STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 2005-CF-381

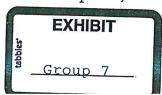
STEVEN A. AVERY,

Defendant.

| STATE OF WISCONSIN | )     |
|--------------------|-------|
|                    | ) ss. |
| COUNTY OF DANE     | )     |

Dean A. Strang, first duly sworn, on oath deposes and states:

- 1. I am a lawyer licensed to practice in the State of Wisconsin and several federal courts. From sometime in February 2006 through June 1, 2007, I was one of Steven Avery's lawyers in this case. I make this affidavit at the request of his current lawyers. This is my second such affidavit.
- 2. To my recollection, the State of Wisconsin, through the prosecution team in this case or otherwise, during my tenure as one of Steven Avery's lawyers never provided to defense counsel for Mr. Avery a CD-ROM from Det. Mike Velie of his forensic analysis of a computer from the Barb Janda/Dassey brothers' home. I think that I would remember had defense counsel received such a CD-ROM, or received a forensic analysis of that computer in any form.
- 3. Also to my recollection, the computer at issue consistently was described to us by the prosecution team and by law enforcement reports as Brendan Dassey's computer. I did not know then that this might well be a misleading description of the computer's ownership and relevant user or users.
- 4. I accepted without challenge Ken Kratz's assertion in a January 25, 2007 email to me that Velie's analysis of "Steve, Teresa's and Brendan's" computers yielded "nothing much of evidentiary value." With the belated production of the Velie forensic analysis to Mr. Avery's current lawyers in April 2018, it now appears to me from materials that Ms. Zellner and co-counsel have filed that the Velie forensic analysis in fact did include much of evidentiary value, in direct contradiction to Mr. Kratz's claim. Given what I know now about the existence and content of the Velie forensic analysis, this looks to me like deceit. It looks like deceit about who used this computer; it looks like deceit about the



evidentiary value of the information extracted from the computer. At a minimum, it looks like material information bearing on innocence that the state knowingly possessed, had exclusively in its possession, and withheld from the defense.

- 5. Had my co-counsel, Jerome Buting, and I known before trial or during trial about the contents of the Velie forensic analysis described now in Gary Hunt's affidavits, we would have used the information in the Velie forensic analysis to support our *Denny* motion by strengthening our showing that Bobby Dassey was an alternate suspect. At a minimum, that information would have gone to Bobby Dassey's availability and opportunity to commit violent crimes against, and kill, Teresa Halbach on October 31, 2005; to his sexual motive or other deviant motive to do so; to his proclivity or propensity—his legitimate tendency—to consider and commit exactly the sort of violence inflicted on Teresa Halbach; and to the credibility of his alibi. We also would have sought to introduce evidence of incriminating internet searches that likely were made by Bobby Dassey, and would have confronted him on cross-examination with those searches and other information contained in the Velie forensic analysis.
- 6. Information demonstrating a probability that Bobby Dassey used that computer to gain access to the internet on October 31, 2005, during times that he claimed to be asleep and while Brendan Dassey was known to be at school that day, also would have been used in cross-examination of Bobby Dassey at trial, had we known that information in the Det. Velie and Gary Hunt forensic analyses. I note that, in the end, the jury asked during deliberations for Bobby Dassey's testimony.
- 7. My firm and I did not have Encase while representing Mr. Avery. I think that Mr. Buting did not, either. So, we could not review the data on the seven DVDs given to us. Of course, we never got the Velie CD-ROM at all. We had no inkling what forensic analysis of that computer truly revealed before the trial of Mr. Avery, either as to who probably made incriminating internet searches or as to the information and images viewed. We had instead Mr. Kratz's incorrect claim that there was "nothing much of evidentiary value" on "Brendan's Computer." That claim was wrong on both points.
- 8. But if for some reason we should have learned enough from the DVDs that we were given to know what Det. Velie's analysis, and Mr. Hunt's, revealed about Bobby Dassey being the likely relevant user of the computer and about the nature of some internet searches at the times identified, then our performance was deficient and the deficient performance was my fault. Mr. Buting and I had no strategic reason not to want evidence suggesting that Bobby Dassey was looking for information about violence to women, or images of that, and seeking information similar to some of the harm that may have been done to Teresa Halbach or bearing on the destruction of her body. Quite the contrary: as I have said here, we would have welcomed this information, had we known it existed.

9. Finally, of course we wanted this information if it was in the state's possession. We had asked in writing for exculpatory information with all the specifics we could. Based on what Mr. Avery's current counsel has shared with me now about the Velie and Hunt forensic analyses, the analysis that Velie provided to the State included materially exculpatory information in the state's exclusive possession.

NOTARY

Signed and sworn before me this 2 day of June, 2018.

Notary Public

State of Wisconsin

My commission expires: 6/8/20

## WI DOJ DCI DFU Evidence Dis-

Date: 4-17-18 Case #: 16-591

CD J-DVD Rpt #:\_ Media:

Dassey, Brondon: Avery, Steven Suspect:

/ Calumer City Agency:

Examiner: Hin, Kule

One (1) CD - Copy of Dassey Compute r - Final Report - Investigation Co on Copy BIN CC1A04C

**EXHIBIT** 

**EXHIBIT** 

970639 RA7-48-9

HURLEY, BURISH & STANTON, S.C. ATTORNEYS AT LAW

TEN EAST DOTY STREET, SUITE 320

Mailing Address:
POST OFFICE BOX 1528
MADISON, WI 53701-1528

Virginia M. Bartelt Marcus J. Berghahn Mark D. Burish Ralph Cagle Clifford "Joe" Cavitt Andrew Erlandson \*Also Licensed In Illinois

Erik R. Guenther Stephen P. Hurley\* John D. Hyland Daniel J. Schlichting Marie A. Stanton Dean A. Strang Howard A. Sweet

Tel. (608) 257-0945 Fax. (608) 257-5764 www.hbslawfinn.com Author's e-mail: dstrang@hbslawfinn.com

December 19, 2006

Mr. Jerome F. Buting Buting & Williams, S.C. 400 Executive Drive, Suite 205 Brookfield, Wisconsin 53005

Re:

State of Wisconsin v. Steven Avery

Case No. 05-CF-381

Dear Jerry:

I enclose seven DVDs containing copies of Brendan Dassey's hard drive. These DVDs are an archieve copy of the hard drive and can only be viewed with Encase V4 or V5. Any questions please contact me.

Sincerely,

HURLEY, BURISH & STANTON, S.C.

navon lyar

Shavon M. Ryan

Paralegal

0607600 F:\-clients\uvery\\uvery\\uvery\uvery\\uver

DEC & 0 S000

EXHIBIT 2

|          | EXHIBIT                              |   |
|----------|--------------------------------------|---|
| tabbles* | В                                    | _ |
|          | ici. Engraphy and a property and the |   |