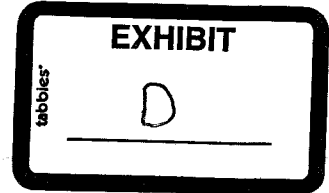


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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO



UNITED STATES OF AMERICA,
Plaintiff,

v.

Criminal Case No. 10-CR-148-BLW

EDGAR STEELE,
Defendant.

AFFIDAVIT OF GARY I. AMENDOLA

State of Idaho)
 ss.
County of Kootenai)

I, Gary I. Amendola, the Affiant, a resident of the State of Idaho, being over the age of 18 years and competent to testify according to my own personal knowledge, upon oath, state, allege and aver under penalty of perjury pursuant to 28 USC §1746 as follows:

1. In this case, I was Idaho local counsel for pro hac vice counsel Robert T. McAllister.
2. My arrangement with Mr. McAllister was that I would participate in the defense of Edgar Steele, but Mr. McAllister was lead counsel and would handle the vast majority of the motion practice, hearings, and the trial.
3. It was my observation at the beginning of this representation that Mr. McAllister had a different advocacy style than mine and he sometimes took positions that

seemed to me to be unproductive, but I simply thought at that point that it was a difference of style and not necessarily substance.

4. At some point before the Daubert hearing of April 20, 2011, I heard a rumor that Mr. McAllister was going through a bankruptcy. I did nothing to confirm it and I never discussed it with him. I figured that if it was an issue that would affect his representation of Edgar Steele, he would raise it with me and/or the Court.

5. It was not until well after the trial that I knew anything at all about his trouble with the Colorado Bar or that Mr. McAllister was being disbarred.

6. My first real concern about the effectiveness of his representation arose a day or two before the Daubert hearing. I arrived in Boise the day before the hearing and spent the day with George Papcun and Dennis Walsh preparing for the hearing. If necessary I was prepared to handle that hearing. My concern was that Mr. McAllister indicated that he would fly from Denver the morning of the hearing, spend a little time with Mr. Papcun and Mr. Walsh and attend the hearing. He seemed to think that it was a done deal that both Mr. Papcun and Mr. Walsh would be approved by the Court to testify at the trial. After much persuading by Wesley Hoyt, Mr. McAllister agreed to fly in the night before and did spend some time with Mr. Papcun and Mr. Walsh before the hearing.

7. My next concern about the effectiveness of his representation arose on the day of the Daubert hearing. In my opinion, Mr. McAllister did a lousy job of laying the foundation for the expertise of either Dr. Papcun or Mr. Walsh. Of course, given the credentials of Dr. Papcun, laying that foundation was easy. However, in the case of Mr. Walsh, significantly more foundation was necessary and was available than what Mr. McAllister inquired about. He also questioned Mr. Walsh in a disjointed and random fashion that did not at all lend itself to showing just how much expertise Mr. Walsh actually had and how that expertise was relevant to the defense of Edgar Steele. I am not saying that had I done the inquiry of Mr. Walsh that the outcome would have been different, but I certainly believe that it may well have been different. I was not present at the second day of the Daubert hearing so I can't comment on Mr. McAllister's performance on that day. However, after the first day I thought the proverbial handwriting was on the wall for a denial of one or both defense experts.

8. Before the Daubert hearing I asked Mr. McAllister about what we would do about securing Dr. Papcun's attendance at trial if Mr. Walsh was not allowed to testify and he simply responded that we would get him (Dr. Papcun) there, i.e., to trial.

9. Between the Daubert hearing and the trial, I spoke with Mr. McAllister on a regular basis. On a number of occasions on the telephone and in person, I questioned him about the availability of Dr. Papcun now that Mr. Walsh was denied the opportunity to testify. I questioned him about that because I knew that Dr. Papcun had an out of country vacation scheduled during the time of the trial. Mr. McAllister assured me that we would get him to trial if we needed him. I was concerned, but accepted his statement. I asked about a subpoena to ensure his appearance and he basically said that if we subpoena Dr. Papcun, we will have a very unfriendly witness.

10. At more than one meeting with Edgar Steele at the Ada County Jail, Edgar Steele raised the issue of ensuring that Dr. Papcun was available for trial, and raised the subpoena issue more than once. Mr. McAllister assured Edgar Steele that we would get Dr. Papcun there for trial.

11. Between the Daubert hearing and the trial, I sensed that Mr. McAllister was distracted and not properly doing the final preparations necessary for the trial. I did not, however, talk to him about my concern. For that, I am very disappointed in myself and feel like I did not properly represent Edgar Steele because it turned out my concerns were justified.

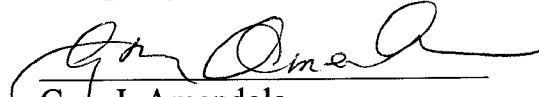
12. During the trial, it was clear to me that Mr. McAllister was not well prepared. His cross examination of witnesses called by the United States was disjointed and random and often did not get to the issue that needed to be addressed. His examination of witnesses called by the defense was equally weak, disjointed and random. He also paid little attention to directives from Edgar Steele. I did not confront Mr. McAllister about these things even though I should have done so. For that, I am very disappointed in myself because it turns out that my concerns continued to be justified. Unfortunately and in my opinion, it made my representation of Edgar Steele deficient as well.

13. Finally, I must address the closing argument presented by Mr. McAllister on behalf of Edgar Steele. It was terrible. The closing argument did not address key legal issues, including legal issues identified in the jury instructions. I had earlier raised those issues with Mr. McAllister. My recollection is that the closing argument did not address Count IV at all. The closing argument also did not address the validity of the recordings between Larry Fairfax and Edgar Steele in any meaningful way that could possibly persuade the jury to disregard those recordings. In my opinion, the closing argument was rambling and ineffective.

14. In my opinion, trial counsel for Edgar Steele were ineffective and did not provide him with adequate, competent or effective representation.

Further affiant sayeth naught.

I declare under penalty of perjury that the foregoing is correct on this 28 day of
JUNE, 2011.



Gary I. Amendola