

Grady Krzywkowski 409984 Trumbull
Correctional Institution P.O. Box 901
Leavittsburg, Ohio 44430

Actual Innocence Claim #1 - Explanatory Notes to Children's Medical Reports

These medical reports from St. Michael's Hospital and Marymount Hospital in Cleveland document the examination of the four children as a prerequisite to their placement in foster care in the year 2000. Please note that the Cuyahoga County Department of Family Services social worker participating in these examinations stated throughout these reports that there had been no problems, current or previous complaints, regarding the welfare of the children. The report for one of the four children does state, without attribution or detail, that "the social circumstances are domestic violence and child abuse although the child has no signs of abuse today." This information probably accrued from intake records at the Providence House Shelter in Cleveland, where the defendant had taken the children 45 days earlier to shelter them from spousal abuse and neglect. The findings of the ensuing investigation by the county's Child Abuse Task Force Team in April specifically ruled out rape offense and sexual crime; and stated as much in a case plan later signed by the defendant, his wife, and the children's guardian ad litem. This case plan was then filed with Juvenile Court Magistrate Peter F. Murray in July 2000, where it was accepted and found as fact.

All four children, then, as reflected in the medical reports at hand, were found to be well children and in satisfactory condition. The criminal charges surfaced approximately a year later during their foster placement in Toledo. At trial the defendant's attorney was invited by the court to introduce these medical records, but only if accompanied by the subpoena of the physicians involved. For the record, the defense attorney declined, later reconsidering, issuing the subpoenas, and calling them off at the last moment. The defendant was never told why these witnesses were never called in his defense. Three and half years elapsed, after his conviction, before he discovered the very existence of the subpoenas in a box of documents the bar association ordered his former attorney to release to him.

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Actual Innocence Claim #2 - Explanatory Notes on the Police Report

Under the Ohio Revised Code any police report bearing erroneous fact is considered a sham report, and therefore sham evidence. Under Criminal Rule 33 of the Ohio Criminal Law Manual any conviction resulting from this bogus evidence is itself a sham and is grounds for a new trial.

The police report at hand, which was used to procure the defendant's indictment by the secret grand jury, lists an address at which the defendant had not been living for 17 months. In fact, the children had already been in foster care in Toledo for six months, far removed from the defendant, at the date of this police report. At trial the prosecution went so far as to change even this alleged date of offense, but was still unable to document its time line. When the defendant alerted his attorney to the false information in the reports, asking for a Rule 29 Acquittal, his trial attorney replied that it wasn't worth fighting. On two different occasions his attorney did file Rule 29 motions for acquittal; but rather than basing these motions on the sham police reports, he predicated them on inconsistencies of the prosecution witnesses' testimony, the lack of valid dates and address for the alleged offense, as well as insufficient evidence for the alleged offense. (Please see Ground One of the defendant's petition for habeas corpus)

The police never testified at trial, nor did anyone ever raise the issue of a Cleveland Police report being manufactured without a visit to the alleged scene of the crime as listed (erroneously) in the report. There were no photographs of the crime scene, no physical evidence collected, no police interview or video record of the victims making their statements. None of the children's relatives or physicians in Cleveland were ever contacted. The allegations of sexual abuse were generated via the children's foster homes in Toledo, and the allegations were passed onto a Children's and Family Services representative in Cleveland (Julia Prettyman) who provided the police detective with details of the accusations that formed the basis for the police report.

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Actual Innocence Claim #3 - Children and Family Services Case Plan of May I, 2000

This case plan, ensuing from Cuyahoga County Children and Family Services investigation of the Krzywkowski household, reflects the investigating agency's assesment that sexual abuse was not found, and was not an area of concern in the reunification of the family. Please note that, on the second page, the absence of sexual abuse is listed as one of the strengths of the family.

Grady Krzywkowski

Expanded Notes to Analysis of County Address Record

Addresses *not reported* to County:

Patricia Darchuck 3619 Socket! Ave.
Cleveland, Oh. 44109 (August -
October 2000)

8006 Beman Ave. Cleveland, Oh.
44105 (9/2000-2/2001)

I moved out of my friend Clyde Morgan's house in August 2000, and moved in with my girlfriend Patricia Darchuck (216-741-3470). From there I moved to 8005 Beman in February 2001. Between those dates I was arrested.

PLEASE NOTE I placed my children Kristen, Katelyn, and Aaron at Providence House shelter on 4/28/2000. My eldest son Ryan was too old to be placed there, and he stayed with me until 5/18/00.

After the loss of my children on 5/18/00, I moved from 3624 liast 54th St. I then *stopped* reporting my whereabouts to Work and Training (a County agency). I moved back in with Clyde Morgan at 7032 Morgan Ave., same as in July 1998.

In 1998, after my wife was arrested and convicted of the first domestic violence charges, my children and I moved to 3391 Hast 66th St. I waited until October 1998 to report this new address to the County. However, they did not add this information to the record until 2/26/ 99. My former landlord Thomas Machar can confirm my arrival in July 1998 and my departure the following May from his property (216-581-4149).

Detective Sherlyn Howard's police incident report states that my children and I lived at 3391 Hast 66^m St. until Fall 2000. This is *not true*, as the children had been away from my care since April 2000 when we lived at 3624 liast 54th St. Providence House's investigation in July ruled out sexual abuse, corroborating the children's medical reports from St. Michael's and Marymount Hospitals in June, and conflicting with Detective Howard's subsequent report in the Fall of 2000.

Client: GRADY KRZYWKOWSKI
Case # 184-746466-4

NOTES & CORRECTIONS IN RED

BLUE DENOTES SIGNIFICANCE

Dates of Service	List of Addresses	
2/16/93	4115 East 81 st St., Cleveland, Oh. 44105	
3/01/93	6105 East 71 st St., Cleveland, Oh. 44105	<i>6105 Lansing Ave. (not East 71st)</i>
3/30/93	6105 East 71 st St., Cleveland, Oh. 44105	
8/18/93	6105 East 71 st St., Cleveland, Oh. 44105	
10/18/93	3699 East 59 th St., Cleveland, Oh. 44105	
1/07/94	3220 East 48 th St. (Down), Cleveland, Oh. 44105	<i>4811 Jewett Ave. 10/93 -2/7/94</i>
7/05/94	3817 East 54 th St., Cleveland, Oh. 55127	<i>44105</i>
8/22/94	3817 East 54 th St., Cleveland, Oh. 44105	
6/19/95	6514 Chambers St., Cleveland, Oh. 44105	
10/13/95	5119 Hamm Ave., Cleveland, Oh. 44127	<i>Exodus, domestic violence (4 weeks)</i>
11/27/95	6514 Chambers St., Cleveland, Oh. 44105	<i>Left 1/20/96, moved to 4080 East 81st</i>
4/7/98 <i>Left</i>	4080 East 81 st St., Cleveland, Oh. 44105	<i>Spent 2 years at this address</i>
7/13/98	3888 East 55 th St., Cleveland, Oh. 44105	<i>Exodus, domestic violence</i>

9/15/98	7032 Morgan, Cleveland, Oh. 44127	Household mailing address: 1641 Payne Ave., c/o Negotiable Items, Cleveland, Oh. 44114
7/30/98 2/27/99	3391 East 66 th St., Cleveland, Oh. 44127 <i>Landlord: Thomas Machar, 5590 Sunny Lane, Maple Hts., Oh. (216) 581-4149</i>	Household mailing address: 1641 Payne Ave., c/o Negotiable Items, Cleveland, Oh. 44114
6/7/99	5317 Mound Ave., Cleveland, Oh. 44105	Household mailing address: 1641 Payne Ave., c/o Negotiable Items, Cleveland, Oh. 44114
9/21/99	5317 Mound Ave., Cleveland, Oh. 44105 <i>House fire 9/28/99</i>	Household mailing address: 1641 Payne Ave., c/o Negotiable Items, Cleveland, Oh. 44114
11/16/99	4115 East 81 st St., Cleveland, Oh. 44105 <i>Parents' home</i>	Household mailing address: 1641 Payne Ave., c/o Negotiable Items, Cleveland, Oh. 41114
10/3/2000	3624 East 54 th St., Cleveland, Oh. 44105 <i>Entered actually on 11/30/99, 4 weeks after the fire</i>	Household mailing address: 1641 Payne Ave., c/o Negotiable Items, Cleveland, Oh. 44114
10/3/2000	3524 East 54 th St., Cleveland, Oh. 44105	Household mailing address: 1641 Payne Ave., c/o Negotiable Items, Cleveland, Oh. 44114

12/6/2000 3624 East 54th St., Cleveland, Oh. 44105

Household mailing address:
1641 Payne Ave.,
c/o Negotiable Items,
Cleveland, Oh. 44114

*10/15/2000 Moved out of Sackett Ave. address
(Patricia Darchuck)*

11/2000 8006 Beamon Ave. (Up), Cleveland, Oh. 44105