

STATE OF MICHIGAN

IN THE THIRD JUDICIAL CIRCUIT COURT FOR THE COUNTY OF WAYNE
PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff

L. Ct. No. 81-06966

Hon Daphne M. Curtis

-vs-

DWIGHT CARVEL LOVE,

Defendant.

WAYNE COUNTY PROSECUTOR'S OFFICE
Attorneys for Plaintiff

CRAIG A. DALY (P 27539)
Attorney for Defendant Dwight D. Love
SARAH E. HUNTER (P 35961)
Attorney *In Pro Bono Publico*
For Dwight C. Love

AFFIDAVIT OF SARAH E. HUNTER

SARAH E. HUNTER, states:

1. I have been counsel for Dwight C. Love since approximately 1994 for his post trial relief effort that culminated in this Court granting him a new trial in 1997.
2. Mr. Love's case was, upon information and belief, tainted by police misconduct that I learned about from a former Detroit Police Investigator on September 4, 1996, but did not reveal to this Court because the Investigator who imparted the information to me requested that I not reveal his name or indicate that he was the source of information from whom I learned information because he feared for his job and seemed to fear other reprisal if anyone found out.
3. On the last day of Mr. Love's 1996 evidentiary hearing the prosecutor turned over to defense counsel a police "miscellaneous file" that I had requested, but

I never informed the Court how I knew such a file might exist nor did I tell the court what I suspected it might or probably would contain.

4. I first learned about the police "miscellaneous file" on September 4, 1996, the evening before I was scheduled to cross-examine Commander Gerald Stewart, Chief of the Major Crimes Unit for Detroit Police, who had been called as a prosecution witness to, among other things, describe how he interviewed Dannelle Fisher and found no need to re-open the Love case after hearing Fisher's confession and reviewing the police records and trial transcripts.
5. I also had telephone conversations with Commander Gerald Stewart, among others, prior to the Love evidentiary hearing in 1996, and I had also had seen his quotes in the newspaper. I was aware that Stewart and others believed that the theory proffered by Mr. William E. Robertson and myself that Mr. Love was innocent of the murder of James Connelly was unfounded and untrue because, among other things, it did not comport with their reading of the so-called record and the police reports, and because of some brief investigation they undertook in which they interviewed only witnesses who were involved in the 1982 trial that convicted Mr. Love.
6. The evening of September 4, 1996, Mr. William Robertson, a former FBI agent, took me to a Highland Park, Michigan Supermarket to meet with an individual he only called a "source of information". This was a person that I did not know, but Mr. Robertson knew him and arranged the meeting without informing me ahead of time. I later learned from Mr. Robertson that the Source of Information was named Ritchie Harrison. Mr. Harrison was a Detroit Police Officer on leave from the Department and he was working at the time as a Security Guard for a supermarket in Highland Park. The purpose of the meeting was for me to learn more about Commander Gerald Stewart, who had expressed his unwavering opinion that Dwight Love was guilty of murder. I was set to cross-examine Commander Gerald Stewart the following day, September 5, 1996, and I did do so.
7. At the meeting on the evening of September 4, 1996, Mr. Harrison sat in the front seat of Mr. Robertson's vehicle with Mr. Robertson, and I sat in the back seat while we spoke. Our meeting commenced at about or 5:00 or 6:00 p.m. in the early evening and the three of us spoke in the car the entire time.
8. Mr. Robertson and Mr. Harrison instructed me that I was never to tell anyone about the meeting or with whom I had met. The reason was because it was dangerous for Mr. Harrison to be speaking to people who were not part of the Detroit Police Department about police matters. He was already in trouble within the Department, he claimed, and seemed to fear grave trouble in the

workplace if anyone knew he had talked about police matters to an attorney for a criminal defendant. He also seemed to harbor some kind of personal fear about speaking with us. I took notes in the meeting but did not write Mr. Harrison's name down at the time. Mr. Robertson made notes about the meeting as well, and his office may contain more notes about the meeting that have not yet been discovered since his untimely death.

9. Mr. Harrison told me unequivocally that I was never to tell anyone that he spoke with me or about how I found out the things he told me. He said it would mean a lot of trouble for him and he feared his job was in jeopardy, and that he could get in further trouble if anyone knew.
10. Mr. Harrison told Mr. Robertson and me that Commander Gerald Stewart was a person who resorted to illegal tactics in convicting and framing others by hiding exculpatory evidence and/or that he would destroy evidence. Mr. Harrison stated that he was on leave from his the department because he had refused to destroy evidence at Stewart's behest, and he gave us the name of that case and the details of what occurred when he refused to destroy and tamper with evidence, although I did not verify the details of this case.
- X 11. Mr. Harrison said that when he came to work in Commander Stewart's Unit he was instructed that the first thing he was to do was to learn to lie and he better have enough detail to back it up.

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12. Mr. Harrison said that he witnessed Commander Stewart and others shredding and destroying evidence in one case in particular that he named, and in others.
 13. Mr. Harrison also told Mr. Robertson and me that Commander Stewart was a person who probably would not care than an innocent person was wrongly convicted.
 14. I asked Mr. Harrison if there was anything I could ask Commander Stewart during my cross-examination of him that would be a signal to him that I had inside information from his department. Mr. Harrison told me that one question I could ask Commander Stewart would be about the police "miscellaneous file". He said that he knew that if I asked Mr. Stewart about that file Stewart would know that I had a source of information inside the Detroit Homicide Department. I had never heard of a miscellaneous file until that evening.

15. Mr. Harrison explained that a "miscellaneous file" is created for every homicide case and that in these files the police pick out every bit of evidence

that is exculpatory as to the perpetrator they will seek a warrant for, and every other piece of evidence that is inconsistent with their theory of who did the crime, and they leave it in the miscellaneous file before presenting the case to the prosecutor's office for a warrant.

16. Mr. Harrison told me and Mr. Robertson that he believed the prosecutors in Wayne County do not know about the miscellaneous file but that there is one for each case, and that very few people knew that such files existed. He said these files are intentionally created by police to conceal exculpatory evidence, even from the prosecutor.
17. Mr. Harrison said that no one knows about miscellaneous files except for people who work in Homicide, and he gave us the impression that no one else was supposed to know about the miscellaneous file.
18. The next day, September 5, 1996, I questioned Commander Stewart in court about his attempts to "assist" Mr. Love and clear an innocent man. Commander Stewart stated that the story told by Dannelle Fisher did not fit the facts of the case. He testified that he reviewed the entire police file and the trial transcripts for the Love case in reaching this conclusion.
19. The day I questioned Commander Stewart I asked him if anything in the miscellaneous file fit with Mr. Fisher's story about the case. He said no. That was the first time in the evidentiary hearing that I ever mentioned the miscellaneous file, because I only learned of it from Mr. Harrison the previous day.
20. Commander Stewart also told Ms. Dorothy Knox that he figured that the reason Mr. Fisher, Mr. Robertson and I were saying Mr. Love was innocent was because "someone" had been bribed.
21. According to my notes from a phone call with Mr. Fisher after he told Commander Stewart and Richard Newcomb about his involvement in the murder of Jimmy Connelly, Fisher told me that Stewart thought the whole thing was a joke and he repeatedly asked Mr. Fisher how much money I or Mr. Robertson had given him to say the things he was saying and to confess to a murder.
22. Finally, when this Court ordered production of the police miscellaneous file at the end of the 1996 evidentiary hearing, it did turn out that the file contained what Ritchie Harrison described, i.e., impeachment material that confirmed details supplied by Mr. Fisher, exculpatory information as to Mr. Love, as well as information from other witnesses about how the crime occurred, and

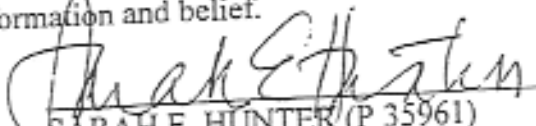
statements others made indicating they had knowledge of the crime at Holden and Trumbull in which a male was shot and killed. The file contained a myriad of information in addition to this. The trial court found that the non-production of the miscellaneous file contributed to the miscarriage of justice in Mr. Love's case, and that it did contain exculpatory and impeachment material, as well as material about other suspects. This finding was upheld in the Court of Appeals.

23. Ritchie Harrison killed himself and his wife on February 21, 1999 purportedly because he had terminal cancer, although I do not know all the details of his death. He is now unavailable to discuss or to give testimony about the meeting that he had with Mr. Robertson and myself. (Appendix A).
24. Mr. William Robertson died suddenly on April 8, 2000 of a heart attack. (Appendix B). Before his death he and I often discussed revealing the meeting we had with Ritchie Harrison, and the information he imparted at that meeting. Mr. Robertson, a former FBI agent, always cautioned against revealing it because he feared it would mean some kind of trouble or harm for me, although he never explained to me what kind of trouble he feared.
25. I am now the only person alive who was present at the meeting Mr. Robertson and I had with Mr. Ritchie Harrison on September 4, 1996, although I found some notation about it in Mr. Robertson's file, and notes about it in my file that I made contemporaneously with the meeting. That the meeting occurred is also confirmed in the transcript of the evidentiary hearing because the first time I ever mentioned the police miscellaneous file was the following day when I questioned Commander Stewart. (Appendix C). Moreover, after learning of the miscellaneous file, I did not stop asking for it on the transcript after September 5, 1996, until it was turned over in October of 1996. I have no idea why it was turned over to me because I felt that it might be shredded.
26. Mr. Harrison also imparted other information to Mr. Robertson and myself about very serious Detroit Police misconduct related to other cases but I did not discuss it and have no way to verify it. He said the evidence had been shredded from one particularly egregious case he described involving an innocent person.
27. I cannot say that I confirmed any of the information about other cases that Mr. Harrison imparted. However, when the prosecutor did produce the police miscellaneous file for Mr. Love's case, it did contain material that the defense had never seen that was either exculpatory as to Mr. Love; it contained information about other suspects, information that tended to corroborate some of the things Dannelle Fisher said; and general impeachment evidence, among other things. A Detroit police vehicle followed me to the Oakland County line

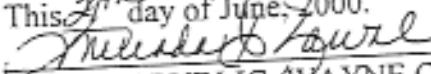
after I left Court at or near the time I mentioned the Miscellaneous file in court, although I cannot say why it did so and cannot say that there was any untoward reason for that. Mr. Robertson indicated to me that an unmarked vehicle had followed him a few evenings later. I cannot say that there is any significance to these events.

28. The Miscellaneous file did exist as Mr. Ritchie Harrison said that it did. The defense received it after this Court ordered that the prosecutor turn it over. Thus, it was reliable information from the now-deceased Mr. Harrison that we were able to confirm.

I can testify truthfully to the information in this affidavit as well as other matters within my knowledge, information and belief.


SARAH E. HUNTER (P 35961)

Subscribed and sworn to before me
This 29th day of June, 2000.


NOTARY PUBLIC, WAYNE COUNTY
My commission expires: 6-18-04