

Sheriff

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09 July 2013

Mr. David E. McCraw
Vice President & Assistant General Counsel
The New York Times Company
620 Eighth Avenue
New York, New York 10018

Dear Mr.  McCraw,

I want to thank you for the kindness and respect that you have demonstrated to my attorney, Jon Kaney, during your recent telephone conversations. Jon has been a lawyer for many years and is considered by many to be not only an outstanding lawyer but one of the strongest first amendment advocates in the State of Florida. I also want to thank you for your gracious proposal regarding your attempt to schedule an interview with myself and Mr. Bogdanich. Before I share my thoughts on the proposed interview, I would like to highlight some additional insights I have concerning this case and your reporter's approach to it.

Our first contact with Mr. Bogdanich was when he filed a public records request with the St. Johns County Sheriff's Office (SJSO) back in February 2013. Immediately after he filed this public records request I had our Public Information Officer, Commander Chuck Mulligan, contact him and offer any assistance he may need. Mr. Bogdanich was appreciative of Commander Mulligan for proactively contacting him and I am certain he will tell you how open and forthright we were with him during our early contacts. In fact, he complimented Commander Mulligan on more than one occasion. I have always been very open and accessible to journalists during almost thirty-three years in my profession. I have always been keenly aware of the importance of maintaining an open and honest relationship with journalists regardless of the substance of their coverage or approach to it; even and especially when they "held my feet to the fire." Please know that the conditions for my relationships with members of the media have never been predicated upon "political expediency," "image management" or concerns about "liability." The only conditions I have tried to impose on myself in my relationships with journalists and others is to do and say what I felt at the time was right and just, even if my position was contrary to conventional wisdom and was or was not "politically correct."

I did not take my letter to Mr. Bogdanich lightly or without much thought. Telling a journalist that you believe he or she lacks objectivity, in my mind, is one of the most serious charges a person could lodge against a journalist, a charge that could have unintended consequences, not the least of which is it could provide a



dishonest journalist with motivation to seek retribution through their reporting. Yet, in all of our contacts with Mr. Bogdanich he has been negative and condescending. In fact, in all of his contacts with people associated with this case he has been vitriolic, and whenever his view of what he thinks occurred has been questioned, he has demonstrated open disdain and contempt. I could have provided dozens and dozens of examples in my letter to him to highlight this view. It has become clear to all of us based on his questions, theories and public records requests that he is not objective and that very early on he arrived at a theme for his coverage. It is almost as if, like Rodgers, he started with a conclusion and is trying to find and fit information to prove it. I am sure he thought he was in good company. After all, a few years ago Rodgers was recognized as the "State Agent of the Year" by FDLE. This view is shared by many individuals beyond my agency. In fairness to Mr. Bogdanich, I am certain that Agent Rodgers, a few of Rodgers' colleagues, Michelle's mother, sisters and some of her friends do not share this view of him. What many find so surprising is how Mr. Bogdanich has never even attempted to project the image that he is fair and objective. Without trying to sound presumptuous, it is very easy to discern through Mr. Bogdanich's questions, theories and public records requests where he is receiving his information from and what his agenda is regarding this case.

Of all the unbelievable conduct committed by Agent Rodgers and my own agency's shortcomings identified in our 163 page, "Review of Michelle O'Connell's Death Investigation", Mr. Bogdanich had only two concerns. First, he vehemently denied he made the statement to Agent Brutnell that was referred to in the early part of our review. His second concern was asking how we determined that Ladley and Boswell (two alleged "witnesses" that Rodgers interviewed five months after the incident) would often smoke marijuana while sitting outside their home. I believe that above all of the other items and misconduct identified in our case review, a first year journalism student would have at least been curious about what the "stunning" comment was (referred to in Background section, page 11, Case Review) that Special-Agent-in-Charge Dominic Pape made during a meeting with a prosecutor and investigator from the 5th Circuit State Attorney's Office that occurred on April 5, 2012. Had he been curious about this he may have discovered that Pape suggested keeping the letter he had hand delivered to Mr. Brad King (5th Circuit State Attorney) requesting a "coroner's inquest" be kept from the public and the media by calling it a "draft" which he believed would have concealed the letter. Pape apparently realized the folly of writing and sending this letter and tried to convince the prosecutor that it could be easily concealed because there were "only 3 copies" of it in existence. This suggestion caused the prosecutor to end the meeting and it was "stunning" because in Florida, Pape's suggestion was a criminal violation of Florida Statutes. Mr. Bogdanich may also have learned that Pape's suggestion was reported to Pape's chain of command with an outcome that is still unknown.

I would be less than candid if I did not share that at one point during the investigation (when I relieved Banks of duty) I believed that in some way Banks was culpable in the death of Michelle. It was not until later that I learned that the information I was provided at the time that came from Agent Rodgers was false. The majority of Pape and Rodgers' misconduct did not come into focus until we engaged in our case review. Ironically and fortunately, Mr. Bogdanich's involvement in this case

positively influenced my decision to order the case review. You must also know that I have a long history of holding subordinates accountable. I have terminated, demoted, suspended, and reprimanded many subordinates over the years. Just in the past year, I arrested a subordinate (Lieutenant) whom I have known and cared about for many years and he was recently sentenced to five years in state prison. This case is not primarily about holding others accountable; it is about what is right and just.

Concerning your generous offer regarding an interview between myself and Mr. Bogdanich; I would be more than willing to speak with Mr. Bogdanich for as long as he would like with one condition. I will gladly speak about the police work performed by my agency and the police work performed by the Florida Department of Law Enforcement (FDLE) regarding this case. I will not speak about whether or not this is a case of suicide or homicide. I doubt this offer will interest Mr. Bogdanich because from the very beginning of his involvement he has telegraphed his belief that the case is a homicide. Please know that I understand Mr. Bogdanich and reporters have the freedom and should always have the freedom to report whatever it is they want to report (as long as their reporting is absent any malice), but I cannot be a part of a conversation with him regarding his belief in homicide for the following reasons:

1. First and most importantly, if I discussed this case from the perspective of whether it is a suicide or homicide, I believe that my discussions and ultimately Bogdanich's reporting will further perpetuate the injustices already visited upon Jeremy Banks and indeed Michelle O'Connell's family (especially her brother Scott O'Connell) by Agents Pape and Rodgers. Michelle's mother and sisters believe that Michelle died at the hands of Jeremy Banks, which is not an unusual reaction in a suicide case. What is unusual, is how Rodgers manipulated and exploited these folks by advancing false information to confirm in their minds their belief that Michelle's death was caused by Jeremy Banks.

2. All of the officials (several medical, law enforcement and prosecutors) in this case believe it to be a suicide. Dr. Hobin is the Medical Examiner who originally determined this case to be a suicide but changed his finding to "homicide" (though not officially) after being presented information (PowerPoint) by Rodgers that we now know contained fabricated and misleading information. Dr. Hobin has since changed his case finding back to his original finding of suicide. In fact, FDLE has never taken the position that this case was anything other than a suicide. In reviewing Rodgers' report he doesn't even state that the death was the result of a homicide other than referring to it as a "homicide" and advancing false and misleading information while withholding exculpatory information. I am certain that Pape, Rodgers and a few of their minions continue to believe the case to be a homicide.

3. Mr. Bogdanich is in possession of more than enough information to clearly demonstrate that this case is a suicide. The only report I did not send him was a copy of the Matthews report. I did not send him the Matthews report because of his treatment of Jim Casey after I provided him with a copy of the Casey report; a report he didn't even know existed until I sent it to him. I am sure he probably has a copy of the Matthews report by now and I am equally certain he has dismissed it. If Bogdanich believes that this is a case of homicide (and I am certain he does) or if he

even has a doubt that it could be, in light of all the information he possesses, nothing I could say or do in an interview setting could ever cause him to doubt his belief.

4. It is important to mention that I am perfectly fine with Mr. Bogdanich portraying myself in any way he desires. Though our organization is respected throughout the State of Florida and enjoys a tremendous reputation for being progressive, I am also fine with him portraying our agency in any way he desires. What I am not fine with is if he in any way writes or conveys anything to cast aspersions or advances any innuendo regarding Jeremy Banks or Scott O'Connell, these two young men have been victimized enough and Mr. Bogdanich possesses enough information to know that.

Ironically, because of the efforts of many, especially the media and the scientific community (through their work with DNA), the public is finally becoming aware of the phenomenon of innocent people being charged and imprisoned (or almost charged and imprisoned) for crimes they did not commit or for crimes that never actually occurred. In fact, your paper has done an excellent job reporting on many of these cases. This phenomenon often occurs as the result of the police being misguided and careless or being downright malicious; I believe this case is a perfect example of the latter not the former. I have spoken with many journalists (print and film) who are vitally interested in this case. Their interest is not from the perspective of whether the case was a suicide or a homicide, but from the perspective of a law enforcement executive "calling out" members of another law enforcement agency for egregious misconduct that could easily have resulted in a person being charged with a crime that never occurred. Please know that I would have reacted in the same manner had the victim of Pape and Rodgers been a citizen with no connection to the law enforcement community. Another item Mr. Bogdanich could have gleaned from our case review had he been interested, was that well over a year ago, Mr. King shared with Commissioner Jerry Bailey (Commissioner of FDLE) that he felt that this case and Rodgers' conduct was an excellent example of why we need an "Innocence Commission" in the State of Florida (King and Bailey both serve on Florida's Innocence Commission). It is unknown if Commissioner Bailey took any action after hearing this comment.

I realize that you have very little control over what a reporter writes about or their approach to a story beyond trying to protect the newspaper from liability claims and that is as it should be. In the final analysis, Mr. Bogdanich will write his story or stories and "co-produce" his documentary and other print and film journalists will report on this case as well. Claims and civil suits will be filed and soon after, the case, the story, the coverage and the civil cases will fade from memory and soon be forgotten; Mr. Bogdanich will continue to receive his paycheck, and I will continue to receive mine. But there are a few who will not soon forget; Michelle's family who lost their daughter and sister and especially Michelle's brother Scott who suffered horrific manipulation and exploitation at the hands of Rodgers. Jeremy Banks will never forget for obvious reasons.

My only reluctance to meeting with Bogdanich is that I have come to perceive him as a "bully" in much the same way that I perceive Rodgers as a "bully" and though I have more flaws than most, backing up from "bullies" is not one of them, regardless of whether they carry a badge or a pen.

Last week a private meeting was held between Jeremy Banks and Scott O'Connell that I had the opportunity to attend. I wish Mr. Bogdanich could have been present to witness the emotional healing that occurred between these two young men who were best friends before Michelle's death. He would have had a front row seat to witness the damage, pain and suffering that these two young men endured - first, because of the death of Michelle and second, because of the egregious conduct perpetrated on them by Agents Pape and Rodgers. I can only hope that had he been present, he would have been able to appreciate it.

Sincerely,

A handwritten signature in black ink, appearing to read "David B. Shoar". The signature is fluid and cursive, with a prominent loop at the end.

David B. Shoar
Sheriff