

COPY

IN AND FOR THE CIRCUIT COURT
14th JUDICIAL CIRCUIT, BAY COUNTY, FLORIDA

STATE OF FLORIDA,)
)
Plaintiff,)
)
v.)
)
RANDY FOWLER)
AKA JIM BIKEMAN)
)
Defendant.)
)

CASE NUMBER 11002530CFMA

FILED
2012 JAN 18 A 11:55
CLERK OF COURT
BAY COUNTY, FLORIDA

MEMORANDUM OF LAW AND FACTS IN SUPPORT OF MOTION FOR ACCESS TO FORENSIC COMPETENCY AND OTHER DISCOVERY RECORDS and MOTION FOR LEAVE TO FILE AN AMENDED PETITION FOR HABEAS CORPUS

DEFENDANT, through his undersigned representative, hereby respectfully files this MEMORANDUM in support of Defendant's MOTION FOR LEAVE OF COURT AND EXTENSION OF TIME IN WHICH TO FILE AN AMENDED PETITION FOR HABEAS CORPUS and MOTION FOR ORDER ALLOWING INSPECTION OF PUBLIC DEFENDER CASE RECORDS AND DISCOVERY. Defendant states the following in support thereof:

The undersigned represents Defendant in habeas corpus proceedings pursuant to **Section 916.107(9)(a) F.S.**

Defendant has more than competently cooperated with the undersigned in preparing his defenses and his challenge to be released from state incarceration through Habeas Corpus proceedings and his defenses to criminal charges.

It is a fundamental guide that experts, and this Court, must consider the elements of competency mandated in **Rule 3.211(a)(2)(A) Fla.R.Crim.P.**, to wit:

(2) In considering the issue of competence to proceed, the examining experts shall consider and include in their report:

- (A) the defendant's capacity to:
 - (i) appreciate the charges or allegations against the defendant;
 - (ii) appreciate the range and nature of possible penalties, if applicable, that may be imposed in the proceedings against the defendant;
 - (iii) understand the adversary nature of the legal process;
 - (iv) disclose to counsel facts pertinent to the proceedings at issue;
 - (v) manifest appropriate courtroom behavior;
 - (vi) testify relevantly; and
- (B) any other factors deemed relevant by the experts.

The undersigned has on several occasions recently telephonically interviewed Mr. Fowler who is currently incarcerated at the Florida State Hospital at Chattahoochee, Florida, by Order of this Court. This Court relied upon purportedly "expert" opinions to order the incarceration.

It is clear to the undersigned from these interviews that Mr. Fowler understands the charges against him, i.e. felony littering exceeding 500 pounds.

It is clear to the undersigned that Mr. Fowler understands his possible penalties, i.e. probation, fines, incarceration, etc.

It is clear to the undersigned that Mr. Fowler understands his adversarial position between himself and law enforcement and the prosecutors representing the State of Florida.

Mr. Fowler has competently provided to the undersigned the names of several witnesses, other homeless persons contributing to the litter on the property, that have information relevant to his defenses related to "felony littering." Information provided by Mr. Fowler in addition

helped the undersigned to identify several other homeless individuals that have occupied the same property off Highway 231 as Mr. Fowler as documented by the Panama City Police Department (PCPD) in police reports in the possession of the undersigned.

No other homeless person was charged by PCPD for littering other than Mr. Fowler. It is well known that Mr. Fowler is a political activist and opposed to "bad cops" evidenced by his website at <http://dirtycopperstopper.com>. All evidence available provided competently by Mr. Fowler indicates that Mr. Fowler is being targeted by law enforcement and the State Attorney, Glenn Hess, because of his First Amendment conduct to oppose "bad cops."

Mr. Fowler has indeed been invidiously targeted by law enforcement and the State in prior criminal proceedings, in which he was vindicated, to wit:

87006037MMMA	Disorderly Conduct	Dismissed
92005163MMMA	Littering/Trespass	Dropped
95003506MOMS	Camping on Beach	Dropped
96000554MMMO	Battery	Dropped
96008712MOMS	Possession of Alcohol	Dismissed
99001643MMMA	ROWV	Dismissed
99007499MMMA	Harassing Phone Call	Dismissed
00000382CFMA	Recording Conversation	Dismissed
00000123MMMA	Harassing Phone Call	Dropped
01000958MMMO	Harassing Phone Call	Dropped
02008959MMMA	Trespassing	Dropped
02008959MMMA	Recording Conversation	Dismissed
03000972MMMA	Disorderly Conduct	Dropped
03000972MMMA	ROWV	Dropped
03005754MMMA	Trespassing	Dropped
03005854MMMA	Disorderly Conduct	Dropped
03005854MMMA	ROWV	Dropped
05000558MMMA	Trespass	Dismissed
05001685MOMS	Nuisance Ordinance	Dropped
07007860MMMO	Battery	Dropped
08034504TR	Obstructing Traffic	Not Guilty
11005681MMMA	Harassing Phone Call	Dropped

This history was clearly ignored by the "expert" that opined that Mr. Fowler is incompetent to proceed in the instant proceedings.

Retaliation against “activists” by law enforcement and the State, such as Mr. Fowler, in Bay County is a pattern and practice. The undersigned has well been such a victim targeted because of his opposition to corruption and civil and constitutional rights violations in Bay County and based upon this understanding is advocating for Mr. Fowler as a “friend” under

Section 916.107(9)(a) F.S., to wit:

93000780CFMA	Recording Conversation	Nolle Prosequi
93000781CFMA	Recording Conversatoin	Nolle Prosequi
00000644MMMA	Trespass at Mall	Acquitted
00028424TR	No Insurance Card	Dismissed by Officer
02003343CFMA	Recording Conversation	Dropped
05005893MMMA	ROWV	Nolle Prosequi
10004731CTMA	Leaving Scene Accident	Nolle Prosequi
10006004MMMA	Disorderly Conduct	Dropped
10006157MMMA	Trespass	Dropped
10006654MMMA	Disorderly Conduct	Dropped
10007003MMMA	Violation of Injunction	Dropped
10007004MMMA	Violation of Injunction	Dropped
10007063MMMA	Violation of Injunction	Dropped
10008045MMMA	ROWV	Nolle Prosequi

These facts are pertinent to defenses in the proceedings above styled case in that they present a primary defense that it was other homeless persons, over a period of years, that deposited litter on the property and that Mr. Fowler’s personal possessions that contributed to accumulated material on the property for his survival and quality of life did not exceed 500 pounds as charged against Mr. Fowler by law enforcement and the State. Furthermore, Mr. Fowler is more than willing to cooperate with his defense counsel at the Public Defenders Office in Panama City to provide the same facts and evidence in defense of criminal charges unsupported by credible evidence as provide to the undersigned.

Mr. Fowler’s primary defense is that it would be impossible for law enforcement and the State to prove that Mr. Fowler deposited the litter considering that dozens of other homeless persons, many identified, deposited the alleged, yet unmeasured, 500 pounds of litter over the

years. Mr. Fowler should not be incarcerated in a State Hospital, and his Social Security Disability benefits suspended, for the combined conduct of numerous other homeless persons.

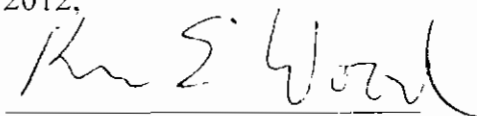
Mr. Fowler has assured the undersigned that he will behave appropriately in court proceedings in support of his defenses.

Mr. Fowler has assured the undersigned that he will testify only to those facts relevant to the case.

In light of these facts, it is incredible that a properly trained forensic expert could find Mr. Fowler under incompetent to proceed under **Rule 3.211(a)(2)(A) Fla.R.Crim.P.** It is therefore necessary that the undersigned have access to the expert's records and reports and also have the ability to call the expert for cross-examination for habeas corpus proceedings.

WHEREFORE, this Court is respectfully requested to take under advisement this MEMORANDUM.

Respectfully Submitted this 18th Day of January 2012,



KEVIN E. WOOD
6925 Wood Place
Panama City, FL 32404
Phone: (850) 785-3768
Email: allunited@bellsouth.net

Certificate of Service

I hereby certify that a true and exact copy of the foregoing, and all attachments if any, was provided to the following by electronic mail, by FAX, or other means this 18th day of January 2012 with the original filed with this Court.

Resident Legal Services¹

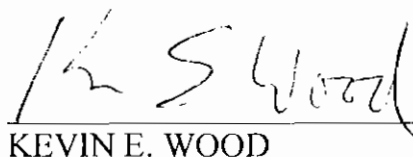
Michael McCormick, Attorney
PO Box 1000
Chattahoochee, Florida 32324-1000
Phone: (850) 663-7371
Fax: (850) 663-7360
E-Mail: michael_mccormick@dcf.state.fl.us

Offices of the Public Defender

Merion Douglas White
PO Box 580
Panama City, Florida 32402-0580
Phone: (850) 784-6155
Fax: (850) 784-6160
E-Mail: doug.white@pd14.fl.gov

Office of State Attorney Glenn Hess

Megan Ford, Attorney
421 Magnolia Ave.
Panama City, Florida 32401-3126
Phone: (850) 872-7684 x406
Fax: (850) 747-5863
E-Mail: megan.ford@sa14.fl.gov



Handwritten signature of Kevin E. Wood in black ink, appearing as 'K E Wood'.

KEVIN E. WOOD

¹ Resident legal counsel at Chattahoochee, Mr. McCormick, is respectfully requested to provide a copy of all pleadings, communications, etc. received from Mr. Wood to Defendant Fowler as a resident forensic client.