

APPENDIX A

(Fifth Circuit Court of Appeals Opinion issued June 15, 2020)

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 19-50105

United States Court of Appeals
Fifth Circuit

FILED

March 30, 2020

Lyle W. Cayce
Clerk

GRAHAM JAY SONNENBERG,

Petitioner-Appellant

v.

LORIE DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL
JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent-Appellee

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:18-CV-450

Before SMITH, COSTA, and HO, Circuit Judges.

PER CURIAM:*

Graham Jay Sonnenberg, Texas prisoner # 1950692, moves for a certificate of appealability (COA) from the denial of his 28 U.S.C. § 2254 petition. Sonnenberg is serving concurrent sentences of 16 and 20 years, imposed after a jury convicted him of aggravated assault and strangulation assault.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

No. 19-50105

Before this court will grant a COA, Sonnenberg must make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2); see *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000). He can do so by showing “that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Slack*, 529 U.S. at 484.

Sonnenberg asserts that trial counsel was ineffective for laboring under a conflict of interest due to a fee dispute, for failing to assert self defense, for failing to investigate witnesses and photographic evidence, and for failing to investigate and use the victim’s medical records. He further contends that the State withheld some of the victim’s medical records. He also argues that the federal district court should have held an evidentiary hearing.

Sonnenberg has failed to brief his assertions that he was subjected to double jeopardy and that counsel was ineffective for failing to request funds for an investigator and for failing to obtain a bond reduction. He has abandoned those claims. See *Hughes v. Johnson*, 191 F.3d 607, 613 (5th Cir. 1999). With regard to his other claims of ineffective counsel and his claims that the State withheld evidence, Sonnenberg fails to make the showing necessary for a COA. A COA is denied with regard to those claims. See § 2253(c)(2); *Slack*, 529 U.S. at 484. The denial of an evidentiary hearing is affirmed. See *Norman v. Stephens*, 817 F.3d 226, 234-35 (5th Cir. 2016).

COA DENIED; AFFIRMED.

APPENDIX B

(Denial of Rehearing Fifth Circuit issued on October 01, 2020)

United States Court of Appeals
for the Fifth Circuit

No. 19-50105

GRAHAM JAY SONNENBERG,

Petitioner—Appellant,

versus

BOBBY LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF
CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent—Appellee.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:18-CV-450

ON PETITION FOR REHEARING EN BANC

(Opinion 3/30/2020, 5 CIR., _____, _____ F.3D
_____))

Before SMITH, COSTA, and HO, *Circuit Judges*.

PER CURIAM:

(√) Treating the Petition for Rehearing En Banc as a Petition for Panel Rehearing, the Petition for Panel Rehearing is DENIED. No member of the panel nor judge in regular active service of the court having requested that the court be polled on Rehearing En Banc (FED. R. APP. P. and 5TH CIR. R. 35), the Petition for Rehearing En Banc is DENIED.

19-50105

() Treating the Petition for Rehearing En Banc as a Petition for Panel Rehearing, the Petition for Panel Rehearing is DENIED. The court having been polled at the request of one of the members of the court and a majority of the judges who are in regular active service and not disqualified not having voted in favor (FED. R. APP. P. and 5TH CIR. R. 35), the Petition for Rehearing En Banc is DENIED.

APPENDIX D

(Affidavit of witness Sheana Lincoln)

AFFIDAVIT

THE STATE OF COLORADO

COUNTY OF (Pueblo County)

BEFORE ME, the undersigned authority, on this day personally appeared _____ Sheana Lincoln _____, WHO SWORE OR AFFIRMED TO TELL THE TRUTH, AND STATED AS FOLLOWS:

My name is _____ Sheana Lincoln _____. I am of sound mind and capable of making this sworn statement. I have personal knowledge of the facts written in this statement. I understand that if I lie in this statement I may be held criminally responsible. This statement is true.

I am the sister in law of Graham Jay Sonnenberg. My name is Sheana Lincoln. I was witness to the following:

Write your statement here.

On June 22nd 2013,

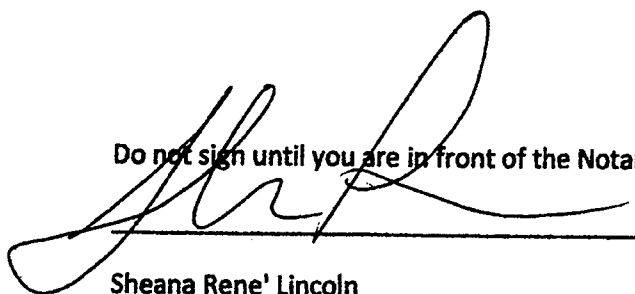
+Austin, myself, Graham and Bashka went tubing at Don's Fish Camp. Bashka purchased alcohol and we all drank. Graham drank less than everyone. Bashka and I got separated from Austin and Graham while tubing. Bashka fell off her tub, hit her lip on another girl. Graham drove us all home to Bashas home. Graham and Bashka started arguing in the car, which continued until we got to her home. The argument escalated and Graham wanted his keys to leave. Bashka wouldn't give Graham his keys. She told Graham she locked them in his car, so he broke the back window out to get to them. But, they weren't in his car. Graham went inside Bashkas home to wash his arm off and they started arguing again. Bashka threatened to call the police. Graham took off running into the field. Austin and I drove around looking for Graham around 6 or 7pm, but didn't find him. We drove back to Bashkas and Graham wasn't there. Graham had ^{the} ~~Dawn~~ pick him up from the gas station up the road. Dawn took Graham back by Bashkas home in the morning to finally get his things. A month went by and Graham and Bashka hadn't been together anymore. Graham called Austin and said she is threatening to call the police and say he beat her if he wouldn't be with her anymore. Also, Austin and I called John Evans office twice and left a message at his office for him to call us back. We left a clear

message with his office stating we would like to be a witness in regards to the date of June 22nd, 2013.

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Page 2 of 3

Do not sign until you are in front of the Notary



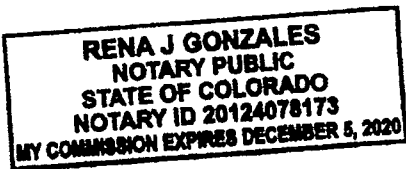
Sheana Rene' Lincoln

STATE OF COLORADO

COUNTY OF (Pueblo County)

SWORN to and SUBSCRIBED before me, the undersigned authority, on the 3rd

day of July, 2017 year, by
Sheana Lincoln



Rena JG
Notary Public, State of Colorado

APPENDIX E

(Affidavit of witness Chase Lincoln)

AFFIDAVIT

THE STATE OF COLORADO

COUNTY OF (Pueblo County)

BEFORE ME, the undersigned authority, on this day personally appeared Chase Lincoln, WHO SWORE OR AFFIRMED TO TELL THE TRUTH, AND STATED AS FOLLOWS:

My name is Chase Lincoln. I am of sound mind and capable of making this sworn statement. I have personal knowledge of the facts written in this statement. I understand that if I lie in this statement I may be held criminally responsible. This statement is true.

I am the brother of Graham Jay Sonnenberg. My name is Chase Austin Lincoln. I was witness to the following:

Write your statement here.

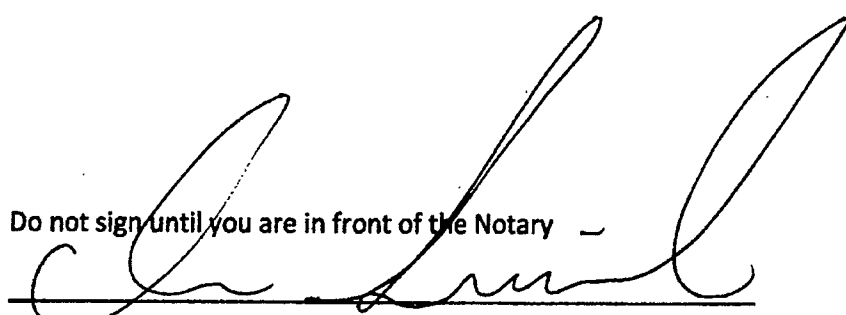
On June 22nd 2013

Graham, Bashka, Sheana and I a went to San Marcos to tube the river. While tubing we all had been consuming alcohol, but Graham had not drank as much as the rest of us. When we were driving back to Austin after the tubing trip, Graham and Bashka started arguing about simple stuff things, and it escalated to yelling. When we got to Bashka's house Graham was not happy and wanted to leave. He was asking Bashka about his car keys. She would not tell him where the keys were at all. Finally, she told Graham that they were locked in his car where she put them. He was very upset that she locked keys in his car so he broke the window with his elbow. I Tried to stop him but it did not help. I held him for a little until that made him angry also so I let go of Graham. He yelled at Sheana, and when I let go of Graham he ran inside and wiped blood on Bashka's arm on the way in the house. He cleaned his arm up inside and we all suggested he get some help for it. Then Bashka started arguing with Graham again at that point he ran off into the neighborhood. At about 630pm or 7pm we went looking for graham for a long time. When we could not find Graham after a long time looking we went back to Bashka's house to make sure he did not come back. When we got there, she said he had never come back yet. At this point it was pitch black out and Graham was gone for good. So, we decided to go home to my house with Sheana. When we got home later in the night she texted me and told me he had come back and hurt her. I was not there and I believe he never went back to her house ever. She said he had come back and hurt her but I never saw that ever. When he was

called to court Sheana and I also tried to call John Evans to testify for Graham but he never called me back or Sheana. Tried to call DA no help from each of these people ever in my brothers' case. Why is that? Bashka the next day did not have any marks on her that we could see at all. When we went to get Sheanas shirt she left in Bashka's car and house. There was never any physical hitting ever I never saw it once. This is Fales and Fake.

Page 2 of 3

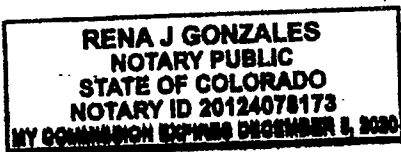
Do not sign until you are in front of the Notary —


Chase A Lincoln

STATE OF COLORADO

COUNTY OF (Pueblo County)

SWORN to and SUBSCRIBED before me, the undersigned authority, on the 3rd
day of July, 2017 year, by
Chase Lincoln.



Rena J
Notary Public, State of Colorado

APPENDIX F

(Affidavit of Petitioner)

EXPARTE

§ TRAVIS COUNTY, TEXAS
§ IN THE DISTRICT COURT
§ 427TH JUDICIAL DISTRICT
§
§
§
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§
§

GRAHAM JAY SONNENBERG'S AFFIDAVIT IN SUPPORT OF HIS
APPLICATION FOR WRIT OF HABEAS CORPUS

STATE OF TEXAS
COUNTY OF ANDERSON

§
§
§
§
§
§ UNSWORN DECLARATION

I . Graham Jay Sonnenberg, TDCJ-CID No. 1950692, being presently confined at the L.C. Poeledge Unit of the Texas Department of Criminal Justice, declare under penalty of perjury, that I am the person making this sworn statement in this affidavit.

Excuted on this July 12th 2017 Day of July 2017.

"My name is Graham Jay Sonnenberg, and I am the applicant in the writ of habeas corpus for which this affidavit supports. All of the testimony in this affidavit is either personally known to me, defined not to be heresay, or is heresay subject to an exception, and all is true to my belief."

On October 28, 2012, I was picked up on or about 6 p.m. at my parents ranch by Alexis Manley, Once she picked me up, I noticed she had some marks on her arms, legs, and face as well as an abrasion behind her ear, I confronted Alexis about these injuries and asked her what happened. Alexis told me that she had fallen off of the lift gate of her parents box truck in San Antonio working for her parents company. She also stated that she hurt her left wrist; which was still hurting from the fall, as well as reinjured her lower back from a car accident in Feburary 2012 where she had rear ended another car in which the air bags had deployed and she was hospitalized.

Once we arrived in Austin, Alexis drove to twin liquors or Wiggy's liquor store next to the Gables apartment complex located off of Lake Austin Blvd in Terry Town. Alexis bought tittos vodva, beer, and other mixers, a purchase of \$123.00 worth and paid for the purchases with an American Express card.

Once we arrived at her apartment, we started drinking and having a good time. Alexis was getting tipsy and decided that she wanted to go swimming. I then suggested that we go across the way, to my friends apartment. Ryan Nail's apartment is in the Gables complex and invited him to go swimming with us. Ryan was an actor from the show "Friday Night Lights"; but he could not go swimming, because he was working on a workout video with his business partner.

I visited Ryan for a short while, but I had to leave because Alexis was well intoxicated, and getting jealous over the young lady at Ryan's (Ryan's business partner), and acting rude and embarrassing herself and me. Therefore, I left with Alexis, then got slapped because she accused me of flirting with the young lady at Ryan's place, which then escalated into her cursing, punching, and pushing me. I cursed her out and turned around and went outside to calm down and smoke a cigarette. Once I returned, she was snorting cocaine, and she stated she had also taken ecstasy, as well as a zanax. Everything seemed to have calmed down at this point, so I joined her in snorting some cocaine, and we had sex and then afterward, her whole demeanor changed and she started in again about the young lady at Ryan's place. I told her that this was bullshit and gave her a hug; at which point she bit me on the face breaking the skin which caused me to start bleeding. I grabbed Alexis by the hair in the back of her head to try to pull her off of my face. Her hair extensions came out and she started slapping me and punching me, I then slapped her back and pushed her away from me in defense. I then left her apartment.

When I left, I promptly called John Patterson, on or about 10p.m. to come and get me, I then called Jay Plouher, he told me to go to Polazio's (A Strip Club) and he would meet me there. I called yellow cab and ordered a cab to take me. Once I arrived at Polazio's the general manager (Jason) took me into his office to let me use the first aid kit to clean the blood off of my face, as well as clean the scratches from Alexis Manley's attack. I stayed at Polazio's till about 2:40am. Jay Plouher never showed up. I then went back to Alexis house because she had been texting me all night begging me to come back over.

Once I arrived, I was greeted by Alexis Bi-Polar attitude; by her smashing me in the head with a ceramic gnome, causing me to once again start to bleeding. Then she came at me with a knife and cut my ear, which turned into a fighting and cursing match, which I eventually was able to wrestle the knife away from her before she either cut or killed me or herself. She then took off running for the door and left. Alexis was extremely mad I had went to polazio's.

I was mad and upset for what she had done to me, I was so frustrated that I head butted the wall. I then yanked all of her dresser drawers out and threw all her belongings on the floor, scattered her clothes, jewelry, and stuff everywhere. Shortly thereafter, the police came and detained me and handcuffed me, and took me to the hospital, and handcuffed me to a bed.

A female doctor and nurse saw me, and had picked out little pieces of the gnome out of my head and stitched my head, face, and ear, which required seven stitches; also I was told that my elbow had been shattered. the female doctor told me to hire a good lawyer, because Alexis was saying all kinds of crazy stuff about the incident. I told the doctor that the only reason that Alexis was saying all that, was to cover herself for all of the drinking and drugs that she was doing because she was out on bond for DWI #2, and they should give her a breathalizer as well as a blood test to see all of the drugs in her system, I also told the police this as well. (NOTE: Alexis Manley picked up my Lucasi boots when she spent the night with me at my parents ranch, prior to October 28, 2012. Alexis took the boots home with her, to have them repaired for me, because she liked them, which is the reason Alexis had my boots at her place. Furthermore, on October 28, 2012, I was wearing red Converse tennis shoes when Alexis picked me up at my parent's ranch, and when I was at the strip club, as well as when I was arrested.

In 2012 my catering company was set up at the Moontower , a bar in South Austin selling upscale bar food. One night in December of 2012 I met Barbara Kucharska Bashka, and her and I were flirtatious with each other. Bashka needed a ride home because she had drank to much. We had sex, and afterwards she told me she needed a roommate. In January 2013 I moved in to Bashka as my current home was to big for my son Sam and I. Sam and I moved into the spare bedroom on the other side of Bashka's home. Things were ok for the first couple of weeks. Bashka told me she wanted to have children and was taking pre-natual vitamins. I only had sex with Bashka a few times. I felt that she was trying to get pregnat by me and I didn't want any more children. We argued over this, so I stopped having sex with Bashka. Bashka's mood at the end of March changed and she wanted Sam and I to move out. We did and I moved in with my friend Justin Avalos on Kennedy St. off of Riverside. Bashka refused to give Sam and I our belonging's. Couch, Tv, Stereo, Family pictures, Sam's toys, etc. totaling over \$7000 and several more in art work and electronics, all that we had were our clothes.

During South by Southwest Music Conference Bonappetex, my company with partners Tye and Dawn Wilson were set up at the White Horse. Tye and Dawn agreed that traffic would be difficult to take all of our vehicles and we agreed to car pool. Bashka and I were not speaking much, and when we did it was in a arguement that Bashka wanted children and to get married. Bashka was extremely unstable, espically when she had been drinking. Bashka would call

me constantly to find out where I was and who I was with. She accused me of cheating on her when we were not even in a relationship. I told Tye and Dawn how nuts Bashka was and I couldn't have her intervening in my focus of the music festival. Tye and Dawn agreed I could stay with them at their house, or at Casulo hotel during the festival. I only saw Bashka once during South by Southwest music Conference when she came to the White Horse drunk. She had lost her keys and came into my food trailer screaming at me in front of my business partners as well as several customers. She was calling me a cheat and accusing me of sleeping with other woman. She wanted me to come to her house. I called security which removed her from the premises. Later that evening/ morning Bashka's cousin showed up, Tye and Dawn had gone home. Asha, Bashka's cousin gave me a ride to the Casulo Hotel where we spent the night (we did not have sex). Bashka found out about this and came completely unglued. Bashka swore up and down we had sex. In trial Bashka claims I assaulted her and put a knife to her chin during the South by Southwest music Conference, but this never happened. I moved out the following week, the last week of March into Justin Avalos house off of Riverside in east downtown Austin.

During the next three months I tried to get our belongings (Sam and I) from Bashka. Bashka said that she would give us our things at some point, but continued to try to get me to move back in, but I refused and we never got our things back.

Memorial Day weekend 2013 Tye and Dawn Wilson throw a BBQ campout almost every year. This year it was at city park, in which Sam and I went and had a good time. In trial Bashka claims I was with her in San Antonio, she also claims I assaulted her, and did \$5000 damage to the room that the hotel lowered to \$2000. There was never any documents from the hotel or an invoice or any forms claiming this was true. This was a lie since I was in Austin at city park for the BBQ.

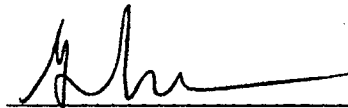
In June 2013 on the 22nd, Bashka wanted to go tubing. I was still trying to get my things as well as Sam's things from Bashka's house, so I agreed to go. I asked my brother Austin and his girlfriend Sheana to go with me because I did not want to be alone with Bashka. Her moods were too unpredictable and figured my brother and his girlfriend could help me talk Bashka into giving me my stuff. Bashka bought beer, and wine at H.E.B. in San Marcus. We went to Don's fish camp to go tubing. Bashka flipped her tube while going through the rapids bumping her head and lip on another young woman causing a small abrasion on her cheek bone and busted her lip. Bashka claims I caused these injuries.

I did not. Austin and Sheana Lincoln were eye witnesses to this never happening and were trying to testify to this. Austin and Sheana tried to call the D.A.'s office but no one would return there call. Jon Evans refused to allow them to testify as well. Later in the evening, once we arrived at Bashka's house, Bashka would not give me my keys to my car or my cell phone. She locked herself in her house drunk yelling through the glass door at me. Bashka was jelous of a few young ladies whom were flirting with my brother Austin and I at Don's fish camp in San Marcus where we went tubing. Bashka refused to give me my keys and cell phone, Austin and argued as well as he and Sheana at the time wanted to leave. I could not drive and can't drive any of my vehicles due to having a breathalizer placed in them by Judge Coronodo in 2012. I walked to the back of the house to try to get in to Bashka's house. The back door was locked and yes I kicked a keg shell into a table and broke the glass top. I proceded to the front door again which Bashka yelled through the door that she had placed my keys to my BMW as well as my cell phone in my car and locked the doors. I broke the back window of my car out and cut my arm extremely bad. My keys were in the house. Bashka lied about my keys being in the car as well as my cell phone to upset me. Once Bashka saw how badly me arm was cut she opened the door. Her demeanor changed into her apologizing and myself and my brother went into the house. Once in the house I opened the refigerator door in which the shelves fell from my force of opening the door and them having to much stuff on them. I slammed the door knocking the bulb loose from its position. Bashka told me to get into the shower, because I was actively bleeding prefusely from my arm. I did and Bashka got in the shower with me getting blood all over her as well. I reached for a towel, the rod holding the towel fell as it was loose. Bashka whom was very intoxicated started yelling at me. I got fustrated at the whole situation and walked out of her house, past my brother whom was in the house, past Sheana who was in her car through a field, through a grave yard to hwy 1626 in Manachaca. I went to the convienient store, I arrived at the store at about 7:00P.M.. I left Bashkas house around or about 6:40pm, I called Tye on his cell phone. Tye Wilson picked me up and took me to his house and his wife Dawn cleaned up my arm. The next day Dawn took me to Bashka's house to retreive my keys and phone, which she gave to me.

Over the next few weeks Bas threatened me in text messages that if I didn't get back together with her she was going to call the cops and tell them that I had assaulted her, which was not true. Bashka told me in text messages that she had befriended Alexis Manly and they were going to get me.

Bashka filed false charges of assault and strangulation. I was arrested and somehow Bashka was awarded my BMW by placing an ad in the paper for ninety days, and with the help of detective Turner, Bashka also never returned any of my personal property. two flat screen TV'S, Leather sectional, two beds, two dressers, my clothes, my sons clothes, toys, play station and games, as well as a \$3200 stereo. Bashka also tried to claim \$5,367 in cash that I was arrested with which was in a bank envelope with the money was a receipt from my bank account.

Further Affiant Sayeth Not.



GRAHAM JAY SONNENBERG

APPENDIX G

(Photographs from a previous auto accident 55 and 63)

Progress Note

Patient Name:	Alexis Manley	Visit Date:	January 30, 2013
Patient ID:	1292505	Provider:	Kenneth Bunch, MD
Sex:	Female	Location:	Texas Orthopedics Quarry Lake Office
Birthdate:	February 9, 1986	Location Address:	4700 Seton Center Pkwy Suite 200 Austin, TX 78759-4107
		Location Phone:	(512) 439-1000

Chief Complaint

Low back pain unchanged

History Of Present Illness

Patient returns for a follow up visit today. She was last seen 6 months ago. She was involved in a motor vehicle accident in February 2012 when she was struck from the back passenger side. Her MRI in May 2012 showed disc degeneration at L5-S1 with a right annular tear and a shallow right protrusion with mild right foraminal narrowing, but no nerve root impingement. She also has left L5-S1 pseudoarticulation and an absent right 12th rib. She saw Dr. Lutz who recommended against surgery. She completed physical therapy and does a home exercise program. She is using a TENS unit. She is still experiencing regular daily pain that varies in intensity and at times limits her ability to work and stay on her feet for prolonged periods. She has decided not to try epidural steroid injections due to phobia of needles and fear of the procedure and has declined getting the procedure by a pain specialist under anesthesia. She returns today to inquire if there are any other recommendations for treatment. The pain remains in the low back and does not refer to the legs.

Review of Systems

Constitutional

- o Denies : weight loss, loss of appetite, fever

Eyes

- o Denies : blurred vision, double vision, vision loss, eye discomfort

HEENT

- o Denies : trouble swallowing, hoarseness, hearing loss, nosebleeds

Cardiovascular

- o Denies : chest pain, irregular heart beats, palpitations, calf pain

Respiratory

- o Denies : shortness of breath, chronic cough, wheezing

Gastrointestinal

- o Denies : heartburn, ulcers, nausea, vomiting, blood in stools, diarrhea

Genitourinary

- o Denies : painful urination, blood in urine, difficult urination, frequent urination at night, possible pregnancy

Integument

- o Denies : frequent rashes, skin ulcers, psoriasis, lumps

Neurologic

- o Denies : headaches, dizziness, seizures, numbness, memory difficulties

Musculoskeletal

- o Admits : morning stiffness lasting over 30 minutes, joint pain or swelling in other joints
- o Denies : neck or back pain, gout

Endocrine

- o Denies : heat or cold intolerance, excessive thirst

Psychiatric

- o Admits : anxiety, difficulty sleeping
- o Denies : depression, other psychiatric disorder

Heme-Lymph

- o Denies : easy bleeding, easy bruising, swollen glands

All Others Negative

APPENDIX H

(Affidavit of Holly Moffitt)

AFFIDAVIT

THE STATE OF TEXAS

COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared Holly Moffitt, WHO SWORE OR AFFIRMED TO TELL THE TRUTH, AND STATED AS FOLLOWS:

My name is Holly Moffitt. I am of sound mind and capable of making this sworn statement. I have personal knowledge of the facts written in this statement. I understand that if I lie in this statement I may be held criminally responsible. This statement is true.

I am the aunt of Graham Jay Sonnenberg. My name is Holly Moffitt. During Graham Sonnenberg's trial I was witness to the following:

The prosecution put pictures up on an overhead screen for the jury to see. Most of the pictures were left for a short duration of time while the prosecution was addressing the specific incident that related to the picture. However, there was a disturbing close up picture of Alexis Manley's injured face that was left up for viewing for an extended period of time. It was left up long after the prosecution had moved on and was discussing information that was unrelated to that specific picture still up on the screen. I kept waiting for my nephew's lawyer, Jon Evans, to say something. The jury was riveted on the screen looking at the picture. Mr. Evans said nothing.

During the sentencing phase of the trial the guard sitting behind my nephew started nodding her head to indicate agreement with the prosecution. Every time the prosecution stated that the jury should give my nephew the maximum sentence the guard would emphatically nod her head "yes". She did this over and over. I was extremely upset about this. I could see the jury looking at the guard as she nodded her head. I asked Mr. Evans about this after the jury went back to deliberate and he said I should have said something while the guard was nodding her head "yes". I did not know was I allowed to speak while the trial was in session.

Holly Moffitt

Holly Moffitt

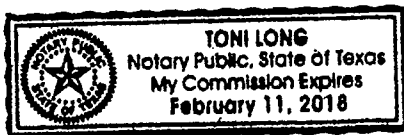
STATE OF TEXAS

COUNTY OF HARRIS

SWORN to and SUBSCRIBED before me, the undersigned authority, on the 24th

day of June, 2017 year, by

Holly Moffitt



Toni Long

Notary Public, State of Texas

APPENDIX I

(Brady Evidence of Alexis Manley proving petitioner did not break her arm
as claimed during trial, and reports to police)

Progress Note

Patient Name: Alexis Manley
Patient ID: 1292505
Sex: Female
Birthdate: February 9, 1986

Create Date: November 7, 2012

DATE OF INJURY: 10/28/2012

Chief Complaint

Left forearm pain

History of Present Illness

The patient is a 26-year-old white female who fell down some stairs on 10/28/2012. She sustained an injury to her left forearm. This happened in Houston. She was placed into a sugar-tong splint at that point and time and told to follow up with an orthopedic surgeon. The pain is a 4/10 or 5/10 on a visual analog scale. It is sharp, dull, and aching. It is intermittent. She has weakness. Lifting makes her symptoms worse. Rest, elevation, and a brace have made it better.

Additional Info (PFSH)

PAST MEDICAL HISTORY: I have reviewed the patient's past medical, family, and social history as well as review of systems as completed on the patient medical history form. This is on file in the patient's electronic health record.

Physical Examination

Physical examination today reveals the patient is alert and oriented x3 and in no apparent distress. Head is normocephalic, atraumatic. Neck is supple. Lungs have no labored respirations. Heart has a regular rate based on peripheral pulse exam. Bilateral upper extremities reveal 5/5 strength in a C5-T1 distribution, sensation intact in all dermatomal distributions, and 2+ pulses. Left forearm reveals tenderness to palpation over the ulna midshaft. She has full pronation/supination and full flexion and extension of her elbow and wrist. She does have soft tissue swelling present. Her compartments are soft.

IMAGING STUDIES: X-rays were obtained and evaluated today which reveal evidence of a nondisplaced midshaft ulna fracture.

Assessment

Left midshaft ulna fracture

Plan

1. I recommended a short arm cast. No heavy lifting.
2. Return to clinic in 4 weeks' time for reevaluation with x-rays on arrival out of plaster.
3. All questions were answered. The patient is agreeable to the above plan.

Electronically Signed by: John E. McDonald, Jr. MD -Author on November 9, 2012 08:49:45 AM



Texas Orthopedics, Sports and Rehabilitation Associates

Quarry Lake	Central Austin	South Austin	Cedar Park	Round Rock	Marble Falls
512-438-1000	512-438-1002	512-438-1005	512-438-1008	512-438-1004	877-966-7848

Fax: 512-438-1019

www.txortho.com

Date: 12/07/2012

Patient: *Manley, Alexis A.*
Account #: 1292505

Diagnosis: Left Fracture of Ulna, Shaft

Prescription: Occupational Therapy
Frequency: 2-3 times per week Duration: 4-6 weeks
Specific Treatment Requested EVAL/Treat

Please fax report to 512-438-1019.

John E. McDonald, M.D.
Orthopedic Surgeon

cc:

enc:

APPENDIX J

(Order Appointing Attorney on October 16, 2013)

No: D-1-DC-13-904091

THE STATE OF TEXAS

IN THE 427TH DISTRICT COURT

VS

OF

GRAHAM SONNENBERG

TRAVIS COUNTY, TEXAS

DOB: 07/03/1972

ORDER APPOINTING ATTORNEY

In the above numbered and entitled cause the Court finds the following:

- 1) The defendant has been determined to be indigent and in need of legal services pursuant to the Code of Criminal Procedure, Chapter 26.
- 2) The attorney hereby appointed is duly qualified to represent the defendant.
- 3) The attorney is appointed in compliance with the procedures adopted by the Criminal Courts of Travis County or is appointed in a manner which deviates from the general appointment procedures, but with good cause; to wit:
- 4) Defendant is incarcerated/on bond at the time of appointment.

THEREFORE, IT IS ORDERED that JON EVANS, an attorney found by the Court to be competent to represent the defendant in this cause, is hereby appointed to represent the defendant in this cause as provided in Article 26.04, Code of Criminal Procedure.

Julie M. K... ..

Date: 10/09/2013

Judge Presiding

Appt ID: 444101

Filed in The District Court
of Travis County, Texas
OCT 16 2013
3:30 p.m.
Clerk

Entered ☒ SI up

Defendant's Name: Graham Ray Sonnenberg Date: 10/4/13 Cause # D0C13904091

DOB: 7/13/72 Address: _____ Special Needs: _____

Booking No: 1334036 **Indigence Form**

To determine eligibility for Court Appointed Attorney, you must complete this form.

I will retain my own attorney: _____ Date: _____

Defendant's Signature: _____

Do not continue filling out form if Defendant to retain own attorney

Size of Family Unit Members of immediate family that you support financially (List name, age & relationship)		
Name:	Age:	Relationship:

Monthly Income		Necessary Mo. Living Expenses	
Employer:		Rent:	
Position:	How Long:	Mortgage:	
Your Salary:		Utilities (gas, electric, etc.):	
Spouse's Salary:		Transportation:	
SSI/SSDI:		Make: Model: Year:	
TANF:		Clothes/Food:	
Social Security Check:		Day Care / Child Care:	
Child Support:		Medical Expenses:	
Other Government Check:		Credit Cards:	
Other Monthly Income:		Court-Ordered Monies:	
TOTAL INCOME*		Child Support:	
Savings/401K Balance:		TOTAL NECESSARY EXPENSES*	

STAFF USE ONLY:

Comments: for service 8/8/13 for Asst Int/Rec Temp/Asst FI/Rec Temp/DURZ D0C13100108

TOTAL MONTHLY INCOME:	
TOTAL MONTHLY EXPENSES:	
DIFFERENCE (net income)	

DEFENDANT MEETS ELIGIBILITY REQUIREMENTS

☒ YES ☐ NO
☐ UNDETERMINED

I have been advised of my right to representation by counsel in connection with the charge pending against me. I certify that I am without means to employ counsel of my own choosing and I hereby request the court to appoint counsel for me. I swear that the above information is true and correct. The information I listed is accurate and I will immediately notify the court of any changes in my financial situation.

All information is subject to verification. Falsification of information is a criminal offense.

Signature of Defendant: _____

Date: 10/4/13

Filed in The District Court
of Travis County, Texas

OCT 08 2013

Analia Rodriguez-Mendoza, Clerk

APPENDIX K

(Affidavit of Vickie A. Lincoln)

AFFIDAVIT

VICKIE M. LINCOLN'S AFFIDAVIT IN SUPPORT OF
GRAHAM JAY SONNENBERG'S APPLICATION FOR WRIT OF HABEAS CORPUS

STATE OF TEXAS
COUNTY OF WILLIAMSON

BEFORE ME, the undersigned authority, on this day personally appeared Vickie M. Lincoln who swore or affirmed to tell the truth, and stated as follows:

"My name is Vickie M. Lincoln. I am of sound mind and capable of making this sworn statement. I have personal knowledge of the facts written in this statement. I understand that if I lie in this statement I may be held criminally responsible. This statement is true.

I am the mother of Graham Jay Sonnenberg. I am 65 years of age. I am a consultant in the field of corporate ground transportation, with 25 years of experience in this field. I reside at 2507 Creek Bend Circle, Round Rock, Texas 78681.

My son, Graham Sonnenberg, hired an Austin criminal defense attorney, Jon Evans, to represent him in a case brought against him by, Alexis Manley, after finding Mr. Evans in a well known magazine advertising Mr. Evans and other certain attorneys as "super lawyers", he believed that Mr. Evans had a good reputation for successfully representing clients in cases such as his. Mr. Evans quoted a large sum of money and then took the case. Graham gave Mr. Evans the amount of money that he had at the time, and began to try to raise the rest of the money, for his fee.

On subsequent meetings, my son told me that Mr. Evans' demeanor toward him began to change. As my son took more time to locate more money with which to pay the fees, Mr. Evans became more and more aggressive because of the outstanding balance. At the same time, Graham stated that his attorney, wasn't really doing much to show that he was diligently working on the case.

Graham mentioned to me that he also gave Mr. Evans the names

of people who would be witnesses, as well as information about the case, yet, the witnesses were not called, and the information not verified, that was important to verify pertaining to the case.

My son told me that Mr. Evans began to tell him that he was going to jail for a long time, unless he got his money. Graham began calling me to tell me how worried that he was, and that he felt that Mr. Evans was not doing his job, yet, he had already been paid thousands of dollars. Graham told me that he did not have the rest of the money to pay Mr. Evans at the last meeting; and Mr. Evans told him, "I don't like you, Sonnenberg."

At this point, Graham told me he had also lost confidence in Mr. Evans' ability to represent him effectively, and that his attorney's increasing angry behavior and his demeaning attitude toward my son, he felt he would not get adequate representation from Jon Evans and wanted to be rid of him. My son told me that he was increasingly scared of Mr. Evans, and desperate for a change in representation.

He asked if I could help him find a new attorney for him. I was able to, yet the fee was similar to the fee that Mr. Evans was charging. I asked Graham if he could see about getting the money back from Mr. Evans, but Graham told me that Mr. Evans refused to give any of the money back to him, despite it seeming as though he had not done much on the case. We were unable to help any further, since we had loaned Graham money to start a new business.

Over the phone, Graham was sounding desperate when he again expressed his wish to have Mr. Evans off his case. He felt so strongly about it, that he stated to me that he would rather have a public defender, feeling that he would get better representation. He also feared what would happen to him, if he did not get rid of Mr. Evans.

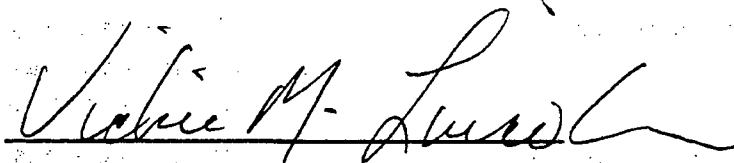
Graham wrote to Judge Coronado to plead with him to help him obtain a different attorney. He also asked for, and was granted a public defender by Judge Judy Kocerik. When Graham told me this, he seemed greatly relieved, and more hopeful. The day then came for Graham to meet with his new attorney. When the public defender came to meet with my son, it was none other

than Mr. Jon Evans, himself! Again. Graham told me that he was absolutely devastated, and that Mr. Evans told him, "A funny thing happened, Mr. Sonnenberg, I was appointed as your public defender!" Graham stated that Mr. Evans continued by saying, "If I don't get my f***ing money, you are going to prison...so have your mother bring it to me... in cash."

Since he had no more money and he was in a state of duress, with Mr. Evans now being appointed as his public defender, my son felt he had no choice but to call and ask me to take Mr. Evans \$7,500 in cash to finish paying his attorney fees. I paid the money, in cash, as Mr. Evans requested at the law offices of Evans and Lusk. I am including a copy of that receipt as well as the business card I was given.

It seemed strange to me that I was having to pay money for my son's public defender, but I felt intimidated by the whole situation and I was afraid of what was to become of my son. I was concerned also for my grandson, a little boy with a learning disability who was emotionally dependent upon his father.

I tried in the following months to reassure Graham that Mr. Evans would do a good job, now that his fees were paid. Graham was distraught up to and throughout the trial. In retrospect, I now feel he had every reason to be afraid and nervous. At his trial, I got the impression that Graham's attorney was simply "winging it", at times. I wondered where all the witnesses and important evidence were to support Graham's side. A witness who knew important information came to the trial and asked to testify, but Jon Evans would not put her on the stand. As I sat at the trial and watched, it seemed the well-prepared prosecutor overpowered Mr. Evans at almost every point. I feel Mr. Evans was unprepared and did not bring up key points so that the jury could better understand my son's side of the story. He was subsequently sentenced to 20 years in prison.



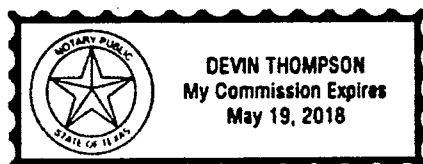
Vickie M. Lincoln

STATE OF TEXAS

COUNTY OF Williamson
(name of county)

SWORN to and SUBSCRIBED before me, the undersigned authority,
on the 24th day of June, 2017 year, by

Vickie M Lincoln
(print name)



Devin Thompson
Notary Public, State of Texas

(NOTARY SEAL MUST BE INCLUDED)

~~Exhibit D~~ 6785

Re: Graham Sonnenberg

RECEIPT		No. 730136	
DATE	<u>2/12/14</u>		
FROM	<u>Vickie Lincoln</u>	<u>\$7500.00</u>	
<u>Seven thousand five hundred</u> DOLLARS			
<input type="radio"/> FOR RENT <u>Jon Evans legal fees</u>			
<input type="radio"/> FOR			
ACCT.		<input checked="" type="radio"/> CASH	FROM _____ TO _____ BY <u>[Signature]</u> A-1152 TM161
PAID		<input type="radio"/> CHECK	
DUE		<input type="radio"/> MONEY ORDER	
		<input type="radio"/> CREDIT CARD	

JON EVANS

Criminal Defense Lawyer - Board Certified Expert

806 W. 11th. St.
Austin, Texas 78701
www.luskandevans.com

(512) 476-4075
(512) 477-6840 Fax
Email Me at
jonlevans@aol.com

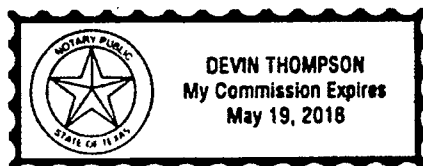


STATE OF TEXAS

COUNTY OF Williamson
(name of county)

SWORN to and SUBSCRIBED before me, the undersigned authority,
on the 24th day of June, 2017 year, by

Vickie M Lincoln
(print name)



Devin Thompson
Notary Public, State of Texas

(NOTARY SEAL MUST BE INCLUDED)

APPENDIX L

(Affidavit of Dawn Grunwaldt)

AFFIDAVIT

THE STATE OF TEXAS

COUNTY OF Travis

BEFORE ME, the undersigned authority, on this day personally appeared Dawn Michelle Grunwaldt, WHO SWORE OR AFFIRMED TO TELL THE TRUTH, AND STATED AS FOLLOWS:

My name is Dawn Michelle Grunwaldt. I am of sound mind and capable of making this sworn statement. I have personal knowledge of the facts written in this statement. I understand that if I lie in this statement I may be held criminally responsible. This statement is true.

I am a friend of Graham Jay Sonnenberg. My name is Dawn Michelle Grunwaldt. I was witness to the following:

I have been a friend to Graham Sonnenberg for 17 years now, I am a mother of 3 children and my youngest is a special needs child. I am good friends as well to Graham Sonnenberg's Ex Wife Sheri Bates and I am the God Mother to their Son Samuel Sonnenberg. I am a stay at home mother as my children are very active in the community and their schools with Sport and Music Programs, my children are honor role kids, my oldest is in the Top 10% of her High school and I am very active in all 3 of my children's school PTA's and Fundraising, My youngest Child requires 4 days a week therapy that requires me at home full time as well, He attends Occupational and Speech and ABA at Texas State University CARES program. This is so you can know a little of whom is writing this on Graham Sonnenberg's behalf.

I attended the trial from the time it began until the time it ended each day that Graham was there at the Travis County Courthouse, I sat in for all testimonies and I listened to the prosecution and Mr. Jon Evans rebuttals who was Graham Sonnenberg's Court Appointed Attorney I heard all the Woman and Officers Testify as well and this trial seemed very one sided meaning that Mr. Evans was not doing his job for Graham properly he seemed not prepared to me everyday, there were no witnesses ALLOWED to testify on Graham's behalf and I did not understand why both sides of certain events were not being defended by Mr. Evans on Graham Sonnenberg's behalf from his attorney, was Graham telling his side to him and it was not getting conveyed (I don't know but it seemed) like certain things should have been told and expressed to defend those nights on Grahams behalf when some of those ladies were speaking.

I was one of those witnesses that was told by Mr. Evans himself that it was not necessary for myself or anyone else to testify? When I asked him why in the hallway at the Travis County Courthouse, why can we not tell our sides of those events, that the prosecutors are sharing with the jurors in this case from the Ladies that were on the stands telling their sides to these events ?

(I said) Mr. Evans there are two sides to every story you know this right sir and Graham has a lot of friends that witnessed some of these events that they are accusing him of, sir, why are they not being called up to help Graham (where are they?) and Mr. Evans said ma'am "Its not necessary as it will not help him" I WAS Shocked I could not believe what I just heard from Graham Sonnenberg's attorney. It was almost like he gave up on Graham like he was not even trying to Defend him or do his research to see the other side of those nights. He received 20 years of prison time, thrown away and not heard or helped for the problem that was evident for Mr. Graham Sonnenberg.

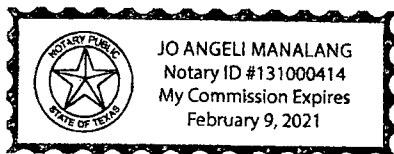
Thank you for taking the time to in reading my small input of what I saw and was told.

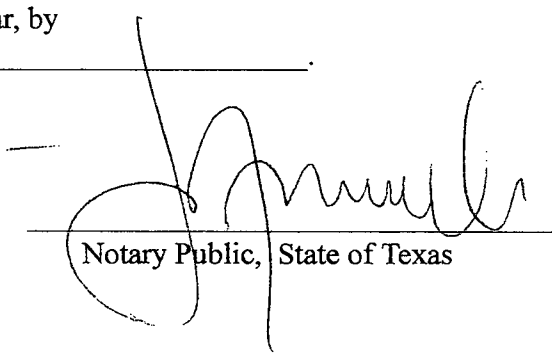


Dawn Michelle Grunwaldt
Page 1 of 2

STATE OF TEXAS
COUNTY OF Travis

SWORN to and SUBSCRIBED before me, the undersigned authority, on the 6th
day of JULY, 2017 year, by
DAWN MICHELLE GRUNWALDT





Notary Public, State of Texas

APPENDIX M

(Affidavit of Chase Lincoln)

AFFIDAVIT

THE STATE OF COLORADO
COUNTY OF PUEBLO COLORADO

BEFORE ME, the undersigned authority, on this day personally appeared Chase Austin Lincoln, WHO
SWORE OR AFFIRMED TO TELL THE TRUTH, AND STATED AS FOLLOWS:

My name is Chase Austin Lincoln. I am of sound mind and capable of making this sworn statement. I have personal knowledge of the facts written in this statement. I understand that if I lie in this statement I may be held criminally responsible. This statement is true.

I am the brother of Graham Jay Sonnenberg. My name is Chase Austin Lincoln. I was witness to the following:

Write your statement here.

I Chase Lincoln have never been contacted by Jon Evans. I contacted his office 2 times to make my statement about my brother. Jon never called me one time to talk or to even ask me to come to court. I have waited to tell my story and my wife also. She was there making another person who also should have been contacted. My brother has never had a fare court trial or even a fair process. Please allow me at any time to tell my story. I would say that Jon lies and lies and manipulates the legal system to abuse his power as a he sees fit. My brother never got the court day he needed or should have had. Please contact me any time. 512 745 4530


Chase Austin Lincoln

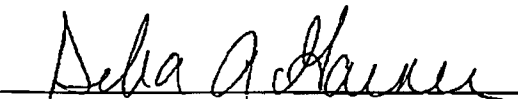
Page 1 of 2

STATE OF COLORADO
COUNTY OF PUEBLO COLORADO

SWORN to and SUBSCRIBED before me, the undersigned authority, on the 8th day of

February, 2018 year, by

Chase Austin Lincoln



Notary Public, State of Colorado

DEBRA A. GARNER
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 19984000234
MY COMMISSION EXPIRES 01/03/2022

Filed In The District Court
of Travis County, Texas
on 2/15/18
at 4:18 P.M.
Velva L. Price, District Clerk

APPENDIX N

(Affidavit of William Lincoln)

AFFIDAVIT

THE STATE OF COLORADO
COUNTY OF PUEBLO COLORADO

BEFORE ME, the undersigned authority, on this day personally appeared William Caswell Lincoln, WHO SWORE OR AFFIRMED TO TELL THE TRUTH, AND STATED AS FOLLOWS:

My name is William Caswell Lincoln. I am of sound mind and capable of making this sworn statement. I have personal knowledge of the facts written in this statement. I understand that if I lie in this statement I may be held criminally responsible. This statement is true.

I am the brother of Graham Jay Sonnenberg. My name is William Caswell Lincoln. I was witness to the following:

I have never spoken nor have I ever heard from Mr. John Evans before or after Graham Sonnenberg's Trial. Also on the account of him reaching out to a friend of mine to testify on Graham's behalf he never got back to Mr. Ryan Naile who I personally spoke to on testifying on Grahams behalf. Ryan told me he would testified but Mr. Evans never got back a hold of him after the initial phone call. Ryan had pivotal information on dates that had occurred coinciding with Grahams trial and incidents pertaining to the trial.


William Caswell Lincoln

STATE OF COLORADO
COUNTY OF (Pueblo County)

SWORN to and SUBSCRIBED before me, the undersigned authority, on the

8th day of February, 2018 year, by

William Caswell Lincoln


Notary Public, State of Colorado

DEBRA A. GARNER
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 19984000234
MY COMMISSION EXPIRES 01/05/2022

Filed In The District Court
of Travis County, Texas
on 2/15/18
at 4:18 P.M.
Velva L. Price, District Clerk