

LEGAL MAIL

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July 24, 2005

Honorable Judge Janice Warder
Criminal District Court
Frank Crowley Courts Bldg.
133 N. Industrial Blvd.
Dallas, Texas 75207-4399

RE: No. F01-52159-H, EX Parte John David Battaglia

Dear Honorable Judge Warder:

I have recently found out through reading from the unit law library that "THERE IS A DUTY IMPOSED ON DEFENDANTS IN CRIMINAL CASES TO NOTIFY THE COURTS OF AN INADEQUACY IN THE ASSISTANCE OF COUNSEL." (Chapman v. U.S., 469 F.2d, page 635 (1972)) Please note that I have brought the following issues regarding the Inadequacy of Counsel: Mr. Paul Johnson and Mr. Paul Brauchle, to the attention of both my court appointed appeal attorneys: Mr. Douglas Parks and Ms. Jan Hemphill, with absolutely no response in over three years. As you will see from the enclosed writings I have also attempted to inform the Texas Court of Criminal Appeals, the Texas State Bar, the U.S. Attorney General, Mr. Gonzales, and just last week the Texas Attorney General, Mr. Abbott. (I would have enclosed copies of my writings to the C.C.A., but the two appointed appeal attorneys have refused my requests to obtain copies of these writings from the C.C.A. and the C.C.A. Court Clerk has refused to provide me with these copies as well. I also recently wrote the Texas State Bar requesting copies from them, but they replied last week that they have destroyed all of my writings to them with the attached letters to the C.C.A.)

Your Honor, during the time from my arrest in May 2001 until my trial in May 2002, my court appointed attorney, Mr. Paul Johnson, repeatedly told me he was not appointed to defend me, but to make sure all of the i's were dotted and t's crossed on my Death Sentence.

° When I first met Mr. Johnson in the jail I told him I thought I may had been drugged or poisoned just days or a week prior to my arrest because I had seen a doctor and had chemical tests just days before and I had marks from a rare drug reaction I had in the 1980's, in addition the day before my arrest a county probation officer I had never seen before (and a rather aggressive lesbian) had told me she was going to have me sent to jail because she knew I was going to fail a drug test I had not yet taken. At that meeting with Mr. Johnson I requested I be examined by a doctor and have blood and urine samples taken for toxicology testing and Mr. Johnson said he would arrange the examination, but under no circumstance was I to submit to the examination without his being present. When I was taken to be examined I told the doctor that I was instructed by my attorney, Mr. Johnson, to wait for his arrival, where upon the doctor stated that I refused any medical attention and had me sign a form which I could not read because of my injuries. Later

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when I saw Mr. Johnson (weeks later) I asked him why he was not present for the medical examination like he said he would be and if I could still get an examination, where upon, Mr. Johnson said to me that noone in the jail or the whole county was going to lift a finger to help me, only see that I was put to death.

Your Honor, this first encounter with Mr. Johnson was very confusing and upsetting to me. I did not understand what had happened to my daughters the night of my arrest or why I was attacked and beaten and shot at by Dallas Police Officers or why I was stripped naked and kept in a cockroach infested cell for days only to be told periodically by sheriff and jail employees that they were going to beat me to death or help hang me in my cell. When I asked Mr. Johnson to file a complaint against the Dallas Police Officers who assaulted me on the night of my arrest Mr. Johnson refused. When I asked Mr. Johnson to schedule or file the following he refused:

- ° Bond Reduction Hearing
- ° Media Gag Order
- ° Change of Venue because of media
- ° Hearing regarding the above before the Judge
- ° Hearing for appointment of new trial counsel

After the last request was refused by Mr. Johnson I attempted to give a media interview where I tried to relate to the News Reporter my treatment in the jail (refusal of medical attention) and my trial attorneys refusal to assist me in any way with my legal situation, other than telling me he was appointed to see I was put to death. After Mr. Johnson found out I had spoken to the media I was ordered to take a number of drugs, twice per day, and on a number of times I asked the jail employees who were forcing me to take the drugs (all other inmates were just handed their medications) who had said I was to take these drugs, they always responded that it was by order of the trial court judge and that it was a standing order that I was not to enter the courthouse unless I had been medicated.

I will point out your Honor that one of those drugs (there were 3 in all, I think) had a very profound effect on my physical and mental ability to function and speak. Almost all of my physical bodily functions were shut down for the six months I was given these drugs, but when I arrived here on Death Row, I was refused any medications and was told by the prison medical staff that I was just given the drugs to make me "look stupid during the trial and make me easy to control in the courtroom" and after a few tests the prison medical staff said there was nothing wrong with me to require any medication. This point your Honor would call into question all of the expert-witnesses called during my trial, plus the Constitutional issue of being drugged while in the courtroom against my consent as well as being placed in shackles, within view of the jury and having over four armed officers sitting within a few feet of me during the entire trial. I will also point out one of the rank-uniformed officers said to me on the first day of trial that if I moved or tried to talk he would shoot me dead right there in the courtroom. I felt that was excessiv

When I wrote all of the above to my two appointed appeal attorneys, Mr. Parks and Ms. Hemphill, I never received a response except from Mr. Parks referring to my issues as "garbage" and "frivolous" and when I related the above to a Ms. Schades, who was retained by Ms. Hemphill to assist with my Habeas Appeal, she stated she had spoken to Mr. Paul Brauchle and that he had stated that Mr. Johnson just had me medicated so he could control me in the courtroom, but after I received a copy of Ms. Hemphill's filed Writ of Habeas Corpus on my behalf I saw no mention of the being drugged as a grounds for relief, therefore I ask your Honor to Order Ms. Hemphill to modify or supplement the filed Writ of Habeas Corpus to include the following issues which are missing from the Writ:

- ° forced and involuntary medication/shackles visible to jury/misconduct during the jury selection by prosecutors and Mr. Johnson/Batson/M. Lee-EL.
- ° failure to give Warning pursuant to Estelle v. Smith, 101 S. Ct. (1981) prior to psychiatric examinations
- ° Mr. Johnson's (trial counsels) refusal to investigate and file complaint against Dallas Police for assault during my arrest and allowing perjury during trial by arresting police officer
- ° Mr. Johnson's refusal to cross-examine the state's witnesses and his statements to me for not cross-examining; "that he didn't want to get run out of town for saying anything bad about the witnesses", and when your Honor refused to let Mr. Johnson ask Ms. Pearle about a murder she had bragged about having committed for years (even to our Highland Park neighbors the Wilsons, but she and her parents characterized the victim as a 'nigger' and a 'wetback' to gain a certain social acceptance by these Highland Park people which resulted in Ms. Pearle being asked to join the Dallas Country Club, which she later turned down once she realized they were to investigate her and her parents background and were bound to find out that Ms. Pearle's representations about herself and her family were all false and that she and her family ran a rather large criminal enterprise in Dallas for years which included; prostitution, drug dealing and smuggling, the purchase and sale of stolen jewelry and antiques, as well as high volume money laundering, all with the apparent protection of the police and it seems the courts in Dallas) and Mr. Johnson said after you refused his "Proffer" or "Offer" of an 18 page Dallas Police Murder Report of a Mark Shawn Hutchins, "that your Honor would rule on nothing in my favor and risk not being re-elected to the ~~the~~ court." Mr. Parks refused to raise the recorded "Objection" or "Offer" in my State Direct Appeal.
- ° prosecutorial misconduct by the Dallas District Attorney for violation of Brady Rule in refusal to turn over my legal documents which showed criminal activities by certain Dallas D.A. employees and former employees (these are reflected in writings to the C.C.A.)

Your Honor, I hope I have provided this Notification in a manner that the court can read, understand, and act on. I will enclose a number of additional documents to show my efforts to gain my legal documents and legal advise (please see listing in July 7, 2005 to U.S.A.G. Gonzales)

Sincerely,

JOHN DAVID BATTAGLIA

cc:file
cc:C.C.A.
cc:S.Ct.