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AFFIDAVIT OF WILLIAM DARIN IRVAN

Before the undersigned authority appeared William Darin Irvan who upon his oath did depose and sayeth:

"My name is William Darin Irvan, and I am the same William Darin Irvan serving an illegal sentence of DEATH as inmate number 999472 at the Polunsky Unit in Livingston Texas. My sentence of death is out of the 180th District Court of Harris County, Texas in cause number 864926.

I am giving this affidavit at the request of my attorney Jim Leitner.

DENIAL OF A SPEEDY TRIAL, INEFFECTIVE ASSISTANCE OF COUNSEL and DENIAL OF MY RIGHT TO COUNSEL.

I was first charged with this offense on January 3, 2001, From the first documents filed by the State it was apparent that the State was relying upon the testimony of Michelle Shadbolt's mother that there never existed any type of relationship of any kind between myself and Michelle. The supporting documents to the charges showed me that the State's theory being employed to prosecute me depended in part upon their belief that there was never any consensual sexual relationship between myself and Michelle Shadbolt. Therefore, I informed Mr. Hill from the very beginning that Michelle and I were having a consensual sexual relationship during the period of time that she was killed, and I informed him of the people that he could contact to verify this. Both they and I knew that the medical examiner did not find any evidence of any trauma associated with the sexual acts themselves. I told

them that was solely because the sex acts were consensual and there would be no trauma. My attorneys made no attempt to link the fact of no trauma and consensual sex at all. Michelle and I had been dating on and off even before she and Jackie Shadbolt separated. There were times that I was at their house with her when he unexpectedly came home, and to this day I believe that he knew that I was there because he found my shoes there. I knew that he was not going to change from being a drunk, but that he surely did not want Michelle to be with me. I knew that there were other people who knew that I was having a relationship with Michelle, and that she was wanting to keep it hidden. I told all of my attorneys about the sexual relations that Michelle and I had the week of her death. The last sexual contact we had was well within the time frame testified to by the Medical Examiner at trial. I told all of my attorneys both Mr. Hill and Mack Arnold and Mr. Loper who they could contact that knew about this relationship. My Dad and Mother would have been my best witnesses for many reasons. They knew from her living across the street from us that I was seeing her. She would come over to our house we would be alone in my room, and my parents knew this. They knew from talking to me and her that we were seeing each other romantically and that she did not want Jackie Shadbolt to know about our relationship. Michelle was scared of him, and she wanted our relationship to remain something between us and not for him to find out about. My parents knew this based on what she told them. My mother would even watch Michelle's child Ashley at times when Michelle and I would go out together. My mother and father did not want me to be with Michelle, because of the threat that Jack Shadbolt

represented, and the fact that she already had a child by Jack. Dee Dee Hughes was personally told by Michelle Shadbolt not to let anyone know of our relationship. None of these witnesses, except Dee Dee Hughes testified at my trial. Dee Dee Hughes, Joey Ivey, George Caldwell, Eric Johns, and Mary Sengbusch, all knew about Michelle and I. I think that Teddy Kennedy and Larry Stelesky also knew. I believe that all of these people knew of the romantic relationship that I was having with Michelle Shadbolt at the time of her death. Some of these witnesses also knew that Jack Shadbolt hated me and that on February 12, 1987, Michelle had told Jack that she was not going to get back together with him again and this made him very mad. I knew that Jack had abused Michelle, but I also knew that he did not want her to be with me or anyone else. I originally told all of this to Mr. Hill so that he would do something about it. I also told Mack Arnold and his team about this. The only one of these witnesses who testified at my trial was Dee Dee Hughes. They never explained to me why they never contacted any of the other witnesses. These witnesses were essential to my disproving the State's position that Michelle and I had nothing to do with each other. I did everything that I could to get them to contact these people, but evidently they chose not to.

I explained to Mr. Hill and ultimately all of my lawyers that the State did have a written statement from me which stated that Michelle and I never had any type of relationship. I explained to my attorneys that, that statement was taken from me at a time when I was totally exhausted and I was there with my pregnant wife who wasn't getting

along with me very well at the time. The officers were trying to make me out a murderer, and I just wanted to put myself as far away from all of this as I could. It was a bad mistake to say what I did, but it was what happened and I explained this to my lawyers. I explained to them that I had to take the stand and explain this to the jury if I would have any chance at all. My DNA in her body with the jury believing that she and I never had any type of consensual sexual relationship was a formula for a conviction and a conviction only. If they thought I raped her, they would also believe that I killed her while in the course of raping her. I had voluntary sex with her, but I did not kill her. I told this to all of my lawyers and I made it clear to all of them that I needed to tell this to the jury. Then all of my witnesses could back up my position that I was having this consensual relationship with her. I saw Mr. Hill more than I ever saw any of my other lawyers. Even Mr. Hill would not keep me informed, but in the time that I did spend with him we did discuss my testifying.

I was getting more and more frustrated with Mr. Hill not seeing me or keeping me informed of what was going on. I kept a log of my contacts with anyone during this time, and it is attached hereto as my exhibit "a". This will show just how little contact Mr. Hill and I were having, and why I was so frustrated after so much time in custody had passed.

SEVERANCE OF THE ATTORNEY CLIENT RELATIONSHIP BETWEEN MYSELF AND MR. WAYNE HILL, WITHOUT MY KNOWLEDGE, CONSENT, AND WITHOUT A HEARING.

Mr. Hill made it clear to me that, in his opinion, I should take the plea bargain that

the State was offering. I told him over and over again that I was not guilty and shouldn't have to plead to this case when I was not guilty. Mr. Hill was only focusing on the DNA, and it seemed to me that he was also taking the position that if my DNA was there then I must have killed her in the course of a rape. He explained to me just how little time I would be actually pleading to if I accepted their plea offer, because of the parole eligibility available back in 1987. Much time passed and Mr Hill would not come to see me or keep me informed about what if anything he was doing. I wrote him several letters and sent copies to the court. Many are in the Clerk's Record today. I felt that Mr. Hill was a great lawyer and I wanted him to be my attorney, but the only problem was that he would not keep me informed. I knew of no motions that he filed, and I kept asking him if he contacted my witnesses, but he wouldn't inform me. It seemed that all that mattered to him was the DNA. Finally on one occasion when he was getting angry with me about my not accepting the plea offer he asked me what I would do on punishment if I were convicted. Out of frustration, and only out of frustration I told him basically that I would lie if I had to, to fight off an illegal conviction that was based upon lies. . We didn't discuss that statement anymore, and I believed that he knew that I was just frustrated on so much time passing without anything occurring on my case. It was some time after that conversation that Mr. Hill went to the court with a motion to get off my case claiming ethical reasons. He never informed me of what he was doing before he did it. He made sure that I had no opportunity to object, he made sure that I had no hearing or say in the matter. He went to the Judge without me and got her to sign his order, which left me

high and dry. After two years I was no better off or prepared than I was when I started, and now I had lost my attorney without even having the opportunity to have a say in the matter. It was obviously not my attorney-client relationship to count on or to dismiss, it was only Mr. Hill's. If I had been given the chance to talk with him and the court before he was allowed to leave me, I would have shown that his claim had no real basis in fact and there really did not exist any ethical conflict between the two of us. Taking this attorney away from me after two years of his representation without any notice to me or a hearing, denied my right to counsel. Also, one can see from the trial that there is nothing about the trial that had anything to do with Mr. Hill's work. That entire two year period was lost to my detriment and life.

After letting Mr. Hill leave without giving me any notice whatsoever, the court then appointed Kurt Wentz to represent me. Even though Mr. Leitner has told me that Mr. Wentz is a close friend of his and that he is a fine person, Mr. Wentz and I did not like each other. Maybe I was just completely frustrated at this point, but I knew that I would die with Mr. Wentz and because of that we did not work out. Please look at the record which was finally made when the Judge was attempting to cover herself in prodding me to go pro-se. She had made no record of any of the events before this, but when it was covering herself she made a record. That record speaks for itself.

I was then certified to go pro-se and Mr. Mack Arnold was appointed to assist me. After I could see that I got no cooperation or respect as my own attorney I asked that Mr.

Arnold take over my representation. Mr Arnold agreed, but he only came to see me TWICE before we had jury selection. He told me that he had to finish his case load before he could take over my case. Also, I was told the same thing about Mr. Loper. Dick Bax never came to see me in jail.

At the time of the actual trial, neither Mack Arnold, Bob Loper, or Dick Bax were ready to defend me with my independent witnesses that could corroborate my position that Michelle Shadbolt and I were having a consensual sexual relationship at the time of her death. My position would explain why my DNA was present, and why my DNA could be present without my having killed her. My trial attorney's knew that this was a legal and factual possibility. They told me so, and they made it clear when they cross-examined the Medical Examiner. They showed that the life of the sperm was such that it was possible for sexual relations to have occurred at a time prior to the murder. That was essential to my defense, but that defense was ignored by not bringing forward my witnesses, nor allowing me to testify. They spent so little time with me prior to trial that I could not be assured that they were getting the necessary witnesses together. All I could do was tell them who could be contacted to produce this defense, and that I did do. At some point in time I was given some notes from Wayne Hill's file. I had asked that I be given my file, and at least I got some notes from his file where he had talked with me and/or some of the witnesses. Attached hereto are notes of Mr. Hill (Exhibit "b") which he dated 1-18-01 and titled, "HCJ visit w/ William Irvan along with Ernest Humberson."

In those notes that Mr. Hill made he goes over the prior case that I was convicted of and received probation. These are notes as to why I was telling him that the jury gave me probation. The facts of the prior sexual assault did not come out nearly as bad at the trial of the case as they did during my capital murder trial. I explained to them that Steve Hebert my attorney then was knowledgeable about all of the facts then and that is why he was able to secure a probated sentence for me. I told them to contact him so that they would be ready for the complainant's testimony at my capital murder trial. When that testimony was produced before the jury at my capital murder trial it was like a totally different trial. All was bad and nothing was presented whatsoever to mitigate those facts that the complainant was now testifying to at the capital murder trial. I told my attorney's then that they really needed to get a copy of the transcript of the earlier trial. That it would show them why I got probation then, and that the facts everyone testified to back then were not anywhere near as bad as they were testified to in my capital murder trial. As far as I could tell nothing was done to prepare for this extraneous by my attorneys. That includes any of my attorneys at any time.

Those notes of 1-18-01, by Mr. Hill show that I told him then unequivocally that Michelle Shadbolt and I had a consensual sexual relationship going on at the time of her death. What I told him then, as reflected by his notes, would have explained why my DNA was present in her body even though I did not kill her. My attorney's knew from at least 1-18-01, that I was in a consensual sexual relationship with Michelle Shadbolt at the time of her death. They knew that there was an explanation as to why my DNA was there. The reason

I told them about this, and continued to tell every attorney I had, including Mack Arnold and Bob Loper was because I knew that the jury had to know why my DNA was there even though I didn't kill Michelle Shadbolt.

I also received a copy of notes that were made by either Mr. Hill or his investigator concerning a conversation one of them had with my witness George Caldwell on 5-1-02. The only reason they talked with George Caldwell was because I told them over and over again that he was a necessary witness for me in this case. Their notes reflect that I told him about how close to the killing I had consensual sex with Michelle, and it was within 1 to 2 weeks of the murder that I told him about it. It showed that George Caldwell had knowledge that Jack Shadbolt knew that Michelle and I were having a sexual relationship. It showed that George Caldwell knew that Michelle and I were having a consensual sexual relationship. "I know he was screwing her." see the notes from Mr. Hill. George Caldwell also knew something about me and my relationship with my parents and family that was pertinent, and that I told them needed to be checked out. George Caldwell never testified in my trial. I told Mr. Arnold and Mr. Loper over and over again that George was necessary. I didn't find out that Mr. Hill had made this contact with George until after he got himself removed from my case. If I had known that he was actually working on my case I would not have been as frustrated as I was at the time as evidenced by all of the motions and letters that I sent to the court and that appear in the clerk's record of this cause. It also showed me afterwards that Wayne Hill was the person that I needed on my case, and that his investigation and

preparation would have at least produced my side of the case that was never shown to the jury by Mack Arnold, Bob Loper or Dick Bax..

The court log that I kept reflects, as does my memory, that Dick Bax never came to the jail to see me or to discuss the case with me prior to my trial commencing. That Mr. Arnold and Mr. Loper only came two times during that period. My notes which are attached hereto as "exhibit a", also reflect that while I was in jail I met a person named Paul Patterson. That Paul Patterson told me that his father knew Jack Shadbolt and that when Jack was drunk he had told Paul's father that he had killed Michelle Shadbolt. My notes also reflect that I informed Mack Arnold of this fact on February 26, 2003. I was told by Mr. Arnold that he would send investigator Humberson over to talk to me about that fact. I also sent a letter dated Feb 26, 2003, to the Judge, since I was pro-se at the time, that I needed an investigator to interview Paul Patterson. Later I told Scott Belshaw another investigator about Paul Patterson, but to my knowledge he was never interviewed. My notes reflect that I sent Scott Belshaw a letter on June 23, 2003, asking him to talk to Paul Patterson, my father and mother, and Candy Randell by July 1st. On July 8, 2003, I stepped down from being pro-se and Mack Arnold took over. Paul Patterson never appeared at my trial, and I don't know that they ever followed up on what I told them Paul Patterson told me.

The person that talked to me most about myself was Gina Vitale. She was the only one who asked me very pointed questions about myself and my past. I could tell that she was experienced and I felt like she was getting somewhere with me when she went over all