

4. In the fall of 1967, I lived in Connecticut, with my family. MacDonell had come to visit from where he lived in New York while on a trip where he was involved in some forensic testimony or investigation. During his visit, I saw pictures of the crime scene where there were blood splatters on the floor, wall and on a bed. I wondered what would possess someone to act in a way to create such havoc. Because of my curiosity about human behavior and care for children, I eventually found my way to a career involving the juvenile justice system. I was a foster parent; became a volunteer Guardian Ad Litem, representing the best interest of children allegedly neglected and abused. Later, when I returned to school, I was trained in the sex offender probation unit, at King County Juvenile Court in Seattle, Washington. I also worked for the Washington State Department of Corrections as a Community Corrections Officer, spending one year in the sex offender unit. I have been employed at King County Juvenile Court for 23 years, currently serving as a Lead Juvenile Probation Counselor. I am certified to provide Aggression Replacement Training to youthful offenders as an evidence-based intervention program. In that training, we review cognitive distortions that are commonly used by people engaged in criminal behaviors.
5. In the fall of 1968, my family was visiting at the home of my Aunt and Uncle, Phyllis and Herbert MacDonell, for the Thanksgiving holidays, in Steuben County, New York. My uncle had walked around the house with a gun in a holster. I was 14 years old when my uncle molested me as I laid in a pullout sofa bed at his house. He reached into my pajama top and fondled my breast. I pretended to be asleep and rolled over onto my stomach. Then he took my hand from under the covers and clasped my fingers around, what I initially

thought was his finger. As I wondered why he would do that and then realized that he had put my hand on his penis. I pulled my hand away and put in under my body. He left.

6. I told my mother about the incident when we returned to our home in Connecticut. I asked my mother not to let my aunt or grandmother find out about the situation because I did not want them to be hurt and upset. I never told any authorities about the situation until January, 2013. At that time, I found out that MacDonell had been arrested for sexual improprieties involving children. I was extremely distraught that he had new child victims. I gave a statement to police to validate what the children stated, in hope that they would not have to testify at trial about their trauma. Thus, on or about January 8th, I told of my experiences to New York Trooper Investigator, James Vaughn, providing details of MacDonell's crime toward me in November of 1968.
7. Within one week of contacting New York Police, MacDonell sent me several emails. At first the correspondence seemed innocuous; wanting to send me a photograph of my deceased grandfather. However, he soon brought up my statement to Investigator Vaughn. The tenor of his correspondence became increasingly aggressive. He challenged my memory of what happened and, in a fashion that is typical of criminals, distorted facts by blaming the victim, saying that I took *his* hand and put it on my chest. He also mislabeled the reduction of charges by saying that the charges had been dropped. In one email he sent an old photo of my sister and me, at about ages 2 and 5, as we were in a bathtub together. He titled the photo: Austin Nudes. The fact that he even had possession of that photo is disturbing, and that he sent it in juxtaposition to his arrest and my statements to authorities demonstrates nature of his character; a bully if anyone challenges him. I forwarded those

emails to Investigator Vaughn, who said that he would forward them to MacDonell's probation officer. I did not receive further communication from MacDonell. According to a phone conversation with Investigator Vaughn, MacDonell did plead guilty to 2 counts of misdemeanor crimes involving underage girls; one felony count was reduced to a misdemeanor.

8. Over the weekend of August 8th and 9th 2015, I did an internet search to see if I could find an online obituary about MacDonell, because I was considering deleting the emails that I had saved. I found a site sponsored by Brent Turvey, a forensic expert who is concerned about ethical behavior. I realized that I had seen that site previously and scrolled to the bottom and viewed the comments. One had been posted three months earlier, by Lynn-Marie Carty. I went to Ms. Carty's website and familiarize myself with some of the content therein, which included documents of the legal proceedings before the court and that MacDonell's testimony about blood splatters was a key part of the prosecution's case against Mr. Zeigler. At that point, I was dismayed upon realizing that the same type of cognitive distortions that permitted my uncle to offend against me and other children may have been part of his thinking when testifying in the capital offense trial of Mr. Zeigler. Because I have worked in the justice field for nearly 30 years, I have learned a great deal about criminal conduct and the cognitive distortions of various personality types that commit crimes. MacDonell may have used the same cognitive distortions; rationalization, blaming the victim, justification, mislabeling and minimization while working on his forensic cases.... twisting the truth to suit selfish motives is not uncommon for such character-flawed people. As a forensic expert for the State in 1976, MacDonell seems to

have been morally corrupt due to criminal cognitive distortions, with character flaws that would question his trustworthiness.

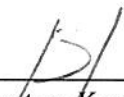
9. MacDonell compiled a case study book in 1984. The quadruple homicide attributed to Mr. Zeigler is the first one, in the series, that is featured after MacDonell resigned his position as a research chemist for Corning Glass Works in 1972. It is also the first one featured in his book where he testifies for the prosecution. Thus, it seems reasonable to conclude that in 1976, he was still building his reputation as a forensic specialist. In the book, MacDonell notes that he was called into the Zeigler case by a student of his who had already arrested a suspect. Few experts had the ability to challenge the presentation of “facts” that supported the theories that MacDonell and the Detective contrived, because he was an independent contractor, with no superior, and police crime investigative units did not have expertise as they do in this century. The chapter is called - A Portrait in Blood; the book entitled: The Evidence Never Lies.
10. It is my experience that Herbert L. MacDonell lies, as can be seen in the attached emails; he avoids responsibility for his offenses and blames me, one of his victims for wrongs against him. It is my educated opinion of working with the justice system for nearly 30 years that the same kind of cognitive distortions used in his offenses are likely to have influenced his conjecture regarding the Zeigler case. If the conjecture was the truth, then the DNA evidence requested by the defense would support the conviction, not overturn it.
11. The problem with MacDonell’s testimony at trial is multi-faceted. He lacked moral integrity, by the nature of the crime he committed against me and then other underage girls. He clearly tries to alter reality as in the email where he lies about his “recollection” of the

crime against me; and mislabels how charges were “dropped” which shows his deceitful nature, because one count was reduced and no charges were dropped. Additionally, he absurdly blames the victim, for forcing his hand in his crime, thus showing that he is capable of absurd conjectures. Finally, there is sufficient information about the importance of this case to MacDonell’s career to show that he had a motive for failing to investigate fully any facts other than the theory of his student, Detective Frye.

12. On August 18, 2015, I contacted the State Attorney, the Counsel for the defendant and the Attorney General’s Office in Florida. In emails, I provided a summary of the information in this affidavit and asserted support for the motion before the court by stating, “ DNA evidence will complete the portrait of this murder scene. DNA evidence need not be feared for those seeking justice. DNA evidence won’t lie.”

I declare, under penalty of perjury under the laws of the State of Washington and the State of Florida, that the foregoing is true and correct; and that all emails attached herein are also true copies of those received. The only change is that the original photo depicting naked children has been omitted; the attachment is altered to diminish prurient interests.

Signed at _____, _____ on _____.



Signature/Karen M. Austin(Affiant)

Sworn to (or affirmed) and subscribed before me this the ____ day of September, 2015, by Karen M. Austin (Affiant)

(Signature of Notary Public- State of Florida)

(Name of Notary Public)

Personally Known OR Produced Identification _____
(Type of Identification Produced)

Certificate of Service

I hereby certify that on September 21, 2015, a copy of the foregoing affidavit was served upon State Attorney Jeffrey Ashton, State Attorney's Office, by Federal Express, address 2415 North Orange Ave., Orlando, FL 32810, and by email address to jashton@sac9.org, and upon Attorney General Pamela Bondi, Office of the Attorney General, The Capital PL-01 Tallahassee, FL 32399 and by email at pam.bondi@myfloridalegal.com and to Javier Peral II Esq., Hogan Lovells US LLP 600 Brickell Avenue, Suite 2700; Miami, FL 33131 and by email javier.peral@hoganlovells.com and to his associate David Michaeli by email david.michaeli@hoganlovells.com

Karen M. Austin
5611 145th St. SW
Edmonds, WA 98026
Cr8balance@gmail.com

----- Forwarded message -----

From: **Karen A** <cr8balance@gmail.com>
Date: Sun, Feb 23, 2014 at 7:36 AM
Subject: Fwd: Old Photographs
To: james.vaughan@troopers.ny.gov

Investigator Vaughan

6079623282

james.vaughan@troopers.ny.gov

Thank you for your consideration of my complaint and response. I am very reluctant to forward the photo as it is very distressing and I am not sure that merely a nude photo of young girls would be considered a violation of his probation. Although I would think that having sent something of that nature would give suspicion of other porn involving children.

Let me know if you get these messages and I will consider more about the "Austin nudes" he sent to me.

Karen Austin

425-478-0551

----- Forwarded message -----

From: **Laboratory Of Forensic Science** <forensiclab@stny.rr.com>
Date: Sat, Jan 11, 2014 at 4:48 PM
Subject: Old Photographs
To: Karen Austin <cr8balance@gmail.com>

Dear Karen,

I recently discovered a photograph of your grandfather, W. Philip Austin, as a violinist in the Fredonia College orchestra. I wrote to your mother about it and she felt that you were the person who should receive this beautiful 14" x 22" framed bit of Austin history. I also found four 6" x 10" framed photos of his orchestra and choir for the years 1945 and 1946 while he taught music at Alfred-Almond, NY. I am pleased to send these to you as your mother has given me your address. I shall try to get them in the mail to you next week.

Karen, there is another subject I want to address. I was shown the things you said about me to the New York State Police. I have no idea why you did this but I have a vivid recollection of the events you described. Some 45-50 years ago when you stayed with Phyllis and me at our old house on Davis Road one night as I checked to see that you and your sister were tucked in for the night you asked me to come to your bedside. After I got there you took my hand and placed it on your chest and said, "I am a big girl

now!" I was shocked and quickly withdrew and went to bed. That is what I remember. I told Phyllis about it and she said I should forget it. I did, up until last year.

Why you said then things you did about me I do not know but until I read them I have always thought that we were family. Now I am very unhappy because if the purpose in your ridiculous story was to destroy me I can assure you that it was successful. I had to retire and can no longer assist the wrongfully accused or help in the prosecution of those who are guilty. I have no income thanks to you.

The charges against me were dropped if you did not know.

Love Uncle Herbert

From: **Karen A** <cr8balance@gmail.com>
Date: Sun, Feb 23, 2014 at 7:37 AM
Subject: Fwd: Address
To: james.vaughan@troopers.ny.gov

When I did not respond to his initial message he sent me other emails

----- Forwarded message -----

From: **Laboratory Of Forensic Science** <forensiclab@stny.rr.com>
Date: Mon, Jan 13, 2014 at 4:02 PM
Subject: Address
To: Karen Austin <cr8balance@gmail.com>

Dear Karen,

I have the pictures ready to mail to you but I am confused as to which is your correct address. I thought it was Seattle but I also have one in Edmonds. Which is correct? I don't want to mail these frames photos to the wrong address as two of the small ones have broken glass already.

Uncle Mac

----- Forwarded message -----

From: **Karen A** <cr8balance@gmail.com>
Date: Sun, Feb 23, 2014 at 7:41 AM
Subject: Fwd: Photographs of WPA
To: james.vaughan@troopers.ny.gov

Here he is escalating in his tone.

----- Forwarded message -----

From: **Laboratory Of Forensic Science** <forensiclab@stny.rr.com>
Date: Wed, Jan 15, 2014 at 9:31 PM
Subject: Re: Photographs of WPA
To: Karen Austin <cr8balance@gmail.com>

Dear Karen,

I am waiting to receive your confirmation as to whether your address is or is not Seattle. These are precious family treasures and I don't want them to go to anyone in the Austin family that could appreciate them more than you according to your mother.

I also found a photograph father Phil took of you and Laura many years ago. If you would like it I can attach it to an e-mail.

Love Uncle Herbert

Case Nos. CR 76-1076, CR 76-1082
CR 88-5355, and CR 88-5356

----- Forwarded message -----

From: **Karen A** <cr8balance@gmail.com>
Date: Sun, Feb 23, 2014 at 7:43 AM
Subject: Fwd: Fw: Photographs of WPA
To: james.vaughan@troopers.ny.gov

Here is the one with the photo attached. I have unattached it from here to insure these prior messages are getting to the right person.

----- Forwarded message -----

From: **Laboratory Of Forensic Science** <forensiclab@stny.rr.com>
Date: Fri, Jan 17, 2014 at 5:58 PM
Subject: Fw: Photographs of WPA
To: Karen Austin <cr8balance@gmail.com>

Dear Karen,

I am waiting to receive your correct mailing address where I should send the WPA photos. Your mother thought you would like them.

I shall attach a photo I found that WPA took of you and sister Laura some years ago. I am sure you will appreciate it. I bet you forgot about it.

Uncle Herbert
H

