

**STATE OF WISCONSIN,
Plaintiff,**

vs.

**JEREMY L. BERGERON,
Defendant.**

**STATE'S MOTION
TO DISMISS**

Case No. 08CF98

NOW COMES the State of Wisconsin, by Richland County District Attorney Wm. Andrew Sharp, and moves the Court to dismiss the above-captioned case.

As grounds, the State believes the following occurred. On March 22, 2011, the District Attorney spoke with Agent Anthony Martinez of the Wisconsin Division of Investigation (DCI). Agent Martinez related that he was going through a peer review with Agent Mike Quick from ATF and Mike Rindt from DCI. During the peer review, they called Mark Krueger from EFI and the agents learned that Krueger's current opinion was that the cause of the fire could not be determined, due to the question of whether all the wiring from the lamp, the clock radio and the telephone charger which had been on the nightstand had been recovered at the scene, so as to allow the electrical engineer to eliminate an electrical source of the fire.

Agent Martinez and the other agents reviewed the evidence and noted that the backing to the nightstand was made of cardboard or some other light material and it was burned away. They reasoned that, if there had been an electrical short near the back of the nightstand, it could conceivably set the cardboard backing on fire. The cardboard would have provided a sufficient fuel load to spread to the bed.

Agent Quick opined that, without a clear elimination of every accidental cause of the fire, as per NFPA 921, Agent Martinez could not classify the fire as incendiary. Agents Quick and Rindt did not agree that an electrical source to the fire could be ruled out without an examination of all the wiring which went to the nightstand.

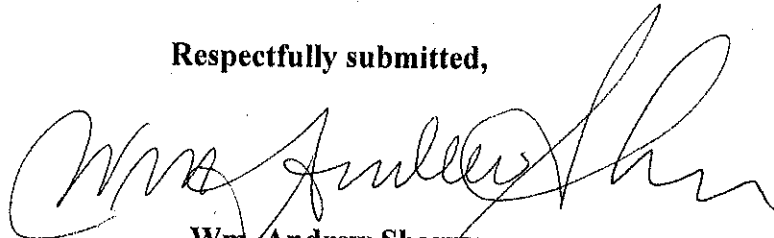
Agent Martinez is therefore altering his opinion that the fire was incendiary in nature to an opinion that an electrical cause for the fire cannot be eliminated. Without his opinion that the fire was incendiary in nature, the State feels it is unlikely the case can be proved beyond a reasonable doubt to every member of a jury.

Since those conversations on March 22, 2011, there has been considerable back and forth as to who said what and what their opinions actually are. At this point, the Division of Criminal Investigation does not wish to discuss the matter further and their official position is that the cause of the fire cannot be determined.

Therefore, the State is moving to dismiss this case.

Dated this 7th of April, 2011 in Richland Center, Wisconsin.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Wm. Andrew Sharp". The signature is written in a cursive, flowing style with a large initial "W".

Wm. Andrew Sharp
District Attorney
Bar no. 1003703

cc: Attorney Stephen J. Meyer