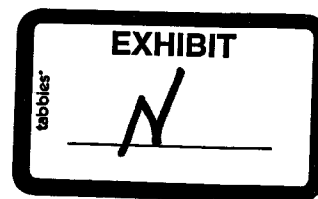


Wesley W. Hoyt, ISB #4950
Attorney at Law
165 Deer Field Dr.
Clearwater, ID 83552
Ph: 208-983-0212
Fax: 208-926-7554
email: hoytlaw@hotmail.com

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 ROBERT T. McALLISTER
(Second Affidavit Re: Ineffective Assistance of Counsel)

State of Colorado)
 ss.
County of Jefferson)

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

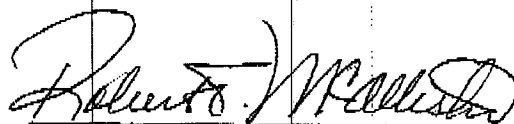
1. I am an attorney engaged in the private practice of law who represented that I was capable of serving as lead counsel for Edgar J. Steele in the trial of the above mentioned criminal proceeding which ended May 5, 2011 with a jury verdict of conviction on all four felony counts of the indictment.

2. I add the following to the Affidavit of Robert T. McAllister (Ineffective Assistance of Counsel) dated June 28, 2010:

- a. I did not serve a subpoena Dr. George Papcun, the defense expert witness designated to testify in the field of audio recording analysis and to appear at Mr. Steele's trial because I was informed that he would be a hostile witness unless he was paid for the loss of his Polynesian vacation.
- b. When the Court reversed its ruling on Monday, May 2, 2011, I was led to believe that Dr. Papcun could testify by audio/video conferencing.
- c. From Dr. Papcun's report and the testimony he offered at the Daubert Hearing of April 20, 2011, it is clear that it could be expected that his testimony at trial would indicate that one of the causes of the electronic signatures, gaps or discontinuities on said recordings was from editing or deliberate manipulation of the audio portion thereof, creating an inference that there was a scientific basis to believe that said recordings were not authentic nor were they a continuous, uninterrupted recording of the purported conversations between Mr. Steele and Larry Fairfax on June 9th and 10th, 2010 as represented by the Government.
- d. I received a one page, hand written letter (attached as Exhibit "A") from Mr. Steele dated April 21, 2011 which I received after the conclusion of the Daubert Hearing. In that letter he confirmed in writing that he, under all circumstances, wanted me to subpoena Dr. Papcun for trial and that it was his desire that his supporters should pay Dr. Papcun to "buy-out" his Polynesian vacation that would be lost if he attended the trial due to commence April 26, 2011.
- e. Due to a misunderstanding about my client's instructions, I did not subpoena Dr. Papcun because I did not think it would be beneficial to his case.

Further affiant sayeth naught.

I declare under penalty of perjury that the foregoing is correct on this 5th day of July, 2011.



Robert T. McAllister

MAR-

Papen did ok, though shaky at times.

Walsh is guilty of cv laundering - degree (exaggeration) only, though. Problem.

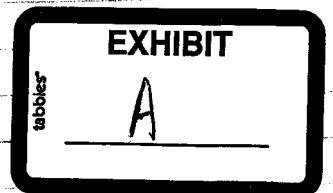
Whalen has demoralized Walsh, whose qualification as an expert for trial now is in serious trouble. How to rehabilitate?

Walsh has yet to testify that some of the tapes are not in ES' voice. This is a blockbuster that needs to be said.

Papen & Walsh both say there are an unusually (extraordinarily) large number of transient electronic signals and gaps on both tapes, but only Walsh opines that it is due to editing. Important!

We need Papen's qualifications to support Walsh's testimony, a ~~test~~ We must bring Papen back for the trial, whatever the cost!

We must lay a subpoena on Papen and, perhaps, move to continue (the subpoena is mandatory for our appeal).



B-

I NEED TO SEE: ① ALL EMAILS (ESP. THE ONES WALTER WANTS IN EVIDENCE), ② PROSECUTION INS REPORT, ③ THEIR SOUND EXPERT REPORTS AND, IF POSSIBLE, MY LAPTOP & HARD DRIVE.