

Wisconsin Division of Criminal Investigation Case Report
Case/Report Number: 05-1776/310

On Monday, December 11, 2006, at approximately 3:31 p.m., S/A Thomas J. Fassbender conducted a telephone interview with Edward James Fitzgerald. S/A Fassbender had contacted Fitzgerald on his home telephone, 414-423-1020. Fitzgerald also has a cellular telephone number of 414-403-1496. S/A Fassbender also spoke with Fitzgerald on Tuesday, December 12. Fitzgerald was the former District Attorney in Manitowoc County and was such during 2002.

S/A Fassbender identified himself to Fitzgerald and told him that he was investigating the Teresa Halbach/Steven Avery case. S/A Fassbender inquired if he could ask Fitzgerald some questions about Avery's previous case, the one in which he was exonerated. Fitzgerald agreed to answer questions.

S/A Fassbender asked Fitzgerald if he remembered the court order that required that certain items of evidence be taken to the lab for testing. Fitzgerald advised he remembered the court order, and advised the items were tested. Fitzgerald commented he did not remember who actually tested it, whether it was the Wisconsin State Crime Laboratory or an independent lab. S/A Fassbender advised this happened in 2002, and Fitzgerald agreed that was probably correct.

S/A Fassbender asked Fitzgerald if he remembered going through that evidence and he advised he remembered that. S/A Fassbender asked if there was anyone with him, and he advised he believed there was a female present who was a representative for Avery. Fitzgerald believed they took the court file to a jury room and went through it and removed the items, examined them, and made sure they agreed on the items to send. Fitzgerald said they then returned the file to the clerk's office. Fitzgerald believed the items got sent, but he could not remember if they were sent by the state, by the court, or who exactly sent them.

S/A Fassbender told him about a package with the file that apparently had his signature and some notations written on it with the date and time it was opened and closed. He said he did not remember that, but it is possible he did that.

S/A Fassbender asked Fitzgerald if he could remember who the female was that was with him. Fitzgerald advised he could not, but advised that if S/A Fassbender told him the name he may recognized the name. S/A Fassbender told him the name Wendy Paul, and Fitzgerald advised that sounded familiar. Fitzgerald advised that Paul may have also had one male assistant with her and possibly two assistants with her. Fitzgerald advised that they may have also asked one of the clerks to come up and assist them. Fitzgerald commented that he thought there was more than one occasion they looked through the file, and commented maybe two or possibly three times.

S/A Fassbender asked if he knew Janet Bonin, and he advised she was with the clerk's office and

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she may have been the one who assisted them. He advised if it was not her it would have been Shirley Wilka, who is now retired from the clerk's office.

S/A Fassbender asked Fitzgerald if, when they looked through the file, there was evidence tape sealing the aforementioned package and he advised he could not recall. S/A Fassbender asked if they sealed the package when they were done. Fitzgerald thought they may have put regular scotch type tape on the package that had his notations on it. He advised that is to the best of his recollection, however.

S/A Fassbender asked if there was anyone else present when they were going through these items and he advised no. S/A Fassbender asked if there were any law enforcement officers present and he advised no.

Regarding the transport of the items to the Crime Laboratory, S/A Fassbender asked Fitzgerald if he could remember who did that. Fitzgerald advised it was possible the items went to the sheriff's department or were picked up by someone from the sheriff's department, or that the clerk sent it direct, he was not sure.

S/A Fassbender asked if Fitzgerald recalled seeing any blood samples with the items or vials of blood. Fitzgerald stated he could not recall seeing any blood. Fitzgerald commented that, if he recalled correctly, the court order was just for hairs and fingernail scrapings. Fitzgerald said he didn't recall seeing a package indicating there was blood inside, but stated he could not say for sure. S/A Fassbender told him that his notations on the package indicated the package contained Avery's whole blood. Fitzgerald advised if it was his notations and signature then that is probably accurate, but that he just does not remember. He advised they may have opened the package with the blood in it to make sure that is what was inside it and that there was nothing else inside it.

Fitzgerald said he remembered when looking through the file there were items that the court exhibit stickers had dried out and had come off, and so they had to confirm that the physical evidence is what the court intended to be sent out. He advised this may be one of the reasons it took some time and that they may have gone in the file on more than one occasion. He said he may have also been doing some review of transcripts and possibly getting additional information from Paul.

No further information was provided.

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