

**STATE OF MISSOURI**

**vs.**

ED100807

**JEFFREY WEINHAUS**

**BEFORE THE HONORABLE JUDGE KEITH SUTHERLAND  
TRANSCRIPT OF SENTENCING HEARING  
TAKEN NOVEMBER 25TH, 2013**

**REPORTED BY KIM WROCKLAGE, CCR**



**WROCKLAGE REPORTING, LLC  
467 BROOKFIELD DRIVE - WASHINGTON, MO 63090  
(636) 583-1953 or (314) 210-6917**

1 IN THE CIRCUIT COURT OF FRANKLIN COUNTY

2 STATE OF MISSOURI

3

4 STATE OF MISSOURI,

5 PLAINTIFF, ED100807

6 vs. No. 12AB-CR02409-01

7 JEFFREY WEINHAUS,

8 DEFENDANT.

9

10 Sentencing Hearing taken at the Franklin  
11 County Justice Center, 401 E. Main Street, Union, in  
12 the County of Franklin, State of Missouri, on the  
13 8th day of October, 2013, before Kim Wrocklage, CCR.

14

15

16

17

18

19

20

21

22

23

24

25

1 APPEARANCES OF COUNSEL:

2

3 FOR THE PLAINTIFF:

4 Mr. Robert "Bob" Parks

5 Franklin County Prosecuting Attorney's Office

6 20 N. Church Street, 2nd Floor

7 Union, MO 63084

8 (636) 583-6370

9

10 FOR THE DEFENDANT:

11 Mr. Hugh A. Eastwood (heastwood@eastwoodlawstl.com)

12 Law Offices of Hugh A. Eastwood

13 7777 Bonhomme, Ste. 1603

14 Clayton, MO 63105

15 (314) 727-3533

16

17 Mr. Christopher M. Combs (combschris1@gmail.com)

18 Law Offices of Christopher M. Combs

19 4542 West Pine Blvd.

20 St. Louis, MO 63108

21 (314) 578-1465

22

23 ALSO PRESENT: Jeffrey Weinhaus

24

25

1 JUDGE SUTHERLAND: Good morning.

2 MR. PARKS: Good morning.

3 MR. EASTWOOD: Good morning.

4 MR. COMBS: Good morning.

5 JUDGE SUTHERLAND: We have several motions  
6 we need to take up before we do anything else.  
7 Please be seated. What would you like to take up  
8 first?

9 MR. EASTWOOD: Your Honor, we have several  
10 housekeeping motions related to attaching deposition  
11 Court costs of the State and the defendant too.

12 JUDGE SUTHERLAND: Comment on that?

13 MR. PARKS: We'd ask the Court to accept  
14 both.

15 JUDGE SUTHERLAND: Those motions are granted  
16 and deposition costs and other costs are ordered  
17 taxed as costs. We also have the State's motion to  
18 forfeit the pistol, I can't remember what the style  
19 of it was.

20 MR. PARKS: State's motion to forfeit the  
21 weapon, the nine millimeter.

22 JUDGE SUTHERLAND: Mr. Eastwood?

23 MR. EASTWOOD: I would oppose that, Your  
24 Honor. Judy Kropf, who was married to Mr. Weinhaus  
25 at the time of the incident at the gas station, has

1 filed an affidavit, including a sales receipt. She  
2 is the owner of the weapon and as such as I read the  
3 statute, No. 1, if the State cannot show that the  
4 defendant owned the weapon or that the lawful owner  
5 of the weapon consented or gave permission for the  
6 defendant to carry the weapon, then the State has  
7 not met its burden for forfeiture. If the Court is  
8 inclined to grant Mr. Parks' motion, nevertheless,  
9 I'd ask the Court to stay any order pending further  
10 process.

11 MR. PARKS: Your Honor, I believe the  
12 statute is clear in this matter that if a weapon is  
13 used in the commission of a crime, it is to be  
14 forfeited to the State. The defendant was married  
15 at the time, joint possession between husband and  
16 wife of the gun, the gun had been found previously  
17 at the home, and I believe that the State has met  
18 all burdens to have this weapon forfeited to the  
19 State. The only thing that I would ask is if you do  
20 grant the order or the motion, that that order be  
21 stayed until the appeals are final.

22 JUDGE SUTHERLAND: All right. Mr. Eastwood,  
23 any comment on that?

24 MR. EASTWOOD: No, I simply think that there  
25 is evidence in the affidavit and with the sales

1 receipt that the weapon is owned by Ms. Kropf alone,  
2 so I do think that's an issue.

3 JUDGE SUTHERLAND: Well, I will grant the  
4 State's motion to forfeit the -- it's just the one  
5 pistol that Mr. Weinhaus was carrying because this  
6 does not apply to the weapons found in the car after  
7 the shooting.

8 MR. PARKS: We are not asking for the  
9 forfeiture of those weapons at this time, Your  
10 Honor.

11 JUDGE SUTHERLAND: State's motion is  
12 granted; however, the forfeiture is ordered stayed  
13 pending resolution of any appeal in the case. Well,  
14 appeal and any post conviction motions as well. We  
15 also have another Motion for Judgment of Acquittal,  
16 is that what it was?

17 MR. EASTWOOD: Yes, Your Honor. There are  
18 actually two documents before the Court. There's a  
19 second Motion for Judgment of Acquittal. There is  
20 also a supplemental suggestion of law in support of  
21 each of the original renewed and second Motions for  
22 Judgment of Acquittal.

23 JUDGE SUTHERLAND: Right.

24 MR. EASTWOOD: First off, there are two  
25 issues before the Court. No. 1, whether the State

1 produced sufficient evidence of the defendant's  
2 intent to attempt to assault Sergeant Folsom, and I  
3 believe as a matter of law the State has not done  
4 that. Judge Limbaugh writing for the Missouri  
5 Supreme Court on Bank instructs us that merely  
6 pulling a gun out is not enough to show attempt. At  
7 most it can show negligence, even great or extreme  
8 negligence, but it is not a substantial step towards  
9 the assault, and the case law reflects that. Here  
10 the disputed evidence, if the jury believed the  
11 trooper's testimony that the defendant did in fact  
12 withdraw the gun and say you're going to have to  
13 shoot me man, which obviously was hotly disputed at  
14 trial, if the jury believed that, nevertheless that  
15 does not show a substantial step towards assault in  
16 the first degree. I think at best it makes out, at  
17 best, third degree assault, which would be to put  
18 Sergeant Folsom in a reasonable apprehension of  
19 harm. Obviously a very different offense, a Class A  
20 misdemeanor, and if you look at the case law on  
21 attempt, where the courts have upheld the attempt is  
22 not just pulling out a weapon but actually pointing  
23 it at the person, putting it against their head  
24 saying, "I'm going to kill you," slashing the victim  
25 with a knife and then in fact not really injuring

1 them, just drawing a bit of blood or something like  
2 that, but that's enough to show an attempt to cause  
3 serious physical injury. Here the disputed evidence  
4 showed only that the defendant pulled out the gun,  
5 at best. He did not point it at the trooper. He  
6 did not say anything like, "I'm going to kill you  
7 man," and therefore I believe as a matter of law the  
8 State just has not met its evidentiary burden for  
9 first degree assault.

10 The second issue, and we've also argued that  
11 there are -- in order to preserve the argument, that  
12 armed criminal action is barred by double jeopardy.  
13 And I think that's important, by the way, because  
14 going back to the first issue. If you look at the  
15 verdict director, the instruction was that the  
16 defendant attempted to cause serious physical injury  
17 to Sergeant Folsom by trying to draw a weapon to  
18 shoot Sergeant Folsom. I believe as a matter of  
19 law, that is just not first degree assault or  
20 attempted assault.

21 Turning to the drugs, the evidence showed that  
22 the defendant lived in his home with his then wife  
23 and teenage son. The one and one-half tablets of  
24 Morphine, this is the felony drug conviction, were  
25 found in a basement in Camel brand snuff box. It

1 was a common area of the house adjacent to a teenage  
2 boy's bedroom, and I think that if you look at the  
3 cases where the Court of Appeals has overturned  
4 constructive possession --

5 JUDGE SUTHERLAND: I have one of those.

6 MR. EASTWOOD: Sure, the facts are just not  
7 there. I mean the Court has overturned for a lady  
8 where she knew of meth being in the kitchen ice box,  
9 in the fridge, and she even told the police that,  
10 and even that did not indicate sufficient  
11 constructive control since the kitchen was a common  
12 area of the house.

13 Similarly the Court has overturned constructive  
14 possession where they found a duffel bag with  
15 marijuana on it in the garage of a jointly  
16 controlled premises. Here I think the evidence  
17 shows that the basement was a common area of the  
18 house. We all saw the You Tube video. Of course we  
19 know the defendant at some point in time had been in  
20 that basement, but there was no evidence on the day  
21 of the arrest, or not the arrest, the visit to his  
22 home by the troopers that the defendant had even  
23 been in the basement, and therefore I would ask that  
24 the Court acquit Mr. Weinhaus on the felony drug  
25 possession.

1           The marijuana is a little bit different.  
2 Sergeant Folsom did say that he smelled marijuana on  
3 the defendant's person, but there was no marijuana  
4 on his person and again the drug -- the marijuana  
5 was found in the basement, and for that reason I do  
6 not think that they have proved up constructive  
7 possession. After all, hypothetically, the  
8 marijuana could have belonged to someone else and  
9 the defendant had merely smoked it and still that  
10 would not show constructive possession. So for  
11 those reasons we ask the Court to enter a Judgment  
12 of Acquittal on each of the charges.

13           JUDGE SUTHERLAND: Mr. Parks.

14           MR. PARKS: Yes. Taking up the marijuana  
15 and the drugs first. Those drugs, the Morphine and  
16 everything, were found in a container in the  
17 defendant's personally controlled area, his command  
18 center or what he told the officers was his command  
19 center and where you saw on the video he made all of  
20 his videos and his pod casts from. These were items  
21 that were found in the drawers, in the desk that he  
22 used showing that they were items that were found.  
23 As to the marijuana, again as the defendant's  
24 attorney pointed out, when -- the whole reason for  
25 the search was the smell of marijuana coming from

1 the house and from the odor of marijuana on the  
2 defendant's person. This is the probable cause that  
3 they used to get the search warrant. There was  
4 marijuana found in the command center with the other  
5 items, then there was also a large bag found on a  
6 shelf right outside the door. The defendant  
7 presented no evidence that there was anyone else  
8 that had access to that area. This is not a common  
9 area. These are the items or this is the area that  
10 the man cave, the command center, the area where the  
11 defendant had primary control over all of the items  
12 in the area. The State feels that it has more than  
13 met its burden on these.

14 As to the assault first, Your Honor, the  
15 testimony was that the defendant was staring down  
16 Sergeant Folsom, that he went for his gun, he was  
17 going to shoot Sergeant Folsom. Corporal Mertens  
18 testified that he thought the defendant was going to  
19 shoot at Sergeant Folsom. That's why the officers  
20 fired. You do not have to wait until you're shot at  
21 to have an attempted assault first of a law  
22 enforcement officer, and the State again feels that  
23 it has more than met its burden to show an assault  
24 first on Sergeant Folsom.

25 JUDGE SUTHERLAND: Mr. Eastwood, additional

1 argument?

2 MR. EASTWOOD: Yes, Your Honor. On the  
3 drugs, previously I think the issue of whether or  
4 not the defendant is the primary user of that  
5 basement space is insufficient to show exclusive  
6 control, and that's really the test here. There was  
7 also evidence that the 19 year old teenage son's  
8 bedroom was adjacent to that space. Common sense  
9 and experience tells us that basements are typically  
10 communal areas of the house, and I think there was  
11 enough evidence of that, that the basement was not  
12 under the defendant's exclusive control. And we  
13 know from common sense and experience that family  
14 members share computer equipment. This was not a  
15 wealthy family. It was a family computer, and so  
16 for that reason I think the State has not met its  
17 burden.

18 Turning to the more serious crime, I agree with  
19 Mr. Parks in the sense that we heard plenty of  
20 testimony about trooper training, and that's not the  
21 issue that's before the Court. The issue is not  
22 whether or not Sergeant Folsom was justified in  
23 shooting the defendant, that's an issue for another  
24 day. The issue is what did the defendant do. If  
25 you believe, and the jury apparently did, that the

1 defendant pulled a gun out, didn't point it at  
2 anyone, didn't say he was going to hurt anyone, he  
3 said, "You're going to have to shoot me, man,"  
4 that's not a threat. That put Sergeant Folsom, at  
5 best, in apprehension of immediate physical injury,  
6 that's third degree assault. It's a very different  
7 crime. Here the issue is whether the defendant  
8 attempted to kill or knowingly caused or attempted  
9 to cause serious physical injury, and he never got  
10 that far. He never pointed it at anyone. He never  
11 threatened anyone. So for that reason I think that  
12 the State at best may have proved up third degree  
13 assault. That's a different crime, different  
14 elements, but it did not prove up first degree.  
15 Thank you.

16 JUDGE SUTHERLAND: Well, the motion is  
17 denied. Any other motions to take up prior to  
18 sentencing?

19 MR. EASTWOOD: Yes, Your Honor, we have a  
20 motion for a new trial.

21 JUDGE SUTHERLAND: I'm sorry, yeah, that's  
22 the primary reason we set this, go ahead.

23 MR. EASTWOOD: Okay. I think from the  
24 minute that Mr. Parks showed that You Tube video,  
25 and we all saw it and it was pretty extreme speech,

1 First Amendment protected but pretty extreme speech.  
2 I think from the moment that the jury saw that  
3 video, the defendant could not get a fair trial.  
4 The State failed in its burden of proving up the  
5 judicial tampering charge and for that reason the  
6 Court acquitted Mr. Weinhaus at the end of the  
7 State's evidence. Nevertheless, we can never unring  
8 that bell. Since the charges were not severed, the  
9 defendant was essentially -- could not get a fair  
10 trial on the issues before the jury as to what went  
11 on at the gas station because they had seen him in a  
12 video a month before talking about blasting judges,  
13 "these mother fucking judges, I want to blast them  
14 out of there," and talking about other people that  
15 he believed needed to be removed from office  
16 potentially by violent means. And so what the jury  
17 did is think that the defendant was a dangerous man  
18 and acting as a kind of roving commission almost  
19 decided that based -- that he went to the gas  
20 station with bad intent, even though there was no  
21 evidence to show separate from this video that the  
22 defendant was anymore dangerous than any other  
23 person on the street. And because of that, I  
24 believe on that issue alone merits a new trial.

25 There are several other issues. There were

1 several offers of proof made. During the  
2 defendant's impeachment of Sergeant Folsom's  
3 testimony, the defendant made an offer of proof on a  
4 letter from the Franklin County Sheriff to the  
5 defendant. The sheriff was present in the courtroom  
6 at the time and that letter would help impeach  
7 Sergeant Folsom's inconsistent testimony as to  
8 whether or not he notified the Franklin County  
9 Sheriff pursuant to the statutory requirements of  
10 RSMo 43.200. Sergeant Folsom's credibility was  
11 perhaps the most disputed issue in this case. Both  
12 sides spent a lot of time going over the trooper  
13 testimony, particularly Sergeant Folsom's testimony  
14 because he was the shooter and he was the one with  
15 the direct view of the defendant. And therefore for  
16 that reason as well, because the defendant was not  
17 allowed sufficiently to impeach Sergeant Folsom's  
18 testimony, a new trial should be granted. And  
19 indeed at trial Sergeant Folsom made up wholly new  
20 excuses for his failure to contact the sheriff. He  
21 said he had bad cell phone reception near the  
22 defendant's house. That was something entirely new.  
23 It wasn't in the police report, wasn't in his depo,  
24 it was just a new thing.

25 The defendant also made an offer of proof as to

1 his wounds and the location, the entry and exit  
2 angle of the wounds was necessary because that also  
3 went to Sergeant Folsom's credibility particularly  
4 as to his testimony as to where he shot the  
5 defendant and at what angle. One of the issues in  
6 the case was whether or not the defendant was  
7 getting down on the ground, and of course shooting a  
8 person at an angle as they're going down will be  
9 quite apparent from the entry and exit wounds.  
10 There's no Fifth Amendment waiver issue with a  
11 defendant showing his wounds, it's not testimony,  
12 and it's rather just -- it's not testimonial in  
13 nature in any way, it's like a line-up, DNA,  
14 fingerprints, and for that reason a new trial should  
15 be granted.

16 Levi Weinhaus' text message: Sergeant Smith,  
17 the investigating trooper into the shooting, had  
18 evidence of a text between Levi Weinhaus, who is the  
19 defendant's son, and Mr. Weinhaus' father concerning  
20 a weed plant. Sergeant Smith never passed that  
21 information on, but that text message does go to the  
22 issue of defendant's guilt on the possession of  
23 marijuana. A reasonable jury can infer that based  
24 on the text message that the marijuana belonged to  
25 the defendant's son.

1 The weapons in the Subaru. After the defendant  
2 was shot at the scene and the scene was secured and  
3 the defendant was cuffed and air lifted to St.  
4 John's Mercy, the defendant's wife's Subaru, which  
5 was the vehicle that Mr. Weinhaus drove to the gas  
6 station that day, that car was inventoried, and  
7 during that inventory the troopers found additional  
8 firearms, including a rifle and a handgun.  
9 Critically Sergeant Folsom and Corporal Mertens  
10 testified they had no idea those firearms were in  
11 the car during the altercation between Mr. Weinhaus  
12 and the troopers, and that had nothing to do with  
13 any crime committed and therefore by permitting that  
14 evidence to be admitted over a timely objection, the  
15 State was allowed to depict the defendant as coming  
16 to the gas station loaded for bear, I think that was  
17 Mr. Parks' words, and I think that was improper and  
18 therefore had no probative value but it was highly  
19 prejudicial. Again, for that reason a new trial  
20 should be issued.

21 Finally, there was freeze framed demonstrative  
22 evidence from the wrist watch video. I used it  
23 throughout I think the State's case and also perhaps  
24 in the defendant's case. That demonstrative  
25 evidence from the wrist watch video, the video was

1 evidenced properly, those still frames were used by  
2 me without objection throughout the State's case.  
3 As such, when an exhibit is not formally offered or  
4 received into evidence but is published to the jury,  
5 it is treated by both the prosecution and defense as  
6 if it had been received into evidence and is never  
7 objected to, and the exhibit is effectively in  
8 evidence for all purposes as if it had been formally  
9 offered and received by the Court. The reason this  
10 is important is because during the deliberations,  
11 the jury asked to see the video and asked to see the  
12 freeze frames, and it went to this critical issue of  
13 what the defendant's left hand was doing in the  
14 moment before he was shot. They did get to see the  
15 video, and those freeze frames would aid the jury  
16 because it shows the defendant's hand going back,  
17 and the video screen shows the gas station sign in  
18 the background and then moments later the shots rang  
19 out. It does suggest that at least the defendant's  
20 left hand was in the air. That's a critical,  
21 critical issue. That was the issue in this case.  
22 What was -- what were Mr. Weinhaus' hands doing  
23 moments before Sergeant Folsom shot him. And so for  
24 those reasons I ask the Court to grant a new trial.  
25 Thank you.

1 JUDGE SUTHERLAND: Mr. Parks.

2 MR. PARKS: Your Honor, I believe all this  
3 has already been covered in the -- at the trial and  
4 that the Court has already ruled. I would like to  
5 make a few comments, though, on issue seven on the  
6 freeze frame. Your Honor, the Court has complete  
7 discretion on what it sends back to the jury. At  
8 this time the defendant did not object when the  
9 State raised the issue that these freeze frames had  
10 never been put into evidence, and this was after the  
11 closing arguments, when defendant had already had a  
12 chance to argue this and everything to the jury. So  
13 whether or not they went back to the jury, I believe  
14 that is in the complete discretion of the Court, and  
15 I would ask the Court to deny defendant's motion for  
16 a new trial.

17 JUDGE SUTHERLAND: Well, with regard to the  
18 freeze frame pictures, of course I did not allow  
19 them to be sent back to the jury room because they  
20 had not been introduced into evidence. The video  
21 itself from the wrist watch video was not obviously  
22 sent back to the jury, as we discussed at the time,  
23 the jury was brought into the courtroom and shown  
24 the video again, and I believe, and I don't want to  
25 swear to it, but I believe I asked them if they

1 wanted any of that done, video shown in slow motion  
2 or freeze frame-by-frame and they did not, so that  
3 didn't seem to be such a big issue with the jury.  
4 In any event, all these issues were argued  
5 previously during and after the trial or at the  
6 conclusion of the trial. The motion for a new trial  
7 is denied. Is there anything else we need to take  
8 up prior to sentencing?

9 MR. WEINHAUS: Yeah, well I've got something  
10 to say.

11 JUDGE SUTHERLAND: You'll have a chance  
12 momentarily, Mr. Weinhaus.

13 MR. PARKS: Not for the State, Your Honor.

14 MR. EASTWOOD: Not at this time, Your Honor.

15 JUDGE SUTHERLAND: I assume based on the  
16 brief conversation we had prior to coming into the  
17 courtroom, you both got a copy of the sentencing  
18 assessment report?

19 MR. PARKS: The State does, Your Honor.

20 MR. EASTWOOD: Yes, Your Honor.

21 JUDGE SUTHERLAND: Mr. Parks, any comment as  
22 to sentencing?

23 MR. PARKS: On the SAR?

24 JUDGE SUTHERLAND: Or sentencing, anything.

25 MR. PARKS: Yes, Your Honor. The State

1 believes that the defendant has been fairly tried  
2 and found guilty by a jury of four counts. The jury  
3 has recommended a jail sentence and a two year -- a  
4 jail sentence on the misdemeanor marijuana and a two  
5 year sentence on the Morphine. State would ask that  
6 the Court follow the recommendation of the Court.  
7 As Sergeant Folsom said in his statement to the  
8 jury, none of this would have happened if the  
9 defendant would just have gotten down on the ground.  
10 We wouldn't be here facing it, but the defendant  
11 coming armed to this confrontation decided at that  
12 point that he was not going to go quietly, that he  
13 was going to have it out with Sergeant Folsom. And  
14 if the Court remembers the testimony of Corporal  
15 Mertens, he said they were locked eye to eye, he was  
16 ready to shoot Sergeant Folsom if Sergeant Folsom  
17 would not have shot him first. Under those  
18 circumstances, Your Honor, the State would ask that  
19 the Court follow the recommendation of the jury and  
20 to run all sentences consecutively.

21 JUDGE SUTHERLAND: Mr. Eastwood?

22 MR. EASTWOOD: Your Honor, as the Court is  
23 aware, the defendant has been incarcerated in the  
24 county jail for over a year. There are four charges  
25 before the -- four convictions before the Court, a

1 Class A misdemeanor and three felonies, possession  
2 of the controlled substance, assault on law  
3 enforcement and armed criminal action. The Court  
4 heard testimony during the sentencing phase that the  
5 defendant has never been the same since he was shot.  
6 He was in St. John's Mercy for a couple months and  
7 then since then has been receiving therapy. I would  
8 ask the Court, No. 1, to of course run the sentences  
9 concurrent; and No. 2, to impose, to grant time  
10 served on the drug charges. On the assault and the  
11 armed criminal action, I would ask the Court to  
12 impose the minimum sentence allowed by law for a  
13 Class A felony. That is 10 years; however, the  
14 Court does have discretion and I would, under the  
15 circumstances, I think in the SAR this defendant  
16 received a six, he is not a recidivist risk. He has  
17 one misdemeanor conviction from a year ago, from 10  
18 years ago, excuse me, and therefore I would ask the  
19 Court to depart significantly downward from the jury  
20 sentence. Thank you.

21 JUDGE SUTHERLAND: Mr. Parks, anything  
22 further?

23 MR. PARKS: No, Your Honor.

24 JUDGE SUTHERLAND: Mr. Weinhaus, do you have  
25 any legal reason why a judgment of sentence should

1 not be pronounced at this time?

2 MR. WEINHAUS: Yes, sir, I do. Now let me  
3 make my case. Is there any way I can get my hand --  
4 you have the zapper on me, you can zap me anytime  
5 you want.

6 JUDGE SUTHERLAND: He can have one hand  
7 free, yes.

8 MR. WEINHAUS: Thank you. Your Honor, 13  
9 months ago I walked into this Court, surrendered  
10 after being shot four times by members of the  
11 Missouri Highway Patrol. In the trial, the facts  
12 show that my actions posed absolutely no threat or  
13 danger whatsoever to society in general, thus this  
14 verdict was not in the interest of justice or to  
15 protect the public from me or my free speech. This  
16 is clearly and unequivocally a manifest in justice.  
17 I've harmed no one. The only victim in this matter  
18 has been myself. The State in their case did not  
19 prove that I harmed anybody. There was no other  
20 injured party. I was shot four times, twice here,  
21 once in the side of my head and once in my neck  
22 while I was on the ground. The bullet ended up in  
23 the ground. The evidence clearly shows that  
24 Sergeant Folsom was lying throughout the whole  
25 trial. My attorneys, and God bless them for doing

1 what they could, but my attorneys failed to show  
2 this Court or that jury there's a gun -- there's a  
3 picture of a reflection of my gun in my car, it's in  
4 the video, shows that gun was right there on the  
5 left-hand side. That wasn't introduced into this  
6 trial. I don't understand why it wasn't introduced  
7 in this trial. Now I don't know what's going on  
8 with these guys, but we paid them good money and it  
9 wasn't introduced in the trial. That evidence is  
10 right now on the Internet. That video is out there  
11 on the Internet right now. That shows that weapon  
12 was right here two seconds before I was shot.  
13 One-sixth of a second before I was shot it shows  
14 Corporal Mertens walking up on me, his gun is out  
15 like this. Those are freeze frame videos, which  
16 supposedly the jury wanted to see but you wouldn't  
17 allow, all right. So when Mertens is walking up on  
18 me, he's got his gun out like this. If I'm trying  
19 to draw my weapon like they allege I was trying to  
20 do, wouldn't you think Corporal Mertens would take a  
21 different posture from the time he walked to the  
22 back of his trunk until the time he walked up on me?  
23 That wasn't showed to the Court either. Could I get  
24 a glass of water, please. Please.

25 MR. EASTWOOD: I'll get him some water.

1 We're getting you water.

2 MR. WEINHAUS: Thank you.

3 JUDGE SUTHERLAND: You can go ahead,  
4 Mr. Weinhaus. It will take a minute.

5 MR. WEINHAUS: I can't go any further, my  
6 mouth is dry. I'm fighting for my life here. I'm  
7 about ready to -- you know. The bible says, "Out of  
8 the mouth of two or three witnesses let every word  
9 be established." How many witnesses did the State  
10 put on, other than the people that shot me, alleged  
11 I tried to draw a weapon. Zero. The only people  
12 who allege I tried to draw were the ones who shot me  
13 in cold blood, attempted to murder me on that day.  
14 That's attempted murder. I'm about ready to be an  
15 offender. Who have I offended? Has the State even  
16 failed -- has the State even introduced an offense  
17 in this matter? Allegedly trying to draw a weapon?  
18 Who did I hurt? Who was offended? If I'm going to  
19 be an offender, then there needs to be an offense.  
20 There has been no offense showed to this Court.

21 This Court, if you pronounce sentence on me  
22 today and put me in jail for any more time than I  
23 have already served, this is a kangaroo Court  
24 because it has done nothing to protect me from these  
25 predators. They lied to me. They came to my house

1 to steal my printing press, in effect, by stealing  
2 my computers, because they didn't like what I was  
3 writing and printing and what I was speaking as a  
4 free speech. Obviously you agree with that or you  
5 wouldn't have acquitted those charges.

6 Resisting arrest, how can you charge me with  
7 assaulting a cop when you don't charge me with  
8 resisting arrest. Another thing my attorneys failed  
9 to do, Your Honor, is in the video or in the audio  
10 interviews to the Highway Patrol Sergeant Folsom  
11 allegedly said, "Get your hand off the gun." Folsom  
12 states, "Get your hand off the gun" at 20:31 in the  
13 video and the audio of the Missouri Highway Patrol  
14 before the shots were even fired. That's the first  
15 thing -- that's the last thing he supposedly said to  
16 me before the shots were fired, "Get your hand off  
17 the gun." Did you hear that introduced anywhere?  
18 Don't you think the jury would want to hear that?  
19 No one alleges I did anything other than the people  
20 who shot me. The picture of the gun on my left-hand  
21 side would cast reasonable doubt as to what Folsom  
22 and Mertens said my gun was on my right-hand side.  
23 There were two FBI agents there that day. These  
24 people took testimony of them, depositions, all  
25 right. You didn't hear anything about them

1 saying -- they didn't even see a weapon on me. My  
2 defense attorneys did not even call them to testify.  
3 Mr. Parks did not call them to testify. Now, you  
4 don't believe that's a reason for another trial?  
5 You let that video play, then you acquit me on those  
6 charges but did you instruct the jury to disregard  
7 the video when they went out?

8 Sergeant Folsom repeatedly lied throughout his  
9 testimony. The jury not being able to see the  
10 freeze frame, you know what, and throughout my  
11 trial, I have no idea how many -- I don't even  
12 believe they introduced any evidence on my behalf.  
13 The FBI depositions weren't introduced into  
14 evidence. Sergeant Folsom's depositions weren't  
15 introduced into evidence. None of my -- none of  
16 these videos, the freeze frames, you said just a  
17 minute ago that they weren't introduced, there are  
18 freeze frame videos on the Internet right now. Did  
19 you happen to see the pictures of me while I was in  
20 the emergency room? Where my wounds are? I had one  
21 come in here, go out down there. One come in here,  
22 go out down there. That can only happen if someone  
23 is standing on top of me basically. There's a  
24 bullet in the ground. I was shot when I was laying  
25 on the ground. That evidence was not introduced.

1 Sergeant Folsom throughout the testimony, if  
2 you actually are interested in justice, or you know  
3 what, then you would go back and realize and  
4 understand, you would read the depositions. You  
5 would read the testimony that my gun is on the  
6 right-hand side, and then you'll go to the video on  
7 the Internet and it says right there, gun  
8 reflection, you can see the picture, that holster is  
9 right here on me, it's not on my right-hand side,  
10 it's on my left-hand side.

11 Mertens is inconsistent with his testimony.  
12 Sergeant Folsom is inconsistent with his testimony.  
13 I've got video proof evidence that that gun is on my  
14 left-hand side. The facts of the matter are I was  
15 not injuring or harming anybody. I showed up there  
16 to get my computers. I was lied to. After they  
17 took my computers, they lied to me, called me up and  
18 said come get your computers. I didn't trust them.  
19 That's why I was videotaping. I was audiotaping.  
20 Did you hear their videotape or audiotape? No. You  
21 know why you didn't hear it, and I guarantee you  
22 they had it, why would they not show up with  
23 videotape, I'm videotaping, they weren't  
24 videotaping, you know why, because it shows a cold  
25 blooded attempted murder. I got out of my car, I

1 walked to the back of my car to get my computers.  
2 They said why do you got a gun on. Article 1,  
3 Section 23 of the Missouri Constitution states, and  
4 I quote, "My right to own a gun shall not be  
5 questioned. My right to carry a firearm shall not  
6 be questioned." The first thing Sergeant Folsom  
7 does is question my right to own and carry a  
8 firearm. If I'm there to do them harm, if I'm there  
9 to do them ill intent, I've got a 12 gauge shotgun  
10 sitting in the back seat of that car. Now if I was  
11 there to harm them or do anything of ill content,  
12 don't you think I would have exited the vehicle with  
13 the shotgun after I rammed their car? They were  
14 worried about me ramming their car. Well, I didn't  
15 ram their car. I got out, I'm the one videotaping.

16 You know what, Your Honor, this is a manifest  
17 injustice. I hired these people right here. These  
18 people on the Internet came up with the money for  
19 them. I didn't even want a lawyer. I needed a  
20 lawyer because I thought they were going to work in  
21 my best interest, but my case was put on within a  
22 half hour. We called three witnesses when we could  
23 impeach Folsom and Mertens over and over and over.  
24 Now all that stuff is on the Internet. The facts of  
25 the matter are very clear, I didn't harm anybody. I

1 didn't show up to harm anybody. My intention was  
2 never to harm anybody. You know right now there are  
3 people in the militia, Missouri militia who want to  
4 come and go to war with you folks over this. I've  
5 asked them not to do that, to show remarkable  
6 restraint. If you go on my website, you'll see  
7 that, but you're going to try to put me in jail for  
8 30 or 60 years when I didn't harm anybody. You can  
9 rape a girl in this county and get 90 days. You can  
10 go around and shoot up the whole county and get 120  
11 days. You can murder your husband and get 14 years.  
12 Is that justice? I've harmed nobody. A crime as  
13 far as I'm concerned, and that's why I believe they  
14 wanted to come silence me is because I believe a  
15 crime is an act that causes proveable personal  
16 injury, loss or harm. If there is no victim, there  
17 is no crime. No victim, no crime. Simple as that.  
18 80 percent of this Court's business is victimless  
19 so-called crimes. When there is no victim, there is  
20 no crime. In my matter, I'm the victim, they are  
21 the criminals. Mr. Parks is the biggest criminal.  
22 For him to file false instruments against me. He  
23 knows the evidence that is there. He's known it for  
24 six months. You should know the evidence that's  
25 there if you're reading the Court file. It's very

1 clear. You can't change these facts. I didn't make  
2 up these facts. Listen to Sergeant Folsom's  
3 interview and go back and look at the depositions.

4 Now I'm a praying man. I got shot right here,  
5 a bullet went out the top of my head. I got shot  
6 twice right here, one in the back of my neck. God  
7 didn't allow me to die. They tried to murder me.  
8 The whole thing comes down to what side my weapon  
9 was on. If it's on my left-hand side, you got to  
10 acquit. You got to drop these charges right now.  
11 If it's on my right side, then go ahead and throw me  
12 in jail for as long as you want, but I can prove  
13 that weapon was right here, and the reason why it  
14 would be right here is I was driving my car that  
15 day. I have my seat belt on. I couldn't buckle my  
16 seat belt with the weapon right there, that's why it  
17 ended up right there. Was I stupid to wear a  
18 holstered weapon, yeah, real stupid, but did I try  
19 to draw that holstered weapon, no, sir. And if my  
20 intention was to harm the police, if my intention  
21 was to do what they did to me, I wouldn't have  
22 exited my car with a nine millimeter holstered. I  
23 would have exited my car with a 12 gauge shotgun  
24 unholstered and the .22 I had in my pocket, I could  
25 have put in my pocket, the .22 that would have went

1 through a bulletproof vest. They didn't believe I  
2 was a danger that day. They weren't wearing their  
3 bulletproof vests. They lied to me to get me up  
4 there. You're sanctioning attempted murder. They  
5 tried to kill me, sir. They weren't there to play  
6 games. Within 12 seconds of me getting out of my  
7 vehicle I'm shot on the ground. That videotape is  
8 on the Internet.

9 Now, if I go to jail for a long time over this,  
10 that's going to keep building and building and  
11 building, and that's the stuff revolutions are made  
12 of, sir. The whole thing comes down to what side my  
13 weapon is on. Reasonable doubt is achieved by the  
14 picture of the gun on my left-hand side. The  
15 sequence of pictures of Mertens as he walks back  
16 from the trunk, he walks and has his gun out like  
17 this, excuse me. From the time he walks out of the  
18 trunk, walks from the back of his trunk until the  
19 time he walks up on me, he's like this, that's all  
20 on the Internet, it's a sequence of pictures. His  
21 posture totally changes after Sergeant Folsom shoots  
22 me. He comes back up like that like he's going to  
23 shoot then. Now, if I'm trying to draw my weapon,  
24 why isn't he in a defensive posture then. That's  
25 all there, and why these guys didn't introduce that

1 information is beyond me. And how you can say  
2 there's not enough evidence for a new trial when I  
3 just explained to you the evidence, which is clear  
4 for all the world to see. One-sixth of a second  
5 before I was shot, Sergeant Mertens is not alarmed.  
6 That's why he's still like this, what they call high  
7 ready.

8 The proper purpose of Government in the State  
9 of Missouri, the first thing our Government is  
10 supposed to do is protect people from physical  
11 force, regardless of whether it's the police that do  
12 it or anyone else. The No. 1 job of our Government  
13 is life. Article 1, Section 2 of the Missouri  
14 Constitution, do we still go by the constitution in  
15 the State of Missouri? What's up with the gold  
16 fringe around the flag? That is not the United  
17 States flag. The United States flag doesn't say  
18 anything about a gold fringe on it. Read the United  
19 States code. So the Missouri Constitution is still  
20 in effect in this country, is that correct? If the  
21 Missouri Constitution is still in effect, then you  
22 need to go by the constitution. Article 1, Section  
23 2 of the Missouri Constitution says, "The whole  
24 point and purpose of our Government is to promote  
25 the general welfare of the people." That would be

1 getting predators such as the Highway Patrol, the  
2 ones who shot me, attempted to murder me, predators  
3 such as Bob Parks off the street, and they're the  
4 ones that need to be locked up. Promote the general  
5 welfare of the people. To protect the people from  
6 predators such as Bob Parks and the Highway Patrol,  
7 and Bill Miller too. He's the biggest predator too.  
8 You wouldn't let us have cameras in the courtroom.  
9 You let him come in the courtroom with a camera.

10 All persons have the natural right to life, No.  
11 1. I had a natural right to life on September 11th,  
12 sir. I got out of my car, within 12 seconds I'm on  
13 the ground bleeding from four holes. They didn't  
14 even call an ambulance for seven minutes. They  
15 didn't do anything to try -- they thought I was  
16 dead. Sergeant Folsom got on the phone and called  
17 his boss, "He's down." It wasn't until the other  
18 Highway Patrolmen showed up that they realized I was  
19 alive. My No. 1 thing was natural right to life.  
20 That day, Your Honor, they tried to take my life.  
21 They tried to murder me.

22 Liberty, that's No. 2. I've been incarcerated  
23 in this jail 390 days now. I didn't harm anybody.  
24 The State has not proved anything. That trial was a  
25 sham and you know it. That's why you allowed that

1 video to come in, the jury was tainted and then you  
2 didn't even tell the jury to disregard that video.  
3 Shame on you. Shame on you for not giving me  
4 another trial. Hugh came out in the paper and said  
5 you were an upright man. Jason, the probation and  
6 parole officer, said you were an upright man. I  
7 want to believe that, Your Honor. I don't believe  
8 that many judges would have done what you did by  
9 dropping that charge against a judge. I want to  
10 believe that. I want to believe that there is a  
11 justice system in this country, not just us, because  
12 you see a lot of just us these days, you don't see a  
13 lot of justice.

14 Pursuit of happiness. I haven't been able to  
15 pursue any happiness in a long time. While I sat in  
16 this jail I spent well over \$2,000.00 just to make  
17 phone calls. I've been isolated this whole time. I  
18 got divorced over it. I haven't been able to see my  
19 children in 14 months, sir. I have six children out  
20 there. I haven't seen them in 14 months. I have an  
21 eight, 10 and 12 year old who cry every night  
22 because they don't have their father around them. I  
23 haven't been able to pay my child support. I've  
24 been able to give my ex-wife \$51.00 since I've been  
25 in this jail. I can't go out and protect and

1 provide for my children because Mr. Parks wants to  
2 cover up his bogus search warrant. They came to my  
3 house to steal my computers with a search warrant  
4 concerning marijuana. How is that probable cause?  
5 Mr. Parks is a predator. That man is the one who  
6 needs to be in jail. He's the one that went out and  
7 caused injury, loss and harm.

8       Enjoyment of the gains of my industry. I  
9 haven't been able to enjoy the gains of my industry  
10 because I was dared to come out and say hey, our law  
11 enforcement establishment is not honoring the  
12 constitution, it's not upholding the constitution of  
13 the State of Missouri. We reserve the right to  
14 remove you, that's why there is a Second Amendment  
15 in this country, sir. It's not to go hunting, it's  
16 to protect people from tyranny, and what we see  
17 today in this country is judicial tyranny, black  
18 robe terrorists who ignore the constitution, who are  
19 playing word games. Why is my name always  
20 capitalized? There's a lot to that. You look on  
21 all the Court documents, why is that? Why do I have  
22 a nom de guerre, which is name of war, there's  
23 something more going on than meets the eye here, and  
24 I was trying to point that out to the people, and  
25 they were so afraid of it they tried to kill me. I

1 was running for the office of coroner in Crawford  
2 County. Why was I running for coroner, because  
3 there's two murders down there committed by law  
4 enforcement. I was looking into that. That's why  
5 they tried to murder me. The office of the coroner,  
6 which this county doesn't have a coroner anymore,  
7 but the coroner can investigate murder and panel a  
8 grand jury. Every day the Court preys on the  
9 followless, the poor, the widow, the weak. I've  
10 stood up against that tyranny for 16 years, and then  
11 on September 11th they tried to murder me for my  
12 political views.

13 "That all persons are equal and entitled to  
14 equal rights under the law." Assault on a law  
15 enforcement officer, that's more valuable than  
16 regular assault? Is that equal rights? That's  
17 what's on the front of the Supreme Court in  
18 Washington, D.C., equal rights under the law. The  
19 police are more important than me? Was Henry Folsom  
20 charged with attempted murder, first degree assault  
21 on myself? Is he facing 30 to 60 years, no, but the  
22 Highway Patrol fired him. And we still -- why is  
23 that, why was he relieved? This is the second time  
24 he tried to kill somebody. He already did it once  
25 and they still paid the man. This is the second

1 time, maybe two strikes he's gone but he got fired  
2 over this.

3 They tried to kill me, sir, and if you allow  
4 this to go down, if you allow a sentence to be  
5 pronounced upon me in any way, you're just as  
6 guilty. To give security to these things, equal  
7 rights and opportunity under the law, the general  
8 welfare of the people, taking predators off the  
9 street like Bob Parks. Taking predators off the  
10 street like the Highway Patrolmen who went out and  
11 callously shot at me, tried to kill me that day,  
12 that's the general welfare of the people being  
13 supreme. I believe the Governor of the State of  
14 Missouri is the one who ordered this entire  
15 investigation. I believe that's what Mr. Parks said  
16 in open court. Why would the governor of the State  
17 of Missouri want to be concerned about eliminating  
18 me? He's familiar with me. We grew up in the same  
19 county. I've been doing my paper in Jefferson  
20 County for 16 years. He's well aware of who I am.  
21 To give security to these things is the principal  
22 office of Government. Equal rights, life, liberty,  
23 the pursuit of happiness, equal rights under the  
24 law, to protect people from physical force first and  
25 foremost. The only job of our Government is to

1 protect our people from physical force first and  
2 foremost. It has failed to protect me. Our  
3 Government has failed its chief design.

4 When the only victim stolen from, I'm the only  
5 victim in this matter, Your Honor. If the State can  
6 prove -- put another person up on the stand to say  
7 that I victimized them, they failed to do so. I'm  
8 the only victim. The only one who suffered injury,  
9 loss or harm is myself. I was lied to, stolen from  
10 first of all. The free press, the right of the free  
11 press, the only business specifically protected by  
12 the United States Constitution is a free press, and  
13 they came and stole my computers. They lied to me  
14 and said hey, come get your computers. When I got  
15 there, they tried to kill me. Now they want to lock  
16 me up for the rest of my life, and I've harmed  
17 nobody? This is not America. If you allow that to  
18 happen, this is not America. This is not why  
19 thousands and millions of people have died on the  
20 battlefields to protect. The Gettysburg address was  
21 delivered 150 years ago, "Government of the people,  
22 for the people and by the people shall never perish  
23 from the face of the earth." It's just about  
24 perished if you allow this to happen. There is no  
25 evidence whatever to sustain a conviction. That's a

1 legal reason for you to overturn this conviction  
2 right now, and maybe my lawyers couldn't convey that  
3 strongly enough to you because they're going to be  
4 able to go home tonight. Should you not act and do  
5 the right thing here, I'm going to have to go back  
6 to a jail cell and make phone calls for 50 cents a  
7 minute when I have no money to call anybody. I'm  
8 going to have to go to prison, go to no-more-victims  
9 lane when there is no victim in this matter. I'm  
10 the only victim, Your Honor. I'm the only victim.

11 Our Government has failed its chief design  
12 should you not do your responsible thing today. You  
13 took an oath to uphold the constitution I would  
14 assume, or you should have. I would appreciate if  
15 you honor that oath. Therefore there is no evidence  
16 to sustain a conviction, none whatsoever. The only  
17 evidence you had to sustain a conviction was the  
18 testimony of Henry Folsom, and I've just  
19 demonstrated beyond a reasonable doubt that my  
20 weapon was right there on my left-hand side. If  
21 you're interested in justice, maybe we can review  
22 the tapes. Maybe you can freeze frame it. Maybe my  
23 lawyers can introduce that into evidence. Maybe  
24 they'll want to introduce the fact that Henry Folsom  
25 said, "Hey, get your hand off the gun." Did you

1 hear that? I didn't hear it. It's not on any of  
2 the tapes. He said, "Hey, I've got papers for you  
3 to sign for your computers." That's not on any of  
4 the tapes. Henry Folsom, as a matter of fact, said,  
5 "Jeff, I got your computers right here. Jeff, I got  
6 your papers right here. Get your hand off the gun."

7 And then 20 minutes later in his interview with  
8 the Highway Patrol the question is asked to him,  
9 "How long did it take until you pulled into the  
10 parking lot until shots were fired?"

11 "12 to 15 seconds, just long enough to say what  
12 are you doing with that gun." That's your star  
13 witness. Three things right there he was impeached  
14 on. Two of the three things my lawyers didn't even  
15 bring up to you.

16 Now, I don't know what the definition of  
17 ineffective assistance of counsel is, but I believe  
18 that is right there. Now I don't know why they want  
19 to play assistant prosecutor, but at the Erwin  
20 Rommel School of Law we're talking the battlefield  
21 is the courtroom. The Judge and the enemy -- the  
22 Judge and the PA are your enemy and your lawyer is  
23 the enemy's spy, and in this matter that's exactly  
24 what's happened here. The evidence, the facts of  
25 the matter dictate a judgment of acquittal today,

1 and I'd be able to walk out of this and go back to  
2 my life. I'd be able to go hug my children this  
3 evening. That I'd be able to provide for my family.  
4 That's what justice dictates today, not just us.  
5 You have no obligation to protect this wicked  
6 system, and it is wicked, Your Honor. You as a man  
7 can stand up against this tyranny and say let him  
8 go. Justice demands that the convictions be  
9 sustained, the convictions be overturned. There is  
10 no evidence to sustain a conviction and I be set  
11 free.

12 So I've said my piece and I appreciate you  
13 letting me say it, but justice demands that I be set  
14 free today. There is no evidence whatsoever to say  
15 that I tried to draw a weapon on them. I don't care  
16 what Mr. Parks alleges because he had nothing to  
17 sustain a conviction. He had two witnesses and I  
18 both proved that they've impeached themselves  
19 throughout their testimony. So Your Honor, I ask  
20 you to do the right thing and set me free in Jesus'  
21 name, Amen.

22 JUDGE SUTHERLAND: The motion for new trial  
23 is denied. I will point out a very important fact  
24 here and that is that the jury is the decider of  
25 facts.

1 MR. WEINHAUS: The jury is only good enough  
2 to act on the information that was provided and  
3 you --

4 JUDGE SUTHERLAND: That's what I have to act  
5 on as well.

6 MR. WEINHAUS: You know what Your Honor,  
7 you're a fraud. If you allow this conviction to  
8 stand, you are a fraud, sir, and you will be judged.  
9 Judge not lest you be judged, and if you don't set  
10 me free, then you're just as bad as they are.  
11 You're an attempted murderer.

12 JUDGE SUTHERLAND: No one having shown any  
13 legal reason why judgment of sentence --

14 MR. WEINHAUS: I believe I did show legal  
15 reason.

16 JUDGE SUTHERLAND: Should not be pronounced,  
17 it is the judgment and sentence of the Court on  
18 Count 1, that's the felony possession of a  
19 controlled substance charge, that the defendant  
20 serve a term of two years in the Missouri Department  
21 of Corrections. On Count 3, that's the misdemeanor  
22 possession of a controlled substance charge, the  
23 defendant serve a term of one year in the Franklin  
24 County jail. On the count, I believe it's Count 4,  
25 the charge of attempted assault of a law enforcement

1 officer in the first degree, that the defendant  
2 serve a term of 30 years in the Missouri Department  
3 of Corrections, and on Count 5, the armed criminal  
4 action charge, the defendant also serve a term of 30  
5 years in the Missouri Department of Corrections. I  
6 will point out that those were the recommendations  
7 that the jury made after the sentencing hearing, and  
8 it's my practice not to override or undercut, either  
9 way, the jury's recommendation as to sentence;  
10 however, it is the judgment or the order of the  
11 Court that those four sentences be served  
12 concurrently. It would be the intention of the  
13 Court that the defendant serve a total of 30 years  
14 in the Missouri Department of Corrections.

15 MR. WEINHAUS: For what?! For what?!

16 JUDGE SUTHERLAND: Credited with all time  
17 served awaiting disposition. There will be a crime  
18 victim's compensation final judgment in the amount  
19 of, what is it, \$68.00, \$68.00 which is directed to  
20 be entered.

21 Mr. Weinhaus, there's two things that can  
22 happen at this point, and I suspect both will.  
23 First of all, you do have the right to appeal the  
24 conviction to the Missouri Court of Appeals Eastern  
25 District in St. Louis. That needs to proceed first.

1 Mr. Eastwood, are you going to file a motion, or  
2 excuse me, a Notice of Appeal?

3 MR. EASTWOOD: Yes, sir, I'm going to timely  
4 file a Notice of Appeal with this Court.

5 JUDGE SUTHERLAND: Notice of Appeal has to  
6 be filed within 10 days, and then you have time to  
7 get transcripts made and all that sort of thing.  
8 Normally the trial attorney is not hired for trial  
9 and appeal. You can, of course, hire Mr. Eastwood  
10 for the appeal or another attorney for the appeal.  
11 If you are indigent, you may apply for the public  
12 defender as well. If you wish to file an  
13 application for public defender services --

14 MR. WEINHAUS: I believe the Court has one  
15 on file already.

16 JUDGE SUTHERLAND: That's some months old,  
17 they usually --

18 MR. WEINHAUS: It's current. I haven't been  
19 able to do anything for the last eight months. I've  
20 been in jail locked up, and you know what --

21 JUDGE SUTHERLAND: I understand that.

22 MR. WEINHAUS: You know what, you're a  
23 fraud.

24 JUDGE SUTHERLAND: I would recommend that  
25 you file a new application for public defender

1 services. Do you have those at the sheriff's  
2 office?

3 MR. WEINHAUS: 30 years for what?

4 MR. PARKS: I believe it would be filed in  
5 the Department of Corrections for the appeal  
6 attorney because it wouldn't be the local attorneys  
7 that would represent him on the appeal.

8 JUDGE SUTHERLAND: Well, at any rate you  
9 need to get that filed.

10 MR. WEINHAUS: I want to know why you  
11 wouldn't give me another trial.

12 JUDGE SUTHERLAND: Mr. Weinhaus, I'm not  
13 going to debate that with you.

14 MR. WEINHAUS: The debate is over, buddy.  
15 You're doomed.

16 JUDGE SUTHERLAND: At any rate the appeal  
17 has to proceed first. I can't put a time limit on  
18 that, could be looking at six months, eight months,  
19 10 months, even up to a year before the appeal gets  
20 decided, that's not up to me. Once that appeal is  
21 ruled on, the Court of Appeals, of course, can do  
22 one of two things: They can affirm the conviction  
23 or they can reverse all the convictions or somewhere  
24 in between, affirm some, reverse some, that's going  
25 to be up to them. But in the event that one or more

1 of these convictions is affirmed, after that you  
2 have the right to proceed with your post conviction  
3 rights under Rule 29.15, and that's what I need to  
4 inform you about now.

5 I don't know if you've been informed of this or  
6 not, but I need to go over it in any event. You  
7 have the right to file the post conviction motion in  
8 this Court to vacate, set aside or correct your  
9 conviction or the sentence in this case if you claim  
10 first, that your conviction or the sentence imposed  
11 violates the constitution of the United States.

12 MR. WEINHAUS: Which it does and you're  
13 aware of that, sir.

14 JUDGE SUTHERLAND: Or the constitution or  
15 laws of the State of Missouri; or two, that this  
16 Court was without jurisdiction.

17 MR. WEINHAUS: I believe it is. That's not  
18 the American flag. My name is not all capitalized.

19 JUDGE SUTHERLAND: Mr. Weinhaus --

20 MR. WEINHAUS: You know what, you need to do  
21 your job, Your Honor.

22 JUDGE SUTHERLAND: You've had your  
23 opportunity to speak. I am doing my job and it's my  
24 turn to speak.

25 MR. WEINHAUS: No, you're not, you're a

1 fraud! You're a fraud!

2 JUDGE SUTHERLAND: No. 3, the third grounds  
3 is if the sentence imposed is in excess of the  
4 maximum sentence authorized by law.

5 MR. WEINHAUS: You are a fraud.

6 JUDGE SUTHERLAND: Or four, that you  
7 received ineffective assistance of counsel, which  
8 you already referred to. A post conviction motion  
9 is an exclusive procedure by which you can seek  
10 relief for those four types of claims. The forms  
11 will be provided for you at the Department of  
12 Corrections upon your request. No cost, deposit,  
13 filing fees are necessary in order to file that  
14 motion. What normally happens, if you file the post  
15 conviction rights, since the case is assigned to me,  
16 it would come to me, I would appoint appellate  
17 counsel out of Columbia to represent you on those  
18 post conviction rights and they would have an  
19 opportunity to file an amended motion.

20 MR. WEINHAUS: Let me ask you this. Post  
21 conviction, we're at post conviction right now. Why  
22 won't you do the right thing. The evidence is very  
23 clear, Your Honor.

24 JUDGE SUTHERLAND: Mr. Weinhaus, the  
25 evidence is not very clear because most of the

1 things you were talking about, there was no evidence  
2 of at trial. What I'm trying to explain to you is  
3 the timing of filing the post conviction.

4 MR. WEINHAUS: I can read, Your Honor, and I  
5 appreciate that, but you need to do your job and set  
6 me free now.

7 JUDGE SUTHERLAND: Mr. Weinhaus.

8 MR. WEINHAUS: I've harmed nobody!

9 JUDGE SUTHERLAND: If the convictions are  
10 appealed, the Court of Appeals will issue a written  
11 opinion affirming them. About 30 days thereafter,  
12 they will issue what's called a mandate, a single  
13 sheet of paper basically affirming that they affirm  
14 the convictions. From the date that mandate is  
15 issued, you have 90 days within which to file the  
16 post conviction motion. If you're 91 days, you're  
17 out of luck, so you've got to file that within 90  
18 days, and that's the important thing I want to  
19 explain to you today. If you don't file it within  
20 90 days after the Court of Appeals mandate is  
21 issued, you will have completely waived your post  
22 conviction rights. If you do file that motion, you  
23 must include every ground known to you for vacating,  
24 setting aside or correcting the judgment or  
25 sentence. If you're indigent and file your own

1 motion, a lawyer will be appointed for you. Your  
2 lawyer would then have 60 days to file an amended  
3 motion. A written request for a hearing must be  
4 made within the time limits, because if no request  
5 for a hearing is timely made, no hearing will be  
6 held. Do you understand what I've just told you?

7 MR. WEINHAUS: No, please do it again.

8 JUDGE SUTHERLAND: The whole thing again or  
9 examples?

10 MR. WEINHAUS: Yes, sir.

11 JUDGE SUTHERLAND: You have a right to file  
12 a post conviction motion under Rule 29.15 in this  
13 Court to vacate, set aside or correct your  
14 conviction or the sentence in this case if you claim  
15 that your conviction or the sentence imposed  
16 violates the constitution of the United States or  
17 the constitution or laws of the State of Missouri.

18 MR. WEINHAUS: All right.

19 JUDGE SUTHERLAND: Or that this Court was  
20 without jurisdiction to impose the sentence or the  
21 sentence imposed is in excess of the maximum  
22 sentence authorized by law, or that you received  
23 ineffective assistance of counsel.

24 MR. WEINHAUS: I have and all those things  
25 have been noticed to the Court, and the Court is

1 refusing to act on that. What is your legal reason?

2 JUDGE SUTHERLAND: Mr. Weinhaus --

3 MR. WEINHAUS: Answer my question. Quit  
4 playing the game. This is a charade.

5 JUDGE SUTHERLAND: Mr. Weinhaus, am I going  
6 to have to send you out and do this on Polycom or  
7 have you gagged?

8 MR. WEINHAUS: Whatever you think is  
9 necessary. I just want some justice today, Your  
10 Honor, and the fact of the matter is I've harmed  
11 nobody and you know it.

12 JUDGE SUTHERLAND: Mr. Weinhaus, you made  
13 your statement, it's my turn, okay. I do want to  
14 ask about the assistance of counsel that you  
15 received. You made some comments about your  
16 representation.

17 MR. WEINHAUS: I'd love to talk about my  
18 counsel.

19 JUDGE SUTHERLAND: Is there any other  
20 comments you want to make about your representation  
21 of counsel?

22 MR. WEINHAUS: Yes, sir, I've got a whole  
23 thing here. First of all, these folks were hired to  
24 defend me. They were paid -- I don't know how much  
25 money were they paid, six, eight, \$10,000.00, I

1 don't know, I didn't raise the money, it was all  
2 raised on the Internet because there are people out  
3 here who love this country and believe in this  
4 country, but my first question is how many exhibits  
5 did you put in there, Hugh? How many exhibits did  
6 you enter on my behalf?

7 JUDGE SUTHERLAND: Mr. Eastwood is not a  
8 witness at this point.

9 MR. WEINHAUS: Okay, the point being I don't  
10 remember any. He didn't put on a defense. He  
11 called three witnesses. And by the way, all three  
12 of the witnesses saw my hands empty as I fell to the  
13 ground after being shot at six times, hit four, but  
14 those people are still on the street today. As a  
15 matter of fact, they got all their cheerleaders  
16 right there with them.

17 JUDGE SUTHERLAND: Mr. Weinhaus, you're  
18 getting off the subject.

19 MR. WEINHAUS: I've got 30 years here, Your  
20 Honor.

21 JUDGE SUTHERLAND: I understand that. I'm  
22 interested in comments you have to make about your  
23 representation.

24 MR. WEINHAUS: They failed to introduce  
25 pictures of me in the hospital. Highway Patrol was

1 there taking pictures. As soon as I got to the ER,  
2 showed a hole right there in my head, two holes in  
3 my head, didn't show the jury that. Mr. Parks even  
4 said, "Hey, he looks fine to me." My lawyers didn't  
5 say anything about that. Throughout the course of  
6 the trial, Folsom basically impeached himself.  
7 Folsom basically wrote a novel of what happened in  
8 less than 12 seconds. Folsom claims in audio  
9 interviews of the event conducted by the Highway  
10 Patrol, he stated he said to the victim, "I got your  
11 computers right here. Jeff, I got papers for you to  
12 sign right here." They brought that up to  
13 Mr. Folsom but they failed to bring up the fact that  
14 he said, "Jeff, get your hand off the gun." That's  
15 not anywhere in this trial, but it's there on the  
16 tape, if you care to listen to the tape if you're  
17 concerned about justice or is it just us.

18 And then later on in the interview Folsom was  
19 asked Jeff -- how long was it until Jeff got out of  
20 his car until the time he was shot. 12 to 15  
21 seconds, just long enough to say what are you doing  
22 with that gun. That wasn't brought up in my trial.  
23 There's a reflection of me in the car. By the grace  
24 of God it ended up, I got a copy of 1/30th of a  
25 second, shows that gun right there. I asked him at

1 the trial, introduce that, put that in there. They  
2 refused to. They were more concerned about meeting  
3 your deadline to be done with my case by 11 o'clock  
4 that day than they were about serving me justice.

5 JUDGE SUTHERLAND: Mr. Weinhaus, I will say  
6 right now there was no deadline.

7 MR. WEINHAUS: You know what, you had an  
8 agenda throughout the whole thing. You're the  
9 fixer, you came from the Missouri Supreme Court,  
10 you're a fraud, simple as that. And tonight you  
11 won't be able to sleep, unless you're heavily  
12 medicated or drunk.

13 The FBI was not called. The FBI testified in  
14 their depositions, they didn't even see a weapon on  
15 me. I told them to call the FBI. They didn't call  
16 the FBI. Depositions, we paid for depositions or  
17 maybe the Court is paying for it, how does the Court  
18 cost work? We paid for depositions. They didn't  
19 introduce them. They didn't put them before the  
20 jury.

21 JUDGE SUTHERLAND: Normally depositions are  
22 not admissible.

23 MR. WEINHAUS: Well, they should have been.  
24 They both said hey, we've got papers for you to  
25 sign, that wasn't brought up. Mertens wasn't

1 brought up. The reason for the probable cause,  
2 Mr. Mertens didn't even smell marijuana that day.  
3 Folsom is the only one that smelled marijuana, that  
4 wasn't brought up. The bullet, where Mr. Folsom  
5 said hey, I think I shot at the gutter guys, they  
6 didn't bring that up. There's a hole in the wall of  
7 the gas station. That wasn't brought up. There is  
8 a picture --

9 JUDGE SUTHERLAND: Actually I believe it  
10 was.

11 MR. WEINHAUS: Did you see the picture, no.  
12 Picture tells the story. How about the picture of  
13 the bullet in the ground. How does a bullet get in  
14 the ground unless you're on the ground when they  
15 fire the gun? They shot me when I'm laying on the  
16 ground. Are you proud of them? You allowed that.  
17 You're just as bad as they are. I mean my goodness  
18 gracious. The still shot of Mr. Mertens, there's a  
19 sequence of pictures, there's a sequence of  
20 pictures, about 8 or 10 pictures --

21 JUDGE SUTHERLAND: Mr. Weinhaus, I'm sorry  
22 for interrupting but you covered all this before.

23 MR. WEINHAUS: Well, it needs to be covered  
24 again because you haven't changed your mind. I'm  
25 giving you an opportunity to do the right thing

1 here, Your Honor.

2 JUDGE SUTHERLAND: I'm not going to change  
3 my mind at this point, Mr. Weinhaus. Let me ask you  
4 another question. Were there any witnesses you  
5 asked your attorney to interview that they didn't  
6 interview or take depositions of?

7 MR. WEINHAUS: I wasn't aware of anymore  
8 witnesses other than the ones I said, the FBI. They  
9 weren't called to the stand. The three witnesses --  
10 I don't know about all the people who were in the  
11 gas station. Why was the troopers who showed up on  
12 the scene first, why were they not interviewed. Why  
13 was the dash cam not introduced. Hey, whose side  
14 are they on? The still shots.

15 JUDGE SUTHERLAND: You had copies and an  
16 opportunity to review the police reports; is that  
17 right?

18 MR. WEINHAUS: Yes, sir. Obviously I have  
19 reviewed the police reports. Have you reviewed the  
20 police reports?

21 JUDGE SUTHERLAND: Mr. Weinhaus, I'm not on  
22 the stand either.

23 MR. WEINHAUS: Indulge me, you just gave me  
24 30 years and I didn't hurt anybody. I didn't harm  
25 anybody. You gave me 30 years and I haven't harmed

1 anybody, nobody. I'm the one who's been harmed.  
2 I'm the victim. That makes you the criminal, and  
3 you'll be able to sleep tonight, huh? Go home to  
4 your family, hug your grandkids, huh? You're the  
5 criminal. You're the one who's caused injury, loss  
6 or harm. You are a black-robed terrorist, an enemy  
7 combatant, no different than Osama Bin Laden. Oh,  
8 you think that's funny?

9 JUDGE SUTHERLAND: I do, it is rather  
10 amusing.

11 MR. WEINHAUS: Really, you think that's  
12 funny? My lawyers didn't have the jury  
13 instructed -- to ask you to instruct the jury to  
14 disregard that video, did he? Why wouldn't you  
15 instruct a jury to disregard that video?

16 JUDGE SUTHERLAND: Once again these are all  
17 things you covered already. It's on the record.

18 MR. WEINHAUS: And it's going on the record  
19 again. You asked me if I had reason for ineffective  
20 assistance of counsel. I'm trying to give you those  
21 reasons. Now will you allow me to do that? I'm  
22 already going away for 30 years.

23 JUDGE SUTHERLAND: You've done it once.

24 MR. WEINHAUS: I didn't hurt anybody or rape  
25 anybody. I didn't get 90 days. I didn't kill

1 anybody and get 14 years. I didn't go around and  
2 shoot up the county and get 120 days. I didn't have  
3 a drug deal go bad, shoot up people and get  
4 probation. The jury was not instructed to say hey,  
5 if he doesn't testify, then don't hold that against  
6 him. Did you tell the jury that, no. My lawyers  
7 didn't call up Jim Burn. Jim Burn is a computer  
8 expert who spent hours researching this case. He's  
9 the one that showed my hands were in the air when  
10 they shot me, that I was going down on the ground  
11 when they shot me, okay. None of that was -- they  
12 didn't bring up any of that. He wasn't interviewed.  
13 He wasn't called as a witness. Jim Burn is the one  
14 that said, "hey, he didn't say you're going to have  
15 to shoot me, man, he said you don't have to shoot  
16 me, man." Now would that make a difference to the  
17 jury if I said you don't have to shoot me and I'm  
18 going down on the ground and my hands are in the  
19 air, I'm surrendering? Do you think that would make  
20 a difference? I do.

21 No picture was shown of the bullet in the  
22 ground, introduced. How about the communication  
23 officer talking to Dave Bauer of the Highway Patrol.  
24 The CD, audio CD that said David Bauer was asked on  
25 the phone, "what's going on?"

1 "Oh, Weinhaus, they're messing with Weinhaus."

2 And Bauer comes back and says, "Oh, they're  
3 messing with Weinhaus again."

4 And then Communication Officer Smith says,  
5 "Hey, maybe he learned his lesson this time." That  
6 wasn't introduced. That's all on there.

7 Did not show the entire watch video. Did not  
8 call my ex-wife Valerie to testify hey, he called us  
9 up, they didn't even play that video. That video  
10 wasn't even introduced. That video wasn't even  
11 introduced that I called my ex-wife and said, "Hey,  
12 you need to record this. I don't trust the Highway  
13 Patrol. They said they're going to give me back my  
14 computers." Didn't play that. Didn't play the  
15 entire watch video. There's 23 minutes on that  
16 watch video. The first five minutes is me going  
17 down there praying and God being gracious enough to  
18 answer my prayer and not letting me die that day  
19 after they tried to murder me, after you tried to  
20 murder me because you're just as guilty now and woe  
21 unto you.

22 When the road officer pulled in, they didn't  
23 show the dash cam of the road officer pulling in and  
24 Folsom and Mertens standing there "get away, get  
25 away, get away." They tried to kill me that day,

1 Your Honor. The still shots were not introduced  
2 into evidence. How could he not introduce those  
3 still shots into evidence. They vindicate me.  
4 Ain't nothing changed. But you're just as bad as he  
5 is because you won't come off of your high -- your  
6 bench there and do the right thing and set an  
7 innocent man free. "Woe unto them to call evil good  
8 and good evil, that put light for darkness and  
9 bitter for sweet. Woe to them that are wise in  
10 their own eyes and prudent in their own ways." I  
11 mean how can you even look at me? By his on  
12 admission Folsom admitted that he tried to shoot at  
13 the people who were there with the gutters. That  
14 wasn't introduced. He tried to kill other people  
15 who were there. There was no videotapes of the  
16 depositions. My counsel, and I like Hugh, I don't  
17 know why he sold me out or didn't adequately defend  
18 me.

19 JUDGE SUTHERLAND: Mr. Weinhaus, at this  
20 point I am going to interrupt you, pardon me. I  
21 have seen and heard nothing that indicates any such  
22 thing. As a matter of fact I think Mr. Eastwood did  
23 an exceptionally good job.

24 MR. WEINHAUS: Really, that's why I got 30  
25 years.

1 JUDGE SUTHERLAND: You started with eight  
2 counts, two of them got dismissed after the State's  
3 evidence, two more you were found not guilty of, and  
4 I was impressed with Mr. Eastwood's representation  
5 of you throughout the trial, let's put it that way.

6 MR. WEINHAUS: Really. If you're so  
7 impressed, then do the right thing and acquit me  
8 after you've been made aware of the facts. If you  
9 don't acquit me right now, you don't unloose my  
10 hands and let me go home to my children and my  
11 family, you're just as guilty as they are. You're  
12 just as guilty as Folsom is. You're just as guilty  
13 as Mertens is. You're just as guilty as Bob Parks  
14 is. You are a black-robed terrorist, and that's the  
15 reason why I put my paper out and do my videos is to  
16 get people like you off the bench, because I don't  
17 believe you did a good job at all here. You're  
18 perverting justice. This Court is a kangaroo Court.  
19 I walked into this Court as the victim, and I'm  
20 walking out of it as the victim, and you're well  
21 aware of the facts of the matter, and the fact of  
22 the matter is very simple, I'm the one who was shot  
23 at. I'm the victim here. That would make you the  
24 criminal. It would make these Highway Patrolmen the  
25 criminal, and I just pray that the American people

1 wake up and realize what's going on in this country  
2 because we've been overthrown by black-robed  
3 terrorists such as yourself. And shame on you for  
4 not doing the right thing. And God as my witness  
5 will deal with you. "Vengeance is his sayeth the  
6 Lord, he will repay." I'm not going to threaten you  
7 to do anything, that's not who I am. Psalm 94 is  
8 very clear, "Oh, Lord God through vengeance  
9 belongeth, show yourself," and he will show himself  
10 in your life. You have come against a child of the  
11 most high God. I was shot four times. I should be  
12 dead. He's allowed me to live to tell you --

13 JUDGE SUTHERLAND: Mr. Weinhaus --

14 MR. WEINHAUS: That you need to repent and  
15 get right with the Lord.

16 JUDGE SUTHERLAND: Mr. Weinhaus, that's  
17 enough. We are done. The Court finds there's no  
18 probable cause to believe the defendant has received  
19 ineffective assistance of counsel.

20 MR. WEINHAUS: Oh, come on.

21 JUDGE SUTHERLAND: The defendant is remanded  
22 into the custody of the sheriff. We're in recess.

23 (HEARING ADJOURNED)

24

25

1 State of Missouri

2 SS.

3 County of Franklin

4 I, Kim Wrocklage, duly commissioned, qualified  
5 and authorized to administer oaths and to certify to  
6 depositions, do hereby certify that pursuant to  
7 agreement in the civil cause now pending and  
8 undetermined in the Circuit Court of Franklin  
9 County, State of Missouri, to be used in the trial  
10 of said cause in said court, I was attended at the  
11 Franklin County Justice Center, 401 E. Main Street,  
12 Union, in the County of Franklin, State of Missouri  
13 on the 25th day of November, 2013.

14 Said hearing was reported by me in shorthand  
15 and caused to be transcribed into typewriting, and  
16 the foregoing pages correctly set forth the  
17 testimony, together with the questions propounded by  
18 counsel and remarks and objections of counsel  
19 thereto, and is in all respects a full, true,  
20 correct and complete transcript.

21 I further certify that I am not of counsel or  
22 attorney for either of the parties to said suit, not  
23 related to nor interested in any of the parties or  
24 their attorneys.

25 \_\_\_\_\_/s/ Kim Wrocklage, CCR No. 885\_\_\_\_\_