

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
EASTERN DIVISION**

WILLIAM ERNEST KUENZEL,
Petitioner,

- against -

RICHARD F. ALLEN, Commissioner of the
Alabama Department of Corrections, and the
ATTORNEY GENERAL OF THE STATE OF
ALABAMA,
Respondents.

Case No. 1:00-cv-316 (IPJ) (TMP)

AFFIDAVIT OF DAVID A. KOCHMAN

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

DAVID A. KOCHMAN, being duly sworn, deposes and states the following to be true and correct under the penalty of perjury:

1. I am an attorney of the law firm Reed Smith LLP, and am counsel to William Ernest Kuenzel (“Mr. Kuenzel”), petitioner in the within action. I am over the age of eighteen. I make the following statements freely, and, if called to testify, would testify consistently with all of the facts contained herein. I submit this Affidavit in support of Mr. Kuenzel’s motion for relief from judgment pursuant to Fed. R. Civ. P. 60(b) (the “Motion”).

2. Late in the afternoon on Monday, February 22, 2010, I was informed by Crystal Anne (Floyd) Moore – a witness identified after trial by post-conviction counsel who has submitted affidavit testimony in these post-conviction proceedings – that Asst. Attorney General J. Clayton Crenshaw visited her at her home earlier that day. Ms. Moore stated that Mr. Crenshaw arrived at approximately 1:45 p.m., and brought with him two large bags containing documents she believed to be relevant to this case. Ms. Moore further stated that Mr. Crenshaw

showed her certain of those documents, and inquired of her regarding the substance of those documents. Ms. Moore stated that Mr. Crenshaw's visit lasted approximately two hours.

3. On Wednesday, February 25, 2010, I sent an e-mail to Mr. Crenshaw requesting an opportunity to speak with him.

4. In the afternoon of Thursday, February 25, 2010, I spoke with Mr. Crenshaw by telephone. During our conversation, Mr. Crenshaw confirmed that he had visited Ms. Moore at her home, that he had brought with him certain documents relevant to this case, and that he had showed certain of those documents to Ms. Moore. I asked Mr. Crenshaw to please provide me with copies of those documents.

5. On Sunday, February 28, 2010, I sent Mr. Crenshaw an e-mail again requesting that he provide me with copies of the documents shown to Ms. Moore. On the evening of Monday, March 1, 2010, Mr. Crenshaw responded by e-mail that he was going to be out of town during the coming week, but would endeavor to provide me with the documents I had requested.

6. On Friday, March 5, 2010, I received a envelope sent via Federal Express from Mr. Crenshaw. A copy of the enclosure letter sent by Mr. Crenshaw to me, dated March 4, 2010, is attached hereto as Exhibit A.

7. Accompanying the letter sent to me by Mr. Crenshaw were six (6) documents:

- (a) Handwritten notes from an interview conducted by someone with Crystal (Floyd) Moore that were undated. A copy of that document is attached hereto as Exhibit B.
- (b) Transcript of grand jury testimony from Crystal (Floyd) Moore, dated March 9, 1988. A copy of that document is attached hereto as Exhibit C.
- (c) Transcript of a police statement provided by Crystal (Epperson) Ward, dated December 9, 1987. A copy of that document is attached hereto as Exhibit D.
- (d) Transcript of grand jury testimony from Crystal (Epperson) Ward, dated March 9, 1988. A copy of that document is attached hereto as Exhibit E.

- (e) Transcript of a police statement provided by April Harris, dated December 9, 1987. A copy of that document is attached hereto as Exhibit F.
- (f) Transcript of grand jury testimony from April Harris, dated March 9, 1988. A copy of that document is attached hereto as Exhibit G.

8. Prior to March 5, 2010, I have never before seen any of the documents provided to me by Mr. Crenshaw. I have reviewed the entire file I maintain in my office regarding Mr. Kuenzel's case, and was not able to locate any of the documents provided to me by Mr. Crenshaw. The case file I maintain in my office includes Mr. Kuenzel's trial counsel's original files, and his appellate counsel's original files. Although my files contain certain other witness statements, the documents provided to me by Mr. Crenshaw are not among those files.

9. I note that, following the untimely death of Mr. Kuenzel's prior *pro bono* post-conviction counsel, David Dretzin, I took possession of the entire case file he maintained regarding Mr. Kuenzel's case. Apart from current counsel of record, Mr. Dretzin was the only other attorney that has represented Mr. Kuenzel in post-conviction proceedings.

10. Attached hereto as Exhibit H is a true and correct copy of the Declaration of Crystal Anne Floyd, dated November 26, 1997.


11. Attached hereto as Exhibit I is a true and correct copy of the Declaration of Crystal Anne (Floyd) Moore, dated November 25, 2008.

12. Attached hereto as Exhibit J is a true and correct copy of a transcript of testimony offered by Crystal (Epperson) Ward on March 4, 1999, as well as the accompanying declaration of Everson Thompson.

13. Attached hereto as Exhibit K is a true and correct copy of the Motion for Production and Disclosure, dated on or about June 15, 1988.

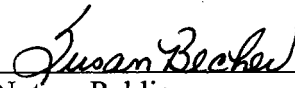
14. Attached hereto as Exhibit L is a true and correct copy of the Motion to Compel Disclosure of Agreements with Codefendants.

Dated: March 10, 2010



David A. Kochman

Sworn to before me
this 10th day of March 2010



Notary Public

SUSAN BECKER
NOTARY PUBLIC, State of New York
No. 01BE5088013
Qualified in New York County
Commission Expires November 10, 2013