

**Emails from Wesley Nance — Filing a Petition
without Committing Perjury**

Nance email August 16

From: Wes Nance <>

Sent: Tuesday, August 16, 2022 5:33 PM

To: Jens Soering <>

Subject:

Mr Soering,

I can give greater context tomorrow morning when I'm back in the office if necessary but these are the basics...

I was asked the very narrow question of whether a person could avoid perjury charges and still file a petition.

Of course a person could if they don't misrepresent the apparent weakness of their pleadings, (ie chain of custody). Just acknowledge it in the petition itself.

So, that allows for a petition to be filed but, in my opinion, not a successful petition because the chain of custody is not intact.

It was a quick email exchange, much like this, so I'm guessing that one question was used to challenge your concerns without the full context of the issue we both face....the integrity of the evidence from 1990 ...not necessarily the style of the petition.

That's the quick answer to what I believe is the heart of your question. Would be glad to flesh it out more tomorrow when I'm not using my phone's keyboard.

Wes Nance

Sent from my iPhone

Nance email August 17

Von: Wes Nance <_>

Datum: 17. August 2022 um 14:55:46 MESZ

An: Jens Soering <_>

Betreff:

Good Morning,

I believe that my quick response yesterday holds true to what I was trying to say. I did say that one could file a petition without committing perjury in nearly any scenario. That answer however does not provide the full context of the issue facing both sides of this issue.

For example, I very often I see defense motions to suppress a statement to law enforcement when the original interview was completely voluntary. In those cases the motion to suppress is either generic, or acknowledges that prior case law does not support their allegation of why a statement should be suppressed. Such filings are not perjury and, if done correctly, do not violate any ethical protocols for the filing attorney.

What is missing from that question from Ms. Battiste, and probably the way my answer was presented to you, is the greater context of the *likelihood of success* of such a petition with the presiding judge. To be more clear, a petition could always be filed arguing that, notwithstanding the issues of chain of custody, the evidence should be retested. The problem with such a filing is that the Judge has to find under the present law that the evidence has not been altered or tampered with. This is what I believe to be the fatal flaw of this entire circular argument. Is there a way to file the petition? Absolutely. Is there a way for the Judge to find the chain of custody is sufficiently intact to order such retesting? In my opinion there is not, at least not now with scientific testing where is presently is and with the way the law is written.

I'm afraid we are both caught in a very complicated factual and legal situation in which our positions and the factual and legal issues contained therein are being boiled down into 30 second soundbites. I think that is naturally part of the dilemma that we face with these back and forth interviews by news agencies attempting to tell a complex narrative in a limited amount of time.

With that all being said, there are going to be things about the investigation, prosecution, and conviction (specifically as to the integrity of the individuals leading those aspects of this case) that we will fundamentally disagree about. I will likely say things during my interviews that you disagree with and may perhaps enrage you. The opposite, with your interviews, are likely true as well.

I try, however, to balance the interest of transparency in the criminal justice system with fairness to all the parties impacted by the deaths of the Haysoms and the subsequent investigation and prosecutions. That balance is difficult with this particular issue. More information is usually a good thing, and prosecutors should not fear the truth. I do not. In this case, I think the truth is not likely to be found with retesting as the results cannot be definitively limited to relevant DNA contributions from 1985. Those concerns have led me to determine that, **at this point, results from retesting would likely inject irrelevant results into this ongoing discourse as oppose to providing actual answers.** I think that is where we may have some common understanding.

I am suppose t speak to Ms. Battiste, perhaps as early as today. I will attempt to flesh out my answer to her earlier this week if given the opportunity. With that being said, please once again consider any of my responses to you to be "on the record" for your use as you see fit.

Wes Nance