

Mark Fremgen

To: Kratz, Ken
Cc: Ray Edelstein (E-mail)
Subject: RE: Dassey

Thanks for your email. I will discuss this matter with attorney Edelstein.

Sincerely,

Mark R. Fremgen
Kindt Phillips Friedman & Fremgen, S.C.

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

From: Kratz, Ken [mailto:kratz.kenneth@redacted]
Sent: Thursday, November 30, 2006 9:12 AM
To: 'fremgen@redacted'
Subject: Dassey

November 30, 2006

Mark:

Other than the subpoena for Attorney Kachinsky, I have not received any further information from you regarding the December 15th motions. Are you going to be filing any other motions? When the court directed you to provide legal authority for seeking a "pre-trial" remedy for your claim of ineffective assistance of counsel (I assume since you cannot prove the "prejudice" prong of that claim until after the trial is concluded), did you plan to respond?

I noted that you have hired an "expert" in the area of false confessions (presumably that's his filed of expertise in this case). Have you provided your expert with ALL the statements by your client (as an example, the phone calls from your client to his mother admitting his involvement in these crimes)? I'm guessing your expert will need all those admissions to render a reasoned opinion as to whether the statement by your client is "false" or not.

Attorney Kachinsky (when he advanced this same false confession theory) sent to the court a learned treatise on false confessions. He conceded that the document did not support his position that this series of statements of his client fit into that category (and in fact, the author of that very article concludes the same thing)! Recognizing the likely outcome of that theory of defense, Attorney Kachinsky attempted to negotiate a reasonable resolution of this case for his 16 year old client (attempting to secure his release from prison sometime before his life expectancy ended)...as you may be aware, we were literally a day or two away from completing the plea agreement, before Brendan's mother (with the prompting of Steven Avery) engineered Mr. Kachinsky's removal from the case. It doesn't take a brain surgeon to recognize that Brendan's plea would be "bad news" for Steven Avery---and his frantic efforts to thwart the deal (through the only avenue available at the time---removal of the attorney making the deal) succeeded in assisting Avery's defense.

The problem, of course, was it was at the detriment of his nephew, who stands to be thrown under the bus by Avery at the trial, starting February 5th, as the "real and sole killer" in this case. By the way, does your client understand that? Does he realize that Uncle Steve plans to blame HIM

for killing, raping, and tortuing Teresa?

As you may suspect, my personal and professional opinion of how this situation has unfolded is unsettling. I know how Kachinsky got publicly "outed" by the boys in Madison, and I know what good friend of Nick C. were pulling those strings. What I continue to hope, however, is that Brendan has someone looking out for HIS interests. I thought Kachinsky was doing that. Allowing him to be sacrificed by Avery (and his team) in February, with the natural conclusion that Brendan is saddled with life imprisonment, doesn't seem just. That may, however, be exactly what happens!

So, with that blunt history being provided, what are your plans in this case? With Dassey's admissions (no matter how you paint the March confession), including his May statement to police (admissible as "rebuttal" if you EVER claim false confession at trial); admissions to his mom (not involving police at all, so NO chance of being deemed involuntary); the physical evidence he directed police to (known only by someone participating in the murder)---are you really planning to go to trial?

If not, NOW is the time to settle this case, while your client still has a bargaining chip or two---if you wait until after his motion hearing (where he will surely disavow himself of his admissions), his utility to the state goes WAY down---hence, my willingness to cut him any deal goes WAY down---hence, he dies in prison. Even Barb Janda should understand that math!

So...if you want to consider the same offer that was provided in May; convince your client that it's not in his interest to allow Uncle Steve to throw him under the bus at his trial; explain to your client that no matter what evidence is advanced on the theory of false confession, that ALL of his subsequent statements become admissible; then contact me regarding the details of the agreement. If you believe that your client is better served by taking his chances at the motion hearing, and resulting jury trial in April, kindly let me know that too. Thanks.

Ken