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March 30, 2014

State Bar of Texas
Chief Disciplinary Counsel's Office
PO Box 13287
Austin, Texas 78711

Office of Disciplinary Counsel
State of South Carolina
PO Box 12159
Columbia, South Carolina 29211

Via: US CMRRR # 7012 1010 0001 1557 0533 (TX)
US CMRRR # 7012 2210 0002 1919 4074 (SC)

Re: Grievance // Attorney Thomas Heyward Carter III (Texas Bar Card No. 24048387)

Disciplinary Counsel,

I am a defendant to multiple criminal cases that had been pending in the courts of Harris County Texas for 542 days. In total I had been charged fourteen times for the same allegations and had received eight dismissals that were followed by eight re-indictments. These cases are now pending in the Texas Court of Appeals.

In September 2013 I filed a grievance against attorney Thomas Heyward Carter III who was the prosecuting attorney. The crux of this grievance was that Mr. Carter was obstructing my ability to prepare an adequate defense and that this obstruction violated my Due Process Rights. Included with this grievance were court filings concerning prosecutorial misconduct.

In March 2014 all of my criminal cases were forced to jury verdict and during these trials Mr. Carter argued frivolous matters to misdirect and confuse the Jury, he suppressed exculpatory evidence from the Jury, he made falsehoods to the Court, and he suborned perjury by the Government's witnesses. Mr. Carter is also suspected of tainting the prospective jury panel.

Article 2.01 of the Texas Code of Criminal Procedure mandates that it is the primary duty of prosecuting attorneys "not to convict, but to see that justice is done". This provision further mandates that a prosecutor "shall not suppress facts or secrete witnesses capable of establishing the innocence of the accused".

In my cases Mr. Carter, while acting under Color of State Law as a prosecuting attorney, violated Article 2.01 of the Texas Code of Criminal Procedure. In prime example Mr. Carter intentionally lied to the Jury about a material fact and he suborned the aggravated perjury of a key Government witness to bolster his lies.

In this specific instance Mr. Carter accused me of making a “false entry, to wit: a vehicle VIN number and vehicle description, in a governmental record”. During trial he abandoned this argument and advanced the argument that the entire alleged governmental record was false. This new argument exceeded the scope of the Indictment and it was designed to confuse the Jury.

The alleged governmental record in question was a traffic citation that I had issued in my capacity as a Texas peace officer. This citation accused the recipient of operating a motor vehicle on a public road without a valid driver license. The recipient was a wanted felony fugitive who I had arrested and whose driver license had expired while being at-large.

One of the central points of Mr. Carter’s new argument against me at trial was that this fugitive’s driver license was not invalid at the time I issued the citation. Mr. Carter wanted to taint the Jury by portraying me as a corrupt police officer because he knew the underlying allegations against me were bogus. Mr. Carter’s claim was false and he knew it was false.

In furtherance of these lies, Mr. Carter put the fugitive recipient on the witness stand and knowingly allowed this witness to commit aggravated perjury in my case. This witness testified that her driver license was not invalid at the time I issued the citation and this testimony was a lie. Mr. Carter knew that this testimony was a lie and he suborned aggravated perjury.

After the lies and perjured testimony were received in the Court’s records I presented evidence to Mr. Carter that he and his key witness had lied at trial. This evidence was the actual driver license record generated at the time the citation was issued and it was authenticated by the law enforcement agency that generated the record.

When confronted with this evidence Mr. Carter fought to suppress the truth being presented to the Jury and in the end the Judge ruled to suppress it on a technicality that we were not prepared to overcome. This evidence was exculpatory, it was authenticated, and at very least it warranted Mr. Carter to make a good faith effort to verify it – not to suppress it.

This is only one example of many. Mr. Carter’s intentional efforts to prevent me from a fair and impartial trial violated his duties as an attorney and it violated my Constitutional rights. Article 2.01 of the Texas Code of Criminal Procedure prohibited Mr. Carter from suppressing evidence that showed my innocence and Mr. Carter violated this law.

The Texas Disciplinary Rules of Professional Conduct also governed Mr. Carter’s conduct as an attorney and a prosecutor. Rule 3.01 mandates that “[a] lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless the lawyer reasonably believes that there is a basis for doing so that is not frivolous”.

Rule 3.01 is annotated with the comments that an attorney has “a duty not to abuse legal procedure” and that “[a]ll judicial systems prohibit, at a minimum, the filing of frivolous or

knowingly false pleadings, motions or other papers with the court or the assertion in an adjudicatory proceeding of a knowingly false claim or defense”.

The annotations further state that “[a] filing or contention is frivolous if it contains knowingly false statements of fact”. Mr. Carter violated this rule of professional conduct, by either lying intentionally to the Judge and Jury from the onset or by later ratifying his lies after being confronted with the truth; a truth that he vehemently sought to suppress.

Mr. Carter knew or should have known that the driver license of his key witness was invalid at the time I issued the traffic citation in question. And, even if Mr. Carter was incompetent in verifying this fact beforehand he later ratified his false statement by refusing to retract it upon learning the truth. This was a fraud on the Court and misconduct on his part.

Rule 3.03 mandates in relevant part that an attorney shall not knowingly “make a false statement of material fact or law to a tribunal”; or “fail to disclose a fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act”; or “offer or use evidence that the lawyer knows to be false”.

Rule 3.03 is annotated with the comments that an attorney’s “task is to present the client’s case with persuasive force”. This duty is conditioned that a “[I]legal argument based on a knowingly false representation of law constitutes dishonesty toward the tribunal” and that an attorney is to urge a person “to not offer false or fabricated evidence”.

Mr. Carter violated each of these relevant provisions of this rule of professional conduct. Mr. Carter knowingly made a false statement about the driver license status of his key witness, this false statement was material to Mr. Carter’s claims against me, and Mr. Carter suborned the aggravated perjury of his key witness who supported this false statement.

Rule 3.04 mandates in relevant part that an attorney shall not “unlawfully obstruct another party’s access to evidence; in anticipation of a dispute unlawfully alter, destroy, or conceal a document or other material that a competent lawyer would believe has potential or actual evidentiary value; or counsel or assist another person to do any such act”.

Rule 3.04 further mandates that an attorney shall not “falsify evidence, counsel or assist a witness to testify falsely, or pay, offer to pay, or acquiesce in the offer or payment of compensation to a witness or other entity contingent upon the content of the testimony of the witness or the outcome of the case”.

Mr. Carter violated each of the relevant provisions of this rule of professional conduct. Mr. Carter intentionally obstructed the admission of exculpatory evidence by moving to suppress the evidence from the Jury and he compensated his key witness to commit aggravated perjury by funding with tax money a free trip to Houston Texas while the witness was on parole.

Mr. Carter's key witness was a documented pathological liar who had multiple misdemeanor and felony convictions for conning innocent people; a key witness who had been imprisoned and was currently on parole because I had arrested her. Mr. Carter's key witness had every motive to lie at trial to help Mr. Carter advance his cases against me.

Rule 3.04 is annotated with the comments that "[t]he right of a party, including the government, to obtain evidence through discovery or subpoena is an important procedural right" and that "[t]he exercise of this right can be frustrated if relevant material is altered, concealed, or destroyed". This annotation cites criminal penalties for these kinds of violations.

In particular, the annotation asserts that obstruction of discovery may violate Sections 37.09(a)(1) and 37.10(a)(3) of the Texas Penal Code and Title 18 Sections 1501-1515 of the United States Code. To point, an attorney is prohibited from "introducing irrelevant or improper considerations into the deliberative process" in order to influence the outcome of a matter.

Rule 3.06 mandates in relevant part that an attorney shall not "seek to influence a venireman or juror concerning the merits of a pending matter by means prohibited by law or applicable rules of practice or procedure". In my case, a prospective juror reported during *voir dire* that he heard attorneys in the hallway saying that I intended to plead guilty.

This report was made in the presence and hearing of the other 64 prospective jurors and it caused a special hearing on the matter in the presence of these prospective jurors. After a hearing the Judge could not confirm that agents of the Harris County (TX) District Attorney's Office had deliberately tried to taint the jury pool, but this event nevertheless raised serious concerns.

It was too easy for Mr. Carter or those who worked with him to stage agents of the District Attorney's Office in the crowded courtroom hallways near the prospective jurors for the sole purpose of planting negative information about me before trial. A tactic that Mr. Carter had already done by displaying a derogatory picture of me on boxes in view of prospective jurors.

Rule 3.07 mandates in relevant part that an attorney shall not "make an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if the lawyer knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicatory proceeding".

Mr. Carter violated the provisions of this rule of professional conduct on multiple occasions. On November 6, 2013 Mr. Carter gave a news interview with Fox News where he made disparaging comments about my character, credibility, and reputation. Bluntly, Mr. Carter announced that I was a corrupt police officer.

At the time my criminal cases were pending and Mr. Carter's extrajudicial statements on the news violated my rights to a fair and impartial trial by tainting prospective jurors who might

later recognize me during trial. Further, Mr. Carter had invented the accusation that I was “corrupt” only after the news networks began reporting on the prosecutorial misconduct.

Mr. Carter again violated the provisions of this rule of professional conduct in March 2014 at a much grander scale. This time Mr. Carter published on virtually every news network in the Houston Texas area that I was a convicted felon. According to the Harris County (TX) District Attorney’s Office I was a corrupt police officer who created a “false ticket”.

This publication to the news was a lie and it was designed to discredit me in future court proceedings. Mr. Carter and his superiors at the District Attorney’s Office knew that I had not been subject to any final conviction; that I was not subjected to jail; that I was not subjected to probation; and that I was not subjected to any criminal sentence whatsoever.

During the week of March 24, 2014 I received more news coverage than most serial killers received in the past. It is my belief that Mr. Carter lied to his superiors in order to justify the abuses he and his friends subjected me to during the past year and half. In my opinion the news networks were unknowing tools to further these abuses.

I am still an actively licensed Texas peace officer and I am currently an appointed municipal judge. I have faced the bogus accusations that the Harris County (TX) District Attorney’s Office has persecuted me for and I do not expect the State Bar to address any matter concerning my innocence or guilt.

What I do expect the State Bar to address is the fact that I helped author a Federal lawsuit against the very officials at the Harris County (TX) District Attorney’s Office who have persecuted me for the past year and half. I also expect the State Bar to address the misconduct that Thomas Heyward Carter III committed against me.

I have spoon fed specific violations committed by Mr. Carter and I will go into much more detail if necessary. No person should have to go into such minute detail in order to garner the attention and action of a self-governing body that purports to exist for the protection of the public. Prosecutorial misconduct is far too easy to commit with impunity.

I expect meaningful and prompt action to be taken against the attorneys who have committed misconduct against me and I assure you that I will not succumb to intimidation. I am innocent of the accusations I stand charged with and I am the victim of retaliation because I have helped expose corruption within the Harris County (TX) District Attorney’s Office.

I normally would cite authority for my arguments, but in my past dealings with the State Bar it seems to be a waste of time so no citations, references, or exhibits are included with this grievance. My grievances are independently supported by official court records and other verifiable sources that I will direct you to in the event a legitimate investigation occurs.

I ask that disciplinary action be taken against Thomas Heyward Carter III for his breach of ethical, professional, and legal duties as an attorney admitted to the State Bar for Texas and South Carolina.

I may be contacted at telephone number 409-338-1661 concerning this grievance. Attorney Michael D. Gillespie (Texas Bar No. 07926500) also has relevant knowledge and he can be contacted at telephone number 281-457-9999.

Best regards,



Eric L. Baumgart

142/1984/985/1987/1988/1986

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CAUSE NUMBERS 1909495, 1909496, 1909497, 1909498, 1909499
IN THE COUNTY CRIMINAL COURT AT LAW NUMBER 6
FOR HARRIS COUNTY TEXAS

THE STATE OF TEXAS

V.

ERIC LYNN BAUMGART

§
§
§
§
§

MOTION FOR CONTINUANCE

FILED

Chris Daniel
District Clerk

OCT - 7 2013

TO THE HONORABLE JUDGE OF SAID COURT:

Time: _____
Harris County, Texas
Deputy

Now comes Eric Lynn Baumgart, a defendant in the above numbered and entitled cause, who files this motion for continuance and in support thereof would respectfully show the Court as follows:

MOTION SUMMARY

1. These cases are set for jury trial on 22 October 2013 and the defendant has been prevented from preparing an adequate defense for trial. Foremost, the Harris County (TX) District Attorney's Office has obstructed discovery and the hearing of pretrial motions and it has further created new circumstances that significantly affect the defense in these cases. To proceed to trial at this time would unfairly harm and prejudice the defendant's rights.
2. The Court is asked to postpone the trial setting and to reschedule it to a date at least 45-days after pretrial requests and motions can be fully heard and ruled on.

PROCEDURAL BACKGROUND

3. In September 2012 four of these cases were originally filed by the Harris County (TX) District Attorney's Office.¹ About nine weeks later the district attorney's office filed the fifth

¹ Cause Numbers 1909496, 1909497, 1909498, and 1909499 were originally filed by Indictment on 25 September 2012 under Cause Numbers 1853300, 1853301, 1853302, and 1853303.

case against the defendant.² In the face of a finding of no probable cause, the district attorney's office dismissed the fifth charge and re-filed it in circumvention of the hearing.³ On 26 June 2013 all five cases were dismissed and then re-filed again one month later.⁴

4. In the past 55-weeks, the district attorney's office has charged the defendant eleven times for the same offense and the defendant has been forced to appear at eighteen court appearances.⁵ The defendant was represented by an attorney in the first six cases; however, in these five new cases the defendant chose to handle his defense *pro se* with his attorney as co-counsel.⁶ Since this election, the district attorney's office has refused to communicate with the defendant.⁷

5. These cases are set for trial on 22 October 2013, but the defendant has been unable to prepare an adequate defense because of the district attorney's office refusing to communicate with the defendant. The district attorney's office has refused to make its file available to the defendant, it has refused to answer discovery subpoenas, and it has refused to cooperate with the scheduling of necessary pretrial motion hearings.

GROUND FOR CONTINUANCE

6. There are numerous pretrial matters that must be addressed by the Court in order for the

² Cause Number 1909495 was originally filed by Information on 17 November 2012 under Cause Number 1862948.

³ Cause Number 1862948 was re-filed by Indictment on 10 December 2012 under Cause Number 1867047; notably, this re-filing was done to circumvent a probable cause hearing.

⁴ On 26 June 2013 Cause Numbers 1853300, 1853301, 1853302, 1853303, and 1867047 were dismissed at a motion hearing to quash the indictments and all five cases were re-filed by Indictment on 24 July 2013 under Cause Numbers 1909495, 1909496, 1909497, 1909498, and 1909499.

⁵ These totals exclude the felony case that the Harris County (TX) District Attorney's Office has repeatedly re-filed against the defendant. This felony case was pending in the 183rd District Court of Texas under Cause Numbers 1362434, 1370722, and 1382166, which has been twice dismissed and on 1 October 2013 the Court ruled that it had no jurisdiction over the defendant. In total, the defendant has been charged fourteen times for the same offenses.

⁶ On 10 August 2013 the defendant filed a request to exercise *pro se* defense that, in part, supported the request for *Faretta* hearing filed by the Harris County (TX) District Attorney's Office the day prior.

⁷ To date, the Harris County (TX) District Attorney's Office has refused to set its *Faretta* request for hearing and it has likewise refused to cooperate with the defendant's request to exercise *pro se* defense. State Bar grievances have been filed against the prosecutor – Thomas Heyward Carter III – for this obstruction of due process.

defendant to adequately answer the accusations made against him. Of highest priority is a hearing and ruling on the defendant's request to exercise *pro se* defense, followed by a ruling on jurisdiction. The defense will show that all five indictments are void and failed to invoke the jurisdiction of this Court and a pretrial finding of this is in the interest of judicial economy.⁸

7. Alternatively, should these cases advance to trial then issues concerning discovery and potential co-defendants must be addressed by the Court. The defendant filed standard pretrial discovery motions and three particularized discovery motions.⁹ The defendant has also served four discovery subpoenas on the district attorney's office and one subpoena on the Harris County (TX) Sheriff's Office, none of which have been answered.¹⁰

8. Finally, during the pendency of the defendant's various cases the district attorney's office has regularly claimed that the defendant had two co-defendants. Although this claim was absurd and contrary to reality, the district attorney's office has in fact officially identified a supposed co-defendant and had him "attached" to this Court with the defendant.¹¹ This attachment creates more discovery issues and possibly a due process right for the joint trial co-defendants.

⁸ On 2 August 2013 the defendant filed motions to quash the indictments in all five cases pending in this Court against him under Cause Numbers 1909495, 1909496, 1909497, 1909498, and 1909499. The grounds for the motions are identical to the grounds that supported the previous six dismissals in these cases. All of the indictments against the defendant fail in form and substance.

⁹ The defendant filed three particularized discovery motions, namely: (1) a motion for the State to disclose information concerning informants associated to the cases; (2) a motion for a discovery order to investigate evidence of clandestine surveillance against the defendant in the cases; and (3) a motion for a discovery order authorizing the defendant to inspect the private property named in the Indictment pending under Cause Number 1909495. These motions have not been heard or ruled on.

¹⁰ On 3 September 2013 four discovery subpoenas were issued on the Harris County (TX) District Attorney's Office and one was issued on the Harris County (TX) Sheriff's Office. The information sought was relevant and necessary to the defense in these cases. Two of the subpoenas had been twice previously issued and served on the district attorney's office and wholly ignored. The sheriff's office is believed to have ignored the subpoena because the former prosecutor (*Clinton Francis Greenwood*) in these cases is now a command officer with the sheriff's office and suspected to have influenced the non-compliance.

¹¹ On 12 August 2013 the Harris County (TX) District Attorney's Office officially identified Christopher Paul Allison as a co-defendant with the defendant in these cases. In particular, Allison had two like cases pending in the Harris County (TX) Criminal Court at Law No. 13 under Cause Numbers 1853533 and 1853534. On 30 August 2013 the district attorney's office had Allison attached to this Court.

CONCLUSION AND PRAYER

9. Wherefore, premises considered, the defendant asks the Court to postpone the trial setting that is currently set for 22 October 2013 and to reschedule it to a date at least 45-days after pretrial requests and motions can be fully heard and ruled on. The Court is further asked to keep the 22 October 2013 court setting and, on this date, to hear and rule on the defendant's request to exercise *pro se* defense and the motions to quash the Indictments in these cases.

CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing has been served on the Harris County (TX) District Attorney's Office as indicated.

Served on the 6 day of OCTOBER, 2013.

() Personal Service

(X) Fax to 713-755-0173

() US Mail (Certified Mail, Return Receipt Requested)

RECEIPT NUMBER _____

() Other _____

Respectfully submitted,



Eric Lynn Baumgart
Defendant *pro se*

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