

Copy

IN THE: CIRCUIT COURT OF ROCKINGHAM COUNTY

HOCKMAN

V.

DOCKET NO. CR039919, CR039920

COMMONWEALTH

MOTION TO VACATE AND/OR MODIFY ORDER

I, Donna Hockman request that this court vacate and/or modify the order dated July 24th pertaining to the denial of evidence.

1. I filed a motion requesting release of evidence in the possession of this court including 3 computers and 2 cell phones.
2. This court held a hearing on July 23rd on the motion without me present.
3. The transcripts of the proceedings for this hearing were inaccurate.

Commonwealth Attorney, Marsha Garst presented her case.

- a. Hockman's appeals are done.
- b. Garst received a letter from Shenandoah County Sherriff Tim Carter that involved pleadings that she (Garst) was not aware of.
- c. Garst received Hockman's affidavit that was signed in January 2014 that electronic evidence was altered, deleted and destroyed.
- d. Garst states that she was unaware of allegations of altered, deleted and destroyed evidence.

- e. Garst states that she does not want to turn over vital items that were within the jury's consideration.
- f. Garst states that the jury gave Hockman the life sentence plus the \$100,000 fine.
- g. Garst states she would not want a re-trial to be ordered under some "far fetched premise".
- h. Garst states that if there is an allegation that these items were altered, she would need to have a forensic computer examination of the evidence.

I strongly object to the statements made to Judge Wilson and present my argument as follows:

- a. I have exhausted my direct appeals.
- b. There are no pleadings involving Sherriff Tim Carter that Garst alleges she was unaware of. I simply requested documents that I am entitled to under the F.O.I.A. pertaining to my case and Sherriff Carter complied with my request.
- c. Garst has received my affidavit well before now as I mailed her a copy so she knew my intentions.
- d. Garst alleging she was unaware of allegations of altered, deleted or destroyed evidence is completely false. I filed a Habeas to this court that she received a copy of where my allegations were made very clear. Not only has evidence been altered, deleted and destroyed, but withheld and not tested which she had been made aware of.
- e. Garst states that she does not want to turn over vital items that were a part of the jury's consideration. This is ridiculous as the jury never had review or possession of three computer hard drives and 2 cell phones all belonging to me. Garst had her investigators retrieve data from the computers and cell phones and place them on CD'Rom, which were given to my court appointed attorney, Bruce Albertson. These items would have no bearing on a jury's decision

and the only reason Garst is requesting this court not to release to me is, because she is aware that the data she retrieved from this evidence was only to benefit her case, therefore preventing me from using exculpatory evidence in my defense.


f. Garst is mistaken on what the jury fined me. I was never fined \$100,000 and I have enclosed the verdict sheet reflecting this, and the sentencing transcripts would corroborate.

g. Garst states that she would not want a re-trial ordered under some “far fetched premise”. I was never given the opportunity for an evidentiary hearing before my state habeas was denied by this court. I believe the order of denial with reason for denying my habeas was deliberately and maliciously not mailed to me so that I could not file an effective appeal. I have numerous documents, including affidavits that I never received any mail addressed to me at this facility from the clerk of this court during the time that I should have received the order of denial. If this court would grant me an evidentiary hearing, not on an actual innocence claim, but on my allegations of evidence tampering and withholding, then I could present my allegations in open court. I am confident that my “clear and convincing” proof would show no far fetched premise in trying to obtain a re-trial.

h. Garst states that she would want to order a forensic testing of the computers and cell phones, which I strongly object to. Garst has already been allowed to keep crucial documents from me, alter, delete and destroy evidence that would have changed the outcome of my trial.

In closing, I ask this court to consider the real plausibility that Garst is trying to block my avenues of reaching the ends of justice by ensuring that I do not gain access to numerous pieces of evidence and documents that would show she has used nefarious means to obtain my conviction, which violated my Constitutional rights to a fair trial, and ask that this court vacate the order and order Garst to release the 3 computers and 2 cell phones along with other pieces of evidence and documents that I know exist that I have been denied for far too long upon my request to me or my mother, Jean Litten. I also request an evidentiary hearing on my claims of misconduct and appoint an attorney to assist me in this matter.

Respectfully,



Date: 8/6/15

Donna Hockman #1406120

Fluvanna Correctional Center for Women

P.O. Box 1000

Troy, Va 22974