

STATE OF OHIO :
: SS.
RICHLAND COUNTY :

AFFIDAVIT

I, Raymond A. Smith, being duly sworn and deposed according to law, states and avers the following:

1. I am the father of Michael Smith and Daniel Smith and the co-defendant of Stanley Jalowiec.

2. My son and I was arrested for drug charges in August and September of '93 as a result of an informants drug buy.

3. Just before Christmas my son Danny came to me and told me that Ronald Lally contacted him and told him that he would leave town if Danny gave him some money and drugs so that he would not have to testify against us. He also mentioned that he had owed some bikers some money and he had to leave town.

4. I told Danny that I did not have any problem with giving Ron the money and told Danny to tell him it could not be until after the new year.

5. A few days later my son Danny came to me again and told me that he spoke to Ron Lally and that Ron said that he could hide out from the bikers for a few weeks but wanted to leave town as soon as possible. I told Danny that there was no problem.

6. Danny contacted me again a week later, which was about the second week of January, and told me that Ron contacted him and told him that Leiby contacted his girlfriend about his whereabouts.

7. Danny also said Ron wanted to hurry up and get out of town before Leiby could contact him because Ron knew the trial was coming up. Danny also said that Ron told him the bikers

were putting pressure on him and he wanted to get out of town as soon as possible.

8. On January 18, 1994, at about 10:00-10:30pm. I arrived at Power Slams where I met Danny. We shot a few games of pool and had a few beers. We then headed to Ron's apartment.

9. On the way out the Broad Street exit, we ran into Mike, who had been coming from another bar, because Mike appeared to be highly intoxicated and I did not want to leave him in town by himself I asked he to go a long.

10. When we got to the car Danny told me that he had to borrow Queen Bee's LeBaron, because his car would not make it to Cleveland.

11. The three of us went to Ron's apartment and I went in Rons apartment to get him, Mike and Danny waited in Mr. Hero's parking lot for us.

12. About five minuets latter, Ron and I came out of the apartment and we both got in the car.

13. Once in the car we headed to Cleveland. On the way to Cleveland Ron, Mike and myself smoked a few rocks I had.

14. Once in Cleveland. I directed Danny to 55 and Woodland where we went to some projects, to get the drugs. As we parked I counted out the money for the drugs and separated the buy money from the rest of the money that I had.

15. After I separated the money, Ron asked me for his money, I told him that I would give him the money after the ticket was bought at the bus station. I got out of the car and went and made the buy.

16. About 10 minuets latter I came back to the car.

17. Ron sat up in the seat and seen the bag of drugs that I had just got. Ron asked if it was all his and was anxious for a hit. I told Ron to hold on and to stop geeking, only half was his, and he would get to smoke some before we got to the bus station.

18. After Ron got a few hits, Ron, out of no where, pulled out a gun and pointed it at my head and told me to give him all the money I had and the drugs. I told Ron to calm down, this bullshit ain't necessary, and told him that he would get what he had asked for.

19. Ron would not reason in no way with me and made threats about killing me and my sons. I continued to try to talk to Ron but he kept going in and out of rages demanding the money and drugs. As we went past the cemetery Ron told Danny to turn the car around and pull in where the gate was open. Danny did and that is when we ended up in the cemetery.

20. I tried to talk Ron into putting the gun away, and that is when Ron said he was about to kill all of us niggers. Once we got into the cemetery Ron told Danny to turn the car and lights off. When he turned the car off, I was trying to reason with Ron, Ron kept getting loud and frustrated and told me to get out of the car.

21. When I got out of the car and as Ron got out I grabbed Ron in an attempt to take the gun away. Ron was stronger than I thought and I called for Danny and Mike to help me.

22. Danny got out of the car and as he Rounded the car Ron Lally dropped the gun and I yelled for Danny to pick it up. Danny picked up the gun and at the same time Ron Lally pushed me into Danny causing the gun to fire. Danny dropped the gun

when it went off and Ron dove for the gun and attempted to shoot me and my son. The gun misfired and I jumped on Ron and the two of us started fighting.

23. At this time Danny must have went into shock because he did not move until I called his name a few times and told me to open the trunk, by the time he opened the trunk, I had Rons jackets pulled over his head and was hitting him. During the fight I pulled Ron towards the trunk and shoved him up against the trunk attempting to lay him in the trunk, I did this because I was going to put Ron in the trunk to take him back to Elyria.

24. Ron continued to fight and kick and was laying in the trunk kicking and struggling. At this time Ron's jacket's were pulled off and Ron came out of the trunk kicking and punching.

25. We continued to fight and Ron finally started straggling and I told Danny to get in the car and start it, he did and backed the car up. When he backed the car up I got in the car and Ron staggered around. I told Danny to pull off and leave him he can find his own way back to Elyria.

26. We left and went back to Elyria. We went and returned the car to Joanne Fike. I did not know that Ron Lally was dead or seriously hurt until it came out in the news paper a month or so later.

27. When the case was dismissed I left town and went to Georgia. Danny contacted me sometime in May and told me that he was busted for 6 drug charges..

28. He told me that Leiby wanted some information about Ron Lally. And told me he needed my help because he was scared. He also told me Leiby kept him up for three days questioning him.

29. I told Danny that I would come back and see what I could do. Danny told me to hold off and he would let me know when to come back. Danny again contacted me and told me to come back, I came back in June.

30. When I arrived Danny picked me up at the airport and him and I discussed what I would say to Leiby, I told Danny that I was going to keep him and Mike out of it because I knew that the police would not believe that it was an accident.

31. On July 5th, 1994, after Leiby constantly kept paging Danny all during the month of June, I finally went in to give an oral statement to Leiby which was not recorded. This oral statement was also in the presents of the two Cleveland Detectives, Beaman and Hasan. After giving this oral statement Leiby convinced me that the only way I could help Danny was to give a taped statement. He provided me with the maranda rights and asked me to sign it. I told him I wanted to speak to an attorney first.

32. Leiby told me that I did not need an attorney, because what I told him constituted self-defense. He only needed the statement to take to the prosecutor in order to help Danny get the drug charges dropped.

33. I then waived my rights and gave a tapped statement to Detective Leiby, Detective Beaman and Detective Hasan. Right after giving the statement to the three Detectives, I was then given a voice stress test. In the presence of the three Detectives.

34. After giving the statement, and the voice stress test Leiby wanted me to change my statement and change things to his perspective. I refused and things between us got hostile.

35. Sometime thereafter, Leiby contacted me again and wanted another statement, I told him that I wanted an attorney and he arranged for Kenny Luix to represent me. Because he had represented me on the drug charge.

36. Luix arranged for a meeting with the prosecutor and we went in and attempted to discuss the case. At the time I went there I was on drugs and alcohol. Kenny Luix knew this at that time and wanted to continue anyhow. When prosecutor Rosenbaum started making demands, I ended the discussion.

37. On January 11, 1995, I again contacted Leiby in an attempt to help my son Danny, in the telephone conversation I said the name Stan in an attempt to lead Leiby to believe I was giving him the name of the other person at the cemetery. I knew that if Leiby went to Stan, he would not be able to tell him anything, because Stanley Jalowiec does not know anything about the incident. I did not want to mention anything about Mike being present because he really did not know anything that happen before or after the incident because he was so drunk.

38. I did not tell Leiby that Danny was there because I did not want to get him involved period. The only reason I even went to detective Leiby was because Leiby was pressuring Danny and Danny kept pressuring me. I was only trying to protect my son Danny.

39. When I was charged with the aggravated murder, I hired an attorney. The attorney that I hired refused to investigate the case whatsoever, I told him to contact my two sons and question them, he refused. He told me that they were not needed because the state did not have any evidence and he was going to get the deposition of my son Mike thrown out.

40. I feel that my attorney could have talked to my family members prior to them testifying at the mitigation hearing.

Bruner spoke to my family the same day that they testified and only for 5 minuets prior to their testifying.

FURTHER AFFIANT SAYETH NAUGHT.

Raymond A. Smith
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SWORN AND SUBSCRIBED in my presence this 2 day of
Feb 2000.

GREGORY A. MORROW
NOTARY PUBLIC
GREGORY A. MORROW
NOTARY PUBLIC, STATE OF OHIO
My Commission Expires Nov. 15, 2001