

November 14, 2008

The Honorable Scott J. Bloch
Special Counsel
C/O Tracy L. Biggs, Attorney, Disclosure Unit
U. S. Office of Special Counsel
1730 M Street, N.W. Suite 300
Washington, DC 20036-4505

Re: OSC File No. DI-08-0715
Whistleblower: Tamarah Grimes

Dear Mr. Bloch,

The whistleblower, Tamarah Grimes hereby submits her comments, including corroborating evidence and sworn testimony to the Office of Special Counsel in support of her initial disclosures from July 2007 and in rebuttal to the Report of Investigation (hereinafter referred to as "ROI") dated September 27, 2008.¹

For efficiency and convenience, whenever possible, Ms. Grimes cites the Investigative Record provided with the agency ROI, with excluded documents and additional documents provided as Exhibits "A" through "C".

Ms. Grimes avers that the facts alleged by the agency in the above referenced ROI raise significant questions regarding the credibility and integrity of the U.S. Department of Justice as a whole in this matter, particularly that of the First United States Attorney (hereinafter referred to as "FAUSA") Patricia Watson and the U.S. Attorney (hereinafter referred to as "USA") Leura Canary.

Clearly the ROI creates more controversy and raises more ethical and legal issues through its tangled web of numerous contradictions, mischaracterizations and misleading information. These issues include, but are not limited to the following:

¹ U.S. Department of Justice, Report of Investigation, DI-08-0715, dated September 27, 2008

In the Official Agency Response dated August 31, 2008, FAUSA Watson claims that a referral of Ms. Grimes to DOJ-OIG for criminal investigation was mandated under 28 C.F.R. §45.11 which provides, in pertinent part,

“Department of Justice employees have a duty to, and shall, report to the Department of Justice Office of the Inspector General, or to their supervisor or their component’s internal affairs office for referral to the Office of Inspector General...and Section 1-4.100(A) of the United States Attorney’s Manual which provides, “evidence and non-frivolous allegations of waste, fraud, abuse or other misconduct by Department employees, including contract employees, shall be reported to OIG.” (Emphasis added)

This is a remarkable admission in light of the fact that the agency failed to follow this alleged “mandate” in regard to its own conduct as discussed in the ROI:

- FAUSA Watson failed to perform as mandated in regard to reporting the inappropriate juror contact addressed in Issue One.²
- Both the USA and the FAUSA failed to perform as mandated in regard to reporting criminal arrest of a “favored” employee addressed in Issue Five.³

In contrast, Ms. Grimes faithfully fulfilled the “mandated” obligations under 28 C.F.R. §45.11, the United States Attorney’s Manual Section 1-4.100(A) and the *No Fear Act*. In retaliation for fulfillment of these “mandated” obligations, Ms. Grimes was singled out for a malicious and selective prosecution as described in Issue Six.⁴

Issue One: Whether prosecutors in *U.S. v. Siegelman* committed a violation of law, rule or regulation when they allegedly failed to disclose to the trial court improper contact with jurors to the criminal trial.

² This will be fully addressed in the discussion of Issue One.

³ This will be fully addressed in the discussion of Issue Five.

⁴ This will be fully addressed in the discussion of Issue Six.

A. Breach of Duty – Prosecutorial Misconduct by FAUSA Patricia Watson.

It is undisputed that the allegation of inappropriate jury misconduct originated from an e-mail communication between FAUSA Watson and Ms. Grimes dated June 15, 2006.⁵

The characterization of FAUSA Watson in the Official Written Reply dated August 31, 2008 as merely an “employee” is misleading.

- FAUSA Watson was the highest ranking non-appointed management official in the USAO-ALM.
- FAUSA Watson was subordinate only to the U.S. Attorney.
- FAUSA Watson held a position of great responsibility and authority within the Department of Justice, with supervisory authority over mid-level management of the USAO-ALM.

The ROI attempts to blur the issues through lofty rhetoric regarding the truth or falsity of the information, attendance at trial and other irrelevant issues.

It is undisputed that FAUSA Watson admitted to Ms. Grimes, in writing, that she had knowledge of inappropriate and unlawful contact between jurors and government employees during the trial of a high profile case. Whether or not the information was true or false is irrelevant. The facts are that FAUSA Watson stated, in writing, that she had knowledge of information vital to the integrity of the jury process and did not disclose that information to the Court. (See letter of the Honorable John Conyers, Jr., Congress of the United States, Chairman, Committee on the Judiciary, attached hereto as Exhibit “A”)

⁵ E-mail from Patricia Watson dated June 15, 2006

From that moment forward, no matter what else transpired FAUSA Watson's clearly stated knowledge of information vital to the integrity of the jury process triggered a duty to disclose this information to the Judge, who is the fact-finder, not FAUSA Watson. It is clear from the testimony provided by FAUSA Watson that she believed this information to be true at the time she related it to Ms. Grimes which triggered her mandatory legal duty to disclose the information to the Court. Instead of performing her mandatory duty, FAUSA Watson chose to disseminate the information as "gossip" through the government e-mail system.⁶

FAUSA Watson then makes the fanciful leap that the e-mail could have been altered to justify her inaction and the breach of her mandatory legal duty to disclose information regarding inappropriate juror contact, at the time she became aware of the information. Moreover, there is not a single shred of evidence that in any way corroborates or supports FAUSA Watson's claim that the e-mail may have been altered.

FAUSA Watson never made any effort to communicate a retraction to Ms. Grimes. FAUSA Watson's most recent claim that she later visited Ms. Grimes to "apologize" for rehashing the information is not true. Ms. Grimes's testimony regarding her conversations with FAUSA Watson has remained consistent:

Grimes testimony: "I asked Mrs. Watson about that. I said, you know, don't you have to report communication with a juror to the judge? Aren't you required to do that? And she said no, you know, not something like this. I said okay."

MULLINS (DOJ Investigator): "What leads you to believe that it's required to disclose the conversation to the Court?"⁷

.....

Grimes: "Through the marshal or through a note, either way, to me, that is clearly outside the boundary of what's acceptable, in my experience."⁸

⁶ Tab H, page H-1.

⁷ Tab T, Grimes Interview page 19, lines 5-18.

FAUSA Watson held four positions of “weighty responsibility and authority”, each position carried a separate and distinct duty to report the information to the Judge and to defense counsel.

- (i) Whether or not FAUSA Watson attended the trial is also irrelevant to the issue of disclosure. The relevant issue is that FAUSA Watson, as the highest ranking non-appointed management official of the USAO-ALM clearly claimed, in writing, to have information vital to the integrity of the jury process, but did not immediately disclose that information to the Judge and defense counsel.
- (ii) FAUSA Watson had a professional duty to “exercise the highest discretion, integrity and honor” at the time of learning of the incident and report the alleged inappropriate jury contact to the Judge and defense counsel.
- (iii) FAUSA Watson was also the Ethics Officer to the USAO-ALM. This position placed an ethical duty upon FAUSA Watson to “exercise the highest discretion, integrity and honor” at the time of learning of the incident and report the information to the Judge and defense counsel.
- (iv) As a licensed attorney and Officer of the Court, FAUSA Watson had a duty “exercise the highest discretion, integrity and honor” at the time of learning of the incident and report the information to the Judge and defense counsel.

It is clear from reading the document itself, that FAUSA Watson failed and/or refused to perform her mandatory duty under any of the four positions, but especially as the First

⁶ Tab T, Grimes interview, page 21, lines 11-15

Assistant United States Attorney and Ethics Officer for a component of the United States Department of Justice, both positions of “weighty responsibility and authority.”

B. Vallie Byrdson

It is undisputed by the agency that the allegation of inappropriate jury misconduct was corroborated by Vallie Byrdson to Ms. Grimes on several occasions. Mr. Byrdson admits dissemination of the information to Ms. Grimes, but now claims that he embellished the information for “entertainment value.” Like FAUSA Watson, Mr. Byrdson never made any effort to communicate a retraction to Ms. Grimes. Ms. Grimes’s first notice of Mr. Byrdson’s retraction was the Report of Investigation provided to the Office of Special Counsel by the agency. Ms. Grimes reasonably relied upon the information provided by Mr. Byrdson in making whistleblower disclosures to the Office of Special Counsel.

Mr. Byrdson was present at counsel table during every day of the trial. Mr. Byrdson specifically discussed instances of communications with Acting USA Louis Franklin, Assistant United States Attorney J.B. Perrine, Assistant United States Attorney Steve Feaga, FBI Agent Keith Baker and Supervisory Legal Assistant Debbie Shaw regarding the non-verbal communications with the juror which Mr. Byrdson referred to as “Flipper”, a gymnast who entertained the other jurors by performing backflips. Both Mr. Byrdson and FAUSA Watson independently described these communications to Ms. Grimes, including “passing notes through the Marshals” pertaining to FBI Keith Baker being “cute” and inquiring as to his marital status.

It seems incomprehensible that three independent witnesses⁹ described the same conduct, and acknowledged a generalized sense of amusement at the conduct. Again, Mr. Byrdson, like

⁹ Patricia Watson, Vallie Byrdson, Debbie Shaw

the others with knowledge of this incident, attempts to make light of a serious situation to cover the fact that no one took any action to report the conduct to the Judge as would seem reasonable and necessary under the circumstances.

C. Debbie Shaw

Debbie Shaw is Legal Assistant to Acting USA Louis Franklin. Like Mr. Byrdsong, Ms. Shaw was in Court every day for the Siegelman/Scrushy trial. Debbie Shaw made a report of the day's activities to FAUSA Watson and/or USA Canary every day, sometimes several times per day by telephone.¹⁰

For example, on one occasion, there was a verbal confrontation between USA Franklin and defense counsel in open Court. Both Ms. Grimes and Mrs. Crooks observed "recused" USA Canary to be frantically pacing in the Executive Suite, pleading with someone to get Debbie Shaw on the phone so that Ms. Shaw could "tell Louis he has to control his temper." This was not an isolated event. The main conduit for information and communication between "recused" USA Canary and USA Franklin was in fact Debbie Shaw and/or Patricia Watson.

Crooks Affidavit: "The legal supervisory assistant in the criminal division, Ms. Shaw, went to the courtroom every day. And I saw her in the front office later in the day, or earlier in the mornings, like she was giving someone an up front and close look at the happenings at the Courthouse. I thought it was like she was giving a "report" on the courtroom events."¹¹

D. Louis Franklin

At the time of the Judge's October 31, 2006 inquiry into other instances of potential juror misconduct as described in the Report of Investigation, Louis Franklin visited the Civil Division to converse with AUSA Rand Neeley. Mr. Neeley asked Mr. Franklin what his "take" was on

¹⁰ Crooks Affidavit, page 5

¹¹ Crooks, supra

the issue. Mr. Franklin responded that Debbie Shaw had spoken with the juror and further stated "[Redacted] is just scared. She is a just a kid and she is scared." This is the same juror who had given an interview to the local newspaper regarding her wish to meet with prosecutors to discuss a career in law.¹² This is the same juror identified as the gymnast, "Flipper." Prosecutors were quoted in the newspaper as stating their belief that there was nothing improper about meeting with the juror. Local Rules of Federal Procedure 47.1 prohibits any contact regarding the case with jurors at any time whatsoever without Court approval.

E. Juror

It defies all reason and logic to accept that this particular juror, by random chance, was also the juror whose conduct was at issue in the post-trial motions of juror misconduct filed by defendants for reasons which are not addressed in Ms. Grimes's complaints. It seems reasonable to assert that one particular juror affectionately nicknamed "Flipper" by the prosecution, involved in numerous incidents of apparent inappropriate juror conduct as openly discussed by numerous witnesses, including FAUSA Watson and the Acting USA Franklin, is sufficient to warrant a full and thorough investigation by the appropriate oversight agency. After all, Ms. Grimes was referred to DOJ-OIG for criminal investigation on much less.

The issue of whether or not the well known conduct was ex parte or de minimus is a question of fact for the Judge. In the agency ROI, the agency Investigator, Mr. Mullins addressed the various issues, theories and case law surrounding the issue of whether this conduct was ex parte or de minimus. The decision as to whether this conduct was ex parte or de minimus, lies solely

¹² Exhibit A, Letter from the Honorable John Conyers, Jr., fn 7

in the hands of the Court, not an agency investigator seeking to minimize the conduct of the agency.

The fact remains undisputed that numerous agency employees of the U.S. Attorney's Office and the FBI were aware of, and generally amused by potential jury misconduct, yet no one disclosed these incidents to the Judge or defense counsel as legally required.

Issue Two: Whether management officials in the MDAL committed gross mismanagement, or a gross waste of funds, by allegedly causing the government to incur unnecessarily the salary, per diem, and travel expenses for a contract employee who was hired to assist in the trial of *U.S. v. Siegelman*.

The Affidavit of Elizabeth J. Crooks, and attached resume corroborate and support Ms. Grimes's disclosure that management officials in the MDAL committed fraud, waste, abuse, gross waste of funds and gross mismanagement by causing the government to incur unnecessarily the salary, per diem, and travel expenses for a contract employee who was hired to assist in the trial of *U.S. v. Siegelman*.

From October 2002 through June 2007, there were at all times two seasoned, professional paralegals, with trial experience, on staff at the USAO-ALM, both possessed the technical skill, litigation support training and had available time to perform the duties for which the contractor was retained.

FAUSA Watson's testimony: "Contrary to the allegations, no other employee at the USAO could have performed the required tasks to the level that the contract employee performed them."¹³

"Ms. Crooks, a legal assistant, did not possess the necessary skills to perform the functions assigned to the contract employee. Nonetheless, Ms. Crooks could never have

¹³ Tab K, Official agency reply, page K-07

performed the necessary functions of her job while at the offsite, and the USAO would have suffered as a consequence."¹⁴

"Even if support staff could have assisted on the project on a short term basis, they could not have been spared from the USAO for a period of several years, as would have been required."¹⁵

Crooks testimony: "I had the training and the experience to serve as Paralegal or Legal Assistant in any capacity for the U.S. Attorney's Office, but instead of the management using me in that capacity, they chose to use me as a newspaper clipper. To clip any articles containing any information regarding Governor Siegelman, and anything related to that."¹⁶

.....

"I had been employed for several years, by one of the largest international law firms in our country, Akin and Gump, as a Paralegal and I was very familiar with large voluminous cases.¹⁷ I worked with the program Summation, and I actually had trial experience, and worked on several very large cases for the firm. One of those cases involved a company as large as Samsung and over three of our large international offices worked together on this massive case. I was a member of the "Samsung Trial Team."¹⁸

.....

"Shortly after I started working in the U. S. Attorney's office, I was sent for a one day training to Birmingham, Alabama. This training was to give me an update on Summation. I was excited, because I thought that maybe I would actually get to use my skills in Summation to help the office."¹⁹

.....

"I was once again told by Ms. Weller [previous FAUSA]²⁰ that she was so happy that I knew summation and could assist on the large case presently being investigated. I did work on this case for a short time, assisting with some subpoenas and assisted in drafting Indictments for some of the co-Defendants involved."²¹

"When I left the United States Attorney's Office, in MDAL, my supervisor, Patricia Watson, gave me an apology that she was sorry that they hadn't used me to my capacity. For almost five years, I didn't get to use my skills as a legal assistant or paralegal in either capacity."²²

Grimes interview: "...It could have been done by Janie Crooks.²³ It could have been done by Natalie or Glenna²⁴ You know, you have me, a person who is a GS-12. And I'm sitting here at the office doing nothing. Does it seem beneficial that, you know, I would be here doing

¹⁴ Tab K, Official agency reply, page K-09

¹⁵ Tab K, Official agency reply, page K-06

¹⁶ Crooks Affidavit, pages 1-2

¹⁷ Crooks Resume, attached to Crooks affidavit

¹⁸ Crooks Affidavit, page 2

¹⁹ Crooks, supra

²⁰ Patricia Watson assumed the duties of FAUSA in early 2004.

²¹ Crooks, supra

²² Crooks Affidavit, page 5

²³ Crooks Affidavit

²⁴ Natalie Seagers and Glenna Ryals are no longer in federal service

nothing, getting a GS-12 pay, and, yet they're paying for a contractor to do something I could do?"²⁵

Although FAUSA Watson was not employed with the USAO-ALM in March, 2002, she describes the need for assistance on the Siegelman/Scrushy case as follows:

FAUSA Watson: "As early as March 2002, it was apparent that, because of the large volume of material, staffing assistance would be absolutely necessary."²⁶

Byrdsong statement: [Assignment to the case] "It would have been, I guess, late 2002, early – late 2002."²⁷

Crooks testimony: "...because they had a large case that I was needed for, and because I had experience with Summation. I would be put to work on the large case involving the ex-Governor. This was in late September, 2002, and I started my employment on October 20, 2002 after my security clearance had been completed."²⁸

Clearly, Ms. Crooks was hired to fill the position held by the contractor but was never allowed to do so. Moreover, the contract employee performed basic litigation support and paralegal services including database management, not high level IT programming.

The ROI discusses the contractor's background in economics and computer programming. This is irrelevant to the issue of whether the expense of contractor's services were incurred unnecessarily by management of the MDAL. In other words, even if the contractor had a PhD in Rocket Science, that fact is not relevant to the issue of fraud, waste, abuse, gross waste of funds and gross mismanagement, and causing the government to incur unnecessarily the salary, per diem, and travel expenses for the contract employee if Rocket Science is not required to fulfill the duties of the position.

²⁵ Tab T, Grimes interview, page 45, lines 2-4; lines 13-20

²⁶ Tab K, page K-06

²⁷ Tab S, Byrdsong statement page 3, lines 9-10

²⁸ Crooks Affidavit, page 1

On the other hand, the well established fact that there were two highly qualified, skilled paralegals with trial experience and litigation support experience cutting newspaper articles and doing nothing is highly relevant to the issue.

It is undisputed that the contractor had no trial experience at all. In fact, to any experienced member of a trial team, the duties described by the contractor as being performed during the trial, are clearly low level Legal Assistant duties which *could* have been performed by Debbie Shaw, who was the supervisory Legal Assistant for the Criminal Division in the MDAL. It is undisputed that Ms. Shaw attended trial every day²⁹, was out of the office for more than a month and yet the Criminal Division continued to function normally, without disruption. Ms. Shaw's sole responsibility in attending the trial every day appears to have been to observe the proceedings, then make the daily report of the proceedings to USA Canary and/or FAUSA Watson.³⁰

Byrdsong Interview: "My role was to, as further orders we had, I would put together folders with the evidence that we wanted to use with them, and I would be on hand to grab - I had the database with me in court and a printer we dragged in there. If we wanted - if we were on cross and wanted to mark new exhibits, I would produce those. I would give them both [Perrine and Feaga] any of the documents they needed for a given witness... The night before I would organize any copies that needed to be done for new exhibits and organize folders for the next day."³¹

In one communication FAUSA Watson makes sweeping statements about the duties and expertise of the contractor in computer language and programming, but her sworn testimony conflicts with her original statement. Certainly, the contractor's testimony conflicts with FAUSA Watson's fanciful description of the high level duties performed by the contractor which

²⁹ Tab U, Shaw Interview, page 4, lines 16-18

³⁰ Crooks Affidavit, page 5

³¹ Tab S, Byrdsong Interview, page 14, lines 1-9, 11-15

“no other employee at the USAO could have performed ..to the level the contract employee performed them.”

FAUSA Watson: “He [the contractor] also wrote and developed specialized and sophisticated programs to conduct specialized searches of the evidence databases he created. To render the documents readily accessible the contract employee devised a system of filing and cataloging protocols for evidentiary documents, discovery materials and subpoenaed records. In short, the contract employee effectively digitized, and organized a voluminous amount of records to insure that documents needed by the prosecutors and investigators could be easily identified and accessed.”³²

.....

“I had no idea which software the contract employee was using. I had no idea which software Ms. Grimes prefers. I have never been to the offsite and at no time worked directly on the case. All Ms. Grimes was asked to do was to learn the contract employee’s methods, program and system of record-keeping so that she could take over for him..”³³

Although the contractor’s computer language and programming skill is widely lauded as essential to the case, the facts are that Summation is a pre-packaged integrated trial preparation and presentation software sold for the purpose of database management. No programming skill is necessary. No knowledge of computer language is necessary. It is basic litigation support 101: create a database, scan the document, save the document to the database for later use as necessary. The search function is native to Summation software. There is no need to develop “specialized and sophisticated programs to search” as claimed by FAUSA Watson. Even the contractor acknowledged the rationale of having someone from the USAO “take the lead” on the litigation support work:

Byrdsong Interview: “...I was also told when she [Grimes] was brought on, that she had some knowledge of some of the programs...So my thought was, they were maybe thinking about maybe phasing me out a little bit and bringing Tami in, to sort of have her be the main person.

³² Tab K, Official Agency Reply, page K-07

³³ Tab V, Watson Affidavit, page V-06

That made sense to me because I assumed they might want someone from their office to sort of be the lead on the thing."³⁴

Once all the self serving rhetoric is peeled away, the bottom line is that management officials of the United States Attorney's Office for the Middle District of Alabama needlessly and wastefully obtained and expended a significant sum of federal funding to hire, retain and support a very expensive male IT specialist, with no trial experience, to perform basic paralegal and litigation support functions which could easily have been performed by two experienced female paralegals during the period from October 2002 through June 2007.

It is also interesting that the contractor testified that he returned home at one point in 2004 and took another job, only to be returned to the MDAL at the request of prosecutors J.B. Perrine and Steve Feaga.

Byrdsong testimony: "Well, at one point, I decided I wanted to go home.³⁵ I got a new position as a result of being down there. I was allowed to go back to my home office in Washington DC. And they sent two contractors to replace me³⁶. After a couple of weeks, it was decided that they wanted me back, and they put in a request to have me back...I came back down. They told me that they were going to start the grand jury, with the final goal of going to trial. So that's what I began working on."³⁷

Issue Three: Whether management officials in the MDAL committed a violation of law, rule, or regulation when the allegedly improperly used victim impact funds to pay for a federal contractor's transportation and per diem expenses to attend the sentencing of defendants in *U.S. v. Siegelman*.

As fully discussed in Issue Two, Ms. Grimes disclosed management officials in the MDAL committed gross mismanagement, by expending a gross waste of funds incurring the unnecessary salary, per diem and travel expenses for contract employee who was hired to perform litigation support and paralegal services when several full time federal employees of the

³⁴ Tab S, Byrdsong interview, page 10, lines 17-25

³⁵ In 2004, Tab S, Byrdsong interview, page 6, lines 17-21 (Both Crooks and Grimes were available at this time)

³⁶ The replacement contractors were female. Tab U, Shaw interview, page 16, lines 13-18

³⁷ Tab S, Byrdsong interview, page 3, lines 20-25, page 4, lines 1, 10-13

MDAL were capable and willing to perform those services with no additional expense to the government or detriment to the overall function of the USAO-MDAL.

The contractor admits that he returned to Alabama for the sentencing.

Byrdsong statement: "I was subpoenaed to go down to Alabama in regards to the sentencing of Don Siegelman and Richard Scrushy....My understanding is and what I was told, is they wanted me available to testify, specifically I understood my role to be any issue that came up regarding the evidence in this case, evidentiary matters that came up also in discovery because, again, even at that point, I was still the only person who was familiar enough with the evidence to talk about it thoroughly in court right on the spot....I think my presence there was kind of a safety blanket, you know.....I don't remember the expression he [AUSA Feaga] used..maybe he said, hip, ankle, pull me out of the ankle holster, something like that."³⁸

The contractor was never called as a witness.³⁹ Although the contractor clearly told Ms. Grimes during a conversation on July 27, 2007 that his expenses were being paid through Victim-Witness funds, the contractor never submitted his expenses to the MDAL for reimbursement. Instead, the contractor deducted the expenses on his 2007 income tax return as "unreimbursed employee expense."⁴⁰ It is undisputed that the contract was over in 2007 and any funds paid for the contractor's return would have come from Victim-Witness funds, which is consistent with the discussion related by Ms. Grimes in her initial disclosure in July 2007.⁴¹

Issue Four: Whether management officials in the MDAL committed an abuse of authority when they allegedly obstructed an investigation by the Department of Justice's Office of Professional Responsibility.

Ms. Grimes filed two separate complaints with the Office of Professional Responsibility (hereinafter referred to as "OPR") regarding this claim, neither of which was acknowledged by OPR.

³⁸ Tab S, Byrdsong Interview, page 28, lines 16-20, 23-25; page 29, lines 1-5, 18-19, 21-23

³⁹ Tab S, supra, page 30, lines 12-14

⁴⁰ Tab S, supra, page 31, lines 1-25; page 32 lines 1-15.

⁴¹ Tab U, Shaw Interview, page 20, lines 19-25; page 21, lines 1-25; page 22, lines 1-25; page 23, lines 1-24

In the Official Agency Response dated August 31, 2008, FAUSA Watson claims that a referral of Ms. Grimes to DOJ-OIG for criminal investigation was mandated under 28 C.F.R. §45.11 which provides, in pertinent part,

“Department of Justice employees have a duty to, and shall, report to the Department of Justice Office of the Inspector General, or to their supervisor or their component’s internal affairs office for referral to the Office of Inspector General...and Section 1-4.100(A) of the United States Attorney’s Manual which provides, “evidence and non-frivolous allegations of waste, fraud, abuse or other misconduct by Department employees, including contract employees, shall be reported to OIG.” (Emphasis added)

This is a remarkable admission in light of the fact that the agency failed to follow this alleged “mandate” in regard to its own conduct in regard to this issue.

FAUSA Watson functioned as both Civil Chief and First Assistant United States Attorney at the time of the arrest of the employee in question. FAUSA Watson had direct supervisory authority over the AUSA in question. FAUSA Watson was subordinate only to the U.S. Attorney herself. FAUSA Watson admitted that she elected not to refer the employee, and Assistant United States Attorney, who had been arrested for public intoxication to OPR for investigation:

Watson testimony: “It is true that I did not refer to OPR a matter that occurred, involving an employee while he was in another state....It was my understanding that the matter was not one that needed to be referred to OPR as it was not ‘serious misconduct by [a Department attorney] that relate[d] to the exercise of [his] authority to investigate, litigate or provide legal advice.’ I did not include the lunging incident...”⁴²

The employee in question is an Assistant United States Attorney who was arrested for public intoxication while on official government business in California, yet that is not considered to be “serious misconduct” worthy of a referral for investigation by DOJ-OIG? If it is mandatory, as FAUSA Watson claimed, this was not a judgment call. FAUSA Watson attempts

⁴² Tab K, Official Agency Reply, page K-13

to avoid the fact that the referral was not made as "mandated" by blurring the lines between the jurisdictions of OIG versus OPR. Clearly, a criminal arrest is a criminal matter which triggers the alleged "mandatory" referral process.

According to FAUSA Watson's statements to Ms. Grimes, the same employee "lunged" at her across the desk when she tried to counsel him, yet that is not considered to be "serious misconduct" worthy of a referral for investigation?

These incidents are by far more serious than FAUSA Watson's purely subjective fanciful leap, while enjoying a period of "socialization" at the Embassy Suites Hotel, that Ms. Grimes "may" or "may have" possibly tape recorded grand jury material or sensitive law enforcement information and disseminated it outside the agency.

What separates the two is simple. The Assistant United States Attorney in question had made no Whistleblower disclosures. The Assistant United States Attorney had not engaged in protected activity. Ms. Grimes had.

It certainly seems fair to suggest that the evidence presented herein sufficiently illustrates FAUSA Watson's penchant for gossip, along with a tendency to engage in fanciful leaps of the imagination. It is also fair to conclude from her own testimony that FAUSA Watson's judgment and credibility are at best questionable.

An excellent example of FAUSA Watson's judgment and credibility can be observed in her sworn testimony in Ms. Grimes's EEO matter.

At the urging of GCO representative, Benjamin May, FAUSA Watson testified under oath in the EEO proceeding, describing the incredible basis for her sworn testimony that she felt

Ms. Grimes was “untruthful.” What followed was an inexplicably personal and emotional discourse of irrelevant subjective and immaterial perceptions regarding the age and protected health information of Ms. Grimes’s child⁴³, private and personal details of Ms. Grimes’s personal life and even the license plate on her vehicle.

WATSON: “...I was very open and I had had two prior marriages, and we talked about those. And never once did she tell me that she had been married two times. Not just once before. Those are the kinds of things that I’m talking about.”⁴⁴

“Also, I learned that she had never even taken any courses at Auburn University although she has a Auburn University tag on her car.” (Watson, 2008)⁴⁵

This the testimony of the First Assistant United States Attorney for the Middle District of Alabama, the highest ranking non-appointed management official in the USAO-ALM, subordinate only to the U.S. Attorney.

FAUSA Watson described having developed this information as having been developed in “preparation” for her EEO interview and attributes this information as “evidence” that Ms. Grimes was untruthful.

Ms. Grimes had no affirmative duty to “mention” or share details of her personal life to her supervisor, FAUSA Watson.

Moreover, under federal law, Ms. Grimes has a right to privacy in regard to parental status and the protected health information of her child, as well as a statutory right to privacy in regard to information contained in her SF-86, Background Security Questionnaire as guaranteed by the *Privacy Act*.

⁴³ This information is not disclosed herein to protect the privacy of Ms. Grimes’s child.

⁴⁴ This information is contained in only one place – Ms. Grimes’s SF-86 (Background Questionnaire) which is protected by the Privacy Act. FAUSA Watson has no right whatsoever to publish that information in the context of an EEO investigation.

⁴⁵ How is the license plate selected for a vehicle relevant to veracity? Under Alabama law, vanity license plates are available to any registered vehicle owner upon request and payment of applicable taxes and fees.

The license plate on Ms. Grimes's automobile is current and lawfully obtained in accordance with the laws of the State of Alabama. A license plate is not a disclosure of any other fact, nor is it intended to be.

WATSON: "And so it shocked me to find out afterwards while I'm pulling documents together for purposes of these proceedings..." (Watson, 2008)

Ms. Grimes was shocked to learn of FAUSA Watson's obsessive and excessive interest in her personal life and expressed alarm when she learned of FAUSA Watson's unwarranted and unauthorized investigation into her SF-86 background security information and inappropriate dissemination of that information in an administrative proceeding.

From Ms. Grimes's perspective, the nature of her "relationship" with FAUSA Watson has always been that of supervisor-subordinate, including the occasions upon which FAUSA Watson required Ms. Grimes to babysit her children. At no time whatsoever, would Ms. Grimes characterize her relationship with FAUSA Watson as any sort of "friendship."

While FAUSA Watson's convenient re-characterization of the relationship between herself and Complaint as a "friendship" may represent a tidy explanation for the record because of her demands that Complainant babysit her children, it has no basis in fact for this allegation.

It is noteworthy that FAUSA Watson very clearly disseminated personal and private information violative of Ms. Grimes's right to privacy under the *Privacy Act*, in a frivolous and unsuccessful attempt to discredit Ms. Grimes. After her failed attempts to discredit Ms. Grimes with factual information, FAUSA Watson resorted to the dissemination of personal family matters from Ms. Grimes confidential background investigation files. FAUSA Watson continues to enjoy a *Top Secret Security* clearance while Ms. Grimes's security clearance has been revoked

based upon an unwarranted criminal investigation instigated by FAUSA Watson whose credibility is, based on the foregoing, at best, questionable.

For all its indications, perceptions and supposition, the "evidence" regarding the facts and circumstances surrounding Issue Four comes down to the word of Patricia Watson, whom Mr. Leiner "felt..was working hand-in-hand with USA Canary on the matter and that she [Canary] supported FAUSA Watson regarding the investigation."⁴⁶

Issue Five: Whether management officials in the MDAL committed a violation of law, rule, or regulation, or an abuse of authority, when they allegedly improperly initiated a criminal investigation of paralegal Tamarah Grimes in retaliation for participation in protected activity.

A. **"Protected Activity"** The DOJ ROI mischaracterizes filings with the Equal Employment Opportunity Staff of the Department of Justice as "multiple discrimination complaints" is inaccurate and misleading.⁴⁷ The filings are in fact, multiple complaints of **retaliation** and **hostile work environment**, including the unwarranted referral of Ms. Grimes to DOJ-OIG for criminal investigation as an act of reprisal.⁴⁸

After learning of Ms. Grimes's whistleblower activity involving the reported inappropriate juror contact, FAUSA Watson used the power and influence associated with her position to harm Ms. Grimes's professional career in retaliation for her disclosures.

On November 1, 2007, while engaged in an active EEO mediation, FAUSA Watson, USA Canary, the agency GCO representative Fred Menner⁴⁹, and the agency EEO mediator, Sharon

⁴⁶ Tab P, Page P-1

⁴⁷ Report of Investigation p.

⁴⁸ Issues Accepted for Investigation by the agency EEO Office staff

⁴⁹ An Assistant United States Attorney on detail to GCO from the USAO in Baton Rouge, Louisiana.

Stokes met in the lobby of the Embassy Suites Hotel for a period of "socialization" and to discuss the mediation proceedings.

According to an affidavit FAUSA Watson provided to OIG, she suggested to the entire group, including USA Canary that she was "concerned" that "maybe" Ms. Grimes had recorded Grand Jury information or other sensitive law enforcement information while working on the Siegelman/Scrushy case and "may have" disclosed it to someone outside the agency. There was no basis in law or in fact for FAUSA Watson's statement to the group.

Based upon FAUSA Watson's claim, Ms. Grimes was subsequently referred to DOJ-OIG for criminal investigation on the basis of "unlawful dissemination of sensitive law enforcement information" and accused of surreptitiously making tape recordings of her co-workers. Again, there was no basis in law or in fact for this charge.

On March 19, 2008 DOJ-OIG Special Agent Ronald S. Gossard approached the Assistant United States Attorney Melvin Hyde of the United States Attorney's Office for the Middle District of Georgia in Columbus, Georgia seeking an indictment of Ms. Grimes. The proposed indictment was declined due to the possibility that "a U.S. District Court Judge would rule that the statements Grimes made during the mediation were protected under the Confidentiality Statute, 18 U.S.C. §574."⁵⁰

On May 16, 2008, DOJ-OIG Special Agent Ronald S. Gossard and his supervisor, DOJ-OIG Assistant Special Agent in Charge, Eddie Davis once again approached Assistant United States Attorney Melvin Hyde, and his supervisor, Criminal Chief Sharon Ratley at the main office of the U.S. Attorney's Office for the Middle District of Georgia in Macon, Georgia in a second

⁵⁰ Tab Q8, page Q-075

attempt to secure an indictment against Ms. Grimes. Again, federal prosecutors in the MDGA declined to prosecute Ms. Grimes for lack of prosecutorial merit.⁵¹

On June 12, 2008, without any substantive or objective evidence whatsoever, DOJ-OIG issued a Report of Investigation⁵² which concluded:

- “Although no evidence was developed to conclude that Grimes actually recorded any conversations of her co-workers⁵³, she did inform Stokes during the mediation that she had made audio recordings supporting her EEO complaints.⁵⁴ Therefore Grimes made a false statement about the existence of audio recordings to either Stokes during the mediation, or in the letters and e-mail she forwarded to the OIG and EOUSA denying the existence of any tape recordings.⁵⁵ Additionally, Grimes made a false statement when interviewed by the OIG by denying she told Stokes about the existence of the audio recordings during the mediation proceeding.⁵⁶
- Grimes informed Stokes that she released the audio recordings to her attorney. Therefore, Grimes made a false statement to Stokes based on Boudreaux’s statement that Grimes did not release any audio recording to him. In addition, Grimes made a false statement during her OIG interview by denying she told Stokes that she released the audio recordings to her attorney.⁵⁷
- Grimes made a false statement to the OIG by stating that she provided Boudreaux with a copy of her written recordings or notes based on Boudreaux’s statement⁵⁸ that she did not give him any written material.⁵⁹

Based upon the conclusions of the June 12, 2008 OIG Report of Investigation, Ms. Grimes’s security clearance was revoked by DOJ.⁶⁰

⁵¹ Tab Q8, page Q-076

⁵² Tab Q, page Q-009

⁵³ Grimes consistently denied any misconduct or wrongdoing whatsoever. There is no basis in fact or in law to support this conclusion. There is no objective or substantive evidence to support this conclusion.

⁵⁴ Note the alleged context is “supporting her EEO complaints”, not sensitive law enforcement or Grand Jury material.

⁵⁵ Grimes consistently denied any misconduct or wrongdoing whatsoever. There is no basis in fact or in law to support this conclusion. There is no objective or substantive evidence to support this conclusion.

⁵⁶ Affidavit of Stokes (Tab Q3) states, “I do not recall if the word “tapes” was a direct quote by Grimes or if I used it according to my understanding of what she was telling me...It was my impression, and I *believe* ...I *believe* the words “tapes” and/or “tape recordings” were used during my conversation with Grimes.”

⁵⁷ Supra, see footnotes 20-21.

⁵⁸ Mr. Boudreaux offered no testimony of OIG. Mr. Boudreaux’s sworn affidavit was excluded from the agency record. Mr. Boudreaux’s affidavit is attached hereto as Exhibit “C”

⁵⁹ Tab Q, OIG Report conclusions, page Q-009

⁶⁰ Tab I, page I-1

Excluded from the record is the only sworn testimony of Ms. Grimes's former attorney, J. Scott Boudreaux which refutes the OIG report. Mr. Boudreaux no longer represents Ms. Grimes due to his status as a witness in this matter.

Boudreaux testimony: "Prior to this Declaration, I have no sworn testimony to anyone in regarding to my representation of Tamarah Grimes.... The subjective conclusions attributed to my "statements" and "interview" by Mr. Ronald Gossard are erroneous. I did not give a statement or an interview to Mr. Gossard. I spoke with Mr. Gossard by telephone on two occasions. I was purposefully vague with Mr. Gossard to protect my right to attorney-client privilege. I am not a federal employee. Unlike Ms. Grimes, I cannot be compelled to testify under threat of termination. I declined Mr. Gossard's request for an Affidavit against my own client. Mr. Gossard's approach to me was belligerent, accusatory and offensive. In the first conversation, Mr. Gossard threatened me with a subpoena to obtain "tapes" which both my client and I advised Mr. Gossard did not exist. When I told Mr. Gossard that I did not have any "tapes," he accused me of misconduct without any basis whatsoever.....Ms. Grimes's testimony regarding information and notes provided to me regarding the EEO matter is truthful....At no time whatsoever, did I have possession of, knowledge of, or any discussion of "tapes" prior to December 17, 2007 when Ms. Grimes was contacted by Mr. Gossard and advised that she was the subject of a criminal investigation into "tape recording an AUSA. I have no independent information regarding "tapes" other than what was communicated to me on December 17, 2007. I have no other information on this matter. Thus, Mr. Gossard's assertion that Ms. Grimes was untruthful with regard to documents is incorrect." ⁶¹

Mr. Boudreaux also pointed out the inconsistency in the case number for the DOJ-OIG report and the agency's hard charging but baseless efforts to discredit Ms. Grimes and malign her character.

Boudreaux testimony: "It is clear to me from viewing the cover page of the Office of Inspector General, United States Department of Justice Report of Investigation Case Number 2008-000904, that this case was opened well after Mr. Gossard contacted my client on December 17, 2007 to threaten her with criminal prosecution based upon "tape recording an AUSA." It appears that Ms. Grimes's case was number 904 opened in the calendar year 2008....A more contemporary inquiry might be: who or what could motivate Mr. Gossard to contact my client on December 17, 2007 and make these accusations to her? Who or what could motivate Mr. Gossard to doggedly pursue a criminal investigation of Ms. Grimes for 6 months after the so called "mediation" of her EEO claims with no objective evidence of wrongdoing? Who or what could motivate the Office of the Director of the Executive Office for United States Attorneys to forward a 10 page very personal, scathing character assassination of my client based upon no objective evidence whatsoever?"⁶²

⁶¹ Affidavit of J. Scott Boudreaux, Attorney at Law

⁶² Affidavit of J. Scott Boudreaux, Attorney at Law

It is also undisputed that FAUSA Watson and USA Canary were the highest ranking federal government officials present for the period of “socialization” at the Embassy Suites on the evening of November 1, 2007. The agency’s claim that neither FAUSA nor USA Canary “made the referral or pushed for it” is inconsistent with sworn testimony provided by FAUSA Watson in various investigative proceedings surrounding this issue.⁶³

The evidence has shown that FAUSA Watson played a significant role in the referral of Ms. Grimes to DOJ-OIG for criminal investigation and that USA Canary was present, was aware and expressed no opposition to the unwarranted referral.⁶⁴ It is noted that the person alleged to have made the referral, Office of General Counsel representative, Fred Menner was apparently not interviewed for the agency response. Certainly, to any reasonable person, Mr. Menner’s testimony is a key factor in the agency’s response, yet it is not included in the report. Neither the DOJ-OIG investigating agent, nor his supervisor were interviewed, although both took an active role in the unwarranted DOJ-OIG investigation of Ms. Grimes. Clearly, these federal employees have valuable insight into the facts and circumstances surrounding the referral.

Ms. Grimes security clearance was subsequently revoked based upon the June 12, 2008 OIG Report which had no substantive basis in fact or in law.

Ms. Grimes has been notified of a recommendation that she be removed from federal service on the basis of the OIG Report, which is not supported by any objective evidence.

Moreover, the agency Report of Investigation is a few facts short of a full recitation of the evidence.

⁶³ Tab Q1

⁶⁴ Tab Q2

- Ms. Grimes had a right to confidentiality in discussions with the mediator under the standard agency Mediation Agreement.⁶⁵
- The context of the decision having been made during a period of “socialization” at the Embassy Suites Hotel during an active mediation is excluded from the ROI.
- The referral was made with the implicit and explicit blessing of the U.S. Attorney and the First Assistant U.S. Attorney, who was present at the time the decision was made.

The evidence is far from clear that management officials did not make the referral to OIG which resulted in the criminal investigation. While the technical mechanism of the referral may have been through GCO, it is undisputed that the decision was made over a period of “socialization” at the Embassy Suites, on the evening of November 1, 2007.

Conclusion:

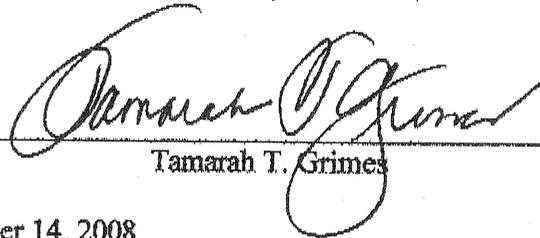
The ROI is predicated upon a blanket denial, a general statement that “there was no violation of law, rule or regulation..” As Ms. Grimes’s response has shown, this is inconsistent with the sworn testimony and evidence in this matter. In fact, the evidence and testimony provided herein not only support the initial disclosure information, but reveal the substantial likelihood of additional violations of law, rule or regulation, gross mismanagement, abuse of authority and other instances of serious misconduct which may have occurred during the purported investigation.

Moreover, it is Ms. Grimes’s position that the integrity of the purported investigation has been irrevocably compromised by a carefully orchestrated effort to support the predetermined finding that there had been no violations of law, rule or regulation. Perhaps the most disturbing aspect of this continued policy is the fact that the ROI omits testimony from key eyewitnesses or

⁶⁵ Tab Q6

includes witnesses whose testimony can be easily rebutted or assailed by documentation produced by the agency.⁶⁶

Respectfully submitted,



Tamarah T. Grimes

DATED: November 14, 2008

⁶⁶ Discussed at length in Issue Four.

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November 7, 2008

The Honorable Michael B. Mukasey
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear Mr. Attorney General:

We write to transmit certain information received from a Department of Justice whistleblower. This information relates to the prosecution of former Alabama Governor Don Siegelman and his codefendant Richard Scrushy, and appears relevant to the investigation of the Siegelman matter currently underway at our request by the Department's Office of Professional Responsibility.¹ This information, including the attached documents, raises serious questions regarding possible misconduct by the Siegelman prosecution team, including the apparent failure to disclose to the Court or to defense counsel communications received from one or more members of the Siegelman jury while the trial was underway, and also the failure of United States Attorney Laura Canary to fully honor her recusal from this case.

We are recently informed that this whistleblower now fears workplace retaliation and the possible loss of her job. Accordingly, we believe it important that you and those responsible for these matters have all the relevant facts.

¹See May 5, 2008, Letter from H. Marshall Jarrett to Hon. John Conyers Jr. stating that the Office of Professional Responsibility is investigating "allegations of selective prosecution relating to the prosecutions of Don Siegelman, Georgia Thompson, and Oliver Diaz and Paul Minor."

Exhibit "A"

November 7, 2008

1. Information Regarding Contacts Between Siegelman/Scrushy Jury and Prosecution Team

Ms. Tamarah Grimes, an employee of the United States Attorney's Office for the Middle District of Alabama, has provided an email chain raising serious questions about the prosecution team's apparent failure to disclose important information about possible jury contacts to the Court or the defense.

This email chain is dated June 15, 2006 – the day the Siegelman/Scrushy case was submitted to the jury for its decision. The key email in the chain was written by Ms. Patricia Watson, who was at this time the First Assistant United States Attorney for the Middle District of Alabama. According to a complaint filed by Ms. Grimes in July 2007 with the Department's Office of Professional Responsibility, Ms. Watson was also married to United States Attorney Laura Canary's first cousin.

In this email, Ms. Watson writes: "I just saw Keith in the hall. The jurors kept sending out messages through the marshals. A couple of them wanted to know if he was married."² Apparently, the "Keith" referenced in this email is FBI Special Agent Keith Baker, a member of the Siegelman prosecution team who reportedly sat at or near the prosecution's counsel table throughout the trial. Ms. Grimes responded to this email, writing "Yeah, that's what Vallie said. He said one girl was a gymnast and they called her 'Flipper,' because she apparently did back flips to entertain the jurors. Flipper was very interested in Keith."³ "Vallie" refers to another member of the prosecution team in this case.

This email exchange raises several important issues.

First, the fact that members of the prosecution team may have received one or more messages from one or more members of the jury via the US Marshals was apparently never disclosed to the trial judge or the defense. Any ex parte contact with a member of an empaneled jury - even "seemingly innocuous juror conversations and contact between [government agents] and a juror" - will raise serious issues.⁴ Indeed, the Middle of District of Alabama's own trial

²June 15, 2006, email from Patricia Watson to Tamarah Grimes.

³June 15, 2006, email from Tamarah Grimes to Patricia Watson.

⁴United States v. Rutherford, 371 F.3d 634,643 (9th Cir. 2004); see also, e.g., United States v. Napoli, 173 F.3d 847 (2d Cir. 1999) (juror was dismissed after attending social event at which an FBI agent was merely present and without any evidence that the juror spoke to the agent); United States v. Harry Barfield Co., 359 F.2d 120 (5th Cir. 1966) (new trial ordered where witness had a short conversation in an elevator with juror about a distant family connection and did not discuss the case); Pekar v. United States, 315 F.2d 319 (5th Cir. 1963) (new trial ordered where prosecutor spoke with a juror during recess about the juror's business and did not discuss the case, and describing this conduct as "inexcusable"); United States v. Massey, 2003 WL

November 7, 2008

handbook warns jurors against “embarrassing contacts [with] persons interested in the case.”⁵ Yet it appears that none of the members of the prosecution team with knowledge of these alleged messages made a report, with the exception of the complaints eventually filed by Ms. Grimes.

Second, not only does this email exchange describe undisclosed ex parte contacts with the jury, but the substance of the apparent contacts is also very troubling. Where a juror or jurors expresses the kind of social interest in a member of the prosecution team reflected in this exchange, the risk of bias – whether conscious or unconscious – is obvious.⁶ And this concern is heightened here because it appears that, after a prosecution verdict was reached in this case, the juror who was reportedly “very interested” in the FBI Special Agent went on to reach out to members of the prosecution team for personal advice about her career and educational plans.⁷ In addition, a complaint filed by Ms. Grimes with the Office of Professional Responsibility on July 30, 2007, includes a quotation from the Acting United States Attorney for this case, Louis Franklin, allegedly stating about this juror that another member of the prosecution team “talked to her. She is just scared and afraid she is going to get in trouble.”⁸ The specter of one or more jurors passing messages to members of the prosecution team during trial is deeply troubling. The additional evidence of casual post-trial contact between a juror and the prosecution present here is cause for even greater concern.

Third, as you know, the issue of possible juror misconduct went on to become a significant issue in this case when several emails surfaced that allegedly had circulated among members of the jury during the trial. Press reports indicate that one of the jurors involved in that controversy was the juror referenced in the email chain described above as being “very interested” in FBI agent Baker.⁹ That matter, including the sufficiency of the trial judge’s investigation of the issue, is now pending before the Eleventh Circuit. Unfortunately, because this additional information regarding possible additional jury improprieties was never previously

1720064 (conversation in which juror approached a prosecutor on an elevator and asked if he could pose a question, but was told no and had no further contact with the prosecutor was reported to the court and ultimately the juror was dismissed).

⁵Handbook for Trial Jurors in the Federal Courts at 6, available at http://www.almd.uscourts.gov/jurorinfo-docs/Handbook_for_Trial_Jurors.pdf

⁶See United States v. Rutherford, 371 F.3d 634 (9th Cir. 2004) (new trial ordered where IRS agents attended trial and reportedly “glared” at jurors); Pekar v. United States, 315 F.2d 319 (5th Cir. 1963) (admonishing litigants that no “social attention” may be showed to jury members)

⁷Linn, *Siegelman Juror Wants to Talk Shop With Prosecutors*, Montgomery Advertiser, July 13, 2006.

⁸July 30, 2007, Letter to H. Marshall Jarrett from Tamarah Grimes.

⁹Hammons, *Scrushy/Siegelman Attorneys Receive More E-Mails; Strong Differences of Opinion Between Government and Defense*, WSFA 12 News Montgomery, Dec. 28, 2006, available at www.wsfa.com/global/story.asp?s=5869041.

The Honorable Michael B. Mukasey

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November 7, 2008

disclosed, it could not be addressed as part of the trial judge's investigation or the defense's response to the matter.¹⁰ Thus, the record on this issue necessarily appears incomplete and the Appeals Court will be left to address the matter on what seems to be an artificially truncated basis.

Fourth, the failure of the prosecution to disclose this information to the Court and the defense is additionally troubling because of other critical information about contacts between the court, federal investigators and two jurors (again, including one of the jurors referenced in the email described above) that was also kept from the defense. As you know, on July 8, 2008, the Chief of the Appellate Division of the Department's Criminal Division was compelled to inform the defense of a lengthy investigation into some of the emails allegedly exchanged by members of the jury during the trial that had been conducted at the prosecution's request by the United States Postal Inspection Service.¹¹ According to that disclosure, the Postal Inspectors interviewed at least two jurors and their co-workers, and eventually communicated their findings to the Siegelman/Scrushy trial judge, but neither the investigation findings nor this ex parte contact between prosecution agents and the trial judge were timely disclosed to defense counsel. It is startling to see such repeated instances of federal prosecutors failing to keep the defense properly apprised of key developments in an active criminal case.

Fifth, we have recently learned that this issue and others raised by Ms. Grimes was referred by the Office of Special Counsel to your office for evaluation. In response, an initial report has been prepared by two Assistant United States Attorneys which essentially concludes that, despite the plain statement to the contrary in this email chain, no messages were actually sent by any members of the jury to the prosecution through the US Marshals.¹² The Report of Investigation further concludes that the matter was little more than an idle rumor that "grew from humble factual beginnings into unrecognizable detailed and distorted factual form."

We are troubled, however, that the investigators appear to have reached this conclusion without interviewing the US Marshals who supervised the Siegelman jury and who are described in the email as having been the conduit for jury messages to the prosecution.¹³ Nor do the investigators appear to have interviewed any member of the jury. Indeed, from the Report of Investigation it appears that the only witnesses to this matter interviewed other than Ms. Grimes

¹⁰Cf. United States v. Betner, 489 F.2d 116 (5th Cir. 1974) (remanding for a new trial where district judge failed to conduct a full investigation of charges of improper contact between jury and the prosecution).

¹¹July 8, 2008, Letter from Patty Merkamp Stemler to Bruce S. Rogow, Vincent F. Kilborn, et al.

¹²Report of Investigation, OSC File No, DI-08-0715, Allegations Regarding the United States Attorneys Office For the Middle District of Alabama.

¹³Report of Investigation at 8-9 (listing interviews conducted).

were approximately ten members of the prosecution team.¹⁴ In a matter where it is the prosecution's own conduct that is at issue, such a one-sided investigation seems incomplete.

We are also troubled by the failure of the report to examine the implications of this matter even after it concluded that the messages described in Ms. Watson's email had not been sent. In particular, even if the emails described above merely reflect a rumor that was puffed up as it passed around the office, it is not clear how that justifies the conduct of Ms. Watson, the First Assistant United States Attorney at the time, or other members of the prosecution team who knew of these rumors but apparently did not investigate their veracity or disclose them to the defense or the Court. Ms. Watson's casual mention to a subordinate of jurors passing social messages to the prosecution team through the US Marshals suggests that she approved of or was amused by such events. It is highly disturbing that the number two official in a federal prosecutor's office could be so cavalier about so serious a matter. Even if the Report of Investigation is correct in finding that the messages were never sent, Ms. Watson could not have known that at the time.

Accordingly, we ask that you consider and take any appropriate action regarding this information provided by Ms. Grimes.

2. Information Regarding Failure of United States Attorney Leura Canary to Honor Her Recusal from the Siegelman/Scrushy Matter

Department of Justice records show that United States Attorney Leura Canary recused herself from the Siegelman case on May 16, 2002. According to the Acting United States Attorney responsible for the case, "In May 2002, very early in the investigation, and before any significant decisions in the case were made, U.S. Attorney Leura Canary completely recused herself from the Siegelman matter, in response to unfounded accusations that her husband's Republican ties created a conflict of interest."¹⁵ Mr. Franklin further explained that "Ms. Canary had no involvement in the case, directly or indirectly, and made no decisions in regards to the investigation or prosecution after her recusal. Immediately following Ms. Canary's recusal, appropriate steps were taken to ensure the integrity of the recusal, including establishing a 'firewall' and moving all documents relating to the investigation to an off-site location."¹⁶ On October 5, 2007, Mr. Franklin stated again "[Leura Canary's] recusal was scrupulously honored

¹⁴ Report of Investigation at 8-9. The Report does mention that two OPR counsels were also interviewed.

¹⁵ July 18, 2007, Statement of Acting United States Attorney Louis Franklin, *available at* http://blog.al.com/bn/2007/07/middle_district_of_alabamas_re.html.

¹⁶ July 18, 2007, Statement of Acting United States Attorney Louis Franklin, *available at* http://blog.al.com/bn/2007/07/middle_district_of_alabamas_re.html.

by me.”¹⁷ These statements have been repeated many times and have been relied on by defenders of the Department’s handling of this politically-sensitive matter.

Ms. Grimes has provided several emails casting serious doubt on these assertions, however. The most significant of these emails is a September 19, 2005, email from Ms. Canary to Acting United States Attorney Franklin, Assistant United States Attorneys Feaga and Perrine, First Assistant United States Attorney Patricia Watson (whose last name was Snyder at this time), and criminal legal assistant Debbie Shaw. This email was sent at a critical time in the Siegelman/Scrushy case – Mr. Siegelman had been indicted, although that fact had not been revealed to his attorneys, and the Government was preparing a superceding indictment that would be publicly revealed the following month.

In this email, Ms. Canary forwards an article regarding the Siegelman case and writes: “Ya’ll need to read because he refers to a ‘survey’ which allegedly shows that 67% of Alabamians believe the investigation of him to be politically motivated. (Perhaps grounds not to let him discuss court activities in the media?) He also admits to making ‘bad hires’ in his last administration.”¹⁸

This email raises obvious questions about the degree to which Ms. Canary honored her recusal from this case. A recused United States Attorney should not be providing factual information such as relevant news clippings containing a defendants’ statements to the team working on the case under recusal. And this email does not just show Ms. Canary forwarding an article – it reflects her analyzing the article and highlighting certain facts. And most troubling of all it contains a litigation strategy recommendation – that the prosecution should seek to bar Mr. Siegelman from speaking to the media. We note too that it was sent only to members of the Siegelman/Scrushy prosecution team – it was not an office wide email that inadvertently reached people working on the case.

Ms. Grimes has provided other documents to the Committee that bear on this issue. In one email, Ms. Canary forwards another article to essentially the same group of recipients.¹⁹ This too appears improper and again raises the question why a recused United States Attorney would be providing such information to the active prosecution team. Another email notes that Ms. Canary was consulted about the decision to add Ms. Grimes to the Siegelman/Scrushy team –

¹⁷October 5, 2007, Statement of Acting United States Attorney Louis Franklin, *available at* <http://www.wsfa.com/global/story.asp?s=7176844&ClientType=Printable>.

¹⁸September 19, 2005, email from Leura Canary to JB Perrine, Steve Feaga, Louis Franklin, Debbie Shaw, and Patricia Snyder.

¹⁹September 27, 2005, email from Leura Canary to Steve Feaga, Louis Franklin, JB Perrine, and Patricia Snyder.

referred to as the “big case” – and states that “Laura and Louis both liked the concept: and further reports that “Laura asked me to pass this information [regarding Ms. Grimes’ role on the case] on . . .”²⁰ We appreciate that a United States Attorney who is recused from a particular matter will continue to play a role in the overall administration of the office, but question whether participating in detailed discussions about the staffing of the matter from which she has been recused is appropriate and whether messages or information from the recused United States Attorneys should be passed on to new members of the team.

In her July 2007 report to OPR, Ms. Grimes elaborated on this subject, stating that “Laura Canary kept up with every detail of the case through Debbie Shaw and Patricia Watson.”²¹ Once again, if this statement is accurate, it raises serious concerns. It is difficult to imagine the reason for a recused United States Attorney to remain so involved in the day to day progress of the matter under recusal.

Accordingly, we ask that you consider and take any appropriate action regarding this information provided by Ms. Grimes

* * * * *

We appreciate Ms. Grimes providing this information,²² which she apparently has previously presented to several executive branch offices.²³ It is no easy thing to speak up in these circumstances, but we in Congress and all Americans depend on whistleblowers like Ms. Grimes taking action when they learn of troubling facts like those described above.

²⁰ April 6, 2005, email from Patricia Snyder to Steve Doyle.

²¹ July 30, 2007 Letter to H. Marshall Jarrett from Tamarah Grimes.

²² See 5 USC § 7211 (“The right of employees. . . to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied.”)

²³ See 5 USC § 2302(b)(8)(A)(I) & (ii) (“Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority— take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee or applicant for employment because of any disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences a violation of any law, rule, or regulation, or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.”).

The Honorable Michael B. Mukasey

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November 7, 2008

Sincerely,



John Conyers, Jr.
Chairman
Committee on the Judiciary



Linda Sánchez
Chair, Subcommittee on
Commercial and Administrative Law

Enclosures

cc: The Honorable H. Marshall Jarrett

AFFIDAVIT

Pursuant to Title 28 U.S.C. §1746, I hereby certify under penalty of perjury that the contents of the following affidavit are based upon my personal information.

I am over the age of eighteen, suffer no legal disabilities, have personal knowledge of the facts set forth below, and am competent to testify.

I am currently employed as a Paralegal Specialist for the Armed Services Board of Contract Appeals, Department of the Army, in Falls Church, Virginia. I submit my resume as "Exhibit A".

I was formerly employed in the United States Attorney's Office for the Middle District of Alabama, Department of Justice, in Montgomery, Alabama, supervised by John Cloud, LECC Manager and Patricia Watson, First Assistant United States Attorney.

In the early months of 2002, I applied for a Paralegal position and a Legal Assistant position at the United States Attorney's Office, for the Middle District of Alabama in Montgomery, Alabama. I was interviewed by teleconference with Ms. Langford, Mr. Niven, Mr. Vines, Mr. Franklin and the U.S. Attorney, Ms. Canary. And then at a later time, I was then interviewed a second time by teleconference by Mr. Louis Franklin, the Chief of the Criminal Division, for a position as legal assistant in the criminal division.

I was informed by Linda Langford, who was the Administration Officer that I would be considered for the Legal Assistant position. When I came into the office, to get fingerprinted and complete my sign in process, sometime in September, 2002, I was told personally by the Executive Assistant, Julia Weller, and by Retta Goss, who was an Administration Assistant at the time, that they were glad to have me on board, because they had a large case that I was needed for, and because I had experience with Summation. I would be put to work on the large case involving the ex-Governor. This was in late September, 2002, and I started my employment on October 20, 2002 after my security clearance had been completed.

The day I started, at the U. S. Attorney's Office, I was directed to the front office and told that I would be assisting the Executive Assistant to the U.S. Attorney, Julia Weller, and John Cloud, who was the Law Enforcement Coordinator. I was once again told by Ms. Weller that she was so happy that I knew summation and could assist on the large case presently being

Exhibit "B"

investigated. I did work on this case for a short time, assisting with some subpoenas and assisted in drafting Indictments for some of the co-Defendants involved.

Shortly after I started working in the U. S. Attorney's office, I was sent for a one day training to Birmingham, Alabama. This training was to give me an update on Summation. I was excited, because I thought that maybe I would actually get to use my skills in Summation to help the office.

I was never told to go to the offsite during the three or four years that followed. I did assist some that worked at the offsite, one being from Washington D.C. and the Executive Assistant, who later became the First Assistant United States Attorney, Julia Weller. When Ms. Weller resigned her position and left the office, my basic duty that had to do with the case involving the former Governor was that of the newspaper clipper. For over four years, I was assigned to read and clip and keep in order the news articles from three newspapers, the Montgomery Advertiser, the Mobile Press, and the Birmingham News. I was told that prior to my being placed in that position that a student was tasked with clipping newspaper articles.

I had the training and the experience to serve as Paralegal or Legal Assistant in any capacity for the U.S. Attorney's Office, but instead of the management using me in that capacity, they chose to use me as a newspaper clipper. To clip any articles containing any information regarding Governor Siegelman, and anything related to that.

I had been accepted to take more training at the NAC during the time I was employed by the U. S. Attorney's Office. I had taken Case Management and Case Presentation training provided to Department of Justice employees, who were paralegals and legal assistance. This training was basically geared towards giving a paralegal/legal assistant the necessary tools to use when tasked with handling large voluminous cases, but I never got a chance to use my skills.

I had been employed for several years, by one of the largest international law firms in our country, Akin and Gump, as a Paralegal and I was very familiar with large voluminous cases. I worked with the program Summation, and I actually had trial experience, and worked on several very large cases for the firm. One of those cases involved a company as large as Samsung and over three of our large international offices worked together on this massive case. I was a member of the "Samsung Trial Team".

I could never understand why management in the U. S. Attorney's Office never used me to assist in this case. I truly believe that I was originally hired to work on this case, as I was told in the beginning when I was getting on board. I had the skills and ability, and was even willing to assist.

Because I wasn't being utilized, in that fashion, or as an actual legal assistant, or paralegal, assisting in trial preparation for any particular civil case or criminal case when an opening in our office for a paralegal in the civil division was announced, I applied, I soon learned that I wasn't going to get that position, not because I wasn't qualified, but because the position had more or less been slated for someone else.

After I applied for this position, as I had stated in a previous affidavit, I feel that I was never treated the same, because of my application. It is my personal knowledge and belief that management was angry with me for applying for a position that I was more than qualified to do.

Since I held the position of legal assistant then as secretary, in the MDAL office, I thought I should be working on either civil or criminal cases but most of the time I was supporting the Law Enforcement Coordinator/Manager and assisting his Division or assisting the First Assistant with management reports. I always expressed my desire to assist in any way. Our office was small, and usually under staffed, so I always made it a point and offered to assist others in the office. I assisted when the U. S. Attorney's Assistant was out of the office for an extended time, while she recovered from an automobile accident. I also offered my assistance, and went to training to become the Victim Witness backup in our office. I assisted with even the receptionist position, when necessary.

I assisted the First Assistant, Patricia Snyder, now Patricia Watson, when she was preparing for a large civil trial.

I know that management knew I had the ability and knew that I was anxious to help in any tasks to provide support to the office. I believe that was one of the reasons I was tasked with going to the largest toxic waste dump in Emele, Alabama, to assist one of the other Paralegals in scanning documents for the case that I had originally thought I would be working on full time. I was surprised that I was sent out of town to work on this case at a short notice. I thought at that time, it must be almost an emergency for them to send me, since I hadn't been slated to help on this case. I had to make arrangements for my

pets to be boarded, since my husband was working out of the state, and I was really not given a choice. I was told late on a Tuesday afternoon (4:30 p.m.) by my supervisor, Mr. Cloud and Ms. Watson that I was needed and that I was tasked to go and assist in scanning documents.. I found it to be very unplanned, and found that when the paralegal and I drove to this dump in Emele, Alabama, that we were not even told what it was that we were looking for, just to scan certain pages. This had been my first encounter working around Mr. Vallie Birdsong, in person. He drove over to the dumpsite and assisted us in setting up the scanners that we were to use and then he disappeared. He showed up that Wednesday, at about 2:00 p.m. and set everything up and then he left and we scanned the remainder of that day, the next day, Ms. Tami Grimes and myself got to the location and scanned all Thursday, we scanned through the lunch hour, because there wasn't any place to even go to lunch. During that afternoon, there was a vehicle backed up to the building we were scanning in and then several (approx. six or so) boxes were loaded, and the vehicle disappeared. Ms. Grimes and I became concerned about this, because we knew that the boxes were dated and numbered, and that someone from the Waste Management office would notice them missing. I believe that Ms. Grimes contacted the office, and spoke with Ms. Watson, and/or Mr. Franklin regarding this matter. She was informed to let it go. Then the next day, we were escorted to another building by the Waste Management staff and had to set up the scanners. In this building, we were watched and observed by the management there. Since there was limited use of our cell phones, being so remote, when we finally got in touch with the office that Friday late, and on our way back to the office, we both explained to the Criminal Chief, Mr. Franklin and I explained to my supervisor, Mr. Cloud, that there would be "no way" all of those boxes of documents could be scanned in the short time that they allotted. Since I had experience in trial preparation, I knew when to let the attorneys know what could and could not be done.

When we returned to the office, I advised Ms. Goss, that I could work all weekend, Saturday, Sunday and evenings, if I was needed to assist with completing the scanning task. I knew there was a deadline facing our office and I knew there was probably not enough manpower to complete the task assigned. I was never contacted by Ms. Goss or anyone else in the office during that weekend, and later told that those in the criminal division including students were all scanning documents all weekend. The next Monday, we were told anyone who could scan was to go to the offsite to scan. When I got to the offsite, (the first time I had ever been there), I was surprised to see, approximately ten scanners working with staff from the Alabama Attorney General's Office, our office, and the FBI's office. I believe that most of those

working or scanning had no paralegal experience at all. During this time, I never even saw Vallie Birdsong scanning or assisting to scan.

During the time prior to the trial, during the trial, and after the trial, it seemed to me, that this was the actual only case we were handling in our office. I knew we had a lot of other cases, criminal and civil, but this was the only case that the entire office was living for.

The morning that the trial started, the U.S. Attorney herself carried food and beverage over to the Courthouse to support the "Trial Team". I thought that was strange, but we were all told, if we could contribute and send anything over it would be a good idea. We did have other cases, and other trials, that no one ever did that for. This was a big case, but it wasn't our only case.

The legal supervisory assistant in the criminal division, Ms. Shaw, went to the courtroom every day. And I saw her in the front office later in the day, or earlier in the mornings, like she was giving someone an up front and close look at the happenings at the Courthouse. I thought it was like she was giving a "report" on the courtroom events. Our office staff was told that if we wanted to observe the trial, we could. There were several days that most of the administrative division was at the courthouse. I walked over on one of the days and sat in the over-flow courtroom, and from what I saw, I wasn't impressed one bit about the representation our office was giving. In fact, I was a little embarrassed. I thought that the United States Attorney's Office was top notch, and while observing, I soon learned we really weren't. I do believe I went another day, and was just as disappointed with the professional demeanor of the attorneys and staff present.

After the trial, there was a gathering of the "trial team" and those who helped on "the case" at the Marina. I was told about it in the front office, but chose not to go, because I thought it was not appropriate. And that with this case there was a lot of press and a lot of individuals who were not impressed with the representation of our office.

When I left the United States Attorney's Office, in MDAL, my supervisor, Patricia Watson, gave me an apology that she was sorry that they hadn't used me to my capacity. For almost five years, I didn't get to use my skills as a legal assistant or paralegal in either capacity. Also, when I left they assigned a student to clip newspaper articles. My position was not filed for over six months, I believe.

Because of the hostile working environment in the Middle District of Alabama, I encouraged my husband to apply for a position out of the Middle District of Alabama, and he was selected for a position in Washington, D. C. I transferred to the Eastern District of Virginia, U. S. Attorney's Office into a Legal Assistant position. I found that the U. S. Attorney's Office in Virginia was run quite different than the one in Alabama. I enjoyed working in the criminal division preparing subpoenas, assisting in trial preparation.

Since I took a lesser position in the U S. Attorney's Office in Virginia, GS-7-10 from a GS-8-9, when I was notified that the Armed Services Board of Contract Appeals wanted me to come aboard as a legal technician, with a lot of regrets, I left the U. S. Department of Justice. Today, I can actually say I am using my skills, and doing the job that I applied for and that was described to me. Each and every day I am advised by my supervisor and the judges that I work with that I am a valuable team player.

Dated: November 13, 2008



Elizabeth Jane Crooks

EXHIBIT A

5030 Eisenhower Ave., Apt. 203
Alexandria, VA 22304

E. Jane Crooks

Home: (571-257-8768) Cell: (334) 462-3607

Experience

05/12/08 to present Armed Service Board of Contract Appeals
5109 Leesburg Pike, Falls Church, VA 22041
■ Supervisor – Freddie Oliver (703) 681-8501

Paralegal/Legal Technician – YB -0986-2

Salary - \$56,700. with benefits

- Duties: Assist and support four (4) assigned Administrative Judges, which includes preparing correspondence, performing preliminary screening and reviewing legal documents prior to review by a judge or staff attorneys. Establish and maintain subject matter files and case files. Conduct legal research using Westlaw, Lexis, and CCH. Prepare, format, or edit draft Board opinions and orders from judges' manuscripts and other highly technical material. Assist in finalizing opinions and orders. Receive, review and screen telephone calls and visitors and assist Judges in arranging conference calls. Inform parties of the status of appeals and general procedures of the Board, relating to conferences and hearings. Make necessary travel arrangements and prepare travel orders and vouchers for judges when necessary for them to attend conferences and hearings in U.S. and international locations. Assist in processing requests for information under the Freedom of Information Act (FOIA). Assist in maintaining the law library and updating references. Perform other duties as assigned. Assist other Administrative Judges on the Board as needed. AUSA with management matters and reports

10/20/02 to 05/12/08 U.S. Attorney's Office, Eastern District of VA and
Middle District of AL
131 Clayton Street, Montgomery, AL 36104
Supervisors – Patricia Watson, FAUSA and
John Cloud, LECC Coordinator /Manager

Secretary/Legal Assistant OA (GS-08/9)

- Salary - \$50,000 per yr with benefits.
- Support FAUSA with management matters and reports
- Assist in preparation for trials (civil and criminal)
- Also assist and support LECC Coordinator (GS-14) and his Division, which consists of Intelligence Specialist, (GS-13) Investigator (GS-12), and Victim Witness Coordinator (GS-11); Prepare training announcements, training certificates, handle all mass mailings which also consist of e-mail mailings, scheduling conferences, workshops and special training events.
- Assist the Victim Witness Coordinator in our office with preparation for information pamphlets/flyers, prepare pamphlets/flyers, coordinate preparation for conferences and training events, assist in notification of training events, registrations, and coordinate certificates for those attending. Serve as the back-up person/contact and handle complete Victim Witness Coordinator responsibilities in the absence of our Victim Witness Coordinator, which consists of making travel arrangements for witnesses, reserving hotel accommodations, and handling Witness

E. Jane Crooks
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Vouchers during trials and also during several Grand Jury Sessions. Have worked with Victim Witness Coordinator in coordination of First Annual Victim Witness Conference for Alabama, which included, Northern, Middle and Southern U.S. Attorney's District Offices.

- Have assisted United States Attorney when her Executive Assistant was on extended sick leave.

When employed at the USAO office in Alexandria, VA, (03/01/08 to 05/12/08) Assisted four (4) Assistant United States Attorneys in the criminal division which handled fraud and cyber crimes. Prepared subpoenas, correspondence and coordinated attorney's schedules and maintained files to support them. Also assisted other attorneys in that division when necessary.

02/00 to 10/01 Bitterblue, Inc./Denton Communities, 11 Lynn Batts Ln.
San Antonio, TX 78218
Supervisor - Sharon Bauer (210) 828-6131

Executive Administrative Assistant to President

- Salary - \$36,000 per year with benefits.
- Coordinated schedule, arranged meetings, made extensive travel arrangements, prepared correspondence and assisted with all administrative duties without supervision.
- Managed office building and golf driving range maintenance, handled correspondence, assisted President in operations of businesses (Land development, auto sales, and salsa) handled all personal correspondence, banking, errands, etc.

1998 to 2000 Akin, Gump, Strauss, Hauer & Feld, 300 Convent Street,
San Antonio, TX. 78205
Supervisor- Aliane Pifer - HR (210) 281-7000

Paralegal

Assist on Litigation Team

- Salary - \$34,000 per year with benefits.
- Assisted in preparation for trial. Prepare/organize exhibits, prepare deposition summaries, witness and trial notebooks and trial exhibits; Handled voluminous cases.
- Indexed production of documents into Summation.
- Draft orders and notices for litigation cases, prepare correspondence, did research (Westlaw and Lexus) on cases.

1995-1997 Gresham, Davis, 112 East Pecan St., San Antonio, TX. 78205

Legal Assistant

Assisted two lawyers - Litigation and Corporate.

- Salary - \$28,000 per year with benefits.
- Assisted lawyer in Collections for large corporation - high client contact.

E. Jane Crooks
Page 3

- Coordinated schedules for lawyers, prepared pleadings for filing, assisted in obtaining production of discovery documents, bates stamped production and prepared pleading pads and notebooks for trial.
- **Note:** This firm is no longer in business it merged with Jackson Walker. Worked for Brad Akin who is now Pres. Of Stockdale Bank and Matt Bradley who joined another litigation firm in San Antonio, TX.

08/93-07/95 State of Alabama, 251 S. Lawrence, St. , Montgomery, AL 36104

Judicial Assistant/Personal Secretary to Judge Margaret Givhan, District Judge and Judge Joseph D. Phelps, Circuit Judge

- Salary - \$20,000 per year with benefits.
- Screened attorneys and public, acted as liaison between attorneys and Judge. Extensive Courtroom exposure on a daily basis.
- Handled Case Management of civil and criminal cases (approx. 650 cases) , and all administrative duties in Judge's office.
- Scheduled Criminal and Civil Dockets and handled monthly docket calls for Judge's upcoming Court schedule.
- Coordinated Judge's personal schedule, personal appointments and coordination of travel arrangements. (Judge Phelps was the President of the Alabama Judge's Association and also started the Mediation/ Expedited Docket in Alabama).
- Aided Court Administrator in Courtroom availability, jury selections and coordination of court dockets.
- **Note:** Direct Supervisor - Judge Phelps - now deceased
- **Note:** Direct Supervisor-Judge Margaret Givhan, - (334) 832-1359

02/92- 02/93 Connelly, Reid & Spade, 108-112 Walnut Street
Harrisburg, PA 17104
Supervisor- James Spade

Legal Assistant for Two Managing Partners

- Assisted Partner, James Spade in managing and operating Walnut Street Land Transfer Company.
- Assisted Partners in Corporate matters, and real estate transactions.
- Coordinated Closings, high client contact, handled escrow accounts and all closing documents.
- Aided in the development of streamlining set-up of Title Policy preparation to Commonwealth Title Company in computer system.
- Prepared closing binders for all closing documents.

04/91-02/92 Buchanan Ingersoll, P.C, 208 N. Third,
Harrisburg, PA 17104

Legal Secretary/Corporate - Real Estate

- Supported two lawyers on several large corporate acquisitions.
- Prepared closing binders for Closing Documents.

E. Jane Crooks
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05/82-09/89 Mary Kay Cosmetics Dallas, TX
Self Employed Independent Beauty Consultant/ Team Leader at DuBois, Pennsylvania.

- Handled customer service, product inventory.
- Recruited and trained new consultants.
- Scheduled interviews and training sessions.
- Top Sales in Unit for 1988 and Top Recruiter in Unit for 1987
- **Note:** No Supervisor / Independent

01/71-09/83 William L. Henry, 209 Main St. Brookville, PA 15825

Office Manager/Paralegal for Henry, Bish, & Wallisch

- Handled staffing, training of law clerks and secretarial staff, along with managing payroll and bookkeeping.
- Specialized in real estate transactions and Probate of estates.
- High client contact.
- From 1971-1974 assisted District Attorney, William L. Henry, in court scheduling, preparation of indictments and also Child Support documentation.

Supervisor - Judge William L. Henry

Education

Penn State University -DuBois Campus, DuBois, PA 15801

- Paralegal Certificate - 1981

Brookville Area High School, Brookville, PA 15825

- Graduate - Top 30 of Class- Academic /Business - June - 1971

Skills and Abilities

Typing - 65 + wpm

Experience with WordPerfect Microsoft Word, IBM Mass 11, Alpine, PC Law, Settlement Secretary, Microsoft Outlook, Microsoft Publisher, Windows, Excel, Access, Star Time, Westlaw, Lexus, and various other computer programs.

Organizing and maintaining files, numerical and alphabetical. Making appointments and keeping calendars and tickler systems, manually and through Outlook. Linked with Palm Pilot.

Extended client/customer service. Have experience with obtaining information from clients and placing same into necessary documents needed (Wills, real estate transactions and divorce/adoptions instruments and production of documents in litigation).

Wide understanding of Victim/Witness Rights. able to communicate and arrange for flight, transportation and hotel accommodations when necessary to assist witnesses/victims.

Work well with people, in work environment and out.

Ability to learn any new skills and improve new techniques. Willing to accept change.

E. Jane Crooks
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Start to finish real estate transaction experience, including HUD-1 Settlement Sheets, issuance of Title Insurance policies. Courthouse research, correspondence, distribution of escrow funds, and maintaining escrow accounts.

Familiar with litigation cases and preparation necessary for trial, including deposition summarizing, indexing production into Summation, preparation of pleading pads, witness notebooks and trial notebooks and exhibits.

Courtroom Experience, Criminal, Civil, and small claims.

Organizational skills dealing with training, coordination of large statewide conferences, and handling funds for those conferences. Over three years of extensive experience in the overall training events in the Middle District of Alabama and statewide conferences for the Law Enforcement Community, Terrorism Training, Victim Witness Training and other training events.

Additional Information

Training - Westlaw Training for Paralegals (04/14/2006)
Completed training program so I could assist in legal research for the First Assistant United States Attorney

Training - National Advocacy Center (NAC) - Legal Secretary Advanced, How to be Invaluable to your employer - (08/06) - 4 Days Training.

Training - National Advocacy Center (NAC) - (03/06/2006 - 03/10/2006) Legal Writing and Research for Paralegals. 5 days.

Training - Auburn University - Microsoft Publisher 2003 Course. 07/26-29/2005 - Now proficient in Microsoft Publisher which is used in layout, preparation and editing of the LECC Newsletter which was published bi-annually by LECC Manager.

Training - Auburn University - Advanced PowerPoint Training - 2/2005.

Work independently and without supervision. Can prioritize work load.

Dependable/Positive attitude/ Team Player/Go Getter.

Non-Smoker.

Available for overtime or overnight travel.

References

Available upon request.

AFFIDAVIT OF J. SCOTT BOUDREAUX, ATTORNEY AT LAW

Prior to this Declaration, I have given no sworn testimony to anyone in regard to my representation of Tamarah Grimes. I have been a licensed attorney, in good standing, in the State of Alabama since 1980. I make this affidavit based upon my personal experience in the practice of law over the past 28 years, my personal experience with Special Agent Ronald Gossard, and review of the Office of Inspector General Report of Investigation for Case Number 2008-000904 dated June 12, 2008. (Gossard, Ronald S., 2008)

My review of the documentation submitted in support of the Office of Inspector General Report of Investigation for Case Number 2008-00904 dated June 12, 2008 does not support its conclusion, nor does it provide any reasonable basis for an adjudication, *"Pursuant to 5 USC 7513(b)(1) and 5 CFR 752.404(d), there is reasonable cause to believe that you have committed a crime for which a sentence of imprisonment may be imposed.."* (Suddes, Paul, 2008)

I am not familiar with the term "reasonable cause" in the context of criminal law. This is the first time in 28 years I have had a client convicted and sentenced by the Department of Justice on the basis of "reasonable cause" without the benefit of due process of law.

1. ABRIDGEMENT OF CONSTITUTIONAL RIGHT TO DUE PROCESS OF LAW.

Despite 2 prosecutorial declinations by an unrelated U.S. Attorney's office on March 19, 2008 and May 20, 2008, (Hyde, Melvin; Ratley, Sharon, 2008) without being notified of the charges against her, or having an opportunity to be heard, my client was adjudicated by

Exhibit "C"

GRIMES0195

“reasonable cause” (1) to be a criminal worthy of a prison sentence, and (2) to pose an unnecessary and unacceptable operational security risk to the Department of Justice on July 1, 2008 by Gybrilla Blakes, Chief of Personnel Security for the Executive Office for United States Attorneys. (Blakes, Gybrilla, 2008) This notification was made by letter dated July 21, 2008 and signed by a person who had never met Ms. Grimes. (Suddes, Paul, 2008)

(1) Without Due Process of Law, Ms. Grimes was adjudicated to be a criminal worthy of a prison sentence.

Numerous times during this process, my client asked to be notified of the charges against her and for the basis which predicated those charges.

On several occasions, Ms. Grimes specifically requested, in writing, the statute, regulation, policy, or procedure which predicated the alleged charges against her. When no one responded to her numerous requests, Ms. Grimes filed a complaint of abridgement of Civil Rights and Civil Liberties with the Department of Justice Civil Rights Division on February 5, 2008.

Ms. Grimes’s complaint of abridgement of Civil Rights and Civil Liberties was declined by the Office of the Assistant Attorney General, Civil Rights Division and Mrs. Grimes was referred to the Executive Office for United States Attorneys, a division of the United States Department of Justice. (Gillies, John M., 2008) Ms. Grimes continued to request, in writing, information on the charges against her and the basis for those charges up through the ranks of the Office of Inspector General, the Executive Office for United States Attorneys and through the EEO Office, all the way to the Office of the Director for each component.

Ms. Grimes received no response from anyone until she received the notice of proposed removal from federal service on July 22, 2008 by Federal Express. (Suddes, Paul, 2008)

(2) Without Due Process of Law, Ms. Grimes was adjudicated to pose an unnecessary and unacceptable operational security risk to the Department of Justice on July 1, 2008 by Gybrilla Blakes, Chief of Personnel Security for the Executive Office for United States Attorneys.

Ms. Grimes was escorted from the building on July 1, 2008. Despite numerous requests, Ms. Grimes was not notified of the reason for this adjudication until July 22, 2008 when she received a proposed removal letter from the Office of the Director for the Executive Office for United States Attorneys. (Suddes, Paul, 2008) Ms. Grimes's supervisor told Ms. Grimes that she would be receiving a "letter."

The Civil Chief, Stephen Doyle, acknowledged that he had written authorization to take this action, but he did not give this information to Ms. Grimes at the time he had her removed from the building. (Simmons, Michael, 2008)

Ms. Grimes made written requests for information to support her removal on July 9 and July 16, 2008. By the time Ms. Grimes received notice on July 22, 2008, unfounded information that Ms. Grimes had been adjudicated by "reasonable cause" to be a criminal worthy of a prison sentence had been disseminated through the Department of Justice for almost 30 days. (Suddes, Paul, 2008) (Gossard, Ronald S., 2008)

2. ATTORNEY-CLIENT PRIVILEGE.

I have attorney-client privilege in my communications with Ms. Grimes. It is my understanding that Ms. Grimes was denied the right to assert attorney-client privilege in her interview with Special Agent Gossard, upon threat of disciplinary action, up to and including termination.

To any reasonable person, it seems inconsistent to claim that Ms. Grimes was not represented by counsel for mediation, while claiming that Ms. Grimes sought legal counsel from her attorney during mediation. It is clear to me from reading the transcript of Ms. Grimes's testimony, (Gossard, 2008) and the affidavits of three (3) Assistant United States Attorneys (Watson, 2008), (Stokes, 2008), (Menner, 2008) and one (1) United States Attorney, (Canary, 2008) that every attorney present for mediation, and the socializing which followed mediation at the Embassy Suites, was aware that Ms. Grimes was represented by counsel at the time of mediation on November 1-2, 2007. (Gossard, Ronald S., 2008) While I may not have been physically present at mediation, each attorney acknowledged an understanding that Ms. Grimes was actively communicating with counsel for the purpose of obtaining legal advice during the mediation process. In fact, it is my understanding that Ms. Grimes was instructed to contact me for legal advice. (Stokes, 2008)

Each Affidavit made an obvious effort to inaccurately define the scope of my discussions with my client, apparently to bolster a meritless criminal prosecution against my client and depict my client as a liar. These assertions do not in any way accurately represent my

confidential discussions with my client during mediation, and appear to exist only to facilitate the proposed criminal indictment of my client.

I did in fact provide legal counsel to Ms. Grimes by telephone on the evening of November 1, 2007 regarding the purpose and scope of Alternative Dispute Resolution.

I counseled Ms. Grimes in preparation of the Amended Position Statement as requested by the mediator prior to mediation. (Grimes, Complainant, 2008) I spoke with Ms. Grimes on October 31, 2007 to inquire as to whether the other party's mediation position statement had been received and to verify that the mediation was still scheduled for November 1.

Ms. Grimes is not an attorney. In reliance of her understanding of the Mediation Agreement executed on November 1, 2007, (Canary, Grimes, Menner, & Stokes, 2008) she complied with the demand to write and sign a statement concerning representation based upon her understanding that my physical presence was required for "representation." (Grimes, Compelled Statement, 2008) Ms. Grimes did not consult with me prior to complying with the demand. She did not understand that she was asked to write and sign a statement to facilitate a criminal prosecution.

It is equally clear to me that the conduct of the mediator, a Deputy Chief Assistant United States Attorney, was consistent with an overzealous prosecutor and not a fair and neutral party in an ADR proceeding as anticipated by the United States Code. This is more than evident in reading the transcript of the interrogation of my client by Mr. Gossard on March 27, 2008. At one point in the transcript, Mr. Gossard informed my client that he and the mediator had discussed Ms. Grimes's response and had agreed on an investigative plan,

GOSSARD: “..You know, she even brought it up, you know, I – you know, I specifically asked her during the interview, is there any—or any way Ms. Grimes can, you know, try to muddy this up, confuse this, you know, say there was a communication, and she told me. I knew coming in here today what, you know, what you were going to say. She told me....The only thing that she possibly could say was she also told me there was written—a journal kept, and that I was confusing that, but that’s not the case.” (Gossard, 2008)

In addition to the interaction described by Mr. Gossard on the record, my client related to me that the mediator advocated on behalf of the Department of Justice as if performing her duties in defense of the agency, including an accusation that my client had a “scorched earth” mentality. (Gossard, 2008)

With more than five (5) years experience working in the Civil Division of the United States Attorney’s Office at an “outstanding” level of performance, I consider my client fully qualified to make an assessment of the expected demeanor and conduct of an Assistant United States Attorney in the defense of a client agency.

It is my understanding that the EEO investigation into my client’s complaint has been completed by the EEO Office, but the report of investigation has not been issued to my client. (Crawford, Michele, 2008)

3. THE AGREEMENT TO MEDIATE.

The Agreement to Mediate, dated November 1, 2007, attached at Exhibit 6 to the OIG Report clearly affords Ms. Grimes a reasonable expectation of confidentiality in her discussions with the mediator which was denied to her. (Canary, Grimes, Menner, & Stokes, 2008)

It is clear to me from reading the transcript of Ms. Grimes's testimony, and the affidavits of three (3) Assistant United States Attorneys (Watson, 2008), (Stokes, 2008), (Menner, 2008) and one (1) United States Attorney, (Canary, United States Attorney for the Middle District of Alabama, 2008) that every attorney present for mediation, and the socializing which followed mediation at the Embassy Suites, were working together as a prosecutorial team. Exhibit 4, Attachment 2 to the OIG Report clearly shows that Ms. Grimes had already been referred for criminal investigation one (1) day after the Agreement to Mediate had been executed by all parties. (Menner, 2008)

The record clearly shows that the Agreement to Mediate was executed on the morning of November 1, 2007. On the evening of November 1, 2007 all of the attorneys involved in the mediation, including the "neutral" mediator, met at a local hotel to socialize and discuss the proceedings. By the early afternoon of November 2, 2007, Ms. Grimes had already been referred for criminal investigation. (Canary, Grimes, Menner, & Stokes, 2008), (Menner, 2008)

This suggests to me, and to any reasonable person, that Ms. Grimes was never afforded any confidentiality at all in her discussions with the mediator. This clearly violated the terms of the Agreement to Mediate. (Canary, Grimes, Menner, & Stokes, 2008)

4. MARCH 19, 2008: THE FIRST DECLINATION TO PROSECUTE BY AN UNRELATED OFFICE.

According to the OIG report, Assistant United States Attorney Melvin Hyde from the Middle District of Georgia declined prosecution of this matter on March 19, 2008 on the basis that statements made during mediation could be protected under 18 USC 574, yet the

criminal investigation continued, with no one willing to go on the record to inform my client why she was under criminal investigation or the basis for the alleged charges. (Hyde, Melvin; Ratley, Sharon, 2008) In the communications attached to the OIG Report, my client requests, time and time again, to be informed of the charges against her, and the statutory or regulatory basis for the alleged charges. (Menner, 2008) Her first and only reply was the July 21, 2008 notice of proposed removal from federal service. (Suddes, Paul, 2008)

5. MARCH 27, 2008: COMPELLED INTERVIEW OF TAMARAH GRIMES.

On March 27, 2008, my client was compelled to leave her home while recuperating from injuries sustained in an accident to appear for a criminal interrogation with Mr. Gossard. Ms. Grimes requested the agent come to her home as it was difficult for her to sit, stand or walk due to her injuries. Her request, although supported by her physician, was refused and Ms. Grimes was forced to endure a grueling interrogation while in significant pain. (Gossard, 2008)

During our telephone conversation on April 2, 2008, Mr. Gossard bragged to me about how he had forced Ms. Grimes to appear.

Of course, Ms. Grimes described the interrogation to me, and told me about Mr. Gossard's persistent accusations throughout the interview that Ms. Grimes made "tapes" to support her EEO complaint, and giving them to me. Ms. Grimes said she told Mr. Gossard over and over during the interrogation, that this was not true, that she never made "tapes" of anyone. (Gossard, 2008)

**6. THE TRANSCRIPT OF THE MARCH 27, 2008 INTERROGATION OF TAMARA (sic)
GRIMES IS NOT CONSISTENT WITH THE STATED SCOPE OF THE INQUIRY.**

The "WARNINGS AND ASSURANCES TO EMPLOYEE REQUIRED TO PROVIDE INFORMATION" form executed by Ms. Grimes and Mr. Gossard on 3/27/08 at 11:04 a.m. (CT) states as follows:

"This inquiry pertains to allegations of unauthorized disclosure of sensitive law enforcement information." (Gossard, 2008)

There appear to be no questions within the entire interrogation of Ms. Grimes which fall within the scope of this inquiry. The inquiry is clearly a fishing expedition into the confidential discussions of EEO mediation, under which Ms. Grimes had a reasonable expectation of confidentiality. (Canary, Grimes, Manner, & Stokes, 2008)

There is no mention of "unauthorized disclosure" or of "sensitive law enforcement information" anywhere in the record, beyond the Kalkines Warning form. The words, "unauthorized" or "sensitive" or "law enforcement" never appear at any time in the transcript. (Gossard, 2008)

7. AFFIDAVIT OF THE MEDIATOR DOES NOT SUPPORT BASIS FOR OIG INVESTIGATION

In fact, there is no claim at any time whatsoever that the mediator, Sharon Stokes, alleged Ms. Grimes had divulged making tapes of sensitive law enforcement information or the unauthorized disclosure of any information whatsoever. The mediator's claim related to her understanding or belief that Ms. Grimes may have used the word "tape" in relation to communications clearly made under attorney-client privilege. The mediator clearly stated

that she did not recall whether Ms. Grimes actually used the word "tape" or if she just wrote it down as her "understanding" of what Ms. Grimes described. (Stokes, 2008)

It is undisputed from the testimony offered to substantiate and support the OIG Report, that during a period of "socializing" between the 4 prosecutors, including the mediator, at the Embassy Suites Hotel, the purported "tapes" were somehow reinterpreted to be "evidence" of the "fact" that Ms. Grimes "had violated the law and improperly disclosed attorney work product." (Canary, United States Attorney for the Middle District of Alabama, 2008), (Menner, 2008), (Stokes, 2008), (Watson, 2008)

The leap to an incorrect conclusion, from the mediator's sworn testimony of *"I do not recall if the word "tapes" was a direct quote by Grimes or if I used it according to my understanding of what she was telling me....."* (Stokes, 2008)

to *"evidence of the fact" that my client had "violated the law and improperly disclosed attorney work product"* (Menner, 2008) is a stunning distortion of the evidence. This entire allegation is completely without merit.

It is disturbing that this turn of events apparently occurred in the context of a period of "socialization" at the Embassy Suites Hotel (Canary, United States Attorney for the Middle District of Alabama, 2008), (Watson, 2008), (Menner, 2008) and involved input from the mediator (Stokes, 2008), whose task was to serve as a neutral in a agency approved EEO proceeding. The implication is that while apparently under the influence of "socialization" which presumably included consumption of alcoholic beverages, four U.S. Department of Justice Officials, including a United States Attorney charged, tried, and

adjudicated Ms. Grimes to be guilty of violation of a criminal statute and surreptitiously set in motion a chain of events which ultimately led to the adjudication that Ms. Grimes had *“committed a crime for which a sentence of imprisonment may be imposed..”*

(Suddes, Paul, 2008)

It is of grave concern that the U.S. Attorney, Leura Canary was present and an active participant in this completely meritless claim. (Canary, United States Attorney for the Middle District of Alabama, 2008), (Menner, 2008), (Stokes, 2008), (Watson, 2008)

8. AFFIDAVIT OF THE MEDIATOR DOES NOT SUPPORT THE ALLEGATIONS REGARDING THE “TAPES”

It is undisputed that, after the first few minutes of mediation, the mediator was the only person with whom Ms. Grimes had direct contact during the course of mediation. (Canary, United States Attorney for the Middle District of Alabama, 2008), (Stokes, 2008), (Menner, 2008), (Watson, 2008) Other than Ms. Grimes, the mediator is the only person with personal knowledge of the content of her discussions with Ms. Grimes during mediation. (Gossard, 2008), (Stokes, 2008) Leura Canary was not present for discussions with Ms. Grimes during mediation. (Canary, United States Attorney for the Middle District of Alabama, 2008) Patricia Watson was not present for discussions with Ms. Grimes during mediation. (Watson, 2008) Frederick A. Menner was not present for discussions with Ms. Grimes during mediation. (Menner, 2008) Ronald Gossard was not present for discussions with Ms. Grimes during mediation. (Gossard, Ronald S., 2008) Only Ms. Grimes and the mediator were present for discussions during mediation. The sworn Affidavit of the mediator actually states as follows:

"I believe the words "tapes" and/or "tape recordings" were used during my conversation with Grimes.....It was my impression, and I believe Grimes stated.....I do not recall if the word "tapes" was a direct quote by Grimes or if I used it according to my understanding of what she was telling me....." (Stokes, 2008)

This is not the context described to Ms. Grimes by Mr. Gossard during her interrogation on March 27, 2008. (Gossard, 2008) It is not consistent with the content of the Report of Investigation. (Gossard, Ronald S., 2008)

The mediator's actual testimony is based on her impressions, beliefs and an inability to recall whether she wrote the word "tape" because Ms. Grimes used it or if she wrote the word "tape" because it was her understanding of what Ms. Grimes told her. (Stokes, 2008)

9. THE ALLEGATIONS CONTAINED IN THE CORRESPONDENCE OF JULY 21, 2008 ARE NOT SUPPORTED BY THE EVIDENCE.

The July 21, 2008 correspondence appears to be based upon the Office of Inspector General Report of Investigation for Case Number 2008-00904 dated June 12, 2008. The Office of Inspector General Report of Investigation for Case Number 2008-00904 dated June 12, 2008 appears to be based solely upon a hypothetical scenario which arose during a period of "socialization" at the Embassy Suites Hotel. On page 2 of the July 21, 2008 correspondence, the allegation begins,

- *"The OIG investigation stemmed from your claim to a Federal employee that you had surreptitiously made audiotaped recordings of fellow Department employees involved in a high profile bribery, conspiracy and fraud case."* (Suddes, Paul, 2008)

The entire correspondence of July 21, 2008 is based upon the erroneous premise that the mediator, Sharon Stokes, testified under oath that Ms. Grimes disclosed surreptitiously making "tapes" or audiotaped recordings. (Suddes, Paul, 2008)

- ***According to the ROI, Ms. Stokes affirmed under oath that during the mediation, you informed her that you had made audio recordings or tapes....."***
(Suddes, Paul, 2008)
- ***"USA Canary swore under oath to the OIG investigators that Ms. Stokes disclosed that you informed her that you had tapes or recordings..."*** (Suddes, Paul, 2008)
- ***"FAUSA Watson also stated under oath that Ms. Stokes disclosed that you informed her that you had made audiotapes..."*** (Suddes, Paul, 2008)
- ***"AUSA Menner provided an Affidavit wherein he confirmed his understanding that you claimed to Ms. Stokes that you had made audio recordings...."***
(Suddes, Paul, 2008)

The fact is, if every person present at the Embassy Suites Hotel for "socialization" on the evening of November 1, 2007 provided an Affidavit and swore under oath that Ms. Stokes said Ms. Grimes made "tapes", it is still not supported by the evidence in this matter. The mediator's testimony is,

"I do not recall if the word "tapes" was a direct quote by Grimes or if I used it according to my understanding of what she was telling me....." (Stokes, 2008)

Ms. Grimes's testimony is that she did not make tapes and did not inform the mediator that she had made tapes. (Gossard, 2008)

Ms. Grimes and the mediator were the only 2 parties present for these discussions. Leura Canary was not present. Patricia Watson was not present. Frederick Menner was not present and Ronald Gossard was not present.

10. NO BASIS EXISTS FOR THE CONCLUSIONS CONTAINED IN THE CORRESPONDENCE OF JULY 21, 2008

The correspondence of July 21, 2008 states on page 4,

"Although the OIG investigation was unable to ascertain whether you had, in fact, surreptitiously tape recorded Department employees, it was determined that you made numerous false statements under oath to the OIG agents in the context of their criminal investigation." (Suddes, Paul, 2008)

There is no basis whatsoever for this conclusion. There is absolutely no evidence that Ms. Grimes made any false statements under oath to the OIG agents in the context of their criminal investigation.

11. APRIL 2, 2008: TELEPHONE CALL FROM SPECIAL AGENT RONALD GOSSARD.

The subjective conclusions attributed to my "statements" and "interview" by Mr. Ronald Gossard are erroneous. I did not give a statement or an interview to Mr. Gossard.

I spoke with Mr. Gossard by telephone on two occasions. I was purposefully vague with Mr. Gossard to protect my right to attorney-client privilege . I am not a federal employee. Unlike Ms. Grimes, I cannot be compelled to testify under threat of termination. I declined Mr. Gossard's request for an Affidavit against my own client.

Mr. Gossard's approach to me was belligerent, accusatory and offensive. In the first conversation, Mr. Gossard threatened me with a subpoena to obtain "tapes" which both my client and I advised Mr. Gossard did not exist. When I told Mr. Gossard that I did not have any "tapes", he accused me of misconduct without any basis whatsoever.

12. MAY 16, 2008: THE SECOND DECLINATION TO PROSECUTE BY AN UNRELATED OFFICE.

Apparently in the haste to wrongfully prosecute my client, my purposely vague comments regarding matters subject to attorney-client privilege, were used in an effort to obtain a second criminal prosecution of my client.

On May 16, 2008, Mr. Gossard and his boss went to the United States Attorney's Office for the Middle District of Georgia to meet with the Assistant United States Attorney who had provided the previous declination on March 19, 2008 and his boss, the Criminal Chief. (Hyde, Melvin; Ratley, Sharon, 2008) It would appear that the prosecution of my client was very important to Mr. Gossard, important enough to take his boss to the United States Attorney's Office. According to the record, Mr. Gossard was told that the proposed case against my client lacked prosecutorial merit.

10. MAY 20, 2008 TELEPHONE CALL FROM SPECIAL AGENT GOSSARD.

Following the second unsuccessful attempt at prosecution of my client, Mr. Gossard contacted me on May 20, 2008 and asked me to provide an affidavit which I declined to do. It was my understanding that we cleared up any misunderstanding about the documentation pertaining to the EEO matter which my client had provided to me.

Apparently I was mistaken, because on June 12, 2008, Mr. Gossard issued an Investigative Report which fails to accurately represent my understanding of the content of the May 20, 2008 telephone conversation. (Gossard, Ronald S., 2008)

11. SELECTIVE PROSECUTION

I am familiar with the reputation and standing of the Offices of the United States Attorney in the communities of Birmingham and Montgomery, Alabama in regard to allegations of selective prosecution. Hardly a week goes by without some allegation of abuse or misconduct originating from the Offices of the United States Attorney in Birmingham and Montgomery. It is unfortunate that this alleged practice has apparently been directed at Ms. Grimes, who by all accounts is a model employee. It is my understanding that during the opening statement at mediation, Mr. Menner described Ms. Grimes as a "rising star with the Department." Mr. Menner subsequently asked Ms. Grimes, "Why would you want to file this?" in relation to her complaint of gender based discrimination, hostile work environment and reprisal. (Gossard, 2008)

I am aware that my client worked on the Siegelman/Scruschy prosecution. Ms. Grimes sought counsel from me on several occasions. I recall on one occasion I told Ms. Grimes, "If you report them, they will come after you, you know that don't you?" and she naively responded, "For what? I haven't done anything. Federal employees have a duty to report these things."

Therefore, I was not surprised when my client called on December 17, 2007 to report that she had been contacted by a Special Agent from the Department of Justice Office of Inspector General and advised that she was the target of a criminal investigation.

It would appear that the Department of Justice has no interest in investigating the apparent source of the problem as evidenced by 3 claims filed by my client, including a

Abridgement of Civil Rights Claim, but will doggedly pursue Whistleblower employees as "criminals" worthy of a prison sentence, based on "reasonable cause."

12. TESTIMONY REGARDING DOCUMENTS COVERED BY ATTORNEY-CLIENT PRIVILEGE.

Ms. Grimes's testimony regarding information and notes provided to me regarding the EEO matter is truthful. On more than one occasion, I have reviewed and discussed a collection of documents which I decline to more specifically describe under attorney-client privilege. I do not consider these documents to be "in reference to her EEO complaint" as alleged by Mr. Gossard, and I would not describe them as such.

At the time I spoke with Mr. Gossard on April 2, 2008, I did not recall having a copy of the Amended Position Statement from the November mediation. When I spoke with my client immediately following the conversation with Mr. Gossard, she reminded me that I did have a copy of that document which clearly set out all of Ms. Grimes's EEO allegations. This 27 page Amended Position Statement was prepared from Ms. Grimes's voluminous notes and contained Ms. Grimes experiences. (Grimes, Complainant, 2008)

I consider this to be a document prepared in anticipation of mediation which is covered by attorney-client privilege.

13. "TAPES"

At no time whatsoever, did I have possession of, knowledge of or any discussion of "tapes" prior to December 17, 2007 when Ms. Grimes was contacted by Mr. Gossard and advised that she was the subject of a criminal investigation into "tape recording an AUSA." I

have no independent information regarding "tapes" other than what was communicated to me on December 17, 2007. I have no other information on this matter. Thus, Mr. Gossard's assertion that Ms. Grimes was untruthful with regard to documents is incorrect.

14. SOLE REPRESENTATION OF MS. GRIMES

Ms. Grimes's testimony that I am the only attorney representing her is truthful. I am the only attorney representing Ms. Grimes in this matter. My reference to another attorney in my telephone conversation with Mr. Gossard was in regard to a legal consultation, arranged solely by me, to associate experienced employment attorneys on our case. Thus, Mr. Gossard's assertion that Ms. Grimes was untruthful with regard to her legal representation is incorrect.

15. CONCLUSIONS REGARDING STATEMENTS ATTRIBUTED TO ME IN THE REPORT OF INVESTIGATION DATED JUNE 12, 2008 ARE BASED UPON UNSUPPORTED OPINIONS OF THE INVESTIGATOR.

Something is very wrong with this alleged "investigation." It is clear to me from viewing the cover page of the *Office of Inspector General, United States Department of Justice Report of Investigation Case Number 2008-000904*, that this case was opened well after Mr. Gossard contacted my client on December 17, 2007 to threaten her with criminal prosecution based upon "tape recording an AUSA". (Gossard, Ronald S., 2008) It appears that Ms. Grimes's case was number 904 opened in the calendar year 2008.

16. QUESTIONS REMAIN

The letter which my client wrote following her telephone conversation with Mr. Gossard on December 17, 2008, states as follows: "This will follow our telephone conversation

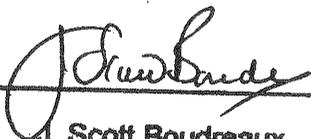
of December 17, 2008 wherein you advised me that I was the subject of a criminal investigation and that you wished to interview me in regard to said criminal investigation. You also told me that this matter had already been assigned to an AUSA and that it was an active criminal investigation.....You responded that you would need to speak to the AUSA assigned to this case and found out where we go from here....If I have misstated or misunderstood any of the above, please let me know as soon as possible." (Gossard, Ronald S., 2008)

A more contemporary inquiry might be: who or what could motivate Mr. Gossard to contact my client on December 17, 2007 and make these accusations to her? Who or what could motivate Mr. Gossard to doggedly pursue a criminal investigation of Ms. Grimes for 6 months after the so called "mediation" of her EEO claims with no objective evidence of wrongdoing? (Gossard, Ronald S., 2008) Who or what could motivate the Office of the Director of the Executive Office for United States Attorneys to forward a 10 page very personal, scathing character assassination of my client based upon no objective basis whatsoever? (Suddes, Paul, 2008)

Clearly, in the July 21, 2008 correspondence, Ms. Grimes has been charged and convicted by the Department of Justice, Executive Office for United States Attorneys, based upon purely fictional "reasonable cause" as surreptitiously concocted by sworn prosecutors, including the United States Attorney for the Middle District of Alabama, while "socializing" at a local hotel during an active mediation. Ms. Grimes is awaiting her sentence, removal from federal service, without due process of law, despite many requests for same. Is this the

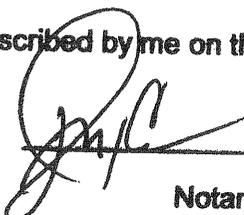
new standard of conduct for the United States Department of Justice?

Pursuant to 28 USC 1746, I declare under penalty of perjury under the laws of the United States of America, that the statements contained in this response are true and correct to the best of my knowledge, information and belief.



J. Scott Boudreaux

SWORN to and subscribed by me on this 28th day of July, 2008.



Notary Public

My commission expires: 5-25-10

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July 4, 2009

Ms. Tracy Biggs
U.S. Office of Special Counsel
Disclosures Unit
1730 M. Street, N.W., Suite 218
Washington, DC 20036

Re: Comments by whistleblower, Tamarah Grimes
DI-2007-0715

Dear Ms. Biggs,

Today, millions of Americans celebrate our freedoms, our independence, the progress gained by our great nation through the honor and sacrifice of those who were willing to take a stand in matters of conscience and morality. I am proud to be an American and though the cost has been high, I am proud to have fulfilled my duty as an ethical federal employee and as a Whistleblower.

In response to my whistleblower disclosures, the subject agency (DOJ-EOUSA) conducted an internal investigation of itself (DOJ-EOUSA). As expected, the subject agency (DOJ-EOUSA) concluded that there had been no wrongdoing on the part of the subject agency.

This is particularly disappointing because the subject agency is a component of The United States Department of Justice, whose components include several premiere law enforcement agencies in the world. As a matter of good sense, it seems reasonable to assign career investigators whose future is not subject to the agency being investigated.

As I discussed in my response to the initial investigation, the credibility of management official, Patricia Snyder Watson has been compromised by her inexplicable lack of common sense, good judgment and ethical conduct. At all times relevant to the investigation, Mrs. Watson was the highest ranking management official in the United States Attorney's Office for the Middle District of Alabama. She owed a duty to the Court, to the defendant and to the citizens of the United States to notify the Court of information concerning reported juror misconduct, yet she did not. Instead, she chose to engage in gossip through the government e-mail system. The conduct of Patricia Watson in this matter is inconsistent with the honesty, integrity and ethical conduct required by the Department of Justice of its upper management officials. The conduct of Patricia Watson is unacceptable by any reasonable professional standard, but is particularly egregious because it was willful. As a licensed attorney with more than 10 years experience as an attorney, Mrs. Watson was aware that her decision interfered with the defendants' right to a fair trial, yet she did it anyway.

An entire group of persons with direct, first hand information concerning the juror misconduct was excluded from the subject agency investigation of itself, the jurors themselves. The U.S. Marshal's Service is a component part of the U.S. Department of Justice. The *Siegelman/Scrushy* prosecution was a high profile case which divided the entire district. The jurors have no federal careers to protect, no allegiance to any person, organization or agency. The testimony of the jurors is crucial to the truth in this matter, yet the jurors were not interviewed. In the interest of justice, the jurors must be interviewed by an impartial investigator, not a subject agency investigator. An entire piece of the puzzle has been excluded. It is not possible to "solve" the puzzle while purposely excluding a significant portion of the eyewitness testimony which would of course be the testimony of the jurors. If the investigation is done in this fragmented manner, its conclusions will be flawed and fragmented as well.

I was interviewed by subject agency's investigator, Mr. Stephen Mullins. Mr. Mullins is a career federal prosecutor, an Assistant United States Attorney and Chief of the Civil Division in Oklahoma. He is very personable and solicitous, but his every day job requires that he protect the interests of the agency. That is what Mr. Mullins did in this investigation; he protected the interests of the agency, his employer. That is his job and that is what he did.

I would like the President and Congress to consider what the decision to provide whistleblower disclosures has had a devastating effect upon my family and me. On June 9, 2009, I received notice of immediate termination from Terry Derden, of the U.S. Department of Justice, Executive Office for United States Attorneys. Ironically, my termination came just one week after two significant events. First, attorneys for Richard Scrushy requested permission to interview me under federal regulation 28 CFR § 16.21 relating to allegations of prosecutorial misconduct during the *Siegelman/Scrushy* prosecution. Second, I submitted a letter directly to Attorney General Holder on June 1, 2009 providing details of the misconduct on the part of the prosecutors in the *Siegelman/Scrushy* trial.

Subsequently, Mr. Terry Derden of the agency adjudicated that I posed "an operational security risk" and revoked my eligibility to access secret material, a required qualification for my position. The Executive Office for United States Attorneys notified me that my ineligibility to have access to secret material is "tantamount to the loss of a security clearance." Mr. Derden determined that my termination would promote the efficiency of the [federal] service and I was immediately fired.

I had hoped for assistance from the Office of Special Counsel's Prohibited Personnel Practices Division in Dallas, Texas in Case No. MA-2007-2568. However, that agency has recently declined to take up the issue of whistleblower retaliation in my case, choosing rather to follow its "policy" to defer that issue to the Administrative Law Judge at the EEOC whom the OSC contends has primary jurisdiction over the unlawful retaliation against me. This is a devastating blow to my family. We have no income. My special needs child has no insurance and we can no longer afford our monthly medications. It has been almost 30 days since my

termination and I have received no information on COBRA coverage. My last pay on June 29, 2009 was less than \$150.00. I was not paid for accumulated leave or for the two week period held when I began federal service in April, 2003.

Moreover, I am virtually unemployable in my usual occupation as a result of the U.S. Attorney's initiation of a retaliatory selective prosecution against me in November, 2007. Since making my whistleblower disclosures in July 2007, DOJ-OIG unsuccessfully attempted to subject me to criminal prosecution with the U.S. Attorney's Office for the Middle District of Georgia. Assistant United States Attorney Melvin E. Hyde, Jr. of the U.S. Attorney's Office in Columbus, Georgia twice declined to initiate a criminal prosecution against me. This is purely reprisal. There is no objective basis whatsoever to support this allegation, on the basis of no substantive evidence at all, I have been branded a liar in an effort to discredit my whistleblower disclosures. Subsequent to its unsuccessful attempts to have me indicted, the agency undertook administrative action against me and terminated my employment with no substantive basis whatsoever.

As a federal employee with a previously exemplary record, the decision to engage in protected EEO activity and file whistleblower claims under the "No Fear Act" was a careful decision made of necessity and conscience. In consideration of necessity, as federal employees, we are continuously reminded of our duty to report waste, fraud, abuse and misconduct. We are assured that the U.S. Department of Justice is an Equal Employment Opportunity workplace. We are even offered "safe conduits" for making EEO and whistleblower claims. As my case clearly demonstrates, there are no "safe conduits" and even the Office of Special Counsel's Prohibited Personnel Practices Division passed the buck rather than address the egregious retaliation.

I have done nothing wrong. I am a loyal federal employee who performed my statutory duty to report waste, fraud, abuse and misconduct. For that, I have been fired. I have been removed from federal service. I have filed an appeal of my termination and a request for whistleblower stay. (MPSB - Atlanta, Docket No. AT-0752-09-0698-I-1) My request for whistleblower stay was denied by the Administrative Law Judge because he has no jurisdiction over issues involving an employee's security clearance. At this point, things look rather bleak for me and my family. We are looking at the potential loss of our home. What will we do? Where can we go in the worst housing market in U.S. history?

It is my hope that any federal employee who may be considering a decision to engage in protected EEO or whistleblower activity under the "No Fear" Act will learn from my example. In reality, there is much to fear from filing an EEO claim or a whistleblower claim under the "No Fear" Act and there are no "safe conduits" for making such claims. Ultimately there is little value in the performance of your duty as a federal employee, or even as a loyal citizen of the United States, if the result is loss of your security clearance and termination of your federal employment. The knowledge that you have admirably performed your duties as a federal

employee cannot pay the mortgage or buy food for your family when you are rewarded with whistleblower retaliation.”

Whistleblowers need more protection. What happened to me should not have happened, yet it is an all-too-common occurrence. The mission becomes to destroy the messenger, the whistleblower. This cannot be allowed to continue. Whistleblowers are not only loyal employees. We are wives, mothers, granddaughters and we are proud Americans. We deserve better protection when engaged in what is supposed to be protected activity.

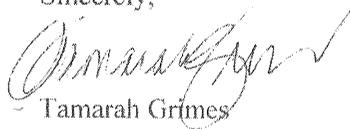
I am the second employee to be terminated from the U.S. Attorney’s Office for the Middle District of Alabama for opposing unlawful conduct in the workplace. A third employee awaits her fate after seeking relief from violence in the workplace. The message to those left behind is clear: The price for opposition at any level is, at a minimum, termination.

My hope is that my plight will serve as a warning to other federal employees contemplating EEO or whistleblower activity. In my experience in the Middle District of Alabama, at the agency level, the decision to engage in protected EEO or whistleblower activity requires that you enter the agency’s arena where federal law and regulation is subject to interpretation by agency counsel; rules of evidence do not apply. Constitutional protections and guarantees afforded to every U.S. citizen must be waived under threat of disciplinary action, up to and including termination of federal employment.”

My hope remains with the Attorney General of the United States. I remain confident that Mr. Holder will provide assistance to the employees of the United States Attorney’s Office for the Middle District of Alabama, to wrongfully terminated former employees of the U.S. Attorney’s Office, to employees suffering from workplace violence which is condoned by USAO management, and to citizens of the United States within the Middle District of Alabama whose interests have not been well served under the Canary administration.

Thank you for the opportunity to comment on the agency’s investigation, as well as the devastating impact of whistleblower activity on my life and the life of my family.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tamarah Grimes", written in black ink.

Tamarah Grimes