PENNSYLVANIA
INNOCENCE
PROJECT

PHILADELPHIA OFFICE
1515 Market Street, Suite 300
Philadelphia, PA 19102
215-204-4255

January 3, 2024

Shawn Moses, #NM5811
SCI Laurel Highlands
5706 Glades Pike; PO Box 631
Somerset, PA 15501

Dear Mr. Moses:

Thank you for your inquiry with the Pennsylvania Innocence Project, and your patience as we review your materials. One of our volunteer lawyers has reviewed the materials that you submitted to the Project, and our staff attorney and I have reviewed the case, as well. I am very sorry to tell you that the Pennsylvania Innocence Project will be unable to pursue your case further. The Project is a very small organization with extremely limited resources, and we have to set strict guidelines for ourselves to function as effectively as possible. When we review a case, the primary concern for us is that the individual was convicted of a crime that they did not do and were not involved in in any way.

In your case, there are several difficulties for us. In particular, because Brian Atkerson already told one of your former attorneys that he falsely accused you, any information he might now provide would not be new evidence that would support a claim for post-conviction relief. Because there does not appear to be any avenue for finding new evidence to establish your innocence, the Pennsylvania Innocence Project cannot pursue your case further.

Please understand that our inability to accept this case is not any indication of or comment upon the merits of your case. I am sorry we cannot help you in your quest for relief from the hardship of your incarceration. I am returning your documents you sent to our office.

Sincerely,

Nilam A. Sanghvi
Legal Director

PAINNOCENCE.ORG
INFO@PAINNOCENCE.ORG

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PROSECUTORIAL MISC.

A.The prosecutor on the intial court date: 8/8/2017 submitted a incomplete criminal extract of complainant: Brian Atkerson *(Brady viol. withholding*).

B. 3 month ltr. submitted the same partial extract to defense on 11-6-2017 trial with trial already underway (*United States v. Alvin 30 F.Sup 323)* " Delayed disclosure"

C. A.D.A. Malloy misrepresented the conviction of the complainant(*Fraud upon the court*)

D. Requested that text message be precluded because she had not received them . *"Use of Deception"* because bail hearing transcript record reflects A.D.A knew of the text messages eight months prior to trial. The defense precluded witness Annie Moss-Perkins personally attempted to hand her the text messages at bail hearing.*(6th Amend Viol. of Confrontation clause)*

1 08/08/2017

Commonwealth Request For Continuance Victim/Witness Failed to Appear

ADA: Courtney Malloy Defendant pro se with Judge Hall, standby counsel Rept.: K

Hon. Giovanni Campbell, J.

Commonwealth request--eyewitness failed to appear, Officer A. Soto is retired and nc
List next for jury trial on special early date of 11/6/17 in Rm. 801.
Attorney Hall is ordered attached.

Court finds discovery is not complete as FBI extracts have not been passed.

(BRADY WITHOLDING)
A.D.A. Courtney Malloy 3mnths
prior to trial was forewarn
that discovery was not comp-
lete at trial D.A.turned ov-
er the same incomplete doc.
dated 8/8/2017

POST TRIAL INV.

CONFIDENTIAL
INVESTIGATIVE
SERVICES INC

December 20, 2019

Smart Communications/PADOC
Shawn Moses, Inmate #NM5811
SCI Retreat
P.O. Box 33028
St. Petersburg, FL 33733

Dear Shawn:

Pursuant to the request of you and your counsel, investigation was conducted as discussed in an effort to locate information related to the conviction of Brian Atkerson on charges of theft of unlawful taking. It was determined that we would make effort to locate the victim of the crime and conduct interview.

The docket detail was reviewed as well as the court file. Copy of the relevant documents are enclosed with this report.

In summary, the criminal complaint indicates that Tyheem James along with Brian Atkerson stole musical equipment from Joseph Lee's trailer which was parked in the 4200 block of Clarissa Street in Philadelphia, PA. Although the court file documents identify the name of the complainant, they did not identify a residence address.

Traveling to City Hall, we obtained copy of the incident report which had redacted information but listed Joseph Lee's age and utilizing that information, we were able to develop an address of the subject.

Interview was conducted with Joseph Lee at his residence. Joseph is elderly and not in great health. Joseph, his wife and two caretakers made it clear that Joseph would provide information but he would not sign a statement nor testify in court at any time.

Joseph advises that he did not know Brian Atkerson before the robbery. Joseph kept his musical equipment locked in a trailer on Clarissa Street within view of his front door. At some point, his wife came in and said it looked like the trailer door was open and so Joseph went outside and checked and found that the lock had been cut and was missing. Opening the trailer, he found that all of his equipment was stolen which included 8 or 9 microphones, a drum set, speakers, cords and wires, amps, mic stands and a brand new mixer.

235 South 13th Street
Philadelphia, PA 19107
(215) 546-7400
(800) 503-7400
Fax (215) 985-0169

[1] e-mailed me the discovery for this case. The
[2] complainant in that matter involves a stolen
[3] trailer, like a vehicle. That's why it was
[4] originally F3 theft. And it appears the
[5] complainant in this matter is Mr. Joseph Lee.
[6] So I'm not seeing any connection whatsoever
[7] between Mr. Atkerson, the complainant's case,
[8] and this defendant. So I would ask that the
[9] specifics, the underlying facts of that case
[10] be precluded and that it simply come in he
[11] was convicted in 2013 for the specific crime
[12] and then you will instruct the jury on crimen
[13] falsi.
[14] THE COURT: All right. Mr. Moses.
[15] MR. MOSES: Yes, I did hear what the
[16] prosecutor had stated. Forgive me for my
[17] lack of investigative resources, but looking
[18] at the time frame that declaration was
[19] actually sent out which was 2012 and the
[20] conviction I looked at the timeliness and
[21] figured that's where it came from.
[22] THE COURT: Not a problem. So you're
[23] withdrawing that?
[24] MR. MOSES: Yes.
[25] THE COURT: All right. Sounds good.

(Courtney Malloy has given fraudulent rep. of material fact)
(Not only did Atkerson have a prior convicti -on for theft he shou ld of been prosecuted for the breaking in entering and theft.)
6328 Vine St.
Police Report filed by precluded witness Annie Moss-Perkins

Investigator Brandon Hol iday & Louis Mincarelli Esq. were informed of these facts. Including declaration statement & police report submited for discovery purpose. The discovery material somehow got lost.

As the pro se defendant I was force to with-
draw argument of evidence because it was sup-
press due to police misconduct. A report was
filed by precluded witness Annie Moss -Perkins
about the breaking & entering of my apartment
as well as a declaration statement addressing
what she witnessed as she met with the lnd.lord
Angelo Diaguardi. This report was sabatoged &
altered in the 19th Dist. reporting officer #
5313 Westers / Sgt. Akel. Currently an inter
nal Affairs has an on going investigation on
matter #(20-0536) The text mess. act as link
of proof to the complainant's involvement in
crime as well shed light to one of the co-con
spirator is the son of a Phila. police off.

MS. MALLOY: Objection, Your Honor.
MR. MOSES: Nor am I an experienced
l attorney.
THE COURT: Sustained.
MR. MOSES: Yet as a legalist, I am
ly capable of observing a false report,
fective information, fabricated evidence,
d perjured testimony when I read it. This
what the prosecution has been reluctant to
o throughout the entire ordeal. My
ducation in criminal justice where I
eceived my bachelor of art --
MS. MALLOY: Objection, Your Honor.
THE COURT: Sustained.
MR. MOSES: Of politics --
THE COURT: Sustained.
Please limit your comments to what you
think the evidence will be in this case and
the effect that it should have. Nothing
else.
MR. MOSES: In reality, this case is a
mere fabrication. This case is something
conjured up in order to get out of a debt.
Now, based upon research that I've
received, many perjured testimonies are done

IAL - Brady Withholding cites: Clay 720 F3 3d 1026 & Argus U.S. 6112

DIANE COWAN'S; INV. REPORT

mmonwealth of Pennsylva.
unty of Philadelphia

AFFIDA. OF PROBABLE CAUSE

Copy

PLAINANT : Joseph Lee

ice Incident Number (DC#):
9067644

This document was not turned over to the defense @ trial

Warrant Control Number
AFF-0008352-2012

T DOMENIC O'NEILL DOMENIC 8162 Northwest Detectives Division

067644 ON OCTOBER 4, 2012 AT APPROXZIAMTELY 10:00 PM THE COMPLAINANT CHECKED ON HIS MUSICAL INSTRUMENTS THAT WERE STORED IN HIS TRAILOR PARKED ON THE HIGHWAY AT 4200 CALRISSA STREET AND SAW THAT ALL OF HIS EQUIPMENT WAS SECURED. ON OCTOBER 5, 2012 AT APPROXIMATELY 4:40 PM THE COMPLAINANT DISCOVERED THAT HIS TRAILOR PARKED ON 4200 CLARISSA STREET WAS BROKEN INTO, THE LOCK BROKEN OFF AND TAKEN, AND APPROXIMATELY $2250 IN MUSICAL INSTRUMENTS WERE STOLEN. THE COMPLAINANT RECEIVED INFORMATION FROM CONCERNED CITIZENS THAT THE SUSPECTS, BRIAN ATKERSON AND TYHEEM JAMES WERE RESPONSIBLE FOR THE THEFT.

THE COMPLAINANT SPOKE DIRECTLY WITH SUSPECT ATKERSON AND WAS TOLD THAT HE SOLD FOUR MICROPHONES TO OLNEY PAWNBROKERS LOCATED AT 5708 N. BROAD STREET ON OCTOBER 6, 21012 FOR $25. HE ALSO TOLD THE COMPLAINANT THAT HE WOULD BE ABLE TO GET THE OTHER ITEMS BACK FOR HIM. ON NOVEMBER 7, 2012, THE COMPLAINANT SIGNED A PHOTOGRAPH OF SUSPECT ATKERSON IN THE PRESENCE OF DETECTIVE O'NEILL #8162 AT NORTHWEST DETECTIVES AND THEN RECOVERED FOUR OF HIS MICROPHONES THAT WERE SOLD TO OLNEY PAWN BY PAYING $25 TO THE STORE.

DETECTIVE O'NEILL CONDUCTED A POST-MIRANDA STATEMENT WITH SUSPECT JAMES ON NOVEMBER 12, 2012 IN THE PRESENCE OF DETECTIVE CHAIT #9249. THE SUSPECT ADMITTED THAT HE WAS AWARE OF THEFT AND THAT HE RECEIVED MONEY FROM THE SALE OF THE ITEMS STOLEN FROM THE COMPLAINANT'S TRAILOR FROM SUSPECT ATKERSON. HE STATED THAT SUSPECT ATERKERSON ASKED HIM WHAT WAS IN THE TRAILOR. SUSPECT JAMES USED TO PLAY DRUMS WITH THE COMPLAINANT AND KNEW THAT THE ITEMS WERE MUSICAL INSTRUMENTS.

THE COMPLAINANT HAS KNOWN SUSPECT JAMES SINCE THE SUSPECT WAS 7 YEARS OLD AND CONFIRMED HIS IDENTITY TO DETECTIVE O'NEILL BY SIGNING A PHOTOGRAPH ON NOVEMBER 7, 2012. THE COMPLAINANT HAS NOT RECOVERED ANY OTHER ITEMS STOLEN FROM HIS TRAILOR OTHER THAN THE FOUR MICROPHONES HE HAD TO PURCHASE BACK FROM OLNEY PAWN SHOP.

DETECTIVE O'NEILL OBTAINED A COPY OF THE TICKET DETAIL OF THE SALE OF THE MICROPHONES FROM OLNEY PAWN BROKERS, INC. THE SALE WAS MADE ON OCTOBER 6, 2012 AT 3:02 PM BY BRIAN ATKERSON. DATE OF BIRTH OF 06/21/1974. THE TICKET NUMBER IS 2177 AND THE SAW WAS FOR FIVE SHURE PG48 MICROPHONES FOR A TOTAL AMOUNT OF $25. SUSPECT ATKERSON USED HIS PA DRIVER'S LICENSE WHEN HE MADE THE SALE. THERE IS ALSO A COPY OF HIS LICENSE ATTACHED TO THE SALE TICKET. THE COMPLAINAT'S TRAILOR IS A 1996 HAULMARK, PA TAG XBD5925, AND VIN NUMBER 009467 (LAST SIX). DETECTIVE O'NEILL IS IN THE PROCESS OF OBTAINING A SEARCH WARRANT FOR THE RESIDENCE OF SUSPECTS JAMES AND ATKERSON AND WILL EXECUTE THOSE SEARCHES AT THE TIME THE ARREST WARRANTS ARE EXECUTED.

PA. R.Evidence 404 (b) (3)
Evidence /Relevance /Prior Acts/ Crimes & Wrongs
Evidence of other crimes, wrongs , or acts is admissible to prove motive , opportunity , intent, preparation, plan, knowledge, identity, or absence admissable show of probative value.

E AFFIANT, BEING DULY SWORN ACCORDING TO LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE DAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF AND THAT PROBABLE SE TO ARREST EXISTS.

t: DET DOMENIC O'NEILL DOMENIC 8162 Northwest Detectives Division

to or affirmed and subscribed before me this 19 day of December , 2012

Affiant Signature

Issuing Authority Signature

ATKERSON

Printed: 12/24/2012 04:46 AM

and walked in. Atkerson explained that everyone knew the rear window did not lock so he was POST TRIAL able to gain access to the apartment easily. As he entered the apartment, he heard someone scurry out the front door. Atkerson called Nycee and asked him if he had just left. Nycee said that it was Zae that had left and then said that he and Zae would come over.(None of these people had any) legal auth. be in property

When Zae and Nycee came to the apartment, they told Atkerson that the three of them should live in the apartment while you were in jail. Atkerson told them he was not going to stay there and that he was only in the apartment to collect your things for your mother who was coming by later that day to pick them up. Atkerson also asked about the marijuana. Zae said he tried to sell it to someone but had no luck so Zae kept the marijuana. At that time, Atkerson realized that you were not going to get the drugs or money for the drugs so he decided he would give your mother $200.00 to put in your commissary. (NOT ROOMATES)

Although there was an agreed upon time when your mother would pick up your belongings, Atkerson advises that your mother was two hours late and so he had to leave. He packed up your belongings to include clothes, laptop, a camera and a tripod. Atkerson states that he heard later from Nycee that when your mother showed up, she tried to take everything in the apartment including the food and the refrigerator which belonged to the landlord.

Atkerson knew that Zae and Nycee took your camera and tripod. In a conversation with your mother, Atkerson claims that she refused to take the $200.00 that he offered. Your mother said she wouldn't take drug money. (Allow report reflect no meeting took place

(If Atkerson did not steal money)
why is he describing "Drug Money"?

That same day, Tyheem's father who used to sing in Joseph's band called Joseph to tell him that Tyheem and Brian Atkerson had stolen his equipment. Tyheem used to play drums in Joseph's band which was how Tyheem knew what was in the trailer.

Tyheem's father directed Joseph to the 1900 block of Bristol Street which is one block behind Joseph's home at which time he made contact with Atkerson at his home. Joseph confronted Atkerson who advised that Tyheem had told him that the equipment was Tyheem's property and that Atkerson was only assisting Tyheem to sell the equipment. Of course, Joseph did not believe Atkerson.

Atkerson told Joseph he sold four of the microphones to a pawn shop on Broad Street. He also said he knew who bought the drums and Atkerson said he would make effort to get the drums returned. Atkerson also claimed that he sold the mixer to a recording studio at 22nd and Allegheny and promised that he would do everything he could to get the mixer back as well. In the end, Joseph was only able to recover the four microphones from the pawn shop after Joseph bought them back.

Joseph recalled that Atkerson and Tyheem were found guilty and were ordered to pay restitution to Joseph. Joseph only received one check from Atkerson for $7.00. Joseph has not seen or heard from Atkerson since he confronted him [illegible]