

EXHIBIT D

John

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Criminal Division - Felony Branch
20110321 A 9:25

UNITED STATES OF AMERICA)	
v.)	Criminal No. 2008 CF1 30325
DONTRELL DEANER)	Judge Leibovitz
_____)	

**INVESTIGATOR'S MOTION FOR APPOINTMENT AND COMPENSATION
UNDER THE CRIMINAL JUSTICE ACT PROGRAM**

Investigator Adrian K. Bean ("Movant") respectfully moves this Honorable Court to issue an Order in the above-captioned case: (1) authorizing the appointment of Movant as an Investigator under the Criminal Justice Act Program; and (2) authorizing the issuance of a Voucher to Movant for all investigative services rendered by him before his dismissal by counsel. Movant would further request this Court's approval of that Voucher for payment. As grounds for this Motion, Movant would state the following:

1. Movant is a certified Investigator under the Criminal Justice Act Defender Service of the Superior Court (Expert No. IV-0014).
2. Movant was approached by Mr. Sherlock Grigsby, counsel for the Defendant in this case, Dontrell Deaner, and asked to act as the defense Investigator.
3. Movant agreed to this request, accompanied Mr. Grigsby to the CJA Office, spoke to Ms. Tamekia O'Neal of the Defender Service, and took the steps necessary to obtain an Investigative Services Voucher for the case. At that point, it was Movant's understanding that he would be appointed and compensated under the CJA Program.

4. Movant subsequently performed various services in connection with the investigation of the case.
5. After performing these duties, and with no prior warning, Movant was advised by Mr. Grigsby that a decision was made to replace Movant with another investigator. No reasons were given for this decision.
6. After being so advised, Movant prepared a final Investigative Report for the case (Exhibit 1, Attached) and submitted a Letter (Exhibit 2, Attached) and Invoice (Exhibit 3, Attached) acknowledging his removal from the case and requesting compensation for his services, which totaled 21.9 hours. Movant's efforts were met by a refusal by Mr. Grigsby and pro hac vice counsel, Joseph Rakofsky, to either authorize full payment through a CJA voucher, or to compensate Movant for his services at his retained investigator's rate.

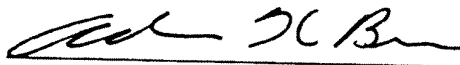
CONCLUSION

Movant has reason to believe that his removal from this case was based on his refusal to follow an e-mail request from Mr. Rakofsky (Exhibit 4, Attached) instructing him to try to "trick" a witness into changing her testimony. Movant, who had a good relationship with the Defendant, Mr. Deaner, can think of no other reason for both his removal and defense counsel's refusal to pay him.

Whatever the motives may be, Movant should be fairly compensated for the services performed in this case.

WHEREFORE, for the reasons stated above, Movant Adrian K. Bean requests that this Motion be GRANTED.

Respectfully submitted,



Adrian K. Bean
c/o Heslep & Associates
419 7th Street, N.W., Suite 401
Washington, D.C. 20004
(202) 658-4962

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Motion for Appointment and Payment under the Criminal Justice Act Program was mailed, first class postage prepaid, to Sherlock V. Grigsby, Counsel for Dontrell Deaner, 601 Pennsylvania Avenue, N.W., Suite 900, Washington, D.C. 20004; and the Office of the United States Attorney, Felony Trial Section, 555 4th Street, N.W. Washington, D.C. 20530, on this 31st day of MARCH, 2011.



Adrian K. Bean

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Criminal Division – Felony Branch

UNITED STATES OF AMERICA

:

:

v.

:

Criminal No. 2008 CF1 30325

DONTRELL DEANER

:

_____ :

ORDER

Upon consideration of the Motion filed by Adrian K. Bean, and the facts and arguments contained therein, said Motion is **GRANTED**, and it is this _____ day of _____, 2011, **HEREBY ORDERED**: (1) that the Finance Office of the Criminal Justice Act Program Defender Service issue to Adrian K. Bean a voucher for investigative services in the above-captioned case; and (2) that payment be authorized for all services rendered by Mr. Bean prior to his removal as the investigator on the case.

Lynn Leibovitz

Associate Judge

Cc:

Adrian K. Bean
419 7th Street, N.W., Suite 401
Washington, D.C. 20004

Criminal Justice Act Finance Office
Superior Court of the District of Columbia

ADRIAN K. BEAN
c/o HESLEP & ASSOCIATES
419 7th STREET, N.W., SUITE 401
WASHINGTON, D.C. 20004

Phone: 202-658-4962 // E-Mail: boyznhoodinvestigations@yahoo.com

March 5, 2011

Mr. Sherlock V. Grigsby
Attorney At Law
601 Pennsylvania Avenue, N.W., Suite 900
Washington, D.C. 20004

Re: Invoice for Investigative Services Rendered: U.S. v. Dontrell Deaner

Dear Mr. Grigsby:

Enclosed, please find the Invoice for Investigative Services Rendered in the above-captioned case. As mentioned in my previous e-mail, these services are being billed at the private retainer rate of \$50.00 per hour.

I was extremely disappointed (as was Mr. Deaner) that you elected to substitute investigators in this case. Often it is extremely difficult to work closely with local counsel, let alone out-of-state counsel. While I recognize your right to make this decision, I believe that you could have been a little more professional in this matter by, at the very least, giving me prior notice. To date, I have received no formal notification of my dismissal from this case, by e-mail or otherwise.

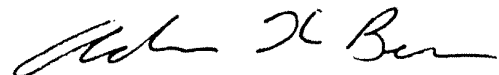
I am of the opinion that your decision was based on your dissatisfaction with not having received the records subpoenaed from the Maryland DMV in our previous case. You were informed of the status of that subpoena, and were also provided with a copy of a second subpoena that was issued to DMV on the day before trial. While I can sympathize with your Client's displeasure, I would also note that it would have been wise, under the circumstances, to have asked for a continuance in the case given the potential delays in obtaining the DMV records. As you were made aware, the delay in this case was a reflection of changes in the DMV's "post- 911" processing procedures for subpoenaed documents. In consideration of all of the circumstances in that earlier matter, however, I am willing to deduct the sum of **\$125.00** from the \$250.00 payment received for the "DMV case", and to credit that sum toward the fee charged for services in Mr. Deaner's case. In other words, you may deduct \$125.00 from the amount due on the Deaner Invoice. Lastly, I was disappointed that you chose to voice your complaints about me to another lawyer, Kevin J. McCants, rather than to me directly. If I have an issue with someone, it is my policy to go directly to the source. I believe this to be the more appropriate way of resolving problems.

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(Invoice: U.S. v. Deaner)

Please arrange to have the requested payment, in the form of a check or money order, available for pick-up from your receptionist on or before **March 11, 2011**. Otherwise, I will have no alternative but to seek payment in this matter by submitting all of my files in this case, along with a Motion for a "Show Cause" hearing, to the Court.

Your assistance and attention to this matter will be appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Adrian K. Bean". The signature is fluid and cursive, with the first name "Adrian" and last name "Bean" clearly distinguishable.

Adrian K. Bean, Investigator

Encl: Invoice for Services Rendered

**To: Sherlock V. Grigsby and Joseph Rakofsky,
Attorneys at Law**

**INVESTIGATIVE REPORT:
UNITED STATES v. DONTRELL DEANER,
(CR. NO. 2008 CF1 30325)**

Submitted by:

**Adrian K. Bean,
Investigator**

I. Introduction:

I was initially assigned to investigate this case on behalf of Mr. Dontrell Deaner, who was charged in D.C. Superior Court with First Degree Murder while Armed- Felony Murder. According to the Criminal Complaint filed in this case, the Government alleges the following events:

1. On June 16, 2008, at approximately 12:10 a.m., members of MPD's 7th District responded to the 2300 block of Pitts Place, S.E. after reports of a shooting. Upon their arrival, officers found the decedent in this case, **Mr. Frank James Elliot**, age 41, lying in the street, and suffering from an apparent gunshot wound to the chest. Mr. Elliot was declared dead at the scene. The Medical Examiner's Office later confirmed the cause of death to be due to a gunshot wound to the back, which perforated the heart and aorta.

2. Homicide investigators eventually located three (3) alleged witnesses to the events surrounding Mr. Elliot's death on June 16. These witnesses' accounts are as follows:

Witness One ("W-1"):

W-1 was allegedly in the 2300 block of Pitts Place on the date in question and observed the Client, Mr. Deaner, along with an individual known to W-1 as "Joe-Joe", and "**another guy who was armed with a gun**" (emphasis added) following Mr. Elliot down the steps toward Mr. Elliot's vehicle. Once at the vehicle, W-1 observed Mr. Deaner initially punch the decedent, followed by "Joe-Joe" (or Jonah Vaughan). The third man, alleged to be Javon Walden, then produced a gun, which the decedent smacked out of Walden's hand, causing the gun to land on the sidewalk. (According to W-1, the gun "sounded as though it came apart"). Walden ultimately regained control of the gun, walked to the passenger side of the decedent's vehicle, placed his arm on the roof of the car, and fired one shot that hit the decedent in the back. It was W-1's belief that the men were attempting to steal Mr. Elliot's vehicle at the time of the shooting. W-1 later identified Mr. Deaner from a photo array as having been one of the men present at the scene of the shooting.

Witness Two ("W-2"):

W-2 was also present in the 2300 block of Pitts Place on the date of the shooting. W-2 allegedly saw the decedent's (Mr. Elliot's) vehicle enter the block and park. Shortly thereafter, an individual known to W-2 as "Vaughan" or "Von", along with another man, walked over to the decedent's vehicle "to see who was inside". The decedent, along with another unidentified man, then exited his vehicle, and began walking toward the steps that lead to the courtyard area. Upon reaching the steps, the same man that initially approached the decedent's vehicle, along with a "few [other] subjects" refused to allow the decedent to pass. The decedent (Mr. Elliot) then returned to his vehicle, while being followed by both Javon Walden and the same man who had initially approached his vehicle when the decedent first parked. W-2 then saw both men armed with handguns,

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with Walden standing in the street, and shooting the decedent one time, "**hitting him in the chest**" (emphasis added). W-2 further described the weapon as being a .45 caliber handgun. In addition, W-2 allegedly observed Walden in possession of a .45 caliber handgun a couple days prior to the shooting, and in the same block. W-2 also believes that the motive was to try to steal Mr. Elliot's vehicle.

Witness Three ("W-3"):

W-3 was allegedly privy to a conversation in which the Client, Mr. Deaner, admitted that, on the night of the shooting, he and others (including Jovan Walden) were gambling in the hallway of a building at 2340 Pitts Place, S.E. when the decedent (Elliot) entered the building. An argument ensued, leading W-3 to believe that the decedent may have been attempting to rob the crap game. Shortly thereafter, Walden and Mr. Deaner allegedly followed the decedent to his vehicle, at which time Walden produced a handgun that fell to the ground, and was retrieved by Walden, who then shot the decedent. W-3 apparently has known the Defendant, Mr. Deaner, for several years, and is familiar with such information as his name, address and date of birth.

II. Other Evidence Cited in the Complaint:

3. Other evidence in possession of MPD, according to the Complaint, includes:
 - (A) One expended .45 caliber cartridge casing (recovered at crime scene);
 - (B) One .45 caliber cartridge (recovered at crime scene); and
 - (C) Video Footage from MPD's Close Circuit Television (CCTV) camera located in the 2300 block of Pitts Place, S.E., allegedly showing two individuals approaching decedent's vehicle as he initially arrives in the block. A short time later, the same two individuals are seen following the decedent back to his vehicle. One of the men crosses the street, while the second man walks down the sidewalk. Immediately thereafter, the man crossing the street turns around, and walks directly behind the decedent, with his arm extended, and holding what appears to be a handgun.

4. The Criminal Complaint concludes by noting "some inconsistencies" in the witnesses' accounts of events on June 16, 2008.

III. Investigative Steps Taken:

I watched the MPD video tape described above, in the company of Attorney Grigsby. The focus of my viewing was to compare and analyze the actions depicted in the video with: (1) the witness accounts and (2) the elements of the offense of First Degree Murder-Felony Murder in the District of Columbia.

I made the following observations while viewing the videotape:

- (1) The videotape depicts two individuals walking down the same flight of steps (following the decedent).
- (2) Mr. Deaner veers left, and continues to travel down the block parallel to the decedent's vehicle, on the passenger's side.
- (3) Co-defendant Javon Walden follows the decedent as he attempts to unlock and enter his vehicle. Walden then produces a handgun, shoots the decedent in the back and then runs off.
- (4) I would note that Mr. Deaner's reaction to the sound of the gunshot appeared to have been consistent with his being both unprepared for the shooting, and unaware of Walden's intentions before hand. He appears on the tape to run from the scene out of fear, as most other rational persons would do.

Comparison of Videotape with Witness Accounts:

(A) **W-1:** This witness' version of events, in which Mr. Deaner allegedly punches the decedent just before the shooting once the decedent returned to his vehicle, is not supported by the videotape and, therefore, is not credible.

(B) **W-2:** This witness' version is more consistent with what I observed on the videotape. W-2 observes the decedent returning to his vehicle, followed by Javon Walden who, fires a shot at the decedent. The one glaring difference in W-2's recollection, however, is that, (according to the language in the Complaint) Mr. Elliot was shot in the **chest**, rather than in the **back**, as it appears in the videotape. (**Note:** I could not be certain that the gun was a .45 caliber from viewing the tape).

(C) **W-3:** This witness claims to have been privy to a conversation in which Mr. Deaner admits to being in the hallway of the building at 2340 Pitts Place, S.E. on the night of the shooting. According to W-3, Mr. Deaner spoke about: (1) gambling in the hallway with Walden and others when the decedent entered the building; (2) an argument ensuing, in which the decedent was suspected of planning to rob the crap game; (3) he and Walden following the decedent to his vehicle; (4) Walden producing a handgun which "eventually fell to the ground"; and (5) Walden retrieving the gun and shooting the decedent. (**Notes:** (1) It is unclear if the facts surrounding the shooting were W-3's own observations or a recounting of Mr. Deaner's version of events; (2) I did not observe a handgun fall to the ground on the videotape; (3) Nowhere is this alleged conversation did Mr. Deaner admit to participating in the shooting of the decedent; and (4) I did discover,

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after a criminal background check, that the decedent, Frank Elliot, had a prior **charge for robbery**).

Co-Defendant's Exculpatory Statement: According to information available to me, Javon Walden has produced a statement taking full responsibility for the shooting on June 16, 2008, and exculpating your Client, Mr. Deaner.

IV. Summary and Recommended Courses of Action:

I would note that I have successfully investigated numerous homicide cases over the course of the past 20 years, the majority of which have resulted in acquittal. The steps taken in this investigation thus far, as well as my decisions regarding the proper course of action to take, are based on that extensive investigative experience.

Actions Taken in Response to E-Mail Assignment:

In an E-mail dated October 6, 2010, I was instructed by Mr. Rakofsky to perform the following services in connection with this case:

(A) "Trick Leigh (Old Lady)" into Making Certain Admissions. I was asked to get this prospective witness to say that she told two attorneys that: (1) she did not see the shooting; and (2) she did not provide the Government any information about the shooting. I respectfully decline to perform this assignment for several reasons: **(1) I do not know what that term, "trick", means in this context; (2) I am in the investigative business, not the tricky business; (3) I will not risk exposing myself to obstruction of justice or conspiracy charges; and (4) the implications of such a request appear to inherently unethical.**

(B) Canvass the Neighborhood for Witnesses. One has to be very careful in approaching individuals to solicit information regarding a murder case for several reasons: You yourself can become a target or victim by simply asking questions. In addition, investigators are often met with the same "code of silence" encountered by law enforcement personnel. Like any other neighborhood outsiders, we are not products of the community around the 2300 block of Pitts Place, S.E., and are not associated with the criminal subculture of that area. In short, they protect their own. Most of the individuals I spoke with claimed to have not seen or heard anything on the night of the shooting.

(C) Get Information regarding the Efficiency of MPD's Close Circuit Camera (CCTV). Based on both my experience, and the information made available to me, the proper steps to take in obtaining information on the installation of the surveillance camera, and its workings, flaws etc. would be through the request and/or subpoena of:

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(1) The MPD User Manual and other CCTV-related materials; and (2) Expert Testimony from a technician from either MPD or the CCTV manufacturer. **Question: Why would you want to raise any doubts about the efficiency of the camera system when it so clearly shows that your Client did not participate in the shooting?**

Other Recommended Points of Investigation :

I would suggest exploring the following points:

1. Why would Mr. Deaner, as a long-time resident of the area who was aware of the location of the MPD surveillance cameras, commit the crime in full view of the camera?.

2. Why would Mr. Deaner commit such a heinous crime in his own backyard?

3. Mr. Deaner's mere presence at the scene does not rise to the level required to be guilty of First Degree Murder under D.C. Code Section 22-2101 which requires purposeful killing "either of deliberate or premeditated malice" or "in perpetrating or attempting to perpetrate ...[a] robbery"(as appears to be the theory in this case). In the video, he appears to be doing nothing to assist Walden in shooting the victim.

4. The version of events among the three (3) main witnesses contained substantial inconsistencies and defy common sense. For example:

(a) If the motive in this case was robbery (according to W-1 and W-2), why didn't Walden and the other individual take the car from Mr. Elliot immediately after he parked in the 2300 block of Pitts Place rather than approaching the car and allowing the decedent to leave his car and walk to the building and back before the attempted robbery?

(b) Why didn't Walden or anyone else take the decedent's vehicle after the shooting?

(c) If the decedent was stopped by Walden and others as he reached the steps, and not allowed to enter the building at all (according to W-2), how did he encounter Mr. Deaner and others gambling in the hallway of building, as alleged by W-3?

Conclusion

I was recently informed by Mr. Grigsby that a new investigator has been found to work on this case. I began work on this case with the understanding that CJA funds had been approved by Judge Lebovitz for my investigative services, and that I would be on

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this case for the "long haul". After being notified of my dismissal from the case, I spoke with Mr. Deaner, who was both surprised and disappointed in this news, particularly since he had not been informed of this decision. Nevertheless, I will be submitting an Invoice for Services Rendered at Mr. Deaner's Status Hearing on February 11 for the work performed by me thus far. Please note that this Invoice will reflect my regular "retained" rate of \$50.00 per hour. Your prompt payment for these services would be appreciated.



Adrian K. Bean

Date: February 8, 2011

**ADRIAN K. BEAN
INVESTIGATOR
c/o HESLEP & ASSOCIATES
419 7TH STREET, N.W., SUITE 401
WASHINGTON, D.C. 20004**

TO:
Mr. Sherlock V. Grigsby,
Attorney at Law

March 5, 2011

INVOICE FOR INVESTIGATIVE SERVICES RENDERED: U.S. v. DONTRELL DEANER

Services Rendered:	Dates:	Hours:
Initial Conference with Attorney Grigsby, Reviewed video footage of crime scene incident from MPD surveillance camera.	9/20/10	1.0
Reviewed criminal case files of co-defendant Javon Walden (Cr. No. 2008 CF1 19602) and Dontrell Deaner (Cr. No. 2008 CF1 30325)	9/21/10	1.5
Conducted witness canvasses in area of crime scene in 2300 block of Pitts Place, S.E. Dates and Hours: (1) Sept. 25: (1.5 hours); (2) Oct. 2(2.0 hours); (3) Oct. 9: (2.0) hours; and Nov. 6: (2.0 hours).	9/25/10 thru 11/6/10	7.5
Interviewed Defendant Dontrell Deaner at CTF on four (4) separate occasions; delivered copy of Investigative Report.	9/28/10 thru 1/13/11	10.5
Visited MPD HQ at 300 Indiana Avenue, N.W. to make inquiries on how to obtain information on operation of MPD surveillance camera (per e-mail instruction from Attorney Rakofsky)	10/8/10	0.5
Preparation of Investigative Report	2/8/11	0.9
TOTAL HOURS OF SERVICES (@ \$50.00 PER HOUR).....		21.9
TOTAL AMOUNT DUE (ON OR BEFORE MARCH 11, 2011)		\$1095.00

It Has Been a Pleasure to Be of Service.

From: triallawyerusa@gmail.com (triallawyerusa@gmail.com)
To: boyznhoodinvestigations@yahoo.com; consult@thegrigsbyfirm.com;
Date: Wed, October 6, 2010 2:28:49 PM
Cc:
Subject: Deaner Murder Case

Adrian,

Thanks for helping.

1) Please trick Leigh (old lady) into admitting:

a) she told the 2 lawyers that she did not see the shooting and

b) she told 2 lawyers she did not provide the Government any information about shooting.) This happened a couple of months ago.

2) Canvas neighborhood for witnesses

3) Surveillance camera is triggered by a device that is activated by sound.

Get information regarding:

A) how surveillance camera was installed -- this was described to us as a big production

B) how it is supposed to work

C) how it actually works

D) what deficiencies exist

E) where are our opportunities to argue either misconduct or human error

4) we will provide you with a script of questions to ask Lacey, our witness. This must be videotaped. I or Sherlock will probably be with you when this needs to take place.

Thank you.

Joseph
917 319 2699
Sent from my Verizon Wireless BlackBerry