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SUPREME COURT, U.S.

In The
Supreme Court of the United States

In re LENNIE DARTEZ MATHIS, Petitioner

PETITION FOR A WRIT OF HABEAS CORPUS,

(FORENSIC INNOCENCE)

CAPITAL CASE

Lennie Dartez Mathis, 381358 216 Murray St

Helena, OK 73741

H

QUESTIONS PRESENTED

1. ACTIVE PARTICIPATION IN A THEATRICAL FRAUD AND DUE PROCESS Whether the Fourteenth Amendment's Due Process Clause is violated under *Napue v. Illinois*, 360 U.S. 264 (1959), where the State medical expert who performed the autopsy testifies under oath to the location of entrance and exit wounds and the state possesses a medical examiner's report documenting a front-facing entrance wound with intermediate-range stippling—inconsistent with a "back-of-the-head, point-blank execution" that they State witness testified to, and used to establish malice aforethought—yet the prosecutor participates in and a theatrical courtroom reenactment of that false narrative and vouches for the witness and instructs jurors they must either adopt that account or acquit.

2. COLLAPSE OF ADVERSARIAL TESTING Whether the Fourteenth Amendment's Due Process Clause is violated under *Napue v. Illinois*, 360 U.S. 264 (1959), where the State medical expert who performed the autopsy testifies under oath to the location of entrance and exit wounds and the state possesses a medical examiner's report documenting a front-facing entrance wound with intermediate-range stippling—inconsistent with a "back-of-the-head, point-blank execution" that they State witness testified to, and used to establish malice aforethought—yet the prosecutor participates in and a theatrical courtroom reenactment of that false narrative and vouches for the witness and instructs jurors they must either adopt that account or acquit and-prejudice standard articulated in *Strickland v. Washington*, 466 U.S. 668 (1984).

3. ACTUAL-INNOCENCE GATEWAY (New science applied to old data) Whether the actual-innocence gateway under *Schlup v. Delo*, 513 U.S. 298 (1995), as applied in *House v. Bell*, 547 U.S. 518 (2006), and extended to time-barred petitions in *McQuiggin v. Perkins*, 569 U.S. 383 (2013) is satisfied where newly developed 3D forensic animation with trajectories/ballistics/ heights/angles/ mathematic equations now showing how the shooter and victim was positioned when gun was fired, analysis of autopsy data—never presented to a jury—demonstrates that the State's execution theory is physically impossible and inconsistent with the documented wound path and stippling patterns, such that no reasonable juror would find Petitioner guilty of shooting the victim in back of the head at point blank range beyond a reasonable doubt. Also Beard Cert. Expert Affidavit.

4. SUPPRESSION OF CRITICAL EVIDENCE (Due Process) Whether due process is violated, under *Brady v. Maryland*, 373 U.S. 83 (1963), where the State suppresses the identity and the active roll Mr. Edwards played at the scene after the shooting and the statements of a known eyewitness who arrived with others, handled the victim's body, declared her dead, and left the scene, and conspiracy to conceal his presence by all witnesses to the jury, and state played a long— this evidence would have corroborated self-defense, explained the disappearance of a weapon, and undermined the prosecution's theory of guilt.

5. STRUCTURAL BREAKDOWN OF THE TRIAL FRAMEWORK (Cumulative/structural error) Whether reversal is required because the combined effect of (a) a demonstrative "execution" reenactment the state participated in and inconsistent with State-held forensics, (b) a jury instruction expressly predicated on that false account, (c) defense counsel's failure to subject the State's case to meaningful adversarial testing, and (d) the State's instruction to the jury to abandon its Sixth Amendment duty as fact-finders by stating "it's not your job to pick apart the State's case, that's not your job"—thereby relieving the State of its burden to prove every element beyond a reasonable doubt—so undermined the trial framework that the verdict is inherently unreliable under *United States v. Cronin*, 466 U.S. 648 (1984), *Sullivan v. Louisiana*, 508 U.S. 275 (1993), and *Kyles v. Whitley*, 514 U.S. 419 (1995).

LIST OF PARTIES

Petitioner: Lennie Darter Mathis 381358

Respondent's: Carrie Bridges, New warden Kelli Davis
Gentner Drummond AG,

RELATED CASES

Western district Oklahoma - CIV-11-694-C

District Court - CF-2004-6038

OCCA - PC-2023-814

Western district - CIV-24-663-J / 10th Cir 5:11-CV-00694-C

Reasoning for NOT Making Application to the
District Court

Petitioner previously sought Federal habeas Corpus relief in the United States District Court for the Western District of Oklahoma. "CIV-24-663-J" that Court determined that Petitioner had to ask for authorization to file second or successive from the United States Court of Appeals for the 10th Cir. under 28 U.S.C. 2244(B)

Petitioner sought such authorization from the
10th Cir. "5:11-CV-00694-C" which the 10th
Cir. denied. Now no lower court, state or Federal
presently affords any available avenue of relief.
Petitioner respectfully seeks original habeas relief
from this Court pursuant to Rule 20.

TABLE OF CONTENTS

QUESTIONS PRESENTED ii

TABLE OF CONTENTS iv

TABLE OF AUTHORITIES v

Federal Cases v

Federal Statutes vii

State Cases vii

State Statues vii

Other vii

APPENDICES viii

OPINION BELOW vii

STATEMENT OF JURISDICTION CONSTITUION & STATITORY PREVISIONS1

STATEMENT OF THE CASE3

PROCEDURAL HISTORY6

ARGUMENT7

 CLAIM 1: PROSECUTORIAL MISCONDUCT.....7

 A. *Napue, 360 U.S. 264*7

 B. Binary Test - Science v Testimony10

 C. The Tribunal Was Structurally Defective Due To Compensatory Judicial Bias12

 COMPENSARY JUDICIAL BIAS.....13

 CLAIM 2: THE ERRORS IN THIS CASE CONSTITUTE STRUCTURAL DEFECTS REQUIRING AUTOMATIC REVERSAL.....16

 THE TOTAL COLLAPSE OF THE ADVERSARIAL TRIAD UNITED STATES V. CRONIC18

 CLAIM 3: ARGUMENT: BRADY VIOLATION20

 CLAIM 4: INEFFECTIVE ASSISTANCE OF COUNSEL21

 A. Structural Defect Aba Guidelines – Prejudice Proved Under Strickland26

 B. Argument Based On *In Re Davis* President28

 C. *Glossip v. Gross* Comparison: Why *Mathis* Case Presents An Even More Egregious Constitutional Violation29

 D. This Court’s Review31

 Claim 5: Actual Innocence Under This Court’s Precedents33

CONCLUSION AND RELIEF REQUESTED40

TABLE OF AUTHORITIES

FEDERAL CASES

<i>House v. Bell</i> , 547 U.S. 518 (2006).....	ii, vi, 3, 6, 31, 34
<i>Schlup v. Delo</i> , 513 U.S. 298 (1995).....	ii, vi, 31
<i>McQuiggin v. Perkins</i> , 569 U.S. 383 (2013).....	ii, vi, 31
<i>Ex parte Bollman</i> , 8 U.S. 75 (1807).....	1
<i>Ex parte Grossman</i> , 267 U.S. 87 (1925).....	1
<i>Felker v. Turpin</i> , 518 U.S. 651, 661 (1996).....	1
<i>Napue v. Illinois</i> , 360 U.S. 264, 269 (1959).....	2, 3, 7, 9, 10, 11, 29, 31, 32, 37
<i>Strickland v. Washington</i> , 466 U.S. 668, 1984).....	2, 21, 23, 26, 27, 33, 39
<i>Glossip v. Gross</i> , 576 U.S. 863 (2015).....	8
<i>Miller v. Pate</i> , 386 U.S. 1 (1967).....	11, 13, 32, 38
<i>Han Tak Lee v. Glunt</i> , 667 F.3d 397 (3d Cir. 2012).....	12, 13, 36
<i>McCrorry v. Alabama</i> , 603 U.S. (2024).....	12
<i>Bracy v. Gramley</i> , 520 U.S. 899 (1997).....	13, 15
<i>Cecil Ray Johnson v. State</i> CF-2006-910.....	14
<i>Arizona v. Fulminante</i> , 499 U.S. 279, 310 (1991).....	16, 17
<i>United states v. Cronic</i> , 466 U.S. 648, 659 (1984).....	18, 21, 27
<i>Weaver v. Massachusetts</i> , 582 U.S. (2017).....	18

<i>in re Winship</i> , 397 U.S. 358 (1970)	18, 25, 28, 29
<i>Sullivan v. Louisiana</i> , 508 U.S. 275 (1993)	18, 19
<i>United States v. Bagley</i> , 473 U.S. 667 (1985)	20
<i>Kyles v. Whitley</i> , 514 U.S. 419 (1995)	21
<i>Glasser v. United States</i> , 315 U.S. 60, 80 (1942)	25
<i>United States v. Bailey</i> , 444 U.S. 394, 414–15 (1980)	25
<i>Sandstrom v. Montana</i> , 442 U.S. 510 (1979)	25
<i>United States v. Young</i> , 470 U.S. 1 (1985)	25
<i>Wiggins v. Smith</i> , 539 U.S. 510 (2003)	27
<i>Avery v. Alabama</i> , 308 U.S. 444 (1940)	27
<i>in re Davis</i> , 557 U.S. 952 (2009)	28
<i>Glossip v. Gross</i> , 576 U.S. 863(2015)	29
<i>Giglio v. United States</i> , 405 U.S. 150 (1972), 153	38
<i>Mooney v. Holohan</i> , 294 U.S. 103, 112 (1935)	38
<i>United States v. Agurs</i> , 427 U.S. 97, 103 (1976)	39
<i>Kyles v. Whitley</i> , 514 U.S. 419, 434 (1995)	40

STATES CASES

<i>People v. Peete</i> , 318 Ill. App. 3d 961, 743 N.E.2d 689 (4th Dist. 2001)	25
---	----

TABLE OF STATUES

28 U.S.C. §2244 (b)(3)(E).....1
28 U.S.C. § 2241(b).....1, 40
Title 28 of the United States Codes § 2241(a).....2
Supreme Court Rule 20.4(a).....2
21 O.S. 358.....13
21 O.S.2001, § 645.....14

OTHER

U.S. Const. amend. I 7
U.S. Const. amend. V 7
U.S. Const. amend. VI 7,8
U.S. Const. amend. VIII 8
U.S. Const. amend. XIV 7,8

APPENDICES

A	Newly discovered evidence certified expert forensic death investigators affidavit from Dean and Karen Beers	08/23/2022
B	Newly discovered evidence 3D forensic expert James Trotier still pictures (1-7), from 3D animation	09/15/2022
C	States expert medical examiners report "Autopsy Report" Me Md Chais Choi	11/09/2004
D	Judge Tammy Bas Lasure reasoning for giving Mathis 1 st degree murder instructions to the jury (pg. 214, line 2-9)	5/28/2008
E1	Binary Test Closing Argument (pg. 103, line 4-8)	05/29/2008
E2	Binary Test Closing Argument (pg. 104, line 2-13)	05/29/2008
E3	Binary Test Closing Argument (pg. 106, line 4-10)	05/29/2008
F1	District Attorney Sandra Elliot does not dispute motive (pg. 13, line 21-25)	05/29/2008
F2	District Attorney Sandra Elliot does not dispute motive (pg. 135, line 7-16)	05/28/2008
G1	District Attorney Sandra Elliot vouching for Paxton false version of the shooting (pg. 99, line 11-13)	5/29/2008
G2	District Attorney Sandra Elliott vouching for Paxton false version of the shooting (pg. 104, line 16-18)	05/29/2008
H1	Direct examination testimony of medical examiner Chais Choi MD by Sandra Elliot "Where the entrance and exit wound location are and the range of shot"(pg. 66, 67, 68, 69, 10, 71, 72, 73)	05/22/2008
H2	D.A. Sandra Elliot gets Paxton off the stand so they both participate in the reenactment of the forensically false shooting for the jury. D.A. Sandra Elliot plays the victim and Paxton plays Mr. Mathis (pg. 35 line 20-25, pg. 36, line 7-8, 21-22, pg. 37 whole)	05/22/2008
I	Cross examination by defense of Paxton eyewitness account on entrance and exit wound location along with range of the gunshot at discharge (pg. 68, line 15-25)	05/22/2008
J	Paxton version of shooting (pg. 35, 36, 37, 68, 69, 74)	05/22/2008
K	Victim body chart autopsy diagram of entrance and exit wound location	11/09/2004
L	Mathis version of the shooting: Direct examination by Defense Council Tim Wilson (pg. 51, 52, 53)	05/27/2008
M	Objection letter to the R&R in the Federal Western District (CIV-24-663-J)	08/16/2024
N	Defense council failure to use contemporaneous medical evidence during cross examination while on the stand instead of confronting her with forensic evidence (pg. 69, line 1-11)	05/22/2008
O1	States witness hill admits threat to Mr. Mathis life by herself, victim, & friend: Pre-liminary hearing cross-examination Defense Council Mitch Solomon (pg. 102, line 1-9)	2005
O2	Hill admits again in 2008 trial to having someone shoot and kill Mr. Mathis is he comes to pick up his son (pg. 60, line 17-24)	05/22/2008

O3	More threats to Mathis life: Maxwell warns Mathis about threats to his life made by Paxton, Hill, Victim, and Friends (pg. 127, line 1-19)	05/28/2008
P	Mathis explains why he reacted to the victim's threat and attacked the way he did (pg. 73, line 6-11)	05/28/2008
Q	Defense reasoning why the victim was aggressor closing arguments defense council (pg. 70, line 15-25)	05/29/2008
R	Mathis has always relied on forensic and ballistics to be a witness for him (pg. 86, line 15-25)	05/28/2008
S	Jerome Edward police statement admitting his role after Mr. Mathis left	11/09/2004
T	Court Docket	

OPINION BELOW

The order of the District Court of Oklahoma County, striking Petitioner's Application for Post-Conviction Relief for exceeding page limits, was entered on [8-25-2023], in Case No. [Cf-2004-6038].

The order of the Oklahoma Court of Criminal Appeals, affirming the striking of the application and denying relief, was entered on [1-30-024], in Case No. [Pc-2023-814.].

The order of the United States District Court for the Western District of Oklahoma, dismissing Petitioner's Petition for Writ of Habeas Corpus as an unauthorized second or successive petition, was entered on [8-19-2024], in Case No. [CIV-24-663-j.].

The order of the United States Court of Appeals for the Tenth Circuit, denying Petitioner's application for authorization to file a second or successive habeas corpus petition and denying a Certificate of Appealability, was entered on [10-17-24], in Case No. [Cv-00663-j.].

STATEMENT OF JURISDICTION

This Court's authority to grant original habeas relief stems directly from the Constitution, as established in *Ex parte Bollman*, 8 U.S. 75 (1807) and *Ex parte Grossman*, 267 U.S. 87 (1925). While 28 U.S.C. §2244 (b)(3)(E) bars certiorari review of the Tenth Circuit's denial, *Felker v. Turpin*, 518 U.S. 651, 661 (1996) explicitly preserved this Court's Rule 20 authority to grant original habeas relief in exceptional circumstances. In *Ex parte Bollman* the Constitutional foundation for review established the Court's habeas power deriving it directly from the Constitution which cannot be fully restricted by statute and is a last resource available to prevent the miscarriage of justice. In *Felker v. Turpin* the Constitutional review power was preserved by the Rule 20 authority allowing review in exceptional circumstances. Pursuant to 28 U.S.C. § 2241(b), Petitioner specifically invokes this Court's authority to transfer this application to the District Court for an evidentiary hearing, as the uncontroverted forensic evidence proves the State's theory of conviction was a physical impossibility."

CONSTITUTIONAL AND STATUTORY PROVISIONS

The First Amendment to the United States Constitution provides in relevant part: "Congress shall make no law... abridging... the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." The Fifth Amendment to the United States Constitution provides in relevant part: "No person shall... be deprived of life, liberty, or property, without due process of law..." The Sixth Amendment to the United States Constitution provides in relevant part: "In all criminal prosecutions, the accused shall enjoy the right... to have the Assistance of Counsel for his defense." The Fourteenth Amendment to the United States Constitution provides in relevant part: "...nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Title 28 of the United States Code § 2241(a) provides: "Writs of habeas corpus may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions." Supreme Court Rule 20.4(a) provides in relevant part: "To justify the granting of a writ of habeas corpus, the petitioner must show that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court." The Eighth Amendment of the United States Constitution states, in relevant part: nor cruel and unusual punishment inflicted." Mr. Mathis case is connected to *Schlup v. Delo* because: Mr. Mathis has been imprisoned despite proof of innocence. Where he has continued to be detained when evidence proves innocence. And is being punished for a crime where it was physically proven impossible for him to have committed. The Sixth Amendment of the United States Constitution states, in relevant part: "In all criminal prosecutions, the accused shall enjoy the right.... to have the Assistance of Counsel for his defense. *Strickland v. Washington*, 466 U.S. 668 (1984), the Court held that the right to counsel is the right to the effective assistance of counsel. An ineffective assistance of counsel was established when Counsel failed to obtain expert analysis, failed to use Medical Examiner evidence, failed to challenge impossible testimony and failed to present scientific evidence. Mr. Mathis' counsel failed to all four of the same things.. In *Napue v. Illinois*, 360 U.S. 264, 269 (1959), the Court held that a conviction obtained through the use of false evidence, known to be such by representatives of the State, is a denial of Due Process. This is true even if the false testimony 'goes only to the credibility of the witness,' because '[a] lie is a lie, no matter what its subject.' *Id.* Under the *Napue* standard, a conviction must be set aside if there is 'any reasonable likelihood' that the false testimony could have affected the judgment of the jury." The Fourteenth Amendment of the United States Constitution states, in relevant part: "Nor shall any

State deprive any person of life, liberty, or property, without due process of law” In *Napue v. State*, 405 U.S. 307 (1972), the Supreme Court held that a violation of the right to a fair trial is a fundamental right and in *Napue*

STATEMENT OF THE CASE

In 2023, Petitioner presented compelling forensic evidence of actual innocence in state court. However, Petitioner claims were never heard on the merits; instead, they were stricken solely for a procedural page-limit technicality. When Petitioner sought relief in the federal courts, the Tenth Circuit mischaracterized his board-certified forensic experts as 'self-described' and dismissed the 3D forensic reconstruction as 'reiterated old evidence.' This is a direct misapplication of *House v. Bell*, 547 U.S. 518 (2006). In the *House*, this Court established that new forensic analysis of existing evidence constitutes 'newly discovered' evidence when it reveals facts previously unknown to the jury. Here, the raw data from the 2004 autopsy was finally subjected to modern 3D trajectory triangulation—a scientific privilege Petitioner was not afforded at trial. This analysis mathematically and scientifically proves the prosecution's 'execution' theory was a physical impossibility and corroborates Petitioner's account. Because this new science clearly answers the 'binary test' of guilt versus innocence, the outcome of the trial would have been different, and a manifest miscarriage of justice has occurred. “Throughout this procedural history, no court has ever conducted an evidentiary hearing to assess the new scientific evidence that conclusively demonstrates Petitioners' innocence of first-degree capital murder. This petition represents my final opportunity to present evidence that proves, through the immutable laws of physics, that the prosecution's theory of the crime was impossible. The fact that such compelling scientific evidence has never received substantive review from any court knowing this was a capital case that deserves grave attention underscores the extraordinary nature of this case and the need for this Court's intervention.

1. The shooting. On February 9, 2004, Petitioner went to the apartment of Kasie Hill to pick up his two-year-old son. See Ex: F1 F2. A struggle occurred inside the apartment and in the hallway. A single gunshot struck Monique Ortiz in the left upper cheek and exited the back right side of her head. Ex: C, autopsy diagram; Ex: K
2. The autopsy. Oklahoma Chief Medical Examiner Dr. Chai Choi performed the autopsy the next day. Her report, delivered to the District Attorney before trial, recorded the following findings:
 - Entrance wound: left upper cheek, front-facing.
 - Exit wound: right back of head, front-to-back trajectory.
 - Stippling and powder tattooing present on the left cheek, proving an intermediate-range, not contact-range, gunshot. Ex: C at pp. 1–2.
3. The State's sole eyewitness. The prosecution relied exclusively on Kenisha Paxton, uncorroborated by any physical evidence. She testified that Petitioner walked back to the door, returned, and shot her point blank in the back of the head while the victim was turned away, with the muzzle of the gun allegedly in the victim's hair. Ex: H2, I.
4. The prosecutor's knowledge. Before opening statements, Assistant District Attorney Sandra Elliott possessed the autopsy report See Ex: C, photographs, and Dr. Choi's notes See Ex: K. She questioned Dr. Choi under oath in a prior proceeding See Ex: H1 and was told the entrance wound was frontal and the firing distance intermediate. This directly contradicted Paxton's back-of-head, contact range account that the prosecutor later presented to the jury.
5. The demonstration. Rather than correcting the false account, the prosecutor staged a courtroom reenactment. She played the victim, Paxton played Petitioner, and they acted out

- an execution-style, back-of-the-head, contact-range shooting for the jury. H2, pg. 35, II. 20–25. The prosecutor knew from Dr. Choi that this demonstration was scientifically false.
6. The instruction. The trial judge adopted this impossible version, instructing the jury: “Kenisha testified that he walked back to the door. That’s why you’re going to get your murder in the first degree, that he walked back to the door and shot her point blank.” Ex: D, Tr. 214.
 7. The defense. Petitioner testified that the gun discharged accidentally when Ortiz struck his arm during an altercation while facing him. See Ex L. This account is consistent with the medical evidence of an intermediate-range gunshot wound and with the expert findings from the 3D animation and affidavits of Dean and Karen Beers. The prosecutor’s reenactment was expressly used to refute self-defense and inflame the jury See Ex E1, Tr. pg. 104, II. 11-13 “You either believe Kenisha’s version and he’s guilty or believe Mr. Mathis version and he’s not.”
 8. The verdict. The jury found Petitioner guilty of first-degree murder, predicated entirely on Paxton’s account, which has now been disproven.
 9. The new evidence. In 2022, certified forensic experts used 3D laser scanning and ballistic software to replicate the shooting. In sworn affidavits, experts Dean and Karen Beers concluded that there is no evidence to support Paxton’s execution style account. They further concluded that the bullet path, stippling, beveling, trajectory angle, and other scientific factors fully support Petitioner’s accidental discharge version. The experts state the prosecution’s theory is physically impossible. See Ex A, Beers Aff.
 10. Procedural posture. No court has ever held an evidentiary hearing on this evidence. The Tenth Circuit dismissed Petitioner’s second-or-successive application, holding the

reconstruction was merely a new way to present existing evidence rather than newly discovered evidence. See Ex M Under the prosecutor's own binary test, either Kenisha's version is true and Petitioner is guilty, or Petitioner's version is true and he is not. Science has now resolved that test in Petitioner's favor, yet Petitioner remains imprisoned.

PROCEDURAL HISTORY

On May 29, 2008, Mr. Mathis was convicted by a jury on the 1st stage of his capital murder trial in Oklahoma County District Court Case No. CF-2004-6038 of first-degree murder, assault and battery with a dangerous weapon, and possession of a firearm. Despite the significant issues with the physical evidence and expert testimony at trial, Mr. Mathis did not file a direct appeal, because his public defender at the time Timothy Wilson explained to him that he could save his life and still appeal his conviction something petitioner didn't want to do as reflected in his original 2011 habeas corpus, a decision that reflects the ineffective assistance he received from counsel rather than any confession of guilt. In 2008, Mr. Mathis withdrew his plea agreement, which was denied by Oklahoma county and the criminal Court of appeals, then submitted to the Western district of Oklahoma which the court considered his first habeas petition. And it was denied (5:11-Cv-00694-C) In 2023, Petitioner presented compelling forensic evidence of actual innocence in state court. However, Petitioner claims were never heard on the merits; instead, they were stricken solely for a procedural page-limit technicality. When Petitioner sought relief in the federal courts, the Tenth Circuit mischaracterized his board-certified forensic experts as 'self-described' and dismissed the 3D forensic reconstruction as 'reiterated old evidence.' This is a direct misapplication of House v. Bell, 547 U.S. 518 (2006). In the House, this Court established that new forensic analysis of existing evidence constitutes 'newly discovered' evidence when it reveals facts previously unknown to the jury. Here, the raw data from the 2004 autopsy was finally subjected to modern

3D trajectory triangulation—a scientific privilege Petitioner was not afforded at trial. This analysis mathematically and scientifically proves the prosecution's 'execution' theory was a physical impossibility and corroborates Petitioner's account. Because this new science clearly answers the 'binary test' of guilt versus innocence, the outcome of the trial would have been different, and a manifest miscarriage of justice has occurred. "Throughout this procedural history, no court has ever conducted an evidentiary hearing to assess the new scientific evidence that conclusively demonstrates Petitioners' innocence of first-degree capital murder. This petition represents my final opportunity to present evidence that proves, through the immutable laws of physics, that the prosecution's theory of the crime was impossible. The fact that such compelling scientific evidence has never received substantive review from any court knowing this was a capital case that deserves grave attention underscores the extraordinary nature of this case and the need for this Court's intervention.

ARGUMENT

CLAIM 1: PROSECUTORIAL MISCONDUCT

A. *Napue*, 360 U.S. 264

14th Constitutional Amendment Violation

"It is established that a conviction obtained through use of false evidence, known to be such by representatives of the State, must fall under the Fourteenth Amendment." *Id.* 269

Core Violation: A conviction obtained through the use of false evidence, known to be such by the State, violates the 14th Amendment: The prosecutor actively participated and staged a false demonstration for the jury, physically acting out an execution-style shooting that her own medical examiner evidence proved was scientifically impossible. See Ex: C Medical Report "pg. 2 labeled: Evidence Of injury: 1. Entrance gunshot wound, left cheek, upper" "Then exited Through the back of right head" See Ex: H2 pg. 35 II. 20-21

"With the courts permission, again, I'm going to stand here like you indicated that

Monique was standing. And if you would take the place where Mr. Mathis was” She didn’t merely fail to correct false testimony—she personally vouched for it. See Ex G2 pg. 104 II. 14-18 “nobody was able to impeach her with anything-- she has remained consistent since day one about her description about these events.” See Ex G1 pg. 99 “And she described to you exactly what happened.” See Ex I Pg 68 II. 15-18 “and when he shot, he was so close to her the gun was basically touching her face. Is that right? It wasn’t pointed at her face, it was here [indicating] She pointed to the back of her right head.” *Glossip v. Gross*, 576 U.S. 863 (2015) The prosecutor knew Sneed was on medications but failed to disclose it. Mathis: The prosecutor possessed the Medical Examiner’s autopsy report that scientifically proved Kenisha Paxton’s testimony was physically impossible. Medical Examiner Dr. Chai Choi’s Report documented: Entrance wound: left upper cheek (not back of head) Exit wound: back right of head (establishing front-to-back trajectory) Firing distance: intermediate range (not point-blank) Powder stippling: on the face (proving victim faced shooter) See Ex H1 Pg 68 II. 8-11 “And what do you see with that wound that would convince you that it’s an entrance wound as opposed to an exit wound?” “That is showing the entrance gunshot wound. First of all, the hole in the center and the marginal blackened in that picture, which is a rubbing mark indicating that that is entrance gunshot wound.” See Ex H1 Pg 68 8-17 “Tattooing or patterned stippling which the powder grains come out of with the bullet, then “that it indicated that—as a medical term, as an intermediate range shot.” See Ex E1 Pg 103 II. 4-8 “Because if you believe him ... whichever of the two versions you want to believe, he gets to go home.” See Ex H1 Pg 73 II. 15-25 “Now we’ve talked about the entrance gunshot wound to Ms. Ortiz’s head and did you also find a corresponding exit wound?

Yes.” “Back of her head on the right.” The prosecutor had direct communication with Dr. Choi the Duty to Correct: The State has a duty to correct false testimony even if they didn't ask for it but simply allowed it to go uncorrected. Despite possessing this conclusive scientific evidence, the prosecutor: Presented Paxton's testimony that the victim was shot in the back of the head at point-blank range Staged a physical demonstration showing an execution-style shooting Vouched for Paxton's version as truthful throughout the trial gave that same false narrative to the jury in closing arguments See Ex: E1,2,3 **Materiality**: The Core of the Case vs. Collateral Credibility Glossip: The medication issue went to Sneed's general credibility and mental state—serious, but collateral to the act itself. Mathis: The false testimony went to the central act that constituted first-degree capital murder. The prosecutor created a binary test: "You either believe Kenisha's version and he's guilty, or you believe Mr. Mathis's version and he's not." See Ex E2 pg. 104 II. 2-13. The entire first-degree murder charge rested on Paxton's execution-style shooting narrative. The trial court explicitly stated: See Ex: D, Trial Tr. at 214, II. 2-9 "Kenisha testified that he walked back to the door, that's why you are going to get your murder in the first degree, that he walked back to the door and shot her point blank." The false testimony wasn't about a collateral matter—it was the prosecution's entire theory of capital murder. Applying Napue's "A Lie Is A Lie" Standard: It does not matter if the lie is about the crime itself or just the witness's credibility. "A lie is a lie, no matter what its subject." Cite: Napue, 360 U.S. at 269-270. Justice Sotomayor's powerful statement in the 2024 Glossip proceedings applies with even greater force here: "A lie is a lie is a lie, no matter how you tell it." In Mathis's case, the prosecutor told multiple, interconnected lies: She vouched for testimony claiming a back-of-head shot when her

medical examiner proved it was a face shot She vouched for testimony claiming point-blank range when her medical examiner proved intermediate range She staged a demonstration showing the victim facing away when her medical examiner proved the victim faced forward. She presented powder stippling on the face as consistent with Paxton's account when it proved the opposite. These weren't innocent mistakes or failures to disclose—they were active misrepresentations of physical evidence the State possessed and understood. The Materiality Standard: A conviction must be set aside if there is "any reasonable likelihood" that the false testimony could have affected the jury's judgment. Napue, 360 U.S. at 271. See Ex D pg. 214 II. 2-9 "That's why you are going to get your murder in the first degree, that he walked back to the door and shot her point blank." See EX: E-1, 2, 3; E3 pg. 106 II. 5-10

"This is not a difficult case. It is not complicated. There aren't a-- huge issues out there that you have got to resolve. Bottom line is, one of these stories is correct. If one is correct it is murder in the first degree. If the other is correct it's not." See Ex; E1 pg. 103, II. 19-20 "It is not your job as jurors to pick apart the states case, that's not your job."

The jury's primary job is to determine if the State has proven its case beyond a reasonable doubt. You cannot determine if a case has "holes" or "doubts" without "picking it apart." This is beyond a reasonable showing that the outcome of the trial would have been different.

Binary Test - Science v Testimony

Petitioner will use the exact quote from the state to set the foundation for the Binary test. See Ex E1 pg. 103 ln 5-8 (Closing arguments) "Because if you believe him, if you believe – whichever version of these – - his events that he's telling you now, or whichever of the two versions that you want to believe, he gets to go home." Petitioner presents to this court that this was not just a mere mention but a Bonafide test

that the state heavily relied on for the jury to determine petitioners innocence and guilt. The DA doubled down on this binary test. See Ex E2 pg. 104 II. 2-13

“It’s your job to decide whether or not the evidence that you have heard is sufficient for you to find beyond a reasonable doubt, not all doubt, not every doubt, and not beyond a shadow of a doubt, but beyond a reasonable doubt whether or not this man is guilty in the first degree of Monique Ortiz and to do that, basically two versions. It boils too, no matter how you cut it, two version of this event. It doesn’t matter how you cut it, that’s where it lies. You either believe Kenisha’s version and he’s guilty or you believe Mr. Mathis versions and he’s not”

The states’ version of the shooting was so impressionable it caused the judge to give first degree murder instructions based on that version. See Ex D And this was done with zero evidence to supports Paxton’s version. Paxton testified and participated in a reenactment to an execution style shooting to the back of the head at point blank range of the victim. See above in Napeu violation: Paxton’s Version, also See Ex T. Call Docket Motion to use the words execution style, this shows no doubt that she was presenting the execution style murder Relying heavily on Paxton’s version to support malice aforethought. Petitioner will now solve the binary test with old evidence that produced newly discovered facts. See Ex C Evidence pathological diagnosis [“The shot appears to be intermediate range”] / Evidence of injury [“Entrance gunshot wound, left cheek, upper”] [“around the wound, there’s powder stippling” / “Then exited through the back of right head”][There is no soot blackening or powdered stippling identified”] ”Surrounding the exit wound is covered with thick hair.” [“The exit gunshot wound shows outward beveling”] In Miller, the exhibit (the shorts) existed at trial, but the chemical testing proving the stains were paint occurred for the first time in a later habeas proceeding. The Supreme Court relied on that new analysis to conclude the conviction violated due process because the State had knowingly used false evidence. Miller v. Pate, 386 U.S. 1 (1967) Just like in Miller, This Court relied on that new analysis to conclude the conviction violated due process because the State had knowingly used false evidence. The autopsy report existed in petitioner’s original trial. The petitioners’ old autopsy report was analyzed by petitioners’ new experts that produced new facts through analysis like in Miller that qualified as newly discovered evidence. See Ex A “This new evidence would have accurately demonstrated to the jury to the exclusion of murder in the first degree.” See Affidavit diagrams 13-15 & Petitioner #14 diagram Also pg. 26 C “The testimony of Ms.

Paxton indicating the Petitioner was close enough to the decedent, and the decedent was turned away, to hold the handgun to the decedent's head touching her hair with the muzzle and then intentionally shooting the handgun, are all unsupported by the evidence.”] See Ex B; 3D forensic still frame animation #7, of that conclusion that will prove beyond a reasonable doubt that the new evidence can conclusively through science, mathematics, ballistic, trajectories, angles, and forensic exclude Paxton's version as true and correct. “Evidence demonstrating the statements of the petitioner the decedent struck his arm; and any deliberate, accidental See Ex H2 Paxton & States Reconstruction That same evidence turns Paxton's version into a forensically and physically impossible version to have happened See Ex K autopsy diagram and with that same measuring stick the facts conclude that the petitioner's version is supported by all that same evidence of the accidental shooting that he testified to. See Ex L. See Ex A [“The Court and jury were left to rely on fact and expert witnesses' testimonies of the environment, without the benefit of demonstrative evidence specific to heights, distances and angles presenting a minimum of information refuting the testimony of witness Ms. Paxton, correcting the testimony of expert CST David Evans; this new evidence is conclusive to supporting the Petitioner.”] (No contradicting evidence had) See Han Tak Lee v. Glunt, 667 F.3d 397 (3d Cir. 2012) supports using newly developed expert analysis of old trial evidence to establish actual innocence or, at a minimum, to obtain habeas relief on due-process grounds when the State's case rests on unreliable or discredited forensic testimony. The Supreme Court has since cited Lee as an example of federal courts granting relief where the lack of evidence apart from discredited expert testimony rendered the trial fundamentally unfair. McCrory v. Alabama, 603 U.S. _ (2024) (Sotomayor, J., statement respecting denial of certiorari). The 2012 Third Circuit decision did not recognize a freestanding actual-innocent claim, but it powerfully supports using new expert analysis of trial-era evidence to obtain discovery, an evidentiary hearing, and ultimately due-process relief where the verdict rested on now-discredited forensic premises. The Third Circuit later affirmed habeas relief on those grounds in 2015. Also, the third circuit affirmed habeas relief when the verdict ‘rest[ed] almost entirely upon scientific pillars which have now eroded’ and the State could not identify ‘ample other evidence of guilt.’ See Ex E3 pg. 106 II. 5-10 States Closing Arguments “This is not a difficult case. It is

not complicated. There aren't a huge issues out there that you have got to solve. Bottom line is, one of these two stories is correct. If one is correct, it's murder in the first degree, if the other is correct it's not."

The State's binary theory of guilt has been conclusively resolved, and due process requires relief.

Conclusion This Court should hold the State to the same constitutional accountability imposed in *Miller v. Pate* and *Han Tak Lee v. Glunt*, where convictions resting on a binary theory of guilt collapsed once the State's version was shown to be scientifically false and reverse petitioner case.

THE TRIBUNAL WAS STRUCTURALLY DEFECTIVE DUE TO COMPENSATORY JUDICIAL BIAS

A. *Bracy v. Gramley*, 520 U.S. 899 (1997) The United States Supreme Court has established that a defendant's right to a "neutral and detached magistrate" is violated not only by actual bias, but by a "probability of unfairness." In *Bracy*, the Court held that when a trial judge is engaged in ongoing criminal activity, it creates a "compensatory bias." A corrupt judge has a powerful incentive to be "extraordinarily tough" on defendants—and to rule consistently in favor of the Prosecution—to camouflage their own criminal conduct and deflect scrutiny from the District Attorney.

B. **The Correlation of Corruption: 2005–2012** The structural integrity of Petitioner's 2008 trial was non-existent because the presiding judge, Tammy Bass-LeSure, was a "felon-infact" throughout the proceedings.

The Overlapping Timeline: As documented in Case No. CF2011-385, Bass-LeSure's criminal scheme directly overlapped with the Petitioner's 2008 capital trial. The court record shows specific dates of offense including: Count 1: January 24, 2008, Count 2: January 28, 2008, Count 3: February 13, 2008 Count 4: January 28, 2008, Count 5: April 10, 2008, Count 6: May 28, 2008 (Directly during the Petitioner's trial phase)

The Nature of the Crimes: These counts—Making a False or Fictitious Claim Against the State and Obtaining Assistance by False Representation (21 O.S. 358)—prove that while the Judge was

adjudicating the Petitioner for crimes against the State, she was actively defrauding the State of Oklahoma (the Prosecution) for personal gain. The Inevitable Conflict: Because the Oklahoma County District Attorney's Office held the power to investigate and imprison her, the Judge was effectively a hostage to the Prosecution's interests. The 2010 unsealed transcripts proving the DA's use of hidden microphones in her chambers confirm that the State held leverage over her.

C. The Specific Bias Toward Prosecutor Sandra Elliott, the "probability of unfairness" was amplified by the unique power dynamic between the Judge and lead prosecutor, Sandra Elliott. The Power Block: Sandra Elliott's husband, Ray Elliott, was a senior and dominant judge in the same building. Bass-LeSure, a junior judge hiding a criminal household, was structurally incapable of ruling against the "Elliott-DA" block without inviting immediate professional and criminal destruction. A Pattern of Misconduct: This "incentive to please" is a documented pattern. In Cecil Ray Johnson v. State (CF-2006-910), the OCCA reversed a conviction because Bass-LeSure improperly allowed the Prosecution to use "other crimes" evidence. (Order:"2. The other crimes evidence in this case was improperly admitted because there was no visible connection between it and the charged crime, it did not go to a disputed issue in this case, it was not needed to support the State's burden of proof, and its probative value did not outweigh its unfair prejudice. Appellant was acquitted of a count of assault and battery with a dangerous weapon, 21 O.S.2001, § 645. After thorough consideration of Johnson's propositions of error and the entire record before us on appeal, including the original record, transcripts, exhibits, and briefs, we have determined that the judgment and sentence of the District Court shall be reversed and the case remanded for a new trial due to error found in proposition two".) The Resulting Fraud: This pressure explains why Bass-LeSure sat silent during the Petitioner's trial while Sandra Elliott performed a "theatrical skit" based on scientific impossibilities. The Judge

issued First-Degree Murder instructions based on that falsehood because she could not afford to destroy the State's case while the State held the keys to her own prison cell. There was no visible connection to back of the head execution style shot to support judge reasoning for first degree murder instructions D. Conclusion: A Structural Defect Under Bracy, the Petitioner is not required to prove the Judge's corruption changed the outcome; the corruption itself rendered the "tribunal" unconstitutional. A judge who is stealing from the State cannot fairly judge a man accused by the State. As evidenced by her Guilty Plea on March 2, 2012, Judge Bass-LeSure was no stranger to falsifying documents or cheating the State. Her own felony status compelled her to sacrifice the Petitioner's life to protect her own liberty. This was not a trial; it was a "theatrical fraud" overseen by a magistrate whose survival depended on the Prosecution's satisfaction E. The Prosecution's Career Incentive and the "Conviction at All Costs" The structural defect was further compounded by lead prosecutor Sandra Elliott's professional incentive to secure a capital conviction. The Political Currency of a Death Sentence: In the Oklahoma County District Attorney's office, a death penalty "win" is the highest form of professional currency. For a prosecutor like Elliott, securing the ultimate penalty in a capital case was a critical milestone for career longevity and status within the "Elliott-DA" power block. The "Needs and Wants" Conflict: Because Elliott "needed and wanted" this win to solidify her professional standing, her interest was no longer just "seeking justice," but "securing a result." The Leveraged Outcome: This intense prosecutorial drive met no resistance from Judge BassLeSure. A judge who is under the cloud of a felony investigation is structurally incapable of acting as a check on a prosecutor who is aggressively pursuing a career-defining win. The result was a trial where the Prosecution's desire for a "big win" overrode the Petitioner's right to a fair and neutral proceeding F. Concrete Pattern of Misconduct: This isn't

theoretical—Bass-LeSure improperly favored the prosecution in evidentiary rulings, and the OCCA reversed because of it. Same Judge, Same Defect: Under Rule 3.8, a prosecutor has the responsibility of a minister of justice. Sandra Elliott's pursuit of a 'big win' in a capital case, while holding undisclosed recorded evidence that could imprison the presiding judge, turned the trial into an adversarial trap rather than a search for truth. This violated the core ethical obligation to ensure the defendant is accorded procedural justice." The reversal occurred in 2009—one year after petitioners 2008 trial—meaning the OCCA was reviewing her conduct from roughly the same time period when she was actively committing felonies. Identical Issue: "Other crimes evidence" improperly admitted. Just like petitioner's jury instructions for 1st degree murder, this directly parallels Petitioners claim that she allowed Sandra Elliott to present a scientifically impossible "execution-style" theory without proper foundation. Timing Is Everything: Petitioners trial: 2008 Johnson reversal: May 12, 2009 (reviewing a 2006-2008 case) Bass-LeSure's crimes: January- May 2008 (during both trials)

**CLAIM 2: THE ERRORS IN THIS CASE CONSTITUTE STRUCTURAL
DEFECTS REQUIRING AUTOMATIC REVERSAL**

Under *Arizona v. Fulminante*, 499 U.S. 279, 310 (1991), certain constitutional errors are so fundamental they "defy analysis by harmless-error standards" because they corrupt the entire trial framework. This Court has identified structural defects as errors that affect "the framework within which the trial proceeds, rather than simply an error in the trial process itself." *Id.* at 310. The errors here are structural, not trial errors subject to harmless review: First, the prosecutor staged a physically impossible demonstration for the jury. Armed with her own Medical Examiner's autopsy report proving the witness account scientifically false, the prosecutor personally acted out an "execution-style" shooting playing the victim while the witness played Petitioner. This wasn't

mere argument; it was a deliberate theatrical fraud that transformed the courtroom into a stage for demonstrably false testimony. Second, the trial court explicitly based the first-degree murder instruction on this impossible narrative. Trial court was aware of all the contradictory evidence (M.E. testimony and autopsy report). The judge told the jury: "Kenisha testified that he walked back to the door, that's why you are going to get your murder in the first degree." See Ex: D, Trial Tr. at 214 By instructing on a theory the laws of physics disprove, the court fundamentally corrupted the trial's truth-seeking function. The Trial Court committed structural errors when it provided jury instructions for first-degree premeditated murder based on a narrative that the Court knew—via the State's own Medical Examiner & M.E. testimony was a scientific impossibility. Third, the prosecutor created a "binary test" that forced the jury into a false choice. She declared: "You either believe Kenisha's version and he's guilty, or you believe Mr. Mathis's version and he's not." This wasn't advocacy—it was a prosecutorial commitment that made the entire verdict dependent on testimony the state knew was scientifically impossible. Fourth, defense counsel refused to expose the lie despite possessing forensic proof. Counsel stated he "did not want to call the witness a liar" and would "address it at closing arguments." He never did. When a prosecutor acts out a scientific impossibility and defense counsel refuses to challenge it despite having the proof, the adversarial process collapses entirely. These errors didn't occur during a fair trial—they destroyed the possibility of a fair trial. The verdict rests not on evidence rationally evaluated, but on a scientifically impossible fiction staged by the prosecutor, blessed by the court, and left unchallenged by counsel. This is precisely the type of structural breakdown that "defy[ies] analysis by harmless-error standards." Arizona, 499 U.S. at 310. When the framework of justice itself collapses—when prosecutors stage lies, courts instruct on impossibilities, and counsel abandon their duty—the resulting conviction cannot stand. The Constitution demands reversal.

THE TOTAL COLLAPSE OF THE ADVERSARIAL TRIAD UNDER UNITED STATES

V. CRONIC, 466 U.S. 648, 659 (1984). Weaver v. Massachusetts, 582 U.S. (2017) In re

Winship, 397 U.S. 358 (1970) Sullivan v. Louisiana, 508 U.S. 275 (1993) (Judge,

prosecution, lawyer)

The 3 Pillars that Collapsed: Pillar 1. The State's verified forensically false reenactment, vouching, active participation in that false reenactment and relieving jurors of their constitutional 6th and 14th amendment duty: The Prosecution subverted the truth-seeking function by staging a "theatrical skit" to demonstrate an "execution-style" shooting. The Prosecutor personally participated in this reenactment, playing the role of the victim. This physical performance directly contradicted the State's own Medical Examiner's report & testimony. Furthermore, during closing arguments, the State explicitly told the jury that it was "not your job to pick apart the State's case," effectively instructing them to ignore the scientific contradictions. See Ex: E1 pg.103 lines.19-20 See Ex: G1, G2 vouching Pillar 2. The Defense Counsel's Failure The defense attorney's primary job is to be the "Truth-Tester." If the Medical Examiner (ME) gave testimony that proved the eyewitness was wrong, the defense had a "smoking gun" for the defense. The pillar collapses if Failure to Object: The lawyer sat silent while the prosecutor pushed the "false narrative". See Ex H2 See Ex D "Failure to Challenge Instructions: The lawyer didn't object when the judge "anchored" the first-degree murder instruction to the execution story. At the most detrimental moment during trial, the attorney had a chance to eliminate the only premeditated evidence the prosecutor had against petitioner, Paxton's version with medical forensic evidence (autopsy report & M.E testimony) in front of the jury, instead of confronting Paxton with undisputed medical evidence that dismantles the prosecutors whole premeditation theory and skit for the jury, he simply decline to use it and shift to another conversation as if he didn't have the key evidence to

dispel the premeditation version. **Compound Collapse** with Defense also includes failure to investigate: petitioner never had an expert to contradict State's version, counsel never visited the crime scene, never hired anyone to TEST the states version, when you add the defense's failure to the judge's and prosecutor's actions, the trial becomes what the Supreme Court calls a "breakdown in the adversarial process." Piller 3. Judge (The Neutral Gatekeeper): The "structure" of the trial—which relies on a neutral judge to balance the two sides—has completely folded. It isn't just a mistake that might be "harmless"; it is a total "collapse" of the constitutional process. "There are, however, circumstances that are so likely to prejudice the accused that the cost of litigating their existence in a particular case is unjustified." Because the Trial Court explicitly based the first-degree murder instruction on the DA's "impossible" version of events. See Ex D, the Court essentially signaled to the jury that they did not need to perform their duty of critical analysis. This created a structural defect under Sullivan because it allowed a verdict to be reached without a valid application of the "Reasonable Doubt" standard. "In petitioner's case there has been no jury verdict within the meaning of the Sixth Amendment, the premise for harmless-error analysis is absent. "Unlike an erroneous presumption regarding an element of the offense ... a deficient reasonable-doubt instruction vitiates all the jury's factual findings. A reviewing court ... can only engage in pure speculation ... When it does that, the wrong entity judges the defendant guilty." Sullivan v. Louisiana, 508 U.S. 275 (1993), 508 U.S. 281 Just because 12 people sat in a room and signed a paper saying "guilty" doesn't mean it's a legal verdict. If they weren't using the "Beyond a Reasonable Doubt" yardstick, the Constitution doesn't recognize their decision. It's a "fake" verdict.

CLAIM 3: ARGUMENT: BRADY VIOLATION

The Suppression of Jerome Edwards: Further Evidence of the Collapse of the Adversarial Process

The Prosecution's Suppression of Material Evidence and the "Unanimous Omission" of Jerome Edwards Deprived Petitioner of a Fair Trial Lenny Mathis's conviction is a product of a trial where the truth was systematically obscured. The prosecution suppressed material exculpatory evidence by failing to disclose the actions of Jerome Edwards—a witness who, according to his own statement in the police report, was physically present at the scene, handled the victim's body, and fled before police arrived.

1. Proof of Presence and Physical Handling of the Body despite the trial testimony, objective evidence proves Jerome Edwards was a central figure immediately following the altercation. According to the Standard Supplement Report See Ex S Admission of Physical Contact, "Edwards admitted to Officer Wayne Tange that he checked VI [Victim] for a pulse twice" and, upon finding none, "told everyone she's dead" before backing out. Witness Proximity: The report confirms Edwards arrived at the apartment with Robert Eason and was present alongside witnesses Kenisha Paxton and Kasie Hill.

2. Materiality: Potentially Removal of the Weapon: The suppression of Edwards's actions is undeniably material under *United States v. Bagley*, 473 U.S. 667 (1985). Petitioner has consistently maintained that the shooting occurred during a dynamic altercation where the victim was the aggressor and armed with a weapon. The fact that Edwards, a non-neutral party who fled the scene personally handled and rolled the body over creates a "reasonable probability" that he removed the weapon Petitioner described. By suppressing Edwards's involvement, the prosecution deprived the jury of the only logical explanation for why a weapon was not recovered by police, effectively gutting Petitioner's self defense claim.

3. The "Conspiracy of Silence" and Government Suppression. The total disappearance of Jerome Edwards from the trial record is not a coincidence; it is a "conspiracy of

silence". Witness Omissions: Robert Eason, Kasie Hill, and Kenisha Paxton all provided detailed accounts of the aftermath, yet every single one failed to mention Edwards's presence or his handling of the body. It is statistically and logically implausible that all witnesses would independently "forget" the person who checked the pulse and declared the victim dead. Prosecutorial Action: Edwards was initially on the District Attorney's witness list but was mysteriously removed. Under *Kyles v. Whitley*, 514 U.S. 419 (1995), the prosecution had an affirmative duty to disclose this favorable evidence. By removing him from the list and allowing witnesses to testify as if he never existed, the DA actively participated in the suppression of exculpatory facts.

CLAIM 4: INEFFECTIVE ASSISTANCE OF COUNSEL (*Strickland v. Washington*, 466 U.S. 668, 1984) *United States v. Cronin*, 466 U.S. 648 (1984). Violation of 6th and 14th Amendments

2003 ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases (Guideline 10.7). Those guidelines recommend 18–24 months of preparation time for competent capital defense. On the night in question, Mr. Mathis had a legitimate reason for being at the location, he was there to pick up his son, because he felt his son was in danger. This fact was undisputed at trial See Ex F1, F2 DA Elliott "It is not I don't have any objection. Nor do I dispute the fact that Mr. Mathis went over there to pick up his son because he wanted to be with him and because he think it's a bad environment that's not the issue." Even the prosecution acknowledged during trial that this legitimate reason was "not in dispute." The prosecution's case rested entirely on the testimony of a single eyewitness, Kenisha Paxton, who claimed that Mr. Mathis executed the victim, Retha Monique Ortiz, with a point-blank gunshot to the back of the head. The prosecutor emphasized to the jury the case turned solely on Paxton's account, stating: See Ex E1,2,3 "You either believe Keisha's version and he's guilty, or you believe Mr. Mathis's version and he's not." "**Deficiency Performance**" however, contemporaneous medical

examiner evidence - available but not effectively utilized at trial due to defense counsel's failures - directly contradicted Paxton's testimony. See Ex J Petitioner's version. See Ex C Medical Report pg.2 labeled: Evidence Of injury:(1.Entrance gunshot wound, left cheek, upper) (Then exited Through the back of right head) Page 1. Labeled Pathological diagnosis Comment: (Intermediate range, not knowing distance by inches or feet) examiner's report and testimony established four critical facts that made the prosecution's execution-style theory physically impossible: 1. Entrance location, 2. Exit Location, 3. Distance, 4. verified stippling location

Despite the critical importance of this forensic evidence, trial counsel failed to consult with or retain any experts to review the autopsy findings and demonstrate the physical impossibility of Paxton's account. See Ex A. Years later, in 2022, Petitioner managed to find experts Dean A. Beers and Karen S. Beers, who are medicolegal death and forensic investigators and expert consultants, as well as 3D forensic animation experts at Legal Graphic Works. James Trottier, counsel, failed to object or cross-examine Paxton on clear discrepancies between her testimony and the medical evidence. Instead of confronting Paxton in this crucial moment on the stand, in front of the jury with irrefutable scientific evidence, he decides to let the State's false narrative stand uncontested and instead switches up the questioning. These omissions allowed the prosecution to mislead the jury with a physically impossible theory of an execution-style shooting. See Ex G1 pg. 99, lines 11-12 But Kenisha Paxton is unimpeached. Her testimony was not impeached in any way. And she described to you exactly what happened. See Hinton v. Alabama (571 U.S. 263(2014) In Hinton, defense counsel failed to request additional funding for a qualified Ballistics expert in a capital murder case. The lawyer incorrectly believed he was limited to \$1000 for expert testimony, when state law actually allowed him to request more funds. As a result, he hired an unqualified expert who was thoroughly discredited at trial. The

supreme court found this to be ineffective assistance because: i. The lawyer's failure to seek additional funding was based on a misunderstanding of the law, not strategy. ii. Ballistics evidence was crucial to the defense-it was the only physical evidence linking Hinton to the murders. iii. A qualified expert was essential to challenge the states Ballistics evidence. iv. The lawyer admitted he knew he needed a better expert but failed to request the necessary funds. The court unanimously held that "An attorneys' ignorance of a point of law that is fundamental to his case combined with his failure to perform basic research on that point is a quintessential example of unreasonable performance under Strickland. In the instant case, counsel never even attempted to hire an expert, let alone ask for extra funds to represent his capital case defendant, See Ex R Tr.86 II.15-25 ["So nobody to see what's going on between you and Monique, It would be the only person alive, based on your testimony who could tell what happened that would be you then wouldn't it, Mr. Mathis? Mathis: and forensics. State: Pardon me? Mathis: and forensic and ballistics. State: right, well, and forensics tell us what they tell us"] petitioner has always depended on ballistics and forensic science to prove he was telling the truth, and to prove the state star witness Paxton was lying. A. The New scientific evidence Dean A. Beers, CLI,CFDI-Experts Forensic Death Investigators and 3D Animation Forensic Expert James Totier And Karen s. beers BSW, CFDI-SME Expert Certified Forensic Death Investigator The prosecution's execution-style theory was physically impossible given the wound location, trajectory, characteristics, angles, and powder-stippling patterns; See Ex A, B, C, K The physical evidence fully supports Mr. Mathis' consistent account that the discharge occurred when Ortiz struck his arm during a dynamic altercation; See Ex A, B, Page 106 Line 3 Scientific reconstruction establishes that the fatal shot could only have occurred as Mr. Mathis described. See Ex A: 14E,15E, Ex B still 3D forensic animation, Ex C autopsy report, his arm forced upward during

the altercation, resulting in a shot fired from above shoulder height at a downward angle.

“Prejudice” See Ex I pg. 68 II. 15-25 “He was so close to her the gun was basically touching her face, is that right?” “It wasn’t pointed at her face, it was here.” [witness pointed to the back of the head] The glaring discrepancies between the State’s theory and the physical evidence, coupled with trial counsel’s failure to expose them through readily available contradictory forensic expert analysis, Failure to object, stating to the petitioner he was not going to call them liars, and he would address it at closing arguments. See Ex N II. 7-10 “Yes. It could have been touching her hair. Her hair was down. Okay. When you described this, you said once he left the bathroom—or he went into the bathroom for” Council failed to expose lie and switches up questioning, thus no objections from counsel during Paxton cross examination and States false demonstration of the shooting for the jury. See Ex T Council knew ahead of time that the state was going to present an execution style shooting. The timeline of events further corroborates Mr. Mathis’ account. Two shots were fired during the altercation - the first going into a wall as a warning, and the second being the fatal shot bearing characteristics that align with an accidental discharge during physical contact. Reason why the petitioner was in fear for his life. See Ex O1, O2, O3, Ex P showing evidence of why the victim was the aggressor, Ex O1 preliminary Tr. 102 II. (1-9) Q. “you told him?” A. “Yes.” Q. “You told Lenny Mathis that if he comes over there, people are going to shoot him right?” A. “Yes” State has produced no means real in this case, other than a false version of an execution-style shooting. Literally the state produced no physical evidence to support Paxton's version or their theory, matter of fact they abandoned the testimony of their own expert witness the medical examiner and the medical examiner’s report, by disregarding it and not utilizing it to prove Paxton's version, only stating at closing arguments and throughout trial that Paxton was telling you truth and to believe her. See Ex E1 pg. 103 lines

19-20 “It is not your job as jurors to pick apart the state’s case; that’s not your job.” This is where counsel was unarguably ineffective for failing to object to the pick-apart statement. It’s the jury’s constitutional duty as sole fact finders to pick apart the state’s case because the state bears the burden of proving their case. When the State instructed this, it directly violated the jury’s 6th and 14th amendment constitutional duty. “No man should be deprived of his life under the forms of law unless the jurors who try him are able, upon their consciences, to say that the evidence before them is sufficient to show beyond a reasonable doubt the existence of every fact necessary to constitute the crime charged.” *Davis v. United States*, 160 U.S. 469, 484 (1895), quoted in *In re Winship*, 397 U.S. 358, 363 (1970). The Constitution assigns to the jury the responsibility to weigh the evidence, resolve conflicts in testimony, and determine the credibility of witnesses. *Glasser v. United States*, 315 U.S. 60, 80 (1942) (“It is not for us to weigh the evidence or to determine the credibility of witnesses. That is the function of the jury.”); *United States v. Bailey*, 444 U.S. 394, 414–15 (1980) (the trier of fact “is free to believe or disbelieve any witness.”). Also see *People v. Peete*, 318 Ill. App. 3d 961, 743 N.E.2d 689 (4th Dist. 2001) The prosecutor argued that it was the jury’s “job” to convict, implying that acquittal would violate the jurors’ oath. The appellate court held this statement to be a misstatement of the law, improperly shifting the burden of proof and compromising the impartiality of the jury. The conviction was reversed due to prosecutorial misconduct. See *Sandstrom v. Montana*, 442 U.S. 510 (1979) – improper shifting of burden onto defendant violates due process. *United States v. Young*, 470 U.S. 1 (1985) – prosecutors may not make comments that undermine the jury’s responsibility to determine guilt based solely on evidence. Together, *Winship*, *Sandstrom*, and *Young* form a strong constitutional triad establishing that any statement diminishing the jury’s role or misunderstanding the burden of proof constitutes reversible prosecutorial misconduct.

Structural Defect ABA Guideline - Prejudice Proved Under Strickland

In a death penalty case, the law doesn't just ask if your lawyer was "bad"—it asks if the system defended petitioner with the mandatory "tools" for a fair fight. The petitioner, in a capital case, cycled through multiple attorneys over 3½ years before receiving new counsel only seven months before trial. For the first two of those seven months, lead counsel worked entirely alone without a second chair; a second chair was not appointed until after that two-month period. On 3/7/2008, the court set a new trial date of 5/19/2008. That same day, counsel made clear he was not prepared for the newly scheduled trial date. He asked for another continuance that same day, yet the court denied the continuance on 3/10/2008, forcing counsel to proceed to trial unprepared. See Ex T Court Docket shows council was forced to go to trial unprepared. This is a direct violation of the ABA 18-24 month rule. There is nowhere on record where the crime scene was visited, or investigation or expert hired and did not have enough time to go through previous attorney's 3 years worth of work. 2003 ABA Guideline 10.7); 1-9 were violated by council. Council Failed when the deprivation of adequate preparation time or resources is extreme—such that counsel is effectively denied the ability to function as an advocate ABA Guideline 10.4(C): Counsel must assemble a team that includes "at least one member qualified by training and experience to screen... and any other members [experts] needed to provide high quality legal representation must be included, and "If the case involves a dispute over forensic claims, a qualified defense expert should be hired to challenge the scientific evidence." Petitioner's attorney did not request an expert nor hire an expert, and he knew he would need one. See Ex: T 2/28/2008 Motion to allow testimony concerning execution overruled. "Despite this, he neither consulted nor retained a defense expert, which falls below prevailing professional norms reflected in ABA Guidelines and Strickland. Relying on the State's expert is the opposite of an adversarial trial. If the State's theory was a scientific impossibility, a defense expert would be the only way to prove it. By not hiring one, Petitioner's

lawyer essentially left the gate open for the Prosecution to present a false narrative. — *Cronic* allows courts to presume prejudice without a Strickland-type factual inquiry. **II. Application to the scenario A. Deficient Performance and Violation of ABA Standards** the ABA’s 2003 Guidelines (Guideline 10.7(A)) emphasize that capital defense requires “sufficient time, staffing, and resources” to conduct thorough factual, legal, and mitigation investigations. Seven months—particularly where the first two months lack a co-counsel and the team fails to investigate the scene, retain experts, or analyze years of discovery—falls drastically short of the professional baseline. Courts regularly treat the ABA Guidelines as authoritative indicators of reasonableness under Strickland. See *Wiggins v. Smith*, 539 U.S. 510 (2003) (relying on ABA Guidelines to find deficient performance for inadequate mitigation investigation). **B. Denial of Continuance as Structural Defect** when lead counsel demonstrates unpreparedness and the court denies a reasonable continuance request in a capital case, the circumstances may trigger the *Cronic* presumption because the lack of time and preparation effectively denies the constitutionally required adversarial testing necessary for a fair trial. In *Cronic*, the Supreme Court noted factors such as the time afforded for investigation, the gravity of charges, and the complexity of defenses. The parallels here—severe time constraint and capital charges—fit squarely within the *Cronic* danger zones. **C. Due Process Implications** forcing unprepared counsel to proceed where delay was not attributable to defense misconduct but to appointment timing violates due process principles as recognized in *Avery v. Alabama*, 308 U.S. 444 (1940). Although *Avery* stopped short of a per se reversal rule, it left open the possibility that inadequate preparation time in complex or capital cases could violate both due process and the 6th and 14th Amendment. **III. Conclusion** Compelling capital defense counsel to go to trial with only seven months of preparation time—without essential investigative work, without expert assistance,

and in the face of a denied continuance—constitutes a direct violation of the ABA’s 18–24 month professional standard.

ARGUMENT BASED ON IN RE DAVIS PRECENT

Just as in re Davis, 557 U.S. 952 (2009) established this Court’s willingness to grant original habeas relief in extraordinary circumstances, Petitioner’s case presents even more compelling grounds for Rule 20 review: Davis Standard Applied to Present Case, In Davis, this Court granted review based primarily on witness recantations. Here, Petitioner presents: Scientific proof through 3D reconstruction demonstrating physical impossibility. Medical Examiner evidence contradicting state’s theory. Expert analysis proving defense version true. Objective physical evidence, not just changed testimony. Like Davis, all other courts are now powerless to act, but unlike Davis: Petitioner has concrete scientific proof, not just credibility issues. Physical evidence confirms defense version, State’s theory proven absolutely impossible, not just doubtful. This is a stronger Case than Davis. In Davis, the Court acted on witness credibility alone. Here, medical evidence proves State’s version impossible, 3D reconstruction demonstrates true events, expert analysis confirms defense account, Prosecutor’s own words mandate acquittal: “You either believe Kenisha’s version and he’s guilty, or you believe Mr. Mathis’s version and he’s not.” While Davis involved changed stories, this case presents: Scientifically & mathematically proof of physical impossibility. Medical evidence supporting defense version and exposed states false version. Expert validation of true events. Prosecutor knowingly presenting false version to secure a capital murder conviction. Constitutional Violations Clearer Than Davis: Davis alleged innocence based on recantations. Here: Prosecutor knew Medical Examiner findings and still presented impossible testimony staged false demonstration explicitly tied guilt to proven false version. Counsel performance was clearly more deficient. If Davis warranted this Court’s extraordinary intervention based solely on

recanted testimony, Petitioner's proof of actual physical impossibility through scientific evidence, combined with the prosecutor's knowing presentation and participating in a false version and explicit tying of guilt to that impossible account, presents an even stronger case for Rule 20 relief.

**GLOSSIP V. GROSS COMPARISON: WHY MATHIS CASE PRESENTS AN EVEN
MORE EGERIOUS CONSTITUTIONAL VIOLATION**

GLOSSIP V. GROSS, 576 U.S. 863(2015)

- I. Introduction: Two Oklahoma Cases, But Mathis's Violations Are Far More Severe - Like Richard Glossip's case in Oklahoma, Petitioner's case involves prosecutorial misconduct that undermines the integrity of the conviction. However, while Glossip involved the State's passive failure to disclose a witness's medication use, Mathis's case involves the State's active, deliberate orchestration of false testimony that contradicted its own medical examiner's scientific findings. The constitutional violations here are not merely more severe than those in Glossip—they represent a complete corruption of the trial process.
- II. The Glossip Violation: Passive Non-Disclosure: In *Glossip v. Gross*, the constitutional violation centered on the prosecution's failure to disclose that its key witness, Justin Sneed, was taking lithium and other psychiatric medications that could affect his mental state and credibility. The prosecutor asked Sneed directly: "Are you on any medication?" Sneed answered "No," and the prosecutor did not correct this false testimony despite knowing it was untrue. Oklahoma's Attorney General, in supporting Glossip's innocence claim in 2024, emphasized that this violated *Napue v. Illinois*, 360 U.S. 264 (1959). As Justice Sotomayor stated in discussing the Glossip violation: "A lie is a lie is a lie, no matter how you tell it." The State's knowing failure to correct Sneed's false denial about medications

deprived Glossip of a fair trial. Petitioner's case involves prosecutorial misconduct that is exponentially more egregious than Glossip's in four critical respects:

- A. **Active Participation vs. Passive Non-Disclosure Glossip:** The prosecutor passively failed to correct false testimony about medications. Mathis: The prosecutor actively orchestrated and staged a false demonstration for the jury, physically acting out an execution-style shooting that her own medical examiner evidence proved was scientifically impossible. See Ex C Autopsy report & H1 Reenactment She didn't merely fail to correct false testimony—she personally vouched for it and participated in it in front of the jury.
- B. **Knowledge of Falsity Through Scientific Proof Glossip:** The prosecutor knew Sneed was on medications but failed to disclose it. Mathis: The prosecutor possessed the Medical Examiner's autopsy report that scientifically proved Kenisha Paxton's testimony was physically impossible: **Medical Examiner Dr. Chai Choi's Report documented:** (Entrance wound: left upper cheek, not back of head. Exit wound: back right of head, establishing front-to-back trajectory. Firing distance: intermediate range, not point-blank. Powder stippling on the face proving victim faced shooter) See Ex H1 The prosecutor had direct communication with Dr. Choi in which the medical examiner explicitly explained why scientifically the entrance was the entrance, the exit was the exit, and the range was intermediate. Despite possessing this conclusive scientific evidence, the prosecutor: Presented Paxton's testimony that the victim was shot in the back of the head at point-blank range staged a physical demonstration showing an execution-style shooting vouched for Paxton's version as truthful throughout the trial gave that same false narrative to the jury in closing arguments Ex E1,2,3 C. **Materiality: The Core of the Case vs. Collateral Credibility Glossip:** The medication issue went to Sneed's general credibility and mental state—serious, but collateral to the act itself. Mathis: The false testimony went to the central act that constituted first-degree capital

murder. The prosecutor created a binary test: See Ex E2, Trial Tr. pg. 104. The entire first-degree murder charge rested on Paxton's execution-style shooting narrative. The trial court explicitly stated: "Kenisha testified that he walked back to the door, that's why you are going to get your murder in the first degree, that he walked back to the door and shot her point blank." See Ex D, Trial Tr. at 214, II. 2-9. The false testimony wasn't about a collateral matter—it WAS the prosecution's entire theory of capital murder. Applying Napue's "A Lie Is A Lie."

This Court's Review

The case at bar presents this Honorable Court with an opportunity to clarify and establish critical precedent regarding the application of the actual innocence doctrine in federal habeas corpus proceedings, particularly in capital cases involving compelling scientific evidence that conclusively demonstrates the physical impossibility of the prosecution's theory of guilt. The profound constitutional questions raised by this case, combined with the extraordinary nature of the newly discovered evidence, place it squarely within the narrow class of cases that demand this Court's intervention through the exercise of its original habeas jurisdiction. The evidence presented in support of Petitioner's claim of actual innocence surpasses the threshold showing required by this Court's precedents in *Schlup v. Delo*, 513 U.S. 298 (1995), and its progeny. See *House v. Bell*, 547 U.S. 518 (2006); *McQuiggin v. Perkins*, 569 U.S. 383 (2013). Critically, the expert analysis and forensic reconstruction proffered by Petitioner do not merely cast doubt on the accuracy of the verdict or the credibility of trial witnesses but affirmatively establish the scientific impossibility of the crime occurring in the manner described by the prosecution's key witness and argued by the State to the jury. This case stands apart from this Court's prior considerations of actual innocence claims in habeas proceedings, as the newly discovered evidence at issue here constitutes definitive scientific proof that the physical evidence not only

fails to support the State's theory of guilt, but in fact contradicts that theory and renders it impossible as a matter of the laws of physics and forensic science. The expert analysis, utilizing modern technological advancements and specialized knowledge not available at the time of trial, demonstrates that the testimony of the prosecution's star witness, the linchpin of the State's case and the explicit basis on which the jury was urged to convict was not merely mistaken or inconsistent, but was physically and scientifically impossible. The constitutional significance of this scientific proof of innocence cannot be overstated. It is axiomatic that the Due Process Clause prohibits the government from securing a criminal conviction through the knowing use of false or perjured testimony. *Napue v. Illinois*, 360 U.S. 264, 269 (1959). This Court has long recognized that a conviction obtained through such a violation of due process cannot stand, irrespective of the good or bad faith of the prosecutor. Here, Petitioner has presented evidence showing not only that the prosecution's key witness testimony was false, and completely unsupported by ANY Evidence but that it was physically impossible - and moreover, that the prosecution possessed contemporaneous scientific evidence from its own medical examiner conclusively demonstrating that impossibility, yet proceeded to present the false testimony and rely on it as the centerpiece of its case. See *MILLER v. Pate* see Ex: E1, E2, E3, G1, G2. While this whole time Petitioner depended upon scientific proof to provide the truth, see Ex: U This knowing use of testimony contradicted by the State's own objective medical evidence, coupled with the prosecutor's unequivocal argument to the jury that Petitioner's guilt rested entirely on the veracity of that scientifically impossible testimony, represents a profound violation of due process and a corruption of the trial process that strikes at the heart of the fundamental fairness and reliability of the verdict. The gravity of this constitutional transgression is compounded by trial counsel's conceded failure to investigate and obtain readily available expert analysis of the

physical evidence - analysis that would have conclusively disproven the prosecution's case and established Petitioner's innocence. This ineffective assistance of counsel, in violation of the 6th and 14th Amendment and the clearly established principles set forth in *Strickland v. Washington*, 466 U.S. 668 (1984), further undermines confidence in the integrity and reliability of the proceedings. The convergence of these constitutional violations, combined with the objective scientific proof of Petitioner's innocence, presents precisely the type of extraordinary case for which this Court's original habeas jurisdiction was designed and reserved. As this Court emphasized in *Schlup*. The Great Writ serves as the ultimate "equitable remedy to prevent unconstitutional punishment" and must be administered with the "initiative and flexibility essential to ensure that miscarriages of justice within its reach are surfaced and corrected." 513 U.S. at 319, 322. The miscarriage of justice presented by this case, in which a man faces life imprisonment without possibility of parole for a crime that scientific evidence has proven he could not have committed in the manner alleged, is of such an extreme character that intervention by this Court is not merely appropriate, but necessary to uphold the fundamental guarantees of due process and to maintain public confidence in the integrity of the criminal justice system.

Claim 5. Actual Innocence Under This Court's Precedents

Schlup v. Delo, 513 U.S. 298, 324, 327 (1995) (actual-innocence "gateway" allows merits review when petitioner presents new reliable evidence not presented at trial and shows it is more likely than not that no reasonable juror would have convicted) The expert analysis proffered by Petitioner, utilizing advanced forensic reconstruction techniques and specialized scientific knowledge, "Heights, angles, distances, measurements, configurations, proximity, plausible, implausible, body configurations, muzzle distance, trajectories, to figure out where the shooter

was and where the victim was standing and the positions they had to be in for this to be plausible scientifically. conclusively establishes the physical impossibility of the prosecution's theory of the crime and definitively proves Petitioner's innocence. This evidence is precisely the type of persuasive showing of actual innocence that this Court has recognized as sufficient to overcome procedural barriers and warrant federal habeas review. In *Schlup v. Delo*, this Court held that a petitioner asserting actual innocence as a gateway to review of defaulted constitutional claims must support his allegations "with new reliable evidence - whether it be exculpatory scientific evidence, trustworthy eyewitness accounts, or critical physical evidence that was not presented at trial." 513 U.S. at 324. The Court emphasized that the habeas court must make its determination "in light of all the evidence, including that alleged to have been illegally admitted ... and evidence tenably claimed to have been wrongly excluded or to have become available only after the trial." *Id.* at 328. Subsequently, in *House v. Bell*, this Court applied "In *House v. Bell*, 547 U.S. 518, 537, 540 (2006), this Court applied *Schlup* to DNA evidence obtained through forensic technology unavailable at trial. The Court held that scientific advances producing new analysis of existing physical evidence constitute 'new reliable evidence' for purposes of the *Schlup* gateway, the newly discovered evidence in this case fits squarely within the parameters of *Schlup* and *House*. The expert analysis, based on the application of modern science and technological advancements to the physical evidence, reveals new facts that utterly refute the prosecution's theory and demonstrate the scientific impossibility of the crime occurring as the State alleged at trial. Through forensic reconstruction, 3D modeling, and specialized analysis of the wound ballistics, bullet trajectory, and gunpowder stippling patterns, Petitioner's experts have shown that the fatal shot could not possibly have been fired in the manner described by the prosecution's star witness and presented to the jury as the sole basis for conviction of capital murder.

Moreover, this expert analysis does not stand alone, but is corroborated by objective evidence in the possession of the State at the time of trial - namely, the autopsy findings of the medical examiner, which documented the specific anatomical location and trajectory of the fatal wound, as well as the presence of stippling, all of which contradict the witness's account of an execution-style shooting at point-blank range gunshot wound to the back of the head. See Ex L Petitioner's version of the shooting. Also See Ex A Expert Analysis pg. 26 #57 "Evidence demonstrating the statement of the petitioner the decedent struck his arm; in any deliberate, accidental or reactive manner; and pushed his arm and the handgun upward then causing the accidental discharge, are supported by the evidence." The State's failure to recognize contradictory key evidence and defense counsel's failure to recognize and develop it through readily available expert analysis, compounds the constitutional violations at issue. The scientific evidence presented in this case is at least as persuasive and reliable as the DNA evidence found sufficient to establish a gateway claim of actual innocence in House. As in House, the expert analysis here is based on established scientific principles and methodologies that have been validated and accepted in the relevant scientific and legal communities. See House, 547 U.S. at 537-38. And like the DNA evidence in House, the forensic reconstruction and wound ballistics analysis in this case are detrimental to answer the critical question of whether petitioner committed the crime in the manner alleged by the prosecution - a question that goes directly to the ultimate issue of guilt or innocence. Indeed, the proof of innocence in this case is parallel to House, both cases depend on irrefutable science to prove innocence, as it conclusively negates the key factual predicate of the prosecution's theory and the only direct evidence of guilt presented at trial. Whereas the DNA evidence in House undermined the prosecution's case by showing that semen on the victim's clothing did not match the petitioner, thereby calling into question the motive and opportunity evidence relied on

by the State, the forensic evidence here affirmatively disproves the very act of shooting that formed the basis of the charge and conviction of capital murder. In other words, the newly discovered evidence in this case does not merely weaken the prosecution's theory or cast doubt on ancillary facts, but definitively refutes the central premise of the State's case that Petitioner fired the fatal shot in the manner described by its key witness. It is difficult to conceive of a more persuasive showing of actual innocence than objective scientific proof that the crime could not possibly have occurred in the way the prosecution alleged, and the jury found beyond a reasonable doubt. If the new DNA evidence in House was enough to satisfy the Schlup standard evidence that called into question the petitioner's motive and opportunity, but did not directly negate the act of murder itself - then surely the forensic proof in this case, which conclusively demonstrates the physical impossibility of the shooting as described by the State's star witness, meets the threshold for a credible gateway claim. To hold otherwise would be to render the actual innocence exception a nullity, even in cases where newly discovered scientific evidence definitively refutes the factual basis of the conviction. The Third Circuit's decision in *Han Tak Lee v. Glunt*, 667 F.3d 397 (3d Cir. 2012), further supports the proposition that the expert analysis proffered by Petitioner qualifies as new reliable evidence for purposes of the Schlup inquiry. In *Han Tak Lee*, the court held that new expert testimony based on scientific developments in the field of fire forensics constituted "new evidence" that the petitioner was "actually innocent of the crime of arson" for which he had been convicted. *Han Tak Lee v. Glunt*, 667 F.3d 397 (3d Cir. 2012). The court emphasized that the new expert evidence "provided an extremely high level of proof that the fire could not have been started by the defendant," and that such evidence "speaks to his actual innocence with sufficient reliability and probative force to permit him to pursue his constitutional claims in spite of the procedural bar." The scientific proof

presented in this case is at least as reliable and probative as the expert evidence found sufficient in Han Tak Lee. Like the advances in fire science that undermined the prosecution's arson theory in that case, the developments in forensic 3d expert reconstruction and wound ballistics analysis utilized by Petitioner's experts here have exposed the impossibility of the shooting occurring as the prosecution alleged at trial. And just as the new expert evidence in Han Tak Lee "provided an extremely high level of proof that the fire could not have been started by the defendant," the forensic analysis in this case conclusively establishes that the fatal shot could not have been fired in the manner claimed by the prosecution's star witness and argued as the sole basis for conviction. See Ex A, B, C, K. Indeed, the proof of innocence in this case is even more definitive and exculpatory than that presented in Han Tak Lee, as it does not rest on a battle of experts or a revised interpretation of ambiguous physical evidence but rather flows directly from the objective medical findings and the immutable laws of physics and anatomy. The scientific analysis here leaves no room for doubt - it conclusively disproves the key factual premise of the prosecution's case and establishes that Petitioner is actually innocent of committing the crime in the manner alleged. The Constitutional Violations Revealed by the Newly Discovered Evidence Warrant This Court's Intervention First and foremost, the newly discovered evidence establishes that Petitioner's conviction was obtained in violation of the Due Process Clause, as it was based on testimony that the prosecution knew or should have known was false. And that false testimony was the heart of their case! As this Court has long recognized, the knowing use of perjured testimony by the government violates due process and requires reversal of the conviction. *Napue v. Illinois*, 360 U.S. 264, 269 (1959) This principle applies with equal force where, as here, the government presents testimony that is contradicted by scientific evidence in its own possession. See *Miller v. Pate*, 386 U.S. 1, 6-7 (1967) (holding that the prosecution's use

of false forensic evidence violated due process, even if the prosecutor did not know the evidence was false). In this case, the newly discovered forensic analysis conclusively establishes that the prosecution's star witness testified falsely about the manner in which the shooting occurred. The witness's account of an execution-style shooting at point-blank range is belied by the autopsy findings, experts findings which documented the specific anatomical location and trajectory of the fatal wound see Ex A, B, C, K as well as the presence of stippling, all of which are inconsistent with a pointblank range shot. The prosecution had this exculpatory scientific evidence in its possession at the time of trial yet failed to disclose it to the defense or to correct the witness's false testimony. Instead, the prosecutor relied on that perjured testimony as the centerpiece of its case and argued to the jury that Petitioner's guilt hinged on the credibility of the witness's physically impossible account. See Ex A, B, C, D, E1,2,3, G,1,2 This knowing presentation of false testimony, and the failure to correct it with the State's own contradictory scientific evidence, undermines the fundamental fairness of the trial and violates the most basic guarantees of due process. See *Giglio v. United States*, 405 U.S. 150 (1972), 153 (“deliberate deception of a court and jurors by the presentation of known false evidence is incompatible with rudimentary demands of justice”); *Mooney v. Holohan*, 294 U.S. 103, 112 (1935) (due process “cannot be deemed to be satisfied by mere notice and hearing if a State has contrived a conviction through the pretense of a trial which in truth is but used as a means of depriving a defendant of liberty through a deliberate deception of court and jury by the presentation of testimony known to be perjured”). The gravity of this due process violation is compounded by the fact that the false testimony went to the heart of the prosecution's case and was the sine qua non of the conviction. See *United States v. Agurs*, 427 U.S. 97, 103 (1976) (constitutional error is committed “if there is any reasonable likelihood that the false testimony could have affected the

judgment of the jury”). The due process violation in this case is further exacerbated by trial counsel's ineffective assistance in failing to investigate and present available scientific evidence that would have thoroughly impeached the prosecution's star witness and definitively established the impossibility of the shooting occurring as alleged. The forensic analysis and expert testimony proffered by Petitioner in these proceedings were readily obtainable at the time of trial through the exercise of reasonable diligence, and there can be no strategic justification for counsel's failure to pursue such a potent line of defense. See *Strickland v. Washington*, 466 U.S. 668, 690-91 (1984) (to establish deficient performance, defendant must show “that counsel's representation fell below an objective standard of reasonableness” based on “prevailing professional norms” and “under the totality of the circumstances”). Had counsel subjected the prosecution's case to meaningful adversarial testing, as the Constitution requires, the jury would have been presented with scientific proof that the alleged manner of the shooting was a physical impossibility, and there is a reasonable probability that the outcome of the trial would have been different. See *id.* at 694 (“A reasonable probability is a probability sufficient to undermine confidence in the outcome.”). The confluence of these constitutional errors – the prosecution's knowing presentation of false testimony, the suppression of Paxton video tape statement that proves she never saw Petitioner start the altercation with Ortiz, Paxton lied about watching petitioner come out the bathroom the way she described and attacked Ortiz first. This was a very crucial statement due to the fact petitioner was claiming accidental shooting and self-defense, See Ex O1,2,3 Threats to petitioners' life, petitioner cannot claim self-defense if he was the aggressor. See Ex Q Defense reasoning why Paxton is the aggressor. Come trial in 2008 Paxton has a new version and she makes petitioner the aggressor. Her police video statement said she never saw me come out the bathroom nor attack Ortiz first, she says “I heard some noise. I stood

up and turned around to see Lennie and Monique in a struggle” in that version she does not know who started the altercation. Come trial 2008 Paxton testifies “she watches petitioner back out the bathroom with a gun in his right hand fully extended accidentally bumps into the victim turns around and pistol whips the victim for no reason” this was very crucial for petitioner to obtain, council never produced it during trial, but he gave it to petitioner after trial, the transcribed version, that's when petitioner found out about it, See *Kyles v. Whitley*, 514 U.S. 419, 434 (1995) (the combined effect of multiple constitutional errors “can make a difference between conviction and acquittal” and requires reversal where confidence in the verdict is undermined). The Interests of Justice and Fundamental Fairness Require the Granting of the Writ.

CONCLUSION AND RELIEF REQUESTED

For the reasons set forth above, Petitioner Lennie Dartez Mathis respectfully requests that this Court exercise its discretionary power to prevent a manifest miscarriage of justice. Petitioner's conviction for first-degree murder rests on a "scientific impossibility" and a "skit" that deceived the jury, rendering the trial fundamentally unfair and the verdict unreliable. WHEREFORE, Petitioner respectfully requests that this Court: Grant the Writ of Habeas Corpus and vacate Petitioner's conviction and sentence; In the alternative, acting under its authority under 28 U.S.C. § 2241(b) and Supreme Court Rule 20, transfer this application for hearing and determination to the United States District Court for the Western District of Oklahoma. Order an evidentiary hearing to allow Petitioner to present the newly discovered forensic evidence and expert analysis that definitively disprove the State's theory of the crime; and grant any further relief that the Court deems just and proper in the interest of justice.