seeking a "hit man". Rather, the government admits an "informant" provided Deason's number to Thyer (¶13, PSR), who was David Thyer's friend, Wendell Cook. Further, the beatings and threats of David Thyer to use his commercial meat saw are "outrageous conduct", constituting a violation of Patricia Thyer's due process, and the government cannot disavow knowledge of David's threats and physical abuse when Kari's similar case establishes the same level of outrageousness, orchestrated by the same federal agent, and was even prosecuted on behalf of an accused murderer, Randy Brown. (See Exh. 12, p. 7). These cases violate equality under the law and discriminate against women. Indeed, the government even admits they used David's calls to Patricia to establish jurisdiction (R. 14, p. 9). American women would be aghast with horror and indignation were they to learn of these cases.

Kari Brown was sentenced on 9/27/07, right after the district court found against Thyer's §2255 on 8/10/07. The Brown case involved the same prosecutor, the same federal agent, the same public defender, and the same judge in the same court. It seems

unlikely that no one noticed the same pattern of official misconduct emerging, and it is a sad indictment of the criminal "justice" system that no one thought that the right thing to do might be to help these victims of abuse, rather than throw a maximum prison sentence at them. It is hoped that the judges of the Eighth Circuit will be less anxious to jump to aid the prosecution on such unworthy causes than were the district court and public defender's office. Flieger v. Delo, 16 F 3d 878, 883 (8th Cir., 1994) court should grant certificate of probable cause if "issues are debatable among reasonable jurists, a court could resolve the issues differently, or the issues deserve further proceedings". United States v. Olano, 507 U.S. 725 (1993) has held under Rule 52(b), Court of Appeals should correct a plain forfeited error affecting substantial rights if the error seriously affects the fairness, integrity, or public reputation of judicial proceedings".

III.

On 2/4/08 at 12:15 p.m., the U.S. Postal Service's website indicated that Thyer's supplementary filing to her motion for certificate of appealability was received at the Eighth Circuit (See Exh. 11). Also on 2/4/08, a denial of Thyer's certificate of appealability was made with no corresponding opinion, lending cause to the presumption that this Supplement was not considered in the denial.

Such a maneuver would violate the Supreme Court case of Houston v. Lack, 487 U.S. 266 (1988), wherein a pleading is deemed filed at the time a prisoner delivers it to prison authorities. This date was 1/31/08, hence, Thyer's Supplement should have been

considered in the Court's decision.

"Rules of pleading are made to attain substantial justice and are to be construed if possible so as to be in harmony with it, a mistaken view of one's rights or remedies should not be permitted wholly to defeat a claim founded upon principles of equity and justice and if the pleadings can be amended so as to admit proof of such a claim and the amendment does not introduce a new cause of action (though it may set up a new measure of damage) or work a real hardship to the defendant it is within the discretion of even an appellate court to permit the amendment to be made". See Wiggins Ferry Co., v. Ohio & M.R. Co., 142 U.S. 396 (1892).

"An amendment of the pleadings may be allowed on appeal, if justice appears to require it". See Jones v. Meehan, 175 U.S. 1 (1899).

The function of a supplementary pleading is not to present matters of evidentiary nature occurring after filing of original pleading which would authorize no further or different relief from that originally sought, but rather to bring in new facts which will enlarge or change relief to which plaintiff is entitled". See Southern Pac Co. v. Conway, 115 F 2d 746 (9th Cir., 1940).

According to FRAP 40, Thyer had 45 days from the entry of the 2/4/08 Order in which to file this petition, which is 3/20/08. Therefore, this petition is timely filed.

CONCLUSION

Thyer, should be heard in the interests of justice, is entitled to relief, and requests the Eighth Circuit to hold accordingly.

Respectfully Submitted,

Date: _____

Patricia S. Thyer, Pro Se
All Rights Reserved
#17141-045
FCI Tallahassee
501 Capital Circle, NE
Tallahassee, Florida 32301

2003-10-22 Det.
[Signature]

GENERAL WARRANTY DEED

THIS INDENTURE, made on the 20th day of October, 2003, by and between Pat Thyer, d/b/a Lone Pine Emporium, also she is a single person, individual, of the County of Texas, State of Missouri, as "Grantor", and David Thyer, a single person, of the County of Crawford, State of Kansas, as "Grantee", (mailing address of 111 South Western, Girard, Kansas, 66743).

WITNESSETH, that the said Grantors, for and in consideration of the sum of One Dollar and other valuable considerations paid by the said Grantee, the receipt of which is hereby acknowledged, does or do by these presents GRANT, BARGIN AND SELL, CONVEY AND CONFIRM unto the said Grantee, the following described Real Estate, situated in the County of Texas and State of Missouri, to-wit:

A part of the East Half of Lot 2 of the North West Quarter and a part of the West Half of Lot 2 of the NE Quarter of Section 2, Township 28 North, Range 12 West, being more particularly described as beginning at the NW corner of the East Half of Lot 2 of the NW Quarter of Section 2, Township 28 North, Range 12 West, running South 88 degrees, 27 minutes, 42 seconds East, 1143.47 feet to the point of beginning; thence South 88 degrees, 27 minutes 42 seconds East, 1496.20 feet to a steel pin, thence South 1 degree, 49 minutes, 5 seconds West 239.98 feet to a steel pin on the North right-of-way line of Highway No. 60, thence North 89 degrees, 21 minutes West 276.88 feet along said right-of-way line to a steel post right-of-way marker; thence North 52 degrees, 54 minutes 20 seconds West, 76.58 feet along said right-of-way line to a steel post right-of-way marker; thence North 89 degrees, 21 minutes West, 493.30 feet along said right-of-way line to a steel post right-of-way marker, thence South 82 degrees, 06 minutes, 50 seconds West, 202.32 feet along said right-of-way line to a steel post right-of-way marker, thence North 89 degrees 21 minutes West 467.44 feet along said right-of-way line to a steel pin, thence North 2 degrees, 26 minutes, 07 seconds East 243.18 feet to the true point of beginning. (Except the land described as a side road in the deed and noted as the side road exception on the Plat recorded in Texas County Recorder's office). Containing seven and forty-four hundredths (7.44) acres, more or less, all in Texas County, Missouri.

Pat Thyer
Pat Thyer, individually, a single person

GENERAL WARRANTY DEED

THIS INDENTURE, made on the 20th day of October, 2003, by and between Pat Thyer, a single person, individually, of the County of Wright, State of Missouri, as "Grantor", and David Thyer, a single person, of the County of Crawford, State of Kansas, as "Grantee", (mailing address of 111 South Western, Girard, Kansas, 66743).

WITNESSETH, that the said Grantor, for and in consideration of the sum of One Dollar and other valuable considerations paid by the said Grantee, the receipt of which is hereby acknowledged, does or do by these presents GRANT, BARGIN AND SELL, CONVEY AND CONFIRM unto the Grantee, the following described Real Estate, situated in the County of Texas and State of Missouri, to-wit:

The South Half of the southwest Quarter of Section Twenty Seven, and the North half of the Northwest Quarter of Section Thirty four, all in Township Twenty eight North, Range Twelve West, containing 160 acres more or less. Also The Southwest Quarter of the Northwest Quarter and the Northwest Quarter of the Southwest Quarter of Section Twenty seven, Township twenty eight, range twelve.

TO HAVE AND TO HOLD the same together and with all rights and appurtenances to the same belonging, unto the said Grantee, and to the heirs and assigns of such party forever.

The said Grantor hereby covenanting that said party and their heirs, executors and administrators of such party, shall and will WARRANT AND DEFEND the title to the premises unto the said Grantee, and to the heirs and assigns of such party forever, against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the said Grantor have hereunto set their hand the day and year first above written.

Pat Thyer

Pat Thyer, individually, a single person



20033407

The 20th day of Oct. A.D. 2003 at 10:00 AM. The 22nd day of October, 2003. In the presence of me, the County Clerk and Ex-Officio Recorder of the County of Wright, Missouri, the within and foregoing instrument was read and explained to the parties and they acknowledged the same to be their free and voluntary act and deed. The same is recorded in the records of this office in Book 211, Page 159-160.

In WITNESS WHEREOF, I have hereunto set my hand and official seal, at Hannibal, Missouri, this 22nd day of October, 2003.

Joe Chalmers
County Clerk and Ex-Officio Recorder

Shelby Harrison
Deputy

GENERAL WARRANTY DEED

THIS INDENTURE, made on this 20th day of October, 2003, by and between PAT Thyer, a single person, individually, of the County of Wright, State of Missouri; as "Grantor" and David Thyer, a single person, of the County of Crawford, State of Kansas, as "Grantee", (mailing address of 111 South Western, Girard, Kansas, 66743).

WIDNESSETH, that the said Grantor, for and in consideration of the sum of One Dollar and other valuable considerations paid by the said Grantee, the receipt of which is hereby acknowledged, does or do by these presents GRANT, BARGIN AND SELL, CONVEY AND CONFIRM unto the said Grantee, the following described Real Estate, situated in the County of Wright and State of Missouri, to-wit:

The South Half of the Northeast Quarter and the North Half of the Southeast Quarter of Section Twenty eight, township Twenty eight, Range Twelve

TO HAVE AND TO HOLD the same, together and with all rights and appurtenances to the same belonging, unto the said Grantee, and to the heirs and assigns of such party forever.

The said Grantor hereby covenanting that said party and their heirs, executors and administrators of such party, shall and will WARRANT AND DEFEND the title to the premises unto the said Grantee, and to the heirs and assigns of such party forever, against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the said Grantor have hereunto set their hand the day and year first above written.

Pat Thyer
Pat Thyer, individually, a single person

IN THE CIRCUIT COURT OF TEXAS COUNTY, MISSOURI

PATRICIA S. THYER,
Petitioner,

vs.

DAVID B. THYER,
Respondent.

FILED
NOV 29 2004
PHYLLIS STALEY
Circuit Clerk & Ex-Officio Recorder
TEXAS COUNTY, MO

Case No. 02-04-542-CC

PETITION FOR FILING FOREIGN JUDGMENT

COME NOW Plaintiff Patricia S. Thyer, Petitioner and Judgment Creditor herein, by and through counsel, in the above-entitled action and states:

1. That on the 29th day of March, 1999, the District Court of Crawford County, State of Kansas, entered judgment in favor of the Petitioner herein in a cause of action captioned *Patricia S. Thyer v. David B. Thyer*, Case No. 1999D00021P, (hereinafter the "Foreign Judgment"), in which the Petitioner herein, Patricia S. Thyer, was awarded from David B. Thyer (hereinafter, the "judgment debtor") the following: judgment debtor is indebted to Petitioner in the sum of \$594,000.00 with interest, together with the costs herein.
2. That the judgment debtor, in the aforementioned foreign judgment, has failed to comply with the foreign judgment and that the foreign judgment remains, in effect, outstanding and unmodified in the office of the Court.
3. That an authenticated copy of the foreign judgment is attached hereto and made a part hereof as Exhibit A.
4. That a Certificate of Authentication is attached hereto and made a part hereof as Exhibit B.

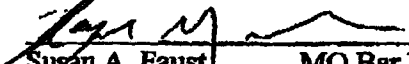
5. That the Petitioner herein has filed an affidavit setting forth the last known post office address of the aforesaid judgment debtor and that said affidavit is attached hereto as Exhibit "C," and incorporated herein by reference.

WHEREFORE, Petitioner prays that the aforesaid Foreign Judgment be registered in this Court and that the same be made a final personal judgment of this Court under the authority of Rule 74.14 of the Missouri Rules of Civil Procedure, and for such other relief as may seem proper to the Court.

Respectfully Submitted,

POINTER LAW OFFICE, P.C.

By:


Susan A. Faust MO Bar No. 39054
Raymond M. Gross MO Bar No. 56438
28 Court Square • P.O. Box 400
Gainesville, MO 65655
(417) 679-2203
(417) 679-2213 (fax)
ATTORNEY FOR PETITIONER

FILED

NOV 29 2004

JOE CHADWELL
CIRCUIT CLERK
Wright County, MO

IN THE CIRCUIT COURT OF WRIGHT COUNTY, MISSOURI

PATRICIA S. THYER,
Petitioner,

vs.

DAVID B. THYER,
Respondent.

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)
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Case No. CV504-542DR

PETITION FOR FILING FOREIGN JUDGMENT

COME NOW Petitioner Patricia S. Thyer, Petitioner and Judgment Creditor herein, by and through counsel, in the above-entitled action and states:

1. That on the 29th day of March, 1999, the District Court of Crawford County, State of Kansas, entered judgment in favor of the Petitioner herein in a cause of action captioned *Patricia S. Thyer v. David B. Thyer*, Case No. 1999D00021P, (hereinafter the "Foreign Judgment"), in which the Petitioner herein, Patricia S. Thyer, was awarded from David B. Thyer (hereinafter, the "judgment debtor") the following: judgment debtor is indebted to Petitioner in the sum of \$594,000.00 with interest, together with the costs herein.

2. That the judgment debtor, in the aforementioned foreign judgment, has failed to comply with the foreign judgment and that the foreign judgment remains, in effect, outstanding and unmodified in the office of the Court.

3. That an authenticated copy of the foreign judgment is attached hereto and made a part hereof as Exhibit "A."

4. That a Certificate of Authentication is attached hereto and made a part hereof as Exhibit "B".

5. That the Petitioner herein has filed an affidavit setting forth the last known post office address of the aforesaid judgment debtor and that said affidavit is attached hereto as Exhibit "C," and incorporated herein by reference.

WHEREFORE, Petitioner prays that the aforesaid Foreign Judgment be registered in this Court and that the same be made a final personal judgment of this Court under the authority of Rule 74.14 of the Missouri Rules of Civil Procedure, and for such other relief as may seem proper to the Court.

Respectfully Submitted,

POINTER LAW OFFICE, P.C.

By: 

Susan A. Faust MO Bar No. 39054
Raymond M. Gross MO Bar No. 56438
28 Court Square • P.O. Box 400
Gainesville, MO 65655
(417) 679-2203
(417) 679-2213 (fax)
ATTORNEY FOR PETITIONER



State of Missouri
Robin Carnahan, Secretary of State

Corporations Division
P.O. Box 778 / 600 W. Main Street, Rm 322
Jefferson City, MO 65102

File Number: 200508423219
LC0648930
Date Filed: 03/25/2005
Robin Carnahan
Secretary of State

Articles of Organization

(Submit with filing fee of \$105)

1. The name of the limited liability company is:

Little Creek Acres, LLC

(Must include "Limited Liability Company," "Limited Company," "LC," "L.C.," "L.L.C.," or "LLC")

2. The purpose(s) for which the limited liability company is organized: to buy, hold and sell real property and/or other

investments or property for investment and/or profit, and all other lawful business.

3. The name and address of the limited liability company's registered agent in Missouri is:

David B. Pointer, P.O. Box 400, 28 Court Square, Gainesville, MO 65655

Name Street Address: May not use P.O. Box unless street address also provided City/State/Zip

4. The management of the limited liability company is vested in: managers members (check one)

5. The events, if any, on which the limited liability company is to dissolve or the number of years the limited liability company is to continue, which may be any number or perpetual: perpetual

(The answer to this question could cause possible tax consequences, you may wish to consult with your attorney or accountant)

6. The name(s) and street address(es) of each organizer (P.O. Box may only be used in addition to a physical street address):

David B. Pointer, P.O. Box 400, 28 Court Square, Gainesville, MO 65655

7. The effective date of this document is the date it is filed by the Secretary of State of Missouri, unless you

indicate a future date, as follows: _____

(Date may not be more than 90 days after the filing date in this office)

In Affirmation thereof, the facts stated above are true and correct:

(The undersigned understands that false statements made in this filing are subject to the penalties provided under Section 575.040, RSMo)

David B. Pointer

3/22/2005

Organizer Signature

Printed Name

Date

Organizer Signature

Printed Name

Date

Organizer Signature

Printed Name

Date

Name and address to return filed document:

Name: _____

Address: _____

City, State, and Zip Code: _____

State of Missouri
Creation - LLC/LP 1 Page(s)



T0508442635



STATE OF MISSOURI } ss 20051233
County of Wright

I, JOE CHADWELL, Circuit Clerk and Ex-Officio Recorder of said County hereby certify that the foregoing instrument of writing was on the 25th day of April, A.D. 2005 at 9 o'clock 27 minutes A.M. duly filed for record in office and is recorded in the records of this office in Book 285 Page 621-682
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, at Hartsville, Missouri this 27th day of April 2005.

Joe Chadwell
Circuit Clerk and Ex-Officio Recorder.
By *Kurtis L. Harrison*
Deputy

GENERAL WARRANTY DEED

THIS INDENTURE made on the 25th day of April, 2005 by and between POINTER LAW OFFICE, P.C., a corporation organized and existing under the laws of the State of Missouri, and duly licensed to do business in the State of Missouri, Grantor(s), and Little Creek Acres, LLC, a Missouri Limited Liability Company, (mailing address: P.O. Box 400, Gainesville, Missouri, 65655), Grantee.

WITNESSETH, for and in consideration of the sum of one dollar and other valuable consideration paid by the grantee(s), and other good and valuable consideration, receipt of which is hereby acknowledged, and by virtue of and pursuant to a resolution by Grantor's Board of Directors.

Grantor does hereby GRANT, BARGAIN and SELL, convey and confirm, to Grantee, and its successors and assigns, the following described real estate in Wright County, Missouri:

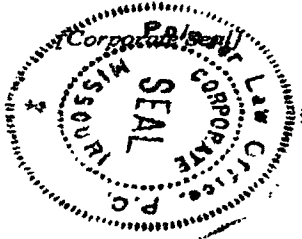
The South Half of the Northeast Quarter and the North Half of the Southeast Quarter of Section Twenty-Eight, Township Twenty-Eight, Range Twelve.

Subject to: Easements and restrictions of record.

TO HAVE AND TO HOLD the same, together with all rights, immunities, privileges and appurtenances, unto Grantee and its successors and assigns, forever;

And the Grantor hereby covenants that it is lawfully seized of an indefeasible estate in fee simple to these promises, and may convey the same; that these premises are free from all encumbrances except as set forth above, and that Grantor will warrant and defend the title to these premises unto the Grantee, and its successors and assigns, forever.

In Witness Whereof, the said POINTER LAW OFFICE, P.C., has caused this deed to be executed by its president, and its corporate seal, to be hereto affixed, this 25th day of April, 2005.



POINTER LAW OFFICE, P.C.

David B. Pointer, President

STATE OF MISSOURI }
COUNTY OF OZARK }

On this the 25th day of April, 2005 before me personally appeared David B. Pointer, to me personally known, who being duly sworn, did say that he is President of POINTER LAW OFFICE, P.C., that the seal affixed to this instrument is the corporate seal of said corporation, and that the said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors and the said David B. Pointer acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in Gainesville, Missouri, the day and year first above written.

Bredget J. Whisnant, Notary Public

My Commission Expires: 10/10/2005



Pointer Law Office, P.C.

28 Court Square
P.O. Box 400
Gainesville, MO 65655

Invoice submitted to:
Pat Thyer
10604 Lone Pine Rd.
Mtn. Grove MO 65711

May 08, 2006

Invoice #13082

Professional Services

			<u>Hours</u>	<u>Amount</u>
5/20/2005	DBP	Woods Law Firm fee \$2,552.50 (5/20/2005)		
6/6/2005	MP	G R Martin & Associates (\$392.80)--invoice dated 5/20/2005		
	MP	Cash for account (\$100.00) to Pat		
6/22/2005	MP	Marilyn A. Hutchinson fee \$2,500 (6/22/2005)		
8/2/2005	SF	G R Martin & Associates (\$221.8)--invoice dated 6/30/06		
8/24/2005	MP	G R Martin & Associates (\$340.36)--invoice dated 8/18/2005		
9/30/2005	MP	G R Martin & Associates (\$108.3)--invoice dated 9/26/05		
10/29/2005	MP	Town & Country Bank \$1,000 (per Pat's request 10/11/2005)		
11/4/2005	WD	Stamps sent to Pat		
12/20/2005	MP	G R Martin & Associates (\$317.30)--invoice dated		
12/21/2005	MP	Money order to Pat		
12/22/2005	MP	G R Martin & Associates (\$200.00)--invoice dated 12/13/05		
1/30/2006	MP	G R Martin & Associates (\$150.00)--invoice dated 1/16/6		
2/15/2006	MP	G R Martin & Associates (\$478.30)--invoice dated 2/13/6		
3/10/2006	MP	Cash sent via Western Union--\$600 plus fee (\$610.95)		
3/13/2006	MP	Money order sent to Jimmie Jointer-\$300 plus fee (\$301.34)		
3/28/2006	MP	G R Martin & Associates (\$384.10)--invoice dated 3/26/06		
4/25/2006	MP	G R Martin & Associates (\$446.40)--invoice dated 4/18/06		
	MP	Certified check (\$600.00) to Pat--ref letter dated 4/16/06		
		For professional services rendered	0.00	\$10,878.15
		Additional Charges :		
		Copying cost		75.25
		Fax		18.05
		Filing fee		220.00
		Investigation Services		730.35
		Mileage		219.38
		Miscellaneous expense		169.64
		Postage		58.79
		Publishing Fee		145.00

	<u>Amount</u>
Balance due	\$0.00
Previous balance of Thyer trust account	\$0.00
6/1/2005 Payment to account	\$70,000.00
11/8/2005 Payment from account	(\$6,365.12)
New balance of Thyer trust account	<u>\$63,634.88</u>

J. CHRISTOPHER ALLEN
MARK E. RECTOR

JEFFREY B. ALLEN

135 HARWOOD
POST OFFICE BOX 1700
LEBANON, MISSOURI 65536

TELEPHONE: 417-532-8300
FACSIMILE: 417-532-9600
EMAIL: info@allen-rector.com

January 25, 2008

Ms. Patricia Thyer
#17141-045
Federal Correctional Institution
501 Capital Circle, NE
Tallahassee, Florida 32301

Re: David Thyer
Our File No. 07-2271

Dear Ms. Thyer:

Upon searching the Wright County Records from 1993 to January 14, 2008 for any real estate owned by David Thyer. I find the following:

There is a 160 acre parcel, described as follows: The South Half of the Northeast Quarter and the North Half of the Southeast Quarter of Section Twenty-eight, Township Twenty-eight, Range Twelve.

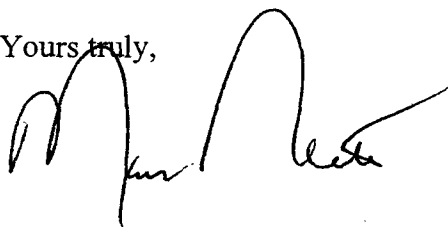
This property appears to have been in David's name from October 2003 until March 17, 2005, but now is in the name of Little Creek Acres, LLC, a Missouri Limited Liability Company (See attached copy of Warranty Deeds.) and there is a Deed of Trust to Town & Country Bank in the amount of \$200,000.00. (See attached copy of Deed of Trust.) I did not find any Wright County property to have been in David Thyer's name other than this parcel.

I believe the 7.44 acres you describe as being located at 10604 Lone Pine Road in Mountain Grove, Missouri is in Texas County and not Wright County. It appears that the 160 acre parcel located in Wright County is only eight miles from the 7.44 acres in Texas County.

I believe it would be in your best interest for my office to conduct a search for any property holdings that he might have or have had in Texas County.

I will do so in the next couple of weeks and will let you know the results of the same.

Yours truly,



MER/pkh
Enclosures

EXHIBIT

Susan Faust

From: "Greg Martin" <greg4552@townsqr.com>
To: <susan@pointerlaw.com>
Sent: Thursday, August 18, 2005 9:40 PM
Subject: Pat Thyer's counselor

Susan

I finally was able to get in touch with Dorothy(Miller)Halley. Since Pat hadn't been a patient of Dr. Halley since 1988. I wasn't very hopeful, but Dorothy (Miller)Halley remembered Pat Thyer's case vividly and was able to give me the names of the child advocate workers as well as the victim's advocate workers. Mrs. Halley stated that the mental abuse that Pat endured was horrible and that social services was contacted for physical abuse to the children. I'm chasing down all the other case workers, but it would probably be a good idea for you to contact Dorothy (Miller) Halley as soon as possible. Her clinic phone # is 620-724-7111. I have already faxed her a medical release form. Because the safehouse has destroyed all the records before 1995, everything is from Halley's memory. I think she would be a good witness for the Doc to talk to.

Greg

*Dr. Hutchinsen: for your information.
If you could contact Ms. Miller, this may help.
Susan*

8/19/2005

EXHIBIT

6

G.R. Martin & Associates, LLC

P.O. Box 83
Dora Mo 65637
417-293-4552

Billed
8/22/05

To: Susan Faust
From Greg Martin
Reference: State v. Pat Thyer Investigation

- August 12th, 2005: Obtained statement from Pat McDonald in Mountain Grove in reference to abuse.
Attempt to locate Penny Rogers
2.5 Hours 78 Miles
- August 12th, 2005: Attempt to locate Dorothy Miller/Walker-Counselor for Pat Thyer.
Set up meeting with Lou Wehmer.
2 Hours
- August 15th, 2005: Phone meeting with Dorothy Walker in reference to clinics.
Dorothy Walker doesn't feel that she was Pat Thyer's counselor.
Her maiden name was Miller, but there was also another Dorothy Miller who also practiced in Pittsburgh that she feels I should contact.
1 Hour
- August 16th, 2005: Located and interviewed Penny Rogers in reference to domestic violence.
2.5 Hours 94 miles
- August 16th, 2005: Research medical center in Pittsburgh for Pat Thyer counsel records.
1 Hour
- August 17th, 2005: Talked with clinic in reference to file.
Made sure release has been faxed to clinic.
Forward information to Susan Faust.
1 Hour
- August 18th, 2005: Contacted by Dorothy Halley in reference to Pat Thyer. She was Pat's counselor. Halley gave other resources.
1 Hour

11 Hours @ \$25 per hour= \$ 275.00
172 Miles @.38 per mile= \$ 65.36
Total= \$ 340.36

POINTER LAW OFFICE, P. C.

28 Court Square • P.O. Box 400

Gainesville, Missouri 65655

(417) 679-2203 (phone)

(417) 679-2213 (fax)

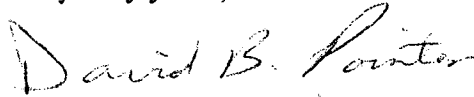
August 11, 2006

Patricia Thyer
Reg #17141-045
F.C.I. Tal.
501 Capital Cir. N.E.
Tallahassee, FL 32301

Dear Pat:

I received your most recent letter requesting a \$600 withdrawal from the funds being held for you in our trust account. As previously stated, we simply cannot continue to operate as a banking institution for your expenses. If you will sign the authorization previously sent as you indicated, we will disburse all of the funds for use as you please.

Very truly yours,


David B. Pointer *by: W.D.-L.A.*

EXHIBIT

POINTER LAW OFFICE, P.C.
P. O. Box 110 - 109 East Second Street
Mountain Grove, MO 65711
(417) 926-3270 - Phone
(417) 926-3290 - Fax

David B. Pointer

Susan A. Faust

August 12, 2005

Marilyn A. Hutchinson, Ph.D.
Hutchinson & Associates
222 W. Gregory, Suite 100
Kansas City, MO 64114

Via facsimile 816-361-0664

Re: U.S. vs. Patricia S. Thyer No. 04-03106001-CR-S-RED

Dear Dr. Hutchinson:

Pat McDonald is Ms. Thyer's former employer. Our investigator interviewed her recently and acknowledged that she had seen Ms. Thyer several times with bruises on her face and/or arms. However, Pat met David Thyer on one or two occasions and thought he was a "nice guy," so she was reluctant to admit that she saw bruises. She did admit this to the investigator after an employee named "Corky" corroborated that they (Corky and Pat McDonald) had seen Ms. Thyer show up for work with bruises. Pat McDonald and Corky's contact number is 417-926-5520 at Ratterree & Barnes in Mountain Grove, Missouri.

The counselor, Dorothy Miller, left Family & Kids, Too Clinic approximately three years ago. I tried the phone directory and there is no listing for her. I am faxing a release to records to see if they have any on Pat.

Regarding the discovery in this case, my records reflect that I have sent you all the government documents in my possession. Basically what I have is the plea agreement, narrative and evaluation. If you don't have these, let me know. Also, I will request the testing protocol today.

Sincerely,


Susan A. Faust

cc: J. Picerno
file

EXHIBIT

8

POINTER LAW OFFICE, P.C.
P. O. Box 110 - 109 East Second Street
Mountain Grove, MO 65711
(417) 926-3270 - Phone
(417) 926-3290 - Fax

David B. Pointer

Susan A. Faust

June 30, 2005

Marilyn A. Hutchinson, Ph.D.
Hutchinson & Associates
222 W. Gregory, Suite 100
Kansas City, MO 64114

Re: U.S. vs. Patricia S. Thyer No. 04-03106001-CR-S-RED

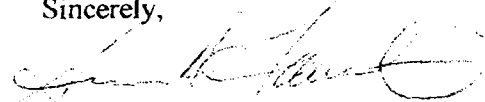
Dear Dr. Hutchinson:

I understand from John Picerno that you have agreed to evaluate our client, Pat Thyer. Accordingly, I am enclosing our firm's check in the amount of \$2,500 for this evaluation.

I believe John told me that you will be seeing Pat on July 15, 2005. *John will confirm with you directly that the necessary arrangements have been made for a contact visit with Ms. Thyer at the Osceola County Jail.*

Thank you for agreeing to evaluate Pat. She is looking forward to meeting with you. In the meantime, if you have any questions or would like to discuss this matter or any particulars further, please feel free to contact myself and/or Mr. Picerno.

Sincerely,



Susan A. Faust

cc: Mr. John Picerno
Ms. Patricia Thyer
file 1

POINTER LAW OFFICE, P.C.

P. O. Box 110 • 109 E Second

Mountain Grove, MO 65711

Telephone: (417) 926-3270

Fax: (417) 926-3290

David B. Pointer

Susan A. Faust

August 19, 2005

Dr. Pindelski, Chief Psychologist - Ph.D.
Metropolitan Correctional Center
71 W. Van Buren St.
Chicago, IL 60605

VIA FACSIMILE: 312-886-4389

Re: Patricia Thyer, DOB: 12/21/48, SSN: 463-76-8359

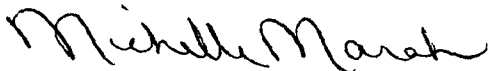
Dear Dr. Pindelski:

Our firm represent Patricia Thyer. Per the enclosed release, I am hereby requesting the records for Pat, specifically the Raw Data and Testing Protocol, from your facility. Please forward a copy of these reports to Dr. Marilyn A. Hutchinson, Ph.D., PY-R0110, 222 W. Gregory, Suite 100, Kansas City, MO 64114 or via facsimile 816-361-0677.

For your convenience I have enclosed a Business Record Affidavit. Please return the original completed and notarized affidavit along with the records so it is not necessary for the custodian of records to appear in court.

Thank you for your attention to this request. If you have any questions, or if something further is required of our office, let me know as soon as possible. Again, thank you.

Sincerely,



Michelle Marah
Legal Assistant

cc: Dr. Hutchinson
client
file

EXHIBIT

10



Track & Confirm

Search Results

Label/Receipt Number: 7006 0100 0003 0972 7488
Status: Delivered

Your item was delivered at 12:15 PM on February 4, 2008
in SAINT LOUIS, MO 63102.

Track & Confirm

Enter Label/Receipt Number.

[Go >](#)

[Additional Details >](#) [Return to USPS.com Home >](#)

Notification Options

Track & Confirm by email

Get current event information or updates for your item sent to you or others by email.

[Go >](#)



7006 0100 0003 0972 7488

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For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$ 6.20
Certified Fee	2.65
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 8.85

Sent To: Clerk of Court, 8th Circuit
 Street, Apt. No., or PO Box No.: 111 S. 10th St. #24.329
 City, State, ZIP+4: St. Louis, MO 63102

PS Form 3800, June 2002 See Reverse for Instructions

JAN 30 2008
MAIL ROOM
FBI-TOLSON/HASSEE FL

AFFIDAVIT OF KARI J. BROWN

The Affiant being first duly sworn states the following:

Included first herein is my statement regarding the facts surrounding USA v. Kari J. Brown, Case No: 06-03045-01-CR-S-RED, from the Western District of Missouri, Southern Division, Federal District Court. Following it will be a history of the abuse leading up to the initiation of that case against me.

In early 2006, Akasha Lynn Brown came to my home at R 1, Box 1230, Alton, Missouri and asked me how we were going to get rid of her father, Randy Brown. I asked her why. Akasha said because he was beating on Brittany Brown (age 6) and I asked her how did she expect us to do that. She handed me a phone number for a hitman so I put it aside and rewrote the number into a note book and really didn't look at it again. The next day, Akasha called me from Sikeston Mo. and asked if I called yet and I told NO, then about an hour after she called, Randy called me and told me that was where he had custody of the children and I wasn't going to sign anything that gave him the children. Randy would come out to the house and put me into a corner and tell me to call the law because he was going to kill me right then and there, so I did call the law and told them. Randy would have the kids on the weekends when he wanted them, and his daughter would come over from Sikeston every weekend to spend with me and we would run around and do things together that we would never do before. After being threatened and pushed and told that I would never see my kids and everything because they were running off to Mexico and never coming hom to see me ever again, I decided to call the

EXHIBIT

hitman on the 29th of February, 2006. The hitman said his name was JR or RJ, I really don't remember which one. The hitman's real name was Dennis Deason out of Springfield, Mo. I was told he was from St. Louis, Mo. So I called the hitman and he wanted to meet in Thayer, Mo. at Wal-Mart in about 2 days. I said I would. Akasha would go with me so we went down to meet with this hitman and everything went like it should have. This guy pulled in on a Harley motorcycle and parked. I went over to meet him and then Akasha showed up in her red car. After I met with the hitman, Randy started to call me everyday and threatened to come out and just take care of me and nobody would know what happened to me. Randy would do this everyday to me and come out to the house and push me down and call me names, and tell me that I better not go to sleep with the doors unlocked. It was just getting worse and worse. The hitman called me and asked if I could meet in Mammoth Springs, Arkansas, just about 10 miles or less and it was a real nice little park that was about a week later. The hitman had to tell me how to get to the park area and after I got there to meet him, Randy called me and told me to come and get the kids because he was busy that day moving a trailer so I drove back to Alton and got the kids. Then took them with me to the park in Mammoth Springs and while I talked to the hitman. Randy tormented me everyday for about 3 weeks and would have the kids call me and tell me I would never see them again. At one point, he had Brittany tell me that they were in Mexico and they weren't coming home. I was at a friend's house and Randy found me there and kicked in the door on my Jimmy vehicle. Then another night, he

came out to the house and knocked the front door in shattering the glass which went everywhere. The hitman asked me for a shotgun, also \$400.00 down and the rest of \$10,000 after the job was done. One day, my daughter Cayla came home and told me that Daddy was going to send mommy to jail, mind you Cayla was only 3 years old at the time. Randy was really nice when he wanted something from me but when he had the kids from me, Randy would play head games with me. So would Akasha Lynn Brown McLean. The hitman would call me and ask me what I was doing and I would tell him I was in the bathtub drinking a beer and getting ready to go out then after I got off the phone with him, Randy would call me and tell me that I was nothing but a slut and a drunk but Randy demanded constantly that I have my cell phone with me at all times. Randy would call me about 30 times a night and have the kids ask if I was at the bar getting drunk and dancing with another guy and being bad. Randy hit me for accidentally running over the dog when I did not mean to do it. This went on and on until I was arrested on March 12 or 13th of 2006.

Dennis Deason was constantly calling me and it was like every other day to keep the pressure on me and to keep me diverted to what was going on, and to make sure I really wanted the job done. These cordial phone calls were a tactic on the government's part to keep in touch to make sure I was going to have him to do the job. This was a pressure tactic on his part and also Akasha was in the middle of the whole incident.

Akasha had been abused by her father for as long as she can remember and this was one way she could get back at him and remain

on the outside. She got her daughter back and Randy had Brittany and then filed child abuse charges on him. It was all planned to manufacture the crime and the federal government was the one doing the planning.

In November, 2007, I was shipped to FCI Tallahassee where I met Patricia Thyer, whose uniform stated she was from the district of "045", the Western District of Missouri, the same as me. When we compared cases, the facts indicated we were both threatened and harassed to such a degree that we would fall for Dennis Deason's scam. The dockets in both of our cases indicates that Federal Public Defender, Michelle Nahon, was appointed to our defense (See Exh. 1). Nahon knew, or should have known, about this disturbing pattern of law enforcement abuse of women to benefit husbands looking to get rid of their wives. This indicates I did not have meaningful assistance of counsel. We both had the same prosecutor (See Exh. 1). Certainly the prosecutor had to have known about this pattern of law enforcement abuse. We both had a FOIA restriction included in our Plea Agreement, most likely to cover up this disturbing pattern of abuse by law enforcement. We had the same judge (See Exh. 1). Neither of us received any reduction in sentencing for the direct involvement of the "victim" in causing the so-called "crime", and the fact our husbands were never in any danger, only looking to the federal government to help them get rid of their wives. There is also the fact that Dennis Deason had me meet him in Arkansas solely to manufacture federal jurisdiction.

HISTORY OF ABUSE

Randy Brown started using meth in October of 2005 and wanted me to start. So I tried it a couple of times then Randy started using more and more, everyday. He started getting more violent and his victims were a little 6 year old and sometimes a 3 year old child and myself. When he was abusing me, he was leaving the little girls alone. Randy was violent all the time, he didn't need the drugs to help him. Sometimes when he came home off the semi-truck, he would walk in and clear my counter top off for no apparent reason, throw his bag of dirty cow manure clothes on there and tell me he was hungry and to get his clothes washed before tonight. On a regular weekend when Randy was home, Brittany, the 6 year old, would start peeing the bed. Randy would leave bruises on her from her butt to her the back of her knees if she got in his way. Randy would pick her up by one of her little arms and throw her across the yard. One day he picked her up and held her up against the wall and screamed in her face like she was a grown person and hit her. She had a cut lip, black eyes, and I think she had a broken nose. God forbid if I took her to the emergency room in West Plains. Randy would make Brittany sit in the corner and not allow her to sleep. If she did he would throw his size 13 shoe at her or anything he could get his hands on. That was just a few things he did. He then pushed my '79 F150 over the hill because it was in his way, it hit a tree and damaged the frame and everything. He just laughed in my face like a little spoiled kid. Randy liked to call me all kinds of names and put me down constantly and told me I was worthless,

a tramp, slut, just about anything that came into his head. That I'd never be anything.

Usually on Friday nights, he got home around 11:00 p.m. sometimes earlier. I had to unhook the cow trailer, then hook up the flatbed trailer to go to the truck pulls and have every thing ready to go by noon on Saturday, including all the chores. I was his slave, get it all done or else. He would jump the fence in front of hundreds of people for me not understanding him and slapped me and told me I wasn't any f----- good for a d--- thing. Every thing was left up to me no matter what it was. There was probably 20 people who saw his displays of anger, and if he thought he could that in public and get away with it, what he did when we were at home was way worse.

When my oldest son, Randell was about 1½, I left Randy and went back to my mother's home. By the time I drove the 8 hours to her home, he had a custody paper on my son who was his adopted son. I was 3 months pregnant with my second son, Jonathan. He was so mad and so violent, he pushed me down but I managed to get away from him. With him having papers on my oldest son, I knew that I had lost the battle and would have to stay with him since Randell was not his biological son but merely adopted and would win whenever a situation would come up involving the kids. Randy was always threatening me with the fact that "He could always get the kids and I would have nothing to say about it". If we ever divorced he would get the kids. He had divorced his first wife, got custody of Akasha and he put his first wife in prison for 10 years.

In 1979 or 1980, Randy killed a man at a bar fight in Rock Port, Missouri, but he was acquitted from all charges. He is a very violent man and continuously kept all of us on pins and needles, no matter what we were doing. I never cleaned house to suit him, never did chores good enough, and after he started using drugs more intensely, he became even more violent and much meaner. I was terrified of him and what he could do to my children. I went to the law and took the meth to the local police department there in Alton, Mo., and absolutely nothing was done. I was threatened by law officials that if I called one more time and they had to come to the house, they would get DFS involved and the kids would be removed from the home. So that went no where.

Randy called me one day while I had some ladies over from a parenting class from West Plains, so I put the phone on speaker and took another hand held one to the bedroom. That way I could talk to him, and they would be able to hear everything he said. They were absolutely horrified at how he talked to me just like he was talking to something lower than a dog. Then 10 minutes later he would call me back wanting the phone number for the doctor's office. Randy has a past child abuse history with Oregon County and Atchison County with his oldest daughter, Akasha Lynn Brown.

I called Randy's mother in November 2005 and told her that he was using drugs and Randy told me that was the last straw, he was leaving me and taking the kids and that was when everything started going from bad to worse if that was possible. It was like a time bomb and the clock was ticking.

At one point, right after Randell, my oldest son, was born, I found Randy out in the barn in the pickup with his 9mm gun fully loaded with it pointed at his head and he was ready to commit suicide. I stopped him. I had the visions of making him happy and being a helpmate and things would get better, so I lost all sense of purpose for myself and did everything he told me to do and basically became a stranger to cope with the mental, physical and psychological abuse to try and make another person happy. If he told me to clean the kitchen floor on my hands and knees, I did that no matter how degrading it was or how it made me feel. He just got worse with his power over me and nothing would satisfy his demands or anger. The humiliation was the worst, but my kids and myself were involved, and without me, they were unable to protect themselves.

Randy never gave me any money for food, so I had to go get on food stamps, and when I spent that, he demanded to see the receipt to see what I had purchased. Randy made \$100,000 a year and I had to beg to pay the bills. If I took more than 3 hours to go shopping the wrath of Randy would be upon me when I returned home. It takes time with 4 children to handle, plus groceries, and his concept was to be home at a certain time. The insults and rage would last for hours and then the kids would get upset, and it was horrible.

Randy isolated me from my friends and my family. I was not allowed to call my mother. In 2000, my mother passed away, but before she died, I took off and spent the whole day with her and took my two boys at the time and it was the most wonderful day of

my life. Randy said to get over it because I had other things to worry about. About a month after she passed away, I found out I was pregnant and thought this might help us, but it didn't. I had Cayla on my own, then went back and had a tubal. I then had a hysterectomy about a month after that. Cayla belongs to Chris Brown, Randy's nephew--things got out of hand but I have a wonderful little daughter and Randy did not know she was not his until I came to jail.

Randy has always been a very controlling person, and always wanting to know where and what I was doing. Even after we married he was just more possessive and extremely demanding and our marriage just started downhill. There was no give and take with Randy, there was only one way and that was his. He would call me all kinds of demeaning names and comments and then want to have sex, I guess to soothe his conscience. I would agree just to try and put him in a better mood and keep a lid on his violent temper. One time we were out in the woods and for no apparent reason, Randy just up and raped me where I could get no help of any kind, laughed and then when we got back to the barn, he yanked me over a stack of feed sacks and did it again. This must of made him feel really the big man for he just smiled. I was so humiliated and absolutely terrified of what will he do next, so ashamed of being violated in that way he must of seen it in my eyes and I know it gave him that much more intense pleasure of being in control. Time passed and he called from the truck and said he was sorry so I felt it would get better and that I loved him. I was totally dependent on him for every-

thing and was always making excuses for him and then blaming his problems on me. I thought more of Randy than I did God. I was constantly controlled and had to beg him for money to pay the bills, which were not many, but still he was always in control.

Then Randy wanted to start his own trucking business. I thought that would be good. It was called RBJC Trucking, but it went under so we tried again. The next venture was R & K Farms that was still in business when I came to jail but it also went under. His controlled worker was no longer there to do as was told and he had no one to abuse and mistreat to make things work.

Randy would call me night and day for directions on how to get to his location, it didn't matter what time it was and if I didn't answer the phone on the second ring, he would call and the name calling would begin for an indefinite period of time. It seemed endless. Randy's temper even extended over to our animals and he would abuse them also. He was not picky in his dishing out of punishment as long as someone or something got his wrath. He even killed a sheep dog because the dog was not doing his job. Randy has had these problems from the beginning even in high school. He had a fight with a Scott Nance and his brother is a federal Marshal at this time. Randy is a very disturbed individual, and I thought with love and a good home life, the things that really mattered, he would settle down and things would get better, but wrong, they only got worse.

Randy would come to me with his fist and then at the last instant hit the wall and leave a hole in it. I asked him to go to counseling with me, and he went through the roof and that

subject was never, I mean never, brought up again.

Then the real circus began, and in December 2005, Randy filed for a divorce but he played me like a cat with a mouse. The night before he called to see if he could have the kids, and I didn't want to start anything so I let him have the kids, then pure hell for me and the kids began.

After Randy started using meth, he really turned into a strange sexual deviant and I thought I was free of this man with the divorce and all. WRONG!!! He would come over with all kinds of sex toys and take pictures or use the camcorder, want to use exotic lotions, I knew the law was out so I continued to play his nasty games and the brainwashing just kept on and on. He liked to play around with other women and especially flaunt them in front of me and I couldn't say anything, they could put me down and he would actually encourage them.

After Randy left, I felt I could actually get my breath and was getting used to him being gone and I started having friends over to watch TV and just hang out. Randy started calling me and asking me if I had friends over and I would tell him yes. One night I went out dancing with my date and had a nice time. About 2 a.m. Randy showed up going through the house asking me where this man was. I kept on telling him that I was alone and there was no man in the house. Randy said I am going to kill you, you piece of nothing, whore and the slut that you are. When he left, I went to the sheriff's office to report it and I wrote out a statement, this being the second one that I had filed and nothing was done on either time. Then one night one of Randy's friends, a Randy

McClainham, came by the house and the next day Randy Brown was giving me the third degree if I had company and I told him that Randy McClainham was there, and then he started to call me names, but it didn't register and it finally did and then he shut up.

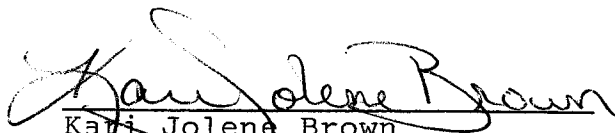
Then Randy came to the house another time when I was talking to Lee from the Sheriff's Office about different things and then I said, Oh, s---, it's Randy, before Lee got another word out, Randy had grabbed my cell phone and threw it on the ground and smashed it to pieces. He then proceeded to give me his cell phone and said to call the law, so I did and Lee answered. Lee said they were on their way out, and so I hung up, and Randy said, "I'm going to kill you," and I said, "You wouldn't kill the mother of your children." Randy said, "Don't put it past me." On that day, Randy made a statement that I assaulted him by grabbing his shirt after he pushed me to try and keep from falling, I also made a report that day.


Before we got our divorce, I tried to place a protection order on Randy for myself and the four kids. It was filed in the Oregon County Courthouse, and when I was leaving, Randy was standing outside and told me to go back in there and withdraw the protection order.

After Randy found out that I had a lawyer for our divorce, Randy went into orbit and told me to call the lawyer and tell him that he was fired from the case. My lawyer asked me if Randy was standing right there with me and I said yes. My lawyer told me not to let Randy manipulate, dominate and demean me everytime he came around which he did and will continue to do these things.

I contacted the law and they did nothing. Randy had divorce papers that said he had custody of my children until it was final, but I was not going to leave my children in the hands of someone as violent and mean as Randy Brown. After I was arrested, Randy was charged with child abuse and he had to do anger management classes. He was also charged with 2nd degree assault on Bobby Harvey. Randy has child abuse convictions from his past on his daughter from his first marriage, her name is Akasha Lynn Brown and these charges were from when she was 7 to 16. Akasha was in foster care of some kind most of her life. Randy is a very cruel, domineering, manipulating sexual deviant and is very dangerous to anyone who comes in contact with him. I am simply terrified of him and even more so for my children and what his effect will be on them in their young lives. I do not want them to be tortured or tormented like he has done me, and I hope we can all be helped.

Further Affiant sayeth naught.


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TAMMY WILLIAMS, CASE MANAGER,
AUTHORIZED BY THE ACT OF
JULY 7, 1955, AS AMENDED, TO
ADMINISTER OATHS (18 USC 4004)

1/28/08