

January 19, 2007

By First Class Mail

Joe Early Jr.
District Attorney
Office of the District Attorney - Middle District
Courthouse Room 220
2 Main Street
Worcester, MA 01608

Re: *Commonwealth v. Benjamin LaGuer, Criminal Action No. 83-103391 to 83-103394*

Dear Mr. Early:

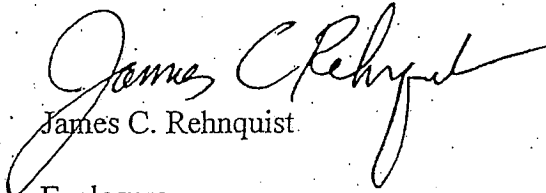
I am writing on behalf of my client Benjamin LaGuer to request that an inquiry be made by the Massachusetts State Police into the collection and handling of evidence that was made available for DNA testing in 2001 and 2002 in the above-referenced matter. While this DNA testing was unable to exclude Mr. LaGuer as the perpetrator of the crime for which he was convicted, independent reviews of the testing procedures by several forensic science experts have raised legitimate questions as to whether the evidence was contaminated prior to testing. Specifically, these experts have raised the possibility that evidence taken from Mr. LaGuer may have been mislabeled or improperly handled, resulting in these items being mixed with items taken from the victim and the victim's apartment. As one expert, Dr. Theodore Kessis of Applied DNA Resources, has noted, "[t]he items of evidence evaluated and tested by Cellmark and FSA were originally collected and subjected to serologic analysis in the early 1980's, well before any appreciation of the special handling needs associated with PCR based DNA testing." A copy of Dr. Kessis' analysis is enclosed.

Given that inadvertent contamination of the samples used for DNA testing may have occurred at any time during the eighteen year period between collection of the evidence and testing, it is necessary to have a comprehensive accounting of the evidentiary chain of custody as well as the handling procedures followed by the Commonwealth since the evidence was originally collected in order to properly evaluate the accuracy of the test results. It is our belief that an examination into this evidence may help to resolve some of the outstanding questions surrounding the DNA testing in this case.

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Please do not hesitate to contact me with any questions regarding this request. Thank you.

Very truly yours,



James C. Rehnquist

Enclosure

cc: Mr. Benjamin LaGuer



John Silber
President Emeritus
University Professor and Professor
of Philosophy and Law

Boston University
73 Bay State Road
Boston, Massachusetts 02215

October 14, 2009

District Attorney Joseph D. Early, Jr.
225 Main Street
Room G-301
Worcester, MA 01608

Dear District Attorney Early:

As you know, I have been a friend of your father for more than 30 years. It was my privilege and honor to support him in his years in Congress. I think you can check with your father, and he will tell you that I'm no bleeding heart and a pretty tough-minded character.

I'm writing you about the case involving Ben LaGuer. I think there is overwhelming evidence to show that your predecessor John J. Conte mishandled this case in a very serious way. As you probably know, the DNA test that was performed on Ben LaGuer's specimen was not correct; it was outrageously mishandled. It is no surprise that the DNA in LaGuer's shorts taken not from the crime scene but from his apartment would have matched LaGuer! There were no straightforward samples, but a severe tampering with evidence.

I believe you will make a great mistake if you try to defend actions taken by Conte's office. His mistakes are not yours, and you are not responsible for them. But a grave injustice, in my opinion, has been done. It is time that some correction be made. I hope you will rethink this issue without prejudice. Know that I, for one, am convinced of Ben LaGuer's innocence.

With best regards both to you and to your fine father,

Yours,


John Silber

JS:jah

P.S. I can provide detailed evidence if you are interested