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Subject: Re: Atty. Gaines: a quick question about my case
Date: 6/17/2014 8:53:16 P.M. Eastern Daylight Time
From: Justin@GainesGrail.com
To: <Gww1210@aol.com>
[Sent from the Internet \(Details\)](#)

Geez your really putting my memory to use. The only reason you would have not been entitled to a jury trial, is if the state indicated it would not seek any jail sentence, if you were convicted. Only entitlement to a jury is if freedom is at risk or imprisonment is a punishment. That's all I can recall. I hope it helps.

I do defense work for a living and I am aware that law enforcement is comprised of human beings and human beings lie. Unfortunately, I see it quite a bit. There is nothing "beautiful" about it. I don't have any recollection of any 911 call in your case. Good luck.

Justin

Please excuse typos- composed on iPhone

Justin Gaines, Esq.
Gaines | Grail, P.A.
625 Commerce Dr. Ste 102
Lakeland, FL 33813
(863) 646-2800
(862) 646-2866

On Jun 17, 2014, at 7:59 PM, "Gww1210@aol.com" <Gww1210@aol.com> wrote:

I know you may not see how it is important, but Justin, please place yourself in my shoes and people (which they did, according to my Public Records request), and that was your 'dream job'...

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Gordon

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Date and Time Properties

Date: June 2014

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Gordon Watts <gww1210@gmail.com>

Thank you, Justin, for giving me a straight answer...

Gww1210@aol.com <Gww1210@aol.com>

Wed, Jun 18, 2014 at 2:52 AM

To: Justin@gainesgraul.com, attygaines@hotmail.com

Cc: Gww1210@aol.com, Gww12102002@yahoo.com, gww1210@gmail.com, gordonwaynewatts@hotmail.com

[[old subject: Re: Atty. Gaines: a quick question about my case]] I was really worried about your response -on two fronts -but you are not only a person of integrity, Justin, but your memory also does serve you well -even if it is not, as we'd all hope, perfect. The 2 areas of concern: First -no offense intended -but you're human too, and I don't know you all that well, and so I was concerned, first-off, that you might have integrity issues and deny my recollection of events, namely my vivid recollection that you told me that I could only get a 'trial' before Judge Anne Kaylor, who, not only has a reputation amongst some of friends as 'hot-headed,' but also, as you recall, yelled at me when I approached the bench to give her some paperwork, not knowing the "give it to the bailiff" method was preferred. Secondly, I was a bit fearful -and rightly so, since eleven or so years has elapsed -that you'd forget this happened, but I was able to "jog your memory" sufficient, at least, that you can remember that it was possible that a denial of trial jury was legal -and thus verify that my testimony and recollection is, at least, possible -and in all likelihood, probable. This will be important as I shall briefly lay out.

I admit that I was not "up" on the current case law on trial jury rights when I last wrote earlier, but I did not need to be: I knew that even if case law was 'against' me, I could overcome it with a combination of embarrassing revelations about LPD as well as sound Constitutional arguments. If, as you suggest, The State indicated it would not seek any jail time (which would be below the 6-month limit set by applicable case law) or any fines in excess of \$500.00 (the other standard), then, perhaps their denial was legal (in which case I don't have any other remedies but a challenge of the law on its face, as unconstitutional). Nonetheless, here is the current "case law" on this matter: ANTONACCI v. STATE (No. 86-1247) 504 So.2d 521 (1987), making reference to Whirley v. State, 450 So.2d 836 (Fla. 1984), lists 4 classes of serious crimes as to which a defendant is entitled to trial by jury:

- 1) crimes that were indictable at common law, Callan v. Wilson, 127 U.S. 540, 8 S.Ct. 1301, 32 L.Ed. 223 (1888);
- 2) crimes that involve moral turpitude, Schick v. United States, 195 U.S. 65, 24 S.Ct. 826, 49 L.Ed. 99 (1904);
- 3) crimes that are malum in se, or inherently evil at common law, District of Columbia v. Colts, 282 U.S. 63, 51 S.Ct. 52, 75 L.Ed. 177 (1930); and
- 4) crimes that carry a maximum penalty of more than six months in prison. Baldwin v. New York, 399 U.S. 66, 90 S.Ct. 1886, 26 L.Ed.2d 437 (1970)

Footnotes from Racine v. State, a 5th DCA case (No. 5D08-1502, Decided: August 21, 2009), also make these points:

"In Johnson v. State, 994 So.2d 960 (Fla.2008), the court recently explained that criminal defendants have a right to a jury trial for serious crimes-i.e., those that "have a maximum penalty of more than six months' imprisonment or more than a \$500 fine"-but not petty offenses-i.e., those that "have a maximum penalty of six months' or less imprisonment or a \$500 or less fine." Reed v. State, 470 So.2d 1382, 1383 (Fla.1985); see also Whirley v. State, 450 So.2d 836, 839 (Fla.1984) ("[T]he federal petty crime exception to the jury trial requirement in criminal prosecutions is also an exception under our own constitutional provision.") (citing Aaron v. State, 345 So.2d 641 (Fla.1977); Aaron v. State, 284 So.2d 673 (Fla.1973)).Id. at 962-63.

Clearly, Racine had a right to a trial by jury for both crimes he was charged with."

Since, as you know, the crimes for which I was charged, are all 1st Degree misdemeanors, which carry a maximum penalty of 1-year and \$1,000.00 (e.g., punishable as provided in ss. 775.082 or 775.083), I might have had a right, under current case law, to a trial by jury -notwithstanding the state's so-called offer-downward.

I'll admit that your revelation about the state's apparent offer (which seems a likely offer on their part, but on that point, I admit I don't recall) has 'stumped me' as to what I was entitled to based on Fla case-law, but as a matter of Constitutional Law, on the point of "Trial by Jury," please see my Brief (which I sent you earlier -here's another copy attached), which addresses that point of law: My legal arguments win 'hands down' on this point.

As to the "911" call, it was actually a call to their "non-emergency number," and I guess you didn't open the huge, approx. 6 Megabyte MP3 attachment I sent you, then did you? In it, you can listen to my very short call to police, and the dispatcher says nothing of the sort that the cops allege in their sworn arrest affidavit, which means my arrest, which was based on perjured testimony, is, perforce, a "false arrest." The Lakeland Police Dept has had many problems, but most cops, surprisingly, are good, and yet sometimes evil persists:

"The only thing necessary for the triumph of evil is for good men to do nothing." https://www.goodreads.com/author/quotes/17142.Edmund_Burke

— Edmund Burke

"The only thing necessary for the triumph of evil LPD cops is for good "Cops & Courts" authorities to do nothing."



— Gordon Wayne Watts

Thank you for giving me a direct answer to my question, Justin: you are a person of honour and integrity. I do hope that my attempts to demand justice will be tempered by mercy to my fellow-humans who either make mistakes and/or are dishonest, and with a motive to protect both the public as well as the many 'good' cops & courts officials. I do hope to add this "denial of trial by jury" complaint to my many complaints, now that I'm more organised, and now that LPD is less corrupt -and less likely to falsely arrest me for pursuing these matters.

PS: While I don't need any further help from you, I'm just curious if you were able to listen to the audio file & police affidavit I sent you previously and/or review the legal brief I sent you (and am resending, simply because it's a small, fast-sending, email attachment) -and, if so, what you thought of them; hopefully, as a show of gratitude for your replies, my legal research is not only interesting but also helpful to you and your colleagues!

Gordon

In a message dated 6/17/2014 8:53:16 P.M. Eastern Daylight Time, Justin@GainesGraul.com writes:

Geez your really putting my memory to use. The only reason you would have not been entitled to a jury trial, is if the state indicated it would not seek any jail sentence, if you were convicted. Only entitlement to a jury is if freedom is at risk or imprisonment is a punishment. That's all I can recall. I hope it helps.

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On Jun 17, 2014, at 7:59 PM, "Gww1210@aol.com" <Gww1210@aol.com> wrote:

I know you may not see how it is important, but, Justin, please place yourself in my shoes and consider how *you* might feel if, say, the FDLE hired less qualified people (which they did, according to my Public Records request), and that was your 'dream job'...

Regarding my testimony vs. cops, "The Dispatcher told the defendant not to go in the area" is a police statement (see the **report & other evidence** attached), but the audio of the call itself shows that the cops (LPD cops who, back then, were very corrupt) committed perjury... LOL So, my 'testimony' would always win based on their documented perjury! - I know you have a beautiful view of cops, but not all cops are truthful or honest. (If you doubt me, you can listen to the call yourself, and, in fact, you should recall that I told you, back then, of the cops' perjury -which is why I begged for a jury trial: I really did have a legal case -and still do, since wrongs have not been righted, and the SOL is Equitably Tolled, as I mentioned below.) Sorry to cause you distraction, but I would never bother you with my 'unimportant' questions were they not actually needed.

Thank you for taking the time to hear my question -and speedily reply, but you still never told me why they would only let my trial be before the judge, and not a jury of my peers, which I desperately wanted. Was it (as I suppose), because some charges (e.g., misdemeanors like mine) were too low according to the 2003 laws "back then" to meet a legal threshold to allow me a trial by a jury of my peers (meaning that I only had the option of a bench trial or a plea/diversion/etc.)? Thx for your "recollections," here, Justin.

Gordon

In a message dated 6/17/2014 3:05:02 P.M. Eastern Daylight Time, Justin@GainesGraul.com writes:

Mr. Watts:

After consulting with your legal counsel and being fully apprised of your rights, you elected to enter into a diversion program where your charges would be dismissed, if you complied with minimal conditions. In my opinion, you did not make a good witness **and it was your testimony vs. law enforcement**, as I can recall from **the evidence**. I can't see how a dismissed misdemeanor that is 11 years old is causing employment difficulties. I wish you the best of luck.

Justin.

From: Gww1210@aol.com [<mailto:Gww1210@aol.com>]

Sent: Tuesday, June 17, 2014 2:46 PM

To: Justin Gaines

Cc: Gww1210@aol.com; Gww12102002@yahoo.com; gww1210@gmail.com;

gordonwaynewatts@hotmail.com

Subject: Atty. Gaines: a quick question about my case

Justin, this is Gordon Watts, the guy who called your secretary to try & find out something about my case you handled when you were a public defender. I probably should've asked you this question back then (actually, I think I DID ask you, but got no official statement then). Better late than never. As you can see, on 6/19, I was scheduled for a "Jury Selection" set for 7/14. **I have a brief question about that:** When we last spoke, you told me that, if I wanted, you would continue my 'Not Guilty' plea and ask for my case to go to trial, but that my trial would be before the judge, and not a regular jury. (You and I both agreed this would not be in my best interests, and so, when you asked if I still wanted to go to trial before Judge Anne Kaylor, I told you: 'no.'). Either I asked you why I was denied a jury trial (as opposed to a bench trial) and you told me (and I forget) – or, perhaps, I was so stressed out over LPD's continuing to refuse to release the "911" tapes (when I called on the non-emergency number) that I "gave up". In any event, **here is my question**, Justin (and thank you for trying your best to get me diversion, as you told your secretary -and for your excellent memory of this case, but hey, YOU would not want diversion, steep fees, and a screwed up arrest record, so plz be patient with me) >> **Why was I unable to get a trial by jury?** (You know I begged you to get that, and, since the audio showed the cops lied in their affidavit about what the dispatcher allegedly told me - she never told me to get out of the area - then, I was sure I would win.) You mentioned to your secretary when I called that the statutes of limitations would bar me from any legal actions, but you forget 2 things: First, I'm the guy who almost won in court for Terri Schiavo - I know a little bit about law!, and 2nd, there is the doctrine of Equitable Tolling (which I think I can make work because of the recent corruptions of LPD and other entities).

[1] In Re: GORDON WAYNE WATTS (as next friend of THERESA MARIE 'TERRI' SCHIAVO), No. SC03-2420 (Fla. Feb.23, 2003), denied 4-3 on rehearing. <http://www.floridasupremecourt.org/clerk/dispositions/2005/2/03-2420reh.pdf>

[2] In Re: JEB BUSH, GOVERNOR OF FLORIDA, ET AL. v. MICHAEL SCHIAVO, GUARDIAN: THERESA SCHIAVO, No. SC04-925 (Fla. Oct.21, 2004), denied 7-0 on rehearing. <http://www.floridasupremecourt.org/clerk/dispositions/2004/10/04-925reh.pdf>

[3] Schiavo ex rel. Schindler v. Schiavo ex rel. Schiavo, 403 F.3d 1223, 2005 WL 648897 (11th Cir. Mar.23, 2005), denied 2-1 on appeal. <http://www.ca11.uscourts.gov/opinions/ops/200511628.pdf>

[4] Enclosed is a slightly more updated version of SC03-2420, one which I submitted before the SCOTUS.

My life is screwed up because of this false arrest: No good job will now hire me. So, in short, **I'd just like you to help me know this: why was I unable to get a trial by jury?** If the law for "jury trials" did not apply to the charging statute, I'd like to know -and I'll admit my understanding of the law on this point is wrong (and, instead, I'll challenge the law as 'unconstitutional' on its face). If, OTOH, does, then I'll file a tort.)

(If you think I am foolish for attempting to reopen this case, feel free, but please just answer me this one question about my case.) If you would like a consultation fee for me bothering you, today, please remit me a reasonable charge, but please tell me why the jury trial was denied me: you're the only one who might know, as only you were my lawyer.

Gordon Wayne Watts, editor-in-chief, The Register

www.GordonWayneWatts.com / www.GordonWatts.com

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AS, United Electronics Institute**

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(863)409-2109

See also: http://Gordon_Watts.Tripod.com/consumer.html

Gww1210@aol.com ; Gww12102002@Yahoo.com

[Truth is the strongest, most stable force in the Universe](#)

Truth doesn't change because you disbelieve it

TRUTH doesn't bend to the will of tyrants [http://GordonWayneWatts.com /](http://GordonWayneWatts.com/)

<http://GordonWatts.com>

Get Truth

"First, they [Nazis] came for the Jews. I was silent. I was not a Jew. Then they came for the Communists. I was silent. I was not a Communist. Then they came for the trade unionists. I was silent. I was not a trade unionist. Then they came for me. There was no one left to speak for me."(Martin Niemöller, given credit for a quotation in The Harper Religious and Inspirational Quotation Companion, ed. Margaret Pepper(New York: Harper &Row, 1989), 429 -as cited on page 44, note 17,of Religious Cleansing in the American Republic, by Keith A. Fornier, Copyright 1993, by Liberty, Life, and Family Publications.

Some versions have Mr. Niemöller saying: "Then they came for the Catholics, and I didn't speak up, because I was a Protestant"; other versions have him saying that they came for Socialists, Industrialists, schools, the press,and/or the Church; however, it's certain he DID say SOMETHING like this. Actually, they may not have come for the Jews first, as it's more likely they came for the prisoners, mentally handicapped, &other so-called "inferiors" first -as historians tell us-so they could get "practiced up"; however, they did come for them -due to the silence of their neighbors -and due in part to their own silence. So: "Speak up now or forever hold your peace!"-GWW

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7/14/2019

Gmail - Thank you, Justin, for giving me a straight answer...



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To: Gww1210@aol.com
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