



U.S. Department of Justice

Federal Bureau of Investigation

In Reply, Please Refer to
File No.

Post Office Box #3007
Butte, Montana 59702
February 24, 1987

Mrs. Roberta A. Clincher
Box 426
Poplar, Montana 59255

Dear Mrs. Clincher:

We are in receipt of the information regarding your son, Barry Beach, and his involvement in the murder of Kimberly Ann Nees.

In view of the fact this matter has been adjudicated, and your son pled guilty, there is no investigation the Federal Bureau of Investigation can conduct. Since both the Victim, Kimberly Ann Nees, and your son were non-Indian we have no jurisdiction.

If you feel there is a problem with the judicial proceedings, your attorney should take the necessary steps to request a new trial. You may also wish to contact the Montana Department of Justice, County Prosecutor Services Bureau, 215 North Sanders, Helena, Montana 59620.

Very truly yours,

TOBY M. HARDING
Acting Special Agent in Charge

By: *Kelly P. Hemmert*
KELLY P. HEMMERT
Supervisory Special Agent

- 1 - Barry A. Beach
A021520
700 Conley Lake Road
Deer Lodge, Montana 59722
- ① - Richard Carstensen
Attorney at Law
Post Office Box 2093
Billings, Montana 59103



Richard J. Carstensen P.C.

ATTORNEY

February 26, 1987

316 NORTH 25TH STREET
P.O. BOX 2093
BILLINGS, MONTANA 59103-2093
(406) 245-8182

Mr. Kelly P. Hemmert
Supervisory Special Agent
U.S. Department of Justice
Federal Bureau of Investigation
P.O. Box 3007
Butte, MT 59702

Dear Mr. Hemmert:

I have the copy of your February 24, 1987 letter to Mrs. Clincher as to her son, Barry Beach.

I am certain that Barry Beach and his mother will both be very disappointed that your office can not conduct an investigation on this.

There appears to be some misunderstanding from your letter, as Mr. Beach did not plead guilty. He was tried, convicted, and his case unsuccessfully appealed to the Montana Supreme Court.

I have been retained to represent Mr. Beach on further proceedings in Federal Court to seek Habeas relief, but I know that Mr. Beach and his mother had hoped that you would investigate the facts involved and which were furnished you which they believe show that not only did Mr. Beach not commit this crime, but that it was committed by an Indian.

The Department of Justice Prosecutor Services you referred to are the prosecutors who were in charge of this case at the trial and on the appeal and so I really hold no hope that they will be of any assistance to Mr. Beach and his mother.

If your office should change its position and conduct an investigation on this, Mr. Beach has authorized me to cooperate in every way possible I can and to furnish you any information I have that would be helpful.

Sincerely,



R. J. CARSTENSEN

RJC:srs
Copies to Barry A. Beach
Mrs. Roberta Clincher



LEGAL INVESTIGATION BUREAU

Creekside at Homestead Business Park
Executive Suite 300G
1001 South 24th Street West
Billings, Montana 59102

Craig W. Christie
Investigator

(406) 652-3260

October 28, 1987

Mr. Robert Zimmerman
Deputy United States Attorney
316 North 26th Street
Billings, Montana 59101

Dear Bob,

Following my conference with you on October 27, 1987, I proceeded to the Law Office of Mr. Richard Carstensen, Barry Beach's attorney of record.

I requested that he provide me with a copy of the affidavit of Mr. Paul Henry Kidd, Beach's attorney in January of 1983. Mr. Carstensen advised me that he was in possession of an unconfirmed preliminary copy of the affidavit, however, that the affidavit could be confirmed at any time.

I am providing you with a copy of that affidavit for your files to assist in the matters that we discussed during the conference. Please find it enclosed.

I neglected to advise you that I will make myself and anything in my files available to you at your convenience toward reaching a disposition in this matter, and would like to take this opportunity to thank you for your time and interest in this bizarre set of circumstances.

I will be looking forward to hearing from you in the near future.

Sincerely,


Craig W. Christie



LEGAL INVESTIGATION BUREAU

Creekside at Homestead Business Park
Executive Suite 300G
1001 South 24th Street West
Billings, Montana 59102

Craig W. Christle
Investigator

(406) 652-3260

November 18, 1987

Mr. Barry A. Beach
A021520
700 Conley Lake Road
Deer Lodge, Montana 59722

Dear Barry,

I am in receipt of your letter of November 12, 1987, and I appreciate your impatience in this matter, however, will try to outline the progress in the recent past.

After having formulated a theory with regard to new suspects in this matter, and accumulating much information with regard to proving my theory, I contacted the Billings Office of the FBI and spoke with Agent Brent Warberg, since he was involved in the initial investigation into this homicide. Brent seemed interested in what I was saying and advised me to contact the Chief Prosecutor of the United States Attorney's Office.

I requested that Brent contact the Deputy U.S. Attorney, Mr. Robert Zimmerman, prior to my making contact, to brief him on my reasons for making contact and bring him up to date on your case.

On October 21, 1987, I had a meeting with Deputy U.S. Attorney, Robert Zimmerman, that lasted in excess of two hours. During that meeting Mr. Zimmerman made complete copies of three of my files; the FBI Investigation, the Wolf Point County Sheriff's Investigation and the Ouachita Parish Sheriff's Office Investigation.

I also made Mr. Zimmerman aware that I was in possession of the keys to the vehicle, however, I kept them in my possession. I presented him with a copy of the affidavit of Mr. Kidd, the Louisiana attorney, and gave him a copy of the letter regarding Detective Cummings' admission of perjury on the part of Via.

While I was still in the office, Attorney Zimmerman contacted the FBI Agent responsible for the Wolf Point area and requested that he locate the unidentified hair samples in the case. He also requested to know the reason for Deputy Wilson's abrupt resignation and reports regarding the Celeste Shields homicide.

Mr. Zimmerman was very specific to the FBI Agent that he was not to inform anyone as to what he was up to, just carry out his requests, as I had informed him that I have kept this investigation very quiet up to this point.

Barry, you have to realize that it took the authorities in excess of four years to finally come up with a suspect in this particular homicide. You also have to realize the ramifications of this new investigation. It has very severe con-

sequences to numerous persons involved. In addition to political ramifications, we are now talking criminal charges against any number of persons that might have been involved.

Due to the serious allegations that I have made to the U.S. Attorney's Office, regarding the investigation and ultimate conviction and sentence received by yourself, I'm sure that they are going to be extremely positive about this thing before they move.

You have to realize also, that we have made a gigantic step in your case. As I explained to you when we met in Deer Lodge, I am trying to take the avenue of least resistance. I do not want you to have to go through another trial. I want you to be acquitted and released, period.

This is the most expedient and cost effective approach that we can take. You have to be patient. Don't rock the boat. We are not finished yet. As I told your mother, I am going to wait until the first of December before I start prodding the U.S. Attorney's Office.

You have to know that everyone, including your mother, is doing everything within their power to expedite this matter and get you out. Please trust our judgement.

Stop and think, we have accomplished since March what hasn't been accomplished in four years. Again, Be Patient. I know that you're saying, "Sure, it isn't you in here, that's easy for you to say." But, like I told you, this might be your only shot at this, don't screw it up. We're all behind you, and if I felt that there was anything else I could do, I would damn sure do it.

If you have anything else that you would like to know, just drop me a line. I will keep your mother informed of any new developments. I cannot impress upon you enough to be patient. We're working for you, not against you.

While you're waiting, I would like for you to get me the name and address of your former cell-mate. I think his name is Larry Olsen. I would like to talk to him before the feds get to him.

Hang in there, buddy. We've only just begun.

Sincerely,



Craig W. Christie



LEGAL INVESTIGATION BUREAU

Creekside at Homestead Business Park
Executive Suite 300G
1001 South 24th Street West
Billings, Montana 59102

Craig W. Christie
Investigator

(406) 652-3260

January 11, 1988

Mr. Barry A. Beach
A021520
700 Conley Lake Road
Deer Lodge, Montana 59722

Dear Barry,

Please find enclosed a letter directed to Mr. Robert Zimmerman, Deputy United States Attorney, requesting a status report on progress made to date, and a letter dated October 28, 1987 that should be of interest to you. I neglected to send it to you with the last correspondence.

I've had a couple of nice conversations with your mother and she tells me that you're getting antsy again. Slow down, Hoss. We haven't forgotten about you.

It seems that the hold up is at the state crime lab, and not at the U.S. Attorney's Office. Mr. Zimmerman assures me that as soon as he receives the necessary hair samples, he is prepared to issue warrants to obtain comparisons.

I don't want to appear to threaten the U.S. Attorney's Office with the media, we have them coming our way and I don't want to alienate them. At this point they are our only allies.

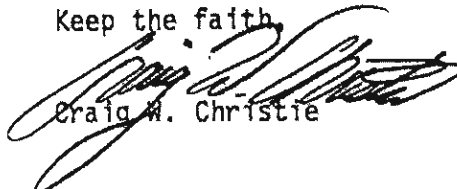
I've been awfully busy lately and haven't had a chance to break loose to get up there to visit with you and get a statement from Larry, but you're not forgotten.

Like I explained to your mother, from now on I'll request all status reports in writing to leave a paper trail and to assure a response. I'll try to do a little better in keeping you informed. Besides, you probably enjoy receiving the mail.

I hope that this will ease your tension a little and reassure you that something is still being done in your case. Hang in there buddy.

Just as soon as I know anything, I'll keep your mother informed. She's a sweetheart, you can trust that she's in your corner all the time.

Keep the faith


Craig W. Christie



LEGAL INVESTIGATION BUREAU

Creekside at Homestead Business Park
Executive Suite 300G
1001 South 24th Street West
Billings, Montana 59102

Craig W. Christie
Investigator

(408) 652-3260

January 11, 1988

Mr. Robert Zimmerman
Deputy United States Attorney
316 North 26th Street
Billings, Montana 59101

Dear Bob,

It has been nearly three months since we spoke together about the Barry Beach case.

I would like a status report as to the progress made by your office thus far, so that I may report the same to my client. He is becoming awfully impatient at this point, as he feels that nothing is being accomplished with regard to proving his innocence for the crime that he has been convicted.

I can sympathize with him inasmuch as it has been nearly four years since his conviction, and he has little to look forward to other than being exonerated for this crime.

I understand that the timing of this situation was poor, insofar as the Holidays and such. However, now that the Holidays are behind us and the new year offering so much ahead of us, I wonder if we can't jar the state crime lab loose to produce the evidence that we need so bad to prove or disprove our case.

I'm sure that you and your staff are doing everything possible to obtain the necessary items of evidence, but I'm not convinced that the state crime lab is cooperating to the fullest in producing what you have requested.

If there is anything that I might be doing in the meantime, please advise and I will made every attempt to accomplish it in a timely fashion so that we can expedite this matter by every means possible.

Again, I would like to thank you for your interest in this matter and I will be looking forward to your earliest favorable reply.

Sincerely,


Craig W. Christie

cc: Richard Carstensen, Attorney
Barry Beach

Richard J. Carstensen P.C.

ATTORNEY

316 NORTH 25TH STREET
P.O. BOX 2083
BILLINGS, MONTANA 59103-2083
(406) 245-6182

February 18, 1988

Mr. Barry Beach
No. AO21520
700 Conley Lake Road
Deer Lodge, MT 59722

Dear Barry:

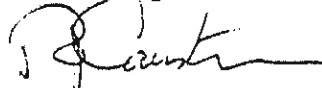
I met with Craig Christie in my office yesterday afternoon and he brought me up to date on the good developments in your case. He advised that the Sheriff did come to Deer Lodge and meet with you and get your information and that the Sheriff further plans to come to Billings next week and meet with Mr. Christie to get the information he has.

I can't tell you how pleased I am with this progress. There is just no way to describe the difference between our trying to reopen your case, and having the authorities actually do it. Anything we did would be so suspect, and their first reaction would be just to automatically deny it and contend that you had your trial and appeal and that everything was over.

Mr. Christie is going to keep me advised, and so we will just have to wait and see how this develops in order to know what steps to take on your behalf. There are several possibilities, but I still would anticipate what it will take will be a petition for post-conviction relief filed in the District Court. Of course, if we can support it with facts and proof that the authorities have investigated and charged someone else, I can't think of anything better we could have.

I will keep you advised.

Sincerely,



R. J. CARSTENSEN

RJC:srs
Copies to Mrs. Roberta Clincher
Craig W. Christie

Richard J. Carstensen P.C.

ATTORNEY

318 NORTH 25TH STREET
P.O. BOX 2093
BILLINGS, MONTANA 59103-2093
(406) 245-8152

May 10, 1988

Mr. Barry Beach
No. AO21520
700 Conley Lake Road
Deer Lodge, MT 59722

Dear Barry:

When I was able to reach Mr. Zimmerman, I advised him that I had been requested to meet with him on the matters that your family has turned over to the authorities. He indicated that he could not meet with me and give me any information as the matters now involve the Grand Jury. By law, all proceedings before a Grand Jury are secret, and cannot be disclosed to anyone.

However, I think this is helpful that we have this indication that it has gone this far. I will keep in touch with Mr. Zimmerman and also keep you advised.

I don't know how we would find out if the Grand Jury refuses to do anything, as I have already indicated that any such information would be secret and cannot be released to anyone. The best thing would be, of course, if the Grand Jury returned an indictment and if this happened, I am sure the information would immediately be in the newspapers and we would all see this.

As I indicated during our telephone conversation, I am also writing to the attorney in Louisiana concerning his affidavit and I will send you copies of my letter to him.

Sincerely,



R. J. CARSTENSEN

RJC:srs
Copies to Mrs. Roberta Clincher
Craig Christie

Richard J. Carstensen P.C.

ATTORNEY

318 NORTH 25TH STREET
P.O. BOX 2093
BILLINGS, MONTANA 59103-2093
(406) 245-6182

May 11, 1988

Mr. Barry Beach
No. AO21520
700 Conley Lake Road
Deer Lodge, MT 59722

Dear Barry:

After dictating my May 10 letter to you, I had another telephone call from Mr. Zimmerman.

He advised me that the Sheriff had checked the keys which had been delivered to him and had determined that these keys were not the correct keys to the car and the house involved.

I am not sure that I understand everything about these keys in any event but I got the impression that Mr. Zimmerman thinks that it probably is better for you that these weren't the right keys.

I will keep you advised.

Sincerely,



R. J. CARSTENSEN

RJC:srs
Copies to Mrs. Roberta Clincher
Craig Christie

Richard J. Carstensen P.C.

ATTORNEY

318 NORTH 25TH STREET
P.O. BOX 2093
BILLINGS, MONTANA 59103-2093
(406) 245-6182

June 3, 1988

Mr. Barry Beach
No. AO21520
700 Conley Lake Road
Deer Lodge, MT 59722

Dear Barry:

When I was meeting with an Assistant U.S. Attorney today on a separate case, I was advised that there would be a Grand Jury meeting in Billings this next week and one in Great Falls the week after that. I doubt very much if they would tell me whether or not the material you furnished them will be presented to the Grand Jury at that time, but I guess we can be hopeful that something will be done.

If nothing is done after this, then I think I would agree with you that we should proceed to file your Petition for post-conviction relief and get going on that. Barry, it won't take any six months to get this prepared and filed. I can't tell you just exactly how long it will take, because I will want to review everything in your file and everything Craig Christie has done in the meantime before filing it. Then I would propose to send you a copy for your approval before it is actually filed.

I will keep you advised.

Sincerely,



R. J. CARSTENSEN

RJC:srs
Copy to Craig Christie
Roberta Clincher

Richard J. Carstensen P.C.

ATTORNEY

316 NORTH 25TH STREET
P.O. BOX 2093
BILLINGS, MONTANA 59103-2093
(406) 245-6182

July 22, 1988

Paul Henry Kidd
Kidd & Kidd
233 South Grand
P.O. Box 3168
Monroe, LA 71210

RE: Barry Beach

Dear Mr. Kidd:

Barry Beach has contacted me and requested that I obtain the executed original Affidavit from you. I have gone over the copy you sent and I do not see anything that should be deleted.

I would appreciate it if you could return the original executed Affidavit to me. I will advise you before we file it or use it in any proceeding and as to how we intend to use it.

At the present time, the FBI and the State's Attorney's Office are investigating this case and as to the persons we believe were actually responsible for this offense rather than Barry. We understand that there have been statements taken, and investigative subpoenas issued requesting physical evidence from some of the suspects. Of course, as the Grand Jury proceedings are secret by law, we do not know exactly what they are doing or how far they have gone. I am sure you would agree that if the Federal authorities would charge some other persons with this offense that this would be the best thing that could happen to Barry and would be real support for our then request that his case be reopened and dismissed.

I will let you know when anything happens as far as the Federal authorities are concerned. However, if nothing happens fairly soon I am certain that we will want to go ahead and file our petition for post-conviction relief, raise all these matters as to new evidence, raise the matters set forth in your Affidavit, and then the other constitutional questions that we have already earlier raised.

Thanks for your help.

Sincerely,


R. J. CARSTENSEN

RJC:srs
Copies to Barry Beach
Mrs. Roberta Clincher

CONVENTION



DECORATORS

P.O. Box 5234 Helena, MT 59604
Phone 406-442-3238

May 22, 1989

*Copy to
Barry*

Dear Ray:

It was great to meet you at the Brotherhood Open House at Montana State Prison. We enjoyed the music, and were especially taken with your harmonies. You all were great! And, of course, Sherie is always a blessing and has become very much a part of us there!

You asked about Barry Beach. We have enclosed some copies which might enlighten you some on his case, and personality. Barry has a very strong testimony and a commitment to evangelism, which is personal evangelism at this point. We see him accepted by and encouraged by some of the toughest lifers whom others might fear. One of these (near forty years of age) recently told us that he went to Barry for Biblical counselling as a friend, in a personal crisis.

Barry's mother who sat next to him lives in Billings and is a Christian, and her phone number is 628-6854. She has been through a lot, working on this case, we understand. We are told there have been threats, etc., and that there was also a contract out on Barry's life in prison and no one picked it up. These are things not discussed, usually. Of course, if Barry is not guilty as he says, and as many believe, then someone is...who would not want to be found out.

Keith Babcock is a minister friend of the family who is the chaplain at the Billings Rescue Mission as well as an evangelist. He likes Barry and knows the family some. His phone is 406-259-3800.

There is another Open House on June 17th, a little different, since it is sponsored by the Cursillo Movement, which has been becoming interdenominational. We shall see Barry then. Our daughter, Debra, stood with the worship team does Gospel concerts and will sing a couple of numbers there.

I used this stationery because it is our family business identity, and in this role we have gotten to know many from Sask. The Sask. govt. blocks a number of booths at the MAGIE in Great Falls, and we do this in January. They are very special people, and we look forward to seeing them every year! (MT AG. & Industrial Exposition)

I (Jackie) went one year to Praire Bible Inst. at Three Hills, Alberta in High School, also.

We are also visiting and writing one man at M.S.P. who is from Brainard Manitoba. Terry was once on the 12 most wanted list for Canada, and also says he did not commit the crime. Terry Mackie's case is another tough one, and he has been waiving parole here in fear of going to Canada. Terry is born again, but doesn't attend chapel. We did get him to go with us to Prison Fellowship Seminar once.

DISPLAY MODULES -- SALES & RENTALS

FREIGHT HANDLING & STORAGE

CONVENTIONS -- THEMES HOME SHOWS -- EXHIBITS TRADE SHOWS -- FAIRS BOOTHS, TABLES & ACCESSORIES

2.

Again, thank you again for your interest in these at "Montana School for the Precious", as we call it. And, thank you for caring especially about Barry. Barry is now 27, as of February 15, and has done five years. He is one we can trust to send outsiders to visit and have them come out excited about following Jesus Christ and memorizing the Word!

We hope to see you again, and to hear you play! We're sorry we did not catch the name of the other man with you, but he has a real gift and his music truly is a blessing!

In His Love,

Ken + Jackie
Ken and Jackie Petersen
also
(Chris and Debbie)

P.S. Barry believes that this is the year of breakthrough on his case, and we are simply opening doors where invited, for if you are a part of this in any way, even by intercessory prayers, Barry would welcome it!

KIDD & KIDD
233 SOUTH GRAND - POST OFFICE BOX 3168
MONROE, LOUISIANA 71210
318 / 325-3884

PAUL HENRY KIDD

January 22, 1990

OF COUNSEL:
PAUL HENRY KIDD, JR.

Mr. Barry A. Beach
A021520
700 Conley Lake Road
Deer Lodge, Montana

Dear Barry:

I received your letter of January 5 and would like very much to help you. My problem is that adverse economic conditions have prevented me from really taking off any period of time to render the kind of help I think you need. I still have hopes that I can come to Montana and help you.

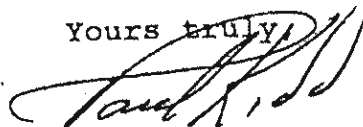
I really would like to know more about the people the F.B.I. suspect. I really think the answer to your post-conviction relief (obtaining a new trial) lies here in Louisiana with Joe Cummings, Hoyt Moncrief, and myself. You need to show that your conviction was procured by perjured testimony--i.e., that Jay Via testified falsely when he testified that you confessed a second time in my presence. We all know the reference was to your taking the polygraph test. Your conviction was upheld by the Montana Supreme Court because it said it could not believe you could confess to a crime you did not commit in the presence of your attorney.

That's the whole ball game in a nutshell! Don't lose sight of this. It's too easy to lose sight of what's important because there are so many facets to your case. Ineffective assistance of counsel is almost impossible to win. Get someone to pursue what Jay Via did; I believe this is a winner.

Keep your chin up. If I can ever break away, I will

With kind regards, I am

Yours truly,



PAUL HENRY KIDD

PHK/rw
cc: Robert Clincher

VOCAL OF MONTANA
Post Office Box 575
Kalispell, MT 59903

February 12, 1990

Roberta Clincher
202 West 12th
Laurel, MT 59044

Dear Roberta Clincher:

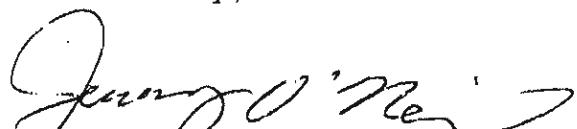
I have on my desk a letter from you requesting my recommendation and support and for me to contact others regarding your son, Barry A. Beach.

I am willing to make an effort to help your son, but there is a problem that I will need to be helped with. The chief problem is that I don't know your son and am not familiar with his story. I presume his troubles happened when Russell Sias was the president of Vocal of Montana. There is probably an extensive amount of information concerning Barry in the Vocal file. I might be the custodian of this information, or Russell might have taken it to Minnesota with him. Either way, I don't know where it is nor what it says.

While slim, there is some chance that I might start writing articles for various newspapers. If so, at the moment, I have information at hand for probably half a dozen articles. After that I will be looking for information for more articles.

If you would send me a letter explaining Barry's situation and what happened to him, if I succeed with the articles, I would consider including his story in one of the articles. If you would want me to use his name in the article, besides the story, I would want permission from him to do the article.

Yours truly,


Jerry O'Neil

cc: Russell Sias



LEGAL INVESTIGATION BUREAU

3932 First Avenue South
Billings, Montana 59101

Craig W. Christie
Investigator

(406) 248-1252

March 22, 1989

Joe McGinnis
c/o Donahue Staff
30 Rockefeller Plaza
New York, New York 10012

Dear Mr. McGinnis:

I am writing on behalf of Mr. Barry A. Beach, who is currently an inmate at the Montana State Prison, convicted of a homicide and sentenced to a 100 year prison term without the possibility of parole.

I understand that Mr. Larry Owens has been in contact with your staff on behalf of Mr. Beach and that you have expressed an interest in his particular situation.

I became involved in Mr. Beach's case approximately two years ago and during the course of my investigation was able to generate enough interest to the United States Attorney's Office for them to obtain Grand Jury subpoenas to obtain additional evidence against other suspects in the case.

Unfortunately, that particular evidence was inconclusive for the purposes of implicating the suspects to the point of obtaining arrest warrants.

Some of the interesting points surrounding Mr. Beach's case include the involvement of at least five law enforcement agencies, an Indian reservation, the military, the states of Montana and Louisiana and the fact that Mr. Beach wasn't arrested until some four years after the homicide was committed.

I understand that Mr. Beach's case is currently on appeal to the United States Supreme Court, however, don't know what the status of that appeal is at this time.

Please feel free to contact me at any time with regard to this case, and I will be happy to cooperate in any way possible with the results of my particular investigation into this matter.

Sincerely,


Craig W. Christie

April 20, 1989
P.O. Box 5234
Helena, Montana 59604

Re: Barry A. Beach A021520

To Whom It May Concern:

This family has been involved with the prison ministries at Montana State Prison since 1977, some of which have included a Bill Glass Evangelism Week End, Chuck Colson Prison Fellowship Seminars, Cursillo, and we remain supportive of the Chaplain's chapel programs. Writing letters and visiting on a one to one basis is an important part of our lives. There are so many, and so few to care and encourage these men.

Over all of our years at "Montana School for the Precious" we see those who look to God in their adversity and determine not to let time stand still, Barry Beach stands out to us as unique in commitment and dedication to God and truly compassionate for those about him. As a young man in a men's prison, we have watched Barry continue in maturity both as a man and as a Christian, growing in the knowledge of God's Word, and allowing God to continue the rebuilding of his life. We have watched Barry weather storms of doubt, temptations of life, and the temptation of gnawing hopelessness for a young life confined to a life of prison for a crime he maintains he did not commit.

We have observed the reactions of those about Barry, and we see that he has the respect of staff, the Christians "in the yard", and the "lifers" who have respect for him not only because his walk agrees with his talk, but for how he "does his time". Barry is encourager of so many who are hurting about him, and he exhorts those to faith in God as he demonstrates this by his own attitude. We have observed in Barry a humble, gracious, forgiving man and whose confidence in God enables him to also walk in "tough love" in the yard as a friend and encourager to some whom others might fear.

It is our hope that Barry's story would be heard, whether in court or in the media. We find that his daily life gives his story credibility, and as continues to make God the priority in his life, we believe truth will prevail.

Thank you.

Sincerely,



Ken and Jackie Petersen

735 CUSTER
Billings Mt.
59102



(D-9)

Barry A. Beach
Box 700 A021520
Conley Lake Rd.
Deer Lodge, mt.
59722

4a-7

NOV. 3 1954

Barry-

Hi, how are you doing? I'm doing fine. I wrote to your mother and got your address. Surprise!! I hope things are going alright for you, I think about you all of the time and it just hurts me to know you are up there. I want you to write back to me, if you will. Barry, I know this is hard on you but did you kill Kim? I have to know for sure. I have heard that someone else had helped you and if this is all true, why don't you say something. Well enough of that. at the moment I am going to the Adult Learning Center to get my G.E.D. and I am also looking for a job. Barry I don't care about what anyone thinks about me writing to you because I care about you and I always have and always will. We were close you know, and at the trial I wanted to run over to you and give you a big hug, just because you looked like you needed one and you also looked like you wanted to hold me too! did you or was it just my imagination. if my car was running good I would

come up there and see you and
damn it I'll make it someday. I
think I have to fill something out
before I can see you, don't I? I
do send what ever you have to
ok. Barry I have to go now...oh
did you know that the girl I live
with use to go out with Brad
along time ago, her name is Lori
Parsons. If you get a chance
ask him about her. now I'm
going to go. take care & God bless
you.

Love,

Pam

write:

Pam Nees
735 Custer
Billings MT.
59102

These statements were from contact with Psychics that were made from the sheriff's office shortly after the homicide.

The connection of their use in the statement from Barry was that they were used to support the idea that it was an angry type of response because of refused sexual advances. Otherwise there is no connection to actual factual evidence.

SUPPLEMENTARY REPORT

NO. _____

Classification _____

Name of Complainant _____

Address _____

Phone No. _____

Offense

KIM NEES HOMICIDE

DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.:
(Investigating Officer must sign)

Page No. 1

Date _____ 19__

McMullen: Are there pictures?

A. I've got autopsy pictures, do you want to see those?

McMullen: yeah or uh huh-inaudible

McMullen: You know she dated and everything else. Can I say what I want?

A. Sure, absolutely.

McMullen: She was a cock teaser. She'd get a guy right up to the hilt, going crazy and uh, she would let him go so far and that was it. And uh, she just did it once too often. She played the game and she paid the price. And uh, it was just one of those things, the guy just got completely out of control and and then realized what he'd done and didn't know what the heck to - he didn't mean to do it. He - after he'd got through the fury of you know, rejection, he just didn't know what he was doing. He went crazy. And she just did it once too often. She'd let a guy go just so far and then she'd just blow it. She played it once too often and it's just one of those things. It was one of the guys she was going with.

Q. Can you focus in on the identity of that person? Any clues that would lead the police to -

McMullen: Inaudible (two voices jumbled)

A. Yeah, that question as well as the location of the -

McMullen: Not anywhere in the area now. He was in her class at school. His name was Jack or Jim. That's as close as I can come.

Q. Can you tell us anything else about him? His physical Characteristics? Do you know where - -

INVESTIGATING OFFICER(S) _____ 26 REPORT MADE BY _____ DATE _____

CASE FILED Yes No 28 THIS CASE IS Cleared by arrest Unfounded Inactive Other 29 APPROVED BY _____

SUPPLEMENTARY REPORT

NO _____

Classification _____

Name of Complainant _____

Address _____

Phone No. _____

License _____

DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.:
(Investigating Officer must sign)

Page No. 2

Date _____ 19__

McMullen: He was big. He was big. He played football.

Q. Where do you put the murder weapon?

McMullen: Threw it in the river.

Q. Threw it in the Poplar River? Right there at the scene?

McMullen: Yeah. And the keys.

Q. And the keys?

McMullen: Uh huh.

Q. Here is a drawing of the body, did he throw it near where he
dug the body?

McMullen: Uh huh. He threw them off over here this way.

Q.- That would be to the left of where her body was found.

McMullen: Inaudible.

Q. He threw them from there into the river?

McMullen: Yeah. One item would be almost to the other side in a
hole, that's the wrench. The keys didn't go quite
that far.

Q. Okay, so that would be how many yards below- is that
below-stream? Which way is the river flowing?

McMullen: I don't know. All I know is if you're facing the river,
it's to the left. Down river.

INVESTIGATING OFFICER(S) _____ 26 REPORT MADE BY _____ DATE _____

CASE FILED

28 THIS CASE IS

29 APPROVED BY _____

Yes No Cleared by arrest Unfounded Inactive Other

SUPPLEMENTARY REPORT

NO. _____

Classification _____

Name of Complainant _____

Address _____

Phone No. _____

Offense _____

DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.:
(Investigating Officer must sign)

Page No. 3

Date _____ 19__

Q. About how far down the river would that be?

McMullen: I would say about uh, - - uh, 150 feet. From where they found the body.

Q. Jim or Jack in her class. They don't have a large graduating class. Anything else on that one George, come to you?

McMullen: No.

INVESTIGATING OFFICER(S) _____ 26 REPORT MADE BY _____ DATE _____

CASE FILED Yes No 28 THIS CASE IS Cleared by arrest Unfounded Inactive Other 29 APPROVED BY _____

She knew him.

Alright.

They had been together. I want to go to a hill. I'm overlooking

She's not heavy, she's slender. She also had a lot of problems. And she felt very much alone. She did have a friend. She had been involved but that was no longer happening. She did know him. I am like ah a place where we parked, and I can overlook the city. The next thing I know is I'm coming down a road, there is a hill here and the next thing I know is, now I'm going back in her time okay? I like to swim she shows me. So she liked the water. She also shows me that there are some pictures with her like in a bathing suit and this is very important. Now she's got her arm around him, so she did know him. Older, Books, like college, school. Out of books, no longer there. Plaid jacket, inside fuzzy, red, like red and black plaid.

Hers or his?

Mine. There's, she shows me that he has facial hair. His eyes are funny, real funny. There is a scar on the face. There's a gun on the wall. Looks like its taken down off the wall, like maybe he ah likes hunting, sports activities. Barrels, rolling in barrels, I don't understand this. This big barrel is being rolled. And I hear something being plunged into water. Like I hear it going bomp And I'm going, like I'm down. And I'm brushing my hands off and myself off and I'm leaving. I don't understand this. I hear the words "Come get me, come get me". What do you want to know?

Well the things that you've mentioned so far are very, very interesting.

This is Sheriff Carpenter, the pictures there was a new set of pictures here with a whole bunch of them swimming. They, from a party they had had with a bunch of their friends, boats, and if I'm not mistaken there is one with her with her arm around a guy. Very interesting.

The reason that we made the original call is I talked with Rick Ross from the Sheriff's office in Billings, he said he had worked with you on the Burnhardt case down there. Would it be beneficial to you and to us if you were to visit the area that this young lady was found at?

If you can come in and then see the area and then leave and then do it over the phone, it helps a lot. We try to usually do as much over the phone as we can because #1 it saves expenses, #2, I've never ever charged the bureaus but I can't afford to do that anymore because my office ~~expenses~~ with my offices girls and mail and everything has just gotten so much that I don't have any money left. So that's a difficult situation. And you guys are ~~xxxxxx~~ like I am you're usually on such a tight budget that you don't have any money.

Oh we can find some (Don)

And facial hair.

Right.

Is there anything else that

I think that's about it maybe.

Greta, why don't we send the pictures out to you.

Okay, let's work it that way first.

Okay and then you have our phone number there and

Be sure and put it in there again because it goes in the call book and you know oh boy.

You wouldn't have time to come out here at a later date if it if you thought it was advisable? (Don)

If we could afford to come I would, you know.

We're prepared to pay if that's if you think.

Well let's try it this way first. And if we can't then we will.

There is something here that I don't understand, something was thrown in the water that goes b..... could be weapons.

Yeah they could of been put in the barrels

That's exactly what it looks like to me.

But in the barrels and sunk.

Like a 55 gallon drum.

There's plenty of them available out here.

And it just goes blump.....I can hear it.

How about the victim in the water.

Definitely.

So I usually try to work as much as I can over the phone.

How about photographs?

Photographs help alot. If I have a picture, like of her and a picture of where it happened then I will take them and if you will send those individually but together and put them in an envelope each one in a single envelope and write on the front like - scene, girl, then I won't open them at first I'll just hold them in my hand. If you'll put those each in a single envelope and then put them in a big manilla envelope then my secretary can give them to me one at a time and I can feel of them before I open them. And then that helps.

Greta, what would your mailing address be there?

Box 664 Delavan, Illinois 61734

She did know him and they had sat in the car together. I keep seeing, he's doing alot of drinking right now. He's going to be glad when he's caught, he really wants to get caught. He really didn't mean for this to happen.

You don't see any necklace, diamond? (Don)

That's secondary.

Greta, how about any type of a weapon?

I feel like there were 2 involved. I'm going to a weapon that would remind me alot of a knife or like a fingernail file or like a knife. The next thing I feel is like I'm being choked. Ear hurts, something here about the ear or the head.

Is there a reason for the hurting?

Because she should of had something happen to her there. Also there is something here about pulling her shoes off. What about her shoes?

She had both shoes on didn't she Don? (DON) I think they were thongs if I remember right. No they weren't they were shoes, they were both on, I've got the picture here.

That's interesting because there is something here about pulling her shoes off. Cause

How about pulling her by the feet?

Yes, definitely. That's it.

Yeah, that's the way she went. (Don)

How about the, you mentioned the funny eyes and the star on the face, the star I

Scar

LAW OFFICES
KIDD & KIDD
232 SOUTH GRAND - POST OFFICE BOX 8168
MONROE, LOUISIANA 71210
318 / 325-3884

PAUL HENRY KIDD
THEODORE J. JOHNSON
ELIZABETH M. JOHNSON

OF COUNSEL:
PAUL HENRY KIDD, JR.
MILTON DALE PEACOCK

November 11, 1986

Mr. Richard J. Carstenson
Attorney at Law
316 North 25th Street
P. O. Box 2093
Billings, Montana 59103-2093

Dear Mr. Carstenson:

Thank you very much for your recent letters concerning Barry Beach. I apologize for the delay in responding to your request for information and advice. At the outset, I must say that the situation is very complicated.

Last year, I spoke with Detective Cummings, who was a witness to the alleged confession made by Barry. Cummings, who is no longer a law enforcement officer, initially indicated that Detective Via had perjured himself at the Montana trial. My opinion was that Cummings was essential, in order to corroborate my testimony and the testimony of Hoyt Moncrief.

My biggest concern at the time was to avoid an adverse factual determination, in which the trial Judge would simply find Jay Via and Alfred Calhoun more credible than Hoyt Moncrief and me. Cummings was the key, and I perhaps wasted a lot of time trying to develop his testimony and win him over to our side. As you know, a state court finding of fact based upon credibility of witnesses would be finding on the federal habeas court in a subsequent proceeding. Should the trial Judge believe Via and Calhoun, it would destroy our chances in Federal Court. This factor is what slowed my progress. I know that it is difficult for Barry to understand this.

Mr. Cummings recently indicated that he would not sign an affidavit corroborating the testimony of Hoyt Moncrief and me. It is very possible that Cummings discovered that such an affidavit might well contradict a portion of his testimony at the pretrial suppression hearing and thereby subject him to perjury. At this point in time, we cannot be certain as to what Cummings will testify to, if called to the witness stand. We are playing with dynamite in this respect. If he corroborates Via and Calhoun, I don't have to tell you that we don't have a prayer.

It would appear that some of the issues presented on direct appeal, such as involuntary confession and fruit of the poisonous tree, give rise to a plausible habeas petition. These can be presented directly to the Federal district court,

Mr. Richard Carstenson
November 11, 1986
Page two

since state remedies have been exhausted. If we want to present the issue regarding the perjured testimony of Via, we must file a state postconviction application. I guess that we have nothing to lose by presenting this claim and letting the pieces fall where they may. I am willing to testify and Hoyt Moncrief will testify.

If I am a witness, I should not be counsel of record. My law clerk, Mr. Darrell Cvitanovich, is most eager to assist you in preparing the habeas, or postconviction petition.

At this time, I am willing to either return the record to you with the unearned portion of the fee, or assist you in filing the brief. Should you elect to take full responsibility for filing the brief, I will be happy to send you all of our research.

I am sorry for the delay in this matter, but the situation has been much more complicated than Barry perceives it to be. Please know that I could not rush into the matter, if there was a chance of getting Cummings to help us.

Please advise me of your thoughts in this matter.

Sincerely,

KIDD AND KIDD


Paul Henry Kidd

PHK/bk

cc: Mr. Barry A. Beach
Ms. Roberta Clincher

LAW OFFICES

KIDD & KIDD

233 SOUTH GRAND • POST OFFICE BOX 3168

MONROE, LOUISIANA 71210

318 / 325-3884

PAUL HENRY KIDD
THEODORE J. JOHNSON
ELIZABETH M. JOHNSON

OF COUNSEL:
PAUL HENRY KIDD, JR.
MILTON DALE PEACOCK

February 10, 1987

Mr. Richard J. Carstensen
Attorney at Law
316 North 25th Street
P. O. Box 2093
Billings, Montana 59103-2093

Re: Barry Beach

Dear Mr. Carstensen:

As per our recent telephone conversation, please find enclosed Barry's trial transcript and two sample briefs.

The brief on behalf of John Glass Dickinson concerns the involuntary confession issue. I would think that we need to stress the illegal detention as well as the inordinate length of said detention as factors tainting the confession purportedly made by Barry. Once this is established, we need to refer to the well settled federal jurisprudence discussed in the Dickinson brief. The second enclosure is an excerpt from a brief concerning the issue of perjured evidence. As you can see, there is not an abundance of case law on this subject.

I take the liberty of informing you as to how I would go about framing these two arguments, and particularly setting up the facts. This with fifty cents will get you a cup of coffee anywhere in Montana [if you only drink one cup].

You might want to outline your factual statement of the case by pulling the background facts from the record [such as the reason for Barry's original detention and facts giving rise to the first custodial statement]. At this point in the factual statement, you might want to simply establish that no further statements were made by Barry, notwithstanding allegations made by State witnesses. From this point, you would proceed to set forth the trial facts as per the record. Once you reach the point in which Via and Calhoun allude to the second confession made by Barry in the presence of his lawyer, you will need to resort to affidavits from Paul and Hoyt Moncrief. You may wish to mention the presence of Cummings at this point, although it might turn out to damage us.

There is no doubt that your factual statement of the case will be the most difficult portion of the brief. If you prepare a rough draft of your factual statement, I will be happy to look at it and work closely with you.

Mr. Richard J. Carstensen
February 10, 1987
Page 2

The trial record, which consists of many volumes, is being sent separately.

Thank you very much for your concern in this matter. Please feel free to call me if I can be of assistance.

With kindest personal regards, I remain

Very truly yours,

KIDD AND KIDD



Darrell Cvitanovich
Law Clerk

DC/jn

Enclosures

cc: Ms Roberta Clincher
P. O. Box 426
Poplar, Montana 59255

Mr. Barry Beach
#A021520
Montana State Prison
P.O. Box 7
Deer Lodge, Montana 59722

STATE OF LOUISIANA

NOV 11, 1980

PARISH OF OUACHITA

BEFORE ME, the undersigned authority, personally appeared Paul Henry Kidd, who being duly sworn deposed:

I have been a duly licensed attorney in the State of Louisiana since August, 1966. I have handled many criminal defense cases since being admitted to the practice of law.

Sometime in early January, 1983, Barry Beach's father contacted me on a Saturday morning about representing Barry on possible murder charges in Ouachita Parish. I do not remember the date of the month, but I do recall it was on a Saturday because I was rearranging some carpet on some stairs in the back of my office. Barry's father told me that Barry had just made a statement implicating himself in a murder case.

I do not remember the sequence of events following that day until Barry was given a lie detector test, in which I was in attendance. I think I went over to the Ouachita Parish jail (it is right across the street from my old law office located at No. 1 Wood Street in Monroe, Louisiana) which was, and still is, in Monroe, Louisiana, immediately after Barry contacted me. I took a great deal of interest in Barry's case and talked to him numerous times during the period of time he was in the Ouachita Parish jail.

I learned that Barry had been arrested on some juvenile charge involving his sister, who was a minor, and another juvenile friend of his sister. It had something to do, I think, with Barry taking his sister to her girl friend's house. Barry, to my recollection, was never charged with any crime in this connection, but he was booked into Ouachita Parish jail on this charge.

If my memory serves me correctly, a computer search was run on Barry and it turned up that he was a suspect in the Nees murder case in Montana. I really have no knowledge of just how the local authorities gained this information.

More importantly, there was a local task force investigating the murders of three young women in Ouachita Parish. Barry, because he was a suspect in the Montana murder, became a potential suspect in the local murders. I say a potential suspect because he was questioned about the three local murders, and in particular, about the last of the young women to be killed. The last of the three local victims was killed near Swartz (in Ouachita Parish), which was in fairly close proximity to where Barry's father lived. It is my recollection that Deputy Jay Via was of the firm opinion,

after questioning Barry about the Montana murder, that Barry had killed the young lady near Swartz and was likely involved in the murders of the two other women in Ouachita Parish.

When I questioned Barry about his giving a statement about his involvement in the Nees murder in Montana, he gave me a very bazarre story of his interrogation by Deputy Jay Via. Barry told me Via questioned him about the Montana case and when he (Barry) denied same, Via told him to imagine or envision how the murder took place. Barry told me Poplar was a very small town, that everyone knew about the case, that he dated the victim's sister, and that there was an actual display of the murder scene in the window of a local store (I think he told me it was a drug store, but I am not sure). In any event Barry said he gave Via a vision of how the murder took place. During this period of questioning, the interrogation was not being recorded. What amazed me was that Barry told me that Via actually held Barry's hand during this interrogation and prompted Barry at opportune moments, "Don't disappoint me." Finally, according to Barry, Via then told Barry to substitute himself for the perpetrator of the Nees murder and Barry's statement was then recorded. I do not know if this procedure took place or not, but such method is not unusual for the Ouachita Parish Sheriff's office. Former investigating commander Alfred Calhoun has acknowledged praying with suspects during interrogation.

After repeated conferences with Barry, I became convinced of Barry's innocence in all of the murders. I, of course, had no way of knowing whether he was or was not involved. But the reason I say I was convinced of Barry's innocence was because I agreed to submit Barry to a lie detector test. I never do that when I think my client has some guilty knowledge. When I don't know I have my client submit to a private lie detector test where the local authorities have no knowledge of the results. In Louisiana, lie detector tests are not admissible at trials on the merits.

In any event, I agreed for Barry to take lie detector tests (the date of which I do not remember). Ouachita Parish deputies were in attendance at these tests. However, I arranged for Hoyt Moncrief of J & M Investigations to run the tests. Mr. Moncrief was a former Ouachita Parish Sheriff's Deputy and is well regarded by law enforcement officers and defense lawyers. These tests were the only occasions that Barry was ever questioned by anyone in my presence. Barry denied any involvement in the Montana murder (Nees). Barry denied any involvement in the Ouachita murder cases. After the tests were run, Mr. Moncrief advised both the Sheriff's Department

and me (at the same time and while we were together) that he believed that Barry was telling the truth about having no involvement in the Ouachita Parish cases. Mr. Moncrief also advised that Barry had a couple of hot points on the Montana case and felt that he knew too much about the details of the murder scene in the Montana case to clear him. After the lie detector tests, Barry was no longer a suspect in the Ouachita Parish cases. It is my understanding that one or more of these cases have been cleared by confessions of Henry Lucas.

Sometime after the tests were run, the court appointed attorney, Mr. Francis J. McCarvel, came to Monroe to visit Barry, while he was still in jail here. The information about these tests was made known to Mr. McCarvel when he visited with me when he was in Monroe. I believe he will be able to verify same.

In any event, Barry was eventually extradicted to Montana. The next thing I knew about Barry was when Mr. McCarvel sent me a copy of the Montana Supreme Court's decision on Barry's case. See attached copy of Mr. McCarvel's letter.

It goes without saying that I was outraged over Jay Via's alleged testimony that Barry confessed to the Montana murder in my presence. Obviously, the January 11, 1983 confession in my presence had to refer to the lie detector tests date. That is the only occasion that Barry was ever questioned by anyone in my presence. Since beginning the practice of law, I have never permitted a client of mine (absent immunity or something close to immunity from prosecution), to confess anything to anyone. It just isn't the way I practice law.

After receiving the copy of the Montana Supreme Court case, I called Mr. Moncrief to confirm my recollection. He did confirm my recollection. I asked him if he still had the tests. Mr. Moncrief had the tests when I talked to him and it is my belief he still has them. I have not, however, talked to him in sometime.

I then talked to former City of Monroe Police Officer Joe Cummins to inquire what had happened up in Montana. It is my recollection that Mr. Cummins told me initially that he had told Jay Via that he had better be careful. I do not want to repeat what I recall Mr. Cummins told me because he later declined to give me an affidavit. I believe Mr. Cummins will testify truthfully about what occurred at the lie detector tests.

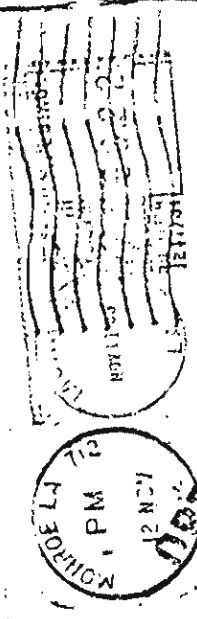
PAUL HENRY KIDD

SWORN TO AND SUBSCRIBED before me this _____ day of May, 1987.

NOTARY PUBLIC
(LIFE TERM)

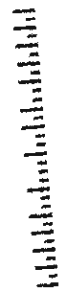
LAW OFFICES
KIDD & KIDD
233 SOUTH GRAND • POST OFFICE BOX 3168
MONROE, LOUISIANA 71210

DO NOT REMOVE



RECEIVED IN MY PRESENCE
DATE _____
BY *[Signature]*

Mr. Barry A. Beach
A021520
700 Conley Lake Road
Deer Lodge, Montana 59722



Military Report of ... was extracted from the ...

UNCLASSIFIED

ARLINGTON HALL COMMUNICATIONS CENTER

RZTUZYUN RUMYSOQSOZ 0860638

ROUTINE

R 262047Z MAR 82

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TO: COMNAVAIRPERSCOM WASHINGTON DC

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SUBJ: ADMIN DISCH ICD SA DARRY A. BEACH, USN, 517-74-7617 NMPC 8322

A. CHNAVPERS WASHINGTON DC 101629Z MAR 82

B. MILPERSMAN 3420158.1H

C. ENTNAC ICD SNM OF 26 JAN 82

D. PHONCOM BETWEEN LT ARBOGAST (CDS 1C) AND SHERIFF D. CARPENTER (WOLF POINT SHERIFFS OFFICE) OF 25 MAR 82

1. IRT REF A INVESTIGATION DOES NOT INDICATE FRAUDULENT ENLISTMENT AS DEFINED BY REF B

2. AS DETERMINED BY REFS C AND D SA BEACH WAS NEVER ARRESTED, CHARGED, CITED OR HELD BY LAW ENFORCEMENT IN CONNECTION WITH THE 16 JUN 79 MURDER OF MS KIMBERLY NEES, ACCORDIAL TO BUTTE MONTANA FBI RPT OF 26 MAR 80, WHICH IS AN ATTACHMENT TO REF C. SA BEACH IS A PRIME SUSPECT IN THE CASE AND WAS GIVEN

POLYGRAPH TEST. HOWEVER, IN REF D IT WAS EMPHASIZED BY SHERIFFS OFFICE THAT SA BEACH'S PARTICIPATION IN ALL QUESTIONING AND TESTS WAS STRICTLY VOLUNTARY. BECAUSE HE WAS NEVER OFFICIALLY ARRESTED, CHARGED, CITED OR HELD REGARDING MURDER CASE, HE WAS NOT LEGALLY REQUIRED TO INCLUDE IT ON HIS DD 1966.5 OR EVEN MENTION IT DURING HIS PROCESSING FOR ENLISTMENT. CNSL LEGAL CONCURS WITH THIS INTERPRETATION AND SUGGESTS CONSIDER COG DISCH.

3. SA BEACH IS PRESENTLY TAD TO STAFF WHILE SPRUANCE IS DEPLOYED OUTUS. REQ ADVISE IF COG DISCH AUTHORIZED.

BT

CNMPC WASH DC
ACTION NMPCB (4)
INFO YFX CK (1)

(U, P)

5

29 MAR 1982

NCN=82086/07333 TOR=82086/06432 TAD=82086/07172 COSN=MAC038

UNCLASSIFIED

PAGE 1 OF 1
262047Z MAR 82

4

June 16, 1979

D-5

Incident: HOMICIDE

Location: BURLINGTON-NORTHERN RAILWAY BRIDGE-POPLAR RIVER

Victim: KIMBERLY ANN NEES, DOB 8-2-61, 454-1/2 B Street West, Poplar, Montana

At approximately 4:15am, this Reporting Officer, and Ft. Peck Tribal Patrolman ALFRED LIZOTTE, were on patrol in the Poplar Area of the Ft. Peck Indian Reservation, working the 11:00pm to 8:00am shift. On this particular time and date, both Officers observed a late model GMC pickup truck, light green in color, and recognized as belonging to a TED NEES of Poplar, Mt., parked near the Burlington-Northern Railway Bridge over the Poplar River, while on patrol of U.S. Highway #2 west of Poplar, Mt. Since everything appeared to be in order, this vehicle was not checked at this time, and the patrol west was continued.

Shortly before 7:00am, the same vehicle was once again observed from the West Housing area, which is located on a hill overlooking the Poplar River. Since this vehicle was still parked in the area of which it was first observed, and since there has been a re-occurrence of stolen vehicles and vehicle vandalism, it was felt this vehicle should be checked.

Officers arrived on the scene at approximately 7:00am, and noted the vehicle license being Montana 17T392, and requested a registration check through Ft. Peck Tribal Police Base Station MOD 504. The registration check came back registered to H. NEES, 1977 GMC, Poplar, Mt.

This vehicle was checked, and Officers noted the interior to be blood splattered, a red handbag on top of a white sweater below the right door and also with what appeared to be blood on both items, a blood spot approximately 10 feet from the right side of the vehicle, and what appeared to be drag marks along the trail leading to the Poplar River. This Reporting Officer then followed the drag marks for approximately 30 feet and noted several strands of blood matted hair, OFFICER LIZOTTE was then called to the spot, and then both continued to follow the drag marks to the River. More blood was observed on the top of the river bank, and then the body was observed below the approximate 12 feet embankment and approximately 10 feet from the shoreline, lying face up, head to the North, in approximately 2 feet of water, t-shirt rolled above the breasts, time being approximately 7:05am.

This Reporting Officer then requested assistance from the Roosevelt County Sheriff's Office, the Federal Bureau of Investigation, City Police Officer Stephen Gray Hawk, Ft. Peck Tribal Patrolman Charles Four Bear, and the BIA Law Enforcement Services. Four Bear and Gray Hawk were assigned to seal off the entrances to the scene, myself and Lizotte then secured the scene until it was fully processed by the Roosevelt County Sheriff's Office.

Reporting Officer:

Sgt. Calvin W. Red Thunder
Sgt. Calvin W. Red Thunder
Ft. Peck Tribal Police Department
Poplar, Montana

Date 6/20/79Page No. 1

STATEMENT OF:

Errol O. Wilson

At approx 11:00 on 6/16/79 I observed the following evidence in a light green GMC Pickup belonging to Kim Nees:

1. Splattered blood on drivers door and window
2. Urine on drivers seat
3. Hair and flakes of blood on steering wheel
4. Blood splatters on ceiling
5. Heavy blood stains on passenger seat
6. Bloody smudged fingerprints on right upper molding
7. Kim/Life envelope on center of seat
8. Blood splatters on back seat
9. Blood splatters on rear window; heavy blood splatters on drivers side
10. No keys
11. Gear shift lever in park
12. Radio on
13. CB off
14. Ash tray open
15. 3 gouge marks in ceiling - hair hanging out
16. gouge mark on steering wheel
17. Reiter on
18. passenger door locked

Errol O. Wilson

D-8

SUPPLEMENTARY REPORT

OFFICER'S REPORT
Classification

NO. _____

Name of Complainant _____ Address _____ Phone No. _____

Offense HOMICIDE KIMBERLY ANN NEES (6/16/79)

DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.:
(Investigating Officer must sign)

Date (Jan 7 _____ 1983)

Page No. _____

On 1/5/83 at approximately 1230 hours, I was contacted by one Sgt. Jay Via, of the Ouachita Parish Sheriff's Office, Monroe, Louisiana, Phone #318-388-2222, P.O. Box 1803, Zip Code 71210-1803.

Sgt. Via advised me that he is presently investigating three unsolved homicides in his jurisdiction. All of these cases involve young females. Sgt. Via stated that through his investigation he has been able to establish a connection between Beach, Barry Allen and his three victims. Sgt. Via requested any and all background information this department could supply on Beach and Kimberly Ann Nees. I advised Sgt. Via that I would forward any and all pertinent information to him.

25 INVESTIGATING OFFICER(S) Sheriff Dean Mahlum 26 REPORT MADE BY DEM DATE 1/7/83

27 CASE FILED Yes No 28 THIS CASE IS Cleared by arrest Unfounded Inactive Other 29 APPROVED BY _____

D-4

SUPPLEMENTARY REPORT

OFFICER'S REPORT

NO. _____

Name of Complainant

Address

Phone No.

Offense

HOMICIDE

KIMBERELY ANN NEES

(6/16/79)

DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.:
(Investigating Officer must sign)

Page No. 1

Date (Jan 7 1983)

At approximately 0900 hours on 1/7/83, I was contacted by Sgt. Via that relatives of Barry Allen Beach were attempting to bond Beach out of jail. Beach is presently incarcerated on two counts of contributing to the delinquency of a minor. Via stated that he would need background on Beach as soon as possible. Via's interview with Beach will be conducted on 1/7/83.

At approximately 1030 hours on 1/7/83, I supplied Sgt. Via with the following information regarding the Kimberly Ann Nees case:

1. Suspected type of murder weapon.
2. Location of murder weapon.
3. Location of missing keys and description of same.
4. Victim was dragged face down to the river.
5. Victim was dragged from the passenger door of the victim's pickup.
6. Victim was laying face down when most of the blows were administered.
7. Victim at some point received defense wounds to the back of her hands.
8. Victim wearing a blue and red pull-over sweater and blue jeans.
9. Victim's sweater pulled up over her breasts.

Were not found where statement said. Four divers

Points two and three are known only to the suspect in this case.

The following information was supplied in reference to Beach, Barry Allen:

1. Left Poplar area shortly after the homicide for Louisiana.
2. Highly agitated immediately prior to the homicide.
3. On 6/20/79 Beach threatened suicide.
4. Mental Health advises that Beach's problems stem from an ongoing personality problem that was brought to a head by something that had recently occurred in Beach's life. Beach also showed strong agitation towards his mother.

Sgt. Via was also advised of the questions asked and responses given during a polygraph examination given by Lt. Bob West of the Glasgow, Montana Police Department.

25 INVESTIGATING OFFICER(S) _____

26 REPORT MADE BY _____

DATE _____

27 CASE FILED

28 THIS CASE IS

29 APPROVED BY _____

Yes No Cleared by arrest Unfounded Inactive Other

SUPPLEMENTARY REPORT
OFFICER'S REPORT
Classification

A-8

NO. _____

Name of Complainant STATE OF MONTANA Address Phone No.

Offense HOMICIDE KIMBERLY ANN NEES

DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.:
(Investigating Officer must sign)

3e

Date JUNE 3 1983

Page No. 1

On June 3, 1983, while diving for the Roosevelt County Sheriff's Office, Clay Berger and myself made another sweep search of the Poplar River. The site was west of Poplar in an area by the railroad bridge. The search was to double check our previous search on May 5, 1983. Nothing was found on June 3, 1983.

No crescent wrench, tire iron, or keys

25 INVESTIGATING OFFICER(S) Glen Meier 26 REPORT MADE BY Glen Meier DATE 6/3/83

27 CASE FILED : Yes No 28 THIS CASE IS : Cleared by arrest Unfounded Inactive Other 29 APPROVED BY _____