Case No. FECR 006984

19-0453

Ethan Davis, Pro Se Brief

I wanted my Attorney to request a change of venue. He informed me that I should tell my other Attorney in my Wayne Co. case to do the same. I was under the impression that my Attorney had requested a change of venue and the Judge had refused the request. It wasn't until after the trial had started I talked to my Attorney about my request for the change of venue. It was then that I was informed that he had not asked for a change of venue. But there were multiple times before trial started that I had asked. I shouldn't have to tell my Attorney I want something done more than once to get something done. Still the end result is he did nothing.

The Jury Panel was asked about knowledge of the case, me and my family. Thirty three of 36 people raised their hand in response to the question.

That led to 11 of the 36 jurors being excused because of admitted prejudice.

The next 11 prospective jurors all had knowledge of the case when asked. Resulting in 6 more jurors being excused.

Again 6 more people were selected for jury panel. Three of 6 admitted of having knowledge of the case. The total was 42 of 53 potential jurors admitting they had knowledge of the case. The ones that said they had no prior knowledge were probably lying.

One potential juror was asked, "Can you base your opinion just on what comes in you have to erase completely everything." Then was asked "and there

won't come a time that you may think something came in and it didn't come in and you would judge him based on that?" Her answer, "Yes."

Based on this prospective Juror and 41 other potential jurors being asked to "set aside prior knowledge of the case to come to an impartial verdict." This is not adequate for a fair and impartial jury of piers. No individual has the mental capacity to forget things they have been told or know on command. Especially when potential jurors had the presumption of guilt before trial started.

In the motion of Limine it was agreed upon that prior bad acts would not be brought up. In chambers without my consent or previously being notified of a stipulation agreed upon by prosecution and defense Attorneys. My Attorney should not have been making back door deals with the prosecution without my knowledge, especially when the sole purpose is to help the prosecution. Mr. Duker said, "As a result of an incident on Nov. 24 of 2017, in Seymour, Wayne Co. IA, Mr. Davis was charged with Burglary in the 1st Degree of Jarvis Kennebeck's residence, Willful Injury Causing Bodily Injury on Jarvis Kennebeck. Mr. Davis was not found guilty of Burglary in the 1st Degree and Willful Injury Causing Bodily Injury and found guilty of Assault causing Bodily Injury. On Jan. 22 of 2019 Mr. Duker was asked what his "strategic reason is for wanting the specific charge in and what conviction was for." His answer was, "It gives context to some of the information that's going to be testified to by States' witness. It provides some contexts to statements that are allegedly against my clients' interests." So the defense had absolutely no strategic reasoning for this information other than to help prosecutor witness testimony and prosecutions allegations. Mr. Duker

should have never allowed prior bad acts in the court room for any reason at all. They had no relevance to the case in chief.

Paragraph 6 in the motion of Limine states that no new witness are to be called that are not listed, in their case in chief or in Minutes of Evidence. Mike Brown was never deposed and was introduced as a witness after the 11 day notice of motion of Limine. Motion stated that no new evidence or witness was to be introduced within 11 days of trial. I also had evidence I wanted Introduced during this time and my attorney said it could not be introduced.

Jurors were selected a long with 2 alternates. Trial was ready to begin and one of the jurors said "stop the trial." She was taken back to chambers and wanted removed from the jury. That did not happen; she still sat on the jury.

Scott Nelson called Sheriff's office and made a statement about the case. This was recorded or documented by Sheriff's department. I was never given documents or heard the recorded conversation. I asked my attorney several times about what was said. He repeatedly told me it was nothing. During deposition Susan Suzinski asked Mr. Duker if he was going to represent Scott Nelson in a case. I said he was involved in my case. Duker acted as if he didn't know he was involved in my case. Then Mr. Duker admitted it would be a conflict of interest to represent Nelson while he was already representing me. Duker still represented Nelson in his case regardless of conflict of interests. Mr. Duker also represented Jarred Firth, who was also involved in my case. He and another person were stopped by Sheriff Deputies on or after Nov. 24. A knife and a bow were confiscated from Firth and another individual. This is Important because Curtis Ross was a bow hunter. His bow was never found. Curtis Ross was hot and

stabbed. The knife was never found. The knife and bow was later released to Firth without DNA swabs or finger prints being taken from items. Again a conflict of interest on Mr. Duker's part.

Duker also refused to take investigative information from Jamison Davis. Mr. Davis provided a lot of information that was never looked at or used by defense. During trial lead DCI agent Miller testified to the last ping on Ross' cell phone. Agent Miller said it was on Jamison /Davis farm. Ping was 4.2 miles from Seymour tower at a 60 degree angle. This was never objected to. That night Jamison Davis got on Google maps. Marked Seymour tower to the edge of the farm. It was 6.2 miles to the closest edge of farm, not at a 60 degree angle to the tower either. Davis printed this off turned it over to Mr. Duker and then it was entered into evidence that day. Duker never objected to DCI agents' false accusation. Later after the trial I had found out in the discovery Prosecution and Defense both had the exact GPS location of Mr. Ross' phone. Prosecution and defense knowingly used false testimony against me. While the exact GPS location was swept under the rug by both parties. Might have even been another back door deal I was not made aware of by prosecution and defense attorneys. The exact location of phone cordinance very well could have led to my innocence if it had been investigated and brought into the court room.

Mr. Duker also failed to cross examine key witness regarding contradicting testimonies by multiple witnesses.

Mr. Duker also told his investigator that is employed at his office not to investigate. Telling her not to do anything but relay information from Mr. Davis.

I asked Duker to get another professional witness for ballistics and casings. He told me that DCI is very good at their job and that we didn't need a professional witness.

I told my Attorneys at least 4 separate occasions that I did not want to testify. My Attorneys told me repeatedly that I needed to testify because the jury would want to hear from me. Mr. Duker spent maybe 10 to 15 minutes with me prepping for my testimony. While I was on the stand the prosecutor asked me if I was framed. I said "Yes." Then the prosecutor asked me "who would frame you?" Putting the burden of proof on me to prove I'm innocent. When it is the states burden to prove I'm guilty. Duker should have objected to that.

At the crime scene there was a complete bullet found on top of a leaf. Undamaged and clean that didn't appear to have blood on it. Bullets don't stop for leaves. So if it didn't pass through Mr. Ross' body, and the leaf didn't stop the bullet that was traveling over 2,000 feet per second, that means that someone had to put it there.

There was also some testimony that said you could see the crime scene from the top of the hill where they found the casings. That was not true. Some witness contradicted that and said you could not see the crime scene from the hill top where the bullet casings were found and that there were trees in the way. It was very important to the case on whether you could see the scene or not. Reason being is prosecution said that is the spot used to ambush Mr. Ross. It can't be possible if you can't even see the scene because there are trees in the way.

Donna Westfall lied about the last time she seen Mr. Ross when she testified. She later said on social media that she had been in contact with him the

day of the murder. On social media she said that she had brought Mr. Ross out lunch to his tree stand the day he was killed.

The ammo can found in close relation to the crime scene was identified as coming from Wal-Mart in Centerville on a certain date. The person who bought the ammo can did so while I was working in the Dakotas working. Meaning I didn't buy it.

During Deliberations the Court Attendant and Judge went to Jury Chambers after the jury had just came in and said they were dead locked. To my knowledge there is no reason the Judge should be addressing the jury outside the courtroom off the record. It is unknown what was said in Jury Chambers. What is known is they came back with a guilty verdict after their meeting.

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