November 13, 2013

To Whom It May Concern :

The trial of the People v. Cicinelli/Ramos officially began on November 04, 2013 in the Santa Ana, California Superior Court. Jury question ere forms have been filled in and jury selection is to begin in a few weeks.

The death of a homeless man, Kelly Thomas, resulted after an altercation with police on July 05, 2011 and three Fullerton police officers have been charged in his death as a result of attempting to effect an arrest.

The initial cause of death to Mr. Thomas was listed as "unknown." The cause of death was then changed to "compression suffocation" and has once again been changed to "cardiac arrest."

DA Rackauckas is personally representing the People in this case.

It is our opinion that the DA, Tony Rackauckas, has engaged in Prosecutorial Misconduct and possibly Witness Tampering in order to achieve the criteria needed to be able to file charges against the officers.

The following narrative will explain why we are contacting you and asking for your consideration and opinion on behalf of justice and fairness for all the officers involved.

John A. Huelsman/Donna Cicinelli Huelsman

[redacted]

[redacted]

Lawful Detention and Arrest of Kelly Thomas - July 05, 2011:

I believe the following timeline will show a pattern of Prosecutorial Misconduct on the part of Orange County, California District Attorney Tony Rackauckas in the death of Kelly Thomas, a homeless man in Fullerton, California.

CORONER:

After the autopsy of Kelly Thomas, a coroner's report was submitted after which District Attorney Tony Rackauckas met with the coroner on three separate occasions in an attempt to compel her to change the cause of death from "unknown" to "homicide."

After three meetings between DA Rackauckas and the coroner, Dr. Singhania, the coroner's report was changed to "homicide."

NO TAPE RECORDINGS AND NO NOTES WERE TAKEN OF THE MEETINGS BETWEEN THE CORONER AND THE DISTRICT ATTORNEY.

Subsequently the officers involved in the altercation with Kelly Thomas were criminally charged with his death by the District Attorney Tony Rackauckas.

ATTENDING PHYSICIAN FOR KELLY THOMAS:

Less than a month prior to the preliminary hearings, District Attorney Tony Rackauckas met with Michael Lekawa, the chief trauma surgeon who treated Kelly Thomas at UCI Medical Center in Irvine, California and who was scheduled to testify at the hearing.

The doctor was going to testify that the officers were not responsible for the death of Kelly Thomas.

During the meeting with the doctor, District Attorney Tony Rackauckas was able to compel him to change his medical report to reflect criminality on the part of the officers in the death of Kelly Thomas.

NO TAPE RECORDINGS AND NO NOTES WERE TAKEN OF THE MEETINGS BETWEEN DR. LEKAWA AND THE DISTRICT ATTORNEY.

Facts of the Case:

On the evening of July 05, 2011, a private citizen called Fullerton Police Department to report that she had observed a male subject walking through the parking lot at the transportation center, looking into vehicles and attempting to open car doors.

Officer Manuel Ramos and Officer Joseph Wolfe were dispatched to the transportation center to check out the report.

A man, later identified as Kelly Thomas, was detained by police in the area where the call had been placed.

Kelly Thomas matched the description given by the reporting party.

Officers detained Kelly Thomas and obtained his permission to view the contents of the backpack he was carrying on his back.

Some of the items found in the backpack were:

- **A valid passport belonging to someone other than Kelly Thomas.**
- **Car keys to a Lexus.**
- **Cell phone belonging to someone other than Kelly Thomas.**
- **Unopened mail belonging to an attorney whose office was near where he was detained.**
- **Three automobile cell phone chargers.**

Officer Wolfe asked the dispatcher to attempt to locate the owners of the items in the backpack.

Approximately fifteen minutes after effecting the stop on Kelly Thomas, the dispatcher advised Officer Wolfe that attempts to locate anyone connected with the items were unsuccessful. At that point in time, the officers had probable cause to effect an arrest for the felony of California Penal Code section 496.

> **Any person found to be in possession of items either lost or stolen are presumed to be guilty of Penal Code section 496.**

Officer Ramos and Officer Wolfe then proceeded to take Kelly Thomas into custody.

Kelly Thomas placed his hands and arms in a defensive posture and said "bring it on!" and subsequently ran from the officers.

Officers were able to catch up with Kelly Thomas and tackle him, causing him to fall to the ground landing on his face. A struggle ensued as Kelly Thomas refused to comply with their commands and officers were unable to subdue him. During the struggle the officers used necessary force.

Officers then called for assistance.

Kelly Thomas was detained with the aid of other officers who arrived on the scene.

Kelly Thomas was subsequently transported to a local hospital for evaluation and treatment. A short time later Kelly Thomas was transferred to a trauma center at UC Irvine Medical Center in Orange, California.

Kelly Thomas was evaluated, stabilized, placed on life support, and admitted to the hospital.

Autopsy of Kelly Thomas:

On July 11, 2011, family members of Kelly Thomas asked that he be removed from life support. Kelly Thomas expired shortly thereafter. His remains were taken to the Orange County Coroner's Office.

The autopsy of Kelly Thomas was assigned to Dr. Aruna Singhania. She is said to be a thirty year veteran pathologist of the coroner's office and to have performed over 11,000 autopsies.

During the autopsy, the Coroner, Dr. Singhania examined all vital organs and found Kelly Thomas had an enlarged heart, approximately twenty to twenty-five percent larger than normal. Kelly Thomas also had an enlarged liver, swelling of the brain and acute pneumonia.

Upon completion of the autopsy, Dr. Singhania was unable to determine the exact cause of Kelly Thomas' death. Dr. Singhania did not find evidence that the officers involved in the altercation were responsible for his death.

Death Certificate:

The original death certificate completed by Dr. Singhania listed the cause of death to Kelly Thomas as **"Unknown."**

Medical Report from UC Irvine Medical Center:

When Kelly Thomas was admitted to UC Irvine Hospital, he was attended by Michael Lekawa, M.D., Chief Trauma Surgeon, who was on duty at that time as was an associate Dr. Kaiser who assisted in the treatment of Kelly Thomas.

Dr. Lekawa evaluated and treated Kelly Thomas, placed him on life support, and admitted him to the hospital and continued to monitor his progress through his stay.

When Kelly Thomas was taken off life support approximately five days later, Dr. Lekawa submitted completed reports as required, dated July 11, 2011.

Dr. Lekawa's report did not reflect any wrongdoing on the part of the paramedics who attended Kelly Thomas at the scene or of any wrongdoing on the part of the officers who detained him.

Public Outcry:

After the death of Kelly Thomas, there was a public outcry of "Justice for Kelly" which included local radio talk show entertainers. Pressure was put upon District Attorney Tony Rackauckas to file murder charges against the officers involved in the incident.

The news reports and public outcry demanding D. A. Tony Rackauckas to file murder charges against the officers caused Dr. Lekawa to become concerned that the officers involved might be wrongfully charged in the death of Kelly Thomas.

Concern For Involved Officers By Dr. Lekawa:

On August 11, 2011, Dr. Lekawa called the district attorney's office and informed investigators of his medical opinion regarding the death of Kelly Thomas.

Dr. Lekawa told the investigators that when Kelly Thomas was brought into the trauma center by paramedics, he conducted a complete and thorough physical examination of him and found no injuries consistent with criminality.

Dr. Lekawa was then asked to come into the D.A.'s office and give a formal tape recorded statement.

On August 12, 2011, Dr. Lekawa and his associate, Dr. Kaiser went to the district attorney's office to give a formal statement.

In his statement, Dr. Lekawa stated that **the officers were not responsible** for the death of Kelly Thomas and told investigators that the trauma to the head area of Kelly Thomas had **"nothing to do with the cause of his death."**

Dr. Kaiser was present during the formal statement given by Dr. Lekawa and she supported his medical opinion, that there was no medical evidence that would support charges of criminality on the part of the officers involved in the altercation with Kelly Thomas.

So as of August 12, 2011 the D. A. Tony Rackauckas had medical reports from three different doctors that stated that the officers were not responsible for the death of Kelly Thomas.

D. A. Tony Rackauckas discounted the findings of the reports from the three doctors and proceeded with the indictment process against the three officers.

D. A. Tony Rackauckas set about to seek a change in the coroner's report by Dr. Singhania to reflect the Cause of death of Kelly Thomas to be "Homicide." The change would allow D. A. Tony Rackauckas medical evidence to support an indictment against the officers.

The Following Information was Taken From Preliminary Hearing Testimony:

First Meeting With Dr. Singhania:

Shortly before the officers were indicted D. A. Tony Rackauckas sent a lead investigator and a deputy district attorney to meet with the coroner, Dr. Aruna Singhania.

The purpose of the meeting was to show the video of the incident between Kelly Thomas and the police officers to her and to ask her if she saw any evidence of criminality on the part of the officers during the altercation.

The investigator who met with Dr. Singhania showed her the video in real time, with no stopping. After the viewing of the video, the investigator and the deputy district attorney discussed with Dr. Singhania evidence of criminality on the part of the officers in this matter.

At the conclusion of the meeting Dr. Singhania stated that she saw nothing on the video that would indicate any criminality on the part of the officers.

Dr. Singhania did not change her report after that meeting.

Note:

No tape recording or notes were taken during the meeting by either Dr. Singhania or by the investigators.

The investigator and the deputy district attorney returned to D. A. Tony Rackauckas after the meeting with Dr. Singhania and told him that Dr. Singhania saw nothing on the video that would cause her to change her report as to the cause of death of Kelly Thomas.

District Attorney Tony Rackauckas instructed the investigator and the deputy district attorney to schedule ***another*** meeting with Dr. Singhania to again show her the video and to again discuss with her the possibility of criminality on the part of the officers.

Second Meeting With Dr. Singhania:

A second meeting was conducted with Dr. Singhania, and she was again shown the video. Again, Dr. Singhania did not change her report as to the cause of death.

Note:

Again no tape recording or notes were taken during the meeting by either Dr. Singhania or by the investigators.

The investigator and the deputy district attorney again reported to D. A. Tony Rackauckas that Dr. Singhania did not change her report as to the cause of death.

District Attorney Tony Rackauckas Decides To Personally Call Dr. Singhania:

D. A. Tony Rackauckas became personally involved in the investigation, called Dr. Singhania, and advised her that he would like to personally meet with her to discuss the video and her findings.

Subsequently, D. A. Tony Rackauckas and a deputy district attorney met with Dr. Singhania.

During the meeting, District Attorney Tony Rackauckas showed the video once again to Dr. Singhania. Upon completion of the viewing of the video, a discussion ensued wherein D. A. Tony Rackauckas suggested that the officers had suffocated Kelly Thomas which caused his death. D. A. Tony Rackauckas used the term **"compression suffocation."**

At the conclusion of the meeting, Dr. Singhania decided to agree with D.A. Tony Rackauckas as to the cause of death: ***"compression suffocation."***

Dr. Singhania then changed the cause of death of Kelly Thomas, which had been listed as ***"Unknown",*** to that of ***"Homicide."***

Note:

As in the previous meetings with Dr. Singhania and the District Attorney's office, no tape recording was made and no notes were taken.

Indictment Against Officers:

As a direct result of Dr. Singhania making changes to the coroner's report, District Attorney Tony Rackauckas had the medical evidence necessary to file criminal charges of "homicide" against the officers.

Press Conference by D. A. Tony Rackauckas - September 21, 2011 - 10:00 A.M.:

The revised death certificate was signed and submitted by Dr. Singhania on the morning of September 21, 2011 and was only made available to District Attorney Tony Rackauckas moments before the 10:00 A.M. press conference to announce the indictments against the officers involved in this matter.

Officer Manuel Ramos was charged with Second Degree Murder and Manslaughter.

Cpl. Jay Cicinelli was charged with Misdemeanor Manslaughter and Use Of Excessive Force Under The Color Of Authority.

Officer Joesph Wolfe was not charged with a crime.

D.A. Tony Rackauckas said that Officer Wolfe was **unaware of the actions of Officer Ramos and therefore, he was not criminally liable** in the incident.

Preliminary Hearing Scheduled For May 7, 8 and 9 of 2012:

After the indictments were handed down, a preliminary hearing was scheduled for the above May 7, 8, and 9, 2012.

Dr. Lekawa Receives Subpoena:

In late March 2012, Dr. Lekawa received a subpoena to testify at the preliminary hearing regarding his evaluation and treatment of Kelly Thomas upon admission to UCI Medical Center.

Dr. Lekawa was to testify that in his medical opinion the officers were not responsible for the death of Kelly Thomas. This testimony would be in direct contradiction to Dr. Singhania's testimony.

On April 08, 2012 Dr. Lekawa received a phone call from D.A. Tony Rackauckas, who asked for a meeting with him to discuss his upcoming testimony at the preliminary hearing.

Note:

Dr. Lekawa stated that he receives approximately fifty subpoenas yearly; and when he received a telephone call to set a meeting with D.A. Tony Rackauckas, he was not surprised.

On April 09, 2012, District Attorney Tony Rackauckas and a deputy district attorney met with Dr. Lekawa at his office at UCI Medical Center. Instead of going over the medical report he had previously submitted, and discussing his testimony for the upcoming preliminary hearing, D.A. Tony Rackauckas handed Dr. Lekawa a copy of the coroner's report as submitted by Dr. Singhania.

A lengthy discussion ensued between Dr. Lekawa and D.A. Tony Rackauckas as to the content of the report and the cause of death to Kelly Thomas according to Dr. Singhania.

After Dr. Lekawa viewed the video in real time, and subsequently said he would agree with the cause of death as stated in the coroner's report; however, Dr. Lekawa was not informed that the coroner's report had been changed by Dr. Singhania prior to the meeting.

Note: No notes were taken and the meeting was not tape recorded.

Officer Joseph Wolfe Charged:

On Thursday, September 27, 2012 District Attorney Tony Rackauckas formally charged Officer Wolfe with one felony count of manslaughter and one felony count of use of excessive force in the death of Kelly Thomas.

A spokesperson at the_District Attorney's office said that Officer Wolfe was now being charged because of "new evidence" however, the spokesperson would not say what the new evidence was.

No trial date has been set for Officer Wolfe.

Trial Date:

The Officers are to go to trial in November 2013 in the Superior Court in Santa Ana, California in the County of Orange.

Comment On The Actions Of District Attorney Tony Rackauckas:

It is unknown what was said during the meeting between Dr. Singhania and D.A. Tony Rackauckas which caused her to change the cause of death of Kelly Thomas, especially after being so adamant in previous meetings about not finding criminality on the part of the officers involved.

The events set in motion by District Attorney Tony Rackauckas appear to have had a purpose. He convinced Dr. Singhania to change her listed cause of death from ***"Unknown"*** to that of ***"Homicide"*** and succeeded in Dr. Lekawa agreeing with the changes.

It is for these reasons that I believe that D.A. Tony Rackauckas engaged in Prosecutorial Misconduct.

Submitted by John A. Huelsman/Donna Cicinelli Huelsman

Parents of Cpl. Jay Cicinelli