

**CROSS EXAMINATION OF HOWARD K. STERN
IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT IN AND FOR
BORWARD COUNTY, FLORIDA
CASE NO: 07-0824
FEBRUARY 20, 2007**

QUESTIONS BY MR. O'QUINN OF HOWARD K. STERN

Q Sir, is it correct you have refused to take any type of DNA test

(Objection by Ms. Barth followed by discussion between The Court and the attorneys)

Q You said you met Anna Nicole in 1995?

A No, I believe I said 1996

Q All right. And this was in connection with the lawsuit that she had in California against either Mr. Marshall or his estate?

A That's correct. NO. It was against Pierce Marshall.

Q That's one of the sons.

A Correct

Q Did you participate as counsel on her behalf?

A Yes, I did.

Q Was your law firm involved?

A Was my –

Q Were you part of the law firm that was representing her?

A Initially.

Q The name of the firm?

A First, it was Stern, Rale and Kavarigan.

Q Okay. And then you represented that over time you became her lover, true?

A That's true

Q That began in the year 2000?

A Somewhere around there.

Q And do you mean by lover, that you had sexual relations with her?

A Yes, sir.

Q How far back might those sexual relations gone, '96 or '97?

A No, no. It would have been 2000.

THE COURT: So it's been asked and answered.

Q Okay. Are you aware, sir, that it's unethical for a lawyer to have sexual relations with his client?

(Objection by Ms. Barth)

Q Do you have the document that purports to be the Will? Do you have it there?

A Yes, it's right here.

Q Have you read that document?

A I have not read every word of it, no.

Q When is the first time that you saw the document?

A Back in 2001

Q There has been a lot of questions. Does this document appoint you to be the guardian of Daniel? Do you remember those questions?

A I remember one question.

Q And you referred to page fourteen; do you remember that?

A Yes.

Q On page thirteen, it says you were appointed guardian of her minor child, Daniel Wayne Smith, correct or not?

A That's what the document says.

Q No where in this document does it say that you are appointed anything about being the guardian of Anna or having instructions as to carry out her desires on being buried? This document is silent.

MS. BARTH: It says he has plenary –

MR. O'QUINN: Do I get my cross examination?

(At this point The Court takes over questioning)

QUESTIONS BY THE COURT OF HOWARD K. STERN

Q Do you have a plenary benefit from this Will?

A I will step down as executor if it came down to this, because I don't want one penny.

Q What is the exact terminology? But as an executor, it's – Rohan Kelley knows that could be a big sum of dough.

A I would do it without a fee. She appointed me, because she trusted me.

Q You – now, as the executor, and we never found out about the natural father, then you would potentially, because of the way it's been written and the way it is happening now, you would be the father for the child?

A You Honor –

Q You would have a chance to have a pecuniary interest?

A I believe I am the father. And under the laws of the Bahamas, I am the father.

Q We discussed that in private.

A And the same thing. I don't have a problem with an independent person managing the assets. I am not looking for any money out of it.

Q That could only be proved at the end of game years from now.

MR. O'QUINN: Right. He has the opportunity –

THE COURT: I will not know that today. I will not know that until years from now. I respect what you said, but I will not know for years.

MR. O'QUINN: The issue is whether or not he has an opportunity.

THE COURT: That is what I thought you were going to ask

MR. STERN: What I would want to make sure is that somebody manages Anna's estate responsibly, because beside her lawsuit is her name and likeness and someone to continue generating income for that for Dannielynn.

THE COURT: Proceed.

MR. O'QUINN: Thank you, Your Honor.

QUESTIONS BY MR. O'QUINN OF HOWARD K. STERN

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Q Were you a California attorney licensed in the year 2000?

A Yes

Q Are you still a licensed attorney?

A Yes

Q In California?

A Yes

Q Who do you work for, sir?

A Myself. Anna was my only client since The Anna Nicole Show.

Q Which date?

A It was a television show called, the Anna Nicole Show

Q What year?

A 2002

(Exchange between Ms. Barth and The Court)

Q I am going to find out – what I am trying to find out now is, you say that since the year 2000, you have had one client, Anna Nicole, correct?

A No, since 2002

Q 2002, one client?

A Since 2002.

(Objection by Ms. Barth. Exchange between Lawyers and The Court)

QUESTIONS BY MR. ROHAN KELLY (APPOINTED BY THE COURT) OF
HOWARD K. STERN

THE COURT: Start with this first one. Mr. Stern, can you answer that first question?
What was your participation in that Will?

A I did not participate at all in the writing of the Will. Eric Lund was referred from another counsel.

Q I think we were referring to the Carpenter case is whether you knew the content of the Will, before it was executed?

A Well, I knew that everything was supposed to go to her son and I was supposed to be named as executor and guardian.

THE COURT: Go to town.

Q If we go down to the Carpenter element, I am not sure of the relevance, but where was the original of the document after it was signed?

A I believe, I believe it's in Anna's house, but I am not sure. I would have to go back there and look at it.

Once Anna passed, I wanted to get back to my baby in the Bahamas. I did not go looking for the Will.

Q Is there anything else you would like me to ask? (Directed to The Court)

THE COURT: You keep going down the Carpenter questions.

MR. ROHAN KELLEY: Well he testified that he did consider himself to be a substantial beneficiary. You pointed out that he may be entitled to some compensation. But by virtue of his position that he was written into the will, he indicated that he is willing to disclaim that.

HOWARD K. STERN: I will disclaim that now publicly.

QUESTIONS BY THE COURT OF HOWARD K. STERN

Q Are you prepared to announce that?

A Yes

Q And you will –

MS. BARTH: The testator's intent in the Will is valid. So if he steps down, the Mr. Rale would step in.

MR. STERN: I am trying --

THE COURT: Alter ego.

MS. BARTH: I don't know if that is fair to say.

THE COURT: I say that in a complimentary fashion, because you were complementing Here you were his law partner.

MR. STERN: I am prepared to renounce any fee.

MS. BARTH: I think the important thing here is the question was, does he have an official interest, not will he step down, he said he will, because that is how important. He just renounces his right to compensation. That happens everyday.

THE COURT: How about managing of that money?

MS. BARTH: Well, here is the thing, he has been managing all the money for all of these years.

THE COURT: Here is the problem. We were just testing you or probing you for a minute, but I cannot carry through with what I am tempting to do. I don't know if this Will will ultimately be probated in Florida.

MS. BARTH: My client would represent that under any jurisdiction where this Will will ultimately be probated, which we believe from co-counsel, will be the Bahamas and ancillary in California, that all compensation –

THE COURT: As I understand it, you are in this generous mood. Is there anything else that you want to help the Court with?

MS. BARTH: No, that is all.

THE COURT: Because, you know where I was going.

MS. BARTH: Respectfully, I don't think today is the day.

THE COURT: Do you think that day can come up, because –

MS. HASS: Bring it home judge.

MS. BARTH: See, that's just not – we are here on a limited issue.

(Further exchange between The Court and Ms. Barth)

CONTINUED CROSS EXAMINATION OF MR. HOWARD K. STERN BY MR. MILSTEIN:

Q Your Honor, I do have a few questions, but not very many.

Did you procure any of the witnesses to the Will, Mr. Stern?
A Did I find them?
Q Did you procure them?
A I don't know. I know them both. Mr. James Cavargan, was a law partner and Kim Arthur, was her assistant.
Q Were you present during the execution of the Will?
A You know, I don't remember.
Q But beside those witnesses on the –
THE COURT: You don't remember if you were present when that Will was signed?
A I honestly don't.

CONTINUED CROSS EXAMINATION OF MR. HOWARD K. STERN BY MR. O'QUINN:

Q You believe the Will is in the home of Ms. Smith in California; is that correct?
A Yes, I think so.
Q Did she happen to tell you or anyone else that she revoked the Will?
A No.
Q Did she ever have an opportunity to draft a new Will?
A No.
Q Did she ever talk to you about drafting a new Will?
A She did.
Q When was that?
A After Daniel died.
Q That would have been at what location?
It was – at what location?
Q Yes.
A I know that we talked about it in the room a couple times.
Q City, state, country?
A Nassau, Bahamas.
Q Did she hire an attorney in Nassau to discuss any testamentary intentions:
A No
Q Did she have a writing as to her testamentary intentions as to her burial or final rights?
A I don't know. Because like I was saying earlier, there was a break-in at the house in the Bahamas and a lot of things were taken. Her computer, tapes, her old videotapes were taken, her diaries were taken, all of her contracts were taken. And I didn't go through all that stuff because I never looked into her diaries, so I don't know.
Q Did Ms. Smith write down contemporaneously in the diary?
A She did.
Q Did she share with you her writing?
A No
Q So they were private?
A Yes
Q Do you have any idea, as you sit here today, where those diaries or journaling may be?
A The person that went on national T. V. and said he went into the house and took these things for safekeeping. And at the same time he aid he took them for safekeeping,

images from her hard drive are making it out over the Internet and in the newspapers. And the last name Greta VanSustren's show, who is in the courtroom, one of the videos was shown.

Q What video was that?

A It was a video of Anna being face painted by – his name is Ford Shelly, his daughter.

Q And who is the person that says that he has possession of the journals and hard drive, computer documents and videos that were taken?

A I have not seen a list. I have not seen – an itemized list of what they say they took. All I know is some of it was apparently turned over to the Sheriff's Office in Myrtle Beach.

Q Do you know if it was turned in in South Carolina?

A That is where Ford Shelly – it was actually Ford Shelly and his wife Gina Shelly and someone named Gather Thompson and their wife went.

Q Do they live in South Carolina?

A They do.

Q Has anyone made an effort to secure those documents or items from your home?

A No. I myself have talked to somebody from the Sheriff's department and there is an investigation going on both in the Bahamas and possibly with the F.B.I. out here.

Q When you say you talked to the Sheriff's Office, what city or country?

A In Myrtle Beach. I spoke with the person who, he was not the Sheriff himself, but somebody who works for the Sheriff's Department.

Q As of today, no documents have been turned over back to you?

A No. The only stuff that I have seen is through the media.

Q Did you file a police report in the Bahamas?

A Yes

Q Do you have a copy of the police report in your home in the Bahamas?

A No. They are written statements and, no, the police in the Bahamas are still working up the case.

Q They have never furnished you with a list of items on the police report investigation as of now?

A I gave them a list of items that I know for a fact, were missing. I did not include the journals, but I included all of her paperwork and contracts. She had two computers, hard drives. Literally, all of the very, very personal things, videos, home videos over the last year and a half was taken. Like I said, one of them, perhaps I don't know if this is appropriate forum, but someone can inquire of Fox News of Greta VanSustern on how she came to have that video.

Q Did Ms. Smith ever sign a durable power of attorney to you?

A Not that I am aware of.

Q Did Ms. Smith ever execute an Advanced Health Care Directive to you saying you could make health care decisions for her?

A I don't know. I don't know.

Q Did Miss Smith –

A I know that there were many times that when she was in the hospital and I don't remember any of those times a durable power was entered into.

Q Do you know if she signed a living will?

A I don't think so.

Q When you say she was admitted to the hospital many times, are any of those in the United States?

A Yes, yes. Once was, I believe, Houston, Texas, during a trial there.

Q In Houston, what year was that?

A I want to say 2000.

Q 2000?

A Uh-huh. I don't know that any of them would have been durable. They might have been limited. Her life was – I just didn't think she was going to die. She didn't think she was going to die.

Q In admission, were you there for any of the admissions to the hospital?

A Sure

Q Going into the admitting room, did any of the admitting officers ask her if she had any of those health care documents or statements with regard to health needs or testamentary disposition?

A Not that I recall.

(Discussion between The Court and lawyers about a clause in the will- Then Dr. Perper calls into the Courtroom. This ends the cross examination of Howard K. Stern on that day)