

FILE COPY

SUE A. BREWINGTON
2529 Sheridan Drive
Norwood, Ohio 45212
513-731-9236

July 6, 2012

Indiana Supreme Court Disciplinary Commission
30 South Meridian Street, Suite 850
Indianapolis, IN 46204-3520

Re: REQUEST FOR INVESTIGATION
OF BRYAN BARRETT

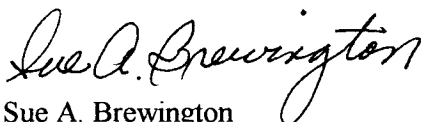
Dear Sir/Madam:

I am the mother of Daniel P. Brewington, who is currently incarcerated in the Indiana Department of Corrections for starting a blogsite about a judge from Dearborn County, Indiana. I am enclosing a completed Request for Investigation of Bryan Barrett, the court appointed public defender assigned to my son. Please review the enclosed Request for Investigation and feel free to contact me concerning this matter or you may visit my son at the Putnamville Correctional Facility where he is currently incarcerated.

I have additional witnesses who observed Mr. Barrett's performance in the courtroom. I have detailed records from the clerk's office in Dearborn County, Indiana, and I am quite certain you can obtain a copy of the jail visitor log to determine when Mr. Barrett visited my son and when my son contacted Mr. Barrett. As a lay person I would think that representation of a defendant would take more than one 75 minute meeting approximately three months in advance of trial, witnesses— lay and expert, and some trial strategy discussed with my son. Mr. Barrett essentially did nothing and the result was the incarceration of my son on charges when there was no work of any kind done by the public defender, Mr. Barrett.

I assume you receive numerous complaints from disgruntled convicted individuals. I can only contrast the performance of Mr. Barrett with the legal representation my son received in a case filed by his ex-wife in Ohio which was eventually dismissed due to the representation my son received, the development of the facts and events that actually occurred, and the numerous discussions with my son to discuss the law and the facts. Sadly, Mr. Barrett did none of those things. If you think Mr. Barrett was bad, please check out the first public defender, John Watson, assigned to my son who filed pleadings with the wrong name of the defendant and incorrect charges in filings with the court. Legal representation should involve more than merely showing up on the date of trial by your attorney.

Very truly yours,



Sue A. Brewington

Encl.

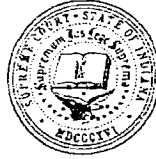
REQUEST FOR INVESTIGATION

DANIEL P. BREWINGTON
Your Name (Please type or print in ink)

PUTNAMVILLE CORRECTIONAL FACILITY
Address

1946 WEST U.S. HWY 40, GREENCASTLE, IN
City/State/Zip

() NO PHONE CALLS PERMITTED
Telephone



Return to:

**Indiana Supreme Court Disciplinary Commission
30 South Meridian Street, Suite 850
Indianapolis, IN 46204-3520
Phone (317) 232-1807
TDD for Deaf (317) 233-6111**

I wish to submit the following Request for Investigation and information concerning the following attorney:

Attorney's Name BRYAN BARRETT

Attorney's Address RUSH COUNTY COURTHOUSE, 101 EAST SECOND STREET, RM 315, RUSHVILLE, IND 46173

Date Employed _____ Purpose for Employing ASSIGNED PUBLIC DEFENDER

Cause Number of Case 15D02-1103-FD-084 Court DEARBORN COUNTY SUPERIOR COURT II

Agreed Attorney's Fee PUBLIC DEFENDER Total Fees Paid NONE- PUBLIC DEFENDER

**Nature of complaint against the attorney (use additional pages if necessary; do not write on the back). Please be specific as to dates, names, and events. Include copies (not originals) of documents that support your complaint:
SEE ATTACHED**

In filing this Request for Investigation, I understand that the attorney will receive a copy; that I am immune from civil suit for statements I make to the Commission; and that nothing herein limits me from consulting with an attorney about my legal rights. I agree to cooperate with the Commission and to testify at any hearing that may be held.

VERIFICATION

I swear or affirm, under the penalties for perjury, that the foregoing statements are true.

Signature (only original signatures accepted)

JULY 3, 2012
Date

Date Filed (Office use only)

REQUEST FOR INVESTIGATION OF BRYAN BARRETT

A. Ineffective Assistance of Counsel

(1) A DEMONSTRATION THAT COUNSEL'S PERFORMANCE FELL BELOW AN OBJECTIVE STANDARD OF REASONABLENESS BASED ON PREVAILING PROFESSIONAL NORMS DURING HIS REPRESENTATION FROM JULY 2011 THROUGH THE CONCLUSION OF THE TRIAL OF MY CASE.

I had two public defenders assigned to represent me concerning the charges in Dearborn County, Indiana. The first public defender assigned by Judge Blankenship was John Watson. The second public defender assigned by Judge Hill was Bryan Barrett. The legal services provided by the public defenders fell below an objective standard of reasonableness based on the following:

a. Indiana Rules of Professional Conduct– Rule 1.1

“Competent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem, and use of methods and procedures meeting the standards of competent practitioners. It also includes adequate preparation. The required attention and preparation are determined in part by what is at stake; major litigation and complex transactions ordinarily require more extensive treatment than matters of lesser complexity and consequence.” During the period of representation by Watson and Barrett I did not have any discussion with either Watson or Barrett concerning the matters before the Court in any detail, neither Watson nor Barrett provided me with any information concerning factual or legal elements of the charges asserted against me, or provided me with the methods or procedures to be used in the defense of the charges filed against me.

I was indigent and entitled to competent handling of the charges asserted against me. The public defenders assigned to my case failed to ask me about any facts related to the charges, did not inquire of me the witnesses necessary for trial to testify on my behalf, or discuss with me the expert witnesses necessary for the trial of this matter. My family made numerous communications to Mr. Barrett concerning documents or witnesses necessary for the trial and Mr. Barrett did not respond to the communications. I was denied effective assistance of counsel as neither Watson nor Barrett demonstrated a knowledge of the basic requirements of the Indiana Rules of Professional Conduct and Mr. Barrett failed to demonstrate the ability to handle my case as he did not inquire of me concerning any factual issues regarding the charges or explain the legal elements of the charges against me.

b. Indiana Rules of Professional Conduct– Rule 1.2

“A lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal

REQUEST FOR INVESTIGATION OF BRYAN BARRETT

case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.” During the period of representation Mr. Barrett failed to confer with me concerning the objectives of representation or the means by which the objectives of representation are to be pursued. I was not contacted by Mr. Barrett from July 2011 until the date of trial. Mr. Barrett failed to discuss the case with me. I was unable to “impliedly” authorize Mr. Barrett to do anything as there was no contact between the Mr. Barrett and myself. Further, Mr. Barrett did not inquire of me concerning any motions filed by the Prosecutor and Mr. Barrett routinely approved or did not oppose the motions filed by the Prosecutor without consulting me.

c. Indiana Rules of Professional Conduct– Rule 1.3

“A lawyer should pursue a matter on behalf of a client despite opposition, obstruction or personal inconvenience to the lawyer, and may take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor. A lawyer must also act with commitment and dedication to the interests of the client.” Mr. Barrett did not discuss any of the hearings held in Court with me, failed to discuss my rights in the Court, or otherwise communicate me. Although I was persistent concerning my desire to understand the charges asserted against me and the evidence to be utilized at the trial against me, I did not receive the benefit of counsel at any time to review any document (only the grand jury transcript) provided by Mr. Barrett. I received the grand jury transcript less than seven days prior to trial in the mail from Mr. Barrett. Mr. Barrett did not review one document with me at any time while I was incarcerated in the Dearborn County Jail for six months.

d. Indiana Rules of Professional Conduct– Rule 1.4

“A lawyer shall:

- (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;
 - (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
 - (3) keep the client reasonably informed about the status of the matter;
 - (4) promptly comply with reasonable requests for information; and
 - (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law or assistance limited under Rule 1.2(c).
- (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Mr. Barrett did not inform me of the purpose of court hearings, did not consult with me concerning what the my objectives were in the litigation much less how the court hearings would accomplish my objectives, failed to consult me concerning how the client's objectives would be accomplished as Mr. Barrett never determined what my objectives were, failed to keep ~~the~~ me

REQUEST FOR INVESTIGATION OF BRYAN BARRETT

informed of the status of the matter or requests to take action on my behalf, and failed to comply with reasonable requests for information, such as discovery provided by the Prosecutor, subpoena witnesses, or communicate with me. Further Mr. Barrett failed to consult with me or explain anything to me to make informed decisions regarding representation of me. Finally, Mr. Barrett refused to accept telephone calls from me and failed to visit me after repeated promises to visit me at the Dearborn County Law Enforcement Center. Mr. Barrett advised me I was not permitted to contact Mr. Barrett's office after he refused to communicate with me or answer my phone calls.

e. Rule 1.6. Confidentiality of Information

"A lawyer shall not reveal information relating to representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).

(b) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:

- (1) to prevent reasonably certain death or substantial bodily harm;
- (2) to prevent the client from committing a crime or from committing fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyer's services;
- (3) to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services;
- (4) to secure legal advice about the lawyer's compliance with these Rules;
- (5) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client; or
- (6) to comply with other law or a court order."

Mr. Barrett revealed to the Court information concerning my desire to maintain my right to a speedy trial. I was incarcerated in excess of six months with no assistance from counsel assigned to represent me. I never communicated to the Court at any time my desire not to waive my right to speedy trial but the Court, after I made a request for a continuance, stated I desired a speedy trial, "was adamantly opposed to a continuance," and the continuance would be denied. The information concerning my request for speedy trial was only communicated to Mr. Barrett. The communication to the Court of my desire for a speedy trial by Mr. Barrett without consultation or approval by me breached the confidentiality requirements between the lawyer and a client. The breach is even more horrendous when the attorney does not disclose the necessity to disclose the information to the Court to me. The obvious lack of communication with me is problematic, but the communication with the Court in a manner to jeopardize my right to speedy trial and effective representation, is more egregious.

D.B.

REQUEST FOR INVESTIGATION OF BRYAN BARRETT

f. Rule 1.14. Client with Diminished Capacity

“When a client's capacity to make adequately considered decisions in connection with a representation is diminished, whether because of minority, mental impairment or for some other reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client.

(b) When the lawyer reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial or other harm unless action is taken and cannot adequately act in the client's own interest, the lawyer may take reasonably necessary protective action, including consulting with individuals or entities that have the ability to take action to protect the client and, in appropriate cases, seeking the appointment of a guardian ad litem, conservator or guardian.

(c) Information relating to the representation of a client with diminished capacity is protected by Rule 1.6. When taking protective action pursuant to paragraph (b), the lawyer is impliedly authorized under Rule 1.6(a) to reveal information about the client, but only to the extent reasonably necessary to protect the client's interests.

(d) This Rule is not violated if the lawyer acts in good faith to comply with the Rule.

The allegations asserted in the grand jury transcript refer my paranoia and ADHD repeatedly throughout the grand jury transcript. I was not interviewed by a psychologist or psychiatrist at any time during the period of my incarceration. I had available professional witnesses to address the claims contained in the grand jury transcript concerning the treatment of my ADHD and address the paranoia issue. Mr. Barrett took no action to consult with healthcare professionals concerning my physical or mental condition, did not understand or he was indifferent to the need for my medication to assist in the defense of the charges, and failed to consult with individuals or entities that have the ability to take action to protect the client and, in appropriate cases, seeking the appointment of a guardian ad litem, conservator or guardian.

The public defender's investigator upon being informed the Dearborn County Sheriff required an order from the Court to permit me to appear in street clothes at trial, advised my mother the individual that I spoke to at the jail was imaginary or the individual with the Dearborn County Sheriff's office did not know what he/she was talking about. I repeatedly attempted to communicate with Mr. Barrett concerning the issue of appearing in street clothes at trial and Mr. Barrett did nothing to file a motion with the Court as required in the jail handbook.

g. Rule 1.16. Declining or Terminating Representation

“Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

- (1) the representation will result in violation of the Rules of Professional Conduct or other law;
- (2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or
- (3) the lawyer is discharged.

D.B.

REQUEST FOR INVESTIGATION OF BRYAN BARRETT

Mr. Barrett took actions or failed to act in accordance with the Rules of Professional Conduct as Mr. Barrett failed to interview one character witness, no mental health professionals who have treated me, failed to assess the necessity of medication necessary for me to assist in the trial, or take appropriate action to investigate allegations by the Prosecutor concerning representations at the most recent bond hearing.

h. Rule 3.3. Candor Toward the Tribunal

(a) A lawyer shall not knowingly:

- (1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;
- (2) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or
- (3) offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false.

(b) A lawyer who represents a client in an adjudicative proceeding and who knows that a person intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal.

(c) The duties stated in paragraphs (a) and (b) continue to the conclusion of the proceeding, and apply even if compliance requires disclosure of information otherwise protected by Rule 1.6. (d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer which will enable the tribunal to make an informed decision, whether or not the facts are adverse. Amended Sep. 30, 2004, effective Jan. 1, 2005.

The Prosecutor introduced evidence in my case the Prosecutor knew to be false or failed to verify the accuracy of the representations/evidence presented to the Court. Once the evidence was presented to the Court, and after the Prosecutor knew or should have known the information to be false, the Prosecutor has failed to take any action to correct the false evidence submitted to the Court. Further, I was unable to have Mr. Barrett bring this matter to the attention of the Court either as a result of Mr. Barrett's failure to investigate the false evidence or his complete indifference to the representations made by the Prosecutor concerning the bond set in this matter. The evidence concerning the "drive by" solicitation asserted by the Prosecutor was factually inaccurate as proven by the records of the Hamilton County, Ohio, Justice Center, that Mr. Barrett failed to investigate or even obtain. I was never in the presence or even in the same building as the individual who provided information to Shane McHenry concerning the alleged "drive by." I attempted to have Mr. Barrett investigate the matter and he failed to respond to any of my inquiries.

Further, and even more alarming is that information demonstrating the allegations by the Prosecutor and McHenry were false, and nothing is done by the Court, Mr. Barrett, or the Prosecutor

D.B.

REQUEST FOR INVESTIGATION OF BRYAN BARRETT

to correct the false statements.

i. Ineffective Assistance of Counsel— hearings

I advised Mr. Barrett of witnesses necessary for the hearing and Mr. Barrett did not subpoena any character witnesses, interview any of my health care providers, or otherwise investigate this case. Further, Mr. Barrett did not review with me the request from the Prosecutor for a motion in limine or the request for an anonymous jury at any time. Mr. Barrett did not obtain transcripts of the hearings to determine what occurred at the arraignment or otherwise move to dismiss or suppress any statements by me at any time, including the interview of me in Ohio when Sheriff Kreinhop, then with SCU and under the direction of Prosecutor Negangard, interviewed me after Kreinhop was informed by my Ohio counsel I was not to be interviewed.

2. A SHOWING THAT THE DEFICIENT PERFORMANCE RESULTED IN PREJUDICE

I had no witnesses, no review of the discovery with my counsel, and no communication with my counsel concerning the case for more than two months prior to the trial date. No reasonable interpretation of the foregoing could be considered an adequate performance.