

Sharon E. Weaver
219 Anderson ~~St.~~ Road 467
Palestine, Texas 75901

U.S. District Court
Eastern District
104 North Third
Lufkin, Texas, 75803

RE: Shaw vs Dretke, No. 09;05cv32

Honorable Judge Guthrie:

I was present at my sister-in-law, Desiree Shaw's pre-trial and trial proceedings and I am able to attest as to what did ~~but~~ did not take place. I have provided facts and statements to support my belief that Desiree did not receive a full and fair trial or post conviction relief.

Additional information has become available since her conviction that I believe would change the outcome of the case in favor of Desiree's innocence.

Desiree's family retained a writ attorney, Danny D. Burns, from Ft. Worth in the spring of 1998, to prepare, present and represent her post conviction claims. Mr Burns abandoned the preparation of the writ unreasonably for almost three years, wasting the AEDPA's statutory limitation. Mr Burns did not notify us of any limitations and he promised to prepare the writ only after the Texas State Bar intervened. In October 2001, Mr Burns promised to present a writ petition pro bono. Still, Burns pressured my mother-in-law for money and procrastinated in presenting the writ and failed to follow through to make sure it was filed and processed by statutory guidelines. I have no training or experience in these procedures and our family relied on Mr Burns' competency and experience to preserve and protect Desiree's rights. Her state writ was delayed by no fault of her own and despite the family's attempts to communicate with Mr. Burns. Thank you for hearing my statement,

Sharon E. Weaver (905-249-2)

State of Texas,

Know ALL MEN by These Presents:

County of Anderson

BEFORE ME, the undersigned, a Notary Public in and for said Anderson County, State of Texas, on this day personally appeared **Sharon Weaver**

to me well known and who, after being duly sworn, deposes and says that ;

My name is Sharon Weaver. I am a registered nurse. I have known Desiree Weaver Shaw for seventeen years and have been married to her brother Johnny Weaver for fifteen years.

I am writing this letter due to the fact that I feel, not only did Desiree not receive a fair trial, she also did not have proper representation. I was asked as was her friend Debra Sumrall, to attend the jury selection portion of the trial due to the fact that Desiree's lawyer, John Heath, would not be able to attend until later on in the afternoon. His brother Jimmy was present, but he did not take any notes or ask any questions as the assistant district attorney David Wilson questioned the jurors. It was left up to Debra, Johnny, and myself to note any jurors that we felt were not to Desiree's benefit, (since this was my understanding of the selection process which I had to find out on my own). Mr. Heath never talked with us or gave us any instruction on what to do, or to expect. I immediately felt very unassured by this, having no previous legal experience. Also, while listening to the prospective jurors during the Assistant DA's line of questioning, I felt there were grounds for dismissing many of the jurors due to their involvement with the case, either thru Diboll Police connections, working within the legal system handing the case, or prior knowledge of the incident through high local media coverage. I was inclined to believe that this trial should have been moved to another town. I mentioned this to Mr. Heath at the court house, but he did not reply. He merely talked about his continued illness he was undergoing at the time, and another trial he had going on in another town. I did not feel at any time that Desiree was his priority. As the trial was progressing, Mr. Heath seldom objected to the circumstantial evidence that the assistant DA was presenting. I again felt he was allowing devastating false information to lay on the minds of the jurors without attempting to say for the record that we disagreed. When discussing this with him, he explained that we should not appear defensive, as this would make Desiree appear guilty. He went on to say that the assistant DA had to prove her guilt, and he would not be able to do that, so we should just sit tight and wait. My gut feeling throughout the trial was that our hands were tied. I never understood why he did not do more investigating and or preparing for the trial. He never once contacted me or my family for any information or

Exhibit "BB"

help before the trial. I realize that not having a legal background my perspective is a somewhat different than his, but I also feel that my judgment is a lot closer to that of the jurors since they too are merely citizens without prior legal knowledge. It was difficult to hear Desiree's entire case being built on circumstantial evidence, without being disputed. In my eyes, it looked as if we agreed with everything being said. Mr. Heath's use of discretionary judgment at this point was devastating. I lost a lot of respect for him as a professional.

In looking over the statement of facts, I noticed several things I felt Mr. Heath could have pointed out in order to aid Desiree's case along: First, it stated that Royce, Desiree, his two children, and his two stepchildren were home that morning. I find it interesting that Mr. Heath did not use that opportunity to point out that it would have been foolish for Desiree to have attempted any kind of act with all the children at home, when later on that day the children would have been with other family members and they would have been alone. Also, Ashley, Royce's daughter from a previous marriage, was home that morning and one would figure if she had believed there had been any foul play she would have testified for the state on her father's behalf, and this did not occur. Furthermore, if Ashley had felt there was foul play I would not have expected her to keep in contact with Desiree's other children as she does.

Second, in the SOF, it stated that Elizabeth Hodges, a co-worker said Desiree told her that she had found Royce in the floor on his right side. I feel Mr. Heath should have asked all the witnesses that were called especially law enforcement officers and EMT's if they were told this, especially since the DPD had questioned her three times and no one else stated this to have been said. This was put to the jurors as a statement of fact in which Mr. Heath did not object. This was frivolous testimony.

Third, Desiree's neighbor across the street, Liza Huizar, testified that Desiree had told her on July 5, 1996 that Royce had asked for a divorce and custody of their son and Desiree's daughter, Caylan. I felt that Mr. Heath should have pursued that due to fact that the daughter's real father, Clayton Richardson, was a county commissioner there in Lufkin, and if Desiree could not have maintained custody for any reason her real father would have easily assumed her care.

Fourth, I contacted the lab affiliated with Dr. James Bruce, who performed the autopsy, and asked in general how much time it took for blood to clot. The response was, it starts immediately and is in gelatin state within five to ten minutes. I mention this only because it was brought up in the SOF, and timing of the events was an issue. Therefore it could have been justified that the blood seemed to have clots coagulating in it, since more than five or ten minutes had passed from the event until DPD arrived on the scene. This again was failure to properly prepare for trial on Mr. Heath's part. He

should have, in my mind, had any and all possible questions answered before entering the courtroom.

Sometime after the trial, Malcolm LaVerne, an intern working on Desiree's case, contacted me to find out if we were pursuing an appeal for Desiree. He stated that he was absolutely positive in his mind that she was innocent and wanted to make sure we knew that, and were helping her. He told me he was leaving for school, but would help in any way he could, when we got an appeal going. He said he would talk to a lawyer on Desiree's behalf.

Desiree was the sole provider after Royce's death. Desiree applied for social security benefits for the children which they were entitled to yet were never received. This was a period of approximately four months. There was a car, van, Royce's motorcycle and home mortgage payments. There was Royce's recent hospital bills, outstanding funeral expenses, an I. R. S. note plus utilities, groceries, school clothes and supplies for cheer-leading, basketball, baseball. This was a staggering task with her salary alone. She was unable to sell any assets or borrow money in the 7 or 8 weeks allotted before her trial. Desiree needed \$5000.00 for Mr. Heath's down payment on the note he asked her to sign. The balance was supposed to be paid in monthly installments, he told her he was defending her for half price. I made a wire transfer to Desiree in the amount \$4600.00 dollars to help pay Mr. Heath.

I have always respected Desiree. I only write this because I feel she is innocent and truly has been wronged. I have known her for many years as a sister-in-law, a friend, and a mother. She has spent many years as a nurse, giving of her time to the many that needed her, without thinking of herself. She has also spent many years as a cancer society volunteer and is well thought of within these groups. I cannot begin to name the hundreds of people that I do not even know, that have offered to help on her behalf. She has always been someone I have been proud to know, and a mentor to me in many ways personally. I continue to admire her for her faith, patience, and her forgiving heart. Sincerely, Sharon Weaver
Further the Affiant saith not.

Sharon Weaver

SUBSCRIBED AND SWORN TO BEFORE ME, this 13 th day of January, 2001

Susan Bostic

My commission Expires: 6-22-04

Notary Republic in and for
the State of Texas
Notary's Printed Name

