

Exhibit G – Conspiracy to Suppress Exculpatory Evidence – Post Conviction

STATE BAR COMPLIANT – 11-35448 - Supreme Court case S208821

Original complaint filed: Nov 22, 2011 Petitioner's mom filed State Bar complaint against counsel, Dirk Manoukian, which included all evidence to support claim that counsel has refused to turn over the recordings petitioner needs for post conviction relief.

Issue #2 Whether or not, in a case involving the refusal of trial counsel to hand over relevant discovery materials, petitioner's rights to said material may be circumvented by an alleged confidentiality agreement between counsel and the district attorney prosecuting the case, where the material requested is required in order to effectively pursue a petition for writ of habeas corpus.

This State Bar Complaint was filed against trial counsel, Dirk Manoukian. As he and the prosecutor suppressed two 911 calls and three eye witness interviews taken the day of the murder from the jury and myself, his client. After my conviction counsel claimed that the prosecutor made him sign a confidentiality agreement not to share the recordings with anyone, including his client before the prosecutor would turn the recordings over to him. These recordings included proof that the main witness did not see the murderer and that two other witnesses were pressured into identifying me by Walnut Creek Police Detectives. I needed these recordings for post conviction relief to prove my conviction was based on perjured testimony.

The California State Supreme Court denied this petition for review.

Counsel and DDA Moawad – Conspiracy to permanently suppress exculpatory and impeachment evidence regarding the central issue in petitioner's trial – Witness Identification:

The two 911 calls and three eyewitness interviews taken the day of the murder by the Walnut Creek Police were never transcribed in violation of CRC 2.1040. Petitioner has provided overwhelming evidence that this was intentionally done in order to keep this evidence from petitioner, the jury, and the appellate court.

1-14-2011 Appellate Court case information Docket (Register of Actions) There is no indication that when exhibits 2, 15, and 16 [911 calls and witness interviews] were submitted to the court,

counsel included a written transcript as required by CRC 2.1040. There were no written transcripts of exhibits 2, 15, or 16.

California Rules of the Court CRC 2.1040 Requires written transcripts of any recordings that are used during trial. This is to preserve the record for appeal and so the jury can review all the evidence in it's proper context.

The deliberate violation of not having these recordings transcribed kept this exculpatory and impeachment evidence from the jury and made it unavailable for my direct appeal.

Rhoads called 911 and told the 911 operator that Nathan Medina just shot her son. This part of the recording was played to the jury. However, during that same 911 call, Rhoads also stated that she could not see, that she just knew it was petitioner, because she doesn't have any other enemies. (This was never played for the jury and since this recording was never transcribed, no evidence of this statement was entered into the record). During Rhoads interview which was also not transcribed or made available to the jury, she made it clear that she could not see and that this was the second time she has told the Walnut Creek Police that petitioner committed a crime where she did not see who committed it.

At the beginning of deliberations Juror # 8 requested the equipment to review the recordings and was immediately removed from the jury over his own objection; stating that he wanted to be sure Mr. Medina receives a fair trial. No other juror requested the equipment or wanted to review the recordings.

Post conviction efforts to acquire the 911 recordings and witness interviews:

The evidence of counsel's perjury is in his own correspondences:

1. Counsel promised petitioner and petitioner's parents that he was going to bring the recordings in for petitioner to review before the trial. However, counsel kept making excuses for not bringing them in. Petitioner went to trial without ever having an opportunity to review what was the most critical evidence in his case.
2. In 2010, after the trial counsel wrote to petitioner's mom stating that he was going to make copies of the recordings. He later claimed that the DA's office had copywrite protection, so he could not copy them.
3. In 2011, in response to attorney requests for the recordings counsel claimed that as a condition of receiving copies of the recordings, he had to sign something indicating that

he could not release them to anyone else, including his client. If this were true, wouldn't this be something that counsel would have mentioned before trial?

Multiple verbal requests were made and ignored.

7-20-2010 Counsel emails petitioner's mom, stating that he is having the recordings copied and that it will take more time.

8-16-2010 Counsel claims the recordings have "burn rights" which prohibit any copying of the data.

3-16-2011 Counsel sent e-mail to Attorney Nolan Armstrong stating he entered an agreement to keep the recordings from petitioner.

3-16-11 E-mail from attorney Nolan Armstrong to attorney Roger Allen; ..."Also, Dirk indicated that as a condition of receiving copies of the videotapes, he had to sign something indicating that he could not release them to anyone else, including his client. Thus even if we get an authorization from Nathan, we won't be able to get the videotapes from Dirk. In order to get the videotapes, we will likely need to issue a subpoena to the Walnut Creek Police Department.

(This was the first time an agreement between counsel and the prosecutor had been mentioned).

6-13-2011 E-mail from attorney Nolan Armstrong to attorneys Roger Allen, Marty Armbacher and petitioner's mom stating that petitioner or petitioner's attorney, Al Turnbaugh will have to move the court to compel counsel to release the requested records.

6-28-2011 Petitioner sends written request to counsel for recordings

7-7-2011 Petitioner's mom faxes requests

7-11-2011 Petitioner's mom faxes requests again

7-12-2011 Letter from counsel to three attorneys in response to them requesting the recordings in order for petitioner to use in a habeas for post conviction relief. Counsel states that absent a court order he will not disclose any of the requested material.

8-21-2011 Petitioner's mom sends e-mail to counsel's partner in legal firm, Greg Rueb begging him to turn over the recordings. She states that she is worried counsel will make the recordings disappear.

8-22-2011 Attorney Greg Rueb states that counsel has left his firm and that he cannot do anything to help, as counsel has the authority to make the decision of what can and cannot be released.

10-2012 Subpoena Duces Tecum served on Counsel, District Attorney, and Walnut Creek Police. The DA and counsel ignored the subpoenas, they did not respond.

10-12-2012 Walnut Creek Police send letter in response to Subpoena Duces Tecum, stating that they no longer have the documents as they were turned over to the District Attorneys office. They state that DDA Moawad informed them that petitioners trial attorney has them.

Writ of Mandate:

8-31-2011 Petitioner filed a writ of mandate specifically requesting the court to compel Counsel to turn over the 911 recordings and witness interviews.

11-21-2011 Counsel (judge shopped) by filing a response more than 80 days later, falsely stating that the Medina file has already been turned over to petitioner and his mother. Judge Diana Becton who was not assigned to the case denied petition based on counsel's representation, the same day it was filed.

1-31-2012 Court denied appeal for Writ of Mandate, stating it was turned over to prison officials on the 62nd day for mailing, two days late.

State Bar Complaint:

11-22-2011 Petitioner's mom filed State Bar complaint against counsel including all evidence to support claim that counsel has refused to turn over the recordings petitioner needs for post conviction relief.

3-15-2012 Petitioners mom sent Letter to State Bar with more evidence supporting petitioners claim.

4-2-2012 State Bar denied petitioner's complaint. Counsel claimed that the contents of recorded interviews requested by petitioner were included in a Federal Express package sent to petitioner's Mom, Jamie Latteri on August 16, 2010. (This was a 1 pound package with an itemized listing of it's contents with no mention of audio recordings).

6-28-2012 State Bar request for audit and review with evidence and exhibits using counsel's own correspondences proving he did not turn the recordings over to petitioner

7-24-12 State Bar Audit and Review letter stating that they have received her request for reconsideration regarding the closer of this complaint.

11-15-2012 State Bar declined to open complaint.

12-18-2012 petitioner filed a second request to open the case.

1-24-2013 Filed Petition for Review in the State Supreme Court for State Bar complaint. Petition was denied.

State Supreme Court denies Petition for Review of State Bar complaint.

Writ of Habeas Corpus:

7-21-12 Petitioner filed a Writ of Habeas Corpus and Motion for Post-Conviction Discovery in order to obtain the recordings to support Habeas claims.

9-14-2012 Court denied the Writ and Motion for Discovery

10-23-2012 Petitioner filed a motion for reconsideration of his habeas denial.

11-27-2012 Court denied the motion for reconsideration.

02-2014 Petitioner's mom receives four of the five recordings from civil attorney's hired by Allstate. Only two of the recordings are usable, however those two recordings prove that both the prosecutor and counsel suborned perjured testimony from Rhoads and Mendell. Mendell's recording has the hallway conversation between Detective McColgin and Mendell.

2014 Habeas filed by petitioner without the aid of an attorney requesting evidentiary hearing to review recordings not used at trial. Habeas denied, no evidentiary hearing.