

Claims include:

- 1). Abuse of power and willful neglect of duty – Michigan Legislature Section 750.369,
- 2). Violation of Administrative Procedures Act of 1969,
 - Nessel changed the eligibility criteria for the Conviction Integrity Unit (which directly impacted the lives of hundreds of potentially wrongfully convicted inmates) and she did not promulgate it in accordance with the APA,
 - Instruction C
 - Rules, or exceptions to rules, may not discriminate in favor of or against any person.
 - Persons affected by rules are entitled to the same benefits as any other persons under the same or similar circumstances.
- 3). Michigan Rules of Professional Conduct Section 3.8 (f-g),
- 4). Multiple occurrences of perjury in a Federal Civil Rights lawsuit (Case No. 2:22-cv-11834 Kensu vs. Nessel) which violates statute Section 750.422
- 5.) Michigan Penal Code (Excerpt) Act 328 of 1931 (Perjury committed in courts),
- 6). Violation of oath of office by elected state official,
- 7). Breach of Michigan State Constitution of 1963,
- 8). Breach of the 14th amendment of the US Constitution (equal protection of the law, to include freedom & citizenship rights),
- 9). Article 1 Section 17 of the Michigan Constitution -Denial of Fair and Just Treatment in legislative and executive investigations and hearings (for which we seek injunctive relief)
- 10). 42 U.S. Code § 1983 - Civil action for deprivation of rights – “Every person who, under color of any statute, ordinance, regulation, custom or usage of any State... subjects or causes to be subjected, any citizen of the US ...the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit of equity, or other proper proceeding for redress...
- 11). Breach of MCL 15.231 et seq – denial of records under the Freedom of Information Act

Time and Place of offense: This misconduct occurred between the dates of (approx.) Oct 2019 and current. Dana Nessel has an office located at 525 W Ottawa St Lansing, MI 48933 and Temujin Kensu is incarcerated in the Macomb Regional Facility.

The address to reach him is:

Macomb Regional Facility,
Temujin Kensu 189355
34625 26 Mile Road
Macomb, MI 48048

My address is printed on the Attorney Grievance Commission form.

Background and Statement of Alleged Misconduct: My husband, Temujin Kensu (fka Fredrick Freeman) was wrongfully convicted of murder in 1986 and has been serving a life sentence without parole. In 2019, Dana Nessel, in her capacity as Attorney General for the State of Michigan, created a State Conviction Integrity Unit (CIU) to investigate claims of actual innocence. In her April 10, 2019 press

release, Dana states, “**Modeled after the successful Conviction Integrity Unit founded by Wayne County Prosecutor** Kym Worthy and headed by Assistant Prosecuting Attorney Valerie Newman, the unit will review eligible claims of innocence arising from state-law convictions in each of Michigan’s counties (other than Wayne County) using existing court records and any newly discovered evidence submitted by claimants.” **This statement is consistent with how the eligibility criteria was ORIGINALLY published on the state website, verbally communicated to advocates at Innocence Conferences and followed up in written communications by Robyn Frankel, Director of the State CIU.** Kensu's application for consideration was among the first submitted. He has nearly a dozen witnesses confirming that they saw him in Michigan’s upper peninsula nearly 450 miles away from the crime. Despite voluminous witnesses, the prosecutor convinced the jury that he could have chartered an airplane to fly downstate to commit the murder and then race back to the upper peninsula in time to be seen by his witnesses, although not a shred of evidence was provided confirming the flight occurred. No pilot was ever identified, no ticket, no funds to pay for the flight, no car/co-conspirator was ever identified to explain how he was mystically transported from some field (since there were no records at any local airports) to the college where the shooting occurred and back, nothing. There was no physical or forensic evidence tying him to the crime. There was an empty shotgun shell found near the crime scene with a latent print that did NOT match Kensu’s. His clothes had no gunshot residue found on them. Regardless of all these and many, many other disturbing factors that clearly discounted Kensu as the murderer, he was still convicted and sentenced to life in prison without parole. In 2010, he won a federal Habeas citing his innocence and it outlined the misconduct of the original prosecutor who is now a federal judge. Unfortunately, that Habeas ruling was overturned due to a timing technicality having nothing to do with his actual innocence. (Note: The perfunctory dismissal of his appeal based solely on a technicality would not have occurred but for the infamous Antiterrorism and Effective Death Penalty Act (AEDPA) of 1996 which is now recognized as badly flawed). The link to that Federal Habeas opinion can be found in **Appendix A** or using this link: https://drive.google.com/file/d/1iiw_aDPmSXL6QRpX-RhbfZ_7eRku-uGN/view?usp=sharing.

In February 2021, after the State Conviction Integrity Unit concluded their investigation, Temujin Kensu was informed that the CIU had concluded their investigation and a findings/report was prepared advising him that the investigation concluded, and the evidence indicated that he was innocent and by that, remedial actions would be taken to exonerate him. However, on May 17, 2022, Dana Nessel had not exonerated him despite the written recommendation by Val Newman to do so based on the results of her 2-year investigation, and Dana Nessel then threw yet another technicality at Kensu. Without notice to Kensu, his attorneys or to any other applicant to the State CIU, **(and in violation of the Rules of Professional Conduct RPC 3.8 adopted January of 2022)**, the criteria CHANGED and the State Conviction Integrity Unit broke it’s verbal and written promise of how “New Evidence” would be defined and that the State CIU was NOT, in fact, structured or “modeled after” the criteria similar to the Wayne County CIU. Nessel announced in her denial letter dated May 17, 2022 to Kensu’s attorney that his case had no “new evidence” and it was then we first learned that the below language was added to the website:

“the new evidence or information must not have been raised during post-conviction appeals (direct appeal, federal habeas, MCR 6.500, etc.)”

Note, this is NOT the eligibility criteria which is still currently communicated in the application form, nor was it the criteria originally cited on the state website. Further, we were told at a public conference by Director Robyn Frankel (which was followed up in writing) that “new evidence” was considered anything not heard by the original jury which could include police/prosecutor misconduct. Her communication was completely silent regarding post-conviction appeals. This change in the definition of “new evidence” was NOT made known to us until after Kensu’s application was accepted, after his case was investigated, after a report and finding of innocence was concluded and after the recommendation to exonerate him was written. This is a **denial of fair and just treatment in legislative and executive investigations and hearings (Article 1 Section 17 of the Michigan Constitution)** and injunctive relief is being immediately requested. This is also a **breach of contract and Breach of the Michigan Constitution and Breach of Dana’s Oath of Office**, since Nessel stated in multiple public appearances that “once a wrongful conviction is known, immediate action shall be taken to rectify it.” Please see the evidence pursuant to this claim in **Appendix B** or by using this link:

<https://drive.google.com/drive/folders/1tIHhBzDwgmzZI3g-ePTKm-C8b3XJYwhr?usp=sharing>.

All of the above documented deception, denial of fair treatment, and breach of contract resulted in a civil rights lawsuit being filed. Please Reference Case No. 2:22-cv-11834 (Kensu vs. Nessel).

A representative of Dana Nessel informed a member of the press (Detroit News) that Kensu’s application was denied. It was never denied and we never received a denial letter or notice. We did receive a notice that the investigation was closed. In Nessel’s First Motion to dismiss the civil rights lawsuit, she admits that Kensu’s application was investigated by her State Conviction Integrity Unit. However, in her Second Motion to dismiss, on page 2, footnote 1, AG Nessel BLATENTLY LIES and states: “While not germane for purposes of this motion, it is important to note that Plaintiff’s application was investigated by the Wayne County Prosecutor’s CIU due to a conflict involving the Michigan Department of Attorney General’s CIU. Therefore, the investigation was conducted pursuant to the Wayne County Prosecutor’s protocols. It was also the Wayne County Prosecutor’s CIU that issued the recommendation and letter denying Plaintiff’s application. Plaintiff is fully aware of this because he acknowledges receiving the letter.” Each of these six allegations are an ABSOLUTE LIE. **This is perjury under statute Section 750.422 and the Michigan Penal Code (Excerpt) Act 328 of 1931 (Perjury committed in courts)**. Note, this was NOT a case of a simple error or miscommunication as AG Nessel will surely claim. A simple error or miscommunication would be like saying a date was wrong or a name was incorrect such as “Jennifer” did this or that and we meant to say “Julie”. But to allege in a SECOND motion to dismiss that the state AG CIU office NEVER investigated the case and that another office in fact investigated it, made a conclusion, wrote the recommendation and sent him a letter to which he doesn’t deny is INTENTIONAL and GROSS misconduct and a blatant lie meant to deceive the courts in an effort to request they dismiss this suit in its entirety prior to Kensu getting a fair shake at any type of hearing in front of the judge. The denial letter itself was written on AG letterhead. Nessel herself deputized Val Newman because of the conflict in her State CIU. Evidence that Kensu’s claim was absolutely investigated by Dana Nessel’s State Conviction Integrity Unit and not Wayne County Prosecutor’s CIU can be evidenced in **Appendix C** or using this link: <https://drive.google.com/drive/folders/1nke31IIm-FtITxWUjHTBoBgsahHhHVq?usp=sharing>

Dana Nessel took an **oath of office to uphold the US Constitution** which states in part “No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws..” By specially appointing and deputizing a Special Agent Attorney General (SAAG) to investigate claims of his innocence and to deny the findings and conclusions of that investigation for own selfish political purposes is depriving Kensu of his life and liberty. **It further breaches her contract** on the Attorney General website in which she states upon creating the State Conviction Integrity Unit that, “The MIAG’s office takes seriously its duty to ensure those convicted of state crimes, whether by county prosecutors or the MIAG’s office itself, are in fact guilty of those crimes, and to develop strategies to prevent and rectify wrongful convictions.” She also publicly stated, “Once a claimant has been determined to be actually innocent, Attorney General Nessel will take appropriate remedial action, including supporting requests for new trials and dismissal of criminal charges.” **These are contractual promises** that she should have acted upon after learning a wrongful conviction occurred. However, to date, no rectification or remedy has been provided by Attorney General Dana Nessel in the Kensu case. **This is also an abuse of power because instead of rectifying or offering any type of remedy, she instead “closed” his case without further action to include not recommending/urging Governor Whitmer to grant executive clemency. Not only did she not request Governor Whitmer to grant clemency, Nessel is hiding the finding of the investigation to the public (Breach of MCL 15.231 et seq), and she is publicly denying to a Federal Court that her office even investigated the case (statute Section 750.422). Further, she is blaming the investigation and lack of action on Wayne County prosecutor in order to weasel out of being held accountable for violating his civil rights (Michigan Legislature Section 750.369). Nessel blatantly lied about the eligibility criteria changing and did not promulgate it in accordance with the Administrative Procedures Act and this could prevent hundreds of other innocent men and women from being exonerated because now she can “pick and choose” who she wants to release by saying “this one qualifies, and this one does not.” Again, this is an abuse of power and willful neglect of duty under Michigan Legislature Section 750.369.**

The Michigan Rules of Professional Conduct 3.8 (f-g) states:

(f) When a prosecutor knows of new, credible, and material evidence creating a reasonable likelihood that a convicted defendant is innocent of the crime for which the defendant was convicted, the prosecutor shall: (1) promptly disclose that evidence to an appropriate court or authority, and (2) if the conviction was obtained in the prosecutor’s jurisdiction, (i) promptly disclose that evidence to the defendant unless a court authorizes delay, and (ii) undertake further investigation, or make reasonable efforts to cause an investigation, to determine whether the defendant is innocent of the crime. (g) When a prosecutor knows of clear and convincing evidence establishing that a defendant in the prosecutor’s jurisdiction is innocent of the crime for which defendant was prosecuted, the prosecutor shall seek to remedy the conviction.

As the Attorney General for the entire state of Michigan, and upon learning from her investigators that Kensu was in no way involved with the murder for which he was wrongfully convicted, Dana Nessel has the authority and duty to vacate the conviction, set aside the conviction, dismiss charges, or otherwise remedy the conviction and yet she refused to take such action. **This violates the Michigan Rules of Professional Conduct (Section 3.8 f-g) as outlined above. Further, it shows disparate treatment toward Kensu given that her Conviction Integrity Unit exonerated Gilbert Poole, Cory McCall, and the**

DeJesus brothers when they all had FAR less “new” evidence of innocence than Kensu. This is a **Breach of the 14th amendment of the US Constitution in addition to Denial of fair and just treatment in legislative and executive investigations and hearings (Article 1 Section 17 of the Michigan Constitution), as well as 42 U.S. Code § 1983 - Civil action for deprivation of rights, AND Violation of Administrative Procedures Act of 1969: Instruction C: Rules, or exceptions to rules, may not discriminate in favor of or against any person; Persons affected by rules are entitled to the same benefits as any other persons under the same or similar circumstances.** Further, her promise in the April 10, 2019 press release that, “Once a determination is made that a claimant convicted of a state crime in Michigan is actually innocent, Nessel, in her role as the top law enforcement officer in Michigan, will take the appropriate remedial action, which may include vacating the claimant’s conviction(s) and dismissing the charge(s) against them. In closing Kensu’s case *without* taking appropriate remedial action, she is **violating her oath of office, breaching her verbal contract (42 USC 1983), violating her Oath to uphold the US Constitution, Breaching the 14th Amendment of the US Constitution (equal protection of the law to include freedom), and Violation of the Administrative Procedures Act Instruction C (Persons affected by rules are entitled to the same benefits as any other persons under the same or similar circumstances).**

Nessel has submitted a Motion to dismiss Kensu’s Civil Rights lawsuit Case No. 2:22-cv-11834 citing her “immunity” but she is NOT denying Kensu’s absolute INNOCENCE, or the findings or reports reflecting the same. This is an abuse of power and willful neglect of duty under **Michigan Legislature Section 750.369 as well as 42 U.S. Code § 1983 - Civil action for deprivation of rights and Violation of Administrative Procedures Act of 1969: Instruction C: Rules, or exceptions to rules, may not discriminate in favor of or against any person; Persons affected by rules are entitled to the same benefits as any other persons under the same or similar circumstances.**

As Attorney General of the State of Michigan, Dana Nessel’s duty includes: helping the victims of crime (to include somebody who was wrongfully convicted and is being held hostage by the State), assisting prosecuting attorneys, local law enforcement and federal criminal justice agencies in the administration of justice, and manage programs and special projects (similar to her Conviction Integrity Unit initiative) that detects and cracks down on fraudulent, unfair and illegal activities that victimize consumers or threaten public safety. She should be held to a higher standard than all other prosecutors and attorneys in the state, not escape accountability and certainly not allow a clearly innocent man to remain wrongfully incarcerated with a natural life (death by incarceration) sentence in Michigan’s prison system. Attorney General Dana Nessel should stand for Justice and NOT hide behind immunity and refuse to answer these serious allegations like a coward.

Appendix A

– Federal Habeas Opinion by Hon. Judge Denise Paige Hood

- Opinion cites actual innocence and prosecutorial misconduct by Robert H. Cleland
 - Recommends that he be released or given a new trial
 - That decision was unfortunately overturned by an out of state judge who came out of retirement to rule on it and cited late filing, a technicality having nothing to do with his actual innocence.
 - Note: the filing wouldn't have been late had St. Clair County, Mi released records that they denied existed for over 20 years.

Appendix B

-Proof that Attorney General Dana Nessel and the Michigan State Conviction Integrity Unit (CIU) changes rules for Eligibility into the unit and **did not promulgate it in accordance with the Administrative Procedures Act.**

- April 10, 2019 Press Release for the AG Conviction Integrity Unit Launch which states that this Unit was modeled after the Wayne County Conviction Integrity Unit. In this press release, the definition of “New Evidence” says NOTHING about the new evidence never being litigated or brought up post-conviction appeals.
- Wayne County CIU Overview Criteria
- Michigan Attorney General State CIU website archive page as the criteria was displayed on 3.31.2020
- Michigan Attorney General State CIU Eligibility criteria changed on 4.17.2020
- Michigan Attorney General State CIU Application (does not mention 6.500 or post-conviction appeals)
- Robyn Frankel CIU Director email on the definition of “New Evidence”
- Valerie Newman CIU Case Closure letter
- Proving Innocence Media Release on CIU closure
- Attorney General Dana Nessel’s representative Amber McCann lies to press and says that “The process for review of cases has been consistent since the creation of the Conviction Integrity Unit.”

Appendix C

– Attorney General Dana Nessel commits federal perjury in her Motion to Dismiss to a Federal Court citing that “Wayne County” investigated the Kensu case. This was no SIMPLE mistake such as getting a name or a date wrong. First, she lied to the press saying that her Unit denied Kensu’s case, then she told the court in the first Motion to Dismiss her unit accepted the case and then she lies again and says that her unit never investigated his case. In the footnote in the Second Motion to Dismiss, she makes six false allegations in four sentences.

- Kensu vs. Nessel – US District Court Eastern District Southern Division Jury Demand Civil case – First Amended Complaint (for background)
- Attorney General Nessel’s Second Motion to Dismiss Plaintiff’s First Amended Complaint.
 - Important to note the footnote on page 2 of the Motion to Dismiss which includes six LIES by AG Nessel pertaining to her saying her office NEVER investigated his case and that Wayne County investigated it.
- CIU Denial is on State AG letterhead
- Contract between AG Nessel and Val Newman specially deputizing her as Special Agent Attorney General to investigate Kensu’s case due to an internal “conflict”
- Wayne County FOIA response from Kym Worthy stating her office did NOT investigate and ALL documents are in the AG’s office.
- AUDIO CLIP OF VAL NEWMAN stating that this was a State CIU case and is “not the same as the Wayne County CIU.” She will NOT say that Kensu is not innocent. Multiple times she states that she is NOT the decision maker in terms of exonerating Kensu. Link to the audio clip is:
https://drive.google.com/file/d/1xRAY_qszm7Q_ura537MJkuw5mKYRdQWM/view?usp=sharing
- Link to Dana Nessel’s **verbal promise** to “Not sit back and be indifferent to the wrongdoings in our system. We have a moral, ethical and legal obligation to ensure that NO ONE goes to prison for a crime they did not commit.” Link:
https://drive.google.com/file/d/1wvIBa_SUr1gcxhGSa4oykzVpjMMhTlpE/view?usp=sharing

Appendix D

– Additional Support regarding Kensu’s absolute innocence

- 2022 Clemency Application (medical redacted)
- 2022 Clemency letters of support
- 2020 Clemency Application (medical redacted)
- 2020 Clemency letters of support
- Additional links to articles, websites, podcasts and media
 - <https://docs.google.com/document/d/1faFbEnabCmmq5PZdqvU9vKtPEP5bisVP/edit?usp=sharing&oid=104000732838137186317&rtpof=true&sd=true>