

Dates of Affidavits

Incredibly, all but one of the affidavits cited by USADA were signed in September and October of this year. This list:

Frankie Andrue:	9/24/12
Michael Barry:	10/8/12
Leonardo Bertagnolli:	(unknown)
Volodymyr Bileka:	11/10/10
Tom Danielson:	9/26/12
Tyler Hamilton:	9/28/12
George Hincapie:	9/24/12
Jorg Jaksche:	10/4/12
Floyd Landis:	9/26/12
Levi Leipheimer:	9/21/12
Filippo Simeoni:	9/10/12 or 10/9/12
Stephen Swart:	9/17/12
Christian Vande Velde:	9/25/12
Jonathan Vaughters:	9/12/12
David Zabriski:	9/4/12 (notary states 10/4/12)
Betsy Andreu:	9/21/12
Piero Boccarossa:	9/25/12
Larry Bowers:	10/8/12
Marco Consonni:	10/4/12
Renzo Ferrante:	9/27/12
Emma O'Reilly:	10/9/12
Dawn Polay:	9/26/12
Jack Robertson:	10/9/12
Paul Scott:	10/9/12
Lory Testasecca:	9/23/12
Jean-Pierre Verdy:	9/10/12

Why is this incredible? For two reasons:

First, all of the key witnesses in this case only swore under oath AFTER they knew that Armstrong was not contesting the USADA allegations (a decision announced on August 24, 2012). In other words, not a single key witness was willing to swear under oath until they were absolutely sure that there would be no adversarial proceeding, until they were absolutely sure that they would not be subject to cross examination, and until they were absolutely sure that their testimony would not be impeached by third parties or by special deals that the witnesses had made with USADA.

Second, it is incredible because USADA claimed to have all of this evidence on June 12, 2012, when it filed its original charges against Armstrong. Yet it is now clear that none of this evidence was in hand until months later.

Key Witnesses Contradict Themselves

Frankie Andreu

USADA relies on Frankie Andreu when Andreu's testimony contradicts what he had previously testified to, under oath.

Frankie Andreu, who was a teammate of Lance's from 1993-2000 and Lance's roommate on the road, also testified under oath via deposition. Frankie Andreu's sworn testimony confirms that: a) he had no knowledge that Armstrong ever took any performance enhancement substance; b) had no reason to believe Armstrong had ever done so; c) had never been told by any reliable source that Armstrong had done so; and d) that Armstrong never mentioned, much less suggested, adopting a doping regimen. Andreu was a teammate from approximately 1993 to 2000 and raced hundreds of races with Armstrong.

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- F. Andreu testimony:
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- Q. Did he (Armstrong) indicate to you that he was going to use EPO or consider using EPO?
- A. No.
- Q. Was there any discussion between you and Mr. Armstrong regarding EPO or the use of EPO during that time period?
- A. No.
- Q. Did anyone on the team tell you that they knew Mr. Armstrong was using EPO during that time period?
- A. No.
- Q. Did you ever have a discussion with Mr. Armstrong about whether or not you should use EPO?
- A. No.
- Q. Did he ever recommend or say you should do EPO?
- A. No.
- Q. And although he may not have shown you it, did you ever see anything in his room, in his hotel room or in any possessions that you thought might be a performance-enhancing drug or substance?
- A. No, I did not.
- Q. Do you have any knowledge as to whether or not Mr. Armstrong used performance-enhancing drugs or substances?
- A. I was on the USPS team with him '99 and 2000, and in those two years, no.
- Q. Did anyone ever tell you that Mr. Armstrong used performance-enhancing drugs?

- A. No.
- Q. About how many races do you think you and Lance Armstrong were in together as part of the same team, you know, in your career?
- A. Hundreds.

Jonathan Vaughters

Paragraph three of Vaughters' affidavit to USADA directly contradicts testimony that he provided under oath in the SCA case.

Tyler Hamilton

USADA repeats Tyler Hamilton's version of the alleged witness intimidation incident in an Aspen restaurant as if it actually happened that way. Why did USADA ignore independent eyewitness testimony saying the incident didn't happen? Why didn't USADA report that the federal government investigates Hamilton's complaint and took no action? Why didn't USADA reference media reports that Hamilton and his friends were in a car outside of Armstrong's house the day after the restaurant incident, laughing and pointing?

Conflict of Interest

USADA's hired the law firm of Bryan Cave to write the report. (A Bryan Cave lawyer signed the report, along with Tygart.)

Bryan Cave is the law firm of choice for Big Tobacco. The firm defends American tobacco companies in class action lawsuits all over the country.

Armstrong, on the other hand, is probably the most successful anti-tobacco advocate in the U.S. He succeeded in raising the cigarette tax in Texas after a long battle in the legislature, and almost succeeded here in California in 2012 by co-chairing the initiative campaign that would have raised the cigarette tax in California by \$1 a pack, generating \$800 million a year for anti-cancer research. (The measure was defeated by a fraction of a percentage point in June, after the most expensive tobacco tax campaign in U.S. history.)

So, at just the moment that Armstrong is chairing this anti-tobacco campaign, USADA is hiring Bryan Cave to write this report. Of all of the law firms in the United States, couldn't USADA have found one without such an obvious conflict of interest?

(Once you dig beneath the surface, and look at USADA's public filings, it's clear what happened: Tygart was an associate at Bryan Cave before he moved over to USADA; Bryan Cave is the law firm responsible for advising the USADA board's compensation committee on the appropriateness of Tygart's \$300,000 a year salary; and Tygart has directed millions and millions of dollars in fees to

Bryan Cave over the years without any kind of competitive bidding process (even though USADA gets two thirds of its funding from the government).

Sweetheart Deals

The USADA report does not provide any details about what deals were reached with those who signed affidavits. (This is the kind of basic information that any trier of fact would want to know when assessing a witness' credibility.)

The real power USADA has over people who are active competitors is simple: USADA can give them a virtual pass for drug violations. It works this way. The minimum sentence for drug violations is two years. But USADA has the power to reduce that by three fourths (down to six months) at its own discretion.

So USADA went to the active riders in the spring of 2012 and said the following: "You either tell us what we want to hear about Lance, or we will charge you with Lance in June. If we charge you, you are going to be immediately suspended for an indefinite period, and you will have to pay a lawyer a lot of money to defend you before a USADA tribunal. On the other hand, if you cooperate with us, we will give you a minimum two year sentence, and reduce that by three fourths.

And we won't impose the sentence until the fall of 2012 (after the racing season ends). And lastly, the sentence will have expired by the time next season starts."

That's why you saw some of these riders -- who presumably had already told USADA they were guilty of doping in the spring of 2012 -- riding in the Olympics and the Tour de France. In other words, USADA, which says it wants to clean up the sport of cycling, actually enabled already-confessed cheaters to continue racing throughout the summer in the biggest races of the year.