

S W O R N S T A T E M E N T

OF

H A R O L D J. G A G N E T

* * * * *

IN THE MATTER OF THE *
ILLEGAL ABDUCTION OF *
ASHTON R. O'DWYER, *
JR., FROM THE *
PREMISES LOCATED AT *
6034 ST. CHARLES *
AVENUE, NEW ORLEANS, *
LOUISIANA 70118, AT *
1205 HOURS ON TUESDAY, *
SEPTEMBER 20, 2005 *

COPY

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Sworn Statement of HAROLD J.
GAGNET, 1569 Calhoun Street, New
Orleans, Louisiana 70118, taken in the
above-entitled matter, held at 6034 St.
Charles Avenue, New Orleans, Louisiana
70118, commencing at 12:35 p.m., on
Friday, the 4th day of November, 2005.

APPEARANCES:

LAW OFFICES OF ASHTON R. O'DWYER,
JR., L.L.C.
(By: Ashton R. O'Dwyer, Jr.,
Esquire)
One Canal Place
Suite 2670
New Orleans, Louisiana 70130

REPORTED BY:

KATHY ELLSWORTH SHAW, CCR, RPR
Certified Court Reporter
(No. 049519)
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HAROLD J. GAGNET,

1
2 after having been first duly sworn by
3 the above-mentioned Certified Court
4 Reporter, was examined and testified as
5 follows:

6 EXAMINATION BY MR. O'DWYER:

7 Q. Sir, my name is Ashton O'Dwyer
8 and I'm here to review with you certain
9 details of what transpired here at my
10 home at 6034 St. Charles Avenue on the
11 evening of Monday, September 19, 2005,
12 and then continuing into the next day.

13 Would you state your full name
14 and your present address for the record,
15 please?

16 A. Harold J. Gagnet, 1569 Calhoun
17 Street, New Orleans, Louisiana, 70118.

18 Q. Mr. Gagnet, you and I have
19 gotten to know each other quite well,
20 post-Katrina, have we not?

21 A. Yes, that's correct.

22 Q. And we spent a lot of time in
23 each other's company virtually every day
24 since the storm; correct?

25 A. That is correct.

1 Q. Including enjoying cocktails
2 in the evening together and eating
3 dinner each evening together?

4 A. That is correct.

5 Q. Now, was the early evening and
6 late evening of Monday, September 19,
7 2005, any different from any other night
8 that you and I were together
9 post-Katrina?

10 A. It was not any different at
11 all.

12 Q. Do you happen to recall
13 approximately what time it was you left
14 my home where we had eaten to go back to
15 your home or wherever it was you were
16 spending the night?

17 A. Across the street. Possibly
18 as late as 11:00 or maybe a little after
19 11:00.

20 Q. Do you happen to recall
21 whether Mr. Jerry Guice had eaten with
22 us that evening?

23 A. Yes. Yes, I do.

24 Q. When you left, do you have a
25 recollection of whether Mr. Guice was

1 still awake or whether he had retired?

2 A. : It seems to me that he was
3 still awake at that time. I did not
4 remember him retiring at that time.

5 Q. Now, I understand that in
6 addition to your having been the chief
7 engineer for sea trials at Avondale
8 Shipyard, you also have a long career as
9 a merchant seaman, and more particularly
10 a chief engineer?

11 A. That is correct.

12 Q. Would it be fair for me to
13 assume that in your capacity as chief
14 engineer you have virtually, quote,
15 "sailed the seven seas," close quote?

16 A. That's essentially -- That is
17 -- Yes, that is the truth.

18 Q. And would it also be fair for
19 me to assume that you spent many years
20 living the seaman's life, which would
21 have included frequenting waterfront
22 establishments that serve alcoholic
23 beverages unavailable aboard ship?

24 A. That is also correct, yes.

25 Q. And would it also be fair for

1 me to assume that in your capacity as a
2 chief engineer having supervision over
3 men under your charge, that you have an
4 eye for determining whether a man is
5 under the influence of alcohol; that is,
6 whether a man is intoxicated or not?

7 A. I've had to make that decision
8 on many occasions.

9 Q. When you left my company
10 sometime in the neighborhood of 2300
11 hours on Monday, September 19, 2005, in
12 your judgment, sir, was I intoxicated?

13 A. In my judgment, you were not
14 intoxicated; and also in my own
15 judgment, I was not intoxicated at the
16 same time, and you had not consumed any
17 more than I had consumed in the same
18 evening. So to speak for myself, I had
19 no reason to believe that what you had
20 consumed would have gotten you into a
21 state of intoxication. Because I
22 crossed the street dodging four lanes of
23 traffic at the time and had to make my
24 way back to where I was going to spend
25 the night, and so in my own judgment, I

1 was capable of navigating that distance
2 without any trouble whatsoever or being
3 hit by any automobile or anything else.

4 THE WITNESS:

5 So I would say that judging
6 from my own experience, he was not
7 intoxicated and neither was I. So I
8 can base it on that.

9 EXAMINATION BY MR. O'DWYER:

10 Q. You're looking at the court
11 reporter and speaking about me in the
12 third person. You mean in your judgment
13 I was not intoxicated?

14 A. You were not intoxicated.

15 Q. All right. Thank you, sir.

16 Now, Mr. Guice, in your
17 judgment was he intoxicated?

18 A. No, he was not.

19 Q. All right. Now, sir, when did
20 you next attempt to make contact with
21 me, and in your own words, tell us what
22 transpired?

23 A. When I woke up the next
24 morning and crossed the street and met
25 the gentleman who was in residence at

1 the Dabezies home as a security guard,
2 he beckoned to me as I crossed the
3 street, because he was sitting on the
4 porch. And he called me and said, "I
5 have something I want to show you." So
6 I went over and he showed me the note
7 that Mr. Guice had clipped to the door
8 with a bag clip, a little type of
9 kitchen object. And I read the note,
10 which had already been read by the
11 security guard. He had read the note
12 and tried to come to some conclusion.
13 And then he told me that Mr. Guice had
14 left by seven o'clock, seven a.m. of
15 that morning. And I got there about one
16 hour later. And I read the note. And
17 then after reading the note and
18 discussing what was the best thing to
19 do, I decided to go and find
20 Mr. Kilbride who had experience in
21 matters like this.

22 Q. All right. Mr. Kilbride is
23 Michael Kilbride --

24 A. Michael Kilbride, chief --

25 Q. -- who is chief of security

1 for Freeport McMoRan --

2 A. : -- for Freeport McMoRan who
3 was in residence directly across the
4 street from 6034.

5 So after discussion with him,
6 he volunteered to take one of his guards
7 with him as a witness because he didn't
8 know what was going to happen when he
9 got down there either. So --

10 Q. Let me stop you for one
11 second.

12 Would you tell us what
13 knowledge the note imparted to you about
14 my whereabouts?

15 A. I did not actually have the
16 exact whereabouts at the time. It
17 wasn't apparent by the note. It was
18 apparent that you had been abducted from
19 the premises, but where you had been
20 taken was only a presumption on my part
21 until we verified that only after
22 Mr. McBride --

23 Q. Kilbride.

24 A. -- Mr. Kilbride went down to
25 the train station and determined that

1 that is where you ended up. Until then
2 we didn't know where you were, but we
3 knew you were somewhere in custody, but
4 under whose jurisdiction, we did not
5 know at the time.

6 Q. Why was I in custody?

7 A. We didn't know why you were in
8 custody. We had no idea why you were in
9 custody. We knew that you had been
10 taken from the premises. We judged that
11 from the note. So he took the note with
12 him.

13 Q. By someone purporting to be
14 law enforcement officers?

15 A. Some law enforcement agency
16 had removed you from the premises and
17 deposited you at some other location
18 that we were not aware of at the time
19 and only became completely aware of
20 after Mr. Kilbride verified this. And
21 after a lengthy attempt by Mr. Kilbride
22 to gain your release, he finally had to
23 leave with the knowledge that you would
24 not be released before 5:00 p.m, and
25 that the reason was that they were not

1 processing people between 12:00 and
2 5:00, which was about the time that he
3 finalized the fact that he couldn't get
4 you out at that time and that no one
5 would be there to conduct any process
6 until 5:00 p.m.

7 Q. And Mr. Kilbride imparted this
8 knowledge to you upon his return to this
9 neighborhood?

10 A. To his premises, yes.

11 Q. Okay. Did Mr. Kilbride report
12 to you any reason why I was being
13 detained or why I had been abducted in
14 the first place?

15 A. He really did not give me any
16 particular reason other than that they
17 took you and that's where it
18 commenced. So we were not able to
19 determine anything as to the specific
20 charges, if any, had been brought
21 against you, but they had you in their
22 possession. You were incarcerated by
23 them, and that was all that we knew was
24 that they had taken you.

25 Q. All right. Now, when you left

1 my company and this address at or about
2 2300 hours on Monday evening September
3 19, 2005, was there any illegal activity
4 going on on the premises by me or anyone
5 else?

6 A. Absolutely not. The only
7 thing -- The only thing at all that
8 could have been construed at the
9 farthest end of speculation was that you
10 were still awake after curfew, that you
11 were somewhere on your premises and you
12 were awake and curfew had already
13 fallen.

14 Q. And by my premises, you mean
15 my bought and paid for property?

16 A. Absolutely.

17 Q. Not public property?

18 A. No. Not public property, no.

19 Q. Thank you.

20 Now, sir, when did you and I
21 next see each other?

22 A. It was several minutes after
23 five o'clock on the same day as the
24 arrest or whatever it was called, the
25 abduction -- five p.m. -- after five

1 p.m., shortly after five p.m. when I saw
2 you coming across the lobby of the train
3 station out to the waiting room. And of
4 course, we recognized each other right
5 there.

6 THE WITNESS:

7 And then that's when he was
8 released. He had this piece of
9 paper that he was -- he had been
10 released.

11 EXAMINATION BY MR. O'DWYER:

12 Q. How long had you been at the
13 train station before you and I saw each
14 other?

15 A. Close to an hour.

16 Q. Did anyone during that hour
17 period say to you or make known to you
18 in any way, shape, or form what alleged
19 justification they had for detaining me?

20 A. No one gave me any explanation
21 except that the only direct conversation
22 I had was with a state trooper who told
23 me that "He is being processed now.
24 He's now being processed." Other than
25 that, the only thing I saw were other

1 people coming out, some with their total
2 possessions in their hand that they had
3 been arrested with, and others with
4 shoelaces in their hand because they had
5 been removed from them and treated as
6 criminals. I understand that the
7 removal of shoelaces is the treatment
8 that you give to people who are known to
9 be criminally inclined.

10 Q. Do you know if they took my
11 shoelaces?

12 A. I don't know that you had
13 shoelaces. I think you had shoes
14 without laces. You had slip-on shoes.

15 Q. You mentioned the word
16 "arrest" a few moments ago.

17 A. Yes.

18 Q. Do you have any knowledge that
19 I actually had been placed, quote, =
20 "under arrest," close quote, at any
21 time?

22 A. No, I did not. Nobody used
23 that word precisely in that context.

24 Q. All right. Is there anything
25 else you'd like to say, Mr. Gagnet?

1 A. No, unless you would want to
2 mention that I did not at the time --
3 not knowing what the whole thing was all
4 about, I certainly did not confirm or
5 imply to anyone else what had happened
6 before I found out what had happened. I
7 didn't go tell all the neighbors what
8 had happened, so if that's pertinent I'm
9 not sure. But I didn't think that there
10 was anything to it. I was sure that it
11 was something that was a total error on
12 the part of the people who removed you
13 from the premises.

14 Q. But you did subsequently learn
15 that while I was in custody I was
16 mistreated and brutalized, did you not,
17 sir?

18 A. I did, absolutely, upon
19 observation of the condition you were
20 in. It was plain to anyone, not
21 necessarily a medical expert, that you
22 had been totally mistreated and
23 physically brutalized while in their
24 control -- while under their control.

25 MR. O'DWYER:

1 Thank you, very much,
2 Mr. Gagnet. That's it.

3 THE WITNESS:

4 Okay.

5 (Whereupon the sworn statement
6 was concluded at 12:57 p.m.)

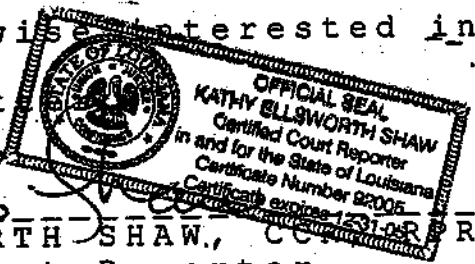
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REPORTER'S CERTIFICATE

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I, Kathy Ellsworth Shaw, CCR, RPR, Certified Court Reporter, in and for the State of Louisiana, as the officer before whom this testimony was taken, do hereby certify that HAROLD J. GAGNET, after having been duly sworn by me upon authority of R.S. 37:2554, did testify as hereinabove set forth in the foregoing 16 pages; that this testimony was reported by me in stenotype reporting method, was prepared and transcribed by me or under my personal direction and supervision, and is a true and correct transcript to the best of my ability and understanding; that I am not related to counsel or to the parties herein, nor am I otherwise interested in the outcome of this mat



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