

Benjamin LaGuer W40280
500 Colony Road
Gardner, MA 01440-0466

revised and corrected

26 August 2014

Joseph D. Early, Jr., District Attorney
Middle District District Attorney's Office
225 Main Street Suite G301
Worcester, MA 01608

In re: Commonwealth v. LaGuer
Criminal Docket: WORC1983-03391

Dear Joe (If I may)

I am writing because a member of your staff, not counsel of record in the matter now pending before the Appeals Court, wrote us a letter insinuating that I was violating M.G.L. c. 265 §24C and that I could be subject to monetary sanctions if a brief posted on the website was not taken down. The brief in dispute does name Lennice Mae Plante. Please note that Ms. Plante was found lifeless, alone, slumped over a couch in a psychiatric ward in Gardner. Her daughter, Elizabeth P. Barry, died of Amyotrophic Lateral Sclerosis in late 2006. Her husband made that fact public.

The Massachusetts Parole Board Record of Decision, dated May 20, 2010, distributely widely to the media by parole officials and your office revealed Lennice Mae Plante's name. "On the evening of July 12, 1983, the defendant entered the apartment of his neighbor, 59 year old Lennice Plante, and beat, robbed and brutally raped her--vaginally, anally and orally--for a period of several hours." In addition to distributing widely that Record of Decision of May 2010, Assistant District Attorney Sandra L. Hautanen put a copy of that parole denial in the court record, as "Exhibit A" in a January 12, 2012 petition titled "Commonwealth's Opposition to Defense Motion to Stay Execution of Sentence." Please note that Lennice Plante's name is not redacted from that pleading.

On February 27, 2012, Superior Court Justice Richard T. Tucker named Lennice Plante in his memoranda affirming the verdict 30 instances in a seventeen page ruling. On a rebuttal to a reconsideration, your office did not object to Tucker naming Lennice Plante nor did your office object when the parole board named her or when ADA Hautanen distributed that parole denial to media. Joe, your office opened the gates for the ponies to run.

In some larger context, Lennice Plante's former son in

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law has granted numerous interviews for direct attribution. A web search of his name results in a slew of his disparaging comments. On October 30, 2002 Mr. Barry penned a letter to the editor. Once the Sentinel & Enterprise investigated and determined that the letter had actually come from former district attorney John J. Conte's campaign for reelection, the letter was labelled a "Political Endorsement" for his campaign. It reads, in part: "For almost 20 years, our family has been plagued by the media attention given to Benjamin LaGuer's constant pleas of innocence in the rape and beating of my mother in law in Leominster."

In June 13, 2003 Lennice Mae Plante's daughter appeared on a public affairs television program of WGBH/PBS titled Greater Boston with Emily Rooney. Elizabeth P. Barry revealed to the host a number of previously unknown issues relating to her mother's past psychiatric history and issues of domestic violence. Ms Barry revealed for the first time that her mother was first diagnosed a schizophrenic in the 1950s, which contradict the factual representations former trial prosecutor James R. Lemire made prior to trial. On October 10, 2006, then Republican gubernatorial candidate Kerry Healey appeared on a stage in Worcester for the purpose of receiving the political endorsement of Ms. Barry over Democrat candidate Deval L. Patrick. According to one account, published in the Telegram, "Fighting back tears, Ms. Barry said, 'To throw my family into this again after 23 years, for this man [Patrick] to be running for governor, is a crime.' Barry said she wants people to vote for Kerry Healey, 'to keep these prisoners in jail.'" (Monahan, John J. Telegram & Gazette. Healey presses LaGuer attack as mayor meets with Patrick. October 11, 2006.)

In light of these circumstances, your office appears wholly disingenuous in its attempt to put the privacy genie back into the bottle. Assistant District Attorney Sandra L. Hautanen's intimation of civil penalties for disseminating the alleged victim's name is chasing ghost. No person or political entity has ever been charged under M.G.L. c. 265 §24C. If a fine is levied, I think that all of the stakeholders should pay a equal share. But I do not believe this is a matter of Lennice Mae Plante's privacy. At the core of Hautanen's scheme is a goal of causing as much smoke as may occult the real malfeasance of former prosecutor Lemire. She has done her best not to address substantive evidence. On another topic, I would urge Robert Berry to keep making public speeches. His wife added so much helpful information whenever she spoke. However Mr. Barry can't put his face and name in the public domain then, whenever he gets tired of playing politics with my life, insist his victimhood. We should not forget a key fact. It was his family which left Lennice Mae Plante to fend for herself, where she relied on a

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third party culprit named Jose O Gomez. As you know, DA John Conte personally approved a plea for Gomez to serve less than 58 days in jail after reducing a charge from aggravated rape. While Annie Demartino says that Lennice and Jose were best buddies, the original reports made no reference to this very bad character. At any rate, I have no doubt that Hautanen will little the appellate papers with as many half-truths and lies as may be necessary to misdirect the focus. You people have played a nasty game. But you do your worst, like a common bully, behind a shield of state. I had a conversation with a mutual friend who said that you was not strong enough to challenge those Conte loyalist still on your payroll, despite your familiarity with the problematic provenance of the DNA evidence. You have always known that former prosecutor Lemire held back critical evidence about the police gathering and handling of certain fabrics and other physical evidence.

Be viligent of Hautanen. She would be the one to step over her own dung and track that stuff right on your office rug.

In April 22, 2010, despite his conscious hatred, Robert Barry said, "I truly feel he believes he is the victim in this case." What Barry is referring to in that statement is a sense of acknowledgement of what is obvious. He feels a certain kind of genuineness when I speaking of dying in prison in defense of my father's name. Barry's statement is a seedage of his subconscious mind. But he has invested thirty years in a certain belief. As they say in Poker, he's all in. He promised his late wife that he would show up and oppose every effort to reverse this verdict.

It is not sensible for Barry to have climb up a statewide gubernatorial campaign, exposing his name and that of his family to state and national reporters, then to expect that his name would not be used in public domain documents. Judge Richard T. Tucker was entirely within his square of discretion to name Lennice Mae Plante in his memoranda, because of the exception rule of §24C.

I would like to litigate the substance of the issues surrounding the faulty DNA analysis and new evidence concerning the true psychiatric history of Lennice Mae Plante. I would ask that your staff and my lawyer return to those objectives. We'll all be better and live a happier lives. Be well.

Cheers,


Ben

cc. John H. LaChance
Sandra L. Hautanen
Jane Sullivan

PS. The appellate brief is no longer posted on the website. It was only taken down out of respect and courtesy to Attorney LaChance. I reverse the right in future to post publicly available legal pleadings. Attorney Hautanen's desire for wanting to withhold and conceal from public inspection vital facts is palpable. But I am not afraid of big bad government wolves.