

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CRIMINAL DIVISION - FELONY BRANCH

UNITED STATES OF AMERICA)	CRIMINAL NOS. 2008-CF1-27068
)	2008-CF1-26997 ✓
v.)	2008-CF1-26996
)	
JOSEPH PRICE)	JUDGE LEIBOVITZ
VICTOR ZABORSKY)	
DYLAN WARD)	STATUS HEARING DATE: 3/12/10

GOVERNMENT'S NOTICE OF UNCHARGED CONDUCT I

The United States, by and through its attorney, the United States Attorney for the District of Columbia, hereby files the following Notice of Uncharged Conduct I,¹ as follows:

At a status hearing on January 15, 2010, the court set a briefing schedule for the parties in this case. Pursuant to that briefing schedule, the government is required to file by February 5, 2010, *inter alia*, notice of certain uncharged conduct. More specifically, as was discussed at the last status hearing, the court informed the parties that said notice should include the government's possible theories regarding culpability for the homicide of Robert Wone (as distinguished from culpability for the conspiracy, obstruction of justice, and tampering with evidence charges in this case). Accordingly, and with that understanding, the government hereby give the following notice:

Given the sophistication and success of the defendants' cover-up of the murder of Robert Wone, the evidence obtained to date does not yet establish beyond a reasonable doubt who actually killed Robert Wone. Although the government investigation into the murder continues, there is ample admissible evidence demonstrating the killer is someone known to the defendants, and not,

¹As was discussed at the recent status hearing in this case, much of what appears in this filing is not necessarily other crimes evidence, but rather represents the government's theory regarding the individuals potentially involved in the homicide.



as the defendants told the police, an unknown, unseen, unheard, phantom intruder who entered without force, took nothing from the home, went to the farthest reaches of the second floor of the home, stabbed Robert Wone (while Robert Wone lay immobile), and then fled without a sound and without taking any item from the home or disturbing anything therein. To say such a theory strains credulity is a gross understatement. Rather, the evidence overwhelmingly indicates that the killer is someone know to and being protected by the defendants.

The Affidavit in Support of the Arrest Warrants

The government hereby gives notice that it may seek to prove all matters that are included in the Affidavits in support of the Arrest Warrants in this case, copies of which are a matter or public record. In an effort to give more specific notice, the government sets forth the following categories of evidence it may seek to introduce at trial and the relevance thereof:

Restraints and Related Evidence

The injuries to the body of Robert Wone are both extremely unusual and quiet telling. The three stab wounds to Mr. Wone's torso were found to be perfect, slit-like defects, largely uniform in depth, width and orientation. There were no defense wounds of any kind on Mr. Wone. The bed in which Mr. Wone's body was ultimately found was showroom clean and pristine. The covers were neatly folded down at a 45-degree angle under Mr. Wone's body, plainly suggestive of Mr. Wone's body being placed on top of the folded-down bed covers. Only two relatively small spots of blood were found on the bed, demonstrating to even the crime-scene novice that this was not the bed in which a violent stabbing attack had been perpetrated. Indeed, the room itself was undisturbed, un-disrupted, and replete with plainly visible high-value items easily capable of being carried away by any "intruder." All of this remarkable evidence suggests, as the medical examiner opined, that Mr.

Wone was incapacitated at the time he was methodically, carefully, and repeatedly stabbed in the torso. Indeed, the totality of the evidence makes a compelling case for the conclusion that Mr. Wone was entirely unable to fend off his attacker or even move in anyway whatsoever as those wounds were being inflicted.

Given the nature of the physical and medical evidence in the case, Mr. Wone was either restrained or immobilized in ways known only to the participants in the events leading to his death. The following evidence, *inter alia*, was recovered from defendant Ward's bedroom, which was located within 1509 Swann Street on the same floor and just 40 feet from the room in which Mr. Wone's body was found:

- multiple body harnesses
- multiple arm and leg restraints
- multiple "hog tie" devices (designed to restrain an individual's arms and legs behind their back)
- integrated wrist and ankle restraints
- "spacer bars" used to keep shackled limbs spread apart at a distance
- black hoods
- leather blindfolds
- neck collars
- rubber ball gags for attaching around neck and jaw
- black leather mouth gags
- heavy duty suspension cuffs used to restrain arms
- neck-to-wrist restraints