



Barbara LaWall
Pima County Attorney

Pima County Attorney's Office
32 N. Stone Avenue
Suite 1400
Tucson, AZ 85701

Phone (520) 740-5600
Fax (520) 740-5495

www.pcao.pima.gov

PRESS RELEASE

For more information contact:
Isabel Burruel Smutzer
Communications Coordinator
(520) 740-5622

Email: isabel.burruel-smutzer@pcao.pima.gov

FOR IMMEDIATE RELEASE

April 1, 2013

**PIMA COUNTY ATTORNEY RELEASES DECISION ON
LOUIS TAYLOR**

TUCSON, ARIZONA - On Tuesday, April 2nd at 10:00 am in Pima County Superior Court, Louis Taylor is scheduled to enter a plea to 28 counts of murder in the 1970 fire at the Pioneer Hotel. In return for the entry of this plea, Mr. Taylor will be found guilty by the court and sentenced to the 42 years he has served in prison.

The County Attorney's memorandum in support of the post-conviction relief and plea agreement filed today in Pima County Superior Court is attached.

Efforts were made to locate and discuss the plea with surviving victims of the fire, many of whom plan to be present at Tuesday's hearing.

On Tuesday following the hearing the Pima County Attorney's Office will hold a press conference at 32 N. Stone Ave. 14th Floor.

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PIMA COUNTY ATTORNEY

32 North Stone
Suite 1400
Tucson, AZ 85701
520-740-5600

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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

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IN AND FOR THE COUNTY OF PIMA

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THE STATE OF ARIZONA,

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Plaintiff,

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vs.

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LOUIS C. TAYLOR,

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Defendant.

MEMORANDUM IN SUPPORT
OF STIPULATED FINDING ON
POST-CONVICTION RELIEF
AND PLEA AGREEMENT

HON. RICHARD FIELDS,
DIVISION 18

A-19672

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COMES NOW the State of Arizona, by and through the Pima County Attorney,

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BARBARA LAWALL, and her Deputy, RICK UNKLESBAY, and hereby submits the following

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memorandum in support of the stipulation between the parties with respect to the court's finding

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on post-conviction relief and as a factual basis for the entry of judgment for a plea of no contest.

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RESPECTFULLY submitted this 1 day of April, 2013.

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BARBARA LAWALL

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PIMA COUNTY ATTORNEY

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RICK UNKLESBAY, #38692

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Deputy County Attorney

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Rick.Unklesbay@pcao.pima.gov

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Original of the foregoing filed

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with the Clerk of the Court

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this 1 day of April, 2013.

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1 **Copy foregoing delivered this**
2 **___/___ day of April, 2013, to:**

3 Honorable Richard Fields,
4 Division 18

5 **Copy foregoing mailed/delivered this**
6 **___/___ day of April, 2013, to:**

7 Edward F. Novak
8 Michael L. Piccarreta
9 Defendant's Counsel

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MEMORANDUM

Just after midnight on December 20, 1970, a fire devastated the Hotel Pioneer in downtown Tucson. The landmark hotel was full of room guests and hundreds of people attending a Christmas party for Hughes Aircraft. Due in part to the lack of fire safety measures at the time, the fire quickly spread to numerous floors of the hotel trapping people in their rooms. Twenty eight people died from smoke inhalation, burns, or, in some cases, by falling to their death from windows in an effort to save themselves or loved ones. By every account the scene was horrific and unimaginable. The toll on human life was beyond tragic. Many of the victims were from Mexico who had come to stay in downtown Tucson for Christmas shopping. Entire families were killed in the fire. Bystanders were horrified as they watched helplessly as victims jumped from windows to their deaths. One person died months later from injuries sustained in the fire although that victim was never added to the indictment.

Within hours of the discovery of the fire, Louis Taylor was arrested at the hotel. He was sixteen years of age and had no legitimate reason to be at the hotel in those early morning hours as he was neither a guest of the hotel nor the Hughes party. When questioned first by hotel employees and later by police officers, Taylor gave inconsistent statements as to his reason for being at the hotel, admittedly lied that he had seen other persons actually start the fire, admitted that he had set fires in the past and ultimately denied culpability in the Pioneer fire.

THE FIRE

A few minutes after midnight on December 20th, hotel employees David Johnson and Giles Scoggins were given reports of smoke somewhere on the 3rd floor of the hotel. Johnson and

Scoggins testified at defendant's trial on March 22, 1972 and March 23, 1972 respectively about their observations when the fire was discovered. Mr. Johnson told jurors he arrived at the stairway between the 3rd and 4th floors of the hotel (a place where only hotel guests should have been) and found the defendant standing by himself simply looking at the fire. Mr. Johnson saw no one but the defendant in the area. Mr. Johnson and Mr. Scoggins made attempts to put the fire out with hand held extinguishers, to no avail. Mr. Scoggins described for the jury seeing the defendant standing alone at the fire. Scoggins testified that the defendant immediately reported that he had seen two boys fighting and that they had started the fire. Neither Johnson nor Scoggins had seen anyone but the defendant at the fire. When the defendant testified at his trial on March 7, 1972, he admitted that he had lied about seeing the two boys.

Because of the defendant's unusual behavior in standing and looking at the fire, being on the 3rd floor of the hotel and claiming to have seen two boys actually start the fire, Mr. Scoggins took note of the defendant's clothing and appearance so he could later inform the police to talk to the defendant. Mr. Scoggins testified that during evacuation of the hotel he later saw the defendant in different clothing. Defendant was seen wearing a white bus boys jacket over his own clothing.

THE POLICE

Officer Louis Adams was one of the first police officers to arrive at the hotel in response to emergency calls. Mr. Scoggins told Officer Adams of his contact with the defendant. Adams found the defendant in another part of the hotel while emergency workers were both attempting

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to fight the fire and evacuate hotel guests. Officer Adams testified at defendant's trial on February 24, 1972. Adams explained to the jury that the defendant stated he'd seen seven boys on the 7th or 8th floors that didn't belong in the hotel. The defendant, Adams testified, told him that it was "awful that someone would set a fire like that." This statement was long before any determination that the fire was "set" and was made while efforts to fight the blaze were ongoing. When Officer Adams asked the defendant why he was in the hotel so late at night, the defendant replied that he was there to visit a friend by the name of Tatum who worked at the hotel. This, like the defendant's statement to Scoggins, was untrue. The State called the hotel's payroll clerk, James Holsinger. At trial he testified there had been no one by the name of Tatum working at the hotel since 1967. In addition to defendant's statement to Officer Adams about the 7 boys running around, the defendant further claimed to have seen 2 other boys, which he described as a white and a Mexican also running around suspiciously.

Defendant was taken a short distance away to the police station by Officer Adams. The defendant's story continued to change. At the station, the defendant was briefly questioned by Sgt. Eugene Rossetti who testified at trial on the same date as Officer Adams. Sgt. Rossetti told the jury that defendant claimed to have seen "two negro males" fighting on the 3rd floor and that the fire broke out during the fight. Defendant then changed his version of events to tell Rossetti that it was "two Mexican males."

For much of the early morning hours the defendant had been sitting in the police break room and was later taken to an interview room where he spoke again with police officers. Multiple times the defendant was read his Miranda rights and agreed each time to answer questions. Sgt. H.L. Gassaway testified at the defendant's trial on February 24, 1972. Sgt.

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Gassaway stated to the jury that the defendant told him of seeing a white male and a Mexican male fighting and that he saw two separate fires. Gassaway told the jury that the defendant admitted lying about going to the hotel to see someone named Tatum and then admitted that he had lied about seeing anyone running. Gassaway testified that the defendant admitted putting on a bus boy's jacket so that he could pretend to be an employee while stealing drinks from the party at the hotel. Gassaway further told the jury that the defendant had admitted going through cars in the parking lot. Finally, and perhaps most damning, Gassaway told the jury that the defendant had admitted setting previous fires, but never to an occupied structure. It should be noted that during the defendant's time in prison he has been found guilty of arson within the Department of Corrections.

After approximately 6 hours in the police station, the defendant was transported to the county juvenile detention facility by Det. David Smith. Det. Smith testified at trial on February 25, 1972. Det. Smith told the jury that the defendant claimed a Mexican man had started the fire, not him. While booking him into the facility, Det. Smith searched the defendant's clothing. Smith testified that he found 5 books of matches on the defendant's person. Four of the matchbooks contained from 1 to 17 matches, one was empty.

THE TRIAL

At trial both the State and the defense called experts who testified the fire was arson. The State's expert told the jury that, in his opinion, the fire started in two separate areas and that matches alone could have caused the fire. The State's expert did not believe any sort of liquid accelerant was used. The defense called an expert who told the jury that indeed the fire was arson, but that he believed only one area was a point of origin and that some liquid accelerant was

in fact used to start the fire. This testimony was important for the defense as no one had seen any sort of liquid in the defendant's possession and the defense called numerous witnesses to testify about seeing suspicious people at the hotel.

In addition to the experts, victims and police officers, two young men testified about separate conversations with the defendant while incarcerated at the juvenile detention facility. On February 25, 1972, Bruce Walmark told the jury that the defendant admitted to him that the fire was started while defendant was attempting to steal from guest rooms, by dropping a lit book of matches on the carpet. On March 15, 1972, Robert Jackson, another juvenile, testified that the defendant admitted to him that he had started the fire. Jackson later recanted his testimony and claimed police coercion.

THE SENTENCE

Defendant was convicted of 28 counts of felony murder. A single count of arson had been dismissed prior to trial. The defendant was sentenced to life. Although the court's minute entry indicated the defendant was sentenced to the rest of his natural life in prison, Arizona at the time had no such sentence. *State v. Parle*, 110 Ariz. 517, 521 P. 2d 604 (1974). Instead, the transcript of the court's sentencing indicated that the defendant would someday be released. On March 28, 1972, Judge Charles Hardy told the defendant that his case had been defended better than any seen by the court. Judge Hardy stated that the defendant, if he made up his mind to do so, got an education and training, would someday be released. Judge Hardy told the defendant that, based on the evidence, he did not think the defendant meant for anyone to get hurt and ran all 28 counts concurrently.

POST-CONVICTION

Late last year the defense attorneys for the defendant provided the State with a review of the original arson investigation. The Arson Review Committee (ARC) was critical of the State's expert's finding of arson, concluding the witness used methods no longer valid in the science of today. For some reason ARC all but ignored the expert called by the defense who had also testified at trial that the fire was intentionally set. ARC erroneously stated that the defendant was interrogated by the police for 30 hours (defendant was in police custody for 6 hours before being booked into juvenile) and then failed to explain any connection between defendant's questioning by the police and the two experts finding of arson. Perhaps most perplexing was ARC's finding on page 17 of their report which states that the committee determined that there was only one point of origin for the Pioneer fire and that this fact negated proof that a crime actually occurred. In fact, many intentionally set fires have only one point of origin so the ARC finding is puzzling.

However, because ARC concluded that the fire should have been called an "undetermined" fire rather than arson, the County Attorney requested the Tucson Fire Department (TFD) conduct its own review of the case. Tucson Fire devoted many hours of review to the photographs and evidence that still exists. Applying the methodology of today's fire investigation, Tucson Fire found that a fire cause determination is not possible, partially because they could not examine the scene, or any evidence that had been destroyed over the years. The TFD report came out in early 2013 and was immediately provided to the defense.

The State's original trial expert, Cy Homes, was also provided to the defense for a deposition. The expert still practices arson investigation and testifies in State and Federal Court in California. Cy Holmes maintains his original finding that the fire was intentionally set and is, in fact, arson. Mr. Holmes was questioned in detail recently by defendant's attorneys and

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testified that based on his experience at the time, as well as the experience gained in the field over the last 40 years, his opinion remains the same.

Unlike advances in science such as DNA tests that might exclude someone from committing a crime, the ARC and TFD reports are unable to say whether the cause of the Pioneer fire was arson or not. Mr. Holmes asserts that it is. The evidence adduced in trial, including the defendant's own statements to hotel workers and the police point to arson.

The legal question presented to the court today is whether a review of the original evidence using new advances and techniques in fire investigation is legally "newly discovered evidence." Although this question hasn't been addressed in Arizona, and it appears no Arizona court has ruled on the legal question of new arson techniques being "newly discovered evidence," at least one jurisdiction has determined that such advances in fire investigation techniques would constitute "newly discovered evidence." If that were the result in the instant case, the state of the evidence is such that the State would be unable to proceed with a retrial, and the convictions would not stand.

Pursuant to Rule 32 of the Rules of Criminal Procedure, the State concedes, in agreement with the conclusions of the ARC and TFD reports, and solely under the singular and unique facts of this particular case, that advances in fire science investigation constitute newly discovered evidence.

Because defendant is pleading no contest, the State offers the testimony cited above to support a judicial finding that sufficient evidence exists to accept the defendant's plea of no contest to 28 counts of felony murder.

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In order to maintain the integrity of the defendant's conviction, and based on the evidence presented in this memorandum, the State requests that this Court accept the negotiated plea agreement and find the defendant guilty. The State further agrees to a stipulated sentence to the time defendant has served in custody.