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Facts of Crime

7. State the details of the crime(s) for which you are requesting a Pardon or Commutation. Where were you, what exactly did you do, and how were you caught? (Applicant must complete in his/her own words!)

Within my case, three events occurred which resulted in the charges against me. The connecting link was Clarence Miller, his relationship to me, and his relationship to the victim.

I first met Miller when I was a law student, working one summer for the Clerk of Courts. Miller ran errands for judges and constables and we became casually acquainted. I returned to law school in the fall and did not see Miller again until after I graduated. Miller found out that I had purchased a restaurant and stopped in one day when I was there to check in. He came in regularly for takeout' orders after that and we became reacquainted.

The first event was the defrauding of George Wilhelm by Clarence Miller, Thadeus Dedo, and possibly Fred Orlosky. I was not involved in that crime and was unaware of its commission until long after it occurred. The second crime was the arson of the restaurant purchased by my parents. I oversaw its operation and arranged for Miller to burn it down. A series of bad decisions led me to a point of desperation and my subsequent decision to have it burned down. The third event was the killing of George Wilhelm by Clarence Miller which resulted from Miller's fear that Wilhelm would turn him into the authorities for the land fraud.

Miller killed Wilhelm in my presence. I took no part in the assault. Because of my complicity in the arson, I agreed to protect Miller and give him an alibi. I did not want Miller to be arrested, fearing that he might divulge the fire to the police. This would prevent my parents from recovering their investment from the insurance on the restaurant and reveal my involvement in the arson. Contrary to Miller's testimony at my trial, George Wilhelm had nothing to do with the arson. At the time of the fire in November of 1975, I had not as yet met Wilhelm. Miller initially denied to the police that the fraud had been committed, attempting to convince them that the arson of the restaurant was my motive for murdering Wilhelm. Unable to do this, Miller had to admit the existence of the land fraud and his complicity in it. Years after my trial, lawyers from the District Attorney's Office admitted that their people never believed that George Wilhelm had anything to do with the fire. In spite of this, without hesitation, they presented Miller's testimony that I hired George Wilhelm to set the fire.

THE LAND FRAUD

In 1973, or early 1974, George Wilhelm became interested in acquiring some federally owned land in North Carolina where he could dig for semi-precious stones.

Miller was a political groupie, working in campaigns by doing errands and odd jobs. Miller somehow convinced Wilhelm that he had a special connection with then Senator Richard Schweiker. I learned from Miller's testimony that Dedo presented himself as a man named Ken Manella who worked as an aid in Senator Schweiker's office. Miller testified that two meetings took place in hotel rooms, one in Washington, D. C. and one in Washington, Pa. At both of these meetings Wilhelm gave several thousand dollars in cash to Dedo. Miller was also present at these meetings. Miller testified at my trial that I was at a meeting with Manella and Miller. It was proven that I was out of town for my firm at the time.

When Wilhelm received no deed for the land he became suspicious and contacted the Senator's office. He spoke to the real Ken Manella who had no knowledge of a land sale. Senator Schweiker's Office referred Wilhelm to the FBI in Pittsburgh.

At first, Wilhelm truthfully told the FBI about the land deal as he understood it. It is important to note that Wilhelm never referred to me in any way when he spoke to the FBI. Miller was drawn into the FBI investigation at this point. Miller somehow convinced Wilhelm to withdraw his statement to the FBI on the premise that FBI involvement would unravel the arrangement for Wilhelm to quietly buy the government land in North Carolina

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through the Senator's office. On Miller's prompting, Wilhelm went back to the FBI and told them that the complaint was a hoax to embarrass Senator Schweiker. Interestingly, the FBI agent, Gary Boutwell, who testified at my trial, stated that he did not believe Wilhelm when the complaint was withdrawn, continuing to believe that Wilhelm had been defrauded. According to Boutwell's testimony, the FBI ended the investigation because the U.S. Attorney for Western Pa., Richard Thornburgh, issued a letter of declination. No referral was made to any local police authorities. No explanation has ever been given for this. At this point, the matter rested because Miller was able to placate Wilhelm until the killing in February of 1976.

THE ARSON

In early 1975, I purchased the Fifth Avenue Inn Restaurant, located near downtown Pittsburgh. The money for the investment was provided by my parents. They invested nearly \$70,000.00 and additionally assumed a \$100,000.00 mortgage on the building. The money represented a substantial amount of their savings. The business did not do as well as I had expected. I never should have asked my parents to make such an investment. When the restaurant was purchased, I was in my first year out of law school. I worked full time, and taught accounting part time at the University of Pittsburgh. The restaurant became the straw that broke the camel's back. There simply weren't enough hours in each day for me to get everything done. By the fall of 1975, I was completely worn out. I needed to put more time into my career and my marriage. Something had to give. I made an attempt to sell the restaurant but nothing developed. It would have taken several months to sell the restaurant and I felt so frazzled that I needed to find an immediate solution. I foolishly and irresponsibly arranged to have the restaurant burned in November, 1976. I planned the arson, made the preparations, and hired Clarence Miller to actually set the fire. No one was injured in the fire. I never told anyone, family or attorneys, that I had arranged the arson until many years later when my parents had recovered a large part of their investment from the insurance companies and were no longer imperiled by the mortgage on the restaurant building.

When I decided to have the restaurant burned, I did not have my normal judgment. I was worn out and grabbed for instant relief. I rationalized that no one would be hurt and hired Miller because I had no experience or firsthand knowledge.

As I stated above, George Wilhelm had nothing to do with the arson. The lead prosecutor, F. Peter Dixon has admitted that he never believed Miller's account to the effect that George Wilhelm set the fire. This was corroborated by statements made by Assistant District Attorney James Gilmore, at the public hearing held in connection with my last application.

THE HOMICIDE

In early 1976, a couple of months after the fire, Miller came to me because I was a lawyer and was beholden to him. He needed advice in connection with the fraudulent land deal. Wilhelm had paid out a lot of money, had nothing to show for it, and was pressuring him. At first I did not believe Miller and suspected that he was trying to get more money from me for burning down the restaurant. The primary reason for my suspicion and disbelief was that Miller had committed a fraud on a victim (Wilhelm) who knew who he (Miller) was. I could not see how Miller would defraud Wilhelm and leave it at that. At some point, Wilhelm would have to realized that he had been defrauded and that his friend was part of the scheme. The other reason Miller's story was confusing to me was that Miller spoke in terms of his committing the fraud himself while making vague references to another person. This other person turned out to be Dedo posing as Ken Manella.

I advised Miller that because Wilhelm knew who he (Miller) was that his best chance for a quiet solution would be to repay the money to Wilhelm. When I asked Miller if he had the funds to do that, he said yes. I felt that

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if Wilhelm were repaid, he would not pursue the matter with the authorities again. I agreed to meet with Miller and Wilhelm on the understanding that Miller come clean and offer to repay the money immediately.

There were two meetings. The first meeting took place on a Sunday afternoon in early February, 1976, at a McDonalds in downtown Pittsburgh. It was what Miller said at this first meeting that confirmed my suspicion that another person was involved. Miller did not come clean. He told Wilhelm that he had been unable to contact Manella and suspected that Manella had skipped out. When I realized that Miller was not heeding my advice and was lying to Wilhelm, I said I had to leave. I was uncomfortable because to sit there quietly and not say anything while Miller misled Wilhelm would be implicitly condoning Miller's dishonesty.

I had serious doubts at this point about whether the whole story was genuine. I was expecting Miller to ask me for money to give to Wilhelm. I suspected that the two of them were trying to pull a scam on me by telling a story that did not make sense.

Miller, knowing that I was disgusted with him, left Wilhelm at the table, and walked with me to the outside door of the restaurant. I told Miller that if he was not going to take my advice, he should not have involved me in the first place.

Miller asked me to meet with him and Wilhelm again. I wanted nothing more to do with it, but felt trapped. Miller had burned down the restaurant so I reluctantly agreed.

We met again the next night. Since I taught accounting at the University of Pittsburgh, the meeting was scheduled after my class was over. I drove downtown and parked in an alley near my employer's office building, where Miller met me. We walked to the same McDonalds, and met Wilhelm. As we sat there Miller and Wilhelm began to discuss the land deal. Wilhelm, realizing that this was not going to be a short meeting said that he had to move his car off the street.

Miller and I went with Wilhelm to his car. I got in the back seat, Miller got in the right front seat and Wilhelm drove the car to a parking garage. As we proceeded upward in the parking garage Miller began to tell Wilhelm that he (Wilhelm) would not be getting the land, but that Miller would make good on getting Wilhelm's money returned. Wilhelm was getting progressively agitated and then asked Miller when he was going to get his money. Miller told Wilhelm that it would take a while, but that Miller would insure that Wilhelm received his money. By now Wilhelm had driven the car to the top of the parking garage and parked. Wilhelm was yelling and Miller was trying to placate him. They started to fight in the front seat. After they struggled for a while I saw blood and realized that one of them was bleeding. Wilhelm then got out of the car to try to escape.

It was at this point that I realized that Miller had stabbed Wilhelm. Terrified, I ran to the exit door on the opposite side of the garage roof. Miller chased Wilhelm and kept stabbing at him until they got to the edge. Wilhelm was leaning against a rail. Miller pushed him over the rail and I heard a thud. I stayed where I was because I had witnessed his attack on Wilhelm. Miller, sensing my fear, held out his hands to show that he had no weapon in them. I came over and looked over the edge. I saw Wilhelm lying on a ledge on the floor below. Wilhelm did not move and I was sure that he was dead.

I just had to get away from the whole thing and walked back to the stairwell. Miller followed me. He had a lot of blood on him and wanted me to take him home. I told him not to follow me. He followed me to my car. I was upset, scared, and unable to think clearly. I foolishly acquiesced, took Miller home and agreed to give him an alibi. Not thinking clearly, I agreed to place myself with Miller and Wilhelm at the meeting shortly before the homicide. After all these years I have never been able to understand my absurd conduct. The combination of my fear of Miller, witnessing the killing, and my wanting to insure his silence concerning the fire led to my agreement to give Miller an alibi.

Wilhelm was still alive when the police found him. He made a dying declaration to a police officer. Wilhelm told the officer:

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“Clarence, Clarence Miller did this to me.”

Wilhelm was taken to a hospital and died a few hours later. Despite remaining conscious and having ample opportunity, Wilhelm never mentioned my name to the police or doctors. On the way to the hospital, Wilhelm continued to talk to the police about his injuries.

THE ARREST

The next day, because of Wilhelm’s dying declaration, the police brought Miller in for questioning. Initially, Miller told the police the prearranged alibi; that Miller and I met Wilhelm at the McDonald’s Restaurant, that after the meeting, Miller and I left together, leaving Wilhelm there alone, and that I then drove Miller home. After the police interviewed Miller, they came to my office to corroborate the alibi that Miller gave them. I spoke to two police officers and told them the alibi somewhat differently. The discrepancy concerned where we met before we went to the restaurant to meet Wilhelm. The police left my office, returned to the police station, and confronted Miller with the discrepancy. Miller then told the police that he was there but that I was the assailant. The combination of Miller’s statement and my attempt to give him an alibi led to my arrest for murder.

THE TRIAL

My trial was not held until August of 1977, because my attorney filed perjury charges against Miller in an effort to have him declared incompetent as a witness. Miller was involved in the affidavit he and Wilhelm gave the FBI stating that Wilhelm’s initial complaint was a hoax. The District Attorney resisted this effort and appeals were taken. It took a year before the appeals were turned down.

I never told anyone the truth about the fire until several years after my trial, maintaining my innocence of all charges. My parents owned both their home and the restaurant building jointly and there was a \$100,000.00 mortgage on the restaurant. This meant that they could lose their home if there was a mortgage foreclosure on the restaurant. I felt responsible for getting my parents into this mess and that unless I denied having the restaurant burned down they would be ruined financially. I also felt that I would have to escape any criminal conviction to prevent my disbarment.

Because I did not tell the truth, I had no explanation for trying to give Miller an alibi. Without my admitting that Miller had the fire hanging over my head, the jury concluded that I was involved with Miller in the scheme to defraud Wilhelm and therefore had a motive to want Wilhelm dead.

Equally or more damaging was the solicitation. I was approached by a former inmate of the County Jail and an undercover policeman and agreed to have Miller killed. This happened soon after my wife left me. I stopped taking tranquilizers and antidepressants abruptly after my wife left because I felt that my medicated state led her to leave. I was isolated, in my own world, not able to work, and very depressed. When the police charged me with the land fraud based on Miller’s word alone, I reacted badly and became too suspicious.

THE POLICE INVESTIGATION

While I lied about my involvement in the fire, Miller lied also. He testified that I hired Wilhelm to set the fire and that Wilhelm was pressuring me for payment for both the fire and the land fraud. It was only after my attorney requested pretrial discovery in connection with the FBI file that the police questioned Miller about the land fraud. Before that request, Miller did not mention the land fraud at all to the police. True to form, Miller implicated me. With no corroborative evidence, the police and prosecutors accepted what Miller told them. The police and prosecutors had evidence of the land fraud as early as a bond hearing held shortly after my arrest. Assistant District

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Attorney Ted Fagan acknowledged that the police had found a copy of a deed for the North Carolina land in Miller's home. This discovery did not lead to any investigation by the police.

According to the detectives who arrested Miller, he had scratches on his arms and face. There was no investigation into the origins of these scratches.

Shortly after Miller's arrest he failed a polygraph. Still the police accepted what Miller told them. The police and prosecutors did not disclose this until many years later.

One significant fact is not in dispute and as will be shown, turned out to be dispositive of the central question; whether Miller or I killed Wilhelm. When we were in the automobile, I was in the back. Wilhelm drove and Miller was in the right front seat. Miller always admitted this to be true. Miller told the police that I hit Wilhelm over the head with a wrench, that Wilhelm then got out of the car to get away from me, that I then got out of the car, chased Wilhelm, and started to stab Wilhelm outside of the car. Miller told the police that I was wearing the night of the killing. ~When they searched my house the next day, they found the described clothing with no blood on it. Miller admitted to the police and in his testimony to throwing his clothing in a city garbage truck after the killing.

Miller told the police and testified that I borrowed and wore his gloves and that I committed the murder with these gloves on my hands. Dr. Henry C. Lee, a forensic specialist of considerable renown was retained by my attorneys to review the case. At page three(3), paragraph five (5), Dr Lee stated as follows:

A pair of black vinyl gloves was recovered from the parking garage with blood stains consistent with the blood type of George Wilhelm. Mr. Miller testified that Mr. Goldblum wore the gloves while committing the murder. However, the only person to whom these gloves were linked through forensic evidence was Mr. Miller. Two hairs taken from the inside of the gloves were consistent with the hand/arm/hair of Mr. Miller but were different from the hair of either Mr. Wilhelm or Mr. Goldblum. This scientific finding excludes Mr. Goldblum as the person who deposited these two body hairs inside the glove.

According to the pathologist who did the autopsy, Dr. Perper, there was no bump on the back of Wilhelm's head. Dr. Michael Baden and Barbara Wolf, renowned forensic pathologists, were also retained by my attorneys to review the case. At paragraph twenty-one of their report they stated:

Mr. Miller's testimony indicated that George Wilhelm was struck on the back of the head by Mr. Goldblum with a monkey wrench. The post-mortem examination did not reveal any evidence of a blunt force injury to the head.

Dr. Henry C. Lee, at page four (4), paragraph six (6), of his report stated:

Laboratory examination of the wrench in Mr. Wilhelm's car indicated that no trace of blood, bone, tissues, or hair like materials were detected. This scientific fact is clearly inconsistent with the testimony by Mr. Miller that Mr. Goldblum clubbed Mr. Wilhelm on the back of his head with a wrench.

According to their testimony of one of the police detectives there was a trail of blood spots on the dashboard of the car with little tails on them showing the direction the blade moved in during the attack. This evidence shows that the occupant of the right front seat stabbed the man in the driver's seat. This also means that the victim had to have been stabbed while he was still in the car. Drs. Baden and Wolf at paragraph twenty-two(22) of their report stated:

Blood spatters were observed on the dashboard of the car. These splatters in the absence of a laceration from a blunt force injury, indicate that stabbing occurred in the car. This is inconsistent with Mr. Miller's testimony that no stabbing occurred in the car. However, it is consistent with Mr. Goldblum's testimony that he saw Mr. Miller with the bloody grass shears or murder weapon while still in the car.

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Dr. Cyril H. Wecht, a noted pathologist was retained by my attorneys to review the case. At paragraphs twenty two (22) and twenty three (23) of his report Dr. Wecht stated as follows:

22. Mr. Wilhelm was sitting in the driver's seat; Mr. Miller was in the front passenger seat, and Mr. Goldblum was in the rear seat. As the blood spatters were in front of the victim, not behind him, it is more likely than not that he was stabbed by someone in front of or immediately to the side of him. Given the relative positions of the parties, the physical evidence points to Miller as being the person who stabbed Wilhelm while in the car.

23. The pattern of blood distribution on the dashboard evidenced a left to right movement. This pattern is consistent with and establishes that Mr. Wilhelm was stabbed by the person to his right-Clarence Miller. (emphasis supplied)

Drs. Baden and Wolf concurred in this opinion stating, "The left-to-right direction of the blood spatters on the dashboard are consistent with Mr. Wilhelm being stabbed by a person sitting to his right in the front passenger seat-the uncontested position of Clarence Miller. (paragraph twenty-three (23)).

Dr. Lee likewise concluded that Mr. Miller assaulted Mr. Wilhelm. "The location and the direction of those blood spatters are inconsistent with Mr. Wilhelm being stabbed by a person sitting in the back seat of the vehicle. Given the relative position and the location of each of the parties, it is more likely that Mr. Wilhelm was stabbed by the person to his right." (page two (2), paragraph one(1).

Dr. Herbert MacDonell, a highly regarded forensic expert of the interpretation of blood spatter, issued a report dated December 13, 2000. At page four (4), Dr. MacDonell stated:

Apparently no detailed photographs showing the small bloodstains reportedly present on or around the dashboard of the vehicle in question were taken. The description given by Mr. Freeman in his testimony is typical of individuals who are attempting to relate what they observed regarding bloodstains. From what he said it may be concluded that blood was projected onto the dashboard area as a result of some kind of a bloody object being swung from left to right. This instrument, be it a knife, wrench, hammer, or short club, would almost certainly have to be swung by someone sitting or otherwise positioned in the front seat. (emphasis supplied)

Had some bloody instrument been swung by someone in the rear of the vehicle, it is virtually impossible that castoff blood could have left a narrow bloodstain pattern with well defined tails on their right side as has been described.

The police conducted a thorough investigation of the crime scene and took many pictures, but claimed at trial that they did not take any pictures of the blood spatters on the dash board of Wilhelm's vehicle. Subsequent depositions of police detectives raise serious questions concerning this.

At trial we learned that the blood spatter was scraped off the dash board by the. police mobile crime unit. As stated above, the police claim that no pictures were taken of the blood spatter on the dash board. No attempt was made to type the blood until the time of trial at which point it was too late. In a deposition, the crime scene photographer, Detective Salvatore Crisanti testified that it was standard procedure to always photograph the blood spatter before its removal. At the time of the deposition, Detective Crisanti could not specifically recall whether or not pictures had been taken.

Recently, Detective Freeman was deposed and gave conflicting testimony. At one point in his deposition he stated that a picture of the blood spatter had in fact been taken.

My trial attorney had a strong feeling that Miller had something wrong with him psychologically. He filed a pretrial request to have Miller examined by a psychiatrist. The trial court denied this request.' At my trial, my attorney-asked Miller' if he had ever had any medical problems and whether he had ever been hospitalized. Miller dishonestly answered that he had not. We did not learn the truth of this until Miller's trial.

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APPEALS AND SUBSEQUENT EVENTS

At Miller's trial, which took place several months after mine, Miller's attorney tried to have his statements to the police suppressed. The basis for his application for suppression was that Miller had been involved in an accident as a child from which he suffered brain damage. An expert psychologist and an expert psychiatrist testified to Miller's brain damage and resulting memory impairment. The attempt to suppress Miller's statements were unsuccessful and he too was convicted of first degree murder.

When my attorneys discovered this new evidence of Miller's mental condition, they filed a Petition with the Supreme Court of Pennsylvania for a remand to the trial court for a hearing to determine whether or not I was entitled to a new trial based on after discovered evidence. This request was denied.

After Miller's direct appeal was turned down, he filed a Petition under the Post Conviction Hearing Act, claiming that his lawyer was ineffective for not raising an insanity defense. Miller stated in his petition:

That the statements I gave to the police and signed that I saw Charles Goldblum stab [sic] George Wilhelm are not true because at that point I blacked out and remember nothing. I wasn't even aware of my own existence let alone anything that happened to George Wilhelm. (emphasis supplied).

We petitioned for remand again, and it was granted. Miller withdrew this petition on the advice of his attorney and the District Attorney's Office. The District Attorney has never offered any explanation of what part they played in this and why they were advising Miller at this point.

At the hearing, the experts testified that Miller had a mental defect resulting from an injury suffered in an accident as a child. They explained that Miller had an impaired memory and as a result filled in memory lapses with "confabulation," the medical term for unconscious lying. According to the experts, Miller's test results showed a significant memory deficit.

The hearing went well and my lawyers felt that we would be granted a new trial. Unfortunately, they were wrong. We then retained a new lawyer who filed Post Conviction and Habeus Corpus Petitions. These were unsuccessful.

In 1996, I filed a second Post Conviction Petition which questioned the manner in which the police investigation was conducted, destruction of evidence, and the failure of my trial lawyer to investigate the blood spatter evidence. One of our crime scene experts told us that if the police had conducted a complete and objective investigation that the assailant could have been specifically identified beyond question. This was not done and no good explanation has been given.

Judge O'Brien turned down my petition without an evidentiary hearing. This decision was reversed on appeal and remanded for a hearing.

Judge O'Brien retired and the case was assigned to Judge McDaniel who took an unusual step. She only allowed my trial attorney, Dr. Wecht, and an expert for the Commonwealth named Tobey Wolson to testify. She did not allow Dr. Lee, Dr. Baden, Dr. Wolf, Dr. McDonnell, or Mr. Balshy to testify. She also did not allow members of the Board of Pardons who had interviewed Clarence Miller to testify. We found out through a deposition that Miller had confessed to Mr. Gigliotti and Attorney General Fisher, who were members of the Board of Pardons when I last applied.

Judge McDaniel stated that the remand order mandated excluding my witnesses when there was no such limitation in the language of the remand order. The only limitation in the order was that the hearing was to cover only the claim of ineffective assistance of counsel. Neither she nor the Superior Court cited any prior case authority to support her ruling.

In nearly all cases involving a claim of actual innocence, a Petitioner is allowed to make a full record. I

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have never been given that opportunity. Because of this, there have been conclusions that are fundamentally wrong. Because we were not allowed to call our experts, the courts wrongly decided that no conclusion can be drawn from blood spatter unless there is a picture of the blood spatter. Tobey Wolson testified to this. We checked on this. According to Dr. McDonnell, Dr. Lee, and Dr. Wecht, this is absolutely wrong. Conclusions based on the clear description of the blood spatter contained in Detective Freeman's testimony are appropriate. While we filed affidavits with the Court, we were not allowed to call these witnesses to dispute Mr. Wolson. Ultimately his opinion became the key reason the courts turned down my petitions. They decided that I could not prove anything as a result of the description of the blood spatter contained in Detective Freeman's testimony based on the testimony of Mr. Wolson alone. This has resulted in rewarding the police and prosecutors for improper conduct. At the least, the investigation was substandard and no picture was taken as a result of neglect or oversight. However, it is equally plausible that a picture of the blood spatter was in fact taken and then discarded in order to impede my ability to prove my innocence.

The petition in state court was unsuccessful. We then filed a successive petition for Habeus Corpus. While the Third Circuit permitted us to proceed, ultimately we were unsuccessful. One judge in the Third Circuit dissented because I had never been allowed to fully present my case.

When we requested the police records, the City informed us that they were missing. My case was one of the most important of the 1970s. The record was voluminous and there were three separate copies in the archives. That such a large and significant police file, kept in triplicate, would turn up missing is hard to fathom.

We also asked for the separate file that is kept in the Mobile Crime Unit. Again we were told that this record was also missing. We also asked for the file from the Police Photo Lab. Here too, it was missing.

In December of 1995, our crime scene expert, Mr. John Balshy went to the Coroner's Office to examine their files. At that time the entire file was in the Coroner's Office, but Mr. Balshy was not allowed to see part of the file, which is illegal. After Dr. Wecht took office as Coroner in January of 1996, my attorney was notified that the file was missing. It was common knowledge that Dr. Wecht had written a letter to the Board of

Pardons in support of my application for commutation in 1993. Someone did not want the record to be in the Coroner's Office when Dr. Wecht took office.

In a letter dated November 1, 2004, Dr. Wecht wrote:

On average, the Allegheny County Coroner's Office generates approximately 7,000 files each year on cases ... Since the time I returned to office in 1996, I would estimate that nearly 65,000 case files have been generated without any others having been reported missing.

I do not believe, for one moment, that the missing files were happenstance ... Quite simply, both files were stolen from this office for purposes known only to the thief, but most likely to prevent my administration or any other person or agency from scrutinizing any misconduct, which had most likely occurred in these cases. The odds of this scenario being accidental are infinitesimal. (emphasis supplied)

Dr. Wecht asked the County Police to investigate the missing Coroner records. Their investigation led to no charges being filed. We later learned that the County Police, after investigating for a full week, did not have a case file. According to Detective Elizabeth Hoover, a memorandum known as a "blue special" was submitted to her supervisor. The County Police claim to have purged this memorandum a few years after completing the investigation of the Coroner's Office. I question the claims that no case file was established and that the "blue special" memorandum was purged a few years later.

We retained an expert to determine whether or not the missing records could be considered random events. Dr. Stephen E. Fienberg, a Professor of Statistics and Social Science at Carnegie Mellon University, conducted an analysis of the first four missing records. We had not as yet learned that the Allegheny County Police "blue special" memorandum had been purged within a few years after the investigation was terminated.

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Dr. Feinberg stated:

If the probability is 1/10, the upper bound on the probability that all 4 files are missing is 0.0001. If the probability is on the order of 1/100, an upper bound on the probability of losing all 4 files totally at random is 0.00000001.

I therefore conclude that finding 4 missing files at random is an extremely rare event. The alternative to assuming that we have observed such a rare event is to conclude that there is a connection among the files being lost, i.e., that they were not lost at random. (emphasis supplied)

All the files concerning this case have turned up missing in several different archive locations. This is not just a coincidence. In all likelihood these files were intentionally destroyed. While I cannot state who specifically took the files from their archives, it can certainly be presumed that only police or other government workers had access to these records. I have never been given my day in court on this issue.

The District Attorney has always opposed our requests for discovery, and information. They also were able to convince the Courts to limit the scope of inquiry. It is logical to ask why they have always opposed complete disclosure unless someone in their office or the Police Department has something to hide.

I do not claim a massive conspiracy against me and I do not have any express proof that anyone in particular has done anything. However, the following facts and circumstances cannot be disputed:

- a. My case is clearly one where the police had to determine whether Miller or I was the assailant. Therefore, caution and care were called for.
- b. The police cannot produce pictures of the blood spatter on the dash board. Either the pictures were not taken, or were taken, but came up missing at the time of trial. As noted above, the photographer at this point is not sure if he took the pictures, but stated that it is standard procedure to always photograph evidence before it is moved.
- c. The police did not type the blood found on the dashboard and offered no explanation.
- d. Shortly after the arrest, Miller flunked a polygraph.
- e. Miller had scratches on his face and arms.
- f. The dying declaration of the victim expressly named Miller. The police and prosecutors said that this means that Miller set the victim up. This interpretation of the dying declaration is very unorthodox.
- g. The police lost all three copies of the file for one of their most important homicides.
- h. The Coroner's file, intact in December, 1996, ended up missing a month later when Dr. Cyril Wecht took office. It was well known that Dr. Wecht had expressed his doubts about my case before this.
- i. The police Mobile Crime Unit file is missing.
- j. The police photo lab records are missing.
- k. The prosecutors, by their own admission, presented testimony that they themselves did not believe to be true. Both F. Peter Dixon, the trial prosecutor, and James Gilmour, who represented the District Attorney at my last commutation hearing stated that they did not believe Wilhelm had anything to do with the burning of my restaurant.
- l. In early 1995, an article about my case was published in the Pittsburgh Post Gazette. When the reporter, Mike Bucsko, questioned how my file was lost, he was threatened by Police Commander Ronald Freeman. Commander Freeman told Mr. Bucsko that if he mentioned the missing police records in the article that Mr. Bucsko would not get information from Mr. Freeman again.

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m. In late 1995, another reporter from the Pittsburgh Post Gazette, Tim Meenes spent a day at the state Correctional Institution at Pittsburgh, where Miller was housed. When the reporter asked Miller what he was in for, Miller replied, "I killed a man." When the reporter asked why, Miller replied, "For asking too many questions! Miller also said, "Crime pays!, I love it here."

n. A false charge was filed against me and later dismissed on motion of the Commonwealth. The witness, Ronald O'Shea who originally testified at the preliminary hearing for the Commonwealth admitted that the charge was false and that he had been given the idea and information by Detective Ronald Freeman.

8. For what crime(s)?

First Degree Murder; Arson; Solicitation to Commit Arson; Conspiracy to Commit Theft by Deception.

9. What was the court's sentence? ie: probation, prison, fines, cost, restitution

Life imprisonment, plus ten to twenty years; plus five to ten years; plus \$20,000.00 restitution; plus costs.

10. If confined: .Date of Expiration of Minimum Sentence?

Life imprisonment, plus ten years, plus five years.

11. If confined: Date of Expiration of Maximum Sentence?

Life imprisonment, plus twenty years, plus ten years.

19. Why do you believe your request for a pardon or commutation should be granted?

Highly respected experts have reviewed my case and concluded that I did not kill George Wilhelm. The trial prosecutor, F. Peter Dixon, and my trial judge, the Honorable Donald Ziegler, believe that I am innocent.

The most important reason for this Board to act favorably is the overwhelming proof of my innocence. However, there are two additional reasons that flow from my claim of innocence. First, there was a concerted effort to put all the records beyond my reach in order to hide something. Second, the courts have not been fair to me. With no explanation, I have been denied the opportunity to present my claims. The courts consistently refused to look into the missing files, the questionable police investigation, and acts of misconduct.

That Miller flunked a polygraph was kept from the defense until after trial. The fact that Miller had brain damage was kept from the defense until after trial. Miller recanted in a PCHA petition. Miller admitted to a reporter that he killed someone. Miller admitted to members of the Board of Pardons that he participated in the assault and lied in his testimony. One of the police detectives was involved in a trumped up charge. All the files and records disappeared. None of the above led to meaningful inquiry. I have not been dealt with fairly.

20. Specifically, why do you need a pardon or commutation?

I am arthritic, have three compressed discs, and stenosis in my spine. Since my last application, I have had back surgery and my arthritis has worsened. I am approved for light duty only. It has become difficult to take care of myself.

While it is too late to have a career or children, I hope to spend my last years with my family. My parents are nearing the end of their lives and desperately want me freed while they are still alive. For more than twenty years, they came to visit me regularly. My mother still comes to see me as often as she can, but it is difficult for her. She has had knee and hip replacements and major surgeries on her back and neck. She also has a pace maker and defibrillator. I admire how hard she works to remain self sufficient. My father has been moved to a nursing home. If not released, I will never see him again. My mother is torn between wanting to visit me and being with my father.

CONTINUATION SHEET

My parents and siblings have spent a considerable amount of time and money to prove my innocence and secure my release. They have looked after all my needs. My family has never let me down. They spent a huge chunk of their time and a big portion of their savings for attorneys and investigators.

My parents visited me every week when I was housed at SCI Huntingdon and they still resided in Pittsburgh. That amounted to a whole day and nearly 300 miles driving every week. When they moved to Baltimore, they still came twice a month. They have never let me down.

All my nephews and nieces have been told about me and have come to visit me. I admire my brothers and sisters for their courage in handling this situation.

I have served more than 32 years, a substantial penalty for my crimes and mistakes. I will be 60 years old in April. I have done well as a prisoner. I have kept a good record and not become bitter as many have. I have done what I can to be productive. This has not always been easy.

21. How have you contributed to the community and what efforts have you made to rehabilitate and improve yourself?

Since 1976, I have maintained a good record. I worked in the Dental Clinic, Correctional Industries, and the Electric Shop while at SCI Huntingdon. I worked in the Library and the Activities Department while at SCI Somerset. I work in the library at SCI Mahanoy, where I have been housed since 1997.

I was active in the Jewish Congregation, Lifers, and Jaycees at SCI Huntingdon. I chaired several Committees for the Lifers and helped establish the greeting card project. I chaired a project-in cooperation with the Salvation Army to assemble food baskets for needy families before Thanksgiving. It was a great success. I served as Treasurer, Vice-President, President, and Chairman of the Board of the Jaycees. I was awarded the highest honor bestowed by the U. S. Jaycees, known as the "Ambassador." This award requires the recommendation of Jaycee officers at local, state, and national levels. Few Jaycees, institution or otherwise, are given this award. I was Shamos of the Jewish Congregation for several years and coordinated the Torah Dedication Service. The service received positive news coverage in the local papers and the Department of Correction Newsletter.

At SCI Somerset I was the Secretary of the inmate betterment organization, known as SOAR. I helped draft the constitution and bylaws when the organization was formed.

At SCI Mahanoy I worked on the Job Fair Committee of the Resident Benefit Organization known as RBO. I also served one year as vice-president. I have been a Laubach tutor for many years. Over the years I have informally tutored several other prisoners preparing to take the GED.

I trained and served as a peer facilitator. I have worked in the Long Distance Dads program under the Chaplain's Office for the past five years which has been very rewarding to me. I was a facilitator for the Citizenship Program until it was phased out.

I took some college courses while at SCI Huntingdon to stimulate my mind. I keep myself occupied with reading and staying abreast of events.

I have written some poetry. Some years ago, the Pennsylvania Prison Society published a pamphlet of poems that I wrote. I also won second place in the PEN contest.

I have worked to not become isolated while in prison.

CONTINUATION SHEET

24. If Confined: Will you have employment if released?

No

If "No," how will you be able to maintain yourself? state your resources and the names and addresses those who will assist you.

If I am released, I will in all likelihood not be able to work full time. I plan to try to find some kind of part time employment that I can handle with my physical handicaps. My family has made provision for my support. Names and addresses are as follows:

Brother David Goldblum
 611 Old Crossing Dr.
 Baltimore, Maryland 21208

Sister Liba Goldblum
 4 Moonspun Court
 Baltimore, Maryland 21208

Mother Evelyn Goldblum
 42 Gorodetsky-Apt 1
 Rehovot, 76227 Israel

Sister Orah Miller
 Rehov Yahalom #41
 Rehovot, 76235 Israel