

Defendants Response to Defendants Motion to Withdraw

Judge Bernardi,

In making your decision on the motion, I ask that you remember, you are the symbol of experience, wisdom, honesty, justice and most importantly, impartiality.

I ask that you use all of those traits in deciding this motion.

The court must hold lawyers they choose to some level of competence, diligence, effectiveness. Even more so when a person's life hangs in the balance.

Is it justice to allow lawyers to neither prepare, investigate, nor diligence represent their clients and then say, "Well judge, that was my trial strategy."

I brought it to your attention before trial that Pat Riley and Frank Picl were not ready for trial. I believe it's evident that I was right. I feel that Frank Picl's and Pat Riley's misrepresentation of me has caused me to be convicted of a crime for which I am not guilty.

When trying to decide if Frank Picl and Pat Riley made a very big mistake by not laying the foundation to allow them to call the rebuttal witnesses against Danny Martinez, please take this into account. Before trial they files motions for an eyewitness expert to help rebut the testimony of Danny Martinez. They wanted that witness to help them defend me. So they must of felt Danny Martinez was a threat to the defense and his testimony needed to be refuted.

I would like to now bring to your attention to the post trial motion that Pat Riley files in my behalf. The first two points on the motion have to do with the court denying of the motion for the eyewitness expert.

So Pat Riley and Frank Picl both knew Before and After trial that with this case being a case of "he said/she said" with no physical evidence. The states main evidence was the highly questionable and most miraculous identification by Martinez.

The most damaging mistake Pat Riley and Frank Picl made in trial was not calling up to 16 defense witnesses, with no excuse for not calling them.

The Rebuttal of Danny Martinez

The most important defense witnesses not to be called were William Hendricks and Mark Foster (please note both of these men were called for defense in Claycomb's trial). Also not called were Don Sorenson and Jason Boyd. These men were rebuttal witnesses against state witness Danny Martinez.

The reason for these very important defense witnesses not being called was not because of strategy, they were not called because Frank failed to lay the foundations to call them as witnesses. The photos on page 23 of discovery were never obtained by or used by Pat or Frank in trial. On page 23 you will see that Martinez on 04/01/91 picked out two photos BP6345, BP 6558 and said "It's between these two." It should have been brought to the jury's attention that he picked them out less than 5 hours after the crime. Pat and Frank never even tried to get the photos.

(FIRST SENTENCE CUT OFF) pictures along with the line up photo. In that photo were two other people Martinez said looked like the guy he saw. One guy was black hair and black mustache, the other was blonde hair and blonde mustache.

So Frank and Pat failed to show the jury the photos of 4 other people that Martinez either said they either look like the guy he saw or it's between these two.

Billy Hendrick's testimony would have been that when he worked with Martinez, Martinez told him I was not the guy he saw on 03/31/91. He would have testified that when Martinez dropped him off from work one day, I was already at Billy's house waiting for him. Billy knew Martinez was a witness to the crime. He also knew I had been questioned. So he pointed me out to Martinez and Martinez said I was not the person he saw. This was two or three years after the crime. How could it ever be called anything but a mistake to have not called this witness?

ALSO MARTINEZ REBUTTAL WITNESS

Don Sorenson (Defense Investigator)

His testimony would have been that when he talked to Martinez, he told Sorenson the state had his statement from 1991. And that he was sticking by that statement. Well in that statement he never identified me. Again, I refer to page 23 of discovery. He picks out BP6345, BP6558 and says "it's between these two." Once again, how could it be anything but a huge mistake to not lay the foundation to call very IMPORTANT REBUTTAL WITNESS?

ALSO MARTINEZ REBUTTAL WITNESS

Jason Boyd (past co-worker)

His testimony would have been that when he worked with Martinez, Martinez told him different stories each time he told him what he saw. First the guy was right in front of Martinez. Then Martinez says he was across the street when he saw the guy. Then Martinez says he was in his driveway and really didn't get a good look at the guy.

THE MOST IMPORTANT MARTINEZ REBUTTAL WITNESS

Mark Foster (Co-defendant Investigator)

This man's testimony would have been the most damaging witness against Danny Martinez. His testimony would of also cast duly warranted suspicion on tactics by the detectives and the state's attorneys. Because it was only after Mark Foster interviewed Danny Martinez that the detectives and state's attorney called Martinez to their office for what they called a pre-trial interview. This interview took place 10 months after my arrest. This interview was neither tape recorded nor video taped, and was not witnessed by anyone but the people wanting a conviction on this case. And it was during this so called pre-trial conference that Danny Martinez picked me out of the photo of the line up that he failed to pick me out of 9 years before. He in fact picked out number 3 as looking like the guy he saw when the line up took place in 1991.

Mark Foster would have testified that he interviewed Martinez before the state's pre-trial interview. And that Martinez had told him he saw my arrest picture and I was not the person he saw. He told Mr. Foster several times "The got the wrong guy." He also at that time told Mr. Foster that he would never

forget that night, and if he ever saw the man again he would be able to identify him. Mr. Foster could have cast a little light on what was really going in that pre-trial interview. That was not tape recorded or video taped or witnessed by anyone but the people wanting a conviction in this case. Once can only guess what the jury would of thought if they would have been able to hear all this testimony and seen the photos of Steve VanNote, Charles Renfro, Martinez said both looked like the guy he saw and the mug shot photos of B6345 and BP6558 and the fact that when Martinez picked (SENTENCE CUT OFF)

30
PAT. 5^H 36 min
Tamey Snow Attorney Visits
Frank Picl / Pat (George) Riley

Frank 14 80 50

Name	Date	Time In	Time Out	
Pat Riley	03/20/00	0855 8:55 am	0915 9:15 am	.30
Pat Riley	03/29/00	1005 10:05 am	1055 10:55 am	.50
Frank Picl	05/10/00	1515 3:15 pm	1651 4:51 pm	1.26
Pat Riley	05/10/00	1515 3:15 pm	1606 4:06 pm	.51
Frank Picl	06/08/00	1520 3:20 pm	1630 4:30 pm	1.10
Frank Picl	06/13/00	1035 10:35 am	1218 12:18 pm	1.43
Pat Riley	06/19/00	1330 1:30 pm	1445 2:45 pm	1.15
Frank Picl	06/26/00	1515 3:15 pm	1600 4:00 pm	.45
Frank Picl	06/30/00	1515 3:15 pm	1610 4:10 pm	.55
Frank Picl	07/12/00	1135 11:35 am	1240 12:40 pm	1.05
Frank Picl	07/20/00	0730 7:30 am	0750 7:50 am	.20
Pat Riley	07/20/00	1100 11:00 am	1110 11:10 am	.10
Frank Picl	07/26/00	1137 11:37 am	1210 12:10 pm	.33
Pat Riley	9/7/00	1520 3:20 pm	1555 3:55 pm	.35
Frank Picl	9/7/00	1525 3:25 pm	1530 3:30 pm	.05
Frank Picl	9/14/00	0846 8:46 am	0916 9:16 am	.30
Frank Picl	10/09/00	1715 5:15 pm	1750 5:50 pm	.35
Frank Picl	10/27/00	0730 7:30 am	0800 8:00 am	.30
Pat Riley	10/28/00	0910 9:10 am	0945 9:45 am	.35
Pat Riley	11/22/00	1200 12:00 pm	1240 12:40 pm	.40
Frank Picl	11/22/00	1200 12:00 pm	1240 12:40 pm	.40
Frank Picl	11/23/00	0850 8:50 am	1050 10:50 am	2.00
Frank Picl	11/24/00	1105 11:05 am	1440 2:40 pm	3.35
Frank Picl	11/27/00	1325 1:25 pm	1408 2:08 pm	.43
Pat Riley	12/05/00	1410 2:10 pm	1450 2:50 pm	.40
PAT RILEY	TOTAL 13.56	TIME	SPENT w/ ME	4.45
FRANK PICL	TOTAL 16.45	TIME	SPENT w/ ME	14.37
	22.41			19.22

C-733

He min

The visits from Frank Picl on 11/24/00 and 11/27/00 and the visit from Pat Riley on 12/05/00 is what finally drove me to write the court and ask for help.

I asked the court for a continuance because I knew they were not prepared and I finally realized that Pat Riley had health issues because of his stroke that could keep him from being an effective and competent attorney in this case.

The court denied my request based on the amount of time Pat Riley and Frank Picl said they spent with me. The court never even checked into Pat Riley's health issue. I believe only a doctor could be accurate in deciding that. But we do know that Pat Riley and Frank Picl lied when asked how much time spent with me. I assume they lied because they knew that they hadn't spent anywhere near enough time with me to prepare for trial. Either that or they were (*SENTENCE CUT OFF*).

I would now like to bring to your attention the true amount of time Pat and Frank spent with me.

Pat Riley first came to see me on 03/20/00!! His longest visit was for 1 hour, 15 minutes. His shortest visit was 10 minutes. His total time is 5.56 minutes!!

That is not the total time spent with me. When a lawyer signs in then they send for the inmate. It takes at least 5 minutes to get me from the West Pod in the MCDF to the attorney room. Pat came 9 times. That's 45 minutes of the total time. Also, when the attorney visit is over, it takes the attorney at least 2 minutes to get back to the log book and sign out. So that's another 18 minutes off the total time. So that brings his total time spent with me at 4 hours and 45 minutes. That's no where near the 30 hours he said he spent. And that is no where near the amount of time needed for him to be an effective and competent attorney in a case that at one time carried the Death Penalty.

Frank Picl first came on 05/10/00 he last came on 11/27/00!! His shortest time is 25 minutes!! His longest is 3.35 minutes. His total time in the book is 16 hours 45 minutes. His time is also subject to the amount of time it takes them to get me to the attorney room. And the amount of time it takes them to sign out after the visit. So his total time spent with me is more like 14 hours 27 minutes. That's no where near the 50 hours he said he spent with me.

So really Pat Riley and Frank Picl spent more like 19 hours 22 minutes with me. Please also take note of the two letters I'm sending you one dated 09/13/00 the other 60 days before trial. In the 09/13/00 letter you will see neither Pat or Frank had spent any time with me preparing for trial. Before then they were always talking about Susan's trial. Or the motion before trial as you can tell from the other letter they still had not been (*SENTENCE CUT OFF*).

By not investigating my claims before trial, by simply taking the word of Pat Riley and Frank Picl, the court helped to violate my constitutional right to competent and also effective assistance of counsel (by denying request for continuance).

I would also like to know if the court knew before appointing Pat Riley as lead counsel that he was recovering from a stroke. Is a person's ever able to recover 100 percent after a stroke? Should there ever be a chance taken with a man's life on the line?!!!

Due to defense counsels negligence and lack of preparation the following testimony was not heard by July:

Rebuttal of Danny Martinez by: Bill Hendricks, Mark Foster, Jason Boyd and Don Sorenson.

Rebuttal of Bridget Logsdon by: Kim Morris and possibly Julie Knight (never contacted).

Rebuttal of Dawn Roberts-Orrick by: This was a good example of defense counsel not reading all the discovering preparing to the rebut this witness. All of her statements by this witness should have been used to impeach her. Dewey Claycomb, Billy Morris, Tina Hendricks

Rebuttal of Jody Winkler by: Mary Oyer, Michael Guerry, Mary Burns

Rebuttal of Dan Tanaz by: Dave Williams, Mark McCowan and the two other people Dan says was present when this conversation took place. Jason Rambeegus AKA Big Jason and Jason St. Pierre AKA Hollywood (never contacted)

Rebuttal of Ronnie Wright by: Tony Reynolds, Mary Oyer, Michael Guerry (never contacted)

Rebuttal of Karen Strong by: Paul Hunter and a witness who came forward with rebuttal informant during the trial – Mark Huffington (never contacted/no foundation)

Rebuttal of Steve Scheel by: Steve Powell and copy of discovery page where Steve Scheel calls detectives in 1991 claiming “Jamie told Molly he killed the kid at the Clark station.” It was only after he was in jail for rape that he changed his story to say I told him that. This is another example of lawyers not reading discovery or using it to impeach. (never contacted/no foundation)

Rebuttal of Kevin Schaal by: Mary Oyer and Michael Guerry. These two witnesses who could of provided rebuttal testimony against three of the states jail house snitches were never even contacted by defense counsel. Why? (never contacted)

Rebuttal of William Moffit by: I begged Pat Riley and Frank Picl for two months before my trial Don Sorenson (investigator) to contact a guard from Joliet cc to rebut his testimony about the use of phones in Nov 94 and the mail rules. If the guard would have been called he would of testified that all inmates in Joliet cc were allowed to use the phones on the rec yard. All inmates were also allowed 3 free write outs every week. The guard also would of testified to the count procedure. Guards walk the galleries every hour and do count 3 times a day. Also Bill Moffits mail log from that time should have been checked if they still have it. I’m willing to bet he sent out plenty of mail. Counsel failed to do a factual investigation to obtain this info. Also failed to use all of Moffits statements to impeach his testimony.

Rebuttal or impeachment of both Russell Thomas and Mike Bernadini with grand jury testimony of Russell Thomas in 1991 of the Freedom robbery on 02/18/1991. In 1991 Thomas claims I made all the incriminating statements about the Freedom robbery but now 10 years later he says it was the Clark. Please check his grand jury testimony in Freedom Robbery in 1991!!!

Rebuttal or impeachment of Mary Burns using her first statement. She changed her statement in trial and Chris Salmon should have been called to rebut her testimony. Also Mary Burns was put on the defense list to rebut Jody Winkler. Frank Picl never even asked her about Jody.

Impeachment of Randy Howard by showing the jury I had no phone on 04/01/91 and the fact that he signed a statement on 04/11/91 and was getting paid for that statement. But yet he never said one word about the Clark murder till 10 years later when detectives went to talk to him.

Impeachment of Bruce Roland. First off when he could not identify me in court counsel should of objected to his testimony or at least to the state only showing him one picture to identify. He should have been challenged by the difference from his first statement and his testimony in co-defendants trial. It's clear to see when looking at them that sometime between giving his statements and testifying in Claycomb trial, somebody had gave him information he didn't have when he first talked to detectives. The jury should have seen that.

Impeachment of Ed Hammond. All of Ed's statements should have been used to impeach him. Also I asked Pat and Frank to get the security officer to testify about Centralia cc, they never even tried so I had to put Herb Lamborne on my list because he was the only officer I could remember the name of. The security officer would have been better qualified to testify about the movement of inmates in the Centralia cc.

Gerardo Gutierrez. His testimony was not rebutted by the facts in discovery. He says he never identified anyone, but on page 23 of discovery he identified mug number BP6345, one of the same people Danny Martinez picked out!!! Gutierrez also changes his statements in trial by saying it wasn't a scar on the man's chin, but insisted now, ten years later, he says it was some sort of an injury. But he clearly says early in the investigation 10 years ago the man had a scar on his chin so fresh he could still see the holes from the stitches. With a little help from the state and detectives, he alters his story. Why? Because I have no scar on my chin. Why didn't Frank Picl argue this point to the jury?

Ed Palumbo – He should have been impeached by all of his statement and most important his grand jury testimony. The only reason I can think of why Frank didn't use everything available to impeach him is he didn't read all of the discovery.

-----not sure if this is part of the actual motion –

Jody Winkler: Dave Arison, Mary Oyer, Mike Guerry ½ Price Tree Service. Officer Mary Burns Mclean County Jail – talk to her last. Don't want her in trouble with her job. Winkler told her he knows nothing!!

Randy Howard. Check to see if I had a p hone April 1-2-3 1991 in Park City South. He says he called me to pick him up the night I was supposed to confess to him.

William Gaddis. Again must talk to Garen Bradford (Frank Roberts), Denny Hendricks, Billy Hendricks, Todd Hendricks. Check weather for March 31-April 1,2,3,4,5,9. Check house on corner of Lee and Market north-west corner. See if there is a hallway from kitchen to bedroom. This guys is a suspected child molester!!

Darnella Orrick (aka Dawn Roberts) – Tina McWhorter (Tina Hendricks), Mark McCown. Check records for Tina in Southgate Esates to show Tina did not live in Southgate in 91 or 92 during the spring or summer. Also check to prove neither did I or Tammy my wife.

-----not sure if this is part of the actual motion

POINTS TO ADD TO POST-TRIAL MOTION

1) The court erred in not allowing lawyers to explore the fact Brenda Little (victim's mother) was given by detectives Danny Martinez's phone number and was in contact with Martinez before his highly questionable identification in this case. Martinez is under oath when he says he did not complain to

detectives about giving her his number. He is on the tape clearly complaining about it. He was not honest, and the court erred in not allowing us to bring that out to the jury.

2) The court erred in not allowing the question to Karen Strong about Mark Huffington. This person came forward only after he heard of Mrs. Strong's testimony. He would have testified that Mrs. Strong told him she knew nothing about this case but rumors.

3) Ineffective assistance of counsel and/or incompetent counsel

-----not sure if this is part of the actual motion

I would last like to point this out. In the state's closing argument when talking about if the jury should believe Bill Gaddis or not, Teena Griffin said Bill Gaddis must have been in the apartment because we never challenged the lay out of the place. As you can see from the letters I sent Pat Riley, I did point it out to them that the layout of the apartment was not the way Gaddis said it was. This is another example of defense counsel not preparing for trial.

I would like to point out that not only did the jury not hear from at least 1 maybe even more rebuttal witnesses, but there were at least 19 defense witnesses who were never even contacted by either Pat Riley and Frank Picl or Don Sorenson. If these people were not even contacted how did Pat and Frank make the decision not to use them?

-----END not sure if this is part of the actual motion

Frank Picl and Pat Riley made a very terrible mistake by not laying the foundation to call the rebuttal witnesses against Danny Martinez.

I would also ask you to take into consideration the comment of a juror from a article in the Pantagraph dates January 17, 2001 in deciding if I was guilty or not the identification by Martinez was IMPORTANT!!!!

Please also remember that Pat Riley saw Steve Skelton use most of this rebuttal evidence testimony effectively in my co-defendants trial.

Frank Picl and Pat Riley clearly negligent had an impact on the jury's verdict. That alone is a clear violation of my constitutional rights. Please give their motion to withdraw before they cause more harm to my case. They were nothing but negligent and unprepared.

I think it also reflects Pat Rileys mental state of mind before and during my trial!!!!!!