

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, ss.

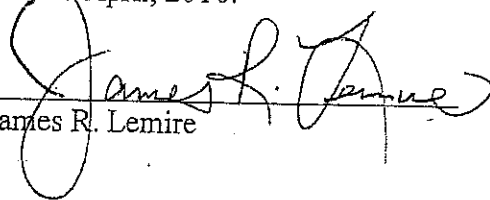
Affidavit of
James R. Lemire

I, James R. Lemire, do hereby swear and depose as follows:

1. I was admitted to the Massachusetts bar in 1978, and in 2006, I was appointed to serve as an Associate Justice of the Superior Court.
2. In 1983 and 1984, I was working as an Assistant District Attorney in the Office of the District Attorney for the Middle District in Worcester, and was assigned by District Attorney John J. Conte to handle criminal cases in Worcester Superior Court.
3. In 1983, I was assigned to prosecute Benjamin Laguer, who had been indicted for the crimes of Aggravated Rape, Kidnapping, Breaking and Entering in the Nighttime with Intent to Commit a Felony, and Assault and Battery, Indictment Nos. 83-103391 to 83-103394:
4. At that time, Benjamin Laguer was represented by an experienced Worcester defense attorney, Peter L. Ettenberg.
5. The Laguer case involved a vicious attack against a fifty-nine-year old woman, who was brutally beaten and repeatedly raped in her own apartment over the course of eight hours starting around 9:00 p.m. on July 12, 1983. The victim suffered serious injuries and had a heart attack shortly after she was brought to the hospital on the morning of July 13, 1983.
6. In the months before trial, which took place in January 1984, I was concerned that the victim might not be able to testify due to her fragile medical condition.
7. I recall having general conversations with Attorney Ettenberg about the case when we appeared for pre-trial conferences at the old courthouse located at 2 Main Street in Worcester.
8. I never would have made a plea offer to Attorney Ettenberg without first meeting with the victim to decide what she wanted to do.
9. Because this case involved such a horrendous crime, the victim would have had to be on board before I made any plea offer to Attorney Ettenberg's client.

10. I distinctly remember meeting with the victim and her son-in-law, Robert Barry, shortly before trial in one of the rooms in the District Attorney's Office at the old courthouse to discuss our options in the case.
11. When I met with the victim, she insisted on testifying and told me, "I'm going to do this."
12. The victim told me that she wanted to testify because her attacker should not get away with what he did to her.
13. I never made any plea offer to Attorney Ettenberg because the victim insisted on testifying at trial.
14. In 1983 and 1984, the protocol in our office was that all plea offers made in Superior Court cases had to be approved by the District Attorney, John J. Conte; Assistant District Attorneys were not authorized to make any plea offers without the District Attorney's approval.
15. I never asked District Attorney Conte to approve a plea offer in the Laguer case, because the victim insisted on going to trial.
16. Defense attorneys who regularly practiced in Worcester Superior Court in 1983 and 1984 knew that the District Attorney had to approve any plea offers made by prosecutors.
17. I told Attorney Ettenberg that the victim insisted on going forward with the trial.
18. In 1983 and 1984, the protocol in our office was that the District Attorney also had to approve sentencing recommendations made in Superior Court cases.
19. At sentencing, after consulting with District Attorney Conte, I asked Judge Mulkern to impose life sentence, due to the vicious nature of the crimes and the serious injuries inflicted upon the victim.
20. As I recall, Attorney Ettenberg asked for a minimum sentence of three years, pursuant to the established guidelines.
21. I am certain that no plea offers were ever made to Benjamin Laguer.

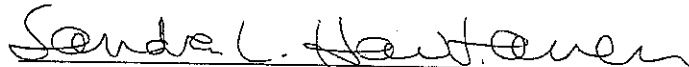
Signed under the pains and penalties of perjury this 30th day of April, 2010.


James R. Lemire

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On this 30th day of April, 2010, before me, the undersigned notary public, personally appeared James R. Lemire, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding document, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his knowledge and belief.



NOTARY PUBLIC

My Commission Expires: _____

Sandra L. Hautanen
Notary Public
My Commission Expires:
January 7, 2011