

STANISLAUS COUNTY GRAND JURY
MODESTO, CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA,

v.

GARY A. CONDIT, MIKE LYNCH and DON THORNTON
Defendants.

Case No.:

AFFIDAVIT OF JAMES H. ROBINSON, ESQ., ATTORNEY FOR MS. ANNE MARIE SMITH, IN SUPPORT OF A CITIZEN COMPLAINT FOR CRIMINAL INDICTMENTS FOR OBSTRUCTION OF JUSTICE AND SUBORNATION OF PERJURY, AND MEMORANDUM OF LAW.

I, JAMES H. ROBINSON, ESQ. am the attorney for MS. ANNE MARIE SMITH, and on oath, affirm:

- 1. I am an Attorney at Law in Seattle, Washington, and a member in good standing of the Washington State Bar Association, WSBA #28282.
- 2. Ms. Anne Marie Smith, ("Ms. Smith"), a personal friend of mine for the past approximate eleven (11) years, contacted me on June 14, 2001 to represent her regarding an ongoing FBI investigation into the disappearance of Ms. Chandra Levy, a resident of

1 Modesto, Stanislaus County, CA, who at the time of her disappearance was a temporary
2 resident of Washington, DC.

3 3. Ms. Smith informed me that she had been having an affair with U.S. Congressman Gary
4 A. Condit, (“Mr. Condit”), and that Mr. Condit had also been having an affair with
5 Chandra Levy at the same time as his affair with her, and that Mr. Condit was a suspect
6 in the disappearance. Mr. Condit is a resident of Stanislaus County, CA.

7 4. Ms. Smith informed me that Mr. Mike Lynch, (“Mr. Lynch”), Chief of Staff for Mr.
8 Condit, had contacted her by telephone on June 13, 2001, from his office in Modesto,
9 CA, at her home in San Francisco, San Francisco County, CA. She further informed me
10 that Mr. Lynch told her that he was acting on the instructions of Mr. Condit and that Mr.
11 Condit had asked her to contact Mr. Don Thornton, (“Mr. Thornton”), an investigator for
12 Joseph W. Cotchett, Jr., Esq., (“Mr. Cotchett”) who represents Mr. Condit as Mr.
13 Condit’s attorney. Both Mr. Thornton’s and Mr. Cotchett’s office is located Burlingame,
14 San Mateo County, CA. Mr. Thornton is an employee of Mr. Cotchett’s.

15 5. Ms. Smith further informed me that upon calling Mr. Thornton on June 13th, Mr.
16 Thornton asked her to sign a sworn affidavit. She informed Mr. Thornton that she was
17 represented by counsel and that her attorney would contact him. It was at this point
18 when Ms. Smith contacted me.

19 6. I then placed a call to Mr. Cotchett’s office. I asked for Mr. Cotchett and was told by the
20 receptionist that he was not available. I then asked if Mr. Thornton was officed in the
21 same office and was told by the receptionist that he was. I further inquired whether or
22 not Mr. Thornton was an “Employee” of Mr. Cotchett’s and was told that he was. I then
23 asked to speak to Mr. Thornton. Mr. Thornton then told me that he had been directed to
24 have Ms. Smith execute a sworn affidavit. He said the affidavit was being drafted and
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1 that he would e-mail it to me.

2 7. On June 15th, I received an e-mail from Mr. Thornton, attached as Exhibit A. I
3 immediately called Mr. Thornton and told him that Anne Marie Smith could never sign
4 the affidavit because it was completely and totally false and that Mr. Thornton knew that
5 it was false. As I recall the exact conversation, I said to Mr. Thornton, “you know that
6 paragraph five (5) is a is a complete and total lie.” After a long pause, Mr. Thornton
7 replied, “can’t you play with the language?” I told him I would not do anything with the
8 document as long as it was false.

9 8. I called Ms. Smith on June 15th and read to her the affidavit. She agreed that she could
10 never sign it because it was not true.

11 9. On Friday, June 29, 2001, I received a telephone call from Mr. Abbe Lowell, Esq., (“Mr.
12 Lowell”), a criminal attorney in Washington, DC who represents Mr. Condit. Mr.
13 Lowell informed me that between June 15 and June 29, 2001, there had been multiple
14 telephone communications between Mr. Condit and Ms. Smith, and that he was deeply
15 concerned that either Attorney/Client Privilege and/or Attorney Work Product Privilege
16 did not protect these conversations. I immediately contacted my client Ms. Smith.

17 10. Ms. Smith then informed me that Mr. Condit had initiated the telephone calls to her in
18 San Francisco in an attempt to persuade her to sign the false affidavit. She also told me
19 that Mr. Condit had made at least one phone call from Mr. Cotchett’s office in
20 Burlingame, CA.

21 11. Having grave concerns for Ms. Smith’s safety, I insisted that she immediately fly to
22 Seattle, WA. I then arranged for a taped TV interview for Ms. Smith by Fox News that
23 would be “self-authenticating” under Rule 902 of the Federal Rules of Evidence.

24 12. On July 2nd 2001, Ms. Smith was interviewed by Ms. Rita Cosby, (“Ms. Cosby”), of Fox
25

1 News. In addition to memorializing her testimony in a form that could be used as
2 evidence in a court of law, it was my hope that with the story made public, there would
3 be less danger to Ms. Smith's life.

4 13. At 3:00 PM, PDT, on July 2nd, the interview with Ms. Smith was aired by Fox News.
5 However, the affidavit emailed by Mr. Thornton on June 15th (Exhibit A) had not yet
6 been sent to Fox News Headquarters.

7 14. At approximately 3:10 PM, PDT, on July 2nd, Rita Cosby, called Mr. Thornton about the
8 affidavit (Exhibit A). Mr. Thornton denied its existence. I then faxed the affidavit
9 (Exhibit A) to Fox News Headquarters. Ms. Cosby then confronted Mr. Thornton with a
10 copy of the affidavit (Exhibit A). Upon being confronted with the affidavit (Exhibit A),
11 Thornton replied he had forgotten about it.

12 15. In an FBI interview conducted on July 10th and 11th, 2001 in Washington, D.C., the FBI
13 confirmed that the telephone number used by Chandra Levy to contact Mr. Condit was
14 the same telephone number used by Anne Marie Smith to contact Mr. Condit.
15 Telephone bills provided by Ms. Smith to the FBI authenticated this.

16
17 **MEMORANDUM OF LAW**

18 **JURISDICTION AND VENUE**

19 16. The Courts of the State of California have subject matter jurisdiction over this matter
20 because most of the violations complained of herein occurred in the State of California.

21 17. The Courts of the State of California have personal jurisdiction over the Defendants
22 because all the Defendants reside and conduct business in the State of California and
23 many if not most of the violations complained of herein occurred in the State of
24 California.

1 18. Venue is proper in Stanislaus County because Defendants Condit and Lynch both reside
2 in and conduct business in Stanislaus County, and many of the violations complained of
3 herein occurred in Stanislaus County. Defendant Thornton conducts business in
4 Stanislaus County.

5 19. I affirm under penalty of perjury under the laws of the State of California that the
6 foregoing is true and correct. Executed this ___ day of August 2001 at
7 _____, California.

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11 _____
12 James H. Robinson
13 Affiant and Attorney for Ms. Anne Marie Smith
14 WSBA # 28282