

DECLARATION OF GEORGE EDGERLY

GEORGE EDGERLY declares as follows:

I am presently incarcerated at Massachusetts Correctional Institution in Bridgewater serving a sentence for murder under case number 81811, Commonwealth v. Edgerly.

I was first introduced to attorney Michael J. Flynn in late 1975 or the first two months of 1976. He was introduced to me by Theodore Kemos as the lawyer for Kemos.

I was the defendant in a criminal case for fraud. Trial began in Lowell, Massachusetts in February, 1976. Attorney Flynn attended the trial almost every day. I was free on bail, and generally had lunch at a sandwich shop on Gorham Street. In March, 1976, during lunch break, I was approached by Flynn. He requested that I go with him over to a corner of the sandwich shop out of earshot of others, which I did.

Flynn asked me if I had been offered a deal. I told him that Lt. Peter Agnus had talked to me, but no deal had been directly offered, and that the Assistant District Attorney Danny O'Connell had offered a deal through my lawyers. The deal offered was that if I would testify against Theodore Kemos and R. Gordon Butler, I would get eighteen months in prison and another eighteen months probation. I told Flynn I had refused this deal.

Flynn then asked me if I was going to testify in my own defense, and I told him that I didn't intend to at this time. He then told me that I would probably be convicted and do time. He said that if I didn't testify in my own defense, they would give my wife Linda five hundred dollars a week for every week I

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witness. Andy Linn

George Edgerly

1 spent in prison.

2 Flynn also warned me that if I did testify, the judge would  
3 allow the prosecutor to bring in the pending murder charge or ask  
4 me questions about it which would affect my credibility. I told  
5 Flynn that I agreed with him, and would not testify, and that I  
6 accepted their offer.

7 About four days before the end of the trial, I began thinking  
8 that I could win the case if I testified. I communicated this to  
9 one of my lawyers, Patrick J. Piscatelli. Piscatelli told me  
10 that I could not testify because of the deal I had made not to  
11 testify. Later the same day, Flynn asked me to meet him  
12 downstairs from the courtroom.

13 When I met with Flynn, he reminded me of the conversation he  
14 and I had in the sandwich shop about two weeks before, and asked  
15 if I could use some money. I replied that I could, and he then  
16 surreptitiously handed me ten one hundred dollar bills folded  
17 together. He said that this was two weeks at five hundred a week  
18 and that I could see that "our word is good." I placed the  
19 thousand dollars in a suit pocket in a closet in my home, and  
20 later, after I was sentenced, directed my wife to the money.

21 I did not testify, and was convicted and sentenced to three  
22 to five years.

23 Between October and December, 1976, I was in trial as a  
24 defendant on a charge of conspiracy. My codefendants were R.  
25 Gordon Butler and Theodore Kemos. Flynn represented Kemos. At  
26 the beginning of the trial, Flynn told me that he was also  
27 representing Kemos in a big civil case against General Motors.  
28 He told me that Butler was also suing General Motors. Flynn said

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1 that if they were acquitted, Butler and Kemos would win their  
2 civil suits, but if convicted they would definitely lose. He  
3 then told me that Butler and Kemos would cut me in on their  
4 recovery from General Motors so long as I did not testify. I  
5 agreed not to testify.

6 During the trial, after I had complained to my lawyer about  
7 his representation of me, the trial judge found a conflict of  
8 interest and removed my lawyer. I wound up representing myself.  
9 In that capacity, I was privy to chambers conferences between the  
10 attorneys. On one occasion, the judge called us all into  
11 chambers and said that a prosecution witness, James Dolson, had  
12 spoken with him about what Dolson felt was an attempt by Flynn to  
13 intimidate him.

14 As the judge related it, Dolson told him that Flynn had  
15 approached Dolson on the back stairs of the courthouse and  
16 engaged him in conversation. According to Dolson, Flynn tried to  
17 implant in Dolson's mind that Kemos and Butler were not guilty  
18 and that only I was guilty. Dolson felt that Flynn was trying to  
19 influence Dolson's testimony. The judge said that Dolson claimed  
20 that Flynn threatened him and then offered him a reward if he  
21 would change his testimony. Flynn told the judge that he had  
22 been misunderstood by Dolson and denied any improper behavior.  
23 The judge admonished Flynn and made mention of the Bar Overseers.

24 Because I felt as though Kemos and Butler were making me the  
25 fall guy, I began aggressively cross-examining the witnesses in  
26 the case. Flynn took me to an adjoining room of the courthouse  
27 out of earshot of the guards. Flynn told me that Kemos was angry  
28 at me and wanted to know why I was doing this. He told me that

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witness: Andy Luvain

*[Handwritten signature]*

1 if I agreed he would feed me cross-examination questions that  
2 would help Kemos and Butler. He told me to remember that a lot  
3 of money had been put away for me. I told Flynn that all I had  
4 were promises. Flynn then said that they would give me eighteen  
5 thousand dollars right away. I told Flynn to give my wife the  
6 eighteen thousand dollars right then or there was no more deal.  
7 Flynn then told me that Butler's lawyers had said not to give the  
8 money in a lump sum. Flynn left.

9 We then met again in the prisoners' room adjoining the  
10 courtroom. This time Flynn told me that Butler and Kemos wanted  
11 me to back off on my cross-examination. He said that they would  
12 be found not guilty, and would not forget what I was doing. He  
13 then told me that he knew I was concerned about my family and  
14 that I had a lot of children who were little. He said that one  
15 of them could be hit by a car, and that anything like that might  
16 happen to my children.

17 I felt very intimidated by this conversation; I told Flynn  
18 that he had already been admonished by the judge about his  
19 conversation with Dolson, and told him that I would tell the  
20 judge about this conversation. Flynn told me that the judge  
21 would not believe anything I said, and left.

22 One or two days later, I had a conversation with my wife,  
23 Linda. She told me that earlier that day Flynn had approached  
24 her in the courtroom. Linda said that Flynn told her that he had  
25 noticed she was at the courthouse every day watching the trial.  
26 He then told her that while she was at court she had children at  
27 home, and inquired of her whether someone was watching them and  
28 whether she knew if they were safe. He then told her that I was

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1 going against Kemos and Butler and that she should speak to me  
2 about this. He ended off by telling her that he hoped someone  
3 was watching the children properly because something could happen  
4 to them. Thereafter, except for the verdict, Linda did not come  
5 back to court.

6 I reported these threats to the judge in chambers with all of  
7 the attorneys present. Flynn denied making any threats to me and  
8 told the judge that Linda must have misunderstood him. He  
9 claimed he only had a friendly conversation with her about her  
10 kids and their welfare. The judge asked Flynn whether he had  
11 talked with Linda before the conversation about her children and  
12 Flynn said he had not. The judge told me that I did not have to  
13 talk with Flynn, and told Flynn not to talk to Linda again.

14 Kemos, Butler and I were convicted of conspiracy, and  
15 sentenced. I never saw Flynn again.

16 I declare under penalty of perjury that the foregoing is true  
17 and correct.

18 Executed this <sup>5<sup>th</sup></sup> day of March, 1984 at Bridgewater,  
19 Massachusetts.

20  
21 w. t. w. *Andy Luvaci*

*George Edgerly*  
George Edgerly

22  
23 The foregoing statement and admission was signed in my  
24 presence and the person George Edgerly, who signed it declared  
25 understood and that each and every one of the statements there-  
26 in contained are absolutely true.

*Andrew J. Palermo*  
Andrew J. Palermo  
Massachusetts Justice of  
The Peace

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March <sup>5<sup>th</sup></sup> 1984