

Steve Gartin

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Sent: Friday, April 23, 2004 4:06 PM
Subject: 00CR3371 Frank Response.doc

First Judicial District Division 2 CourtRoom 5-A 100 Jefferson County Parkway Golden, Colorado 80401	▲ Court Use Only ▲
PEOPLE OF THE STATE OF COLORADO - Plaintiff v. STEVE DOUGLAS GARTIN - Defendant	Case Number: 00CR3371 Division 2 LPA
Friday, April 23, 2004	CourtRoom: 5A
INVESTIGATOR'S RESPONSE TO ATTORNEY'S MOTION TO WITHDRAW	

Comes now, the court appointed investigator, Frank Pugliese, (hereinafter known as "the Investigator") in response to A.D.C. counsel, Thomas C. Miller's allegations in his Motion to Withdraw in the above case. This response follows original numbered paragraphs as follows:

1. The investigator, Frank A. Pugliese, was appointed in this case matter by the Honorable Leland Anderson in January of 2000. The investigator continued to monitor the case at Bar during the Defendant's probationary period, as had Attorney Miller.

2. This investigator recalls that event as stated.

3. This investigator agreed to remain on this case and "on-call" during the pendency of Mr. Gartin's probation, due to the unusual circumstances of his probation agreement concerning defendants in a related case being named as his probation officer and to whom his urine analysis and anger management reports were to be forwarded. The possible conflict of interest caused this investigator some concern from the beginning.

4. This investigator has researched the public record and has identified many cases that were dismissed against Mr. Gartin and would properly be sealed or expunged, this case 00CR3711 was not among them.

a. I have researched the case files pertaining to case number 00CR3711 and I found two cases, one in Denver District Court, pertaining to Aaron Brown, whose attorney was Seufert T. Marshal. This was a drug case that I admit to never working on, nor did Mr. Miller's name appear on any documents in this case. The next case was pertaining to another Drug case out of El Paso District Court concerning defendant Andrea Dawn Wood, whose attorney was the Public Defenders office; and in this case also I agree that I had no knowledge of it, nor did I see Mr. Miller's name on any documents.

b. I have been a criminal investigator since 1982, and have continued to practice my profession until the present time. I have assisted numerous federal and local law enforcement agencies in the bringing to justice of criminal cases pertaining to extortion, homicide, and real-estate fraud over my 22 years of service. I have been a Professional Bail agent for

13 years, during which I had a 5 year break to continue my investigative services. I attended and was Certified as a Criminal Profiler by the An Accredited College. Mr. Miller has knowledge of this since he borrowed my investigative book on this subject and has refused to return it as requested.

5. This investigator noted the change of judges for this hearing as unusual. The fact that two defendants in many of Mr. Gartin's legal actions, Gary Clyman and Donald L. Estep, also appeared was noteworthy. The fact that the two defendants were obviously acquainted with Wally Barrett on a first name basis caused this investigator some concern.

a. Pertaining to Mr. Gartin's Motion For Forgiveness and to seal/expunge the records that I attended, was a pointless dramatic monologue by Mr. Miller which was both irrelevant and he had cited the wrong statutes. None of the cites had any pertinence to Mr. Gartin's sealing of records, he failed to support any authority to do so, when questioned by the Honorable Judge Munsinger.

6. The facts are as stated. Mr. Gartin retained this investigator, through exchanging of services, in June of 2003, to investigate the possibility of Mr. Miller's, and Mr. Barrett's potential violation as to attorney client/privilege, and the possible involvement with the prosecution. Attorney Miller and Investigator Walter "Wally" Barrett were not privy to my investigation until my Final Report was filed to the Honorable Court; and the continuing association with the State Attorney Generals office as to cooperating in 'controlling his client,' that is to say Mr. Gartin, was revealed. My concerns are that while visiting Attorney Miller at his home in Boulder Colorado, he had stated he was attempting to gain employment with the State Attorney Generals office. This suggests a motive for his cooperation with the Attorney Generals Office.

7. Attorney Miller is mis-stating the facts. Mr. Gartin spoke with Attorney Miller about his case on or about March 31, 2004, pertaining to the surprise appearance of Mr. Carlos Bonilla in front of Mr. Gartin's home, at which time Mr. Miller contacted myself, the investigator, to determine what investigation I was going to conduct in the matter. This Investigator explained to Mr. Miller, that unless there was verbal, or physical contact between the two parties, there were no violations to investigate. Mr. Miller stated that for several weeks he had no knowledge of Mr. Gartin's whereabouts, nor a way to contact him, yet on March 31, 2004, Mr. Gartin contacted Mr. Miller by phone, and from his home, to notify him as to the appearance of Mr. Bonilla. I, the investigator, suggested to Mr. Gartin that he be placed in a safe house pending his hearing dated April 8, 2004, in an attempt not to violate his probation should Mr. Bonilla return and due to this evidence, I have found Mr. Miller's representation of Mr. Gartin's case to be questionable.

8. To my knowledge, Mr. Miller's refusal to use email is a very recent development. Mr. Gartin procured a free email account for Mr. Miller, docslaw@justice.com shortly after release from jail. A short time later, Mr. Gartin purchased Mr. Miller's domain name, www.docslaw.com and set up an email, doc@docslaw.com for Mr. Miller and set up his phone lines and computer in order to facilitate electronic communications. Mr. Gartin did indeed copy in several people on his communications with Mr. Miller during the month of March 2004, his concern, from the contents of Mr. Gartin's e-mails, was that Mr. Miller refused to provide the Motion for Forgiveness and Petition to Seal and the opposing motions. The e-mails were entitled "Doc's Anger Management Issues" and did not reveal any sensitive material related to Mr. Gartin's case, or that in any way "undermines attorney/client" privilege per se. The fact that Mr. Miller refused to provide the information Mr. Gartin was requesting, could be construed to be a breach of that relationship.

9. It has been this investigator's experience with Mr. Miller that his willingness to discuss client matters with outside interests proves a much greater threat to "security of information" than any risk that a hacker would breach the security of a server AND have an agenda that would compromise any attorney/client confidentiality. Particularly in Mr. Gartin's case, where Mr. Gartin, himself, is completely unconcerned with concealing any information and quite regularly posts legal filings and information to his personal website, www.stevegartin.com/endgame.htm and is quite open about all of his legal issues. Mr. Miller's argument does not explain why he refused to provide Mr. Gartin with the information he requested.

a. During the course of my investigation, I have spoke with five different individuals to whom Attorney Miller has disclosed confidential and privileged information as regards this instant case matter. For the protection of these individuals from Mr. Millers uncontrollable anger and impulse for retribution, I shall hold them in confidence for their well-founded fear of retaliation by Mr. Miller and his confidant Walter Barrett. I am prepared to provide evidence should the court order the submission of their names, I would further request that Mr. Miller and Mr. Barrett or any of their agents, not contact these individuals, due to the fact that they are in dire fear of retaliation by these two parties. Attorney Miller's fits of rage and anger towards his clients have yielded numerous threats to "throw them in jail" if they didn't pay him more money, as well as the demeaning profanity and personal slurs used during his relationship with these clients and their spouses.

10. This Honorable Court in itself appointed this investigator, not the Alternative Defense Council, nor Mr. Miller. My responsibility was to my client, Mr. Gartin, and Attorney Miller ceased any assistance or contact with me in this case. I had no written order by this court, or knowledge that a removal of my services was in fact ordered.

11. My responsibilities were to my client and this Honorable Court. Prior to submitting my final report, Mr. Miller had no objection, nor did he inform me of any change in investigator status, he only requested a copy for his records. As evidence may not be accepted without prior knowledge of the opposing counsel, I simply sent a copy of my report in a timely fashion, for the protection of my client and his assurance of evidence in this matter. It was not until Mr. Miller examined my report, in which some of his actions, those of his confidant Wally Barrett and the State Attorney General's Officer were called into question, that he objected to my status as investigator and retaliated with slanderous remarks as to my investigative ability.

12. Mr. Miller is acting on impulse for the concerns I made in my report, just prior to the April 8, 2004, hearing. Mr. Miller contacted me to inform this investigator that what I wrote suggests a violation of attorney client/privilege and that he would retaliate in any manner possible to see that charges were made against me for my statements and actions.

13. Mr. Gartin has refused to involve Mr. Barrett in his case, first, due to the fact that I am his investigator of choice. Mr. Miller has violated attorney client/privilege in another case matter with his investigator Mr. Walter Barrett, where Mr. Miller introduced Mr. Barrett and myself as the investigators on this particular case. I enquired of my clients as to the retainment of Mr. Barrett, and they stated that they never heard of him nor had any knowledge of his involvement in their cases. My client's were concerned that their case could be in jeopardy due to the very poor physical and mental state displayed by Investigator Barrett. Mr. Barrett was unable to respond to the judge's simplest questions in a coherent and cogent manner, nor was he able to substantiate or document his involvement in this particular case. Mr. Barrett appeared with bloodshot eyes, dilated pupils and fully flushed red face, which my clients as well as Attorney Miller's clients, were concerned about the outcome of their case, due to Mr. Miller's gross violation of attorney/client privilege to an investigator unknown to them, or hired by them and presenting in such a tatty condition.

a. Mr. Gartin had made numerous objections to the involvement of Walter "Wally" Barrett, yet Counsel, against the wishes of his client, allegedly appointed Mr. Barrett to a related case that endangered Mr. Gartin's probation agreement, to-wit: 02CR3011. Mr. Miller continued to work with this investigator until his involvement as Alternative Defense Counsel, at which time Mr. Miller introduced Mr. Barrett, too, after which Mr. Barrett was financially compensated by the Alternative Defense Counsel even after I had submitted an invoice for my services and it had been denied. Please take notice to the contained invoice.

b. Mr. Miller has continually acted contrary to his client's strong demands and instructions not to employ Mr. Barrett, which is another failure of attorney/client obligation caution on the client's behalf and professional responsibility. It is to be strongly questioned as to Attorney Miller's refusal to advance his client's interests and failure to take the instruction of his clients demands. Mr. Miller has demonstrated that he believed that Mr. Gartin should work for him without pay, as he has demonstrated by Mr. Gartin's thousands of hours assisting Mr. Miller without compensation to offset his representation, as he has done to other client's, unknown to this Honorable Court and to the Alternative Defense Council.

14. It is my understanding that Mr. Miller has demanded that Mr. Gartin only contact him by phone or U.S. Postal service. Attorney Miller could not possibly respond to Mr. Gartin's time-sensitive issues. Mr. Miller has continually gone against his client's demands by employing Mr. Barrett, which is a violation of attorney client privilege. Mr. Miller's refusal to cooperate with his clients and his client's requests is questionable. Mr. Miller has demonstrated that he believed that Mr. Gartin should work for him without pay, as Mr. Gartin has spent thousands of hours assisting Mr. Miller without compensation.

15. Mr. Miller, throughout Mr. Gartin's probationary period, has had Mr. Gartin perform Para-legal tasks, research, the building of a data base and assistance at court cases other than his own. Ostensibly these services were performed for Mr. Miller in order to pay Mr. Miller for legal services that were already being paid through the Alternative Defense Council,. One and one half years of Mr. Gartin's time were spent working on other cases of other individuals as a professional paralegal and research assistant, all for no compensation. This in itself should bring a question to the court as to the continual violations Mr. Miller has made pertaining to attorney client privilege in other cases. Mr. Gartin has explained what he expected of Mr. Miller, and Mr. Miller has stated in a written response that he was unable to assist Mr. Gartin's case in an expert manner due to his lack of knowledge of the specifics of Mr. Gartin's case, although Mr. Gartin had repeatedly asked Mr. Miller to read the necessary documents pertaining to his case.

16. I was present on April 8th when Mr. Miller suggested to Mr. Gartin that they begin preparing a 35c motion in order to address the constitutional violations Mr. Gartin has suffered and to bring it under the "ineffective assistance of counsel".

17. In this Investigator's opinion, Mr. Gartin has fully completed his probation under the most dire

circumstances and should have been released from probation, withdrawn his guilty plea and this matter should have been over as scheduled.

18. In reference to the traffic stop and charges against Mr. Gartin in the State of Arizona, he was in fact stopped and issued a summons, un announced to me, until Attorney Miller contacted this investigator to enquire as to the date I traded this automobile that Mr. Gartin was driving. I stated then as I am now, the trade was made on October 9, 2003. This vehicle was stored in a private storage area, taken in as forfeited collateral, untouched until Mr. Gartin retrieved it on or about November 10, 2003. Attorney Miller, Mr. Gartin's Counsel as was confessed to me, told this investigator he was going to defend Mr. Gartin's case pro-bono, as he had told others, and would I send a modified letter to the Court in the State of Arizona, and falsely state that I had traded this vehicle, just before Mr. Gartin's, travel. I refused and stated that I would not falsify document's for anyone. Attorney Miller was angry with me and hung up.

19. Mr. Gartin has had no convictions during his probation period. He has reported every police contact he has had. He completed his anger management and urine analysis. He did not file any law suits and he worked enough hours for Mr. Miller to pay his "restitution." This investigator would suggest that Mr. Miller be responsible for the restitution payment.

a. But, again, Mr. Miller refers to the wrong case. Mr. Miller throughout the probationary period has had Mr. Gartin perform Para-legal tasks, research, building a data base and to appear at every court case, client transportation to courts and babysitting Attorney Millers Clients. Attorney Miller use for his personal gain one and one half years of Mr. Gartin's time, which was spent working on other cases of often with unsolicited onlookers. Mr. Gartin was involved with virtually every case Attorney Miller was contracted for, all at Mr. Gartin's expense for travel and expenses as a professional paralegal and research assistant, all for no income by Mr. Miller and without employment of Mr. Gartin in Mr. Miller's cases, a violation of Colorado Labor Laws. Attorney Miller stated that the probationary \$4000.00 was strictly a suggestion and did not have to be paid, therefore, Mr. Gartin was unable to secure gainful employment due to his employment from Attorney Miller in which to pay his restitution. This in itself should bring a question to the court as to the continual violations Mr. Miller has made pertaining to attorney/client privilege in all of his cases. Mr. Gartin has explained what he expected of Attorney Miller and Attorney Miller has stated in a written response that he was unable to assist Mr. Gartin's case in an expert manner, due to his slight diligence in reading case files, lack of knowledge of the pertinent laws, and to advance as Mr. Gartin had requested him to do.

20. Mr. Gartin was arrested at the Broomfield Jail after visiting one of Attorney Miller's clients, Mr. Kevin Brown, on November 23, 2002. Mr. Brown has filed a grievance against Mr. Miller, alleging many of the same crimes, misdemeanors and breaches of professional conduct that I have observed in this case and others.

21. Mr. Miller told me that he would also get me appointed as Private Investigator on that case and requested that I submit an invoice for the investigation I had performed.

22. This investigator appreciates Mr. Miller's kind words about my investigative skill, but 02CR3011 was not dismissed until 12 January, 2004. I was the investigator on this case, my investigation was completely concluded within three weeks. This investigator was introduced to the Lakewood Police Department by Mr. Miller as the investigator on the case. This investigator was also introduced by Mr. Miller to Joe Gilmore as the investigator. Mr. Miller in paragraph 10 of this motion calls me a "quasi-investigator," then complements me in paragraph 22. My investigation was through the retainment of Mr. Gartin, and recognized by Mr. Miller. If Mr. Miller did in fact have Mr. Barrett appointed on this case as well as Case number 00CR3371, after all investigations were completed, I believe his motives should be questioned as to the validity of Mr. Barrett's appointment and the possible unwitting involvement of Mr. Brian Shaha, and whether or not Mr. Shaha had knowledge of the conclusion of this investigation, and of my involvement prior to the appointment of Walter Barrett.

The following statements made by Attorney, Thomas C. "DOC" Miller are false and misleading:

a. Mr. Miller had full knowledge of his client's whereabouts at all times up and until April 2, 2004. It was not several weeks, and even with this in mind, Mr. Gartin never did accept this investigator's offer to be relocated; he remained at his place of residence, but refused to answer his phone. Please refer to this investigator's report to suggest that Mr. Gartin relocate, not that he did.

b. Mr. Miller stated case numbers in this motion, 02CR3711, that were blatantly a false statement, he was never involved in these cases. This case was mentioned not once but 7 times through the course of Mr. Miller's Motion.

c. Mr. Miller has slandered myself, my company, and my ability to earn an income due to his flamboyant

allegations without any documented proof to substantiate his allegations.

d. Mr. Miller stated that he had put in hundreds of hours and invoiced the ADC for a case that was already investigated and concluded 3 weeks after knowledge of possible charges. This investigator was retained through exchange of services with the defendant and myself, with full knowledge of Mr. Miller, even as far as Mr. Miller introducing myself as the investigator to the Lakewood Police Department as well as Joe Gilmore, yet the ADC was invoice for investigative services of Mr. Walter "Wally" Barrett for a substantial amount of money.

e. The case pertaining to the sealing of Mr. Gartin's document were denied due to Mr. Miller's inaccuracies in the proper statues in this matter. Mr. Miller's statutes pertained to the sealing of Investigator Gary Clyman's records, which was in fact denied since Mr. Clyman was not motioning this Honorable Court to seal his records.

Additionally, several of Mr. Miller's clients will confirm the fact that Mr. Gartin was working on their cases and that Mr. Miller charged them extra for his services, although he did not pay Mr. Gartin except for minimal computer consulting.

Wherefore, the Investigator, Frank A. Pugliese, submits his INVESTIGATOR'S RESPONSE TO MOTION TO WITHDRAW, to this Honorable Court for review and to contain in this case as evidence.

Respectfully submitted,

Friday, April 23, 2004

Frank A. Pugliese
P.O. Box 4772276
Aurora, Colorado 80047
303-306-1043

CERTIFICATE OF SERVICE BY FACSIMILE

I, Frank Pugliese, do hereby certify that a true and correct copy of the foregoing, Investigator's Response to Motion to Withdraw by Facsimile to the following parties on this 23rd day of April, 2004:

Clerk of the District Court
Division 2
303-271-6114

Deputy District Attorney Joseph Gilmore
303-271-6888

Alternate Defense Counsel:
Brian Shaha 970-392-9897

CERTIFICATE OF SERVICE BY UNITED STATES POSTAL SERVICE

I, Frank Pugliese, do hereby certify that a true and correct copy of the foregoing, Investigator's Response to Motion to Withdraw by U.S. Postal service, with sufficient postage attached, to the following parties on this 23rd day of April, 2004:

The Honorable Leland P. Anderson
Division 2 First Judicial District
100 Jefferson County Parkway
Golden, Colorado 80401

Thomas C. Miller, Esquire
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Boulder, Colorado 80302

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c/o David Thomas
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Frank Pugliese, Investigator