

# Exhibit 5

CIRCUIT COURT FOR THE CITY OF BALTIMORE  
STATE OF MARYLAND

STATE OF MARYLAND

-v.-

AFFIDAVIT

ADNAN SYED,

Defendant.

Douglas L. Colbert, an attorney at law, affirms the truth of the following statements under penalty of perjury:

1. I am an admitted attorney in the State of Maryland, and am currently a professor of law at the University of Maryland School of Law. As an officer of the court, I write to inform you of conversations I had with jurors soon after they had been excused by the Honorable William D. Quarles, following the judge's declared mistrial in the above-captioned trial of State of Maryland v. Adnan Syed.

2. Before detailing these conversations, I want to indicate that I had been Mr. Syed's co-counsel (with Christopher Flohr, Esq.) during the period from February 28, 1999 to approximately April 13, 1999. Since that time, I have maintained an interest in the outcome of the charge against Mr. Syed because I firmly believe in his innocence.

3. Following the completion of jury selection on Tuesday, December 7, 1999, I attended the trial through December 15, 1999 and was present when most of the State's many witnesses testified.

4. On Wednesday, December 15th, I was present between 9:30 a.m. and the lunch recess when the State's main witness, Jay Wilde, was being cross-examined. Mr. Wilde had pled guilty to being an accessory after the fact and had entered into a plea agreement with the State.

5. Following the lunch recess, I returned to the courtroom at 2:00 p.m. and remained until 2:50 p.m. when Mr. Wilde concluded his testimony. Thereafter, it was my understanding that the State planned to call three witnesses before closing its case: a pathologist, who completed his testimony after I left court; a witness from AT & T to verify phone records; and a substantive witness, who was a friend of Mr. Wilde's.

6. At 3:30 p.m., I returned (with my eight-year old son) to Judge Quarles' courtroom. It was then that I learned the judge had declared a mistrial. Shortly thereafter, while standing in the

area immediately outside the courtroom, I saw several jurors leaving. I asked whether they would be interested in speaking about their view of the trial. Four jurors answered in the affirmative. I asked whether anyone believed that the State had proved Mr. Syed's guilt. *Each of the four jurors stated unequivocally that they would not have returned a guilty verdict based upon the evidence that they had heard up to the moment when the judge declared a mistrial.* Two of the four jurors wondered aloud why the State had charged Mr. Syed and not the State's main witness, Jay Wilde.

7. I then spoke individually to a fifth juror as she exited the courtroom. *She, too, indicated that she would have returned a verdict of not guilty based upon the State's evidence to that point.*

8. I then entered the courtroom and saw several jurors conversing with people. I walked over to one group where three jurors were speaking to two individuals whom I believed to be employees of the State Attorney's office. *I distinctly heard two of the jurors indicate that they had difficulty believing the State's case.* One of these jurors stated that he would have returned a not guilty verdict, because he "would never lend his car to an acquaintance" and because he had problems accepting Mr. Wilde's version of events.

9. During the period when I was one of Mr. Syed's attorneys, I filed a writ of habeas corpus seeking bail. The State strenuously opposed this motion. At the habeas hearing, the State argued that Mr. Syed was a flight risk. An Assistant State Attorney represented that she had spoken to a senior Justice Department official, who claimed that Pakistani men had engaged in a pattern of killing or injuring American women, and then returning to Pakistan where they found safe refuge. She referred to a Chicago case, which she indicated was similar to Mr. Syed's. Two days later, the presiding judge dismissed the writ and denied Mr. Syed bail.

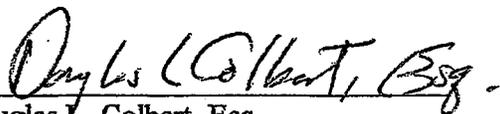
10. Several weeks later, in a letter to the presiding judge, the Assistant State Attorney retracted the statements she had made about a trend of Pakistani men killing and fleeing, and acknowledged that it was not true that a representative from the Justice Department had told her these things. She also apologized for referring to a non-existent Chicago case.

11. In my opinion, had the State not proffered these statements, Mr. Syed would have been granted bail and would not have spent the past nine and one half months incarcerated. A seventeen-year old scholar-athlete at Woodlawn High School, Mr. Syed had been accepted to the pre-med honors program at the University of Maryland at College Park, and has had the full support of his community. Indeed, several families offered their homes as collateral to guarantee his future court appearances, and approximately 600 people wrote letters and signed petitions on his behalf.

12. Having practiced law for more than twenty-five years, I find that the greatest challenge to our legal system's commitment to equal justice is in a case like this one. A talented young woman has been killed, her community is outraged and is demanding justice, and there is lots of publicity and pressure to arrest and charge someone. But it is exactly in cases like this that the utmost care must be taken to follow the law, and to ensure that innocent lives are not

needlessly disrupted and destroyed by wrongful incarceration or conviction. As a Baltimore native and honor student, Mr. Syed had never previously experienced our criminal justice system. It is a tremendous hardship for him to remain incarcerated while awaiting retrial.

13. I hope that this information assists Your Honor's consideration of the defendant's application for bail pending retrial of this matter.



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