

No. _____

IN THE
Supreme Court of the United States

MICHAEL BELL
Petitioner,

v.

STATE OF FLORIDA
Respondent.

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

**APPENDIX TO
PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF FLORIDA**

THIS IS A CAPITAL CASE
WITH AN EXECUTION SCHEDULED FOR
TUESDAY, JULY 15, 2025 AT 6:00 P.M.

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APPENDIX

DOCUMENT

1-54a	Opinion of the Florida Supreme Court Case No. SC2025-0891 Rendered on July 8, 2025
1-3b	Sworn Affidavit of Henry Edwards
1-3c	Sworn Affidavit of Charles Jones
1-326d	Transcript of June 23, 2025, Evidentiary Hearing
1-20e	1995 Trial Testimony of Ericka Williams
1-24f	1995 Trial Testimony of Ned Pryor
1-23g	1995 Trial Testimony of Dale George
1-27h	1995 Trial Testimony of Paula Goins
1-18i	1995 Trial Testimony of Henry Edwards
1-14j	1995 Trial Testimony of Charles Jones

Appendix A

Supreme Court of Florida

No. SC2025-0891

MICHAEL BERNARD BELL,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

July 8, 2025

PER CURIAM.

Michael Bernard Bell, a prisoner under two sentences of death and an active death warrant, appeals the circuit court's denial of his successive motion for postconviction relief. He also seeks a stay of execution for the purpose of further factual development and requests oral argument. We have jurisdiction. *See* art. V, § 3(b)(1), Fla. Const. As we explain below, we affirm the denial of Bell's successive postconviction motion, and we deny his motion for a stay of execution and request for oral argument.

FACTS AND PROCEDURAL BACKGROUND

Bell was convicted of the 1993 first-degree murders of Jimmy West and Tamecka Smith. The facts surrounding the murders were set forth in this Court's opinion on direct appeal:

In June 1993, Theodore Wright killed Lamar Bell in a shoot-out which was found to be justifiable homicide committed in self-defense. Michael Bell then swore to get revenge for the murder of his brother, Lamar Bell. During the five months following Lamar Bell's death, Michael Bell repeatedly told friends and relatives he planned to kill Wright. On December 8, 1993, Michael Bell, through a girlfriend, purchased an AK-47 assault rifle, a thirty-round magazine, and 160 bullets. The next night, Bell saw Theodore Wright's car, a yellow Plymouth. Bell left the area and shortly returned with two friends and his rifle loaded with thirty bullets. After a short search, he saw the yellow car in the parking lot of a liquor lounge. Bell did not know that Wright had sold the car to Wright's half-brother, Jimmy West, and that West had parked it and had gone into the lounge. Bell waited in the parking lot until West left the lounge with Tamecka Smith and another female. Bell picked up the loaded AK-47 and approached the car as West got into the driver's seat and Smith began to enter on the passenger's side. Bell approached the open door on the driver's side and at point-blank range fired twelve bullets into West and four into Smith. The other female ducked and escaped injury. After shooting West and Smith, Bell riddled with bullets the front of the lounge where about a dozen people were waiting to go inside. Bell then drove to his aunt's house and said to her, "Theodore got my brother and now I got his brother."

[Bell] was charged with two counts of first-degree murder. At trial in March 1995, [Bell] pleaded not guilty by reason of self-defense, stating that he believed West

had reached for a weapon just before [Bell] began shooting. The defense presented no evidence or witnesses. A jury found [Bell] guilty of the first-degree murders of Smith and West and unanimously recommended the death penalty for both murders. During the penalty phase, a lounge security guard testified for the State that he and seven or eight other people were in the line of fire and hit the ground when [Bell] sprayed bullets in the parking lot of the lounge. He also testified that [Bell] shot four or five bullets into a house next door in which three children were residing at the time. The State introduced a copy of a record showing that [Bell] was convicted of armed robbery in 1990. Also during the penalty phase, [Bell]'s mother testified for the defense that she and [Bell] had received death threats from Wright and West. She testified that [Bell] was in good mental health and was gainfully employed and that she believed he did not commit the murders.

Bell v. State, 699 So. 2d 674, 675-76 (Fla. 1997).

The trial court sentenced Bell to death, having found three aggravating factors: Bell was previously convicted of another capital felony or of a felony involving the use or threat of violence (prior violent felony); the murders were committed in a cold, calculated, and premeditated manner without any pretense of moral or legal justification (CCP); and in committing the murders, Bell knowingly created a great risk of death to many persons. *Id.* at 676 n.1. The trial court also found one “marginal” statutory mitigating

circumstance, that Bell was under extreme mental or emotional distress at the time of the murders. *Id.* at 676 n.2.

We affirmed Bell's convictions and sentences on direct appeal. *See id.* at 679.¹ His convictions and sentences became final when the United States Supreme Court denied certiorari review on February 23, 1998. *See Bell v. Florida*, 522 U.S. 1123 (1998).

Bell subsequently filed a motion for postconviction relief. In December 1999, the circuit court summarily denied Bell's motion. Bell appealed the summary denial to this Court and, after holding oral argument, this Court reversed and remanded the case for an evidentiary hearing. *See Bell v. State*, 965 So. 2d 48, 54 (Fla. 2007); *Bell v. State*, 790 So. 2d 1101 (Fla. 2001). The evidentiary hearing was held in 2002.

Following the evidentiary hearing, the circuit court denied relief. Bell appealed the circuit court's order and also filed a

1. Bell's issues on direct appeal were: (1) the trial court erred in failing to conduct proper inquiries under *Nelson v. State*, 274 So. 2d 256 (Fla. 4th DCA 1973), and *Faretta v. California*, 422 U.S. 806 (1975); (2) the trial court erred in finding the CCP aggravating factor; (3) the trial court gave an erroneous CCP instruction; and (4) the trial court failed to properly consider and find mitigating circumstances.

petition for writ of habeas corpus. This Court affirmed the denial of postconviction relief² and also denied Bell's habeas petition.³ See

2. This Court concluded that several postconviction claims were procedurally barred: (1) improper prosecutorial comments regarding jury deliberations; (2) *Brady v. Maryland*, 373 U.S. 83 (1963), violation; (3) erroneous finding as aggravation that the defendant knowingly created a great risk of death to many persons; (4) improper prosecutorial remarks to the jury during voir dire; and (5) erroneous consolidation of Bell's two charges for trial.

This Court considered and rejected the following claims of ineffective assistance of counsel: (1) failure to object to prosecutorial comments regarding the plea of Dale George; (2) improper questioning of defense witness during the penalty phase; (3) ineffective assistance in advising Bell not to testify; (4) failure to object to improper prosecutorial comments; (5) failure to discover tape containing recorded statement that would have refuted key testimony; (6) failure to call a certain impeachment witness; (7) failure to investigate and present a credible defense; (8) improper closing arguments by defense counsel; (9) failure to object to shackling; (10) failure to ensure that competency reports contained information outlined in Florida Rule of Criminal Procedure 3.211; (11) improper defense concession of Bell's guilt and the existence of CCP; (12) failure to get court's ruling on motion to strike voir dire panel due to spectator's t-shirt memorializing victim Smith; (13) failure to object to comments made in violation of *Caldwell v. Mississippi*, 472 U.S. 320 (1985); (14) failure to object to State's peremptory strike; (15) failure to investigate and prepare for testimony of State witnesses; (16) failure to investigate and present mitigating factors; (17) failure to ensure that the jury venire was sworn before voir dire began; and (18) cumulative error. See *Bell*, 965 So. 2d at 56-75.

3. Bell raised the following claims in his habeas petition: (1) Bell's death sentence was unconstitutional under *Apprendi v. New Jersey*, 530 U.S. 466 (2000); (2) the trial court gave

Bell, 965 So. 2d 48. The United States Supreme Court denied certiorari review in *Bell v. Florida*, 552 U.S. 1011 (2007).

In the years since this Court affirmed the denial of Bell's initial motion for postconviction relief and denied habeas relief, Bell filed multiple successive motions for postconviction relief. *See Bell v. State*, 91 So. 3d 782 (Fla. 2012) (rejecting Bell's claim regarding the retroactive application of the United States Supreme Court's decision in *Porter v. McCollum*, 558 U.S. 30 (2009)); *Bell v. State*, No. SC16-369, Order (Fla. Oct. 10, 2016) (affirming circuit court order "striking Bell's second successive postconviction motion"); *Bell v.*

unconstitutional jury instructions; (3) appellate counsel was ineffective due to improper argument that Bell should have been permitted to represent himself at trial; (4) appellate counsel was ineffective due to the failure to raise the excusal for cause of a prospective juror; (5) appellate counsel was ineffective due to the failure to raise the trial court permitting Bell to wear his jail uniform in front of the jury; (6) appellate counsel was ineffective due to the existence of a conflict of interest which rendered appellate counsel's assistance ineffective; (7) appellate counsel was ineffective due to the failure to raise on direct appeal the issue of erroneous jury instructions; and (8) appellate counsel was ineffective due to the failure to argue on direct appeal that comments made in voir dire were reversible error. *See Bell*, 965 So. 2d at 75.

State, 235 So. 3d 287, 287-88 (Fla. 2018) (concluding that *Hurst*⁴ did not apply retroactively to Bell's sentences of death and affirming the denial of postconviction relief); *Bell v. State*, 284 So. 3d 400, 401-02 (Fla. 2019) (affirming, on grounds of untimeliness and a procedural bar, the denial of Bell's successive ineffective assistance of counsel claim that defense counsel improperly injected racial animus into the guilt and penalty phases of his trial, and rejecting Bell's retroactivity argument regarding the United States Supreme Court's decision in *Buck v. Davis*, 580 U.S. 100 (2017)).

Bell has also sought relief in federal court. *See Bell v. Fla. Att'y Gen.*, 461 F. App'x 843 (11th Cir. 2012) (affirming the dismissal of Bell's pro se habeas petition where the district court found that the petition was untimely); *Bell v. Bondi*, 572 U.S. 1118 (2014) (denying U.S. Supreme Court certiorari review); *Bell v. Fla. Att'y Gen.*, 2016 WL 11048052 (M.D. Fla. Apr. 5, 2016) (dismissing for lack of jurisdiction Bell's motion to reconsider his attempt to litigate a second federal habeas petition); *Bell v. Fla. Att'y Gen.*,

4. *Hurst v. State*, 202 So. 3d 40 (Fla. 2016), *receded from in part by State v. Poole*, 297 So. 3d 487 (Fla. 2020).

2017 WL 11622107 (11th Cir. June 19, 2017) (denying certificate of appealability); *Bell v. Jones*, 584 U.S. 982 (2018) (denying certiorari review). A motion for leave of court to file a successive federal habeas petition was also denied in 2017.

Governor Ron DeSantis signed Bell's death warrant on June 13, 2025, and set an execution date of July 15, 2025. On June 18, 2025, Bell filed a successive motion for postconviction relief in the Fourth Judicial Circuit wherein he raised four claims.⁵ Bell sought an evidentiary hearing only on the first claim relating to allegations of newly discovered evidence in the form of *Brady* and *Giglio* violations. Following a *Huff*⁶ hearing on June 20, 2025, the

5. Bell raised the following claims in his successive motion for postconviction relief: (1) prosecutors failed to disclose evidence to Bell in violation of *Brady v. Maryland* and *Giglio v. United States*, 405 U.S. 150 (1972), which deprived him of due process and a fair trial; (2) Bell's capital trial was irredeemably tainted with racial bias by both the prosecution and his own defense attorney; (3) the time limits imposed on this warrant litigation violate state and federal due process; and (4) Bell has been denied due process and the effective assistance of counsel at every stage of his case, and his execution would violate the Eighth and Fourteenth Amendments.

6. *Huff v. State*, 622 So. 2d 982 (Fla. 1993).

circuit court granted an evidentiary hearing on the newly discovered evidence claim.

On the night of June 22, 2025, the night before the evidentiary hearing, Bell filed an amended motion raising further *Brady* and *Giglio* claims.

The trial court held an evidentiary hearing on June 23, 2025, at which Bell presented an additional claim of newly discovered evidence. On June 24, 2025, the circuit court entered its order denying relief, and this appeal follows.

ANALYSIS

Bell raises four issues in this successive postconviction appeal. Under Florida Rule of Criminal Procedure 3.851(d)(1), a motion for postconviction relief must be filed within one year of the date that a conviction and sentence become final. However, to avoid this procedural bar, Bell relies on an exception provided in rule 3.851(d)(2)(A) and claims that newly discovered evidence warrants a new guilt phase and a new penalty phase. *See Fla. R. Crim. P. 3.851(d)(2)(A)* (“No motion may be filed or considered under this rule if filed beyond the time limitation provided in subdivision (d)(1) unless it alleges: the facts on which the claim is predicated

were unknown to the movant or the movant's attorney and could not have been ascertained by the exercise of due diligence.”).

The first two issues in this appeal relate to Bell's contention that in the course of investigating and prosecuting this case, Detective William Bolena (deceased) and Assistant State Attorney George Bateh engaged in a pattern of misconduct toward multiple witnesses. Bell asserts that the alleged misconduct resulted in the presentation of false testimony in violation of *Giglio* and the withholding of exculpatory or impeachment evidence in violation of *Brady*, and that the witness statements revealing this alleged misconduct constitute newly discovered evidence. In issue one, Bell challenges the circuit court's rulings that permitted multiple evidentiary hearing witnesses to invoke their privilege against self-incrimination. In issue two, he challenges the circuit court's denial of his claims of newly discovered evidence. In issue three, Bell asserts that the totality of the circumstances surrounding alleged recantations and threats of perjury deprived him of fair and reliable proceedings, and, in issue four, he challenges the timeframe for his death warrant. As we explain, we affirm the circuit court's order.

I. Invoking the Privilege Against Self-Incrimination

Bell first argues that during the evidentiary hearing on his claims of newly discovered evidence, the circuit court erred in permitting certain witnesses to invoke their privilege against self-incrimination. Henry Edwards, Charles Jones, Ericka Williams,⁷ Vanness “Ned” Pryor, and Dale George—each of whom was a trial witness for the State—invoked the Fifth Amendment at some point during their testimony as a defense witness during the June 23 evidentiary hearing. With the exception of a few questions, Jones refused to provide direct answers throughout his testimony and repeatedly invoked his privilege against self-incrimination. Bell argues that allowing these witnesses to do so prevented him from being able to develop additional newly discovered evidence relating to alleged police/prosecutorial misconduct and trial witness impeachment.

Bell’s argument is without merit. This Court has explained:

7. Ericka’s first name is also spelled “Erica” in various places in the record. At the time of the evidentiary hearing, Ericka’s last name was “Braclet.” However, this opinion will refer to her by “Williams,” her last name at the time of Bell’s trial.

The privilege afforded by the constitutional guarantee against self-incrimination extends not only to answers that would themselves support a conviction but likewise embraces those which would furnish a link in the chain of evidence needed to prosecute the witness for a crime. *Hoffman v. United States*, [341 U.S. 479 (1951)] (reversing a conviction for contempt for failure to answer questions before a Federal grand jury investigating frauds against the United States and other Federal crimes); accord *Blau v. United States*, [340 U.S. 159 (1950)] (reversing contempt conviction for failure to answer Federal grand jury questions about the Communist Party of Colorado).

State ex rel. Mitchell v. Kelly, 71 So. 2d 887, 894 (Fla. 1954).

“Further, the matter of deciding what answers may incriminate or tend to incriminate is not solely up to the witness himself but is one requiring the exercise of the sound discretion of the trial court under all the circumstances of the case.” *See id.* at 897 (citing *Ex parte Senior*, 19 So. 652 (Fla. 1896)). Thus,

[o]nce an individual has invoked his privilege against self-incrimination, it becomes the duty of the trial court to determine whether there is a reasonable basis for the assertion of the privilege and whether the privilege has been invoked in good faith. To sustain the privilege it need only be evident from the implications of the question, in the setting in which it is asked, that a responsive answer to the question or an explanation of why it cannot be answered might be dangerous because injurious disclosure could result.

St. George v. State, 564 So. 2d 152, 155 (Fla. 5th DCA 1990) (citing *Emspak v. United States*, 349 U.S. 190 (1955); *Hoffman*, 341 U.S. 479).

By the time of the evidentiary hearing on June 23, 2025, each of these witnesses had testified at Bell's trial and at Bell's 2002 evidentiary hearing. Days after Bell's death warrant was signed, Edwards and Jones signed sworn affidavits purporting to recant portions of their trial testimony. Williams, Pryor, and George refused to provide Bell's investigators with a sworn affidavit but spoke with the investigators, providing information that Bell claims prompted him to amend his successive postconviction motion. It was in this landscape that the circuit court, on its own initiative, offered these witnesses the appointment of counsel for the purpose of the evidentiary hearing and provided them, if they so desired, the opportunity to consult with counsel.

The circuit court did not err in permitting each witness to invoke the privilege against self-incrimination. The State's brief described—and Bell acknowledged—two of the potential legal risks, risks that we note would inform the circuit court's analysis of

whether there was a reasonable and good faith basis for invoking the privilege:

If the witnesses' testimony *at the evidentiary hearing* was false, then that would subject the witness to a charge of perjury by contradiction. § 837.021, Fla. Stat.

Alternatively, if a witness testified that the sworn affidavit they signed a week ago was false, then they could be charged with perjury in official proceedings. § 837.02(2), Fla. Stat. In either scenario, the crime would not be completed until they offered that perjured testimony at the hearing.

Answer Brief of Appellee at 61 n.13; see Reply Brief of Appellant at 22-23 (“Counsel agrees with the legal theory stated in State’s footnote 13 at AB 61.”). Although these risks were discussed in a separate discussion—of what Bell describes as the “perjury threat” faced by these witnesses—they are also legitimate concerns with respect to whether they properly invoked the privilege against self-incrimination. Simply put, these risks would be among the reasonable considerations for the circuit court as it determined, “under all the circumstances of the case,” whether “answers may incriminate or tend to incriminate.” *Mitchell*, 71 So. 2d at 897.

Further, to the extent that Bell alleges that the witnesses’ invocation of the privilege against self-incrimination violated his Sixth Amendment right of confrontation in this successive

postconviction proceeding, this claim is without merit. *See Rodgers v. State*, 948 So. 2d 655, 663 (Fla. 2006) (stating that “a defendant’s rights under the Confrontation Clause apply to the guilt phase, the penalty phase, and sentencing”); *Rodriguez v. State*, 753 So. 2d 29, 43 (Fla. 2000) (stating the “uncontroverted proposition that the Sixth Amendment right of confrontation applies to all three phases of the capital trial”).

II. Newly Discovered Evidence/*Brady* Claim/*Giglio* Claims

Bell argues that recently obtained statements from multiple trial witnesses that constitute newly discovered evidence of *Brady* and *Giglio* violations would result in his acquittal on retrial or result in him receiving a lesser sentence. He appeals the circuit court’s denial of relief as to all of his newly discovered evidence claims. Bell is not entitled to relief.

A *Brady* violation occurs where the State fails “to disclose material information within its possession or control that is favorable to the defense.” *Taylor v. State*, 62 So. 3d 1101, 1114 (Fla. 2011). To establish a *Brady* violation, Bell has the burden to show “(1) that favorable evidence, either exculpatory or impeaching, (2) was willfully or inadvertently suppressed by the State, and

(3) because the evidence was material, the defendant was prejudiced.” *Id.* (emphasis omitted) (citing *Hurst v. State*, 18 So. 3d 975, 988 (Fla. 2009)). To satisfy the materiality prong, Bell must demonstrate a reasonable probability that, had the suppressed evidence been disclosed, the jury would have reached a different verdict. *Id.* “[A] ‘reasonable probability’ [is] ‘a probability sufficient to undermine confidence in the outcome.’” *United States v. Bagley*, 473 U.S. 667, 682 (1985) (quoting *Strickland v. Washington*, 466 U.S. 668, 694 (1984)).

Bell also asserts that his newly discovered evidence establishes *Giglio* violations, which are “based on the prosecutor’s knowing presentation at trial of false testimony against the defendant.” *Jimenez v. State*, 265 So. 3d 462, 479 (Fla. 2018) (quoting *Guzman v. State*, 868 So. 2d 498, 506 (Fla. 2003)). In order to establish a *Giglio* violation, “a defendant must prove that (1) the prosecutor presented or failed to correct false testimony; (2) the prosecutor knew the testimony was false; and (3) the false evidence was material.” *Taylor*, 62 So. 3d at 1114 (citing *San Martin v. State*, 995 So. 2d 247, 254 (Fla. 2008)). “If the defendant establishes that a prosecutor has knowingly presented false

testimony, the burden then shifts to the State to prove that there is not any reasonable possibility that the false testimony could have affected the judgment of the jury.” *Id.* (citing *Guzman*, 868 So. 2d at 506).

Further, to prove that either *Brady* or *Giglio* violations constitute newly discovered evidence, Bell must demonstrate the following:

First, in order to be considered newly discovered, the evidence “must have been unknown by the trial court, by the party, or by counsel at the time of trial, and it must appear that defendant or his counsel could not have known [of it] by the use of diligence.”

Second, the newly discovered evidence must be of such nature that it would probably produce an acquittal on retrial.

Jones v. State, 709 So. 2d 512, 521 (Fla. 1998) (alteration in original) (internal citation omitted). Because Bell seeks to vacate his death sentence, to establish the second prong of *Jones*, Bell must show that “the newly discovered evidence would probably yield a less severe sentence.” *Long v. State*, 271 So. 3d 938, 942 (Fla. 2019) (quoting *Walton v. State*, 246 So. 3d 246, 249 (Fla. 2018)).

“When the lower court has ruled on a claim following an evidentiary hearing, we review ‘the trial court’s findings on questions of fact, the credibility of witnesses, and the weight of the evidence for competent, substantial evidence.’ The lower ‘court’s application of the law to the facts,’ however, is reviewed de novo.” *Dailey v. State*, 283 So. 3d 782, 788 (Fla. 2019) (quoting *Green v. State*, 975 So. 2d 1090, 1100 (Fla. 2008)).

Bell’s claims of newly discovered evidence based on alleged *Brady* and *Giglio* violations are without merit, and we affirm the circuit court’s denial of relief. The circuit court characterized these claims as follows:

A common theme with all of Defendant’s newly discovered witnesses is that they all allegedly made incredible statements to investigators for Defendant’s federal counsel, after the death warrant was signed, about systemic prosecutorial misconduct that resulted in all their trial testimony being coerced and false. However, once Defendant called them to the stand their testimony did not support Defendant’s allegations. The testimony did not demonstrate prosecutorial misconduct, but rather that the State leveraged the law permissibly to prosecute Defendant’s crimes.

We agree with this characterization of Bell’s claims.

We begin with the alleged recantations of Henry Edwards and Charles Jones raised in Bell’s June 18 successive postconviction

motion, and we continue with the additional witnesses raised in Bell's June 22 amended motion and at the June 23 evidentiary hearing. In addition to the circuit court's findings that all of the claims are untimely, also dispositive of all of these claims of newly discovered evidence is that Bell has failed to demonstrate that the alleged newly discovered evidence is "of such nature that it would probably produce an acquittal on retrial," *Jones*, 709 So. 2d at 521, or that it "would probably yield a less severe sentence," *Long*, 271 So. 3d at 942.

A. Alleged Recantations of Henry Edwards and Charles Jones

Bell's June 18 successive postconviction motion alleged that two witnesses, Edwards and Jones, recanted significant portions of their trial testimony. One of Bell's federal public defenders, attorney Tennie Martin, testified at the evidentiary hearing that after learning of the signing of Bell's death warrant, she received a call from attorney Linda McDermott, a federal public defender in another region. According to Martin, McDermott told her that "her investigator [Dan Ashton] may have, in the course of his investigation, over the last couple of months in a case of theirs, had

contact with a couple of witnesses in Mr. Bell's case and there may be information."

After further coordination to determine how to proceed, and after contacting Bell's postconviction attorney, Robert Norgard, two federal investigators contacted Edwards and Jones and obtained signed, sworn statements from them regarding their trial testimony.

We have explained that recantations, as a general matter, are highly unreliable as a form of newly discovered evidence. *Sweet v. State*, 248 So. 3d 1060, 1066 (Fla. 2018) (quoting *Consalvo v. State*, 937 So. 2d 555, 561 (Fla. 2006)). Although Bell asserts that Edwards's and Jones's alleged recantations constitute newly discovered evidence warranting relief, the analysis does not end with the recantation itself:

Regardless of the time span from the time of trial to the discovery of the new testimony, recanted testimony cannot be "discovered" until the witness chooses to recant. . . .

. . . However, permitting a newly discovered evidence claim to proceed to an evidentiary hearing does not establish that the recanted testimony qualifies as newly discovered evidence as a matter of law. The newly discovered evidence claim remains to be factually tested in an evidentiary hearing to determine whether the defendant has demonstrated that the successive motion has been filed within the time limit for when the

statement was or could have been discovered through the exercise of due diligence.

Davis v. State, 26 So. 3d 519, 528-29 (Fla. 2009) (emphasis and internal citations omitted).

1. Timeliness

Although it considered Bell's claims on the merits, the circuit court concluded that the newly discovered claims as to Edwards and Jones were untimely:

Defendant contends the Edwards and Jones claims fall under the newly discovered evidence exception of Rule 3.851(d) because they could not have been discovered with the use of due diligence by either himself or counsel until after Capital Habeas Unit ("CHU") Attorneys for the Northern District of Florida . . . contacted Defendant's CHU Attorneys, who are with the Middle District of Florida. Defendant alleges that there is no communication between employees of different CHU regions and, thus, there was no way for him to know that CHU North attorneys were in contact with witnesses from his case many months ago. Even accepting this alleged lack of communication, Defendant did not explain why CHU North waited to reveal the alleged recantations of two witnesses who testified against Defendant until after the death warrant was signed. Nor did Defendant ever state or present credible evidence to establish which CHU unit first learned of the purported new evidence and when that occurred. Fundamentally, Defendant did not prove that it has been less than one year since Henry Edwards and Charles Jones allegedly recanted. Therefore, Subclaims One and Two are untimely.

We agree with the circuit court's conclusion.

2. Henry Edwards

At trial, Edwards testified that he first met Bell at a neighborhood establishment and saw him frequently over a period of six months. On the night of the murders, Edwards was standing outside of the liquor lounge when he saw Bell pull a ski mask over his face and reach into the back seat of a car. When Bell walked around the car, Edwards saw that Bell was holding a rifle with a gun clip. Bell initially walked towards Edwards but then walked toward a car and started shooting into it. Edwards only saw one gunman. In 2002, Edwards reaffirmed his testimony at the evidentiary hearing on Bell's initial motion for postconviction relief.

On June 16, 2025, investigators spoke with Edwards and obtained a sworn affidavit that purported to recant Edwards's testimony that he saw Bell commit the murders. According to the affidavit, (1) Edwards did not see the shooter because Edwards was inside of the liquor lounge at the time of the shooting and only heard gunshots, (2) Detective Bolena knew that Edwards did not see the shooter, (3) Detective Bolena told Edwards details of the case, (4) Detective Bolena granted Edwards favors in exchange for his testimony against Bell such as picking Edwards up from jail

and taking him to visit family, (5) before testifying at Bell's trial, Edwards only saw Bell twice, (6) when asked to view a lineup, Detective Bolena told Edwards who Bell was, (7) Detective Bolena placed Edwards in a holding cell with an eyewitness who gave him details about the murders, (8) Edwards felt threatened by Detective Bolena, (9) the prosecutor coached Edwards on his testimony, and (10) Edwards was promised a more lenient sentence in his own pending prosecution if he testified against Bell.

The affidavit also stated that Edwards was previously questioned by another investigator about Detective Bolena, and that Edwards wanted the truth to be known but would not have come forward had he not been approached by Bell's investigators.

Bell argues that this information constitutes newly discovered evidence in the form of *Brady* and *Giglio* violations, and that the evidence undermines both the identification of him as the shooter and the findings as aggravating factors that the murders were cold, calculated, and premeditated, and that, in committing the murders, Bell created a great risk of death to many persons.

However, at the evidentiary hearing, Edwards denied the contents of his affidavit. Edwards admitted he had been a

confidential informant for Detective Bolena and that Detective Bolena approached him in jail after finding out he was at the scene when the shootings took place. Edwards did state that before the trial, “I might have seen him one time but I didn’t—I didn’t know him.”

However, Edwards also stated he was on the outside, not the inside, of the liquor lounge on the night of the murders. When questioned about the contradiction between that statement and the contents of the affidavit, Edwards admitted to signing the affidavit but said that “it wasn’t true.” Edwards stated he thought that the investigators were trying to make a movie about Bell, he did not write nor read the affidavit, and that he was trying to help Bell, whom he knew was under a death warrant.

The circuit court ultimately denied Bell’s claim, finding that

Henry Edwards not only stood by his trial testimony, but also directly stated that the contents of the affidavit were not true. Edwards stated that he provided information to Detective Bolena, but nothing he told him or testified about at trial has changed. He acknowledged that he had signed the affidavit, but he did not read or write it and simply went along with what the CHU Investigators told him had happened because he did not want Defendant to be executed. When questioned about the specifics of his trial testimony Edwards invoked his right against self-incrimination except for the fact that he

reiterated that he was outside of the liquor lounge when the shooting occurred.

Edwards' failure to recant his previous testimony under oath at the evidentiary hearing is ultimately fatal to Defendant's claim. *Robinson v. State*, 707 So. 2d 688, 691 (Fla. 1998) ("The absence of direct testimony by the alleged recanting witness is fatal to this claim.").

The circuit court concluded that "[c]onsidering Edwards' failure to recant and his additional evidentiary hearing testimony, Defendant's claim that Edwards previously testified falsely is without merit." The court also concluded that any testimony about Edwards's role as a confidential informant was no longer relevant in light of Edwards's failure to recant his testimony and that the claim would be untimely "because Edwards' role as a confidential informant was discussed at Defendant's 2002 postconviction evidentiary hearing."

We affirm the circuit court's denial of relief. Bell has failed to prove either a *Brady* or a *Giglio* violation based on Edwards's statements. Even if we were to accept Edwards's affidavit as true—despite him having testified at the evidentiary hearing that the contents of the affidavit were not true—Bell can establish neither the materiality prong of *Brady*, nor the prejudice prong of *Giglio*.

Moreover, in addition to our agreement with the circuit court's determination that Bell's claim is untimely, in light of the overwhelming evidence of Bell's guilt and evidence in support of the aggravating factors found by the trial court, Bell cannot establish for purposes of a newly discovered evidence claim that the evidence would probably produce an acquittal on retrial or that he would probably receive a lesser sentence.

The overwhelming evidence presented at Bell's trial established that for some time before the murders, Bell told multiple people that he wanted revenge on Theodore Wright for killing Bell's brother months earlier. Bell, under the guise of needing a gun for protection, asked his then-girlfriend, Ericka Williams, to buy an AK-47. The day before the murders, Bell accompanied Williams to buy an AK-47, magazine devices, and bullets. Bell took the gun and other items after he and Williams left the gun store.

On the night of the murders, Bell's close friend, Dale George, rode with Bell to the liquor lounge in Bell's car. Bell retrieved the AK-47 from the back seat of his car, placed a mask over his head, and walked to the car that West, Smith, and another woman were

entering. Bell fired multiple shots, hitting West and Smith, and then ran back to his car where George had moved into the driver's seat. Bell continued to fire the AK-47 at the lounge while trying to escape. During the penalty phase, jurors learned that while shooting at the lounge, multiple bullets struck a nearby house.

George drove away from the crime scene and returned to his car and departed from Bell. Bell then went to his aunt's home and, while there, told his aunt and Williams (who came to the home at Bell's request) that he killed West and an unknown female victim. George later pleaded guilty to accessory after the fact for driving Bell away from the crime scene.

3. Charles Jones

Bell also points to the alleged recantation by Charles Jones. At trial, Jones testified that he had known Bell for about ten years. Days after the murders, he saw Bell anxiously trying to sell an AK-47 for less than what Jones knew to be the street value for such a gun. Jones said that Bell reduced the price in an effort to get rid of the gun and was still unable to sell it.

Weeks later, Jones saw Bell and asked him why he killed West. Bell responded that he killed West because Wright killed his

brother, Lamar Bell. Bell told Jones that Smith was at the wrong place at the wrong time.

Detective Bolena visited Jones in jail after Jones pled to an unrelated federal charge. Jones recounted the events to Bolena. Several weeks later, Jones gave a sworn statement to the state attorney's office.

At the time of his trial testimony, Jones was awaiting federal sentencing. Although there had not been a formal plea deal, Jones hoped that the sentencing judge would consider his cooperation in the Bell case.

On cross-examination, Jones admitted that he did not like Bell and that they had disputes in the past. Jones reaffirmed his trial testimony at Bell's 2002 evidentiary hearing.

On June 18, 2025, investigators met with Jones and obtained a sworn affidavit from him, wherein he stated that (1) Bell never attempted to sell him a gun, (2) Bell did not confess to the shootings, (3) Detective Bolena and the prosecutor coerced him into testifying against Bell and promised him a downward departure in his pending federal sentencing, (4) the prosecutor threatened him with additional time in prison if he changed his testimony at the

2002 evidentiary hearing, and (5) Jones's sister was in a relationship with Detective Bolena at the time of the murders.

Bell argues that newly discovered evidence in the form of Jones's sworn statement establishes *Brady* and *Giglio* violations and creates reasonable doubt as to Bell's guilt and as to the finding of CCP. He argues that newly discovered evidence "would have cast doubt on the rest of the police investigation and by association the State's case." We disagree.

At the evidentiary hearing, Jones admitted that he signed the sworn affidavit but refused to answer almost all questions. The circuit court explained:

At the evidentiary hearing, Charles Jones testified that his sister was in a relationship with Detective Bolena around the time of the instant case and that he signed the affidavit. As to any other questions, especially about the content of the affidavit, Mr. Jones invoked his right against self-incrimination. Accordingly, Jones did not recant and did not testify, leaving the Court nothing to evaluate the credibility of. Like the Edwards claim, this claim fails because Jones was not willing to testify to any of his alleged recantations and, thus, Defendant has failed to meet his burden of proof. Accordingly, this subclaim is denied.

We affirm the circuit court's denial of relief. Bell has not established either a *Brady* or a *Giglio* violation based on Jones's

statements. Bell challenges the circuit court's conclusion that Jones did not actually recant his trial testimony, but even if we were to accept Jones's affidavit as true—despite him invoking his privilege against self-incrimination virtually throughout his testimony at the evidentiary hearing—Bell can establish neither the materiality prong of *Brady*, nor the prejudice prong of *Giglio*. Moreover, Bell cannot establish for purposes of a newly discovered evidence claim that the evidence would probably produce an acquittal on retrial or result in a lesser sentence.

B. Additional Witnesses

In addition to obtaining the sworn affidavits from Edwards and Jones, investigators contacted additional witnesses in the days after Bell's death warrant was signed: Ericka Williams, Vanness "Ned" Pryor, and Dale George. Each of these witnesses declined to provide a sworn affidavit but provided Bell's investigators with information that Bell argues is newly discovered evidence of investigatory or prosecutorial misconduct. At the evidentiary hearing, Bell also presented the testimony of Paula Goins, whose testimony he claims contains newly discovered evidence of misconduct.

Bell alleges as to each of these witnesses that “[b]ecause [the witness] describes similar police and prosecutorial misconduct that Edwards and Jones did in their sworn recantations, it also supports the recantations themselves and thus supports that the State presented false testimony and withheld exculpatory *Brady* and *Giglio* impeachment evidence concerning Edwards and Jones.”

We address each of these witnesses in turn. However, we conclude as a threshold matter that the circuit court did not err in finding that these claims were untimely raised. Noting that Bell “previously raised claims of coercion as far back as his 2002 postconviction proceedings,” the court concluded:

Whatever precipitated Defendant to consider coercion claims for some trial witnesses should also have led him to conduct due diligence on the other remaining witnesses, especially in light of individuals who the State no longer had leverage over like Ned Pryor and Paula Goins. Defendant has failed to adequately allege why these claims were not discoverable with the use of due diligence during his previous postconviction proceedings.

1. Ericka Williams

At trial, Williams testified that she dated Bell from approximately June 1993 to March 1994. Bell lived with her during that time. Williams described Bell as “[c]onstantly” talking about

“[e]ven[ing] the score” with Wright after Bell’s brother was killed. When Williams suggested that Bell’s act of revenge might hurt innocent people, she recalled him saying that “[s]ometimes the good have to suffer with the bad.”

In early December 1993, Bell told Williams that they needed to obtain a gun for protection and asked Williams to purchase an AK-47 in her name. On December 8, Bell accompanied Williams to a local gun store looking for an AK-47. The first store did not have one, so they went to another store.

The second gun store had an AK-47, and Williams purchased the gun in her name. At the same time, she purchased a 30-round magazine, another magazine-type device, and eight boxes of bullets totaling 160 bullets. Bell provided the cash that was used for the purchases. After they left the store, Bell took the gun and the other items.

On the night of December 9 and early morning hours of December 10, Dale George came to Williams’s apartment and told her that “Michael got Theodore.” George drove her to the liquor lounge where she saw a lot of police, and after which they returned to her apartment. After they arrived at her apartment, Bell called

and asked Williams to bring clothes for him to his aunt Paula Goins's home. George went home, and Williams took the clothes to Bell.

When Williams arrived at Goins's home, Goins answered the door and then went to her bedroom. Williams talked with Bell, who told Williams "[t]hat Theo killed his brother so he killed his, but an innocent girl got hurt so now the score is even." Williams also said that he planned to stay at Goins's house for a couple of days because it would take 72 hours for the gunpowder to wear off of his hands.

Williams testified that her relationship with Bell "cooled off some" after the murders. In March 1994, Bell asked Williams to report the gun stolen, and she did. In May 1994, she was questioned about the stolen gun report. Williams reaffirmed her trial testimony at Bell's 2002 evidentiary hearing.

In his amended successive postconviction motion, Bell alleged that Williams went to the Jacksonville Sheriff's Office where she was interrogated for 14-16 hours, and that Williams denied having any information about the murders until she was threatened with prosecution for her role in the case and with the removal of her

children from her custody. Bell also alleged that Williams was threatened with prosecution as an accessory to first-degree murder if she changed her testimony and that she falsely testified regarding her interactions with George after the murders.

At the June 23 evidentiary hearing, Williams testified that during the murder investigation she was taken “downtown” for questioning and placed in an interrogation room for 12-14 hours. During that time, some investigators screamed at her and were mean to her, and they threatened that her children would be taken away from her. On cross-examination, she stated that she did not recall buying the AK-47 and giving it to Bell, nor did she recall whether she tried to tell the truth at Bell’s 2002 evidentiary hearing.

The circuit court denied Bell’s claim as to Williams, finding that Bell did not prove his “allegations of newly discovered impeachment evidence that the State pressured and intimidated” Williams. The court found:

[I]t appears the State generally outlined the reasonable possible outcomes Ms. Williams faced if she refused to testify pursuant to a subpoena about what she had heard Defendant say regarding the murders or her purchasing the gun Defendant used in the murder[s] for him, knowing Defendant was a convicted felon. Additionally, there is no evidence the State knowingly put on false

evidence through Erica [sic] Williams' trial testimony. Accordingly, Defendant has failed to meet his burden of proof and this subclaim is denied.

Given that we agree with the circuit court's conclusion that Bell's claim as to Williams was untimely and that the claim fails on the merits, we affirm the circuit court's denial of relief.

2. Vanness "Ned" Pryor

At trial, Ned Pryor testified that he was good friends with Bell. On the night of the murders, Pryor was driving down the street in his car. He saw Bell driving in Bell's car, and Bell asked Pryor to follow him. Dale George was sitting in the front passenger seat of Bell's car.

Pryor followed Bell to the liquor lounge, where Bell pointed out Wright's car. Pryor was aware of the lingering dispute between Bell and Wright, and Bell had previously told Pryor that he wanted to get revenge on Wright for killing Bell's brother.

Pryor told Bell to leave the lounge, suggesting that it was too early for Wright to leave the lounge, but Bell decided to wait in the parking lot. Bell asked Pryor to park next to him, but Pryor refused and drove down the street to park.

Pryor saw Bell get out of the driver's side of the car and saw the AK-47. He did not see George get out of the passenger side of the car. Pryor was unable to see Bell's face from the distance at which he parked but recognized the AK-47 that Bell showed him the day before.

Pryor saw Bell walking in the direction of Wright's car. Pryor was unable to see Bell standing at the car but heard gunshots. Pryor drove home. Two days later, Bell and Pryor went for a ride in Bell's car. Bell admitted to killing West and Smith and asked Pryor not to say anything about it.

Months later, after being arrested on an unrelated misdemeanor charge, Detective Bolena questioned Pryor about the murders. Pryor told him about the events, and he gave a sworn statement to the state attorney's office the next day. About two months later, Pryor was arrested for felony drug possession and resisting arrest without violence, and his case was pending at the time of Bell's trial. Pryor reaffirmed his trial testimony at Bell's 2002 evidentiary hearing.

Like the Williams newly discovered evidence claim, Bell did not raise the claim with respect to Pryor until he filed his amended

successive postconviction motion. Bell alleged that Pryor was threatened with prosecution if Pryor did not testify falsely against Bell, and that Pryor was told what to say during his testimony, particularly, that he saw Bell with a gun. Pryor refused to sign a sworn affidavit.

At the evidentiary hearing, Pryor testified that he spoke with Bell's investigators on June 17, 2025, but he denied telling them that he was told to testify that Bell was the gunman. Pryor also testified that he did not recall being threatened. He said that he did not see Bell with a gun and was not at the scene, but, when questioned again, he invoked the Fifth Amendment. Pryor did not recall what he testified to at Bell's trial in 1995 or at the evidentiary hearing in 2002.

The circuit court concluded that Bell's "allegations of newly discovered impeachment evidence that the State pressured and intimidated Ned Pryor to testify are not proven," and that even if the court considered Pryor's denial that he was at the liquor lounge credible, Bell "failed to prove the State knowingly or should have known Ned Pryor's testimony at trial was false." This is especially the case in light of Dale George's testimony that Pryor, driving his

own car, followed Bell and George to the liquor lounge on the night of the murders.

We affirm the denial of the Pryor newly discovered evidence claim. In addition to the claim being untimely, Bell is unable to demonstrate that, in light of the other evidence introduced at trial, he probably would be acquitted on retrial or receive a lesser sentence.

3. Dale George

At trial, George testified that he was aware that Bell had a grudge against Theodore Wright because Wright killed Bell's brother. On the night of the murders, George rode with Bell in Bell's car to the liquor lounge. Ned Pryor followed them in his own car. When they got to the lounge, Bell pointed out Wright's car. Suspecting that Bell was going to try to kill Wright, George told Bell that they should leave. Bell refused to do so. Bell parked the car and waited. During that time, Bell put on a mask, initially only placing it on the top of his head. After a while, Bell said "here they come." Bell got out of the car, pulled the mask over his face, retrieved an AK-47 from the back seat of the car, and walked towards Wright's car, during which time George moved into the

driver's seat to start the car. George heard gunshots. As Bell ran back to his car, he fired gunshots at the lounge. George drove back to the location where his car was and got out of Bell's car. Bell drove away.

After George left, he received a pager alert from Ericka Williams's phone number. George went to Williams's apartment, where George's then-girlfriend also lived. When George arrived, only Williams was there. He told Williams that Bell "shot up Theodore Wright" at the liquor lounge. Williams did not believe George, so he drove her to the lounge to see the scene for herself. George then took Williams back to her apartment, and Bell called Williams, asking Williams to bring some clothes to him at his aunt's house. George refused to take Williams to see Bell and left the apartment.

Detective Bolena questioned George about the murders several months later, at which time George denied knowing anything. About two months later, Detective Bolena talked with George again, that time revealing details about the murders. The following day, George gave a sworn statement to the state attorney's office.

Several days later, George pled to the charge of accessory after the fact for driving Bell away from the crime scene.

George testified at trial that he had not been sentenced but had agreed to a plea deal where in exchange for his guilty plea, he would receive no more than five years in state prison. George reaffirmed his trial testimony at Bell's 2002 evidentiary hearing.

In Bell's amended successive postconviction motion, Bell alleged that George told investigators that on multiple occasions, he was threatened with charges of first-degree murder if he did not testify against Bell, and that Detective Bolena once used physical violence against him while he was handcuffed. George refused to sign a sworn affidavit.

At the evidentiary hearing, George denied telling investigators that he was threatened with a first-degree murder charge if he did not testify against Bell. George invoked his privilege against self-incrimination as to subsequent questions.

The circuit court denied this newly discovered evidence claim, finding as it did with Williams and Pryor that Bell failed to prove his allegations of newly discovered impeachment evidence that the State pressured and intimidated George to testify, and finding "no

evidence” that the State knowingly presented false evidence through George’s testimony. Moreover, for the purpose of a newly discovered evidence claim, Bell cannot establish that he would probably be acquitted on retrial or receive a lesser sentence.

Because this claim was untimely raised and lacks merit, we affirm the circuit court’s denial of relief.

4. Paula Goins

Bell did not plead a claim of newly discovered evidence as to trial witness Paula Goins in his June 18 successive postconviction motion, nor did he include a claim involving her in his amended motion. The circuit court explained in its order that “Defendant did not allege a claim of newly discovered evidence involving Paula Goins in either his June 18 motion or his Amended Motion. Instead, he called Ms. Goins to testify and attempted to develop this claim on the fly through closing argument.” Nonetheless, the court considered Bell’s claim as to Goins “as a claim of newly discovered evidence that Paula Goins was coerced to testify through previously undisclosed pressure and threats by the State that could have been used to impeach her testimony.”

At Bell's trial, Goins testified that she is Bell's aunt. After Bell's brother was killed, Bell told her about the events. Goins encouraged Bell to report Wright to law enforcement. Bell declined to do so, saying—in Goins's words—"Michael said prison was too good for him, he needs to be in the morgue like his [Bell's] brother."

About 2 a.m. on the morning of December 10, 1993, Bell called Goins, said that he was coming to her home, and arrived about an hour later. When Bell arrived, he was excited and told her what happened:

PROSECUTOR: Miss Goins, you earlier said that when Michael Bell came to your door he was excited and my question to you is: I'd like for you to use the words that you remember Michael Bell using, what did he say when he first came in?

WITNESS: He said I got that mother fucker.

PROSECUTOR: I'm sorry, could you speak up?

WITNESS: I got that mother fucker.

PROSECUTOR: Did you respond to that?

WITNESS: I asked him who.

PROSECUTOR: What did Michael Bell say?

WITNESS: Killer.

PROSECUTOR: I'm sorry?

WITNESS: Killer.

PROSECUTOR: What did you say?

WITNESS: Who is that? I didn't know who he was.

PROSECUTOR: And what did Michael Bell say?

WITNESS: Theodore's brother.

PROSECUTOR: Who's [sic] brother?

WITNESS: Theodore.

PROSECUTOR: Did you know who Theodore was?

WITNESS: Yes.

PROSECUTOR: Who is that?

WITNESS: He's the boy that killed my nephew.

PROSECUTOR: Theodore Wright?

WITNESS: Yes.

PROSECUTOR: Did you then ask him to explain what happened?

WITNESS: Yes.

PROSECUTOR: What did Michael Bell tell you?

WITNESS: He said they had been – he and a friend had been riding and when he stopped at a red light the car that came up beside him he recognized it as being the car that Theodore Wright drove.

PROSECUTOR: Did he tell you whether he was able to see Theodore Wright in the car or not?

WITNESS: No.

PROSECUTOR: Did he tell you why?

WITNESS: The windows, he couldn't really tell, that car had tinted windows.

PROSECUTOR: Then what did he say happened?

WITNESS: He said he left and went to get his car.

PROSECUTOR: I'm sorry?

WITNESS: He left and he went to get his car.

. . .

PROSECUTOR: Miss Goins, did Michael Bell tell you who he was waiting for?

WITNESS: He said he was waiting for Theodore to come back out of the club.

PROSECUTOR: Did he make any mention about whether he believed Theodore Wright would be armed when he came out of that Moncrief Lounge?

WITNESS: He said they check for weapons and that he knew he wasn't.

PROSECUTOR: He knew he wasn't what?

WITNESS: Armed.

PROSECUTOR: That they check for weapons where?

WITNESS: Inside the place where he was at.

PROSECUTOR: Inside the lounge?

WITNESS: Yes.

PROSECUTOR: Did he tell you whether he saw anyone come out?

WITNESS: Yes.

PROSECUTOR: What did he say about that?

WITNESS: He saw a guy and two girls come out.

PROSECUTOR: What did he say he saw them do?

WITNESS: The guy – the guy was – the guy evidently purchased something and the girls were walking with him and they just went to the car.

. . .

PROSECUTOR: What did he say happened next?

WITNESS: That they came up onto the car and the guy had gotten in the car and was – Michael said he was reaching down to get his weapon from under the seat, that's when I knew that they didn't have weapons inside because Michael felt like he was – when he got back in the car he was reaching for – he was going to rearm himself with his weapon because he was known to carry a weapon. And the girls were outside the car.

PROSECUTOR: Did he say where the girls were? What part of the car they were at?

WITNESS: Yeah, they were waiting for him to let them in the car.

PROSECUTOR: Did he say which side of the car they were on?

WITNESS: On the passenger side.

PROSECUTOR: Then what did he say happened?

WITNESS: One of the girls spotted him then she tapped the other one on the shoulder and pointed at him.

PROSECUTOR: Would you keep your voice up?

WITNESS: And then she left but the other one stayed.

PROSECUTOR: Did he say where that woman went when she left the car?

WITNESS: She backed up, she went back to the place.

PROSECUTOR: To what place?

WITNESS: I guess the bar.

PROSECUTOR: Then what did he say happened?

WITNESS: The other girl asked the guy did he know her – did he know him, she said, Killer, do you know him?

PROSECUTOR: I'm having a very difficult time hearing you, ma'am.

WITNESS: The other girl – the other girl said to him, said, Killer, do you know him? And was pointing at him.

PROSECUTOR: Pointing at whom, who is him?

WITNESS: At Michael.

PROSECUTOR: Then what happened?

WITNESS: And then the guy turned around and looked at him and said who? That's the first time Michael knew it was Killer.

PROSECUTOR: Who is Killer?

WITNESS: That was Theodore's brother.

PROSECUTOR: Theodore's brother?

WITNESS: (Nods) Michael didn't know it was him.

PROSECUTOR: Well, did Michael tell you how he felt when he saw that the man in the car was not Theodore Wright but Theodore Wright's brother?

WITNESS: Theodore was trying to kill Michael and he was relieved that it was him cause he was trying to kill Michael too.

PROSECUTOR: Did Michael tell you what he did once he saw it was Theodore Wright's brother in the car?

WITNESS: He shot him.

PROSECUTOR: Is that what Michael Bell told you he did?

WITNESS: Yes. Yes.

PROSECUTOR: Did Michael Bell ever use the words that he figured he hit the jackpot when he saw that it was Theodore Wright's brother?

WITNESS: I think so.

PROSECUTOR: I beg your pardon?

WITNESS: I think so, I think that's what he said. He was – Michael was – Michael was afraid of that boy and he felt more threatened by Killer than he did Theodore because Killer was trying to kill him, and he was – when he realized it was him he just – I don't know.

PROSECUTOR: Is that what Michael Bell told you?

WITNESS: Yes.

PROSECUTOR: Did Michael Bell tell you what he did as he moved away from that car?

WITNESS: Said that he shot several rounds into some cars that were on the lot and houses or something or another, just to get away.

PROSECUTOR: Did you ask him about the girl that was in the car?

WITNESS: Yes. He didn't mean to hurt her, he didn't even know that she was hurt. Cause I asked him and he said she just fell, he didn't mean to hurt her, he wished she had left with the other girl, he could not understand why she stayed, but he never meant to hurt her.

At the June 23 evidentiary hearing, when asked whether she was threatened by Detective Bolena or the prosecutor during the murder investigation, Goins said: "I don't know. Threaten is a strong word." She explained that while being questioned, Detective Bolena stood very close to her, "crouched over" her, stared at her, and never sat down. Goins was told that if she did not tell the truth, she would lose her job, custody of her granddaughter, and

her home. She was also told that there was a possibility of five years of incarceration if she committed perjury. She recalled hearing Bell's conversation with Williams on the night of the murders where he admitted to shooting the victims, but she said that Bell said "we" shot West and Smith, not "I" shot them. She suggested that Detective Bolena and Bateh "twist[ed]" her account with respect to whether Bell said "we" or "I," but she also stated that given the passage of time and the current state of her health, the transcript of her trial testimony would be accurate.

The circuit court found that Bell failed to prove his claim of newly discovered impeachment evidence in the form of threats toward Goins, and it also found no evidence that the State presented false evidence through Goins's testimony. The court explained:

Ms. Goins was self-admittedly not threatened and her description of what she was told by the State does not constitute undue pressure, such as Detective Bolena staring at her and standing close to her. Rather, it appears to have generally outlined the reasonable possible outcomes if Ms. Goins refused to testify to what she had heard Defendant say about the murders.

Given the untimeliness of this insufficiently pled claim, Bell's failure to establish misconduct on the part of the State or law enforcement,

and his failure to establish a claim of newly discovered evidence in light of the overwhelming evidence of Bell's guilt, we affirm the denial of relief.

C. Conclusion

Having considered each of Bell's newly discovered evidence claims, individually and cumulatively, we conclude that this claim is without merit and note this well-reasoned observation by the circuit court:

Although Defense counsel insisted the testimony [as to claim one] established newly discovered impeachment evidence, the coercion evidence could have been discovered with due diligence. These are all witnesses with some relation to Defendant, it is reasonable that procuring their testimony might require some convincing. None of the testimony brought out at the evidentiary hearing demonstrates the State's actions were of such a threatening nature that they amounted to the prosecutorial misconduct necessary to warrant relief. Further, even if all this suggestion of supposed threats had been presented at trial, Defendant has failed to connect how the credibility of these witnesses is weakened. Defendant never makes the connection that the witnesses embellished or fabricated their testimony to avoid these threats. On the contrary, it appears all of them were appropriately aware of how important testifying truthfully was. Accordingly, to the extent it was not discussed before, the Court finds Defendant has failed to prove this evidence, both individually and cumulatively, is of such a nature that there is a reasonable probability of a different outcome had he known about it.

III. Totality of the Circumstances

Bell also argued in his postconviction motion that the totality of the circumstances—relating to his claims of newly discovered evidence—warrants relief. He contends that the circumstances surrounding the alleged recantations by Edwards and Jones, combined with alleged perjury threats by the State to witnesses who testified at the June 23 evidentiary hearing, deprived him of a fair evidentiary hearing and warrant-phase postconviction process.

We conclude that there is no merit in this claim, and, based on our review of the record, we expressly reject Bell's allegation that the State threatened evidentiary hearing witnesses with perjury charges. Bell is not entitled to relief.

IV. Death Warrant Timeframe

Bell argues that the warrant time period in his case is unreasonably short and that on the facts of his case, he was deprived of notice and an opportunity to be heard. This claim is without merit.

After Bell's death warrant was signed, the circuit court conducted an evidentiary hearing on Bell's newly discovered evidence claim. The court considered not only the newly discovered

evidence claims raised in Bell’s June 18 motion, but those raised in the amended motion filed the night before the hearing, and the additional claim raised during the hearing. As the circuit court observed, “Defendant has not identified any matter on which he has been denied notice and an opportunity to be heard.”

Moreover, this Court has recently considered and rejected claims challenging the time period set in death warrant cases. *See Tanzi v. State*, 407 So. 3d 385, 393 (Fla.) (noting that “this Court has previously rejected similar constitutional arguments attacking the compressed warrant litigation schedule” (citing *Barwick v. State*, 361 So. 3d 785, 789 (Fla. 2023))), *cert. denied*, 145 S. Ct. 1914 (2025).

V. Motion for Stay of Execution

In “Appellant’s Motion for Stay of Execution and to Relinquish Jurisdiction for Further Fact Development,” Bell requests that this Court stay his execution and relinquish his case to the circuit court for a new evidentiary hearing. Having fully considered Bell’s motion and the issues that Bell raises in this appeal, because he has failed to establish “substantial grounds upon which relief might be granted,” no stay is warranted. *See Gaskin v. State*, 361 So. 3d

300, 309 (Fla. 2023) (citing *Buenoano v. State*, 708 So. 2d 941, 952 (Fla. 1998)).

CONCLUSION

For these reasons, we affirm the denial of Bell's successive motion for postconviction relief. We also deny Bell's motion for a stay of execution and his request for oral argument.

No rehearing will be entertained by this Court, and the mandate shall issue immediately.

It is so ordered.

MUÑIZ, C.J., and CANADY, COURIEL, GROSSHANS, FRANCIS, and SASSO, JJ., concur.

LABARGA, J., concurs in result with an opinion.

LABARGA, J., concurring in result.

I concur in the result because I am convinced that Bell was provided with adequate notice and opportunity to be heard in these successive postconviction proceedings. However, I feel compelled to again express my concerns about the extremely short time frame for this case and other recent death warrant cases.

I commend the work of all involved in what can only be described as a grueling post-warrant process that has taken place since the signing of Bell's death warrant on June 13, 2025. As is

clear from the record, the time period involved in this case is especially compact due to the June 23, 2025, evidentiary hearing involving multiple claims of newly discovered evidence.

An Appeal from the Circuit Court in and for Duval County,
Jeb T. Branham, Judge
Case No. 161994CF009776AXXXMA

Robert A. Norgard, Bartow, Florida,

for Appellant

James Uthmeier, Attorney General, Tallahassee, Florida, Christina Z. Pacheco, Senior Assistant Attorney General, Jonathan S. Tannen, Assistant Attorney General, and Joshua E. Schow, Assistant Attorney General, Tampa, Florida,

for Appellee

Appendix B

Defendant

Exhibit 2 Date 6-23-25

Case 1994-CF-9776

AFFIDAVIT OF HENRY EDWARDS

I, Henry Edwards, do hereby affirm and state as follows:

1. My name is Henry Edwards and I am 77 years old. I live in Jacksonville, FL, and I testified in Michael Bell's 1995 capital trial. I also testified in his 2002 evidentiary hearing.
2. I was arrested in 1994 and once I got to the Duval County Jail, Detective William Bolera approached me.
3. Det. Bolera fed me information on Michael Bell's case. He found out that I was at Moncrief Liquors the night of the shooting. I was only ever inside the building but Det. Bolera kept telling me to say I was outside and witnessed the shooting. I never witnessed the shooting or the shooter, but heard the shots.
4. I only ever saw Michael Bell twice before testifying in his case. Det. Bolera had to actually point out Michael Bell in a photo lineup. I was unsure until Det. Bolera said the photo he was pointing at was Mr. Bell.
5. Det. Bolera told me facts about the case and said to say I witnessed the shooting. I would not of had the details of the crime if Det. Bolera had not told me.
6. Prosecutor George Batch coached me on what to say and how to answer the

defense's questions on cross-examination.

7. I did this for Det. Bolera and the State because I was promised I would face less penalties if I did.

8. It was a "favor for a favor" according to Det. Bolera. As a result of helping, I was able to go visit my family while incarcerated at the Duval County Jail. Det. Bolera would put me in street clothes, drop me off, then pick me up later.

9. While I was at the Duval County Jail, I was put in a holding cell with the young woman who was in the car that was shot. She told me what she saw, so I learned even more information from her.

10. I am coming forward with this information because another CHU investigator, came and asked me about Det. Bolera. I also am getting older and want the truth to come out. But for Mr. Bell's investigators showing up to talk to me, I would have not come forward.

11. I always felt threatened by Det. Bolera.

H. F.

Further affiant sayeth naught.

I affirm, under the penalty for perjury, that I have read the foregoing and the facts contained herein are true.

Dated: 6-16-25

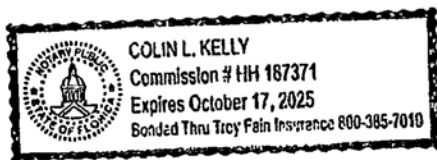
Henry E Edwards
(affiant signature)

HENRY EDWARDS
(affiant name)

STATE OF FLORIDA

COUNTY OF DUVAL

Affirmed and subscribed before me by means of ☒ physical presence or ☐ online notarization, this 16 day of June, 2025, by Colin Kelly.



Colin Kelly
Notary Public

Commission Expires: 10/17/2025

Personally Known _____ OR Produced Identification X

Type of Identification

Produced Florida DL - E363-383-47-294-0

Appendix C

Defendant

Exhibit 4 Date 6-23-25
Case 1994-CF-9776

AFFIDAVIT OF CHARLES JONES

I, Charles Jones, do hereby affirm and state as follows:

1. My name is Charles Jones and I am currently incarcerated at Hamilton Annex. I testified against Michael Bell in his 1995 capital trial and again in his 2002 evidentiary hearing. I knew Mike and was not afraid of him.
2. In 1994, I was contacted by Det. William Bolera at the Duval County Jail. I had never met him before. My sister was in a relationship with Det. Bolera.
3. Det. Bolera coerced me to lie on Mike Bell. He asked me, "He tried to sell you the gun, right? Right?" I knew that he wanted me to say I did because he told me so. He told me that if I helped him out, he would help me out. I knew the game they were playing.
4. I need to say that Mike Bell never tried to sell me a gun, nor did he ever confess to me about shooting anyone.
5. It was George Batch who coached me on what to say. He would pull me from the jail and go over my statement over and over. It was 4-5 months straight of being told what to say. He made sure we knew what to say.
6. Mike never told me "bullets know no names." I was told to say that by Det. Bolera and George Batch.

7. I was brought back to Duval County Jail in 2002. I was doing my Federal time then. Batch continuously brought me over to continue going over my statement. He threatened me with more time if I ever thought about changing my testimony.

8. I met with Batch & Det. Bolera before pleading in my Federal case. They said if I played ball with them they would make sure I got a downward departure. Batch said he promised me he would get it done for me if I said what they wanted. I knew all of this before testifying against Mike Bell.

9. I am coming forward now because I am older and wiser and think the corruption of Det. Bolera and Batch needs to be known. But for another Federal investigator talking to me a couple months back, I would not have said anything. What they were doing to a lot of young black men in Jacksonville needs to be exposed.

10. I am signing this affidavit willingly and will testify truthfully to the contents.

Further affiant sayeth naught.

I affirm, under the penalty for perjury, that I have read the foregoing and the facts contained herein are true.

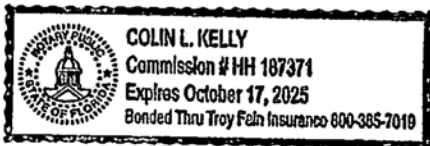
Dated: 6.16.25

Charles Jones
(affiant signature)

Charles Jones
(affiant name)

STATE OF FLORIDA
COUNTY OF HAMILTON

Affirmed and subscribed before me by means of ☒ physical presence or ☐ online notarization, this 18 day of June, 2025, by Colin Kelly. ^{as} Charles Jones



Colin Kelly
Notary Public

Commission Expires: 10/17/2025

Personally Known _____ OR Produced Identification X

Type of Identification

Produced Person # 114875

Appendix D

1 IN THE CIRCUIT COURT OF THE
2 FOURTH JUDICIAL CIRCUIT, IN
AND FOR DUVAL COUNTY, FLORIDA

3 CASE NO: 16-1994-CF-009776-AXXX-MA

4 DIVISION: CR-H

5

6 STATE OF FLORIDA

7 -vs-

8 MICHAEL BERNARD BELL,

9 Defendant.

10 -----

11

12 STATE OF FLORIDA)

13 COUNTY OF DUVAL)

14

15 Hearing before the Honorable Jeb Branham, Judge of
16 the Circuit Court, Division CR-H, as cause in this
17 matter came to be heard on the 23rd of June, 2025,
18 before Karen Waugerman, a Notary Public in and for the
19 State of Florida at Large and Registered Professional
20 Reporter.

21

22

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ACCEPTED: DUVAL COUNTY, JODY PHILLIPS, CLERK, 06/24/2025 04:02:20 PM

1 APPEARANCES:

2

3 ALAN SETH MIZRAHI and STEPHEN WAYNE SIEGEL,
4 Esquires, Office of the State Attorney, and JONATHAN
5 SCOTT TANNEN and CHRISTINA Z. PACHECO, Esquires, Office
6 of the Attorney General, appearing on behalf of the
7 State of Florida.

8

9 ROBERT ANTHONY NORGARD, Esquire, Law Office of
10 Robert A. Norgard, and RACHEL PAIGE ROEBUCK, Esquire,
11 Roebuck Law, appearing on behalf of the Defendant.

12

13 ALSO PRESENT:

14

15 CHRISTINA OWERS PORELLO (via Zoom) and KRISTEN
16 JENNIFER LONERGAN (via Zoom), Esquires, Florida
17 Department of Corrections

18

19 MARK STEPHEN BARNETT, Esquire, The Barnett Law
20 Firm, PLLC, appearing for unknown reason.

21

22 SISSY DENISE ADAMS-JONES, Esquire, Sissy
23 Adam-Jones, P.A., appearing on behalf of Witness Henry
24 Jones.

25

1 ALSO PRESENT (CONTINUED):

2 DONALD B. MAIRS, Esquire, The Mairs Law Firm,
3 appearing on behalf of Witness Henry Edwards.

4

5 MICHAEL S. BOSSEN, Esquire, Law Office of
6 Michael S. Bossen, appearing on behalf of Witness
7 Ericka Braclet.

8

9 MATTHEW IAN LUFRANO, Esquire, Lufrano Legal, P.A.,
10 appearing on behalf of Witness Ned Pryor.

11

12 GARY "TJ" BRYANT, Esquire, Ellis and Bryant, P.A.,
13 appearing on behalf of Witness Dale George.

14

15 JACK MILLER, Investigator

16

17

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(June 23, 2025) (9:02 a.m.)

(Sidebar conference without the reporter.)

We have Mr. Bell in the back.

(Defendant present.)

Let's start with appearances of counsel
the State.

MR. TANNEN: Morning, Your Honor.

MR. SIEGEL: Stephen Siegel, Assistant
Attorney, on behalf of the State.

THE COURT: All right. And for the

1 defense.

2 MR. NORGARD: It is so noisy in here,
3 Your Honor, I barely heard you. But I
4 assumed that we were next.

5 THE COURT: Yes.

6 MR. NORGARD: Robert Norgard on behalf
7 of Michael Bell.

8 MS. ROEBUCK: Rachel Roebuck.

9 MR. NORGARD: And this is our
10 investigator, Jack Miller.

11 THE COURT: All right. Thank you.

12 There's obviously some kind of an audio
13 issue in here.

14 MR. NORGARD: Just want make sure we
15 hear you twice every time.

16 THE COURT: Right. Well, I don't want
17 to be heard twice. I only one want to be
18 heard once.

19 Officer Mims, if you can maybe try to
20 mute that over there.

21 MR. NORGARD: When I first started
22 practicing 45 years ago, we didn't have this
23 problem because we didn't have high-tech
24 stuff like this.

25 THE COURT: Right. With all the

1 solutions come a new set of problems. I'll
2 see if I can get somebody up here to work on
3 that as well.

4 All right. We'll see if that's -- is
5 that any better?

6 No. That's worse.

7 Well, we have a very large number of
8 people present on Zoom. Usually, the echo
9 problems are related to the Zoom feed. If
10 it's -- if we have to do it, we'll just shut
11 the Zoom feed down.

12 MR. NORGARD: Can you mute everybody
13 from your end in case somebody's not muted?
14 Is there a way to do that?

15 THE COURT: Well, the chances that
16 that's causing the problem, that somebody
17 un-muted who's on the Zoom feed, is next to
18 none. But just as a matter of housekeeping,
19 it looks like everybody is muted. If you're
20 on the Zoom feed and your microphone's not
21 muted and you're just listening in, go ahead
22 and mute your microphone. And you don't need
23 to make any response to that comment.

24 MR. MIZRAHI: And, Your Honor, Mr. Mairs
25 is present.

1 THE COURT: All right. Very good.

2 There's Mr. Mairs.

3 MR. BARNETT: Your Honor, it looks like
4 408 is not muted. That may be an internal
5 feedback.

6 THE COURT: Mr. -- is that Mark Barnett?

7 MR. BARNETT: There's Courtroom 408 Zoom
8 room and at the bottom right, there's another
9 408 (inaudible).

10 THE COURT: Whoever is speaking, please
11 identify yourself. Whoever that is speaking,
12 please identify yourself.

13 All right. If you're on the Zoom feed,
14 keep your microphone on mute and do not say
15 anything. We do not need comments from the
16 Zoom feed.

17 Let's see. Mr. Norgard.

18 MR. NORGARD: Yes, Your Honor.

19 THE COURT: You had filed a motion to
20 prohibit the State from interfering with the
21 evidentiary hearing testimony.

22 MR. NORGARD: Yes, Your Honor.

23 THE COURT: All right. State, are you
24 prepared to address that motion at this time?

25 MS. PACHECO: Yes, Your Honor.

1 THE COURT: All right.

2 MR. NORGARD: Miss Roebuck's going to
3 handle it for us.

4 THE COURT: Miss Roebuck, let me hear
5 from the defense.

6 MS. ROEBUCK: May I just stand here?
7 'Cause I --

8 THE COURT: Of course.

9 MS. ROEBUCK: Okay. Have you read the
10 motion?

11 THE COURT: No. I'm reading it now.

12 MS. ROEBUCK: Okay.

13 MR. NORGARD: Your Honor, may I make --

14 THE COURT: I have a decent of idea of
15 what it's going to say based on our
16 conversation at sidebar.

17 Go ahead, Mr. Norgard.

18 MR. NORGARD: Can I make a suggestion,
19 Your Honor?

20 THE COURT: Uh-huh.

21 MR. NORGARD: We have a lot of witnesses
22 who aren't connected to this motion --

23 THE COURT: Right.

24 MR. NORGARD: -- that we are ready to
25 start calling, putting on the stand,

1 testifying. At some point, we may have a
2 break where you would at least have a little
3 time to read the motion as opposed to doing
4 it on the fly, and I prefer to do it that
5 way.

6 THE COURT: Well, the thing is I've got
7 a couple witnesses here. I've got lawyers
8 that are here to represent those witnesses.
9 Those witnesses might or might not want
10 attorneys. So I want to go ahead and get
11 this issue done so if they want attorneys,
12 they can consult with their attorneys at the
13 first available opportunity.

14 MR. NORGARD: Your Honor, I want to make
15 a command decision here. If they want to --
16 if Mr. Edwards wants to talk to an attorney,
17 let him go ahead and have at it. Let --
18 Mr. Jones has already talked to an attorney,
19 so I don't mind them consulting with them.
20 If you rule in our favor, then their
21 attorneys advise them what immunity --

22 THE COURT: Here's the thing: I can't
23 appoint an attorney for somebody over their
24 objection. You can't appoint an attorney for
25 somebody over their objection.

1 MR. NORGARD: Okay.

2 THE COURT: It is the decision of the
3 witness whether they want an attorney.

4 So you have filed a motion. I'm going
5 to hear from you on your motion.

6 MR. NORGARD: Okay.

7 THE COURT: I'm going to hear from the
8 State. And then I'm going to talk to the
9 witnesses and see whether or not they want
10 lawyers.

11 Miss Roebuck.

12 MS. ROEBUCK: Your Honor, the gist of
13 the motion and just a few supplemental
14 arguments having read the State's response is
15 that these veiled perjury threats violate
16 Mr. Bell's Fourteenth Amendment right to full
17 access court, his right to be heard, his
18 right to present and compel witnesses to
19 testify on his behalf, also his Eighth
20 Amendment right, which protects him from
21 arbitrary, capricious imposition of the death
22 penalty.

23 And just to elaborate, the amendment
24 obviously with respect to penalty phases is
25 concerned with reliability. The testimony

1 that is given under threat of perjury, the
2 risk is that the same testimony from before
3 will just be repeated and that we're not
4 actually getting the truth, which is in the
5 recantations.

6 The State could have simply allowed
7 witnesses to come in and then argued by
8 impeachment or by other means that they were
9 not credible. And instead, they have created
10 this situation where they have issued this
11 veiled threat of perjury with locking the
12 witnesses into their prior testimony, and
13 while it may improve the State's position at
14 this hearing, four witnesses to take the
15 Fifth, the State is not equipped to determine
16 the veracity of testimony. Your Honor is.

17 So what should happen today is either
18 the State should on, its own accord, offer
19 immunity to these witnesses from perjury to
20 get out the substance of the recantation so
21 that Your Honor can decide which versions of
22 this story are correct and accurate. The
23 Court should, by the authority cited in the
24 motion, require the State to offer such
25 immunity or simply grant a new trial or --

1 and/or penalty phase because that is the only
2 meaningful and appropriate remedy for the
3 State Attorney's Office interfering with the
4 evidentiary hearing that Your Honor granted
5 us and said that we were entitled to.

6 So that is my response to the motion. I
7 just want to cite -- point Your Honor to a
8 couple cases. The State cites Johnson.
9 Johnson involved a penalty phase witness who
10 recanted after the penalty phase but before
11 the Spencer hearing. And on a motion for new
12 trial hearing, the witness basically told the
13 Court, after the ASA said, you know, you're
14 going to be charged with perjury if you
15 change your testimony, that he was no longer
16 going to recant.

17 Johnson loses because, one, he didn't
18 preserve the issue, which we are. He did not
19 raise specifically Eighth Amendment and
20 Fourteenth Amendment grounds, which we're
21 raising.

22 He also lost because the Florida Supreme
23 Court distinguished Johnson's case from a
24 case that Johnson cited heavily, Feaster. In
25 Feaster, we have a key witness recantation

1 just like we have here. We have
2 eyewitnesses, confession witnesses, murder
3 weapon witnesses that are recanting. In
4 Feaster, we also had -- they also had a sworn
5 affidavit that was filed with the Court about
6 the recantation, which we have here. And in
7 Feaster, the prosecutor told the witnesses
8 there would be full considerations if they
9 recanted, which is the same kind of thing
10 that's happening here, and then the witness
11 invokes. So we have all three factors in
12 Feaster that Johnson did not have, so this is
13 distinguished from Johnson.

14 The State also cites Bloom, a 1986
15 Florida Supreme Court case. And while Bloom
16 does broadly recognize the State Attorney's
17 discretion in deciding whether or not or how
18 to prosecute, it has nothing to do with
19 issuing veiled perjury threats, like in this
20 case, to intimidate a defense witness as
21 condemned in Webb. So that is my elaboration
22 on the (inaudible) motion.

23 THE COURT: Okay. I just -- we talked
24 about this at sidebar a little bit,
25 Miss Roebuck. You said like in this case.

1 What do you mean by that, veiled perjury
2 threats like in this case?

3 MS. ROEBUCK: I mean that the State
4 simply could have let them testify,
5 impeachment them, argue to Your Honor based
6 on, you know, that the prior testimony is
7 more credible for such and such reasons and
8 instead -- instead of letting Your Honor
9 determine which version of the story is true,
10 we are, you know, making sure that they're
11 aware that they might perjure themselves
12 today.

13 THE COURT: Okay. Do you think that
14 that's not supposed to be mentioned?

15 MS. ROEBUCK: I'm saying that the State
16 is telling them that they're going to
17 charge -- they're essentially going to charge
18 them with perjury. What does -- what is the
19 point of doing all that?

20 THE COURT: To be clear -- and I talked
21 about this at sidebar -- to my knowledge, the
22 State has not had any communications with
23 either of these, with either Mr. Edwards or
24 Mr. Jones. At my direction, I had Miss Adams
25 Jones and Mr. Don Mairs, who are registry

1 attorneys, be able to be here today.

2 Miss Adams-Jones has -- has spoken with
3 Mr. Jones. I don't believe Mr. Mairs has
4 spoken with Mr. Edwards.

5 But we do have a situation where we are
6 all expecting witnesses to be called --

7 MS. ROEBUCK: I understand.

8 THE COURT: -- to give testimony that is
9 materially different than the testimony they
10 gave under oath at the trial. But --

11 MS. ROEBUCK: My point is that even
12 though all of that's --

13 THE COURT: Here's -- here's the point
14 that I'm making --

15 MS. ROEBUCK: Okay.

16 THE COURT: -- is y'all are all officers
17 of the court. You've got to be very precise
18 and very careful when you're suggesting that
19 another officer of the court has done
20 something. And you need a basis to believe
21 they've done that before you make that
22 suggestion.

23 MS. ROEBUCK: My basis is that they
24 could have taken other tactics and they did
25 not.

1 THE COURT: Have they taken any tactics?
2 Do you have a basis to believe the State has
3 taken any tactics whatsoever?

4 MR. NORGARD: Your Honor, if I can --

5 MS. ROEBUCK: Yes.

6 MR. NORGARD: -- say something.

7 THE COURT: No.

8 Miss Roebuck.

9 MS. ROEBUCK: Yes. I have --

10 MR. NORGARD: If I could talk to her for
11 a moment then.

12 MS. ROEBUCK: The tactic --

13 THE COURT: Let her finish. Let her
14 answer the question.

15 MR. NORGARD: Okay.

16 MS. ROEBUCK: The tactic taken was
17 essentially to have them -- have them advised
18 of perjury, suggests in an e-mail that that
19 was necessary. And what I take from that
20 suggestion is that we are not going to say
21 offer them perjury, which would be another --
22 or offer them immunity, which would be
23 another option. So that's what I -- that's
24 my point.

25 THE COURT: Right. So the -- and I

1 believe -- Miss Bend may have clarified this.
2 But the -- the decision to have counsel
3 present was made by the Court before
4 Mr. Mizrahi sent this e-mail.

5 All right. Mr. Norgard, you want to
6 speak with Miss Roebuck?

7 MR. NORGARD: Yes, please.

8 THE COURT: Yeah. Go ahead.

9 MR. NORGARD: (Conferring with
10 co-counsel.)

11 THE COURT: Sound like you want to make
12 the e-mail part of the record.

13 MS. ROEBUCK: Yes. I will take care of
14 that.

15 THE COURT: Yeah. That's fine. Just
16 file it through the clerk.

17 Mr. Mizrahi.

18 MR. MIZRAHI: Miss Pacheco's going to be
19 handling this.

20 THE COURT: Miss Pacheco. That's right.
21 You said that.

22 MS. PACHECO: Thank you, Your Honor.

23 Your Honor, is absolutely -- absolutely
24 correct in your statement that to your
25 knowledge, the State has not discussed

1 anything with these potential witnesses. And
2 that is -- that is correct. Contrary to
3 which -- to what Miss Roebuck has stated, the
4 State did not tell anyone that we would
5 charge them with perjury. The State has not
6 talked with these witnesses. The State has
7 not threatened any perjury charges. We don't
8 know what we're going to do. We don't even
9 know what these witnesses will testify to.

10 The only thing that the State has
11 requested is that these witnesses be provided
12 an opportunity to speak with -- have counsel
13 available, should they choose to speak with
14 counsel before their testimony in this case.
15 Both witnesses testified at the hearing and
16 at the evidentiary hearing, and now they are
17 alleging that they are willing to testify
18 contrary to their prior testimony. Their
19 affidavits state that they would not have
20 done this had the defense investigators not
21 visited them and asked them to come in and
22 testify.

23 According to the motion that they filed,
24 they are alleging the State with
25 improprieties by asking that counsel be

1 available for these witnesses and that they
2 provided an opportunity to know what their
3 rights are.

4 So it's safe to presume that when the
5 investigator spoke with these witnesses, they
6 did not talk to them about the ramifications
7 or potential ramifications of their
8 testimony. So what we're left with is the
9 potential that these witnesses may commit
10 perjury. We don't know if they will, but I
11 think that it is unfair for the defense to
12 suggest that in that circumstance, they not
13 be provided counsel, and that's all that
14 we're asking that they know, if they choose
15 to testify, the ramifications or potential
16 ramifications of their testimony. That's all
17 we're asking for.

18 Again, a threat could not have been
19 effectuated here when we have not indicated
20 what we will do. There's -- there is no plan
21 to charge these witnesses with perjury, but,
22 of course, it is a possibility if they come
23 on the stand and they say that their prior
24 testimony was a lie. That is something that
25 we as the State take very seriously. That is

1 an offense. And if -- we have the right
2 to -- if we do -- if that is done, we have
3 the right to protect the integrity of our
4 court proceedings and not be forced into
5 granting immunity in a situation like this.

6 Given that this is a death warrant case,
7 essentially, if we were to grant immunity or
8 be forced to grant immunity, all that the
9 defense would have to do was to allege
10 loosely that the State committed misconduct.
11 And then the State would be required to or
12 set a precedent to -- to have to then grant
13 witnesses immunity in the eve of someone's
14 execution to have all these witnesses come in
15 and potentially perjure themselves and
16 without any ramifications.

17 So we take finality very seriously. We
18 take sworn testimony very seriously. And we
19 think that not only is this clearly contrary
20 to the separation of powers by requiring the
21 State, as Miss Roebuck has suggested, to --

22 THE COURT: I take it the State's not
23 offering immunity?

24 MS. PACHECO: We are not, Your Honor.

25 THE COURT: So, Miss Roebuck, then your

1 request for relief would be for the Court to
2 require the State to offer immunity?

3 MS. ROEBUCK: Yes. Can I clarify
4 something? I'm not saying that it's wrong
5 for the Court to give representation to
6 people who are at risk.

7 THE COURT: Right.

8 MS. ROEBUCK: I'm saying -- that's not
9 the interference I'm talking about. The
10 interference I'm talking about is not
11 offering them immunity. That's the
12 interference.

13 THE COURT: Okay.

14 MS. ROEBUCK: I just wanted to clarify
15 that point.

16 And also I -- I believe I heard -- well,
17 I don't want to interrupt you before you're
18 done.

19 THE COURT: Well, I think I'm pretty
20 well-informed of the issues. What was your
21 last one?

22 MS. ROEBUCK: I do want to put on the
23 record that Mr. Jones has already talked to
24 an attorney and indicated in our sidebar that
25 he's sticking with his trial testimony.

1 THE COURT: Right.

2 MS. ROEBUCK: Mr. Edwards, the other
3 recanting statement, is in court.

4 THE COURT: Well, we're going to do all
5 that. We're going to do all that on the
6 record.

7 MS. ROEBUCK: But I just want to make
8 clear that these witnesses are aware.
9 There's no if, ands or buts about, you know,
10 knowing -- just because it was sent in an
11 e-mail, they're not aware of it. They're
12 obviously aware.

13 THE COURT: Well, I didn't -- I didn't
14 say that the witnesses aren't aware. What I
15 said was my decision to have counsel present
16 today preceded Mr. Mizrahi's e-mail.
17 Mr. Mizrahi's e-mail, sent, I believe, on
18 Friday, had nothing to do with my decision to
19 have -- have attorneys present for the
20 witnesses today.

21 All right. Let's -- Mr. Edwards. Where
22 is Mr. Edwards and Mr. Mairs? If y'all would
23 come forward, please.

24 Morning, sir. Would you please state
25 and spell your name for the record, please?

1 THE WITNESS: Henry Edwards.

2 THE COURT: All right. Mr. Edwards, let
3 me get you sworn in.

4 MR. NORGARD: I can't see Mr. Edwards
5 where counsel's standing.

6 Thank you, sir.

7 (Witness sworn by the clerk.)

8 THE COURT: All right. So, Mr. Edwards,
9 were you able to hear and follow the
10 proceedings that we've been doing this
11 morning so far?

12 THE WITNESS: Yes, sir.

13 THE COURT: Okay. So you heard a lot of
14 talk about perjury, and so I just want to
15 advise you that, you know, you're being
16 called here as a witness. You'll be put
17 under oath. The expectation of everybody is
18 that you're going to come up here on the
19 stand and testify on the record, and that
20 testimony may be different than testimony
21 you've given in the past.

22 This gentleman here standing next to you
23 is Donald Mairs. He is a registry attorney
24 and I had him here today so that I could
25 appoint him to represent you if you would

1 like to consult with an attorney before your
2 testimony today.

3 THE WITNESS: Yes, sir.

4 THE COURT: There's no charge to you.
5 He's just doing that as part of his duties as
6 a registry attorney. Would you like me to
7 appoint Mr. Mairs to represent you?

8 THE WITNESS: Yes, sir.

9 THE COURT: Mr. Mairs, I'm appointing
10 you to represent Mr. Edwards, and if you can
11 make some time to talk with Mr. Edwards. And
12 I think you've got probably -- you have
13 enough background information based on
14 today's proceedings?

15 MR. MAIRS: I do.

16 THE COURT: All right. Very good.
17 Thank you, Mr. Edwards.

18 MR. NORGARD: And I do have an inquiry
19 of Mr. Edwards, if I may. It's simply
20 just --

21 THE COURT: Tell me the nature of what
22 you want to ask him.

23 MR. NORGARD: I'll proffer my questions
24 before I get there. I'm going to ask
25 Mr. Edwards about the fact that he didn't

1 give a sworn affidavit to the two male
2 investigators a week ago Monday.

3 MR. MIZRAHI: Your Honor, this is -- I
4 object to this.

5 THE COURT: Mr. -- let Mr. Norgard --
6 he's just making a proffer.

7 Go ahead.

8 MR. NORGARD: Then I want to ask
9 Mr. Edwards if today, he is afraid of
10 possibly.

11 THE COURT: So I'm not going to let
12 anybody ask Mr. Edwards any questions until
13 he's had an opportunity to talk with
14 Mr. Mairs.

15 MR. NORGARD: All right.

16 THE COURT: After he's had an
17 opportunity to talk with Mr. Mairs, Mr. Mairs
18 can inform the Court what his client's
19 position is.

20 MR. NORGARD: Yes, Your Honor. So after
21 they leave the courtroom, I do want to
22 proffer the questions I would have asked if
23 I'd have been allowed to.

24 THE COURT: That will be fine.

25 MR. NORGARD: Okay. Thank you, Your

1 Honor.

2 THE COURT: Mr. Mizrahi, do you have any
3 further objection after Mr. Edwards leaves?

4 MR. MIZRAHI: No, Your Honor. I didn't
5 want Mr. Edwards asked.

6 THE COURT: I know. Not just yet.

7 All right, Mr. Norgard.

8 MR. NORGARD: Thank you, Your Honor.

9 I was -- what I would ask Mr. Edwards is
10 simply the fact that he did give a sworn
11 statement a week ago that was under oath,
12 recanting his testimony. The Assistant
13 Attorney General suggested that Mr. Edwards
14 was not aware of perjury and that she didn't
15 think the investigators talked to him about
16 that. Mr. Edwards, in talking to our
17 investigators, did express concern that these
18 people were going to charge him with perjury,
19 and he's scared of the State and what they
20 will do to him. So I wanted to make sure
21 that he was afraid of perjury well before of
22 this came up in court today.

23 He has heard in court today that the
24 State said they would possibly -- Assistant
25 Attorney General said they charge him with

1 perjury, wouldn't rule it out. So he has
2 that sword hanging over his head during these
3 proceedings, intimidating him to testify.

4 And then finally, my fourth question for
5 him would be if you were not afraid of
6 perjury charges, would you testify consistent
7 with your sworn affidavit that you gave last
8 week.

9 Those are the four questions I would ask
10 him.

11 THE COURT: All right. Well, we'll see
12 what Mr. Edwards wants to do --

13 MR. NORGARD: All right. Thank you,
14 Your Honor.

15 THE COURT: -- after he's had an
16 opportunity to consult with counsel.

17 Let's see. Officer Mims, we need to
18 talk with Mr. Jones. From a security
19 standpoint, where do you want him to be?

20 THE BAILIFF: Right up here.

21 MR. NORGARD: And to save time while
22 they bring him out, I would proffer the four
23 questions for him as well at the appropriate
24 time.

25 MS. ADAMS-JONES: Your Honor, would it

1 be okay if I sit here?

2 THE COURT: Well, we've got a lot of
3 people around, so we'll just do the best we
4 can.

5 Okay. Let me get you sworn in, sir.

6 (Witness sworn by the clerk.)

7 THE COURT: Okay. And would you state
8 and spell your name for the record, please?

9 THE WITNESS: Charles Jones,
10 C-H-A-R-L-E-S J-O-N-E-S.

11 THE COURT: Okay. So, Mr. Jones, I
12 assume you know you've been brought here to
13 potentially give some testimony today.

14 THE WITNESS: Yes, sir.

15 THE COURT: Okay. Then we have
16 Miss Sissy Adams-Jones, an attorney off of
17 our registry here, present. You've already
18 had an opportunity to speak with Miss Jones
19 this morning, is that correct?

20 THE WITNESS: Yes, sir.

21 THE COURT: All right. And so the
22 expectation here, Mr. Jones, is that you
23 would take the stand at some point today and
24 you'd be asked questions and that that
25 testimony might possibly contradict other

1 sworn testimony you've given previously. Is
2 that your understanding?

3 THE WITNESS: Yes, sir.

4 THE COURT: Okay. So I can appoint
5 Miss Adams-Jones to represent you and discuss
6 the implications of your testimony here today
7 in comparison to testimony you've given in
8 the past and potential perjury issues as
9 well. And there's no charge to you. She's
10 just doing that duty as a registry attorney.
11 Would you like me to appoint Miss Adams-Jones
12 to represent you?

13 THE WITNESS: Yes, sir.

14 THE COURT: Okay. I'm appointing
15 Miss Adams-Jones to represent you at this
16 time.

17 Miss Adams-Jones, do you need some more
18 time to talk with Mr. Jones?

19 MS. ADAMS-JONES: I do, yes, sir.

20 THE COURT: Okay. Very good.

21 All right. So both witnesses,
22 Mr. Edwards and Mr. Jones, now have counsel.

23 Mr. Norgard, are you ready to proceed
24 with presentation of evidence?

25 MR. NORGARD: Just a few preliminary

1 matters, Your Honor.

2 THE COURT: Sure.

3 MR. NORGARD: The first thing is I would
4 ask the Court to take judicial notice of the
5 court file. You should have also been
6 provided with trial transcripts, and you
7 should have postconviction hearing
8 transcripts. If you don't, I am asking that
9 those be -- as part of this court file, that
10 the Court take judicial notice of those.

11 THE COURT: Any objection -- and we when
12 talk about the court file, we're specifically
13 talking about 94-CF-9776, Mr. Norgard?

14 MR. NORGARD: Yes, sir.

15 THE COURT: Okay. Any objection?

16 MR. MIZRAHI: No, Your Honor.

17 THE COURT: All right. I'll take
18 judicial notice of the court file.

19 Now, let's talk about the trial
20 transcripts.

21 MR. NORGARD: Technically, they are --
22 should be part of the record in this case.
23 Why they may not be in your court file here
24 in Duval County, I don't know but --

25 THE COURT: Yeah. When we were last in

1 court, we talked about Mr. Tannen filing the
2 trial transcripts. I still don't see them on
3 the docket. There's sometimes a little bit
4 of a lag. If anybody has written courtesy
5 copies of those, I'd be happy to accept
6 those. But unless I am overlooking it, I do
7 not see the trial transcript.

8 All right. Apparently, they're there,
9 according to the staff counsel. So we'll
10 find the docket number. If y'all need to
11 make a specific index, yes, they are here.
12 Okay. We'll work through that.

13 All right. You had raised something
14 else besides trial transcripts, Mr. Norgard?

15 MR. NORGARD: Yes, Your Honor. We do
16 have one listed witness by the name of Glory
17 Williams. She is physically homebound. I
18 believe she's 89 years old. She told us and
19 our investigator, she's not left her home in
20 two years. But she is a witness and I would
21 request to allow her to appear virtually by
22 Zoom because of her physical incapacities.

23 THE COURT: I see, in the waiting room,
24 someone by the name of Corinne Williams. Do
25 you know if that's a relation?

1 MR. NORGARD: That may be a possibility
2 I don't mind if the Court asks that person to
3 un-mute themselves and let you know.

4 THE COURT: Well, let's do this first.

5 Mr. Mizrahi, any objection to receiving
6 that particular testimony by Zoom?

7 MR. MIZRAHI: Well, a couple of
8 objections, Your Honor. Well, first of all,
9 it's not a specific Zoom objection. The
10 State actually is requesting, if necessary,
11 to call one of our witnesses via Zoom. We --
12 counsel and I discussed this via e-mail, and
13 we indicated we have no objection to your
14 witness if you have no witness to our
15 witness. They indicated that they did have
16 an objection to our witness. So in that
17 case, I guess I have an objection to Zoom
18 'cause I don't think we should be taking some
19 witnesses by Zoom and some not.

20 But beyond that, the State is going to
21 impose an objection.

22 And I think we filed a motion after
23 that, right?

24 We have filed a motion with regard to
25 taking testimony outside the scope of the

1 postconviction -- successive 3.851 that was
2 filed last week, which indicated two
3 recantations of two specific witnesses that
4 are speaking to counsel right now. The other
5 additional witnesses that may be called are
6 premature and should not be called at this
7 time. We filed a motion as to that.

8 THE COURT: Okay. Well, what I ordered
9 an evidentiary hearing on was, I guess, what
10 we would call Ground 1.

11 MR. MIZRAHI: Right.

12 THE COURT: That would pertain
13 specifically to Mr. Edwards and Mr. Jones.

14 MR. MIZRAHI: Correct.

15 THE COURT: That's -- that's what we
16 ordered the hearing on. If -- if we -- what
17 I would suggest counsel do is let's work
18 through the witnesses within the scope of
19 what's been ordered. If there is a witness
20 from the defense that is outside that scope,
21 I'll hear from the defense as to why they
22 think I should exercise my discretion to hear
23 from that witness and hear opposition as
24 well.

25 MR. NORGARD: So with respect to

1 Miss Williams, I don't think it's -- like, if
2 you asked for somebody by Zoom and we ask,
3 it's a trade-off thing. We have legitimate
4 reasons because her health issues. I don't
5 think George Bateh has health issues where he
6 could not physical be here.

7 THE COURT: Well, there -- there are
8 specific rules and specific procedures that
9 govern the taking of testimony by Zoom. What
10 I'm going to ask counsel to do is let's move
11 forward --

12 MR. NORGARD: Yes, sir.

13 THE COURT: -- with witnesses we have
14 present in the courtroom. So I would like to
15 get our live witnesses done. As everybody
16 knows, time is short. We could spend all
17 night here by ourselves making legal
18 argument, but I don't want to keep a bunch of
19 people who are going to testify live and have
20 other things to do held up while we argue
21 legal issues.

22 MR. NORGARD: I understand that, Your
23 Honor.

24 And every witness that we are going to
25 call has some bases as to why it's relevant

1 to Claim 1.

2 We have investigators that will testify
3 as to the newly discovered evidence nature of
4 it. We have witnesses who are -- we're going
5 to talk to Mr. Edwards and Miss Jones --
6 Mr. Jones here even if they don't give a full
7 recantation because there's other evidence
8 for them that's relevant.

9 We have collateral witnesses that will
10 corroborate them.

11 We have the four witnesses, who the
12 State says they're the better witnesses.
13 We're going to call them to testify to show
14 this Court that they're not the better
15 witnesses.

16 But more importantly -- and we can cross
17 that bridge at the appropriate time -- we
18 also did file a motion to amend our Claim 1,
19 Your Honor, that would even more firmly
20 implicate the witnesses we're going to bring
21 in. We also filed leave to amend. I would
22 cite the shortness of this warrant time
23 period. We spoke to four of the witnesses
24 last week. I did not get the report on
25 their -- what they would say until Saturday

1 night. We spent five hours tracking these
2 people down yesterday, didn't even get to
3 talk to them, but we at least got to the
4 point to get them to agree to be here in
5 court. So we did file the motion to amend,
6 and it's all due to the shortness of this
7 warrant time period, Your Honor. We're
8 asking to be -- we're asking to do something
9 that people do in a year.

10 THE COURT: No. I know. I know you
11 have issues with the time.

12 MR. NORGARD: So with that being said --

13 THE COURT: I didn't set the time.

14 MR. NORGARD: So I get it. With that
15 being said, we're ready to start calling
16 witnesses.

17 THE COURT: Okay. Very good.

18 We have counsel. Miss Pacheco's
19 standing.

20 MS. PACHECO: Yes, Your Honor. Thank
21 you.

22 Because of the late hour in which that
23 motion was filed with less than 12 hours
24 notice of our hearing today, the State did
25 not file a written response, and we would

1 just ask that if Mr. Norgard is orally
2 arguing that motion today that we be provided
3 an opportunity to address it as well.

4 THE COURT: Well, of course.

5 Let me just -- you know, counsel here
6 is -- I'll say it more directly than I said
7 it just a minute ago. So our time is
8 limited. Those time limitations were not --
9 they were imposed by the Florida Supreme
10 Court. We have -- I, you know, basically
11 cleared my docket so that we could do this
12 evidentiary proceeding today. I would
13 suggest both sides to prioritize their
14 calling of witnesses and testimony so that we
15 make the most use of the time. I will
16 exercise my discretion, if I have to, to put
17 time limits on the presentation of the
18 evidence.

19 So what I -- again, priority should be
20 given to people who are here, present in
21 person for the giving of testimony. We can
22 take the evidence and we can make all sorts
23 of arguments about that later. So --

24 MR. MIZRAHI: And, Your Honor,
25 Miss Adams-Jones is ready, she indicated to

1 me --

2 MS. ADAMS-JONES: Yes, Your Honor.

3 MR. MIZRAHI: -- with Mr. Jones.

4 MR. NORGARD: I'm going to call
5 Mr. Jones regardless of what they're about to
6 tell us. I'd rather start calling witnesses,
7 like I just said.

8 THE COURT: Well, I mean, let's do this.
9 I mean, that's -- that's a material issue.
10 Mr. Norgard, I'll give you a couple minutes
11 to speak with Miss Adams-Jones --

12 MR. NORGARD: Okay.

13 THE COURT: -- attorney to attorney, and
14 then I'll hear from Miss Adams-Jones.

15 MR. NORGARD: Thank you so much, Your
16 Honor.

17 MS. LONGERGAN: Your Honor.

18 THE COURT: That sounded like that might
19 have been Miss Lonergan.

20 MS. LONGERGAN: Yes, Your Honor. I
21 apologize. The Department of Corrections as
22 kind of an ancillary related issue that we
23 wanted to bring to your attention. Given the
24 number of witnesses that were listed on the
25 witness list, if the Court had -- anticipates

1 any chance of this going into a second day,
2 we would have issue with the transport of
3 Mr. Bell tomorrow to the court, so I just
4 wanted to check with the Court first on that.

5 THE COURT: Yeah. You raised that
6 issue. We'll -- we'll see how things go and
7 turn our attention to that later in the day.

8 MS. LONGERGAN: Yes, sir.

9 MR. NORGARD: We'll do this as quickly
10 as we can, Your Honor.

11 THE COURT: Certainly.

12 (Short recess.)

13 (Defendant present.)

14 THE COURT: All right. Mr. Norgard, did
15 you have an opportunity to talk with
16 Miss Adams-Jones?

17 MR. NORGARD: I did and she needed to
18 talk to her client further.

19 THE COURT: Okay. Miss Adams-Jones?

20 MS. ADAMS-JONES: Yes, Your Honor.

21 MR. NORGARD: Oh, she did. Okay.

22 MS. ADAMS-JONES: We're ready to be
23 called if Your Honor's ready.

24 THE COURT: Okay.

25 You said your client's ready to take the

1 stand?

2 MS. ADAMS-JONES: He is ready, Your
3 Honor.

4 While they're bring him out, just to
5 inform the Court, I did speak to him actually
6 multiple times now this morning, and he
7 wishes to assert his Fifth Amendment right.

8 THE COURT: Okay.

9 MS. ADAMS-JONES: So --

10 THE COURT: Well, I'm sure Mr. Norgard's
11 going to want to get him on the stand and
12 make a record of some sort.

13 MR. NORGARD: Let's have him say that
14 and then I'll address it.

15 THE COURT: Okay.

16 All right. Let me hear from you
17 Miss Adams-Jones as to the general condition
18 of Mr. Jones.

19 MS. ADAMS-JONES: Yes, Your Honor. I
20 have, again, while Mr. Jones -- outside of
21 his presence, informed the Court that I did
22 speak to him several times this morning. He
23 does wish to remain silent. He's going to
24 assert his Fifth Amendment right to remain
25 silent, and he does not wish to answer any

1 questions. But if he is compelled to
2 testify, I expect that he's only going to
3 assert the Fifth Amendment.

4 THE COURT: Okay. Very good.

5 Mr. Norgard, it's, you know, your --
6 your burden, your record.

7 MR. NORGARD: Yes, Your Honor.

8 THE COURT: And I believe you have -- do
9 you have Mr. Jones under subpoena?

10 MR. NORGARD: He was being -- we did not
11 have a chance to do that because of his
12 transport. It would be our intent to
13 subpoena him. But he is here and our intent
14 is we'd ask him questions. If it's something
15 that does my implicate the Fifth Amendment,
16 he has an attorney who can object, but we're
17 going to ask him questions that I do not feel
18 will implicate his Fifth Amendment privilege
19 above and beyond recantation. And we'll
20 cross that bridge when we get there when I
21 start to talk to him.

22 THE COURT: Okay. Anything from the
23 State on this point?

24 MR. MIZRAHI: No, Your Honor.

25 THE COURT: All right. Very good.

1 Do you want to call Mr. Jones at this
2 time?

3 MR. NORGARD: Not at this time.

4 THE COURT: All right.

5 MR. NORGARD: I'm sorry, Your Honor, but
6 I have an order of witnesses, and I have
7 other people to get to first.

8 THE COURT: Okay, well, we might have
9 to -- everybody might have to be sort of
10 flexible on that order of witnesses.

11 MR. NORGARD: Okay.

12 THE COURT: It's 9:45. And, you know,
13 like I said before, it's -- defense carries
14 the burden. You've got to figure out how to
15 best carry that burden and time may be
16 limited. And I'll reserve my discretion
17 to -- to limit that time.

18 MR. NORGARD: I'll get to Mr. Jones but
19 I've got some witnesses I do want to get on
20 and off and that have other work to do on
21 this case. And I'll squeeze Mr. Jones in
22 there expeditiously.

23 THE COURT: Very good.

24 Are you able to stay, Miss Adams-Jones?

25 MS. ADAMS-JONES: Yes, Your Honor. I do

1 have a hearing in clay County at 1:30, but if
2 necessary, I'll (inaudible) the court and
3 pass that.

4 MR. NORGARD: We can address -- we can
5 do this before she needs to go out of town.

6 THE COURT: Perfect.

7 MS. ADAMS-JONES: Thank you.

8 MR. MIZRAHI: And, Your Honor,
9 obviously, defense counsel can call the
10 witnesses as he deems fit. But as far as the
11 State's position, the witnesses are Mr. Jones
12 and Mr. Edwards. If he starts calling
13 witnesses that are going to corroborate,
14 impeach or otherwise speak to hearsay as to
15 what Mr. Edwards and Mr. Jones say, we are
16 objecting to that. And so I think --

17 THE COURT: Okay. Well, let's take the
18 objections as they come.

19 MR. MIZRAHI: Okay.

20 MR. NORGARD: And if we keep doing this,
21 it's going to be till midnight but I'm ready
22 to go.

23 THE COURT: All right. Call your
24 witness.

25 MR. NORGARD: We are going to call

1 Tennie Martin.

2 And you're going to do her, right?

3 She's an attorney.

4 (Witness sworn by the clerk.)

5 THE COURT: You may proceed.

6 TENNIE MARTIN,

7 having been produced and first duly sworn as a witness
8 on behalf of the Defendant, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. ROEBUCK:

11 Q Can you state your name?

12 A Tennie Martin.

13 Q And where do you live?

14 A In Tampa, Florida.

15 Q And what is your occupation?

16 A I'm an attorney.

17 Q Where do you work?

18 A At the federal Defender's Office in the
19 Middle District of Florida in their capital habeas
20 unit.

21 Q Do you know Mr. Bell?

22 A I do.

23 Q How?

24 A He's been my client since 2018, '19.

25 Q Can you briefly explain how you became aware

1 of any possibility of a witness in this case wanting to
2 recant their testimony?

3 A Shortly after the warrant was issued for
4 Mr. Bell on June 13th, I had an e-mail from the chief
5 of the -- the chief of the capital habeas unit of the
6 Northern District of Florida in the federal Public
7 Defender's Office there. And she said that her
8 investigator --

9 MR. MIZRAHI: Your Honor, I'm objecting
10 to relevance of this.

11 THE COURT: All right. What's the
12 relevance?

13 MS. ROEBUCK: We have to establish that
14 this is actually newly discovered. So we
15 have to tell the Court, you know, the point
16 in time where all of his attorneys became
17 aware of this information.

18 THE COURT: All right.

19 MR. MIZRAHI: Problem is is there is no
20 newly discovered evidence. Finding out
21 whether it's newly discovered or not is not
22 material until there is newly discovered
23 evidence. At this point, there is no newly
24 discovered evidence.

25 MS. ROEBUCK: Okay. But that sounds

1 like an order issue.

2 THE COURT: Well anyway, I've -- I've
3 said what I've said about time. And I
4 caution defense that, you know, it seems to
5 me that it would make more sense to get to
6 the meat and the substance first. But that's
7 y'all's strategic decision. I'm going to
8 give some thought to time when we take the
9 first break and may issue an order regarding
10 time.

11 But objection's overruled.

12 BY MS. ROEBUCK:

13 Q Can you just repeat your answer about how you
14 became aware, briefly?

15 A On June 13th, sometime after I learned of the
16 warrant for Mr. Bell, Linda McDermott from the Northern
17 Florida Public Defender's Office, their capital habeas
18 unit, e-mailed me and said that her investigator may
19 have, in the course of his investigation, over the last
20 couple of months in a case of theirs, had contact with
21 a couple of witnesses in Mr. Bell's case and there may
22 be information. She was -- that was it.

23 Q Okay. And I'm not talking about the contents
24 of the investigation. But who then investigated that?

25 A Dan Ashton.

1 Q Okay. Did any two middle investigators
2 investigate this?

3 A Two middle investigators. Once we learned
4 what the information was, we had a meeting, a telephone
5 conference, with that investigator, Dan Ashton, and
6 Linda McDermott on Sunday morning, the 15th of June.
7 And then they relayed -- Dan Ashton relayed to us in --
8 in generalities what he spoke to with Mr. Edwards and
9 Mr. Jones.

10 Q Okay. And did they get sworn affidavits?

11 A Yes, they did. Our investigators did, yes.

12 Q And you said you became aware on the 13th.
13 When, to your knowledge, did Mr. Norgard become aware?

14 A Mr. Norgard, to my knowledge, became aware
15 the -- right after we spoke with Linda McDermott and
16 Dan Ashton on the 15th of June. That morning, we met
17 with Mr. Norgard and made him aware of what we had
18 learned.

19 Q And prior to the 13th of June of this year,
20 you were not aware that any of this evidence existed or
21 that any of these witnesses wanted to recant.

22 A We were not.

23 Q Okay. And why not?

24 A Because if you read the testimony from their
25 transcript -- from the transcripts from the trial, from

1 the postconviction and everything about them, then
2 there was no way to -- to know that they were going to
3 recant.

4 MS. ROEBUCK: Thank you.

5 THE COURT: Cross?

6 CROSS EXAMINATION

7 BY MR. MIZRAHI:

8 Q Good morning, Miss Martin.

9 A Good morning.

10 Q So obviously, in your role as an attorney,
11 you will have spoken to the defendant in this case?

12 A I have.

13 Q And you were aware that the defendant
14 represented himself in his ineffective assistance of
15 counsel motion.

16 A Yes.

17 Q And that he subpoenaed a number of different
18 witnesses to that hearing.

19 A Yes.

20 Q And one of the cruxes of the reason why he
21 subpoenaed a number of these witnesses, including
22 Mr. Jones and Mr. Edwards, was to try to establish that
23 Mr. Jones and Mr. Edwards had been intimidated or
24 threatened during the course of the prosecution,
25 correct?

1 A Yes.

2 Q Okay. So you were aware of that from
3 speaking to Mr. Bell from when you started representing
4 him, correct?

5 A From reading the transcripts.

6 Q Right.

7 And so that information about potential
8 threats would have been available to you months, years
9 ago, is that true?

10 A The information in the postconviction record,
11 yes.

12 MR. MIZRAHI: Okay. That's all the
13 questions I have.

14 THE COURT: Any redirect?

15 MS. ROEBUCK: No.

16 THE COURT: You can step down. Thank
17 you.

18 (Witness excused.)

19 THE COURT: Next witness.

20 MR. NORGARD: We'd call Charles Jones.

21 MR. MIZRAHI: He said Charles Jones.

22 THE COURT: Miss Adams-Jones, do you
23 need to situate yourself in the courtroom to
24 better hear and make objections?

25 MS. ADAMS-JONES: If it's okay if I can

1 come over here.

2 THE COURT: Sure.

3 (Witness sworn by the clerk.)

4 THE COURT: You may proceed.

5 MR. NORGARD: Yes, Your Honor. Thank
6 you.

7 CHARLES JONES,
8 having been produced and first duly sworn as a witness
9 on behalf of the Defendant, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. NORGARD:

12 Q Sir, could you please state your name?

13 A Charles Jones.

14 Q And could you tell us your date of birth?

15 A 9-19-71.

16 Q You are currently in Department of
17 Corrections custody in State Prison?

18 A Yes, sir.

19 Q All right. Where are you currently being
20 held in prison?

21 A Hamilton CI.

22 Q And have you ever been convicted of a felony?

23 A Yes, I have.

24 Q And how many times?

25 A I don't know.

1 Q Too many to count?

2 A Yes.

3 Q And you need to speak a little louder,
4 please.

5 You were a witness in the case of State of
6 Florida versus Michael Bell and you testified in 1995,
7 is that correct?

8 A I plead the Fifth.

9 MR. NORGARD: Your Honor, to ask him
10 about his participation in trial does not in
11 any way implicate his Fifth Amendment right.

12 MR. MIZRAHI: And, Your Honor, that's a
13 matter of record. We've stipulated to the
14 record in the case.

15 THE COURT: All right. He's -- he has
16 pled the Fifth. It is a matter of record, so
17 I'm not going to compel him to answer that
18 question.

19 MR. NORGARD: Well, the question is when
20 somebody does invoke the Fifth Amendment
21 privilege, it has to be based on a legitimate
22 concern that it would somehow incriminate
23 him. That's the purpose of the Fifth
24 Amendment. Him saying that he testified in a
25 trial in 1994 does not in any way create any

1 criminal liability on his part.

2 THE COURT: All right. I'm not
3 compelling him to answer the question. We
4 can see what -- you can continue to ask
5 questions. We'll see what he does.

6 MR. NORGARD: And for the record, I
7 would orally proffer and the State has
8 stipulated to the fact that he was a witness
9 in 1995.

10 All right. Thank you, Your Honor.

11 THE COURT: All right.

12 BY MR. NORGARD:

13 Q Mr. Jones, did you again testify in the case
14 of State of Florida versus Michael Bell in 2002 at an
15 evidentiary hearing?

16 A I plead the Fifth.

17 MR. NORGARD: Same ruling?

18 THE COURT: Same ruling.

19 MR. NORGARD: All right. Your Honor, I
20 would ask the record to reflect that he did
21 testify in an evidentiary hearing in 2002. I
22 would ask the Court to allow that as a
23 proffer in this case and the State to
24 stipulate to that.

25 MR. MIZRAHI: We have.

1 MR. NORGARD: Okay.

2 THE COURT: Yes.

3 BY MR. NORGARD:

4 Q Mr. Jones, were you incarcerated in the Duval
5 County Jail in 1994 at some point?

6 A I plead the Fifth.

7 MR. NORGARD: And I would proffer, Your
8 Honor.

9 THE COURT: Mr. Jones, I'm going to -- I
10 am going to make you ask -- answer that
11 question. Were you in jail at that time?

12 THE WITNESS: In '94?

13 THE COURT: Yes.

14 THE WITNESS: Yes, sir.

15 THE COURT: Okay.

16 BY MR. NORGARD:

17 Q All right. Did you know of a detective by
18 the name of William Bolena?

19 A I plead the Fifth.

20 THE COURT: I'm not going to make him
21 answer that one.

22 BY MR. NORGARD:

23 Q All right. Did you sign a sworn affidavit --
24 did you sign a sworn affidavit dated June 18th of 2025?

25 A I plead the Fifth.

1 MR. NORGARD: May I approach the
2 witness, Your Honor?

3 THE COURT: You may.

4 MR. MIZRAHI: I'm going to object. He's
5 pleading the Fifth and we're going through
6 the same thing he just asked him.

7 THE COURT: He can approach the witness.

8 BY MR. NORGARD:

9 Q I'm going to show you an affidavit of Charles
10 Jones. I'm going to flip to the signature page. Is
11 that your signature?

12 A I plead the Fifth.

13 MR. NORGARD: Your Honor, this is
14 already part of the Court record. I know
15 they don't want us calling a bunch of people,
16 but we'll bring up the people that can say
17 they saw him sign this, notarized it, and
18 it's a sworn affidavit in which he admitted
19 to this.

20 BY MR. NORGARD:

21 Q Sir, was your sister in a relationship with
22 Detective Bolena?

23 A I plead the Fifth.

24 Q Did you put that in your affidavit?

25 MR. MIZRAHI: Your Honor, I object to

1 that as an officer of the court.

2 THE COURT: What -- what is the
3 objection?

4 MR. MIZRAHI: The objection is he's pled
5 the Fifth as to the affidavit. Now he's
6 asking questions about the affidavit.

7 MR. NORGARD: He took the Fifth as to my
8 question. My next question was about the
9 affidavit. Separate objection.

10 THE COURT: Miss Adams-Jones?

11 MS. ADAMS-JONES: Your Honor, I would
12 joint in the State's argument. He's pled the
13 Fifth with regard to the affidavit. If he
14 intends to present witnesses as to the
15 contrary, they -- he can go through that with
16 my client -- I mean with those witnesses.
17 But my client does not wish to address
18 anything related to that affidavit.

19 THE COURT: All right. I'll sustain the
20 objection.

21 MR. NORGARD: All right. Your Honor,
22 the affidavit is a part of the court file.
23 It is a sworn affidavit by Mr. Jones.

24 MR. MIZRAHI: Your Honor, object.

25 THE COURT: Let him finish.

1 MR. MIZRAHI: Making argument.

2 THE COURT: Okay.

3 MR. NORGARD: I'm not making argument,
4 Your Honor. I am proffering and preserving a
5 record with a witness who refuses to answer.

6 THE COURT: That's why I said I'd let
7 you finish. Go ahead.

8 MR. NORGARD: Who has stated that in
9 1994, he was in Duval County Jail, which he
10 did answer. In 1994, while there, he was
11 contacted by Detective Bolena, had --
12 although he had never met him before, he knew
13 his sister was in a relationship with
14 Detective Bolena.

15 THE COURT: Okay. Are you reading from
16 the affidavit, Mr. Norgard?

17 MR. NORGARD: Yes, Your Honor.

18 THE COURT: All right. We don't -- the
19 affidavit's in the court file. We've got to
20 move fast. I'm going to give you a chance to
21 make your record.

22 MR. NORGARD: All right.

23 THE COURT: You can make your record and
24 not go over things that are already in the
25 record.

1 MR. NORGARD: Okay. And having done
2 this for many years, Your Honor, things slip
3 through the cracks, so I'm going to make sure
4 we're covered here with the way this is going
5 so far. So thank you.

6 BY MR. NORGARD:

7 Q Did Detective Bolena, in 1994, come and talk
8 to you in the jail about Michael Bell's case?

9 A I plead the Fifth.

10 Q Did Detective Bolena coerce you to lie about
11 Michael Bell?

12 A I plead the Fifth.

13 Q Did Detective Bolena want you to tell the
14 State that Mr. Bell supposedly tried to sell you a gun
15 and that he wanted you to say that he did so? Do you
16 recall Detective Bolena doing that?

17 A I plead the Fifth.

18 Q Did Detective Bolena tell you that if you --
19 if you helped him, he would help you?

20 A I plead the Fifth.

21 MR. NORGARD: And anytime you want to
22 change your ruling, Your Honor, if you do,
23 just let me know. I assuming that you're
24 going to allow him to do that.

25 THE COURT: Yes.

1 BY MR. NORGARD:

2 Q So with that being said, did you also state
3 in your affidavit that you knew the game they were
4 playing, and you were willing to play along with it?

5 A I plead the Fifth.

6 Q Did you state that -- in your affidavit that
7 Mike Bell never tried to sell you a gun?

8 A I plead the Fifth.

9 Q Did you state in your affidavit that Mr. Bell
10 never confessed to you about shooting anyone?

11 A I plead the Fifth.

12 Q Did George Bateh coach you on what to say?

13 A I plead the Fifth.

14 Q Would Mr. Bateh pull you from the jail and
15 bring you over to go over your statement with him
16 leading up to the trial?

17 A I plead the Fifth.

18 Q Did Mr. Bateh make sure that you knew what he
19 wanted you to say?

20 A I plead the Fifth.

21 Q Did you also, in your sworn affidavit, state
22 that Mike -- Michael Bell never told you that bullets
23 have no names?

24 A I plead the Fifth.

25 Q And did you state in your affidavit that

1 Detective Bolena and George Bateh were the ones who
2 told you to say that?

3 A Plead the Fifth.

4 Q In 2002, you were involved in a situation
5 where you were doing a federal prison sentence, is that
6 correct?

7 A I plead the Fifth.

8 MR. NORGARD: Your Honor, that he was
9 at -- that I would ask you to compel him to
10 answer. It's similar to him being in the
11 Duval County Jail.

12 THE COURT: All right. Answer the
13 question, sir.

14 THE WITNESS: Yes.

15 THE COURT: And let me say this:
16 Miss Adams-Jones, if I instruct Mr. Jones to
17 answer a question and you feel it's putting
18 his rights against self-incrimination in
19 jeopardy beyond something that might not be
20 obvious, speak up.

21 MS. ADAMS-JONES: Thank you, Your Honor.

22 BY MR. NORGARD:

23 Q All right. And although you were doing a
24 federal sentence, were you brought back to the Duval
25 County Jail in 2002?

1 A I plead the Fifth.

2 MR. NORGARD: He was brought back for
3 the evidentiary hearing, Your Honor. I would
4 ask that he be instructed to answer that
5 question.

6 THE COURT: Answer the question, sir.

7 THE WITNESS: Yes.

8 BY MR. NORGARD:

9 Q Once you were brought back to testify at the
10 evidentiary hearing in 2002, were you brought over to
11 meet with Mr. Bateh any number of times, once or more,
12 to go over your statement and your testimony from the
13 trial back in 1994?

14 A Plead the Fifth.

15 Q When Mr. Bateh was talking to you, did he
16 threaten what he would do to you if you did not -- if
17 you changed your testimony?

18 A I plead the Fifth.

19 Q So we've already established, without the
20 Fifth Amendment objection, that you were involved --
21 you were in federal custody with federal -- and you did
22 have federal pending charges, correct?

23 A Plead the Fifth.

24 Q You had pending --

25 MR. NORGARD: I'd ask that he answer

1 that he had pending federal charges. He'd
2 already talked about being in federal
3 custody.

4 THE COURT: You may answer that
5 question.

6 THE WITNESS: Yes, federal violation.

7 BY MR. NORGARD:

8 Q And did Mr. Bateh and Detective Bolena,
9 before you entered a plea in your federal case, tell
10 you that if you played ball with them, they would play
11 ball with you?

12 A I plead the Fifth.

13 Q Did they tell you that they would assist you
14 in trying to get a downward departure?

15 A I plead the Fifth.

16 Q Did Mr. Bateh promise you he would get it
17 done for you and that he would -- if you testified for
18 them that he would do things for you in federal court?
19 Did he tell you that?

20 A I plead the Fifth.

21 Q You did plead in federal court, and, in fact,
22 it's a matter of record that Mr. Bateh did some things
23 by document to help you get a better sentence in
24 federal court, isn't that true?

25 A I plead the Fifth.

1 MR. NORGARD: Your Honor, we will be
2 submitting -- I'm not sure -- if I could have
3 one moment.

4 THE COURT: Sure.

5 MR. NORGARD: Is that going to be in our
6 packet, the assistance he got from Mr. Bateh?

7 MS. ROEBUCK: The departure?

8 MR. NORGARD: Yeah.

9 MS. ROEBUCK: Yes.

10 MR. NORGARD: Okay. We will be
11 submitting in evidence, Your Honor, that, in
12 fact, Mr. Bateh did assist in him getting a
13 downward departure.

14 THE COURT: Any objection?

15 MR. MIZRAHI: I haven't seen it.

16 MR. NORGARD: All right. We'll
17 introduce it at the point in time that it's
18 appropriate. We should --

19 THE COURT: Okay. You're not offering
20 it --

21 MR. NORGARD: We're not doing it right
22 now.

23 THE COURT: All right.

24 BY MR. NORGARD:

25 Q Mr. Jones, today you took an oath to tell the

1 truth, correct? Do you recall standing there, raising
2 your hand, swearing to tell the truth?

3 A Yes.

4 Q Okay. You also recall signing an affidavit
5 that says right here --

6 MR. NORGARD: If I may approach, Your
7 Honor?

8 MR. MIZRAHI: Objection, Your Honor,
9 asked and answered.

10 MR. NORGARD: I'm asking about a
11 specific line in this affidavit.

12 THE COURT: Go ahead.

13 MR. NORGARD: Thank you, Your Honor. If
14 I may approach.

15 THE COURT: Overruled, Mr. Mizrahi.

16 BY MR. NORGARD:

17 Q Okay. I want you to look at this. I'm
18 holding it up where you can see it. Let me know. I
19 affirm under the penalty for perjury that I have read
20 the foregoing and the facts contained therein and true.
21 They are true.

22 Did you -- you signed that, right?

23 A Yes.

24 Q Okay. So today, you're not telling us much
25 because you're involving the Fifth Amendment privilege,

1 right? That's right?

2 A Yes.

3 Q Okay. But on June 18th, 2025, under penalty
4 of perjury, every question I just asked you you
5 answered in the affirmative about lying, and you stated
6 flat out in here that you lied about Michael Bell,
7 didn't you?

8 A I plead the Fifth.

9 MR. NORGARD: Your Honor, he signed the
10 document under penalty of perjury. I'm just
11 simply asking him to affirm that under
12 penalty of perjury --

13 MR. MIZRAHI: Your Honor, the State
14 objects.

15 THE COURT: What's the objection?

16 MR. MIZRAHI: There's no question. He's
17 arguing for the Court about something that's
18 inadmissible.

19 THE COURT: All right. Do you have a
20 question for the witness?

21 BY MR. NORGARD:

22 Q My question was you signed the document.

23 THE COURT: I think he -- I think he
24 answered that. He plead the Fifth. Is that
25 not correct?

1 MR. NORGARD: Yes. So I'm asking the
2 Court to ask him to answer that because he
3 signed the document under penalty of --

4 THE COURT: I'm not going to instruct
5 him to answer that question.

6 BY MR. NORGARD:

7 Q Mr. Jones, do you feel like being up there
8 today and taking the Fifth Amendment that nothing bad's
9 going to happen to you? Is that how you feel, that you
10 won't be charged with perjury, right?

11 A Plead the Fifth.

12 Q Do you feel like that with one -- two State
13 Attorneys and two Assistant Attorneys Generals sitting
14 in the courtroom that if you came in here and said that
15 you lied on Mr. Bell, would you be worried about being
16 charged with perjury?

17 Are you worried about that?

18 Are you worried about being charged with
19 perjury?

20 A Plead the Fifth.

21 Q Do you feel like coming in here and doing
22 what you're doing today, that the State, 'cause they're
23 getting what they want, will not charge you with
24 perjury in a document that you said that's true under
25 penalty of perjury? Do you think you're protecting

1 yourself by doing that?

2 Yes or no or the Fifth?

3 A The Fifth.

4 MS. ROEBUCK: Can we get a ruling on
5 whether he has to answer the question, are
6 you concerned about perjury?

7 THE COURT: I don't think there was an
8 objection as to that question.

9 MS. ROEBUCK: I know but he pled and
10 then --

11 MR. NORGARD: Yeah. I was kind of going
12 on the understanding that unless Your Honor
13 said differently, you were going to let him
14 take the Fifth, and I didn't have to, every
15 time, turn to you and say --

16 THE COURT: Right.

17 MR. NORGARD: Okay. All right.

18 I don't have any other questions, Your
19 Honor.

20 THE COURT: All right. Any cross
21 examination?

22 MR. MIZRAHI: No, Your Honor. There's
23 nothing to cross examine so no, we have no
24 questions. I do want to make a point for the
25 record that although the affidavit filed by

1 the defense is part of the court record, we
2 are objecting to the admissibility of the
3 affidavits as evidence in the case. So I
4 think there's a distinction and the record
5 needs to be clear that we are objecting that
6 affidavits are not evidence and it's the
7 sworn testimony of witnesses that is
8 evidence. And so although it is part -- we
9 stipulated to the court record, we're not
10 stipulating that it's evidence.

11 THE COURT: To be clear, I don't think
12 you mean that he offered the affidavit into
13 evidence, at least not yet.

14 MR. MIZRAHI: I understand that. But
15 because I stipulated, I wanted that to be
16 clear at the moment I was thinking of it.

17 THE COURT: All right. Mr. Jones, you
18 can step down. Thank you.

19 (Witness excused.)

20 MR. NORGARD: And if we could have a
21 second to just confer, Your Honor.

22 THE COURT: Sure.

23 MR. NORGARD: Your Honor, we're going to
24 call -- we're going to have his counsel
25 present, and -- but we're ready to go with

1 Henry Edwards.

2 THE COURT: Okay.

3 (Witness sworn by the clerk.)

4 MR. MAIRS: Your Honor, Don Mairs here.
5 I've had a chance to speak with my new
6 client. Just wanted to make you aware of
7 that.

8 THE COURT: Thank you, Mr. Mairs.

9 MR. MAIRS: Yep.

10 MR. NORGARD: And if I could just have
11 one moment to say something to Mr. Bell.

12 THE COURT: Yes.

13 Mr. Norgard, whenever you're ready.

14 MR. NORGARD: Thank you, Your Honor.

15 HENRY EDWARDS,
16 having been produced and first duly sworn as a witness
17 on behalf of the Defendant, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. NORGARD:

20 Q Sir, could you please tell us your name?

21 A Henry Edwards.

22 Q And, Mr. Edwards, can you tell the Court how
23 old you are?

24 A 77.

25 Q And where do you currently reside?

1 A In Jacksonville, Florida.

2 Q How long have you lived in Jacksonville?

3 A All my life.

4 Q All right. With that being said, you have

5 been convicted of felonies, is that correct?

6 A Correct.

7 Q Do you know how many?

8 A A lot.

9 Q More than you can count?

10 A Yeah.

11 Q Can remember?

12 A (Nods head.)

13 Q Is that a "yes"? You were -- nodded your

14 head about the part about too many to count. You just

15 nodded your head. You didn't say anything.

16 A Right.

17 Q But it is yes, right?

18 A Right, yes.

19 Q Okay. Now, you stated that you lived in

20 Jacksonville your whole life. But how much time have

21 you spent in prison?

22 A A long way, about 40 years, I guess.

23 Q Your entire life -- over half your life,

24 you've been in prison.

25 A Right.

1 Q So that would have been the only time you
2 didn't reside in Jacksonville.

3 A Yes.

4 Q Now, you testified in Mr. Bell's 1995 trial,
5 is that correct?

6 A Correct.

7 Q You also testified in what -- you may not
8 know what the nature of the hearing was, but they also
9 had you testimony again in 2002, correct?

10 A Correct.

11 Q Okay. In 1994, had you been arrested for
12 something, where you would have been in jail in 1994,
13 around the time of Michael Bell's trial?

14 A I probably was. I just don't remember.

15 Q All right. During the time period of
16 Mr. Bell's -- when he was arrested and when he actually
17 went to trial, did you have contact with somebody by
18 the name of Detective William Bolena?

19 A Yes.

20 Q And did you know Detective William Bolena?

21 A You mean really know him? He was --

22 Q Did you just know who he was? Did you know
23 Bolena?

24 A Yes. I knew he was a detective.

25 Q Right.

1 And you had worked for him as a confidential
2 informant, is that correct?

3 A I guess you could say that.

4 Q I know I used a buzz word of confidential
5 informant, but you would provide information to
6 Detective Bolena on an ongoing basis, correct?

7 A No.

8 Q Okay. There were occasions where you would
9 provide information to Detective Bolena.

10 A On one particular occasion.

11 Q And on this particular occasion, Mr. Bell's
12 case, correct?

13 A Yes.

14 Q And, in fact, it was Detective Bolena who
15 approached you about being a witness in this case,
16 correct?

17 A Yes.

18 Q Do you recall meeting with some investigators
19 with the federal Public Defender's Office, also called
20 the capital habeas unit? They met and came with you to
21 your house last Monday?

22 A Yes.

23 Q And you signed a sworn affidavit about facts
24 related to this case, right?

25 A Yes, I did.

1 Q So what, if any, information prior to
2 Mr. Bell's -- before Mr. Bell's case went to trial,
3 what, if any, information did Detective Bolena feed to
4 you about Michael Bell's case?

5 A I don't remember.

6 Q Did he give you information about Michael
7 Bell's case?

8 A No, sir.

9 Q Did Detective Bolena, when he met with you in
10 the Duval County Jail, tell you that he'd found out
11 that you were at Moncrief Liquors the night that this
12 incident occurred where the person was -- the people
13 were killed?

14 A Yes.

15 Q Okay. So when Detective Bolena approached
16 you, he somehow knew that you had been at Moncrief
17 Liquors the night the shooting happened, correct?

18 A Correct.

19 Q Okay. When the shooting took place, you were
20 inside of Moncrief Liquors, correct?

21 MR. MAIRS: Your Honor?

22 THE COURT: Yes, Mr. Mairs.

23 MR. MAIRS: Could I have a moment with
24 my client?

25 THE COURT: Yes, of course.

1 MR. MAIRS: (Conferring with the
2 witness.)

3 All right. Thank you.

4 BY MR. NORGARD:

5 Q So on the night of the incident, a number of
6 shots were fired, where obviously people in the area
7 would have heard the shooting, and you were inside
8 Moncrief Liquors at the time shots were fired, correct?

9 A No.

10 Q Okay. Where were you?

11 A I was on the outside.

12 Q Okay. Again, you recall signing a sworn
13 affidavit, correct? Last week, you signed an
14 affidavit.

15 A Yeah.

16 Q Right?

17 A Yeah. But it wasn't true. It wasn't true.

18 Q Okay.

19 A I was just saying what y'all told me to say,
20 what y'all telling me to say. I just went along with
21 what y'all said.

22 Q Okay. Was I even there?

23 A Well, it was your investigator. I just
24 wanted to go home.

25 Q So on -- let me pull up today -- last Monday,

1 which would have been June 16th, you signed -- you met
2 with two investigators from the capital habeas unit,
3 correct?

4 A Correct.

5 Q Okay. One of those people was an
6 investigator by the name of Christy Dickerson, correct?

7 A Correct.

8 Q The other investigator was named Colin Kelly,
9 correct?

10 A Correct.

11 Q And you met with and spoke to them, right?

12 A Correct.

13 Q Okay. And you do understand -- I want to
14 show --

15 MR. NORGARD: May I approach the
16 witness, Your Honor?

17 THE COURT: Sure.

18 BY MR. NORGARD:

19 Q When you signed the document, is that your
20 signature?

21 A Yeah. But I never read it.

22 Q That's your signature, right?

23 A Yes.

24 Q And you said -- this document states: I
25 affirm under the penalty for perjury that I've read the

1 foregoing document, and the facts contained herein are
2 true.

3 You signed that, didn't you?

4 A Yes, I did.

5 Q And in that document that you swore to under
6 oath, just like you're doing today, I mean, you swore
7 to tell the truth in this, right?

8 A Yes. I thought y'all were making a movie or
9 something.

10 Q Pardon me?

11 A I thought y'all were making a movie or
12 something.

13 Q Investigators for Michael Bell --

14 A Yes, from something. I didn't know what
15 y'all --

16 Q Are you kidding me, sir? I mean, seriously,
17 you really thought two investigators representing
18 somebody in a death warrant were making a movie?

19 A Movie. That's what I thought.

20 Q Okay. So in that document that you swore to,
21 it is stated: I was only ever inside the building, but
22 Detective Bolena kept telling me to say I was outside
23 and witnessed it.

24 That's the statement made by you under oath,
25 under the penalty of perjury, is that correct?

1 A I take the Fifth. I plead the Fifth.

2 MR. NORGARD: Your Honor, this is
3 impeachment, something he already answered
4 the question to.

5 MR. MIZRAHI: Your Honor, I would object
6 for -- calling the witness for the sole
7 purpose of impeaching the witness is
8 improper.

9 THE COURT: I'm not going to require the
10 witness to answer the question.

11 BY MR. NORGARD:

12 Q Did you also state in that document that I
13 never witnessed the shooting or the shooter but heard
14 the shots?

15 A Yes. I went along with what y'all saying in
16 order -- you told me to save Michael Bell's life so
17 yeah.

18 Q Okay.

19 A But I said that under duress but I didn't --
20 you know, that's not true.

21 Q When you say y'all and what we told you, I
22 didn't tell you anything, did I?

23 A Well, your investigators.

24 Q In this document, you're saying that what you
25 said in court was what Detective Bolena told you,

1 right?

2 A Well, that's not true. I went along with
3 what y'all were telling me, just to save Michael Bell's
4 life, something y'all telling me.

5 Q Did you say in that document that the reason
6 you're doing this is because you're 77 years old?
7 Effectively, you're 77 years old. You want to get this
8 off your conscience, that you lied and somebody could
9 be put to death, don't you?

10 A Just like I said, I was just going along,
11 what y'all -- what y'all was telling me.

12 Q Keep saying y'all. I was not there.

13 A Well, your investigator.

14 Q In a sworn document, did you state that you
15 saw Mr. Bell twice before testifying in the case and
16 that in order for you to identify him that Detective
17 Bolena actually had to show you a photo pack?

18 A Again, I was going along with what y'all
19 was -- was telling me.

20 Q Okay. Now, about the part with Mr. Bell,
21 before this trial and before this case, did you even
22 know Mr. Bell?

23 A Did I know him?

24 Q Yeah.

25 A No, I didn't know him.

1 Q Had you ever even seen him before?

2 A I might have seen him one time but I
3 didn't -- I didn't know him.

4 Q Okay. So you were standing at Moncrief
5 Liquors. You claim you're outside today. I mean, in
6 the affidavit you said you were inside. But today,
7 you're saying you're outside Moncrief Liquors and
8 witnessed the shooting, correct?

9 A I take the Fifth. I take the Fifth. I plead
10 the Fifth.

11 MR. NORGARD: I'd ask that he be
12 instructed to answer that question.

13 THE COURT: I'm not instructing him to
14 answer.

15 BY MR. NORGARD:

16 Q You have already -- although you're not
17 answering it now, you've already said in your testimony
18 that you were outside and witnessed the incident,
19 right?

20 A Right.

21 Q Okay. You just told me that you didn't
22 really know Michael Bell, right?

23 A Right.

24 Q Okay. You're saying you're telling the
25 truth, that you saw the incident.

1 A Yes, I did.

2 Q How was the perpetrator dressed?

3 A I take the Fifth.

4 Q You say you saw somebody that committed a
5 murder and that you can identify him.

6 MR. NORGARD: And he's taking the Fifth.
7 Your Honor, I would instruct that he answer
8 that question.

9 THE COURT: I'm not going to instruct
10 him to answer it.

11 You need a minute? Mr. Mairs, why don't
12 you confer with your client, see if he wants
13 to maintain his Fifth Amendment right to
14 self-incrimination.

15 MR. MAIRS: (Conferring with the
16 witness.)

17 THE WITNESS: Yes, sir. I take the
18 Fifth.

19 MR. NORGARD: Okay. Your Honor, at this
20 point, I am going strongly interject. The
21 Fifth Amendment is a privilege to protect the
22 person from incriminating themselves. He has
23 testified in trial that he saw the person who
24 fired the shots, that he could identify him,
25 I'm asking something that he's given prior

1 sworn testimony to in 1994 and 2002. And for
2 me to ask him, did you see the shooter and to
3 describe the shooter, how in any way in the
4 world does that incriminate him, other than
5 just using the Fifth Amendment as a shield to
6 protect against this?

7 I'm a fan of James Madison too, just
8 like Your Honor. At first, he was against
9 the Bill of Rights 'cause he saw it as a
10 parchment that would only be a piece of
11 paper.

12 THE COURT: Mr. Mizrahi?

13 MR. MIZRAHI: Yeah. I have an objection
14 at this point. This witness was called
15 because he allegedly recanted. He's denied
16 that recantation. All this is irrelevant and
17 grandstanding.

18 THE COURT: All right. I'm not sure
19 that's a legal objection so I'll overrule it.
20 But --

21 MR. MIZRAHI: Well, I'm sorry. It's
22 beyond the scope of the purpose of why he's
23 testifying here today. Your Honor granted an
24 evidentiary hearing as to Claim 1, which was
25 that this witness recanted. This witness

1 denied the recantation. Now we're going into
2 the facts of the case, and he's invoked his
3 Fifth Amendment right.

4 THE COURT: Mr. Norgard, why do you need
5 the witness today to tell you what Mr. Bell
6 was wearing at the time of the incident?

7 MR. NORGARD: The first thing, Your
8 Honor, I would appreciate it. I -- I haven't
9 been keeping track. But does this gentleman
10 always object in the middle of other people
11 talking? I mean, I would like some
12 professionalism here. I was making argument
13 and was rudely interrupted.

14 THE COURT: I asked you a question.

15 MR. NORGARD: Yes, sir.

16 THE COURT: Answer the question.

17 MR. NORGARD: The person who
18 perpetrated -- he says he does not know
19 Michael Bell. The person who perpetrated the
20 crime was wearing a mask. How can he
21 identify Michael Bell as the shooter when he
22 didn't even him and the perpetrator was
23 wearing a mask?

24 THE COURT: Well, that's a different
25 question than what you asked him.

1 MR. NORGARD: I was laying the predicate
2 for it. I was first just trying to get him
3 to say that he even saw the shooter and he
4 invoked the Fifth Amendment.

5 THE COURT: All right. Well, I'm not --
6 I'm not going to overrule his assertion of
7 the Fifth Amendment privilege. If you want
8 to ask him the direct question, go ahead.

9 MR. NORGARD: Yes, Your Honor.

10 BY MR. NORGARD:

11 Q All right. Mr. Edwards, do you want to take
12 the Fifth on whether -- when I asked you if you saw the
13 shooting. But at different points, you say you did.
14 At different points, you take the Fifth. At different
15 points, you say you didn't see it. With that being
16 said, was the person you saw that fired these shots
17 wearing a mask?

18 A I take the Fifth.

19 MR. NORGARD: And I would ask that he be
20 instructed to answer that.

21 THE COURT: I am not going to instruct
22 him to answer.

23 BY MR. NORGARD:

24 Q Did Detective Bolena tell you facts about
25 Michael Bell's case?

1 A I don't know. I don't remember. Been a long
2 time. I don't remember.

3 Q A week ago in an affidavit, same affidavit
4 we're talking about, did you state in that affidavit
5 that Detective Bolena told you facts about the case?

6 A I just went along with what y'all were
7 telling me.

8 Q And when you answer my questions, if you'd be
9 more specific. When you just say y'all, the record
10 does not reflect who you're referring to. Who are you
11 referring to at any time you say y'all?

12 A The investigators.

13 Q Did you, in your affidavit, say that
14 Detective Bolena told you to say you witnessed the
15 shooting and that you would not -- and as far as the
16 details of the shooting, you would not have known the
17 details if Detective Bolena had not told you? Did you
18 say that in your statement?

19 A Like I said, I was just going along with
20 what -- what y'all wanted to hear. I was telling you
21 what y'all wanted to hear because you said it would
22 save Michael Bell's life. So that's why.

23 Q And, again, whenever you say y'all --

24 A I went along with what y'all are saying.

25 Q Okay. Here again --

1 A Not knowing that I was going to have to come
2 to court.

3 Q Because you're afraid of perjury, right?

4 A Sure. Everybody would be scared of perjury,
5 I guess.

6 Q So you're afraid that if you come in and say
7 what's in this affidavit that the State Attorney's
8 Office that you know in the courtroom is going to
9 charge you with perjury, right?

10 A That's not true, though. What you got in
11 your hand is not true.

12 Q I -- I'm not sure what that answer means.

13 Are you afraid you might be -- if you came in
14 here and said the things in your affidavit, are you
15 afraid that you might be charged with perjury?

16 A Am I afraid? No, I'm not afraid.

17 Q All right. You're just saying that you just
18 went along and made this up.

19 A I just went along with what y'all wanted me
20 to say.

21 Q You keep -- you keep saying y'all. Who?

22 A Your investigators wanted me to say.

23 Q All right. But you signed a document saying
24 that you were telling the truth, right?

25 A I know I signed it.

1 Q And it said --

2 A But it's not true.

3 Q Okay. Did George Bateh coach you?

4 A Who is that?

5 Q The prosecutor in the case, did he coach you
6 about what to say?

7 A I don't remember.

8 Q All right. Prior to coming to court, before
9 you came to court today, how many people did you talk
10 to to see if you should testify and get advice from
11 besides your attorney that you just met today?

12 A How many people did I talk to?

13 Q Yeah. Did you talk to your children? Did
14 you talk to a minister?

15 A No. I didn't talk to nobody.

16 MR. NORGARD: Your Honor, at this point,
17 I'm trying to recall who was present.

18 BY MR. NORGARD:

19 Q Did you make a statement that you talked to
20 your children and you talked to a minister, and they
21 were telling you not to testify, at any time?

22 A I don't remember making no statement to
23 nobody.

24 Q You didn't tell me that on the phone?

25 A On the phone?

1 Q Yeah. You told me that you didn't want to
2 testify 'cause you talked to your children. You talked
3 to your minister.

4 A I don't remember telling you that.

5 Q So you don't remember what you told me on
6 Saturday.

7 A I don't remember.

8 Q Did Detective Bolena tell you and did the
9 State tell you that if you didn't cooperate, they would
10 make -- you were in jail, that they would make it worse
11 for you?

12 A I don't remember.

13 Q Did they tell you they would make it better
14 for you?

15 A No.

16 Q Did they -- do you recall that they said if
17 you would help, it would be a favor for a favor? Do
18 you recall saying that in your sworn statement? Do you
19 recall saying that?

20 A I don't remember.

21 Q You don't remember what you put in a sworn
22 statement a week ago.

23 A I don't remember.

24 Q Because you were helping them in Michael
25 Bell's case, did Detective Bolena, even though you were

1 in jail, take you out on furloughs? Were you able to
2 go visit your wife?

3 A I take the Fifth.

4 Q He either did or didn't. I mean, did he do
5 that?

6 A I still take the Fifth.

7 Q If your wife were to testify that that
8 happened, do you have any reason to doubt she's telling
9 the truth?

10 MR. MIZRAHI: Objection, calls for
11 speculation.

12 THE COURT: Sustained.

13 BY MR. NORGARD:

14 Q You're taking the Fifth. So what I'm asking
15 you is if your wife walks in court and says you showed
16 up on her door when you were supposed to be in jail,
17 could that have happened?

18 MR. MIZRAHI: Same objection.

19 THE COURT: Sustained.

20 BY MR. NORGARD:

21 Q Would Detective Bolena get you from the jail,
22 put you in street clothes, drop you off at your house
23 and then pick you up?

24 A I take the Fifth.

25 Q At some point, were you in the Duval County

1 Jail where you had contact with a female who was there
2 at the shooting but was the one who was the surviving
3 person that didn't get shot? Did you talk to her?

4 A I take the Fifth.

5 Q Did she tell you facts about this case?

6 A I plead the Fifth.

7 Q Did you also state in your affidavit that you
8 always felt threatened by Detective Bolena?

9 A I take the Fifth.

10 MR. NORGARD: Your Honor, I'm not
11 releasing the witness from his subpoena. If
12 he could be removed from the courtroom, I do
13 have a legal argument that I want to make
14 about the Fifth Amendment privilege being
15 used as a shield to protect the witnesses
16 from things I should be allowed to ask, and I
17 do have an argument to make regarding that.

18 THE COURT: Okay. Well, let's do this
19 first: I'm going to -- we'll have some cross
20 examination.

21 MR. NORGARD: Oh, I'm sorry. I got
22 ahead of myself.

23 THE COURT: Yeah. You know, to be
24 clear, I don't -- I'll -- I'll keep the
25 witness under subpoena. The subpoena is

1 issued on behalf of the Court by the lawyer,
2 so witnesses are under subpoena to the Court,
3 not to any particular party or lawyer.

4 MR. MIZRAHI: May it please the Court?

5 THE COURT: Yes.

6 CROSS EXAMINATION

7 BY MR. MIZRAHI:

8 Q Good morning, Mr. Edwards.

9 A Good morning.

10 Q You indicated to defense counsel that you
11 were just telling his investigator what they wanted to
12 hear. What promises did they make to you?

13 A They didn't make any promises.

14 Q Why did they tell you they were so interested
15 in talking to you?

16 A They say that if I had a heart, you know, to
17 save Michael Bell by me, you know, testifying. I mean,
18 that statement, it would help save his life.

19 Q Is it fair they were pulling on your heart
20 strings?

21 A Yes.

22 Q Now, when -- you can read and write, correct?

23 A Yes.

24 Q You have that ability, right?

25 A Yes.

1 Q And in the affidavit, you did not write one
2 word of it, true?

3 A I just signed. I ain't read it.

4 Q You didn't read it. You didn't write it.
5 You just signed what they put in front of you.

6 A Yes, sir. Yeah.

7 Q And that's not -- wasn't true.

8 A Wasn't true.

9 MR. MIZRAHI: That's all the questions I
10 have.

11 THE COURT: Any redirect?

12 MR. NORGARD: Yes, Your Honor.

13 REDIRECT EXAMINATION

14 BY MR. NORGARD:

15 Q Mr. Jones [sic], when these folks talked to
16 you, I'm not quite sure what you thought was going on
17 'cause on one hand, you said you thought it was people
18 making a movie.

19 MR. MIZRAHI: Objection, leading,
20 compound.

21 MR. NORGARD: It's redirect.

22 THE COURT: Hang on a second. Well,
23 would still be subject to leading. So I'll
24 sustain it. You can rephrase.

25 MR. NORGARD: Okay. I'm laying a

1 predicate to (inaudible) my question.

2 BY MR. NORGARD:

3 Q Earlier, what did you say about this being --
4 you said about this being a movie production. What, if
5 anything, did you say about that?

6 A That's what I thought. Maybe I didn't have
7 it right.

8 Q Okay. But as you began getting into the
9 questioning, you began talking about how they were
10 investigators for Michael Bell. So you said that,
11 correct?

12 A Yeah.

13 Q What was it? Were they movie people or were
14 they investigators?

15 A I said I was thinking they must be writing a
16 script, fixing to make a movie about Michael Bell or
17 something. So --

18 Q And so you didn't even think they were really
19 investigators then, right?

20 A I ain't -- I ain't believe they were
21 investigators at that time. I ain't know what they --
22 what y'all were really trying to do.

23 Q When you say y'all, you're referring to the
24 people that came to see you, right?

25 A Right.

1 MR. NORGARD: I don't have any other
2 questions, Your Honor.

3 THE COURT: All right. So, sir, you'll
4 still be under subpoena. So talk with
5 Mr. Mairs about what that means, and you can
6 step down from the witness stand at this
7 time.

8 (Witness excused.)

9 THE COURT: We're going to take a
10 15-minute recess. We'll hear the argument
11 that you want to make when we come back. So
12 we'll back. Will be just under 15 minutes.
13 Be back at 10:55.

14 (Short recess.)

15 (Defendant present.)

16 THE COURT: Okay. You ready to make
17 your legal argument?

18 MR. NORGARD: Yes, Your Honor. The
19 purpose of the Fifth Amendment is to -- when
20 somebody takes Fifth, the purpose of that is
21 protect them from incriminating themselves.
22 If I ask them a question that does not
23 incriminate them in any way but simply
24 establishes a particular fact, they should be
25 required to answer that question.

1 What is happening here with both
2 Mr. Jones and Mr. Edwards is that they're
3 using the Fifth Amendment as a shield when
4 you instruct -- when you let them do that.
5 So they can't answer the questions. Even on
6 stuff that doesn't incriminate them, I'm not
7 and to bring out facts and make a record of
8 what's being said.

9 I started a quote with James Madison.
10 Last week, I didn't know who you were. You
11 didn't know who I was. I do my homework and
12 I know you're a fan of James Madison. He is
13 the father of the Bill of Rights. When he
14 first was presented with the Bill of Rights,
15 he wasn't on board with it. He was afraid it
16 would become a parchment. There was a piece
17 of paper that really didn't given people
18 meaningful protection. Domestic violence
19 injunctions are a piece of paper, but if
20 somebody's determined to kill you, they can
21 kill you.

22 We've seen what the Bill of Rights has
23 become, how it's protected individuals like
24 Michael Bell. And it's not meant to be a
25 document where witnesses can come in and not

1 answer questions that they're uncomfortable
2 of asking, saying they're taking the Fifth
3 but in no way incriminates them.

4 So I feel that we should be allowed to
5 ask them questions that don't incriminate
6 them. They should be required to answer
7 them. If it's really a true objection to
8 something that would get them in trouble, I
9 get that. But not this blanket, were you in
10 jail? Fifth Amendment. Did you talk to
11 Detective Bolena? Fifth Amendment.

12 So with that being said, Your Honor,
13 it's been used as a shield, and I would ask
14 that they're both subject to recall, that I
15 potentially may be allowed to recall them to
16 answer the -- get them to answer questions
17 that don't implicate their Fifth Amendment
18 rights.

19 THE COURT: State, you got rebuttal
20 argument?

21 MR. MIZRAHI: Not specific to the Fifth
22 Amendment. But specific to the recalling of
23 witnesses, we would object to the recalling
24 of witnesses.

25 THE COURT: Okay. Well --

1 MR. MIZRAHI: I don't know if the Court
2 was asking that.

3 THE COURT: As -- as to the Fifth
4 Amendment arguments, Mr. Norgard, I'll stand
5 on the rulings that I made during the
6 examinations. By taking judicial notice of
7 the court file, we know what the gentlemen
8 testified to at trial. We know what they
9 testified to during postconviction
10 proceedings. We know what they signed in the
11 affidavit. We know what they said or didn't
12 say here today. I think it's given an
13 adequate opportunity to -- for the defense to
14 make the record that it needs to make.

15 If something happens during these
16 proceedings that you feel alters that, feel
17 free to bring that to my attention. We can
18 reconsider it. But as things stand right
19 now, I don't see reason to revisit any of the
20 questions that I declined to make the witness
21 answer.

22 All right. Ready to call your next
23 witness?

24 MR. NORGARD: Your Honor, at this time,
25 we would call Colin Kelly.

1 (Witness sworn by the clerk.)

2 COLIN KELLY,

3 having been produced and first duly sworn as a witness
4 on behalf of the Defendant, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. NORGARD:

7 Q Sir, could you please tell us your name and
8 occupation?

9 A Yes. My first and last name is Colin Kelly,
10 C-O-L-I-N K-E-L-L-Y. I'm an investigator and
11 mitigation specialist with the capital habeas unit for
12 the Middle District of Florida.

13 Q Before we get into your affiliation with the
14 capital habeas unit for Middle District of Florida,
15 could you tell me a little bit about your training and
16 experience that would qualify you to work in that
17 position?

18 A Yes. So I have two master's degrees, one in
19 clinical social work, the other one in criminology,
20 from Florida State University. I started working in
21 postconviction capital work in 2017 with a state office
22 known as CCRC middle. They're out of Tampa. I worked
23 there for a little over two years and then was offered
24 a position at the federal Defender's Office in their
25 trial unit in Orlando, Florida. I took that

1 opportunity to go over there, and then that was in
2 November of 2019. And then in March of 2021, I was
3 offered an opportunity to come to work at the capital
4 habeas unit in Tampa.

5 Q Just briefly, could you --

6 MR. NORGARD: I don't know if you've
7 dealt with the capital habeas unit before,
8 Your Honor.

9 THE COURT: No.

10 BY MR. NORGARD:

11 Q So could you explain to the judge what the
12 capital habeas unit of the Middle District of Florida
13 is?

14 A Yes. So in 2018, the Eleventh Circuit
15 actually created our office as a result -- well, due to
16 there was a lot of blown federal habeas deadlines.
17 People were just being left abandoned. They were
18 filing not the most sufficient habeases in court. And
19 so the Eleventh Circuit said, what's going on down here
20 in Florida? We've got to do something about it.

21 So there's CHU north, capital habeas unit
22 north. That's out of Tallahassee. They handle the
23 Northern District. And capital habeas unit middle
24 handles the Middle District, which encompasses
25 Jacksonville, Duval County, all the way down the east

1 coast, across Orlando, Ocala and Tampa and all the way
2 down to Fort -- Fort Myers. I think it's the second or
3 third largest district in the country.

4 Q And in that -- with the capital habeas unit,
5 you solely deal with death-sentenced inmates, is that
6 correct?

7 A That's correct.

8 Q All right. Now, the capital habeas unit,
9 they're primarily dealing with potential federal
10 litigation in a case, correct?

11 A That's correct.

12 Q Okay. And in the role of doing federal
13 habeas litigation and federal litigation, do you work
14 with state court attorneys?

15 A We -- we work with them at times, yeah.

16 Q Okay. And just like now.

17 A Yes, just like now.

18 Q And when did you first become involved in
19 Michael Bell's case?

20 A I was first put on Michael Bell's case in
21 January of 2024 to do a Dozier investigation.

22 Q What is a Dozier investigation, just very
23 briefly?

24 A Dozier School of Boys is notorious in the
25 State of Florida for a lot of horrific abuse and

1 atrocities that happened. Mr. Bell was there in the
2 1980s.

3 Q And experienced lot of this.

4 A Yes.

5 Q Since you're working on an aspect of the case
6 that I may not have been involved, when did you become
7 aware of that I was involved as state court trial
8 counsel?

9 A Probably a couple months ago. We had a team
10 call and that was the first time I was aware you were
11 on the case.

12 Q All right. When did you first learn about an
13 individual by the name of Charles Edwards?

14 A Charles -- there's Charles Jones and --

15 Q It's been a long --

16 A (Inaudible), yeah.

17 Q Yeah. So Mr. Edwards and Mr. Jones.

18 A I first learned about them on -- it would
19 have been Sunday when we had -- after the warrant was
20 signed Friday, the 13th, we had a team meeting. And
21 the attorneys in my office, Tennie Martin and Greg
22 Brown, informed me that they had been informed that
23 Charles Jones and Henry Edwards would be very important
24 individuals to speak with.

25 Q All right. And then was there a follow-up

1 meeting relative to that?

2 A Just some planning to get things situated.

3 We were aware Mr. Edwards was out of custody. But --

4 Q What I'm referring to is I was at the meeting
5 as well, right?

6 A Oh. Oh, yes, yes. You were there too, yeah.

7 Q Yeah. Okay. (Inaudible).

8 A And so was Rachel --

9 Q Yes.

10 A -- and my other investigator, Christy
11 Dickerson.

12 Q Okay. And also the director of the capital
13 habeas unit?

14 A Yes, Marie Donnelly.

15 Q Okay. So first of all, just to get this out
16 of the way, did you ever do anything when you met with
17 Mr. Edwards to make him think you were shooting a
18 movie?

19 A No.

20 Q All right. Tell me about -- first of all,
21 let's focus on Mr. Edwards. And tell the Court just
22 briefly how you happened to end up talking to him and
23 getting him to execute an affidavit. Just tell me the
24 logistics of how that came about.

25 A Sure. We were advised as to where he might

1 be living. We cross referenced that with the databases
2 that we have and confirmed he was at said address.
3 Myself and Christy Dickerson left early on Monday
4 morning, drove right up to Jacksonville from Tampa,
5 made contact with Mr. Edwards around 11:30 in the
6 morning.

7 He has a trailer home that's in, like, the
8 north side of town. So we went and knocked on the
9 door. There was a large dog there who surprised us,
10 but his leash was a little shorter then. That dog
11 barking sparked Mr. Edwards to come to the door, and
12 when he opened the door Christy and I introduced
13 ourselves as individuals who are working on Mr. Bell's
14 warrant case. And that --

15 Q Let me just slow you down for a second. You
16 and Christy are at his door. Is -- Christy Dickerson,
17 is she here in the courtroom?

18 A Yes, she is.

19 Q Could you point her out?

20 A She's right there --

21 MR. NORGARD: Stand up for us.

22 THE WITNESS: -- in the brown suit on
23 the corner, with the laptop in her hand.

24 BY MR. NORGARD:

25 Q Well, given the allegations (inaudible), I

1 anticipate she'll testify as well.

2 But anyway, when you say you introduced
3 yourself to Mr. Edwards, go into detail as to how you
4 did that and explained who you were, what you were
5 doing, what agency you work for, who you were and what
6 your role was. If you could go into detail with that.

7 A I mean, you basically laid it right out. But
8 we knocked on the door and he looked outside.
9 Christy -- well, first we confirmed, are you Henry
10 Edwards. He said yes. And then we introduced
11 ourselves, you know, Christy Dickerson, Colin Kelly.
12 We work on Mike Bell's case. Like, we just want to ask
13 you a couple questions and he invited us inside. And
14 then an interview commenced at that point.

15 Q All right. At any point in time, did he give
16 you any indication that he didn't think you were
17 anything but investigators there on a serious
18 investigation?

19 A No. He was quite aware that we were
20 investigators working on Mike Bell's case and that he
21 was also aware Mike Bell's warrant had been signed.
22 And we actually, at the end of the interview, provided
23 him with documentation -- our business cards that
24 explicit say it who we are, where we work, and he's
25 made phone calls since then too.

1 Q When you say he's made phone calls since,
2 he's had further communication with you.

3 A That's correct. With -- with Christy, that's
4 correct.

5 Q Okay. So he's actually followed up and had
6 phone calls with y'all in the role of investigators for
7 Michael Bell.

8 A That's correct.

9 Q Okay. In the court file, attached to our
10 pleadings -- and we may submit it as a separate exhibit
11 but there's an affidavit signed June 16th, 2025.

12 MR. NORGARD: If I may approach the
13 witness, Your Honor?

14 THE COURT: Yes.

15 BY MR. NORGARD:

16 Q I'm going to show you what's a copy of an
17 affidavit. And if you could look at that. And are you
18 familiar with that document?

19 A Give me one second. Just want to make sure
20 it's the same one.

21 Yes, I'm familiar with this document.

22 Q All right. And what is that document?

23 A That's an affidavit that was prepared with
24 Christy in the room after an interview had been
25 conducted with Mr. Henry Edwards.

1 Q Okay. The information conveyed -- the
2 information in this, where did you get that information
3 from?

4 A Directly from Mr. Edwards.

5 MR. MIZRAHI: Your Honor, this is
6 hearsay and it's impeachment on a collateral
7 matter.

8 THE COURT: Overruled. You may proceed.
9 BY MR. NORGARD:

10 Q You've had a chance to read this entire
11 affidavit, correct?

12 A I have.

13 Q Is there a single thing in that affidavit
14 that you told Mr. Edwards you wanted him to say?

15 A No.

16 Q Okay. Were these things that he told you?

17 A Yes. Once we were inside of his trailer and
18 we sat down, he was his own seat. Christy and I sat
19 side by side on a couch. And once we were in there
20 comfortably, we said -- we told him again, you know,
21 why we're there, why we're talking. And we -- we
22 informed him we had questions about Detective Bolena
23 and George Bateh. Mr. Edwards then kind of smiled
24 leaned back and said, what do you want to know?

25 And then we asked him questions. He provided

1 us the answers. After that was all done, we then asked
2 him, would you be willing to sign an affidavit to what
3 you're telling us today regarding the situations that
4 occurred back in the 1990's with Detective Bolena and
5 George Bateh? And he agreed.

6 Q Did you explain to him the significance of an
7 affidavit?

8 A We explained to him that he would probably
9 have to come into court and testify. We didn't know at
10 that time because we said there could be a hearing;
11 they're couldn't but that he would have to come in and
12 testify to the contents of it.

13 Q Okay. And did he express any concerns about
14 that?

15 A He had no problem signing the affidavit but
16 was a little concerned about coming into court because
17 of repercussions of doing so.

18 Q Repercussions? What repercussions?

19 A He was afraid that if he came forward, he
20 would be -- the State would charge him with perjury,
21 and he might go back to prison.

22 Q With respect to the affidavit, in terms of
23 the significance of the affidavit, you would have gone
24 over the affidavit with him before he signed it, is
25 that correct?

1 A Yes.

2 Q And would that have included the statement in
3 there that he is affirming this under penalty of
4 perjury that the facts are true?

5 A That's correct. And he also initialed the
6 bottom of each page after I went over it with him.

7 Q As he told you these facts relative to his
8 involvement in Michael Bell's case, including his
9 recantation, how would you describe his demeanor during
10 the course of this interview?

11 A During the course of that interview, he was
12 very relaxed, open, forthcoming, informed us he wanted
13 to do the right thing, that this had been eating at
14 him. He was concerned about Mike potentially being
15 executed on his lies, and he wanted the truth to be
16 known. And then after he said all that, we drafted up
17 an affidavit.

18 Q Okay. Anything else about the obtaining of
19 this affidavit from Henry Edwards that you would want
20 to tell the Court or is that covered?

21 A No. I would just say he wasn't hostile at
22 all, very friendly. And we're a little different in
23 this realm regarding what we do, 30, 40 years later
24 with our investigations. We're not the State. We're
25 not the cops. We can't force people to come talk to

1 us. We have to immediately, from the moment we get out
2 of the car, start building rapport with people in the
3 neighborhood, with the witnesses we're talking to. So
4 it requires a lot more delicate balancing between
5 getting the information but also not scaring off a
6 witness so they shut down on us completely.

7 Q Now, you mentioned that you went to do this
8 interview and Christy Dickerson accompanied you?

9 A That is correct.

10 Q Okay. Was she with you the entire time that
11 you were with Mr. Edwards?

12 A She sat right beside me.

13 Q As a result of your communication with
14 Mr. Edwards, did you learn of a person by the name of
15 Cathy Robertson?

16 A Yes. We did and for a little context behind
17 that, after we got done with the interview and signing
18 the affidavit, we were talking a little bit more. And
19 he said, you know who you need to go speak with is my
20 ex-wife, Cathy Robertson, and a person by the name of
21 Glory Mitchell.

22 Q At that point in time, did Mr. Edwards get
23 into any specifics about what Miss Robinson could tell
24 you, or did he just say it was somebody you needed to
25 talk to?

1 A He said it was probably somebody we needed to
2 speak with because she's the one that actually sent
3 Detective Bolena to go speak with him at the jail.

4 MR. MIZRAHI: Your Honor, I'm objecting.
5 This is beyond the scope of the original
6 motion, successive 3.851 motion.

7 THE COURT: Response?

8 MR. NORGARD: We have a pending
9 amendment to our motion. Miss Robinson is
10 also relevant to what came out through
11 Mr. Edwards, and we're going to be calling
12 her as a witness. And she'll testify to the
13 things regarding Mr. Edwards, including a
14 statement made by him that he was only a
15 confidential informant once. She has
16 significant information about his involvement
17 as a confidential informant with Detective
18 Bolena.

19 THE COURT: Okay. So you've got --
20 you've got them both -- you've got Mitchell
21 and Robertson here to testify today?

22 MR. NORGARD: Miss Mitchell is the one
23 who's homebound. Miss Robertson is here and
24 prepared to testify.

25 THE COURT: Okay.

1 MR. NORGARD: In fact, she's probably
2 going to be my -- well, based on what
3 Mr. Edwards said, I was going to call
4 Miss Dickerson next from (inaudible), but
5 then I'd call Miss Edwards next.

6 THE COURT: I'll -- I'll -- I think best
7 way to address the objection, I'll grant it
8 in part, sustain it in part. It's fine for
9 you to ask Mr. Kelly about how he learned
10 about these folks, but I'm not going to allow
11 you to question him about what they told him,
12 things of that nature.

13 MR. NORGARD: Okay. The only reason I
14 would do that would be to play State
15 Attorney, Your Honor, and say it's not for
16 the truth of the matter asserted but just to
17 give information as to what he was operating
18 off of. So I'll move on.

19 THE COURT: Okay.

20 BY MR. NORGARD:

21 Q All right. So you obtained the name of Cathy
22 Robertson and Gloria Mitchell?

23 A Glory Mitchell, that's correct.

24 Q Even in court documents, there's some
25 confusion over whether name?

1 A Somehow, someway, back in the '90s, somebody
2 wrote name as Gloria Mitchell, but her name is actually
3 Glory, G-L-O-R-Y, Mitchell.

4 Q All right. You mentioned that as part of the
5 meeting week ago Sunday that you were alerted to a
6 witness by the name of Charles Jones?

7 A That's correct.

8 Q Okay. And --

9 THE COURT: Before you move on,
10 Mr. Norgard, let me ask Mr. Kelly a question.

11 MR. NORGARD: Sure.

12 THE COURT: You can ask him, but you'll
13 know I'm going to ask it regarding the next
14 affidavit.

15 As to the handwritten portion of
16 Mr. Edwards' affidavit, whose handwriting is
17 that?

18 THE WITNESS: Fortunately, that's mine.

19 THE COURT: Okay.

20 BY MR. NORGARD:

21 Q And as a follow-up to the Court's questions,
22 was that based on the information told to you by
23 Mr. Edwards?

24 A Yes. And, again, for a little context, it
25 wasn't like we came in with a prewritten affidavit. We

1 sat there with him. I drafted it up in front of him.
2 After -- so I didn't have to cross out whole sections,
3 I wrote a paragraph, would ask him, you know, is this
4 true. Yes. Okay. On to the next one till we got to
5 the bottom of the page. Go on to the next page. And
6 then after that was done, read him the affidavit in its
7 entirety. Walked over to him and we sat side by side.
8 I read it to him in its entirety, and he said the
9 contents of it were true.

10 Q Okay. And that was done paragraph by
11 paragraph as well as a whole.

12 A Yeah.

13 Q Okay. When you wrote the affidavit, were one
14 of you taking notes?

15 A We were both conversing and talking. I had
16 been taking notes because I was going to be the one
17 that was writing the affidavit.

18 Q All right.

19 A I'm -- I'm a Florida notary and Christy's
20 not. So that's why.

21 Q Okay. We were about to get into a gentleman
22 by the name of Charles Jones, and if you could just
23 tell us how that came about, that you had contact with
24 Charles Jones.

25 A Yeah. So very similar to Mr. Edwards, we

1 learned about him on Sunday morning from a team
2 meeting. We identified where he's at. I believe it
3 was Frankly Correctional which is down in the forgotten
4 coast of Florida, Apalachicola. We immediately put in
5 a request to go visit him at Franklin CI for Tuesday
6 because it was a weekend. So Monday, they put in the
7 request. The -- whoever our legal assistant spoke with
8 at the prison was informed that Mr. Jones was going to
9 be being transferred to Hamilton Annex on Tuesday so we
10 couldn't go see him. And so then we find out he's
11 going to Hamilton Annex. We reach out to them and we
12 get a legal visit set up there.

13 Q And when was that legal visit?

14 A That legal visit was 1:00 p.m. on June 18th.
15 So last Wednesday at 1:00 p.m.

16 Q Okay. That was --

17 MR. NORGARD: Your Honor, for your
18 benefit, that's the witness they were talking
19 to when you were nice enough to get us that
20 extra time. So thank you, Your Honor.

21 BY MR. NORGARD:

22 Q With respect to your contact with Mr. Jones,
23 first of all, let's get to the point where you actually
24 met up with him. And if you could go through and
25 describe that.

1 A Yeah, no problem. When we first got there --

2 MR. MIZRAHI: Excuse me, sir.

3 Your Honor, I object to this point. I
4 didn't object as much to Mr. Edwards because
5 Mr. Edwards specifically testified as to the
6 affidavit and whether or not the affidavit
7 was true or not. So I felt counsel was
8 allowed to impeach (inaudible) on that. This
9 witness invoked his Fifth Amendment right as
10 to the affidavit in its entirety. I don't
11 think that bringing in hearsay at this
12 point's for the purpose of impeachment. And
13 I would object as improper impeachment.

14 THE COURT: Read the question back for
15 me, please.

16 (The question was read back by the court
17 reporter.)

18 THE COURT: All right. I'll overrule
19 the objection as to that question. In
20 general, it would be -- the objection would
21 be more appropriate for Mr. Jones's testimony
22 because of -- Mr. Jones said virtually
23 nothing on the stand. So I don't mind you
24 walking through, with Mr. Kelly, general
25 facts and circumstances surrounding the

1 execution of the affidavit with Mr. Jones. I
2 can go out on a limb and guess it's going to
3 be pretty close with what it was with
4 Mr. Edwards. But anyway, go ahead.

5 MR. NORGARD: Yes, Your Honor. And so
6 understanding -- okay. First of all, I --
7 you know, I respect your ruling, Your Honor.
8 You said here's what I'm going on the Fifth
9 Amendment part of this and you made your
10 ruling. I'm moving along.

11 Even though you made that ruling, I've
12 objected to it. I'm trying to make a record.
13 Whether it's something that comes out as
14 substantive evidence or whether it's
15 something that I have to proffer, it still
16 needs to be in the record. So if he want --
17 if there's something he wants to object to
18 and you sustain it, I'm still going to need
19 to proffer it. So it's going to come out.
20 So we'll -- we'll proceed and see how that
21 goes.

22 BY MR. NORGARD:

23 Q So with that being said, all I was asking you
24 is how you came in contact with Mr. Jones in the
25 prison.

1 A Yeah. So we were -- you know, obviously, you
2 got to get checked into the prison. Mr. Jones'
3 classification officer met us at the gate, walked us
4 back to the classification building, set up us in an
5 empty office and said, Mr. Jones will be here soon.

6 We were informed when we arrived, he had been
7 placed in confinement for some reason upon his arrival
8 at Hamilton Annex. And so it took a little while
9 because he had to put the black box on and the chains
10 and everything and be escorted to the room.

11 And so eventually, after about 20,
12 30 minutes, he was brought to the room with an escort.
13 We introduced -- he was brought into the room. He sat
14 down and then we closed the door. And that's when
15 Christy and I introduced ourselves.

16 Q Okay. Again, similar to what we went through
17 with Mr. Edwards, could you explain how you went about
18 introducing yourself to Mr. Jones?

19 A Yes. So, again, hello. I'm Colin Kelly.
20 This is Christy Dickerson. We're part of Mike Bell's
21 defense team. Are you aware that -- we're
22 investigators on the case and we're looking to talk
23 with you. Are you aware that his warrant has been
24 signed? He was not aware of that. And that --

25 Q And let me slow you down. What was his

1 reaction when you told him that a death warrant had
2 been signed on Michael Bell?

3 A I would use the word he deflated. So sat
4 back and was kind of shrunk down in his seat, put his
5 head back against the wall, sighed and said, okay, I'll
6 talk to you guys.

7 Q Any confusion about who you were and why you
8 were there? Did you go through with him in detail
9 about what agency you worked for, your names, who your
10 client was --

11 A Yes.

12 Q -- what your role in the case was?

13 A We did all that and tried to provide him
14 business cards too. But because he was in confinement,
15 he couldn't accept them.

16 Q Okay. All right. So at that point, did you
17 begin talking to Charles Jones about the case?

18 A Yeah.

19 Q And if you could just generally tell me how
20 that -- how you conducted that interview.

21 MR. MIZRAHI: Your Honor, I'd interpose
22 an objection as to hearsay and improper
23 impeachment. If we want -- for speed sake,
24 if we -- I have no objection if we go through
25 this as a proffer. But we object to this

1 being either substantive evidence or
2 impeachment evidence. I don't think either
3 one applies to this case.

4 THE COURT: All right. I'll overrule
5 the objection. And you can proceed.

6 MR. NORGARD: Yes. My question didn't
7 even call for hearsay. But --

8 BY MR. NORGARD:

9 Q All right. So you began talking to him.

10 A Yes, we began talking to him. We asked him,
11 you know, do you remember testifying on Mike Bell's
12 case?

13 Q Let me stop you at that point.

14 The bottom line is you had a conversation
15 with him.

16 A Yes.

17 Q At any point, did he express any hesitation
18 or any concerns about talking to you, or did he just
19 freely and voluntarily communicate with you?

20 A He freely spoke with us. And from what he
21 told us, he needed to get this off his chest because
22 he's been seeing this go on for so long and that a lot
23 of young black men were exposed to certain things they
24 shouldn't have. And he felt it was his time to come
25 forward and tell the truth. That's what he told us.

1 Q All right. And so did you follow similar
2 protocol to what you did in terms of -- you know, you
3 obtained evidence from Mr. Edwards. Did you follow
4 similar protocol in obtaining information from
5 Mr. Jones?

6 A Yes, we did. We conducted an interview,
7 asked him questions. Did you testify? Do you remember
8 Detective Bolena, George Bateh and saying all these
9 things? He told us that, again, it was all a lie, that
10 he was coached to do this.

11 And then after we completed the interview,
12 that portion, then we asked him, would you be willing
13 to sign an affidavit under penalty of perjury and come
14 into court and testify? And he said yes. And that's
15 when he made the comment I said about the young black
16 men in Jacksonville in the 1990s.

17 Q All right. And so in obtaining the
18 information from Mr. Jones, did you again follow --
19 first, you did an interview to get the overall
20 information, correct?

21 A That's correct.

22 Q About how long did that interview take?

23 A He got there, like I said, 20 to 30 minutes
24 after. So the interview lasted probably an hour, maybe
25 45 minutes. We were on a little bit of a time crunch

1 because of filing deadlines. So we were trying to get
2 the information as quick as possible but no pressure,
3 no coercion. Just sat there and let him speak freely,
4 asked open-ended questions, let him explain his
5 situation. And after that, it was probably 10 to 15
6 minutes of writing the affidavit, same way as Henry
7 Edwards, write it out, ask him is this true, initial
8 each page. Or ask him if it's true. Then once we got
9 to the second page, do that page, ask him if it's true.
10 Yes. Then read it to him in its entirety. And then he
11 said he would be willing to come into court and testify
12 to the contents of the affidavit. He signed it. I
13 notarized it.

14 For -- for him, he -- his signature is a
15 little illegible but he confirmed it was him. But he
16 was in the black -- you know, all in handcuffs where he
17 wouldn't write so that's why we did that.

18 Q All right. So basically you went there and
19 compiled about -- you gathered about an hour's of
20 information.

21 A Yes.

22 Q You then reduced into writing in the
23 affidavit.

24 A Yes.

25 Q There are a total of ten paragraphs. You may

1 not know that. I can check.

2 A If you have it in your hand, I --

3 Q Sure. Let me just go ahead and show --

4 MR. NORGARD: May I approach?

5 THE COURT: No problem.

6 BY MR. NORGARD:

7 Q Could you identify that?

8 A One second. Let me just make sure.

9 Yes. This is the affidavit that I drafted up
10 of Charles Jones while he was sitting in the room. And
11 he agreed to the contents, signed it and I notarized
12 it.

13 Q Okay. And so --

14 MR. NORGARD: If I can approach. Sorry.

15 BY MR. NORGARD:

16 Q I had said there were ten paragraphs and you
17 didn't have that memorized. Ten paragraphs?

18 A There are ten paragraphs there. Yes, that's
19 correct.

20 Q All right. And you would have gone through
21 each and every one of those paragraphs, paragraphs by
22 paragraph, asked him if it was true.

23 A Word by word, paragraph by paragraph.

24 Q Then you went over the overall affidavit with
25 him in its entirety.

1 A Word by word, paragraph by paragraph in its
2 entirety.

3 Q Made him aware of the fact that he was
4 signing something under a potential penalty of perjury.

5 A Yes.

6 Q And he agreed to do that.

7 A Yes, he did, for the reasons I stated before.

8 Q Okay. Did Mr. Jones have concerns about
9 testifying?

10 A He did not have concerns. I don't recall him
11 having any concerns about testifying. He was upset
12 with the Department of Corrections for putting him in
13 confinement without a -- he didn't know a reason.
14 That's what he shared with us. So he was upset about
15 that but no concerns about coming. And, again, he was
16 made aware that if we got an evidentiary hearing, he
17 would be called to come in and testify. And he said
18 that was fine.

19 Q All right. Was there some follow-up contact
20 with Mr. Jones as recent as yesterday?

21 A With Mr. Jones yesterday, we couldn't get in
22 touch with him because he was still housed at Hamilton
23 Annex. But there was a phone call that -- it was a
24 miraculous phone call. We were able to get it done,
25 where I was in the room where Mr. Jones was able to

1 speak with -- with the team, and he confirmed that he
2 would be willing to come in here and testify truthfully
3 to the contents of the affidavit, wasn't pressured,
4 like, none of that. But he said he'd be willing to
5 come in here and tell the truth. And he was made
6 aware, you know, you're probably going to be
7 transferred soon. We hope to see you before then, but
8 if you don't get here, we'll speak to you right before
9 court.

10 Q Okay. Although Mr. Jones made the statements
11 you just indicated, was the fact that he was in
12 confinement, circumstances of the confinement, was that
13 affecting him in terms of how he was acting, how -- you
14 know, what -- in what way he felt about doing things?

15 A Yes. He -- he was placed in confinement as
16 soon as he got off the bus at Hamilton Annex. So in a
17 black box by himself, no AC, hadn't been able to shower
18 as of yesterday when we talked with him, hadn't been
19 able to contact any of his family, didn't know where he
20 was. So he was distressed about his conditions in the
21 Department of Corrections. But he was not distressed
22 about coming in here to testify truthfully to the
23 contents of his affidavit.

24 Q Other than follow-up efforts to try to locate
25 these people, get them under subpoena get them actually

1 here today, at least through this morning at 8:30, is
2 this pretty much what you had done?

3 A Yeah. It's been a long week.

4 MR. NORGARD: All right. Thank you,
5 sir.

6 THE WITNESS: You're welcome.

7 THE COURT: Cross examination.

8 MR. MIZRAHI: May it please the Court?

9 THE COURT: Yes.

10 CROSS EXAMINATION

11 BY MR. MIZRAHI:

12 Q Mr. Kelly, I know you know this. I guess
13 it's still good morning. The -- I want to get for the
14 record what your role in all this is. Is it fair to
15 say that you are an extension of the defendant's
16 lawyers? Is that true?

17 A I am an extension of the defendant's lawyers
18 with the capital habeas unit, yes.

19 Q So it would be fair to say that if you found
20 information that was contrary to your client's
21 position, you would not have to disclose it, true?

22 A I follow what the attorneys instruct us to do
23 because we fall under that attorney/client privilege.

24 Q That's what I meant is that you fall under
25 attorney/client privilege.

1 A Yes.

2 Q Did you inform the witnesses that we just
3 spoke of, Mr. Edwards and Mr. Jones, as to that fact?

4 A As to?

5 Q That you were essentially Mr. Bell's lawyer,
6 that you fell under his attorney/client privilege
7 umbrella?

8 A We informed them that we were part of Mike
9 Bell's defense team and specifically the investigators
10 on the case. So that's what we told them.

11 Q Okay. You didn't go through attorney/client
12 privilege or anything like that.

13 A Oh, no. I'm not attorney.

14 Q Okay. Very good.

15 And is it true that you told Mr. Edwards that
16 he could save Mr. Bell's life?

17 A No.

18 Q Never said that.

19 A No. We didn't say he could save Mr. Bell's
20 life.

21 Q And I guess the same would be true for
22 Mr. Jones?

23 A No. They both willingly came forward with
24 that information before we even got to a point of ever
25 saying, you could save Mr. Bell's life.

1 Q Okay. Now you were appointed -- and I want
2 to make sure I got this right -- January of '24, is
3 that right?

4 A That's when I was put on the case, yeah.

5 Q Okay. And certainly one of the important
6 steps in taking over a case as an investigator is to
7 familiarize yourself with it, correct?

8 A That would be an important step.

9 Q Were you in court for Miss Martin's
10 testimony?

11 A Yes, I was.

12 Q And so going back and seeing what witnesses
13 had testified to previous is important, correct?

14 A That would be important.

15 Q As an investigator, right?

16 A Uh-huh.

17 Q Is that -- is that a "yes"?

18 A Yes, that's a yes. Sorry.

19 Q So you have a situation where you are aware
20 of both the trial testimony and the postconviction
21 testimony of the two witnesses we've discussed,
22 correct?

23 A Yes.

24 Q And you would have been known about that --
25 I'm not saying you knew it in January of '24 but

1 certainly sometime shortly thereafter. Is that fair?

2 A I was made aware -- well, I knew of, like,
3 the generalities of the case in 2024, yeah.

4 Q And so that would include the concept that
5 the defendant had subpoenaed Mr. Edwards and Mr. Jones
6 specifically to elicit testimony about how they were
7 potentially coerced, threatened, things like that.

8 A I don't recall reading in its entirety every
9 single piece of the postconviction or his evidentiary
10 hearing in 2002 because I was specifically put on the
11 case to do a Dozier investigation --

12 Q Okay.

13 A -- to help save his life.

14 Q But certainly, someone on the team would have
15 done that.

16 A You'd have to ask them.

17 Q I think Miss Martin said it.

18 A Okay. Then yeah.

19 Q So when you sat down with Mr. Edwards
20 specifically, did you have copies of his trial
21 testimony as well as his ineffective assistance of
22 counsel testimony?

23 A I had reviewed them and had them with me,
24 yes.

25 Q Did you show them to Mr. Edwards?

1 A No. We -- we had them with us and he said he
2 didn't -- he never mentioned anything about wanting to
3 see them. We said, this is what you said. And he
4 believed us because he remembered saying those things,
5 and that's why he told us, I didn't tell the truth.

6 Q Okay. And -- and you wrote the affidavit in
7 Mr. Edwards's case.

8 A Yeah.

9 Q And he could have written it himself.

10 A I suppose.

11 Q Well, and you suppose -- you probably could
12 have had some kind of recording device with you,
13 correct?

14 A I -- I did not.

15 Q Right. But you could have.

16 A I mean, yes.

17 Q And I know it's a little bit different with
18 Mr. Jones because he's incarcerated. You can't really
19 do that. But with Mr. Edwards, you could have done
20 those things.

21 A Yeah. They'd be illegal under Florida law,
22 and I wouldn't do anything like that to jeopardize not
23 only Mr. Bell's case, his life but also my career that
24 I love doing. So that's something that I wouldn't do.

25 Q Of course, you wouldn't record it

1 surreptitiously.

2 A Yeah. But I wouldn't record it in any way
3 because in order -- the way things work on the defense
4 side after all these years, if somebody sees a
5 microphone or recording device placed in front of them
6 like a cop would do, in my experience, after I want to
7 say seven years of doing this, eight years of doing
8 this, witnesses shut down. So we go in and we talk to
9 them and try to build rapport from the beginning, no
10 recording devices, no computers, just good old honest
11 conversation back and forth.

12 Q Well, certainly the recording would be the
13 best evidence, correct?

14 A Yes, it would be the best evidence.

15 MR. MIZRAHI: That's all the questions I
16 have.

17 THE COURT: Any redirect?

18 MR. NORGARD: Yes, Your Honor. Thank
19 you.

20 REDIRECT EXAMINATION

21 BY MR. NORGARD:

22 Q The first thing that I want to ask you about
23 is that you were asked about the attorney/client
24 privilege. And attorney/client privilege has to do
25 with things that you're just going to hold to yourself,

1 not tell anybody and keep secret, correct?

2 A That's correct.

3 Q Okay. The affidavits that you were having
4 signed, the idea was those were going to be made
5 public, right?

6 A That is correct.

7 Q Did you ever in any way suggest to
8 Mr. Edwards that these affidavits are just going to be
9 confidential, that nobody would see them, that they're
10 going to be kept secret between the lawyers and you, or
11 was he aware it was going to be made public?

12 A He was aware they would be made public.

13 Q All right. Short of recording this, did you
14 do everything you could to get this accurate
15 information that you could and affirm and develop
16 things so you would know what Mr. Edwards was telling
17 you was the truth?

18 A I did. And, again, that's why I didn't just
19 write up or show up with, you know ten pages of an
20 affidavit. I did it right there with him, asked him,
21 is this true? Yes. Write again. Is this true? So, I
22 mean, that's the best we could do in the moment under
23 the circumstances with a warrant and a clock ticking.

24 Q So you're almost writing down what he was
25 telling you word for word then, right?

1 A It was shortly thereafter, yeah.

2 Q Right. And then he confirmed that that's
3 what he had said, right?

4 A That's what he said.

5 Q It was accurate, right?

6 A Yes.

7 Q Same with Mr. Jones.

8 A Same with Mr. Jones.

9 Q Now, as an investigator representing somebody
10 in a death penalty case, you would have been aware of
11 the fact that both Mr. Jones and Mr. Edwards testified
12 in 1994, correct?

13 A Yeah, '95, I think. But yeah, testified --

14 Q '94 case.

15 A Yeah, yeah.

16 Q And then they also testified in 2002.

17 A Yes.

18 Q And they said what they said at trial, right?

19 A Yeah.

20 Q Then Mr. Bell did it.

21 A Uh-huh, yes.

22 Q In 2002, they said, we told the truth at
23 trial; Mr. Bell did it, right?

24 A That's correct.

25 Q Between 2002 and when we got this -- you got

1 this call during the warrant, did you have any reason
2 to believe they would have said anything different, or
3 were you relying on what they previously said?

4 A I was relying on their previous sworn
5 statements that were conducted by Detective Bolena and
6 George Bateh, their depositions with George Bateh and
7 Richard Nichols, their testimony at trial and then
8 finally, their 2002 testimony at the evidentiary
9 hearing.

10 Q Okay. So until you actually received
11 information that they may recant, you could have
12 interviewed them once a year every year and would have
13 had no reason to believe they would, right?

14 A Under that standard, yeah. We'd have to be
15 working 365 days a week 'cause of -- this isn't my only
16 case. I have 13 other cases all throughout the state
17 of Florida, traveling all over the country, talking to
18 people. So yes. I mean, if that's the standard, then
19 we would have to interview every single person all the
20 time. And then the likelihood of them ever telling us
21 anything would probably be (inaudible).

22 Q So you were relying on what had previously
23 been developed.

24 A Yes.

25 MR. NORGARD: No other questions.

1 THE COURT: Thank you. You may step
2 down.

3 (Witness excused.)

4 MR. NORGARD: Can I just have a moment
5 to talk about the next witness?

6 THE COURT: Sure.

7 MS. ROEBUCK: Our next witness is going
8 to be Cathy Robertson. I believe she's
9 outside.

10 MS. PACHECO: Your Honor? We object,
11 Your Honor, and this goes to what I had
12 previously stated, the motion to amend. And
13 if -- if Your Honor would like to hear legal
14 argument as to the objection, we are prepared
15 to provide that.

16 THE COURT: All right. So do you have a
17 witness that you can call that's not subject
18 to objection?

19 MR. NORGARD: So far, I haven't called a
20 single one that wasn't subject to objection,
21 Your Honor, so I don't know.

22 THE COURT: That's not my recollection.
23 But anyway --

24 MR. NORGARD: Well, they did object
25 to --

1 THE COURT: All right. Anyway, I asked
2 you a question. Do you have a witness that
3 you can call that's not subject to objection?

4 MR. NORGARD: I'll name names and we'll
5 find out. Glory Mitchell.

6 MR. MIZRAHI: Objection.

7 MS. PACHECO: Objection Your Honor.

8 THE COURT: All right. Same one, same
9 objection?

10 MS. PACHECO: Same objection and also
11 completely outside the scope of Claim 1.

12 THE COURT: Okay.

13 MR. NORGARD: Dale George.

14 MS. PACHECO: Same. I'll let
15 Mr. Mizrahi --

16 MR. MIZRAHI: I'm pretty sure they're
17 all the same. We've heard from Claim 1. I
18 don't know how any of these people are
19 relevant.

20 MR. NORGARD: So the short answer is
21 other than calling Miss Dickerson to
22 corroborate Mr. Kelly, they're going to
23 object to everything.

24 THE COURT: Okay. So, State, if no
25 further witnesses are called by the defense,

1 what witnesses would you anticipate calling
2 in your case, if any?

3 MR. MIZRAHI: I don't anticipate calling
4 any witnesses, Your Honor.

5 THE COURT: All right. Let's do this:
6 It is 11:40. Let's break for lunch. I'm
7 going to take a look at your motion to amend
8 over the lunch break, give everybody a chance
9 to develop their arguments on that motion,
10 and we will be back here at 12:50.

11 (Off-record discussion.)

12 MS. PACHECO: I apologize, Your Honor.
13 May I ask a clarifying question --

14 THE COURT: Sure.

15 MS. PACHECO: -- in preparation for the
16 response?

17 Given the motion that was filed last
18 evening, I believe it was -- Mr. Norgard had
19 mentioned Dale George, which we do object do.
20 But it was my understanding that he was not
21 willing to testify. They did not produce an
22 affidavit from -- from him. Are they saying
23 now that he is here to testify?

24 MR. NORGARD: Well, I thought that was
25 the whole purpose of when we come back at --

1 what time again?

2 THE COURT: Right now, it's 12:55.

3 Well, I mean, as is often the case in
4 litigation, as we've seen here today, you
5 don't know what's going to happen with a
6 witness on the stand until they get up there
7 and they start talking. So --

8 MS. PACHECO: Yes, Your Honor.

9 THE COURT: -- there's motion
10 effectively to amend, broaden the scope of
11 postconviction relief. I need to look at it
12 in more detail. I guess you-all need to look
13 at it in more detail. We'll take that up.
14 If I understand everything correctly, all the
15 remaining witnesses that the defense would
16 call would be within the scope of what you
17 want to object to.

18 MS. PACHECO: Yes, Your Honor. My only
19 question was that they didn't actually
20 produce an affidavit from Mr. George so --

21 THE COURT: No. I know.

22 MS. PACHECO: Yes.

23 THE COURT: But we don't need to get
24 into that now. We'll do that when we come
25 back.

1 MS. PACHECO: Thank you, Your Honor.

2 MR. NORGARD: And there doesn't have to
3 be an affidavit.

4 THE COURT: We're not getting into that.

5 MR. NORGARD: I get that, Your Honor.

6 (Lunch recess was taken from 11:43 a.m. until
7 1:07 p.m.)

8 (Defendant present.)

9 THE COURT: Well, let's turn our
10 attention to the defendant's motion for leave
11 to amend. So there's memorandums from an
12 investigator related to interviews from
13 Ericka Williams, Ned Pryor and Dale George,
14 plus there's an affidavit from Cathy
15 Robertson.

16 Mr. -- are you handling this one,
17 Miss Roebuck?

18 MS. ROEBUCK: Well, yes, this and the
19 related issue of the other witnesses that
20 were listed before. But the State's position
21 is they're outside the scope. That's
22 obviously not our position.

23 THE COURT: Okay. Before we broke, I'd
24 asked some questions about who all the
25 defense intended to call and if that recapped

1 that testimony as well. And it narrowed it
2 down to the people listed in the motion for
3 leave to amend. Are you now telling me you
4 actually want to call other people?

5 MR. NORGARD: Your Honor, we have one
6 other person we're going to call. Her name
7 is Paula Goins. We did not get -- we have
8 made efforts to talk to her. We did not get
9 a chance to talk to her until today. But
10 there's relevant testimony that she would
11 present. Given that we didn't talk to her
12 today, I was going to address her role in
13 this orally. But --

14 THE COURT: Okay.

15 MR. NORGARD: -- other than ones you
16 kind of just read, I think Glory Mitchell.
17 Was she on there?

18 THE COURT: No.

19 MR. NORGARD: Okay. She's a collateral
20 witness to Miss Robertson. It would
21 corroborate.

22 But those people, Miss Goins and
23 Miss Williams -- or not -- Miss Mitchell and
24 we would rest.

25 THE COURT: All right. I'm thoroughly

1 confused.

2 MR. NORGARD: Okay.

3 THE COURT: If you get everything you
4 want, who do you want to call this afternoon?

5 MR. NORGARD: I'll just read you the
6 list. We would call Ericka Williams. Cathy
7 Robertson would be our next witness. Christy
8 Dickerson, the female investigator, to
9 corroborate what Mr. Kelly said. Glory
10 Mitchell, George Dale, Ned Pryor and Paula
11 Goins. And then we would have our exhibits
12 that we would address.

13 THE COURT: Okay. I'm guessing that
14 George Dale is actually Dale George.

15 MR. NORGARD: Dale George, yes, sir.

16 THE COURT: What would you offer Paula
17 Goins for?

18 MR. NORGARD: She was Mr. Bell's aunt.
19 She testified at trial to certain statements
20 that Mr. Bell made that she heard at her home
21 when he came to her house after the incident.
22 She would testify that she was threatened by
23 Mr. Bateh. She would testify that she was
24 threatened by Mr. Bolena. She would describe
25 the pressure and specific threats that were

1 made to her in order to induce her testimony.

2 She advised us this morning that her
3 attorney was there and witnessed it. We're
4 now trying to track down her attorney who
5 would corroborate threats by Mr. Bateh and
6 Detective Bolena. And she has indicated that
7 essentially, they twisted her testimony at
8 trial and would offer some clarification to
9 the trial testimony.

10 THE COURT: Okay. Now, I believe she
11 would not have been -- she was not listed in
12 the successive motion for postconviction
13 relief or the motion for leave to amend, is
14 that right?

15 MR. NORGARD: No. She was listed as a
16 witness, and as I indicated, we did not --
17 for various reasons, which I can call our
18 process servers and everybody else and I was
19 at her house yesterday, we did not get to
20 talk to her until today.

21 THE COURT: Did she testify at
22 Mr. Bell's trial?

23 MR. NORGARD: She did, Your Honor. The
24 only thing that came -- there was nothing
25 that came out about what I just stated

1 regarding these threats and the different
2 things that happened. At the trial, the only
3 thing that came out is that she was
4 subpoenaed to the grand jury, that her
5 attorney was there and that she was advised
6 she was subject to contempt if she didn't
7 testify. But none of the things I just
8 outlined, threats, pressures, specific things
9 they were going to do to her ever came out
10 until she talked to us today.

11 THE COURT: All right. What would you
12 anticipate Glory Mitchell to testify about?

13 MR. NORGARD: I'll let Miss Roebuck.

14 MS. ROEBUCK: So Miss Mitchell would
15 essentially support the recantation that
16 Mr. Edwards made and would impeach his
17 testimony today as to the fact that he was
18 not a frequent CI with Detective Bolena. She
19 says he was and that he was not allowed to
20 leave the jail for these sort of what sounded
21 like informal furloughs. She testified that
22 he was able to do that many times and visited
23 her home. Detective Bolena would pick him up
24 from the jail, drop him off at her home --
25 oh, I'm sorry.

1 MR. NORGARD: She was talking about
2 Miss Robertson.

3 THE COURT: Right.

4 MS. ROEBUCK: I'm sorry.

5 THE COURT: Thank you, Mr. Norgard.
6 That was -- you anticipated my point of
7 confusion there.

8 All right. Glory Mitchell.

9 MS. ROEBUCK: Okay. Glory Mitchell
10 would testify that -- also that Henry Edwards
11 was a CI so also impeachment on that point,
12 that he was used frequently by Detective
13 Bolena and that Detective Bolena had told her
14 that JSO had bets about Bell and Theodore
15 Wright killing each other, about who would
16 kill each other first. Told her that JSO did
17 not pursue charges against Theodore Wright to
18 keep him on the street, thinking that Bell
19 would kill him.

20 I think that's it for Mitchell. And I
21 apologize about the confusion.

22 THE COURT: That's okay.

23 Did Miss Mitchell testify at Mr. Bell's
24 trial?

25 MR. NORGARD: No.

1 MS. ROEBUCK: No. She was at his
2 evidentiary hearing in (inaudible).

3 THE COURT: Did she testify at that
4 hearing?

5 MS. ROEBUCK: Yes.

6 THE COURT: All right. A direct
7 question to Mr. Norgard. Is Ericka Williams
8 present here in the courthouse today?

9 MR. NORGARD: Yep. Yes, Your Honor.

10 THE COURT: Is Cathy Robertson present
11 here in the courthouse today?

12 MR. NORGARD: Yes, Your Honor.

13 THE COURT: Is Ned Pryor present here in
14 the courthouse today?

15 MR. NORGARD: Yes, Your Honor.

16 THE COURT: Is Dale George present here
17 in the courthouse today?

18 MR. NORGARD: Yes, Your Honor.

19 THE COURT: Is Glory Mitchell present
20 here in the courthouse today?

21 MR. NORGARD: She's the witness who has
22 medical issues, has been homebound for the
23 last two years.

24 THE COURT: That's right.

25 And is Paula Goins present here in the

1 courthouse today?

2 MR. NORGARD: Yes, Your Honor.

3 THE COURT: All right. Let's -- now,
4 the motion for leave to amend the motion for
5 postconviction relief, it's not entirely
6 clear to me, Mr. Norgard, whether you are
7 seeking to amend to raise new grounds or
8 whether you're really seeking to add
9 additional evidence. I mean, if I'm reading
10 it correctly, you're really looking to add
11 evidence to Ground 1, but I want to make sure
12 of that.

13 MR. NORGARD: First of all, Your Honor,
14 that motion was drafted under incredibly
15 short time pressures. I can tell you the
16 genesis of what we're trying to do here is
17 that initially we had two witnesses who
18 recanted. We know where we're at with that.

19 The State, in their response, had said,
20 well, we have four better witnesses, so I
21 start looking at those witnesses. And we
22 found newly discovered evidence related to
23 those witnesses being threatened and
24 pressured by both George Bateh and Detective
25 Bolena. I did not get the report on those

1 witnesses till Saturday night? I only had,
2 like, a one-line description of what they
3 said.

4 But all four of these people, Dale
5 George, who a witness at trial, Ned Pryor,
6 who was a witness at trial, Ericka Williams,
7 who a witness at trial, and Paula Goins, who
8 was a witness at trial, have revealed to us
9 similar behavior by Detective Bolena and by
10 George Bateh. These witnesses were not
11 impeached at trial by that because they did
12 not reveal it until we talked to them in the
13 context of this warrant litigation.

14 And so what we're about to present are
15 things -- even if it falls short of them
16 potentially recanting, it does bring out
17 newly discovered evidence of incredible
18 impeachment material that could have raised
19 doubt as to their credibility and could have
20 affected the outcome of the trial. That's
21 what we're doing here with these people.

22 MS. ROEBUCK: Your Honor, I'm very sorry
23 to interrupt. But I've been notified that
24 apparently we are muted.

25 MR. NORGARD: As long as it's not the

1 judge, that's all I care. So --

2 THE COURT: All right. So that sounds
3 like you're expanding upon Ground 1?

4 MR. NORGARD: Yes, Your Honor.

5 THE COURT: Okay.

6 MR. NORGARD: And maybe it doesn't need
7 to be said. But with due process pressures
8 created by the circumstances of the shortness
9 of this litigation and what we've had to
10 accomplish.

11 THE COURT: All right. Anything else
12 that you want to say as to why you should be
13 granted permission to call these witnesses
14 today?

15 MR. NORGARD: No, Your Honor.

16 THE COURT: All right. State, do you
17 object, number one?

18 MS. PACHECO: Yes, Your Honor.

19 THE COURT: All right. Let me hear your
20 objections.

21 MS. PACHECO: Your Honor, we understand
22 that this is a very short time frame. It's
23 hard on the defense. It's hard on the State.
24 It's hard on the Court. However, although
25 Mr. Norgard is saying he didn't receive the

1 reports until Saturday night, the Florida
2 Supreme Court ordered that his briefing be
3 done by Wednesday. And when you look at the
4 attachments from his motion, all of these --
5 all of the information was known to the
6 defense, whether Mr. Norgard actually knew it
7 at the time but his -- his defense team knew
8 it because these interviews were being
9 conducted from the 16th through the 18th.

10 Now, the 18th is when their motion was
11 filed. So giving him the benefit of perhaps
12 he didn't find out, you know, one of them
13 until after his motion was filed on the 18th,
14 he still could have sought to amend on the
15 18th and he didn't. The State filed our
16 response on the 19th. He didn't seek to
17 amend then.

18 And then on the 20th, he came into court
19 and started testifying as to what some of
20 these witnesses had said, despite today
21 saying he didn't learn about it until
22 Saturday night. But he proffered what he
23 believed witnesses who were not included in
24 his motion would say to which we objected
25 and, again, didn't then seek to amend. He

1 waited until less than 12 hours before this
2 hearing.

3 So we feel that this -- while we
4 understand it's a short time frame and it is
5 difficult, he had this information or at
6 least his team had this information. So he
7 should have made these allegations much
8 sooner and he didn't. And then on top of
9 that, we're still left not knowing exactly
10 what the connection is to the case. I mean,
11 Cathy Robertson, they're -- they're seeking
12 to amend to impeach Edwards, but Edwards
13 today admitted that he was a confidential
14 informant. That was known -- even during the
15 2002 evidentiary hearing, Detective Bolena
16 testified that Edwards was his confidential
17 informant.

18 So there's really no reason for these
19 additional -- I believe at least two
20 witnesses to testify as to the facts
21 surrounding his being an informant when that
22 was part of the postconviction hearing.

23 Glory Mitchell, I really -- I still
24 don't really understand what her connection
25 is here today.

1 So I -- I think that all of this could
2 have been and should have been alleged
3 previously, and it's -- they should be forced
4 to stick to the allegations in their
5 pleading. And should this Court be inclined
6 to give them some leeway today, we would just
7 ask that the -- any witnesses here that
8 potentially would recant also be provided the
9 opportunity to speak with counsel.

10 Thank you.

11 THE COURT: You're welcome.

12 Mr. Ebersole?

13 THE CLERK: Yes, Your Honor.

14 THE COURT: In the defendant's motion
15 for leave to amend filed June 22nd, 2025 --
16 and I'm going to go by the pages that I see
17 them as in ShowCase, I guess.

18 THE CLERK: Yes, sir.

19 THE COURT: The actual pages of the file
20 itself, would you print it three copies of
21 Pages 7 through 17?

22 THE CLERK: Yes, Your Honor.

23 THE COURT: All right. While that is
24 going on, I'd like to have Miss Williams,
25 Miss Ericka Williams, and Mr. Bossen come

1 forward.

2 MR. NORGARD: Your Honor, Miss Williams
3 is not a recantation witness. She is going
4 to be testifying as to Mr. -- Detective
5 Bolena and her interactions with him, so she
6 is not recanting her testimony.

7 THE COURT: Well, it's -- it's not
8 entirely clear to me whether or not that's
9 the case. I understand why you're saying
10 what you're saying, but I'm going to give her
11 an opportunity to talk with a lawyer if she
12 wants it about the contents of Investigator
13 Kelly and Dickerson's memorandum.

14 Do we have Miss Ericka Williams present
15 in the courtroom or in the hall?

16 MR. NORGARD: Apparently, she's here but
17 just stepped out.

18 THE COURT: Okay.

19 THE BAILIFF: She's coming.

20 THE COURT: Okay.

21 MR. NORGARD: And I will state that to
22 save time, I don't think any of these other
23 people need an attorney. I understand the
24 Court's position. So might need more
25 attorneys.

1 THE COURT: I've got more.

2 MR. NORGARD: All right. Thank you,
3 Your Honor.

4 THE COURT: All right. Swear
5 Miss Williams in, please.

6 (Witness sworn by the clerk.)

7 THE COURT: All right. Are you -- well,
8 do this: State your name for the record and
9 spell it, please.

10 THE WITNESS: Ericka Braclet,
11 E-R-I-C-K-A B-R-A-C-L-E-T.

12 THE COURT: Did you used to be known as
13 Ericka Williams?

14 THE WITNESS: Yes, sir.

15 THE COURT: Okay. How long have you
16 been known as Ericka Braclet?

17 THE WITNESS: I'm sorry.

18 THE COURT: Take your time.

19 THE WITNESS: I don't remember. I'm
20 sorry. I don't remember. I don't remember.

21 THE COURT: Okay. So I've got an
22 attorney here, Mr. Michael Bossen. I can
23 appoint him to represent you at no charge to
24 you to go over -- the defense is asking me to
25 put you on the witness stand so they can ask

1 you questions about Mr. Bell's case and trial
2 and some -- I think you've given some
3 interviews in that case as well. Would you
4 like to have an opportunity to meet with
5 Mr. Bossen?

6 THE WITNESS: Why do I need an attorney?

7 THE COURT: I'm only offering you an
8 attorney. So you are going to -- you
9 testified as a witness in Mr. Bell's trial,
10 correct?

11 THE WITNESS: Uh-huh.

12 THE COURT: You've got to say yes or no.

13 THE WITNESS: Yes, sir.

14 THE COURT: Did you testify -- I don't
15 know whether you did or not. But did you
16 testify in the subsequent evidentiary hearing
17 in 2002?

18 THE WITNESS: I think so, yes, sir.

19 THE COURT: Okay. So you were under
20 oath in both of those proceedings. I don't
21 know what the lawyers are going to ask you.
22 But potentially, you could be perhaps giving
23 answers that might contradict the answers you
24 gave previously under oath, which could
25 potentially implicate charges of perjury,

1 which can be a felony.

2 Let's see. Mr. Mizrahi, in this action
3 what degree of felony would that be?

4 MR. MIZRAHI: It would be a
5 second-degree felony.

6 THE COURT: So that's a crime punished
7 by up to 15 years in prison.

8 MR. NORGARD: And actually, I do -- I do
9 need to clarify the law of perjury. It's not
10 just if she says something that contradicts
11 what she said back then.

12 THE COURT: Well, that's what
13 Mr. Bossen's here to do.

14 MR. NORGARD: Perjury is much more
15 complex than just that.

16 THE COURT: Okay. She asked me a
17 question.

18 MR. NORGARD: I gotcha.

19 THE COURT: I'm answering her question
20 as best as I can.

21 But it's going to be a whole lot better
22 when she can, if she wants to, talk to
23 Mr. Bossen, who can speak to her in
24 confidence subject to the attorney/client
25 privilege and he can give advice.

1 Anyway, has that answered your question
2 sufficiently?

3 THE WITNESS: Yes. I'll speak with him.

4 THE COURT: Okay. I'm going to give you
5 the document that has been filed with the
6 Court concerning what you might or might not
7 talk about today.

8 Now it's only part. I only want
9 Mr. Bossen to have part of that.

10 THE CLERK: Oh, I see.

11 MR. NORGARD: There should be a section
12 in there just related to her.

13 THE COURT: Just hand me the whole thing
14 that you printed.

15 MR. MIZRAHI: Your Honor, I have it.

16 THE COURT: I'm going to -- I'm going to
17 be the one handing it to Mr. Bossen.

18 MR. MIZRAHI: Yes, sir.

19 THE COURT: Mr. Bossen, I'm going to
20 hand you a memorandum prepared by
21 investigators C. Kelly and C. Dickerson
22 (inaudible) with Miss Williams dated
23 June 17th, 2025.

24 MR. BOSSEN: Yes, Your Honor. Thank
25 you.

1 THE COURT: If you would kindly consult
2 with Miss Williams and see what happens after
3 that.

4 MR. BOSSEN: Do it outside?

5 THE COURT: Mr. Mizrahi?

6 MR. MIZRAHI: Yeah. I was planning on
7 handing Mr. Bossen the ineffective assistance
8 of counsel.

9 THE COURT: Well, that's -- I'll let
10 Mr. Bossen decide whether or not he wants
11 that.

12 Feel free to talk to Mr. Mizrahi.

13 MR. BOSSEN: Okay.

14 THE COURT: All right. Do we have
15 Mr. Ned Pryor either present in the courtroom
16 or present out in the hall?

17 All right. Let me get you sworn in.

18 (Witness sworn by the clerk.)

19 THE COURT: Would you state your name
20 and spell it for the record, please?

21 THE WITNESS: Vanness Pryor.

22 THE COURT: Can you spell it just for
23 the court reporter?

24 THE WITNESS: V-A-N-N-E-S-S P-R-Y-O-R.

25 THE COURT: Okay. Do you go by Ned?

1 THE WITNESS: Yes, sir.

2 THE COURT: All right. So, Mr. Pryor,
3 the defense, Mr. Bell's defense team, is
4 asking me to allow you to testify here today.
5 You'll be placed under oath, of course, and
6 my understanding is that you testified at
7 Mr. Bell's trial. And you may -- I don't
8 know. You may have testified in a subsequent
9 evidentiary hearing as well around 2002. And
10 it may be that you're asked questions today
11 that implicate the sworn testimony that you
12 gave in those earlier proceedings.

13 I have an attorney here. Let's see.

14 Mr. Lufrano, if you'll come up, please.

15 I can appoint Mr. Lufrano to represent
16 you at no charge if you would like to speak
17 with an attorney about your testimony
18 today --

19 THE WITNESS: Yes, sir.

20 THE COURT: -- and any implications it
21 might have. Is that something you'd like to
22 do?

23 THE WITNESS: Yes.

24 THE COURT: Okay. I'm going to appoint
25 Mr. Lufrano to represent you.

1 Mr. Lufrano, I'm going to hand you a
2 document dated June 17, 2025, from
3 Investigators C. Kelly and C. Dickerson
4 regarding an interview with Mr. Pryor.

5 Mr. Ebersole, hand that to him.

6 MR. LUFRANO: And I'll just ask, does
7 the Court know if there are transcripts of
8 any statements that Mr. Bell has made
9 previously.

10 THE COURT: That I don't know.

11 Mr. Mizrahi?

12 MR. NORGARD: You've got Mr. Pryor.
13 We've got Mr. Bell.

14 MR. LUFRANO: This says Mr. Bell.

15 THE COURT: Mr. Bell. Mr. Bell is the
16 capital defendant seated at counsel table.

17 MR. LUFRANO: Understood.

18 THE COURT: This is Mr. Ned Pryor.

19 MR. LUFRANO: Gotcha.

20 THE COURT: So Mr. Pryor has been a
21 witness in Mr. Bell's trial, and he may have
22 been a witness at postconviction proceedings
23 previously. I frankly don't recall. But the
24 defense is seeking to call him today, and I
25 would like for you to discuss it with him. I

1 don't know what they're going to ask him.

2 MR. LUFRANO: Understood.

3 THE COURT: But he could be asked things
4 that might potentially contradict prior sworn
5 testimony.

6 MR. LUFRANO: Perfect.

7 MR. MIZRAHI: And, Your Honor, I have a
8 copy of the postconviction.

9 THE COURT: All right.

10 MR. NORGARD: Do you want a copy of the
11 perjury statute, just to show that a
12 contradictory statement isn't necessarily
13 perjury? Are we good on that?

14 MR. LUFRANO: We're good on that.

15 THE COURT: Well, Mr. TJ Bryant I was
16 going to appoint to represent Mr. Dale George
17 if Mr. George wanted an attorney, but I don't
18 see Mr. Bryant here yet.

19 MR. NORGARD: If we could at least do
20 the colloquy if he wants an attorney, and if
21 he does, we'll -- we could cross that bridge
22 then.

23 THE COURT: I'd rather have the attorney
24 here.

25 MR. NORGARD: Your Honor, this is

1 something I said Friday. He had told us that
2 he had hired a guy named Mr. Rolle. And then
3 when I saw him today, I said, hey, is your
4 attorney going to be here? He said he didn't
5 have an attorney. So he does -- may need
6 one.

7 THE COURT: Okay. All right.

8 Let's do this: As far as the objection
9 raised or the objections raised by the State,
10 Mr. Norgard, it looks like these witness
11 interviews were conducted on June 17th and
12 perhaps Miss Robertson's affidavit's dated
13 June 18th. It doesn't really say when the
14 interview was conducted. Why is this being
15 brought to the Court's attention today as
16 opposed to, say, the 20th or before? 'Cause
17 we were in here on the 20th, arguing all
18 sorts of stuff.

19 MR. NORGARD: Yeah. It was actually
20 brought to the Court's attention on the 20th.
21 I went through and talked about each and
22 every one of these people. And I will state
23 to this Court that myself, Miss Roebuck,
24 we've been working on about three or four
25 hours sleep a night. What we're trying to

1 put forth today is the tip of the iceberg of
2 some dead ends that we ran down but spent a
3 considerable amount of time dealing with.

4 We're -- normally, a defense attorney is
5 given a year in a death penalty case to file
6 a postconviction motion. We were given three
7 days on Monday to do this. We're doing
8 everything we can humanly possible to present
9 what we have determined to be viable claims
10 on behalf of Mr. Bell, doing it as quickly as
11 we can. We were the ones that spent an hour
12 with the jail yesterday trying to get
13 Mr. Jones here. We were the ones that spent
14 time talking to the prison. All this -- I
15 was -- Judge, I was on the road in
16 Jacksonville for five hours trying to track
17 down Ned Pryor. I mean, we have been doing
18 everything we can to do this as
19 expeditiously --

20 THE COURT: I know how long it takes to
21 do legal work, and obviously, you're doing a
22 tremendous amount of it in a short period of
23 time. I don't doubt that. But just with the
24 level of specificity, I would have liked to
25 have seen this by no later than Friday. I

1 know you talked about them on Friday. And,
2 you know, to be clear, y'all are -- this
3 team -- this legal team is new to Mr. Bell's
4 case. Mr. Bell's trial was in 1994,
5 postconviction proceedings in 2002.

6 Mr. Mizrahi?

7 MR. MIZRAHI: I just want --

8 MR. NORGARD: May I finish responding to
9 the Court, what you just articulated?

10 THE COURT: Sure.

11 MR. NORGARD: At the time I first began
12 to look at calling those people, like I said,
13 I did not have full reports from them. What
14 I said on Friday was the gist of what I'd
15 been told. I found out more once I got those
16 reports on Saturday. My initial approach to
17 this, Your Honor, was to bring in two
18 recanting witnesses who we felt would support
19 a claim for Mr. Bell, and that was in our
20 motion on Wednesday.

21 THE COURT: Right.

22 MR. NORGARD: When the State, in their
23 response that I did not get until
24 6:00 o'clock on Thursday, brought up four
25 other people who they characterized as being

1 better witnesses. I started looking at it
2 more from a Jones standard of attacking their
3 testimony, not necessarily as newly
4 discovered evidence, and maybe people could
5 sit back and say, should have figured that
6 out sooner.

7 But I was approaching it from a Jones
8 standard of trying to show why those people
9 weren't as credible as our recantation
10 witnesses. I was planning on developing
11 evidence to raise that claim in court. But
12 when I began to see the full picture of what
13 these people were saying that fit in with
14 Detective Bolena threatening and pressuring
15 people, I made the determination that we
16 needed to do a motion. I was out on the road
17 for five hours trying to find people
18 yesterday.

19 THE COURT: Okay.

20 MR. NORGARD: So that's why, Your Honor.

21 THE COURT: Right. This is hard stuff
22 and it's under -- it's the highest stakes
23 possible. It's under an extremely compressed
24 time line.

25 Mr. Mizrahi.

1 MR. MIZRAHI: I just wanted to point
2 something out for Your Honor. The -- I'm not
3 quarrelling that he's been under a time
4 crunch since the death warrant has been
5 signed. But counsel was appointed nearly ten
6 years ago and filed his notice of appearance
7 in 2015 on Mr. Bell's case. So he has been
8 counsel of record for nine-plus years on this
9 case. So that certainly should factor into
10 the Court's decision.

11 THE COURT: Okay. So --

12 MR. NORGARD: Judge, I need to -- can I
13 please address that? I didn't find out about
14 these people until Monday, Tuesday,
15 Wednesday. It's not like I knew them for
16 nine or ten years. So --

17 THE COURT: Let's see. We have
18 Mr. TJ Bryant present in the courtroom at
19 this time. Let's have Mr. Dale George either
20 come in from the hall or from the court,
21 wherever Dale George may be.

22 (Witness sworn by the clerk.)

23 THE COURT: All right. Would you state
24 your name and spell it for the record,
25 please?

1 THE WITNESS: Dale George, D-A-L-E
2 G-E-O-R-G-E.

3 THE COURT: Okay. Mr. George, you --
4 the defense is seeking to call you as a
5 witness in Mr. Bell's postconviction
6 proceedings that we're doing today, which
7 means you would take the witness stand and be
8 placed under oath to give sworn testimony. I
9 don't know what either the State or the
10 defense is going to ask you. You could be
11 subject to questions by both sides.
12 Obviously, I believe you were Mr. Bell's
13 codefendant. I believe you testified at his
14 trial. I don't know whether you testified in
15 the postconviction proceedings around 2002 or
16 not. But it is quite possible that the
17 questions you would be asked today would
18 implicate previously sworn testimony that you
19 have given, and it could have perjury
20 implications as well.

21 Let's see. Mr. Bryant, come forward,
22 please.

23 MR. BRYANT: Yes, Your Honor.

24 THE COURT: All right. This is
25 TJ Bryant. He's a defense attorney here in

1 town. He's on what we call the wheel or our
2 appointed counsel registry. I can appoint
3 Mr. Bryant to represent you for purposes of
4 advising you about your testimony here today
5 if that's something you would like to do.
6 Would you like me to appoint him?

7 THE WITNESS: Yes, sir.

8 THE COURT: Okay. Now, Mr. Norgard,
9 Mr. Bell's lawyer, had previously said that
10 Mr. Wade Rolle might have represented you as
11 well for these purposes?

12 THE WITNESS: He was, like, family
13 lawyer or something like that.

14 THE COURT: Okay.

15 THE WITNESS: But Mr. Rolle had
16 represented Mr. Bell on numerous case too, so
17 they say it would have been a conflict of
18 interest or something like that.

19 THE COURT: That's fine.

20 So, Mr. Bryant, I'm going to appoint you
21 to represent Mr. George. I am going to --
22 well, that's just one page. I'm going to
23 hand you a document dated June 16th and
24 June 18th, 2025, where -- by Investigators
25 Kelly and Dickerson regarding their interview

1 with Mr. George.

2 To give you some background information,
3 you just came into the courtroom so you're
4 very new to this. This is -- a death warrant
5 has been signed for Mr. Michael Bell, seated
6 at counsel table over there. And these are
7 postconviction proceedings pertinent to that
8 death warrant, and Mr. George was involved in
9 the original trial.

10 MR. BRYANT: Yes, Judge.

11 THE COURT: Okay. So if you want to
12 consult with him, go ahead.

13 MR. BRYANT: Can we step out?

14 THE COURT: Absolutely.

15 All right.

16 So, Mr. Norgard, what I wanted to do is
17 I'm going to give you two additional hours
18 for presentation of evidence. You can use
19 that however you see best suits your
20 presentation. Be happy to take about a
21 ten-minute recess if you want to --

22 MR. NORGARD: Does that count for our
23 two hours?

24 THE COURT: No. To give you time to
25 plan and discuss what you want to do. Would

1 you like to do that?

2 MR. NORGARD: I -- I will. I -- before
3 we leave, I'm going to object to a two-hour
4 time limit. Especially every time I do
5 something, they waste five or ten minutes of
6 my time along the way. If you just let me
7 put on witnesses and tell them to sit there
8 and be quiet, I'll put on these witnesses and
9 try to get them done in two hours.

10 THE COURT: Well, I'm not going to tell
11 either need to not raise objections.

12 MR. NORGARD: Like a soccer game, I
13 should get extra time for the time that I'm
14 talking and not --

15 THE COURT: I'm not sure -- I'm not sure
16 it works that way. We're not at a soccer
17 game. But I think as demonstrated by the
18 proceedings, I'll hear from the attorneys
19 when I see that it's fit to hear from them,
20 and I'll also not when I see it's not.

21 Would you like a ten-minute recess?

22 MR. NORGARD: As long as it doesn't
23 count against my two hours.

24 THE COURT: All right. We'll be back at
25 1:55.

1 (Short recess.)

2 (Defendant present.)

3 THE COURT: All right. Mr. Norgard,
4 assuming whatever witness you want to call
5 next is ready, what would be -- who would be
6 your preference to call next?

7 MR. NORGARD: Can I address one thing
8 first?

9 THE COURT: Sure. Go ahead.

10 MR. NORGARD: We had filed a perjury
11 motion. We had already -- the State had
12 presented their viewpoint on it.
13 Miss Roebuck argued why you should order the
14 State to give these witnesses transactional
15 immunity.

16 THE COURT: Right.

17 MR. NORGARD: You not had ruled on the
18 motion.

19 THE COURT: That is correct.

20 So the State -- State, I take it you are
21 still of the position that you're not going
22 to voluntarily grant immunity?

23 MR. MIZRAHI: Yes, Your Honor.

24 THE COURT: Okay. What -- what is your
25 position regarding my authority to order you

1 to grant immunity?

2 MR. MIZRAHI: I don't think you have it
3 based on the separation of powers of the
4 Florida Constitution as well as the United
5 States Constitution.

6 THE COURT: All right. And,
7 Mr. Norgard, you contend that I have the
8 discretion to do that?

9 MR. NORGARD: Based on the law presented
10 in our motion, yes, Your Honor.

11 THE COURT: And I believe that was a
12 federal case.

13 MR. NORGARD: Yes, Your Honor.

14 MS. ROEBUCK: I think it was the Third
15 Circuit, Morrison.

16 THE COURT: What was the source of the
17 Court's authority discussed in that case?

18 MS. ROEBUCK: I would have to review the
19 motion again, Your Honor.

20 THE COURT: All right. I'll try to look
21 at that in a little bit more detail, unless
22 you need a -- I guess you probably want a
23 ruling on it at this time. Give me just a
24 minute.

25 MR. NORGARD: While he's -- did you find

1 it?

2 MS. ROEBUCK: The authority was just
3 that there may be an exception to you not
4 having any inherent power where a defense
5 witness has been tainted by what we were
6 discussing before, veiled threats, et cetera.
7 So that would be the authority in response to
8 the fact that you don't typically have that
9 power.

10 THE COURT: Okay. All right. I'm going
11 to deny the defense motion. I'm not willing
12 to order the State to grant immunity to any
13 witnesses. In -- in my view and in my
14 understanding of the law, I wouldn't have the
15 authority -- wouldn't have the authority to
16 do so in the first place, even if I did have
17 some sort of discretion to do so, as we've
18 established on the record, there's no
19 misconduct on the part of the State here.
20 The lawyers were brought in to give witnesses
21 an opportunity to consult with them to
22 protect the witnesses, and that was done by
23 me and me alone. It's happenstance that
24 Mr. Mizrahi sent an e-mail on the subject
25 matter. Those wheels had already been set in

1 motion by the time Mr. Mizrahi sent that
2 e-mail.

3 It's -- obviously, these witnesses are
4 all being called to testify about sworn
5 testimony they've already given. In my view,
6 it is perfectly appropriate for those
7 witnesses to have an opportunity to consult
8 with counsel about the potential criminal
9 implications of their testimony.

10 MR. NORGARD: And, Your Honor, just in
11 terms of a case-specific objection, we have a
12 situation here we've developed evidence that
13 witnesses were pressured, threatened,
14 promised to give lies so they did. Now when
15 they want to come forward to tell the truth,
16 they're looking at perjury based on police
17 misconduct, State Attorney misconduct. And
18 it seems like in a case, this isn't a soccer
19 game. Death is different, Your Honor. And
20 when their original testimony and
21 postconviction testimony was based on threats
22 and promises, to then say if they come in and
23 tell the truth, we can prosecute you for
24 perjury, there's just something wrong with
25 that under every constitutional amendment

1 there is. So thank you, Your Honor.

2 That being said, the person I would call
3 next is Paula Goins. We are investigating an
4 additional witness related to her.
5 Miss Goins, as I said, will testify about
6 threats and pressures put on her. She
7 advised us this morning that her attorney at
8 the time, Stephen Weinbaum, was present and
9 witnessed those threats.

10 We did not find that out this morning.
11 We've been trying to get in touch with
12 Mr. Weinbaum. I think an attorney witness
13 coming in who would testify to threats and
14 pressures on Miss Goins would be very
15 important. We're doing what we can, Judge.

16 But our next witness would be Paula
17 Goins. Shall we have her come forward?

18 THE COURT: Yes.

19 MR. NORGARD: She's in a wheelchair,
20 Your Honor. Where do you want her to set up?

21 THE COURT: Officer Mims, he can assist
22 with getting her up in the witness stand.
23 It's handicapped-accessible.

24 (Witness sworn by the clerk.)

25 THE COURT: Officer Mims, let's bring

1 her up to the stand.

2 MR. NORGARD: I was doing other things.

3 Did she get sworn in yet?

4 THE CLERK: She was sworn in.

5 THE COURT: All right. I missed it too.

6 Don't feel bad.

7 MR. NORGARD: Your Honor, it's 2:04.

8 We're going to start the clock. I'll try to

9 do everything I can, Your Honor. I will.

10 2:04.

11 THE WITNESS: I was sworn in but I was

12 not asked my name.

13 THE COURT: Okay. Well, there you go.

14 There's your first question.

15 PAULA GOINS,

16 having been produced and first duly sworn as a witness

17 on behalf of the Defendant, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. NORGARD:

20 Q Ma'am, could you, first of all, tell us your
21 name?

22 A Paula Goins, G-O-I-N-S.

23 Q And where do you live?

24 A 8314 Lakemont Drive, Jacksonville, Florida
25 32216.

1 Q How long have you lived in Jacksonville?

2 A All my life.

3 Q Went to school here and everything?

4 A Yes.

5 Q How far did you go in school?

6 A I received my associate of art degree from
7 Florida Junior College. I continued my education at
8 the University of North Florida for one semester. I
9 worked 35 years for the United States District Court.

10 Q That was going to be my next question. Would
11 you tell us about your employment?

12 A Yes.

13 Q You worked for the United States District
14 Court?

15 A Yes. I worked for United States magistrate
16 judges as well as United States District Court judges.
17 And I retired after 35 years of service.

18 Q And at the time this case was going on, you
19 were actually assigned to Judge Steele?

20 A Yes, I was.

21 Q You have children in the area?

22 A I have one child. He lives in Lake Wales.

23 Q You have grandchildren?

24 A I have three grandchildren, three great
25 grandchildren.

1 Q What's is your relationship --

2 A I'll be 74 years old in another couple of
3 weeks.

4 Q And what is your relationship to Michael
5 Bell?

6 A My sister's son. He's my nephew. My
7 deceased sister.

8 Q Okay. You were a witness in Michael Bell's
9 trial, is that correct?

10 A Yes, I was. And I was accompanied by my
11 attorney, Stephen Weinbaum throughout the entire
12 process, appearing before the grand jury and appearing
13 in the offices of State Attorney George Bateh. And
14 during the trial, he sat.

15 Q All right. And --

16 A And today --

17 Q Let me just slow you down for just a second.
18 Before you gave your first statement to the police in
19 which you said anything about Michael Bell's
20 involvement in these murders, did you come in contact
21 with a person by the name of George Bateh and a
22 detective by the name of Bolena?

23 A Yes.

24 Q All right. Before you gave any statement to
25 Mr. Bateh and/or Detective Bolena, were you threatened

1 by them?

2 A I was told --

3 Q Well, first of all, generally, were you
4 threatened by them?

5 A I don't know. Threaten is a strong word.

6 Q Okay.

7 A I'd like to explain what happened.

8 Q Okay. Well, let's do it this way: Did
9 Mr. -- did Detective Bolena stand there over you,
10 yelling at you?

11 MR. MIZRAHI: Objection, leading, Your
12 Honor. I think it witness should be allowed
13 to answer the way she wants.

14 THE COURT: Sustained.

15 BY MR. NORGARD:

16 Q When you were talking to Mr. Bateh and
17 Mr. Bolena, what was Mr. -- or Detective Bolena doing?

18 A Detective Bolena never sat down. He stood
19 over me, crouched over me as a matter of fact.

20 MR. NORGARD: May I approach the
21 witness, Your Honor? I just want --

22 THE COURT: For what purpose.

23 MR. NORGARD: To try to get some idea so
24 I can demonstrate how close --

25 THE COURT: We can figure that out

1 ourselves.

2 MR. NORGARD: Okay.

3 BY MR. NORGARD:

4 Q How close -- how close was he to you?

5 A Well, Attorney Bateh sat down but Detective
6 Bolena never did.

7 Q Was he up close to you?

8 A He was, like, this close to this and close to
9 this chair behind me.

10 Q Okay.

11 A And --

12 Q So you're sitting in a chair. You pointed to
13 the rail of the witness bench. Could you estimate
14 about how many feet away he was from you?

15 A He could touch me.

16 Q Okay. And as he communicated with you, what
17 was the demeanor that he had? How -- what was the
18 volume of his voice, if you can describe how he did
19 this?

20 A He didn't have much to say. He had more
21 facial expression and the aggressiveness of being close
22 to me.

23 Q And what time of facial expressions are you
24 referring to?

25 A Staring.

1 To begin with, if I can elaborate --

2 Q Sure.

3 A -- they only called me as -- to appear before
4 the grand jury because they were told by Ericka to call
5 me.

6 Q You're talking about Ericka Williams.

7 A Yes.

8 Q All right.

9 A She came to my home. And she told them, when
10 they called her in, that they should call Michael's
11 aunt --

12 Q That being you?

13 A -- because I was there and overheard what was
14 said to her.

15 Q Okay. Let me slow you down.

16 A When they found out I worked for Judge
17 Steele, they called and they told me to come in, if I
18 did not tell the truth that I would lose my job. I'd
19 just gotten custody of my granddaughter, three years
20 old. I would lose custody and I would lose my home
21 that I just purchased in 1990.

22 Q Did they also say anything about
23 incarceration, punishment or anything of that nature?

24 A Five years.

25 Q That was specifically mentioned.

1 A Yes.

2 Q And you mentioned your attorney by the name
3 of Stephen Weinbaum.

4 A Yes.

5 Q Did he -- was he there and witnessed the
6 things you're talking about?

7 A Yes, he did. Yes. He could corroborate
8 everything I'm saying.

9 Q All right.

10 A Matter of fact, we were in the courtroom. He
11 was sitting right beside me over there, and they had to
12 take me out of the courtroom through the back door
13 because I was so upset on the stand. I couldn't do it.
14 It was hard.

15 Q Okay. Now, with that being said, we talked
16 to you today, myself, had some brief conversation with
17 you. You've talked to our investigator. When
18 Michael -- when Mike Bell did make statements about the
19 incident, what did he say in terms of who was involved?

20 A Let me tell you, that's been so long ago.
21 I've been so traumatized. I am a cancer survivor
22 through intense radiation. I -- I am under -- I had
23 back surgery. I have tried to block all the details of
24 that night out. I can't give you specifics. I can
25 only tell you what was said that I could overhear when

1 he was talking to Ericka. And it was on the TV. But I
2 was upset. I had to be in court at 8:30 that morning.
3 I could not -- I cannot tell you every detail that was
4 said.

5 Q Okay.

6 A I was told by George Bateh and I think even
7 the detective. They reiterated to beat me -- to
8 encourage me to say it. And I was a nervous wreck.
9 And I said things then that I thought was said. The
10 only thing I know for a fact, she was over there
11 talking, and she told them to call me.

12 Q Okay.

13 A And they told me if I didn't say what she
14 said had happened, I would go to jail for five years
15 and lose everything.

16 Q All right. So what you're telling the Court
17 is that some of the things you said were simply being
18 said because that was fed to you by George Bateh and/or
19 Detective Bolena.

20 A Exactly. It was the whole scenario. Let me
21 tell you, this whole thing happened. My whole family
22 was under protection by the police after this incident.
23 It was nothing for me to believe George Bateh or -- or
24 the detective that I had to do this because people were
25 shooting at us, trying to kill us in retaliation for

1 this whole thing. We were under extreme duress.

2 Q You're talking about pressure and threats
3 from the West family?

4 A Yes. They're out there doing it now on
5 TikTok today, threatening to kill me for being here
6 while I sit here. And this was happening at that time.
7 I had to say what I had to say because I worked for the
8 federal court. I couldn't lie to those -- to the
9 detective or the prosecutor that I didn't hear things.
10 But that's hearsay. I didn't see Michael do anything.

11 Q And also, some of the stuff you were saying
12 were things they were telling you to say.

13 A Yeah. They told me what she said and was
14 asking me if that was said.

15 Q And you don't even know if that was said, do
16 you?

17 A No, not for sure. But I did say what I said
18 on that stand. And I'm not going to sit here and lie
19 and get myself a perjury charge, saying I didn't say
20 it. No. That's not what I'm saying. What I'm saying
21 is at that time, I didn't know how to react to the
22 situation. This happened 2:00 o'clock in the morning.
23 I got a job to do. I've got responsibilities and all
24 of this stuff is happening. Then these people drag me
25 in before the grand jury and then into the courtroom

1 where all of my family, all these people threatening
2 me. I didn't know what to do. I did the best I could.
3 I love my nephew.

4 But she came to my house, and she went --
5 when they called her before the grand jury, she said,
6 ask his Aunt Paula. And they dragged me into it, and I
7 don't want to say threatened. But that's what they
8 told me would happen to me if I didn't corroborate what
9 she told them.

10 Q And, Miss Goins, did they also talk to you
11 about you potentially being held in contempt of court
12 if you refused to testify?

13 A They said if I didn't, it would be perjury,
14 five-year sentence. And if I get that, I would lose my
15 job. I would lose my child and my home, everything I
16 had worked for all them years. I've never been
17 arrested. I have -- I've never committed any kind of
18 traffic violation.

19 Q Miss Goins, did you ever hear Michael ever
20 say, I shot Mr. West?

21 A No. What I know for a fact that he told me
22 and I know, my baby nephew Lamar died in his arms, shot
23 by the man that they say he shot brother. Now, I know
24 that for a fact. And I know that Michael had never
25 been the same since that Dozier school where he was

1 sexually abused and taught to be in fight clubs and all
2 that kind of stuff. That boy came back home damaged.

3 Q But you never heard him say, I shot these
4 people.

5 A I did hear the conversation. I will admit
6 that.

7 Q Okay. But did he ever say, I did it?

8 A No. We. He said it was another boy with
9 him. It was we. We did this.

10 Q All right.

11 A And -- and he was telling her the whole
12 picture of what we did, him and Ned, I think his name
13 was.

14 MR. NORGARD: All right. Thank you,
15 Miss Goins.

16 THE COURT: Cross examination.

17 CROSS EXAMINATION

18 BY MR. MIZRAHI:

19 Q Hi, Miss Goins. Good afternoon. My name is
20 Alan Mizrahi. I'm the Assistant State Attorney. We've
21 never met. Okay?

22 A No.

23 Q So I want to ask you a few questions about
24 what you just testified to. First of all, you actually
25 said on your direct examination that you love your

1 nephew.

2 A I do.

3 Q Correct?

4 You actually said that back at the time,
5 correct?

6 A Yes.

7 Q Is it fair to say that you would not
8 willingly testify against him? Correct?

9 A I would not willingly, no.

10 Q Because you wouldn't want your nephew, the
11 son of your sister, to get in trouble, correct?

12 A No. That would not be why.

13 Q Well, you wouldn't want him to --

14 A I said I --

15 MR. NORGARD: Can she please answer her
16 question -- answer, Your Honor? He's
17 interrupting her.

18 THE COURT: Yeah. Let her finish.

19 MR. MIZRAHI: Of course.

20 THE WITNESS: That's not what I love him
21 means.

22 BY MR. MIZRAHI:

23 Q Oh, okay. Is it --

24 A I love him. I love him same as you would
25 love your child.

1 Q Sure. And you would not willingly come in
2 and testify against him, correct?

3 A They -- I didn't willingly do it. They
4 subpoenaed me to come.

5 Q Right. They subpoenaed you first to the
6 grand jury, correct?

7 A Yes.

8 Q And they told you if you lied, you could get
9 in trouble, correct?

10 A Yes. They said that, if I lied. Yes, they
11 did.

12 Q And you promised to tell the truth in front
13 of that grand jury, correct?

14 A I did promise that only because it was also
15 that little contingency that if I didn't tell them what
16 I was supposed to tell them that I would be committing
17 perjury.

18 Q Well, ma'am, you swore with the help of God.

19 A Yes. I don't --

20 Q Correct?

21 MR. NORGARD: Objection.

22 THE COURT: Overruled.

23 THE WITNESS: (Inaudible).

24 THE COURT: Hold on. Hang on. Hang on
25 a second.

1 BY MR. MIZRAHI:

2 Q Say that again?

3 THE COURT: Mr. Mizrahi --

4 BY MR. MIZRAHI:

5 Q Say that again?

6 THE COURT: -- ask your question.

7 MR. MIZRAHI: Yeah.

8 BY MR. MIZRAHI:

9 Q Say that again?

10 THE COURT: I don't think you ever got a
11 full question out.

12 BY MR. MIZRAHI:

13 Q Do you understand that you were sworn to tell
14 the truth in front of the grand jury? Correct?

15 A Yes, I do.

16 Q You raised your right hand, just like you did
17 here.

18 A Yeah.

19 Q Okay. And you swore an oath to tell the
20 truth, correct?

21 A Yes.

22 Q And you did that, correct?

23 A You know, the way you're asking the
24 questions, you're kind of asking the same question in
25 different ways over and over. Yes, I took an oath.

1 But I also told the man who told me what to say the
2 same thing and I said it. So however you want to put
3 it. Listen, I'm not trying to -- I've -- I've
4 administered the oath over 500 times. I do know what
5 swearing before the Court means and I know I did that.

6 THE COURT: Let me ask you a question,
7 Miss Goins. I'm just trying to get straight
8 to the point. When you testified previously
9 in court about your nephew's case, did you
10 tell the truth?

11 THE WITNESS: I told what I had heard.
12 I told that.

13 THE COURT: Did you tell the truth?

14 THE WITNESS: I didn't know any of that.
15 I told what I had been told. But whether
16 it's the truth, the truth would be only if I
17 witnessed it or if I saw it.

18 THE COURT: Now, you testified --

19 THE WITNESS: That was twisted to me.

20 THE COURT: All right. You testified
21 that you -- you gave testimony about
22 something you heard.

23 THE WITNESS: Yes, sir.

24 THE COURT: Did you, in fact, hear what
25 you testified to?

1 THE WITNESS: Yes.

2 THE COURT: Okay. You may resume.

3 MR. MIZRAHI: Thank you for that

4 clarification.

5 BY MR. MIZRAHI:

6 Q So maybe we were just getting off on the
7 wrong foot.

8 I understand you were not outside the
9 Moncrief Liquors when all this happened, correct?

10 A That's correct.

11 Q And later that night, you overheard a
12 conversation with your nephew.

13 A Correct.

14 Q And it was that conversation that you relayed
15 both to the grand jury and to the trial jury, correct?

16 A Correct.

17 Q Okay. And you weren't threatened in order to
18 get you to do that because you said threat is a strong
19 word, correct?

20 A It's a strong word but I was persuaded and
21 promised a penalty if I didn't.

22 Q Sure. Because you did hear those things.
23 You didn't see it. You heard it.

24 A No.

25 Q So you did hear those things, correct?

1 A You said that. I'm telling you I also heard
2 those things from George Bateh and that detective,
3 reiterating what they had been told. And then they in
4 turn presented to me, sort of like you're doing, by
5 twisting it a little bit just to get the answer out the
6 way you want me to say it and then told me that's how I
7 had to say it. Now, I don't know what you want call
8 it. It's not threatening. But that to me is twisting
9 the story a little bit.

10 Q Okay.

11 A And I did it. I said it because that's what
12 I was -- from the grand jury to the trial, repeatedly
13 saying the same thing to a person and them putting that
14 little caveat on it. If you don't do this and -- by
15 that time, you saying exactly what was told to you by
16 somebody 'cause you didn't see any of it because you're
17 scared to death that if you don't do it, you're going
18 to jail, just like right now.

19 Q Okay. Well, ma'am, you heard it because you
20 heard the defendant say it to his girlfriend in your
21 house, correct?

22 A I heard them talking. It's been 30-some
23 years ago. I can't sit here and tell you who said
24 exactly what. Now, back then, on direct testimony, you
25 got a transcript. You can go back and read that, and

1 then you can understand what I said about being
2 pressured to say that.

3 Q Okay.

4 A But today, I've been through intense
5 radiation, hyperbaric oxygen six weeks. I cannot think
6 straight to tell you what happened in detail back then.
7 Now, that's the honest truth. That's a truth I can
8 tell you.

9 Q Well, I'll accept that truth. It's been a
10 very long time. And don't have a great recollection as
11 to what happened. Is that fair?

12 A What you say?

13 Q I'll just leave it.

14 MR. MIZRAHI: May I have a moment?

15 THE COURT: Yes.

16 MR. MIZRAHI: (Conferring with
17 co-counsel.)

18 I don't have any other questions.

19 THE COURT: Redirect.

20 MR. NORGARD: Thank you, Your Honor.

21 REDIRECT EXAMINATION

22 BY MR. NORGARD:

23 Q Miss Goins, one of the things that you told
24 us today that you do have a memory of is that Michael
25 Bell used the word we. He never said the word I. Is

1 that correct?

2 A That's correct.

3 Q Okay. That you do remember.

4 A I do remember that.

5 Q And it was because of the threats by Bolena
6 and Bateh that you changed -- they twisted that to get
7 you to say I instead of we, didn't they?

8 A They did. They wanted it.

9 MR. MIZRAHI: Your Honor, I object to
10 leading.

11 THE COURT: Sustained. You can
12 continue. There's no jury to tell to
13 disregard it. But yeah. Keep,
14 Mr. Norgard --

15 BY MR. NORGARD:

16 Q Who told you -- who told you to say --

17 THE COURT: Open-ended questions,
18 please.

19 BY MR. NORGARD:

20 Q Who told you to say --

21 (Brief interruption by the reporter.)

22 THE COURT: Open-ended questions.

23 MR. NORGARD: Gotcha.

24 BY MR. NORGARD:

25 Q Who said -- who told you to say I, meaning

1 Michael Bell, instead of we?

2 A I can't say specifically that's how it was
3 said to me, I or we. I can only tell you that the
4 conversation involved more than Michael. It was about
5 him -- he and that Ned guy, that other guy. Now, I
6 don't remember being told to say we or I.

7 Q But what you actually heard was we.

8 A Them, the two of them.

9 Q All right. And with respect to the things
10 that you heard, I think there was some -- may have been
11 some confusion there because you were asked what you
12 heard. You heard Michael Bell talking at the house,
13 but you were also being told stuff about Michael Bell
14 by Detective Bolena and Mr. Bateh, right?

15 A That's correct.

16 Q Okay. So there were things that you were
17 being -- you described as being fed by Detective Bolena
18 and Mr. Bateh. Was that some of what you were doing in
19 court?

20 A Yes.

21 MR. NORGARD: I don't have any other
22 questions.

23 THE COURT: All right. Thank you,
24 ma'am. You can step down.

25 (Witness excused.)

1 THE COURT: When (inaudible) clears the
2 aisle, Mr. Norgard, who would you like to
3 call as your next witness?

4 MR. NORGARD: In two seconds, I'll
5 figure that out. Ericka Williams. I wasn't
6 clear on what her name is. I'm going to go
7 with Ericka Williams.

8 THE COURT: And, Mr. Bossen, (inaudible)
9 need to make some objections on her behalf.
10 I don't know whether you will or not.

11 MR. BOSSEN: Okay. I'll stand by.

12 THE COURT: You may want to take a seat
13 over there next to the jury box.

14 MR. BOSSEN: Thank you.

15 THE COURT: And for record purposes,
16 Mr. Bossen, did you have an to consult with
17 Miss Williams?

18 MR. BOSSEN: Yes, Your Honor, I did.

19 THE COURT: Thank you very much.

20 MR. BOSSEN: You're welcome.

21 THE COURT: Your Honor, we're still
22 trying to get ahold of Mr. Weinbaum. He's
23 retired now but he was there when these
24 things happened, so we're trying to get ahold
25 of him.

1 MR. BOSSEN: I think he's been retired
2 for a while.

3 MR. NORGARD: If he wasn't retired, I'd
4 have called him and said, I want to be a
5 client and (inaudible).

6 THE COURT: We've got Miss Williams
7 here. Swear her in.

8 (Witness sworn by the clerk.)

9 THE COURT: Come on up.

10 ERICKA BRACLET,
11 having been produced and first duly sworn as a witness
12 on behalf of the Defendant, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. NORGARD:

15 Q All right. First of all, please tell us your
16 name.

17 A Ericka Braclet.

18 Q How to you spell that?

19 A E-R-I-C-K-A B-R-A-C-L-E-T.

20 Q All right. And then used to be Miss Williams
21 back at the time of this trial.

22 A Correct.

23 Q Okay. Tell us a little bit about yourself.
24 How old are you?

25 A Say it again.

1 Q How old are you?

2 A 53.

3 Q And where do you live?

4 A In Jacksonville.

5 Q Okay. I don't need your address. But you've
6 been -- you've been in Jacksonville pretty much your
7 whole life?

8 A Correct.

9 Q And back at the time of the incident in this
10 case, you were in a relationship with Mr. Bell.

11 A Correct.

12 Q Okay. When you -- I know you may not recall
13 your testimony at trial. And I'll do the best I can to
14 refresh your recollection. But you gave, first of all,
15 testimony at trial about what you knew about Mr. Bell's
16 case, correct?

17 A I guess, yes.

18 Q Okay. At the very end of your testimony --
19 do you know who George Bateh is, the prosecutor?

20 A I've heard of him, yes.

21 Q Okay. There was a prosecutor in the case
22 that was questioning you at the trial, correct?

23 A Yes.

24 Q And was that Mr. Bateh?

25 A I assume so.

1 Q Okay. At the very end of your testimony, he
2 described how you came to tell the police about stuff
3 related to Michael Bell. And the way it came out is he
4 asked you about Detective Johnson coming to you, and
5 then once Detective Johnson came to you, you simply
6 just told them everything is how they characterized it.
7 Is that your recollection of your trial testimony?

8 A I don't recall.

9 MR. NORGARD: Okay. Could you please --
10 somebody pull that out so I can show it to
11 her? I just want to refresh her
12 recollection.

13 BY MR. NORGARD:

14 Q Now, what had happened is -- is that you had
15 gone over to Miss Goins' house the night after the
16 incident occurred, correct?

17 A I don't recall.

18 Q Okay. You were here when Miss Goins
19 testified?

20 A No.

21 Q Oh, I'm sorry. Okay.

22 At some point, did you go over to Miss Goins'
23 house and talk to Michael Bell about anything related
24 to this case?

25 A I don't recall. That's been, like, over

1 30-some years ago. I don't recall.

2 Q Okay.

3 MS. ROEBUCK: Wasn't she given the prior
4 testimony by the State or by -- no?

5 MR. NORGARD: I don't know if the
6 attorney went over it or not and I can't ask
7 him.

8 BY MR. NORGARD:

9 Q So let's do this, Miss Williams: Do you
10 recall talking to an investigator with the federal
11 Public Defender's Office by the name of Colin Kelly and
12 Christy Dickerson? It would have been just last week.

13 A Yes.

14 Q Okay. Do you -- do you see them here in the
15 courtroom anywhere? Well, Miss Dickerson's not here.
16 But do you recognize that gentleman that's standing up?

17 A Yes.

18 Q Is that who you spoke to?

19 A Yes.

20 Q Okay. What, if anything, did you say to
21 Mr. Kelly about Detective Bolena using scare tactics
22 with you?

23 A I plead the Fifth.

24 MR. NORGARD: Here we go again, Your
25 Honor. I'm sorry but the Fifth is being used

1 to shelter the truth.

2 THE COURT: To shelter what?

3 MR. NORGARD: The truth here. I mean,
4 if he used scare tactics on her, how does
5 that implicate her?

6 THE COURT: She's had an opportunity to
7 consult with counsel. She's pleading the
8 Fifth. I'm not going to require her to
9 answer the question.

10 BY MR. NORGARD:

11 Q Do you recall that you reported -- do you
12 recall that you reported the gun was stolen, that a gun
13 was stolen?

14 A I don't recall.

15 Q You don't recall making a police report
16 saying the gun was stolen.

17 A I don't recall.

18 Q Last week, less than a week ago, what, if
19 anything, do you recall where you made a statement that
20 it was after you reported the gun stolen when you came
21 home from work one day that Detective Bolena left a
22 card in your doorjamb?

23 A Say that again.

24 Q Yeah. Last week, last week -- you're telling
25 me right now that you don't remember reporting a gun

1 stolen, right?

2 A No, I don't recall.

3 Q Okay. So last week, in Mr. Colin Kelly and
4 Christy Dickerson's report, you said: After I reported
5 the gun stolen, when I came home from work --

6 MR. MIZRAHI: Your Honor, this is
7 improper impeachment.

8 THE COURT: Sustained.

9 BY MR. NORGARD:

10 Q Miss Braclet, do you recall talking to an
11 investigator from the capital habeas unit, both Miss --
12 Colin Kelly and Christy Dickerson? Do you recall that?

13 A Yes.

14 Q And do you recall that they came to you here
15 in Jacksonville and spoke and talked to you?

16 A Yes.

17 Q That they spoke at your home?

18 A Yes.

19 Q And you made statements to them.

20 A I plead the Fifth.

21 MR. NORGARD: Judge.

22 THE COURT: You -- you can say -- I'm
23 going to order you to say whether or not you
24 talked to the detectives.

25 THE WITNESS: Yes.

1 MR. NORGARD: Or the investigators, Your
2 Honor.

3 THE COURT: Yes.

4 BY MR. NORGARD:

5 Q You did talk to them, correct?

6 A Yes.

7 Q Okay. And what you -- do you recall telling
8 them this: That after you reported the gun stolen --

9 MR. MIZRAHI: Your Honor, objection.

10 THE COURT: What's the objection?

11 MR. MIZRAHI: Improper impeachment and
12 I'm just -- she's already pled the Fifth.

13 (Inaudible).

14 THE COURT: Well, he -- he's about to
15 ask her if she remembers saying something, so
16 I'm going to overrule the objection. Why
17 don't you start the question over?

18 MR. NORGARD: Thank you, Your Honor.

19 BY MR. NORGARD:

20 Q So this was a week ago that you told
21 Mr. Kelly and Miss Dickerson that after you reported
22 the gun stolen that you came home one day, and there
23 was a card in your doorjamb from Detective Bolena. Do
24 you recall making that statement?

25 A I plead the Fifth.

1 Q Did you make that statement?

2 A I plead the Fifth.

3 MR. NORGARD: Your Honor, would you
4 instruct her to answer whether she made that
5 statement or not?

6 THE COURT: I'm not going to instruct
7 her to answer that.

8 BY MR. NORGARD:

9 Q Do you recall that Detective Bolena left a
10 card in your door, and on the back of it, it read
11 matter of life and death? Do you recall getting a card
12 from Detective Bolena that said matter of life and
13 death?

14 A I do.

15 Q After receiving this card from Detective
16 Bolena, did somebody in law enforcement show up at your
17 house and tell you you had to come downtown right now?

18 A They did.

19 Q Okay. What did you have to do as far as
20 making arrangements for your children so that you could
21 go downtown and talk to these people?

22 A I had to leave them with neighbors.

23 Q All right. Well, do you remember the
24 circumstances of that?

25 A My daughter was sick.

1 Q Okay. When these police showed up at your
2 house and told you you had to come downtown right now,
3 how did that make you feel? What was your emotional
4 reaction to that?

5 A Petrified.

6 Q Once you got downtown, where did they put
7 you?

8 A In a holding room.

9 Q You say a holding room, was it, like, a cell
10 or was it just an interrogation room or --

11 A Interrogation room.

12 Q Okay. How long did they keep you there?

13 A 12, 13, 14 hours.

14 Q When the law enforcement officers would talk
15 to you, did they talk -- I'm talking loudly just so you
16 can hear me and we've got a microphone. But when they
17 would talk to you, how would you characterize the
18 manner in which the law enforcement officers talked to
19 you? Was it a normal conversational tone or how would
20 you characterize it?

21 A Screaming.

22 Q Screaming?

23 That's a "yes"? You nodded your head so --

24 A Oh, yes.

25 Q Did multiple officers over a period of time

1 come in and out of the room to talk to you?

2 A It was two.

3 Q Okay. But they would come in and out of the
4 room over that multi-hour time period?

5 A Correct.

6 Q Okay. How would you characterize the way
7 they treated you, nice, mean? How would you
8 characterize it?

9 A Mean.

10 Q Did they sometimes try to be nice?

11 A Not that I recall.

12 Q Okay. Were you ever in any way threatened
13 with anything that they would do to you if you did not
14 communicate to them?

15 A I plead the Fifth.

16 Q Did they talk to you about -- did anybody say
17 anything to you about you could go to jail for ten
18 years?

19 A Plead the Fifth.

20 Q Did anybody threaten you with being an
21 accessory to murder?

22 A I plead the Fifth.

23 Q Can you tell me what threats they did make to
24 you over that -- you said they were mean to you. What
25 threats did they make to you over that period of

1 ten-plus hours?

2 A I plead the Fifth.

3 Q Did they threaten to take away your children?

4 A They did.

5 Q And is that what prompted you to talk?

6 A I plead the Fifth.

7 Q Okay. But they did threaten to take away
8 your children.

9 A They did.

10 Q As time went on and you were potentially
11 going to be a witness in this case, were you reminded
12 of the things, like that they could take your children
13 away?

14 A I plead the Fifth.

15 Q Did they ever talk to you about what, if
16 anything, could happen to you if you changed your
17 statement that you gave to them?

18 A I plead the Fifth.

19 Q Are you afraid of possibly being charged for
20 perjury?

21 A I plead the Fifth.

22 Q Are you afraid that you could possibly be
23 charged as an accessory?

24 A I plead the Fifth.

25 MR. NORGARD: No other questions at this

1 time, Your Honor.

2 THE COURT: Any cross examination?

3 MR. MIZRAHI: Yes, Your Honor.

4 CROSS EXAMINATION

5 BY MR. MIZRAHI:

6 Q Good afternoon, Miss Braclet. My name's Alan
7 Mizrahi. I'm an Assistant State Attorney. I just have
8 a few questions for you. Okay?

9 A Uh-huh.

10 Q And I understand you're sitting here with
11 your lawyer, and you've asserted your Fifth Amendment
12 rights. But I want to be clear that you did purchase
13 the firearm and that the defendant took that firearm,
14 an AK-47. That's true?

15 A I don't recall.

16 Q Okay. And if there's paperwork showing that
17 you did it, that paperwork would be right, correct?

18 A I don't recall.

19 Q Okay. And when you testified before the
20 trial in front of the trial jury as well as the
21 ineffective assistance of counsel, did you try to tell
22 the truth?

23 A I don't recall.

24 Q Okay. You have no idea if you told the truth
25 or not.

1 A I don't recall.

2 MR. MIZRAHI: Okay. That's all the
3 questions I have.

4 THE COURT: Any redirect?

5 MR. NORGARD: Not after that one, Your
6 Honor. Thank you.

7 (Witness excused.)

8 THE COURT: Okay. You can step down.
9 Thank you, ma'am.

10 (Witness excused.)

11 THE COURT: All right. Next witness,
12 Mr. Norgard.

13 MR. NORGARD: Just give me a moment,
14 Your Honor.

15 THE COURT: Sure. Take your time.

16 MR. NORGARD: Can I have a moment to
17 talk to our investigator?

18 THE COURT: Sure.

19 MR. NORGARD: I know the clock's
20 ticking, Your Honor. I'm just getting my
21 thoughts together.

22 THE COURT: That's all right.

23 MR. NORGARD: We would call Ned Pryor,
24 Your Honor.

25 THE COURT: All right.

1 Did you consult with Mr. Pryor,
2 Mr. Lufrano?

3 MR. LUFRANO: I did, Your Honor. He
4 should be just out in the hall.

5 THE COURT: Mr. Bossen already left his
6 spot. So if you'd like to assume
7 Mr. Bossen's spot.

8 MR. LUFRANO: Certainly, Your Honor.
9 (Witness sworn by the clerk.)

10 THE COURT: You may proceed whenever
11 you're ready, Mr. Norgard.

12 MR. NORGARD: Thank you, Your Honor.

13 VANNESS PRYOR,
14 having been produced and first duly sworn as a witness
15 on behalf of the Defendant, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. NORGARD:

18 Q Good afternoon, sir.

19 A Good afternoon.

20 Q First of all, please tell us your name.

21 A Vanness Pryor, known as Ned Pryor.

22 Q All right. And I think we already got your
23 spelling earlier.

24 How old are you?

25 A 49.

1 Q And where did you grow up?

2 A Jacksonville.

3 Q Is that pretty much where you've been your
4 whole life?

5 A Yes.

6 Q Now, have you ever been convicted of a felony
7 or felonies?

8 A Yes, sir.

9 Q How many times?

10 A More than three probably.

11 Q Not even sure?

12 A No, about five.

13 Q Been to -- have you been to prison?

14 A Yes.

15 Q That's probably about the only time you were
16 living somewhere other than Jacksonville?

17 A Yeah.

18 Q If you call it that, right?

19 All right. You were a witness in this case,
20 correct?

21 A Yes.

22 Q Is that a "yes"?

23 A Yes, sir.

24 Q Okay. And do you know who Detective Bolena
25 is?

1 A Yes, sir.

2 Q As far as your involvement in this case, did
3 you have more dealings with Detective Bolena, or did
4 you mostly deal with George Bateh, the prosecutor?

5 A George.

6 Q Or both?

7 A I believe George.

8 Q Who?

9 A George.

10 Q George who?

11 A Bateh. I mean, what his name.

12 Q That's his name. I guess you know him well
13 enough that you just call him George? Is that a "yes"?

14 A I just know him by George Bateh.

15 Q Okay. And what, if anything, did George
16 Bateh do as far as telling you what to say about Mike
17 Bell in this case?

18 A I don't recall.

19 Q Do you recall, on June 17th of 2025, speaking
20 to a Colin Kelly and a Christy Dickerson from the
21 federal habeas office?

22 A Yes.

23 Q And you end up -- you ended up meeting with
24 them by an Amoco gas station here in Jacksonville?

25 A Yes.

1 Q But you did talk to them about things related
2 to this case, correct?

3 A Yes.

4 Q Okay. I'm going to ask -- I'm going to read
5 you a statement that they attributed to you and ask if
6 you recall making this statement.

7 MR. MIZRAHI: The witness needs to
8 testify. You can't impeach a witness. It's
9 improper.

10 THE COURT: Well, I'm not sure -- I'm
11 not sure he's impeaching. Just -- I'll
12 overrule it. You can ask him if he remembers
13 making a statement.

14 MR. NORGARD: And that's what I'm I
15 doing at this point. I'm just refreshing --
16 attempting to refresh his recollection.

17 THE COURT: No, you can't do that
18 because he hasn't said he doesn't remember
19 anything.

20 MR. NORGARD: Okay.

21 THE COURT: Just ask him if he said it.

22 MR. NORGARD: I will.

23 MR. MIZRAHI: He's referring to an
24 out-of-court statement. The witness hasn't
25 been asked anything. He can't just read

1 what's in a police report. That's not the
2 rules.

3 THE COURT: That's why I said, ask him
4 if he said it.

5 BY MR. NORGARD:

6 Q Did you tell Colin Kelly and Christy
7 Dickerson that Bateh kept telling you that they wanted
8 you to say that Mike was the gunman?

9 A No.

10 Q You don't recall telling them that.

11 A No.

12 Q Okay. Were you ever threatened by Mr. Bateh?

13 A I don't recall.

14 Q (Inaudible) this refreshes your recollection.
15 Did Mr. Bateh threaten you that you were going -- if
16 you didn't say Mike was the gunman that you were going
17 down with Mike?

18 A I don't recall.

19 Q Did you ever see Michael Bell with a gun that
20 evening?

21 A No.

22 Q Never saw him with a gun.

23 A No.

24 Q And in fact, at the time this incident
25 occurred, you were not even there, were you?

1 A When the incident occurred? No, I wasn't
2 there.

3 Q When the two people were killed, you did not
4 see Michael Bell with a gun, and you did not see the
5 incident because you were not there, correct?

6 A I plead the Fifth.

7 Q Pardon me?

8 A I plead the Fifth. I don't --

9 Q Okay. You already answered. I was just
10 trying to clarify it.

11 Now, at the time you were testifying for the
12 State in this case, you were in jail, is that correct?

13 A Yes.

14 Q What were you in jail for?

15 A I don't recall.

16 Q You recall it was possession of crack cocaine
17 and resisting an officer without violence?

18 A I don't recall that.

19 Q Okay. If that's in your trial testimony,
20 would that be accurate? I'm getting this from your
21 trial testimony.

22 A I don't recall it.

23 Q Okay. You testified at trial on Page 434 and
24 435 of this, of the trial transcript, that no deal was
25 made to you, is that correct?

1 A Yes.

2 Q Is that a "yes"?

3 And that the prosecutor, Mr. Bateh, claimed
4 that the State Attorney's Office was prosecuting you to
5 the fullest extent of the law is how he characterized
6 it. Do you recall that?

7 A No, sir.

8 Q Okay. If that's what Mr. Bateh said at
9 Page 435 of the transcript, you wouldn't disagree with
10 that, right?

11 A I don't recall it.

12 Q Okay. But if it's in there, it's in there,
13 right?

14 A (Inaudible).

15 Q Okay. After the trial, in a situation where,
16 according to the trial record, Mr. Bateh said you were
17 being prosecuted to the fullest extent of the law,
18 after you testified in Mr. Bell's trial, you got a
19 time-served sentence, didn't you?

20 A I don't recall that. I plead the Fifth.

21 Q Do you recall telling that you got a
22 time-served sentence to Mr. -- to Mr. Kelly, the
23 investigator?

24 A No. I told her -- what I told her was I got
25 released after that, but I don't think it had nothing

1 to do with the case.

2 Q Okay. But in a case where the prosecutor
3 represented that you were being punished -- you were
4 being prosecuted to the full extent of the law, you
5 were released right after the trial.

6 A I plead the Fifth.

7 MR. NORGARD: No other questions, Your
8 Honor.

9 THE COURT: All right. Any cross
10 examination?

11 MR. MIZRAHI: May I have a moment, Your
12 Honor?

13 THE COURT: Yes.

14 MR. MIZRAHI: (Conferring with
15 co-counsel.)

16 CROSS EXAMINATION

17 BY MR. MIZRAHI:

18 Q Good afternoon, Mr. Pryor. My name's Alan
19 Mizrahi. I'm an Assistant State Attorney. I've got a
20 few questions. If you need to talk to your lawyer,
21 just tell me. Okay?

22 A Okay.

23 Q I appreciate you being here today.

24 I wanted to say, have you had the opportunity
25 to review your trial testimony in this particular case?

1 A No, sir.

2 Q If -- looking at that, would that help
3 refresh your memory as to what you would have testified
4 to back in 1995? I have it here if you would want to
5 see it. Would you like?

6 Is that a "yes"?

7 A Yes.

8 MR. NORGARD: I don't think he said that
9 he doesn't remember it at all.

10 THE COURT: Well, I think he said he
11 didn't remember.

12 MR. NORGARD: Okay.

13 MR. MIZRAHI: He was pretty clear.

14 And I'll showing counsel as well.

15 MR. NORGARD: I have a paper transcript.
16 That probably would be easier to read than --

17 THE COURT: Let Mr. Mizrahi do it how he
18 wants to do it.

19 Mr. Mizrahi, would you prefer the paper,
20 or do you want to work off of --

21 MR. MIZRAHI: I'm fine with this.

22 THE COURT: All right.

23 MR. MIZRAHI: As long as Mr. Pryor can
24 see it.

25 BY MR. MIZRAHI:

1 Q Mr. Pryor, does that help refresh your memory
2 as to what you testified to back in 1995?

3 A I plead the Fifth.

4 Q Okay. So when you testified earlier --

5 MR. NORGARD: Your Honor, before we move
6 on, there's no way he read the entire
7 transcript in that time. Could we have the
8 record reflect how far he got in reviewing
9 that?

10 THE COURT: For record purposes,
11 Mr. Mizrahi, just state what part of the
12 transcript you showed.

13 MR. MIZRAHI: Lines 12 through 25 of
14 Page 443.

15 MR. NORGARD: Thank you, Your Honor.

16 THE COURT: You're welcome.

17 Go ahead.

18 MR. MIZRAHI: May I have a moment, Your
19 Honor?

20 THE COURT: Yes.

21 MR. MIZRAHI: (Conferring with
22 co-counsel.)

23 BY MR. MIZRAHI:

24 Q I know that it's I been a long time, and you
25 don't remember, Mr. Pryor your trial testimony. Do you

1 remember your testimony in 2002, April of 2002, in this
2 courthouse or in the other courthouse, in the
3 courthouse of Duval County?

4 A Yes, I remember.

5 Q Did you go over that with your attorney, just
6 meaning Mr. Lufrano?

7 A Yes.

8 Q Okay. And did that refresh your memory as to
9 what you testified to back in April of 2002?

10 A No, sir.

11 Q Okay. Would you agree what you testified in
12 to 2002 is the same as what you testified to in '95?

13 MR. NORGARD: I would object, Your
14 Honor. He said he doesn't remember what he
15 testified to and --

16 THE COURT: Overruled. If he doesn't
17 remember, he can say so.

18 MR. NORGARD: All right.

19 THE WITNESS: Can you repeat that for
20 me, sir?

21 BY MR. MIZRAHI:

22 Q Do you remember, in 2002, that you testified
23 to the same thing that you testified to in 1995?

24 A I don't recall being, like -- no, I don't
25 recall.

1 Q Okay. Do you recall? Do you not recall?

2 A 'Cause I remember the trial. I don't recall
3 what happened at the time.

4 Q I didn't understand your answer.

5 A I remember trial, I guess, 2002.

6 Q No. The trial was in '95. The evidentiary
7 hearing --

8 A The original trial.

9 Q -- was in 2002.

10 A Yeah. I don't remember.

11 Q Now, do you remember back in 2002, in April
12 of 2002, that you were out of jail?

13 A Yes.

14 Q And so you were in jail in '95.

15 A Yes.

16 Q And the State had some leverage over you at
17 that time, right, 'cause you were facing charges,
18 correct?

19 A Yes.

20 Q But in 2002, when you came to the courthouse,
21 you were a free man.

22 A Yes.

23 Q So no -- no State -- we didn't have charges
24 over you then.

25 A No.

1 MR. MIZRAHI: That's all the questions I
2 have.

3 THE COURT: Any redirect?

4 MR. NORGARD: One moment.

5 (Conferring with co-counsel.)

6 No other questions, Your Honor.

7 THE COURT: Okay. You can step down.
8 Thank you, sir.

9 (Witness excused.)

10 MR. LUFRANO: May I be excused, Your
11 Honor?

12 THE COURT: Yes, sir. Thank you,
13 Mr. Lufrano.

14 All right, Mr. Norgard. You may call
15 your next witness.

16 MR. NORGARD: Dale George, Your Honor.

17 THE COURT: All right. Let's see.
18 Mr. Bryant, if you would like to take a seat
19 here near the jury box.

20 And, Mr. Bryant, for record purposes did
21 you get an opportunity to consult with
22 Mr. George.

23 MR. BRYANT: I did, Your Honor, yes.

24 THE COURT: Thank you very much.

25 MR. NORGARD: Almost need a dance card

1 to figure out who has what client here.

2 (Witness sworn by the clerk.)

3 THE COURT: Mr. Norgard, whenever you're
4 ready.

5 MR. NORGARD: Thank you, Your Honor.

6 DALE GEORGE,
7 having been produced and first duly sworn as a witness
8 on behalf of the Defendant, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. NORGARD:

11 Q Sir, first of all, please state your name and
12 occupation. Or not and occupation. What's your name?

13 A Dale George.

14 Q And where do you live?

15 A I used to stay at 38 -- I forgot my address.
16 The house caught on fire.

17 Q You live -- you live in Jacksonville.

18 A I live in Jacksonville, 21st Street.

19 Q And -- and how old are you?

20 A I just turned 56.

21 Q All right. And have you ever been in -- have
22 you ever been convicted of a felony?

23 A Yes, sir.

24 Q How many times?

25 A I can't remember.

1 Q Just so many, you don't -- you're not even
2 sure?

3 A No. About three, four, five. I'm not sure.
4 I don't want to give you the wrong answer.

5 Q I get it. You're estimating.
6 Did you ever have to go to prison?

7 A Excuse me?

8 Q Did you ever have to go to prison?

9 A I went to prison, yes, sir.

10 Q Okay. Is it safe to say when you're in
11 prison is about the only time you were living anywhere
12 other than in Duval County? Or do -- have you lived
13 other places?

14 A I'm from the islands. I'm not from here,
15 sir.

16 Q Okay. Thank you. Okay.

17 All right. You were a witness in Michael
18 Bell's trial, is that right?

19 A Yes, sir.

20 Q Okay. Do you know who George Bateh is?

21 A Yes, sir.

22 Q Okay. In connection with you being a witness
23 in Michael Bell's case, did George Bateh ever threaten
24 you or do anything to get you to testify?

25 A I can't remember, plead the Fifth.

1 Q Well -- okay. You said can't remember, plead
2 the Fifth?

3 A Yes, sir.

4 Q Okay. Did Detective Bateh ever threaten to
5 charge you with first-degree murder if you did not
6 testify?

7 A Plead the Fifth.

8 Q Do you recall talking to Colin Kelly and
9 Christy Dickerson, investigators from the federal
10 Public Defender's Office, talking to them just last
11 week?

12 A Yes, I did talk to them.

13 Q Okay. Do you recall telling them that George
14 Bateh threatened you with first-degree murder if you
15 did not testify to what Bateh wanted? Did you tell
16 them that?

17 A I can't remember, no.

18 Q You can't remember what you told them a week
19 ago? Is that what you're telling me, or you just don't
20 want to remember?

21 A Pretty much I can't remember. Yeah, just
22 been under a lot of stress. I can't remember.

23 Q Did Mr. Bateh threaten you with first-degree
24 murder if you did not pin it on Mr. Bell? Did he use
25 those terms or those words?

1 A I don't think so. I can't remember. I don't
2 think so. I can't remember.

3 Q Did you tell Mr. Kelly and Miss Dickerson
4 that he did? Do you recall telling them that?

5 A You talking about the --

6 Q That Mr. Bateh was going to charge you with
7 first-degree murder if you did not pin it on Michael
8 Bell. Did you tell them that?

9 A No, sir, I didn't tell them that.

10 Q Do you recall Mr. Bateh -- and this is
11 quotation about directing traffic -- that you described
12 Mr. Bateh as directing traffic and orchestrating this
13 case? Do you recall making that statement?

14 A I pretty much can't remember what I said to
15 them.

16 Q Okay. With respect to your testifying in
17 this case, did Mr. Bateh promise you that if you
18 testified, before you testified, that he would help you
19 out with your case where you were being charged with
20 accessory after the fact or you were being charged as
21 codefendant?

22 A No.

23 Q You don't remember ever saying that.

24 A No. I plead the Fifth on that.

25 Q Do you recall telling Mr. Kelly and

1 Miss Dickerson that Bateh promised you before you
2 testified that he would help you out in this case and
3 make sure that they never saw a murder charge against
4 you? Do you recall telling them that?

5 A I don't recall. I plead the Fifth on that.

6 Q Do you recall having contact with -- do you
7 know who Detective Bolena is?

8 A Excuse me?

9 Q Do you know who Detective Bolena is?

10 A Yes, sir.

11 Q Do you recall having contact with Detective
12 Bolena related to this case?

13 A I just remember him from -- this has been
14 30 years, so it's kind of -- you know, I don't remember
15 all that stuff. So I can't remember.

16 Q Okay. Well, last week, a week ago.

17 A Uh-huh.

18 Q And now you say you can't remember 'cause
19 it's so long ago.

20 A Well, I'm just saying it's been so long ago.
21 But I know who Detective Bolena is.

22 Q Okay.

23 A But that's what I'm saying. I know who he
24 is, yeah. I know he was a police officer.

25 Q I'm not talking about a statement you made 30

1 years ago. I'm talking about a statement where you
2 told Mr. Kelly and Miss Dickerson that when you were
3 first arrested, Detective Bolena interrogated you but
4 you kept your mouth shut. Do you remember saying that?

5 A I think so, yes, sir.

6 Q Okay. So when he first talked to you, you
7 did keep your mouth.

8 A I just didn't -- I didn't remember what I
9 tell -- what I -- because it's been 30 years. I told
10 them I can't remember quite what I said what took place
11 at that time. I don't know.

12 Q All right. After your initial contact with
13 Detective Bolena about one month later, Detective
14 Bolena showed up and he arrested you, correct?

15 A Yes. I think so.

16 Q That's a yes.

17 A Yes, sir.

18 Q You would have been in handcuffs, is that
19 right?

20 A Yes, sir.

21 Q And I'm not from here so I don't know what
22 this means. But you said something about being taken
23 down to the Memorial Building?

24 A Yes, sir.

25 Q Okay. Detective Bolena took you some place

1 called the Memorial Building in handcuffs?

2 A Yes, sir. Yes, sir.

3 Q And while you were in the custody of
4 Detective Bolena and handcuffed, did he clothesline
5 you?

6 A I plead the Fifth on that.

7 Q So you're pleading the Fifth to Detective
8 Bolena's illegal action of physically assaulting you.

9 A Plead the Fifth.

10 Q Did you tell Mr. Kelly and Miss Dickerson
11 that all of a sudden, as you were there in the
12 handcuffs, that Mr. Bolena clotheslined you and got
13 physical with you? Did you tell them that?

14 A I plead the Fifth.

15 Q I know you're saying you're pleading the
16 Fifth. But how is you telling me that a cop beat you
17 up going to get you in trouble?

18 MR. MIZRAHI: Objection, Your Honor,
19 improper question, leading.

20 THE COURT: I'll -- I'll sustain the
21 objection.

22 BY MR. NORGARD:

23 Q What, if anything, do you think would happen
24 to you by telling people that a cop beat you up? How
25 is that going to get you in trouble?

1 MR. MIZRAHI: Your Honor --

2 THE COURT: Sustained. That's beyond
3 the scope of proper questioning for this
4 witness.

5 BY MR. NORGARD:

6 Q As far as you testifying in this case, you
7 were threatened and there was physical violence, isn't
8 that true?

9 MR. MIZRAHI: Objection, leading.

10 THE COURT: Sustained.

11 BY MR. NORGARD:

12 Q What, if anything, occurred regarding how the
13 police treated you that caused you to testify?

14 A I don't understand the question.

15 Q What, if anything, did the police do in order
16 to get you to testify?

17 Pardon me?

18 A I said nothing. I don't understand your
19 question. I plead the Fifth.

20 Q Did you tell it was the -- did you tell
21 Mr. Kelly and Miss Dickerson that it was the threats
22 and the physical violence that got you to talk? Did
23 you tell them that?

24 A I plead the Fifth.

25 Q Are you afraid of the West family, even

1 today?

2 A I plead the Fifth.

3 Q Are you afraid that if you testify
4 differently than what you testified to in court that
5 the State could pull your plea agreement to accessory
6 after the fact and go back and charge you more fully?

7 A I plead the Fifth on that.

8 Q Did you tell that to Mr. Kelly or
9 Miss Dickerson?

10 A I plead the Fifth.

11 Q Did you tell them that?

12 A I plead the Fifth.

13 Q And did you indicate that you were afraid of
14 perjury charges?

15 A I plead the Fifth.

16 MR. NORGARD: No other questions, Your
17 Honor.

18 THE COURT: Any cross examination?

19 MR. MIZRAHI: No, Your Honor.

20 THE COURT: You can step down.

21 (Witness excused.)

22 MR. NORGARD: If I could just have a
23 moment, Your Honor.

24 THE COURT: Yes.

25 MR. NORGARD: (Conferring with

1 co-counsel.)

2 MS. ROEBUCK: Our next witness is Cathy
3 Robertson. She is outside, I think.

4 THE COURT: All right.

5 MS. ROEBUCK: Your Honor, I had
6 contacted your JA about this witness. Her
7 work was not excusing her today despite the
8 subpoena, so I was going to see if your
9 office -- but I never heard back from
10 Miss Bend -- could write some sort of letter
11 like you do for jurors on letterhead. But I
12 never heard back.

13 THE COURT: I -- was she served with a
14 subpoena?

15 MS. ROEBUCK: Yes.

16 THE COURT: We'll take care of that.

17 MS. ROEBUCK: I would appreciate it.
18 Thank you.

19 (Witness sworn by the clerk.)

20 THE COURT: All right. Miss Roebuck,
21 you may proceed when you're ready.

22 CATHY ROBERTSON,
23 having been produced and first duly sworn as a witness
24 on behalf of the Defendant, testified as follows:

25 DIRECT EXAMINATION

1 BY MS. ROEBUCK:

2 Q Will you please state your name?

3 A Cathy Robertson.

4 Q And are you from Jacksonville?

5 A Yes, I am.

6 Q Were you ever married to Henry Edwards?

7 A I was.

8 Q When were you married?

9 A Many moons ago.

10 Q Was it in the early '90s?

11 A Somewhere up in there.

12 Q Okay. Were you married in 1994?

13 A Yes.

14 Q Okay. Do you know Detective Bolena?

15 A Yes.

16 Q Do you know whether Henry was a confidential
17 informant for Detective Bolena?

18 A He was something.

19 Q What does that mean?

20 A I know they was -- they had dealings.

21 Q Okay. Did Detective Bolena ever bring
22 Mr. Edwards home to visit with you while Mr. Edwards
23 would have been in custody in the Duval County Jail?

24 A Yes.

25 Q About how many times did that happen?

1 A A few.

2 Q Would he pick him back up?

3 A Yes.

4 Q For clarification, would Bolena pick Henry

5 back up?

6 A Yes.

7 Q Did you ever receive money from Detective

8 Bolena?

9 A Yes.

10 Q What was that for?

11 A He just say to help out.

12 Q In what form, cash?

13 A Cash.

14 Q Did you ever pick up informant money from a

15 bank in Jacksonville?

16 A One time.

17 Q Do you remember what bank?

18 A I think it was First Union. If I'm not

19 mistaken, at the time, that's what it was.

20 Q Do you remember when that was?

21 A Not precisely, I don't.

22 Q Do you know what case it was for?

23 A I'm assuming from whatever Henry did. I

24 don't know. I -- was never discussed or anything. I

25 was just told -- gave me a code and I picked it up and

1 that was it.

2 MS. ROEBUCK: That's all.

3 THE COURT: Any cross?

4 MR. MIZRAHI: No, Your Honor.

5 THE COURT: All right. You can step
6 down. Thank you, ma'am.

7 (Witness excused.)

8 MR. NORGARD: Your Honor, this -- our
9 next witness will be the one we would like to
10 appear by Zoom that's homebound.

11 THE COURT: What is the State's
12 position?

13 MR. MIZRAHI: Same as before. We
14 normally have no objection. If the cause is
15 needed, we would like to call Mr. Bateh via
16 Zoom because Mr. Bateh is in Scotland or
17 somewhere in Europe. I believe it's
18 Scotland. And so he would be unavailable for
19 these proceedings and has been for the whole
20 time. We could not get a subpoena on him, so
21 we'd like the same courtesy of calling a
22 witness remote.

23 THE COURT: Defense, did you file a
24 written motion, seeking testimony by Zoom?

25 MS. ROEBUCK: No, we don't file a

1 motion.

2 THE COURT: Okay. So under
3 Rule 3.116(b), judge may allow testimony to
4 be taken through communication technology if
5 all parties consent. So we have an
6 objection. What would be my authority to
7 allow that testimony over objection?

8 MS. ROEBUCK: The good cause is that
9 Miss Mitchell had a heart attack around
10 Christmas, has COPD and recurring pneumonia.
11 She has legitimate medical issues, not just
12 with testifying but with traveling to get
13 here.

14 THE COURT: Where does -- where is the
15 good cause exception? Where do I find that
16 to the criminal procedure rule?

17 MS. ROEBUCK: I'm unaware other than
18 describing why she can't testify and a
19 hardship what good cause would be. Maybe I'm
20 misunderstanding.

21 THE COURT: Okay. Anything further from
22 the State?

23 MR. MIZRAHI: No, Your Honor.

24 MR. NORGARD: Your Honor, if I may --

25 THE COURT: Uh-huh.

1 MR. NORGARD: -- I understand you cited
2 a specific rule --

3 THE COURT: Right.

4 MR. NORGARD: -- related to witnesses
5 appearing. If you take a look at Rule 3.851
6 that deals with taking testimony in the
7 context of a postconviction relief motion, it
8 says taking testimony. Upon motion or upon
9 its own motion and without the consent of any
10 party, the Court may permit a witness to
11 testify at the evidentiary hearing by
12 contemporaneous audio/video communication
13 technology.

14 So it is a little bit of a different
15 rule than the one you're reading from that
16 doesn't -- if the other side objects, it
17 doesn't matter. That's --

18 THE COURT: 3.851. What subsection?

19 MR. NORGARD: It's (f) under evidentiary
20 hearing. Paragraph 5, Subsection D, where it
21 says taking testimony. I can show you my
22 book if that's faster.

23 THE COURT: No.

24 MR. MIZRAHI: The parties have agreed.

25 THE COURT: Okay.

1 MR. NORGARD: And let me tell you what
2 the agreement is. We were just simply told
3 that they wanted Mr. Bateh to appear by phone
4 or video.

5 THE COURT: Okay.

6 MR. NORGARD: We had no idea what his
7 circumstances were. Now that I heard he's in
8 Scotland, I don't know how we're going to get
9 him here unless you want to continue this
10 until we can get him back from Scotland.

11 THE COURT: Well, no. I mean, the State
12 is withdrawing its objection. So that's --

13 MR. NORGARD: And under the
14 circumstances, I'm not trying to hardball
15 anybody. I mean, if he's in Scotland, I get
16 it. So we'll agree to that, Your Honor.

17 THE COURT: The purpose of inquiry is
18 under the rules of judicial administration by
19 a written motion to present live testimony.
20 In my view, either party can waive that
21 requirement. Then I, you know, need -- the
22 general rule of criminal procedure prohibits
23 testimony over the objection of the party, as
24 I read it. But then, Mr. Norgard, you cited
25 a more specific rule, which would -- which

1 would typically control over the general
2 rule. So -- but nevertheless, the State has
3 withdrawn its objection.

4 Now, we still have a number of hurdles
5 to jump through in terms of getting the
6 witness under oath. Tell me the witness's
7 name again.

8 MR. NORGARD: Her name is Gloria
9 Mitchell.

10 THE COURT: If we have a Miss Gloria
11 Mitchell present on the Zoom feed, please
12 un-mute your microphone and turn on your
13 video. And we can if we can get you
14 adequately sworn in.

15 MR. NORGARD: She also has -- we
16 prepared her to have ID to identify herself.

17 THE COURT: Okay. So I see somebody
18 logged on as Christy Dickerson. It looks
19 like there's a couple people (inaudible)
20 there.

21 MR. NORGARD: Miss Dickerson is the
22 federal --

23 THE WITNESS: Good afternoon, Your
24 Honor.

25 THE COURT: All right. Are you Gloria

1 Mitchell?

2 THE WITNESS: I'm Glory Mitchell.

3 THE COURT: Okay. Hold that up --

4 THE WITNESS: Glory Mitchell.

5 THE COURT: Glory. All right.

6 Hold that up as close to the camera as
7 you can. So come a little bit more to -- I
8 think it would be.

9 THE WITNESS: Christy's going to help
10 me.

11 THE COURT: Yeah. I see Florida
12 driver's license. There is a picture there
13 that looks to be the same person. I frankly
14 can't read the name on it.

15 Mr. Norgard, you said you know the
16 person there present with Miss Mitchell?

17 MR. NORGARD: That is Miss Dickerson,
18 the federal habeas investigator.

19 THE COURT: Who was here previous.

20 MR. NORGARD: Was in here in court
21 earlier.

22 THE COURT: All right. Miss Dickerson,
23 were you able to look at that driver's
24 license?

25 THE WITNESS: Yes, sir.

1 THE COURT: All right. And does that
2 verify that the person you're sitting next to
3 is, in fact, Glory Mitchell?

4 THE WITNESS: Yes, sir.

5 THE COURT: All right. Any objection to
6 the accuracy of that identification, State?

7 MR. MIZRAHI: No, Your Honor.

8 THE COURT: Miss Mitchell, if you would
9 raise your right hand, please.

10 (Witness sworn by the Court.)

11 THE COURT: All right. Miss Roebuck,
12 you may proceed.

13 GLORY MITCHELL (via Zoom),
14 having been produced and first duly sworn as a witness
15 on behalf of the Defendant, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. ROEBUCK:

18 Q Can you hear me?

19 A Yes, I can hear you.

20 Q Okay. Since you've already identified
21 yourself, I'm just going to ask you a few questions.

22 Do you know whether Henry Edwards was a
23 confidential informant frequently used by Detective
24 Bolena?

25 A Yes, he was.

1 Q How do you know that?

2 A Well, from conversation with Bolena for one
3 thing. And then when I went to the county jail, I met
4 his sister, which I've been knowing her for years.

5 Q Okay.

6 A They -- she told me about that Henry always
7 worked for Bolena and Bolena would beat Henry.

8 Q Okay. Did Detective Bolena ever tell you
9 that he was targeting Michael Bell?

10 A Yes, he did, since he was ten years old.

11 Q Okay. Did Detective Bolena ever tell you
12 that the Jacksonville Sheriff's Office had bets about
13 Bell and Theodore Wright?

14 A Yes, he did.

15 MR. MIZRAHI: Your Honor, this is
16 hearsay, objection.

17 THE COURT: What's the response to the
18 hearsay objection?

19 MS. ROEBUCK: I mean, it would be
20 against penal interest, I think, for a police
21 officer to tell someone that a Sheriff's
22 Office has --

23 THE COURT: Overruled. Excuse me. I'm
24 sorry, Mr. Mizrahi. The response -- the
25 objection's sustained. It does not fall --

1 it is not a hearsay objection that would
2 apply. So that is hearsay statements from
3 the witness.

4 MS. ROEBUCK: I think I got everything.
5 Just let me check. Okay?

6 THE COURT: Okay.

7 MR. NORGARD: We're good.

8 THE COURT: Any cross examination?

9 MR. MIZRAHI: Just real briefly.

10 CROSS EXAMINATION

11 BY MR. MIZRAHI:

12 Q Miss Mitchell, my name is Alan Mizrahi. I'm
13 an Assistant State Attorney. I think you testified on
14 direct examination that Detective Bolena was out to get
15 Michael Bell?

16 A Yes, I did.

17 Q Okay. And one of the reasons for that was
18 you gave a sworn statement implicating Michael Bell in
19 a murder, correct?

20 A Not in that particular murder, no.

21 Q Right, not in this murder. In another
22 murder.

23 A Right.

24 MR. MIZRAHI: Okay. That's all the
25 questions I have.

1 THE COURT: Any redirect?

2 MS. ROEBUCK: No.

3 THE COURT: All right. Miss Mitchell,
4 that will conclude your testimony. You're
5 welcome to log off of the Zoom feed. You're
6 also welcome to stay on Zoom feed and watch
7 the rest of the proceedings. I'll just ask
8 that you mute your microphone.

9 THE WITNESS: Okay.

10 THE COURT: Thank you.

11 (Witness excused.)

12 MR. NORGARD: If you could just give us
13 a moment, Your Honor.

14 THE COURT: Yes.

15 MR. NORGARD: Your Honor, I'm just
16 regrouping here on anything else, sort of
17 thinking about it, not just open paper.

18 THE COURT: Sure.

19 MR. NORGARD: And I know the clock's
20 ticking and you can hold it against me.

21 Your Honor, at this point, we have --
22 other than -- the only other witness we would
23 call would be we have Christy Dickerson. She
24 needed to be there to help this elderly --

25 THE COURT: Sure.

1 MR. NORGARD: -- woman with her thing.
2 That's one additional witness, just simply to
3 corroborate what Mr. Kelly testified to.

4 And we have just received word that
5 Mr. Weinbaum has been contacted, does
6 remember the events that Miss Goins testified
7 to, and we're trying to get him here at the
8 courthouse. And then we would be done with
9 witnesses.

10 THE COURT: All right. Well, let's do
11 this. State, you going to present my
12 evidence?

13 MR. MIZRAHI: It depends on if these
14 other witnesses are going to testify,
15 specifically Mr. Weinbaum in particular, not
16 the investigator.

17 THE COURT: Right.

18 MR. MIZRAHI: If Mr. Weinbaum's going to
19 testify, we need to know what he's going to
20 say before we make that call definitively,
21 and we probably need five minutes to make
22 that call.

23 THE COURT: Okay. Well, based upon what
24 has been presented so far, do you have any
25 witnesses to call?

1 MR. MIZRAHI: I may. I don't have a
2 definitive. It would be Mr. Bateh. It's the
3 only one we've listed.

4 THE COURT: Okay. Here's what we'll do.
5 It's about time for a recess anyway. We're
6 going to take a recess until 3:40.

7 Just as a general proposition in a
8 proceeding of this nature, I'm not real
9 concerned about corroborating witnesses, and
10 I don't need somebody to tell me they saw
11 something somebody else already told me
12 happened. Just doesn't mean I won't bar
13 those witnesses. I'm just kind of giving you
14 a preview of how I look at it.

15 MR. NORGARD: Just for Your Honor's
16 benefit --

17 THE COURT: Uh-huh.

18 THE COURT? I'm leaning -- I was -- I
19 was leaning towards not calling
20 Miss Dickerson 'cause I don't think anybody
21 thinks they were there making a movie. So I
22 was just going to make that tactical decision
23 with a few minutes you're giving us, and then
24 we'll see what's going on with Mr. Weinbaum.
25 And then we may be prepared to rest other

1 than a packet of exhibits we have.

2 THE COURT: Okay. We'll take a
3 ten-minute recess.

4 State, see what you -- give some thought
5 about what, if any, evidence you need
6 (inaudible).

7 MR. MIZRAHI: Yes, sir.

8 (Short recess.)

9 (Defendant present.)

10 MR. NORGDARD: We're ready.

11 THE COURT: All right.

12 MR. NORGDARD: Here -- here's the game
13 plan, Your Honor. I think I have, like,
14 maybe 30 minutes. I'm not going to worry
15 about it because we're not going to call
16 Miss Dickerson just to corroborate Mr. Kelly.
17 We have sufficient record on Miss Goins, and
18 the only thing we're going to do right now is
19 recall Mr. Kelly to bring -- you know, to --
20 some of the witnesses were saying they didn't
21 tell him things, and we're just going to call
22 him to confirm that they did tell him those
23 things. That would be Mr. Pryor primarily
24 and Mr. George.

25 THE COURT: Okay.

1 MR. NORGARD: And then we would -- other
2 than our exhibits, we would then rest at that
3 point.

4 MR. MIZRAHI: Just to make sure the
5 record's clear that Mr. Weinbaum was found
6 and available, and they're choosing not to
7 call him. I don't want there to be a claim
8 later that --

9 MR. NORGARD: I don't think I'm going to
10 get a 3.851 when my client will be dead on
11 July 15th, so I'm not going to worry about
12 it.

13 THE COURT: All right. You may recall
14 your witness.

15 MS. ROEBUCK: Colin Kelly.

16 THE COURT: You're still under oath.

17 All right. Miss Roebuck?

18 COLIN KELLY,
19 having been previously produced and first duly sworn as
20 a witness on behalf of the Defendant, testified as
21 follows:

22 DIRECT EXAMINATION

23 BY MS. ROEBUCK:

24 Q Mr. Kelly, I'm not going to go through your
25 testimony before about where you work and everything.

1 But in the course of this investigation, you also spoke
2 to Dale George and Vanness "Ned" Pryor, correct?

3 A That is correct.

4 Q Okay. Let's start with Mr. George. Do you
5 remember what day you spoke to him?

6 A Yes. We spoke with Mr. Dale George. It
7 would have been last Monday, which was June 16th, 2025,
8 around sometime in the early afternoon.

9 Q Do you remember where you were?

10 A Yeah. We had originally gone to his house,
11 his listed address, and we had trouble locating him,
12 knocked on a bunch of doors. And then finally,
13 somebody opened up and said he was not here but I'll
14 call him for you. And then we got ahold of him. And
15 so we met with him the first time at a McDonald's off
16 of Emerson. So, like, the south side.

17 Q Was it one meeting?

18 A That was the first of two meetings with
19 Mr. George.

20 Q Okay. Did you get a sworn affidavit from
21 Mr. George?

22 A Not during the first meeting, no, we did not.

23 Q Okay. What about the second?

24 A The second meeting, we attempted to get a
25 sworn affidavit from him. We -- from the interview of

1 the first one, we had drafted up something that
2 basically outlined everything he told us. We went back
3 to him. We read him the contents of the affidavit,
4 showed it to him, you know, page by page, like I was
5 explaining earlier. And then for another, like, 20 or
6 30 minutes, he kind of wavered on whether or not he
7 wanted to sign it because being in fear of being put --
8 I think words were if I put my name to that, I'm going
9 to have a target on my back.

10 MR. MIZRAHI: Objection. Objection,
11 hearsay.

12 THE COURT: Sustained.

13 BY MS. ROEBUCK:

14 Q Can you describe his demeanor?

15 A During the first meeting, he was pretty
16 emotional with the fact that his old friend had a
17 warrant signed.

18 MR. MIZRAHI: Objection, speculation,
19 hearsay.

20 THE COURT: Clarify your objection to
21 the part that you're objecting to or maybe
22 the whole thing.

23 MR. MIZRAHI: She asked for demeanor and
24 then he said why he was feeling that way.

25 THE COURT: All right. So sustained as

1 to that part. Certainly, you can testify to
2 somebody's emotions but can't speculate as to
3 what they're emotional about.

4 BY MS. ROEBUCK:

5 Q Well, were you aware why?

6 MR. MIZRAHI: He's only aware of why
7 based on what the witness told him. It's
8 hearsay.

9 THE COURT: Give him a chance to get
10 there.

11 THE WITNESS: Yes, I'm aware why, that
12 he was crying.

13 BY MS. ROEBUCK:

14 Q Okay. Crying during the first meeting. What
15 about the second?

16 A Second meeting, he was not crying but was
17 struggling to be willing to sign the affidavit.

18 Q Okay. And did not ultimately sign.

19 A And did not ultimately sign.

20 Q Okay. As far as statements that he made to
21 you, did he tell you that he was threatened by Bateh to
22 be charged with first-degree murder as a codefendant?

23 MR. MIZRAHI: Your Honor, I object.

24 This is improper impeachment and hearsay.

25 THE COURT: All right. What would be

1 the hearsay exception, Miss Roebuck?

2 MS. ROEBUCK: Your Honor, we have had
3 witnesses all day plead the Fifth and some
4 combination of testimony. So this is
5 impeachment to the fact that he claimed he
6 did not tell Mr. Kelly certain things.

7 THE COURT: What would be the
8 impropriety of the impeachment, Mr. Mizrahi?

9 MR. MIZRAHI: The witness answer, I'm
10 pleading the Fifth, to the vast majority of
11 these questions. There may have been one
12 question specifically that he said, I did not
13 say that. If the witness said, I did not say
14 that, then I would withdraw my hearsay
15 objection. My recollection is the witness
16 said, I plead the Fifth, to all of these
17 except for one question. And I don't
18 remember specifically what that question was.

19 THE COURT: Madam Court Reporter, could
20 you read Miss Roebuck's question back to me,
21 please?

22 (The question was read back by the court
23 reporter.)

24 MS. ROEBUCK: And to clarify that was
25 the one thing that he said, I didn't tell --

1 THE COURT: I'll overrule the objection.

2 BY MS. ROEBUCK:

3 Q Did he tell you that, that he --

4 A Yes, he did.

5 THE COURT: And to be clear, it's
6 overruled due to impeachment, not because
7 it's not hearsay. It's impeachment by
8 collateral evidence.

9 MS. ROEBUCK: I'm reviewing Mr. Pryor's
10 statement for any of my notes where he said,
11 I didn't tell Mr. Colin Kelly that. So if
12 you'll just give me a second, Your Honor.

13 THE COURT: I should say extrinsic
14 evidence, not collateral evidence.

15 MS. ROEBUCK: I don't believe that
16 Mr. Pryor made that representation, the same
17 one that Mr. George said. So I don't have --
18 that I didn't tell Mr. Kelly that. So I
19 don't have any further questions.

20 THE COURT: Okay. Any cross
21 examination?

22 MR. MIZRAHI: No, Your Honor.

23 THE COURT: All right. Very good.

24 You can step down.

25 (Witness excused.)

1 MR. NORGARD: We have a number of
2 exhibits, Your Honor.

3 THE COURT: Any additional witnesses?

4 MR. NORGARD: No, Your Honor.

5 THE COURT: Okay. Are there any
6 objections regarding the entry of the
7 exhibits?

8 MR. NORGARD: We're going to go over --
9 if we can just have a brief moment. I've
10 still got 20 minutes here. So if we go over
11 (inaudible).

12 THE COURT: Well, I'm not putting you on
13 the clock in that sense. If you finish
14 early, that doesn't mean we can burn the time
15 up. I want to use it efficiently as
16 possible.

17 MR. MIZRAHI: There probably won't be.
18 I haven't seen them.

19 THE COURT: Okay. Well, we can always
20 deal with objections to documentary evidence
21 later.

22 State, are you going to call any
23 witnesses?

24 MR. MIZRAHI: We are going to call
25 Mr. Bateh.

1 THE COURT: Okay. Let's get Mr. Bateh
2 taken care of, and then we'll turn our
3 attention later to that documentary evidence.

4 MR. MIZRAHI: He should be either logged
5 in or logging in.

6 THE COURT: I've got a Tiara's iPhone
7 (inaudible), and I've got a number for an
8 iPhone. I generally do not admit people --

9 MR. MIZRAHI: Let me see the number.
10 Could you scroll down?

11 MR. NORGARD: While you're looking at
12 people, Miss Mitchell got kicked out and she
13 was trying to watch things. If we can admit
14 her back.

15 THE COURT: I think she's back in.
16 She's not in the waiting room.

17 MR. NORGARD: Okay. Thank you, Your
18 Honor.

19 THE COURT: I've got an iPhone. Tell
20 you what. Why don't -- just approach without
21 the court reporter.

22 (Sidebar conference without the reporter.)

23 THE COURT: All right. I see Mr. Bateh
24 present.

25 Mr. Bateh, are you able to hear us?

1 THE WITNESS: I can, sir. I can.

2 THE COURT: Okay. Do you happen to have
3 photographic identification with you?

4 THE WITNESS: Let me grab a passport.

5 THE COURT: All right. And Mr. Bateh
6 happens to be known personally to me as well.
7 I recognize him as who he says he is.

8 MR. NORGARD: I'm not worried about an
9 ID. I mean --

10 THE COURT: Okay. State, are you
11 satisfied --

12 MR. TANNEN: I know Mr. Bateh. That is
13 Mr. Bateh before the Court.

14 THE COURT: Mr. Bateh, don't worry about
15 your passport. Raise your right hand,
16 please.

17 (Witness sworn by the Court.)

18 THE COURT: All right. Go ahead,
19 Mr. Mizrahi.

20 GEORGE BATEH (via Zoom),
21 having been produced and first duly sworn as a witness
22 on behalf of the State, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. MIZRAHI:

25 Q Mr. Bateh, I'm going to ask you about a

1 prosecution back in 1994 to 1995 involving State of
2 Florida versus Michael Bell. Were you the director of
3 the homicide unit at the State Attorney's Office at the
4 time that case was prosecuted?

5 A I was.

6 Q And were you the lead prosecutor?

7 A I was.

8 Q During the investigation and subsequent
9 trial, did you learn of a Paula Goins as a potential
10 witness in the case?

11 A I did.

12 Q And did you know that Miss Goins was related
13 to the defendant, that she was the defendant's aunt?

14 A I learned that, yes, sir.

15 Q Okay. Because of that relationship, did you
16 make a strategic decision to call Miss Goins before the
17 grand jury for the first time that you interviewed her?

18 A I did.

19 THE COURT: Mr. Mizrahi, let me
20 interrupt you before you go further.
21 Probably -- we addressed this somewhat on the
22 record. State, you had withdrawn your
23 objection to Zoom testimony.

24 I probably should have clarified before
25 we called Mr. Bateh. What is the defense

1 position as to Mr. Bateh testifying by Zoom?

2 MS. ROEBUCK: That's fine.

3 MR. NORGARD: Once I found out he was in
4 Scotland, we're ready to just do it.

5 THE COURT: Did you talk with your
6 client about his confrontation clause rights
7 and the implications to that?

8 MR. NORGARD: Given the 3.851 rule,
9 which allows it even if a party objects --

10 THE COURT: That's a good point.

11 MR. NORGARD: So that's why.

12 THE COURT: All right. Go ahead,

13 Mr. Mizrahi.

14 BY MR. MIZRAHI:

15 Q So, Mr. Bateh, we're back. Did you make that
16 decision to bring Miss Goins before the grand jury?

17 A I did.

18 Q And did she have representation of a lawyer
19 at that time?

20 A My recollection is she -- she appeared
21 pursuant to a grand jury subpoena, and she was there
22 with Curtis Fallgatter.

23 Q Okay. And the lawyer that was present was
24 allowed to discuss any issues that she had. In other
25 words, he was representing her at the time.

1 A He was. He was.

2 Q Is that the first time that you met with
3 Miss Goins?

4 A That's my recollection. That was the very
5 first time I had ever met with her.

6 The reason I chose to issue a grand jury
7 subpoena was that I realized -- I recognized that the
8 relationship that Paula Goins had to the defendant was
9 a fairly close one, and I knew she would be very
10 uncomfortable and maybe even a little hesitant to
11 testify against him. But I needed the truth. And
12 there was a line of cases at the time that indicated
13 that if testimony was given in front of a grand jury,
14 there was an opportunity to use that as substantive
15 evidence if the witness at trial didn't want to testify
16 or didn't testify truthfully. That's my recollection.

17 Q Okay. And did you go through a series of
18 questions and answers with Miss Goins and the grand
19 jury?

20 A I did. But prior to that, when Curtis
21 Fallgatter showed -- appeared with her, I said
22 Curtis -- I distinctly remember asking Curtis. I says,
23 Curtis, I'm hoping she's going to tell the truth. And
24 he says, don't worry she will.

25 MR. NORGARD: Objection.

1 THE COURT: Hang on a second.

2 What's the objection?

3 MR. NORGARD: Hearsay. He's talking to
4 an attorney.

5 THE COURT: All right. What's the
6 response?

7 MR. MIZRAHI: I believe that's hearsay.

8 THE COURT: All right. The objection is
9 sustained.

10 All right. Ask a different -- ask a new
11 question, Mr. Mizrahi.

12 BY MR. MIZRAHI:

13 Q So my point, Mr. Bateh, did you ever threaten
14 this witness in order to get her to testify?

15 A No.

16 Q Did you feed her the answers to the questions
17 that you asked?

18 A No.

19 Q Did you do that with any of the witnesses in
20 the case?

21 A Absolutely not.

22 Q And Miss Goins, did she ultimately testify
23 not only in front of the grand jury but also to the
24 jury?

25 A She did.

1 Q Was --

2 A It's a matter of record. There was a
3 transcript of the grand jury testimony, and there was a
4 transcript of the trial. And my recollection was they
5 were both consistent.

6 Q And was Miss Goins reluctant to testify
7 because she loved her nephew?

8 MR. NORGARD: Your Honor, I haven't
9 heard --

10 THE WITNESS: Well, I --

11 MR. NORGARD: (Inaudible).

12 THE WITNESS: She was hesitant to but
13 she never --

14 MR. MIZRAHI: Mr. Bateh?

15 THE WITNESS: Yes?

16 THE COURT: We have an objection.

17 MR. MIZRAHI: You couldn't hear the
18 objection.

19 THE COURT: There's always going to be a
20 little delay on Zoom.

21 THE WITNESS: I'm sorry. I -- I'm
22 sorry.

23 THE COURT: I'll try to remember to
24 raise my hand or something.

25 MR. NORGARD: I haven't heard --

1 THE COURT: State the objection.

2 MR. NORGARD: I haven't heard a single
3 non-leading question yet. Every one of his
4 answers has been yes, and then he just
5 extemporizes. Please just ask non-leading
6 questions.

7 THE COURT: So the objection is leading?

8 MR. NORGARD: Yes, Your Honor.

9 THE COURT: All right. Would you read
10 the question back, please?

11 And, Mr. Bateh, I'll say this: As a
12 lawyer, its hard to be a witness. Just
13 remember to just answer Mr. Mizrahi's
14 questions, and then he'll ask you the next
15 questions.

16 THE WITNESS: Yes.

17 THE COURT: Go ahead. Read back.

18 (The question was read back by the court
19 reporter.)

20 THE COURT: All right. I'll overrule
21 the objection as to that question.

22 All right. Go ahead, Mr. Mizrahi.

23 BY MR. MIZRAHI:

24 Q So my question was was Miss Goins reluctant
25 to testify because the defendant was her nephew?

1 A I could -- there was some reluctance but
2 she -- it wasn't anything significant. I -- 'cause
3 I -- I talked to her before she testified. And I told
4 her. I said, I recognize defendant is your -- your
5 nephew and that you care for him deeply. I said, but
6 this -- I'm just doing my job and it's important for me
7 to call you as a witness. And I'm hoping that you will
8 tell the truth.

9 MR. MIZRAHI: Thank you. That's all the
10 questions I have.

11 THE COURT: Any cross examination?

12 MR. NORGARD: I do. Thank you, Your
13 Honor.

14 CROSS EXAMINATION

15 BY MR. NORGARD:

16 Q Mr. Bateh, my name is Robert Norgard. I
17 represent Mr. Bell. And the first thing I want to ask
18 you about regarding this particular case is that you
19 talked about who Miss Goins's defense attorney is. And
20 who is it you recall being the defense attorney?

21 A When she appeared in front of the grand jury,
22 my best recollection was she appeared there with Curtis
23 Fallgatter, who was a former federal prosecutor for a
24 number of years and then had been a criminal defense
25 lawyer for a number of years.

1 Q All -- I just asked if you knew the name of
2 the person. That's all I needed to know. What was the
3 name of the person?

4 A All right, sir.

5 Q What was the name of the person again? I'm
6 sorry. You just kept talking.

7 A Curtis Fallgatter.

8 Q Okay. Do you recall Miss Goins either
9 appearing at the grand jury or in your office with
10 Stephen Weinbaum?

11 A She may have. I don't have a clear
12 recollection of that.

13 Q Okay. So could you possibly be wrong about
14 who her attorney was?

15 A At which point in time?

16 Q Either -- either the grand jury or in your
17 office.

18 A I'm not certain -- I'm certain that the
19 person that appeared with her at the grand jury was
20 Curtis Fallgatter. If -- that's my best recollection.

21 Q Okay. That's all.

22 A If there -- yes.

23 Q Okay.

24 THE COURT: Any redirect?

25 MR. NORGARD: I'm not done. No, no.

1 THE COURT: I'm sorry. I thought you
2 were done.

3 MR. NORGARD: Oh, no. I was waiting for
4 him to stop talking so I could move on.

5 BY MR. NORGARD:

6 Q Mr. Bateh?

7 A Yes.

8 Q You said that there were no threats made to
9 Miss Goins. But wasn't it a situation where her
10 appearance at the grand jury was under threat of
11 possible contempt?

12 A If she didn't appear, that was a possibility,
13 I suspect, but there was never a discussion that was
14 had with her regarding that.

15 Q I'm going to read to you a question and
16 answer, a series of questions and answers that you
17 asked Miss Goins in front of that jury in this trial.

18 A The grand jury?

19 Q No, in front of the trial jury.

20 A Okay.

21 Q You asked Miss Goins about -- referencing to
22 the grand jury proceedings. You said: Did you appear
23 there pursuant to that subpoena with your lawyer?

24 Her answer was: Yes, I did.

25 Question: And under the threat of possible

1 contempt, did you testify before the grand jury on that
2 day?

3 And she said: Yes.

4 Do you recall telling the jury that?

5 A If it's in the record, I -- I guess it
6 happened. Yes, it did happen.

7 Q All right. Mr. Bateh, I know you're in
8 Scotland now. But do you still reside in the
9 Jacksonville area?

10 A I do.

11 Q Okay. Are you aware of an article that
12 appeared locally on March 17th, 2025?

13 MR. MIZRAHI: Your Honor, I'm going to
14 object as beyond the scope of direct.

15 MR. NORGARD: This -- this goes to his
16 interest in the case as an article
17 criticizing his --

18 THE COURT: Hang on a second. I'll
19 overrule the objection. I'll allow the
20 question.

21 MR. NORGARD: Thank you.

22 THE COURT: Now, it's going to be
23 subject to renewing the objection if we get
24 too far afield.

25 BY MR. NORGARD:

1 Q There was an article written by Nichole
2 Manna, N-I-C-H-O-L-E M-A-N-N-A. The caption is:
3 George Bateh put 15 men on death row and was rebuked
4 twice by the Florida Supreme Court.

5 MR. MIZRAHI: Your Honor, renewing my
6 objection to this question.

7 THE COURT: What -- what is -- tell me
8 the purpose of the question and the
9 relevance, Mr. Norgard.

10 MR. NORGARD: In this particular
11 situation, in this article with a number of
12 criminal -- a number of attorneys commenting
13 on Mr. Bateh's history of prosecuting cases,
14 his reputation for being a straight shooter
15 versus somebody who wins at all cost was
16 called into question. I'm trying to find out
17 from this witness, is he aware that there is
18 an article questioning his reputation that
19 would put him in a position to want to defend
20 his reputation.

21 THE COURT: Just ask him a
22 straightforward question. Were you aware of
23 the article?

24 MR. NORGARD: I was trying to and I got
25 interrupted before I finished naming the

1 article.

2 THE COURT: Anyway.

3 BY MR. NORGARD:

4 Q Mr. Bateh, are you aware of that article?

5 A I was. I am.

6 Q Okay. There's a second article by Nichole
7 Manna called: How a Florida prosecutor fixed a weak
8 case using a liar and three jailhouse snitches to send
9 a man to death row. Also March 17th, 2025. Are you
10 aware of that article?

11 A (Inaudible).

12 THE COURT: Can you repeat that,
13 Mr. Bateh? Your audio broke up as you were
14 speaking.

15 THE WITNESS: I know I read articles but
16 I don't recall the date. Did that relate to
17 the.

18 BY MR. NORGARD:

19 Q The Hartley case.

20 A Yes, Kenneth Hartley. Yes, I read those
21 articles.

22 Q All right. And I assume you're well-aware of
23 the criticism of your prosecutions in the Urban case,
24 correct?

25 A I am.

1 MR. MIZRAHI: Objection, Your Honor.
2 This, again, goes way far beyond the field of
3 direct examination.

4 THE COURT: Sustained.

5 MR. NORGARD: This goes to prosecutorial
6 misconduct that was then repeated in the
7 Brooks case by this prosecutor and his win at
8 all cost approach to trying cases.

9 THE COURT: Has Mr. Bateh been
10 sanctioned by the Florida Supreme Court?

11 MR. NORGARD: He's been taken to the
12 woodshed by the Florida Supreme Court.

13 MR. MIZRAHI: I object.

14 THE COURT: Is that a no?

15 MR. NORGARD: He has not received Bar
16 disciplinary.

17 THE COURT: Okay.

18 MR. NORGARD: But you can read what the
19 Court had to say about him in very strong
20 terms.

21 THE COURT: Well, I don't know that
22 articles are proper fodder for cross
23 examination.

24 MR. NORGARD: Okay. This is not an
25 article, Your Honor. It is the Florida

1 Supreme Court in Urban versus State,
2 714 So. 2d going through -- 1, 2, 3, 4, 5, 6,
3 7, 8 -- 8.

4 THE COURT: Is that a matter -- is that
5 an opinion from Florida Supreme Court?

6 MR. NORGARD: It's an opinion by the
7 Florida Supreme Court.

8 THE COURT: It's a matter of record in
9 this case.

10 MR. NORGARD: We did file that. Did we
11 file Urban as part of our -- is Urban in our
12 record?

13 MS. ROEBUCK: It's cited.

14 MR. NORGARD: It is cited, Your Honor.

15 THE COURT: Published opinion and you
16 cited in the record.

17 MR. NORGARD: Yes.

18 THE COURT: Okay.

19 BY MR. NORGARD:

20 Q And the other case, Mr. Bateh, you're
21 aware --

22 MR. MIZRAHI: I'm still objecting.

23 THE COURT: Hang on.

24 State your objection, Mr. Mizrahi.

25 MR. MIZRAHI: This is beyond the scope

1 of direct examination. If the Supreme Court
2 has criticized Mr. Bateh about a closing
3 argument before, it has nothing to do with
4 direct testimony.

5 THE COURT: I sustained your last
6 objection as beyond the scope. I'm trying to
7 clarify that the article that -- the Supreme
8 Court opinion has been cited in the record.
9 The lawyers can argue what relevance and
10 significance that has, but I don't -- the
11 questioning is beyond the scope.

12 MR. NORGARD: And the other case, Your
13 Honor, that has been cited is Brooks v.
14 State, 762 So. 2d 879. I won't talk to
15 Mr. Bateh about it, given your ruling.

16 BY MR. NORGARD:

17 Q Mr. Bateh, you've worked with Detective
18 Bolena before, correct?

19 A Bill Bolena?

20 Q Bolena. You've worked with him.

21 A Yes.

22 Q All right.

23 A I -- I worked with him on this case.

24 Q Okay. And as part of his work on this case,
25 do you recall writing a letter to the Sheriff's Office

1 that led to Mr. Bolena getting a commendation for his
2 work in the case because, as you put it, before Bolena
3 was involved, it was a weak case. And he made it a
4 case for you. Do you recall going to bat for
5 Mr. Bolena a getting a commendation?

6 A I have a vague recollection of that. If
7 there's a letter in the record that's available, then
8 I'm not going to deny it.

9 Q Okay. And so if it -- if your characterized
10 Mr. Bell's case before Bolena's involvement as a weak
11 case, you would stand by that, is that correct?

12 A Repeat the question, please.

13 Q Sure. In the letter, you describe Mr. Bell's
14 case as being weak until Mr. Bolena got involved. All
15 I'm asking you is if you said that in that letter,
16 would you stand by what you said in that letter?

17 A I would.

18 MR. NORGARD: And no further questions,
19 Your Honor.

20 THE COURT: All right. Let's see. Any
21 redirect, Mr. Mizrahi?

22 MR. MIZRAHI: No, Your Honor.

23 THE COURT: All right. Thank you,
24 Mr. Bateh. You are welcome to -- let me ask
25 you this. I should have asked you this when

1 I swore you in. You understand that --

2 THE WITNESS: Yes.

3 THE COURT: -- even though you are --
4 you're currently located in Scotland,
5 correct?

6 THE WITNESS: That's correct.

7 THE COURT: You understand that your
8 testimony here today subjects you to perjury
9 laws in the State of Florida?

10 THE WITNESS: I fully understand that,
11 sir.

12 THE COURT: All right. And you knew
13 that before I told you, correct?

14 THE WITNESS: Yes, sir.

15 THE COURT: Okay. Very good. All
16 right. You're welcome to stay logged on.
17 You can also log off and go about your
18 business. But if you do stay logged on, I
19 just ask you mute your microphone. Thank
20 you.

21 THE WITNESS: I shall, sir, and I'm just
22 going to log off. Thank you very much, Your
23 Honor.

24 THE COURT: You're welcome.

25 (Witness excused.)

1 THE COURT: Let's see. State, any other
2 testimonial witnesses?

3 MR. MIZRAHI: No, Your Honor.

4 MR. NORGARD: Now that we've told him
5 about perjury, maybe we should have got him a
6 lawyer. Just kidding, Your Honor.

7 THE WITNESS: I'm -- I'm going to sign
8 off if that's all right.

9 THE COURT: Yes. That's fine. Thank
10 you, Mr. Bateh.

11 THE WITNESS: Thank you.

12 THE COURT: Any rebuttal witnesses from
13 the defense?

14 MR. NORGARD: Your Honor, we just need
15 to go over the exhibits with the State, see
16 what, if any, objections they have to say.

17 THE COURT: Okay.

18 MR. NORGARD: And I am ready to then
19 move into argument.

20 THE COURT: All right. Very good. Why
21 don't y'all talk about those exhibits, see if
22 there's any objection.

23 MR. MIZRAHI: To inform the Court, this
24 is not going to be something that we'd be
25 able to quickly go through and just

1 stipulate. There are things in here we will
2 agree to. There are things in here we are
3 not going to agree to. And it's very
4 voluminous. So I just wanted to let the
5 Court know. We'll sit here and do it right
6 now. We can agree to some things and not
7 others.

8 THE COURT: How much time do you think
9 you need?

10 MR. MIZRAHI: I have no idea. I'm just
11 trying --

12 THE COURT: You think this is a
13 situation where part of your team can go
14 through those documents and determine whether
15 there's any objections while we proceed
16 forward with argument?

17 MR. MIZRAHI: Yes.

18 THE COURT: Okay. Let's do that.

19 So what I'll do, I'm going to give --
20 defense, I'll give you up to 20 minutes.

21 State --

22 MR. NORGARD: Your Honor, I going to go
23 from Point A to Point B in my argument. But
24 in this circumstance, I just want to say
25 everything I say. If I go a little over, I

1 don't want to be held to a time period. I
2 don't ramble. I'm going to go from Point A
3 to Point B (inaudible). It will be around
4 20 minutes but I can't promise.

5 THE COURT: I'll see how we're doing 20
6 minutes in.

7 State, you'll get 20.

8 And defense, I'll give you somewhere
9 between five to ten for rebuttal.

10 MR. NORGARD: That will be fine, Your
11 Honor.

12 THE COURT: All right. Defense
13 argument.

14 MR. NORGARD: Which podium do you like
15 best, this one?

16 THE COURT: Whichever one you prefer.
17 Actually, it doesn't matter to me.

18 MR. NORGARD: Your Honor, in this case,
19 what we have generally presented is a law
20 enforcement officer, Detective Bolena, who
21 has used threats and promises to exploit
22 honorable witnesses to provide evidence
23 against Mr. Bell in this case. We have a
24 prosecutor who through witnesses that have
25 had to deal with him described the prosecutor

1 who essentially wants to win at all cost.

2 I'm going to start with -- because the
3 State keeps bringing it up, bringing it up,
4 bringing it up. Up and until Mr. Bell's
5 warrant was signed, we would have had no
6 reason to talk to any of these people based
7 on what was in the trial record, what was in
8 the postconviction record. We had and --
9 what had occurred prior, you know, police
10 reports, witness statements, discovery, to
11 interview these people. We're relying on
12 what was said up until and through 2002.
13 Until we were contacted by -- and it wasn't
14 even me initially -- the north office, we had
15 no idea that Mr. Jones and Mr. Edwards would
16 potentially recant their testimony at trial.

17 What we have developed because of that
18 is we now have the testimony of Miss Goins.
19 And, Your Honor, I would submit to you that
20 if you take the weighing the credibility of
21 the evidence instruction that juries use,
22 same thing that we as attorneys and judges
23 would use to evaluate witness credibility,
24 Miss Goins was a credit witness.

25 What Miss Goins detailed was that before

1 she gave a statement about anything to do
2 with Mr. Bell that she was in a room with
3 Detective [sic] Bateh, Detective Bolena. And
4 her statement was it was attorney by the name
5 of Stephen Weinstein [sic], not somebody
6 named Curtis, whose name I can't remember.
7 But that was her attorney. Before she gave
8 her statement, in very credible descriptive
9 terms, she described what Bolena was doing,
10 standing over her, raising his voice at her,
11 the demeanor that frightened her. And
12 there's Mr. Bateh sitting right there while
13 this is going on.

14 Mr. Bateh claims there was no pressure
15 put on her, yet in the trial transcripts, as
16 I cited, at a minimum, he brought up at trial
17 that she was threatened with contempt. So he
18 didn't even remember that, and that's what he
19 asked her at trial.

20 I would suggest, Your Honor, when you're
21 dealing with a witness who has no criminal
22 history, works in the court system, is
23 brought in on a case that she's going to have
24 a better memory of what was being said to her
25 by a detective and by a prosecutor.

1 Your Honor, I have talked in my lifetime
2 to hundreds if not thousands of witnesses,
3 and there's no way I can remember the
4 interaction between all those people. But
5 Miss Goins is going to remember what she went
6 through in that office, being confronted by
7 George Bateh. And what she did testify to in
8 very credible terms is that they threatened
9 her with -- if she did not cooperate, she
10 would lose her job, a job in the Middle
11 District Court, a job she eventually held for
12 35 years. That's a heck of a threat to make
13 to somebody.

14 She was told and they -- they were aware
15 of the fact that she had just gotten custody
16 of her granddaughter, and they threatened to
17 take that granddaughter away. She was told
18 that that child, three-year-old child, would
19 be taken from her.

20 She was told that she would lose her
21 home. They knew enough about her that they
22 knew she had a granddaughter, enough about
23 her that she just bought a home, and she was
24 threatened with losing her home. And she was
25 told that she would go to jail for five

1 years. And the one additional threat that
2 Mr. Bateh couldn't remember but was also part
3 of all this was a threat of contempt.

4 What Miss Goins testified to was that
5 she never heard Michael Bell use the words, I
6 did it. That's what she told testified to
7 you today. She was very adamant that
8 although it was hard to remember all the
9 things that far back, the one thing she did
10 remember unequivocally was that it was always
11 expressed in terms of we did it, not Michael
12 Bell saying, I did it.

13 THE COURT: Now, what are you -- are you
14 contending that Miss Goins gave any
15 untruthful testimony at Mr. Bell's trial?

16 MR. NORGARD: Well, what she told Your
17 Honor is that at trial, she testified Mike
18 said it, Mike said it, Mike said it. Today,
19 she said that he never ever expressed it in
20 those terms. It was when -- the parts of the
21 discussion she overheard was we did it. And
22 that is very different than what she
23 testified at trial. There's nothing in trial
24 that Mr. Bell's statements were, we did it.
25 It was always he said that, he said that, and

1 it was always focused on Mr. Bell.

2 And she said that she was told to say
3 that by the detective. She was told that
4 they wanted Michael and was told to say I,
5 not we.

6 She indicated that she could overhear
7 things being said, but the one critical thing
8 that she remembered was that Mr. Bell never
9 made the admission that it was him, only him.
10 And everything was attributed to him was
11 always expressed as we.

12 Another witness who has testified here
13 is Miss Williams. Miss Williams talked about
14 her treatment by Detective Bolena. She
15 testified about her interactions with
16 Mr. Bateh. I'm not going to sit here, Your
17 Honor, because I know you took good notes.
18 The court reporter's also required to crank
19 this out as fast as she can to assist you
20 with doing your order.

21 But Miss Williams went through and
22 described the way she was treated by Bolena.
23 Some of the things she didn't remember, even
24 though she just told them to the investigator
25 last week. But she talked about how she --

1 she didn't remember reporting the gun stolen.
2 The record in this case is that she did
3 report the gun stolen. She would have been
4 an accessory after the fact, Your Honor. She
5 supposedly knew about the murder, reported to
6 the police that the gun was stolen. She was
7 an accessory after the fact. She filed a
8 false police report, never got prosecuted for
9 it.

10 She gets -- she does remember getting a
11 business card from Detective Bolena that
12 said -- on the back said, matter of life and
13 death. She did not know what to think of
14 this. She testified that shortly after that,
15 she is picked up by law enforcement officers.
16 She recalls that her youngest daughter was --
17 one of her daughters was home from school
18 because she was sick and had to leave her
19 with a neighbor, and she talked about being
20 petrified as they took her downtown.

21 She talked about being put in an
22 interrogation room. She remained there for
23 the next -- she was uncertain but it was
24 definitely more than ten hours was her
25 testimony. She remembers being screamed at

1 by the cops. Those were her words, that she
2 was screamed at by the cops. She always
3 described them as treating her meanly.

4 Some of this stuff, as I was questioning
5 her, Your Honor, I can't remember if -- I
6 believe she did not remember the jail for ten
7 years or the accessory to murder, but she did
8 say that she was in the room with the
9 detectives, in and out of there for ten-plus
10 hours.

11 She also acknowledged that it wasn't
12 until the detectives told her that they would
13 take her children away from her and they we
14 would go into the system with strangers. It
15 was only at that point in time that she then
16 said the things she said about Mr. Bell.

17 She went on to say that as the case was
18 moving forward towards trial that she was
19 reminded of what would happen to her if she
20 changed her testimony. Everything that I
21 just told you about how she was treated by
22 the police did not come out at trial. It is
23 new evidence that we learned in the course of
24 our investigation after it was triggered by
25 Jones and Edwards.

1 At trial, the way that Mr. Bateh made it
2 sound is that Detective Johnson showed up to
3 question her about her report of a stolen
4 AK-47. Mr. Bateh says, did you then tell
5 them about Michael Bell? And she said yes.
6 That's all that came out at trial, the
7 circumstances. The jury did not hear any of
8 these new things that we uncovered about
9 being in the jail for ten hours, being
10 screamed at, yelled at, threatened with her
11 children being taken. None of that came out
12 in Mr. Bell's trial. And that goes to her
13 credibility in a very big way.

14 The other thing that's remarkable is
15 that when -- not me but the State asked her
16 if she told the truth at trial. She said, I
17 don't recall. This witness could not even
18 come to these proceedings and tell you that
19 what she said at trial was true. And we now
20 know everything that occurred to get her to
21 be in that trial and testify.

22 With respect to Ned Pryor, Ned Pryor, at
23 least in the order that I'm addressing it, is
24 the first witness who decided to use the
25 Fifth Amendment as a shield. I went through

1 a lot of things with Ned Pryor about the way
2 he was treated by the police, the way he was
3 treated by Mr. Bateh. And using the shield
4 of the Fifth Amendment, he would not answer
5 those questions. So when it came to talking
6 about Mr. Bateh and Mr. Bolena, I was shut
7 down by a claim of Fifth Amendment, even
8 though it was the actions of Bateh and
9 Mr. Bolena I was questioning him about,
10 nothing that would implicate him doing
11 anything wrong.

12 But Mr. Pryor made a very significant
13 statement. The first time he said it, I went
14 over it with him. When I tried to get him to
15 clarify for some additional details, at that
16 point, he utilized the Fifth. But Mr. Pryor
17 said under oath today -- and this is
18 something that we knew for the first time
19 when he was spoken to on June 17th --
20 Mr. Pryor, before taking the Fifth, said
21 under oath in this Court today that he never
22 saw Mike with a gun on the night of the
23 incident. And then he said that he was not
24 even there.

25 So three witnesses in, three witnesses

1 down in terms of this being what the State
2 characterized as a great case.

3 I'm going to talk about Dale George
4 next. Again, because as I was the one up
5 here doing the questioning of him, it was
6 hard to keep track of what he would answer
7 and what he would take the Fifth to. But,
8 Your Honor, you have his testimony. You can
9 take a look at it, and you can see what
10 Mr. George had to say about how he was
11 treated by George Bateh, how he was -- and
12 how he was treated by Mr. Bolena. He talked
13 about this same pattern of threat and promise
14 to get him to testify in Mr. Bell's case.
15 And none of that came out to the jury and was
16 newly discovered.

17 So at this point, I have talked about
18 the four witnesses that the State described
19 as being much better witnesses than our
20 recantation witnesses. That alone is enough
21 to warrant Mr. Bell getting a new trial. And
22 as you analyze this, Your Honor, do not
23 forget that we are also dealing with penalty
24 phase, where although you may conclude that
25 what I brought out would not change the

1 outcome of the guilt phase of the trial --
2 because I'm acknowledging. I mean, Mr. Bell
3 made a statement that we did it. But I want
4 you to look at the penalty phase implications
5 of this.

6 According to Miss Goins, he did not --
7 it was always we. That raises issues of
8 Enmund/Tison. If it was we doing it, they
9 don't know necessarily who was the shooter
10 and that raises an Enmund/Tison issue. When
11 it comes to codefendants where the testimony
12 is coming out much different than the State
13 presented back in 1995, we have issues of
14 relative culpability of codefendants and
15 codefendant proportionality, not case
16 proportionality but codefendant
17 proportionality in terms of how they were
18 treated.

19 When it comes to CCP and given that we
20 now have an issue as to -- that we now have
21 an issue as to who the shooter may have been,
22 given it was a we statement and not an I
23 statement, there may be -- you know, CCP, if
24 you do the research, cannot be imputed
25 necessarily to the defendant unless you can

1 show things where he engaged in things that
2 were considered CCP. If somebody who engages
3 in a crime -- I'll just throw out this. You
4 know, Mr. Bell had this dispute with the
5 gentleman, but if somebody else killed him
6 and in the course of doing that, killed the
7 second person, even if Mr. Bell wanted him to
8 kill one person, doesn't necessarily mean
9 two. And that also would weigh on the jury
10 and with great risk of harm to other people.
11 Being an aggravating factor, the fact that
12 somebody who was the shooter chose to spray
13 gunfire at the crowd cannot be imputed to
14 somebody that's more of an accessory.

15 So the testimony of these four people
16 has been impeached enough, we have somebody
17 who -- I'm not going to go through it again.
18 I've got 20 minutes and I'm going to try to
19 keep it within that, Your Honor. These four
20 witnesses with what has been developed here
21 would have changed the outcome of not only
22 the guilt phase of the trial but the penalty
23 phase of the trial.

24 Now we're kind of flipping the script
25 'cause now the State's going to say

1 Mr. Edwards and Mr. Jones are their best
2 witnesses 'cause they came in and just
3 clammed up, took the Fifth, wouldn't say
4 anything. All I know is in a case where
5 death is different, Mr. Edwards signed an
6 affidavit saying that he lied at trial under
7 penalty of perjury. We have that. At a
8 minimum, at a retrial, I would cram this down
9 his thought. Mr. Edwards in terms of what he
10 was willing to say was completely incredible.

11 Charles Jones signed an affidavit saying
12 he lied at trial, then comes in here and
13 takes the Fifth. Six witnesses, each with
14 blockbuster information that would have and
15 could have changed the outcome of this trial
16 and the penalty phase, all newly discovered
17 and being presented before Your Honor.

18 Thank you very much.

19 THE COURT: You're welcome.

20 MR. NORGARD: How did I do on time?

21 THE COURT: You were one minute under.

22 MR. NORGARD: So I get 11 minutes for
23 rebuttal then?

24 THE COURT: Sure.

25 State.

1 MR. TANNEN: Good afternoon, Your Honor.

2 This hearing was granted on a claim in
3 Mr. Bell's motion for postconviction relief
4 that Henry Edwards and Charles Jones had
5 purportedly recanted their testimony from
6 Bell's 1995 trial and 2002 postconviction
7 hearing. That is the claim that this hearing
8 was granted on.

9 Neither Jones nor Bell was willing to
10 recant their prior trial testimony. Jones
11 relied on his rights under the Fifth
12 Amendment and Mr. Edwards went much farther.
13 Not only did he recant. He said his trial
14 testimony was the truth. He didn't write and
15 had never even read the affidavit that he had
16 agreed to sign, and he said that he only
17 agreed to sign it because he was told that he
18 needed to do so in order to save Mr. Bell's
19 life. I think Mr. Norgard asked Mr. Edwards
20 about the affidavit over and over again, and
21 Mr. Edwards kept saying the same thing. I
22 was just going with what you told me, to save
23 Bell's life. And Edwards clarified that when
24 he said you, he meant the investigators who
25 came to him after the death warrant was

1 signed.

2 The Florida Supreme Court has repeatedly
3 said that recanting testimony is exceedingly
4 unreliable. One of the more recent
5 statements is Sweet versus State, 248 So. 3d
6 1060, Florida Supreme Court, 2018.

7 The evidence today shows that an
8 affidavit without in-court testimony is even
9 less reliable. Edwards and Jones have
10 previously testified under oath twice. In
11 1995, they provided testimony consistent with
12 every other trial witness, that Mr. Bell
13 murdered Jimmy West and Tamecka Smith in
14 retaliation for the death of his own brother
15 by Mr. West's brother, Wright. In 2002, in
16 response to Bell's claims that their
17 testimony was false, both testified that
18 their trial testimony was the truth. Today,
19 Jones would not recant his prior testimony,
20 and Edwards expressly said again that his
21 prior testimony was true and that he only
22 signed the affidavit to help Bell.

23 In short, there has been no recantation.
24 And the motion for postconviction relief as
25 to Claim 1 must be denied for that reason.

1 The -- Mr. Bell has presented many other
2 witnesses here today, Your Honor. Those
3 witnesses were not pled in the motion, and we
4 submit that they're beyond the scope of
5 Claim 1. We've filed a motion to that
6 effect, so that I believe is before the
7 Court. And the Court should rule on that
8 before -- in the course of making its final
9 ruling.

10 But even if the Court considers all of
11 the testimony that was given today, there is
12 nothing that supports either a newly
13 discovered evidence claim, which requires
14 evidence of such significance that it would
15 probably produce an acquittal on retrial or a
16 Brady or Giglio claim, which requires that
17 assuming that a violation occurred, the
18 testimony must be material, which means there
19 has to be a reasonable probability of a
20 different outcome.

21 We heard from Miss Goins, who we know
22 was upset about having to testify about her
23 nephew. That is very clear from the trial
24 transcript itself. Her chief complaint
25 seemed to be that she was testifying to what

1 other people said, but that was, in fact, her
2 testimony. She testified that she heard Bell
3 bragging about the killing of West in
4 retaliation for the death of his brother.

5 She -- and as far as -- to the extent
6 that she is now trying to retract her
7 testimony, she also repeatedly said that she
8 didn't have -- she didn't really recall what
9 happened 30 years ago. She was under a lot
10 of stress. She's gone through a lot of
11 cancer treatments. So the State submits that
12 her best -- the best evidence as far as her
13 testimony is the testimony she gave at trial.

14 You've also heard from Mr. Bateh that
15 she was never threatened in exchange for her
16 testimony. And she was never told what to
17 say. She was under subpoena and obviously
18 would have been, you know, faced with a
19 contempt charge if she didn't show up in
20 court in accordance with the subpoena. But
21 that's -- that's what a subpoena is. That
22 doesn't change anything as far as her
23 testimony.

24 And so the State submits that as far as
25 Miss Goins goes, we haven't heard anything

1 different, and she certainly never recanted
2 her testimony. She indicates that she heard
3 now, 30 years later, that she heard Mr. Bell
4 say something to the effect of we did it
5 instead of I did it. But the evidence at
6 trial was very clear that Mr. Bell was in a
7 car with Mr. George. Mr. Bell got out of the
8 car, opened fire with the AK-47, killed
9 Mr. West, killed Miss Smith and then got back
10 in the car and George drove him away. So
11 there were multiple people involved in this
12 offense.

13 And, again, the State would submit that
14 her trial testimony from 30 years ago was for
15 more credible than her testimony today.

16 As far as Miss Williams or today,
17 Miss Braclet, at the time of trial,
18 Miss Williams, she, again, did not refute her
19 trial testimony. She -- her chief testimony
20 today was that she felt threatened about
21 being charged. But one should recall that
22 she testified at trial, which was
23 corroborated by another witness. She not
24 only reported the gun stolen after the fact.
25 She, in fact, bought Mr. Bell the AK-47 that

1 he used to murder two people. And so the
2 fact that she was -- and Mr. Bell was a
3 convicted felon, who had recently been
4 released from prison. And so the fact that
5 she was potentially facing very serious
6 charges for her role in these murders, again,
7 is not at all surprising.

8 With respect to Mr. Pryor, I believe he
9 was very, again, reluctant to testify today.
10 At one point, he said today that he wasn't on
11 the scene, which is contrary to his trial
12 testimony. But he testified both at the
13 trial in 1995 -- and the State would submit
14 that his trial testimony is the best evidence
15 given the passage of time. And he also
16 testified at the 2002 hearing that his
17 testimony was the truth. And he also stated
18 that -- I believe on cross examination today
19 that he was not facing any charges in 2002,
20 and the State didn't have any leverage over
21 him at that point. And he still testified
22 that his trial testimony was the truth.

23 So the State would urge the Court to
24 rely on that testimony he previously gave
25 closer to the actual events and not 30 years

1 later.

2 Mr. George largely took the Fifth today.
3 He indicated that he was threatened by or he
4 was treated harshly by Bolena. He indicated
5 that he was concerned about being charged
6 but, again, that is nothing new. He was
7 involved in the murder. He testified at
8 trial that he agreed to testify in exchange
9 for a, I believe, five-year plea deal, and he
10 also testified at length during the
11 postconviction testimony that the trial
12 testimony was the truth.

13 He explained during the postconviction
14 hearing that he -- he initially refused to
15 talk to Bell. But after sitting in jail
16 for -- or he refused to testify against Bell.
17 But after sitting in jail for a few months,
18 he decided -- he had time to reflect on his
19 life and decided to tell the truth.

20 So none of this -- none of these four
21 additional witnesses that have been presented
22 today would have changed anything as far as
23 the trial. Even if they are properly
24 considered today, Mr. Bell's claim is still
25 without merit.

1 I would also add that Miss -- I believe
2 we heard from Miss Robertson and Miss
3 Glory -- I apologize. I'm forgetting her
4 last -- that Mr. Edwards was a confidential
5 informant at the time of the trial. That was
6 covered during postconviction testimony, Your
7 Honor. I believe Detective -- the --
8 Detective Bolena did testify at the
9 postconviction hearing that Mr. Edwards was a
10 confidential informant at least in one case.

11 So again, that's -- that's nothing new
12 today.

13 Taking everything together, the Court
14 has not been presented with any evidence of
15 recantations or credible evidence of
16 recantations. And we would ask the Court to
17 deny the motion on the merits.

18 I'd also like to briefly address
19 timeliness. I addressed this issue on
20 Friday. The Court granted an evidentiary
21 hearing, but the Court, as I understood it,
22 did not make a ruling on the timeliness
23 issue. And the Court is going to have to
24 resolve that in the course of deciding the
25 motion. As I said previously, rule

1 3.851(d)(2) requires that any motion for
2 postconviction relief -- I'm sorry -- (d)(1)
3 requires that any motion for postconviction
4 relief be filed within one year of the
5 conviction and sentence becoming final. In
6 this case, it became final in 1998. Unless
7 one of the exceptions in 3.851(d)(2) is
8 satisfied.

9 Mr. Bell's motion is essentially silent
10 as to the time bar. As to both Edwards and
11 Jones, all the motion says is: This newly
12 discovered evidence was not known to trial
13 counsel at the time of trial, and Bell and
14 his counsel could not have known of this
15 information by the use of diligence.

16 That is a boilerplate statement. There
17 is no elaboration. It is Mr. Bell's burden
18 to plead in the motion that -- a legally
19 sufficient claim that was timely filed, and
20 given that the motion itself is legally
21 insufficient, we would submit that it should
22 be denied on that basis alone.

23 Even if we accept the testimony that was
24 given here today, there still is not
25 sufficient evidence to show that this claim

1 was timely filed. Bell's motion doesn't --
2 Bell's motion, as I said, doesn't explain
3 when he -- when he learned of the alleged
4 recantations by Jones and Edwards. We heard
5 today from Tennie Martin, who is an attorney
6 with the federal Public Defender's Office's
7 capital habeas unit, that after the death
8 warrant was signed, she learned from another
9 CHU attorney or investigator that at some
10 point, someone had contact with Jones and
11 Edwards and that the person passed on to
12 Miss Martin that Jones and Edwards might have
13 helpful information. We don't know
14 whether -- when those conversations took
15 place. We don't know when they learned that
16 Jones and Edwards had helpful information.

17 And it's worth noting that this case is
18 30 years old. All of the witnesses who
19 testified here today were witnesses at trial.
20 Most of them were witnesses at the
21 postconviction evidentiary hearing. All of
22 these people have been known to Mr. Bell from
23 the beginning of this case. And in addition,
24 the capital habeas unit has been Mr. Bell's
25 counsel since 2017. And Mr. Norgard has been

1 his counsel since 2015.

2 The signing of a death warrant is not a
3 trigger for a new round of investigation.
4 Mr. Bell has to establish that -- that this
5 evidence -- it's not only newly discovered
6 but that it could not have been previously
7 discovered with the exercise of due
8 diligence. And on the facts here, Mr. Bell
9 has not met that burden.

10 So the motion should be denied as
11 untimely.

12 I would just add again as to the
13 prejudice component of -- of the Giglio and
14 Brady claims and the elements of a newly
15 discovered evidence claim, there has never
16 been any dispute that Mr. Bell committed
17 these murders. The evidence at trial was
18 overwhelming. Mr. Norgard, I think on
19 Friday, said that the State says that in
20 every case. But here, it wasn't the State
21 saying that. It was the trial court in its
22 sentencing order and Mr. Bell's own trial
23 counsel during the postconviction hearing.

24 Mr. Bell's trial counsel, Mr. Nichols,
25 testified at the 2002 evidentiary hearing in

1 response to Bell's ineffective assistance
2 claim that Bell never told him anything that
3 he could use as an actual defense to the
4 murder charge. The State's evidence was, in
5 Mr. Bell's words -- or I'm sorry --
6 Mr. Nichols' words, overwhelming. Nichols
7 asked Bell about the possibility of an alibi
8 and Bell wouldn't provide him one. Bell just
9 said that the State would have to prove it in
10 court and that he didn't think the States
11 witnesses would show up to testify. And
12 according to Mr. Nichols, Mr. Bell seemed
13 surprised when the State witnesses, in fact,
14 showed up.

15 I would just point the Court to
16 Mr. Nichols' testimony on that point, which
17 is on Pages 555 through 556 and 573 of the
18 postconviction transcript.

19 And Mr. Nichols further testified that
20 when -- after the State witnesses, in fact,
21 testified at trial, Mr. Bell defaulted to a
22 very weak self-defense claim based on
23 Miss Goins' testimony that according to
24 Mr. Bell, according to what Mr. Bell told
25 her, he thought he saw West reaching for a

1 weapon as Bell was approaching the car with
2 an AK-47. And then Bell very quickly opened
3 fire on West and Smith. He shot West 12
4 times. He shot Smith four times, as was also
5 testified at the -- at trial and during the
6 penalty phase, Mr. Bell then emptied the clip
7 or fired numerous times and sprayed bullets
8 toward all the bystanders.

9 Based on the totality of the evidence,
10 there was never any question about who -- who
11 committed these murders. Mr. Bell has not
12 provided any evidence of recantation by
13 Mr. Edwards or Jones or any recantation or
14 different testimony today that would change
15 the outcome of this trial. Therefore, for
16 all of these reasons, the State would ask
17 this Court to deny the motion for
18 postconviction relief.

19 THE COURT: Thank you, Mr. Tannen.

20 Rebuttal argument?

21 MR. NORGARD: Thank you, Your Honor.

22 The first thing that I will say is that
23 one of the State's position here is that they
24 want you to deny relief for Mr. Bell because
25 we were given an unreasonably short period to

1 file a motion that they like.
2 Conservatively, in the last week, I have, at
3 a minimum, put in close to 200 hours of work.
4 We simply did not have time to do a legally
5 sufficient motion if they have a problem with
6 it because we were dealing with witnesses on
7 the fly, information on the fly, time
8 periods. Technically, we still haven't even
9 filed an amended motion related to Miss Goins
10 'cause we didn't even see her until this
11 morning.

12 With the stuff we presented in court,
13 give us time to sit down and in a timely
14 manner write a motion that meets and checks
15 all the boxes off, we would have done it. We
16 simply did not have the time to do it. And
17 we have raised a shortness of the warrant
18 claim. And I told the Court that I'm not
19 going to play Chicken Little. Just because
20 we were going short on time, I'm going to
21 panic say it's the end of the world. But if
22 you deny this based on pleadings that were
23 forced to be developed in the time frame we
24 were given, that is a due process claim on
25 our part as well the other constitutional

1 reasons and claims we made regarding the
2 shortness of the warrant time.

3 The prosecutor --

4 THE COURT: Let me ask you a question
5 about timeliness. So Mr. Tannen raised the
6 issue that we've heard that the CHU middle
7 team, for lack of a better term, recently
8 learned about the possibility of Jones and
9 Edwards recanting.

10 MR. NORGARD: Correct.

11 THE COURT: But I don't believe there
12 was ever any evidence introduced about
13 when -- I believe it was CHU north who would
14 have first learned about the possibility of
15 Jones and Edwards recanting. Do you know
16 when CHU north first learned about it?

17 MR. NORGARD: It's been within the time
18 period that we can still raise newly
19 discovered evidence. But that's also
20 irrelevant, Your Honor. CHU north is a
21 separate agency. I think they are part of
22 the federal Public Defender's Office for the
23 northern district. It would be -- if I had a
24 case in Duval County and I was a Public
25 Defender here and all of a sudden somebody

1 from Orange County came to me and said, we
2 have information about your case.

3 The CHU middle office is not -- they do
4 not represent My Michael Bell in any way.
5 They were investigating the case, the Hartley
6 case, whose name you heard during the course
7 of this. They were investigating Hartley's
8 case. They were investigating misconduct by
9 Mr. Bateh. They were investigating
10 misconduct by Bolena. And in the course of
11 doing that, stumbled across something that
12 was relevant to our case.

13 But they don't represent Mr. Bell. The
14 duty to duly investigate is on us once we
15 know about it. I cited the Waterhouse case.
16 That was a case that I handled in a warrant
17 status just like this one, where the Florida
18 Supreme Court said it was newly discovered
19 evidence because the trial attorneys could
20 rely on what was in the police reports. Me
21 as postconviction counsel could rely what's
22 in the police reports. And it wasn't until
23 we got a call from a witness saying that they
24 had newly discovered information that was
25 contrary to what was being reported in the

1 newspaper. The Florida Supreme Court has
2 made it very clear that we do not have a
3 burden of engaging on fishing expeditions.

4 THE COURT: What witness was that, that
5 you said you got a call? You said we got a
6 call.

7 MR. NORGARD: It was in the Waterhouse
8 case. And it's in the opinion where in there
9 they, talk about how the warrant got signed.
10 I can't remember the guy's name 'cause this
11 warrant was 15 -- a long time ago. But a
12 witness called us and said that he had
13 information that was contrary to what he was
14 reading in the paper. When the State raised
15 the claim, well, he was listed in discovery
16 and name was on the witness list and the
17 defense attorney didn't depose him. The
18 police report reflected that he didn't know
19 anything about the case, and the Florida
20 Supreme Court said a defense attorney can
21 rely on a police report, not have to do
22 additional investigation unless and until
23 something triggered them being made aware
24 that there's something different than what
25 was in that police report.

1 It's even a stronger situation here. We
2 have the trial testimony. We have pretrial
3 depositions. We have pretrial statements.
4 We have the 2002 evidentiary hearing, where
5 there was no inkling that this newly
6 discovered evidence existed out there. It
7 wasn't until we were contacted and wasn't
8 even me. But it wasn't until we were
9 contacted by CHU north, who have nothing to
10 do with Mr. Bell. So that would not trigger
11 Mr. Bell's attorneys to do anything. They're
12 not Mr. Bell's attorneys. As soon as we
13 became aware of it, we did all this work that
14 we did over the last week. There are no ifs,
15 ands and buts about it. This is newly
16 discovered evidence.

17 This hearing has taken a lot -- and you
18 want to hear any more on that, Your Honor?

19 THE COURT: No. That's fine.

20 MR. NORGARD: Okay. This case has taken
21 a lot of twists and turns. When you read the
22 trial transcript and you look at the six key
23 witnesses that have come up in this
24 hearing -- Miss Goins, Miss Williams,
25 Mr. Pryor, Mr. George, Mr. Edwards, and

1 Mr. Jones -- starting with Miss Goins, there
2 is nothing in that trial record of the extent
3 of the threats and pressure put on that
4 witness. The only reference that was made in
5 that trial was when Mr. Bateh brought up that
6 she was under threat of contempt. That jury
7 never heard that she was threatened with
8 losing her job, her home, her grandkid and
9 being sent to prison and was under contempt
10 of court.

11 And what she clearly said, that --
12 although in her trial testimony, she kept
13 saying Michael said, Michael said, she
14 clearly said that she was pressured into
15 saying I, meaning Michael Bell, versus we.
16 She was unequivocal in stating today that she
17 never heard Mr. Bell use the word I did this,
18 I did that. She said that she heard things,
19 and what she remembered hearing, it was
20 always we did this, we did that.

21 That's very significant, as I indicated,
22 related to particularly a penalty phase.

23 Miss Williams testified at trial.
24 Miss Williams basically said Detective
25 Johnson showed up about the report of the

1 firearm, said that as soon as she got there,
2 she told them what was what. And that was
3 it. Her cross examination by defense
4 attorney was, well, who paid for the gun, and
5 who was at the house when you got there?
6 That was his cross examination.

7 THE COURT: Is that an ineffective
8 assistance of counsel claim?

9 MR. NORGARD: It's -- I'm bringing that
10 up because my point is the things I'm talking
11 about, the jury didn't hear any of this.
12 This is newly discovered evidence.

13 THE COURT: Well, in sort of the vein of
14 newly discovered evidence, what is it -- I'm
15 going to use your phrasing, threats and
16 promise. What is it about the threats and
17 promises that you contend the State should
18 have disclosed at the trial proceeding that
19 was not disclosed?

20 MR. NORGARD: Well, given --

21 THE COURT: In other words, how is that
22 supposed to happen.

23 MR. NORGARD: Okay. Given the way that
24 she described what happened to her, that's
25 how she was treated by law enforcement

1 officers and by Mr. Bateh. That implicates
2 Brady, and potentially implicates Giglio
3 because what the police did to her was known
4 to the police. The fact that she was held
5 for 10 to 12 hours, that she was screamed at,
6 that they were mean to her, that they
7 threatened her and she still did not tell
8 them, still did not tell them and did not
9 tell them until she was faced with the threat
10 of losing her kids, that jury never heard
11 that. That would have been known to law
12 enforcement. That's Brady material. Even if
13 she had just come to us and said here's, why
14 I did it, I mean, that would be newly
15 discovered evidence. That impeachment is
16 absolutely crucial to the jury's credibility
17 determination and they heard none of that.

18 I mean, think about it for a minute,
19 Your Honor. It's one thing for a witness to
20 come in --

21 THE COURT: Sounds to me like something
22 the defense lawyer should have taken care of
23 at trial as opposed to newly discovered
24 evidence.

25 MR. NORGARD: But he didn't know it. He

1 didn't know it. What he did know, based on
2 the way it was presented, was that Johnson
3 shows up, says, hey, I'm here to talk to you
4 about the gun, and she just -- oh, let me
5 tell you what Michael Bell did. That's --

6 THE COURT: Do you know if those
7 witnesses were deposed by defense attorney at
8 trial?

9 MR. NORGARD: They were. The reason we
10 took judicial notice of the court file is
11 because those depositions should be in there.
12 They're fodder for you to review and look at.
13 I only had so much time before I stand up
14 here in front of you.

15 THE COURT: All right.

16 MR. NORGARD: But the bottom line is I
17 suspect if Mr. Nichols had uncovered that
18 evidence in deposition, he would have cross
19 examined her with it. But she wasn't 'cause
20 he didn't know it. That's newly discovered
21 evidence of a blockbuster nature that affects
22 her credibility. And there's a jury
23 instruction, weighing the evidence, that
24 takes up to two pages or so now that is so
25 important to the jury's consideration where

1 they're told you can believe, disbelieve,
2 whatever. You have to evaluate the
3 witnesses, look at their interest in the
4 case.

5 The way this came out was is if
6 Miss Goins was just there to tell the truth,
7 that she wasn't threatened, didn't have these
8 things happen there. Miss Williams was
9 somebody who when the police came to her,
10 just willingly just said, oh, yeah, let me
11 tell you about Michael Bell. That's not the
12 case. And that's what you're hearing here.

13 And it's happening with the next
14 witness, the next witness and the next
15 witness, and none of that came out at
16 Mr. Bell's trial.

17 Mr. Pryor, other than the few times that
18 he objected to Fifth Amendment or pleaded
19 memory issues, he was threatened. He was
20 offered promises, benefits. And in his
21 testimony today, he says, I wasn't even there
22 and I didn't see Mike with a gun. That
23 evidence was not known, was not known at the
24 time of Mr. Bell's trial.

25 Mr. George painted a picture of being

1 threatened, pressured, benefits. Jury never
2 heard that.

3 Although Mr. Edwards and Mr. Jones,
4 using a combination of the Fifth Amendment
5 and memory problems, are saying in court
6 today that they don't remember anything or
7 won't talk about anything, their affidavits,
8 sworn under threat of perjury, painted a
9 picture of threats, promises and benefits and
10 a recantation. Mr. Jones' painted a picture
11 of threats, promises and benefits.

12 Judge, by statute, me as postconviction
13 counsel couldn't try Mr. Bell's cases if he's
14 given a new trial. If I could, I'd figure
15 out some way to try this case 'cause I would
16 kick ass, Judge. With all this stuff I have,
17 I would destroy the State's case in front of
18 a jury. And a jury never heard any of this,
19 including what Miss Goins had to say.

20 This case, death is different, Judge.
21 Should a man die because a jury convicted him
22 and they didn't hear any of this?

23 THE COURT: Thank you, Mr. Norgard.

24 All right. State, where do you stand on
25 documentary evidence?

1 MR. MIZRAHI: Okay. Your Honor. It's a
2 little bit -- I have a list here from the
3 defense. Does the Court have the list?

4 THE COURT: I do not have a list.

5 MR. MIZRAHI: You have an extra list?

6 MS. ROEBUCK: No. I got a courtesy
7 copy.

8 THE CLERK: Here's my list.

9 MR. NORGARD: Judge, if this had been a
10 normal trial, you could have yelled at me for
11 not getting you a list, but we had so much
12 going on.

13 THE COURT: All right.

14 MR. MIZRAHI: So the first thing on the
15 list, Your Honor, is the JSO personnel file
16 of Detective Bolena. We object to the
17 admission of that. There is no
18 authentication. We have no idea if this is
19 the correct file or not. Presumably, they
20 could supplement the record with some type of
21 affidavit or something from the Jacksonville
22 Sheriff's Office, but, I mean, I just have a
23 box full of papers. I have no idea. So
24 we're objecting to that.

25 MR. NORGARD: On some of the things, we

1 can short-circuit this and make it go faster.

2 THE COURT: Maybe. Let's try.

3 MR. NORGARD: Not to be complaining
4 again but do you really think we had time to
5 nail down and get all of these, like, record
6 custodian in? I wouldn't even know who to
7 call. We got these through discovery from
8 the State, from the Sheriff's Office, from
9 other sources. The main thing I want you to
10 take a look at in his personnel file, if they
11 don't want you to see anything else, if you'd
12 just pull it out is the letter that George
13 Bateh wrote to get Bolena a commendation
14 because he took a weak case and turned it
15 into a strong one by not -- he didn't say --

16 MR. MIZRAHI: Excuse me. In order to
17 short-circuit thing, No. 2 on the list was
18 that letter that I was going to agree with.

19 MR. NORGARD: There we go. See, Judge?
20 It works.

21 THE COURT: So let me ask you this: Are
22 you withdrawing your request to admit
23 Detective Bolena's personnel file?

24 MR. NORGARD: I don't need the whole
25 thing, Your Honor.

1 THE COURT: So we'll receive the
2 commendation letter into evidence as
3 Defense -- I believe this is your first piece
4 of documentary evidence, is that right?

5 MR. NORGARD: Yes, Your Honor. I
6 believe they've been premarked.

7 THE CLERK: They weren't marked yet.

8 THE COURT: All right. So we'll receive
9 commendation letter in evidence as Defense 1.

10 (The item last above referred to was received
11 into evidence as Defendant's Exhibit No. 1.)

12 MR. MIZRAHI: Your Honor, I have
13 transcript from Detective Bolena. The Court
14 already should have that. So I don't think
15 he'll need that. That was on the list. That
16 was just in the pile.

17 MS. ROEBUCK: Yeah.

18 MR. MIZRAHI: No. 3 was the sworn
19 affidavit of Henry Edwards. We object to
20 that.

21 THE COURT: What's the basis of the
22 objection?

23 MR. MIZRAHI: Your Honor, the sworn
24 affidavit was disputed by Mr. Edwards. It
25 is -- he said he didn't even read it. And it

1 is not substantive evidence and should not be
2 received by the Court in what they used as
3 impeachment evidence. So we do not think it
4 is substantive evidence.

5 MR. NORGARD: My position, it's a sworn
6 affidavit, Your Honor, under penalty of
7 perjury. And you heard Mr. Kelly testify as
8 to the circumstances of that as far as its
9 reliability.

10 THE COURT: All right. He said he
11 signed it. I'll receive it into evidence as
12 Defense 2. Those are primarily weight
13 issues.

14 (The item last above referred to was received
15 into evidence as Defendant's Exhibit No. 2.)

16 MR. NORGARD: Goes to weight, not
17 admissibility. I feel like a prosecutor,
18 Judge.

19 THE COURT: All right. Next on the
20 list.

21 MR. MIZRAHI: Next on the list is the
22 substantial assistance letter, and I was okay
23 with that, Your Honor. No objection.

24 THE COURT: All right. We'll receive
25 that into evidence as Defendant's 3.

1 (The item last above referred to was received
2 into evidence as Defendant's Exhibit No. 3.)

3 MR. MIZRAHI: Next on the list was the
4 arrest reports for Henry Edwards. We object
5 to this. This has no impeachment value or
6 other value whatsoever. Obviously, he could
7 be impeached with how many felonies he has in
8 the past.

9 THE COURT: To be clear, I have not seen
10 these records, so we're talking about arrest
11 reports where Mr. Edwards himself was
12 arrested for various crimes?

13 MR. MIZRAHI: Correct.

14 THE COURT: All right. Any more on the
15 objection?

16 MR. MIZRAHI: No.

17 THE COURT: Okay.

18 MR. NORGARD: Your Honor, that reflects
19 history of his arrests. There was evidence
20 that when he would get arrested that he would
21 seek Detective Bolena to get help. That was
22 testified to by Miss Robertson, that he would
23 do that. That just simply reflects the
24 history of arrest, including, I believe, the
25 time period that he would have been in the

1 jail during this crime -- his testimony in
2 this case.

3 THE COURT: Anything else from the State
4 on that?

5 MR. MIZRAHI: No.

6 THE COURT: I'm going to sustain the
7 State's objection.

8 MR. MIZRAHI: I'm going to put the ones
9 that are sustained here.

10 The next is the FL CCIS of Henry
11 Edwards. It's the same objection.

12 THE COURT: I don't know what an FL CCI
13 is.

14 MR. MIZRAHI: I'm not really sure. It's
15 a comprehensive case information system. It
16 shows a computer printout of some of his
17 prior case.

18 THE COURT: Okay. I do what FL CCIS is.
19 It's the consolidated clerk's database.

20 Defense, let me hear from you on that.
21 One what's your position?

22 MR. NORGARD: That's fine, Your Honor.
23 We don't need it.

24 THE COURT: Okay. Withdrawn?

25 MR. NORGARD: Yes, Your Honor.

1 THE COURT: Okay.

2 MR. MIZRAHI: Next on the list is
3 Charles Jones' affidavit. We have the same
4 objection. This is -- the affidavit is
5 hearsay. It is not admissible.

6 MR. NORGARD: Same argument, Your Honor,
7 weight not, admissibility.

8 THE COURT: I'm going to overrule the
9 State's objection, receive that into evidence
10 as Defendant's 4.

11 (The item last above referred to was received
12 into evidence as Defendant's Exhibit No. 4.)

13 THE COURT: All right. That brings us
14 to departure documents.

15 MR. MIZRAHI: This is a -- something
16 that the Court probably could take judicial
17 notice of. We have no objection to it,
18 United States supplemental motion for
19 (inaudible).

20 MR. NORGARD: That's regarding
21 Mr. Jones, who I mentioned Mr. Bateh helped
22 him get a sentence reduction.

23 THE COURT: All right. So no objection
24 from the State?

25 MR. MIZRAHI: No objection for No. 8.

1 THE COURT: All right. So that will be
2 Defendant's 5, will receive that into
3 evidence.

4 (The item last above referred to was received
5 into evidence as Defendant's Exhibit No. 5.)

6 MR. NORGARD: He took the Fifth on
7 whether that even happened but it did happen
8 and there's the document.

9 MR. MIZRAHI: The next series are all
10 printouts from computer files. We object to
11 No. 9, 10 and eleven, all from Charles Jones.
12 This is the docket printouts. I've agreed to
13 the letter for downward departure but not to
14 the CORE CC -- FL CCIS or the federal MDFL
15 (inaudible).

16 THE COURT: Defense?

17 MR. NORGARD: We're not going to -- this
18 was in an abundance of caution. We're not
19 going to worry about it at this point.

20 THE COURT: Withdrawn.

21 MR. NORGARD: Yes, sir.

22 MR. MIZRAHI: We agree to the Dale
23 George plea negotiation form. That's part of
24 the Duval County record. So we agree to
25 that, which is the next document.

1 THE COURT: What I have next is the CORE
2 prior record for (inaudible).

3 MR. MIZRAHI: Actually, all that -- I
4 kind of grouped all that for speed. All --
5 after 8, 9, 10 and 11 the defense is
6 withdrawing.

7 MR. NORGARD: We're withdrawing.

8 THE COURT: Very good.

9 MR. MIZRAHI: So we're up to 12, George
10 please agreement. Looks like there's -- this
11 is the second. There's two copies of the
12 same one.

13 MR. NORGARD: Wanted to make sure the
14 judge was doubly sure of that one.

15 THE COURT: Sure.

16 MR. MIZRAHI: So we've agreed to that
17 one.

18 THE COURT: Okay. So that will come in
19 as Defendant's 6.

20 (The item last above referred to was received
21 into evidence as Defendant's Exhibit No. 6.)

22 MR. MIZRAHI: Next is CORE, FL CCIS.

23 MR. NORGARD: Withdrawn.

24 MR. MIZRAHI: All those are withdrawn.
25 Very good.

1 So then we go to Pryor, which is No. 15.
2 Again, these are CORE and prior records so we
3 would object to those.

4 MR. NORGARD: Withdrawn. I think we
5 figured out these people had a criminal
6 history.

7 MR. MIZRAHI: We have no objection to
8 Goins' grand jury. I will say this, Your
9 Honor. I had the printout of the grand jury
10 in my file, transcribed. I presume there was
11 a prior Court order unsealing this. It was
12 in my file so --

13 THE COURT: Do you know, Mr. Norgard,
14 Mr. Roebuck whether there was a prior Court
15 order unsealing that grand jury testimony?

16 MR. NORGARD: No idea. I just know we
17 had it.

18 MR. MIZRAHI: Since everybody has it, it
19 was transcribed. That would never happen
20 absent a Court order.

21 THE COURT: That's a good point. It's
22 not going to get transcribed.

23 MR. MIZRAHI: That's my -- my guess. We
24 talked about it here. I have no objection to
25 the admission of it.

1 THE COURT: All right. And the witness
2 testified to some degree about it as well.

3 All right. We'll receive that in as
4 Defendant's seven.

5 (The item last above referred to was received
6 into evidence as Defendant's Exhibit No. 7.)

7 MR. MIZRAHI: Next one is the arrest
8 report for Paula Goins. This is a docket,
9 the criminal history.

10 MR. NORGARD: We don't need that. We'll
11 withdraw that.

12 THE COURT: All right.

13 MR. MIZRAHI: Next is the sworn
14 affidavit from Cathy Robertson, No. 20. Your
15 Honor, Cathy Robertson testified to this.
16 I'm not sure --

17 MR. NORGARD: We don't need it. She
18 testified.

19 THE COURT: That's withdrawn?

20 MR. NORGARD: Yes, Your Honor.

21 MR. MIZRAHI: And same with Glory
22 Mitchell.

23 MR. NORGARD: Withdrawn. She testified.

24 MR. MIZRAHI: And there was a United
25 States case in here. I guess that was her

1 case.

2 MR. NORGARD: There's a case against
3 Glory Mitchell. In there is additional
4 evidence that Mr. Edwards was a CI beyond
5 what he admitted to and what Bolena --

6 MR. MIZRAHI: You want that admitted?

7 MR. NORGARD: Yes.

8 MR. MIZRAHI: I have no objection to the
9 opinion.

10 MR. NORGARD: Solely because --

11 THE COURT: Sure.

12 MR. NORGARD: -- Edwards wore a wire as
13 a CI.

14 THE COURT: Receive that as
15 Defendant's 8.

16 (The item last above referred to was received
17 into evidence as Defendant's Exhibit No. 8.)

18 MR. MIZRAHI: I think that's it.

19 THE COURT: I think you already said.
20 No documentary evidence from the State?

21 MR. MIZRAHI: The testimonies that were
22 previously made were the only evidence we
23 would -- so no. 'Cause the Court -- that has
24 already been judicially noticed.

25 THE COURT: All right. Thank you,

1 Counsel. We're on a tight deadline to get an
2 order out. So I'll take it under advisement.

3 Did you want to say anything,
4 Miss Pacheco?

5 MS. PACHECO: No. I was about to stand
6 because I thought Your Honor was standing.

7 THE COURT: Sometimes there's a certain
8 look a lawyer has when they're about to say
9 something.

10 MR. NORGARD: Actually, I do have
11 something.

12 (Off-record discussion.)

13 MR. NORGARD: You had taken under
14 advisement the motion to interview jurors in
15 Claims 2, 3 and 4 and were going to issue us
16 an order.

17 THE COURT: Yes. Well, what I can tell
18 you is if I were to grant that, they're not
19 going to be here tomorrow.

20 MR. NORGARD: All right. We'll stand by
21 and wait for your orders.

22 THE COURT: Very good. Thank you,
23 Counsel.

24 (Whereupon the proceedings were concluded.)
25

1 C E R T I F I C A T E

2 STATE OF FLORIDA)

3 COUNTY OF DUVAL)

4 I, Karen Waugerman, Registered Professional
5 Reporter, certify that I was authorized to and did
6 stenographically report the foregoing proceedings and
7 that the transcript is a true and complete record of my
8 stenographic notes.

9 DATED this 24th day of June, 2025.

10

11

12

13 /s/ Karen Waugerman

14 KAREN WAUGERMAN, RPR

15

16

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Appendix E

1 this car?

2 A Summer of '93, of June.

3 Q June of '93?

4 A Yes, sir.

5 Q And did you sell that car to your brother?

6 A Yes, sir.

7 Q Which brother?

8 A Jimmy West.

9 Q When did you sell it to your brother Jimmy West?

10 A Somewhere around November of '93.

11 MR. BATEH: No further questions, Your Honor.

12 MR. NICHOLS: No questions.

13 THE COURT: Thank you very much, you may step
14 down.

15 (Witness excused)

16 THE COURT: Call your next witness.

17 MR. BATEH: Your Honor, the state would call
18 Erica Williams to the stand.

19 ERICA WILLIAMS,

20 Having been produced and first duly sworn as a
21 witness, testified as follows:

22 THE COURT: As you answer the questions, pull
23 your chair up to the microphone and speak into the
24 microphone.

25 All right, Mr. Bateh.

1

DIRECT EXAMINATION

2 BY MR. BATEH:

3 Q What is your name, ma'am?

4 A Erica Williams.

5 Q Where were you born and raised?

6 A Jacksonville, Florida.

7 Q Have you lived here all your life?

8 A Yes, sir.

9 Q Are you a college student?

10 A Yes, sir.

11 Q Where at?

12 A FCCJ.

13 Q Miss Williams, were you convicted of shoplifting
14 in 1993?

15 A Yes, I was.

16 Q Do you know Michael Bell?

17 A Yes, I do.

18 Q How long have you known him?

19 A Four years.

20 Q Do you see Mr. Bell here in the courtroom?

21 A Yes, I do.

22 Q Would you please point him out and describe what
23 he is wearing?24 A Right there, he has on black and white and green
25 sweater -- jacket.

1 THE COURT: Let the record show she's identified
2 the defendant as the person about whom she speaks.
3 Counsel, step to bench just a moment.

4 (Side-bar conference)

5 MR. BATEH: Your Honor, on second thought it
6 might be best.

7 THE COURT: His name is Theodore Wright?

8 THE BAILIFF: Two of them back there.

9 THE COURT: There are witnesses who testified and
10 the rule has been invoked, it's been invoked now, you
11 cannot remain in the courtroom, those witnesses who
12 testified you are subject to recall, that's Mr. Wright
13 and Mr. Richardson?

14 MR. BATEH: Yes, sir.

15 BY MR. BATEH:

16 Q Miss Williams, what was the nature of your
17 relationship with that defendant?

18 A Boyfriend and girlfriend.

19 Q When were you and he boyfriend/girlfriend?

20 A From about June of '93 to March of '94.

21 Q During that nine month period where were you
22 living?

23 A At 1259 West 22nd Street.

24 Q And where was the defendant living during that
25 nine month period that he was your boyfriend?

1 A With me.

2 Q At that same location?

3 A Yes, sir.

4 Q In June of 1993 after the defendant had moved in
5 with you, did the defendant ever talk to you about Theodore
6 Wright and his brother Lamar Bell?

7 A Yes, sir.

8 Q What did he tell you?

9 A That Theodore Wright killed his brother.

10 Q Did he tell you what he was going to do about it?

11 A Even the score.

12 Q How often would he talk about evening the score
13 against Theodore Wright?

14 A Constantly.

15 Q Did you ever give the defendant any advice when
16 he would bring up this talk about revenge?

17 A Yes, sir.

18 Q What did you tell him?

19 A I told him there is a lot of innocent people
20 might get hurt.

21 Q What was the defendant's answer when you told him
22 that a lot of innocent people might get hurt?

23 A Sometimes the good have to suffer with the bad.

24 Q Were those his words?

25 A Yes, sir.

1 Q I want you to think back to early December of
2 1993, at about that time did the defendant ever talk to you
3 about the need for a gun?

4 A Yes, sir.

5 Q What did he tell you?

6 A That we needed a gun for our protection.

7 Q Did he tell you what he wanted to do about that,
8 what he wanted to do about obtaining a gun?

9 A To get it in my name.

10 Q He wanted you to purchase a gun in your name?

11 A Yes, sir.

12 Q On December 8th, 1993, did you go out with the
13 defendant to purchase a gun?

14 A Yes, sir.

15 Q Where did you all go first?

16 A To Southside Gun on University Boulevard.

17 Q And Atlantic?

18 A Yes.

19 Q And what -- did the defendant indicate to you
20 what kind of gun he was looking for?

21 A Yes, sir.

22 Q What did he say?

23 A An AK-47 assault rifle.

24 Q Did Southside Gun have an AK-47 assault rifle
25 when you went there?

1 A No, sir.

2 Q Then where did you go?

3 A To the Gun Gallery on Beach Boulevard.

4 Q Who went in the store with you?

5 A Michael did.

6 Q All right. What guns did you and the defendant

7 look at?

8 A An AK-47.

9 Q Did the defendant find one that he wanted?

10 A Yes, sir.

11 Q Did you purchase it?

12 A Yes, sir.

13 Q And in whose name?

14 A My name.

15 Q I'd like to show you these two transaction forms

16 and ask if you recognize them?

17 A Yes, sir.

18 Q What is that?

19 A The firearms transaction.

20 Q Is that the form that you filled out part of when

21 you purchased the AK-47?

22 A Yes, sir.

23 Q And what is this document?

24 A The receipt.

25 Q The bill of sale?

1 A Yes, sir.

2 Q From that gun transaction?

3 A Yes, sir.

4 Q Are these fair and accurate copies of these
5 documents?

6 A Yes, sir.

7 MR. BATEH: Your Honor, move these in evidence.

8 MR. NICHOLS: No objection.

9 THE COURT: Let them so be received without
10 objection

11 (The documents last above referred to was
12 received in evidence as State's Exhibits 24 and 25)

13 MR. BATEH: Your Honor, may I have that easel
14 brought back over here, please?

15 BY MR. BATEH:

16 Q Miss Williams, Your Honor, request she be
17 permitted to step down.

18 THE COURT: All right. You may step down,
19 please, ma'am.

20 BY MR. BATEH:

21 Q Do you recognize these to be blow ups of those
22 two documents?

23 A Yes, sir.

24 Q If you could step over on that side of the
25 easel. I'd like for you to look at a blow up of exhibit 24

1 and is that the firearm transaction form that you filled
2 out, that you filled out when you purchased that AK-47?

3 A Yes, sir.

4 Q Now, where was the defendant at the time you were
5 filling this form out?

6 A Standing beside me.

7 Q You need to speak in the microphone.

8 A Standing beside me.

9 Q Who filled out this top part here Erica Nichole
10 Williams, female, address, height, description, date of
11 birth and all?

12 A I did.

13 Q And who filled out the answers to these
14 questions?

15 A I did.

16 Q Did you sign it and put your phone number here?

17 A Yes, sir.

18 Q And the date?

19 A Yes, sir.

20 Q Are you certain the date was December the 8th?

21 A No, I'm not totally sure.

22 Q All right. Who filled out the bottom portion of
23 this?

24 A The dealership man.

25 Q The person at the gun shop?

1 A Yes.

2 Q Now, what do you recognize -- do you recognize
3 this to be a blow up of the sales receipt exhibit number
4 25?

5 A Yes, sir.

6 Q What does this show you all bought?

7 A Mak 90, 75 round drum, 30 round magazine and
8 eight boxes of bullets.

9 Q Total bill was?

10 A \$472.28

11 Q 23 cents?

12 A 23 cents.

13 Q Who paid for that transaction, who paid that
14 amount of money?

15 A Michael did.

16 Q How did he pay it?

17 A Cash.

18 Q When you and the defendant left the store with
19 this purchase, what happened to the gun, the Mak 90?

20 A Michael took it.

21 Q What happened to the rest of the items, the 75
22 round drum, and the 30 round magazine and the bullets that
23 is the eight boxes of bullets?

24 A Michael took them.

25 Q Did you ever see it after that?

1 A No, sir.

2 Q I'd like for you to look at exhibit C and ask
3 you if you recognize what that's a picture of?

4 A Michael's car.

5 Q This photograph of the car that Michael Bell had
6 in December of 1993?

7 A Yes.

8 MR. BATEH: Your Honor, at this point I'd move
9 this photograph into evidence.

10 MR. NICHOLS: No objection.

11 THE COURT: Let it so be received without
12 objection.

13 (The photograph last above referred to was
14 received in evidence at State's Exhibit number 26)

15 BY MR. BATEH:

16 Q Do you know how long Michael Bell had this car or
17 what period of time you remember him having it, do you
18 recall?

19 A The end part of the year.

20 Q The end part of 1993?

21 A Yes, sir.

22 Q Miss Williams, I want you to think back to
23 December 9, 1993, the late hours on that day, and also the
24 early morning hours of December 10, 1993, somewhere between
25 11:00 at night and 1:00 in the next morning where were you?

1 A At my house.

2 Q Where was that?

3 A 1259 West 22nd Street.

4 THE COURT: Speak up a little bit, move closer.

5 BY MR. BATEH:

6 Q Do you recall anyone coming to your house there
7 during that time frame?

8 A Dale George.

9 Q Was anyone with him when he came?

10 A No, sir.

11 Q When he came over how was he acting?

12 A Excited.

13 Q What did he say?

14 A Michael got the -- Michael got Theodore.

15 Q Who was Theodore?

16 A Theodore Wright

17 Q Did he tell you where?

18 MR. NICHOLS: Objection, I don't know about some
19 sort of excited utterance, but that's the kind of
20 hearsay Mr. Bateh has tried to offer so far.

21 THE COURT: Mr. Bateh?

22 MR. BATEH: Your Honor, she indicated he was
23 excited, I offer it as excited utterance.

24 THE COURT: I didn't hear what you said.

25 MR. BATEH: I offer it As an excited utterance,

1 she said when he came in he was excited.

2 THE COURT: I don't know how long, you haven't
3 established whether or not how long after and that
4 sort of thing.

5 MR. BATEH: All right, Your Honor.

6 BY MR. BATEH:

7 Q Did you go anywhere with Dale George?

8 A Yes.

9 Q Where?

10 A Up to Moncrief Liquors.

11 Q What did you see up there?

12 A A lot of police.

13 Q Did you return back to your apartment?

14 A Yes, sir.

15 Q When you got back to your apartment what
16 happened?

17 A Michael called.

18 Q Michael who?

19 A Bell.

20 Q The defendant?

21 A Yes, sir.

22 Q On the phone?

23 A Yes, sir.

24 Q Did you answer it?

25 A Yes, sir.

1 Q What did the defendant tell you?

2 A He wanted Dale to bring him some clothes to his
3 aunt's house.

4 Q Did he tell you which aunt's house?

5 A His Paula.

6 Q Did Dale George agree to take the defendant's
7 clothes out to his Aunt Paula's house?

8 A No.

9 Q Then what happened?

10 A He asked me to bring them.

11 Q Did you bring the defendant clothes?

12 A Michael asked me to bring his clothes.

13 Q What did you -- did you agree do that?

14 A Yes.

15 Q What did Dale do, Dale George?

16 A He went home.

17 Q Then what did you do?

18 A Went to take Michael his clothes.

19 Q To where?

20 A To his Aunt Paula's house on Southside and
21 Touchton.

22 Q Is that at Paula Goins?

23 A Yes.

24 Q When you got to Paula Goins' home or apartment,
25 what happened?

- 1 A Paula answered the door.
- 2 Q How was she dressed?
- 3 A In her night clothing.
- 4 Q Where did she go then?
- 5 A To her bedroom.
- 6 Q And what did you do?
- 7 A Sat down and talked with Mike.
- 8 Q With this defendant?
- 9 A Yes.
- 10 Q What did this defendant tell you?
- 11 A That Theo killed his brother so he killed his,
- 12 but an innocent girl got hurt so now the score is even.
- 13 Q Now the score is even?
- 14 A Yes, sir.
- 15 Q Who is Theo?
- 16 A Theodore Wright.
- 17 Q Is that a nickname that the defendant used?
- 18 A Yes.
- 19 Q Did you give Mike Bell the clothes?
- 20 A Yes, sir.
- 21 Q Did you then leave?
- 22 A Shortly after.
- 23 Q Where did you go?
- 24 A Home.
- 25 Q When you left the defendant and Paula Goins' home

1 that night, did he tell you what he was going to do?

2 A He was going to stay there for a couple days.

3 Q At his Aunt Paula?

4 A Yes.

5 Q Did he tell you why?

6 A Because the police could detect whether he had
7 gun powder on his hands or not.

8 Q Did he tell you how?

9 A No.

10 Q Well, what was the purpose of staying at his Aunt
11 Paula's for a couple days?

12 A To hide out.

13 Q Why for a couple of days?

14 A Until the gun powder wore off, he said it took 72
15 hours.

16 Q For the what?

17 A For the gun powder to wear off.

18 Q His hands?

19 A Yes.

20 Q Now, after that date, December 10th, 1993 did you
21 maintain your relationship with the defendant?

22 A Yes, but it cooled off some.

23 Q Why?

24 A Because I was afraid of Michael.

25 Q Did you go to the police and report to them what

1 the defendant had told you about the killing out there
2 on Moncrief Liquors?

3 A No, sir.

4 Q Why not?

5 A Because I was afraid of Michael, he'd hurt me or
6 something.

7 Q On March the 14th, 1994 did the defendant come
8 back to you and talk to you about that AK-47?

9 A He called me.

10 Q What did he tell you?

11 A To report the gun stolen.

12 Q Why?

13 A Because he didn't know where it was.

14 Q Did he urge you to report it stolen?

15 A Excuse me?

16 Q Did he urge you to report it stolen?

17 A Yes.

18 Q Did you do that?

19 A Yes.

20 MR. NICHOLS: I don't have any objection.

21 BY MR. BATEH:

22 Q I'd like for you to look at this exhibit if you
23 would. Do you recognize what that is?

24 A The police report I made.

25 Q Reporting the gun stolen?

1 A Yes, sir.

2 MR. BATEH: Your Honor, I'd move this document
3 into evidence.

4 MR. NICHOLS: No objection.

5 THE COURT: Without objection so let it be
6 received.

7 (The document last above referred to was received
8 in evidence as State's Exhibit Number 27)

9 BY MR. BATEH:

10 Q Miss Williams, I want you to -- now, did you make
11 that report on March the 14th, 1994?

12 A Yes, sir.

13 Q On May the 6th, 1994 do you recall being
14 approached by homicide detective by the name of Ed Johnson
15 at your home?

16 A Yes, sir.

17 Q Did he ask you about that stolen AK-47 report?

18 A Yes, sir.

19 Q Police report?

20 A Yes, sir.

21 Q What did you tell him?

22 A Everything I've said here today.

23 Q It was on May 6th of '94, is that correct?

24 A Yes, sir.

25 Q Why did you tell the detectives what you knew

1 about this situation on that date?

2 A Because I didn't want to get myself in any
3 trouble and Michael was already locked up at the time.

4 Q Were there any promises or rewards offered to
5 you?

6 A No, sir.

7 MR. BATEH: I don't have any further questions,
8 Your Honor.

9 THE COURT: Mr. Nichols.

10 CROSS EXAMINATION

11 BY MR. NICHOLS:

12 Q When you bought the gun you said Michael paid for
13 it but were you the one that actually had the cash and
14 handed it to the clerk or did Michael give it to him?

15 A Michael gave it to him.

16 Q When you took him to his Aunt's house?

17 A I didn't take him to his Aunt's house.

18 Q Where did you take him?

19 A I didn't take him anywhere.

20 Q I'm talking about the night of this murder you
21 took clothes over -- well you took clothes over to his
22 Aunt's house, when you took them to his Aunt's house who
23 answered the door?

24 A His aunt did.

25 Q And you were standing there?

1 A Yes.

2 Q Had the clothes?

3 A Yes.

4 Q And did you talk to her at all or did she just
5 let you in?

6 A She let me in.

7 Q And where did she go?

8 A To her bedroom.

9 Q And she didn't stay there, you didn't have any
10 other conversation with her at all?

11 A No, sir.

12 Q Okay, but you stayed there and talked to Michael?

13 A Yes.

14 MR. NICHOLS: I don't have anything else.

15 THE COURT: State?

16 MR. BATEH: Nothing further, Your Honor.

17 THE COURT: Thank you very much, you may step
18 down.

19 (Witness excused)

20 THE COURT: Call your next witness.

21 MR. BATEH: The state would call Scott Johnson.

22 THE BAILIFF: He's not here.

23 MR. BATEH: Your Honor, may I use the phone?

24 THE COURT: Members of the jury, would you step
25 back to your jury room, please?

1 (Jury excused)

2 THE COURT: Bring out the defendant, please.

3 (Defendant present)

4 THE COURT: Record shall show the defendant is
5 back in the courtroom. Bring out the jury, please.

6 (Jury present)

7 THE COURT: Record shall show that the jury is
8 back in the courtroom.

9 Call your next witness, Mr. Bateh.

10 MR. BATEH: Your Honor, Scott Johnson.

11 SCOTT JOHNSON,

12 Having been produced and first duly sworn as a
13 witness, testified as follows:

14 THE COURT: Would you pull your chair up to the
15 microphone. All right. Mr. Bateh.

16 DIRECT EXAMINATION

17 BY MR. BATEH:

18 Q What's your name, sir?

19 A Scott Johnson.

20 Q How are you employed?

21 A I work for the Gun Gallery, Inc.

22 Q Are you the manager of the Gun Gallery?

23 A Yes, I am.

24 Q And where is that located?

25 A At 10268 Beach Boulevard.

Appendix F

1 marks similar to those on cartridge cases in front of me.

2 Q Am I correct in understanding your testimony that
3 you cannot take these casings and say that they had to have
4 been fired by Mak 90?

5 A That is correct.

6 Q They could have been fired by a whole range of
7 other very similar weapons?

8 A Very similar.

9 MR. NICHOLS: I don't have anything.

10 MR. BATEH: No questions.

11 No questions, Your Honor.

12 THE COURT: Thank you very much, you may step
13 down.

14 Call your next witness.

15 MR. BATEH: Ned Pryor, Your Honor.

16 VANESSE PRYOR,

17 Having been produced and first duly sworn as a
18 witness, testified as follows:

19 THE COURT: Speak in the microphone when you
20 answer the questions.

21 DIRECT EXAMINATION

22 BY MR. BATEH:

23 Q What is your name, sir?

24 A Ned Pryor.

25 Q You have a nickname?

1 A Ned.

2 Q Mr. Pryor, where were you born and raised?

3 A Jacksonville, Florida.

4 Q You spent your life here?

5 A Yes.

6 Q Mr. Pryor, have you ever been convicted of a
7 felony before?

8 A Yes.

9 Q How many times?

10 A One.

11 Q Mr. Pryor, are you currently in the Duval County
12 Jail?

13 A Yes.

14 Q Under what charges?

15 A Possession of crack cocaine and resisting without
16 violence.

17 Q Resisting arrest without violence?

18 A Yes, sir.

19 Q When were you arrested?

20 A December 11th.

21 Q 1994?

22 A Yes, sir.

23 Q Mr. Pryor, is there an agreement, any sort of
24 agreement between you and the State of Florida or the State
25 Attorney's Office or the Sheriff's Office regarding your

1 possession of cocaine case and resisting arrest without
2 violence charge and your testimony in this case?

3 A No, sir.

4 Q Are you being prosecuted by the State Attorney's
5 Office to the fullest extent of the law?

6 A Yes, sir.

7 Q In front of what Judge?

8 A Judge Southwood.

9 Q Is your case set for trial?

10 A Yes, sir.

11 Q When is it set for trial?

12 A April the 10th.

13 Q Mr. Pryor, I want you to think back to October
14 the 10th of 1994, on that date were you arrested and placed
15 in the Duval County Jail on a misdemeanor charge of
16 criminal mischief?

17 A Yes, sir.

18 Q What did that charge involve?

19 A I threw a brick through my girlfriend's window.

20 Q Through who's window?

21 A My girlfriend's window.

22 Q The following day on October the 11th, 1994, did
23 you appear in front of Judge Moran?

24 A Yes, sir.

25 Q Did you plead guilty?

1 A Yes, sir.

2 Q What sentence did you get?

3 A Probation, six months.

4 Q Did you violate that probation?

5 A Yes, sir.

6 Q How did you violate it?

7 A (Inaudible)

8 Q Could you say that again?

9 A I didn't report in to the probation officer.

10 Q You didn't report in to the probation officer?

11 A Yes, sir.

12 Q Were you arrested for violating that probation on

13 November the 18th of 1994?

14 A Yes, sir.

15 Q And did you plead guilty to violating that

16 misdemeanor probation on December 6th of 1994?

17 A Yes, sir.

18 Q What sentence did you get?

19 A 20 days in the Duval County Jail and my probation

20 extended six months.

21 Q Extended six months?

22 A Yes, sir.

23 Q Who was it that negotiated with the State

24 Attorney's Office that 20 days in the Duval County Jail in

25 extending your probation for six months on that violation

1 of misdemeanor probation?

2 A The Public Defender.

3 Q Any other agreements between you and the State
4 Attorney's Office?

5 A No, sir.

6 Q Sir, do you know Michael Bell?

7 A Yes, sir.

8 Q How long have you known him?

9 A Five years.

10 Q What's the nature of your relationship?

11 A Good friends.

12 Q Do you see Michael Bell here in this courtroom?

13 A Yes, sir.

14 Q Would you please point him out, describe what he
15 is wearing?

16 A Wearing green and black and white shirt.

17 Q Point him out if you would.

18 A (Witness complies)

19 THE COURT: Let the record show he's identified
20 the defendant as the person about whom he speaks.

21 BY MR. BATEH:

22 Q Mr. Pryor, I want you to think back to December
23 9, 1993, at about 10:30 in the evening, that was a
24 Thursday, do you recall where you were on that day about
25 that time?

1 A Yes, sir.

2 Q Where were you?

3 A Driving down Myrtle Avenue.

4 Q What kind of car were you in?

5 A Gray Nissan.

6 Q Did you see Michael Bell at or about that time?

7 A Yes, sir.

8 Q How did you see Bell?

9 A He was driving too down Myrtle Avenue.

10 Q In which direction?

11 A Toward me.

12 Q How did he -- how did you see him?

13 A He flashed his lights.

14 Q And then what happened?

15 A I pulled over.

16 Q Then what happened?

17 A He pulled over on the side of me and told me to

18 follow him.

19 Q Told you to follow him?

20 A Yes, sir.

21 Q What -- who is driving the car he was in?

22 A Michael Bell.

23 Q What kind of car was it?

24 A Black Omega.

25 Q What color was the inside?

1 A White.

2 Q I want to show you State's Exhibit number 26,
3 and ask if you recognize what this is a picture of?

4 A Yes.

5 Q What is that a picture of?

6 A Michael Bell's car.

7 Q How do you know that this is a picture of Michael
8 Bell's car?

9 A I was with him when he bought it.

10 Q When did the defendant buy this car?

11 A In early part of the summer.

12 Q What year?

13 A Of '93.

14 Q When Michael Bell flashed his lights and pulled
15 over up next to you after you stopped, was anyone else in
16 the car with the defendant?

17 A Yes, sir.

18 Q Who?

19 A Dale George.

20 Q Dale George?

21 A Yes, sir.

22 Q Where was Dale George seated in the car?

23 A In the passenger seat.

24 Q Front or back?

25 A Front.

1 Q When the defendant told you to follow him what
2 did you do?

3 A I followed him to Moncrief Liquors.

4 Q To where?

5 A Moncrief Liquors.

6 Q How far was that from where you were at?

7 A A mile.

8 Q What happened when you got to the Moncrief
9 Liquors?

10 A Pulled up into the driveway.

11 Q What happened there?

12 A He pointed out Theodore Wright's car.

13 Q What kind of car was that?

14 A Yellow Fury.

15 Q I want you to look at State's Exhibit Number One
16 and ask if you recognize what this is a picture of?

17 A Yes, sir.

18 Q What is that a picture of?

19 A Theodore Wright's car.

20 Q Is that the car that Michael pointed out in the
21 parking lot of Moncrief Liquors?

22 A Yes, sir.

23 Q Did you recognize it to be Theodore Wright's car?

24 A Yes, sir.

25 Q Were you aware of any grudge between Theodore

1 Wright and that defendant?

2 A Yes, sir.

3 Q How did you know about that grudge?

4 A Because Theodore Wright had killed his brother

5 Pewe.

6 Q Who told you that?

7 A He did.

8 Q Who is he?

9 A Michael Bell.

10 Q Did he tell you when that happened?

11 A Yes, sir.

12 Q When?

13 A Early part of June.

14 Q Of what year?

15 A '93

16 Q Did he tell you what he was going to do?

17 A Said -- he said he was going to get him back for

18 killing his brother Pewe.

19 Q When you all pulled up into the parking lot of

20 the Moncrief Liquors and the defendant pointed out

21 Theodore Wright's car, what did you do?

22 A I tried to tell him to leave him.

23 Q Why?

24 A Because I felt he had a grudge he was going to

25 hurt somebody.

1 Q You felt what?

2 A He had a grudge and he was going to hurt
3 somebody.

4 Q How did you try to talk the defendant into
5 leaving?

6 A I told him it was early, he wouldn't be coming
7 out the club.

8 Q When you told the defendant it was early, he
9 wouldn't be coming out of the club, what did the defendant
10 do?

11 A He backed up into the driveway and said he was
12 going to wait it out.

13 Q Where did he park?

14 A Next to a sidewalk in the parking lot.

15 Q Where was the front of his car facing?

16 A Toward the Moncrief Road.

17 Q What did he tell you to do?

18 A He told me to pull on the side of him.

19 Q To do what?

20 A Back up on the side of him.

21 Q Did you do that?

22 A No, sir.

23 Q Why?

24 A Because I didn't want no part of it.

25 Q What did you do?

1 A I pulled down the street.

2 Q What did you do there?

3 A I parked.

4 Q What was between -- from where you had parked

5 were you able to see where the defendant had parked his

6 car?

7 A Yes, sir.

8 Q What was between where you had parked and where

9 the defendant had parked?

10 A Trees and cars.

11 Q What happened next?

12 A I waited five minutes and I said, Michael Bell,

13 get out of the car.

14 Q Whose car?

15 A His car.

16 Q What did you see him do?

17 A Headed toward Theodore Wright's car.

18 Q Did he have anything with him you could see?

19 A Yes, sir.

20 Q What?

21 A A rifle.

22 Q What kind? Could you tell?

23 A AK-47.

24 Q How do you know that?

25 A Because he showed it to me the day he bought it.

1 Q When did he show it to you?

2 A The day before the murder.

3 Q When you saw the defendant get out of his car and
4 walk off toward Theodore Wright's car, did you see
5 Dale George get out of the car?

6 A No, sir.

7 Q When the defendant got out of the car could you
8 tell if he had a mask on or not?

9 A No, sir.

10 Q Why not?

11 A Because he was too far.

12 Q Did you actually see the defendant walk up to
13 Theodore Wright's car?

14 A No, sir.

15 Q Why not?

16 A Because of the trees and the other cars.

17 Q After you saw Michael Bell walk off toward
18 Theodore Wright's car with that AK-47, what happened?

19 A I heard gun shots.

20 Q Then what did you do?

21 A I headed toward home.

22 MR. BATEH: Your Honor, could I have that easel?

23 Your Honor, I request permission of the witness
24 to step down.

25 THE COURT: Step down if you will, please, sir.

1 BY MR. BATEH:

2 Q Would you look at this exhibit, diagram
3 designated State's Exhibit Number Four in evidence, do you
4 recognize this to be a diagram of the Moncrief Liquors
5 area?

6 A Yes, sir.

7 Q Can you show me on that diagram where you
8 remember Theodore Wright's car to have been parked?

9 A Yes, sir.

10 Q Point it out if you would?

11 A (Indicating)

12 Q Right where that yellow model is?

13 A Yes, sir.

14 Q Can you show me where the defendant parked his
15 car?

16 A Right here.

17 Q How did he position his car there?

18 A He backed it up.

19 Q Where was the front of the car facing?

20 A Facing the street.

21 Q Can you show us where you finally parked?

22 A Yes, sir. (Indicating)

23 Q Over in this area here?

24 A Yes, sir.

25 Q I'd like for you to look at State's Exhibit

1 Number Eight, do you recognize that to be an areal
2 photograph showing the area around the Moncrief Lounge?

3 A Yes, sir.

4 Q Now, let's step down here if you would, sir, can
5 you show the jury on this photograph where Michael Bell had
6 parked his car?

7 A Right here.

8 Q And where did you park your car?

9 A Right here.

10 Q All right. Let's move on down here if you will.
11 Can you show this section of the jury where Michael Bell
12 parked his car?

13 A Right here.

14 Q And where did you park your car?

15 A Right here.

16 Q Now, what blocked your view of Michael Bell as he
17 walked out of his car?

18 A Trees and other cars.

19 Q Show me where they were.

20 A Trees right here, other cars.

21 Q Can you show this section of the jury what
22 blocked your view?

23 A Trees right here and cars in the parking lot.

24 MR. BATEH: Your Honor, I have no further need
25 of this diagram maybe just move it back here.

1 You can return to your seat.

2 BY MR. BATEH:

3 Q When was the next time that you saw that
4 defendant?

5 A Two days later.

6 Q Where at?

7 A Over Erica Williams' house.

8 Q Did you and he go off for a ride?

9 A Yes, sir.

10 Q In what?

11 A His black car.

12 Q Anyone else in the car besides yourself and the
13 defendant?

14 A No, sir.

15 Q During that ride did he tell you anything?

16 A Yes, sir.

17 Q What did he tell you?

18 A Told me that he got back at Theodore Wright.

19 Q Did he tell you how?

20 A By killing Jimmy West.

21 Q What else did he tell you?

22 A Told me he had killed the girl.

23 Q Did he tell you to keep quiet about it?

24 A Yes.

25 Q Did you keep quiet about it?

1 A Yes, sir.

2 Q Did you go to the police with the information
3 that you had regarding this?

4 A No, sir.

5 Q Why not?

6 A Because I was scared.

7 Q Of who?

8 A Michael Bell.

9 Q On October the 10th of 1994, the day that you
10 were arrested for that misdemeanor criminal mischief charge
11 for throwing a rock or brick through your girlfriend's
12 window, on that date did homicide detective Bill Bolena
13 come to your jail cell?

14 A Yes, sir.

15 Q What did he ask you?

16 A Asked me what I know about the Moncrief killings.

17 Q What did you tell him?

18 A Same thing I'm saying today.

19 Q Did you contact Detective Bolena and ask him to
20 come to you?

21 A No, sir.

22 Q Did you know why he came to your cell?

23 A Yes, sir.

24 Q The following day, on October 11th, 1994, did you
25 give a sworn statement to the State Attorney's Office?

1 A Yes, sir.

2 Q What did you tell the State Attorney's Office?

3 A Same thing I'm saying today.

4 Q Before you gave the statements to Detective
5 Bolena and before you gave the statement to the State
6 Attorney's Office, did you ever ask any of them or either
7 of them for any help or lenient treatment on your
8 misdemeanor criminal mischief charge?

9 A No, sir.

10 Q Now, that day, October the 10th, 1994, when you
11 talked to Detective Bolena about this case, was that two
12 months before your drug arrest and resisting arrest?

13 A Yes, sir.

14 Q Do you know Henry Edwards?

15 A No, sir.

16 Q Do you know Charles Jones?

17 A No, sir.

18 MR. BATEH: No further questions, Your Honor.

19 CROSS EXAMINATION

20 BY MR. NICHOLS:

21 Q Do you know Dale George?

22 A Yes, sir.

23 Q How tall is Michael Bell?

24 A I'd say about five eight.

25 Q Five eight, how much you think he weighs?

1 A Probably about two -- two hundred.

2 Q How tall is Dale George?

3 A Five six.

4 Q Five six, so they are within an inch or two of

5 the same height, you think?

6 A He's a little bit taller than Dale.

7 Q But you're talking about within just inches?

8 A Well, yeah.

9 Q How much does Dale George weigh?

10 A George about 175.

11 Q Is he a lot thinner or a lot heavier than Michael

12 Bell or about the same size?

13 A Thinner.

14 Q A little thinner.

15 I want to make sure I understood you correctly. You

16 said that you were parked way down the street there, how

17 far you think that was, was it as much as a football field?

18 A No, sir.

19 Q Half a football field?

20 A Yes, I'd say that.

21 Q Somewhere between hundred and 50 or two hundred

22 feet, is that a fair thing to say?

23 A Yes, sir.

24 Q Did I understand you correctly when Mr. Bateh

25 asked if the person you saw get out of the car had a mask

1 on you said they were too far away to tell?

2 A Yes, sir.

3 Q So you couldn't tell whether the person who got
4 out of the car and you say they were holding a rifle?

5 A Yes, sir.

6 Q But you couldn't tell if they had anything on
7 their head?

8 A No, sir.

9 Q You didn't see a black cap or a solid white cap
10 or anything like that?

11 A No, sir.

12 Q And you couldn't see it because it was too far
13 away?

14 A Yes, sir.

15 Q When the car -- did you stick around and wait
16 until that car left?

17 A No, sir.

18 Q You didn't see Michael Bell firing any shots at
19 anybody, did you?

20 A No, sir.

21 Q Did you see where Dale George was?

22 A Yes, sir.

23 Q Where was he?

24 A He was in the passenger seat.

25 Q Now, you were too far away to tell whether the

1 person had anything on their head but you were close enough
2 to see somebody sitting in the passenger seat?

3 A I know Dale was in the front seat.

4 Q Excuse me?

5 A I couldn't see him from where I was but I know he
6 was in the passenger seat.

7 Q You couldn't see him from he was but you're
8 assuming he was still in the passenger seat?

9 A Yes, sir.

10 Q Did you ever see him move from the passenger's
11 seat to the driver's seat?

12 A No, sir.

13 Q As a matter of fact, when you got down after you
14 parked your car you couldn't see any of those people or
15 what they were doing, could you?

16 A No, sir.

17 MR. NICHOLS: Nothing else, Your Honor.

18 THE COURT: Mr. Bateh?

19 MR. BATEH: If I may, Your Honor.

20 Your Honor, may the witness step down? Stand
21 over there if you would, sir.

22 REDIRECT EXAMINATION

23 BY MR. NICHOLS:

24 Q You -- now, you indicated you were parked over
25 here?

1 A Yes, sir.

2 Q Did you have a clear view of the defendant's car
3 backed up into this slot here?

4 MR. NICHOLS: Objection, wait a minute,
5 objection, I object to Mr. Bateh stating some premise
6 and asking him to agree.

7 THE COURT: I sustain the question as phrased.

8 MR. BATEH: All right, sir.

9 BY MR. BATEH:

10 Q What view did you have -- where was the
11 defendant's car parked?

12 A Right here.

13 Q What view did you have of his car?

14 A The driver's side.

15 Q Could you see that clearly?

16 A Yes, sir.

17 Q When you pulled out of -- where did you pull out
18 of the parking lot?

19 A Right here.

20 Q And you parked down here?

21 A Yes, sir.

22 Q When you pulled out of that parking lot there to
23 move down here to this area where you parked, where was
24 Michael Bell?

25 A Right here.

1 Q On what side of that car?

2 A On the left.

3 Q Was he behind the steering wheel?

4 A Yes, sir.

5 Q Where was Dale George?

6 A On the passenger side.

7 Q And what view of the defendant's car did you have
8 from this position where you parked?

9 MR. NICHOLS: It's asked and answered.

10 THE COURT: All right. I sustain the objection.

11 BY MR. BATEH:

12 Q Well, you indicated you had a view of the
13 driver's seat?

14 A Yes, sir.

15 Q Did you ever see Dale George and the defendant
16 switch places before you saw the defendant come out of that
17 car, the driver's door?

18 A No, sir.

19 Q When you pulled out of this parking spot here
20 that you have after the shots started, which way did you
21 turn?

22 A Left.

23 Q Well, show me on this diagram.

24 A Turned this way.

25 Q All right. Did you ever go back by where the

1 defendant was?

2 A No, sir.

3 Q If you stand the defendant beside Dale George,
4 can you tell the difference between the two?

5 A Yes, sir.

6 Q What is the difference?

7 A He's taller than Dale.

8 Q Who's taller?

9 A Michael Bell.

10 Q Who weighs more?

11 A Michael Bell.

12 Q Is it easy for you to tell them apart?

13 A Yes, sir.

14 Q Is there any doubt in your mind that it was the
15 defendant Michael Bell that got out of the driver's seat of
16 that car when you saw him get out and get the AK-47?

17 A No, sir.

18 MR. BATEH: No further questions, Your Honor.

19 MR. NICHOLS: Just one, may I have one question
20 on recross?

21 THE COURT: All right. You want the chart?

22 MR. NICHOLS: No, yeah, he can stay there.

23 RECROSS EXAMINATION

24 BY MR. NICHOLS:

25 Q You told me, did you not, a few minutes ago when

1 I was asking you questions that after you got down there
2 and out of your car you were too far away to see what was
3 happening in that car, you weren't able to see those
4 people, were you?

5 A No, sir.

6 MR. NICHOLS: Nothing else.

7 THE COURT: All right. We through with this
8 witness?

9 MR. BATEH: Yes, sir.

10 THE COURT: You may -- thank you very much, you
11 may be excused.

12 (Witness excused)

13 THE COURT: Call your next witness.

14 MR. BATEH: Your Honor, the state would call Dale
15 George.

16 DALE GEORGE,

17 Having been produced and first duly sworn as a
18 witness, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. BATEH:

21 Q What is your name, sir?

22 A Dale George.

23 Q How old are you?

24 A 25.

25 Q Do you live here in Jacksonville, sir?

Appendix G

1 I was asking you questions that after you got down there
2 and out of your car you were too far away to see what was
3 happening in that car, you weren't able to see those
4 people, were you?

5 A No, sir.

6 MR. NICHOLS: Nothing else.

7 THE COURT: All right. We through with this
8 witness?

9 MR. BATEH: Yes, sir.

10 THE COURT: You may -- thank you very much, you
11 may be excused.

12 (Witness excused)

13 THE COURT: Call your next witness.

14 MR. BATEH: Your Honor, the state would call Dale
15 George.

16 DALE GEORGE,

17 Having been produced and first duly sworn as a
18 witness, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. BATEH:

21 Q What is your name, sir?

22 A Dale George.

23 Q How old are you?

24 A 25.

25 Q Do you live here in Jacksonville, sir?

1 A Yes, sir.

2 Q What sort of work do you do?

3 A Auto mechanic.

4 Q What mechanic?

5 A Auto mechanic.

6 Q Mr. George, have you ever been convicted of a
7 felony?

8 A Yes, sir.

9 Q How many times?

10 A Three times.

11 Q Mr. George, are you currently in the Duval County
12 Jail waiting to be sentenced?

13 A Yes, sir.

14 Q On accessory after the fact to this murder?

15 A Yes.

16 Q What are the facts of that?

17 A That I drove Michael Bell away from the scene of
18 the crime after he killed --

19 Q Which crime?

20 A At Moncrief Liquors.

21 Q Were you arrested on the charge of accessory
22 after the fact to these murders on October the 12th of
23 1994?

24 A Yes, sir.

25 Q Did you plead guilty to this of accessory after

1 the fact to murder on two months later on December the
2 12th, 1994?

3 A Yes, sir.

4 Q What Judge did you plead guilty in front of?

5 A Judge Olliff, sir.

6 Q Mr. George, is there a sentencing agreement
7 between you and the State of Florida regarding that plea of
8 guilty to the charge of accessory after the fact?

9 A Yes, sir.

10 Q And what is that agreement?

11 A That I won't get no more than five years in the
12 State Prison and I don't get habitualized, I won't be
13 habitualized as a habitual offender.

14 Q But you won't get no more than five years in the
15 Florida State Prison?

16 A Yes, sir.

17 Q Mr. George, what do you have to do in return for
18 the agreement that you will get no more than five years in
19 the Florida State Prison for driving Michael Bell from the
20 Moncrief Liquors after he killed Jimmy West and Tamecka
21 Smith?

22 A Give truthful testimony on what I know of my
23 knowledge of this case of this murder.

24 Q Mr. George, have you been sentenced yet?

25 A No, sir.

1 Q Who is it that's going to decide if you have
2 given truthful testimony?

3 A The Judge Olliff, sir.

4 Q Who is it that's going to impose your sentence or
5 pass on your sentence up to five years?

6 A Judge Olliff.

7 Q When is your sentencing set for?

8 A March 17th.

9 Q Of this year?

10 A Yes, sir.

11 Q Mr. George, do you know Michael Bell?

12 A Yes, sir.

13 Q How long have you known him?

14 A For about ten years.

15 Q Mr. George, could you step down from that witness
16 stand and walk over and stand behind Michael Bell?

17 MR. NICHOLS: Your Honor, I object to the kind of
18 theatrics that the boy has been identified half a
19 dozen times and it's nothing more than theatrics, it's
20 improper.

21 THE COURT: State?

22 MR. BATEH: I feel I'm entitled to use whatever
23 means I wish.

24 THE COURT: Step down and stand behind him,
25 overrule the objection.

1 (Witness complies)

2 THE COURT: Let the record show the witness is
3 standing behind the defendant identifying him as the
4 person about whom he speaks. You may resume your
5 witness chair.

6 BY MR. BATEH:

7 Q Mr. George, what was the nature of your
8 relationship with the defendant?

9 A Close friend.

10 Q Do you know Vanesse Pryor?

11 A Yes.

12 Q How long have you known him?

13 A Five years.

14 Q Half as long as you've known this defendant?

15 A Yes, sir.

16 Q I want you to think back to December 9, 1993,
17 that was Thursday night between 10:00 and 10:30 that night,
18 do you recall where you were and what ya'll were doing at
19 that time?

20 A Yes, sir.

21 Q Tell the jury what you wore doing.

22 A I was at a game room known as Mike's Run Out on
23 24th and Myrtle.

24 Q Game room that the defendant ran?

25 A Yes, sir.

- 1 Q How did you get there?
- 2 A I drove my Blazer up there to the game room, sir.
- 3 Q That's your car?
- 4 A Yes, sir.
- 5 Q Now, shortly after you arrived did you see the
- 6 defendant there outside the game room?
- 7 A Yes, sir.
- 8 Q Did you also see Ned in the area, Ned Pryor?
- 9 A Yes, sir.
- 10 Q Was Ned in his own vehicle, his own car?
- 11 A Yes, sir.
- 12 Q What kind of car is that?
- 13 A Gray Nissan.
- 14 Q Did the defendant tell you and Ned to do
- 15 anything?
- 16 A Yes, sir, he told us to follow him.
- 17 Q What did you do?
- 18 A I got in the front passenger side of his car.
- 19 Q Of whose car?
- 20 A Michael Bell's car.
- 21 Q And what did Ned do?
- 22 A Ned followed behind us.
- 23 Q Ned followed where?
- 24 A Behind us.
- 25 Q In whose car?

1 A In Ned's car.

2 Q I want you to look at State's Exhibit number 26,
3 and ask if you recognize what this is a picture of?

4 A Yes, sir.

5 Q What car is this?

6 A Michael Bell's black Omega.

7 Q Is this the car you got in beside the defendant
8 on that night?

9 A Yes, sir.

10 Q Was anyone else in the car besides you and the
11 defendant?

12 A No, sir.

13 Q And the defendant was driving?

14 A Yes, sir.

15 Q Where did y'all go?

16 A Half mile away from Moncrief down to Moncrief
17 Liquors.

18 Q When you got to the Moncrief Liquors what
19 happened?

20 A Mike -- Mike pointed out a Plymouth car to us.

21 Q What color was it?

22 A It was yellow, yellowish color.

23 Q I want you to look at State's Exhibit Number One,
24 do you recognize what that's a picture of?

25 A Yes, sir.

1 Q What's that a picture of?

2 A That's the car Michael Bell pointed out to us.

3 Q Did you know whose car this was?

4 A Yes, sir.

5 Q Whose car?

6 A Theodore Wright's car.

7 Q Were you aware of any sort of grudge between the

8 defendant and Theodore Wright at that time?

9 A Yes, sir.

10 Q And what was the nature of that?

11 A That Mike had a grudge saying he's got to get

12 Theodore Wright because he killed his brother.

13 Q Did the defendant ever tell you what he was going

14 to do to Theodore Wright?

15 A Yes, he was going to get even, he was going to

16 kill him.

17 Q When the defendant pointed out Theodore Wright's

18 car to you, what did you do?

19 A I tried to tell him come on, let's go, because it

20 ain't no way he is going to come out of the club right now,

21 it's too early, come on, let's go.

22 Q Why did you try to do that?

23 A Because I knew in my mind what he had in store

24 that he was going to kill Theodore Wright, he was going to

25 hurt him.

1 Q What did the defendant say when you tried to
2 convince him it was too early?

3 A He was going to sit and wait.

4 Q Then what happened?

5 A Then he backed the car up, he rode to the club,
6 Moncrief Lounge like in the parking lot and he sit, he told
7 Ned to find somewhere else to park.

8 Q Where did Ned park?

9 A I don't know, I couldn't see where Ned parked, he
10 -- I assume he drove on.

11 Q All right. As you and the defendant waited there
12 in that car, what happened?

13 A While we were sitting Mike pulled out a skull
14 hat.

15 Q A what?

16 A A skull hat.

17 Q What's a skull hat?

18 A It's a knitted hat that you wear on your head,
19 you can pull down over your face like a ski mask.

20 Q When he pulled that out what did you see him do?

21 A He pulled a lighter out and burned two eye holes
22 in it.

23 Q Then what did you see him do?

24 A Then he put it on on top of his head.

25 Q Did he pull it down over his face?

1 A No, sir.

2 Q Just on the top?

3 A Yes, sir.

4 Q Then what happened?

5 A Then after then wait for a little while and he

6 said, here they come.

7 Q Who said here they come?

8 A Michael Bell said that.

9 Q Then what happened, what did you see?

10 A He got out of the car and he pull the ski mask

11 down on his face, then opened the back door of the car and

12 right up behind the back seat he pulled out a AK-47.

13 Q And what did you see him do?

14 A He pulled the ski mask on his face and went

15 walking toward the yellow car.

16 Q Toward what?

17 A Toward the yellow Plymouth.

18 Q Theodore Wright's car?

19 A Yes, sir.

20 Q What did you do when the defendant was doing

21 that?

22 A I scooted over in the driver's side to start the

23 car and during the time I was starting the car I heard a

24 gunshot, a lot of gunshots.

25 Q How many gunshots did you hear?

1 A So many I couldn't count.

2 Q Then what did you see?

3 A Michael Bell running back toward the car, while
4 he was running back to the car I started speed up but he
5 jumped in the car.

6 Q All right. When the defendant started back
7 toward the car did you -- could you see what he was doing?

8 A Yes, sir.

9 Q What was he doing?

10 A Shooting at the building, anything in sight.

11 Q Shooting at what?

12 A The building, anything that was there, stopping
13 the people from coming out.

14 Q Coming out of where?

15 A From the bar, the Moncrief Liquors.

16 Q Then what did you see the defendant do?

17 A He got in the car and pull the ski mask over his
18 head and threw the AK back there on the seat and I speeded
19 off and went riding in Moncrief and make another right and
20 went all the way back to Lem Turner, then make a right on
21 Lem Turner and got on the Expressway and went back to the
22 game room where my truck was.

23 Q What happened there when you got back to where
24 your truck was in the game room?

25 A Mike scooted over and he took off.

1 Q You scooted over?

2 A Mike scooted over in the driver's side and he

3 took off.

4 Q Did you get out of the car?

5 A Yes, sir.

6 Q Then what did you do?

7 A Then my beeper went off and when I looked at my

8 beeper it was Erica Williams' number inside my beeper.

9 Q All right. Who is Erica Williams?

10 A Michael Bell's girlfriend.

11 Q What did you do -- well, let me ask this: Do you

12 know who beeped you?

13 A No, sir.

14 Q Did you have a girlfriend yourself?

15 A Yes, sir, my girlfriend used to stay around there

16 with Erica, her name Marceen Cofer.

17 Q She ever beep you from Erica's place?

18 A Yes, sir.

19 Q Did you go to Erica's apartment?

20 A Yes, sir, I went straight around to Erica's

21 apartment.

22 Q Who was there went you got there?

23 A Just Erica.

24 Q When you got there did you tell Erica anything?

25 A Yes, sir.

1 Q What did you tell her?

2 A I told her Mike had shot up Theodore Wright down
3 there at Moncrief Liquors.

4 Q She believe you?

5 A No, sir.

6 Q What did you do?

7 A I -- so I took her down there and we -- we drove
8 by and I showed her fire rescue and police officers there
9 down there, then we drove back to her apartment.

10 Q When you drove back to Erica's apartment what
11 happened when you went back up there?

12 A Michael called her house.

13 Q On the phone?

14 A Yes, sir.

15 Q What did he want?

16 A He wanted her to -- want me to pick up some
17 clothes to him to his Aunt Paula's house.

18 Q Did you agree to do it?

19 A No, sir, I didn't want to be no part of it so I
20 told her I was fixing to go home.

21 Q Did you go home?

22 A Yes, sir.

23 Q Did you ever call the police and report to them
24 what you had seen that night out there at the Moncrief
25 Liquors?

1 A No, sir.

2 Q Why?

3 A Cause I was afraid of Michael Bell and I was
4 afraid of my -- well, my taking part from driving him away
5 from the scene of the crime.

6 Q On October the 12th of 1994 were you interviewed
7 by a homicide detective by the name of Bolena about your
8 knowledge of the Moncrief Liquors killing on December 9th,
9 1993?

10 A Yes, sir.

11 Q What did you tell Detective Bolena?

12 A I lied to him, told him I don't know nothing
13 about it.

14 Q You lied to him?

15 A Yes, sir.

16 Q Why did you lie?

17 A I lied because I was afraid of Michael Bell and
18 afraid of my driving him away from the scene of the crime.

19 Q Now, did you come forward and talk to Detective
20 Bolena on December 6th, 1994 about two months after you
21 were arrested?

22 A Yes, sir.

23 Q And what did you tell Detective Bolena on that
24 day?

25 A Same thing what I'm saying right now.

1 Q Were there any promises that you asked for from
2 Detective Bolena in return for that story or statement?

3 A No, sir.

4 Q On December 7th of 1994 did you give a sworn
5 statement to the State Attorney's Office?

6 A Yes, sir.

7 Q What did you say in that statement?

8 A Same thing what I'm saying right now.

9 Q Did you ask for or were you given any promises or
10 agreements about your charge of accessory after the fact to
11 these murders?

12 A No, sir.

13 Q Why did you tell the truth on December 6th and
14 7th?

15 A Because I was trying to -- I was tired of lying
16 about --

17 Q You were what?

18 A Tired of lying about it and I just wanted to show
19 people I didn't have nothing to do with this murder.

20 Q Now, on December the 12th of 1994, was that the
21 date that you pled guilty before Judge Olliff to accessory
22 after the fact?

23 A Yes, sir.

24 Q And your sentence was set for March 17.

25 A Yes, sir.

1 Q Who was it that negotiated with the State
2 Attorney's Office, the agreement that you would get no more
3 than five years in the Florida State Prison in return for
4 your truthful testimony regarding your knowledge of the
5 murders of Jimmy West and Tamecka Smith?

6 A My lawyer, Mr. Brandon.

7 Q Do you know Henry Edwards?

8 A No, sir.

9 Q Do you know Charles Jones?

10 A No, sir.

11 MR. BATEH: Your Honor, I would request
12 permission for this witness to step down in front of
13 the jury.

14 THE COURT: All right.

15 MR. BATEH: I'd also ask that the court order the
16 defendant to stand next to Mr. Dale George and have
17 them both face the jury side by side, Your Honor.

18 THE COURT: All right. Step over there and stand
19 beside the witness.

20 All right. Mr. Bateh.

21 MR. BATEH: Your Honor, I have no further
22 questions of this witness.

23 THE COURT: Thank you, you may be seated.

24 CROSS EXAMINATION

25 BY MR. NICHOLS:

1 Q Mr. George, what color was the ski mask or the
2 knit cap that you claim Mr. Bell had on?

3 A It was a beige and black ski mask, sir.

4 Q It was beige and black?

5 A Yes, sir, like beige.

6 Q Part of it light and part of it dark?

7 A Yes, sir.

8 Q Was it like one side dark and one side light or
9 the top dark, how was it?

10 A Like top was light and the middle was light and
11 got like a black line around the middle of it.

12 Q So it was like light colored with a dark stripe
13 around it, is that what you're saying?

14 A Yes, sir.

15 Q And what part of the mask did it have these eye
16 holes in it that you claim?

17 A In the lightish part.

18 Q The top light or bottom?

19 A Top light, sir.

20 Q Okay. Mr. Bateh has asked you questions about
21 your truthful testimony, what that means is that you
22 testify here the way you've testified in the past, right,
23 that you don't change your story, as long as you don't
24 change your story then you can still get the deal, right?

25 A What deal, sir? I'm not getting no deal out of

1 this.

2 Q Well, you knew that there was a feud between
3 Theodore Wright and Michael Bell, right?

4 A Yes, sir.

5 Q You knew Michael Bell wanted to kill Theodore
6 Wright, right?

7 A Yes, sir, yes, sir.

8 Q You knew that if the state took the position that
9 you had gone over there with Michael Bell to help him or
10 assist him in anyway killing Theodore Wright that you could
11 be charged with first degree murder and face the death
12 penalty just like him, you knew that, didn't you?

13 A No, sir.

14 Q Well that's what you were afraid about when you
15 lied to Bolena, isn't it?

16 A No, sir.

17 Q What were you said you were afraid about?

18 A Well --

19 Q Leaving the scene?

20 A I was afraid of Michael Bell, sir.

21 Q Well, you have heard, have you not, that if you
22 help somebody commit another crime you're guilty just like
23 they are, you know that, don't you?

24 A That's true but when you've got a person
25 that shoots after you --

1 Q Well that's not my question, you know and knew
2 then that if you help somebody commit a crime you can be
3 prosecuted just like them, if you drive somebody to a
4 liquor store and they go inside and rob that liquor store,
5 you know you can be prosecuted just like that guy who went
6 in with a gun, don't you?

7 MR. BATEH: Your Honor, I'm going to object,
8 there's no evidence this witness participated before
9 the fact, he participated after the fact by driving
10 away and he's charged with accessory after the fact.

11 THE COURT: Overrule the objection. I think this
12 is proper cross examination.

13 BY MR. NICHOLS:

14 Q You knew when you took this deal for five years
15 that if the state wanted to take the position and try to
16 prove to a jury that you knew there was a feud, you went
17 over to that parking lot with Michael Bell, you knew he
18 wanted to kill somebody and you went there to assist him,
19 that if they could prove that you aided him doing that they
20 could prove you were a murderer just like you claim he is?

21 A I didn't know he was going to the parking lot to
22 kill somebody.

23 Q You knew he was going to kill somebody.

24 A No, I didn't know what he was going to do, he
25 just pulled up there and said, come on, let's go, follow

1 me. So I got in the car and followed him, that's all I
2 know, I didn't know what he was doing.

3 Q But you knew and you knew that there was at
4 least a glimmer of a chance you might be prosecuted for
5 murder and instead of a death penalty you cut yourself a
6 deal for five years, isn't that true?

7 A No, sir.

8 Q That's what you're charged with, best you can get
9 is five years?

10 A Yes, sir, for any truthful testimony I'm letting
11 you know I didn't have nothing to do with that.

12 Q Well let's talk about your truthful testimony,
13 you just got through saying I saw him take a gun out of the
14 back seat of the car.

15 A Yes, sir.

16 Q You didn't see him take a gun out of the back
17 seat of the car.

18 A Yeah, I saw him take the gun out of the back
19 seat.

20 Q You're telling -- you lied to Bolena before and
21 just a few minutes ago and right now you're telling this
22 jury I saw him take a gun out of the back seat of the car,
23 is that your testimony?

24 A Yes, I saw him pull the gun out of the back seat
25 of the car.

1 Q All right. Well, let's go to the sworn statement
2 in form of a deposition that I took of you in December the
3 8th, 1994, just a few weeks ago.

4 A Yes, sir.

5 Q And let's go to page nine of that deposition and
6 ask you if you recall these questions and these answers.
7 Did you know there was a gun in the car?

8 Answer: No, sir, I did not see the gun.

9 Question: When Michael got out of the car you were
10 still in the car? I asked if you had gotten out, you said
11 no.

12 Question: When he got out of the car what did you
13 do?

14 Answer: Before he got out of the car he had this skull
15 hat and he went ahead with cigarette lighter and burned
16 some holes and then put it on his head, then he got out.
17 Then when he got out he put it on his face he grabbed
18 something from behind the seat of the car. I wasn't -- it
19 wasn't even on the seat, it was behind the chair itself and
20 grabbed it out and put the hood on his face. Then he went
21 around.

22 Then I asked you the question, when you say something,
23 you didn't see the gun?

24 Answer: The -- well, I wasn't looking for the gun,
25 sir, I just see he got out of the car.

1 Now, under oath are you lying to me now or under oath
2 were you lying to me then, which was it?

3 MR. BATEH: Objection, Your Honor, it's
4 argumentative.

5 THE COURT: I sustain the objection to the
6 question the way in which it's asked, you can
7 rephrase.

8 MR. NICHOLS: I'll rephrase.

9 BY MR. NICHOLS:

10 Q You're under oath right now, right?

11 A Yes, sir.

12 Q You were under oath right then, weren't you?

13 A Yes, sir.

14 Q Now, have you just had a vision that you remember
15 this, that you didn't remember back in December of 1994 or
16 what's the explanation for the difference in your
17 testimony?

18 A There ain't no difference, I know what a gun
19 looks like and that was a gun he pulled out of the back
20 seat of the car, I didn't see the gun at first. Only time
21 I saw the gun is after he got out of the car and he got
22 behind -- went behind the back seat and pulled the gun out
23 I saw the gun.

24 Q This was in December in winter time, right?

25 A Yes, sir.

1 Q Michael had a jacket on, right?
2 A No, sir.
3 Q He didn't?
4 A No, sir, it wasn't a jacket, sir.
5 Q What was he wearing?
6 A More like a sweat shirt like.
7 Q What were you wearing?
8 A I had on regular T-shirt and jacket, sir.
9 Q You had a jacket on?
10 A Yes, sir.
11 MR. NICHOLS: Can I have just a moment, Your
12 Honor?
13 (Conferring with the defendant)
14 MR. NICHOLS: I don't have any other questions,
15 Your Honor.
16 THE COURT: State?
17 MR. BATEH: I don't have any questions.
18 THE COURT: Thank you very much, you may step
19 down.
20 (Witness excused)
21 THE COURT: Gentlemen, step to side-bar just one
22 moment.
23 (Side-bar conference)
24 THE COURT: Call your next witness.
25 MR. BATEH: Your Honor, state would call Charles

Appendix H

March 8, 1995

1

2

THE COURT: Bring out the defendant.

3

(Defendant present)

4

THE COURT: Bring out the jury.

5

(Jury present)

6

7

THE COURT: Let the record show the jury is back
in the courtroom. I apologize for the temperature,
did it improve any?

8

9

A JUROR: Yes.

10

11

THE COURT: All right. Mr. Bateh, would you call
your next witness, please.

12

13

MR. BATEH: Your Honor, the state would call
Paula Goins to the stand.

14

PAULA GOINS,

15

16

Having been produced and first duly sworn as a
witness, testified as follows:

17

DIRECT EXAMINATION

18

BY MR. BATEH:

19

Q What is your name, ma'am?

20

A Paula Goins.

21

Q Miss Goins, how are you employed?

22

A I work for the United States District Court.

23

Q And what are your duties there?

24

A I'm a courtroom clerk for Magistrate Judge John

25 Steal.

1 Q How long have you worked for the United States
2 District Court?

3 A 17 plus years.

4 Q Are those continuous years?

5 A Yes.

6 Q And you've worked here in the United States
7 District Court here in Jacksonville for those 17 plus
8 years?

9 A Yes.

10 Q Miss Goins, do you know Michael Bell?

11 A Yes.

12 Q Do you see him here in the courtroom, ma'am?

13 A Yes.

14 Q Could you please point to him and tell us what
15 he's wearing?

16 A He's wearing a flowered shirt.

17 MR. NICHOLS: We stipulate, Your Honor.

18 THE COURT: Both state and defense stipulate that
19 she's identified the defendant as the person about
20 whom she speaks.

21 BY MR. BATEH:

22 Q Miss Goins, how do you know Michael Bell?

23 A Michael is my nephew.

24 Q Is he the son of your sister Margo Bell?

25 A Yes.

- 1 Q Miss Goins, have you known Michael all of his
2 life?
- 3 A Yes.
- 4 Q Miss Goins, do you want to be here today?
- 5 A No.
- 6 Q Why not?
- 7 A I love my nephew, I won't want to be here.
- 8 Q I'm sorry, ma'am.
- 9 A I love my nephew, I don't want to be here.
- 10 Q Miss Goins, did Michael have a younger brother
11 named Lamar Pewe Bell?
- 12 A Yes.
- 13 Q Was he also your brother, I'm sorry, your nephew?
- 14 A Yes.
- 15 Q In June of 1993 was Lamar Pewe Bell killed?
- 16 A Yes.
- 17 Q Did Michael tell you about that killing, how it
18 happened?
- 19 A Yes.
- 20 Q What did he tell you?
- 21 A He said that they were at a club and Theodore
22 Wright murdered Pewe.
- 23 Q Shot him to death?
- 24 A Yes.
- 25 Q Did Michael tell you that he saw Theodore Wright

1 shoot his brother Lamar Bell?

2 A Yes.

3 Q Did he tell you whether he told the police or
4 reported to the police what he had seen?

5 A No, he didn't.

6 Q He told you that he did not?

7 A Right.

8 Q Did you ever counsel Michael Bell to go to the
9 police and to report to them that he had seen Theodore
10 Wright shoot his brother Lamar Bell?

11 MR. NICHOLS: Your Honor, excuse me, this is
12 constant leading and is objectionable, I don't mind a
13 little bit of leading but constant.

14 THE COURT: Counsel, rephrase your question.

15 MR. NICHOLS: She -- he could just ask her what
16 she said and leave it at that.

17 BY MR. BATEH:

18 Q When Michael told you he had not gone or reported
19 to the police that he had seen the shooting, what did
20 you tell him?

21 A I told him to turn him in, that he should call
22 the police.

23 Q What was Michael's response to that?

24 A Michael said prison was too good for him, he
25 needs to be in the morgue like his brother.

1 Q Ma'am, I'd like for you to think back to December
2 10, 1993, that was a Friday about 2:00 o'clock in the
3 morning, do you recall where you were?

4 A At home.

5 Q Where was that?

6 A 8314 Lakemont Drive.

7 Q Is that in area of Touchton and Belfort Road over
8 near Southside Boulevard?

9 A Yes.

10 Q At about that time roughly at 2:00 in the morning
11 did you get a phone call?

12 A Yes.

13 Q Who was it from?

14 A Michael.

15 Q What did he say?

16 A Told me he was coming over.

17 Q Did he come over?

18 A Yes.

19 Q How much time after the phone call?

20 A I don't know, I guess about an hour.

21 Q Was anyone with him when he came over?

22 A No.

23 Q When he arrived at your door how far was he
24 acting, what mood was he in?

25 A He was excited.

1 Q What did he say when he came in? And I'd like
2 for you to use Michael Bell's words?

3 A He says --

4 THE COURT: Would you like a recess to compose
5 yourself?

6 Members of the jury, would you step back to your
7 jury room, please?

8 (Jury excused)

9 THE COURT: Take the defendant in the back, we
10 will be in recess for ten minutes.

11 (Short recess)

12 THE COURT: Mr. Weinbaum, what's the request
13 now, Mr. Weinbaum?

14 MR. WEINBAUM: Your Honor, the witness has
15 requested that I remain in the immediate vicinity to
16 give her some moral support as it were.

17 THE COURT: Any objection by state or defense?

18 MR. NICHOLS: I have no objection.

19 MR. BATEH: I have no objection.

20 THE COURT: You can sit over there in one of
21 those chairs.

22 MR. WEINBAUM: Your Honor, I would expect to just
23 get up and leave after she testifies if that's
24 permissible.

25 THE COURT: Yes.

1 Bring out the defendant.

2 (Defendant present)

3 THE COURT: Bring out the jury, please, sir.

4 (Jury present)

5 THE COURT: Record shall show that the jury is
6 backs in the courtroom. Mr. Bateh, proceed.

7 BY MR. BATEH:

8 Q Miss Goins, you earlier said that when Michael
9 Bell came to your door he was excited and my question to
10 you is: I'd like for you to use the words that you
11 remember Michael Bell using, what did he say when he first
12 came in?

13 A He said I got that mother fucker.

14 Q I'm sorry, could you speak up?

15 A I got that mother fucker.

16 Q Did you respond to that?

17 A I asked him who.

18 Q What did Michael Bell say?

19 A Killer.

20 Q I'm sorry?

21 A Killer.

22 Q What did you say?

23 A Who is that? I didn't know who he was.

24 Q And what did Michael Bell say?

25 A Theodore's brother.

1 Q Who's brother?
2 A Theodore.
3 Q Did you know who Theodore was?
4 A Yes.
5 Q Who is that?
6 A He's the boy that killed my nephew.
7 Q Theodore Wright?
8 A Yes.
9 Q Did you then ask him to explain what happened?
10 A Yes.
11 Q What did Michael Bell tell you?
12 A He said they had been -- he and a friend had been
13 riding and when he stopped at a red light the car that came
14 up beside him he recognized it as being the car that
15 Theodore Wright drove.
16 Q Did he tell you whether he was able to see
17 Theodore Wright in the car or not?
18 A No.
19 Q Did he tell you why?
20 A The windows, he couldn't really tell, that car
21 had tinted windows.
22 Q Then what did he say happened?
23 A He said he left and went to get his car.
24 Q I'm sorry?
25 A He left and he went to get his car.

1 Q I'd like for you to look at State's Exhibit
2 number 2 and ask you if you recognize what this is a
3 picture of?

4 A Michael had a car like that.

5 Q Michael Bell?

6 A Yes.

7 Q Did he have a car like that in December of 1993?

8 A Yes.

9 Q Did the defendant tell you what happened after he
10 went and got his car?

11 A Yes.

12 Q Please tell the jury what he said.

13 A He said that he spotted the same car.

14 Q Theodore's car?

15 A Yes.

16 Q Where?

17 A On Moncrief Road.

18 Q Did he tell you where?

19 A Outside of the Moncrief Liquors.

20 Q Then what did he say happened?

21 A He said he just -- he parked his car and he just
22 waited there.

23 Q Did he tell you whether there was anyone in the
24 car or not?

25 A There wasn't anyone in the car.

1 Q Did he say how long he waited?

2 A Just a while, I don't know.

3 Q Did he say who he was waiting for?

4 A He was waiting for Theodore to come back out.

5 MR. BATEH: Your Honor, may we have this woman
6 removed from the courtroom?

7 THE COURT: All right. Members of the jury, I
8 apologize, would you step back to your jury room,
9 please?

10 (Jury excused)

11 MR. BATEH: Your Honor, might I approach the
12 bench with Mr. Nichols?

13 THE COURT: Yes, sir.

14 (The following further proceedings were had out of
15 the hearing of the jury:)

16 MR. NICHOLS: I want the record to reflect that
17 Paula Goins' testimony had to be interrupted because
18 of her being and I think authentically and genuinely
19 overwhelmed with emotion, and within 15 minutes of
20 that the defendant's mother who I guess is the sister
21 of Paula Goins also had a tearful display in the
22 courtroom to the extent that the bailiff attempted to
23 remove her and the court removed the jury. I think
24 that taints this jury to the extent that they can't
25 fairly deliberate the case and ask the court to grant

1 a mistrial.

2 THE COURT: I deny the motion for mistrial. It's
3 true that if that's -- that's his mother?

4 MR. NICHOLS: Yes.

5 THE COURT: That's the defendant's mother, she
6 did make some noise as if she was crying and since it
7 was disrupting the jury's attention to Mrs. Goins'
8 testimony the bailiff asked her to leave the courtroom
9 after some discussion she did. I don't feel as though
10 that it was of any great moment but it was a
11 disruption.

12 I deny the motion for mistrial. All right.
13 (At the conclusion of the side-bar conference, the
14 following further proceedings were had:)

15 THE COURT: Bring out the jury, please.

16 (Jury present)

17 THE COURT: The record shall show the jury is
18 back in the courtroom. Proceed, Mr. Bateh.

19 BY MR. BATEH:

20 Q Miss Goins, did Michael Bell tell you who he was
21 waiting for?

22 A He said he was waiting for Theodore to come back
23 out of the club.

24 Q Did he make any mention about whether he believed
25 Theodore Wright would be armed when he came out of that

1 Moncrief Lounge?

2 A He said they check for weapons and that he knew
3 he wasn't.

4 Q He knew he wasn't what?

5 A Armed.

6 Q That they check for weapons where?

7 A Inside the place where he was at.

8 Q Inside the lounge?

9 A Yes.

10 Q Did he tell you whether he saw anyone come out?

11 A Yes.

12 Q What did he say about that?

13 A He saw a guy and two girls come out.

14 Q What did he say he saw them do?

15 A The guy -- the guy was -- the guy evidently
16 purchased something and the girls were walking with him and
17 they just went to the car.

18 Q Did he say the man was carrying a small package
19 like he purchased something?

20 MR. NICHOLS: Your Honor --

21 THE COURT: Don't lead the witness.

22 MR. NICHOLS: Mr. Bateh knows how to ask a direct
23 question, I assume, and he constantly leads and then
24 he embellishes the testimony with his little --

25 THE COURT: All right. Mr. Nichols is exactly

1 correct, you're asking leading questions and you're
2 commenting, editorializing on it after it's done.

3 MR. BATEH: Your Honor, I'm trying not to, I just
4 know this witness is having difficulty.

5 THE COURT: It's not just this witness, Mr.
6 Bateh, let's move along.

7 BY MR. BATEH:

8 Q What did he say happened next?

9 A That they came up onto the car and the guy had
10 gotten in the car and was -- Michael said he was reaching
11 down to get his weapon from under the seat, that's when I
12 knew that they didn't have weapons inside because Michael
13 felt like he was -- when he got back in the car he was
14 reaching for -- he was going to rearm himself with his
15 weapon because he was known to carry a weapon. And the
16 girls were outside the car.

17 Q Did he say where the girls were? What part of
18 the car they were at?

19 A Yeah, they were waiting for him to let them in
20 the car.

21 Q Did he say which side of the car they were on?

22 A On the passenger side.

23 Q Then what did he say happened?

24 A One of the girls spotted him then she tapped the
25 other one on the shoulder and pointed at him.

1 Q Would you keep your voice up?

2 A And then she left but the other one stayed.

3 Q Did he say where that woman went when she left

4 the car?

5 A She backed up, she went back to the place.

6 Q To what place?

7 A I guess the bar.

8 Q Then what did he say happened?

9 A The other girl asked the guy did he know her --

10 did he know him, she said, Killer, do you know him?

11 Q I'm having a very difficult time hearing you,

12 ma'am.

13 A The other girl -- the other girl said to him,

14 said, Killer, do you know him? And was pointing at him.

15 Q Pointing at whom, who is him?

16 A At Michael.

17 Q Then what happened?

18 A And then the guy turned around and looked at him

19 and said who? That's the first time Michael knew it was

20 Killer.

21 Q Who is Killer?

22 A That was Theodore's brother.

23 Q Theodore's brother?

24 A (Nods) Michael didn't know it was him.

25 Q Well, did Michael tell you how he felt when he

1 saw that the man in the car was not Theodore Wright but
2 Theodore Wright's brother?

3 A Theodore was trying to kill Michael and he was
4 relieved that it was him cause he was trying to kill
5 Michael too.

6 Q Did Michael tell you what he did once he saw it
7 was Theodore Wright's brother in the car?

8 A He shot him.

9 Q Is that what Michael Bell told you he did?

10 A Yes. Yes.

11 Q Did Michael Bell ever use the words that he
12 figured he hit the jackpot when he saw that it was Theodore
13 Wright's brother?

14 A I think so.

15 Q I beg your pardon?

16 A I think so, I think that's what he said. He was
17 -- Michael was -- Michael was afraid of that boy and he
18 felt more threatened by Killer than he did Theodore because
19 Killer was trying to kill him, and he was -- when he
20 realized it was him he just -- I don't know.

21 Q Is that what Michael Bell told you?

22 A Yes.

23 Q Did Michael Bell tell you what he did as he moved
24 away from that car?

25 A Said that he shot several rounds into some cars

1 that were on the lot and houses or something or another,
2 just to get away.

3 Q Did you ask him about the girl that was in the
4 car?

5 A Yes. He didn't mean to hurt her, he didn't even
6 know that she was hurt. Cause I asked him and he said she
7 just fell, he didn't mean to hurt her, he wished she had
8 left with the other girl, he could not understand why she
9 stayed, but he never meant to hurt her.

10 Q Did Michael Bell indicate to you whether he was
11 wearing a mask or not?

12 A That's why he couldn't understand why that girl
13 stayed because she should have ran when she saw him. I
14 don't --

15 Q Did he indicate to you whether he was wearing a
16 mask or not?

17 A Yes.

18 Q I didn't quite hear your answer.

19 THE COURT: Speak up now.

20 THE WITNESS: Yes.

21 BY MR. BATEH:

22 Q Did Michael Bell tell you how he felt over the
23 killing of Theodore Wright's brother?

24 A Yes.

25 Q I didn't quite --

1 A Yes.

2 Q What words did he use?

3 A Said we're even now.

4 Q I'm sorry?

5 A We're even now.

6 Q He said we're even now?

7 A He was happy, I don't know.

8 Q He was what, ma'am?

9 A He said we're even now.

10 Q Did he explain that to you?

11 A Theodore killed his brother.

12 Q Did he say anything else other than Theodore

13 killed his brother?

14 A Now his brother is dead.

15 Q I'm sorry, now his is brother is dead?

16 A Yes.

17 Q Miss Goins, did Michael Bell call Erica Williams

18 that night from your home?

19 A Yes.

20 Q After that phone call did Michael tell you what

21 Erica was going to do?

22 A He said that he called her so she could bring him

23 some clothes.

24 Q Did Erica Williams come over that night to your

25 home?

1 A Yes.

2 Q Did Erica and Michael talk to one another at your
3 home that night?

4 A Yes.

5 Q Were you present?

6 A No.

7 Q Where were you?

8 A In my bedroom.

9 Q Did you know how long Erica Williams stayed there
10 at your home with Michael Bell?

11 A No.

12 Q Did you fall asleep that night after Michael
13 arrived, that is after Erica came to your home?

14 A I'm not sure what point anything like that took
15 place, I don't remember when she left, I did go to bed
16 after a while but I'm not real sure what time she left.

17 Q What time did you wake the next morning?

18 A I had to be to work -- I usually leave for work
19 around 8:00.

20 Q 8:00 o'clock?

21 A (Nods)

22 Q Did you talk -- was Michael Bell there at your
23 home when you woke the next morning?

24 A Yes.

25 Q Was Erica there?

1 A No.

2 Q Was anyone there with Michael Bell?

3 A No.

4 Q Did you tell Michael Bell anything before you
5 left for work at 8:00 o'clock that morning?

6 A Michael said he was leaving and I told him I
7 wanted him to leave and that was it.

8 Q When did you return back to your home from work
9 that day?

10 A I guess around 6:00.

11 Q Was Michael Bell there when you returned from
12 work?

13 A No.

14 Q Miss Goins, did you go to the Jacksonville
15 Sheriff's Office or to the police with the information that
16 you have just testified to here today?

17 A No.

18 Q Could you answer out loud, please?

19 A No.

20 Q Why didn't you?

21 A I love my nephew, I couldn't ever go and tattle
22 on him, I couldn't do that.

23 Q Miss Goins, on September 15th of 1994 were you
24 subpoenaed to appear before the Duval County Grand Jury?

25 A Yes.

1 Q Did you appear there pursuant to that subpoena
2 with your lawyer?

3 A Yes, I did.

4 Q And under the threat of possible contempt did you
5 testify before the Grand Jury on that day?

6 A Yes.

7 Q What did you tell the Duval County Grand Jury?

8 A Everything I've said here today.

9 MR. BATEH: I have no further questions.

10 THE COURT: Mr. Nichols, what say you?

11 MR. NICHOLS: May I approach the bench?

12 THE COURT: Yes, sir.

13 (Side-bar conference)

14 THE COURT: Take a ten minute recess. Would you
15 step back to your jury room.

16 (Jury is excused)

17 THE COURT: All right. Bring out the defendant.

18 (Defendant present)

19 THE COURT: Mr. Nichols, you need to get
20 anything on the record?

21 MR. NICHOLS: No.

22 THE COURT: Let the record show the defendant is
23 back in the courtroom.

24 Would you bring out the jury, please, sir.

25 (Jury present)

1 THE COURT: The record shall show the jury is
2 back in the courtroom.

3 At the time we took the recess, Mr. Bateh had
4 completed his direct examination. Mr. Nichols, what
5 say you?

6 CROSS EXAMINATION

7 BY MR. NICHOLS:

8 Q May it please the court. Miss Goins I have just
9 a few questions I'd like to ask you. Back at this time in
10 December of 1993 you were aware that there was an open feud
11 between Michael Bell and Theodore Wright and Theodore's
12 brother, Jimmy West who they call Killer, you knew about
13 that, didn't you?

14 A Yes.

15 Q And you knew Theodore and Jimmy West had made it
16 openly known they would kill Michael if they could find
17 him?

18 A Yes.

19 MR. BATEH: I'm going to object to that as
20 hearsay.

21 THE COURT: Mr. Nichols?

22 MR. NICHOLS: Well, Your Honor, Mr. Bateh
23 elicited testimony from her on direct that had to do
24 with her knowledge about this feud and I think I can
25 follow that up.

1 THE COURT: All right. I'm going to allow it
2 because there's been a great deal of hearsay and
3 suggested answers by the state, so I'll allow that,
4 overrule the objection.

5 BY MR. NICHOLS:

6 Q So you were aware of that, it wasn't any surprise
7 to you when Michael came to your house and told you about
8 this, was it?

9 A No, it wasn't.

10 Q Back in December of 1993 can you recall about how
11 long it had been since you had seen Michael? He came to
12 your house that night, but back in that period of time were
13 you seeing him every day, every week, every few months or
14 how frequently?

15 A Very frequent.

16 Q Excuse me?

17 A Very frequent.

18 Q Meaning how often?

19 A It was holiday season, we were together for
20 Thanksgiving, several times during that period.

21 Q Other than holiday kind of events, though, how
22 frequently would you have contact with Michael?

23 A Physical?

24 Q Yeah.

25 A I don't know frequency of it but regularly.

1 Q Since he's been in jail have you had any contact
2 with him? Have you spoken to him, have you gone to visit
3 him?

4 A No, not gone to visit him.

5 Q Okay. And I understand that you didn't tell
6 anybody about this conversation that you've testified about
7 until you were subpoenaed to the Grand Jury some months
8 later?

9 A Yes.

10 Q Right?

11 Who -- in your Grand Jury testimony you mentioned
12 someone named Ned that you were describing as being with
13 Michael Bell when this happened, who is Ned?

14 A I don't know him. I know he is a friend of
15 Michael's.

16 Q Okay.

17 A I don't know his last name.

18 Q Well, do you recall in the conversation that you
19 testified about with Michael that evening, Michael telling
20 you anything about Ned being present with him when this was
21 suppose to have happened?

22 A I do, I think that he said that there was Ned
23 that was with him. As I said that same day at the Grand
24 Jury that I was not positive of the name but I think that
25 is who he said was with him.

1 Q Well, you had testified I think that Michael said
2 he saw this car that he thought was Theodore Wright's car,
3 went and got his car, then went back to Moncrief Liquors
4 and waited once he found the car there, right?

5 A Right.

6 Q After that, isn't it true that when Michael
7 described this to you he was saying that we did this or
8 they did this and was not saying I did, isn't that true?

9 A That's true.

10 Q And isn't it true he said speaking of what
11 happened, he said that Ned had also pulled on a mask and
12 had gone over to the car and Ned was firing shots at the
13 same time, didn't he tell you that?

14 A At the end.

15 Q Right. When he was talking about this happened,
16 they did that, we did this, those were the words that he
17 was using when he was describing what happened out there,
18 right?

19 A Right.

20 Q He wasn't just saying I did this or I did that,
21 correct?

22 A Sometimes it was I, but sometimes it was we.

23 Q Did he tell you that Ned fired shots in the car,
24 that Ned had a mask on and that Ned was part of this event?

25 A Yes.

1 Q Okay. Were you taking any particular medications
2 back in December of 1993?

3 A No.

4 Q Not taking any prescription medication?

5 A No.

6 MR. NICHOLS: I don't have any other questions,
7 Your Honor.

8 THE COURT: Mr. Bateh?

9 MR. BATEH: May it please the court.

10 REDIRECT EXAMINATION

11 BY MR. BATEH:

12 Q Miss Goins, did the defendant tell you, I'm
13 sorry, did Michael Bell tell you where he was standing when
14 the man in the car, that is, Theodore Wright's brother
15 turned and looked at him?

16 MR. NICHOLS: Objection, beyond the scope.

17 THE COURT: Counsel?

18 MR. BATEH: Your Honor, counsel has talked about
19 -- asked this witness about the use of the word we
20 and the use of the word I.

21 THE COURT: Overrule the objection. Proceed. I
22 think it's proper.

23 MR. BATEH: Thank you, Your Honor.

24 BY MR. BATEH:

25 Q Did Michael Bell tell you where he was standing

1 at the time Theodore Wright's brother turned and looked at
2 him, that he saw it was Theodore Wright's brother?

3 A Yes.

4 Q Where did he say he was standing?

5 A On the driver's side over the body, over the guy.

6 Q When he referred to that was he using the word I
7 or we?

8 A I.

9 Q Did Michael Bell tell you where he had his gun
10 pointed when Theodore Wright's brother turned and looked at
11 him?

12 A Yes.

13 Q Where did he say?

14 A At his head.

15 Q Where, ma'am?

16 A His head.

17 Q Could you speak into the microphone?

18 A His head.

19 Q When he referred to that did he use the word I or
20 we?

21 A I.

22 Q When Michael Bell told you that Theodore Wright's
23 brother was shot, did he use the word I or we as being the
24 shooter?

25 A I.

1 MR. BATEH: No further questions, Your Honor.

2 MR. NICHOLS: No questions.

3 THE COURT: Thank you very much, you may step
4 down.

5 (Witness excused)

6 THE COURT: What say you for the state, Mr.
7 Bateh?

8 MR. BATEH: Your Honor, the state rests its case.

9 THE COURT: Members of the jury, the state has
10 announced they rested their case in chief and will put
11 on no further evidence or testimony. We have to hear
12 a technical matter out of your presence, will you step
13 back to your jury room, please?

14 (Jury is excused)

15 THE COURT: All right. The record shall show the
16 jury is out of the courtroom.

17 Mr. Nichols, in behalf evident defense do you
18 have a motion?

19 MR. NICHOLS: I guess the appellate court still
20 requires this regardless of the nature of the proof,
21 but I ask the court to direct a judgment of acquittal
22 on the basis that the evidence is insufficient to
23 support the charges in the indictment.

24 THE COURT: All right. I deny the motion for
25 judgment of acquittal on both counts. The state has

Appendix I

1 HENRY EDWARDS,

2 Having been produced and first duly sworn as a
3 witness, testified as follows:

4 THE COURT: Either lean forward and speak into
5 the microphone or move your chair up. Put your hand
6 down now. Proceed.

7 DIRECT EXAMINATION

8 BY MR. BATEH:

9 Q What's your name, sir?

10 A Henry Edwards.

11 Q Mr. Edwards, were you born and raised here in
12 Jacksonville?

13 A Yes, sir, I was.

14 Q You lived here all your life?

15 A Yes, sir.

16 Q Are you married, sir?

17 A Yes, sir.

18 Q Any children?

19 A I have three kids.

20 Q Mr. Edwards, have you ever been convicted of a
21 felony?

22 A Yes, sir, I have.

23 Q How many times?

24 A Eight times.

25 Q Mr. Edwards, are you currently serving a four

1 year prison sentence in the Florida State Prison for
2 burglary and dealing in stolen property?

3 A Yes, sir, I am.

4 Q When were you originally sentenced on that
5 burglary and dealing in stolen property charge?

6 A November the 6th, 1990.

7 Q And were you paroled on that four year sentence?

8 A Yes, sir.

9 Q When were you paroled?

10 A April the 30th, 1993.

11 Q Did you violate that parole on April the 20th,
12 1994?

13 A Yes, sir, I did.

14 Q And were you sent back to prison to finish that
15 four year sentence?

16 A Yes, sir.

17 Q Are there any agreements between you and the
18 State of Florida, the State Attorney's Office or the
19 sheriff's office regarding your testimony in this case?

20 A No, sir.

21 Q Who was it that violated your parole and sent you
22 back to finish the four year prison sentence?

23 A Florida parole commission.

24 Q All right. So the State Attorney's Office had
25 nothing to do with it?

1 A No, sir.

2 Q Mr. Edwards, as of December 9th, 1993, did you
3 know Michael Bell?

4 A Yes, sir.

5 Q For what period of time did you know him?

6 A I would say about six months.

7 Q Do you see Mr. Bell here in this courtroom?

8 A Yes, sir, that's him right there.

9 Q Is he the first person at that table, closest
10 person to you or the furthest away?

11 A Closest to me.

12 MR. BATEH: Your Honor, I'd request that the
13 record reflect he's identified the defendant.

14 THE COURT: All right. There are two people
15 sitting there, the closest to you, one is white and
16 one is light skinned black person, which is he?

17 THE WITNESS: Light skinned black person.

18 THE COURT: Let the record show he's identified
19 the defendant as the person about whom he speaks.

20 MR. BATEH: Thank you, Your Honor.

21 BY MR. BATEH:

22 Q How is it that you got to know Michael Bell?

23 A Through a friend of mine, Gloria Mitchell.

24 Q How did you get to meet Michael Bell through
25 Gloria Mitchell?

1 A She runs a beauty parlor and she have a pool room
2 right next door. And I went up there and she -- this
3 particular day she introduced me to Michael Bell.

4 Q All right. Where was that location of the beauty
5 parlor and the pool room?

6 A Myrtle Avenue and 24th Street.

7 Q During that six months that you knew Bell, how
8 often would you go up to visit Gloria Mitchell?

9 A Approximately five or six times a month.

10 Q Of those five or six times a month or roughly 30,
11 35 times you went up there to visit Gloria Mitchell during
12 that six months, how many of those times did you see
13 Michael Bell?

14 A I saw him every time I went up there.

15 Q Now, I want you to think back to December 9th,
16 1993, that was a Thursday at about 10:45 in the
17 evening, on that date at that time do you remember
18 being up at the Moncrief Liquors at 5757 Moncrief Road
19 here in Jacksonville, Duval County, Florida?

20 A Yes, sir, I was.

21 Q Where were you at about 10:45 at that time?

22 A Me and a young lady was standing at the corner of
23 the building.

24 Q Inside or outside?

25 A Outside.

1 Q What were you doing?

2 A Just standing at the corner, I was talking to a
3 young lady I had just met in the bar.

4 Q At that time did you see Michael Bell?

5 A Yes, sir, I looked up and I saw him.

6 Q What was he doing?

7 A He was standing on a driver's side of the car
8 that was closer to the sidewalk from the building.

9 Q What was he doing?

10 A Oh, he was standing up looking over, looking over
11 the car.

12 Q What direction was he looking?

13 A Toward my direction.

14 Q All right. When you saw the defendant looking
15 over in your direction, what did you see him do?

16 A He went toward -- he went to the back of the car
17 and he opened the back door and then he pulled a little ski
18 mask over his face.

19 Q And what did you see him do?

20 A Reached in the back seat and got something out of
21 the back seat.

22 Q All right. Then what did you see him do?

23 A Then he come back around to the front of the car
24 that's when I saw a gun.

25 Q What kind of gun?

1 A A rifle gun with a clip up in the bottom.

2 Q Then what did you see him do?

3 A Then he started walking toward my way. And then

4 --

5 Q Did you see where this defendant walked up to?

6 A Yes, sir, he was walking toward my way and then

7 he stopped short and there was a car, a yellow

8 cream-looking car that he walked around to the driver's

9 side of the car and then he started shooting in it and then

10 we ran.

11 Q Who ran?

12 A Me and the girl, the girl that I was with.

13 Q I want you to look at State's Exhibit One that is

14 in evidence and ask you if you recognize what this is a

15 picture of?

16 A That looks like the car.

17 Q What car?

18 A The car that Michael Bell shot into.

19 Q What part of the bar or area did you run to when

20 the shooting started?

21 A I run to the back.

22 Q And where did you go from there?

23 A I went around to my car and then I went home.

24 Q How about the young lady that you were talking

25 to?

1 A She went -- she went the other way, we went
2 separate ways.

3 Q Did you know what her name was?

4 A No, sir, I did not.

5 Q When did you meet her?

6 A I met her in the lounge.

7 Q Have you seen her since?

8 A No, sir.

9 Q Did you hang around that Moncrief Lounge area to
10 talk to the police?

11 A No, sir, I did not.

12 Q Why not?

13 A Because I was on parole and I wasn't suppose to
14 be in a place where they sell alcohol beverage.

15 MR. BATEH: Your Honor, I'd ask permission for
16 this witness to step down and if we could bring that
17 diagram back over here, sir.

18 Your Honor, the witness has a back problem and I
19 think he can walk but just not long distances so I'd
20 ask he be allowed to step down.

21 THE COURT: All right.

22 Do you want him in the wheel chair or what?

23 MR. BATEH: I'd like to defer to him if he tells

24 --

25 THE COURT: Can you do this by walking or would

1 you rather be in the wheel chair?

2 THE WITNESS: I can do it by walking.

3 THE COURT: All right.

4 BY MR. BATEH:

5 Q Sir, if you would position yourself over on that
6 side facing me here. Let me hand you this pointer,
7 you recognize this to be a diagram of the Moncrief
8 Liquors area here?

9 A Yes, sir.

10 Q The building and parking lot on Moncrief Road?

11 A Yes, sir.

12 Q Can you point out where you were at the time that
13 you saw Michael Bell?

14 A I was right there, right here at the corner of
15 the building.

16 Q All right. Now, where was Bell when you first
17 saw him?

18 A Right in here, right in this area right here.

19 Q All right. What -- were you able to observe the
20 automobile that he was beside?

21 A Yes, this was a dark colored car but I don't know
22 what make or model it was.

23 Q Okay. How was it positioned in that parking
24 area?

25 A It was faced toward Moncrief Street facing this

1 way.

2 Q All right. Now, can you show me the route that
3 you saw the defendant take when you first saw him?

4 A Yes, sir, he came around this way, came up this
5 way toward me cause I'm right there, and came around to
6 this side right behind here.

7 Q To the driver's door?

8 A To the driver's door.

9 Q Now, when you were at this position first saw
10 Bell, which direction was the defendant looking?

11 A He was looking over the car.

12 Q In what direction?

13 A Toward my direction, toward, you know, yes, over
14 toward my way.

15 Q Would this car have been in his line of vision
16 also?

17 A Yes, sir, it was.

18 Q Can you show the jury where the route you took
19 once the shooting started?

20 A When the shooting started I went behind the
21 lounge and came all the way around this way to my car, my
22 car was parked right along in here.

23 Q What was the lighting like out there that night?

24 A The lighting was real -- well, we had a street
25 light here, and you had a street light here, and you had

1 one here, and one here and whole lot of them across the top
2 shinning toward the parking lot.

3 MR. BATEH: Your Honor, I have no further
4 questions down here, the witness can return.

5 THE COURT: All right. Witness, come take the
6 witness chair, please.

7 MR. NICHOLS: Your Honor, I'm going to need that
8 for cross examination.

9 THE COURT: Just put it over here, just move it
10 some, we will bring it back.

11 BY MR. BATEH:

12 Q Mr. Edwards, I want you to think back to 11 days
13 later after this shooting on December 20th, 1993, where
14 were you on that day?

15 A I was arrested, I was in Duval County Jail.

16 Q What charges were you arrested on?

17 A Gun charge and burglary charge.

18 Q What happened to those charges?

19 A Those charges was dropped because they
20 investigated the charges and found out that I was innocent
21 of those charges.

22 Q Now, on December 20th, 1993, do you recall a
23 homicide detective by the name of Bolena coming to talk to
24 you?

25 A Yes, sir, I do.

1 Q What did he ask you?

2 A He asked me did I know anything about the
3 Moncrief murders.

4 Q What did you tell Detective Bolena?

5 A I told him I did, I told him I was there.

6 Q What did you tell him?

7 A I told him the same thing I told the court today.

8 Q And that was on December 20th, 1993?

9 A Yes, sir.

10 Q Before you talked to Detective Bolena did you ask
11 him for any promises or deals regarding your own charge?

12 A No, sir, I did not.

13 Q Now, did you agree to become a witness on that
14 date, December 20th, 1993?

15 A Yes, sir, I did.

16 Q And your parole was violated five months later on
17 April 20th, 1994?

18 A Yes, sir.

19 Q After you gave a statement to Detective Bolena
20 did you later appear in front of the State Attorney's
21 Office and give them a sworn statement?

22 A Yes, sir, I did.

23 Q What did you tell the State Attorney's Office?

24 A Same thing I told the court today.

25 Q Did you ask the State Attorney's Office for any

1 promises or commitments from them in return for your
2 testimony?

3 A No, sir, I did not.

4 Q Why did you give the statement to Detective
5 Bolena and the State Attorney's Office?

6 A Because I felt that it was wrong and I've never
7 seen nobody get shot like that before, it was cold blooded
8 murder that's why I did it.

9 Q Now, did you go to the police and make an attempt
10 to contact the police before Detective Bolena came to you?

11 A No, sir, I did not.

12 Q Did he come to you first?

13 A Yes, sir.

14 Q How many gunmen did you see out there around that
15 yellow Plymouth?

16 A Just one.

17 Q Mr. Edwards, is there any doubt in your mind that
18 this defendant seated right here is the individual who
19 was the gunman that you saw out there that night?

20 A No doubt at all, no doubt in my mind whatsoever.

21 Q Mr. Edwards, do you know Vanesse or Ned Pryor?

22 A No, sir.

23 Q Do you know Dale George?

24 A No, sir.

25 Q Do you know Charles Jones?

1 A No, sir.

2 Q Do you know Paula Goins?

3 A No, sir.

4 MR. BATEH: Your Honor, I have no further
5 questions of this witness.

6 THE COURT: Mr. Nichols?

7 CROSS EXAMINATION

8 BY MR. NICHOLS:

9 Q Mr. Edwards, have you told anybody that you knew
10 who had done this shooting before Bolena came to talk to
11 you?

12 A Yes, sir.

13 Q Who had you told?

14 A I think I told my wife.

15 Q Well, how did Bolena know to come and talk to you
16 about this case?

17 A I think he might have heard from her.

18 Q From your wife?

19 A I think so.

20 Q You said that you had been -- as we look at this
21 diagram without moving it, you said that you had been on
22 that bottom left corner of the building?

23 A Yes, sir.

24 Q And you said you went around the building what
25 would be clockwise and came back into the parking lot, is

1 that right?

2 A Yes, sir.

3 Q Your car was parked in that parking lot with the
4 rest of them?

5 A No, sir.

6 Q Where was your car parked?

7 A Down the street on the sidewalk.

8 Q Are you aware that if you go to the back of that
9 building what would be the top right hand corner that's not
10 pictured there that there's a fence that goes from that
11 corner straight on back, how was it you got through that
12 fence and back around the building?

13 A I jumped over the fence.

14 Q You say as you look down this row of parked cars
15 that you were able to see Michael Bell standing there
16 looking over the roof of a car?

17 A Yes, sir.

18 Q As I understand your testimony the car where the
19 victims are was facing as I look at it toward the right,
20 correct?

21 A Correct.

22 Q And the car that you say that Mr. Bell was at was
23 facing in the opposite direction?

24 A Yes, sir.

25 Q You say he was standing at the driver's side of

1 that car?

2 A Yes, sir.

3 Q Which would be on the near side to you, right?

4 A No, sir, on the opposite side.

5 Q I'm sorry, so he was looking over his own car?

6 A Yes, sir.

7 Q How much of his body were you able to see?

8 A His head.

9 Q Well, all of his head from his chin up?

10 A His whole head, yes, sir.

11 Q So his whole head was standing above the car?

12 A Yes, sir.

13 Q When you first saw him what was he wearing?

14 A He just had looked like a hat on his -- like a

15 stocking hat on his head.

16 Q What color was it, was it light or dark?

17 A It was dark.

18 Q Dark meaning black or dark meaning dark?

19 A Black.

20 Q And then what did you see him do?

21 A I seen him walk to the rear of the car, and open

22 the back door.

23 Q Back door of the car he was at?

24 A Yes, sir.

25 Q How could you see him open the back door of the

1 car when there were at least three or four or five cars
2 between you and him; how can you do that?

3 A I could see the door opening, there is a light
4 right there right where his car is parked there's a light
5 post right there.

6 Q All right.

7 A So --

8 Q How many other people were in the car?

9 A I don't know.

10 Q Did you see anybody else in the car?

11 A No, sir, I did not.

12 Q Well, you tell us that you could see Bell and you
13 could see him open the car and back door and you could
14 see him take something out of the back door, right?

15 A Yes, sir.

16 Q If there was somebody else sitting in the front
17 seat of that car you would have been able to see them,
18 wouldn't you?

19 A No, cause he was looking over the car, and I'm
20 looking directly at him.

21 Q You weren't looking over the car as you saw him
22 reach in the back seat, were you?

23 A See, I watched him walk to the back.

24 Q But you couldn't actually see him reach in the
25 back seat is that what you're telling me?

1 A He bent down so he was reaching into the car.
2 Q Well, when he bent down could you see him?
3 A I couldn't see him after he went down, no, sir.
4 Q And you couldn't see whether there was anybody
5 else in the car or not?
6 A No, sir.
7 Q When he came back around what was he wearing?
8 A The mask was down over his face then.
9 Q What else was he wearing?
10 A I was looking at the gun, I wasn't looking at
11 what else he was wearing.
12 Q Well, you were how many feet away from him? You
13 were further away from him than you are from me, right?
14 A Right.
15 Q If you're looking at this pen you can see what
16 I'm wearing in addition to carrying this pen, can't you?
17 A Yes.
18 Q Well, did he have a short sleeve shirt on or long?
19 A I don't know, sir, I was looking at the gun.
20 Q You couldn't tell us what kind of shirt he was
21 wearing, what kind of pants he was wearing, whether he was
22 wearing gloves, all you can tell us he's got mask on and a
23 gun in his hands?
24 A Yes, sir, I was scared at the time, I didn't know
25 what to do, whether to run or what.

1 Q Have you ever had any other contact with
2 Detective Bolena, have you ever been involved in any court
3 cases with Bolena?

4 A Yes, I've been arrested, that's the charge that I
5 went to prison in 1990.

6 Q You and Bolena ever have any kind of civil cases
7 that you filed against one another?

8 A Civil cases that I filed against --

9 Q Civil cases suing one another.

10 A No, sir.

11 Q But you've had a lot of contact with Bolena
12 before this incident, haven't you?

13 A Yes, sir.

14 MR. NICHOLS: Okay. I don't have anything else,
15 Your Honor.

16 THE COURT: State?

17 MR. BATEH: No questions, Your Honor.

18 THE COURT: Thank you very much, you may step
19 down.

20 (Witness excused)

21 THE COURT: Call your next witness.

22 MR. BATEH: Mark Richardson.

23 THE COURT: Pull your chair up to the microphone,
24 please.

25 MARK RICHARDSON,

Appendix J

1 Q Michael had a jacket on, right?

2 A No, sir.

3 Q He didn't?

4 A No, sir, it wasn't a jacket, sir.

5 Q What was he wearing?

6 A More like a sweat shirt like.

7 Q What were you wearing?

8 A I had on regular T-shirt and jacket, sir.

9 Q You had a jacket on?

10 A Yes, sir.

11 MR. NICHOLS: Can I have just a moment, Your

12 Honor?

13 (Conferring with the defendant)

14 MR. NICHOLS: I don't have any other questions,

15 Your Honor.

16 THE COURT: State?

17 MR. BATEH: I don't have any questions.

18 THE COURT: Thank you very much, you may step

19 down.

20 (Witness excused)

21 THE COURT: Gentlemen, step to side-bar just one

22 moment.

23 (Side-bar conference)

24 THE COURT: Call your next witness.

25 MR. BATEH: Your Honor, state would call Charles

1 Jones to the stand.

2 CHARLES JONES,

3 Having been produced and first duly sworn as a
4 witness, testified as follows:

5 DIRECT EXAMINATION

6 THE COURT: As you answer the question speak in
7 the microphone.

8 BY MR. BATEH:

9 Q What's your name sir?

10 A Charles Magill Jones.

11 Q Mr. Jones, where were you born and raised?

12 A Jacksonville, Florida.

13 Q Spent your life here in this city?

14 A Yes.

15 Q Mr. Jones, did you graduate from a local high
16 school?

17 A Yes, Paxon Senior High.

18 Q Are you married, sir?

19 A Yes.

20 Q Any children?

21 A Yes.

22 Q How many?

23 A Three.

24 Q Mr. Jones, what kind of work do you do?

25 A Concrete finisher.

1 Q Mr. Jones, have you ever been convicted of a
2 felony?

3 A Yes.

4 Q How many times?

5 A Three times.

6 Q Mr. Jones, are you currently being housed in the
7 Duval County Jail on a federal robbery charge?

8 A Yes.

9 Q Did you plead guilty in federal court to that
10 robbery charge?

11 A Yes.

12 Q Was that on August 18th, 1994?

13 A Yes.

14 Q Before what Judge?

15 A Judge Slesinger.

16 Q When is your sentencing set for?

17 A March 30th.

18 Q Of this year?

19 A Yes.

20 Q Under the federal sentencing guidelines that
21 apply to your case, what sort of sentencing range are you
22 looking at in federal prison?

23 A 15 to 19 years.

24 Q Mr. Jones, are there any agreements between you
25 and the State of Florida or the Sheriff's Office or the

1 State Attorney's Office regarding your testimony in this
2 case?

3 A No.

4 Q Mr. Jones, why are you testifying truthfully
5 here?

6 A Well, it's the truth and I just hope that Judge
7 Slesinger finds out I'm testifying truthfully.

8 MR. NICHOLS: Judge, excuse me, I object to the
9 prosecutor constantly why are you testifying
10 truthfully, that's invading the function of the jury,
11 they're the ones to decide who's telling the truth.

12 THE COURT: I sustain the objection, the jury
13 will disregard the question, rephrase it.

14 BY MR. BATEH:

15 Q Well, do you hope to get any sort of benefit out
16 of coming in this courtroom and testifying?

17 A No.

18 Q Do you think that your testifying here will have
19 any effect on your federal sentencing?

20 A No.

21 Q Do you believe that your federal sentencing
22 Judge, Judge Slesinger will consider your cooperation
23 in this case?

24 A Yes.

25 Q How so?

1 A Only if I testify truthfully cause if I do not
2 testify truthfully it will hurt me on the long run.

3 Q Do you know the defendant Michael Bell?

4 A Yes.

5 Q How long have you known him?

6 A Roughly ten years.

7 Q Do you see Mr. Bell here in this courtroom?

8 A Yes.

9 Q Would you please point him out and describe what
10 he is wearing?

11 A Well, that beige and black shirt right there.

12 MR. BATEH: Let the record reflect he's
13 identified the defendant.

14 THE COURT: Let the record so reflect he's
15 identified the defendant.

16 BY MR. BATEH:

17 Q How is it that you've known the defendant?

18 A Well, me and his brother Pewe used to hang out
19 when we were much younger but last five years I
20 haven't seen Mike, you know.

21 Q Very often?

22 A No, not at all.

23 Q Now, I want you to think back to the middle of
24 December of 1993, about a week before Christmas of 1993,
25 did you see Michael Bell at that time?

1 A Yes.

2 Q Where was that at?

3 A On Yulee Street on the westside.

4 Q And tell me what occurred at that time.

5 A Well, he was trying to sell an AK-47.

6 Q Who is he?

7 A Michael Bell.

8 Q He was trying to do what?

9 A Sell an AK-47.

10 Q How did that come about?

11 A Well, he just came on the westside and was trying

12 to sell an AK-47 for \$400.

13 Q What was his attitude about selling it?

14 A He was just really anxious, trying to sell it and

15 nobody still wouldn't buy it, then he drop the price down

16 to 300 and nobody still didn't buy it.

17 Q No one bought the gun?

18 A No.

19 Q Do you know what price AK-47's were selling for

20 on the street at that time?

21 A 5 or \$600.

22 Q And late January of 1994, sometime shortly after

23 Martin Luther King's birthday, did you see Michael Bell?

24 A Yes.

25 Q Where did you see him at?

1 A Moncrief Liquors.

2 Q Do you recall seeing him at that time?

3 A At the game room?

4 Q In the area of game room at 24th and Myrtle?

5 A Yes.

6 Q Did you talk to Michael Bell?

7 A Yes.

8 Q What did you tell him?

9 A Well I just asked him, you know, why did he kill
10 Jimmy West when there was no right to kill his
11 brother.

12 Q And what did the defendant say?

13 A He just told me, you know, he killed my brother,
14 and that was the closest thing to me and I kill his.

15 Then I asked him why did you kill the girl that was in
16 the car, that was getting in the car? And he told me fuck
17 that shut and bullets don't know nobody.

18 Q He said -- you're talking a little too close to
19 that microphone and it's difficult to hear, just back up a
20 little bit.

21 Could you repeat what you said cause I didn't
22 understand.

23 A Well, Michael Bell told me --

24 Q Back up just a bit, okay, go ahead.

25 A Michael Bell told me that Jimmy West was at the

1 wrong place at the wrong time and Theodore Wright was the
2 one that killed his brother and he never could catch him so
3 he said fuck it. He just took him out.

4 And I asked him why did he kill the young innocent
5 girl that was in the car? And he just told me fuck that
6 shit, bullets don't know nobody, she was at the wrong place
7 at the wrong time.

8 Q In -- on September 21 of 1994 approximately a
9 month after you pled guilty in federal court do you recall
10 a homicide detective by the name of Bolena coming to the
11 Duval County Jail?

12 A Yes.

13 Q What did he ask you?

14 A About Michael Bell and AK-47.

15 Q What did you tell him?

16 A Same thing I said here today.

17 Q Did you tell him the whole story?

18 A Yes.

19 Q Did you contact the Sheriff's Office to get
20 Detective Bolena to come to you at the jail?

21 A No. He contacted me.

22 Q Did you ever ask Detective Bolena for any help on
23 your federal sentencing in return for that statement?

24 A No, I did not.

25 Q On October 31, 1994 did you give a sworn

1 statement to the State Attorney's Office?

2 A Yes, I did.

3 Q What did you tell the State Attorney's Office?

4 A Same thing I said here today.

5 Q Did you ever ask the State Attorney's Office for
6 any help on your federal sentence before you gave that
7 statement?

8 A No.

9 Q Have you ever been a prosecution witness before?

10 A No.

11 Q Do you know Henry Edwards?

12 A No.

13 Q Do you know Dale George?

14 A No.

15 Q Do you know Ned Pryor?

16 A No.

17 Q Do you know Paula Goins?

18 A No.

19 MR. BATEH: No further questions, Your Honor.

20 THE COURT: Mr. Nichols?

21 CROSS EXAMINATION

22 BY MR. NICHOLS:

23 Q You've been convicted how many times?

24 A Three times.

25 Q And you don't expect to get any kind of benefit

1 or anything out of this testimony?

2 A No.

3 Q You don't like Michael Bell, though, do you?

4 A No.

5 Q As a matter of fact, you and he have had quarrels
6 and problems in the past, haven't you?

7 A Yes.

8 Q As a matter of fact you shot him once, didn't
9 you?

10 A No.

11 Q Never shot him?

12 A No.

13 Q You remember my taking your deposition sometime
14 ago back in December of last year?

15 A Yes.

16 Q And you say you're not looking for any kind of
17 hope of reward or better treatment or anything like that
18 because of testifying against Mr. Bell, right?

19 A That's right.

20 Q You remember on page seven where a question was
21 asked so he came, and I'm talking about Bolena, to talk to
22 you just about some rifles that people were wanting to
23 sale.

24 Answer: Yeah. He was really trying to help me
25 because I'm in federal, I'm in federal custody so anything

1 that I help the state with, you know, it will sort of like
2 keep my point level down.

3 Now your point level, you understand in federal
4 sentencing they've set these points up and the lower your
5 point level is the lower your sentence is, isn't it?

6 A It don't have nothing to would with state case.

7 Q Do you recall saying so anything that I help the
8 state with, you know, it will sort of keep my level down?

9 A Yes, I said that but I said if I testify
10 truthfully it would.

11 MR. NICHOLS: I don't have anything else, Your
12 Honor.

13 THE COURT: State?

14 REDIRECT EXAMINATION

15 BY MR. BATEH:

16 Q What happens if you testify falsely?

17 MR. NICHOLS: Your Honor same objection, it's the
18 jury's decision to decide whether it's true or false.

19 THE COURT: Well --

20 MR. NICHOLS: Falsely essentially means if he
21 testifies differently than what the state wants him to
22 testify to the script and --

23 MR. BATEH: Your Honor, counsel is testifying.

24 MR. NICHOLS: Well, you're testifying when you
25 start this false and true stuff.

1 THE COURT: You are both testifying, I think the
2 question is proper.

3 BY MR. BATEH:

4 Q What happens if you testify truthfully in this
5 case, how is that going to affect your federal
6 sentence?

7 A It's just that if I testify truthfully, Judge
8 Slesinger might take in consideration when he gets ready to
9 sentence me.

10 Q What happens if you testify falsely?

11 A It will hurt me real bad in the federal
12 guidelines.

13 MR. BATEH: No further questions.

14 THE COURT: Mr. Nichols?

15 MR. NICHOLS: Nothing.

16 THE COURT: Thank you very much, you may step
17 down.

18 (Witness excused)

19 THE COURT: Members of the jury, the time is now
20 quarter till 6:00, we're going to be in recess until
21 10 o'clock tomorrow morning.

22 In the meantime you will not discuss this case
23 amongst yourselves, you will not allow anyone to
24 discuss the case with you or in your presence. And
25 should there be any radio, television or newspaper

1 reports about this case you will not read, watch, nor
2 listen to such news reports. I know that we've had TV
3 cameras in here today. What channel was it?

4 MR. NICHOLS: Your Honor, I understand they all
5 share that file tape so it will be on all channels.

6 THE COURT: Well, I ask you not to view the news
7 this evening, if you do watch TV I ask you not to
8 view it either when the news comes on or 6:00, 6:30 or
9 11:00 o'clock, just wait until after the trial is
10 over, as a matter of fact, I think they will probably
11 run it for you at the station if you wanted to watch
12 it real bad after the trial is over. And we will
13 start at 10:00 o'clock tomorrow morning. Any further
14 admonitions by state or defense?

15 MR. NICHOLS: No, Your Honor.

16 MR. BATEH: No, Your Honor.

17 THE COURT: You may leave at this time, be back
18 tomorrow morning at 10:00 o'clock. Thank you.

19 (Jury is excused)

20 THE COURT: All right. Let the record show the
21 jury is out of the courtroom. All right. Take the
22 defendant in the back.

23 Counsel, step to bench just a moment, please.

24 (Side-bar conference)

25 (Thereupon the hearing was concluded)

March 8, 1995

1

2

THE COURT: Bring out the defendant.

3

(Defendant present)

4

THE COURT: Bring out the jury.

5

(Jury present)

6

7

THE COURT: Let the record show the jury is back
in the courtroom. I apologize for the temperature,
did it improve any?

9

A JUROR: Yes.

10

11

THE COURT: All right. Mr. Bateh, would you call
your next witness, please.

12

13

MR. BATEH: Your Honor, the state would call
Paula Goins to the stand.

14

PAULA GOINS,

15

16

Having been produced and first duly sworn as a
witness, testified as follows:

17

DIRECT EXAMINATION

18

BY MR. BATEH:

19

Q What is your name, ma'am?

20

A Paula Goins.

21

Q Miss Goins, how are you employed?

22

A I work for the United States District Court.

23

Q And what are your duties there?

24

A I'm a courtroom clerk for Magistrate Judge John

25 Steal.

Dated: July 10, 2025

Respectfully submitted,

/s/ Robert Norgard
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