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IRON COUNTY, WI

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Ms. Virginia Giacomino
Clerk of Court
Iron County Courthouse
300 Taconite St.
Hurley, WI 54534

CIRCUIT COURT
VIRGINIA GIACOMINO, CLERK

RE: FORMAL COMPLAINT ABOUT MISSING EVIDENCE, IRON COUNTY CASE # 97-CF-1

This letter constitutes formal complaint for filing in the court. In June and July of 2003, I made requests for public records from October 19th & 20th, 1997 to Iron County Sheriff Bruneau, for the reason that the requested items were necessary for post conviction relief, and necessary as evidence for an ongoing John Doe crime investigation request. The sheriff ignored the requests so I made request for the court to order the documents by petitioning the court for Writ of Mandamus in July of 2003.

The court initially stated that the writ was 'improper form'. I then corrected the form and resubmitted. The court answered that the writ was 'overbroad and lacked specificity' to cause the court to sign the order. I then amended the petition to make more definite and specific. The writ was denied and the judge declared that it was my intent to 'harass' and that there was no legitimate legal reason for the documents requested. The documents requested would have proved certain instances of perjury at my trial in 1997, and would prove that the D.A. was making misrepresentations to the court. Therefore, because the requested documents are needed for post-conviction purposes and evidentiary purposes under 968.26 John Doe proceedings, the requested documents are exceedingly important for legal purposes.

Attorney Ray Dall'osto made request to Iron County to turn over for forensic analysis a rape test kit obtained by the state, and photographs taken by the sheriff and a doctor. Attorney Dall'osto's July 24th, 2003 request was turned over to the D.A.'s office and

the D.A. replied to Dall'osto that the whereabouts of the rape kit is unknown, and that the requested photographs are also 'missing'. Trial attorney Mark McDonald does not have them either. Wisconsin statutory law dictates that all biological evidence be retained by the state for as long as the convicted remains in prison. Though Martin Lipkse, Iron County D.A. told the judge he wished to dispose of the kit, and requested at two different pre-trial hearings permission to dispose of the kit, Judge Madden both times admonished that he will **not** dispose of that kit. Just before trial, witnesses heard the D.A. tell Judge Madden that he had in fact disposed of the kit, and was promptly chastised by the judge. Though Mr. Lipkse now claims to not know where the kit went, he at one time admitted throwing it out, contrary to Wisconsin statutes and contrary to two direct commands from Judge Madden not to.

The photographs and rape kit are needed for forensic evidence, to prove that bruises on Monday after noon could not have come from Sunday, as it takes at least two days for bruises to appear. Defense wants to submit the photographs to experts for forensic analysis, but the D.A. now claims that these too are missing. Had I assaulted the complainant on Sunday morning, the bruises on the complainant Sunday afternoon could not have come from an assault on Sunday morning as she claimed. It takes two days for an injury to turn to another color from red. Also, a scratch that was not on her knee Sunday when Miller was in jail, was on her knee in photos taken Monday. Defendant wants to submit photos for forensic examination, and the evidence from that, and analysis of the rape kit would prove very conclusively that Miller did not bruise her Sunday morning, but that Kim Aijala bruised her Saturday evening where complainant admitted at trial that she had been, contrary to a restraining order on Aijala that claims he bruised her "many of times".

My complaint is that there is a cover-up in progress in this case. Evidence is disappearing mysteriously and I am being denied access to relevant and important documents. This is not acceptable or just. Evidence that would help prove my innocence is claimed to be 'missing'.

Because I know that I have presented enough evidence already that proves I have been falsely accused, I think that certain persons are looking to deny justice and hide evidence to keep me in prison believing that once I am vindicated and set free their careers may be in jeopardy due to lawsuits and publicity. However, I have stated that I would be willing to sign non-disclosure/non-suit contracts so that publicity and law-suits are not a worry.

It is highly unacceptable that evidence with exculpatory value has simply 'vanished' without a trace, and that this is in itself evidence of a cover-up in progress. I was convicted on already fully proven lies and nothing is being done about it. Evidence is being "lost" and denied.

I have proven my innocence. I have proven Connie Vargovich to be a perjurer. The special prosecutor himself does not deny that phone records prove that 6-pages of her trial testimony has been proven false. Her story changed 6-times already. Now evidence is being lost or hidden to oppress me and deny justice.

There is a cover-up going on here obviously, and all of this proves that everyone already knows that I was falsely accused. Only a very ignorant person could deny that at this stage, but I am not dealing with ignorant men here.

The withholding of sheriff's records, calling the request harassment, the throwing out of a rape test kit contrary to law and court orders, and the mysteriously missing photographs culminates into one logical conclusion: IT IS KNOWN THAT I AM INNOCENT AND IT MUST BE COVERED UP TO PREVENT ADVERSE CONSEQUENCES. Those with a vested interest in covering up the truth are doing immoral and illegal acts. The evidence of a cover-up is growing and certain public interests are interested in publicizing these actions when I authorize them to do so. I instead, at this time, am interested in JUSTICE.

It is unacceptable and not credible that the evidence in this case simply disappeared. I formally protest on the record.

D. Miller-3-