

No. F2015-2207-C2

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| THE STATE OF TEXAS, |) | 54 TH DISTRICT COURT |
| |) | |
| Plaintiff, |) | McLENNAN COUNTY, |
| |) | TEXAS |
| v. |) | |
| |) | |
| MATTHEW ALAN CLENDENNEN, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

**AFFIDAVIT OF GREG DAVIS IN SUPPORT OF MOTION TO PRODUCE
BAGLEY MATERIAL WITH REGARD TO FEDERAL CRIMINAL
INVESTIGATION RELATED TO ABELINO REYNA MAKING
SELECTIVE PROSECUTORIAL DECISIONS BASED UPON POLITICAL
OPPORTUNISM**

Attached hereto is the Affidavit of Greg Davis submitted by Defendant Matthew Clendennen in support of his previously filed Motion to Produce *Bagley* Material with Regard to Federal Criminal Investigation Related to Abelino Reyna Making Selective Prosecutorial Decisions Based upon Political Opportunism.¹ Various witness subpoenas and subpoenas *duces tecum* have been served for the hearing set on this motion for November 20, 2017 at 9:00 am and live testimony will be presented in support of this motion.

¹Counsel has blacked out a portion of the attachment to Mr. Davis's affidavit to protect the privacy of certain individuals.

Respectfully submitted,

/s F. Clinton Broden
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Attorney for Defendant
Matthew Alan Clendennen

CERTIFICATE OF SERVICE

I, F. Clinton Broden, do hereby certify that, on this 10th day of November, 2017, I caused a copy of the foregoing document to be served on Brian Roberts, Attorney *Pro Tem* by email to: brian@bmlawyer.com

/s F. Clinton Broden
F. Clinton Broden

THE STATE OF TEXAS

V.

MATTHEW ALAN XLENDENNEN

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IN THE 54th JUDICIAL

DISTRICT COURT OF

McLENNAN COUNTY, TEXAS

AFFIDAVIT

BEFORE ME, the undersigned official, on this day appeared Gregory S. Davis, who is personally known to me, and first being duly sworn according to law upon her oath, deposed and said as follows:

1. “My name is Gregory S. Davis. I am over 18 years of age, and I am fully competent to make this affidavit. I have personal knowledge of the facts stated herein, and they are all true and correct to the best of my knowledge.
2. I have been licensed to practice law in the State of Texas since 1977. I served as a prosecutor for more than 26 years, I served in that capacity in Dallas, Collin and McLennan counties. I was employed in the McLennan County District Attorney’s Office from February, 2011 to August, 2014; serving as the Deputy First Assistant District Attorney from February 2011 to November 2013, and as the First Assistant District Attorney from November 2013 to August 2014.
3. During my employment in the McLennan County District Attorney’s Office I became aware of several cases in which the elected District Attorney, Abel Reyna, arranged for his campaign supporters, persons associated with campaign supporters, and friends to receive

preferential treatment. I believe that he did so for political and/or personal gain.

4. In at least three cases I believe Reyna effectively dismissed valid criminal cases of his campaign supporters and friends by instructing subordinates to refuse to accept their cases for prosecution. For example:

Donal Sharp

In March 2012, Reyna informed First Assistant District Attorney, Michael Jarrett, and me that one of his “big” supporters (Donal Sharp) had been arrested for Driving While Intoxicated (DWI). Jarrett and I assumed that Reyna would recuse the DA’s office in Sharp’s case. Instead, Reyna gave the case to Joe Layman, Chief of the Misdemeanor Division, who subsequently refused to accept Sharp’s case for prosecution – effectively dismissing the case.

I reviewed Sharp’s case and found ample evidence to support his prosecution and conviction: his blood alcohol content (by blood draw) was nearly twice the legal limit, he badly failed the videotaped field sobriety tests, and his companion that night told the arresting officer that Sharp was too drunk to drive. I concluded that the case had been refused for political reasons.

I was told that Sharp contributed to Reyna’s re-election campaign after the refusal of his DWI case

Kim Falcone

Kim Falcone was arrested for DWI in McLennan County in 2013. According to Reyna’s administrative assistant, Julissa West, Falcone was the wife of a prominent doctor and a friend of Reyna’s wife. Reyna gave Falcone’s file to Joe Layman who subsequently refused to accept it for prosecution.

I reviewed Falcone file, and found sufficient evidence to support her prosecution - leading me to conclude that the case had been refused for personal reasons.

I later learned that Falcone and/or her husband contributed to Reyna's re-election campaign after the refusal of her DWI case

Joseph Martin

Martin was arrested for Possession of Marihuana in Waco in 2013. His mother, Lori Martin, employed Reyna's wife and had contributed to Reyna's campaign.

Reyna gave Martin's case to Joe Layman who subsequently refused to accept this case for prosecution.

I reviewed Martin's file, and found ample evidence to support his prosecution and conviction. The marihuana had been found in Joseph Martin's bedroom pursuant to a valid search warrant. I concluded that the case had been refused for personal and/or political reasons.

5. In March 2013, I spoke with Michael Jarrett about the Sharp and Falcone cases. He agreed that Reyna's actions were inappropriate and that we needed to speak with him. Shortly thereafter, Jarrett and I met with Reyna to voice our concerns. When we confronted him about his actions, Reyna said words to the effect of 'Never get in my fucking business again'.
6. In December 2013, Michael Jarrett and I met with Texas Ranger Matt Lindemann to discuss our concerns about Reyna's actions.
7. Following the March 2013 meeting with Reyna, I believe he began using other methods to help his campaign supporters and friends. For example, I believe he used the Pre-Trial Intervention Program (PTIP) to effectively dismiss cases that did not by any objective

standards deserve pre-trial diversion. For example, Reyna ordered staff members to place **Amity Harrell** in PTIP even though she was a convicted felon and PTIP was intended for misdemeanor offenders. Harrell's father, Jim Densman, contributed to Reyna's re-election campaign after his daughter's placement in PTIP.

8. I also believe that Reyna used or attempted to use specially appointed prosecutors to help his campaign supporters and friends. Reyna would falsely claim that the DA's office had conflicts in prosecuting certain individuals and arrange for special prosecutors to be appointed who would ultimately dismiss the cases.

For example, in 2014 one of Reyna's campaign supporters (**Bill McCoy**) called the office because wanted Reyna to make a DWI case on one of his Hispanic employees "go away". I was told that Reyna arranged to have a special prosecutor appointed who agreed to dismiss the employee's case. I do not recall the name of the employee, but I believe it is included in the many documents that I gave Michael Jarrett prior to my resignation. These documents include copies of files, letters and notes related to cases which Reyna manipulated to favor his campaign supporters and friends.

9. In addition to having cases dismissed for political and/or personal reasons, I also know that Reyna wrote at least one letter requesting a full pardon for a campaign supporter's relative. For example, even though the DA's office had a policy of opposing early parole for offenders, Reyna wrote a letter in December 2013 requesting a full pardon for **Sammy Citrano's nephew, Kevin Chirafis**, who had been convicted of the felony offense of Manufacture and Delivery of a Controlled Substance in Brazos County.
10. In August 2014, I met with FBI Agent Dan Burst regarding a public corruption investigation of Reyna. Attached hereto as Exhibit A is a memo of that meeting which I

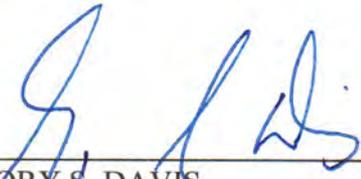
drafted shortly after the conclusion of the meeting.

11. It is my understanding that Michael Jarrett, Julissa West and Amanda Dillon have also met and/or spoken with Agent Burst in connection with the FBI's public corruption investigation of Reyna.
12. It is my understanding that the FBI's public corruption investigation of Reyna's prosecutorial decisions is ongoing.
13. It is my understanding that Reyna has hired and/or consulted with Waco attorney, Bill Johnston, regarding the ongoing FBI public corruption investigation.
14. In August 2014, Michael Jarrett told me that he purchased another cellphone so that he could covertly communicate with Agent Burst without Reyna learning that he was speaking with federal agents behind his back.
15. I ultimately resigned from the McLennan County District Attorney's office because it had become apparent to me that despite my warnings and advice Reyna had no intention of stopping his practice of giving preferential treatment to his campaign supporters and friends. I firmly believe that neither politics nor wealth should play any role in prosecutorial decisions and Reyna's actions were completely antithetical to my beliefs and the oath that all prosecutors take to do justice.
16. Approximately two to three months after the Twin Peaks incident, I received a call from Michael Jarrett. At one point, when the conversation turned to what had happened at Twin Peaks, Jarrett told me that the McLennan County District Attorney's Office was responsible for having all of the bikers arrested despite the fact that the police simply wanted to question the bikers, get their information and then release them while they (the police)

conducted an investigation. Jarrett told me that he (Jarrett) told Assistant Police Chief Gentsch that the police “were going to arrest them all” and they were not going to be permitted to release the bikers.

17. I would willingly testify at any hearing where my information was relevant. Nevertheless, I have pre-paid plans to be out of the country from November 19, 2017 to November 29, 2017.

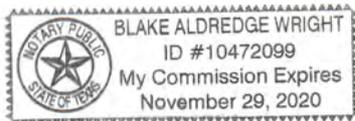
I have read the foregoing and I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge



GREGORY S. DAVIS

STATE OF TEXAS
COUNTY OF DALLAS

SUBSCRIBED AND SWORN TO BEFORE ME on this 9 day of
November, 2017.





Notary Public

8-6-14

Drove to FBI Austin office this morning to meet with agents, Dan Brust and Tommy _____. Interview began at 10:30 am and concluded at 2:00 pm with 10 minute bathroom break in the middle. Had not reviews documents prior to interview. Began with explanation of how I got to Waco and indictment in Collin County. Asked why we chose day after filing deadline to go to Rangers – I said two reasons: (1) Mike’s indecision whether to run against Abel and (2) policy of not initiating investigation to get political advantage.

Asked what was first thing that triggered suspicion - said unsure whether it was Chapman or Sharp case. Detailed each case. Detailed Falcone case as well. Detailed first confrontation with Abel regarding Sharp and Joe’s admission that he had Falcone case because of Abel. Asked why I thought Abel didn’t fire me after confrontation – I said because he decided he needed me to try cases. Explained lack of communication after confrontation.

Detailed marijuana case. Detailed PTIP and Harrell case. Explained I had no part in setting up PTIP and that Mike explained it to the office. Explained how I learned of Harrell through Julissa and my review of her file showing she had criminal record. Explained how Julissa connected Harrell to Jim Densman, contributor. Explained how I did not know how Abel paid for office picnic – campaign funds or forfeiture funds? (Julissa later said campaign funds).

Detailed meeting with Lindemann.

Detailed two clemency letters and our policy of opposing all parole applications.

Detailed problems with two recent attorney pro tem cases and Heather’s role in the process.

Asked about Abel's possible drug use and associates – detailed his marked change in behavior and information provided by Mike's CI about the Salty Dog. Talked about Dre and JJ per Julissa.

Concluded with discussion about my reasons for resignation – Harrell's child, Julissa's resignation and reputation.