

Exhibit 1

Declaration of Matthew L. Staszak

Dated: June 1, 2022

Affidavit of Matthew L. Staszak

Dated: July 19, 2022

COI of Matthew L. Staszak

Dated: October 7, 2022

Case No. 22-1887

**UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT**

**MATTHEW L. STASZAK,
Petitioner-Appellant,**

U.S.C.A. – 7th Circuit
RECEIVED

v.

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**UNITED STATES OF AMERICA,
Respondent-Appellee.**

**DECLARATION OF MATTHEW L. STASZAK IN SUPPORT OF MOTION FOR
RECONSIDERATION AND MOTION TO COMPEL FORENSIC
EXAMINATION AND/OR REPORT FOR IN CAMERA INSPECTION**

**Southern District of Illinois
Crim. No. In re: 4:12-cr-40064-JPG
The Honorable J. Phil Gilbert**

I, MATTHEW L. STASZAK, DECLARES under 28 U.S.C. Section 1746 under the penalty of perjury of the following paragraphs 1-31:

1. I am the Petitioner-Appellant in this case No. 22-1887. I make this Affidavit in support of my Motion to Reconsider and Compel Discovery for its inspection.

2. On May 19, 2022, I filed a Petition for (COA) with an attached Omnibus Motion with Exhibits 1-12, and a letter to the Seventh Circuit Court Clerk. (Docs. 1).

3. On May 25, 2022, I filed a Motion to Supplement my Omnibus Motion with Exhibit 13, that is, a Suspension Order of the law license of Former United States Attorney Stephen R. Wigginton for the Southern District of Illinois issued and ordered by the Supreme Court for the State of Missouri. (Doc. 2).

4. On May 27, 2022, the panel consisting of Circuit Judge Frank H. Easterbrook, Circuit Judge Michael B. Brennan, and Circuit Judge Amy J. St. Eve, ("the panel"), denied my request for COA. See (Doc. 3).

5. On June 1, 2022, I mailed my Motion for Reconsideration and my Motion to Compel being the issue of the Forensic Examination and/or Report, ("examination" or "report"), of my previous Droid X2 cellular telephone device, bearing serial number, (SJUG6250), ("phone"). The panel in its order claims that I did not provide them a copy of that examination. See (Doc. 3, p. 2).

6. I have never seen, inspected, nor do I have access to, or possess the examination that the panel mentions in its order.

7. Had I actually been provided a copy of this examination for its keeping or inspection by my previous counsel, by the Government, or the Court, through the criminal discovery process, I would have surely provided that examination or its report with my newly discovered evidence presented to this Court.

8. At no time has any official of the Government offered its examination or its report to me, or my previous counsel, since my date of arrest occurring on June 8, 2012. Instead, the Government withheld this examination due to its exculpatory value to me surrounding my actual innocence of (Count 1).

9. This examination would show that I did not own or possess the phone as charged during the time frame of the falsely accused and alleged events in (Count 1) that would substantively show that I am innocent of the (Count 1) offense, and that no reasonable juror would have convicted me of the (Count 1) offense.

10. In (Doc. 1-2, Exhibit 1), I provided the Court the following documents of the unearthed evidence being:

- a.) An Asurion Insurance Deductable (1-page);
- b.) A Verizon Wireless Customer Receipt (2-pages);
- c.) A Verizon Quick Bill Summary (2-Pages); and,
- d.) A MasterCard Billing Statement (3-Pages).

11. The Asurion Invoice is dated "10/29/2011" for a "MOTOROLADROIDX Standard", ("DroidX"), being the type of phone I had misplaced on or around October 28, 2011, for "(Insurance replacement)" of the DroidX phone. I did not misplace a "Droid X2" phone for an insurance replacement. I did not own or possess a "Droid X2" phone being the "predecessor" of the "DroidX" phone when it was misplaced on or around October 28, 2011.

12. It was impossible that I committed the offense surrounding (Count 1) with a "DroidX", being the type of phone to be replaced by the Droid X2. The DroidX phone was the phone I owned in "June or July 2011", which is a totally different phone from the Droid X2 phone I am falsely accused and falsely charged of using to commit the offense surrounding (Count 1) in "June or July 2011" worded within the Second Superseding Indictment, Stipulation of Facts and additional Court recorded documentations. It was a literal impossibility I used a model "Motorola Droid X2, bearing serial number, (SJUG6250)" to commit the (Count 1) offense in "June or July of 2011" as charged and stipulated.

13. The Verizon Customer Receipt displays a "LG REVERE VN150", ("LG phone"), which is a flip phone. This phone was the temporary replacement phone for the DroidX phone from the insurance replacement claim through Asurion provided and shipped via Fed-Ex by Verizon Wireless. I was mailed the LG phone to a cigar lounge located in Bluffton, South Carolina. The LG phone was my temporary replacement phone because Verizon Wireless could not provide me the equivalent DroidX phone timely (as a replacement for my misplaced DroidX) and was further providing me an upgrade being the newly released Droid X2 phone, being the phone bearing serial number, (SJUG6250), in the days ahead.

14. Asurion, for the inconveniences of me having to settle for the LG phone from Verizon Wireless, (for its temporary use) and accidentally charging me twice on October 29, 2011, reimbursed my 99.00 dollar insurance deductible payment where they posted this as a "CREDIT" to my MasterCard in the amount of 99.00 on November 10, 2011.

15. Verizon Wireless further commenced a "Plan Change" to my Verizon account that would be compatible to the new Droid X2 phone that I finally received. Verizon Wireless further provided me refunds and advances to my bill summary for the charges accrued during the time of the inconveniences I had suffered of having the LG phone resulting from the loss of my DroidX phone on or around October 28, 2011.

16. Around the first week of November I was able to pick up and receive my new Droid X2 phone, bearing serial number, (SJUG6250) at a local Verizon Store.

17. Around the mid-November time frame of 2011, I provided K.G. with the LG phone for her use.

18. As for the FBI recorded phone conversation pertaining to the falsely charged (Count 1) offense. K.G. did visit me located at my Grandmother's residence where she was dropped off by her mother, an Amy Gayer, in late July of 2011. During that visit, K.G. had a pink colored Smart phone device with her. I suspect the pink phone Smart phone was possibly her mother's phone. K.G. had me use the pink phone device to record her singing because she wanted me to pay for her to have singing and piano lessons where she claimed her Grandmother "Brenda" played the piano for a nearby church. K.G. further stated she had played the clarinet in school band and had musical talent and that her father played guitar. I recorded K.G. with the pink phone device of her singing with music, and without music, where she had further let me listen to

additional recordings of her sing previously recorded from the pink phone. K.G. shared with me that she had sang solo and in a choir at Busch Stadium for a Cardinal's baseball game and that she wanted further lessons in voice and piano. At no time did I ever use my "DroidX" (not a Droid X2 device) as charged and stipulated to record any illicit sexual activity between myself and K.G. during her visit or on any other occasion. K.G.'s visit lasted around one-hour where I and her went out to eat thereafter, and I had returned her back to her grandparent's house located in Cambria, Illinois, that same evening.

19. On my date of arrest, being June 8, 2012, while under duress of being put into a small enclosed windowless room located at the Communications and NCIS building at Marine Corps Air Station, Beaufort, South Carolina, I provided a false confession to FBI Agent George Graves concerning my involvement with K.G. surrounding the false allegations within the Criminal Complaint brought against me by FBI SFO Mark A. Krug. I only lied to Agent Graves because of my duress and further having explicit criminal knowledge of illicit activities being committed by K.G., Amy Gayer, (K.G.'s mother), and Bridgette Gayer (K.G.'s older sister) that involved production and possession of child pornography, extortion, illicit drug use, and prostitution.

20. I was further protecting K.G. from my knowledge of her having sexual involvement and her illicit drug use with a Kyle Ferguson, ("Ferguson"), being an adult male, where Ferguson and K.G. participated together in creating an illicit sex video located at a Fraternity House in Carbondale, Illinois. At the time of my interrogation by the FBI and NCIS, I had significant details and information involving K.G. and Ryan Lee Wheeler, ("Wheeler"), being an adult male. For K.G.'s protection, I did not offer this information during the interrogation process concerning her possible criminal liability of her creating child pornography with Wheeler and by K.G. taking naked selfies and

sending them via Facebook messenger, Yahoo e-mail, and text messages to other various adult males.

21. Days prior to my June 8th arrest by the FBI, I had obtained information involving a Megan Jackson of Hardin, Illinois, further involving sexual messages and naked pictures that were sent by K.G. to Wheeler, where the messages detailed a previous trip to Wal-Mart (by K.G. and Wheeler) further discussing sexual acts by Wheeler on K.G. after their trip to Wal-Mart; Wheeler's upcoming birthday party where Wheeler said he was going to have sex with K.G.; past sexual acts between K.G. and Wheeler over Skype, and messages between K.G. and Wheeler of having made a porn video together. After my June 8th arrest, I further obtained information that K.G. was possibly pregnant by an "Alex" and that she was staying primarily with Wheeler until about July of 2012, (during my period of home detention). See (Doc. 1-2, Ex's. 6-12).

22. On or around October 3, 2012, I went on the lam in order to gather intelligence surrounding my criminal case where I was able to obtain significant information involving K.G. and Ryan Lee Wheeler.

23. Around February 2013, located in Carrollton, Illinois, I was witness to an illicit sexual video recording vividly involving both K.G. and Wheeler that was shown to me from Wheeler's cellular device by Wheeler. K.G. was under the age of 18 in February of 2013, but I have belief the porn video was recorded in the late spring or early summer of 2012, (according to paragraph 20), when K.G. was either 16 or 17 years of age.

24. On August 5, 2013, while under duress, I lied to Judge Gilbert when I pled guilty to the Second Superseding Indictment to protect my parents from facing

"charges." I was threatened that if I did not plead guilty my parents would be arrested and prosecuted.

25. On April 4th of 2018, I testified directly to Judge Gilbert, under oath, at least fifteen times, that I was not truthful with him during my Rule 11 proceedings when I had pled guilty. 3:15-cv00020 (Doc 87 p. 170-193).

26. As of April 2021, I have newly discovered evidence, being several receipts and several Affidavits that supports, at a minimum, a *prima facie* showing that I did not commit the stipulated offense of (Count 1) as alleged within the Second Superseding Indictment.

27. The panel ordered that it lacks having the examination. (Doc. 3, p. 2). The examination would not only prove that there were errors committed, but it would further exculpate me of the (Count 1) offense in its entirety.

28. The examination that is compelled by motion before this Court is relevant to the newly discovered evidence and claims presented. The item requested for the panel's inspection and/or the lower court's inspection is the examination of my Droid X2 cellular telephone device, bearing serial number, (SJUG6250) which is highly relevant to my Motion for Reconsideration as I did not commit the (Count 1) offense.

29. The examination and/or report is held in custody of the United States on file.

30. The examination would prove my sworn claims of actual innocence surrounding the (Count 1) offense as stipulated within the Second Superseding Indictment and Stipulation of Facts. (Doc. 1-2, Ex. 2).

31. The examination will show that the officials involved in the investigative and prosecutorial process, being Stephen R. Wigginton, Kit R. Morrissey, Angela Scott, and Mark A. Krug, were fraudulent and negligent in their sworn duties that would show their distinct motives, opportunities, intentions, preparations, planning, and their knowledge involving and surrounding my criminal prosecution and (Count 1) of the Second Superseding Indictment.

32. For the reasons clearly sworn in paragraphs 1-31 the Forensic Examination and/or Report is sought for inspection by this Court, or the lower Court.

**THIS DECLARATION IS SWORN TO BY MY SIGNATURE BELOW UNDER
28 U.S.C. SECTION 1746 UNDER PENALTY OF PERJURY ON THIS 1st DAY
OF June 1, 2022.**

MATTHEW L. STASZAK, *Petitioner-Appellant, pro se,*

A handwritten signature in cursive script that reads "Matthew L. Staszak". The signature is written over a horizontal line.

Reg. No. 24227-171

Federal Correctional Complex (Low)

P.O. Box 9000-Low

Forrest City, Arkansas 72336-9000

AFFIDAVIT OF MATTHEW L. STASZAK

I, MATTHEW L. STASZAK, DECLARE UNDER TITLE 28, U.S.C. Section 1746 that the following statement in paragraphs 1-3 are true and correct:

1. I, Matthew L. Staszak, am fully aware that Daniel L. Staszak filed a FOIA request to the Department of Justice with the Federal Bureau of Investigation ("FBI") and the Executive Office of United States Attorneys ("EOUSA") concerning my actual innocence surrounding a fraudulent offense of Count 1 brought against me by the United States as cited word-for-word within my Second Superseding Indictment in Crim. No. 4:12-cr-40064-JPG (S.D. Ill).

2. I, Matthew L. Staszak, became fully aware that Daniel Staszak was given a standard denial by the FBI citing an unwarranted invasion of personal privacy by the FBI on July 19, 2022. Daniel Staszak still awaits a response from the EOUSA to this present date.

3. I, Matthew L. Staszak, have no complaints, concerns, objections, problems, or issues with **ANY** unwarranted invasion of privacy. **ANY** concerned citizen of the general public may reference my records concerning **ANY** matter that involves the request for the forensic report and/or examination of the Motorola Droid X2 cellphone device, bearing serial number (SJUG6250), as I am actually and factually innocent of the Count 1 offense of Exploitation of a Minor and did not commit such an offense.

Executed: July 19, 2022


MATTHEW L. STASZAK, Affiant