

COMMONWEALTH OF MASSACHUSETTS

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V.) Worcester, ss.

BENJAMIN LAGUER)

AFFIDAVIT OF WILLIAM P. NOWICK

NOW COMES WILLIAM P. NOWICK, under the pains and penalties of perjury, and states as follows:

1. I served as a deliberating juror in the case of Commonwealth v. Benjamin LaGuer, from January 27 to January 30, 1984. I cast a vote, with reservation, to convict Mr. LaGuer.

2. Before and during the jury deliberations, countless racial slurs were made in the presence of the jury members about the defendant, Benjamin LaGuer. The first instance of a racial slur being uttered was immediately after the jury was impannelled, as the jury members were going to lunch. One juror, Joseph P. Novak, remarked about the defendant, "the goddamned spic is guilty just sitting there; look at him. Why bother having the trial." The jury foreman, James Dalzell, requested that Mr. Novak be quiet.

3. Moreover, during the jury deliberations, there was much unsubstantiated speculation about how anyone could have raped someone all night. This same Joe Novak stated that "spics screw all day and night," and again alluded to the defendant's guilt. Again Mr. Dalzell asked the juror to refrain.

4. In addition to these instances in which I remember the specific racist remark, I also remember bigoted invectives was directed against the defendant on other occasions. The jury deliberations were plagued by racism. Mr. Novak not only made specific comments, but during deliberations as well as outside deliberations (for example, at lunch) he would go from one juror to another invoking racist overtones while discussing the defendant's guilt. Along with Mr. Novak, at least two other jurors were particularly relentless in their racist attack of the defendant. While I can't remember verbatim what was said, I definitely recall that throughout the trial I, along with the other jurors, was constantly bombarded with racists attacks of the defendant uttered by other jury members.

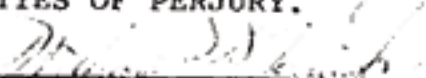
5. During the jury deliberations there was a great deal of discussion, without any evidence being given at trial, about the reasons for the defendant's discharge from the Army. Jury members speculated that sexual misconduct caused the discharge, and that Mr. LaGuer had been residing with a woman during his tour-of-duty in Germany. However, none of these issues were presented during trial, or have any basis in fact.

6. Furthermore, other extraneous information was discussed by the deliberating jurors, such as the arrogant and conceited attitude of the defense counsel, and the probability that the defendant would only serve five years with two years probation if found guilty. References alluding to the defendant's guilt were repeatedly made prior to the completion of the Commonwealth's case.

7. Other slurs made by the deliberating jurors concerned the one alibi witness, Miquel Gonzalez, whom jury members referred to as "a goddamned fool" and "a lying son of a bitch;" "not an alibi witness at all." Criticism was directed against the defense counsel for not producing more alibi witnesses, which none of the jury members knew existed until the post-trial motions for new trial.

8. The deliberations were tainted with blatant racism, and extreme lack of objectivity, and speculations without evidence. Had the jury deliberated with all the evidence, I believe the result would have been different.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY.



William P. Nowick

DATED: 18 July 1958