

Richard J. Ofshe, Ph.D.

My name is Richard J. Ofshe. Currently I am a Professor Emeritus in the Department of Sociology at the University of California at Berkeley where I teach and do research. I am also a Fellow at the Center On Wrongful Convictions at Northwestern University School of Law. I detailed my education background, honors received, consultation experiences, the central focus of my research and writing, and identified courts that have relied on my publications both in the United States and Canada, in my previous report. I also provided my curriculum vitae with that earlier report.

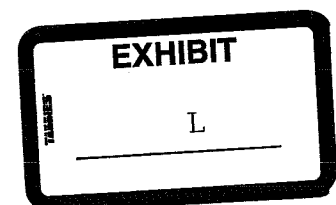
My earlier affidavit for this court addressed coercive interrogation tactics used to induce confessions from Butch Wolcott, Joseph Dalesandro, and Gary St. Clair in Noling v. Bradshaw. Subsequently, Kelly Culshaw contacted me with additional documentation she believed relevant to my review in Mr. Noling's case.

Ms. Culshaw has provided me with the following additional documents — Gary St. Clair, handwritten notes from interview dated 5/25/93; Gary St. Clair, typewritten notes from interview dated 5/25/93 prepared by Patrick Kelly; Gary St. Clair, typewritten notes from interview dated 5/25/93 prepared by Ted Hornyak; Gary St. Clair, competency evaluation from 3/12/93; Letter from Dr. Grzegorek dated 7/6/92, Grzegorek letter dated December 21, 1995; Chico Garcia 5/9/90 interview, 8/4/92 interview, and Grand Jury testimony; Jill Hall 8/10/90 statement and 5/20/92 interview; and Julie Mellon's 8/10/90 and 5/19/92 interviews and her Grand Jury testimony

I again reviewed affidavits from Gary St. Clair, Butch Wolcott, Harold Wolcott, Joseph Dalesandro; and Gary St. Clair's statement at Orient Correctional dated 4/15/93

Butch Wolcott: Review of the additional Wolcott records reveals that Wolcott would have been particularly receptive to deceptive and coercive tactics that were used by law enforcement to obtain his statement. It is well recognized that these tactics can induce false confessions. Significant compelling details (letters written by Dr. Alfred Grzegorek), not available during my initial involvement in Mr. Noling's case, support my original position

In Dr. Grzegorek's July 6, 1992 letter, he relies heavily on Wolcott's reports of sexual abuse to explain why Wolcott was blocking memories of the Hartig's murders. He reported Wolcott's concern that memories of the Hartigs' murders were not real, and that he was going crazy. Dr.



Grzegorek then cautioned against using the tactics Wolcott asserts were used to induce his confession. "I would encourage that continued memory recall be done in a firm, directed, but non-pressured fashion." He went on, "I would strongly caution that the continued interviews and examinations with him be done in a firm but non-pressured fashion since I believe he may either become more obstinate if overly pressured or will produce information to simply satisfy demand and that the information produced will not be able to be verified through other sources. "

In Dr. Grzegorek's December 21, 1995 letter, he recounts that Wolcott only believes that "it [the crime] did happen the way I remember." Wolcott notes that it remains "very hard to realize that it's true." Wolcott emphasized his need to end these proceedings "I need for this to be over – to get it off my chest. It's like I was there and I know it happened but I still can't remember everything. I want to have it over, to remember. It's like the biggest thing that happened in my life and I can't remember all of it, just pieces."

Dr. Grzegorek goes on to blame Wolcott's memory deficit on alcohol consumption, a fact Wolcott denied at trial. (Tr. 909)

It remains my conclusion that Mr. Wolcott's statement was motivated by the use of psychological coercion through an offer of immunity for compliance to the prosecution's demand for a statement implicating himself and Mr. Noling. Mr. Wolcott was further manipulated through the use of psychological coercion to gain compliance during the process of creating the statement supposedly based on his recovered memories. During the process Mr. Wolcott was threatened with loss of immunity if he did not perform satisfactorily.

With regard to Dr. Grzegorek's explanation that Wolcott's inability to remember any involvement in the murders is because he repressed these memories, it is my opinion that this explanation is utter nonsense. The concept of repression never was anything more than rank speculation and has been rejected by the scientific community. The procedures used to facilitate Wolcott's recovery of his memories did nothing more than rationalize the creation of beliefs that benefited Wolcott.

Gary St. Clair: Review of the additional St. Clair records confirms my opinion that coercive tactics were used by law enforcement to obtain his statement. It is well recognized that these tactics can induce false confessions.

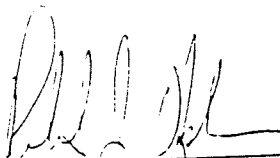
Additional support: I find additional support for my conclusion in records related to Kenneth Garcia. In a 5/9/90 interview, Mr. Garcia admitted to

selling two guns for Joseph Dalesandro -- a .25 automatic and sawed off shot gun. The .25 was recovered and was not the murder weapon. In an 8/4/92 interview, conducted by Ron Craig, the same man Mr. Wolcott, Mr. St. Clair, and Mr. Dalesandro state coerced them, Mr. Garcia now says there is another .25 handgun that he sold for Mr. Dalesandro. Then, in his Grand Jury testimony, Mr. Garcia testifies, "Yea, I got nervous, not only that but I would rather speak to you than speak to Craig because I mean so fair, he scare everybody by, I'm trying to help him find a weapon and he scared me and I tell him I'm trying my best and he pulled over with all these dope dealer one day trying to get me and he said if I have to I'll put it where a snitch in your house (the tape is hard to understand at this point) and I got kids and he scared me right there more than anything else." The prosecutor then instructs Chico to forget anything he & Craig have talked about.

Similar changes occurred in Jill Hall's statements. In a 8/10/90 statement, Ms. Hall told police that Butch Wolcott came to her apartment and talked about some robberies they had committed in Alliance, Ohio. In a 5/20/92 interview, with Ron Craig now involved, Ms. Hall claims that Mr. Wolcott told her about 2 murders committed in Atwater, Ohio. Hall repeated this story before the Grand Jury and during trial. Julie Mellon's statement followed the same pattern.

Mr. Garcia, Ms. Hall, and Ms. Mellon's statements contained significant omissions relevant to the facts of this case. Their stories did not include relevant, inculpatory facts, until investigator Ron Craig became involved. This is the same pattern followed with Mr. St. Clair, Mr. Dalesandro, and Mr. Wolcott. These statements support my conclusion that coercive tactics were used to obtain confessions from Mr. Noling's co-defendants, and incriminating statements from witnesses, including Mr. Garcia, Ms. Hall, and Ms. Mellon.

I continue to maintain, based upon all of the materials I have reviewed, that to a reasonable degree of scientific certainty that coercive interrogation tactics were used to induce confessions from Butch Wolcott, Joseph Dalesandro, and Gary St. Clair and these confessions should for this reason be classified as untrustworthy. It is my opinion that the confessions elicited from Butch Wolcott, Joseph Dalesandro, and Gary St. Clair possess the indicia of false confessions and for this reason together with the circumstances under which they were elicited should be classified as unreliable. It is also my opinion, to a reasonable degree of scientific certainty, that Butch Wolcott's belief that he had repressed his memory of being present at the crime about which he confessed was produced through influence and was not the result of his having repressed, suppressed or blocked-out any memory of the crime


Richard J. Ofshe
10/2/03
Date