

STATE OF NORTH CAROLINA)
MONTGOMERY COUNTY)

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
Case Nos. 99 CRS 3818, 3820

STATE OF NORTH CAROLINA)

V.)

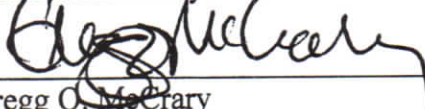
AFFIDAVIT OF GREGG O. McCrARY

SCOTT DAVID ALLEN)

I, Gregg O. McCrary, being duly sworn state the following:

1. My name is Gregg O. McCrary. I live in Fredericksburg, Virginia. I have personal knowledge of the matters set forth herein. I am over 21 years of age and competent to make this statement.
2. I am a retired Supervisory Special Agent with the Federal Bureau of Investigation. I have served with the National Center for the Analysis of Violent Crime and taught at the FBI Academy in Quantico, Virginia. Following my retirement from the FBI, I worked with the Threat Assessment Group, and in 1997 founded Behavioral Criminology International. A copy of my current resume is attached as Exhibit "A."
3. I was engaged by post conviction counsel in the above matter to review materials relevant to the murder of Chris Gailey in July of 1999, including selected trial testimony, descriptions of the crime scene reported by law enforcement, crime scene and autopsy photographs, police incident reports, witness affidavits and numerous other documents. As a result of that review and subsequent analysis, I have written a report containing a description of the facts upon which I have relied, my analysis of those facts, and the opinions and conclusions I have reached concerning this case. A true and accurate copy of that report is attached as Exhibit "B."

Further affiant sayeth not.



Gregg O. McCrary

August 30, 2013
Date:

Sworn to and subscribed before me this 30th day of August in the year 2013
in Spotsylvania County, Virginia.



Notary Public

(Seal)

My commission expires: June 30, 2015



GREGG O. McCRARY
SUPERVISORY SPECIAL AGENT
FEDERAL BUREAU OF INVESTIGATION (RETIRED)
NATIONAL CENTER FOR THE ANALYSIS OF VIOLENT CRIME
FBI ACADEMY QUANTICO, VIRGINIA, USA

EDUCATION

Bachelor of Fine Arts Degree, Ithaca College, Ithaca New York, 1967
Graduate studies, Criminal Justice, Long Island University 1975-1976
Additional Graduate studies at University of Virginia 1989-1990
Master of Arts in Psychological Services, Marymount University Arlington, VA 1992

EMPLOYMENT

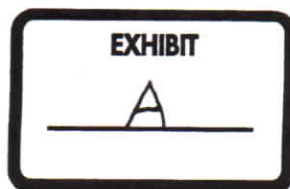
Federal Bureau of Investigation, Special Agent (1969-1994)
Threat Assessment Group (1995-1997)
Behavioral Criminology International (1997-Present)

Independent Contractor for:

- Park Dietz and Associates, Newport Beach, CA
- Threat Assessment Group, Newport Beach, CA

Faculty Positions:

- Adjunct Professor of Forensic Psychology and Criminal Justice
Marymount University, Arlington, Virginia
Forensic Psychology (Graduate Level)



SPECIALIZED TRAINING

FBI In-Service Training:

Selective Operations Seminar (1978)
Drug Enforcement Administration Training (1979)
Labor Racketeering (1980)
Special Weapons and Tactics (1980)
Expert Firearms and Defensive Tactics Instructors School (1981)
Crisis Management (1981)
White Collar Crime/Fraud (1982)
Profile/NCAVC Coordinator (1985)
Narcotics Raid Planning (1986)
Advanced Profile/NCAVC Coordinator (1987)
Criminal Sexuality Instructor (1987)
Arson Investigation (1988)
Advanced Criminal Sexuality Instructor (1991)
Advanced Violent Crime Investigators Seminar (1992)

OTHER TRAINING

- Basic and Advanced Forensic Pathology
Armed Forces Institute of Pathology (1988)
- Reid School of Interview and Interrogation (1988)
- Black Belt Instructor Shorinjii Kempo (1984)
- Brown Belts in Judo and Aikido (1973-79)
- Scientific Content Analysis by Avinom Sapir Rockville, MD (1991)
- International Conference on Violent Crime, September 13-17, 1999, Barrie, Ontario
- Psychopathy and Crime: Dr. Robert D. Hare, FBI Academy, Quantico, Virginia (1999)
- International Homicide Investigators Seminar September 18-22, 2000, FBI Academy
- ICIAF training, Key West Florida May 20-24, 2001
- ICIAF training, Barre, Ontario, September 25-28, 2001
- CPTED Certification: National Crime Prevention Institute: University of Louisville
October 8-12, 2001
- Institute of Law Psychiatry and Public Policy, University of Virginia: Assessing Criminal
Behavior: The Importance of How the Crime was Committed September 26, 2003
- Reading People: Risk of Violence Predictions. October 12-14, 2005
- APA Seminar on False Confessions, San Francisco, CA August 19, 2007
- Youth and Young Adults: Violence Risk Assessment, Prevention and Threat
Management; San Diego, CA January 22-25, 2008
 - "The Structured Assessment of Violence Risk in Youth (SAVRY)"
 - "Assessing Risk of Juvenile and Young Adult Violence"
 - "Suicide Risk Assessment in Youth and Young Adults"
 - "Schools at Risk: Managing Bullying, Gangs and Violent Females"
 - "School Violence Threat Management"
 - "Pathways from Childhood Aggression to Adolescent Violence"
 - "Adolescent and Young Adult Mass Murder: Assessment and Management of
Catastrophic Risk"

- ICIAF training, Forsyth, Georgia, June 9-13, 2008. Crime Scene Reconstruction (Post Certified)
- American Psychology and the Law Society (AP-LS); March 5-7 San Antonio, Texas; False Confessions; Eyewitness Fallibility; SVP's and Sex Offender types, Child Molesters, Pedophiles and Pornography; Use of Informants
- Institute of Law, Psychiatry and Public Policy, University of Virginia, Charlottesville, VA. April 17, 2009; Risk assessment of Sexually Violent Predators: Paraphilias, NOS – Rape and Coercion. – Current Controversies
- Institute of Law, Psychiatry and Public Policy, University of Virginia, Charlottesville, VA. April 24, 2009; Assessing Malingering and Waiver of Miranda Rights. Implications for criminal and civil litigation
- ICIAF training, Myrtle Beach, FL May 3-7, 2010: Violence Progression in Paraphilics: False allegations; Sexual Homicide; Serial Murder; Victims' Reaction to Sexual Violence.
- Crimes Against Children Conference, Dallas, Texas August 9-12, 2010
- Assessing Risk for Violence in Juveniles: University of Virginia, Institute of Law, Psychiatry and Public Policy, February 25, 2011.
- Advanced: Police Custody and Interrogation of Juveniles. University of Virginia, Institute of Law, Psychiatry and Public Policy, November 4, 2011.
- American Society of Criminology Round Tables on Criminal Investigative Analysis and Wrongful Convictions. Washington, DC November 17-18, 2011
- Master Class; Investigative Interviewing using PEACE model; International Investigative Interview Research Group (iIRG) Toronto, Ontario, Canada May 22-23 2012
- ICIAF Conference Forsyth, GA September 10-14, 2012; Psychopathy and advances in Crime Analysis.

MAJOR PRESENTATIONS

Charles O. Bick College
Toronto, Ontario Canada 1986

State University College at Brockport, NY (1987)

Five State Peace Officers Association
Woodward, Oklahoma October 12-14, 1988

Bureau of Criminal Apprehension
St. Paul, Minnesota February 6-8, 1989

Harvard Associates of Police Science
University of Maryland Medical School
Chief Medical Examiner's Office
Baltimore, MD 1989

First Annual Governors' Conference on Violent Crime
Myrtle Beach, South Carolina
May 18, 1989

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International Criminal Investigation and Training Program (ICITAP)
Criminal Investigative Analysis
Belize, Central America
Principal Instructor August 18-26, 1989

University of Virginia
Institute of Psychiatry and the Law
Featured Speaker 1989

Metropolitan Toronto Police
Principal Instructor; Criminal Sexuality Seminar 1990

Colorado Association of Sex Crime Investigators
Glenwood Springs, Colorado ; Principal Instructor May 15-18, 1990

Ontario Police College
Alymer, Ontario
Criminal Sexuality Seminar May 21-24, 1990

Southeastern Association of Criminal Investigators
Criminal Sexuality Seminar -Principal Instructor -Tampa, Florida September 15-20, 1990

Featured Speaker at Homicide Symposium,
Crime Scene Analysts Conference and King
County Police Sex Crime Investigators Training
Seattle, Washington
Olympia, Washington
Yakima, Washington May 6-10, 1991

New York City Police
Advanced Homicide Detective Training
Featured Speaker May 1991
New York, NY

FBI National Academy Retraining Seminar
Violent Crime
Rochester, New York, June 23-26, 1991

Marymount University
Psy Chi National Honor Society for Psychology
Guest Lecturer "Inside the Violent Mind".
Arlington, VA - October 1, 1991

FBI National Academy European Chapter
Violent Crime Investigation
Brussels, Belgium November 1992

First International Symposium on Criminal Investigative Analysis Principal Instructor and
Coordinator Vienna, Austria - October 1993

Policia Judiciare
National Police Academy of Portugal
Investigating Violent Crime
Principal Instructor
Lisbon, Portugal - November 1993

Cuerpo Nacional De Policia
National Police Academy of Spain
Investigating Violent Crime
Principal Instructor Avila, Spain - December, 1993

Hungarian National Police
Investigating Violent Crime
Principal Instructor
Budapest, Hungary - June 1994

French National Police
Investigating Violent Crime
Principal Instructor
Paris, France - June 1994

California District Attorney's Association
10th Annual Homicide Symposium
San Diego, California: January 1995

Defense Research Institute
Premise Liability re Violent Crimes
Boston, Massachusetts
May 25-26, 1995

Pacific Coast Labor Law Conference
Seattle, Washington
Workplace Violence Prevention
June 7-9, 1995

Grand Rounds
University of Virginia Medical School
Charlottesville, Virginia
November 8, 1995

Center for the Study of the Mind and Human Interaction
University of Virginia
Charlottesville, Virginia - January 17, 1996

Defense Research Institute
Premises Liability for Violent Crimes San Diego, California March 27-29, 1996

Association of Trial Lawyers of America
Premises Liability for Violent Crimes
Mega Seminar
Las Vegas, Nevada
February 1997

Defense Research Institute
Premises Liability for Violent Crimes
New Orleans, Louisiana: April 10-11, 1997

FBI National Academy
International Retraining Symposium
Burlington, Ontario Canada
July 14 - 15, 1997

Northeastern Association of Forensic Scientists
White Plains, New York
October 17, 1997

Employers Reinsurance Corporation
Violent Crime Seminar
San Francisco, CA
Oct. 27, 1997

Atlanta Apartment Association
Premises Liability - Violent Crime Seminar
Atlanta, Georgia, May 20, 1998

"The Violent Mind"
Nova Southeastern University
(APA accredited)
Ft. Lauderdale, Florida
June 20 - 21, 1998

Association of Trial Lawyers of America
Inadequate Security Litigation Group
National Convention
Washington, D.C. - July 13, 1998

Institute of Continuing Legal Education in Georgia
Premises Liability-Violent Crime Seminar
Atlanta, Georgia - November 5, 1998

Annual Claims Exposition & Conference
Premises Liability - Violent Crime Presentation
St. Louis, Missouri - November 13, 1998

Eastern Analytical Symposium
Criminal Profiling
Somerset, New Jersey – November 18, 1998

American Academy of Forensic Sciences
Panel Member
Suicide and Equivocal Death Investigations
Orlando, Florida – February 15, 1999

Nova Southeastern University
The Violent Mind (APA Accredited)

Orlando, Florida - February 27-28, 1999
Miami, Florida – May 15-16, 1999

Burns International Security Seminar
Las Vegas, Nevada; September 13-15, 1999

Henry C. Lee Institute of Forensic Science
Cold Case Homicide Workshop
University of New Haven
January 11-13, 2000

Northern California Fraud Investigator's Conference
Monterey, California
April 11, 2000

Institute of Continuing Legal Education
Atlanta, Georgia
Premise Liability and Violent Crime – November 3, 2000

University of Virginia
Critical Incident Analysis Group
Religious Violence/Waco
November 14, 2000

California State Hospital at Atascadero
Presentation to Staff re Violent Sex Offenders
May 9-11, 2001

Marymount University
"The Violent Mind"
October 23, 2001

Institute for Continuing Legal Education
Atlanta, Georgia
Premise Liability and Violent Crime, November 2, 2001

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DeSales University
Bethlehem, PA.
"The Violent Mind": November 14, 2001

Violence Risk Assessment through Crime Analysis
DC Superior Court Pre-Trial Services
Washington, D.C.
December 6, 2001

Henry C. Lee Institute of Forensic Science
Cold Case Homicide Workshop
University of New Haven
December 10-12, 2001

Homicide: Behaviors, Motives and Psychology:
A Gathering of Leading Experts
Monte Carlo Hotel
Las Vegas, Nevada
March 11-13, 2002

University of Paris
Institut de Criminologie
Departement de Recherche
Premiere Conference Internationale
Sur L'Analyse Criminelle et le Profilage Criminel
391 Rue, de Vaugirard/75006 Paris, France
June 3-5, 2002

Conference of County Court Judges
Ft. Myers, Florida
Risk of Violence Prediction
July 12, 2002

Colorado Sex Crime Investigators Association
Aspen, Colorado
August 28-30, 2002

American University
Washington, D.C.
International Criminal Justice Seminar
September 6, 2002

Defense Research Institute
Sexual Torts: Rape and False Allegation of Rape
Hotel Del Coronado

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San Diego, California
October 24-25, 2002

Canadian Association of Psychiatry and the Law (CAPL)
Annual Conference
Banff, Alberta Canada
October 31, 2002

Profiling and Crime Analysis:
Homicides, Sex Crimes and Other Crimes of Violence
A Program for Law Enforcement, Justice and Mental Health Professionals
Nova University, Ft. Lauderdale, Florida
November 8-9, 2002

Henry C. Lee Institute of Forensic Science
Cold Case Homicide Seminar
University of New Haven
January 6-9, 2003

American College of Forensic Examiners
National Conference; Scottsdale, Arizona
October 9-11, 2003 – Violent Female Offenders

Marymount University
Profiling and Beyond
December 6, 2003
Arlington, Virginia

Ithaca College
Ithaca, New York
Department of Psychology
FBI Profiling and the Criminal Mind
March 1, 2004

Nova University
Homicide Presentation for Law Enforcement
Miami, Florida
March 26, 2004

Nova University
Homicide Presentation for Law Enforcement
Las Vegas, Nevada
April 2, 2004

Markle Symposium
Henry Lee Institute of Forensic Science
Foxwood Resorts
Ledyard, Connecticut April 5-6, 2004

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Advanced Markle Symposium
Cold Case Homicide Workshop
Henry Lee Institute of Forensic Science
University of New Haven
April 7-9, 2004

Atascadero State Hospital
Presentation to staff re violent offenders
Atascadero, California
May 3, 2004

Public Defenders Service
Washington D.C.
Interview/Interrogation Techniques
Dynamics of False Confessions
May 17, 2004

Delaware State Police
10th Annual Homicide Conference
Dover, Delaware December 5-9, 2005

Nova South Eastern University
Ft. Lauderdale Florida
Crime Analysis and Criminal Profiling
January 21-22, 2006

Henry C. Lee Institute of Forensic Science
Cold Case Homicide Seminar
University of New Haven
April 24-27, 2006

International Association of Women Police
Saskatoon, Saskatchewan, Canada
September 19-21, 2006

Office of the Attorney General
State of California Department of Justice
Violent Crime Conference
Anaheim, California
December 12, 2006

Henry C. Lee Institute of Forensic Science
Cold Case Homicide Seminar
University of New Haven
January 22-26, 2007

American Psychological Association National Convention
Invited Speaker – Criminal Profiling: Using Psychology to Catch Criminals
San Francisco, California August 18, 2007

Florida State University– Criminal Investigative Analysis;
Panama City, Florida January 31, 2008

National Center for Missing and Exploited Children (NECMEC)
National Seminar, Alexandria, Virginia
Training - July 22-24, 2008 and October 15, 2008

State Bar of Georgia; Premise Liability and Violent Crime
CLE – October 30, 2008

June 15, 2011 – OCDETF Fusion Center, Virginia, Investigations (14 Federal Agencies)

September 13, 2011 – Boulder Colorado – Investigator’s School

October 12, 2011 – Canadian Association of Psychiatry and the Law (CAPL) – *A Day in the Mind of a Murderer* (Accredited by the Canadian Royal College of Physicians and Surgeons and the Canadian Psychiatric Association)

October 17, 2011 – Regional Organized Crime Homicide Conference; Chattanooga, TN; Homicide presentation to 300 officers from 14 states.

November 4, 2011: *Advanced: Police Custody and Interrogation of Juveniles.* University of Virginia, Institute of Law, Psychiatry and Public Policy.

November 18, 2011: *American Society of Criminology*; National Symposium, Washington, DC; Panel participant discussing Crime Analysis and Criminal Investigative Analysis.

June 29, 2012 *American Professional Association on Abuse of Children (APSAC) – 20th Annual Colloquium*; Chicago, Illinois – Criminal Investigative Analysis and Failures

August 1, 2012 *College and University Police and Investigators Conference (CUPIC)* Fairfax, VA. – Criminal Investigative Analysis and Failures

October 29, 2012, *Elon University, Elon, N.C.* Criminal Investigative Analysis and Failures

OPERATIONAL SUPPORT OF MAJOR INVESTIGATIONS

Agent McCrary has been a consultant to law enforcement agencies both nationally and internationally in over 1000 cases involving sexual homicide, serial murder, rape, arson, child abduction, child molestation, threat assessments and other violent crimes.

October 24, 1987 On-site consultation, Toronto, Canada re the homicide of Margaret McWilliams

November 9-11, 1988 On-site consultation, Little Rock, Arkansas re the abduction of infant Christopher Michael Jones from a hospital.

November 21-23, 1989 On-site consultation, Toronto, Canada, re "The Scarborough Rapist"

January 12, 1989 On-site consultation with the Massachusetts State Police, New Bedford, Mass. re serial murder of prostitutes.

February 7, 1989 On-site consultation, prosecutive strategy re John William Doughty (kidnapping and attempted murder) St. Paul, Minnesota

April 26, 1989 On-site New Bedford, Massachusetts re serial killing of prostitutes.

April 27, 1989 On-site consultation re sexually sadistic rapist; Waterford, Connecticut

November 3-8, 1989 On-site consultation with Royal Bahamian Police re a serial murder investigation

November 12-18, 1989 ICITAP presentation and case consultation in San Jose, Costa Rica.

December 13-15, and 27-29, 1989 On-site consultation re serial killings of prostitutes, Rochester, New York.

December 26, 1989 On-site Consultation re mass murder of Harris Family, Ithaca, NY

September 4-6, 1990 Newark, New Jersey Multi-agency meeting re Eric Napoletano serial murder investigation.

January 9-11, 1991 Suffolk County New York Police, Kathy Woods Homicide

April 22-23, 1991 Multi-jurisdictional task force re Peter Stark, suspected serial killer, Province of Ontario, Canada

August 27-29, 1991 Phoenix, Arizona re the murders of nine individuals in a Buddhist Temple.

September 24-26, 1991 Greenville South Carolina State Organization of Victim's Assistance Multi-State Conference and case consultation with SLED re serial rapist

October 16-22, 1991 Vancouver, BC On-site consultation re a series of sexual homicides.

November 5-8, 1991 Charleston, SC consultation re a series of rapes (The North Charleston Rapist).

March 18, 1992 - April 3, 1992 On-site consultation re murder of FBI Agent Stanley Ronquist - Kansas City, Kansas

May - June of 1992

At Morristown, New Jersey re kidnapping of Sidney J. Reso, President of Exxon International

August 1992 Dr. Ernst Geiger and Magistrate Thomas Mueller, Vienna Austria re serial murder investigation (Signature Crime Analysis).

October 1992 Leslie Mahaffey, Kristen French homicides - Project Green Ribbon - St. Catherines, Ontario Canada.

November 1992, at Brussels Belgium and Amsterdam for FBINA presentation and case consultation re serial child molester.

March-April 1993 - At Waco, Texas re Branch Davidian standoff

May 1993 - At Vienna, Austria with Dr. Geiger and Thomas Mueller re three additional homicide cases

November 1993 - At Lisbon, Portugal re a serial murder investigation

December 1993 - At Avila, Madrid and Barcelona, Spain re unsolved homicide and serial rape investigations

December 1993 - At Babenhausen, Germany re abduction and sexual homicide of a two-year-old female.

March 1994 - In Florida and Alabama re Frank Potts serial murder investigation

March of 1994 - In Mexico City assisting Mexican authorities re assassination of Presidential Candidate Luis Donaldo Colosio

June 1994 - At Graz Austria - provided expert testimony re Jack Unterweger, Serial Murderer.

June 1994 - At Budapest, Hungary re unsolved homicides and rapes with Hungarian National Police and Budapest Homicide

June 1994 - At Paris, France re unsolved homicides

September 1995 - At Morristown, New Jersey re Nicholas Muscio homicide investigation

January of 1996 - At Somerville, Massachusetts re Edward O'Brien homicide investigation

April of 1997 - Testified the transfer hearing of Edward O'Brien in a homicide case for the Middlesex County Prosecutor

May of 1998 - At Ventameglia and San Remo Italy re on-going serial murder Investigation

July 29, 1998 - At University of Virginia, Institute of Psychiatry, Law and Public Policy, re serial murder investigation in Perth, Australia (Macro Task Force)

November, 1998 – At New Scotland Yard, London England re a series of rapes and a serial homicide investigation.

September 1999 – At Barre, Ontario Canada with an Australian Multi-Agency Task force investigating a series of sexually sadistic homicides committed by a group of offenders.

March 31 – April 3, 2000 – Testified in the Sam Sheppard civil trial in Cleveland, Ohio.

March 2003 – Testified in Alaska v. Wade, Anchorage Alaska. (Sexual Homicide)

May 4, 2004 – Testified in San Diego, CA in State v. Richard Raymond Tuite (Child Homicide)

January 16-19, 2006 - State of Alaska v. Betsy Hester – Domestic Homicide
Kenai, Alaska

May 22-24, 2006 - United States Marine Corps v. Joyce – Equivocal Death; False Confession
San Diego, CA

June 13-22, 2006- Fukushima Prefecture, Koriyama City, Japan re unsolved homicide of Asemi Yamagishi

September 6, 2007 – Testified before Governor Kaine’s Commission regarding the “Norfolk 4” case in Richmond, Virginia

April 30, 2008 – Testified in hearing re signature crime analysis in Bridgeport, Connecticut on behalf of the State of Connecticut.

February 10, 2010 – Testified before North Carolina Innocence Commission re State of N.C. v. Gregory Flint Taylor, File 91-CRS-71728

February 19, 2010 – Testified in State of Ohio v. Yazeed Essa, Cuyahoga County Prosecutor’s Office, Cleveland, Ohio

August 10, 2011 – Testified in Oslo, Norway in a hearing to reopen a double child homicide case (The Banaheia Murders)

PUBLICATIONS:

Contributing author to *The Crime Classification Manual* Macmillan Inc. 1992

A Typology of Interpersonal Stalking, Co-authored with Dr. Ann Burgess and others; published in the *Journal of Interpersonal Violence* - December 1996. Sage Publications.

The Unknown Darkness; Profiling the Predators Among Us. ISBN 0060509570: Co-authored with Dr. Katherine Ramsland: Published by William Morrow in September 2003.

Who Killed Stephanie Crowe? Chapter 8 in *Criminal Investigative Failures*; ISBN 9781420047516; Edited by D. Kim Rossmo; Published by CRC Press 2009

PROFESSIONAL AFFILIATIONS:

Member of Editorial Review Board for *Aggression and Violence* a Professional Journal
Member of Editorial Review Board for *Journal of Family Violence* a Professional Journal
Member of the American Society for Industrial Security (ASIS)
Member of the International Criminal Investigative Analysis Fellowship (ICIAF)
Member of the Society for Former Special Agents of the FBI
Member of the International CPTED Association (ICA)
Charter Member of the International Homicide Investigators Association (IHIA)
Member of International Association of Campus Law Enforcement Administrators
Member International Association of Corrections and Forensic Psychology
Member Society for Police and Criminal Psychology

PUBLIC RECOGNITION OF AGENT McCRARY'S EXPERTISE:

- Noted British Criminologist and author Colin Wilson dedicated his 1990 book, "The Serial Killers" to Agent McCrary.
- "Mind of a Serial Killer" which was an Emmy nominated production by NOVA for the Public Broadcasting system (PBS) in 1992.
- Agent McCrary's work in an international serial murder investigation was highlighted in the documentary "A Stranger Murder" produced by the British Broadcasting Corporation (BBC) in conjunction with the Arts and Entertainment Network (A&E) in 1995.
- Agent McCrary's expertise was featured in a documentary produced for Japanese National Television by FUJI Television Productions in 1995 entitled, "The Nonfiction Approach to Serial Killers"
- Agent McCrary's expertise was featured in two documentaries in 1998. One was titled "Born to Kill" and was produced for Discovery Magazine and aired nationally on the Discovery Channel. The second was a French documentary produced by *Sciences et Avenir* and aired internationally from Paris.
- Agent McCrary's expertise was featured in three documentaries in 1999. One for *Time Zone International*, a German Television Production a second for "The FBI Files" produced by the Discovery Channel which also produced a third documentary entitled "The Profilers."
- Agent McCrary's expertise in crime analysis was featured in an MSNBC documentary "The Jon-Benet Murder Mystery" which aired nationally on January 23, 2000.
- Agent McCrary's expertise in stalking behaviors was featured in a Documentary produced for Japanese Television the FUJI Television Productions in May of 2000.
-

- 48 Hours Investigates: "Cry Rape" Expert analysis in an alleged rape and assault. September, 2003
- TV ASAHI Tokyo, Japan – Murder of Asemi Yamagishi July 2006
- TV Norge, and Oslo, Norway PD. Six cold case homicides and a child abduction 2007-2008
- CNBC Documentary "Madoff Behind Bars" 2010
- PBS Frontline Documentary "The Confession" Regarding the "Norfolk 4" case. 2010
- C-Span: One hour interview re FBI Crime Analysis and Profiling; August 19, 2011

Mr. McCrary has worked with numerous victims groups throughout the United States and has served as a member of the national advisory board for Parents of Murdered Children.

Agent McCrary has provided expert commentary for such media organizations as NBC, ABC, CBS, Cable News Network (CNN), The Today Show, Good Morning America, Nightline, 60 Minutes, Dateline, 48 Hours, Larry King Live, The Discovery Channel, BBC, RTL Television in Germany, Japanese National Television and other national and international programs. He has also provided expert opinions to print media including Time, Newsweek, U.S. News and World Report, The New York Times, The Washington Post, The San Francisco Chronicle, The Toronto Star, and "Psychologie" Magazine in the Netherlands among others.

FBI ASSIGNMENTS

FBI Academy, Quantico, Va. 1988-1994

Behavioral Science Unit

National Center for the Analysis of Violent Crime/Critical Incident Response Group

Types of Crimes:

- Threatening Communications and Extortions
- Product Tampering
- Homicide (Serial, Mass, Sexual, Domestic, etc.)
- Rape, child molestation and other sex crimes
- Stalking
- Arson
- White Collar Crime
- Foreign Counterintelligence
- Kidnapping and Abduction
- Bank Robbery
- Organized Crime and Drug Trafficking

Services:

- Criminal Investigative Analysis (Including Profiling)
- Threat Assessments
- Violence Risk Assessments
- Interview and Interrogation Techniques
- Expert Testimony

Training and Research
Investigative Strategy and Indirect Personality Assessments

Buffalo Field Division, 1977-1988

White Collar Crime
Foreign Counterintelligence
Threats and Extortions
Kidnapping and Abduction
Bank Robbery
Sex Crimes
Homicide
Hijacking
Undercover Assignments
Organized Crime
Drug Trafficking
Expert Firearms and Defensive Tactics Instructor
Special Weapons and Tactics Team Leader

New York City Field Division, 1971-1977

Foreign Counterintelligence
Organized Crime
Bank Robbery Homicide
Hijacking
Threats and Extortions
Kidnapping and Abduction
Undercover Assignments
Loan Sharking and Gambling

Detroit Field Division, 1970-71

Bank Robbery
Kidnapping and Abduction
Homicide
Threats and Extortion
Organized Crime
Hijacking, Loan-Sharking and Gambling



GREGG O. MCCRARY
SUPERVISORY SPECIAL AGENT
F.B.I. (RETIRED)

4121 PLANK ROAD, NUMBER 514
FREDERICKSBURG, VIRGINIA 22407

TELEPHONE 540-972-2835
FAX 540-972-9329
E-MAIL GREGGMCCRARY@GMAIL.COM

JAMES MCNAMARA
SUPERVISORY SPECIAL AGENT
F.B.I. (RETIRED)

325 GARRISONVILLE ROAD
SUITE 106, NUMBER 148
STAFFORD, VIRGINIA 22554

TELEPHONE 540-288-8825
E-MAIL JJMCNAMARA75@GMAIL.COM

August 30, 2013

Mr. Michael Unti
302 Jefferson Street
Suite 200
Raleigh, NC 27605

Re: State of North Carolina v. Scott Allen
In the General Court of Justice
Superior Court Division
Case Nos. 99 CRS 38128, 3820

Assignment

I was asked to review materials relevant to the murder of Chris Gailey whose body was discovered on July 11, 1999 near the Uwharrie National Forest in Montgomery County, North Carolina. Based on a review of those relevant materials I have been asked to offer opinions regarding the best interpretation of the crime, crime scene and subsequent investigation. This is a preliminary report and may be amended based on a review of additional material.

Overview of the Crime and Crime Scene

On July 11, 1999, Wesley Young Hopkins, Jr. and Julie Culler discovered the partially decomposed body of Christopher Gailey on a path near the Uwharrie National Forest as they were riding an All Terrain Vehicle (ATV) near his father's cabin. Mr. Hopkins reported finding the body to Lieutenant Barry Bunting, a neighbor, who was supervisor

EXHIBIT

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of the Criminal Investigations Division of the Randolph County Sheriff's Office. Lieutenant Bunting followed Mr. Hopkins back to the scene where the body was located. Upon observing the body, Mr. Bunting called for assistance from the Crime Scene Unit and other officers on duty that weekend. Deputy Bunting testified that he observed the body on its back with its knees bent and legs drawn up. He observed a handgun between the deceased's legs. Subsequent investigation determined that the body was actually located in Montgomery County rather than Randolph County and the investigation was then turned over to the Montgomery County authorities with limited assistance from the North Carolina State Bureau of Investigation.

Deputy Catha Wright, of the Randolph County Sheriff's Office, took crime scene photos. The victim was wearing camouflage pants, black boots and was shirtless. A semi-automatic .45-caliber handgun was found lying between his feet under his left leg. Subsequent investigation revealed that there was one spent round still chambered in the weapon and another round jammed in the receiver. Eleven live .45-caliber rounds were located beside the victim's left hip and a red pouch that held additional .45-caliber ammunition was located along side the body. A handgun magazine loaded with live .45-caliber rounds was located about three or four feet from the victim's head. She testified that the victim's black T-shirt was found near the body, with a rock on top of it, and that there were two expended shotgun shells near by.

There were a total of five spent shotgun shells and a number of unspent shotgun shells recovered at the scene. Deputy Wright also identified a crime scene photograph depicting a small nylon black holster that was near some of the shotgun shells, about 13 feet from the victim's head. A gym bag was located approximately three feet to the left of the victim's body. A knife, apparently stained with blood, was lying on top of that gym bag. Investigators located a smaller gym bag inside the larger gym bag. The victim had a pager on his belt and a hat and flashlight were located underneath the victim's left side. A camouflage facemask and an envelope containing two keys were found in the pocket of the victim's fatigue pants. A water-proof plastic canister containing approximately \$1,944.00 dollars was located with the victim's body.

Dr. John D. Butts, Chief Medical Examiner for the State of North Carolina, ruled that Chris Gailey's death was a homicide caused by two shotgun wounds. One wound measured 1.5 x 1.1 inches at the point of entry, which was the right posterior shoulder. That entry wound was located approximately 3.75 inches to the right of midline and 11 inches from the top of the head. The wound extended anteriorly through the right posterior chest wall and caused extensive fragmentation of the posterior chest wall musculature. It fractured the 2nd through 6th ribs posteriorly and extensively fragmented the upper lobe of the lung, where multiple bone fragments were located. The right subclavian vessels could not be identified due to the extensive fragmentation and destruction sustained by these tissues including the associated fracture of the clavicle. Three buckshot pellets were identified and recovered from this wound. There were five exit wounds over the right anterior shoulder/right subclavian area. Four fragments of wadding were recovered in the right pleural cavity.

The other shotgun wound was to the victim's right knee. The entrance wound was located on the right medial side of the knee. The wound tracked superiorly in a slightly lateral direction in the right thigh musculature, which was extensively fragmented. Four fragments of wadding and numerous birdshot pellets were identified within the depths of the wound. The femoral artery was extensively fragmented. None of the birdshot pellets appear to have exited the wound. A pelvis x-ray revealed no fractures, but scattered birdshot pellets were identified. X-rays of the right leg demonstrated no fractures, but birdshot pellets are peppered throughout the soft tissues of the right thigh and are most extensive on the right medial aspect. The medical examiner turned over the victim's eyeglasses and jewelry to law enforcement authorities. Dr. Butts, the medical examiner, testified that it is his opinion that the shotgun wound to the victim's knee was fired from several yards away from the victim while the gunshot to the victim's shoulder was "quite close, within a matter of a foot or so."¹ Dr. Butts further opined that the injuries to the

¹ Trial Testimony of Dr. John D. Butts; Pg. 2010

subclavian and femoral arteries would result in extensive bleeding, rendering the victim unconscious within a matter of minutes with death following relatively quickly.²

Investigators wiped the victim's hands to determine if there was any evidence of gunshot residue. Laboratory testing determined that while elements consistent with gunshot residue (barium, antimony and lead) were detected, they were not present at high enough levels of concentration to conclusively confirm that the victim had either fired a weapon or been close to a weapon as it was fired. However, the expert testified that, "It is noted, however, that this does not eliminate the possibility that the subject could have fired a gun."³

Prosecution's Hypothesis

Vanessa Smith, a substance abuser with a history of mental illness, was the primary witness for the prosecution. Her statements to authorities and subsequent testimony set forth the prosecution's hypothesis about how the crime occurred. In summary, she testified that Scott Allen had told her and Christopher Gailey, that he, Scott, had stashed some stolen guns in the woods. She claimed that the three of them decided to retrieve those weapons to trade for cocaine and cash and that they rode with Chris Gailey in his truck as Scott Allen provided directions. They proceeded to an access road where they parked and then proceeded into the woods on foot. She stated that Scott was carrying a black, sawed-off shotgun that belonged to Robbie Johnson⁴ and that Gailey had a .45-caliber handgun. Ms. Smith testified that the three of them walked for at least an hour through the woods and during that time Scott and Chris Gailey used powder cocaine and she likely smoked some marijuana. She alleged that shortly after passing an unoccupied cabin the trail narrowed and they walked in single file with Chris Gailey in the lead. At that point, Scott Allen pushed her backwards, then turned around toward Chris Gailey and began shooting the shotgun repeatedly. She claims that when the shooting started

² Trial Testimony of Dr. John D. Butts; Pg. 2014

³ Trail testimony of Special Agent Timothy Luper: pg. 1848.

⁴ Signed statement of Vanessa Smith dated 8-11-99; pg. 17; Bates 000067

she dropped to the ground and, although she didn't actually see Scott Allen shoot Chris Gailey, she heard Gailey cry out in pain. She told authorities that, "Chris never had his gun out or pointed toward Scott or her: that Scott killed and murdered Chris Gailey in cold blood..."⁵ She stated that she and Allen retreated to that unoccupied cabin and stayed there until dawn the next morning. She claimed that Scott Allen threw stones at Gailey to determine if he was alive or dead during that time period. She testified that the next morning, as she and Allen were leaving the cabin to walk back to the vehicle, she heard Chris Gailey fire his .45-caliber handgun repeatedly, in effect emptying his gun.⁶ She further alleged that Scott Allen disposed of the sawed-off shotgun in the woods while walking from the crime scene. She claims that she and Scott Allen then drove Gailey's vehicle back to the residence where they had been staying.

Ms. Smith's rendition of events was the framework on which the prosecution built its case against Scott Allen. However, there are serious discrepancies between the crime, the crime scene evidence, and Ms. Smith's allegations.

Testing the Prosecution's Hypothesis

Any reliable hypothesis has to account for, and be tested against, the following facts:

- The victim's .45-caliber handgun, which was found between his feet, was jammed with a spent casing in the chamber.
- There were eleven loose .45-caliber live rounds on the ground near the victim's body,
- There were additional live .45-caliber rounds in an ammo pouch near the victim's body.
- A magazine loaded with .45-caliber ammunition was found a few feet from the victim's head.

⁵ Signed statement of Vanessa Smith dated 8-11-99; pg. 19; Bates 000069

⁶ Testimony of Vanessa Smith – transcript page 1720

- There were no .45-caliber shell casings found at the scene other than the one spent casing jammed in the victim's .45-caliber handgun.
- A small, nylon handgun holster was found 13 feet from the victim's head
- There were five spent shotgun shells and a number of loaded shotgun shells strewn about the scene.
- A blood-stained knife was found sitting on top of the victim's duffel bag.
- The victim had no knife wounds.
- The victim's shirt was found on a rock with another rock on top of it.
- The victim's shirt had no blood and no defects consistent with having been worn when the victim was attacked.
- There was a yellow plastic canister containing \$1,944.05 in cash found at the body recovery site.
- There was suspiciously little blood located at the body recovery site considering that the medical examiner found little or no blood in the victim's body.

Ms. Smith's purported scenario that they were on the way to retrieve guns to sell to get cash to buy cocaine is questionable. Ms. Smith further asserted that they already possessed enough cocaine for both Scott Allen and Chris Gailey to use, which she claims they did as they hiked through the woods that evening.⁷ Also, with over \$1,900 in cash on or near his body, it is clear that Chris Gailey had enough cash to buy cocaine. It is my understanding that Chris Gailey was a known drug dealer who may have had some unhappy customers. This obviously goes to the importance of conducting a thorough victimology, i.e. a study of the victim to determine whether there were any lifestyle or situational variables that may have elevated his potential for becoming the victim of a violent crime. To that end, it is also my understanding that Dustin Maness, a former business partner of Gailey, may have been camping in the woods that night. The potential significance of this is that Mannes brought charges against Gailey for threatening him with a knife a few weeks prior to Gailey's murder.

⁷ Because Mr. Gailey's blood was not tested it is impossible to know if cocaine metabolites or anything else were in his system.

Ms. Smith testified that hours after having been fatally shot, the victim managed to repeatedly fire his handgun. This assertion is unfathomable. It is contrary to the medical examiner's finding that the victim died relatively quickly after having suffered two massive shotgun wounds. Also, if the victim had managed to repeatedly fire his .45-caliber semi-automatic handgun either before or after being shot, one would expect to find spent .45-caliber shell casings at the scene. Except for the single empty casing found in the chamber, there were none.

Ms. Smith alleged that the shooting occurred while the three of them walked down the trail. However, the fact that the victim's shirt was draped over a rock with another rock on top is more consistent with the victim having taken a break from hiking when the confrontation occurred. It appears that the rock on top of the shirt is more likely to have been placed there rather than randomly coming to rest there after having been thrown.

As noted above, Ms. Smith told investigators that Chris Gailey never got his gun out. However, the weapon was out and had been fired. Also, as noted above, loose live rounds were on the ground near his ammo pouch, which contained additional live .45 caliber rounds. Additionally, a magazine with live .45-caliber rounds was found on the ground near the body and a small nylon holster was recovered 13 feet from Gailey's head. These facts refute Ms. Smith's assertion that Mr. Gailey was assassinated in cold blood, never having got his gun out.

An Alternative Hypothesis

An alternative hypothesis that is consistent with the totality of the evidence is that of a confrontation that resulted in a gunfight and not the execution style murder alleged by Ms. Smith and proposed by the prosecution. At least one shotgun⁸ was fired numerous times while the victim was able to draw his handgun and fire it at least once before it jammed.

⁸ It is my understanding that the spent shotgun shell casings have not been tested to determine if they were fired from the same weapon including the alleged murder weapon recovered from the Johnson residence. Therefore, it remains impossible to know whether all, some, or none of those rounds were fired from the weapon seized or any other weapon.

This scenario is supported by the fact that there were five spent shotgun shells recovered at the scene, but no spent .45-caliber shell casings other than the one jammed in the weapon. Additional live shotgun rounds were also found at the scene, suggesting that the shooter may have been reloading or attempting to reload the shotgun or had inadvertently dropped live rounds as he or she moved about during this deadly confrontation.

With five spent shotgun casings found at the scene and only two shotgun wounds sustained by the victim, it is likely that three of the shotgun rounds fired missed Chris Gailey, further supporting a scenario of a moving gunfight. In all likelihood, the first shot that struck Chris Gailey was the shot to his right knee. According to Dr. Butts, that round of birdshot was fired from several yards away and rendered the victim's right leg useless. With the victim incapacitated and likely bleeding profusely from the damage to his femoral artery, and his handgun jammed, the offender could have easily and safely approached him to deliver the fatal round of buckshot into the victim's back. This is consistent with Dr. Butt's finding that the wound that entered the victim's back was fired at close range.

Dr. Butts testified that the victim would have died relatively quickly and that there was no blood left in the victim's system.⁹ Of concern is that in spite of the massive arterial bleeding that would have occurred from the shotgun wounds there was only a small amount of blood documented at the body recovery site. This lack of blood raises the prospect that the victim may have bled out elsewhere and his body moved to the location where it was recovered.

As noted above, Ms. Smith told authorities that the murder weapon used by Scott Allen was a sawed off shotgun that belonged to Robbie Johnson and that Scott Allen disposed of the weapon in the woods. However, authorities recovered a shotgun from a closet in a room that Johnson shared with Gailey. That weapon is consistent with the one that Vanessa Smith described. No weapon was recovered in the woods. To my knowledge there have been no tests conducted to determine if the recovered shotgun shells were fired

⁹ Testimony of Dr. Butts, Pps. 2014- 2015

from the weapon seized from Johnson's home or to determine if they were even fired from a single weapon. The actual murder weapon has never been identified or recovered.

The knife on top of the victim's duffle bag with apparent bloodstains on it further suggests a confrontation. I am unaware of any testing done on the suspected bloodstains on this knife to determine whether it was human blood, to type it or to attempt to identify the source. If the suspected blood on the knife is human blood, this would be of great investigative importance, especially because Chris Gailey had no wounds consistent with a knife injury.

As previously noted, laboratory testing determined that while elements consistent with gunshot residue (barium, antimony and lead) were detected, they were not present at high enough levels of concentration to conclusively confirm that the victim had either fired a weapon or been close to a weapon as it was fired. It is my understanding that it had rained prior to the body being found and that may account for the diluted concentration of barium, antimony and lead found on his hands. This is consistent with the expert who testified that, "It is noted, however, that this does not eliminate the possibility that the subject could have fired a gun."¹⁰ In other words, Gailey may well have fired the .45 caliber weapon and the resulting gunshot residue, while present, was in a lesser concentration that it would have been if it had not rained.

An investigator's job is not to believe or disbelieve anyone. It is to find facts. While the police and prosecutors apparently chose to believe Vanessa Smith's allegations against Scott Allen, she could have falsely accused Scott Allen out of revenge. If so, it would not be the first time this has occurred. Mr. Allen had broken up with Ms. Smith and moved to Colorado with another woman. Ms. Smith drove to Colorado in an effort to win back Mr. Allen, but failed. Upon being rejected by Scott Allen she returned to North Carolina and only then, weeks after the homicide, did she voluntarily make these questionable allegations against Mr. Allen.

¹⁰ Trail testimony of Special Agent Timothy Luper: pg. 1848.

If the allegations set forth in the sworn affidavits by Troy Spencer and Dolly Ponds are true, then Ms. Smith's proclivity for exploiting people, relationships and situations for revenge and self-gratification is reinforced. In fact, Mr. Spencer swore that prior to Ms. Smith taking the stand and testifying against Scott Allen, she told him that Scott had mistreated her and that she was going to make him pay, "*....if it is the last thing she ever does.*" Mr. Spencer also swore that Ms. Smith, "*....use to laugh and laugh about how she was going to make Scott Allen pay for what he had done to her.*" Mr. Spencer further swore that, "*...it was her, not Scott, who pulled the trigger and killed Chris Gailey. In fact, one time she said, 'that pussy mother-fucker couldn't even do it and I had to do it myself.'* Those are her exact words. She also told me that she wanted the 'big bag of cocaine' and 'big roll of cash' that Chris Gailey always carried. She said it was her idea to jump Gailey and take it, and that Scott didn't want to hurt Chris. She planned it all, not Scott." Mr. Spencer also stated that he was aware that Ms. Smith manipulated a jail guard by offering sex to get some time out of her cell, but they got caught and the guard was fired.¹¹

This allegation is consistent with that made by Ms. Dolly Ponds who swore that while she was incarcerated with Ms. Smith that Ms. Smith had traded sex with a jailer named Scottie Steinback in return for him supplying her with marijuana, cigarettes and other possible considerations. She swore that Ms. Smith kept a towel with Mr. Steinback's DNA on it from a sexual encounter and apparently used it to prove that the jailer had sex with her. Like Mr. Spencer, Ms. Ponds stated that the jailer was fired. Regarding the murder of Christopher Gailey, Ms. Ponds affidavit differs from that of Mr. Spencer as she claims that Ms. Smith told her that Scott Allen had killed a guy in the woods because he refused to give them money for drugs.

A review of the material provided also raises concerns about the adequacy of the investigation into the murder of Christopher Gailey. Reasonably trained homicide investigators understand the importance of conducting a thorough victimology, especially when the victim is suspected to be a drug dealer. I have seen no evidence that this was

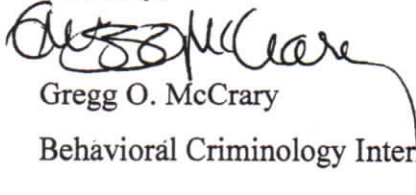
¹¹ Affidavit of Troy Spencer dated October 2, 2012

done. Reasonably trained investigators also would have had the spent shotgun shells compared with the shotgun that they seized from the Johnson residence in an attempt to confirm that this was the murder weapon, as alleged by Ms. Smith. Inexplicably, this has never been done. I also have seen no evidence that any of the shotgun shells, spent or live, were examined for fingerprints or DNA. This is important as those shells were likely handled by the murderer. I have seen no evidence that investigators sought or collected data from the victim's pager. All pages to the victim would be of investigative interest, especially those closest in time to his murder. I have seen no evidence that the purported blood on the knife found on top of the gym bag near the victim's body was examined to determine whose blood it might be. The victim had no wounds consistent with a knife, therefore, the blood might have come from the perpetrator or someone else at the crime scene. Such information would be of obvious significance. Further, I've seen no evidence that the police checked with local hospitals or walk-in primary care health facilities to see if anyone had been treated for an injury consistent with a knife wound in the time immediately following the murder. Reasonably trained investigators would have done so. Based on the material I have reviewed, the investigation into the murder of Christopher Gailey appears deficient and substandard.

In summary, the totality of the evidence at the scene is more consistent with a dispute that deteriorated into a gunfight and significantly contradicts and discredits Ms. Smith's story, which was the basis for charging and prosecuting Scott Allen. The theory that Ms. Smith, Mr. Allen and Mr. Gailey were hiking through woods to get guns to sell because they needed money to buy cocaine is questionable. First of all, Ms. Smith alleged that Scott Allen and Chris Gailey already had cocaine and were using it while on that hike. Second, it is undisputed that authorities recovered \$1,944.05 at the crime scene raising further doubt about Ms. Smith's assertion that they needed money to buy cocaine. The fact that this money was left at the crime scene also raises a serious question about this being a financially motivated crime. The inconsistencies among the allegations Ms. Smith made to the North Carolina authorities and those she made as reflected in the affidavits of Mr. Spencer and Ms. Ponds raise additional concerns about her credibility. Additionally, Ms. Smith's motive for coming forward with her allegations against Scott Allen may be

dubious. Her proclivity for manipulating others and possibly seeking revenge against Mr. Allen is set forth in the sworn affidavits of Troy Spencer and Dolly Ponds. The only link between Scott Allen and the murder of Christopher Gailey are the allegations made by Ms. Smith. However, those allegations appear inconsistent with themselves and inconsistent with the crime scene. If her allegations are removed from the investigative and prosecutorial equation, there is no independent, verifiable evidence that links Scott Allen to the murder of Christopher Gailey. In fact, there is no independent evidence that he was even at the scene. These facts, compounded by what appears to have been a substandard investigation into the homicide of Christopher Gailey raise multiple, legitimate questions about Scott Allen's guilt for the murder of Christopher Gailey.

Sincerely,

A handwritten signature in black ink, appearing to read "Gregg O. McCrary". The signature is fluid and cursive, with a long, thin tail extending downwards and to the right.

Gregg O. McCrary

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