

Sasson Turnbull Ryan & Hoose

Experience. Dedication. Integrity.

Howard S. Sasson
Cynthia J. Turnbull
Luke Ryan
David P. Hoose

100 Main Street, 3rd Floor | Northampton, MA 01060 | www.strhlaw.com
TEL 413-586-4800 | FAX 413-582-6419 | EMAIL info@strhlaw.com

November 1, 2014

Patrick Devlin
Assistant Attorney General
One Ashburton Place, 19th Floor
Boston, MA 02108
patrick.k.devlin@state.ma.us

VIA E-MAIL AND U.S. MAIL

Re: Newly Discovered Evidence

Dear Attorney Devlin:

My purpose in writing today is to bring to your attention certain evidence I discovered during the inspection that took place at your office on October 30, 2014, in accordance with the protective order I executed in the pending Hampshire County Superior Court case of Commonwealth v. Wayne Burston, Indictment No. 13-113.¹ Because you did not participate in the litigation that took place in Hampden County Superior Court last fall, the significance of what I found may not be immediately apparent to you. Accordingly, before discussing this evidence, I am going to provide the following summary of the circumstances surrounding Ms. Farak's arrest and the litigation it spawned in other criminal cases.

Sonja Farak was one of four chemists who worked analyzing unknown substances at a forensic laboratory in Amherst. On January 17, 2013, an evidence officer named Sharon Salem discovered that two samples entrusted to Farak, A12-04793 and A12-04791, were not in the main evidence vault where they were supposed to be. The following morning, another supervisor named James Hanchett discovered a sandwich bag containing cocaine at Farak's workstation, as well as counterfeit cocaine and the two missing samples that inspired Salem's original search.

The condition of the K-pac bags containing A12-04793 and A12-04791 proved to be a source of great concern. Hanchett later explained that these bags would have had to have been heat-sealed when they were returned to the main evidence vault. However, on the morning of January 18, 2013, they were not only unsealed; they had not been cut open. This led Hanchett to conclude

¹ A copy of that protective order is attached to this correspondence as Exhibit A.

that Farak had cut open the original bags and removed the contents, then put other substances into a new bags she created to take the place of the original ones. According to Hanchett, if Salem had not happened to check the main evidence safe that day, Farak could have sealed the replacement K-pac bags for A12-04791 and A12-04793, returned them to the vault, and her tampering would have gone undetected. As much as it pained him to admit, Hanchett conceded that Farak could have been doing this sort of thing for years.

When Farak's malfeasance came to light, it had serious implications for hundreds, if not thousands, of criminal cases in which she had purportedly done analytic testing. Many, but not all, of these cases that were pending at the time of her arrest were dismissed. *See, e.g.*, "Arrest of chemist Sonja Farak results in dismissals of drug cases against 14 people in Hampden County" http://www.masslive.com/news/index.ssf/2013/02/so_far_14_defendants_arrested.html (Feb. 21, 2013). In addition, these allegations of evidence tampering called into question the integrity of convictions in many other cases where Farak had either testified at trial and/or signed her name to so-called "drug certs," attesting that samples assigned to her for testing contained controlled substances.

At the time, I happened to represent defendants in both camps.

Commonwealth v. Rolando Penate, Hampden County Indictment No. 12-083, was a pending case where my client was charged with multiple counts of distribution of heroin and possession of heroin and cocaine with the intent to distribute. Discovery in that case indicated that the substances at issue were assigned to Farak for testing on December 20, 2011, and January 4, 2012.

Commonwealth v. Rafael Rodriguez, Hampden County Indictment No. 10-1181, was a post-conviction case where my client had pled guilty on September 9, 2011, to possessing cocaine with the intent to distribute and received an agreed upon sentence to state prison of four to five years.

Eventually, it became clear that the Hampden County District Attorney's office remained committed to prosecuting Mr. Penate and keeping Mr. Rodriguez in state prison. In both cases, prosecutors took the position that there was no evidence suggesting that Farak was engaging in misconduct either at the time the substances in question were at the Amherst Laboratory or when Mr. Rodriguez tendered his plea.

I subsequently filed a motion to dismiss the charges against Mr. Penate and a motion to withdraw Mr. Rodriguez's plea. Judge Mary-Lou Rup decided that Mr. Penate was entitled to an evidentiary hearing. Judge Jeffrey Kinder reached the same conclusion in Mr. Rodriguez's case and decided, for reasons of judicial economy, to consolidate his hearing with hearings for fourteen other post-conviction defendants.

In advance of the consolidated post-conviction hearing that began on September 9, 2013, the Hampden County District Attorney's office provided defense counsel with certain discovery, including police reports and the grand jury minutes related to Farak's prosecution. First

Assistant Frank Flannery was assigned to Mr. Rodriguez's case, and I quickly learned from my conversations with him that he was essentially acting as a conduit in providing defense counsel with whatever discovery he received from your office.

As you may know, on the day Farak was arrested her car was impounded and investigators obtained a warrant to search it. In a report memorializing that search, Trooper Randy Thomas indicated that among the items seized was "assorted lab paperwork."² Photographs were taken of Farak's car at the time of the search, but few captured the contents of this paperwork and no reports were authored detailing what exactly these papers contained.

During the grand jury proceedings that culminated in Farak's indictment, the only papers from her car that your office offered as exhibits were news articles concerning chemists and/or law enforcement officers who had been caught mishandling drug evidence. One of these articles appeared on-line at Pittsfield.com and was printed on September 20, 2011.³ This article reported that an investigation into the illegal possession of steroids led to the removal of a Pittsfield Narcotics Officer named David Kirchner from the Berkshire County Drug Task Force. The bottom right-hand corner of the article contained the following handwritten correspondence:

- And Kirchner seemed like such a good guy. I do feel bad for his 5 y.o. daughter.
- (Thank god I'm not a law enforcement officer)
- p.s. Most of the cases he's been a part of have been dismissed for exactly this reason.

This piece of paper constituted the most compelling piece of evidence disclosed to defense counsel insofar as it undercut an official version of events that depicted Farak as a model employee with "meticulous . . . work habits" up until "the last few weeks prior to *the incident*."⁴ That being said, the value of the document to defendants like Rolando Penate and Rafael Rodriguez depended on a factfinder making a number of crucial inferences.

First, one had to infer that Farak was responsible for printing the article and/or received it shortly after it was printed. Second, one had to infer that Farak's possession of the article reflected her interest in what might happen to her should she be caught doing something similar. Finally, one had to infer that Farak had such an interest because she was in the process of doing something similar at the time she printed and/or received the article.

² A copy of this report is attached as Exhibit B to this letter.

³ A copy of this article is attached as Exhibit C.

⁴ In fact, lead Farak investigator Sgt. Joseph Ballou went so far as to tell grand jurors that when he met Farak for the first time the summer before (during the Dookhan investigation), he found her to be "somewhat pretty," at least in contrast to her "drawn and pale" appearance on the day of her arrest.

Due, in part, to my concern that a factfinder might not draw all these inferences, I filed motions seeking documentary evidence in the possession of your office and/or the State Police. Among other things, I sought any evidence suggesting that a third party had knowledge of Farak's alleged malfeasance prior to her arrest. In response to this request, your office took the position that:

The AGO has turned over all grand jury minutes, exhibits, and police reports in its possession to the District Attorney's office. Based on these records, to which the defendant has access, *there is no reason to believe that a third party had knowledge of Farak's alleged malfeasance prior to her arrest.*

Several days before the consolidated post-conviction evidentiary hearing began, First Assistant Flannery agreed to arrange for me and two other defense attorneys to view the evidence in your office's possession. Much to our surprise, he subsequently informed us that your office was unwilling to permit this inspection to occur.

During Sergeant Ballou's testimony at that hearing, we had the following exchange:

Q. Sir, we've been talking quite a bit now about the evidence that was in Ms. Farak's car, correct?

A. Yes.

Q. And what we've been talking about is how you described that evidence in various reports you wrote, correct?

A. Yes.

Q. And we've been looking at photographs of this particular evidence?

A. Yes.

Q. And the reason we're doing that is because this evidence no longer exists, right?

A. No. It still exists.

Q. Oh, where is it?

A. It's in a drug storage locker -- I mean, excuse me, evidence storage locker.

Q. And can you tell me why none of the counsel for none of the defendants have been permitted to look at any of this evidence?

MR. FLANNERY: Objection.

THE COURT: Sustained.

Q. (By Mr. Ryan) Well, there's this physical evidence that we've been discussing from the car, correct?

A. Yes.

Q. And you would agree that your reports regarding what was in the car are summary notes?

A. Summary, yes.

Q. You didn't write paragraph after paragraph about what assorted lab paperwork was found, right?

A. As you mentioned, we also took pretty detailed photos, yes.

Q. Well, how many photos did you take?

A. I didn't take any. This was from -- the crime scene services took these.

Q. And whatever is in that book, is that a fair representation of how many photographs were taken?

A. From the car, sir, yes; vehicle search warrant, yes.

Q. A couple dozen?

A. Yes.

Q. And about how many items of evidentiary interest were there?

MR. FLANNERY: Objection, Your Honor. This is not to the scope of the direct.

THE COURT: Sustained as to what has evidentiary interest.

Q. (By Mr. Ryan) Well, you did an evidence log, correct?

A. Yes.

Q. And that had some 67 items on it?

A. Yes.

Q. And a number of those items were from the car?

A. Yes. That included all of the evidence seized in the case.

Q. Did you photograph every piece of evidence that was seized from the automobile?

A. As I said, I didn't photograph anything. But yeah, crime scene services photographed the evidence as we seized it, yes.

Q. Did anybody make a video recording of the execution of the search warrant?

A. There's no video, no.

At the conclusion of the hearing on September 9, 2013, I informed the Court that your office had refused to permit me to inspect the physical evidence and conveyed my opinion that neither Sgt. Ballou's testimony nor the photographic evidence in existence served as an adequate substitute for such an inspection. Judge Kinder encouraged the parties to "work through some agreement about viewing, physically, the evidence" and placed the onus on the defense to file a motion if no such agreement could be reached.

As you know, subsequent discussions did not produce an agreement. Your office took the position that "viewing the seized evidence [was] irrelevant to any case other than Farak's." I then filed a motion to inspect in Mr. Penate's case, which Judge Kinder denied due to the pendency of the criminal charges against Farak and the existence of the aforementioned photographs.

Judge Kinder went on to deny both Mr. Penate's motion to dismiss and Mr. Rodriguez's motion to withdraw his guilty plea. In his decisions, Judge Kinder found that while Farak's conduct was "deplorable," it "postdate[d] the testing in th[ese] cases." With respect to the aforementioned news articles, Judge Kinder drew the inference that Farak was responsible for downloading and printing them, but refused to infer that "she was engaged in criminal conduct at that time." In his view, defense counsel could not point to any persuasive evidence of tampering that took place prior to July, 2012.

Mr. Penate's case proceeded to trial before Judge Tina Page. After the Commonwealth rested, I attempted to show that the samples in question could have been tampered with due to the poor oversight that existed at the Amherst lab. Judge Page sustained Commonwealth objections to this line of questioning based on the absence of any concrete proof that Farak was tampering with evidence in December, 2011 or January, 2012. Mr. Penate was ultimately convicted of one count of distributing a Class A substance and sentenced to 5.5 – 7 years in state prison.

As for Mr. Rodriguez, he and several other post-conviction defendants appealed Judge Kinder decisions denying their motions to withdraw their pleas.⁵ Recently, the Supreme Judicial Court granted an application for direct appellate review in one of these cases, *see Commonwealth v. Erick Cotto, Jr.*, SJC-11761, and invited Mr. Rodriguez to submit an amicus brief. Oral argument in Mr. Cotto's case has been scheduled for December 4, 2014.⁶ This past Thursday, the Justices issued an announcement seeking additional amicus briefs on the following issue:

Where a defendant pleaded guilty to a drug offense and thereafter sought to withdraw his plea on the basis of evidence that had surfaced concerning misconduct in other cases by the analyst at the Amherst drug laboratory who had tested the substances in this case, whether the judge erred in denying the motion because the defendant had failed to establish that any misconduct by the analyst had occurred prior to the date of the defendant's plea, or whether the defendant is entitled to a conclusive presumption that egregious misconduct occurred in his case in the same manner as a defendant seeking to withdraw a guilty plea on the basis of misconduct at the Hinton drug laboratory pursuant to this court's decision in *Commonwealth v. Scott*, 467 Mass. 336 (2014).

* * * * *

All of this brings me to what I discovered yesterday. In the box containing items seized from Farak's vehicle was an evidence bag containing the aforementioned articles, along with other

⁵ I have continued to represent Mr. Rodriguez and filed an appellate brief on his behalf on August 1, 2014.

⁶ The *Cotto* case has been joined for argument with *Commonwealth v. Ware*, SJC-11708. In *Ware*, the Justices issued the following announcement seeking amicus briefs on this issue:

Whether the defendant, who pleaded guilty in 2011 to multiple drug-related offenses, was erroneously denied postconviction discovery under Mass. R. Crim. P. 30 (c) (4), specifically, comprehensive retesting of numerous drug samples that had previously been tested by Sonja Farak, a chemist at the State drug lab in Amherst who subsequently pleaded guilty to tampering with evidence at the lab, to determine whether Farak was engaged in such misconduct at the time the substances in his case were tested.

papers Trooper Thomas had described as “assorted lab paperwork.” A review of these other papers revealed the following.

Two papers have this type-written heading:

EMOTION REGULATION Worksheet
OBSERVE AND DESCRIBE EMOTIONS

***DIRECTIONS:** Write as much as you can about each as soon as after "event" as possible. Write on back for more room.*

Below this heading are boxes for the following categories:

- **Vulnerability Factors:** What me more vulnerable?
- **Emotion Name(s):** _____ **Intensity: (0-10)** ____
- **Prompting Event:** For my emotion (what, who, where, when?)
- **Interpretations:** What are my Thoughts, Judgments, Beliefs, Assumptions, Appraisals of the situation?
- **Face and Body Changes:** What am I feeling in my face and body?
- **Body Language:** What is my facial expression, body posture and gestures?
- **Action Urge:** What do I feel like doing or saying?
- **What I Did or Said:**
- **After Effects:** What is my state of mind, other emotions, actions or thoughts?
- **Function of Emotions:** Communicate? Organize? Give Information?

One of these worksheets contains these (and other) handwritten notes:

Vulnerability Factors:

last night w/Molly
Sharon (+ Becky) not taking today off

Emotion Name(s): (Pre-) Shame

Intensity: (0-10) 7

Prompting Event:

got a ‘good’ sample @ work & having urges to use
(& knowing that I will be the only one here after lunch)

Interpretations:

I’m a bad person for having urges	I know I should
I’m a bad person for not wanting to stop them	call Anna, but I
It doesn’t matter – I won’t get caught	don’t want to.
Know I’ll feel worse when/if I use	I can lie on my homework

Action Urge:

- hurry up & prepare/use (my mind says to get it out of way, but I don't think that will be the end of it.)
> give in and go w/urge

The other worksheet contains these (and other) handwritten notes:

Vulnerability Factors: - tired this morning (though enough sleep)
- urges to use beforehand

Emotion Name(s): Shame Intensity: (0-10) 6 ½

Prompting Event:

told Jim earlier in week I put DEA application in, but I didn't (figured I would later/soon). Today found out I need his signature on it = he knows/will know I lied)

Interpretations:

- He will know I lied – judge me
- wondering if I can ~~sen~~ have boss over him sign it
- have to wait until at least tomorrow to tell/face him = build up anxiety

Action Urge:

- Asking Becky who she had sign it
Use (have 12 urge-ful samples to analyze out of next 13)
- make up lie

What I Did or Said: call Anna – commit to not using
asked Becky – she thinks Jim signed her stuff

With respect to the names referenced in these worksheets, I believe that “Sharon” is Evidence Officer Sharon Salem, “Jim” is Supervisor James Hanchett, and “Becky” is the other chemist at the lab, Rebecca Pontes. As for “Anna,” on another piece of scrap paper I found these handwritten notes:

Anna Kogan MSW LICSW
256 N. Pleasant St
Suite 6
Am 01002
413-944-0965

do you EAP
accept

Based on these notes, I believe that the “Anna” referred to in the worksheets is an Amherst therapist who lists “addiction” as one of the “issues” for which she provides treatment. See http://therapists.psychologytoday.com/rms/name/Anna_Kogan_MSW,LICSW_Amherst_Massachusetts_72054 (last visited Nov. 1, 2014).⁷ I do not know whether the reference to “Molly” is to a person or the recreational drug.

As for the reference to “homework,” another page I came across has, in the top left-hand corner, the following handwritten heading: “Homework 11-16-11:” Below that is handwriting describing a specific “Problem/Solution.” It would appear that Farak had an appointment the following day with a “prescriber.” This appointment seems to have served as a source of anxiety for Farak because while she intended to disclose an intention to stop taking one medication, she was so invested in staying on a second medication she was prepared to “lie about certain things to possibly help prevent being taken off [this] med.”

Also included in these papers described by Trooper Thomas as “assorted lab paperwork” are two “ServiceNet Diary Cards,” which contain the following pertinent boxes:

Name: _____

Week of: _____

Observe and Describe Emotions: Today I felt (0-5):	----- ---Mon	----- ---Tues	----- ---Wed	----- --Thurs	----- ---Fri	----- ---Sat	----- ---Sun
Target Behaviors: Today I felt an urge to (0-5):							
Kill myself							
Injure myself							
Drink or take drugs							
Binge, purge or not eat							

Write “Yes” in the box next to the number if you acted on an urge.

On the line next to “Name” on one diary card is the handwritten name “Sonja.” The “Drink or take drugs” box indicates that Sonja experienced an urge to take drugs that rated a “4” on Thursday and succumbed to that urge. This “ServiceNet Diary Card” does not contain any dates.

The other “ServiceNet Diary Card” has the following handwritten dates at the top of the form:

⁷ Based on these notes, I believe I have the requisite good faith basis to seek records pertaining to Farak’s treatment that are in the possession of Ms. Kogan and intend to file a motion pursuant to *Commonwealth v. Dwyer*, 448 Mass. 122 (2006), on Monday.

Observe and Describe Emotions: Today I felt (0-5):	12-26 ----- ---Mon	12-20 ----- ---Tues	12-21 ----- ---Wed	12-22 ----- --Thurs	12-23 ----- ---Fri	12-24 ----- ---Sat	12-25 ----- ---Sun
---	---------------------------------	----------------------------------	---------------------------------	----------------------------------	---------------------------------	---------------------------------	---------------------------------

No year can be found on this document. However, a look at past calendars reveals that “12-26” fell on a Monday in 2011.⁸ Accordingly, it would appear that this document memorializes actions Farak took during the week of December 20, 2011, i.e. more than six months before Judge Kinder found that there was any evidence that she engaged in criminal behavior. On December 22, 2011, the very same day a sample assigned to Farak in the Penate case supposedly went back to the main vault, she admitted to taking drugs. This Diary Card indicates that Farak also took drugs on December 23 and December 26, 2011.

It would be difficult to overstate the significance of these documents. In terms of establishing misconduct on the part of Farak prior to July, 2012, they constitute much stronger evidence than the notes on the aforementioned articles as they do not depend on a fact finder drawing inferences favorable to the defense.

Whether law enforcement officials overlooked these papers or intentionally suppressed them is a question for another day. For the time being, I believe that two things must take place immediately.

First, your office should assent to the emergency motion to amend the protective order in Mr. Burston’s case, which I intend to file on Monday. This motion will request the removal of the condition that I not reveal the results of my inspection to other defense attorneys handling Amherst Lab cases. As the attorney of record for Rafael Rodriguez, I believe I have an ethical obligation to advise counsel for the defendants in the Cotto and Ware cases that new, exculpatory evidence exists calling in question the factual basis of the paradigm Judge Kinder adopted in adjudicating Amherst Lab cases.

Second, your office should provide copies of the papers in question to each and every defendant who moved for post-conviction relief based on misconduct on the part of Farak.

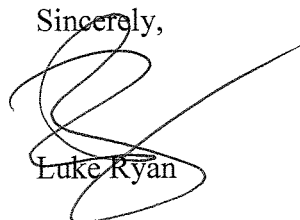
I understand that you did not become involved in this litigation until recently and want to be clear that to the extent this letter – and prior pleadings I have filed – paints your office in an unfavorable light, I am not suggesting that you have engaged in any misconduct. I appreciate the professionalism you exhibited in arranging the inspection that occurred on Thursday and trust that you will discharge the responsibilities you now have as the recipient of this letter in the same conscientious manner.

If you would like to discuss this matter, I can be reached at the number above. Inasmuch as I would like to give you and your office time to formulate a position with respect to my motion to

⁸ In 2012, December 26th fell on a Wednesday.

amend, looming deadlines in the Cotto and Watts cases leave me little choice but to ask the Hampshire Superior Court to schedule a hearing on this motion as soon as possible.

Sincerely,

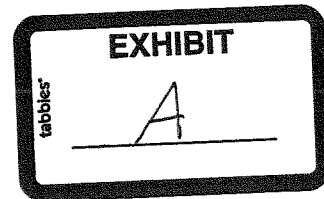
A handwritten signature in black ink, appearing to be 'Luke Ryan', written over the printed name.

Luke Ryan

Enc.

Cc: Steven Gagne
First Assistant
Northwestern District Attorney
One Gleason Plaza
Northampton, MA 01060
steven.e.gagne@state.ma.us

Jane Davidson Montori
Office of the Hampden County District Attorney
Hall of Justice
50 State Street
Springfield, MA 01102-0559
[Fax] 413.731.9019



COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT

Hampshire, ss.

HSCR2013-113

COMMONWEALTH

v.

WAYNE BURSTON

ASSENTED-TO MOTION TO INSPECT PHYSICAL EVIDENCE

The defendant, Wayne Burston, and non-party Attorney General's Office respectfully request that this Court grant the defendant's motion to inspect physical evidence pursuant to Mass. R. Crim. P 17(a)(2) with the following terms:

1. Within a reasonable time and on an agreed-upon date, the defendant may have access to the physical evidence pertaining to the prosecution of Sonja Farak that is in the care, custody, and control of the Attorney General's Office while under the supervision of the Massachusetts State Police, and may conduct a visual inspection of said physical evidence;
2. The defendant may take photographs, video recordings, measurements, notes, and/or drawings of said physical evidence;
3. The defendant may not remove said evidence from the Attorney General's Office nor may he conduct testing on said evidence; and
4. The defendant may not share the results of his inspection with other defense attorneys handling cases involving the Amherst laboratory, including but not

limited to, photographs, video recordings, measurements, notes, and drawings
made during the inspection.

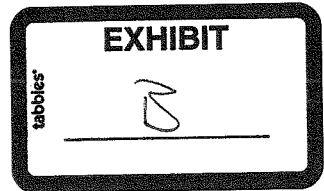
Accordingly, the defendant and the Attorney General's Office respectfully request the Court to
allow the defendant's motion with the above terms.

Respectfully Submitted,

Luke Ryan, Esq.
Sasson Turnbull Ryan & Hoose
100 Main Street, 3rd Floor
Northampton, Mass. 01060
(413) 586-4800

Kris C. Foster
Assistant Attorney General
Massachusetts Attorney General's Office
One Ashburton Place
Boston, Mass. 02108
(617) 963-2833

Patrick K. Devlin
Assistant Attorney General
Massachusetts Attorney General's Office
One Ashburton Place
Boston, Mass. 02108
(617) 963-2957



The Commonwealth of Massachusetts
Massachusetts State Police
Office of the Attorney General - West
1350 Main Street, Fourth Floor
Springfield, Massachusetts 01103

January 24, 2013

To: Detective Lieutenant Robert M. Irwin
SPDU AG, Commanding

From: Trooper Randy Thomas #2935
SPDU AG West

Subject: 13-034-4804-1003
Search warrant execution
Vehicle of Sonja FARAK

1. On 01-19-13 at 0323 hours, a search warrant was executed on a vehicle owned by Sonja FARAK of 37 Laurel Park in Northampton. The search was of a 2002 Volkswagen Golf, color black, VIN: 9BWGK61J524069609, and bearing MA registration 80WJ06 registered to Sonja J. FARAK. The search was conducted at the State Police Barracks in Northampton at 555 North King St. in Northampton where the vehicle had been secured the previous day. The search was conducted by Detective Lieutenant Robert Irwin, Sergeant Joseph Ballou and I, Trooper Randy Thomas, all assigned to the State Police Detective Unit of the Attorney General's Office. Trooper Christopher Dolan from the State Police Crime Scene Services Section photographed the vehicle and evidence before and during the search.

2. The search commenced at 0323 hours. The following items were found in the vehicle and were secured and seized into evidence:

- 1 1 manila envelope "A08-02990 + 0289" containing evidence bag & unknown paper
- 2 1 envelope "For Jim Hanchett"
- 3 1 Zip lock baggie containing (34) white capsules
- 4 Assorted lab paperwork
- 5 Assorted lab paperwork

BUREAU OF INVESTIGATIVE SERVICE
MASS. STATE POLICE
Year/Dist/Crime/Case
13-034-4804-1003
Serial # 001
Captain _____ Supervisor DB

13-034-4804-1003

Search warrant execution

Vehicle of Sonja FARAK

- 6 Envelope "A11-03020 -> A1103022, 2-29-12 SFD V. Dimitry Bogo" containing lab paperwork
- 7 2 manila envelopes "A12-01204" and "A11-04545 -> A11-04546"
- 8 Assorted lab paperwork
- 9 1 Zip lock bag containing white powder substance
- 10 1 Zip lock bag containing (10) assorted pills
- 11 1 Envelope "A11-01848-01849" "To Joseph Wentworth Northampton District ADA Michael Russo" containing assorted lab paperwork & positive morphine test
- 12 1 Manila envelope "A10-04462" "To do" containing paperwork and multiple clear plastic bags (some cut open).
- 13 1 large Manila mailing envelope with Hinton State Lab return address containing 3 clear plastic bags (all cut open) & 1 knife
- 14 1 Manila mailing envelope labeled 'return to sender' contains assorted lab paper work
- 15 1 Manila envelope "A09-01405" containing assorted lab paperwork
- 16 1 CVS pill bottle containing (19) orange pills & 1 CVS empty pill bottle labeled " Sonja Farak"
- 17 1 Clear glass beaker
- 18 Metal mesh, 1 metal rod, clear plastic baggie containing dark colored substance, wax paper containing white chunk substance, and 1 clear, knotted, plastic baggie containing white chunk substance (That bag was inside of 2 outer baggies.)
- 19 1 CVS pill bottle labeled "Sonja Farak" "IC LAMOTRIGINE 150 MG" containing (41.5) white pills & 1 CVS pill bottle labeled "Sonja Farak" "IC ESCITALOPRAM 20 MG" containing (55) white pills

13-034-4804-1003

Search warrant execution

Vehicle of Sonja FARAK

20 1 MA DOT Certificate of Registration for MA Reg 80WJ06, 2002
Volkswagen Golf, Black to Sonja Farak

3. The search of the vehicle was completed at 0456 hours. A copy of the search warrant was left in the vehicle.

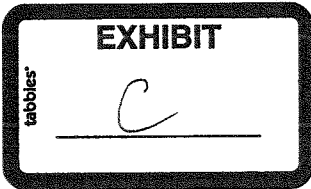
4. The car was re-secured at the Northampton Barracks and the evidence was transported by Sergeant Ballou and Trooper Thomas to the Attorney General's Office at 1350 Main St. 4th Floor in Springfield where it was secured.

Respectfully submitted,

 # 2135

Randy Thomas

Trooper, Massachusetts State Police
Office of the Attorney General



powered by iBerkshires.com

MEMBER SIGN UP

Berkshires Berkshire Chamber Berkshire Community College City of Pittsfield

Search



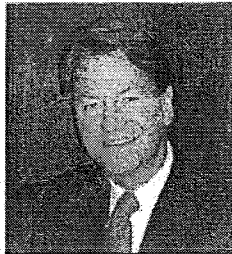
News Education Arts Obituaries Events Green Park Square Soapbox Sports Dining Real Estate Send feedback to info@pittsfield.com

Capeless Statement on Steroid Probe

Staff Reports, 06:51PM / Tuesday, March 29, 2011

Like 0 0

Important 0 Interesting 0 Funny 0 Awesome 0 Infuriating 0 Ridiculous 0



DA David F. Capeless

PITTSFIELD, Mass. — The articles, rumors and blogs about the investigation into the use of steroids by local law enforcement officers has prompted the district attorney to address the ongoing investigation through a statement released on Tuesday afternoon.

District Attorney David F. Capeless revealed the name of the state trooper implicated in the probe, Daniel Gale, and confirmed that Pittsfield Police Officer David Kirchner was removed as a member of the Berkshire County Drug Task Force.

Indications that the investigation was undertaken by authorities outside the county were confirmed in Capeless' statement. The district attorney says the allegations of steroid use were brought to his attention after a "local police department was contacted by a federal agency." Capeless does not state which police department or which agency (the U.S. Postal Service has told

local media that there is an investigation but not into who or what).

The probe was first revealed by postings on the discussion site Topix and on a blog run by former county resident GM Heller and Daniel Valenti's PlanetValenti.com.

The Berkshire Eagle

has followed up with two articles that revealed Kirchner's involvement and that of a then unnamed state trooper from the Russell barracks in Hampden County.

Capeless said he had decided to make the following limited public statement about the investigation:

"Over the past week, the public has been exposed to rumors, in addition to hard information, regarding steroids and their sale and use here in Berkshire County. Ordinarily, it is the firm policy of my office not to confirm ongoing investigations, much less to divulge their specifics, in order to maintain the integrity and effectiveness of our investigative efforts. However, exceptions need to be made when either public safety or public confidence is being jeopardized by a lack of information.

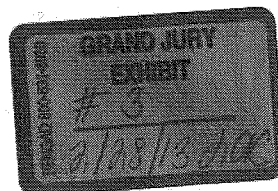
"In this case, I have decided to make a limited public statement, divulging only that information necessary to adequately explain the circumstances, since there remains an ongoing criminal investigation.

"Several weeks ago, a local police department was contacted by a federal agency to alert them that an investigation into the importation of steroids had uncovered deliveries into their town. A joint investigation was undertaken which resulted in the seizure of steroids and the execution of a search warrant. An examination of recovered materials revealed that two law enforcement officers, Pittsfield Police Officer David Kirchner (a member of the Berkshire County Drug Task Force) and state police Sergeant Daniel Gale (then assigned to the Russell barracks in Hampden County), had apparently been the recipients of steroid deliveries. So far, no information has been uncovered which would indicate involvement in anything other than personal use of steroids by these two, or that any other officers were involved.

"When the information about the two officers was discovered, the local investigating officer, a member of the Berkshire County Drug Task Force, notified his supervisors in the Task Force, who immediately notified me. Since Kirchner was, at the time, a member of the Task Force, it was agreed that we would seek assistance from outside the county in continuing the investigation. State police investigators normally assigned to other units in other jurisdictions were dispatched and are presently engaged in furthering that investigation. Colonel Marian McGovern, the head of the State Police, and Pittsfield Police Chief Michael Wynn were informed of the situation, and each has initiated administrative proceedings while the criminal investigation is underway. Kirchner was immediately removed from the Task Force.

"I take very seriously any allegation that a law enforcement officer has breached the public trust by engaging in criminal activity, and I take just as seriously the reputation of all of the rest of us in law enforcement who honor that trust and continue to guard the public with integrity. No arrests have been made and any decision regarding criminal charges relating to these circumstances will be made with a very clear eye towards those two principles but only upon completion of the ongoing investigation."

More Featured Stories



- Next Read Most Comments All News Blogroll
Pittsfield's Patrick's Pub Owners Fined For...
County Qualifies for FEMA Funding...
New Executive Director Appointed for...
Berkshire Community College President...
Legislators Host Wind Siting Hearing At...
FEMA Opens Disaster Recovery Centers...
Senate Candidate Khazal: Pittsfield's...
New 'Powering Pittsfield' Seeks to Reduce...

FREE No Obligation Price Quote
South Shore Fuel
SAVE OVER \$750
click here

Table with 3 columns: Place Name, Home & Office, Wedding. Includes Admoldax Payroll, Berkshire Bank, Berkshire Communicators, Inc., Berkshire Life Insurance Company of America, CFAIR, Payroll Specialist, Telephone Audit Assistant, Answering Service Operator, Developer (J&T), Pittsfield Relief jobs.

Handwritten notes: And Kirchner seemed like such a good guy - I do feel bad for his 5 yo. daughter. (Thank god I'm not a law enforcement officer) P.S. Most of the cases he's been a part of have been dismissed for exactly this reason.