

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF WASHINGTON

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4
5 UNITED STATES OF AMERICA,
6 Plaintiff,

No. CR-09-88-FVS

7 v.

**SEALED NOTICE OF
RECEIPT OF LETTER**

8
9 KARL F. THOMPSON, JR.,
10 Defendant.

11
12 **THE COURT** received the attached letter from [REDACTED] on or
13 about December 5, 2011. The District Court Executive is hereby
14 directed to **seal** and enter this notice and the attached letter and
15 furnish copies to counsel for the government and counsel for the
16 defendant.

17 **DATED** this 14th day of May, 2012.

18 s/ Fred Van Sickle
19 Fred Van Sickle
20 Senior United States District Judge
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November 21, 2011

[REDACTED]
[REDACTED]

United States District Court for the Eastern District of Washington
William O. Douglas Courthouse
25 South Third Street
Yakima, WA 98901

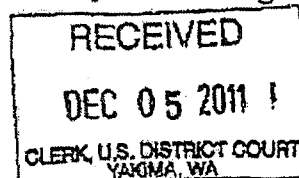
Attention: Frederick L. Van Sickle, Senior District Judge

Re: Federal Civil Rights Violation – Otto Zehm

Dear Honorable Judge Van Sickle;

This statement is intended to offer an opinion on the recent filing for an acquittal of former Spokane patrolman, Mr. Karl Thompson. I wish to extend my concerns regarding the motivation of the defense legal team to file for this motion.

In the past few weeks I reluctantly but willingly gave some public statements to the Spokane media about the jury process in Mr. Thompson's trial. Although, I was essentially "tricked" into the first interview by a Spokane reporter after I had asked him a particular question, I later came to believe that my comments could in some way inform Spokaneians about the jury process and how much care and reasoning went into Mr. Thompson's verdict. I had hoped that if the community understood what the jury had generally upheld about Mr. Thompson that a dialogue of reconciliation might be started. I can see *now* that I completely underestimated how intensely the flurry of media reports would be received by the Spokane community. Most disturbing of all, however, is how naïve I have been regarding how my comments might be manipulated by the defense legal team. My well intentioned words were offered in the hope they would spark a more positive dialogue between the



SPD and Spokane citizens -- but instead they are being misrepresented by Mr. Thompson's legal team to justify the filing for an acquittal.

It might be improper protocol for me to offer the court an opinion on this matter, but I believe there exists some relevance in my opinion, especially since my comments have partially contributed to the defense legal team's filing for an acquittal. The court, understandingly, may disregard my opinion, but given the circumstances, I am compelled to at least offer it. What had ended in a very positive and powerful experience in what I believed was an affirmation of a working justice system has sadly turned into the proverbial "*see I told you so*" moment. The defense legal team's use of defensive tactics such as attacking and blaming the jurors for an outcome they do not like is reprehensible and does not follow good logic. The defense legal team would do well to remember that it was the two legal teams that selected the jury. It is hoped that they did so based on their professional ability to *read* people and to select persons they believed to have the open mindedness, life experiences, integrity, and ability to use good judgment that was required for such a mighty task. To subsequently attack the very group of people they first placed their trust in is insulting. Actions such as these, if they are allowed to change a just course, are the very reasons that citizens lose faith in the justice system; it creates hesitation from participating and mistrust in the actors within the system. After getting to know the 14 other jurors, and ultimately the 12 of us who were left to deliberate the verdict, I am most confident that everyone in that room upheld the highest level of integrity and purpose. The fact that the intelligence and integrity of that outstanding group of people could be so wrongly called into question feels like a betrayal and an injustice.

On the allegation that jurors were influenced by news reports they watched while staying at the hotel in Yakima during trial:

There was NO indication - subtle or direct - that could lead to the conclusion that any of the jurors in the room had learned from news reports, or any source, that Mr. Zehm had a mental

condition. It is true that in answering questions about Mr. Zehm's *unusual* behavior in the Zip Trip that the jury discussed hypothetically the possibility of a cognitive disability. The jury was instructed that it was allowed to consider inferred evidence – and in the question of mental cognition, anyone who has had experience, training, or knowledge of mentally ill persons could have easily imagined the possibility that Mr. Zehm may have had a challenged mental cognition. And there were a few of us in the juror's room with just such experience. It is my opinion that whether or not the jurors staying at the Yakima hotel actually saw the news about Mr. Zehm's mental condition or not is irrelevant; the notion of the victim's mental illness was not weighted in our decision in finding the verdict. We agreed unanimously that we **COULD NOT** use Mr. Zehm's mental condition as a factor to find Mr. Thompson guilty or not. We asked the question of ourselves: Did Mr. Thompson use premeditative excessive force when he entered the Zip Trip to apprehend "a suspect" – regardless of "who" the suspect was or what the victim's mental state was? The answer was: Yes.

On the allegation that jurors failed to find Mr. Thompson guilty of willful intent based on "bad purpose" and "evil intent":

I may not have used the specific phrases "bad purpose" or "evil doing" in our interpretation of the jury instructions to find Mr. Thompson guilty. We carefully deliberated the definition of each term, and unanimously agreed that Mr. Thompson did act **WILLFULLY** in committing premeditated excessive force when he entered the Zip Trip to apprehend his suspect and he did so with factual evidence of gross recklessness and negligence. I reject the defense counsel's attempt to semantically lay blame on the jury and I defend our [jury] decision that we found Mr. Thompson guilty by the conclusions we ascertained from the jury instructions. The jury instructions allowed us to find a guilty verdict based on the finding of one of the (3) conditions. They were: 1) bad purpose 2) evil intention or 3) negligence/recklessness. In our deliberation on this point, we [jury] distinguished between a "good person" who acts willfully in the moment and who commits malice and wrongdoing

through negligence and recklessness from being a "bad person" who acts in deviant ways with a "bad purpose." The two descriptions did NOT precisely mean the same thing to us, but they both have the same end result. A calculating premeditated murderer acts with "bad purpose" or "evil intent." He/she sets out to kill another – willfully and intentionally. A police officer who in a single action acts with gross recklessness and negligence when he applies excessive force on a naïve suspect to apprehend his suspect – also acts willfully and intentionally. Officer Thompson set out to apprehend his suspect with the intent to detain him with "physical" excessive force, a factual claim Mr. Thompson has made in his own statements. The actions of the murderer and the police officer are both willful acts though their motivations to engage in wrongdoing are different. In both cases, however, the result has the same outcome.

It is my opinion that the court should NOT find in favor of acquittal. Mr. Thompson was tried and found guilty by a fair, honest, and intelligent jury of his peers. As I tried to express in my public comment, it is indeed a very sad ending to Mr. Thompson's long career; but the court should not allow counsel to misconstrue the expressions of sympathy for another human being to be the basis for over shadowing the pragmatic process used by jury members to find a verdict. Mr. Thompson cannot be allowed to stand above the very law he has taken an oath to uphold. Just because I and others can feel sympathy and sadness for Mr. Thompson, it does NOT mean that the verdict we reached was invalid, contaminated, or in any way compromised or unduly influenced. The facts are the facts, and the facts say that Mr. Thompson knowingly and willfully applied excessive force on an unsuspecting suspect. That was the basis we used to reach the verdict.