

Dear Attorney Grievance Commission:

February 11, 2019

I submit before this commission that Wayne County Prosecuting Attorney Patrick Muscat, is in violation of the MICHIGAN COURT RULES OF PROFESSIONAL CONDUCT, RULE 8.4 MISCONDUCT (B) & (C).

Attorney Muscat, engaged in conduct involving dishonesty, fraud, deceit, misrepresentation, or violation of the criminal law where such conduct reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer. In accordance with Violation (C), Muscat has engaged in a conduct that is prejudicial to the administration of justice.

Muscat was the Prosecuting Attorney in the People v. Thelonious Searcy, case number 04-12890-01. This violation occurred on May 6, 2005 during jury deliberation. The foreperson for the jury sent a letter to the court, specifically asking "What type of caliber weapon or bullet killed the deceased?" The court responded, after speaking with both attorneys they agreed that the bullets were too deformed to determine the type of caliber that killed the deceased . . . (trial transcripts, volume 5, May 6, 2005, pg. 89, lines 5-13).

Upon receiving this information from the court, the jurors found Searcy Guilty of Premeditated Murder, Assault with the Attempt to Murder and Felony Firearm (trial transcript, volume 6, May 9, 2005).

This question asked by the jury was critically serious for multiple reasons. (1) First and foremost the jury was deliberating on a First Degree Murder charge. (2) Secondly, this question showed that the jury had doubt. This assertion can be supported by the question posed to the court. "We want to know what type of caliber weapon or bullet that killed the deceased." The jury could not or would not render a verdict until this specific question was answered about the weapon that killed the deceased.

Prosecuting Attorney Muscat had a legal, ethical duty as a sworn Officer of the Court to provide truthful information to the jury in the above case mentioned in this Formal Complaint.

This attorney's deceitful, malicious actions caused Thelonious Searcy to suffer irreparable harm as a criminal Defendant. Searcy was sentenced to Life Without Parole in the Michigan Department of Corrections because this Prosecuting Attorney chose to deliberately lie to the jury about not knowing what type of caliber weapon killed the deceased.

On May 15, 2018, Thelonious Searcy had an evidentiary hearing before 3<sup>rd</sup> Circuit Court Presiding Judge Timothy Michael Kenny. During this hearing it was factually proved that Prosecuting Attorney Patrick Muscat deliberately lied to Searcy's jury about the caliber bullet found in the deceased. The Prosecuting Attorney representing the Wayne County Prosecuting Office during this evidentiary hearing was Thomas Chambers. Mr.

Chambers commissioned Sergeant Patricia Little from the Wayne County Conviction Unit to retrieve the following evidence property tags listed below:

E07191604, E0719704, E07191804 and E07191504

The above property tags were identified as being 40 calibers.

Independent firearms expert David Balash identified these bullets as 40 calibers. Balash further stated that no other caliber bullet weighs the same as a 40 caliber bullet. **He also testified that these bullets were found in the deceased's body.** A Laboratory Firearm Analysis Report dated 1-7-2005 was listed as People's Exhibit #23 by Prosecutor Patrick Muscat during trial. This specific report shows that Muscat knew the caliber of the weapon that killed the deceased. Detroit Firearm Expert David Paunch identified those tags listed above as 40 calibers (see laboratory report number F-0436E).

Ignoring the exculpatory findings from the Detroit Police Firearm Experts David Paunch and Lloyd Allen exposes that Prosecutor Muscat deliberately committed perjury to obtain a criminal conviction. Thus, disregarding Searcy's constitutional right to have a fair trial, which was utterly adverse to the judicial system.

It is well said that the Prosecutor may not use knowingly false testimony to obtain a criminal conviction. A Prosecutor's duty to prevent lies from entering the evidence in the guise of truth stems not from any particular role in the adversary process; rather it is derived from the prosecutor's duty to represent the public interest and to place the pursuit of truth and justice above the pursuit of a conviction.

In this particular case, the false information given to the jury has not been corrected. Nor has this prosecutor been held accountable for this malicious misconduct. Searcy prays that this Honorable Commission would conduct a fair and impartial investigation into the inflammatory, corrupt tactics utilized in this formal complaint.

Respectfully submitted,  
[s] Mr. Thelonious Searcy 2-11-2019  
Thelonious Searcy #535985  
Thumb Correctional Facility  
3224 John Conley Drive  
Lapeer, MI 48446