



# Shelby County Sheriff's Office

*Bill Oldham, Sheriff*

December 19, 2017

Mr. Paul R. Bottei  
Assistant Federal Public Defender, Middle District  
810 Broadway, Suite 200  
Nashville, TN 37203-3805

RE: **Request for Records—Tony Carruthers v. Westbrooks, USDC 08-2425**  
**Records of Alfredo Shaw from "1990's and even before"**

Dear Mr. Bottei:

You have made what we construe to be a Tennessee Public Records Act request wherein you asked that the Shelby County Sheriff's Office provide you, on behalf of your client, certain records pertaining to Alfredo Shaw and his work as a confidential informant. Last month, you provided additional information to assist us in responding.

Several things should be addressed at the outset pertaining to your client's pending writ of habeas petition matter.

1. Your client's appeal of the federal district court's denial of his writ of habeas corpus is now pending before the Sixth Circuit Court of Appeals. By Order filed January 25, 2016, the Sixth Circuit allowed him to proceed on the following issues: (1) whether the trial court violated Carruthers's right to counsel when it compelled him to proceed pro se at trial; (2) whether Carruthers was denied his right to counsel in violation of United States v. Cronig; (3) whether Carruthers was competent to stand trial and to waive his right to counsel; and (4) whether Carruthers procedurally defaulted (1), (2) and/or (3).

It is duly noted that the Sixth Circuit did not grant permission to pursue any claims related to Mr. Shaw.

2. By Order entered October 2, 2013, federal district court Judge Jon P. McCalla denied your client's discovery requests pertaining to Mr. Shaw: (1) a subpoena ad testificandum for the deposition of Alfredo Shaw; (2) require the production, by the Shelby County Sheriff, Memphis Police Department, and federal law enforcement agencies in Memphis, identifying the work done by and/or consideration received by Shaw for his assistance on cases from 1992-2006; and (3) a subpoena ad testificandum to the trial prosecutors on the grounds of their work with, involvement with, discussions with, offers to, assistance to, and contact with Shaw. The Judge noted that your client had been granted, "extensive discovery in the case," that the discovery



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period was closed, dispositive motions had been filed, and there was no good cause to grant discovery.

Your office is attempting to circumvent the rulings of the federal district court as well as the Sixth Circuit Court of Appeals, in addition to the federal statute governing discovery habeas corpus proceeding.

3. Judge McCalla's Order of October 2, 2013, fully outlines the reasons the State of Tennessee elected not to rely on Mr. Shaw's testimony during the trial of your client:

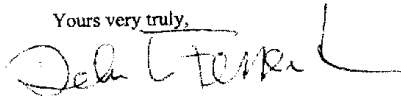
The prosecution asserted that because it refused to aid Shaw with his continued arrests, he "called the media and began this program of recantation or attempted recantation." ... The prosecution noted that Shaw's behavior in constantly getting arrested and seeking aid from them was the reason why they announced in open court that Shaw would not testify for the prosecution at trial... The decision was not because the prosecution did not believe that Shaw's prior testimony was true, but because they could not "give [Shaw] carte blanc to go out and get arrested."

4. By filing of October 31, 2012, your client submitted a variety of documents which indicate that Mr. Shaw had cooperated with authorities for some period of time, serving as a "confidential informant." None of this information is "new" or "recently discovered."

5. Without waiving any objection that you are not entitled to any of the records you are seeking, regardless of whether the request is couched as a TPR request, or any objection that your client is not entitled to records pertaining to confidential informants, and to the extent you are seeking a record of monetary transactions involving Mr. Shaw and the Sheriff's Office, that is being provided. The document provided is a redacted computer record of the funds provided to Mr. Shaw. That took two (2) hours to retrieve from a computer system that is no longer in use. A statement for our services is enclosed.

Records pertaining to criminal investigations or prosecutions involving Mr. Shaw will not be provided absent a Court Order.

Yours very truly,



Debra L. Fessenden  
Chief Policy and Statutory Compliance Officer

Enclosures

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*Evidence allows otherwise*