

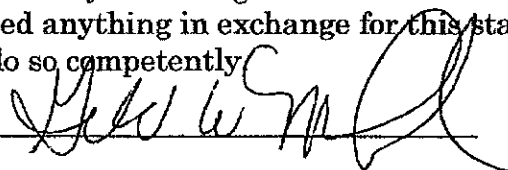
Affidavit of Gerald W. Mielcarek

I, Gerald W. Mielcarek, state under oath and penalty of perjury that the following is true and accurate to the best of my knowledge and recollection:

1. My name is Gerald W. Mielcarek.
2. My date of birth is December 19, 1957.
3. I am a licensed investigator in the state of Ohio. I have been an investigator for 24 years. I was a police officer in Lorain, Ohio prior to becoming a private investigator. I was retained by the Exoneration Project at the University of Chicago Law School to work on Mr. Jalowiec's case.
4. On June 26, 2012, at approximately 8:00 p.m., a member of the legal team and I met with Diana Smith at a Starbucks in Cleveland Heights, Ohio. The Starbucks was located at the corner of Lee and Mayfield Roads. Ms. Smith and I spoke for about an hour about the case.
5. During that conversation, Ms. Smith discussed numerous facts about her ex-husband, Michael Smith. Ms. Smith revealed that she was married to Michael Smith when the murder of Ron Lally occurred. She further revealed that they have two children together. Those children are now teenagers.
6. Ms. Smith confessed that she recalled the time period that Michael was involved in this murder case. Ms. Smith told me that she did not notice a major difference in Michael Smith from the time of the murder until he testified. In fact, Ms. Smith recalled that Michael was a very intelligent guy during the entire time that she was with him. Ms. Smith also stated that that Michael had suicidal issues prior to the murder, but that she did not recall any relapses between the time of the murder and the eventual trials. Ms. Smith confessed that Michael Smith had an addiction, like many other people, but seemed as normal as ever during that time period.

7. Ms. Smith further informed me that after the murder, Michael Smith remained especially close to his brother Danny Smith. In Ms. Smith's words, Michael was "in debt" to Danny because of his drug addiction. In fact, Ms. Smith admitted that "Danny enabled that addiction." Ms. Smith recalled that Danny and Michael Smith hung out and spoke frequently after the murder occurred.
8. Ms. Smith further confessed that she will never forget when Michael got deposed in this case. At the time, she was working in a Lorain, Ohio nursing home. Ms. Smith recalled that Michael Smith visited her at work on the day of the deposition with a person she did not recognize. Ms. Smith was shown the photograph attached to this affidavit as Exhibit 1. She immediately identified that photograph as the person who took Michael Smith to visit her at work. That photograph is a picture of Elyria Detective Al Leiby. Ms. Smith stated that she found it so strange that Michael stopped by her work that day because it was something that Michael just did not do. Ms. Smith also admitted that she recalled Michael disappearing around the time of the deposition.
9. I am giving this statement of my own free will. This statement is the truth to the best of my knowledge and recollection. I have not been coerced nor promised anything in exchange for this statement. If called upon to testify, I could do so competently.

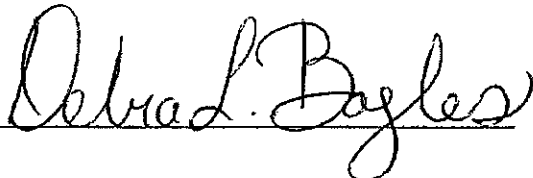
Name: _____



Date: _____

6-27-12

Gerald W. Mielcarek

Sworn and subscribed in my presence this 27th day of June, 2012.

NOTARY PUBLIC



DEBRA L. BOYLES
Notary Public - State of Ohio
My Commission Expires May 22, 2013



EXHIBIT #1

