

AFFIDAVIT

STATE OF MISSOURI    )  
                                  ) ss  
COUNTY OF CLAY        )

COMES NOW, Robert G. Duncan, Attorney at Law, of lawful age and having first been duly sworn upon his oath, states as follows:

1. That I represented Kenneth G. Middleton as his criminal defense lawyer in his trial in the Circuit Court of Jackson County, Missouri in Case No. CR90-0348, before Judge Edith Messina, wherein Middleton was charged with the offense of First Degree Murder and Armed Criminal Action.

2. I had no knowledge prior to or during the trial or appeal, but I have recently learned that prosecutor, Patrick W. Peters' father, the former Circuit Judge William J. Peters was an attorney with the law firm of Cochran, Oswald, McDonald, Graham & Roam, P.C., which firm was suing Mr. Middleton in a civil suit. Had I known William J. Peters was an attorney in that law firm, I would have filed a Motion to disqualify Patrick W. Peters as trial prosecutor.

3. If I had been aware that Patrick W. Peters' father's law firm was representing the sister of the victim against Mr. Middleton, I would have investigated the matter further and would have discovered the improper concealment of discoverable material and perhaps used that in our defense, and possibly called either or both Peters as a witness.

4. I further state that I have also since learned that this same law firm represented the Blue Springs Police Department and that the Police Department had kept a secret file concerning the civil claim of her sister. Further, I believe my ability to defend Mr. Middleton was impaired because I wasn't given information of the connection between the Police Department, the Prosecutor and the civil claim against Middleton seeking a substantial monetary recovery. This information, if for no other purpose, would have been admissible as impeachment evidence showing the bias of the police and some of the witnesses.

  
Robert G. Duncan

Subscribed and sworn to before me a Notary Public this 27<sup>th</sup>  
day of September, 1996.

  
Notary Public

My Commission Expires:  
JOELLEN R. HYDE  
NOTARY PUBLIC STATE OF MISSOURI  
PLATTE COUNTY  
MY COMMISSION EXP FEB. 19, 1998