



October 31, 2005

By Email Attachment and Facsimile

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Charles E. Kennedy, III, Esq.
Van Wert County Prosecuting Attorney
101 East Main Street
Van Wert, OH 45891

Re: Spirko v. Anderson, Case No. 3:95-CV-7209

Dear Messrs. Wille and Kennedy:

As you are both aware, in 1997 John Willier volunteered information to Investigator Bill Latham that indicated that Dale Dingus, not John Spirko, was responsible for the abduction and murder of Mrs. Mottinger. At that time, Mr. Willier told Mr. Latham that he wanted to be interviewed by federal law enforcement officers and that he was prepared to take a polygraph to satisfy investigators that he was telling the truth. Mr. Latham forwarded this information to the U.S. Postal Inspection Service as well as the Federal Bureau of Investigation, yet no interview or follow-up occurred.

Recently, just after the Parole Board hearing held on October 12, 2005, Mr. Willier was located, living in Tennessee, by the Cleveland Plain Dealer. He again repeated to the Cleveland Plain Dealer the assertions he had made to Investigator Latham in 1997 that suggested that Dale Dingus was the man responsible for the Mottinger murder and again stated his willingness, indeed eagerness, to take a polygraph. These matters were reported by the Cleveland Plain Dealer on Sunday, October 16, 2005. We notified the Parole Board of these developments in a letter dated October 17, 2005. Also on October 17, 2005, we sent a letter to the U.S. Postal Inspection Service and the Federal Bureau of Investigation requesting that law enforcement follow-up immediately with Mr. Willier and also conduct DNA and/or other appropriate tests on the paint-splattered shroud to see whether a match can be established with Mr. Dingus, Mr. Willier, or any of their associates. We suggested that it might be appropriate for the FBI to take the lead in these matters. We believed that additional investigation would be appropriate,

particularly in light of the questions by some Board members at the hearing who expressed concern and frustration at the failure of law enforcement to pursue this significant lead.

Once again, law enforcement declined to follow up. On October 24, 2005, we received a response from the FBI, on which you were copied. The FBI takes the position that any follow-up investigation should be conducted by the U.S. Postal Inspection Service. We have yet to hear from the U.S. Postal Inspection Service.

As you are aware, the Center on Wrongful Convictions of Northwestern University School of Law has taken an interest in this case. (Professor Steven Drizin, the legal director of the Center on Wrongful Convictions, appeared at both clemency hearings.) As a result of the complete failure of federal and state law enforcement to act responsibly with respect to this matter, and with an execution date fast approaching, the Center on Wrongful Convictions arranged and paid for Mr. Willier to be polygraphed. Robert Campbell, a 33-year veteran of the FBI and their Regional Polygraph Examiner and a past President of the Tennessee Polygraph Association, conducted the polygraph exam on October 26, 2005, in Winchester, Tennessee. At the exam, Mr. Willier gave a statement in which he asserted, among other things, the following:

- he has never met John Spirko;
- he has never known Betty Jane Mottinger;
- in the summer of 1982 he worked for Dale Dingus painting a house in Findlay, Ohio, on Glendale Avenue;
- he had been shown a piece of tarp that he immediately recognized as having come from one of the tarps used at the Glendale Avenue painting job;
- on that painting job, every evening after work all the painting materials, including the tarp, were secured in the garage by Dale Dingus with a lock to which Mr. Dingus only had the key;
- prior to the Spirko trial, Paul Hartman had told Mr. Willier and his father not to speak to Spirko's lawyers; and
- sometime in the early 1980s, Dale Dingus had invited him to go smoke some pot and that while they were parked in Dingus's van, Dingus pulled a rifle out and pointed it at Willier's head and stated; "you don't know anything about this case."

Mr. Campbell then polygraphed Mr. Willier with respect to his statement. That test revealed that Mr. Willier had not been deceptive: Mr. Willier's responses "were not indicative of deception." (A copy of Mr. Campbell's report is enclosed.)

Mr. Willier's information suggests that an innocent man may be executed on November 15, and, importantly, that the painter's tarp might be the key to determining the true perpetrators of this crime.

Moreover, Mr. Willier's information cannot and should not be viewed in isolation. In fact, in 1984, Larry Dehus, a forensic chemist, had concluded that "paint drops or splatters" from the tarp in which Mrs. Mottinger's body had been wrapped "were found to be similar . . . with respect to color, tint, and chemical solubility" to paint samples that had been recovered from the Glendale Avenue house belonging to Dr. Tidaback and painted by Dale Dingus and his crew, including John Willier, in the summer of 1982. (A copy of Larry Dehus's report is enclosed.)

The totality of the evidence would thus now strongly, if not conclusively, suggest that a painter's tarp belonging to Dale Dingus was used to wrap Mrs. Mottinger's body; that Mrs. Mottinger's body was found within a quarter mile of Mr. Dingus's mother's home and barn; that there is absolutely no connection between Dale Dingus or John Willier, on the one hand, and John Spirko, on the other; that Dale Dingus threatened John Willier at gunpoint and told him "you don't know anything about this case"; and that Paul Hartman told John Willier not to speak to defense counsel about this case.

Under these circumstances, it is inconceivable and unconscionable that the execution of John Spirko can be allowed to proceed without testing the tarp. Mrs. Mottinger was likely murdered by the man who owned the tarp in which her body was wrapped. The tarp needs to be thoroughly evaluated using all modern scientific and forensic techniques, including DNA and paint analyses. John Willier needs to be interviewed. Dale Dingus, serving a lengthy sentence in Louisiana, needs to be interviewed and polygraphed, if he is willing. The DNA results need to be run through the national DNA database known as CODIS. We believe Dale Dingus's DNA profile is in CODIS, as are the profiles of some of his painting associates, and a match to their profiles would exonerate Spirko and inculcate the true perpetrator of these crimes.

If the State refuses to conduct DNA and paint analysis testing on the tarp, we request that the State allow us access to the tarp so that we can obtain testing at a reputable lab, pursuant to the FBI's offer of October 24, 2005: "[T]he FBI declines your request for a DNA or paint forensic analysis and notes that private testing services are

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available if you wish to independently pursue this course of action.”) If the state is not willing to test the evidence on its own, we do wish to pursue this course of action. The evidence currently in the State’s custody to which we request access includes (1) the tarp or “shroud” that was wrapped around Mrs. Mottinger’s body, a section of which is in the custody of the Office of the Clerk of the Common Pleas Court of Van Wert County; (2) a piece of fabric, measuring 8 inches by 8 inches and listed as Exhibit 1 on the report by Law-Science Technologies, which is apparently a section of the “shroud”; (3) Mrs. Mottinger’s clothes; (4) the cement block and cement fragments that were around the body; (4) a piece of gauze listed as Exhibits 20 and 21 on the report by Law-Science Technologies; (5) the duct tape or clothesline that was wrapped around the body; and (6) any hairs or blood samples and any other DNA material recovered from any source.

Because of the urgency of this matter, we request that you respond to our request no later than noon on Tuesday, November 1, 2005.

Sincerely,

A handwritten signature in black ink, appearing to read 'THOMAS C. HILL', with a stylized flourish at the end.

Thomas C. Hill