

March 9, 2011

Jerry Coleman, Assistant District Attorney  
Office of the District Attorney  
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San Francisco, CA 94103

Dear Jerry:

As we discussed yesterday, I'm sending you documents from an old case, *People v James Stringer SC # 170160* (December 1997- litigated in 1998) involving two San Francisco Police Officers, Scott Warnke and Joseph Zamagni. I was back in the PD's office that year and as a Deputy Public Defender represented James Stringer, who was charged with possession of methamphetamine for sale (H&S 11378) and ex-felon with a gun (PC 12021(a)(1)).

On February 24, 1998, Officer Zamagni testified at the preliminary hearing. He said that he and his partner, Officer Warnke, had received an anonymous tip of possible narcotics activity in Room 13 of a hotel at 116 Turk Street in San Francisco. The tip or tips had come in "several days" before the officers went to check it out. On December 7<sup>th</sup> at 1:40 am, Zamagni and Warnke went to the hotel, spoke briefly to the manager and ascertained that Room 13 was occupied by Daniel Rollins. He testified that they went up to the room, knocked on the door and announced themselves as "Scott and Joe." The door was then opened by Daniel Rollins. (Stringer was a visitor who had paid \$10 and given his ID to the hotel manager before going upstairs with Rollins some 10-15 minutes before the police arrived.)

Zamagni denied that either he or his partner received a key from the hotel manager or used a key to open the door. He said that he saw James Stringer inside the room holding what appeared to be drugs in one hand and a leather jacket in the other. Stringer allegedly threw the suspected drugs under the bed and dropped the jacket. The noise the jacket made hitting the floor alerted the officer that it may contain a weapon. A gun was found in the jacket pocket. Only Stringer was arrested.

A contested motion to suppress was heard on April 16, 17, and 23<sup>rd</sup>, 1998 before Judge James Warren in Department 26. On April 16<sup>th</sup>, after hearing testimony from both officers and, a defense witness, Mr. Patel, the manager of the hotel, Judge Warren expressed concerns about the believability of the police testimony and continued the case until the next day. (The hotel manager testified that he gave the officers a key at their request. When they came downstairs a few minutes later, they had James Stringer in handcuffs and returned the key to Mr. Patel.)

On April 17<sup>th</sup>, Judge Warren issued a tentative ruling suppressing the evidence, and then allowed counsel to argue. After argument by Assistant District Attorney Linda Allen, Judge Warren retracted his ruling, requested that transcripts of the proceedings be

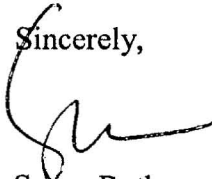
prepared and continued the case until April 23<sup>rd</sup> for decision. On April 23<sup>rd</sup> he granted the motion, finding the police testimony “inherently incredible” (MTS 4/23/98 RT 38:1-28). The case was subsequently dismissed (I can’t recall the exact date of the dismissal. It may have been May 11<sup>th</sup>, the date set for trial).

A few days after the dismissal, James Stringer called me to tell me that Officers Warnke and Zamagni stopped him on the street for no apparent reason, searched him, and threatened him, saying “You got away with this one, but we’ll get you next time.” At the time Stringer was not subject to any search conditions. Out of concern for my client’s safety, I reported the threat to then-Lieutenant Joe Dutto and sent him the transcripts in the case. I also filed a complaint with the Office of Citizen Complaints. A letter from the OCC (Nov. 30, 1999) summarizing their findings is also included in the packet of materials attached to this letter. Three allegations were sustained: “Unwarranted Action” for entering the premises unlawfully, “Conduct Reflecting Discredit on the Department” for making false statements in the Incident Report, and “Conduct Reflecting Discredit on the Department” for making false statements in a court proceeding.

The reason that I saved copies of the transcripts in this case was to be able to remember what happened. As a person who had filed a complaint against these officers, my name showed up on lists of Pitchess witnesses. Over a period of several years after these events, I received calls from defense lawyers investigating the same officers, although I was never called as a witness. When I read the Chronicle stories last week about the videotape expose of very similar police misconduct, I thought it important to bring this to your attention. Police misconduct goes on because it is tolerated. I am hopeful that the creation of an Integrity Unit within the District Attorney’s office is a signal that San Francisco police officers’ violation of civil rights and lying about it will no longer be tolerated.

Please feel free to contact me at [srutberg@ggu.edu](mailto:srutberg@ggu.edu) or via cell:

Sincerely,



Susan Rutberg  
Professor of Law

cc: Jeff Adachi  
encl: Case materials