

Jason G. Landess, Esq.: Opinion Letter

RE: Gary Walters: Criminal Conviction Miscarriage of justice

TO WHOM IT MAY CONCERN:

This period of Gary's life should be made into a mini-series. I was a prosecutor when I first worked as an attorney in California. The next 40 years I spent specializing in business and complex commercial litigation. So, I've been around the block a few times. However, this one is a tale for the ages. I first met Gary about 20 years ago. He needed someone to take back control of his small-cap company. I accomplished that; and Gary compensated me handsomely for it.

Gary earned a substantial amount of money and soon lost his way, becoming immersed in the glitz and glamour of Las Vegas. He made a few enemies along the way. And one day a local detective showed up at his door with a SWAT team. Gary locked himself in a "safe room" he built inside his house and wouldn't come out until they literally threatened to blow the door off. The detective wasn't happy. And on his way out of the house he proceeded to grab about \$17k in cash and \$25k worth of Gary's jewelry.

Gary hired an attorney, Robert Weatherford ("Robert"), to represent him in the criminal case. The detective, who never bothered to deposit the cash and jewelry into property when Gary was booked, decided the best witness is a dead witness. So, he teamed up with a local prosecutor and they threw the book at Gary, something like 16 different felonies relating to the sale and financing of upscale houses in Las Vegas. They indicted Gary on a series of Mickey Mouse charges. Unfortunately, the case was arbitrarily assigned to the worst hanging judge possible in Las Vegas, Michael Villiani.

Gary wanted his money and jewelry. And when he found out it wasn't checked into property, he filed a complaint with Internal Affairs. That just added fuel to the fire with the prosecution side of the equation.

During the interim, unbeknownst to Gary, Robert was in trouble with the D.A. for felony driving under the influence (see Case No. 08C242270 in 8th Judicial District Court). So, he didn't want to do anything to irritate the prosecutor. He thus provided virtually no defense for Gary at trial—*e.g.*, called none of Gary's witnesses, introduced no documents into evidence, did no *voir dire*, failed to obtain a transcript of the Grand Jury proceedings, etc. And when Gary made vocal objections and begged the judge to let him obtain other counsel, it did nothing but irritate the judge.

Not surprisingly, in February 2008 Gary was convicted on all counts. And even though Gary had no prior criminal history in Nevada, Judge Villiani sentenced him **consecutively** on all counts to a minimum of about 26 years in the penitentiary.

Gary's conviction was subsequently affirmed by the Nevada Supreme Court. His Public Defender appellate counsel then withdrew, leaving Gary stuck in prison on what was basically a life sentence. I visited Gary after he was down for about 3 years. We then regularly corresponded, and I occasionally talked to him on the phone.

About 4 years into his sentence an Internal Affairs detective called me on the phone and told me that they had some of Gary's property. Gary authorized me to pick it up. It was some of what the arresting detective took when he arrested Gary. The detective was circumspect about what transpired. But suffice it to say that the arresting detective took an "early retirement."

Gary then started to do work for indigent inmates. He wouldn't take any compensation for his work. I've spoken with a former inmate who witnessed Gary's work. And this was what he said to me, "Gary is a legend in prison. There never has been, and there never will be, anyone like him. He helped more people than you can count. And he is the only person I know that could sit down and have lunch with any race."

Robert caught another felony DUI in 2009 (Case No. 09C255078) and was sentenced to 1-4 years in the penitentiary. If you can believe it, he ended up housed in the same unit as Gary. Robert has since been suspended from the practice of law.

Gary was on his own. So rather than roll over and die, he girded up his loins and threw a Hail Mary—a special Writ with the Nevada Supreme Court complaining about ineffective counsel. It's a one in a thousand, at best. But incredibly, the Writ was granted and an attorney named Josh Tomsheck was appointed to represent Gary. I worked with him in a small way on the sidelines.

It took 4 more years for Gary to have his day in court. But that day finally came on February 8, 2016. Mr. Tomsheck subpoenaed Robert to testify and systematically took him apart at the seams. I've provided you with the full transcript of that hearing. It's an amazing read.

Robert eventually gave up and admitted that he failed to effectively represent Gary at trial. In chambers a deal was worked out between Mr. Tomsheck and the Assistant D.A. that effectively vacated the original sentence. Gary was set free in about 60 days with credit for time served. He was on parole for 3 years and honorably discharged therefrom.

At his discharge hearing, Judge Herndon congratulated Gary and said this to the gallery of attorneys sitting in the courtroom: "Gentlemen, this man is the victim of one of the worst miscarriages of justice I've ever seen. Good luck to you Mr. Walters." That's also on the record.

I picked Gary up from downtown Las Vegas the night he was released and brought him home to stay in my guest room until he got his legs underneath him. He started this venture with an old Ford Bronco and a few thousand dollars paid to him by an insurance company arising out of a little fender-bender. Now look at what he's put together with the help and support of many people like you.

Some people will snub their nose at Gary, repelled by his criminal history. But me? Me, I clearly see God's Grace at work in a life that helped more people in dire need of help than I'll not even come close to helping in my lifetime. And I'm 75 years old.

Other people simply won't believe what I just wrote. But who cares? Because what's done is done, and the record I've provided to you speaks for itself.

I hope this shed some light on these matters.

Regards,

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