

County of Harris)
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State of Texas)
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AFFIDAVIT OF MERRY ALICE WILKIN

My name is Merry Alice Wilkin. My maiden name was Merry Alice Gomez. I am a resident of Harris County, Texas. I am over the age of eighteen and I am competent to make this affidavit. All the facts stated here are within my personal knowledge.

1. Charles and I were introduced by a mutual friend, Ray Esparza. Ray and Charles were in Harris County Jail together. I sent Charles my picture in 1989, and we started writing to each other. Charles always said that he fell in love with my picture. The first time we met, in late 1989 or early 1990, we talked for a few minutes on my porch. Before I saw him again, he was arrested and began serving time in prison. He was in prison for two-and-a-half years, and we exchanged letters that entire time. We both wrote at least once a week. I met his family during that time, and got to know them a little, though mostly by telephone. By the time Charles was released from prison in 1992, we were already close and knew each other pretty well.
2. At trial, I testified that I first met Charles in July of 1992, which would have been only three months before he was arrested for murder. That was not true; I first met Charles in late 1989 or early 1990, and was corresponding with him even before that. But I was flustered because in the courtroom before he called me to the stand, Mr. Cantu told me to say that I had met Charles at his grandmother's instead of while he was in jail. I said, "But that would be lying." Mr. Cantu said yes, but Charles had been in and out of institutions his whole life, and "that's not what the jury wants to hear." I ~~think that it was~~ ^{am certain} the state prosecutor, Mr. Gutierrez, who, after hearing us talking, encouraged me to do as Mr. Cantu had said. He said that I didn't "want to put a doubt in the jury's mind." This was the only time I ever talked to Mr. Cantu about what he wanted to ask me, and it lasted only a few minutes.
3. I have seen a transcript of my testimony, and I can tell all the times where I was flustered, because those were the times I answered, "yeah" instead of "yes" like my mother told me to. When Mr. Cantu asked me to say when I met Charles, I said, "yeah, July."
4. The first time I saw Charles after his release from prison in 1992, he came to visit me at my mother's house. I was twenty-one years old, and Charles was twenty-two. I can't remember if he took the bus, or if his mother dropped him off. What he talked about that day and afterwards was getting a job, a place to live, and a car. He was optimistic about getting his life on track. Charles also talked about wanting to straighten out his life for

me, but I always said he should do it for himself, first.

5. Charles talked a lot about wanting to find his daughter, Amber, but he thought he might have to have money to find her, because he heard that her last name had been changed. He used to say that he wanted to find Amber even if he couldn't find her before she turned eighteen, because at eighteen she would be able to decide for herself whether to accept him.
6. Most of the time we spent together was at my mother's house. I was pregnant when Charles was first paroled, and I didn't go out. So Charles and I would sit and talk, and go for walks. No drinking was allowed in my mother's house, and we didn't break that rule. After Chris was born we went drinking one night at the house of a friend of mine who lived near my mother, but Charles drank only a few beers.
7. Charles and I were romantically involved, and we were best friends, too. When Mr. Cantu asked me on the stand whether we had a sexual relationship, I said no because it was such a private question and I wasn't prepared for it. But my answer was not true. I was very pregnant when we were first together, but we would hold hands and act like a boyfriend and girlfriend. We made love, but only once, the night before his arrest. We didn't have to say to each other, "we'll be together." We were just so close it seemed like we were already together - all he had to do was get his life straight. We were like soulmates. If Mr. Cantu had warned me beforehand about that question, I would have explained all this. After the trial was over and I went to visit Charles, Charles wanted to know why I hadn't told the truth about how we had met and whether we had slept together.
8. I remember Charles telling me that his mother was giving him bus fare every day to look for jobs. His mother told me this, too. Charles told me he was talking to his parole officer about how he could find a job. Before Charles had been paroled, we had already exchanged letters about how hard it would be as an ex-con to find a job, and whenever he went to apply for a job, he didn't get his hopes up too high. Then Charles found a job at Westfield Sandblasting Company - I remember the name of the company. Much later I visited Charles' grandmother in the hospital when she was very sick, and she told me to take care of Charles, and that she knew he was a good boy, because he took his last paycheck from Westfield, and spent it on gifts for my baby.
9. It is true that Charles gave my baby, Chris, lots of gifts. He and his mother came to my baby shower, and he had with him a big bag full of presents. He bought all sorts of toys, but he also picked out useful gifts I would need: cloth diapers, spoons, a pacifier, socks, baby shoes, a thermometer, baby powder, a rattle, a medicine spoon, and a baby swing on a metal frame that would swing by itself.
10. Chris was born by cesarean section. The C-section was scheduled for 8 a.m. one morning. I was unconscious for the birth, and my friends and family began to arrive after

noon as I was waking up. At trial, Mr. Cantu asked me if Charles took me to the hospital, and I said, no, he came to see me that evening. Mr. Cantu must not have understood that I had a C-section, and no one was there for the delivery. Because of that I never got to explain that Charles was with me at the hospital all week while I recovered. On the second day I was in the hospital, the nurse saw Charles there and assumed he was my husband. She looked at me and said, "he's going to stay here, right? I'll get him pillows." Charles took his chance and said yes. He stayed with me all week. His mother brought him some clothes, and my mother brought us some chicken to eat.

11. When the hospital brought the birth certificate to sign, Charles wanted Chris to have his own last name. Charles knew that I had broken up with Chris' dad several months before, and Chris' dad was not very interested in being Chris' father. But I said no, in case Chris' dad changed his mind.
12. Charles was the first man to hold Chris, because Chris' father refused to go to the nurses' station to see Chris. In fact, Charles was the only man to hold Chris for the first two months of his life. I was very careful about Chris being around strange people during that time.
13. After Chris and I were released from the hospital, Charles was at my mother's house practically every day. He would help me take care of Chris and help me around the house. He did whatever I needed - I remember that he would wash my feet for me and put lotion on them. Charles always said that when he learned I was pregnant, he knew, "You take the mother, you accept the child." After Chris was born, Charles would say, "Now I have a boy and a girl." Charles' family used to call him, "C," and so Charles used to call Chris, "Little C." He used to draw pictures for Chris that said "Little Chris" in big letters. Charles decided that the song, "Sonny" was Chris' song.
14. Charles once brought me a rocking chair. Chris had colic after he was born, and cried all the time. After a while it was hard to me to be patient about the constant crying, but Charles was very patient. I remember him sitting in that rocking chair, rocking Chris in his arms forever while Chris kept crying.
15. Charles would take me to visit his family sometimes at his grandmother's house, where the whole family would meet. What I noticed about his family was that even though everyone would go there, no one seemed to know what was going on with anyone else in the family. Everyone was self-absorbed. The first time Charles took me to his grandmother's house, everyone was setting their sights on me, because they wanted to have a look at Charles' new girlfriend -- except Junior, who kept watching T.V.
16. Over time, Charles started to tell me little by little about his family - "he's been in the psych ward," or "she's crazy." At first he would say that as if he was joking. He told me that someone in his family had a nervous breakdown, but he didn't tell me it was his mother. I think he was embarrassed about his family. Charles and the rest of the family

all said that Junior was crazy, but all I could tell was that he would tell you exactly what he thought.

17. Charles would talk about his childhood sometimes. He said that his mother was always working and he had no father around, so for a while he would get into trouble because he just didn't care. He said he was always in and out of juvenile centers. Charles said his father had been married a lot, and I think Charles said he thought he got his drinking habit from his father. Charles called his father an alcoholic.
18. Charles never talked badly about Karianne, his ex-girlfriend, but he was very upset that she would not let him see his daughter. After the trial was over, he told me that he couldn't believe the things Karianne had said about him, for instance, kicking a little child, as if he was a monster.
19. Charles never threatened me, hit me or touched me in violence in any way. I have never known him to carry a knife - I think I would have noticed even a pocket knife in his pocket.
20. My mother, Aurora Gomez, liked Charles because he was good to me. She would invite him to have dinner with us after church on Sundays. Charles was very good to my nieces and nephew, too. I had five of them: Rebecca, Vicky, Bianca, Julian, and Vanessa. The littlest was 2, and the oldest was 4 years old. He used to take them to the corner store and buy them candy. They loved him. I still have photographs of Charles with my nieces. I also have other pictures of Charles, one holding Chris in the hospital, and one of Charles at my baby shower.
21. One day Charles did not call me in the morning, as he usually did, and I left a phone message for him with his mother. He called me back at about 2 or 3 in the afternoon, and I asked him what he was doing and where he was. He said, "Remember my friends Lee and Eric?" I said yeah - Charles always talked about them as close friends. He said, "Well, I'm here at Lee and Eric's working on a car in the garage." -He didn't sound like he was drinking, and I thought he probably liked working on cars, so I was glad he wasn't getting into trouble.
22. On the morning of Thursday, October 15, the day Mrs. Franklin was killed, Chris' dad came by to see me on his way to work. I didn't want to see him, but I was polite. I wished Charles would come by so that Chris' dad would leave.
23. Charles called me that night between 9:45 and 10:15. I was usually in bed by 8 or 9 p.m., but that night I wasn't asleep when the phone rang. I got out of bed and went to the kitchen to answer the phone. I asked Charles where he had been, and whether he had been drinking. I said I thought he had been. He said he wasn't drinking, and then he said, "Look, I'll even ask Timmy. Timmy, do I have a beer or a drink in my hand?" I heard Timmy, Charles' little brother, say no. I said, "Have you been drinking?" He said

he had had a little bit to drink. We talked for a few minutes, and Charles asked me if Chris' dad had come over that day. I said yes. He asked me, "Did he bother you?" I said no, even though I hadn't liked it. Charles said, "Do you want me to come over in the morning so I can beat him up?" and I said no. "I'm just joking," he said. Charles was joking that whole phone call - that's one reason why I thought he had been drinking. He said, "do you want me to come over in the morning in case he comes back over?" "I said, if you want, but I don't think he's coming over." I can't figure out how Charles could have been so cheerful on the phone that night if he really had killed Mrs. Franklin.

24. Charles came to my house early the next morning, as he had promised. Later that day, Charles' mother, Betty, called and asked for him, and I heard Charles speaking with her. He said, "What?" in a high-pitched voice. When he got off the phone, he said, "Lee and Eric's grandmother was murdered and the police want to question me." I said, "You don't know nothing," and he said, "Well, I know that!" Charles left around the time the police arrived, and they looked through my mother's closets for any clothes Charles might have left. They took the black jacket he'd been wearing that morning and a blue baseball cap he had left. They also questioned me about Charles' whereabouts, but I didn't know where he had gone. I did tell them that he had called me the night before. /
25. For the next few days, the police were looking for Charles. Sometimes I didn't know where he was, and sometimes I was with him. The Sunday night before Charles was arrested, he and I were staying at a house that belonged to David Reeves, Betty's boyfriend. We sat on the porch that night, holding hands. I remember it was a breezy night, and the weather was pretty. It seemed like the last time we might ever be together, but I felt like nothing could really keep us apart. I asked Charles to marry me. He said, "one day" - he wanted to have something to offer me first. /
26. The next morning, the police arrived and Charles answered the door. I could hear them ask if he was Charles Raby as I walked to the back bedroom, where Chris lay. I heard one officer call out, "Come here, you little m_____ f_____." Then Sergeant Allen came looking for me and said they were arresting Charles and asked me to go with him to the police station. I asked whether I was in trouble, and Sergeant Allen said I wasn't under arrest. I gathered up Chris and his baby bag and Sergeant Allen put me in the back seat of his car. I could see Charles in the car in front of us as we drove to the station. I asked what was going to happen, and Sergeant Allen said that I shouldn't say anything until we got to the station.
27. At the station, I was taken to a small room with a couch, white walls, and two metal chairs. After an hour or an hour-and-a-half, someone came in and offered me something to drink. After another half hour, Sergeant Wendel came in and questioned me about Charles - whether he had admitted the murder to me. He hadn't. Sergeant Wendel would ask a question, I would answer it, and he would sit there not saying a word and tapping his leg with a pencil. I told Sergeant Wendel that Charles had called me the night of the murder, but I don't think I had anything to say that he wanted to hear. Sergeant Wendel

finally said, "You know, we could arrest you and put the baby in foster care."

28. I understood that Sergeant Wendel was threatening to charge me with aiding and abetting. And I am positive that he said "foster care" - in other words, he was not just talking about keeping Chris until my family could get him. He was talking about taking him away for good. All of these years, I have thought that they could charge me with aiding and abetting because I didn't tell them where Charles was. But I didn't tell Sergeant Wendel anything bad about Charles, because he hadn't told me anything bad.
29. I asked Officer Wendel where Charles was, and he said they were taking blood and tissue samples from him and putting them in coolers. I asked whether he could go home afterwards, and he said, "No, I don't think so." I asked whether I could go home, and Officer Wendel said, "Let me see if Allen wants to ask you any questions." He left.
30. I know it was Sergeant Wendel who talked to me at the station, because he was the only one who wore glasses, he was tall and skinny, and he had dark brown hair and a thick mustache. Sergeant Allen was shorter and had a mustache and light gray hair, and another officer, either Sergeant Stephens or Sergeant Shirley, was tall and skinny and had a mustache, but he was younger and had straight, sandy blond hair.
31. An hour later after Sergeant Wendel had questioned me, Sergeant Allen and Sergeant Wendel and another officer opened the door with Charles in handcuffs. One of them said, "You have three minutes." Charles reached out to try to hold Chris, but his handcuffs wouldn't let him. Sergeant Allen said to take them off. Charles held Chris and we sat on the couch together. Charles asked me if I was O.K. and I said I was. We sat pretty quietly for three minutes, and then we said our good-byes. Charles gave me a big hug and a peck on the cheek, then the third officer led him away. By the time I picked up my bags to go, he was gone.
32. Sergeant Wendel took me home. He said during that drive, "I don't know why Charles ran - he knows we don't work on weekends." Once I got home, Charles called me on the telephone from the station. He said he just wanted to make sure I had gotten home all right. /
33. After Charles was charged with the murder, I visited him in jail and asked him whether it was true that he had signed a confession. Sergeant Wendel had told me this when he had driven me home. He answered, "yeah," with a tone of finality. But when I asked why, he replied, "Because they told me that they were going to lock you up and put Chris in foster care."
34. Other than the few minutes Mr. Cantu and I spoke before I testified at sentencing, I never talked with Charles' defense counsel about the case. Once Mr. Cantu gave me a ride home, but he did not bring up the case. Once Charles wrote me that Mr. Cantu had visited him in jail before trial, and Charles wanted to talk about his case but Mr. Cantu

spent the visit reading the paper.

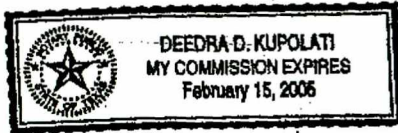
35. When I knew Charles in 1992, he was kind and thoughtful and good to me. He did have some problems with alcohol, and he had gotten into trouble in the past. He would have been a good father to Chris, unlike Chris' real father. I know the prosecutors were trying to make Charles out like he was cold-blooded, but he wasn't like that. Charles had a good heart.
36. I still care deeply about Charles, and I wish I had been allowed to tell what I knew at his trial. I am so glad that I can finally tell the whole story.

Under the pain and penalty of perjury, I swear that the above is true and correct to the best of my knowledge. I give this statement of my own free will.

Merry A. Wilkin
Merry Alice Wilkin

SWORN TO and SUBSCRIBED before me on this the 22nd day of February, 2002, to certify which witness hereof my hand and seal of office.

Deedra D. Kupolati
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS



My Commission Expires: 2/15/05