

had knowledge that Applicant had consensual sex with Applicant before.

CLAIM FOR RELIEF NUMBER SEVEN

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 OBJECT TO THE FOLLOWING INADMISSIBLE TESTIMONY.¹⁰

Kathy Masters, the step-mother of Michelle Shadbolt, was called to the stand by the State. She testified that she and her husband would see Michelle and her daughter Ashley two or three times a week back during the period that she was killed. (RR19, 35) She did not live with Michelle and Ashley, but lived in a totally different house which was about "a mile and a half, two miles" away from where Michelle and Ashley lived. (RR19, 35) Kathy Masters was not the usual babysitter for Ashley, a lady named Sybil Coddington would keep Ashley when Michelle worked. (RR19, 35)

This was the setting for how much contact Kathy Masters would have with Michelle Shadbolt during this time. Even so, the State wanted to secure as much from her testimony that they could get away with. The State was well aware that the consensual sex defense was a possibility and they sought to defeat it every way that they could. The defense did nothing to test the speculation that the State sought and obtained through this witness.

¹⁰Please consider all ineffective assistance claims "IAC" against Applicant's trial attorneys, as a like claim of IAC against appellate counsel for failure to raise that issue on direct appeal.

By the State: "Okay. When Michelle separated from Jack had she begun yet to date any other men?"

By Kathy Masters: No

By the State: Were there any other men in her life at all?

By Kathy Masters: No, she was through with men." (RR19, 35)

These were speculative statements which had to either be pure speculation on the part of Kathy Masters since she only saw Michelle two or three times a week, or these had to be statements based totally on hearsay from Michelle Shadbolt that violated Applicant's right to Confrontation as guaranteed by U.S. CONST. AMEND. VI & XIV. The defense even showed during cross-examination that this witness had not even been in the home of Michelle Shadbolt since sometime in December 1986. (RR19, 44)

The failure to object violated Applicant's right to effective assistance of counsel guaranteed by U.S. CONST. AMEND. VI and due process as guaranteed by U.S. CONST. AMEND. V & XIV. This failure meets the first prong of **Strickland v. Washington**, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). It meets the first prong of **Strickland, supra**. because the relationship of Applicant and Michelle Shadbolt was so very important to his being able to present a defense in this case. If it was going to be defeated by the State Applicant deserved to have it defeated by admissible testimony. This being a cold case there are factors that work against Applicant. For example, his mother and father, his best witnesses had both died. But, there were factors that also worked against the State. The loss