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October 22, 2008

Martin J. Lipske  
Iron County District Attorney  
Courthouse – 300 Taconite St.  
Hurley, WI 54534

Dear Mr. Lipske,

Now that you have won the election for Iron County District Attorney you should now actually *honor* the words you used to win that election, where you correctly and publicly admitted your duty as DA is to “seek justice” in “every case” and not merely prosecuting an accused person. Obviously, as you may agree, “every case” includes my case and I’m sure you can admit, if only to yourself, that justice has NOT been served in my case.

Though you claim to recognize your sworn duty to serve justice in every case, you have yet to perform that duty in my case though it is abundantly clear you have a wrongful conviction on your hands. You have performed no investigation in my case and merely hiding your head in the sand or disregarding the established facts is not the way to serve justice in any case. So, once again, I implore you to take meaningful corrective measures.

In our criminal justice system, the prosecutor has at his disposal the substantial resources of government, as well as considerable other advantages over the accused. In exchange, our system puts great trust in the prosecutor to **place the ends of justice above the goal of merely obtaining a conviction**. See, e.g., *Imbler v. Pachtman*, 424 U.S. 409, 96 S.Ct. 984 (1976); *Kirkpatrick v. Whitley*, 992 F.2d 491, 496 (C.A.5 1993); ABA Model of Professional Conduct, Rules 3.3(a)(4), 3.4(a), (b), and (f), and 3.8.

It is well proven that Connie Vargovich falsely accused me, and even she has admitted my innocence but for fear of prosecution has not yet come forward. This is why I asked you to offer her immunity in exchange for truth. Certified phone records prove she wasn’t with me during the time she claimed she was assaulted but was in town, 8-miles away. Those same records, part of the record in my case, prove she lied at my preliminary hearing and for over *6-pages* of the trial transcripts, which absolute fact you cannot deny.

Because Connie simply cannot remember the details of her last lie, she never could tell the same story twice, and that is why she now has 6-different stories on record. You also know *there was an eyewitness inside my home during the exact time Connie claimed she was being assaulted*, which witness knows firsthand that there was no assault, and whose personal knowledge establishes that Connie told many other material lies at trial as well.

That barely scratches the surface. There is a lot of other evidence proving Connie falsely accused me, some of which I outlined in prior letters to you, including letters dated August 11, 2006; September 4, 2007 (as amended); and May 19, 2008 (posing 78-questions). But you simply refuse to acknowledge my letters and will not answer critical questions. And both prior to and since my trial, you refuse to investigate any fact or evidence proving that Connie used you to put an innocent man in prison for 42-years.

Based upon known facts, witnesses, and evidence, it appears that you did know Connie was committing perjury, because you destroyed evidence; personally stated on record that "There appears to be *falsely accused* information" in her police reports; failed to conduct any investigation; the eyewitness *told you Connie was lying* (which is why you quickly changed the subject each time myself and a deputy brought her name up at trial); you were caught soliciting lies from a deputy concerning evidence, but he refused to lie; and you used all leading questions of Connie because she just couldn't keep her story straight; and there is so much more that I won't go into now because I have presented it all before.

My trial defense was the simple truth that Connie was falsely accusing me, just as she has done to others in the past, because I angered her by ordering her out of my home. You recently substantiated my truthful defense by admitting she *falsely accused me* again in mid 2005, a retaliatory act for websites that expose her for who and what she is. Even Connie's best friends are now on my side, one of which fully corroborates my trial defense. In addition to all this, and despite Connie's confessions of my innocence, neither you nor Judge Madden can plausibly deny that **you both know I am innocent**. Clearly, the real problem in my case is your casual disregard for facts proving me falsely accused, wrongfully convicted, and suffering a horrific injustice. You simply close your eyes.

Using perjury constitutes "corruption of the truth-seeking function of the trial process" (*U.S. v. Agurs*, 427 U.S. at 104), and you are responsible for my wrongful conviction because you knew, or should have known, she was lying; and even if you didn't know her testimony was perjured (*Id.* at 103) and did not elicit her false testimony but allowed it to go uncorrected, which you did then and are doing now (*Giglio v. U.S.*, 405 U.S. at 153).

You are "a sworn minister of justice" (*Russell*, 83 Wis. 330, 338) who "should act not as a partisan eager to convict, but as an officer of the court, whose duty it is to **aid in arriving at the truth in every case.**" *Hillen v. People*, 59 Colo. 280, 287, 149 P. 250, 253. The prosecutor's "object should be simply justice; and he has no right to sacrifice this to any pride of professional success. And, however strong may be his belief of the prisoner's guilt, he must remember that, though unfair means may happen to result in doing justice to the prisoner in the particular case, yet, **justice so attained, is unjust and dangerous to the whole community.**" *Hurd v. People*, 25 Mich. 406, 416.

For so many reasons, you and Judge Madden both have a *very* serious responsibility here and I know for certain that, had I been related to either of you or a friend, I would be home right now. But you do have vested interests, and a prior court clerk publicly pointed out that you have personal biases and vested interests. But you must come to your senses. The stakes are high and the suffering too great for you to ignore this. I am a human being.

Values of society are expressed by the following well know maxim of law: "It is better that ninety-nine offenders escape than that one innocent man should be condemned." (See T. Starkie, *Evidence* 756). Moreover, as you know, it is your sworn duty to refrain from improper methods calculated to produce a wrongful conviction. See, e.g., *Berger v. U.S.*, 295 U.S. 78; *Mooney v. Holohan*, 294 U.S. 103; *Pyle*, 317 U.S. 213; *Alcorta v. Texas*, 355 U.S. 28; *Napue*, 360 U.S. 264; *Brady*, 373 U.S. 83; etc.

As law enforcement officers, you and Mr. Madden have an obligation to **make sure** you do not convict the innocent (*U.S. v. Wade*, 87 S.Ct. 1926, 1947 (1967)), and should it happen, you also know that "**A prosecuting attorney's mission is to clear the innocent no less than it is to bring to trial those who may be guilty.**" *U.S. v. Dionisio*, 93 S.Ct. 764 (1973). Do you or Judge Madden really even comprehend these values and critical moral duties and responsibilities of your respective offices? Quite obviously, no, you do not. Vacating a wrongful rape conviction, New York Judge, John Collins stated in 1992:

"The greatest crime of all in a civilized society is an unjust conviction. It is truly a scandal which reflects unfavorably on all participants in the criminal justice system."

Interestingly enough, I did receive letters from other candidates during the Iron County DA election. One directly expressed a view that you and Judge Madden have "grossly abused" your offices in regards to my case, and in the interest of justice would reopen my case as one of their first official duties if elected. The other, having firsthand experience with improprieties when dealing with the Iron County DA's office, expressed familiarity with your egregious failures I have pointed out on the two websites dedicated to my case.

It is a fact that Connie used both you and Judge Madden as her willing pawns, the result being that I have now spent 11-years of God-given life in prison for **non-existent crime**. This scam worked for Connie only because Judge Madden was 'screwing around' with her and because you, as a new DA, were overeager for any conviction and also wanted to please Judge Madden. This is why you blindly plowed ahead without any investigation and in total disregard of all facts proving me falsely accused. There are but two possible reasons for your failure to investigate prior to my trial and your refusal to investigate now: **1.)** You are grossly incompetent; **2.)** You know I am innocent. So, which is it?

Judge Madden had a clear legal and ethical duty to recuse from my case due to personal involvement with Connie, and a clear duty to so inform me of their relationship. But he remained silent and did not recuse because he wanted to railroad me as a sick 'favor' to Connie. And his duties in my case continue to this day, and yet he is still shirking them.

Judge Madden is "charged with the duty of insuring that justice, in the broadest sense of the term, is achieved in **every** criminal trial." (*Faretta*, 95 S.Ct. at 2543) A judge ignorant of the law is simply incapable of performing this function (*North v. Russell*, 96 S.Ct. 2709, 2717), and "a court that lacks institutional integrity does not establish a rule of law; rather, it establishes only the personal preferences of the men and women who hold office on the court at any given time. *Dairyland G.P. Inc. v. Doyle*, 719 N.W.2d at 491 (2006).

You and Judge Madden both operate far outside the ideals that you are sworn to uphold.

Of 'judicial integrity' Justice Holmes and Justice Brandeis spoke in *Olmstead v. United States*, 277 U.S. 438 (1928):

"In a government of laws ... existence of the government will be imperiled if it fails to observe the law scrupulously. Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for the law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means--to declare that the Government may commit crimes in order to secure the conviction of a private criminal -- would bring terrible retribution. Against that pernicious doctrine this Court ... resolutely set its face."

It is well proven that Connie brazenly committed perjury at my prelim hearing and trial and that both you and Judge Madden know this yet did nothing to stop her perjury then, nor take the required steps to nullify her perjury now. See, e.g., *A.Y.*, 271 Wis.2d 242:

Permitting perjury to go unchecked results in a war with justice, since it may produce a judgment not resting on truth. It is imperative that effective restraints exist to prevent perjury, which presents an obvious and flagrant affront to the basic concepts of judicial proceedings; the integrity and respect of the court system, founded on **the search for truth** and the adherence to principles of fundamental fairness, depends upon circuit court judges, attorneys that practice before them, and witnesses in all matters to act with forthright conviction and commitment to truthfulness.

See also Proverbs 13:5: "A righteous man hates lying." It is well proven that I am falsely accused, wrongly convicted, and am entitled to your immediate assistance. See also Art. I, § 9 of the Wisconsin Constitution, which provides:

"Every person is entitled to a certain remedy in the laws for all injuries, or wrongs which he may receive in his person, property, or character; he ought to obtain justice freely, and without being obligated to purchase it, completely and without denial, promptly and without delay, conformably to the laws."

Moreover, to allow any person to be convicted of any crime when reasonable doubt remained as to that person's guilt or innocence would seriously undermine the moral force and integrity of our criminal law. *U.S. v. Pine*, 609 F.2d 106, 107 (C.A.3 1979). And "the greatest crime of all in a civilized society is an unjust conviction. It is truly a scandal which reflects unfavorably on all participants in the criminal justice system." N.Y. Judge John Collins in 1992; vacating Albert Ramos' rape conviction.

My prayer today is that you and Judge Madden grow professionally, and as human beings, and will soon recognize your professional and moral obligations in this matter. Because once you do that, I will be allowed to go home to my family, friends and community, and justice will finally have been served in my case.

Sincerely,



Cc: Judge Madden; Internet