

No. 25-7001

In the Supreme Court of the United States

ERNEST MILLS, JR.,
Petitioner,

v.

STATE OF LOUISIANA,
Respondent.

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

APPENDIX TO BRIEF IN OPPOSITION

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**IN THE
FOURTH CIRCUIT COURT OF APPEAL
STATE OF LOUISIANA**

NO.

STATE OF LOUISIANA

VERSUS

ERNEST MILLS

**APPLICATION FOR WRIT OF SUPERVISORY REVIEW
FROM A RULING BY THE ORLEANS CRIMINAL DISTRICT COURT
CASE NO. 472-876, SECTION "J"
THE HONORABLE DARRYL DERBIGNY, JUDGE PRESIDING**

**ORIGINAL WRIT APPLICATION OF
THE LOUISIANA ATTORNEY GENERAL, APPLICANT**

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¹ This exhibit is not certified, because the Attorney General was unable to locate it within the court record.

² The Attorney General was unable to locate the copy of the Notice of Intent and Motion for Stay that was signed by the District Judge in the court record. The Attorney General has therefore attached an unsigned, certified copy of the documents as Exhibit 9, and a signed, but uncertified, copy of the document as Exhibit 9.1.

³ The Attorney General has requested the transcript of the trial court's ruling but has not received it yet. The Attorney General will supplement its writ application with the transcript upon receipt.

JURISDICTIONAL STATEMENT

This Court has jurisdiction pursuant to Article 5, Section 10(a) of the Louisiana Constitution, which provides that a court of appeal “has supervisory jurisdiction over cases which arise within its circuit.” La. Const. art. V. § 10(a).

STATEMENT OF FACTS

Because the defendant pled guilty and did not proceed to trial, the facts of the case are not set forth in the record.

STATEMENT OF THE CASE

I. Trial Court Proceedings and Guilty Plea

On September 13, 2007, an Orleans Parish grand jury returned an indictment charging the Defendant with two counts of Aggravated Rape and one count of Sexual Battery, violations of La. R.S. 14:42 and La. R.S. 14:43.1, respectively.⁴ On April 8, 2009, the State, through the Orleans District Attorney’s Office, announced that it was ready for trial, and jury selection began. Before a jury was sworn in, the Defendant reached a plea agreement with the State.⁵ At that time, the State amended the bill of indictment to one count of Forcible Rape, a violation of La. R.S. 14:42.1, to which the Defendant pled guilty.⁶ The State dismissed the other charges, and the Defendant was sentenced to serve 30 years at hard labor pursuant to the plea agreement.⁷

II. Defendant’s First Application for Post-Conviction Relief

On April 6, 2011, the Defendant filed his first counseled application for post-conviction relief (“First PCR Application”), along with a motion to withdraw his guilty plea.⁸ In the First PCR Application, he claimed: (1) his plea was not knowing, voluntarily, and intelligent; (2) a *Brady* violation; and (3) Ineffective Assistance of

⁴ Ex. 1, Indictment.

⁵ Ex. 10, Docket Master, p. 3 (04/08/2009 Minute Entry).

⁶ *Id.*

⁷ *Id.*

⁸ Ex. 2, First PCR Application.

Counsel.⁹ As part of the ineffective assistance claim, he asserted that his attorney failed to verify the availability of the State’s key witness (the rape Victim) at trial.¹⁰ The State filed procedural objections on May 2, 2014.¹¹ On July 1, 2014, the District Court denied this PCR application.¹² This Honorable Court denied writs, 2014-K-0937 (10/23/14), and the Louisiana Supreme Court declined to consider the Defendant’s writ application as untimely, 2014-KH-0423 (12/7/15).

III. Second Application for Post-Conviction Relief

On November 10, 2021, Orleans Parish District Attorney Jason Williams recused himself because he represented the Defendant in the case prior to taking office, and the Attorney General took over the matter on behalf of the State.¹³

On February 15, 2023, the Defendant filed a *Second or Subsequent Uniform Application for Post-Conviction Relief* (“Second PCR Application”), claiming that the State withheld evidence that the Victim was uncooperative at the time of trial, a violation of *Brady v. Maryland*, 373 U.S. 83 (1963).¹⁴ Thereafter, the District Court set a deadline of July 25, 2023 for the Attorney General to file an answer or procedural objections to the application.

The Attorney General filed procedural objections to the Defendant’s Second PCR Application on July 25, 2024, arguing that it was untimely and repetitive in violation of La. C.Cr.P. arts. 930.8 and 930.4, and that it failed to state a claim upon which relief could be granted.¹⁵ The Defendant filed a response to the Attorney General’s procedural objections on November 2, 2023.¹⁶

⁹ *Id.* at 3–11.

¹⁰ *Id.* at 7.

¹¹ Ex. 3, State’s Procedural Objections to First PCR Application.

¹² Ex. 4, Minute Entry from July 1, 2014.

¹³ Ex. 10, p. 4 (11/10/2021 Minute Entry).

¹⁴ Ex. 5, Defendant’s Second Application for Post-Conviction Relief, pp. 7-9 of attached Memorandum of Support for Application for Post-Conviction Relief.

¹⁵ Ex. 6, State’s Procedural Objections to Defendant’s Second PCR Application.

¹⁶ Ex. 7, Defense Response to State’s Procedural Objections.

On January 15, 2025, the District Court overruled the Attorney General's Procedural Objections and ordered that the matter be set for a hearing.¹⁷ The Attorney General orally noticed intent to seek supervisory writs and moved for a stay of the proceedings, which was granted.¹⁸ The District Court set a return date of February 13, 2025 for the filing of the State's writ application.¹⁹ The Attorney General's writ application timely follows.

ISSUE PRESENTED

Whether the District Court erred in overruling the Attorney General's procedural objections to the Defendant's Second PCR Application.

ASSIGNMENT OF ERROR

The District Court erred in overruling the Attorney's General's procedural objections to the Defendant's Second PCR Application.

SUMMARY OF THE ARGUMENT

The District Court erred in overruling the Attorney's General's procedural objections to the Defendant's Second PCR Application because it is both untimely and repetitive, in violation of Articles 930.8 and 930.4 of the Louisiana Code of Criminal Procedure. It also fails to state a claim upon which relief can be granted, and the District Court erred in ordering a hearing on the merits of the Defendant's claim.

LAW AND ARGUMENT

I. The Second PCR Application is Untimely by More Than Ten Years and it is Repetitive Because It Raises the Same Claim as the Prior Application.

A. The Second PCR Application is Untimely by More Than A Decade.

The District Court erred in overruling the Attorney General's procedural objection related to untimeliness. The Defendant's Second PCR Application is

¹⁷ Ex. 8, Minute Entry from January 15, 2025.

¹⁸ Ex. 9.1, State's Notice of Intent to File Writ Application and Motion for Stay of Proceedings (signed by the District Court).

¹⁹ *Id.*

untimely by more than a decade, and he has failed to prove that an exception applies. The Louisiana Code of Criminal Procedure states, in pertinent part, “No application for post conviction relief, including applications which seek an out-of-time appeal, shall be considered if it is filed more than two years after the judgment of conviction and sentence has become final under the provisions of Article 914 or 922 ...” La. C.Cr.P. art. 930.8. Because the Defendant’s conviction became final in 2013, the Second PCR Application is at least ten years untimely.

B. The Defendant Has Failed to Establish That He Should Be Exempt From the Two-Year Time Limitation Or That He Diligently Sought the Newly-Discovered Information That Supports His Claim.

Additionally, the Defendant failed to establish that he should be exempt from the two-year time limitation for seeking post-conviction relief. A defendant may circumvent the time bar if “[t]he application alleges, and the petitioner proves or the state admits, that the facts upon which the claim is predicated were not known to the petitioner or his prior attorneys.” La. C.Cr.P. art. 930.8(A)(1). However, he must also “prove that he exercised diligence in attempting to discover any post conviction claims that may exist. ‘Diligence’ for the purposes of this Article is a subjective inquiry that shall take into account the circumstances of the petitioner.” *Id.*

The Defendant alleged that the Second PCR Application was triggered by the discovery of previously-unknown information about the victim’s uncooperativeness. This is patently untrue, which will be discussed in more detail below. However, even assuming the truth of his assertion, the Defendant did not provide any explanation for his failure to exercise diligence in obtaining the “new” information earlier. In his First PCR Application filed in 2011, the Defendant alleged as part of his claim of ineffective assistance of counsel, “The record indicates some problems early in the case with obtaining the presence of the complaining witness in open court. The

record does not indicate whether the witness was available for testimony at the time Mr. Mills entered his plea.”²⁰

It is clear from this statement that when the Defendant filed his first PCR application in 2011, he was already aware that the District Attorney’s Office may have had some issues getting in touch with the victim early on in the case. He had been formulating a claim regarding the Victim’s uncooperativeness as early as April 2011 (if not earlier) and included it in the First PCR Application. Therefore, he should have been seeking out any and all documentation to support such a claim when he first made the claim, in April 2011.

Notably, the First PCR Application states “Mr. Mills reserves the right to supplement this assignment of error as evidence presents itself.”²¹ Based upon this language, it is clear that in 2011, the Defendant was aware that he should be gathering information in support of his claim that trial counsel was ineffective for failing to verify the availability of the Victim. Around the time he filed that Application, the Defendant engaged in a public records request with the District Attorney’s Office, as evidenced by the following language contained within the First PCR Application: “Here, because Mr. Mills is still waiting on a return on his public records request, his *Brady* claim is not yet ripe. Mr. Mills expressly reserves the right to supplement this filing should evidence of the claim present itself.”²²

However, the Defendant never supplemented any of his claims before the District Court denied the First PCR Application in 2014. Even though he was actively seeking public records from the District Attorney’s Office to support his assertion of the victim’s unavailable at trial, he failed to supplement the First PCR Application. If the Defendant was so concerned about the Victim’s uncooperativeness, why did he not specifically seek out the kinds of records he

²⁰ Ex. 2, p. 7.

²¹ *Id.*

²² *Id.* at 11.

would later seek in 2021? Why did he make no such efforts to obtain them during the intervening ten years?²³

The Defendant fails to answer these questions in filing his Second PCR Application, which is fatal to his claim. He cannot establish that he is entitled to an exception of the two-year time limitation to seek post-conviction relief, because he cannot establish that he exercised any diligence in obtaining the “newly-discovered information” on which the Second PCR Application is based.

C. The Second PCR Application Is Also Repetitive—It Presents Two Separate Claims That Were Both Already Raised In the First PCR Application.

The Second PCR Application is not only untimely, it is repetitive. The First PCR Application also includes an assertion that the Victim was not cooperative at the time of trial. “A successive application shall be dismissed if it fails to raise a new or different claim,” or “if it raises a new or different claim that was inexcusably omitted from a prior application.” La. C.Cr.P. art. 930.4(D),(E). The Defendant’s Second PCR Application raises two issues that were also previously raised in the First Application. The Second PCR Application raises a *Brady* claim and makes assertions that the Victim was uncooperative. Likewise, the First PCR Application raises a *Brady* claim and makes assertions that the Victim was uncooperative. The only difference is that in the Second PCR Application, the Defendant combines these two issues into a single claim.

Although the Second PCR Application does not specifically tie the Defendant’s *Brady* claim to the Victim’s alleged uncooperativeness, he made a *Brady* claim and raised issues with the Victim’s uncooperativeness, discussing both of the issues that comprise his “new” claim. The “new” claim (if it can even be called

²³ Based on the Defendant’s allegation that he was previously unaware of the letters at issue, the Attorney General can only speculate that he had not, in fact, previously possessed them. However, the Attorney General notes that the Defendant received a disclosure from the District Attorney in connection with his prior public records request in or around 2011, and that it is entirely possible that defendant has been in possession of these documents since that time and has simply failed to make this claim until now. This is bolstered by the fact that, as discussed above, the Defendant raised this exact issue—the victim’s uncooperativeness—in his 2011 PCR application.

that) in the Second PCR application was, therefore, inexcusably omitted from the First PCR Application. In the First PCR Application, the Defendant argued that the District Attorney withheld favorable evidence—but he did not assert that the District Attorney withheld information that the Victim was not cooperative. It is clear, however, that in 2011 the Defendant was under the belief that the Victim was not cooperative at the time of trial, because he also mentions it in the First PCR Application. He should have based a *Brady* claim on this information when he filed the First PCR application in 2011, not waited another 12 years to raise the issue in a subsequent PCR application.

In the alternative, the existence of the above assertions—a *Brady* claim, and the victim's alleged lack of cooperation—in the 2011 application also arguably make their presence in the instant application repetitive, because the substance of the claim is simply not new, and the Defendant has failed to raise a new claim, which is also procedurally barred pursuant to La. C.Cr.P. Art. 930.8.

With some diligence, the Defendant and his attorneys could have made the claim, as it exists in the Second PCR Application, in 2011 or soon thereafter. Of course, it would have been facially and procedurally barred, just as it is here, because the allegation's demonstrable falsity would have resulted in an outright failure to state a valid claim on which relief may be granted—an issue which will be discussed more fully below. But, at the very least, the Defendant could have made the allegation *years earlier* had he and his attorneys diligently sought out documentation to support a claim *they knew they wanted to make for a decade*. For these reasons, the District Court erred in overruling the Attorney General's procedural objections pursuant to La. C.Cr.P. arts. 930.4 and 930.8.

II. The Defendant's Assertion That the Victim was Uncooperative is Untrue.

Although either of the above procedural bars (untimeliness and repetitiveness) constitute a sufficient basis for summarily denying the defendant's Second PCR Application, it also fails to state a valid claim for relief. This is likewise procedurally fatal to the Defendant's claim. Because the substance of his claim is untrue, he has failed to state a claim on which relief can be based. At issue is the Defendant's allegation that the State withheld evidence of the Victim being uncooperative leading up to trial; and, had the Defendant's trial counsel been aware of this lack of cooperation, he would not have advised him to accept a plea agreement. This is facially inaccurate.

More specifically, the alleged evidence is two letters, dated October 26 and November 27, 2007, in which the District Attorney's Office attempted to reach the Victim and her mother. However, these letters were written right after the charges has been filed in September of that year, and nearly 18 months before the matter would eventually proceed to trial. On their own, they do not establish that the Victim was uncooperative at the time the State announced its readiness for trial. Even worse, the Defendant offers nothing else whatsoever in support of his allegation. Even assuming that the State would be obligated to disclose the Victim's lack of cooperation prior to entering plea negotiations,²⁴ the Defendant has failed to establish that the Victim in this case was uncooperative at the time he pled guilty to the reduced charge of forcible rape. At most, he has established that in October and November 2007, the District Attorney's Office was having difficulty contacting the Victim. The October and November 2007 letters do not establish that the Victim did not want to cooperate with the prosecution, and the Defendant has not presented any

²⁴ The Attorney General does not concede that a victim's lack of cooperation is subject to disclosure pursuant to *Brady v. Maryland*, but the merits of the defendant's PCR Application are not the subject of this writ application. It should be noted, however, that uncooperative witnesses can be compelled to appear in court via the trial court's issuance of an instantan subpoena.

other evidence to support his argument. Simply put, the Second PCR Application fails to state a valid claim for relief.

Even taking the Defendant's claim and evidence at face value, it is evident that the defendant's core allegation—that the Victim was uncooperative—is false. For instance, the Defendant points to the language in both letters (but primarily the second one) stating that the case may be dismissed if the Victim or her mother fail to get back in touch with the District Attorney's Office.²⁵ As the record reflects, the case was never dismissed, which would lead a reasonable person to infer that the District Attorney's Office ultimately got back in touch with the Victim.

Likewise, the Defendant has presented no evidence that the State ever sought to delay trial due to the Victim's lack of cooperation. In fact, of the five trial settings, the State only moved for a continuance on the first trial date on July 22, 2008.²⁶ The Defendant has presented no evidence that the reason for the continuance was the Victim's unavailability. The next two trial settings, August 12 and November 12 of 2008, were both continued on *the Defendant's* motion.²⁷ It is reasonable to infer that the State was prepared for trial on those dates, whereas the defense was not. The fourth trial setting, on January 28, 2009, was continued by joint motion of the State and defense.²⁸ The fifth trial setting, on April 8, 2009, concluded with the Defendant's guilty plea, where he greatly benefited from the State's plea offer by avoiding a mandatory life sentence if convicted of either count of Aggravated Rape.

Additionally, the minute entry for December 11, 2007 indicates that a motion hearing was continued on the State's motion because the "Victim is school aged and unable to attend court."²⁹ Because the State represented that the Victim was *unable* to attend court, it is reasonable to infer that the Victim *wanted to be present in court*

²⁵ Ex. 5, Second PCR Application, attached exhibits J and K (letters to Victim).

²⁶ Ex. 10, p. 2 (07/22/2008 Minute Entry).

²⁷ *Id.* at 2–3 (08/12/2008 and 11/12/2008 Minute Entries).

²⁸ *Id.* at 3 (01/28/2009 Minute Entry).

²⁹ *Id.* at 2 (12/11/2007 Minute Entry).

but could not do so due to still being in school. Once again, this contravenes the Defendant's baseless assertion that the Victim was uncooperative throughout the pendency of this case.

In addition to the above reasonable inferences, the District Attorney's case file specifically demonstrates that the Office had multiple contacts with the Victim and her mother *after* the mailing of the aforementioned letters and that the Victim was cooperative at the time of trial. The Defendant's attorney, having viewed the DA's case file in connection with their most recent public records request, would be well aware that the whole of the documents contained within that file completely upend the assertion that the Victim was uncooperative. This is evidenced by the fact that the Second PCR Application includes certain documents from the District Attorney's case file, but does not include or discuss later documentation showing conversations between the Victim and the District Attorney's Office—because such documentation is fatal to the substance of the defendant's claim.

In contrast, the Attorney General attached several documents to its procedural objections to the Second PCR Application which established that the District Attorney's Office had contact with the victim and/or her mother *after* the two letters were mailed. The Victim's mother called ADA Isaka Williams back on December 7, 2007, only a few days after the date on the second letter, and ADA Rachel Africk (née Luck) spoke to the victim's mother in 2009 leading up to a trial date.³⁰ These documents support the logical inference that after the District Attorney's Office sent letters to the victim's mother requesting that she get in touch, the Victim's mother indeed got back in touch with the District Attorney's Office. Conspicuously absent from the Defendant's Second PCR Application is any documentation from *after* November 2007 (the date of the second letter upon which the Defendant's entire

³⁰ Ex. 6, State's Procedural Objections to Second Application for Post-Conviction Relief, attachments 1 and 2.

argument is based) which shows that the District Attorney's Office lost touch with the Victim and/or her mother again after she established contact. There are no letters from December 2007 or anytime in 2008 or 2009 asking the Victim's mother to get back in touch and notifying her that the case will be dismissed if she does not—because no such communications exist. The Defendant's claim that the Victim was uncooperative is untrue, and he has failed to prove he is entitled to post-conviction relief.

What should be instructive to this Honorable Court is the fact that while the defendant makes vague allusions to the Victim's uncooperativeness leading up to trial—itself a huge logical leap from two letters from the DA's Office attempting to reach her—he does not specifically allege, for the purposes of actually validating his claim, that the Victim was absent, uncooperative, or otherwise unavailable on the morning of trial itself. He focuses on the two letters from 2007 because no evidence from any later date exists to lend any support to his claim.

Notably absent from the Second PCR Application is the transcript of the defendant's *Boykin* colloquy and guilty plea. Additionally, the Defendant points to nothing in the record to support any allegation that the Victim was uncooperative. The 2007 letters establish, at most, that there may have been scheduling issues very early on in the prosecution. The fact, however, is that the Victim and her mother *were present* to testify on the day of trial before the Defendant entered a guilty plea, *and they were cooperative*.

As an attachment to the Second PCR Application, the Defendant attached an affidavit executed by Jason Williams, who represented the Defendant leading up to and during his guilty plea.³¹ At the time he executed the affidavit in December 2022, Mr. Williams was the elected District Attorney of Orleans Parish. The Defendant

³¹ Ex. 5, Second PCR Application, attached Exhibit "N."

attempts to use DA Williams's affidavit to bolster his claim that the victim was uncooperative at the time of trial. Several issues exist with this argument. First, DA Williams's affidavit states that he met with post-conviction counsel for the defendant and was shown the letters sent to the victim by the District Attorney's Office.³² The affidavit states "These letters showed attempts by the DA's Office to obtain the presence for trial of the complainant."³³ With all due respect, this is incorrect. The letters are dated October and November 2007. The first trial date was July 2008. Notably, there was a motion hearing scheduled for December 2007 (shortly after the date on the second letter) that the State moved to continue because the "victim is school aged and unable to attend court." The letters were sent long before a trial date was ever set, and therefore the letters were not written to "obtain the [Victim's] presence for trial" as DA Williams's affidavit states.

DA Williams's affidavit also states that the letters "occurred after her lack of attendance indicated that she did not wish to take part in the ongoing prosecution."³⁴ The Attorney General respectfully submits that this statement is speculative and conclusory. The letters³⁵ *do not* state that the Victim indicated she did not want to cooperate or participate, they simply requested that she or her mother get in touch with the DA's Office. As discussed above, the letters do not prove that the Victim was uncooperative, only that the DA's Office could not get in touch with her. Any attorney will tell you that sometimes, victims and witnesses do not answer the phone when you call them or appear for scheduled meetings—this does not necessarily mean that they do not wish to cooperate.

Notably absent from DA Williams's affidavit is any discussion of what occurred on the date of trial itself. The affidavit does not state that the Victim *was*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ Ex. 5, attached exhibits J and K.

not present on the day of trial—it is silent on whether or not the Victim or her mother were in court at the time the Defendant pled guilty. The affidavit does not bolster the Defendant’s argument, because (just like the letters from October and November 2007) it fails to prove that the Victim was ever uncooperative or was not present in court on the date the defendant appeared for trial and entered a guilty plea.

To be clear, the Defendant has the burden of proving that post-conviction relief should be granted. La. C.Cr.P. art. 930.2. Here, he has failed to do so. Ultimately, because his core allegation is demonstrably false, his other allegation—that the State withheld evidence that the Victim was uncooperative—is also false. Simply put, there can be no *Brady* violation because the State cannot withhold evidence of something that did not happen. Therefore, on the most basic level, the Defendant has failed to state a claim on which relief may be granted, and the District Court erred in overruling the Attorney General’s procedural objections.

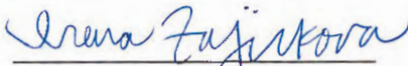
CONCLUSION AND PRAYER

Considering the facts of the case and the law and argument presented above, the District Court erred in overruling the Attorney General’s procedural objections to the defendant’s Second PCR Application. The Attorney General respectfully prays that this Honorable Court reverse the District Court’s ruling and enter an order dismissing the defendant’s Second Application for Post-Conviction Relief.

Respectfully submitted,

LIZ MURRILL
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AFFIDAVIT OF VERIFICATION AND CERTIFICATE OF SERVICE

STATE OF LOUISIANA

PARISH OF EAST BATON ROUGE

BEFORE ME, the undersigned authority, a Notary Public in and for the Parish of East Baton Rouge, State of Louisiana, duly commissioned and qualified, personally came and appeared:

IRENA ZAJICKOVA

who, being by me first duly sworn did depose and say:

That she is attorney for applicant in this case; that all the information contained therein are true and correct to the best of her knowledge; that the trial court and all counsel have been or will be promptly notified that this Writ Application has been filed; and that copies of this Writ Application were mailed, e-mailed, and/or hand-delivered to the following:

Jennifer Cameron, Esq. Longman Jakuback, APLC 830 Main Street Baton Rouge, Louisiana 70802 jennifer@ljlaw.org (225) 383-3644 <i>Counsel for Ernest Mills</i>	Hon. Darryl Derbigny 2700 Tulane Avenue New Orleans, LA 70119 (504) 658-9150 SectionJ@criminalcourt.org
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ASSISTANT ATTORNEY GENERAL

SWORN TO AND SUBSCRIBED BEFORE ME, this 13th day of February, 2025.



NOTARY PUBLIC
Andrea Neal Quick
LA Bar No. 37239
My Commission is for life

PARISH OF ORLEANS

STATE OF LOUISIANA } SS

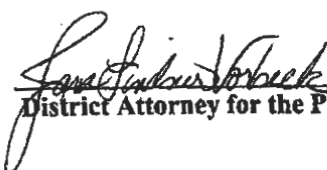
CRIMINAL DISTRICT COURT FOR THE PARISH OF ORLEANS

ITEM NO.: G-21666-07

FIRST COUNT: THE GRAND JURORS of the State of Louisiana, duly impaneled and sworn in and for the body of the Parish of Orleans, in the name and by the authority of the said State, upon their oath, PRESENT, that, between the 1st day of May, 2007 and the 31st day of May, 2007, one ERNEST MILLS, COMMITTED AGGRAVATED RAPE ON K.O., date of birth 5/20/96, AN INDIVIDUAL UNDER THE AGE OF THIRTEEN YEARS, in the Parish of Orleans, aforesaid, and within the jurisdiction of the Criminal District Court for the Parish of Orleans contrary to the form of Statute of the State of Louisiana in such cases made and provided and against the peace and dignity of the same.

SECOND COUNT: And now the Said GRAND JURORS of the State of Louisiana, duly impaneled and sworn in and for the body of the Parish of Orleans, in the name and by the authority of the said State, upon their oath, PRESENT that, between the 1st day of May, 2007 and the 31st day of May, 2007, one ERNEST MILLS, COMMITTED AGGRAVATED RAPE ON K.O., date of birth 5/20/96, AN INDIVIDUAL UNDER THE AGE OF THIRTEEN YEARS, in the Parish of Orleans, aforesaid, and within the jurisdiction of the Criminal District Court for the Parish of Orleans contrary to the form of Statute of the State of Louisiana in such cases made and provided and against the peace and dignity of the same.

SCANNED


District Attorney for the Parish of Orleans

313-20(2-6-04)

EXHIBIT 1

STATE OF LOUISIANA. } SS

ITEM NO.: G-21666-07

SCANNED

District Attorney for the Parish of Orleans



NO. G-21666-07

SECTION

COUNT 1

STATE OF LOUISIANA
VERSUS
ERNEST MILLS

INDICTMENT FOR

AGGRAVATED RAPE 14:42

Return Bill Sept 13-07

Emma T. Hubbard

COUNT 2

STATE OF LOUISIANA
VERSUS
ERNEST MILLS

INDICTMENT FOR

AGGRAVATED RAPE 14:42

Return Bill Sept 13-07

Emma T. Hubbard

Emma T. Hubbard
Foreman of Grand Jury

New Orleans, *Sept 13*, 20 *07*

Returned in open Court and recorded and

filed _____, 20____.

Minute Clerk

Arraigned _____, 20____

and pleaded _____

Minute Clerk

The accused _____

was sentenced on this _____ day of _____, 20____

Minute Clerk



NO. G-21666-07

SECTION

COUNT 3

STATE OF LOUISIANA

VERSUS

ERNEST MILLS

INDICTMENT FOR

AGGRAVATED KIDNAPPING 14:43.1

A true Bill Sept 13-07

Ernest T. Hubbard

Ernest T. Hubbard

Foreman of Grand Jury

New Orleans, *Sept 13*, 20 *07*

Returned in open Court and recorded and

filed _____, 20 _____

Minute Clerk

Arraigned _____, 20 _____

and pleaded _____

Minute Clerk

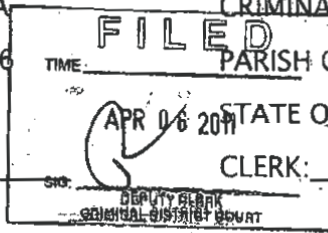
The accused _____

was sentenced on this _____ day of _____, 20 _____

Minute Clerk



STATE OF LOUISIANA CRIMINAL DISTRICT COURT
VERSUS NO. 472-876 PARISH OF JEFFERSON
ERNEST MILLS JR. STATE OF LOUISIANA
FILED: _____ CLERK: _____



**DEFENDANT'S ORIGINAL APPLICATION FOR POST-CONVICTION
RELIEF C/W DEFENDANT'S MOTION TO WITHDRAW HIS GUILTY
PLEA**

1. Name and location of court which entered the judgment of conviction challenged? Criminal District Court, New Orleans, Louisiana
2. Date of judgment of conviction? On or about April 8, 2009.
3. Length of sentence? Thirty years Department of Corrections
4. Nature of offense involved? Forcible Rape
5. What was your plea? Guilty
6. Attorney who represented you at your plea and at sentencing? Jason Rogers Williams
7. Did you appeal from the judgment of conviction? No
10. Supporting Facts: Mr. Mills brings this matter primarily as a claim of ineffective assistance of counsel and files this preliminary application to preserve his time for filing. Mr. Mills requests additional time to investigate the matter further.
11. Witnesses in Support of Claim
 - a. Ernest Mills
 - b. Jason Williams
13. If you failed to raise the ground in the trial Court prior to the conviction, on appeal or in a prior application, explain why? Ineffective assistance claims are best handled on post-conviction.
14. Do you have, in a state or federal Court, any petition or appeal now pending as to the judgment challenged? No
15. Do you have any future sentence to serve after you complete the sentence imposed by the judgment challenged, herein? No

SCANNED

EXHIBIT 2



May it Please the Court:

The Defendant, ERNEST MILLS, JR. timely files his original post-conviction application for the purpose of preserving his time in which to file. Mr. Mills still has outstanding, public records request which may provide additional information that is pertinent to his application and therefore request the court hold the matter in abeyance and allow Mr. Mills an opportunity to supplement his original application upon receiving the materials from his public record requests.

STATEMENT OF JURISDICTION

This Honorable Court has jurisdiction under Art. V, § 16 of the Louisiana Constitution of 1974, as amended, and Art. 16 of the Louisiana Code of Criminal Procedure. Mr. Mills brings this action under La.C.Cr.P. art. 930 et. seq. and art. 559.

STATEMENT OF THE CASE AND OF FACTS

The State filed an indictment against Mr. Mills on or about September 13, 2007. He entered a plea of not guilty on September 19, 2007. Several hearings to determine counsel were scheduled before Mr. Jason Williams appeared on October 23, 2007 to represent Mr. Mills. Mr. Williams did not appear for the discovery hearing scheduled for November 27, 2007. The State filed its discovery response on the record on that date. A number of status, discovery conference and motion dates were scheduled with varying results. The record fails to indicate that any motions were held on



behalf of the defendant. The matter was set for trial and continued more than once. On April 8, 2009 the Defendant, Ernest Mills Jr., on the advice of his attorney, entered a plea agreement with the State of Louisiana, and entered a plea to one count of forcible rape. Mr. Mills was promptly sentenced, without benefit of a pre-sentence investigation or a sentencing hearing, to thirty years in the Department of Corrections with credit for all time served. From a factual standpoint, the State alleged that the victim in this matter was underage and that the State was in possession of physical evidence which supported the allegation of rape and linked the defendant to the crime.

LAW AND ARGUMENT

I. Trial counsel was constitutionally ineffective.

Ineffective assistance of counsel claims are best addressed in post-conviction applications because this process affords the trial court an opportunity to hold an evidentiary hearing and to review evidence that is not readily available in the record. State v. Howard, 751 So.2d 783 (La. 4/23/99). The Sixth Amendment to the United States Constitution guarantees a criminal defendant the right to effective assistance of counsel at all parts of the proceedings. "The right to counsel is a fundamental right of a criminal defendant; it assures the fairness, and the the legitimacy, of our adversarial process. The essence of an ineffective-assistance of counsel claim is that counsel's unprofessional errors so upset the adversarial balance between the defense and the prosecution that the trial was



rendered unfair and the verdict rendered suspect." Williamson v. Ward, 110 F.3d 1508 (10th Cir. 1997).

While effective assistance may be difficult to define, Louisiana Courts have adopted a two pronged inquiry into the issue. First, the petitioner must show that counsel failed to perform some essential duty or function that reasonably competent counsel would have performed. State v. Berry, 430 So.2d 1005, 1007 (La. 1983). The duty to investigate a criminal case is considered to be an essential function. Id. at 1008. This duty derives from the most basic functions of counsel, to make the adversarial process work. Williamson v. Ward, 110 F.3d 1508 (10th Cir. 1997). Investigation of a criminal case is such an essential function that even a lack of co-operation from the defendant will not excuse trial counsel's duty to thoroughly investigate a case. Hamilton v. Ayers, 583 F.3d 1100 (9th Cir. 2009). Second, the petitioner bears the burden of showing that counsel's ineffective assistance prejudiced his defense. Id.

In Bryant v. Scott, 28 F.3d 1411 (5th Cir. 1994), the Bryant Court held that trial counsel's performance failed the first prong of Strickland and was constitutionally deficient. The Bryant counsel failed to interview eyewitnesses to the crime and failed to interview witnesses provided by the defendant. The Bryant Court noted that under an objective reasonable attorney standard effective counsel would, at a minimum, interview witnesses and conduct an independent investigation. Here, as in Bryant, that simply was not done. The Bryant Court specifically stated that a mere review of the

record was insufficient preparation. Moreover, a criminal defendant has a Constitutional right to present a defense. State v. Van Winkle, 658 So.2d 198, 201,94-0947 (La. 6/30/95). The Louisiana Constitution Article I, section 16 provides that a criminal defendant has the right "to compel the attendance of witnesses, to present a defense, and to testify in his own behalf." "[I]t is the policy of the law to give to every man accused of a crime a reasonable opportunity to prepare and present his defense to the court or the jury." In fact, "It is difficult to imagine rights more inextricably linked to our concept of a fair trial." VanWinkle, 658 So.2d at 202. Petitioner notes that the question of ineffective assistance of counsel is a cumulative one. It is not proper to divide up each issue in an effort to conquer it; rather, the court must review the totality of the circumstances and the cumulative effect of trial counsel's lapses. Strickland v. Washington, 466 U.S. 668, 690, 104 S.Ct. 2052, 2066, 80 L.Ed.2d 674 (1984).

Failure to conduct motion hearings to suppress evidence

Here, there were critical pieces of evidence that were subject to pre-trial evidentiary motions. Louisiana law provides very specific requirements for the admission of out of court recorded statements of alleged victims of sexual offenses. Here, on the face of the record, it does not appear that the statement met even the most basic of requirements. Here, petitioner sets forth three primary reasons that his counsel was ineffective when advising him to accept the State's plea offer and reserves the right, as more material



becomes available through public record requests to supplement this argument.

Failure to obtain or seek out one or more expert witnesses

The Louisiana Supreme Court sitting in Van Winkle, supra, addressed the significance of the defendant having the ability to contradict the physical evidence in a homicide case. Van Winkle involved the homicide by strangulation death of a twelve year old boy. The boy's mother was charged and convicted of the homicide. In Van Winkle the State theorized that the mother and the boy had gotten in an argument regarding the mother's drinking. The mother had then stomped on the boy's chest, stabbed him with a knife repeatedly, held a pillow over his face and strangled him causing his death.

In reversing the conviction and ordering a new trial, the Van Winkle Court placed great emphasis on the possible alternative explanations of some of the physical findings. The Van Winkle defense argued that the mother's homosexual roommate along with another man had killed the boy during the course of an anal rape. The Van Winkle Court paid particular attention to the possible alternate explanations, including anal elasticity and the possible presence of seminal fluid which may have supported the defense theory. The Van Winkle Court held that exclusion of this alternative explanation of the physical evidence was not harmless beyond a reasonable doubt as there was a reasonable probability that the exclusion of the alternate theory may have contributed to the

SCANNER



verdict. Because physical evidence could be interpreted differently by experts of differing opinions, it is error not to look into the possibility of obtaining an expert witness.

Failure to verify the availability of the State's key witness.

The record indicates some problems early in the case with obtaining the presence of the complaining witness in open court. The record does not indicate whether the witness was available for testimony at the time Mr. Mills entered his plea. Mr. Mills reserves the right to supplement this assignment of error as evidence presents itself.

II. The Defendant, Ernest Mills, did not knowingly or voluntarily enter the guilty plea in the above captioned matter.

It remains well settled law that for a plea to be Constitutional, the plea must be entered into knowingly and voluntarily. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed2d 274 (1969). Any plea induced by a bargain not kept is neither free nor voluntary and therefore, is Constitutionally infirm. Santobello v. New York, 404 U.S. 257, 264, 92 S.Ct. 495, 499, 30 L.Ed.2d 427(1971); State v. Bosworth, 415 So.2d 912, 914 (La. 1982). A Constitutionally infirm plea may be withdrawn at any time including after sentencing. This is true despite the language of La.C.Cr.P. art. 559. See, State v. Galliano, 396 So.2d 1288, 1289 (La. 1981); State v. Hayes, 423 So. 2d 1111, 1112 (La. 1982). The jurisprudence reasons that no person should be deprived of his liberty simply because he failed to timely challenge the voluntariness of his plea. State v. Galliano, 396



So.2d 1288, 1289 (La. 1981); State v. Hayes, 423 So.2d 1111, 1112 (La. 1982).

The facts of the Galliano case are substantially related to the facts in the case at bar. In Galliano, the trial court judge correctly informed the defendant about the maximum penalty for the crime he was pleading guilty to but incorrectly informed him that there was no minimum sentence and that the sentence was suspendable. In fact, the law subjected the Galliano defendant to a mandatory minimum sentence of three years which was not suspendable. Mr. Galliano filed a motion to withdraw his guilty plea a full two months after sentencing. Despite provision of La.C.Cr.P. art. 559 to the contrary, the Louisiana Supreme Court sitting in Galliano, allowed the trial court to handle the withdrawal of the guilty plea. The Galliano Court reasoned, in part, that the withdrawal of the guilty plea could be handled in the same manner as any illegal sentence may be attacked. Likewise, the Louisiana Supreme Court, sitting in State v. Wright, 576 So.2d 996 (La. 1991), set aside a defendant's guilty plea based on the fact that the record supported the defendant's claim that he believed he would receive a suspended sentence as part of the plea bargain. Here, Mr. Mills, as described below, was misled by his attorney into believing that he would be parole eligible in two years when in fact he was not. Hence, Mr. Mills should be allowed to withdraw his guilty plea.

Mr. Mills describes the circumstances surrounding his guilty plea and the advice of his attorney in the following manner:



Imagine Ernest Mills thrown into prison and his bond is set at three millions dollars. He knows nothing about prison, or about law. Pre-motions are crazy, but his attorney assures that he'll walk. Next thing he knows he's going to trial. He asks his lawyer if he has any evidence in his favor but the lawyer tells him no it will be his word against the girl. The lawyer tells him there is no way to prove that the STD did not come from the defendant and that he will not be allowed to question the girl regarding her sexual history. At this point, Mr. Mills is in great fear that no one will believe his side of the events. He relies on his lawyer and ask him what should he do. His lawyer advises him to take the plea deal but Mr. Mills does not want to take the deal. The lawyer tells Mr. Mills that if he goes to trial he will be found guilty on something and he will receive at least a thirty year sentence. The lawyer than tells Mr. Mills that if he accepts the deal he will be eligible for parole in two years but if he goes to trial he will never be eligible for parole. The lawyer shows Mr. Mills the statute in the law and Mr. Mills accepts the plea believing he will be eligible for parole in two years. Upon arriving in DOC, Mr. Mills learned that he is not parole eligible. Where the court can not determine the Defendant's reliance upon assertions made prior to entering the plea the court should hold an evidentiary hearing to determine if the Defendant did rely upon assertions that he would receive a particular sentence before entering his plea. State v. Bosworth, 415 So.2d 912, 914 (La. 1982).

**III. The State withheld evidence in violation of the
and its progeny.**



In Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194 (1963), the Supreme Court established the now familiar rule that due process requires prosecutorial disclosure of evidence which is favorable to the accused and material to guilt or punishment. The rule applies to impeachment evidence as well as exculpatory evidence. Giglio v. United States, 405 U.S. 150, 92 S.Ct. 763, 31 L.Ed.2d 104 (1972). To prevail on a Brady claim, a defendant must show (1) the prosecution suppressed or withheld evidence that was (2) favorable to the accused and (3) material to either guilt or punishment. Edmond v. Collins, 8 F.3d 290 (5th Cir. 1993); Drew v. Collins, 964 F.2d 411 (5th Cir. 1992). Evidence is material, hence discoverable, if there is a "reasonable probability" that the outcome of the trial would have been different had the evidence been disclosed to the defense. United States v. Bagley, 473 U.S. 667, 105 S.Ct. 3375 (1985). If the withheld evidence would seriously undermine the testimony of a key witness on an essential issue or there is no strong corroboration, the withheld evidence is more likely to be material. Wilson v. Whitley, 28 F.3d 433 (5th Cir. 1994). In Kyles v. Whitley, 115 S.Ct. 1555, (1995), the United States Supreme Court further clarified the reasonable probability standard by distinguishing it from the sufficiency of evidence standard. The court emphasized that the standard is not whether or not sufficient evidence remained to convict, but whether the favorable evidence was such that it would have put the entire case in a different light. Id. at 1566. The Kyles Court further emphasized the necessity of



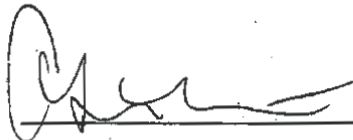
considering the suppressed evidence collectively and cumulatively, rather than item-by-item. Id. at 1567. Whether evidence is material under Brady is a mixed question of law and fact. Graves v. Dretke, 442 F.3rd 334, 339 (5th Cir. 2006). Here, because Mr. Mills is still waiting on a return on his public records request, his Brady claim is not yet ripe. Mr. Mills expressly reserves the right to supplement this filing should evidence of the claim present itself.



CONCLUSION

For the reasons set forth above, Mr. Mills is entitled to and should be granted an evidentiary hearing. When there are questions of fact which cannot be resolved upon the pleadings, an evidentiary hearing for the taking of testimony shall be ordered. La.C.Cr.P. art. 928-930. The nature of the ineffective assistance of counsel claims, here, are such that a record must be developed in order for the trial court to make a meaningful determination of Mr. Mills' claim. However, Mr. Mills files this application to stop his time from running and respectfully requests this Honorable Court grant him additional time to complete the investigation of his claims and to supplement this application.

Respectfully Submitted:



Cate L. Bartholomew, Bar No. 24956
303 South Broad Street
New Orleans, LA 70119
Phone: 504-822-1359
Direct: 504-210-4990
Cell: 504-220-8840
Fax: 504-822-1364
Email: catelaw@live.com

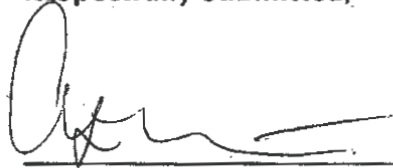
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Brief has been served upon
opposing counsel of record either by hand, by facsimile, by courier service, or by
U.S. Mail this the 6th day of April, 2011.

Respectfully Submitted,

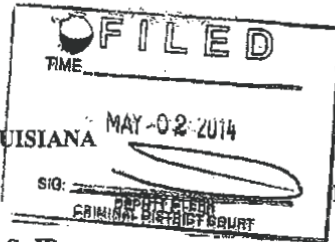


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STATH
6-11-14



ORIGINAL

STATE OF LOUISIANA

CRIMINAL DISTRICT COURT

VERSUS

PARISH OF ORLEANS

ERNEST MILLS, JR.

CASE NO. 472-876 "J"

Filed: _____

Deputy Clerk: _____

**STATE'S PROCEDURAL OBJECTIONS TO PETITIONER'S
APPLICATION FOR POST CONVICTION RELIEF**

NOW INTO COURT, through the undersigned Assistant District Attorney, comes the State of Louisiana, who respectfully files the following procedural objections to Defendant-Petitioner Ernest Mills, Jr.'s Application for Post-Conviction Relief. This matter is set on the Court's May 2, 2014 docket for a status hearing.

RELEVANT PROCEDURAL HISTORY

On September 13, 2007, Petitioner was indicted with two counts of aggravated rape and one count of sexual battery.

On April 8, 2009, Petitioner pled guilty to the amended charge of forcible rape, and the remaining two counts were dismissed. He was sentenced to thirty (30) years at hard labor.

On April 6, 2011, Petitioner, through counsel, filed the instant application for post-conviction relief, alleging (1) he received ineffective assistance of counsel; (2) his plea was not knowing and voluntary; and (3) the prosecution withheld exculpatory evidence.

PROCEDURAL OBJECTIONS

- I. Petitioner has inexcusably failed to comply with the mandates of La. C. Cr. P. art. 926.

Article 926 sets out the requirements for an application for post-conviction relief. It requires that the petitioner "use the uniform application for post conviction relief approved by the Supreme Court of Louisiana" and lists the information that must be included within the form. Petitioner has not used the form or complied with these requirements, and his application should be dismissed for "[i]nexcusable failure to comply." La. C. Cr. P. art. 926(E).

- II. Petitioner's third claim, that "[t]he State withheld evidence in violation of Brady v. Maryland and its progeny," should be dismissed under La. C. Cr. P. art. 928 for failure to state a claim.

An application for post-conviction relief must specify "with reasonable particularity the factual basis" for the relief sought. La. C. Cr. P. art. 926(B)(4). The application "may be dismissed without an answer if the application fails to allege a claim which, if established,

EXHIBIT 3

would entitle the petitioner to relief." La. C. Cr. P. art. 928. Here, Petitioner has alleged no facts that, if proved, would entitle him to relief. As such, Petitioner's third claim should be dismissed.

CONCLUSION

For the reasons stated above, this Honorable Court should grant the State's procedural objections to Petitioner's application for post-conviction relief.

Respectfully Submitted,

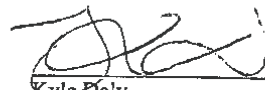


Kyle Daly
Assistant District Attorney

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon opposing counsel for the petitioner by hand this 2 day of May, 2014 by mailing, faxing, or handing it to:

Mr. Raleigh Ohlmeyer, III
1100 Poydras St., Ste 2900
New Orleans, LA 70163-2900
rohlmeier@aol.com



Kyle Daly
Assistant District Attorney

SCANNED



CRIMINAL DISTRICT COURT OF ORLEANS PARISH, LOUISIANA

Page 1

SECTION "J" Judge: THE HONORABLE DARAYL DERBIGNY

Minute Clerk: MAUDE ROSE GEORGE

Court Reporter: VINCENT BORRELLO, JR

Assist. D.A.: SARAH DAWKINS

COREY MOLL

GIDP Attorney: CHRISTEN CHAPMAN

Date: TUESDAY, July 01, 2014

Case Number: 472-876

State of Louisiana

versus

ERNEST HILLS JR

RS 14 42.1

RS 14 43.1(C)(1)

RS 14 42

DEFENSE COUNSEL RALSICK OHLMEYER APPEARED ON BEHALF OF
DEFENDANT, ERNEST HILLS JR, FOR RULING; DEFENDANT DID NOT
APPEAR. THE DEFENDANT WAS NOT REQUIRED AT THIS SETTING.

-THE COURT DENIED THE DEFENSE MOTION FOR POST CONVICTION RELIEF.
THE COURT NOTED THE OBJECTION BY THE DEFENSE.
THE DEFENSE INFORMED THE COURT OF ITS INTENT TO FILE A WRIT

AND REQUESTED A RETURN DATE.

FILING OF WRITS IN THIS MATTER IS SET FOR 08/01/14.

SEND NOTICE TO DEFENSE COUNSEL.

THE DEFENDANT'S PRESENCE IS NOT REQUIRED.

Maude George

MAUDE ROSE GEORGE, Minute Clerk

SET FOR Writ
8-1-14 9:00
DATE TIME
NOTIFY: OPNR
JAIL AND
ATTY AND
STATE DEF
DOCKETED
ISSUED
CK/CHRG
CALENDAR



SCANNED

EXHIBIT 4

472876 - J

SECOND OR SUBSEQUENT UNIFORM APPLICATION FOR POSTCONVICTION RELIEF

Please review La. C.Cr.P. Arts. 924 – 930.9 for the correct procedure for filing an application for postconviction relief. This form does not modify the law or requirements as stated in those articles.

For the Time Limitations for filing this application, please see Louisiana Code of Criminal Procedure (La. C.Cr.P.) Art. 930.8(A), which states in part that "No application for post-conviction relief, including applications which seek an out-of-time appeal, shall be considered if it is filed more than two years after the judgment of conviction and sentence has become final under the provisions of Article 914 or 922..."

See remainder of La. C.Cr.P. Art. 930.8 for the Limited Exceptions relating to the extension of this time period.

SIG: **SECOND OR SUBSEQUENT APPLICATION INSTRUCTIONS – READ CAREFULLY**
CLERK
CRIMINAL DISTRICT COURT

If this is not your First Application for postconviction relief, please carefully review all of the following instructions:

1. In accordance with La. C.Cr.P. Art. 930.4(D) or (E), you are entitled to file one application for postconviction relief after your conviction has become final and within the time limits provided in La. C.Cr.P. Art. 930.8.
2. If you are attempting to file a second or subsequent application, you must use this form and justify your right to file a second or subsequent application in accordance with La. C.Cr.P. Arts. 930.4 and 930.8. If you fail to use this form, your application may be automatically dismissed by the Court.

GENERAL INSTRUCTIONS – READ CAREFULLY

In addition to the above instructions, please carefully review all of the following instructions:

1. You must use this form or the District Court will not consider your application. This could affect your ability to seek relief in accordance with the time limits established in La. C.Cr.P. Art. 930.8. Therefore, you must use this form or justify your failure to do so within the postconviction time limits.
2. This application must be clearly written or typed, signed by you or your attorney, and sworn to before a notary public or institutional officer authorized to administer an oath. Any false statement of a material fact may serve as the basis for a criminal prosecution. Answer questions concisely in the proper space on the form. You may attach additional pages stating the facts that support your claims for relief. No lengthy citations of authorities or legal arguments are necessary.
3. When the application is completed, you must file the original application in the District Court for the parish in which you were convicted and sentenced, and you must also send a copy to the State.
4. You must raise all claims for relief arising out of a single trial or guilty plea in one application.
5. You are only entitled to file an application for postconviction relief to challenge a habitual offender adjudication or sentence within very limited circumstances. In most cases, you can only challenge a habitual offender adjudication or sentence in an appeal.

REQUIRED ATTACHMENTS

A copy of the Louisiana Uniform Commitment Order of conviction and sentence must be attached to the application (if it is available), or the application must allege that it is unavailable.

You must attach a copy of any judgment by any court regarding prior postconviction applications, or this application may be dismissed by the district court. If you are unable to provide any judgments, please explain why.

Date of this Application:	02 / 08 / 20 23	Name of Applicant:	Ernest Mills Jr.
DOC Number:	511358	Place of Confinement:	Louisiana State Penitentiary
District Court Case Number:	472876	Parish of Conviction:	Orleans

EXHIBIT 5


 A True Copy
 Deputy Clerk
 D. Lombard
 District Court

Name of Trial Judge:	Darryl Derbigny	
Offense(s) for which you were convicted:	Forcible rape	
Do any of the convictions involve a sex offense or a human trafficking related offense where the victim was a minor under the age of eighteen years (see La. R.S. 46:1842(1.1) and 46:1844(W)(2))? [Check One]		Yes ☐ No ☒

Date of Conviction:	<u>04</u> / <u>08</u> / <u>2009</u>	Conviction by: [Check One]	Guilty Plea ☒ Trial by Jury ☐ Trial by Judge ☐
Date of Sentencing:	<u>04</u> / <u>08</u> / <u>2009</u>	Sentence:	30 years
Name of Counsel who represented you at the time of trial, sentence and/or conviction:		Jason Roger Williams	

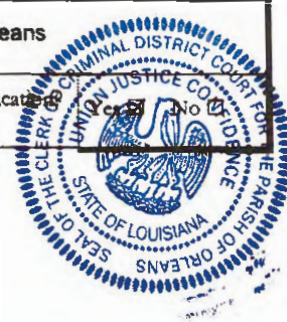
Multiple Offender Proceeding: [Check One]	Yes ☐ No ☒
If yes, answer both of the following questions:	
Result of Proceeding: [Check One]	Pled ☐ Adjudicated to be a Multiple Offender ☐ Adjudicated No Bill ☐
Sentence on Multiple Offender Bill:	

Name of Counsel who represented you on appeal:		
Appeal of conviction and sentence: [Check One]	Yes ☐ No ☒	Appellate Case #:
Appeal of Multiple Bill: [Check One]	Yes ☐ No ☐	Appellate Case #:
Writ to Louisiana Supreme Court: [Check One]	Yes ☐ No ☐	Supreme Court Case #:
Action by Supreme Court: [Check if Applicable]	Granted ☐ Denied ☐	Date of Action: ____ / ____ / ____
Rehearing to Supreme Court: [Check if Applicable]	Granted ☐ Denied ☐	Date of Action: ____ / ____ / ____

PRIOR APPLICATIONS INSTRUCTIONS - READ CAREFULLY

Please provide a list below of all prior applications for postconviction relief filed by you or on your behalf in connection with the judgment of conviction and sentence challenged in this application. If you have filed more than two prior applications, provide the information for each additional application on a separate sheet of paper.

District Court Case Number:	472-876	Parish of Conviction:	Orleans
Date of Filing:	<u>04</u> / <u>06</u> / <u>2011</u>	Is this the same case challenged in this application? [Check One]	



Claims Raised:	1. Ineffective Assistance of Counsel		
	2.		
	3.		
	4.		
[Use Additional Sheet if Necessary]			
Was relief granted or denied? [Check One]		Yes ☐ No ☒	Date of Disposition: <u>08</u> / <u>01</u> / <u>2014</u>
Did you receive an evidentiary hearing? [Check One]		Yes ☒ No ☐	Did you file a writ to the Court of Appeal? [Check One] Yes ☒ No ☐
Which Circuit? [Check One]	1 ☐ 2 ☐ 3 ☐ 4 ☒ 5 ☐		Appellate Case #:
Sought writ to Louisiana Supreme Court? [Check One]	Granted ☐ Denied ☒ Not Sought ☐	Supreme Court Case #:	Date of Ruling <u>12</u> / <u>10</u> / <u>2015</u>

District Court Case Number:		Parish of Conviction:	
Date of Filing: <u> </u> / <u> </u> / <u> </u>	Is this the same case challenged in this application? [Check One]		Yes ☐ No ☐
Claims Raised:	1.		
	2.		
	3.		
	4.		
[Use Additional Sheet if Necessary]			
Was relief granted or denied? [Check One]		Yes ☐ No ☐	Date of Disposition: <u> </u> / <u> </u> / <u> </u>
Did you receive an evidentiary hearing? [Check One]		Yes ☐ No ☐	Did you file a writ to the Court of Appeal? [Check One] Yes ☐ No ☐
Which Circuit? [Check One]	1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐		Appellate Case #:
Sought writ to Louisiana Supreme Court? [Check One]	Granted ☐ Denied ☐ Not Sought ☐	Supreme Court Case #:	Date of Ruling <u> </u> / <u> </u> / <u> </u>

CLAIMS FOR RELIEF INSTRUCTIONS - READ CAREFULLY

You must include in this application all allowable claims relating to this conviction. If you do not, you may be barred from presenting additional claims at a later date. See La. C.Cr.P. Art. 930.4. You must state the facts upon which your claims are based. Do not just set out conclusions.

Please refer to La. C.Cr.P. Art. 930.3 (Grounds), which reads:

"If the petitioner is in custody after sentence for conviction for an offense, relief shall be granted only on the following grounds:

- (1) The conviction was obtained in violation of the constitution of the United States or the State of Louisiana;
- (2) The court exceeded its jurisdiction;



- (3) The conviction or sentence subjected him to double jeopardy;
- (4) The limitations on the institution of prosecution had expired;
- (5) The statute creating the offense for which he was convicted and sentenced is unconstitutional;
- or
- (6) The conviction or sentence constitute the ex post facto application of law in violation of the constitution of the United States or the state of Louisiana.
- (7) The results of DNA testing performed pursuant to an application granted under Article 926.1 proves by clear and convincing evidence that the petitioner is factually innocent of the crime for which he was convicted."

Using a separate sheet of paper, provide the following information as it relates to claims available under La. C.Cr.P. Art. 930.3.

For each claim:

- (A) You must state your claim, the ground on which it is based under La. C.Cr.P. Art. 930.3, and the facts that support your claim.
- (B) If there are witnesses who could testify in support of your claim, you must list their names and current addresses. If you cannot do so, explain why.
- (C) If you failed to raise this claim in the trial court prior to conviction or on appeal, you must explain why. This is your opportunity to state reasons for your failure before the court considers dismissing the application in accordance with La. C.Cr.P. Art. 930.4(F).

In the following space, provide a brief summary of the reasons why you are legally entitled to file a second or subsequent application. If you fail to justify your right to file a second or subsequent application in accordance with La. C.Cr.P. Arts. 930.4 and 930.8, your application may be automatically dismissed.

See attached Memorandum in Support .



Wherefore, Applicant prays that the Court grant Applicant relief to which he/she may be entitled.

02 / 08 / 2023
[Day / Month / Year]

Jacob Longman
[Signature of Applicant or Applicant's attorney]

AFFIDAVIT

STATE OF LOUISIANA

PARISH OF East Baton Rouge

Jacob Longman [Name of Applicant/Attorney], being first duly sworn says that he /she has read the application for postconviction relief and swears or affirms that all of the information therein is true and correct.

Jacob Longman
[Signature of Applicant or Applicant's attorney]

SWORN TO AND SUBSCRIBED before me this

8th day of February, 20 23.

[Signature] #34979
[Signature of Notary]
NOTARY or person authorized to administer oath

Case Name:

JUDGMENT

[May be used by the Court in lieu of or in addition to written reasons]

Case Number:

Considering the foregoing Application for Postconviction Relief, this Honorable Court hereby:

DENIES this application in accordance with La. C.Cr.P. Art.

926(E) ☐ 928 ☐ 929 ☐ 930.4 ☐ or 930.8 ☐ , or

ORDERS that the Applicant show cause in writing on or before the _____ day of _____, 20____ why the application should not be dismissed in accordance with La. C.Cr.P. Art.

926(E) ☐ 928 ☐ 929 ☐ 930.4 ☐ or 930.8 ☐ , or

ORDERS that the State be required to file a response to this application on or before the _____ day of _____, 20____.

Signed in _____, Louisiana, this _____ day of _____, 20____.

JUDGE



**STATE OF LOUISIANA
VERSUS
ERNEST MILLS
DOCKET: 472876 SECTION: J
CRIMINAL DISTRICT COURT
PARISH OF ORLEANS**

**MEMORANDUM OF SUPPORT FOR
APPLICATION FOR POST-CONVICTION RELIEF**



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TABLE OF AUTHORITIES

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Bagley v. United States, 473 U.S. 667, 682 (1985)
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Strickler v. Green, 527 U.S. 263 (1999)
United States v. Ruiz, 536 U.S. 622, 623 (2002)
United States v. Agurs, (1976);

Louisiana Jurisprudence

State v. Brown, 347 So.3d 745, 831-832 (La. 2022)
State v. Diaz, 331 So. 3d 500 (La. App. 5 Cir. 11/17/21)
State v. Falkins, 356 So.2d 415 (La.1978).
State v. Harris, 812 So.2d 612, 617 (La 2002).
State v. Marshall, 660 So.2d 819 (La. 1995).
State v. Ortiz, 567 So.2d 81 (La.1990).
State v. Statum, 390 So.2d 886, 890 (La. 1980).

Louisiana Statutes

La. R.S. 14:42
La. R.S. 14:43.1



PROCEDURAL HISTORY

This application for post-conviction relief arises out of a true bill filed in the Criminal District Court for the Parish of Orleans on September 13, 2007.¹ Mr. Mills was charged by a grand jury with two counts of violating La. R.S. 14:42 (Aggravated Rape) and one count of violating La. R.S. 14:43.1 (Sexual Battery).² Mr. Mills was arraigned on September 19, 2007 and pled not guilty.³ On October 23, 2007, Jason Williams enrolled as Mr. Mill's defense counsel.⁴ On November 27, 2007, the State tendered its Answer to Discovery.⁵ The State filed its witness list on February 7, 2008.⁶

On February 21, 2008 a hearing was held to have the State turn over outstanding discovery.⁷ Trial was originally set for July 22, 2008.⁸ On July 22, 2008, trial was continued until August 12, 2008.⁹ On August 12, 2008, trial was again continued, until November 12, 2008.¹⁰ On November 12, 2008, trial was once again continued until January 28, 2009.¹¹ On January 28, 2009, trial was continued a final time, until April 8, 2009.¹²

On April 8, 2009, Mr. Mills entered a guilty plea as to one count of violation of La. R.S. 14:42.1 (Forcible Rape).¹³ The State abandoned prosecution of one count of La. R.S. 14:42 (Aggravated Rape) and one count of La. R.S. 14:43.1 (Sexual Battery).¹⁴ Mr. Mills was subsequently sentenced to serve 30 years at Department of Correction at hard labor.¹⁵

On May 14, 2010, Mr. Mills applied for supervisory writ to the Louisiana Fourth Circuit Court of Appeals and was granted in part.¹⁶ On April 26, 2011, Mills filed original application for post-conviction relief combined with Motion to Withdraw Guilty Plea, now being represented by Raleigh Ohlmeyer.¹⁷ A hearing was held on the State's procedural default objection to Mr. Mills

¹ See Exhibit A: Indictment of Ernest Mills for two counts of Aggravated Rape 14:42

² See Exhibit A: Grand Jury Indictment of Ernest Mills for First Count - aggravated rape and Second Count - aggravated rape; Grand Jury Indictment of Ernest Mills for Third Count - sexual battery

³ See Exhibit B: Orleans Parish Criminal District Court Docket Sheet

⁴ See Exhibit B: Orleans Parish Criminal District Court Docket Sheet

⁵ See Exhibit B: Orleans Parish Criminal District Court Docket Sheet

⁶ See Exhibit B: Orleans Parish Criminal District Court Docket Sheet

⁷ See Exhibit B: Orleans Parish Criminal District Court Docket Sheet

⁸ See Exhibit B: Orleans Parish Criminal District Court Docket Sheet

⁹ See Exhibit B: Orleans Parish Criminal District Court Docket Sheet

¹⁰ See Exhibit B: Orleans Parish Criminal District Court Docket Sheet

¹¹ See Exhibit B: Orleans Parish Criminal District Court Docket Sheet

¹² See Exhibit B: Orleans Parish Criminal District Court Docket Sheet

¹³ See Exhibit C: Waiver of Constitutional Rights and Plea of Guilty Form filled out by Ernest Mills

¹⁴ See Exhibit B: Orleans Parish Criminal District Court Docket Sheet

¹⁵ See Exhibit C: Waiver of Constitutional Rights and Plea of Guilty Form filled out by Ernest Mills

¹⁶ See Exhibit B: Orleans Parish Criminal District Court Docket Sheet

¹⁷ See Exhibit D: Docket No. 472-876 - Defendant's Original Application for Post-Conviction Relief C/W Defendant's Motion to Withdraw his Guilty Plea



request for post-conviction relief on June 11, 2014.¹⁸ On July 1, 2014, Mr. Mills request for post-conviction relief was denied, and Mr. Mills informed the court of his intent to seek writs.¹⁹ Filing of writs was set for August 1, 2014.²⁰ Mr. Mills filed notice of intent to seek writs on July 23, 2014.²¹ On July 21, 2014, Mr. Mills requested and was granted extension of time, and filing of writs was set for September 1, 2014.²² On December 10, 2015, Mr. Mills writ to the Supreme Court of Louisiana was denied as untimely filed pursuant to LA.S.C.T. Rule X §5.²³

On November 10, 2021, Mr. Mills' prior counsel, District Attorney Jason Williams filed a notice of recusal and ordered the Clerk of Court's office to notify the Attorney General of the State of Louisiana.²⁴ On November 16, 2021, Mr. Mills filed motion to enroll Jacob Longman, Kathryn Jakuback Burke, and Jennifer Cameron as counsel.²⁵

STATEMENT OF THE CASE

In 2007, Ernest Mills Jr. was in a relationship with Crystal Estes.²⁶ Ms. Estes lived with Rayshika Overstreet, Rayshika's husband Byron Overstreet, and their daughter Kennisha Overstreet.²⁷

On July 18, 2007, Detective Corey Lymous of the Child Abuse Unit of the New Orleans Police Department was dispatched to the 3300 block of Kabel Drive.²⁸ Detective Lymous conducted an initial interview with Kinnesha Overstreet, who stated that on multiple occasions in May 2007 Mr. Mills had engaged in the sexual conduct with her at her home while her parents were not present. Because of this conversation, Detective Lymous believed a sexual assault may have occurred.²⁹ On July 20, 2007, Detective Lymous posted notice of warrant for arrest for Ernest Mills to Headquarters Crime Bulletin.³⁰ On July 20, 2007, the Children's Advocacy Center conducted a forensic interview with Kinnesha; additionally, a urine test was administered, which would return positive for Chlamydia.³¹

¹⁸ See Exhibit B: Orleans Parish Criminal District Court Docket Sheet

¹⁹ See Exhibit B: Orleans Parish Criminal District Court Docket Sheet

²⁰ See Exhibit B: Orleans Parish Criminal District Court Docket Sheet

²¹ See Exhibit B: Orleans Parish Criminal District Court Docket Sheet

²² See Exhibit B: Orleans Parish Criminal District Court Docket Sheet

²³ See Exhibit B: Orleans Parish Criminal District Court Docket Sheet; see also 2015-KH-0423

²⁴ See Exhibit B: Orleans Parish Criminal District Court Docket Sheet

²⁵ See Exhibit E: Motion to Enroll as Counsel

²⁶ See Exhibit F: NOPD Supplemental Report RE: Item No. G-21666-07 - Reporting Officer: Det. Corey Lymous

²⁷ See Exhibit F: NOPD Supplemental Report RE: Item No. G-21666-07 - Reporting Officer: Det. Corey Lymous

²⁸ See Exhibit G: NOPD Report RE: G-21666-07, Rape - attached narrative by Lymous

²⁹ See Exhibit G: NOPD Report RE: G-21666-07, Rape - attached narrative by Lymous

³⁰ See Exhibit H: Arrest Warrant, Rap Sheet of Ernest Mills

³¹ See Exhibit G: NOPD Report RE: G-21666-07, Rape - attached narrative by Lymous



Ernest Mills was arrested at 310 9th Street on July 26.³²

Mr. Mills was arraigned on September 19, 2007, on two counts of violating La. R.S. 14:42 (Aggravated Rape) and one count of violating La. R.S. 14:43.1 (Sexual Battery) and pled not guilty to all charges.³³ After several hearings without counsel, Jason Williams enrolled as Mr. Mills's defense counsel on October 23, 2007.³⁴

On October 26, 2007, Assistant District Attorney Isaka Williams sent Rayshika Overstreet a letter informing her that she had tried unsuccessfully to reach Kennisha Overstreet by telephone, and requested that Ms. Overstreet meet with A.D.A. Williams to set up an interview with Kennisha Overstreet.³⁵ The letter also stated that "without [her] testimony and cooperation, this case *may* be dismissed and the defendant will be released from jail." (emphasis original). The letter ended, "If you fail to contact me, I will assume that you do not want to prosecute." On November 27, 2007, the State filed Discovery.³⁶ This October 26th correspondence was not included in the delivery of Discovery to Ernest Mills and his defense counsel.

On November 27, 2007, Assistant District Attorney sent Rayshika Overstreet by certified mail a formal notification of failure to appear for interviews scheduled November 20, 2007, and November 26, 2007, and stressed the necessity of her and Kennisha Overstreet's testimony to the ability to prosecute and prove their case.³⁷ A.D.A. Williams additionally stated, "if I do not hear from you before 5:00 p.m. on December 3, 2007, I will assume you do not want to proceed and this case may be dismissed." (emphasis original).³⁸

On February 21, 2008, a hearing was held on motion, and the State was ordered to turn over outstanding discovery.³⁹ Again, neither the original October 26th communication, nor the subsequent November 27th communicate, were given to Ernest Mills in delivery of discovery.

An initial pre-trial hearing was set for March 10, 2008, which was continued by the State to March 14, 2008. On that date, a pretrial conference was set for March 20, 2008.⁴⁰ At another pre-trial conference on July 15, 2008, trial was set to begin on July 22, 2008. Over the next six

³² See Exhibit I: NOPD Police Report - Item No. G-21666-07 - Narrative attached of Det. Lymous

³³ See Exhibit B: Orleans Parish Criminal District Court Docket Sheet

³⁴ See Exhibit B: Orleans Parish Criminal District Court Docket Sheet

³⁵ See Exhibit J: Letter from ADA Isaka Williams to unknown RE: failing to appear for your scheduled interview

³⁶ See Exhibit B: Orleans Parish Criminal District Court Docket Sheet

³⁷ See Exhibit K: Letter from ADA Isaka Williams RE: scheduled interviews

³⁸ See Exhibit K: Letter from ADA Isaka Williams RE: scheduled interviews

³⁹ See Exhibit B: Orleans Parish Criminal District Court Docket Sheet

⁴⁰ See Exhibit B: Orleans Parish Criminal District Court Docket Sheet



months, Mr. Mills was transported to and appeared in court four times, and at each hearing his trial was continued, ultimately until April 8, 2009.⁴¹

On April 8, 2009, Mr. Mills, on the advice of his counsel Jason Williams, entered a guilty plea as to one count of violation of La. R.S. 14:42.1 (Forcible Rape).⁴² The State abandoned prosecution of the other two initial charges--one count of La. R.S. 14:42 (Aggravated Rape) and one count of La. R.S. 14:43.1 (Sexual Battery). Mr. Mills was sentenced to serve 30 years at Department of Correction at hard labor.⁴³

On April 6, 2011, Mr. Mills filed for post-conviction relief combined with Motion to Withdraw Guilty Plea.⁴⁴ For the next four years, Mr. Mill's waited for response to his application for post-conviction relief. On July 1, 2014, the court denied Mr. Mills application for post-conviction relief.⁴⁵ He then filed writ, which would be denied by the court on December 10, 2015.⁴⁶

In November 2021, Mr. Mills hired Longman Jakuback, A Professional Legal Corporation to investigate his post-conviction relief options.⁴⁷ Longman Jakuback contacted and scheduled a meeting with Mr. Mills's former defense counsel, Jason Williams, and additionally requested the Orleans Parish District Attorney's case file on Mr. Mills.⁴⁸ On August 10, 2022, Williams, Longman, and Cameron met to discuss Mr. Mill's post-conviction claims. Mr. Longman and Ms. Cameron also showed Mr. Williams letters from the District Attorney's case file sent by the then Assistant District Attorney Isaka Williams to Kennisha Overstreet's mother informing her that she was not reporting to the District Attorney or participating in the case, and that charges would be dropped if she remained uncooperative. Mr. Williams stated that at no point during his handling of Mr. Mills's case had he seen the two letters.⁴⁹

When Jason Williams was made aware of these letters, he stated that had he known that Kennisha Overstreet was not being cooperative, he would have advised Mr. Mills against accepting a plea would have instead advised him to take the case to trial.⁵⁰ His opinion was that these letters,

⁴¹ See Exhibit B: Orleans Parish Criminal District Court Docket Sheet

⁴² See Exhibit L: Felony - Waiver of Constitutional Rights - Plea of Guilty Form filled out by Ernest Mills, Jr. on 4/8/09

⁴³ See Exhibit L: Felony - Waiver of Constitutional Rights - Plea of Guilty Form filled out by Ernest Mills, Jr. on 4/8/09

⁴⁴ See Exhibit D: Docket No. 472-876 - Defendant's Original Application for Post-Conviction Relief C/W Defendant's Motion to Withdraw his Guilty Plea

⁴⁵ See Exhibit B: Orleans Parish Criminal District Court Docket Sheet

⁴⁶ See Exhibit B: Orleans Parish Criminal District Court Docket Sheet

⁴⁷ See Exhibit E: Motion to Enroll as Counsel of Record

⁴⁸ See Exhibit M: Letter to Orleans Parish District Attorney's Office, Re: Motion to Enroll

⁴⁹ See Exhibit N: Affidavit of Jason Williams

⁵⁰ See Exhibit N: Affidavit of Jason Williams



and Mr. Overstreet's lack of attendance to scheduled meetings, indicated that she did not wish to take part in the ongoing prosecution.⁵¹ Mr. Williams believed that under these circumstances, Mr. Mills would have taken his advice to forego a plea agreement and instead would have taken his case to trial.⁵²

ARGUMENT

I. The State violated *Brady v. Maryland* when it failed to disclose the letters sent from District Attorney Isaka Williams to Rayshika Overstreet to the defense, causing his counsel to advise him to enter into a guilty plea.

"The state's failure to disclose material evidence favorable to a criminal defendant implicates more than the defendant's discovery rights; the prosecutor has an affirmative duty to disclose such evidence under the Fourteenth Amendment's Due Process Clause. Failure to reveal this evidence implicates the defendant's right to a fair trial."⁵³

In *Brady v. Maryland*, the Supreme Court of the United States determined that the prosecution must turn over evidence that is favorable to an accused upon request where the evidence is material either to guilt or punishment, irrespective of the good or bad faith of the prosecution.⁵⁴ The three components of a *Brady* violation are i) the evidence must have been suppressed by the state either intentionally or inadvertently, ii) the evidence at issue must be favorable to the accused, and iii) the evidence is material.⁵⁵

Louisiana's criminal discovery rules are intended to eliminate unwarranted prejudice arising from surprise testimony and evidence, to permit the defense to meet the state's case, and to allow a proper assessment of the strength of the state's evidence in preparing a defense.⁵⁶ When the defendant is lulled into a misapprehension of the state's case through the prosecution's failure to disclose timely or fully, and the defendant suffers prejudice when undisclosed evidence is used against him, basic unfairness results which constitutes reversible error.⁵⁷

⁵¹ See Exhibit N: Affidavit of Jason Williams

⁵² See Exhibit N: Affidavit of Jason Williams

⁵³ *United States v. Agurs*, (1976); *State v. Marshall*, 660 So.2d 819 (La. 1995). *State v. Ortiz*, 567 So.2d 811 (La. 1990). *State v. Falkins*, 356 So.2d 415 (La. 1978).

⁵⁴ *Brady v. Maryland*, 373 U.S. 83 (1963)

⁵⁵ *Strickler v. Green*, 527 U.S. 263 (1999)

⁵⁶ *State v. Brown*, 347 So.3d 745, 831-832 (La. 2022); *State v. Statum*, 390 So.2d 886, 890 (La. 2000). *State v. Diaz*, 331 So. 3d 500 (La. App. 5 Cir. 11/17/21)

⁵⁷ *State v. Brown*, 347 So. 3d 745, 831 (La. 2022). *State v. Harris*, 812 So.2d 612, 617 (La. 2002)



a. The letters from Assistant District Attorney Isaka Williams to Rayshika Overstreet were withheld by the prosecution in Mr. Mills's case.

Suppression of evidence “irrespective of the good or bad faith of the prosecution” violates the due process of the individual whenever it occurs.⁵⁸ Isaka Williams sent two letters to the Kennisha Overstreet’s mother in the month of November 2007, detailing their failure to show up for scheduled meetings and Ms. Williams’s inability to contact Kennisha Overstreet in regard to her testimony against Mr. Mills. In both of those letters, A.D.A. Williams indicated that if she did not timely hear from Ms. Overstreet and Kinnesha she would assume that they were no longer interested in pursuing prosecution and the case “may be dismissed”. (emphasis original). Both of these correspondences were sent on or before the State delivered discovery to Mr. Mills’s defense counsel—November 27, 2007—and neither of these correspondences were included in this discovery. The State was subsequently ordered to deliver outstanding discovery on February 8, 2008, and again these correspondences were not included.

It was not until August of 2022, when Mr. Mills’s current attorneys requested and received the Orleans Parish District Attorney’s case file on this matter that these correspondences were discovered and seen for the first time by Mr. Mills’s former defense counsel, Jason Williams. These letters and their contents were only made known to him, and to Mr. Mills, through current counsel’s review of the requested District Attorney’s case file on the matter.

b. The suppressed evidence in Mr. Mill’s case was favorable to the defense.

“Favorable” evidence includes that which is exculpatory and that which could be used to impeach a prosecution witness.⁵⁹ This definition of favorability has been expanded to include evidence which would impeach the testimony of a witness where the reliability or the credibility of the witness may be determinative of guilty or innocence.⁶⁰

The letters sent from Ms. Isaka Williams to Rayshika Overstreet indicate not only that Kennisha Overstreet had stopped being a willing and active participant in the charges and cases against Mr. Mills, but there was an increasing probability that the State would be unable to continue to prosecute Mr. Mills without her testimony. While October 26th letter warned that without Ms. Overstreet’s participation, “the case may be dismissed”, the November 27th letter

⁵⁸ *Kyles v. Whitley*, 514 U.S. 419, 431 (1995) (quoting *Brady v. Maryland*, 373 U.S. 83, 87 (1963)).

⁵⁹ *United States v. Bagley*, 473 U.S. 667, 676–77 (1985). *Crawford v. Cain*, 248 F. App’x 500, 503 (5th Cir. 2007).

⁶⁰ *Giglio v. United States*, 405 U.S. 150 (1972).



explicit guaranteed that without her response, the State had no choice but “assume [she did] not want to proceed and this case may be dismissed.” (emphasis original).

With only one piece of physical evidence to rely on, the totality of the State’s case against Mr. Mills depended on the testimony of Kennisha Overstreet. Absent more definitive physical evidence and corroborating testimony, the case was simply Ms. Overstreet’s word against Mr. Mills’s. A.D.A. Williams inability to be reach Kennisha Overstreet and secure her testimony would not only substantially have weakened the State’s case against Mr. Mills, but it very well could have meant that Ms. Overstreet was having second thoughts about the veracity of her statements and desired to recant her statements entirely. At the very least, this unavailable, crucial piece of the State’s case meant that Mr. Mill’s own defense had a much higher chance of success at trial. But at no point leading up to the trial was Mr. Williams made aware of the State’s repeated attempts to contact Overstreet, or of her non-compliance.

- c. The suppression of Ms. Williams failure to appear in court was the reason Mr. Williams advised Mr. Mills entered his plea and thus the result of Mr. Mills case would have been different had it been disclosed.**

Generally, discovery violations do not provide grounds for reversal unless they have actually prejudiced the defendant.⁶¹ Reversible error occurs when failure to disclose the exculpatory material actually prejudices the defendant and the trial court’s failure to remedy the error demonstrates an abuse of discretion. Only when the defendant is “lulled into a misapprehension of the state’s case through the prosecution’s failure to disclose timely or fully, and the defendant suffers prejudice,” ... that basic unfairness results which constitutes reversible error.⁶²

The advice Jason Williams gave to his client to take a plea deal was directly informed by the impression that Kennisha Overstreet’s testimony would be used in trial against Mr. Mills. As previously stated, absent physical evidence or any additional eyewitnesses, her testimony was the entirety of the case. The fact, as known to Jason Williams, that Kennisha Overstreet would be the key witness in a trial against Mr. Mills led him to advise Mr. Mills that his best course of action

⁶¹ *State v. Hudson*, 299 So.3d 131 (La. App. 4 Cir. 4/22/20).

⁶² *State v. Allen*, 663 So.2d 686 (La. 1995). *State v. Serigne*, 193 So. 3d 297, 319, (La. App. 4 Cir. 5/2/96).



was to accept a plea deal that would result in fewer charges. Mr. Williams told Mr. Mills that the single piece of physical evidence, that both parties tested positive for the STI chlamydia, would be taken as conclusive proof that Mr. Mills had had intercourse with Ms. Overstreet. He advised him that there was no way for him to prove that he had not given it to her; he would not be able to question Mr. Overstreet about any prior sexual history that could otherwise explain her contraction of chlamydia.

In Mr. Mills's case there is no doubt that had Ms. Overstreet not been present there would have been a significantly weaker case. The entirety of the State's case rested on her testimony against Mr. Mills. Indeed, had she not taken the stand to testify the State would have been forced to dismiss the charge against Mr. Mills. The failure of the Assistant District Attorney on the case to inform Mr. Mills's defense team about the unavailability and the reluctance of Mr. Overstreet to continue the prosecution against Mr. Mills lead directly to Mr. Mills entering a plea to decades of incarceration.

The appraisal of the prosecution's case is critical an individual's informed decision on how they will plead. While a defendant is not entitled to every piece of evidence in the State's file, any information that could be merely useful to the defendant, or each argument that the State intends to use against them, the Supreme Court has emphasized that they must have "sufficient awareness of the relevant circumstances and likely consequences" to enter a valid guilty plea.⁶³ Surely it cannot be said that an individual has sufficient awareness of relevant circumstances if he pleads guilty to a crime without knowing that the prosecution possesses information that would exculpate him. To allow that the State withhold evidence that would fully inform individuals of the accurate circumstances of their case is to allow the State to withhold material in order to compel defendants before them to plead guilty, even when the merits of the case would not warrant such a verdict. This in turn would incentivize prosecutors to misrepresent the strength of their cases by withholding information, coerce defendants into accepting pleas, removing the right to receive a fair trial as promised by the Due Process Clause, and ultimately casting "the prosecutor in the role of an architect of a proceeding that does not comport with standards of justice" that *Brady* warned of.

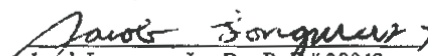
⁶³ *United States v. Ruiz*, 536 U.S. 622, 623 (2002) (quoting *Brady v. United States*, 397 U.S. 742, 748 (1970)).



CONCLUSION

For these reasons, Mr. Mills respectfully petitions this Honorable Court vacate his conviction. Had defense counsel known that the complainant was no longer a cooperating witness, Mr. Williams would not have advised his client to enter a plea agreement, and instead would have taken the case to trial. It is also likely that had Mr. Mills chosen to proceed to trial, absent the participation of the complainant, the State would have dismissed all charges against Mr. Mills. However, the crucial information that the complainant was no longer reachable by the State was never revealed to the defense. Mr. Mills now comes before the Honorable Court to seek Post Conviction Relief in his favor.

Respectfully submitted,


Jacob Longman, La. Bar Roll # 38042
Kathryn Jakuback Burke, La. Bar Roll #37617
Jennifer Carpenter Cameron, La. Bar Roll #39826
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830 Main St.
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jacob@ljlaw.org
kathryn@ljlaw.org
jennifer@ljlaw.org



CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing on the Orleans Parish District Attorney

by electronic mail, by US Mail, by facsimile, by hand delivery, or some other method

commensurate on this the 09 day of February, 2023.

Jacob Longman
JACOB LONGMAN
COUNSEL FOR ERNEST MILLS



STATE OF LOUISIANA

DOCKET NO.: 472876 SECTION: J

CIVIL DISTRICT COURT

VERSUS

PARISH OF ORLEANS

ERNEST MILLS, JR.

STATE OF LOUISIANA

ORDER

CONSIDERING THE FOREGOING Motion and Incorporated Memorandum in Support to Supplement to Uniform Application for Post-Conviction Relief:

IT IS ORDERED that ERNEST MILLS be granted an evidentiary hearing herein and that same be heard on the _____ of _____, 2023 at _____ AM/PM, contradictorily with the State of Louisiana.

THUS DONE AND SIGNED ON THIS THE _____ DAY OF _____, 2023 AT NEW ORLEANS, LOUISIANA

HONORABLE JUDGE

PLEASE NOTICE

JACOB LONGMAN
KATHRYN JAKUBACK BURKE
830 MAIN STREET
BATON ROUGE, LA 70802

ORLEANS PARISH DISTRICT ATTORNEY
619 S. WHITE ST
NEW ORLEANS, LA 70119



PARISH OF ORLEANS

STATE OF LOUISIANA } SS

ITEM NO.: G-31666-07

CRIMINAL DISTRICT COURT FOR THE PARISH OF ORLEANS

FIRST COUNT: THE GRAND JURORS of the State of Louisiana, duly impaneled and sworn in and for the body of the Parish of Orleans, in the name and by the authority of the said State, upon their oath, PRESENT, that, between the 1st day of May, 2007 and the 31st day of May, 2007, one ERNEST MILLS, COMMITTED AGGRAVATED RAPE ON K.O., date of birth 5/20/96, AN INDIVIDUAL UNDER THE AGE OF THIRTEEN YEARS, in the Parish of Orleans, aforesaid, and within the jurisdiction of the Criminal District Court for the Parish of Orleans contrary to the form of Statute of the State of Louisiana in such cases made and provided and against the peace and dignity of the same *amended to*

possible rape 42.1
Bank Africa
ADA
7/18/9

SECOND COUNT: And now the Said GRAND JURORS of the State of Louisiana, duly impaneled and sworn in and for the body of the Parish of Orleans, in the name and by the authority of the said State, upon their oath, PRESENT that, between the 1st day of May, 2007 and the 31st day of May, 2007, one ERNEST MILLS, COMMITTED AGGRAVATED RAPE ON K.O., date of birth 5/20/96, AN INDIVIDUAL UNDER THE AGE OF THIRTEEN YEARS, in the Parish of Orleans, aforesaid, and within the jurisdiction of the Criminal District Court for the Parish of Orleans contrary to the form of Statute of the State of Louisiana in such cases made and provided and against the peace and dignity of the same:

ADUS
DEOS
7/18/9
Bank Africa
ADA

SCANNED

[Signature]
District Attorney for the Parish of Orleans

313-2007-6-04

RECEIVED
SEP 1 8 2007
By

EXHIBIT
A

PARISH OF ORLEANS

STATE OF LOUISIANA } SS

ITEM NO.: G-21666-07

CRIMINAL DISTRICT COURT FOR THE PARISH OF ORLEANS

THIRD COUNT: And now, the Said GRAND JURORS of the State of Louisiana, duly impaneled and sworn in and for the body of the Parish of Orleans, in the name and by the authority of the said State, upon their oath, PRESENT, that, between the 1st day of May, 2007 and the 31st day of May, 2007, one ERNEST MILLS, COMMITTED SEXUAL BATTERY ON K.O., date of birth 5/20/96, AN INDIVIDUAL UNDER THE AGE OF THIRTEEN YEARS, in the Parish of Orleans, aforesaid, and within the jurisdiction of the Criminal District Court for the Parish of Orleans contrary to the form of Statute of the State of Louisiana in such cases made and provided and against the peace and dignity of the same.

NOLLE PROS
Bailiff
7/8/9

SCANNED

James L. ...
District Attorney for the Parish of Orleans

313-202-6-00

NO. G-21660-07

SECTION

COUNT 1

STATE OF LOUISIANA
VERSUS
ERNEST MILLS

INDICTMENT FOR
AGGRAVATED RAPE 14:42
Return Bill Sept 13-07
Ernest T. Hubbard

COUNT 2

STATE OF LOUISIANA
VERSUS
ERNEST MILLS

INDICTMENT FOR
AGGRAVATED RAPE 14:42
Return Bill Sept 13-07
Ernest T. Hubbard

Ernest T. Hubbard
Foreman of Grand Jury

New Orleans, Sept 13, 20 07

Returned in open Court and recorded and

filed _____, 20 _____

Minute Clerk

Arraigned _____, 20 _____

and pleaded _____

Minute Clerk

The accused _____
was sentenced on this _____ day of _____, 20 _____

Minute Clerk

11/11/07
20:00

ERNEST MILLS

APP. 061

NO. G-21666-97

SECTION

COUNT 3

STATE OF LOUISIANA

VERSUS

ERNEST MILLS

INDICTMENT FOR

AGGRAVATED KIDNAPPING 14:43.1

A. Hays Bill Sept 18-07

Ernest T. Hubbard

Ernest T. Hubbard

Foreman of Grand Jury

New Orleans, *Sept 19*, 20 *07*

Returned in open Court and recorded and

filed _____, 20

Minute Clerk

Arraigned _____, 20

and pleaded *not guilty*

Minute Clerk

The accused

was sentenced on this _____ day of _____, 20

Minute Clerk

MILLS000090

CASE: 472-876
SECTION: J
CLASS: 2

DOCKET MASTER

ORLEANS PARISH CRIMINAL DISTRICT COURT

DATE: 1/19/2023
TIME: 13:45:17
PAGE: 1

DF# DEFENDANT(S): CNTS CHARGE(S):
=====

1	MILLS, ERNEST JR	1.	RS 14 43.1(C)(1)	BOND:	3,000,000.00
		2	SEXUAL BATTERY	BOND:	.00
		1	RS 14 42	BOND:	.00
		1	FIRST DEGREE RAPE	BOND:	.00
			RS 14 42.1		
			SECOND DEGREE RAPE		

=====

DATE PROCEEDINGS

9/13/2007 FILED INDICTMENT ALPHONSEC
"TRUE BILL"
CAPLAS ISSUED
BOND SET \$ 3,000,000.00
MAGISTRATE PAPERWORK FILED (NONE)

9/14/2007 ALLOTTED.ARRaignMENT SET FOR 09/19/07. PDOJL. ALPHONSEC

9/19/2007 >THE DEFENDANT, ERNEST MILLS JR APPEARED FOR ARRAIGNMENT. >JOE MPELOW
MEYER STOOD IN FOR ARRAIGNMENT ONLY. >DEFENDANT ENTERED PLEA OF
NOT GUILTY. >DEFENDANT INFORMED OF RIGHT TO TRIAL BY JUDGE OR
JURY. >HRG TO DETERMINE COUNSEL SET FOR 10/17/07 >SEND NOTICE
TO DEFENSE COUNSEL JASON WILLIAMS >PDOJL

10/09/2007 >RE THE DEFENDANT, ERNEST MILLS JR. >DEFENSE FILED: >-MOTION MPELOW
FOR SEVERANCE. >MOTION TO CONTINUE. >HEARING SET FOR 10/23/07
>SEND NOTICE TO DEFENSE COUNSEL JASON WILLIAMS. >PDOJL

10/17/2007 >DEFENSE COUNSEL JOE MEYER APPEARED WITHOUT DEFENDANT, ERNEST MPELOW
MILLS JR FOR HRG TO DETERMINE COUNSEL >DEFENDANT IN CUSTODY AND
NOT BROUGHT INTO COURT. >HRG TO DETERMINE COUNSEL SET FOR
10/26/07 >SEND NOTICE TO DEFENSE COUNSEL JASON WILLIAMS >PDOJL

10/23/2007 >THE DEFENDANT, ERNEST MILLS JR APPEARED FOR HRG TO DETERMINE MPELOW
COUNSEL WITH COUNSEL, JASON WILLIAMS >DISCOVERY HEARING SET FOR
11/27/07 >HEARING ON MOTIONS SET FOR 12/11/07 >SEND NOTICES (MOTIONS ONLY) >NOTIFY DEF.COUNSEL. >PDOJL

11/27/2007 >DEFENDANT, ERNEST MILLS JR APPEARED WITHOUT COUNSEL FOR MPELOW
DISCOVERY HEARING >STATE FILED: >-ANSWER TO DISCOVERY. >STATE
WILL MAKE ALL ATTEMPTS TO PROVIDE DISCOVERY TO DEFENSE

12/11/2007 >DEFENDANT, ERNEST MILLS JR APPEARED WITH COUNSEL, JASON MPELOW
WILLIAMS FOR HEARING ON MOTIONS >CONTINUED ON STATE MOTION
VICTIM IS SCHOOL AGED AND UNABLE TO ATTEND COURT >PRE-TRIAL
CONFERENCE SET FOR 12/20/07 >NOTIFY DEF.COUNSEL. >PDOJL

12/20/2007 >THE DEFENDANT, ERNEST MILLS JR APPEARED FOR PRE-TRIAL MPELOW
CONFERENCE WITH COUNSEL, JASON WILLIAMS >HEARING ON MOTIONS SET
FOR 02/21/08 >SEND NOTICES. >NOTIFY DEF.COUNSEL. >PDOJL

2/07/2008 >RE THE DEFENDANT, ERNEST MILLS JR, >STATE FILED: >-WITNESS MPELOW
LIST.

2/21/2008 >DEFENSE COUNSEL JASON WILLIAMS APPEARED WITHOUT DEFENDANT MPELOW
ERNEST MILLS JR FOR HEARING ON MOTIONS >DEFENDANT IN CUSTODY
AND NOT BROUGHT INTO COURT. STATE TO TRUN OVER OUTSTANDING
DISCOVERY. >PRE-TRIAL HEARING SET FOR 03/10/08 >NOTIFY

CONTINUED



CASE: 472-876
SECTION: J
CLASS: 2

DOCKET MASTER
ORLEANS PARISH CRIMINAL DISTRICT COURT

DATE: 1/19/2023
TIME: 13:45:17
PAGE: 2

DATE	PROCEEDINGS
2/21/2008	DEF. COUNSEL. >PDOJL MPELOW
3/10/2008	>DEFENDANT, ERNEST MILLS JR APPEARED WITH COUNSEL, JASON WILLIAMS FOR PRE-TRIAL HEARING >CONTINUED ON STATE MOTION >PRE-TRIAL HEARING SET FOR 03/14/08 >NOTIFY DEF.COUNSEL. >PDOJL MPELOW
3/14/2008	>THE DEFENDANT, ERNEST MILLS JR APPEARED FOR PRE-TRIAL HEARING WITH COUNSEL, JASON WILLIAMS >THE DEFENSE FILED ORAL MOTION FOR RELEASE >COURT DENIED >PRE-TRIAL CONFERENCE SET FOR 03/20/08 >NOTIFY DEF.COUNSEL. >PDOJL MPELOW
3/20/2008	>DEFENDANT, ERNEST MILLS JR APPEARED WITHOUT COUNSEL FOR DISCOVERY STATUS, DISCOVERY STATUS >DISCOVERY HEARING SET FOR 04/14/08 >NOTIFY DEF.COUNSEL. >PDOJL MPELOW
4/14/2008	>THE DEFENDANT, ERNEST MILLS JR APPEARED FOR DISCOVERY HEARING WITH COUNSEL, JASON WILLIAMS >HEARING ON MOTIONS SET FOR 06/17/08 >SEND NOTICES. >NOTIFY DEF.COUNSEL. >DNOC. MPELOW
6/17/2008	>DEFENDANT, ERNEST MILLS JR APPEARED WITH COUNSEL, JASON WILLIAMS, FOR HEARING ON MOTIONS. THE VIDEOTAPE NOT PRESENT IN COURT TODAY. STATE TO PRESENT COPY TO DEFENSE COUNSEL BY 07/15/08 >CONTINUED ON JOINT MOTION. >PRE-TRIAL CONFERENCE SET FOR 07/15/08 >TRIAL SET FOR 07/22/08 >SEND NOTICES. >NOTIFY DEF.COUNSEL. >PDOJL MPELOW
7/15/2008	>DEFENDANT, ERNEST MILLS JR DID NOT APPEAR FOR PRE-TRIAL CONFERENCE >DEFENDANT IN CUSTODY AND NOT BROUGHT INTO COURT. >TRIAL SET FOR 07/22/08 >SEND NOTICES. >NOTIFY DEF.COUNSEL. >PDOJL MPELOW
7/22/2008	>DEFENDANT, ERNEST MILLS JR APPEARED WITH COUNSEL, JASON WILLIAMS FOR TRIAL >CONTINUED ON STATE MOTION >TRIAL CONTINUED TO 08/12/08 >SEND NOTICES. >NOTIFY DEF.COUNSEL. >PDOJL MPELOW
8/12/2008	>DEFENDANT, ERNEST MILLS JR APPEARED WITH COUNSEL, JASON WILLIAMS FOR TRIAL STATE TENDERED COPY OF AUDIOTAPE INTERVIEW OF VICTIM. >CONTINUED ON DEFENSE MOTION. >TRIAL CONTINUED TO 11/12/08 >SEND NOTICES. >NOTIFY DEF.COUNSEL. >PDOJL MPELOW
11/12/2008	>DEFENDANT, ERNEST MILLS JR APPEARED WITHOUT COUNSEL FOR TRIAL >CONTINUED ON DEFENSE MOTION. >TRIAL CONTINUED TO 01/28/09 >SEND NOTICES. >SEND NOTICE TO DEFENSE COUNSEL JASON WILLIAMS. >PDOJL MPELOW
1/28/2009	>DEFENDANT, ERNEST MILLS JR APPEARED WITH COUNSEL, JASON WILLIAMS FOR TRIAL >CONTINUED ON JOINT MOTION. >TRIAL CONTINUED TO 04/08/09 >SEND NOTICES. >NOTIFY DEF.COUNSEL. >PDOJL MPELOW
4/08/2009	>THE DEFENDANT, ERNEST MILLS JR APPEARED FOR TRIAL WITH COUNSEL, JASON WILLIAMS, >COUNT 3 AMENDED TO RS 14 42.1 FORCIBLE RAPE >FOR COUNT 1 RS 14 43.1 SEXUAL BATTERY NOLLE PROSECUT. >FOR COUNT 2 RS 14 42 AGG RAPE NOLLE PROSECUT. >DEFENDANT PLED GUILTY >FOR COUNT 3 RS 14 42.1 PLED GUILTY. >ERNEST MILLS JR DEFENDANT WAIVED DELAYS. >SENTENCE: >AS TO COUNT 3, >30 YEARS, AT DOC AT HARD LABOR. >CREDIT FOR TIME SERVED. >CASE CLOSED, THIS DEFENDANT. GEORGE M
5/14/2010	COURT OF APPEAL, FOURTH CIRCUIT STATE OF LOUISIANA NOTIFIED THE ALPHONSEC

CONTINUED

CASE: 472-876
SECTION: J
CLASS: 2

DOCKET MASTER
ORLEANS PARISH CRIMINAL DISTRICT COURT

DATE: 1/19/2023
TIME: 13:45:17
PAGE: 3

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DATE	PROCEEDINGS
5/14/2010	COURTS THAT THE DEFENDANT APPLIED FOR A SUPERVISORY WRIT, WRIT GRANTED IN PART. >2010-K-0262 ALPHONSEC
4/06/2011	CLERK'S OFFICE RECEIVED DEFENDANT'S ORIGINAL APPLICATION FOR POST CONVICTION RELIEF C/W DEFENDANT'S MOTION TO WITHDRAW HIS GUILTY PLEA. (AS TO ERNEST MILLS) SHOLESR
4/03/2014	>DEFENSE COUNSEL RALEIGH OHLMEYER APPEARED WITHOUT DEFENDANT ERNEST MILLS JR FOR UNSCHEDULED ACTIVITY >PRESENCE OF DEFENDANT WAIVED. THE STATE WILL FILE PROCEDURAL ON THE DEFENDANT'S POST CONVICTION RELIEF APPLICATION. >STATUS HEARING SET FOR 05/02/14 >NOTIFY DEF.COUNSEL. >DEFENDANT'S PRESENCE NOT REQUIRED. GEORGE M
5/02/2014	>DEFENDANT, ERNEST MILLS JR DID NOT APPEAR FOR STATUS HEARING >STATUS HEARING SET FOR 06/11/14 >SEND NOTICE TO DEFENSE COUNSEL RALEIGH OHLMEYER. >DEFENDANT'S PRESENCE NOT REQUIRED. GEORGE M
5/06/2014	CLERK'S OFFICE RECEIVED STATE'S PROCEDURAL OBJECTIONS TO PETITIONER'S APPLICATION FOR POST CONVICTION RELIEF. (AS TO E.MILLS) TROSCLAIR
6/11/2014	>DEFENSE COUNSEL RALEIGH OHLMEYER APPEARED WITHOUT DEFENDANT, ERNEST MILLS JR FOR STATUS HEARING >PRESENCE OF DEFENDANT WAIVED. ADA KYLE DALY APPEARED AND REPRESENTED THE STATE. >RULING SET FOR 07/01/14 >NOTIFY DEF.COUNSEL. >DEFENDANT'S PRESENCE NOT REQUIRED. GEORGE M
7/01/2014	>DEFENSE COUNSEL RALEIGH OHLMEYER APPEARED WITHOUT DEFENDANT, ERNEST MILLS JR FOR RULING APPEAR. THE DEFENDANT WAS NOT REQUIRED AT THIS SETTING. -THE COURT DENIED THE DEFENSE MOTION FOR POST CONVICTION RELIEF. THE COURT NOTED THE OBJECTION BY THE DEFENSE. THE DEFENSE INFORMED THE COURT OF ITS INTENT TO FILE A WRIT >AND REQUESTED A RETURN DATE. >FILING OF WRITS SET FOR 08/01/14 >NOTIFY DEF.COUNSEL. >DEFENDANT'S PRESENCE NOT REQUIRED. GEORGE M
7/23/2014	CLERK'S OFFICE RECEIVED VIA MAIL NOTICE OF INTENT TO SEEK WRITS/ ORDER FIXING RETURN DATE. WELCHP
7/31/2014	CLERK'S OFFICE RECEIVED MOTION AND ORDER FOR EXTENSION OF TIME. (E.MILLS) GEORGE M * * * * * >DEFENSE COUNSEL RALEIGH OHLMEYER APPEARED WITHOUT DEFENDANT ERNEST MILLS JR FOR UNSCHEDULED ACTIVITY >PRESENCE OF DEFENDANT WAIVED. *THE COURT GRANTED THE DEFENSE MOTION AND ORDER FOR EXTENSION OF TIME. THE COURT WILL VACATE THE FILING OF WRITS DATE OF 8/01/14. >FILING OF WRITS SET FOR 09/01/14 >NOTIFY DEF.COUNSEL. >DEFENDANT'S PRESENCE NOT REQUIRED.
10/03/2014	AFTER RECEIVING DEFENDANT'S PUBLIC RECORDS REQUEST, THE COURT DENIED THE DEFENDANT'S MOTION. NOTICE OF THE COURT'S RULING HAS BEEN MAILED TO HIM AT RAYBURN CORRECTIONAL CENTER, ANGIER, LA, 70426. RANSHIB
12/10/2015	>THE DEFENDANT, ERNEST MILLS JR: -SUPREME COURT WRIT # 2015-KH-0423 WAS FILED INTO THE RECORD ON THIS DATE. WRIT NOT CONSIDERED. UNTIMELY FILED PURSUANT TO LA.S.C.T. >RULE X S 5. THIS MATTER IS CLOSED. GEORGE M

CONTINUED

CASE: 472-876 DOCKET MASTER DATE: 1/19/2023
SECTION: J TIME: 13:45:17
CLASS: 2 PAGE: 4
ORLEANS PARISH CRIMINAL DISTRICT COURT

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DATE      PROCEEDINGS
=====
12/10/2015                                GEORGE M
11/10/2021                                FISHERT
CLERK'S OFFICE RECEIVED NOTICE OR RECUSAL OF THE DISTRICT
ATTORNEY.
>DEFENSE COUNSEL D. KYLE STADTLANDER APPEARED WITHOUT DEFENDANT,
ERNEST MILLS JR FOR UNSCHEDULED ACTIVITY. THE DEFENDANT DID NOT
APPEAR. >PRESENCE OF DEFENDANT WAIVED. ADA G. BEN COHEN
APPEARED ON BEHALF OF THE STATE. STATE FILED> NOTICE OF RECUSAL
OF THE DISTRICT ATTORNEY THE COURT SIGNED THE NOTICE AND
ORDERED THE CLERK'S OFFICE TO NOTIFY THE ATTORNEY GENERAL OF
THE STATE OF LOUISIANA. THE DEFENDANT HAS PREVIOUSLY FILED A
MOTION TO RECONSIDER SENTENCE >CASE CLOSED, THIS DEFENDANT.

11/16/2021                                FISHERT
CLERK'S OFFICE RECEIVED MOTION TO ENROLL AS COUNSEL. (MILLS E.)
=====
END OF DOCKET MASTER
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State of Louisiana
Versus

ERNEST MILLS JR.

Case Number: 472-896
Violation R.S. 14:42.1

Felony
Waiver of Constitutional Rights
Plea of Guilty Form

EM

I, ERNEST MILLS JR., before my plea of guilty to the crime of FORCIBLE RAPE 1st, have been informed of and understand the charge of which I am pleading guilty.

EM

I understand that I have a right to a trial by Judge or Jury and if convicted a right to appeal and by entering a plea of guilty in this case I am waiving my rights to trial and appeal.

EM

The acts constituting the offense to which I am pleading guilty have been explained to me as well as the fact that for this crime the sentencing range is to a maximum of 10 years. The sentence I will receive is 30 mos. D.C.; 1 year for the same.

EM

I understand that by pleading guilty I waive my right to confront and cross-examine the witnesses who accuse me of this crime and to compulsory process of the court to require witnesses to appear and testify for me.

EM

I am entering a plea of guilty to this because I am, in fact guilty.

EM

I have not been forced, threatened or intimidated into making this plea.

EM

I am fully satisfied with the handling of my case by my attorney and the way in which he has represented me.

EM

I further understand that by pleading guilty I waive my right against self-incrimination, that at my trial I would not have to testify, and if I did not testify neither the judge nor the jury could hold my silence against me. I also give up the right not to say anything against myself, or against my interest, such as I do by pleading guilty.

EM

I understand that if I elected to have a trial I have a right to have competent counsel to represent me at trial and if I were unable to pay for counsel the Court would appoint competent counsel to represent me, but by entering a plea of guilty I waive these rights.

EM

I understand that I am entitled to a free transcript of this Boykin proceeding and, if applicable, the Multiple Bill proceedings, and am hereby waiving my right to this/these transcripts.

EM

I understand that there is a two year time period during which to seek post conviction relief.

EM

If a plea bargain agreement has been made, I understand that no other promises which may have been made to me other than those set forth in the above are enforceable or binding.

[Signature]
DEFENSE ATTORNEY

Ernest Mills Jr.
DEFENDANT

This plea of guilty is accepted by the Court as having been knowingly, intelligently, and voluntarily made by the defendant.

4/8/09
DATE

[Signature]
Darryl A. Derogay, Judge

EXHIBIT

C

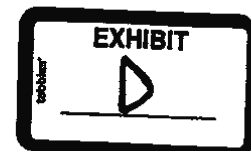
STATE OF LOUISIANA CRIMINAL DISTRICT COURT
 VERSUS NO. 472-876 PARISH OF JEFFERSON
 ERNEST MILLS JR. STATE OF LOUISIANA
 FILED: _____ CLERK: _____

FILED
 APR 14 2011
 DEPUTY CLERK
 CRIMINAL DISTRICT COURT

**DEFENDANT'S ORIGINAL APPLICATION FOR POST-CONVICTION
 RELIEF C/W DEFENDANT'S MOTION TO WITHDRAW HIS GUILTY
 PLEA**

1. Name and location of court which entered the judgment of conviction challenged? Criminal District Court, New Orleans, Louisiana
2. Date of judgment of conviction? On or about April 8, 2009.
3. Length of sentence? Thirty years Department of Corrections
4. Nature of offense involved? Forcible Rape
5. What was your plea? Guilty
6. Attorney who represented you at your plea and at sentencing? Jason Rogers Williams
7. Did you appeal from the judgment of conviction? No
10. Supporting Facts: Mr. Mills brings this matter primarily as a claim of ineffective assistance of counsel and files this preliminary application to preserve his time for filing. Mr. Mills requests additional time to investigate the matter further.
11. Witnesses in Support of Claim
 - a. Ernest Mills
 - b. Jason Williams
13. If you failed to raise the ground in the trial Court prior to the conviction, on appeal or in a prior application, explain why? Ineffective assistance claims are best handled on post-conviction.
14. Do you have, in a state or federal Court, any petition or appeal now pending as to the judgment challenged? No
15. Do you have any future sentence to serve after you complete the sentence imposed by the judgment challenged, herein? No

SCANNED



May it Please the Court:

The Defendant, ERNEST MILLS, JR. timely files his original post-conviction application for the purpose of preserving his time in which to file. Mr. Mills still has outstanding, public records request which may provide additional information that is pertinent to his application and therefore request the court hold the matter in abeyance and allow Mr. Mills an opportunity to supplement his original application upon receiving the materials from his public record requests.

STATEMENT OF JURISDICTION

This Honorable Court has jurisdiction under Art. V, § 16 of the Louisiana Constitution of 1974, as amended, and Art. 16 of the Louisiana Code of Criminal Procedure. Mr. Mills brings this action under La.C.Cr.P. art. 930 et. seq. and art. 559.

STATEMENT OF THE CASE AND OF FACTS

The State filed an indictment against Mr. Mills on or about September 13, 2007. He entered a plea of not guilty on September 19, 2007. Several hearings to determine counsel were scheduled before Mr. Jason Williams appeared on October 23, 2007 to represent Mr. Mills. Mr. Williams did not appear for the discovery hearing scheduled for November 27, 2007. The State filed its discovery response on the record on that date. A number of status, discovery conference and motion dates were scheduled with varying results. The record fails to indicate that any motions were held on

behalf of the defendant. The matter was set for trial and continued more than once. On April 8, 2009 the Defendant, Ernest Mills Jr., on the advice of his attorney, entered a plea agreement with the State of Louisiana, and entered a plea to one count of forcible rape. Mr. Mills was promptly sentenced, without benefit of a pre-sentence investigation or a sentencing hearing, to thirty years in the Department of Corrections with credit for all time served. From a factual standpoint, the State alleged that the victim in this matter was underage and that the State was in possession of physical evidence which supported the allegation of rape and linked the defendant to the crime.

LAW AND ARGUMENT

I. Trial counsel was constitutionally ineffective.

Ineffective assistance of counsel claims are best addressed in post-conviction applications because this process affords the trial court an opportunity to hold an evidentiary hearing and to review evidence that is not readily available in the record. State v. Howard, 751 So.2d 783 (La. 4/23/99). The Sixth Amendment to the United States Constitution guarantees a criminal defendant the right to effective assistance of counsel at all parts of the proceedings. "The right to counsel is a fundamental right of a criminal defendant; it assures the fairness, and the the legitimacy, of our adversarial process. The essence of an ineffective-assistance of counsel claim is that counsel's unprofessional errors so upset the adversarial balance between the defense and the prosecution that the trial was

SCANNED

rendered unfair and the verdict rendered suspect." Williamson v. Ward, 110 F.3d 1508 (10th Cir. 1997).

While effective assistance may be difficult to define, Louisiana Courts have adopted a two pronged inquiry into the issue. First, the petitioner must show that counsel failed to perform some essential duty or function that reasonably competent counsel would have performed. State v. Berry, 430 So.2d 1005, 1007 (La. 1983). The duty to investigate a criminal case is considered to be an essential function. Id. at 1008. This duty derives from the most basic functions of counsel, to make the adversarial process work. Williamson v. Ward, 110 F.3d 1508 (10th Cir. 1997). Investigation of a criminal case is such an essential function that even a lack of co-operation from the defendant will not excuse trial counsel's duty to thoroughly investigate a case. Hamilton v. Ayers, 583 F.3d 1100 (9th Cir. 2009). Second, the petitioner bears the burden of showing that counsel's ineffective assistance prejudiced his defense. Id.

In Bryant v. Scott, 28 F.3d 1411 (5th Cir. 1994), the Bryant Court held that trial counsel's performance failed the first prong of Strickland and was constitutionally deficient. The Bryant counsel failed to interview eyewitnesses to the crime and failed to interview witnesses provided by the defendant. The Bryant Court noted that under an objective reasonable attorney standard effective counsel would, at a minimum, interview witnesses and conduct an independent investigation. Here, as in Bryant, that simply was not done. The Bryant Court specifically stated that a mere review of the

record was insufficient preparation. Moreover, a criminal defendant has a Constitutional right to present a defense. State v. Van Winkle, 658 So.2d 198, 201,94-0947 (La. 6/30/95). The Louisiana Constitution Article I, section 16 provides that a criminal defendant has the right "to compel the attendance of witnesses, to present a defense, and to testify in his own behalf." "[I]t is the policy of the law to give to every man accused of a crime a reasonable opportunity to prepare and present his defense to the court or the jury." In fact, "It is difficult to imagine rights more inextricably linked to our concept of a fair trial." VanWinkle, 658 So.2d at 202. Petitioner notes that the question of ineffective assistance of counsel is a cumulative one. It is not proper to divide up each issue in an effort to conquer it; rather, the court must review the totality of the circumstances and the cumulative effect of trial counsel's lapses. Strickland v. Washington, 466 U.S. 668, 690, 104 S.Ct. 2052, 2066, 80 L.Ed.2d 674 (1984).

Failure to conduct motion hearings to suppress evidence

Here, there were critical pieces of evidence that were subject to pre-trial evidentiary motions. Louisiana law provides very specific requirements for the admission of out of court recorded statements of alleged victims of sexual offenses. Here, on the face of the record, it does not appear that the statement met even the most basic of requirements. Here, petitioner sets forth two reasons that his counsel was ineffective when advising him to accept the State's plea offer and reserves the right, as more material

becomes available through public record requests to supplement this argument.

Failure to obtain or seek out one or more expert witnesses

The Louisiana Supreme Court sitting in Van Winkle, supra, addressed the significance of the defendant having the ability to contradict the physical evidence in a homicide case. Van Winkle involved the homicide by strangulation death of a twelve year old boy. The boy's mother was charged and convicted of the homicide. In Van Winkle the State theorized that the mother and the boy had gotten in an argument regarding the mother's drinking. The mother had then stomped on the boy's chest, stabbed him with a knife repeatedly, held a pillow over his face and strangled him causing his death.

In reversing the conviction and ordering a new trial, the Van Winkle Court placed great emphasis on the possible alternative explanations of some of the physical findings. The Van Winkle defense argued that the mother's homosexual roommate along with another man had killed the boy during the course of an anal rape. The Van Winkle Court paid particular attention to the possible alternate explanations, including anal elasticity and the possible presence of seminal fluid which may have supported the defense theory. The Van Winkle Court held that exclusion of this alternative explanation of the physical evidence was not harmless beyond a reasonable doubt as there was a reasonable probability that the exclusion of the alternate theory may have contributed to the

verdict. Because physical evidence could be interpreted differently by experts of differing opinions, it is error not to look into the possibility of obtaining an expert witness.

Failure to verify the availability of the State's key witness.

The record indicates some problems early in the case with obtaining the presence of the complaining witness in open court. The record does not indicate whether the witness was available for testimony at the time Mr. Mills entered his plea. Mr. Mills reserves the right to supplement this assignment of error as evidence presents itself.

II. The Defendant, Ernest Mills, did not knowingly or voluntarily enter the guilty plea in the above captioned matter.

It remains well settled law that for a plea to be Constitutional, the plea must be entered into knowingly and voluntarily. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed2d 274 (1969). Any plea induced by a bargain not kept is neither free nor voluntary and therefore, is Constitutionally infirm. Santobello v. New York, 404 U.S. 257, 264, 92 S.Ct. 495, 499, 30 L.Ed.2d 427(1971); State v. Bosworth, 415 So.2d 912, 914 (La. 1982). A Constitutionally infirm plea may be withdrawn at any time including after sentencing. This is true despite the language of La.C.Cr.P. art. 559. See, State v. Galliano, 396 So.2d 1288, 1289 (La. 1981); State v. Hayes, 423 So. 2d 1111, 1112 (La. 1982). The jurisprudence reasons that no person should be deprived of his liberty simply because he failed to timely challenge the voluntariness of his plea. State v. Galliano, 396

SCANNED

So.2d 1288, 1289 (La. 1981); State v. Hayes, 423 So.2d 1111, 1112 (La. 1982).

The facts of the Galliano case are substantially related to the facts in the case at bar. In Galliano, the trial court judge correctly informed the defendant about the maximum penalty for the crime he was pleading guilty to but incorrectly informed him that there was no minimum sentence and that the sentence was suspendable. In fact, the law subjected the Galliano defendant to a mandatory minimum sentence of three years which was not suspendable. Mr. Galliano filed a motion to withdraw his guilty plea a full two months after sentencing. Despite provision of La.C.Cr.P. art. 559 to the contrary, the Louisiana Supreme Court sitting in Galliano, allowed the trial court to handle the withdrawal of the guilty plea. The Galliano Court reasoned, in part, that the withdrawal of the guilty plea could be handled in the same manner as any illegal sentence may be attacked. Likewise, the Louisiana Supreme Court, sitting in State v. Wright, 576 So.2d 996 (La. 1991), set aside a defendant's guilty plea based on the fact that the record supported the defendant's claim that he believed he would receive a suspended sentence as part of the plea bargain. Here, Mr. Mills, as described below, was misled by his attorney into believing that he would be parole eligible in two years when in fact he was not. Hence, Mr. Mills should be allowed to withdraw his guilty plea.

Mr. Mills describes the circumstances surrounding his guilty plea and the advice of his attorney in the following manner:

SCANNED

Imagine Ernest Mills thrown into prison and his bond is set at three millions dollars. He knows nothing about prison, or about law. Pre-motions are crazy, but his attorney assures that he'll walk. Next thing he knows he's going to trial. He asks his lawyer if he has any evidence in his favor but the lawyer tells him no it will be his word against the girl. The lawyer tells him there is no way to prove that the STD did not come from the defendant and that he will not be allowed to question the girl regarding her sexual history. At this point, Mr. Mills is in great fear that no one will believe his side of the events. He relies on his lawyer and ask him what should he do. His lawyer advises him to take the plea deal but Mr. Mills does not want to take the deal. The lawyer tells Mr. Mills that if he goes to trial he will be found guilty on something and he will receive at least a thirty year sentence. The lawyer than tells Mr. Mills that if he accepts the deal he will be eligible for parole in two years but if he goes to trial he will never be eligible for parole. The lawyer shows Mr. Mills the statute in the law and Mr. Mills accepts the plea believing he will be eligible for parole in two years. Upon arriving in DOC, Mr. Mills learned that he is not parole eligible. Where the court can not determine the Defendant's reliance upon assertions made prior to entering the plea the court should hold an evidentiary hearing to determine if the Defendant did rely upon assertions that he would receive a particular sentence before entering his plea. State v. Bosworth, 415 So.2d 912, 914 (La. 1982).

III. The State withheld evidence in violation of Brady v. Maryland and its progeny.

SCANNED

In Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194 (1963), the Supreme Court established the now familiar rule that due process requires prosecutorial disclosure of evidence which is favorable to the accused and material to guilt or punishment. The rule applies to impeachment evidence as well as exculpatory evidence. Giglio v. United States, 405 U.S. 150, 92 S.Ct. 763, 31 L.Ed.2d 104 (1972). To prevail on a Brady claim, a defendant must show (1) the prosecution suppressed or withheld evidence that was (2) favorable to the accused and (3) material to either guilt or punishment. Edmond v. Collins, 8 F.3d 290 (5th Cir. 1993); Drew v. Collins, 964 F.2d 411 (5th Cir. 1992). Evidence is material, hence discoverable, if there is a "reasonable probability" that the outcome of the trial would have been different had the evidence been disclosed to the defense. United States v. Bagley, 473 U.S. 667, 105 S.Ct. 3375 (1985). If the withheld evidence would seriously undermine the testimony of a key witness on an essential issue or there is no strong corroboration, the withheld evidence is more likely to be material. Wilson v. Whitley, 28 F.3d 433 (5th Cir. 1994). In Kyles v. Whitley, 115 S.Ct. 1555, (1995), the United States Supreme Court further clarified the reasonable probability standard by distinguishing it from the sufficiency of evidence standard. The court emphasized that the standard is not whether or not sufficient evidence remained to convict, but whether the favorable evidence was such that it would have put the entire case in a different light. Id. at 1566. The Kyles Court further emphasized the necessity of

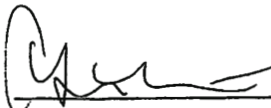
considering the suppressed evidence collectively and cumulatively, rather than item-by-item. *Id.* at 1567. Whether evidence is material under Brady is a mixed question of law and fact. Graves v. Dretke, 442 F.3rd 334, 339 (5th Cir. 2006). Here, because Mr. Mills is still waiting on a return on his public records request, his Brady claim is not yet ripe. Mr. Mills expressly reserves the right to supplement this filing should evidence of the claim present itself.

SCANNED

CONCLUSION

For the reasons set forth above, Mr. Mills is entitled to and should be granted an evidentiary hearing. When there are questions of fact which cannot be resolved upon the pleadings, an evidentiary hearing for the taking of testimony shall be ordered. La.C.Cr.P. art. 928-930. The nature of the ineffective assistance of counsel claims, here, are such that a record must be developed in order for the trial court to make a meaningful determination of Mr. Mills' claim. However, Mr. Mills files this application to stop his time from running and respectfully requests this Honorable Court grant him additional time to complete the investigation of his claims and to supplement this application.

Respectfully Submitted:



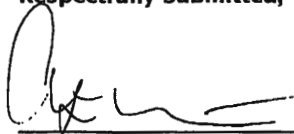
Cate L. Bartholomew, Bar No. 24956
303 South Broad Street
New Orleans, LA 70119
Phone: 504-822-1359
Direct: 504-210-4990
Cell: 504-220-8840
Fax: 504-822-1364
Email: catelaw@live.com

SCANNED

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Brief has been served upon
opposing counsel of record either by hand, by facsimile, by courier service, or by
U.S. Mail this the 6th day of April, 2011.

Respectfully Submitted,



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SCANNED

STATE OF LOUISIANA

VERSUS

ERNEST MILLS, JR.

DOCKET NO.: 472876 SECTION: J

CRIMINAL DISTRICT COURT

PARISH OF ORLEANS

STATE OF LOUISIANA

MOTION TO ENROLL AS COUNSEL

NOW INTO COURT through undersigned counsel comes ERNEST MILLS, JR., who moves this Honorable Court to allow Jacob Longman, Kathryn Jakuback Burke, and Jennifer Carpenter Cameron, attorneys of Longman Jakuback, A Professional Legal Corporation to be entered as counsel of record in the above captioned matter. In support of this motion, Ernest Mills, Jr. offers the following:

1.

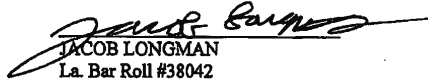
Mr. Mills requests that he and his attorneys be given written notification regarding any pending and ensuing court dates.

2.

The attorneys of Longman Jakuback, A Professional Legal Corporation desire to be enrolled as counsel of record in the above-captioned matter.

WHEREFORE, ERNEST MILLS, JR. prays the foregoing be deemed sufficient and the attorneys of Longman Jakuback, A Professional Legal Corporation entered as counsel of record in the above-captioned matter.

Respectfully submitted,


JACOB LONGMAN

La. Bar Roll #38042

KATHRYN JAKUBACK BURKE

La. Bar Roll #37617

JENNIFER CARPENTER CAMERON

La. Bar Roll #39826

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STATE OF LOUISIANA

VERSUS

ERNEST MILLS, JR.

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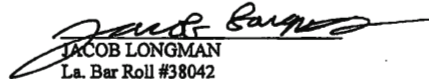
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STATE OF LOUISIANA

VERSUS

ERNEST MILLS, JR.

DOCKET NO.: 472876 SECTION: J

CRIMINAL DISTRICT COURT

PARISH OF ORLEANS

STATE OF LOUISIANA

ORDER

Considering the above and foregoing *Motion to Enroll as Counsel*, it is ORDERED that the attorneys of Longman Jakuback, A Professional Legal Corporation be entered as counsel of record for Ernest Mills, Jr. in the above-captioned matter.

THUS DONE AND SIGNED in Baton Rouge, Louisiana this ____ day of November, 2021.

HONORABLE JUDGE DARRYL A. DERBIGNY
ORLEANS PARISH CRIMINAL DISTRICT COURT

PLEASE SERVE:

ORLEANS PARISH DISTRICT ATTORNEY'S OFFICE
619 S. White Street
New Orleans, LA 70119

LONGMAN JAKUBACK, APLC
830 Main St.
Baton Rouge, LA 70802

NEW ORLEANS POLICE DEPARTMENT				☐ INCIDENT REPORT ☒ SUPPLEMENTAL REPORT PAGE 1 OF 52		ITEM NUMBER G-21666-07			
EVENT	SIGNAL 42		INCIDENT RAPE		DATE/TIME OCCURRED 07-18-07/ 1:48 P.M.		DIST/ZONE/SUB 4 D01		
	LOCATION OF OCCURRENCE 3310 Kabel Drive		DATE/TIME OF REPORT 07-18-07/ 1:48 P.M.		LIGHTING G		STATUS ☐ OPEN ☐ CLEARED BY ARREST ☐ CLEARED BY EXCEPT. ☒ WARRANT ISSUED ☐ UNFOUNDED		
VICTIM/REPORTING PERSON	☐ VICTIM ☐ WITNESS ☐ REPORTING PERSON ☐ INTERVIEW		DATE OF BIRTH OR AGE 05-20-1988		RACE B	SEX F	VICTIM TYPE O		
	Overstreet, Kennisha		HOME PHONE		SOCIAL SECURITY NUMBER		SOBRIETY S		
	HOME ADDRESS		ZIP CODE		INJURY N		TREATED X		
	BUSINESS ADDRESS		ZIP CODE		BUSINESS PHONE		OCCUPATION		
VICTIM/REPORTING PERSON	☐ VICTIM ☐ WITNESS ☐ REPORTING PERSON ☐ INTERVIEW		DATE OF BIRTH OR AGE 08-21-1979		RACE B	SEX F	VICTIM TYPE X		
	Overstreet, Rayshika		HOME PHONE		SOCIAL SECURITY NUMBER		SOBRIETY X		
	HOME ADDRESS		ZIP CODE		INJURY X		TREATED X		
	BUSINESS ADDRESS		ZIP CODE		BUSINESS PHONE		OCCUPATION		
OFFENDER	☐ ARRESTED ☐ WANTED ☐ MISSING ☐ RUNAWAY		DATE OF BIRTH 05-15-1988		RACE B	SEX M	HEIGHT 5'11"		
	Mills, Ernest Jr.		DATE/TIME OF ARREST		ARREST CREDIT		WEIGHT 200		
	HOME ADDRESS		ZIP CODE 70058		SOCIAL SECURITY NUMBER		SOBRIETY X		
	310 9th Street, Gretna, Louisiana		X		X		INJURY X		
	ARREST LOCATION		X		X		TREATED X		
	ALIAS/NICKNAME		MAGISTRATE DATE/TIME		TRANSPORTED BY		DRUGS WAIVED FORM NONE		
	X		X		X		UNIT X		
	ARRESTEE ARMED AT TIME OF ARREST		ARREST TYPE		RESIDENT STATUS		JUVENILE DISPOSITION		
	☐ UNARMED ☐ HANDGUN ☐ RIFLE ☐ KNIFE ☐ OTHER WEAPON ☐ AUTOMATIC ☐ SEMI-AUTOMATIC		☐ ON VIEW ☐ EXPIRING WARRANT ☐ BOND/ON		☐ ORLEANS RESIDENT ☐ NON-RESIDENT		☐ RELEASED TO PARENT ☐ HELD FOR COURT		
	CHARGES		R.S.14:42 RELATIVE TO AGGRAVATED RAPE		VICTIM #		RELATIONSHIP		
		R.S.14:42 RELATIVE TO AGGRAVATED RAPE		1		I			
		R.S.14:431 RELATIVE TO SEXUAL BATTERY		1		I			
DESCRIPTION	01-BUILD		02-ODDITIES		03-SCARS		04-TATTOOS		
	☐ 01 SMALL/PETITE ☐ 02 TALL ☐ 03 MEDIUM ☐ 04 MUSCULAR ☐ 05 HEAVY/STOCKY ☐ 06 PLUMP ☐ 07 STOCKED SHOULDERS ☐ 08 NARROW SHOULDERS ☐ 09 BROAD SHOULDERS ☐ 10 DWARD/PROBET		☐ 01 LIMP ☐ 02 CREPPLED ARM ☐ 03 MISSING ARM ☐ 04 MISSING FINGER ☐ 05 MISSING HAND ☐ 06 MISSING FOOT ☐ 07 MISSING LEG ☐ 08 ABNORMAL DENTALS ☐ 09 BODY ODOR ☐ 10 LEFT HANDED		☐ 01 CHECK LEFT ☐ 02 CREEK, RIGHT ☐ 03 CHIN ☐ 04 EAR, LEFT ☐ 05 EAR, RIGHT ☐ 06 EYEBROW, LEFT ☐ 07 EYEBROW, RIGHT ☐ 08 LIP UPPER ☐ 09 NOSE ☐ 10 NECK		☐ 01 ARM, LEFT ☐ 02 ARM, RIGHT ☐ 03 HAND, LEFT ☐ 04 HAND, RIGHT ☐ 05 WREST, LEFT ☐ 06 WREST, RIGHT ☐ 07 CHEST ☐ 08 BACK ☐ 09 LEG, LEFT ☐ 10 LEG, RIGHT		
	05-APPAREL		06-SPEECH		07-ACCENT		08-FACIAL ODOR		
	☐ 01 CLOTH OVER FACE ☐ 02 STOCKING OVER FACE ☐ 03 MASK ☐ 04 HEADWEAR ☐ 05 SUNGLASSES ☐ 06 RINGS ☐ 07 GLOVES ☐ 08 CUFFS ☐ 09 MALE FEMALE ATTIRE ☐ 10 TENNIS SHOES		☐ 01 SOFT/POLE ☐ 02 RASPY/DEEP ☐ 03 RAPID ☐ 04 SLOW ☐ 05 LOUD ☐ 06 HUMBLE ☐ 07 BUTTERFLY ☐ 08 MELLOW ☐ 09 APOLOGETIC ☐ 10 EFFEMINATE		☐ 01 AFRO/AMERICAN ☐ 02 SPANISH ☐ 03 CUBAN ☐ 04 FRENCH ☐ 05 ENGLISH ☐ 06 JAMAICAN ☐ 07 OTHER		☐ 01 BLOTCHES ☐ 02 FRECKLES ☐ 03 MOLEWARTS ☐ 04 PIMPLEPOCKS ☐ 05 WRINKLES ☐ 06 THICK LIPS ☐ 07 DEFORMED EAR ☐ 08 MISSING EAR		
	09-EYES		10-NOSE		11-TEETH		12-HAIR COLOR		
	☐ 01 BLUE ☐ 02 BROWN ☐ 03 GREY ☐ 04 GREEN ☐ 05 BLOODSHOT ☐ 06 BULGING ☐ 07 CROSSED ☐ 08 MISSED/CLOSE ☐ 09 UNIDENTIFIED ☐ 10 BLANDED/ORIENTAL		☐ 01 LARGE ☐ 02 SMALL ☐ 03 CHIN ☐ 04 TORN ☐ 05 PUG ☐ 06 POINTED ☐ 07 BROAD ☐ 08 FLAT ☐ 09 HOOKED ☐ 10 RED		☐ 01 IRREGULAR ☐ 02 DECAYED ☐ 03 PROTRUDING ☐ 04 CAPS ☐ 05 MISSING ☐ 06 CHIPPED ☐ 07 GOLD ☐ 08 DESIGN ☐ 09 DIAMOND ☐ 10 BRACES		☐ 01 BLONDE ☐ 02 RED ☐ 03 BROWN ☐ 04 BLACK ☐ 05 GREY/SILVER ☐ 06 SALT/PEPPER ☐ 07 MIX, 2-COLOR ☐ 08 PLAT. BLOND ☐ 09 STREAKED ☐ 10 GREY PATCHES		
	13-HAIR STYLE		14-FACIAL HAIR		15-COMPLEXION		ADDITIONAL DESCRIPTION		
	☐ 01 AFRO ☐ 02 BRAIDED ☐ 03 CURLY ☐ 04 STRAIGHT ☐ 05 CREWCUT ☐ 06 BALD ☐ 07 SHORT ☐ 08 MEDIUM ☐ 09 LONG ☐ 10 FADDED/SHED		☐ 01 AFRICAN ☐ 02 BUTTON CHOPS ☐ 03 BEARD ☐ 04 GOATEE ☐ 05 MUSTACHE ☐ 06 FULL MOUTH ☐ 07 HAIR UNDER LIP ☐ 08 UNSHAVEN ☐ 09 BUSHY EYEBROWS ☐ 10 CLEAN SHAVEN		☐ 01 ALBINO ☐ 02 FAIR ☐ 03 RUDDY ☐ 04 OLIVE ☐ 05 LIGHT ☐ 06 BROWN ☐ 07 DARK				
	ADM	RACE ☐ WHITE ☐ BLACK ☐ ASIAN ☐ UNKNOWN		VICTIM TYPE ☐ BUSINESS ☐ FINANCIAL INST. ☐ GOVERNMENT ☐ LAW OFFICE ☐ RELIGIOUS ORG.		SOBRIETY ☐ S-ORLEANS RESIDENT ☐ S-ORLEANS RESIDENT ☐ S-ORLEANS RESIDENT ☐ S-ORLEANS RESIDENT ☐ S-ORLEANS RESIDENT		INJURY ☐ S-BROKEN BONES ☐ S-INTERNAL INJURY ☐ S-LACERATIONS ☐ S-BURNS ☐ S-OTHER MAJOR ☐ S-NO INJURY	
		TREATED ☐ S-REFUSED ☐ S-TREATED ☐ S-HOSPITALIZED		VICTIM RELATIONSHIP TO OFFENDER (VICTIM WAS) ☐ S-SPOUSE ☐ S-COMMON LAW ☐ S-PARENT ☐ S-OTHER FAMILY ☐ S-GRANDCHILD ☐ S-GRANDPARENT ☐ S-GRANDFATHER ☐ S-GRANDMOTHER ☐ S-OTHER RELATIVE ☐ S-STRANGER ☐ S-UNKNOWN		REPORTING CAR # 4517			
DETECTIVE REPORTING OFFICER DET. COREY LYMOUS		BADGE 1283		CRIME LAB		SUPERVISOR [Signature]			

EXHIBIT

F

Rayshika Overstreet was informed by Wanda Solomon; a neighbor of a conversation which occurred on July 18, 2007 at 3320 Kabel Drive, New Orleans, La. between Alvanisha Solomon (black, female, date of birth 02-12-1995), Laquandra Hickerson (black, female, date of birth 04-01-1997) and Kennisha Overstreet (victim). The three children stayed at Wanda Solomon's home overnight for a slumber party. That morning Wanda Solomon overheard the girls talking about sexual activities between Ernest Mills Jr. and Kennisha Overstreet. Kennisha Overstreet then began crying and disclosed to Wanda Solomon that Ernest Mills Jr. had "raped" her. Wanda Solomon contacted Rayshika Overstreet and informed her of the incident. Rayshika Overstreet confronted Kennisha Overstreet about the allegations of rape. Kennisha told her that on at least three occasions while she was left home alone Ernest Mills Jr. "raped" her. One incident, he forced her to rub his penis. Two separate occasions he forced her to engage in sexual intercourse. Rayshika Overstreet stated Ernest Mills Jr. also known to them as E.J. was the boyfriend of her sister in law and room mate Crystal Estes. She described him as a black male approximately nineteen years old, five feet eleven inches tall, medium build.

On July 18, 2007 at 3310 Kabel Drive, Detective C. Lymous conducted an initial interview of Crystal Estes. Crystal Estes stated she had no information relative to the investigation. She became aware of the allegations rape from Rayshika Overstreet.

On July 18, 2007 at 3310 Kabel Drive, Detective C. Lymous conducted a brief initial interview of Kennisha Overstreet (victim). She was accompanied by her mother Rayshika Overstreet. Kennisha Overstreet gave the following information relative to the incident: During May 2007 she was forced to engage in sexual acts with "E.J.", Ernest Mills Jr. On at least two occasions he "raped" her. On a separate instance he forced her to touch his penis. Detective C. Lymous discontinued the interview.

Detective C. Lymous referred the victim to the Audrey Hepburn Care Center at Children's Hospital, New Orleans for medical assessments. He additionally scheduled a forensic interview via the Children's Advocacy Center for July 20, 2007 at 10:00 A.M.

Detective C. Lymous attempted to obtain additional information about the suspect, Ernest Mills Jr. via the MOTIONS database, but was unsuccessful.

On July 18, 2007 at approximately 3:44 P.M. Kennisha Overstreet was transported to the Audrey Hepburn Care Center at Children's Hospital, New Orleans for medical assessments by her mother. During the emergency room examination she disclosed that her aunt's boyfriend "forced her to have sex with him" and "made her touch his penis". She indicated the

unprotected sexual acts occurred twice near the end of May 2007. Medical tests were conducted to detect various sexually transmitted diseases.

On July 20, 2007 at approximately 10:20 A.M. Kennisha Overstreet participated in a forensic interview at the Children's Advocacy Center. The interview was conducted by Joann Varrett, Forensic Interviewer, Children's Advocacy Center. The recording equipment was operated by Tanisha McCormick, Case Manager, Children's Advocacy Center. Detective C. Lymous observed the session via video monitor. During the interview Kennisha Overstreet gave the following information relative to the investigation: The first incident occurred one night in May 2007. She was not certain of the exact date. She believed it was after a medical appointment. It was late during the night. Her mother and stepfather were gone to work. Her sister and brother were asleep. Crystal Estes was gone to the store. The telephone rang. She answered an incoming call for "E.J.," who she identified as Ernest Mills Jr., the ex-boyfriend of Crystal Estes. She brought the telephone to "E.J.," who was laying on the bed, within a bedroom. He told her to wait there for the phone. He asked her "Do you want to see something?" She replied "No, Not really." He then removed his penis from within his pants and put her hands on it. Kennisha Overstreet fled out of the room.

Kennisha Overstreet described the second incident. She brought Ernest Mills Jr. the telephone, due to an incoming call. He was in the bedroom. He stated "come here". He grabbed her and placed her on the bed with her hands behind her back. He got on top of her and pinned her legs with his legs. He pulled down her clothes and pulled down his pants. He inserted his penis into her vagina. She asked him to "Please stop". He responded by "going harder". She again forcefully asked him to stop. He responded by getting off of her. She believed he was drunk.

She described the third incident. Ernest Mills Jr. grabbed her by the mouth and brought her into the bed room. Perpetrator stood up, while he held her up. He removed her pants and underwear. She inserted his penis into her vagina. It ended by her kicking Ernest Mills and forcing him to stop. They were home alone when Ernest Mills Jr. approached her. Kennisha Overstreet stated she did not tell anyone because Ernest Mills stated he would be mad at her.

The VHS cassette the anatomical diagram and papers used in the interview was subsequently deposited into the New Orleans Police Department, Central Evidence and Property (receipt number 200711589).

On July 20, 2007 Detective C. Lymous produced an application for arrest warrant and an arrest warrant for the arrest of Ernest Mills Jr. for the offenses of sexual battery and two counts of aggravated rape as defined by the Louisiana Revised Statute 14:43.1 and 14:42 respectively. The documents were submitted to Harry Cantrell, Orleans Parish, Criminal District Court,

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Magistrate Section, M-3. He signed the application and warrant. A crime bulletin (512, 205) was generated. The application for arrest warrant, the arrest warrant and the crime bulletin were delivered to N.C. I.C.

On July 23, 2007 Kennisha Overstreet was interviewed by Dr. Adrienne Atzemis M.D. Audrey Hepburn Care Center, Children's Hospital New Orleans. During that interview she revealed three sexual assaults occurred; May 24, 2007, May 25, 2007 and May 26, 2007. The first incident was on May 24, 2007; Ernest Mills Jr. forced her to touch his penis with her hands. The second incident was on May 25, 2007 when Ernest Mills Jr. forcefully inserted his penis into her vagina. The third incident was on May 26, 2007 when Ernest Mills Jr. inserted his penis into her vagina. On each instance Kennisha Overstreet resistance was overcome by Ernest Mills.

On July 25, 2007 Detective C. Lymous was informed by Dr. Adrienne Atzemis, MD, Children's Hospital that Kennisha Overstreet tested positive for Chlamydia via a urine test. She indicated the results were definitive for previous sexual contact. A full copy of the medical report would be forwarded to the New Orleans Police Department, Child Abuse unit.

On July 26, 2007 Detective C. Lymous was notified by Officer Mike Hamilton (badge number 1943), New Orleans Police Department, Special Operations Division of the arrest of Ernest Mills Jr. pursuant to the outstanding arrest warrant.

On July 28, 2007 Detective C. Lymous was contacted by Rayshika Overstreet via telephone. She relayed information received from Children's Hospital indicating Kennisha Overstreet was positive for Chlamydia. She stated when she told Crystal Estes about the sexually transmitted disease; Crystal Estes informed her that she also had Chlamydia from sexual contact with Ernest Mills Jr.

On July 31, 2007 Detective C. Lymous conducted an interview of Alvanisha Solomon at 3320 Kabal Drive. She was accompanied by her mother, Wanda Solomon. Alvanisha Solomon gave the following information relative to the investigation: Approximately two weeks ago Kennisha Overstreet and Laquandra Hickerson slept at her home. While there they were talking about "stuff". Kennisha Overstreet began telling them that she was having sex with Ernest Mills Jr. She told them that it happened three times. Kennisha Overstreet stated she brought the telephone to Ernest Mills Jr. He grabbed her and made her have sex with him. She also stated Kennisha Overstreet told her that he made her touch his "thing". Alvanisha Solomon stated Kennisha Overstreet previously told her sister Monique Overstreet and asked her not to tell anyone.

On July 31, 2007 Detective C. Lymous conducted an interview of Laquandra Hickerson at her home; she was accompanied by

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her mother Angela Woodridge. Laquandra Hickerson stated Kennisha Overstreet told her and Alvanisha Solomon that she was "raped by E.J." She stated she did not know what happened.

On July 31, 2007 Detective C. Lymous visited 3310 Kabel Drive in an attempt to conduct a supplemental interview of Crystal Estes. He was informed by Rayshika Overstreet that Crystal Estes no longer resided there.

On July 31, 2007 Detective C. Lymous conducted an interview of Monique Overstreet, who is the sister of the victim. She informed Detective C. Lymous that Kennisha Overstreet told her that she was raped by Ernest Mills Jr. Monique Overstreet stated she did not know the date when she was told. Kennisha Overstreet informed her that Ernest Mills made her touch his penis and raped her. Kennisha Overstreet asked her not to tell her mother.

On August 7, 2007 Detective C. Lymous generated an application for a search warrant and a search warrant which requested A Chlamydia swab to seize a Chlamydia culture. The Chlamydia culture test is done when child sexual abuse is suspected. The application was accepted by Judge Hanson, Criminal District Court, Magistrate Section. Judge Hanson signed both documents ordering the swab.

On August 7, 2007 Detective C. Lymous contacted Chief Earl Weaver Jr., Orleans Parish Criminal Sheriff's Office in an attempt to execute the search warrant. He was advised that the arrangements would be coordinated by Warden Pittman, O.P.C.S.O. House of Detention.

On August 8, 2007 Warden Pittman instructed Detective C. Lymous that the search warrant could be executed within the O.P.C.S.O. facilities on August 9, 2007.

On August 9, 2007 Detective C. Lymous arrived at the Orleans Parish Criminal Sheriff's Office, House of Detention with the intention to execute the aforementioned search warrant. He was advised by Warden Pittman that her staff could not medically assist in the seizure of evidence. Detective C. Lymous was unable to execute the warrant.

On August 14, 2007 Detective C. Lymous generated a Motion and Order to Release a Prisoner of the Orleans Parish Criminal Sheriff to the custody of the New Orleans Police Department, specifically Ernest Mills Jr. The Order was signed by Judge Hanson, Criminal District Court, Magistrate Section.

Detective C. Lymous delivered a copy of the release order to Sergeant S. Skines, Orleans Parish Criminal Sheriff's

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Office, Central Lock Up. Ernest Mills Jr. was release to the custody of Detective C. Lymous. He was transported to University Hospital by Officer Baham, New Orleans Police Department, First District, Unit number 101 within a secured and marked police vehicle.

Upon arrival at University Hospital Detective C. Lymous advised Ernest Mills Jr. of his Miranda Rights and asked him if he wanted to give a statement relative to the investigation. Ernest Mills Jr. refused under advice of his attorney. Detective C. Lymous then presented him with a copy of the search warrant and briefly explained the procedure to him.

Ernest Mills Jr. was turned over into the care of Mithra Butler, Sexual Assault Nursing Examiner, R.N. for the purpose of obtaining a Chlamydia swab to seize a Chlamydia culture.

Upon completion of the medical procedure Ernest Mills Jr. was transported to the Orleans Parish Criminal Sheriff's Office, Central Lock Up by Officer Baham, New Orleans Police Department, First District, Unit number 101. Detective C. Lymous returned the prisoner to Deputy Shultz, Orleans Parish Criminal Sheriff's Office, Central Lock Up.

An inter office correspondence was submitted to the New Orleans Police Department, Scientific Criminal Investigations Division requesting processing and comparison of seized evidence relative to this investigation.

The investigation is on going; therefore further information will be submitted via a supplemental report.



EXHIBIT
G

NEW ORLEANS POLICE DEPARTMENT - CONTINUATION

PAGE 2 OF 2

ITEM NUMBER
G-21666-07

On Wednesday July 18, 2007 at approximately 1:48 P.M. Detective Coray M. Lymous, badge number 1283 manned unit number 4517 of the New Orleans Police Department, Child Abuse unit was summoned to 3300 block of Kabel Drive by Officer S. Melia (Unit number 4051) relative to a miscellaneous incident relative to an investigation of a sexual assault.

Upon Detective C. Lymous' arrival within the 3300 block of Kabel Drive he was directed to the reporting person by Officer S. Melia. She gave information that led Detective C. Lymous to believe a sexual assault may have occurred.

Detective C. Lymous conducted an initial interview of the known victim (black, female date of birth 05-20-1996). She shared information that led Detective C. Lymous to believe a sexual assault occurred.

Detective C. Lymous referred the victim to the Children's Hospital, Care Center for medical assessments. He additionally scheduled forensic interview via the Children's Advocacy Center for July 20, 2007 at 10:00 A.M.

He attempted to obtain additional information about the suspect; Ernest Mills via the MOTIONS database, but was unsuccessful. The investigation is on going. Further information will be submitted via a supplemental report.



MESSAGE PRINTED: DATE: 7/20/2007 TIME: 13:17:59 PRINTER: PH25
MESSAGE SENT: DATE: 7/20/2007 TIME: 13:12:49 TERMINAL: SX10

TO: HEADQUARTERS - CRIME BULLETIN
FROM: SEX CRIME DIVISION
SUBJECT: WANTED SUBJECT
02166607
MESSAGE NUMBER: 512,205

ITEM: 02166607 OFFICER 1: COREY LYMOUS
OFFICER 2:
OFFENSE: 3310 KABEL DRIVE
DATE: 07 / 18 / 2007 TIME: 01 : 00 PM

VICTIM: KNOWN
ADDRESS:
AGE/DOB: 11 RACE: B SEX: F

SUSPECT: MILLS, ERNEST
ADDRESS: 310 9TH STREET, GRETNA LOUISIANA
HEIGHT: WEIGHT: EYES: RACE: B SEX: M
BUILD: MEDIUM COMPLEXION: B OF I: HAIR:
ARREST:
PHYSICAL:
CLOTHING:

ERNEST MILLS ENGAGED IN SEXUAL ACTS WITH A KNOWN ELEVEN YEAR OLD VICTIM.

UPON HIS APPREHENSION HE SHOULD BE BOOKED WITH THE OFFENSE OF R.S.14:42 (2 COUN
'S) RELATIVE TO AGGRAVATED RAPE AND R.S.14:43.1 RELATIVE TO SEXUAL BATTERY.

ORIGINATED BY: CAPT. T. SHEGAL
COMMANDER, SEX CRIME DIVISION

TYPED BY: COREY LYMOUS



NEW ORLEANS POLICE DEPARTMENT - NARRATIVE SHEET

PAGE 2 OF 5

ITEM NUMBER

G-21666-07

Narrative

On Thursday July 28, 2007 at about 10:30 am, Ernest Mills who was wanted under N.O.P.D. warrant number G-21666-07 for R.S. 14:42 Aggravated Rape was located by the N.O.P.D. Warrant Squad and members of the Jefferson Parish Sheriff's office.

Mills was placed in handcuffs (double-locked), advised his Rights per Miranda, and transported to CLU where he was booked accordingly.

The officer completed the paperwork and sent a cancellation bulletin under N.O.P.D. bulletin number 512,605.

NOTE: MILLS WAS ARRESTED AT 310 9TH STREET BY
JEFFERSON PARISH DEPUTY LAWRENCE MATTHEWS AND
TRANSPORTED TO 100 BELMONDE ST. (J.P. LOCK-UP). OFFICER
DAYNE AND HAMILTON TRANSPORTED MILLS FROM JEFFERSON
PARISH TO ORLEANS CENTRAL LOCK-UP.

(M.S.)

REPORTING OFFICER

BADGE

REPORTING OFFICER

BADGE

CAR UNIT #

X

X

EXHIBIT

I

MILLS000107

APP. 093



EDDIE J. JORDAN, JR.
District Attorney of New Orleans ~ State of Louisiana

GATHIELA WILLIAMS
FIRST ASSISTANT DISTRICT ATTORNEY

1340 Poydras Street • Suite 700
New Orleans, Louisiana 70112
(504) 822-2454

October 26, 2007

Ms. [REDACTED]
[REDACTED]
[REDACTED]

Re: State v. Ernest Mills
Case Number: 472-876 J

Dear Ms. [REDACTED]

I am writing to you in regarding the above-mentioned case in which your daughter was a victim of a Rape. I have made several unsuccessful attempts at contacting you via telephone. It is very important that I speak to you and your daughter. In order to prepare for trial, I would like to meet with you in person as well as set up a telephone interview. Without your testimony and cooperation, this case may be dismissed and the defendant will be released from jail. Please call me at the District Attorney's Office: 504-571-2850 or 504-234-1655. If you fail to contact me, I will assume that you do not want to prosecute.

Sincerely,


Isaka Williams
Assistant District Attorney

MILLS000223





KEVA M. LANDRUM-JOHNSON
District Attorney of New Orleans ~ State of Louisiana

VAL M. SOLINO
ACTING FIRST ASSISTANT DISTRICT ATTORNEY

1340 POYDRAS STREET, SUITE 700
NEW ORLEANS, LOUISIANA 70112-1267
(504) 822-3414

November 27, 2007

Ms. Rashika Overstreet
[REDACTED]

Re: State vs. Ernest Mills
Case No. 472-876, Section "J"

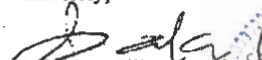
Dear Ms. Overstreet:

Please allow this letter to serve as formal notification of your failing to appear for your scheduled interviews on November 20th and 26th, 2007 regarding the above referenced matter.

Unfortunately, your failing to appear without prior cancellation by telephone or other means does not bode well for this matter. Please understand that in order to prove this case against the defendant, you will have to testify at trial. Consequently, it is essential that I meet with you and Kennisha Overstreet to assess the facts of this case.

As such, if I do not hear from you before 5:00 p.m. on December 3, 2007, I will assume you do not want to proceed and this case may be dismissed. If you have any questions or comments, I can be contacted at any time at the District Attorney's Office. My direct extension is 504-571-2850 or 234-1655. Thank you for your prompt attention to this matter.

Sincerely,


Isaka R. Williams
Assistant District Attorney



MILLS000053

Exhibit 100-1

Violation R.S. 24:72.1

Felony

I, James Earl Ray, before my plea of guilty to the
crime of murder of Dr. Martin Luther King, Jr., have been
informed of and understand the charge of which I am pleading guilty.

I understand that I have a right to a trial by Judge or Jury and if convicted a right to appeal and by entering a plea of guilty in this case I am waiving my right to trial and appeal.

The acts constituting this offense to which I am pleading guilty have been explained to me as well as the fact that for this offense the sentencing range is 5 to a maximum of 50 years. The sentence I will receive is 1 year, 2 months, 15 days.

I understand that by pleading guilty I waive my right to confront and cross-examine the witnesses who accuse me of this crime and to compulsory process of the court to require witnesses to appear and testify for me.

am acting a plot of guhly to this because I am, is that guhly.

have not been forced, threatened or intimidated into making this plan.

am fully satisfied with the handling of my case by my attorney and the way in which he has represented me.

Further understand that by pleading guilty I waive my right against self-incrimination, that at any trial I would not have to testify, and if I did not testify that the judge nor the jury could hold any witness against me. I also give up my right not to be any testimony against myself, or against my interest, such as I do by pleading guilty.

understand that if I elected to have a trial I have a right to have competent counsel to represent me at trial and if I were unable to pay for counsel the Court could appoint counsel to represent me, but by entering a plea of guilty we're losing this.

understand that I am entitled to a free transcript of this Boykin proceeding and applicable for Multiple Bill proceedings; and am hereby waiving my right to a free transcript.

understand that there is
a time period during which to seek post conviction relief

a plea bargain agreement has been reached. It is noted that no other promises
which may have been made to the defendant are being considered by the court.
The court is satisfied that the defendant is deserving of a sentence of life in
prison without the possibility of parole.

DEFENSE ATTORNEY

Ernest Miller

This plea of guilty is accepted by the Court as having been knowingly, intelligently, and voluntarily made by the defendant.

4/8/09
DATE

[Handwritten signature]



830 Main Street
Baton Rouge, LA 70802



Office: (225) 383-3644
Fax: (225) 336-4667

November 8, 2021

Orleans Parish District Attorney's Office
619 S. White Street
New Orleans, LA 70119

To whom it may concern,

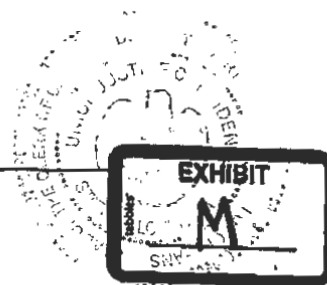
Please find included a copy of the *Motion to Enroll* for our client, Ernest Mills, Jr, submitted today, November 8, 2021, to the Orleans Parish Criminal District Court.

Best Regards,

Camila Valenzuela
Paralegal
Longman Jakuback, APLC
830 Main Street, Baton Rouge, LA 70802
Office: 225-383-3644 | Fax: 225-336-4667
camila@ljlaw.org

Enclosures: 1

www.ljlaw.org



AFFIDAVIT

STATE OF LOUISIANA

PARISH OF Orleans

BEFORE ME, the undersigned authority, a Notary Public, duly commissioned and qualified in accordance with the law, in and for the above referenced Parish and State, personally came and appeared:

JASON WILLIAMS

who, having first been duly sworn, state under oath that:

On August 10, 2022, I, District Attorney Jason Williams of Orleans Parish, met with attorneys Jacob Longman and Jennifer Cameron, defense counsel for Ernest Mills. Mr. Mills is a prior client of mine from my time as a defense attorney, before I became the District Attorney of Orleans Parish. During the meeting, attorneys Longman and Cameron revealed letters they received as part of the Orleans Parish District Attorney ("DA's Office") file in the case against Mr. Mills. These letters showed attempts by the DA's Office to obtain the presence for trial of the complainant. These occurred after her lack of attendance indicated that she did not wish to take part in the ongoing prosecution.

Neither these letters nor this information was revealed to Mr. Mills' defense team. Mr. Mills thus entered a plea without knowing the contents of these letters or their existence. Had I known that the complainant in this case was not compliant with the prosecution of Mr. Mills, I would not have advised my client at the time to take a plea deal, and it is my professional opinion that Mr. Mills would have heeded my legal advice.

Jason R. Williams


(Signature of Affiant)

SWORN TO AND SUBSCRIBED before me this 16th day of December, 2022.



Mithun B. Kamath

Bar Roll #35504

My Commission Expires at Death





01:55 19 p.m. 207-25-2023

1/8

STATE OF LOUISIANA

DOCKET NO. 472-876 "J"

VERSUS

CRIMINAL DISTRICT COURT

PARISH OF ORLEANS

ERNEST MILLS

STATE OF LOUISIANA

**PROCEDURAL OBJECTIONS TO SECOND APPLICATION
FOR POST-CONVICTION RELIEF**

NOW INTO COURT, through the undersigned Assistant Attorneys General, comes the State of Louisiana, who submits the following procedural objections to Petitioner Ernest Mills' *Application for Post-Conviction Relief*, and who respectfully requests that this Court summarily dismiss the application pursuant to La. C.Cr.P. arts. 928 and 929(A).

PROCEDURAL BACKGROUND

On September 13, 2007, an Orleans Parish grand jury indicted Petitioner on two counts of Aggravated Rape and one count of Sexual Battery. On April 8, 2009, the State, through the Orleans District Attorney's Office, announced that it was ready for trial, and jury selection began. Before a jury was sworn in, Petitioner reached a plea agreement with the State. At that time, the State amended the bill of indictment to one count of Forcible Rape, to which Petitioner pled guilty; the State dismissed the other charges. Pursuant to the plea agreement, Petitioner was sentenced to serve 30 years at hard labor.

Almost two years later on April 6, 2011, Petitioner filed his first application for post-conviction relief along with a motion to withdraw his guilty plea. There, he claimed: (1) his plea was not knowing, voluntary, and intelligent; (2) a *Brady* violation; and (3) ineffective Assistance of Counsel. As part of the latter claim, he argued that his attorney failed to verify the availability of the State's key witness (the rape Victim) at trial. Later, on July 1, 2014, the Court denied this PCR application. The Fourth Circuit Court of Appeal denied writs, 2014-K-0937 (10/23/14), and Louisiana Supreme Court declined to consider writs as untimely, 2014-KH-0423 (12/7/15).

Later, on November 10, 2021, Orleans Parish District Attorney Jason Williams recused himself because he represented Petitioner in the case prior to taking office, and the Attorney General took over the matter on behalf of the State.

On February 15, 2023, Petitioner filed the instant *Second or Subsequent Uniform Application for Post-Conviction Relief*. In it, he makes the sole claim that the State withheld

EXHIBIT 6



evidence that the Victim was uncooperative at the time of trial, a violation of *Brady v. Maryland*, 373 U.S. 83 (1963). Thereafter, the Court set a deadline of July 25, 2023 for the State to file an answer or procedural objections to the application.

PROCEDURAL OBJECTIONS

1. Failure to State a Valid Claim for Relief.

Procedurally fatal to Petitioner's claim here is the fact that the substance of his claim is untrue, and he has, therefore, failed to state a claim on which relief can be based. At issue is Petitioner's allegation that the State withheld evidence of the Victim being uncooperative leading up to trial; and, had Petitioner's trial counsel been aware of this lack of cooperation, he would not have advised him to accept a plea agreement. This is facially inaccurate.

More specifically, the alleged evidence—two letters, dated October 26 and November 27, 2007, in which the District Attorney's Office attempted to reach the Victim and her mother—were written 18 months before trial. On their own, they do not establish that the Victim was uncooperative for trial; and even taking Petitioner's claim and evidence at face value, it is evident that Petitioner's core allegation—that the Victim was uncooperative—is false. For instance, Petitioner points to the language in both letters (but primarily the second one) stating that the case may be dismissed if the Victim or her mother fail to get back in touch with the District Attorney's Office. Well, as the record reflects, the case was never dismissed, which would lead a reasonable observer to infer that they ultimately got back in touch.

One need not make any inference here, however, because the DA's case file itself demonstrates that the Office had multiple contacts with the Victim and her mother *after* the mailing of the aforementioned letters and that the Victim was cooperative at the time of trial.¹ Petitioner's counsel, having viewed the DA's case file in connection with their most recent public records request, would be well aware that the whole of the documents contained within that file completely upend Petitioner's assertion that the Victim was uncooperative. What should be instructive to the Court is the fact that while Petitioner alludes *generally* to the Victim's cooperativeness leading up to trial—*itself* a huge logical leap from two 2007 letters in which the DA's Office attempted to reach her—he does not specifically allege, for the purposes of actually validating his claim, that the Victim was absent, uncooperative, or otherwise unavailable on the morning of trial itself. In line with this failure, Petitioner does not present this Court with the

¹ See, e.g., State's Ex. 1, memorializing the fact that Victim's mother called ADA Leslie Williams back on December 7, only a few days after the date of the second letter; State's Ex. 2, memorializing a 2009 conversation between the Victim's mother and ADA Rachel Africk (né Luck), leading up to trial.



transcript of the *Boykin* and guilty plea. Moreover, the Petitioner points to nothing in the record to support any allegation that the Victim was uncooperative, but, rather, at most that there may have been scheduling issues very early on in the prosecution. The fact, however, is that the Victim and her mother were present to testify on the day of trial before Petitioner entered a guilty plea, and they were cooperative.

Ultimately, because Petitioner's core allegation is demonstrably false, his other allegation—that the State withhold evidence that the Victim was uncooperative—is also false. Simply put, there can be no *Brady* violation because the State cannot withhold evidence of something that did not happen. Therefore, on the most basic level, Petitioner has failed to state a claim on which relief may be granted, and this Court must procedurally dismiss the application.

2. This Claim is Unlawful, and/or Repetitive.

Also procedurally problematic is the fact that Petitioner waited nearly 14 years to file the instant claim for post-conviction relief following his conviction. According to La. C.Cr.P. art. 930.8(A), "No application for post conviction relief...shall be considered if it is filed more than two years after the judgment of conviction and sentence has become final. . . A petitioner may circumvent the two-year time bar if "[t]he application alleges, and the petitioner proves or the state admits, that the facts upon which the claim is predicated were not known to the petitioner or his prior attorneys." La. C.Cr.P. art. 930.8(A)(1). However, he must also "prove that he exercised diligence in attempting to discover any post conviction claims that may exist. 'Diligence' for the purposes of this Article is a subjective inquiry that shall take into account the circumstances of the petitioner." *Id.* Moreover, "A successive application shall be dismissed if it fails to raise a new or different claim," or "if it raises a new or different claim that was inexcusably omitted from a prior application." La. C.Cr.P. art. 930.4(D),(E).

Petitioner has alleged that the instant application was triggered by the discovery of previously-unknown information about the Victim's cooperativeness. Notwithstanding the patent untruth of the allegation as laid out above, Petitioner does not address his failure to exercise diligence in obtaining this information previously. For instance, in his 2011 PCR application, he alleges as part of his claim of ineffective assistance of counsel, "The record indicates some problems early in the case with obtaining the presence of the complaining witness in open court. The record does not indicate whether the witness was available for testimony at the time Mr.



Mills entered his plea.”² The 2011 application also contained a *Brady* claim. Additionally, around that same time, Petitioner engaged in a public records request with the District Attorney’s Office.³

It is clear, then, that Petitioner had been formulating a claim regarding the Victim’s cooperativeness at least as far back as April 2011. And at that time, he should have been seeking out any and all documentation to support such a claim. However, in the instant application he does not elucidate why he failed to exercise diligence in uncovering any evidence in support his claim until more than a decade later. After all, he filed a public records request around the same time he filed his first application for post conviction relief. Why, if he was concerned about the Victim’s cooperativeness at that time, did he not specifically seek out the kinds of records he would later seek in 2021? Why did he make no such efforts to obtain them during the intervening ten years?⁴

Ultimately, Petitioner cannot answer these questions without exposing his and his counsel’s failure to exercise diligence in erecting or protecting claims they obviously intended to make as early as 2011. And, thus, his allegedly recent revelation regarding the letters to the Victim—which, once again, do not stand for the truth Petitioner asserts—is beyond untimely. It was also inexcusably omitted from the 2011 application, insofar as that application does not specifically tie his *Brady* claim to the cooperativeness of the Victim, even though he both made a *Brady* claim and raised issues with the Victim’s cooperativeness. In the alternative, their existence in the 2011 application also arguably make their presence in the instant application repetitive for Petitioner’s failure to raise a new claim here.

Nonetheless, with some diligence, Petitioner and his attorneys could have made the claim, as it exists here, in 2011 or soon thereafter. Of course, it would have been facially and procedurally barred, just as it is here, because the allegation’s demonstrable falsity would have resulted in an outright failure to state a valid claim on which relief may be granted. But, at the very least, Petitioner could have made the allegation years earlier had he and his attorneys diligently sought out documentation to support a claim *they knew they wanted to make for a*

² Petitioner’s Ex. D, at 7.

³ *Id.*, at 11.

⁴ Based on Petitioner’s allegation that he was previously unaware of the letters at issue, the Attorney General can only speculate that he had not, in fact, previously possessed them. However, the Attorney General notes that Petitioner received a disclosure from the District Attorney in connection with his prior public records request in or around 2011, and that it is entirely possible that Petitioner has been in possession of these documents since that time and has simply failed to this claim until now. This is bolstered by the fact that, as discussed above, Petitioner this exact issue—the victim’s cooperativeness—in his 2011 PCR application.



decade. For that reason, this claim is untimely and/or repetitive, and this Court must procedurally dismiss it.

CONCLUSION AND PRAYER

WHEREFORE, the State respectfully requests that the Court summarily dismiss Petitioner's post-conviction relief application because he has failed to state a claim on which relief may be based. Moreover, this spurious claim is either extremely untimely or repetitive in light of the fact that it revolves around an allegation he made over a decade earlier in a previous application for post-conviction relief. The State further requests all other relief to which it is entitled.

Respectfully submitted,

JEFF LANDRY
ATTORNEY GENERAL

BY: _____

J. Taylor Gray, #33562
Graig Lloyd Willis, #34820
Christopher M. Walters, #35579
Assistant Attorneys General
Louisiana Department of Justice
P.O. Box 94005
Baton Rouge, Louisiana 70804-9095
Telephone: (225) 326-6200
Facsimile: (225) 326-6096
Email: GrayJ@ag.louisiana.gov
WillisG@ag.louisiana.gov
WaltersC@ag.louisiana.gov

CERTIFICATE

I certify that on the 25th day of July, 2023, a copy of the foregoing procedural objections have been sent via U.S. and/or electronic mail to the following persons:

Jacob Longman
Kathryn Jakuback Burke
Jennifer Carpenter Cameron
830 Main Street
Baton Rouge, Louisiana 70802
Jacob@jjlaw.org
Kathryn@jjlaw.org
Jennifer@jjlaw.org
Counsel for Petitioner Emmet Mills

J. TAYLOR GRAY



STATE OF LOUISIANA

DOCKET NO. 472-876, "J"

VERSUS

CRIMINAL DISTRICT COURT

PARISH OF ORLEANS

ERNEST MILLS

STATE OF LOUISIANA

ORDER

CONSIDERING the procedural objections to second application for post-conviction relief, filed by the State of Louisiana:

IT IS HEREBY ORDERED that the State's procedural objections are GRANTED; the claim contained within Petitioner's second application for post-conviction relief (check all that apply):

☐ Fails to state a valid claim upon which relief may be granted;

☐ Is untimely;

☐ Is repetitive.

IT IS FURTHER ORDERED that Petitioner's second application for post-conviction relief is hereby summarily DISMISSED pursuant to La. C.C.P. arts. 928 and 929(A).

ORLEANS DISTRICT COURT JUDGE

Please serve:

J. Taylor Gray
Louisiana Department of Justice
P.O. Box 94005
Baton Rouge, Louisiana 70804-9095

Jacob Longman
Kathryn Jakoback Burke
Jemiffer Carpenter Cameron
830 Main Street
Baton Rouge, Louisiana 70802



DATE	TIME	ADT	DESCRIPTION OF ACTIVITY	CHARGE
07/17	1:30		contacted Janna Jones if she can get non small as etc Janna stated left message with her on cell (Voicemail)	
07/17	8:00		heard a call from Janna saying "hurry, hurry, hurry" thru for trouble / had been without a car. cited that she was in my neighborhood. said yes. I picked up exp witnessing of a party / party with me. This person was cited 4 on witness / party personnel. I said - no need cited 4 later on that day with the other said witness 2 where I was. I said after I was called for witness said 5 30 min later after work / pick up later.	
07/17	10:00		which issued medication for with mother etc. under done and sent to	

CERTIFIED DA OFFICE COPY

EXHIBIT

1



DATE	ADA	
		ERNEST MILLS Age 42 Observed 1/28/9 No treatment →
		called Mr. Drenth & works for 2nd & 3rd
		James Williams representing the family members probably
		Leighton is in school -
		Tomorrow is good day to meet and her brother, call her in. morning & let her know if he is in

CERTIFIED DA OFFICE COPY

EXHIBIT
2

STATE OF LOUISIANA

DOCKET NO.: 472876 SECTION: J

VERSUS

CIVIL DISTRICT COURT

PARISH OF ORLEANS

ERNEST MILLS, JR.

STATE OF LOUISIANA

**RESPONSE TO STATE'S PROCEDURAL OBJECTIONS TO SECOND APPLICATION
FOR POST-CONVICTION RELIEF**

NOW INTO COURT through undersigned counsel comes ERNEST MILLS, JR., who respectfully submits the following *Response to State's Procedural Objections to Second Application for Post-Conviction Relief*. In support of this response, Mr. Mills submits the following:

1.

I. The State fails to provide valid evidence that the victim was cooperating in their first procedural objection.

In the State's first procedural objection, the Attorney General claims Mr. Mills has failed to state a valid claim for relief because his claim is based on two letters that were recovered from the District Attorney's file showing that the victim was failing to cooperate. The state alleges that the victim was cooperating and provides copies of two messages which involve the victim's mother. The state further categorically states "the fact, however, is that the Victim and her mother were present to testify on the day of trial before Petitioner entered a guilty plea, and they were cooperative."¹ [emphasis removed].

2.

The State's evidence of conversations with the mother of the victim, one of them allegedly seven days after the letter submitted by the Petitioner showing the State was desperately trying to get in touch with the victim through her mother, is a copy of some type of phone messaging log which only shows month and day, but no year of the alleged contact. The State is correct in stating it shows that the victim's mother called into the district attorney's office, however, what it demonstrates is that the State was attempting to meet with the victim and her mother but does not demonstrate that those meetings actually occurred.² A much better demonstration of evidence of

¹ See *State's Procedural Objections to Second Application for Post-Conviction Relief*

² See Exhibit 1: Phone Message log submitted by the State.

a meeting would be something like attorney's notes from the meeting actually occurring, rather than a phone message where there is no date set of an meeting.

3.

The second phone call the state relies upon to prove the victim and her mother were cooperative is the documentation of a call which occurred in January of 2009 a full 3 months before Mr. Mills took his plea deal.³ While it shows that the district attorney's office called the victim's mother on January 20, 2009, it again shows the possibility of a meeting to be set and not that the meeting happened. In fact, this documentation shows that the district attorney was attempting to set up a meeting with the victim's mother the next day but did not know their own schedule to set a proper time for the meeting. Here again, this is the potential of a meeting, but documentation of an actual meeting.

4.

Both messages were with the mother of the victim, not the victim itself. These messages in no way demonstrate whether the victim, in the moments leading to the trial of Ernest Mills, was going to cooperate and testify. All it demonstrates is that her mother was willing to set meetings with the district attorney on her daughter's behalf, not that those meetings occurred or what was said during the meetings.

5.

The allegation that the State puts forth that the victim and her mother were present and ready to testify the day of trial goes unsupported and undocumented. There is no minute entry or transcript in the record showing that either were present the day of the trial when Mr. Mills took his plea. In fact, it is the understanding of undersigned counsel, that neither were present during any of the pre-trial motions or the day of trial. Without evidence they were present on the day of trial, this claim by the state, which they were so keen to emphasize in their pleading stands wholly unsupported by the record.

6.

II. The State's claim that Mr. Mills' claim is untimely, and/or repetitive assumes things not in evidence.

The State claims that Mr. Mills "petitioner had been formulating a claim regarding the Victim's cooperativeness at least as far back as April 2011" and "should have been seeking out all

³ See Exhibit 1: Phone Message log submitted by the State, part 2.

documentation to support such a claim.” The Attorney General makes undersigned counsel’s point on the fact that Mr. Mills had not seen these letters before when it alleges in it’s footnote that Mr. Mills was previously unaware of the letters at issue but had a response from a public records request prior to his 2011 application. The attorney general wants to assume that “it is entirely possible that Petitioner has been in possession of these documents since that time” without proving that he was in possession of them. The assumption that the claim he alleged, which he had no evidence of at the time, that the victim was not cooperating prior to trial was based on these letters is a stretch. This assumption does not consider the fact that the petitioner and the victim were from the same neighborhood in New Orleans and rumors have been swirling since Mr. Mills’ conviction that the victim has admitted that he lied about Mr. Mills and was sorry for it. On the same note of assumptions that the State is making, it could also be assumed that Mr. Mills did not have the letters in his possession as he surely would have submitted them to the court with his claim if he did have them instead of asking the court for permission to supplement that claim with evidence later.

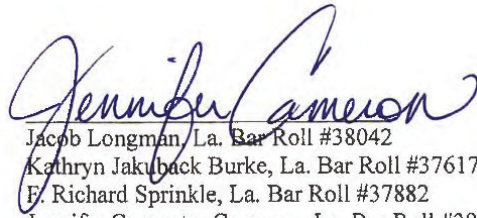
7.

Post-Conviction law does not rely on assumptions, but instead requires evidence of all allegations made. Mr. Mills has presented this court with evidence of documents he was not privy to prior to when undersigned counsel received his district attorney files after public records request they submitted. Mr. Mills cannot be held responsible for a lack of files released to him in response to public records request he made over a decade ago. Additionally, the mere fact that current Orleans District Attorney, Jason Williams, has admitted via an affidavit to this court that he would not have prompted Mr. Mills to take the plea deal offered to him had he known the information contained in these letters should prompt this court to review this claim in the interest of justice, even if the court were to find that these letters were not *Brady* material.

8.

WHEREFORE, for the foregoing reasons, Mr. Mills respectfully requests this Honorable Court overturn his plea deal and vacate his conviction or in the alternative, set a date for an evidentiary hearing on this matter.

Respectfully submitted,



Jacob Longman, La. Bar Roll #38042

Kathryn Jakuback Burke, La. Bar Roll #37617

F. Richard Sprinkle, La. Bar Roll #37882

Jennifer Carpenter Cameron, La. Bar Roll #39826

Counsel for Ernest Mills, Jr.

Longman Jakuback, APLC

830 Main St.

Baton Rouge, LA 7080

Tel: (225) 383-3644

Fax: (225) 336-4667

jacob@ljlaw.org

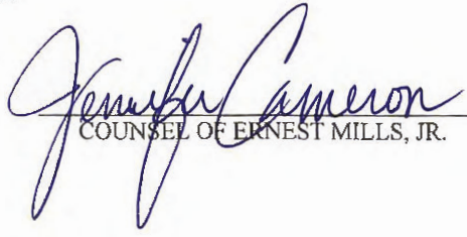
kathryn@ljlaw.org

richard@ljlaw.org

jennifer@ljlaw.org

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing *RESPONSE TO STATE'S
PROCEDURAL OBJECTIONS TO SECOND APPLICATION FOR POST-CONVICTION
RELIEF* has been filed with the Orleans Parish Clerk of Court and has been served on the
Orleans Parish District Attorney, as well as the Attorney General's Office on this 2nd day of
November, 2023.


COUNSEL OF ERNEST MILLS, JR.

STATE OF LOUISIANA

VERSUS

ERNEST MILLS, JR.

DOCKET NO.: 472876, SEC. J

CIVIL DISTRICT COURT

PARISH OF ORLEANS

STATE OF LOUISIANA

ORDER

Considering the above and foregoing *RESPONSE TO STATE'S PROCEDURAL OBJECTIONS TO SECOND APPLICATION FOR POST-CONVICTION RELIEF*, it is ORDERED that the conviction of Ernest Mills is overturned or in the alternative, an evidentiary hearing be set for the _____ day of _____, 2023

THUS DONE AND SIGNED in New Orleans, Louisiana this ____ day of _____, 2023

HONORABLE JUDGE DARRYL A. DERBIGNY
CIVIL DISTRICT COURT

PLEASE SERVE:

**ORLEANS PARISH
DISTRICT ATTORNEY'S OFFICE**
619 S. White Street
New Orleans, LA 70119

**JACOB LONGMAN
LONGMAN JAKUBACK, APLC**
830 Main St.
Baton Rouge, LA 70802

**J. TAYLOR GRAY
ASSISTANT ATTORNEY GENERAL,
CRIMINAL APPEALS
LOUISIANA D.O.J.- ATTORNEY
GENERAL**
1885 N. 3rd Street
Baton Rouge, LA 70802

Defendant:		Case Number:	Charge:
DATE	TIME	ADA	Description of Activity
12/7	1:30		contacted Jenna 2 see if she can get mom 2 call me etc. Jenna stated left message with her on cell (voicemail)
12/7	3:00		received a call from V/mom yeah! finally! said throwing her to the side/had been without a car. asked had she received my messages. said yes. apologized. exp. looking to departing/ret. with me. Pw presentation. asked 4 on interview today possible V said - no yes. asked 4 later on that day will stay after 5:00 with 2 home if necessary. V said after 5:00 would be work. said 5:30 in better get work/pick up kids.
12/7	4:00		called in to medical office with mother etc. work done. need results

CERTIFIED DA OFFICE COPY

EXHIBIT

1

DATE	ADA
	ERNEST MILLS Agg Rape
	On Mother
	1/28/9
	Ms. Overstreet →
1/28/9	called Ms. Overstreet → works from 7pm to 7am
	Jason Williams represented the family member previously.
	daughter is in school.
	tomorrow is good day to meet tell her I will call her in morning & let her know if I'm in town

CERTIFIED DA OFFICE COPY

EXHIBIT

2

CRIMINAL DISTRICT COURT OF ORLEANS PARISH, LOUISIANA

Page 1

SECTION "J" Judge: THE HONORABLE DARRYL DERBIGNY

Minute Clerk: MAUDE ROSE GEORGE

Court Reporter: LINDA LEGAUX

Assist. D.A.: DANNY TRAN

CARLY GREENFIELD

OIDP Attorney: RENEA PELLGRINO

Date: WEDNESDAY, January 15, 2025

Case Number: 472-876

State of Louisiana

versus

ERNEST MILLS JR

Violation: RS 14 42.1

RS 14 43.1(C) (1)

RS 14 42

DEFENSE COUNSEL JENNIFER CAMERON APPEARED ON BEHALF OF
DEFENDANT, ERNEST MILLS JR, FOR RULING; DEFENDANT DID NOT
APPEAR.

THE DEFENDANT IS IN DOC CUSTODY.
THE DEFENSE WAIVED THE PRESENCE OF THE DEFENDANT.

AAG(S) IRENA ZAJICKOVA AND STEPHANIE BRUNO APPEARED ON BEHALF
OF THE STATE.

-THE COURT DENIED THE STATE'S PROCEDURAL OBJECTIONS.
STATE'S OBJECTION WAS NOTED.
STATE INFORMED THE COURT OF ITS INTENT TO FILE A WRIT.

FILING(S) IN OPEN COURT IN THIS MATTER IS SET FOR 02/13/25.

SEND NOTICE TO DEFENSE COUNSEL.
THE DEFENDANT IS NOT REQUIRED.

FILING OF WRITS IN THIS MATTER IS SET FOR 02/20/25.

SEND NOTICE TO DEFENSE COUNSEL.
THE DEFENDANT IS NOT REQUIRED.

Maude Rose George

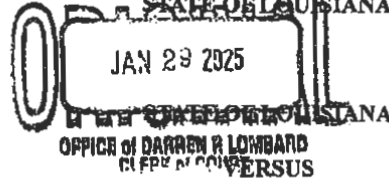
MAUDE ROSE GEORGE, Minute Clerk

EXHIBIT 8



CRIMINAL DISTRICT COURT
CRIMINAL DISTRICT COURT
STATE OF LOUISIANA

NO. 472-876



SECTION "J"

JAN 29 2025

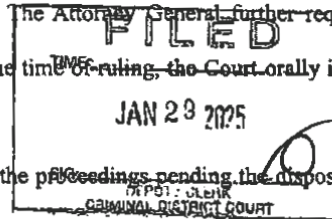
ERNEST MILLS

FILED: _____

DEPUTY CLERK

STATE'S NOTICE OF INTENT TO FILE A WRIT
REQUEST FOR STAY OF PROCEEDINGS

NOW INTO COURT, through the undersigned counsel, comes the Louisiana Attorney General, who respectfully gives notice of intent to file a supervisory writ of this Court's ruling on January 15, 2025, in which it overruled/denied the State's Procedural Objections to the Defendant's Application for Post-Conviction Relief. The Attorney General further requests a return date for the filing of the writ application. At the time of ruling, the Court orally issued a return date of February 13, 2025.



The Attorney General also requests a Stay of the proceedings pending the disposition of said writ application. At the time of ruling, the Court orally issued the Stay.

Respectfully submitted,

LIZ MURRILL
ATTORNEY GENERAL

BY: _____

Irena Zajickova, #35394
J. Taylor Gray, #33562
Stephanie May Bruno, #24166
Assistant Attorneys General
P.O. Box 94005
Baton Rouge, Louisiana 70804-9095
Telephone: (225) 326-6200
Facsimile: (225) 326-6096
Email: Zajickoval@ag.louisiana.gov
GrayJ@ag.louisiana.gov
BrunoS@ag.louisiana.gov



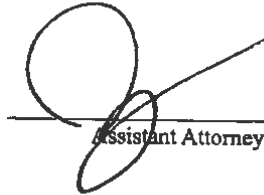
EXHIBIT 9



CERTIFICATE OF SERVICE

I certify that on the 29th day of January, 2025, a copy of the foregoing has been sent via
U.S. and/or electronic mail to the following:

Jennifer Cameron, #39826
Longman Jakuback, APLC
830 Main St.
Baton Rouge, Louisiana 70802
jennifer@ljlaw.org
Counsel for the Defendant



Assistant Attorney General



CRIMINAL DISTRICT COURT
FOR THE PARISH OF ORLEANS
STATE OF LOUISIANA

NO. 472-876

SECTION "J"

STATE OF LOUISIANA

VERSUS

ERNEST MILLS

FILED: _____

DEPUTY CLERK

ORDER

CONSIDERING the notice of intent to file a writ;

IT IS HEREBY ORDERED that the Attorney General may file the writ application on or
before the 13th day of February, 2025.

IT IS FURTHER ORDERED that the motion for stay of proceedings is GRANTED.

SIGNED, this _____ day of _____, 2025, in New Orleans, Louisiana.

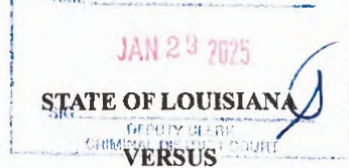
Hon. Darryl Derbigny
Judge, Section "J"
Criminal District Court, Orleans Parish



**CRIMINAL DISTRICT COURT
FOR THE PARISH OF ORLEANS
STATE OF LOUISIANA**

NO. 472-876

SECTION "J"



ERNEST MILLS

FILED: _____

DEPUTY CLERK

STATE'S NOTICE OF INTENT TO FILE A WRIT
REQUEST FOR STAY OF PROCEEDINGS

NOW INTO COURT, through the undersigned counsel, comes the Louisiana Attorney General, who respectfully gives notice of intent to file a supervisory writ of this Court's ruling on January 15, 2025, in which it overruled/denied the State's Procedural Objections to the Defendant's Application for Post-Conviction Relief. The Attorney General further requests a return date for the filing of the writ application. At the time of ruling, the Court orally issued a return date of February 13, 2025.

The Attorney General also requests a Stay of the proceedings pending the disposition of said writ application. At the time of ruling, the Court orally issued the Stay.

Respectfully submitted,

LIZ MURRILL
ATTORNEY GENERAL

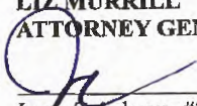
BY:  _____
Irena Zajickova, #3 5394
J. Taylor Gray, #33562
Stephanie May Bruno, #24166
Assistant Attorneys General
P.O. Box 94005
Baton Rouge, Louisiana 70804-9095
Telephone: (225) 326-6200
Facsimile: (225) 326-6096
Email: ZajickovaI@ag.louisiana.gov
GrayJ@ag.louisiana.gov
BrunoS@ag.louisiana.gov

EXHIBIT 9.1

CERTIFICATE OF SERVICE

I certify that on the 29th day of January, 2025, a copy of the foregoing has been sent via
U.S. and/or electronic mail to the following:

Jennifer Cameron, #39826
Longman Jakuback, APLC
830 Main St.
Baton Rouge, Louisiana 70802
jennifer@ljlaw.org
Counsel for the Defendant



Assistant Attorney General

**CRIMINAL DISTRICT COURT
FOR THE PARISH OF ORLEANS
STATE OF LOUISIANA**

NO. 472-876

SECTION "J"

STATE OF LOUISIANA

VERSUS

ERNEST MILLS

FILED: _____

DEPUTY CLERK

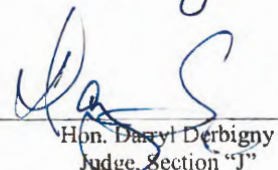
ORDER

CONSIDERING the notice of intent to file a writ;

IT IS HEREBY ORDERED that the Attorney General may file the writ application on or
before the 13th day of February, 2025.

IT IS FURTHER ORDERED that the motion for stay of proceedings is **GRANTED**.

SIGNED, this 29th day of January, 2025, in New Orleans, Louisiana.



Hon. Darryl Derbigny
Judge, Section "J"
Criminal District Court, Orleans Parish

CASE: 472-876
SECTION: J
CLASS: 2

DOCKET MASTER

DATE: 2/13/2025
TIME: 10:05:14
PAGE: 1

ORLEANS PARISH CRIMINAL DISTRICT COURT

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DF#	DEFENDANT(S):	CNTS	CHARGE(S):
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1	MILLS, ERNEST JR	1	RS 14 43.1(C)(1) SEXUAL BATTERY	BOND:	3,000,000.00
		2	RS 14 42 FIRST DEGREE RAPE	BOND:	.00
		1	RS 14 42.1 SECOND DEGREE RAPE	BOND:	.00

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DATE	PROCEEDINGS
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9/13/2007	FILED INDICTMENT "TRUE BILL" CAPIAS ISSUED BOND SET, \$ 3,000,000.00 MAGISTRATE PAPERWORK FILED (NONE)	ALPHONSEC
9/14/2007	ALLOTTED.ARRAIGNMENT SET FOR 09/19/07. PDOJL.	ALPHONSEC
9/19/2007	>THE DEFENDANT, ERNEST MILLS JR APPEARED FOR ARRAIGNMENT. >JOE MEYER STOOD IN FOR ARRAIGNMENT ONLY. >DEFENDANT ENTERED PLEA OF NOT GUILTY. >DEFENDANT INFORMED OF RIGHT TO TRIAL BY JUDGE OR JURY. >HRG TO DETERMINE COUNSEL SET FOR 10/17/07 >SEND NOTICE TO DEFENSE COUNSEL JASON WILLIAMS >PDOJL	MPELOW
10/09/2007	>RE THE DEFENDANT, ERNEST MILLS JR, >DEFENSE FILED: >-MOTION FOR SEVERANCE. >-MOTION TO CONTINUE. >HEARING SET FOR 10/23/07 >SEND NOTICE TO DEFENSE COUNSEL JASON WILLIAMS. >PDOJL	MPELOW
10/17/2007	>DEFENSE COUNSEL JOE MEYER APPEARED WITHOUT DEFENDANT, ERNEST MILLS JR FOR HRG TO DETERMINE COUNSEL >DEFENDANT IN CUSTODY AND NOT BROUGHT INTO COURT. >HRG TO DETERMINE COUNSEL SET FOR 10/26/07 >SEND NOTICE TO DEFENSE COUNSEL JASON WILLIAMS >PDOJL	MPELOW
10/23/2007	>THE DEFENDANT, ERNEST MILLS JR APPEARED FOR HRG TO DETERMINE COUNSEL WITH COUNSEL, JASON WILLIAMS >DISCOVERY HEARING SET FOR 11/27/07 >HEARING ON MOTIONS SET FOR 12/11/07 >SEND NOTICES (MOTIONS ONLY) >NOTIFY DEF.COUNSEL. >PDOJL	MPELOW
11/27/2007	>DEFENDANT, ERNEST MILLS JR APPEARED WITHOUT COUNSEL FOR DISCOVERY HEARING >STATE FILED: >-ANSWER TO DISCOVERY. >STATE WILL MAKE ALL ATTEMPTS TO PROVIDE DISCOVERY TO DEFENSE	MPELOW
12/11/2007	>DEFENDANT, ERNEST MILLS JR APPEARED WITH COUNSEL, JASON WILLIAMS FOR HEARING ON MOTIONS >CONTINUED ON STATE MOTION VICTIM IS SCHOOL AGED AND UNABLE TO ATTEND COURT >PRE-TRIAL CONFERENCE SET FOR 12/20/07 >NOTIFY DEF.COUNSEL. >PDOJL	MPELOW
12/20/2007	>THE DEFENDANT, ERNEST MILLS JR APPEARED FOR PRE-TRIAL CONFERENCE WITH COUNSEL, JASON WILLIAMS >HEARING ON MOTIONS SET FOR 02/21/08 >SEND NOTICES. >NOTIFY DEF.COUNSEL. >PDOJL	MPELOW
2/07/2008	>RE THE DEFENDANT, ERNEST MILLS JR, >STATE FILED: >-WITNESS LIST.	MPELOW
2/21/2008	>DEFENSE COUNSEL JASON WILLIAMS APPEARED WITHOUT DEFENDANT, ERNEST MILLS JR FOR HEARING ON MOTIONS >DEFENDANT IN CUSTODY AND NOT BROUGHT INTO COURT. STATE TO TRUN OVER OUTSTANDING DISCOVERY. >PRE-TRIAL HEARING SET FOR 03/10/08 >NOTIFY	MPELOW

CONTINUED

EXHIBIT 10



CASE: 472-876
SECTION: J
CLASS: 2

DOCKET MASTER

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TIME: 10:05:14
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ORLEANS PARISH CRIMINAL DISTRICT COURT

DATE	PROCEEDINGS
2/21/2008	DEF.COUNSEL. >PDOJL MPELOW
3/10/2008	MPELOW >DEFENDANT, ERNEST MILLS JR APPEARED WITH COUNSEL, JASON WILLIAMS FOR PRE-TRIAL HEARING >CONTINUED ON STATE MOTION >PRE-TRIAL HEARING SET FOR 03/14/08 >NOTIFY DEF.COUNSEL. >PDOJL
3/14/2008	MPELOW >THE DEFENDANT, ERNEST MILLS JR APPEARED FOR PRE-TRIAL HEARING WITH COUNSEL, JASON WILLIAMS >THE DEFENSE FILED ORAL MOTION FOR RELEASE >COURT DENIED >PRE-TRIAL CONFERENCE SET FOR 03/20/08 >NOTIFY DEF.COUNSEL. >PDOJL
3/20/2008	MPELOW >DEFENDANT, ERNEST MILLS JR APPEARED WITHOUT COUNSEL FOR DISCOVERY STATUS; DISCOVERY STATUS >DISCOVERY HEARING SET FOR 04/14/08 >NOTIFY DEF.COUNSEL. >PDOJL
4/14/2008	MPELOW >THE DEFENDANT, ERNEST MILLS JR APPEARED FOR DISCOVERY HEARING WITH COUNSEL, JASON WILLIAMS >HEARING ON MOTIONS SET FOR 06/17/08 >SEND NOTICES. >NOTIFY DEF.COUNSEL. >DNOC.
6/17/2008	MPELOW >DEFENDANT, ERNEST MILLS JR APPEARED WITH COUNSEL, JASON WILLIAMS, FOR HEARING ON MOTIONS. THE VIDEOTAPE NOT PRESENT IN COURT TODAY. STATE TO PRESENT COPY TO DEFENSE COUNSEL BY 07/15/08 >CONTINUED ON JOINT MOTION. >PRE-TRIAL CONFERENCE SET FOR 07/15/08 >TRIAL SET FOR 07/22/08 >SEND NOTICES. >NOTIFY DEF.COUNSEL. >PDOJL
7/15/2008	MPELOW >DEFENDANT, ERNEST MILLS JR DID NOT APPEAR FOR PRE-TRIAL CONFERENCE >DEFENDANT IN CUSTODY AND NOT BROUGHT INTO COURT. >TRIAL SET FOR 07/22/08 >SEND NOTICES. >NOTIFY DEF.COUNSEL. >PDOJL
7/22/2008	MPELOW >DEFENDANT, ERNEST MILLS JR APPEARED WITH COUNSEL, JASON WILLIAMS FOR TRIAL >CONTINUED ON STATE MOTION >TRIAL CONTINUED TO 08/12/08 >SEND NOTICES. >NOTIFY DEF.COUNSEL. >PDOJL
8/12/2008	MPELOW >DEFENDANT, ERNEST MILLS JR APPEARED WITH COUNSEL, JASON WILLIAMS FOR TRIAL STATE TENDERED COPY OF AUDIOTAPE INTERVIEW OF VICTIM. >CONTINUED ON DEFENSE MOTION. >TRIAL CONTINUED TO 11/12/08 >SEND NOTICES. >NOTIFY DEF.COUNSEL. >PDOJL
11/12/2008	MPELOW >DEFENDANT, ERNEST MILLS JR APPEARED WITHOUT COUNSEL FOR TRIAL >CONTINUED ON DEFENSE MOTION. >TRIAL CONTINUED TO 01/28/09 >SEND NOTICES. >SEND NOTICE TO DEFENSE COUNSEL JASON WILLIAMS. >PDOJL
1/28/2009	MPELOW >DEFENDANT, ERNEST MILLS JR APPEARED WITH COUNSEL, JASON WILLIAMS FOR TRIAL >CONTINUED ON JOINT MOTION. >TRIAL CONTINUED TO 04/08/09 >SEND NOTICES. >NOTIFY DEF.COUNSEL. >PDOJL
4/08/2009	GEORGE M >THE DEFENDANT, ERNEST MILLS JR APPEARED FOR TRIAL WITH COUNSEL, JASON WILLIAMS >COUNT 3 AMENDED TO RS 14 42.1 FORCIBLE RAPE >FOR COUNT 1 RS 14 43.1 SEXUAL BATTERY NOLLE PROSEQUI. >FOR COUNT 2 RS 14 42 AGG RAPE NOLLE PROSEQUI. >DEFENDANT PLED GUILTY >FOR COUNT 3 RS 14 42.1 PLED GUILTY. >ERNEST MILLS JR DEFENDANT WAIVED DELAYS. >SENTENCE: >AS TO COUNT 3, >30 YEARS, AT DOC AT HARD LABOR. >CREDIT FOR TIME SERVED. >CASE CLOSED, THIS DEFENDANT.
5/14/2010	ALPHONSEC COURT OF APPEAL, FOURTH CIRCUIT STATE OF LOUISIANA NOTIFIED THE CONTINUED



ORLEANS PARISH CRIMINAL DISTRICT COURT

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DATE	PROCEEDINGS
5/14/2010	COURTS THAT THE DEFENDANT APPLIED FOR A SUPERVISORY WRIT, WRIT GRANTED IN PART. >2010-K-0262 ALPHONSEC
4/06/2011	CLERK'S OFFICE RECEIVED DEFENDANT'S ORIGINAL APPLICATION FOR POST CONVICTION RELIEF C/W DEFENDANT'S MOTION TO WITHDRAW HIS GUILTY PLEA. (AS TO ERNEST MILLS) SHOLESR
4/03/2014	>DEFENSE COUNSEL RALEIGH OHLMEYER APPEARED WITHOUT DEFENDANT, ERNEST MILLS JR FOR UNSCHEDULED ACTIVITY >PRESENCE OF DEFENDANT WAIVED. THE STATE WILL FILE PROCEDURAL ON THE DEFENDANT'S POST CONVICTION RELIEF APPLICATION. >STATUS HEARING SET FOR 05/02/14 >NOTIFY DEF.COUNSEL. >DEFENDANT'S PRESENCE NOT REQUIRED. GEORGE M
5/02/2014	>DEFENDANT, ERNEST MILLS JR DID NOT APPEAR FOR STATUS HEARING >STATUS HEARING SET FOR 06/11/14 >SEND NOTICE TO DEFENSE COUNSEL RALEIGH OHLMEYER. >DEFENDANT'S PRESENCE NOT REQUIRED. GEORGE M
5/06/2014	CLERK'S OFFICE RECEIVED STATE'S PROCEDURAL OBJECTIONS TO PETITIONER'S APPLICATION FOR POST CONVICTION RELIEF. (AS TO E.MILLS) TROSCLAIR
6/11/2014	>DEFENSE COUNSEL RALEIGH OHLMEYER APPEARED WITHOUT DEFENDANT, ERNEST MILLS JR FOR STATUS HEARING >PRESENCE OF DEFENDANT WAIVED. ADA KYLE DALY APPEARED AND REPRESENTED THE STATE >RULING SET FOR 07/01/14 >NOTIFY DEF.COUNSEL. >DEFENDANT'S PRESENCE NOT REQUIRED. GEORGE M
7/01/2014	>DEFENSE COUNSEL RALEIGH OHLMEYER APPEARED WITHOUT DEFENDANT, ERNEST MILLS JR FOR RULING APPEAR. THE DEFENDANT WAS NOT REQUIRED AT THIS SETTING. -THE COURT DENIED THE DEFENSE MOTION FOR POST CONVICTION RELIEF. THE COURT NOTED THE OBJECTION BY THE DEFENSE. THE DEFENSE INFORMED THE COURT OF ITS INTENT TO FILE A WRIT >AND REQUESTED A RETURN DATE. >FILING OF WRITS SET FOR 08/01/14 >NOTIFY DEF.COUNSEL. >DEFENDANT'S PRESENCE NOT REQUIRED. GEORGE M
7/23/2014	CLERK'S OFFICE RECEIVED VIA MAIL NOTICE OF INTENT TO SEEK WRITS/ ORDER FIXING RETURN DATE. WELCHP
7/31/2014	CLERK'S OFFICE RECEIVED MOTION AND ORDER FOR EXTENSION OF TIME. (E.MILLS) GEORGE M * * * * * >DEFENSE COUNSEL RALEIGH OHLMEYER APPEARED WITHOUT DEFENDANT, ERNEST MILLS JR FOR UNSCHEDULED ACTIVITY >PRESENCE OF DEFENDANT WAIVED. *THE COURT GRANTED THE DEFENSE MOTION AND ORDER FOR EXTENSION OF TIME. THE COURT WILL VACATE THE FILING OF WRITS DATE OF 8/01/14. >FILING OF WRITS SET FOR 09/01/14 >NOTIFY DEF.COUNSEL. >DEFENDANT'S PRESENCE NOT REQUIRED.
10/03/2014	AFTER RECEIVING DEFENDANT'S PUBLIC RECORDS REQUEST, THE COURT DENIED THE DEFENDANT'S MOTION. NOTICE OF THE COURT'S RULING HAS BEEN MAILED TO HIM AT RAYBURN CORRECTIONAL CENTER, ANGIE, LA, 70426. RANSHIB
12/10/2015	>THE DEFENDANT, ERNEST MILLS JR: -SUPREME COURT WRIT # 2015-KH-0423 WAS FILED INTO THE RECORD ON THIS DATE. WRIT NOT CONSIDERED. UNTIMELY FILED PURSUANT TO LA.S.C.T. >RULE X S 5. THIS MATTER IS CLOSED. GEORGE M

CONTINUED



CASE: 472-876
SECTION: J
CLASS: 2

DOCKET MASTER
ORLEANS PARISH CRIMINAL DISTRICT COURT

DATE: 2/13/2025
TIME: 10:05:14
PAGE: 4

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DATE	PROCEEDINGS
12/10/2015	GEORGEM
11/10/2021	FISHERT CLERK'S OFFICE RECEIVED NOTICE OR RECUSAL OF THE DISTRICT ATTORNEY. >DEFENSE COUNSEL D. KYLE STADTLANDER APPEARED WITHOUT DEFENDANT, ERNEST MILLS JR FOR UNSCHEDULED ACTIVITY. THE DEFENDANT DID NOT APPEAR. >PRESENCE OF DEFENDANT WAIVED. ADA G. BEN COHEN APPEARED ON BEHALF OF THE STATE. STATE FILED> NOTICE OF RECUSAL OF THE DISTRICT ATTORNEY THE COURT SIGNED THE NOTICE AND ORDERED THE CLERK'S OFFICE TO NOTIFY THE ATTORNEY GENERAL OF THE STATE OF LOUISIANA. THE DEFENDANT HAS PREVIOUSLY FILED A MOTION TO RECONSIDER SENTENCE >CASE CLOSED, THIS DEFENDANT.
11/16/2021	FISHERT CLERK'S OFFICE RECEIVED MOTION TO ENROLL AS COUNSEL. (MILLS E.)
2/15/2023	FISHERT CLERK'S OFFICE RECEIVED SECOND OR SUBSEQUENT UNIFORM APPLICATION FOR POST CONVICTION RELIEF.
5/09/2023	KIMBALLMAR AS PER DEFENDANT ERNEST MILLS: THIS MATTER IS SET FOR AN EVIDENTIARY HEARING ON 5/25/23 IN SECTION J AT 9 A.M. PLEASE SERVE DEFENSE FIRM OF LONGMAN, JAKUBACK, APLC DEFENSE TO WRIT.
5/25/2023	FISHERT CLERK'S OFFICE RECEIVED UNOPPOSED MOTION TO VACATE EVIDENTIARY HEARING DATE. >DEFENDANT, ERNEST MILLS JR DID NOT APPEAR FOR EVIDENTIARY HEARING. THE DEFENDANT IS IN DOC CUSTODY. AAG TAYLOR GRAY APPEARED ON BEHALF OF THE STATE. STATE ORALLY MOTIONED TO VACATE TODAY'S HEARING. THE COURT GRANTED THE MOTION. >FILING(S) IN OPEN COURT SET FOR 07/25/23 >NOTIFY DEF.COUNSEL. >DEFENDANT'S PRESENCE NOT REQUIRED.
5/31/2023	FISHERT CLERK'S OFFICE RECEIVED UNOPPOSED MOTION TO VACATE EVIDENTIARY HEARING DATE.
7/25/2023	GEORGEM >DEFENDANT, ERNEST MILLS JR DID NOT APPEAR FOR FILING(S) IN OPEN COURT. THE DEFENDANT WAS NOT REQUIRED. -FILING IN OPEN COURT WAS SATISFIED. >CONTINUED WITHOUT DATE.
7/26/2023	GEORGEM CLERK'S OFFICE RECEIVED PROCEDURAL OBJECTIONS TO SECOND APPLICATION FOR POST CONVICTION RELIEF. * * *
11/13/2023	FISHERT CLERK'S OFFICE RECEIVED RESPONSE TO STATE'S PROCEDURAL OBJECTIONS TO SECOND APPLICATION.
12/27/2023	FISHERT CLERK'S OFFICE RECEIVED MOTION FOR STATUS CONFERENCE.
5/16/2024	KIMBALLMAR AS PER DEFENDANT ERNEST MILLS: SEC. J RECEIVED VIA CERTIFIED MAIL; DEFENSE FILED> MOTION FOR STATUS CONFERENCE
11/18/2024	GEORGEM >THE DEFENDANT, ERNEST MILLS JR: >POST CONVICTION HEARING SET FOR 11/19/24 >DEFENDANT'S PRESENCE NOT REQUIRED.
11/19/2024	GEORGEM >DEFENSE COUNSEL JENNIFER CAMERON APPEARED WITHOUT DEFENDANT,

CONTINUED



CASE: 472-876
SECTION: J
CLASS: 2

DOCKET MASTER

DATE: 2/13/2025
TIME: 10:05:14
PAGE: 5

ORLEANS PARISH CRIMINAL DISTRICT COURT

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DATE	PROCEEDINGS
11/19/2024	GEORGEM ERNEST MILLS JR FOR POST CONVICTION HEARING. >PRESENCE OF DEFENDANT WAIVED. DEFENSE COUNSEL APPEARED VIA ZOOM. AAG(S) STEPHANIE BRUNO AND IRENA ZAJICKOVA APPEARED ON BEHALF OF THE STATE. >RULING SET FOR 01/15/25 >SEND NOTICE TO DEFENSE COUNSEL CAMERON. DEFENSE TO WRIT IN DEFENDANT.
1/15/2025	GEORGEM >DEFENSE COUNSEL JENNIFER CAMERON APPEARED WITHOUT DEFENDANT, ERNEST MILLS JR FOR RULING. THE DEFENDANT IS IN DOC CUSTODY. THE DEFENSE WAIVED THE PRESENCE OF THE DEFENDANT. >AAG(S) IRENA ZAJICKOVA AND STEPHANIE BRUNO APPEARED ON BEHALF OF THE STATE. -THE COURT DENIED THE STATE'S PROCEDURAL OBJECTIONS. STATE'S OBJECTION WAS NOTED. STATE INFORMED THE COURT OF ITS INTENT TO FILE A WRIT. >FILING(S) IN OPEN COURT SET FOR 02/13/25 SEND NOTICE TO DEFENSE COUNSEL. THE DEFENDANT IS NOT REQUIRED. >FILING OF WRITS SET FOR 02/20/25 >NOTIFY DEF.COUNSEL. THE DEFENDANT IS NOT REQUIRED.
1/29/2025	FISHERT CLERK'S OFFICE RECEIVED STATE'S NOTICE OF INTENT TO FILE A WRIT REQUEST FOR STAY OF PROCEEDINGS.

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END OF DOCKET MASTER

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