

September 16, 2018

Hon. Jose L. Linares, U.S.D.J.
U.S. District Court, D.N.J.
Martin Luther King Jr.
Federal Building and Courthouse
50 Walnut Street, P.O. Box 999
Newark, New Jersey 07101-0999

Re: Bergin v. United States, Civil No.
16-3040

Dear Chief Judge Linares:

I firmly submit that it is incumbent upon me to provide the enclosed EXPERT WITNESS CERTIFICATION (emphasis added), in support of the motion(s) in accord with 28 U.S.C. 2255 and R. 33, Fed. R. Crim. P. in the above captioned matters.

I had prayed that Mr. Lawrence Lustberg, Esquires requests for a crime scene-ballistics expert would have been granted by this Honorable Court. When this request was denied then I prepared this seminal certification.

I plead with this Honorable Court to

genuinely consider each and every word; because objective and forensic evidence ardently establishes that the government's exclusive witness in the murder of Dashawn Kemo McCray, on March 2, 2004, lied and perjured himself on one of the most important-
imperative subjects in this case.

Consequently, if vociferous and magnanimous evidence proves - evinces this fact, then it can be absolutely concluded that he must not be believed as to his remaining testimony and that Bergin is innocent. Most importantly, this fact evinces that the government knew or should have known of Young's perjury, his untrustworthiness and issues relevant to their case and thereby suborned his perjury.

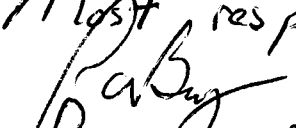
When this Honorable Court considers the newly discovered United States v. Curry recordings, sworn certifications of Hassan Miller, Charles Madison and other evidence, I am imploring reversal of the convictions. The interests of justice so demands.

Lastly, this Court could conclude the nefarious motives and intent of the government in refusing to administer even one polygraph to any of their witnesses;

even when United States Senators, the Justice Department and even our President opine as to the usefulness of this investigative tool, and when the government actually used it in this case on witness Ben Hahn.

There never was a meeting with Bergin, Curry, Baskerville, McNeil and Jung wherein Bergin ever advised anyone to harm "Keno" so he could win the case and Will Baskerville would go home.

Thank you for your consideration.

Most respectfully,

PAUL W. BERGIN

Dated: 16 September 2018.

cc. John Gay.
Lawrence Lustberg

IN THE UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF NEW JERSEY

PAUL W. BERGRIN,
Plaintiff,

v.

UNITED STATES OF AMERICA,
Defendant,

Civil No. 16-3040

EXPERT CERTIFICATION OF PAUL W. BERGRIN

I, Paul W. Bergin, do hereby make this expert certification under the penalties of perjury. I swear that every fact contained herein is the absolute truth and challenge the government to submit even a scintilla of any evidence proving any word false.

1. I am the plaintiff in the above captioned matter and personally familiar with every fact contained herein.

Every single word is the absolute truth and I challenge anyone to disprove

a single fact contained herein.

2. In or about December 1955 I was born. It is the same year my father, Bertram Bergin, became a New York City Police Officer.

a). My father rose to the rank of Police Lieutenant and was a uniformed law enforcement officer. I cannot remember a day in my life that my father did not own, carry and I did not see a handgun, as I was growing up.

b). From infancy I accompanied my father to shooting ranges wherein I was permitted to become familiar with handguns, shoot them and even clean them.

c). My Uncle Martin Sheinberg who was an Army Infantry Officer, was very close to me growing up. He always owned handguns and he also taught me how to use and fire them. I accompanied him also to various ranges during my childhood.

Through my father and Uncle Martin I became acquainted with .38 caliber revolvers, .22 caliber semi automatic handguns, 9 millimeter handguns, .45 caliber weapons, .357 magnum revolvers and other weapons.

3. I am a retired United States Army Officer with more than 20 years of weapons training and experience, which for purposes of this certification includes but is not limited to .45 caliber and 9mm handguns.

I have fired these weapons hundreds of times and with the training and experience given to me by my father and uncle, have fired, disassembled, trained with these type of weapons thousands of times.

4. I was an Assistant Essex County Prosecutor in Newark, New Jersey and was hands on with my cases and their investigation. As a trial attorney assigned to the trial section I managed and handled hundreds of cases involving violent crimes, particularly handguns. I read, scrutinized and educated myself in crime scenes, ballistics, pathology and was taught this facet of prosecution by experts in municipalities, ^{and in Pitt} the State and Federal Law Enforcement. I worked very closely with law enforcement officers, received hundreds of hours in on the job training and took courses in violent crimes and investigation-prosecution taught by pre-eminent experts.

(a). I was promoted and selected to the Essex County Prosecutor's Office Homicide Section and was a hands-on prosecutor. I handled hundreds of homicide cases, police shootings and violent crimes as a homicide prosecutor; and in this experience was trained by experts in the field of pathology, crime scene evidence collection, blood splatter analysis, crime scene investigation, ballistics, bullet trajectory and the copious scrutinization of complex shooting cases. I worked closely with experts in these fields, successfully prosecuted at trial more than 20 murder cases, attended at least fifty autopsies, reviewed and witnessed hundreds of homicide scenes and read and analyzed hundreds of reports related to my experiences. I made it a point to meticulously scrutinize and become innately cognizant of all aspects of a homicide case.

I have seen^{PP} thousands of autopsy photos, crime scene photos and reports, spoken to thousands of witnesses to violent crimes and personally reviewed a plethora of crime scenes. In each and every aspect of a shooting case and during my military and civilian career of more than 40 years, I have spoken to and been trained by the

most qualified experts in ballistics, crime scene collection and analysis, forensic pathology, weaponry, especially the type used in the Dashaun McGray, "Kamo" murder on March 2, 2004 and other cases.

5. As an Assistant United States Attorney, assigned to the trial section, Newark, New Jersey I enhanced my experience and training in handling violent crimes and the expert analysis of evidence. I took several courses at the United States Department of Justice, Washington, D.C. on crime scenes and the analysis of a scene-case.
6. As a Board Certified Criminal Defense Attorney, I further credited my qualifications, education and experiences in handling, artfully and competently scrutinizing shootings, crime scenes, ballistics, weaponry, blood splatter, and was even hired-retained to even represent police officers involved in shootings, all committed with .9 millimeter handguns. The alleged handgun is issue sub-judice. I vastly enhanced my knowledge as an defense attorney. I represented hundreds of law enforcement officers involved or accused of discharging their 9mm weapons, shootings and

even violent crimes, as well as accused defendants, I was sought after as a skilled trial defense counsel in all types of cases involving handguns.

a) Amongst the cases I handled in which crime scene analysis, my expertise about 9mm handguns and homicide investigations actually saved the life, liberty and career of police officers was;

1) the alleged murder by Newark Police Sgt. Kevin Schneider, who later became Chief of Police of his wife's lover;

2) the discharge of his weapon and killing of a civilian by Newark Police Lt. Robert Russo;

3) the bank robbery shoot out in Newark, N.J. by Lt. Carmar Russo;

4) the discharging and killing by Officer Rocco Bonaisisa of a Newark resident; he ^{was} shot eleven times.

7. I was taught forensic pathology, including entrance and exit wounds to a victim, gun powder discharges and denarcations, bullet trajectory in a human being and personally studied this science from and by Michael

Baden, former New York City Medical Examiner and Forensic Pathologist on the John Kennedy and Martin Luther King Assassinations, Chief New Jersey State Medical Examiners Dr. Guido Nadarajan, Drs Spath and Tamburi, as well as Chief Medical Examiner, Dr. Elliot Gross, as well as many others. I have eye witnessed at least 50 forensic autopsies involving gun shots - homicides; and during the autopsies medical forensic pathological experts have explained factors such as entry and exit wounds, bullet trajectory, causes of death, pathological nuances, gun location - distance and time of discharge as well as other facts. I exhaustively became consumed in forensics.

8. During one of the last trials I had as a homicide criminal defense attorney, State v. Edward Peoples, I spent an inordinate amount of time studying ballistics, crime scene evidence and shell casing placement due to discharge. I have attended at least 100's of crime scenes and shootings throughout my career; and have read, been taught and educated on how to analyze a scene and evidence; especially shell casings, projectiles, gun powder residue, blood splatter evidence and collection of evidence.

a). New Jersey State Police
Detective Irv McConnell tutored me on

crime scenes, evidence collection, ballistics and forensic analysis back in 1981, when I handled and prosecuted Iron Worker Marco Di Giovanni Sr and Jr for the murder of Robert Mustaccio. That case involved complex blood and shell collection, analysis and dissection. I have continued to educate myself forensically ever since and have gained vast knowledge and experience.

9. The government has innate knowledge as to my qualifications as a prosecutor and defense counsel and if they want to challenge my qualifications, education, experience and this opinion, I welcome it. I know that I am competent to espouse the upcoming opinion.
10. One of the government's critical witnesses against me, Eugene Braswell, shot and murdered an inmate he guarded when he was a Correctional Officer at Northern State Prison, Newark, N.J. The inmate was released and confronted Braswell at his home; at which time Braswell shot and killed him. I represented Braswell on this complex case and was successful in establishing self defense.

11. Based upon my vast, exhaustive and comprehensive experiences as both a soldier, prosecutor and criminal defense attorney, I respectfully implore this Honorable Court to accept me as an expert witness in crime scene analysis, homicide analysis and forensic evidence.
12. Anthony Young, the sole and exclusive witness against me in the seminal counts of the Indictment charging Violent Crimes in Aid of Racketeering, Conspiracy To Murder and Murder of a government witness, Dashaun "Kemo" McCray, testified and stated (mentioned) for the very first time, in March, 2013 (at my second trial), that he shot and killed Kemo with a 9mm automatic handgun.

(a) Young had commenced cooperation with the government in or about January 14, 2005. Kemo was shot and killed on March 2, 2004.

(b) From January 2005 until March 2013, Young had been interviewed, proffered, prepared for testimony against William Baskerville in 2007, testified in 2007, prepared for testimony against Bergrin in 2011, testified against Bergrin in

2011, but never stated nor even mentioned that he used a 9mm AUTOMATIC to kill Kemo, until he testified against Bergin in 2013. (Emphasis added).

- (c). Bergin was shocked and surprised by Young's testimony that he shot and killed Kemo with an automatic weapon.

Young even went further during this testimony by emphatically swearing that Curry and ALL (Emphasis added) members of the Curry Organization converted ALL of their weapons to AUTOMATIC handguns - weapons, especially every 9mm. (Emphasis added).

- (d). Both the government and Bergin knew Young had committed perjury and testified falsely about the guns conversions, because a plethora of handguns were seized from Curry and alleged associates and not one was an automatic or converted to automatic. This actually included

a 9mm handgun seized from the government's witness Young, during a motor vehicle search and which was the impetus behind his cooperation with them. He actually possessed a 9mm semi auto.

- e) Bergin had no ability to retain a forensic expert to prove Young's perjury on this central, material and enormously imperative point, which would have forensically concluded to an absolute certainty Young contrived, fabricated and was a perjurer who must not be believed.

(i) Although AUSA Minish stipulated in the jury's presence that the government never seized nor retrieved even one automatic weapon or conversion in the entire Curry, Baskerville or Bergin investigations; the government had "actual" knowledge that Young was committing perjury relevant to the weapon BEING AUTOMATIC AND THAT ALL WEAPONS IN THE CURRY ORGANIZATION BEING CONVERTED TO AUTOMATIC. (Emphasis added).

The government suborned perjury and objected to Bergin's extensive cross examination of Young and any ability to

forensically analyze and prove these facts.

THIS FACT WOULD HAVE OBJECTIVELY EVINCED THAT EITHER YOUNG WAS NOT THE SHOOTER, THEREBY CORROBORATING DEFENSE THEORY AND THAT YOUNG WAS CONCLUSIVELY FABRICATING - CONTRIVING THE ACTUAL MURDER OF KEMO.

HENCE FORTH, IF YOUNG IS CAPABLE OF THIS INORDINATE AND EXTRAORDINARY PERJURY THEN HE WOULD NOT HAVE EVER BEEN CREDITED - BELIEVED ABOUT BERGRIN'S INVOLVEMENT IN THE CASE! (Emphasis added).

This objective, physical and forensic evidence would have resulted in Bergin's acquittal and denied Bergin Due Process of Law and a fair trial.

13. Bergin expertly opines based upon his uncontroverted experience, training, education and established expertise that:

a). The entry and exit wounds to the skull of Dershawn Murray,

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and the description of the way Young and witness John Davis describe the shooting; could not have occurred by an automatic weapon.

Young testified in Braxtonville 2007 that he pulled the trigger and shot Kemo 3-4 times; the same way he described it to the government and it was stated in FBI 302's.

Young swore and professed that he grabbed Kemo by the shoulder, spun Kemo around, while Young was in back of him and pulled the trigger 3-4 times.

The bullet trajectories evince Kemo being shot in the back of his head and on each side of his skull, 3-4 times and at different angles. With Young firing an automatic weapon whether he pulled the trigger one two three or four times there would have been forensic and pathological evidence of Kemo being shot in the same area and not which the autopsy proved. Three different head wounds - one shot each time. An automatic weapon would have emitted multiple rounds in the same shot pattern - more than 3-4 rounds (as shell casings on the ground proved and entry wounds disclosed). The dispersed and different locations

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of the head wounds evince the trigger being pulled constant with a non-automatic weapon; never an automatic.

If Kemo was killed with an automatic weapon and the trigger was pulled several times as Young testified, there would have been a lot more than 3-4 shots fired, there would have been many more shell casings discharged from this type of weapon, the trajectory of the bullets would have been pathologically different and the location of shell casings on the ground; would have depicted that an automatic was used.

14. The evidence adduced at the autopsy and location of shell casings on the ground (4 shells at separate distances and locations) conform Young's perjury and that he never used an automatic weapon.

This is my expert opinion which I implore the Court consider.

As previously stated: If the government has an iota of evidence that in any manner whatsoever

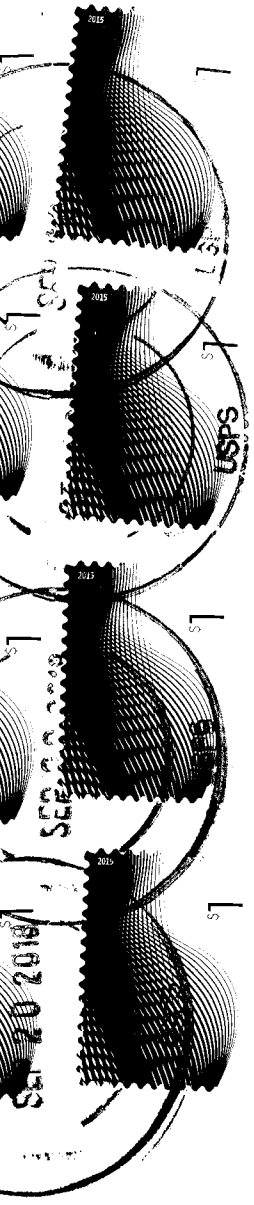
disproves anything espoused supra, I challenge them to submit it. I would stipulate to giving them (14) fourteen days to reply with an expert report.

Paul W. Bergin
Paul W. Bergin

Dated: 16 September 2018.

I swear that all statements contained herein to be the absolute truth, under penalty of perjury.

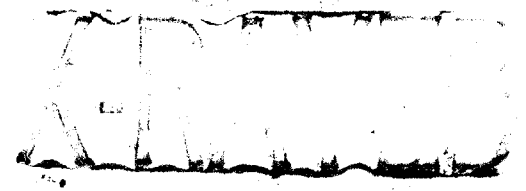
Paul W. Bergin



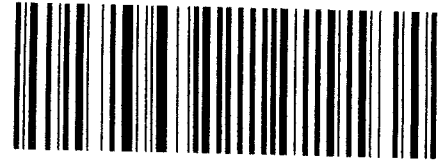
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Honorable Chief Judge José h. Linares
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