

IN THE MISSISSIPPI COURT OF APPEALS

No. 2006-KA-01383-COA

ALBERT J. KEA

APPELLANT

Vs.

STATE OF MISSISSIPPI

APPELLEE

BRIEF OF APPELLANT

Appeal from the Circuit Court of Simpson County, Mississippi

Julie Ann Epps (MS Bar No. [REDACTED])
504 East Peace Street
Canton, MS 39046
(601) 407-1410
facsimile (601) 407-1435

E. Michael Marks (MS Bar No. [REDACTED])
Suite 730, The Plaza Building
120 North Congress Street
Jackson, MS 39201
(601) 969-6711
facsimile (601) 969-6713

Wlm Andy Sumrall (MS Bar No. [REDACTED])
406 East South Street
P.O. Box 1068
Jackson, Mississippi 39215
(601) 355-8775
facsimile (601) 355-7002

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STATEMENT OF ISSUES

- 1. The trial court erred in admitting Bob and Lisa's unauthenticated passports to prove that they were in Turkey just before the fire.**
- 2. Admission of the unauthenticated passports violated Albert Kea's right to confrontation.**
- 3. The trial court erred in failing to instruct the jury on the "two-witness" rule.**
- 4. The evidence is insufficient to support the verdict or, in the alternative, the verdict is against the overwhelming weight of the evidence.**
- 5. The errors taken together are cause for a new trial.**

Albert's wife was awarded custody. Albert's ex-wife moved and Albert was unable to locate her and their two sons. T. 212. In 1972, Bob was 18 and he stole a car. Bob testified that he stole the car to look for his father. T. 88. Albert got a call from Bob's grandmother asking for Albert's help. T. 213. Albert drove to Denver Colorado and got his son out of jail. T. 213.

Bob testified that he lives in Colorado and that he does not work but has been disabled for the last six and a half years. T. 41. He admitted that he had been convicted of car theft in 1972 when he was seventeen. T. 41-42. When he was twenty-three, he was convicted of menacing and resisting arrest. T. 42. In 1990, when he was thirty-six, he was convicted for passing bad checks and for making a **false statement on a passport** (this is important for reasons that will soon become apparent). T. 42. Bob also admitted that he had used various names over the years; Robert John Kea was his birth name but he had also been known as Robert John Cook, Robert John Beverly, Robert John Anderson and Robert John Keys. T. 42-43. Bob did not list for the jury the name of Robert John Key – the name in which his passport was issued.

Bob testified that he had worked as a nurse for twenty years. T. 43. He went to nursing school twice because the second time he was on the lam so he attended nursing school a second time under a different name so that he could earn a living. T. 44. Bob testified that the items contained in the list drawn up by his

from the Estes Park Museum in Colorado and 15 antique Elgin watches taken from the Elgin Area Historical Society Museum. When officials went to arrest Bob, they discovered that he had fled to Texas. He was tracked to a motel near Amarillo. When officers observed Bob leaving his car to walk into the motel, they approached him and identified themselves. Bob got back into his car and rammed the officers' vehicle. He then drove a mile down the interstate, pulled into a parking lot near a gas station, and shot himself in the head and died. *Appendix I, Ex. A; See also Motion to Dismiss Complaint, Appendix III.*

In Albert's defense, there were several witnesses who testified to having seen the various collectibles in Albert's house over the years. Larry Blair worked for a pest control business in Brookhaven. T. 145. He began servicing Albert's house approximately once a month beginning in 1995. T. 146. On some of those occasions, Albert's wife Ann would ask Larry to sit and have coffee and cake with her. T. 146. Several of the collectibles at issue were displayed in the kitchen. T. 147. Ann would often bring out an item to show Larry saying "Look what I've got this time." T. 147. Larry was asked to review the photos of the collectibles and identify those he had seen in the Kea home. T. 149. He was able to identify several that had been in the Kea home prior to the fire. T. 149.

Mary J. Starling testified that she used to live next door to the Keas, was a good friend to Ann and visited in the house all the time. T. 151-52. Starling

looked through the photographs of collectibles and identified those she recognized as having been in the Kea home. T. 152-167. Starling was familiar with Bob Kea. She knew that Ann and Albert had given him money on numerous occasions. T. 169. When Albert was in the hospital just before his house burned down, Starling saw that Bob was staying at his father's house. She testified that on one day, she saw Bob came out of the front door with a garbage bag filled with stuff from the house. T. 169.

Teresa Joy Tisdale testified that Albert Kea was her husband's uncle. T. 177. Tisdale did not really know Bob Kea but knew him enough to recognize him. T. 177. Tisdale's husband had proposed to her in 1994. Around Christmas that year, Tisdale's fiance took her to meet his family. His mother lived in an apartment on the Kea property. T. 178. Tisdale was outside smoking when she saw Bob Kea taking a gun out of his father's window. He wrapped it in a blanket and put it in the trunk of his car. T. 178. Tisdale recognized some of the items pictured in the photos of the collectibles at issue in the Entergy lawsuit as items that had been in Albert's home. T. 179.

Lisa Terry Holloway has known Albert and Ann Kea practically all of her life. T. 182. Albert's father was married to Holloway's aunt and he (Albert's father) practically raised her. T. 182. Holloway would assist Ann in her housework. T. 183. She identified many of the collectibles as items she had seen

in Ann and Albert's house. 183-186. She remembers that just prior to the fire that burned up Albert's home, Albert was in the hospital. During that time, she saw Bob taking things out of the house and putting them in the trunk of his car. T. 187. Bob was out of breath and so Holloway asked if he needed some help. She and her sister Carol and their half-brother Buddy (now deceased) then assisted him in loading boxes into his van. T. 188. She did not see what was in the boxes. She spent twenty to thirty minutes assisting Bob. T. 189. Afterwards, Bob left with the boxes still in his van. T. 189.

Carol McMillan, like her sister Lisa, had also known Albert and Ann Kea all of her life. T. 194. She doesn't remember when it was exactly (she remembers that Albert was in the hospital) but she recalls that she, Lisa, and Buddy helped Bob load some small boxes into his van. T. 195, 198.

Helen Williams is Albert's sister. In the 1990s, she lived with her brother. T. 200. She was able to identify many of the collectibles as having been in Albert and Ann's home. T. 201-204. She had also seen the photographs themselves in their home. T. 204. After the fire, Helen testified, Bob offered to help his father figure out what the items were worth. He took all of the photos with him and said he would make up a list to help his dad out. T. 210.

Albert testified that his wife Ann, who died in August, 2003, liked collectibles. A lot of the things she wanted, she would have Bob purchase for her.

Ann and Albert would give Bob cash and he would pay for items with his credit card and in this way Bob could get free airline miles. T. 214. Bob would travel and bring back magazines and Ann would point out the things she wanted and Bob would obtain them on his next trip and bring the receipts back to Albert. T. 214-15.

Photographs of the collectibles had been stored in a safe and Albert was able to retrieve them after the fire. T. 224. Bob offered to help his father draw up a list of the lost items since he had purchased most of them for his father using Albert's money. T. 224.

Right after Ann died, Bob approached his father and asked him for \$50,000 for a down payment on a home. T. 227. Albert refused. His other children needed his help and Albert was ashamed of Bob's criminal activity. T. 226. A few weeks later, Lisa approached Albert and told him that if he did not give Bob the \$50,000, Bob was going to jail. T. 227. Lisa left angry when Albert refused to give them any money. Albert had not talked to the two since then. T. 227.¹

¹ The timing of Bob's request for \$50,000 coincides with the time that federal authorities finally caught up with Bob on the 1991 federal bank fraud charges for which he had been on the lam for 13 years. *See App. I, Ex. A.* As the article in the *Rocky Mountain News* indicates, Bob **appeared** to have turned his life around at that point and the United States District Court Judge ordered Bob to pay back \$10,000 in bad checks and sentenced him to probation. *App. I, Ex. A.*

Albert testified that he did not know that Bob came to his house while Albert was in the hospital. T. 228.

On redirect, the prosecution, over the defendant's objection, introduced Bob and Lisa's passports to corroborate their testimony that they had been in Turkey the week before the fire. The passports were issued to Robert and Lisa Key. The passports were later amended to identify the bearers as Robert and Lisa Keys.

SUMMARY OF THE ARGUMENT

The only evidence that Albert Kea perjured himself during the Entergy trial was supplied by his son Bob and his son's wife Lisa. As a witness, Bob's credibility was a problem even if one were to take into account only those crimes to which Bob admitted at trial. Fortunately for the prosecution, although its case against Albert was based on the testimony of a convicted felon and liar, it had a piece of evidence that would buttress Bob's testimony. This evidence consisted of Bob and Lisa's passports indicating that Bob and Lisa were out of the country when Bob was alleged to have been raiding his father's house. The passports could not even be cross-examined. This was a good thing for the prosecution given that **the passports were not even issued in Bob and Lisa's real names.**

The defense objected to the introduction of the passports without proper authentication. This objection was denied. The introduction of the unauthenticated, unable-to-be-cross-examined passports, was error and violated Albert's right to confront the evidence against him. Under the facts of this case, the error was reversible.

A major error in this case was the failure to give the jury an important instruction – that of the “two witness” rule. Had the jury been given some guidance on the quantum of proof needed to convict Albert of perjury, they might

not have voted to convict in this case where the evidence was wholly insufficient to support the charge.

The evidence in this case was insufficient to support the verdict or, in the alternative, the verdict was against the weight of the evidence. The only admissible evidence that Albert Kea committed perjury, then, was the testimony of at Albert's truth-challenged son and the son's wife. This evidence was insufficient to establish Albert's guilt beyond a reasonable doubt.

Finally, if no single error requires reversal, it cannot be denied that the combination of errors in this case deprived Albert Kea of a fair trial.

LAW AND ARGUMENT

- 1. The trial court erred in admitting Bob and Lisa's unauthenticated passports to prove that they were in Turkey just before the fire.**

Albert's witnesses testified that they saw Bob loading his van with boxes and bags taken from Albert's house just prior to the fire. Bob and Lisa testified that this could not be so as they just happened to be in Turkey that week. On redirect, the prosecution entered into evidence Bob and Lisa's passports -- which were issued in the names of Robert and Lisa Key and later amended to change their last name to Keys -- which contained visa stamps purporting to show that

Bob and Lisa were in Turkey the week of May 17, 1998. T. 257.² The defense objected to the admission of the passports on the grounds they were not authenticated. T. 258; RE 11. The trial court overruled the objection and the passports were entered into evidence. T. 258; RE. 12.

During closing argument, the prosecution urged the jury to look at the passports back in the jury room.

Ladies and gentlemen of the jury, you heard those witnesses get up here and say while the Defendant was in the hospital the week before the fire Bob Kea came down to Magee, Mississippi and loaded up a van.

Now, if they told you that, which they did, they are liars. All of them lied. Because you've got proof in the pudding there with these passports. He can't be in two places at one time, can he? There are the passports. You're going to be taking them back there and looking at them. They're going to say just what we said they said. I didn't keep Lisa Keys on that stand very long. She answered the questions just like Bob did because they were very quiet, synclly [sic] and that was the way it was, no complicated answers to what I asked her. She's never had been convicted of nothing [sic].

T. 299.

The stamps and seals purporting to be from Turkish customs officials on Bob and Lisa's passports are not accompanied by a "a final certification as to the

² The passports are marked as S-19 and S-20 and are located in the manilla envelope containing the exhibits.

genuineness of the signature and official position” of the requisite Turkish official. M.R.E. 902(3) requires this before a foreign public document can be admitted.

M.R.E. 902(3) provides as follows:

3) Foreign public document. A document purporting to be executed or attested in the official capacity of an individual authorized by the laws of a foreign country to make the execution or attestation, and accompanied by a final certification as to the genuineness of the signature and official position (i) of the executing or attesting individual, or (ii) of any foreign official whose certificate of genuineness of signature and official position relates to the execution or attestation or is in a chain of certificates of genuineness of signature and official position relating to the execution or attestation. A final certification may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States. If all parties have been given a reasonable opportunity to investigate the authenticity and accuracy of an official document, the court may for good cause shown order that it be treated as presumptively authentic without final certification or permit it to be evidenced by an attested summary with or without final certification.

A passport must be authenticated in order to be admitted into evidence.

Gullotta v. United States, 113 F.2d 683, 686 (8th Cir. 1940). In *United States v. Weiss*, 491 F.2d 460 (2d Cir. 1974) cer. denied 419 U.S. 833, 95 S.Ct. 58, 42

L.Ed.2d 59, the defendant wanted to introduce his passport in order to prove that he was not in Bangkok at the time was alleged to have met with his coconspirator. The passports bore no stamps or entries indicating that the bearer was in Thailand during the relevant period. The trial court excluded the passports on the ground that they had not been authenticated properly. On appeal, the Second Circuit agreed that the passports were inadmissible. For the passports to be admitted to prove what the defendant wanted them to prove – that he was not in Bangkok during a certain time period - this would require “proof by authorities of Thailand that if [the defendant] had entered or left that country during the relevant period entries would surely have been placed upon the passports. *Weiss*, 491 F.2d at 460.

In a civil case, the defendant moved to have her passport admitted into evidence to prove that she was in Hong Kong during the time that she was allegedly served with the complaint in New York. *Overseas Trust Bank LTD v. Poon*, 581 N.Y.Supp.2d 92 (1991). Stamps in her passport indicated that she entered Hong Kong in early April, 1988 and left at the end of the month. The trial court refused to admit the passport to prove the defendant’s whereabouts. On appeal, the New York Supreme Court held that exclusion of the passport was not error where the defendant offered “no attestation or testimonial authentication by the Hong Kong authorities who had affixed the stamps on her passport. *Overseas Trust Bank*, 581 N.Y.S.2d at 93.

The passports in this case were not even issued to Robert Kea in his real name. Instead, they were issued to Bob and his wife under first one of his aliases and then corrected to reflect a different alias. The passports were inadmissible without proper authentication. If there were any case where that rule should not be relaxed, it is this one wherein the passports were not even issued under the bearers' real names.

Given the importance of the passports to the prosecution's case – Bob's word alone was certainly not worthy of much consideration – their introduction without proper authentication could not be considered harmless error. And authentication was sorely needed here where the bearer of the passport not only employed various names but also had been convicted of making a fraudulent statement on a passport.

2. Admission of the unauthenticated passports violated Albert Kea's right to confrontation.

The comment to M.R.E. 902 warns that "When self-authenticating records are offered against the defendant in criminal cases, the rights of the defendant under the confrontation clauses of Federal and State Constitutions must be considered." The United States Constitution as well as the Mississippi Constitution, provides that a defendant has the right to be confronted with the witnesses against him. U.S. Const. Amend. VI; Article 3, Section 26 of the

Mississippi Constitution of 1890. While the United States Supreme Court has held that the confrontation clause is satisfied by evidence that falls “within a firmly rooted exception to the hearsay rule,” when it did so, it held that the Confrontation Clause was satisfied when the proffered hearsay has **sufficient guarantees of reliability** to come within a firmly rooted exception to the hearsay rule. *White v. Illinois*, 502 U.S. 346, 112 S.Ct. 736, 116 L.Ed.2d 848 (1992) (holding that admission of excited utterances and medical examination evidence without foundation testimony or proving unavailability of witness did not violate Confrontation Clause of criminal defendant facing sexual assault charges). The reason for this is that “a statement that qualifies for admission under a ‘firmly rooted’ hearsay exception is so trustworthy that adversarial testing can be expected to add little to its reliability.” *White*, 112 S.Ct. at 743.

The unauthenticated visa stamps in the passports issued to Robert Key/Keys and Lisa Key/Keys are not sufficiently reliable as to preclude any concern for Albert Kea’s right to confront the evidence against him especially given that the passports were issued under aliases – indeed, two different aliases – to a person previously convicted of making a false statement on a passport. T. 42. This violation of Albert Kea’s right to confront the evidence against him requires that he be given a new trial.

3. The trial court erred in failing to instruct the jury on the “two-witness” rule.

Albert Kea’s jury may not have convicted him on such flimsy evidence if the jury had been properly instructed on the “two-witness” rule. “It has long been the law of Mississippi that an instruction concerning the quantity of evidence required in a perjury trial should be given by the State.” *Hale v. State*, 648 So.2d 531, 536 (Miss. 1994). The failure to give such an instruction is reversible error. *Id. citing Nash v. State*, 244 Miss. 857, 147 So.2d 499, 502 (1962); *Gordon v. State*, 158 Miss. 185, 128 So. 769 (1930); *Saucier v. State*, 95 Miss. 226, 48 So. 840, 841 (1909) and *Weiler v. United States*, 323 U.S. 606, 611, 65 S.Ct. 548, 551, 89 L.Ed. 495 (1945).

While the defense in this case did not request an instruction on the “two-witness” rule, some instructions are so important that the trial court has a duty to give them sua sponte. *Robinson v. State*, 735 So.2d 208 (Miss. 1999) (holding that the trial judge has a responsibility to give *sua sponte* a limiting instruction when prior convictions are sought to be admitted under M.R.E. 609(a)(2)). This is the case with regard to the quantum of evidence required in a perjury case. In *Nash v. State*, 44 Miss. 857, 862, 147 So.2d 499, 501 (Miss.1962) neither the state nor the defense requested an instruction on the two witness rule. The Court reversed noting that it

has held in a long line of decisions that, although the other allegations of the indictment may be proved by a single witness, the falsity of the allegedly perjured statement must be established by the testimony of at least two witnesses or by one witness and corroborating circumstances and a conviction for perjury may not be secured and sustained on the uncorroborated testimony of one witness to the falsity of the allegedly perjured statement on which the perjury is assigned.

Nash, 147 So.2d at 502.

Furthermore, the Court stated,

The jurors empaneled to try the perjury case were the sole judges of the credibility of the witnesses and the weight to be given to the testimony of each witness. It was important that the jurors be correctly informed as to the 'quantity' of proof required to authorize a conviction for perjury; and the State, somewhere in its own charges, should have asked that the jury be informed that, before they could convict, it must be shown to their satisfaction by the testimony of two witnesses or the testimony of one witness and corroborating circumstances that the appellant's allegedly perjured testimony before the grand jury was false.

Nash, 147 So.2d at 503.

The trial court committed reversible error by failing to instruct the jury in accordance with the "two witness" rule as required in perjury cases. Given the quality of the evidence in this case – or, rather, the lack of quality of the evidence in this case - the failure of the trial court to properly instruct the jury on the two witness rule was reversible error.

4. The evidence is insufficient to support the verdict or, in the alternative, the verdict is against the overwhelming weight of the evidence.

Mississippi's perjury statute provides, in pertinent part, that "[e]very person who shall wilfully and corruptly swear, testify, or affirm falsely to any material matter under any oath ... shall be guilty of perjury" Miss.Code Ann. § 97-9-59 (Rev.2000). Perjury requires stringent proof of a direct and compelling character. *Hall v. State*, 751 So.2d 1161 (Miss.App. 1999). In order to convict on a charge of perjury, the prosecution must prove the falsity of the accused's statement by a minimum of two witnesses, or by one witness and corroborating circumstances. *Ford v. State*, 956 So.2d 301, 307 (Miss.App. 2006); *Hammett v. State*, 797 So.2d 258, 262 (Miss.Ct.App.2001). This burden is similar to that required to prove treason. *Smallwood v. State*, 584 So.2d 733, 741 (Miss. 1991).

In the case sub judice no reasonable fair-minded juror could find Albert Kea guilty. The evidence presented by the State was insufficient as a matter of law to support a conviction and the jury's verdict was not supported by the overwhelming weight of the evidence.

Where the evidence is insufficient, the court must vacate the conviction. Where the verdict is against the overwhelming weight of the evidence, the conviction must be reversed and the case remanded for a new trial.

Evidence is insufficient where the evidence "viewed in the light most

favorable to the prosecution gives equal or nearly equal circumstantial support to a theory of guilt and a theory of innocence of the crime charged, then a reasonable jury must necessarily entertain a reasonable doubt.” *Clark v. Procunier*, 755 F.2d 394, 396 (5th Cir. 1985); *United States v. Sacerio*, 952 F.2d 860, 865-66 (5th Cir. 1992) (a “plausible, rational, innocent explanation for almost every action, thus [lends] reasonable doubt to an inference of guilt”). If a reasonable jury would doubt whether the evidence proves an essential count, reversal is required. *Jackson v. Virginia*, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979); *United States v. Onick*, 889 F.2d 1425 (5th Cir. 1989).

In *Carr v. State*, 208 So.2d 886 (Miss.1968), the Mississippi Supreme Court stated that in considering whether the evidence is sufficient to sustain a conviction in the face of a motion for directed verdict or for judgment notwithstanding the verdict, the critical inquiry is whether the evidence shows “beyond a reasonable doubt that accused committed the act charged, and that he did so under such circumstances that every element of the offense existed; and where the evidence fails to meet this test it is insufficient to support a conviction.” *Carr*, 208 So.2d at 889.

The Mississippi Supreme Court has stated on numerous occasions that when determining whether a verdict should be overturned that the “Court must accept as true the evidence which supports the verdict and will reverse only when

convinced that the circuit court has abused its discretion in failing to grant a new trial.” *Dudley v. State*, 719 So.2d 180, 182 (Miss. 1998). Under this standard, the prosecution is given “the benefit of all favorable inferences that may reasonably be drawn from the evidence.” *Griffin v. State*, 607 So.2d 1197, 1201 (Miss. 1992). When making this review, the Court will reverse only if the jury’s verdict is “so contrary to the overwhelming weight of the evidence that to allow it to stand would sanction an unconscionable injustice.” *Dilworth v. State*, 909 So.2d 731, 737 (Miss. 2005). The evidence is weighed “in the light most favorable to the verdict.” *Bush v. State*, 895 So.2d 836, 844 (Miss. 2005).

A challenge to the weight of the evidence requires the State to have a greater quantum of evidence than does a challenge to the sufficiency of the evidence. *Pharr v. State*, 465 So.2d 294, 302 (Miss. 1984). The jury’s verdict should be overturned when “from the whole circumstances, the testimony is contradictory and unreasonable, and so highly improbable that the truth of it becomes so extremely doubtful that it is repulsive to the reasoning of the ordinary mind.” *Thomas v. State*, 129 Miss. 332, 92 So. 225, 226 (1922).

When reviewing the sufficiency of evidence in a case, the Court must determine “whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of

the crime beyond a reasonable doubt.” *Gray v. State*, 926 So.2d 961, 968 (Miss.App. 2006).

The sole admissible evidence in this case came from Bob Kea, a self-admitted thief and liar who had a motive to testify against his father because his father had refused to give him any more money.

Furthermore, during its prosecution of the case, the state appeared to believe that Albert was guilty of perjury regardless of whether his testimony that the collectibles burned up in the fire was delivered **knowing** it was wrong. When cross-examining Albert’s witnesses who had testified that they had seen the disputed items in Albert Kea’s house, the prosecution asked them whether they had seen the items the week before the fire³ – as if Albert could be guilty of perjury even if the jury believed Albert’s defense (that he did not know that his testimony was untrue because he was unaware his son had emptied his house of valuables prior to the fire). But for testimony to be considered perjury, the witness must have testified “with the willful intent to provide false testimony, rather than as a result of confusion, mistake, or faulty memory.” *United States v. Dunnigan*, 507 U.S. 87, 94, 113 S.Ct. 1111, 122 L.Ed.2d 445 (1993) (citations omitted). It is well established that a perjury conviction can only be based on a willful material

³ Larry Blair was asked by the prosecution “So you don’t know if they burned in the house fire or not, do you?” T. 150. Mary Starling was asked by the prosecution “And you don’t know what burned up in the fire and what didn’t burn up.” T. 76.

falsehood and not on inaccurate testimony stemming from confusion, mistake, or faulty memory. *United States v. Dunnigan*, 507 U.S. 87, 95 (1993). It is beyond debate that false testimony provided as a result of carelessness, misunderstanding, mistaken conclusions, unjustified inferences testified to negligently, misleading impressions, or even recklessness do not amount to perjury. *United States v. Dean*, 55 F.3d 640, 659 (D.C.Cir. 1995). If Albert did not know the items were not in the house at the time of the fire, his testimony that they were in the house and were burned in the fire could not be perjury.

As stated previously, perjury requires stringent proof of a direct and compelling character. *Hall*, 751 So.2d at 1164. The uncorroborated testimony of a disgruntled convicted thief and liar is not sufficient to support Albert Kea's perjury conviction.

5. The errors taken together are cause for a new trial.

The Mississippi Supreme Court has recognized that several errors not individually sufficient to warrant a new trial may, when taken together, require reversal. *Stringer v. State*, 500 So.2d 928, 946 (Miss. 1986); *Hickson v. State*, 472 So.2d 379, 385-86 (Miss. 1985). In this case, the court made several errors in its evidentiary rulings that, cumulatively, had the effect of denying Arthur Woods a fair trial. *Chambers v. Mississippi*, 410 U.S. 284, 298, 93 S.Ct. 1038, 1047 (1973) (reversing based on various evidentiary errors

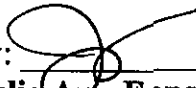
resulting in a denial of due process). If this Court finds that no single error in this case calls out for reversal of the convictions and/or sentences, it should nonetheless consider a new trial based on the plethora of errors that prevented Albert Kea from obtaining due process.

Conclusion

For these reasons, Albert Kea's conviction and sentence must be vacated or reversed and remanded for a new trial.

Respectfully submitted,

ALBERT J. KEA

By: 
Julie Ann Epps (MS Bar No. 5234)
504 East Peace Street
Canton, MS 39046
(601) 407-1410
facsimile (601) 407-1435

E. Michael Marks (MS Bar No. 1869)
Suite 730, The Plaza Building
120 North Congress Street
Jackson, MS 39201
(601) 969-6711
facsimile (601) 969-6713

Wlm Andy Sumrall (MS Bar No. 8775)
406 East South Street
P.O. Box 1068
Jackson, Mississippi 39215
(601) 355-8775
facsimile (601) 355-7002

CERTIFICATE OF SERVICE

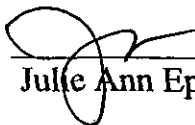
I, Julie Ann Epps, hereby certify that I have this day mailed by first-class mail, postage prepaid, a true and correct copy of the foregoing Brief to the following:

Hon. Jim Hood
Mississippi Attorney General
P.O. Box 220
Jackson, MS 39205

District Attorney Eddie H. Bowen
100 Court Avenue, Suite 4
Mendenhall, MS 39114

Hon. Marcus Gordon
Circuit Court Judge, Eighth Circuit
P O Box 220
Decatur, MS 39327-0220

This, the 3d day of ^{July}~~June~~, 2007.



Julie Ann Epps

IN THE COURT OF APPEALS THE STATE OF MISSISSIPPI

ALBERT J. KEA

APPELLANT

VS.

FEB 26 2007

NO. 2006-ka01383 -COA

STATE OF MISSISSIPPI

Office of the Clerk
Supreme Court
Court of Appeals

APPELLEE

***MOTION OF APPELLANT FOR REMAND FOR
EVIDENTIARY HEARING***

Appellant, by and through counsel, requests that this Court stay the proceedings in this court and remand the lower court for a hearing involving newly discovered evidence, and in support would show:

Appellant Albert J. Kea was tried in the Circuit Court of Simpson County, Mississippi, on an indictment charging perjury arising out of a civil trial involving a fire at his residence. At that civil trial, Mr. Kea claimed that certain personal property belonging to him had been destroyed in the fire.

The principal witnesses against Mr. Kea were his son Robert Kea and Robert's wife Lisa. Both testified that the property was not at the house at the time of the fire and that it in fact belonged to them, rather than to Robert's father Albert. Albert's defense was that he was in the hospital at the time of the fire and had been for some time prior to the fire but that at the time he was hospitalized the property had been at the house and belonged to him, not Robert or Lisa.

According to Albert, he believed his son Robert had removed the subject property without his permission prior to the fire and without his knowledge. Witnesses confirmed Albert's claim that the property had actually been in the house prior to the fire. Notwithstanding Albert's defense, the jury apparently chose to credit Robert and Lisa's testimony and convicted Albert.

App I

After the trial, Counsel for Albert discovered that Robert had a criminal career of truly epic proportions—information which was unavailable to Albert despite due diligence to discover if Robert had a prior criminal record. For example, prior to the trial, defense counsel were provided with discovery by the state, none of which revealed the extent of previous wrongdoing on behalf of Robert and Lisa—in particular Robert's convictions—some of which were apparently under different names. such as Robert J. Keys, Robert L. Anderson, Robert Cook and Robert Beverlin. *See*, News Articles attached as composite Exhibit A which describe Robert as a “modern-day Frank Abagnale, Jr., the real-life con artist portrayed by Leonardo DiCaprio in the movie *Catch Me If You Can*.” *Id*.

Robert's extensive criminal career as the “Traveling Collector”—a notorious art thief and con-man--were revealed to Albert after the trial when Robert committed suicide in November of 2006 while being pursued by the United States Marshall's fugitive task force who were attempting to arrest him after a two decades long search. *See*, *Exhibit A*.

Furthermore, in addition to the discoveries regarding Robert's life of crime, Albert Kea's other son and Robert's brother, Larry, provided Albert's trial counsel with letters written by Robert Kea after the trial which reveal that Robert and Lisa deliberately committed perjury at Albert's trial—apparently in order to obtain the subject property for themselves and because of Robert's hatred for his father. Copies of those letters are attached as composite Exhibit B.

At the time of the letters, the property was the subject of lawsuits involving Robert and Lisa and others over who would ultimately receive the property--art works and antiques with substantial monetary value. Robert and Lisa were also involved in divorce proceedings in which ownership of the property was also contested.

From the letters, it is apparent that both Robert and Lisa lied at Albert's trial about matters material to the defense case, including the true ownership of the property and Robert's convictions. In fact, Robert specifically admits to lying in order to get his father convicted. It also appears from the letters that this is not the first time that the two have perjured themselves. Robert admits to numerous instances where he and Lisa, either alone or together, filed false insurance claims and lied under oath.

Robert's letters as well as the media articles reveal that he and Lisa have engaged in a "life of crime." Obviously, Robert and Lisa's prior criminal convictions and pending charges were material to the jury's decision to credit Robert and Lisa's trial testimony regarding the property. Since their credibility was the central issue in the case, absence of information regarding past frauds and convictions cannot be harmless error. This evidence should have been provided to the defense so that the jury could adequately judge Robert and Lisa's credibility.

Thirteen witnesses testified at trial that Robert was in Simpson County at a time that his father was in the hospital and, therefore, could have removed the property from the house without his father's knowledge. Robert, however, produced a passport at trial showing that he was in Turkey at a time when witnesses claimed to have seen him. However, Robert previously has been convicted of possession of a fictitious passport, and it now seems clear that there is a substantial probability that the passport was forged as Albert claimed.

This case presents a highly unusual circumstance where an innocent man may well have been convicted due to the vindictiveness and greed of his son and his son's wife. Obviously, the information contained in this motion could be presented after a direct appeal by way of a motion for post-conviction relief; however, this Court might save a substantial

amount of time by remanding the case for an evidentiary hearing which might well obviate the need for a direct appeal.

A fair trial requires that a defendant be able to cross-examine witnesses so that the jury can judge credibility. *Giglio v. United States*, 92 S.Ct. 763 (1972) [setting aside conviction where the government failed to disclose its promise to a testifying accomplice that he would not be prosecuted in return for his cooperation. In *Giglio*, the Court held that

“when the ‘reliability of a given witness may well be determinative of guilt or innocence,’ nondisclosure of evidence affecting credibility falls within [the general rule of *Brady*]¹ Here the Government’s case depended almost entirely on [one witness’] testimony [His] credibility as a witness was therefore an important issue in the case, and evidence of any understanding or agreement as to a future prosecution would be relevant to his credibility and the jury was entitled to know of it.”

Id., 92 S.Ct. at 766.

In the instant case, the prosecution did not reveal to the defendant that Robert had numerous prior convictions involving fraudulent activity. Here, the reason for the failure to disclose is not clear, and in fairness to the prosecution may have been in part due to the elaborate efforts of Robert to disguise his identity. Notwithstanding, the notion that a fair trial requires disclosure is true regardless of whether the failure to disclose was inadvertent or deliberate. The witnesses in Kea’s trial were unable to judge the credibility of the chief witnesses against Albert.

¹ In *Brady v. Maryland*, 373 U.S. at 87-88, 83 S.Ct. at 1196, the Supreme Court held that suppression of information materially favorable to an accused violates due process regardless of the good or bad faith of the prosecution. Impeachment material is clearly exculpatory and qualifies as *Brady* material. *United States v. Bagley*, 473 U.S. 667, 105 S.Ct. 3375, 87 L.Ed.2d 481 (1984). The same is true of evidence which provides an

"The thrust of *Giglio* and its progeny has been to ensure that the jury knows the facts that might motivate a witness in giving testimony" *Smith v. Kemp*, 715 F.2d 1459, 1467 (11th Cir.), *cert. denied* 464 U.S. 1003, 104 S.Ct. 510, 78 L.Ed.2d 699 (1983), which testimony "could . . . in any reasonable likelihood have affected the judgment of the jury." *Giglio*, 405 U.S. at 154, 92 S.Ct. at 766, quoting *Napue v. Illinois*, 360 U.S. 264, 79 S.Ct. 1173, 3 L.Ed.2d 1217 (1959). The constitutional concerns address the realities of what might induce a witness to testify falsely, and the jury is entitled to consider those realities in assessing credibility.

The newly discovered evidence here makes it practically conclusive that a different jury viewing the evidence, including the impeachment evidence, would acquit Mr. Kea.

This Court does not ordinarily remand cases for the type of evidentiary hearing requested here; however, Appellant is aware of a few cases in which it has done by unpublished order and suggests that this is one of those rare cases where extraordinary measures may be appropriate.

WHEREFORE, Albert Kea respectfully requests that this Court stay the briefing in this case, remand the case to the Circuit Court for a hearing to see if newly discovered evidence warrants the lower court in granting a new trial. If a new trial is denied, Kea requests that the transcript and order be made a part of the instant record on appeal and the two appeals consolidated with the briefing schedule established once the remand is complete and the record from the remand complete and filed with this Court. Alternatively, if the Court denies this motion, Appellant requests that this Court grant Kea an additional thirty days from the denial in which to file his brief and record excerpts.

additional, though not exclusive, basis of impeachment. *Monroe v. Blackburn*, 607 F.2d


Respectfully submitted,

BY: 
ATTORNEY FOR APPELLANT

CERTIFICATE

I, the undersigned Attorney for Appellants, do hereby certify that I have this date mailed, by United States Mail, first class postage prepaid, a true and correct copy of the above and foregoing Motion to Jim Hood, Attorney General, PO Box 220, Jackson, MS 39205.

This, the 26th day of February, 2007.


JULIE ANN EPPS

Julie Ann Epps; #5234
504 E. Peace Street
Canton, Mississippi 39046

Telephone: 601/407-1410
Facsimile: 601/407-1435

E. Michael Marks; #1869
Suite 730, The Plaza Building
120 North Congress Street
Jackson, Mississippi 39201

Telephone: 601/969-6711
Facsimile: 601/969-6713

ATTORNEYS FOR APPELLANT

Rocky Mountain News

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URL: http://www.rockymountainnews.com/drmr/local/article/0,1299,DRMN_15_5236722,00.html

Museum thief a step ahead during decades-long spree

Changing identities, ailing man amassed collectibles and guns

By Sara Burnett, Rocky Mountain News
December 25, 2006

He called himself a "traveling collector."

But what Robert John Kee really was, authorities say, was an obsessive-compulsive thief who frequented small museums across the country and helped himself to rare items, sometimes hiding them inside a fake oxygen tank.

He also was an ailing 53-year-old so adept at changing his identity that he eluded police for more than two decades and a sometimes-nurse who, with U.S. marshals closing in on him in Texas last month, put a gun to his head and killed himself.

Kee - also known as Robert J. Keys, Robert L. Anderson, Robert Cook and Robert Beverin - was a modern-day Frank Abagnale Jr., the real-life con artist portrayed by Leonardo DiCaprio in the movie *Catch Me If You Can*, police say.

Years on the lam

Kee most recently lived in an Aurora townhouse packed with collectibles and manuals on committing and solving crimes, police say.

His criminal record in Colorado stretched back to 1978, when, according to court records, he pulled a gun on an Arapahoe County deputy.

Kee disappeared for the first time shortly after that arrest. He may have gone to the Dallas-Fort Worth area, where he had family, and worked and lived for a time, police say.

In 1991, Kee was arrested again in Colorado, this time on federal bank fraud charges, under the name Robert L. Anderson. But before his case could go to trial or anyone could connect him to the Arapahoe County warrant, Kee posted bond and slipped away again.

It wasn't until 2004, when the U.S. Marshals Service's fugitive team picked up Kee in Colorado, that police thought they finally had their man.

By then, however, Kee was working as a nurse and appeared to have turned his life around. A U.S. District Court judge ordered him to pay back the nearly \$10,000 in bad checks he wrote 15 years earlier.

But on both the federal and Arapahoe County charges - despite his years on the lam - Kee walked away with probation.

Then in September, a detective in Elgin, Ill., got a phone call from Kee's estranged wife.

What Lisa Keys had to say about her husband would lead federal and local law enforcement officers to the couple's townhouse on Fairplay Circle and a storage locker on Chambers Road.

In the home and storage unit, police found loads of collectibles missing from museums in Colorado and Illinois, more than 30 guns and two silencers, and identification cards police believe Kee used to assume other people's identities.

Passion for museums

There is a lot authorities don't know about Kee and his amorphous past - where he lived for each of the past 20 years, for example, and what he did with some of the items they believe he stole.

What they do know is that Kee was born in 1953, that he had a brother in Texas and at least two ex-wives, and that he may have had a son who died in infancy years ago.

They know that his father, now in his 70s and living in Mississippi, was recently indicted for insurance fraud, and that Kee - a member of the National Association of Watch and Clock Collectors - used different names when he signed the registries at small museums.

According to his ex-wife, Kee also had a mean streak.

"She was definitely in fear of him," recalled Brian Gorcowski, the detective in Elgin, Ill., who first spoke with Keys. "She believed he was never going to let her get a divorce . . . She was trying to get him not to bother her."

During their first phone conversation, Keys told Gorcowski about 15 historic pocket watches her husband told her he stole from the Elgin Area Historical Society Museum during a vacation in June 2005.

The watches, made by the Elgin National Watch Co. between 1893 and 1945, were part of a museum exhibit on watches with railroad-themed faces. The museum had reported them stolen the previous summer, Gorcowski knew.

Each watch was worth at least \$1,000.

Kee had an interest in railroads because his grandfather had worked for one, Keys said. Kee had shown her the watches at least three times and said he stole them while on a trip to a museum in Wisconsin.

During the same visit, he also stopped at a railroad museum in Union, Ill., Gorcowski later learned.



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The fake oxygen tank, disassembled, that Kee allegedly used to hide stolen items.

Exhibit A

Keys said her husband of 12 years also told her he had stolen a .52-caliber Leman rifle from an Estes Park museum in December 2005.

The couple had visited the museum during a stay at the Stanley Hotel in November 2005, she said, and Kee had stared for a long time at the weapon, which was mounted on a wall in a secluded area, away from the information desk.

He told her he went back a month later, while she was in Mississippi visiting family, and took the rifle from the wall, Keys said.

The museum reported the rifle stolen in January 2006.

According to Clyde Yee, a special agent for the National Park Service's Office of Criminal Investigations, the rifle was made in Pennsylvania between 1845 and 1870 and was the type popular with white hunters and American Indians. On loan from Grand Teton National Park, it was worth between \$4,000 and \$8,000.

Keys said her husband - who tipped the scales at 375 pounds and sometimes used an oxygen tank for a medical condition - told her he could conceal items under a long trench coat he often wore.

He also had a fake portable oxygen tank that he could take apart and hide items inside, she said.

He sold some of the items on eBay, Keys said.

His screen name?

"Traveling collector."

A search and a shooting

After credit card receipts and cell phone records backed up Keys' accounts of her husband's travels, Gorcowald traveled to Colorado, where he and Yee compared notes and obtained a search warrant.

When officers forced their way into the couple's home, they found Kee in his upstairs bedroom.

He was nervous, Gorcowald recalled. Almost immediately, he asked for a lawyer.

Inside were collections ranging from Hummels to an antique pop machine, an old pinball machine and nutcrackers, Gorcowald said.

Officers also found the hollowed-out oxygen tank, articles from the *Estes Park Trail Gazette* about the theft of the Leman rifle and numerous fake identification cards with Kee's photo, an affidavit filed in U.S. District Court states.

At some point, Kee - who suffered from diabetes and congestive heart failure - asked detectives if he was under arrest. Because they still did not have probable cause for an arrest warrant, authorities said no, and Kee left the house.

Before he went, however, he called his brother and told him what was happening. He also told him he was leaving Colorado and didn't plan to come back.

Later that day, police hit the motherlode.

At a U-Store-It facility, investigators found the Leman rifle and eight of the 15 missing Elgin watches, the affidavit says. Each watch was in its own plastic bag, numbered and cross-referenced in a meticulously kept ledger, Gorcowald said.

They also found other items believed to have been stolen from two other museums in Colorado and one in Illinois, and 30 weapons, including some machine guns.

The next day, Yee informed Kee's probation officer that Kee had violated his probation. On Nov. 2, a federal judge signed an arrest warrant.

Ken Deal, chief deputy for the U.S. Marshals Service office in Colorado, said he couldn't divulge exactly how they tracked Kee to Texas. He would say only that they knew Kee had a medical condition that would lead him to the Amarillo area.

The marshals fugitive task force personnel traveled to Texas, where officers learned Kee was staying at the Camelot Inn on Interstate 40.

Shortly before noon on Nov. 15, task force members watched as Kee drove up to the motel. As he got out of his car, officers approached and identified themselves, Deal said.

Kee got back in the car and drove toward the officers' vehicle, running it at least once. Officers fired an unknown number of shots, Deal said, but Kee was able to drive away.

Kee drove about a mile on the interstate before veering off the highway and into a parking lot near a service station. There he put a gun to his head and shot himself, Deal said.

It was two days after his 53rd birthday.

Sorting through

Since Kee's death, investigators have been busy sorting through the items found in the storage locker, trying to determine which collectibles Kee legitimately bought and which were stolen from museums.

It will be a while before the items are returned, Yee said, because the investigation is ongoing.

The investigation, he added, was a textbook example of agencies working together to crack a case - one with a sometimes ingenious target who, despite health problems, managed to stay one step ahead.

In the end, Yee said, it was probably Kee's passion for collecting that did him in.

That "intense interest" likely led Kee to steal, carving out a livelihood through frauds and schemes.

"He just had a real fixation," Yee said.

A-2

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But Yee also said that on the day officers forced their way into Kea's Aurora home, the "collector" didn't seem overly surprised.

"I think there was always the thought in the back of his mind that 'someday, my post will catch up with me.'"

About Robert John Kea

- Born: Nov. 13, 1963

- Height: 6 feet, 1 inch

- Weight: 375 pounds

- Aliases: Robert J. Keys, Robert L. Anderson, Robert John Beverlin, Robert John CookSource: Court Documents, Investigative Reports

Kea's cache

Among the items found in a storage unit belonging to Kea were the following, which authorities say Kea stole from museums throughout the country:

- .52 caliber Leman Trade Rifle

Circa 1846-1870

Value: \$4,000 to \$8,000

From: Estes Park museum

- 15 Elgin National Watch Company watches

Circa 1893 to 1945

Value: Insured at \$1,000 each

From: Elgin Area Historical Museum in Elgin, Ill.


- Other items, believed to have been taken from museums in Colorado and Illinois, include military memorabilia and American Indian artifacts.Source: Court Records, Law Enforcement Reports

How he did it

Lisa Keys said her husband - who weighed 375 pounds and sometimes used an oxygen tank for a medical condition - told her he could conceal items under a long trench coat that he often wore. He also had a fake portable oxygen tank that he could take apart and hide items inside, she said.

burnetts@RockyMountainNews.com or 303-664-6343

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101
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The Artifact Thief Steals History

Author: Mary Rayne

Published: December 30, 2006

In which we discuss the rank and role of the artifact thief. Many museums have little or no security and online auctions make it easy to sell stolen goods.

Somewhere below the rank of art thief lies the artifact thief. There are many small museums and libraries in the world that lack proper security or manpower to guard their treasures. Indeed, many museum treasures in towns large and small stay intact because of the honor system and/or the perceived, rather than actual, security.

Robert John Kea's Ebay handle was "traveling collector". He was also an obsessive-compulsive thief who traveled around the US stealing tempting treasures from small museums and exhibitions.

He was a little over 6-feet tall and weighed 375-pounds. The fact that he was obese made his portable oxygen tank more believable, as he used it as an empty prop to hide his loot in on exiting the museum.

Kea had several aliases and a knack for evading authorities who have been tracking him for more than two decades on charges other than artifact theft.

It was Kea's estranged wife, Lisa, who called the authorities and led them to uncover a large cache of stolen collectibles missing from museums in Colorado and Illinois. Not only did Lisa have damning tales of the trips together where his thefts were fairly obvious, but she also gave up the location of the storage unit where John Kea had stored his goodies.

At a self-storage facility in Colorado, investigators found 15 missing Elgin watches and 30 missing weapons, all believed to have been stolen from small collections in Colorado and Illinois.

Knowing that authorities were closing in on arresting him, Kea took off for Texas where he was tracked by federal Marshals to a small hotel. When Marshals confronted Kea he rammed them with his car, the Marshals fired shots and Kea drove off. He drove about a mile on the interstate and then pulled into a parking lot and shot himself.

There are definitely more Robert John Kea-like art and artifact thieves out there. Perhaps they are just high-class kleptomaniacs, but they are especially insidious because they are stealing history and denying museum-goers and/or scholars the opportunity to enjoy, appreciate and become educated from the object. Given the fencing possibilities of Ebay it is also impossible to track the sales of stolen artifacts. Let the buyer and the museum beware.

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Back to results for "Robert Kees"

Below is a cache of <http://homepages.gvd.net/~robertkees/robertkees.html> as it appeared on 10/16/2003. It's a snapshot of the page taken as our search engine crawled the Web. We've highlighted the words: robert kees. The web site itself may have changed. You can check the current page (without highlighting) or check for previous versions at the Internet Archive.

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The Morning Report

Today's Report | Recent Editions | Dec 04, 2006

Tuesday, December 05, 2006

INCIDENTS

Intermountain Region Fugitive Sought By NPS Dies During Arrest Attempt

A man who was being sought by the National Park Service for the theft of a historic NPS rifle evidently shot and killed himself as federal marshals were attempting to arrest him in Amarillo, Texas, on November 18th. According to news accounts, Robert Anderson, a.k.a. Robert Kees, was wanted on federal arrest warrants for theft of government property, for a supervised release violation, and for being a felon in possession of a firearm. Anderson was the focus of a joint agency investigation that was begun when a historic NPS rifle was stolen from a private museum in Estes Park last January. Investigators connected the theft to thefts of historic firearms in Illinois and elsewhere in Colorado and obtained a warrant on Anderson. On October 31st, an arrest warrant issued by NPS special agents and rangers, officers from the Aurora and Estes Park (CO) police departments, and officers from the Elgin (IL) police department evicted a search warrant at Anderson's residence in Aurora. The stolen NPS rifle and other items specified in the warrant were seized, as were numerous other stolen items, including at least five automatic weapons and several shotguns. Following the execution of the warrant, NPS agents prepared a criminal complaint on three felony counts and secured a felony arrest warrant. The arrest warrant was entered into NCIC and the US Marshals Service began an active search for Anderson in Colorado, then in Texas. The shooting remains under investigation. [Submitted by Brian Smith, Special Agent in Charge]

OPERATIONAL NOTES

NPS Ranger Honor Guard Update

Members of the National Park Service Ranger Honor Guard recently completed their fall training at the Federal Law Enforcement Training Center. Over the past six months, the team has participated in a number of ceremonies and services.

On May 6th, Lana Koestermann and Gabe Bell attended Colorado's National Police Officers Memorial Day ceremony in Denver, Colorado, where Jeff Christensen's name was added to a memorial served as paper during the ceremony.

Jim Barnes, David Alexander, Chris Figue, and Russ Hughes attended National Police Week, held from May 12th to May 16th. The dates coincided with several weeks of guards, and Russ Hughes played Taps for the final week's laying ceremony.

Two team members attended the funeral of George Rasmussen, a maintenance employee who died at work in Delaware Water Gap in August.

For a complete list of Honor Guard details and assignments, see the Honor Guard website.

The Honor Guard recently added two new team members - Randy Fisher from New River Gorge, and Mark

A-5



Man wanted for stealing collectible watches kills himself

Christine Byers
Daily Herald
Saturday, December 02, 2006

With federal marshals hot on his trail, Robert Anderson turned off a highway in Amarillo, Texas, into a service station.

He pointed the gun he was carrying to his head.

And pulled the trigger.

A lifetime of running was over for the man dubbed "The Traveling Collector," a man who stole valuable items from museums around the country.

With his death Nov. 16 also died any hope of recovering all of the 15 watches he took last year from the Elgin Area Historical Society and Museum.

"I don't think anybody wanted it to end this way," said Elgin police Detective Brian Gorcowski.

After more than 20 years on the run, however, no one was surprised that's how it did end.

In 1984 in Colorado, Anderson was arrested for aggravated assault after pointing a gun at a sheriff's deputy who tried to question him about writing fraudulent checks.

He posted bond and began life as a fugitive — and a traveling, wandering thief.

One of his final stops came in June 2005 at an exhibit of railroad watches made at the Elgin Watch Factory.

A display of high-end watches made between the 1880s and the 1920s sat sparking in an Elgin museum case, which was unmonitored at the time. Anderson simply unscrewed the lock and took 15 watches valued between \$300 and \$2,000 each.

Museum curators reported the watches missing to Elgin police, who then canvassed pawn shops and antiques collectors looking for leads, Gorcowski said.

Nothing turned up.

"It just seemed like a lost cause," said Elizabeth Marston, museum director.

Then, Gorcowski received a call in September from a woman who said she was Anderson's ex-wife and that she knew where he could find the missing watches. The couple recently had divorced, and she was on a mission to call every place that he had stolen from in an effort to return various missing items from guns to watches.

Gorcowski traveled to Aurora, Colo., around Halloween and worked with the National Park Service to secure a search warrant for Anderson's home. The park service was trying to recover a rifle that went missing from a town museum in Estes Park, Colo.

The Aurora police enlisted their SWAT team to raid his house, as they knew his history with firearms.

When Gorcowski confronted the 8-foot-tall, 400-pound man, he was sitting on a leather chair with a tube pumping oxygen into his nose.

"I asked him if he'd ever been to Elgin, Illinois," Gorcowski said. "That's when he said he wanted a lawyer."

Anderson's home looked, not coincidentally, like a museum.

Hundreds of Hummels, Lladros and other collectible statues as well as vintage Pepsi machines and spy memorabilia were cataloged and organized throughout the house.

But there was no sign of the Elgin watches or the missing rifle. And authorities did not have an arrest warrant at the time, Gorcowski said.

Anderson's brother then told police that he also had a storage locker.

Jackpot.

A-6

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Estes Park Trail-Gazette Archives

Friday, December 1, 2006

The Trail-Gazette on-line archives for each issue consist of (when available) the top four news stories, the top story each of the Community, Our Life in Estes and Sports sections, as well as the viewpoint column, letters, and obituaries.

Because of work load constraints, not every story from our hard copy editions nor any of the photos are contained herein. Unlike our more traditional web pages, all the stories from each issue are displayed in one big scroll.

For all the stories and all the photos, be sure to subscribe to our print edition.

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Town keeps current tax levy

2007 Estes Park budget adopted at Tuesday meeting

By John Carlson

The property tax mill levy remained unchanged Tuesday night following the adoption of the 2007 Estes Park budget. The levy of 1.622 mills will generate approximately \$279,000 for the Town's general fund.

Tuesday's budget process included the adoption of three resolutions: one setting the mill levy; one approving the budget; and a third authorizing the expenditure of funds.

The budget is the end result of months of departmental work within the Town government. The budget includes 20 different funds.

Light and power is the largest fund, with \$10,745,592 in revenues budgeted for 2007. The overall budget for the department includes \$2.4 million fund balance in carryover from the 2006 budget. Total expenditures from the department include \$11,131,355, leaving the expected carryover to the 2008 budget at \$2,080,823.

The general fund is the second largest income and expenditure category. General fund revenue, excluding property tax, is estimated at \$9,587,253. Carryover from last year, transfers into the fund and property tax revenue raise the fund's total resources to \$13,650,897.

General fund expenses include \$7,175,444 in operating expense; \$873,122 in capital outlay; and \$2,723,539 in transfers to other departments for a total outlay from the general fund of \$10,772,105.

The water fund is the third largest in the budget with \$2,943,248 in budgeted revenue. This, and a \$2,944,418 in carryover from the previous year account for the \$5,887,666 budget. Expenditures from the water budget total \$3,353,404, which leaves the unappropriated balance (carryover) at \$2,534,262.

Suspect in museum theft dies

Aurora man takes his own life in Amarillo as U.S. Marshalls close in

By John Carlson

A suspect wanted in connection with the theft of an antique rifle from the Estes Park Museum has died in Amarillo, Texas after shooting himself when federal authorities attempted an arrest. The fugitive, identified as Robert Anderson, A.K.A Robert Kest, died of a self-inflicted gunshot wound to the head as U.S. Marshalls were attempting to arrest him on Nov. 15. The Colorado man was wanted on federal arrest warrants for a supervised release violation, a felon in possession of a firearm and theft of government property charges.

Anderson, 54, was a suspect in the theft of the percussion Leman Trade Rifle, which was taken from the Estes Park Museum's permanent exhibit gallery on Jan. 31 when police suspect Anderson cut the cable and clamps that hold the rifle to the wall. The black powder weapon had been on loan to the Estes Park Museum from Grand Teton National Park since 1997. The 47-inch-long percussion rifle was distinguished by its lock, patch box, hard maple stock and heavy barrel. It featured a small round brass patch box and stock plate and wooden ramrod marked "Leman Lincro Pa."

The rifle and several other items taken from museum thefts from across the country were recovered in a raid at an Aurora, Colo. home after a tip led law enforcement officials to the address. Officers with the Estes Park Police Department, working with federal and other state law enforcement agencies in the

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Denver Metro area, executed a search warrant on a residence in Aurora on Oct. 31. During the course of the search of the home, evidence from several other museum thefts was discovered.

Among the other items recovered were 15 antique Elgin pocket watches, numerous intricate watch fobs/pieces and several Native American items. Kenney said it was hard to put a dollar value on the items because of their uniqueness.

"We are talking about several artifacts that are priceless," Estes Park Police Sgt. Jim Kenney said following the October raid.

Officials also discovered a cache of weapons at a second location that was included in the search warrant.

Officials with the U.S. Marshals Service are reviewing the shooting. Tom Bustamante, chief deputy for the U.S. Marshals Service's Northern District of Texas, said agents from Washington and local Amarillo authorities were reviewing the incident. Bustamante declined to reveal details about the actions of Anderson and his apparent suicide. Authorities were still trying to determine whether Anderson suffered any other injuries before his apparent suicide.

Anderson, who was arrested by Federal Bureau of Investigation agents in 1997 on a charge of illegal possession of firearms, had a lengthy criminal history, including pulling guns on officers.

Glorious music for the holidays

The Oratorio Society of Estes Park presents Christmas Concert Sunday

By Janice Mason

One annual concert sets the mood for Christmas in the Rocky Mountains. A group of professional vocal and instrumental musicians usher in the holidays with classical works selected for the season.

The Oratorio Society of Estes Park (OSEP) invites the community to their annual Christmas concert on Sunday, Dec. 3 at 3:30 p.m. at the Community Church of the Rockies. OSEP consists of 38 choir and 38 orchestral members who are drawn from Estes Park and nearby communities. The society has performed two concerts, Christmas and Easter, each year for the past 19 years.

The Oratorio Society of Estes Park, directed by Claudia Irwin, will perform three different pieces for the one-hour program. They include "Gloria" by French composer Francis Poulenc (1899-1963), "Te Deum" by English composer John Rutter (1945 to present) and "Fantasia on Christmas Carols" by English composer Ralph Vaughn Williams (1872-1958).

"The 'Gloria' written in 1959, four years before Poulenc's death, is both solemn and joyous," said Susan McNeil of the Oratorio Society. "The piccolo's whimsical additions are an enjoyable accompaniment to the short musical phrases repeated with subtle variations throughout the piece. Soprano soloists are Melissa Westover and Akanda Robinson.

"A 'Te Deum' form, thought to be written in the fourth century, is one of the most ancient Christian liturgical texts," McNeil continued. "This 'Te Deum,' lasting only seven minutes, includes clashes of cymbals, rolling of timpani and blasts of brassy chords accentuating the joyfulness of worship. Tenor soloist is Jim Docter.

"Ralph Vaughn Williams based his 'Fantasia on Christmas Carols' written in 1912, on four traditional carols ... and added sections of other well-known tunes such as 'The First Noel,' 'A Virgin Unspotted' and 'The Wassail Bough.' Both the 'Te Deum' and the Fantasia include music written for the harp, played by harpist Connie Dedon."

"(Williams) was one of the first English composers who went out among the people and gathered up folk songs and carols from the singers and then put them together," said Lynette Johnson (flute). "He has a distinctive English style. He wove different carols together and the harmonies are just fabulous."

"(Williams) takes three English Christmas carols and weaves them together in ways that are interesting, unusual and different," said Irwin.

"Te Deum means thanks be to God, frequently sung after battles. In this instance it represents the birth of the Son of God. It's typical Rutter; it's smooth and flows along. It's also exciting because it is one of those 'drunk' pieces.

"We started back in September," Irwin continued. "Everything we are doing is modern. The Poulenc was quite interesting to learn. It was a challenge. It's not your common, ordinary, everyday piece of music. The harmonies are really complex, very exciting, very interesting and difficult. It's so exciting to listen to.

"They are fun and exciting pieces to sing. They are just fabulous. I think it's an exciting program."

"One of the things we were looking at when we picked them out was that we have an excellent brass section," said Johnson. "Everything John Rutter writes has been just brilliantly brass with little fan fares -- brass parts that not anyone can play. There is a nice introduction on the John Rutter 'Te Deum' that requires brass and then the Poulenc starts right out with a high note, a C sharp actually. My husband, Loren Johnson, has been doing his lip exercises.

"All of them have these changing time signatures ... I think so the melody line fits the words. I love it.

"The day after rehearsal, or even two or three days later, we are still singing these songs in our heads because they're haunting. I think the audience is going to go home with new melodies in their heads to carry them through the Christmas season."

Get in the Christmas spirit with the Oratorio Society choir and orchestra. Admission is free. (A free will offering will be taken.) There will be a reception after the concert.

Slash burn scheduled for Pinewood Springs

Don't call 911 if you see smoke near Pinewood Reservoir in the next few days as a prescribed burn is planned

Dean McCrory
Pheasant's Nest
3154 Highway 49 North
Mendenhall, Mississippi 39114

Dean:

This may be the most important letter you will ever need to read. It can make the difference whether you learn your daughter is NOT telling you what you need to know (from what Lisa has said to me) and has said to my brother, that she is "protecting you" from having this information. **THIS INFORMATION WILL PROBABLY RESULT IN A MANADATORY PRISON SENTENCE IN THE STATE OF MISSISSIPPI AND OTHER POTENTIAL FELONY CHARGES BEING FILED AGAINST HER IN FEDERAL COURT AND STATE COURTS IN TEXAS, COLORADO AND MISSISSIPPI.** I do not wish to send this letter, but I do so as a last resort. If you aren't aware of the facts, you are contributing to pushing her off a cliff with very limited options. It may already be too late, beyond any of our control. Lisa has known this for months and weeks, still Lisa hasn't told you. In the past she hasn't told you things "to protect you" or because she didn't want to. Since you are her mother, you are financing the cost of her divorce (divorce is the least of the problems that we face), you need to know your part in Lisa potentially being sentenced to a Mississippi Penitentiary.

Read the letter, and then throw it away if you wish. But you need to be informed of what Lisa is NOT telling you. To make sure this letter is not intercepted by Lisa and NOT given to you, I will be sending it in several forms. After you read it, please give a courtesy call my brother at 940-445-4161 (cell) to confirm you received it. You NEED to leave a voice message if you don't get him live; because he travels and is in roaming and is where he doesn't receive a cell signal at times, he can answer. He can call back in the evening or sometimes in the day time, depending on his location. He is someone neutral you can talk to and has unsuccessfully attempted to talk with Lisa himself.

I will assume if he doesn't here from you, that this letter has not been received or has been intercepted by Lisa. I will continue sending letters each day, to people you have mentioned and get their names out of the Magee phone book, which I have a copy of. I will ask them to give it to you personally. This increases the chances of others becoming aware, but I have been left with no alternative.

Lisa's boss called yesterday and sounded very angry, this is not the first call I have received from her work. Her boss has had ongoing complaints with Lisa, of not receiving phone messages or responding to them. Each time I have given the different numbers I have for Lisa, including your home phone. This has occurred while she was still in Colorado and after she left. I tried to call Lisa's cell (it was full and not taking messages), I tried her business line (it was full and not taking messages). When the voice mail is full, it does not have a recording to call the AIG office. It just says the box belonging to Lisa's

Keys is full and won't take a message. This has been an ongoing problem since Lisa left, 80% of the time. I had no way of contacting her or you. I tried your home (no answer or voice mail was available), the Pheasant's Nest...no answer, Jean's home...no answer. This problem is ongoing. It has been made worse when Lisa could take care of a simple call, or followa thru where she says she will, but doesn't. This makes it worse, for all concerned, when I have to leave several messages with frustration that grows. Current messages haven't been cleared in two weeks, on both lines. But they are now. With everyone not answering their phones, I had a friend call and Larry tried that evening. Lisa then learned many hours later (that evening) of her boss's frustration, which he has experienced many times. Then Lisa gets another land line phone with South Central Bell... Was this for more calls to be ignored? She can't take care of her other two phone lines. Of course when she became aware I knew of it, she changed the number on it even though I never called her on it.

Lisa's boss's name is Cory; his business phone number is 720-962-8016.

Dean:

I don't wish to write this letter, but you need to know the reason that Lisa is facing a MANDATORY sentence for PERJURY in my father's case and the potential problems of FELONY charges in three different states, along with FEDERAL CHARGES. When I went to bat as a witness in the court case's on my father, the good, the bad and the ugly all came out in my life. I knew this going in and Lisa supported this decision. Now Lisa and you will have to deal with the good, the bad and the ugly in your lives. I tried to avoid this, as Lisa well knows. I didn't want this to happen. I will deal with my father's case first and elaborate on the other areas at risk.

Lisa testified in a Criminal Court case that the some of the personal property belonged to her. That was Lisa's legal testimony, after swearing in, to the court. Legally, a good portion of the items did NOT legally belong to Lisa. The property was claimed in two separate property claim losses previously (One was BEFORE we were married, that Lisa filed the FALSE POLICE REPORT on, filed the insurance with State Farm and accepted a check and compensation for \$67,000.00 which Lisa ALONE cashed). Part of the trial exhibit's, currently in the custody of the Simpson County Sherriff's Department, exhibited three clock's from this insurance claim. One of the being reported STOLEN and being compensated for was her great great grandmother's family clock. The insurance company has this listed on a claim form signed by Lisa ONLY. They have pictures for this claimed Lisa submitted. I have copies of this paperwork and photocopies of the pictures State Farm has in its files for this FELONY INSURANCE FRAUD case.

When the house was sold in Plano, an insurance claim was submitted to Farmer's Insurance for a property loss claim that was paid in the amount of approximately \$70,000.00. This claim was signed by both of us, as was the check that was received. The statue of limitations is not up on this FALSE FELONY FRAUD INSURANCE case and charges can be filed in the state of Texas. This claim involved the three lithographs Lisa brought to Court and Lisa testified they belonged to her. Lisa was paid under our policy \$20,000.00 for these items alone. Farmer's insurance also paid \$6,000.00 ON LISA'S WEDDING RING. They have a copy of the claim, with photos provided on the claim, listing the numbers on the lithographs. This numbers will prove the case without a doubt; Lisa will eventually in all likelihoood be sentenced to PRISON IN MISSISSIPPI. Lisa will probably be allowed bond, the legal process will go on for 1-2 years, and cost for competent attorneys will be high.

If Simpson County Court becomes aware of this, regarding my father's criminal case, it will discredit testimony provided. As a result under criminal state statues, the testimony testified to under oath will be determined to be perjured and that testimony will be disallowed under state law. It was the testimony of Lisa and me, which brought about his conviction. Without this testimony, there would have been NO conviction. Because of double jeopardy, I don't believe this case cold be tried again and the verdict would be reversed. If it could be tried again, which I doubt could happen, the testimony that was used as evidence couldn't be used in any form. A Judge would instruct the jury that our

testimony would take into account that if any of it was proven to be perjured or untrue, that the rest of the testimony would be not credible.

My father would then be released and have his conviction reversed. He will be morally guilty, but NOT guilty in the eyes of the law. He will have ALL his rights restored and be able to do ALL the behaviors he has done in the past with very little accountability or laws with NO teeth in them. I'm sure he would do his thing with signs, flyers, talking freely to anyone who would listen and file suit against you, me and Lisa for anything he could. Restraining orders will be dropped, he would also have his rights to own and carry a firearm restored, etc. That has been his pattern, for all his life.

He would demand, with legal justification on his side, that Lisa and I be sentenced to mandatory time in a Mississippi Prison. His legal view was that he was innocent and under the law, that would be his case. At 74, he was sentenced to 8 years in prison for a first offense conviction.

Since there was a civil trial, followed by a criminal trial facing up to 10 years and being sentenced to 8 years there would be severe legal consequences. An example would have to be made. Judge Evans had to recuse himself, Judge Gordon was brought in by the Mississippi Supreme Court and the any new case would have to be again appointed by the State Supreme Court in the State of Mississippi. (Judge Gordon would have to recuse himself also, along with the District Attorney Eddie Bowen). The third Judge to be appointed would be familiar with this case. I have NO doubts probation would NOT be allowed, since an "innocent" man had been sent to the penitentiary for 8 years, on a first offense as a senior citizen. The sentencing guidelines would be 10-20 years for PERJURY IN A CRIMINAL CASE.

My father would follow his regular pattern of sending letters to the Governor, Attorney General, newspapers, interviews with the television stations, etc. His normal patterns, consistently over the last 40 years, as we all are aware.

This case has been on the front page in Magee paper 3 times. Everyone will be bloody, all secrets will be public and Lisa name would be smeared (by the time this comes to pass, it will list her maiden name of Clark, after the divorce) along with other family connections by name. I was able to keep Lisa's name and yours out of the paper (they were originally going to be listed), by giving an interview. My only request was to keep any other names generic (example: wife), I was successful. In the process, I came out with the expected negative publicity. Little did I know when I fell on my sword, Lisa and you had already put into process the divorce papers into play. They tried to serve the papers while I was testifying. I was foolish enough to go ahead and bring down more items Lisa requested and gave them to her. I have no doubts the feeding frenzy the media will have with this. With all the crime stories making the front page of the paper on a regular basis in the community, this case is news that will sell a lot of newspapers.

Remember, Cecil Herrington the ex-police chief of Magee was innocent but he was still charged. Then D.A. Evans recused himself and Michael Marks went directly to the grand

jury and received an indictment. Michael Marks was appointed special prosecutor, even though he was filing all the civil suits and criminal actions. Don't be surprised if the same legal maneuver is attempted again and **MICHAEL MARKS IS APPOINTED SPECIAL PROSECUTOR TO PROSECUTE LISA.**

There will be no home court advantage. Judge Evans and D.A. Eddie Bowen will be recused. A man was sentenced to prison on perjured testimony. Will a jury in the Bible belt, find Lisa innocent? I don't believe so. Probation won't be allowed, in my belief. Lou Ann (Larry's wife) knows the facts; she believes Lisa needs to be held accountable by the legal justice system for her actions. Won't others feel the same?

Most important, it should be remembered my father committed perjury in one civil case. He was indicted for a Felony. I'm sure he never imagined that he would receive 8 years from the criminal trial that followed. Lisa will be facing more severe **FELONY CHARGES IN MULTIPLE JURISDICTIONS... FEDERAL, STATE COURTS, ETC.** My father only faced sentencing in **ONE CASE** of **PERJURY** and **RECEIVED 8 YEARS.** **WHAT DO YOU THINK LISA WILL RECEIVE? IS IT WORTH THE CHANCE OF THE JUSTICE SYSTEM OR MY FATHER'S LEGAL PRESSURE TO LET THE JUSTICE SYSTEM DECIDE? LISA WILL BE FACING MULTIPLE FELONY CHARGES IN SEVERAL DIFFERENT JURISDICTIONS, WHAT DO YOU THINK EACH OF THESE LEGAL JURISDICTIONS WILL DETERMINE JUSTICE IS FOR LISA?**

It will be hard to portray me as the person totally at fault, when Lisa committed insurance fraud **PRIOR** to ever being married. Lisa has 25 years in the insurance field, how will a jury view this? Additionally, other bad acts with insurance fraud have occurred. Three of these were automobile accidents with "alleged" property damage and loss with high value items in the vehicle, on each accident. I have all the documentation. Everyone of these accidents were experienced by Lisa **ALONE**, she made the reports to the police, filed insurance claims in **HER NAME ONLY** and received insurance checks for each **IN HER NAME ONLY.** I was **NOT** in the vehicle during these three accidents:

- 1) Colorado: Lisa's car was rear ended by a Hertz rental car, property damage of the items was listed as being damaged in the vehicle. Several thousand dollars was paid to Lisa by Hertz insurance. Statute of limitations has not run out for **FELONY INSURANCE FRAUD AND FALSE POLICE REPORT.**
- 2) Texas: Lisa's car was hit and the driver drove off. Lisa wrote down the tag number and it was determined the driver had insurance with Geico. Lisa again filed a property damage claim falsely for contents in the vehicle. Geico paid several thousand dollars on this claim. I'm not sure, but I believe the statute of limitations is up on this case. But they are still entitled to **REIMBURSEMENT FOR INSURANCE FRAUD**, for the amount of the claim.
- 3) Texas: Lisa's vehicle was hit in the rear when she was pregnant and she suffered a neck injury, which still gives Lisa difficulty. Lisa also filed a false property damage claim for items, listed as being in the vehicle. Lisa was paid approximately \$6,000.00 for the

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"property damage" and later received a settlement for \$8,000.00 from State Farm. This was in Lisa's NAME ONLY.

Every one of these INSURANCE FRAUD CASES, FALSE POLICE STATEMENTS, ETC. was carried out with Lisa reporting the accident, filing the claim and receiving insurance compensation. Some of these vehicle accidents can be charged with fraud and others cannot. There also are auction receipts for damaged articles, which was in Lisa's name showing premeditation. Some of the items were claimed more than once (for the same articles), by different insurance companies. However, all of the insurance companies are entitled to file for REIMBURSEMENT OF THE ENTIRE CLAIM (if part of the FRAUDULENT FELONY INSURANCE FRAUDS, and then the rest of the claim would be invalid including car repairs and medical reimbursements). The insurance companies have fraud departments that deal exclusively with filing civil suits for reimbursement in civil cases. These become judgments that are filed in the COURT, which are PUBLISHED IN THE LOCAL PAPER and posted to a person's CREDIT BUREAU reports. These LEGAL JUDGEMENTS WILL BE ON FILE and are good for 7 or 10 years, depending on the state. FELONY PROPERTY INSURANCE FRAUD alone is over \$200,000.00. These judgments' can be renewed at the end of this time; many are electronically reminded to do this at the proper time in case the person's financial situation changes or they inherit property which can have a lien put against this property. Lisa could never inherit her family legacy or a lien would be put against it. Is Lisa listed on ANY of your accounts? If so, that brings them into the Court's jurisdiction for review.

In addition, to the strong potential For Hertz Insurance, Geico Insurance, Farmer's Insurance and State Farm Insurance FILING CIVIL SUITS, JUDGEMENTS AND FELONY CRIMINAL CHARGES were it is permissible, etc. They are entitled to receive their property back and be reimbursed for legal expenses, unrecovered property value, interest (usually 8%, was what the court ruled on my father). Since this property is considered STOLEN, would a search warrant be served by the Simpson County Sheriff's Office or F.B.I.? That would be up to a Federal or State Judge, or both. This would be a matter of public record, in the news and result in a search warrant for your properties. Would they search your renter's property? Would Jean and Dan's house be searched (since Jean is your sister, and work's at Pheasant's Nest where stolen property may have been sold)? Would Dan and Jean be mentioned in the paper also? I don't know the answer. Have you ever seen the mess during and after a search warrant with closets, all boxes opened drawers, and many law enforcement personnel present? Would they seize your business computer and also file a search warrant for the Pheasant's Nest? Would your records be audited? To check for stolen items having been previously stolen or being sold in the store currently? DEAN YOU HAVE TWO ITEMS REPORTED STOLEN IN YOUR HOUSE CURRENTLY. INSURANCE CLAIMS WERE PAID ON THESE ITEMS. A large Wedgewood bowl and a Moorcroft vase are in your home. LISA KNEW THIS AT THE TIME.

I hope you have some idea of what I was trying to avoid. It's a mine field, when one mine goes off they all do. Or another way of putting it is one domino falls and the other

dominos start falling every direction. Control of this will no longer be ours, it will be very public and no one will be able to control events that come afterwards. The full weight of the legal justice system will come into play and they will determine the outcome. Because of Lisa not keeping you informed, I'm forced to make sure you have this information. This isn't surprising because Lisa has had to keep secrets all her life.

There is a great deal more involved, unfortunately.

My father's appeal attorney is Julie Ann Epps, a very competent successful appeals attorney since 1973. She is associated with the, "Mississippi Prisoner's Defense Committee" and has been mentioned in Time magazine, among other many other publications. There are many successful cases filed by her on record with the State Supreme Court of Mississippi. His appeals attorney will look for ANY legal loopholes.

Those lithographs with numbers on file with the insurance company ONLY, NOT the National Crime Information Computer System, they are enough to HANG Lisa legally. While there has been NO request to release these trial exhibit's (because Lisa hasn't followed through with Dennis Ware on this property being released), they remain a potential noose in the legal system. A motion was filed on 8/17/06 (by my father's appeal attorney) for "all exhibits offered and marked for identification or admitted into evidence" to NOT be released. (Lisa said these legal papers didn't exist. Lisa is WRONG (INSURANCE CLAIMS WERE PAID). Lisa is not knowledgably aware. Lisa has put herself at the top of a cliff and Dean you are pushing LEGAL ACTION, RATHER THAN OUR OWN RESOLUTION. I want you to know the only way to protect all the assets Lisa has. Soon there will be NONE to protect. These documents are available for viewing at the Court House. I am enclosing some of the copies. A copy of these motions and the appeal to the Mississippi State Supreme Court, have not been ruled on yet. JUDGE EVANS IS WILLING TO RELEASE THESE, PER JUDGE GORDAN, WITH A MOTION FILED. IF THE MOTION HASN'T BEEN FILED (EVEN IF IT HAS, THERE IS A SLIM CHANCE IT COULD STILL BE RELEASED) IT COULD STILL BE RELEASED AND NOT HANG YOUR DAUGHTER. It may already be TOO late. Lisa has known about this since the trial. TIME IS OF THE ESSENCE AND IN SHORT SUPPLY. During the trial Lisa mentioned Farmer's Insurance under cross examination (she can tell you the details). It's only a matter of time before the transcript is ordered to be transcribed. If the appeal attorney contacts Farmer's Insurance to confirm testimony by Lisa and Farmer's Insurance looks up the information to see if these items were listed. If the claim is found, all hell will break loose. Lisa's head will then be in the legal guillotine. The risk needs to be removed. Lisa and I were already in agreement on division of this property. No other lawyer, except the one referred to me, would even file this motion. As usual you are not aware and Lisa is not following thru. Do you want to see your daughter in prison, for 2-3 years before she is eligible for parole, with a 98% black population? Lisa I don't believe could hold up to the storm that is coming if you don't act. You need to get your head out of the sand Dean. Mississippi has one of the worse prison systems in the country.

By some miracle if we worked together, we can get through this mine field. I doubt Lisa would receive probation on the Mississippi case. Even if Lisa did, every law enforcement officer would be aware of her pending charges or convictions. A Judge would not allow her to be in a house with firearms and they do home inspections. Lisa would still be responsible for restitution, community service (Which I was unable to do because of having a well documented medical terminal condition, your daughter has no such life threatening condition. The whole community would know of this sentencing requirement). Lisa, if sent to prison for the minimum time of 10 years, would have to serve 2 years before being eligible for parole. Parole would be for 8 years. When she is released on parole she would be required to have a job. On probation or parole, this is a requirement unless you are permanently disabled. Lisa will never be able to hold a job in her field, requiring bonding or a background check.

The potential minefield gets worse. We filed Bankruptcy approximately 6 years ago. Assets were not declared properly. How can they now be declared in the divorce financial disclosure? If they are, **BANKRUPTCY FRAUD, FALSIFYING FEDERAL DOCUMENTS** in Federal Court comes into the legal arena. Lisa is so worried about material things and property that her judgments are much clouded. After all the property is returned to the insurance company, then what is left will be evaluated by a Federal Court. You are only allowed so much assets in a bankruptcy, the rest are required to be liquidated by the court. The gold leaf mirror (costing over \$5,000.00 in restoration) and the 100 year old chandelier (requiring several thousand dollars in restoration costs) would have to be sold. These restorations were paid with a credit card and these companies are entitled legally to have a return on some of these undeclared assets. No collectibles or collections, which were required to be listed on the Bankruptcy declaration that we both signed, were listed. Every material position that Lisa owns and holds so dear and that is stored on your property, would be gone. Material possessions and divorce are the least we have to be concerned about here. Prison, probation, parole, restitution, fines, attorney's costs, community service, newspaper stories, media exposure, a community where Lisa would never probably feel comfortable ever again in Magee and could never inherit her family heritage. This is the future for Lisa, if we don't navigate this minefield together. One mine going off brings the roof down.

It continues to get worse, it's ugly and this is only the beginning. I fell on the sword before, now I'm not willing to go it alone and after the betrayal I feel. There is so little time now. I didn't want to write the other letter to you Dean, but if I don't cover the bases with you as hard as it is, Lisa will be in so deep; you will not be able to retrieve her. Prison will destroy her in every way and those who care about her. A white woman in an almost all black prison, without street smarts will be victimized in every way.

Next hard subject, **TAXES**: Two years PRIOR to me knowing Lisa or being married to her, she filed two false tax returns. Delta reimbursed her for expenses but she deducted them (**DOUBLE DIPPING**), anyway to have more of a tax deduction. This is important, because it happened BEFORE we were a couple. It gets worse still, for 10 years Lisa has declared my deceased son on our joint tax returns with a social security number that was issued to him at birth. These returns were prepared by a CPA, whose records are still

intact. I have copies of all these documents in a safe place, along with memos back and forth between Lisa and the CPA discussing child cost expenses. Lisa handled the taxes exclusively. We are jointly responsible for them. Lisa has also "fudged" the returns each year and I have the documents and they won't hold up to an audit by I.R.S. The I.R.S. will be mandated by law with IMPROPER DEDUCTIONS, to AUDIT all questionable returns. A certified copy of my son's death certificate is available for review, for any legal proceeding. The statute of limitations is not up on the criminal prosecution of most of the tax years we filed on. This would bring the I.R.S. criminal investigative division into the legal arena also. Resulting in FEDERAL TAX FRAUD INVESTIGATION (MULTIPLE COUNTS), 50% penalty fines, interest from the time of filing EACH return, criminal fines and FEDERAL TAX FRAUD charges being filed. There is a reason Lisa kept such tight control over the taxes and has almost always filed for a filing extension. Both of us will bear responsibility for our actions. A jury or I.R.S., will take a dim view of using a deceased child's death for financial gain.

This is a lot to swallow and for me to have to relate. There are more areas I could go into during our marriage, but I believe you have more than enough insight to the legal arena. Do we open Pandora's Box and let it ALL out? Do we all try to navigate this minefield together and try to get through it successfully? If a mine goes off, the whole roof caves in. When the roof caves in, YOU DEAN had a direct part in it in many ways, for what is the potential legal action to come. When and IF that comes, I have ALL the supporting documentation I need to bury us all. Lisa is hell bent, with you and Jean pushing her (from what Lisa has said to me and my brother) to have total self-destruction over material goods that don't belong to her. I will only use the truth and the documentation to prove the facts. This is not my desire, but you all have backed me into a corner where a Federal Prison is looking better and better to me. I have had time to prepare documentation on all fronts (Lisa has known this, with each new threat and action she has made or taken. We have discussed it many times). Dean I have tried and tried to clue you in, without success. CAN YOU AND LISA PULL IT TOGETHER BEFORE, ONE OF US, and OR MY FATHER'S APPEALS' ATTORNEY RESULTS IN US PUSHING THE BUTTON FOR DOOMSDAY FOR ALL OF US? WE ARE AT THE EDGE OF NO RETURN NOW. I have an appointment with an attorney to retain him with the remaining funds I have available. As my brother told Lisa, I located the law firm from a Denver publication. The article was entitled "Super Lawyers" and the rest of my money goes to the law firm. I expect being in a Federal Prison would be better than the options you and Lisa have given me. This law firm will fight for spousal support, for which I'm entitled for the rest of my life no matter where I will be. Lisa, will have to pay restitution, fines and court costs first. Lisa is only applying for a long term disability, not a terminal permanent one.

Lisa said to me she was thinking about leaving for a year prior to making that decision. During that year you obviously knew. Dean you never checked with me, as you usually did about Christmas so we wouldn't duplicate each other. Dean, you rarely called the house any longer. In November Lisa ordered more than enough large plastic clothes bags, for ALL her clothes. I should have figured it out, when Lisa didn't call and talk to me for Christmas. Lisa was constantly on the internet looking for a medical reason to have the

short term and eventually long term disability filed. Lisa had recently gotten this policy at the beginning of the year, and was looking for a medical reason for not losing her job. Which she knew was coming, from her poor job performance. This was before my legal issues came to the surface. Lisa latched on to several areas; one was the "chronic fatigue syndrome" which she pursued with vigor and was disappointed greatly when this was not the medical opinion of medical personnel. I know she has latched on to my nephew's diagnosis of being "manic depressive" and tries to apply it to me. During our marriage counseling, with the therapist Lisa selected, and that Lisa couldn't follow thru on basic agreements from the sessions. Lisa was unhappy when the therapist didn't say what Lisa expected.

When Lisa thought she was being fired, everyone but me knew Lisa was moving to Magee. I took a time out, for both of our sakes and Lisa knew how long I was going to be gone (depending on weather) and made no attempt to call the places she acknowledged I would probably be staying. Lisa knew I had stayed at these places with her and they were our preferences for overnight stays. Lisa called you and you immediately saw the opportunity to get her home, because you had been unsuccessful before. Lisa couldn't find a job and that was the main factor for many years. Lisa arranged for the moving company and asked the moving person about a recommendation for a divorce attorney. Lisa told me this. It makes it very clear there was no middle ground. Dean to you credit, you wanted to pick up Lisa and her clothes and return to Magee. Lisa wanted every material possession she could get.

I guess this is the point, I say "like mother like daughter". When we were dealing with the problem you created with your mother getting revictimized for several years in your "safe haven". Followed by children being around him, learning Angie hid a great deal from her husband (I wonder if she would be alive today Dean (you knew), if YOU or someone has stood up to the plate, anywhere along the line) and Lisa wanting me to frame Bennie with fake federal charges (by mail) concerning pornography charges (which I wouldn't do). It was very obvious when you were taking him to medical appointments, talking to him regularly at night for years that you had a common bond. You asked Lisa, if I knew his address from the Court records on your divorce agreement. Lisa LIED and told you no, that was not the case. I had to know what I was dealing with and Lisa KNEW I received the divorce records to get those answers. It was there in black and white, very clearly, you were strongly vested with him in every form financially. Your daughter read this and knew the truth at that point. I still have the copies Lisa read. Lisa knew before I requested the copies, what I was doing and why. You traded YOUR financial security for the future, along with YOUR concern of perceptions in the community, preventing Lisa from getting the justice she wanted. Dean you were so self-centered. You worked with him each business day, interacted with Bennie regularly, allowed him to remain free to impact your mother and Lisa further. YOU DEAN, were fully vested for money and strongly bonded with him. So much so, you proudly put a pedophile's name on your license plates, to advertise the wrong message to anyone who knew the truth. Was this worth all that came about? Was it worth your daughter not going to Church with you, for even one Sunday? The conflict Lisa and I had about attending your Church for the first time? Lisa told me she goes to Church for you, not for herself.

Occasionally, Lisa related she will find a sermon that is a little relevant in her life. Lisa growing up continually saw how hypocritical your Church was brought on by you Dean, when you didn't protect your daughter. **IT CLEARLY TAKES TALENT TO SEE CLEARLY WHAT LIES UNDER ONE'S OWN NOSE, A GOOD DEAL OF IT IS TO KNOW WHICH WAY TO POINT THAT ORGAN. YOU JUST DIDN'T WANT TO, WHEN IT CAME TO BENNIE.** Lisa growing up had to listen over and over how wonderful her stepfather was from you and people at the Church. Meanwhile Lisa was being molested, turned against the Church and God for what was happening to her. Made worse Dean, when you found out it was happening to your mother **AGAIN.. AGAIN YOU DID NOTHING DEAN, TO BRING LEGAL JUSTICE TO YOUR MOTHER AND LISA. YOU WANTED TO PROTECT YOUR FINANCIAL ISSUES AND OTHER ISSUES YOU DIDN'T WANT PUBLIC IN THE COMMUNITY. YOU WERE GUILTY OF PROTECTING A SERIAL PEDOPHILE WHO VICTIMIZED CONTINUALLY FOR DECADES. YOU HAD DIRECT RESPONSIBILITY FOR ALLOWING THESE EVENTS TO OCCUR AGAIN.**

Our marriage was over from the first time I stood up and did something about Bennie. As a matter of record, I still have copies of all the letters sent, with postal personal signatures and postal confirmations. I also have the dates for my calls, along with names and reference numbers of the conferences regarding state agencies that protect children (In Texas, where Angie-Ashley & the other unknowing little girl were from. Along with Mississippi, where events had occurred weekly under your nose (as Lisa has repeatedly said) in the past. Also, our conversation with District Attorney Fortenberry should be easily remembered. I have his business card with his hand writing on the back of it. Since a good portion of the events started with Bennie, it's ready for the public arena to decide if what YOU did was morally right. Considering Lisa told me you had separate beds, you obviously had to have knowledge there was a problem. This problem with old history is still very much there, even if Lisa doesn't talk about it. Bennie and your relationship undermined any possibility of our marriage succeeding from the beginning. It's directly related to a lot of current events.

LIFE INSURANCE: I took out several term insurance policies out on myself many years ago when underwriting would soon begin to be a problem for me. Lisa while working for New York Life for six months with no income assisted me as an agent, to avoid having to have a physical for a policy that normally neither she nor I would meet the underwriting requirements. As an agent and deliberately NOT providing REQUIRED important medical disclosure, there are questionable concerns on her responsibilities as a state licensed insurance agent. This would fall under **STATE INSURANCE GUIDELINES** in Texas and in Colorado. Were these companies defrauded by an employee licensed for insurance products? Are they entitled to reimbursement for claims paid or for policies still in force on Lisa. (The medical records I have copies of, would confirm this ethical breach and possible **VIOLATIONS OF STATE LAW**). Insurance payments were made by mail and across state lines. Does this make it a potential **FEDERAL CASE?**

My life insurance policies paid \$250,000.00 for accelerated death benefits for a terminal illness, heart failure. This disease process has been confirmed by two heart cath and has

a 95% mortality rate at the 7 year period, for persons under 65 years of age. These benefits were for my ongoing medical cares were administered by Lisa, who has 25 years in financial planning in the insurance industry. Lisa depleted the majority of these funds, premeditated I believe, on everything and anything. Knowing these were our only funds we had to survive on she bought thousands of dollars worth of clothes, purses for hundreds of dollars (and never used them), Christmas ornaments and other non-necessity items. Boxes of her purchases piled up, unopened for weeks at a time. Dean YOU KNEW Lisa had a major spending problem, as her way of coping in life. I tried and tried to tell you while we lived in Plano, you didn't help, YOU made the problem worse. We couldn't afford that house and we sunk deeper and deeper. Lisa was extremely upset when we had to cut back on multiple fronts and the WORST was when Lisa had to give up her weekly maid service. When I came to you for help, you didn't. It's no wonder what had to be done to attempt to stay afloat, unsuccessfully. Dean, YOU enabled her with this behavior by having items sent to your home and business address, so I wouldn't know about it. Lisa spent this life insurance money on you in several forms, including a computer for your business and to use for Church activities. (Even though Lisa transferred from your funds of \$116,000.00, to a retirement plan with AIG). Maybe a portion of this was because Lisa said you were over extended on your credit accounts on your business. Economic times have been detrimental to all business startups and established businesses.

During this time I didn't have identification for the bank, Lisa handled almost all these funds, cash transfers and cashing checks. I was limited on what I could do. I later learn you and Lisa were shopping for jewelry; I found a bag full of jewelry with a receipt and learned about additional purchases that were being made with you (Lisa acknowledged), while I was testifying at the civil trial.

Lisa was diagnosed with high blood pressure and depression. As with me, extra term policies were taken out while Lisa could still pass underwriting (WITH THE REQUIRED MEDICAL DISCLOSURES NOT GIVEN). Some policies were taken out by Lisa herself, which were never cancelled. After I fell down the stairs several times extra accidental insurance was taken out. Lisa and I discussed many times we needed to review these policies and get rid of policies that were not effective (cost, ineffective coverage and dead wood). Lisa never got around to it, like many other things, like taxes. Later I heard from Lisa, that this meant I was trying to kill her. Give me a break! This is worse than her disagreeing on the "Chronic Fatigue Syndrome" medical opinion. What INSURANCE FRAUD applies to NON-DISCLOSURE?

Lisa, after much planning, left with the majority of our assets depleted and took a moving van full of our joint community property. I asked for an inventory to be done, but it was dismissed by both of you. My brother also suggested this, when he was present. After a couple weeks you left with your two vehicles loaded and the moving van picking up what you, Lisa and Bonnie packed. My brother was also here partially during that time. I do have a copy of the moving van invoice, as you do.

B-12

Lisa was supposed to come back in March for a Doctor's appointment to try and keep her disability. Lisa and you were offered more time on some bunnykins', when you were here. But it was voiced you didn't have the time. I said to Lisa, we would take care of this in March and discuss other areas we needed to cover at that time. Lisa never came, because she held a phone conference with her therapist. I have heard many times that "things didn't have to be the way they are, if I had kept my agreement in March". There was no other agreement, as my brother who was present heard. Larry has stated this to Lisa many times, but Lisa is a broken record on this issue and can't accept what was indeed said.

Lisa left with NO thought concerning how I would provide food, rent, phone, medications, medical clinics, medical co-pays, car insurance, car upkeep, gas, utilities, moving deposits, help to move or other expenses associated with every day living. My expenses run \$2000.00 a month without Lisa. I receive a social security check for \$ 640.00 a month. Lisa depleted the majority of everything that was there to provide for both of us. We had no debt, except Lisa kept spending and spending and spending. Lisa's only offer was to help pay two months rent, and then I was on my own.

Since Lisa has left, I have done the following and had the following occur:

- Immediately my health insurance was canceled (I tried 9 times to get a hold of Lisa without any response) after going to the emergency room and learning this. I had fallen down the stairs, broke a tooth, cracked two more teeth, had a head injury and injured the ankle I recently had surgery on.
- I receive a notice in the mail shortly after Lisa left, changing life insurance Beneficiaries to you.
- I left messages on important calls from her work and others that I received, which might be important to her.
- I changed the bulk of all trade publications and other mail, including all the retail catalogs Lisa wanted
- I forwarded important mail to her.
- I paid all incoming medical bills for Lisa and other assorted bills, over a \$1,000.00 worth, out of limited funds I had available.
- I kept Lisa informed of all legal developments involving my father.
- I brought a van full of stuff Lisa wanted to Dallas, checking with her several times before loading it. Lisa didn't show or call. Lisa was too busy trying to get two Dobermans, which you wouldn't allow her to keep.
- My nephew then brought the stuff Lisa wanted to Mississippi.
- I sent things in the mail Lisa requested and voiced concerns about not receiving.
- I had repairs done on items from Venice, including a damaged candlestick (which Lisa loved and spent a \$1,000.00 for the pair). I was concerned the repair would not be up to her standards and wanted to give her an opportunity to have it restored with Roberto, to its original condition. Lisa angrily said, why did I only send one? I told her they were both sent in different boxes, insured, at the same time and it would probably arrive shortly, which it did.
- I specially ordered prisms for the broken ones, from our previous move, which were extremely hard to locate and cost \$200.00, which I paid.

- Lisa sent \$1,200.00 for rent. I used \$200.00 on car insurance (her part) and transferred the other \$1000.00 to her Capital One Visa account.
- I sent Lisa the DVD set of one of her favorite shows, Nip Tuck, with all the out takes. I never received an acknowledgement.
- I have had many problems getting a simple phone call returned and it results in too many unnecessary phone calls that weren't needed, out of frustration. A simple return call would have handled the largest percentage of these uncomplicated matters. Then Lisa tells me Dean, that YOU say I'm causing all her problems by calling too much.
- It was agreed Lisa would do the taxes, come April 15th I have heard nothing, even though you BOTH agreed to take responsibility on this because I was told, "It would be stupid for us to file separate returns when we probably wouldn't owe anything". Lisa tells me that YOU were angry that I had to again place several calls concerning what the status of the taxes were. Lisa has always insisted on having control of the taxes and had me SIGN releases for extension filing. I never knew this could be done electronically. How would I? A simple call could have prevented several other calls. Any taxes due we owe, will now come from any liquidated community assets. I don't have the money to pay the taxes owed, so I.R.S. will list us both owing them for these funds for individual returns. We both have joint responsibility on these taxes. I.R.S. will have to go after Lisa. They won't be able to recover from me. I won't have the financial means. I will be dead or incarcerated.
- When Lisa left she asked me to send a prescription for sleep meds from Walgreens that was overlooked, I sent it overnight.
- DOULTON: I have been told many times by Lisa that Doulton died because of stress by me. Despite spending over \$15,000.00 for his care and having to, with heavy heart, learn that Doulton would not have a chance of quality of life with such a fast acting cancer and the organs involved. It would be like me saying your mother died sooner, because of the stress by Bennie. This isn't rational.
- I ordered six months worth of medications, we were both taking from our respective Doctor's (using a vacation override provision in the policy) because Lisa was concerned about our health insurance being cancelled, due to her boss wanting to fire her. I told Lisa about this, she forgot even though it was left on a voice mail and on the phone. Lisa later asked, why I had not ordered the medications for her too (in an angry voice)???? I told her again and they came in the mail later.
- Lisa called me and asked me to send a 30 day supply of my sleeping medications. Lisa said she didn't have any and no one would prescribe them for her. She desperately wanted to be able to sleep. I again sent her request overnight.
- Lisa has previously taken MY pain medications and muscle relaxers, because her doctor's would only give her a very limited supply. Lisa then told me Dean, that when you were at the house, I had given the impression to you she had a potential drug problem???? Dean, I told you I was concerned as you were about Lisa and the stress, pain in her neck from packing, inability to remember the last time she took medication and to please keep an eye out she didn't take too many or she had the potential for not functioning well or getting up. Lisa had Valium, Vicodin and

- Ambien (sleeping pills) in her possession. Previously, Lisa at times has taken them too frequently prior to recommended dosage times. Lisa has never had a drug problem, which I have been aware of. With pain or stress, she occasionally took it too close together. Along with a glass of wine, this made the medication stronger.
- Later Lisa tells me I'm trying to have her committed involuntarily???? Where did this come from?
 - Lisa has no money but says she went to an E-bay class for the shop, out of state to try and adopt Dobermans' and to a sports event for one of her relatives.
 - I came down as a material witness for the trial and bring more community property (foolish me) that Lisa wanted. Little did I know that you both just wanted my testimony to put my father in prison or out cause him to move out of Magee. Divorce papers were already signed prior to trial and the process server tried several times to serve them while I was at trial. Lisa later said you spent \$3,000.00 for the divorce attorney.
 - I came down for the sentencing hearing, to be there in case I was needed for a statement to the court. In the event an appeal bond was approved, or probation was offered. I learned later Lisa was unhappy about how I asked her to meet with me. Not taking into consideration what I was feeling (physically or emotionally), at the time with little sleep and other matters weighing on me.
 - I received a phone call Fraud call alert, from Capitol One credit card services regarding her credit card. After not being able to reach Lisa for quite some time, I finally reached her. Lisa said she had filed for MORE credit on a business card with NO LEGAL business revenue and that brought about the call. Wouldn't this be attempted FELONY CRIMINAL FRAUD?
 - Foolish me, I brought bunnykins with me to give to Lisa. Dean, you might think how you were the weekend we talked to the District Attorney on a Friday concerning prosecuting Bennie. Lisa stated, you said you were a nervous wreck. Did either of you think how I was feeling?
 - CELL PHONE: I made many attempts to put this in my own name. First several times, there was no authorization they could find. Then for one month and then two, the bill WASN'T PAID by Lisa. As a result I had no way to transfer it until it was paid. Many attempts later, Lisa finally after I couldn't reach Lisa a verizon representative, reluctantly called her and Lisa paid her overdue unpaid bill. This was so unnecessary, if Lisa was reachable or just paid her two month overdue bill.
 - I have been extremely frustrated at times, saying something that I shouldn't have about Amy, to get her goat. Lisa called Amy to confirm or deny. Amy acknowledged she had committed adultery. Then with Lisa and Amy both having axes to grind, a great deal was inaccurate or out of context. Lisa I'm sure has said many things about, inaccurately to rationalize everything Lisa can. Lisa doesn't acknowledge the ADULTRY SHE COMMITTED IN HER FIRST MARRIAGE and how long it went on. Lisa doesn't acknowledge moving in with this person she committed adultery with, an alcoholic, for 10 years, without the benefit of marriage and that he was constantly accusing her of being unfaithful AGAIN. What did he know that the rest of us didn't? Should I have contacted him to find out way? I didn't. Should I have contacted her ex-husband for the same reason? I

didn't. It's far easier for Lisa to leave angry words unspoken, than to mend the damage later with those words Lisa has spoken.

- Lisa also contacted others, and tried to attempt to cause more problems. But instead of recognizing she was in deep water, considering her own actions, Lisa had to attempt to inflict as much damage as she could with her mouth. It came back to me. Lisa has now opened the barnyard door and its ugly, the events that have occurred since Lisa never received justice. (THANKS TO YOU DEAN). Lisa neglects to mention her dysfunctional sexual nature that went on for years with her pickups and one night stands, because of her dysfunctional sexual issues brought on by the team of Dean and Bennie. After I went to the mat for Lisa on Bennie, our marriage was broken. When Lisa accidentally became pregnant, it so horrified her that our sex life was non-existent for 10 years. Lisa voiced that her previous husband and boyfriend, had the same issues.
- At trial Lisa tried to hand my friend, who came for both our benefits, a \$100.00 bill. Lisa said this was her last \$100.00 and it was meant as a bribe to call Lisa. My friend said she regretted giving the money back, after knowing what Lisa has done with our finances. She apologized for not taking it and giving it to me. Lisa could have been more helpful, when I was trying to get her there to help at trial. Lisa refused to use ANY of the airline miles that were built up by her spending, with my life insurance money, to help ease the financial burden.
- When State Farm becomes aware of the FELONY INSURANCE FRAUD, don't you think they will contact your State Farm Agent with details canceling Lisa's Car insurance policy?

I came to the sentencing for my father perjury case, in case an appeal bond was approved or he was granted probation. I was prepared to make a statement. Dean you came into the court room for the first time and didn't hide. It would have been nice for ALL concerned, if you had shown such courage at any point in prosecuting a serial pedophile. It was obvious to me that YOU were in control of all events with Lisa. YOU and Lisa wouldn't look at me or talk to me. You BOTH then left the court room to hide out, closed the shop and had Dan & Jean hiding out. YOU Dean are INFAMOUS for doing this with Bennie, your entire life. I had wanted to meet with Lisa the day before court. I learned later Lisa wasn't happy with how I asked. No account was taken in for the stress, lack of sleep and long flight. Dean did you remember when Lisa and I went to see D.A. Fortenberry and you were in your own words, per Lisa, a nervous wreck. There seems to always be a double standard a lack on how we are courteous to each other. Foolish me, I had brought Bummykin's for Lisa. After you both made your speedy exit, Cecil Herrington came up to me to thank me for standing up on a very hard issue. The highlight of my day was talking to him, being introduced to his grandson. Other court personnel, law enforcement came up to me also. They recognized how difficult this had been for me to testify, after the community as a whole had dealt with him for 40 years with limited success. Michael Marks and my father had made a team that was hard to beat in the court system. Not one thanks you from you, Lisa or your family for trying to bring his reign of terror to an end. It has been impossible for anyone to successfully stand up to him, with

multiple perjured witnesses (13 in this case) on his witness list, stop his financial access, put a protective order in place in Mississippi and a court ordered restraining order in place in Colorado with some teeth in it. Since he is legally an "innocent" victim in the eyes of the judicial system, this will come to an end. He will no longer be motivated to leave Magee. He has every reason to stay there the rest of his life.

Dennis Ware came up to me and was looking for Lisa. You had both departed. He had talked with Judge Gordan, D.A. Eddie Bowen, Sheriff Kenneth Lewis and no objections were given for having the trial exhibits released. Judge Gordan said to file a motion with Judge Evans and the property should be released. Ironically, Lisa and I had no disagreements on this community property division. Time will tell if this quick departure and behavior puts your daughter into the Mississippi Department of Corrections. Ironically again, located in Pearl where my father is incarcerated. This is where female inmates are housed, in a different building, in the prison system. Wouldn't that be the final irony if your part in YOUR actions that day, contributed to Lisa going to prison?

LISA'S AND DEANS ATTORNEY: I looked up Mr. Fisher to see what type of law he practiced. In the Colorado Springs yellow pages he was listed under each section, Personal Injury, Divorce, Criminal Law, DWI and in many other sections under attorneys. These were NOT listed together, to probably avoid the impression of what I presume is a one man office. He might have paralegals working for him. When he called me at 7:00 P.M., he sounded tired and made clear he didn't want to answer any questions. He stated he had a trial the next three days. I voiced concern, about the trial exhibits (understanding Lisa had told him the significance for the filing of **CRIMINAL CHARGES IN MISSISSIPPI FOR PERJURY AND POSSESSION OF STOLEN PROPERTY. ALSO, IN TEXAS FOR FELONY INSURANCE FRAUD AND FALSE REPORTING**). He seemed to have no idea of how this pertained to our divorce. He repeatedly said to me, "I'll deal with it next year". I asked did he mean next week and he said, "It's my way of telling you, I don't want to deal with it". Quote, unquote. I had asked him about a couple of general questions, I left messages twice at his office two weeks previously. He didn't appear to have a clue, said to me put my questions them in writing. He asked me call Lisa about this, I had to request more than once (because it was requested to have these unanswered calls routed to him and he reluctantly agreed to call Lisa, after I said this). My impression is he is overworked and doesn't have a clue on these legal issues or forgot them. His attitude says to me, he has your money and expects to receive a lot more for the **COLORADO CRIMINAL CASES ALONE**. Mr. Fisher isn't licensed in Texas or the Federal Courts. Criminal case and Federal cases are extremely expensive. With his attitude, I felt frustration and felt Lisa **SHOULD** face the legal system like everyone else and be judged.

You may remember my father underestimated the legal system and didn't think he would end up in prison either. Ironically, the same Prison site that holds him, females are held in a different building at the same site.

United States District Court

DISTRICT OF COLORADO

UNITED STATES OF AMERICA

v.

ROBERT JOHN KEA

a/k/a Robert J. Keys
a/k/a Robert John Keys
a/k/a Robert L. Anderson
a/k/a Robert John Beverlin
a/k/a Robert John Cook

(Name and Address of Defendant)

CRIMINAL COMPLAINT

CASE NUMBER:

06-mj-01236

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about _____, in _____ County, in the State and District of Colorado defendant did, (Track Statutory Language of Offense)

See Attachment A attached hereto and herein incorporated by reference

in violation of Title 18 United States Code, Section 641, 922(g)(1), and 2314. I further state that I am a National Park Service - Special Agent and that this complaint is based on the following facts:

See Affidavit attached hereto and herein incorporated by reference

Continued on the attached sheet and made a part hereof: ☐ Yes ☐ No


Signature of Complainant - Clyde B. Yee, Special Agent - NPS

Sworn to before me, and subscribed in my presence

Date

11/3/2006

City and State

Michael E. Hegarty
U.S. Magistrate Judge

Name and Title of Judicial Officer


Signature of Judicial Officer

ATTACHMENT A

COUNT 1

The United States Attorney charges that :

On or about October 31, 2006, in the State and District of Colorado, ROBERT JOHN KEA, defendant herein, knowingly and unlawfully received, concealed, and retained a thing of value of the United State and the National Park Service, with intent to convert the same to his own use and gain, knowing it to have been stolen and converted, to wit: a .52 Caliber Leman Rifle, National Park Service (NPS) Record Id number 11345, all in violation of Title 18, United States Code, Sections 641.

COUNT 2

The United States Attorney further charges that :

On or about June 2005, in the State and District of Colorado and elsewhere, ROBERT JOHN KEA, defendant herein, transported in interstate commerce from Illinois to Colorado, goods and merchandise with a value in excess of \$5,000.00, the defendants well knowing the same to have been stolen, to wit: approximately 15 antique Elgin watches and 4 painted dials taken from the Elgin National Watch Company, all in violation of Title 18, United States Code, Sections 2314.

COUNT 3

The United States Attorney further charges that :

On or about October 31, 2006, in the State and District of Colorado, ROBERT JOHN KEA, defendant herein, who had been convicted on or about April 2005, United States District Court for the District of Colorado, case number 91-cr-376-RB, under the name of Robert L. Anderson, for the crimes of Bank Fraud, 18 U.S.C. § 1344 and False Statement an Application and Use of a Passport, 18 U.S.C. § 1542, felonies punishable by imprisonment for a term exceeding one year, knowingly and unlawfully possessed firearms, to wit: approximately 30 rifles and handguns and ammunition, which firearms had been shipped and transported in interstate commerce, all in violation of Title 18, United States Code, Sections 922 (g)(1).

Affidavit in Support of Criminal Complaint

- 1) Your Affiant, Clyde E. Yee, is a Special Agent with the Office of Criminal Investigations, National Park Service, United States Department of the Interior, and has been employed as a Federal Law Enforcement Officer since 1980. Your Affiant is a graduate of the Basic Law Enforcement and Criminal Investigators Training Academies from the Federal Law Enforcement Training Center and has completed numerous advanced training programs. The information set forth in this affidavit is the result of my own investigation or has been communicated to me by other law enforcement officers involved in this investigation.
- 2) Your Affiant was provided information from Detective Brian Gorcowski, Elgin, Illinois, Police Department, who has been so employed for seventeen (17) years.
- 3) Your Affiant was provided information from Special Agent Rebecca Sauerhaft, Alcohol, Tobacco and Firearms, Denver Office, who has been so employed by ATF for over six (6) years and as a Federal Law Enforcement Officer for over twelve (12) years.
- 4) Your Affiant has prepared this affidavit in support of a criminal complaint against Robert John KEA, also known as; Robert John Keys, Robert Cook, Robert John Beverlin, and Robert Lewis Anderson.
- 5) Your Affiant believes that Robert John KEA violated Title 18 United States Code, Section 641 (Theft of Government Property), Title 18 United States Code, Section 2314 (Interstate Transportation of Stolen Property), Title 18 United States Code, Section 922(g) (Convicted Felon in Possession of Firearm or Ammunition).
- 6) Title 18 United States Code, Section 641; Theft of Government Property provides in relevant part that: "whoever embezzles, steals, purloins or knowingly converts to his use...thing of value of the United States or of any department or agency thereof...shall be fined under this title or imprisoned ..." The word "value" means face, par or market value, or cost price, either wholesale or retail, whichever is greater.
- 7) Title 18 United States Code, Section 2314; Interstate Transportation of Stolen Property provides in relevant part that: "Whoever transports, transmits, or transfers in interstate or foreign commerce any goods, wares, merchandise, securities or money, of value of \$5,000 or more, knowing the same to have been stolen converted or taken by fraud shall be fined under this title or imprisoned..."

- 8) Title 18 United States Code, Section 922(g); Convicted Felon in Possession of Firearm or Ammunition provides that it is unlawful for any person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year to...possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.
- 9) Title 16 United States Code, Section 1(b - c); The United States Department of Interior, National Park Service has the authority to investigate criminal violations occurring within or arising out of offenses committed within the National Park System, to include those within the Federal Judicial District of Colorado and to cooperate with any State or political subdivision thereof in the enforcement of supervision of the laws or ordinances of that State or subdivision.

The basis for my belief is set forth below:

- 10) On January 31, 2006, at approximately 2:00 pm, it was discovered by museum staff at the Estes Park Museum, 200 4th Street, Estes Park, Colorado, that a "Leman Trade Rifle" had been forcibly removed and stolen from its wall mounted display. The stolen rifle was mounted in a secluded display away from the staffed information desk. The Estes Park Museum is a small museum with limited staffing especially during the winter months.
- 11) The stolen Leman Trade Rifle is United States Government Property and owned by the United States Department of Interior, National Park Service, Grand Teton National Park, and was on loan to the Estes Park Museum since April 1, 1998, with an outgoing loan extension set to expire on April 1, 2009.
- 12) On May 18, 2006, Curator Becky Latanich, Estes Park Museum, advised that she believes that the thief "cased" the museum prior to the theft and returned later knowing exactly what he wanted to steal and what tools were required to remove the object, in this case the Leman Trade Rifle secured to the display wall with a bracket and wire. The wire that secured the rifle to the display wall was cut using some type of tool, then using the rifle itself as leverage the bracket was pulled from the display wall.
- 13) Officer Greg Filsinger, Estes Park Police Department, took the initial theft report and Detective Jim Kenney was assigned the follow-up investigation under Estes Park Police Department case number: 06-125.

- 14) Supervisory Law Enforcement Park Ranger Tim Phillips, Rocky Mountain National Park, also documented the theft under case number: ROMO-060253.
- 15) The Leman Trade Rifle was made by Henry Leman of Leman Firearms, Lancaster, Pennsylvania, between 1845 and 1870. This particular Leman Trade Rifle is in very good condition with modifications or alterations made by the previous unknown Indian owner which increases its value. Leman Trade Rifles were "plains rifles" intended for western use and popular with white hunters of the period as well as Indians. Leman established his shop in Lancaster, PA, in 1834, and obtained his first Indian Bureau Contract for rifles in 1837. Ninety percent of all muzzle loading rifles captured from hostile Indians in the 1870's were made by Leman.
- 16) This Leman Rifle is described as a percussion rifle with hard maple stock, heavy barrel, small brass patch box and stock plate, a wooden ramrod marked "Leman Lancetr Pa.", .52 caliber, 47 inches long overall length, 32" octagonal barrel. This Leman Rifle has been assigned the following identifying numbers; NPS Accession #GRTE-00195, NPS Catalog #GRTE 1626, NPS Record ID #11345, and may have one or several of these numbers affixed to a part of the Leman Trade Rifle.
- 17) According to Curator John McCabe, Springfield Armory, this Leman Trade Rifle, GRTE 1626, is "in very good condition, but with Indian modifications or alteration, valued at \$4,000 - \$6,000."
- 18) On September 20, 2006, Detective Brian Gorcowski, Elgin, Illinois, Police Department, identified Robert John KEA, also known as; Robert Cook, Robert John Beverlin, Robert John Keys and Robert Lewis Anderson as a possible suspect in the theft of the Leman Trade Rifle from Estes Park Museum.
- 19) Detective Brian Gorcowski advised that Lisa Keys in September 2006, the estranged wife of Robert John KEA reported to him that KEA told her that HE stole the Leman Trade Rifle from the Estes Park Museum and showed her the Leman Trade Rifle that HE had stolen in December 2005. Gorcowski also advised that Lisa Keys reported to him that KEA stole fifteen (15) historic (1893 - 1945) pocket watches from the Elgin Area Historical Society Museum, 360 Park Street, Elgin, Illinois, while he was there on vacation in June 2005. Gorcowski advised that fifteen (15) historic Elgin Watches were stolen sometime between June 2, 2005, and June 14, 2005. Gorcowski advised that KEA is a watch collector and would not sell these stolen watches. KEA is also a member of the National Association of Watch and Clock Collectors, Inc.

20) Detective Gorcowski describes the stolen watches as follows:

- a) Elgin National Watch Company 1893 BW Raymond movement, serial #5048087 with only 74,500 made
- b) Elgin National Watch Company 1897 Railroad grade, BW Raymond movement, serial #7661931 with only 14,000 made
- c) Elgin National Watch Company 1896, serial #6978048, 211,000 made
- d) Elgin National Watch Company 1903 Railroad, serial #13120692, 18,000 made
- e) Elgin National Watch Company 1909, serial #14783963, 272,700 made
- f) Elgin National Watch Company 1911, serial #16891646, 323,000 made
- g) Elgin National Watch Company 1914, serial #18713295, 1,000,000 made
- h) Elgin National Watch Company 1918, serial #21744521, 730,000 made
- i) Elgin National Watch Company 1921, serial #24641005, 564,000 made
- j) Elgin 1921 Lord Elgin movement, serial #24791425, 14,000 made
- k) Elgin National Watch Company 1922 The Boulevard model, serial #2531827, 1,000,000 made
- l) Elgin 1925 Streamline model, serial #28208824, 169,000 made
- m) Elgin National Watch Company 1925, serial #28311478, 1,500,000 made
- n) Elgin National Watch Company 1925, serial #28517118, 1,500,000 made
- o) Elgin National Watch Company 1945 Railroad model, BW Raymond movement, serial #1375964, 87,000 made

21) Detective Gorcowski advised that the fifteen (15) stolen Elgin watches, together, are valued at \$15,000, which was the maximum allowable amount they could be insured for "due to a maximum insurance cap."

22) On June 14, 2005, the Elgin, Illinois, Police Department took a report of the theft of the fifteen (15) watches from the Elgin Area Historical Society Museum.

- 23) Detective Gorcowski advised Lisa Keys stated to him that KEA on three separate conversations told her about and showed her these stolen Elgin watches; the first time Lisa Keys saw these watches she believes was in mid to late June 2005, the reason she saw the watches in June was that KEA had just come back from a vacation trip alone to Wisconsin in which HE went to see a spy museum. KEA told Lisa Keys that during this trip HE stopped in Elgin, Illinois, and stole pocket watches and dials from an Elgin museum. Lisa Keys recalls seeing approximately 10-12 watches and several fancy dials for the watches. Lisa Keys told KEA that she did not believe HE stole the watches. KEA then showed her the stolen watches. This occurred at their residence; 4212 S. Fairplay Circle, Unit E, Aurora, Colorado. KEA brought the watches and fancy dials into the bedroom where Lisa Keys viewed them.

Detective Gorcowski advised that Lisa Keys stated to him that the second time she saw the watches was when KEA ordered a reference book on Elgin Watches and was looking through this book showing her the watches as they reviewed this reference book. Lisa Keys stated that this also occurred at their residence; 4212 S. Fairplay Circle, Unit E, Aurora, Colorado, sometime after June of 2005.

Detective Gorcowski advised that Lisa Keys stated to him that the third time she saw the Elgin pocket watches was in the end of January 2006. On this occasion she was packing her belongings to move out of their residence; 4212 S. Fairplay Circle, Unit E, Aurora, Colorado. Lisa Keys was again in the bedroom of the residence when she saw approximately 30 pocket watches in an 8x10 or 10x10 cardboard box. KEA told her that the jewelry contained within this cardboard box, the watches and several other pieces of jewelry were HIS and that she could only have the jewelry that was in her jewelry box. Lisa advised Detective Gorcowski that KEA and she had legitimately purchased approximately fifteen (15) pocket watches over the years. Lisa Keys stated that during this conversation that she believed all the Elgin pocket watches were of a railroad design or theme.

- 24) On October 27, 2006, Lisa Keys stated that she can't remember how she knows that the watches were of railroad design, whether from KEA telling her directly, her seeing the watches design or from reading about the theft of the watches from the National Watch and Clock Collectors website. Lisa Keys stated that KEA's interest in anything concerning the railroad stems from his grandfather; Beverlin, who worked for the railroad.

25) Detective Gorcowski advised that he had conducted some additional investigation into the statements made to him by Lisa Keys in reference to the theft of the museum watches. Detective Gorcowski obtained an inventory of the stolen watches and observed that a total of 15 watches had been stolen. Also missing were four painted fancy dials that were manufactured by the Elgin National Watch Company. The watches were all in two (2) displays at the Elgin Area Historical Society Museum in Elgin, Illinois, located at 360 Park Street. These watches were part of a display which highlighted them because they were railroad watches.

26) Detective Gorcowski advised that he was able to obtain KEA's cellular telephone records, credit card records and hotel receipts from Lisa Keys. Detective Gorcowski provided copies of these records to your Affiant. Detective Gorcowski advised of the following notable activity:

a) Verizon Wireless cell phone records for June 9, 2005 through June 15, 2005.

On June 10, 2005, at approximately 5:39 p.m., a phone call originated from Chicago, Illinois to the La Quinta Inn in Hoffman Estates, Illinois.

On June 10, 2005, at approximately 10:30 p.m., a phone call was placed from Chicago, Illinois, to the Chili's Restaurant in Hoffman Estates, Illinois.

On June 11, 2005, at approximately 4:41 p.m. a phone call was placed from Milwaukee, Wisconsin, to the Safehouse Restaurant in Milwaukee, Wisconsin.

Detective Gorcowski advised that it appears that on June 10, 2005, KEA arrives in the Chicago, Illinois, area.

On June 11, 2005, KEA is in Milwaukee, Wisconsin, returning to the Chicago, Illinois, area in the late afternoon of June 12, 2005. During the evening of June 12, 2005, KEA leaves the Chicago, Illinois, area.

On June 13, 2005, in the early afternoon KEA is in Iowa according to cellular phone records.

Detective Gorcowski advised that looking at these phone records according to the different cellular service towers, it appears that KEA made cellular telephone calls beginning on June 12, 2005, from Ottawa, Illinois; continuing through Davenport, Iowa; then Cedar Falls, Iowa; Newton, Iowa; Des Moines, Iowa; Omaha, Nebraska; Wiggins, Colorado; and ultimately on June 15, 2005, cellular telephone calls are being made from Aurora, Colorado. These cellular service towers follow the Interstate 80 corridor through Illinois, Iowa and Nebraska and intersect with the Interstate 76 corridor into Colorado, a direct return trip route from Chicago, Illinois, back to Aurora, Colorado.

b) Capital One Credit Card statements:

Detective Gorcowski advised that on June 11, 2005, there were several charges in the Chicago, Illinois, area made against a Capital One credit card that Lisa Keys stated was a credit card joint account with KEA.

On June 09, 2005, there was a charge for Safeway Fuel in Aurora, Colorado.

Later that same day, June 9, 2005, there was a charge in Lexington, Nebraska.

On June 10, 2005, there was a charge in Iowa.

On June 11, 2005, there was it is used in Illinois.

On June 11, 2005, KEA went to the Illinois Railway Museum, 7000 Olson Road, Union, Illinois, which is approximately 22 miles northwest of the City of Elgin. One of the primary routes of travel would be on interstates or highways and the driving times would be approximately 25 minutes or less, barring road delays.

Detective Gorcowski advised that he had contacted the Illinois Railway Museum and obtained a copy of the credit card receipt showing that the Capital One credit card #4802132542834133, the credit card Lisa Keys stated was a joint account with KEA, was used to pay the \$8.00 admission costs to the Illinois Railway Museum on June 11, 2005, at approximately 12:12 p.m. The signature on this receipt was "R. Keys". Underneath this signature are the words "traveling collector". Lisa Keys stated that the moniker the "traveling collector" is the name of KEA's, eBay seller identification HE uses to buy and sell items.

Detective Gorcowski advised that Lisa Keys stated to him was that KEA wanted to go to a spy museum in Wisconsin. Detective Gorcowski advised that the credit charge for the Safehouse in Milwaukee, Wisconsin, is actually a restaurant and spy museum.

The credit card receipts obtained from Lisa Keys show that KEA:

On June 10, 2005, stayed at the La Quinta Inn in Hoffman Estates and checked out on June 11, 2005.

On June 11, 2005, arrived stayed at the Red Roof Inn in Willowbrook, Illinois, a town to the west of Chicago, Illinois, off Interstate 55, and departing on June 12, 2005.

Detective Gorcowski advised that he believes the theft of the Elgin

Hoffman Estates, Illinois, is one of the communities that share a common border with the City of Elgin, Illinois, and that the La Quinta Inn is not very far from the Elgin Area Historical Society Museum, approximately less than a 12 minute drive away.

Detective Gorcowski obtained a copy of the Elgin Area Historical Society Museum registration log for June 11, 2005, which shows two (2) separate visitors signed-in" on that day. One of the visitors was from "Dallas, Texas", and signed what appears to be their name as, "R Green" or another last name variant beginning with G and similar to Green. The handwriting was "very scribbled."

Detective Gorcowski advised that KEA was originally from Dallas, Texas. Detective Gorcowski advised that there is a section on the Museum registration log that asked how the person heard about the museum. The person who signed R. Green put down "AAA". Detective Gorcowski advised that on the hotel receipt for the Red Roof Inn in Willowbrook, Illinois, where KEA checked in on June 11, 2005, an AAA discount was applied.

27) Detective Gorcowski advised that Lisa Keys stated that KEA is a collector and was a collector of some Elgin watches prior to the theft at the Elgin Area Historical Society Museum, as well as a collector of military and railroad memorabilia.

28) On September 20, 2006, Lisa Keys stated to your Affiant that she has been married to Robert John KEA, known to her previously as Robert John Keys, for the past twelve (12) years. Lisa Keys stated that she has been separated from KEA since January 2006, when she moved to Mississippi. Lisa Keys stated that she and KEA jointly rented a townhouse at 4212 S. Fairplay Circle, Unit E, Aurora, Colorado. KEA and Keys both contributed to the townhouse's rental deposit (\$1,500) and dog ownership fee (\$300), but Lisa Keys stated that she paid the monthly rental fee of \$1,200 because KEA didn't work.

- 29) Lisa Keys stated that in November 2005, KEA and she visited Estes Park, Colorado, and stayed at the Stanley Hotel. Lisa Keys stated that while there, they toured the Estes Park Museum, where the Leman Trade Rifle was on display. Lisa Keys stated that KEA commented on the Leman Trade Rifle and paid extra attention to it, staring at the wall mounted Leman Trade Rifle for what she described as an extremely long time.
- 30) Lisa Keys stated that from December 21, 2005, through December 30, 2005, she visited her family in Mississippi without KEA. Lisa Keys stated that upon her return home to their townhouse in Aurora, KEA told her that HE had returned to the Estes Park Museum on HIS own and stole the displayed Leman Trade Rifle. Lisa Keys stated that KEA showed her the stolen Leman Trade Rifle. Lisa Keys stated that KEA is an avid collector and once HE becomes interested in a subject, such as percussion rifles, HE will become completely involved in collecting the items of that interest. Lisa Keys stated that KEA purchased a Kentucky Long Rifle replica prior to stealing the Leman Trade Rifle. Lisa Keys stated that the Leman Trade Rifle KEA stole and that she observed was a little shorter than the Kentucky Long Rifle, but had a similar wood grained stock.
- 31) Lisa Keys stated that KEA is a collector and would not sell the Leman Trade Rifle nor show it anyone. Lisa Keys stated that KEA keeps the Leman Trade Rifle in a closet at the 4212 S. Fairplay Circle, Unit E, Aurora, Colorado, townhouse. Lisa Keys stated that KEA applied for and obtained a Capital One small business account VISA credit card and identifies HIMSELF as a "traveling collector."
- 32) On October 27, 2006, Lisa Keys stated that KEA had the stolen Leman Trade Rifle repaired by a close friend who she cannot remember is last name. His first name is "Rick" and his wife's name is "Debbie". KEA had Rick repair what she believes was the metal part of the Leman Trade Rifle above the trigger. Lisa Keys stated that she paid Rick by personal check on or about January 22, 2006, in a possible amount of \$300.00 for the repair.
- 33) Lisa Keys stated that after reviewing KEA's Capital One small business account VISA credit card statement, she noticed that KEA, after HE had stolen the Leman Trade Rifle from the Estes Park Museum, on January 5, 2006, subscribed to the Estes Park Trail Gazette, the Town of Estes Park Newspaper. Lisa Keys stated that this is something that KEA does to memorialize HIS theft. Keys stated that on June 27, 2005, KEA did the same thing after the Elgin Area Historical Society Museum theft by subscribing to the Moline Dispatch Newspaper, memorializing HIS Elgin Area Historical Society Museum theft. Keys provided copies of the Capital One small business account VISA bills.

- 34) Lisa Keys stated that she reviewed KEA's Aurora townhouse Quest telephone bill (303-627-1820) and Verizon Wireless cellular telephone bill (720-203-6971). Lisa Keys states that there is an absence of telephone activity on the townhouse Quest telephone bill between December 22, 2005 and December 26, 2005, but on the Verizon Wireless cellular telephone bill there is a cellular call on December 23, 2005, at 11:43 am, to an Estes Park, Colorado, phone number; (970) 586-6256, for one (1) minute. The Estes Park Museum telephone number is (970) 586-6256. Keys provided copies of the Quest and Verizon Wireless bills.
- 35) Lisa Keys stated that KEA stated to her that you could conceal a lot of stolen items under the long trench coat that KEA owns and wears. Lisa Keys stated that she believes that KEA also possesses a fake hollowed out portable oxygen tank that HE uses to conceal items that HE has stolen.
- 36) Lisa Keys stated that she is not aware of any off-site storage facilities or safe deposit boxes that KEA has rented or obtained in or around Aurora, Colorado.
- 37) Lisa Keys stated that KEA's primary residence is located at 4212 S. Fairplay Circle, Aurora, Colorado, and she is not aware of any other rented or purchased residences or dwellings belonging to KEA.
- 38) Your Affiant knows from the execution of other search warrants and the investigation of other similar criminal cases involving the theft of cultural and unique items; such as, the Leman Trade Rifle and the Elgin pocket watches, that these types of collectors become fixated and obsessed in obtaining these items for their own personal collections and that these collections are not sold for monetary gain, but are maintained and held by the collector for generations as a personal treasure and are a matter of pride and accomplishment to be added to at every opportunity. These types of collectors will regularly keep their collections in their primary residences allowing them to view and handle the items within their collections often.
- 39) Detective Gorcowski advised that using KEA's self proclaimed title of "traveling collector" and the information from Lisa Keys that KEA has bought and sold items on eBay conducted a search of buyers and sellers through eBay with the screen name of "traveling collector". Gorcowski advised that two (2) Colorado eBay members used the following names:

"travelingcollector (106)"

"travelingcollectors (195)"

Travelingcollector (106) last sold an item on eBay around March 30, 2004, and Travelingcollectors (195) last sold an item on eBay around June 10, 2005. These last sales occurred before the theft of the Leman Trade Rifle and Elgin pocket watches.

40) Lisa Keys stated to your Affiant that KEA purchased through her two (2) revolvers; a Ruger .38 caliber blued revolver with rubber grips and a Colt Python .38 caliber revolver, at a gun show in Denver, Colorado, sometime in 2005. Lisa Keys stated that KEA wanted her to choose which of these revolvers she wanted to keep for her protection. Keys stated that she chose the Colt Python revolver and that KEA kept the Ruger revolver. Lisa Keys stated that KEA keeps the Ruger revolver for HIS use and keeps this firearm at 4212 S. Fairplay Circle, Unit E, Aurora, Colorado, in probably the upstairs bedroom.

41) The Storm, Ruger and Company opened its doors in 1949 in Southport, Connecticut, and now has additional manufacturing plants in Newport, New Hampshire, and Prescott, Arizona. All Ruger firearms sent or transported to Colorado travel in interstate commerce.

Sam Colt was issued a U.S. patent in 1836 for the Colt firearm. In 1836, Colt's first plant was located in Paterson, New Jersey. Colt Manufacturing Company's plant is now located in Hartford, Connecticut. All Colt firearms sent or transported to Colorado travel in interstate commerce.

42) On October 13, 2006, Curator Becky Latanich, Estes Park Museum, Estes Park, Colorado, advised that the Estes Park Museum's telephone number is: (970) 586-6256. Latanich advised that during the winter months the Museum maintains only a minimum staff, which sometimes allows for a lone staff member on the front door reception desk. Latanich advised that the Leman Trade Rifle was discovered stolen on January 31, 2006, but on or about January 20, 2006, a large tour group visited the Museum and their photographs of the Leman Trade Rifle exhibit showed that the Rifle had been stolen prior to that date. Latanich advised that on January 9, 2006, surveillance camera installation workman began installing a video surveillance system in the Museum, but they too indicated that the Leman Trade Rifle may have been stolen prior to their starting date. Prior to the surveillance system installation completion on January 13, 2006, no surveillance system was in-place at the Museum. Latanich advised that during the winter months the Museum is officially open Fridays, Saturdays and Sundays, but during the other days they are unofficially open and have found visitors touring the Museum unbeknownst to them. Latanich advised that the Museum was closed on Christmas day, December 25, 2005.

43) Latanich advised that a review of the Estes Park Museum's 2005 Guest Register revealed that on November 20, 2005, "Lisa & Bob Keys", from "Denver", party of "2", signed the Guest Register. Latanich provided copies of this Estes Park Museum 2005 Guest Register.

44) Latanich provided a copy of the Estes Park Museum floor plan. The Leman Trade Rifle display area is away and not visible from the front door reception desk or rear museum staff offices or other common employee break spaces.

- 45) On October 18, 2006, Special Agent Rebecca Sauerhaft, Alcohol, Tobacco and Firearms, provided a copy of United States District Court, District of Colorado, Judgment in a Criminal Case, Case Number: 91-CR-370-RB, USM Number: 32812-013, date imposition of judgment; April 8, 2005, in which Robert L. Anderson, aka; Robert John Keys (Robert John KEA) was convicted of Title 18 United States Code, Section 1344; Fraud, and Title 18 United States Code, Section 1542; False Statement in the Application and Use of a Passport, both felony offenses.
- 46) On October 19, 2006, Special Agent Rebecca Sauerhaft, Alcohol, Tobacco and Firearms, provided a copy of Arapahoe County, Colorado, District Court Judgment, Case Number D0031978CR006683, in which Robert J. Beverlin
- 47) (Robert Jon KEA) was convicted on January 4, 2005, of Felony Menacing -- real/simulated weapon, under Colorado Statute 18-3-206(1)(a)(b).
- 48) Your Affiant has received the following information from Special Agent Rebecca Sauerhaft, Alcohol, Tobacco and Firearms, who told me that she has been an Agent for over 6 years; that she has participated in many executions of search warrants for firearms violations; that she knows that most people store their firearms in their homes; that persons who possess firearms usually possess other items related to firearms, such as; gun cases, ammunition, ammunition magazines, holsters, spare parts, cleaning equipment, photographs of firearms and receipts for the purchase of these items; that the ATF National Academy teaches that most Federal Circuit Court of Appeal have held that it is reasonable to believe that persons normally store their firearms in their homes; that she has learned that persons who are avid firearms enthusiasts, whether they are hunters, shooting competitors, or unlawful collectors, rarely if ever abandon their enthusiasm for firearms possession.
- 49) On October 27, 2006, a search warrant was signed by United States Magistrate Judge Boyd N. Boland, for the District of Colorado.
- 50) On October 31, 2006, this search warrant was executed against the residence of Robert John KEA located at 4212 S. Fairplay Circle, Unit E, Aurora, Colorado. During the search of the residence evidence was found to support that KEA had traveled to the Elgin, Illinois, area in June 2005, the timeframe for the Elgin Area Historical Society Museum theft of the fifteen (15) Elgin National Watches in the form of documents.

The fake portable oxygen tank which comes apart into two pieces and is hollowed out to accept stolen items was also recovered.

Original newspaper articles reported in the Estes Park Trail Gazette of the Estes Park Museum theft of the Leman Trade Rifle were also recovered.

Numerous fraudulent identifications with KEA's photograph appearing on them were found, along with a birth certificate and social security card issued to a person not KEA.

- 51) During the search further investigation revealed that KEA had rented a self storage unit at U*STORE*IT, 1800 S. Chambers Road, Aurora, Colorado, and had recently transferred ownership to his brother, Lawrence Cook, of Millsap, Texas, on or about September 23, 2006. Further investigation revealed that KEA last visited the storage unit on or about October 17, 2006. Lawrence Cook voluntarily gave verbal permission to search storage unit 53. Cook advised that he no personal belongings within Unit 53 and that KEA had signed ownership of storage unit 53 over to him so his brother could have access to KEA's property that KEA had moved to that storage unit in order that his estranged wife, Lisa Keys, could gain possession of them.
- 52) On October 31, 2006, a search of U*STORE*IT, Unit 53, 1800 S. Chambers Road, Aurora, Colorado, revealed the stolen Estes Park Museum Leman Trade Rifle, eight (8) of the fifteen (15) Elgin watches stolen from the Elgin Area Historical Society Museum confirmed by serial numbers, and the following modern firearms, all of which have traveled in interstate commerce:
- a) Smith and Wesson, Model 36, .38 caliber 5-shot revolver, serial number J885654
Was loaded with 5 rounds of Federal .38 special ammunition
 - b) Winchester, Model 290, .22 caliber rifle, serial number B1042211
 - c) Universal, Model M1, .30 caliber rifle, serial number 211479
 - d) Winchester, Defender Model, 12 gauge shotgun, serial number L2175046
 - e) Walther, Model PPK/S, 9 mm/.380 caliber pistol, serial number S129149
 - f) Smith and Wesson, Model 14-4, .38 caliber 6-shot revolver, serial number 19K9316
 - g) Ruger, Model SP101, .357 caliber 5-shot revolver, serial number 573-31669
 - h) Beretta, Model 92FS, 9 mm pistol, serial number BER4334422
 - i) Walther, Model PPK/S, 9 mm/.380 caliber pistol, serial number S164705
 - j) American Derringer Corp., 2-shot derringer, .44 caliber, serial number 066046

- k) Colt, Government Model, .45 caliber pistol, serial number SS28109E
- l) Ruger, Model GP100, .357 caliber 6-shot revolver, serial number 174-82298
- m) Ruger, Unknown Model, .22 caliber pistol, serial number 17-06563
- n) Smith and Wesson, Model 31-1, .32 caliber 6-shot revolver, serial number 22940
- o) Ruger, Blackhawk model, .41 caliber 6-shot revolver, serial number 7749
- p) Smith and Wesson, Model 36-1, .38 caliber 5-shot revolver, serial number J712687
- q) Ruger, New Model Blackhawk, .357 caliber 6-shot revolver, serial number 33-09456
- r) Ruger, Blackhawk Model, .30 caliber 6-shot revolver, serial number 50-10924
- s) Walther, Model PPK/S, 9 mm pistol, serial number 189036S
- t) Marlin, Model 39, .22 caliber rifle, serial number unknown
- u) Mossberg, Model 352KB, .22 caliber rifle, serial number unknown
- v) Colt, hammerless, .380 caliber pistol, serial number unknown
- w) Unknown Manufacturer, Unknown Model, 6-shot revolver w/ octagonal barrel, serial number unknown
- x) Sten, MK II, unknown caliber rifle, serial number unknown
- y) Sten, MKII, unknown caliber rifle, serial number unknown
- z) Unknown manufacturer, Model MP 40, unknown caliber, serial number unknown
- aa) Unknown manufacturer, unknown model, .45 caliber rifle, serial number unknown
- bb) Unknown rifle
- cc) Unknown pistol

53) Also discovered were numerous rounds of assorted caliber ammunition.

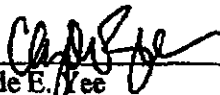
I respectfully submit that:

54) Based upon the information stated above, I believe probable cause exists that violations of Title 18 United States Code, Section 641 have been committed by Robert John KEA.


55) Based upon the information stated above, I believe probable cause exists that violations of Title 18 United States Code, Section 2314 have been committed by Robert John KEA.

56) Based upon the information stated above, I believe probable cause exists that violations of Title 18 United States Code, Section 922(g) have been committed by Robert John KEA.

I declare under the penalty of perjury that the information set forth above is true and correct to the best of my knowledge and belief.


Clyde E. Yee
Special Agent
Intermountain Regional Office - Denver

Sworn before me this 3rd day of November, 2006,


U. S. Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Miscellaneous Case No. 06-mj-01236

UNITED STATES OF AMERICA,

Plaintiff,

v. **ROBERT JOHN KEA,**

a/k/a Robert J. Keys,
a/k/a Robert John Keys,
a/k/a Robert L. Anderson,
a/k/a Robert John Beverlin,
a/k/a Robert John Cook,

Defendant.

MOTION TO DISMISS COMPLAINT

The United States of America, by Troy A. Eid, United States Attorney for the District of Colorado, by and through Joseph Mackey, Assistant United States Attorney, hereby moves the Court to dismiss the above-captioned Complaint.

The government makes this request because the defendant, who was a fugitive, is now deceased and successful prosecution will not be possible.

Wherefore, the United States respectfully requests that the Complaint be dismissed.

Respectfully submitted,

TROY A. EID
United States Attorney

By: s/ Joseph Mackey
JOSEPH MACKEY
Assistant United States Attorney
1225 Seventeenth Street, Suite 700
Denver, Colorado 80202
Telephone: (303) 454-0100
Facsimile: (303) 454-0404
E-mail: Joseph.Mackey@usdoj.gov
Attorney for Government

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of November, 2006, I electronically filed the foregoing **MOTION TO DISMISS COMPLAINT** with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following e-mail addresses:

s/ Jennifer Beed
JENNIFER BEED
Legal Assistant
U.S. Attorney's Office
1225 Seventeenth Street, Suite 700
Denver, CO 80202
Phone: 303-454-0115
Fax: 303-454-0406
E-mail: Jennifer.Beed2@usdoj.gov