In the

United States Court of Appeals

For the Eleventh Circuit

No. 25-12359

MICHAEL BELL,

Petitioner-Appellant,

versus

SECRETARY, DEPARTMENT OF CORRECTIONS, STATE OF FLORIDA,
ATTORNEY GENERAL, STATE OF FLORIDA,

Respondents-Appellees.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 3:25-cv-00774-WWB-PDB

Before WILLIAM PRYOR, Chief Judge, and JORDAN, ROSENBAUM, JILL PRYOR, NEWSOM, BRANCH, GRANT, BRASHER, ABUDU, and KIDD, Circuit Judges.*

No judge in regular active service on the Court having requested that the Court be polled on hearing en banc, the Petition for Hearing En Banc is DENIED. See FRAP 40.

* Circuit Judges Luck and Lagoa are recused.

ROSENBAUM, Circuit Judge, joined by ABUDU, Circuit Judge, concurring in the denial of initial hearing en banc:

Today, I concur in the denial of initial hearing en banc because the majority of my colleagues do not share my view that we should revisit *Tompkins v. Secretary, Department of Corrections*, 557 F.3d 1257 (11th Cir. 2009) (per curiam), and I don't want to delay this case from reaching the Supreme Court. Yet *Tompkins*, contrary to Supreme Court precedent and Article I, Section 9's Suspension Clause, "eliminates the sole fair opportunity for . . . petitioners to obtain relief" when the government withholds exculpatory evidence. *Scott v. United States*, 890 F.3d 1239, 1243 (11th Cir. 2018). It "perversely rewards the Government for keeping exculpatory information secret until after an inmate's first habeas petition has been resolved." *See Bernard v. United States*, 141 S. Ct. 504, 506–07 (2020) (Sotomayor, J., dissenting from the denial of certiorari and application for stay). To be blunt, we "got it wrong."[1] *Scott*, 890 F.3d at 1243.

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[1] I'm far from alone in that conclusion. *See Bernard*, 141 S. Ct. 504 (Sotomayor, J., dissenting from the denial of certiorari and application for stay); *Storey v. Lumpkin*, 142 S. Ct. 2576 (2022) (Sotomayor, J., statement respecting denial of certiorari); *Douglas v. Workman*, 560 F.3d 1156, 1192–93 (10th Cir. 2009) ("[T]o treat [Petitioner]'s *Brady* claim as a second or successive request for habeas relief, subject to the almost insurmountable obstacles erected by 28 U.S.C. § 2244(b)(2)(B), would be to allow the government to profit from its own egregious conduct."); *Gage v. Chappell*, 793 F.3d 1159, 1165 (9th Cir. 2015) ("Under our precedents as they currently stand, prosecutors may have an incentive to refrain from disclosing *Brady* violations related to prisoners who have not yet sought collateral review. But as a three-judge panel, we are bound to follow

"The Constitution guarantees criminal defendants a fair trial." *Id.* at 1251. But our precedent, which "prohibits second-in-time collateral petitions based on all types of *Brady* claims—actionable and inactionable, alike," *id.* at 1239—effectively allows the prosecution to lower its burden of proof to execute a citizen. That's because "[p]rosecutors who successfully conceal their violations avoid accountability [and can sustain a conviction] so long as they can show that the withheld evidence would not 'be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense.'" *Bernard*, 141 S. Ct. at 507 (Sotomayor, dissenting from the denial of certiorari and application for stay) (quoting 28 U.S.C. § 2255(h)(1)). That's an exponentially higher bar to prove innocence than to defend against a charge of guilt beyond a reasonable doubt in an ordinary criminal trial. So under our precedent, "prosecutors can run out the clock and escape any responsibility for all but the most

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the teaching of [prior precedent]." (internal citation omitted)); *Long v. Hooks*, 972 F.4th 442, 471 (4th Cir. 2020) (Wynn, J., concurring) ("This case exemplifies how our current habeas precedent incentivizes and rewards bad faith on the part of police and prosecutors. Our habeas precedent rewards state actors guilty of *Brady* violations for committing *additional* constitutional violations in order to subject the *Brady* claim to a higher standard of review. "); *In re Jackson*, 12 F.4th 604, 613 (6th Cir. 2021) (Moore, J., concurring) ("Congress did not intend to subject previously unavailable *Brady*-type claims like [Petitioner]'s to § 2244(b)'s gatekeeping requirements for second-or-successive habeas petitions." (footnote omitted)); *Jennings v. Sec'y, Fla. Dep't of Corr.*, 108 F.4th 1299, 1306 (11th Cir. 2024) (Jill Pryor, J., concurring) ("In my view, *Tompkins* was wrongly decided, as explained in Judge Rosenbaum's opinion in *Scott v. United States*, which I joined.").

extreme violations" if they can keep their misconduct concealed for the year a defendant has to file a habeas petition.[2] *Id.*

In recent years, the Supreme Court has reaffirmed the test we failed to properly apply to determine whether a filing is a second-or-successive habeas petition. *See Banister v. Davis*, 590 U.S. 504, 512–13 (2020) (explaining the Court looks to "historical habeas doctrine and practice" and "AEDPA's own purposes" to determine whether a filing is successive); *Rivers v. Guerrero*, 145 S. Ct. 1634, 1644 (2025). Yet we continue not to correct our noncompliance. *Jennings v. Sec'y, Fla. Dep't of Corr.*, 108 F.4th 1299, 1305–06 (11th Cir. 2024) (per curiam) ("[I]t cannot be said that *Banister* abrogated *Tompkins*."); *see also Storey v. Lumpkin*, 142 S. Ct. 2576, 2579 (2022) (Sotomayor, J., statement respecting denial of certiorari) (urging federal courts to "pay closer heed" to the Supreme Court's precedents than we have).

Michael Bell's case shows how our precedent can result in a miscarriage of justice. Bell's habeas petition alleges, supported by interviews, that the lead detective and prosecutor on the case coerced the testimony of *six trial witnesses*, including through threats and physical violence. Two witnesses initially recanted their testimony in affidavits. Several others, under threat of prosecution for

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[2] For this reason, despite the Brasher Concurrence's assertions otherwise, "*Brady* or *Giglio* material *is* uniquely likely to be uncovered only after years of state post-conviction litigation and after a judgment on an initial federal habeas petition." (Emphasis altered). The prosecution is heavily incentivized to bury the evidence.

perjury, rather than confirm their testimony in the June 2025 evidentiary hearing, invoked their right against self-incrimination. They had just minutes to consult with a state-provided attorney about their potential criminal exposure for changing their testimony—seriously calling into question the fundamental fairness of the state's evidentiary hearing. The record gives cause for deep concern that these witnesses otherwise would have recanted or revealed they were coerced.

The unreliability of witness testimony in this case is especially shocking because it's the only evidence supporting Bell's conviction. There's no physical or forensic evidence. Not only that, but a recent public-records request revealed contemporaneous interview notes that recorded an eyewitness telling detectives that the shooter was taller and thinner than Bell. The elaborate tapestry the prosecution wove, it turns out, may be nothing but loose string.

And most troubling of all, Bell learned about this misconduct only when he received a tip the day after the Governor signed his death warrant. So Bell's attorneys had just one month to show his conviction was fatally flawed—not 25 years as the Concurrence suggests. As alleged, the prosecution successfully buried a mountain of exculpatory evidence. Now, with little over 24 hours until Bell's scheduled execution, we deny Bell his day in court and reward the state for its alleged misconduct. As an en banc court, we should have stayed the execution and taken the necessary time to consider what the law requires. Nobody wants the execution of an innocent man.

BRASHER, Circuit Judge, joined by BRANCH, Circuit Judge, concurring:

I concur in the Court's decision to deny initial hearing en banc. I write separately to briefly explain why.

Michael Bell is a convicted murderer who is scheduled to be executed tomorrow, July 15, 2025. *See Bell v. State*, 699 So. 2d 674 (Fla. 1997). He has collaterally attacked his conviction and sentence for over twenty-five years in state and federal courts. *See Bell v. State*, 965 So. 2d 48 (Fla. 2007); *Bell v. State*, 91 So. 3d 782 (Fla. 2012); *Bell v. State*, No. SC16-369, 2016 WL 5888880 (Fla. Oct. 10, 2016); *Bell v. State*, 235 So. 3d 287 (Fla. 2018); *Bell v. State*, 284 So. 3d 400 (Fla. 2019); *Bell v. McDonough*, No. 3:07-CV-860-ODE, 2009 WL 10698415 (M.D. Fla. Jan. 15, 2009), *aff'd sub nom.*, *Bell v. Fla. Att'y Gen.*, 461 F. App'x 843 (11th Cir. 2012), *cert denied*, 572 U.S. 1118 (2014); *Bell v. Fla. Att'y Gen.*, No. 3:07-CV-00860-ODE, 2016 WL 11048052 (M.D. Fla. Apr. 5, 2016); *Bell v. Fla. Att'y Gen.*, No. 16-11791-P, 2017 WL 11622107 (11th Cir. June 19, 2017), *cert. denied*, 584 U.S. 982 (2018); *In re: Michael Bell*, No. 17-14768, slip op. (11th Cir. Nov. 22, 2017).

After his execution was scheduled, Bell filed a successive post-conviction petition in state court to raise claims under *Brady v. Maryland*, 373 U.S. 83 (1963), and *Giglio v. United States*, 405 U.S. 150 (1972). Bell's central contention is that certain witnesses at his 1990s murder trial had been coerced into testifying. The state courts rejected that claim after an evidentiary hearing:

> 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.

Bell v. State, No. SC2025-0891, 2025 WL 1874574, at *6 (Fla. July 8, 2025) (quoting state postconviction court).

About a week before his scheduled execution, Bell filed a federal habeas petition to bring the same claims. Before an inmate may file a second or successive habeas petition, a prisoner must obtain permission from the court of appeals. *See* 28 U.S.C. § 2244(b)(3). To obtain our permission, a prisoner must establish (1) that the claim is based on a new retroactive rule of constitutional law or (2) that the claim could not have been discovered previously and that, if the claim is proven, no factfinder would have found the prisoner guilty. *Id.* § 2244(b)(2).

Bell never asked for our permission to file his successive habeas petition. Instead, he argued that his habeas petition is not a successive habeas petition because it raises *Brady*/*Giglio* claims. He

says that those kinds of claims arise only upon discovery and, therefore, need not be included in an initial habeas petition.

The district court rejected Bell's position under our precedent in *Tompkins v. Secretary, Department of Corrections*, 557 F.3d 1257 (11th Cir. 2009), and dismissed his habeas petition. Bell appealed, and he asks us to grant initial hearing en banc to consider overruling *Tompkins*.

The Court is right to deny the petition for initial hearing en banc. As the Supreme Court recently reminded us, inmates may usually file only one federal habeas petition. *See Rivers v. Guerrero*, 145 S. Ct. 1634, 1639 (2025). "A second-in-time § 2254 petition generally qualifies as a second or successive application, triggering the requirements of § 2244(b), when an earlier filed petition has been decided on the merits and a judgment exists." *Id.* at 1647. So, before he files a second-in-time petition in the district court, "a prisoner must first obtain leave from the court of appeals based on a 'prima facie showing' that his petition satisfies the statute's gatekeeping requirements." *Banister v. Davis*, 590 U.S. 504, 509 (2020).

Despite Bell's argument otherwise, nothing about *Brady* or *Giglio* claims takes them outside this generally applicable statutory framework. As we explained in *Tompkins*, *Brady* and *Giglio* claims "can be and routinely are raised in initial habeas petitions." *Tompkins*, 557 F.3d at 1260. "The violation of constitutional rights asserted in these kinds of claims occur, if at all, at trial or sentencing and are ripe for inclusion in a first petition." *Id.* There is no reason to believe that *Brady* or *Giglio* material is uniquely likely to be

uncovered only after years of state post-conviction litigation *and* after a judgment on an initial federal habeas petition. But, when that kind of prolonged delay does occur, the statute tells us what to do: an inmate who wants to raise the claim in a successive petition must establish due diligence and actual innocence in a filing with the court of appeals. *See* 28 U.S.C. § 2244(b)(2).

Bell argues that *Brady* and *Giglio* claims are comparable to a claim about an inmate's competency to be executed, which may be raised for the first time in a second-in-time habeas petition. *See Panetti v. Quarterman*, 551 U.S. 930 (2007). But he is wrong. As we recognized in *Tompkins*, claims about an inmate's mental competency to be executed cannot be raised as a matter of law until an execution is imminent. Unlike a *Brady* or *Giglio* claim, no execution capacity claim "is ever ripe at the time of the first petition because the facts to be measured or proven—the mental state of the petitioner at the time of execution—do not and cannot exist when the execution is years away." *Tompkins*, 557 F.3d at 1260. The reason for treating execution-capacity claims differently is "not that evidence of an existing or past fact had not been uncovered" at the time of the initial petition. *Id.*

Our precedent is also consistent with the law of other circuits. In fact, it appears that every circuit to have addressed this issue has also concluded that section 2244's second or successive requirements apply to *Brady* and *Giglio* claims. *See Blackman v. Davis*, 909 F.3d 772 (5th Cir. 2018); *In re Wogenstahl*, 902 F.3d 621 (6th Cir. 2018); *Brown v. Muniz*, 889 F.3d 661 (9th Cir. 2018); *In re Pickard*, 681

F.3d 1201 (10th Cir. 2012); *Evans v. Smith*, 220 F.3d 306 (4th Cir. 2000); *see also Suggs v. United States*, 705 F.3d 279 (7th Cir. 2013) (concluding that *Brady* claim was second or successive).

My colleague Judge Rosenbaum suggests that Bell has suffered a "miscarriage of justice" because his successive habeas petition has been dismissed, but I don't see it. The law entitles habeas petitioners like Bell "'one fair opportunity' to litigate the merits of their postconviction claims in federal court." *Rivers*, 145 S. Ct. at 1641 (quoting *Banister*, 590 U.S. at 507). Bell's most recent habeas petition comes after decades of litigation, he failed to seek permission to file it, he concedes that he cannot establish due diligence and actual innocence as required by the statute, and the state court's fact findings make his claims exceedingly difficult to win on the merits. Neither "historical habeas doctrine and practice" nor the "purposes of AEDPA" counsel us to classify Bell's successive habeas petition as an initial petition so that he can delay his execution by litigating these claims in a federal district court. *Id.* at 1644.

For these reasons, I concur in denying Bell's petition for initial hearing en banc.

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

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July 14, 2025

Gregory W. Brown
Federal Public Defender's Office
Middle District of Florida
400 N TAMPA ST STE 2700
TAMPA, FL 33602

Appeal Number: 25-12359-P
Case Style: Michael Bell v. Secretary, Florida Department of Corrections, et al
District Court Docket No: 3:25-cv-00774-WWB-PDB

The enclosed order has been ENTERED.

Electronic Filing
All counsel must file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause. Although not required, non-incarcerated pro se parties are permitted to use the ECF system by registering for an account at www.pacer.gov. Information and training materials related to electronic filing are available on the Court's website.

Clerk's Office Phone Numbers

General Information:	404-335-6100	Attorney Admissions:	404-335-6122
Case Administration:	404-335-6135	Capital Cases:	404-335-6200
CM/ECF Help Desk:	404-335-6125	Cases Set for Oral Argument:	404-335-6141

MOT-2 Notice of Court Action

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

MICHAEL BERNARD BELL,

Petitioner,

v. Case No. 3:25-cv-774-WWB-PDB

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, et al.,

Respondents.

ORDER

I. Status

Petitioner Michael Bernard Bell, a Florida death row inmate who is scheduled to be executed on Tuesday, July 15, 2025, initiated this case, with help from court-appointed counsel, by filing a Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2254. (Doc. 1). Petitioner claims that his death sentence is unconstitutional because the state failed to disclose material exculpatory and impeachment evidence, which violated Petitioner's Fourteenth Amendment rights under *Brady v Maryland*, 373 U.S. 83 (1963), and *Giglio v. United States*, 405 U.S. 150 (1972). (*See generally* Doc. 1). Respondents filed a Motion to Dismiss Unauthorized Successive Petition. (Doc. 8). Petitioner filed a Reply. (Doc. 11). Upon review of the parties' filings and applicable law, the Court finds that the Petition is second or successive, and thus the Court lacks jurisdiction to consider Petitioner's claims without prior authorization from the Eleventh Circuit Court of Appeals.

In 1995, a jury found Petitioner guilty of two counts of first degree murder and unanimously recommended he be sentenced to death for both counts.[1] (*See* Doc. 1-3). The trial court then sentenced Petitioner to death. He sought a direct appeal, and in July 1997, the Florida Supreme Court affirmed Petitioner's convictions and death sentences. *See Bell v. State*, 699 So. 2d 674 (Fla 1997). On January 15, 2009, this Court adjudicated Petitioner's federal habeas petition challenging these convictions and sentences, finding that the petition was untimely filed and denying Petitioner's request for a certificate of appealability. *See Bell v. McDonough*, No. 3:07-cv-860-ODE, 2009 WL 10698415, at *1 (M.D. Fla. Jan. 15, 2009). Thereafter, the Eleventh Circuit affirmed this Court's decision. *See Bell v. Sec'y, Fla. Dep't of Corr.*, 461 F. App'x 843 (11th Cir. 2012).

On June 13, 2025, Governor DeSantis signed a death warrant setting Petitioner's execution for 6:00 p.m. on July 15, 2025. Petitioner, with the help of court-appointed counsel, then filed with the trial court a post-warrant successive Florida Rule of Criminal Procedure 3.851 motion alleging, *inter alia*, newly discovered evidence of *Brady* and *Giglio* violations based on the state's failure to disclose material evidence that coercive tactics were used to elicit false testimony at Petitioner's guilt phase. *See State v. Bell*, No. 16-1994-CF-009776 (Fla. 4th Cir. Ct.). Following an evidentiary hearing on the *Brady* and *Giglio* claims, the trial court denied Petitioner's post-warrant successive Rule 3.851 motion on June 24, 2025. *See id.* Petitioner appealed, and the Florida Supreme Court affirmed the trial court's denial on July 8, 2025, finding the trial court correctly determined Petitioner failed to demonstrate the alleged *Brady* and *Giglio* violations amounted to newly

[1] For purposes of this Order, the Court assumes the parties are familiar with the procedural history and facts of Petitioner's prior state court and federal proceedings and thus only summarizes the relevant procedural history.

discovered evidence, and thus the claims were untimely filed.[2] *Bell v. State*, No. SC2025-0891, 2025 WL 1874574, at *1 (Fla. July 8, 2025). The instant § 2254 Petition followed. (*See* Doc. 1).

II. Analysis

The Petition is governed by 28 U.S.C. § 2244, which provides:

> (b)(2) A claim presented in a second or successive habeas corpus application under section 2254 that was not presented in a prior application shall be dismissed unless—
>
> (A) the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or
>
> (B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and
>
> (ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

28 U.S.C. § 2244(b)(2). But even if a petitioner can make that showing, the Antiterrorism and Effective Death Penalty Act ("**AEDPA**") bars the filing of a second or successive habeas petition, absent prior approval from the appropriate court of appeals. *See* 28 U.S.C. § 2244(b)(3)(A) ("Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application."); *see also*

[2] The Florida Supreme Court also affirmed the trial court's finding that Petitioner failed to demonstrate that the alleged newly discovered evidence was of such a nature that it would likely produce an acquittal on retrial or yield a less severe sentence. *Bell*, 2025 WL 1874574, at *1.

Insignares v. Sec'y, Fla. Dep't of Corr., 755 F.3d 1273, 1278 (11th Cir. 2014) (recognizing that "[s]ubject to [certain] exceptions[,] . . . a district judge lacks jurisdiction to decide a second or successive petition filed without [the Eleventh Circuit's] authorization").

> The phrase "second or successive" is not self-defining. It takes its full meaning from [Supreme Court] case law, including decisions predating the enactment of the [AEDPA]. The Court has declined to interpret "second or successive" as referring to all § 2254 applications filed second or successively in time, even when the later filings address a state-court judgment already challenged in a prior § 2254 application.

Panetti v. Quarterman, 551 U.S. 930, 943-44 (2007) (citations omitted).

Here, Petitioner does not suggest that the Eleventh Circuit has authorized him to file a second or successive petition. (*See generally* Doc. 1). Instead, he argues that his second-in-time Petition is not "second or successive" under § 2244(b)(2), and thus he does not need the Eleventh Circuit's approval, because his *Brady*/*Giglio* claims meet the exception recognized in *Panetti*. (*Id.* at 10-14). In *Panetti*, the United States Supreme Court concluded that AEDPA's bar on second or successive habeas petitions did not apply "in the unusual posture presented [t]here: a § 2254 application raising a *Ford*[3]-based incompetency claim filed as soon as that claim [became] ripe." *Id.* Because a *Ford* claim is not ripe until an execution is imminent, a petitioner is likely unable to bring such a claim in his first federal habeas proceeding. *See id.* at 946-47. Thus, a second-in-time petition raising a *Ford* claim that is filed when the claim becomes ripe (when execution is imminent) is not barred as "second or successive." *Id.* at 947.

[3] *Ford v. Wainwright*, 477 U.S. 399 (1986).

The Eleventh Circuit, however, has specifically held that a second-in-time § 2254 petition raising a *Brady* and *Giglio* claim cannot avoid being "second or successive" under the *Panetti* exception, even if the factual predicate for those claims was previously unknown. *See Tompkins v. Sec'y, Dep't of Corr.*, 557 F.3d 1257, 1260 (11th Cir. 2009). Petitioner acknowledges the Eleventh Circuit's holding in *Tompkins* but asks the Court to overlook that precedent and adhere to the Eleventh Circuit's statements in *Scott v. United States*, 890 F.3d 1239 (11th Cir. 2018), that "*Tompkins* got it wrong" and called on the Eleventh Circuit to revisit the issue en banc. (Doc. 1 at 11) (citing *Scott*, 890 F.3d at 1248-58). Despite its expressed disagreement with *Tompkins*, the *Scott* court ultimately recognized that *Tompkins* binds the Eleventh Circuit to conclude that all second-in-time *Brady* and *Giglio* claims are "second or successive." *Id.* at 1257.

Indeed, "other death row inmates have attempted to extend *Panetti* to second-in-time habeas petitions raising *Brady* and *Giglio* claims" based on factual predicates unknown when their initial habeas petitions were filed. *Asay v. Sec'y, Fla. Dep't of Corr.*, No. 3:16-cv-43-J-32JRK, 2017 WL 3251526, at *5 (M.D. Fla. July 31, 2017) (footnotes omitted). And this Court, as well as other courts in this circuit, have resoundingly rejected those efforts. *See, e.g.*, *Scott v. United States*, 81 F. Supp. 3d 1326, 1334-35 (M.D. Fla. 2015) (emphasizing that the district courts in the Eleventh Circuit are "bound by *Tompkins* and *Stewart*,[4] neither of which suggests that *Brady* or *Giglio* violations discovered subsequent to an initial habeas petition may be treated as anything other [than] 'second or successive'"); *Jimenez v. Sec'y, Fla. Dep't of Corr.*, No. 1:18-cv-25165-DMM (S.D. Fla. Dec. 12, 2018) (concluding that the court was bound to follow *Tompkins* even though a

[4] *Stewart v. United States*, 646 F.3d 856 (11th Cir. 2011).

"panel [of the Eleventh Circuit later] expressly disagreed with th[at] . . . decision"), *aff'd*, 758 F. App'x 682 (11th Cir. 2018); *Jennings v. Inch*, No. 5:18-cv-281-RH-MJF (N.D. Fla. Mar. 6, 2020) ("Under the law of the circuit, *Panetti* does not apply to *Brady* or *Giglio* claims." (citing *Tompkins*, 557 F.3d 1257)), *aff'd*, 108 F.4th 1299 (11th Cir. 2024). Notably, a jurist of this Court recently emphasized that *Tompkins* "remains the law of this circuit" even though *Scott* called its reasoning "fatally flawed." *Thomas v. Sec'y, Fla. Dep't of Corr.*, No. 3:17-cv-662-TJC-JBT, 2023 WL 2837521, at *6 (M.D. Fla. Apr. 7, 2023) (explaining that both *Panetti* and *Tompkins* involved similar factual and procedural histories, which foreclosed the petitioner's attempt to distinguish the facts of his case: "In both [*Panetti* and *Tompkins*], the prisoners filed a second habeas petition or motion to vacate based on newly discovered evidence that the government had violated *Brady* and *Giglio*"). And just last year, the Eleventh Circuit reaffirmed its stance on this issue: "[A] second-in-time § 2254 petition raising *Brady* and *Giglio* claims is a second or successive petition subject to § 2244(b)'s restrictions." *Jennings*, 108 F.4th at 1302.

As such, the Petition is subject to the AEDPA's gatekeeping restrictions on second or successive § 2254 petitions. To that end, because the Court has already adjudicated Petitioner's claims challenging these convictions, this Court has no authority to consider the claims now raised by Petitioner without prior authorization from the Eleventh Circuit.

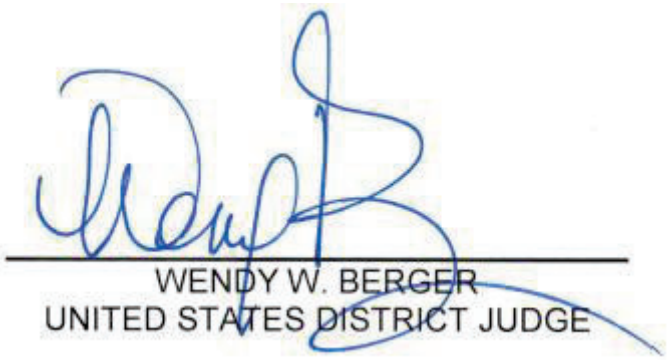
Accordingly, it is **ORDERED:**

1. Respondents' Motion to Dismiss Unauthorized Successive Petition (Doc. 8) is **GRANTED**, and Petitioner's Emergency Petition Under 28 U.S.C. § 2254 for a Writ of Habeas Corpus (Doc. 1) is **DISMISSED without prejudice** for lack of

jurisdiction.[5]

2. The **Clerk of Court** shall enter judgment dismissing this case without prejudice, terminate any pending motions, and close the file.

DONE AND ORDERED in Jacksonville, Florida, on July 10, 2025.



WENDY W. BERGER
UNITED STATES DISTRICT JUDGE

Jax-7

C: Counsel of record

[5] A certificate of appealability ("**COA**") is not required. *See Hubbard v. Campbell*, 379 F.3d 1245, 1247 (11th Cir. 2004) ("Section 2253(c) has no application here because the district court's decision dismissing the Amended Petition is not 'a final order in a habeas corpus proceeding' within the meaning of the statute."); *see also United States v. Palmer*, 773 F. App'x 576, 576 (11th Cir. 2019) (recognizing that a "dismissal for lack of subject matter jurisdiction is not a 'final order' within the meaning of § 2253(c), and a COA is not required to appeal such an order of dismissal"); *Hutto v. Lawrence Cnty., Ala.*, 717 F. App'x 960, 960 (11th Cir. 2018) ("A certificate of appealability . . . is not required for an appeal of an order dismissing a petitioner's filing as a successive habeas petition.").

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 relief[2] 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

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

CASE NO.: 16-1994-CF-009776-AXXX

DIVISION: CR-H

STATE OF FLORIDA

v.

DEATH WARRANT SIGNED EXECUTION SCHEDULED FOR THURSDAY, JULY 15, 2025

MICHAEL BERNARD BELL,
Defendant.
_____/

ORDER DENYING DEFENDANT'S SUCCESSIVE MOTION FOR POSTCONVICTION RELIEF

This matter came before the Court on Defendant's "Motion for Postconviction Relief After Death Warrant Signed," filed June 18, 2025, and "Defendant's Proposed Amendments to Claim One of His Motion for Postconviction Relief After Death Warrant Signed,"[1] filed June 22, 2025, pursuant to Florida Rule of Criminal Procedure 3.851.

Procedural History

On March 9, 1995, a jury found Defendant guilty of two counts of First-Degree Murder for the killings of Jimmy West and Tamecka Smith in Jacksonville, Florida. In the penalty phase, the jury unanimously recommended a death sentence for each conviction. The trial court sentenced Defendant to death in a written order entered on June 2, 1995. Defendant's convictions and death sentences were affirmed through a Mandate issued by the Florida Supreme Court on October 17,

[1] Defendant's proposed amendments were attached as an exhibit to his June 22, 2025 "Motion for Leave to Amend Motion for Postconviction Relief After Death Warrant Signed."

ACCEPTED: DUVAL COUNTY, JODY PHILLIPS, CLERK, 06/24/2025 11:38:14 AM

1997. See Bell v. State, 699 So. 2d 674 (Fla. 1997). His convictions and sentences became final when the United States Supreme Court denied his petition for writ of certiorari on February 23, 1998. Bell v. Florida, 522 U.S. 1123 (1998).

Defendant's first motion for postconviction relief, filed pursuant to Florida Rules of Criminal Procedure 3.850 and 3.851, was denied by the Court on May 31, 2002. The Florida Supreme Court denied Defendant's subsequent appeal and petition for writ of habeas corpus. Bell v. State, 965 So. 2d 48 (Fla. 2007). Defendant's petition for writ of habeas corpus, filed in the United States District Court for the Middle District of Florida, was also denied and the denial was affirmed. Bell v. Fla. Atty. Gen., 614 F.3d 1230 (11th Cir. 2010); Bell v. Fla. Atty. Gen., 461 Fed. App'x 843 (11th Cir. 2012). The United States Supreme Court denied Defendant's petition for writ of certiorari of that order. Bell v. Bondi, 572 U.S. 1118 (2014).

The Court also denied Defendant's three successive motions for postconviction relief in orders entered on March 17, 2011 (*nunc pro tunc* to February 28, 2011), March 9, 2017, and September 28, 2018, respectively. Those orders were affirmed through respective Mandates issued by the Florida Supreme Court on July 9, 2012, February 14, 2018, and December 2, 2019. Defendant's subsequent petitions for writs of certiorari were denied by the United States Supreme Court. Bell v. Florida, 552 U.S. 1011 (2018); Bell v. Florida, 586 U.S. 856 (2018); Bell v. Florida, 140 S. Ct. 2579 (2020).

On June 13, 2025, Governor DeSantis signed Defendant's death warrant, and his execution is scheduled to occur on Tuesday, July 15, 2025, at 6:00 p.m. As a result, the Florida Supreme Court ordered all proceedings in the Court to be concluded by Tuesday, June 24, 2025, at 11:00 a.m. On June 18, 2025, Defendant filed through counsel a "Motion for Postconviction Relief After Death Warrant Signed." Defendant then filed "Defendant's Motion for Leave to Amend Motion

for Postconviction Relief After Death Warrant Signed," the night of June 22, 2025.[2] Following the June 20 Case Management Conference, the Court granted an evidentiary hearing on Defendant's Claim One as alleged in his June 18 Motion. The Court conducted an evidentiary hearing on these motions on June 23, 2025 where the defense presented the following witnesses: (1) Tennie Martin; (2) Charles Jones; (3) Henry Edwards; (4) Colin Kelly; (5) Erica Bracelet (formerly Erica Williams); (6) Ned Pryor; (7) Dale George; (8) Paula Goins; (9) Kathy Robertson; and (10) Glory Mitchell. The State presented one witness: (11) George Bateh.

Claim One

In Defendant's June 18 Motion, he alleges two instances of newly discovered evidence in Claim One, the recantations of Henry Edwards and Charles Jones. Less than twelve hours before the evidentiary hearing on these two recanting witnesses was set to commence, Defendant filed a motion for leave to amend his Claim One and add three additional claims of newly discovered evidence. Per Defendant's own Motion for Leave to Amend, he interviewed these individuals prior to filing his June 18 Motion. Defendant additionally introduced a fifth, unpled, claim of newly discovered evidence at the evidentiary hearing. In an abundance of caution, the Court heard testimony from any witnesses available to testify at the evidentiary hearing despite Defendant failing to demonstrate good cause as to why he did not include these individuals in his June 18 Motion or plead them at all.

[2] This motion was E-Filed on June 22, 2025 at 09:34:55 pm.

Case Law

When a claim for postconviction relief is filed beyond the time limitation provided for in Florida Rule of Criminal Procedure 3.851(d)(1), the claim must rely upon one of the following enumerated exceptions:

> (A) 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, or
>
> (B) The fundamental constitutional right asserted was not established within the period provided for in subdivision (d)(1) and has been held to apply retroactively, or
>
> (C) Postconviction counsel, through neglect, failed to file the motion.

For evidence "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.'" Jones v. State, 709 So. 2d 512, 521 (Fla. 1998) (quoting Torres-Arboleda v. Dugger, 636 So. 2d 1321, 1324-25 (Fla. 1994)). If the evidence meets the definition of newly discovered evidence, the court must next consider whether the newly discovered evidence is "'of such nature that it would probably produce an acquittal on retrial.'" Stills v. State, 154 So. 3d 524, 526 (Fla. 1st DCA 2015) (quoting Johnston v. State, 27 So. 3d 11, 18 (Fla. 2010)); see also Deparvine v. State, 146 So. 3d 1071, 1103-04 (Fla. 2014) (citing Johnston, 27 So. 3d at 18-19). To reach this conclusion, the court should "'consider all newly discovered evidence which would be admissible' at trial and then evaluate the 'weight of both the newly discovered evidence and the evidence which was introduced at the trial.'" Jones, 709 So. 2d at 521 (quoting Jones v. State, 591 So. 2d 911, 916 (Fla. 1991)).

Under Brady v. Maryland, 373 U.S. 83 (1963), "the defendant must demonstrate that (1) 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." Mosley v. State, 209 So. 3d 1248, 1258 (Fla. 2016) (quoting Mungin v. State, 79 So. 3d 726, 734 (Fla. 2011)). Brady materiality requires a reasonable probability that the outcome at trial would have been different had the favorable evidence been disclosed.

Under Giglio v. United States, 405 U.S. 150 (1972), "[a] defendant must show 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." Mosley, 209 So. 3d at 1258 (quoting Mungin, 79 So. 3d at 738). The materiality prong of Giglio is more defense-friendly than Brady's prejudice prong, requiring only that there be "any reasonable possibility that the false testimony could have affected the verdict." Mosley, 209 So. 3d at 1258 (quoting Mungin, 79 So. 3d at 738).

Untimeliness of Subclaims One and Two

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, representing Kenneth Hartley, 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. Notwithstanding, the Court will address these subclaims on the merits.

Purported Recantation of Henry Edwards

In Subclaim (1) of his June 18 Motion, Defendant alleges newly discovered evidence in the form of recantation of Henry Edwards' trial testimony. Defendant claims Henry Edwards is now willing to testify that he did not see the murders because he was inside the liquor lounge during the shootings and lied at the behest of Detective Bolena in exchange for favors like furloughs from jail. Further, Edwards was only able to identify Defendant after Detective Bolena pointed him out and his testimony came from when Detective Bolena placed him in a holding cell with an eyewitness to the shooting.

At the evidentiary hearing, 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 Court

also finds Edwards' testimony that he did not know what was in the affidavit to be more credible than CHU Investigator Colin Kelly's testimony that the affidavit reflected statements made by Mr. Edwards. At the evidentiary hearing, Edwards testified sincerely that he only signed the affidavit because he believed, based on the CHU Investigators' representations, that doing so would save Defendant's life. Edwards also seemed genuinely confused as to who exactly the CHU Investigators were, sometimes referring to them as people looking for statements to prepare a script for a documentary on Defendant's case. Considering Edwards' failure to recant and his additional evidentiary hearing testimony, Defendant's claim that Edwards previously testified falsely is without merit.

Defendant also presented the testimony of Kathy Robertson, Edwards' ex-wife, and of Glory Mitchell, who knew of Edwards through his sister. Both individuals testified that Edwards had dealings as a confidential informant with Detective Bolena. Neither, however, testified to any specifics about Edwards' role in the instant case or the time periods in which he served as a confidential informant. Considering Henry Edwards' failure to recant at the evidentiary hearing, the testimony about his role as a confidential informant is no longer relevant to Defendant's Subclaim (1). To the extent this testimony is alleged as newly discovered evidence, that claim also fails because Edwards' role as a confidential informant was discussed at Defendant's 2002 postconviction evidentiary hearing and, thus, the claim would be untimely. Accordingly, this subclaim is denied.

Purported Recantation of Charles Jones

In Subclaim (2) of his June 18 Motion, Defendant alleges newly discovered evidence in the form of recantation of Charles Jones' trial and 2002 evidentiary hearing testimony. Defendant

claims Charles Jones is now willing to testify that Defendant never tried to sell him a gun and Defendant never confessed to him that he had murdered the victims; Jones instead lied at trial because Detective Bolena, who was dating Jones' sister at the time, approached him with an offer to help on unrelated charges if Jones testified against Defendant. Defendant alleges Jones now claims his testimony was fed to him by the State and Detective Bolena, and Jones supposedly maintained his false testimony at Defendant's 2002 evidentiary hearing because he was promised a favorable sentence on pending Federal charges by the State and Detective Bolena.

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.

Untimeliness of Remaining Subclaims

Defendant also contends the remaining claims meet the newly discovered evidence exception under Rule 3.851(d) because he only just learned of them while investigating the Edwards and Jones claims. Defendant argues that because the State never disclosed to him that they threatened and pressured witnesses to testify, his counsel could reasonably rely on the witnesses' previous testimony that they were not pressured or threatened. However, Defendant had previously raised claims of coercion as far back as his 2002 postconviction proceedings. (Ex. A.) 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. Accordingly, the Court finds these claims are procedurally barred as untimely. The Court, however, will still address the merits of these claims in light of Defendant's upcoming scheduled execution.

Erica Williams

In Subclaim (3) of his Amended Motion, Defendant alleges Erica Williams revealed newly discovered evidence to CHU Investigators that Ms. Williams denied knowing any information about the case until she was threatened by Detective Bolena who told her that she would be charged as an accessory to First-Degree Murder and that her children would be taken away. She also stated that other overt threats were made by Detective Bolena and George Bateh that she would suffer serious consequences if she did not appear for trial and testify truthfully. Defendant also alleges that when she was confronted with her previous testimony that she and Dale George drove by the crime scene the night of the murders, she denied that the trip to the crime scene ever happened.

At the hearing, Erica Williams testified that Detective Bolena left her a business card in her door jam, and she was soon after summoned to the police station for questioning. Once at the police station, she was placed into an interrogation room for twelve to fourteen hours. She described that time as filled with detectives yelling at her and treating her meanly. When questioned about whether she was threatened with incarceration or losing her children unless she testified a certain way, at yesterday's hearing, she asserted her right against self-incrimination and refused to answer any more questions related to these alleged statements she made to CHU

Investigators. After having observed Erica Williams' demeanor and listening to her testimony, the Court finds the testimony that she did give to be credible. Defendant's allegations of newly discovered impeachment evidence that the State pressured and intimidated Erica Williams to testify, however, are not proven. Rather, it 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 for him, knowing Defendant was a convicted felon. Additionally, there is no evidence the State knowingly put on false evidence through Erica Williams' trial testimony. Accordingly, Defendant has failed to meet his burden of proof and this subclaim is denied.

Ned Pryor

In Subclaim (4) of his Amended Motion, Defendant alleges Vanesse "Ned" Pryor revealed newly discovered evidence to Federal Investigators that Prosecutor George Bateh threatened to charge him with First-Degree Murder if he did not provide false testimony. Defendant claims Ned Pryor admitted that he was "fed" false testimony by George Bateh that he was at the crime scene that night, saw Defendant with a gun, and Defendant later admitted to Ned Pryor that he committed the murders. Ned Pryor, however, was unwilling to sign an affidavit attesting to these statements allegedly made to CHU Investigators.

At the hearing, Ned Pryor testified that he recalls meeting with CHU Investigators but did not recall telling them that George Bateh threatened him to testify that Defendant was the gunman. Ned Pryor initially testified that he did not recall seeing Defendant with a gun that night, but upon a follow up question from Defendant, he invoked his right against self-incrimination. After having observed Ned Pryor's demeanor and listening to his testimony, the Court finds the testimony that

he gave at yesterday's hearing to not be credible. Ned Pryor appeared to be confused, and he lacked memory about what he testified to at trial. Defendant's allegations of newly discovered impeachment evidence that the State pressured and intimidated Ned Pryor to testify are not proven. Additionally, even if Ned Pryor's evidentiary hearing testimony that he was not at the liquor lounge was credible, Defendant has failed to prove the State knowingly or should have known Ned Pryor's testimony at trial was false. Accordingly, Defendant has failed to meet his burden of proof and this subclaim is denied.

Dale George

In Subclaim (5) of his Amended Motion, Defendant alleges Dale George revealed newly discovered evidence to CHU Investigators that George Bateh threatened to charge George with First-Degree Murder if he did not testify the way Bateh wanted. Mr. George also cited a time when Detective Bolena used physical violence against him while he was handcuffed.

At the hearing, Dale George testified that he recalls speaking to the CHU Investigators, but did not recall telling them any of the things they wrote in their interview notes. He also stated that he was familiar with Detective Bolena but could not recall specifically dealing with him in the instant case. When questioned about whether Detective Bolena used physical violence against him and other forms of intimidation, George asserted his right against self-incrimination and refused to answer any more questions related to his alleged statements made to CHU Investigators. After having observed Dale George's demeanor and listening to his testimony, the Court finds the testimony that he did give to be credible. Defendant's allegations of newly discovered impeachment evidence that the State pressured and intimidated Dale George to testify are not proven. Additionally, there is no evidence the State knowingly put on false evidence through Dale

George's trial testimony. Accordingly, Defendant has failed to meet his burden of proof and this subclaim is denied.

Paula Goins

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. Considering this, the Court interprets Defendant's arguments 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 trial testimony.

At the hearing, Paula Goins testified that Detective Bolena and George Bateh pressured her to testify *truthfully* about the things she overheard Defendant discuss with his then girlfriend Erica Williams the night of the murder. Ms. Goins was strong in her belief that these actions never amounted to threats, instead explaining that they told her she could lose her job, home, grandchild, and face incarceration if she did not testify *truthfully* at the grand jury and trial proceedings. Ms. Goins also stated that she was represented by counsel at this time, and he was present with her whenever she spoke to investigators or testified. When asked if she had testified truthfully at trial, Ms. Goins said that she testified to what she heard from Defendant and Erica Williams the night of the murders. At times, Ms. Goins also testified that she believed Detective Bolena and Prosecutor Bateh twisted her words from "we to I" when recounting what Defendant told her that night, but at other times she equivocated. She never recanted her trial testimony or said it was untrue.

Defendant emphasized at the hearing the distinction between Ms. Goins' testimony about "we and I," but it was clear from her testimony that she did not remember specifics from trial, but did recall the general premise that she testified truthfully at trial to what she heard. Given her age, cancer treatments, length of time, and self-admitted attempts to block any memories of the night because of the trauma it has caused her, the Court cannot find her completely reliable as to the specifics of her testimony yesterday, but can find her credible that she testified truthfully at trial. Considering everything Ms. Goins testified to at the evidentiary hearing, the Court does not find that there is newly discovered evidence of prosecutorial misconduct. 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. For example, Defendant pointed to George Bateh's reference to contempt at Defendant's trial, but contempt is a legal consequence for failure to appear in response to a subpoena. Thus, Defendant's allegations of newly discovered impeachment evidence that the State threatened Paula Goins to testify are not proven. Additionally, there is no evidence the State knowingly put on false evidence through Paula Goins' trial testimony. Accordingly, Defendant has failed to meet his burden of proof and this subclaim is denied.

Claim One Conclusion

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.

Although Defense counsel insisted the testimony 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.

Claim Two

In Claim Two, Defendant alleges his convictions and death sentence are constitutionally tainted because: (1) racially charged statements were made by the State and defense counsel during trial, and (2) the juror death qualification process generally results in a skewed community cross-section that excludes Black jurors at a disproportionately high rate.

Substantive claims of prosecutorial misconduct occurring at trial and memorialized on the record—like the comments here—could and should have been raised on direct appeal and are, therefore, procedurally barred from being raised in postconviction. Spencer v. State, 842 So. 2d 52, 60–61 (Fla. 2003). And to the extent Defendant claims ineffective assistance of trial counsel for also resorting to racially insensitive argument, that claim is untimely. See Fla. R. Crim. P. 3.851(d)(1).

Defendant's complaints about the death qualification process are also legally infirm. Jurors must be drawn from a representative cross-section of the community in which a defendant is tried. See Taylor v. Louisiana, 419 U.S. 522, 528, 538 (1975); Cargill v. State, 121 So. 3d 1157, 1158 (Fla. 1 DCA 2013). However, defendants "are not entitled to a jury of any particular composition." Taylor, 419 U.S. at 538. Neither the Supreme Court of the United States nor the Florida Supreme Court has "invoked the fair-cross-section principle to invalidate the use of either for-cause or peremptory challenges to prospective jurors, or to require petit jurors, as opposed to jury panels or venires, to reflect the composition of the community at large." Lockhart v. McCree, 476 U.S. 162, 173 (1986); see also San Martin v. State, 705 So. 2d 1337, 1343 (Fla. 1997). Indeed, extending the fair-cross-section requirement to petit juries would be "unworkable and unsound." Lockhart, 476 U.S. at 174. Applied to capital cases: "Death qualification," unlike the wholesale exclusion of blacks, women, or Mexican-Americans from jury service, is carefully designed to serve the State's concededly legitimate interest in obtaining a single jury that can properly and impartially apply the law to the facts of the case at both the guilt and sentencing phases of a capital trial. There is very little danger, therefore, . . . that "death qualification" was instituted as a means for the State to arbitrarily skew the composition of capital-case juries. Id. at 175–76 (footnotes omitted). Put

simply, the Constitution does not prohibit the State from death-qualifying a jury. San Martin, 705 So. 2d at 1343.

Here, Defendant does not challenge the composition of the venire from which his jurors were selected, but rather, the possible exclusion of Black jurors from the petit jury at a disproportionate rate because of the death qualification process. Defendant, however, is not entitled to a particular jury composition, and there is no requirement "'that petit juries actually chosen must mirror the community and reflect the various distinctive groups in the population.'" Gordon v. State, 704 So. 2d 107, 111 (Fla. 1997) (quoting Taylor, 419 U.S. at 538).

This fair-cross-section argument is also procedurally barred, see Stewart v. State, 495 So. 2d 164, 165 (Fla. 1986), and untimely, as it is premised on years-old studies.

Claim Three

In Claim Three, Defendant alleges "[t]he period set by the instant warrant is inadequate for meaningful review of the meritorious issues presented." Absent a showing of prejudice, a compressed warrant litigation schedule does not deprive a capital defendant of due process. See Tanzi v. State, 407 So. 3d 385, 390-91 (Fla. 2025); accord Barwick v. State, 361 So. 3d 785, 789 (Fla. 2023); Hutchinson v. State, 2025 WL 1198037 (Fla. April 25, 2025). Defendant has not identified any matter on which he has been denied notice and an opportunity to be heard. Defendant was able to litigate his claims at an evidentiary hearing, and the Court also allowed him to present additional evidence on "emergency" claims filed the day before the hearing. Accordingly, Defendant has been afforded due process and is not entitled to relief on Claim Three.

Claim Four

In Claim Four, Defendant attempts to relitigate the entirety of this case by alleging he received ineffective assistance of counsel at both the trial level and in subsequent postconviction proceedings. He raises no cognizable claims in Ground Four, as they are either procedurally barred or lack legal merit. E.g., Owen v. State, 862 So. 2d 687, 694 (Fla. 2003) ("[D]efendant has not presented any new evidence to reevaluate our original holding . . . It is clear that he is simply attempting to relitigate the same issue."); Kokal v. State, 901 So. 2d 766, 777 (Fla. 2005) ("[C]laims of ineffective assistance of postconviction counsel are not cognizable."). Accordingly, Defendant is not entitled to relief on Claim Four.

Accordingly, it is: **ORDERED AND ADJUDGED** that Defendant's "Motion for Postconviction Relief After Death Warrant Signed," filed June 18, 2025, and "Defendants Proposed Amendments to Claim One of His Motion for Postconviction Relief After Death Warrant Signed," on June 22, 2025, are **DENIED.** In accordance with the Florida Supreme Court's June 12, 2019 scheduling order, Defendant shall have until 1:00 p.m. Tuesday, June 24, 2025, to file his Notice of Appeal with the Clerk of Court.

DONE AND ORDERED in Chambers, in Jacksonville, Duval County, Florida, on this 24th day of June, 2025.



JEB BRANHAM
Circuit Judge

Copies to:

Supreme Court of Florida
Warrant@flcourts.org
canovak@flcourts.com

Alan S. Mizrahi, Esq.
Assistant State Attorney
Office of the State Attorney
amizrahi@coj.net
sao4duvalcriminal@coj.net

Jonathan S. Tannen, Esq.
Assistant Attorney General
Office of the Attorney General
jonathan.tannen@myfloridalegal.com
capapp@myfloridalegal.com

Christina Z. Pacheco, Esq.
Assistant Attorney General
Office of the Attorney General
christina.pacheco@myfloridalegal.com

Robert A. Norgard, Esq.
Counsel for Defendant
Law Office of Robert A. Norgard
norgardlaw@verizon.net
office@norgardlaw.com

Case No.: 16-1994-CF-009776-AXXX
Division: CR-H
/jlb

Book 8181 Pg 207

_____ Probation Violator

_____ Community Control Violator

_____ Retrial

_____ Resentence

State of Florida
v
MICHAEL BERNARD BELL
Defendant

In the Circuit Court, Fourth Judicial Circuit,
in and for Duval County, Florida
Division CR-F

FILED
JUN 02 1995
Henry W. Cook
CLERK CIRCUIT COURT

Case Number 94- 9776-CF-A

Bk: 8181
Pg: 207 - 228
Doc# 95187173
Filed & Recorded
09/22/95
03:26:22 P.M.
HENRY W. COOK
CLERK CIRCUIT COURT
DUVAL COUNTY, FL
REC. .00

JUDGMENT

The defendant, MICHAEL BERNARD BELL, being personally before this court represented by Richard Nichols, the attorney of record, and the state represented by George Buten, and having

X been tried and found guilty by jury/by court of the following crime(s)

____ entered a plea of guilty to the following crime(s)

____ entered a plea of nolo contendere to the following crime(s)

Count	Crime	Offense Statute Number(s)	Degree of Crime	Case Number	OBTS Number
1	Murder in the First Degree	782.04(1)(A)	Capital		
2	Murder in the First Degree	782.04(1)(A)	Capital		

X and no cause being shown why the defendant should not be adjudicated guilty, IT IS ORDERED that the defendant is hereby ADJUDICATED GUILTY of the above crime(s).

____ and pursuant to section 943.325, Florida Statutes, having been convicted of attempts or offenses relating to sexual battery (ch. 794) or lewd and lascivious conduct (ch. 800) the defendant shall be required to submit blood specimens.

____ and good cause being shown; IT IS ORDERED THAT ADJUDICATION OF GUILT BE WITHHELD.

State of Florida
v.

MICHAEL BERNARD BELL
Defendant

Case Number 94- 9776-CF-A

Book 8181 Pg 208

Imposition of Sentence Stayed and Withheld (Check if Applicable) _____

The Court hereby stays and withholds the imposition of sentence as to count(s) _____ and places the Defendant on probation/community control for a period of _____ under the supervision of the Department of Corrections (conditions of probation/community control set forth in separate order.)

FINGERPRINTS OF DEFENDANT

1. Right Thumb	2. Right Index	3. Right Middle	4. Right Ring	5. Right Little
				
6. Left Thumb	7. Left Index	8. Left Middle	9. Left Ring	10. Left Little
				

Fingerprints taken by: Debbie H. Brown (Name) Bailiff 904 (Title)

I HEREBY CERTIFY that the above and foregoing are the fingerprints of the defendant, MICHAEL BERNARD BELL, and that they were placed thereon by the defendant in my presence in open court this date.

DONE AND ORDERED in open court in Jacksonville, Duval County, Florida, this 9th day of March, 19 95.

R. Hudson Dill
Judge

Form CCFB0A

STATE OF FLORIDA
v

MICHAEL BERNARD BELL
Defendant

In the Circuit Court, Fourth Judicial Circuit,
in and for Duval County, Florida
Division CR-F
Case Number 94- 9776-CF-A

Book 8181 Pg 209

CHARGES/COSTS/FEES

The defendant is hereby ordered to pay the following sums if checked:

X $50.00 pursuant to section 960.20, Florida Statutes (Crimes Compensation Trust Fund).

X $3.00 as a court cost pursuant to section 943.25(3), Florida Statutes (Criminal Justice Trust Fund).

___ $2.00 as a court cost pursuant to section 943.25(13), Florida Statutes (Criminal Justice Education by Municipalities and Counties).

___ A fine in the sum of $ _____ pursuant to section 775.0835, Florida Statutes. (This provision refers to the optional fine for the Crimes Compensation Trust Fund and is not applicable unless checked and completed. Fines imposed as a part of a sentence to section 775.083, Florida Statutes are to be recorded on the sentence page(s).)

___ $20.00 pursuant to section 939.015, Florida Statutes (Handicapped and Elderly Security Assistance Trust Fund).

___ A 10% surcharge in the sum of $ _____ pursuant to section 775.0836, Florida Statutes (Handicapped and Elderly Security Assistance Trust Fund).

X A sum of $ 200.00 pursuant to section 27.3455, Florida Statutes (Local Government Criminal Justice Trust Fund).

___ A sum of $ _____ pursuant to section 939.01, Florida Statutes (Prosecution/Investigative Costs).

___ A sum of $ _____ pursuant to section 27.56, Florida Statutes (Public Defender Fees).

X Restitution in accordance with attached order.

___ Other _____

DONE AND ORDERED in open court in Jacksonville, Duval County, Florida, this 2nd day of June, 1995.

R. Hudson Dill

Judge

Form CCFM0B

Defendant' MICHAEL BERNARD BELL Case Number 94- 9776-CF-A OBTS Number 0006091465

SENTENCE

(As to Count 1 Book 8181 Pg 210)

The defendant, being personally before this court, accompanied by the defendant's attorney of record Richard Nichols, and having been adjudicated guilty herein, and the court having given the defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why the defendant should not be sentenced as provided by law, and no cause being shown.

(Check one if applicable.)

X and the court having on 3/9/95 (date) deferred imposition of sentence until this date.

___ and the court having previously entered a judgment in this case on _____ (date) now resentences the defendant

___ and the court having placed the defendant on probation/community control and having subsequently revoked the defendant's probation/community control.

It Is The Sentence Of The Court That:

___ The defendant pay a fine of $ _____, pursuant to section 775.083, Florida Statutes plus $ _____ as the 5% surcharge required by 960.25, Florida Statutes.

X The defendant is hereby committed to the custody of the Department of Corrections.

___ The defendant is hereby committed to the custody of the Sheriff of Duval County, Florida.

___ The defendant is sentenced as a youthful offender in accordance with section 958.04, Florida Statutes.

To be Imprisoned (Check one; unmarked sections are inapplicable):

___ For a term of natural life.

X For a term of Death.

___ Said SENTENCE SUSPENDED for a period of _____ subject to conditions set forth in this order.

If "split" sentence, complete the appropriate paragraph.

___ Followed by a period of _____ on probation/community control under the supervision of the Department of Corrections according to the terms and conditions of supervision set forth in a separate order entered herein.

___ However, after serving a period of _____ imprisionment in _____, the balance of the sentence shall be suspended and the defendant shall be placed on probation/community control for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation/community control set forth in a separate order entered herein.

In the event the defendant is ordered to serve additional split sentences, all incarceration portions shall be satisfied before the defendant begins service of the supervision terms.

OTHER PROVISIONS

Retention of Jurisdiction ___ The court retains jurisdiction over the defendant pursuant to section 947.16(3), Florida Statutes (1983).

Jail Credit X It is further ordered that the defendant shall be allowed a total of 261 days as credit for time incarcerated before imposition of this sentence.

Prison Credit ___ It is further ordered that the defendant be allowed credit for all time previously served on this count in the Department of Corrections prior to resentencing.

Consecutive/ Concurrent As To Other Counts ___ It is further ordered that the sentence imposed for this count shall run (check one)_____ consecutive to_____ concurrent with the sentence set forth in count _____ of this case.

Defendant MICHAEL BERNARD BELL Case Number 94- 9776-CF-A OBTS Number 0006091465

SENTENCE

(As to Count 2) Book 8181 Pg 211

The defendant, being personally before this court, accompanied by the defendant's attorney of record Richard Nichols, and having been adjudicated guilty herein, and the court having given the defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why the defendant should not be sentenced as provided by law, and no cause being shown.

(Check one if applicable.)

X and the court having on 3/9/95 (date) deferred imposition of sentence until this date.

___ and the court having previously entered a judgment in this case on _____ (date) now resentences the defendant

___ and the court having placed the defendant on probation/community control and having subsequently revoked the defendant's probation/community control.

It Is The Sentence Of The Court That:

___ The defendant pay a fine of $ _____, pursuant to section 775.083, Florida Statutes plus $ _____ as the 5% surcharge required by 960.25, Florida Statutes.

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___ The defendant is hereby committed to the custody of the Sheriff of Duval County, Florida.

___ The defendant is sentenced as a youthful offender in accordance with section 958.04, Florida Statutes.

To be Imprisoned (Check one; unmarked sections are inapplicable):

___ For a term of natural life.

X For a term of Death.

___ Said SENTENCE SUSPENDED for a period of _____ subject to conditions set forth in this order.

If "split" sentence, complete the appropriate paragraph.

___ Followed by a period of _____ on probation/community control under the supervision of the Department of Corrections according to the terms and conditions of supervision set forth in a separate order entered herein.

___ However, after serving a period of _____ imprisionment in _____, the balance of the sentence shall be suspended and the defendant shall be placed on probation/community control for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation/community control set forth in a separate order entered herein.

In the event the defendant is ordered to serve additional split sentences, all incarceration portions shall be satisfied before the defendant begins service of the supervision terms.

OTHER PROVISIONS

Retention of Jurisdiction ___ The court retains jurisdiction over the defendant pursuant to section 947.16(3), Florida Statutes (1983).

Jail Credit ___ It is further ordered that the defendant shall be allowed a total of _____ days as credit for time incarcerated before imposition of this sentence.

Prison Credit ___ It is further ordered that the defendant be allowed credit for all time previously served on this count in the Department of Corrections prior to resentencing.

Consecutive/ [redacted] As To Other Counts X It is further ordered that the sentence imposed for this count shall run (check one) X consecutive to ___ concurrent with the sentence set forth in count 1 of this case.

Defendant MICHAEL BERNARD BELL Case Number 94- 9776-CF-A

OTHER PROVISIONS

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Consecutive/ Concurrent As To Other Convictions

____ It is further ordered that the composite term of all sentences imposed for the counts specified in this order shall run
(check one) ____ consecutive to ____ concurrent
with the following:
(check one)

_____ any active sentence being served.

_____ specific sentences: _____

In the event the above sentence is to the Department of Corrections, the Sheriff of Duval County, Florida, is hereby ordered and directed to deliver the defendant to the Department of Corrections at the facility designated by the department together with a copy of this judgment and sentence and any other documents specified by Florida Statute.

The defendant in open court was advised of the right to appeal from this sentence by filing notice of appeal within 30 days from this date with the clerk of this court and the defendant's right to the assistance of counsel in taking the appeal at the expense of the State on showing of indigency.

In imposing the above sentence, the court further recommends _____

DONE AND ORDERED in open court at Jacksonville, Duval County, Florida, this 2nd day of June, 19 95.

R. Hudson Dell

Judge

Form CCFM0E

STATE OF FLORIDA

v.

MICHAEL BERNARD BELL

THIS INSTRUMENT IN COMPUTER

R. R.

IN THE CIRCUIT COURT, IN AND FOR DUVAL COUNTY, FLORIDA

DIVISION CR-F
CASE NO. 94-9776CF

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SENTENCE
For Two First Degree Murders

On 3-9-95 a twelve-person racially-mixed jury found the defendant, Michael Bernard Bell, 24, guilty of the crimes of:

FILED
JUN 02 1995
Henry W. Cook
CLERK CIRCUIT COURT

First Degree Murder of 18-year-old Tamecka Smith.

First Degree Murder of 23-year-old Jimmy West.

PRESENTENCE INVESTIGATION REPORT

A Presentence Investigation report (hereafter referred to as the PSI) was provided to the defense, the state, and the Court.

JURY RECOMMENDED DEATH

On 3-17-95 an advisory sentence proceeding was held and that same jury unanimously (12-0) on each count recommended Defendant be sentenced to death for each murder.

SENTENCE HEARING

On 5-5-95, 5-10-95, and 5-11-95 sentence hearings were held and the case was passed until today for sentence.

COMMENT OF COURT

Practically every habitual criminal to come before me has been given one of more early prison releases by the Florida Parole Commission/Department of Corrections and thereafter committed more crimes on defenseless law-abiding citizens of Florida. For years I have pointed out this fact in all of my written sentences - yet early prison releases of criminals continue apace. (vox clamantis in deserto)

The Florida Parole Commission gave Bell his 3rd early prison release despite the fact that he had two prior early releases and had committed more crimes after each release and despite the fact that he was serving a sentence for the violent crime of ARMED ROBBERY WITH A FIREARM. (See summary of criminal record infra.)

Seven months after that early release the defendant committed this savage double murder of an innocent unarmed 23-year-old man and a teenaged girl. .

These two murders can be laid at the doorstep of the Florida Parole Commission for the irresponsible early prison release of this violent habitual criminal who should have been in prison at the time the murders were committed.

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CRIMINAL RECORD

The defendant's criminal record now shows that he has been:

ARRESTED 31 TIMES
CHARGED WITH 47 SEPARATE CRIMES
CONVICTED OF 7 MISDEMEANORS
CONVICTED OF 6 FELONIES (Additionally he has 4 felony convictions in juvenile court)

(He violated felony probation/community control.)
(He served 7 jail sentences.)
(He served 5 prison sentences.)

THREE EARLY PRISON RELEASES

On 11-12-87 the Florida Parole Commission/Department of Corrections gave the defendant an early release after he had served only 4 months' imprisonment on an 18-month sentence for grand theft.

On 7-21-88 the Florida Parole Commission/Department of Corrections gave the defendant an early release after he had served only 3 months' imprisonment on a 13-month sentence for possession of cocaine.

On 5-27-93 the Florida Parole Commission gave the defendant an early release after he had served only 3 years' imprisonment on a 6½-year sentence for ARMED ROBBERY WITH A FIREARM and possession with intent to sell cocaine. Seven months later, while on early release supervision, he committed these two first degree murders.

ANOTHER FIRST DEGREE MURDER PENDING

The defendant is awaiting trial on another first degree murder which was committed 83 days after his early prison release.

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FACTS OF CRIMES

The facts of these two murders as set forth in the PSI and as brought out at trial by the prosecutor, GEORGE BATEH, were that:

On 6-19-93 Theodore Wright killed Lamar Bell in a shoot-out which police and the state attorney investigated and determined was justifiable homicide since Wright killed Lamar Bell in self defense.

The defendant, Michael Bell, swore to get revenge on Wright for killing his brother, Lamar Bell. He ignored the advice of his aunt to forget revenge and let the law take its course - and said, "Wright belongs in the morgue".

Over the five months following his brother's death, Bell repeatedly told friends and relatives that he was going to kill Wright. In response to the urging of a female friend to forget revenge because some innocent people might get killed - Bell said, "Sometimes the good have to suffer with the bad".

On 12-8-93 the defendant, through a girlfriend, purchased an AK-type assault rifle, a 30-round magazine, and 160 bullets. The next night Bell spotted Theodore Wright's yellow Plymouth Fury in the vicinity of Moncrief Road. Bell left and shortly returned to the Moncrief area with two friends and his AK-47 loaded with 30 bullets. After a short search he saw the yellow Plymouth Fury in the parking lot of Moncrief Liquors Lounge at 5757 Moncrief Road. (Bell did not know that Theodore Wright had sold the car to his half-brother, Jimmy West, and that West had parked it and gone into the lounge.)

Bell was familiar with the lounge and knew a guard searched all patrons for weapons before they were allowed to enter and he knew that West would be unarmed when he came out of the lounge. While waiting for West, Bell made a ski mask by burning eyeholes in a knit cap. The two friends tried, unsuccessfully, to talk Bell out of doing murder but he was unmoved by their pleas.

At 10:45 p.m., Jimmy West, 23, left the lounge with Tamecka Smith, 18, and another female whom he agreed to drive to Tamecka's mother's house. Bell recognized West as Wright's half-brother and put on his ski mask, grabbed the loaded AK-47, and approached the yellow Plymouth as West got in the driver's seat and Tamecka into the passenger side. The other female did not have time to get in before Bell approached the open door on the driver's side and at point-blank range fired 12 bullets into West and 4 into Tamecka. The other female narrowly missed being shot by ducking down by the front of the car.

West was shot through the brain, chest, lungs, abdomen, arms, and legs. Tamecka was shot through her lower abdomen and lower torso. The powerful bullets tore their flesh and shattered the bones of the hapless victims. West died instantly and Tamecka a short while later in the hospital. (Photos showing the many wounds on the victims' bodies were introduced at trial. Copies thereof are attached and made a part hereof on pages 5 and 6.)

After slaughtering West and Smith, Bell fired at a man in front of West's car and at several other people in the parking lot who saved themselves by running and hiding behind parked cars. Then Bell riddled the front of the lounge where 10-12 people who were waiting to go inside fell to the ground or ran behind cars to avoid the spray of bullets.

Leaving the scene of carnage, Bell drove to his aunt's house and gleefully bragged, "Theodore got my brother and now I got his brother".

The evidence of guilt was overwhelming and the jury found Defendant guilty of first degree murder on both counts.

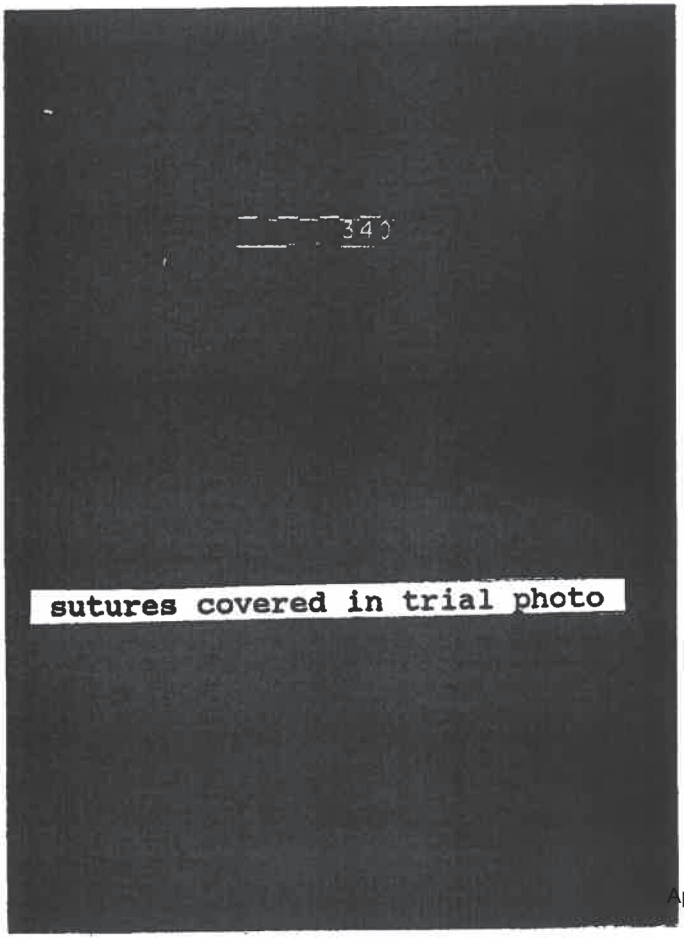
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INDICTMENT

The defendant was charged by indictment with two first degree murders, as follows:

The Grand Jurors of the State of Florida and County of Duval, empaneled and sworn to inquire and true presentment make in and for the body of the County of Duval, upon their oaths, do present and charge that MICHAEL BERNARD BELL, on the 9th day of December, 1993, in the County of Duval and the State of Florida, did unlawfully and from a premeditated design to effect the death of Jimmy West, did then and there kill the said Jimmy West, a human being, by shooting the said Jimmy West, and during the commission of the aforementioned Murder in the First Degree the said MICHAEL BERNARD BELL carried or had in his possession a firearm, contrary to the provisions of Section 782.04(1)(a), Florida Statutes.

SECOND COUNT

The Grand Jurors of the State of Florida and County of Duval, empaneled and sworn to inquire and true presentment make in and for the body of the County of Duval, upon their oaths, do present and charge that MICHAEL BERNARD BELL on the 9th day of December, 1993, in the County of Duval and the State of Florida, did unlawfully and from a premeditated design to effect the death of Tamecka Smith, did then and there kill the said Tamecka Smith, a human being, by shooting the said Tamecka Smith, and during the commission of the aforementioned Murder in the First Degree the said MICHAEL BERNARD BELL carried or had in his possession a firearm, contrary to the provisions of Section 782.04(1)(a), Florida Statutes.

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ALL EVIDENCE AND TESTIMONY CONSIDERED BY COURT

Before imposing sentence, this Court has considered all the evidence and testimony at trial and at the advisory sentence proceeding and the sentence hearing, the PSI, the applicable Florida Statutes, case law, and all other documents and factors touching upon this case.

On the following pages is a summary, analysis, and evaluation of each of the statutory aggravating and mitigating circumstances presented.

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SUMMARY OF
STATUTORY AGGRAVATING CIRCUMSTANCES
(921.141(5)

1. THAT THE DEFENDANT HAD BEEN PREVIOUSLY CONVICTED OF ANOTHER CAPITAL OFFENSE OR OF A FELONY INVOLVING THE USE OR THREAT OF VIOLENCE TO SOME PERSON.

FACT:

On 3-9-95 the defendant was convicted of the first degree murders of Tamecka Smith and Jimmy West.

The first degree murder conviction of Jimmy West is considered to be another conviction of a capital offense when considering the first degree murder of Tamecka Smith.

The first degree murder conviction of Tamecka Smith is considered to be another conviction of a capital offense when considering the first degree murder of Jimmy West.

On 1-11-90 the defendant was convicted of armed robbery with a firearm.

CONCLUSION:

The first degree murder conviction of one victim is a prior conviction of another capital offense as to the other murder victim. This is an aggravating circumstance.

The prior conviction for armed robbery with the use of a firearm is considered as a conviction of a felony involving the use or threat of violence to another person. This is an aggravating circumstance.

2. THE DEFENDANT, IN COMMITTING THE CRIME FOR WHICH HE IS TO BE SENTENCED, KNOWINGLY CREATED A GREAT RISK OF DEATH TO MANY PERSONS.

FACT:

After the defendant shot and killed Tamecka Smith and Jimmy West in the parking lot of a liquor lounge - he fired shots at a man in front of West's car and at several people in the lot who ducked behind cars to avoid bullets. He then fired his 30-clip AK-47 at the front area of the lounge where the 10-12 people waiting to go inside had to fall to

the ground or scramble behind cars to avoid the spray of bullets.

CONCLUSION:

In addition to the two people he murdered, the defendant knowingly created a great risk of death to many (those in the parking lot and those in front of the lounge) persons. This is an aggravating circumstance.

3. THE CRIME FOR WHICH THE DEFENDANT IS TO BE SENTENCED WAS COMMITTED IN A COLD, CALCULATED AND PREMEDITATED MANNER WITHOUT ANY PRETENSE OF MORAL OR LEGAL JUSTIFICATION.

FACT:

Over a 5-month period following the death of his brother and up until the night he committed these murders, the defendant repeatedly told friends and relatives that he was going to kill Theodore Wright. His aunt and friends all tried to talk him out of doing murder but he turned a deaf ear to their repeated pleas.

The day before the murder the defendant, through the help of a girlfriend, bought an AK-47 assault rifle with a 30-round magazine and 160 bullets. In making this purchase of a rapid fire assault rifle rather than a pistol, the defendant premeditatedly calculated a slaughter of Jimmy West and anyone else who might be in the path of bullets.

HEIGHTENED PREMEDITATION

In Rogers v. State, 511 So.2d 526 (1987) the Florida Supreme Court enunciated the requirement of "heightened premeditation" as applied to crimes committed in a cold, calculated and premeditated manner. In Jackson v. State, (April 1994), the Florida Supreme Court said that the words cold, calculated and premeditated "encompass something more than premeditated first degree murder".

F.S. 782.04(1)(a) and JURY INSTRUCTION

First degree murder is set forth in Florida Statute 782.04(1)(a). Page 63 of the Florida Standard Jury Instructions in Criminal Cases defines premeditation as it applies to premeditated first degree murder as follows:

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"Killing with premeditation" is killing after consciously deciding to do so. The decision must be present in the mind at the time of the killing. The law does not fix the exact period of time that must pass between the formation of the premeditated intent to kill and the killing. The period of time must be long enough to allow reflection by the defendant. The premeditated intent to kill must be formed before the killing.

The question of premeditation is a question of fact to be determined by you from the evidence. It will be sufficient proof of premeditation if the circumstances of the killing and the conduct of the accused convince you beyond a reasonable doubt of the existence of premeditation at the time of the killing.

FACT:

On the night of the murder the defendant spotted the victim's car - then left the area, got his AK-47 and two friends, and went to the lounge parking lot to wait for his victim to leave the lounge and walk to his car. While waiting, he improvised a ski mask to hide his face. He talked to his two friends who pleaded with him not to go through with the murder, but he rejected their entreaties and restated his determination to murder.

FACT:

At an earlier time he had dismissed a girlfriend's admonition that an innocent person might be killed if he persisted with this plan to murder Theodore Wright - by saying, "Sometimes the good have to suffer with the bad". It was in this frame of mind that he watched Jimmy West and Tamecka Smith leave the lounge and get in West's car.

As he approached and fired his AK-47, he knew that it would not only kill West but also probably kill Tamecka Smith and others in close proximity. This premeditated mindset to kill West and an innocent bystander, if necessary, existed months before the murders.

These murders were cold and calculated and with heightened premeditation.

CONCLUSION:

This is an aggravating circumstance.

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SUMMARY OF STATUTORY MITIGATING CIRCUMSTANCES (F.S. 921.161(6)

1. THE CRIME FOR WHICH THE DEFENDANT IS TO BE SENTENCED WAS COMMITTED WHILE HE WAS UNDER THE INFLUENCE OF EXTREME MENTAL OR EMOTIONAL DISTURBANCE.

FACT:

Prior to trial the defendant was examined by a psychiatrist and a psychologist who reported that Defendant had an adjustment disorder with depressed and anxious mood. They found he was not insane at the time of the murders. They did not find that he had been under the influence of extreme mental or emotional disturbance at the time of the crime, nor was any evidence presented at trial or subsequent proceedings that he was under the influence of such emotions.

FACT:

The defendant's brother had been killed some 5½ months before Defendant committed these two murders and Defendant had sworn to kill the person who shot his brother. In the interim the defendant had lived a normal (for him) life.

Had Defendant violently acted out at the time of, or shortly after, his brother's death, then it might have indicated he was under the influence of extreme mental or emotional disturbance. However, these murders were committed 5½ months after his brother's death and were more from an attitude of hatred and revenge than extreme mental or emotional disturbance.

CONCLUSION:

This is a marginal mitigating circumstance.

2. THE AGE OF THE DEFENDANT AT THE TIME OF THE CRIME.

FACT:

The defendant is now 24 and was 22 at the time he committed these murders. He is 5'10" tall and weighs 200 pounds. He had served 3 adult prison sentences.

The defendant never married but has sired 2 to 4 illegitimate children. Physically, mentally, and emotionally, the defendant was in all respects a grown mature man at the time of the murders.

CONCLUSION:

This is not a mitigating circumstance.

3. ANY OTHER ASPECT OF THE DEFENDANT'S CHARACTER OR RECORD AND ANY OTHER CIRCUMSTANCES OF THE OFFENSE.

FACT:

There was no evidence presented at trial, in the advisory sentence proceeding, or at sentence hearing to show that Defendant was physically or mentally ill or impaired at the time of the murders.

Evidence was that he was angry at the loss of his brother - but there was no evidence of all-consuming grief which affected his emotional or mental stability. In fact, he carried on his normal lifestyle until he committed the murders.

Nor was there any evidence that from childhood through teenage he suffered any physical or emotional abuse or that he was subject to home, familial, social, cultural or material privation.

CONCLUSION:

This is not a mitigating circumstance.

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JURY UNANIMOUSLY RECOMMENDED DEATH ON BOTH COUNTS OF FIRST DEGREE MURDER

The jury, having heard all the facts of these murders at trial and having considered the defendant's background and other evidence brought forth at the advisory sentence proceeding, recommended by a vote of 12 to 0 on both counts that the defendant be sentenced to death. The law requires that the judge give the jury's recommendations great weight - and this I have done.

WEIGHING STATUTORY AGGRAVATING AND MITIGATING CIRCUMSTANCES

There are three aggravating circumstances and one marginal mitigating circumstance. The Court cannot and does not decide the greater number prevails but must weigh each individually - and this I have done.

AGGRAVATING OUTWEIGH MITIGATING CIRCUMSTANCES

The Court finds that the three aggravating circumstances in the aggregate outweigh the one mitigating circumstance and that each aggravating circumstance itself and apart from the other aggravating circumstances outweigh the mitigating circumstance.

OBSERVATION BY THE COURT

During my twenty-five years on the felony bench and many first degree murder trials, this is the first time I have had a unanimous advisory sentence of death. The number of votes for death is not persuasive but it is indicative of the overwhelming evidence of guilt and aggravation and the absence of significant mitigation.

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SENTENCE

The jury by a unanimous vote (12-0) has recommended that you be sentenced to death on both counts of FIRST DEGREE MURDER. The Court has determined, after close examination and study of all the facts and circumstances, that death is the appropriate sentence on both counts.

You, MICHAEL BERNARD BELL, having been found guilty by jury of the crimes of Murder in the First Degree of Jimmy West in the first count and Murder in the First Degree of Tamecka Smith in he second count, I hereby adjudge you to be guilty on each crime and sentence you as follows:

1. FIRST COUNT of MURDER IN THE FIRST DEGREE OF JIMMY WEST - I sentence you to death. I order that you be taken by the proper authorities to the Florida State Prison and kept in close confinement until the date of your execution be set. That on such date you be put to death by electrical currents passed through your body in such amounts and frequency until you are dead.

2. SECOND COUNT of MURDER IN THE FIRST DEGREE OF TAMECKA SMITH - I sentence you to death. I order that you be taken by the proper authorities to the Florida State Prison and kept in close confinement until the date of your execution be set. That on such date you be put to death by electrical currents passed through your body in such amounts and frequency until you are dead.

3. The sentences shall be consecutive.

4. Defendant shall pay $200 felony court cost, plus $50 to the Crime Compensation Fund, plus $3 to the Criminal Justice Trust Fund.

5. Restitution to the families of the victims is set forth in a separate court order.

21 7 22

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I advise you that you have thirty days from this date in which to take an appeal. Should you fail to take an appeal within thirty days, then you waive, forfeit, and give up the right to appeal.

I hereby appoint the Office of the Public Defender to represent the defendant on such appeal.

May God have mercy upon your soul.

DONE AND ORDERED at Jacksonville, Florida, on June 2, 1995.

R. Hudson Olliff

R. HUDSON OLLIFF, CIRCUIT JUDGE

DOC# 95187173

STATE OF FLORIDA
DUVAL COUNTY

I, UNDERSIGNED Clerk of the Circuit & County Courts, Duval County, Florida, DO HEREBY CERTIFY the within and foregoing, consisting of 22 pages, is a true and correct copy of the original as it appears on record and file in the office of the Clerk of Circuit & County Courts of Duval County, Florida.

WITNESS my hand and seal of Clerk of Circuit & County Courts at Jacksonville, Florida, this the 22 day of NOV A.D., 20 19.

RONNIE FUSSELL
Clerk, Circuit and County Courts
Duval County, Florida
By K Shuler
Deputy Clerk

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

STATE OF FLORIDA,
Plaintiff,

vs.

MICHAEL BERNARD BELL,
Defendant.

_____/

Case No.: 1994-CF-9776

Emergency Capital Case Death Warrant Signed Execution Scheduled for July 15, 2025 at 6:00pm

MOTION FOR POSTCONVICTION RELIEF AFTER DEATH WARRANT SIGNED

Defendant, Michael Bernard Bell, pursuant to Rule 3.851 and the United States and Florida Constitutions, moves to vacate and set aside his judgment and sentence of death.

(A) JUDGMENTS AND SENTENCES UNDER ATTACK

The Defendant, Michael Bell, was convicted of first-degree murder and was sentenced to death after a unanimous jury recommendation. *Bell v. State*, 699 So. 2d 674, 676 (Fla. 1997). The Florida Supreme Court affirmed the convictions and sentences. *Id.* at 679. The judgment and sentence became final upon denial of certiorari by the United States Supreme Court on February 23, 1998. *Bell v. Florida*, 522 U.S. 1123 (1998). [*See Mandatory Attachment*]

(B) ISSUES RAISED ON DIRECT APPEAL

On direct appeal, Bell raised the following claims: (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 as an aggravating circumstance that the murders were committed in a cold, calculated, and premeditated (CCP) manner; (3) the trial court erred in instructing the jury on the CCP aggravating circumstance; and (4) the trial court erred in failing to properly consider and find mitigating circumstances. *Bell v. State*, 699 So. 2d 674, 676 (Fla. 1997).

(C) POSTCONVICTION PROCEEDINGS

In 1998, Bell filed a pro se petition for federal habeas relief, prompting the District Court to appoint counsel, but that petition was ultimately dismissed the petition as untimely. *Bell v. Fla. Atty Gen.*, 461 F. App'x 843, 845-46 (11th Cir. 2012).

Also in 1998, Bell filed a pro se motion to vacate his sentence which the trial court denied. *Id.* Once appointed, state post-conviction counsel filed a motion for post-conviction relief on June 1, 1999. One of Bell's claims was that trial counsel was ineffective because of inappropriate remarks and arguments he made during the closing argument. The trial court denied the motion, and the Florida Supreme Court affirmed. *Bell v. State*, 965 So. 2d 48, 54 (Fla. 2007).

In 2007, Bell filed another pro se petition for federal habeas relief. *Bell v. Fla. Atty Gen.*, No. 3:07-cv-00860-ODE (M.D. Fla. Sept. 10, 2007), ECF No. 1. The State filed a summary judgment motion contending that the petition was untimely, *id.* at ECF No. 13, which the District Court granted in 2009. Bell filed a pro se notice of appeal on the grant of the summary judgment motion, *Bell v. Fla. Atty Gen.*, No. 3:07-cv-00860 ODE, ECF No. 80, and the Eleventh Circuit granted the certificate of appealability but affirmed the District Court. *Id.*

In 2017, Bell filed a successive motion based on *Hurst v. Florida*, 136 S. Ct. 616 (2016), and *Hurst v. State*, 202 So. 3d 40 (Fla. 2016). The circuit court denied the motion and the Florida Supreme Court denied the appeal. *Bell v. State*, 235 So. 3d 287 (Fla. 2018), *cert. denied* SC17-1045.

In 2018, Bell filed a successive motion asserting he was denied effective assistance of counsel under the Sixth Amendment when trial counsel violated his Fourteenth Amendments rights by advancing a theme of racial bias and prejudice to the jury and citing as support a recent Supreme Court of the United States case *Buck v. Davis*, 137 S.Ct. 759 (2017), which held that the injection of race into a trial by one's own lawyer is unconstitutional and likely more prejudicial than when done by the State. The circuit court denied the motion, and the Florida Supreme Court affirmed holding that (1) the motion was untimely because *Buck* did not establish a

new right; and (2) because the Court previously addressed the arguments at issue and held that they did not warrant relief the motion was procedurally barred. *Bell v. State*, 284 So. 3d 400 (Fla. 2019), *cert. denied* SC18-1713.

On June 13, 2025, Governor Ron DeSantis signed a death warrant for Bell. His execution is scheduled for July 15, 2025.

(D) NATURE OF RELIEF SOUGHT

1. Mr. Bell requests that he be granted leave to amend as necessary.
2. Mr. Bell requests an evidentiary hearing as to Claim 1.
3. Mr. Bell requests that this Court vacate his conviction and death sentence.
4. Any other relief that this Court may find appropriate.

(E) CLAIMS FOR WHICH AN EVIDENTIARY HEARING IS SOUGHT:

CLAIM ONE: PROSECUTORS FAILED TO DISCLOSE EVIDENCE TO BELL IN VIOLATION OF *BRADY V. MARYLAND* AND *GIGLIO V. UNITED STATES* DEPRIVING HIM OF DUE PROCESS AND A FAIR TRIAL

A. *Brady / Giglio* violations

The State violated Mr. Bell's Due Process rights under *Brady* and *Giglio* by withholding exculpatory evidence, presenting false testimony, and withholding impeachment material at Mr. Bell's original trial. The Supreme Court of the United States has held that both the withholding of exculpatory evidence from a criminal defendant by a prosecutor and the knowing use of false testimony violate the Due Process Clause of the Fourteenth Amendment. *See Brady v. Maryland*, 373 U.S. 83,

86 (1963) and *Giglio v. United States*, 405 U.S. 150, 153-55 (1972). Such evidence is material "if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." *Kyles v. Whitley*, 514 U.S. 419, 433-34 (1995).

"There are three components of a true *Brady* violation: The evidence at issue must be favorable to the accused, either because it is exculpatory, or because it is impeaching; that evidence must have been suppressed by the State, either willfully or inadvertently; and prejudice must have ensued." *Strickler v. Greene*, 527 U.S. 263, 281–82 (1999).

B. Newly discovered evidence

Under Florida and federal law, there are two requirements needed for relief based on newly discovered evidence. First, the asserted facts must have been unknown by the trial court, by the party, or by counsel at the time of the trial, and it must appear that defendant or his counsel could not have known them by the use of diligence. *See Jones v. State*, 709 So. 2d 512 (Fla. 1998). Second, the newly discovered evidence must be of such nature that it would probably produce an acquittal on retrial. *See id.* Newly discovered evidence satisfies the second prong if it "weakens the case against [the defendant] so as to give rise to a reasonable doubt as to his culpability." *Jones v. State*, 678 So. 2d 309, 315 (Fla. 1996). When

addressing this claim, this Court "must evaluate all the admissible newly discovered evidence at this hearing in conjunction with newly discovered evidence at the prior evidentiary hearing and then compare it with the evidence that was introduced at trial." *Kyles v. Whitley*, 514 U.S. 419, 441 (1994).

The *Jones* standard is also applicable where the issue is whether a life or death sentence should have been imposed. *Scott v. Dugger*, 604 So. 2d 465, 468 (Fla. 1992); *see also Jones v. State*, 591 So. 2d 911, 914-15 (Fla. 1991); *Robinson v. State*, 707 So. 2d 688, 691 n.4 (Fla. 1998); Fla. R. Crim. P. 3.851(d)(2)(A). If the defendant is seeking to vacate a sentence, the second prong requires that the newly discovered evidence would probably yield a less severe sentence. *See Jones v. State*, 591 So. 2d 911, 915 (Fla. 1991).

C. Newly discovered evidence regarding eyewitness Henry Edwards establishes *Brady* and *Giglio* violations

Henry Edwards disclosed on June 16, 2025, that he did not see the murders, he only heard them because he was inside the store when the shootings occurred. He also said that Detective William Bolena was aware Edwards did not see the shooting and told Edwards what to testify to in exchange for favors, specifically furloughs from jail during his period of incarceration around the time of the murders. Edwards also stated that Detective Bolena pointed out Bell to Edwards in the photo line up and that Bolena put him in a holding cell with an eyewitness so that Edwards could

corroborate his "eyewitness" testimony with hers. Edwards also said that he felt threatened by Bolena [*See Claim 1, Attachment A*].

This is materially different than Edwards' prior testimony at Bell's trial where he testified that there was no agreement between him and the State [Trial Transcript R305]; he had no problem identifying Bell [Trial Transcript R306]; he was standing outside at the corner of the building when he saw Bell put on a ski mask then walk up to a yellow car and started shooting into the driver's side [Trial Transcript R308-10]; that he had charges against him dropped because he was "innocent" the same day he spoke to Bolena about this case [Trial Transcript R313-14]; that he got nothing in exchange for his testimony [Trial Transcript R315]; and that he had no doubt Bell was the triggerman [Trial Transcript R315] [*See Claim 1, Attachment B*].

This newly discovered evidence was not known to trial counsel at the time of trial and Bell and his counsel could not have known this information by the use of diligence. Defense counsel has no "procedural obligation to assert constitutional error on the basis of mere suspicion that some prosecutorial misstep may have occurred." *Banks v. Dretke*, 540 U.S. 668, 695–96 (2004), citing *Strickler v. Greene*, 527 U.S. 263, 286-87 (1999).

And although Detective Bolena is now associated with very similar tactics in other murder cases from the same year and neighborhood of the murders in this case,

those revelations did not become became public knowledge until years after the fact. See Nichole Manna, *Investigation reveals dubious testimony, no evidence in 1993 case of Jacksonville man sentenced to death: The Tributary*, The Tributary (March 18, 2025), https://www.news4jax.com/news/local/2025/03/18/investigation-reveals-dubious-testimony-no-evidence-in-1993-case-of-jacksonville-man-sentenced-to-death-the-tributary/. [*See Claim 1, Attachment C*]

This newly discovered evidence is favorable to the accused because it weakens the State's eyewitness evidence, and because misconduct and a quid pro quo arrangement between an eyewitness and police would have cast doubt on the rest of the police investigation and by association the State's case; this evidence was suppressed by the police; and Mr. Bell was prejudiced not just in the guilt phase but especially in the penalty phase because there is a reasonable probability that Edwards' account of how the murder occurred impacted the death verdict.

The State presented false testimony and withheld exculpatory *Brady* and *Giglio* impeachment evidence concerning what Edwards witnessed, and Detective Bolena's conduct in his investigation.

Henry Edwards, 1736 W. 29th Street, Jacksonville, Florida 32209, (904) 805-6917, is available to testify under oath to the facts alleged in the motion and affidavit.

D. Newly discovered evidence regarding Charles Jones establishes *Brady* and *Giglio* violations

Charles Jones disclosed on June 18, 2025, that he was approached by Detective Bolena in 1994 when he was in jail, that he knew Detective Bolena because he was in a relationship with Jones' sister, Bolena coerced him to testify against Bell by offering to help him with his charges, Detective Bolena and prosecutor George Bateh told him what to say at trial. Jones said that Bell never tried to sell him a gun and he never confessed to Jones about having shot anyone. Jones also disclosed that in 2002, while he was being detained for federal charges, he was brought back to Duval County jail to testify against Bell in a postconviction hearing. Bateh threatened him with more time if he were to change his testimony and tell the truth. He met with both Bolena and Bateh before pleading in his federal case and they both promised him they would get him a downward departure if he maintained his testimony against Bell. [*See Claim 1, Attachment D*].

This is materially different than Jones' prior testimony at Bell's trial where he testified that he had no agreement with the State for any benefit in exchange for his testimony [Trial Transcript R485-86]; he talked to Bolena about Bell but not in exchange for any favors [Trial Transcript R490]; he saw Bell trying to sell an assault weapon in December 1993 [Trial Transcript R487-88]; and that he heard Bell admit to killing Jimmy West and Tamecka Smith in January 1994 [Trial Transcript R488]; [*See Claim 1, Attachment E*].

This newly discovered evidence was not known to trial counsel at the time of trial and Bell and his counsel could not have known this information by the use of diligence. This newly discovered evidence is favorable to the accused because it weakens the State's evidence, and because misconduct and a quid pro quo arrangement between a witness – who testified about Bell's confession to the murders and Bell's possession of a gun around the time of the murders – and police would have cast doubt on the rest of the police investigation and by association the State's case; this evidence was suppressed by the police; and Mr. Bell was prejudiced not just in the guilt phase but especially in the penalty phase because there is a reasonable probability that Edwards' account of how the murder occurred impacted the death verdict.

The State presented false testimony and withheld exculpatory *Brady* and *Giglio* impeachment evidence concerning what Jones knew about Bell and the case, as well as the conduct of both George Bateh and Detective Bolena.

Charles Jones, DOC #114875, Hamilton Annex, 10650 S.W. 46th Street Jasper, Florida 32052, is available to testify under oath to the facts alleged in the motion and affidavit.

(F) OTHER GROUNDS FOR POSTCONVICTION RELIEF

CLAIM TWO: BELL'S CAPITAL TRIAL WAS IRREDEEMABLY TAINTED WITH RACIAL BIAS BY BOTH THE PROSECUTION AND

HIS OWN DEFENSE ATTORNEY

Mr. Bell is an African American male, During Mr. Bell's trial the prosecutor improperly injected racial bias and prejudice. To make this situation even worse, Mr. Bell's trial attorney joined in the prosecutor's improper injection of racial bias and prejudice into the trial.

The prosector and trial attorney's improper injection of racial bias and prejudice into the trial is ethically and morally wrong. More importantly, it is legally wrong and violated Mr. Bell's right to a fair trial, a fair and impartial jury, effective assistance of counsel, freedom from cruel and unusual punishment, due process, equal protection and other rights as guaranteed by the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution and the corresponding provisions of the Florida Constitution.

With respect to the prosecutor's argument, the jurors would have listened to and considered in reaching their verdict a number of racially biased and prejudiced arguments. The prosecutor in his argument said several times in the guilt phase that Mr. Bell "... lived by... the law of the jungle as opposed to civilized law" (Trial Transcript, R247, 584, 591-592) [Trial Transcript 584, 591-92] [*See Claim 2, Attachment A*]. The prosecutor said several more times in the penalty phase closing that Mr. Bell "... chose to live by the law of the jungle, he hunted those people

down" (Trial Transcript, R682, 690-691, 695) [Trial Transcript 584, 591-92] [*See Claim 2, Attachment B*].

With respect to trial counsel's argument, the jurors would have listened to and considered in reaching their verdict a number of racially biased and prejudiced arguments. Trial counsel in the guilt phase closing argument said Mr. Bell's neighborhood was "no safer than a jungle" (Trial Transcript, R596), and characterized Mr. Bell as one of "(t)hose that live in a different world than ours" (Trial Transcript, R597) [Trial Transcript 584, 591-92] [*See Claim 2, Attachment C*]. Trial counsel in his penalty phase closing said that Mr. Bell came from a "completely different world" [Trial Transcript, R708] contrasting him with those of us who live "in a civilized society" [Trial Transcript, R706] [*See Claim 2, Attachment D*].

As for any argument that the use of the word "jungle" is racially ambiguous, research recognizes this language as racially biased towards African-Americans and while other epithets – like "monkey" or "ape" – would be indisputable, "[o]ther words associated with animals can have a similar effect, such as "jungle." " Mary Nicol Bowman, *Confronting Racist Prosecutorial Rhetoric at Trial*, 71 Case W. Res. L. Rev. 39, 61 (2020) [*See Claim 2, Attachment E*], citing Shana Heller, *Dehumanization and Implicit Bias: Why Courts Should Preclude References to Animal Imagery in Criminal Trials*, 51 No. 4 Crim. Law Bulletin ART 4 (2015) [*See Claim 2, Attachment F*]. *See*

also Phillip Atiba Goff, Jennifer L. Eberhardt, Melissa J. Williams, and Matthew Christian Jackson, *Not Yet Human: Implicit Knowledge, Historical Dehumanization, and Contemporary Consequences*, Journal of Personality and Social Psychology (2008) Vol. 94, No. 2, 292-293 [*See Claim 2, Attachment G*]; Praatika Prasad, *Implicit Racial Biases in Prosecutorial Summations: Proposing an Integrated Response*, 86 Fordham Law Review, Volume 86, Issue 6, Article 24 3091, 3105-06 (2018) [*See Claim 2, Attachment H*].

Jurors pay close attention to how attorneys for both sides conceptualize their theory of the case in opening and closing arguments, and in capital cases how both sides characterize the defendant himself. In this case, the jury listened to the prosecutor and defense attorney's racially tinged language and there is no reason to believe that such racially tinged language had no impact on the guilt phase deliberation or on the jury's decision to impose the death penalty.

Additionally, Mr. Bell was convicted and sentenced to death by a jury in Duval County. A study of Duval County capital cases involving more than 800 jurors found Black jurors were twice as likely to be removed as white jurors during death qualification. See Jacinta M. Gau, Ph.D., *Racialized Impacts of Death Disqualification in Duval County, Florida*, University of Central Florida, Department of Criminal Justice, available at: https://www.aclu.org/wp-

content/uploads/legal-documents/2021.09.07_Gau_Report.pdf. [*See Claim 2, Attachment I*] See also *Too Broken to Fix: Part I. An In-depth Look at America's Outlier Death Penalty Counties*, Harvard University Law School (August 2016) (identifying Duval County as being responsible for a disproportionate number of death sentences from 2010 to 2015, approximately 40% higher rate than the rest of Florida, and 87% of those death sentences were imposed against Black defendants) [*See Claim 2, Attachment J*]. So, research shows that Duval County has a history of systematically excluding Black jurors from death penalty cases and that Duval County is an exceptionally dangerous place for a black man to go on trial for his life.

Even more specific to Mr. Bell, his prosecutor George Bateh obtained death verdicts in fifteen cases over the course of his career at the State Attorney's Office in Duval County. At least one of those cases (Ronnie Ferrell) is currently being investigated by Bateh's former Office's Conviction Integrity Division due to "concerns" about Bateh's prosecutorial tactics and another case may soon be reviewed due to the same concerns (Kenneth Hartley). See Nichole Manna, *How a Florida prosecutor fixed a 'weak' case using a liar and 3 jailhouse snitches to send a man to Death Row*, The Tributary (April 24, 2025), https://jaxtrib.org/2025/03/17/how-a-florida-prosecutor-fixed-a-weak-case-using-a-

liar-and-3-jailhouse-snitches-to-send-a-man-to-death-row/. [*See Claim 2, Attachment K*]

Additionally, two of Bateh's death penalty cases have been remanded to life sentences by Florida's Supreme Court because of prosecutorial misconduct that the justices described as "egregious." *Urbin v. State*, 714 So. 2d 411, 420 (Fla. 1998). *See also Brooks v. State*, 762 So. 2d 879, 905 (Fla. 2000) (noting Bateh's "track record" of making these arguments in a "fashion calculated to forestall a mercy recommendation.").

Bell's jury was exposed to race-based misconduct committed by both sides, including a prosecutor who has a history of race-based misconduct, in a county where similarly situated jurors have decided capital cases based on the defendant's race. Racial bias is not a proper basis to convict someone and it is not a proper aggravating factor or a legitimate reason to impose a death sentence. Countenancing this sort of "us vs. them" argument inevitably renders Bell's death sentence capricious and unreliable. *See Turner v. Murray*, 476 U.S. 28, 35 (1986) ("The risk of racial prejudice infecting a capital sentencing proceeding is especially serious in light of the complete finality of the death sentence"). See also 18 U.S.C. § 3593(f) (enshrining special federal protections against discrimination by requiring every juror to certify that consideration of the race, color, religious beliefs, national origin,

or sex of the defendant or any victim was not involved in reaching his or her individual sentencing decision). Florida has no equivalent protection, but this Court has the power to enforce the Federal and Florida Constitutions' guarantee against state-sponsored racial discrimination in the jury system and safeguard Mr. Bell's fundamental protection of life and liberty against race or color prejudice.

In order to perfect this claim and make it ripe for review, interviews of the jurors are necessary. Therefore, this Court should permit juror interviews. Following the juror interviews this Court should grant a new trial.

CLAIM THREE: THE TIME LIMITS IMPOSED ON THIS WARRANT LITIGATION VIOLATES STATE AND FEDERAL DUE PROCESS

The right to due process entails "notice and opportunity for hearing appropriate to the nature of the case." *Cleveland Bd. of Ed. v. Loudermill*, 470 U.S. 532, 542 (1985). "[F]undamental fairness is the hallmark of the procedural protections afforded by the Due Process Clause." *Ford v. Wainwright*, 477 U.S. 399, 424 (1986) (Powell, J., concurring in part). *See also* the Due Process clause of the Fourteenth Amendment to the United States Constitution and the corresponding provisions of the Florida Constitution. The period set by the instant warrant is inadequate for meaningful review of the meritorious issues presented.

Further, the execution timeline is truncated despite Section 922.052(2)(b), Florida Statutes, providing for up to 180 days to execute a death warrant) that

defendants and counsel – no matter how diligent – are forced to submit the very sorts of last-minute pleadings that are discouraged by courts. Justice Pariente spoke to this dilemma in her concurrence in *Jimenez v. Bondi*, 259 So. 3d 722, 726-27 (Fla. 2018), after Governor Scott signed a warrant on July 18, 2018, scheduling Jimenez's execution for 27 days later, on August 14, 2018:

> Before an execution may proceed, this Court has the solemn obligation to carefully ensure that there are no constitutional bars to the execution and that the defendant's rights have been protected. [S]ome claims, such as those challenging the execution method, cannot be raised or evaluated until the signing of the death warrant. At the least, defendants must have adequate time to investigate and raise and courts must have adequate time to properly review these warrant-based claims. When the machinery of the State is used to execute someone, this Court must remain vigilant, even if claims arise at the last minute.

This Court should grant a stay and allow counsel for Mr. Bell a fair and meaningful opportunity to litigate his Rule 3.851 motion and to fully investigate and prepare an under-warrant Rule 3.851 motion.

CLAIM FOUR: MR. BELL HAS BEEN DENIED DUE PROCESS AND THE EFFECTIVE ASSISTANCE OF COUNSEL AT EVERY STAGE OF HIS CASE, AND HIS EXECUTION WOULD VIOLATE THE 8TH AND 14TH AMENDMENTS

Death is supposed to be different. *Woodson v. North Carolina*, 428 U.S. 280, 305, 96 S. Ct. 2978, 2991, 49 L. Ed. 2d 944 (1976) ("[T]he penalty of death is qualitatively different from a sentence of imprisonment, however long… Because of that qualitative difference, there is a corresponding difference in the need for

reliability in the determination that death is the appropriate punishment in a specific case."). In *Furman v. Georgia*, 408 U.S. 238 (1972), the United States Supreme Court determined that the death penalty as then constituted was cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments. Four years later in *Proffitt v. Florida*, 428 U.S. 242 (1976), the Supreme Court ruled that Florida's new death penalty statute cured the defects identified in *Furman*, and therefore was constitutional. Mr. Bell's case demonstrates that despite Florida's efforts, a constitutional death penalty prosecution still depends on the defendant receiving reasonable representation at at least one stage of the case. Unfortunately for Mr. Bell, he was failed at every stage, and his execution would violate the Eighth Amendment bar on cruel and unusual punishment and the Due Process clause of the Fourteenth Amendment.

Mr. Bell was represented by counsel at trial, but was not provided anything resembling effective assistance of counsel. The State began Mr. Bell's trial by hurling racists dog whistles at Mr. Bell, telling the jury that Mr. Bell was "An individual who lived by his own law, the law of the jungle." ROA at 247. Bell's lawyer, Richard Nichols, sat silently and made no objections. When it was his turn to speak, he waived his opening statement. He did not merely reserve his opening statement for his case in chief, he simply did not give one, and in fact, did not have

a case in chief either. For good measure, Nichols would join in on the racist dog whistles in his closing argument, telling the jury "There are neighborhoods in our community, some within a mile or two of this courthouse which are no safer than the jungle…[a]nd it seems to me that often jurors and certainly you are in a situation where you see senseless jungle like barbaric killing…" ROA at 595-606.

Death penalty cases can be difficult. Sometimes lawyers make the difficult decision to focus on the penalty phase rather than the guilt phase in an effort to save their client's life. But Nichols efforts in the penalty phase were even worse. Nichols did not give an opening statement in the penalty phase either. As for his penalty phase case, he presented one witness, Mr. Bell's mother Margo Bell. Her direct testimony and Nichols entire penalty phase presentation is just over five pages of transcript. ROA at pages 663-668. Ms. Bell's entire direct testimony was about how victim Jimmie West and his brother Theodore Wright had threatened her and Mr. Bell. Nichols did not ask Ms. Bell a single question about her son.

In his sentencing order, the trial judge found: "There was no evidence presented at trial, in the advisory sentence proceeding, or at sentence hearing to show that Defendant was physically or mentally ill or impaired at the time of the murders…Nor was there any evidence that from childhood through teenage he suffered any physical or emotional abuse or that he was subject to home, familial,

social, cultural or material privation." ROA at 112. The lone mitigating circumstance that the trial court found was that Mr. Bell's brother had been killed 5 ½ months before the murders, which the trial court found marginally mitigating. ROA at 111. Nichols cannot even take credit for establishing that lone mitigating, as it was the state's witnesses that established that Mr. Bell's brother had been killed. ROA 396-398.

Death is supposed to be different. Mr. Nichols performance at Mr. Bell's trial was an embarrassment. He had absolutely no strategy for the guilt phase or the penalty phase. On two separate occasions before trial Mr. Bell advised the trial court that he was not satisfied with Nichols' representation and wanted substitute counsel. The trial court denied both motions after hearings because the trial judge believed Nichols "tried many, many cases and met a great deal of success in some of the cases and had a great deal of experience." *Bell v. State*, 699 So. 2d 674, 676 (Fla. 1997). The trial court made no attempt to determine what if anything Nichols was doing to defend Mr. Bell, instead relying entirely on Nichols' past experience.

On direct appeal, the Florida Supreme Court had an opportunity to correct the injustice that was Mr. Bell's trial. Mr. Bell raised on appeal the trial court's denial of his two motions to have Nichols removed due to incompetence. *Id.* However, the Florida Supreme Court affirmed, finding no abuse of discretion in denying the

motions for substitute counsel. "[W]e find nothing in the record of either hearing to establish that appellant's counsel was incompetent." *Id.* at 676. This was a curious decision for a court that recognized that "Appellant presented no evidence during the guilt phase of the trial and only the testimony of his mother during the penalty phase…Based on the record and what was presented to the trial court, we find no error regarding the court's finding and weighing of mitigating circumstances." *Id.* at 679. While the Florida Supreme Court missed a perfect opportunity to remedy the travesty that was Mr. Nichols representation, surely the postconviction process would provide Mr. Bell an opportunity to right this wrong.

This case absolutely screamed out for claims of ineffective assistance of counsel, particularly with regard with Nichols' failure to investigate and present substantial mitigating evidence. It wasn't that Mr. Bell had not suffered "any physical or emotional abuse or that he was subject to home, familial, social, cultural or material privation[,]" it was simply that Nichols did not bother to investigate or present it. Mike was raised in a multigenerational abusive home. Mike's maternal grandfather, Noble Tribune, beat his wife and his children. The abuse continued, and in many ways got worse with Mr. Bell's parents. Mr. Bell's mother was a crack cocaine addict. She would beat Mr. Bell and his brother for no other reason than to toughen them up. Ms. Bell was herself viciously beaten by Mr. Bell's father,

Gregory Bell, Sr., who was a heroin addict and alcoholic who would violently beat Mr. Bell and his siblings. Gregory Bell, Jr., Mr. Bell's brother, recounts an episode where Gregory Bell, Sr. violently beat Mr. Bell's mother with a shotgun.

Early in life Mr. Bell exhibited developmental delays, but he was never evaluated by the proper professionals. Once he began failing in school, from the very beginning of his education, there was no intervention. Mr. Bell's aunt, Paula Goins, would observe young Mike sitting near a wall banging his head against the wall. She stated that he never got any professional help. The failure to intervene in Mike's developmental, educational, and behavioral issues as a young child led to early contacts with Florida's ineffective and chronically underfunded juvenile justice system. This culminated in his institutionalization at Florida's infamous Dozier School for Boys ("Dozier"). The litany of abuse at Dozier is well-documented.

While at Dozier, Mr. Bell was sexually assaulted by a guard. He was forced by guards to fight in a fight club where guards forced the children to fight and placed bets on who would win. Several individuals that were at Dozier at the same time as Mr. Bell have attested to the horrors they experienced. Abraham Hamza declared under penalty of perjury that the chow hall was a violent place where riots broke out frequently. He described being attacked during one riot by a child wielding a toothbrush with razor blades embedded in it. On another occasion, he witnesses a

child running out of a dorm with a broom handle protruding from his rectum and blood spewing everywhere. He also remembers the guards forcing kids to fight one another and placing bets on the fights. [*See Claim 4, Attachment A*] Latne Bell declared that he too witnesses the guard run fight clubs. He also remembers guards taking new arrivals to the cemetery where there were freshly dug graves and being warned that that is where they would end up if they misbehaved. He recounted sexual assaults regularly occurring and described guards beating the children. [*See Claim 4, Attachment B*] Ray Harrison declared that he witnessed children being anally raped and forced to perform oral sex. He recounted that many of the children carried shanks to protect themselves. He also remembered the fight club, and stated that he would be rewarded by guards that bet on him with marijuana and home cooked meals if he won. [*See Claim 4, Attachment C*] Lamar Miffin also recalled the rampant sexual assaults, beatings by guards and other children, and fight club run by the guards. The guards also used food deprivation and turning on the heat in summer and the air conditioning in winter as punishment. [*See Claim 4, Attachment D*] Additional accounts of the abuses occurring at Dozier around the time Mr. Bell was there are documented in a 2009 Tampa Bay Times article. [*See Claim 4, Attachment E*]

It was not just the former students that confirmed the abuses that were going

on at Dozier while Mr. Bell was there. David Mack was a court appointed monitor assigned to Dozier after a class action civil rights lawsuit was filed in 1983. He recounts the violence the boys there were subjected to. He recalled that many of the kids had fresh scars on the boys arms. He would learn that they were caused by suicide attempts and self-mutilation. He also recalled that the infamous "dog boys" who were assigned to track down boys that were attempting to escape with the assistance of canines, would put the boys they caught escaping in the dog cages in the back of the truck and parade them around the grounds. The boys would then be hogtied and thrown in a truck and taken to jail. [*See Claim 4, Attachment F*] Claudia Wright, Esq., a lawyer who worked on the lawsuit, recounted that on her first visit, guards were openly hogtying children and chaining them to their beds. She learned of the fight club being run by the guards, and also heard stories that the "dog boys" would force children they caught escaping to kiss the dogs' rectums. [*See Claim 4, Attachment G*] Mr. Bell was at Dozier from late 1986 to early 1987. The class action lawsuit resulted in consent decree in May of 1987 that prevented the use of hogtying, mandated a phased population reduction to reduce overcrowding, banned the use of solitary confinement, and attempted to establish educational standards. At least 29 former Dozier students wound up on death row since the death penalty was reinstate in 1976.

Life after Dozier wasn't any easier for Mr. Bell. He returned to one of the most dangerous neighborhoods in the country, during the height of the crack epidemic. In 1988 alone, there were 435 drug arrests, 548 robberies, and 27 murders in Mr. Bell's small Northside Jacksonville neighborhood. See Murrell Dawson, *Councilwoman Lee Pin-Points Needs of Northside Area,* The Florida Star, July 26, 1989 [*See Claim 4, Attachment H*]. When Mr. Bell was a teenager, he was the victim of a drive by shooting during which his friend was shot in the head and killed. Mr. Bell made a futile attempt to staunch the bleeding and stuff portions of his friend's brain back into his skull. It was in this neighborhood that Mr. Bell first encountered Jimmie West and Theodore Wright. Jimmie West, AKA "Killer," was known to be a violent individual. A newspaper report from 1989 recounts an incident where West held an Uzi to the head of a Jacksonville resident and threatened to kill him. [*See Claim 4, Attachment I*]. Jimmie West and Theodore Wright attempted to shoot and kill Mr. Bell on multiple occasions, resulting in the deaths of Mr. Bell's brother Lamar and several of Mr. Bell's close friends. Mr. Bell did not just lose his brother Lamar, Mr. Bell was present when Theodore Wright shot and killed Lamar Bell, and Mr. Bell held Lamar in his arms desperately trying to stop the bleeding and save his beloved brother.

Mr. Bell's mother put him to work stealing cars in the neighborhood to help

raise funds to feed her drug habit and put food on the table for the family. The first time he was arrested for stealing a car at age 17, he was direct filed and sent to adult prison as a juvenile. Ironically, the consent decree that went into effect just after Mr. Bell left Dozier led to a bed shortage at the Department of Juvenile Justice. Jacksonville prosecutors responded to this bed shortage by direct filing on juveniles who otherwise would have been sent to juvenile programs. See Chris Krueger, *Juvenile Justice Again Under Fire,* Tampa Bay Times, November 19, 1993. [*See Claim 4, Attachment J*]

The fact that no mitigation was presented to the trial court was not because there was no mitigation to present, it was because of Nichols' incompetence and lack of diligence in conducting a mitigation investigation. In *Williams v. Taylor*, 529 U.S. 362 (2000), the Supreme Court held that failure to investigate and present substantial mitigating evidence during the sentencing phase of a capital trial violated the Sixth Amendment guarantee of the effective assistance of counsel. As outlined above, substantial mitigating evidence existed which Nichols failed to investigate and present[1]. Mr. Bell would have to wait until postconviction to try to remedy Nichols'

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[1] At trial Mr. Bell told the Court he was satisfied with the penalty phase presentation and did not want additional witnesses called. But Mr. Bell could not make a knowing and intelligent waiver when Mr. Nichols failed to conduct any mitigation investigation. As the postconviction court recognized, "Mr. Nichols testified that there was no mitigation evidence available which he believed would

incompetence.

By statute, Florida guarantees a death sentenced individual access to counsel in postconviction, something not guaranteed in non-capital cases. The mandate on direct appeal was issued October 17, 1997 but no counsel was appointed to represent Mr. Bell at that time. His 1-year AEDPA statute of limitations began to run on February 24, 1998 when certiorari was denied. Still no counsel was appointed to represent him. On April 8, 1998, Mr. Bell filed a pro se motion to appoint postconviction counsel. Not wanting to wait, Mr. Bell filed a pro se motion under Fla.R.Crim.P. 3.800. The trial court denied the motion and cautioned Mr. Bell that all future pro se filings would be stricken because "he is or should be currently represented by [counsel]." *Bell v. Fla. Atty. Gen.*, 461 F. App'x 843, 846 (11th Cir. 2012).

Postconviction counsel was not appointed until September 3, 1998. That attorney withdrew on October 12, 1998, and a new attorney, Jeanine Sasser, was appointed that day. For eight months Mr. Bell did not have a lawyer and was ordered by a court, in a dizzying display of circular reasoning, that he could not file pro se because he should have a lawyer, even though he did not. Eight months of Mr. Bell's

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be beneficial to the defense." *PC ROA* at 751. This is clearly refuted by the substantial mitigation evidence outlined in this motion.

1-year AEDPA statute of limitations had run before Mr. Bell was even provided counsel. Ms. Sasser eventually sought and received an extension of the 1-year deadline for filing a postconviction motion under Rule 3.851, and a shell 3.851 motion was filed on June 1, 1999. *See* SC-00-318, Initial Brief of Appellant at *1 (July 26, 2000) ("The Motion was incomplete and was filed to toll the time to file a Petition for Writ of Habeas corpus in federal court"). Apparently, Ms. Sasser was not aware that the 1-year AEDPA statute of limitations in federal court had already passed 17 days before she filed the shell 3.851. It was literally her job to know this, and to timely file a federal habeas petition. *See* Fla.Stat.§ 27.711 (1998) ("After appointment…the attorney must…represent the capital defendant throughout all postconviction capital collateral proceedings, including federal habeas corpus proceedings….").

Finding himself represented by yet another incompetent lawyer, Mr. Bell moved to have Ms. Sasser replaced as counsel. The court denied the motion, finding that "Sasser…has done an exemplary job on behalf of the defendant and should not be removed as counsel." *See* 94-cf-9776, Docket #477 (October 3, 2001)[2]. Apparently blowing the AEDPA statute of limitations qualifies as exemplary

[2] Counsel for Mr. Bell is unable to locate a copy of this order in the postconviction ROA.

representation. Facing the prospect of being represented by yet another incompetent lawyer, Mr. Bell moved for self-representation, which was granted. Ultimately, the postconviction court would deny Mr. Bell's postconviction motion, including his claim related to a lack of a proper mitigation investigation and presentation, and the Florida Supreme Court affirmed on appeal. *Bell v. State*, 965 So. 2d 48, 74 (Fla. 2007). Because Ms. Sasser blew Mr. Bell's federal habeas deadline, no federal court ever reviewed his conviction and sentence.

In *Callins v. Collins*, Justice Blackmun wrote a prophetic dissent that evokes Bell's case:

> From this day forward, I no longer shall tinker with the machinery of death. For more than 20 years I have endeavored—indeed, I have struggled—along with a majority of this Court, to develop procedural and substantive rules that would lend more than the mere appearance of fairness to the death penalty endeavor... I feel morally and intellectually obligated simply to concede that the death penalty experiment has failed...The Court... prefers "finality" in death sentences to reliable determinations of a capital defendant's guilt...The path the Court has chosen lessens us all. I dissent.

510 U.S. 1141, 1145-59 (1994) (Blackmun, J., dissenting). Mr. Bell was provided nothing more than the mere appearance fairness. He was never once given the opportunity to make the case that his life should be spared, not at trial, not in postconviction, and not in federal habeas. Mr. Bell deserves better; the people of the State of Florida deserve better. Allowing his death sentence to stand violates the

Eighth and Fourteenth Amendment, and it lessens us all.

CONCLUSION AND RELIEF SOUGHT

Bell prays for the following relief: (1) he be granted an evidentiary hearing on Claim 1; (2) he be allowed leave to amend this motion should new claims, facts, or legal precedent become available; (3) his judgment and death sentences be vacated; and (4) this Court grant any other relief it deems appropriate.

CERTIFICATION OF COUNSEL

Pursuant to Rule 3.851(f), undersigned counsel certifies that he has discussed the contents of this motion with Bell. Counsel further certifies that the motion is filed in good faith and complies with Rule 4-1.4 of the Rules of Professional Conduct.

Respectfully submitted,

/s/Robert A. Norgard
ROBERT A. NORGARD
P.O. Box 811
Bartow, FL 33831
(863)533-8556
Fax (863)533-1334
Norgardlaw@verizon.net
Fla. Bar No. 322059

CERTIFICATE OF SERVICE

We hereby certify that the foregoing has been served electronically upon the Clerk of the Circuit Court, The Office of the Attorney General (capapp@myfloridalegal.com), Jonathan Tannen (jonathan.tannen@myfloridalegal.com), Christina Pacheco (christina.pacheco@myfloridalegal.com), Joshua Schow (joshua.schow@myfloridalegal.com), (Paula.Montlary@myfloridalegal.com), (Stephanie.Tesoro@myfloridalegal.com), Florida Supreme Court (warrant@flcourts.org), Alan Seth Mizrahi (amizrahi@coj.net), and The Honorable Jeb T. Branham (kbend@coj.net) on this 18th day of June 2025.

/s/Robert A. Norgard
ROBERT A. NORGARD

MANDATORY ATTACHMENT:

Judgment and Sentence

STATE ATTORNEY NO.: 94-33220

CASE NO.: 94-9776-CF
DIVISION: CR-F

IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR DUVAL COUNTY,
FALL TERM, ONE THOUSAND NINE HUNDRED AND NINETY-FOUR

STATE OF FLORIDA

vs.

MICHAEL BERNARD BELL

INDICTMENT FOR:

FIRST DEGREE MURDER (TWO COUNTS)

IN THE NAME OF AND BY THE AUTHORITY OF THE STATE OF FLORIDA:

The Grand Jurors of the State of Florida and County of Duval, empaneled and sworn to inquire and true presentment make in and for the body of the County of Duval, upon their oaths, do present and charge that MICHAEL BERNARD BELL, on the 9th day of December, 1993, in the County of Duval and the State of Florida, did unlawfully and from a premeditated design to effect the death of Jimmy West, did then and there kill the said Jimmy West, a human being, by shooting the said Jimmy West, and during the commission of the aforementioned Murder in the First Degree the said MICHAEL BERNARD BELL carried or had in his possession a firearm, contrary to the provisions of Section(s) 782.04(1)(a) and ~~7[illegible]~~ 775.087, Florida Statutes.

SECOND COUNT

The Grand Jurors of the State of Florida and County of Duval, empaneled and sworn to inquire and true presentment make in and for the body of the County of Duval, upon their oaths, do present and charge that MICHAEL BERNARD BELL on the 9th day of December, 1993, in the County of Duval and the State of Florida, did unlawfully and from a premeditated to design to effect the death of Tamecka Smith, did then and there kill the said Tamecka Smith, a human being, by shooting the said Tamecka Smith, and during the commission of the aforementioned Murder in the First Degree the said MICHAEL BERNARD BELL carried or had in his possession a firearm, contrary to the provisions of Sections 782.04(1)(a) and ~~775.087~~ 775.087, Florida Statutes.

Joseph E. Starling
Foreperson of the Duval County Grand Jury

George Z. Bateh
Bar Number 160423
Assistant State Attorney
Fourth Judicial Circuit in and for Duval
County, Florida,
Prosecuting for said State

I, George Z. Bateh, Assistant State Attorney for the Fourth Judicial Circuit of Florida, in and for Duval County, hereby certify that I, as such Prosecuting Officer and as authorized and required by law, have advised the Grand Jury which returned this Indictment this 18 day of December, 1994.

George Z. Bateh
Bar Number 160423
Assistant State Attorney

Race: Black Sex: Male DOB: 11/24/70 SSN: 263-18-1626

GZB/pdl

Custody: X Yes ____ No Bond $_____ X None

Capias: ____ (If not in custody) Arraignment Date 12-16-94

Juvenile: ____ Yes X No Sealed ____ Yes X No

Receiving Judge:

MCL NO: 777.04(1), 775.087; 777.04(1), 775.087

CASE NO. 94-9775 CF A

IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT OF THE STATE OF FLORIDA, IN AND FOR DUVAL COUNTY, FALL TERM, 1994

THE STATE OF FLORIDA

vs.

MICHAEL BERNARD BELL

INDICTMENT FOR

FIRST DEGREE MURDER (TWO COUNTS)

A TRUE BILL

Joseph E. Stanley
Foreperson of the Grand Jury

WITNESS FOR THE STATE

W J BOLENA #5607 JSO

Presented in open Court by the Grand Jury and filed this 15th day of December, 1994

HENRY W. COOK
Clerk Circuit Court

By J. Bolena
Deputy Clerk

HARRY L. SHORSTEIN
STATE ATTORNEY

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_____ Probation Violator

_____ Community Control Violator

_____ Retrial

_____ Resentence

In the Circuit Court, Fourth Judicial Circuit,
in and for Duval County, Florida
Division CR-F
Case Number 94- 9776-CF-A

FILED
JUN 02 1995
Henry W. Cook
CLERK CIRCUIT COURT

State of Florida
v
MICHAEL BERNARD BELL
Defendant

JUDGMENT

The defendant, MICHAEL BERNARD BELL, being personally before this court represented by Richard Nichols, the attorney of record, and the state represented by George Baker, and having

X been tried and found guilty by jury/by court of the following crime(s)

___ entered a plea of guilty to the following crime(s)

___ entered a plea of nolo contendere to the following crime(s)

Count	Crime	Offense Statute Number(s)	Degree of Crime	Case Number	OBTS Number
1	Murder in the First Degree	782.04(1)(A)	Capital		
2	Murder in the First Degree	782.04(1)(A)	Capital		

X and no cause being shown why the defendant should not be adjudicated guilty, IT IS ORDERED that the defendant is hereby ADJUDICATED GUILTY of the above crime(s).

___ and pursuant to section 943.325, Florida Statutes, having been convicted of attempts or offenses relating to sexual battery (ch. 794) or lewd and lascivious conduct (ch. 800) the defendant shall be required to submit blood specimens.

___ and good cause being shown; IT IS ORDERED THAT ADJUDICATION OF GUILT BE WITHHELD.

State of Florida
v.

Case Number 94- 9776-CF-A

MICHAEL BERNARD BELL
Defendant

Imposition of Sentence ____ Stayed and Withheld *(Check if Applicable)*

The Court hereby stays and withholds the imposition of sentence as to count(s) _____ and places the Defendant on probation/community control for a period of _____ under the supervision of the Department of Corrections (conditions of probation/community control set forth in separate order.)

FINGERPRINTS OF DEFENDANT

1. Right Thumb	2. Right Index	3. Right Middle	4. Right Ring	5. Right Little
				
6. Left Thumb	**7. Left Index**	**8. Left Middle**	**9. Left Ring**	**10. Left Little**
				

Fingerprints taken by: Gold N. Bell — Name

Bailiff 904 — Title

I HEREBY CERTIFY that the above and foregoing are the fingerprints of the defendant, MICHAEL BERNARD BELL, and that they were placed thereon by the defendant in my presence in open court this date.

DONE AND ORDERED in open court in Jacksonville, Duval County, Florida, this 9th day of March, 19 95.

R. Hudson Dill

Judge

95

STATE OF FLORIDA
v
MICHAEL BERNARD BELL
Defendant

In the Circuit Court, Fourth Judicial Circuit
in and for Duval County, Florida
Division CR-F
Case Number 94- 9776-CF-A

CHARGES/COSTS/FEES

The defendant is hereby ordered to pay the following sums if checked:

X $50.00 pursuant to section 960.20, Florida Statutes (Crimes Compensation Trust Fund).

X $3.00 as a court cost pursuant to section 943.25(3), Florida Statutes (Criminal Justice Trust Fund).

___ $2.00 as a court cost pursuant to section 943.25(13), Florida Statutes (Criminal Justice Education by Municipalities and Counties).

___ A fine in the sum of $ _____ pursuant to section 775.0835, Florida Statutes. (This provision refers to the optional fine for the Crimes Compensation Trust Fund and is not applicable unless checked and completed. Fines imposed as a part of a sentence to section 775.083, Florida Statutes are to be recorded on the sentence page(s).)

___ $20.00 pursuant to section 939.015, Florida Statutes (Handicapped and Elderly Security Assistance Trust Fund).

___ A 10% surcharge in the sum of $ _____ pursuant to section 775.0836, Florida Statutes (Handicapped and Elderly Security Assistance Trust Fund).

X A sum of $ 200.00 pursuant to section 27.3455, Florida Statutes (Local Government Criminal Justice Trust Fund).

___ A sum of $ _____ pursuant to section 939.01, Florida Statutes (Prosecution/Investigative Costs).

___ A sum of $ _____ pursuant to section 27.56, Florida Statutes (Public Defender Fees).

X Restitution in accordance with attached order.

___ Other _____

DONE AND ORDERED in open court in Jacksonville, Duval County, Florida, this 2nd day of June, 1995.

R. Hudson Dell

Judge

Defendant MICHAEL BERNARD B[illegible] Case Number 94- 9776-CF-A TS Number 0006091465

SENTENCE

(As to Count 1)

The defendant, being personally before this court, accompanied by the defendant's attorney of record Richard Nichols, and having been adjudicated guilty herein, and the court having given the defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why the defendant should not be sentenced as provided by law, and no cause being shown.

(Check one if applicable.)

X and the court having on 3/9/95 (date) deferred imposition of sentence until this date.

____ and the court having previously entered a judgment in this case on _____ (date) now resentences the defendant

____ and the court having placed the defendant on probation/community control and having subsequently revoked the defendant's probation/community control.

It Is The Sentence Of The Court That:

____ The defendant pay a fine of $ _____, pursuant to section 775.083, Florida Statutes plus $ _____ as the 5% surcharge required by 960.25, Florida Statutes.

X The defendant is hereby committed to the custody of the Department of Corrections.

____ The defendant is hereby committed to the custody of the Sheriff of Duval County, Florida.

____ The defendant is sentenced as a youthful offender in accordance with section 958.04, Florida Statutes.

To be Imprisoned (Check one; unmarked sections are inapplicable):

____ For a term of natural life.

X For a term of Death.

____ Said SENTENCE SUSPENDED for a period of _____ subject to conditions set forth in this order.

If "split" sentence, complete the appropriate paragraph.

____ Followed by a period of _____ on probation/community control under the supervision of the Department of Corrections according to the terms and conditions of supervision set forth in a separate order entered herein.

____ However, after serving a period of _____ imprisionment in _____, the balance of the sentence shall be suspended and the defendant shall be placed on probation/community control for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation/community control set forth in a separate order entered herein.

In the event the defendant is ordered to serve additional split sentences, all incarceration portions shall be satisfied before the defendant begins service of the supervision terms.

OTHER PROVISIONS

Retention of Jurisdiction ____ The court retains jurisdiction over the defendant pursuant to section 947.16(3), Florida Statutes (1983).

Jail Credit X It is further ordered that the defendant shall be allowed a total of 261 days as credit for time incarcerated before imposition of this sentence.

Prison Credit ____ It is further ordered that the defendant be allowed credit for all time previously served on this count in the Department of Corrections prior to resentencing.

Consecutive/ Concurrent As To Other Counts ____ It is further ordered that the sentence imposed for this count shall run (check one) _____ consecutive to ~~this~~ concurrent with the sentence set forth in count _____ of this case.

Defendant MICHAEL BERNARD [redacted] Case Number 94- 9776-CF-A BTS Number 0006091465

SENTENCE

(As to Count 2)

The defendant, being personally before this court, accompanied by the defendant's attorney of record Richard Nichols, and having been adjudicated guilty herein, and the court having given the defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why the defendant should not be sentenced as provided by law, and no cause being shown.

(Check one if applicable.)

X and the court having on 3/9/95 (date) deferred imposition of sentence until this date.

___ and the court having previously entered a judgment in this case on _____ (date) now resentences the defendant

___ and the court having placed the defendant on probation/community control and having subsequently revoked the defendant's probation/community control.

It Is The Sentence Of The Court That:

___ The defendant pay a fine of $ _____, pursuant to section 775.083, Florida Statutes plus $ _____ as the 5% surcharge required by 960.25, Florida Statutes.

X The defendant is hereby committed to the custody of the Department of Corrections.

___ The defendant is hereby committed to the custody of the Sheriff of Duval County, Florida.

___ The defendant is sentenced as a youthful offender in accordance with section 958.04, Florida Statutes.

To be Imprisoned (Check one; unmarked sections are inapplicable):

___ For a term of natural life.

X For a term of Death.

___ Said SENTENCE SUSPENDED for a period of _____ subject to conditions set forth in this order.

If "split" sentence, complete the appropriate paragraph.

___ Followed by a period of _____ on probation/community control under the supervision of the Department of Corrections according to the terms and conditions of supervision set forth in a separate order entered herein.

___ However, after serving a period of _____ imprisionment in _____, the balance of the sentence shall be suspended and the defendant shall be placed on probation/community control for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation/community control set forth in a separate order entered herein.

In the event the defendant is ordered to serve additional split sentences, all incarceration portions shall be satisfied before the defendant begins service of the supervision terms.

OTHER PROVISIONS

Retention of Jurisdiction ___ The court retains jurisdiction over the defendant pursuant to section 947.16(3), Florida Statutes (1983).

Jail Credit ___ It is further ordered that the defendant shall be allowed a total of _____ days as credit for time incarcerated before imposition of this sentence.

Prison Credit ___ It is further ordered that the defendant be allowed credit for all time previously served on this count in the Department of Corrections prior to resentencing.

Consecutive/~~Concurrent~~ As To Other Counts X It is further ordered that the sentence imposed for this count shall run (check one) X consecutive to _____ concurrent with the sentence set forth in count 1 of this case.

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Defendant MICHAEL BERNARD BELL Case Number 94- 9776-CF-A

OTHER PROVISIONS

Consecutive/ Concurrent As To Other Convictions

____ It is further ordered that the composite term of all sentences imposed for the counts specified in this order shall run (check one) ____ consecutive to ____ concurrent with the following: (check one)

____ any active sentence being served.

____ specific sentences: _____

In the event the above sentence is to the Department of Corrections, the Sheriff of Duval County, Florida, is hereby ordered and directed to deliver the defendant to the Department of Corrections at the facility designated by the department together with a copy of this judgment and sentence and any other documents specified by Florida Statute.

The defendant in open court was advised of the right to appeal from this sentence by filing notice of appeal within 30 days from this date with the clerk of this court and the defendant's right to the assistance of counsel in taking the appeal at the expense of the State on showing of indigency.

In imposing the above sentence, the court further recommends _____

DONE AND ORDERED in open court at Jacksonville, Duval County, Florida, this 2nd day of June, 19 95.

R. Hudson Dill

Judge

STATE OF FLORIDA

v.

MICHAEL BERNARD BELL

THIS INSTRUMENT IN COMPUTER

R. R.

IN THE CIRCUIT COURT IN AND FOR DIXIE COUNTY, FLORIDA

DIVISION CR-F
CASE NO. 94-9776CF

FILED

JUN 02 1995

Henry W. Cook
CLERK CIRCUIT COURT

SENTENCE

For Two First Degree Murders

On 3-9-95 a twelve-person racially-mixed jury found the defendant, Michael Bernard Bell, 24, guilty of the crimes of:

First Degree Murder of 18-year-old Tamecka Smith.

First Degree Murder of 23-year-old Jimmy West.

PRESENTENCE INVESTIGATION REPORT

A Presentence Investigation report (hereafter referred to as the PSI) was provided to the defense, the state, and the Court.

JURY RECOMMENDED DEATH

On 3-17-95 an advisory sentence proceeding was held and that same jury unanimously (12-0) on each count recommended Defendant be sentenced to death for each murder.

SENTENCE HEARING

On 5-5-95, 5-10-95, and 5-11-95 sentence hearings were held and the case was passed until today for sentence.

COMMENT OF COURT

Practically every habitual criminal to come before me has been given one of more early prison releases by the Florida Parole Commission/Department of Corrections and thereafter committed more crimes on defenseless law-abiding citizens of Florida. For years I have pointed out this fact in all of my written sentences - yet early prison releases of criminals continue apace. (vox clamantis in deserto)

The Florida Parole Commission gave Bell his 3rd early prison release despite the fact that he had two prior early releases and had committed more crimes after each release and despite the fact that he was serving a sentence for the violent crime of ARMED ROBBERY WITH A FIREARM. (See summary of criminal record infra.)

Seven months after that early release the defendant committed this savage double murder of an innocent unarmed 23-year-old man and a teenaged girl.

These two murders can be laid at the doorstep of the Florida Parole Commission for the irresponsible early prison release of this violent habitual criminal who should have been in prison at the time the murders were committed.

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CRIMINAL RECORD

The defendant's criminal record now shows that he has been:

ARRESTED 31 TIMES
CHARGED WITH 47 SEPARATE CRIMES
CONVICTED OF 7 MISDEMEANORS
CONVICTED OF 6 FELONIES (Additionally he has 4 felony convictions in juvenile court)

(He violated felony probation/community control.)
(He served 7 jail sentences.)
(He served 5 prison sentences.)

THREE EARLY PRISON RELEASES

On 11-12-87 the Florida Parole Commission/Department of Corrections gave the defendant an early release after he had served only 4 months' imprisonment on an 18-month sentence for grand theft.

On 7-21-88 the Florida Parole Commission/Department of Corrections gave the defendant an early release after he had served only 3 months' imprisonment on a 13-month sentence for possession of cocaine.

On 5-27-93 the Florida Parole Commission gave the defendant an early release after he had served only 3 years' imprisonment on a 6½-year sentence for ARMED ROBBERY WITH A FIREARM and possession with intent to sell cocaine. Seven months later, while on early release supervision, he committed these two first degree murders.

ANOTHER FIRST DEGREE MURDER PENDING

The defendant is awaiting trial on another first degree murder which was committed 83 days after his early prison release.

FACTS OF CRIMES

The facts of these two murders as set forth in the PSI and as brought out at trial by the prosecutor, GEORGE BATEH, were that:

On 6-19-93 Theodore Wright killed Lamar Bell in a shoot-out which police and the state attorney investigated and determined was justifiable homicide since Wright killed Lamar Bell in self defense.

The defendant, Michael Bell, swore to get revenge on Wright for killing his brother, Lamar Bell. He ignored the advice of his aunt to forget revenge and let the law take its course - and said, "Wright belongs in the morgue".

Over the five months following his brother's death, Bell repeatedly told friends and relatives that he was going to kill Wright. In response to the urging of a female friend to forget revenge because some innocent people might get killed - Bell said, "Sometimes the good have to suffer with the bad".

On 12-8-93 the defendant, through a girlfriend, purchased an AK-type assault rifle, a 30-round magazine, and 160 bullets. The next night Bell spotted Theodore Wright's yellow Plymouth Fury in the vicinity of Moncrief Road. Bell left and shortly returned to the Moncrief area with two friends and his AK-47 loaded with 30 bullets. After a short search he saw the yellow Plymouth Fury in the parking lot of Moncrief Liquors Lounge at 5757 Moncrief Road. (Bell did not know that Theodore Wright had sold the car to his half-brother, Jimmy West, and that West had parked it and gone into the lounge.)

Bell was familiar with the lounge and knew a guard searched all patrons for weapons before they were allowed to enter and he knew that West would be unarmed when he came out of the lounge. While waiting for West, Bell made a ski mask by burning eyeholes in a knit cap. The two friends tried, unsuccessfully, to talk Bell out of doing murder but he was unmoved by their pleas.

At 10:45 p.m., Jimmy West, 23, left the lounge with Tamecka Smith, 18, and another female whom he agreed to drive to Tamecka's mother's house. Bell recognized West as Wright's half-brother and put on his ski mask, grabbed the loaded AK-47, and approached the yellow Plymouth as West got in the driver's seat and Tamecka into the passenger side. The other female did not have time to get in before Bell approached the open door on the driver's side and at point-blank range fired 12 bullets into West and 4 into Tamecka. The other female narrowly missed being shot by ducking down by the front of the car.

West was shot through the brain, chest, lungs, abdomen, arms, and legs. Tamecka was shot through her lower abdomen and lower torso. The powerful bullets tore their flesh and shattered the bones of the hapless victims. West died instantly and Tamecka a short while later in the hospital. (Photos showing the many wounds on the victims' bodies were introduced at trial. Copies thereof are attached and made a part hereof on pages 5 and 6.)

After slaughtering West and Smith, Bell fired at a man in front of West's car and at several other people in the parking lot who saved themselves by running and hiding behind parked cars. Then Bell riddled the front of the lounge where 10-12 people who were waiting to go inside fell to the ground or ran behind cars to avoid the spray of bullets.

Leaving the scene of carnage, Bell drove to his aunt's house and gleefully bragged, "Theodore got my brother and now I got his brother".

The evidence of guilt was overwhelming and the jury found Defendant guilty of first degree murder on both counts.

INDICTMENT

The defendant was charged by indictment with two first degree murders, as follows:

The Grand Jurors of the State of Florida and County of Duval, empaneled and sworn to inquire and true presentment make in and for the body of the County of Duval, upon their oaths, do present and charge that MICHAEL BERNARD BELL, on the 9th day of December, 1993, in the County of Duval and the State of Florida, did unlawfully and from a premeditated design to effect the death of Jimmy West, did then and there kill the said Jimmy West, a human being, by shooting the said Jimmy West, and during the commission of the aforementioned Murder in the First Degree the said MICHAEL BERNARD BELL carried or had in his possession a firearm, contrary to the provisions of Section 782.04(1)(a), Florida Statutes.

SECOND COUNT

The Grand Jurors of the State of Florida and County of Duval, empaneled and sworn to inquire and true presentment make in and for the body of the County of Duval, upon their oaths, do present and charge that MICHAEL BERNARD BELL on the 9th day of December, 1993, in the County of Duval and the State of Florida, did unlawfully and from a premeditated design to effect the death of Tamecka Smith, did then and there kill the said Tamecka Smith, a human being, by shooting the said Tamecka Smith, and during the commission of the aforementioned Murder in the First Degree the said MICHAEL BERNARD BELL carried or had in his possession a firearm, contrary to the provisions of Section 782.04(1)(a), Florida Statutes.

ALL EVIDENCE AND TESTIMONY CONSIDERED BY COURT

Before imposing sentence, this Court has considered all the evidence and testimony at trial and at the advisory sentence proceeding and the sentence hearing, the PSI, the applicable Florida Statutes, case law, and all other documents and factors touching upon this case.

On the following pages is a summary, analysis, and evaluation of each of the statutory aggravating and mitigating circumstances presented.

SUMMARY OF
STATUTORY AGGRAVATING CIRCUMSTANCES
(921.141(5)

1. THAT THE DEFENDANT HAD BEEN PREVIOUSLY CONVICTED OF ANOTHER CAPITAL OFFENSE OR OF A FELONY INVOLVING THE USE OR THREAT OF VIOLENCE TO SOME PERSON.

FACT:

On 3-9-95 the defendant was convicted of the first degree murders of Tamecka Smith and Jimmy West.

The first degree murder conviction of Jimmy West is considered to be another conviction of a capital offense when considering the first degree murder of Tamecka Smith.

The first degree murder conviction of Tamecka Smith is considered to be another conviction of a capital offense when considering the first degree murder of Jimmy West.

On 1-11-90 the defendant was convicted of armed robbery with a firearm.

CONCLUSION:

The first degree murder conviction of one victim is a prior conviction of another capital offense as to the other murder victim. This is an aggravating circumstance.

The prior conviction for armed robbery with the use of a firearm is considered as a conviction of a felony involving the use or threat of violence to another person. This is an aggravating circumstance.

2. THE DEFENDANT, IN COMMITTING THE CRIME FOR WHICH HE IS TO BE SENTENCED, KNOWINGLY CREATED A GREAT RISK OF DEATH TO MANY PERSONS.

FACT:

After the defendant shot and killed Tamecka Smith and Jimmy West in the parking lot of a liquor lounge - he fired shots at a man in front of West's car and at several people in the lot who ducked behind cars to avoid bullets. He then fired his 30-clip AK-47 at the front area of the lounge where the 10-12 people waiting to go inside had to fall to

the ground or scramble behind cars to avoid the spray of bullets.

CONCLUSION:

In addition to the two people he murdered, the defendant knowingly created a great risk of death to many (those in the parking lot and those in front of the lounge) persons. This is an aggravating circumstance.

3. THE CRIME FOR WHICH THE DEFENDANT IS TO BE SENTENCED WAS COMMITTED IN A COLD, CALCULATED AND PREMEDITATED MANNER WITHOUT ANY PRETENSE OF MORAL OR LEGAL JUSTIFICATION.

FACT:

Over a 5-month period following the death of his brother and up until the night he committed these murders, the defendant repeatedly told friends and relatives that he was going to kill Theodore Wright. His aunt and friends all tried to talk him out of doing murder but he turned a deaf ear to their repeated pleas.

The day before the murder the defendant, through the help of a girlfriend, bought an AK-47 assault rifle with a 30-round magazine and 160 bullets. In making this purchase of a rapid fire assault rifle rather than a pistol, the defendant premeditatedly calculated a slaughter of Jimmy West and anyone else who might be in the path of bullets.

HEIGHTENED PREMEDITATION

In Rogers v. State, 511 So.2d 526 (1987) the Florida Supreme Court enunciated the requirement of "heightened premeditation" as applied to crimes committed in a cold, calculated and premeditated manner. In Jackson v. State, (April 1994), the Florida Supreme Court said that the words cold, calculated and premeditated "encompass something more than premeditated first degree murder".

F.S. 782.04(1)(a) and JURY INSTRUCTION

First degree murder is set forth in Florida Statute 782.04(1)(a). Page 63 of the Florida Standard Jury Instructions in Criminal Cases defines premeditation as it applies to premeditated first degree murder as follows:

"Killing with premeditation" is killing after consciously deciding to do so. The decision must be present in the mind at the time of the killing. The law does not fix the exact period of time that must pass between the formation of the premeditated intent to kill and the killing. The period of time must be long enough to allow reflection by the defendant. The premeditated intent to kill must be formed before the killing.

The question of premeditation is a question of fact to be determined by you from the evidence. It will be sufficient proof of premeditation if the circumstances of the killing and the conduct of the accused convince you beyond a reasonable doubt of the existence of premeditation at the time of the killing.

FACT:

On the night of the murder the defendant spotted the victim's car - then left the area, got his AK-47 and two friends, and went to the lounge parking lot to wait for his victim to leave the lounge and walk to his car. While waiting, he improvised a ski mask to hide his face. He talked to his two friends who pleaded with him not to go through with the murder, but he rejected their entreaties and restated his determination to murder.

FACT:

At an earlier time he had dismissed a girlfriend's admonition that an innocent person might be killed if he persisted with this plan to murder Theodore Wright - by saying, "Sometimes the good have to suffer with the bad". It was in this frame of mind that he watched Jimmy West and Tamecka Smith leave the lounge and get in West's car.

As he approached and fired his AK-47, he knew that it would not only kill West but also probably kill Tamecka Smith and others in close proximity. This premeditated mindset to kill West and an innocent bystander, if necessary, existed months before the murders.

These murders were cold and calculated and with heightened premeditation.

CONCLUSION:

This is an aggravating circumstance.

SUMMARY OF
STATUTORY MITIGATING CIRCUMSTANCES
(F.S. 921.161(6)

1. THE CRIME FOR WHICH THE DEFENDANT IS TO BE SENTENCED WAS COMMITTED WHILE HE WAS UNDER THE INFLUENCE OF EXTREME MENTAL OR EMOTIONAL DISTURBANCE.

FACT:

Prior to trial the defendant was examined by a psychiatrist and a psychologist who reported that Defendant had an adjustment disorder with depressed and anxious mood. They found he was not insane at the time of the murders. They did not find that he had been under the influence of extreme mental or emotional disturbance at the time of the crime, nor was any evidence presented at trial or subsequent proceedings that he was under the influence of such emotions.

FACT:

The defendant's brother had been killed some 5½ months before Defendant committed these two murders and Defendant had sworn to kill the person who shot his brother. In the interim the defendant had lived a normal (for him) life.

Had Defendant violently acted out at the time of, or shortly after, his brother's death, then it might have indicated he was under the influence of extreme mental or emotional disturbance. However, these murders were committed 5½ months after his brother's death and were more from an attitude of hatred and revenge than extreme mental or emotional disturbance.

CONCLUSION:

This is a marginal mitigating circumstance.

2. THE AGE OF THE DEFENDANT AT THE TIME OF THE CRIME.

FACT:

The defendant is now 24 and was 22 at the time he committed these murders. He is 5'10" tall and weighs 200 pounds. He had served 3 adult prison sentences.

18 11 22

The defendant never married but has sired 2 to 4 illegitimate children. Physically, mentally, and emotionally, the defendant was in all respects a grown mature man at the time of the murders.

CONCLUSION:

This is not a mitigating circumstance.

3. ANY OTHER ASPECT OF THE DEFENDANT'S CHARACTER OR RECORD AND ANY OTHER CIRCUMSTANCES OF THE OFFENSE.

FACT:

There was no evidence presented at trial, in the advisory sentence proceeding, or at sentence hearing to show that Defendant was physically or mentally ill or impaired at the time of the murders.

Evidence was that he was angry at the loss of his brother - but there was no evidence of all-consuming grief which affected his emotional or mental stability. In fact, he carried on his normal lifestyle until he committed the murders.

Nor was there any evidence that from childhood through teenage he suffered any physical or emotional abuse or that he was subject to home, familial, social, cultural or material privation.

CONCLUSION:

This is not a mitigating circumstance.

JURY UNANIMOUSLY RECOMMENDED DEATH
ON BOTH COUNTS OF FIRST DEGREE MURDER

The jury, having heard all the facts of these murders at trial and having considered the defendant's background and other evidence brought forth at the advisory sentence proceeding, recommended by a vote of 12 to 0 on both counts that the defendant be sentenced to death. The law requires that the judge give the jury's recommendations great weight - and this I have done.

WEIGHING STATUTORY
AGGRAVATING AND MITIGATING CIRCUMSTANCES

There are three aggravating circumstances and one marginal mitigating circumstance. The Court cannot and does not decide the greater number prevails but must weigh each individually - and this I have done.

AGGRAVATING OUTWEIGH MITIGATING CIRCUMSTANCES

The Court finds that the three aggravating circumstances in the aggregate outweigh the one mitigating circumstance and that each aggravating circumstance itself and apart from the other aggravating circumstances outweigh the mitigating circumstance.

OBSERVATION BY THE COURT

During my twenty-five years on the felony bench and many first degree murder trials, this is the first time I have had a unanimous advisory sentence of death. The number of votes for death is not persuasive but it is indicative of the overwhelming evidence of guilt and aggravation and the absence of significant mitigation.

SENTENCE

The jury by a unanimous vote (12-0) has recommended that you be sentenced to death on both counts of FIRST DEGREE MURDER. The Court has determined, after close examination and study of all the facts and circumstances, that death is the appropriate sentence on both counts.

You, MICHAEL BERNARD BELL, having been found guilty by jury of the crimes of Murder in the First Degree of Jimmy West in the first count and Murder in the First Degree of Tamecka Smith in he second count, I hereby adjudge you to be guilty on each crime and sentence you as follows:

1. FIRST COUNT of MURDER IN THE FIRST DEGREE OF JIMMY WEST - I sentence you to death. I order that you be taken by the proper authorities to the Florida State Prison and kept in close confinement until the date of your execution be set. That on such date you be put to death by electrical currents passed through your body in such amounts and frequency until you are dead.

2. SECOND COUNT of MURDER IN THE FIRST DEGREE OF TAMECKA SMITH - I sentence you to death. I order that you be taken by the proper authorities to the Florida State Prison and kept in close confinement until the date of your execution be set. That on such date you be put to death by electrical currents passed through your body in such amounts and frequency until you are dead.

3. The sentences shall be consecutive.

4. Defendant shall pay $200 felony court cost, plus $50 to the Crime Compensation Fund, plus $3 to the Criminal Justice Trust Fund.

5. Restitution to the families of the victims is set forth in a separate court order.

-- 21 8 22

I advise you that you have thirty days from this date in which to take an appeal. Should you fail to take an appeal within thirty days, then you waive, forfeit, and give up the right to appeal.

I hereby appoint the Office of the Public Defender to represent the defendant on such appeal.

May God have mercy upon your soul.

DONE AND ORDERED at Jacksonville, Florida, on June 2, 1995.

R. Hudson Olliff

R. HUDSON OLLIFF, CIRCUIT JUDGE

22 3 22

CLAIM 1

ATTACHMENT A

Henry Edwards Affidavit

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 Bolena approached me.

3. Det. Bolena 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. Bolena 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. Bolena had to actually point out Michael Bell in a photo lineup. I was unsure until Det. Bolena said the photo he was pointing at was Mr. Bell.

5. Det. Bolena 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. Bolena had not told me.

6. Prosecutor George Batch coached me on what to say and how to answer the

Initials H.E.

defense's questions on cross-examination.

7. I did this for Det. Bolena 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. Bolena. As a result of helping, I was able to go visit my family while incorcerated at the Duval County Jail. Det. Bolena 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. Bolena. 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. Bolena.

H. E.

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 Edwards
(affiant signature)

HENRY EDWARDS
(affiant name)

STATE OF FLORIDA
COUNTY OF DUVAL

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

COLIN L KELLY
Commission # HH 187371
Expires October 17, 2025
Bonded Thru Troy Fain Insurance 800-385-7019

C. 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

Initials H. E.

CLAIM 1

ATTACHMENT B

Henry Edwards Trial Testimony

HENRY EDWARDS,

Having been produced and first duly sworn as a witness, testified as follows:

THE COURT: Either lean forward and speak into the microphone or move your chair up. Put your hand down now. Proceed.

DIRECT EXAMINATION

BY MR. BATEH:

Q What's your name, sir?

A Henry Edwards.

Q Mr. Edwards, were you born and raised here in Jacksonville?

A Yes, sir, I was.

Q You lived here all your life?

A Yes, sir.

Q Are you married, sir?

A Yes, sir.

Q Any children?

A I have three kids.

Q Mr. Edwards, have you ever been convicted of a felony?

A Yes, sir, I have.

Q How many times?

A Eight times.

Q Mr. Edwards, are you currently serving a four

year prison sentence in the Florida State Prison for burglary and dealing in stolen property?

A Yes, sir, I am.

Q When were you originally sentenced on that burglary and dealing in stolen property charge?

A November the 6th, 1990.

Q And were you paroled on that four year sentence?

A Yes, sir.

Q When were you paroled?

A April the 30th, 1993.

Q Did you violate that parole on April the 20th, 1994?

A Yes, sir, I did.

Q And were you sent back to prison to finish that four year sentence?

A Yes, sir.

Q Are there any agreements between you and the State of Florida, the State Attorney's Office or the sheriff's office regarding your testimony in this case?

A No, sir.

Q Who was it that violated your parole and sent you back to finish the four year prison sentence?

A Florida parole commission.

Q All right. So the State Attorney's Office had nothing to do with it?

A No, sir.
Q Mr. Edwards, as of December 9th, 1993, did you know Michael Bell?
A Yes, sir.
Q For what period of time did you know him?
A I would say about six months.
Q Do you see Mr. Bell here in this courtroom?
A Yes, sir, that's him right there.
Q Is he the first person at that table, closest person to you or the furthest away?
A Closest to me.
MR. BATEH: Your Honor, I'd request that the record reflect he's identified the defendant.
THE COURT: All right. There are two people sitting there, the closest to you, one is white and one is light skinned black person, which is he?
THE WITNESS: Light skinned black person.
THE COURT: Let the record show he's identified the defendant as the person about whom he speaks.
MR. BATEH: Thank you, Your Honor.
BY MR. BATEH:
Q How is it that you got to know Michael Bell?
A Through a friend of mine, Gloria Mitchell.
Q How did you get to meet Michael Bell through Gloria Mitchell?

A She runs a beauty parlor and she have a pool room right next door. And I went up there and she -- this particular day she introduced me to Michael Bell.

Q All right. Where was that location of the beauty parlor and the pool room?

A Myrtle Avenue and 24th Street.

Q During that six months that you knew Bell, how often would you go up to visit Gloria Mitchell?

A Approximately five or six times a month.

Q Of those five or six times a month or roughly 30, 35 times you went up there to visit Gloria Mitchell during that six months, how many of those times did you see Michael Bell?

A I saw him every time I went up there.

Q Now, I want you to think back to December 9th, 1993, that was a Thursday at about 10:45 in the evening, on that date at that time do you remember being up at the Moncrief Liquors at 5757 Moncrief Road here in Jacksonville, Duval County, Florida?

A Yes, sir, I was.

Q Where were you at about 10:45 at that time?

A Me and a young lady was standing at the corner of the building.

Q Inside or outside?

A Outside.

Q What were you doing?
A Just standing at the corner, I was talking to a young lady I had just met in the bar.
Q At that time did you see Michael Bell?
A Yes, sir, I looked up and I saw him.
Q What was he doing?
A He was standing on a driver's side of the car that was closer to the sidewalk from the building.
Q What was he doing?
A Oh, he was standing up looking over, looking over the car.
Q What direction was he looking?
A Toward my direction.
Q All right. When you saw the defendant looking over in your direction, what did you see him do?
A He went toward -- he went to the back of the car and he opened the back door and then he pulled a little ski mask over his face.
Q And what did you see him do?
A Reached in the back seat and got something out of the back seat.
Q All right. Then what did you see him do?
A Then he come back around to the front of the car that's when I saw a gun.
Q What kind of gun?

A A rifle gun with a clip up in the bottom.
Q Then what did you see him do?
A Then he started walking toward my way. And then --
Q Did you see where this defendant walked up to?
A Yes, sir, he was walking toward my way and then he stopped short and there was a car, a yellow cream-looking car that he walked around to the driver's side of the car and then he started shooting in it and then we ran.
Q Who ran?
A Me and the girl, the girl that I was with.
Q I want you to look at State's Exhibit One that is in evidence and ask you if you recognize what this is a picture of?
A That looks like the car.
Q What car?
A The car that Michael Bell shot into.
Q What part of the bar or area did you run to when the shooting started?
A I run to the back.
Q And where did you go from there?
A I went around to my car and then I went home.
Q How about the young lady that you were talking to?

A She went -- she went the other way, we went separate ways.

Q Did you know what her name was?

A No, sir, I did not.

Q When did you meet her?

A I met her in the lounge.

Q Have you seen her since?

A No, sir.

Q Did you hang around that Moncrief Lounge area to talk to the police?

A No, sir, I did not.

Q Why not?

A Because I was on parole and I wasn't suppose to be in a place where they sell alcohol beverage.

MR. BATEH: Your Honor, I'd ask permission for this witness to step down and if we could bring that diagram back over here, sir.

Your Honor, the witness has a back problem and I think he can walk but just not long distances so I'd ask he be allowed to step down.

THE COURT: All right.

Do you want him in the wheel chair or what?

MR. BATEH: I'd like to defer to him if he tells --

THE COURT: Can you do this by walking or would

you rather be in the wheel chair?

THE WITNESS: I can do it by walking.

THE COURT: All right.

BY MR. BATEH:

Q Sir, if you would position yourself over on that side facing me here. Let me hand you this pointer, you recognize this to be a diagram of the Moncrief Liquors area here?

A Yes, sir.

Q The building and parking lot on Moncrief Road?

A Yes, sir.

Q Can you point out where you were at the time that you saw Michael Bell?

A I was right there, right here at the corner of the building.

Q All right. Now, where was Bell when you first saw him?

A Right in here, right in this area right here.

Q All right. What -- were you able to observe the automobile that he was beside?

A Yes, this was a dark colored car but I don't know what make or model it was.

Q Okay. How was it positioned in that parking area?

A It was faced toward Moncrief Street facing this

way.

Q All right. Now, can you show me the route that you saw the defendant take when you first saw him?

A Yes, sir, he came around this way, came up this way toward me cause I'm right there, and came around to this side right behind here.

Q To the driver's door?

A To the driver's door.

Q Now, when you were at this position first saw Bell, which direction was the defendant looking?

A He was looking over the car.

Q In what direction?

A Toward my direction, toward, you know, yes, over toward my way.

Q Would this car have been in his line of vision also?

A Yes, sir, it was.

Q Can you show the jury where the route you took once the shooting started?

A When the shooting started I went behind the lounge and came all the way around this way to my car, my car was parked right along in here.

Q What was the lighting like out there that night?

A The lighting was real -- well, we had a street light here, and you had a street light here, and you had

one here, and one here and whole lot of them across the top shinning toward the parking lot.

MR. BATEH: Your Honor, I have no further questions down here, the witness can return.

THE COURT: All right. Witness, come take the witness chair, please.

MR. NICHOLS: Your Honor, I'm going to need that for cross examination.

THE COURT: Just put it over here, just move it some, we will bring it back.

BY MR. BATEH:

Q Mr. Edwards, I want you to think back to 11 days later after this shooting on December 20th, 1993, where were you on that day?

A I was arrested, I was in Duval County Jail.

Q What charges were you arrested on?

A Gun charge and burglary charge.

Q What happened to those charges?

A Those charges was dropped because they investigated the charges and found out that I was innocent of those charges.

Q Now, on December 20th, 1993, do you recall a homicide detective by the name of Bolena coming to talk to you?

A Yes, sir, I do.

Q What did he ask you?
A He asked me did I know anything about the Moncrief murders.
Q What did you tell Detective Bolena?
A I told him I did, I told him I was there.
Q What did you tell him?
A I told him the same thing I told the court today.
Q And that was on December 20th, 1993?
A Yes, sir.
Q Before you talked to Detective Bolena did you ask him for any promises or deals regarding your own charge?
A No, sir, I did not.
Q Now, did you agree to become a witness on that date, December 20th, 1993?
A Yes, sir, I did.
Q And your parole was violated five months later on April 20th, 1994?
A Yes, sir.
Q After you gave a statement to Detective Bolena did you later appear in front of the State Attorney's Office and give them a sworn statement?
A Yes, sir, I did.
Q What did you tell the State Attorney's Office?
A Same thing I told the court today.
Q Did you ask the State Attorney's Office for any

promises or commitments from them in return for your testimony?

A No, sir, I did not.

Q Why did you give the statement to Detective Bolena and the State Attorney's Office?

A Because I felt that it was wrong and I've never seen nobody get shot like that before, it was cold blooded murder that's why I did it.

Q Now, did you go to the police and make an attempt to contact the police before Detective Bolena came to you?

A No, sir, I did not.

Q Did he come to you first?

A Yes, sir.

Q How many gunmen did you see out there around that yellow Plymouth?

A Just one.

Q Mr. Edwards, is there any doubt in your mind that this defendant seated right here is the individual who was the gunman that you saw out there that night?

A No doubt at all, no doubt in my mind whatsoever.

Q Mr. Edwards, do you know Vanesse or Ned Pryor?

A No, sir.

Q Do you know Dale George?

A No, sir.

Q Do you know Charles Jones?

A No, sir.
Q Do you know Paula Goins?
A No, sir.
MR. BATEH: Your Honor, I have no further questions of this witness.
THE COURT: Mr. Nichols?

CROSS EXAMINATION

BY MR. NICHOLS:
Q Mr. Edwards, have you told anybody that you knew who had done this shooting before Bolena came to talk to you?
A Yes, sir.
Q Who had you told?
A I think I told my wife.
Q Well, how did Bolena know to come and talk to you about this case?
A I think he might have heard from her.
Q From your wife?
A I think so.
Q You said that you had been -- as we look at this diagram without moving it, you said that you had been on that bottom left corner of the building?
A Yes, sir.
Q And you said you went around the building what would be clockwise and came back into the parking lot, is

that right?

A Yes, sir.

Q Your car was parked in that parking lot with the rest of them?

A No, sir.

Q Where was your car parked?

A Down the street on the sidewalk.

Q Are you aware that if you go to the back of that building what would be the top right hand corner that's not pictured there that there's a fence that goes from that corner straight on back, how was it you got through that fence and back around the building?

A I jumped over the fence.

Q You say as you look down this row of parked cars that you were able to see Michael Bell standing there looking over the roof of a car?

A Yes, sir.

Q As I understand your testimony the car where the victims are was facing as I look at it toward the right, correct?

A Correct.

Q And the car that you say that Mr. Bell was at was facing in the opposite direction?

A Yes, sir.

Q You say he was standing at the driver's side of

that car?

A Yes, sir.

Q Which would be on the near side to you, right?

A No, sir, on the opposite side.

Q I'm sorry, so he was looking over his own car?

A Yes, sir.

Q How much of his body were you able to see?

A His head.

Q Well, all of his head from his chin up?

A His whole head, yes, sir.

Q So his whole head was standing above the car?

A Yes, sir.

Q When you first saw him what was he wearing?

A He just had looked like a hat on his -- like a stocking hat on his head.

Q What color was it, was it light or dark?

A It was dark.

Q Dark meaning black or dark meaning dark?

A Black.

Q And then what did you see him do?

A I seen him walk to the rear of the car, and open the back door.

Q Back door of the car he was at?

A Yes, sir.

Q How could you see him open the back door of the

car when there were at least three or four or five cars between you and him; how can you do that?

A I could see the door opening, there is a light right there right where his car is parked there's a light post right there.

Q All right.

A So --

Q How many other people were in the car?

A I don't know.

Q Did you see anybody else in the car?

A No, sir, I did not.

Q Well, you tell us that you could see Bell and you could see him open the car and back door and you could see him take something out of the back door, right?

A Yes, sir.

Q If there was somebody else sitting in the front seat of that car you would have been able to see them, wouldn't you?

A No, cause he was looking over the car, and I'm looking directly at him.

Q You weren't looking over the car as you saw him reach in the back seat, were you?

A See, I watched him walk to the back.

Q But you couldn't actually see him reach in the back seat is that what you're telling me?

A He bent down so he was reaching into the car.
Q Well, when he bent down could you see him?
A I couldn't see him after he went down, no, sir.
Q And you couldn't see whether there was anybody else in the car or not?
A No, sir.
Q When he came back around what was he wearing?
A The mask was down over his face then.
Q What else was he wearing?
A I was looking at the gun, I wasn't looking at what else he was wearing.
Q Well, you were how many feet away from him? You were further away from him than you are from me, right?
A Right.
Q If you're looking at this pen you can see what I'm wearing in addition to carrying this pen, can't you?
A Yes.
Q Well, did he have a short leave shirt on or long?
A I don't know, sir, I was looking at the gun.
Q You couldn't tell us what kind of shirt he was wearing, what kind of pants he was wearing, whether he was wearing gloves, all you can tell us he's got mask on and a gun in his hands?
A Yes, sir, I was scared at the time, I didn't know what to do, whether to run or what.

Q Have you ever had any other contact with Detective Bolena, have you ever been involved in any court cases with Bolena?

A Yes, I've been arrested, that's the charge that I went to prison in 1990.

Q You and Bolena ever have any kind of civil cases that you filed against one another?

A Civil cases that I filed against --

Q Civil cases suing one another.

A No, sir.

Q But you've had a lot of contact with Bolena before this incident, haven't you?

A Yes, sir.

MR. NICHOLS: Okay. I don't have anything else, Your Honor.

THE COURT: State?

MR. BATEH: No questions, Your Honor.

THE COURT: Thank you very much, you may step down.

(Witness excused)

THE COURT: Call your next witness.

MR. BATEH: Mark Richardson.

THE COURT: Pull your chair up to the microphone, please.

MARK RICHARDSON,

CLAIM 1

ATTACHMENT C

Nichole Manna, *Investigation reveals dubious testimony, no evidence in 1993 case of Jacksonville man sentenced to death: The Tributary*, The Tributary (March 18, 2025)

BREAKING NEWS LIVE: Hegseth faces more grilling from Congress as Iran-Israel conflict escalates

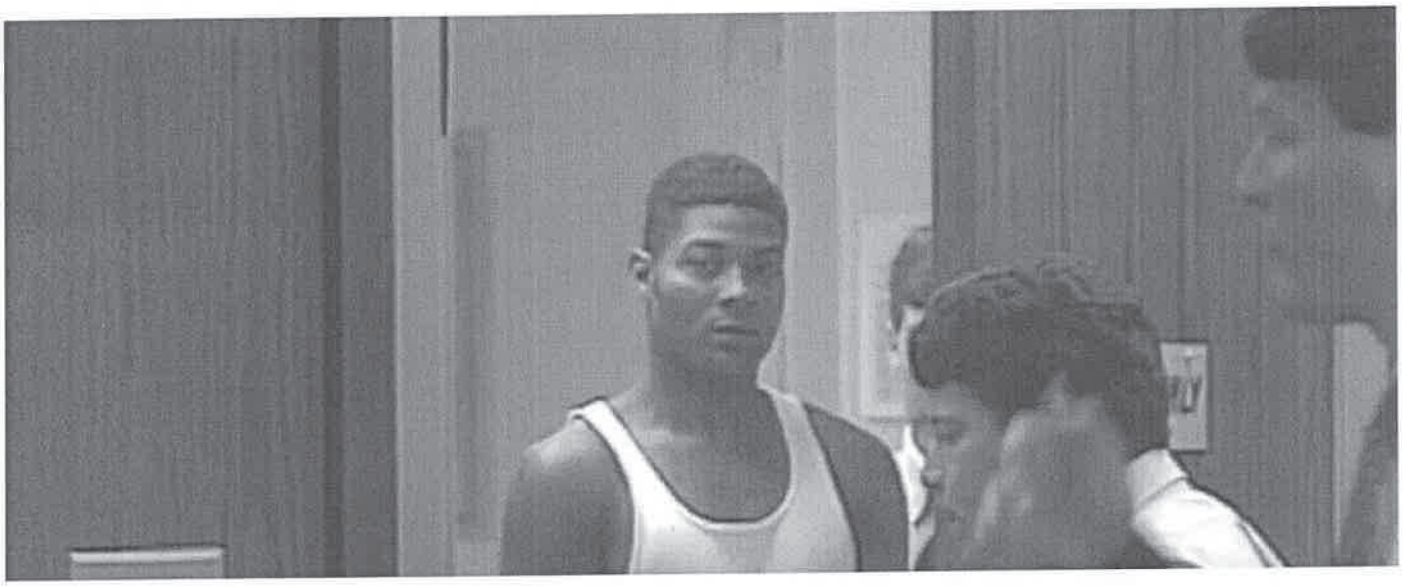
LOCAL NEWS

Investigation reveals dubious testimony, no evidence in 1993 case of Jacksonville man sentenced to death: The Tributary

Nichole Manna, Senior Investigative Reporter, The Tributary

Published: **March 18, 2025 at 11:59 AM**
Updated: **March 18, 2025 at 2:34 PM**

Tags: **Jacksonville, Duval County, The Tributary, Kenneth Hartley**



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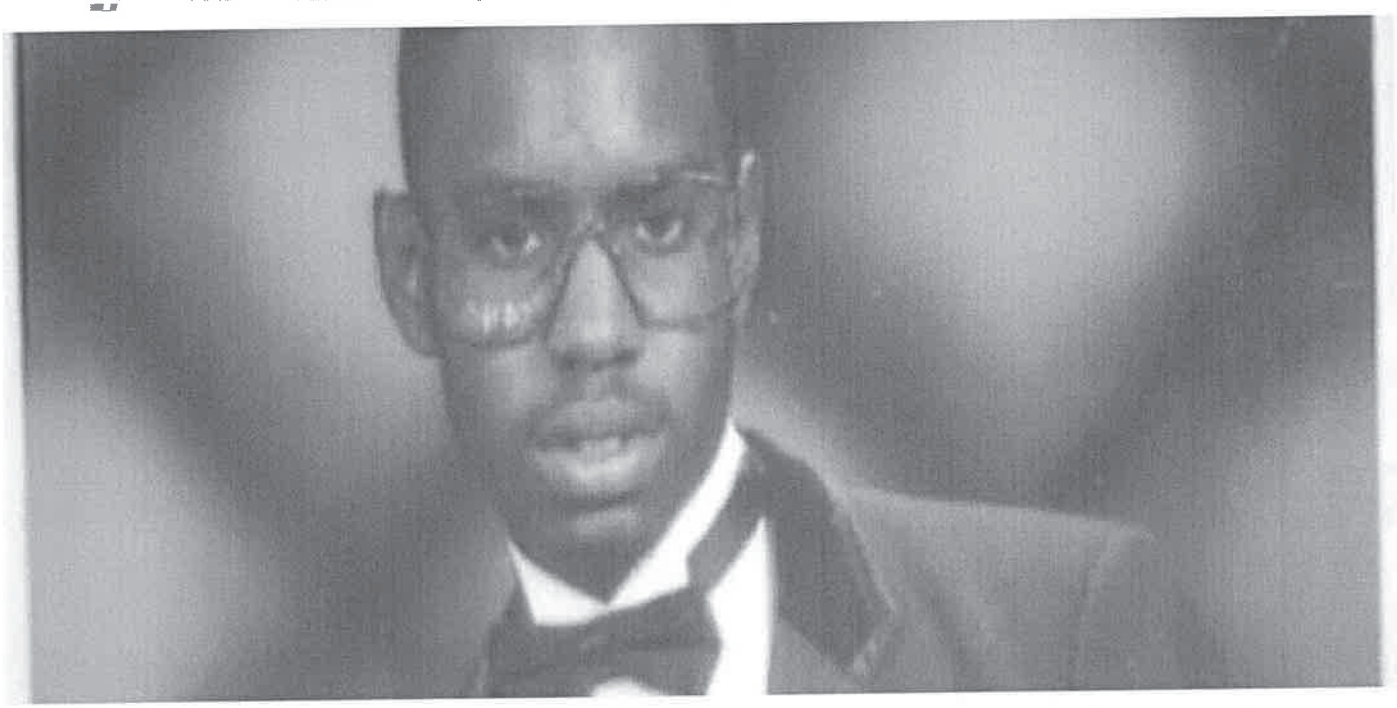


JACKSONVILLE, Fla. – *This is a condensed version of a story published Tuesday morning in The Tributary. The full story, along with parts two and three of the series, can be found at jaxtrib.org/cold-blooded.*

On its surface, the prosecution of Kenneth Hartley was like hundreds of others in Jacksonville in the 1990s, when the violent deaths of young Black men had become commonplace.

No physical evidence tied Hartley to the 1991 kidnap/murder of Gino Mayhew, 17. Instead, prosecutor George Bateh built the case on the shoulders of a star

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Gino Mayhew (News4JAX video archives)

In 1993, a jury convicted Hartley, who had previously served four years for manslaughter.

He was sent to Death Row.

But there was something about the witness, a man named Sidney Jones, that neither the jurors nor Hartley's defense team knew: Jones was a fabulist who was previously imprisoned for lying under oath. Jacksonville detectives who'd once paid him for tips came to distrust him.

An investigation of Hartley's Death Row odyssey by **The Tributary, a Florida nonprofit newsroom**, revealed a case marred by the dubious use of jailhouse informants and omissions about Jones' lack of credibility, actions one attorney labeled "outrageous."

Thirty-two years later, appellate lawyers are trying to save Hartley's life. If they succeed, it could also unravel the cases against Harley's two co-defendants, both serving life.

This investigation is based on interviews, thousands of pages of court records, handwritten detective and prosecutor notes, and documents produced by State Attorney Melissa Nelson's Conviction Integrity Unit.

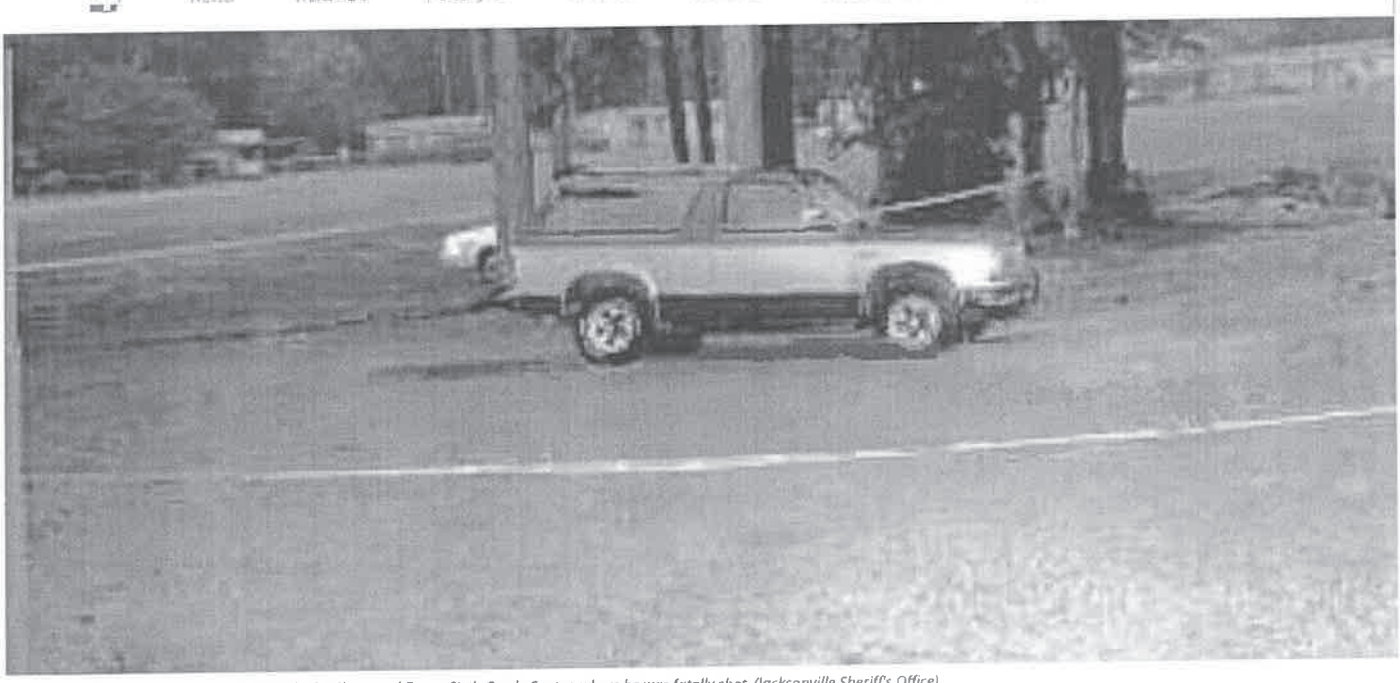
The Tributary spoke with Bateh for about 90 minutes and gave him the investigation's findings. He declined to speak on the record about the prosecution, but said of his career: "I was firm, but I always felt I was fair. I could be aggressive with violent crime but I always felt it was an appropriate balance. I was honest with the court and honest with other counsel. And I preached that (honesty) in the office and told the younger counsel we had to play fair – that the people we were prosecuting were American citizens and they had rights."

Sherwood Forest

Just before school started on April 23, 1991, a cafeteria worker at Sherwood Forest Sixth Grade Center noticed something out of place: a bronze Chevy Blazer on a grassy patch by the basketball court.



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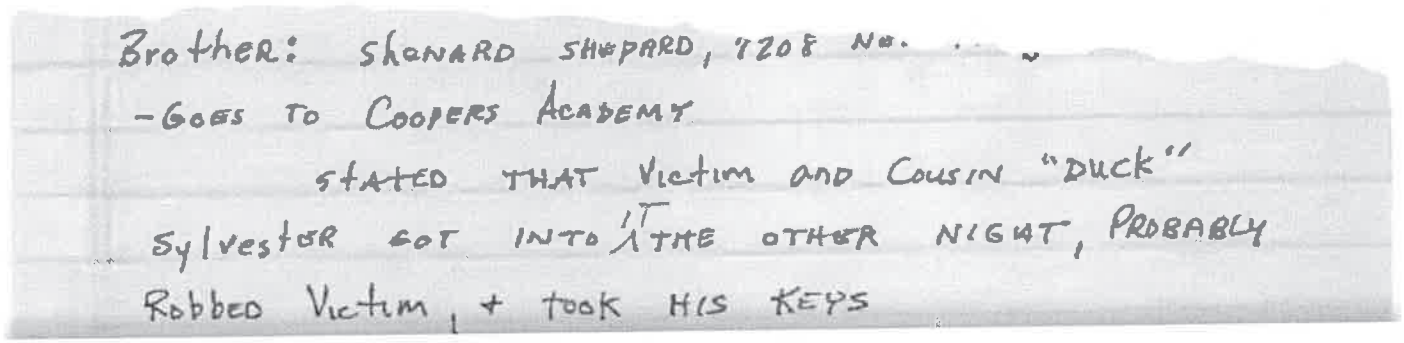
Gino Mayhew's Blazer was parked inside the Sherwood Forest Sixth Grade Center, where he was fatally shot. (Jacksonville Sheriff's Office)

Inside, Gino Mayhew lay dead. William Bolena, a Jacksonville Sheriff's Office homicide detective, was summoned to the scene.

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Mayhew's relatives approached Bolena with a story: Mayhew's distant cousin, Sylvester "Duck" Johnson, had robbed Mayhew and shot at him two days earlier. Johnson robbed people all the time, they said, suggesting maybe Duck was involved.

Bolena made a note of it.



Advertisement

The note JSO Detective William Bolena left himself after Gino Mayhew's family tipped him off to Sylvester Johnson as a possible suspect. (Office of State Attorney for the Fourth Judicial Circuit)

Mayhew had three bullet holes in the back of his head, one on his shoulder and another through his right index finger.

One set of fingerprints not belonging to Mayhew – or Hartley – was lifted from the SUV. Nobody knows to this day to whom they belong.

The Drug Mart off Moncrief

A day after Mayhew's body was found, detectives fielded another tip: Ronnie "Fish" Ferrell, a friend of Mayhew's, had been with him around 9 the night of the killing.

Unpromoted, Ferrell called police a day or two later to ask about the case's status. He was invited in for an interview on April 26.

Ferrell told detectives he saw Mayhew that night outside the Washington Heights apartment complex, off Moncrief Road, but said he left around 9:30, hours before the kidnapping.

Detectives re-interviewed Ferrell on May 7, prompted by multiple people saying they'd seen him at the apartment complex after 9:30. That interview grew heated and Bolena asked Ferrell if he knew Kenneth "Kip" Hartley, whose name had come up as a friend of Johnson. Ferrell said Hartley was a "bad dude."

Ferrell joined Johnson on the suspect list.

At some point – the entry isn't dated – Bateh wrote himself a note saying he needed to discuss the "weak case" with Mayhew's family.

Just 11 hours after the second Ferrell interview, according to a police report, Bolena got a call from Jones, who'd been locked up on a trespass charge. According to the detective, Jones recounted seeing Hartley, Ferrell and Johnson on the night of the murder – and Hartley holding a gun to Mayhew's head.

Detectives arrested Hartley, 24, Ferrell, 27, and Johnson, 23.



Hartley, Johnson and Ferrell. (Florida Department of Corrections)

Felon, liar, witness

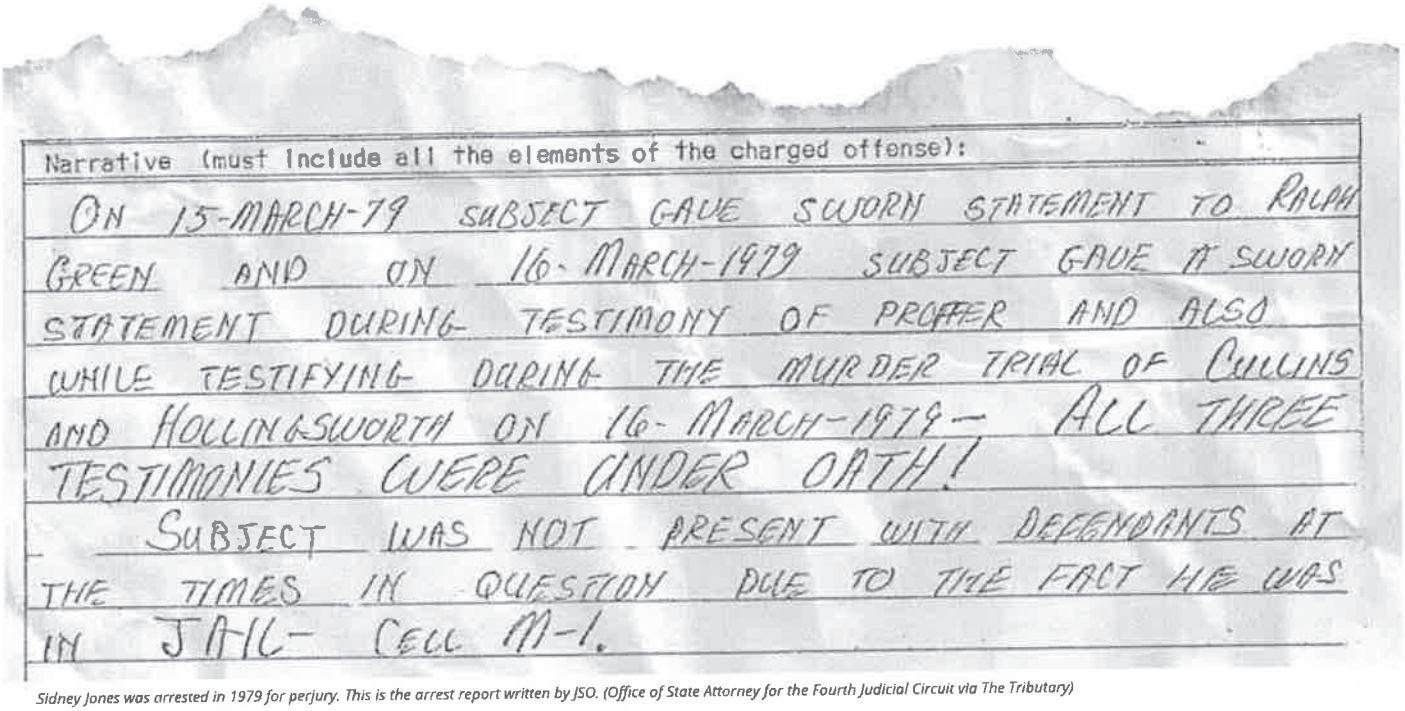
Sidney Jones was no one's idea of an ideal witness. He picked up pocket money from Jacksonville detectives by snitching on drug dealers as he purchased and consumed the same dealers' wares. At Hartley's trial, he testified he had six prior felonies, although in truth he had many more.

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But, unknown to the jury and Hartley's attorney at the time, Jones' biggest problem was perjury.

In March 1979, when Jones was 19, he gave highly detailed eyewitness testimony in a Duval County robbery-turned-homicide trial.



Narrative (must include all the elements of the charged offense):

ON 15-MARCH-79 SUBJECT GAVE SWORN STATEMENT TO RALPH GREEN AND ON 16-MARCH-1979 SUBJECT GAVE A SWORN STATEMENT DURING TESTIMONY OF PROFFER AND ALSO WHILE TESTIFYING DURING THE MURDER TRIAL OF CULLINS AND HOLLINGSWORTH ON 16-MARCH-1979- ALL THREE TESTIMONIES WERE UNDER OATH!

SUBJECT WAS NOT PRESENT WITH DEFENDANTS AT THE TIMES IN QUESTION DUE TO THE FACT HE WAS IN JAIL- CELL M-1.

Sidney Jones was arrested in 1979 for perjury. This is the arrest report written by JSO. (Office of State Attorney for the Fourth Judicial Circuit via The Tributary)

The story was made up. He'd been in jail when the crime occurred. Jones got three years for perjury. But the Florida Supreme Court overturned the conviction a decade later, faulting the judge for not letting Jones return to the stand to recant.

The defense and prosecution are required to exchange information like that before trial.

Bateh did no such thing in Hartley's case.

That information could have destroyed his credibility.

There was another problem with Sidney Jones: Cops knew he was dishonest.

A confidential-informant payment voucher from the week before Mayhew's murder has the word "blackballed" boldly scrawled across it, though it's unclear when the word was written.

The reputation stuck. Seventeen years later, a retired JSO detective who had assisted with the Hartley investigation would send an email to an associate referring to Jones as a "lying piece of s***."

Rick Sichta

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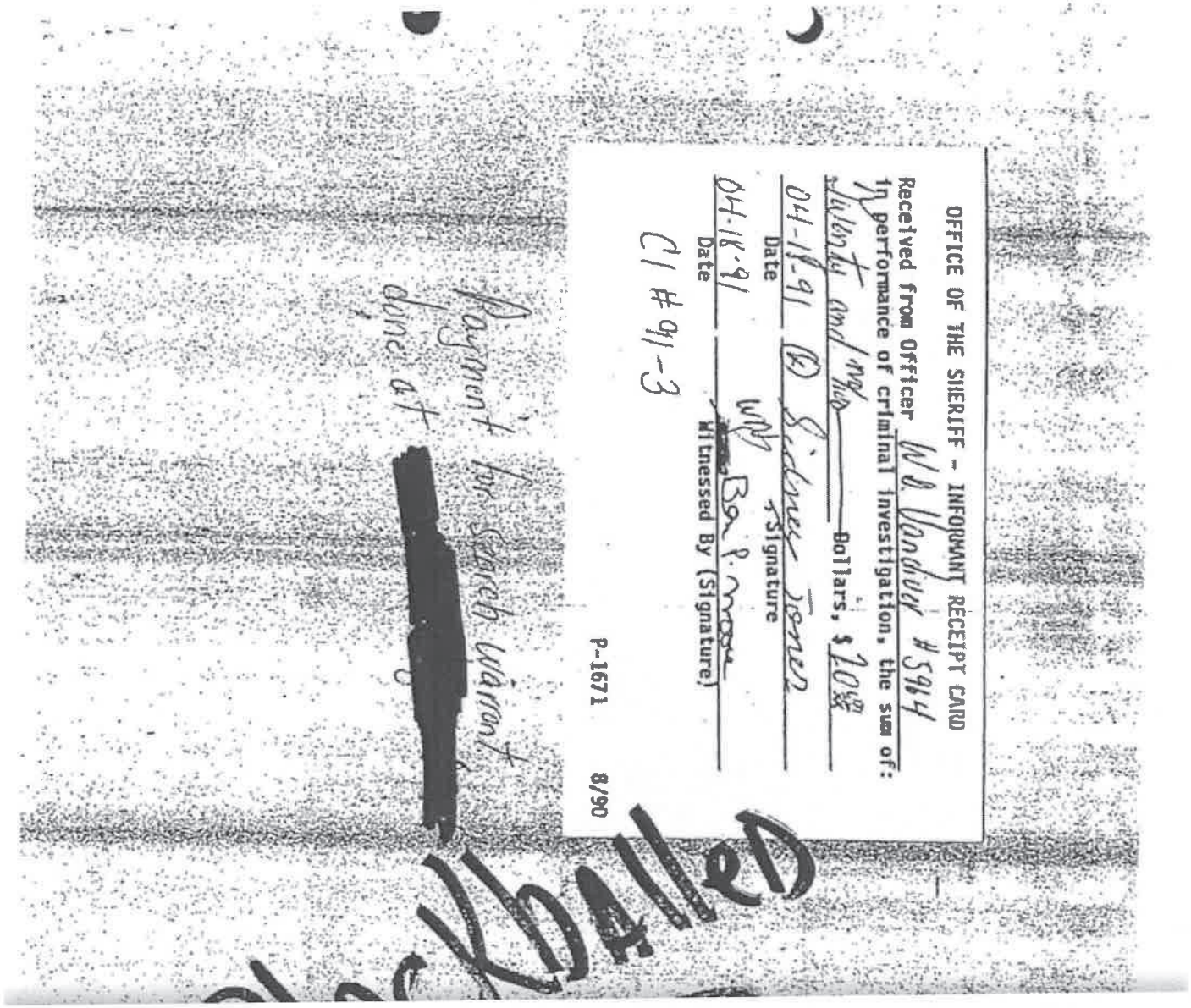
Sidney Jones is a lying piece of sh*t. I have been over this matter before in my prior life and no one will admit to black balling Jones. There is no date on the card and I am sure that it has been destroyed by now. I think it was Bob Walsh who was eventually run off from JSO and has been arrested several times since.

*A former JSO detective called Sidney Jones a 'lying piece of s***' in an email to a local attorney. (Image edited due to profanity) (Office of State Attorney for the Fourth Judicial Circuit via The Tributary.)*

The former cop, John Zipperer, was by then a private investigator working for Ferrell.

As far as the jury knew, Jones was credible as they listened to his account, which went as follows:

He was outside the Washington Heights apartment complex where he helped draw in drug-buying customers to Mayhew.



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The Jacksonville Sheriff's Office wrote 'blackballed' across a payment voucher made to Sidney Jones, a confidential informant. (Office of State Attorney for the Fourth Judicial Circuit)

Under oath, he described a "huddle" involving Johnson, Ferrell and Hartley, after which Hartley approached Mayhew's Blazer, gun in his ungloved hand. Jones said Hartley climbed into the rear seat and Ferrell slid into the front next to Mayhew. Mayhew sped away and turned left onto Moncrief Road. A purple truck followed, with Johnson driving.

Jones said he figured his friend was a dead man. He could have called his JSO handler, but, he testified, he'd been told not to bother the detective outside business hours.

Instead, he walked home, boiled a sausage, drank a Coke, watched TV and fired up $10 worth of crack.

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For weeks he said nothing – until his arrest.

"I felt more secure and felt more protected in being in jail than I did on the street," he testified.

Alleged coercion

Bateh presented no one else from the apartment courtyard, despite Jones saying dozens had been present, but the prosecutor produced a witness whose story picked up where Jones' left off.

Juan Brown, 29, told the jury he was one of three occupants of a car heading north on Moncrief at 11:30 p.m. when he spied his friend Mayhew's Blazer approaching.

Brown testified he spotted Ferrell in the front passenger seat and a light-skinned Black male with a build similar to Hartley's behind Mayhew.

Dr. Brian Cahill, a University of Florida eyewitness testimony expert, found it impossible to determine the make and model of oncoming vehicles on the dark road, much less the physical characteristics of the occupants, after he reconstructed the event for the defense.

In January 2024, the state attorney's Conviction Integrity Unit caught up with Brown while looking into Ferrell's conviction. In a new twist, he recalled being on foot when he saw Mayhew. Questioned further, he said he'd been in a car but alone.

That's not all that's new. Investigators documented how prosecutors had put the squeeze on Brown: by arresting his girlfriend. According to appellate attorneys privy to the unit's findings, Mayhew did not live in Washington Heights, but Brown's girlfriend did – and Mayhew used that apartment as a drug base.

Records show that on May 2, 1991, two weeks after Mayhew's murder, an undercover operative purchased a $20 rock there from Brown's girlfriend.

Recently, Brown's half-brother, Roland Redmond, connected the dots. He said Brown told him JSO arrested his girlfriend to make him testify.

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A month after securing that statement, prosecutors dropped the cocaine-selling charge. She got community service for possession.

Jabo, Tank and Snake

Ronald "Jabo" Bronner worked as a jailhouse informant on multiple occasions.

In the summer of 1991, Bronner and Eric "Tank" Brooks found themselves in the Duval County jail at the same time as Hartley and his co-defendants. Records show both were assigned as Hartley's cellmates, specifically to help investigators. Both claimed Hartley confessed, as did a third man, Anthony "Snake" Parkin.



Parkin, Bronner, Brooks. (Florida Department of Corrections)

Brooks and Bronner insisted they were working independently of each other, but their accounts were strikingly similar.

Bronner: "He was bragging. He was going to get off. He said everyone was scared of him."

Brooks: ":[He was] bragging... because the police didn't have a case against him because the witnesses were afraid."

Parkin said he heard Hartley confess not once, but twice.

The informants provided prosecutors with their theory of who did what: Hartley shot Mayhew, then he and Ferrell were driven away from the campus by Johnson. Motive: robbery of his money and drugs.

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'The Courage to Come Forward'

After two days of testimony, Bateh stood before jurors with a blown-up photo of Mayhew's body as a backdrop. It didn't matter, he said, that Hartley's fingerprints weren't on the truck: He'd confessed. As for Jones, he said they might not want him as a neighbor, but they had to admire his bravery.

"He was the only person out at Washington Heights that had the courage to come forward," Bateh said.

Bateh argued the informants were credible because they knew details – such as the murder weapon's caliber – that had not been publicly released.

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For the defense, Bob Willis had hoped to introduce evidence of an alternate suspect, a man who purportedly told a friend while both were in jail that he had shot Mayhew.

In a pre-trial hearing, the man denied admitting any such thing, and the judge ruled the matter inadmissible.

In his closing, Willis could only argue that the case was weak, likening it to a train that started on the wrong track and just kept chugging.

After three hours of deliberation, Hartley was convicted: first-degree murder, kidnapping, armed robbery.

On Sept. 7, 1993, with the case still on his calendar, Judge R. Hudson Olliff penned a gushing letter to State Attorney Harry Shorstein, Bateh's boss:

"George's dogged determination and devotion to duty is reminiscent of Inspector Javert's relentless pursuit of Jean Valjean in Victor Hugo's Les Miserables."



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George Bateh at Kenneth Hartley's Trial. (News4JAX video archives)

Two days later, the prosecutor was back before Olliff for the punishment phase.

Referencing Hartley's "cold-blooded" actions, Bateh said: "I would submit to you that he places no value on human life.... [I]t justifies a recommendation of death."

The jury concurred by a 9-3 vote.

Death penalty cases George Bateh helped prosecute

George Bateh helped send 15 people to Death Row during his time at the State Attorney's Office in Duval County. Of those cases, 6 sentences have been remanded to life. One person has been executed.

Search in table

Page 1 of 3 >

Defendant Name	George Bateh's role	Defendant's Charges	Original sentence	Where they are now
Michael Bernard Bell	Trial assistant state attorney	first degree murder	Death	Death Row
Fred L. Brooks	Filing assistant state attorney	first degree murder, armed robbert, drugs	Death	Life in Prison
Marc Anthony Christmas	Trial assistant state attorney	first degree, armed robbery	Death	Life in Prison
William Franklin Davis	Trial assistant state attorney	second degree murder x2	Death	Died, not by execution
Ronnie Ferrell	Trial assistant state attorney	first degree murder, armed robbery, armed kidnapping	Death	Life in Prison

Table: Nichole Manna, The Tributary • Source: State Attorney's Office for the Fourth Judicial District • Get the data • Created with Datawrapper

Two months later, it was Judge Olliff's turn. The headline of his obituary years later called him the "hanging judge." On this day, he lived up to his reputation.

"This is another of many violent criminals given an early prison release and thereafter committed more violent crimes, all to the great danger of the people of Florida and especially to the danger of Gino Mayhew," Olliff said.

Hartley went to Death Row. The three snitches, who told jurors they faced between 15 and 30 years, went home. None would see the inside of a Florida prison cell.

Craig Trocino, a University of Miami associate professor who runs the Miami Law Innocence Clinic, said it is "outrageous" the jury knew nothing about Jones' past perjury conviction and the get-out-of-jail-free cards given to the informants.

"The defense has a right to cross-examine any deal from a prosecutor," he said.

A Nagging Conscience

On April 8, 2022, Bronner, who'd parlayed his testimony against Hartley into a get-out-of-jail-free card, called attorney Nah-Deh Simmons to cleanse his conscience, according to an affidavit signed by the lawyer.

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Simmons' statement about Bronner, however, could prove to have limited use for Hartley: Simmons was arrested the following year for conspiracy to commit perjury and solicitation to commit perjury in an unrelated case.

But Simmons wasn't the only one to hear from Bronner about his past life: About five months later, Bronner allegedly confessed again to giving false testimony against Hartley, this time to a friend, Leroy Tillie, as they dined at Golden Corral.

Before he could tell it to a judge, Bronner died. But his alleged admissions spurred Hartley's appellate attorneys to seek out Bronner and Brooks' old jailmates.

They said Bronner and Brooks schemed together to make up confessions:

Dwayne Hagans: "Hartley never confessed to him but Ronald Bronner was still willing to point the finger."

Larry Wynn: "Jabo had no concerns about falsely testifying about Hartley."

Derrick Shiloh remembered Detective Zipperer, the cop who later called Jones a "lying piece of shit," coming to the jail with coffee and donuts.

"He told me all I needed to say was that Hartley confessed to me," Shiloh swore.

Like Bronner, Anthony Parkin has also recently recanted, according to a 460-page court filing in support of having a full-scale evidentiary hearing on Hartley's guilt or innocence.

Brooks died in 2020, making Parkin the only living informant.

Closure

Ferrell and Johnson continue to maintain they did not kill Mayhew, as does Hartley, who signs his letters "an innocent man."



Hartley, Johnson, Ferrell. (The Tributary)

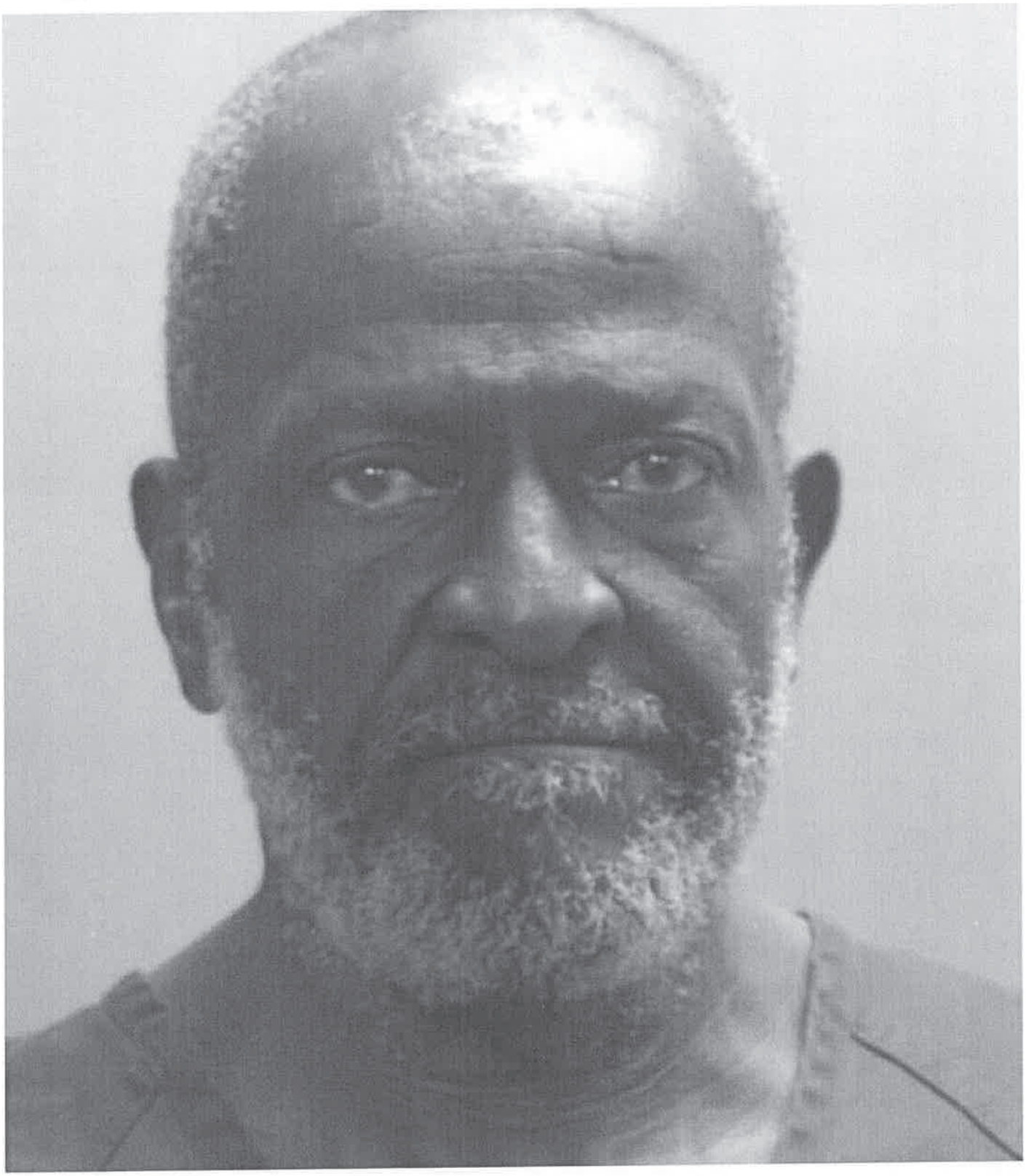
Judge Olliff retired two years after the trial and died in 2015, having put more people on Death Row than any other Jacksonville judge, according to the Florida Times-Union.

Bolena died in 2017. Zipperer and Bateh, both long retired, declined to talk to the Tributary.

Parkin declined to comment to the Tributary.

Since the Hartley trial, Jones has been arrested repeatedly, including pulling a 10-year stretch for burglary and aggravated battery with a deadly weapon.

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Sidney Jones, (Jacksonville Sheriff's Office)

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Details were vastly different, but he still maintained that Hartley, Ferrell and Johnson had abducted Mayhew and forced him to drive to his death.

The one-time CI revealed why he came forward, and it wasn't, as Bateh said, necessarily a matter of newfound courage.

He thought he was going to be paid.

*This story was reported, written and edited by **The Tributary**, a non-profit investigative newsroom covering Florida, and shortened for republication. Senior Investigative Reporter Nichole Manna reviewed more than 65,000 pages of court documents – including testimony and detective notes – that she obtained through multiple record requests. She spoke to everyone involved in the case who is alive and was willing. This is part 1 of a 3 part series – to read the full story and its other parts, go to **jaxtrib.org/cold-blooded**.*

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CLAIM 1

ATTACHMENT D

Charles Jones Affidavit

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 Bolena at the Duval County Jail. I had never met him before. My sister was in a relationship with Det. Bolena.

3. Det. Bolena 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. Bolena 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. Bolena 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 Ball.

9. I am coming forward now because I am older and wiser and think the corruption of Det. Bolena 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: 6-18-25

Charles Jones
(affiant signature)

Charles Jones
(affiant name)

STATE OF FLORIDA
COUNTY OF Hamilton

Affirmed and subscribed before me by means of [X] physical presence or [ ] online notarization, this 18 day of June, 2025, by ~~Colin Kelly~~ Charles Jones.

Colin Kelly,
Notary Public

COLIN L. KELLY
Commission # HH 187371
Expires October 17, 2025
Bonded Thru Troy Fain Insurance 800-385-7019

Commission Expires: 10/17/2025

Personally Known _____ OR Produced Identification X
Type of Identification
Produced Prison # 114875

Initials CJ

CLAIM 1

ATTACHMENT E

Charles Jones Trial Testimony

Q Michael had a jacket on, right?
A No, sir.
Q He didn't?
A No, sir, it wasn't a jacket, sir.
Q What was he wearing?
A More like a sweat shirt like.
Q What were you wearing?
A I had on regular T-shirt and jacket, sir.
Q You had a jacket on?
A Yes, sir.

MR. NICHOLS: Can I have just a moment, Your Honor?

(Conferring with the defendant)

MR. NICHOLS: I don't have any other questions, Your Honor.

THE COURT: State?

MR. BATEH: I don't have any questions.

THE COURT: Thank you very much, you may step down.

(Witness excused)

THE COURT: Gentlemen, step to side-bar just one moment.

(Side-bar conference)

THE COURT: Call your next witness.

MR. BATEH: Your Honor, state would call Charles

Jones to the stand.

CHARLES JONES,

Having been produced and first duly sworn as a witness, testified as follows:

DIRECT EXAMINATION

THE COURT: As you answer the question speak in the microphone.

BY MR. BATEH:

Q What's your name sir?

A Charles Magill Jones.

Q Mr. Jones, where were you born and raised?

A Jacksonville, Florida.

Q Spent your life here in this city?

A Yes.

Q Mr. Jones, did you graduate from a local high school?

A Yes, Paxon Senior High.

Q Are you married, sir?

A Yes.

Q Any children?

A Yes.

Q How many?

A Three.

Q Mr. Jones, what kind of work do you do?

A Concrete finisher.

Q Mr. Jones, have you ever been convicted of a felony?
A Yes.
Q How many times?
A Three times.
Q Mr. Jones, are you currently being housed in the Duval County Jail on a federal robbery charge?
A Yes.
Q Did you plead guilty in federal court to that robbery charge?
A Yes.
Q Was that on August 18th, 1994?
A Yes.
Q Before what Judge?
A Judge Slesinger.
Q When is your sentencing set for?
A March 30th.
Q Of this year?
A Yes.
Q Under the federal sentencing guidelines that apply to your case, what sort of sentencing range are you looks at in federal prison?
A 15 to 19 years.
Q Mr. Jones, are there any agreements between you and the State of Florida or the Sheriff's Office or the

State Attorney's Office regarding your testimony in this case?

A No.

Q Mr. Jones, why are you testifying truthfully here?

A Well, it's the truth and I just hope that Judge Slesinger finds out I'm testifying truthfully.

MR. NICHOLS: Judge, excuse me, I object to the prosecutor constantly why are you testifying truthfully, that's invading the function of the jury, they're the ones to decide who's telling the truth.

THE COURT: I sustain the objection, the jury will disregard the question, rephrase it.

BY MR. BATEH:

Q Well, do you hope to get any sort of benefit out of coming in this courtroom and testifying?

A No.

Q Do you think that your testifying here will have any effect on your federal sentencing?

A No.

Q Do you believe that your federal sentencing Judge, Judge Slesinger will consider your cooperation in this case?

A Yes.

Q How so?

A Only if I testify truthfully cause if I do not testify truthfully it will hurt me on the long run.

Q Do you know the defendant Michael Bell?

A Yes.

Q How long have you known him?

A Roughly ten years.

Q Do you see Mr. Bell here in this courtroom?

A Yes.

Q Would you please point him out and describe what he is wearing?

A Well, that beige and black shirt right there.

MR. BATEH: Let the record reflect he's identified the defendant.

THE COURT: Let the record so reflect he's identified the defendant.

BY MR. BATEH:

Q How is it that you've known the defendant?

A Well, me and his brother Pewe used to hang out when we were much younger but last five years I haven't seen Mike, you know.

Q Very often?

A No, not at all.

Q Now, I want you to think back to the middle of December of 1993, about a week before Christmas of 1993, did you see Michael Bell at that time?

A Yes.
Q Where was that at?
A On Yulee Street on the westside.
Q And tell me what occurred at that time.
A Well, he was trying to sell an AK-47.
Q Who is he?
A Michael Bell.
Q He was trying to do what?
A Sell an AK-47.
Q How did that come about?
A Well, he just came on the westside and was trying to sell an AK-47 for $400.
Q What was his attitude about selling it?
A He was just really anxious, trying to sell it and nobody still wouldn't buy it, then he drop the price down to 300 and nobody still didn't buy it.
Q No one bought the gun?
A No.
Q Do you know what price AK-47's were selling for on the street at that time?
A 5 or $600.
Q And late January of 1994, sometime shortly after Martin Luther King's birthday, did you see Michael Bell?
A Yes.
Q Where did you see him at?

A Moncrief Liquors.
Q Do you recall seeing him at that time?
A At the game room?
Q In the area of game room at 24th and Myrtle?
A Yes.
Q Did you talk to Michael Bell?
A Yes.
Q What did you tell him?
A Well I just asked him, you know, why did he kill Jimmy West when there was no right to kill his brother.
Q And what did the defendant say?
A He just told me, you know, he killed my brother, and that was the closest thing to me and I kill his.
Then I asked him why did you kill the girl that was in the car, that was getting in the car? And he told me fuck that shut and bullets don't know nobody.
Q He said -- you're talking a little too close to that microphone and it's difficult to hear, just back up a little bit.
Could you repeat what you said cause I didn't understand.
A Well, Michael Bell told me --
Q Back up just a bit, okay, go ahead.
A Michael Bell told me that Jimmy West was at the

wrong place at the wrong time and Theodore Wright was the one that killed his brother and he never could catch him so he said fuck it. He just took him out.

And I asked him why did he kill the young innocent girl that was in the car? And he just told me fuck that shit, bullets don't know nobody, she was at the wrong place at the wrong time.

Q In -- on September 21 of 1994 approximately a month after you pled guilty in federal court do you recall a homicide detective by the name of Bolena coming to the Duval County Jail?

A Yes.

Q What did he ask you?

A About Michael Bell and AK-47.

Q What did you tell him?

A Same thing I said here today.

Q Did you tell him the whole story?

A Yes.

Q Did you contact the Sheriff's Office to get Detective Bolena to come to you at the jail?

A No. He contacted me.

Q Did you ever ask Detective Bolena for any help on your federal sentencing in return for that statement?

A No, I did not.

Q On October 31, 1994 did you give a sworn

statement to the State Attorney's Office?

A Yes, I did.

Q What did you tell the State Attorney's Office?

A Same thing I said here today.

Q Did you ever ask the State Attorney's Office for any help on your federal sentence before you gave that statement?

A No.

Q Have you ever been a prosecution witness before?

A No.

Q Do you know Henry Edwards?

A No.

Q Do you know Dale George?

A No.

Q Do you know Ned Pryor?

A No.

Q Do you know Paula Goins?

A No.

MR. BATEH: No further questions, Your Honor.

THE COURT: Mr. Nichols?

CROSS EXAMINATION

BY MR. NICHOLS:

Q You've been convicted how many times?

A Three times.

Q And you don't expect to get any kind of benefit

or anything out of this testimony?

A No.

Q You don't like Michael Bell, though, do you?

A No.

Q As a matter of fact, you and he have had quarrels and problems in the past, haven't you?

A Yes.

Q As a matter of fact you shot him once, didn't you?

A No.

Q Never shot him?

A No.

Q You remember my taking your deposition sometime ago back in December of last year?

A Yes.

Q And you say you're not looking for any kind of hope of reward or better treatment or anything like that because of testifying against Mr. Bell, right?

A That's right.

Q You remember on page seven where a question was asked so he came, and I'm talking about Bolena, to talk to you just about some rifles that people were wanting to sale.

Answer: Yeah. He was really trying to help me because I'm in federal, I'm in federal custody so anything

that I help the state with, you know, it will sort of like keep my point level down.

Now your point level, you understand in federal sentencing they've set these points up and the lower your point level is the lower your sentence is, isn't it?

A It don't have nothing to would with state case.

Q Do you recall saying so anything that I help the state with, you know, it will sort of keep my level down?

A Yes, I said that but I said if I testify truthfully it would.

MR. NICHOLS: I don't have anything else, Your Honor.

THE COURT: State?

REDIRECT EXAMINATION

BY MR. BATEH:

Q What happens if you testify falsely?

MR. NICHOLS: Your Honor same objection, it's the jury's decision to decide whether it's true or false.

THE COURT: Well --

MR. NICHOLS: Falsely essentially means if he testifies differently than what the state wants him to testify to the script and --

MR. BATEH: Your Honor, counsel is testifying.

MR. NICHOLS: Well, you're testifying when you start this false and true stuff.

THE COURT: You are both testifying, I think the question is proper.

BY MR. BATEH:

Q What happens if you testify truthfully in this case, how is that going to affect your federal sentence?

A It's just that if I testify truthfully, Judge Slesinger might take in consideration when he gets ready to sentence me.

Q What happens if you testify falsely?

A It will hurt me real bad in the federal guidelines.

MR. BATEH: No further questions.

THE COURT: Mr. Nichols?

MR. NICHOLS: Nothing.

THE COURT: Thank you very much, you may step down.

(Witness excused)

THE COURT: Members of the jury, the time is now quarter till 6:00, we're going to be in recess until 10 o'clock tomorrow morning.

In the meantime you will not discuss this case amongst yourselves, you will not allow anyone to discuss the case with you or in your presence. And should there be any radio, television or newspaper

reports about this case you will not read, watch, nor listen to such news reports. I know that we've had TV cameras in here today. What channel was it?

MR. NICHOLS: Your Honor, I understand they all share that file tape so it will be on all channels.

THE COURT: Well, I ask you not to view the news this evening, if you do watch TV I ask you not to view it either when the news comes on or 6:00, 6:30 or 11:00 o'clock, just wait until after the trial is over, as a matter of fact, I think they will probably run it for you at the station if you wanted to watch it real bad after the trial is over. And we will start at 10:00 o'clock tomorrow morning. Any further admonitions by state or defense?

MR. NICHOLS: No, Your Honor.

MR. BATEH: No, Your Honor.

THE COURT: You may leave at this time, be back tomorrow morning at 10:00 o'clock. Thank you.

(Jury is excused)

THE COURT: All right. Let the record show the jury is out of the courtroom. All right. Take the defendant in the back.

Counsel, step to bench just a moment, please.

(Side-bar conference)

(Thereupon the hearing was concluded)

March 8, 1995

THE COURT: Bring out the defendant.

(Defendant present)

THE COURT: Bring out the jury.

(Jury present)

THE COURT: Let the record show the jury is back in the courtroom. I apologize for the temperature, did it improve any?

A JUROR: Yes.

THE COURT: All right. Mr. Bateh, would you call your next witness, please.

MR. BATEH: Your Honor, the state would call Paula Goins to the stand.

PAULA GOINS,

Having been produced and first duly sworn as a witness, testified as follows:

DIRECT EXAMINATION

BY MR. BATEH:

Q What is your name, ma'am?

A Paula Goins.

Q Miss Goins, how are you employed?

A I work for the United States District Court.

Q And what are your duties there?

A I'm a courtroom clerk for Magistrate Judge John Steal.

CLAIM 2

ATTACHMENT A

State Guilt Phase Closing Argument

would make the opening argument and then the defense will have the final argument. Mr. Bateh, what say you.

MR. BATEH: May it please the court, good morning, members of the jury.

A JUROR: Good morning.

MR. BATEH: During the course of my argument to you I am going to be remembering the evidence as I am best able to do. If at any time during that argument my recollection, my memory differs with what you remember the evidence to be, of course go with your own memory, I would never intentionally try to mislead you.

I'd like to start by discussing some of the principles of law that apply in this case. The Judge will explain those to you in more detail, but I want to give you my understanding of the law so that you can see how the evidence that you've heard, how the law and the evidence apply together, work together to show that defendant has been proven guilty of two first degree murders, the murder of Jimmy West, the first degree murder of Jimmy West, and the first degree murder of Tamecka Smith.

The crime of first degree murder has basically three elements, three parts to it, the state must

prove that Jimmy West and Tamecka Smith are dead, I submit to you we've clearly shown that. We must show that they were killed by the act of the defendant, I submit to you we've clearly shown that, and we must show that those killings were premeditated.

This is a blown up copy of the law of premeditation that the Judge will read to you, and I submit to you that not only will the Judge read to you the law at the end of this but you will be given a copy of the law, a number of pages of the law that you will take back with you during your deliberations. But one area of the law that I want you to pay careful attention to is premeditation, killing with premeditation is killing after consciously deciding to do so, the decision must be present in the mind at the time of the killing. The law does not fix the exact period of time that must pass between the formation of the premeditated intent to kill and the killing. We don't need a period of days or weeks or months between the decision to kill and the act to kill. The law says there's no set period of time. It can be, under the law, just a matter of seconds. As long as the time period must be long enough to allow reflection by the defendant, reflection by the defendant. That means as long as you've got time, when the decision --

once the decision -- once that defendant made the decision I'm going to kill, and then carried out that killing that there was just a short period of time, just a couple of seconds, just enough time to reflect that I've formed the decision to kill, and then a conscious carrying out of that mental state of that decision to kill, that's all that the law requires to establish premeditation. The premeditated intent to kill must be formed before the killing, that is before in this case before that trigger was pulled. The defendant had to have the decision in his mind to kill.

The question of premeditation is a question of fact to be determined by you, the jury, from the evidence. It will be sufficient proof of premeditation if the circumstances of the killing and the conduct of the accused convince you beyond a reasonable doubt of the existence of premeditation at the time of the killing.

I would submit to you that when that defendant saw that automobile, that yellow car out there in the area of where he was at, recognized it to be Theodore Wright's car, he then left that area, was taken to his automobile where his car was, he got his car, he got his two friends, Ned Pryor and Dale George as his back

up to go with him. He got that cap that he turned into a mask, he got that AK-47 with that 30 round clip and went back out there hunting, hunting for that car because he was going to kill whoever was in that car, that's clear evidence of premeditation. And then when he snuck up on that car and fired 12 separate bullets into the body of Jimmy West that was premeditation. And when he shot at and killed Tamecka Smith that was premeditation.

Now, there's one other doctrine of law that I wanted to discuss with you that the Judge will also explain to you, plays an important part in this case. And, that is, the law of transferred intent. Transferred intent, and this is the law that the Judge will read you and you'll have a copy of it back in the jury room. If a person has a premeditated design to kill one person, and in attempting to kill that person actually kills another person, the killing is premeditated. The killing is premeditated. If there is a premeditated design to kill one person and in attempting to kill that person actually kills someone else.

Now, before we had the law of transferred intent, if a murderer had formed for months and weeks the decision, the premeditation to kill Mr. A and set

about killing Mr. A and had a rifle and had Mr. A in his sights and had been planning this for weeks and had been telling his friends I'm going to kill Mr. A and when he shot Mr. A his arm moved and he killed Mr. B, an unintended person that was standing next to Mr. A, before we had the law of transferred intent, if in that killing in that example I've just given you, in the prosecution of that killer for the killing of Mr. B, the killer would raise the defense of my whole plan, my whole premeditation was to kill Mr. A, I didn't intend to kill Mr. B. And without the law of transferred intent, the killer of Mr. B would be not guilty of premeditated first degree murder. The law came up -- the law evolved to come up with this law, this doctrine of transferred intent to cover that example, to cover that instance.

Another example that before the law -- without the law of transferred intent if a husband who was dissatisfied with his marriage and dissatisfied with his wife and wanted his wife killed, if the husband went out and hired a hit man, a hired killer to kill his wife, and paid the hit man money to kill the wife, and then took the hit man to his home and said here, here's a photograph of my wife, this is my wife I want you to kill. Here's my house, this is where she's

at. Before the law of transferred intent if that killer went to the wrong house and killed the wrong woman because he was just stupid, if he was caught and prosecuted for killing that wrong woman, his defense would be my plan was to kill the wife of this man that hired me, I didn't intend to kill this woman. I was hired to kill Mrs. A, I didn't mean to kill Mrs. B. I went to the wrong house. Without the law of transferred intent he would have been found not guilty of premeditated first degree murder. So the law evolved, the law developed, the law of transferred intent to cover that type of situation. And I would submit to you that the law of transferred intent can apply in this particular case.

Under the law of transferred intent any evidence of premeditation by that defendant to kill Theodore Wright, the person who killed that defendant's brother, evidence of premeditation to kill Theodore Wright under the law, under the law of transferred intent is viewed as premeditated intent to kill Jimmy West and Tamecka Smith because the defendant's intent to kill Theodore Wright is transferred to the people that he actually killed. Is that clear to you all?

Now, under the law of transferred intent if you believe that the defendant never saw the face of the

man behind the driving wheel, the steering wheel of this car, never saw the face of the person in that position, if the defendant all through this double first degree murder thought that he was shooting at Theodore Wright, under the law of transferred intent he is still guilty of the first degree premeditated murder of Jimmy West and Tamecka Smith.

Even if you don't believe, even if you don't believe the defendant's Aunt Paula Goins when the defendant told her that right before he shot, Jimmy West turned around and looked at the defendant as the defendant stood in that open doorway with that AK-47 pointed to his head and he saw that it was Jimmy West, even if you don't believe Paula, it's still because of the law of transferred intent that still first degree premeditated murder.

Tamecka's murder is clearly under the law of transferred intent, because she was killed, she was killed while the defendant had a premeditated design to kill either Theodore Wright or Jimmy West, she was killed while the defendant was attempting to kill the person that he had the premeditated intent to kill. So Tamecka West -- Tamecka Smith's murder is first degree premeditated murder.

I would submit to you that there is clear

evidence even without the law of transferred intent in this case we have clear evidence without that law that these were premeditated murders.

The defendant told Paula Goins who we saw before he pulled that trigger 12 separate times, told her he thought he hit the jackpot, this is who he wanted. I would submit to you that Tamecka Smith's murder even without the law of transferred intent was a premeditated killing by this defendant. This defendant's desire for revenge was all encompassing, he was going to kill Jimmy West or Theodore Wright and any one else that got in his way. He wasn't selective, he saw what he thought to be Theodore Wright or Jimmy West coming out of that bar and he saw two women with him, he saw them going up to that car and he still walked up there with that loaded AK-47, loaded with 30 separate bullets and fired all 30 bullets. That's evidence of premeditation in the killing of Tamecka Smith. But we've got the law of transferred intent that makes this absolutely clear that both of those killings, both of them were first degree murders.

Let me discuss with you the evidence of premeditation of Jimmy West. Six months before this murder in June of '93 after Theodore Wright had killed

Lamar Bell, this defendant's brother, the defendant refused to go to the police. His Aunt Paula Goins advised him to go to the police and tell them what he saw and his response to her was jail's too good for him. He belongs in a morgue. You remember that statement? Six months before the killing that's the statement of premeditation, the defendant was premeditating six months before the killing.

He told Erica Williams and Ned Pryor and Dale George that he was going to get even with Theodore Wright, that he is going to kill Theodore Wright because he killed his brother.

Erica Williams, do you remember Erica telling you that she counseled the defendant, give up your quest for -- your quest for revenge, innocent people may die or may get hurt. You remember that? And the defendant's answer to her was sometimes the good get hurt with the bad. Do you remember that? That's evidence of premeditation on the part of that defendant months before this killing.

The night of this killing he saw Theodore Wright's car, he got his two buddies, Ned and Dale George. When they arrived in the parking lot and those two men saw the car of Theodore Wright, they knew what was going to happen, they tried to talk the

defendant out of it. It's early, it's going to be a while before he comes out, let's leave, that's what they told him. He told them he was going to wait it out. He was there, he was loaded, he was going to kill, he had made his mind up and he wasn't going to let his two friends talk him out of it, that's evidence of premeditation. He had that ski mask with him, burn two holes in it, why do you need a ski mask? Because he knew he was going to kill and he did not want to be recognized. He knew that was a crowded area, a parking lot was filled, he was going to commit premeditated murder and he didn't want to be seen.

He had an AK-47 with 30 bullets in it in a clip. That's enough bullets to kill a whole platoon full of soldiers. Evidence of premeditation.

He waited, he told Paula Goins that he knew that when he came out of that bar he was going to be unarmed because he knew the practice that you're searched for weapons when you go in there. He knew that he would have an unarmed victim on his hands, that's the situation he wanted.

He waited. He was setting up an ambush, that's exactly what this was, this was an ambush. When he saw Jimmy West come out with two women he knew they were unarmed, he puts the mask on, grabbed his gun,

went up there to the open driver's door and at virtual point blank range with no chance of missing he unloaded that gun in that car, shot Jimmy West 12 times with an AK-47 assault rifle. Blew part of his ear off, a bullet went clean through his brain, riddled his body with bullets, broke bones, pierced lungs, pierced his diaphragm, 12 separate bullets. Was the first shot premeditated? Was the second shot premeditated? The third? The fourth? The fifth? These are separate pulls of that trigger into a defenseless human being. Somewhere between that first, if you aren't convinced that the defendant had the premeditated intent to kill when he walked up to that car, somewhere between that first shot and that 12th shot into Jimmy West premeditation had to fall in there. He fired until he was absolutely certain that Jimmy West was dead. That's evidence of premeditation.

And then he fled. He went to Paula Goins' house, what was his reaction there? Remorse? Concern? Contrition? Paula, I've done a terrible thing, I don't know what to do with myself? No, further evidence of premeditation, he was proud, he was happy, he had accomplished what he had set out to do six months earlier. The score is even. I got him. I got

him. A brother for a brother. Detailed to her the facts of that ambush, how he saw Jimmy West when he turned his head and how he thought that he hit the jackpot. Premeditation, the mask, the wait, the planning. He even detailed shooting up that parking lot as he was getting away. There's no remorse, that's cold and calculated premeditation. It's an absolute miracle that other people out there were not killed, it's a miracle. Massacred two people in that ambush out there.

Month later Charles Jones goes up to him, and Charles Jones asked him, why did you kill Jimmy West when it was Theodore Wright, Theodore Wright that killed your brother? And his answer was he couldn't find Theodore Wright, Theodore Wright was hiding from him. He saw Jimmy West and it was a brother for a brother. Premeditation.

Now, the evidence of Tamecka Smith's premeditated murder, the evidence of her premeditation is simply that this defendant when he saw those two women coming out of that bar with Jimmy West didn't deter him at all, he went straight up to that car, woman seated right beside Jimmy West and he just fired away. That I submit to you, the four bullets that struck Tamecka Smith as they burned through her body and she died is

clear evidence of premeditation to kill Tamecka Smith. His desire for revenge was all encompassing.

But because of the law of transferred intent it's even clearer that her death, her murder was first degree premeditated murder because she was killed as the defendant was attempting to kill the person that he had the premeditated intent to kill.

Law is not going to reward that defendant by holding him accountable for something less than first degree murder simply because he was not careful enough to avoid shooting and killing Tamecka Smith, he doesn't get rewarded for bad aim, he doesn't get rewarded for not being careful enough for only shooting and for only killing Jimmy West. He's held fully accountable under the law for first degree murder under the doctrine of transferred intent for the first degree murder of Tamecka Smith. Murder of Tamecka Smith, I submit to you, is a classic, classic case of transferred intent.

Transferred intent only applies to first degree murder in the law of Florida, it's the only degree of homicide, the only degree of murder that transferred intent applies to. And by having the law of transferred intent apply to first degree murder, we put first degree murders on notice that if you kill

someone with premeditation and while you're carrying out that killing you kill someone else that you may not necessarily intended to kill, that murder is going to be first degree premeditated murder. It puts first degree murderers on notice. It discourages first degree murderers.

And I ask you not to reward this defendant for bad aim by finding him guilty of some lesser charge than first degree murder, hold him fully responsible for what he did, fully accountable for what he did and, that is, first degree murder of Tamecka Smith.

Now, the Judge is going to explain to you the law -- the law of lesser crimes, lesser included offenses. He'll explain to you that within the full blown crime here of first degree murder are two lesser crimes, two smaller crimes included within it. One of those is second degree murder. Second degree murder is a killing done by an act that is, and this is a bunch of fancy legal language, fancy lawyer talk but it's killing done by an act imminently dangerous to another, evincing a depraved mind regardless of human life. An example of second degree murder which one of the main differences between first and second degree murder is first degree murder is premeditated murder. Under second degree murder, there's no intent to kill,

that's required. An example of second degree murder would be this: If the defendant were angry at Jimmy West for some reason and he saw Jimmy West seated in his parked automobile in that parking lot, and the defendant was driving by in his car with Dale George beside him and as he drove by he saw Jimmy West seated in his car. And the defendant turned to Dale George and said there's Jimmy West. I had an argument with him a couple days ago, I don't like him, I've got a gun, I'm going to scare him up, I'm going to fire a bullet at his car just to scare him. And he tells Dale that. And he rides back by that location where he saw Jimmy West seated in the car and the defendant pulled his gun out and he fired a bullet at his car without any intent to kill, just one bullet with the intent to scare him, and let's say that bullet struck Jimmy West in the chest, killed him and he died. That could be an example of second degree murder. You wouldn't have any clear intent to kill, and it was only one shot, firing a gun at someone is an act -- can be an act imminently dangerous to another and evincing a depraved mind.

Now, the evidence here goes well beyond second degree murder, but under the law you have the option of finding the defendant guilty of second degree

murder if you so choose.

The lowest crime included within first degree murder is manslaughter. Manslaughter can be an act committed or killing committed through culpable negligence, culpable negligence. Often is committed with a car, not always, an example of manslaughter would be if the defendant was driving his car 60 miles an hour in a 30 mile hour residential zone, and he ran a red light, ran a stop sign and creamed into Jimmy West's car and killed him. That could be an example of manslaughter.

Now, the Judge will explain these two lesser crimes to you, but he will tell you this: Your responsibility as jurors is to convict the defendant of the highest crime proved beyond a reasonable doubt and that is, the full blown crime of first degree murder. I'd submit to you we've gone well beyond second degree murder and manslaughter and we've proved that defendant is clearly guilty of first degree murder in both of these killings.

Now, with regard to the evidence that you heard during the trial, you heard Lora Hampton, the first witness that was called talk about walking out in that parking lot seeing a masked man come up with an AK-47 and how she was able to get away without being

shot. She described the gun man, masked as a light skinned black male, six foot, medium build.

Henry Edwards told you that he knew the defendant for close to six months before the killing, had met him close to 30 times, knew him when he saw him and he saw that defendant put that mask on. That defendant walked up to the car and started firing.

Mark Richardson, friend of Jimmy West told you what he saw and he saw the gunman who shot at him get into -- after the shooting was over, get into that automobile or car that looked like that, same car Erica Smith (sic) described as the defendant's car and Aunt Paula Goins said was his car.

He also remembered the gunman being a light skinned black male six foot medium build.

Officer Burton was out there and recovered those shell casings. 30 shell casings. The defendant emptied, fired every bullet in that 30 round clip that he purchased the day before. Thank God the defendant didn't have that 75 round clip with him, I just thank God that he didn't have that with him.

Officer Burton told you will he searched that car, this yellow car that Jimmy West was in, no weapons in it, no gun, no knives, no weapons. Jimmy West was totally defenseless when he was gunned down

out there.

Doctor Floro described the autopsy, the 12 bullets in Jimmy West and the four bullets in Tamecka Smith, clear evidence of premeditation.

Theodore Wright told you in June of '93 he told you the circumstances under which he killed this defendant's younger brother. And he told you that he was not prosecuted for that case, that our legal system had looked at that case and ruled it self-defense. Under the law of Florida you are entitled to defend yourself when Lamar Bell went for a gun under the law of Florida Theodore Wright like any other human being, any other citizen of this state, any other person in this state has a right to defend themselves.

That defendant didn't care that it was self-defense, he didn't care. He was above the law. He lived by his own law, the law of the jungle. The law where innocent people are killed.

Erica Williams, she told you how she was the defendant's girlfriend, how they lived together, how she tried to talk the defendant out of this quest for vengeance. And the defendant's response sometimes the good have to suffer with the bad. He didn't care, that defendant didn't care about the Tamecka Smith's

of this world, he didn't care.

Erica told you that after the killing she went over and delivered the clothes to the defendant, and he told her I got him. He killed my brother, I killed his brother. Now the score is even. She didn't tell the police, she was afraid of this defendant. But on May 6th of '94 after she reported that gun stolen the homicide detectives came and asked her about that report, she told them the truth.

Scott Johnson was called, he ran that gun shop, managed that gun shop, he remembered the transaction, the black male being with Erica, he corroborates Erica.

Tom Pulley, the bullets that were found out there around that car were the same bullets the defendant bought with Erica the day before, same caliber.

Vanesse Pryor, Ned Pryor, he tried to talk the defendant into leaving, it was early, going to be a while before he comes out. The defendant had made his mind up, he had been planning this for six months, he wasn't leaving, he was going to wait it out.

Dale George, he told you he's plead guilty to being an accessory after the fact, that is that he helped the defendant, he drove them away from that massacre, from that murder scene out there that night

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

CIRCUIT CASE NO. 1994-CF-9776

STATE OF FLORIDA,

Plaintiff,

EMERGENCY MOTION, CAPITAL CASE DEATH WARRANT SIGNED; EXECUTION SET FOR JULY 15, 2025.

v.

MICHAEL BELL,

Defendant.
_____/

DEFENDANT'S MOTION FOR LEAVE TO AMEND MOTION FOR POSTCONVICTION RELIEF AFTER DEATH WARRANT SIGNED

COMES NOW the Defendant, Michael Bell, by and through undersigned counsel, pursuant to Fla. Crim. P. R. 3.851(f)(4), and moves this Court for leave to file an Amended Motion for Postconviction Relief After Death Warrant Signed. Specifically, Bell requests leave to amend Claim One of the Motion for Postconviction Relief After Death Warrant signed to add additional evidence of *Brady* and Giglio violations that Bell has discovered. In support thereof, Mr. Bell states the following:

1. On June 13, 2025, the Governor signed a death warrant scheduling Mr. Bell's execution for July 15, 2025.
2. On Sunday June 15, 2025, Bell's counsel received a tip that two state witnesses at trial, Henry Edwards and Charles Jones had been interviewed by investigators for an outside agency investigating claims of misconduct against Detective William Bolena and Assistant State Attorney George Bateh in an unrelated case, and provided information that they had

ACCEPTED: DUVAL COUNTY, JODY PHILLIPS, CLERK, 06/22/2025 11:08:31 PM

provided false testimony at Mr. Bell's trial in response to threats and promises made by Bolena and Bateh.

3. Bell's defense team began immediately investigating the tip, attempting to interview Edwards and Jones, and investigating were additional information from other witnesses regarding false testimony at trial and corroboration of the information provided regarding Edwards and Jones.
4. On Monday June 16, 2025, Bell's defense team interviewed and obtained an affidavit from Henry Edwards confirming that his trial testimony was false and that he was coerced into providing the false testimony by Det. Bolena and ASA Bateh.
5. Bell's defense team was unable to speak to Charles Jones until Wednesday June 18, 2025, at 1:00pm because he was incarnated in the Florida Department of Corrections, and was being transferred to a new facility. Bell's defense team interviewed and obtained and affidavit from Charles Jones confirming that he provided false testimony at Bell's trial, and that he was coerced into providing false testimony by Det. Bolena and Bateh.
6. On June 18, 2025, Bell timely filed his Motion for Postconviction Relief after Warrant Signed. In Claim 1 of the motion, Bell raised a claim of newly discovered evidence violation of *Brady* and *Giglio* based upon the affidavits of Edwards and Jones.
7. On June 17, 2025, Bell's investigators interviewed state trial witness Erika Williams. Ms. Williams provided information alleging additional violations of *Brady* and *Giglio*, but refused to sign an affidavit. Ms. Williams alleged that she too was threatened by Det. Bolena and ASA Bateh. Specifically, Ms. Williams stated that she went to the Jacksonville Sheriff's Office under the guise that there were threats against her life only to be interrogated for approximately 14-16 hours. Ms. Williams denied that she had any

information on this case until she was threatened by Det. Bolena that she would be charged in this case and that her children would be taken away. When Ms. Williams denied any knowledge of this case, Detectives threatened her that "I'll put you in jail for 10 years." Ms. Williams also indicated that she spoke with ASA Bateh before trial, and was threatened that she would be charged with accessory to first-degree murder if she changed her testimony. Ms. Williams also indicated that she provided false testimony that Dale George met with her, drove past the crime scene, and said that "we did it." *See Erika Williams June 17, 2025 Interview Memo* (Attached as Exhibit A).

8. On June 17, 2025, investigators for Bell interviewed state trial witness Vanesse "Ned" Pryor. Mr. Pryor provided information alleging additional violations of *Brady* and *Giglio*, but refused to sign an affidavit. Mr. Pryor provided information that he too was threatened by ASA Bateh and that he provided false testimony at trial at Bateh's insistence. Specifically, Mr. Pryor alleges that Bateh wanted him to say that he saw Mr. Bell with a gun, and when he refused, Bateh threatened that Mr. Pryor "was going down with Mike." Mr. Pryor, testified at trial that he was an eyewitness that saw Mr. Bell approach the victim's car with a gun, and then heard gunshots. Mr. Pryor stated that he was not an eyewitness and did not see Mr. Bell with a gun because he was not present at the crime scene at the time of the murders. He further stated that his false testimony that he saw Mr. Bell with a gun was given because it was what Bateh wanted him to say, and that he was threatened that trying to help Mr. Bell would get Mr. Pryor into trouble. With regards to Mr. Pryor's false eyewitness testimony, Mr. Pryor stated that "They put those words in my mouth." Mr. Pryor also stated that his testimony that Mr. Bell showed him the gun and that Mr. Bell

talked to him about the murders and made admissions was false. *See Ned Pryor June 17, 2025 Interview Memo* (Attached as exhibit B).

9. On June 18, 2025, investigators for Mr. Bell interviewed and obtained an affidavit from Cathy Robertson (Attached as exhibit C). Ms. Robertson is the ex-wife of Henry Edwards, and provided information that corroborates Henry Edwards affidavit. This information includes information that Henry Edwards was a longtime paid informant of Det. Bolena, and that he received both monetary compensation and perks such as furloughs from the county jail to visit Ms. Robertson from Det. Bolena.

10. On June 16, 2025, and June 18, 2025, investigators for Bell interviewed state trial witness Dale George. Mr. George indicated that he would consider signing an affidavit but wished to speak with an attorney and his family, and on June 18, 2025, indicated that he had spoken with his attorney and would not sign an affidavit. Mr. George told investigators that ASA Bateh threatened him with charges of first-degree murder if he did not testify the way Bateh wanted to him, which meant pinning the murder on Bell. These threats were made on multiple occasions. Mr. George also indicated that ASA Bateh promised him that he would never be charged with murder if he testified against Bell. Mr. George also told investigators that Detective Bolena physically assaulted him while he was handcuffed, including "clotheslining" him across the room. *See Dale George June 16, 18, 2025 Interview Memo* (Attached as Exhibit D).

11. All of the proposed amendments constitute newly discovered evidence and are timely under Rule 3.851.

12. The proposed amendments to Claim One of the Motion for Postconviction Relief After Death Warrant Signed are attached to this motion (Attached as Exhibit E). To avoid

confusion, the entire Claim One is reproduced with additions clearly indicated.

CONCLUSION AND RELIEF SOUGHT

WHEREFORE, Mr. Bell respectfully requests that pursuant to Fla. Crim. P. R. 3.851(f)(4), he be granted leave to amend Claim One of the Motion for Postconviction Relief After Death Warrant signed to add additional evidence of *Brady* and Giglio violations that Bell has discovered.

Respectfully submitted,

/s/Robert A. Norgard
ROBERT A. NORGARD
P.O. Box 811
Bartow, FL 33831
(863)533-8556
Fax (863)533-1334
Norgardlaw@verizon.net
Fla. Bar No. 322059

CERTIFICATE OF SERVICE

We hereby certify that the foregoing has been served electronically upon the Clerk of the Circuit Court, The Office of the Attorney General (capapp@myfloridalegal.com), Assistant Attorneys General Jonathan Tannen (jonathan.tannen@myfloridalegal.com), Christina Pacheco (christina.pacheco@myfloridalegal.com), Joshua Schow (joshua.schow@myfloridalegal.com), as well as Paula Montlary (Paula.Montlary@myfloridalegal.com) and Stephanie Tesoro (Stephanie.Tesoro@myfloridalegal.com), Alan Seth Mizrahi (amizrahi@coj.net), the Florida Supreme Court (warrant@flcourts.org), and The Honorable Jeb T. Branham (kbend@coj.net) on this 22nd day of June 2025.

/s/ Robert A. Norgard
ROBERT A. NORGARD
Attorney at Law
P.O. Box 811
Bartow, FL 33830
863-533-8556
Fla. Bar No. 322059

Exhibit A

OFFICE OF THE FEDERAL DEFENDER
CAPITAL HABEAS UNIT
WITNESS CONTACT MEMORANDUM
CONFIDENTIAL-WORK PRODUCT

Client:	Michael Bell
Investigator:	C. Kelly and C. Dickerson
Witness:	Ericka Williams
Contact Info:	5834 Justina Ct, Apt 2, Jacksonville, FL – phone: 904-680-4811
Date:	06/17/2025

****

On 06/17/2025, Christy and I were in Jacksonville to speak with Erika Williams. Erika opened the door after we knocked and talked with us in the doorway. She was aware that Mike's warrant had been signed, she saw it on the news. We then got right into talking about her experience.

Off the bat, Erika said that Det Bolena tried using scare tactics with her. It was after she reported the gun stolen, when she came home from work one day and there was a card in the doorjam. It was from Det. Bolena and the back read, "matter of life & death." She called Det. Bolena, who told her that "there were threats against my life." She did not know what to think of it.

Erika told us that the police (maybe Det. Bolena) showed up at her house, told her she had to come downtown right now. Her youngest daughter was home from school because she was sick and had to leave her with a neighbor. Erika was already petrified when she got in the cruiser to head downtown.

Once there, she was put into an interrogation room. She remained there for the next 14-16 hours. She remembered being yelled at by the cops. They would take turns coming in and out, some tried to be nice, others were mean. They made comments like, "Oh, you wanna play crazy?," "I'll put you in jail for 10 years." She was threatened with being an accessory to the murder. She said Det. Bolena might have been there, but there were other detectives who he worked with that were in/out of the room over the 14-16 hours.

It was not until they (Bolena and detectives) started threatening her with taking away her children and they would be put into the system and left with strangers, that she started talking.

She said that she did buy the gun and gave it to Mike. Whatever happened to it afterwards, she did not know.

She did remember having to meet with Bateh to go over her testimony. She said she was reminded that if she changed her testimony, she could face accessory after the fact charges, so she kept following their commands. She would only say that her testimony was coerced, not that it was wrong.

Before the trial, Det. Bolena called her and threatened with putting her in jail so that they could make sure she would show up to testify. She told him not to worry, she would be there, because she did not want to get charged with anything and did not want to lose her babies.

When being interrogated by JSO detectives and then prepped by Bateh, she said they kept saying how badly they wanted to get Mike off the street. It was clear to her that their main focus was Mike, and nothing else mattered.

When asked about her testimony that Dale showed up after the shooting, said "we did it," and that they drove past Moncrief so Dale could show her. She denied that this happened. She was surprised that it was her testimony. She did not know why she would say that. She said Dale must have lied to Bolena/Bateh, so they told her that's what happened. She was adamant with us that she never drove past the crime scene that evening, nor did she even like Dale.

Exhibit B

OFFICE OF THE FEDERAL DEFENDER
CAPITAL HABEAS UNIT
WITNESS CONTACT MEMORANDUM
CONFIDENTIAL-WORK PRODUCT

Client:	Michael Bell
Investigator:	C. Kelly and C. Dickerson
Witness:	Ned Pryor
Contact Info:	Amco Gas Station, 1922 Kings Rd, Jacksonville, FL – Ph 904-888-4187
Date:	06/17/2025

****

On 06/17/2025, Christy and I were in Jacksonville to speak with Ned Pryor. He kept pushing off our meeting, but we are finally able to catch up with him at the above gas station. He was having his car washed and detailed at the car wash in the gas station parking lot.

Ned was aware of Mike's warrant having been signed and talked about how it was not right. We processed those feelings and then started getting into the case.

Ned told us that he knew Bolena, but he only really dealt with Bateh. *Bolena did interview him, but he could not recall (or did not want to tell us) how the interrogation with Bolena went*. He told us that Bateh kept telling him that he (Bateh) wanted him (Ned) to say that Mike was the gunman. When he did not say that, Bateh threatened Ned that he "was going down with Mike."

Ned told us that he never saw Mike with a gun that evening because he was not there. When he told Bateh this, Bateh was upset. Ned eventually told Bateh that he saw Dale with a gun that night but could not say he saw anyone exit the vehicle. Somehow, someway, this story got massaged out to be he saw Mike exit the vehicle with a gun because he was the lookout guy. Ned still denied that being the case but when confronted with his testimony, said he probably said that at trial. We told him that was what was transcribed, so he definitely said it. Ned did not disagree.

We asked Ned if there were any promises made of leniency on his own charges for assisting Bateh. He denied it, but then admitted he got a time served sentence. He could not recall what the charge was that landed him in jail.

Again, he denied that Mike had a gun that night and said, "That's what Bateh kept wanting me to say." He said that Bateh told him, "Don't try to help him (Mike) because it could get you in trouble."

He denied that Bell showed him a gun, nor talked with him about shooting. We told him that's what he said, and he said it was a lie then. We showed him where he said it and Ned told us, "They put those words in my mouth."

He told us that Mike and Dale had a little bit of beef at that time (Dec 1993) because Mike had slept with Dale's girlfriend. This also upset Mike's girlfriend, Erika Williams. We asked Ned if

he was ever with Erika after the incident (at her home, like his testimony says) and he denied this. Again, he was fed that information.

Ned admitted that he was on drugs back in the early 1990s, he is not anymore.

Since Ned's statements to us were drastically different than his trial testimony, we inquired if he would be willing to sign an affidavit. He asked what all that entailed, we told him (sworn affidavit, then come into court and testify). He said he would not do that.

Exhibit C

AFFIDAVIT OF CATHY ROBERTSON

I, Cathy Robertson, do hereby affirm and state as follows:

1. My name is Cathy Robertson, I live in Jacksonville, Florida, and I am 56 years old. Back in the 1990s, I was married to Henry Edwards, a witness in Michael Bell's 1995 capital trial. I am no longer married to Henry Edwards. I am also the half-sister of Tameka Smith.

2. I have personal knowledge of Det. William Bolena and Henry Edwards' relationship. They started working together around ~~1990/1991~~ 1987CR, where if Henry were ever arrested, his first call would be to Det. Bolena. Henry was Det. Bolena's right-hand man.

3. When Henry would be arrested for one thing or another, he could contact Det. Bolena and provide him information on other cases that Det. Bolena was working. As a result, Henry was always avoiding getting hit with any serious charges.

4. Their relationship was so close that Det. Bolena had given Henry his personal phone number, so that if anything happened, he would have a way to get in touch with him. I had access to Det. Bolena's phone number also.

5. I do not know how many cases Henry worked with Det. Bolena, but there were quite a few. I remember Henry telling me that Det. Bolena would pick him up at the jail, drive him around different areas of Jacksonville, where Henry would point out people who were involved with illegal activity. Henry would do whatever it took to get out of any jail time.

6. Henry became such a reliable informant for Det. Bolena that when Henry would be locked up, Det. Bolena would come by my house and give me money to help me and the kids out. It would be $50 here and there, but it was extremely helpful. I did not ask questions of Det. Bolena but I knew it had to do with Henry assisting him because Henry told me.

7. I cannot recall when, but it would have been in the 1990s, where Henry had helped Det. Bolena and the State secure a conviction. Afterwards, Det. Bolena called me and gave me a code to go down to a bank in downtown Jacksonville to collect reward money. I had to give my identifying information, but within a couple of minutes, the bank gave me money. I did not ask any questions but assumed that it had to do with Henry helping Det.

CR

Bolena because Det. Bolena is the one who told me how to go about getting the money.

8. Throughout the 1990s, when Henry would was incarcerated at the Duval County Jail, Henry would be checked out by Det. Bolena, brought to my home, where we could spend a couple hours together. After our time together ended, Det. Bolena would pick Henry up and take him back to the jail.

9. Henry told me that in order to get these special visits, a prosecutor had to sign off on it. Det. Bolena told me that George Bateh was the one who authorized these visits.

10. There was one time where Det. Bolena and Henry were talking and I was in the room with them. Det. Bolena told Henry not to worry about anything because they (Det. Bolena and George Bateh) had a good judge who would go along with what they told him.

11. I do not have any specific information pertaining to Michael Bell's case but I do remember Henry calling me from the jail and telling me to get in touch with Det. Bolena about Michael Bell's case. He wanted to cut a deal with Det. Bolena and the State in exchange for his testimony. So, that is what I did.

12. But for Mr. Bell's warrant being signed, I would not have shared the above information. Det. Bolena assisted Henry and I many times throughout the years together and I knew how much power he had. If Mr. Bell's investigators had not tracked me down and interviewed me, I would never have come forward with the above information.

13. If called to testify to the contents of this affidavit, I would do so willingly and truthfully.

14. Further affiant sayeth naught.

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

CR

Dated: 6/18/2025

Cathy Robertson

STATE OF FLORIDA
COUNTY OF DUVAL

Affirmed and subscribed before me by means of [X] physical presence or [ ] online notarization, this 18 day of June, 2025, by Cathy Robertson.

COLIN L. KELLY
Commission # HH 187371
Expires October 17, 2025
Bonded Thru Troy Fain Insurance 800-385-7019

Notary Public

Commission Expires: 10/17/2025

Personally Known _____ OR Produced Identification X

Type of Identification
Produced FL DL R163-105-68-825-0

Exhibit D

OFFICE OF THE FEDERAL DEFENDER
CAPITAL HABEAS UNIT
WITNESS CONTACT MEMORANDUM
CONFIDENTIAL-WORK PRODUCT

Client:	Michael Bell
Investigator:	C. Kelly and Christy Dickerson
Witness:	Dale George
Contact Info:	922 W 25th St, Jacksonville, FL – Phone 904-888-4187
Date:	06/16, 06/18/2025

****

On 06/16/2025, Christy and I were in Jacksonville to speak with Dale George. It took a little while to get in touch with Dale but we finally did and met at a McDonalds. He was somewhat reluctant to speak but Christy did a fabulous job getting him to open up. He would not speak about his testimony, but he did share:

Bateh threatened him with 1st degree murder if he did not testify to what Bateh wanted – pinning it on Bell – he reminded Dale of this when they would meet, which was often. He said it was more than a few times he was dragged over there, Bateh reminded him what he needed to do – he used the term, "directing traffic" when speaking about Bateh orchestrating the case. Bateh promised him, before he testified, that if he helped out on this case, he would make sure that the state never sought murder charges against him.

Det. Bolena – Dale shared that when he was first arrested by Det. Bolena, he was interrogated but kept his mouth shut. When the interrogation was over, Bolena told Dale to not leave town. One month later, Bolena showed back up and arrested Dale. He shared with us that when he was down at the Memorial Building, Bolena had him handcuffed as he was bringing him in, once inside a room, Bolena was being smart with him and then all of a sudden, Bolena "clotheslined" him across the room and was physical. Bolena threatened him that if he did not play ball with them, he (Dale) was going to get the charge "put on me." It was after the threats and physical violence that Dale talked with Bolena. When asked if he would sign a declaration, he did not say no, and hinted he would, but said he wants everyone else to be interviewed first. We told him that time was of essence right now but we respected his wishes and we would be in touch in a day or two. *I think we can get some more info out of him but he was clearly shaken up (tearing up at times).*

On 06/18/2025, Christy and I went to Dale's home to speak with him more and see if he would sign a declaration regarding the information he shared with us on 06/16/2025. We told him we had basically talked to everyone and read him the contents of the affidavit, which he stated were true, but is terrified of "putting my name to that." It was my impression he is in fear of the State and from West's family. He does not want to put his family (the 12 mothers of his children, his 23 children, and his grandbabies) at risk. He talked with his attorney, who advised him against signing the affidavit.

Exhibit E

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

CIRCUIT CASE NO. 1994-CF-9776

STATE OF FLORIDA,

Plaintiff,

EMERGENCY MOTION, CAPITAL CASE DEATH WARRANT SIGNED; EXECUTION SET FOR JULY 15, 2025.

v.

MICHAEL BELL,

Defendant.
_____/

DEFENDANT'S PROPOSED AMENDMENTS TO CLAIM ONE OF HIS MOTION FOR POSTCONVCTION RELEIF AFTER DEATH WARRANT SIGNED

CLAIM ONE: PROSECUTORS FAILED TO DISCLOSE EVIDENCE TO BELL IN VIOLATION OF *BRADY V. MARYLAND* AND *GIGLIO V. UNITED STATES* DEPRIVING HIM OF DUE PROCESS AND A FAIR TRIAL

A. *Brady / Giglio* violations

The State violated Mr. Bell's Due Process rights under *Brady* and *Giglio* by withholding exculpatory evidence, presenting false testimony, and withholding impeachment material at Mr. Bell's original trial. The Supreme Court of the United States has held that both the withholding of exculpatory evidence from a criminal defendant by a prosecutor and the knowing use of false testimony violate the Due Process Clause of the Fourteenth Amendment. *See Brady v. Maryland*, 373 U.S. 83, 86 (1963) and *Giglio v. United States*, 405 U.S. 150, 153-55 (1972). Such evidence is material "if there is a reasonable probability that, had the evidence been disclosed to the defense,

the result of the proceeding would have been different." *Kyles v. Whitley*, 514 U.S. 419, 433-34 (1995).

"There are three components of a true *Brady* violation: The evidence at issue must be favorable to the accused, either because it is exculpatory, or because it is impeaching; that evidence must have been suppressed by the State, either willfully or inadvertently; and prejudice must have ensued." *Strickler v. Greene*, 527 U.S. 263, 281–82 (1999).

B. Newly discovered evidence

Under Florida and federal law, there are two requirements needed for relief based on newly discovered evidence. First, the asserted facts must have been unknown by the trial court, by the party, or by counsel at the time of the trial, and it must appear that defendant or his counsel could not have known them by the use of diligence. *See Jones v. State*, 709 So. 2d 512 (Fla. 1998). Second, the newly discovered evidence must be of such nature that it would probably produce an acquittal on retrial. *See id.* Newly discovered evidence satisfies the second prong if it "weakens the case against [the defendant] so as to give rise to a reasonable doubt as to his culpability." *Jones v. State*, 678 So. 2d 309, 315 (Fla. 1996). When addressing this claim, this Court "must evaluate all the admissible newly discovered evidence at this hearing in conjunction with newly discovered evidence at the prior evidentiary hearing and then compare it with the evidence that was introduced at trial." *Kyles v. Whitley*, 514 U.S. 419, 441 (1994).

The *Jones* standard is also applicable where the issue is whether a life or death sentence should have been imposed. *Scott v. Dugger*, 604 So. 2d 465, 468 (Fla. 1992); *see also Jones v. State*, 591 So. 2d 911, 914-15 (Fla. 1991); *Robinson v. State*, 707 So. 2d 688, 691 n.4 (Fla. 1998); Fla. R. Crim. P. 3.851(d)(2)(A). If the defendant is seeking to vacate a sentence, the second prong

requires that the newly discovered evidence would probably yield a less severe sentence. *See Jones v. State*, 591 So. 2d 911, 915 (Fla. 1991).

C. Newly discovered evidence regarding eyewitness Henry Edwards establishes *Brady* and *Giglio* violations

Henry Edwards disclosed on June 16, 2025, that he did not see the murders, he only heard them because he was inside the store when the shootings occurred. He also said that Detective William Bolena was aware Edwards did not see the shooting and told Edwards what to testify to in exchange for favors, specifically furloughs from jail during his period of incarceration around the time of the murders. Edwards also stated that Detective Bolena pointed out Bell to Edwards in the photo line up and that Bolena put him in a holding cell with an eyewitness so that Edwards could corroborate his "eyewitness" testimony with hers. Edwards also said that he felt threatened by Bolena [*See Claim 1, Attachment A*].

This is materially different than Edwards' prior testimony at Bell's trial where he testified that there was no agreement between him and the State [Trial Transcript R305]; he had no problem identifying Bell [Trial Transcript R306]; he was standing outside at the corner of the building when he saw Bell put on a ski mask then walk up to a yellow car and started shooting into the driver's side [Trial Transcript R308-10]; that he had charges against him dropped because he was "innocent" the same day he spoke to Bolena about this case [Trial Transcript R313-14]; that he got nothing in exchange for his testimony [Trial Transcript R315]; and that he had no doubt Bell was the triggerman [Trial Transcript R315] [*See Claim 1, Attachment B*].

This newly discovered evidence was not known to trial counsel at the time of trial and Bell and his counsel could not have known this information by the use of diligence. Defense counsel

has no "procedural obligation to assert constitutional error on the basis of mere suspicion that some prosecutorial misstep may have occurred." *Banks v. Dretke*, 540 U.S. 668, 695–96 (2004), citing *Strickler v. Greene*, 527 U.S. 263, 286-87 (1999).

And although Detective Bolena is now associated with very similar tactics in other murder cases from the same year and neighborhood of the murders in this case, those revelations did not become became public knowledge until years after the fact. See Nichole Manna, *Investigation reveals dubious testimony, no evidence in 1993 case of Jacksonville man sentenced to death: The Tributary*, The Tributary (March 18, 2025), https://www.news4jax.com/news/local/2025/03/18/investigation-reveals-dubious-testimony-no-evidence-in-1993-case-of-jacksonville-man-sentenced-to-death-the-tributary/. [*See Claim 1, Attachment C*]

This newly discovered evidence is favorable to the accused because it weakens the State's eyewitness evidence, and because misconduct and a quid pro quo arrangement between an eyewitness and police would have cast doubt on the rest of the police investigation and by association the State's case; this evidence was suppressed by the police; and Mr. Bell was prejudiced not just in the guilt phase but especially in the penalty phase because there is a reasonable probability that Edwards' account of how the murder occurred impacted the death verdict.

The State presented false testimony and withheld exculpatory *Brady* and *Giglio* impeachment evidence concerning what Edwards witnessed, and Detective Bolena's conduct in his investigation.

Henry Edwards, 1736 W. 29th Street, Jacksonville, Florida 32209, (904) 805-6917, is available to testify under oath to the facts alleged in the motion and affidavit.

[BEGIN ADDITION]

On June 18, 2025, investigators for Mr. Bell interviewed and obtained an affidavit from Cathy Robertson [*See Claim 1, Attachment F*]. Ms. Robertson is the ex-wife of Henry Edwards, and provided information that corroborates Henry Edwards' affidavit. This information includes information that Henry Edwards was a longtime paid informant of Det. Bolena, and that he received both monetary compensation and perks such as furloughs from the county jail to visit Ms. Robertson from Det. Bolena. Ms. Robertson also indicated that Det. Bolena would give her money directly to reward Edward's performance as a confidential informant.

[END ADDITION]

D. Newly discovered evidence regarding Charles Jones establishes *Brady* and *Giglio* violations

Charles Jones disclosed on June 18, 2025, that he was approached by Detective Bolena in 1994 when he was in jail, that he knew Detective Bolena because he was in a relationship with Jones' sister, Bolena coerced him to testify against Bell by offering to help him with his charges, Detective Bolena and prosecutor George Bateh told him what to say at trial. Jones said that Bell never tried to sell him a gun and he never confessed to Jones about having shot anyone. Jones also disclosed that in 2002, while he was being detained for federal charges, he was brought back to Duval County jail to testify against Bell in a postconviction hearing. Bateh threatened him with more time if he were to change his testimony and tell the truth. He met with both Bolena and Bateh before pleading in his federal case and they both promised him they would get him a downward departure if he maintained his testimony against Bell. [*See Claim 1, Attachment D*].

This is materially different than Jones' prior testimony at Bell's trial where he testified that he had no agreement with the State for any benefit in exchange for his testimony [Trial Transcript R485-86]; he talked to Bolena about Bell but not in exchange for any favors [Trial Transcript R490]; he saw Bell trying to sell an assault weapon in December 1993 [Trial Transcript R487-88]; and that he heard Bell admit to killing Jimmy West and Tamecka Smith in January 1994 [Trial Transcript R488]; [*See Claim 1, Attachment E*].

This newly discovered evidence was not known to trial counsel at the time of trial and Bell and his counsel could not have known this information by the use of diligence. This newly discovered evidence is favorable to the accused because it weakens the State's evidence, and because misconduct and a quid pro quo arrangement between a witness – who testified about Bell's confession to the murders and Bell's possession of a gun around the time of the murders – and police would have cast doubt on the rest of the police investigation and by association the State's case; this evidence was suppressed by the police; and Mr. Bell was prejudiced not just in the guilt phase but especially in the penalty phase because there is a reasonable probability that Edwards' account of how the murder occurred impacted the death verdict.

The State presented false testimony and withheld exculpatory *Brady* and *Giglio* impeachment evidence concerning what Jones knew about Bell and the case, as well as the conduct of both George Bateh and Detective Bolena.

Charles Jones, DOC #114875, Hamilton Annex, 10650 S.W. 46th Street Jasper, Florida 32052, is available to testify under oath to the facts alleged in the motion and affidavit.

[BEGIN ADDITION]

E. Newly discovered evidence regarding Erika Williams establishes *Brady* and *Giglio* violations

On June 17, 2025, Ms. Williams provided information alleging additional violations of *Brady* and *Giglio*. Ms. Williams alleged that she too was threatened by Det. Bolena and ASA Bateh. Specifically, Ms. Williams stated that she went to the Jacksonville Sheriff's Office in response to being told by police that there were threats against her life only to be interrogated for approximately 14-16 hours. Ms. Williams denied that she had any information on this case until she was threatened by Det. Bolena that she would be charged as an accessory to first-degree murder and that her children would be taken away. When Ms. Williams denied any knowledge of this case, Detectives threatened her that "I'll put you in jail for 10 years." Ms. Williams also indicated that she spoke with ASA Bateh before trial, and was threatened that she would be charged with accessory to first-degree murder if she changed her testimony. Ms. Williams also indicated that she provided false testimony that Dale George met with her, drove past the crime scene, and said that "we did it." [*See Claim 1, Attachment G*].

This newly discovered evidence was not known to trial counsel at the time of trial and Bell and his counsel could not have known this information by the use of diligence. This newly discovered evidence is favorable to the accused because it weakens the State's evidence, and because misconduct such as threats to incarcerate Ms. Williams and to take away her children to coerce testimony would have cast doubt on the rest of the police investigation and by association the State's case; this evidence was suppressed by the police; and Mr. Bell was prejudiced not just in the guilt phase, but especially in the penalty phase where Ms. Williams testimony was crucial to the State establishing the Cold, Calculated, and Premeditated (CCP) aggravator. Ms. Williams testified that Mr. Bell has told her he was going to even the score with Theordore Wright and that

she purchased an AK-47 for Mr. Bell, and this newly discovered evidence would have shown that Ms. Williams had a strong motive to testify falsely against Bell.

F. Newly discovered evidence regarding Ned Pryor establishes *Brady* and *Giglio* violations

On June 17, 2025, investigators for Bell interviewed state trial witness Vanesse "Ned" Pryor. Mr. Pryor provided information alleging additional violations of *Brady* and *Giglio*. Mr. Pryor stated that he too was threatened by ASA Bateh and that he provided false testimony at trial at Bateh's insistence. Specifically, Mr. Pryor alleges that Bateh wanted him to say that he saw Mr. Bell with a gun, and when he refused, Bateh threatened that Mr. Pryor "was going down with Mike."

Mr. Pryor, testified at trial that he was an eyewitness that saw Mr. Bell approach the victim's car with a gun, and then heard gunshots. Mr. Pryor stated that he was not an eyewitness and did not see Mr. Bell with a gun because he was not present at the crime scene at the time of the murders. He further stated that his false testimony that he saw Mr. Bell with a gun was given because it was what Bateh wanted him to say, and that he was threatened that trying to help Mr. Bell would get Mr. Pryor into trouble. With regards to Mr. Pryor's false eyewitness testimony, Mr. Pryor stated that "They put those words in my mouth." Mr. Pryor also stated that his testimony that Mr. Bell showed him the gun and that Mr. Bell talked to him about the murders and made admissions was false. [*See Claim 1, Attachment H*].

This newly discovered evidence was not known to trial counsel at the time of trial and Bell and his counsel could not have known this information by the use of diligence. This newly discovered evidence is favorable to the accused because it weakens the State's evidence, and because misconduct such as threats used to induce false testimony from Mr. Pryor would have cast

doubt on the rest of the police investigation and by association the State's case; this evidence was suppressed by the police; and Mr. Bell was prejudiced not just in the guilt phase, but also at the penalty phase. Mr. Pryor's testimony at trial, which he now says was coerced and false, was devastating to Mr. Bell's case. Mr. Pryor claimed at trial that Mr. Bell told him to follow Mr. Bell, told him he was going to get Theodore Wright back for murdering his brother. He then testified that he watched the Mr. Bell approach the victims' car and then heard gunshots. He further testified that Mr. Bell admitted to having committed the murders. Mr. Pryor has now indicated that all of this testimony was false and was coerced by threats by ASA Bateh and that he was not present at the murder scene and that Mr. Bell did not make incriminating statements to him.

G. Newly discovered evidence regarding Dale George establishes *Brady* and *Giglio* violations

On June 16, 2025, and June 18, 2025, investigators for Bell interviewed state trial witness Dale George. Mr. George told investigators that ASA Bateh threatened him with charges of first-degree murder if he did not testify the way Bateh wanted to him, which meant pinning the murder on Bell. These threats were made on multiple occasions. Mr. George also indicated that ASA Bateh promised him that he would never be charged with murder if he testified against Bell. Mr. George also told investigators that Detective Bolena physically assaulted him while he was handcuffed, including "clotheslining" him across the room. [*See Claim 1, Attachment I*].

This newly discovered evidence was not known to trial counsel at the time of trial and Bell and his counsel could not have known this information by the use of diligence. This newly discovered evidence is favorable to the accused because it weakens the State's evidence, and because misconduct such as threats and physical assaults on Mr. George would have cast doubt on the rest of the police investigation and by association the State's case; this evidence was suppressed by the police; and Mr. Bell was prejudiced not just in the guilt phase, but also at the penalty phase.

[END ADDITION]

Respectfully submitted,

/s/Robert A. Norgard
ROBERT A. NORGARD
P.O. Box 811
Bartow, FL 33831
(863)533-8556
Fax (863)533-1334
Norgardlaw@verizon.net
Fla. Bar No. 322059

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SC2025-0891
EXECUTION SCHEDULED FOR JULY 15, 2025, at 6:00 P.M.

In the Supreme Court of Florida

MICHAEL BERNARD BELL,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

On Appeal from the Fourth Judicial Circuit,
in and for Duval County, State of Florida
L.T No. 1994-CF-9776

INITIAL BRIEF OF APPELLANT

/s/Robert A. Norgard
ROBERT A. NORGARD
P.O. Box 811
Bartow, FL 33831
(863)533-8556
Norgardlaw@verizon.net
Fla. Bar No. 322059
Counsel for Bell

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REQUEST FOR ORAL ARGUMENT

Appellant respectfully requests oral argument pursuant to Florida Rule of Appellate Procedure 9.320. The resolution of the issues involved in this action will determine whether Appellant lives or dies. This Court has not hesitated to allow argument in other capital cases in a similar procedural posture. A full opportunity to air the issues through oral argument is appropriate in this case because of the seriousness of the claims at issue and the ultimate penalty that the State seeks to impose on Appellant.

STATEMENT REGARDING REFERENCES

References to the record are in the form [PCR #]. This record on appeal includes portions, but not all, of the original trial transcript. Trial transcript portions cited in this brief that are not included in the PCR record will be in the form [T #].

PROCEDURAL HISTORY

The Defendant, Michael Bell, was convicted of first-degree murder and was sentenced to death after a unanimous jury recommendation. *Bell v. State*, 699 So. 2d 674, 676 (Fla. 1997). The Florida Supreme Court affirmed the convictions and sentences. *Id.* at 679. The judgment and sentence became final upon denial of certiorari by the United States Supreme Court on February 23, 1998. *Bell v. Florida*, 522 U.S. 1123 (1998).

On direct appeal, Bell raised the following claims: (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 as an aggravating circumstance that the murders were committed in a cold, calculated, and premeditated (CCP) manner; (3) the trial court erred in instructing the jury on the CCP aggravator; and (4) the trial court erred in failing to properly consider and find mitigating circumstances. *Bell v. State*, 699 So. 2d 674, 676 (Fla. 1997).

In 1998, Bell filed a pro se petition for federal habeas relief, prompting the District Court to appoint counsel, but that petition

was dismissed as untimely. *Bell v. Fla. Atty Gen.*, 461 F. App'x 843, 845-46 (11th Cir. 2012). Also in 1998, Bell filed a pro se motion to vacate his sentence which the trial court denied. *Id.* Once appointed, state post-conviction counsel filed a motion for post-conviction relief on June 1, 1999. One of Bell's claims was that trial counsel was ineffective because of inappropriate remarks and arguments he made during the closing argument. The trial court denied the motion, and the Florida Supreme Court affirmed. *Bell v. State*, 965 So. 2d 48, 54 (Fla. 2007).

In 2007, Bell filed another pro se petition for federal habeas relief. *Bell v. Fla. Atty Gen.*, No. 3:07-cv-00860-ODE (M.D. Fla. Sept. 10, 2007), ECF No. 1. The State filed a summary judgment motion contending that the petition was untimely, *id.* at ECF No. 13, which the District Court granted in 2009. Bell filed a pro se notice of appeal on the grant of the summary judgment motion, *Bell v. Fla. Atty Gen.*, No. 3:07-cv-00860 ODE, ECF No. 80, and the Eleventh Circuit granted the certificate of appealability but affirmed the District Court. *Id.*

In 2017, Bell filed a successive motion based on *Hurst v. Florida*,

136 S. Ct. 616 (2016), and *Hurst v. State*, 202 So. 3d 40 (Fla. 2016). The circuit court denied the motion and this Court affirmed. *Bell v. State*, 235 So. 3d 287 (Fla. 2018), *cert. denied* SC17-1045.

In 2018, Bell filed a successive motion asserting he was denied effective assistance of counsel under the Sixth Amendment when trial counsel violated his Fourteenth Amendments rights by advancing a theme of racial bias and prejudice to the jury and citing as support a recent Supreme Court of the United States case *Buck v. Davis*, 137 S.Ct. 759 (2017), which held that the injection of race into a trial by one's own lawyer is unconstitutional and likely more prejudicial than when done by the State. The circuit court denied the motion, and the Florida Supreme Court affirmed holding that (1) the motion was untimely because *Buck* did not establish a new right; and (2) because the Court previously addressed the arguments at issue and held that they did not warrant relief the motion was procedurally barred. *Bell v. State*, 284 So. 3d 400 (Fla. 2019), *cert. denied* SC18-1713.

On June 13, 2025, Governor Ron DeSantis signed a death warrant for Bell. His execution is scheduled for July 15, 2025.

On June 18, 2025, Bell filed a motion for postconviction relief

alleging that (1) there was newly discovered evidence that trial witnesses recanted their testimony which also revealed that the State had withheld *Brady* / *Giglio* information, (2) Bell's trial was irredeemably tainted with racial bias, (3) the time limits imposed on warrant litigation violated Bell's due process rights, and (4) Bell had been denied due process and effective assistance of counsel at every stage of his case making his execution a violation of both the Eighth and Fourteenth amendments.

Bell was granted an evidentiary hearing on Claim 1 which was held on June 23, 2025. Bell filed an amended Claim 1 asserting that other trial witnesses had revealed newly discovered evidence.

After an evidentiary hearing, the trial court denied Claim 1 and this appeal followed.

STATEMENT OF THE FACTS

I. Original Trial Testimony and Evidence

In June 1993, Theodore Wright killed Bell's brother, Lamar, in self-defense. Bell then killed Wright out of revenge. *Bell v. State*, 699 So. 2d 674, 675 (Fla. 1997). To carry out that plan, Bell, through his girlfriend, purchased a firearm and ammunition. *Id.*

On December 9, 1993, the night after he procured the rifle, Bell spotted Wright's car. Bell left the area and quickly returned with two friends and the now-loaded firearm. *Id.* After a short search, Bell saw the car again in the parking lot of a liquor lounge. Bell did not know that Wright had previously sold the car to Wright's half-brother, Jimmy West. *Id.* Bell waited in the parking lot until West left the lounge with Tamecka Smith and another female. As West and the two women got into the car, Bell approached them and shot West several times, who was sitting in the driver's seat. Bell then shot Smith multiple times. The second female ducked down and escaped injury. *Id.* After shooting West and Smith, Bell shot bullets toward the front of the liquor lounge, where about multiple people had been waiting to go inside. *Id.*

II. The Instant Postconviction Testimony and Evidence

The facts as developed at the evidentiary hearing will be heavily discussed in Issue II so they will not be repeated in full detail here.

On June 18th and 19th, 2025, two key trial witnesses – Henry Edwards and Charles Jones – recanted their trial testimony. [PCR 1227-29, 1232-35] Henry Edwards stated that that he never actually witnessed the shooting but instead was fed information about Bell by Detective Bolena and lied at Bell's trial in exchange for favorable treatment by police. [PCR 1227-29] Charles Jones stated that Bell never confessed to him, and he never saw Bell with the supposed murder weapon and that he lied at Bell's trial in exchange for help with his own criminal charges. [PCR 1232-35]

At the June 23, 2025, evidentiary hearing, after being advised by appointed attorneys that recanting may result in perjury charges, both Henry Edwards and Charles Jones invoked their Fifth Amendment right against self-incrimination and refused to answer questions about their recantations as well as questions about other topics like police and prosecutorial misconduct in the case.

Other witnesses from Bell's original trial testified as to newly discovered evidence: Paula Goins, Ericka Williams, Ned Pryor, and Dale George. Additionally, Tennie Martin, one of Bell's attorneys from the Capital Habeas Unit for the Federal Defender of the Middle District of Florida ("CHU-Middle") testified, as well as CHU-Middle investigator Colin Kelly, to established due diligence.

SUMMARY OF THE ARGUMENT

Issue I. The trial court erred in allowing recanting witnesses and other witnesses to plead the Fifth to relevant questions, including questions that had nothing to do with any potential criminal misconduct of their own.

Issue II. Evidentiary hearing evidence, including sworn affidavits, impeach the testimony of several key State witnesses during Mr. Bell's original trial. Had this newly discovered evidence been presented at trial, a jury could not have found Bell guilty beyond a reasonable doubt, much less imposed death.

Issue III. It was improper for the State to interfere with Bell's right to present witnesses and evidence by not offering recanting witnesses immunity from perjury especially in a case where there are credible allegations that the original trial testimony was coerced and untruthful. This Court should remand and require the State to offer such immunity.

Issue IV. The extremely compressed warrant litigation schedule handicapped counsel's ability to fully investigate and prepare for the evidentiary hearing and effectively appeal the trial court's errors.

STANDARDS OF REVIEW

"When the trial court rules on a newly discovered evidence claim after an evidentiary hearing, [this Court] review[s] the trial court's findings on questions of fact, the credibility of witnesses, and the weight of the evidence for competent, substantial evidence." *Green v. State*, 975 So. 2d 1090, 1100 (Fla. 2008). The trial court's application of the law to the facts is reviewed de novo. *Id.* at 1100.

ARGUMENT

I. THE TRIAL COURT ERRED BY ALLOWING RECANTING WITNESSES AND OTHER WITNESSES TO IMPROPERLY INVOKE THE FIFTH AMENDMENT AND REFUSE TO TESTIFY ABOUT CRUCIAL MATTERS AT THE EVIDENTIARY HEARING IN VIOLATION OF BELL'S CONSTITUTIONAL CONFRONTATION RIGHTS

In order for the privilege against self-incrimination to apply, the testimony must convey incriminating information. *St. George v. State*, 564 So. 2d 152, 154 (Fla. 5th DCA 1990), citing *Fisher v. United States*, 425 U.S. 391 (1976). A witness is not permitted to invoke his right to silence in response to any question he does not want to answer. *See Hoffman v. United States*, 341 U.S. 479, 486 (1951) ("The witness is not exonerated from answering merely because he declares that in so doing he would incriminate himself ... It is for the court to say whether his silence is justified and to require him to answer if 'it clearly appears to the court that he is mistaken.' ")

During the course of the evidentiary hearing a number of witnesses refused to answer numerous questions based on the Fifth Amendment, including Charles Edward, Henry Jones, Ericka Braclet (Williams), Ned Pryor, and Dale George.

The Court allowed the witnesses to take the Fifth on significant portions of their testimony. In many instances where the witnesses invoked the Fifth, it was on matters that would not in any way incriminate them nor subject them to possible perjury, such as:

Edwards took the Fifth regarding whether Detective Bolena ever threatened him, what he recalled about what the shooter was wearing, whether the shooter was wearing a mask, whether he got furloughs from jail arranged by Detective Bolena. [PCR 1442-66]

Jones took the Fifth regarding whether he knew Detective Bolena and whether he was ever threatened by or even visited in Duval County jail by Detective Bolena. [PCR 1424-42]

Pryor took the Fifth regarding whether he was released from jail as a result of his trial testimony. [PCR 1580-91]

George took the Fifth regarding whether he was subjected to police misconduct or threats and whether he was physically assaulted by Detective Bolena. [PCR 1593-1601]

Braclet (Williams) took the Fifth regarding whether she was subjected to any scare tactics by police investigating this case, whether the police threatening her with losing custody of her children

was her motivation for testifying at trial, and what other things police threatened her about. [PCR 1567-79]

Had the court required these witnesses to answer the questions, to which they improperly invoked Fifth Amendment privileges, Bell would have developed additional newly discovered evidence related to the police misconduct, prosecutorial misconduct, and trial witness impeachment information, and been better able to support Claim 1.

Additionally, the trial court in its order denying postconviction relief, faulted Bell many times for failing to prove his claims as to these witnesses but it was the trial court who improperly allowed the recanting witnesses and other witnesses to refuse to answer questions, even when the Fifth Amendment didn't apply.

II. BELL ESTABLISHED NEWLY DISCOVERED EVIDENCE AND ESTABLISHED THAT PROSECUTORS FAILED TO DISCLOSE EVIDENCE IN VIOLATION OF *BRADY V. MARYLAND* AND *GIGLIO V. UNITED STATES* DEPRIVING HIM OF DUE PROCESS AND A FAIR TRIAL

A. The trial court erred when it found due diligence had not been established by improperly imputing knowledge onto the Office of the Federal Defender for the Middle Region's Capital Habeas Unit

One of Bell's federal attorneys Tennie Martin testified that Bell's CHU-Middle attorneys did not become aware that Edwards and Jones had information about Bell's case until June 13, 2025, when CHU-North attorneys – who had spoken to Edwards and Jones about a separate and distinct case – alerted CHU-Middle of this possibility. [PCR2 1420]

The trial court erroneously put on Bell the burden to explain why the Federal Defender's Office for the Northern District of Florida's Capital Habeas Unit ("CHU-North") did not immediately contact Bell's attorneys who are employed by the Federal Defender's Office for the Middle District of Florida's Capital Habeas Unit ("CHU-Middle").

The Criminal Justice Act ("CJA") is codified at 18 U.S.C. § 3006A. The Act requires each federal district court to have a plan for furnishing representation to certain criminal defendants who cannot afford to obtain adequate representation. The Act created Capital Habeas Units, and allows each United States District Court to create its own plan for providing counsel to death-sentences inmates. Thus, the Federal Defenders' Office for the Middle District of Florida was created as part of the Middle District of Florida's CJA plan, and the Federal Defender Officer for the Northern District was created pursuant to the Northern District of Florida's CJA plan. These agencies do not share offices, attorneys, or investigators. And they do not share clients.

CHU-M was not required to periodically re-interview trial witnesses who gave unfavorable testimony during pretrial investigation, during the 1994 trial and penalty phase, and at a 2002 postconviction evidentiary hearing, to check for recantations without good cause to believe any existed. *See Waterhouse v. State*, 82 So. 3d 84, 104 (Fla. 2012) ("While pretrial resources are unquestionably limited, collateral counsel's resources are also not unlimited. Thus,

requiring collateral counsel to verify every detail and contact every witness in a police report—even where the police report indicates that the witness has no useful information—would place an equally onerous burden on collateral counsel, with little chance of discovering helpful or useful information."), citing *State v. Huggins*, 788 So. 2d 238, 243 (Fla. 2001) (holding that defense counsel was not required to investigate hundreds of leads provided by the police in order to satisfy due diligence.)

Since Edwards' and Jones' recantations were obtained by CHU-Middle investigators Colin Kelly and Christy Dickerson on June 16th and 18th of 2025 respectively [PCR 1477, 1485-86] – less than one week prior to the evidentiary hearing – and since the CHU-North investigation itself had only been going on for "the last couple of months" [PCR2 1420] Bell absolutely established that it had been less than one year since Edwards and Jones recanted. Thus, the trial court erred when it found that Bell failed to establish the first newly discovered evidence prong that his counsel did not know the information at trial and could not have discovered it by the use of diligence. *See Jones v. State*, 709 So. 2d 512 (Fla. 1998).

B. There is not competent substantial evidence to support the trial court's determination that Henry Edwards' denial of his recantation was more credible than CHU-Middle investigator Colin Kelly

When Edwards was challenged about his sworn affidavit recanting, in between taking the Fifth a number of times, he testified that he was confused as to who exactly the CHU-Middle Investigators were then claimed he thought they were interviewing him about Bell because they were "making movie or something." [PCR 1208]

Investigator Kelly of course, testified that that wasn't true and that the investigators introduced themselves, told him who they worked for, and showed him their business cards. [PCR 1475-81] Neither CHU-Middle investigator tricked Edwards into talking to them or told him what to say. Any suggestion that Edwards genuinely thought that he was helping two complete strangers write a movie script about Michael Bell is patently ridiculous.

There were also two witnesses that impeached Edwards' denial of the information in his recantation. Cathy Robertson [PCR 1602-05] and Glory Mitchell [PCR 1611-13] testified that around the time of Bell's trial, Edwards had a very close relationship with Bolena

(which is consistent with Edwards' sworn recantation and inconsistent with Edwards hearing testimony where he denied working with Bolena on an ongoing basis [PCR 1445]). Their relationship was so close that Bolena would let Edwards out of jail to visit Robertson (his wife at the time) for informal furlough visits (which is inconsistent with Edwards hearing testimony in that he took the Fifth on this point).

And the trial court even suggested to the defense at the hearing that he agreed that Edwards' claim that he lied in his sworn recantation was not credible, only to sandbag Mr. Bell by finding "Edwards' testimony that he did not know what was in the affidavit to be more credible than CHU Investigator Colin Kelly's testimony that the affidavit reflected statements made by Mr. Edwards" [PCR 1208] When the defense told the trial court that CHU-Middle investigator Christy Dickerson was going to be called to corroborate what investigator Colin Kelly said [PCR 1614-15] (because they interviewed the recanting witnesses together), the trial court said "I'm not real concerned about corroborating witnesses, and don't need somebody to tell me they saw something somebody else already told

me happened.". [PCR 1616] The defense then told the court if that was the case then investigator Dickerson's testimony wasn't necessary and wouldn't be presented, saying "I was leaning towards not calling Miss Dickerson 'cause don't think anybody thinks they were there making movie. So was just going to make that tactical decision with few minutes you're giving us," [PCR 1616] to which the trial court said "Okay." [PCR 1617]

This is another illustration – in addition to letting the witnesses abuse the Fifth amendment privilege – of a pattern in Mr. Bell's postconviction litigation of the trial court foreclosing opportunities for the defense to develop a record and then using the lack of record development to deny claims.

C. Newly discovered evidence regarding eyewitness Henry Edwards establishes *Brady* and *Giglio* violations

i. Edwards' Sworn Recantation

Henry Edwards disclosed on June 16, 2025, that he did not see the murders, he only heard them because he was inside the store when the shootings occurred. He also said that Detective William Bolena was aware Edwards did not see the shooting and told

Edwards what to testify to in exchange for favors, specifically furloughs from jail during his period of incarceration around the time of the murders. Edwards also stated that Detective Bolena pointed out Bell to Edwards in the photo lineup and that Bolena put him in a holding cell with an eyewitness so that Edwards could corroborate his "eyewitness" testimony with hers. Edwards also said that he felt threatened by Bolena [PCR 1227-29].

ii. Edwards' Trial Testimony that excluded any mention of police or prosecutorial misconduct, and excluded additional impeachment material

Edwards' trial testimony did not contain any mention of police misconduct. Instead he testified that there was no agreement between him and the State and that he had charges against him dropped the same day he spoke to Bolena about this case but that was because he was "innocent" [PCR 649]; that he got nothing in exchange for his testimony [PCR 650-51]; that Detective Bolena simply met him at the jail and asked him about the murders at which time Edwards told Bolena the same thing he eventually testified to at trial [PCR 650]. Edwards also testified at trial that he was standing outside at the corner of the building when he saw Bell put on a ski

mask then walk up to a yellow car and started shooting into the driver's side [PCR 643-45]; that he had no problem identifying Bell [PCR 642-43]; and that he had no doubt Bell was the triggerman [PCR 651].

iii. Edwards' completely incredible evidentiary hearing testimony denying the recantation and his admission at the evidentiary hearing that he could not have identified Bell

Throughout the hearing, Edwards approach was to say that he either didn't recall recanting [PCR 1445, 1459-60], claim that he was just going along with what the CHU-Middle investigators said [PCR 1447-48, 1457-58, 1464], pretend like he thought he was in a "movie" [PCR 1449], or plead the Fifth [PCR 1449-50, 1452-53, 1456, 1461-62].

Despite Edwards efforts to do anything but, he did slip up and tell the truth that he could not have identified Bell in 1994.:

Q Okay. Now, about the part with Mr. Bell, before this trial and before this case, did you even know Mr. Bell?
A Did I know him?
Q Yeah.
A No, I didn't know him.
Q Had you ever even seen him before?

A I might have seen him one time but I didn't – I didn't know him.
Q Okay. So you were standing at Moncrief Liquors. You claim you're outside today. mean, in the affidavit you said you were inside. But today, you're saying you're outside Moncrief Liquors and witnessed the shooting, correct?
A I take the Fifth. I take the Fifth. I plead the Fifth.

MR. NORGARD: I'd ask that he be instructed to answer that question.
THE COURT: I'm not instructing him to answer.

BY MR . NORGARD:

Q You have already —- although you're not answering it now, you've already said in your testimony that you were outside and witnessed the incident, right?
A Right.
Q Okay. You just told me that you didn't really know Michael Bell, right?
A Right.
Q Okay. You're saying you're telling the truth, that you saw the incident.
A Yes, I did.
Q How was the perpetrator dressed?
A I take the Fifth.

[PCR 1451-53]

The totality of this questioning where Edwards admits that he did not know Bell prior to the murders (which is consistent with his sworn recantation) then retreats and takes the Fifth when challenged on his identification of Bell at trial, combined with his 1994 trial

testimony that he had known Bell for six months and had seen him approximately 35 times and could easily identify him [T 306-07] establishes newly discovered evidence. The State prejudiced Bell by suppressing exculpatory or impeaching evidence in violation of *Brady v. Maryland*, 373 U.S. 83 (1963), and knowingly presented material false testimony in violation of *Giglio v. United States*, 405 U.S. 150 (1972).

Ultimately, the kind of evidence established by the defense about Edwards – especially his admission that he couldn't have identified Bell – gives rise to a reasonable doubt as to Bell's guilt but also the sufficiency of the cold, calculated, and premeditated (CCP) aggravator, and the sufficiency of the great risk of death to many persons aggravator. Thus, the trial court erred when it found that Bell failed to establish the second newly discovered evidence prong that the newly discovered evidence would probably yield a less severe sentence. *See Jones v. State*, 709 So. 2d 512 (Fla. 1998); *Jones v. State*, 591 So. 2d 911, 915 (Fla. 1991).

D. Newly discovered evidence regarding Charles Jones establishes *Brady* and *Giglio* violations

i. Jones' Sworn Recantation

Jones disclosed on June 18, 2025, that he was approached by Detective Bolena in 1994 when he was in jail, that he knew Detective Bolena because he was in a relationship with Jones' sister, Bolena coerced him to testify against Bell by offering to help him with his charges, Detective Bolena and prosecutor George Bateh told him what to say at trial. Jones said that Bell never tried to sell him a gun and he never confessed to Jones about having shot anyone. Jones also disclosed that in 2002, while he was being detained for federal charges, he was brought back to Duval County jail to testify against Bell in a postconviction hearing. Bateh threatened him with more time if he were to change his testimony and tell the truth. He met with both Bolena and Bateh before pleading in his federal case and they both promised him they would get him a downward departure if he maintained his testimony against Bell. [PCR 1232-34]

ii. Jones' evidentiary hearing testimony admitting that his sworn recantation was the truth

The trial court found that "Jones did not recant and did not testify" [PCR 1209] That isn't accurate. At the hearing, Jones took the

stand and pleaded the Fifth to nearly every question he was asked. However, near the end of his testimony, Jones admitted that he signed his sworn recantation affidavit and that the contents were true:

> Q Okay. want you to look at this. I'm holding it up where you can see it. Let me know. affirm under the penalty for perjury that have read the foregoing and the facts contained therein and true. They are true.
>
> Did you —- you signed that, right?
>
> A Yes.

[PCR 1437]

So, unlike Edwards, Jones did not say that the contents of his sworn recantation were lies. He simply pleaded the Fifth about the contents of the affidavit as they were read aloud to him one by one but then ultimately admitted that his recantation was the truth. So, there is record evidence that Jones recanted. Pretty much the only thing that Jones testified to substantively was that he signed the affidavit – which contained a complete recantation of his trial testimony that Bell confessed to him and possessed the supposed murder weapon – under penalty of perjury and swore the facts contained therein were true.

iii. Jones' trial testimony that excluded any mention of police or prosecutorial misconduct, and excluded additional impeachment material

Jones' prior testimony at Bell's trial was that he had no agreement with the State for any benefit in exchange for his testimony [PCR 679-80]; he talked to Bolena about Bell but not in exchange for any favors [PCR 684]; he saw Bell trying to sell an assault weapon in December 1993 [PCR 681-82]; and that he heard Bell admit to killing West and Smith in January 1994 [PCR 682];

This newly discovered evidence was not known to trial counsel at the time of trial and Bell and his counsel could not have known this information by the use of diligence. This newly discovered evidence is favorable to the accused because it weakens the State's evidence, and because misconduct and a quid pro quo arrangement between a witness – who testified about Bell's confession to the murders and Bell's possession of a gun around the time of the murders – and police would have cast doubt on the rest of the police investigation and by association the State's case.

The State prejudiced Bell by suppressing exculpatory or impeaching evidence in violation of *Brady v. Maryland*, 373 U.S. 83

(1963), and knowingly presented material false testimony in violation of *Giglio v. United States*, 405 U.S. 150 (1972). This gives rise to a reasonable doubt as to Bell's guilt but also the sufficiency of the cold, calculated, and premeditated (CCP) aggravator. Thus, the trial court erred when it found that Bell failed to establish the second newly discovered evidence prong that the newly discovered evidence would probably yield a less severe sentence. *See Jones v. State*, 709 So. 2d 512 (Fla. 1998); *Jones v. State*, 591 So. 2d 911, 915 (Fla. 1991).

E. The trial court erred in ruling that the claims regarding the other remaining witnesses were procedurally barred as untimely

The trial court based his procedural bar finding on the fact that Bell had previously raised pro se claims of coercion in his 2002 postconviction proceedings so "[w]hatever precipitated [Bell] to consider coercion claims for some trial witnesses should also have led him to conduct due diligence on the other remaining witnesses". But the witnesses Bell did call at his 2002 postconviction hearing denied any police or prosecutorial misconduct so this was just more prior sworn testimony on which Bell and his attorneys could reasonably rely on as accurate until they were given a reason to doubt

that – which did not arise until after his death warrant was signed. *See Waterhouse v. State*, 82 So. 3d 84, 104 (Fla. 2012) (finding postconviction counsel is not required to re-contact every witness especially when it appears from the record that the witness does not have favorable information).

And regardless of whether the other witnesses are actually procedurally barred, the trial court still must consider them when evaluating the weight of the other newly discovered evidence (Edwards and Jones). Since the other witnesses are directly relevant to Bell's newly discovered evidence claim, they must be considered in determining whether a new trial would probably result in an acquittal, or whether a new penalty phased would probably result in a life sentence.

F. Ericka Braclet (formerly Williams)

At the hearing, Ericka Braclet pleaded the Fifth when asked about her statement to CHU-Middle investigators that Detective Bolena used "scare tactics" to get her to talk to him about Bell. [PCR 1158] She also pleaded the Fifth as to being threatened by Bolena with charged as an accessory and going to prison for ten years. [PCR

1576-77] Braclet said she did not recall reporting the gun as stolen or giving law enforcement incriminating information about Bell. [PCR 1569]

Braclet did recall and testify to some police misconduct and said that she was "petrified" to talk to police, and that when she went downtown to talk to the police about the case she was kept in an interrogation room for 12-14 hours, that two law enforcement officers screamed at her and threatened to take her children away. [PCR 1574-77]

In contrast, at trial, Ericka did not testify at all about any police or prosecutorial misconduct, nor did she mention any threats to her in relation to her testimony. [T 415] She also said that she was hesitant to testify – not because of police threats to take her children away – but because she was afraid of Mr. Bell. [T 414]

At the hearing, the prosecutor cross examined Braclet and tried to clean this all up by simply asking her if she testified truthfully at Bell's 1994 trial and 2002 postconviction hearing but it went nowhere as she could not remember whether she told the truth at trial or not:

> Q Okay. And when you testified before the trial in front of the trial jury as well as the ineffective assistance of counsel, did you try to tell the truth?
>
> A I don't recall.
>
> Q Okay. You have no idea if you told the truth or not.
>
> A I don't recall.

[PCR 1577-78]

The contrast between Ericka Braclet's 1994 and 2025 establishes newly discovered impeachment evidence concerning what motivated Braclet to testify against Bell (police misconduct in the form of threats). Because Braclet 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.

G. Ned Pryor

At the hearing, Pryor claimed to not recall that he told CHU-Middle investigators that Bolena and Bateh wanted him to say that Bell was the shooter [PCR 1582] and claimed to not recall that he told CHU-

Middle investigators that Bateh told him that if he didn't say Bell was the shooter that he would go down for it. [PCR 1582]

Pryor did, however, answer a few crucial questions at the hearing that revealed he lied at Bell's trial:

> Q Did you ever see Michael Bell with gun that evening?
> A No.
> Q Never saw him with gun.
> A No.
> Q And in fact, at the time this incident occurred, you were not even there, were you?
> A When the incident occurred? No, I wasn't there.
> Q When the two people were killed, you did not see Michael Bell with gun, and you did not see the incident because you were not there, correct?
> A I plead the Fifth.

[PCR 1584-85]

At trial, Pryor did not mention any police or prosecutorial misconduct. He testified that he saw Bell the night of the murders in the Moncrief Liquors parking lot walking towards the victims with a firearm and then heard the gun shots. [T442-43]

The contrast between Pryor's 1994 and 2025 testimony establishes newly discovered evidence that Pryor testified falsely about what he saw the night of the murders and newly discovered impeachment evidence concerning what motivated Pryor to testify

against Bell (police misconduct in the form of threats). Because Pryor describes similar police and prosecutorial misconduct that Edwards and Jones did in their sworn recantations, it also supports the recantations themselves and thus supports the claim that the State presented false testimony and withheld exculpatory *Brady* and *Giglio* impeachment evidence concerning Edwards and Jones.

H. Dale George

At the hearing, Dale George pleaded the Fifth when asked about his statement to CHU-Middle investigators that Detective Bolena or prosecutor Bateh ever threatened to charge him with first degree murder or offered him a reduced sentence in exchange for his testimony against Bell. [PCR 1594-97] George also pleaded the Fifth when asked about his statement to CHU-Middle investigators that Detective Bolena has physically assaulted him while questioning him about this case. [PCR 1598-99]

At trial, Geroge did not testify at all about any police or prosecutorial misconduct and said that he was not being promised anything for his testimony. [T 475] He said what motivated him to testify was that he was tired of lying. [T 475]

The contrast between George's 1994 and 2025 testimony establishes newly discovered evidence that George testified falsely and newly discovered impeachment evidence concerning what motivated George to testify against Bell (his own criminal charges). Also, because George 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.

I. Paula Goins

The trial court ruled that Detective Bolena and George Bateh merely "pressured her to testify *truthfully*" [PCR 1213] but that isn't what Goins said. At the hearing, Goins testified that she was pressured by Bolena and Bateh to testify, that they tried to physically intimidate her in her interview, and that they told her that she would go to prison if she didn't testify, as well as lose her job, house, and custody of her granddaughter. [PCR 1548-55] She also said that they told her what to say:

> Q All right. So what you're telling the Court is that some of the things you said were simply being said because

that was fed to you by George Bateh and/or Detective Bolena.

A Exactly. It was the whole scenario. Let me tell you, this whole thing happened. My whole family was under protection by the police after this incident. It was nothing for me to believe George Bateh or —- or the detective that I had to do this because people were shooting at us, trying to kill us in retaliation for this whole thing. We were under extreme duress.

...

Q And also, some of the stuff you were saying were things they were telling you to say.

A Yeah. They told me what she said and was asking me if that was said.

[PCR 1553-54]

At trial, Goins testified that she and Bell had a one-on-one conversation where he said "I got him". [PCR 1245] At the hearing, Goins testified that what actually happened was that she instead overheard a conversation that Bell was having with Ericka Williams (Braclet) [PCR 1552-53], that she couldn't recall all of the details of that conversation [PCR 1553], but was adamant that what Bell actually said to Ericka was "we got him" not "I":

Q But you never heard him say, I shot these people.

A I did hear the conversation. will admit that.

Q Okay. But did he ever say, I did it?

A No. We. He said it was another boy with

him. It was we. We did this.
Q All right.
A And —— and he was telling her the whole picture of what we did, him and Ned, I think his name was.

[PCR 1556]

The contrast between Goins' 1994 and 2025 testimony establishes newly discovered evidence that Goins testified falsely and newly discovered impeachment evidence concerning what motivated Goins to testify against Bell (improper pressure by the State that put her fear that she would lose her job, house, and custody of her granddaughter). Because Goins 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.

III. THE TOTALITY OF THE CIRCUMSTANCES SURROUNDING THE RECANTATION OF TWO KEY WITNESSES FOLLOWED BY THE STATE'S THREAT TO PROSECUTE ANY WITNESS THAT CHANGED THEIR TESTIMONY FOR PERJURY DEPRIVED BELL OF A FAIR AND RELIABLE EVIDENTIARY HEARING AND WARRANT-PHASE POSTCONVICTION DETERMINATION

An accused in a criminal case has a constitutional right to present witnesses in his defense, pursuant to the due process and the compulsory process provisions of the federal and state constitutions. See Florida Constitution, Article I, Section 16(a); see also U.S. Const. amends. V, VI, XIV § 1. "The right to offer the testimony of witnesses, and to compel their attendance, ... is in plain terms the right to present a defense, the right to present the defendant's version of the facts as well as the prosecution's to the jury so it may decide where the truth lies." *Washington v. Texas*, 388 U.S. 14, 19 (1967).

On the morning of June 23, 2025, following Bell's motion objecting to the State's witness interference and before Bell could call any witnesses, the State said in open court that although there was no "plan" to charge recanting witnesses with perjury, it was a "possibility if they come on the stand and they say that their prior

testimony was lie." [PCR 1393-94] The Court made it clear that it had on its own accord contacted lawyers in preparation for the evidentiary hearing. However, Bell wasn't complaining about the appointment of lawyers. Bell was complaining that the State wanted to lock key trial witnesses into their previous testimony instead of allowing witnesses who had expressed a desire to recant the opportunity to do so free of the threat of prosecution.

Constitutional case law is legion that the state may not use threats of perjury or intimidating tactics which substantially interfere with a witness' decision to testify for a defendant. *State v. Feaster*, 877 A.2d 229, 242-45 (N.J. 2005). ("Such conduct, even if motivated by good faith, cannot be tolerated, particularly in a capital case"). While merely warning a witness of the consequences of perjury does not necessarily demand reversal, a showing of substantial interference with the witness' "free and unhampered" determination to testify amounts to a due process violation. *See, e.g., Webb v. Texas*, 409 U.S. 95 (1972); *United States v. Stuart*, 507 F.3d 391, 398 (6th Cir. 2007); *Newell v. Hanks*, 283 F.3d 827, 837-38 (7th Cir. 2002); *United States v. Foster*, 128 F. 3d 949, 953 (6th Cir. 1997); *United*

States v. Pinto, 850 F.2d 927, 932 (2nd Cir. 1988); *United States v. Morrison*, 535 F.2d 223, 224-28 (3rd Cir. 1976); *State v. Feaster*, 877 A.2d at 240-46; *F.C.L. v. Agustin*, 350 P.3d 482, 487 and n.4 (Or. App. 2015); *Woolfolk v. Commonwealth*, 339 S.W.3d 411, 417 (Ky. 2011); *People v. Coffman*, 96 P.3d 30, 72 (Cal. 2004); *State v. Melvin*, 388 S.E.2d 72, 77-80 (N.C. 1990). Florida case law is in accord. *See Muhammad v. State*, 782 So. 2d 343, 356-58 (Fla. 2001).

The intimidation or threat need not come from the judge. A threat to prosecute for perjury may well be even more intimidating to the witness if it comes from the prosecution (which, unlike the judge, is vested with the power to file a criminal charge). *See Morrison*, 535 F.2d at 228; *Melvin*, 388 S.E.2d at 79 (each applying *Webb* principle to prosecutorial conduct). In *Feaster*, 877 A.2d at 232:

> At the [postconviction] hearing, defendant intended to call Michael Sadlowski, a key State's witness who had recanted his trial testimony in a certified statement made to defendant's attorneys. Before Sadlowski took the stand at the hearing, the prosecutor indicated to Sadlowski's attorney that there would be "considerations" if he testified consistent with his recantation statement. When called as a witness, Sadlowski withdrew his certified statement and invoked his Fifth Amendment privilege against self-incrimination. Defendant contends that the prosecutor's thinly veiled threat to prosecute Sadlowski for perjury

> deprived him of a critical witness. We agree. We will not theorize whether Sadlowski would have invoked the privilege even in the absence of a prosecutorial threat. We now hold that the prosecutor substantially interfered with Sadlowski's decision to testify and, therefore, denied defendant a witness who might have supported his claim that he was wrongly convicted and sentenced to death. The prosecutor's interference with that witness' decision to testify violated defendant's state constitutional due process and compulsory process rights.[1]

This Court discussed the *Feaster* case in *Johnson v. State*, 397 So. 3d 626, 639 (Fla. 2024), in which Johnson lost a similar claim but Johnson was unsuccessful for reasons that don't apply to Mr. Bell. This Court distinguished *Johnson* from *Feaster*:

> The witness in [*Feaster*] wrote a certified statement, filed in court, that he would testify a certain way. 877 A.2d at 235. The evidence made clear that the prosecutor's threat kept him from doing so. Here, again, the record does not support the conclusions that Al would have testified differently; that the State directly interfered with his testimony; and that, had Al testified differently, the trial court would have granted Johnson a new penalty phase trial. And we do not find in Al's e-mail—which the trial court also saw—a basis upon which to conclude that the

[1] While true that the New Jersey Supreme Court relied on its state constitution, it also discussed at length the applicable federal due process and compulsory process case law (including *Webb v. Texas*) which similarly prohibit prosecutorial interference with a defense witness' testimony [877 A.2d at 238, 240-43 and n.5 and 8], and it also emphasized "the heightened requirement of reliability that attaches to a death verdict" [*id*, at 259]. That echoes the heightened reliability requirement of the Eighth Amendment [*id*, at 238].

> trial court abused its discretion in concluding that there would not have been a meaningful change to Al's testimony at the Spencer hearing. Johnson is not entitled to relief on this claim.

All of the distinguishing facts between *Feaster* and *Johnson* cut in Bell's favor. Bell's witnesses recanted in sworn affidavits to investigators which indicated that they intended to testify to the contents in court. Bell then filed those sworn recantations to the court. It is clear that the threat of perjury was precisely why both recanting witnesses Edwards and Jones changed their minds about testifying. And had both of the recanting witnesses done so on the record, along with all of the corroborating evidence of police and prosecutorial misconduct as to the other ("better", according to the State) witnesses, it is reasonable to conclude that the trial court would have granted Bell at the very least a new penalty phase trial. [See PCR 1214 where the trial court characterized the testimony that Bell planned on presenting as "systemic prosecutorial misconduct that resulted in all their trial testimony being coerced and false".]

In *Muhammad*, the Florida Supreme Court observed that "if a witness is threatened with perjury charges in light of a prior

inconsistent statement, the witness might be coerced to give the same testimony as that in the prior statement, not because it is the truth but because of judicial pressure from the threat of perjury charges." 782 So. 2d at 356-58. *See also Melvin*, 388 S.E.2d at 79-80 (if the perjury admonition "likely precluded a witness 'from making a free and voluntary choice whether or not to testify' . . . or changed the witness' testimony to coincide with the judge or prosecutor's view of the facts, . . . then a defendant's right to due process may have been violated")(citations omitted); *People v. Crabtree*, 276 N.W.2d 478 (Mich. App. 1979)(reversal required where prosecutor made "a thinly veiled threat of a perjury charge against the victim if she changed her story from that given at the preliminary examination").

It is also extremely important that even the State did not assert a firm belief that the recanting witnesses trial, penalty-phase, or original post-conviction hearing testimony was true and if they recanted what they said would be false but instead that if any witness testified that their prior testimony was a lie then the State's position

was that that would be perjury [PCR 1393-94].[2] When a key witnesses' memory is suddenly refreshed when confronted with the prospect of jail, one cannot be certain which version of the facts is indeed the "truth". *See Muhammad v. State*, 782 So. 2d at 357.

And here there are strong and multiple reasons for concern that the prior testimony of the recanting witnesses was actually false in light of the fact that former prosecutor George Bateh and Detective Bolena are known for exactly the kind of improper tactics (coercion, threats, and favors in exchange for testimony) that the recanting witnesses describe. See also Nichole Manna, *Investigation reveals dubious testimony, no evidence in 1993 case of Jacksonville man sentenced to death*, The Tributary (March 18, 2025), https://www.news4jax.com/news/local/2025/03/18/investigation-reveals-dubious-testimony-no-evidence-in-1993-case-of-jacksonville-man-sentenced-to-death-the-tributary/.

And Another case that both Bateh and Bolena worked together

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[2] This is a legally incorrect theory of prosecution for perjury. A lie told in 1994, even in a capital case, would not be actionable today because it would be subject to the pre-1997 statute of limitations which would have run already expired. *See Sheppard v. State*, 338 So. 3d 803, 825 n. 6 (Fla. 2022).

(Ronnie Ferrell) is currently being investigated by Bateh's former Office's Conviction Integrity Division due to "concerns" about Bateh's prosecutorial tactics and another case may soon be reviewed due to the same concerns (Kenneth Hartley). See Nichole Manna, *How a Florida prosecutor fixed a 'weak' case using a liar and 3 jailhouse snitches to send a man to Death Row*, The Tributary (April 24, 2025), https://jaxtrib.org/2025/03/17/how-a-florida-prosecutor-fixed-a-weak-case-using-a-liar-and-3-jailhouse-snitches-to-send-a-man-to-death-row/.

It should also be noted that the reason the recanting witnesses are facing the prospect of prosecution for perjury as a second-degree felony carrying a potential 15-year prison sentence is because this is a death penalty case. See Fla. Stat. §837.02(2). The reason for enhanced punishment for perjury in a capital case dovetails with the requirement of heightened reliability in a capital case. And while the State may be harmed if a defendant receives an undeserved life sentence based on perjured testimony in his favor, that pales in comparison to the irreparable harm to a defendant who is sentenced to death and executed based on perjured testimony.

If the recanting witnesses were allowed to testify freely in the June 23, 2025, evidentiary hearing, without fear of prosecution for a second degree felony, they were expected to recant testimony about witnessing Bell commit the murders, hearing Bell confess to the murders, and seeing Bell with the supposed murder weapon, and this Court may as a result have granted a new guilt and / or penalty phase jury trial. It was also clear from the record that the threat of perjury was why they refused to testify. It was made clear to Both Edwards and Jones, as well as almost every other witness, that they were at risk of being charged with perjury if they changed their testimony. [PCR 1393-94]

Because of the State's perjury threat, the testimony of these crucial witnesses – and this Court's fact-finding duty – was hampered. Carrying out Bell's execution therefore violates even basic standards of reliability, much less the heightened reliability required by the Eighth Amendment.

The State having refused to voluntarily offer the recanting witnesses immunity, this Court should apply the federal Third Circuit's reasoning in *United States v. Morrison*, 535 F.2d 223, 228-

29 (3rd Cir. 1976) and require the state to offer the recanting witnesses immunity from a perjury prosecution. While under ordinary circumstances a court has no inherent power to grant use immunity to a defense witness over the state's objection, there may be an exception where a defense witness' testimony has been tainted by prosecutorial misconduct. *See United States v. Morrison.*

Interfering with defense witness by means of a threat of perjury prosecution if he were to testify inconsistently with his prior testimony is prosecutorial misconduct that rose to the level of a due process violation in this case due to the fact that police and prosecutorial misconduct is what that led to the coerced trial testimony in the first place, the fact that the recanting witnesses' testimony was critical to a life-or-death determination.

IV. THE TIME LIMITS IMPOSED ON THIS WARRANT LITIGATION VIOLATES STATE AND FEDERAL DUE PROCESS BECAUSE UNDER THE UNIQUE CIRCUMSTANCES OF THIS CASE, MR. BELL WAS DENIED AN OPPORTUNITY FOR A COMPLETE HEARING ON FULLY INVESTIGATED CLAIMS

The lower court erred in denying Mr. Bell's claim that he is being denied full and fair postconviction proceedings in violation of the Due Process Clause of the Fourteenth Amendment and Article I, Section 9, of the Florida Constitution. *See Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542 (1985) (noting "an essential principle of due process is that a deprivation of life . . . 'be preceded by notice and opportunity for **hearing appropriate to the nature of the case**'") (quoting *Mullane v. Cent. Hannover Bank & Trust Co.*, 339 U.S. 306, 313 (1950)) (emphasis added). In Claim 3 of his successive Rule 3.851 motion, Mr. Bell argued that the warrant period and its constituent proceedings are so truncated that they preclude a meaningful hearing on *any* of his claims. (PCR-3. 596-97). This Court's scheduling order providing less than ten days for circuit court proceedings coupled with the circuit court's extremely expedited

schedule prevented Mr. Bell from having any meaningful opportunity to fully investigate and present his claims.

Further, the execution timeline is truncated despite Section 922.052(2)(b), Florida Statutes, providing for up to 180 days to execute a death warrant) that defendants and counsel – no matter how diligent – are forced to submit the very sorts of last-minute pleadings that are discouraged by courts. Justice Pariente spoke to this dilemma in her concurrence in *Jimenez v. Bondi*, 259 So. 3d 722, 726-27 (Fla. 2018), after Governor Scott signed a warrant on July 18, 2018, scheduling Jimenez's execution for 27 days later, on August 14, 2018:

> Before an execution may proceed, this Court has the solemn obligation to carefully ensure that there are no constitutional bars to the execution and that the defendant's rights have been protected. [S]ome claims, such as those challenging the execution method, cannot be raised or evaluated until the signing of the death warrant. At the least, defendants must have adequate time to investigate and raise and courts must have adequate time to properly review these warrant-based claims. When the machinery of the State is used to execute someone, this Court must remain vigilant, even if claims arise at the last minute.

"Whether acting through its judiciary or through its legislature, a state may not deprive a person of all existing remedies for the enforcement of a right, which the state has no power to destroy, unless there is, or was, afforded to him *some real opportunity to protect it.*" *Brinkerhoff-Faris Trust & Savings Co. v. Hill*, 281 U.S. 673, 682 (1930) (emphasis added). "At a minimum," due process "require[s] that deprivation[s] of life, liberty or property by adjudication be preceded by notice and opportunity for hearing appropriate to the nature of the case." *Armstrong v. Manzo*, 380 U.S. 545, 550 (1965) (quoting *Mullane*, 339 U.S at 313). As the United States Supreme Court held in *Mathews v. Eldridge*, "the fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner." 424 U.S. 319, 333 (1976) (quoting *Armstrong*, 380 U.S. at 553).

Nowhere can these principles be more important than in a capital case, where the Supreme Court has repeatedly emphasized the need for a heightened degree of reliability. *See, e.g., Woodson v. North Carolina*, 428 U.S. 280, 305 (1976); *see also Loudermill*, 470 U.S. at 542 (quoting *Mullane*, 339 U.S. at 313) (reiterating that the

due process requirements of notice and opportunity must be "appropriate to the nature of the case").

A. Mr. Bell received credible information of *Brady* and *Giglio* violations two days and three days before his postconviction motion was due. This extremely short warrant period severely prejudiced Mr. Bell, and any pleading deficiencies were a direct result of the unreasonably short circuit court deadlines and not a lack of diligence by Mr. Bell

Ordinarily, a defendant would have one year from the discovery of the new evidence to investigate, develop, and present his claim of newly discovered evidence. *See Mills v. State,* 684 So. 2d 801, 804 (Fla. 1996). Mr. Bell had three days from learning of the new evidence until his successive motion was due. During that three-day period, Bell's legal team was also attending court hearings in this case, visiting with Mr. Bell to discuss the warrant, and drafting the additional claims in his postconviction motion.

It is completely outside of Mr. Bell's control that witnesses were unwilling to come forward and allege that they were threatened or coerced to testify against Mr. Bell at trial until after his death warrant was signed. Charles Jones, Henry Edwards, Ned Pryor, Dale George, and Erika Willaims all testified at trial, and during postconviction

proceedings that they had not been coerced or threatened and that their trial testimony was true. It was perfectly reasonable for Mr. Bell to rely on this prior testimony, and completely unreasonable that he should have had to continue to continuously check in with them over a 30-year period to determine if they wished to change their testimony. *Waterhouse v. State*, 82 So. 3d 84, 104 (Fla. 2012).

Three days is a completely unreasonable time period to investigate and present claims of newly discovered evidence in a postconviction motion, and seven days is a completely unreasonable time frame to investigate and prepare for an evidentiary hearing on those claims. The fact that Mr. Bell was able to secure the testimony of ten witnesses over that short period of time is not indicative of the time period being reasonable but rather the shear number of witnesses that exist that had the same thing to say; Det. Bolena and ASA Bateh threatened and coerced witnesses to testify untruthfully at trial. Mr. Bell's defense team continue to receive tips and leads that tend to corroborate the statements these witnesses gave to defense investigators, and from lawyers stating that these were standard tactics for Bateh and Bolena. If Mr. Bell had even a fraction

of the 1-year he is entitled to under Rule 3.851, he would have been able to present a much more substantial and well plead 3.851 motion, and a plethora of additional evidence in support of his claims.

B. Any pleading deficiencies in the initial motion or motion to amend resulted directly from the short warrant period and unreasonably short circuit court deadlines imposed in this case

The trial court's order denying Mr. Bell's postconviction motion also denied Mr. Bell's Motion to Amend Claim One of the postconviction motion, and the Court further found that Mr. Bell's allegations of newly discovered evidence regarding witness Paula Goins were not plead in either the postconviction or proposed amendments. [PCR 1204; 1218] The court held that Mr. Bell failed to demonstrate good cause for the amendments. [PCR 1218] Any deficiencies in Mr. Bell's pleadings were the direct result of the unreasonable short warrant proceedings and trial court's scheduling order.

The trial court faulted the defense for not including the witnesses in the motion to amend in the initial motion given that the

interviews with those witnesses occurred before the initial motion was filed. But Rule 3.851(e)(2)(ii) requires that a claim of newly discovered evidence be accompanied by a statement that the witness would be available to testify under oath. Mr. Bell's defense team was unable to gain assurances from these witnesses that they were available to testify under oath in the three days they had to investigate the claim. [PCR 1162; 1168] Witnesses are often reluctant to testify at first, and it often takes time to gain trust and rapport before they are willing to agree to testify under oath. Accomplishing that in three days is nearly impossible.

The trial court also found that Claim One of the postconviction motion was untimely because he did not explain why CHU-N waited to reveal the recantations or to establish when CHI-N first learned of the new evidence. [PCR 1206] As outlined above, this was a completely unreasonable decision as Mr. Bell can not be faulted with the actions of a separate, autonomous agency and it is irrelevant when CHU-N learned of this new information because CHU-N has absolutely no relationship with Mr. Bell or his lawyers.

Setting that aside, had Bell not been litigating this issue under such an unreasonably compressed time period, Bell would have subpoenaed CHU-N investigator Dan Ashton to testify, and he would have both further explained the complete lack of relationship between two similarly named organizations practicing in two separate jurisdictions, and also that the new information was obtained well within the time limits of newly discovered evidence in 3.851. He also would have testified that he did not receive recantations from Jones and Edwards because he was not investigating Bell's case, but merely learned information that led him to believe that interviewing these witnesses about the Bell case would possibly lead to the discovery of *Brady/Giglio* violation. Mr. Bell was granted an evidentiary hearing on Friday June 20, 2025. That left his Tampa Bay area legal team with two days to prepare for and secure witness for the evidentiary hearing, and almost all of that time was after business hours or over the weekend. Bell did not learn until Saturday afternoon that Ashton would not appear willingly, and Bell's legal team spent the entirety of Saturday and Sunday traveling to, and in Jacksonville attempting to secure the attendance of other

witnesses. Bell did not have sufficient time to serve Mr. Ashton who is based out of Tallahassee, and did not have a personal address for Mr. Ashton and could not serve him at work because it was the weekend.

Ordinarily, a defendant would have a year to convince these witnesses to testify under oath, and could either amend their postconviction motion or file an additional successive motion within that one-year period. *See Jones v. State*, 709 So. 2d 512, 519 (Fla. 1998) ("As to reasonable diligence, a defendant seeking postconviction relief after a death sentence has been imposed must present his *Brady* claim within one year of the discovery of the new evidence.") Mr. Bell had three days. Additionally, Mr. Bell's defense team was unable to interview witness Paula Goins until the morning of the evidentiary hearing despite multiple efforts. Mr. Bell issued a subpoena to Ms. Goins by sliding under her door not knowing what she would say if she was called to testify. Mr. Bell did the best that he could under impossible circumstances. When it was clear that he would not be able have the additional witnesses agree to testify to what they told investigators, he issued them subpoenas and moved

to amend the motion. If there were deficiencies with Mr. Bell's initial motion or motion to amend, they were caused by the short warrant period and resulting short circuit court proceedings, not any lack of diligence on the part of Mr. Bell.

C. The short warrant period and unreasonably short circuit court deadlines caused the witnesses in this case to receive rushed uninformed legal advice from lawyers that knew nothing about the case

Additionally, almost all of the witnesses that Mr. Bell produced at the evidentiary hearing ultimately wound up pleading the Fifth Amendment to most questions they were asked. Had Mr. Bell had a year to develop his claims, this could have been avoided. Bell's defense team could have continued to build rapport with the witnesses and impress upon them the importance of their testimony, and potentially discuss the possibility of their testimony with their attorneys. Additionally, these witnesses could have sought sound legal advice from lawyers that had time to sufficiently familiarize themselves with the case and properly research the issues. Instead, they were given an extremely short period of time to consult with lawyers that they did not know, who knew nothing about the case,

and had no time to research what were complicated legal issues. There is absolutely nothing in the record about the knowledge and experience of these lawyers that were provided by the court. Were they even criminal defense lawyers? Did these lawyers know that the statute of limitations on perjury had run on the testimony the witnesses gave at trial in 1995[3]? Did the lawyers even know that the trial happened in 1995? Did they have access to transcripts of the trial and postconviction evidentiary hearing?

The State of Florida stated in open court where the witnesses were gathered "[I]t is a possibility if they come on the stand and they say that their prior testimony was a lie. That is something that we as the State take very seriously. That is an offense." [PCR 1393-94] That is not true. It is an offense to willfully make contradictory statements, and each of these witnesses indicated in their affidavits

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[3] *See Fla. Stat.* §837.02 (1995); *see also Capozzi v. State,* 37 So. 3d 370 (Fla. 5th DCA 2010) (recognizing that a statute of limitations cannot be extended without violating the ex post facto clause unless, 1) the statute of limitations has not run at the time of the amendment, and 2) the legislature expresses a clear intent for the new statute of limitation to apply retrospectively.) *See also Fla. Stat.* § 775.15, which clearly lacks a clear intent for the new statute to apply retroactively.

and interviews with defense investigators that their trial testimony was coerced by threats and promises from the state, including physical assaults, threats to charge the witness with first-degree murder, threats to charge witnesses with accessory to first-degree murder, threats to take the witnesses' children and grandchildren, threats to have the witness fired from their jobs, etc. A statement coerced by state actors is by its very nature is not willful. Did these lawyers learn that coercion by police and prosecutors was being alleged in the few minutes they discussed the case with their new clients? Absent the time crunch created by the short warrant period and even shorter trial court scheduling order, no reasonable attorney would provide legal advice to a client with so little information and time to familiarize themselves with the case. The only reasonable advice for these attorneys to give would be, "I don't know enough about this case to actually advise you of the possibility of a perjury conviction, and I don't have time to review the case or research legal issues, so the safest thing to do is plead the fifth." These invocations of the fifth amendment privilege were a direct result of the impossible

situation these lawyers were put in, not a considered and well-informed decision by the witnesses.

D. The truncated briefing schedule issued by this Court in response to the short warrant period set by the Governor violates Mr. Bell's due process rights with respect to presenting this appeal

Mr. Bell's motion for postconviction relief after the death warrant was signed was not denied until 11:33am on Tuesday June 24, 2025. Counsel for Mr. Bell did not receive notice that the record on appeal in this case had been filed with this Court until 5:18pm on June 24, 2025, despite this Court having set a deadline for the filing of the record on appeal at 4:30pm on June 24, 2025. [PCR 3] Pursuant to this Court's scheduling order, Mr. Bell has until 5:00pm on Wednesday June 25, 2025, to file his initial brief. *Id.* This leaves Mr. Bell with less than twenty-four hours to prepare his initial brief. This Court's scheduling order provides appellees with a deadline of 5:00pm on Friday June 27, 2025, to file their answer brief. *Id.* Bell was given only 24-hours to prepare his initial brief, yet appellees received 48-hours to prepare their answer brief, and appellees will have had the transcripts available for preparing their answer for

three times as long as Bell did for preparing his initial brief. Ordinarily a 24-hour discrepancy in the time provided to the parties to prepare the initial and answer briefs would be entirely negligible and the natural consequence of one party having to go first. Wut where, as here, the Appellant is given 24-hours to prepare their brief, 24 additional hours is an enormous advantage.

And it is not just the short time period from when the record on appeal was filed to when his initial brief was filed. Mr. Bell's postconviction motion after the death warrant was signed was not denied by the circuit court until 11:33am on June 24, 2025. [PCR 1202] Mr. Bell could not even begin to outline his initial brief until 29.5 hours before his brief was due because he did not know whether the circuit court would deny his claims, and if so, on what grounds the circuit court would deny his claims.

This Court's briefing schedule also required any writ petitions to be filed by 1:00pm on Tuesday June 24, 2025, less than an hour and a half after the circuit court denied his postconviction motion. [PCR 3] This truncated briefing schedule thrust upon Bell and this Court by the Governor's short warrant period is nowhere near the

Due Process Clause requirement of notice and an opportunity for hearing appropriate to the nature of the case. One hour and twenty-seven minutes to file writ petitions before this Court in a death penalty case.

And it is not as if Bell's legal team could begin preparing writ petitions in the days leading up to the denial of the postconviction motion, even assuming they could accurately predict the nature of the circuit court's ruling on their motion. The evidentiary hearing in this case did not conclude until after 5:00pm on Monday June 23, 2025, and Bell's legal team had to drive home from Jacksonville to the Tampa Bay area. Every waking moment of the week following the initial discovery of *Brady/Giglio* information was spent locating additional witnesses, filing appropriate motions, attending court hearings, and preparing for the evidentiary hearing.

The record on appeal consists of 1739 pages, including a 367 transcript of the evidentiary hearing that was held on June 24, 2025. Counsel for Bell cannot possibly review the entire record on appeal and draft his brief within the less than 24-hour period he has been provided and will have to take it on blind faith that the record on

appeal is complete. This is not the notice and opportunity for hearing appropriate to the nature of the case that the due process clause of the Fourteenth Amendment demands.

In the 7-day period from when Bell first obtained reliable information from a witness that his testimony was false and had been coerced and *Brady/Giglio* evidence had been suppressed, to the completion of the evidentiary hearing on this claim, Bell obtained affidavits and other statements from six witnesses at trial that they provided false testimony and/or had been coerced. This included statements from every witness at trial whose testimony tended to incriminate Mr. Bell. The remaining witnesses at trial presented no evidence as to the identity of the shooter. Mr. Bell now has 24-hours to brief this Court on this critical issue.

This Court has denied similar claims in recent death warrant litigation, but the circumstances in those cases were entirely different. For instance, in *Tanzi v. State*, 407 So. 3d 385 (Fla. 2025), Mr. Tanzi's postconviction motion warrant after the death warrant had been signed was summarily denied, and Mr. Tanzi had seven days to file his initial brief from the date that all transcripts had been

filed in the circuit court. *Tanzi v. State*, SC2025-0371, *State v. Tanzi*, 2000-cf-573 (Fla. 6th Jud. Cir.). The same was true in *Barwick v. State*, 361 So. 3d 785, 787 (Fla. 2023) and *Hutchinson v. State*, No. SC2025-0517, 2025 WL 1198037 (Fla. Apr. 25, 2025). Hutchinson had four days after his postconviction motion was denied with the benefit of all transcripts having already been filed with the circuit court to file his initial brief in a case where his motion was summarily denied and no evidentiary hearing was held. *Hutchinson v. State*, SC2025-0517; *State v. Hutchinson*, 1998-cf-1382 (Fla. 1st Jud. Cir.). Barwick had five days from the summary denial of his postconviction motion without evidentiary hearing, and four days from the filing of the ROA to file his initial brief. *Barwick v. State*, SC2023-0531; *State v. Barwick*, 86-cf-0940 (Fla. 14th Jud. Cir.).

This case is clearly distinguishable from *Tanzi*, *Hutchinson*, and *Barwick*. Each of those cases involved summarily denied postconviction motions where no evidentiary hearing was granted or conducted. Each of those defendants had significantly more time to prepare their appellate briefs, particularly given that no new evidence was presented in the circuit court. Bell had a lengthy evidentiary

hearing, granted after the circuit court determined at the *Huff* hearing that his postconviction stated a claim of newly discovered evidence in Bell's postconviction motion.

In conclusion, the unreasonably short warrant period in this case, and the resulting unreasonably short scheduling order of this Court and the resulting unreasonably short circuit court deadlines set by the trial court deprived Mr. Bell of notice and opportunity for **hearing appropriate to the nature of the case** as required by the Due Process Clause of the Fourteenth Amendment. In a case where the circuit court had determined that Bell's postconviction motion filed after the death warrant was signed sufficiently plead a claim of newly discovered evidence as to warrant the holding of an evidentiary hearing, three days from the discovery of newly discovered evidence to plead a sufficient postconviction motion is not notice and an opportunity got hearing appropriate to the nature of the case. Seven days from the discovery of newly discovered evidence is not notice and an opportunity got hearing appropriate to the nature of the case. One hour and twenty-seven minutes to file any writ petitions is not notice and an opportunity got hearing appropriate to the nature of

the case. Less than twenty-four hours to file an initial brief on the merits is not notice and an opportunity got hearing appropriate to the nature of the case. This Court should stay Mr. Bell's execution, and remand to the trial court with instructions to provide Mr. Bell a reasonable time to investigate and present his claims of newly discovered evidence.

CONCLUSION

Appellant respectfully requests that this Court (1) vacate his convictions and sentence of death and remand his case for a new guilt phase and /or penalty phase trial, or (2) grant a stay of execution and a remand for a full and complete evidentiary hearing where the witnesses are not permitted to improperly shield themselves with the Fifth Amendment and the defense has adequate time to investigate and draft and file appellate arguments.

Respectfully submitted,

/s/Robert A. Norgard
ROBERT A. NORGARD
P.O. Box 811
Bartow, FL 33831
(863)533-8556
Fax (863)533-1334
Norgardlaw@verizon.net
Fla. Bar No. 322059
Counsel for Bell

CERTIFICATE OF SERVICE

We hereby certify that the foregoing has been served electronically upon the Clerk of the Circuit Court, The Office of the Attorney General (capapp@myfloridalegal.com), Assistant Attorneys General Jonathan Tannen (jonathan.tannen@myfloridalegal.com), Christina Pacheco (christina.pacheco@myfloridalegal.com), Joshua Schow (joshua.schow@myfloridalegal.com), as well as Paula Montlary (Paula.Montlary@myfloridalegal.com) and Stephanie Tesoro (Stephanie.Tesoro@myfloridalegal.com), the Florida Supreme Court (warrant@flcourts.org), Alan Seth Mizrahi (amizrahi@coj.net), Duval Clerk (James.Hathaway@DuvalClerk.com), and The Honorable Jeb T. Branham (kbend@coj.net) on this 25th day of June 2025.

Respectfully submitted,

/s/Robert A. Norgard
ROBERT A. NORGARD
P.O. Box 811
Bartow, FL 33831
(863)533-8556
Fax (863)533-1334
Norgardlaw@verizon.net
Fla. Bar No. 322059
Counsel for Bell

CERTIFICATE OF COMPLIANCE

I certify that this document complies with by Fla. R. App. P. 9.210(a)(6) as it is less than 75 pages. I further certify that this document complies with the typeface requirements of Fla. R. App. P. 9.045 (b).

/s/Robert A. Norgard
ROBERT A. NORGARD

IN THE SUPREME COURT OF FLORIDA

MICHAEL BERNARD BELL,
Appellant,

Case No.: SC2025-0891

vs.

STATE OF FLORIDA,
Appellee.

_____/

APPELLANT'S MOTION FOR STAY OF EXECUTION AND TO RELINQUISH JURISDICTION FOR FURTHER FACT DEVELOPMENT

COMES NOW, the Appellant, Michael Bernard Bell, by and through undersigned counsel and respectfully moves this Court to enter a stay of the scheduled execution, currently set for July 15, 2025. Appellant states:

1. Appellant is under a sentence of death and under a Death Warrant signed by Governor Ron DeSantis on June 13, 2025. Appellant is currently scheduled to be executed on July 15, 2025, at 6:00 p.m.
2. Appellant respectfully requests that this Court enter a stay of execution. A stay of execution is appropriate "when there are 'substantial grounds upon which relief might be granted.'"

Chavez v. State, 132 So. 3d 826, 832 (Fla. 2014) (quoting *Buenoano v. State*, 708 So. 2d 941, 951 (Fla. 1998)).

3. Appellant also requests that this Court relinquish jurisdiction in order for Bell to present new claims and evidence to the trial judge.
4. After Bell's warrant was signed, a key trial witnesses (Henry Edwards) recanted his testimony and stated in a sworn affidavit that he did not witness the murders, did not see Bell commit the murders, did not witness the murders at all, and that he was coerced to lie by lead Detective Bolena (Jacksonville Sheriff's Office).
5. Following that, another key trial witness recanted his testimony and stated in a sworn affidavit that he did not see Bell with the murder weapon, and did not hear Bell confess to the murders, and that he was coerced to lie by the same lead Detective Bolena.
6. Because of the short warrant period established by the Governor, this Court and the circuit court were forced to issue incredibly short deadlines for completion of post-warrant

postconviction proceedings. Bell had seven days from the first discovery of newly discovered evidence to conducting of the post-warrant evidentiary hearing. It should come as no surprise that with additional time, additional evidence has been discovered that supports Bell's claims.

7. At the June 23, 2025, evidentiary hearing, the State and trial judge warned both recanters as well as other witnesses (who would have supported the recantations by testifying about police and prosecutorial misconduct in the case such as threats and coercion) that any change in their trial testimony would expose them to possible prosecution for perjury. The defense witnesses were also permitted to invoke the Fifth Amendment improperly about things which did not implicate any criminal liability (like police misconduct).
8. Despite the trial judge denying Bell's claims of newly discovered evidence and *Brady* / *Giglio* violations, Bell's attorneys and investigators have continued to search for more witnesses who could support the allegations of police misconduct, false testimony, and suppressed evidence. This new evidence is

detailed below.

Brady evidence regarding Mark Richardson

At trial, Mark Richardson testified that he was an eyewitness to the Moncrief Lounge shooting. Mr. Richardson testified that he could not identify the shooter because he was wearing a mask. He did however testify that he was 2-3 car lengths from the shooter, that the shooter was about 6 feet tall and a medium build. He was asked the following question:

> Mr. Bateh: Now, Your Honor, I'd ask permission to have the defendant stand in front of the witness stand.
> The Court: Please do, stand there as you did before.
> [ ]
> Q. I'd like for you to look at this individual standing here in front of me in front of you, I'd like you to observe his height, his build and his complexion and ask you how does that compare with what you remember of the gunman.
> A. The same.
> Q. Are there any differences?
> A. No, sir.
> Q. Can you say that this is the gunman?
> A. No, sir.
> Q. Why not?
> A. Because he had on a ski mask.

ROA at 343-44.

On July 2, 2025, Bell's federal counsel received handwritten

detectives notes from this case pursuant to a public records request sent on June 30, 2025. These handwritten notes had never been produced to Bell's counsel. These handwritten notes contained notes from a December 16, 1993 interview with Mark Richardson. In those notes, Richardson told detectives that the gunman was 6-6'2" tall and approximately 155-160lbs. He further told detectives "Δ to tall to be Michael Bell + and didn't weigh enough (sic)." Attached as Exhibit A. These handwritten notes were never disclosed to Bell's defense lawyers and directly contradict Richardson's trial testimony. Furthermore, the state was in possession of these notes and therefore knew that Richardson's testimony was false, and failed to correct it. The notes could also have been used as impeachment evidence at trial.

Derrick Jones

Detective Bolena alleged in his police report that he spoke to Derrick Jones on November 28, 1994. Bolena claimed in his report that Jones stated that he got a ride with Michael Bell and Dale George in February of 1994. Bolena alleges that Bell and George discussed the murders. He claims that Dale said that he was the

driver, Bell got out of the vehicle wearing a ski-mask and sprayed the vehicle with bullets. The girl was shot because she started screaming. Attached as Exhibit B.

On July 1, 2025, Derrick Jones provided CHU-M investigators with a sworn affidavit. Attached as Exhibit C. Jones states that he was visited by Detective Bolena at the Duval County Jail. Bolena threatened Jones to make the statement attributed to him in his police report or Bolena would pin a murder case on Jones. Jones never heard Michael Bell or Dale George make any admissions, and only made those statements because he was threatened by Bolena.

Jones wasn't a witness at trial, but his sworn affidavit corroborates the sworn affidavits of Charles Jones and Henry Edwards and other witnesses who stated that their testimony was coerced by Bolena.

Gary Browder

Detective Bolena alleges in his police report that he met Gary Browder on December 2, 1994 at the homicide office while Mr. Browder was incarcerated at the Duval County Jail. Bolena alleges that Browder told him that on the night of the murders, he was at

Ericka Williams apartment. He said that at some point Mr. Bell and Ned Pryor arrived at the apartment and retrieved some guns and left. He further alleges that Browder told him that some time later Bell returned and they went together to Paula Goins' residence. Bolena alleges that Browder told him that on the way to Goins home, Bell discussed the Moncrief murders, stating that finding Theodore's car was dumb luck. He further alleged Browder told him that Mr. Bell stated "I shot the bitch too," and that Bell told him that he got out the car in the parking lot and went to "spraying." Attached as Exhibit D.

On June 30, 2025, Gary Browder provided a sworn declaration to CHU-M investigators. Browder swore that he only ever talked to Detective Bolena on one occasion, and that was related to a different murder investigation involving Bell. Browder further swore, "I will say again that I never spoke to Detective Bolena again after giving him my statement on the murder of the girl and the baby. I never spoke to him at the jail. I never told him about hearing Mike confess to the Moncrief Lounge Shooting because that never happened. I was never in a car with Mike and Alric. Attached as Exhibit E.

Maurice Williams

Detective Bolena alleged in his police report that he interviewed Maurice Williams on December 5, 1994 at the homicide office while Mr. Williams was in custody at the Duval County Jail. Detective Bolena alleged that Maurice Williams told him that he had known Dale George for approximately 4 years and that Dale George told him that the Moncrief Lounge murders happened quickly. Michael Bell was shooting a lot of times. He further alleged that Williams stated that George told him that Bell was wearing a mask during the shooting and that Bell did all of the shooting and George did not participate. Attached as Exhibit F.

On June 29, 2025, Maurice met with CHU-M investigators and provided a sworn declaration. Williams swore that Bolena pulled him from his dorm at the Duval County Jail and interviewed him at the police memorial building regarding Bell's case. He swore that Bolena was trying to get him to say what Bolena wanted him to say. He swore that he did not know anything about the case and did not want to say what Bolena wanted him to say. Williams reviewed the statements attributed to him in Bolena's report and swore that he did

not say any of those things. He does not know Dale George and could not have told Bolena anything George told him because he does not know George. Attached as Exhibit G.

The New Evidence is Newly Discovered

A. Diligence

Bell can establish diligence for each of the four new pieces of evidence under *Waterhouse v. State*, 82 So. 3d 84, 103 (Fla. 2012). Statements by each of the witnesses were included in the police report, and counsel could reasonably rely on the fact that the witness statements in the police report were true.

Additionally, with regard to the handwritten notes of the interview with Mark Richardson, Bell exercised due diligence in attempting to obtain these records previously. Specifically, Bell filed a demand for discovery requesting "any material information within the State's possession or control which tends to negate the guilt of the accused as to the offense charged." ROA at 12. The state responded, "None known to the state at this time." ROA at 16.

During postconviction, Bell filed a Motion for Review and Release of Sealed Files Held by the Capital Post-Conviction

Repository on July 5, 2000. In its order on the motion, the Court specifically noted that the Jacksonville Sheriff's Office produced a set of records consisting of 80 pages of handwritten notes of detectives. The Court found that these handwritten notes were exempt from public records disclosure. PC ROA at 25-26. It should be noted that the handwritten notes obtained on July 2, 2025, consist of 158 pages, but the back sides of each page was scanned. There are 79 front pages with information scanned, 1 backside with information, and 78 blank back sides, so exactly 80 pages of records. Thus, Bell has been diligently pursuing these very same records throughout this case, and Bell was told following an in camera inspection by the court that these records did not contain any relevant non-exempt information. Bell reasonably relied on the court's in camera inspection.

For the remaining three witnesses, Bell was provided with a police report summarizing their statements to Bolena. Under *Waterhouse*, Bell reasonably assumed that the police report was not false. The statements of the witnesses establishes that the police report was indeed false. Bell had no reason to believe that

statements attributed to witnesses in the police report were false until Henry Edwards provided a sworn affidavit stating that the statements attributed to him were false and coerced by Bolena and Bateh, and that occurred on June 16, 2025.

> In *Mungin,* we did not state that defense counsel, or collateral counsel, upon receiving a police report, must presume that the report is false and thereafter independently verify every detail of the report or every statement made by a witness to the police. To place the onus of verifying every aspect of an unambiguous police report on defense or collateral counsel would not only create a substantial amount of work in a capital case, but also could be viewed as downplaying the seriousness of allegedly false police reports. Moreover, to hold that collateral counsel must investigate every aspect of a police report—even where it appears that such investigation would be fruitless—is inconsistent with a prior case where we held, in the context of an alleged *Brady* violation, that due diligence by trial counsel was satisfied **even though the witness who provided the impeaching evidence had been named in a police document that was provided to defense counsel.**

Waterhouse v. State, 82 So. 3d 84, 103 (Fla. 2012) (emphasis supplied).

B. Materiality

Under *Jones,* Bell must show that either the new evidence weakens the case so as to give rise to a reasonable doubt as to his culpability or would probably yield a less severe sentence. Under *Tompkins v. State*, 994 So. 2d 1072 (Fla. 2008), the Court must consider not just the newly discovered evidence being alleged, but all newly discovered evidence which would be admissible and the evidence that was introduced at trial.

> Newly discovered evidence satisfies the second prong of the *Jones III* test if it "weakens the case against [the defendant] so as to give rise to a reasonable doubt as to his culpability." *Jones III,* 709 So.2d at 526 (quoting *Jones v. State,* 678 So.2d 309, 315 (Fla.1996) ("*Jones II* ")). If the defendant is seeking to vacate a sentence, the second prong requires that the newly discovered evidence would probably yield a less severe sentence. *See Jones v. State,* 591 So.2d 911, 915 (Fla.1991) ("*Jones I* ").
> In determining whether the evidence compels a new trial, the trial court must "consider all newly discovered evidence which would be admissible," and must "evaluate the weight of both the newly discovered evidence and the evidence which was introduced at the trial."

994 So. at 1086.*See also Kyles v. Whitley*, 514 U.S. 419, 420 (1995) (holding that the state's disclosure obligation turns on the cumulative effect of all suppressed evidence favorable to the

defense, not on the evidence considered item by item.). The Richardson evidence is clearly material. An eyewitness from trial who testified that he was 2-3 car lengths from the shooter, gave a description of the shooter that was not consistent with Bell, and directly told detectives that Bell could not have been the shooter because the shooter was too tall and too thin.

This must be considered alongside all newly discovered evidence, including the newly discovered evidence with regards to Charles Jones, Henry Edwards, Dale George, Ericka Williams, Ned Pryor, and Paula Goins. Whether the newly discovered evidence regarding these witnesses would be admissible at trial is a question that must be resolved by the trial court after evaluating all of the newly discovered evidence.

> Fla.Stat. § 90.804 creates a hearsay exception for statements against penal interests by witnesses that are unavailable. The invoking of the Fifth Amendment privilege against self-incrimination constitutes unavailability under Fla.Stat. § 90.804. *See Heynard v. State*, 992 So.2d 120 (Fla. 2008) ("A declarant is unavailable if the trial court sustains an assertion of a Fifth Amendment privilege. *Id.* (citing *People v. Brown,* 26 N.Y.2d 88, 308 N.Y.S.2d 825, 257 N.E.2d 16 (1970)).") A statement is against penal interests where a recantation could result in a prosecution for perjury. *Sheppard v.*

> *State*, 338 So. 3d 803, 825 (Fla. 2022) ("We agree with Sheppard that Roberts's statement would have been against his penal interests because his recantation could have resulted in his prosecution for perjury based upon his testimony at Sheppard's 2012 trial.). Each of these witnesses, with the exception of Goins who did not invoke the Fifth at the evidentiary hearing, is unavailable pursuant to 90.804, and made statements against penal interest because their statements potentially subjected them to perjury charges.

Additionally, for a recantation by an unavailable witness that is against his or her penal interests, Fla.Stat. § 90.804(2)(c) requires that a statement tending to expose the declarant to criminal liability and offered to exculpate the accused is inadmissible unless corroborating circumstances show the trustworthiness of the statement. The affidavits of Derrick Jones, Gary Browder, and Maurice Williams corroborate the out of court statements of Charles Jones, Henry Edwards, Dale George, Ned Pryor, and Ericka Braclet that were the subject of Bell's post-warrant postconviction motion.

Each of these statements allege the same type of misconduct by Det. Bolena, threatening or coercing witnesses to make false statements. With the addition of these three witnesses, there are now 9 witnesses directly tied to this case who have stated that

Bolena and Bateh coerced them to provide false testimony. There is also additional corroborating evidence. Cathy Robertson and Glory Mitchell provided sworn affidavits and testimony corroborating Edwards recantation, including that he was a paid informant of Det. Bolena's, and that Bolena was letting him out on furloughs while he was incarcerated as reward for his statements to police.

Other evidence from the initial state postconviction proceedings corroborates Charles Jones affidavit and Dale George's out of court statements. During postconviction proceedings, witness Andre Mays (AKA Abdul Wilson) provided a sworn affidavit and testified that he was a dorm mate of Charles Jones at the Duval County Jail and that Jones told him that "he was willing to anything to help get [Bell] convicted." PC-ROA at 1693. Dale George's brother Julian George provided a sworn affidavit and testified that Dale George told him on numerous occasions that "the detective beat him and coerce him into saying what he said. Mr. George told me that what he told the police detectives was all what they wanted him to say." Julian George also stated that detectives promised him he would not face a long imprisonment and would

not do over a year if he said the things they wanted him to say. PC ROA at 974-75[1].

When considering all of the admissible evidence, there is a reasonable doubt as to Bell's culpability and a probability of a less severe sanction. Charles Jones swore that Bell never made any admissions to him and never tried to sell him an AK-47. Henry Edwards says that he did not actually witness the shooting and did not even know Bell. Eyewitness Mark Richardson said that the shooter could not possibly have been Bell because the shooter was taller and thinner than Bell. Ned Pryor said he was not at the scene of the murder and did not see Bell commit the murder, and Bell never made any admissions to him. Dale George stated that his testimony resulted from physical assaults and threats of prosecution for first-degree murder from Bolena. All of these witnesses stated the same thing, Det. Bolena and/or ASA George

[1] The affidavit of Andre Mays was marked as Exhibit L at the evidentiary hearing and the affidavit of Julian Geroge was marked exhibit J, but they do not appear to be in the PC-ROA despite the Index to the ROA on page VI indicating that both were mailed to the Florida Supreme Court to be included in the ROA. They are attached to this motion as Exhibit H.

Bateh coerced their testimony through a combination of threats, promised, and physical assaults.

CONCLUSION

A stay of execution would ensure a meaningful process and ensure that Appellant is not denied due process. "The fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner.'" *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965) (emphasis added). Appellant's case presents important constitutional issues which deserve to be fully addressed by this Court free from the constraints of a warrant, including challenges to Appellant's execution raised under the Eighth and Fourteenth Amendments.

In the past, this Court has not hesitated to issue a stay of execution "if there is a meritorious postconviction claim pending or, if at the time the warrant is signed, the defendant brings a successive postconviction challenge that casts doubt on his or her guilt, the integrity of the judicial process, or the validity of the death sentence imposed." *Abdool v. Bondi*, 141 So. 3d 529, 555 (Fla. 2014) (Pariente, J., concurring); *Spaziano v. State*, 660 So. 2d 1363 (Fla. 1995)

(granting stay to give new lawyers enough time to prepare); *Johnson v. Singletary*, 647 So. 2d 106 (Fla. 1994) (granting stay based on newly discovered evidence); *Smith v. Dugger*, 565 So. 2d 1293 (Fla. 1990) (granting stay to provide trial court with an opportunity to conduct an evidentiary hearing); *Mills v. Dugger*, 559 So. 2d 578 (Fla. 1990) (granting an indefinite stay for trial court to hold an evidentiary hearing); *Harich v. State*, 542 So. 2d 980 (Fla. 1989) (granting stay to provide trial court with an opportunity to conduct an evidentiary hearing); *Suarez v. Dugger*, 527 So. 2d 190 (Fla. 1988) (granting Suarez's application for stay of execution pending a new proceeding on the Rule 3.850 motion).

Bell discovered newly discovered evidence in the form of Henry Edwards affidavit on June 16, 2025. In order to comply with this Court's scheduling order that circuit court proceedings must be completed no later than 11:00am of Tuesday June 24, 2025. This allowed Bell exactly one week from the first discovery to the date of his scheduled post-conviction evidentiary hearing to obtain additional exonerating and corroborating evidence. In that one week, he managed to locate five additional witnesses that stated that their

testimony had been coerced by Det. Bolena and ASA Bateh. In the ten days since the evidentiary hearing, Bell has located three additional witnesses that assert that Bolena threatened them to provide false statements against Bell, as well as previously undisclosed evidence that an eyewitness to the crimes had told detectives that Bell could not have been the shooter. Had this case proceeded under normal timeframes, all of this evidence would have been presented together.

For these reasons, Appellant respectfully requests that this Court stay his scheduled execution. The issues present in the instant case require further fact development at the trial court, as well as appellate review that is not truncated by the exigencies of an imminent execution.

A stay of execution and a relinquishment for a new evidentiary hearing should be granted.

/s/Robert A. Norgard
ROBERT A. NORGARD
P.O. Box 811
Bartow, FL 33831
(863)533-8556
Fax (863)533-1334
Norgardlaw@verizon.net
Fla. Bar No. 322059
Counsel for Bell

CERTIFICATE OF SERVICE

We hereby certify that the foregoing has been served electronically upon the Clerk of the Circuit Court, The Office of the Attorney General (capapp@myfloridalegal.com), Assistant Attorneys General Jonathan Tannen (jonathan.tannen@myfloridalegal.com), Christina Pacheco (christina.pacheco@myfloridalegal.com), Joshua Schow (joshua.schow@myfloridalegal.com), as well as Paula Montlary (Paula.Montlary@myfloridalegal.com) and Stephanie Tesoro (Stephanie.Tesoro@myfloridalegal.com), the Florida Supreme Court (warrant@flcourts.org), Alan Seth Mizrahi (amizrahi@coj.net), and The Honorable Jeb T. Branham (kbend@coj.net) on this 3rd day of July 2025.

Respectfully submitted,

/s/Robert A. Norgard

ROBERT A. NORGARD
P.O. Box 811
Bartow, FL 33831
(863)533-8556
Fax (863)533-1334
Norgardlaw@verizon.net
Fla. Bar No. 322059
Counsel for Bell

Exhibit A

INVESTIGATOR'S CASE ACTIVITY SUMMARY

OFFENSE: _____ CCR NUMBER: _____

VICTIM: _____ DATE ASSIGNED: _____

Date and Time	Details of Investigation (Persons interviewed, places, other information)
12/15/93	P/U Evidence from the ME's Office.
~~1630~~ 1730	P/U Body Sheets
	Placed on Property Rm
	Shoes - BLACK Travel Fox
	JACKET - Beige & BLK CAMO Jacket
	Shirt - White under shirt
	PANTS - White (ACID WASH) Jeans
	UNDERWEAR - BEIGE underwear
	BELT - BLK Leather
	SOCKS - White
	Shorts - Grey shorts
	Jeanese Finley B/F 630-3820 Cindy Lloyd
12-16-93	W: Mark A. Richardson B/M 1-20-65
	~~BLK A~~ To be [illegible]
Tina Garcia #147	2600 Art Museum Dr. #198 Ph# 398-7266
	White skull cap, Eyes cut out
	JACKET w/hood (Sweat Jacket)
	Hood over SKULL CAP (DARK BLUE OR BLK)
	DARK Blue Jeans
	White SNEAKERS (BLK GLOVES)

Investigator | Serial No. | Date | Supervisor Approving | Serial No.

REV P-583 7/81

INVESTIGATOR'S CASE ACTIVITY SUMMARY

OFFENSE _____ CCR NUMBER: _____

VICTIM: _____ DATE ASSIGNED: _____

Date and Time	Details of Investigation (Persons interviewed, places, other information)
	- V went out w/ (3) girls ONE went somewhere - Stopped by because he saw car (either V or Theodore) - Δ car WAS 2 SPACES away from V's car BACKED IN space. (NOT CRANKED) - Δ WAS ALONE w/ Rifle - W came out behind V saw shooting went to his car - W DRIVING BLUE SUNBIRD - 2 spaces away from the van. - After First (10) shots W yelled "Killer" Δ then shot at him. bullet stuck the house + Building Approx. (6) shots - Δ walked to car threw gun inside cranked up car + drove off. NO tints on window
*	6-6'2, 155-160lbs, UNK Suspect
*	BLACK w/white interior, 87-88 OLDS CUTLAS 2DR,

Investigator | Serial No. | Date | Supervisor Approving | Serial No.

REV P-583 7/81

INVESTIGATOR'S CASE ACTIVITY SUMMARY

OFFENSE: _____ CCR NUMBER: _____

VICTIM: _____ DATE ASSIGNED: _____

Date and Time	Details of Investigation (Persons interviewed, places, other information)
(Theodore)	- Unk if V went to Silver Star but he WAS TOLD - W + V WAS THERE 40-45 MINS before he was. - W there 30 mins before shooting - V SAT WITH V#2 + Witness - W gave him a beer before moving to A BIGGER TABLE. - Car was parked for WEEK under a cover. Before "Brother" thinks it was meant for him. - Theodore + Michael Bell fighting for 5YRS. (UNK why) - Δ to face to be Michael Bell + didn't weight Enough - W doesn't personally know "M. B."
12-22-93 1°° pm	- Released West's personal property to Ida West - Released vehicle @ 1°° pm (12-22-93)

Investigator	Serial No.	Date	Supervisor Approving	Serial No.

REV P-583 7/81

Exhibit B

GENERAL OFFENSE/INCIDENT
CONTINUATION REPORT
OFFICE OF THE SHERIFF, JACKSONVILLE, FLORIDA

PAGE 5 OF 7	OFFENSE/INCIDENT # Murder	CCR NUMBER 93-896727
VICTIM'S NAME AND ADDRESS: West, Jimmy Lee 1524 East 30th Street		

NA	TYPE CODE	STATUS CODE	QUANTITY	DESCRIPTION (I.D. NUMBER, MANUFACTURER, COLOR, SIZE, ETC: FOR STOLEN GUNS: TYPE CODE DESCRIPT. CODE / MAKE, MODEL, CAL. AND SERIAL #	VALUE STOLEN OR DAMAGED	VALUE RECOVERED

PROPERTY/CONT. NARRATIVE

was booked into the Duval County jail for Accessory After the Fact of Murder and booked under Docket #94-35323-8.

Writer's Note: I conferred with Assistant State Attorney George Bateh in reference to Dale George.

Monday, 11-14-94 (1100): I interviewed Michael A. Bennett in the Homicide Office. Bennett is currently a "Trusty" in the Duval County jail.

Bennett decided to come forward and provide information in reference to Michael Bell. He stated that he has known Michael Bell for approximately eight years. He indicated that he was on 103rd Street, in the vicinity of the IHOP (International House of Pancakes) when he ran into Bell. He said that at that time, Bell told him about the Moncrief Lounge murders. Bennett advised that Bell told him, "He killed my brother, so I killed his brother". Bell told Bennett that he did not want to take chances, so he "sprayed" both people inside the car.

Monday, 11-28-94 (1030): I interviewed Derrick L. Jones, who is currently in the Duval County jail under docket #94-20099-2. He stated that he used to be a friend of Dale George until they had a "falling out" about drugs. He said that in February, 1994, he got a ride with Michael Bell and Dale George when he was in the vicinity of 20th Street near Myrtle Avenue. While in the car, Michael Bell and Dale George talked about getting even for Bell's brother's murder by shooting Theodore Wright's brother. Dale told him that he was driving. He also said that Bell got out of the vehicle, wearing a ski mask. Bell then "sprayed" the car with bullets. They said that the "girl" was shot because she started screaming.

Friday, 12-02-94 (1525): I interviewed Gary Browder in the Homicide Office. Browder is currently in the Duval County jail (Cell #5W369). Browder advised that he is a friend of Irick Goins, who is Michael Bell's cousin. Browder stated that on the night of the Moncrief Lounge murders, he was at Erica Williams' apartment on 22nd Street, where he was "cutting up and weighing dope" (crack cocaine). He said that some time during this day or night (he is not sure of the time, due to being "so high on drugs").

He said that Bell and "Ned" came up to the apartment, went into the front bedroom, retrieved some guns, and then left the apartment. He said that he did not see Erica in the apartment at that time. Browder indicated that some time later, Irick Goins went to the apartment, picked up Michael Bell and him, and then took them to Paula Goins' residence.

I RECEIVED THE ABOVE DESCRIBED PROPERTY:

SIGNATURE: DATE:

REPORTING OFFICER	I.D. NUMBER	DATE/TIME	REPORTING OFFICER	I.D. NUMBER	DATE/TIME
Det. W. J. Bolena	#5607	12-29-94			
SUPERVISOR	**I.D. NUMBER**	**DATE/TIME**	**DATE/TIME REPRODUCED**	**REVIEWER**	**I.D. NUMBER**
Sgt. H. R. Bennett	#6083	1-3-94			

P-1601 REV. 03/89

Exhibit C

AFFIDAVIT OF DERRICK JONES

I, DERRICK JONES, do hereby affirm and state as follows:

I am DERRICK JONES AM CURRENTLY INCARCERATED AT LIBERTY CORRECTIONAL INSTITUTION. I am 53 yrs old.

I Know Michael Ball From being A young kid going to Boy and Girls Clubs, Or by summer camps.

I WAS INCARCERATED At The Duval County Jail in 1994 and was asked by, spoken told by Detective Bolena to say that or if I did not he'd put a case on me like murder. Detective told me to say that Michael and Dale talked about getting even with Kyles for the death of his own brother. Detectives made me recite over and over to say that Ryle wore a ski mask when killings occured. He also told me to use the words spray because of the style of weapon used. He also showed me photos of the deceased layed in different angle. Detective told me that the girl got shot because she was screaming. Mike nor Dale ever told me this. Everything came from the Detectives. He said that he'd put a murder case on me just as he has done to others before me if I did not make that statement and that he would need me to testify this would be extra strength for a case that he was building. The Detective and Prosecutor took me to a room in City Hall with attorney Wade Rolle to make a statement. The Prosecutor during this time was Orange Brown. Brown brought Wendys food and told me that he would not need me at trial, He was stacking his case Thank You.

Initials DT

I'm coming forward with this information now because no one has talk to me since the first time. If I were to be called to testify to this affidavate I'd do so truthfully. The detective I'm referring to is Detective Bolenan of PSO.

Initials DJ

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: 7-1-25

(affiant signature)

DERRICK JOWLY
(affiant name)

STATE OF FLORIDA
COUNTY OF LIBERTY

Affirmed and subscribed before me by means of [x] physical presence or [ ] online notarization, this 1 day of July, 2025, by ~~Colin Kelly~~ Derrick Jowly.

COLIN L. KELLY
Commission # HH 187371
Expires October 17, 2025
Bonded Thru Troy Fain Insurance 800-385-7019

Notary Public

Commission Expires: 10/17/2025

Personally Known _____ OR Produced Identification X
Type of Identification
Produced DOC card # C-122612

Initials DJ

Exhibit D

NA	TYPE CODE	STATUS CODE	QUANTITY	DESCRIPTION (I.D. NUMBER, MANUFACTURER, COLOR, SIZE, ETC: FOR STOLEN GUNS: TYPE CODE DESCRIPT. CODE / MAKE, MODEL, CAL. AND SERIAL #)	VALUE STOLEN OR DAMAGED	VALUE RECOVERED

PROPERTY/CONT. NARRATIVE

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Bennett decided to come forward and provide information in reference to Michael Bell. He stated that he has known Michael Bell for approximately eight years. He indicated that he was on 103rd Street, in the vicinity of the IHOP (International House of Pancakes) when he ran into Bell. He said that at that time, Bell told him about the Moncrief Lounge murders. Bennett advised that Bell told him, "He killed my brother, so I killed his brother". Bell told Bennett that he did not want to take chances, so he "sprayed" both people inside the car.

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He said that Bell and "Ned" came up to the apartment, went into the front bedroom, retrieved some guns, and then left the apartment. He said that he did not see Erica in the apartment at that time. Browder indicated that some time later, Irick Goins went to the apartment, picked up Michael Bell and him, and then took them to Paula Goins' residence.

I RECEIVED THE ABOVE DESCRIBED PROPERTY:
SIGNATURE: DATE:

REPORTING OFFICER	I.D. NUMBER	DATE/TIME	REPORTING OFFICER	I.D. NUMBER	DATE/TIME
Det. W. J. Bolena	#5607	12-29-94			
SUPERVISOR	**I.D. NUMBER**	**DATE/TIME**	**DATE/TIME REPRODUCED**	**REVIEWER**	**I.D. NUMBER**
Sgt. H. R. Bennett	#6083	1-3-94			

P-1601 REV. 03/89

GENERAL OFFENSE/INCIDENT
CONTINUATION REPORT
OFFICE OF THE SHERIFF, JACKSONVILLE, FLORIDA

PAGE 6 OF 7	OFFENSE/INCIDENT #1: Murder	CCR NUMBER: 93-896727
VICTIM'S NAME AND ADDRESS: West, Jimmy Lee 1524 East 30th Street		

NA	TYPE CODE	STATUS CODE	QUANTITY	DESCRIPTION (I.D. NUMBER, MANUFACTURER, COLOR, SIZE, ETC. FOR STOLEN GUNS: TYPE CODE DESCRIPT. CODE / MAKE, MODEL, CAL. AND SERIAL #)	VALUE STOLEN OR DAMAGED	VALUE RECOVERED

PROPERTY/CONT. NARRATIVE

Browder said that on the way to Paula Goins' residence, Bell discussed the Moncrief Lounge murders. He stated that Bell told him that finding Theodore's car was "dumb luck". Bell also said that he did not know who was driving the car prior to the shooting. According to Browder, Bell said, "I shot the bitch, too". Bell told Browder that he got out of the car in the parking lot and went to "spraying". Bell told Browder that the victim was "jumping" when the bullets hit him (Jimmy West).

Browder said that when they arrived at Paula Goins' residence, Bell was telling Paula the same story that he had just told him and Irick.

Monday, 12-05-94 (1130): I interviewed Maurice Williams in the Homicide Office. Williams is currently in the Duval County jail (Cell #5W3).

Williams stated that he has known Dale George for approximately four years and that he used to buy "dope" from him on 8th Street. Williams advised that Dale George was discussing the Moncrief Lounge murder with him. George told him that it happened quickly. He said that Bell was shooting "a lot" of times. Dale George told him that it happened before he even realized what had happened.

George said that Michael Bell was wearing a mask during the shooting. Dale George also told Williams that Michael Bell did all of the shooting and that George did not participate in that part of it.

Williams further advised that Dale George told him that he was going to eventually do the right thing and testify, as he could not get "stuck" with that much prison time.

Wednesday, 12-07-94 (1000): I re-interviewed Dale George with his attorney present.

Dale George admitted being with Michael Bell on the night of the Moncrief Lounge murders. He stated that he went to the pool room between 2130 and 2200 hours, where he met Michael Bell and Ned Pryor. Mr. George said that he drove Michael Bell to the Moncrief Lounge with Ned Pryor following behind in his vehicle. George said that he was driving Bell's black Oldsmobile. When they arrived at the Moncrief Lounge, Pryor pulled up beside their vehicle. He said that they exchanged "some words" with Pryor and then he backed his vehicle somewhere nearby.

Dale George said that he then observed Bell pull out a ski-type mask and burn two eye-holes in it with a cigarette lighter.

I RECEIVED THE ABOVE DESCRIBED PROPERTY:
SIGNATURE: DATE

REPORTING OFFICER	I.D. NUMBER	DATE/TIME	REPORTING OFFICER	I.D. NUMBER	DATE/TIME
Det. W. J. Bolena	#5607	12-29-94			
SUPERVISOR	I.D. NUMBER	DATE/TIME	DATE/TIME REPRODUCED	REVIEWER	I.D. NUMBER
Sgt. H. R. Bennett	#5083	1-3-95			

P-1601 REV. 03/88

Exhibit E

Declaration of Gary Browder

Location: 4818 Foxboro RD, Jacksonville FL 32208

Date: 6/30/25

I, GARY BROWDER,

do hereby swear that the following is true and correct to the best of my knowledge:

I called the police in regards to the killing of "the girl and the baby" that were killed. Detective Bolena is who showed up to take my statement. At my job.

I told Detective Bolena what I knew about that case 2-3 days after it happened. That was the only time I have ever spoken to Detective Bolena.

I knew Mike for about 15 years and he always visited me at my house with his friends. Because of this I knew of the feud between Mike and Theodore Wright. ~~West~~. This feud started over a girl that both Mike and Theodore "Thedo" had deallt with.

Mike was also at my home a lot because I was in a relationship with his godmother Gloria Mitchell.

GB

Statement of Gary Browder, dated 4/30/25, continued from Page No. 1

I will say again that I never spoke to Detective Bolera again after giving him my statement on the murder of the girl and the baby. I never spoke to him at the jail. I never told him about hearing Mike ~~to~~ confess to the Moncrief Lounge shooting because that never happened. I was never in a car with Mike and Alric.

Under penalty of perjury, I declare that I have read and had the foregoing read to me and that the facts stated in it are true to the best of my knowledge or belief. I have had the opportunity to correct or make any changes to this declaration prior to signing. I gave this statement willingly and without any promises or threats made. I am available and willing to testify to the information contained in this affidavit under oath.

Signed,

X _____

Date of Birth: 6-27-62

Date of Signature: 6-30-25

Witness: Christy Dickerson

Witness Signature: _____

Date of Signature: 6/30/25

Exhibit F

GENERAL OFFENSE/INCIDENT
CONTINUATION REPORT
OFFICE OF THE SHERIFF, JACKSONVILLE, FLORIDA

PAGE 6 OF 7	OFFENSE/INCIDENT #1: Murder	CCR NUMBER: 93-896727
VICTIM'S NAME AND ADDRESS: West, Jimmy Lee 1524 East 30th Street		

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PROPERTY/CONT. NARRATIVE

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George said that Michael Bell was wearing a mask during the shooting. Dale George also told Williams that Michael Bell did all of the shooting and that George did not participate in that part of it.

Williams further advised that Dale George told him that he was going to eventually do the right thing and testify, as he could not get "stuck" with that much prison time.

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Dale George said that he then observed Bell pull out a ski-type mask and burn two eye-holes in it with a cigarette lighter.

I RECEIVED THE ABOVE DESCRIBED PROPERTY:

SIGNATURE: DATE

REPORTING OFFICER	I.D. NUMBER	DATE/TIME	REPORTING OFFICER	I.D. NUMBER	DATE/TIME
Det. W. J. Bolena	#5607	12-29-94			
SUPERVISOR	I.D. NUMBER	DATE/TIME	DATE/TIME REPRODUCED	REVIEWER	I.D. NUMBER
Sgt. H. R. Bennett	#5083	1-3-95			

P-1601 REV. 03/88

Exhibit G

Declaration of Maurice Williams

Location: 1882 E 27th ST, Jacksonville, FL

Date: June, 29th, 2025

I, MAURICE WILLIAMS,

do hereby swear that the following is true and correct to the best of my knowledge:

IN the YEAR of '1994 Detective BOLENA pulled ME from my DORM IN the DUVAL COUNTY Jail. HE took ME OVER to the Police MEMERIAL Building AND QUESTIONED ME ABOUT the MIKE Bell CASE. AND I didnt KNOW ANYthing about that AT ALL.

I know Theodore Wright from my neighborhood. I saw him in court and told him I was in the dorm with Mike Bell. I believe that Thado told Det. Bolena to come talk to me at the jail because Thado told him I was in the Dorm with Mike and might have some information.

MW

Bolena came and got me from the jail and took me down to the Memorial Building. He was very excited and told me "I got him, I got him, I got him!" He told me that he had Mike for the murders that happened at Moncrief Lounge. Bolena said that he had Mike with or without my testimony.

Bolena was trying to get me to say what he wanted me to say. I did not know anything about the case or what happened. I did not want to say what Bolena wanted me to say, I just couldn't and did not want to lie on Mike. Bolena took me back to my dorm and I told Mike what Bolena was trying to do.

Investigator Christy Dickerson read what Det. Bolena wrote in his report about what I said. I never said any of those things. I do not even know Dale George. I could not have told Det. Bolena anything said by Dale George because I do not know him.

I do know Mike Bell and knew him before going to jail while he was there. However, I was not present at Moncrief Lounge and do not know anything about what happened that night. MW

Statement of Maurice Williams, dated 6/29/25, continued from Page No. 2

I do not remember what Bolena talked to me about in 2002. I do remember that he came back to talk to me years later, though.

MW.

Under penalty of perjury, I declare that I have read and had the foregoing read to me and that the facts stated in it are true to the best of my knowledge or belief. I have had the opportunity to correct or make any changes to this declaration prior to signing. I gave this statement willingly and without any promises or threats made. I am available and willing to testify to the information contained in this affidavit under oath.

Signed, Maurice Williams

Date of Birth: 9/25/71

Date of Signature: 6/30/25

Witness: Christy Dickerson

Witness Signature: Christy Dickerson

Date of Signature: 6/29/25

Exhibit H

GENERAL AFFIDAVIT

STATE OF FLORIDA

SS

COUNTY OF DUVAL

I, ANDRE' MAYS **, do hereby swear that the following statement is true and correct and made of my own free will, from my own personal knowledge:**

AFFIDAVIT OF ANDRE' MAYS

I Andre' L. Mays was incarcerated at the Duval County Jail in the year of 1995. During that time, I met an individual by the name of Charles Jones a/k/a/ Wank. During one of our many conversations, Charles Jones told me that he was preparing to be a witness in a murder case against a guy named Mike Bell and he was willing to do anything to help get him convicted. Because he and Bell had had a few disagreements on the street, and now was the time he could get him back! Then Charles Jones told me that the head Detective, who was over the case was letting him get visits from his family and wife when he would be called over to the Police Memorial Building to be interviewed, and during those visits his family would bring him food and drugs (marijuana), that I saw him bring back into the dorm after coming from the Memorial Building. I was also told by Jones, that he was able to have sex with his wife during a visit at the Memorial Building, from the

(continued on the back)

Amy additional facts maybe added on reverse side or extra paper if needed.

Under the penalties of perjury , I declare that I have read the foregoing affidavit and the facts stated in it are true and correct in accordance with Section § 92.525 Florida Statutes (1996)

By: Andre' L. Mays A/K/A Andre' Wilson
Affiant

2-25-00
NOTARY FOR SOUTH CAROLINA
Kelley A. Hammond
My Commission Expires
October 26, 2005

dorm we were in, the second floor of the duval County Jail, we could see the police Memorial Building, and on a few occasions I have seen his family and wife coming and going into the memorial building after Jones had left the dorm to be taken to the memorial building. If called upon, I will testify under oath to any or all the facts contained in this affidavit. I certify under penalties of perjury that the foregoing is true and correct to the best of my knowledge and understanding.

RECEIVED
MAY 25 2000

GENERAL AFFIDAVIT

STATE OF FLORIDA

SS

COUNTY OF Duval

I, Julian Marcus George **, do hereby swear that the following statement is true and correct and made of my own free will, from my own personal knowledge:** ON DECEMBER 9, 1993 WHEN Michael Bell Elligibally shot to death Jimmy West and Tamecka Smith AS they entered A CAR outside A liquor lounge in Jacksonville. DALE George told ME ON numerous OCCASIONS that the detective beat him and COERCE him into SAYING what he said. Mr. George told ME that what he told the police detectives' was all what they wanted him to SAY. HE SAID they wanted him to SAY what they had plan to guarantee A conviction on Mr. Bell. Also he stated the detectives told him he would not face A long imprisonment and would not do over A YEAR if he said the things they wanted him to SAY. Mr. George didn't go into details About what all was said during the interrogation but he did say that they (detectives) would of done anything to convict Mr. Bell. Mr. George stated the reason he excepted the offer because he was promise not over a year for his knowledge about the incident and to get back at Mike (Mr. Bell) for sleeping with his woman and putting her on V.C.R TAPE. I personally witness the V.C.R TAPE and seen how depress and angry Mr. George grown towards Mr. Bell. SINCE that incident there friend. ship has been distroyed.

Any additional facts maybe added on reverse side or extra paper if needed.

Under the penalties of perjury , I declare that I have read the foregoing affidavit and the facts stated in it are true and correct in accordance with Section § 92.525 Florida Statutes (1996)

By: Julian George
Affiant

3/21/2000

UNNOTARIZED OATH

I HEREBY DECLARE under the PENALITIES of perjury that EVERYTHING ENCLOSE is true to the best of my KNOWLEDGE and all facts ATE true and correct this 21th day of MARCH 2000

/s/ Julian Marcus George

Julian MARCUS GEORGE



AFFIDAVIT OF MICHAEL A. BENNETT

I, Michael Bennett, do hereby affirm and state as follows:

1. My name is Michael A Bennett, I am 62 years old, and I am incarcerated at Florida State Prison. I met Michael Bell many years ago when he was a young kid and then later when we were both free together on the streets. Mike used to call me "Unc." When Mike was older, we would see each other occasionally at the local clubs on the weekends. We never hung out when we were older, rather just acknowledged each other when out.

MB

2. Back in the 1990s, when I would be arrested, I would be a "Trusty" at the Duval County jail because my charges were not serious and the officers thought I was trustworthy.

MB

3. I remember Detective Bolena from the streets but mainly from visits in the Duval County Jail. After Mike had been arrested on the murder charges, Det. Bolena came to me at the jail and said, "I know you have info, so tell me." When I told him I did not know anything, he just kept telling me I did. This went on for a little while until Bolena stopped.

MB

4. There was a point during this interview where Bolena was pressuring me to say that I was at Moncrief Liqours when the shooting happened, and that I witnessed it. Again, I told him that I was not there and knew nothing about it.

MB

5. Bolena did not threaten me with charges or beat me, but he just kept trying to get me to lie, which I could not do. He eventually stopped and left me alone.

MB

6. Michael Bell never talked to me about the Moncrief Liquor Lounge case.

MB

7. On 07/02/2025, I was interviewed by an investigator from the Capital Habeas Unit. I was asked about the above and stated it as it is written above.

MB

8. I was then asked about a person named Dale George. The name sounds familiar to me but I have no idea who that person is.

MB

9. After I had answered all of the above interview questions with the investigator, I was shown a statement I made in Det. Bolena's 12/29/1994 homicide report.

MB

10. All I can say is that the report is a lie. I never told Det. Bolena:

MB

a. I ran into Mike Bell and Dale George in 1994

MB

b. Mike Bell never told me about the Moncrief murders

MB c. Mike never told me, "He killed my brother, so I killed his brother."

MB d. Mike never told me, "He did not want to take chances, so he 'sprayed' both people inside the car."

MB 11. I was shocked to see my name associated with the statement. I never said anything to Det. Bolena, even though he tried to get me to do so.

MB 12. No one from Mr. Bell's team legal team has ever asked me about these matters until now.

MB 13. If called to testify to the contents of this affidavit, I would do so willingly and truthfully.

MB 14. 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~~: 7-8-25

Michael Bennett
Michael Bennett

STATE OF FLORIDA
COUNTY OF ~~UNION~~ BRADFORD

Affirmed and subscribed before me by means of [X] physical presence or [ ] online notarization, this 8 day of July, 2025, by Michael Bennett.

COLIN L. KELLY
Commission # HH 187371
Expires October 17, 2025
Bonded Thru Troy Fain Insurance 800-385-7019

Colin L. Kelly
Notary Public

Commission Expires: 10/17/2025

Personally Known _____ OR Produced Identification X
Type of Identification
Produced FL DOC # E-586504

Declaration of Reginald Tribune

Location: 637 Ests RD, Jacksonville, FL

Date: 7/6/25

I, REGINALD TRIBUNE,

do hereby swear that the following is true and correct to the best of my knowledge:

Maybe sometime in 1994 I was living at my maternal grandmother's house. One day I heard a commotion outside my room. I came out to find my grandmother, who was 80 years old, face to face with a police officer at the door, and the house was surrounded by police officers. My grandmother refused to let them in her house.

I willingly went along with the police officers. They put me in the back of one of the police cars. The police stopped the car at a store down the street from my grandmother's house. This happened at night time and the store was closed. Upon stopping the car the police threatened to beat me up if I did not cooperate with their investigation of Mike Bell. When that did not work on me, they threatened that they had someone I had sold drugs to. This meant that if I did not give them information they would try to charge me with selling drugs.

RT

Before leaving my grandmother's house, I told my mother to call attorney Wade Rolle. Soon after arriving at the police station Attorney Rolle showed up before I could be questioned further. Attorney Rolle was not allowed to represent me because the police wouldn't let him in as there was a conflict because he represented Mike as well. Attorney Rolle called another lawyer to come get me from the station.

On a later date, a subpoena for me was brought to my grandmother's house. I got a lawyer and went down to the State's Attorney's office. I do not recall who all was present, but State's Attorney Shorstein was there along with others.

I was asked a lot of questions about Mike Bell. I told them I dropped Mike off at his apartment on the night of the shooting at Moncrief Lounge, but that was all I knew.

I never stated that Mike told me that he was going to get Theodore Wright back for killing Lamar. I never made that statement

RT

I only stated that Mike would never involve me in something like that. Nor would he tell me something like that.

After being at the State's Attorney office for about an hour, me and my attorney were allowed to leave.

I have not spoken to the police or been questioned since that day in reference to Mike.

Under penalty of perjury, I declare that I have read and had the foregoing read to me and that the facts stated in it are true to the best of my knowledge or belief. I have had the opportunity to correct or make any changes to this declaration prior to signing. I gave this statement willingly and without any promises or threats made. I am available and willing to testify to the information contained in this affidavit under oath.

Signed,

Date of Birth: 10-31-1973

Date of Signature: JULY 6 2025

Witness: Christy Dickerson

Witness Signature:

Date of Signature: 7/6/25

AFFIDAVIT OF JONES, ROBERT

I, ROBERT JONES, do hereby affirm and state as follows:

THAT on March 23, 1993 I was Arrested or Taken into Custody for Questioning by A White male Detective Bolena. He informed me that I was being Questioning About A Murder. He then left me in A room for hours, and then returned with Anger telling me that he would give me one opportunity to walk out this room without Charges if I would give him information About A Michael B Bell Concerning some murders esp. About A Police officer who was shot in the 24 or 23rd Area of Chase Street and Stuart Street. When I declined to do so, he then told me I would not only be Charged with murder but several murders And that he will make it look like I Confessed to the murders. Detective Bolena then had me detained. While in Jail He came to see me and told me that Michael Bell little Brother was killed And that if I have Reconsidered his request to give testimony on Mike, Again I declined. Several Months later, A Fellow by the name of Benjamin C. Allen had possession of All the Criminal Charges Against me (information) Friends of mine Gave these documents to me and I gave these documents to my Attorney Attorney Berry. Benjamin told me Friend that Det Bolena gave him the information on my Case to testify Against me. Bolena, did not act like A law protector but A gangster. Bolena only wanted me to send Mike to prison, I did not stooped to that level to do Mike in like Det Bolena wanted me to. My Case As well as others were given no Chance to remain Free As long As Det Bolena had our Cases All OF us Are either on Death Row or in prison with extensive time. Mike Bell, is only A man that was dealt bad cards by Det Bolena.

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No one has ever came to me and spoken personally or indirectly about Mike Case or even Det. Bolena. This is the first time that I have been able to tell my story. The only reason I feel the need to speak about this, is because it is the Truth untold and No body want to reveal that Bolena is a scum bag of the law enforcement. I know other Detectives like Mr Osteen and Det. Conn (White Female) No what Det. Bolena did to me on March 23, 1993 in that room. I Forgive him only because I was not a saint myself And I believe that God will Straighten All these things out in our lives even in Michael Bells life. He Did not deserve the Death penalty for Jimmy Wesley AKA Keller. because Keller had killed so many of our friends in the Neighborhood. And its said that Det Bolena Still wanted to set Mike Messed up and remove him the Community even before Jimmy was killed. To me personally, Its like Mike was set up by Bolena the double time by Allowing Lamont Bell (Mikes little Brother) to die, Just to get Mike to respond As a murder, and then the evident Bolena got Mike off the Street to be placed on Death Row. Said. And it.

If Called to testify, I will do so with integrity And Nothing But the Truth will be Said

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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: 7-7-25

(affiant signature)

Robert Jones
(affiant name)

STATE OF FLORIDA
COUNTY OF MADISON

Affirmed and subscribed before me by means of [x] physical presence or [ ] online notarization, this 7 day of July, 2025, by ~~Colin Kelly.~~ Robert Jones

COLIN L. KELLY
Commission # HH 187371
Expires October 17, 2025
Bonded Thru Troy Fain Insurance 800-385-7019

Notary Public

Commission Expires: _____

Personally Known _____ OR Produced Identification X
Type of Identification
Produced FL DOC ID # A-297502

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