

THE NEW HARMONY GAZETTE - SPECIAL FACT PAPER MARCH 2024

“LET JUSTICE ROLL DOWN LIKE WATER, AND RIGHTEOUSNESS LIKE A MIGHTY STREAM!” - KING JAMES BIBLE - THE PROPHET AMOS
The New Harmony Gazette - Publisher Dan Barton

Amos - A Prophet from the Old Testament- He was the shepherd of Judah who spoke about the social injustice and economic inequality in the Kingdom Of Israel around 760 B.C.. He explains to exiled Israelites why they were punished and warns Judahites not to fall into the same trap. His warnings would seem appropriate to we Americans today!

In the January 2024 edition of The New Harmony Gazette, two questions were posed to Posey County Prosecutor Thomas Clowers; 1) Has incarcerated murder suspect Austin Kusturin been injured in any way at the Posey County Jail and what is his present state of health? Prosecutor Clowers did not answer that question, he would only describe Publicly Paid Defense Attorney Glenn Grampp's state of health. 2) Was it a shotgun that was used to kill Elizabeth and John Hall? Prosecutor Clowers flatly refused to answer that question behind Indiana Code 5-14-3-4(b)(1). That same question was posed to Prosecutor Clowers a year before and he didn't give any answer to it.

Now, I find in the public court record that Mr. Clowers states on February 23, 2024, and requests the following: That in the Court's (Judge Goedde's) Preliminary Instructions (To The Proposed Jury) ("To Strike") No. 9 and No. 10, paragraph 4 of each, that the wording "while (defendant) armed with a deadly weapon and it results in serious bodily injury to a person (Elizabeth and John Hall) other than a defendant" be stricken.

As a Layman observer of the proceedings that have gone on for the past more than two years, I find this development outside my realm of understanding! If this means that the jury is not to be told that the defendant was armed with a deadly weapon, then how was he supposed to have murdered Elizabeth and John Hall, I wondered? It would seem to me that if Austin Kusturin did commit the murders, as he is charged, how did he do it?

Prosecutor Clowers has already offered the defendant several plea deals for Life Without Parole in this case, dropping the Death Penalty threat, on three separate occasions, July 25, 2022, September 14, 2022 and January 18, 2023, without an acknowledgement from the defendant. And now, it seems, Prosecutor Clowers is asking Judge Goedde to keep the jury uninformed about the use of a deadly weapon. Does he think that can get a conviction on his charge of murder without the jury knowing that the defendant was armed with a deadly weapon, I thought? If so, and without a deadly weapon, then how did the murder happen? Why did Prosecutor Clowers make such a proposal to the Circuit Court Judge? It looks like we may all have a lot to learn!

I wrote a letter to Prosecutor Clowers regarding my lack of understanding regarding this matter and here is what we said:

Dear Prosecutor Clowers:

February 27, 2024

"It has come to my attention that in regard to the upcoming proposed Jury Trial of Austin Kusturin that a new development has taken place from your office that I need to clarify before I do my next story on this case. It is always my objective to offer you the opportunity of making a clear statement on any new development before a story is written and published for the public's perusal.

"I am advised that you have requested from Circuit Court Judge Craig Goedde to "Strike" from the Court's Preliminary Instructions to the Jury, instructions 9 and 10 of Paragraph 4 of each, that the wording "While Armed with a Deadly Weapon and it results in Serious Bodily Injury to a person other than the defendant" be made.

"Is it True? Will the jury be denied the information regarding the use of a deadly weapon by the defendant in these two horrendous murders?

"Do you expect to get a murder conviction in this case without the jury having knowledge of how they were slain?

"If not a shotgun, then please explain to me how exactly they were killed?"

Yours, Dan Barton.

On February 28, 2024, Prosecutor Clowers responded to my inquiry, he said:

From: Prosecutor Thomas Clowers, To: Dan Barton:

"The changes to the jury instructions you reference will NOT have any impact on what evidence is presented to the jury. The changes simply bring the instructions in conformance with what the law requires.

"The jury will also be instructed on all other charges filed against Mr. Kusturin, including multiple counts of Murder, Burglary, Robbery Resulting in Serious Bodily Injury, Unlawful Possession of a Firearm by a Serious Violent Felon, as well as the following sentence enhancements: Life Without Parole, Habitual Offender and Felony Firearm Enhancement.

"You should review the instructions in their entirety to have a better understanding."

Thanks.

Dan Barton's Response to Prosecutor Clowers:

"Thanks for your description. I would like to review the instructions more fully. Please send them to me at the New Harmony Gazette."

From: Prosecutor Thomas Clowers to Dan Barton:

You will need to request a copy of the court's jury instructions from the court.

From: Dan Barton to Prosecutor Clowers:

I don't have a contact at Judge Goedde's office, but it'll wait. I will run what I've got with your explanation. Thanks.

As this case is still in the pre-trial phase The New Harmony Gazette is taking steps not to involve Judge Craig Goedde in this discussion, but to simply put before the reading public the conversation on the matter that took place between Prosecutor Clowers and Publisher Dan Barton.

After the trial is completed, if it seems necessary, The Gazette will then contact Judge Goedde for the jury instructions that Prosecutor Clowers refers to. It's a learning process for most of us, I'm sure!