

NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER 2019 TERM

RICKY LEE SCOTT
PETITIONER,
v.
THE STATE OF ARKANSAS,
RESPONDENT.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF ARKANSAS

APPENDIX

Exhibit 1:	Opinion in <i>Scott v. State</i> , 571 S.W.3d 451 (Ark. 2019)	1-7
Exhibit 2:	Formal Order Granting Belated Petition for Reconsideration	8-9
Exhibit 3:	Formal Order Denying Reconsideration	10
Exhibit 4:	Motion to Re-Invest Trial Court with Jurisdiction to Consider Petition for Writ of Error Coram Nobis with Exhibits A—I.	11-32 33-104
Exhibit 5:	Motion for Appointment of Counsel	105-106
Exhibit 6:	Pro-se Petition for Reconsideration With Exhibits A-V.	107-116 117-178
Exhibit 7:	Judgment, <i>United States v. O. Joseph Boeckmann</i> , No. 4:16-cr-00232-KGB (E.D. Ark. Feb. 23, 2018).	179-180
Exhibit 8:	U.S. Department of Justice press release, <i>Former Arkansas State Judge Sentenced to Prison for Dismissing Cases in Exchange for Personal Benefits and Tampering With a Witness</i> (Feb. 21, 2018)	181

Scott v. State, 2019 Ark. 94 (2019)
571 S.W.3d 451

2019 Ark. 94
Supreme Court of Arkansas.

Ricky Lee SCOTT, Petitioner
v.
STATE of Arkansas, Respondent

No. CR-98-1167
|
Opinion Delivered: April 11, 2019

Synopsis

Background: Petitioner serving sentence for murder filed motion to reinvest jurisdiction in the Circuit Court, Cross County, to consider a petition for writ of error coram nobis.

[Holding:] The Supreme Court, Karen R. Baker, Associate Justice, held that Supreme Court would not grant permission to reinvest trial court with jurisdiction to consider petition for writ of error coram nobis.

Denied.

****452** PETITIONER'S PRO SE FIFTH MOTION TO REINVEST JURISDICTION IN THE TRIAL COURT TO CONSIDER A PETITION FOR WRIT OF ERROR CORAM NOBIS; MOTION FOR APPOINTMENT OF COUNSEL; AND MOTION FOR LEAVE TO REPLY TO STATE'S RESPONSE TO MOTION TO REINVEST JURISDICTION IN THE TRIAL COURT TO CONSIDER A PETITION FOR WRIT OF ERROR CORAM NOBIS. [CROSS COUNTY CIRCUIT COURT, NO. 19CR-96-61]

Attorneys and Law Firms

Ricky Lee Scott, pro se petitioner.

Leslie Rutledge, Att'y Gen., by: Darnisa Evans Johnson, Deputy Att'y Gen., for respondent.

Opinion

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Scott v. State, 2019 Ark. 94 (2019)
571 S.W.3d 451

KAREN R. BAKER, Associate Justice

*1 On April 27, 2018, petitioner, Ricky Lee Scott, filed his fifth pro se petition requesting permission to proceed with a petition for writ of error coram nobis in the trial court; he also filed a motion for appointment of counsel. On May 7, the State responded to Scott's petition. On May 29, Scott (1) filed a motion for leave to file a reply to the State's response; (2) tendered his reply; and (3) filed a second amended reply to the State's response. On August 30, Scott filed a third amended reply to the State's response, and on October 12, he filed a fourth amended reply to the State's response.

****453** *2 I. *Nature of the Writ*

[1] [2] [3] [4] [5] The petition for leave to proceed in the trial court is necessary because the trial court can entertain a petition for writ of error coram nobis after a judgment has been affirmed on appeal only after we grant permission. *Newman v. State*, 2009 Ark. 539, 354 S.W.3d 61. Coram nobis proceedings are attended by a strong presumption that the judgment of conviction is valid. *Green v. State*, 2016 Ark. 386, 502 S.W.3d 524; *Westerman v. State*, 2015 Ark. 69, 456 S.W.3d 374; *Roberts v. State*, 2013 Ark. 56, 425 S.W.3d 771. The function of the writ is to secure relief from a judgment rendered while there existed some fact that would have prevented its rendition if it had been known to the trial court and which, through no negligence or fault of the defendant, was not brought forward before rendition of the judgment. *Newman*, 2009 Ark. 539, 354 S.W.3d 61. The petitioner has the burden of demonstrating a fundamental error of fact extrinsic to the record. *Roberts*, 2013 Ark. 56, 425 S.W.3d 771. It is the petitioner's burden to show that a writ of error coram nobis is warranted. This burden is a heavy one because a writ of error coram nobis is an extraordinarily rare remedy. *Jackson v. State*, 2017 Ark. 195, 520 S.W.3d 242.

II. *Grounds for the Writ*

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Scott v. State, 2019 Ark. 94 (2019)
571 S.W.3d 451

[6] [7] [8] [9] [10] [11] The writ is allowed only under compelling circumstances to achieve justice and to address errors of the most fundamental nature. *Id.* A writ of error coram nobis is available for addressing certain errors that are found in one of four categories: (1) insanity at the time of trial, (2) a coerced guilty plea, (3) material evidence withheld by the prosecutor, or (4) a third-party confession to the crime during the time between conviction and appeal. *3 *Howard v. State*, 2012 Ark. 177, 403 S.W.3d 38. This court will grant permission to proceed with a petition for the writ only when it appears that, looking to the reasonableness of the allegations of the proposed petition and the existence of the probability of the truth of those allegations, the proposed attack on the judgment is meritorious. *Isom v. State*, 2015 Ark. 225, 462 S.W.3d 662. Additionally, reassertion of the same claims without sufficient facts to distinguish the claims from those raised in a previous coram nobis petition is an abuse of the writ and subjects the petition to dismissal. *Jackson*, 2017 Ark. 195, 520 S.W.3d 242; *see also United States v. Camacho-Bordes*, 94 F.3d 1168 (8th Cir. 1996) (holding that res judicata did not apply to bar a second petition for writ of error coram nobis, but abuse-of-writ doctrine was applied to subsume res judicata). Due process does not require this court to entertain an unlimited number of petitions to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis in a particular case. This court has the discretion to determine whether the renewal of a petitioner's application for the writ will be permitted to go forward even if there are additional facts in support of repetitive grounds. *Chatmon v. State*, 2017 Ark. 229.

[12] [13] Further, Scott invokes *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963), as a ground for the writ and claims that government action violated his due process rights. The mere fact that a petitioner alleges a *Brady* violation is not sufficient to provide a basis for the writ. *Wallace v. State*, 2018 Ark. 164, 545 S.W.3d 767; *see also Penn v. State*, 282 Ark. 571, 670 S.W.2d 426 (1984) (a mere naked allegation that a constitutional right has been invaded will not suffice to warrant coram nobis relief). To establish a *Brady* violation, the petitioner must satisfy three elements: (1) the evidence at issue must be favorable to the accused, either **454 because it is *4 exculpatory or because it is impeaching; (2) that evidence must have been suppressed by the State, either willfully or inadvertently; (3) prejudice must have ensued. *Howard*, 2012 Ark. 177, 403 S.W.3d 38.

III. Background

In 1998, the Cross County Circuit Court convicted Scott of first-degree murder and sentenced

000003

Scott v. State, 2019 Ark. 94 (2019)
571 S.W.3d 451

him to a term of life imprisonment, which we affirmed in *Scott v. State*, 337 Ark. 320, 322, 989 S.W.2d 891, 892 (1999). On direct appeal, we summarized the facts as follows: Scott was arrested on March 5, 1996, for the murder of fifteen-year-old Robert Smith, which had occurred the previous day at the home of Smith's aunt. The evidence showed that Smith and four other persons were in the driveway changing a tire on his aunt's car when Scott went around to the side of the house and began firing a gun. Several eyewitnesses identified Scott as the person who shot Smith. Scott was tried and convicted on March 11, 1998, more than two years after his arrest. Before the court in this case is Scott's fifth petition seeking permission to reinvest jurisdiction in the trial court to pursue his claim of writ of error coram nobis alleging prosecutorial misconduct.

IV. Current Petition and Factual Allegations

In his petition, Scott requests permission to reinvest jurisdiction in the circuit court to file a petition for writ of error coram nobis alleging that there was prosecutorial misconduct committed by Deputy Prosecuting Attorney Joseph Boeckmann. Scott asserts that he was prosecuted because he refused Boeckmann's sexual advances. Scott further contends that he was victimized by Boeckmann and suffered the burden of undue criminal charges and punishments.

*5 Scott first makes claims regarding an alleged rape charge and contends that on October 24, 1995, he was "being held on a rape charge." Scott alleges that he interacted with Boeckmann, who released Scott and stated, "that a warrant had not been issued for this person." Additionally, Scott contends that on October 27, 1995, he went to the Municipal Court Building to talk to Boeckmann about "what had occurred a few days earlier." At this point, Scott contends that Boeckmann "propositioned me indicating that I owed him for doing me a favor. He wanted me to submit to a sexual act, but I flatly refused and left. It was at this point that a number of unexplained extraordinary events began." Scott contends that on March 25, 1996, he was arraigned on murder charges, and Boeckmann stated that Scott had a rape charge pending in the same court. The circuit court ruled that it did not have a rape-case file and that it had been lost or misplaced. Scott contends that this notice of the rape charge was an "utter surprise," and although he subsequently obtained the documents supporting the rape charge, the documents were unsigned and a "fabrication" of events.

In addition, Scott asserts that in his murder investigation, Boeckmann knowingly suppressed

Scott v. State, 2019 Ark. 94 (2019)
571 S.W.3d 451

evidence in violation of his due-process rights—Scott’s Lakers jersey and his hiking boots—that were relevant to the shooter’s identification at trial. Scott also contends that in late March 1997, Boeckmann knowingly provided Scott with eyewitness statements by a law enforcement officer. In sum, Scott alleges witness tampering, *Brady* violations, tampering and fabrication of evidence. Scott contends that this new evidence regarding Boeckmann “adversely affect[ed] my case, violating due process, and sheds light onto **455 how he did so.... Boeckmann’s attempts to manipulate and even threaten witnesses against him makes me believe he did the same as a deputy prosecuting attorney.... I was very much disturbed to *6 discover, after reading about another victim in the 1980s facing criminal charges, that Boeckmann had done to him exactly what he did to me after rebuffing his sexual advances: manipulate the legal system to exact a harsh punishment. Unfortunately, Boeckmann’s actions were known to be mirrored by Officer Spears, wherein he too used his police office and powers to manipulate [people] to perform sexual favors under the guise of clearing fees.”

The crux of Scott’s ground for the writ in all of his petitions—including the one now under consideration—allege prosecutorial misconduct concerning witness statements and prosecutorial misconduct. See *Scott v. State*, 2010 Ark. 363, 3–5, 2010 WL 3796227. Scott relies on *Strawhacker v. State*, 2016 Ark. 348, 500 S.W.3d 716, for the proposition that where the record shows the government itself has conceded the potential for reliance on tainted evidence at trial, coram nobis is an appropriate remedy in assessing whether the repudiated evidence warrants relief from the conviction. In *Strawhacker*, the Department of Justice informed the prosecuting attorney that FBI witness Michael Malone’s “testimony regarding microscopic hair comparison analysis contain[ed] erroneous statements.” The Department further stated that Malone had “overstated the conclusions that may appropriately be drawn from a positive association.” *Strawhacker*, 2016 Ark. 348, at 3, 500 S.W.3d 716, 718 (alteration in original). The FBI then informed Strawhacker that “the prosecutor in your case(s) has advised the Department of Justice that Michael Malone’s work was material to your conviction.” We granted the petition to reinvest jurisdiction and explained:

We acknowledge that Strawhacker’s claim may not neatly fall within one of the four established categories. But these categories are not set in stone. We have expanded the coram-nobis remedy in the past. See *Penn v. State*, 282 Ark. 571, 670 S.W.2d 426 (1984). We emphasized that expanding the grounds for the writ was necessary to ensure due process and to provide a state remedy where none exists:

*7 The growth of the writ is attributable, certainly, to a variety of causes. A great force in its development has been that growing concept, due process of law. The federal courts now show little hesitation in overturning state convictions if a state has no remedy or refuses to exercise it where a defendant has been denied due process of law. And where the federal

Scott v. State, 2019 Ark. 94 (2019)
571 S.W.3d 451

decisions reflect a procedural gap in a state whereby a defendant denied due process of law is remediless without recourse to the federal courts, the courts of that state may utilize coram nobis to fill the void.

Id. at 575, 670 S.W.2d at 429 (citing John H. Haley, Comment, *Coram Nobis and the Convicted Innocent*, 9 Ark. L. Rev. 118 (1955)). These concerns are present here.

Id. at 6, 500 S.W.3d at 719.

^[14]Scott asserts that the record of the proceedings with the Arkansas Judicial Discipline and Disability Commission and the United States District Court would provide conclusive support for Scott's argument that Boeckmann engaged in misconduct and criminality during the course of his employment with the State and satisfies the *Strawhacker* holding that the government has conceded wrongdoing based on Boeckmann's actions. Scott urges this court to grant permission to reinvest **456 jurisdiction, which will permit Scott to investigate and develop his claims. Additionally, he requests that the court extend its holding in *Strawhacker* to include an allegation that Scott's refusal of sexual advances satisfies the prosecutorial-misconduct claim.

^[15]We do not find merit in Scott's arguments. First, Scott does not satisfy any ground for granting the writ because he does not allege that there was any evidence extrinsic to the record that was hidden from the defense or that was unknown at the time of trial. *Larimore v. State*, 327 Ark. 271, 938 S.W.2d 818 (1997). Second, Scott fails to offer facts sufficient to warrant *8 granting leave to proceed in the trial court for the writ. *See Jackson*, 2017 Ark. 195, at 7, 520 S.W.3d at 247. The application for coram nobis relief must make full disclosure of specific facts relied on as the basis for the writ. *Martinez-Marmol v. State*, 2018 Ark. 145, 544 S.W.3d 49. Here, Scott makes allegations but does not offer factual support for his claims.

Additionally, Scott has failed to demonstrate prejudice. Despite Scott's allegations of egregious conduct on Boeckmann's part, Scott has not demonstrated prejudice because Scott has failed to demonstrate Boeckmann's involvement in witness statements in this case. Further, Scott has failed to identify evidence that contradicts the initial eyewitness statements that identified Scott as the shooter. The record also demonstrates that eyewitnesses testified at trial and identified Scott as the shooter. In other words, despite Boeckmann's alleged conduct, Scott has not demonstrated that the witnesses who initially identified him had been influenced before making those statements or that the result at trial would have been different. Finally, Scott offers no proof that the State suppressed any specific evidence pertaining to Deputy Prosecuting Attorney Boeckmann. *Mosley v. State*, 2018 Ark. 152, 544 S.W.3d 55 (holding that a *Brady* violation occurs if the defense was prejudiced because the State wrongfully withheld evidence from the defense prior to trial). *Davis v. State*, 2019 Ark. 20, at 6–7, 566 S.W.3d 111, 115–16.

Scott v. State, 2019 Ark. 94 (2019)
571 S.W.3d 451

Petition denied; motion to file reply granted;¹ motion to appoint counsel moot.

All Citations

2019 Ark. 94, 571 S.W.3d 451

Footnotes

- ¹ The clerk is directed to file the petitioner's four tendered replies to the State's response as of this date.

End of Document

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FORMAL ORDER

STATE OF ARKANSAS,)
) SCT.
SUPREME COURT)

BE IT REMEMBERED, THAT A SESSION OF THE SUPREME COURT
BEGUN AND HELD IN THE CITY OF LITTLE ROCK, ON OCTOBER 3, 2019,
AMONGST OTHERS WERE THE FOLLOWING PROCEEDINGS, TO-WIT:

SUPREME COURT CASE NO. CR-98-1167

RICKY LEE SCOTT

PETITIONER

V. APPEAL FROM CROSS COUNTY CIRCUIT COURT - CR-96-61


STATE OF ARKANSAS

RESPONDENT

PETITIONER'S PRO SE MOTION FOR BELATED PETITION FOR
RECONSIDERATION IS GRANTED. WOOD, J., WOULD DENY.

PETITIONER'S TENDERED MOTION FOR RECONSIDERATION FILED THIS
DATE.

IN TESTIMONY, THAT THE ABOVE IS A TRUE COPY OF
THE ORDER OF SAID SUPREME COURT, RENDERED IN
THE CASE HEREIN STATED, I, STACEY PECTOL,
CLERK OF SAID SUPREME COURT, HEREUNTO
SET MY HAND AND AFFIX THE SEAL OF SAID
SUPREME COURT, AT MY OFFICE IN THE CITY OF
LITTLE ROCK, THIS 3RD DAY OF OCTOBER, 2019.


CLERK

BY: _____
DEPUTY CLERK

ORIGINAL TO CLERK

CC: RICKY LEE SCOTT
VADA BERGER, SENIOR ASSISTANT ATTORNEY GENERAL
HON. E. DION WILSON, CIRCUIT JUDGE

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Office of the
CRIMINAL JUSTICE COORDINATOR
SUPREME COURT OF THE STATE OF ARKANSAS

Criminal Justice Coordinator
Phone (501) 682-1637

October 3, 2019

Justice Building, Suite 1300
625 Marshall Street
Little Rock, Arkansas 72201

Mr. Ricky Lee Scott
ADC No. 112513
Varner Unit
P. O. Box 600
Grady, AR 71644-0600

Re: Ricky Lee Scott v. State, CR-98-1167, appeal from judgment of conviction [19CR-96-61, Cross County Circuit Court]—affirmed April 22, 1999; mandate issued May 11, 1999

Pro se fifth petition to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis—denied April 11, 2019

Dear Mr. Scott:

This is to advise you that today the Arkansas Supreme Court entered the following Per Curiam Order in the above-referenced case without a written opinion:

Petitioner's pro se motion for belated petition for reconsideration is granted. Wood, J., would deny. Petitioner's tendered motion for reconsideration filed this date.

In accord with the order, the pro se petition for reconsideration has been file. Because the petition for reconsideration has been filed, your pro se motion to supplement record has also been filed. Your file-marked copies of the two pleadings are enclosed.

Cordially,

Office of the Criminal Justice Coordinator

cc Office of the Attorney General
Clerk of the Arkansas Supreme Court ✓

Ss:Mmd

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FORMAL ORDER

STATE OF ARKANSAS,)
) SCT.
SUPREME COURT)

BE IT REMEMBERED, THAT A SESSION OF THE SUPREME COURT
BEGUN AND HELD IN THE CITY OF LITTLE ROCK, ON OCTOBER 31, 2019,
AMONGST OTHERS WERE THE FOLLOWING PROCEEDINGS, TO-WIT:

SUPREME COURT CASE NO. CR-98-1167

RICKY LEE SCOTT

PETITIONER

V. APPEAL FROM CROSS COUNTY CIRCUIT COURT - CR-96-61

STATE OF ARKANSAS

RESPONDENT

PETITIONER'S PRO SE PETITION FOR RECONSIDERATION IS DENIED.
PETITIONER'S PRO SE AMENDED MOTION TO SUPPLEMENT THE RECORD IS
MOOT. KEMP, C.J., AND HART AND WYNNE, JJ., WOULD DENY.

IN TESTIMONY, THAT THE ABOVE IS A TRUE COPY OF
THE ORDER OF SAID SUPREME COURT, RENDERED IN
THE CASE HEREIN STATED, I, STACEY PECTOL,
CLERK OF SAID SUPREME COURT, HEREUNTO
SET MY HAND AND AFFIX THE SEAL OF SAID
SUPREME COURT, AT MY OFFICE IN THE CITY OF
LITTLE ROCK, THIS 31ST DAY OF OCTOBER, 2019.



CLERK

BY: _____

DEPUTY CLERK

ORIGINAL TO CLERK

CC: RICKY LEE SCOTT

VADA BERGER, SENIOR ASSISTANT ATTORNEY GENERAL

HON. E. DION WILSON, CIRCUIT JUDGE

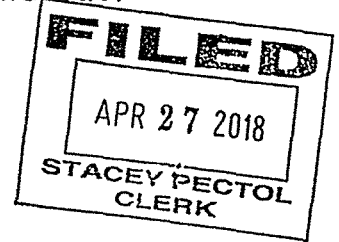
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Exhibit 4:	Motion to Re-Invest Trial Court with Jurisdiction to	
	Consider Petition for Writ of Error Coram Nobis	11-32
	with Exhibits A—I.	33-104

CR-98-1167

RICKY LEE SCOTT

MOVANT



VS.

CASE # CR- 98-1167

STATE OF ARKANSAS

RESPONDANT

MOTION TO RE-INVEST TRIAL COURT WITH JURISDICTION TO CONSIDER
PETITION FOR WRIT OF ERROR CORAM NOBIS

TO THE HONORABLE SUPREME COURT OF ARKANSAS:

Movant, Ricky Lee Scott, *pro se*, moves the court grant leave to re-invest the trial court with jurisdiction to consider his Petition for Writ of Error *Coram Nobis*. In support of this motion, Petitioner would show:

PROCEDURAL HISTORY

1. Movant previously raised claims of witness tampering, *Brady* violations, and tampering and fabrication of evidence in four motions to re-invest the trial court with jurisdiction to consider his petition for writ of error coram nobis . See *Scott v. State*, CR-98-1167 (Ark. Oct. 12, 2006) ["Scott 1"]; *Scott v. State*, 2008 WL 5101516 (Dec. 4, 2008) ["Scott 2"]; *Scott v. State*, 2009 WL 3047239 (Sept. 24, 2009) ["Scott 3"]; *Scott v. State*, 2010 WL 3796227 (Sept. 30, 2010) ["Scott 4"]; Exhibits A-D, consecutively.

2. In Scott 1, Movant claimed that the State withheld material evidence as follows: (1) information concerning the termination of one of the investigating officers; (2) certain prosecution file notes concerning the caliber of the bullet removed from the victim, a release form and a shell casing that was found; (3) notes taken by another investigating officer; (4) a statement made by a person concerning petitioner's presence at his house the night of the shooting; and (5) an Arkansas State Crime Laboratory form showing that certain clothing was submitted for testing.

3. This Court rejected Movant's motion to re-invest the Circuit Court with jurisdiction to hear his Petition for Writ of Error Coram Nobis. *Scott*, CR-98-1167 (Oct. 12, 2006). The Court held that Movant had not stated facts that support his allegation that the evidence he claimed was withheld could have been exculpatory. He had provided no basis for a determination that there would be a reasonable probability that the judgment of conviction would not have been rendered, and, therefore, failed to show good cause to re-invest jurisdiction in the trial court to consider a petition for writ of error coram nobis.

4. In Scott 2, Movant claimed that evidence, a summary of a conversation by a field investigator assigned to the case and certain reports, was withheld by the prosecution.

5. The Court rejected Movant's motion to re-invest the Circuit Court with jurisdiction to hear his Petition for Writ of Error Coram Nobis. *Scott*, 2008 WL 5101516 (Ark). The Court held that although Movant's claims that the documents that he alleged to be suppressed are newly discovered, he did not provide a showing that those documents were suppressed. He did not present any facts indicating that those documents were not contained in the Arkansas State Crime Lab's or the prosecution's files at the time of trial or that defense counsel was not made aware of the documents.

6. In Scott 3, Movant claimed that a fundamental error occurred when the prosecutor failed to disclose a plea offer, the existence of which was not revealed except through a request for documents pursuant to the Arkansas Freedom of Information Act ("FOIA").
7. This Court rejected Movant's motion to re-invest the Circuit Court with jurisdiction to hear his Petition for Writ of Error Coram Nobis. *Scott*, 2009 WL 3047239 (Ark). The Court held that Movant's claim was a veiled ineffective assistance claim that was not cognizable in petition for coram nobis relief, and Movant's claim was neither reasonable nor probably truthful and thus did not warrant granting of coram nobis relief.
8. In Scott 4, Movant claimed that: (1) a mistrial should have been granted after a witness made an inflammatory statement and that the jury was biased against him, and (2) there is newly discovered evidence not available at the time of his trial concerning the authenticity of the written statements of three witnesses on the night of the murder.
9. The Court rejected Movant's motion to re-invest the Circuit Court with jurisdiction to hear his Petition for Writ of Error Coram Nobis. *Scott*, 2010 WL 3796227 (Ark). The Court held the Movant's claim that mistrial should have been granted after witness made inflammatory statement and jury demonstrated bias against him was not within the purview of a coram nobis proceeding, and movant was not entitled to coram nobis relief based on newly discovered evidence absent showing of diligence in discovering the evidence.
10. In previous motions to the Court, Movant raised *Brady* claims attributable to the prosecutor (Scott 1, 2, 4), claims of witness tampering (Scott 1, 4), claims of evidence fabrication and tampering (Scott 1, 2, 4), and claims of prosecutor and police collusion (Scott 1, 2, 4). The Court, when reviewing the claims singularly, found that Movant failed

to reach the threshold showing of how disclosure (for a *Brady* claim) could have prevented rendition of judgment of conviction, and/or that he did not meet the burden of demonstrating there was evidence withheld at the time of trial. The Court, however, has never reviewed the claims with an eye towards cumulative effect and rule of reason that the writ ought to be granted or else a miscarriage of justice will result.

11. In 2014, the Judicial Discipline and Disability Commission (JDDC) opened a case, number 14-310, on Joseph Boeckmann, then district court judge, concerning his sexual misconduct involving defendants who appeared in his court. An article appeared in the Arkansas Democrat-Gazette alerting the public of Boeckmann's alleged criminal activities while a sitting judge. [See Exhibit E, Affidavit of Ricky Lee Scott concerning JDDC].
12. In 2015, Movant Scott submitted his complaint to the JDDC concerning his experience with Boeckmann, while he was a deputy prosecuting attorney, similar to that being reported to the public. [See Exhibit E, paragraph 3]. As a result of Movant's complaint, the JDDC opened a separate case and investigated the allegations. [See Exhibit E, paragraph 4, 5].
13. On 5 October 2017, Boeckmann pled guilty in the U.S. District Court [*U.S. v. Boeckmann*, No. 4:16-CR-00232-KGB-1] to witness tampering and wire fraud.
14. On 21 February 2018, Boeckmann was sentenced by U.S. District Court Judge, Karen Baker, to five years imprisonment.

FACTS SUPPORTING THE MOTION

15. Joseph Boeckmann was the initial deputy prosecuting attorney in Movant Scott's trial, who just recently was convicted in federal court of witness tampering and wire fraud. In 2014, the Arkansas Judicial Discipline and Disability Commission ("JDDC"), received complaints alleging that as sitting district court judge in Cross County, Boeckmann was using his authority to trade rulings for sexual favors, possessed child pornography, and committed other illegal practices. During the ensuing JDDC investigation, numerous additional complaints were received, which, because of their criminal nature, were referred to the Arkansas State Police and a special prosecutor, Jack Quarry, was assigned to the case. The director of the JDDC, David Sachar, called it the "worst case of judicial misconduct in Arkansas history," and that "it was systematic, predatory set of acts like nothing I've ever seen." [*Sex kicks cited, exit by judge is forever*, Arkansas Democrat-Gazette, 10 May 2016]. Boeckmann had used his public office to draw young males into activities of a sexual nature in exchange for money, favorable legal treatments, or both, *id.* JDDC had up to 68 witnesses who were prepared to testify that Boeckmann's behavior had gone on for decades, dating back to the 1980s, when he was a deputy prosecutor, *id.* One victim, when Boeckmann was the deputy prosecutor, went to his office and was told to pull his pants down and bend over. Boeckmann then hit the victim with a paddle, took photographs, and then told the victim that he expected to see him with an erection the next time, *id.* Sachar indicated that public "shaming" and retribution kept most of Boeckmann's victims' quiet, *id.* Sachar further stated that Boeckmann "chose victims specifically because they're helpless or not as believable or don't have much power," and that Boeckmann "picked poor people who

have criminal charges, who no one is going to believe in a small town where he had a lot of money and family history and things like that," *id.* On 5 October 2016, a federal grand jury handed down an indictment against Boeckmann for "using his authority to sentence people on traffic infractions and misdemeanors to further his sexual interests in young men." [*Indicted ex-judge, in jail, has hope for release*, Arkansas Democrat-Gazette, 20 October 2016]. Boeckmann faced 21 charges—eight counts of wire fraud, two counts of witness tampering, one counts of bribery, and ten counts of violating the Federal Travel Act. An FBI agent testified that two of Boeckmann's alleged victims reported he paid them or offered to pay them for feeding false information to State and Federal investigators to clear his name, resulting in U.S. District Court Judge Volpe stating that there was "no question" of obstruction and witness tampering. [Arkansas Democrat-Gazette, 20 October 2016]. To avoid possible decades of prison time, Boeckmann pled guilty on 5 October 2017. In another publication, it was revealed that the case laid out by the JDDC investigators was "anybody's definition of damning, drawing on often graphic interview with young men who came to Boeckmann's court, hard evidence in the form of checks Boeckmann paid to some of those young men and others, and a trove of over 4,600 digital photos recovered from Boeckmann's computer, ranging from suggestive to the pornographic." [*Injustice: Investigators say Judge Joseph Boeckmann Jr. of Wynne abused his position to serve his sexual desires*, Arkansas Times]. Boeckmann used not only his position on the bench, but also as a deputy prosecuting attorney (secretly asking for sexual favors in exchange for prosecutorial leniency) to procure "both fetishistic photos and sexual sadomasochistic partners, preying on poor and vulnerable defendants," mostly between the ages of 18 to 35 years old." *Id.* [Exhibit H].

16. Joesph Boeckmann was the initial deputy prosecuting attorney in Movant Scott's 1998 trial in Cross County, initiating the charges. Just now discovered through media reporting as a result of his federal conviction, is that Boeckmann was being investigated at the time by the FBI in the 1990s and had agreed to resign to avoid federal charges.

17. What is known publicly about the illegal activities of former deputy prosecuting attorney, Joesph Boeckmann, is beyond pale. Not only did he violate public trust, but he also committed crimes of solicitation of sexual favors under threat of punishment, witness tampering, bribery, and wire fraud. What is not known to the public is contained in the investigation files of the JDDC, Arkansas State Police (ASP), Federal Bureau of Investigation (FBI), and Department of Justice (DOJ).

18. JDDC flings indicate that Boeckmann's criminal activities went back to when he was a deputy prosecuting attorney, and beyond.

19. Movant's complaint to JDDC of Boeckmann's solicitation for sexual favors and subsequent threat was found to be sufficient to warrant investigation.

20. Movant Scott was one of countless persons who were victimized by Boeckmann's use of his public office—deputy prosecuting attorney and district court judge—to threaten legal punishment unless they submitted to his sexual perversions. By refusing Boeckmann's advances, Movant Scott, like numerous others, suffered the burden of undue criminal charges and punishments. [See Exhibit F, Affidavit of Ricky Lee Scott concerning extraordinary events]. JDDC investigators uncovered examples of "where a young man was locked up for a long stretch after allegedly rebuffing Boeckmann when he was a prosecutor." [See Exhibit H].

21. An untold number of victims (perhaps hundreds over 30 years), including Movant, failed to report Boeckmann's sexual misconduct because of possible public shaming and fear of Boeckmann's ability to manipulate the legal system and public in the small community of Wynne, and fear of retaliation against other family members. Cross County Special Workshop Executive Director, Donell Hill told JDDC investigators that "[Boeckmann] was a danger to society and was controlling. People were fully aware of it, and nobody said [anything]. I'm a minister and I call right right and wrong wrong, and there's no right way to do wrong. There are people right here in Wynne, Arkansas, who were afraid to come out." [Exhibit H].

22. Joesph Boeckmann and his family in Cross County were known by local citizens—especially minorities and the poor—as a "clan" not to be crossed, due not only to his own "powers" to bring extraordinary legal difficulty upon anyone, but also his family's ability to use its influence to create difficulties for others. Boeckmann's power and influence in Cross County created a semblance of dominance over those with far less resources. An air of vulnerability was pervasive, especially by those who lacked ability to retain assistance. Local residents knew Wynne has long been a place where political corruption reigns and is presided over by powerful families likened to the Mafia. Boeckmann's "brand name" helped him get by for years, despite persistent rumors of his actions. [Exhibit H].

23. Boeckmann used his position as deputy prosecuting attorney to bring criminal charges and manipulate those proceedings against citizens, including the illicit use of local law enforcement, who were either complacent or deliberately indifferent to one's rights, to facilitate an end. Boeckmann employed and embodied into his sexual abuse

scheme at least one law enforcement officer who used a similar scheme to obtain sexual favors from women, and equally willing to frame any person who refused (or became aware of) his sexual advances. [See Exhibit F].

ARGUMENT IN SUPPORT OF MOTION TO RE-INVEST JURISDICTION IN CIRCUIT COURT TO PERMIT CONSIDERATION OF PETITION FOR WRIT OF ERROR CORAM NOBIS

24. Movant Ricky Lee Scott has established the factual basis supporting his Motion to Re-Invest Jurisdiction in the Circuit Court based on the foregoing allegations concerning his prior applications for coram nobis relief that have been rejected by this Court and the outstanding issues concerning the misconduct of Joseph Boeckmann as a Deputy Prosecuting Attorney and District Judge acting under the color of law.

25. The writ of error *coram nobis* is an appropriate remedy for relief from a conviction when the petitioner is able to establish a violation of the constitutional rule mandating disclosure of exculpatory or material impeachment evidence to the defense by prosecutors prior to trial. The duty to disclose is explained in the Supreme Court's decision in *Brady v. Maryland*, 373 U.S. 83 (1963). There, the Court held that suppression or non-disclosure of exculpatory evidence by the State requires relief if there is a reasonable probability that the outcome of the proceedings would have been different had the exculpatory evidence been disclosed prior to trial. In *Sanders v. State*, 374 Ark. 70, 285 S.W.3d 630 (2008), this Court explained the requirements for establishing a Brady-based violation sufficient to warrant *coram nobis* relief:

There are three elements of a *Brady* violation: (1) the evidence at issue must be favorable to the accused, either because it is exculpatory, or because it is

impeaching; (2) that evidence must have been suppressed by the State, either willfully or inadvertently; (3) prejudice must have ensued. *Larimore*, 341 Ark. at 404, 17 S.W.3d at 91. To merit relief, the petitioner must demonstrate that there is a reasonable probability that the judgment of conviction would not have been rendered, or would have been prevented, had the information been disclosed at trial. See *Larimore*, 341 Ark. at 408, 17 S.W.3d at 94.
Id. At 71, 285 S.W.3d at 632.

26. The Court's post-*Brady* decisions addressing the prosecution's duty to disclose evidence favorable to the defense includes *Kyles v. Whitley*, 514 U.S. 419 (1995), which provides compelling support for Scott's petition to re-open the litigation which resulted in his conviction and life sentence. *Kyles* is particularly relevant to Scott's situation for two distinct holdings. First, *Kyles* resolved a continuing troubling point for evaluation of some *Brady* claims in holding that not only is the prosecutor not absolved of a duty to disclose if she has no knowledge of existence of exculpatory evidence, but in holding that there is an affirmative duty to determine the existence of potentially exculpatory evidence in the possession of the police. The majority held:

[The] individual prosecutor has a duty to learn of any favorable evidence known to others acting on the government's behalf in the case, including the police. But whether the prosecutor succeeds or fails in meeting the obligation, the prosecution's responsibility for failing to disclose known, favorable evidence rising to a material level of importance is inescapable.

514 U.S. at 437-38. Thus, the knowledge of police or other investigators, as members of the "prosecution team," is imputed to the prosecutor personally in the performance of *Brady* analysis on a non-disclosure claim. Arkansas has expressly adopted this formulation that the disclosure duty extends to all members of the prosecution team. *Lewis v. State*, 286 Ark. 372, 691 S.W.2d 864 (1985); *Williams v. State*, 267 Ark. 527, 593 S.W.2d 8 (1980).

27. The function of the writ is to secure relief from a judgment rendered while there exists some fact that would have prevented its rendition if it had been known to the trial court and which, through no negligence or fault of the defendant, was not brought forward before rendition of judgment. *Echols v. State*, 360 Ark. 332, 201 S.W.3d 890 (2005). This Court has held that the appropriate procedure for raising a claim following conviction based on the State's suppression or failure to disclose evidence favorable to the accused is by petitioning the Court to re-invest the trial court with jurisdiction to consider the claim presented in a petition for writ of error coram nobis. *Howard v. State*, 367 Ark. 18 (2006). The writ is allowed under compelling circumstances to achieve justice and to address errors of the most fundamental nature. *Sanders v. State*, 374 Ark. 70, 285 S.W.3d 630 (2008). "In simple terms, this writ is a legal procedure to fill a gap in the legal system—to provide relief that was not available at trial because a fact exists which was not known at that time and relief is not available on appeal because it is not in the record." *Penn v. State*, 282 Ark. 571, 573-74, 670 S.W.2d 426, 428 (1984). Extraordinary abuse of public office, for personal sexual gratification, by the deputy prosecuting attorney—colluding with local law enforcement—to frame Petitioner Scott for murder, warrants an extraordinary writ.

28. Here, the deputy prosecuting attorney, Boeckmann, was not simply a member of the Prosecuting Attorney's team, but more than an investigator or other government agent, was directly involved in the prosecution of Movant Scott. Deputy Prosecuting Attorney Boeckmann, who investigated the case and filed the murder charge against Scott, had actual knowledge of his own attempt to coerce Movant into engaging in sexual acts by threatening Scott and to retaliate against him based on his refusal to comply with

Boeckmann's demand for sex. Thus, Boeckmann himself, had knowledge of this threat and actions taken in retaliation against Scott, and the failure to disclose this knowledge was imputed to the Prosecuting Attorney, Fletcher Long, who tried the murder case and obtained the conviction and life sentence under which Scott is still incarcerated.

29. The evidence was exculpatory or, at least, constituted material impeachment in the case that was subject to the disclosure rule under *Brady* and *Kyles*. Had Boeckmann's conduct and threats been disclosed to the defense prior to trial, Scott would have testified, denied commission of the offense and explained to his jury that the murder case had been built by Boeckmann, including the training of prosecution witnesses to testify against Scott, in retaliation for Scott's refusal to engage in the coerced sexual acts demanded by Boeckmann.

30. Movant Scott has consistently argued that deputy prosecuting attorney Boeckmann—with law enforcement—withheld evidence favorable to the defense, see Scott 1, 2, 4, and manipulated both evidence and court procedures, violating both *Brady* and his right to due process. New evidence just discovered through media outlets as a result of Boeckmann's recent conviction, indicate that there are new facts available in the investigative files of state and federal agencies that not only support Movant's previous application for the writ, but also new additional claims, notably illegal extraordinary acts by Boeckmann who, after his sexual advances being rejected by Movant, sought to cover up his malfeasance by framing Scott for murder. In *Swanigan v. State*, the Court dismissed the petition holding an abuse of the writ because Swanigan had already raised essentially the same claim, and did not allege that he had obtained new information concerning the allegations, 485 S.W.3d 695, 697 (2016). However, quoting *Rogers v.*

State, 2013 Ark. 294, 2013 WL 3322344 (per curiam), the Court noted "a court has the discretion to determine the renewal of a petitioner's application for the writ, when there are additional facts presented in support of the same grounds, will be permitted," *id.*, at *3-4.

31. The public record now demonstrates conclusively that Scott's allegations, far from being self-serving claims dependent solely upon his testimony for credibility, have been substantiated by other evidence. Boeckmann has been removed from his position as District Judge by the Arkansas Judicial Disability and Discipline Commission, has been charged in the United States District Court with offenses committed while he served in the capacity as District Judge, and has been convicted on his plea of guilty to the federal charges. *United States v. O. Joseph Boeckmann*, No. 4:16-CR-00232 (E.D. Ark.).

32. New evidence, only now being discovered as a result of his federal conviction, shows that Boeckmann would go to any length to keep secret his illicit sexual activities against males who crossed his path within the legal system, including witness tampering, bribery, and even threat of death. Boeckmann preyed upon men who found themselves afoul of the law, usually those less fortunate who had a proclivity to bow to such pressure that Boeckmann could rein down upon them, rather than fight back for lack of resources. Those, like Movant Scott, who rejected Boeckmann's sexual advance, met his wrath. [See Exhibit H].

33. Evidence of Boeckmann's misconduct and criminal behavior was never disclosed to Scott, even after his conviction, despite the fact that it would have corroborated allegations that he made to the Judicial Discipline Commission and to which he would

have testified at trial had the corroborating evidence been available. Petitioner Scott has exercised due diligence in attempting to obtain the records of the investigations conducted by the Arkansas Commission [See Exhibit E] and federal authorities [See Exhibit G] and neither the State nor United States has engaged in disclosure of the requested evidence that would have corroborated his claims that Boeckmann retaliated against him by fabricating evidence used to support the prosecution's murder case that resulted in his conviction and life sentence.

34. During the investigation of Boeckmann by the Department of Human Services (DHS), ASP, JDDC, FBI, and DOJ, it was publicly revealed that as far back as the 1980s, persons seeking justice or constitutional protection and due process of law were instead ensnared in Boeckmann's pederasty; woe was he, as Movant Scott, who rejected Boeckmann. It is known that the investigation by the JDDC identified at least 68 persons who were victimized by Boeckmann when he was a practicing attorney, deputy prosecuting attorney, and municipal court judge in ways similar to Petitioner Scott. [See Exhibit F]. The public record indicates many more victims may be identified in the investigative records of the DHS, ASP, FBI, and DOJ, but those files themselves have not been made available. Those records, including JDDC, may have information that shows a history of acts by Boeckmann dating back to the 1980s that establish a pattern of deliberate *Brady* violations, and extraordinary use of law enforcement and judicial process to punish persons who rejected his sexual advances. Such actions would indicate a continuous denial of due process of law and constitutional protections far outside the sphere of judicial fairness. [See Exhibit F].

35. Second, *Kyles* holds that: "[T]he state's obligation under *Brady v. Maryland*, to disclose evidence favorable to the defense, turns on the *cumulative* effect of all such evidence suppressed by the government," 514 U.S. at 421, 436-38. Thus, the undisclosed evidence which has been the subject of Scott's prior applications to this Court to re-invest the circuit with jurisdiction to hear his petition for relief by writ of error *coram nobis* must include consideration of the totality of evidence not disclose. Even though each single item of non-disclosed evidence might not be sufficient to require relief from the conviction, as was the case in *Kyles*, the cumulative effect of non-disclosure provides the operable fact for determination of likely prejudice.

36. Moreover, *Kyles* reaffirmed the *Brady* rule that the test for demonstrating a due process violation does not require sufficient evidence to prove the petitioner's innocence, or establish that he would not have been convicted had the evidence been disclosed in timely fashion for use by the defense at trial. The test only requires that the petitioner show that:

[The] favorable evidence is material, and constitutional error results from its suppression by the government, "if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different."

Kyles, 514 U.S. at 442-43, citing *United States v. Bagley*, 473 U.S. 667, 682 (1985).

37. Movant Scott relies on the Court's decision in *Strawhacker v. State*, 2016 Ark. 348, at *7, 500 S.W.3d 716, 720 (per curiam) and *Pilts v. State*, 2016 Ark. 345, 501 S.W.3d 803 for the proposition that where the record shows that the government itself has conceded the potential for reliance on tainted evidence at trial, *coram nobis* is an

appropriate remedy in assessing whether the repudiated evidence warrants relief from the conviction.

38. A denial of due process claim may not neatly fall within one of four established coram nobis categories. But these categories are not set in stone. This Court has expanded the coram nobis remedy in the past, emphasizing that expanding the grounds for the writ was necessary to ensure due process and provide a state remedy where none exists, *Strawhacker v. State*, 2016 Ark. 348, 2016 WL 6123444, at *6, holding:

The growth of the writ is attributable, certainly, to a variety of causes. A great force in its development has been that growing concept, due process of law. The federal courts now show little hesitation in overturning state convictions if a state has no remedy or refuses to exercise it where a defendant has been denied due process of law. And where the federal decisions reflect a procedural gap in a state whereby a defendant denied due process of law is remediless without recourse to the federal courts, the courts of that state may utilize coram nobis to fill the void.

Penn v. State, 282 Ark. 571, 575, 670 S.W.2d 426, 429 (1984) (citing John H. Haley, Comment, *Coram Nobis and the Convicted Innocent*, 9 Ark. L. Rev. 118 (1955)). These concerns are present here. Additionally, the Arkansas Constitution provides that for every wrong there should be a remedy:

Every person is entitled to a certain remedy in the law for all injuries or wrongs he may receive in his persons, property or character; he ought to obtain justice freely, and without denial, promptly and without delay; comfortably to the law.

Ark.Const. art.2 § 13.

39. Here, the record of proceedings in the Arkansas Judicial Discipline and Disability Commission and United States District Court would provided conclusive support for Scott's argument that Boeckmann engaged in misconduct and criminality during the course of his employment as state court judge. In ordering his conviction re-opened by re-investing the circuit court with jurisdiction to hear his petition for writ of error *coram nobis*, the Court will afford Scott the necessary means to require production of evidence

in the possession of state and federal authorities essential for investigation of his claims on the merits. The existing public record already substantiates Scott's claim that Boeckmann engaged in misconduct while a state judge that would have been admissible at trial to corroborate Scott's claims, in part, that Boeckmann had threatened him with retaliation for refusing to engage in unlawful sex acts with Deputy Prosecuting Attorney Boeckmann, who was responsible for charging Scott and preparing the prosecution's case for trial.

40. Further, by re-investing jurisdiction in the circuit court, the Court will permit Scott to utilize the subpoena process to investigate existence of evidence that the Prosecuting Attorney knew or should have known of Boeckmann's misconduct while a deputy prosecutor. In either event, the Prosecuting Attorney was charged with the duty of notifying the defense prior to Scott's trial of its information, whether actually known by the Prosecuting Attorney or imputed to him pursuant to *Kyles* and the Arkansas decisions in *Williams and Lewis, supra*, that constituted exculpatory evidence or material impeachment, such as knowledge of Boeckmann's misconduct while in a position of authority as an agent of the State and the Office of the Prosecuting Attorney.

41. This is the unusual circumstance warranting re-opening of the case in the circuit court because of the potential for manifest injustice in Scott's conviction, as the court noted in *Strawhacker*.

Therefore, we grant Strawhacker's petition to reinvest jurisdiction with the circuit court. In considering the writ, the circuit court should still consider whether to grant the writ according to one of the four currently established categories. However, if the court finds that Strawhacker's petition does not fall within one of the four categories, the court should consider whether the writ should be granted according to the "rule of reason" in this unique circumstance where: (1) the State

presented expert scientific opinion at trial: (2) the expert was an agent of the government: (3) that same government later repudiates the expert's scientific opinion. As we stated in *Penn*, "the rule of reason is simply that the writ ought to be granted or else a miscarriage of justice will result." 282 Ark. at 571, 670 S.W.2d at 429 (citing *Davis v. State*, 200 Ind. 88, 161 N.E. 375 (1928)).

42. *Strawhacker* expands the error coram nobis remedy because they do not require the petitioner to be able to demonstrate prejudicial error at trial in moving for leave to file, but enables some petitioners to *rely on something different that suggests that evidence might be available that would require relief, but that will require further investigation*. Here, the investigation, indictment, conviction, and incarceration of Boeckmann by the federal court indicates the existence of investigatory materials and evidence that might be available that would require relief, but to which Movant Scott has no access. [See Exhibit G, Affidavit of Ricky Lee Scott concerning U.S. Department of Justice]. Because Movant efforts to obtain the various agencies files via FOIA failed, he is unable to present evidence that would at the least corroborate his claims. A *Brady* violation lies in suppression of evidence corroborating allegations concerning Boeckmann generally, which might include information directly relevant to prosecution of Petitioner Scott. It cannot be determined, at this point, what the investigations of the complaints against Boeckmann might have uncovered. The circuit court might be able to issue a subpoena or order disclosure and give Petitioner Scott an opportunity to discover evidence supporting his claims against Boeckmann tampering with witnesses, evidence, and illicit use of law enforcement. According to *Kyle v. Whitley*, 514 U.S. 419 (1995), prior claims must be considered cumulatively with any newly discovered evidence in demonstrating a *Brady* violation requiring relief.

43. The State of Arkansas has never disclosed to Movant Scott the evidence relating to Joseph Boeckmann's misconduct while a State District Judge or Deputy Prosecuting Attorney acting under the color of law in the State of Arkansas. Boeckmann was a member of the prosecution team that prosecuted and convicted Movant for murder and obtained a life sentence in this case, pursuant to which Scott has been continuously confined since trial.

44. There is no authority from the United States Supreme Court in *Brady v. Maryland* or subsequent decisions indicating that the State's duty to disclose evidence favorable to the defense terminates at the conclusion of the trial process or direct appeal. Yet, the State has been on formal notice of Movant Scott's allegations relating to Boeckmann's threatened retaliation against him since he filed a complaint with the Arkansas Judicial Discipline and Disability Commission. Movant has exercised due diligence in attempting to obtain supporting evidence for his claim by requesting the JDDC'S records on Boeckmann through the Arkansas Freedom of Information Act request he made, but the request for disclosure of has been denied or disclosed no records. Similarly, Movant Scott requested disclosure of the records of the federal investigation leading to Boeckmann's prosecution and conviction on his plea of guilty, but the United States denied his request.

45. Scott now moves this Court to re-invest jurisdiction in the trial court to facilitate development of his claim that his conviction violated due process under the 14th Amendment and *Brady* line of cases on compelled disclosure of favorable evidence requiring disclosure of evidence of Boeckmann's misconduct. The disclosure duty requires disclosure of any evidence of specific misconduct of retaliation by Boeckmann

against Movant Scott in the preparation of the State's case for trial, including Boeckmann's actions in assisting prosecution witnesses in fabricating testimony supporting its evidence designed to show Movant guilty of the murder on which he was charged.

46. The failure to disclose evidence of Boeckmann's misconduct in threatening defendants and witnesses who refuse to comply with his demands that they engage in prohibited sexual activity with him, including his knowledge that he had propositioned Movant personally and threatened Movant with retaliation, violated Movant's right to due process of law.

47. Movant urges this Court apply the "rule of reason" test and re-invest jurisdiction in the trial court to permit him to litigate his petition for writ of error *coram nobis* on the merits.

CONCLUSION AND PRAYER FOR RELIEF

48. Movant Scott demonstrated that at the time of his trial, deputy prosecuting attorney, Joseph Boeckmann, was using his position of authority to further his sexual deviancy and pederasty, that he propositioned Movant Scott, but was rebuffed resulting in numerous legal woes including denial of due process, *Brady* violations, and other additional acts of prosecutorial misconduct. Much of this information is limited to the public releases due to Boeckmann's federal court conviction that began with the JDDC investigation. Discovered was that Boeckmann's acts went further back than his time on the bench and included his position as a deputy prosecuting attorney—where he initiated the charges and case against Movant Scott—to the 1980s as a private attorney.

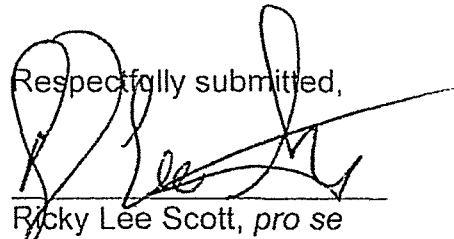
49. Movant Scott's own experience with Boeckmann just prior to being charged with murder, was so serious as to warrant JDDC investigation. Despite being noted as a victim, his efforts to obtain investigative files from State and Federal agencies investigating Boeckmann were denied. [See Exhibit I, FOIA request and responses from government agencies]. The mere fact that JDDC and, presumably ASP, FBI and DOJ, had evidence of at least 68 victims ready to testify in federal court, there is a reasonable probability that unknown new evidence is available that would require relief contained within those investigative files. February 2018, media reports indicate that the FBI had previously investigated Boeckmann using his position as deputy prosecuting attorney—at the exact same time he propositioned Movant Scott—to further his sexual perversion from defendants, and that Boeckmann resigned before Scott's trial to avoid federal prosecution. Those FBI investigative files must be made available to Movant Scott because a reasonable probability exists that they may contain evidence directly related to Scott's prosecution—intimidation, tampering, and illicit use of law enforcement to thwart due process.

50. The rule of reason is applicable here. While Movant Scott's claim may not neatly fit one of the four established coram nobis categories, it does fit the expanded grounds for the writ to ensure due process and provide a state remedy where none exists.

51. Movant asks the Court to take judicial notice of the record previously filed in Movant's four prior motions to reinvest trial court with jurisdiction to consider petition for writ of error coram nobis.

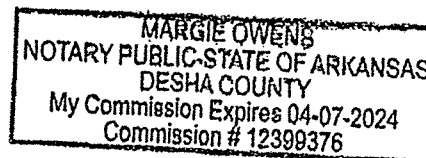
52. Upon consideration of the merits of this motion, Movant Scott prays the Court order re-investment of jurisdiction of the Circuit Court in this cause to permit filing and consideration of his Petition for Writ of Error Coram Nobis on the merits.

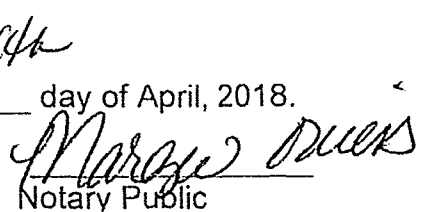
Respectfully submitted,


Ricky Lee Scott, pro se

Subscribed and sworn to before me, a Notary Public on this 24th day of April, 2018.

04-07-2024
My Commission expires:

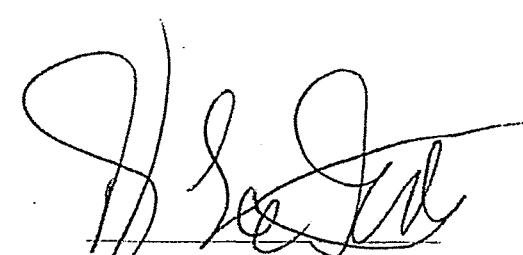



Notary Public

CERTIFICATE OF SERVICE

I, Ricky Lee Scott, placed the forgoing Motion in the Varner Unit mailbox on this 24 April, 2018, with sufficient postage and mailed to:

Clerk's Office
Arkansas Supreme Court
625 Marshall Street
Little Rock, Ark. 72201


Ricky Lee Scott
ADC # 112513
Varner Unit
P.O. Box 600
Grady, Arkansas 71644

PETITIONER'S EXHIBITS

- A. Scott v. State, (Ark. October 12, 2006);
- B. Scott v. State, (Ark. December 4, 2008);
- C. Scott v. State, (September 24, 2009);
- D. Scott v. State, (September 30, 2010);
- E. Affidavit of Ricky Lee Scott concerning Judicial discipline and Disability Commission;
- F. Affidavit of Ricky Lee Scott concerning Extraordinary Events;
- G. Affidavit of Ricky Lee Scott concerning U.S. Department of Justice;
- H. Injustice: Investigators say Judge Joseph Boeckmann Jr. of Wynne abused his position to serve his sexual desires; and
- I. Freedom of Information Act Request to JDDC, DOJ and responses.

ARKANSAS SUPREME COURT

No. CR 98-1167

Opinion Delivered October 12, 2006

RICKY LEE SCOTT
Petitioner

v.

STATE OF ARKANSAS
Respondent

PRO SE PETITION TO REINVEST
JURISDICTION IN THE TRIAL
COURT TO CONSIDER A PETITION
FOR WRIT OF ERROR CORAM
NOBIS [CIRCUIT COURT OF CROSS
COUNTY, CR 96-61]

PETITION DENIED

PER CURIAM

In 1998, a jury found petitioner Ricky Lee Scott guilty of murder in the first degree and sentenced him to life imprisonment in the Arkansas Department of Correction. This court affirmed the judgment. *Scott v. State*, 337 Ark. 320, 989 S.W.2d 891 (1999). Petitioner has previously filed other requests for postconviction relief, none of which were ultimately successful. *See Scott v. State*, 355 Ark. 485, 139 S.W.3d 511 (2003); *Scott v. State*, CR 06-10 (Ark. January 26, 2006) (*per curiam*). Now before us is petitioner's *pro se* petition requesting this court to reinvest jurisdiction in the trial court to consider a petition for writ of error *coram nobis*.¹ The petition for leave to proceed in the trial court is necessary because the circuit court can entertain a petition for writ of error *coram nobis* after a judgment has been affirmed on appeal only after we grant permission.

¹For clerical purposes, the instant petition to reinvest jurisdiction in the trial court to consider a petition for writ of error *coram nobis* was assigned the same docket number as the direct appeal of the judgment.

Pet. Exhibit - "A" 034

Dansby v. State, 343 Ark. 635, 37 S.W.3d 599 (2001) (*per curiam*).

Petitioner asserts grounds for reinvesting jurisdiction in the trial court because he claims that the prosecution withheld material evidence as follows: (1) information concerning the termination of one of the investigating officers, Roger Speer; (2) certain prosecution file notes concerning the caliber of the bullet removed from the victim, a release form and a shell casing that was found; (3) notes taken by another investigating officer, Curtis Swan; (4) a statement made by Tommy Haskin concerning petitioner's presence at his house the night of the shooting; (5) an Arkansas State Crime Laboratory form showing that certain clothing was submitted for testing. Petitioner asserts that this evidence could have been used by the defense to challenge the State's case against him.

A writ of error *coram nobis* is an extraordinarily rare remedy, more known for its denial than its approval. *Larimore v. State*, 341 Ark. 397, 17 S.W.3d 87 (2000). The writ is allowed only under compelling circumstances to achieve justice and to address errors of the most fundamental nature. *Pitts v. State*, 336 Ark. 580, 986 S.W.2d 407 (1999) (*per curiam*). We have held that a writ of error *coram nobis* was available to address certain errors that are found in one of four categories: insanity at the time of trial, a coerced guilty plea, material evidence withheld by the prosecutor, or a third-party confession to the crime during the time between conviction and appeal. *Pitts*, 336 Ark. at 583, 986 S.W.2d at 409. *Coram nobis* proceedings are attended by a strong presumption that the judgment of conviction is valid. *Echols v. State*, 360 Ark. 332, ___ S.W.3d ___ (2005).

Petitioner asserts a violation of the right to due process as guaranteed by *Brady v. Maryland*, 373 U.S. 83 (1963). As a part of our review of a decision on a petition for writ of error *coram nobis* that makes such a claim, we determine whether there is a reasonable probability that the judgment of conviction would not have been rendered, or would have been prevented, had the claimed

exculpatory evidence been disclosed at trial. *See Larimore*, 341 Ark. at 408, 17 S.W.3d at 94. Even if petitioner were able to show that the prosecution withheld the evidence as asserted, he has not made a showing as to how the disclosure of that evidence could have prevented rendition of the judgment of conviction. We cannot say that he has stated facts so as to justify reinvesting jurisdiction in the trial court to consider a petition for writ of error *coram nobis*.

While petitioner asserts that the evidence would have changed the outcome of his trial, he presents no basis by which to support that claim. The court is not required to accept at face value the allegations of the petition. *Penn v. State*, 282 Ark. 571, 670 S.W.2d 426 (1984) (citing *Troglin v. State*, 257 Ark. 644, 519 S.W.2d 740 (1975)). The mere naked allegation that a constitutional right has been invaded will not suffice and an application should make full disclosure of specific facts, rather than merely state conclusions as to the nature of such facts. *Cloird v. State*, 357 Ark. 446, 182 S.W.3d 477 (2004).

Petitioner does point to specific documents that he asserts were withheld. However, as to the exculpatory nature of those documents, petitioner merely alleges that the materials that were claimed withheld could be used to impeach some of the witnesses. Petitioner acknowledges that not all of the materials he claims were withheld would have been admissible, although he argues that the documents could have led to the discovery of other evidence. Counsel did unsuccessfully attempt at trial to discredit the witnesses on the same issues that petitioner raises here. While the documents may have been useful and possibly aided the defense, we cannot say that this additional evidence would have been any more persuasive.

Petitioner has not stated facts that support his allegation that the evidence he claims was withheld could have been exculpatory. He has provided no basis for a determination that there

would be a reasonable probability that the judgment of conviction would not have been rendered, and, therefore, failed to show good cause to reinvest jurisdiction in the trial court to consider a petition for writ of error *coram nobis*. Accordingly, we deny his petition.

Petition denied.

ARKANSAS SUPREME COURT

No. CR 98-1167

Opinion Delivered December 4, 2008

RICKY LEE SCOTT
Petitioner

v.

STATE OF ARKANSAS
Respondent

PRO SE PETITION TO REINVEST
JURISDICTION IN THE TRIAL
COURT TO CONSIDER A PETITION
FOR WRIT OF ERROR CORAM NOBIS
[CIRCUIT COURT OF CROSS
COUNTY, CR 96-61]

PETITION DENIED.

PER CURIAM

In 1998, a jury found petitioner Ricky Lee Scott guilty of murder in the first degree and sentenced him to life imprisonment in the Arkansas Department of Correction. This court affirmed the judgment. *Scott v. State*, 337 Ark. 320, 989 S.W.2d 891 (1999). Petitioner now brings a pro se petition in which he requests permission to proceed in the trial court with a petition for writ of error coram nobis.¹ After a judgment has been affirmed on appeal, a petition filed in this court for leave to proceed in the trial court is necessary because the circuit court can entertain a petition for writ of error coram nobis only after we grant permission. *Dansby v. State*, 343 Ark. 635, 37 S.W.3d 599 (2001) (per curiam).

Petitioner has previously filed a number of other requests for postconviction relief, including a previous petition for the relief now requested, none of which were ultimately successful. See *Scott v. State*, ___ Ark. ___, ___ S.W.3d ___ (Mar. 6, 2008) (per curiam) (dismissing appeal of denial of

¹For clerical purposes, the instant petition was assigned the same docket number as the direct appeal.

petition for writ of habeas corpus under Act 1780 of 2001 Acts of Arkansas); *Scott v. State*, CR 98-1167 (Ark. Oct. 12, 2006) (per curiam) (denial of petition to reinvest jurisdiction in trial court to consider a petition for writ of error coram nobis); *Scott v. State*, CR 06-10 (Ark. Jan. 26, 2006) (per curiam) (denial of motion for rule on clerk in appeal of motion to vacate judgment); *Scott v. State*, 355 Ark. 485, 139 S.W.3d 511 (2003) (affirming denial of relief on petition under Arkansas Rule of Criminal Procedure 37.1). In this latest petition, petitioner alleges grounds in support of reinvesting jurisdiction in the trial court based upon what he claims are violations of the requirements of *Brady v. Maryland*, 373 U.S. 83 (1963), in that he contends that evidence, a summary of a conversation by a field investigator assigned to the case and certain reports, was withheld by the prosecution. In addition, petitioner asserts that inadmissible evidence was taken into deliberations and considered by the jury.

The function of the writ of error coram nobis is to secure relief from a judgment rendered while there existed some fact which would have prevented its rendition if it had been known to the trial court and which, through no negligence or fault of the defendant, was not brought forward before rendition of judgment. *Cloird v. State*, 357 Ark. 446, 182 S.W.3d 477 (2004). A writ of error coram nobis is an extraordinarily rare remedy, more known for its denial than its approval. *Larimore v. State*, 341 Ark. 397, 17 S.W.3d 87 (2000). Coram nobis proceedings are attended by a strong presumption that the judgment of conviction is valid. *Penn v. State*, 282 Ark. 571, 670 S.W.2d 426 (1984) (citing *Troglin v. State*, 257 Ark. 644, 519 S.W.2d 740 (1975)).

For the writ to issue following the affirmance of a conviction, the petitioner must show a fundamental error of fact extrinsic to the record. *Larimore v. State*, 327 Ark. 271, 938 S.W.2d 818 (1997). The writ is allowed only under compelling circumstances to achieve justice and to address

errors of the most fundamental nature. *Pitts v. State*, 336 Ark. 580, 986 S.W.2d 407 (1999) (per curiam). We have held that a writ of error coram nobis was available to address certain errors that ~~are found in one of four categories: insanity at the time of trial, a coerced guilty plea, material~~ evidence withheld by the prosecutor, or a third-party confession to the crime during the time between conviction and appeal. *Id.* at 583, 986 S.W.2d at 409. Here, petitioner first asserts that evidence was withheld by the prosecutor.

There are three elements of a *Brady* violation, as follows: (1) the evidence at issue must be favorable to the accused, either because it is exculpatory, or because it is impeaching; (2) that evidence must have been suppressed by the State, either willfully or inadvertently; (3) prejudice must have ensued. *Larimore*, 341 Ark. at 404, 17 S.W.3d at 91. As a part of our review of a decision on a petition for writ of error coram nobis that makes such a claim, we determine whether there is a reasonable probability that the judgment of conviction would not have been rendered, or would have been prevented, had the claimed exculpatory evidence been disclosed at trial. *See Larimore*, 341 Ark. at 408, 17 S.W.3d at 94.

Although petitioner claims that the documents that he alleges to be suppressed are newly discovered, he does not provide a showing that those documents were suppressed. Petitioner asserts that he obtained the documents through a request to the Arkansas State Crime Laboratory that was approved by the prosecuting attorney's office. Petitioner does not present any facts indicating that those documents were not contained in the lab's or prosecution's files at the time of the trial or that defense counsel was not made aware of the documents.

In addition, the evidence that petitioner alleges was suppressed is not sufficient for us to determine that there is a reasonable probability that the judgment of conviction would not have been

rendered if that evidence had been disclosed at trial. Petitioner contends that the information contained in the documents would have impeached three of the witnesses. The summary by the ~~investigating officer appears to indicate that someone had made a statement about an argument~~ between the victim's aunt and the murderer, and only described the murderer as an "unidentified male." The reports provided the identity of some of the investigating officers and confirmed the release of evidence and reports to those officers. Even if one of the investigating officers had documented a statement that was not entirely consistent with later accounts from a witness to the shooting, it is not apparent that the information presented here was in any way valuable for the purpose of impeaching any of the witnesses who appeared at trial, or would have discredited that testimony. Petitioner has not met his burden to show that material evidence was suppressed by the prosecution.

As to petitioner's assertion that inadmissible evidence was taken into deliberations and considered by the jury, we note that petitioner cites to the trial record to support his claim. The evidence taken into the jury room was on record and not hidden. There was therefore no fundamental error of fact extrinsic to the record. Petitioner's claims do not justify reinvesting jurisdiction in the trial court to consider a petition for writ of error coram nobis, and we therefore deny the petition.

Petition denied.

ARKANSAS SUPREME COURT

No. CR 98-1167

Opinion Delivered September 24, 2009

RICKY LEE SCOTT
Petitioner

v.

STATE OF ARKANSAS
Respondent

PRO SE PETITION TO REINVEST
JURISDICTION IN TRIAL COURT TO
CONSIDER A PETITION FOR WRIT
OF ERROR CORAM NOBIS, MOTION
TO SUPPLEMENT RECORD AND
PETITION FOR WRIT OF
MANDAMUS [CIRCUIT COURT OF
CROSS COUNTY, CR 96-61]

PETITION TO REINVEST
JURISDICTION IN THE TRIAL
COURT TO CONSIDER A PETITION
FOR WRIT OF ERROR CORAM NOBIS
DENIED; MOTION TO SUPPLEMENT
RECORD AND PETITION FOR WRIT
OF MANDAMUS MOOT.

PER CURIAM

In 1998, petitioner Ricky Lee Scott was found guilty by a jury of first-degree murder and sentenced to life imprisonment. We affirmed. *Scott v. State*, 337 Ark. 320, 989 S.W.2d 891 (1999).

Thereafter, petitioner unsuccessfully sought postconviction relief in circuit court. In addition, he previously filed in this court two petitions to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis that we denied. *Scott v. State*, CR 98-1167 (Ark. Oct. 12, 2006) (per curiam); *Scott v State*, CR 98-1167 (Ark. Dec. 4, 2008) (per curiam). Now before us is petitioner's third pro se petition to reinvest jurisdiction in the trial court to consider a petition for writ

042
PET. Exhibit - "C"

of error coram nobis.¹ Petitioner also filed in this court a pro se motion to supplement the record in the direct appeal that was resolved in 1999, and a pro se petition for writ of mandamus concerning the instant matter.²

The petition to reinvest jurisdiction in the trial court is necessary because the circuit court can entertain a petition for writ of error coram nobis after a judgment has been affirmed on appeal only after we grant permission. *Dansby v. State*, 343 Ark. 635, 37 S.W.3d 599 (2001) (per curiam).

A writ of error coram nobis, an extraordinary remedy that is rarely granted, is allowed only under compelling circumstances to achieve justice and to address errors of the most fundamental nature. *Pitts v. State*, 336 Ark. 580, 986 S.W.2d 407 (1999) (per curiam). These errors are found in one of four categories: insanity at the time of trial, a coerced guilty plea, material evidence withheld by the prosecutor or a third-party confession to the crime during the time between conviction and appeal. *Id.*

After a conviction has been affirmed, the writ is appropriate to secure relief from a judgment when a petitioner can demonstrate that a fundamental error of fact existed that was not addressed, or could not have been addressed, at trial because it was extrinsic to the record and somehow hidden or unknown to the petitioner. *Cloird v. State*, 357 Ark. 446, 182 S.W.3d 477 (2004); *State v. Larimore*, 341 Ark. 397, 17 S.W.3d 87 (2000). Moreover, a petitioner must show that had the fact been known to the trial court, it would have prevented rendition of the judgment, and it was not brought forward before rendition of judgment through no negligence or fault of the petitioner.

¹For clerical purposes, the instant pleading was assigned the same docket number as the direct appeal of the judgment.

²The petition for writ of mandamus is directed toward Dustin McDaniel, the Arkansas Attorney General, individually. In the mandamus petition, petitioner asks this court to direct Mr. McDaniel to respond to petitioner's motion to supplement the record, and to complete the record as requested therein by petitioner.

Cloird, supra; Larimore, 341 Ark. 397, 17 S.W.3d 87.

Coram nobis proceedings are attended by a strong presumption that the judgment of conviction is valid. *Penn v. State*, 282 Ark. 571, 670 S.W.2d 426 (1984). The court is not required to accept the allegations contained in a petition at face value. *Cloird, supra*. “The mere naked allegation that a constitutional right has been invaded will not suffice. The application should make a full disclosure of specific facts relied upon and not merely state conclusions as to the nature of such facts.” *Cloird*, 357 Ark. at 450, 182 S.W.3d at 479 (quoting *Larimore*, 341 Ark. at 407, 17 S.W.3d at 93).

Petitioner was initially charged with capital murder. Here, he claims that trial counsel failed to convey to petitioner a plea offer made by the prosecutor in January 1997. Petitioner further contends that had he known about the plea offer, he would have accepted it. The record reflects that the prosecutor offered to amend the charge of capital murder to second-degree murder and recommend a twenty-year sentence in exchange for petitioner’s guilty plea. The offer also addressed a rape charge pending against petitioner that was later dismissed.

As grounds for coram nobis relief, petitioner contends that a fundamental error occurred when the prosecutor failed to disclose the written plea offer. Petitioner contends that he made this discovery during the course of a 2006 request for documents pursuant to the Arkansas Freedom of Information Act (“FOIA”), currently codified at Arkansas Code Annotated §§25-19-101 to -109 (Repl. 2002 & Supp. 2007).³ Petitioner couches this claim in terms of “newly discovered evidence” or material evidence being withheld by the prosecutor, allegedly resulting in a violation of *Brady v. Maryland*, 373 U.S. 83 (1963). Petitioner thus attempts to categorize the claim as one for which

³Petitioner did not raise this argument in either of the prior coram nobis petitions.

coram nobis relief is available. *Pitts, supra*.

However, petitioner's allegation of suppression by the prosecutor pertains to the posttrial FOIA request made by petitioner. The gravamen of petitioner's claim is counsel's alleged failure to convey a plea offer, which is properly addressed through a claim of ineffective assistance of counsel. *Riggins v State*, 329 Ark. 171, 946 S.W.2d 691 (1997). Ineffective assistance claims are not cognizable in petitions for coram nobis relief. *McArty v. State*, 335 Ark. 445, 983 S.W.2d 418 (1998) (per curiam).

Even if the petition were to be construed as alleging that the prosecutor suppressed the plea offer prior to trial, petitioner has stated no ground for coram nobis relief. For the writ to issue following affirmance of the conviction, petitioner must show a fundamental error of fact that was extrinsic to the record below, but was hidden from appellant or counsel, or otherwise unknown. *Cloird, supra*; *Larimore v. State*, 327 Ark. 271, 938 S.W.2d 818 (1997). Also, a petitioner must show that had the fact been known to the trial court, it would have prevented rendition of the judgment, and it was not brought forward before rendition of judgment through no negligence or fault of the petitioner. *Cloird, supra*; *Larimore*, 341 Ark. 397, 17 S.W.3d 87.

In any event, the allegations in the petition appear to be neither reasonable nor probably truthful. *Echols v. State*, 354 Ark. 414, 125 S.W.3d 153 (2003). According to the petition, a second plea offer was made by the prosecutor on the morning of the jury trial in March 1998. The State offered to reduce the capital murder charge to manslaughter and recommend a ten-year sentence in exchange for petitioner's guilty plea. On the record, petitioner rejected that offer and proceeded to trial.

The court is not required to accept the allegations contained in a petition at face value.

Cloird, supra. By rejecting a more favorable plea offer on the eve of the jury trial, it is not reasonable or probably truthful for petitioner to now claim that he would have accepted the less-favorable initial plea offer had he only known about it in 1997. *Echols, supra.*

In a petition for writ of error coram nobis, it is the petitioner's burden to show that the writ is warranted. *Cloird, supra.* Here, petitioner fails to make a showing that the allegations contained in his petition are meritorious or are grounds for reinvesting jurisdiction in the trial court to consider a petition for writ of error coram nobis. As no substantive basis exists for granting the petition, we need not reach the issue of whether petitioner exercised due diligence in proceeding for the writ. Because the petition to reinvest jurisdiction in the trial court to consider a petition for writ of coram nobis relief is denied, the motion to supplement the record and the petition for writ of mandamus are moot.

Petition to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis denied; motion to supplement record and petition for writ of mandamus moot.

SUPREME COURT OF ARKANSAS

No. CR 98-1167

Opinion Delivered September 30, 2010

RICKY LEE SCOTT
Petitioner

v.

STATE OF ARKANSAS
Respondent

PRO SE PETITION TO REINVEST
JURISDICTION IN THE TRIAL
COURT TO CONSIDER A PETITION
FOR WRIT OF ERROR CORAM NOBIS
[CIRCUIT COURT OF CROSS
COUNTY, CR 96-61]

PETITION DENIED.

PER CURIAM

In 1998, a jury found petitioner Ricky Lee Scott guilty of murder in the first degree and sentenced him to life imprisonment. This court affirmed. *Scott v. State*, 337 Ark. 320, 989 S.W.2d 891 (1999).

Following affirmance of the judgment, petitioner filed a series of requests for postconviction relief, none of which was successful. See *Scott v. State*, 355 Ark. 485, 139 S.W.3d 511 (2003); *Scott v. State*, CR 06-10 (Ark. January 26, 2006) (per curiam). Now before us is petitioner's fourth pro se petition requesting that this court reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis.¹ The petition for leave to proceed in the trial court is necessary because the circuit court can entertain a petition for writ of error coram

¹For clerical purposes, the instant petition to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis was assigned the same docket number as the direct appeal of the judgment.

PET. Exhibit - "D" 047

nobis after a judgment has been affirmed on appeal only after we grant permission. *Grant v. State*, 2010 Ark. 286 , ____ S.W.3d ____ (per curiam) (citing *Newman v. State*, 2009 Ark. 539, ____ S.W.3d ____); *see also Dansby v. State*, 343 Ark. 635, 37 S.W.3d 599 (2001) (per curiam).

As with petitioner's prior petitions, we find no ground to grant the relief sought and deny the petition.² Petitioner first asserts that a mistrial should have been granted after a witness made an inflammatory statement and that the jury was biased against him. The claims are not within the purview of a coram nobis proceeding.

A writ of error coram nobis is an extraordinarily rare remedy, more known for its denial than its approval. *Larimore v. State*, 341 Ark. 397, 17 S.W.3d 87 (2000). The writ is allowed only under compelling circumstances to achieve justice and to address errors of the most fundamental nature. *Pitts v. State*, 336 Ark. 580, 986 S.W.2d 407 (1999) (per curiam). We have held that a writ of error coram nobis was available to address certain errors that are found in one of four categories: insanity at the time of trial, a coerced guilty plea, material evidence withheld by the prosecutor, or a third-party confession to the crime during the time between conviction and appeal. *Pitts*, 336 Ark. at 583, 986 S.W.2d at 409. Coram nobis proceedings are attended by a strong presumption that the judgment of conviction is valid. *Echols v. State*, 360 Ark. 332, 201 S.W.3d 890 (2005). The function of the writ is to secure relief from a judgment rendered while there existed some fact that would have prevented its rendition if it had been known to the circuit court and which, through no negligence or fault of the defendant, was not brought forward before rendition of judgment. *Grant*, 2010 Ark. 286 (citing *Newman*, 2009 Ark. 539); *see*

²See *Scott v. State*, 2009 Ark. 437 (per curiam); *Scott v. State*, CR 98-1167 (Ark. Dec. 4, 2008) (unpublished); *Scott v. State*, CR 98-1167 (Ark. Oct. 12, 2006) (unpublished).

also Sanders v. State, 374 Ark. 70, 285 S.W.3d 630 (2008) (per curiam).

It is clear that the issues raised by appellant concerning the witness's testimony and the ~~alleged jury bias were issues that were known at the time of trial and could have been addressed~~ then. As such, the assertions are not cognizable in a coram nobis proceeding.

Petitioner's final allegation is that there is newly discovered evidence not available at the time of his trial concerning the authenticity of the written statements of three witnesses obtained on March 4, 1996, which appellant indicates was the night of the murder. He contends that this evidence will show that, but for prosecutorial misconduct, there is a reasonable probability that the outcome of the trial would have been different. While petitioner asserts that the statements were not available at trial, he states that prior to his trial, an investigator with the sheriff's office gave him a copy of the "three previously undisclosed written witness statements" taken on the night of the murder. He argues that the three statements were somewhat different from those made later in the level of detail and in the handwriting. He claims that he has developed proof that the statements used at trial, which he alleges were taken on March 16, 1996, were forgeries. He contends that the defense was led to believe that there was only one set of witness statements made on March 16, 1996, but, in truth, there were two sets—one made on March 4, 1996, and one twelve days later on March 16, 1996. Although petitioner asserts that the evidence would have changed the outcome of his trial, he presents nothing to support that claim. The court is not required to accept at face value the allegations of the petition. *Penn v. State*, 282 Ark. 571, 670 S.W.2d 426 (1984) (citing *Troglin v. State*, 257 Ark. 644, 519 S.W.2d 740 (1975)).

By his own statements, petitioner concedes that he was aware prior to trial of the three

statements made March 4, 1996. He also concedes that the witnesses were questioned at trial on the accuracy of the statements introduced and on whether more than one set of statements was taken by the authorities. Under these circumstances, even if appellant has recently obtained the opinion of a handwriting expert concerning the second set of written statements, he has not met his burden of demonstrating that there was evidence withheld at the time of trial.

A claim of newly discovered evidence in itself is not a basis for coram nobis relief. *Webb v. State*, 2009 Ark. 550 (per curiam) (citing *McArty v. State*, 335 Ark. 445, 983 S.W.2d 418 (1998) (per curiam)). There is a distinction between fundamental error which requires issuance of the writ and newly discovered information which might have created an issue to be raised at trial had it been known. *Mosley v. State*, 333 Ark. 273, 968 S.W.2d 612 (1998) (per curiam). At most, petitioner has shown that the defense challenge to the statements introduced at trial could have been bolstered by the expert opinion he has alleged to have recently obtained. He has not shown that there is newly discovered evidence sufficient to have precluded the entry of the judgment.

The State in its response to the petition urges this court to find that petitioner has not been diligent in bringing the claim of new evidence to challenge the statements. We agree. While there is no specific time limit for seeking a writ of error coram nobis, due diligence is required in making an application for relief, and in the absence of a valid excuse for delay, the petition will be denied. *Echols v. State*, 354 Ark. 530, 127 S.W.3d 486 (2003). Due diligence requires that (1) the defendant be unaware of the fact at the time of trial; (2) the defendant could not have, in the exercise of due diligence, presented the fact at trial; and (3) upon discovering the fact, the defendant did not delay bringing the petition. *Id.* Petitioner has fallen far short of

demonstrating diligence.

Petition denied.

STATE OF ARKANSAS)
) §§ Affidavit of Ricky Lee Scott concerning
COUNTY OF LINCOLN) Judicial Discipline and Disability Commission

I, Ricky Lee Scott, do hereby affirm:

1 In 2015, various media sources reported District Court Judge Joseph Boeckmann was under investigation by the Arkansas Judicial Discipline and Disability Commission ("JDDC") after being accused of possessing child pornography and using his authority to trade rulings for sexual favors, and other illegal practices.

2 I contacted the JDDC by letter and reported my similar experience in October 1995, wherein, as then Deputy Prosecuting Attorney, Boeckmann had propositioned me for oral sex, but that I had refused. I also reported that within days after rejecting Boeckmann's advances, a series of events began that would lead to my arrest and conviction for first degree murder.

3 About 14 December 2015, I was interviewed by JDDC investigator, Dennis Dearen, concerning my complaint. The interview was recorded. I stated:

- A. In October 1995, I was approached by Wynne Police Officer, Brian Settles, who informed me that State Police Officer, Dale Arnold, wanted to talk to me;
- B. that shortly after, Arnold approached me and requested I follow him to the Wynne Police Department, where he proceeded to question me about an alleged rape of a minor;
- C. that following questioning, Arnold requested I follow him to the Cross County Jail, where he informed the jailer to hold me on a \$ 100,000 cash bond;
- D. that I immediately called attorney Kyle Hunter, who shortly arrived at the jail with Boeckmann;
- E. that Boeckmann demanded to be shown Arnold's paperwork to justify my arrest, but was told that none existed;
- F. that Boeckmann stated he knew no paperwork existed because, as deputy prosecuting attorney, he had not sought a warrant for my arrest, and then told me to go home;
- G. that during the following week, I went to the Municiple Court building to talk to Boeckmann about Arnold's conduct, and was told not to worry about anything, that Arnold had overstepped his authority;
- H. that it was then while talking to Boeckmann that he propositioned me for sex, stating "I've done you a favor, one favor deserves another," indicating that I was to do as he said.

4 On 12 January 2016, JDDC Executive Director, David J. Sacher, acknowledged receipt of my complaint, assigned as case number 15-353.

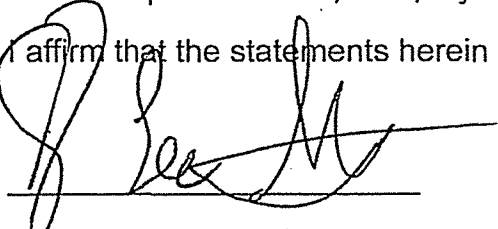
5 In 2016, I was interviewed by JDDC Chief Investigator, Lance Womack, and
others, via phone.

6 In May 2016, facing mounting evidence of sexual misconduct and malfeasance,
Boeckmann resigned as district court judge.

7 I filed under Arkansas Freedom of Information Act ("FOIA") with the JDDC
seeking copy of all records and files relating to the investigation of Boeckmann.

8 On 6 February 2017, JDDC Executive Director, David Sacher, responded to my
FOIA request and stated that the JDDC'S records, files and reports were confidential
and exempt from FOIA, thus, my request was denied.

I affirm that the statements herein above are true to the best of my knowledge.



Ricky Lee Scott, affiant

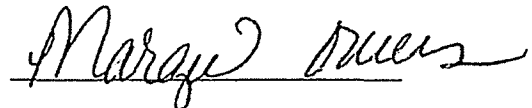
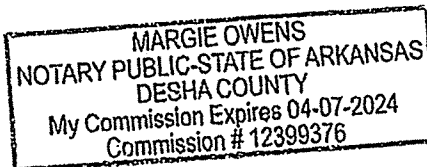
April 24, 2018

Date

Subscribed and sworn to before me, a Notary Public, on this 24th day of April,
2018.

04-07-2024

My Commission Expires on:



Notary Public

STATE OF ARKANSAS)
) §§ Affidavit of Ricky Lee Scott concerning
COUNTY OF LINCOLN) extraordinary events

I, Ricky Lee Scott, do hereby affirm:

1. On or about 24 October 1995, I was approach by Wynne Police Department Officer, Brian Settles, and informed that Arkansas State Police Officer, Dale Arnolds, wanted to talk to me. After Officer Arnolds arrived, we went to the police department where he advised me of my rights and began asking me questions about the daughter of a woman I was seeing. At that point, I was not under arrest, nor did Officer Arnolds so indicate.
2. After questioning by Officer Arnolds, he asked me to follow him in my vehicle to the Cross County Jail. There, he informed the jailor to hold me on a \$100,000 *cash* bond. Officer Arnolds indicated that I was being held on a rape charge. Before leaving, Officer Arnold searched my vehicle without my consent or a warrant. He never indicated that an arrest warrant or any other documents had been filed against me; I was being held without cause.
3. I contacted attorney Kyle Hunter and informed him of what occurred. Shortly, he and Deputy Prosecuting Attorney, Joesph Boeckmann, arrived and requested to be shown any "paperwork" to show cause for me being held; none was produce, nor had Officer Arnold given any to the jailor. Boeckmann then stated, "I know he didn't have any because I'm the deputy prosecutor and I haven't issued any warrant for this person." Boeckmann then told me to leave. I left without being served or signing any document, and without posting bond. Effectively, I had been illegally detained.
4. On or about 27 October 1995, I went to the Municipal Court building to talk to Boeckmann about what had occurred a few days earlier. Boeckmann clearly stated to me to "not worry about it," and that Officer Arnold had "overstepped his authority." It was then that Boeckmann propositioned me indicating that I owed him for doing me a favor. He wanted me to submit to a sexual act, but I flatly refused and left. It was at this point that a number of unexplained extraordinary events began.
5. Oddly enough, as will be explained below, from late October 1995 to March 1996, I had no contact with any public official or court. I was not made aware, nor served copy, of any legal action being brought against me concerning the rape allegation by the State.
6. On 5 March 1996, Wynne Police Officer, Roger Spear and Curtis Swan, came to and entered my home, guns drawn, and arrested me for murder. Upon questioning, I invoked my right to counsel and was then taken to the county jail. The same day Judge Richard L. Proctor received a probable cause affidavit, approved by Bocekmann, and issued a bench warrant setting a \$ 250,000 bond.

7. On 25 March 1996, I appeared in Circuit Court, Judge Harvey Yates presiding, without counsel, what seemed to be a formal arraignment or bond hearing. Boeckmann stated to the Court that I had "shot the victim with that rifle," indicating the weapon he had before him, and that there had been "bad blood" between myself and the victim. The victim, by the way, was the nephew of the woman I was dating. Boeckmann also stated, to my complete surprise, that I "had a rape charge pending" in the same court. Judge Yates stated he had no case file before him and was told it was "lost" or "misplaced." Notwithstanding that revelation, the Court denied setting bond.
8. The notice of the rape charge was an utter surprise, especially after Boeckmann had told me that he had done me "a favor" and to "not worry about it." Now, he was telling the Court something else entirely. To find out, I obtained from the circuit clerk four documents: Information, Affidavit of Probable Cause, Arrest Warrant, and an Own Recoguanance form; all of which were dated 16 November 1995. Notably the O.R. form was unsigned, but stated, "Ricky Scott was O.R. from the Cross County Sheriff Department October 25, 1995." To me this was a fabrication of documents to establish events that had not actually occurred. Unfortunately, my suspicion would be proven correct.
9. At sometime after obtaining these documents, I filed a complaint against Boeckmann with the Supreme Court Committee of Professional Conduct. I do not remember the date or case number assigned. The Committee wrote me requesting I provide them a docket sheet for the rape case, CR-95-255. My effort to obtain the docket sheet was thwarted by the circuit clerk, Vernon Horton, who only provided me a document listing all cases pending in the current circuit court term. The truth of the matter appears to be that the file was truly "lost" or nonexistent. I sent the Committee what the circuit clerk provided me, not knowing it was useless. I later discovered that the Committee contacted the circuit clerk and was provided with a previously nonexistent docket sheet that indicated two pretrial hearings, listed as 11 April and 28 June 1996, neither of which had occurred. It appeared to me that until the Committee directly requested the docket sheets, they had not existed and were fabricated to meet the demand and to cover for Boeckmann in defense of my complaint.
10. On 2 May 1996, my attorney, Ronald Wilson, entered appearance in my murder case, CR-96-61. I told him that Officer Spear and Swan had reentered my home, after arresting me, without a warrant and took my L.A. Lakers jersey and had taken my hiker boots at the jail, neither of which I had worn on the night the victim was shot. Wilson came back later and told me that "the prosecutor said the police did not take a jersey, nor your boots." I maintain that he was lying to Wilson. I was not yet aware that Boeckmann was actually violating my due process by suppressing evidence in the possession of law enforcement as held in *Brady v. Maryland*, 373 U.S. 83 (1963). What was particularly relevant was that eyewitnesses stated the shooter was wearing a blue shirt and there was a boot print near the scene. My jersey was purple, black and gold and my boots would not have matched. Neither were mentioned at the Discovery hearing on 19 March 1997, nor at trial in March 1998.

11. On 28 June 1996, a bond hearing was held before Judge Ashley Higgins, who reinstated the \$250,000 bond, stating that "it should never have been taken in the first place." Boeckmann was angered that the Court also refused to raise the bond amount. Then another strange event occurred, Boeckmann stood and stated, "Your Honor, I would like to arraign Mr. Scott on this rape charge at this time," but the Court refused. Seventeen days later Boeckmann orchestrated another peculiar event.
12. On 15 July 1996, a jailor told me to get dressed for court. I wasn't expecting a hearing, however, to my astonishment, when I entered the courtroom I found it filled with a jury pool, Judge Higgins, Boeckmann and attorney Kyle Hunter. After being seated and conferring with Hunter, discovering that he was unaware of why we were there, Boeckmann rose and stated, "Your Honor, we are ready for jury trial." I told Hunter that I had not been arraigned on the charge, and the Court had refused to arraign me two weeks earlier. I told Hunter how angered Boeckmann had been after Judge Higgins refused. Hunter averred to the Court that the case had been dismissed, but Boeckmann stated it had not. Judge Higgins stated that, "the docket sheets show that Mr. Scott was arraigned in April and his case was set for today." However on Hunter's motion, a continuance was granted, and continued again on 13 September 1996. Following this fiasco, Hunter came to the jail and told me "that was Boeckmann's doing," but then said he needed \$5,000 to "get started" on my case. I replied, "You stood before the Court and pretended you were my attorney this morning and now ask me for \$5,000?" He walked away. My take from all this was that Hunter and Boeckmann were conspiring against me. However, on 16 December 1996, I filed a pro se motion to dismiss, and the case was eventually dismissed on 19 January 1999, but not before Boeckmann continued to meddle with my right to due process.
13. On 3 January 1997, I brought to my attorney Wilson's attention that I believed Hunter and Boeckmann were conspiring to railroad me for rape, and explained my reasoning, noting entries in the docket of hearings that did not occur and Hunter pretending to be my attorney of record, and other oddities. Wilson had me brought immediately to the circuit courtroom, where I discussed my concerns with Judge L.T. Sims II, as well as my belief that Hunter and Boeckmann were purposely violating my constitutional rights. Judge Sims had Hunter summoned and questioned him about my case, after which Hunter agreed to represent me pro bono. Nevertheless, I retained attorney Bill McArthur about 20 March 1997. In August 1997, after visiting with McArthur, I obtained a current copy of the docket sheet and sent him a copy. McArthur not only concluded that some of the activities had been illegal, but also that the docket sheets had been tampered with, and said he needed to order transcripts of pretrial hearings. Two weeks later, McArthur said there were no recordings, there's no transcript, of any pretrial hearings and he had no way of discovering what had happened in the case.
14. Soon after, I was visited by State Senator and attorney Bill Lewellen at my mother's request. I explained to him all the events and that court proceedings were being purported to have occurred in an attempt to deny me due process. He said he'd look into it and a few weeks later confirmed that none of the pretrial hearings listed prior to 15 July 1996 had actually taken place, nor were there any transcript of such. Lewellen

recommended that I refuse all plea offers and insist on trial, which I did. The case was eventually dismissed in January 1999.


15. In late 1997, just a few months before my trial for murder, I was visited one night by Cross County Sheriff's Department Chief Investigator, Bill Brinkworth, who disclosed some surprising evidence. Brinkworth stated he did not like what the Prosecutor and Wynne Police Department were doing to me. Inquiring further, he said, when he goes to a crime scene he did not create evidence, and revealed that the State had knowingly given my attorney eyewitness statements that were forgeries fabricated by Officer Curtis Swan. Brinkworth then handed me three written witness statements that he claimed were copies of the originals and indicated that the State couldn't possibly convict me based on these statements. I gave the statements from Brinkworth to Wilson the following day, who in turn compared them to those he received from the State and quickly noted the differences in handwriting, signature, and content. Furthermore, the statements given to me by Deputy Brinkworth were dated the night of the shooting, written by the eyewitnesses while the incident was still vivid in their minds. Those forged by Officer Swan were written twelve days after the shooting. Wilson stated it was clear evidence tampering where the police took the original statements, rewrote them and forged the witnesses signatures, and assured me that the state did not have a case to convict me.
16. On 11 March 1998, the first day of trial, Wilson brought me some surprising news that the State intended to introduce previously undisclosed evidence: a .380 bullet casing police allegedly discovered at the crime scene by Officer Spear. However, over the two years between the alleged finding of the pistol shell casing and the first day of trial, there had been no mentioning of it nor was it documented in any discovery information; it had just appeared the first day of trial. Yet, just twenty-days after the shooting, Boeckmann had presented to the Court a rifle he claimed I had used to shoot the victim. If the pistol shell casing had actually been found at the crime scene, Boeckmann would not have shown the Court a rifle and claimed it was the murder weapon. This had to be "created evidence" Deputy Brinkworth had alluded to.
17. Over the years following my conviction I have attempted to bring forth the various infractions on my due process rights in the time leading up to and during my case. I previously filed four petitions in the Arkansas Supreme Court to reinvest jurisdiction in the Cross County Circuit Court. In each petition I raised separate instances of what I thought was prosecutorial misconduct: witness tampering, *Brady* violations, tampering, and fabrication of evidence. My claims were never considered to be sufficient, mostly because I didn't have hard evidence to back up those claims; the evidence I could bring to bear was superficial at best. The Arkansas Supreme Court seems to have never considered all of my claims together, that is, singularly they just didn't reach the threshold set by the Court. And, perhaps, considering just these previous claims cumulatively falls a bit short of that threshold. However, now new evidence of Boeckmann's history of manipulating the justice system, beginning as far back as the 1970's through to 2016, to satisfy his own sexual perversions and to wield his power over us less fortunate persons has come to light. The new evidence has finally begun

to explain why Boeckmann used his public office to adversely affect my case, violating due process, and sheds light onto how he did so.

18. The new evidence, that released to the public as a result of his federal conviction, only provides a glimpse of what I suspect is a far more reaching and damaging history of prosecutorial misconduct. The fact that Boeckmann was convicted of witness tampering begins to explain why witnesses in my case changed their story over time or were outright untruthful. Boeckmann's attempts to manipulate and even threaten witnesses against him makes me believe he did the same as a deputy prosecuting attorney. The way he used other persons in his federal case to convey threats and to attempt to manipulate others is a clear reflection of his willingness to do the same throughout his history as a prosecuting attorney. I was very much disturbed to discover, after reading about another victim in the 1980s facing criminal charges, that Boeckmann had done to him exactly what he did to me after rebuffing his sexual advances: manipulate the legal system to exact a harsh punishment. Unfortunately, Boeckmann's actions were known to be mirrored by Officer Spears, wherein he too used his police office and powers to manipulate young woman to perform sexual favors under the guise of clearing fines.

19. I am certain that I am not the only victim. The public information indicates that Boeckmann was under investigation by a number of agencies and that most of their findings were not released to the public. I believe that investigative information is relevant to support my claims and any new claims of prosecutorial misconduct in my case, and that it must be made available to me so that I can file a complete motion for error coram nobis in the trial court.

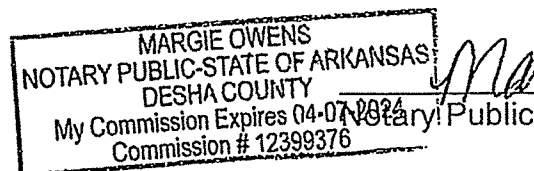
I affirm that the statements herein are true to the best of my knowledge.


Ricky Lee Scott, affiant

April 24, 2018
Date

Subscribed and sworn to before me, a Notary Public, on this 24th day of April 2018.


My Commission expires on:



STATE OF ARKANSAS)

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Affidavit of Ricky Lee Scott concerning

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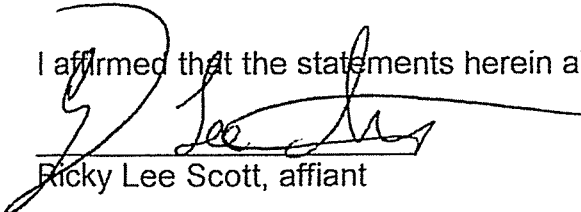
U.S. Department of Justice

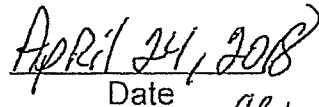
COUTY OF LINCOLN)

I, Ricky Lee Scott, do hereby affirm:

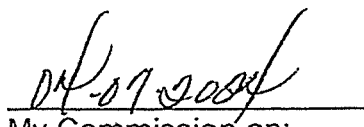
1. About 25 January 2017, I submitted a Freedom of Information Act ("FOIA") request, pursuant to Title 5 U.S.C.A. § 552, to the U.S. Department of Justice ("DOJ") Public Integrity Section, seeking copy of the U.S. Prosecutor's work product files in the case of *U.S. v. Boeckmann*, U.S.D.C. No. 4:16- CR-00232-KGB-1.
2. On 25 April 2017, the DOJ FOIA Unit Chief, Amanda M. Jones, acknowledged receipt of my FOIA request, and assigned my request file number CRM-300592753.
3. The same 25 April 2017 letter included a denial of my FOIA request, stating that disclosure of law enforcement records concerning an individual could reasonably be expected to constitute an unwarranted invasion of privacy.
4. About 11 June 2017, I submitted my administrative appeal of the denial of record to the Director of the Office of Information Policy, DOJ.
5. On 4 August 2017, Supervisory Administrative Specialist, Priscilla Jones, acknowledged receipt of my appeal.
6. On 12 October 2017, DOJ Office of Information Policy Associate Chief, Matthew Hurd, stated in a letter that my appeal, number DOJ-AP-2017-00585, had been adjudicated on 18 August 2017, although I had not received notification or results.
7. The 12 October 2017 letter also informed me that my appeal was officially closed.

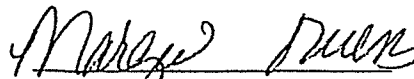
I affirmed that the statements herein above are true to the best of my knowledge.

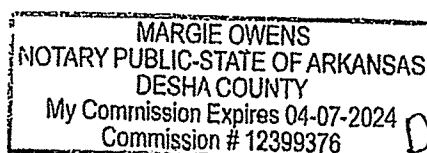

Ricky Lee Scott, affiant


Date

Subscribed and sworn to before me, a Notary Public, on this 24 day of April, 2018.


My Commission on:


Notary Public



DET. Exhibit - "G"

<https://www.arktimes.com/arkansas/injustice-investigators-say-judge-joseph-boeckmann-jr-of-wynne-abused-his-position-to-serve-his-sexual-desires/Content?oid=4454784>

Injustice: Investigators say Judge Joseph Boeckmann Jr. of Wynne abused his position to serve his sexual desires

Power, truth, justice and whispers in a Delta town.

By David Koon

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- JUDGE BOECKMANN: Resigned from the bench after the state judicial review board said he allegedly used his position to procure sex from young men.

It's a testament to how many wholly fallible human beings don a judge's robe and manage to do things right day after day that the allegations against former Cross County District Court Judge O. Joseph Boeckmann Jr. of Wynne rippled through the state, national and even international news when the story broke last November.

The case laid out in pieces by investigators with the state Judicial Discipline and Disability Commission is anybody's definition of damning, drawing on often graphic interviews with young men who came to Boeckmann's court, hard evidence in the form of checks Boeckmann paid to some of those young men and others, and a trove of over 4,600 digital photos recovered from Boeckmann's computer, ranging from the suggestive to the pornographic. Investigators with the JDDC say it adds up to an abuse of judiciary power that's almost unthinkable: that Boeckmann used his position on the bench to procure both fetishistic photos and sexual and sadomasochistic partners, preying on poor and vulnerable defendants who couldn't afford to pay their fines.

Just as disturbing was the fact that as the case unfolded, investigators with the JDDC began hearing from men who had dealings with Boeckmann when he was a deputy prosecutor in the area, including allegations that he was secretly asking for sexual favors in exchange for prosecutorial leniency as far back as the late 1970s. Some of those who claim they turned down Boeckmann's offers as young men still sit in prison today.

Exhibit H

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Boeckmann, who stepped down from the bench May 9, hasn't been charged with any crime. Through his attorney and in JDDC filings, he has repeatedly denied the allegations made against him. In Cross County, however, people say rumors of what was allegedly going on swirled for years, which raises the obvious question of why it took so long for it all to come to light.

'Tell me about the boys'

Just how rarely an Arkansas judge gets into truly hot water is probably best revealed by the Judicial Discipline and Disability Commission's miniscule staff, which consists of executive director David Sachar, deputy executive director Emily White, one investigator, the occasional "undercover" (dispatched to sit in on and report back from far-flung courtrooms where judges have been accused of bizarre behavior or sniping disrespectfully at defendants or attorneys), an occasional law clerk and a fiscal officer who writes the checks. Though they've made some big cases in recent years, the JDDC is pretty much the definition of a bureaucratic backwater, and a normally becalmed one at that. Still, as Sachar says, unlike other states where judicial discipline is either neutered or a tool for political witch-hunting, the JDDC in Arkansas is an independent, nonpartisan agency, free to follow the truth where it takes it — or at least as far as its budget will stretch.

Joe Boeckmann's latest troubles were not his first brush with the JDDC. On the bench as a part-time district court judge in the First Judicial District since January 2009, Boeckmann — part of one of the old-line German families that go back to the beginning of Wynne, with business interests including farming, rental property and a law practice — had received a letter of admonishment in March 2011 relating to incidents in which his employees and associates, when pulled over by the Wynne Police Department, had phoned Boeckmann while being detained and put the police officer on the line with the judge. In another incident, the JDDC letter of admonishment claims: "You also helped return stolen goods that were taken by one of your family's part-time employees. This led to a sitting judge handling stolen property, albeit in an effort to turn the property over to authorities." The letter concluded by saying that the public admonishment was adequate discipline, but warning that further discipline might occur if the violations were repeated.

Boeckmann once again landed on the JDDC radar in September 2014, when an investigator with the Arkansas Department of Human Services filed a complaint with the JDDC, alleging that Boeckmann had reduced a \$50,000 cash bond against a woman who had been charged in Cross County with six felony counts, including

three counts of theft of property and three counts of abuse of an endangered or impaired person, to an "own recognizance" bond that allowed the defendant to get out of jail immediately with no bond required. The defendant, the JDDC later noted in its statement of allegations against Boeckmann, was the sister of a former sexual partner of Boeckmann, as well as the mother of Boeckmann's niece, and was employed by Boeckmann's sister, who is the manager of Wynne Elder Care LLC, a nursing care company to which Joesph Boeckmann was, according to the JDDC, "a financial contributor ... regularly writing checks in excess of several thousand dollars each year." The JDDC also said that Boeckmann served on numerous occasions as the officiating judge in cases involving his family members, including two cases involving his nephew. Yes, the business, personal and familial kudzu can get a little tangled in a small town like Wynne.

Beginning in October 2014, JDDC Deputy Executive Director Emily White started looking into the case, first bringing it for approval by one of the JDDC investigation panels. Almost immediately, she began hearing troubling rumors about Boeckmann.

Eventually, still believing she was investigating a conflict of interest case in spite of the rumors, White worked her way around to interviewing Boeckmann's court staff. Appreciating how difficult it can be for a judge's staff to talk about their boss, White had saved them for last. It was only when she interviewed the clerk who had been in the court the longest, a woman whose employment predated Boeckmann's time on the bench, that the case broke open. In the middle of questioning, there was a pause. Then the clerk asked, "Do you know about the boys?"

"I would say the course of the investigation shifted a bit," White said. "I said, 'Tell me. Tell me about the boys' They actually had lists. They'd been keeping very good notes for quite some time. They said to me, 'There's something odd, we think, because he'll grant community service to young men between the ages of 18 to 35 approximately, where a woman will come before him on the same charge and get slammed with the maximum fine.' "

Once the clerk started talking, other court staff followed. "Their first red flag, to their credit, was him giving his number [to defendants] across the bench," White said. "That's how it started with me, really. They said, 'He hands his number to them over the bench. His cell phone number.' "

As detailed in the JDDC statement of allegations against Boeckmann, the judge often awarded "substitutionary sentences" to male defendants, who were told they would be able to have their fines waived by performing community service picking

up cans. The standard practice, according to White and Sachar, was for Boeckmann to have some of the male defendants who appeared before Boeckmann on minor charges like traffic violations to wait until after court, at which time Boeckmann would give them a piece of paper with details of when and where they were to report with bags of aluminum cans they had collected as part of community service. The address was sometimes that of Boeckmann's private residence in Wynne.

After they arrived at the location, Boeckmann would allegedly stand nearby and take photographs of them from behind, instructing the young men to bend over as if picking up a can and telling them how deep to bend and sometimes telling them to spread their legs wider apart. According to the JDDC, Boeckmann allegedly told them the photos would be used to document that they had performed the requirements of their community service. In the trove of thousands of digital photos obtained from Boeckmann's private computer and handed over to the JDDC by an agency Sachar refused to name on the record, there are hundreds of photos of young men bent over, picking up cans.

One of those who was allegedly photographed by Boeckmann was Little Rock resident Richard Milliman, who appears anonymously in the JDDC's amended statement of allegations against Boeckmann only as "Victim No. 4 (R.M.)" Formerly a resident of Memphis, Milliman — who has since become part of a group of several men who have filed a civil lawsuit against Boeckmann through Little Rock attorney Gary Green — was returning to Tennessee after visiting a friend in Heber Springs on July 28, 2014, when he was stopped in Cross County for speeding. Initially told he could go after a check of his license, Milliman put his car in gear and started to pull away only to have the officer pull him over again after a short distance and write him a ticket for expired tags. After forgetting about the ticket and missing his original court date, Milliman, then 21, eventually appeared before Boeckmann in early November 2014.

"What you would see in a movie where there's an old Southern judge? That was exactly the same vibe I got," Milliman said. "The judge was very stern. He seemed really rough. Really abrasive. He even told me at one point when he was questioning me, he said, 'Well, you know, I don't believe you, but I'm going to give you an opportunity.' "

Milliman said the opportunity was the same given to another young man appearing before Boeckmann that day: Stay after court to receive information on completing community service rather than pay a fine. Milliman was given a piece of paper

with a phone number and an address, and told to collect two bags of aluminum cans for charity. When he arrived at the address he'd been given, he said, it turned out to be Boeckmann's private residence.

"I thought it was going to be a building, and it ended up being a house," Milliman said. "That was a red flag. Then, right when I pulled up, the garage door was open and here comes the judge walking out. I was like, OK. I guess it is what it is."

Milliman said he got out and followed the judge inside. When he walked in, he said, there was a bottle of liquor on the counter. Milliman said Boeckmann repeatedly offered him drinks while having several himself. While chatting with him, Milliman said, Boeckmann "kept saying, several times, 'Aren't you glad that you didn't have to pay the \$500 for this fine?' As we're talking in the kitchen, he said, 'Let me get a picture of you outside so I can have it for the charity. Hold up the bag of cans.' I did that, once again thinking nothing of it."

Once they were outside, Milliman said, Boeckmann asked him to put a can on the ground and bend over as if he were picking it up. "I didn't think anything of it. What got me nervous was he was taking the picture from behind," he said. "Then he asked me to bend lower and spread my legs further apart. ... It's a pretty awkward situation. As we're walking back into the kitchen, he said once again, 'Aren't you glad you didn't have to pay the \$500?' "

Once back inside, Milliman claims, Boeckmann asked him whether he had any tattoos. When he said he did, Milliman said, Boeckmann asked to see them. After he displayed the tattoos on his arms, Milliman said, Boeckmann asked if he had any others, and asked to see the ones on his chest.

"Once again, I'm apprehensive about it, but once again, it's a judge, so I showed him," he said. "Then he asked if he could take pictures, and I told him I didn't feel comfortable with that because of my job."

Milliman said that Boeckmann started talking about himself, saying he had a friend who lives in France with whom he had a yearlong wager.

"This year," Milliman said Boeckmann told him, "the bet is to see who can get the most amount of people in pictures to be in [Michelangelo's] statue of David pose. He didn't come out and say 'naked.' He said 'statue of David pose.' There was an amount of money that was offered, which was \$300. Once again, trying to mediate the situation, I said, unfortunately I can't because of work." After Milliman

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suggested he might mention the offer to an artist friend who might want to pose, he said Boeckman told him, "I don't know your friend. I know you, and I trust you."

After approximately 45 to 50 minutes, Milliman said, Boeckmann had him sign a form, then asked Milliman to write him a letter thanking him for the opportunity to do community service. "Once I did that," Milliman said, "he would wipe [my record] clean. He said, 'Feel free to give me a call any time if you ever get in a bind in the area, or if you just want to stop by and hang out.' "

- JUDGE WANTED HIM TO POSE LIKE 'DAVID': Says Richard Milliman, who has filed a civil suit.

After leaving, Milliman told only close friends about the incident. He said he didn't come forward because his mother lives in Memphis and, "I don't know how far this judge's reach goes." Then, back in October 2015, one of his friends who had heard the story contacted him after seeing a report about the allegations against Boeckmann on the news. The next day, he called Little Rock's KATV, Channel 7 and appeared in an anonymous interview. Since then, he said he has been interviewed by both state and federal investigators, including the FBI.

He decided to speak to the *Arkansas Times*, he said, in the hope that it would help other victims come forward. Even though Boeckmann has stepped down from the bench, Milliman said the incident rattled him enough that it was part of the reason he moved to Little Rock, and bought a new car. Even now, when he drives to Tennessee on business or to visit his mother, he said he's still uneasy when he passes through the Delta.

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Once the information about the questionable community service sentences came out, Sachar and White realized they were onto something much bigger than a simple conflict of interest. Early on, Sachar said, they were able to use the JDDC's subpoena power to get access to Boeckmann's bank account records, and then were able to cross-reference checks paid out to the names of defendants who appeared in court. "We pulled docket sheets and were able to show, let's say, Guy A through J appear in court ... then A through J start getting checks from the judge. Then A through J wound up with community service and dismissal of a marijuana charge, over officer's objections." White and Sachar said the phrase "over officer's objections" cropped up repeatedly in court records, with Boeckmann dismissing or reducing charges so often that arresting officers felt compelled to speak out about it.

Wynne Police Department Chief Jeff Sanders, while initially reluctant to comment for this article, said that dismissed charges in Boeckmann's court became "just the normal routine."

"It was frustrating," Sanders said. "Our officers would get down. They'd say, why should we do anything if he's not going to do anything? I've been down that road before when I was on the streets. It was frustrating."

Sachar and White said they eventually ended up identifying 30 to 35 young men who had appeared before Boeckmann and later received payments from checking accounts associated with Boeckmann or his businesses. "We probably had 50 we were looking at, just from how curious the documentation looks," Sachar said, adding that they still don't know exactly what most of the payments were for.

From August 2015 to when the first public statement of allegations against Boeckmann was released in November, White pretty much lived in Wynne, beating the bushes for leads. "At some point," Sachar said, "the people in Wynne started referring to 'the blonde investigator who is out there all the time.' She was out there so much. She was in the jail. She was meeting with people. They knew we were investigating."

As someone who grew up in tiny Poyen (Grant County), White said she understood the small town mentality and what she was up against. "I knew that it was going to be difficult for the victims to tell me the truth. But I came from a small town. So I thought, if anyone can convince these guys to tell me the truth, I would think it would be me. I kind of had a mother bear mentality, for lack of a better word. I'm here to help you, not to hurt you. I really believe my years as a sexual assault prosecutor here in Little Rock helped with that."

When the photographs from Boeckmann's computer came in, Sachar said, it was a "game changer." As described in letters from the JDDC to Boeckmann's attorney, the 4,600-plus photos — which Sachar would only say were provided legally from Boeckmann's computer via "a cooperative effort with another agency" — include photos "showing acts of masturbation [and] naked young men bent over a desk or bar," as well as pictures described by the JDDC as "numerous photos of naked young men from behind bending over after an apparent paddling."

As seen in JDDC filings, one of over a dozen alleged victims who came forward is a young man identified in documentation only as J.M. He told White that after being arrested, Boeckmann told him that they could "handle this outside of the courtroom." Upon arriving at a prearranged meeting with Boeckmann, J.M. told

White, Boeckmann drove him to the Cross County Courthouse at night, took him inside a courtroom there, and order him to strip.

"J.M. went down to his underwear," JDDC filings in the case say, "and Boeckmann said, 'underwear too.' J.M. removed his underwear and was completely frightened. He was told to put his hands behind his back and then was handcuffed. J.M. heard a few snaps of the camera and then was told to bend over. The pictures were taken from the rear." Sachar and White have since identified dozens of young men from the photos, though others remain unknown.

"[The photos] were depressing," Sachar said. "They were a step up from dungeon pictures. You could see guys with horrified looks on their faces about what they're being made to do. You can see some guys who are obviously intoxicated or high just to get to the point where they can do this. Some are smiling. Some are indifferent. But it looked like a collection of someone who was a deviant. We spent a week looking at that and it hurt my brain. ... There were several of them [White] went to, and when she showed them [the photos], they didn't know those pictures had been kept. They would either break down and cry, or have the usual reaction that you can expect, 'Oh my God, what am I going to do now? Those pictures are out there.'"

White said that getting some of the victims to talk was a process of building a relationship of trust with them. Slowly, a pattern emerged. Those for whom things went further than picking up cans were often local, often repeat criminal offenders whose credibility might be questioned, often too poor to pay their fines. While Sachar and White said they never found a case where Boeckmann had allegedly threatened a stiffer penalty to those who didn't cooperate, young men who appeared before him most often, and who owed the most fines, were those who often allegedly accepted an arrangement to pose for photos or more.

"Some of these guys, it took them a long time to talk to us," Sachar said. "Others had drug problems and wouldn't talk to us because they were strung out. Others were in rehab, and when they got out, they told us, 'I'm going to tell you the truth now that I'm square.'"

"We talked to a lot of wives," White said, "I talked to many wives who would tell me, even sometimes before their husbands would tell me the truth. They would say, 'Look, I don't know the details, but I know that my husband will get a phone call, he'll say, 'I'm leaving, I'm going over to Joe's.' He'll come back in an hour or two hours, and he's got \$1,000 cash in his pocket and he doesn't touch me for a month. I know something's wrong.' It ruined their marriages."

'God is God'

On Nov. 17, 2015, the JDDC publicly released its allegations on how Boeckmann violated several sections of the Code of Judicial Conduct. Boeckmann was suspended with pay, and a special state prosecutor was named to look into the case. JDDC executive director Sachar took the unusual step of holding a press conference to discuss the allegation, banking on the fact that publicity would bring other alleged victims out of the woodwork.

One of those who started talking was Early Muhammad, who has since been interviewed by the JDDC. An inmate at the Tucker Unit maximum security penitentiary, Muhammad said he was sitting in his cell watching television in the fall of 2015 when a familiar face came on the screen: Joseph Boeckmann, who had been the prosecutor on the case that sent him to prison for life. In a recent interview with *Arkansas Times*, Muhammad claimed that in 1979, after being arrested for aggravated robbery in Wynne, he was being held at the Cross County Jail when a deputy came to his cell and told him that the prosecutor in his case wanted to speak with him. Muhammad said that he was taken to a small conference room, where Boeckmann was waiting. Once inside, Muhammad said, the deputy who had brought him there stepped out and shut the door. After asking him a few preliminary questions, including whether he'd ever been to prison, Muhammad said Boeckmann told him, "You know that I can help you out and you won't have to go to prison." After that, Muhammad said, Boeckmann came around the table and sat beside him, then began asking him about homosexual experiences.

"He put his hand on the inside of my leg," Muhammad said. "He said, 'Well, I can help you. All you've got to do is cooperate with me.' At that time, I pushed his hand away from me and got up from the table and stood up by the door."

Muhammad said he asked to be taken back to his cell. He didn't tell anybody, he said, because he didn't know whom he could trust. "I'm going to be blunt with you," Muhammad said. "So many things happen to people in jail. By being a black person in that county alleging something that a prosecutor — a powerful person — had did, I didn't feel safe. Really I didn't have anyone I could count on to trust."

Muhammad was eventually convicted and sentenced to 25 years in prison, with 15 years suspended. He was out on parole by 1984, when he was picked up for another aggravated robbery in Wynne. Taken back to the Cross County Jail, Muhammad said he was summoned to the same conference room again. Once again, he said, Boeckmann was waiting inside. Muhammad said Boeckmann again talked about homosexuality, then came around the table and tried to touch him.

"I pushed him back," Muhammad said. "He told me again, 'You remember I'm the prosecutor. I can help you or I can hurt you.' He said, 'No one will know.' Then he started asking me different things. ... Stuff that's really embarrassing to even discuss, even at my age. It's embarrassing."

Muhammad said he rebuffed Boeckmann. Later, without offering a plea deal, Boeckmann took the case to trial before what Muhammad said was an all-white jury. "He told the jury that he wouldn't ask them to give me nothing else but life in prison," Muhammad said. "He was like a vicious attack dog."

Found guilty and painted as a continuing danger to the community, Early Muhammad was sentenced to life. He's been locked up since 1984 and — unless there's a drastic change in his case — will likely die in Tucker Max. "He made sure that, by him being the prosecuting attorney, [I received] life in prison," Muhammad said. "I killed no one. I hurt no one. No weapons or nothing was found. I had an all-white jury. There wasn't no justice for me."

Muhammad, a devout Muslim and member of the Nation of Islam, said that even knowing he'd spend the next 32 years in prison, he wouldn't change the way things allegedly went at the Cross County Jail in 1984. "God is God," Muhammad said, and He will eventually "situate" everything. What does eat at Muhammad, however, is his guilt at not coming forward back then.

"I feel like I'm responsible for what he did to those other young guys," he said. "The reason I say that is because I didn't speak out. I didn't have no one to turn to, I didn't have no one to trust. But I still carry that burden like I was actually the person who was doing it to those kids. That's a burden I'll carry with me for the rest of my life. I feel like I should have spoke out to somebody. Maybe we wouldn't be going through this right now."

- LIFE: Tucker inmate Early Muhammad said Boeckmann propositioned him, saying, "I could help you or I could hurt you."

As a former prosecutor, White said she would normally be very skeptical of anything told to her by an inmate serving life without parole. The Boeckmann case, however, is different. Muhammad is not, White said, the only case they have uncovered where a young man was locked up for a long stretch after allegedly rebuffing Boeckmann when he was a prosecutor.

"I've talked to a lot of guys through this process," she said. "But [Muhammad] was one who, immediately when I hung up with him, I thought, I believe every word

that came out of his mouth. I did. I believed every word that comes out of his mouth."

First Judicial Circuit Prosecuting Attorney Fletcher Long, who has been in his position since 1993, hired Boeckmann twice as a fill-in deputy prosecutor and knows him personally. He said he never received a single complaint against Boeckmann as a prosecutor and said he never heard even a rumor about sexual improprieties involving Boeckmann.

"Joe is a good person. Whatever his problems with this conduct otherwise, he has been widely known as a good person," Long said.

Asked whether he believes the allegations against Boeckmann, Long would only say, "I neither believe or disbelieve them. I believe we'll find out."

Order in the court

By early May, as the case hurried toward an October JDDC trial, Sachar and White were shipping almost daily rafts of new allegations to Boeckmann's attorney, including graphic descriptions of the photos they intended to introduce as evidence and a list of 55 witnesses they planned to call, including police officers, investigators, Cross County political figures, Boeckmann employees and family members, and over a dozen former defendants who had appeared before Boeckmann in court. On May 9, Boeckmann submitted a letter of resignation to the JDDC, saying that he would never again seek employment "as a local, county or state employee or public servant in the state of Arkansas."

The *Arkansas Times* reached out to Boeckmann's attorney, Jeff Rosenzweig, who said his client would have no comment on the case. Rosenzweig did say that Boeckmann "decided to resign from the judgeship not as any concession that anything happened, but that it didn't make any sense from a stress, financial or any other standpoint to go through a hearing with regard to an office that he was going to vacate anyway." Rosenzweig noted that Boeckmann was not running for re-election, "so why go through a hearing in the fall when the only issue is continuation in an office in which his term was expiring two months later? It didn't make any logical sense to do that, particularly at his age, which was 70, approximately."

In Wynne, where things can get so tangled with regard to a powerful person like Joseph Boeckmann Jr., it's still hard to find people willing to talk about him, pro or con, even though his time on the bench is done. Walking the streets, you get a lot

of "no comment" from people, after they chuckle at the thought of being asked for their opinion by a reporter from way yonder.

Shelba Ward has been a Wynne resident all her life, and was shopping in a thrift store downtown on a recent Friday. Ward, 75, said she has known Boeckmann since they were both young, and has hired him a few times as an attorney. She said many in town knew what was allegedly going on in Boeckmann's court, but didn't

SHELBA WARD: People in town knew about Boeckmann.

"Everybody in this town knew," she said. "They knew what he was. Everybody here knew. I can't tell you why they didn't [come forward]. It's just like a lot of other things: They know it and keep it quiet. They'd rather not get into it."

Over at the Cross County Special Workshop, an agency that helps developmentally challenged residents find work and develop job skills, Executive Director Donell Hill, who lives in nearby Cherry Valley, said that the Arkansas Delta has long been a place where political corruption reigns and is presided over by powerful families that he likened to the Mafia. Hill said he believes Boeckmann's "brand name" helped him get by for years, despite persistent rumors around town about goings on in his court.

"I have clients who went before him who said that in court it was like a TV show," Hill said. "Judge Joe Brown, Judge Judy. He'd talk to them like a dog, degrading them and stuff like that. I said man, how'd he get by with that?"

The case, Hill said, is one of the worst he's ever seen, but he knew it would eventually come to light. It was a long time coming, however. "The best thing to ever happen to the court system in Wynne is that Boeckmann is no longer on the bench," Hill said. "He was a danger to society and he was controlling. People were fully aware of it, and nobody said [anything]. I'm a minister, and I call right right and wrong wrong, and there's no right way to do wrong. There are people right here in Wynne, Arkansas, who were afraid to come out."

At City Hall, Wynne Mayor Bob Stacy said while there have long been suspicions about Boeckmann's behavior, they were just rumors that didn't rise to the level of being reported or investigated. "There's been suspicions about maybe people he had acquaintance [with] or who worked with him getting special treatment or that kind of stuff, but nothing toward the sexual kind of behavior," Stacy said. "I've not heard of that or witnessed that." Though some are sure to suggest that there was a broad cover-up of Boeckmann's alleged behavior in Wynne (something Sachar and White both said they found no evidence to support), Stacy said it was simply a case

of unsubstantiated rumors. "As with all levels of politics, there's levels of protections built in," he said. "You can't address every rumor that comes down the pike and have drastic reactions to it."

Stacy said the press coverage of the case has been embarrassing. Around town, he said, many people know Boeckmann, his family and the alleged victims. "We're sad for the family, and sad for him, sad for the victims and sad for the town," he said. "It's not the kind of publicity you want and not the way we try to carry ourselves around here. In small towns, everybody is related to everybody, so you just don't have the big public outcry. Their family has been around here for years and has been prominent. You just really kinda hate to talk about it, really. It's sad to talk about."

One silver lining for Wynne has been that fines collected in Boeckmann's former court have skyrocketed since he was suspended from the bench last November. Stacy said in April, for instance, the amount of fines collected was literally double what it had been in April 2015. "We'd already collected two-thirds of [the amount] we had anticipated collecting this year," Stacy said. "Our projections had been lowered because we'd been in a downward trend. We collected twice as much in the same four-month period as last year."

Judge Mike Smith, who was elected in March to fill the Cross County seat vacated by Boeckmann, was appointed by the state Supreme Court to take the bench early. On the bench less than a week when we spoke with him, Smith's first full, four-year term will begin in January. A former Wynne Police Department investigator who also has a law degree, Smith said he decided to run for the office before the allegations against Boeckmann came out. While he said it would be improper to speak about any pending investigation in the Boeckmann case, he said that he and the judge who had formerly been assigned to cover the court quickly took steps to provide public accountability, including installing an audio-visual camera system in the courtroom.

- JUDGE MIKE SMITH: Video recording system in court will bring transparency, accountability.

"All proceedings in the courtroom are now taped, so there's no question of what was said by either a judge or a participant," Smith said. "We have an absolute record of it that's archived. We can go back. It opens up transparency to the system. All of our actions are subject to review, which they should be. We're public servants."

Any person who is a party to a case will have access to the recordings, Smith said, and they will also likely be available via the state Freedom of Information Act, except in cases involving juveniles. Smith said he's talking to the Wynne Police Department and the Cross County Sheriff's Office about expanding the system to include cameras to record suspect interviews and allow for video appearances. Asked whether the recording system is a direct response to the allegations against Boeckmann, Smith said: "I will say that it will be a preventive measure to make sure there's no further allegations of anything going on in court. ... A lot of things would not have happened, possibly, if they'd had cameras before."

Smith says he believes recording public hearings and trials to be a "wonderful idea" and should be expanded to courtrooms far beyond Cross County. "I think the courts ought to be held to a high standard," he said. "We are servants of the public, and I think the public has a right to know what goes on in the courtroom. It's a wonderful protection for both the court personnel and the litigant."

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to

enlarge

JG House - Computer / Graphics

PICTURES - SPARKING

CHECKS & CTS

SHOWER / CLEAN UNDERWEAR 17:00

PICTURES OF ASSEC

- ALSO IN IF 3B take 5;
ASK IF THEY ARE ID'S
DRAWING IN FROM 50.

- MAKING THE CASE: Notes on glass made as the JDDC investigation came together.

As for the JDDC, neither White nor Sachar would comment about whether Boeckmann's alleged behavior warrants criminal charges. A section of their amended complaint against Boeckmann, released in January 2016, cites several criminal statutes, including felony abuse of public trust, sexual assault in the third degree, forced labor and coercion, and Sachar said he and White will continue to investigate the case to assist agencies still working on the matter. In addition to the civil suit filed against Boeckmann and the ongoing work of Jack McQuary, special criminal prosecutor in the case, Sachar suggests there may be other legal entanglements for Boeckmann as the case unfolds. "I wonder how the IRS will take it if he was paying people for deviant acts, but writing them off as a business expense?" Sachar said. "I have a hard time believing that he was writing them out of his business account and not calling them business expenses. ... If the feds aren't handling that angle, we will at some point refer to the IRS. So we still have some work putting this to bed. We believe we have a responsibility to make sure that if there's any other agency out there that needs to know, we can do that."

Special Prosecutor McQuary declined to be interviewed, saying he couldn't comment on a pending investigation.

Asked whether the case makes her think differently about justice and the idea that Arkansans can get an impartial day in court no matter where they live, White said she's an optimist who believes that the vast majority of the judges in the state do the right thing. Boeckmann, she said, was an exception to the rule.

"I don't want any citizen of this state, much less [someone in] Cross County, to go into court ever again and be fearful of what sits across the bench from them and what wears the robe," she said. "I don't want that. If any good came out of this case, it's that it exemplifies that. The citizens of Cross County are much better off with him off the bench. And if there's any other judge across this state doing something similar that I don't know about yet, the citizens of that county are going to be much better off when that person is off the bench. I hope it gives them some hope."

Tom Coulter provided additional reporting.

U.S.

FEBRUARY 21, 2018 / 6:05 PM / UPDATED A DAY AGO

Ex-Arkansas judge who bartered in sexual favors sentenced to prison

Reuters Staff

2 MIN READ

(Reuters) - A former Arkansas district judge has been sentenced to five years in prison on charges that included granting leniency to defendants in his court if they gave him sexual favors in return, U.S. prosecutors said on Wednesday.

Joseph Boeckmann, 71, pleaded guilty to charges including wire fraud and witness tampering as well as corruptly using his official position as a district judge, the U.S. Department of Justice said.

Boeckmann, a judge in Wynne, Arkansas, resigned in 2016 after a state judicial review commission accused him of taking thousands of lewd photographs of young male defendants and sometimes spanking them. In return, it said, he reduced their sentences or paid their fines from his personal funds.

In a 21-count federal indictment unsealed a few months after he stepped down, U.S. prosecutors said Boeckmann offered to dismiss the case of two young men in exchange for the defendants being photographed naked or being paddled on their bare buttocks, the indictment said.

Boeckmann was also accused of giving sentences of "community service," where defendants would do work around his home. He was also accused of filing false paperwork to cover up what he did, the indictment said.

The most serious of the charges could have brought up to 20 years in prison, U.S. prosecutors have said.

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Reporting by Jon Herskovitz, editing by G Crosse
Our Standards: The Thomson Reuters Trust Principles.

OFFICE OF THE ARKANSAS JUDICIAL/DISCIPLINE DISABILITY COMMISSION

Name: Public or Government body, board, bureau, commission, state agency, Political Subdivision of the State, Organization, Corporation, Entity, Municipality, County, Law Enforcement Department, Prosecuting Attorney, Court, etc; as defined by ARKANSAS FREEDOM OF INFORMATION ACT - Arkansas Code Annotated, Sections 25-19-101 through 25-19-107

RICKY LEE SCOTT

APPLICANT/CITIZEN

DAVID J. SACHAR

OFFICER/CUSTODIAN

REQUEST UNDER THE
ARKANSAS FREEDOM OF INFORMATION ACT
(Ark. Code Anno. Sections 25-19-101 - 25-19-107)

This is a request for copies of documents and access, provided by mailing, pursuant to the provisions of the Arkansas Freedom of Information Act, of the following:

I, Ricky Lee Scott, a citizen of the United States and residence of Arkansas, County of Lincoln, Arkansas, respectfully request access to a complete copy of the following (IDENTIFY THE RECORDS CLEARLY):

YOUR ENTIRE FILE, SPECIFICALLY, FOR ANY RECORDS INVOLVING INVESTIGATION OF MY CLAIMS/COMPLAINT AGAINST JOSEPH BOECKMAN, CASE # 14-310; AND ALL INTERVIEWS CONDUCTED WITH RICKY SCOTT OR ANY OTHER WITNESSES CONCERNING MY CLAIMS, AND ANY DOCUMENTS IDENTIFYING OTHER COMPLAINANTS WHO BROUGHT CHARGES AGAINST BOECKMAN WHILE HE WAS A PROSECUTING ATTORNEY.

1. Specifically, all statements made by Applicant, Complainants, Witnesses, Investigators, etc, all, including any phone conversations, interviews or in person interviews conducted by Commission with Ricky Lee Scott

2. All and any tangible objects, photographs of crime scene and victims, weapons, documents, (specifically warrants, information, affidavit, statements of victims, all statements of Ricky Lee Scott, witnesses, complainants, photographs,

Any Audio Recordings Related to Case # 15353, ect, etc.

names of witnesses of persons whom the prosecutor intended to use at trial;

3. Specifically, the chain of custody for of all evidence; all material exculpatory and inculpatory evidence of guilt or innocence;

4. Specifically, a copy of the Prosecutor's Handbook;

5. Specifically, all and any negotiation statements made by Joseph Boleckman
that resulted in his resignation as a District Court Judge in
Cross [Wyndy] County, Arkansas, St. Francis and Crittenden County, Arkansas.

6. Specifically, the name(s) and date of the charging officer seeking the arrest.

7. My only means of obtaining the above requested information is by mail. I can be contacted at the addresses below if there is any inconvenience.

Address:

Ricky Lee Scott #112513
INMATE Unit
P.O. Box 600
Grady, Arkansas 71644

(Applicant/Citizen is an indigent inmate incarcerated in the Arkansas Dept. of Correction. Attached is an Affidavit verifying indigence pursuant to Ark. Code Ann. §25-19-105, 25-19-107 and 16-58-133).

Section 25-19-105 provides:

(a)(1)(A) Except as otherwise specifically provided by this section or by laws specifically enacted to provide otherwise, all public records shall be open to inspection and copying by any citizen of the State of Arkansas during the regular business hours of the custodian of the records.

Section 25-19-105, provides further:

(e) If a public record is in active use or storage and therefore not available at the time a citizen asks to examine it, the custodian shall certify this fact in writing to the applicant and set a date and hour within three (3) working days at which time the record will be available for the exercise of the right given by this chapter. (Acts 1967, No. 93, Section 7, p. 208).

Section 25-19-104 provides:

Penalty. — Any person who negligently violates any of the provisions of this chapter shall be guilty of a Class C misdemeanor. ~~Which previously read, "Any person who willfully and knowingly violates any of the provisions of this Act (Sections 25-19-101 - 25-19-107) shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$200.00, or Thirty (30) days in jail, or both. (Acts 1967, No. 93, Section 7, p. 208).~~

If all or any part of this request, or the manner in which compliance is requested, is denied, please specify the denial, the reasons, and cite the specific exemption(s) which you think justifies or supports your refusal(s) to provide these documents as requested.

Your prompt and expeditious handling of this request will be appreciated.

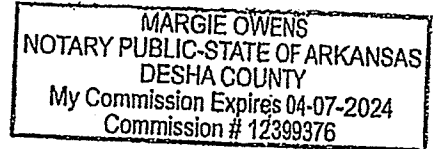
Richy Lee Scott
Applicant/Citizen
ADC # 112513
Arkansas Dept. of Correction
VARNER Unit
LINCOLN County
GORDON, AR 71644

STATE OF ARKANSAS)
COUNTY OF Lincoln)§

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public, on this 20th
day of January, 2017.

Margie Owens
Notary Public

My Commission Expires: 04-07-2024



CERTIFICATE OF SERVICE

I, Pickly Lee Scott, have placed a copy of the foregoing REQUEST
UNDER THE FREEDOM OF INFORMATION ACT in the U.S. Mail to be delivered to
DAVID SACHAR, EXECUTIVE DIRECTOR OF THE JUDICIAL
DISCIPLINE AND DISABILITY COMMISSION 323 Center Street,
Suite 1060, Little Rock, Arkansas 72201

on this 31 day of JANUARY 2017, with the proper postage affixed.

Pickly Lee Scott
PETITIONER, pro se
ADC # 112513



Judicial Discipline & Disability Commission

JUDGE JOYCE WILLIAMS WARREN
CHAIRMAN

323 Center Street • Suite 1060
Little Rock, AR 72201
(501) 682-1050 • Fax: (501) 682-1049
E-Mail: jddc@arkansas.gov

DAVID J. SACHAR
EXECUTIVE DIRECTOR

January 12, 2016

Ricky Lee Scott, #112513
Varner Unit
PO Box 600
Grady, AR 71644

RE: Case #15353

Dear Mr. Scott:

The Arkansas Judicial Discipline & Disability Commission acknowledges receipt of your recent complaint. You will be notified by mail as the investigation progresses.

By Arkansas Supreme Court rule and ACA §16-10-404, except for the Commission's final action or other limited circumstances, all information that is written, recorded or orally received by this Commission is confidential. Any person other than the person being investigated who discloses information about the Commission's work and violates the confidentiality requirement is subject to punishment for contempt of the Arkansas Supreme Court.

Sincerely,

A handwritten signature in black ink, appearing to be "D. Sachar", written over a horizontal line.

David J. Sachar
Executive Director

0000021



Judicial Discipline & Disability Commission

JUDGE JOYCE WILLIAMS WARREN
CHAIRMAN

323 Center Street • Suite 1060
Little Rock, AR 72201
(501) 682-1050 • Fax: (501) 682-1049
E-Mail: jddc@arkansas.gov

DAVID J. SACHAR
EXECUTIVE DIRECTOR

February 6, 2017

Ricky Lee Scott #112513
P.O. Box 600
Grady, AR 71644

COMPLAINANT'S FOIA REQUEST DENIED

RE: Case #15-353, et. al.

Dear Mr. Scott:

This is in acknowledgment and response to your letter of February 6, 2017. In your letter you requested the Judicial Discipline & Disability Commission's records and decisions made by the Commission under the Freedom of Information Act in the complaint you filed against Judge O. Joseph Boeckmann in case #15-353, et. al.

ACA § 16-10-404, and the Rules of Procedure of this Commission issued by the Arkansas Supreme Court govern the Commission's records. Except for the final action taken in a complaint, the Judicial Discipline & Disability Commission's records, files and reports are confidential and exempt from the provisions of the Freedom of Information Act. Therefore, I am unable to honor your request.

The Commission's records show you have already been furnished a copy of the final action taken in this complaint. If that is not accurate, please let me know and you will be given another copy of that document.

Sincerely,

A handwritten signature in dark ink, appearing to be "David J. Sachar", written over a horizontal line.

David J. Sachar
Executive Director

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OFFICE OF THE U.S. Department of Justice - Public Integrity Section

RICKY LEE SCOTT #112513

APPLICANT / CITIZEN

Jonathan Kravis / Peter N.
Halpern;

OFFICER / CUSTODIAN

REQUEST UNDER THE
FREEDOM OF INFORMATION ACT (FOIA)
TITLE 5 U.S.C.A. § 552

THIS IS A REQUEST FOR COPIES OF DOCUMENTS AND ACCESS,
PROVIDED BY MAILING, PURSUANT TO THE PROVISIONS OF THE FREEDOM
OF INFORMATION ACT, OF THE FOLLOWING:

I, RICKY LEE SCOTT, A CITIZEN OF THE UNITED STATES AND
A RESIDENCE OF THE STATE OF ARKANSAS, COUNTY OF LINCOLN COUNTY,
ARKANSAS, RESPECTFULLY REQUEST ACCESS TO A COMPLETE COPY OF THE
FOLLOWING (IDENTIFY THE RECORDS CLEARLY):

PROSECUTIONS WORK PRODUCT ETC AS IT RELATES TO JOSEPH BOECKMANN, THE
DEFENDANT IN THE CASE # 4:16-CR-00232-KRB-1.

(1) COPIES OF ALL COMPLAINTS MADE BY PERSONS A-I AS ALLEGED IN PARAGRAPHS
1-14 OF THE GRAND JURY INDICTMENT handed down October 4, 2016, and Verdict
October 5, 2016, in the ABOVE style CASE #.

(2) COPIES OF ANY AND ALL INFORMATION in the form of Witness Statements,

PET. Exhibit - "I"

Recorded Transcripts of testimony, Video, or any other manner which testimony
related to Persons A-I was obtained as it relates to the Grand Jury Indict-
ment of Joseph Boeckmann, Copies of all Testimony given this Grand Jury in regards
to Counts 1-8, Count 9, Counts 10-19, Counts 20 and Counts 21

SPECIFICALLY, ALL STATEMENTS MADE BY Persons A-I Regarding
Counts 20-21, Witness Tampering, in violation of 18 U.S.C. § 1512(b)(1), (3).

ALL AND ANY, PHOTOGRAPHS OF VICTIMS, DOCUMENTS, STATEMENTS OF VICTIMS
STATEMENTS OF Investigator with the F.B.I., Wynne Police Department
or any, Cross County Sheriff's Department or any other agency that played a
part in the investigation regarding Joseph Boeckmann.

NAMES OF WITNESSES OF PERSONS WHOM THE U.S. DEPARTMENT OF JUSTICE INTEND TO
USE AT TRIALS. ALL WITNESSES TO BE CALLED AT ANY TRIAL AND DURING Grand Jury Proceedings.

SPECIFICALLY, ALL AND ANY NEGOTIATION STATEMENTS MADE BY _____
Joseph Boeckmann AS WELL AS ANY OF THE ATTORNEYS WHO MAY HAVE PLAYED A
PART IN BOECKMANN'S SCHEME IN Cross County, St. Francis County, Cottonwood
County, City of Wynne, City of Parkin, City of West Memphis, this State of Arkansas
ect, All.

SPECIFICALLY, THE NAMES AND DATE OF THE CHARGING OFFICER SEEKING THE
REST.

MY ONLY MEANS OF OBTAINING THE ABOVE REQUESTED INFORMATION IS BY MAIL. I CAN BE CONTACTED AT THE ADDRESS BELOW IF THERE IS ANY INCONVENIENCE.

ADDRESS:

Phicky Lee Scott

VANUE Unit

P.O. Box 600

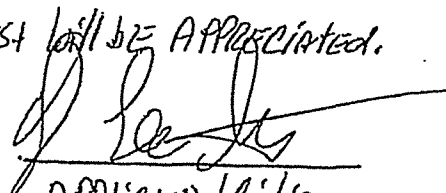
Grady, ARKANSAS 71644

(APPLICANT/CITIZEN IS AN INDIGENT INMATE INCARCERATED IN THE ARKANSAS DEPT-
OF CORRECTIONS.)

SECTION (3)(A) EXCEPT WITH RESPECT TO THE RECORDS MADE AVAILABLE UNDER PARA-
GRAPHS (1) AND (2) OF THIS SECTION (SUB), AND EXCEPT AS PROVIDED IN SUBPARA-
GRAPH (E), EACH AGENCY, UPON ANY REQUEST FOR RECORDS WHICH (i) REASONABLY
DESCRIBES SUCH RECORDS AND (ii) IS MADE IN ACCORDANCE WITH PUBLISHED RULES
STATING THE TIME, PLACE, FEES (IF ANY), AND PROCEDURE TO BE FOLLOWED, SHALL MAKE
THE RECORDS PROMPTLY AVAILABLE TO ANY PERSON.

IF ALL OR ANY PART OF THIS REQUEST, OR THE MANNER IN WHICH COMPLIANCE IS
REQUESTED, IS DENIED, PLEASE SPECIFY THE DENIAL, THE REASONS, AND CITE THE
SPECIFIC EXEMPTIONS WHICH YOU THINK JUSTIFIES OR SUPPORTS YOUR REFUSAL(S)
TO PROVIDE THESE DOCUMENTS AS REQUESTED.

YOUR PROMPT AND EXPEDITIOUS HANDLING OF THIS REQUEST WILL BE APPRECIATED.



APPLICANT/CITIZEN

ADC# 112513

ARKANSAS DEPARTMENT OF CORRECTIONS
VANUE Unit

LINCOLN COUNTY, ARKANSAS

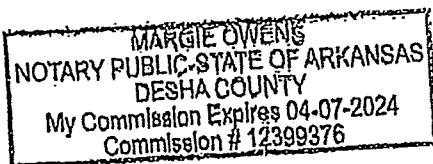
Grady, ARKANSAS, 71644

STATE OF ARKANSAS)
COUNTY OF LINCOLN)

SUBSCRIBED AND SWORN TO BEFORE ME, A Notary Public,
ON this 20th day of January, 2017:

MY COMMISSION EXPIRES: 04-07-2024

Margie Owens
NOTARY PUBLIC



CERTIFICATE OF SERVICE:

I, _____, HAVE PLACED A COPY OF THE FOREGOING
REQUEST UNDER THE FREEDOM OF INFORMATION ACT 5 U.S.C.A. 552
IN THE U.S. MAIL BOX AT VARNER UNIT, TO BE DELIVERED TO _____

ON this _____ day of _____, with the proper
postage affixed.

[Signature]
PETITIONER, PRO SE
ADC# 112513

FREEDOM OF INFORMATION ACT APPEAL

RICKY LEE SCOTT

APPLICANT

FILE # CRM-300592753

U.S. DEPARTMENT OF JUSTICE

CUSTODIAN

APPEAL

DEAR DIRECTOR:

(1) ON OR ABOUT JANUARY 30, 2017, I, Ricky Lee Scott, submitted my request for information pursuant to the U.S. Department of Justice - Public Integrity Section a request under the FREEDOM OF INFORMATION Act TITLE 5 U.S.C.A. § 552.

(2) My request was received in the U.S. Department of Justice - Criminal Division on April 7, 2017. This is supported by a April 25, 2017, letter from Amanda Marchand Jones, Chief, FOIA/PA Unit, see Exhibit - "A".

1/18

In the April 25, 2017, Letter the U.S. Department of Justice denied my Freedom of Information Request for Access to Records pertaining the Arkansas Judicial Discipline Commission and FEDERAL INVESTIGATION which lead to the OCTOBER 5, 2016, FEDERAL Grand Jury Indictment of Dr. JOSEPH BOECKMANN, SEE Exhibit - "B".

(3) Joseph Boeckmann at the time of the Arkansas Judicial Discipline Commission Investigation was a District Judge for the First Judicial District of Arkansas, located in Wynona, Arkansas. Joseph Boeckmann during the 1980's up to mid 1997 was a Deputy Prosecuting Attorney, For Cross County, Arkansas which is located in the First Judicial District of Arkansas.

(4) The Federal Grand Jury Indictment Filed in the United States District Court, For the Eastern District of Arkansas Criminal Case # 4:16-cr-00232-KGB, the Indictment details Information regarding Defendant Joseph Boeckmann's Criminal Activities, Sexual Misconduct, Falsifying Court Paperwork, and

Attempting) to threaten and bribe witnesses who make and/or filed complaints against him during) both the Arkansas Judicial Discipline and Disability Commission's investigation and U.S. Department of Justice investigation) which lead to the indictment.

(5) The October 5, 2016, Grand Jury Indictment goes into great details regarding Joseph Boeckmann's misconduct regarding complainants including persons "A" - "I".

Counts 20-21 of the Indictment goes into details of Defendant Joseph Boeckmann's use of WITNESS TAMPERING, during) the Judicial Discipline Commission and U.S. Department of Justice investigation).

(6) Exhibit - C, is a copy of the February 6, 2017, showing) the case # 15-353, et al, pertaining) to my complaint, among others, filed against Joseph Boeckmann, while Boeckmann was a District Court Judge.

(7) Applicants Freedom of Information Request, Requested the Prosecution Work Product files Related to App. and All Records and files, Written or Recorded Which lead to the Removal from Office of Dr. Joseph Boeckmann as a District Court Judge by the Arkansas Judicial Discipline Commission as well as the Federal Grand Jury Indictment handed down October 5, 2016.

WHY FREEDOM OF INFORMATION ACT REQUEST SHOULD BE GRANTED?

(8) In the Year of 1995, Defendant Dr. Joseph Boeckmann was the Deputy Prosecuting Attorney for the First Judicial District of Arkansas, in Cross County, Wynne, Arkansas.

(9) During an encounter with Joseph Boeckmann, Boeckmann propositioned Appellant for a Sexual Act. Denial of that proposition put into place a Series of Events by Mr. Boeckmann that lead to Appellant's being charged with Murder Approved by then Deputy Prosecutor Dr. Joseph Boeckmann.

(10) BOECKMAN~~NE~~ devised, and intend to devise, A scheme and artifice to deprive Appellant of his Liberty by A Manner and Means consistent with Information contained in the Grand Jury Indictment handed down October 5, 2016, as well as the results of the Arkansas Judicial and Disability's Commission's Investigation which lead to the U.S. Department of Justice Investigation.

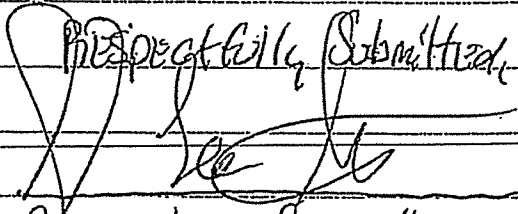
(11) Due to Mr. Boeckman's conduct of falsifying legal documents, perjury, as well as witness tampering [see Counts 20-21 of Indictment exhibit - "B"] Appellant was charged by Information with Capital Murder, Approved by Deputy Prosecuting Attorney, D. Joseph Boeckman, The same Boeckman) Removed from office as a District Court Judge by the Arkansas Judicial Discipline Commission and Indicted by Federal Grand Jury after an Investigation by the U.S. Department of Justice.

(12) These Records are public Records and are relevant to my claim of Actual Innocence. Without these Records and Files pertaining to

To the Arkansas Judicial Discipline Commission
and U.S. Department of Justice Investigation
it will be impossible for the Appellant to prove
he's actually innocent of a crime he's spent the past
21 years locked up in the Arkansas Department
of Correction. [Two years and 8 days of this time was
in the Cross County, Arkansas Jail.]

(13) The information being requested under
the Freedom of Information Act, 5 U.S.C.A. § 552
is and should be public records as D. Joseph
Boeckmann's actions shows a pattern of conduct
in violating rights guaranteed by the United
States Constitution.

Wherefore for the reasons stated above,
the Appellant, Ricky Lee Scott, prays that the
Director REVERSE the Chief F.D.I.A. Officer
denial of records as stated in Exhibit - "A". Find
that the requested information is Not Exempt,
and order production of all information
requested by the Appellant in his January
30, 2017, Freedom of Information Act Request
in Case # CRM-300592753.

Respectfully Submitted,


Ricky Lee Scott #112513

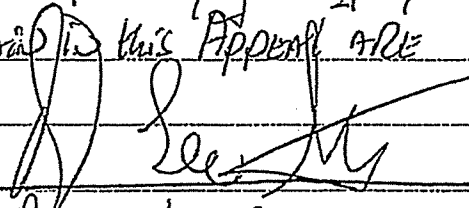
VARNER UNIT

P.O. Box 600

GRADY, ARKANSAS

71644

Appellant states under the penalty of Perjury
that the information contained in this Appell are
True and Correct.


Ricky Lee Scott

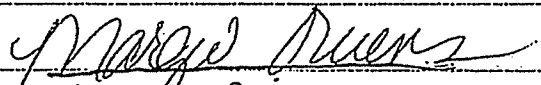
STATE OF ARKANSAS

County of _____

SUBSCRIBED AND SWORN TO before me, A
Notary Public on this 11th day of June
2017.

04-07-2024

My Commission Expires

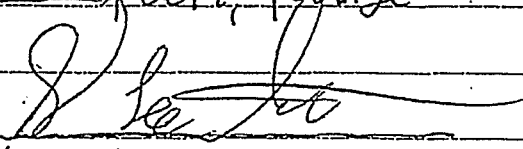

Notary Public

7/8

MARGIE OWENS
NOTARY PUBLIC-STATE OF ARKANSAS
DESHA COUNTY
My Commission Expires 04-07-2024
Commission # 12399376

CERTIFICATE OF SERVICE

I, Ricky Lee Scott, Appellant, hereby certify that a copy of this Appeal to Director has been mail to the Office of Information Policy, U.S. Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC, 20530-0001, by placing a copy of the same in the U.S. Mail Box located at Valver Unit, this 13 day of June, 2017, postage paid.


Ricky Lee Scott #12513

c/c R.S.

8/8



U.S. Department of Justice

Criminal Division

Office of Enforcement Operations

Washington, D.C. 20530

VIA U.S. Mail

April 25, 2017

Mr. Ricky L. Scott
ID No. 112513
Arkansas Department of Correction
Varner Unit
Post Office Box 600
Grady, AR 71644

Request No. CRM-300592753
Subject: Joseph Boeckmann

Dear Mr. Scott:

The Criminal Division acknowledges receipt of your Freedom of Information Act request dated January 30, 2017. Your request was received in this Office on April 7, 2017. In that request, you asked for access to records concerning the above-mentioned subject. Your request has been assigned file number CRM-300592753. You should refer to this number in any future correspondence with this Office.

To the extent that non-public responsive records exist, without consent, proof of death, or an overriding public interest, disclosure of law enforcement records concerning an individual could reasonably be expected to constitute an unwarranted invasion of personal privacy. See 5 U.S.C. § 552(b)(7)(C). Because any non-public records responsive to your request would be categorically exempt from disclosure, this Office is not required to conduct a search for the requested records.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all requesters and should not be taken as an indication that excluded records do, or do not, exist.

You may contact our FOIA Public Liaison at the (202) 616-0307 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of

Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal by creating an account on the following web site: <https://foiaonline.regulations.gov/foia/action/public/home>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,



Amanda Marchand Jones
Chief
FOIA/PA Unit

1425 New York Avenue N.W.
Suite 11050
Washington, DC 20005

Ricky Lee Scott
ADC No. 112513
Varner Unit
P.O. Box 600
Grady, AR 71644-0600

August 4, 2017

Dear Mr. Scott,

This is to advise you that your administrative appeal from the action of the Criminal Division regarding Request No. CRM-300592753 was received by this Office on 08/02/2017.

The Office of Information Policy has the responsibility of adjudicating such appeals. In an attempt to afford each appellant equal and impartial treatment, we have adopted a general practice of assigning appeals in the approximate order of receipt. Your appeal has been assigned number DOJ-AP-2017-005835. Please mention this number in any future correspondence to this Office regarding this matter. Please note that if you provide an e-mail address or another electronic means of communication with your request or appeal, this Office may respond to your appeal electronically even if you submitted your appeal to this Office via regular U.S. Mail.

We will notify you of the decision on your appeal as soon as we can. If you have any questions about the status of your appeal, you may contact me at (202) 514-3642. If you have submitted your appeal through FOIAonline, you may also obtain an update on the status of your appeal by logging into your account.

Sincerely,

PRISCILLA JONES

Digitally signed by PRISCILLA
JONES
Date: 2017.08.04 16:47:46 -04'00'

Priscilla Jones

Supervisory Administrative Specialist



U.S. Department of Justice
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

Mr. Ricky L. Scott
ADC No. 112513
Varner Unit
Post Office Box 600
Grady, AR 71644-0600

Re: Appeal No. DOJ-AP-2017-006905
Request No. CRM-300592753
MWH:JMB

VIA: U.S. Mail

Dear Mr. Scott:

This responds to your letter dated July 23, 2017, attempting to appeal from the action of the Criminal Division of the United States Department of Justice on Freedom of Information Act Request No. CRM-300592753.

By letter dated September 29, 2017, this Office informed you that your additional appeal from your FOIA request for the above-referenced records had been received by this Office and would be assigned for adjudication under Appeal No. DOJ-AP-2017-006905. However, this Office subsequently learned that your appeal file was a duplicate of Appeal No. DOJ-AP-2017-005835, which was adjudicated by this Office by letter dated August 18, 2017 (copy enclosed). In light of these circumstances, I am administratively closing Appeal No. DOJ-AP-2017-006905 in this Office.

If you have any questions regarding the action this Office has taken on your appeal, you may contact this Office's FOIA Public Liaison for your appeal. Specifically, you may speak with the undersigned agency official by calling (202) 514-3642.

Sincerely,

10/12/2017

X 

Matthew Hurd, Associate Chief, for
Sean O'Neill, Chief, Administrative Appeals Staff
Signed by: MATTHEW HURD

Enclosure

000093



U.S. Department of Justice
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

Mr. Ricky Lee Scott
ADC No. 112513
Varner Unit
Post Office Box 600
Grady, AR 71644-0600

Re: Appeal No. DOJ-AP-2017-005835
Request No. CRM-300592753
MWH:JMB

VIA: U.S. Mail

Dear Mr. Scott:

You appealed from the action of the Criminal Division of the United States Department of Justice on your Freedom of Information Act request for access to records concerning O. Joseph Boeckmann.

After carefully considering your appeal, I am affirming the Criminal Division's action on your request. The FOIA provides for disclosure of many agency records. At the same time, Congress included in the FOIA nine exemptions from disclosure that provide protection for important interests such as personal privacy, privileged communications, and certain law enforcement activities. To the extent that non-public responsive records exist, without consent, proof of death, or an overriding public interest, disclosure of law enforcement records concerning an individual could reasonably be expected to constitute an unwarranted invasion of personal privacy. See 5 U.S.C. § 552(b)(7)(C). Further, it is reasonably foreseeable that releasing any non-public records, to the extent such records exist, would harm the interests protected by this exemption. Because any non-public records responsive to your request would be categorically exempt from disclosure, the Criminal Division properly asserted Exemption 7(C) and was not required to conduct a search for the requested records. See Blackwell v. FBI, 646 F.3d 37, 41-42 (D.C. Cir. 2011) (upholding agency's refusal to conduct a search for law enforcement records pertaining to named third parties because such records are categorically exempt from disclosure in the absence of an overriding public interest).

Please be advised that this Office's decision was made only after a full review of this matter. Your appeal was assigned to an attorney with this Office who thoroughly reviewed and analyzed your appeal, your underlying request, and the action of the Criminal Division in response to your request. If you have any questions regarding the action this Office has taken on your appeal, you may contact this Office's FOIA Public Liaison for your appeal. Specifically, you may speak with the undersigned agency official by calling (202) 514-3642.

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If you are dissatisfied with my action on your appeal, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

For your information, the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; email at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

8/18/2017

X 

Matthew Hurd, Associate Chief, for

Sean O'Neill, Chief, Administrative Appeals Staff

Signed by: MATTHEW HURD

IN THE SUPREME COURT OF ARKANSAS

RICKY LEE SCOTT

PETITIONER

V.

CASE NO:

STATE OF ARKANSAS

RESPONDENT

AFFIDAVIT IN SUPPORT OF
REQUEST TO PROCEED IN FORMA PAUPERIS

I, Ricky Lee Scott, being first sworn, depose and say that I am the petitioner in the above entitled case; that in support of my motion to proceed without being required to prepay fees, costs or give security therefore, I stat that because of my poverty I am unable to pay the costs of said proceeding or to give security therefore; that I believe I am entitled to redress.

I further swear that the responses which I have made to questions below are true.

1. Are you presently employed?

Yes ___ No ✓

(a) If the answer is yes, state the amount of your salary of wages per month, and give the name and address of your employer.

(b) If the answer is no, state the date of last employment and amount of salary and wages per month which you received. MARCH 4, 1996 \$500⁰⁰ A MONTH

2. Have you received, within the past twelve months, any money from any of the following sources?

(a) Business, profession, or any form of self-employment?

Yes ___ No ✓

(b) Rent payments, interest, or dividends?

Yes ___ No ✓

(c) Pensions, annuities, or life insurance payments?

000101

Yes ___ No ☒

(d) Gifts or inheritances?

Yes ___ No ☒

(e) Any other sources?

Yes ___ No ☒

If the answer to any of the above is yes, describe each source of money and state the amount received from each during the past twelve months.

3. Do you own any cash, or do you have any money in checking or savings accounts?

Yes ___ No ☒

If the answer is yes, state the total amount in each account.

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)?

Yes ___ No ☒

If the answer is yes, describe the property and state its approximate value.

5. List the persons who are dependent upon you for support. State your relationship to those persons, and indicate how much you contribute toward their support. *NONE!*

6. TO BE COMPLETED ONLY IF PETITIONER IS INCARCERATED IN THE ARKANSAS DEPARTMENT OF CORRECTION OR ANY OTHER PENAL INSTITUTION.

Do you have any funds in the inmate welfare fund?

Yes ___ No ☒

State the total amount in such account and have the certificate found below completed by the authorized officer of the institution: _____

I understand that false statement or answer to any questions in this affidavit will subject me to penalties for perjury.

[Signature]
Signature of Petitioner

STATE OF ARKANSAS)
) SS
COUNTY OF LINCOLN)

Petitioner, Ricky L. Scott, being first duly sworn under oath, presents that he/she has read and subscribed to the above and states that the information therein is true and correct.

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public, on this 25th day of April, 20 18.

[Signature]
NOTARY PUBLIC
JAMESHA Z MADDEN
NOTARY PUBLIC-STATE OF ARKANSAS
DESHA COUNTY
My Commission Expires 03-16-2025
Commission # 12403818

My Commission Expires: 3-16-2025

(To be completed by authorized officer of penal institution)

CERTIFICATE

I hereby certify that the petitioner herein, Ricky Scott, has the sum of \$ 0.08 on account to his credit at the Varner institution where he/she is confined. I further certify that Petitioner likewise has the following securities to his credit according to the records of said institution:

none to my knowledge

[Signature] - 4/24/18
Authorized Officer of Institution

[illegible]

)
)
)

1, _____

I further swear that the description of the incident contained herein, is a true, accurate and

[illegible]

Figure 1

Subscribed and sworn to before me this _____ day of _____

_____, 20____

My Commission Expires:

000104

CR-98-1167

RICKY LEE SCOTT

MOVANT/PETITIONER

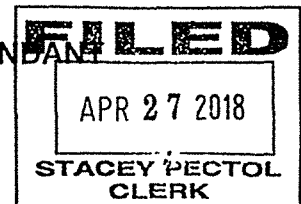
V.

CASE # CR—98—1167

STATE OF ARKANSAS

RESPONDANT

MOTION FOR APPOINTMENT OF COUNSEL



Comes now, Movant, Ricky Lee Scott, pro se, and for his Motion for Appointment of Counsel, states:

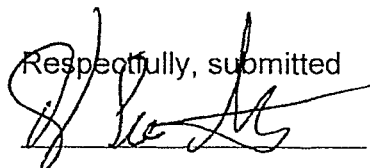
Recently, Movant has discovered that various state and federal agencies have investigated Joseph Boeckmann and his nefarious acts of sadomasochism and pederasty while in public office of deputy prosecuting attorney and judge, including during Movant's trial proceedings. These agencies include the Federal Bureau of Investigation (FBI), Arkansas Supreme Court (ASP), U.S. Department of Justice (DOJ), Arkansas Judicial Discipline and Disability Commission (JDDC), and Special Prosecutor Jack Quarry.

Previously, Movant attempted to obtain investigative records from the DOJ and the JDDC through FOIA, but was refused. These records, as well as those of the ASP, FBI, and Prosecutor Quarry, are the very documents Movant must obtain to discover and show proof of his claims. Further, new public information indicates the FBI investigated a complaint against Boeckmann during the very time he initiated charges against Movant. It is believed that the investigative files contain information of other persons who experienced the same acts of retaliation by Boeckmann as Movant, resulting in their conviction or other legal woes.

Should the Court determine Movant has shown sufficient cause to grant reinvestment in the circuit court to consider a petition for writ of error coram nobis, Movant requests the Court to appoint counsel for the purpose of facilitating the collect of investigative files from state and federal sources, and to further assist in the circuit court.

WHEREFORE, Movant, Ricky Lee Scott, prays the Court Grant his Motion for Appointment of Counsel: and any other relief the Court deems just.

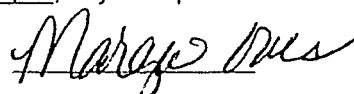
Respectfully, submitted



Ricky Lee Scott, pro se

Subscribed and sworn to before me, a Notary Public this 24th day of April 2018.

04-07-2024
My Commission expires on:


Notary Public

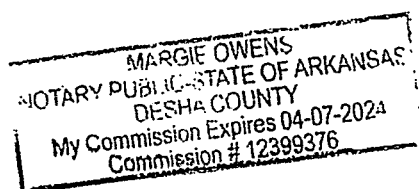


Exhibit 6:	Pro-se Petition for Reconsideration	.	.	.	.	107-116
	With Exhibits A-V.	.	.	.	.	117-178

IN THE SUPREME COURT OF ARKANSAS

RICKY LEE SCOTT

PETITIONER

VS.

No.Cr.- 98-1167

STATE OF ARKANSAS

RESPONDENT

PRO-SE PETITION FOR RECONSIDERATION

RULE 2-1 (g)

Come now the Petitioner, Ricky Lee Scott, pro-se, asking this Court to Reconsider the Opinion Delivered April 11, 2019, denying Petitioner's Motion to Reinvest Jurisdiction in the Trial Court to Consider a Petition for Writ of Error Coram Nobis, and states the following facts as cause;

Petitioner has made every good faith effort in three previously filed requests for Leave to Proceed in the Trial Court to show that, material evidence was withheld by deputy prosecuting Attorney Joseph Boeckmann during the legal proceedings before the Cross County Circuit Court Jury which denied Petitioner Due Process and a Fair Trial;

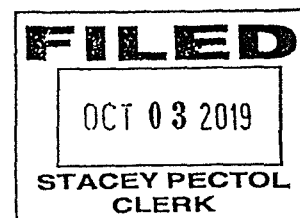
See, Scott v. State, Cr-98-1167 (Ark. Oct. 12, 2006) ["Scott 1"]; Scott v. State, 2008 WL 5101516 (Dec. 4, 2008) ["Scott 2"] and Scott v. State, 2010 WL 3796227 (Sept. 30, 2010) ["Scott 4"] respectively.¹

Petitioner will now show why the Court should reconsider its April 11, 2019, Opinion denying relief.

1. Page # 7 of the April 11, 2019, Opinion [paragraph #2] states, Scott does not satisfy any ground for granting the writ because he does not allege that there was any evidence extrinsic to the record that was hidden from the defense or that was unknown at the time of trial. Petitioner disagrees;

The prosecution withheld from the defense that Deputy Prosecutor Joseph Boeckmann was a sexual predator who preyed on Defendants, just as he preyed on Petitioner, who were charged with crimes in Cross County, Arkansas. It was only during the February 2018, Sentencing Hearing before United States District Court Judge Kristine Baker that, Prosecutors with the

¹ Scott v. State, 2009 WL 3047239 (Sept. 24, 2009) ["Scott 3"] is not relevant here.



United States Department of Justice's Public Integrity Section in Washington D.C. revealed in court documents that Joseph Boeckmann had been investigated over the same type of complaints [sexual misconduct] in the 1990's, when he was a Deputy Prosecuting Attorney in Cross County Arkansas. Federal Prosecutor's ultimately agreed not to file charges if he resigned. Lenny Johnson, a special agent, testified at the February 2018, hearing that he reviewed the F.B.I. files from the investigation that began in 1996. None of this information was presented to Petitioner's Defense Attorney prior to trial, denying Petitioner Due Process and Fair Trial.

2.

FREDA KAY SMITH:

Freda Kay Smith testified as a eyewitness for the State during Petitioner's jury trial. During discovery, Deputy Prosecutor Joseph Boeckmann presented defense counsel with Freda Kay Smith's written witness statements dated March 16, 1996, see [exhibit - A]. It was later learned thru Sheriff's Detective, Bill Brinkworth that, Freda KAY Smith had given a written statement on March 4, 1996, to Officer Brian Settles, see [exhibit - B]. The prosecutor never informed the defense of the March 4, 1996, written statement.

Confronted with the two statements, Counsel asked, "Did you give two statements, Freda replied, "I guess so my name is on both of them." TT. 380. Confronted with March 4th 1996, and March 16, 1996, written statement's, Freda Kay Smith, under Oath, testifies more than 17 times that she wrote both statements. TT.382-388. then says, "I wrote one like this [3-16-96] unless Sergeant Swan rewrote it. TT.396. Also see, TT. 398, "I remember writing it. Unless—the one that I wrote unless Sergeant Swan couldn't read it and he rewrote it. Sergeant must have rewrote it, that's what I'm saying, TT. 399. This testimony by Freda Kay Smith was perjury.

NEWLY DISCOVERED EVIDENCE:

Newly Discovered Documents, material evidence withheld from the defense by Deputy Prosecutor Joseph Boeckmann shows it was Sgt. Curtis Swan who fabricated and forged the March 16, 1996, written witness statements purported to be that of Freda Kay Smith. See newly Discovered Chain of Custody [exhibit - C] and Evidence Submission forms [exhibit - D] written and signed by Sgt. Curtis Swan in the exact handwriting Freda Kay Smith purports to be hers. Either Freda Kay Smith wrote the March 16, 1996, written witness statement or Sgt. Curtis Swan fabricated and forged the March 16, 1996, written statement. No *two* people can have the exact handwriting.

Also see, [exhibit - G], it shows all testimony given before the jury by Freda Kay Smith was taken from the March 16, 1996, written statement.

3.

DEWAYNE PRICE:

Dewayne Price, like Freda Kay Smith, testified as an eyewitness for the State during Petitioner's jury trial. During discovery, Deputy Prosecutor Joseph Boeckmann presented defense counsel with Dewayne Price's written witness statements dated March 16, 1996, see [exhibit - H]. Just as with Freda Kay Smith, it was later learned thru Sheriff's Detective, Bill Brinkworth that, Dewayne Price had given a written statement on March 4, 1996, to Officer Brian Settles, see [exhibit - I]. The prosecutor never informed the defense of the March 4, 1996, written statement.

Confronted with the March 4, 1996, written statement, Dewayne Price said, "Yes, when asked the prosecutor, "Is that your handwriting and signature, TT. 412. It was during this exchange that Defense Counsel informed the Court that the March 4, 1996, written statement of Freda Kay Smith, Dewayne Price and Kenny Lee Sander were not disclosed during discovery, TT. 412-414. Confronted with the March 4, 1996, written statement, the prosecutor asked Dewayne, "Did you sign that statement? Dewayne replied, " It doesn't look like my handwriting, Yeah but I signed it, TT. 415.

This testimony by Dewayne Price was Perjury. Dewayne committed Perjury a second time when asked, "Did you later give a statement to Sgt. Curtis Swan? Dewayne replied, "Yes, sir. This was false. Dewayne committed Perjury a third time, when asked, is this that statement, Dewayne replied, "Yes, sir. A fourth time when asked, "And did you sign the bottom of it? Dewayne replied, "Yes, sir, TT. 415 - 416.

On cross-examination, Dewayne acknowledges the signature on the March 4, 1996; written statement was not his, TT.417. Present with the March 16, 1996, written statement and asked. "Have you ever seen that document before? Dewayne replies, "Nope, TT. 418. Dewayne continues his Perjury, when asked by trial counsel about his March 4, 1996, written statement, which clearly says, "I Dewayne Price, "Dewayne says I ain't seen this one, TT. 419. The prosecution knew Dewayne was lying which is evident by the following:

MR. LONG: If he hadn't seen the document, there is no way he can do anything to Authenticate it and he can't testify from it. Now he's told Mr. Wilson three times now that he's never seen that document before.

MR. WILSON: He also said he had seen it. Your honor.

MR. LONG: He told Mr. Wilson three times just now that he's never seen that document before. Now, Mr. Wilson wants to cross-examine him about it. He can't testify about it. He's not qualified to testify about it. This exchange by the Court, Counsel and the Prosecution shows the Prosecutor knew the witness was lying and did nothing to correct the perjured testimony, TT. 419 - 420.

NEWLY DISCOVERED EVIDENCE:

Newly Discovered Documents, material evidence withheld from the defense by Deputy Prosecutor Joseph Boeckmann shows it was Sgt. Curtis Swan who fabricated and forged the March 16, 1996, written witness statements purported to be that of Dewayne Price. See newly Discovered Chain of Custody [exhibit – C] and Evidence Submission forms [exhibit – D] written and signed by Sgt. Curtis Swan in the exact handwriting Dewayne Price purports to be his. Either Dewayne Price wrote the March 16, 1996, written witness statement or Sgt. Curtis Swan fabricated and forged the March 16, 1996, written statement. No *three* people can have the exact handwriting.

Also see, [exhibit – K], it shows all testimony given before the jury by Freda Kay Smith was taken from the March 16, 1996, written statement

4. KENNY LEE SANDER:

Kenny Lee Sander testified as a witness for the State. Kenny Sander was not an eyewitness, although he was alleged to have been on the carport with Freda Kay Smith and Dewayne Price at the time of the shooting. Kenny Sander testified before the jury that, he did not see anyone shoot the victim, TT. –430.²

Asked did he give a statement to the police the night of the shooting, Sander said, “Yes, see [exhibit – M]. Asked did he give another statement at a later date to the Police Officers, Kenny Sander said, “No. Sander also could not recall giving a statement on March 16, 1996, to Sgt. Curtis Swan, see [exhibit – L] and TT. 430. On cross-examination by trial counsel, Kenny Sander again says, “No,” when asked did you give a statement to Officer Swan, TT. 431.

Asked by trial counsel to identify his March 4, 1996, written statement, Kenny Sander said, “Yes, [exhibit-M]. Asked by counsel if he could identify his March 16, 1996, written statement, Kenny Sander said, “No, see [exhibit - L], TT. 432. Asked if the signature on the March 16, 1996, written statement was his, Kenny Sander said, “Yes, it is. Yet Sander did not remember writing the statement, TT. 433.

NEWLY DISCOVERED EVIDENCE:

²This Court continues to say that several eyewitnesses identified Scott as the shooter, when it fact there was only two alleged eyewitnesses, Freda Kay Smith and Dewayne Price, see page # 4 of April 11, 2019 Opinion.

Newly Discovered Documents, material evidence withheld from the defense by Deputy Prosecutor Joseph Boeckmann shows it was Sgt. Curtis Swan who fabricated and forged the March 16, 1996, written witness statements purported to be that of Kenny Lee Sander. See Newly Discovered Chain of Custody [exhibit – C] and Evidence Submission forms [exhibit – D] written and signed by Sgt. Curtis Swan in the exact handwriting Kenny Lee Sander purports to be his. Either Kenny Lee Sander wrote the March 16, 1996, written witness statement or Sgt. Curtis Swan fabricated and forged the March 16, 1996, written statement. No *four* people can have the exact handwriting..

Also see, [exhibit – O], it shows all testimony given before the jury by Freda Kay Smith was taken from the March 16, 1996, written statement.

See also; Newly Discovered “Answers,” [exhibit’s –F-J-N] prepared by Deputy Prosecutor Joseph Boeckmann, and taken from the March 16, 1996, written statement of Freda Kay Smith, Dewayne Price and Kenny Lee Sander, statements fabricated and forged by Sgt. Curtis Swan. These documents were not given to the defense prior to trial nor were they part of discovery.

The Newly Discovered Chain of Custody [exhibit – C] and Evidence Submission forms [exhibit – D] were withheld from the defense and unknown of at the time of trial in violation of **Brady v. Maryland**. These two forms show it was Sgt. Curtis Swan who wrote and forged the signatures on the March 16, 1996, written witness statements. The chain of custody and evidence forms are exculpatory and impeachment evidence. Had these two documents been turned over to the defense prior to trial, Petitioner could have shown the jury that all three witness, Freda Kay Smith, Dewayne Price and Kenny Lee Sander were Lying under Oath when they testified they wrote and signed there March 16, 1996, written witness statements. Secondly, Petitioner would have been able to impeach each witness before the jury, showing they were not credible. See *Brown v. State*, 2019, Ark. App. 154, (testimony insufficient to authenticate evidence).

Petitioner has demonstrated Boeckmann’s involvement in witness statements in this case. Furthermore, Petitioner has demonstrated that the eyewitnesses, Freda Kay Smith, Dewayne Price and witness Kenny Lee Sander had been influenced by Deputy Prosecutor Joseph Boeckmann and his team Sgt. Curtis Swan and the Wynne Police Department.

5. CHAIN OF CUSTODY AND EVIDENCE SUBMISSION FORMS:

These two documents were not turned over to the defense during discovery or prior to trial. Petitioner informed trial counsel that Lt. Roger Spear and Sgt. Curtis Swan confiscated a L.A. Lakers Jersey from his home on the morning of his arrest March 5, 1996, brought it [jersey] to the jail and told petitioner it was the jersey was identified by witnesses as the one the shooter was

wearing. Lt. Spear put the L. A. Lakers Jersey and a Petitioner's Hiker Boots [taken off petitioner feet at the jail by Spear] in a large brown paper bag and said, "These items are being confiscated as evidence of a homicide."

When trial counsel questioned the prosecutor of the whereabouts of the Jersey and Boots, the prosecutor told counsel the Wynne Police Officers did not confiscate a Jersey or any Boots from Petitioner's home or persons, this was not true. See [exhibits-C-D-E] regarding the L.A.Laker Jersey confiscate by Sgt. Curtis Swan, March 5, 1996, 1:30 p.m. from 420 "K" Street.

Had the Jersey been turned over to the defense prior to trial, Petitioner could have shown there was no Gunshot Residue on the Jersey. This is something the Arkansas State Crime Laboratory Criminalist, Gary M. Lawrence could have done, but instead lied claiming the State Crime Lab does not possess the Technology or Equipment to examine the suspect's clothing for *Gunshot Residue*. See *Mathis v. State*, 1992 WL 74400 (Ark. App.), where Gary M. Lawrence, a trace evidence specialist with the Arkansas State Crime Lab, testified that it was stated in his report that, "he examined the cap for *Gunshot Residue*." This is the same Gary M. Lawrence who signed the March 20, 1996, withheld, Report of Laboratory Analysis claiming the State Crime Lab did not have the "Technology or Equipment" to process suspect's clothing for Gunshot Residue, see [exhibit - E]. Also see *Hodges v. State*, 332, Ark. 377, 965 S.W. 2D 766 (1998), WHERE Lisa Sacevicius of the Arkansas State Crime Lab testified that, she found Gunshot Residue on two pillows submitted for examination. Failure to provide Petitioner with the same treatment as **Mathis** and **Hodges** denied Petitioner Equal Protection of the Law, Due Process and a Fair Trial.

6.

LT. ROGER SPEAR:

Lt. Roger Spear testified as a witness for the State, that while investigating the crime scene at 931 "J" street, he found a 380 shell casing at the northeast corner of the residence, just north of 931 "J" street, TT. 461-462. Lt. Spear further testified that, he did not pick the shell casing up. He testified that Sgt. Curtis Swan picked the 380 casing up and placed it in the evidence envelope, TT. 462. This testimony by Lt. Roger Spear was false and Perjury.

FACT:

Newly Discovered evidence never provided to the defense prior to trial, shows Lt. Roger Spear was not at the crime scene on the night the victim, Robert Smith was shot and killed, March 4, 1996. This new evidence shows former Deputy Prosecutor Joseph Boeckmann and his team, [Curtis Swan and Sgt. Wilson] knew Lt. Spear was not at the crime scene. This Violated Petitioner's Right to Due Process and a Fair Trial.

a. Newly Discovered Cross County Sheriff's Department Radio Log [exhibit - Q] shows THAT Lt. Roger Spear, Badge # 103 not at the crime scene, see Radio Log, sheet # 4, dated March 4,

1996, Time 2059 [8:59 P.M.] The Log only shows Lt. Spear # 103 as 10-8 "In service or Back in Service, Not at the crime scene as Lt. Spear falsely testified at trial. Therefore Lt. Spear could not have found a 380 casing at the crime scene and never witness Sgt. Swan collect and package a 380 casing.

b. Newly Discovered "Typed Notes" [exhibit -R] of Sgt. Curtis Swan are exculpatory and impeachment evidence withheld by former Deputy Prosecutor Joseph Boeckmann prior to trial. Sgt. Swan's Typed Notes dated March 4, 1996, makes no mentioning, whatsoever of Lt. Spear at the crime scene or a 380 shell casing being found or collected by Sgt. Swan at the crime scene. Yet, Sgt. Swan testimony before the jury falsely places Lt. Spear at the crime scene, TT. 469.

Q. And was Lt. Roger Spear at the crime scene at that time.

A. Yes, sir.

Q. Did he have an occasion to call your attention to a piece of evidence?

A. Yes, he did.

Nowhere in Sgt. Curtis Swan's Typed Notes does it mention Lt. Roger Spear or A 380 shell casing.

c. Newly Discovered "Typed Notes" [exhibit - S] of Sgt. Oscar Wilson is exculpatory and impeachment evidence withheld by former Deputy Prosecutor Joseph Boeckmann prior to trial. Sgt Wilson testimony before the jury falsely places Lt. Roger Spear at the crime scene the night of March 4, 1996, TT. 490. *"I started at that point talking with Lieutenant, at that time it was Lieutenant Spear and he directed me to the inside of the house."* Sgt. Wilson's Typed Notes dated March 4, 1996, makes no mentioning of Lt. Spear at the crime scene on the night of March 4, 1996;

d. Newly Discovered Termination letter [exhibit - U] and Arkansas State Police Investigative Report of Sexual Misconduct by Lt. Roger Spear [exhibit - V] was withheld by the Prosecution. Lt. Roger Spear April 17, 1997, termination from the Wynne Police Department at the request of 1st Judicial Prosecuting Attorney, Fletcher Long and the Arkansas State Police Investigative Report is impeachment evidence. Failure to disclose this evidence violated *Brady* and *Giglio*.

The 207 page Arkansas State Police Investigative Report, file # 07-358-97, details Lt. Roger Spear's sexual misconduct while a police officer is impeachment evidence which shows Lt. Spear was not a credible witness. The Report is 207 pages long, however, pages 38-51 is material to Spear's credibility. It details victim Kari Wells repeatedly being forced to have sex and give blow jobs to Lt. Roger Spear for a \$500.00 fine she did not owe. She feared going to prison. Also see pages 38-42, fabricated Community Service Receipts signed by Lt. Roger Spear showing money credited for sexual favors. See *Milke v. Ryan*, 11 F. 3d. 998 (2013) (Judge and

jury believed Saldate, but didn't know about Saldate's long history of lying under oath and other misconduct).

7.

SGT. CURTIS SWAN:

Sgt. Curtis Swan testified as a witness for the State that, on the night of March 4, 1996, he responded to 931 "J" Street regarding a shooting. Sgt. Swan further testified that, Officer Settles and Officer Oscar Wilson were securing the crime scene, TT. 468. Sgt. Swan further testified that, he got the call at 9:05 P.M. and arrived on the scene at about 9:15 P.M., that Lt. Roger Spear was at the crime scene, and called his [Swan's] attention to a piece of evidence, a 380 shell casing which he [Swan] collected, packaged and secured in the evidence drawer, TT. 469. Sgt. Swan testified that, he collected the 380 casing at the northeast corner of the residence of 935 "J" streets which is next door to the victim's home. Sgt. Swan next testified that, he took measurements and took pictures of the 380 casing at the crime scene, but his camera malfunctioned, so he had to go back to the crime scene 4 days later on March 8, 1996, where he took a photograph standing at the area where he recovered the shell casing looking back towards the spot where there was a blood spot that was found on the driveway. Note there is no evidence of a blood spot or 380 casing in State's Exhibit # 8, TT. 619.

FACTS:

Newly discovered "Typed Notes" [exhibit - R] never turned over to the Defense prior to trial shows Sgt. Swan's testimony was false and former Deputy Prosecuting Attorney, Joseph Boeckmann and his team knew Sgt. Swan was lying violating Petitioner's Right to Due Process and a Fair Trial.

a. The newly discovered Typed Notes impeaches Sgt. Curtis Swan's testimony before the jury that, Lt. Spear was at the crime scene the night of March 4, 1996, TT. 469; Impeaches Sgt. Swan's testimony that, Lt. Spear found and directed his [Swan's] attention to a .380 bullet casing at the northeast corner of house next door to victim's house, TT. 469; and Impeaches Sgt. Swan's testimony that, he took photographs of the .380 casing at the crime scene the night of March 4, 1996, "but" his camera Malfunctioned, TT. 472.

b. The "Typed Notes" of Sgt. Swan, makes no mentioning of Lt. Roger Spear at the crime scene; no mentioning of a .380 casing being found, collected or being packaged. Typed Notes, make no mentioning of Sgt. Curtis Swan taking a photograph of a .380 casing at the scene or his camera malfunctioning.

c. The Newly Discovered Radio Log is impeachment evidence in regards to Sgt. Swan. The Radio Log shows that Sgt. Curtis Swan, Badge #104, arrived on the crime scene at 931 [J] Street at 9:09 P.M., and en route to the Cross County Hospital at 21:36 (9:36 PM). Based on the Radio

Log, Sgt. Swan was at the Murder crime scene a mere 25 minutes or less, Yet Swan lead the jury to believe he took photographs, helped secure the crime scene, took measurements, and collected, packaged and secured a .380 bullet casing; see sheet #4 and 5 of [exhibit – Q].

8.

Sgt. Oscar Wilson:

Sgt. Oscar Wilson testified before the jury that, on the night of March 4, 1996, he was called out to 931 “J” Street in regards to a shooting. Sgt. Wilson testified that, when he arrived on the scene of 931 “J” Street, he started at the point talking with lieutenant, at the time it was Lieutenant Spear and he directed me to the inside of the house. Sgt. Oscar Wilson’s testimony before the jury was Perjury.

Newly Discovered “Typed Notes” [exhibit – S] of Sgt. Oscar Wilson makes no mentioning of Lt. Roger Spear at the crime scene..

Secondly, the Radio Log [exhibit – Q] shows Lt. Roger Spear never made it to the crime scene, therefore, the radio log impeaches Sgt. Wilson’s testimony because; Swan’s Typed Notes show that, Lt. Spear was not at the crime scene.

As long as *Mooney v. Holohan*, 294 U.S. 103, 112, 55 S.Ct. 340, 342, 79 L.Ed. 791 (1935), the United States Supreme Court made clear that deliberate deception of a court and jurors by the presentation of known false evidence is incompatible with ‘rudimentary demands of justice.’ This was reaffirmed in *Plye v. Kansas*, 317, U.S. 213, 63 S.Ct. 177, 87 L.Ed. 214 (1942). In *Napue v. Illinois*, 360 U.S. 264, 79 S.Ct. 1173, 3 L.Ed.2d 1217 (1959), the Court said, the same results obtains when the State, although not soliciting false evidence, allows it to go uncorrected when it appears.’ *Id.*, at 269, 79 S.Ct., at 1177. Thereafter, *Brady v. Maryland*, 373, U.S., AT 87, 83 S.Ct. at 1197, held that suppression of material evidence justifies a new trial ‘irrespective of good faith or bad faith of the prosecution.’ A finding of “materiality” of the evidence is required under Brady. A new trial is required if ‘the false testimony could...in any reasonable likelihood have affected the judgment of the jury... *Napue*, at 271, 79 S.Ct., at 1178.

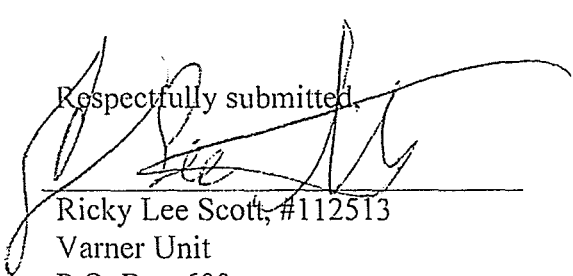
The Due Process Clause imposes upon the prosecution an “affirmative duty” to disclose evidence to the accused that is favorable to the defense and material to guilt or punishment, *Brady*; *Kyles v. Whitley*, 514, U.S. 419, 432, 115 S.Ct. 1555, 131 L.Ed.2d 490 (1995) (noting the prosecution’s “affirmative duty”). To mount a successful Brady claim, the petitioner must establish three essential elements: “The evidence at issue must be favorable to the accused, either because it is exculpatory, or because it is impeaching; that evidence must have been suppressed by the State, either willfully or inadvertently; and prejudice must have ensued.” Prejudice, also referred to as “materiality,” is established when the petitioner shows “a reasonable probability that, had the evidence been disclosed to the defense, the results of the proceedings would have been different.” *Kyles*, 514 U.S. AT 433, 115 S.Ct. 1555.

Kyles made three important points about materiality that are relevant here. First, a showing of materiality does not require demonstration by a preponderance that disclosure of the suppressed evidence would have resulted ultimately in the defendant's acquittal.... The question is not whether the defendant would more likely than not have received a different verdict with the evidence, but whether in its absence he received a fair trial, understood as a trial resulting in a verdict worthy of confidence. A "reasonably probability" of a different result is accordingly shown when the government's evidentiary suppression undermines confidence in the outcome of the trial.

Secondly, the question of materiality "is not a sufficiency of evidence test." It is incorrect to assume that a Petition must lose on his *Brady* claim where still would have been adequate evidence to convict even if the favorable evidence at issue had been disclosed; "The rule is clear, and none of the *Brady* cases has ever suggested that sufficiency of evidence (or insufficiency) is the touchstone." The materiality of *Brady* evidence must be "considered collectively, not item by item." The *Kyles* Court further emphasized that the prosecution "has a duty to learn of any favorable evidence known to the others acting on the government's behalf in the case, including the police."

WHEREFORE, Petitioner, Ricky Lee Scott, Prays that this Court, reconsider its, April 11, 2019, Opinion denying Petitioner's Motion to Reinvest the Trial Court with Jurisdiction to consider a Petition for Writ of Error Coram Nobis, Appoint Counsel and for any and all relief to which petitioner is entitled.

Respectfully submitted,


Ricky Lee Scott, #112513
Varner Unit
P.O. Box 600
Grady, Arkansas 71644-0600

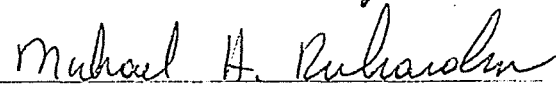
STATE OF ARKANSAS

County of Lincoln

SUBSCRIBED and sworn to before me, a Notary Public, on this 2nd day of May
2019.

3/16/2019

My commission expires:


Notary Public

PETITIONER'S EXHIBITS

- A. Freda Kay Smith March 16, 1996 written witness statement
- B. Freda Kay Smith March 4, 1996 written witness statement
- C. Chain of Custody Form
- D. Evidence Submission Form
- E. Laboratory Analysis Report
- F. Answers Prepared by Joseph Boeckmann
- G. My document Showing Trial Transcript Pages
- H. Dewayne Price March 16, 1996 written witness statement
- I. Dewayne Price March 4, 1996 written witness statement
- J. Answers Prepared by Joseph Boeckmann
- K. My document Showing Trial Transcript Pages
- L. Kenny Lee Sander March 16, 1996 written witness statement
- M. Kenny Lee Sander March 4, 1996 written witness statement
- N. Answers Prepared by Joseph Boeckmann
- O. My document Showing Trial Transcript Pages
- P. Joseph Boeckmann Indictment
- Q. Cross County Sheriff's Department Radio Log
- R. Sgt. Curtis Swan Typed Notes
- S. Sgt. Oscar Wilson Typed Notes
- T. Affidavit of Frankie Brown
- U. Lt. Roger Spear Termination Letter
- V. Kari Wells Statement To the Arkansas State Police

(NON ARREST)
VOLUNTARY STATEMENT

DATE: 3-16-96 TIME: 4:15 p.m PLACE: Wynne Police Dept
STATEMENT OF: Freda K. Smith ADDRESS: 931 T. Street

We, My Aunt and two Cousins Dewayne and Tomorrow and My Aunt's boyfriend Kenny Sanders and my Little Brother Robert were all in the house getting ready to eat dinner when we heard the car alarm go off. Ken, Robert and Dewayne ran outside to see what had happened. The rest of us ran out behind them. The fire had been set on the passengers side of the car. Kenny walked around the outside of the house to see if he could see any one. Kenny, Robert and Dewayne proceeded to chase the fire and My Aunt went in the house to call the police. The Police came and took a report. it was about 3 or 4 minutes after the Police left. Me Kenny, Dewayne and Robert were at the back of the car putting the tools in the trunk getting ready to go in I saw Ricky come from the side of the house. Ricky raised his arm up with his hand turned to the side with a gun that's when he fired a shot Robert said run then I heard another shot and I heard Robert make a sound like he was hurt. Every body started running up into the house as Robert ran to the house I saw blood on his shirt. When Robert made it into the house he fell on the kitchen floor.

I HAVE READ THE 1 PAGES OF THIS STATEMENT AND THE FACTS CONTAINED THEREIN ARE TRUE AND CORRECT.

WITNESS: Let Lt L

Freda Smith

113

(NON ARREST)

VOLUNTARY STATEMENT

DATE: 3-4-96 TIME: 9:56 p.m. PLACE: 931-537

STATEMENT OF: Irene All ADDRESS: _____
in the living room when I heard the car
alarm go off, I went out side and the
car tire had been sliced, My Aunt called the
police he came out and wrote up a report
we started side and proceeded to change
the tire when we went to the back of the
car to put things back into the trunk Betty
Scott came from the side of the next door
neighbor's house and fired one shot
which hit my Lil brother in the chest.

Fred A

Smith

I have read the 1 pages of this statement and the facts contained
therein are true and correct.

Brian Little 117
Witness

Witness

Fred A Smith
Signature of Person Giving Statement

119
Per Exhibit B. nnn110



* Of
Wynne

County of Cross, State of Arkansas

206 South Fa.

Office of the Chief of Police
LYNN E. RODGERS

CHAIN OF CUSTODY

ITEM Shirt L.A. Lakers Black + purple w/hood
CONFISCATED BY Sgt Swan
CONFISCATED FROM 420 K Street
DATE 3-5-96
TIME 1:30 p.m.

ITEM Shirt L.A. Lakers Black + Purple w/hood
RECEIVED BY Jeresa Jones
RECEIVED FROM Sgt Carl Swan
DATE 3-6-96
TIME 10:45 A.M.
Sent to Crim. Lab by mail

ITEM _____
RECEIVED BY _____
RECEIVED FROM _____
DATE _____
TIME _____

ITEM _____
RECEIVED BY _____
RECEIVED FROM _____
DATE _____
TIME _____

ITEM Pet. Exhibit C
RECEIVED BY _____
RECEIVED FROM _____
DATE _____
TIME _____

ITEM _____
RECEIVED BY _____
RECEIVED FROM _____
DATE _____
TIME _____

ITEM _____
RECEIVED BY _____
RECEIVED FROM _____
DATE _____
TIME _____

ITEM _____
RECEIVED BY _____
RECEIVED FROM _____
DATE _____
TIME _____

STATE CRIME LABORATORY

P.O. BOX 5274
Number 3 Natural Resources Drive
Little Rock, Arkansas 72215
EVIDENCE SUBMISSION FORM

282

Please complete entire form

FOR LABORATORY USE ONLY

Inv. Officer: <u>Sgt Curt Swan</u>				Agency Case # <u>96-02-153</u>		Lab Case #: <u>96-03369</u>	
Agency: <u>Wynne Police Dept</u>				Date of Offense <u>3-4-96</u>		How Evidence Rec'd <u>Crime</u> <u>697 941 608</u>	
Street Address: <u>206 South Falls</u>				Type of Offense <u>Capital Murder</u>			
City: <u>Wynne Ar</u>				Zipcode: <u>72396</u>			
Telephone: <u>501 2388968 Fax 2384055</u>							
Suspect(s)	DOB	RACE	SEX	Victim(s)	DOB	RACE	SEX
<u>Ricky Scott</u>	<u>3-20-61</u>	<u>B</u>	<u>M</u>	<u>Robert Smith</u>	<u>11-21-80</u>	<u>B</u>	<u>M</u>
Has any evidence been previously submitted to this lab on this case? Yes <u> </u> No <u> </u>				Location (City, County)		Circle as needed	
Item # List and describe all evidence being submitted in this area. <u>1 heavy tee shirt short sleeve with hood Black and purple in color with Los Angeles Lakers logo on front in white & yellow and the NBA logo in Red & white also on front</u>						<input type="checkbox"/> Documents <input type="checkbox"/> Drug Analysis <input type="checkbox"/> Firearms/Toolmarks <input type="checkbox"/> Latent Prints <input type="checkbox"/> Medical Examiner <input type="checkbox"/> Serology <input type="checkbox"/> Toxicology <input checked="" type="checkbox"/> Trace Evidence <input type="checkbox"/> Visual Communications	
(continue on back)						FCH LABORATORY USE ONLY RECEIVED 96 MAR 12 AM 9:14 STATE CRIME LABORATORY	
Type of analysis Requested: <u>Process for Gunshot Residue</u>						FOR LABORATORY USE ONLY	
Summary of Crime: <u>Capital Murder by gun shot believe to be hand gun 380 caliber. Shirt submitted believe to have been worn by the shooter at the time of the shooting.</u>							
NAME (Please Print) <u>Sgt Curt W. Swan</u>				SIGNATURE <u>[Signature]</u>			

Pet. Evn'g 121
D

STATE CRIME LABORATORY

P.O. BOX 5274
Number 3 Natural Resources Drive
Little Rock, Arkansas 72215

Laboratory Services
227-5747

REPORT OF LABORATORY ANALYSIS

Medical Examiner
227-5936

Investigating Officer/Agency/Address

Sgt. Swan
Wynne Police Department
206 South Falls Blvd.
Wynne, AR 72396

Laboratory Case Number: 96-03369

Page 1 of 1

Date Received in Lab: 03/06/96

How Evidence Received: M E / Demetrice Swift

Agency Case Number:

Suspect(s):
Ricky Scott

Victim(s):
Robert Smith

Date of Report: 03/20/96

I do hereby attest and confirm as specified by A.C.A. 12-12-313, that the information listed below is a true and accurate report of the results of analysis performed by me of evidence received in a sealed condition at the Arkansas State Crime Laboratory.

ITEMS SUBMITTED BY THE MEDICAL EXAMINER'S OFFICE:

SE1: One (1) gunshot residue Collection Kit, sampled from Robert Smith, labelled ME 171-96, containing:

Swabs possessing residues from the right hand, palm and back
Swabs possessing residues from the left hand, palm and back
Control swabs

ITEM SUBMITTED BY THE WYNNE POLICE DEPARTMENT ON MARCH 14, 1996:

One heavy T-shirt, short sleeved, with blood

RESULTS OF ANALYSIS:

The hand swabs from Smith were examined for elements which are the primary components of gunshot residue. Elements and/or levels characteristic of gunshot residue were NOT detected on any of the swabs and the results may be considered NEGATIVE.

A NEGATIVE gunshot residue test result CAN NOT support the conclusion that a person did not fire a weapon.

The shirt submitted by the Wynne Police Department was not examined. The Arkansas State Crime Laboratory, at this time, does not possess the technology, nor equipment to examine the suspect's clothing for gunshot residue.

Jary M. Lawrence, Criminalist
JML/jl

Ref. Exhibit
E

State of Arkansas
County of Pulaski

Subscribed and sworn to before me, the undersigned Notary Public on this 1st day of April, 1996.

My Commission Expires 10/17/96

122

IN THE CIRCUIT COURT OF CROSS COUNTY, ARKANSAS

STATE OF ARKANSAS

PLAINTIFF

VS.

CR.96-61

RICKY SCOTT

DEFENDANT

Freda K. Smith
931 J. Street
Wynne, Arkansas

STATEMENT OF FREDA K. SMITH AT THE WYNNE POLICE DEPARTMENT, ON
MARCH 16, 1996, TAKEN BY SGT SWAN.

Re: The death of Robert Smith, on March 4, 1996, at approximately
8:45 p.m. at 931 J. street, Wynne, Arkansas, who was shot by
Ricky Scott.

1. I heard the car alarm go off.
2. I went outside to see what had happened.
3. The tire had been cut on Luvenia's car.
4. Kenny, Robert and Dewayne were finishing up changing the tire
when I saw Ricky coming Around the side of the house.
5. Ricky raised up his arm with a gun in his hand.
6. Ricky fired a shot.
7. Robert said to run.
8. I heard another shot as everyone was running toward the house.
9. I heard Robert make a sound like he was hurt.
10. We made it into the house. Robert had blood on his shirt.
11. Robert fell on the kitchen floor.

Pet Exhibit

F

(Petitioner's Exhibit -

Ask Exhibit
G 2
pages

2-pages

**TRIAL TRANSCRIPT PAGES TO ANSWERS
PREPARED BY THE STATE, FROM FREDA KAY
SMITH'S MARCH 16, 1996 WRITTEN WITNESS
STATEMENT:**

- (1). TT. Page 240 at Line # 8, and Line # 4 of Freda Kay Smith, March 16, 1996, written witness statement.
- (2). TT. Page 240 at Line # 9, and Lines # 4-6, of Freda Kay Smith, March 16, 1996, written witness statement.
- (3). TT. Page 240 at Line # 10 – 11, and Lines # 6-7, of Freda Kay Smith, March 16, 1996, written witness statement.
- (4). TT. Page 240 at Line's # 20 – 21 and Page 242 at Line's # 12 – 14, and Line #14 of Freda Kay Smith, March 16, 1996, written witness statement.
- (5). TT. Page 243 at Line's # 1 – 12, and Lines # 14-

15, of Freda Kay Smith, March 16, 1996, written witness statement.

- (6). TT. Page 243 at Line # 3, and Lines # 14-15, of Freda Kay Smith, March 16, 1996, written witness statement.
- (7). TT. Page 242 at Line # 12, and Lines # 14-15, of Freda Kay Smith, March 16, 1996, written witness statement.
- (8). TT. Page 243 at Line's # 3 and 14, and Lines # 16-19, of Freda Kay Smith, March 16, 1996, written witness statement.
- (9). See Lines # 17-18, of Freda Kay Smith, March 16, 1996, written witness statement.
- (10). TT. Page 243 at Line # 14-15 and Lines # 18-19 of Freda Kay Smith, March 16, 1996, written witness statement.
- (11). TT. Page 243 at Line # 20 and Line # 20 of Freda Kay Smith, March 16, 1996, written witness statement.

(NON ARREST)
VOLUNTARY STATEMENT

DATE: 3-16-96 TIME: 3:40 p.m PLACE: Wynne Police Dept
STATEMENT OF: Dewayne A. Price ADDRESS: 931 J. Street

I was inside with the rest of the family. Then we heard the car alarm. Mr Ken, Robert, and Freda went outside. We walked around the car and the tire was cut. Ken went back into the house to get the keys so we could change the tire. My mother had called the Police. The police came and made a report. The police had left we were almost finished changing the tire Mr and Ken and Robert were putting the jack back into the trunk and the wrenchs back into the tool box. Ken put the tire on the grass beside the car. Freda was stand between the house and the car Freda said go check on the side of the house because she thought Ricky Scott was on side of the house next door. Mr and Robert were standing back of the car towards the street. I told Robert I was going to walk back to the house as I was walking back I was looking around and I saw Ricky Scott step out from the house and raise his arm up and his hand turned to the side pointed at Mr and Robert I thought he was going to shoot I told Robert to run because Ricky is going to shoot. I ran towards the house and heard one shoot I looked back and saw Robert stumble back then Robert ran bent over holding his chest I ran into the caper door and Robert came in behind me and Robert fell on the floor.

Pet. Exhibit
H

I HAVE READ THE 1 PAGES OF THIS STATEMENT AND THE FACTS CONTAINED THEREIN ARE TRUE AND CORRECT.

WITNESS: Red

Dewayne Price

(NON ARREST)

VOLUNTARY STATEMENT

DATE: 3/4/66

TIME: 10:06 P.M.

PLACE: Wynne police det.

STATEMENT OF: Dewayne Price

ADDRESS: 931 J. Street

I Dewayne Price was change the flat on the car and when we was pitting the Jack brack in the trunk of the car I seen rich Scott step around the house with a blue shirt and ~~the~~ we ran in the house when he shot the gun he shot my cousin early that day he was calling my mom house on her phone he was saying everything so we hang up the phone and he called back and we hang up again and Ken told me to ~~get~~ get the pers. off on the phone

I have read the 1 pages of this statement and the facts contained therein are true and correct.

Det. Brian Settles 117
Witness

Dewayne Price

Signature of Person Giving Statement

Witness

Det. Exhibit 000 127

IN THE CIRCUIT COURT OF CROSS COUNTY, ARKANSAS

STATE OF ARKANSAS

PLAINTIFF

VS.

CR.96-61

RICKY SCOTT

DEFENDANT

Dewayne A. Price
931 J. Street
Wynne, Arkansas

STATEMENT OF DEWAYNE A. PRICE, AT THE WYNNE POLICE DEPARTMENT, ON
MARCH 16, 1996, TAKEN BY SGT. SWAN

RE: The death of Robert Smith, on March 4, 1996, at approximately
8:45 p.m. at 931 J. street, Wynne, Arkansas, who was shot by
Ricky Scott.

1. I heard the car alarm go off when the tire was cut.
2. Me, Kenny, Robert, Dewayne and Freda went out to see what had happened.
3. We found that the tire on Luvenia Price's car had been cut.
4. We finished changing the tire and Me, Kenny and Robert were putting the tools back into the trunk.
5. I heard Freda say that she saw Ricky Scott beside the house.
6. I went to see if Ricky was beside the house.
7. Ricky stepped out from beside the house, raised his arm and pointed at me and Robert. I thought he was going to shoot.
8. I called out to Robert because Ricky was going to shoot.
9. I ran toward the house.
10. I heard a shot.
11. I saw Robert stumble.

Pet. Exhibit
000122 "T"

(Petitioner's Exhibit - ^{Pet. Exhibit}
2-pages ^{"K" 2}
^{PAGES}

TRIAL TRANSCRIPT PAGES TO ANSWERS
PREPARED BY THE STATE, FROM
DEWAYNE PRICE'S MARCH 16, 1996
WRITTEN WITNESS STATEMENT:

- (1). TT. Page 279 at Line # 18, and Lines # 1,2, and 3 of Dewayne Price, March 16, 1996, written witness statement.
- (2). TT. Page 279 at Line 20, and Line # 2, of Dewayne Price, March 16, 1996, written witness statement.
- (3). TT. Page 279 at Line # 18, , and Lines # 2 - 3, of Dewayne Price, March 16, 1996, written witness statement.
- (4). TT. Page 279 at Lines # 20 - 23, and Dewayne Price, March 16, 1996, written witness statement, Lines # 6,7,and 8.

- (5). See, Dewayne Price, March 16, 1996, Written Witness Statement, Lines # 10, 11, and 12.
- (6). TT. Page 280 at Line's # 1,2,3,15 and 20.
- (7). TT. Page 280 at Line's # 1-3, Dewayne Price, March 16, 1996, written witness statement, Lines # 14- 17.
- (8). See, Dewayne Price, March 16, 1996, written witness statement, Lines # 17-18.
- (9). TT. Page 280 at Line # 16, Dewayne Price, March 16, 1996, written witness statement, Lines # 18.
- (10). See, March 16, 1996, written witness statement, Line #18 -19.
- (11). See, March 16, 1996, written witness statement, Line # 19.

(NON ARREST)
VOLUNTARY STATEMENT

DATE: 3-16-94

TIME: 4:45 p.m.

PLACE: Wynne Police Dept

STATEMENT OF: Kenny Sanders

ADDRESS: P.O. Box 772 Parkin Ar.

I was in the house in my bedroom lying across the bed. I heard the alarm going off on Luvonias Car. I went outside. I looked and saw the tire had been cut. I walked around the house to see if I could see who had cut the tire. I also walked about 70 yards south of the house looking to see anyone. As I was walking back two girls were walking behind me and they walked onto the house next door. Everyone was outside by the car and the two boys Dwayne and Robert were helping me change the tire. Luvonia called the police and they came before I changed the tire. The Police took a report and left. We changed the tire. Robert had took the Jack out of the trunk so I called him over and asked him to show me how the Jack went back in the trunk. While we were putting we got all the stuff back into the trunk I went to shut the trunk lid and heard a shot then I heard a second shot Robert said run. Robert said run pushed me to the Carport door and I ran to the Front Door of the house. The shots sounded like they came from the North. I heard at least two shots and there was possibly a 3rd shot fired.

Earlier that day at about 5:15 A.M. Ricky Scott pulled up along side me as I was going North on Martin Luther King Street. When Ricky got up along side me he looked over at me real hard he was wearing a red bandanna on his head. He accelerated his car and took off.

I HAVE READ THE 1 PAGES OF THIS STATEMENT AND THE FACTS CONTAINED THEREIN ARE TRUE AND CORRECT.

WITNESS:

Sgt. A. L. S.

Kenny Sanders

SIGNATURE OF PERSON GIVING STATEMENT

(NON ARREST)

VOLUNTARY STATEMENT

DATE: 3-4-96 TIME: 9:00 PM

PLACE: 931 J St.

STATEMENT OF: Kenny Sanders

ADDRESS: P.O. Box 222
Parkin, AR

The Alarm went off on the car, came out the house to check the car the Tire had been cut on the Passenger side, I changed the Tire as was putting every thing in the car when I heard a shot at that time I started to run in side the house when I got in the house Rod East was hand in his own blood.

I have read the 1 pages of this statement and the facts contained therein are true and correct.

H. Brian Settles 117
Witness

Witness

Kenny Sanders
Signature of Person Giving Statement

Pet. Exhibit

"M"

IN THE CIRCUIT COURT OF CROSS COUNTY, ARKANSAS

STATE OF ARKANSAS

PLAINTIFF

VS.

CR.96-61.

RICKY SCOTT

DEFENDANT

Kenny Sanders
P.O.Box 772
Parkin, Arkansas

STATEMENT OF KENNY SANDERS AT THE WYNNE POLICE DEPARTMENT, ON
MARCH 16, 1996, TAKEN BY SGT. SWAN

RE: The death of Robert Smith, on March 4, 1996, at approximately
8:45 P.M. at 931 J. Street, Wynne, Arkansas, who was shot by
Ricky Scott.

1. I saw Ricky Scott earlier that day (March 4, 1996) and he pulled up beside of me and gave me dirty looks.
2. I heard the car alarm go off and went outside to look around.
3. The tire had been cut on Luvenia's car.
4. Me, Robert and Dewayne were finishing up changing the tire when I heard a shot fired.
5. I heard a second shot and Robert yelled run.
6. Robert ran to the carport door and I ran to the front door of the house.

(Petitioner's Exhibit - ^{Pet. Exhibit} "O"

TRIAL TRANSCRIPT PAGES TO ANSWERS
PREPARED BY THE STATE FROM KENNY
LEE SANDER'S MARCH 16, 1996 WRITTEN
WITNESS STATEMENT:

-
- (1). See, Kenny Lee Sander, March 16, 1996, written witness statement, at Lines # 20-23.
 - (2). TT. Page 297 at Line's # 9 -15, and Lines # 2,3,and 4 of Kenny Lee Sander, March 16, 1996, written witness statement.
 - (3). TT. Page 297 at Line # 12, and Line # 3 of Kenny Lee Sander, March 16, 1996, written witness statement.
 - (4). TT. Page 298 at Line's # 3 -10, and Lines # 11-14 of Kenny Lee Sander, March 16, 1996, written witness statement.
 - (5). See, Kenny Lee Sander, March 16, 1996, written witness statement.
 - (6). See, Kenny Lee Sander, March 16, 1996, written witness statement.

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

OCT 5 2016

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF ARKANSAS
By: JAMES W. MCCORMACK, CLERK
DEP CLERK

UNITED STATES OF AMERICA) CRIMINAL NO. 4:16 CR 00232 KGB
v.) Date Filed: _____
O. JOSEPH BOECKMANN) VIOLATIONS:
18 U.S.C. §§ 1343, 1346 (Wire Fraud—8
counts)
18 U.S.C. § 666(a)(1)(B) (Federal Program
Bribery—1 count)
18 U.S.C. § 1952(a)(3) (Travel Act—10
counts)
18 U.S.C. § 1512(b)(1), (3) (Witness
Tampering—2 counts)
) FILED UNDER SEAL

INDICTMENT

THE GRAND JURY CHARGES THAT:

GENERAL ALLEGATIONS

At all times relevant to this Indictment:

1. Defendant O. JOSEPH BOECKMANN was a district judge for the First Judicial District of Arkansas, which includes Cross County and St. Francis County. BOECKMANN also maintained a residence in Wynne, Arkansas, which is located in Cross County.

2. BOECKMANN's responsibilities as a district judge included presiding over traffic citations and misdemeanor criminal cases in the First Judicial District of Arkansas and in other judicial districts of Arkansas by assignment. As a district judge for the First Judicial District of

Arkansas, BOECKMANN was an agent of the State of Arkansas and he had a fiduciary duty to act in the best interests of the State of Arkansas and its citizens.

3. In the cases over which BOECKMANN presided as an Arkansas district judge, an individual who received a traffic ticket or a misdemeanor criminal citation was subject to an initial assessment of the amount of money the individual would have to pay in the event of an adjudication of guilty or no contest. That initial assessment would include a fine plus fees and costs.

4. In the event of a guilty or no contest adjudication, the money received from fines, fees, and costs would be disbursed to the city and/or county in which the case arose, the court in which the case was brought, and in some cases the State of Arkansas.

5. In the event of an adjudication of not guilty or dismissal, the individual would not pay any fines, fees, or costs.

6. In or around 2012, Person A, an individual whose identity is known to the grand jury, appeared before BOECKMANN as a criminal defendant charged with possession of marijuana. At the time Person A appeared before BOECKMANN, Person A was approximately 18 years old.

7. In or around 2013, Person B, an individual whose identity is known to the grand jury, appeared before BOECKMANN for a traffic citation. At the time Person B appeared before BOECKMANN, Person B was approximately 20 years old.

8. In or around 2013, Person C, an individual whose identity is known to the grand jury, appeared before BOECKMANN for a traffic citation. At the time Person C appeared before BOECKMANN, Person C was approximately 20 years old.

9. Between in or around 2009 and in or around 2015, Person D, an individual whose identity is known to the grand jury, appeared before BOECKMANN for several traffic citations and misdemeanor criminal offenses. At the time Person D first appeared before BOECKMANN, Person D was approximately 19 years old.

10. In or around 2014, Person E, an individual whose identity is known to the grand jury, appeared before BOECKMANN for a traffic citation. At the time Person E appeared before BOECKMANN, Person E was approximately 22 years old and a resident of Memphis, Tennessee.

11. In or around 2014, Person F, an individual whose identity is known to the grand jury, appeared before BOECKMANN for a traffic citation. At the time Person F appeared before BOECKMANN, Person F was approximately 16 years old.

12. In or around 2014, Person G, an individual whose identity is known to the grand jury, appeared before BOECKMANN for a traffic citation. At the time Person G appeared before BOECKMANN, Person G was approximately 17 years old and a resident of Millington, Tennessee.

13. In or around 2015, Person H, an individual whose identity is known to the grand jury, appeared before BOECKMANN as a criminal defendant charged with possession of marijuana. At the time Person H appeared before BOECKMANN, Person H was approximately 20 years old.

14. Between in or around 2011 and in or around 2015, Person I appeared before BOECKMANN for several traffic citations and at least one misdemeanor criminal charge.

COUNTS 1-8
(Wire Fraud and Honest Services Wire Fraud)

THE GRAND JURY FURTHER CHARGES THAT:

15. The allegations contained in paragraphs 1 through 14 of this Indictment are re-alleged as if fully set forth herein.

16. From in or around 2010 to in or around 2015, in the Eastern District of Arkansas and elsewhere, the defendant,

O. JOSEPH BOECKMANN,

devised, and intended to devise, a scheme and artifice to defraud and to deprive the State of Arkansas and its citizens of their intangible right to the honest services of BOECKMANN through bribery, and to defraud and to deprive Cross County, St. Francis County, Crittenden County, the City of Wynne, the City of Parkin, the City of West Memphis, the State of Arkansas, and the Arkansas courts, of money and property by means of false and fraudulent pretenses, representations, and promises.

Purpose of the Scheme

17. It was a purpose of BOECKMANN's scheme and artifice to defraud for BOECKMANN to benefit himself by corruptly using his official position as an Arkansas district judge to obtain personal services, sexual contact, and the opportunity to view and to photograph in compromising positions persons who appeared before him in traffic and misdemeanor criminal cases in exchange for dismissing the cases.

18. It was a purpose of BOECKMANN's scheme and artifice to defraud for BOECKMANN to deprive Cross County, St. Francis County, Crittenden County, the City of Wynne, the City of Parkin, the City of West Memphis, the State of Arkansas, and the Arkansas courts of fines, fees,

and costs to which they were entitled by wrongfully dismissing cases of defendants who would otherwise have been required to pay such fines, fees, and costs.

19. It was a purpose of BOECKMANN's scheme and artifice to defraud for BOECKMANN to conceal his unlawful conduct by, among other things, encouraging the defendants whose cases he had wrongfully dismissed not to tell anyone about the disposition of their cases, falsifying court paperwork, and attempting to threaten and bribe witnesses against him in this matter.

Manner and Means

The manner and means by which BOECKMANN carried out the scheme and artifice to defraud included, but were not limited to, the following:

20. BOECKMANN used his status as an Arkansas district judge and his authority over Persons A through I as parties appearing before him to impose improper "community service" sentences on Persons A through I for BOECKMANN's own personal benefit while depriving the cities, counties, courts, and the state of money to which they were otherwise entitled in the form of fines, fees, and costs.

21. In particular, in the cases of Persons A, B, C, E, F, G, and H, as well as other similarly situated individuals, when each individual's case was called, BOECKMANN would instruct that individual to wait until the court session ended so that BOECKMANN could speak with that individual alone. When the court session ended, BOECKMANN would call that individual up to the bench and explain to that individual that BOECKMANN would dismiss that individual's case if that individual would perform "community service." In most instances, BOECKMANN would then provide the individual with his personal telephone number and tell the individual to call that number to arrange the community service.

22. BOECKMANN would either instruct the individual to collect aluminum cans or litter from the ground on his own and bring the cans or litter to BOECKMANN's house, or BOECKMANN would instruct the individual to come to BOECKMANN's house, at which point BOECKMANN would arrange for the individual to go with BOECKMANN to a location to pick up aluminum cans or litter.

23. In either event, BOECKMANN, under the pretense of documenting the individual's "community service," would photograph Persons A, B, C, E, F, G, and H with the cans or litter. In the cases of Persons A, B, C, E, F, and H, those photographs were taken while the individuals were posed in compromising positions.

24. In the case of Person D, on one occasion, BOECKMANN offered Person D the option to have his case dismissed for "community service" by performing labor at BOECKMANN's personal residence. On other occasions, BOECKMANN offered Person D the option to have his case dismissed for "community service" by being photographed naked or while masturbating or by being paddled on his bare buttocks by BOECKMANN.

25. In the case of Person I, BOECKMANN offered Person I the option to have cases dismissed for "community service" by being photographed naked or by being paddled on his bare buttocks by BOECKMANN.

26. These "community service" activities were arranged by BOECKMANN personally and were not conducted under the auspices of the Arkansas court clerks or any non-profit or charitable organization.

27. Once BOECKMANN finished photographing or paddling the individual, or once the individual completed his labor at BOECKMANN's personal residence, BOECKMANN would declare the "community service" complete and dismiss the individual's case, relieving the

individual of the obligation to pay fines, fees, and costs that would have otherwise gone to the relevant county, city, and court and in some cases to the State of Arkansas.

28. To effectuate and to conceal this scheme, BOECKMANN made and caused to be made false and fraudulent representations regarding the disposition of the cases of Persons A through I. Those false and fraudulent representations were reflected in the docket sheets and other court documents related to the cases of Persons A through I stating that the cases had been dismissed by reason of "community service." In fact, the actions performed by Persons A through I at BOECKMANN's direction were not performed for the purpose of "community service," but rather for BOECKMANN's personal benefit.

29. In a further effort to conceal the scheme, BOECKMANN instructed several of the individuals not to tell anyone about the "community service" sentence that BOECKMANN had imposed on them.

30. In a further effort to conceal the scheme, BOECKMANN instructed Person J to delete incriminating photographs from his computer.

31. In a further effort to conceal the scheme, BOECKMANN attempted to bribe Person D and to bribe and threaten Person J to provide false information to investigators regarding BOECKMANN's conduct.

Use of Interstate Wires To Execute the Scheme

32. On or about the dates listed below, in the Eastern District of Arkansas and elsewhere, BOECKMANN, for the purpose of executing the above-described scheme and artifice to defraud and to deprive the State of Arkansas and its citizens of their intangible right to the honest services of BOECKMANN through bribery, and to defraud and to deprive Cross County, St. Francis County, Crittenden County, the City of Wynne, the City of Parkin, the City of West

Memphis, the State of Arkansas, and the Arkansas courts, of money and property by means of false and fraudulent pretenses, representations, and promises, knowingly transmitted and caused to be transmitted by means of wires in interstate commerce, the following writings, signs, and signals:

Count	Date	Description
1	Nov. 1, 2014	Interstate phone call between BOECKMANN in Arkansas and Person G in Tennessee.
2	Nov. 2, 2014	Interstate phone call between BOECKMANN in Arkansas and Person G in Tennessee.
3	Nov. 2, 2014	Text message between BOECKMANN and Person G.
4	Nov. 3, 2014	Interstate phone call between BOECKMANN in Arkansas and Person G in Tennessee.
5	Nov. 3, 2014	Interstate phone call between BOECKMANN in Arkansas and Person E in Tennessee.
6	Nov. 3, 2014	Text messages between BOECKMANN and Person G.
7	May 26, 2015	Text message between BOECKMANN and Person H
8	May 27, 2015	Text message between BOECKMANN and Person H

In violation of Title 18, United States Code, Sections 1343 and 1346.

COUNT 9
(Federal Program Bribery)

33. Paragraphs 1 through 31 of this Indictment are re-alleged as if fully set forth herein.

34. From in or about June 2014 to in or about June 2015, in the Eastern District of Arkansas and elsewhere, the defendant,

O. JOSEPH BOECKMANN,

did corruptly solicit and demand for his own benefit, and accepted and agreed to accept, things of value from Persons D, E, F, G, and H, that is, the opportunity to view and to photograph or to attempt to photograph Persons D, E, F, G, and H in compromising positions, intending to be influenced and rewarded in connection with a business, transaction, and series of transactions of the State of Arkansas, valued at \$5,000 or more, that is, the traffic and criminal matters of Persons D, E, F, G, and H, and during that same one-year period the State of Arkansas received benefits in excess of \$10,000 under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance, or other form of Federal assistance.

In violation of Title 18, United States Code, Section 666(a)(1)(B).

COUNTS 10-19
(Travel Act)

35. Paragraphs 1 through 31 of this Indictment are re-alleged as if fully set forth herein.

36. From in or about 2012 to in or about 2015, in the Eastern District of Arkansas and elsewhere, the defendant,

O. JOSEPH BOECKMANN,

knowingly and willfully did use and cause to be used a facility in interstate and foreign commerce, and did cause others to travel in interstate and foreign commerce, with the intent to promote, manage, establish, carry on, and facilitate the promotion, management, establishment, and carrying on of an unlawful activity, namely, bribery, contrary to Ark. Stat. Ann. § 5-52-101, and thereafter performed and attempted to perform such promotion, management, establishment, carrying on, and facilitation of the promotion, management, establishment and carrying on of the above unlawful activity:

Count	Date (on or about)	Facility in Interstate and Foreign Commerce
10	Dec. 11, 2012	Telephone call between BOECKMANN and Person A
11	Oct. 26, 2013	Telephone call between BOECKMANN and Person B
12	Nov. 1, 2014	Telephone call between BOECKMANN and Person G
13	Nov. 2, 2014	Telephone call between BOECKMANN and Person G
14	Nov. 3, 2014	Telephone call between BOECKMANN and Person G
15	Nov. 2014	Causing Person G to travel in interstate and foreign commerce between Tennessee and Arkansas
16	Nov. 4, 2014	Telephone call between BOECKMANN and Person E
17	Nov. 2014	Causing Person E to travel in interstate and foreign commerce between Tennessee and Arkansas

18	May 25, 2015	Telephone call between BOECKMANN and Person H
19	May 26, 2015	Telephone call between BOECKMANN and Person H

In violation of Title 18, United States Code, Section 1952(a)(3).

COUNT 20
(Witness Tampering)

37. Paragraphs 1 through 31 of this Indictment are re-alleged as if fully set forth herein.

38. From in or about October 2015 to in or about November 2015, in the Eastern District of Arkansas and elsewhere, the defendant,

O. JOSEPH BOECKMANN,

used intimidation, threatened, and corruptly persuaded another person, and attempted to do so, with the intent to influence, delay, and prevent the testimony of a person in an official proceeding, and with the intent to hinder, delay and prevent the communication to a law enforcement officer of information relating to the commission or possible commission of a Federal offense, to wit, BOECKMANN directed another person to intimidate, threaten, and corruptly persuade and attempt to intimidate, threaten, and corruptly persuade Person J with the intent to influence, delay, and prevent the testimony of Person J in a federal grand jury investigation, and with the intent to hinder, delay, and prevent the communication by Person J to a law enforcement officer of information relating to the possible commission of a Federal offense by BOECKMANN.

In violation of Title 18, United States Code, Section 1512(b)(1), (3).

COUNT 21
(Witness Tampering)

39. Paragraphs 1 through 31 of this Indictment are re-alleged as if fully set forth herein.

40. In or about April 2016, in the Eastern District of Arkansas and elsewhere, the defendant,

O. JOSEPH BOECKMANN,

corruptly persuaded another person, and attempted to corruptly persuade another person, with the intent to influence, delay, and prevent the testimony of a person in an official proceeding, and with the intent to hinder, delay and prevent the communication to a law enforcement officer of information relating to the commission or possible commission of a Federal offense, to wit, he corruptly persuaded and attempted to corruptly persuade Person D with the intent to influence, delay, and prevent the testimony of Person D in a federal grand jury investigation, and with the intent to hinder, delay, and prevent the communication by Person D to a law enforcement officer of information relating to the possible commission of a Federal offense by BOECKMANN.

In violation of Title 18, United States Code, Section 1512(b)(1), (3).

CROSS COUNTY SHERIFF'S DEPT.

KNBS-906

KSL-253

Radio Transmitter Log

37.24 MC

37.06 MC

FREQUENCY - 37.20 MC

POWER 100 WATTS

DATE 3-4-96

OPERATOR Martha Evans on 2300 off 0700

SHEET NO. 1

OPERATOR _____ on _____ off _____

STATION CALLED	TIME	DESCRIPTION OF CALL	OPERATOR
111	2256	10-8 Citation issued	TH
111	2304	N. Falls 21B 383 (Hwy 101)	YMC.
111	2306	432-13-5903	
305	2310	VXN 061	
111	2312	10-8 Citation issued	
111	2317	WH2 486 64 KUYN	
115	2319	VX2 555	
111	2320	10-8 Verb. Warning	
305	2324	SGP 810	
111	2342	East Martin Toyota Truck	
		No LPN XI Occupant	
111	2345	10-8	
111	2352	V40 932 Royal Dwyll Kilbuck	
209	2352	East Lane J.O.	
111	0001	VKM 137 Falls & Sup. notop	
111	0003	10-8 Verb. Warning	
209	0016	10-8	
111	0034	SWA 176 Union & Hardy Dallas	
111	0040	10-8	
111	0052	PIZZA HUT. NEEDS 10-14	MTA
111	0055	97	YMC.
111	0058	98	
115	0102	Ex 59652	
115	0130	S. Falls C. L. Browner	
		Black Ford Ranger No LPN	
111	0133	not with 115	
115	0134	432-33-0158	

CROSS COUNTY SHERIFF'S DEPT.

KNBS-906

KSL-253

Radio Transmitter Log

37.24 MC

37.06 MC

AGENCY - 37.20 MC

POWER 100 WATTS

DATE 3-4-96

OPERATOR Matthew Evans on 2300 off 0700

T NO. 2

OPERATOR _____ on _____ off _____

STATION CALLED	TIME	DESCRIPTION OF CALL	OPERATOR
111	0135	ZFF 143	Spk.
111	0148	10-8	
115	0148	10-8	
215	0220	Vicki Austin 238-9260 1026 W. Grandfield - adv. her vehicle has been stolen - possibly by her 17 yr. old son - adv. he has no license - wanted like a report adv. city 111-115 adv. 10-13	
111	0226	97	
115	0230	70-8	
115	0243	N. Jails / Jotak PWL 448 X 1 Occupant	
115	0245	going clear wither warn - 212 Jotak	
115	0246	Harcos Red - B RKH 507 multiple Acc.	
209	0247	598-77-4434-10-53 adv.	
209	0247	out with city	
209	0252	10-8	
111	0258	clear 10-8 - cement payment	
215	0248	Vicki Austin 1026 W. Grandfield - adv. her son has returned with the car - needs to see officer - advised he appears as 10-6 traffic - Adv. son as 10-8 with Adv. then to 10-13 - unless immediate emergency - Adv. Adv. 10-8 - will be there	

CROSS COUNTY SHERIFF'S DEPT.

KNBS-906

KSL-253

Radio Transmitter Log

37.24 MC

37.06 MC

FREQUENCY - 37.20 MC

POWER 100 WATTS

DATE 3-9-94

OPERATOR Martha Luna on 2300 off 1700

SHEET NO. 3

OPERATOR _____ on _____ off _____

STATION CALLED	TIME	DESCRIPTION OF CALL	OPERATOR
111-115	0302	97 1024 W. Cranfield	JMC
115	0315	10-8	
209	0316	Unit Check	
204	0326	10-42 10-4	MA
111-115	0407	Unit Check Both 10-4	JMC
915	0437	Larry Cuyper - (truck driver) adw. car appeared to be stranded on side of road approx. 2 miles N of Hickory Ridge on east side of road. Have this to FOLS Co. & have terminal adw. they will contact SPTC	
111	0509	Kyle Hunter 88 door on East side of bldg is open - on commence - out there	
115	0515	Notify CID - Have him bring camera - contact Kyle Hunter - have him 10-19 -	
915	0517	Kyle Hunter & 104 both adw will 10-19 shortly	
184	0535	10-8	
111-115	0609	98	
110	0611	Shirley Davis Stop	
104	0611	10-42	
110	0613	Back on car	
108-110	0622	McDonalds	
108-110	0655	10-8	
108	0657	Andrew's 66	

CROSS COUNTY SHERIFF'S DEPT.

KNBS-906

KSL-253

Radio Transmitter Log

37.24 MC

37.06 MC

POWER 100 WATTS

FREQUENCY - 37.20 MC

DATE March 4, 1996

OPERATOR Mary Stone on 0700 off 1200

SHEET NO. 1

OPERATOR Butterfly Vaughan on 0700 off 1200

STATION CALLED	TIME	DESCRIPTION OF CALL	OPERATOR
108	0702	10-8	
108	0707	10-97	
108	0723	10-8	AKI-77
108	0727	City Shop	
110	0730	School Traffic	
212	0733	10-19 Marked Pipe Plu 10-15	
108	0736	10-8 Traffic Check	
110	0753	10-8 School Traffic	
108	0757	10-8	
210	0800	10-8	
P/S	0804	Cindy Siebold Acamp Oct 528 E. K. 2nd Ave 1st National Bank Branch Hold up Adv 110-108	
108-110	0805	10-97	
108	0807	Plu Hall Adv evening 10-4	
212	0813	Marked Pipe Plu	
110	0821	10-8	BRU
212	0822	10-8 10-19 10-15	
110	0823	10102 W. Forrest serving warrant	BRU
110	0826	10-8 no contact	BRU
108	0830	city shop	
110	0851	Wal Mart	
108	0857	10-8	AKI-77
110	0911	10-8	
113	0911	Post Office	
113	0931	10-8	
211	0957	10-8 but w/ computer	

CROSS COUNTY SHERIFF'S DEPT.

KNBS-906

KSL-253

Radio Transmitter Log

37.24 MC

37.06 MC

FREQUENCY - 37.20 MC

POWER 100 WATTS

DATE March 04, 1996

OPERATOR Mary Stone on 0700 off 1500

SHEET NO. 2

OPERATOR Beverly Winfrey on 0700 off 1500

STATION CALLED	TIME	DESCRIPTION OF CALL	OPERATOR
208	1032	Adv 208 to 40 by John Houtney	MSF
		10-42 Adv him Judge said he	
		need to file in court this	
		afternoon 12/ Arnold Houtney	
40	1038	DKR Concrete	
P/S	1053	Cross County Wash. Blvd.	
		10-14 TO Main Bldg.	C.W.
106	1101	10-98 10-14	FLH
LE 208	1054	Mr. Houtney's not home L.H. with	
		if you're	
113	1103	Deputy Office	
P/S	1118	Brenta Hubbard 914 w. Houtney	
		338-9599 4300 in 0.10.110	
40	1123	Nicholas Sunday	
110-118	1134	10-97 914 w. Houtney	
P/S LE	1120	Picky L.H. need luck with on	
		TRD 1133	
110	1145	10-8 Report taken	
108	1149	10-8	
108	1150	Houtney's house	
110-108	1225	10-8	
PPD	1239	XAN 642	
113	1304	10-42	
110	1311	UGF 706 IGA	
		431 176245	
110	1313	10-8	
113	1324	10-8	

CROSS COUNTY SHERIFF'S DEPT.

KNBS-906

KSL-253

Radio Transmitter Log

37.24 MC

37.06 MC

POWER 100 WATTS

FREQUENCY — 37.20 MC

DATE March 4, 1996OPERATOR Marie Stone on 0700 off 1500SHEET NO. 3OPERATOR Beverly Williams on 0700 off 1500

STATION CALLED	TIME	DESCRIPTION OF CALL	OPERATOR
111	1337	10-8 Court	
P/S	1404	Seton's add of lady trying to drive off on a car that was repossessed and city	Bev
110	1407	10-97	
110	1418	10-8	NLS
108	1418	(B) 45267.7	NLS
EQ11 P/S	1420	accident MLK/Smith's limo truck flipped over pass PI's New city & Southern Blvd	Bev
South	1422	10-19	Bev
110	1423	10-97	Bev
108	1423	45269.7 (E) 10-8 10-19 MLK	Bev
110	1424	next Code 11	
108	1425	10-97	Bev
EQ11	1429	grass fire Halverson Thomas Farm 284E 1st road past Village Creek / More injured WFD	
WFD	1430	10-8 10-19	Bev
108	1433	next Code 11 Sides already 10-19	Bev
110	1439	RWA938 10-27	
		429 615445 10-51	
108	1447	Contract Thomas H Green Vandale home then 10-19 to hospital NO answer 588-4441	
		Step Gloria Jones NO answer	
		Step Freda Jones	

CROSS COUNTY SHERIFF'S DEPT.

KNBS-906

KSL-253

Radio Transmitter Log

37.24 MC

37.06 MC

FREQUENCY - 37.20 MC

POWER 100 WATTS

DATE 03/04/96

OPERATOR Wickham on 1500 off 1300

SHEET NO. 1

OPERATOR _____ on _____ off _____

STATION CALLED	TIME	DESCRIPTION OF CALL	OPERATOR
110	1501	RWA #93 938	Wickham
110	1507	10-8	Wickham
108	1512	Kim Hopcroft 26-69	Wickham
106	1513	TN 84287067	Wickham
111	1517	10-7 10-42 O/O/Court	Wickham
108	1528	tell 110 10-19 to CCEK	Wickham
-	-	Now, No contact with 110	Wickham
210	1529	10-8	Wickham
110	1534	O/A CCEK	Wickham
212	1542	10-19 10-15 from Cit Co	Wickham
P/R	1601	Wynwood adv all ok	Wickham
F/R	1602	Alarm Co. adv a alarm at Wynwood.	Wickham
P/S	1602	Patricia Thomas 8-4560 adv a white	Wickham
108	1608	10-97 202 King Dr	Wickham
Cont.	1602	Car with light on dash	Wickham
-	-	drive behind her from Wynwood	Wickham
-	-	to Wendale thru city - it's	Wickham
-	-	probably Mike Miller	Wickham
106	1613	O/A (adv)	Wickham
City	1620	Y2P 530	Wickham
212	1625	10-97 S/O	Wickham
212	1634	10-42	K.C.
108	1638	O/A PJ	Wickham
108	1717	O/A CC Hospital	K.C.
Alarm	1728	Alarm company notified of an alarm at 105 Hwy 441. CC Turner Close.	Wickham

Back Shop. Adv. 108 & 110

CROSS COUNTY SHERIFF'S DEPT.

KNBS-906

KSL-253

Radio Transmitter Log

POWER 100 WATTS

FREQUENCY 3724 MC
3706 MC
3720 MC

DATE 3-4-96

OPERATOR Vicki Lamb on 1500 off 2300

SHEET NO. 2

OPERATOR Rusty Ward on 1500 off 2300

STATION CALLED	TIME	DESCRIPTION OF CALL	OPERATOR
Alarm	1729	Adv. S.O. Keyholder has been notified	K.W.
Fire	1730	Fairbanks F.D. Adv. us to dispatch Meeting K.W.	K.W.
S.O.	1731	Vicki Lamb dispatched Fire Meeting K.W.	K.W.
111	1730	10-8	W.H.
108	1735	cut off dog train.	W.H.
108	1737	10-97	K.W.
P/S	1740	John Dunlap 8-1755 adv. will be a freight behind Haze 175	W.H.
-		10 w/m Young men	W.H.
P/S	1741	Estelle Melanson Adv. her brother's trailer had been Buried at 42 Pond A-Rose trl. Park. Adv. 208.	K.W.
110	1742	10-19 10-5 F (C) 43199	W.H.
110	1744	(C) Same	W.H.
113	1745	O/A Heart Smart Hym.	K.W.
108	1750	All 10-4. Building Secure. CCFB.	K.W.
208	1750	10-97 at Pond - A-Rose	K.W.
110	1751	10-19 to Maggie's	K.W.
108	1751	10-97 at Maggie's	K.W.
208	1752	All 10-4 at Maggie's.	K.W.
108	1755	10-8	K.W.
911	1756	GILBERT PICKENS 614 N. HAROLD POSSIBLE HEART ATTACK	T.W.
204	1800	10-8	T.W.
204	1801	ADV. Him HE HAD Some 10-17's	T.W.
		AT SO	T.W.

CROSS COUNTY SHERIFF'S DEPT.

KNBS-906

KSL-253

Radio Transmitter Log

37.24 MC

37.06 MC

FREQUENCY — 37.20 MC

POWER 100 WATTS

DATE 3-4-96

OPERATOR KEITH WARD on 1500 off 2300

SHEET NO. 3

OPERATOR TANK on 1500 off 2300

STATION CALLED	TIME	DESCRIPTION OF CALL	OPERATOR
208	1806	10-8	K.W.
111	1811	10-7 from data master	W.H.
208	1812	10-47	W.H.
108	1813	10-7	K.W.
117	1816	10-8	K.W.
P/S	1826	Mark Colquett W. Merriman 238-5690 Adv. of a late model red cougar Tenn. Tags was going door to door selling satellite systems. Adv. 112	K.W.
12+ 117	1829	10-97 at W. Merriman	K.W.
112	1831	TN. 197 QJH	K.W.
112	1832	3399 65 60 TN.	K.W.
112	1837	Adv. TN. Sellers of City license. Adv. they would not be selling anymore tonight.	K.W.
112-117	1838	10-8	K.W.
117	1910	TKS 64 Coachman PH 7232	W.H.
117	1911	DL 430 80 86 86	W.H.
117	1914	10-8 verbal warning	W.H.
P/S	1958	Sherry Harrell, Harrell's Corner half the house on the left of M LK when N. Bound 238-4333 Adv. when she went home her door was standing open. Adv. She would like an Officer present while entering Adv. 117	K.W.

CROSS COUNTY SHERIFF'S DEPT.

KNBS-906 KSL-253

Radio Transmitter Log

37.24 MC

37.06 MC

FREQUENCY — 37.20 MC

POWER 100 WATTS

DATE 3-4-96

OPERATOR Rusty Ward on 1500 off 2300

SHEET NO. 4

OPERATOR Wicki Pamb on 1500 off 2300

STATION CALLED	TIME	DESCRIPTION OF CALL	OPERATOR
117	2000	10-97 at Harrells Corner MLK	Kuc.
112	2005	10-97 at Harrells Corner MLK.	Kuc.
P/S	2005	Frances Ball 284 West	Kuc.
		238-9672 adv. of a possible	
		grass fire out past Vance	
		Appliances. Adv. 204	
204	2011	Adv. to contact but not page	Kuc.
		to fire dept. on grass fire	Kuc.
P/S	2018	lady at S.O. window wants to	Kuc.
		speak with a city officer on	
		her car being taken. Adv. city	
112-117	2024	10-8	Kuc.
L.E.	2020	Adv. WFD of Grass Fire	Kuc.
P/S	2026	Livonia Price 931 "J" Street	Kuc.
		733-4440. in reference to her	
		ties being cut. Adv. 117.	
117	2026	10-19 to "J" St.	Kuc.
112	2026	10-19 to S.O.	Kuc.
112	2028	10-97 at S.O.	Kuc.
117	2043	10-8	Kuc.
P/S	2046	Received call from 918 "J" St of a	
Barker	2054	have fired Sheriff	
		need Ambulance	
112	2054	is a major situation	
103	2059	10-8	Kuc.
Cont.	2046	Trooperson being shot. Adv. 112-117.	
		and Southern Ambulance, All 10-19	

CROSS COUNTY SHERIFF'S DEPT.

KNBS-906

KSL-253

Radio Transmitter Log

37.24 MC

37.06 MC

FREQUENCY - 37.20 MC

POWER 100 WATTS

DATE 3-4-96

OPERATOR Rusty Ward on 1500 off 5:300

SHEET NO. 5

OPERATOR Vicki Lamb on 1500 off 5:300

STATION CALLED	TIME	DESCRIPTION OF CALL	OPERATOR
101	2102	10-8	K.L.
110	2104	10-8	K.L.
113	2105	10-8	K.L.
104	2105	10-8	K.L.
D-17	2107	am on in custody - Neg	WJ
104	2109	10-8	K.L.
113	2114	address again, end of 5 st	WJ
101	2117	get 105, 106 to 10-19 to CCEP for security	WJ
112	2118	Canell calling 1050	WJ
106	2123	10-8	T.L.
107	2125	OUT AT Hosp.	T.L.
P/S	2131	Lonnie Gibson Adv. a man has a grass fire possibly out of control. Adv. WFD to check it out. Someone 10-19 to 44 CR. by Gibson WFD	K.L.
104	2136	10-19 Hosp	T.L.
104	2141	O/A CCEP	WJ
117	2145	10-8 10-19 to PD	WJ
104	2150	call Jerry Woodard have come to CCEP	WJ
112	2152	28 16E 545	WJ
101	2155	have a parking unit stand by for a 21.	WJ
E 911	2202	Ruth Allen adv her brother threatening her + others	WJ

CROSS COUNTY SHERIFF'S DEPT.

KNBS-906

KSL-253

Radio Transmitter Log

37.24 MC

37.06 MC

FREQUENCY - 37.20 MC

POWER 100 WATTS

DATE 3-4-96

OPERATOR Wick Lamb on 1500 off 2300

SHEET NO. 6

OPERATOR Rusty Ward on 1500 off 2300
Denton Whitehead 1500 2300

STATION CALLED	TIME	DESCRIPTION OF CALL	OPERATOR
E911	2209	SAME SUBJ. AS 22:02 TR.	
		ADV. HER BROTHER TOOK OFF	
		DOWN THE ROAD WITH SOME	
		SHOTGUN SHELLS & A BAG OF	
		SALT TO THROW IN ANYONE'S	
		EYES THAT TRIED TO STOP HIM	T.W.
		AB. DISCRP. 5'10" 220LB BLACK CLOTHING	
110	2216	OWT AT HOZP. BLACK CLOTH	
110	2218	10-8 10-19 PD	T.W.
110	2219	10-8 PD	T.W.
Park	2225	288 PEG 159	WJ
P/S	2228	Martha Evans adv until	
		104 comes home who	
		can't show up for work	WJ
204	2241	10-97 Coldwater	WJ
P/S	2252	915 HAMILTON 238 3986	
		DIET. BOY FRIEND & GIRLFRIEND	T.W.
		FIGHTING	
112	2254	ADV. HIM TO 10-19 915 HARM	T.W.
112	2256	10-97 HAVE DNE ON CMTPT	T.W.
204	2258	10-96	T.W.
Park	2302	28 XWO 355	WJ

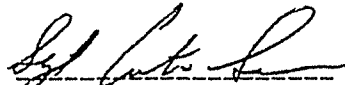
Date; 03-04-96

Statement of: Sgt. Curtis Swan

Re: Homicide

On March 04, 1996 I was dispatched to 931 J street in reference to a gun shot victim. I was dispatched around 9:05 pm. I arrived around 9:15 pm. The victim Robert Smith already had been transported to the Cross County Hospital Emergency Room. Sgt Wilson and myself secured the scene. I then took photographs of the scene and measurements.

I did follow up investigation and interview witnesses Kenny Sander, Dewayne Price, Tommorrow Price, Ferda Smith, Luvenia Price, and Connie Jones.


Sgt. Curtis Swan

Pet. Exhibit

"R"

DATE; 03-04-96

Statement of: Sgt. Oscar Wilson

RE: Homicide

On March 04, 1996, I was dispatched to 931 J Street in reference to a gun shot victim. I was dispatched around 8:45 pm. I arrived at approximately 8:50pm. Upon arrival I entered the residence and observed the victim Robert Smith lying on the floor in a pool of blood. The ambulance crew was working on the victim. He was then transported to the Cross County Hospital. I then proceeded to assist Sgt. Curtis Swan in securing the scene. I then left the scene and went to the Cross County Hospital to check on the status of Robert Smith and to assist the Emergency Personnel with crowd control.

Upon arrival I was told by the doctor on call that the victim Robert Smith was dead. I then proceeded to assist the Coroner Terry Woodard. The victim died of an apparent gunshot wound to the chest area. The Medical Examiner was then notified.



Sgt. Oscar Wilson

Pet. Exhibit

"S"
000161

STATE OF ARKANSAS
COUNTY OF LINCOLN

Pet. Exhibit "T"

AFFIDAVIT

I, Frankie R. Brown/Muhammad, after first being duly sworn, do hereby swear, depose and state that:

In the year of 1996 I was incarcerated in the Corss County Jail in Wynne, Arkansas under the condition of unpaid fines. While incarcerated I was given the opportunity to be a jail trustee. After a while of working around the jail, I was awarded a job to work for Ross Ford Motor Company detailing cars, but due to the fact I didn't have a decent pair of shoes at the time, I was advised not to go that morning. The very next morning I was taken over to the Wynne Police Department by Officer George Pettigrew and we went into the evidence room and he tore some brown hiking boots out of a sack and stated, "Hell he won't need these where he is going." By him making such a statement caused me to look at the name on the sack. I then recognized the name on the sack as that of Ricky Scott and some numbers on the bag. I asked him very clearly are you sure this will be okay? Officer George Pettigrew stated, "Man he's already convicted due to the evidence of eyewitnesses, we don't need them." I put the shoes on and went to work in them until I quit that job. After they had gotten ruined by the water and they had to be thrown away.

END OF STATEMENT

I further swear that the statements, matters and things contained herein are true and accurate to the best of my knowledge, information and belief.

2-29-04
DATE

Frankie R. Brown Muhammad
AFFIRANT

429-23-7600
SOCIAL SECURITY NUMBER

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public, on this 29th day of February, 2004.

2005-09
Commission Expires:

Jesse M. Adams
Notary Public

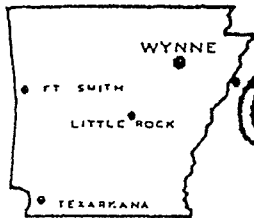
City Of Wynne

INCORPORATED UNDER THE LAWS OF ARKANSAS
AS A CITY OF THE FIRST CLASS

Address Reply:

P. O. Box 499

Wynne, Arkansas 72396



ON U.S. HY. 84 & U.S. NO. 1
NO PAC. R.R.

COPY

RECEIVED

APR 16 1997

3:15pm AB

4-17-97
Per L. Rodgers
EB
Two attachments
P. O. Box 499

DATE

April 17, 1997

EMPLOYEE

Roger Spoor

You are hereby notified of termination of employment with
the City of Wynne for the following reasons:

1.

See Atch Report

2.

3.

Other or Comments:

Signed

Department Head

Acknowledge Receipt

Per Exhibit "U"

I KARI WEISS WAS SENTENCED TO JAIL ON _____
TO SERVE 1 DAY FOR EACH \$10.00 I OWE. UP TO 30 DAYS.

ON THE DAY OF MY RELEASE, I WILL PRESENT THIS FORM TO THE WYNNE POLICE DEPARTMENT FOR
CREDIT ON MY BALANCE. FAILURE TO PRESENT THIS TO THE WYNNE POLICE DEPARTMENT COULD
RESULT IN NO CREDIT GIVEN TO MY BALANCE.

5 DAYS AT \$10.00 \$ 50
____ DAYS AT \$20.00 _____
TOTAL _____

JAILER R. Spier 103 W.P.D.

DATE 11-6-95

adj made 11/9/95
95-1-25636

Pet. exhibit

"V" 14
PAGES

000164

COMPUTER ADJUSTMENT

adj
9/17/96

REASON FOR ADJUSTMENT COMMUNITY SERVICE WORK PERFORMED

KERI WELLS

DEFENDANT # 15268-7

CASE NUMBER 95-1-25636 50.00

APPROVED LT. Roger Spun

000165

I KERI WEISS WAS SENTENCED TO JAIL ON _____

TO SERVE 1 DAY FOR EACH \$10.00 I OWE. UP TO 30 DAYS.

ON THE DAY OF MY RELEASE, I WILL PRESENT THIS FORM TO THE WYNNE POLICE DEPARTMENT FOR
CREDIT ON MY BALANCE. FAILURE TO PRESENT THIS TO THE WYNNE POLICE DEPARTMENT COULD
RESULT IN NO CREDIT GIVEN TO MY BALANCE.

<u>5</u>	DAYS AT \$10.00	<u>\$ 50.</u>
<u>10</u>	DAYS AT \$20.00	<u>\$ 200.</u>
	TOTAL	<u> </u>

JAILER Lt. Roger Spier

DATE 2-12-96

95-1-25636

adj 2/15/96

I Kari Wells WAS SENTENCED TO JAIL ON 9-4-95

TO SERVE 1 DAY FOR EACH \$10.00 I OWE. UP TO 30 DAYS.

ON THE DAY OF MY RELEASE, I WILL PRESENT THIS FORM TO THE WYNNE POLICE DEPARTMENT FOR CREDIT ON MY BALANCE. FAILURE TO PRESENT THIS TO THE WYNNE POLICE DEPARTMENT COULD RESULT IN NO CREDIT GIVEN TO MY BALANCE.

<u>5</u>	DAYS AT \$10.00	<u>100⁰⁰</u>
	DAYS AT \$20.00	<u>100⁰⁰</u>
	TOTAL	<u>100⁰⁰</u>

JAILER H. Roger Spear
DATE 9-15-95

95-1-25636
adj made 9/19/95

000167

COPY

I KERI WEISS WAS SENTENCED TO JAIL ON _____

TO SERVE 1 DAY FOR EACH \$10.00 I OWE. UP TO 30 DAYS.

ON THE DAY OF MY RELEASE, I WILL PRESENT THIS FORM TO THE WYNNE POLICE DEPARTMENT FOR
CREDIT ON MY BALANCE. FAILURE TO PRESENT THIS TO THE WYNNE POLICE DEPARTMENT COULD
RESULT IN NO CREDIT GIVEN TO MY BALANCE.

<u>5</u>	DAYS AT \$10.00	<u>\$ 50.</u>
_____	DAYS AT \$20.00	_____
	TOTAL	_____

AILER Lt. Roger Spier

ATE 10-3-95

95-1-25636

adg 10/6/95

000168-

CRIMINAL INVESTIGATION DIVISION

ASP-3-A

DATE: MARCH 6, 1997
DICTATED BY: SGT. J.R. HOWARD
DATE TYPED: MARCH 18, 1997 GM
COPIES TO: SGT. J.R. HOWARD

INTERVIEW OF WITNESS

KARI WELLS
W/F, DOB:9-25-71
400 THIRD STREET
BALD KNOB, ARKANSAS
PH:724-0173
ACT 309 INMATE
WHITE COUNTY DETENTION CENTER
SEARCY, ARKANSAS

WELLS was interviewed at the State Police office in Searcy, by this Investigator at 3:40 p.m., on Wednesday, March 5, 1997.

In June or July 1995, the Woodruff County Sheriff's Office, picked me up on a felony forgery warrant from Wynne. The bond was \$15,000.00. The Wynne Police Department came and picked me up in Augusta.

I was sent upstairs to ROGER SPEERS office as soon as I got there. He talked to me for two or three hours. I admitted to him what I had done. Me and KIRSTEN JOHNSON, a black female, had forged her mom's checks.

At some point, ROGER went downstairs and talked to the chief. At least that's what he said he did. When he came back, he said he was going to release me OR. This surprised me since I was charged in a county I wasn't known in. That was the first time I had been to Wynne. ROGER told me he could do almost anything he wanted as long as people like me worked with him. At the time, I thought he meant since I had cooperated with him, and saved him a lot of work that he could help. He told me to be in court the next Monday and that he would have everything taken care of.

While I was there, he told me he had just found out that Searcy Police Department, had a misdemeanor warrant for me and that I would have to go to Searcy Police Department. The Searcy Police Department picked me up, took me to Searcy, and then released me OR, on their misdemeanor charge.

FILE NUMBER:07-358-97

CRIME:ABUSE OF OFFICE

000169

On the following Monday, I went to court in Wynne. ROGER told the judge that due to some kind of considerations, that he was dropping the forgeries to criminal impersonation, and all he wanted was fines, cost and restitution. The judge agreed, but said that it all had to be paid before we could leave. The total amount owed was \$794.00. I was to pay half and KIRSTEN to pay the other half. KIRSTEN got the same deal I did. KIRSTEN said she would sit it out.

I called my grandfather, HOSS THOMPSON, and he agreed to pay my \$397.00. ROGER told me it would all have to be paid before I could get out, even if I paid my half. I called my grandfather back to tell him I needed more money and he said all he had on him was \$500.00. I told him I had a check coming in the next day that would cover the rest. ROGER got on the phone with my grandfather and told him that he would get me out of jail early the next morning to bring me to him. He said he would get the \$500.00 from him and then pick up my check at my house and he could work it out that way.

At 7:00 the next morning, ROGER got me out of jail, and took me to my grandfather's. My grandfather gave him the \$500.00 and ROGER gave him a written receipt for the money, and also wrote down that KIRSTEN would be held in jail until she paid her half and that my grandfather would then be reimbursed.

After we left my grandfather's, ROGER wanted to see Bald Knob Lake. I thought that was odd because he was telling me all his personal problems. After we left the lake, he wanted to go to the bottoms. I thought this was weird. I told him the mail ran at 11:00 a.m., and I needed to be there to get my check. So he took me to my house in Augusta, but the mail hadn't ran. While we were waiting on the mail, he kept going into more detail about problems, like he wasn't happy, and that his wife wasn't having sex with him.

While on the way to Augusta to get my check, I told him I didn't want to go to the bottoms. He told me there was something he hadn't told me. He told me that if the state wanted to they could come back and pick up the felony charges that had been dropped on me. He told me he could keep that from happening. He told me he had already done me one favor by getting my charges reduced and OR'd. He said one favor deserves another. I asked him what he was talking about. He went on to tell me how pretty he thought I was and this and that. He asked me for a head job first, and I said not no, but "Hell no".

By then we got to my house, and that's when I saw the mail hadn't run. He wanted to go in my house.

I didn't want to let him, but he had already told me that I could go to prison on the charges if they were brought back up.

I let him in because I was afraid of going to the pen. He wanted to look through my house. I left the front door open, so I could see the mail fun. ROGER took out his gun and laid it on the coffee table. This scared me because I didn't even know he had a gun on. Then he walked over and shut and locked the front door. He told me to sit on the couch and talk things over with him. I sat down by him and his hands started roaming and telling me what he needed. He said, "I've been your friend, you be mine". He told me this was all in my best interest, and to be his friend, so I had sex with him on the couch. I gave him head. That's all that happened that time. I was crying and upset. I had earlier told him I had a black boyfriend. He asked me what time he was due home and I said he should have already been here. He got nervous and told me I could bring him the check the next day.

The next day, my grandfather took me to Wynne, and I wrote Wynne Police Department a personal check for the amount I owed. My grandfather didn't understand what was going on. In August 1995, I moved to an apartment in Bald Knob, at 4th and Pine, apartment A. When morning came, and ROGER showed up at my door, with a folder in his hand and said, "KARI, you're in some trouble". He told me he wasn't going to let anything happen to me, that he was there to work something out with me. He never showed me what was in the file, but I knew I had some checks out, so I believed him. He told me if I would have sex with him, that he would keep this from happening and he held up the folder. He wanted me to have sex with him then, but I told him my kids were there and I wouldn't put them through that. ROGER left.

That night, my grandfather called me and told me to get a hold of ROGER SPEERS, that I had some community service time to do over there. ROGER told him to drop me off at Fair Oaks, and he would pick me up there and take me to an office to work. He said for me to dress cute.

So for four or fives times, ROGER picked me up at Fair Oaks, under the guise of community work to pay off a \$500.00 fine, I didn't know that I owed. Instead of community work, he would take me somewhere and we would have sex. Most of the time, I gave him head in his police car. We had regular sex once. That time, was in a trailer, that he has that he lets the police use.

When I moved back to my home in Bald Knob, at 400 Third Street, he started showing up there. We had sex in my apartment one time before I moved to my house.

ASP3A
Page 4

This went on from June or July 1995, through January 1996. During that time, I had regular sex with ROGER twice, and gave him head about 20 times, and most of that was in his Wynne Police Department car. The reason I did the sex with ROGER was because he kept holding checks over my head and threatening me with charges if I didn't do what he asked me to do.

This statement was read and signed by KARI WELLS.

Roger tells the judge that due to some kind of mistake that he is dropping the forgery & Criminal Impersonation & all he wanted were fines, cost & restitution. The judge agreed, but said that it all had to be paid before I could leave. The total amount was \$794. I was to pay 1/2 & Kuster to pay the other half. Kuster got the money & I did. ~~Kuster~~ Kuster said she'd set it out.

I called my Grandfather "Boss" Thompson & he agreed to pay my \$397. The Roger told me that it would all have to be paid before I could get out even if I paid my half. ~~He said I'd be in jail~~ I called my grandfather back to tell him I needed more money & he said all he had on him was \$500 cash. I told him I had a check coming in the next day that would cover the rest. Roger got on the phone w/ my grandfather & told him that he'd get me out of jail early the next morning & bring me to him. He said he'd get \$500 for him & then pick up my check at my home & he could work it out that way.

At 7 the next morning, Roger got me out of jail & took me to my Grandfather. My grandfather gave him the \$500 & Roger gave him a receipt for the money & also went down that Kuster would be held in jail until she paid her half & that my grandfather would then be reimbursed.

After we left my grandfather, Roger wanted to see BK Duke. He thought this was odd because he

the lake, he wanted to go to the bottom, & that this was
wind. I told him the mail ran at 11 AM & I needed to
be there to get my check. So he took me to my house in
~~But~~ Argentine, but the mail hadn't run. While we were
waiting on the mail, he kept going into more detail about
problems, like he wasn't happy & that his wife was having
sex w/ him.

While on the way to Argentine to get my check, he told
me I didn't want to go to the bottom. He told me there was
something he hadn't told me. He told that if the state wanted
to that they could come back & pick up the felony charge
~~on that~~ had been dropped on me. He told me he could keep that
for haggling. He told me he had already done someone
pardon by getting charges reduced & OK. He said on
pardon down another. I asked what he was talking about.
He went to talk to me how pretty he thought I was & thin
& that. He asked for a head job first & I said not so
but hell no.

About the time we got to my house & that's when I
saw the mail hadn't run. He wanted to go in my house.
I didn't want to let him, but he had ^{tricked} told me that I could
go to prison on the charge if they were brought back up. I
let him in. When I was afraid of going ~~back~~ to the pen. He
wanted to let the my house. I left it for a while as I
could see the mail run. Poze took out his gun, held it
on the coffee table. This scared me when I didn't hear 175

looked the pt. down. He told me that down the coast
a talk things over at him. I sat down by him & his
hands started waving & telling me what he needed.
He said this was your friend, you he said. He told me
this was all in my best interest & to be his friend, so
I had sex up him on the coast. Agree in head. That's
all that happened that time. I was crying & upset. I
had earlier told him I had a Black BF. He told me what
time he was down here & I said he already should have
been here. He just came & told me I could bring him the
chart the next day.

The next day my grandpa took me to Wynn &
I went WPP a personal check for the amount I owed. My
grandpa didn't understand what was going on.

In Aug 95, I moved to an apt in Bk. One at 4th &
Pine, apt A. One morning, ~~Roger~~ showed up at my apt. with a
fate folder in his hand & said Kare, you're in some trouble.
He told me he was going to let me stay here for a while, that
he was there to work something out for me. I never showed
me what was in the file, but I knew I had lost check
out as I helped him. He told me if I'd be my best
friend that he could keep this for me & he helped me
the folder. He wanted me to have sex up him then, but I told
him my kids were there & I didn't want to put them through that.
Roger said.

That night, my grandpa called me & told me
+ ... A ... R ... 11 A ... 000176

an
Ludson
300 257
3164

Francis
Jackie Rogers
238-0248

seen him to do our there. Roger told he tho to drop
me off at Fair Oak & let pick me up then to take me
to a office to work. He said for me to dress out.

So for 4 or 5 time, Roger put me up at
Fair Oaks under the guise of community work to pay off a \$500
fine I didn't know I owed. Instead, community work he'd
take me somewhere & we'd have sex. Most of the time I'd go
him ^{in his police car} ~~least~~. We had regular sex ~~times~~ ^{times} ~~that~~ ^{that} ~~he~~ ^{he}
was a trail that he has that he let the police see.
~~The police~~ When I moved back to my home BK at 400 3rd
St, he started showing up there. We had sex in my apt once &
he'd moved to my house.

This went on from June to July 95 thru Jan 96. During
that time, I had regular sex w/ Roger twice a week & gave him
head about 20 times & most of that was in his Wynne PD car.
The reason I did this sex w/ Roger is because he kept holding check
over my head & threatening to me w/ charges if I didn't do what
he asked me to do.

Rain Wells

INMATE PERSONAL WITHDRAWAL REQUEST FORM

ADC Unit

Print Inmate Name

ADC Number

Barracks Number

PLEASE PRINT REQUESTED INFORMATION

Date of Request _____ Amount of Request \$ _____

Dollars

Check is to be Payable To: _____

This Check is to be Mailed To:

Name

Street or P.O. Box

City, State, Zip

Purpose of Withdrawal Request : _____

Inmate Signature

ADC Witnessed Signature

Approved: Circle One YES

NO

Reason for Denial

Signature Warden/Warden Designee

Business Manager – Print Name

Business Manager Signature

TrustFund Centralized Banking: Inmate Funds Available – Circle One: Yes No

Exhibit 7: Judgment, *United States v. O. Joseph Boeckmann*,
No. 4:16-cr-00232-KGB (E.D. Ark. Feb. 23, 2018). . 179-180

UNITED STATES DISTRICT COURT

Eastern District of Arkansas

FEB 23 2018

JAMES W. McCORMACK, CLERK
By: *[Signature]*
DEP CLERK

UNITED STATES OF AMERICA

v.

O. JOSEPH BOECKMANN

JUDGMENT IN A CRIMINAL CASE

Case Number: 4:16-cr-00232 KGB

USM Number: 31022-009

JEFFREY M. ROSENZWEIG

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) 1 and 20

☐ pleaded nolo contendere to count(s) which was accepted by the court.

☐ was found guilty on count(s) after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. § 1343 and 1346	Wire Fraud, a Class C Felony	4/30/2016	1

The defendant is sentenced as provided in pages 2 through 8 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s)

☒ Count(s) 2-19 and 21 ☒ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

2/21/2018
Date of Imposition of Judgment

Kristine G. Baker
Signature of Judge

Kristine G. Baker, United States District Judge
Name and Title of Judge

February 23, 2018
Date

000179

DEFENDANT: O. JOSEPH BOECKMANN
CASE NUMBER: 4:16-cr-00232 KGB

ADDITIONAL COUNTS OF CONVICTION

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. § 1512(b)(1) and (3)	Witness Tampering, a Class C Felony	4/30/2016	20

Exhibit 8:	U.S. Department of Justice press release, <i>Former Arkansas State Judge Sentenced to Prison for Dismissing Cases in Exchange for Personal Benefits and Tampering With a Witness</i> (Feb. 21, 2018)	181
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<https://www.justice.gov/opa/pr/former-arkansas-state-judge-sentenced-prison-dismissing-cases-exchange-personal-benefits-and> (accessed Jan. 16, 2019)

Department of Justice
Office of Public Affairs

FOR IMMEDIATE RELEASE
Wednesday, February 21, 2018

**Former Arkansas State Judge Sentenced to Prison for
Dismissing Cases in Exchange for Personal Benefits and
Tampering With a Witness**

A former Arkansas state judge was sentenced to five years in prison for perpetrating a seven-year-long fraud and bribery scheme in which he dismissed pending cases in exchange for personal benefits, including sexually related conduct, and then bribed a witness in an attempt to obstruct an official investigation into the scheme. Acting Assistant Attorney General John P. Cronan of the Justice Department's Criminal Division made the announcement.

O. Joseph Boeckmann, 71, of Wynne, Arkansas, was sentenced by U.S. District Judge Kristine G. Baker of the Eastern District of Arkansas. Judge Baker also ordered the defendant to serve three years of supervised release following his prison sentence and pay a fine of \$50,000, to account for the financial harm he caused through his fraud scheme.

According to admissions in his plea agreement, from 2009 to 2015, Boeckmann corruptly used his official position as a district judge for the First Judicial Circuit of Arkansas to dismiss traffic citations and misdemeanor criminal charges for young men in exchange for acts that he claimed were "community service," but which actually benefited Boeckmann himself. Boeckmann took official action to order these individuals to perform "community service" and used his access to these individuals during their purported "community service" to take photographs of them in compromising positions. In other cases, Boeckmann dismissed pending charges against defendants in exchange for sexually related conduct.

Boeckmann, who pleaded guilty to wire fraud and witness tampering in October 2017, admitted that the corrupt use of his office defrauded the State of Arkansas and its citizens of their right to Boeckmann's honest services and also defrauded various cities and counties in Arkansas, as well as the State of Arkansas and the Arkansas courts, of money and property that they should have received as fines or fees from the individuals whose cases were fraudulently dismissed.

Boeckmann also admitted that during his scheme, he instructed various individuals not to tell anyone about their "community service" sentences. Then, after Boeckmann learned he was under investigation, he tampered with at least one witness in an attempt to keep his scheme secret. Specifically, in the fall of 2015, Boeckmann learned of a witness who had provided information to the Arkansas Judicial Discipline and Disability Commission (JDDC) regarding Boeckmann's practice of imposing personally beneficial "community service" sentences. Boeckmann directed another individual to pay the witness to write a letter recanting the information the witness gave to the JDDC. According to his own admissions, Boeckmann did this in order to prevent that witness from providing truthful information about Boeckmann to law enforcement and to influence, delay and prevent that witness's testimony in an official proceeding.

The FBI investigated this case with assistance of the Arkansas State Police and the JDDC. Trial Attorneys Peter Halpern, Jonathan Kravis and Simon Cataldo of the Criminal Division's Public Integrity Section prosecuted the case, with assistance from Special Prosecutor Jack McQuary of the State of Arkansas Office of the Prosecutor Coordinator.

000181