


STATE OF ARKANSAS)
) ss.
COUNTY OF NEWTON)

AFFIDAVIT

COMES NOW, Kenneth G. Smith, and having been first duly sworn upon his oath, states as follows to whom it may concern:

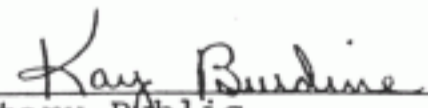
I, Kenneth G. Smith, state that I was contacted by my brother-in-law Kenneth G. Middleton, from Potosi Correctional Center, in Mineral Point, Mo. on Saturday November 23, 1991. Ken stated that his 29.15 attorney Gerald M. Handley, had not sent him his Amended Motion, but had sent him only a one (1) page affidavit with a letter, received on Friday evening November 22, 1991; instructing him that he must sign the affidavit and return it to Handley the following day. Potosi law clerk, Doyle Williams told Ken that he had no choice, but to sign the affidavit; even though Mr. Handley had not sent Ken the Amended Motion for Ken to read before signing. Williams also told Ken that even the court didn't have the power to extend the deadline. Ken said there is no incoming or outgoing mail on weekends at Potosi, so that there appeared to be serious difficulties getting the signed affidavit filed on the deadline, November 25, 1991.

Ken asked me to travel to Potosi, Missouri, with my brother-in-law Lynn Carl Middleton, spend the night and come to the Prison on Monday morning, November 25, 1991. We traveled to Potosi, Missouri (about 300 miles one way) on November 24, 1991, and picked-up the one (1) page affidavit and took it to MIDDLETON-FORD in Potosi, Missouri at 9:55 a.m. November 25, 1991, and faxed it to Ken's 29.15 attorney, Mr. Gerald M. Handley in Kansas City, Missouri, so it could be filed with the Court; to prevent it from being filed out of time.



Kenneth G. Smith
HCR 72, Box 62
Vendor, Arkansas 72683

Subscribed and sworn to before me, the undersigned Notary Public in and for said County and State, this 5, day of October, 2000.



Notary Public

My Commission Expires: 1-27-2007



Exhibit "3"