

IN THE SUPREME COURT OF ALABAMA

EX PARTE GREGORY HUNT

In re: State of Alabama,

Petitioner,

v.

Gregory Hunt,

Respondent.

No. 1931176

CAPITAL CASE

EXECUTION SET FOR
JUNE 10-11, 2025

EMERGENCY MOTION TO VACATE EXECUTION WARRANT

Gregory Hunt, *pro se*, moves this Court, pursuant to Rule 8(d) of the Alabama Rules of Appellate Procedure, to vacate the execution warrant issued on May 1, 2025, and notify Governor Ivey and Alabama Department of Corrections Commissioner Hamm of that fact.


The validity of Mr. Hunt's capital murder conviction is highly questionable in light of the United States Supreme Court's recent decision in *Glossip v. Oklahoma*, 604 U.S. __ (2025). See Second Successive Pet. for Relief from J. Pursuant to R. 32 of the Ala. R. Crim. P., *Hunt v. State*, No. CC-1989-76.62 (Walker Cty. Cir. Ct. May 23, 2025) (attached as Ex. A); Third Successive Pet. for Relief from J. Pursuant to

R. 32 of the Ala. R. Crim. P., *Hunt v. State*, No. CC-1989-76.63 (Walker Cty. Cir. Ct. May 23, 2025) (attached as Ex. B).¹ This Court should vacate the execution warrant and allow Mr. Hunt's Second and Third Successive Rule 32 challenges, filed in the Walker County Circuit Court on May 23, 2025, to be resolved in the normal course of litigation.

CONCLUSION

For the above reasons, Mr. Hunt respectfully requests this Court vacate the May 1, 2025, execution warrant, and notify Governor Ivey and Commissioner Hamm of that fact, to permit him to litigate his successive Rule 32 petitions.

Respectfully submitted,



Gregory Hunt, AIS # Z-521
Pro se

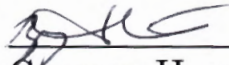
May 27, 2025

¹ Mr. Hunt incorporates these pleadings by reference.

CERTIFICATE OF COMPLIANCE

I certify that this motion complies with the word limitations set forth in Ala. R. App. P. 27(d) and 32(b)(5). It contains 229 words, including all headings, footnotes, and quotations, and excluding the parts of the motion exempted under Ala. R. App. P. 32(c).

I certify that this motion complies with the font requirements set forth in Ala. R. App. P. 32(a)(7). This motion was prepared in 14-point Century Schoolbook font.



Gregory Hunt, AIS # Z-521

Pro se

May 22, 2025

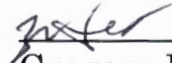
CERTIFICATE OF SERVICE

I certify that, on May ²⁷ __, 2025, I placed the foregoing in the prison mail system, with first-class postage, addressed as follows:

Alabama Supreme Court
300 Dexter Avenue
Montgomery, AL 36104

I further certify that, that same day, I placed a copy of the foregoing in the prison mail system, with first-class postage, addressed as follows:

Lauren Simpson, Esq.
Assistant Attorney General
Capital Litigation Division
Office of the Attorney General
501 Washington Avenue
Montgomery, Alabama 36130



Gregory Hunt, AIS# Z-521
Pro se

May 27, 2025

Ex. A

**IN THE FOURTEENTH JUDICIAL CIRCUIT OF ALABAMA
WALKER COUNTY CIRCUIT COURT**

| | | |
|-------------------|---|---------------------------------|
| GREGORY HUNT, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | Case No. CC-1989-76.62 |
| |) | |
| STATE OF ALABAMA, |) | JUNE 10, 2025, EXECUTION |
| |) | |
| |) | |
| Respondent. |) | |

**SECOND SUCCESSIVE PETITION FOR RELIEF FROM JUDGMENT
PURSUANT TO RULE 32 OF THE ALABAMA RULES OF CRIMINAL
PROCEDURE**

Petitioner, Gregory Hunt, under a sentence of death imposed by the State of Alabama, respectfully petitions this Honorable Court for relief from his unconstitutionally obtained conviction and sentence. On March 3, 2025, the State of Alabama moved the Alabama Supreme Court to grant a motion to set an execution date. The Alabama Supreme Court granted the motion on May 1, 2025. Mr. Hunt's execution date has been set for June 10, 2025.

I. Procedural History

1. On June 19, 1990, Mr. Hunt was convicted of capital murder in the Walker County Circuit Court. By vote of 11-1, the jury recommended that Mr. Hunt be sentenced to death. On July 27, 1990, the trial court sentenced Mr.

Hunt to death.

2. To satisfy the element of sexual abuse, the prosecutor repeatedly asserted that Mr. Hunt had inserted a stick, found near the victim's body, into her vagina. *See, e.g.*, R. 929 ("He stuck the stick up her and that is atrocious."); R. 229 ("It is ou[r] contention, based on the evidence, that he put that stick up inside her to humiliate her further in death.").

3. To bolster this damaging allegation, the prosecutor claimed that the victim's cervical mucus cells were present on the stick. *See, e.g.*, R. 861 ("She is laying there, God, she is beat to a pulp and he takes this broom stick and I suggest to you that evidence is none other than that he put it four inches deep in her vagina, to her cervix and the mucus secreted by the cervix is on it.").

4. Larry Huys, a serologist employed by the Alabama Department of Forensic Sciences testified that mucus secretions were present on the stick. R. 388. However, he could not confirm the origin of the secretions. Mr. Huys admitted that the epithelial cell secretions may have come from any bodily orifice, including oral, vaginal, anal, or nasal orifices. R. 388, 400. Mr. Huys also testified that the material was obtained from the end of the stick R. 390. Mr. Huys did not testify that these secretions came from Karen Lane.

5. Dr. Joseph Embry, of the Alabama Department of Forensic Sciences, performed the autopsy on Karen Lane. Dr. Embry testified that he submitted a

stick to Mr. Huys for a serological examination. R. 258. However, Dr. Embry acknowledged that there was no evidence of injury or damage to the victim's vagina or anus. R. 261.

6. The prosecutor asked Dr. Embry about cervical mucus in relation to the vagina:

Q. You said mucus is secreted by the outer part of the cervix; is that right?

A. By the cervix which is the lower part of the uterus.

Q. Okay. For lay persons how far, if any, would that be inside the vagina?

A. At the top of the vagina.

Q. On the outside or inside?

A. Inside.

Q. On the inside. How far on the inside, if you have judgment?

A. About four inches.

Q. So, inside the vagina you have to go four inches to get where that mucus is; is that what you're telling me, doctor?

A. To get to where it is produced, yes, sir.

R. 264-65.

7. The prosecutor later asked Dr. Embry specifically about the stick in reference to the victim's vagina and cervix:

Q. The broom stick in the photograph that I showed you, doctor, is it laying by the deceased's nose?

A. No, sir.

Q. Is it laying in close promixity [sic] to her vagina?

A. Yes, sir.

Q. Is it still your opinion that you would have to go approximately four inches inside the vagina before you could get the mucus?

A. My opinion was that the mucus produced by the cervix which is about four inches into the vagina. That was the line of questioning.

R. 267.

8. Dr. Embry then testified that the broom stick must have been inserted four inches into the victim's vagina to obtain mucus from her cervix:

Q. So, we have to have that broom stick four inches inside of the deceased to get the vagina mucus on it?

A. To get the cervical mucus, yes, sir.

R. 268.

9. On October 26, 2016, Mr. Hunt filed a properly pled Successive Rule 32 Petition ("Successive Petition") based upon newly discovered facts. *See* Ala. R. Crim. P. 32.1 (e). *Hunt v. Alabama*, CC-89-76.61 (Walker Cir. Ct. Nov. 3, 2016).

10. In an affidavit executed on April 27, 2016, Dr. Joseph Embry, for the first time, admitted the victim had no cervix. Dr. Embry acknowledged his

testimony regarding the presence of the victim's cervical mucus on the stick was inaccurate.

11. In his Successive Petition, Mr. Hunt raised two claims with multiple sub-claims. First, he argued he “was denied a fair trial by the prosecution’s presentation of false testimony, in violation of *Brady v. Maryland*, *Napue v. Illinois*, and *Giglio v. United States*.¹ *Alabama v. Hunt*, CC-1989-76.61 (Walker County Cir. Ct. 2017).

12. On December 12, 2017, the Circuit Court summarily denied and dismissed Mr. Hunt’s Successive Petition.

13. The court found Claim I was: (1) barred by the statute of limitations not overcome by establishing the affidavit was newly discovered evidence, (2) the prohibition against successive petitions, and (3) the claim could have been, but was not, raised at trial or on direct appeal. Further, the court concluded it was without merit.

14. On appeal, the Alabama Court of Criminal Appeals (“CCA”) affirmed because Mr. Hunt failed to indicate “he was somehow unable to obtain an affidavit

¹ Not relevant here but Mr. Hunt also argued “Alabama’s death penalty system violates the right to trial by jury under the Sixth, Eighth, and Fourteenth Amendments to the United States Constitution.” The court found Claim II was: 1) denied because *Hurst v. Florida* is not retroactively applied, 2) procedurally barred, and 3) the claim is without merit.

from Dr. Embry's prior to 2016. In fact, Mr. Hunt admits in his petition that the defense was provided with a copy of Dr. Embry's autopsy report prior to trial, that the report was admitted into evidence, and that the report indicates that the victim did not have a cervix." *Hunt v. Alabama*, CR-17-0406 (Ala. Crim. Ct. App. Aug. 3, 2018).

15. The CCA ruled that Dr. Embry's testimony was not newly discovered because the defendant had foreknowledge. This foreknowledge, the court said, was due to an indication in the autopsy report that cervix being removed in prior surgery was indicated in the autopsy report. Since the defendant failed to plead why he did not discover affidavit sooner, the petition was improperly pled.

16. For there to be an existing indication of knowledge it must be a legitimate indication based on the circumstances. The term "uterus" is misleading given the circumstances herein.

17. The report was not full disclosure in that partial hysterectomies exist which leave the cervix in place called a partial hysterectomy. A complete hysterectomy removes both the uterus and cervix. (Supracervical or Subtotal Hysterectomy: in this procedure, only the upper portion of the uterus (the body) is removed, while the cervix is left in place.) Considering this, there was no legitimate indication that could have been imputed to Mr. Hunt.

18. Mr. Hunt's trial attorney is a criminal defense attorney, not a medical student, nurse, or doctor. There were no facts that could cause his attorney to have constructive knowledge. In this case, the defense relied on the prosecutor's witness, Dr. Embry. The defense had no contact with the witness prior to trial, while the prosecutor had ample time. Therefore, there was no legitimate indication of knowledge attributable to defense.

19. The autopsy report mentions other missing parts: uterus, fallopian tubes, right ovary, but cervix is left out of that list. Again, no legitimate indication of knowledge could exist.

20. In that Dr. Embry testified as if victim had a cervix and defense counsel specifically inquired. (R. 268). Counsel asked Dr. Embry, "If it is that kind of mucus?" Instead of Dr. Embry saying she had no cervix; therefore, cervical mucus could not be on the stick. He testified "correct". From that vague and misleading answer, a legitimate indication did not exist.

21. A "legitimate indication" in an autopsy report is a piece of information that, when considered with other facts and evidence, provides a solid reason to believe that something is true or needs further scrutiny. In that no legitimate indication existed here, Mr. Hunt's foreknowledge is just a myth.

22. Without any legitimate indication, Dr. Embry's affidavit was newly discovered evidence and court rulings to contrary are erroneous.

23. The CCA's opinion found Mr. Hunt stated nothing in his successive Rule 32 petition as to why he could not have acquired Dr. Embry's affidavit sooner. This was erroneous given the facts and record in Mr. Hunt's successive Rule 32 petition, the pleading states that the prosecutor played "hide and seek," hid it, and concealed it.

24. It violated Mr. Hunt's due process rights to apply lack of diligence to a *Napue-Brady* claim which caused the court to make an erroneous adjudication.

25. This shifting of burden from a prosecutor's duty to discover and correct a *Napue* violation to the defendant allowed prosecutorial misconduct, obtaining a conviction based on lies not only violates fundamental fairness, but will lead to a fundamental miscarriage of justice, allowing Mr. Hunt to be executed when he is not guilty of capital murder. The conviction was based on false evidence that is not tolerated in a Constitutional Republic. Misconduct should not go unsanctioned by trying to give the appearance of a just proceeding premised upon an erroneous court adjudication that misapplied the proper *Napue* standard.

26. On February 25, 2025, the United States Supreme Court issued its opinion in *Glossip v. Oklahoma*, 145 S.Ct. 612 (2025). *Glossip* clarified how Alabama has misapplied *Napue v. Illinois*, 360 U.S. 264 (1959), by imposing an impermissible burden on criminal defendants. Here, the CCA ruling relied on

misapplication of *Napue v Illinois*, 360 U.S. 264 (1959), by applying “lack of diligence” that led to procedural default.

27. Therefore, Mr. Hunt’s *Napue* claim must now be evaluated using the proper standard because good cause exists and the correct application was not known or could not have been ascertained through reasonable diligence when the first petition was heard, and that failure to entertain the petition will result in a miscarriage of justice. *See* Ala. R. Crim. P. 32.2(b).

II. Facts and Law

28. Mr. Hunt’s claim is governed by the well-known and understood standard articulated in *Napue*. It is undisputed that the prosecutor made a false statement regarding the evidence during his closing argument. “She is laying there, God, she is beat to a pulp and he takes this broom stick and I suggest to you **that evidence is none other than that he put it four inches deep in her vagina, to her cervix and the mucus secreted by the cervix is on it.**” (R. 861) (emphasis added). Yet, the State, when it is in their interest to disclaim false testimony, says that Dr. Embry “**did not testify that there was cervical mucus on the broomstick.**” *Ex parte Hunt*, No. 1931176, *3 (Ala., Reply Brief, April 10, 2025) (emphasis in original). The State cannot have it both ways. Moreover, *Napue* is not limited to only false testimony. *See Towery v. Schriro*, 641 F.3d 300, 309 (9th Cir. 2010) (“There is some support for Towery’s view that accurate testimony could be

delivered in a sufficiently misleading context to make the evidence false for *Napue* purposes.”).

A. Napue v. Illinois

29. While *Napue* primarily focuses on the prosecution's duty to correct false testimony, a prosecutor cannot correct false evidence at trial unless a prosecutor first discovers it. Thus, discovery is implicit in *Napue*, though correcting false evidence is required for the State.

30. A duty to discover such information is implicitly involved in the State's obligation to correct it. This is because the prosecution cannot fulfill its duty to correct false testimony without first knowing about it. The prosecution must first discover it because this is the core principle of ensuring fairness and preventing convictions based on false testimony.

31. It is axiomatic that the *Napue* standard requires a prosecutor to discover the false evidence to correct it.

32. *Brady* is the progeny of *Napue*; a prosecutor must disclose *Brady* material. It is implicit that to disclose, it must first be discovered. Though *Brady* is a child of *Napue* and has taken on a life of its own, it does not mean one can cut the legs off his mother, *Napue*. To remove and separate the prosecution's duty to discover from its duty to correct would do just that.

33. Since to correct a *Napue* violation falls on to the prosecution and it's implicit in *Napue* that the prosecution must discover it first. The State cannot shift that burden to Mr. Hunt to discover and correct by applying lack of diligence because it's a misapplication of *Napue* standard. Yet, that is exactly what the court did.

34. The CCA interweaved Mr. Hunt's *Napue/Brady* claim and applied lack of diligence to get to procedural default due to failure to properly plead. The misapplication of *Napue* shifted the prosecution's burden to discover and correct false evidence to Mr. Hunt. The CCA's de novo adjudication and determination that Dr. Embry's testimony was not newly discovered evidence relied on a misapplication of *Napue*. It shifted the burden of discovery and correction of false evidence to Mr. Hunt.

35. This constitutional violation began during trial. The obligation to discover and correct the violation began during trial. The obligation and duty to discover and correct remains if its taint remains.

36. *Johnson v. State*, 470 So.2d 1333, 1337 (Ala. Ct. Crim. App. 1985) states: courts routinely condemn prosecutors who knowingly or negligently use false evidence. *Steidl v Fermon* 494 F.3d 623,630 (7th Cir. 2007) as long as taint remains, prosecutor's duty to (discover and) correct remains: *High v Head* 209 F.3d

1257, 1265 n.8 (11th Cir. 2000)-the duty to (discover and) correct false evidence is ongoing beyond trial and conviction.

37. Courts routinely condemn prosecutors who knowingly or negligently use false evidence to obtain conviction. *Steidl v. Fermon*, 494 F.3d 623, 630 (7th Cir. 2007) (if taint remains, prosecutor's duty remains to [discover and] correct.); *High v. Head*, 209 f.3d 1257, 1265, n.8 (11th Cir. 2000) (The duty is ongoing beyond trial and conviction to (discover and) correct false evidence.).

38. Implicit in these rulings is that *Napue* imposes both the duty to discover and correct.

39. *Glossip* shows an application of a lack of diligence to the defendant is a misapplication of *Napue*, Mr. Hunt has the opportunity now to show how an improper application of the *Napue* standard led to an erroneous adjudication, contrary to facts and record, which was before the court.

B. Glossip v. Oklahoma

40. "The Due Process Clause imposes 'the responsibility and duty to correct' false testimony on 'representatives of the State,' not on defense counsel. *Napue*, 360 U.S. at 269–270, 79 S.Ct. 1173." *Glossip*, 145 S. Ct. at 630.

41. In *Glossip*, the Respondent argued that *Glossip* "lacked reasonable diligence based on foreknowledge" and denied relief citing the State's procedural default law. The Supreme Court ruled *Glossip*'s knowledge was irrelevant. What is

relevant is the duty placed on the government - not a criminal defendant - to correct what was falsely presented. The Court further stated that the state (by using lack of diligence to deny *Napue* claim) misapplied *Napue* and granted *Glossip* a new trial.

42. The effect of this ruling is that all states that use lack of diligence to misapply *Napue* are in violation of petitioner's due process rights, in violation of the 14th Amendment and must remove this impediment from state law, to properly apply the *Napue* standard.

43. *Glossip* imposed a new responsibility on the states.

C. New Responsibility

44. In *Saffle v. Parks*, 494 U.S. 484 (1990) (citing *Rock v. Arkansas*, 483 U.S. 44 (1987)), the United States Supreme Court stated “[i]n *Teague*, we defined a new rule as a rule that ‘breaks new ground,’ ‘imposes a new obligation on the States or the Federal Government,’ or was not ‘dictated by precedent existing at the time the defendant's conviction became final.’”

45. In *Rock*, the Court held an Arkansas evidentiary rule that did not allow a defendant to testify because her memory was refreshed by hypnosis violated her constitutional right to testify on her own behalf.

46. The Court ruled Arkansas' per se rule excluding all posthypnosis testimony infringes impermissibly on the right of a defendant to testify on his own

behalf. The judgment of the Supreme Court of Arkansas was vacated, and the case was remanded for further proceedings consistent with the opinion.

47. Here, this court should hear Mr. Hunt's petition, or a miscarriage of justice will occur, letting a tainted conviction for capital murder stand; one that violated fundamental fairness while leading to the execution of Mr. Hunt, who is not guilty of a capital offense.

48. *Glossip* created a "new rule of law, by imposing a new responsibility on Government party." See *Saffle*, 494 U.S. at 488. Though *Glossip* did not create a new rule pertaining to *Napue* stare decisis. *Glossip* created a new rule by imposing a new responsibility on States that use procedural default rule of requiring "diligence" while misapplying *Napue* - which violates due process and infringes upon a petitioner's right in violation of 14th Amendment that no State may create a law that infringes on citizens right to life, liberty, or property without due process of law.

49. The effect of *Glossip* is that States may no longer place the burden on the defendant to come forth and correct perceived false evidence and states must remove that preclusion from their *Napue* analysis, so the full effect of *Napue* may be properly applied. Otherwise, it infringed upon the right of Mr. Hunt to have a fair trial, based on accurate facts. Mr. Hunt would have been granted a new trial had the court not misapplied *Napue*.

50. Just as Arkansas' exclusionary rule denied defendants the right to testify, Alabama's claim preclusion rule denied Mr. Hunt the right to a fair trial by jury based solely upon accurate facts and without erroneous opinion and false impressions of the prosecutor.

51. The newly imposed responsibility that *Glossip* places on states requires the state to remove prior knowledge impediment and to properly apply *Napue*. Since *Napue* is substantive law, the new responsibility required in *Glossip* to remove the procedural infringement is a substantive ruling.

D. Retroactivity

52. This is a new responsibility placed upon the States which creates a new rule, imposed on states, and this new rule should allow *Napue* to have retroactive application because once a state makes a change to its state law to align with the effect of *Glossip*, the state will have made a change to state law, which would allow any prior default by Mr. Hunt to have reconsideration.

53. In *Gideon v. Wainwright*, 372 U.S. 335 (1963), the Supreme Court made it retroactive because the Court recognized that the absence of counsel at trial significantly undermines the fairness and reliability of the proceedings and violated the 6th Amendment right to counsel and due process right of the 14th Amendment.

54. Mr. Hunt argues truth is equally, if not more, fundamental to fairness and reliability as the right to counsel because if one has truth, they may - with or

without counsel - withstand a government accusation. But without **truth** - with or without counsel - no one can withstand government accusation.

55. The *Napue* ruling occurred long before *Teague* and is applicable due to its vital role securing constitutional rights such as the right to have one's guilt determined beyond reasonable doubt based upon **accurate** facts, securing the jury's civic function having duty to return a proper verdict based on accurate facts so the right to a public trial is not a sham trial. The right to confront witnesses is likewise secured by a truth-seeking function.

56. The defense, the jury, and the court rely upon the truthfulness of the prosecutor. When falsities go uncorrected, such a trial, without accurate facts, is a sham trial.

57. Therefore, *Napue* is equally, if not more, vital to fairness as *Gideon*. This makes clear why *Napue* must have a retroactive effect.

III. Argument

58. When the government presents false or highly misleading facts to the jury, then capitalizes on it in closing arguments, this violates fundamental fairness. *Payne v Tennessee*, 501 U.S. 808 (1991). It violates fairness, integrity, and the public reputation of judicial proceedings.

59. Fundamental fairness is the bedrock of our Constitutional Republic that has God, the United States Constitution, the United States Supreme Court and

the Bill of Rights at its head. States, in joining the Union of States, agreed to adhere to the Federal Government, and to obey the United States Constitution and federal law. The supremacy of the Constitution as the law of the land is declared without qualification and is absolute. *Carter v. Carter Cole Co.*, 298 U.S. 238 (1936). The Federal Constitution is the supreme law of the land and applied among the state courts equally, and equally with courts of the Union rests an obligation to guard and enforce every right secured by the Constitution. *Dixon v. State*, 224 Ind. 327 (1946).

60. In *United States v. Atkinson*, 297 U.S. 157 (1936), the Supreme Court held “[i]n exceptional circumstances, especially in criminal cases, appellate courts, in the public interest, may, of their own motion, notice errors to which no exception has been taken, if the errors are obvious, or if they otherwise seriously affect the fairness, integrity, or public reputation of judicial proceedings.”

61. In *United States v. Olano*, 507 U.S. 725, 726 (1993), “an error may ‘seriously affect the fairness, integrity or public reputation of judicial proceedings’ independent of the defendant’s innocence.”

62. The prosecutor in Mr. Hunt’s trial - (R-800) and (861) - argued the broomstick had to go up 4 inches all the way to the victim’s cervix, evidence is none other than . . . her cervical mucus is on it (stick). The only testimony about cervical mucus was via the state’s expert Dr. Embry.

63. *Glenn v State*, 511 A.2d 1110, 1112 (Md. Ct. Sp. App. July 15, 1986) found that squarely false statements are not the problem. They are easily and effectively eliminated from the case law. The more elusive, and therefore more tenacious, culprit is the half-truth.

64. In *United States v. Consolidated Laundry Corp.*, 291 F.2d 563, 570-71 (2nd Cir. 1961), the court held if the state officer allows the prosecution to produce evidence without informing him of other evidence which contradicts an inference, that officer is practicing deception on defense, judge, and the prosecutor. The cruelest lies are often told in silence, if silence exists from negligence rather than guile, the deception is no less damaging.

65. Dr. Embry lied by being silent. As part of the prosecution team, he had a duty to disclose victim had no cervix, that could refute inference of prosecution that cervical mucus was on stick. Half-truths are worse than outright lies. It must violate *Napue*. Dr. Embry took an oath to tell the whole truth but while testifying he knew the prosecutors' inference was that cervical mucus was on stick, but remained silent about fact victim had no cervix.

66. Dr. Embry withheld a critical material fact that could have refuted the prosecution's inference. The prosecutor is to know all his witnesses and what they will testify to. Dr. Embry as part of the prosecution's team, and his deception is imputed to the prosecution. *Chapman v California*, 386 U.S. 18 (1967) (quoting

Payne v Arkansas, 356 U.S. 360 (1958)) (Petitioners are entitled to a trial free from the pressure of unconstitutional inferences). The fact is that the entire testimony elicited by prosecutor about the cervix and cervical mucus should never have been heard by the jury. Period. The victim had no cervix.

67. In *Demarco v. United States*, 928 F.2d 1074 (11th Cir. 1991), a prosecutor's failure to correct falsity then capitalizing on it in closing argument, reinforced deception. (conviction vacated).

68. *Darden v. Wainwright*, 477 U. S. 168, 178-183 (1986) (due process standard of fundamental fairness governs argument of prosecutor . . . False and misleading a jury also denies Mr. Hunt right to be found guilty beyond reasonable doubt based upon accurate facts).

69. Plainly, then, the major purpose of the constitutional standard of proof beyond a reasonable doubt announced in *Winship* was to overcome an aspect of a criminal trial that substantially impairs the truth-finding function, and *Winship* is thus to be given complete retroactive effect. The motion for leave to proceed in forma pauperis and the petition for writ of certiorari are granted. The judgment of the Appellate Division of the Supreme Court of New York, First Judicial Department, is reversed and the case is remanded for further proceedings not inconsistent with this opinion.

70. In *Ivan V. v. City of New York*, 407 U.S. 203, 205 (1972), “[w]here the major purpose of new constitutional doctrine is to overcome an aspect of the criminal trial that substantially impairs its truth-finding function and so raises serious questions about the accuracy of guilty verdicts in past trials, the new rule has been given complete retroactive effect . . .” Here, the jury was denied their ability and right to serve their civic function.

71. The prosecution’s deception denied Mr. Hunt’s right to be found guilty beyond reasonable doubt based upon accurate facts. The defense, jury, and court should be able to rely upon truthfulness of a state prosecutor. The beyond reasonable doubt standard prosecutor must prove, must be based on accurate facts. “[T]he reasonable-doubt standard ‘is a prime instrument for reducing the risk of convictions resting on factual error. The standard provides concrete substance for the presumption of innocence—that bedrock ‘axiomatic and elementary’ principle whose ‘enforcement lies at the foundation of the administration of our criminal law’ . . . ‘Due process commands that no man shall lose his liberty unless the Government has borne the burden of . . . convincing the factfinder of his guilt.’” *Ivan V.*, 407 U.S. at 205.

72. *Napue* stare decisis is constitutional law that ensures fundamental fairness in operation. Therefore, *Napue* must have full retroactivity, once state infringement on defendant’s right to establish a *Napue* violation is removed as

Glossip imposes on states to do. Retroactivity would only apply to cases wherein a state used "lack of diligence" to misapply *Napue*, and default a *Napue* claim, and only in those cases that meet materiality requirement.

73. *Napue* materiality standard is *Chapman* (quoting *Fahy v Connecticut*, 375 U.S. 85 (1963) ("if there is any reasonable probability evidence complained of may have contributed to conviction ... it's up to government to prove it is harmless beyond reasonable doubt").

74. The prosecutor stated as **fact** - (R. 800) and (R. 861) during closing argument that the stick had to go up in her 4 inches to get to the cervix, the evidence is none other than he put stick up in her 4 inches, it has her cervical mucus is on it. These "**facts**" are false and not in evidence. The egregious misconduct by the government had an enormous prejudicial influence on jury decision making process and shocked the mind and conscious of the jury.

A. Napue Materiality

75. But for Dr. Embry's misleading testimony and the prosecution capitalizing on it – the jury would not believe Mr. Sanders' testimony proved sex abuse beyond reasonable doubt. The jury would have believed James Sanders was testifying to curry favor with representative of the State. *Napue*, 360 U.S. at 270. He was placed in Mr. Hunt's four-man cell one day prior to Mr. Hunt's jury selection, then moved before Mr. Hunt returned from his criminal proceedings only

to be a last-minute surprise witness four days later testifying that Mr. Hunt confessed to sex abuse. Apparently, he was the only person in four-man cell that heard a confession. He had veracity issues.

76. To avoid prison, he previously in plea offer of state made promises to prosecutor, court, and probation officer. Yet, he's testifying against Mr. Hunt with pending charges facing if convicted, prison time based on habitual offender status.

77. His testimony that Mr. Hunt confessed one day before Mr. Hunt had jury selection, to sex abuse with stick, saw her (privates) bleeding and called for help, is inconsistent with the autopsy report that the victim's privates are unremarkable. Mr. Hunt would have known that and not made such a confession. Sanders was an incredible witness.

78. But for Dr. Embry's testimony and the prosecution capitalizing on it in closing, the jury would not have believed the position of stick was proof beyond reasonable doubt of sex abuse. The autopsy report was in evidence for the jury to consider. On the first page it shows the stick was placed between the legs of the decedent, then the decedent and stick between her legs were wrapped in sheet for transport to morgue. The jury would have believed this transport of the stick between the legs of the decedent was a source of biological evidence. The trial record (R-267) says it's closer to the victim's privates than her head. The jury in closing heard there were two people in the apartment before police arrived. The

jury may have believed the position of the stick was due to crime scene contamination.

79. But for Dr. Embry's testimony and the prosecution capitalizing on it in closing, the jury would not have convicted Mr. Hunt for sex abuse beyond reasonable doubt based on semen deposit. There was testimony of pre-mortem, and post-mortem deposit, and DNA showed it could belong to fifty percent of the Caucasian population.

80. The forensic scientist Larry Huys, at least twice during his testimony, said that from his readings and expertise, the number of spermatozoa was not what you'd find in a living person. This deposit according to Huys would be postmortem, and postmortem abuse of corpse is not sex abuse within meaning of statute. In closing argument at (R-800), the stick had to go in 4 inches, all the way to cervix, just as James Sanders testified.

81. This statement by the prosecutor capitalized on Dr. Embry's false or misleading testimony. The prosecution's argument also was used to give James Sanders credibility, while using James Sanders' name to give Dr. Embry's testimony credibility. The prosecution's closing argument also was the prosecutor vouching for his witness James Sanders. (R-861). The prosecutor argued the evidence is none other than he stuck it up in her 4 inches all the way to cervix, her cervical mucus is on it. The argument of the prosecution and the guilty verdict

shows the jury believed Dr. Embry's testimony and was misled to believe that the victim's cervical mucus was on the stick. Dr. Embry's affidavit issued in April 2016 states the victim's cervix was removed in prior surgery. Both of those things cannot be true.

82. This was the first time, almost 30 years after Mr. Hunt's conviction, it was made known as a **fact** that the victim had no cervix so it would be contrary to all laws of science and nature for her cervical mucus to be on the tip of the stick. As a state employee and prosecution witness, Dr. Embry's testimony is imputed to the State. It was false and the prosecution failed to correct it, violating *Napue*.

83. The only proof beyond reasonable doubt on any element of sex abuse was the false highly misleading testimony of Dr. Embry and the prosecution capitalizing on it in closing. There has been a fundamental miscarriage of justice.

84. The state, without the *Napue* violation, could not have obtained a conviction of Mr. Hunt. It was unable to prove beyond a reasonable doubt the element of sex abuse as charged in each count. Count III required conviction of sex abuse, to secure the conviction for burglary. Without sex abuse as charged, Mr. Hunt is not guilty of capital murder, nor felony murder. The jury would have likely convicted him of the lesser including offense of murder.

85. Mr. Hunt is being held in violation of the Constitution. He served two years in county jail and 35 years in death row segregation. He has served his time for murder or would likely have been released on parole. Mr. Hunt not only requests a new trial, but a reasonable bond considering facts herein, till final resolution of the case is decided.

B. Finality

86. Finality should give way to fundamental fairness. Once this honorable court makes the change in the law as *Glossip* requires, this court must re-evaluate the claim applying a proper *Napue* standard.

87. Mere citation to the principle of finality is not a sufficient reason to refuse to grant relief due to a change in law under all circumstances. In some situations, finality must, and does, give way to the equitable considerations that underlie a claim for relief due to a change in law. *Pierce v. Cook & Co.*, 518 F.2d 720 (10th Cir. 1975), *cert. denied*, 96 S. Ct. 866 (1976); *Tsakonites v. Transpacific Carriers Corp.*, 322 F. Supp. 722 (S.D.N.Y. 1970).

88. In *U.S. v. Atkinson*, 297 U.S. 157 (1936), convictions violating fairness, integrity or public reputation of judicial proceedings cannot stand. Under *United States v. Olano*, 507 U.S. 725, 726 (1993), these type violations of fairness integrity or public reputation of judicial proceeding are not limited to actual innocence.

C. Retroactivity of Glossip v. Oklahoma

89. The effect of the United States Supreme Court's ruling in *Glossip* demands that states using preclusion of lack of diligence, which was a misapplication of *Napue*, must modify their procedural applications and apply the proper *Napue* standard.

90. This creates a "new rule." *Saffle v. Parks* 494 U.S. 484, 488 (1990) (citing *Rock v. Arkansas*, 483 U.S. 44 (1987)). A new rule is when the United States Supreme Court imposes a new obligation on the government.

91. Comity privilege gives the states an opportunity to take a first look at correcting claims of violations of the United States Constitution and federal law.

92. Instead of Alabama guarding and enforcing every right secured by the Constitution (*Dixon v. State*, 67 NE 2d. 138 (1946)), Alabama created lack of diligence to preclude the Department of Corrections.

93. *Napue* and *Glossip* exist to protect the truth seeking function; a right to be found guilty beyond a reasonable doubt based on truth, the jury's right to perform their civic function, and to return proper verdict based on truth.

94. Alabama violated these fundamental rights secured by United States Constitution and Federal law in *Hunt*.

95. *Napue* is substantive law. *Glossip*, ensuring proper application of the *Napue* standard, is substantive law. Therefore, *Glossip* imposes a new rule on the

government (Alabama) to modify its state review and stop continued and remedy prior misapplication of *Napue* standard is substantive law and should apply retroactively. Mr. Hunt asserts the effect of *Glossip* on state government should apply retroactively to him.

IV. Conclusion

Based upon prejudice, the State cannot show beyond reasonable doubt it's use of false highly misleading testimony and capitalizing on it in closing had no impact upon jury decision making process.

This court should remove any diligence preclusion that infringed upon Mr. Hunt's due process rights and based on *Glossip*, violated *Napue*. The proper *Napue* standard must be applied retroactively, and Mr. Hunt should be granted a new trial wherein he could have a fair trial based upon accurate facts. In addition, Mr. Hunt asks this court for an evidentiary hearing.

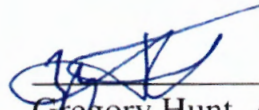
PRAYER FOR RELIEF

For all the above-mentioned reasons and other such reasons as may be made upon amendment of this Petition and following a full evidentiary hearing, Petitioner Greg Hunt respectfully asks this Court to grant him the following relief:

- (a) afford the Petitioner sufficient time to file discovery motions and motions for necessary funds;

- (b) grant Petitioner discovery and sufficient time to conduct discovery, and further grant Petitioner authority to obtain subpoenas to further document and prove the facts set forth in this petition;
- (c) provide petitioner, who is indigent, with sufficient funds to present witnesses, experts, and other evidence, in support of the allegations contained within this petition;
- (d) afford Petitioner sufficient time to amend his petition upon further discovery;
- (e) afford Petitioner an opportunity to reply to any responsive pleading filed by Respondent;
- (f) grant Petitioner an evidentiary hearing at which additional proof may be offered supporting the allegations set forth in this petition;
- (g) permit Petitioner after additional factual development an opportunity to brief and argue the issues presented in this petition;
- (h) grant Petitioner relief from his unconstitutionally obtained conviction and sentence of death; and
- (i) grant such further and other relief as may be appropriate.
- j) should the court decide to hear this case and allow appointment of counsel, petitioner as court to allow said counsel to review this filing and make amendments to correct any language that is considered improper pleading.
- k) petitioner objects in advance to state proposed orders believing such are *ex parte* contact with court to try to influence judicial finding of facts.

Respectfully,



Gregory Hunt, AIS # Z-521

Pro se

Petitioner

PETITIONER'S VERIFICATION UNDER OATH
SUBJECT TO PENALTY FOR PERJURY

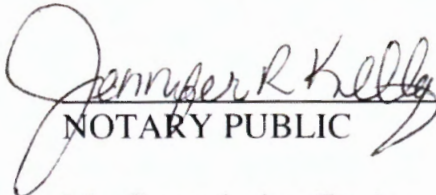
I swear (or affirm) under penalty of perjury that the foregoing is true and correct.

Executed on May 21, 2025.



Gregory Hunt, AIS # Z-521

SWORN TO AND SUBSCRIBED before me this the 21st day of May, 2025.


NOTARY PUBLIC

My Commission Expires

| |
|--|
| JENNIFER RENEE KELLY NOTARY PUBLIC ALABAMA STATE AT LARGE COMM. EXP. 03/28/28 |
|--|

**ADDENDUM TO SECOND SUCCESSIVE PETITION FOR RELIEF
FROM JUDGMENT PURSUANT TO RULE 32 OF THE ALABAMA
RULES OF CRIMINAL PROCEDURE**

In *High v Head* 209 F.3d 1257 (11th Cir. 2000), government duty to correct false evidence is ongoing past trial and conviction. *Steidl v. Fermon*, 494 F.3d 623, 630 (7th Cir. 2007) duty to correct remains as long as taint remains.

The *Napue* standard and requirement is not limited to the local district attorney. These cases show that once the local district attorney transfers the case to the Attorney General's Office as is common for death cases, the *Napue* duty is likewise transferred to the State Attorney General.

The fact is that even after 35 years, the taint remains, and the State has not fulfilled its ethical, moral, and legal duty to grant petitioner his fundamental right to due process, worse, the State seeks execution based on false evidence of petitioner.

EXECUTION DATE has been set by Governor Kay Ivey for June 10-11, 2025.

This petition is not being filed to delay proceedings. Though at some time a stay of execution may be warranted, and granted.

This petition is being filed in light of two recent rulings by the United States Supreme Court that may grant relief to Mr. Gregory Hunt, Petitioner, to avoid a miscarriage of justice, and ensure fundamental fairness.

The two recent rulings by the United States Supreme Court are:

- 1.) *Glossip v. Oklahoma*, 145 S.Ct. 612 (2025)
- 2.) *Andrew v. White*, 145 S.Ct. 75 (2025).

CERTIFICATE OF SERVICE

A copy of the foregoing was mailed, first class postage prepaid, by placing it in the ~~prison~~ mail system, on May 23, 2025, addressed to:

Steve Marshall
Attorney General
501 Washington Avenue
Montgomery, AL 36130

Respectfully,



Gregory Hunt, AIS # Z-521
Pro se Petitioner

Ex. B

**IN THE FOURTEENTH JUDICIAL CIRCUIT OF ALABAMA
WALKER COUNTY CIRCUIT COURT**

| | | |
|-------------------|---|---------------------------------|
| GREGORY HUNT, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | Case No. CC-1989-76.63 |
| |) | |
| STATE OF ALABAMA, |) | JUNE 10, 2025, EXECUTION |
| |) | |
| |) | |
| Respondent. |) | |

**THIRD SUCCESSIVE PETITION FOR RELIEF FROM JUDGMENT
PURSUANT TO RULE 32 OF THE ALABAMA RULES OF CRIMINAL
PROCEDURE**

Petitioner, Gregory Hunt, under a sentence of death imposed by the State of Alabama, respectfully petitions this Honorable Court for relief from his unconstitutionally obtained conviction and sentence. On March 3, 2025, the State of Alabama moved the Alabama Supreme Court to set an execution date. The Alabama Supreme Court granted the motion on May 1, 2025. Governor Kay Ivey set Mr. Hunt's execution date for June 10, 2025.

I. Procedural History

1. On June 19, 1990, Mr. Hunt was convicted of capital murder in the Walker County Circuit Court. By vote of 11-1, the jury recommended that Mr. Hunt be sentenced to death. On July 27, 1990, the trial court sentenced Mr.

Hunt to death.

2. To satisfy the element of sexual abuse, the prosecutor repeatedly asserted that Mr. Hunt had inserted a stick, found near the victim's body, into her vagina. *See, e.g.*, R. 929 ("He stuck the stick up her and that is atrocious."); R. 229 ("It is ou[r] contention, based on the evidence, that he put that stick up inside her to humiliate her further in death.").

3. To bolster this damaging allegation, the prosecutor claimed that the victim's cervical mucus cells were present on the stick. *See, e.g.*, R. 861 ("She is laying there, God, she is beat to a pulp and he takes this broom stick and I suggest to you that evidence is none other than that he put it four inches deep in her vagina, to her cervix and the mucus secreted by the cervix is on it.").

4. Larry Huys, a serologist employed by the Alabama Department of Forensic Sciences testified that mucus secretions were present on the stick. R. 388. However, he could not confirm the origin of the secretions. Mr. Huys admitted that the epithelial cell secretions may have come from any bodily orifice, including oral, vaginal, anal, or nasal orifices. R. 388, 400. Mr. Huys also testified that the material was obtained from the end of the stick R. 390. Mr. Huys did not testify that these secretions came from Karen Lane.

5. Dr. Joseph Embry, of the Alabama Department of Forensic Sciences, performed the autopsy on Karen Lane. Dr. Embry testified that he submitted a stick

to Mr. Huys for a serological examination. R. 258. However, Dr. Embry acknowledged that there was no evidence of injury or damage to the victim's vagina or anus. R. 261.

6. The prosecutor asked Dr. Embry about cervical mucus in relation to the vagina:

Q. You said mucus is secreted by the outer part of the cervix; is that right?

A. By the cervix which is the lower part of the uterus.

Q. Okay. For lay persons how far, if any, would that be inside the vagina?

A. At the top of the vagina.

Q. On the outside or inside?

A. Inside.

Q. On the inside. How far on the inside, if you have judgment?

A. About four inches.

Q. So, inside the vagina you have to go four inches to get where that mucus is; is that what you're telling me, doctor?

A. To get to where it is produced, yes, sir.

R. 264-65.

7. The prosecutor later asked Dr. Embry specifically about the stick in reference to the victim's vagina and cervix:

Q. The broom stick in the photograph that I showed you, doctor, is it laying by the deceased's nose?

A. No, sir.

Q. Is it laying in close promixity [sic] to her vagina?

A. Yes, sir.

Q. Is it still your opinion that you would have to go approximately four inches inside the vagina before you could get the mucus?

A. My opinion was that the mucus produced by the cervix which is about four inches into the vagina. That was the line of questioning.

R. 267.

8. Dr. Embry then testified that the stick must have been inserted four inches into the victim's vagina to obtain mucus from her cervix:

Q. So, we have to have that broom stick four inches inside of the deceased to get the vagina mucus on it?

A. To get the cervical mucus, yes, sir.

R 268.

9. On October 26, 2016, Mr. Hunt filed a properly pled Successive Rule 32 Petition ("Successive Petition") based upon newly discovered facts. *See* Ala. R. Crim. P. 32.1(e). *Hunt v. Alabama*, CC-89-76.61 (Walker Cir. Ct. Nov. 3, 2016).

10. In an affidavit executed on April 27, 2016, Dr. Joseph Embry, for the first time, admitted the victim had no cervix. Dr. Embry acknowledged his

testimony regarding the presence of the victim's cervical mucus on the stick was inaccurate.

11. In his Successive Petition, Mr. Hunt raised two claims with multiple sub-claims. First, he argued he “was denied a fair trial by the prosecution’s presentation of false testimony, in violation of *Brady v. Maryland*, *Napue v. Illinois*, and *Giglio v. United States*.¹ *Alabama v. Hunt*, CC-1989-76.61 (Walker County Cir. Ct. 2017).

12. On December 12, 2017, the Circuit Court summarily denied and dismissed Mr. Hunt’s Successive Petition.

13. The court found Claim I was: (1) barred by the statute of limitations not overcome by establishing the affidavit was newly discovered evidence, (2) the prohibition against successive petitions, and (3) the claim could have been, but was not, raised at trial or on direct appeal. Further, the court concluded it was without merit.

14. On appeal, the Alabama Court of Criminal Appeals (“CCA”) affirmed because Mr. Hunt failed to indicate “he was somehow unable to obtain an affidavit

¹ Not relevant here but Mr. Hunt also argued “Alabama’s death penalty system violates the right to trial by jury under the Sixth, Eighth, and Fourteenth Amendments to the United States Constitution.” The court found Claim II was: 1) denied because *Hurst v. Florida* is not retroactively applied, 2) procedurally barred, and 3) the claim is without merit.

from Dr. Embry's prior to 2016. In fact, Mr. Hunt admits in his petition that the defense was provided with a copy of Dr. Embry's autopsy report prior to trial, that the report was admitted into evidence, and that the report indicates that the victim did not have a cervix." *Hunt v. Alabama*, CR-17-0406 (Ala. Crim. Ct. App. August 3, 2018).

15. The CCA ruled that Dr. Embry's testimony was not newly discovered because the defendant had foreknowledge. This foreknowledge, the court said, was due to an indication in the autopsy report that cervix being removed in prior surgery was indicated in the autopsy report. Since the defendant failed to plead why he did not discover affidavit sooner, the petition was improperly pled.

16. For there to be an existing indication of knowledge. It must be a legitimate indication based on the circumstances. The term "uterus" is misleading given the circumstances herein.

17. The report was not full disclosure in that partial hysterectomies exist which leave the cervix in place called a partial hysterectomy. A complete hysterectomy removes both the uterus and cervix. (Supracervical or Subtotal Hysterectomy: in this procedure, only the upper portion of the uterus (the body) is removed, while the cervix is left in place.) Considering this, there's no legitimate indication that could have been imputed to Mr. Hunt.

18. Mr. Hunt's attorney is a criminal defense attorney not a medical student, nurse, or doctor. There were no facts that could cause his attorney to have constructive knowledge. In this case the defense relied upon the prosecutor's witness, Doctor Embry. The defense had no contact with the witness prior to trial while the prosecutor did. Therefore, there was no legitimate indication of knowledge attributable to the defense. While the prosecutor had constructive knowledge, knowing all his witnesses prior to trial and what they will testify to.

19. The autopsy report mentions other missing parts: uterus, fallopian tubes, right ovary, but cervix is left out of that list. Again, no legitimate indication of knowledge exists that could be attributed to the defense.

20. In that Dr. Embry testified as if victim had a cervix and defense counsel specifically inquired. (R- 268). Counsel asked Dr. Embry, "If it is that kind of mucus?" Instead of Dr. Embry saying she had no cervix, and that cervical mucus could not be on the stick. He testified "correct". From that vague answer, a legitimate indication does not exist.

21. A "legitimate indication" in an autopsy report is a piece of information that, when considered with other facts and evidence, provides a solid reason to believe that something is true or needs further scrutiny. In that no legitimate indication existed, foreknowledge is just conjecture.

22. Without any legitimate indication, Dr. Embry's affidavit was newly discovered evidence and court rulings to contrary are erroneous.

23. The CCA's opinion found Mr. Hunt stated nothing in his successive Rule 32 petition as to why he could not have acquired Dr. Embry's affidavit sooner. This was erroneous given the facts and record in Mr. Hunt's successive Rule 32 petition, the pleading states that the prosecutor played "hide and seek", hid it, and concealed it.

24. It violated Mr. Hunt's due process rights to apply lack of diligence to a *Napue-Brady* claim which caused the court to make an erroneous adjudication.

25. This shifting of burden of a prosecutor's duty to discover and correct a *Napue* violation allowed prosecutorial misconduct, obtaining a conviction based on lies not only violates fundamental fairness, but will lead to a fundamental miscarriage of justice, allowing Mr. Hunt to be executed when he is not guilty of capital murder. The prosecutor lied and these lies should not be tolerated in our Constitutional Republic. Misconduct should not go unsanctioned by trying to give the appearance of just proceedings based upon an erroneous court adjudication that misapplied the proper *Napue* standard.

26. On February 25, 2025, the United States Supreme Court issued its opinion in *Glossip v. Oklahoma*, 145 S.Ct. 612 (2025). *Glossip* clarified how Alabama has misapplied *Napue v. Illinois*, 360 U.S. 264 (1959) by imposing an

impermissible burden on criminal defendants. Here, the CCA ruling relies on misapplication of *Napue v Illinois*, 360 U.S. 264 (1959), by applying "lack of diligence" that led to procedural default.

27. This new claim of prosecutorial misconduct has not been raised in any prior proceeding. Previous proceedings mentioning prosecutorial misconduct were interlinked with Dr. Embry's trial testimony being false and misleading, which was imputed to the prosecutor. For the first time, the State has confessed unequivocally that the government violated Mr. Hunt's 14th Amendment constitutional right to a fair trial, violating due process.

28. Mr. Hunt responded to the State's request for an execution date, *Ex parte Hunt*, No. 1931176, *3 (Pet., Response Brief, April 9, 2025) stating the prosecutor told the jury based on Dr. Embry's testimony, "the evidence (of Dr. Embry) was none other than ... her cervical mucus is on the stick."

29. In reply to Mr. Hunt's response, on April 10th, 2025, the State responded: He (Dr. Embry) did not testify that there was cervical mucus on the broomstick. *Ex parte Hunt*, No. 1931176, *3 (Ala., Reply Brief, April 10, 2025)

30. The State discovered that it had violated the *Napue* standard as the "prosecutor lied to the jury" and failed to correct his own lie and revealed the truth. Since this is the first time the State has unequivocally admitted it violated Mr. Hunt's Due Process Right to a fair trial. This is newly discovered and could not

have been known for Mr. Hunt to raise sooner. Ala. R. Crim. P. 32.1(e). This is a newly discovered fact, which requires the court, after applying the proper *Napue* standard, to reverse his conviction and sentence.

31. What is explicit in *Napue* is a prosecutor's obligation and duty to correct what he knows is false and reveal the truth. What is implicit in *Napue*, is that it is the duty of a prosecutor to discover it, in order to correct it. It is unmistakably clear the prosecutor discovered his own lie, and unmistakably clear, he failed to correct it. Not only did the prosecutor fail to correct it at trial, there should be an ongoing duty to correct as long as taint exists because it effects all proceedings until it is corrected.

II. Facts and Law

32. Mr. Hunt's claim is governed by the well-known and understood standard articulated in *Napue v. Illinois*. It is undisputed that the prosecutor made a false statement regarding the evidence during his closing argument. "She is laying there, God, she is beat to a pulp and he takes this broom stick and I suggest to you *that evidence is none other than that he put it four inches deep in her vagina, to her cervix and the mucus secreted by the cervix is on it.*" (R. 861) (emphasis added). Yet, the State, when it is in their interest to disclaim false testimony, says that Dr. Embry "**did not testify that there was cervical mucus on the broomstick.**" *Ex parte Hunt*, No. 1931176, *3 (Ala., Reply Brief, April 10, 2025)

(emphasis in original). The State cannot have it both ways. Moreover, *Napue* is not limited to only false testimony of a witness.

A. Ala. R. Crim. P. 32.1(e) Newly Discovered Evidence

33. In the State of Alabama's Reply to Mr. Hunt's Response to the Motion to Set Execution date, the State, for the first time, admitted that the State's conviction of Mr. Hunt was unconstitutional in violation of *Napue v Illinois. Ex parte Hunt*, No. 1931176, *3 (Ala., Reply Brief, April 10, 2025) (emphasis in original).

34. At trial, the prosecuting attorney said, "the evidence is none other than he stuck that stick up in her four inches, her cervical mucus is on it." (R. 861).

35. In *Andrew v. White*, 145 S.Ct. 75 (2025), the United States Supreme Court held that to limit *Payne* to its facts was mistaken . . . General legal principles can constitute clearly established law . . . so long as they are holdings of this court . . . A general constitutional rule already identified in the decisional law may apply with obvious clarity to the specific conduct in question. A legal principle is clearly established . . . if it is a holding of this court . . . because the 10th Circuit held no clearly established law existed . . . it never considered whether the state court application of that law was reasonable. *Id.* at 79.

36. The United States Supreme Court held: A lie is a lie no matter what. If it has anything to do with the case, it is the obligation and duty of the prosecution

to correct what he knows is false and elicit (reveal) the truth. *Napue*, 360 U.S. at 269-70.

37. In *United States v. Young*, 470 US 1, 18-19 (1985), the prosecutor's opinion carries with it great weight. It may influence the jury to believe the government's version of events over its own view of the evidence. The evidence of the cervical mucus was so devastating to the defense, and enormously prejudicial. It should have never ever entered the trial, and have the prosecutor who introduced it lie to the jury concerning it.

38. *Napue* held that the prosecutor has a duty to correct what he knows is false and reveal the truth. He must correct his own lie and tell the truth.

39. It violates fundamental fairness and denies Mr. Hunt the fundamental requirement of the State having to prove he is guilty beyond a reasonable doubt of the element of sex abuse as charged in the indictment. Count III proof of sex abuse is a necessary element of murder during burglary. It also violated the jury's right to perform civic function and duty to return proper verdict based on accurate facts.

40. It led to a miscarriage of justice in that without conviction of sex abuse, Mr. Hunt is not guilty of capital murder, and yet, the State seeks to execute him anyway. Without beyond reasonable doubt evidence of sex abuse, the jury would only have convicted Mr. Hunt of (non-capital) murder.

B. Materiality

41. Materiality demands that the state must prove beyond a reasonable doubt, the lie did not have an effect during the jury's decision-making function. The jury would not have believed James Sanders' testimony proved sex abuse beyond reasonable doubt. The jury would have believed James Sanders was testifying to curry favor with representative of the State. *See Napue*, 360 U.S. at 270. n. 4.

i. James Sanders

42. James Sanders was an incredible witness, and the jury may have believed he testified to get out of his own legal crisis. He was placed in Mr. Hunt's four-man cell only one day prior to Mr. Hunt's jury selection. He was then moved before Mr. Hunt returned from his criminal proceedings, only to be a last-minute surprise witness four days later. He testified that Mr. Hunt confessed to sex abuse. Apparently, he was the only person in a four-man cell that heard the confession. Mr. Sanders had veracity issues. To avoid serving time in state prison, he previously accepted a plea offer where the State made promises to prosecutor, court, and probation officer. Yet, he was testifying against Mr. Hunt with new pending charges. He was facing, if convicted, prison time based on habitual offender status. Mr. Sanders' testimony that Mr. Hunt confessed to sex abuse with a stick, saw the victim's genitals bleeding, and called for help, is inconsistent with autopsy report that the victim's genitals were unremarkable. Mr. Hunt would have

known the facts reported and not made such a confession. Mr. Sanders was an incredible witness. But for the prosecution lying about it in closing argument (R-861) and giving him credibility akin to vouching for his witness (R-800), the jury would not have believed Mr. Sanders' version of events. Instead, they would have seen him for what he was, merely being opportunistic. In closing (R-800) correlating Dr. Embry's testimony, the prosecutor said: "it had to go up in her 4 inches *just like Sanders said.*" (emphasis added).

43. The jury heard the prosecutor give credibility to Sanders. (R. 800). The jury also heard the prosecutor give credibility to Sanders when they said that he would do 15 years in prison, which did not happen. It was lying. But it gave credibility to Sanders. The jury heard Dr. Embry's testimony giving credibility to Sanders and Sanders giving credibility to Doctor Embry. The jury heard the prosecutor give credibility to both Sanders and Embry when he lied to the jury (R. 861). Stating the evidence is none other than her cervical mucus is on the stick. Otherwise, Sanders was an incredible witness. But for the prosecutor's lies to the jury and but for the prosecutor giving Sanders' credibility the jury would not have believed Sanders' testimony was proof beyond a reasonable doubt of sex abuse. *Napue* at 270. The jury may have believed he testified to curry favor with a representative of the State.

ii. *Broomstick*

44. But for the prosecutor's argument lying to the jury about cervical mucus on the broomstick, and giving credibility to its witnesses, the jury would not believe the position of the stick was proof beyond a reasonable doubt of sex abuse.

45. The jury heard there were two people in the apartment before the police investigators got there and the jury would have believed the position of the stick was due to contamination of the crime scene. In closing, the prosecutor said there were two people in the apartment prior to police investigators. The jury may have believed the position of the stick was due to contamination of crime scene.

46. Secondly, the expert witness Huys testified about there being biological evidence on the stick. The jury had a copy of the autopsy report that shows before decedent's body was wrapped in a sheet, the stick was placed between her legs. The jury would have believed that the biological evidence was from contamination prior to transport.

iii. Spermatozoa

47. Concerning the deposit the jury heard expert Larry Huys testify regarding it, it was his expert opinion, at least two times, that deposit was post-mortem. (R-402-03, 406). This was his expert opinion. "Typically, this is not what you'd find in a living person." The jury heard that it could belong to 50% of the Caucasian population. Though lawyers on both sides questioned if it was, and how

long it could have been pre-mortem, Larry Huy's testified in his expert opinion, "It happened postmortem."

48. Post-mortem deposit is not sex abuse. By statute it is abuse of a corpse. There was not enough evidence for the jury to believe that Mr. Hunt was guilty of sex abuse by the existence of the deposit.

49. The jury would not have believed the position of stick was proof beyond a reasonable doubt of sex abuse. The autopsy report was in evidence for the jury to consider. On the first page, it shows the stick was placed between the legs of the decedent, then the decedent and stick between her legs were wrapped in sheet for transport. The jury would have believed this transport of the stick between the legs of the decedent was a source of biological evidence. The trial record (R-267) says it's closer to the victim's privates than her head. But for the prosecution lying in arguments, the jury would not believe the position of stick was proof of sex abuse beyond a reasonable doubt. But for the prosecution lying in closing, the jury would not have convicted Mr. Hunt for sex abuse beyond a reasonable doubt based on the semen deposit.

50. The forensic scientist Larry Huys, at least twice during his testimony, (R-402-403, & R-406) said that from his readings and expertise, the number of spermatozoa was not what you'd find in a living person. This deposit according to

Mr. Huys would be postmortem, and postmortem abuse of corpse is not sex abuse within meaning of statute.

iv. Cumulative Effect Analysis

51. But for the prosecutor lying to the jury in closing, and giving witnesses credibility, the State cannot prove the cumulative effect analysis is sufficient to say the prosecutor's misconduct did not have any effect on the jury weighing all the State's arguments about sex abuse. The State is aware that the only evidence of sex abuse beyond a reasonable doubt was the prosecutor lying to the jury during trial and closing by giving credibility to his witnesses. The State knows Mr. Hunt is not guilty of capital murder, nor is he guilty of felony murder. It knows that the jury would have convicted Mr. Hunt of murder, the lesser included offense.

52. The state prosecutor is aware of the prejudicial impact of lying to the jury, and giving his witnesses credibility, and the effect it has during jury deliberations, and the effect it had while jury weighed all sex abuse assertions the prosecutor presented. The prejudicial impact affects all evidence presented.

53. For the first time, the State Attorney General unequivocally admits that it has been the State's position since trial that they knew the prosecutor violated *Napu's* principal holding, when he lied to the jury in closing, R- 861, stating: "The evidence (of Dr. Embry) is none other than her cervical mucus is on the stick." While knowing and admitting to the Alabama Supreme Court "that Dr.

Embry never testified that her cervical mucus was on the stick.” The government acknowledgement of this as an unequivocal fact was not known, could not have been discovered, when the State discovers the Due Process violation of Petitioner’s right to a fair trial, and the prosecutor did not correct his own *Napue* violation. This was not known and could not have been discovered sooner, until the attorney general made that now undeniable revelation.

v. *Inconsistent Statements*

54. The Attorney General is aware of all that the petitioner shows, herein, about the enormous prejudicial impact of prosecutorial misconduct had on the jury deliberations. But for the deception of the jury and giving credibility to his witnesses, the jury would have convicted Mr. Hunt of the lesser included offense of murder.

55. The Attorney General though, knowing all this, is still persistent in executing Mr. Hunt. Persistent though, knowing that the conviction is based on prosecutor misconduct. But for the misconduct, the State failed to prove sex abuse beyond a reasonable doubt. But for the lie and credibility bolstering of witnesses, the jury would have convicted of a lesser included offensive murder only. The State knows, without doubt, that Mr. Hunt is not guilty as charged in the indictment and still seeks to execute him because he’s guilty of a lesser included offense of murder.

Attorneys of the State are not lawyers of a party but imprimaturs of the government. Their duty is not necessarily to convict but to see that justice is done.

C. Finality

56. Mere citation to the principle of finality is not a sufficient reason to refuse to grant relief due to a change in law under all circumstances. In some situations, finality must and does give way to the equitable considerations that underlie a claim for relief due to a change in law. *Pierce v. Cook and Company*, 518 F.2d 720 (10th Cir. 1975), *cert. denied*, 96 S. Ct. 866 (1976), *Tsakonitew v. Transpecific Carrier Corp.*, 322 F. Supp 722 (S.D.N.Y. 1970).

57. In *United States v. Atkinson*, 297 U.S. 157 (1936) convictions violating fairness, integrity, or public reputation of judicial proceedings cannot stand. *United States v. Olano*, 507 U.S. 725,726 (1993), these types of violations of fairness, integrity, or public reputation of judicial proceedings are not limited to actual innocence.

58. The Court repeatedly has recognized that principles of fundamental fairness underlie the writ of habeas corpus. *See Engle v. Isaac*, 456 U.S. 107, 126 (1982); *Sanders v. United States*, 373 U.S. 1, 17-18 (1963). Even as the Court has erected unprecedented and unwarranted barriers to the federal judiciary's review of the merits of claims that state prisoners failed properly to present to the state courts, or failed to raise in their first federal habeas petitions, or previously

presented to the federal courts for resolution, it consistently has acknowledged that exceptions to these rules of unreviewability must exist to prevent violations of fundamental fairness. *See Engle*, 456 U. S., at 135 (principles of finality and comity “must yield to the imperative of correcting a fundamentally unjust incarceration”); *Sawyer v. Whitley*, 505 U.S. 333, 351 (1992) (Brennan, J., concurring).

D. Retroactivity of Glossip v. Oklahoma

59. The effect of the United States Supreme Court’s ruling in *Glossip* demands that states using preclusion of lack of diligence, which was a misapplication of *Napue*, must modify their procedural applications and apply the proper *Napue* standard.

60. This creates a “new rule.” *Saffle v. Parks*, 494 U.S. 484, 488 (1990) (citing *Rock v. Arkansas*, 483 U.S. 44 (1987)). A new rule is when the United States Supreme Court imposes a new obligation on the government.

61. Comity privilege gives the states an opportunity to take a first look at correcting claims of violations of the United States Constitution and federal law.

62. Instead of Alabama guarding and enforcing every right secured by the Constitution (*Dixon v. State*, 67 NE 2d. 138 (1946)), Alabama created lack of diligence to preclude the Department of Corrections.

63. *Napue* and *Glossip* exist to protect the truth-seeking function; a right to be found guilty beyond a reasonable doubt based on truth, the jury's right to perform their civic function, and to return proper verdict based on truth.

64. Alabama violated these fundamental rights secured by United States Constitution and Federal law in *Hunt*.

65. *Napue* is substantive law. *Glossip*, ensuring proper application of *Napue* standard, is substantive law. Therefore, *Glossip* imposes a new rule on the government (Alabama) to modify its state review and stop continued and remedy prior misapplication of *Napue* standard is substantive law and should apply retroactively. Mr. Hunt asserts the effect of *Glossip* on state government should apply retroactively to him.

E. Retroactivity of Napue v. Illinois

66. *Napue* is retroactive law. In *Gideon v. Wainwright*, 372 U.S. 335 (1963), the United States Supreme Court made it retroactive because absence of counsel at trial. It undermined fairness and reliability of proceedings violating Sixth Amendment, right to counsel.

67. *Napue* ensures fairness and reliability of proceeding. *Napue* is constitutional law protecting due process rights to a fair trial ensuring due process (14th Amendment).

68. Ensuring convictions are based on truth. Truth is equally if not more important than *Gideon's* right to counsel. Because without counsel, if there is truth, a defendant may, without counsel, fend off an accusation of the government. Without truth, whether with or without counsel, no one can fend off government accusations.

69. In *Ivan V. v. City of New York*, 407 U.S. 203, 205 (1972), the U.S. Supreme Court ruled: Where the major purpose of new constitutional doctrine is to overcome an aspect of the criminal trial that substantially impaired truth-finding function and so raises serious questions about accuracy of guilty verdicts and past trials, the new rule has been given complete retroactive effect.

70. The state admits it knows the prosecutor violated *Napue* standard by lying to the jury. Due process commands that no one should lose life or liberty. Unless the government has proven its burden beyond reasonable doubt, based on truth, of every element charged in the indictment. Thus, *Napue* is retroactive law.

71. Should it be necessary, Hunt asserts retroactivity of *Glossip* and *Napue* should apply to his claim.

III. Conclusion

Based upon the prejudice, the State cannot show beyond reasonable doubt that the prosecutor lying to the jury during closing had no impact upon the jury decision making process. Should this court choose to review this case, it should not

misapply the proper *Napue* standard and reject the application of “lack of diligence.” Based on *Glossip* that would violate the *Napue* standard and violate Mr. Hunt’s due process right.

The proper *Napue* standard must be applied and, if necessary, applied retroactively. Mr. Hunt should be granted a new trial. Where he could have a fair trial based on accurate facts. This issue could not be raised sooner by no fault of Mr. Hunt.

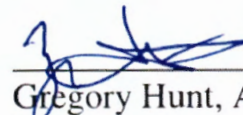
PRAYER FOR RELIEF

For all the above-mentioned reasons and other such reasons as may be made upon amendment of this Petition and following a full evidentiary hearing, Petitioner Greg Hunt respectfully asks this Court to grant him the following relief:

- (a) afford the petitioner sufficient time to file discovery motions and motions for necessary funds;
- (b) grant Petitioner discovery and sufficient time to conduct discovery, and further grant Petitioner authority to obtain subpoenas to further document and prove the facts set forth in this petition;
- (c) provide petitioner, who is indigent, with sufficient funds to present witnesses, experts, and other evidence, in support of the allegations contained within this petition;
- (d) afford petitioner sufficient time to amend his petition upon further discovery;
- (e) afford Petitioner an opportunity to reply to any responsive pleading filed by Respondent;

- (f) grant Petitioner an evidentiary hearing at which additional proof may be offered supporting the allegations set forth in this petition;
- (g) permit Petitioner after additional factual development an opportunity to brief and argue the issues presented in this petition;
- (h) grant Petitioner relief from his unconstitutionally obtained conviction and sentence of death; and
- (i) grant such further and other relief as may be appropriate.

Respectfully,

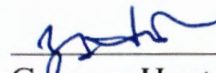


Gregory Hunt, AIS # Z-521
Pro se
Petitioner

PETITIONER'S VERIFICATION UNDER OATH
SUBJECT TO PENALTY FOR PERJURY

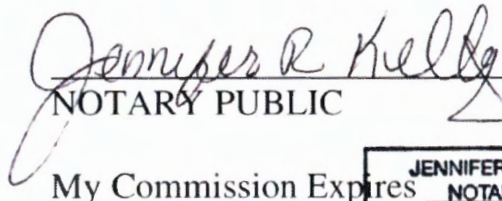
I swear (or affirm) under penalty of perjury that the foregoing is true and correct.

Executed on May 21, 2025.



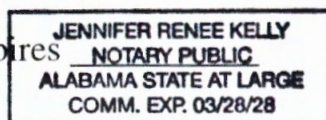
Gregory Hunt, AIS # Z-521

SWORN TO AND SUBSCRIBED before me this the 21st day of May, 2025.



NOTARY PUBLIC

My Commission Expires



**ADDENDUM TO THIRD SUCCESSIVE PETITION FOR RELIEF
FROM JUDGMENT PURSUANT TO RULE 32 OF THE ALABAMA
RULES OF CRIMINAL PROCEDURE**

In *High v Head* 209 F.3d 1257 (11th Cir. 2000), the duty to (discover and) correct is ongoing past trial and conviction. *Steidl v. Fermon*, 494 F.3d 623, 630 (7th Cir. 2007) government duty remains as long as taint remains because it effects all proceedings.

These cases show that because the Attorney General takes over petitioner's case replacing the local district attorney, the *Napue* standard obligation and duty is likewise transferred from the local district attorney to the Attorney General. Petitioner's Fourth, Fifth, Sixth, and Fourteenth U.S. Constitutional rights to due process have been denied.

Should the State respond that petition states no new fact, the proceeding would have suffered preclusion based on State's misapplication of *Napue* standard. That the State approves violation of fundamental fairness, approves of miscarriage of justice, approves of displacing Existential Breach of Trust by officers of the court to victimize petitioner.

Petitioner objects to State filing proposed order due to fact, it will be an *ex parte* communication to influence Judicial finding of facts.

This Court should reverse conviction, bar retrial because Hunt was in jeopardy for the lessor included offense of murder.

EXECUTION DATE has been set by Governor Kay Ivey for June 10-11, 2025.

This petition is not being filed for purpose of delaying proceedings, though at some time, a STAY OF EXECUTION may be warranted and granted.

This petition is being filed in light of two recent rulings by the United States Supreme Court that may grant relief for Mr. Gregory Hunt, Petitioner, to avoid a miscarriage of justice, and ensure fundamental fairness.

The two recent rulings are:

- 1.) *Glossip v. Oklahoma*, 145 S.Ct. 612 (2025)
- 2.) *Andrew v. White*, 145 S.Ct. 75 (2025).

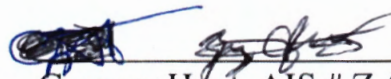
To establish claim of prosecutorial misconduct or denial of due process, defendant must show that the statement in question was indisputably false rather than merely misleading. *United States v. Lochmondy*, 890 F.2d 812, 823.

CERTIFICATE OF SERVICE

A copy of the foregoing was mailed, first class postage prepaid, by placing it in the ~~prison~~ mail system, on May 28, 2025, addressed to:

Steve Marshall
Attorney General
501 Washington Avenue
Montgomery, AL 36130

Respectfully,



Gregory Hunt, AIS # Z-521
Pro se Petitioner

UNITED STATES
POSTAL SERVICE®

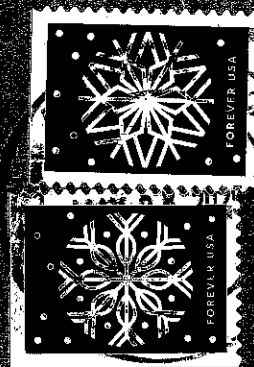
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RDC 99



Gregory Hunt, Z-521
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Holman 3700
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CONFIDENTIAL-LEGAL MAIL

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Montgomery, AL 36104

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