

19-8102  
No. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

MARQUISE LELAND WHITE,  
PETITIONER,

v.

STATE OF OKLAHOMA,  
RESPONDENT,

ON PETITION FOR A WRIT OF HABEAS CORPUS TO THE  
DISTRICT COURT OF TULSA COUNTY, AND OKLAHOMA  
COURT OF CRIMINAL APPEALS,

PETITION FOR WRIT OF HABEAS CORPUS

Marquise Leland White # 577941  
8607 South East Flower Mound Road,  
Lawton, Oklahoma 73501  
(580) 351-2778,

## **QUESTIONS PRESENTED**

Does a district court have the power to deny a Petitioner access to the court based on any such state statutory rules of evidence or even procedural rules that the Petitioner seemingly appears to have violated. Even if the Petitioner's apparent rule violation is a result of a court clerk error committed to intentionally deny Petitioner access.

## **LIST OF PARTIES**

All parties appear in the caption of the case on the cover page

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF HABEAS CORPUS

Petitioner respectfully prays that a Writ of Habeas Corpus issue to review the deprivation of Justice below.

### **OPINIONS BELOW**

The opinions of the Tulsa County District Court and Oklahoma Court of Criminal Appeals appears at appendices # Appendices Q-2,R-2,S-2,T-2,U-2 to the petition and is unpublished.

### **JURISDICTION**

The Jurisdiction of this court is invoked under 28 U.S.C § 1651 (a) Where as which Petitioner maintains he seeks a writ of Habeas Corpus, that if granted will be in aid of the Court's appellate jurisdiction, that exceptional circumstances warrant exercise of the Court's discretionary powers, and Petitioner cannot obtain any adequate relief any other form from any other court.

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

The right to use the court system under the first, fifth, and fourteenth amendments to the constitution. Under the first amendment I have the right to petition the government for a redress of grievances," and under the fifth and fourteenth amendments, Petitioner has the right to due process of law.

## **STATEMENT OF THE CASE**

**The following facts are derived from Petitioner's Direct Appeal Brief. (See- Appendix- A)**

### **I. Background:**

An Oklahoma jury found White guilty of first-degree murder, kidnapping, and first degree robbery. On January 06, 2006, around 5:00 Pm., Modesta Ramirez-Alvarez, 22, went to wash clothing in the laundry room of the River chase Apartment Complex in Tulsa.

Ramirez-Alvarez, a Mexican national, was working at a local Wendy's restaurant and living with relatives at the River Park Apartments in Tulsa, which were across the street from the Riverchase complex. She was driving a 1988 gold Honda Accord, that was registered to her cousin, Pedro Ramirez.

Pedro became concerned for Modesta when she failed to return from the laundromat after several hours. Despite repeated calls Modesta did not answer her cell phone. Later that evening, after searching local businesses for Modesta, Pedro called 911 to report her disappearance. Tulsa Police Officer Stephanie Blann responded to the missing person's call on January 7, 2006, Officer Blann accompanied family members to the laundry room at the Riverchase Apartment Complex between 2:00 and 2:30 Am, to take a report. The family identified Modesta's clothing in one of the washing machines. There were no signs of a struggle at the laundromat.

Officer Blann interviewed Manuel Cuevas, a friend of the family, who said he saw the Honda parked next to a gray Oldsmobile between 6:30 and 7:00 PM. He claimed he saw three black males standing near Modesta's car. Mr. Cuevas said the three men appeared to be laughing and talking and he assumed they were conducting a drug deal. Mr. Cuevas claimed he saw the car again several hours later around 2:30 AM. He said the car was moving and it almost ran over him in the parking lot. He jumped to the side and kicked the car as it passed him.

Later that morning, Modesta's car was located in a field north of the Riverchase Apartments. Officer Kyle Ohyrowicz reported that he was patrolling in an unmarked police car around 4:55 AM. when he saw a vehicle with it's light on in a field near the Riverchase Apartments complex. Two males were standing near the passenger side of the vehicle. When he approached, they took off running towards the northeast corner of the apartment complex.

A short time later, Tulsa Police Officer, Jeff Dozer, who had been processing the abandoned vehicle, discovered the body of Modesta Ramirez-Alvarez.

The car was parked near a tree and Officer Dozer noticed tracks coming to and from the creek bed. When he shined a light on the creek bed he saw a pair of legs sticking out from the edge. An EMSA paramedic arrived and confirmed the body was that of a deceased Hispanic female. The victim was lying face down with her right arm underneath her body. She had severe trauma to her face and the back of her head, including lacerations, and a large bruise to her upper chest. Police observed large rocks to the east of the victim with blood drops on them and a rock directly underneath her head with blood on it. Police also discovered "two different types of tennis shoes prints" on a sandy elevated area east of the victim's body. "Impressions of these footprints and the blood drops on the rocks were collected".

Chris Stout, Tulsa Police Department, testified he arrived at the scene of the homicide around 7:20 or 7:30 AM. On January 7, 2006 Stout was assigned as lead investigator. He received information that the victim had a cell phone and the carrier was U.S. Cellular. Detective Stout contacted U.S. Cellular and obtained information concerning the last dialed numbers called from the victim's phone. Joe Cabrera, business records manager for U.S. Cellular testified he researched the telephone number belonging to Pedro Ramirez, (918)-694-2012. The last number called from that Cellular phone (918) 856-0314, was registered to Waitki Crawford, also a U.S. Cellular customer. Between 6:01 and 6:41 PM. on January 6, 2006 four phone calls were received from the victim phone to Mr. Crawford's Cellular number. According to Mr. Cabrera, the victim's cell phone continued to be used until January 23, 2006.

Based on this information, Detective Stout prepared a warrant for Waitki Crawford's arrest. Which was executed on Sunday morning, January 8, 2006.

Between 4:00 and 6:00 Am., Crawford was awakened in his home and arrested for outstanding warrants. He admitted when the Police entered his home, he jumped out of bed, naked, and hid out the closet. He subsequently were transported to the station and interviewed by police.

Crawford told the police that on the night of the murder he received several phone calls from a number he did not recognize. When he answered the third call it was his brother Marquise Leland White. During that call, Crawford heard White say his nick name "taki", and "sit on your hands before I kill you." Crawford claimed he overheard a slight whimpering sound in the background, Crawford also claimed Marquise was having a difficult time expressing what he wanted but he told Crawford he was at Riverside. Crawford assumed Marquise meant he was at their sister Takisha's apartment so he drove to 81<sup>st</sup> and Riverside. He pulled in front of his sister Takisha's building and saw Marquise standing in the middle of the parking lot. Marquise began walking towards Crawford's vehicle. Crawford said he owned a 1987, Silver Oldsmobile Cutlass Supreme. Crawford claimed he was alone at the time. Takisha was also in the parking lot, standing at the window of a friend's vehicle talking. Crawford asked Marquise what was wrong and Marquise told him "nothing" According to Crawford Marquise then told him he thought he just killed somebody by hitting them in the head. When Crawford asked him why he would do that, Crawford claims Marquise told him I've got to eat. After this conversation, Marquise told Crawford her was going to Sand Springs to see his girlfriend and he drove away in a Honda Accord. Crawford said he left and went back to his own apartment. He claimed he never returned to the area of 81<sup>st</sup> and Riverside later that evening or the following morning.

Crawford testified at trial as a material witness, On cross- examination he denied he was an informant for the Tulsa Police Department, or that he had to be relocated to Kansas for protection. Despite the fact police discovered marijuana in his house when he was arrested. Crawford admitted he had never been charged for this crime. Crawford also admitted to an unresolved charge from December 2007, in Tulsa County for possession with intent to distribute. Crawford claimed however, that this consideration from the state did not impact his testimony. The information from Crawford led police to Marquise White, Jhirimi McClendon and Takisha White. Tulsa Police Detective Micheal Nance testified he participated in executing a search warrant for the apartment of Marquise White at the Riverchase Apartment complex at 10:30 Am. On Sunday January 8, 2006, Detective Nance located Mr. White outside the building with his cousin Jhirimi McClendon. White and McClendon were arrested without incident and transported to the police station. Detective Nance also transported Takisha White to the police station where he interrogated her that morning. Jhirimi McClendon was interviewed by Detective Nance and later testified at trial. McClendon claimed he was working the 7 to 11 shift at McClendon's on January 6, 2006. He got off work around 11:30 Pm. and walked home. Marquise showed up and was driving a brown Honda Accord he had never seen before. Marquise said he jacked somebody to get the car. There was a purse in the back seat and Marquise told McClendon it belonged to the person he jacked the car from. McClendon said Marquise was concerned about leaving the woman in the trunk while visiting his girlfriend so

he tapped her in the head a couple of times. McClendon said Marquise asked him if he wanted to go see the body and he agreed to go. The two went down to the creek bed and McClendon said he saw what appeared to be a body but it was to dark to tell for sure. According to McClendon, as they were driving through the Riverchase apartment complex, a Hispanic male chased the car and slapped the back of the hood. He and Mr. White sat in the car at the Riverchase Apartments for awhile before pulling into an adjacent field. They saw a car pull up behind them with the headlights on so they jumped out of the car and ran back to the apartments.

Detective Nance interviewed Takisha White concerning her knowledge of the homicide of Modesta Ramirez-Alvarez. Takisha told him, and later told the jury, that on January 6, 2006, she was living at the Riverchase Apartments with her brother Marquise. She got off work and arrived at her apartment around 7:30 pm. It was already dark by that time. According to Takisha White Marquise was already outside when she arrived home (**Appendix- A @ pg. 7.**) He showed her some keys and said he was going to visit a friend in Sand Springs. Takisha said Marquise did not own a vehicle. Waitki Crawford, Takisha's older brother was also in the parking lot talking to Marquise. Takisha could not hear anything they were saying. A little while later, Marquise drove away in a tan colored Honda. Takisha identified the car depicted as States Exhibit- 8 as the car she saw Marquise driving that evening. Takisha said Waitki Crawford was in his Silver Oldsmobile with another African American male and those two drove off in front of Marquise's car.

Tulsa Police Detectives also Obtained a taped confession from White which was approximately 20 minutes in duration. Mr. White stated he approached the victim in the Riverchase laundry room and asked her for fifty cents. She told him no and when she turned around he grabbed her keys and cell phone, sprayed her with mace, and ordered her into her car. He drove her to a park at 81<sup>st</sup> and Riverside where he called his brother and asked him to come get him. He then drove the victim to an open field where he walked her down to creek bed and ordered her to walk down the embankment. As she was making her way down, she fell. Mr. White ordered her to stay on the ground. He then began rolling and kicking rocks on top of her. The rocks struck her from the waist up. He told Detectives he then drove the victim's car to his girlfriend's house in Sand Springs. (**Appendix- A, @ pg. 9**)

A search warrant was executed on Mr. White's apartment on Sunday, January 8, 2006 around noon. Police photographed evidence retrieved inside the apartment including a key chain with a pepper spray or mace canister attached, (**Appendix- A, @ pg. 9,10,**) police also retrieved a pair of black shoes identified as State's Exhibit 100. During the police investigation, a pair of black Nike shoes was also collected from Jhirimi McClendon. According to Detective Nance, the pattern on Mr. White and Jhirimi McClendon's shoes matched the patterns on the sandy ledge at the crime scene. (**Appendix- A, @ pg. 10.**)

On Direct Appeal of White's convictions to the Oklahoma Court of Criminal appeals (OCCA). The OCCA affirmed White's convictions, upholding the trial court's determination that his confession was voluntary. The OCCA also held that the trial court erred in precluding White from impeaching Crawford with testimony

from their uncle Dana White that Crawford had confessed to him he committed the murder. However the OCCA held that that error was harmless beyond a reasonable doubt in light of the other evidence connecting White to the murder.

White filed a § 2254 habeas application in federal court. Among other claims, he asserted that his confession was not voluntary and the trial court's exclusion of the uncle's testimony denied him the ability to impeach Crawford and present exculpatory evidence. The U.S. District Court denied White relief. It held that the OCCA's ruling on these issues were not contrary to or an unreasonable application of Supreme Court law.

On March 28, 2017, the Tulsa County District Court docketed an application received from White petitioning the court for Post conviction relief based on newly discovered evidence and several claims of ineffective assistance of trial counsel and appellate counsel.

White's new evidence claim were supported by audio recordings which purports White's brother Waitki Crawford's confession to the crimes Petitioner were convicted of. Witness affidavits, and public documents which corroborate facts put forth by Crawford in his audio admissions. White also referenced facts in support of his petition contained in official Tulsa Police documents White had no remedy to obtain. One of those documents were an informant list; naming Petitioner's brother Crawford as a "snitch". The list were released to Oklahoma news media by the defense team of ex- Tulsa police officer Jeff M. Henderson after Henderson were charged with falsifying search warrants using false informants. Though White could not provide the list in support of his claim. Petitioner cited the document as evidence in a motion requesting the court's assistance in obtaining the document as it would be necessary to corroborating key facts put forth by Crawford in audio admissions in which Crawford claims he sold drugs for Henderson and that the death of the victim in this case resulted from a drug deal gone bad between "Crawford's gang" and known associates of the victim whom Crawford had ties with.. However the court rejected White's request based on it's own contention that the "informant list" simply does not exist.

Despite the fact the Petitioner provided the court a copy of the actual physical recording as well as various sworn statements verifying the authenticity of the recordings as well as the documents that corroborate facts submitted in Petitioner's petition. (Appendices-R-2 @ pg. 6 ) & Q-2 @ pg.3 (motion to present voice I.d evidence @ 12. and supplement brief with affidavits @ 13) The District court refused to review the audio evidence supporting Petitioner's claim that the audio material exonerates him. The district court entered an order April 13, 2019 denying the Petitioner's petition for relief.

On June 04, 2019 the United States Court of Appeals for the Tenth Circuit docketed petition # 19-5053, from the Petitioner Marquise Leland White requesting permission to file a second or successive habeas petition under 28 U.S.C. 2254. Raising twelve claims based on newly discovered factual predicates. Including the Petitioner's claim that Crawford's audio admissions exonerate him. The Tenth Circuit determined that Petitioner

failed to demonstrate a *prima facie* case for authorization under § 2244 (b)(2)(B) as to any of these claims and denied Petitioner authorization in an order entered June 26, 2019.

## NEWLY DISCOVERED EVIDENCE

### A.

In 2017, Sgt. Mike Huff formerly of the Tulsa Police Homicide division, who acted as supervisor of the Homicide investigation into the death of Modesta Ramirez. Was named as a defendant in a lawsuit which revealed how Huff and other police used coercion and hid evidence to wrongfully convict seven people of murders. (**Appendix- P-2**) see full article @ [www.the daily beast.com/lawsuit-police-used-coercion-and-hid-evidence-to-wrongfully-convict-seven-of-murder](http://www.the daily beast.com/lawsuit-police-used-coercion-and-hid-evidence-to-wrongfully-convict-seven-of-murder)

Priscilla K. White is the mother of Marquise “Leland” White the Petitioner. She also has two other sons William Floyd White Jr. and Waitki “taki” Crawford. In July 2010, Waitki Crawford left his mother Priscilla White a message on her voicemail complaining that “William” were telling other individuals that Petitioner is in prison for a crime that Waitki committed. Waitki requested his mother inform William to ‘keep his name out his mouth or “someone will die”. (**Appendix- B**)

In July 2014, Waitki was visiting his mothers home when Priscilla asked Crawford did Leland murder “Modesta”? Crawford stated no! Leland did not murder Modesta, Leland was just in the wrong place at the wrong time. (**Appendix- B & C**)

Sometime during the year of 2011, Waitki Crawford introduced his mother to his girlfriend Latasha Maye's at Maye's apartment. **Appendix- D @ # 1,2,3)** According to Priscilla's personal knowledge. Crawford and Mayes were in a relationship approximately two years during which that time Priscilla were introduced to Mayes's mother. (**Appendix-D @ # 8 (&) Appendix-E @ # 9,10).** According to Priscilla, Mayes and Crawford's relationship appeared to be going well. At some point Mayes and Crawford shared a residence together in 2010, prior to Crawford and Mayes's relationship terminating (**Appendix-D @# 6, & Appendix- E @ # 9,**) According to Priscilla, Mayes and Crawford's break up resulted from Mayes discovering Crawford were already married to another woman name “Ebony Mckaskill” (**Appendix-E @ #10)**

Priscilla also personally recalls a project Mayes referred to as “group sessions' with Crawford, The purpose of the “group sessions” were in order for Maye's to gain knowledge about the murder of Modesta and to help prove Leland was innocent. **Appendix- E @ #12)** At some point Priscilla attempted to assist Mayes in this endeavor when she personally gave Mayes a video camera. **Appendix- E @ #13)**

In the year 2012, and 2013. Crawford made numerous admissions on audiotape that cast grave doubt on the evidence considered by the jury that convicted the Petitioner for murder kidnapping and robbery.

In the years 2005, and 2006, Crawford were the leader of a small drug organization who called themselves “The C.L.I.P.P.E.R.’s (Appendix-F pg. 1 of 19, @ 8) & (Appendix-R) According to Crawford the history of the Clipper’s begin when “Henderson ended “a contract” with the “Murris family”, and the “Trevino Family” in Texas, at that point money stated pouring in” (Appendix-F pg. 1 of 19, @ 7,8,)

According to Crawford, the death of Modesta Ramirez, the victim in this case resulted from a drug deal which occurred six months before her murder between the “Clipper’s group” and two men Crawford were involved with named Santos, and Pedro. (Appendix- F, pg. 13 of 19, @ 6 and 7) According to Crawford the drug deal established between the Clipper’s, Santos, and Pedro were an arrangement where Santos and Pedro received a certain amount of dope “work” in exchange for weed from the Clipper’s.” Crawford claims that “deal” is what basically led to Modesta getting killed” (Appendix- F, pg. 13 of 19, @ 8-10)

According to Crawford both Santos and Pedro are both connected to Petitioner’s case in various ways. 1). Santos and Micheal were best friends, 2). Pedro and the victim in this case Modesta Ramirez were cousins, and Santos had a brother name Carlos (Appendix- F, pg. 13 of 19, @ 8) 3). Crawford claims Jeremy McClendon and Micheal knew each other and refers to Jeremy McClendon as Michael's wing man. 4). It is also a known fact that Santos and Petitioner were classmates at Jenks High school. (Appendix-18)

According to Crawford something occurred in which Jeremy “did something” involving Santos (Appendix- F, pg. 13 of 19 @ 5,6) Though Crawford is vague in detail about the event in question he’s referring too. Crawford claims Jeremy McClendon “ran in on Santos and Micheal” (Appendix- F, @ 22,) and subsequent to that event. Crawford specifically recalls a time when McClendon confided in him regarding McClendon’s belief that McClendon was being followed by Pedro. When Crawford asked why, McClendon told Crawford he saw Pedro’s car out in his apartment’s and McClendon recognized the license plates on the vehicle the “220-ZLW” (Appendix- G, pg. 1 of 1, at 33-38) & (Appendix-G @ 38,39) Upon realizing he was being followed by Pedro, Crawford claims Jeremy demanded help”

According to Crawford if Jeremy” wouldn’t have been going around bragging that he was involved in a cartel” nobody would have ever thought nothing of it”. And that Jeremy had to be a complete idiot if Jeremy thought he could brag about dealing with the ‘Lapez family” and nobody not know about it. (Appendix-G, pg. 1 of 1 @ 35-42)

Crawford knew Leland liked to stand on his patio balcony looking through his binoculars in the apartments. On January 6<sup>th</sup> 2006 the day Modesta Ramirez was murdered but prior to her murder and kidnapping, Crawford claims his younger brother “Leland” the Petitioner, spotted Big Jay and Crawford together from the patio balcony of the Petitioner’s apartment. When the Petitioner later mentioned to Crawford

he saw the two men together. "Crawford warned the Petitioner not to ever tell anyone." (**Appendix- F, page 14 of 19 at 3-8**)

According to Crawford on the evening of January 06, 2006, Modesta was in the River Chase apartments laundromat and had to cell phones in her possession when she were abducted. Phone # 2 was the property of one of Modesta Ramirez's cousins, and were also were a business phone. Crawford doesn't know specifically how, But Modesta just happen to have the phone in her possession when her kidnappers abducted her from the laundry mat. (**Appendix- F, Pg. 7 of 19 @ 16-20, pg. 8 of 19 @ 1, and 2**)

According to Crawford on the evening of January 06, 2006, "Leland" the Petitioner was trying to go to the city of Sand Springs to visit his girlfriend. Crawford told Petitioner that he would take him to Sand Springs to visit his girlfriend. (**Appendix- J @ 14,15,16,17**) At some point during the evening hours of January 06, 2006. Petitioner approached Crawford's vehicle in the River chase apartments looking for Crawford. "Terron" Crawford's associate who were sitting in Crawford's vehicle informed Petitioner that "everybody" was behind the River Chase apartment's "by the bridge". (**Appendix- F, pg.14 of 19 @ 9-12**)

When Petitioner went back to his apartment's patio balcony to look behind the Riverchase apartment's by the bridge. Petitioner saw Modesta Ramirez escorted down the embankment of the creek where she was murdered. (**Appendix- F, pg. 14 of 19 @ 13-17**)

1. Crawford claims after he and the men he were with killed Modesta everything was good, that they threw the hammer and the wrench across the street in the river. At some point the men then returned to the parking lot of the River Chase apartments. (**Appendix- J, @ 15,16, 17**)

According to Crawford when everybody got back from the creek" "Leland" the Petitioner came outside to the River chase apartment's parking lot. Leland told Vince what he saw from the balcony. (**Appendix- F, pg. 14 of 19 @ 9-11**) Crawford claims because of the detail in what his younger brother described seeing from the balcony, Crawford knew Petitioner was telling the truth that Petitioner witnessed Crawford and the other men kill the victim. (**Appendix- F, pg. 14 of 19, 15 of 19,**)

During this conversation with Leland in the River Chase parking lot. Crawford claims Leland described certain details of the murder which Crawford also confirms are factual. According to Crawford, everybody involved in the murder of the victim in the creek were wearing a sneaker known as "Nike Air Force Ones", the victim fell in the creek while being escorted by men down the embankment of the creek, the victim also laid down in the creek bed, and the group of individuals involved ran up and down the creek several times before finally leaving the scene because a jack hammer was left down in the creek by one of the men where the victim was initially murdered. "One of the men had an orange hat on, another individual had an orange light around their neck which were flickering on and off. **Appendix- F, pg. 15 @ 1-17**

According to Crawford in spite of what "Leland "Petitioner saw with his own eyes. Leland was so gullible that he believed in everyone around him so much that whatever Leland" saw didn't matter because

Petitioner would believe whatever “they told him”. Crawford and Vince decided to see if “Leland” was scared because they needed to get Modesta’s car out of the area and Crawford and Vince wanted Leland to help do it. **Appendix- F pg. 16 of 19 @ 9,10,11)** At this point Crawford and Vince told Leland everything” about the kidnapping and murder of Ramirez. **(Appendix-F pg. 16 of 19 @ 12-16)** Crawford claims Leland “didn’t respond as expected, Leland “just stood there non nonchalant like he really had no soul.” According to Crawford they only shared the details of the kidnapping and murder with “Leland to see if Leland was scared. **(Appendix-F pg. 17 of 19 @ 4,5,6)**

When “Leland didn’t act alarmed” Vince and Crawford recanted their admissions to Leland about the kidnapping and murder just to play with “Leland’s head to try and make Leland think he really didn’t see Modesta Ramirez murdered from the balcony of his apartment. **(Appendix- F pg. 17 of 19 @ 7,8,9,10,11,12)**

Vince made an effort to convince Leland that an individual who owed him money and didn’t pay gave him possession of the car instead of cash. **(Appendix- F pg. 17 of 19 @ 12,14,15,)** Vince stated he beat that individuals ass in the laundromat and took them to the creek to “basically chill for a while. Leland asked what was the shiny black thing that Vince was beating the victim with. Vince replied it was just a stick” **(Appendix- F pg. 17 of 19 @ 15,16,17,18,)** Vince also made an effort to convince Leland that the person Leland saw from the balcony escorted by the men down the creek wasn’t really dead” Vince claimed he just threw a couple tiny stones just to mess them up” Leland pointed out the rocks they were using looked kinda big” Vince replied the rocks only looked big to Leland due to the binoculars Leland were using. Leland asked why didn’t the person he saw escorted down the creek by the men get up and leave. Vince stated the victim didn’t get struck in any vital areas, “only from the waist down”. **Appendix- F, pg.18 @ 4,5,6.** As Vince made an effort to convince Leland that the victim in the creek were unconscious, Leland didn’t believe it. **Appendix- F, pg. 18 @ 1,2,3,4,5,6,7,8,9** Crawford and Vince then challenged Leland in what Crawford calls a “bluff game” Vince told Leland if he didn’t believe the person in the creek were only unconscious. That Leland should go down to the creek and see for himself, but only at a later time after the victim in the creek would have had reasonable time to regain consciousness. **(Appendix- F, pg. 18 @ 10,11,12,13,14,15.)**

However the reason everyone told Leland to stay away from the canal including Crawford. Were due to the fact that the victim were murdered Friday and Crawford knew Leland ran track every Saturday morning over by the creek **(Appendix-F, pg. 18 of 19 @ 17,18** “No one” wanted Leland to see the victim down their”**(Appendix- F, pg. 18 of 19 @ 15,16,17,18)** because Leland is a scary person and would have wondered what’s going on. And would have gone down to the creek to try and help the victim. **(Appendix- F, pg. 18 of 19 @ 1,2,3,4,)** Everybody including Crawford made Leland promise not to go down to the creek for at least 24 hours, Seemingly enough time for the victim to regain consciousness. However According to Crawford there was already anticipation that the victim’s body would have been removed by the police because Vince would report the crime himself” **(Appendix- F, pg. 19 of 19 @ 2,3,4,)**

That night in the Riverchase parking lot. Crawford asked Petitioner did he still need a ride to Amber's house, Petitioner replied yes but insisted he only needed a ride to get to Amber's house. (**Appendix- J, @19-26**) Crawford claims Leland told him Amber got off work at 8:00 Pm. Leland intended to be finished visiting his girlfriend by 10:00 Pm. Crawford asked Petitioner did he want to drive the victim's Honda by him-self. Crawford claims Petitioner got real excited only being seventeen years old getting to drive the Honda.

Crawford also maintains he thought it was a good idea for Leland to drive the car because Petitioner was in a state of mind where he was just trying to prove himself to people. Petitioner was seventeen years old. So if he was pulled over by police nothing would happen to him because Petitioner had a license and Modesta's Honda probably wouldn't have been reported stolen for at least another "48 hours". (**Appendix-J, @ 1,2,3,4,5,6**) Even if a situation came up that got Petitioner involved in it no matter what happened Mints knew Petitioner was too scared to snitch on him. (**Appendix- J @ 9,10,11**)

Though Crawford offered to let Petitioner drive the Honda to see his girlfriend. Crawford's offer were actually a guise to manipulate Petitioner to assist in Crawford's scheme to deliver the Honda to a chop shop in west Tulsa via Jeremy McClendon. The night of the murder Crawford knew Jeremy McClendon was working at McDonald's (**Appendix -J, @ 25-28**) Jeremy's shift at McDonald's started at 7:00 pm. Crawford describes a system pertaining to whenever McClendon were working. Crawford claims McClendon is quite familiar with the system therefore before Petitioner would have arrived at McDonald's. McClendon knew what to do because McClendon already knew what was going on as McClendon was taking cars to the chop shop all the time" as well as running and chopping cars for "Mints" (**Appendix- J, @ 27-31**) (**Appendix- I, @ 2,3**) Crawford also recalls at least one negotiation for the victim's car in which he claims an individual named Kendell didn't want the car (**Appendix- H @ 4**) Crawford claims there were several deficiencies in the vehicle the victim were driving such as it had no caps, the right back door didn't close good, and the gas cap was missing.

According to Crawford Petitioner was supposed to drive the Honda to McClendon's job and talk to Jhirimi about taking an "emergency break" which would require McClendon to claim his mother was in an accident presumably allowing McClendon to leave his job early (**Appendix-J, @ 26-30**) Jhirimi were then supposed to drop Petitioner off at Amber's house in Sand Springs.

Crawford claims Jhirimi were just going to drop Petitioner off because Amber could "run off" and bring Petitioner back to Tulsa. This arrangement knocked out two birds with one stone for Crawford because the "chop shop" were located right up the street from Jhirimi McClendon's job. (**Appendix- J, @ 34-37**)

Subsequent to the kidnapping and murder of Modesta Ramirez. Crawford left Riverchase apartments with the group of men involved in the murder. At some point Crawford and Ments and the other men met up again later. According to Crawford Ments was having problems because Mints had "two phones", Of the two burner phones, one of them were registered to a girl" and no one knew about these phones. (**Appendix- J @ 4-8**)

while “kicking it” out North. Crawford says he and the other men realized upon seeing the call logs for Modesta’ Ramirez’s number that they had “messed up” because instead of calling Modesta’s phone they was calling Petitioner’s phone. (Appendix- J, @ 4-8)

Crawford claims once everybody realized there was a fuck up with the burner phone it changed everything” (Appendix- F pg. 19 @ 5,6,7) In regards to Modesta’s phone and the mistaken phone call. Crawford chalked the mistaken phone call up to the fact everybody was so hyped up on adrenaline. (Appendix- J @ 4) Subsequently to this realization Mints talk to his police friend. (Appendix- J, @ 8,9) According to Crawford there was anticipation that the police would trace the missing phone that was in Modesta Ramirez possession when abducted and that before time ran out, Big Jay went around putting pressure on everybody. (Appendix- F, pg. 1 of 19, @ 3-7)

At some point after Crawford gave the victim's vehicle to the Petitioner. Petitioner picked up Jhirimi McClendon at McClendon's residence. After Petitioner showed McClendon the victim's I.d. Jeremy confronted Petitioner about how he knew Petitioner got the car, However Petitioner insisted to McClendon that the car was not stolen. According to Crawford Jeremy figured it all out because Jeremy recognized Modesta Ramirez from Modesta's I.D.s and after confronting Petitioner with that information Petitioner relented and admitted to McClendon “that he “McClendon was supposed to take the car to the chop shop” (Appendix- G @ 8-12)

On the record Crawford claims to have no knowledge to what transpired after he met with Petitioner in the Riverchase apartments the night of the murder and then seeing Petitioner drive off in the gold Honda the victim was known to be driving. However between the point Crawford gave the victim's car to the Petitioner to take to McClendon who were designated by Crawford to take the car to a chop shop up close to McClendon's job, and the point of Petitioner picking up his cousin McClendon. Something transpired which resulted in Petitioner's failure to arrive at McClendon's job entirely and somehow lead to the Petitioner picking up McClendon at McClendon's home instead of McDonald's. Then both teens subsequently visiting the crime scene and abandoning the Honda. According to Crawford all Leland had to do was stay away from the “Crime Scene” (Appendix- F pg. 19 @ 6,7)

Petitioner's actions led to police recovery of the vehicle in an abandoned field. Whatever it was that fostered “Petitioner and McClendon's” actions leading to the police recovery of the vehicle, eviscerated Crawford's plan he were already generating to explain to police, why the victim's phone had placed calls to a phone registered in Crawford's name. Crawford claims Mints was thinking something had already happened when “Leland” the Petitioner was driving the Honda. Whatever happened Crawford claimed it was a situation where Petitioner “fit” cause Petitioner would only get a slap on the wrist for driving a stolen vehicle. (Appendix- J @ 7)

According to Crawford, the original plan generating subsequent to the murder of the victim involved a “Simple Lie” and that original plan wouldn't work anymore following the police recovery of the vehicle the

victim was driving. Crawford claimed if the police found DNA in the car, “a simple lie” just to contradict it just wouldn’t work”. According to Crawford Big Jay advised in that scenario the Police investigating would just arrest “everybody because of the Petitioner”. (**Appendix-G @ 4-20**) McClendon understood that he would have the same problem if the police linked McClendon to the car. So in order not to be sent to jail. Jeremy understood that when the police “came” he would have to tell the police that Petitioner “jack somebody to get the car, and disposed of the body in the creek. According to Crawford Jhirimi agreed to go along with it in exchange for a promise that he would not be killed (**Appendix- G @ 25-27**) Jhirimi was pretty scared something would happen to his family and McClendon also didn’t want to go to jail so McClendon agreed to act in concert to frame Petitioner (**Appendix- G @ 29-30**)

In June of 2011, Jeff M. Henderson a Tulsa Police Officer was indicted by the federal government.

(**Appendix- K**) is an article by Tulsa world posted 7/20/10, detailing the indictment against Henderson for a variety of drug trafficking charges and allegations of false warrants, non existent informants. Also see (**Appendix- L @ FBI.gov**)

(**Appendix- M**) is an article by Kevin D. Adams, Attorney at law detailing also detailing the allegations against Henderson

Crawford claims he recalls a point when the feds were trying to get some information on Henderson” Henderson was worried because a phone in Henderson’s possession could be possibly connected to one of the phones phones that were in Modesta Ramirez’s Possession when she were kidnapped the night of the murder. (**Appendix- F, pg. 4 of 19. Appendix- F, pg. 2 of 19.**)

According to Crawford Henderson had “people in the FBI, local police, ATF, and the Oklahoma Bureau of Narcotics. (**Appendix- F, pg. 13 of 19**)

According to Crawford, Henderson and Choc Erickson an agent with the Oklahoma bureau of narcotics and dangerous drug control met at the funeral of Jose Trevino’s uncle prior to Erickson’s death in 2005. (**Appendix- F, pg. 6 of 19**)

Crawford specifically claims at that time the feds were trying to build a case against Henderson. that Henderson cautioned Crawford and everybody to be careful because a lot of rules and policies are changing. “That a captain has to be present before officers can run off with shit they find” (**Appendix- F, pg. 4 of 19**)

(**Appendix-N,**) Is an article published by newsson6.com posted 8/26/11, in which Tulsa Police Chief Chuck Jordan” spoke out for the first time since the federal corruption trial of Henderson. Jordan says a Captain now has to be there when cash is seized and counted” Jordan stated Henderson’s indictment is what led to the policy changes

According to Crawford at some point after the murder of Modesta Ramirez Santos Lopez intended to expose that Pedro and Michael were his and Modesta’s friends. However “ceased any such actions” because Big Jay recruited Santos at which point Santos became powerful “messing with Big Jay.

**(Appendix- O)** details a Tulsa shooting in which the exchange of gunfire left a 25 year old man named Santos Lopez dead. According to the article police claim the shootings resulted from a drug deal gone sour. Police believed that two other men involved acted to rob Lopez of methamphetamine.

**(Appendix- P)** is an article published 6/17/12, by Nolan clay detailing the indictment of Jose Trevino of Balch springs, Texas the article details a cartel money laundering case involving a horse ranch in Oklahoma City, and the Trevino brothers'

**(Appendix-Q)** is an article titled Choc Ericsson:2005, a senior agent who died November 18, 2005, from injuries sustained in the line of duty, agent Ericsson were assigned to the OBN Woodward District (Oklahoma Bureau of Narcotics and Dangerous Drug Control)

Several incidents described by Crawford in his admissions are corroborated by several police reports generated by and currently in custody of the Tulsa police department (TPD). The Police reports detail an investigation by TPD into a home invasion on the home of Santos Lopez a Jenks High School student in late 2005, before the Ramirez death. The investigation consisted of a uniform effort led by both Santos Lopez and TPD pressuring Petitioner for Crawford's identity.

**(Appendix -R)** is a statement from Petitioner describing how TPD questioned him after the Santos Lopez home invasion based on Lopez's belief that Petitioner knew Crawford's true identity.

According to Police reports maintained by TPD. Santos knew Crawford only under Crawford's alias name "Rob"

Petitioner's statement details how Henderson actively steered the investigation of the Lopez robbery away from "Crawford" by coercing Petitioner using tactics of physical violence and blackmail subsequent to the Santos Lopez robbery. Petitioner was also subject to a general pattern of intimidation in which officer Jeff M. Henderson threatened Petitioner on several occasions when it was determined by Henderson that Crawford was in Jeopardy. The incidents pertaining to the Santos Lopez home invasion is supported by several police reports generated by and currently in custody of the Tulsa Police Department. And according to Crawford's audio admissions. The Circumstances which seemingly revolve around the robbery of Santos Lopez in turn connect to the circumstances that led to death of the victim in this case. **(Appendix- F- @ pg. 13 of 19, at 8-10)**

## B.

The State's footprint evidence against Petitioner in this case revolves around a pair of very unique sneakers known as "Air Force Ones" Manufactured by Nike. The Police collected a Black Nike Air Force One sneaker's from Petitioner's apartment. According to Police Petitioner's Air Force Ones matched the "design" of shoe prints left by the perpetrator at the crime scene. The evidence linking Petitioner's sneakers to the crime scene is wholly based on State's witness testimony describing a visual comparison conducted of the Petitioner's sneaker soles to the crime scene shoe prints. A comparison based on the naked eyes of several Detectives who did and did not physically observe the crime scene. Though design and physical size can be used independently

to eliminate a shoe as a source of an impression. Closer examination is required in examinations involving the “Nike Air Force One” sneaker. (**Appendices -S, T, pg. 1 of 7 @ \***)

In July 2009, Michael B. Smith a Document Analyst/Forensic Examiner employed by the FBI, Laboratory published an article pertaining to analyzing Footwear impression evidence. The article highlighted how an examination conducted with the naked eye is insufficient and could lead to a mis- identification in an examination involving the Air Force One Sneaker due to the “unique characteristics” of the Air Force One shoe outsole. (**Appendices -S, T, pg. 2 of 7 @ figure- 1:1) & pg. 4 of 7 @ \***)

One Characteristic that makes the “Air Force One” sneaker so unique is the fact that More than 1,000 different molds are available for producing the Air Force One in men’s sizes ranging from size 6, through 21, including half sizes. (**Appendices-S, T, @ pg. 3 of 7 @ \***)

Table 1: shows the number of molds for each size. The fewest number of shoe molds for a shoe size is 2 (size 21) and the greatest number of molds is 94 (size 10). (**Appendices-S, T, pg. 3 & 4 of 7@ \***) Simply put” the more molds there are, the more each shoe size can be divided into subcategories as each mold has it’s own unique design features that are imparted onto each outsole manufactured in it. (**Appendices-S, T, pg. 3 of 7 @ \***)

According to Smith, When examining “Air force One” sneakers, close examination is required because of the unique fact that even though each of the 1,000 molds used in manufacturing the “Air Force One” is unique from every other mold. Some common design features are visibly present in every single mold used in manufacturing “Air Force Ones” “such as the concentric circles observed in the toe and heel portion of the outsole of the shoe.” For example, consider the following common design features: (**Appendices-S, T, pg. 4 of 7@ \***)

**(Appendix-U)** by Google.com displays the concentric circles observed in the toe and heel portions of the outsole of various “Air Force Ones” shoes marketed on the world wide web and manufactured by Nike. The above common design features depicting the Concentric circles are visibly present to the naked eye, In contrast the variations in Mold characteristics are not.

Identifying variations in mold characteristics requires close scientific examination. The mold characteristics of “Air Force Ones” should be closely examined during processes of making identifications as the many variations in mold characteristics can be used to eliminate footwear impressions that share the “same general outsole design” as well as “physical size”. (**Appendix-T, pg. 4 of 7, @ \***)

**(Appendix-V)** via Google.com Depicts a shoe impression made by a Nike Air Force One sneaker at a crime scene. However the above shoe impression is in no fashion connected to the crime scene in Petitioner’s case But were obtained via online research by Petitioner. The scientific point is the fact that to the naked eye the common design features of the “Air Force One” impressions depicted in both (**Appendices- U and-V**) cannot be distinguished from the shoe impressions photographed by Tulsa police at the crime scene in Petitioner’s case (**Appendix-U,V,W**). Because all “Air Force One” sneakers share the same general outsole design, it is

imperative to closely examine the outsoles of a Pair of Air Force Ones before determining the sneakers in questions are linked to a certain crime scene as Petitioner was not afforded to do so in this case. **Appendix- T pg. @\***

During such a process, the “examiner” also must consider the amount of wear observed on the outsole of the shoe. Just as design and physical size, wear can be used to identify or eliminate a shoe as a potential source of an impression. Even if the design and physical size correspond (**Appendix-S- pg. -128**)

Detectives in this case relied on <sup>1</sup>visual comparison alone as the basis for footwear examinations of crime scene shoe prints they intended to link to potential suspects, Specifically Petitioner. The scientific evidence outlined in Smith’s article relevant to “Air Force Ones” sneakers invalidates the rationale of visual comparison applied by investigators in this case with their intentions to link Petitioner’s Air Force Ones to the shoe prints at the crime scene. (**Appendix-Y,**) Depicts a TPD supplemental photo log, created by Detective Steve Douglass of the two different footprints Police alleged to be at the murder scene in this case. Detective Douglass specifically designated the shoe prints in the photo log as follows: “Shoe print type # 1”, a wavy pattern shoe print on a ledge, and shoe print type # 2”, a shoe print with a circular pattern on a ledge. According to Micheal B. Smith the concentric circles observed on the out sole of the “Air Force One” Sneaker is a common design feature present in “every single” mold used by Nike in manufacturing “every single” pair of “Air Force Ones”. It is impossible to say without the examination methods outlined by Smith if any variations were present in the mold characteristics of the circular patterned shoe prints at the murder scene in this case. Or if the prints at the murder scene were all factually made by the same pair of “Air Force Ones”. Closer examination could have concluded Petitioner’s “Air Force Ones” were not the sole source of all the Air Force One impressions at the scene. Or possibly not the source entirely of the shoe prints documented by police on the sandy ledge in this case. Even in light of the fact the crime scene impressions appeared to share the same general out sole design of Petitioner’s circular patterned sneakers as well as physical size. (**Appendix- Z, @) 3,4, 5**

The above science pertaining to Footwear impression evidence has been deemed admissible under United States of America V. Anthony Dewayne Allen. Micheal B. Smith has also been recognized in numerous federal courts around the U.S. as an expert in footwear impressions and has assisted the government in many cases (see *United States V. graves. 372 fed. Appx. 229 (3<sup>rd</sup> cir. 2010)*’

#### **Sixth Amendment Right to effective Counsel**

**Petitioner advances seven distinct failings by his trial counsel that entitle him to relief.**

##### **I.**

##### **IAC**

**1 (Appendix-X,)** is a report generated by Detective T.C. Cambell, detailing an assignment he obtained to assist in this murder investigation. On 1/7/06, Cambell were tasked to take five photos of five individuals who were apparently connected to the victim in this case. According to his report Cambell took photos of the individuals and the soles of their shoes for the purpose of “visual comparison” to shoes prints at the scene where the victim was found.

The state failed to collect physical evidence of “all the shoe prints at the crime scene that corresponded to the sneakers recovered from Petitioner’s apartment”. It was necessary for Petitioner to examine evidence of all the physical shoe prints used against him in order to demonstrate the shoe prints did not belong to him. United States v. Jobson, 102 F. 3d 214, 218 (6<sup>th</sup> cir. 1996) quoting Cal. v. Trombetta, 467 u.s. 479, 485, 104 s. ct 2528, 811. ed.2d 413 (1084) Petitioner's Trial Counsel failed to obtain experts to conduct test, to reach scientific conclusions, and analysis concerning footwear impression evidence in this case left at the Ramirez-Alvarez crime scene. Counsel also failed to object to Photographs and State testimony depicting the same “footprints” the State could not totally account for from being presented to the jury through photographs.

Petitioner contends that the Shoe prints the police failed to collect from the crime scene could exonerate him (**Appendix-Z @ 3,4,5-**) depicts the shoe outsoles of the Air Force Ones collected from Petitioner’s apartment by police. Though the Petitioner’s sneakers share the same general outsole design as the many circular patterned shoe prints at the scene. It cannot be ascertained if Petitioner’s sneaker was the sole source of the sneaker that factually made the circular patterned shoe prints at the murder scene without proper examination. (**Appendix- T pg. @ \*\***) Brady v. Maryland, 373 us. 83, 83 S.ct 1194, Trombetta, 467 U.S at 488-49, 104 S.ct 2528.

At least three quarters of the shoe print evidence at the scene were destroyed because the State chose to collect only “four” physical samples of actual dozens of shoe prints Detectives observed, documented, and photographed at the crime scene. And did so in “bad faith” Wright, 260 f. 3d at 571 (**Appendix-A-2**) Though the State claims it documented all of the footprints police allegedly observed at the scene. These photographs coupled with state testimony falsely had the jury believe that the circular pattern shoe prints in the crime scene photographs<sup>23</sup> matched the “Air Force One” sneakers recovered from the Petitioner

### **“Third Type shoe sole”**

2 The photographs created by detective Douglass actually mis- represent the number of total footwear impressions that can be counted individually in each photograph taken by Sgt. Bayles. Proper representation of footprints per letter titled in detective douglass should read as follows: **A**- eight shoe prints on edge 11' east of victims head) **B**- two shoe prints on ledge approx. 11' east of victims head) **C**-three shoe prints on ledge approx. 12 east and 1' south of victims head) **D**-five shoe prints approx. 12 east and 1, ½ south of victims head.) **E**-three shoe prints on ledge approx. 12' east and 3' south of victims head) **F**-one shoe prints on ledge, blood drop, approx 13' east and 2; south of the victims head.) **H**- five shoe prints on ledge approx 13' east and 5' south of the victims head) **I**- two shoe prints on ledge approx. 14 east and 4 south of the victims head) **J**-one shoe prints on ledge approx. 14' east and 10' south of the victims head.) **K**- one shoe print on ledge approx. 14' east and 14' south of the victims head) approximately 37 footwear footwear impressions (shoe prints) total

3 Sergeant Larry Joey Bayles Jr., Major Crimes Sergeant over the Tulsa police Department on midnight's shift took photographs of footprint impressions that he saw at the scene in the Petitioner's case (tr.1154) As Bayles took the photos at the scene, He also designated the pictures in such a way to differentiate between the photographs by placing a flash card next to the footprint/s. Bayles also designated the cards next to the footprints with alpha characters. (tr.1154-1155) Appendix- @- Bayles testifies he does not know how many footprints he photographed, however according to the placard he took, The first photograph begins at “A and ends at K” (f) is actually a suspected blood stain not a footprint 1155). Bayles indicated some of the photographs he took had more than one foot print in them (tr. 1169) Bayles also testified some of the photos might have had only one. In regards to multiple footprints depicted in photographs he took, Bayles testified he just put the scale down and tried to take photographs of the footprints that were under the scale. (tr. 1170) Of the many foot prints at the scene. Bayles testified there are ten individual locations that he took photos that depict footprints on the locations (tr. 1171)

During 2015, after Petitioner was denied a writ of certiorari from the United States Supreme Court. Petitioner's father mailed him his pre-trial trial discovery which the Petitioner's father received from the Petitioner's Trial Counsel in 2006. Prior to the year 2015, Petitioner were never given an opportunity to review any discovery documents from his case until his father offered mailing Petitioner the documents versus throwing them away.

While going through the discovery documents. The Petitioner noticed a shoe impression photographed at the murder scene which based on Petitioner's first hand knowledge about Nike "Air Force Ones". Did not match the outsole design of the shoes Police recovered from Petitioner's apartment with circular the patterns. The shoe print discovered also did not match the shoe outsoles belonging to the shoes police recovered from Petitioner's cousin McClendon.

After enlarging the photograph of the third type impression with resources in his facilities Law library. Petitioner determined it is visibly clear shoe print would constitute a third type shoe print at the Ramirez crime scene which police photographed, observed and documented in a report. (report) *Hadley V.Groose 97 f. 3d 1131 (ca 8 1996)* footprint evidence overlooked by counsels), expert opinion not sought *Richey v. Bradshaw, 498 f.3d 344 (ca6 2007)* counsel misses dead bang winner on appeal *U.S. v. Cook 45 f.3d 388 ca 10 1995* (Appendix- B-2, & C-2

## II.

### IAC

Had Petitioner's Trial Counsel investigated. Counsel had available to him known scientific Facts accepted by the medico/ legal community that a person's contact with pepper spray and it's associated effects simply does not dissipate without proper and adequate decontamination. Therefore Petitioner could not have sprayed the victim in the commission of kidnapping the victim as the prosecution theorized and as Petitioner confessed, because without proper and adequate decontamination after the victim's alleged exposure to pepper spray or mace. Presence of OC spray would be detectable in the victims autopsy examination. Petitioner's Trial Counsel failed to present this evidence by utilizing the technical procedures for the examination for pepper spray. Petitioner's pepper spray evidence could have also disproved Crawford and McClendon statements against the Petitioner. (Appendix-D-2)

## III.

### IAC

Petitioner's Trial Attorney's knowledge in suppressing Petitioner's statement was deficient below norms. Trial Counsels failure to investigate resulted in scientific evidence not presented at Petitioner's Jackson V. Denno hearing that would demonstrate to the Trial Court that Petitioner's statement was conclusively false as Petitioner described committing a murder in a manner that is scientifically impossible. Under Strickland v. Washington and Giglio. Petitioner contends his Trial Attorneys knowledge how to suppress his statement was deficient rendering counsels assistance inadequate and causing Counsel to fail in preparing and presenting through forensic

investigation of the facts that Petitioner's statement was scientifically impossible. (**Appendix-E-2**) is a publication exclusively relating to forensic pathology, and determining the direction of blunt force trauma by William A. Cox, M.D, Forensic Pathologist /Neuropathologist.

According to Dr. Cox postmortem examinations are actually more than sufficient in determining the direction of blunt force trauma. According to Dr. Cox, this information will indicate the direction the victim was facing at the time of being struck. According to Dr. Cox in many cases abrasions contusions and lacerations are frequently seen together as in this case.

2) Trial Counsel's Investigation Petitioner trial counsel accepted the states version of events in preparation for petitioner's hearing to suppress Petitioner's statement to police. Trial counsel investigation of the facts and circumstances that generated Petitioner's confession consisted of 1)trial counsel hiring an expert of false confessions as well as reviewing the police investigative files turned over to defense by prosecution. The file included an audio taped confession given by Petitioner. The trial court considered the testimony of the defense expert on the issue whether petitioner confession was in fact voluntarily made. Subsequently the trial court excluded the defense experts testimony, the trial court opined that it was more probable that Petitioner murdered the victim rather than the trial court make a factual determination that modern police detected employed tactics forcing innocent people to confess to crime they did not commit.

According Cox, M.D, The appearance of blunt force traumatic injuries are determined by the physical characteristics of a moving object, Which has an impact on the victim or the nature of the surface, which the moving victim strikes. Whether an impact results in injuring the victim is depended upon it's components, one of which is the kinetic energy displaced by the object in motion. In this case the moving object is the rock's the state alleges the Petitioner kicked, pushed, or rolled down onto the victim resulting in death.

The kinetic energy displaced by an object in motion is expressed by the formula  $MV^2/2g$ , in which M is the weight of the object in pounds, (rocks) V is the velocity in feet per second. Thus, the ability of an object/rock to induce injury is dependent on rocks weight and velocity. **Appendix- E-2- pg.1**

The amount of kinetic energy released by an object is related to the objects weight and velocity, And is expressed in terms-of foot-pounds. One foot-pound is the amount of work required to raise 1 pound foot against the force of gravity. (**Appendix-E-2- pg.1**) The rapidity with which the kinetic energy is released is expressed in foot-pounds per second, however, the full expression of the potential destructive force of any given collision is expressed in-terms of foot-pounds per second per square inch of application. What this means pragmatically is the smaller the area over which a fixed amount of energy is discharged, the greater will be the achieved disruption of the colliding tissues.

Aside from all the litigation at the hearing revolving around the circumstances of petitioner's interrogation that led to the petitioner giving police a statement. The fact remains the actual recorded statement Petitioner gave police is false.

There's no Question that physical rocks possessed the ability to injure the victim as Doctor Distefano testified the victims injuries in this case he would say are consistent with impacts from hard surfaces 'like rocks". However Whether the impact of those rocks resulted in injury to the victim in this case in the specific manner the state alleges is depended upon it's components, one of which is the kinetic energy displaced by the rocks in motion. In this case the moving objects, "the rocks" the state alleged the Petitioner kicked, pushed, or rolled down onto the victim. Did not have the ability to induce injury to the victim because to assert that the rocks had the ability to roll down the hill whether being kicked rolled, or pushed by Petitioner is scientifically impossible under the laws of physics.

IV.

IAC

Trial counsel were ineffective by failing to present available scientific evidence that the victim in this case were not murdered by rocks being pushed, rolled, or kicked down the embankment by anyone" because such an assertion as the prosecution theorized is physically impossible. Counsel had available information to warrant further investigation in the impossibility defense for Petitioner based on the lead detectives belief in charge of the investigation that it was impossible for rocks of the described size in this case to physically roll down the embankment at the crime scene where the victim was murdered. (**Appendix-F-2 pg. 8 of 11**)

V.

Counsel failed to investigate and present evidence of perjury

a.

Detectives knew Waitki Crawford lied about "everything" in regards to all information obtained from Crawford's 2006 Police interview that implicated Petitioner in the murder. Based on three independent witness sightings placing Crawford at the kidnapping location the night of the murder.

Three witness statements in (**Appendices-G-2, H-2, I-2**) reveal that On January 6<sup>th</sup> 2006, the night of the murder, Crawford was in and out the River Chase apartment complex not once but "several times." One of those times Jose Sanchez witnessed what he thought was a blue Cadillac parked next to the Honda accord the victim was driving. (**Appendix- G2,**) The black male driving the blue Cadillac got out and exchanged something with a male driving the victims Honda. Both males then returned to their vehicles and left. On that particular occasion the blue Cadillac was located in the area marked #1 on the map depicted in (**Appendix-L-2**) (**Appendix-H-2,**) On another occasion According to Manuel Cuevas, A time in which the victims Honda was "not parked" in contrast to the Jose Sanchez sighting. Manuel saw the victim's vehicle being driven by a black male in the River Chase Apartments. The victims Honda pulled into a parking space next to a Grey Oldsmobile that was was already parked" and this time the Honda had two black males in it. According to Manuel the two black males who were in the Oldsmobile were already physically standing outside of the vehicle before the black male driving the victims Honda eventually pulled into a parking space next to the Oldsmobile. Manuel told

police all three black males were “wearing baseball caps” (**Appendix-H-2,**) On at least one other occasion that night of the murder. Takisha White- Quito saw Crawford enter the River Chase complex. However Quito witnessed Crawford arrive from the southwest entrance indicated on (**Appendix L-2**) and then parked his Oldsmobile in the lot of 7818 South Utica next to a commercial dumpster. The area which Crawford parked on this occasion is marked with the # 3” on (**Appendix L-2**) Takisha white Quito were present in the same parking lot at this particular time because she just arrived home. (**Appendix I-2 @ Quito Statement**)

Quito testified at trial that when she arrived home in the River Chase apartment’s on 1/06/06, her brother was outside. However Counsel never established for the jury where because Quito were high on a narcotic known as Percocets while giving her testimony. In a notarized statement executed 4/19/17, Quito specified in contrast to her trial testimony that when she she arrived at her apartments on 1/6/06, that Petitioner were exactly between apartment buildings 13, and 14 of the Riverchase complex walking towards the parking lot on a sidewalk leading towards the South Utica parking lot. (**Appendix-I-2 @**) Quito’s statements establishes That because Petitioner were between buildings -13 and -14 when Quito arrived Shortly before Crawford also arrived from the southwest entrance. Petitioner was not the black male that both Mr. Sanchez or Manuel Castaneda witnessed driving the victims vehicle and engaging contact at least three times with two other black males driving the Grey Oldsmobile. This fact is supported by the physical fact the line of sight from both Manuel and Jose Sanchez’s apartment windows are certainly not within the line of vision between buildings 13, and 14. Counsel failed to present this evidence that Detectives knew Crawford’s statements implicating Petitioner were false and That Detectives concealed evidence pointing to Crawford and away from Petitioner as the third male “Jose and Manuel Sanchez saw in the victims vehicle.(See-witness credibility test. *Medina v. Barnes* 71 f. 3d 363 (CA 10 1995) (unable to present evidence of perjury by Waitki Crawford cause Trial Counsel’s inadequate investigation). Waitki provided the only eye witness testimony corroborating petitioner’s confession.

During the only occasion Crawford actually admitted to police to being in Riverchase apartments on Crawford 1/6/06. Crawford told police he never went past the dumpster that night he arrived in River Chase Apartments. However the dumpster Crawford claimed he park next two is out of view from both Manuel and Jose’s apartment. Witness investigation duty, *Hargrave-Thomas v. Yukking*, 236 supp 2d 75 (E.D. Michigan 2002) Counsel admitted he failed to any write or conduct any investigation before Petitioner’s trial for first degree murder, a court upholds a lawyer bare minimum must interview witnesses and make an independent investigation of facts and circumstances. (**Appendix-M-2 @ pg. 5**) Because the actual dumpster Crawford refers to as raised in Petitioner’s petition is not within Sanchez and Castaneda’s view from their respective apartment location. Jose and Manuel’s witness sightings along with Crawford’s admissions is evidence placing Crawford in River chase at least four different times the night of the murder. (**Appendix-L-2**)

Detectives also had knowledge Crawford lied about his alibi. Though Crawford stated he were at his uncles house prior to Petitioner allegedly calling him from the victims phone. Cellular towers placed Crawford in the

vicinity of the victim location. Despite not knowing Crawford's whereabouts the night of the murder. Detectives yet maintained in good faith they had reason to believe Crawford's statements implicating Petitioner were true. Counsel failed to go to the crime scene *Williams v. Washington* 59 f. 3d 673 6a 1995 an investigation of The scene and interview of witnesses could have established certain facts about the murder. The district court noted for example, that this evidence would have indicated that given the layout of the scene the alleged could not have taken place as Crawford claimed see 863 f. *supp at* 705 in light of this evidence of Crawford's perjury to diminish credibility of Crawford and Petitioner's confession. Counsel failed to investigate or develop the scene of the murder. Witness credibility not exposed would have rendered, undermined the declarant's accounts of Petitioner's confession unbelievable under *United States V. Hernandez* 913 f. 2d 1506, 1509 10<sup>th</sup> circuit 1990

**b.**

Police testimony claiming to have recovered mace from Petitioner's closet was false.

Petitioner contends the bedroom closet photos of pepper spray in states Exhibit- 109 is in fact not at all Petitioner's closet. Petitioner's (**Appendix- Z** depict photos that reveal a distinct contrast in the shelve structures inside Petitioner's closet opposed to the "Phantom closet" from which detectives photographed mace purportedly confiscated from Petitioner's bedroom closet. Petitioner must concede the photos that depict the black pair of "Air Force One" sneakers recovered from his closet is in fact his closet.

However the discrepancy here lies in the fact police testimony claims the mace and sneakers were found inside the "same bedroom closet" in Petitioner's apartment. However Photographs in (**Appendix-Z**) depict police claims are false. As the mace depicted sitting on a closet shelf in police photos seen in (**Appendix- Z @ 4,**) is not the same closet shelf depicted in other police photos of Petitioner's bedroom closet from which the Petitioner's black air force one sneakers were actually recovered from. (**Appendix-Z @ 6 ,**)

(**Appendix-J-2 @ pg. 5**) are new photographs taken 4/19/17, by his sister Quito of a model apartment maintained by Case and Associates staff at the same Riverchase apartment location where she and Petitioner use to live. A review of the photos reveal the model apartment's "closet" structure is an identical match to the characteristics of the same "phantom closet" photographed by police depicting mace found in Petitioner's bedroom. A review of the photo's also reveal the model apartment's closet is completely different in spacing between the pole and plank board that construct the closet's shelf, in contrast to what can be seen in the distance between the pole and plank board that constructs the Petitioner's closet's shelf the Air Force Ones police recovered., The phantom's closets shelf is easily differentiated when compared to the photo's that actually depict Petitioner's closet in (**Appendix- Z**)The photographs detectives took of the closet depicting mace are also not time stamped like the series of other photos detectives took the same day of evidence connected to the investigation. (**Appendix-Z**)

**c.**

Crawford confided in his mother Priscilla White in February 2006, that his brother Petitioner did not commit the crime. (**Appendix-B & C**) Priscilla White also she stated Crawford confided in her two days after the murder. Crawford stated he had possession of the Murder Weapon and took the hammer out to the country to an old friends and buried it. (**Appendix- B**) Crawford also stated he took the “cell phone” and burnt it up. On another entirely different day in March 2006. Crawford told his mother Priscilla that “Dana White” took the bloody hammer and sat the hammer in his truck. Priscilla stated she then confronted Crawford with his earlier statements to her in reference to Crawford claims to previously burying the hammer in the Country. Crawford then declared there were “two hammers.” (**Appendix-B @ Pg. 2 of 2**)

## VI.

### TRIAL COUNSEL FAILED TO SEEK A REMEDY FOR DEFENSE WITNESSES THREATENED AND INTIMIDATED BY WAITKI CRAWFORD

In a Pre- trial discovery matter, The prosecution brought to the trial courts attention information that trial counsel for Petitioner intended to call Eric Cullen a private investigator for the defense to the stand to testify (tr. 340) However the state complained they received no summary of what Cullen's testimony would be. (tr. 340) The state filed a motion in limine requesting the trial court to rule any testimony or evidence presented by Cullen to be excluded (tr. 714) based entirely on the states belief that everything that Cullen would be offering in testimony would be hearsay, (tr. 715) Defense counsel countered that the “reputation of a person’s character among his associates or in his community is an exception to the hearsay rule.” (tr. 716) State prosecutor Julie doss, countered based on conversations she had with Eric Cullen, Cullen intended to testify as to his opinion based on Cullen's interviews of “several individuals” regarding Waitki Crawford which formed the basis of Eric’s conclusions (tr. 716) However the trial court excluded any testimony from Eric Cullen before trial entirely.(tr. 717) Petitioner argues *under Strickland v. Washington* 466 U.S 668, 104 S. Ct.2052, 80 l.cd.2d 674 (1984 702-73) his counsel failed to develop evidence of intimidation and threats from Waitki Crawford’s attempts to suppress testimony that would support Petitioner’s own testimony offered by several individuals who were the subject of Eric Cullen’s interviews through out the course of Cullen’s investigation, including Petitioner’s own testimony about the murder. Had Counsel found a remedy for those individuals, and had those witnesses testified (under seal possibly,) Petitioner could have presented the jury testimony that the murder of the victim in this case were connected to an earlier home invasion executed on the home of Santos Lopez by both Crawford and Jeremy McClendon, as well as at least one other man whom trial counsel were aware were connected to the circumstances of this case prior to Petitioner’s Trial. (Norris Minor).

#### **Takisha White-Quitto**

The first of several accounts of threats and intimidation by Crawford begins with Takisha white- Quitto’s testimony. Quitto stated Prior to Petitioner’s trial, beginning at the time Petitioner were initially arrested Quitto felt intimidated and in fear for her safety due to her belief that Crawford were involved in the circumstances

surrounding Petitioner's arrest which discouraged her to talk to police, as she had no way to know if any of these officers who investigated the murder were or were not involved with Crawford. According to Quitto prior to trial Crawford made threats that if the Petitioner ever mentioned Crawford's name. That Crawford would make sure he spends the rest of his life in prison. Quitto also expressed concern over her belief Crawford Works with corrupt cops" as well as her belief that Crawford committed the murder of the victim in this case and framed Marquise' (**Appendix- K-2**)

**Petitioner's testimony** (the following cites to appendices pertain strictly to appendix- N-2)

The last of several accounts of threats and intimidation by Crawford revolves around Petitioner's very own statements describing the circumstances that led to Crawford initially giving Petitioner the victim's vehicle. According to Petitioner Sometime during the first weekend of January 2006, the Petitioner were expecting Crawford to take him to see his girlfriend. According to Petitioner, Crawford had some drug transactions to make on the south side, in the area where Petitioner lived in the River Chase apartments. Afterwards" Crawford promised he would take Petitioner to see his girlfriend once Crawford were finished taking care of all his drug transactions on the south side. **Appendix- N-2- @702**) According to Petitioner is were not unusual for Crawford to leave his vehicle parked in the River Chase apartments while Crawford took care of his business in the River Park apartments which are located directly across the street from the River Chase (**Appendix- N-2- @703**)

On 1/06/06, early the same day prior to the victim's murder. Petitioner noticed Crawford's Grey Oldsmobile in the River Chase complex parking lot parked in front of building #12, **@703**) Petitioner approached the vehicle to speak to Crawford. However Crawford's associate Tarrion occupied the front driver's seat of the vehicle, Tarrion informed Petitioner Crawford at that time was behind the River Chase apartment complex by the walkway bridge. **@703**) As Petitioner went back to his apartment which has a view of the walkway bridge from the apartments balcony patio. **@703**) It is there from the balcony that Petitioner through a pair of binoculars witnessed Crawford and three other men murder the victim. (Crawford **@703**), mints, Vince, and Norris minor) **@703-707**) Subsequent to the murder, Petitioner met with Crawford and three men in front of building # 23 within the River Chase complex **@707**) Petitioner confronted Crawford and the three men about what he saw from the balcony. Initially Crawford embellished the specific detailed facts Petitioner put forth in his account of witnessing the victim's murder **@708/709**) However Crawford subsequently recanted those events upon realizing Petitioner would not drive a car that belonged or were associated with some one who were murdered **@710**) At this point Crawford, Vince, and Norris convinced Petitioner despite what he witnessed through the binoculars that Modesta was not hurt as it appeared to him to be **@711**) According to Petitioner, Crawford claimed he saw Modesta in the laundry Matt. At that point Crawford stated they all ran in and hit her, Modesta then told Crawford and Vince that they could take the car she was driving in place of the money that Pedro, Michael, and Santos owed to Crawford. **@711**)

Crawford kidnapped Modesta for the sole purpose of forcing Modesta to get a hold of Pedro on Pedro's burner phone. However Pedro hung up the phone when he heard Crawford's voice which Crawford referred to as kept being a coward. So Crawford and Vince drove Modesta to the creek to humiliate her and to piss Pedro off @711) Crawford said they only knocked Modesta unconscious and left her at the creek @711)

Crawford, Vince, and Norris Minor claimed Modesta was not hurt at all. @711)

Crawford and Vince claimed what Petitioner thought was a jack/hammer being nudge in Modesta's back was really a stick shaped in the shaped like a utility jack hammer. @712) Crawford also claimed the stones Petitioner witnessed used on the victim wasn't really big stones at all. Petitioner's binoculars just made them look larger @714) Officer Jeff "Big Jays" Henderson, also located Petitioner the night of the murder in the River Chase apartments. Petitioner Met with Henderson through a meeting set up by Officer Marvin Blades Jr. during which Henderson made physical threats to Petitioner and claimed Petitioner would take the fall for Pedro's cousins murder. However Henderson claimed Petitioner would get out eventually cause Petitioner was a juvenile" (Appendix- N-2 @ \*)

#### Priscilla White

Another account of threats and intimidation by Crawford expounds from Crawford's very own mother Priscilla White. Which Crawford told his mother he would even kill members of their immediate family if anyone implicated him in the murder the Petitioner was convicted for. (Appendix-B & C)

#### Eric Cullen

Eric Cullen would have also testified about the home invasion of Santos Lopez, the circumstances of the robbery which Cullen connected to Crawford in the course of Cullen's his pre- trial investigation including police reports, and witness statements. The Santos Lopez home invasion specifically connects to the circumstances of the murder of the victim in this case. Without Petitioner's testimony. Counsels attempt through Cullen's testimony to present evidence of Crawford's violent Character, and intimidation of witnesses were unsubstantiated.

The purpose of Cullen's testimony was to establish Modesta's murder was connected to a home invasion Crawford Jeremy Mcclendon and Norris minor executed on an individual named Santos Lopez. However the State also requested the court to limit the defense from asking any questions, or presenting any testimony regarding accusations of Waitki Crawford's involvement in any unrelated crimes." (tr. 717) The state vigorously urged the court to prevent the Petitioner from offering anything into evidence that would put in the mind of jurors that Crawford were involved in the murder Petitioner were being tried for. (tr. 740)

The state entirely based this motion on a written notice the state received from Petitioner's counsel that stated the defense intended to offer testimony regarding Crawford's violent character, Specifically Crawford's involvement in other murders, home invasions, and drug dealings, in order to impeach Crawford (tr. 719) and to establish foundation of "Petitioner's own testimony" pertaining to the account of control and influence exerted

by Crawford over Petitioner during the Petitioner's account of events the night of the murder. And how such would influence from Crawford affected the Petitioner's actions and decisions that night.

#### **“limited disclosure method”**

-Defined as: the client is asked for the reasons he or she believes law enforcement are pursuing the case, names of witnesses and other useful info. The attorney only conducts a thorough interview once the government evidence is disclosed. With this method the attorney does not have a full understanding of the merits of the case from the beginning. The above method employed by Petitioner's counsel also resulted in Counsel's inability to investigate the facts of this case, and to discover exculpatory evidence of Petitioner's innocence prior to trial.

#### **(Appendix -V-2)**

Defendants have a constitutional right to present his own witnesses to establish a defense. *United States v. Terzado-madrug*, 897 f. 2d 1099, 1108 (11<sup>th</sup> circuit. 1990 citation omitted) Threats against witnesses are intolerable. Substantial government interference with a defense witness, free and unhampered choice to testify violates due process rights of defendant. *United States V. Goodwin* 625 f. 2.d 693 703 (5<sup>th</sup> circuit. 980) If such a due process violation occurs the court must reverse without regard to prejudice to the defendants. Here Trial Counsel for White committed unprofessional errors by failing to timely inform the trial court of intimidation of defense witness which deprived him of his six amendment right to call witnesses in his own defense, and these errors resulted in prejudice to his case, violating Petitioner's right to due process by intimidating defense witnesses into not testifying. Nor in the interest of or in the integrity of the judicial process so easily protected when the danger is that the defendant will intimidate the witness to the point the witness decides to give testimony that is false, incomplete.

#### **VII.**

#### **Counsel failed to Cross Examine Takisha Quito**

The State of Oklahoma presented Quito's testimony in Petitioner's jury trial pertaining to the night of the murder and when she saw both her brothers Petitioner and Waitki Crawford in the parking lot of the River Chase Apartments. Quito was on painkillers when she gave her testimony. At Trial Quito testified she had a baby February 29, <sup>2008</sup> and that at the time she were giving her testimony she were currently on Percocets and ibuprofen every six hours. On cross examination When asked by trial counsel do you feel like you feel like you're in command of your faculties today? “Quito stated not really” Assistant District Attorney Doss noted the testimony Quito were giving at that time may not be reliable. The Trial Court Questioned the mental state of Quito while giving her testimony. Trial Counsel cross examined Quito about the events occurring on the night of the 6<sup>th</sup> of January in the parking lot of her apartments. Quito testified Waitki Crawford was not alone, that the man Crawford were with that night she saw before ‘but doesn't know his name’. When asked what he looked like Quito stated she can't describe him but remembers he were African American. Trial Counsel's cross examination at this point seemingly stopped as if Trial Counsel didn't want to press Quito on the witness stand because she were under the influence of narcotics. Trial Counsel cross-examined Mrs. Quito ineptly since he

failed to ask any questions about many details of the night of the murder that could have provided exculpatory facts to the jury.

On 4/11/17, Takisha white Quito executed a statement under oath before public notary Cathy Foster. (**Appendix-I-2 & K-2**) Quito described dirty cops showing up at her apartment looking for her brother Petitioner prior to the murder in this case. Quito specifically recognized one of the officers as Jeff M. Henderson and initialed his photograph on the reverse side of her statement. Quito stated she was intimidated by these officers and put in fear. (**Appendix- K-2**)

Quito also stated During in late 2005, her brother Marquise informed her that a guy named Santos Lopez wanted to give “both her and Petitioner fifty thousand dollars, and a house in a better neighborhood in exchange for information that revealed where Waitki Crawford (Taki) lived. According to Takisha, Lopez was angry with Crawford because Crawford robbed Lopez’s house while Lopez grandma was home and Lopez wanted revenge. According to Quito’s recollection of this conversation with Petitioner. Crawford and Lopez and them” (Pedro and Michael) all owed each other money but Lopez was not going to pay Crawford until Crawford payed him back first. When Takisha asked her brother Petitioner why do “they owe each other money,”? Petitioner stated it all has to do with drugs” (**Appendix-K-2**)

Quito stated one late evening during the second week of December 2005. Quito saw the victim Modesta Ramirez while she were with the Petitioner at a local Wendy’s restaurant where the victim worked. Quito claims Petitioner pointed to a Hispanic working behind the counter and stated Crawford said he’s going to make her disappear if he doesn’t get his money from Santos Lopez, and Pedro.

Quito specifically described where Petitioner were standing in the apartments when she arrived home the night of the murder and from her details in proximity with the layout of the complex. The Petitioner was not initially visible from the apartment windows of buildings # 13 and 14 that face the parking lot Quito were in. When Quito exited her vehicle Petitioner approached her and had a cell phone in his hand that had been in his possession for several days. The phone was a plain, silver non flip phone. As Quito and Petitioner spoke, Taki drove up in his silver Oldsmobile. The direction from which Taki was driving when he arrived in front of building # 14 was from the southwest entrance of the River chase apartments. (South Utica ave). He turned into the apartments off of Riverside.

When Taki parked his car he pulled into the parking space on the right hand side of the trash dumpster located right at the section of South Utica that changes direction southeast. Coming from the Riverside drive entrance of River Chase. Driving northeast then making a right on south Utica when you reach building # 15 the trash dumpster would be on the right.

When Taki parked Petitioner walked over to Taki’s car. Taki and another individual named Norris Minor got out of Taki’s car and spoke to Petitioner for a few minutes. Quito recognized Norris minor from the Tae Kwon Doe classes she previously taken. (**Appendix-I-2**)

Quitto stated all three Norris Minor, Taki and Petitioner were all wearing the same Air Force One sneakers.

After a few minutes Taki and Norris then got back into Taki's silver Cutlass Oldsmobile parked next to the trash dumpster. Taki handed Petitioner some keys on a key chain. Petitioner then got into a gold Honda accord that was parked on east South Utica, located between buildings # 9 and # 15.

Quitto also described the police essentially abducting her against her will without identifying themselves and coercing her during an DE-fact o interrogation which took place in a vehicle, Quitto claimed the police refuted facts that Quitto offered pertaining to that night that constituted exculpatory evidence pointing away from the Petitioner. However the police threatened her and made her fear that they might even kill her. **(Appendix- I-2)**

## VIII.

### **Ineffective assistance of appellate counsel**

Petitioner's appellate counsel was ineffective for failing to advance the above (7) distinct failings of Petitioner's Trial counsel. *Strickland V. Washington.*

### **EXHAUSTED REMEDIES**

The Tulsa County District Court refuses to allow Petitioner to raise an actual innocence claim. Specifically that the audio material "The Crawford tapes" exonerate him.

1. In response to Petitioner's Actual Innocence claim. The District Court alleged the Petitioner offered "two affidavits support of his petition. Despite the fact no document in Petitioner's petition alleged any new evidence solely in the form of witness statements. The District Court claims Petitioner's Actual innocence claim were merely is based on the Statements of his mother and sister. **(Appendix-Q-2)**

In support of his Petition, Petitioner requested the courts assistance in obtaining documents that which Petitioner had no other remedy to obtain. In an effort to obtain and present these documents in support of his petition. On 6/26/17, the Petitioner filed a Motion to order up/ and retrieve police reports and relevant documents relating to Petitioner's application for post conviction relief. **(See original motion- OSCN.com)** Specifically an internal police memo released to the Tulsa World Newspaper, compiled by Officer Jeff M. Henderson's defense team naming Waitki Crawford as an informant. Petitioner's motion also requested police reports describing the investigation of the 2005, home invasion of Santos Lopez. The District Court refused to entertain any aspect of Petitioner's request relating to retrieving any of the above police reports in support of Petitioner's application. Specifically the police reports describing the Santos Lopez home invasion as well as the informant list published by the Tulsa World newspaper. In an opinion filed April 13, 2018, the District Court determined the informant list simply didn't exist on it's own contention, not resulting from any due process investigation into the facts. **(Appendix-Q-2)** The courts refusal to allow Petitioner to raise his claim the "Crawford tapes" exonerate him is based on a clerical error committed by the court clerk. According to the court clerk the district court will not

address “claims” not raised in a proper application submitted to the court on a prescribed form 13.11. **(Appendix- R-2 pg.6 of 10)** Though the Petitioner did submit this claim to the court clerk in a proper application on 13.11<sup>4</sup>.**(Appendix-V-2 & (T-2 @ attachment -g)** The court clerk omitted pages from Petitioner’s application raising the said claim. Altered other documents, destroyed the pagination of the documents in support of the application 13.11, as well as concealed the pages” omitted from the original application. All in an effort to cultivate a foundation on which the district court could deny Petitioner access to the court to pursue relief that the Crawford tapes exonerated him. Specifically under the guise of court rules which deem issues not submitted in a proper application 13.11., barred from being raised in any subsequent post conviction proceeding. As Oklahoma Statutes permits any convicted person to seek post conviction relief “once only”

On 5/28/17, the District Court printed a receipt online for a compact disc submitted to the court clerk by Myechia Love on behalf of the Petitioner, along with Affidavits and photographs, executed by Takisha White-Quito, **(see-OSCN.com)**

The District Court in an effort to conceal the “Crawford Tapes” submitted by Myechia Love. Omitted the CD entirely from the Post Conviction record. After several objections from the Petitioner claiming the Post Conviction appeal record was incomplete. **(Appendix-R-2 pg. 6 of 10)** The OCCA remanded this matter back to the Tulsa County District Court inquiring the whereabouts of the Petitioner’s CD. During a hearing on remand the Tulsa County officials gave false testimony regarding the CD, specifically the admissibility of the CD, in an order to prevent Petitioner from pursuing his claim the “Crawford tapes” exonerated him.

Following the Hearing on remand by OCCA and the district court hearing. The petitioner obtained proof from USPS that the Tulsa County Court Clerk falsified the reception records of the Petitioner’s legal pleadings to have it appear that the Clerk, never received Petitioner’s legal pleadings until 5/18/17, when in fact the Clerk received them 3/28/17, **(Appendix-T- @ attachments-E & F) (& Appendix-Z-2)** The purpose of the Clerk’s actions concealing the reception date of Petitioner’s pleadings allowed the Clerk time to physically remove embossed notary seals from affidavits, that the District court later determined were admissible, destroy the pagination of the Petitioner’s petition for relief, **(Appendix-I-2 pg.1)** The District courts decision not to address the Crawford recordings. And Quito Statements were wholly based on the above sequenced actions of the Court

4 **Appendix- W-2** depicts the correct form for any convicted person in Oklahoma to petition for relief in the district court in which they were sentenced. Per Court rules the District Court in this case would have Petitioner believe he failed to properly raise his claim the “Crawford tapes” exonerated him. Based on the fact the Court Clerk cannot account for or locate any specific 13.11 application submitted by petitioner, Which specifically states he is alleging the Crawford tapes exonerate him. There for the claim is waived.

Clerk which on each occasion prevented Petitioner from raising his claim the “Crawford tapes” exonerated him. (Appendix-Q-2)

The OCCA also refuses to address the Petitioner’s grievance that the District Court refused to address evidence submitted by Petitioner in support of his claim that the audio material exonerates him<sup>5</sup>.

(Appendix- U-2)

### **REASONS FOR GRANTING THE PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner is currently in the custody of Warden RC, Smith at the Lawton Correctional Facility in Lawton, Oklahoma in violation of the Constitution, laws, and treaties of the United States. based on Newly Discovered Evidence of Crawford’s confession to the murder, kidnapping, and robbery. And Petitioner’s inability to redress this grievance in any other jurisdiction in the United States of America because he has exhausted every available remedy and no court has addressed this issue based on technical errors committed by Petitioner because he is ignorant to Law.

A Writ of habeas corpus may be granted by this Court, any justice thereof, the District Courts and any circuit judge within their respective jurisdictions. Though this court, any justice thereof, has power to decline entertaining any such application for a Writ of habeas corpus. Petitioner prays if this Court declines to entertain the instant application, that this Court, any justice thereof by it’s own authority will transfer the instant application to any district court having jurisdiction to entertain this Writ in the interest of justice.

### **“STATEMENT OF REASONS” FOR NOT MAKING APPLICATION TO THE DISTRICT COURT OF THE DISTRICT IN WHICH THE PETITIONER IS HELD. §2242**

The petitioner Marquise Leland White is currently in custody of the Oklahoma Department of Corrections at the Lawton correctional facility, in Lawton, Oklahoma in custody of Warden R,C, Smith, based on his convictions in Case # CF-2006-240.

On June 04, 2019 the United States Court of Appeals for the Tenth Circuit docketed petition # 19-5053, from the Petitioner Marquise Leland White requesting permission to file a second or successive habeas petition under 28 U.S.C. 2254.

On June 26, 2019 the United States Court of Appeals for the Tenth Circuit denied the Petitioner Marquise Leland White authorization to file a second or successive 28 U.S.C. § 2254 habeas application.

5 It should be noted that Petitioner's motion to the State Courts pertaining to presenting audio recording. The Cd submitted by Myechia Love only represented a small percentage of the total recordings in Petitioner's possession representing his claim. The Petitioner also made the Court aware that he would need the Courts assistance to present additional recording in his possession which he did not have the resources to make duplicates for the Court. In respect to those recordings Petitioner presented a motion to the Court with a Transcription of the recording transcribed by the Petitioner. Requesting assistance in making the recordings available for the Court to review. Those Transcriptions are Petitioner's appendices f,g,h,i, & J.

Pursuant to 28 U.S.C. § 2244 (b)(3)(E). White's denial of authorization by the Tenth Circuit Court "were not appealable or eligible to be subject for rehearing or for a writ of certiorari" without relief from this Court Petitioner has no other State or Federal remedy available to redress this grievance.

**A.**

The Tenth Circuit Court in it's denial order of Petitioner's request to file a second habeas petition under 28 U.S.C. 2254. Determined that though Petitioner contended he is actually innocent of the underlying offenses as evidenced by Crawford's confession. Petitioner did not make a *prima facie* showing that the above claim satisfied the requirements in 2254 (b)(2)because the petitioner did not submit with his application neither the "audio recording" or a "transcript" of Crawford's confession. (**Appendix-X-2**)

However Petitioner did not submit the actual recording or either a transcript of Crawford's confession simply because Petitioner clearly did not understand that making a *prima facie* showing would require submitting the actual recording or a transcript of Crawford's confession.

For the same above reasons Petitioner also failed to submit Witness affidavits from his mother and sister Priscilla White, and Takisha White- Quito, Newspaper articles, as well as other relevant documentation in support of his newly discovered evidence. Subsequently to the tenth circuit denial of Petitioner's request to file a successive writ. Petitioner motioned the court for an opportunity to correct his mistake but the Tenth Circuit Court of appeals decision prohibiting Petitioner to file a successive writ were not subject to any rehearing pursuant to 28 U.S.C. § 2244 (b)(3)(E). (**Appendix- O-2**)

**B.**  
**IAC claims**

In respect to the (7) distinct failings of Petitioner's trial counsel. Petitioner was unable to provide the necessary documentation to establish "facts" pertaining to why the factual predicate regarding each errors committed by his trial counsel were not discovered prior to Petitioner requesting permission to file a successive writ (**see-Appendix-Y-2**) Some of those facts would require statements from Petitioner's Trial Counsel. However the Petitioner after numerous attempts to correspond with trial counsel have exhausted his ability to obtain information from above counsel without the assistance of the court. As Petitioner's trial counsel will not respond to any question from Petitioner which would constitute any admissions that counsel failed to inquire or conduct any investigation before Petitioner's trial for first degree murder, As counsel is aware a court upholds a lawyer at bare minimum must interview witnesses and make an independent investigation of facts and circumstances for trial and appellate counsel.

**CONCLUSION**

The petition for Writ of Habeas corpus should be granted in the interest of justice.

Respectfully submitted,

Marquise White

Date: 3-17-2020

NO. \_\_\_\_\_

IN THE

SUPREME COURT OF THE UNITED STATES

MARQUISE LELAND WHITE

Petitioner,

v.

STATE OF OKLAHOMA,

Respondents,

**PROOF OF SERVICE**

I, Marquise White, do swear or declare that on this date, 3-17, 2020, as required by the Supreme Court rule I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and PETITION FOR A WRIT OF HABEAS CORPUS on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first- class postage prepaid, or by deliver to a third party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows.

3- copies to U.S. Supreme court clerk  
Washington D.C.

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I declare under penalty of perjury that the foregoing is true and correct.

Executed on 3-17-

, 2020,

Marquise White

Signature