

# THE ANATOMY OF INCOMPETENCE

By: Holley Carnright

On July 11, 2020 at approximately 5am, a man forced his way into the apartment of Romero Underwood. Underwood was pistol whipped and shot in the back in front of his screaming horrified girlfriend.

What was to follow is a low point in the annals of criminal justice in Ulster County and a stunning display of Prosecutorial Incompetence which would serve to revictimize Mr. Underwood's family and loved ones and undermine our society's confidence in the criminal justice system.

Within hours of the homicide, KPD investigators had developed three (3) potential persons of interest in the crime, - and a motive. Of interest were three (3) individuals, Raymond Synder, Callin LeMon and Kevin Drake, all with felony criminal records, suspected by the police to be involved in the sale of drugs in Kingston. The motive for the murder, police surmised, was the theft of crack cocaine.

The police quickly gathered evidence which, eventually, would lead them to believe Raymond Synder committed the murder. They recovered a white KIA believed to be the "coke car" used in a joint drug enterprise by Synder, LeMon and Drake. They then recovered two handguns from the basement of the apartment LeMon shared with his mother. Later on the same day of the homicide, LeMon was arrested on a weapon possession charges.

On January 20, 2021 Raymond Synder was arrested and charged with the murder of Romero Underwood. Neither LeMon nor Drake was charged.

On April 29, 2021, Synder was released from custody due to the District Attorney's failure to present his case to the Grand Jury in a timely fashion. At this point, no one was in custody for, or under arrest for, Underwood's murder.

On May 15<sup>th</sup>, 2021 ten (10) months following the homicide District Attorney Clegg's office indicted Raymond Synder for Underwood's murder. Neither LeMon or Drake were indicted.

Approximately, two years pass.

The case is scheduled for trial.

Prior to trial the Ulster County Court held a series of pretrial hearings ruling et alia :

- a. Statements made by Synder were taken in violation of his Constitutional rights and were suppressed, and
- b. DNA evidence purportedly linking Synder to the homicide was taken in violation of his constitutional rights and was suppressed.

During the hearings, Chief Assistant District Attorney Nneji was repeatedly remonstrated by Judge Rounds for violating the defendant's constitutional rights by, among other things, violating the New York State Discovery Laws and for numerous 'Brady' Violations.

Brady is a 1963 U.S. Supreme Court case which, at its essence, creates a constitutional right to fairness for any person accused of a crime.

Every attorney who practices criminal law, from the most inexperienced novice to the most seasoned veteran, both prosecutors and defense attorney, know that the Brady Doctrine is as basic a foundation of our system of justice as the right to an attorney or our right against self incrimination.

A brief editorial comment: In my judgment a prosecutor shouldn't need the mandates of the U. S. Supreme Court to conduct one's self in a fair and just manner. It is axiomatic that in every instance the prosecution of a criminal case is far greater than the sum of the victims, defendants, families and investigators affected by the crime. In my judgment our entire system of justice and our societies continuing faith in same demand no less.

On April 27, 2022 the Court called the case of People v. Snyder for trial. Chief Assistant Nneji failed to appear to prosecute. Although having represented, publicly, his intention to do so, District Attorney Clegg failed to seek an Interlocutory Appeal of Judge Rounds' decision for a Stay of the trial. The indictment against Synder for the murder of Underwood was dismissed for failure to prosecute and Snyder was released.

During the period of July 11, 2020 through April 27, 2022 no charges were filed by the District Attorney's office against LeMon or Drake for Underwood's murder. Two months after the embarrassing dismissal of the indictment against Synder, Chief Assistant District Attorney Nneji handed down an indictment again LeMon for the murder of Romero Underwood.

On June 5, 2023, the trial against LeMon began. Prior to trial Chief Assistance District Attorney Nneji was again found to have violated 'Brady', this time against LeMon by not disclosing that the people had information through a New York State Assistant Attorney General wire tap that another individual, neither Synder or LeMon but Kevin Drake, "was the triggerman".

On June 5, 2023, the trial against LeMon commenced. During the trial no weapon tied to the murder of Underwood was introduced into evidence. Nor, was there any evidence introduced indicating that Lemon was ever at the scene either through eye witnesses, video or forensic evidence. An expert from the New York State Police Crime Lab testified that there was no forensic evidence connecting LeMon to the car, the crime scene or the weapons found in LeMon's mother basement. However, that expert concluded DNA did connect Synder to one of the guns, to blood that was found on the car and from DNA found beneath Underwood's finger nails.

The jury found LeMon not guilty of any crime relating to the homicide of Romero Underwood.

Some very troubling observations:

Chief Assistant District Attorney Nneji's repeated violations of the accused's Constitutional rights can only be viewed as intentional. No prosecutor, even the most inexperienced, after repeated recriminations by the Court, and particularly after having a murder indictment dismissed could mistakenly continue to commit serious and obviously Brady violations.

It would appear that District Attorney Clegg and Chief Assistant District Attorney Nneji clearly believe LeMon guilty Underwood's murder. But did they? The timing of the LeMon indictment is beyond troubling. Having filed no homicide related charges against LeMon for almost three (3) years, why would they suddenly chose to file an indictment?

The only explanation was to save face following the embarrassing dismissal of the Synder indictment. If that is true, the indictment against LeMon is an example of the worst kind of prosecutorial misconduct – the abuse of the power of the District Attorney's Office.

Even with the scant circumstantial evidence against LeMon, and the legion of apparent evidentiary problems, I opine, no one would criticize the District Attorney had he indicted both, (or all 3) individuals for the heinous crime in the original indictment. That is not what happened here.

Having possessed all of the evidence surrounding this investigation, they made the calculated determination that there was sufficient proof to charge one person, and one person only Raymond Snyder, for this crime. After that indictment was dismissed it would appear they used the office of the District Attorney to save face by handing down an indictment against LeMon which was obviously based upon insufficient evidence.

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A little background on Holley

<https://hudsonvalleyone.com/2019/02/06/carnrights-out-da-says-he-wont-run-for-a-fourth-term/>