

STATE OF WISCONSIN CIRCUIT COURT MANITOWOC COUNTY

IN MATTER OF SUBPOENA TO:

LAURA RICCIARDI, and
SYNTHESIS FILMS,

Incident No. 05 157 955

MANITOWOC COUNTY
STATE OF WISCONSIN
FILED

AFFIDAVIT IN SUPPORT OF MOTION TO QUASH SUBPOENA DEC 7 2006

Laura Ricciardi, being sworn, states:

CLERK OF CIRCUIT COURT

1. I am a graduate student at Columbia University, School of the Arts, in New York City. I am also an attorney licensed to practice in the states of Illinois and New York. I have worked for the United States Department of Justice both as a law clerk for the United States Attorney's Office, and as a lawyer for the Bureau of Prisons. I have also worked as a private practitioner. My vita is attached as Exhibit 1.

2. As a graduate student, I am currently engaged in the independent, journalistic endeavor of producing and directing a feature-length documentary. The documentary examines the criminal justice system in Wisconsin over the past quarter century. The film uses the story of Steven Avery as a focus for exploring an array of significant legal, political, and social issues. I have included as broad a range of perspectives as have made themselves available, including families, judges, attorneys, and legislators. I did not start filming until December 6, 2005.

3. On September 20, 2006, I sent a letter to DA Kenneth R. Kratz requesting an interview. A copy of that letter is attached and incorporated to this Affidavit as Exhibit 2. That letter accurately states the origin of the idea for this documentary, its subject, and desire to present as wide and as varied an angle on the subject as the subject matter will permit. The story from the New York Times referred to in my letter to DA Kratz is attached as Exhibit 3.

4. Given the scope of the project, the majority of my footage to date concerns historical events. As a lawyer, I knew going in that the extent to which I would cover the

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Halbach case would be severely limited while the cases were still pending. Throughout the making of this documentary, I have diligently sought to avoid any discussion concerning the facts of the pending cases against Steven Avery and Brendan Dassey.

5. I have devoted almost all of my time over the past year on this documentary without pay. My help has come from three associates, who also have worked without pay to date. This is a dedicated and hard-working, but skeleton crew.

6. So far, I have 239 64-minute DV tapes or nearly 255 hours of tapes. Unlike broadcast news sources, which are required to review, edit and air their footage within a few hours of shooting it, my process is long term. Given my limited resources and budget, I am unable to review and process footage while I am still researching, planning, traveling, and shooting.

7. It would take 255 hours just to dub the tapes. The cost of time and tape stock to produce dubs will cause irreparable harm and effectively derail this documentary.

8. It would take me at least 5 hours to log and transcribe each tape. I do not have the budget or time to do so.

9. The process of reviewing and transcribing footage will not occur until after the trials of both Avery and Dassey.

10. I have expended a considerable amount of time developing good will and relationships without which there would be no project. Directing me to turn over tapes of interviews will damage that good will and impede my ability to obtain genuine, and therefore, accurate responses, essential to the free flow of information protected by the 1st Amendment to the United States Constitution and Article I, § 3 of the Wisconsin Constitution.

11. Law enforcement's effort to obtain judicially ordered disclosure of information gathered as part of the journalistic function will disadvantage my journalistic effort. Directing me to turn over tapes of interviews effectively renders me an investigative arm of the judicial system or a research tool of the State. Even if people

Robert J. Duznek, Attorney at Law

(2)

believe that I am doing so unwillingly, it will affect the willingness of people to speak freely and openly with me.

12. Upon information and belief, and based upon Investigator Mark Wiegert's Affidavit for Subpoena, §§ 5-8, the prosecution has verbatim recordings of all interviews by anyone with an inmate in the jail, including Avery, Dassey, and Jodi Stachowski.

13. My interviews with Steven Avery in the jail were in the general visiting area where I understand that all conversations were recorded by the jail, and where I was not allowed to bring recording equipment. Therefore, the state has this information in their possession, while I have none.

14. I have no written communication from Avery.

15. I have had no telephone calls from Avery on or after October 17, 2006.

16. I have no written or recorded communication from Dassey.

17. I do not recall any statements made by anyone who claimed to have knowledge of the involvement of Steven Avery, Brendan Dassey or any other individual in the death of Teresa Halbach.

18. I have not provided any information from my interviews to the attorneys for Avery or Dassey.

Laura Ricciardi

Laura Ricciardi

Subscribed and sworn to before me
This 1st day of December, 2006.

Maureen Brennan

Notary Public
My commission is permanent/expires: NOV 30 2018

MAUREEN BRENNAN
Notary Public, State of New York
No. 01BR4764174
Qualified in Bronx County
Commission Expires Nov. 30, 2018

LAURA RICCIARDI

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lrr2003@columbia.edu

Bar Admission

U.S. District Court, Northern District of Illinois Illinois	1999
New York and U.S. District Court, Southern District of New York	1997 1996

Experience

Weil, Gotshal & Manges, LLP, New York, New York <i>Temporary Attorney (employed through Strategic Legal Solutions)</i> In connection with production for lawsuit, reviewed client correspondence for responsive and privileged documents. Redacted privileged documents and flagged those "of interest."	2005
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Miramax Films, New York, New York <i>Contract Administrator (employed through Force One Entertainment)</i> Review and abstract wide variety of film, television and book publishing contracts, including option, financing, talent, acquisition and license agreements.	2005
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Shearman & Sterling LLP, New York, New York <i>Temporary Attorney (employed through Update Legal)</i> Regarding production for SEC investigation, reviewed client correspondence for privileged information and redacted said information.	2005
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Sullivan & Cromwell LLP, New York, New York <i>Temporary Attorney (employed through Strategic Legal Solutions)</i> In connection with production for class action, reviewed client correspondence for responsiveness. Reviewed responsive documents for privilege. Redacted from responsive documents all privileged and confidential information. Flagged "of interest" documents for further review. Reviewed pre-designated deposition exhibits and identified "of interest" documents.	2005
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Vedder, Price, Kaufman & Kammholz, Chicago, Illinois <i>Estate and Financial Planning Associate</i> Conducted research and prepared documents that pertained to wills and trusts, estate and gift tax, compensation planning, employment agreements, options under retirement plans and individual retirement accounts, tax return preparation, property ownership alternatives and planning for the possibility of mental or physical disability. Prepared tax-exemption applications for private foundations. Administered estates and trusts.	2000
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Landon & Wickersty, Ltd., Chicago, Illinois <i>General Practice Associate</i> Represented clients in litigation that pertained to contract disputes, personal injury claims, guardianship estate matters and landlord-tenant actions. Administered decedents' and guardianship estates. Conducted residential real estate transactions.	1998 to 2000
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Soule & Bradtke, Chicago, Illinois <i>Contract Attorney</i> Researched and drafted plaintiffs' briefs on monetary awards in race discrimination class actions. Neutrals awarded 100% to promotion and advancement classes as well as 85% to hostile work environment class.	1998
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Exhibit 1

- Lisa Kane & Associates**, Chicago, Illinois 1997 to 1998
Litigation Associate
 Researched and drafted plaintiffs' responses to motion for summary judgment in gender discrimination case that ultimately settled. Drafted discovery that prompted settlement in employment discrimination case.
- U.S. Attorney General's Honor Program**, Kansas City, Kansas 1996
Honor Program Attorney Trainee
 Researched and drafted procedural argument for litigation report that supported federal prosecutor's motion for reconsideration. Reviewed administrators' decisions regarding due process appeals of sanctioned inmates.
- U.S. Attorney's Office**, District of Hawaii, Honolulu, Hawaii 1995
Law Clerk
 Researched and drafted substantive argument in appellee's brief to United States Court of Appeals for the Ninth Circuit, which affirmed district court's decision. Researched and drafted memorandum exploring constitutional implications of civil asset forfeiture.
- New York Law School**, New York, New York 1994 to 1995
Research Assistant
 Co-wrote published article regarding constitutionality of retroactive civil legislation. Edited statutory interpretation course materials.
- Education**
- Columbia University, School of the Arts**, New York, New York, M.F.A. in Film 2007
 Honors: Victoria Loconsolo Foundation Fellowship Award, 2003 and 2004
- New York Law School**, New York, New York, J.D., *cum laude* 1996
 Honors: Otto L. Walter Award for Outstanding Published Scholarly Writing; Articles Editor, Law Review; AmJur Award for Legal Research and Writing; Quarterfinalist, Moot Court
 Author: "The Aftermath of *United States v. Carlton*: Taxpayers Will Have to Pay for Congress's Mistakes," Vol. XL New York Law School Law Review 599, 1996
 Co-Author: Sinclair, "Retroactive Civil Legislation," Vol. 27 University of Toledo Law Review 301, 1996
- Manhattan College**, Riverdale, New York, B.A., *magna cum laude* 1992
 Honors: Valedictorian; Phi Beta Kappa; Academic All-American

September 20, 2006

Calumet County District Attorney's Office
Kenneth R. Kratz, District Attorney
206 Court Street
Chilton, Wisconsin 53014
Via e-mail to kratz.kenneth@mail.da.state.wi.us

RE: Documentary Film

Dear Special Prosecutor Kratz:

Although our paths have figuratively and literally crossed many times, you and I have not formally met. Thus, I write to introduce myself and to tell you about my independent, non-fiction film project. I am co-producing and directing a feature-length documentary that deals in part with the Halbach case. Overall, the film is intended to provide viewers with an inside look at the evolution of the Wisconsin criminal justice system over the past two plus decades. The film utilizes Steven Avery's experiences within the system as a "vehicle" for exploring an array of significant legal, political and social issues.

When the Halbach case came to light, I was living and studying in New York City. I was in my fourth year of graduate film studies at Columbia University, School of the Arts. I'd enrolled at Columbia after practicing law in Chicago for approximately four-and-a-half years.

The day before Thanksgiving 2005, side-by-side photographs of Steven Avery appeared on the cover of *The New York Times*. In one photo he was shown walking out of prison in 2003, and in the other photo, officers were leading him into court in 2005. The caption said something to the effect of man freed by DNA, now charged in new crime. My interest was immediately piqued, so I read what was a tragic, complex and compelling *Times* article. Although the article emphasized the negative impact that Steven's post-exoneration arrest was having on the Wisconsin Innocence Project, it was clear that the crimes had affected numerous individuals, the communities within which events were unfolding as well as the entire State of Wisconsin.

Given my background and interests, I decided to pursue the story. As I attempt to cover Steven Avery's legal experiences over the past 26 years and the myriad issues that are raised, my objective is to include a wide range of perspectives. I want to talk to prosecutors, judges, defense attorneys, law enforcement, legislators, family members of the victims and the accused, average citizens, plaintiffs and defendants. In fact the film depends on this diversity of insight. I want to enable viewers to hear from all those involved, including professionals like yourself who work daily within the system, so that viewers will be positioned to form their own opinions.

Exhibit 2

I write to offer you an opportunity to participate in the film. Viewers would truly benefit from learning more about your role as representative of The People, how that affects or is affected by your relationship to victims and their families, your objective in prosecuting this case, how this case bears upon the system, the relationship of truth to justice in the criminal process, special concerns, if any, that you have when trying a high-profile case (e.g., media presence, cameras in the courtroom), and the like.

My crew and I understand and respect that there are matters that you cannot discuss while the case is pending and some matters that you might never be willing or, for legal or ethical reasons, be able to discuss. Thus, I suggest a pre-interview telephone conference so that together we could determine the scope and nature of the interview.

I am aware that the subject matter is of an extremely sensitive nature, and I want to let you know that I have sent a letter of introduction to Tim Halbach, and I have had coffee with Mike. I cannot say whether they themselves or any of their loved ones will choose to have a voice in this film, but I think it is important for you to know that I have reached out to them and invited them to take part.

Thank you for your consideration. I hope to hear from you.

Sincerely,

Laura Ricciardi
lauraricciardi@synthesisfilms.com

Freed by DNA, Now Charged In New Crime
By MONICA DAVEY (NYT) 1631 words
Published: November 23, 2005

As three men sat nervously on a stage, preparing to recount their nightmarish journeys through a justice system that had sent them away for crimes they had not committed, the moderator had a plea for the crowd in an auditorium here.

Let us not talk about Steven Avery, another man now sitting in a county jail charged with killing a young woman. Not tonight. Not again.

"This event is not about that," the moderator, Lawrence C. Marshall, a law professor who has spent years trying to free wrongfully convicted prisoners, urged. "Tonight we are here to talk about the much bigger issue."

For days, however, the case of Steven Avery, who was once this state's living symbol of how a system could unfairly send someone away, has left all who championed his cause facing the uncomfortable consequences of their success. Around the country, lawyers in the informal network of some 30 organizations that have sprung up in the past dozen years to exonerate the falsely convicted said they were closely watching Mr. Avery's case to see what its broader fallout might be.

Two years ago, Mr. Avery emerged from prison after lawyers from one of those organizations, the Wisconsin Innocence Project at the University of Wisconsin Law School, proved that Mr. Avery had spent 18 years in prison for a sexual assault he did not commit.

In Mr. Avery's home county, Manitowoc, where he was convicted in 1985, his release prompted apologies, even from the sexual assault victim, and a welcoming home for Mr. Avery. Elsewhere, the case became Wisconsin's most noted exoneration, leading to an "Avery task force," which drew up a package of law enforcement changes known as the Avery Bill, adopted by state lawmakers just weeks ago.

Mr. Avery, meanwhile, became a spokesman for how a system could harm an innocent man, being asked to appear on panels about wrongful conviction, to testify before the State Legislature and to be toured around the Capitol by at least one lawmaker who described him as a hero.

But last week, back in rural Manitowoc County, back at his family's auto salvage yard, back at the trailer he had moved home to, Mr. Avery, 43, was accused once more. This time, he was charged in the death of Teresa

Exhibit 3

Halbach, a 25-year-old photographer who vanished on Oct. 31 after being assigned to take pictures for Auto Trader magazine at Avery's Auto Salvage.

After her family searched for Ms. Halbach for days, investigators said they found bones and teeth in the salvage yard, along with her car. In the car, they found blood from Mr. Avery and Ms. Halbach, they said. They also found her car key in the bedroom of his trailer, they said, and, using the very technology that led to Mr. Avery's release two years earlier, they said they identified Mr. Avery's DNA on the key.

"This case has blown us away," Stephen M. Glynn, a Milwaukee lawyer who has represented Mr. Avery in a \$36 million civil lawsuit against the former prosecutor and former sheriff in the original sexual assault case, said of the new charges against Mr. Avery. "I haven't taken that hard a punch in a long, long time."

"This lets down so many people," Mr. Glynn went on. "This case became something that could have had an enormously positive effect on the criminal justice system in this state, but now that's up in the air."

Around the nation, DNA testing has led to the exonerations of 163 people since 1989, including Mr. Avery, said Maddy deLone, executive director of the Innocence Project in New York, where Barry C. Scheck and Peter J. Neufeld were pioneers in the movement. Only one of those exonerated is known to have been convicted of a serious crime since being freed, Ms. deLone said.

Like leaders in similar groups, Ms. deLone said she had recently heard about Mr. Avery's case and had talked to colleagues about it. "While this is a horrible, horrible crime," she said, "we really don't think that it will have an effect on these efforts or on our responsibilities to vindicate innocent people."

At the Wisconsin Innocence Project, leaders said the new accusations against Mr. Avery should not now be linked to his earlier wrongful arrest and release. Keith Findley, co-founder of the Wisconsin group, which describes Mr. Avery's case in its brochure, said the group's intent was not just to release the innocent but to find truth, and properly punish those truly responsible for crimes.

"This is a very emotional time and a very emotional event," Mr. Findley said. "But this should not affect what we do."

Still, for advocates accustomed to being praised as fighting on behalf of the falsely accused, the backlash here has been unavoidable. On talk radio and on Internet Web logs, critics have said that without the Wisconsin Innocence Project's efforts, one young woman might still be alive. Some said Mr. Avery's criminal record revealed telling signs of violence -- with convictions, for example, for burglary and cruelty to animals -- long before his 1985 sexual assault conviction.

At the trial, the strongest evidence against Mr. Avery came from the victim. She identified Mr. Avery as the man who had attacked her as she jogged on a beach. She had seen his face just 8 to 10 inches from her own, she said, and had noted his height, his broad hands with stubby fingers, his hair. The first thing that had raced through her mind in the attack, she told the jury, was that she needed to "get a look at this guy." Years after the jury found Mr. Avery guilty, his lawyers pressed to have new DNA testing done on pubic hair found on the victim after the attack. The tests revealed not only that the hair did not belong to Mr. Avery, but found that it matched another man, who had lived in the area and who had since been sent to prison for a sexual assault. The case was held up as a perfect example of how eyewitness testimony, even the best intentioned, could simply be wrong.

Even before the sexual assault conviction, Fred Hazlewood, the judge, now retired, who presided over Mr. Avery's case, said Mr. Avery's criminal record showed that he "had a real potential" for violence. "But he served his time," Judge Hazlewood said, "and you can't convict someone for what he might do."

Family members said last week that they were certain Mr. Avery was not guilty of the new charges of first-degree intentional homicide and mutilating a corpse. The authorities were wrong before, Mr. Avery's father, Al, said, and they are wrong again. The evidence, Al Avery said, was planted.

When Steven Avery finally got out of prison, his father said, he had lost his wife and family and found himself living in a tiny ice shanty once meant for winter fishing. Just surviving after so many years in prison was hard enough, Al Avery said.

"Now it's starting all over again," Mr. Avery's father said as he looked around the salvage yard that law officers had searched for days. Mr. Avery's mother, Dolores, said she could see the way people were looking at her, again, in the grocery store and on the streets here near Lake Michigan.

"He's innocent," Ms. Avery said. "I know it in my heart."
Soon, she said, she plans to call the Wisconsin Innocence Project, the lawyers who helped her son once before.

"There are 36 million reasons why they should be doing this to him," Mr. Avery's brother, Chuck, said, referring to the award his brother was seeking in his lawsuit.

The future of that suit now appears in question. Depositions have been postponed. Mr. Glynn said that he still believed that his client had a strong case, but he acknowledged that the case had grown complicated. What will potential jurors think now?

The arrest has changed other plans, too. Lawmakers who had pushed to have the state pay Mr. Avery more than \$420,000 for his wrongful arrest have grown quiet. And the bill of changes -- to the way the police draw up eyewitness identification procedures, conduct interrogations and hold onto DNA evidence -- is no longer called the Avery Bill.

"The legislation is very important and very sound for our justice system as a whole," said Representative Mark Gundrum, a Republican who helped organize what was then called the "Avery task force."

"But this does detract a little bit," Mr. Gundrum said. "Obviously, we're not talking about Steven Avery anymore, not highlighting his conviction."

And plans for a "grand, glorious" signing ceremony for what is now simply called the "criminal justice reforms" package, he said, seem remote.