

Victimhood: A Primer - Losing in West Virginia © By Roger McQuaid 2004

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Smoke and Mirrors for Many Years – WV Victims’ Rights Act of 1984 – Does it work anywhere?

Victimhood should not be wished upon a worst enemy. Victimhood happens. The criminal makes a decision and ZAP, a victim is created. Unfortunately, it is the McQuaids’ experience in West Virginia that after the violent crime, the “State” pushes the victims lower into Victimhood. In this Primer, a Writ of Habeas Corpus case shows the State giving Victimhood extra meaning. Although a victim writes this primer, it is hoped that all bias of the victim is eliminated and the facts are clearly represented.

Victims lose in every crime, but for Jan and Rog McQuaid, they lose again and again in West Virginia. Their first loss was in 1990 when three of Tod McQuaid’s employees killed their son. Then they had to buy the 1991 trial transcript just to get details of how their son was killed. The US Constitution and the West Virginia 1984 Victims’ Rights Act let the defense counsel manipulate the Court and keep these grieving parents out of the courtroom.

In 2001, the murderess creates a petition that her rights were wronged at the 1991 trial. The "State" concedes in 2003 that one of her twelve grounds actually may have merit and tells the "Court". The Court grants relief and discards the 1991 trial verdict and sentence. Then a plea bargain arrangement yields a lesser sentence. The US Constitution gives 23 rights to the defendant or criminal including her Writ of Habeas Corpus. This factual Court scenario sounds like the way justice should work - but did it?

NO! The Court granted its relief judgment because the 2003 prosecutor accepted the murderess' suggestion that the 1991 Court denied her right to an impartial jury. That judgment detail depended on a dentist named Mike Wilson, a friend of the 1991 Prosecutor, being a juror in the 1991 trial. He was not! After one phone call to the dentist, Jan McQuaid, (author, amateur investigator and mother), knew that the dentist was not the juror. This 2004 court order with revised sentence is not justice or the way justice should work.

This punch line leads this story: After 11 months of questioning, discovery, exposure, requests and rejections this document is closed. It is available for reading, discussion, learning, etc. about Victimhood as extended, enhanced, etc. by the State of West Virginia. It closes upon receipt of two more rejections. Note that no one up through the Governor states that there isn’t any issue. They use such words as: ‘we have no authority’ (Greenbrier County Commissioners) and ‘Investigative Panel voted not to reopen your complaint’ (West Virginia Disciplinary Counsel). So the Greenbrier County Office of Prosecuting Attorney did wrong and then sold that in the media as right but nobody in West Virginia has stood up to be counted. The punch is really a KO unless the people of West Virginia show that they care.

I. Denial, Errors and Omissions, and Cover Up - This document lists three failure summaries concerning the McQuaid losses between 2001 and 2004. It also gives a chronological sequence of the McQuaid’s discoveries of what happened. It is hoped readers will respond to their governmental leaders.

A. West Virginia Victims Protection Act 1984 - Bill of Rights Denials

1-Victims are to be advised of any plea agreement with the accused. **Denied**

2-Victims have the right to do a victim impact statement, the right to appear before the judge at sentencing, and, at sentencing, the right to make a statement as to the effect the crime had on them and their families.

Denied

3-Victims have the right to expedient return or property seized as evidence or used in the course of the investigation or trial.

4-Victims have the right to notification by the prosecuting attorney of court dates and any schedule changes.

Denied

5-Victims have the right to receive court ordered restitution from the offender for physical, psychological, and economic injury or loss.

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Comments above #4 – Jan and Rog missed the December 17, 2003 Writ of Habeas Corpus hearing when the Greenbrier County Prosecutor did not notify them as required in the 1984 Act. Again the McQuaids had to buy the details in the 2001-2003 Court Records after a Victims' Advocate notified them March 10, 2004.

Comments above #1 – Jan and Rog learned about the plea bargain executed on December 17, 2003 after the Court discarded the 1991 trial and its verdict when a Victims' Advocate called them on March 10, 2004.

March 11, 2004 – Jan calls Steve Dolly to ask why victims were not notified of the December 17 Writ hearing. He simply states that he could not find the McQuaid address. He responded that he asked Rick Lorensen, 1991 Prosecutor, about her address. He responded that he did not notify the media about the trial.

Note: Jan knew that West Virginia Parole Board sent the McQuaids a registered letter in August 2003 and the McQuaids attended the October 2003 Parole Board Hearing of the triggerman, Roger Cline. She also visited the Greenbrier County Prosecutor's office in 1998 while writing her book, Security Breach: The Murder of Tod McQuaid. She left her address again at that time.

July 30, 2004 - Jan calls Rick Lorensen. Rick tells Jan that his first knowledge of the Writ was when 1991 Judge told him about Writ's relief at a Christmas party in December 2003. He responds that Steve Dolly never notified him about the Tammy Wilson Writ of Habeas Corpus or plea bargain trial. He also tells Jan that Dolly did not contact him about 1991 trial or how to get in touch with the McQuaids.

Note the McQuaids found that the State does not adhere to its own law professing victims' rights. After twenty years, the State appears to have no watchdog organization ensuring any adherence to the West Virginia Crime Victims' Act. Neither the Attorney General nor any Victims' Advocate is authorized.

B. Greenbrier County Prosecutor Office Errors and Omissions - Understanding how 1991 errors happened became an issue to Jan. Thus Jan and Rog traveled to Morgantown twice to selectively copy Court Transcript pages to better understand what happened during the Writ of Habeas Corpus process. In all they collected about 4 inches of double-sided paper from these Court records.

They found that the Assistant Prosecutor did not respond as Counsel for the Respondent to any of the petition's grounds. The Court three times from January 4, 2002 to June 23, 2003 required Dolly to respond. It is sad that he did not even attend the default hearing on August 22, 2003 called against him for not responding. In addition his concession during the hearing on December 17, 2003 conflicts with more recent findings. These constitute errors and omissions that unduly favored the convicted murderer.

November 15, 2004 – Tina Alvey publishes an article in the West Virginia Daily News titled "Former Prosecutor Says Juror Was Not His Friend" where Rick Lorensen states, "I knew a Michael Wilson. He's a dentist but he's not the Michael Wilson who was on the jury." This article provides a total discredit to the concession of December 17, 2003 and an exposure of an apparent lie told by Dolly to Rog on August 10 when Dolly stated to Rog that he talked to Lorensen to validate the grounds used in the concession.

April 14, 2002 – Jury Qualification Questionnaire signed by dentist Michael Wilson (friend of Rick Lorensen) supports conversation with Jan on July 29, 2004 that he has never served on a jury because he is a dentist.

August 11, 2004 – Juror Michael Wilson's notarized letter to Jan states: "I am the Mike Wilson that served jury duty on the murder trial of Tammy Wilson in Morgantown, West Virginia in the 1990's although, I do not now nor have I ever known Prosecutor Richard Lorensen."

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September 3 and 10, 2004 – Rog faxes to the Greenbrier County Prosecutor's office a description of Jan's investigation and conclusion that there were two Michael Wilsons referred to in the 1991 transcript; that Rick Lorensen did not know the juror, Michael Wilson; and that the McQuaids request a plan describing Prosecutor's efforts to reverse the "wrong" relief given to Tammy Wilson on March 4, 2004.

November 22, 2004 – E-mail from Beckley, West Virginia Register-Herald to Jan containing a copy of a several day old article by Christian Giggenbach. It provides: "'Instead of another trial we negotiated a plea agreement with the defendant,' Greenbrier assistant prosecutor Steve Dolly told The Register-Herald. 'If she gets a new trial, then we cannot prosecute her because the case is too old.'"

Note, Dolly's errors and omissions did not meet his professional conduct for Prosecutor discretion requiring "... (1) an obligation to seek justice and not merely to convict; (2) his representation of the State, as opposed to an individual client, which requires them to make decisions which must be fair to all; and (3) the benefit afforded a defendant of proof of guilty beyond a reasonable doubt." (Required items extracted from Office of Disciplinary Counsel November 29 letter in which Board found no problem.) Second, Dolly obviously was willing to mislead the public that he performed with honor by telling the reporter on November 22 'we negotiated a plea agreement'. Third he was not willing to give notice of his errors and omissions upon which the reporter would not have been able to denigrate Rick Lorensen. The article then punched Lorensen with "... various errors made by the prosecutor at the time, Richard Lorensen."

C. Greenbrier County Prosecutor Office Cover Up - These and other losses are demeaning and demoralizing but almost the most hurtful for the McQuaids is that the Greenbrier County Prosecutor Kevin Hanson will not talk to them. It seemed normal on **March 11** when Jan called Hanson and his receptionist connected Jan for second time to Dolly who responded, "I know you called and wanted to speak to the prosecutor, but you're stuck with me!" But Hanson did not even respond months later when shown that his assistant, Steve Dolly, must have skipped verifying the grounds for the Writ of Habeas Corpus relief. One might see this as Hanson believing that the State has no responsibility for victims.

The McQuaids made four attempts to talk to Greenbrier County Prosecutor Hanson with no success.

Crime Victims' Rights Act of October 30, 2004 (HR1507 only available for Federal crime victims) lists: right #5 as: "The right to confer with the attorney for the Government in the case". The McQuaids hope that adopting/adapting HR1507 in West Virginia will include right to speak with his/her supervisor too.

The Prosecutor's silence to the victims begins to have other possible connotations. Jan reads in the Courts records that Mr. Dolly's two-years as State's Counsel to the Writ of Habeas Corpus was contaminated with non-response and non-appearance. It seems apparent that Hanson, his supervisor, should have known about those omissions during those two years of his assistant's questionable activity.

August 17, 2004 – Hanson won't answer Rog's follow up call or return FAX questionnaire requesting Hanson to describe how his office verified that the conceded grounds for relief (Denial of Impartial Jury) were true.

November 12, 2004 – Hanson answers the question to Tina Alvey, reporter for The West Virginia Daily News in Lewisburg, in her article: "Asked what his office had done to confirm the validity of the accusation made in the habeas petition, Hanson said this morning, 'I am relatively certain that Steve [Dolly] talked to Rick Lorensen [1991 Prosecutor]. And I am relatively certain there is an affidavit or something signed by that juror [Michael Wilson] in the file.'"

September 3 and 10, 2004 – Rog faxes Hanson a description of Jan's investigation and conclusion. Rog's follow up call is not returned. Its content should have given the Prosecutor reason to understand the failure

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of his staff and thus make his November 12 quotes misleading versus informative. The September 3 FAX asks, "What will you do to right this wrong?" that is never answered by Hanson!

November 15, 2004 – Rog faxes Tina Alvey's November 12 article to the Legal Disciplinary Board with Rog's analysis that Mr. Hanson's comments could "suggest an overt act to mislead the readers into believing conversations and information exist". Instead, it is possible that he just tried to dupe the reporter.

December 2, 2004 – Rog faxes Ms. Fletcher who responded for the Legal Disciplinary Board that neither Dolly nor Hanson was in "... violation of the Rules of Professional Conduct." Rog gives notice that some of her information misrepresents some facts. Rog also sends a copy of Tina Alvey's November 15 article "Former Prosecutor Says Juror Was Not His Friend".

December 20, 2004 – Rog faxes Ms. Fletcher's supervisor requesting another review. It attached a November Beckley, WV newspaper article with Dolly bragging how he got conviction without trial. Needless to say, his quotes did not clear Lorensen of any 1991 faults. The letter contained question why Dolly's acceptance of salary for not doing his job was within scope of Professional Conduct. Then it questioned Hanson's acceptance of salary for not supervising his Assistant Prosecutor or for supervising but not knowing that the "Relatively Certain affidavit ..." did not exist on November 12, 2004.

Note the McQuaids not being lawyers do not want to try a case on the nuances of professional conduct. They know the errors and omissions from 2001 to 2003 are wrong. But now they feel that the November 2004 misrepresentations in newspapers and the earlier misrepresentations to the McQuaid victims are worse. They believe that both attorneys should be censored for these acts.

Conclusive note, the September 3 FAX to Hanson pre-addressed both of Hanson's November 12 statements and he made his statements in opposition to its content. In turn, Rog's September 10 FAX to Governor Wise's office (copy to Hanson) repeated its transmission to Hanson. One can suspect that the figurative smoke of a) Rog's short conversation on August 10 where Hanson pushed Rog to Dolly; b) plus the August 17 FAX where his receptionist again pushed Rog's follow up phone call to Dolly; c) plus the September 3 FAX that Hanson gave no response; d) plus the September 10 FAX copy – together should have caused a supervisor to investigate for a figurative fire - unless he already knew what had happened.

In either case, one can assume that Prosecutor Hanson's actions to not talk to the victims meant he was aware; thus his November 12 answers to Tina Alvey, if given for probable publication, suggest an overt act to mislead the newspaper's readers into believing conversations took place and a juror signed document exists.

Addressing Hanson's reference to Dolly's conversation with Rick Lorensen: In the November 15 article, "Lorensen said no one from the prosecutor's office had contacted him prior to executing plea agreement".

Addressing Hanson's reference to an affidavit: I am so proud of Jan's investigative results, (as I am in reader responses to her book – Security Breach), and so sure that Hanson cannot provide his referenced document that I make this offer: I will donate to a victims' fund in Hanson's name, the \$20.00 price of each of Jan's signed books and send the signed book to the purchaser free when both a) Jan receives a book order at her P.O. Box during the month after he releases his "relatively certain" document, and b) the alluded-to-juror signed document is provided to me by Hanson. In addition I offered to send each of that month's purchasers a free copy of this white paper, "Victimhood: A Primer" that describes Jan and my actions in 2004 to understand what happens to cause "Losing again and again in West Virginia".

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Note my surety is based on having 1) an August 11 notarized letter from juror Mike Wilson to Jan specifying that he does not know Rick Lorensen and 2) a Juror Questionnaire submitted by dentist Mike Wilson in April 2002 that supports his claim to Jan that he never served on any jury in his entire life.

II. Touching Victimhood – The McQuaids think all citizens (victims and potential victims) need to learn about Victimhood. Then those citizens could unite to limit Victimhood. The citizens' simplest act would be to sign a petition for Victims' Rights or to send letters to their state legislators. Also they could join and support a victims' organization seeking government action.

However the wrongful relief to the murderess and the other doubtful activities of the Assistant Prosecutor should be the State's problems. The McQuaids are involved only because they are victims and volunteers 'doing their time' in a nether state coined "Victimhood," a state given zero rights in the US Constitution.

Perhaps just skimming through the below highlights diary with its supplemental notes will be enough to motivate the reader to support Victimhood. So far this Primer has one Writ of Habeas Corpus case summary provided for busy people to visualize what they, if they were victims, might need to do. This detailed story of 2001-2005, covers Jan and Rog seeking to understand and correct how the Writ of Habeas Corpus process went wrong is being written and rewritten in this document. For book readers, Jan's first book (and maybe only book), "Security Breach, The Murder Of Tod McQuaid" helps the reader feel what Jan felt living through 1990-1991 murder and trial.

March 10, 2004 - Rog receives phone call from Morgantown, WV victims' advocate. The caller, Warren Elliot, tells Rog that Tammy Wilson, (who murdered Jan and Rog's son - Tod McQuaid), had successfully petitioned the West Virginia Court on December 17, 2003 using a Writ of Habeas Corpus ('Writ'). Thus Mr. Elliot said that the West Virginia Parole Board wanted an address to notify the victims of time and place for Tammy Wilson's first parole board hearing. Warren responds to question, how could this happen, with a fuzzy statement about 1991 trial problem improperly seating a juror.

March 11, 2004 – Jan talks to Dolly and tries to talk to Hanson without success.

The only issue, at that time, was – no notification of public hearing given to the victims.

After March, Rog and Jan McQuaid found that the Writ's relief depended entirely on 1991 juror Mike Wilson being dentist Mike Wilson thereby violating Tammy Wilson's right to an "impartial and objective jury". The 1991 prosecutor, Rick Lorensen, disclosed to the 1991 Court that the dentist was one of two "old friends" in the Jury Pool. Four days later, however, a juror named "Mike Wilson" was seated.

The December 17, 2003 Court ruled to eliminate the 1991 trial and its 1991 Life Sentence without Mercy (no parole). The 2003 Court also accepted Tammy Wilson's ensuing plea bargain of Guilty of First Degree Murder that gave her a new Life Sentence with Mercy (parole hearings).

So as of March 4, 2004, the Court's 'Order' specified, "Upon review of the same, the Respondent (the State) conceded that there may have been reversible error made during the Petitioner's original jury trial – namely the improper impaneling of the jury – and that the Petitioner may be entitled to a new trial as a result of said error". The Court's Order offered the chance for her eventual freedom.

About March 20, 2004 – it dawned on Rog and Jan that just answering the phone call made them 1990 victims again. Both victims had started crying again. They were no longer civil to each other. They were fighting each other instead of fighting together against the outside evil. They vowed to change and to support each other.

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April 2004 – The McQuaids spent the month preparing for Parole Board Hearing. Friends and relatives were notified of address for letters. Parents Of Murdered Children was contacted for support and assistance.

May 3, 2004 – First Parole Board denies Tammy Wilson parole and they set May 2007 for next possible hearing. Jan and Rog and one of Tod's daughters each spend 6 hours traveling and commenting at hearing.

Rog and Jan, outraged by how Writ relief could happen, studied 1991 trial and pre-trial documents and 2001 to 2004 Writ documents. Jan pondered why between July 25 and July 29, 1991, the prosecutor changed from first, notifying the Court of his meeting with dentist Mike Wilson to second (only four days later), not notifying the Court that juror Mike Wilson was his friend. Yet the Court Order discarded the 1991 trial based solely upon a Writ's "jury improperly constituted" claim. These led to Jan's denials: 1) the Writ presented a false assumption and 2) the 2003 Counsel for the Writ failed to test the Writ's premise.

July 29, 2004 - Jan calls dentist Mike Wilson. The dentist, (who had to have served on the 1991 jury for the Writ to be true), tells Jan that he had never served on any jury in his lifetime. A court record dated April 14, 2002 for dentist Mike Wilson is also consistent with his 2004 statements to Jan. This Mike Wilson also tells Jan he is an old friend and classmate with 1991 prosecutor Rick Lorensen.

July 30, 2004 - Jan calls Rick Lorensen. He answers Jan's question about why he did not tell the 1991 Judge he knew the juror, Mike Wilson. Rick says he did not know that Mike Wilson and assumed that juror did not know him. Rick tells Jan that his first knowledge of the Writ was when 1991 Judge told him about Writ's relief at a Christmas party in December 2003. He tells Jan that Dolly did not contact him about 1991 trial or how to get in touch with the McQuaids.

July 30, 2004 - Jan calls another of Rick's friends, Reed Tanner (who was removed from the jury before the 1991 trial). He substantiates dentist Mike Wilson's statements.

However even with this information, Jan felt that the Court's acceptance of her theory would depend on her finding juror Mike Wilson. She did find him with 25 to 35 more phone calls to M Wilson or Mike Wilson in the Morgantown and surrounding counties.

August 4, 2004 – Jan contacts second Mike Wilson, (not a dentist, who served on the 1991 jury of Tammy Wilson). He not only tells Jan he was on jury but tells an anecdote that he would know as active juror.

One question still stymies the McQuaids: How can they get West Virginia to restore Tammy Wilson's 1991 trial results? That would be true justice!

1991 Victimhood gave the McQuaids what could be called paranoia and the 2003 Victimhood made that paranoia worse!

A second question became how could the McQuaids prevent Assistant Prosecutor, Steve Dolly, from spinning this news into his advantage.

A third question concerning Prosecutor Kevin Hanson was not even on the horizon at this point.

August 10, 2004 – Prosecutor Kevin Hanson answers call to Steve Dolly but he wants Steve Dolly to talk to Rog. Steve claims he talked to Rick Lorensen when asked if he verified that juror Mike Wilson was friend of Rick. Steve claims that he needs to look at his notes to be able to answer Rog's questions. Additional calls to Dolly are not answered. FAX of questions gets no reply.

August 12, 2004 - Juror Mike Wilson sent Jan a notarized letter stating that he did not know the prosecutor while seated in the jury. Jan thus excluded dentist Mike Wilson unequivocally from being on the panel and thereby restored credibility in an impartial 1991 jury.

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August 17, 2004 – Rog sends Kevin Hanson the FAXed questions that Steve Dolly did not answer. Hanson's receptionist pushes Rog's follow up call instead to Dolly who just apologizes for not answering and promises next day answers that does not happen. Hanson has never responded to Rog or Jan phone calls to him or to Rog's written requests to him.

When you picked up my phone call Tuesday August 10, you sent me to Steve for the answers. On five attempts to talk to Steve Dolly over the last two business days, I have gotten no results and no effort by Steve to communicate. I offered him a questionnaire like the attached to be completed as possibly a more efficient way for him to help me understand what happened. I received no communication about it.

FAX ATTACHMENT: Telephone Interview by Rog McQuaid of Greenbrier County Prosecutor, Kevin Hanson August 17, 2004

A. Last Tuesday when I called Steve Dolly, you told me that you wanted me to talk to him. He told me that Tammy Wilson's Writ Of Habeas Corpus had other grounds besides "#3 Denial of impartial jury".

1a) Under which other of the twelve grounds was Tammy Wilson's Writ of Habeas Corpus relief warranted?

1b) Please list any other grounds where Respondent concession could have been used (in place of "improper impaneling of the jury") to grant her Writ of Habeas Corpus relief?

1c) And if either (a or b), how did Respondent Dolly come to those conclusions?

B. Last Tuesday I also asked Steve Dolly if he talked to Rick Lorensen about the impartial jury issue. Steve responded, "Yes."

From Steve's past and present actions I have to assume Steve Dolly has believed that juror Mike Wilson knew prosecutor Rick Lorensen and / or he must have believed that Rick knew Mike.

2a) Are both these assumptions of Steve Dolly's beliefs true?

2b) If either or both true, how did Respondent Dolly come to those conclusions?

August 26, 2004 – Rog faxes draft letter for discussion to WV Governor with copy to Hanson. The August 17 FAX is included.

September 3, 2004 – Rog faxes Kevin Hanson a summary of Jan's investigation and results with request for plan to reverse the Court order and reinstate the 1991 trial and verdict. He never responds.

TO Kevin Hanson,

I am extremely proud of all Jan has done. But no finer results exist than those from her simple phone calls to satisfy her curiosity about this Writ of Habeas Corpus.

Tammy's Writ has 12 grounds and the only one used for relief is number 3: Denial of impartial jury. This was started in a pre-trial hearing where dentist Mike Wilson was identified as in the jury pool and as a friend of the prosecutor. Four days later juror Mike Wilson was seated in the jury and served for the trial.

Jan called dentist Mike Wilson to find out why he did not tell the Court when all jurors were asked about their relationship with the prosecutor, Rick Lorensen. Dentist Mike Wilson told Jan that he never served on any jury in his entire life. He also said he has been excused each time he sends in his questionnaire.

Jan then called Rick, the "now ex" prosecutor, and asked him why he did not tell the court that he knew the juror Mike Wilson when, only four days before, he told the Court he knew dentist Mike Wilson. Then Rick told her that he did not know juror Mike Wilson and he felt that the juror did not know him.

Jan then made more than 25 calls to M or Mike Wilson's in Morgantown and its vicinity. She found juror Mike Wilson. Both Mike Wilson's are interested in helping to correct this miscarriage of character.

You can easily verify Jan's findings. What will you do to correct this wrong?

Please respond in a FAX before September 10.

September 10, 2004 – Rog faxes final letter to WV Governor with August 17 FAX and September 3 FAX. It also has FAX copies for Hanson and WV Attorney General.

October 7, 2004 – Jan talks to Tina Alvey of West Virginia Daily Record about Dolly statement on March 11 that he did not send information to the newspapers about the Writ relief. Rog sends background information to Tina. Information faxed included September 10 letter to WV Governor.

I hope we can discuss the attached six-page FAX with problem definitions Jan and I encountered as victims and those resultant thoughts suggested to Governor Wise that he might act to get the 1984 Victims' Rights Act working. The Governor has not responded to date but it is a long-term legislature problem. I send it to you because Lewisburg seems to me to be interested in creating some needed repairs so the 1984 Victims' Rights Act is just not 'smoke and mirrors'.

Another major problem not described in the FAX is that Steve Dolly (Greenbrier), as shown in court records, did not work at being counsel for the Respondent. Details not included are that Steve Dolly requested an extension from January 4, 2002, he then missed the February 2002 extension response date, he missed a third (June 23, 2003) response date, and he did not appear at "Default Judgment" August 22, 2003 hearing. I was not able to talk to Steve Dolly or his boss, Kevin Hanson in multiple attempts, as to 1) page number 6 of 7 telephone interview

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or 2) after two years, why no Dolly response to Writ or why Hanson did not replace Dolly. You can see that some judicial watchdog was required in this case.

The FAX letter includes other issues Jan and I have with the Writ of Habeas Corpus process concerning case number 91-F-49. Details shown in the Writ's Relief Order were based on Denial of Impartial Jury whereas I also showed in page number 7 of 7 that Jan talked both to dentist Mike Wilson and to juror Mike Wilson. I believe that both Mike Wilson's are willing to testify to show no juror wrong seating at the 1991 trial. This contradiction of the Writ of Habeas Corpus' only-grounds for the Court's relief judgment should be reason to reverse that judgment (our primary concern). Will that be done by the State?

Please call if you need to have any item refined.

October 12, 2004 – McQuaids receive a response from the Office of the Attorney General. The bad news, "... nothing you or this office can do regarding this case". Worse news, "... the State does not have the right to appeal in criminal cases, and any attempt to overturn the habeas decision and reinstate her previous conviction could violate double jeopardy principles". Worst news, "... your only recourse now is to appear before the Parole Board every time Ms. Wilson is up for parole, and oppose her request for release".

October 24, 2004 – Rog sends letter to WV Legal Disciplinary Board asking for review of Writ activity. He provides selected Court records, an earlier version of this Primer, August 17 and September 3 faxes, and the Deputy Attorney General's October 12 letter.

My wife Jan and I request that the Lawyer Disciplinary Board review the actions of Greenbrier County Prosecutor, Kevin Hanson, and his Assistant Prosecutor, Steve Dolly, pursuant to a Writ of Habeas Corpus for Tammy Wilson. We believe that standards for lawyer conduct and/or of WV/Federal law were compromised. We provide the attached details from our investigations as a foundation for your conclusions.

Obvious to us, a guilty Tammy Wilson has benefited by the State's errors and omissions.

The Greenbrier County Prosecutor let the response process take more than two years? We do not ask if criminal's rights were denied or enhanced-but ask why the Prosecutor's office did not meet Court standards. Tab 1 documents from Court records, the November 2, 2001 through March 4, 2004 major events. Review of those details portrays the omission by the State by not responding to a Writ of Habeas Corpus. The Court ordered the State to respond in 30 days that was extended for 30 days and forgotten for a year and then missed again in June 2003. Why was this missed standard interval not supervised and corrected by the Prosecutor?

Tab 2 presents a case for Victimhood that also testifies to our victims' rights denials. We believe those include 1- our right to be notified of Tammy Wilson's public hearings, 2- our right to be advised of a plea-agreement and 3- our right to give an impact statement. Why has the Prosecutor not met those standard Rights?

In Tab 3, a 9/3/04 FAX shows Jan's actions to prove false the grounds that the Writ of Habeas Corpus relief was based. As such its 8/17/04 FAX leads the question: What standard did the Prosecutor's office use to test the 'Denial' grounds that the Prosecutor offered to the Court as basis for the Writ of Habeas Corpus relief?

Tab 4 offers the position of the Office of the Attorney General concerning these problems. Namely they contend that the State cannot right the wrong. Does this then grant forgiveness to the Prosecutor?

Please pursue a final question: Why would this elected Prosecutor not talk to the victims of his actions?

November 12, 2004 – Tina Alvey, reporter for The West Virginia Daily News in Lewisburg talks to Prosecutor Hanson: "Asked what his office had done to confirm the validity of the accusation made in the habeas petition, Hanson said this morning, 'I am relatively certain that Steve [Dolly] talked to Rick Lorensen [1991 Prosecutor]. And I am relatively certain there is an affidavit or something signed by that juror [Michael Wilson] in the file.'" Tina publishes her article in November 12 edition.

November 15, 2004 – Rog faxes Tina Alvey's November 12 article to the Legal Disciplinary Board with an analysis that Mr. Hanson's comments could "suggest an overt act to mislead the readers into believing conversations and information exist". It is possible that he just tried to dupe the reporter.

My wife Jan and I requested on October 24 that the Lawyer Disciplinary Board review the actions of Greenbrier County Prosecutor, Kevin Hanson, and his Assistant Prosecutor, Steve Dolly, pursuant to a Writ of Habeas Corpus for Tammy Wilson. I alleged that standards for lawyer conduct and/or of WV/Federal law were compromised. With that letter was a booklet of details from our investigations as a foundation for your conclusions. Now supplementing that original letter are comments and attachments dealing with published statements by Kevin Hanson.

That original letter offered a final question that might have appeared superfluous: "Why would this elected Prosecutor not talk to the victims of his actions?"

Earlier Tina Alvey of The West Virginia Daily News in Lewisburg got parts of the booklet data. Note that she was able to get the Prosecutor to answer my August 17 FAX question: "Asked what his office had done to confirm the validity of the accusation made in the habeas petition, Hanson said this morning, 'I am relatively certain that Steve [Dolly] talked to Rick Lorensen. And I am relatively certain there is an affidavit or something signed by that juror [Michael Wilson] in the file.'" Tina Alvey's November 12 article as published is attached.

It is important to note that the booklet's tab 3 provided you my September 3 FAX to Hanson that addresses both of his November 12 statements. In turn my September 10 FAX to Governor Wise's office (copy to Hanson) repeated its transmission to Hanson. One can suspect that the figurative smoke of a) my short conversation on August 10 where Hanson pushed me to Dolly; b) plus the August 17 FAX where his receptionist pushed me to Dolly; c) plus the September 3 FAX that he has not responded; d) plus the September 10 FAX copy – together would have caused a supervisor to investigate for a figurative fire - unless he already knew what had happened.

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Smoke and Mirrors for Many Years – WV Victims' Rights Act of 1984 – Does it work anywhere?

In either case, one can assume that Prosecutor Hanson's actions to not talk to the victims mean he is aware; thus these answers to Tina Alvey, if given for probable publication, suggest an overt act to mislead the readers into believing conversations and information exist.

Addressing Hanson's reference to a conversation with Rick Lorensen: During Jan's July 2004 conversation with Rick, he offered to testify in opposition to Hanson's new but 'relative certain' posture. As I stated in Tab 2: "Rick Lorensen told Jan that Dolly did not talk to him specifically for either Mike Wilson or the McQuaids' address."

Addressing Hanson's reference to the possibility of an affidavit or other document signed by the juror: Attached are 1) a notarized letter from juror Mike Wilson to Jan McQuaid specifying that he does not know Rick Lorensen and 2) a Juror Questionnaire submitted by dentist Mike Wilson in April 2002 that supports his claim to Jan that he never served on any jury in his entire life.

It appears to us that a habeas appeal was moved through the system without regard to the victims' rights. Also this process appears to have served forth an unjustified outcome due to errors and omissions. Both items affect Jan and I. However they pale in magnitude if the Prosecutor has covered up. It seems he jeopardized his trust as the Greenbrier County Prosecutor for all people.

My correspondence to the Governor, the legislature, ... has lamented: "If no one wants to hold anyone accountable for what transpired, then we can only think there are dubious motives involved where no one in West Virginia's judicial system is willing to question 'their own'".

We only hope that through your board, justice and character will prevail for all the people of Greenbrier County. Perhaps all people in West Virginia will benefit from your actions.

November 15, 2004 – Tina Alvey publishes a second article where Rick Lorensen contradicts Hanson, "I knew a Michael Wilson. He's a dentist but he's not the Michael Wilson who was on the jury."

November 29, 2004 – Rachel Fletcher, a Disciplinary Counsel for the West Virginia Legal Disciplinary Board, responds by letter to Rog's request to review actions by both Steve Dolly and Kevin Hanson with determination that neither lawyer 'violated the West Virginia Rules of Professional Conduct.'

Dear Mr. and Mrs. McQuaid:

The complaints you have filed against Respondent R. Kevin Hanson and Respondent Stephen [Dolly] has been received and reviewed by this office.

You allege that Respondent R. Kevin Hanson, the Prosecuting Attorney for Greenbrier County, and Respondent Stephen R. Dolly, the Assistant Prosecuting Attorney for Greenbrier County, have violated the Rules of Professional Conduct by failing to defeat a writ of habeas corpus that was filed by a woman convicted of the murder of you son.

In reviewing the documents you enclosed, it appears that Ms. Wilson, by and through counsel, filed a writ of habeas corpus and alleged that the jury that convicted her of first-degree murder was improperly impaneled. The Prosecuting Attorney's Office conceded that there may have been reversible error in the jury impaneling process. Instead of proceeding with a new trial, the Prosecuting Attorney's Office allowed Ms. Wilson to enter a plea to the original charge of first degree murder and Ms. Wilson would be granted mercy upon her life sentence. This agreement was approved by the Court and an Order was entered reflecting the same on or about March 4, 2004. Ms. Wilson had already served ten years of her life sentence and was therefore immediately eligible for parole consideration.

Mr. Hanson and Mr. Dolly are not your attorneys in this matter, they are the Prosecuting Attorney and the Assistant Prosecuting Attorney of Greenbrier County. Mr. Hanson and Mr. Dolly represent the State, as opposed to an individual client, and thus have an obligation which requires them to make decisions based on a number of factors other than your feelings and objectives. Prosecutors are afforded this discretion based on the following: (1) an obligation to seek justice and not merely to convict; (2) his representation of the State, as opposed to an individual client, which requires them to make decisions which must be fair to all; and (3) the benefit afforded a defendant of proof of guilty beyond a reasonable doubt. See *State v. Dostert*, 173 W.Va. 133, 313 S.E.2d 409 (1984). The exercise of prosecutorial discretion and fulfilling their duty to the State is generally not considered a violation of the Rules of Professional Conduct.

Finally, a court of law with the appropriate jurisdiction heard this matter and issued a ruling after considering all the evidence that was presented. Although I understand that you are dissatisfied with the Court's ruling, this office does not have the jurisdiction to disturb factual and/or legal conclusions made by the presiding Judicial Officer. Although your frustration is certainly understandable, the frustration, in itself does not equate to a violation of the Rules of Professional Conduct.

A determination has been made that your complaints do not allege a violation of the West Virginia Rules of Professional Conduct. The Respondents were not required to respond. Accordingly, your complaints are closed and will not be docketed. No further action will be taken by this office in these matters.

Please be aware that under Rule 2.6 of the Rules of Lawyer Disciplinary Procedure, the Office of Disciplinary Counsel may release information confirming the existence of a Complaint. Pursuant to *Daily Gazette Co. Inc. v Committee on legal Ethics*, 174 W. Va. 359, 326 S.E.2d 705 (1985), all closed complaints, including these, are placed in a file which is accessible to the public.

(Signed) Rachael L. Fletcher, Disciplinary Counsel (w cc to Hanson and Dolly including complaint)

December 2, 2004 – Rog faxes Ms. Fletcher notice that some of her information misrepresents some facts. It included a copy of Tina Alvey's November 15 article "Former Prosecutor Says Juror Was Not His Friend".

Unfortunately I found that you specified that my request was because Mr. Dolly and Mr. Hanson 'failed to defeat' this habeas petition. You also specified my actions were based upon 'feelings' that they did something wrong. But perhaps your most striking statement was that a court of law 'issued a ruling after considering all the evidence that was presented'. My selected records included 1) [letter to Jan from juror Wilson so that] no evidence could have existed and 2) [thus] none was given when "the Prosecuting Attorney's Office conceded that there may have been reversible error in the jury impaneling process."

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Smoke and Mirrors for Many Years – WV Victims' Rights Act of 1984 – Does it work anywhere?

December 20, 2004 – Rog faxes Lawrence Lewis, Chief Counsel of Lawyer Disciplinary Board and asks for reevaluation of Professional Conduct. It includes copy of Beckley newspaper article quoting Dolly boasts.

This is a FAX looking for help addressing alleged improper actions by two public officials. But it presents a very large question for all West Virginians' benefit (including your own well being):

Who is watching the Prosecutors in their fiefdoms? (Apparently not even the Disciplinary Board.)

The attached November 29 letter from the Office of Disciplinary Counsel even discarded my complaint and replaced it with a bogus claim that I alleged due their "... failing to defeat a writ of habeas corpus..."

The attached October 24 complaint and list of exhibits provided facts where at a minimum the assistant took a salary over two years for not doing his duty/obligation as paid by West Virginia taxpayers. The salary issue also applies to the elected prosecutor too if he would claim not doing his supervisor functions. Or the attached November 15 addendum provides a November story of misinformation fed to the press by that elected supervisor-officer of the Court describing efforts of his assistant (another officer) in contrast to Jan McQuaid's contradicting facts sent September 3 & 10 to that elected supervisor-officer.

The attached December 2 response listed several other shortcomings with your Disciplinary Counsel letter. Most appalling was your letter's "proof" issue. But it also attached a newspaper published response by the 1991 trial prosecutor whose testimony, if asked for before the 2003 hearing, would have defeated the writ of habeas corpus. Note, I asked a question to the assistant on August 10; on August 17 I faxed to the elected officer, "Last Tuesday I also asked ... [assistant] if he talked to ... [1991 prosecutor] about the impartial jury issue. ... [He] responded, 'Yes.'" See August 17 FAX exhibit.

Now I attach a November 'news article' as E-mailed from Beckley's Register-Herald offices. Christian Giggenbach gave the assistant the misinformation opportunity while printing his quotes that were either bragging or being smug about getting a plea bargain. His omission of any clarification of his judicial error and omissions were obvious; those might have cleared the 1991 Prosecutor (another lawyer/officer of the Court degraded again by that article) for the 1991 prosecutorial non-error; the spin of bragging instead of explaining his error and omissions are again a question of the assistant's conduct.

Your letter also informed me that they have 1) "... an obligation to seek justice ..."; 2) "... to make decisions which must be fair to all [including the victims]; and 3) "... proof of guilty beyond a reasonable doubt ...". However your letter also pointed out that failing their duty/obligation may not be a violation of professional conduct. Thus I will send this FAX to other government organizations for alternate relief.

I know that I am asked in this process to maintain confidentiality of your response. I hope that you have already distributed your news articles (to Tina Alvey for one since her articles were provided in this process). However, I must agree that should you send a copy of any such article to me, I would be more inclined to honor your suggested confidentiality.

My past correspondence to the Governor, the legislature, and others seeking relief for victims lamented: "If no one wants to hold anyone accountable for what transpired, then we can only think there are dubious motives involved where no one in West Virginia's judicial system is willing to question 'their own'".

I only asked for a fair evaluation to help West Virginians. I am not a lawyer and frankly I do not want to be in the position of giving you any misconduct rule particulars for fear that I may select in error or I may misrepresent your rules of conduct. I know that the two men's actions were wrong. I am sure that is obvious to you, too. Thus you can see that recourse is necessary.

I know what those two men's actions cost and will cost the us-victims in the future. I have not before, not now nor will I later ask "What can the Disciplinary Board offer that will help us-victims?" My wife Jan and my pain of nine months of this new Victimhood were unnecessary but it is under our emotional control. "We only hoped that through your board, justice and character would prevail for all the people of Greenbrier County."

Please review the exhibits and look for possible conduct violations in these two cases again.

February 9, 2005 – Letter from Office of Disciplinary Counsel closes complaints against Kevin Hanson and Steve Dolly.

At its February 5, 2005 meeting, the Investigative Panel considered your appeal of the closing of the above-referenced ethics complaint. After a review of this matter, the Investigative Panel voted not to reopen your complaint. A copy of the Order is enclosed. This matter is now concluded in our office. [Order: ... pursuant to Rule 2.4(b) of the Rules of Lawyer Disciplinary Procedure]

III. Recap for reader response – The Court's records show that the State did not act in this case. Steve Dolly missed three response dates and did not attend his August 22, 2003 default hearing. The Assistant Prosecutor's non-responding and the Prosecutor's non-supervising started on November 2, 2001 with the Court ordered response. It lasted over two years and ended with no response submitted.

The McQuaids believe that Steve Dolly made no effort to contact the McQuaids before the Writ hearing. Rick Lorensen told Jan that Dolly did not talk to him for either Mike Wilson information or the McQuaids' address.

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Also the 1984 Act does not require the “Court” to address victims’ rights as opposed to the criminals’ rights. The judge spent about an hour discussing the murderers’ options for a new jury trial and other rights.

The McQuaids know that the December 17, 2003 hearing concerning the Writ of Habeas Corpus granted relief in error for the Tammy Wilson petition. This conclusion is based specifically upon Jan’s phone calls separating Juror and Dentist Mike Wilson thus discrediting the Prosecutor’s concession. The McQuaids realize that Steve Dolly, the Respondent, did no analysis to verify this false premise of the Writ.

The McQuaids also believe that Steve Dolly did no analysis on any other Writ grounds in opposition to his arbitrary and inconclusive statement on August 10 concerning other grounds for the Writ. This conclusion is consistent with his non-responses and non-attendance.

In addition this Prosecutor’s actions imply, at best, denial of responsibility to provide victims anything. At worst, he may think he sets the ‘Law’ in Greenbrier County so he is above the ‘Order’.

This Writ appeal process appears to have served forth an unjustified outcome due to errors and omissions. Also it appears to us that this Writ was moved through the system without regard to the victims’ rights. Both items affect Jan and Rog McQuaid. However they pale in magnitude if the Prosecutor planned to mislead the readers. It seems he jeopardized his trust as the Greenbrier County Prosecutor for all people.

Who is watching the prosecutors in their fiefdom? Apparently not the Legal Disciplinary Board.

Rog’s correspondence to the Governor, the legislature, ... has lamented: “If no one wants to hold anyone accountable for what transpired, then we can only think there are dubious motives involved where no one in West Virginia’s judicial system is willing to question ‘their own’”.

Who if anyone in West Virginia can rectify the ongoing injustices that any victims find themselves in? The Governor tells victims that he does nothing in judicial issues; the Attorney General usually sends a form letter stating that he has no power to deal with victim’s problem; and prosecutors may not even talk to the victims. Also the Victims/Witness Advocate work just does not fit into this part of the picture.

IV. Other Options - Jan and Rog McQuaid have spent eleven months too much and too much money on the Greenbrier County Prosecutor Office’s errors and omissions and need to get on with their life. How could the McQuaids act differently to help all victims in West Virginia?

Reverse Writ Relief: The McQuaids could appeal but who is responsible: Why must the McQuaids pay to be the protector and corrector of West Virginia “State” errors?

The “Victimhood” expenses that the McQuaids incurred in 2004 for this fouled up West Virginia 2001-2003 action already have exceeded \$2000. Their cost in time using a published 2003 standard for volunteers time has already exceeded \$25,000 or using a lawyer’s fee, more than \$500,000. This ignores the pain and suffering of their return to full blown Victimhood with its grieving and the lost time with their remaining family and the lost profits marketing Jan’s book.

If the McQuaids are the force that could right this wrong, their legal costs could reach \$5,000 to \$500,000. One Morgantown lawyer, who called the case a novelty, said that he would not even take the case if he were offered \$50,000. One said that the denial of rights might qualify as reason to reverse the Writ before he refused the case. Also the Deputy Attorney General gave their bad news in her October 12 letter.

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Smoke and Mirrors for Many Years – WV Victims’ Rights Act of 1984 – Does it work anywhere?

Victims’ rights denial: The McQuaids have sought improved Victims’ Rights with remedies to get the existing rights laws utilized within government agencies but the Legislature needs incentives from West Virginians to do it.

The US Senate and House have upgraded their original Victims’ Rights Act from their statutes S2329 and HR5107 that combined was signed into law on October 30, 2004. Originally this bill was created in 1996 as the US Constitution Victims’ Rights Amendment but lacked 67 votes in the Senate through 2004 even with Clinton and Bush support. In 2004, S2329 was passed by the Senate with 96 to 1 votes but it now only addresses victims of Federal crimes. States need to adopt its improvements for state crime victims.

The Victims’ Rights issues are many and possibly spread across West Virginia by many existing victims. For this reason, the McQuaids submitted information to Governor Wise on September 10, 2004 including details of this Writ’s error and a request for help. No response has been received from the Governor.

Similarly Rog submitted information to the West Virginia Legislature with no response.

Jan was not able to talk to a Judge about this case.

Rog even sent information to the Greenbrier County Commissioners because their county constituency is the same as the Prosecuting Attorney’s constituency. However they were not willing to address the issue and safely responded that it was not within their authority.

Victims unite: If anyone thinks West Virginia should repair their laws and/or this errant case, please write to either or all the WV Governor or the WV Attorney General or the WV Legislature

West Virginia Governor:	West Virginia Attorney General:	West Virginia House and/or
Joe Manchin	Darrell McGrew, Jr.	West Virginia Senate
Charleston, WV 25326	Charleston, WV 25326	Charleston, WV 25326

V. Post Script: Some seemingly apparent victims’ rights questions to be answered by the state leaders:

- Why did the prosecutor not contact the victims before the December 17, 2003 hearing? Is this a state wide problem? Who should be watching to get it done?
- Should the universal West Virginia “Court” make an effort to remind prosecutors to enforce the 1984 Victims’ Rights Act? Should it be part of the Court’s record for the hearing? (Note the only three appearances of “victim” in this Writ Hearing Transcript, all dealt with clarifying the criminal’s rights.)
- Should any prosecutor be required to provide answers to victims including activities of their assistant prosecutor especially when the victims call their assistant’s omission to their attention?
- Why did the West Virginia Parole Board need to ask the Victims’ Advocate for help finding a victim of Tammy Wilson when they knew to contact Rog and Jan for Roger Cline’s October 2003 parole hearing regarding the same murder?
- Should the West Virginia Governor create a Remedies for Victims Plan to have his team, especially the Judges and Prosecutors, give victims affirmative action regarding the 20-year-old 1984 West Virginia Victims’ Rights Act’s rights?
- Should the Governor and/or Legislature seek improvements to the 1984 Victims’ Rights Act including adoption of US Congress S2329-HR5107 bill for state crime victims?

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- Should the Governor and/or Legislature initiate a Victims' Rights Amendment to the state Constitution to support quality of victims and to complement the more flexible Victims' Rights Acts?

Jan and Rog McQuaid can be contacted at PO Box 101112 in Pittsburgh PA 15237.