

jealous estranged husband?

By the State: Objection. It calls for hearsay.

By the Court: Sustained.” (RR22, 133, 134, 135)

From other testimony shown later in this writ, the defense sought to show how jealous Jack Shadbolt was, and that the Complainant had recently told him that she was never going to get back with him and the effect that statement had on him. Further, that Jack Shadbolt had struck Michelle Shadbolt before when he was drinking. All of these attempts were stopped by the active objecting done by State’s counsel. It was so active that it violated Appellant’s right to present a defense. The right to present a defense is a fundamental element of due process as guaranteed by U.S. CONST. AMEND. V & XIV. See **Washington v. Texas**, 388 U.S. 14, 87 S.Ct. 1920, 18 L.Ed.2d 1019 (1967)

#### **CLAIM FOR RELIEF NUMBER FIFTEEN**

**APPLICANT WAS DENIED EFFECTIVE ASSISTANCE OF COUNSEL AS GUARANTEED BY U.S. CONST. AMEND VI, AND DUE PROCESS OF LAW AS GUARANTEED BY U.S. CONST. AMEND. V & XIV BY COUNSEL’S FAILURE TO FULLY INVESTIGATE AND PRESENT EVIDENCE TO REBUT THE ALLEGED CONFESSION TO TAMARA LLAMAS.**

**THE ALLEGED CONFESSION TO TAMARA LLAMAS**

See the 5-2-01 notes of Wayne Hill, Exhibit "E", wherein Applicant told Mr. Hill that he denied making a confession to Tamara Llamas, and that he had never been to Galveston with Tamara Llamas as she was stating. See also the statement of Joey Ivey attached hereto as exhibit "G" wherein he states that he, Applicant, Tamara Llamas and Brandy Dickson never went to Galveston together at any time in his life.<sup>11</sup> Applicant had given Joey Ivey as a person that the defense needed to contact as early as 2001. Had they contacted him he would not only have been able to corroborate the fact that Applicant and the deceased had a romantic relationship going on, he would also have been able to contradict the trial testimony of Tamara Llamas. Was this necessary? Look to the State's argument.

"...The other thing that they just can't touch, although I guess they think so, but you are the judge. You make the call. They can't touch Tamara. They cannot touch her. You know they were frothing at the mouth that she's a convicted murderer. Oh, I mean, believe me, I wish she wasn't. Believe me, I -- she is what she is. A murderer is a murderer is a murderer.

She is a murderer. No problem. She is a dope dealer, big time federal dope dealer. Okay. I ain't inviting her over for Sunday dinner. I don't want to hang out with her. I am sure you don't either. But you ask yourselves, Did she lie to you? Did they touch anything about the substance of her testimony? They personally attacked her. Fine. Go for it. Go for it. She's a murderer. Have fun.

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<sup>11</sup>This statement directly contradicts the testimony of Tamara Llamas at (RR24, 153)

No problem. But they did not touch the substance of her testimony. ... (RR25, 20-23)

They can call her name in the book, but they can't touch her, folks. Why? Because this guy sitting over here, this killer, told her those details that she told you. He told her that on the beach that night." (RR25, 23)

If they had a witness that could have testified that Applicant, Tamara, Joey Ivey, and Brandy never went to the beach at Galveston. It would have conflicted with Tamara's testimony, and it would have shown that Tamara was lying about the small things to cover the big lies that went to the very substance of her testimony. Then this entire argument of the State about not being able to touch Tamara would have never occurred. The only evidence that the State had other than the DNA, was the testimony of Tamara Llamas. If an observant jury could understand that the murder and the sex were separable acts, even though none of the consensual relationship witnesses were ever produced by the defense, they still had to get past Tamara. Tamara was the only person who gave pertinent testimony that the sex act and the murder were inseparable. Her testimony made the sex act and the murder a capital murder. She needed to be attacked on the substance of her testimony. With a minimum amount of investigation they could have attacked her veracity on the facts of the statement itself. The three people who could have attacked the truth of her statement, were Applicant who wanted to testify, Joey Ivey whose affidavit appears herein as exhibit "G", and Brandy Dickson.

The United States Supreme Court stated in **Rompilla v. Beard**, \_\_\_ U.S. \_\_\_ (2005)

"The notion that defense counsel must obtain information that the State has and will use against the defendant is not simply a matter of common sense. As the District Court points out, the American Bar Association Standards for Criminal Justice in circulation at the time of Rom-pilla's trial describes the obligation in terms no one could misunderstand in the circumstances of a case like this one:

"It is the duty of the lawyer to conduct a prompt investigation of the circumstances of the case and to explore all avenues leading to facts relevant to the merits of the case and the penalty in the event of conviction. The investigation should always include efforts to secure information in the possession of the prosecution and law enforcement authorities. The duty to investigate exists regardless of the accused's admissions or statements to the lawyer of facts constituting guilt or the accused's stated desire to plead guilty."

1 ABA Standards for Criminal Justice 4-4.1 (2d ed. 1982 Supp.).

"[W]e long have referred [to these ABA Standards] as 'guides to determining what is reasonable.'" **Wiggins v. Smith**, 539 U. S., at 524 (quoting **Strickland v. Washington**, 466 U. S., at 688), and the Commonwealth has come up with no reason to think the quoted standard impertinent here."