

AFFIDAVIT OF MICHAEL JAMES PERRY

On this the ~~27~~¹⁰ day of August, 2005 appeared before me MICHAEL JAMES PERRY
MSP

who on his oath deposed and said as follows:

1. My name is MICHAEL JAMES PERRY. I am the same person who was the defendant in a capital murder prosecution in Montgomery County, Texas, docketed under No. 02-01-00320-CR in the 221st District Court. I am making this affidavit in reply to the state's answer to my petition for a writ of habeas corpus.

PART III-A OF THE STATE'S RESPONSE

2. At part III-A of the state's response, the prosecutor alleges that my statement given to Carey Mace and Sidney Blair in the ambulance after my arrest led investigators to the bodies of Adam Stotler and Jeremy Richardson. I know that Sidney Blair and Carey Mace already knew that the two boys had been murdered before they ever arrested me.
3. When Sidney Blair first spoke to me inside the Lazrines' apartment, he said "Why did you kill my friends." He said friends not friend, meaning that he knew more than one person had been murdered.
4. I am sure the Lazrines heard at least this and probably more that would establish that Blair and Mace already knew the boys had been murdered. Blair and Mace had to know where the bodies were, or else they could not know they had been murdered.
5. I now have seen the November 1, 2001 autopsy report on the body of Jeremy Richardson prepared by the prosecution witness Paul Shrode, M.D., Assistant Medical Examiner, Office of the Medical Examiner of Harris County, which states, on page 2, under HISTORY, that his body was found dead at an undeveloped lot in a location near Montgomery, Texas at 9:30 P.M., on October 24, 2001.

6. As I look back on my trial, I can now see that the tape recording Mace made of me while in the ambulance was intended to give a false impression about what I had to say and why I was saying it.
7. Sidney Blair terrified me in the Lazrines' apartment, even before I was actually arrested and taken into the ambulance. Blair threw me against the wall, put a pistol in my mouth and asked "Why did you kill my friends?" [emphasis: plural] I did not say anything back, not with a pistol in my mouth. He hit me—hard—with a blunt object that might have been a flashlight or a pistol, as I was falling to the floor. I passed out from this blow, and came to, still in the apartment. This was really scary. I did not know if Blair would simply kill me on the spot. Still, I resisted Blair's efforts to make me admit a crime by asking for my lawyer that I had used before, Willis Everett Smith, in the Kingwood area.
8. What I actually said about saving them the time, was that I wanted my lawyer, Mr. Smith. That would save them the time of trying to take a statement from me. I never did say "I know it's the needle," like they say I did. I was asking for my lawyer. I told Mr. Cantrell about this before my trial.
9. Blair waited for Mace to come to the ambulance. When he arrived, he stood at the door and talked to other people for awhile. Then he came into the ambulance, sat down on a bench that ran down one side, pulled out a little card and said he was Detective Mace. It was right then that I interrupted Mace, and told him I would save him some time. I then told him I had an attorney, Willis Everett Smith, and that I wanted to talk with Smith before I talked to him.
10. To this, Mace said: "I am going to get a statement one way or the other, son." I said "Fuck you and your statement" and "I am not your son."

11. At that point, Blair hit me with something hard and blunt. At that time, Ms. Montgomery left. Once she was gone, Mace began to squeeze my injured arm until it bled back through the bandage. Then Mace said "Do you want to do this the easy way or the hard way?" I then spit on Mace. That is when Mace started choking me and shaking me more.
12. Mace began to shake me very hard, as if he was trying to snap my head off or break my neck. Then he would say again "You are going to give me a statement one way or the other," and shake me very hard again, but even harder. When I didn't tell him I would comply, he shook me even harder and his voice was louder and more intense, and he said again: "You are going to give me a statement one way or the other,"
13. Mace would choke me awhile, then stop and ask me questions. He asked "Isn't it true that you and Jason formed a plan to kill Ms. Stotler?" I did not answer. I was just trying to breath after the choking. Then he asked "Isn't it true that you used Kristen's truck?" and "Did Kristin know about it?" and "Who else knew about it?" To this, I just asked him what he was talking about. I said "I can't tell you something I don't know about."
14. Then Mace asked "Where did you get the gun?" I gave no answer. "Did you steal a gun from Nick _____" Mace read off an address. I said that Jason stole a gun from Shawna's house. Mace then asked "Was this the gun used to kill Mrs. Stotler?" Just then, I saw Blair leaning over me, like he was going to hit me again. Mace then started trying to get me to say what day and time it occurred. He told me it was several dates, then he settled on Wednesday, and started saying "Didn't it happen on Wednesday?" Mace also asked "Did it happen before or after Kristin got off work?" Mace also asked "Was she there?" I didn't know these answers, so I just grunted when they asked me these things. These became rapid fire questions, and I did not have time to give an answer.

Mace repeated the same questions over and over. I was able to tell that Mace just wanted me to confirm the story he had in mind. I was really afraid that Mace and Blair would really hurt me bad if I did not confirm their story.

15. Mace kept on saying "Isn't it true that you killed Sandra Stotler." And he would repeat that, shaking me and making my wounds bleed. All of this was while I was strapped to a gurney and could barely move.
16. After I finally just told him "Whatever you say ..." Mace moved on to the killing of the two boys, and finally told him I would say whatever he wanted.
17. Then Mace began to add the supposed details of the three shootings, and I just said "whatever." Mace went over and over it, saying "Didn't you just tell me [this or that] until I must have had it pretty well memorized."
18. Mace left for several hours and came back to my hospital room with a written statement he wanted me to sign. Mace had me read the statement, and he read it to me in little parts and ask me to confirm it, and I said "Sure." I was still afraid that Mace or Blair would hurt me again if I did not do as Mace wanted me to do.
19. I did read the statement out loud all the way through one time in the hospital room. I think that might have been taped.
20. Mace also had his notes, and he would show me what words to say.
21. I did not understand at the time why Blair and Mace were so interested in having me say that Mrs. Stotler was killed on a certain date, October 24, 2001. I did not attach any importance to that, and I would have told them any time they wanted if they would just stop shaking, beating and strangling me.

22. I am attaching a photograph taken of me after the beating and shaking done by Blair and Mace. This photograph accurately depicts what it purports to depict. Please notice the placement of the towel that covers up a portion of my neck that was also wounded by Blair and Mace.
23. Some time later, at the jail, Mace came to me and told me I had to sign the statement he wrote. At the same time, he gave me a statement that said I was refusing to talk until my lawyer was there. I just signed whatever he wanted because I was afraid of what he would do if I didn't.
24. It just is not true that I never said I was innocent before I filed my petition for a writ of habeas corpus. I told Don Cantrell that from my very first meeting with him. I also told him that I had been beaten and strangled by Blair and Mace, and that was why I gave the statement I did. I also told Mr. Cantrell that Jason Burkett and Kristin Willis had admitted to me that they killed Mrs. Stotler.
25. I remember very specifically telling Mr. Cantrell how Kristin Willis came to me shaking and crying, and saying "He made me do it, I didn't mean to do it."
26. I gave Mr. Cantrell a letter I got from Jason Burkett that asked me why I gave a statement since I had not done anything. The letter asked me why I took the blame for Kristen and told me not to be a hero.
27. I told Don Cantrell that Sarah Buehler heard Jason Burkett say "I killed a lady." That is why I wanted Mr. Cantrell to get her testimony at my trial.
28. I spoke with Sarah Buehler about what she heard Jason say during a telephone conversation with her while I was at the Montgomery County Jail. Sarah told me that she

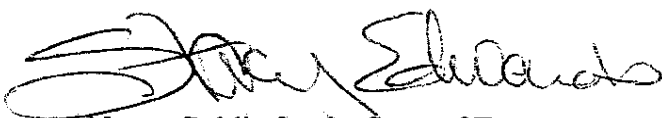
first told the police that Jason admitted killing a lady for her car. Later, after some threats of prosecution, she told them that Jason said I did it.

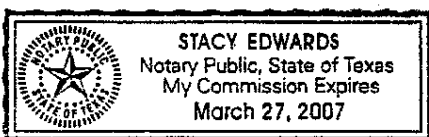
29. I now know that Sarah Buehler testified at Jason's trial that she could not remember whether Jason said he did it or that I did it.
30. Sarah Buehler told me that it was the prosecution's investigator, Heather Cash, that tried to get her to change her testimony from Jason to me, back to Jason, and then to not remembering.
31. The affidavits of Don Cantrell and Steve Taylor are not truthful in many ways. First, I told Mr. Cantrell I didn't kill Mrs. Stotler or the two boys. Mr. Cantrell. Secondly, I did give Mr. Cantrell a list of witnesses that would have been helpful to my case, with an explanation of how they would be helpful. I am attaching a copy of that list to my affidavit.
32. I did not get to speak with Mr. Cantrell very much at all before my trial. He had moved his office, and for some reason, the jail phone system would not permit me to reach him for some time. The phone calls I could make to him were all collect calls. I am sure there is a record of the calls that I did get through to him, but Mr. Cantrell did not provide that as a part of his affidavit.
33. I never did know that I was supposed to be sending Mr. Cantrell information about my case through my parents by giving it to them during family visits at the jail. I do not think information in my parents hands would be confidential, and might be intercepted at the jail and given to the prosecutors. Mr. Cantrell's affidavit does not tell me what information he got in that way.

34. Mr. Cantrell says he gave me all the evidence he collected by court discovery. Mr. Cantrell did not give me the autopsy reports showing that the bodies of the two boys were found by someone on October 24. He did not show me the statement of Shane Atkinson that provides an alibi for me on the 24th and it also says I was in his shop on the 26th, when I was in jail. Don did not use this for me at my trial.
35. I understood Gilda Kessner to be an expert witness who would testify at the punishment phase of the trial if there was one. She did not ask me about an alibi or what legal defense I might have in the case.
36. After my first visit with Don Cantrell, when I told him I was not guilty and was not even there, Don did not seem interested in whether I was guilty or innocent. I did tell Don Cantrell that Blair and Mace injured me, that my injuries did not come just from before my arrest. I also told Mr. Cantrell about Jason hitting me with the flashlight some time before.
37. I did not kill Sandra Stotler or the two boys. I was not even present.

Signed and sworn to on this the 10 day of August, 2005


MICHAEL JAMES PERRY


Notary Public for the State of Texas



AFFIDAVIT OF KAREN MORRISS

THE STATE OF TEXAS

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COUNTY OF TRAVIS

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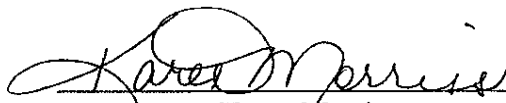
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BEFORE ME, the undersigned authority, personally appeared Karen Morriss who, being by me duly sworn, deposed as follows:

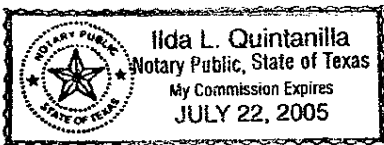
1. "My name is Karen Morriss and I reside in Smithville, Texas. I am a licensed nurse in the State of Texas.
2. "I am over the age of 18 years, have never been convicted of a felony or a crime of moral turpitude, and am of sound mind and fully qualified to make this Affidavit.
3. "I attended the guilt-innocence phase of the trial in the case of *The State of Texas vs. Michael James Perry* held in the District Court of Montgomery County.
4. "I am not related to Michael James Perry and I had never seen him prior to attending the trial.
5. "During the trial I observed the behavior of each of Michael James Perry's lawyers. One of Michael James Perry's lawyers frequently rested his head in his hand and closed his eyes for periods of time in the presence of the jury and during the testimony of witnesses. I observed this lawyer to engage in this same behavior throughout the evidentiary portion of the trial. I also observed this same lawyer's head nod and jerk up, as if he had fallen asleep, throughout the trial and in the presence of the jury. Generally, this lawyer appeared bored with the


proceeding and appeared to sleep through a substantial portion of the testimony offered in the guilt-innocence phase.

- 6. "I particularly recall this same lawyer nodding and jerking his head back up during the testimony of Michael James Perry. It appeared to me that this lawyer did not credit or value Michael James Perry's testimony enough to stay awake for it and this message was communicated to the jury through this lawyer's behavior.
- 7. "I do not know this lawyer's name but I believe it to be Donald R. Cantrell. The lawyer was the older of the two lawyers representing Michael James Perry. I recall that he was balding and I believe that I could identify this lawyer, if I were to see him or a photograph of him.
- 8. "I have personal knowledge of all the facts set forth in this Affidavit and the contents of this Affidavit are true and correct to the best of my knowledge."


 Name: Karen Morriss

SUBSCRIBED AND SWORN TO BEFORE ME on this 28th day of December, 2004.




 Notary Public in and for the State of TEXAS
 My Commission Expires: 07/22/05

MONTGOMERY COUNTY SHERIFF'S DEPARTMENT

OFFENSE REPORT

DATE: 04/09/02
TIME: 10:28

CASE NO: 01A018475/2

CAD NATURE: DOA

REPORTING OFFICER: WOOD, MELANIE

01005621 UNIT: 6210

ADMINISTRATION

CLR OFC 1: WOOD, MELANIE

ROUTE :

CLEARANCE:

SUPERVISOR:

APPROVED BY:

ATTACHMENTS:

SAO:
EXCEPTION:

#: 01005621

DATE:

DATE:

DIVISION:

CL. DATE: 10/30/01

#:

#:

NARRATIVE

CASE # 01A018475
OFFENSE: DOA

NARRATIVE:

10-30-01, I, DET. MELANIE WOOD #6210, WAS ADVISED BY SGT. SCLIDER TO BE ROUTE TO THE DISTRICT 2 OFFICE TO INTERVIEW WITNESSES TO A POSSIBLE HOMICIDE.

UPON MY ARRIVAL, APPROX 0730 HRS. DET. ~~CANNUCCI~~ AND I MET AND INTERVIEWED MEGAN LEIGH LAZRINE (W/F DOB: 1-10-84). OFFICERS SPOKE WITH MEGAN EARLIER IN THE EVENING AND SHE WROTE A VOLUNTARY STATEMENT AT THAT TIME.

MEGAN TOLD ME THAT SHE MET JASON BURKETT IN JUVENILE IN 1999. SHE SAID THAT HE CAME TO HER APARTMENT ON 10-27-01, SATURDAY AND TOLD HER THAT HE SHOT SOMEONE. MEGAN ASKED IF THEY WERE DEAD AND HE TOLD HER THAT HE DID NOT KNOW. MEGAN AND JASON LEFT HER APARTMENT AND WENT TO SARAH BUEHLER'S HOUSE (11510 TIMBERWILD ST, THE WOODLANDS). MEGAN SAID THAT JASON WAS DRIVING A WHITE RODEO AND THERE WAS A BLACK SHOTGUN IN THE VEHICLE. JASON TOLD HER THAT IT BELONGED TO AN OFFICER. JASON LEFT SARAH'S HOUSE, SAYING HE WAS GOING TO GET "ROMEO", MICHAEL PERRY. JASON DID NOT RETURN THAT DATE. JASON CAME BACK TO MEGAN'S APARTMENT APPROX 1930 HRS. ON 10-28-01. MICHAEL PERRY WAS WITH HIM AND MEGAN, MICHAEL AND JASON WENT TO SARAH'S HOUSE. THEY ALL WENT TO "THE SHADY SPOT", WHICH IS A WOODED AREA IN TIMBERLAKES/TIMBERRIDGE. JASON FIRED THE GUN INTO THE AIR. THEY WENT TO THE STORE AND MET WITH OTHER FRIENDS, SCOTT RHODES, DAVID AND ED HARRIS, RICKY RODRIGUEZ AND TWO LADIES SHE DID NOT KNOW. THEY ALL WENT TO SARAH'S HOUSE. MEGAN LEFT APPROX 2345 HRS WITH HER MOTHER.