

McGarry Law Office

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CONFIDENTIAL ATTORNEY-CLIENT CORRESPONDENCE

October 22, 2012

Keith Lamar
#317-117
Ohio State Penitentiary
878 Coitsville-Hubbard Road
Youngstown, Ohio 44505

Dear Mr. LaMar:

I am enclosing a copy of the memo we have sent the Lynds regarding their participation in your case. I realize that you had hoped we could all work together on your behalf, but we do not see eye to eye with them on how to best represent you. The bottom line is that David and I are the ones appointed as your lawyers.

Having two sets of lawyers is not working. We feel that since the decision issued in the district court, that the Lynds have poisoned you against us. David and I have spent a great deal of time trying to explain federal habeas and legal concepts to the Lynds. It has taken away time from preparation of your appeal and it is now going to stop.

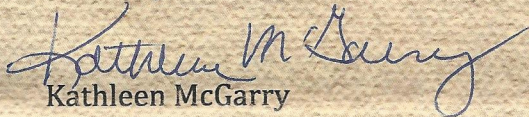
David and I want to win your case. We believe in the issues present in your case and believe that in spite of the fact that this is a "Lucasville case" that we can win and should win. To that end we have consulted with experts around the country concerning how to proceed and are in the process of preparing your brief. That has to be our primary concern at the moment.

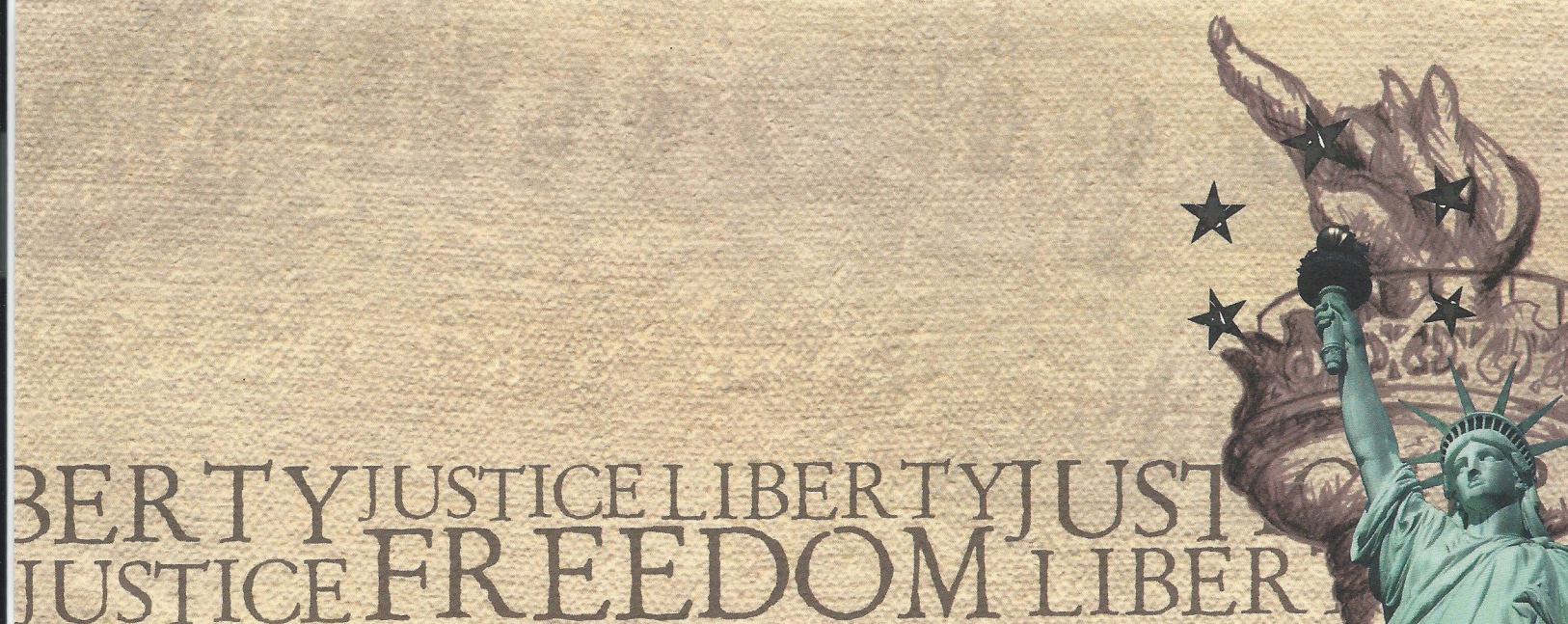


We realize that you have a close relationship with the Lynds and you certainly are free to talk to them about things other than your Lucasville case, but it will have to be in a non-attorney setting.

If you are not happy with our representation, you are free to file a motion in the Sixth Circuit and asked that we both be removed as your lawyers. We both hope that will not be necessary, since we would like to continue on your case.

Sincerely,


Kathleen McGarry



MEMO--PERSONAL AND CONFIDENTIAL

To: Alice and Staughton Lynd

From: Kate McGarry and Dave Doughten

Date: October 22, 2012

Re: Keith LaMar

As you know, we have been appointed by the Courts to represent Keith LaMar in his federal habeas proceedings. We believe that our relationship with Mr. LaMar has been undercut but you "counseling" him as to this case. If we are to continue to represent him, we will insist that there be no additional interference. We understand that your intentions may have been good but we disagree as the legal advice you have provided to him. We believe your legal analysis is incorrect and not based upon a sound understanding of habeas law and procedures. This has resulted in Keith's distrust in us, to the extent that he actually believes that we are attempting to sabotage his case. Nothing could be further from the truth.

However, we will continue to tell him what he needs to hear, not what he wants to hear. It is easy to give advice and tell him what he wants to hear, without having to take responsibility for that advice.

Therefore, from this point on out we are requesting the following:

1. You are not to have "attorney-client" meetings or phone conferences with our client, you are not his attorneys;
2. that you stop advising our client on any legal proceedings related to his federal habeas case;
3. that you stop undermining our representation by constantly second guessing our legal strategy in this case.

We have both spent far too much time in this case trying to convince you that the way we are proceeding in Mr. LaMar's case is correct. We do not take his representation lightly, we have consulted with the leading experts around the country on federal habeas. You are not our client and we no longer will apprise you of action in his case or provide you with legal materials relating to this case.

The Ohio Rules of Professional Responsibility provide:

RULE 4.2: COMMUNICATION WITH PERSON REPRESENTED BY COUNSEL

In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer *knows* to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order.

YOU DO NOT HAVE OUR CONSENT.

The comments go on to explain: The rule applies *even though the represented person initiates or consents to the communication*. A lawyer must immediately terminate communication with a person if, after commencing communication, the lawyer learns that the person is one with whom communication is not permitted by this rule.

We have let this situation on far too long. We tried discussing our concerns with you after the decision issued in the district court, but you have ignored our concerns.

We are going to move forward with our representation of Mr. LaMar in the manner we think is most beneficial to him and his case.

We are aware of the *Pinholster* issues and have been researching its progeny for quite some time. We are aware that the Circuit's opinion here may be precedent setting or may ultimately be decided by the Supreme Court of the United States. In the meantime, we cannot ignore legal precedents and jurisdictional issues.

We are informing Mr. LaMar of our position on this issue and sending him a copy of this memo. Whether he wants us to continue as counsel is up to him.

You are free to visit him in a non-attorney setting and discuss topics unrelated to his legal proceedings in this case.