

ORIGINAL

IN THE
SUPREME COURT OF OHIO

14-0997

Columbus Bar Association
Relator,

: Case No. _____

vs

:

14-0997

Javier Horacio Armengau (0069776)
Respondent.

: Original Matter Related to the Practice of Law
Authorized by S.Ct.Prac.R. Section 13.

EXHIBITS TO
RELATOR'S MOTION FOR IMMEDIATE
INTERIM REMEDIAL SUSPENSION

- Mot. Ex. A-1 Notes of relator's interview with the Franklin County Prosecutors;
- Mot. Ex. A-2 Order of Judge of Schneider releasing hearing material to Relator;
- Mot. Ex. A-3 Materials to be tendered with relator's Motion to File Under Seal
- Mot. Ex. A-4 Decision of Court of Appeals affirming Disqualification Order in Johnson;
- Mot. Ex. A-5 Jail visitation records;
- Mot. Ex. A-6 Notes of relator's interview with the Assistant U.S. Attorneys;
- Mot. Ex. A-7 Motion to Compel in Rhodes case;
- Mot. Ex. A-8 Armengau's response to Relator as to Johnson/Rhodes matter;
- Mot. Ex. B-1 Armengau's response to Relator as to Pack/Stephenson matter;
- Mot. Ex. B-2 Decision of Court of Appeals affirming Disqualification in Stephenson;
- Mot. Ex. C-1 Grievance of Leslita Martin;
- Mot. Ex. C-2 Affidavit of Leslita Martin;
- Mot. Ex. C-3 Armengau response of 8/5/13 regarding Martin grievance;
- Mot. Ex. D-1 Maschke grievance;
- Mot. Ex. D-2 Armengau's response to Maschke grievance;
- Mot. Ex. E-1 Armengau letter of 9/08/13 to relator;
- Mot. Ex. E-2 Fee Arbitration Request of Leathia Pinkney;
- Mot. Ex. E-3 Arbitration Panel Determination in Pinkney;
- Mot. Ex. E-4 Notice to Parties of Arbitration Award;
- Mot. Ex. E-5 Arbitration Agreement in Pinkney;
- Mot. Ex. E-6 Letter of Armangau to Ms. Pinkney;
- Mot. Ex. E-7 Affidavit of Leathia Pinkney;
- Mot. Ex F-1 Trust account bank records;

FILED
JUN 16 2014
CLERK OF COURT
SUPREME COURT OF OHIO

Mot, Ex, F-2 Trust account bank records;
Mot. Ex. G-1 Verification from Client Security Fund;
Mot. Ex. H-1 Copies of screens on Armengau's website;
Mot. Ex H-2 Armangau's response of 3/21/13 to relator on Brown grievance;
Mot. Ex. I-1 Armengau Indictment and Decision of Judge Fais dismissing specification;
Mot. Ex. I-2 Grievance of Special Prosecutor Melissa Schiffel;
Mot. Ex. I-3 Two investigative report summaries from BCI Agent Burri;
Mot. Ex. I-4 Affidavit of Special Prosecutor Melissa Schiffel;
Mot. Ex. J-1 Armangau letter to client Bertuzzi of 11/14/12;
Mot. Ex J-2 Armengau letter to client Brown of 3/7/13;
Mot. Ex J-3 Armangau's response of 3/21/13 to relator regarding Brown grievance.

MEMORANDUM

DATE: April 3, 2014

FROM: Terry K. Sherman

TO: CBA Professional Ethics Committee

RE: Investigation of Attorney Javier Armengau
Interview of Joseph M. Gibson and Jason P. Manning
Assistant Franklin County Prosecutors

On April 2, 2014, pursuant to an appointment, I met with both Joseph M. Gibson and Jason P. Manning, at the Franklin County Prosecuting Attorneys Office. These two were the prosecutors assigned to the matter of *State of Ohio vs. Michael P. Johnson*, Case #12CR3961, the Judge being Charles Schneider. They are the ones who, on August 24, 2012, filed a Motion to Disqualify Attorney Armengau due to a conflict.

As a consequence of their Motion to Disqualify, a full evidentiary hearing was conducted on October 3, 2012. The transcript and documents pertaining to that hearing are under seal. Subsequent to our meeting, these prosecutors and I conferred with Judge Schneider, who granted my request to permit the CBA to obtain these sealed transcripts and documents. At the Judge's request, I have prepared an Entry allowing the CBA to obtain those records and transcripts, but his confidentiality order remains in effect until further Order of the Court.

The underlying facts as recited by the prosecutors are that on August 9, 2012, Michael P. Johnson was indicted on nineteen counts of Trafficking in Drugs and one count of Engaging in a Pattern of Organized Corrupt Activity. Purportedly, he was part of a 95 count Indictment with 47 other co-defendants. To a large extent, the State's case depended on testimony of co-defendants and cooperating individuals. One of those cooperating individuals I will refer to as "C.I." C.I. was originally indicted with federal narcotics crimes.

C.I. was originally represented by Attorney Armengau in the federal case. According to the documents, a Plea Agreement was entered into between the government and C.I. and signed by C.I. and Attorney Armengau, as representing C.I. The signatures were dated December 2, 2009, but the Plea Agreement was not filed until August 12, 2010. In that Plea Agreement which was signed by Attorney Armengau, C.I., agreed to cooperate fully as to any and all drug activity taking place in the Southern District of Ohio, which includes Franklin County. Mr. Armengau stayed on C.I.'s case through the Change of Plea hearing on September 1, 2010, and through the Final PreSentence Investigation Report on November 17, 2010. It was only in the very late stages of the case, on February 24, 2011, that a Substitution of Counsel Entry was entered replacing Mr. Armengau with other counsel.

The prosecutors assert Mr. Armengau must have attended numerous proffers

with C.I. and had to be well aware that this deal to cooperate would include Michael Johnson. Nevertheless, Attorney Armengau entered an appearance for Michael Johnson on this multi-count State Indictment. On August 24th, prosecutors filed a written Motion for Attorney Armengau to be removed from the Johnson case. Prior to August 24, 2012, the prosecutors, in several face-to-face meetings with Mr. Armengau, told him his representation of C.I. posed a serious conflict and he needed to remove himself from the Johnson case. Again and again prosecutors advised Armengau that C.I., his former client, was to be a critical witness and there was a major conflict.

After repeatedly telling Mr. Armengau to remove himself, and after his repeated refusals, the prosecutors felt they had no choice, so on August 24, 2012, they filed a written Motion to Disqualify counsel because of the conflict of interest. Attorney Armengau filed a Memorandum Contra. Affidavits were submitted and a record hearing was held. Before the actual hearing, a pre-hearing conference was held on September 14, 2012, in front of Judge Schneider. Mr. Armengau told the Judge there was no conflict because C.I. knew nothing about Johnson. This shocked the prosecutors, who said there was no way Mr. Armengau could say that.

The hearing was held. An Affidavit of C.I. was presented at the hearing, which will be supplied to us per Order of Judge Schneider. C.I., in his Affidavit, said approximately two weeks prior to the October 3rd hearing, he met with Mr. Armengau, who tried to talk him out of cooperating, saying it was not part of the Plea Agreement and he didn't really have to testify.

Mr. Armengau was removed from the case by Judge Schneider as of November, 2012. Judge Schneider's removal Order was appealed and upheld on April 25, 2013. Kirk McVay is Mr. Johnson's lawyer. The case against Johnson went to trial on October 23, 2013. Jail visitation records show Mr. Armengau went to the jail on October 13, 2013, to see Michael Johnson. He signed into the jail as the attorney for Michael Johnson. In other words, Armengau had an attorney visit with Michael Johnson when he was no longer the attorney of record; he had been removed from the case. According to prosecutors, Kirk McVay, was not aware of Armengau's visit, nor authorized it. Mr. Johnson wrote a letter to C.I. and apparently C.I. turned the letter over to the prosecutors. The day before C.I. was about to testify at the trial, he received a call from Mr. Armengau, who asked why he turned the letter over to the prosecutors.

The prosecutors believe there was an attempt by Mr. Armengau to influence his former client to not testify in the Johnson hearing, telling C.I. that the federal Plea Agreement did not require his testimony. Prosecutors assert Armengau tried to have continued contact with C.I. before and during Johnson's trial, to impede C.I.'s testimony.

The sealed documents from the hearing contain a transcript, an Affidavit from C.I., as well as a jail recorded phone call. Judge Schneider, with the help of the prosecutors, ordered that all that be turned over to the Columbus Bar Association with certain caveats.

IN THE COMMON PLEAS COURT OF FRANKLIN COUNTY, OHIO
CRIMINAL DIVISION

State of Ohio,

Plaintiff,

vs.

Case #12CR3961

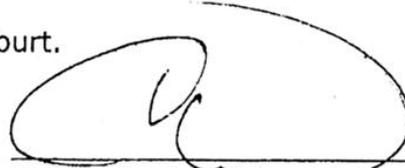
Michael B. Johnson,

Judge Charles Schneider

Defendant.

ENTRY

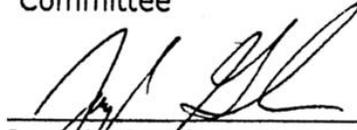
Upon due consideration and for good cause shown, it is hereby ORDERED that the transcript and other documents pertaining to the hearing on the State's Motion to Disqualify Counsel, held on October 3, 2012, which was previously ordered sealed by this Court, shall be disclosed to the Columbus Bar Association's Professional Ethics Committee and its representative, Terry K. Sherman. The Confidentiality Order pertaining to this hearing and its documents shall apply to the Columbus Bar Association and Mr. Sherman until further Order of the Court.



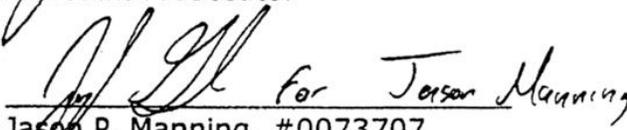
Judge Charles Schneider



Terry K. Sherman, #0002417
Representative of the Columbus Bar
Association's Professional Ethics
Committee



Joseph M. Gibson, #0084587
Assistant Prosecutor



Jason P. Manning, #0073707
Assistant Prosecutor

FILED
COMMON PLEAS COURT
FRANKLIN CO., OHIO
2014 APR -8 PM 3:56
CLERK OF COURTS

**NOTE REGARDING
Mot. Ex. A-3**

**This proposed exhibit is the subject of Relator's Motion to File Under Seal that has been
tendered simultaneously with the Relator's Motion for Interim Remedial Suspension.**

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

State of Ohio,	:	
Plaintiff-Appellee,	:	
v.	:	No. 12AP-1067
Michael P. Johnson,	:	(C.P.C. No. 12 CR-08-3961)
Defendant-Appellant.	:	(ACCELERATED CALENDAR)

D E C I S I O N

Rendered on April 25, 2013

Ron O'Brien, Prosecuting Attorney, and *Laura R. Swisher*, for appellee.

The Law Office of Jennifer L. Coriell, LLC, Jennifer L. Coriell and Samantha M. Makar, for appellant.

APPEAL from the Franklin County Court of Common Pleas

TYACK, J.

{¶ 1} Michael P. Johnson is appealing from a pretrial ruling in the trial court. The trial court judge ruled that Johnson could no longer be represented by his attorney of choice. A single assignment of error is presented for our review:

THE TRIAL COURT ABUSED ITS DISCRETION IN DETERMINING THAT A CONFLICT OF INTEREST EXISTED THAT WOULD PRECLUDE DEFENSE COUNSEL FROM REPRESENTING APPELLANT IN THE CASE BELOW.

{¶ 2} Johnson is one of 47 defendants in state court in what is alleged to be a drug conspiracy. Johnson hired Javier H. Armengau to represent him on the charges.

{¶ 3} The State filed a motion in the trial court and asked that Armengau be prevented from representing Johnson in particular because of Armengau's past

No. 12AP-1067

2

representation of a person called a confidential informant or "CI." More specifically, Armengau represented the CI in a drug conspiracy case in federal court which resulted in the CI entering into a plea bargain. As with all federal plea bargains, the CI agreed to be debriefed by federal and/or State narcotics officers on the subject of any illegal activities of which the CI was aware. The CI agreed to testify about such matters. As a part of federal sentencing law, the CI can have his federal prison sentence significantly reduced if the CI provides substantial assistance to federal or state law enforcement personnel.

{¶ 4} As a result of Armengau's prior representation of the CI, Armengau has extensive knowledge of confidential information about the CI and the CI's past activities.

{¶ 5} The State has alleged that it will call the CI to the witness stand to testify against Johnson if the case goes to trial. There is no reason to doubt that allegation. Assuming the CI is placed on the witness stand and testifies while Armengau represents Johnson, an un-resolvable conflict exists. Armengau cannot damage his former client's credibility through use of privileged information. At the same time, Armengau must diligently represent Johnson's interests by damaging the CI's credibility.

{¶ 6} The record reflects that ethical problems have already arisen in this case. Armengau admits that he has already had a meeting with the CI since Armengau was retained by Johnson. The CI claims Armengau told him that he (the CI) did not have to testify against Johnson. Given the potential benefit to the CI of assisting law enforcement personnel, such advice benefited Johnson, but not the CI. Armengau denies the content of the conversation, but not the meeting itself.

{¶ 7} Since the conflict in Armengau's ethical duties cannot be resolved, the trial judge had no choice but to bar Armengau from continued representation of Johnson.

{¶ 8} The single assignment of error is overruled. The ruling of the Franklin County Court of Common Pleas is affirmed and the case is remanded for further appropriate proceedings.

Judgment affirmed.

DORRIAN and McCORMAC, JJ., concur.

McCORMAC, J., retired, formerly of the Tenth Appellate District, assigned to active duty under the authority of Ohio Constitution, Article IV, Section 6(C).

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

State of Ohio, :
 :
 Plaintiff-Appellee, :
 :
 v. :
 :
 Michael P. Johnson, :
 :
 Defendant-Appellant. :

No. 12AP-1067
(C.P.C. No. 12 CR-08-3961)

(ACCELERATED CALENDAR)

JUDGMENT ENTRY

For the reasons stated in the decision of this court rendered herein on April 25, 2013, appellant's assignment of error is overruled. Therefore, it is the judgment and order of this court that the judgment of the Franklin County Court of Common Pleas is affirmed. Costs shall be assessed against appellant.

TYACK, DORRIAN & McCORMAC, JJ.

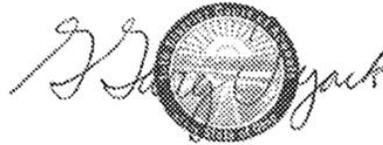
/S/JUDGE _____

Franklin County Ohio Court of Appeals Clerk of Courts- 2013 Apr 25 3:23 PM-12AP001067

Tenth District Court of Appeals

Date: 04-25-2013
Case Title: STATE OF OHIO -VS- MICHAEL P JOHNSON
Case Number: 12AP001067
Type: JEJ - JUDGMENT ENTRY

So Ordered



/s/ Judge G. Gary Tyack

P05340

Mot. Ex. A-5

12-0021735 JOHNSON , MICHAEL PAUL
? Date Time Last name First name Middle name

Date	Time	Last name	Address	First name	Middle name	Relation
10-11-2013	18:39	JOHNSON	1075 LAVENDER LN COLUMBUS	VICTORIA		L WIFE VIS
10-13-2013	16:17	ARMENGAU	857 S HIGH ST COL	JAVIER		ATTY VIS
10-14-2013	19:14	JOHNSON	1075 LAVENDER LN COLUMBUS	VICTORIA		L WIFE VIS
10-18-2013	20:30	JOHNSON	1075 LAVENDER LN COLUMBUS	VICTORIA		L WIFE VIS
10-20-2013	19:59					

R1 [REDACTED] [REDACTED] [REDACTED] [REDACTED] R-1

JAVIER H. ARMENGAU

A PROFESSIONAL LEGAL CORPORATION

98 Hamilton Park
COLUMBUS, OHIO 43203
(614) 443-0516
(614) 732-5696 *facsimile*
www.armengau-and-associates.com

CLEVELAND/LORAIN
600 Broadway
Lorain, Ohio 44052
(440) 787-4796

Admitted to Practice
Federal Court - Northern District
Federal Court - Southern District

MARION OFFICE
117 East Center Street
Marion, Ohio 43302
(740) 387-1613

Sunday, March 23, 2014

Alysha Clous
CBA
175 South Third Street
Suite 1100
Columbus, Ohio 43215

Via Fax / 614.221-4850

RE: 2014-03-004

Dear Ms. Clous:

I am responding in regard to the above referenced matter. Notwithstanding the Court's decision and that of the Court of Appeals, there was never a conflict in this case.

First, to give you an accurate and true depiction of what transpired in this case I would first begin by telling you that the lead detective in this case was Jeremy Ehrenborg. I had a case a couple of years ago with this detective where he was the lone law enforcement witness. My client was charged with possession and trafficking in an F2 quantity and my client was facing mandatory time. Detective Ehrenborg was dressed in plain clothes and my client literally delivered a bulk of amount of pills and literally directly handed them to Detective Ehrenborg. The pills were placed in the detectives hand by my client. My client admitted to handing the pills to the detective in trial. The jury after deliberation returned a verdict of Not Guilty. This case prompted the unethical, fabricated and improper move to disqualify me as counsel for Michael Paul Johnson.

A review of the history and facts clearly establishes the impropriety on the part of the prosecution and the unethical nature of their conduct. After I entered an appearance in this case the matter was scheduled for trial. It was the first trial date, if I recall correctly, and due to the voluminous nature of the case it was evident that the trial would not be proceeding on that first date. Upon arriving at Court I was surprised to hear from Assistant Prosecuting Attorney Joe Gibson that they were going to file a motion to disqualify me as counsel. It was frankly a very telling comment because up to that point in time the prosecution never asked me about my thought on potential conflict or actual conflict and whether I would be in agreement with withdrawing as counsel. We then met

with Judge Schneider in chambers and Mr. Gibson raised the issue and Judge Schneider advised the State to file a motion and then for me to respond; he would then hold a hearing. At this point what was incredible was that neither prosecutor, Mr. Gibson nor Jason Manning had ever met or spoken to the "Confidential Informant" regarding any anticipated testimony. To then fully demonstrate the unethical nature and frivolous position that was being asserted, the State actually filed a motion to disqualify me as counsel with the trial court – even at this juncture, after having drafted and filed the motion, they still had not met or spoken to the "CI". The matter was then set for hearing and Jason Manning appeared for the State to argue the motion. As incredible as it is, even at this point, while the prosecution is arguing to disqualify me and making representations to the Court, they still had not met with or spoken to the "CI".

Now to give you some background, I did represent the "CI" in federal court and did negotiate his plea agreement; however, at no time did he ever sell drugs to, with or purchased anything from Michael Paul Johnson. The extent of his knowledge came from what he had heard from others and not from personal knowledge.

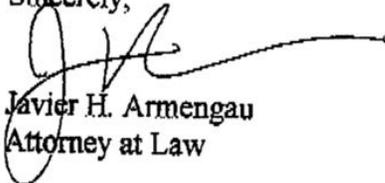
After the hearing on the disqualification, Judge Schneider inquired of the State and the State asserted that the "CI" was a "material" witness. This was a joke for a multitude of reasons, one mainly being that they had yet to interview him. What was further comical was that after the hearing I received an email from Prosecutor Jason Manning asking if I could provide them with contact information for their "CI" so they could interview him as they had no way of reaching him. I provided the information to Mr. Manning and they then arranged to meet with him. Previously they had threatened with indicting him if for some reason he chose not to cooperate, which was ridiculous because there was no reason for him not to cooperate. In fact, the State calling him as a witness would help the defense because his testimony would be that he never had any dealings with Mr. Johnson of a criminal nature. The State then meets with the "CI" and I am disqualified by Judge Schneider based on the prosecutions representations.

Consistent with the unethical proceedings up to this point in time, neither prosecutor makes any contact with the "CI" prior to the next trial date. Although new counsel was appointed for Mr. Johnson and the matter was scheduled for trial, neither Mr. Gibson nor Mr. Manning bothered to contact the "CI" to meet in preparation for his incredibly material testimony or to even see if he was aware of the trial date, since he was never subpoenaed. The matter was then continued and a new trial date set. Even after the next trial date was set, neither Mr. Gibson nor Mr. Manning bothered to contact the "CI" to now meet in preparation for his incredibly material testimony or to even see if he was aware of the new trial date, since he was never subpoenaed for this trial either. The matter was then set I believe again and this time, Mr. Gibson calls the "CI", not to schedule a meeting as any prosecutor would do in preparing such a key witness, but to tell the "CI" that they will likely not be calling him because he really "has no direct knowledge" of anything regarding Mr. Johnson and that anything he has to say is likely "inadmissible". The "CI" questions Mr. Gibson as to why they even got him involved in the case if they had no intention of calling them and then, obviously realizing that this was going to blow up in their faces, they call him as a witness at trial. His testimony lasted all but five minutes and he acknowledged that he had not engaged in any criminal conduct with Mr. Johnson.

The Court of Appeals affirmed the decision; however, sadly through their own ignorance, the Court made assumptions that were incorrect. Sadly, the State can always fabricate an excuse and manipulate the system to have an attorney removed.

Please feel free to contact me with any additional questions that you may have in this matter.

Sincerely,



Javier H. Armengau
Attorney at Law

JHA/jha

MEMORANDUM

DATE: April 3, 2014

FROM: Terry K. Sherman

TO: CBA Professional Ethics Committee

RE: Investigation of Attorney Javier Armengau
Interview of Joseph M. Gibson and Jason P. Manning
Assistant Franklin County Prosecutors

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After repeatedly telling Mr. Armengau to remove himself, and after his repeated refusals, the prosecutors felt they had no choice, so on August 24, 2012, they filed a written Motion to Disqualify counsel because of the conflict of interest. Attorney Armengau filed a Memorandum Contra. Affidavits were submitted and a record hearing was held. Before the actual hearing, a pre-hearing conference was held on September 14, 2012, in front of Judge Schneider. Mr. Armengau told the Judge there was no conflict because C.I. knew nothing about Johnson. This shocked the prosecutors, who said there was no way Mr. Armengau could say that.

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The prosecutors believe there was an attempt by Mr. Armengau to influence his former client to not testify in the Johnson hearing, telling C.I. that the federal Plea Agreement did not require his testimony. Prosecutors assert Armengau tried to have continued contact with C.I. before and during Johnson's trial, to impede C.I.'s testimony.

The sealed documents from the hearing contain a transcript, an Affidavit from C.I., as well as a jail recorded phone call. Judge Schneider, with the help of the prosecutors, ordered that all that be turned over to the Columbus Bar Association with certain caveats.

Mot. Ex. A-8

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION AT COLUMBUS**

UNITED STATES OF AMERICA

CASE NO. 2:12CR122

Plaintiff,

JUDGE WATSON

vs.

ANTWANE RHODES

MOTION TO COMPEL

Defendant.

Now comes the Defendant, **ANTWANE RHODES**, by and through his attorneys, **RION, RION & RION, L.P.A., INC.**, and hereby respectfully requests that this court issue an Order compelling the government to request a departure below the mandatory minimum sentence pursuant to 18 USC 3553(e).

A memorandum in support is attached hereto.

Defendant respectfully requests an oral hearing to address this matter before sentencing.

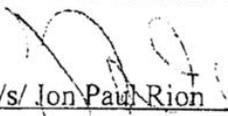
Respectfully submitted,



JON PAUL RION (#0067020)
RION, RION & RION, L.P.A., INC.
130 West Second Street, Ste. 2150
P.O. Box 10126
Dayton, Ohio 45402
(937) 223-9133

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that a copy of the foregoing was sent to the Office of the U.S. Attorney, Kevin Kelley, via ECF filing system on the same day of filing.


/s/ Jon Paul Rion

JON PAUL RION
RION, RION & RION, L.P.A., INC.

MEMORANDUM IN SUPPORT

MAY IT PLEASE THE COURT:

Mr. Rhodes entered a plea to Conspiracy to Distribute Marijuana (Count I) and Conspiracy to Commit Money Laundering (Count VI) on September 25, 2012 (Doc. 31, 32). Count I carries a mandatory minimum sentence of ten years. Defendant is asking this court to compel the government to file a motion pursuant to 18 USC 3553(e), permitting the departure from the mandatory sentence, allowing this court to consider a sentence below ten years. The basis for this request is that Defendant's prior counsel rendered ineffective assistance of counsel, which precluded Defendant from receiving the benefit of a 18 USC 3553(e) motion.

First, Defendant's prior counsel was ineffective. The Sixth Amendment right to counsel attaches once adversarial legal proceedings are initiated. *Kirby v. Illinois*, 406 U.S. 682 (1972). An accused's right to counsel extends to critical pre-trial stages. *United States v. Wade*, 388 U.S. 218 (1967). A critical stage is one in which the result of the confrontation "might well settle the accused's fate and reduce the trial to a mere formality." *Id.* In this case, at issue is the representation during the time period in which the grand jury proceedings were commencing. It was during this critical time that a co-defendant, who was heavily involved in the same conspiracy in which Defendant was under investigation, began proffering with the government regarding Defendant's activities. The AUSA recognized the conflict that was occurring, specifically that the same attorney was representing co-defendants, one of which was testifying against the other. AUSA advised the attorney it was his opinion that a conflict existed. Defendant argues this was a critical stage in the litigation and thus the right to counsel attached.

Further, because Defendant and his co-defendant had conflicting interests in this matter, counsel was conflicted from representing both parties and to do so was ineffective. See *Mickens v. Taylor*, 535 U.S. 162 (2002) which held that the constitutional right to counsel contemplates an attorney devoted solely to their client's interests, and requires counsel to be conflict-free. Therefore the representation by counsel who also represented a co-defendant was ineffective.

Still further, counsel made misstatements of fact to Defendant regarding information gained as a result of the representation of the co-defendant, causing additional prejudice to Defendant. Specifically, when presenting Defendant with the option of cooperating with the government, counsel and Defendant analyzed the strength of the government's case. Defense counsel specifically denied that co-defendant was cooperating with the government against Defendant. Defendant used this information to determine the strength of the government's case, and decided not to cooperate under the belief that the co-defendant was not providing the government with information necessary. Based upon the misinformation of counsel, Defendant did not cooperate, losing the benefit of the 3553(e) request.

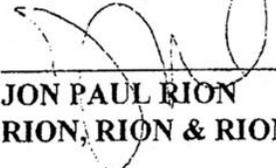
In *Lafler v. Cooper*, 132 S.Ct. 1376 (2012) the United States Supreme Court found that erroneous advice by counsel, which induced a defendant to reject a plea offer, constituted ineffective assistance of counsel and caused prejudice to the defendant. In that case, the defendant was charged with assault with the intent to commit murder, amongst other charges. His attorney advised him to reject a plea offer, advising that the state would not be able to prove intent because the defendant shot the victim below the waist. Thus, the defendant rejected the plea, and was convicted and sentenced to a term of imprisonment three times longer than the sentence offered in the plea bargain. The United States Supreme Court found

the two-part *Strickland* test was met; that counsel was ineffective in misadvising the defendant, and the defendant was prejudiced, receiving a sentence three times longer because of counsel's mis-advice. The court stated that the proper remedy was to order the state to re-offer the plea agreement. *Id* at 1391.

It is Defendant's position here that his attorney mis-advised him regarding the strength of the government's case, inducing him to reject the offer to cooperate. It is further his position that a 3553(e) motion would have been made if Defendant had cooperated, and Defendant would have had the benefit of that motion (i.e. a prison term of less than ten years) but for counsel's erroneous advice.

Wherefore Defendant respectfully requests this honorable court compel the government to file a motion pursuant to 18 USC 3553(e).

Respectfully submitted,



JON PAUL RION
RION, RION & RION, L.P.A., INC.

JAVIER H. ARMENGAU
A PROFESSIONAL LEGAL CORPORATION

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Admitted to Practice

Federal Court - Northern District
Federal Court - Southern District

MARION OFFICE
117 East Center Street
Marion, Ohio 43302
(740) 387-1613

Mot. Ex. B-1

Sunday, March 23, 2014

Alysha Clous
CBA
175 South Third Street
Suite 1100
Columbus, Ohio 43215

Via Fax / 614.221-4850

RE: 2014-03-003

Dear Ms. Clous:

I am responding in regard to the above referenced matter. Notwithstanding the Court's decision and that of the Court of Appeals, as with the Michael Paul Johnson case, there was never a conflict in this case.

Simply, I was retained by Ms. Casey Pack to represent her boyfriend, Beau Stephenson. At the time Ms. Pack retained me, she voluntarily met with me and wanted to assist in the case, which would make sense since she retained my office to represent Mr. Stephenson. Ms. Pack would call almost daily, come in to our office once or twice a week to provide information. Any information that I obtained from Ms. Pack was in her capacity as a witness. I would be permitted to interview any witness at any time regardless of what side they assisted.

After having met with Ms. Pack several times, she asked if I could assist her with a municipal court case she had which was unrelated to the homicide case at issue. Please note that prior to and through my representation, the State never offered or attempted to offer Ms. Pack any type of deal with regard to Mr. Stephenson's case. Everything that was learned from Ms. Pack regarding her knowledge of the homicide case and what she told to the police was learned prior to any municipal court representation. She gave the police an interview was provided to me in discovery. Had I never represented Ms. Pack in Municipal Court on that unrelated matter, I would have possessed the same knowledge by having interviewed her as a witness.

The State used the "disqualification" in an improper manner. No matter how obvious their unethical conduct is, I understand the CBA won't go after a prosecutor. The reason the State filed the motion was due to their inability to figure out the defense. Only two defenses were possible; one, self-defense, which by asserting the defense the defendant would naturally place himself at the scene and two, denial of being present. The State wasn't aware and could not figure out which defense we would be asserting so they felt they needed Ms. Pack to testify that she drove Mr. Stephenson to the scene of the homicide. The only way they could get that question answered was to have a hearing.

Not surprisingly, Judge Kim Brown sided with the State. In doing so she disregarded the facts and simply accepted the State's position. Ms. Pack hasn't been indicted in the Manley murder and there is no basis for doing so. Her testimony is insignificant to the defense as it is a self defense case. As you are aware, disqualifications are viewed under an "abuse of discretion" standard so the Court of appeals is going to affirm any such decision by a trial court where some prosecutor makes any argument, no matter how remote or untrue. This was a homicide case. The lead attorney was Doug Stead. Mr. Stead and I only had one trial. State of Ohio vs. Cliff Harbour. The prosecutor in that case was actually Scott Kirschman. Approximately a month before the actual trial date, Doug Stead showed up to "take over". Clearly to show us how serious the case was as now they had their "Ace" for trial. It was a slam dunk case. My client was identified in the home invasion by the victim (In Court Identification), he was identified out of a photo line-up by the victim (shortly after the home invasion), SWAT had to remove him from his home at the time of arrest and the stolen property from the home invasion was found at my client's residence. Mr. Stead was brought in to show his stuff and put the icing on the cake. The jury found my client not guilty after about 10 minutes of deliberation.

There was never a conflict in this case. Again, they can fabricate anything. Here is why they disqualify me when they can and why they have you working full-time on me:

State of Ohio vs.; Richard S. Rose, Indicted for Aggravated Murder, Aggravated Robbery and Weapons Under Disability, with Gun Specifications and Repeat Violent Offender Specifications; Not Guilty by Jury of all counts. Mr. Rose was also found Not Guilty by Jury of a lesser included offense of Murder;

State of Ohio vs. Christopher Cameron, Not Guilty by Jury of Capital Murder and Murder;

State of Ohio vs. Keith Jones, Not Guilty by Jury of Capital Murder and Murder;

State of Ohio vs. Gazmend Troka, Indicted for Rape and Kidnapping; Not Guilty by Jury of Rape and Kidnapping;

State of Ohio vs. Kory Griffin, Not Guilty by Jury of Aggravated Murder, Aggravated Burglary and Attempted Murder (All Counts);

State of Ohio vs. Anthony Ross, Not Guilty by Jury of Possession of Cocaine and Tampering with Evidence (All Counts);

State of Ohio vs. Torrece Troutman, Indicted for Trafficking in Cocaine; Not Guilty by Jury of Trafficking in Cocaine;

State of Ohio vs. Kevin Culver, Indicted for Felonious Assault; Not Guilty by Jury of Felonious Assault;

State of Ohio vs. Mark Qualls, Indicted for Carrying a Concealed Weapon; Case dismissed by Judge during Jury Trial after the State presented their case due to insufficient evidence. The firearm was concealed in a bag on the passenger seat of the vehicle our client was driving;

State of Ohio vs. David Gale, Indicted for Rape, Kidnapping, Felonious Assault and Inducing Panic; Not Guilty by Jury of Rape, Kidnapping and Felonious Assault; Convicted on Sexual Imposition and received Probation/Community Control Sanctions;

State of Ohio vs. Jeff Adkins, Indicted for Felonious Assault; Not Guilty by Jury of Felonious Assault;

State of Ohio vs. John Krouse, Not Guilty by Jury of Attempted Aggravated Arson and Attempted Aggravated Burglary (All Counts);

State of Ohio vs. Jason Hubley, Not Guilty by Jury of Rape and Kidnapping (All Counts);

State of Ohio vs. Anton Stowe, Indicted for Felonious Assault; Not Guilty by Jury of Felonious Assault;

State of Ohio vs. John White, Not Guilty by Jury of Assault and Domestic Violence (All Counts);

State of Ohio vs. Kiel Henry, Not Guilty by Jury of Gross Sexual Imposition; A second Count was ultimately dismissed by the Court for insufficient evidence;

State of Ohio vs. Mark Jones, Indicted for Intimidation of a Government Witness; Not Guilty by Jury of Intimidation of a Government Witness;

State of Ohio vs. Adam Businger, Not Guilty of Aggravated Burglary, Kidnapping and Breaking and Entering; Convicted of Misdemeanor Assault;

State of Ohio vs. Clint Williams, Not Guilty by Jury of Rape, Kidnapping and Gross Sexual Imposition (All Counts);

State of Ohio vs. Robert Smith, Not Guilty by Jury of Aggravated Possession of Drugs and Aggravated Trafficking (All Counts);

State of Ohio vs. Jill Estep, Indicted for Trafficking in Drugs; Not Guilty by Jury of Trafficking in Drugs;

State of Ohio vs. Michell Espinoza, Indicted for Gross Sexual Imposition; Not Guilty by Jury of Gross Sexual Imposition;

State of Ohio vs. Terrence Andrews, Indicted for Robbery; Not Guilty by Jury of Robbery;

State of Ohio vs. Michael Jackson, Indicted for Assault on a Police Officer; Not Guilty by Jury of Assault on a Police Officer;

State of Ohio vs. Brian Moaney, Not Guilty by Jury of Operating a Motor Vehicle Under the Influence;

State of Ohio vs. Tecca Thompson, Charged with Assault; Not Guilty by Jury of Assault;

State of Ohio vs. Fred Mosely, Indicted for Aggravated Robbery with Gun Specifications; case dismissed after defense opening statement to the jury;

State of Ohio vs. Franklin Olivares, Not Guilty by Jury of Extortion, Theft and Kidnapping (All Counts) ;

State of Ohio vs. Shawn Cress, Not Guilty by Jury of Aggravated Burglary. Mr. Cress was convicted of Intimidation of a Witness, but the Court of Appeals reversed that conviction thereby acquitting him on all counts.

State of Ohio vs. Danny Pickens, Indicted for Felonious Assault; Not Guilty by Jury of Felonious Assault;

State of Ohio vs. Mone't Person, Indicted for Aggravated Burglary; case dismissed after defense counsel opening statement to the Jury;

State of Ohio vs. Jerry D. Chandler, Not Guilty by Jury of Aggravated Robbery with Gun Specification; Not Guilty Aggravated Robbery with Gun Specification; Not Guilty

Aggravated Robbery with Gun Specification; Not Guilty Felonious Assault with Gun Specification; Not Guilty Robbery with Gun Specification; Not Guilty Robbery with Gun Specification; Guilty Robbery with Specification; Guilty Weapon Under Disability;

State of Ohio vs. Luis Velazquez-Leyna, Indicted for Rape w/ Life in Prison Specification and Kidnapping; Case resolved after opening statements with a plea to two Misdemeanors and time served. In the Velazquez-Leyna case the offer was 15 years in prison;

State of Ohio vs. Larry J. Williams, Jr., Indicted for Possession of Crack Cocaine and 3 Counts of Weapons Under Disability; Not Guilty of all Counts by Jury;

State of Ohio vs. Frank Malone, Indicted for Felony Theft; Not Guilty by Jury;

State of Ohio vs. Robert Blanton, Indicted for Kidnapping and Rape; Not Guilty by Jury of Kidnapping and Jury was undecided and hung on Rape;

State of Ohio vs. Terry Hildebrandt, Indicted for Rape (with Life Specification) and Kidnapping; Not Guilty by Jury (All Counts);

State of Ohio vs. Ricardo Rodriguez, Indicted for Engaging in a Pattern of Corrupt Activity, Possession of Cocaine with Major Drug Offender Specification, Drug trafficking with Major Drug Offender Specification, Carrying a Concealed Weapon, Tampering with Evidence, Improper Handling of a Firearm in a Motor Vehicle; Not Guilty of All Counts except Possession and Tampering with Evidence;

State of Ohio vs. Christopher Morgan, Indicted for Rioting, Kidnapping and Felonious Assault; Not Guilty by Jury of all counts;

State of Ohio vs. Robert Nungester, Charge for O.V.I.; Not Guilty by Jury;

State of Ohio vs. James Thacker, Indicted for Attempted Murder, Felonious Assault and Kidnapping; Not Guilty by Jury of Attempted Murder and Not Guilty of Kidnapping; convicted of Felonious Assault;

State of Ohio vs. Clifford Harbour, Indicted for Burglary and Felony Theft; Not Guilty by Jury;

State of Ohio vs. James Johnson, Indicted for Aggravated Burglary, Rape (2 Counts), Attempted rape, Kidnapping; although Mr. Johnson's DNA was within the victim, the Jury found him Not Guilty of all counts;

State of Ohio vs. William Palmer, Jr., Indicted for Burglary, Unauthorized use of a Motor vehicle and Misuse of a Credit Card. Not Guilty by Jury of Burglary and Misuse of a Credit Card;

State of Ohio vs. James R. Miller (Logan County), Indicted for failure to Provide for a Functionally Impaired Person (F4), Assault (F4) and Domestic Violence; Not Guilty of All Counts;

These are *some* of the cases that I have tried. In addition, here are a few murder and attempted murder cases that I had dismissed:

State of Ohio vs. James Johnson, Indicted for Aggravated Murder with Gun Specification;

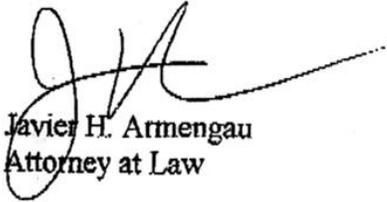
State of Ohio vs. Terrell Woodfork, Indicted for Aggravated Murder with Gun Specification;

State of Ohio vs. Chris Matney, Indicted for Attempted Murder with Gun Specification;

As I mentioned in my response on Michael Paul Johnson, the Court of Appeals affirmed the decision; however, sadly through their own ignorance, the Court made assumptions that were incorrect and overlooked key facts. Sadly, the State can always fabricate an excuse and manipulate the system to have an attorney removed. They did it here again.

Please feel free to contact me with any additional questions that you may have in this matter.

Sincerely,



Javier H. Armengau
Attorney at Law

JHA/jha

Mot. Ex. B-2

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

State of Ohio,	:	
	:	
Plaintiff-Appellee,	:	
	:	No. 13AP-609
v.	:	(C.P.C. No. 13CR-02-679)
	:	
Beau Stephenson,	:	(ACCELERATED CALENDAR)
	:	
Defendant-Appellant.	:	

D E C I S I O N

Rendered on February 25, 2014

Ron O'Brien, Prosecuting Attorney, and *Laura R. Swisher*, for appellee.

Javier H. Armengau, for Stephenson.

APPEAL from the Franklin County Court of Common Pleas

McCORMAC, J.

{¶ 1} Defendant-appellant, Beau Stephenson, appeals from an order of the Franklin County Court of Common Pleas granting a motion filed by the state seeking disqualification of Stephenson's defense counsel in the underlying criminal case.

{¶ 2} Stephenson is currently awaiting trial pursuant to his indictment on charges arising from the murder of Christopher Manley on January 28, 2013. Disqualification of his privately retained trial counsel, attorney Javier H. Armengau, by the trial court is based upon dual representation by attorney Armengau of Stephenson and Stephenson's girlfriend, Cassandra Pack, who is also implicated in the murder.

{¶ 3} The facts and procedural history of the case are not unduly complicated. On January 28, 2013, Christopher Manley was shot and killed in his home in Columbus. On

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February 8, 2013, the Franklin County Grand Jury indicted Stephenson on an array of charges arising out of this crime: aggravated robbery, kidnapping, aggravated murder, murder, attempted murder, all with firearm specifications, tampering with evidence, and having a weapon while under disability. Attorney Armengau entered his appearance on behalf of Stephenson on February 11, 2013, and Stephenson was arraigned on February 15, 2013. Stephenson has been incarcerated since his arrest.

{¶ 4} Prior to the murder, Stephenson had another brush with the law. On December 3, 2012, he was a passenger in a vehicle driven by Cassandra Pack. After a traffic stop, police found narcotics on Pack and arrested her and charged her with a misdemeanor count of drug abuse. The same search pursuant to a traffic stop yielded a syringe in Stephenson's possession, leading to misdemeanor charges of possession of paraphernalia. Attorney Armengau, already representing Stephenson in the murder case, entered an appearance on February 27, 2013 on behalf of Pack in her drug case. After further lab analyses, Pack was indicted on two felony counts of drug possession on April 23, 2013.

{¶ 5} In the interval between this initial criminal episode and the subsequent indictment for murder, Stephenson attempted to cooperate with investigating officers on other matters. Accounts differ on whether Stephenson formally became a confidential police informant, but he undoubtedly met with police several times to provide information, and on some of these occasions Pack was present.

{¶ 6} Ultimately, investigators learned that not only Stephenson but also Pack had a role in Manley's murder. According to the state's information, on the day of the murder, Pack drove Stephenson to Manley's trailer home, where he robbed Manley of drugs and money, then fatally shot him. Pack thereafter drove Stephenson to a hotel, got a room for him in her name and, after leaving Stephenson at the hotel, went to retrieve new clothing for him from their home. Thereafter, Pack drove Stephenson to help him dispose of evidence from the shooting. All of this information was obtained directly from Pack through police interviews in which she admitted her involvement with Stephenson and her participation in his activities on the day of the murder.

{¶ 7} The state moved to disqualify attorney Armengau from Stephenson's defense on May 15, 2013, based upon his dual representation of Stephenson and Pack and

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the strong likelihood of a conflict due to their adverse interests arising out of their alleged respective roles in the murder. The trial court granted the motion, and Stephenson brings the following assignment of error:

THE TRIAL COURT ABUSED ITS DISCRETION IN DETERMINING THAT A CONFLICT OF INTEREST EXISTED THAT WOULD PRECLUDE DEFENSE COUNSEL FROM REPRESENTING APPELLANT IN THE CASE BELOW.

{¶ 8} One aspect of the constitutional right to effective assistance of trial counsel is a presumptive right to employ counsel of the defendant's choosing. *Powell v. Alabama*, 287 U.S. 45, 53 (1932); *Chandler v. Fretag*, 348 U.S. 3, 9 (1954). This right to choice of counsel is rooted in part upon the inevitable reality that the criminal defendant is the one to suffer the consequences if the defense fails. *Faretta v. California*, 422 U.S. 806, 819-20 (1975). The defendant's right to oppose disqualification of his chosen counsel is therefore rooted in the constitutional guarantee of effective assistance of trial counsel:

The Sixth Amendment to the United States Constitution guarantees that a criminal defendant shall have the assistance of counsel for his defense. [*Wheat v. U.S.*, 486 U.S. 153, 158 (1988).] The "aim of the Amendment is to guarantee an effective advocate for each criminal defendant rather than to ensure that a defendant will inexorably be represented by the lawyer whom he prefers." *Id.* There is a presumptive right to employ one's own counsel. [*State v. Keenan*, 81 Ohio St.3d 133, 137 (1998).] That presumption may be overcome by a showing of an actual or serious potential for conflict. *Id.*, citing *Wheat*.

State v. Crosky, 10th Dist. No. 06AP-655, 2008-Ohio-145, ¶ 25.

{¶ 9} "A pretrial ruling removing a criminal defendant's retained counsel of choice is a final order subject to immediate appeal." *State v. Chambliss*, 128 Ohio St.3d 507, 2011-Ohio-1785, syllabus. "[T]he standard of review for determining whether the court erred in its pretrial disqualification of defense counsel is whether it abused its broad discretion." *State ex rel. Keenan v. Calabrese*, 69 Ohio St.3d 176, 180 (1994). "'The likelihood and dimensions of nascent conflicts of interest are notoriously hard to predict.'" *Crosky* at ¶ 24, quoting *Serra v. Michigan Dept. of Corr.*, 4 F.3d 1348, 1354 (6th Cir.1993), quoting *Wheat v. U.S.*, 486 U.S. 153, 162-63 (1988). In keeping with this

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deferential standard of review, we examine the trial court's determination with an eye towards the trial court's superior ability to ascertain the context in which the ruling was made. *Crosky* at ¶ 24.

{¶ 10} There is no dispute that some dual representation occurred here. In addition to continuously representing Stephenson commencing with the date of the murder indictment on February 8, 2013, attorney Armengau filed a notice of appearance in Pack's misdemeanor drug case on February 27, 2013. Only after the state filed its motion for disqualification on May 15, 2013 did attorney Armengau move to voluntarily withdraw from representation of Pack. We note ab initio that Stephenson cannot rely on a waiver executed by Pack purporting to waive her objections to any prejudice resulting from dual representation. Pack did not execute the waiver until a month after the trial court's ruling on the motion to disqualify. The trial court did not have the opportunity to consider it, and we decline to do so in the first instance.

{¶ 11} Because attorney Armengau withdrew from representation of Pack, the potential for conflict here arises not from ongoing and concurrent dual representation but from successive dual representation. "Thus, the situation was one of successive, not joint, representation. Successive representation occurs when counsel has previously represented a co-defendant or witness. *McFarland v. Yukins* (C.A.6, 2004), 356 F.3d 688, 701, citing *Moss v. U.S.* (C.A.6, 2003), 323 F.3d 445, 459. Successive representation may give rise to an actual conflict of interest. *Moss*, at 459; *U.S. v. Culp* (M.D.Fla., 1996), 934 F.Supp. 394, 397-398." *Crosky* at ¶ 27.

{¶ 12} Stephenson now asserts that mere multiple representation will not support an order preventing a criminal defendant from retaining counsel of his choice. Indeed, such representation does not *invariably* pose the risk of conflict of interest and thus compromise the prospect of a fair trial. *Holloway v. Arkansas*, 435 U.S. 475, 482-83 (1978). Thus, the presumption of the defendant's right to employ his chosen counsel may be overcome only by demonstration of actual conflict or potential for conflict. *Keenan*, 81 Ohio St.3d at 137. There must more than a mere theoretical division of loyalties. *State v. Hunter*, 1st Dist. No. C-090569, 2012-Ohio-2859, ¶ 53.

{¶ 13} Stephenson stresses that the risk of conflict is less clear-cut in successive representation cases: "Simultaneous and successive representation differs materially

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because in the latter, the attorney is no longer beholden to the former client." *State v. Jones*, 5th Dist. No. 2007-CA-00041, 2008-Ohio-1068, ¶ 77. As such, successive representation does not give rise to the same presumption of prejudice as simultaneous representation. *Id.*, citing *Gillard v. Mitchell*, 445 F.3d 883, 891 (6th Cir.2006). That is not to say, however, that such multiple representation does not present any risk of conflict:

A conflict of interest may arise in a successive representation situation where (1) counsel's earlier representation of the witness or co-defendant was substantially and particularly related to counsel's later representation of defendant; or (2) counsel actually learned particular confidential information during the prior representation of the witness or co-defendant that was relevant to defendant's case.

Crosky at ¶ 27, citing *Enoch v. Gramley*, 70 F.3d 1490, 1496 (7th Cir.1995).

{¶ 14} The authorities presented by Stephenson on appeal are, for the most part, distinguishable as they involved post-conviction proceedings in which a criminal defendant was denied a choice of counsel or affected by an alleged conflict of interest on the part of counsel. In the present, the trial court was presented with the rather different problem of anticipating potential conflict. As such, the trial court's ruling is inherently preemptive and cannot be tested by evidence of actual conflict. We must determine whether the trial court abused its discretion in ascertaining the probability of conflict. On the present facts, we find no such abuse of discretion on the part of the trial court.

{¶ 15} While Stephenson now argues that attorney Armengau, in his representation of Pack, learned nothing from her that would not eventually be learned by the police in the course of investigation, this addresses only the peripheral aspects of the alleged conflict. As the state points out, there is a substantial possibility, if not a probability, that given Pack's admitted conduct on the day of the murder she could be charged with murder on a complicity theory. Pack will likely be, at the least, a key witness for the prosecution in the case against Stephenson, where she will be subject to cross-examination by her own former counsel.

{¶ 16} "The fear in successive representation cases is that the lawyer will fail to cross-examine the former client rigorously for fear of revealing or misusing privileged information." *Moss v. U.S.*, 323 F.3d 445, 460 (6th Cir.2003). The attorney may "be

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tempted to use confidential information to impeach the former client; or * * * may fail to conduct a rigorous cross-examination for fear of misusing his confidential information." *U.S. v. Agosto*, 675 F.2d 965, 971 (8th Cir.1982). "When an attorney attempts to represent his client free of compromising loyalties, and at the same time preserve the confidences communicated by a present or former client during representation in the same or a substantially related matter, a conflict arises." *Id.*

{¶ 17} Stephenson's sole assignment of error is overruled, and the judgment of the Franklin County Court of Common Pleas is affirmed.

Judgment affirmed.

DORRIAN and O'GRADY, JJ., concur.

McCORMAC, J., retired, of the Tenth Appellate District, assigned to active duty under authority of Ohio Constitution, Article IV, Section 6(C).

Franklin County Ohio Court of Appeals Clerk of Courts- 2014 Feb 25 12:28 PM-13AP000609

THE STATE OF OHIO Franklin County, ss	I, MARYELLEN O'SHAUGHNESSY, Clerk OF THE COURT OF APPEALS WITHIN AND FOR SAID COUNTY,
HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS TRULY TAKEN AND COPIED FROM THE ORIGINAL.	
NOW ON FILE IN MY OFFICE. WITNESS MY HAND AND SEAL OF SAID COUNTY THIS <u>26</u> DAY OF <u>Feb</u> , A.D. 20 <u>14</u>	
MARYELLEN O'SHAUGHNESSY, Clerk	
By _____	Deputy

RECEIVED
JUL 19 2013

Disciplinary Counsel

THE SUPREME COURT OF OHIO

250 CIVIC CENTER DRIVE, SUITE 325
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KAREN H. OSMOND
CATHERINE M. RUSSO
DONALD M. SCHEETZ
AMY C. STONE

July 18, 2013

PERSONAL AND CONFIDENTIAL

Leslita M. Martin
2274 Collier Crest
Grove City, OH 43123

RE: Javier Horacio Armengau, Esq.
ODC File No. B3-1534

Dear Ms. Martin:

Your grievance regarding Attorney Armengau was received in our office on July 2, 2013.

For administrative reasons, your grievance has been transferred to the Columbus Bar Association (CBA). Accordingly, all further information and inquiry in this matter should be directed to CBA as follows:

Columbus Bar Association
175 South Third Street, 11th Floor
Columbus, Ohio 43215
(614) 221-4112

For the aforementioned reasons, our file on this matter is closed.

Sincerely,



Amy C. Stone
Assistant Disciplinary Counsel

ACS/lkj

cc: Javier Horacio Armengau, Esq.
Columbus Bar Association



The Grievance Process

A grievance sent to the Disciplinary Counsel of the Supreme Court of Ohio or to a local bar association's certified grievance committee will be reviewed to determine whether the grievance alleges a violation of the Code of Professional Responsibility, Ohio Rules of Professional Conduct, and/or Code of Judicial Conduct. If there is evidence that supports the allegation of a violation, the grievance will be investigated. Following the investigation, if substantial, credible evidence is found that a violation has occurred, a formal complaint may be filed with the Board of Commissioners on Grievances and Discipline. A three-member panel of the Board will review the complaint and determine whether probable cause exists to certify it. If the complaint is certified by the Board, a hearing may be held before a different three-member panel of the Board. The panel considers the evidence and makes a recommendation to the full Board of Commissioners. The full Board then makes a recommendation to the Supreme Court of Ohio. The Court has final say on whether to discipline an attorney or judge and what sanction should be administered. A grievance is confidential until the Board certifies it as a formal complaint. A grievance or complaint can be dismissed at any point in the process.

Grievance Form

YOUR NAME: Martin Leslita M 614-805-1428
Last First MI Phone No.

PERMANENT ADDRESS: 2274 Collier Crest
Street

Grove City Franklin Ohio 43123
City County State Zip Code

WHO ARE YOU COMPLAINING ABOUT?

(Please circle) ATTORNEY or JUDGE

NAME: Armengau Javier 614-443-0510
Last First MI Phone No.

ADDRESS: 857 S. High St
Street

Columbus Franklin Ohio 43206
City County State Zip Code

Have you filed this grievance with any other agency or bar association? Yes No

If yes, provide name of that agency and date of filing: _____

Did you receive a response?: Yes No IF YES, PLEASE ATTACH A COPY

Did this attorney represent you? Yes No ^{my husband} Type of case: Criminal - Judicial Release

Date the attorney was hired: _____ Does s/he still represent you?: Yes No

Did you pay the attorney a fee/retainer? Yes No If yes, how much?: \$1000.00

Did you sign a written fee agreement/contract? Yes No IF YES, PLEASE ATTACH A COPY

Has the attorney sued you for fees? Yes No

Have you brought civil or criminal court action against this attorney or judge? Yes No

If yes, provide name of court and case number _____

Result of court action: _____

Name and contact information for attorney currently representing you, if different than attorney about whom you are complaining: _____

Does this grievance involve a case that is still pending before a court? Yes No

If yes, provide name of court and case number: _____

What action or resolution are you seeking from this office? _____

WITNESSES:

List the name, address, and daytime telephone number of persons who can provide information, IF NECESSARY, in support of your grievance.

NAME	ADDRESS	PHONE NO.
Rashaed Martin	P.O. Box 120 Lebanon, Ohio 45036	
he don't have a phone number he is incarcerated		

FACTS OF THE GRIEVANCE

Briefly explain the facts of your grievance in chronological order, including dates and a description of the conduct committed by this legal professional. Attach COPIES (DO NOT SEND ORIGINALS) of any correspondence and documents that support your grievance.

On April of 2012 I spoke to Javier asking him questions about my husband Rashaed Martin's judicial. I stated that I would love for him to represent him only if he is eligible for judicial release, I told him

(Javier) that I don't think my husband Rashad Martin is able to file, he stated to give him \$1,000.00 and he will file his judicial for him at that time and if my husband Rashad Martin was denied due to it being too early to file he will give me all my money back or he can file again when it's time and we would be already paid for. I agreed, Javier filed the judicial release on 4-11-12, My husband Rashad Martin was denied 5-3-12 due to it being too early. I called Javier every other day trying to ask him about it but he never returned my calls, I called May 31, 13 but still his secretary said she will have him call me I have not heard from Javier since. I left a message with the secretary stating I just would like my \$1,000.00 back, still no call back. I do not want Javier to represent my husband, I just would like him to give me what we agreed to, I would not have filed judicial if it was too early but he said he will refund me my money if too early.

The Rules of the Supreme Court of Ohio require that investigations be confidential. Please keep confidential the fact that you are submitting this grievance. The party you are filing your grievance against will receive notice of your grievance and may receive a copy of your grievance and be asked to respond to your allegations.

Jessica Mas
Signature

6-28-13
Date

**BEFORE THE BOARD OF COMMISSIONERS
ON GRIEVANCES AND DISCIPLINE
OF THE SUPREME COURT OF OHIO**

In Re: :
Columbus Bar Association :
Relator, :
v. :
Javier Armengau :
Respondent. :

AFFIDAVIT OF LESLITA MARTIN

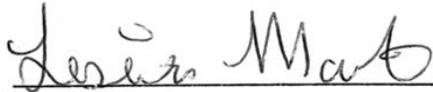
STATE OF OHIO:
: ss.
FRANKLIN COUNTY:

Now comes Leslita Martin and, being first duly sworn, deposes and states, under penalty of perjury:

1. In March 2006, my husband, Rashad Martin, was sentenced to ten years in prison.
2. In April 2012, I contacted the office of Javier Armengau (“Respondent”) to inquire about filing a Motion for Judicial Release on my husband’s behalf.
3. At that time, I indicated that my husband was not yet eligible for judicial release but that I wanted Respondent to file the motion when my husband became eligible.
4. The fee charged by Respondent was \$1,000, which I paid after being assured that if the Motion for Judicial Release was denied as premature, that Respondent would either re-file the motion for free or refund the fee.

5. Respondent failed to provide a written fee agreement.
6. On April 11, 2012, Respondent filed the Judicial Release on my husband's behalf.
7. On May 3, 2012, the Judicial Release was denied for having been filed out of rule
8. I repeatedly contacted Respondent's office to request a refund of \$1,000 but never received a call back.
6. Respondent has failed to refund any of the \$1,000 fee, provide a written statement of refund, re-file the Judicial Release or even provide an explanation of the matter.

FURTHER THE AFFIANT SAYETH NAUGHT.



Leslita Martin

Sworn to and subscribed before me by Leslita Martin this 13 day of
June, 2014.



Notary Public



BRUCE A. CAMPBELL
Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.

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AUG 07 2013

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Chicago, Illinois
(312) 515-5094

New York City
(646) 389-8152

West Palm Beach, Florida
(561) 531-0959

Los Angeles, California
(213) 394-6993

Monday, August 05, 2013

A. Alysha Clous, Esq.
Columbus Bar Association
175 South Third Street, Suite 1100
Columbus, Ohio 43215

Via Fax 614.221.4850 & Regular U.S. Mail

RE: Leslita Martin / 2013-07-009

Dear Ms. Clous:

I am in receipt of your letter dated July 23, 2013. I have reviewed the grievance filed by Ms. Martin. We did file for judicial Release for Mr. Rashad Martin and we did advise that if unsuccessful, we would re-file it for him without additional cost.

On 10/15/12 we were advised by Mr. Martin that we were not to release any information to Leslita Martin regarding anything that our office was handling. On 10/25/12 we received a second message from Mr. Martin again requesting that we not discuss anything with Leslita Martin. I am uncertain of what issues arose between the two but with Mr. Martin being the client, we simply complied with his request.

Please do not hesitate to contact me with any questions, comments or additional concerns.

Sincerely,



Javier H. Armengau
Attorney at Law
JHA/jha

RECEIVED
NOV 14 2012

October 29, 2012
Case No. 2010 CR 0142

Mot. Ex. D-1

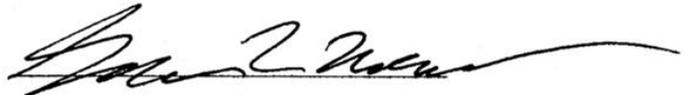
Dear Madam/Sir,

My name is George R. Maschke. I am currently an inmate at the Correctional Reception Center. I am writing to complain my appellate attorney Javier Armengau's negligence in properly filing my appeal. I hired Mr. Armengau to prosecute my appeal for \$15,000. It was completely understood the Mr. Armengau would keep both myself and my family informed on any events occurring in my case, as well as providing copies of all documents filed with the court. I was also supposed to receive a personal visit from him before any documents were filed. I have e-mail messages between Mr. Armengau and my family stating such.

During the time he has represented me, I have not received copies of any of the documents pertaining to my case. I have not seen the briefs filed, the assignment of errors, the prosecutor's brief, or any transcripts from my case, nor has my family. I have tried to reach Mr. Armengau many times through mail and by phone and have had no response. I was informed about the oral arguments presented in my case two months after they had occurred. I received notice that a man named Brian (I do not know his last name) was responsible for preparing my appeal and attending the oral arguments. When I finally was able to contact his office, I was told that Brian no longer worked there. The firm would not explain to me why he was no longer employed there. The appellate court's decision was filed on September 24, 2012. I was not informed about the court's decision. I discovered the court's decision on the Lexis Nexis system in the prison's Law Library. This was three weeks after the fact. The appellate court's decision stated that the transcribed court documents of my case were not presented with my appeal, so the court had no choice but to affirm the trial court's decision.

I am asking this office to assist me in receiving my files from Mr. Armengau's office, including the transcripts of my trial and suppression hearing. Due to not knowing of the appellate court's decision, I have a very short time to file the next step in my appeal process. I have had nothing but problems with Mr. Armengau and his office since he received his fee. I also seek assistance in obtaining a refund of Mr. Armengau's fee. His work has been entirely negligent, and he has not done anything he stated he would. The fee he has been paid has stretched myself and my family financially, and I need this to retain a competent attorney.

Thank you,



George R. Maschke

GEORGE MASCHKE
#613918
CRC P.O. Box 300
ORIENT, OH.
43146



COLUMBUS BAR ASSOC.
175 S. 3RD ST #1100
COLUMBUS, OH 43215
614-221-4112

4321505193 

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(740) 387-1613

Mot. Ex. D-2**Wednesday, December 26, 2012**

A. Alysha Clous, Esq.
Columbus Bar Association
175 South Third Street, Suite 1100
Columbus, Ohio 43215

Via Fax 614.221.4850 & Regular U.S. Mail

RE: *George Maschke, 2012-11-012*

Dear Ms. Clous:

First and foremost please forgive the delay in responding to your inquiry. My mother suffered a stroke on December 12, 2012 and was admitted to Plainview Hospital on Long Island. After a series of complications, she passed away on December 19, 2012. I was in New York and now back in Columbus. If you require any documentation please advise and I will provide you with a copy of the death certificate and any other documentation you request.

First, the issue in Mr. Maschke's case on appeal truly was limited to proof of alcohol impairment. At the time I first met with Mr. Maschke he presented himself as having been in essence "coerced" into providing his consent as he was on probation and due to the terms of probation, was required to submit upon request. He advised at the time of our interview that the cause of the accident was sun glare and after he struck Ms. Golden, he left the scene and elected to return. It appeared that the victim actually had backed into the roadway while she was attempting to take photographs off the side of the road. Initially, and without the benefit of any research at the time, we believed that her negligence may have negated Mr. Maschke's guilt, because frankly, it was plausible that she backed into the oncoming traffic and regardless of whether Mr. Maschke had been impaired, but for her backing into traffic, the accident would never have occurred. Mr. Maschke admitted to law enforcement that he had been drinking. The amount differed from his testimony at trial where he indicated he had consumed I believe nine (9) beers prior to the accident. He also testified regarding the sun glare that he claimed caused the accident by not allowing him to see Ms. Golden. However, until trial, it did not appear that Mr. Maschke had ever raised the issue of glare as the cause.

SCANNED

A motion to suppress was filed and the transcripts that Mr. Maschke refers to are from that hearing. After reviewing the Court decisions and after I spoke to his trial counsel, Bob Whitney, the key issues in that suppression hearing were basically the admissibility of his statements to law enforcement and whether the blood draw at the hospital conformed to procedural requirement and whether he consented to the blood draw and/or whether the drawing of the blood, without consent, was admissible. The Court had sustained the motion as to the admissibility of the statements made by Mr. Maschke; however, if he testified at trial, then any statements made would be admissible on cross examination. He did testify and as a result, the benefit of the suppression was academic.

Naturally, as we initially undertake a case we make an initial assessment of the possibilities of success on what information we have at the time. In this case it was the detailed overview provided by Mr. Maschke. As normally happens, logically, more details were evident after ordering and reviewing the transcripts and the Court record. Mr. Maschke had testified at trial that he consumed nine (9) beers prior to striking Ms. Golden. His testimony notwithstanding his blood test and the fact that Mr. Maschke failed the field sobriety tests at the scene were in our opinion sufficient to establish his impairment and violation of 4511.19 of the Revised Code. As you may be aware, a person can be convicted of OVI even after refusal of a breathalyzer. Mr. Maschke's blood was drawn at Galion Community hospital within a three (3) hour window. A key issue appeared to be, at the point of filing the brief, was whether exigent circumstances existed for his blood draw without his consent. We were stuck with a difficult argument because we had to concede that pursuant to ORC 4511.19 (A)(5)(b) officers could have drawn his blood without consent. Initially, as Mr. Maschke explained the circumstances, we were of the opinion that a warrant was required and that his consent had to be provided. Later research clarified, in our opinion that neither was an absolute requirement. Officers advised him that because he was on probation he had to consent, which he then did. It appeared at that point, that had Mr. Maschke declined at all cost to provide a sample, the blood draw could have been taken anyway. In our opinion this became academic as well due to the FST's and the observations of the officer. The issue with regard to whether proper protocol was followed in taking his blood was truly a non issue. The issue surrounded the use of gauze and water to wipe one arm after the antiseptic swab was discarded after being utilized initially on the other arm. There was no claim of contamination or effect on the test result based on that process.

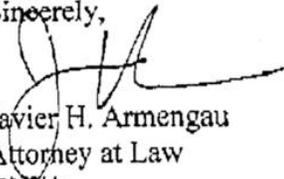
Unfortunately, as with any case such as this, until the research is done and all the facts evaluated the strength of the appeal cannot be determined. We did not serve as his trial counsel so our factual understanding of the potential issues came again from Mr. Maschke, reviewing the record and the trial transcripts. We looked at every aspect including contributory negligence to impairment. We were more optimistic initially but ultimately we had concerns. Bryan Pritikin, a former associate, handled most of the research and most of the preparation of the briefs. Mr. Pritikin handled all of our appellate matters, both state and federal.

As for Mr. Maschke's assertions that we did not communicate with his family and we did not forward the briefs and decision, both are incorrect. We not only communicated with his mother but, also made sure to include his father and step-mother

in our contacts. The briefs and decision was mailed to him at the institution. Mr. Maschke is sadly an individual with a severe substance issue. Truly, he is not a hardened criminal. As with any case I believe that any time there is a negative result the disappointment is enormous. I don't believe that at the end of the day anything would have changed the outcome. I am forwarding a copy of this letter along with another copy of the briefs. The transcripts were also provided, at Mr. Maschke's request, to the Public Defender's office.

Please do not hesitate to contact me with any questions, comments or concerns.

Sincerely,



Javier H. Armengau
Attorney at Law
JHA/da

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(561) 531-0959

Phoenix, Arizona
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New York City
(646) 389-8152

Los Angeles, California
(213) 394-6993

Sunday, September 08, 2013

A. Alysha Clous
Columbus Bar Association
175 South Third Street, Suite 1100
Columbus, Ohio 43215

Regular U.S. Mail & Fax

RE: Letter & Subpoena

Dear Ms. Clous:

Thank you for your response to my letter of August 20, 2013. Due to your representation that everything has been provided to me, I am satisfied that there is no other complaint or grievance of which I am unaware. Thank you.

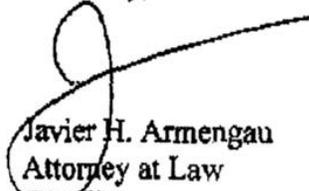
Also, I am writing to request an extension until September 15, 2013 to respond to your subpoena. We have pulled almost all the files you requested, although we are having to go through our archived files to locate the Jones file. With regard to your request for the IOLTA Ledgers and Reconciliation Records, any notes on fees, payments and balances due, if any would have only been reflected in billing statements and / or letters to clients. I have no ledgers or reconciliation records. Our practice has never been such where we had multiple clients at any given time where it was an hourly case and a retainer was advanced. The very large majority of or cases from 1998 on have been flat fee cases.

With regard the basis for my request for a one-week extension is that I start an Aggravated Murder trial in Judge Kim Brown's courtroom tomorrow and with my preparation and having a limited staff at the moment time has been a factor.

Please advise at your earliest convenience. Thank you.

Thank you.

Sincerely,



Javier H. Armengau
Attorney at Law
JHA/jha



Fee Arbitration Request Form

Mot. Ex. E-2

RECEIVED
APR 14 2013

1. Client Information

Leathia Pinkney
Name
15816 Lonsdale Rd
Address
Columbus, Oh 43232
City, State, Zip
216 835-9214
Telephone Numbers (work, cell)
leathiap@yahoo.com
E-mail Address

Attorney Information

Javier H. Armengau
Name
957 S. High St
Address
Columbus, Oh 43206
City, State, Zip
614-443-0516
Telephone Numbers
JY7law@aol.com
E-mail Address

2. What type of legal matter is/was this? (check one)

- Divorce/Custody Bankruptcy Personal Injury Probate Criminal Tax Landlord/Tenant
 Employment Other: _____

3. Whom did the attorney represent? (check one)

- You: If so, approximately when did the representation begin? May 1, 2012 End? March 4, 2013
 A relative or friend: If so, whom? Fred Cloud Contact Info: PO Box 1000 Lewisburg PA 17837
Will this person be available to come to a hearing? Yes No

4. Time period during which attorney represented client: May 1, 2012

5. Attempts made to resolve this fee dispute: Ask for refund March 4, 2013

3

6. Did you sign a written fee agreement/contract? Yes No (If so, please provide a copy, but not the original)

7. What was your understanding of how fees would be determined (flat fee, hourly, contingency, etc.)?

Flat fee 15,000 anything that come up that deal with with my son

8. What fees have been paid to the attorney? \$ 9,200

9. Amount in dispute between the parties: \$ 9,200

10. Please gather all documents which you believe we should see to evaluate your case, and bring them to the hearing. You will be advised of the date and time of the hearing at a later date.

March 14, 2013
Date

[Signature]
Signature of Party Requesting Fee Arbitration

[Signature]
Client Signature

MUST COMPLETE NEXT PAGE

FEE ARBITRATION AWARD

Parties to Arbitration: Javier Armengau, Esq.
Leathia Pinkney on behalf of Fred Cloud

Arbitrators: Carolyn T. Christy
William J. Pohlman, Esq.

Date of Hearing: November 25, 2013 at 9:00 a.m.

Pursuant to the rules and Regulations of the Fee Arbitration Committee of the Columbus Bar Association and an Agreement to Arbitrate Fees entered into by the above-mentioned parties, this matter came on for hearing.

Upon the evidence and testimony adduced, the following findings are made by the Arbitrator (or by a majority of the panel of Arbitrators):

1. The attorney represented the client in a matter involving
A second petition pursuant to 28 U.S.C. § 2255.

2. The total fee to which the attorney is reasonably entitled for these services is
\$ ϕ

3. The client has paid the attorney for these services, to date, the total sum of
\$ 9,200.00

4. A balance is due as follows (check only one box):
- None
 - The attorney is due a balance of \$ _____ from client.
 - The client is due a balance of \$ 9,200.00 from attorney.

5. Any award that may be made by the arbitrator(s) must be complied with within ten (10) days after the undersigned receives a copy of such award. Any such award will be enforced under the provision of Chapter 2711 of the Ohio Revised Code WITH LEGAL FEES AND COSTS AWARDED TO THE PREVAILING PARTY SHOULD THE ARBITRATION AWARD BE REDUCED TO JUDGMENT.

6. Comments, further findings and conclusions:
Attorney is advised to place a stop-payment order on check to client dated 5/3/2013.

William J. Pohlman
(Sole) Arbitrator
Carolyn T. Christy
(Second) Arbitrator



November 25, 2013

CERTIFIED MAIL
PERSONAL AND CONFIDENTIAL

✓ Javier H. Armengau, Esq.
857 S. High St.
Columbus, OH 43206

REGULAR FIRST-CLASS MAIL
PERSONAL AND CONFIDENTIAL

✓ Fred Cloud, #54495-060
United States Penitentiary
P.O. Box 1000
Lewisburg, PA 17837

CERTIFIED AND REGULAR FIRST-CLASS MAIL
PERSONAL AND CONFIDENTIAL

✓ ✓ Leathia Pinkney
933 Nathaniel Rd.
Cleveland, OH 44110

RE: Fee Arbitration Hearing on: November 25, 2013
Our File Number: 2013-04-205

Dear Mr. Armengau, Mr. Cloud and Ms. Pinkney:

Enclosed is a copy of the Arbitration Award issued in your case.

You are to be commended for agreeing to resolve your differences in this proceeding. We hope that, regardless of the outcome, you found the arbitration process to be conducted in a fair and impartial manner.

This concludes the involvement of the Columbus Bar Association with this fee dispute. Subsequent matters, if any, must be resolved by the parties.

175 SOUTH THIRD STREET
SUITE 1100
COLUMBUS, OHIO 43215-5193

(614) 221-4112
FAX (614) 221-4850
<http://www.cbam.org>

COLUMBUS BAR ASSOCIATION

Javier H. Armengau, Esq.
Fred Cloud
Leathia Pinkney
November 25, 2013
Page 2

Thank you for your cooperation.

Very truly yours,


Amber Ehret-Watson
Ethics, Admissions and Fee Arbitration Paralegal

Enclosure

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Award letter

Sent To <i>Javier Armengau</i>
Street, Apt. No., or PO Box No. <i>857 S. High St.</i>
City, State, ZIP+4 <i>Columbus OH 43206</i>

PS Form 3800, June 2002 See Reverse for Instructions

7004 1350 0002 5778 8175

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p><i>[Signature]</i></p> <p>B. Received by (Printed Name) C. Date of Delivery</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Article Addressed to:</p> <p><i>Javier Armengau, Esq.</i> <i>857 S. High St.</i> <i>Columbus OH 43206</i></p>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p style="text-align: center; border: 1px solid black; padding: 5px;">7004 1350 0002 5778 8175</p>
<p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>	

English

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Available Actions

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DATE & TIME	STATUS OF ITEM	LOCATION
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November 26, 2013 , 3:43 am	Processed through USPS Sort Facility	COLUMBUS, OH 43218
November 26, 2013	Depart USPS Sort Facility	COLUMBUS, OH 43218
November 25, 2013 , 10:17 pm	Processed through USPS Sort Facility	COLUMBUS, OH 43218

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Agreement to Arbitrate Fees

(This form must be completed and signed in order for arbitration to proceed)

The undersigned, Leatha Pinkney, Client, and the undersigned, Javier H. Armengau Armengau & Associates Attorney at Law, have a dispute with respect to the fees due the attorney, from the client for legal services regarding the following matter: Federal Appeal

The amount in dispute is \$ 9,200

The undersigned acknowledge receipt of the copy of the Rules and Regulations of the Fee Arbitration Committee of the Columbus Bar Association with respect to the arbitration of fee disputes and acknowledge receipt of the names of the persons who compose the Committee. They hereby agree that their dispute will be arbitrated in accordance with these rules and Regulations. This Agreement will become effective if and when the client and attorney each sign and deliver to the Columbus Bar Association this Agreement or a copy thereof. Thereafter, the dispute will be arbitrated by members of the Committee appointed by the Chairperson in accordance with the Rules and Regulations. Either party may be represented by counsel in the arbitration proceedings if they so choose.

Under the Rules, each party may object to up to three (3) members of the Fee Arbitration Committee. Those committee members will not be assigned to the fee arbitration. A party may not claim a broad objection to every member of the committee who is not an attorney.

Objections, if any, must be stated below or will be deemed to be waived:
(review attached list of Fee Arbitration Committee Members and list any objections below)

Client's list of Committee Members objected to:

- _____
- _____
- _____

Attorney's list of Committee Members objected to:

- Roger Whitaker
- PAUL Bloomfield
- _____

The undersigned agree that this fee arbitration will be held and the award made in Franklin County, Ohio, and that the undersigned will accept as binding and will comply with any award that may be made by the arbitrator(s) within ten (10) days after the undersigned receives a copy of such award. Any such award will be enforced under the provision of Chapter 2711 of the Ohio Revised Code WITH LEGAL FEES AND COSTS AWARDED TO THE PREVAILING PARTY SHOULD THE ARBITRATION AWARD BE REDUCED TO JUDGMENT.

3-14-13
Date
5/28/13
Date

[Signature]
Client's Signature
[Signature]
Attorney's Signature*

[Signature]
Client Signature

*The CBA will secure the attorney's signature

JAVIER H. ARMENGAU

A PROFESSIONAL LEGAL CORPORATION

857 South High Street
COLUMBUS, OHIO 43206
(614) 443-0516
(614) 443-0608 *facsimile*
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(419) 524-4683

Admitted to Practice

Federal Court - Northern District
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MARION OFFICE
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CONTACT NUMBERS

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(440) 787-4796

Chicago, Illinois
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West Palm Beach, Florida
(561) 531-0959

Phoenix, Arizona
(602) 206-9791

New York City
(646) 389-8152

Los Angeles, California
(213) 394-6993

Sunday, December 20, 2013

Leathia Pinkney
933 Nathaniel Road
Cleveland, Ohio 44110

RE: Fee Arbitration Decision

Dear Leathia:

As you are aware, we received the decision from the committee in regards to the arbitration. As much as we disagree with the position, we will certainly respect it and abide by it.

Enclosed, please find check number 2482 in the amount of \$2,500.00. As much as I would like to comply with the decision in one payment, I will need 30-90 days to refund the balance. Hopefully, I will have this accomplished sooner for you. You can deposit the check after Wednesday, December 25th, 2013.

Please do not hesitate to contact me with any questions, comments or concerns. You are welcome to call me at any time. Have a safe and enjoyable holiday and my best to you and your family.

Sincerely,



Javier H. Armengau
Attorney at Law

JHA/jha

**BEFORE THE BOARD OF COMMISSIONERS
ON GRIEVANCES AND DISCIPLINE
OF THE SUPREME COURT OF OHIO**

In Re: :
Columbus Bar Association :
Relator, :
v. :
Javier Armengau :
Respondent. :

AFFIDAVIT OF LEATHIA PINKNEY

STATE OF OHIO:
: ss.
CUYAHOGA COUNTY:

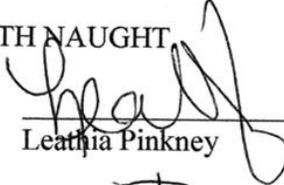
Now comes Leathia Pinkney and, being first duly sworn, deposes and states, under penalty of perjury:

1. In May 2012, I paid Javier Armengau, ("Respondent") \$9,200 to represent my son, Fred Cloud, in an appeal of his conviction in federal court.
2. I understood that for a flat fee of \$15,000, Respondent would handle the appeal and any matters related to my son's case.
3. Respondent never filed the appeal.
4. On March 4, 2013, I requested a refund from Respondent.
5. My son and I submitted a Fee Arbitration Request to the Columbus Bar Association regarding Respondent's failure to refund any of the original \$9,200 payment.
6. On November 25, 2013, an arbitration panel determined that I was due a refund of \$9,200.

7. Respondent sent a partial payment of \$2,500 in late December but instructed me not to cash it until after December 25, 2013.

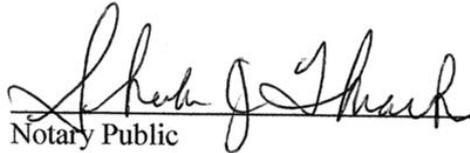
8. To date, Respondent still owes me \$1,700.

FURTHER THE AFFIANT SAYETH NAUGHT



Leathia Pinkney

Sworn to and subscribed before me by June this 11 day of 2014
June, 2014.



Notary Public

SHEILA J. THRASH
Notary Public, State of Ohio
My Commission Expires May 30, 2016

THE HUNTINGTON NATIONAL BANK
 PO BOX 1558 EA1W37
 COLUMBUS OH 43216-1558

www.huntington.com

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Ohio IOLTA Account

Account: R-2

Statement Activity From:
 08/01/12 to 08/31/12

Days in Statement Period 31

Average Ledger Balance* 9,393.07
 Average Collected Balance* 4,035.10

* The above balances correspond to the
 service charge cycle for this account.

Beginning Balance	\$206.25
Credits (+)	63,199.63
Regular Deposits	63,199.40
Other Credits	0.23
Debits (-)	62,273.24
Regular Checks Paid	58,250.00
Electronic Withdrawals	4,000.00
Service Charges	23.01
Other Debits	0.23
Ending Balance	\$1,132.64

Deposits (+)

Account:

Date	Amount	Serial #	Type	Date	Amount	Serial #	Type
08/03	43,499.40	109358239	Brch/ATM	08/20	900.00	102827457	Brch/ATM
08/13	17,800.00	102827443	Brch/ATM	08/23	1,000.00	102827458	Brch/ATM

Other Credits (+)

Account:

Date	Amount	Description
08/31	0.23	INTEREST PAYMENT TRANSFER TO 3RD PARTY

Checks (-)

Account:

Date	Amount	Check #	Date	Amount	Check #
08/01	100.00	1121	08/13	1,000.00	1130
08/03	13,000.00	1122	08/13	2,000.00	1131
08/06	5,000.00	1123	08/14	1,000.00	1132
08/21	2,500.00	1124	08/14	6,500.00	1133
08/07	7,000.00	1125	08/15	6,000.00	1134
08/13	1,700.00	1126	08/16	1,500.00	1135
08/09	2,000.00	1127	08/17	1,500.00	1136
08/10	6,000.00	1128	08/22	750.00	1137
08/10	700.00	1129			

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Other Debits (-)

Account: [REDACTED]

Date	Amount	Description
08/15	23.01	PRIOR MONTH'S SERVICE CHARGES
08/20	4,000.00	ASU Student AR ASU PAYMNT 120817 304567948
08/31	0.23	INTEREST PAYMENT TRANSFER TO 3RD PARTY

Balance Activity

Account: [REDACTED]

Date	Balance	Date	Balance	Date	Balance
07/31	206.25	08/10	9,905.65	08/20	3,382.64
08/01	106.25	08/13	23,005.65	08/21	882.64
08/03	30,605.65	08/14	15,505.65	08/22	132.64
08/06	25,605.65	08/15	9,482.64	08/23	1,132.64
08/07	18,605.65	08/16	7,982.64	08/31	1,132.64
08/09	16,605.65	08/17	6,482.64		

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Mot, Ex. F-2



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Ohio IOLTA Account

Account: [REDACTED]

Statement Activity From:
 06/01/13 to 06/30/13

Days in Statement Period 30

Average Ledger Balance* 4,938.34
 Average Collected Balance* 4,378.81

* The above balances correspond to the
 service charge cycle for this account.

Beginning Balance	\$4,378.29
Credits (+)	12,393.69
Regular Deposits	12,393.00
Other Credits	0.69
Debits (-)	12,222.64
Regular Checks Paid	12,200.00
Service Charges	21.95
Other Debits	0.69
Ending Balance	\$4,549.34

Deposits (+)

Account: [REDACTED]

Date	Amount	Serial #	Type	Date	Amount	Serial #	Type
06/05	6,000.00	122105643	Brch/ATM	06/18	5,393.00	122105653	Brch/ATM
06/11	1,000.00	122105667	Brch/ATM				

Other Credits (+)

Account: [REDACTED]

Date	Amount	Description
06/28	0.69	INTEREST PAYMENT TRANSFER TO 3RD PARTY

Checks (-)

Account: [REDACTED]

Date	Amount	Check #	Date	Amount	Check #
06/06	3,000.00	1187	06/03	2,000.00	1272*
06/20	1,500.00	1244*	06/11	2,000.00	1273
06/21	3,200.00	1245	06/12	500.00	1274

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Other Debits (-)

Account: [REDACTED]

Date	Amount	Description
06/17	21.95	PRIOR MONTH'S SERVICE CHARGES
06/28	0.69	INTEREST PAYMENT TRANSFER TO 3RD PARTY

Balance Activity

Account: [REDACTED]

Date	Balance	Date	Balance	Date	Balance
05/31	4,378.29	06/11	4,378.29	06/20	7,749.34
06/03	2,378.29	06/12	3,878.29	06/21	4,549.34
06/05	8,378.29	06/17	3,856.34	06/28	4,549.34
06/06	5,378.29	06/18	9,249.34		

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Ohio IOLTA Account

Account: [REDACTED]

Statement Activity From:
 07/01/13 to 07/31/13

Days in Statement Period 31

Average Ledger Balance* 1,952.56
 Average Collected Balance* 1,565.46

* The above balances correspond to the
 service charge cycle for this account.

Beginning Balance	\$4,549.34
Credits (+)	5,000.25
Regular Deposits	5,000.00
Other Credits	0.25
Debits (-)	7,200.25
Regular Checks Paid	7,200.00
Other Debits	0.25
Ending Balance	\$2,349.34

Deposits (+)

Account: [REDACTED]

Date	Amount	Serial #	Type	Date	Amount	Serial #	Type
07/19	2,500.00	122105681	Brch/ATM	07/22	1,500.00		Brch/ATM
07/19	1,000.00	122105680	Brch/ATM				

Other Credits (+)

Account: [REDACTED]

Date	Amount	Description
07/31	0.25	INTEREST PAYMENT TRANSFER TO 3RD PARTY

Checks (-)

Account: [REDACTED]

Date	Amount	Check #	Date	Amount	Check #
07/01	4,000.00	1246	07/24	500.00	1248
07/22	700.00	1247	07/29	2,000.00	1249

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Other Debits (-)

Account: [REDACTED]

Date	Amount	Description
07/31	0.25	INTEREST PAYMENT TRANSFER TO 3RD PARTY

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Balance Activity

Account: [REDACTED]

Date	Balance	Date	Balance	Date	Balance
06/30	4,549.34	07/22	4,849.34	07/31	2,349.34
07/01	549.34	07/24	4,349.34		
07/19	4,049.34	07/29	2,349.34		

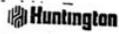
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CHECKING, MONEY MARKET & SAVINGS DEPOSIT TICKET



Checks and other items received are subject to collection.
 Check for items in preauthorized card number.

- Checking
- MIMD
- Savings

Javier Armengau
 PLEASE PRINT DEPOSITOR NAME

CHECKS
 DEPOSITED
 2500.00

TOTAL FROM OTHER A/C'S
 CASH TOTAL
 LESS CASH RECEIVED
 TOTAL DEPOSIT \$ 2500.00

ACCT. NO.

JAVIER H ARMENGAU, LPA, INC 110
 Cash \$0.00
 Checks \$2,500.00
 Grand Total \$2,500.00
 Less Cash Received \$0.00
 Total Deposit \$2,500.00

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

HUNTINGTON, COLUMBUS, OH
 7 EASTIN

DEPOSIT

DATE

07/19/2013 4:38PM
 BRANCH 00118
 \$2,500.00

JAVIER ARMENGAU 08-10
 4891 RAYS CIR.
 DUBLIN, OH 43018-6070

24

221

DATE 7-19-13

PAY TO THE ORDER OF *JAVIER ARMENGAU* \$ 2500. -

two thousand five hundred + 00/100

CHASE
 JPMorgan Chase Bank, N.A.
 www.Chase.com

MEMO

JH

REGULAR FEDERAL CONDITION OF DEPOSITMENT. SEE CD

HUNTINGTON, COLUMBUS, OH
 [REDACTED]

DO NOT WRITE IN THESE SPACES

ENDORSE HERE

JH

DEPOSIT TICKET

JAVIER H ARMENGAU, LPA, INC.
IOLTA ACCOUNT
857 S HIGH ST.
COLUMBUS, OH 43208-1930

CASH
25-2/448

1,500.-

DATE _____
DEPOSITS MAY NOT BE AVAILABLE FOR IMMEDIATE WITHDRAWAL

TOTAL FROM OTHER SIDE

SUB TOTAL

LESS CASH RECEIVED

\$ 1,500.-

FOR USE FOR CASH RECEIVED (IF REQUIRED)



CURRENT COUNT FOR FINANCIAL INSTITUTION USE ONLY	
AMOUNT	COUNT
100	
50	
20	
10	
5	
1	
TOTAL	1,500.00

JAVIER ARMENGAU 08-10
4891 RAYS CIR.
DUBLIN, OH 43018-6070

2024 211
440

DATE 7-20-13

PAY TO THE ORDER OF JAVIER ARMENGAU \$ 1,500.-
one thousand five hundred + 00/100 - DOLLARS

CHASE
JPMorgan Chase Bank, N.A.
Columbus, Ohio 43271
www.Chase.com

[Signature]

HUNTINGTON COLUMBUS, OH

CHASE

THE HUNTINGTON NATIONAL BANK
 PO BOX 1558 EA1W37
 COLUMBUS OH 43216-1558



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Ohio IOLTA Account

Account: [REDACTED]

Statement Activity From:
 08/01/13 to 08/31/13

Days in Statement Period 31
 Average Ledger Balance* 2,056.19
 Average Collected Balance* 1,572.32

* The above balances correspond to the
 service charge cycle for this account.

Beginning Balance	\$2,349.34
Credits (+)	17,895.59
Regular Deposits	15,000.00
Electronic Deposits	2,895.34
Other Credits	0.25
Debits (-)	12,200.74
Regular Checks Paid	12,200.00
Electronic Withdrawals	0.49
Other Debits	0.25
Ending Balance	\$8,044.19

Deposits (+)

Account: [REDACTED]

Date	Amount	Serial #	Type	Date	Amount	Serial #	Type
08/29	15,000.00		Brch/ATM				

Other Credits (+)

Account: [REDACTED]

Date	Amount	Description
08/15	2,894.85	Square Inc 130815B2 130815 M177100218
08/15	0.49	Square Inc 130815A2 130815 M176921669
08/30	0.25	INTEREST PAYMENT TRANSFER TO 3RD PARTY

Checks (-)

Account: [REDACTED]

Date	Amount	Check #	Date	Amount	Check #
08/12	1,100.00	1172	08/30	6,000.00	1251
08/15	1,500.00	1173	08/30	1,000.00	1252
08/19	600.00	1188*	08/29	1,000.00	585586*
08/01	1,000.00	1250*			

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Other Debits (-)

Account: ([REDACTED]

Date	Amount	Description
08/15	0.49	Square Inc 130815A2 130815 M176918293
08/30	0.25	INTEREST PAYMENT TRANSFER TO 3RD PARTY

Balance Activity

Account: ([REDACTED]

Date	Balance	Date	Balance	Date	Balance
07/31	2,349.34	08/15	1,644.19	08/30	8,044.19
08/01	1,349.34	08/19	1,044.19		
08/12	249.34	08/29	15,044.19		

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Ohio IOLTA Account

Account: [REDACTED]

Statement Activity From:
 09/01/13 to 09/30/13

Days in Statement Period 30
 Average Ledger Balance* 1,984.12
 Average Collected Balance* 806.32

* The above balances correspond to the
 service charge cycle for this account.

Beginning Balance	\$8,044.19
Credits (+)	22,134.15
Regular Deposits	22,134.00
Other Credits	0.15
Debits (-)	30,140.15
Regular Checks Paid	15,140.00
Return Deposited Items	15,000.00
Other Debits	0.15
Ending Balance	\$38.19

Deposits (+)

Account: [REDACTED]

Date	Amount	Serial #	Type	Date	Amount	Serial #	Type
09/23	15,000.00	101335860	Brch/ATM	09/26	1,800.00	127439897	Brch/ATM
09/24	5,334.00	126804039	Brch/ATM				

Other Credits (+)

Account: [REDACTED]

Date	Amount	Description
09/30	0.15	INTEREST PAYMENT TRANSFER TO 3RD PARTY

Checks (-)

Account: [REDACTED]

Date	Amount	Check #	Date	Amount	Check #
09/03	2,000.00	1253	09/24	3,500.00	1256
09/04	5,000.00	1254	09/26	3,500.00	1257
09/06	1,000.00	1255	09/30	140.00	1258

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Other Debits (-)

Account: [REDACTED]

Date	Amount	Description
09/25	15,000.00	RETURNED DEPOSIT ITEM
09/30	0.15	INTEREST PAYMENT TRANSFER TO 3RD PARTY

Balance Activity

Account: [REDACTED]

Date	Balance	Date	Balance	Date	Balance
08/31	8,044.19	09/06	44.19	09/25	1,878.19
09/03	6,044.19	09/23	15,044.19	09/26	178.19
09/04	1,044.19	09/24	16,878.19	09/30	38.19

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CASH
CHECKS
TOTAL FROM OTHER BANKS
TOTAL DEPOSIT

533400

Checking
 MMB
 Savings

J. Armengau
PLEASE PRINT DEPOSITOR NAME

JAVIER H ARMENGAU, LPA, INC THE
Cash \$0.00
Checks \$5,334.00
Grand Total \$5,334.00
Less Cash Received \$0.00
Total Deposit \$5,334.00

ACCT. NO.

\$5,334.00

00'334'00

90100 111111 20 - 0169481
HUNTINGTON COLUMBUS OH



CHECKS

NUMBER

DATE

CHECK IS VOID IF ANY OF THE FOLLOWING SECURITY FEATURES ARE ABSENT OR ORIGINAL DOCUMENT FRAUDULENT

JOAN M. KASOTIS
Marion County Auditor

United Bank
Div. FNB

55-372
111

MARION, OHIO

BUDGET WARRANT VOID IF NOT CASHED WITHIN 90 DAYS

TO TREASURER OR MARION COUNTY, OHIO

FIVE THOUSAND, THREE HUNDRED THIRTY-FOUR DOLLARS & NO CENTS *****

DATE 9/24/13

CHECK NO. 53246

AMOUNT

PAY EXACTLY \$*****5,334.00

PAY TO THE ORDER OF
JAVIER H ARMENGAU
857 S. HIGH STREET
COLUMBUS OHIO 43206

Joan M. Kasotis
AUTHORIZED SIGNATURE

THIS CHECK IS VOID IF ANY OF THE FOLLOWING SECURITY FEATURES ARE ABSENT OR ORIGINAL DOCUMENT FRAUDULENT

HUNTINGTON COLUMBUS OH



DO NOT SIGN, SIGNER'S SIGNATURE
MAY BE REQUIRED FOR CASHING THIS CHECK

ENDORSEMENT
For Special Duty
0892621227

THE HUNTINGTON NATIONAL BANK
 PO BOX 1558 EA1W37
 COLUMBUS OH 43216-1558



JAVIER H ARMENGAU, LPA, INC
 857 S HIGH ST
 COLUMBUS OH 43206-1930

Have a Question or Concern?

Stop by your nearest
 Huntington office or
 contact us at:

1-800-480-2001

www.huntington.com/
 businessresources

Ohio IOLTA Account

Account: [REDACTED]

Statement Activity From:
 11/01/13 to 11/30/13

Days in Statement Period 30

Average Ledger Balance* 4,721.08
 Average Collected Balance* 4,281.98

* The above balances correspond to the
 service charge cycle for this account.

Beginning Balance	\$3,824.25
Credits (+)	10,673.66
Regular Deposits	10,673.00
Other Credits	0.66
Debits (-)	12,810.16
Regular Checks Paid	12,786.50
Service Charges	23.00
Other Debits	0.66
Ending Balance	\$1,687.75

Deposits (+)

Account: [REDACTED]

Date	Amount	Serial #	Type	Date	Amount	Serial #	Type
11/06	8,173.00	128770328	Brch/ATM	11/15	1,250.00	128770912	Brch/ATM
11/07	1,250.00		Brch/ATM				

Other Credits (+)

Account: [REDACTED]

Date	Amount	Description
11/29	0.66	INTEREST PAYMENT TRANSFER TO 3RD PARTY

Checks (-)

Account: [REDACTED]

Date	Amount	Check #	Date	Amount	Check #
11/21	500.00	1174	11/14	500.00	1270
11/08	2,400.00	1266*	11/13	3,481.50	1275*
11/12	500.00	1267	11/19	1,800.00	1276
11/14	455.00	1268	11/12	150.00	202105*
11/12	2,000.00	1269	11/15	1,000.00	202129*

(*) Indicates the prior sequentially numbered check(s) may have 1) been voided by you 2) not yet been presented 3) appeared on a previous statement or 4) been included in a list of checks.

Investments are offered through the Huntington Investment Company, Registered Investment Advisor, member FINRA/SIPC, a wholly-owned subsidiary of Huntington Bancshares Inc.

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Other Debits (-)

Account: [REDACTED]

Date	Amount	Description
11/15	23.00	PRIOR MONTH'S SERVICE CHARGES
11/29	0.66	INTEREST PAYMENT TRANSFER TO 3RD PARTY

Balance Activity

Account: [REDACTED]

Date	Balance	Date	Balance	Date	Balance
10/31	3,824.25	11/12	8,197.25	11/19	2,187.75
11/06	11,997.25	11/13	4,715.75	11/21	1,687.75
11/07	13,247.25	11/14	3,760.75	11/29	1,687.75
11/08	10,847.25	11/15	3,987.75		

In the Event of Errors or Questions Concerning Electronic Fund Transfers (electronic deposits, withdrawals, transfers, payments, or purchases), please call either 1-614-480-2001 or call toll free 1-800-480-2001, or write to The Huntington National Bank Research - EA4W61, P.O. Box 1558, Columbus, Ohio 43216 as soon as you can, if you think your statement or receipt is wrong or if you need more information about an electronic fund transfer on the statement or receipt. We must hear from you no later than 60 days after we sent you the FIRST statement on which the error or problem appeared.

1. Tell us your name, your business's name (if appropriate) and the Huntington account number (if any).
2. Describe the error or the transaction you are unsure about, and explain as clearly as you can why you believe there is an error or why you need more information.
3. Tell us the dollar amount of the suspected error. We will investigate your complaint or question and will correct any error promptly.

Verification of Electronic Deposits If you authorized someone to make regular electronic fund transfers of money to your account at least once every sixty days, you can find out whether or not the deposit has been received by us, call either 1-614-480-2001 or call toll free 1-800-480-2001.

Balancing Your Statement - For your convenience, a balancing page is available on our web site <https://www.huntington.com/pdf/balancing.pdf> and also available on Huntington Business Online.

CHECKING, MONEY MARKET & SAVINGS DEPOSIT TICKET



CASH ▶ 8173 —

CHECKS (SEE BACK) CHECKING
 MMD
 SAVINGS

PLEASE PRINT DEPOSITOR NAME

JAVIER H ARMENGAU, LPA, INC 110
 Cash 10.00
 Checks 19,173.00
 Grand Total 19,173.00
 Less Cash Received 10.00
 Total Deposit 19,173.00

TOTAL DEPOSIT \$ 8173.00

ACCT. NO. [REDACTED] 19,173.00

HUNTINGTON COLUMBUS, OH
 7 EASTON AVE

11/06/2013 3:56PM
 Trgn: 00053
 19,173.00

Franklin County, Ohio
 Clarence Mingo II, County Auditor

County Warrant to the
 County Treasurer

Check Date 11/04/2013

US Bank
 Columbus, Ohio

Void After 90 Days

\$8,173.00

Pay Eight Thousand One Hundred Seventy Three Dollars and 00 cents *****

To the Order of
 JAVIER H ARMENGAU LPA
 JAVIER H ARMENGAU
 857 S HIGH ST.
 COLUMBUS OH 43206-1938

Clarence Mingo II
 Authorized Signature
 Clarence Mingo II, County Auditor

[REDACTED]

Handwritten signature

The Supreme Court of Ohio

Mot. Ex. G-1

CLIENTS' SECURITY FUND
65 SOUTH FRONT STREET, 5TH FLOOR, COLUMBUS, OHIO 43215-3431

CHIEF JUSTICE
MAUREEN O'CONNOR

JUSTICES
PAUL E. PFEIFER
TERRENCE O'DONNELL
JUDITH ANN LANZINGER
SHARON L. KENNEDY
JUDITH L. FRENCH
WILLIAM M. O'NEILL

ADMINISTRATOR
JANET GREEN MARBLEY

TELEPHONE 614.387.9390
1.800.231.1680
FACSIMILE 614.387.9399
www.supremecourt.ohio.gov

May 30, 2014

Columbus Bar Association
Attn. Alysha Clous
175 S. Third Street
Suite 1100
Columbus, Ohio 43215

Re: Javier H. Armengau

Dear Ms. Clous:

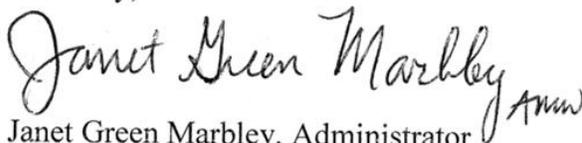
The following is a list of Clients' Security Fund Claims that are currently pending against Javier H. Armengau.

Claim 1 filed on June 10, 2013 – Alleged Loss Amount is \$20,000
Claim 2 filed on October 15 2013 – Alleged Loss Amount is \$16,000
Claim 3 filed on January 27, 2014 – Alleged Loss Amount is \$15,000
Claim 4 filed on March 3, 2014 – Alleged Loss Amount is \$9,200

The total alleged loss amount for the four claims is \$60,200.

Please contact me should you have any additional questions.

Sincerely,



Janet Green Marbley, Administrator
Clients' Security Fund of Ohio

Mot. Ex. H-1

Welcome to Armengau & Associates

OUR PAGE IS UNDER CONSTRUCTION....PLEASE VISIT FREQUENTLY AND PROVIDE YOUR COMMENTS TO JHA7LAW@AOL.COM

THANK YOU

The legal team at Armengau & Associates is at your service 24/7. We offer reliable advice and representation in legal matters concerning serious Criminal Defense matters and Wrongful Death. Learn more about the legal practice and our attorneys and staff

What Makes Us Different

Years of experience and our specialized knowledge guarantee tailor-made, targeted solutions. Our representation of citizens is second to none and our proven track record represents our firms commitment to our clients.

[About our Legal Practice](#)



Who We Are

Success born of experience: Our attorneys offer legal assistance with a high degree of specialized knowledge.

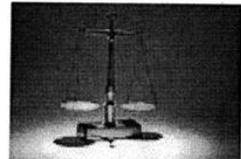
[The Legal Team](#)



What We Offer

Learn about the fields of law in which we specialize.

[Specialties](#)



Contact and Appointments

Armengau & Associates
857 South High Street
Columbus, OH 43206

Phone

614 443-0516
(Columbus)
740-387-1613
(Marion)
440-787-4796
(Cleveland/Lorain)
419-524-4683
(Mansfield)
561-531-0959

(West Palm Beach)

312-515-5094

(Chicago)

602-206-9791

(Phoenix)

646-389-8152

(New York City)

213-394-6993

(Los Angeles)

E-mail

Javier H. Armengau

JHA7LAW@aol.com

Jennifer L. Young

Investigator / Assistant

JY7LAW@aol.com

Or use our [contact form](#).

Business hours

Monday - Friday 9:00 a.m. to 5:00 p.m. and by Appointment. Weekends - by Appointment.

News

New Online Presentation

Now you can learn more about our services and fields of practice online.

[More news](#)

The Armengau & Associates Legal Team

We stand for expertise and years of experience in a wide variety of legal disciplines. Get to know us better.

Javier H. Armengau

Trial Attorney; Death Penalty Certified by the Supreme Court; Born in Buenos Aires Argentina, April 14, 1962; MacArthur H.S., Levittown, New York; Hofstra University, 1985, Capital University Law School, J.D. 1998; Established the Firm in November of 1998 in Marion & Columbus, Ohio; Successfully defended Clients at Jury Trial in cases involving Aggravated Murder with Death Penalty Specification, Murder, Attempted Murder, Felonious Assault, Rape, Kidnapping, Assault, Abduction, Attempted Arson, Arson, Drug Trafficking (Bulk Amount), Drug Possession, Tampering with Evidence, Assault on a Police officer, Extortion, Aggravated Burglary, Burglary, Aggravated Robbery with Gun Specification, Robbery, Carrying Concealed Weapon (Gun), Driving Under the Influence of Alcohol, Gross Sexual Imposition, Domestic Violence, Theft, among a multitude of others.



Legal Field:

- Criminal Defense (Death Penalty Certified as Trial Counsel)
- Federal and State Litigation
- Aggravated Felony
- White Collar Crime
- Wrongful Death
- Civil Litigation
- Admitted to Practice U.S. District Court - Northern District of Ohio
- Admitted to Practice U.S. District Court - Southern District of Ohio
- United States Court of Appeals for the Sixth Circuit

Professional development:

1985

Bachelor of Arts from Hofstra University, Long Island, N.Y.

1998

Juris Doctor, Capital University, Columbus, Ohio

1998

Founder, Principal, Armengau & Associates

Memberships:

- Ohio Association of Criminal Defense Lawyers
- National Association of Criminal Defense Lawyers

Contact and Appointments

Armengau & Associates
857 South High Street
Columbus, OH 43206

Phone

614 443-0516
(Columbus)
740-387-1613
(Marion)
440-787-4796
(Cleveland/Lorain)
419-524-4683
(Mansfield)
561-531-0959
(West Palm Beach)
312-515-5094
(Chicago)
602-206-9791
(Phoenix)
646-389-8152
(New York City)
213-394-6993
(Los Angeles)

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Or use our [contact form](#).

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News

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Areas of Practice

Here you will find an overview of our Practice Areas.

Our Specializations

Criminal Defense

Our experienced attorneys and staff understand that when one is faced with a serious criminal matter, the result of any case can be life-altering. Oftentimes, the results of any matter will have far-reaching consequences to loved ones within the Client's family. Our firm focuses on not just the Client, but the Client's family members who will ultimately be affected by any final resolution. Our track record in representing clients at trial is second to none.

[more](#)

Wrongful Death

Life oftentimes brings us the pain and difficulty of losing a loved one due to someone's negligent conduct. In such cases, it is critical to have counsel that is not only focused on maximum financial recovery for one's loss but also that is able to relate to the pain and suffering caused by the personal loss. Our attorneys and staff are aware of how difficult such tragic events can be and our handling of such important and personal matters is the foundation of our overall representation.

Other Legal Fields

We will gladly represent you in cases regarding:

- Family law
- Civil litigation
- Serious Personal Injury law

Do you have questions about our services?

Contact us at 614 443-0516 or via our [contact form](#).

Contact and Appointments

Armengau & Associates
857 South High Street
Columbus, OH 43206

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602-206-9791
(Phoenix)
646-389-8152
(New York City)
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(Los Angeles)

E-mail

Javier H. Armengau

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Jennifer L. Young

Investigator / Assistant

JY7LAW@aol.com

Or use our [contact form](#).

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Monday - Friday 9:00 a.m. to 5:00 p.m. and by Appointment. Weekends - by Appointment.

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Mot. Ex. H-2

ARMENGAU & ASSOCIATES
A PROFESSIONAL LEGAL CORPORATION

857 South High Street
COLUMBUS, OHIO 43206
(614) 443-0516
(614) 443-0608 *facsimile*
www.armengau-and-associates.com

MANSFIELD OFFICE
1 Marion Avenue - Suite 204
Mansfield, Ohio 44903
(419) 524-4683

CLEVELAND/LORAIN
(440) 787-4796

Chicago, Illinois
(312) 515-5094

West Palm Beach, Florida
(561) 531-0959

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Federal Court - Northern District
Federal Court - Southern District

MARION OFFICE
117 East Center Street
Marion, Ohio 43302
(740) 387-1613

Phoenix, Arizona
(602) 206-9791

New York City
(646) 389-8152

Los Angeles, California
(213) 394-6993

March 21, 2013

Alysha Clous
CBA
175 South Third Street
Suite 1100
Columbus, Ohio 43215

Via Fax 614.221.4850

Re: Harry Brown / 2013-02-010

Dear Ms. Clous:

I hope this letter finds you well and I hope this response is of assistance to you and Mr. Bloomfield in and with your agendas. I assume you have already spoken to Judge James Henson regarding this Brown issue. Otherwise, it would be difficult to imagine or comprehend receiving a letter such as yours with a case pending and not having proceeded to trial and not having gone through the appellate process.

Had you spoken to Judge Henson, you would understand the letter of March 7, 2013. Mr. Brown has called me and other lawyers and Judge Henson himself a "cocksucker", "cunt", "Bitches" and "motherfuckers". He has made statements like "you can all suck my big black cock". He has accused me, all his past lawyers, Judge Henson and even a bailiff of conspiring against him to get him convicted. No lawyer wants to represent Mr. Brown. He clearly can't represent himself. I don't know what you find "disturbing". Maybe you should look at it like Mr. Brown still, after acting like he does, still has someone that won't abandon him. But that is not your job, so I understand. Frankly, that would be inconsistent for you. As far as [REDACTED]'s letter, he told my investigator Jennifer Young that he was an attorney in January while she was meeting with [REDACTED]. He told me he was an attorney. Clearly this was done so that we would think we were being "supervised". After the last court hearing he and I spoke in the

R-4

hallway and out of nowhere makes this statement regarding the evidence "I am not an attorney but..." then refers to an evidentiary issue. I, at that time said to him "I thought you were an attorney", he conceded he wasn't. If you pull the transcript from the last Court hearing in front of Judge Henson, you will see, clearly from the record, that I was provided a witness list on that very day which is consistent with my letter to you. The late disclosure was due to Mr. Brown literally handing me that list that very day, while sitting in Court. The list was in my hand. There was discussion on the record about that list being provided that day. [REDACTED] claims that the "witness list" was filed, pro se by Mr. Brown. It was not provided to me at that time or at any time, until the last hearing date. That is consistent with Mr. Brown instructing his witnesses not to speak to me or my assistant. In fact, in that record you will find discussion about how Mr. Brown told his witnesses not to cooperate with us. My letter of March 7, 2013 was very much necessary. I tried the subtle, gentle approach from the beginning. Mr. Brown wants to just throw people on the stand because he believes they will be favorable. Other than [REDACTED] who wasn't there, he has no favorable witnesses. For your information, [REDACTED] will struggle with her testimony. I am not tossing people on a witness stand that are going to help bury Mr. Brown. I am also not going to put a witness on the stand to lie. The witnesses we have been able to speak with are horrible defense witnesses. Maybe it would be a good idea if you tell me how to defend Mr. Brown. To give you an idea of what Mr. Brown's witnesses will say - although no one saw anything because they weren't there or because Mr. Brown was in an upstairs bedroom with the child, witnesses do recall [REDACTED] yelling at Mr. Brown over "something" that happened with the alleged child victim. If you are instructing me to put these witnesses on the stand, just say so. As far as [REDACTED] and his involvement, he told me that Mr. Brown is racially targeted and there is a lot of "fishy stuff" going on. There is nothing "fishy" going on. In fact, he still can't tell us what is "fishy". In my last letter to you I addressed some of the factual issues. Mr. Brown was indicted, he was appointed counsel, and he basically fired every counsel or caused them to withdraw. [REDACTED] claims that after I received the witness list it took me twelve days to contact the witnesses. Even if that were true, explain to me the problem with that time frame? The reality is, before we sent letters to the witnesses, we made attempts to reach them and to have [REDACTED] provide us with phone numbers. She specifically told us that no one will remember anything because too much time passed. You have the witness list, interview the "witnesses" yourself. As for [REDACTED] and our desire to speak with him and since he is so critical of me and my representation, surely he must have something to offer in defense of Mr. Brown. We are still waiting for that information from him. [REDACTED] claims that he could not contact my assistant, Jennifer Young. [REDACTED] has all our numbers including cell numbers.

As for Mr. Brown's motions, possibly you may want to contact the Court and advise Judge Henson that he needs to consider all of Mr. Brown's motions. I filed what is necessary. If you want me to file more motions, then tell me and I will file them at your direction. If you want to draft them, let me know and I can file them as well. As for meeting Mr. Brown, so you are clear, he left messages at my office telling my office that I better not meet with him, I better not do anything on his case and he has repeatedly used vulgarity and profanity. I have met with Mr. Brown, more than once. He has been unable to offer anything in his defense other than "I didn't do it". I don't have to waste time listening to his "cocksucker", "motherfucker" comments about the Judge or other counsel. I advised him that unless he changed his attitude, I would not meet with him.

Apparently, you have determined I am doing a bad job for him. Please advise if you want me to withdraw. I can advise Judge Henson that you have determined that I am not representing Mr. Brown well and then you can speak to Judge Henson about who should be assigned to represent him. I am still on this case because I am committed to representing Mr. Brown. I could have abandoned him a long time ago.

Next you have an issue with the letterhead. The letterhead says Armengau & Associates because we have had Jettye Matlock, Denise Martin, Bryan Pritikin and Kelle Hinderer as associates. I am in the process of searching for another associate. I am uncertain what the issue is. If you require me to change it, tell me and then tell me when I can or should change it again. Simply, just tell me what you want it to say. As for proof of my admission to Federal Court, you can call both Clerk's. I was admitted to the Northern District in 1999 I believe and to the Southern District in either 2000 or 2001. If it helps, I am currently representing Oscar Lavenant in the Northern District before Judge Wells and a multitude of clients in the Southern District currently before Judge Frost, Judge Smith, Judge Watson and Judge Marbley. I appear in front of these Judges on a regular basis. I have appeared before Judge Carr, Judge Katz and Magistrate Armstrong in the Northern District as well as Judge Jack Zouhary. I am in the middle of trial in Marion County and typing this on my breaks so I do not have access to my certificates of admission. If the information provided here is insufficient, then I can provide the specific dates for you in a supplemental response. You are also welcome to get on PACER and Query my name in both jurisdictions.

As for the phone numbers, my letterhead contains the actual addresses for our actual offices. We included and obtained numbers for the other cities because I have and have had a multitude of clients, mostly federal, from each of those areas. If incarcerated or if limited to local calling, the contact numbers assist our clients and their families in reaching my office and myself specifically. I have not placed anything on my letterhead that indicates "Admitted to Practice" in any given State or area where I am not admitted. I believe the contact information is very helpful to our clients and by including it on our letterhead it becomes an easy reference. Also, we have and have used a multitude of computers or laptops from various offices and my residence and I concede that not all letterheads or their templates have been similarly updated.

Please let me know what more you want and I will provide it for you. If there is anything more specific in this [REDACTED] letter you want answered, please advise as well. Also, please let me know if I am to advise Judge Henson that you believe it is in Mr. Brown's best interest that I withdraw. I will continue to cooperate with your office, regardless of your motivation.

Sincerely,

/s/ JHA

Javier H. Armengau
Attorney at Law

JHA/jha

Case No. 13 CR 2217

Mot. Ex. I-1

State of Ohio,
Franklin County, ss:

**INDICTMENT FOR: Kidnapping
(2905.01 R.C.) (F-2) (3 Counts); Public
Indecency (2907.09 R.C.) (M-4) (1
Count); Gross Sexual Imposition
(2907.05 R.C.) (F-4) (3 Counts); Rape
with Specification (2907.02 R.C.) (F-1)
(6 Counts) and Sexual Battery (2907.03
R.C.) (F-3) (5 Counts); (Total: 18 Counts)**

In the Court of Common Pleas, Franklin County, Ohio, of the Grand Jury term beginning May thirteenth the year of our Lord, Two Thousand Thirteen.

Count 1

The Jurors of the Grand Jury of the State of Ohio, duly selected, impaneled, sworn, and charged to inquire of crimes and offenses committed within the body of Franklin County, in the State of Ohio, upon their oath do find and present that Javier Armengau late of said County, on or about the 4th day of April in the year of our Lord, 2013, within the County of Franklin aforesaid, in violation of section 2905.01 of the Ohio Revised Code, did, by force, threat, or deception, restrain another, to wit: [REDACTED] of her liberty, with the purpose to engage in sexual activity as defined in section 2907.01 of the Ohio Revised Code, with the said [REDACTED] against her will,

Count 2

The Jurors of the Grand Jury of the State of Ohio, duly selected, impaneled, sworn, and charged to inquire of crimes and offenses committed within the body of Franklin County, in the State of Ohio, upon their oath do find and present that Javier Armengau late of said County, on or about the 4th day of April in the year of our Lord, 2013, within the County of Franklin

R-5

aforesaid, in violation of section 2907.09 of the Ohio Revised Code, did recklessly do any of the following, under circumstances in which the said Javier Armengau's conduct is likely to be viewed by and affront others who are in the said Javier Armengau's physical proximity and who are not members of the said Javier Armengau's household: expose his private parts;

Count 3

The Jurors of the Grand Jury of the State of Ohio, duly selected, impaneled, sworn, and charged to inquire of crimes and offenses committed within the body of Franklin County, in the State of Ohio, upon their oath do find and present that Javier Armengau late of said County, on or about the 4th day of April in the year of our Lord, 2013, within the County of Franklin aforesaid, in violation of section 2907.05 of the Ohio Revised Code, did have sexual contact with [REDACTED] not his spouse, the said Javier Armengau having purposely compelled [REDACTED] to submit by force or threat of force,

Count 4

The Jurors of the Grand Jury of the State of Ohio, duly selected, impaneled, sworn, and charged to inquire of crimes and offenses committed within the body of Franklin County, in the State of Ohio, upon their oath do find and present that Javier Armengau late of said County, from on or about August 1, 2008 to August 31, 2008, within the County of Franklin aforesaid, in violation of section 2907.02 of the Ohio Revised Code, did engage in sexual conduct, to wit: fellatio, with [REDACTED] and the said Javier Armengau having purposely compelled [REDACTED] to submit by force or threat of force, SPECIFICATION ONE TO THE FOURTH COUNT, in accordance with section 2941.148 of the Ohio Revised Code, the Grand Jurors further find and specify that said Javier Armengau is a sexually violent predator,

Count 5

The Jurors of the Grand Jury of the State of Ohio, duly selected, impaneled, sworn, and charged to inquire of crimes and offenses committed within the body of Franklin County, in the State of Ohio, upon their oath do

find and present that Javier Armengau late of said County, from on or about August 1, 2008 to August 31, 2008, within the County of Franklin aforesaid, in violation of section 2905.01 of the Ohio Revised Code, did, by force, threat, or deception, restrain another, to wit: [REDACTED] of her liberty, with the purpose to engage in sexual activity as defined in section 2907.01 of the Ohio Revised Code, with the said [REDACTED] against her will,

Count 6

The Jurors of the Grand Jury of the State of Ohio, duly selected, impaneled, sworn, and charged to inquire of crimes and offenses committed within the body of Franklin County, in the State of Ohio, upon their oath do find and present that Javier Armengau late of said County, from on or about January 1, 1998 to December 31, 2010, within the County of Franklin aforesaid, in violation of section 2907.03 of the Ohio Revised Code, did engage in sexual conduct, to wit: fellatio, with another, to wit: [REDACTED] not his spouse, when the said Javier Armengau knowingly coerced the said [REDACTED] to submit by means that would prevent resistance by a person of ordinary resolution,

Count 7

The Jurors of the Grand Jury of the State of Ohio, duly selected, impaneled, sworn, and charged to inquire of crimes and offenses committed within the body of Franklin County, in the State of Ohio, upon their oath do find and present that Javier Armengau late of said County, from on or about January 1, 1998 to December 31, 2010, within the County of Franklin aforesaid, in violation of section 2907.05 of the Ohio Revised Code, did have sexual contact with [REDACTED] not his spouse, the said Javier Armengau having purposely compelled [REDACTED] to submit by force or threat of force,

Count 8

The Jurors of the Grand Jury of the State of Ohio, duly selected, impaneled, sworn, and charged to inquire of crimes and offenses committed within the body of Franklin County, in the State of Ohio, upon their oath do

find and present that Javier Armengau late of said County, from on or about August 8, 2008 to September 17, 2008, within the County of Franklin aforesaid, in violation of section 2907.05 of the Ohio Revised Code, did have sexual contact with [REDACTED] not his spouse, the said Javier Armengau having purposely compelled [REDACTED] to submit by force or threat of force,

Count 9

The Jurors of the Grand Jury of the State of Ohio, duly selected, impaneled, sworn, and charged to inquire of crimes and offenses committed within the body of Franklin County, in the State of Ohio, upon their oath do find and present that Javier Armengau late of said County, from on or about January 1, 2002 to December 31, 2008, within the County of Franklin aforesaid, in violation of section 2907.02 of the Ohio Revised Code, did engage in sexual conduct, to wit: vaginal intercourse, with [REDACTED] not his spouse, and the said Javier Armengau having purposely compelled [REDACTED] to submit by force or threat of force, SPECIFICATION ONE TO THE ELEVENTH COUNT, in accordance with section 2941.148 of the Ohio Revised Code, the Grand Jurors further find and specify that said Javier Armengau is a sexually violent predator,

Count 10

The Jurors of the Grand Jury of the State of Ohio, duly selected, impaneled, sworn, and charged to inquire of crimes and offenses committed within the body of Franklin County, in the State of Ohio, upon their oath do find and present that Javier Armengau late of said County, from on or about January 1, 2002 to December 31, 2008, within the County of Franklin aforesaid, in violation of section 2907.02 of the Ohio Revised Code, did engage in sexual conduct, to wit: fellatio, with [REDACTED] not his spouse, and the said Javier Armengau having purposely compelled [REDACTED] to submit by force or threat of force, SPECIFICATION ONE TO THE TWELFTH COUNT, in accordance with section 2941.148 of the Ohio Revised Code, the

Grand Jurors further find and specify that said Javier Armengau is a sexually violent predator,

Count 11

The Jurors of the Grand Jury of the State of Ohio, duly selected, impaneled, sworn, and charged to inquire of crimes and offenses committed within the body of Franklin County, in the State of Ohio, upon their oath do find and present that Javier Armengau late of said County, from on or about January 1, 2002 to December 31, 2008, within the County of Franklin aforesaid, in violation of section 2907.02 of the Ohio Revised Code, did engage in sexual conduct, to wit: fellatio, with [REDACTED] and the said Javier Armengau having purposely compelled [REDACTED] to submit by force or threat of force, SPECIFICATION ONE TO THE THIRTEENTH COUNT, in accordance with section 2941.148 of the Ohio Revised Code, the Grand Jurors further find and specify that said Javier Armengau is a sexually violent predator,

Count 12

The Jurors of the Grand Jury of the State of Ohio, duly selected, impaneled, sworn, and charged to inquire of crimes and offenses committed within the body of Franklin County, in the State of Ohio, upon their oath do find and present that Javier Armengau late of said County, from on or about January 1, 2002 to December 31, 2008, within the County of Franklin aforesaid, in violation of section 2907.02 of the Ohio Revised Code, did engage in sexual conduct, to wit: vaginal intercourse, with [REDACTED] not his spouse, and the said Javier Armengau having purposely compelled [REDACTED] to submit by force or threat of force, SPECIFICATION ONE TO THE FOURTEENTH COUNT, in accordance with section 2941.148 of the Ohio Revised Code, the Grand Jurors further find and specify that said Javier Armengau is a sexually violent predator,

Count 13

The Jurors of the Grand Jury of the State of Ohio, duly selected, impaneled, sworn, and charged to inquire of crimes and offenses committed

within the body of Franklin County, in the State of Ohio, upon their oath do find and present that Javier Armengau late of said County, from on or about January 1, 2002 to December 31, 2008, within the County of Franklin aforesaid, in violation of section 2907.02 of the Ohio Revised Code, did engage in sexual conduct, to wit: vaginal intercourse, with [REDACTED] not his spouse, and the said Javier Armengau having purposely compelled [REDACTED] to submit by force or threat of force, SPECIFICATION ONE TO THE FIFTEENTH COUNT, in accordance with section 2941.148 of the Ohio Revised Code, the Grand Jurors further find and specify that said Javier Armengau is a sexually violent predator,

Count 14

The Jurors of the Grand Jury of the State of Ohio, duly selected, impaneled, sworn, and charged to inquire of crimes and offenses committed within the body of Franklin County, in the State of Ohio, upon their oath do find and present that Javier Armengau late of said County, from on or about January 1, 2002 to December 31, 2008, within the County of Franklin aforesaid, in violation of section 2905.01 of the Ohio Revised Code, did, by force, threat, or deception, restrain another, to wit: [REDACTED] of her liberty, with the purpose to engage in sexual activity as defined in section 2907.01 of the Ohio Revised Code, with the said [REDACTED] against her will,

Count 15

The Jurors of the Grand Jury of the State of Ohio, duly selected, impaneled, sworn, and charged to inquire of crimes and offenses committed within the body of Franklin County, in the State of Ohio, upon their oath do find and present that Javier Armengau late of said County, from on or about January 1, 2002 to December 31, 2008, within the County of Franklin aforesaid, in violation of section 2907.03 of the Ohio Revised Code, did engage in sexual conduct, to wit: vaginal intercourse, with another, to wit: [REDACTED] not his spouse, when the said Javier Armengau knowingly coerced the

said [REDACTED] to submit by means that would prevent resistance by a person of ordinary resolution,

Count 16

The Jurors of the Grand Jury of the State of Ohio, duly selected, impaneled, sworn, and charged to inquire of crimes and offenses committed within the body of Franklin County, in the State of Ohio, upon their oath do find and present that Javier Armengau late of said County, from on or about January 1, 2002 to December 31, 2008, within the County of Franklin aforesaid, in violation of section 2907.03 of the Ohio Revised Code, did engage in sexual conduct, to wit: fellatio, with another, to wit: [REDACTED] not his spouse, when the said Javier Armengau knowingly coerced the said [REDACTED] to submit by means that would prevent resistance by a person of ordinary resolution,

Count 17

The Jurors of the Grand Jury of the State of Ohio, duly selected, impaneled, sworn, and charged to inquire of crimes and offenses committed within the body of Franklin County, in the State of Ohio, upon their oath do find and present that Javier Armengau late of said County, from on or about January 1, 2002 to December 31, 2008, within the County of Franklin aforesaid, in violation of section 2907.03 of the Ohio Revised Code, did engage in sexual conduct, to wit: fellatio, with another, to wit: [REDACTED] not his spouse, when the said Javier Armengau knowingly coerced the said [REDACTED] to submit by means that would prevent resistance by a person of ordinary resolution,

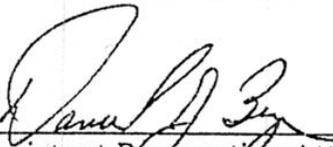
Count 18

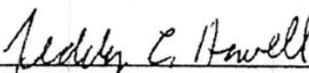
The Jurors of the Grand Jury of the State of Ohio, duly selected, impaneled, sworn, and charged to inquire of crimes and offenses committed within the body of Franklin County, in the State of Ohio, upon their oath do find and present that Javier Armengau late of said County, from on or about January 1, 2002 to December 31, 2008, within the County of Franklin aforesaid, in violation of section 2907.03 of the Ohio Revised Code, did engage

in sexual conduct, to wit: vaginal intercourse, with another, to wit: [REDACTED]
[REDACTED], not his spouse, when the said Javier Armengau knowingly coerced the
said [REDACTED] to submit by means that would prevent resistance by a
person of ordinary resolution, contrary to the statute in such cases made and
provided and against the peace and dignity of the State of Ohio.

RON O'BRIEN
Prosecuting Attorney
Franklin County, Ohio

A TRUE BILL


Assistant Prosecuting Attorney


Foreperson, Grand Jury

The following is information for the Clerk of Courts Only.

State of Ohio v. Javier Armengau
Address: 4891 Rays Circle, Dublin, Ohio 43016

DOB: [REDACTED]

Sex/Race: Male/[REDACTED] R-6

Date of Arrest: 4-10-2013

SSN: [REDACTED]

Police Agency: Columbus Police Department

Municipal Reference: 8213-13

ITN #: 169056 DA

- Count 1: Kidnapping
2905.01 F-2
- Count 2: Public Indecency
2907.09 M-4
- Count 3: Gross Sexual Imposition
2907.05 F-4
- Count 4: Rape
2907.02 F-1 with Specification 20
- Count 5: Kidnapping
2905.01 F-2
- Count 6: Sexual Battery
2907.03 F-3
- Count 7: Gross Sexual Imposition
2907.05 F-4
- Count 8: Gross Sexual Imposition
2907.05 F-4
- Count 9: Rape
2907.02 F-1 with Specification 20
- Count 10: Rape
2907.02 F-1 with Specification 20
- Count 11: Rape
2907.02 F-1 with Specification 20
- Count 12: Rape
2907.02 F-1 with Specification 20
- Count 13: Rape
2907.02 F-1 with Specification 20
- Count 14: Kidnapping
2905.01 F-2
- Count 15: Sexual Battery
2907.03 F-3
- Count 16: Sexual Battery
2907.03 F-3
- Count 17: Sexual Battery
2907.03 F-3

Count 18: Sexual Battery
2907.03 F-3

Case No. 13 CR 2217

COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CRIMINAL DIVISION

STATE OF OHIO, :
 :
 Plaintiff, : CASE NO. 13 CR 2217
 :
 -vs- : JUDGE FAIS
 :
 JAVIER ARMENGAU, :
 :
 Defendant. :

**DECISION AND ENTRY GRANTING DEFENDANT'S
MOTION TO DISMISS SEXUALLY VIOLENT PREDATOR SPECIFICATIONS,
FILED MARCH 17, 2014**

This matter is before the Court upon the Motion to Dismiss Sexually Violent Predator Specifications, filed by Defendant, Javier Armengau (hereinafter "Defendant"), on March 17, 2014. On April 14, 2014, Plaintiff, State of Ohio (hereinafter "the State"), filed its Memorandum Contra Defendant's Motion to Dismiss Sexually Violent Predator Specifications, and on May 4, 2014, Defendant filed his Reply Memorandum.

I. BACKGROUND

On May 20, 2013, Defendant was indicted for three counts of Kidnapping in violation of R.C. 2905.01, felonies of the second degree; one count of Public Indecency in violation of R.C. 2907.09, a misdemeanor of the fourth degree; three counts of Gross Sexual Imposition in violation of R.C. 2907.05, felonies of the fourth degree; six counts of Rape with Specification in violation of R.C. 2907.02, felonies of the first degree; and five counts of Sexual Battery in violation of R.C. 2907.03, felonies of the third degree.

On March 17, 2014, Defendant filed the Motion to Dismiss Sexually Violent Predator Specifications, which is now before the Court.

II. LAW & ANALYSIS

Defendant requests that the Court dismiss the specifications to Counts 4, 9, 10, 11, 12, and 13 of the indictment which allege that Defendant is a “sexually violent predator.” Defendant contends that because he has never been convicted of a crime, let alone a sexually oriented offense, accusing him of being a “sexually violent predator” is both inaccurate and premature. Defendant argues that the indictment alone cannot substantiate any claim that Defendant qualifies for this specification.

In *State v. Smith*, 104 Ohio St.3d 106, 2004-Ohio-6238, 818 N.E.2d 283, the Ohio Supreme Court held that “R.C. 2971.01(H)(1) requires that only a conviction that existed prior to the indictment of the underlying offense can be used to support the specification.” *Id.* at ¶ 1. However, after the *Smith* decision, the Ohio State Legislature amended R.C. 2971.01(H)(1) “to clarify that the Sexually Violent Predator Sentencing Law does not require that an offender have a prior conviction of a sexually violent offense in order to be sentenced under the Law.” 125 HB 473, page 1. Ohio Revised Code 2971.01(H) now reads as follows:

(H) (1) "Sexually violent predator" means a person who, on or after January 1, 1997, commits a sexually violent offense and is likely to engage in the future in one or more sexually violent offenses.

(2) For purposes of division (H)(1) of this section, any of the following factors may be considered as evidence tending to indicate that there is a likelihood that the person will engage in the future in one or more sexually violent offenses:

(a) The person has been convicted two or more times, in separate criminal actions, of a sexually oriented offense or a child-victim oriented offense. For purposes of this division, convictions that result from or are connected with the same act or result from offenses committed at the same time are one conviction, and a conviction set aside pursuant to law is not a conviction.

(b) The person has a documented history from childhood,

into the juvenile developmental years, that exhibits sexually deviant behavior.

(c) Available information or evidence suggests that the person chronically commits offenses with a sexual motivation.

(d) The person has committed one or more offenses in which the person has tortured or engaged in ritualistic acts with one or more victims.

(e) The person has committed one or more offenses in which one or more victims were physically harmed to the degree that the particular victim's life was in jeopardy.

(f) Any other relevant evidence.

R.C. 2971.01(H) [Emphasis added].

Therefore, the Court finds that while the new Sexually Violent Predator Sentencing Law does not require an offender to have a prior conviction of a sexually violent offense, it does require the Grand Jury to find that a defendant is likely to engage in the future in one or more sexually violent offenses. To determine whether a defendant is likely to engage in the future in one or more sexually violent offenses, the State must show that the past conduct of a defendant satisfies one or more of the factors listed in R.C. 2971.01(H)(2)(a)-(f). However, in the case at hand, the Court finds that the State has failed to show what evidence it presented to the Grand Jury that satisfied any of the above listed factors in R.C. 2971.01(H)(2)(a)-(f), and has failed to show any other evidence that it presented to the Grand Jury that indicates that there is a likelihood that Defendant will engage in the future in one or more sexually violent offenses.

As such, the Court finds that there is no evidence that warrants the sexually violent predator specification in the charges against Defendant, and accordingly hereby **GRANTS** Defendant's Motion to Dismiss Sexually Violent Predator Specifications.

IT IS SO ORDERED.

Copies to:

Melissa A Schiffel, Esq.
Special Assistant Prosecuting Attorney
Assistant Attorney General
150 E. Gay Street, 16th Floor
Columbus, Ohio 43215
Counsel for State of Ohio

Frederick D. Benton, Jr., Esq.
Frederick D. Benton, Jr. LPA
98 Hamilton Park
Columbus, Ohio 43203
Counsel for Defendant, Javier Armengau

Franklin County Court of Common Pleas

Date: 05-30-2014
Case Title: STATE OF OHIO -VS- JAVIER H ARMENGAU
Case Number: 13CR002217
Type: DISMISSAL ORDER - SPECIFICATION

It Is So Ordered.

A handwritten signature in black ink, appearing to read "D. W. Fais", is written over a circular embossed seal. The signature is fluid and cursive.

/s/ Judge David W. Fais

RECEIVED
MAR 07 2014

Disciplinary Counsel
THE SUPREME COURT OF OHIO

250 CIVIC CENTER DRIVE, SUITE 325
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KAREN H. OSMOND
CATHERINE M. RUSSO
DONALD M. SCHEETZ
AMY C. STONE
AUDREY E. VARWIG

March 5, 2014

PERSONAL AND CONFIDENTIAL

Melissa Schiffel, Assistant Attorney General
Ohio Attorney General's Office
150 East Gay Street, 16th Floor
Columbus, OH 43215

RE: Javier Horacio Armengau, Esq.
ODC File No. B4-0398

Dear Ms. Schiffel:

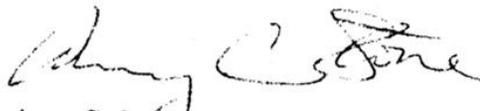
Your grievance regarding Attorney Armengau was received in our office on February 25, 2014.

For administrative reasons, your grievance has been transferred to the Columbus Bar Association (CBA). Accordingly, all further information and inquiry in this matter should be directed to CBA as follows:

Columbus Bar Association
175 South Third Street, 11th Floor
Columbus, Ohio 43215
(614) 221-4112

For the aforementioned reasons, our file on this matter is closed.

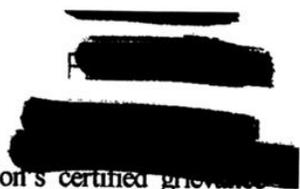
Sincerely,


Amy C. Stone
Assistant Disciplinary Counsel *gd*

ACS/lkj

cc: Javier Horacio Armengau, Esq.
Columbus Bar Association

The Grievance Process



A grievance sent to the Disciplinary Counsel of the Supreme Court of Ohio or to a local bar association's certified grievance committee will be reviewed to determine whether the grievance alleges a violation of the Ohio Rules of Professional Conduct and/or Code of Judicial Conduct. If there is evidence that supports the allegation of a violation, the grievance will be investigated. Following the investigation, if substantial, credible evidence is found that a violation has occurred, a formal complaint may be filed with the Board of Commissioners on Grievances and Discipline. A three-member panel of the Board will review the complaint and determine whether probable cause exists to certify it. If the complaint is certified by the Board, a hearing may be held before a different three-member panel of the Board. The panel considers the evidence and makes a recommendation to the full Board of Commissioners. The full Board then makes a recommendation to the Supreme Court of Ohio. The Court has final say on whether to discipline an attorney or judge and what sanction should be administered. A grievance is confidential until the Board certifies it as a formal complaint. A grievance or complaint can be dismissed at any point in the process.

Grievance Form

YOUR NAME: Schiffel Melissa A. 614.728.2096 (work)
Last First MI Phone No.
PERMANENT
ADDRESS: 150 East Gay Street, 16th Floor; Columbus, Ohio 43215 **I'm not comfortable listing my home address due to the circumstances
Street

City County State Zip Code

ABOUT WHOM ARE YOU COMPLAINING ?

(Please circle) ATTORNEY or JUDGE

NAME: Armengau H. Javier; 614.443.0516
Last First MI Phone No.
ADDRESS: 857 South High Street; Columbus, Ohio 43206; Franklin County
Street

City County State Zip Code

Have you filed this grievance with any other agency or bar association? ___ Yes x No
If yes, provide name of that agency and date of filing: _____ date: _____
Did you receive a response?: ___ Yes ___ No IF YES, PLEASE ATTACH A COPY
Did this attorney represent you? ___ Yes x No Type of case: _____

Date the attorney was hired: _____ Does s/he still represent you?: Yes No
Did you pay the attorney a fee/retainer? Yes No If yes, how much?: _____

Did you sign a written fee agreement/contract? Yes No IF YES, PLEASE ATTACH A COPY

Has the attorney sued you for fees? Yes No

Have you brought civil or criminal court action against this attorney or judge? Yes No

If yes, provide name of court and case number 2013CR2217; I am a special prosecutor appointed to handle the State's case against Armengau. On May 20, 2013 he was indicted with multiple counts of Rape, Sexual Battery, Public Indecency, and Kidnapping. The basic underlying allegations are that he sexually assaulted five different women all of whom had a different relationship with him albeit mothers of clients of Javier, employees, and/or clients themselves.

Result of court action: That separate criminal case is still pending with a jury trial set for June 9th of 2014 in the Franklin County Court of Common Pleas.

Name and contact information for attorney currently representing you, if different than attorney about whom you are complaining:

Does this grievance involve a case that is still pending before a court? Yes No

If yes, provide name of court and case number: 13CR2217

What action or resolution are you seeking from this office? I am not seeking a particular action; I am fulfilling my ethical obligation to report attorney misconduct.

WITNESSES:

List the name, address, and daytime telephone number of persons who can provide information, IF NECESSARY, in support of your grievance.

<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE NO.</u>
Greg Burri, special agent for BCI	150 East Gay Street, 16 th floor; Columbus, ohio 43215	614.644.7317
Makayla Horn c/o 4104 Germantown Pike, Dayton, Ohio 45417 (inmate)		
Lisa Horn-Corp 8210 Hawks Landing Dr. Jacksonville, FL 32217		740.751.5084

FACTS OF THE GRIEVANCE

Briefly explain the facts of your grievance in chronological order, including dates and a description of the conduct committed by this legal professional. Attach COPIES (DO NOT SEND ORIGINALS) of any correspondence and documents that support your grievance.

As noted above, I am the special prosecutor in the case of State of Ohio v. Javier Armengau in the Franklin County Court of Common Pleas. That case involves allegations that Javier sexually assaulted five different women (two of whom were former clients; one of whom worked for Javier; and two of whom were related to clients of Javier's. Javier was indicted on May 20, 2013 for these allegations. On January 29, 2014, the Columbus Police Department received a tip about the criminal case against Attorney Javier. The Columbus Police forwarded the tip concerning Javier to me since I was the special prosecutor handling the case. The Columbus police informed me that according to the tip, Makayla Horn would trade sex with Javier for legal services. When I heard that information from the Columbus Police, I asked the State's Bureau of Criminal Investigation ("BCI") to follow up on the tip. BCI assigned Special Agent Burri to investigate. Burri interviewed Horn on February 12, 2014. Burri recorded his interview of Horn and prepared a summary of the interview.

I have reviewed the audio recording of the Horn interview and Burri's summary of the interview. Based upon my review, I have learned that Javier has represented Horn in various criminal cases and has been her lawyer since she was 16. He represented her at that time in a matter in juvenile court. While he was representing her in various matters, Horn and Javier began a sexual relationship. Although it is possible the sexual relationship between Horn and Javier began when she was 16 years old, I believe it most likely began when she was 17. Javier has continued to represent Horn in various criminal matters for the past 12 years. They have also continued to have an on again off again sexual relationship over that 12 year timeframe, including times that he was representing her as her lawyer.

The sexual relationship would resume when Horn would speak with Javier about her various criminal matters. He also represented her during divorce proceedings. According to Horn, she never paid Javier for any legal services. Horn is currently incarcerated at the Dayton Correctional Institution, and Javier is representing her. According to Horn, he is to visit her in the next few weeks in order to prepare a judicial release motion. According to Horn, he plans on filing that motion on March 3. I am not serving as a prosecutor in the Horn matter.

During our investigation of the Javier criminal case that I am serving as a special prosecutor, we have received several tips about sexual relationships between Javier and other women. However, the Horn matter is the only time we can confirm that Javier was engaged in a sexual relationship with one of his current clients.

The Rules of the Supreme Court of Ohio require that investigations be confidential. Please keep confidential the fact that you are submitting this grievance. The party against whom you are filing your grievance will receive notice of your grievance and may receive a copy of your grievance and be asked to respond to your allegations.

Melissa Schuffel

Signature

2/21/14

Date

**Ohio Attorney General's Office
Bureau of Criminal Investigation**

INVESTIGATIVE REPORT

DATE: 2/12/2014

TITLE: INTERVIEW WITH MAKAYLA HORN

SUMMARY:

On February 12, 2014 at about 1013 hours, Ohio Bureau of Criminal Investigation Special Agent (SA) Greg Burri interviewed inmate Makayla Horn at Dayton Correctional Institution in reference to her relationship with Javier Armengau.

DETAILS:

Horn said Armengau is currently her attorney and has been for about 10 years. Horn thought there was only one instance over this time period where Armengau did not represent her on a case. Horn was aware of Armengau's current legal trouble.

Horn said that she has had a sexual relationship with Armengau, but he has never sexually assaulted her, or forced himself on her.

Horn, at first, said she met Armengau when he became her divorce attorney. Horn later remembered that she had been in trouble in juvenile court when she was 16 years old, and Armengau represented her in that case. Horn said she was married at 16 years old, and divorced at 17.

Horn described the relationship with Armengau as "dating". Horn said they began dating in roughly summer of 2003; later in the interview, Horn said she was 17 when they started dating (including having sex). Horn said the relationship went on for a year or maybe two, until she stopped talking to him altogether. Horn then said it has been "on and off" over the past 10 years. SA Burri asked her if they actually went to movies, and out to eat, or if it was just sex. Horn said it was both. Horn said she had been on vacation with Armengau to Florida. Horn said that was when Armengau was talking about opening an office in West Palm Beach.

Horn denied there ever being an exchange of sex for legal services; however, Horn said she has never paid money to Armengau for his legal services, nor has her mother, Lisa Horn (Horn said her mom has been divorced twice). Horn said it was never spoken; Armengau never said she

File Number: SP-25-13-02-1348	File Title: Javier Armengau
Authoring Agent: Greg Burri 14569	Case Agent: Greg Burri
Report Date: 2/13/2014	Exhibit Number: 5
Investigative Activity: Interview	Supervisor Approval: Doug Young <small>Douglas Young-26293</small>

This document is the property of the Ohio Bureau of Criminal Investigation and is confidential in nature. Neither the document nor its contents are to be disseminated outside your agency.

SP-25-13-02-1348

Interview

owed him anything, and she never paid him anything. Horn said even when Armengau was her court-appointed attorney, he didn't bill the court.

Horn was asked if Armengau ever made promises to get her out of trouble on the condition that she have a dating or sexual relationship with him. Horn said no, and said she never had to do anything for his help; he just always told her he would do what he could and would do his best. Horn denied a quid pro quo relationship.

Horn was asked if she ever felt compelled to have a sexual contact with Armengau because something bad would happen in her case. Horn said, "I mean, kinda, at times, yeah." SA Burri said, "Okay." Horn said, "I mean, I didn't see him very often so like when I would see him to discuss like my case, or whatever I had going on, or my mom's, like, it was kinda like well this is the only time I see you so, you know. Yeah so I guess he kinda made me feel like I, not had to, but obligated?" SA Burri explained that what we are worried about is sexual battery, and gave the example of a guard in a prison not being allowed to have consensual sex with her because the guard has too much power and control over her. SA Burri went on to question if the influence Armengau had in Horn's life as legal counsel had an overpowering effect on her decision to have sex with him. SA Burri asked Horn if instead of Armengau being her attorney, he was her Kroger butcher--before SA Burri finished the question--Horn laughed and said she never would have messed with that man. Horn said it was the money and, "the not necessarily fame, but you know what I mean"; it was all bundled together. Horn said she felt she needed to do whatever to keep him on her "team" and close to her.

Horn said that sounded so bad coming out of her mouth and kind of made her feel like a prostitute. SA Burri said that wasn't necessarily how SA Burri meant it, and he was just trying to get to the nuance (of their relationship). SA Burri asked if Horn could have gotten other legal service; if she could have walked away from Armengau and felt that she didn't have to be in that relationship. Horn said no, and she didn't feel another attorney would represent her to the extent Armengau did.

Horn asked if she was going to get in trouble for this. SA Burri said no and explained that even if she said she traded sex for legal services, she was not going to be charged with prostitution.

SA Burri asked Horn if the sexual activity included intercourse and oral sex. Horn said yeah.

SA Burri said he had received information that Armengau had had sex with a 16 year old in Marion, and she had to have an abortion. Horn said she would not be surprised and she also had an abortion. Horn said it was her decision to have the abortion; it was not something Armengau had asked her to do. Horn said she was not the 16 year old that SA Burri had received the information about.

SA Burri asked Horn if Armengau had a reputation for being a "player". Horn said when she first met him she didn't know he was married, and he never wore a wedding ring. Horn said she didn't know he dated other people. Horn said word got around that she was dating Armengau and people would tell her that he had slept with "this person, and this person". Horn said Armengau's secretary, Angela Massey, warned her about Armengau's reputation. Horn also believed that Massey was having sex with Armengau. Horn said it was common knowledge that he was a "trick".

Interview

Horn said Massey was her mom's friend.

SA Burri asked Horn if Armengau had sexual contact with any of her family members. Horn said recently she (Horn) had come out of court, she thought it was the day she was indicted, and Armengau pulled her mom aside to talk to her. Horn said she thought it was in a room on the third floor of the Marion Common Pleas Court, and Armengau "pulled his, out, like, you know" in front of her mom. SA Burri asked if, besides that incident, there was anything sexual between Armengau and her mom. Horn said she thought so, but her mom had never told her that. SA Burri asked if Armengau had just whipped it out or if he actually tried to rape her mom. Horn said, "No, he just, he pulls it out, like, and he does that commonly."

Horn said her mother was always aware of the relationship she had with Armengau. SA Burri asked Horn what her mother thought about it. Horn said her mom didn't really have a say because she was an emancipated minor, but told Horn that Armengau was old enough to be her dad. Horn said over time her mom was getting money and free legal services, so she just turned her head to it. Horn said Armengau did two divorces for her mom for free.

SA Burri asked if there were any other people connected to Horn that could have received free legal services because of her relationship with Armengau. Horn said no, but noted that her brother, Cameron King, had a DUI that he went to Armengau for, but her brother never cared for Armengau, so he ended up going to attorney Todd Anderson.

SA Burri asked Horn how she felt about the situation and if she felt victimized in any way. Horn said when she was younger she was naïve, and Armengau played off that and took advantage of her then. Horn then said, "But over the years, like I've, it is what it is to me." Horn said she knows whenever she needs \$1000, new furniture, a new place, or legal services all she has to do is call him. Horn said she feels like sex is expected, and Armengau has "thrown temper tantrums" if she doesn't give into him. Horn said she doesn't feel raped or victimized because she knew what it was going into it. Horn said she knew when she called him and needed something, it was going to cost her. Horn said she feels like she put herself in that position.

SA Burri asked Horn to compare her relationship with Armengau to a "normal" relationship where a man might take her out to dinner 10 times and have an expectation of sex. Horn said she didn't understand the question. SA Burri asked if she would categorize this as any other relationship where she would be dating a guy for a long time, and guys want to have sex. Horn said no, and it was definitely not normal. SA Burri asked how it was not normal. Horn said your average guy doesn't just hand you \$1000 to \$4000 dollars or his credit card.

Horn described Armengau as giving her a guilt trip if she didn't want to have sex, saying things like she didn't like him anymore and that he did all kinds of things for her, but he did not point to specific money he had given her.

The interview ended at about 1051 hours.

The interview was audio recorded. The audio was burned to a CD and placed in the exhibit portion of the case file.

SP-25-13-02-1348

Interview

SUBJECT INFORMATION:

NAME:	Makayla Horn						
ADDRESS:	c/o [REDACTED]						
PHONE:	n/a						
EMPLOYMENT:	Inmate						
DOB:	[REDACTED]	SSN:	[REDACTED]	SEX:	Female	RACE:	[REDACTED]
HEIGHT:	[REDACTED]	WEIGHT:	[REDACTED]	HAIR:	[REDACTED]	EYES:	[REDACTED]
S/V/W:	Victim						
CCH:	Theft, RSP, Forgery, Identity Theft, Agg. Assault, Endangering Children						

R-7

Ohio Attorney General's Office
Bureau of Criminal Investigation

INVESTIGATIVE REPORT

DATE: 2/13/2014

TITLE: INTERVIEW WITH LISA HORN-CORP

SUMMARY:

On February 13, 2014 at about 1122 hours, Ohio Bureau of Criminal Investigation Special Agent (SA) Greg Burri interviewed Lisa Horn-Corp by phone in reference to her relationship with Javier Armengau.

DETAILS:

Lisa said she met Armengau in 1991. Lisa said she had a sexual relationship with Armengau that ended in 1994. Lisa said she used to be a "high-class" call girl, but never charged Armengau. Lisa said Armengau used to very attractive.

Lisa said she only paid Armengau \$1200 in legal fees for her first divorce. Lisa said her daughter, Makayla, never paid legal fees. Lisa said Armengau was always court appointed for her and Makayla.

Lisa said Armengau likes young girls and dated Makayla, and this upset Lisa because she had a crush on Armengau. Lisa said Armengau would give Makayla money and took her on trips to Lake Erie. Lisa denied ever receiving money from Armengau.

Lisa was asked about the incident that Makayla had told SA Burri about in a previous interview where Armengau allegedly pulled his penis out in front of Lisa in the courthouse. Lisa said they were talking about Makayla's case, and Armengau never pulled it out; he just stood in front of her in a certain stance. Lisa said she would always unzip Armengau's pants for him. Lisa said she left the room when Armengau stood in front of her and denied anything further happened during the incident.

Lisa still has contact with Armengau. Lisa said her husband, Jimmy Corp, is currently speaking with Armengau about a case involving money another attorney has in escrow as a result Corp's wife dying.

The interview ended at about 1147 hours.

File Number: SP-25-13-02-1348	File Title: Javier Armengau
Authoring Agent: Greg Burri 14565	Case Agent: Greg Burri
Report Date: 2/18/2014	Exhibit Number: N/A
Investigative Activity: Phone Interview	Supervisor Approval: Doug Young <small>Douglas Young 74125</small>

This document is the property of the Ohio Bureau of Criminal Investigation and is confidential in nature. Neither the document nor its contents are to be disseminated outside your agency.

SP-25-13-02-1348
Phone Interview

SP-25-13-02-1348

Phone Interview

SUBJECT INFORMATION:

NAME:	Lisa Horn-Corp						
ADDRESS:	[REDACTED]						
PHONE:	[REDACTED]						
EMPLOYMENT:	unknown						
DOB:	[REDACTED]	SSN:	[REDACTED]	SEX:	Female	RACE:	[REDACTED]
HEIGHT:	[REDACTED]	WEIGHT:	[REDACTED]	HAIR:	[REDACTED]	EYES:	[REDACTED]
S/V/W:	Witness						
CCH:	Theft, RSP, Domestic Violence, Trafficking in Drugs						

R-8

**BEFORE THE BOARD OF COMMISSIONERS
ON GRIEVANCES AND DISCIPLINE
OF THE SUPREME COURT OF OHIO**

In Re: :

Columbus Bar Association :
Relator, :

v. :

Javier Armengau :
Respondent. :

AFFIDAVIT OF MELISSA SCHIFFEL

STATE OF OHIO:
FRANKLIN COUNTY: : ss.

Now comes Melissa Schiffel, Esq. and, being first duly sworn, deposes and states, under penalty of perjury:

1. I am a special prosecutor in *State of Ohio v. Javier Armengau* in the Franklin County Court of Common Pleas #13CR2217. I am employed by the Office of the Ohio Attorney General as an Assistant Attorney General in the Special Prosecutions Section. Prior to joining the Attorney General’s Office, I was an assistant county prosecutor in Fairfield County, where I was also the Chief assistant prosecuting attorney of the Criminal Division. Prior to that, I was an assistant county prosecutor in Wood County, Ohio.
2. On May 20, 2013, Javier Armengau (“Respondent”) was indicted on eighteen criminal counts, including sexual assault, kidnapping, public indecency, gross sexual imposition, rape (with specifications) and sexual battery against five women, at least two of whom were Respondent’s former clients.

3. On January 29, 2014, the Columbus Police Department forwarded information to me regarding the possibility of another sexual assault case.
4. I asked the Ohio Bureau of Criminal Investigation (BCI) to investigate, and they assigned Special Agent Greg Burri ("Burri") to investigate the matter.
5. According to Burri's report, on February 12, 2014, Burri interviewed Makayla Horn ("Horn"), and on February 13, 2014, Burri interviewed Horn's mother, Lisa Horn-Corp ("Horn-Corp").
6. On February 21, 2014, based on Burri's interviews and reports, I filed a grievance against Respondent with the Office of Disciplinary Counsel, who forwarded it to the Columbus Bar Association.
8. My review of Burri's interviews and reports indicate the following, as I stated in my grievance:
 - Horn noted that Respondent has represented her in various legal matters since she was sixteen/seventeen years old.
 - Horn divulged that Respondent began an "off again/on again" sexual relationship with her that most likely began when Horn was seventeen.
 - The "off again/on again" sexual relationship has continued for the past twelve years while Respondent has legally represented Horn.
 - Based on Burri's interview with Horn-Corp, Respondent has also had a consensual sexual relationship with Horn-Corp. Horn-Corp paid Respondent once for legal fees in her first divorce.

- Horn-Corp also noted that all of the legal work Respondent did for Horn was by appointment, no fee was ever charged, and that, Respondent "would give Makayla money and took her on trips to Lake Erie."

13. The investigator's signed report and documents with that report, specifically the tape of the investigator's conversation with Ms. Horn, may be used evidence. The admissibility of such documents, recordings, or the testimony of Ms. Horn depend on the case proceedings.

FURTHER THE AFFIANT SAYETH NAUGHT.

Melissa Schiffel 82154
Melissa Schiffel, Esq.

Sworn to and subscribed before me by Melissa Schiffel this 4th day of June, 2014.

Jeri Lynne Fosnaught
Notary Public



JERRI LYNNE FOSNAUGHT
ATTORNEY AT LAW
Notary Public, State of Ohio
My Commission Has No Expiration Date
Section 147.03 ORC

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(213) 394-6993

Wednesday, November 14, 2012

Ray Bertuzzi
MCCC
1514 Victory Road
Marion, Ohio 43302

Re: Your Case

Dear Ray:

I received your letter forward to Judge Davidson. In such situations, Courts handle these type letters as "motions". In this case, your letter was handled by the Court as a "Motion for New Counsel". It was already denied.

You have not been provided with discovery because it is clear to me that you are unable to control yourself and allow your attorney to handle your case. You and [REDACTED] both think or thought you were smart enough to control various issues in your case and all you two did was sadly, bury your case. You had a case that was relatively strong from a defense standpoint. Your case was purely a circumstantial case that allowed us to argue several key points that could have caused a jury to believe there was a reasonable doubt, Unfortunately, through your brilliance and keen ability to develop your defense, you have strengthened the prosecutor's case. Your contact with [REDACTED] calls and directives, contact with your sister, coupled with [REDACTED] letters to you, which you yourself had delivered to my office, have now plagued your case to the point where a conviction is almost certain. As a very experienced man, you should know that all your calls are monitored. As much as in your brilliant mind you see no evidence against you, the truth is that the evidence is overwhelming. It is all circumstantial but, it is overwhelming. B-9

Note: Content at this point was redacted by relator as sensitive lawyer/client communication not relevant to the purpose for which the exhibit is attached.

Note: Content at this point was redacted by relator as sensitive lawyer/client communication not relevant to the purpose for which the exhibit is attached.

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Whether you plead out to 23 years is up to you. My assessment of the case at this point is that your conviction is a near certainty. I will have done such a thorough job on this case that you will have no appeal issues and with your prior criminal history, you are a strong candidate to receive a true life sentence in prison. You can deal with reality, value your life and appreciate the fact that you will still have the opportunity to spend about 40 years of your life a free man. Your other option is to continue in your fantasy world thinking that you have a case to win because you are "wrongfully accused" and blame your attorney for not having a magic wand to make this go away. Ultimately you will end up rotting in prison. You, however, would not be the first person in the criminal justice system to go against his attorney's advice and bury himself.

I have pulled many rabbits out of hats in my trial career as a criminal defense attorney. However, to this day, I have never pulled an elephant out of a hat. I can assure you that won't happen in your case either. You have my advice – whether you take it is totally up to you. I will do my best for you in trial but you should trust my experience and recommendation – for your own sake.

Sincerely,



Javier H. Armengau
JHA/jha

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(213) 394-6993

Thursday, March 07, 2013

Harry Brown
Richland County Jail
73 East Second Street
Mansfield, Ohio 44903

Dear Mr. Brown:

I was advised by my office that you called and once again, made threats and other nonsensical commentary that frankly at this point, is comical. I will respond to your rhetoric via this correspondence and as far as not coming to see you, please refer to my prior letter where I advised you that my obligation is to represent you - not tolerate you. We have no further intention of meeting with you as there is no need.

First, you don't tell me what to do; make sure you understand that fact. It is important for you because the only one that can remove me from your case is Judge Henson. Judge Henson has realized that no attorney anywhere will touch your case or you for that matter. Your options are to represent yourself or for me to represent you. In your call you said that my letter to the CBA is a "bunch of lies"; actually, that is where your problem comes in - it is nothing but truth. You claim you gave me that witness list a long time ago - clearly you are delusional. If you had any ability to be truthful and honest, you wouldn't be in the boat you are in. We went on the record and it is a matter of record that you handed me that witness list that very day in Judge Henson's Court. I had the list in my hand. It is all on the record. Now, regardless of how you act, I will be on your case until Judge Henson tells me differently. As for your threats as to what you are going to do to me if I continue to file anything in your case - hear this - I am going to continue to file anything I feel is necessary on your case. I could care less what you say.

What you say means nothing. You are a very dishonest person. Nothing you say means anything. I will represent you now and after you are convicted and sent to prison for a life term, I will assist your appellate attorneys in their quest for justice. After your appeal is denied and your conviction is affirmed, I will assist any other attorney that undertakes any future post-conviction matter for you. Now, I say this because, as we interview "your" witnesses, what they have to say about you is laughable. Your witnesses think less of you than even the prosecutors. I share this with you because you need to know why we are not calling anyone at trial. [REDACTED] is again avoiding our office and as we interview "your" witnesses, we understand why. You are trying to have this poor lady lie for you. You are trying to have this poor lady fabricate facts for you. You are going to sink like the Titanic and that is going to happen more so because of the people you want to call. R-11

You can continue to make all the threats you want; they mean nothing to me. Your letter writing, complaints, motions or personal threats – they all mean nothing. So as far as "the major problems I have coming to me" or you not being "done with me yet", by now you understand that it means nothing. When an attorney takes on a case like yours with a client like you, they already are prepared to deal with this type of stupidity. So nothing you say is shocking or troublesome. We will respond to any CBA investigation and we will cooperate with the CBA or any other agency. That is not troublesome either.

Thank you for your call today. It brought some laughter to an otherwise rather boring day. Notwithstanding you being Harry Brown, rest assured that I will continue to help save the case that you are so good at sabotaging – yours. Have a wonderful day.

Sincerely,

Javier H. Armengau
Attorney at Law

JHA/jha

Mot. Ex. J-3

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March 21, 2013

Alysha Clous
CBA
175 South Third Street
Suite 1100
Columbus, Ohio 43215

Via Fax 614.221.4850

Re: Harry Brown / 2013-02-010

Dear Ms. Clous:

I hope this letter finds you well and I hope this response is of assistance to you and Mr. Bloomfield in and with your agendas. I assume you have already spoken to Judge James Henson regarding this Brown issue. Otherwise, it would be difficult to imagine or comprehend receiving a letter such as yours with a case pending and not having proceeded to trial and not having gone through the appellate process.

Had you spoken to Judge Henson, you would understand the letter of March 7, 2013. Mr. Brown has called me and other lawyers and Judge Henson himself a "cocksucker", "cunt", "Bitches" and "motherfuckers". He has made statements like "you can all suck my big black cock". He has accused me, all his past lawyers, Judge Henson and even a bailiff of conspiring against him to get him convicted. No lawyer wants to represent Mr. Brown. He clearly can't represent himself. I don't know what you find "disturbing". Maybe you should look at it like Mr. Brown still, after acting like he does, still has someone that won't abandon him. But that is not your job, so I understand. Frankly, that would be inconsistent for you. As far as [REDACTED]'s letter, he told my investigator, Jennifer Young that he was an attorney in January while she was meeting with [REDACTED]. He told me he was an attorney. Clearly this was done so that we would think we were being "supervised". After the last court hearing he and I spoke in the

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hallway and out of nowhere makes this statement regarding the evidence "I am not an attorney but..." then refers to an evidentiary issue. I, at that time said to him "I thought you were an attorney", he conceded he wasn't. If you pull the transcript from the last Court hearing in front of Judge Henson, you will see, clearly from the record, that I was provided a witness list on that very day which is consistent with my letter to you. The late disclosure was due to Mr. Brown literally handing me that list that very day, while sitting in Court. The list was in my hand. There was discussion on the record about that list being provided that day. [REDACTED] claims that the "witness list" was filed, pro se by Mr. Brown. It was not provided to me at that time or at any time, until the last hearing date. That is consistent with Mr. Brown instructing his witnesses not to speak to me or my assistant. In fact, in that record you will find discussion about how Mr. Brown told his witnesses not to cooperate with us. My letter of March 7, 2013 was very much necessary. I tried the subtle, gentle approach from the beginning. Mr. Brown wants to just throw people on the stand because he believes they will be favorable. Other than [REDACTED] who wasn't there, he has no favorable witnesses. For your information, [REDACTED] will struggle with her testimony. I am not tossing people on a witness stand that are going to help bury Mr. Brown. I am also not going to put a witness on the stand to lie. The witnesses we have been able to speak with are horrible defense witnesses. Maybe it would be a good idea if you tell me how to defend Mr. Brown. To give you an idea of what Mr. Brown's witnesses will say - although no one saw anything because they weren't there or because Mr. Brown was in an upstairs bedroom with the child, witnesses do recall [REDACTED] yelling at Mr. Brown over "something" that happened with the alleged child victim. If you are instructing me to put these witnesses on the stand, just say so. As far as [REDACTED] and his involvement, he told me that Mr. Brown is racially targeted and there is a lot of "fishy stuff" going on. There is nothing "fishy" going on. In fact, he still can't tell us what is "fishy". In my last letter to you I addressed some of the factual issues. Mr. Brown was indicted, he was appointed counsel, and he basically fired every counsel or caused them to withdraw. [REDACTED] claims that after I received the witness list it took me twelve days to contact the witnesses. Even if that were true, explain to me the problem with that time frame? The reality is, before we sent letters to the witnesses, we made attempts to reach them and to have [REDACTED] provide us with phone numbers. She specifically told us that no one will remember anything because too much time passed. You have the witness list, interview the "witnesses" yourself. As for [REDACTED] and our desire to speak with him and since he is so critical of me and my representation, surely he must have something to offer in defense of Mr. Brown. We are still waiting for that information from him. [REDACTED] claims that he could not contact my assistant, Jennifer Young. [REDACTED] has all our numbers including cell numbers.

As for Mr. Brown's motions, possibly you may want to contact the Court and advise Judge Henson that he needs to consider all of Mr. Brown's motions. I filed what is necessary. If you want me to file more motions, then tell me and I will file them at your direction. If you want to draft them, let me know and I can file them as well. As for meeting Mr. Brown, so you are clear, he left messages at my office telling my office that I better not meet with him, I better not do anything on his case and he has repeatedly used vulgarity and profanity. I have met with Mr. Brown, more than once. He has been unable to offer anything in his defense other than "I didn't do it". I don't have to waste time listening to his "cocksucker", "motherfucker" comments about the Judge or other counsel. I advised him that unless he changed his attitude, I would not meet with him.

Apparently, you have determined I am doing a bad job for him. Please advise if you want me to withdraw. I can advise Judge Henson that you have determined that I am not representing Mr. Brown well and then you can speak to Judge Henson about who should be assigned to represent him. I am still on this case because I am committed to representing Mr. Brown. I could have abandoned him a long time ago.

Next you have an issue with the letterhead. The letterhead says Armengau & Associates because we have had Jettye Matlock, Denise Martin, Bryan Pritikin and Kelle Hinderer as associates. I am in the process of searching for another associate. I am uncertain what the issue is. If you require me to change it, tell me and then tell me when I can or should change it again. Simply, just tell me what you want it to say. As for proof of my admission to Federal Court, you can call both Clerk's. I was admitted to the Northern District in 1999 I believe and to the Southern District in either 2000 or 2001. If it helps, I am currently representing Oscar Lavenant in the Northern District before Judge Wells and a multitude of clients in the Southern District currently before Judge Frost, Judge Smith, Judge Watson and Judge Marbley. I appear in front of these Judges on a regular basis. I have appeared before Judge Carr, Judge Katz and Magistrate Armstrong in the Northern District as well as Judge Jack Zouhary. I am in the middle of trial in Marion County and typing this on my breaks so I do not have access to my certificates of admission. If the information provided here is insufficient, then I can provide the specific dates for you in a supplemental response. You are also welcome to get on PACER and Query my name in both jurisdictions.

As for the phone numbers, my letterhead contains the actual addresses for our actual offices. We included and obtained numbers for the other cities because I have and have had a multitude of clients, mostly federal, from each of those areas. If incarcerated or if limited to local calling, the contact numbers assist our clients and their families in reaching my office and myself specifically. I have not placed anything on my letterhead that indicates "Admitted to Practice" in any given State or area where I am not admitted. I believe the contact information is very helpful to our clients and by including it on our letterhead it becomes an easy reference. Also, we have and have used a multitude of computers or laptops from various offices and my residence and I concede that not all letterheads or their templates have been similarly updated.

Please let me know what more you want and I will provide it for you. If there is anything more specific in this [REDACTED] letter you want answered, please advise as well. Also, please let me know if I am to advise Judge Henson that you believe it is in Mr. Brown's best interest that I withdraw. I will continue to cooperate with your office, regardless of your motivation.

Sincerely,

/s/ JHA

Javier H. Armengau
Attorney at Law

JHA/jha