

TRUMBULL COUNTY  
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KAREN M. WILSON  
CLERK OF COURT  
TRUMBULL COUNTY

STATE OF OHIO ) Sworn Statement Of Anthony Cioffi, Jr. in and for the County of  
                  ) Sworn Statement Of attorney, Thomas E. Zena of  
TRUMBULL COUNTY ) 12, 1998.

I, Anthony Cioffi, Jr., after being first duly sworn and cautioned concerning the penalty for perjury, do make the following statement:

1. That I contend that the sworn statements made by my ex-trial attorney, Thomas E. Zena in his sworn statement to my appellate counsel Mark E. Marcini are false and untrue with respect to things he said I said and did and things he said he said and did which NEVER occurred, to-wit:
  2. Page 10, Lines 22-24, Page 11, Lines 1-3.
  3. Rebuttal: I never met with attorney Zena without a family member being present, and he never requested that I bring anyone that could shed some light on my cases. That is false and untrue, it never happened.
  4. Page 11, Lines 19-24, Page 12, Lines 1-4.
  5. Rebuttal: I had five or six appointments at attorney Zena's office, every appointment I had was scheduled, I never just dropped out, nor dropped by his office. I had several other appointments, but, they were always cancelled either the day before or the day it was scheduled.
  6. Page 12, Lines 11-21.
  7. Rebuttal: I never said hey why don't we try this? Nor did attorney Zena show me anything or tell me anything that the state was alleged to have as evidence against me. In fact attorney Zena told me he knew I was innocent and the state had no evidence to convict me.
  8. Page 13, Lines 12-24, Page 14, Lines 1-22.
  9. Rebuttal: Attorney Zena never discussed with me where the strengths and/or the weaknesses were in my cases, what we could show, what we were allowed to show into evidence. Nor did I ever say well can we get this into evidence? Nor did I say how about if we do this? Nor did Zena say to me that's inadmissible, we can't do that, the law doesn't permit that. Nor did I participate in any part of my defense with Zena or act nervous. I am innocent. I never said to attorney Zena this will take care of everything when I showed him the video. The people in the video never said what a good guy I was. They had knowledge of my case because my ex-wife

told them about it, they wanted to testify on my behalf against my ex-wife's story. Also, these people never saw me with my son and/or sons because, I prior to this case had not seen my sons for 5 years, and these people did not know me.

10. Page 15, Lines 5-13.

11. Rebuttal: I never said to attorney Zena that I am coming to his office with a video. I spoke with his secretary and she scheduled me for an appointment to bring the video in. Nowhere on or in the video is my name stated by the people on it, this couple knew my ex-wife, not me.

12. Page 18, Lines 1-10.

13. Rebuttal: Attorney Zena never reviewed the State's evidence, nor any police reports with me in order to prepare a defense at all.

14. Page 26, Lines 11-24, Page 27, Lines 1-16.

15. Rebuttal: I never told the bailiff or the court reporter to get attorney Zena out of judge Stuard's chambers, nor did I tell him that I wanted to plead guilty to any charges. I'm innocent.

16. Page 42, Lines 4-24, Page 43, Lines 1-13.

17. Rebuttal: I never told attorney Zena that I was concerned that it was Trumbull County, Ohio. I never brought up any conviction ratings to attorney Zena, in fact attorney Zena brought it up to me on December 3rd, 1996, in the Trumbull County Courthouse before I entered my plea's. I had no prior knowledge of any other highly publicized cases involving child cases. I never asked attorney Zena if he could still get the deal nor did I say that I was scared of judge Shaker.

18. Page 47, Lines 15-24, Page 48, Lines 1-19.

19. Rebuttal: Attorney Zena never told me that the second case was not called for trial at any stage, nor did he say that he would resist any attempt to call the second case to trial unless he had more time to investigate. I never indicated to attorney Zena any concern about my case going before judge Shaker, nor did he ever say that he would put himself on the line for me. Some of the things attorney Zena told me before I plead guilty was that I must want to spend the rest of my life in prison, it doesn't matter that I am innocent, this is Trumbull County, Ohio, and if you get convicted on one charge you'll get convicted on all the charges.

20. Page 50, Lines 8-24, Page 51, Lines 1-7.

21. Rebuttal: Not at any time did attorney Zena show me, tell, or talk with me about any interviews pertaining to the childrens, nor did I tell him that I wanted to get this over with, because we never had none of this discussion in the hallway, its a blatant lie, nor did I ever say judge Shaker won't

fuck me.

22. Page 51, Lines 23-24, Page 52, Lines 1-24.

23. Rebuttal: At no time did attorney Zena ever inform me of the penalties that could be imposed before I pled, he told me that I would get life in prison if I didn't plead guilty to 10-25 years, also, at no time did attorney Zena tell me that the kidnapping charge could not have survived a Rule 29 motion.

24. Page 53, Lines 21-24, Page 54, Lines 1-11.

25. Rebuttal: Attorney Zena never said to me that he didn't want me to go to prison for one day, let alone life. He told me plain and simple that if I did not plead guilty to a 10-25 years sentence I would get life. I never made the statement those kids are going to get me, it never happened nor did I say I am going to get convicted you know how it is up here. Nor did Zena ever discuss with me a plea on one case and going to trial on another, that never happened.

26. Page 54, Lines 15-23.

27. Rebuttal: Clearly this is a prima facie showing of conflict of interest and gross ineffectiveness of attorney Zena when he openly admitted that obtaining a plea was his only concern. I repeatedly told attorney Zena I was innocent and would not plea, no matter what he said. Then attorney Zena told me that there was no way with charges like those two cases would I be permitted to just walk out of those two court rooms a free man, these are children your charged with. And, attorney Zena said he was fully aware of the court's conviction rate where children cases were concerned.

28. Page 61, Line 24, Page 62, Lines 1-13.

29. Rebuttal: Attorney Zena did have me plea a life rape case. The words potential life rape case never were spoken to me by attorney Zena. At no time did I ever say I want to get these over with, I want to get this done, I want to be assured that this will all be behind me, and I want to know if the deal is still on the table. None of these statements ever took place, nor were discussed at any time on December 3rd 1996. Attorney Zena got me to plead to 10-25 years and the judge permitted me three (3) days to get my personal affairs in order. When I returned on December 6th, 1996, I was sentenced to 10-25 years.

30. Page 63, Lines 14-22.

31. Rebuttal: Attorney Zena never informed me that he did or didn't view any of the police reports, medical records, nor Children Services Board reports. Nor was I aware that these records and/or reports existed or their exonerating potential at the time I plead. In fact I knew very little about both of my cases.

32. Page 64, Lines 8-24, Pages 65, 68, Lines 1-24, Page 69, Lines 1-6.

33. Rebuttal: The day in question being December 3rd, 1996, attorney Zena never sat with my family and I, attorney Zena never explained the process that would occur, attorney Zena never discussed anything with me or my family, I never asked attorney Zena where was Megan and her mother, nor did he tell me any future plans of the prosecutor with respect to Megan and her mother. My family and I patiently waited on the benches in the hallway of the courthouse, we never wandered around, I was completely unaware that attorney Zena, the prosecutor, the prosecutor's investigator, and the judge Stuard, had a conference in the judge's chambers with regards to negotiating my plea bargain. I am totally unaware of any conversation held between the individuals above to which I was not privy. Attorney Zena never discussed any favorable exculpatory evidence he obtained through discovery or due diligence in obtaining such evidence upon which a defense could be based with me nor my family. At no time did I instruct Bill, John, Mary, Laurie Brown, Mike, nor the bailiff to interrupt a conference between attorney Zena, the prosecutor, the prosecutor's investigator, nor the judge Stuard, because I was unaware that such conference was taking place. I, never in the presence of my family nor alone, said to attorney Zena, I am not going to beat all of these cases, nor did I request he find out if the deal was still on the table, none of the statements on page 66, lines 2-7, ever happened, it was never discussed. On page 66, lines 8-24, page 67, lines 1-24, page 68, lines 1-24 and page 69, lines 1-6, all of these statements are false. No plea was brought to my attention until attorney Zena came out of judge Stuard's court room and made the following statements on December 3rd, 1996: Today must be your lucky day! I said to attorney Zena, what do you mean? Attorney Zena said, the prosecutor is offering you a blue light special I said, what do you mean? Zena said, 10 to 25 years on both cases. I said, Tom I am innocent, in a voice so loud that everyone in the court room hallway looked at me! Zena said, you got to realize these are child cases, if they get on the stand and cry, you will get convicted, and if you get convicted on one charge, you'll get convicted on all of them. these are child cases, you might as well get a gun and kill yourself, because you are facing life, you will never see the streets again. Do you know the conviction rate in Trumbull County for these kind of cases? I said, no. Zena said, 98.9%, I said, what would I do on a 10 to 25 years sentence? Zena said, he didn't know, let's go see. Zena lead

me to an empty room in the court house, and left me there for about 5 seconds, he returned with a law book and opened the book and said, 10 to 25 years at 4 years, then he told me to leave the room. I rejoined my family in the hallway and told them what Zena had informed me: 4 years with good behavior and programs. Zena reappeared and asked me if I was going to take the deal? I said yes, if Judge Stuard would allow me three days to get my affairs in order. Zena said I will have to go ask Stuard. Then he left. Zena came back and said, if you plead today on both cases judge Stuard said he would grant the three days. Then I said, yes I'll plead today. Zena said, okay, I will have to talk to the prosecutor, so Zena left. Zena returned with the plea forms and handed them to me and told me to sign them, so I did. Then Zena said, I will be right back so he left. Zena returned and I gave him the plea forms. Some time later I went before the Honorable judge Stuard who accepted my pleas and told me to return on December 6th, 1996 for sentencing. So I did.

34. Page 69, Lines 18-24, Page 70, Lines 1-4, Page 73, Lines 18-24, Page 74, Line 1.

35. Rebuttal: Attorney Zena did not at any time read the plea forms to me, nor did I read them to him, nor did attorney Zena discuss with me what various possible sentences I would receive concerning consecutive sentences, this conversation never took place. Attorney Zena never read any lines of the plea forms with me or to me, nor was he in my presence when I signed them. Attorney Zena just told me to sign the forms and he would be right back for them, and when he returned the forms were already signed when I handed them to him. I never read any lines of the plea forms also.

attorney Zena clearly states that I did not read the forms in front of him.

36. Page 76, Lines 20-22, Page 77, Lines 8-24, Page 78, Line 1.

37. Rebuttal: Attorney Zena told me that he believed I was innocent, and that the State's cases was weak and not to worry because they had no evidence. Attorney Zena told my former lawyer, Debra Witten, that Megan's case would be tossed out, and that during the trial he would prove that Megan's father was a sexual perpetrator. Attorney Zena never discussed any type of defense with respect to any difference between on-going sexual acts, and allegations brought out by the mother.

38. Page 78, Lines 2-7.

39. Rebuttal: Attorney Zena did say that the prosecutor would win if we went to trial, but they decided to offer me a blue light special.

40. I declare that the statements herein paragraphs 1 through 39 are true and correct to the best of my knowledge and belief.

*Anthony Cost Jr*

Sworn to and subscribed to in my presence this 19 day of Oct

2002.

*Evelyn Hall*  
NOTARY PUBLIC

Every, Public Notary Public  
State of Ohio  
Commission Expires April 6, 2007

A copy of this SWORN STATEMENT was sent to the following person, Clerk  
of Courts, in the Court Of Common Pleas, 160 High St. N.W., Warren,  
Ohio 44481, by mail on this 19 day of October, 2002.