

PATRICK L. WILLIS, CIRCUIT JUDGE

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June, 6, 2007

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Re: State of Wisconsin vs. Steven A. Avery
Manitowoc County Case No. 05 CF 381

Dear Counsel:

At the sentencing hearing Attorney Buting made two requests of the court regarding references in the Presentence Investigation Report ("PSI") to information provided by Brendan Dassey. The relevant information is found at pages 4 and 5 of the PSI.

Attorney Buting first asked that the court give no consideration in its sentencing decision to the account of the facts contained in the PSI from Mr. Dassey. The State stipulated to this request at the sentencing hearing and the court gave no consideration to the account of the facts attributed to Mr. Dassey in the PSI in reaching the court's sentencing decision.

Mr. Buting made a second request that the court order the PSI to be rewritten and that all references to Brendan Dassey's account of the events of October 31, 2005 be stricken for reasons set forth in the Defendant's Memorandum on Brendan Dassey Statements, which had previously been submitted to the court. The court understands Mr. Buting's concern to be that copies of the PSI are provided to the Department of Corrections and the document may well have a life beyond the sentencing hearing, even many years from now. Because the disputed information was not considered by the court in sentencing, the court did not rule on Mr. Buting's request at the sentencing hearing. I did indicate I would take his request into consideration and make a decision later. I have decided to send this letter to counsel and make it an addendum to the PSI so that future readers will be aware that the court did not consider the Dassey statements in the sentencing decision and will be aware of challenges to those statements.

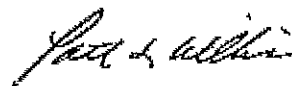
I note at the outset the defense did not argue that the account attributed to Mr. Dassey in the PSI is inconsistent with one of the statements he gave. Therefore, the court is not going to

order that any portion of the PSI be rewritten. The dispute that the defense has with the PSI writer's account of Mr. Dassey's statements is thoroughly documented in Defendant's Memorandum on Brendan Dassey Statements. The defendant asserts that Dassey gave a number of conflicting stories to the police and was unduly influenced into providing false information. The court is not in a position to resolve the differences in Dassey's accounts and will not attempt to do so.

The court agrees with defense counsel, however, that because future readers of the PSI may not be fully familiar with or have access to the defendant's Memorandum, this letter should be made an addendum to the PSI and any future readers of the PSI should keep the following in mind when reading the summary of Mr. Dassey's statements contained on pages 4 and 5:

1. By stipulation, the court gave no consideration to the version of the facts attributed to Mr. Dassey contained at pages 4 and 5 of the PSI in its sentencing decision.
2. Brendan Dassey did not testify at the trial in this case. The jury was not required to assess the credibility of any statements attributed to him.
3. Charges of first-degree sexual assault and kidnapping, which were added to the Information after the police interviewed Mr. Dassey, were dismissed by the State before trial.
4. The account attributed to Mr. Dassey in the PSI is based on one of his interviews with police. He was interviewed by the police on other occasions during which he gave somewhat different accounts of what happened. He also at some pointed recanted his statements admitting involvement in the crimes.
5. The physical and forensic evidence introduced at Mr. Avery's trial failed to provide corroborating support for a number of the allegations attributed to Mr. Dassey. As one significant example, there was no physical or scientific evidence demonstrating that Teresa Halbach was ever present in Mr. Avery's trailer.
6. An expert witness called on behalf of Mr. Dassey at his trial, one Dr. Gordon, and a Dr. White retained by Avery's counsel, both called into question much of the information provided by Brendan Dassey because of his intellectual limitations, his susceptibility to suggested answers, and the nature of investigative techniques used.

Very truly yours,



Patrick L. Willis,
Circuit Judge

Cc: Agent Kay Czechanski

PLW/rm