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APR 13 2010	
CLERK U S DISTRICT COURT DISTRICT OF ARIZONA	
BY _____ DEPUTY	

1 Brian A. Wilkins  
 2 PO Box 50854  
 3 Phoenix, AZ 85076  
 4 480-529-0964  
 5 brianw@operation-nation.com  
 6 In Propria Persona Petitioner

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IN THE UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF ARIZONA

Brian A. Wilkins,  
 Petitioner,  
 vs.  
 State of Arizona Attorney General,  
 Respondent

CV: 10-0443-PHX-MHM (MEA)  
**SUPPLEMENTAL BRIEF IN SUPPORT  
 OF HABEAS CORPUS**

PETITIONER brings now this supplemental brief, which further articulates the claims of ineffective counsel, evidence of actual innocence, and exhaustion of state remedies.

**I. Ineffective Counsel**

Petitioner hereby re-alleges and incorporates everything in the Petition for Writ of Habeas Corpus, PCR, Special Action, and Petition for Review, as if re-printed herein.

Public defender Michael Ziemba failed to file a special action, requesting dismissal of all charges, pursuant to *Ariz. R. Crim. P. 8.6* and the Sixth Amendment of the U.S. Constitution, see *Neder v. United States*, 527 U.S. 1 (1999), after Petitioner was unlawfully denied his right to public trial and speedy trial by jury on Jan. 12, 2009. Again, because the Petitioner's trial was unlawfully revoked, the last day for trial to take place was February 7, 2009 (see Exhibit R, Doc #7) to not violate his speedy trial rights.

1 The charges against the Petitioner should have and could have been dismissed based  
2 on this *prima facie* Sixth Amendment violation, had Ziemba done a constitutionally  
3 effective job representing the Petitioner. *Strickland v. Washington*, 466 U.S. 668 (1984).  
4  
5 It should also be noted that Ziemba has six public records filed against him with the  
6 Arizona Bar Association, since his admittance in 2000 (see Attached Exhibit 1). Ziemba  
7 was subsequently promoted to a higher paying position within Maricopa County,  
8 handling death penalty cases, after his assistance in these abuses led to the  
9 Constitutional violations in the present case.  
10

11 **II. Evidence At Trial, Had Said Trial Not Been Illegally Revoked**

12 Petitioner hereby re-alleges and incorporates everything in the Petition for Writ of  
13 Habeas Corpus, PCR, Special Action, and Petition for Review, as if re-printed herein.

14 The State of Arizona convicted the Petitioner based on the statements of two  
15 alleged witnesses. Michael Arthur Wood was also declared a "victim" (on top of being a  
16 witness) by the State through the sentencing phases, but eventually the State admitted  
17 there was in fact no victim in these alleged crimes. See Doc # 5; page 4. The Petitioner,  
18 who has maintained since July of 2008 that he was defending himself from harm and  
19 shot his pistol out of necessity (see Exhibit N, Doc #3), pursuant to ARS 13-417, 13-  
20 404, and 13-405, was convicted of felony disorderly conduct anyway, even though said  
21 alleged crime was victimless and caused no financial or property damage. The  
22 Petitioner discovered this new evidence (no victim) in March 2010, once he was  
23 discharged from probation.  
24  
25

26 The other witness the State used to convict the Petitioner, Linnette Wittman, was  
27 in an intimate relationship with Wood, who was on probation at the time for criminal  
28

1 simulation (see Exhibit G, Doc #3). Further, a witness who is genuinely scared and  
2 concerned about her and others safety would have called police immediately, instead of  
3 three-plus hours after Wittman and Wood unsuccessfully tried to extort \$1000 from the  
4 Petitioner (see attached Exhibit 2; police report says cops arrived at 232 a.m.; Wittman  
5 says alleged incident happened around 1030-1130 p.m.). The Petitioner also had a  
6 broken right hand the night he was arrested - see Attached Exhibit 3, redacted - thus  
7 could not have possibly "grabbed Wood's collar with his left hand while pointing the  
8 handgun [at him with the other]," as Wittman said in her initial statement in the police  
9 report.  
10  
11

12 The State argues, in its Response to the Petition For Review (Exhibit E, Doc #3),  
13 that the Petitioner being extorted that night is irrelevant and that the real crimes  
14 committed by Wood that night can be overlooked. Further, between 12am-2am on July  
15 22, 2008, Wittman could not have been that scared or concerned, based on postings  
16 from her Myspace page that night, which Wittman is not only making sexual advances  
17 towards at least one other person, but also the subsequent blog entries showing an  
18 attention-starved individual. (Attached Exhibit 4; Wittman's Myspace name is "Net.Net,"  
19 a play on her name, Linnette). This new evidence was discovered well after sentencing.  
20 Wittman also changed her story several times, as far as what happened that night. (see  
21 Exhibit B (PCR), Doc#3). The Petitioner also sent a letter to Maricopa County prosecutor  
22 Barbara Miller, in August of 2008, while he was in jail, telling her that Wood was/is a  
23 major drug dealer and was violating terms of his probation. Petitioner also had his  
24 friend, Richard Perea, call the prosecutor's office with this same information, around the  
25 same time. But again, the true crimes committed by Wood were not and never have  
26  
27  
28

1 been a concern for the State.

2 Of course, the Petitioner did not have a chance to present any of the foregoing,  
3 or any other defenses whatsoever, at trial, again because Petitioner's Sixth Amendment  
4 rights to public trial by jury and right to speedy trial were completely revoked due to  
5 ineffective counsel and abuses of power by the trial court, specifically Maricopa County  
6 judge Emmet Ronan. The State was/is solely interested in convicting the Petitioner and  
7 destroying the life he had built, and were/are in no way interested in justice, especially  
8 since they had a chance to arrest a major drug dealer (Wood) who was on probation,  
9 but did not.  
10

11  
12 In extraordinary cases, where a constitutional violation has probably resulted in  
13 the conviction of one who is actually innocent, a federal habeas court may grant the  
14 writ. *Murray v. Carrier*, 477 U. S. 478, 496 (1986). *Schlup v. Delo*, 513 U.S. 298, 327  
15 (1995); 28 U.S.C. § 2254(c)(2)(B).  
16

17 **III. Exhaustions of Remedies**

18 Petitioner hereby re-alleges and incorporates everything in the Petition for Writ of  
19 Habeas Corpus, PCR, Special Action, and Petition for Review, as if re-printed herein.

20 Circumstances exist which render the pending Petition For Review in the AZ  
21 Court of Appeals ineffective to protect Petitioner's rights. 28 U.S.C. § 2254(b)(ii).  
22

23 Petitioner has done everything exactly as Arizona Rules of Criminal Procedure,  
24 Appellate Procedure, and Special Action Procedure call for to properly exhaust state  
25 remedies, only to experience a fundamental miscarriage of justice that started when the  
26 Petitioner was arrested on July 22, 2008 and continues to this day.  
27  
28



1 To fairly present a claim, a habeas petitioner must cite in state court to the  
2 specific constitutional guarantee upon which he bases his claim in federal court.  
3 *Tamalini v. Stewart*, 249 F.3d 895, 898 (9th Cir. 2001). General appeals to broad  
4 constitutional principles, such as due process, equal protection, and the right to a fair  
5 trial, do not establish fair presentation of a federal constitutional claim. *Lyons v.*  
6 *Crawford*, 232 F.3d 666, 669 (9th Cir. 2000), *amended on other grounds*, 247 F.3d 904  
7 (9th Cir. 2001); *Shumway v. Payne*, 223 F.3d 982, 987 (9th Cir. 2000) (insufficient for  
8 prisoner to have made "a general appeal to a constitutional guarantee," such as a  
9 naked reference to "due process," or to a "constitutional error" or a "fair trial"). Although  
10 a habeas petitioner need not recite "book and verse on the federal constitution" to fairly  
11 present a claim to the state courts, *Picard v. Connor*, 404 U.S. at 277-78, 92 S. Ct. at  
12 512-13, they must do more than present the facts necessary to support the federal  
13 claim. *Anderson v. Harless*, 459 U.S. 4, 6, 103 S. Ct. 276, 277 (1982).

14  
15  
16  
17 Maricopa County provides "INSTRUCTIONS FOR PETITION FOR POST-  
18 CONVICTION RELIEF," Form #302 (attached Exhibit 5), which is the form given to  
19 Defendants wishing to pursue pro-se PCR proceedings, similar to the federal habeas  
20 forms. Maricopa County discourages Defendants from citing federal law in said PCR  
21 petitions, in an attempt to procedurally and otherwise bar Defendants from federal  
22 habeas relief. Specifically, question #V (5) on said forms instructs Petitioners to state,  
23 "[T]he facts in support of the alleged error(s) upon which this petition is based...(State  
24 facts clearly and fully; citations or discussions of authorities need not be  
25 included)." *Id.* emphasis added.

26  
27  
28 Petitioner, at first, followed this instruction verbatim, in order not to get the PCR

1 dismissed on grounds of not following instructions, when he filed his FIRST PCR  
2 Petition on June 10, 2009. However, with due diligence, Petitioner learned a Notice of  
3 PCR must be filed first to commence PCR proceedings and, after reading several PCR  
4 Petitions filed by attorneys, which cited federal and state laws contrary to the  
5 instructions on the form, the Petitioner filed his "amended," FINAL PCR Petition on July  
6 13, 2009, containing some federal citations, which is the one the trial court ruled upon.  
7 The Petitioner did in fact present the federal claims in his PCR, but was still reluctant to  
8 fully articulate the federal claims, per the instructions on Form #302.  
9

10  
11 The State of Arizona obviously instructs Defendants in their PCR forms contrary  
12 to what federal law actually says, thus violates fundamental due process. The State, in  
13 its attempts to close off federal review of malicious convictions, tells Defendants,  
14 specifically a pro-se Defendant like the Petitioner who is not educated in law and  
15 criminal procedure, to do exactly what is necessary to be denied federal review in  
16 habeas proceedings.  
17

18 Though there is a pending Petition for Review of a PCR Decision in the Arizona  
19 Court Of Appeals, the claims presented in it are the exact same as the ones presented  
20 in the PCR, Special Action, and AZ Supreme Court petitions, all of which were denied  
21 without explanation. Further, the Special Action was only filed because the State and  
22 trial court violated state laws placing time limits on how long the trial court has to rule on  
23 said PCR petition, thus Petitioner had no other vehicle for post-conviction relief other  
24 than special action.  
25

26  
27 Based on these precedents, and the fact both the AZ Court of Appeals and AZ  
28 Supreme Court both have already been fairly presented with the claims presented in the

1 pending petition, it can be reasonably surmised that the pending petition in the AZ Court  
2 of Appeals will also be denied without review, when they get around to it.

3  
4 Petitioner already has and continues to suffer from many genuine collateral  
5 consequences from this unlawful conviction, and being forced to wait for the Court of  
6 Appeals to render an inevitable decision will only prolong said consequences and  
7 continue to violate Petitioner's rights. Petitioner would be inclined to simply dismiss the  
8 petition in the Court of Appeals on his own, to protect his rights.

9  
10 Regardless, Arizona's highest courts were and have been fairly presented all  
11 federal claims, but simply denied all of them, without explanation.

12 **IV. Conclusion**

13 Petitioner request any and all relief the Court deems necessary, in addition to the  
14 relief sought in the habeas petition. Petitioner also will object to any extensions of  
15 time the State may ask for to answer said petition. Petitioner has already been in  
16 their custody, unlawfully, since July of 2008, and any extension will only prolong this  
17 illegal, unlawful, and unconstitutional persecution.

18  
19 Respectfully submitted this 13<sup>th</sup> Day of April, 2010.

20  
21 **CERTIFICATE OF SERVICE**

22 I hereby certify that a copy of the foregoing document and all of the attached exhibits  
23 were hand-delivered on this 13<sup>th</sup> day of April, 2010 to:

24 Arizona Attorney General's Office  
25 Criminal Appeals Division  
26 1275 West Washington Street  
27 Phoenix, AZ 85007  
28



Brian A. Wilkins  
PO Box 50854  
Phoenix, AZ 85076  
480-529-0964

brianw@operation-nation.com  
In Propria Persona Petitioner

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Ex. 1

**Brian Wilkins**

---

**From:** Yvette F. Barreras [Yvette.Barreras@staff.azbar.org] on behalf of Lawyer Info [Lawyerinfo@staff.azbar.org]  
**Sent:** Friday, June 05, 2009 12:00 PM  
**To:** brianw@operation-nation.com  
**Subject:** RE: Request of Additional Lawyer History

The lawyer for whom you requested a discipline history has 6 public record(s). All were dismissed. Matters which are dismissed, may have been dismissed after review or following an investigation.

**Dismissed after review:** The State Bar will not investigate a matter if the allegations made would not constitute misconduct or incapacity under the rules. These matters may have involved some informal resolution through the Attorney Consumer Assistance Program.

**Dismissed following an investigation:** The State Bar evaluates all charges alleging lack of professionalism, misconduct or incapacity. An investigation is commenced if the lawyer is subject to this jurisdiction and the information alleged, if true, would constitute misconduct or incapacity. If after conducting an investigation, there is no probable cause to believe that misconduct or incapacity under the rules exists, the State Bar may dismiss a discipline proceeding. A lawyer may have a dismissed file that was preceded by his/her participation in a diversionary program.

The lawyer's records referenced in this response may be comprised of one or the other type of dismissal, or a combination of both.

*Dismissals occur if there is no probable cause to believe that misconduct or incapacity under the Rules Of The Supreme Court exists.*

-----Original Message-----

**From:** DOTW\_Request@azbar.org [mailto:DOTW\_Request@azbar.org]  
**Sent:** Tuesday, June 02, 2009 11:03 AM  
**To:** lawyerinfo@azbar.org  
**Subject:** Request of Additional Lawyer History

**Request Date: 6/2/09 11:02 AM**

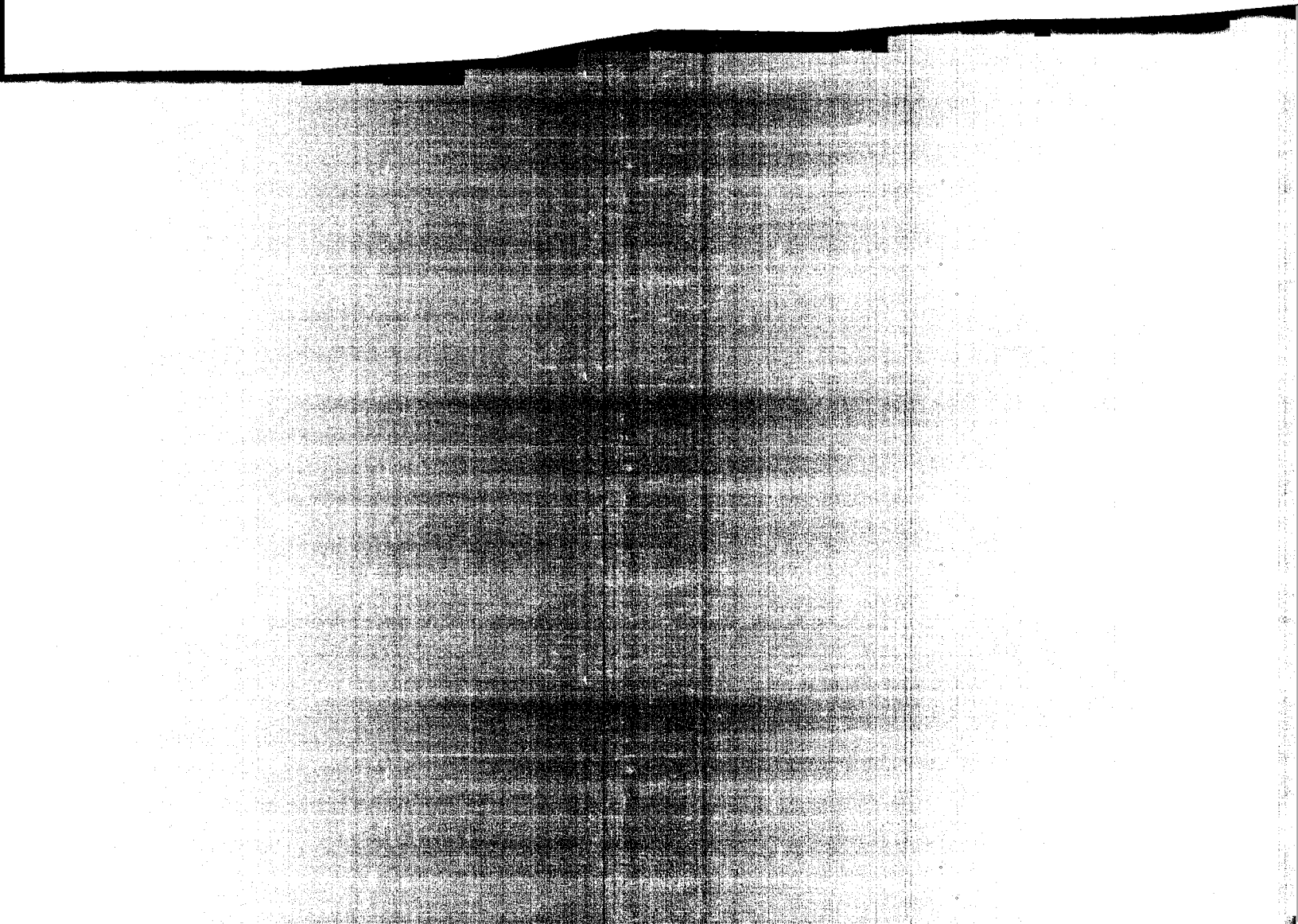
**I am interested in a complete lawyer history for:**

Mr Michael Ziemba R  
Maricopa Public Defender  
Mesa, AZ  
Admitted to Practice Law: 2000  
Admitted to Arizona Bar: Oct 23, 2000

**My contact information is as follows:**

Brian Wilkins  
PO Box 66; Tempe, AZ 85280  
480-529-0964  
[brianw@operation-nation.com](mailto:brianw@operation-nation.com)

Ex. 2





**TEMPE POLICE DEPARTMENT NARRATIVE**

Page 1

INCIDENT NUMBER: 08-12316B

OFFICER: T. JOHNSON #18490

On 07/22/08 at approximately 0232 hours, Officer M. Calendar and I responded to [redacted] reference an aggravated assault report. The comments on the call advised the complainant, Michael Wood, was calling to report that his neighbor pointed a gun at his head thirty minutes prior. The call comments stated the suspect had shot one round into the air and identified the neighbor as Brian Wilkins. The call comments also stated a female neighbor in [redacted] had witnessed the incident.

While enroute to the call, I asked Tempe police dispatch to check if they received any shots fired calls in that area earlier in the evening. Tempe police dispatch advised they did not receive any shots fired calls.

Upon my arrival, I contacted the complainant, Michael Wood, at his apartment. My interview with Wood was recorded on a digital recorder. The recording was transferred on to a cd which was impounded as evidence. The following is a summary of the interview and is not verbatim. Refer to the cd for additional information.

I asked Wood to tell me what happened. He stated he was with his friend Brian Wilkins, at Wilkins' apartment, hanging out with him approximately thirty minutes earlier. Wood advised Wilkins lives at 1223 W. University Dr. #5. Wilkins and Wood began arguing with each other over an unknown topic. Wood explained he and Wood have frequent arguments over sports, politics, and other general discussion topics. Wood stated he left Wilkins apartment and walked back to his [redacted]

It should be noted Wood's apartment is on the northeast end of the breezeway at [redacted] and Wilkins' apartment is on the southeast end of the breezeway. The breezeway is approximately one hundred feet in length.

Wood stated he was sitting outside his apartment smoking a cigarette approximately ten minutes after leaving Wilkins' apartment. Woods heard Wilkins' exit his apartment and then heard a single gunshot. Woods looked to the south end of the breezeway and observed Wilkins standing in the area south of apartment #5 in the parking lot. Wilkins had an unknown arm extended over his head in the air and was holding a pistol.

Wood asked Wilkins "what do you think that you are tough with your gun?" Wilkins went back into his apartment. Wilkins came over to him and they began arguing again. Wood could not remember what was said during this argument due to his level of intoxication. Wood did not see the pistol in Wilkins' hands and did not think he still had it on his person. Wilkins then pulled a black semi automatic handgun from his front pocket or back right area of his waistband. Wood first stated Wilkins stood approximately five to six feet away from Wood and pointed the handgun at his head, but later stated Wilkins was approximately two to three feet away from him. Wood put his hands up, turned his head away from Wilkins, and stated "go ahead, shoot me, shoot me".

I asked Wood if Wilkins verbally threatened him while pointing the gun



## TEMPE POLICE DEPARTMENT NARRATIVE

Page 2

INCIDENT NUMBER: 08-123168

OFFICER: T. JOHNSON #18490

at him. At first Wood stated Wilkins did not verbally threaten him while pointing the gun at him but later stated Wilkins said "I'll blow your fucking head off" when he first pointed the gun at him.

Wilkins stated Wood walked back towards his apartment. Wilkins stopped in the area where he shot the first time, stopped, raised the gun into the air and fired two more shots. Wilkins then went into his apartment.

I asked Wood if anything else happened. He stated Wilkins came outside again approximately ten minutes later and attempted to apologize to Wood. Wood told Wilkins he did not want to talk with him since he pointed the gun at him.

It should be noted while speaking with Wood, I observed his eyes were watery and bloodshot and I could smell the distinct odor of an intoxicating beverage coming from his breath and person.

I asked Wood why he had waited so long before calling police. He stated he thought he was being nice to Wilkins but then thought that Wilkins pointed a gun at him which he shouldn't have done.

Wood also stated his female neighbor, Linnette, in apt. [redacted] had witnessed the incident.

I asked Wood if he would aid in prosecution and he stated he would. Wood was given victims rights information.

I then contacted Wood's neighbor, Linnette Wittman, in apt. [redacted]. My interview with Wittman was recorded on a digital recorder. The recording was transferred on to a cd which was impounded as evidence. The following is a summary of the interview and is not verbatim. Refer to the cd for additional information.

I asked Wittman to tell me what happened. Wittman started by saying she didn't want to call the police because she did not want any retaliation from either Wood or Wilkins. Wittman stated she did not want Wood to get in trouble because he may be on probation and did not want to get Wilkins in trouble because he owns a gun.

According to Wittman, Wood tends to aggravate the tenants in the complex by calling them racial slurs and accusing them of stealing his truck. Wittman also stated that Wilkins does not handle his alcohol well and gets "crazy" after a few drinks.

Wittman stated she saw both Wood and Wilkins, at approximately 2200 hours, getting into a vehicle together and they told her they were going to get more Captain Morgan's rum. Wilkins appeared to be joking around at the time they left so Wittman did not think they were arguing at all.

She stated she was walking to her apartment, at approximately 2230 hours, which is on the northwest corner of the breezeway of [redacted] when she walked by Wilkins' apartment. Wittman advised she heard two voices inside the apartment which she recognized as Wilkins' and [redacted]



# TEMPE POLICE DEPARTMENT NARRATIVE

INCIDENT NUMBER: 08-123168

OFFICER: T. JOHNSON #18490

Wood's voices. They sounded like they were arguing over a girl. Wittman went into her apartment.

*He said all this happened at about 2:30 am. She says it happened between 11 pm and midnight.*

Wittman stated she later heard what sounded like a door slamming shut so she went outside. Wittman stated this possibly occurred between 2300 and 0000 hours, but was not sure. Wittman found Wood outside his apartment smoking a cigarette and asked him what the noise was. Wittman stated Wood told her either "a shot in the air" or "a bullet in the air". Wittman thought Wood was joking and asked him what was going on. Wood began explaining that he and Wilkens had a verbal argument.

While Wittman was speaking with Wood, she heard someone exit Wilkens' apartment. Wittman was having trouble seeing down the breezeway due to the poor lighting. Wittman knew the subject had exited Wilkens' apartment because she heard the screen door close and advised Wilkens is the only one in the building with a screen door. Wittman stated Wood began calling Wilkens a "nigger", a "stupid pussy", and was saying "come on, shoot me mother fucker, come on". Wittman advised Wilkens had moved near his door and thought he was going back inside.

Wilkens began saying "don't dude don't" and "I don't know what I did" and "I don't know what I said to offend you". Wood continued yelling racial slurs at Wilkens. She then stated Wilkens began walking quickly over to Wood. Wilkens began saying "I hate all white people" and then displayed the handgun. Wittman stated she didn't see the pistol at first until Wilkens raised his hand and then she noticed it. She did not know if he was holding the firearm the entire time or had pulled it out from an unknown location. Wood began saying "come on shoot me come on".

According to Wittman, Wilkens then began attempting to grab Wood's collar with his left hand while pointing the handgun in the general direction of Wood's head approximately eight to twelve inches from his head. Wittman did not know if Wilkens was intentionally pointing the gun at Wood's head. Wood began "cowering down" to avoid Wilkens. Wittman described the handgun as a black semi-automatic handgun. She stated she is not familiar with guns and the gun looked similar to a toy gun.

I asked Wittman how long Wilkens pointed the gun at Wood's head and she stated "less than thirty seconds". Wilkens let go of Wood and began walking back towards his apartment. Wood began walking after Wilkens. Wilkens told Wood to stay away from him and then went inside. According to Wittman, Wood continued pacing back and forth outside of Wilkens' apartment while continuing to call Wilkens names and racial slurs.

Wittman went back inside and heard two to three consecutive gunshots approximately one hour after Wilkens held the gun to Wood. Wittman did not look outside. Wittman stated she later heard Wood outside Wilkens' apartment yelling that he had a witness to the incident and that Wilkens was "going down".

I asked Wittman if Wilkens said anything to Wood while pointing the gun at him. She stated he first stated "I hate you" then quickly changed and

Ex. 3

**MARICOPA COUNTY  
CORRECTIONAL HEALTH  
SERVICES**

225 W. MADISON STREET  
PHOENIX, ARIZONA 85003

INPATIENT  
 OUTPATIENT  
 EMERGENCY DEPT.  
 AMBULATORY  
 WALK-IN  
 SCHEDULED  
 PORTABLE  
 OR

PT. ID.

Wilkins, Brian

7442993

311025

T12 A20

X-RAY REQUISITION									
DATE ORDERED	DATE TO BE TAKEN	INDICATION	DATE OF SERVICE					ICD-9-CM DIAG CODE	
7/23/08		ESLIP	7-25-08						
TECH	DIAG. RM #	14 X 17	11 X 14	10 X 12	8 X 10	7 X 17	RADIOLOGY NUMBER	MHP AUTHOR NO.	
							61505		
EXAMINATION REQUESTED							EXAMINATION PERFORMED		
① Hand xray							T12 AC SP M CP Dx & Rx		
TECHNOLOGIST'S COMMENTS / TIME OF EXAM: IS PATIENT PREGNANT? <input type="checkbox"/> YES <input type="checkbox"/> NO							PHYSICIAN SIGNATURE: <i>P. Wilkins</i>		

DO NOT WRITE BELOW THIS LINE: X-RAY DEPARTMENT USE ONLY

RADIOGRAPHIC REPORT

WILKINS, BRIAN

DOB: 03/10/1975

07/23/08

**RIGHT HAND X-RAY**

**FINDINGS:** Views of the right hand demonstrate a comminuted, slightly impacted fracture involving the distal shaft of the fifth metacarpal. Dorsal ulnar angulation is noted. Mild overlying soft tissue swelling is also seen. The remainder of the bony structures appear intact.

**IMPRESSION:** IMPACTED COMMUNUTED FRACTURE OF THE DISTAL END OF THE FIFTH METACARPAL.



ZANDRA S. NOCERA, M.D.

ZSN/sf 07/28/2008

DATE

RADIOLOGIST

Reviewed by  
Provider: *A*  
Date: *7/20/08*

THE PROCEDURE AS LISTED ABOVE, WHICH REQUIRES INTRAVENOUS CONTRAST, HAS BEEN EXPLAINED TO ME AND I UNDERSTAND THE RISK AND CONSENT TO HAVE THE PROCEDURE DONE.

SIGNATURE

DATE

**Hand 3 Or More Views Rt**

**WILKINS, BRIAN ALLEN - 1472388**

**\* Final Report \***

Result type: Hand 3 Or More Views Rt  
Result date: 28 June 2008 6:55 MST  
Result status: Auth (Verified)  
Result title: Hand 3 Or More Views Rt  
Performed By: MIAN, MD, FARUKH on 28 June 2008 11:36 MST  
Verified by: MIAN, MD, FARUKH on 28 June 2008 11:36 MST  
Encounter info: 64017296, BDMC, Emergency, 06/28/2008 - 06/28/2008

**\* Final Report \***

**Reason For Exam**  
pain

**Hand 3 Or More Views Rt**  
Comparison: None.

**Findings:**  
There is an angulated fracture at the head of the fifth metacarpal, consistent with a boxer's injury. There is no intra-articular extension. No additional fractures identified. Joint spaces are maintained.

**Impression:**  
Angulated boxer's fracture.

dg

**Signature Line**

Report \*\*\*\*\*

\*\*\*\*\* Final

Transcribed Date: 06/28/2008  
By: MIAN, MD, FARUKH  
Signature Date: 06/28/2008 :FM  
Electronically Signed

Interpreted

Printed by: Newbold, Nina  
Printed on: 02/24/2010 10:35 MST

Page 1 of 1  
(End of Report)



**Banner Health**

WILKINS, BRIAN ALLEN

03/10/1975 M 033Y

**EMERGENCY SERVICES CARE RECORD**

98  
DMC  
6/28/08

TIME TO EXAM ROOM	DISPOSITION OF VALUABLES ON ADMISSION:
-------------------	--

PHYSICIAN					
CALLED					
CONTACTED					
ARRIVED					

TIME	PHYSICIAN ORDERS	COMPLETED	ASSESSMENT EVALUATIONS PHYSICAL FINDINGS & TREATMENT
------	------------------	-----------	--

0635 ICB PACC  
 X-ray (R) hand <sup>with</sup>  
 standing orders T. Romero, RN, BSN

Volm sport vs hand  
 functional before

6/4/08

H & P DICTATED	DISPOSITION TIME	DISPOSITION TIME	FINAL DISPOSITION
FINAL DIAGNOSIS	ADMISSION	TRANSFER	<input type="checkbox"/> DISCHARGE
	TIME ADMITTING CALLED	TIME AMBULANCE CALLED	<input type="checkbox"/> ADMIT
	ROOM #	AMBULANCE #	<input type="checkbox"/> TRANSFER
DISPOSITION CONDITION:	TIME ROOM READY	TIME AMBULANCE ARRIVED	<input type="checkbox"/> DECEASED
<input type="checkbox"/> IMPROVED <input type="checkbox"/> SATISFACTORY <input type="checkbox"/> STABLE <input type="checkbox"/> UNSTABLE <input type="checkbox"/> EXPIRED			<input type="checkbox"/> AMA
			<input type="checkbox"/> LWT
			<input type="checkbox"/> OTHER

\_\_\_\_\_  
SIGNATURE OF ER PHYSICIAN

\_\_\_\_\_  
SIGNATURE OF ATTENDING PHYSICIAN

CAREGIVER SIGNATURE	
1.	2.
3.	4.



\*9162\* ED Reports



Ex. 4

myspace.com  
Please log in

Home Browse People Find Friends Local Music Video More

### Darby Noan's Comment Board

Listing 51-100 of 165

1 2 3 4 of 4

Previous Next

Add Comment  
Go to Darby Noan's Profile  
Print Comments

WebTV Search powered by Google

Log In Sign Up

Name

Comment

Ashley

Jul 27, 2008 9:32 PM

hey funny!! miss u! quite been going on

Net.net

Jul 22, 2008 12:43 AM

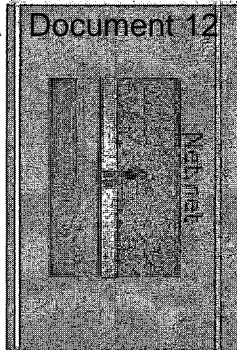
miss you stevie boy! heard you might head this way...be good to see you, but i still won't lay on top of you. at this point that might just kill ya! lol

Net.net

Jul 15, 2008 2:59 PM

miss you kid!!!





**JUL 22, 2008 12:44 AM**  
It's been well here. How's your weather? :-)

Tuesday, September 09, 2008

wanted to say...

I might be wrong I might not have a leg to stand on but I think of you not a day passes that I don't think fondly of the possibilities. I'm curious of your thoughts I worry about how you may be feeling the world's a lonely place I feel so isolated from my behavior but it was a wonderland in my mind just to fancy someone & try to be romantic, dreaming of something so pleasant whether the feelings were valid or just it was a beautiful scene. Thought I could stimulate the senses & pick you up, as usual, I was wrong, I feel so displaced & thought I could lean on something, but it wasn't there. I fell & it hurt, it still aches & makes me tear up, as it's aware, the radio plays the most appropriate songs to make me wince now I don't know if I want to find out how wrong I was, I don't want to make it worse, no use digging more & more & finding out how badly hurt I can get, I wish I could fix things, I always try too damn hard! this is a first for me, restraint of contact, it's killing me, a little slip up, but hopefully corrected it before damage was done, the unexplored, unsolved, tangled messes I make are so tempting, I pray for happiness & control every night & I'm starting to break down & accept what I have, the idea pops in my head to move back to the place where I can stay hidden & alone, so at least I feel I had a choice in the matter, from there I don't even have to see how happy everyone else's, now successful, tired of being the 3rd or 5th wheel, tired of being the downer, tired of being the sad sack that needs a babysitter & damage control. It's a sad existence, I press on & hold my head high enough to at least seem somewhat normal, only one person has made me try to control myself, of course I still get out of hand progressively, but the thought that at least I tried makes a difference to me, who knows what the future holds, maybe a turn around directly ahead, maybe I can be forgiven for my misplaced emotional outpouring, for now I think I'll stick to myself & write & dream, just to get me through, but my thoughts are with you, I'll try to keep the pain to myself.

10:08 PM 2 Comments (Add Comment) | 0 Kudos Translate

Saturday, August 02, 2008

Misplaced

At first I thought my friends had let me down, now I realize we've all just grown apart. The distance is unmistakable. I feel as though I'm a very misplaced fifth wheel or something now. As if they no longer speak my language. I know it's the separation because of my job, but everything happens for a reason. There's a reason for me never going to x-mas with them. There's a reason my ex & I had that one last fight at just the right time. There's a reason my timing was so impeccable in deciding I wanted more for myself & deserved better. There's a reason my friends & I have disconnected. I no longer feel I have "roots" here. I feel as though I've been stagnant too long & need to "go". I think I know my next step. I asked for signs & have received nothing but a push & a wink. Even if it's only on a dream & a prayer, I think this is something I need to do for myself & long overdue! Even if "better" is only worse for a while, I think it's time to find out. I may start rolling with plans soon. I need to do something to make my mind know I'm making an effort to improve my status. School would be a better option here because I'm a resident, but at what cost? what cost would I pay to stay instead of following such a strong gut instinct. I've learned over the years I should trust my instincts & this is so strong I taste it! hopefully soon, hopefully soon.

11:54 PM 1 Comments (Add Comment) | 0 Kudos Translate



Last Updated: 5/9/2009

Send Message  
Instant Message  
Email to a Friend  
Subscribe

Gender: Female  
Status: In a Relationship  
Age: 25  
Sign: Pisces  
City: TEMPE  
State: Arizona  
Country: US  
Signup Date: 12/8/2006



Spurred Links

**McDonnell for  
GOVERNOR**

Bold Solutions. Virginia Jobs.

Monday, January 25, 2009

I dream  
Current mood: [neutral](#)

I don't dream, when the mind is empty with no right ideas, I've already "feeling like I can't" set up. I'm looking for something, my mind is still remembering before saying, "the best" I have the memory, my mind is still  
I don't dream, when the mind is empty with no right ideas, I've already "feeling like I can't" set up. I'm looking for something, my mind is still remembering before saying, "the best" I have the memory, my mind is still  
I don't dream, when the mind is empty with no right ideas, I've already "feeling like I can't" set up. I'm looking for something, my mind is still remembering before saying, "the best" I have the memory, my mind is still

Saturday, January 10, 2009

dated, glazed & amazing  
Current mood: [awful](#)

you, you guessed wrong, this blog is not about drugs, no, it is written while on drugs, but I do feel pretty, intoxicated to say the least. I'm still riding my drunk, but really  
you, you guessed wrong, this blog is not about drugs, no, it is written while on drugs, but I do feel pretty, intoxicated to say the least. I'm still riding my drunk, but really  
you, you guessed wrong, this blog is not about drugs, no, it is written while on drugs, but I do feel pretty, intoxicated to say the least. I'm still riding my drunk, but really

208 AM 4 Comments (Add Comment) | 0 Kudos Transcribe



Ex. 5

**INSTRUCTIONS FOR PETITION FOR POST-CONVICTION RELIEF**

In order for this petition to receive consideration by the court, each applicable question must be answered fully but concisely in, legible handwriting or by typing. When necessary, an answer to a particular question may be completed on the reverse side of the page or on an additional blank page, making clear which question such continued answer refers.

Any false statement of fact made and sworn to under oath in this petition could serve as the basis for prosecution and conviction for perjury. Therefore, exercise care to assure that all answers are true and correct.

**NO ISSUE WHICH HAS ALREADY BEEN RAISED AND DECIDED ON APPEAL OR IN A PREVIOUS PETITION MAY BE USED AS A BASIS FOR THIS PETITION.**

**TAKE CARE TO INCLUDE EVERY GROUND FOR RELIEF WHICH IS KNOWN AND WHICH HAS NOT BEEN RAISED AND DECIDED PREVIOUSLY, SINCE FAILURE TO RAISE ANY SUCH GROUND IN THIS PETITION WILL BAR ITS BEING RAISED LATER.**

When the petition is complete, mail it to the clerk of the superior court of the county in which conviction occurred.

**FORM XXV. PETITION FOR POST-CONVICTION RELIEF**

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF \_\_\_\_\_

Name \_\_\_\_\_  
Address \_\_\_\_\_  
City, state, zip \_\_\_\_\_  
Phone number \_\_\_\_\_

I. \_\_\_\_\_ CR \_\_\_\_\_  
Petitioner's Name

\_\_\_\_\_  
Petitioner's prison number (if any)

II. Petitioner is now: A.  On Parole  
B.  On Probation  
C.  Confined in \_\_\_\_\_

III. (A) Petitioner was convicted of the following crimes:  
\_\_\_\_\_  
\_\_\_\_\_

(B) Petitioner was sentenced on : \_\_\_\_\_ following a  
 Trial by Jury  
 Trial by a Judge without a Jury  
 Plea of Guilty  
 Plea of No Contest  
in the \_\_\_\_\_ court for \_\_\_\_\_ County with  
Judge \_\_\_\_\_ presiding.

IV. Petitioner is eligible for relief because of:  
 The introduction at trial of evidence obtained pursuant to an unlawful arrest.  
 The introduction at trial of evidence obtained by an unconstitutional search and seizure.  
 The introduction at trial of an identification obtained in violation of constitutional rights.  
 The introduction at trial of a coerced confession.  
 The introduction at trial of a statement obtained in the absence of a lawyer at a time when representation is constitutionally required.

- ( ) Any other infringement of the right against self-incrimination.
  - ( ) The denial of the constitutional right to representation by a competent lawyer at every critical stage of the proceeding.
- ( ) The unconstitutional suppression of evidence by the state.
- ( ) The unconstitutional use by the state of perjured testimony.
- ( ) An unlawfully induced plea of guilty or no contest.
- ( ) Violation of the right not to be placed twice in jeopardy for the same offense.
  - ( ) The abridgement of any other right guaranteed by the constitution or the laws of this state, or the constitution of the United States, including a right that was not recognized as existing at the time of the trial if retrospective application of that right is required.
  - ( ) The existence of newly-discovered material which require the court to vacate the conviction or sentence. (Specify when petitioner learned of these facts for the first time, and show how they would have affected the trial.)
- ( ) The lack of jurisdiction of the court which entered the conviction or sentence.
  - ( ) The use by the state in determining sentence of a prior conviction obtained in violation of the United States or Arizona constitutions.
  - ( ) Sentence imposed other than in accordance with the sentencing procedures established by rule and statute.
  - ( ) Being held beyond the term of sentence or after parole or probation has been unlawfully revoked.
  - ( ) The failure of the judge at sentencing to advise petitioner of his right to appeal and the procedures for doing so.
  - ( ) The failure of petitioner's attorney to file a timely notice of appeal after being instructed to do so.
- ( ) The obstruction by state officials of the right to appeal.

( ) Any other ground within the scope of Rule 32 of the Arizona Rules of Criminal Procedure (please specify).

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V. The facts in support of the alleged error(s) upon which this petition is based are contained in Attachment A. (State facts clearly and fully; citations or discussions of authorities need not be included).

VI. Supporting Exhibits:

(A) The following exhibits are attached in support of the petition:

- ( ) Affidavits (Exhibit(s) # \_\_\_\_\_)
- ( ) Records (Exhibit(s) # \_\_\_\_\_)
- ( ) Other supporting evidence (Exhibit(s) # \_\_\_\_\_)

(B) No affidavits, records or other supporting evidence are attached because

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VII. Petitioner has taken the following actions to secure relief from his convictions or sentences:

(A) Direct Appeal: ( ) Yes ( ) No (If yes, name of the courts to which appeals were taken, date, number, and results.)

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(B) Previous Rule 32 Proceedings: ( ) Yes ( ) No (If yes, name the court in which such petitions were filed, dated, numbers, and results, including all appeals from decisions of such petitions.)

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