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APPENDIX A

Goode v. State, No. PCD-2025-572, Opinion Denying Subsequent Application for Post-Conviction Relief, Motion for Evidentiary Hearing, and Motion for Discovery (Okla. Crim. App. June 11, 2026)

FILED
COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA
JUN 11 2026
SELDEN JONES
CLERK

N THE COURT OF CRIMINAL APPEALS
OF THE STATE OF OKLAHOMA

CLARENCE ROZELL GOODE, JR.,	)	
	)	
Petitioner,	)	**NOT FOR PUBLICATION**
	)	
v.	)	**Case No. PCD-2025-572**
	)	
THE STATE OF OKLAHOMA,	)	
	)	
Respondent.	)	

OPINION DENYING SUBSEQUENT APPLICATION FOR POST-CONVICTION RELIEF, MOTION FOR EVIDENTIARY HEARING, AND MOTION FOR DISCOVERY

LEWIS, JUDGE:

Clarence Rozell Goode, Jr.,[1] Petitioner has filed with this Court a Subsequent Application for Post-Conviction Relief and other related motions. The record reflects Goode was convicted of three counts of first-degree murder, in violation of 21 O.S.Supp.2004, § 701.7, and one count of first-degree burglary, in violation of 21 O.S.2001, § 1431, in Tulsa County District Court case number CF-2005-3904, before the Honorable Tom C. Gillert, District Judge. The jury assessed punishment at death on each of the three first degree murder

[1] Goode indicates his legal name is Clarance Rozell Goode, Jr. We use the name under which the charges were filed, and the Judgment and Sentence was issued.

convictions, after finding the existence of two aggravating circumstances in all three murders.[2] The jury assessed punishment at twenty (20) years' imprisonment and a $10,000.00 fine on the first-degree burglary count. Judge Gillert formally sentenced Goode in accordance with the jury verdict on January 7, 2008.

He is now before this Court with his sixth subsequent application for post-conviction relief along with a motion for evidentiary hearing and motion for discovery. The facts of Goode's crime are sufficiently detailed in the 2010 direct appeal Opinion;[3] however, facts relevant to Goode's propositions are outlined below. Goode raises four propositions in support of his subsequent post-conviction appeal.

1. The State withheld material impeachment evidence favorable to the defense when it failed to disclose information that contradicted the testimony of the State's star witness and the State's theory of the case, violating Goode's right to due process under the Fourteenth Amendment to the United States Constitution and Article II, Sections 7 and 20 of the Oklahoma Constitution.

2. The State knowingly presented and failed to correct false testimony violating Goode's right to due process under the

[2] (1) The defendant knowingly created a great risk of death to more than one person; and (2) there exists a probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society. 21 O.S.2001, § 701.12 (2) and (7).

[3] *Goode v. State,* 2010 OK CR 10, 236 P.3d 671.

Fourteenth Amendment to the United States Constitution and Article II, Section 7 and 20 of the Oklahoma Constitution.

3. Goode was deprived of effective assistance of counsel in violation of the Sixth and Fourteenth Amendments.

4. The cumulative effect of all the Constitutional errors that accrued at Goode's capital trial and sentencing proceeding render those proceedings, and his resulting convictions and death sentences fundamentally unfair and unreliable in violation of the Eighth and Fourteenth Amendments to the United States Constitution and Article II, Sections 7, 9, and 20 of the Oklahoma Constitution.

As this is a subsequent post-conviction proceeding, this Court's review is limited by the Oklahoma Post-Conviction Procedure Act.[4] Title 22 O.S.2021, § 1089(D)(8) (provides for the filing of subsequent applications for post-conviction relief). The Post-Conviction Procedure Act is not designed or intended to provide applicants with repeated appeals of issues that have previously been raised on appeal or could have been raised but were not. *Slaughter v. State,* 2005 OK CR 6, ¶ 4, 108 P. 3d 1052, 1054. The Court's review of subsequent post-conviction applications is limited to errors which would have changed

[4] Goode filed this subsequent application on July 21, 2025. This Court ordered the State to respond, and its response was filed on December 22, 2025. Goode filed a request to file a reply brief, which we granted.

the outcome and claims of factual innocence. *Id.* ¶ 6, at 1054.

This Court's rules also limit issues which can be raised in subsequent applications.

> No subsequent application for post-conviction relief shall be considered by this Court unless it is filed within sixty (60) days from the date the previously unavailable legal or factual basis serving as the basis for a new issue is announced or discovered.

Rule 9.7(G)(3), *Rules of the Oklahoma Court of Criminal Appeals,* Title 22, Ch. 18, App (2026).

These time limits preserve the legal principle of finality of judgment. *Sporn v. State,* 2006 OK CR 30, ¶ 6, 139 P.3d 953, 954, *Malicoat v. State,* 2006 OK CR 25, ¶ 3, 137 P.3d 1234, 1235, *Massaro v. United States,* 538 U.S. 500, 504 (2003). This Court's rules and our case law, however, do not bar the raising of a claim of factual innocence at any stage. *Slaughter,* 2005 OK CR 6, ¶ 6, 108 P.3d at 1054. Innocence claims are the Post-Conviction Procedure Act's foundation. *Id.*

This post-conviction application deals with alleged previously unavailable facts, which Petitioner claims constitute newly discovered evidence, and which serve as the basis for Petitioner's new issues.

Newly discovered evidence is that which is presented within sixty (60) days of the discovery of the evidence. It must contain evidence which has not been and could not have been previously presented in the original application because the factual or legal basis was unavailable, as defined in Section 1089(D)(9) of Title 22.

Relevant facts taken from the original opinion are that Ronald (Bunny) Thompson and one of the victims, Mitch Thompson, were cousins. J.R. Hoffman and Ronald Thompson got into a fight over a financial dispute. Goode intervened and punched Hoffman in the mouth. Hoffman returned with Mitch Thompson; they had armed themselves with bats. Mitch Thompson beat Ronald Thompson with the bat.

After that Mitch Thompson called D.H.S. on his sister, Michelle Chastain (who was dating Goode); he got Michelle fired from her job and attempted to get Goode fired from his. The State's theory was that Goode, Ronald Thompson, and Kenneth Johnson killed Mitch Thompson and his family as revenge.

Once entering the house, Ronald Thompson went to the bedroom where he thought Hoffman was staying, and Goode went to the master bedroom where Mitch, Tara Thompson, and the child [T.B.] were

sleeping. The trial evidence was that Goode and Kenneth Johnson shot the three; Thompson entered the room later and fired shots after being ordered to do so at gunpoint. Ronald Thompson carried a .22 caliber handgun and one of Tara Thompson's wounds was possibly caused by a .22 caliber bullet.

At trial, Ronald Thompson, in Petitioner's cross-examination, denied that he held a grudge against Hoffman, that he did not know why they were going to the Thompson home, and that he only fired his gun after being threatened.

Now, Petitioner claims that new evidence exists that could cause the evidence presented at trial to be impeached. He claims that newly discovered evidence includes a report identifying Brandy Thompson (now Heisler) as a "confidential informant" and information about Ronald (Bunny) Thompson's intent to kill Hoffman as provided by Brandy Thompson.[5] Petitioner also claims other police reports undermine key witnesses' credibility.

Petitioner's first two claims are interrelated. The claims are that the State suppressed evidence favorable to Petitioner and, further,

[5] The report by officer Denton identifying Brandy as the confidential informant is dated November 19, 2007.

presented false testimony that Ronald Thompson did not hold a grudge against Hoffman, and did not intend to kill anyone; contrary to his admission to Brandy. The first claim brought pursuant to *Brady v. Maryland,* 373 U.S. 83, 87 (1963). The second claim is brought under *Napue v. Illinois,* 360 U.S. 264 (1959).

Petitioner argues that the evidence of the State's transgressions was held by the State in the form of a statement made by confidential informant, whose identity was withheld by the State until Petitioner learned, by happenstance, that Brandy Thompson was the confidential informant in February of 2025.

The crux of the *Brady* claim is that Ronald Thompson allegedly told Brandy Thompson that he intended to kill J.R. Hoffman, whom he believed was living with Mitch Thompson, before the trio of killers went to the Thompson home on August 25, 2005. Brandy indicates that she gave this information to officer Denton after the killing, and the State never disclosed this information to the defense. Petitioner argues that Thompson's statements to Brandy contradict his trial testimony in a way which would have impeached his testimony sufficiently to change the outcome of the trial, thus meeting the definition of *Brady* evidence.

The issue is not whether the State failed to disclose the name of a confidential informant, but whether the State withheld evidence which would have impeached Thompson's testimony. Namely evidence that Thompson had an intent to kill Hoffman prior to entering the house where Hoffman lived, contrary to his testimony denying any such plan.

Petitioner also claims that the State withheld other evidence favorable to him other than the Brandy Thompson evidence. The material consists of police reports containing names of witnesses who did not participate in the trial. Petitioner has not shown that the information contained in these reports was not provided prior to trial, nor has he shown that the evidence was favorable to him as substantive evidence or impeachment evidence. Moreover, Petitioner's mention of these items is insufficient to raise a claim under our rules, thus the argument is waived. *See* Rule 3.5 (A)(5), *Rules of the Oklahoma Court of Criminal Appeals,* Title 22, Ch. 18, App. (2026).

The crux of the *Napue* claim is that the State failed to correct Thompson's alleged false testimony denying that he had any intent to kill Hoffman prior to entering the house, that he did not know what

the plan was before entering the home, and that he fired shots only after being threatened.

In a subsequent post-conviction application, a Petitioner must show that his claims are timely and prejudicial, otherwise the claims are waived. 22 O.S.2021, § 1089 (D)(8)(b)(1) & (2). First, it must be shown that the factual basis for the claim was unavailable as it was not ascertainable through the exercise of reasonable diligence at the time of filing a previous appeal or post-conviction application. 22 O.S.Supp.2022, § 1089 (D)(8)(b)(1); *see Davison v. State,* 2023 OK CR 11, ¶ 5, 531 P.3d 649, 651. Second, it must be shown that "the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for the alleged error, no reasonable factfinder would have found the applicant guilty of the underlying offense or would have rendered the penalty of death." 22 O.S.Supp.2022, § 1089 (D)(8)(b)(2); *Davison, Id.*

The *Brady* issue is not whether the State told Petitioner that their confidential informant was Brandy Thompson, the issue is whether the State suppressed a statement made by Ronald Thompson to Brandy that he intended to kill Hoffman. The *Napue*

claim is whether the State failed to correct Ronald Thompson's testimony that he had no desire to kill Hoffman, knowing that his testimony was false.[6]

This Court could create an indeterminate discussion on whether Petitioner exercised reasonable diligence in his failure to ascertain evidence supporting these claims many years after trial and numerous previous post-conviction appeals. Discussions would necessarily include whether Petitioner is under any duty to discover evidence which the State is obligated to disclose. Discussions would

---

[6] The confidential informant claim is a red herring to make us believe that the alleged failure to reveal their confidential informant equates to a suppression of the alleged exculpatory, impeachment evidence, and without this evidence he was unable to adequately impeach Ronald Thompson with the fact that he intended to kill Hoffman when he entered the Mitch Thompson home.

It seems this impeachment evidence was available to Petitioner well before the filing of his earlier post-conviction appeals. It is even plausible that the State revealed their confidential informant Ronald Thompson's statements to the informant prior to trial. Prior to trial, the trial court ordered the State to divulge the identity of the confidential informant in a hearing on May 18, 2007, by stating "find that guy [Denton] and he'll have that information to you for us by next Friday, so we don't have to continue this." Nothing in the record contains any mention of the identity of the confidential informant after that date, even though there were several subsequent hearings where discovery was discussed. The real issue is whether the State disclosed Brandy Thompson's statement indicating that Ronald Thompson had an intent to kill prior to entering the victim's house, and whether that information was exculpatory, so it's not the identity of the informant that matters.

also include whether Petitioner made any attempt at discovering additional evidence the State might be holding and whether the State intentionally or inadvertently withheld evidence from Petitioner. This Court could also delve into whether the evidence constituted *Brady* material or whether the State violated *Napue* at trial. However, the bottom line in this subsequent post-conviction application is, even if Petitioner's allegations are true, whether Petitioner was prejudiced by the errors alleged in the Application. We find that he was not.

The ultimate question in these types of post-conviction claims coming years after trial and conviction is whether the "new evidence" supports a conclusion that, if not for the alleged error, the jury would have found Petitioner guilty and sentenced him to death. As with all claims, an appellant must show error plus injury. The injury that Petitioner must show here is whether the undisclosed evidence or the false testimony was material as to guilt or punishment, i.e., may have affected the outcome of the trial. *Brady*, 373 U.S. at 87; *Napue,* 360 U.S. at 272.

Prejudice exists if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different. *United States v. Bagley,* 473 U.S. 667, 682

(1985). When an error is of such constitutional magnitude, this Court must find, beyond a reasonable doubt, that the error did not contribute to the verdict. *Id.* at 680.

First, the State did not align itself with Ronald Thompson and did not downplay his involvement in the crime. The State did not present a theory that Ronald Thompson had no premeditated intent to kill Hoffman when he entered the Mitch Thompson home.

The State presented evidence that the plan of the three home invaders was that Ronald was to enter the home and shoot Hoffman. Evidence showed that Ronald Thompson entered the house and immediately headed for Hoffman's room, but Hoffman was not there. The State did not endorse Ronald Thompson's downplaying of his involvement. The State actually argued that he entered the home with the same intent to kill as the others. The State presented evidence that Ronald was beaten by Mitch Thompson and Hoffman, and he told Detective Muelenberg he would take care of it himself. Conversely, the testimony of Ronald's denial of his revenge motive was elicited by defense counsel on cross-examination.

Moreover, Petitioner confessed his involvement in the murders to Michelle Chastain. After the murders, he told Chastain that he just

shot her brother (Mitch Thompson). Goode also threatened Chastain and her family with harm if she talked to the police. Hours later Goode described the shooting to Chastain, claiming that Ronald Thompson started the shooting. He also said he turned the lights on, saw Mitch Thompson on the floor, said, "die like a bitch," and shot him again in the face. He told Chastain that they would have shot Ronald Thompson, but he took off running.

Goode shared details of the crime with another Tulsa County inmate; details only the perpetrator would have known. He also told Michelle Chastain that he was emulating "Scarface" when he killed Mitch Thompson. He also had a notebook and a t-shirt with images of "Scarface."

Evidence of Petitioner's guilt was overwhelming. The evidence clearly showed that he was the ringleader in this crime. Petitioner has not shown by clear and convincing evidence, that, if not for the alleged error, the jury would not have found him guilty and sentenced him to death. *See* 22 O.S.2021, § 1089(D)(8)(b)(2). We find, beyond a reasonable doubt, even if the State withheld this evidence and the State, in fact, failed to correct Ronald Thompson's culpability claims, the jury would have found Petitioner guilty and would have sentenced

him to death. Propositions One and Two are denied.

In Proposition Three, Petitioner claims that he was denied the effective assistance of counsel at trial and on direct appeal. His claim of ineffective assistance of counsel at trial is either barred by the doctrine of *res judicata,* because he raised ineffective assistance claims on direct appeal, or waived because the factual basis for the claims could have been ascertained through the exercise of reasonable diligence at the time of direct appeal. *Hooks v. State,* 1995 OK CR 56, ¶ 4, 902 P.2d 1120, 1123.

His claims of ineffective assistance of counsel revolve around previous counsel's failure to ascertain the name of the confidential informant and information received from the informant, and the failure to raise the claims discussed in the previous propositions.

Whether previous counsel were ineffective in failing to address these issues are judged in light of *Strickland v. Washington,* 466 U.S. 668 (1984). Petitioner must overcome a strong presumption of competence to show that counsel's performance was objectively unreasonable, and he must demonstrate a reasonable probability that, if appellant counsel had raised the omitted claims, he would

have received relief. *See Bench v. State,* 2021 OK CR 39, ¶ 13, 504 P.3d 592, 598.

In our discussion of Propositions One and Two, this Court determined that Petitioner was not prejudiced; therefore, he cannot show that trial counsel and previous appellate counsel's performance prejudiced him in any way. He has failed to satisfy the prejudice prong of *Strickland,* thus Proposition Three is denied.

In Proposition Four, Petitioner argues that the cumulative effect of errors raised in this petition and errors raised in previous pleadings affected the fundamental fairness of the proceedings against him. An accused is entitled to relief under the cumulative error doctrine when several errors occurred at trial affecting accused right to fair trial, even though none alone warrants reversal. *Napoleon v. State,* 2025 OK CR 25, ¶ 30, 583 P.3d 295, 305; *see also Bechtel v. State,* 1987 OK CR 126, ¶ 12, 738 P.2d 559, 561. When the errors considered together do not affect the outcome of the proceeding, an accused is not deprived of a fair trial, and no relief is required. *Napoleon,* 2025 OK CR 25, ¶ 30, 583 P.3d at 305. There are no errors, considered individually or cumulatively, that merit relief in this case. Proposition Four is denied.

Petitioner has filed separate motions with the Court seeking an evidentiary hearing and discovery to develop the factual basis for his claims. Petitioner has failed to demonstrate the material being sought would have resulted in a different outcome at trial, as required by Rules 9.7(D)(1)(b) and (D)(3). This Court will only grant an evidentiary hearing where the petitioner shows "by clear and convincing evidence the materials sought to be introduced have or are likely to have support in law and fact to be relevant to an allegation raised in the application for post-conviction relief." Rule 9.7(D)(5). Having determined Petitioner's claims raised herein are without merit based upon the existing record, Petitioner fails to show an evidentiary hearing is warranted. Petitioner's motion for discovery and motion for an evidentiary hearing are, therefore, denied.

CONCLUSION

After carefully reviewing Goode's subsequent application for post-conviction relief, we conclude that he is not entitled to relief. Accordingly, Goode's application for post-conviction relief is **DENIED**. Further, Goode's motion for an evidentiary hearing and motion for discovery are also **DENIED**. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2026), the

MANDATE is **ORDERED** issued upon the delivery and filing of this decision.

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LUMPKIN, P.J.: Concur in Result
MUSSEMAN, V.P.J.: Recused
HUDSON, J.: Concur
ROLAND, J.: Concur

APPENDIX B

Goode v. State, No. PCD-2010-661, Opinion Denying Petitioner's Subsequent Application for Post-Conviction Relief and Denying Petitioner's Motion for an Evidentiary Hearing (Okla. Crim. App. Sept. 13, 2010)

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

SEP 13 2010

MICHAEL S. RICHIE
CLERK

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

CLARENCE ROZELL GOODE, JR.	)	
	)	
Petitioner,	)	**NOT FOR PUBLICATION**
	)	
v.	)	No. PCD 2010-661
	)	
THE STATE OF OKLAHOMA,	)	
	)	
Respondent.	)	

OPINION DENYING PETITIONER'S SUBSEQUENT APPLICATION FOR POST-CONVICTION RELIEF AND DENYING PETITIONER'S MOTION FOR AN EVIDENTIARY HEARING

LEWIS, J.:

Clarence Rozell Goode, Jr., was charged, conjointly with Ronald Dwayne Thompson and Kenneth Dominick Johnson, with three counts of first degree murder, with alternative theories of malice or felony murder, in violation of 21 O.S.Supp.2004, § 701.7(A) and (B), and one count of first degree burglary, in violation of 21 O.S.2001, § 1431, in Tulsa County District Court case number CF-2005-3904. The State filed a Bill of Particulars alleging two aggravating circumstances for each of the three murder offenses: (1) the defendant knowingly created a great risk of death to more than one person; and (2) there exists a probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society for each of the three murder offenses. 21 O.S.2001, § 701.12 (2) and (7).

Goode's case was severed from his codefendants, and his trial commenced on December 3, 2007, before the Honorable Tom C. Gillert, District

Judge. The jury found Goode guilty on all four counts and assessed punishment at death on each of the three first degree murder convictions, after finding that both of the aggravating circumstances existed in each murder. The jury assessed twenty (20) years imprisonment and a $10,000 fine on the first degree burglary count. Judge Gillert formally sentenced Goode in accordance with the jury verdict on January 7, 2008.

Thereafter, Goode filed a direct appeal of his convictions and sentences, which were affirmed by this Court in *Goode v. State*, 2010 OK CR 10, ___ P.3d ___, 2010 WL 2698281. Goode's original application for post-conviction relief was denied by unpublished Opinion on _____.[1] Goode is now before this Court with a subsequent application for post-conviction relief and a motion for an evidentiary hearing.

The Post-Conviction Procedure Act, 22 O.S.Supp.2008, §1080, *et seq.*, governs post-conviction proceedings in this State. The Act provides,

> 8. . . . if a subsequent application for post-conviction relief is filed after filing an original application, the Court of Criminal Appeals may not consider the merits of or grant relief based on the subsequent . . . application unless:
>
> a. the application contains claims and issues that have not been and could not have been presented previously in a timely original application or in a previously considered application filed under this section, because the legal basis for the claim was unavailable, or
>
> b. (1) the application contains sufficient specific facts establishing that the current claims and issues have not and could not have been presented previously in a timely original application or in a previously considered application filed under this section, because the factual basis for the claim

[1] *Goode v. State*, Case No. PCD 2008-211 (Okl.Cr. _____).

was unavailable as it was not ascertainable through the exercise of reasonable diligence on or before that date, and

(2) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for the alleged error, no reasonable fact finder would have found the applicant guilty of the underlying offense or would have rendered the penalty of death.

22 O.S.Supp.2008, § 1089(D)(8).

The Rules of this Court, specifically Rule 9-7(G), also govern subsequent applications. The rule states,

(1) A subsequent application for post-conviction relief shall not be considered, unless it contains claims which have not been and could not have been previously presented in the original application because the factual or legal basis was unavailable, as defined in Section 1089(D)(9) of Title 22.

(2) An original application for post-conviction relief not filed in a timely manner shall not be considered, unless it contains claims which have not been and could not have been previously presented in a timely original application because the factual or legal basis was unavailable, as defined in Section 1089(D)(9) of Title 22.

(3) No subsequent application for post-conviction relief shall be considered by this Court unless it is filed within sixty (60) days from the date the previously unavailable legal or factual basis serving as the basis for a new issue is announced or discovered.

Rule 9.7(G), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2010).

Goode's claims in this subsequent application are based on Tulsa Police Department's Detective Jeff Henderson and his publicized alleged illegal conduct, which came to light earlier in 2010 and led Petitioner to the discovery of alleged improper activity occurring prior to Goode's trial. First, Goode

alleges that the State withheld critical evidence which was relevant to Henderson's veracity and credibility. His second claim is that previous counsel, at trial and on direct appeal, were ineffective for failing to discover and utilize this evidence. Goode asserts that facts concerning Henderson's conduct "have continued, and continue to unfold."[2]

We need not determine whether the evidence proffered against Henderson is true and would have been relevant, admissible and sufficient to impeach Henderson's testimony, or whether the State failed in its duty to turn the evidence over to the defense. We conclude, after reviewing these claims, that even if Henderson's testimony was impeached or if the evidence found by Henderson was excluded from this trial, Goode would have suffered the same fate, beyond any doubt. The facts of this case are compelling.

During the trial, witness and co-defendant Ronald Thompson testified that, after the murders, they took the guns to Damos Joseph's house. He testified that while parked at the house, he threw some .22 caliber rounds in a field. He obviously gave investigators this information, as Henderson was called to assist the Owasso police department by going to Damos Joseph's residence, meeting with Owasso detectives, and requesting permission to search the Joseph residence. While there, Henderson testified that he found two spent .22 shell casings and a live .22 cartridge across the street in a lot 5-6 feet from the curb. He notified Owasso detective Bill Mozingo so he could view

[2] In fact, after this subsequent application was filed, a 61 count Indictment was filed, on July 19, 2010, against Henderson and co-defendant William Yelton in the United States District for the Northern District of Oklahoma, case number 10-CR-117-CVE.

and recover the items. We briefly noted the finding of these items in our recitation of facts on direct appeal.[3]

These shell casings were not vital to the case against Goode, nor were they the only pieces of evidence corroborating Ronald Thompson's testimony. Thompson also testified that they threw latex gloves out of the car windows after the shooting, and latex gloves were found along the highway consistent with his testimony and statements to police. Thompson testified about the three different caliber of handguns used in the murders, and evidence supporting that testimony was found at the scene and during the autopsy examination.

After disposing of the guns, co-defendant Kenneth Johnson drove the trio to Michelle Chastain's house, and although she did not see Thompson, she saw his Wal-Mart vest in the car and testified that Johnson drove Goode to her house, just as Thompson testified.

Not only was there plenty of additional corroborating evidence, besides the .22 caliber cartridges, Goode himself confessed to Michelle Chastain that he killed the victims. He even provided specific details of the murders. Needless to say, sufficient evidence existed, even absent evidence of these cartridges, to prove beyond a reasonable doubt that Goode was guilty of these crimes.

We conclude that, if Henderson's testimony had been completely impeached, or if the evidence regarding these specific cartridges had been

[3] *Goode*, 2010 OK CR 10, ¶ 16.

reaching this conclusion, we must deny Goode's subsequent application for post-conviction relief, as the facts underlying the claims, even if taken as true, are not sufficient to establish that "no reasonable fact finder would have found the applicant guilty of the underlying offense or would have rendered the penalty of death"

CONCLUSION

After carefully reviewing Goode's application for post-conviction relief, we conclude that he is not entitled to relief. Accordingly, Goode's Subsequent Application for Post-Conviction Relief is **DENIED**, and the motion for an evidentiary hearing is also **DENIED**. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2010), the **MANDATE** is **ORDERED** issued upon the delivery and filing of this decision.

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OPINION BY: LEWIS, J.

C. JOHNSON, P.J.: Concurs
A. JOHNSON, V.P.J.: Concurs
LUMPKIN, J.: Concurs

APPENDIX C

State v. Goode, No. CF-05-3904, Defendant's Motion for Discovery (July 5, 2006) and Defendant's Motion for Supplemental Discovery (Oct. 23, 2006)

IN THE DISTRICT COURT IN AND FOR TULSA COUNTY
STATE OF OKLAHOMA

DISTRICT COURT
FILED
JUL 05 2006
SALLY HOWE SMITH, COURT CLERK
STATE OF OKLA. TULSA COUNTY

STATE OF OKLAHOMA, **Plaintiff,**	)	
-VS-	)	**CF-05-3904**
CLARENCE ROZELL GOODE, **Defendant,**	)	

DEFENDANT'S MOTION FOR DISCOVERY

COMES NOW the defendant Clarence Rozell Goode, by and through his attorney of record, Larry R. Edwards, and moves this Court to order the State of Oklahoma to disclose and produce the following information to defense counsel.

1. Any oral or written or recorded statements made by the defendant, including any and all statement made to the police.

2. Oklahoma State Bureau of Investigation, Federal Bureau of Investigation or NCIC Rap sheets/records checks on any and all witnesses listed by the State or possible witnesses who would testify at trial.

3. Oklahoma State Bureau of Investigation or FBI rap sheets/records checks on any witness listed by the defense as a possible witness who will testify at trial.

4. Notice of other crimes, any and all witnesses used to prove any evidence of other crimes in either first or second state and any evidence admissible under *Tit. 12 O.S. 2404 (b)* and Burks v. State, 594 P.2d 771 (Okla. Crim App. 1979)

5. Any and all agreements between the State and any witnesses reflecting said witnesses' obtaining special or lenient treatment in the pending or potential criminal cases in exchange for their testimony in this case and any and all consideration or promises of consideration given to any witness for the State or his/her attorney, including but not limited to immunity, witness fees assistance to the witness' family or associates of the witness, assistance to or favorable treatment in respect to any criminal action, or anything else which could arguably create an interest or bias against a witness in favor of the State or against the defendant. Nape v. Illinois, 360 U.S. 269 (1959); Binz v. State, 675 P.2d 448 (Okla. Crim. App. 1984)

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6. Any and all oral, written or recorded statements of any other persons interviewed by the State or its agents which inconsistent with earlier statements or which are inconsistent with the statement made by another person interviewed by the State or its agents, including law enforcement agencies.

7. Disclose and produce copies of all handwritten or transcribed notes of the investigating officers or any other officers wherein any inconsistent statements may have been given have been reduced to writing, including but not limited to, the personal notes of any officer receiving such inconsistent statements, any investigation regarding the defendant, and any other exculpatory assertions, descriptions, or comments which may exist in the notes or files. Brady v. Maryland, 371 U.S. 83 (1963).

8. Disclose any and all medical test performed on any samples of the defendant, or any other suspect connected with this investigation, the results of those tests, any of those tests, any professional personnel participating in the performance of those tests or who witnessed any part of the tests, and any and all reports prepared in connection with those tests, and the reason such test were conducted on the defendant or any other suspect connected with this investigation.

9. Disclose and deliver to the defense a list of all names, birth dates and addresses of all people interviewed or contacted relative to this investigation, whether or not the State intends to use such people as witnesses and whether these people gave any statements.

10. Disclose and provide to defense counsel a list of names, and addresses, statements, and any investigation reports of any and all law enforcement agencies of any and all persons questioned, interrogated, investigated or suspected of any involvement in this crime or any related crimes. This includes persons who have been interviewed, suspected, implicated, accused, questioned, investigated, booked, arrested, charged, indicted or who have confessed to the alleged crime herein.

11. Copies of any search warrants and affidavits obtained or issued in this case regarding the victim, the defendant, any other suspects, or any other persons involved in this matter. Also, any evidence obtained from those searches that the States intends to use against the defendant.

12. Any and all recorded phone conversations by any and all defendants or any witness the State intends to call, from the David L. Moss correctional Facility to any other person.

13. Any and all intercepted notes or "kites" from any inmates at the David L. Moss Correctional Facility that relates to this investigation, including but not limited to any and all notes or "kites" from or to any and all defendant in this case.

14. Copies of any arrest warrant and affidavits obtained or issued in this case regarding the defendants and any other suspects, or any other persons involved in this matter. Also, any evidence or statements obtained from those arrests that the State intends or potentially intends to use against the defendants.

15. Copies of any and all reports made regarding this crime, the defendant, and any other suspects, including any all police reports made by the Owasso Police Department, Tulsa Police Department, Tulsa County Sheriff's Office or any other law enforcement agency, technical investigation reports, forensic reports, reports about any other agency that investigated or participated in the investigation of the incident.

16. Copies of audio or DVD recording reflecting the first report or any first statement of any witness, who took the report, who made the report, the date and time of the report; any other reports made to any law enforcement officials or agencies by lay witnesses who initiated such contact, the date and time those reports were made, who made those reports, and the law enforcement agency that responded to those reports and any follow up reports made by law enforcement officials or agencies regarding such reports.

17. Any and all books, papers, documents, photographs, tangible objects including but not limited to any weapons, casing, spent projectiles or any other physical evidence, that were obtained during this investigation, so that the defendant may inspect, copy examine, scientifically test, any such documents or tangible evidence.

18. An opportunity to inspect and obtain copies of all prosecution exhibits that are to be introduced at trial, at both stages, including but not limited to photographs, confessions, fingerprints, sketches, maps, charts, videotapes, audiotapes, weapons and clothing.

19. Any and all physical evidence, including but not limited to fingerprints, palm prints, hand prints, footprints, shoe prints, tire tracks, blood tracks, blood, saliva, hair, fiber, clothing, DNA processes or analysis, or any other physical evidence taken from any crime scene or scenes or any other location involved in any way in the investigation of this crime.

20. Disclose to the defense all experts consulted in this matter, the names, addresses, qualifications and credentials, including but not limited to the experts the State intends to call at trails whether they are on the State's payroll or have been retained by the State.

21. Copies of any and all reports or statements made by any experts, and/or technical investigators, including copies of results from any scientific tests, experiments, or comparisons of fingerprints, instruments, clothing, bodily fluids,

or any other items relating to the charges files against the defendant, material relied upon in coming to their conclusions, motions provided by the State, other reports relied upon by those experts, and any and all relationship or connection those experts may have with the investigation of these alleged crimes. Lambert v. State, 471 P.2d 935 (Okla. Crim. App 1970); Stanford v. State, 595 P.2d 797 (Okla. Crim. App. 1979); McCarty v. State, 765 P.2d 1215 (Okla. Crim. App. 1988); Miller v. State, 89 P.2d 1317 (Okla. Crim. App. 1991).

22. Copies of any and all photographs or negatives, videotapes, drawing, sketches, blueprints or other representations of the crime scene or other location involving the investigation and the prosecution of this matter.

23. Identify all persons, including their names, addresses and telephone numbers, who have given written recorded or unrecorded statements to the prosecution; including but not limited to, any names retained by the prosecution, OSBI, Tulsa Police Department, Owasso Police Department or any other law enforcement agency that investigated or participated in any way in the investigation of this crime. In addition, providing copies of all statements made by these persons and to whom they were made.

24. Identify all persons who are known to or who are believed to have been by prosecution or law enforcement officials to have been present at, or to have observed, the events surrounding the alleged crime, or any event or fact to be proved by the State at any trial or hearing of the defendant or defendants in this case, as well as copies of written statements made by these persons, if any.

25. Disclose and produce any previous complaints by the victim(s) or family members of the victim's against the defendant or defendants or any other person to any law enforcement agency official or security officers. Further disclose the alleged victim(s) reputation for violence, if known to the any representative of law enforcement or prosecution authority.

26. Disclose whether the alleged victim(s) was/were under the influence of alcohol and/or drugs at or near the time of the alleged crime, and if so, what was the amount and type of the alcohol and/or drug.

27. Disclose and produce any previous complaints by the victim(s) or family thereof against the defendant or any other persons to any law enforcement agency officials or security officers. Further disclose the alleged victim(s)' reputation for violence, if known to any representative of the law enforcement or prosecuting authority.

28. Disclose any and all information of any medical treatment, first aid or other medical assistance given to the victim(s), including but not limited to treatment by any doctor. Disclose the identity of the doctor, medical personnel, support staff, emergency technicians involved in the treatment or assistance given

to the victim(s), the name of the hospital where the victim was taken and any and all reports of all treatment or evaluation given to the victim(s) by the hospital, emergency staff or any other medical personnel.

29. Disclose any tests performed or examination conducted on the personal body of the victim(s) and the result of each test, the description of the test, all professional personnel or other person participating in such test or who witnessed any part of the test, any and all writings or reports prepared in connection with the test, and the basis for the administration of those medical tests.

30. Any copies of any and all reports, notes, examinations and evaluations done by the medical examiner's office of the victim(s), including but not limited to any photographs taken or descriptions made of the victim's wound or wounds and the persons who made such reports or photographs, the time and place taken and all persons involved in such examination and evaluation of the victim(s).

31. Disclose whether any information has been supplied to any law enforcement official or agency or the District Attorney's office in connection with this case by any informant, and if so, the informant's name and whether he had participated in and/or observed the alleged crime, his juvenile, adult criminal records, including, any matters attending dates, times, places and the kinds or amounts involved, of any financial, penal or other compensation paid or made to any informant. Dodd v. State, 993 P.2d 778 (2000).

32. Disclose any and all evidence that tends to negate the guilt of the defendant as to the alleged crime, or would intend to reduce punishment therefore, including information that could lead to the discovery of such evidence, which evidence or information is in possession or control of the prosecuting attorney, or any member of his staff or any representative of any law enforcement official or agency, including any person who has participated in the investigation or evaluation of this case who reports either regularly or in this case particularly; this information should include any evidence that in itself establishes or supports any mitigating evidence or tends to negate or rebut any aggravating circumstances offered by the state.

33. All exculpatory evidence in the form of inconsistent statements made by the state's witnesses, including but limited to contradictory or inconsistent statements made by the witnesses, police officers, and the defendant or other suspects, whether they be contradictory to prior statements by that person or contradictory or inconsistent with statements made by others. United States v. Bagley, 473 U.S. 667 (1985).

34. Identify all persons who have given information to the District Attorney or member of his staff or any other person who has participated in the investigation or evaluation of this case, -and who either regularly report or with reference to this particular case have reported to this office, which information tends to negate

the guilt of the defendant as to the alleged crime or would tend to reduce his punishment therefore, including any information that would be evidence or could lead to any evidence of any mitigating circumstances, or that would tend to rebut or discredit evidence intended by the prosecution to establish one or more of the aggravating circumstances alleged in the bill of particulars.

35. All of the material and information within the prosecutor's possession or control, or within the control of any others who regularly report, or with reference to this particular case, have reported to the prosecutor's office. Allen v. District Court of Washington County, 803 P.2d 1165 (Okl.Cr.1990).

36. The Defendant also requests this Court to order the state, its agents, law officials or agencies to inform all witnesses or persons disclosed within the realm of this request that the defense has a right to inquire into their knowledge of this matter and they may answer defense inquiries if they so choose, and to order the state to refrain from in any way discouraging or hampering the right of the defense to talk with any witness or any other persons disclosed.

37. The defense requests the court to instruct the state, including the district attorney or any law enforcement agency or official involved in the investigation, to forthwith disclose to the defense whether or not they have informed any witness or potential witnesses not to discuss this matter with defense attorney or investigators and whether or not any such witness or person has called the district attorney or a member of the law enforcement agency to inform them that the defendant has requested to talk with these witnesses or attempted to talk with them, and if so, that the district attorney or law enforcement agency informed the defense what the witness was told by the state.

38. The Defendant further moves this Court to order the state to comply with the disclosure and production of the requested information within thirty (30) days from the date of this hearing, to provide copies of requested material, and to honor their continuing duty to promptly disclose any information within the realm of this request or any material exculpatory to the defendant with due diligence upon learning of same, even during the course of any hearing or trial concerned herein.

39. The defendant moves this Court to direct the state, through the District Attorney, to notify each and every law enforcement officer and any other person involved in the investigation of the crime alleged herein, including, but not limited to, any experts, crime lab personnel, or any person involved in the investigation of the crime alleged herein, to file any notes, memorandum, comments, pictures, diagrams, names of persons interviewed and not interviewed, any other suspects or persons consulted or otherwise contacted in connection with the investigation of the alleged crime herein with the District Attorney's office and that such material delivered to the District Attorney's office will be delivered to the defense if exculpatory or if falling within any request of this discovery motion.

WHEREFORE, the defendant prays this Court grant this motion or discovery and further order the state to produce the requested discovery by a date certain in order that the defendant can fully and fairly exercise his constitutional right to defend against the accusation of the State.

Respectfully Submitted

Larry R. Edwards OBA 13838
601 South Boulder, Suite 1305
Tulsa, OK 74119
(918) 582-6300
(fax) 582-6311

CERTIFICATE OF DELIVERY/MAILING

I hereby certify that on the 5 day of July, 2006, a true and correct copy of the above and foregoing document has been mailed, via the United States Postal Service, to the reflected parties, to-wit: Tulsa County District Attorney's office, 500 S. Denver, Tulsa County Courthouse, Suite 900, Tulsa OK 74103

Larry Edwards

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IN THE DISTRICT COURT IN AND FOR TULSA COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA, **Plaintiff,**	)	
-VS-	)	**CF-05-3904**
CLARENCE ROZELL GOODE, **Defendant,**	)	

DISTRICT COURT
FILED
OCT 23 2006
SALLY HOWE SMITH, COURT CLERK
STATE OF OKLA. TULSA COUNTY

DEFENDANT'S MOTION FOR SUPPLEMENTAL DISCOVERY

COMES NOW the defendant Clarence Rozell Goode, by and through his attorney of record, Larry R. Edwards, and moves this Court to order the State of Oklahoma to disclose and produce the following information to defense counsel.

1. The police reports or other investigative reports in case number CF-06-0985, involving the witness in this case Christina M. Chastain. The State has alleged that the witness committed fraud in the above case. Brady v. Maryland, 371 U.S. 83 (1963).

2. Any and all internal investigations by the Owasso Police Department or any other law enforcement agency involving any officer involved in the investigation of this case where there were allegations of lying, fraud, tampering with evidence or any other wrong doing on the part of the officer that would be exculpatory or possibly exculpatory toward the defendant or his case. Brady v. Maryland, 371 U.S. 83 (1963).

WHEREFORE, the defendant prays this Court grant this motion or discovery and further order the state to produce the requested discovery by a date certain in order that the defendant can fully and fairly exercise his constitutional right to defend against the accusation of the State.

Respectfully Submitted

Larry R. Edwards OBA 13838
601 South Boulder, Suite 1305
Tulsa, OK 74119
(918) 582-6300
(fax) 582-6311

CERTIFICATE OF DELIVERY/MAILING

I hereby certify that on the 23 day of Oct, 2006, a true and correct copy of the above and foregoing document has been mailed, via the United States Postal Service, to the reflected parties, to-wit: Tulsa County District Attorney's office, 500 S. Denver, Tulsa County Courthouse, Suite 900, Tulsa OK 74103

Larry Edwards

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APPENDIX D

State v. Goode, No. CF-05-3904, Tr. V 914-920, 983-84,
Testimony of Ronald "Bunny" Thompson (Dec. 7, 2007)

IN THE DISTRICT COURT IN AND FOR TULSA COUNTY

STATE OF OKLAHOMA

STATE OF OKLAHOMA,)
)
Plaintiff,)
)
vs.) Case No. CF 05-3904
)
CLARENCE ROZELL GOODE,)
)
Defendant.)

DISTRICT COURT
FILED
JUL 30 2008
SALLY HOWE SMITH, COURT CLERK
STATE OF OKLA. TULSA COUNTY

TRANSCRIPT OF JURY TRIAL - VOLUME V
(DECEMBER 7, 2007)

HELD DECEMBER 3-13, 2007

BEFORE THE HONORABLE TOM C. GILLERT

IN TULSA, TULSA COUNTY, OKLAHOMA

* * * * *

COPY

APPEARANCES:

FOR THE STATE:
MR. STEVE KUNZWEILER
MR. JAMES HAWKINS
District Attorney's Office
Tulsa County Courthouse
500 South Denver
Tulsa, OK 74103

FOR THE DEFENDANT:
MR. STAN MONROE
15 West Sixth, Suite 2112
Tulsa, OK 74119

MR. LARRY EDWARDS
601 South Boulder, Suite 1305
Tulsa, OK 74119

REPORTED BY: JANA HARRINGTON, CSR, RPR
Tulsa County Courthouse
500 South Denver, Suite 405
Tulsa, OK 74103

Q. So the garage door is open and you go and ring the doorbell, sir?
A. Yes, sir.
Q. And you and Mr. Goode and Mr. Johnson are all standing there with these gloves and guns in your hands; is that correct?
A. Yes, sir.
Q. So what kind of business was going to take place, Mr. Thompson, at the door of Mitch and Tara Thompson?
A. I had no clue. I just thought they were going there to scare them or something.
Q. All right. So you go around into the garage?
A. Yes, sir.
Q. What happens when you go into the garage?
A. It's -- Mr. Goode is standing in front of me and Kenneth is standing in back of me, and I kicked in -- they tell me to kick in the door. I kick in the door.
Q. You kicked the door in to the house?
A. Yes, sir.
Q. Why are you kicking the door in to the house, Mr. Thompson, if you don't know why you're there?
A. Because they told me to.
Q. Mr. Goode and this dude you have never met before, Mr. Johnson, tell you to kick in the door to a house that you hadn't planned on going to that day; that's your story?

A. Yes, sir.
Q. So after you kicked the door in to the house, what happens?
A. We go in the house, we entered the living room -- or the laundry room and the kitchen and then a dining room and then the living room.
Q. What was the lighting like in the house at that time?
A. It was pretty dark.
Q. Okay. You knew where Mitch and Tara slept, didn't you?
A. Yes, sir.
Q. All right. Had J.R. Hoffman been living over there, sir?
A. He was staying there. As far as I know he was.
Q. Okay. So you go into the house and you go into the living room. Where do you go next?
A. I go to the left and they go to the right.
Q. Why do you go to the left, sir?
A. I don't know. I just -- I just did. And then before I got to the left, I heard gunshots.
Q. Hold on. You go to the left and you don't know why, sir?
A. Yes, sir.
Q. To the left there's a room down there, isn't there?
A. Yes, sir.
Q. You go to the right -- or they go to the right; is that correct?
A. They go to the right.

Q. And to the right would be whose room?
A. Mitch Thompson's.
Q. Okay. To the left, whose room would that have been down that hallway?
A. J.R.'s.
Q. All right. So you've gone to the left?
A. Yes, sir.
Q. Towards where J.R.'s room would have been. You've got your glove, you've got your gun, they've got their gloves, they've got their gun, they go over on the right. What's the next thing that you do?
A. I run in. I heard gunshots.
Q. All right. Where were you, sir, when you heard gunshots?
A. In the living room.
Q. All right. And where were those gunshots coming from?
A. Mitch's room.
Q. When you hear those gunshots, what do you do?
A. I run in the bedroom.
Q. Okay. What's the lighting condition like?
A. Pretty dark.
Q. What do you see?
A. I see Clarence to the right of me and Fu Fu to the left, and Clarence was like reloading his gun. About that time is when Fu Fu put a gun to my head.
Q. Okay. So you're into the room. And they're shooting,

aren't they?
A. Yes, sir.
MR. MONROE: Objection. Leading.
THE COURT: Overruled.
Q. (By Mr. Kunzweiler) Describe how you see the shooting. I want you to show the ladies and gentlemen of the jury what these guys are doing.
A. They're standing there over them shooting them.
Q. All right. Describe it.
A. Clarence was over the bed. I couldn't see my cousin. I seen Tara. She was to the left of me where Kenneth Johnson was at.
Q. What is he doing?
A. He's -- he puts the gun to my head and tells me if I don't put in work, I'm going to be next, write off my family.
Q. Let's back up. What is he doing with his gun, not towards you, towards these people in the bedroom?
A. Who?
Q. Mr. Johnson.
A. He's shooting and shot.
Q. And Mr. Goode, what is he doing with his gun?
A. He's reloading his gun.
Q. You heard something besides shooting, didn't you, sir?
A. Yes, sir.
Q. What did you hear?

A. I heard Tara screaming.
Q. It wasn't just screaming, it was crying, wasn't it?
A. Yes, sir.
Q. You got your .22 caliber gun. What kind is it? A revolver?
A. Just a revolver.
Q. Where is Kayla?
A. I couldn't see Kayla.
Q. You can see Clarence doing what he's doing, you can see Mitch doing -- or you can see Mr. Johnson, Fu Fu, seeing what he's doing, and you're telling the ladies and gentlemen of this jury you can't see that ten-year-old child in that bedroom; is that your testimony?
A. Yes, sir.
Q. All right. So then you're in there and you've seen this shooting take place, and I think I heard you say something about something that Mr. Johnson does towards you. What does he do?
A. He puts the gun to my head.
Q. And what happens at that point? What does he say or what happens?
A. He told me I need to put in work, if I don't, I'm next, write off my family.
Q. You got to put in work, sir?
A. Yes, sir.

Q. This is work?
A. Yes, sir.
Q. So what do you do when he says you got to put in work?
A. Well, I raised up the gun and I fired three or four shots into the wall.
Q. All right. As you come into that room, sir -- do you see that diagram, sir?
A. Yes, sir.
Q. All right. You may need to scoot yourself up a little bit here. What's this right here, this part of the room?
A. The door.
Q. Okay. I want you to point out where you saw -- use this pointer so the ladies and gentlemen can know, point out where Mr. Goode was.
A. Right here.
Q. All right. And that's down to the bottom of that bed; is that right?
A. Yes, sir.
Q. Towards the right portion of that bed?
A. Yes, sir.
Q. Bottom right?
A. Yes, sir.
Q. Where is Mr. Johnson?
A. Right here, sir.
Q. All right. He's down at the base of the bed to the left?

A. Yes, sir.
Q. And where are you?
A. I'm right here.
Q. Okay. And so then what happens?
A. What's that?
Q. Then what happens?
A. I -- after they done that, after I -- I shot three or four times, I ran out of the house.
Q. You shot three or four times?
A. Yes, sir.
Q. Where?
A. In the wall.
Q. Okay. Why are you shooting in the wall, Mr. Thompson?
A. Because I was scared. I just fired into the wall.
Q. When did you get scared, Mr. Thompson?
A. When he had a gun to my head.
Q. Really?
A. Yes, sir.
Q. So you weren't scared when you got into the car and they handed you the .22, were you?
A. No, I was high.
Q. You weren't scared when they gave you the gloves, were you?
A. No, sir.
Q. You weren't scared when you walked over to the house?

A. No, sir.
Q. So you then go to the garage and you're the one that kicks in the door?
A. Yes, sir.
Q. Now, you told the police that it was somebody else that kicked in the door; right?
A. Yes, sir.
Q. Who did you tell them that kicked in the door?
A. Kenneth.
Q. And that was another lie; right?
A. Yes, sir.
Q. Now, how long do you figure you were in that house?
A. About three or four minutes at that.
Q. Now, you told the jury on direct examination that you came in and you went to the left and these other two guys went to the right; correct?
A. Yes, sir.
Q. You went to J.R.'s room looking for him, huh?
A. I didn't make it to the --
Q. Excuse me, let me rephrase. You went to the room where you thought J.R. was going to be; right?
A. Yes, sir.
Q. And you had that gun in your hand; right?
A. Yes, sir.
Q. And you were going there to shoot J.R., weren't you?

A. No, sir.
Q. Well, J.R. was the one that had beaten you with a baseball bat a month before; right?
A. No, sir. It was Mitch.
Q. Mitch was the one?
A. Yeah.
Q. J.R. started it all?
A. Yes, sir.
Q. Didn't you want to get even with J.R. too?
A. No, not really.
Q. Well, you went looking for J.R., and then you say you start hearing shots being fired in the bedroom; correct?
A. Yes, sir.
Q. And so you go in there and Kenneth Johnson tells you -- you say he holds a gun to your head and tells you you got to do some work?
A. Yes, sir.
Q. That's your story?
A. Yes, sir.
Q. Now, you told us on the baseball bat incident that this Peanut, this man named Peanut or nicknamed Peanut, brought some kind of a Western-style gun over to Michelle's the day of the baseball bat; correct?
A. Yes, sir.
Q. And how did you describe that again, that gun?

APPENDIX E

Goode v. State, No. PCD-2010-661, Second Application for Post-Conviction Relief (Okla. Crim. App. July 9, 2010)

IN THE OKLAHOMA COURT OF CRIMINAL APPEALS

CLARENCE ROZELL GOODE, *Petitioner,* v. **THE STATE OF OKLAHOMA,** *Respondent.*	**Case No. PCD-** **CAPITAL POST CONVICTION PROCEEDING** Prior Post Conviction No.: PCD-2008-211 Direct Appeal Case No.: D-2008-43 Tulsa County District Court Case No.:CF-2005-3904

SECOND APPLICATION FOR POST-CONVICTION RELIEF DEATH PENALTY

Robert W. Jackson
Appellate Defense Counsel
Oklahoma Indigent Defense System
P.O. Box 926
Norman, Oklahoma 73070-0926
405.801.2770

ATTORNEY FOR PETITIONER
CLARENCE ROZELL GOODE

July 9, 2010

IN THE COURT OF CRIMINAL APPEALS
THE STATE OF OKLAHOMA

CLARENCE ROZELL GOODE,	)	
	)	PC Case No.:
Petitioner,	)	
	)	**CAPITAL POST CONVICTION**
v.	)	**PROCEEDING**
	)	Prior Post Conviction No.: PCD-2008-211
THE STATE OF OKLAHOMA,	)	Direct Appeal No.: D-2008-43
	)	Tulsa County
Respondent.	)	District Court Case No: CF-2005-3904

SECOND APPLICATION
FOR POST-CONVICTION RELIEF – DEATH PENALTY

PART A - PROCEDURAL HISTORY

Petitioner, Clarence Rozell Goode, through undersigned counsel, submits his second application for post-conviction relief under Section 1089 of Title 22 of the Oklahoma Statutes. Pursuant to Rule 9.7(A)(3) of the Rules of the Court of Criminal Appeals, a copy of the original application for post-conviction relief filed December 7, 2009, is attached hereto as App., Ex. 1. The addendum and appendix of exhibits to the original application have not been attached, but are available should the Court find them necessary for its review of the subject Application.

The sentence from which relief is sought is: Death

1. (a) Court in which sentence was rendered: District Court of Tulsa County, Oklahoma;

   (b) Case Number: CF-2005-3904;

   (c) Court of Criminal Appeals Direct Appeal Case Number D-2008-43.

2. Formal sentencing occurred on January 7, 2008.

3. Mr. Goode received three sentences of death for three counts (Counts I, II and III) of first degree malice aforethought murder.[1]

4. The Honorable Tom C. Gillert, District Judge, presided over the pre-trial and trial proceedings.

5. Mr. Goode is currently in custody at the Oklahoma State Penitentiary in McAlester, Oklahoma. He has no other criminal matters pending in any other courts, nor does he have other sentences to be served in any other jurisdiction.

I. Capital Offense Information

6. Mr. Goode was convicted of the following crimes for which three sentences of death were imposed: Three Counts of First Degree Malice Aforethought Murder in violation of Oklahoma Statute, Title 21, Section 701.7.

The state alleged the following statutory aggravating circumstances:[2]

A. The defendant, Clarence Rozell Goode, Jr. knowingly created a great risk of death to more than one person; see 21 O.S. § 701.12(2); and

B. There exists a probability that the Defendant, Clarence Rozell Goode, Jr., would commit criminal acts of violence that would constitute a continuing threat to society; see 21 O.S. § 701.12(7).

O.R. V. IV at 704-705.

The jury found the presence of both of the aforementioned aggravating circumstances. O.R. V. IV at 638-643.

---

[1] Pursuant to Rule 9.7(A)(3)(d), the Judgment and Sentences and the Death Warrants are provided in the Appendix to this application as Exhibits 2 and 3, respectively.

[2] The state originally alleged a third aggravating circumstance; that the murders were committed to avoid lawful arrest or prosecution. **See** 21 O.S. § 701.12(5). O.R. V. I at 156-57. Prior to the presentation of evidence during the trial's penalty phase, the prosecution withdrew the allegation of the avoid arrest aggravator. Tr. V. IX at 1733.

The following mitigating factors were provided to the jury:

1. Clarence Rozell Goode Jr. had a secure and healthy attachment with both parents during infancy and early childhood;

2. Clarence Rozell Goode Jr. lived in the same home from birth to age 18 years;

3. Clarence Rozell Goode Jr.had only one sibling;

4. Clarence Rozell Goode Jr.'s parents presented good role models, strong work ethic, and strong family ties;

5. Clarence Rozell Goode Jr. attend Sunday School and church and participated in choir;

6. Clarence Rozell Goode Jr. has four children who love him. He continues to be in contact with them and their families;

7. Clarence Rozell Goode Jr. has continued support from his Mother, family, girl friends and mother of his children;

8. Clarence Rozell Goode Jr. took a leading role in helping his family after his father's death;

9. Clarence Rozell Goode Jr. was a responsible father to his daughter Marquisha and wants to continue a positive relationship with his children;

10. Clarence Rozell Goode Jr. was very caring and helpful with seniors in the nursing home where he worked;

11. Clarence Rozell Goode Jr. was gainfully employed for 5-1/2 years prior to his arrest; and

12. Clarence Rozell Goode Jr. was 29 years old at the time of the homicides.

Instruction No. 13, O.R. V. IV at 718-719.

Victim impact testimony was presented during the trial's penalty phase.

7. The finding of guilt was made after a plea of not guilty.

8. The finding of guilt was made by a jury.

9. The sentences imposed were recommended by the jury.

II. Non-Capital Offense Information

10. Mr. Goode was also convicted of one count (Count IV) of first degree burglary in violation of 21 O.S. § 1431, after former conviction of a felony. He received a sentence of 20 years imprisonment for Count IV.

O.R. V. VII at 1334.

11. The finding of guilt was made after a plea of not guilty.

12. The sentence imposed was recommended by the jury.

III. Case Information

13. Trial Counsel:

Larry Edwards
601 S. Boulder, Suite 1305
Tulsa, Oklahoma 74119

Stanley D. Monroe
15 West Sixth, Suite 2112
Tulsa, Oklahoma 74119

14. Counsel were appointed by the court.

15. Mr. Goode appealed his convictions and sentences to this Court where it was assigned case No. D-2008-43. The Brief in Chief was filed on February 2, 2009. The Response Brief was filed on June 11, 2009. A Reply Brief was filed on July 8, 2009. Oral argument occurred on January 12, 2010.

16. Appellate Counsel:

James H. Lockard
Janet Chesley
Capital Direct Appeals Division
Oklahoma Indigent Defense System
PO Box 926
Norman, Oklahoma 73070-0926

17. Mr. Goode's judgments and sentences were affirmed by this Court on June 9, 2009, in Goode v. State, 2010 OK CR 10, ___ P.3d ___. Review relative to direct appeal has not yet been sought.

18. An original Application for Post-Conviction Relief was filed in this Court, Case No. PCD-2008-211, on December 7, 2009. At the time the present Application was filed, the original Application remained pending.

PART B: GROUNDS FOR RELIEF

19. A Motion for an Evidentiary Hearing has been filed with this Application.

20. A Motion for Discovery has not been filed with this Application. Mr. Goode recognizes that, pursuant to Bland v. State, 1999 OK CR 45, 991 P.2d 1039, 1040, the only possibility of uncovering new evidence is with an evidentiary hearing as the traditional mechanisms of discovery are unavailable. Given the rule announced in Bland, Mr. Goode believes a discovery motion would be fruitless and might be frivolous. Were it otherwise, Mr. Goode would request discovery, to include depositions of persons with knowledge of his claims.

21. No other motions have been filed with this Application.

22. Propositions raised:

Proposition I: Mr. Goode's due process rights were violated by the prosecution's withholding of evidence relevant to the veracity and credibility of one of its witnesses, Tulsa Police Officer Jeff Henderson.

Proposition II: Mr. Goode's trial and direct appeal counsel were ineffective for failing to investigate and present evidence that would have undermined the veracity and credibility of Tulsa Police Officer Jeff Henderson.

PART C: FACTS

STATEMENT OF THE FACTS OF THE CASE, INCLUDING REFERENCE TO SUPPORTING DOCUMENTATION, RECORD, AND APPENDICES

1.

CITATIONS TO THE RECORD

Pursuant to Rule 9.7(D)(1)(a) of the Rules of the Court of Criminal Appeals, effective January 1, 1998, the record and transcripts in this case will be referred to using the following abbreviations:

OR: the Original Record in Case No. CF-2005-3904, Tulsa County.

PH: the two volumes of transcripts of the preliminary hearing held November 1 2005; November 21, 2005; and December 7, 2005.

TR: the nine volumes of transcripts of the jury trial held December 3, 2007 through December 13, 2007.

MH: the transcripts of motion hearings held March 28, 2007, August 22, 2007, September 7, 2007, September 18, 2007, November 2, 2007, and November 20, 2007.

Any additional record in this post-conviction proceeding, not otherwise mentioned above, also consists of the "record on appeal" as defined by Rule 1.13

(f), and the same shall be considered to be incorporated herein by reference and by operation of the rule. References to the *Appendix of Exhibits In Support of the Application For Post-Conviction Relief* will indicate the exhibit number, preceded by the notation "App.," e.g. "App., Ex. 1."

2.

PROCEDURAL HISTORY

Appellant, Clarence Rozell Goode, Jr., was charged by Information, along with Ronald Dwayne Thompson and Kenneth Dominick Johnson, in Tulsa County Case Number CF-2005-3904 with three counts of first degree murder, in violation of 21 O.S. § 701.7 and one count of first degree burglary, in violation of 21 O.S. § 1431.[3] Tulsa County Assistant District Attorneys Mickey Hawkins and Steve Kunzweiler prosecuted the case. Appellant was represented by Larry Edwards and Stanley Monroe, both of Tulsa. The Honorable Tom C. Gillert presided over the trial.

The jury found Mr. Goode guilty on all four counts, imposing a sentence of twenty (20) years imprisonment and a $10,000 fine on the burglary count. After a second stage of the trial, the jury assessed punishment on the murder counts at death after finding the homicides to have been aggravated by two statutory

[3] The murder counts were alleged in the alternative as either committed with malice aforethought under Section 701.7(A), or while in the commission of the felony of first degree burglary (breaking and entering with the intent to commit the felony of murder), under Section 701.7(B). O.R. 66-75.

circumstances: (1) that the defendant knowingly created a great risk of death to more than one person and (2) that there exists a probability that the defendant would commit criminal acts of violence constituting a continuing threat to society. These sentences were formally imposed on January 7, 2008. (O.R. 737-39)

Counsel appointed to represent Mr. Goode timely appealed the judgment and sentence in Case No. D-2008-43. This Court affirmed Mr. Goode's judgments and sentences on June 9, 2010. See Goode v. State, 2010 OK CR 10, ___ P.3d ___. On December 7, 2009, Mr. Goode filed an Original Application for Post-Conviction Relief in Case No. PCD-2008-211. At the time the present Application was filed, the Original Application remained pending.

3.

FACTS RELATING TO THE CASE

The state's star witness at Mr. Goode's trial was co-defendant Ronald "Bunny" Thompson. In exchange for his testimony at Mr. Goode's trial, and at the trial of co-defendant Kenneth Johnson, the state agreed not to seek the death penalty. Briefly stated, at Mr. Goode's trial, Ronald Thompson testified that he accompanied Mr. Goode and Johnson to the Owasso home of Mitch and Tara Thompson and was present when they, and Tara's daughter, were shot and killed. (Tr. 915, 917-18) Ronald Thompson claimed that prior to entering the home, Mr. Goode furnished him with a .22 caliber revolver. (Tr. 908-10)

After the shootings, Ronald Thompson claimed that he accompanied Mr. Goode and Johnson as Johnson drove to a residence in Tulsa owned by a man identified to him as "Peanut." While outside of Peanut's house, Ronald Thompson claimed that he removed the shells from the .22 caliber revolver and threw them into a field adjacent to Peanut's house. According to Ronald Thompson's account, the .22 as well as the guns used by Mr. Goode and Johnson were then given to Peanut for disposal. (Tr. 924-27)

To corroborate Ronald Thompson's account, the state called Tulsa police officer Jeff Henderson. Officer Henderson testified that he found and recovered two spent .22 caliber shell casings and one unfired .22 caliber round from the yard of Damos Joseph, a/k/a, "Peanut." (Tr. 836) Mr. Joseph and his wife, Lashaun Joseph, have recently provided affidavits, see App., Exs. 4 and 5, respectively, indicating that Officer Henderson would do whatever was necessary to produce evidence implicating Mr. Goode.

Officer Henderson is among a seemingly growing group of Tulsa police officers that potentially face federal indictments for a variety of nefarious conduct including stealing drugs and money, falsifying search warrants and providing false testimony. See various news articles identified collectively as App., Ex. 6. It is believed that the state knew of such conduct by Officer Henderson, or had reason to know of such conduct, prior to Mr. Goode's trial and failed in its obligation to make the impeachment evidence known to Mr. Goode. Alternatively, Mr. Goode

contends that his trial and direct appeal lawyers failed conduct a reasonable investigation concerning Officer Henderson.

PART D: PROPOSITIONS - ARGUMENTS AND AUTHORITIES

PRELIMINARY STATEMENT

The focus of this subsequent Application for Post-Conviction Relief is Tulsa Police Officer Jeff Henderson. Officer Henderson was a witness for the prosecution at Mr. Good's trial. As demonstrated by the materials submitted in the Appendix to this application, Officer Henderson has recently been suspended from the Tulsa Police Department and is currently a target of a federal grand jury sitting in the Northern District of Oklahoma. Facts concerning Officer Henderson have continued, and will continue, to unfold.

A search warrant executed by Tulsa police officers, including Officer Henderson, lead to the alleged discovery of evidence (a bullet and shell casings) that was introduced during Mr. Good's trial. The owners of the property searched by Officer Henderson, Damos and Lashaun Joseph, were present when the search was conducted. Affidavits were obtained from Damos and Lashaun Joseph on May 12, 2010. Accordingly, this subsequent application is filed pursuant to Rule 9.7(G)(3) of the Rules of this Court. Alternatively, the Court should review the merits of this application pursuant to Valdez v. State, 2002 OK CR 20, 46 P.3d 703, 710, wherein this Court recognized that it may grant relief anytime "an error complained of has resulted in a miscarriage of justice, or constitutes a substantial

violation of a constitutional or statutory right," regardless of when the claim is presented.

PROPOSITION ONE

MR. GOODE'S DUE PROCESS RIGHTS WERE VIOLATED BY THE PROSECUTION'S WITHHOLDING OF EVIDENCE RELEVANT TO THE VERACITY AND CREDIBILITY OF ONE OF ITS WITNESSES, TULSA POLICE OFFICER JEFF HENDERSON.

A. Standard of Review.

An appellate court reviews *de novo* claims that the prosecution violated Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963), including whether suppressed evidence was material. United States v. Huges, 33 F.3d 1248, 1251 (10th Cir. 1994).

B. Argument and Authority.

The Due Process Clause of the Fifth Amendment provides that "[n]o person shall ... be deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V. In criminal prosecutions, the clause's primary guarantee is the right to a fundamentally fair trial. See Pennsylvania v. Ritchie, 480 U.S. 39, 56, 107 S.Ct. 989, 94 L.Ed.2d 40 (1987). The prosecution's suppression of evidence favorable to the accused violates due process where the evidence is material either to guilt or to punishment. Brady, 373 U.S. at 87, 83 S.Ct. 1194.

"[E]vidence is material ... if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different. A 'reasonable probability' is a probability sufficient to undermine

confidence in the outcome." Ritchie, 480 U.S. at 57, 107 S.Ct. 989 (quotation and alteration omitted). A defendant need not show that the withheld evidence would have "resulted ultimately in [his] acquittal." Kyles v. Whitley, 514 U.S. 419, 434, 115 S.Ct. 1555, 131 L.Ed.2d 490 (1995). Rather, the touchstone is simply whether the ultimate verdict is one "worthy of confidence." Strickler v. Green, 527 U.S. 263, 290, 119 S.Ct. 1936, 144 L.Ed.2d 286 (1999). "Impeachment evidence, ... as well as exculpatory evidence, falls within the Brady rule. United States v. Bagley, 473 U.S. 667, 676, 105 S.Ct. 3375, 87 L.Ed.2d 481 (1985). See Douglas v. Workman, 560 F.3d 1156, 1174 (10th Cir. 2009) ("[E]vidence significantly enhancing the quality of the impeachment evidence usually will [be material.]").

Although the documents contained in App., Ex. 6 chronicle some of the more recent allegations leveled against Officer Henderson, other documents, documents which concern events that preceded Mr. Goode's December 2007 trial, also bear on Officer Henderson's credibility. For example, in January of 2002, Officer Henderson was suspended from the Tulsa Police Department for misusing his authority as a police officer to resolve a personal dispute. See App., Ex. 7. In December of 2000, Officer Henderson was investigated by the Tulsa Police Department's Internal Affairs Division for, among other things, entering false information in a probable cause affidavit. See App., Ex. 8.

C. Conclusion.

Evidence affecting Officer Henderson's credibility was known, or should have been known, to the state and because such evidence was material to an

assessment of Officer Henderson's credibility, it should have been disclosed to Mr. Goode. It was not. See App., Ex. 9. Accordingly, this Court should find that the state violated its obligations imposed by Brady and its progeny and Mr. Goode's sentences should be reversed and his case remanded to the district court for a new trial.

PROPOSITION TWO

MR. GOODE'S TRIAL AND DIRECT APPEAL COUNSEL WERE INEFFECTIVE FOR FAILING TO INVESTIGATE AND PRESENT EVIDENCE THAT WOULD HAVE UNDERMINED THE VERACITY AND CREDIBILITY OF TULSA POLICE OFFICER JEFF HENDERSON.

A. Standard of Review.

Claims of ineffective assistance of counsel, whether they are directed at trial counsel or direct appeal counsel, are evaluated under the two-prong test of Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). See Evitts v. Lucey, 469 U.S. 387, 105 S.Ct. 830, 83 L.Ed.2d 821 (1985) (the right to the effective assistance of counsel continues on direct appeal). First, it must be determined whether counsel's performance was deficient, whether it was unreasonable under prevailing professional norms and could not be considered sound strategy. Second, it must be determined whether counsel's deficient performance prejudiced the defense of the case. Strickland, 466 U.S. at 668, 104 S.Ct. at 2065, 2067. Prejudice is shown if there is a reasonable probability that, but for counsel's errors, the outcome of the proceeding would have been different.

A reasonable probability is one sufficient to undermine confidence in the trial's outcome. **Id.** at 694, 104 S.Ct. at 2068.

B. Argument and Authority.

The Supreme Court has sent a clear signal in such cases as Williams v. Taylor, 529 U.S. 362, 120 S.Ct. 1495, 146 L.Ed.2d 389 (2000), Wiggins v. Smith, 539 U.S. 510, 123 S.Ct. 2527, 156 L.Ed.2d 471 (2003), and Rompilla v. Beard, 545 U.S. 374, 125 S.Ct. 2456, 162 L.Ed.2d 360 (2005), that the general deferential review of counsel's performance discussed in Strickland does not negate the requirement that counsel perform adequately to meet the mandates of the Sixth Amendment. It is, therefore, axiomatic that counsel must perform reasonable investigations to include investigations of those witnesses offering testimony against his client.

Counsel failed to do so here. In her affidavit, Lashaun Joseph indicates that although she was present when Tulsa police officers conducted a search of her property, she was never contacted by Mr. Goode's attorneys. Had such contact been made, counsel would have obtained information concerning Officer Henderson that would have merited additional investigation into the officer's veracity. Under the facts presented, theis Court is asked to conclude that Mr. Goode's counsel were ineffective and that he is entitled to a new trial.

C. Conclusion.

Mr. Goode contends that the prosecution had a duty, under Brady, to disclose impeachment evidence concerning Officer Henderson. Alternatively, Mr. Goode contends that his counsel had a duty, under Strickland, to investigate and obtain such information.

CONCLUSION

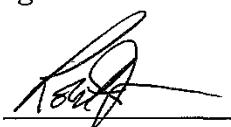
The Court should reach the merits of this application. Upon doing so, the Court should find that the prosecution failed in its duty under Brady. Alternatively, the Court should find that Mr. Goode was deprived of his right to the effective assistance of counsel at trial and on direct appeal, pursuant to Strickland. In either event, this Court is asked to reverse Mr. Good's convictions and remand his case to the district court for a new trial.

Respectfully submitted,

ROBERT W. JACKSON
Oklahoma Bar No. 14754
DIRECT APPEAL DIVISION
OKLAHOMA INDIGENT DEFENSE SYSTEM
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(405) 801-2784 (facsimile)
COUNSEL FOR PETITIONER
CLARENCE ROZELL GOODE

VERIFICATION OF COUNSEL

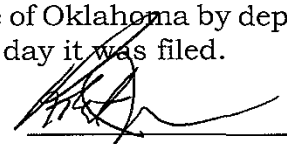
I, Robert W. Jackson, OBA # 14754, state under penalty of perjury under the laws of Oklahoma that the foregoing is true and correct to the best of my knowledge and belief.



ROBERT W. JACKSON

CERTIFICATE OF SERVICE

I certify that a copy of this Application for Post-Conviction Relief was served on the Attorney General of the State of Oklahoma by depositing a copy of the same with the Clerk of this Court on the day it was filed.



ROBERT W. JACKSON

INDEX TO THE APPENDIX

Exhibit:

1. The Original Application for Post-Conviction Relief filed December 7, 2009.

2. The Judgments and Sentences.

3. The Death Warrants.

4. The Affidavit of Damos Joseph.

5. The Affidavit of Lashaun Joseph.

6. Various News Articles Concerning Officer Henderson.

7. Tulsa Police Department Inter-Office Correspondence Concerning Officer Henderson's January 2002 Disciplinary Suspension.

8. Tulsa Police Department Inter-Office Correspondence Concerning the December 2000 Internal Affairs Investigation of Officer Henderson.

9. Affidavit of Rodney Floyd.

APPENDIX F

Goode v. State, No. PCD-2010-661, Appendix Excerpts:
Documents related to former Tulsa PD Officer Jeff Henderson

COUNTY OF TULSA)
) ss
STATE OF OKLAHOMA)

AFFIDAVIT OF DAMOS JOSEPH

I, Damos Joseph, having legal capacity to make this affidavit, do swear as follows:

1. I am Damos Joseph. I live at 762 East Tecumseh Tulsa, Oklahoma.

2. I was at this address when Tulsa Police served a search warrant on my address.

3. Tulsa Police Officer Jeff Henderson was present when the search warrant was served.

4. Officer Henderson said We Have been after Clarence for a long time and we are going to get him one way or the other. He let me know he was going to get Clarence any way he needed to.

5. No doubt in my mind, at that time, that Officer Henderson was willing to do anything legal or illegal to get Clarence. I went into hiding after that because I was afraid of Officer Henderson. Henderson said he was going to take me to jail. He would sit across my street and watch me. I believe he would have stopped me and planted evidence so that he could take me to jail if I had not went into hiding.

6. I talked to a few members of Clarence's trial team. I was afraid to testify at that time because I believe Officer Henderson would have retaliated against me.

7. I am now willing to sign this affidavit because I no longer fear Officer Henderson because of all of his leagal trouble.

FURTHER AFFIANT SAYETH NOT.

Damos Joseph

Subscribed and sworn to before me this 12th day of May 2010.

Notary Public

My commission number is:
06010271

My commission expires:
10/20/2010

COUNTY OF TULSA)
) ss
STATE OF OKLAHOMA)

AFFIDAVIT OF LASHAUN JOSEPH

I, Lashaun Joseph, having legal capacity to make this affidavit, do swear as follows:

1. I am Lashaun Joseph. I live at 762 East Tecumseh Tulsa, Oklahoma.

2. I was at this address when Tulsa Police served a search warrant on my address.

3. Tulsa Police Officer Jeff Henderson was present when the search warrant was served.

4. My husband, Damos Joseph, said "your not going to find anything here" a police Officer said "oh we can make that happen."

5. When I heard him say that I quit talking because I understood him to mean that he would plant evidence and I was afraid of what he might do or say.

6. I was never interviewed by any members of Mr. Goode's trial team or Direct appeal team. I would have given them this same information had they asked.

FURTHER AFFIANT SAYETH NOT.

Lahaun Joseph

Subscribed and sworn to before me this 12th day of May 2010.

Notary Public

My commission number is:
06001027

My commission expires:
10/20/2010

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Third officer suspended in corruption probe

by: OMER GILLHAM World Staff Writer
Wednesday, June 23, 2010
6/23/2010 4:39:47 AM

Read court records in which a judge accuses Tulsa police officers of lying about a drug bust.

The Tulsa Police Department suspended a third police officer who has been named in a grand jury investigation into alleged stolen drugs and money, falsified search warrants and false testimony by police officers, a World investigation shows.

Eric Hill, 32, was placed on paid leave Tuesday after the World made the department aware that Hill had admitted stealing drug money in a January 2008 drug bust in Tulsa, records filed in U.S. District Court in Tulsa show.

So far, six Tulsa police officers have been suspended or placed on administrative duty in connection with a federal grand jury being led by Jane W. Duke, U.S. attorney from the Eastern District of Arkansas.

Hill was named in the theft by John K. Gray, 44, a former Tulsa police officer who pleaded guilty to stealing drug money. Gray is cooperating with Duke's office while he awaits sentencing.

Gray pleaded guilty June 14 in federal court to a felony count of stealing U.S. funds. In his plea agreement, Gray admitted to stealing about $2,000 during an FBI sting May 18, 2009, at a Tulsa hotel. Gray retired from the police department in May.

In the separate case involving the January 2008 drug bust, Gray said that he, officer Hill and former police officers Callison Kaiser, 29, and Harold R. Wells, 59, stole and divided about $10,000 from a drug bust involving Hugo Alberto Gutierrez, court records show. Kaiser resigned in August 2008 to go to work for another agency, and Wells retired in May.

Besides Gray and Hill, Kaiser also reportedly admitted to sharing the stolen drug money, according to a document filed Thursday by Duke in U.S. District Court, records show.

After being informed of Hill's admission of his theft in the Gutierrez case, Tulsa police suspended Hill, said Capt. Jonathan Brooks, police spokesman.

"After a review of the court document, officer Hill's status has changed to administrative suspension with pay, effective immediately," Brooks said. "We are currently addressing the information obtained within the document."

Brooks said Hill has no prior disciplinary actions resulting in loss of pay, suspension or demotion.

However, in a separate case, Hill and other police officers apparently lied about the events of a drug bust that occurred Jan. 12, 2009, Tulsa County District Court records show.

In the case, Judge Carlos Chappelle determined that Hill and other officers involved in the case lied about the probable cause that was necessary to arrest Patrick Neil London during a traffic stop, records show.

London was charged with trafficking illegal drugs in Tulsa County court, records show.

In dismissing the drug charges against London, Chappelle noted that the officers' failure to produce phone records about the incident helped prove that Hill and fellow officers had lied about the facts of the arrest and search, records show.

On March 19, Chappelle wrote: "The phone records were never provided, which makes it clear in this case the officer did in fact lie about when they discovered that warrants, outstanding warrants, were in effect. And they didn't arrest him. They couldn't arrest him pursuant to the statutes cited."

Hill and Officer Jeff Henderson, 37, have been suspended with pay, pending the outcome of the grand jury

investigation. Gray was placed on paid leave before he retired.

Meanwhile, a third Tulsa police officer has been placed on administrative duties as part of the grand jury investigation, Brooks said.

Officer Bill Yelton, 49, was placed on administrative duty Friday.

An informant in a federal drug case has accused Yelton and Henderson of coaching her on what to say in the drug trial of Bobby Wayne Haley Sr.

The woman, Rochelle Martin, said she gave false testimony in Haley's case at the request of Henderson and Yelton, according to an affidavit filed in federal court.

As a result, Haley was freed from federal prison May 21 based primarily on Martin's statement in her affidavit, records show.

Henderson, Hill and Yelton have not been charged with a crime.

Henderson's defense team has said that Martin's recanting is not credible. They have questioned Martin's affidavit, alleging she lied in it when she said she had not participated in controlled drug buys for Tulsa police. Martin has participated in as many as four controlled drug buys since 1993, according to Henderson's defense team.

Henderson and Yelton are assigned to the Special Investigations Division of Tulsa Police Department.

Other officers placed on administrative duty and who have been identified in the grand jury investigation are Nick DeBruin, 37, and Bruce Bonham, 52.

Law enforcement officers named in grand jury probe

Former ATF Agent Brandon McFadden, 33

Hired by U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives on July 15, 2002

Resigned from ATF on Sept. 25, 2009

Pleaded guilty may 6 in federal court to drug conspiracy

Cooperating with prosecutors

Tulsa Police Officer John K. Gray, 44

Retired in May

Hired March 1, 1990

Assignment before retiring: Mingo Valley Division

Pleaded guilty June 14 in federal court to stealing money during an FBI sting

Cooperating with prosecutors

Tulsa Police Officer Harold R. Wells, 59

Retired in May

Hired Oct. 1, 1975

Assignment before retiring: Gilcrease Division

Said he plans to cooperate with prosecutors

Tulsa Police Officer Nick DeBruin, 37

Hired July 6, 1999

Assigned to Special Investigations Division, 2002-05

Placed on administrative duties at uniform division

Tulsa Police Officer Bruce Bonham, 52

Hired Aug. 13, 1990

Placed on administrative duties at uniform division

Tulsa Police Officer Jeff Henderson, 37

Hired June 5, 1995

Placed on paid leave in March

Current assignment: Special Investigations Division

Tulsa Police Officer Bill Yelton, 49

Hired April 16, 1985

Current assignment: Special Investigations Division

Placed on administrative duty

Tulsa Police Officer Eric Hill, 32

Hired July 5, 2005

Current assignment: Gilcrease Division

Placed on paid leave Tuesday

Court records state he admitted stealing drug money during a bust

Former Tulsa Police Officer Callison Kaiser, 29

Hired Oct. 8, 2004

Resigned August 2008 to work for U.S. Secret Service

Resigned from Secret Service in early June

Assignment before resigning from TPD: Gilcrease Division

Court records state he admitted stealing drug money during a bust

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Tulsa police corruption probe could involve 15 officers

by: OMER GILLHAM World Staff Writer
Sunday, June 20, 2010
6/20/2010 9:56:08 AM

Grand jury investigates police corruption: Read all of the stories, view a timeline and read key documents.

An estimated 15 Tulsa police officers could be charged or serve as witnesses as part of the grand jury investigation into police corruption in Tulsa, a prosecutor leading the grand jury said.

The department's Special Investigations Division is the focus of a law enforcement probe in Tulsa. The federal investigation began in late 2008 and early 2009, said Jane W. Duke, a special prosecutor and U.S. attorney for the Eastern District of Arkansas.

Thus far, the names of eight Tulsa police officers and one former federal agent have surfaced in the corruption probe.

Brandon McFadden, 33, a former agent with the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives, and former Tulsa Police Officer John K. Gray, 44, have pleaded guilty in U.S. District Court. Both are cooperating with Duke's office while they await sentencing.

Meanwhile, 11 people have been freed from prison or have had their felony convictions or drug charges eliminated as part of the grand jury investigation, a Tulsa World investigation shows.

Duke's office is investigating allegedly stolen drugs and money, falsified search warrants, nonexistent informants and false testimony by undercover officers and police officers primarily with Tulsa Police Department, the World investigation shows.

Duke said that an estimated 15 police officers could face criminal charges or serve as cooperating witnesses.

"We have about 15 officers of interest," Duke said. "There is a good likelihood that there could be more indictments. Some of these officers may waive the indictments and simply plead."

Duke said her office has communicated with many of the officers believed to be involved in police corruption.

"There is a dialogue that has occurred with some of these officers and we will continue that dialogue," she said.

Meanwhile, the supervisor of the department's Special Investigations Division has retired, said Capt. Jonathan Brooks, police spokesman.

Maj. Burney York, 59, retired May 31, Brooks said.

York was not available for comment.

His replacement is Maj. Eric Dalgleish, 39, who wasn't available for comment, Brooks said.

Before being moved to special investigation, Dalgleish served at police headquarters, Brooks said.

McFadden pleaded guilty to drug conspiracy May 6 in federal court and could face five to 40 years in prison at his sentencing, scheduled for July 28.

In his guilty plea, McFadden said he and Tulsa Police Officer Jeff Henderson, 37, stole drugs and money, falsified investigative reports, gave false testimony and persuaded others to provide false testimony, court records show.

Henderson has not been charged with a crime, and he denies any wrongdoing.

Gray, who retired from the department in May, pleaded guilty June 14 in federal court.

Gray and officers Nick DeBruin, 37, Bruce Bonham, 52, and Harold Wells, 59, allegedly took $5,000 during an FBI sting May 18, 2009, in Tulsa, records show.

Gray waived his indictment and pleaded guilty to stealing about $2,000 during the sting, records show. He has a tentative agreement with Duke's office to receive probation at his sentencing, set for Oct. 26, records show. Gray could face a maximum of 10 years in prison.

Additionally, in another drug case, Gray named himself, Officer Eric Hill, 32, former Police Officer Callison Kaiser, 29, and Wells as a group of officers who stole about $10,000 during a drug bust Jan. 4, 2008, in Tulsa, records show.

The drug bust involved a falsified search warrant prepared by Gray and served at the home of Hugo Alberto Gutierrez, U.S. District Court records show.

Wells has said that he plans to cooperate with Duke's office. However, court records allege he has tried to persuade Gray, Kaiser and Hill to keep quiet about the stolen money from the Gutierrez bust.

"Wells encouraged Gray to not disclose this theft by stating that 'just us officers know about that,' " court records filed by Duke on Thursday in federal court state.

"Kaiser and Hill also had similar encounters with Wells in the recent past. Specifically, Wells stated to Kaiser, 'You can't say anything about that money that I gave to you,' referring to the Gutierrez money."

Kaiser resigned from the Tulsa Police Department in August 2008 to work for the U.S. Secret Service. He resigned from the Secret Service in early June, officials said.

Duke said police officers who are the target of the grand jury investigation receive a notification letter that is known as a target letter.

"I am not anticipating any more target letters going out, but I can't say that there won't be any more," Duke said.

Law enforcement officers named in grand jury probe

Former ATF Agent Brandon McFadden, 33

- Hired by U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives on July 15, 2002
- Resigned from ATF on Sept. 25, 2009
- Pleaded guilty may 6 in federal court to drug conspiracy
- Cooperating with prosecutors

Tulsa Police Officer John K. Gray, 44

- Retired in May
- Hired March 1, 1990
- Assignment before retiring: mingo Valley Division

- Pleaded guilty June 14 in federal court to stealing money during FBI sting
- Cooperating with prosecutors

Tulsa Police Officer Harold R. Wells, 59

- Retired in May
- Hired Oct. 1, 1975
- Assignment before retiring: Gilcrease Division
- Said he plans to cooperate with prosecutors

Tulsa Police Officer Nick DeBruin, 37

- Hired July 6, 1999
- Assigned to Special Investigations Division, 2002-05
- Current assignment: administrative duties at uniform division

Tulsa Police Officer Bruce Bonham, 52

- Hired Aug. 13, 1990
- Current assignment: administrative duties at uniform division

Tulsa Police Officer Jeff Henderson, 37

- Hired June 5, 1995
- Placed on paid leave in March
- Current assignment: Special Investigations Division

Tulsa Police Officer Bill Yelton, 49

- Hired April 16, 1985
- Current assignment: Special Investigations Division

Tulsa Police Officer Eric Hill, 32

- Hired July 5, 2005
- Current assignment: Gilcrease Division

Former Tulsa Police Officer Callison Kaiser, 29

- Hired oct. 8, 2004
- Resigned August 2008 to work for U.S. Secret Service
- Resigned from Secret Service in early June
- Assignment before resigning from TPD: Gilcrease Division

Original Print Headline: Probe could include 15 officers

Omer Gillham 581-8301
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Former ATF agent expected to plead guilty

by: OMER GILLHAM World Staff Writer
Thursday, May 06, 2010
5/6/2010 11:40:04 AM

Grand Jury investigates police corruption: Read all of the stories, view a timeline and read key documents.

A former federal agent accused of stealing drugs and money and master-minding a drug ring in Tulsa is expected to plead guilty to drug conspiracy today in federal court, records show.

Brandon J. McFadden, 33, is expected to appear before federal magistrate Frank H. McCarthy in U.S. District Court in Tulsa, records show.

McFadden is a former agent with the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives.

McFadden will plead guilty to participating in a drug conspiracy as part of a plea agreement with special prosecutors looking into police corruption in Tulsa, records show.

A federal grand jury charged McFadden with drug conspiracy on April 9.

McFadden faces four federal counts: taking part in a drug conspiracy, possession of methamphetamine with intent to distribute, possession of a firearm during a drug-trafficking crime, and aiding and abetting money laundering.

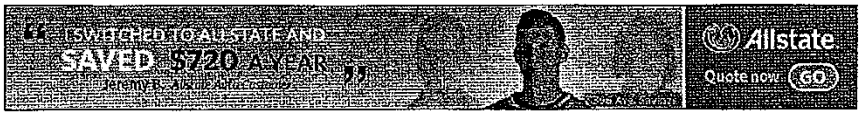
Meanwhile, McFadden is cooperating with special prosecutor Jane W. Duke, U.S. Attorney from Eastern Arkansas overseeing the grand jury.

Records show that McFadden voluntarily and completely disclosed evidence to Duke's office regarding his own criminal conduct and the criminal conduct of other persons still under investigation by the grand jury.

Meanwhile, nine people have had their drug convictions or drug charges dismissed due to a federal investigation into police corruption in Tulsa, a World investigation shows.

Please check back at Tulsaworld.com for more updates later today.

Associate Images:



Sentences in another drug case vacated

A federal inmate is released amid an inquiry into alleged corruption.



ON LEAVE
Jeff Henderson: The Tulsa police officer was a witness against the newly exonerated inmate.

By OMER GILLHAM World Staff Writer
Published: 5/4/2010 2:24 AM
Last Modified: 5/4/2010 1:48 PM

Grand jury investigates police corruption: Read all of the stories, view a timeline and read key documents.

A man who was serving two life sentences for dealing drugs was released from federal prison Friday as part of a federal grand jury's investigation of alleged police corruption in Tulsa, the Tulsa World has learned.

DeMarco Deon Williams, 35, had his convictions vacated in U.S. District Court in Tulsa, said Randy Lynn, his attorney. Williams has spent six years in federal prison or in jail awaiting trial, Lynn said.

Court records show Williams was convicted April 25, 2008, in a federal court in Tulsa of cocaine possession with intent to distribute. Williams received two life sentences in a trial presided over by Judge Claire Eagan, the records show.

Lynn said Williams walked out of court Friday afternoon a free man.

"I asked him what he wanted to do, and we went to McNellie's and I bought him a Grey Goose on the rocks," Lynn said.

Williams' release is believed to be connected to a federal grand jury's examination of alleged police corruption, primarily within the Special Investigations Division of the Tulsa Police Department, the World's investigation shows.

Jane W. Duke, the U.S. attorney for Eastern Arkansas, is a special prosecutor overseeing the grand jury.

The World disclosed Nov. 1 that the grand jury was meeting in a secret location and investigating reports of police corruption.

A former federal agent has since been indicted on drug conspiracy charges and two Tulsa police officers have been placed on paid leave in connection with the inquiry.

In additionally, three people, including Williams, have been freed from federal prison, and a fourth person had his federal conviction dismissed recently.

Meanwhile, prosecutors have dismissed felony charges in state court against five people as part of a review of criminal and drug cases involving Tulsa Police Officer Jeff Henderson.

Henderson, who was an undercover officer in the Special Investigations Division, has denied any wrongdoing. He was placed on paid leave in March after the department received notice that he was being investigated by a federal agency.

Tulsa Police Officer John K. Gray was also placed on leave for the same reason.

Henderson and Gray have not been charged with any crime.

Brandon McFadden, a former agent in the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives, was indicted April 9 by the grand jury.

McFadden faces four federal counts: taking part in a drug conspiracy, possession of methamphetamine with intent to distribute, possession of a firearm during a drug-trafficking crime, and aiding and abetting money laundering.

Records show Henderson and McFadden were witnesses in Williams' trial.

Williams appears to have escaped the same sentence twice.

He was convicted in 2005 of drug possession with intent to distribute and received two life sentences without the possibility of parole, federal court records show. The conviction was set aside on appeal because Williams did not get a speedy trial, records show.

He was tried again on the same charges, with the same result: two life sentences, Lynn said.

Henderson's defense team says he has passed two polygraph tests arranged by his lawyer. Henderson was asked about stealing drug money, planting drugs and fabricating a drug buy that sent a father and daughter to federal prison in 2008.

Polygraph tests, however, are not considered admissible as evidence in state or federal court in Oklahoma.

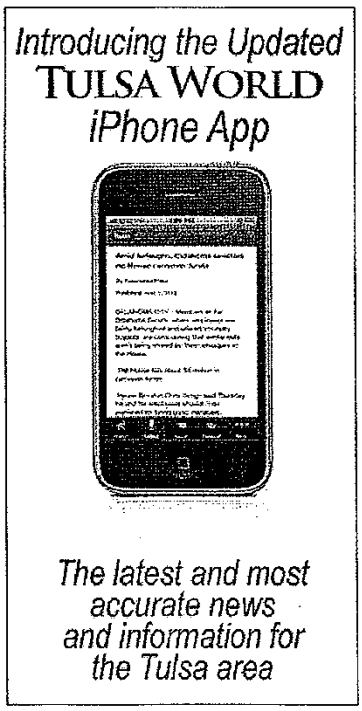
Chad A. Greer, Henderson's attorney, said federal officials have used wiretaps to intercept Henderson's phone calls and calls involving others believed to be involved in the alleged drug conspiracy.

"We have asked Duke for the official notification of the wiretaps and have not received it," he said. "We are not afraid of these wiretaps because Jeff has done nothing illegal or improper."

Henderson is believed to be the officer identified in the McFadden indictment as "TPD Officer A," Greer said.

The indictment alleges that McFadden and "TPD Officer A" planted marijuana on a drug dealer and collected $60,000 from the drug dealer but turned in only $10,100.







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Federal prison inmates interviewed by the World said federal investigators were circulating a photo lineup of Tulsa police officers among various inmates in federal prison before the indictment was handed down.

Williams states in a letter given to the Tulsa World that he was shown a photo lineup Dec. 31 of police officers, including officers who sources said are believed to be part of the grand jury's inquiry.

The grand jury has heard testimony from witnesses including federal inmates, who were asked about stolen money, fabricated informants and tainted search warrants.

Grand jury investigation

Nine people have been released from prison or had their felony cases/convictions dismissed as a result of the work of a federal grand jury investigating law enforcement corruption in Tulsa.

U.S. District Court

Larita Annette Barnes: Convicted of a drug felony in 2008 and freed July 2 from federal prison. Was serving two, 10-year sentences.

Larry Wayne Barnes Sr.: Convicted of a drug felony in 2008 and freed July 2 from federal prison. Was serving two, five-year sentences.

Fred Allen Shields Jr.: Found guilty in March 2009 of drug trafficking. Conviction dismissed Feb. 19.

DeMarco Deon Williams: Convicted of drug charges in april 2008 and freed Friday from federal prison. Was serving two life sentences.

Tulsa County District Court

Richard Miller: Charged Sept. 10 with possession of a controlled drug. Case dismissed April 20.

Melanie L. Richardson: Charged Oct. 14 with possession of a controlled drug with intent to distribute. Case dismissed April 9.

Seanta G. Sinclair: Charged oct. 14 with possession of a controlled drug with intent to distribute. Case dismissed April 9.

Rodney E. Titsworth: Charged Jan. 14 with possession of a controlled drug with intent to distribute. Charges dropped April 20.

Terry U. Perryman: Charged Jan. 14 with possession of a controlled drug with intent to distribute. Charges dropped April 20.

Omer Gillham 581-8301
omer.gillham@tulsaworld.com

By OMER GILLHAM World Staff Writer

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Some reader comments for this page were copied from "Imprisoned man's drug convictions vacated," which was published on 5/3/2010.

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notsean, Oklahoma City (16 hours ago) Report Comment | Ignore User
"In additionally," ?? C'mon now....



notsean, Oklahoma City (16 hours ago) Report Comment | Ignore User
Falling out all over the place... This just keeps getting bigger, see ya Henderson!



Carlos, Tulsa (16 hours ago) Report Comment | Ignore User
Why don't they just make an even swap? Henderson and McFadden for both Barnes'? Problem solved! The prison population number won't even change.



notsean, Oklahoma City (16 hours ago) Report Comment | Ignore User
How about "in addition" or "additionally"

Kilgore.Trout, Tulsa (15 hours ago) Report Comment | Ignore User
"Training Day" part deux.

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Imprisoned man's drug convictions vacated

Investigation of alleged police corruption apparently behind release



Suspended TPD Officer Jeff Henderson

By OMER GILLHAM World Staff Writer
Published: 5/3/2010 11:13 PM
Last Modified: 5/3/2010 11:50 PM

A man who was serving two life sentences for dealing drugs was released from federal prison Friday as part of a federal grand jury's investigation of alleged police corruption in Tulsa, the Tulsa World has learned.

DeMarco Deon Williams, 35, had his convictions vacated in U.S. District Court in Tulsa, said Randy Lynn, his attorney. Williams has spent six years in federal prison or in jail awaiting trial, Lynn said.

Court records show that Williams was convicted April 25, 2008, in federal court in Tulsa of cocaine possession with intent to distribute. Williams received two life sentences in a trial presided over by Judge Claire Eagan, the records show.

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Jane W. Duke, the U.S. attorney for Eastern Arkansas, is a special prosecutor overseeing the grand jury.

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In additional, three people, including Williams, have been freed from federal prison, and a fourth person had his federal conviction dismissed recently.

Meanwhile, prosecutors have dismissed felony charges in state court against five people as part of a review of criminal and drug cases involving Tulsa Police Officer Jeff Henderson.

Henderson, who was an undercover officer in the Special Investigations Division, has denied any wrongdoing. He was placed on paid leave in March after the department received notice that he was being investigated by a federal agency.

Tulsa Police Officer John K. Gray was also placed on leave for the same reason.

Henderson and Gray have not been charged with any crime.

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Williams was tried again on the same charges, with the same result: two life sentences, Lynn said.

Henderson's defense team says the officer has passed two polygraph tests arranged by his lawyer. Henderson was asked about stealing drug money, planting drugs and fabricating a drug buy that sent a father and daughter to federal prison in 2008.

Polygraph tests, however, are not considered admissible as evidence in state or federal court in Oklahoma.

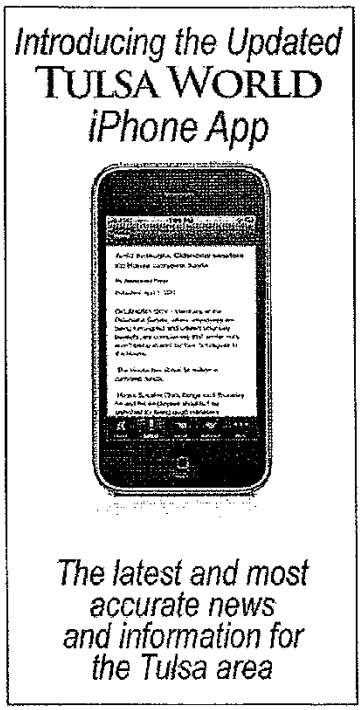
Chad A. Greer, Henderson's attorney, said federal officials have used wiretaps to intercept Henderson's phone calls and calls involving others believed to be involved in the alleged drug conspiracy.

"We have asked Duke for the official notification of the wiretaps and have not received it," he said. "We are not afraid of these wiretaps because Jeff has done nothing illegal or improper."

Henderson is believed to be the officer identified in the McFadden indictment as "TPD Officer A," Greer said.

The indictment alleges that McFadden and "TPD Officer A" planted marijuana on a drug dealer and collected $60,000 from the drug dealer but turned in only $10,100.







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By OMER GILLHAM World Staff Writer

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Reader comments for this page have been moved to the most updated version of the story, now under the headline "Sentences in another drug case vacated," which was published on 5/4/2010. So far, 62 comments have been made.



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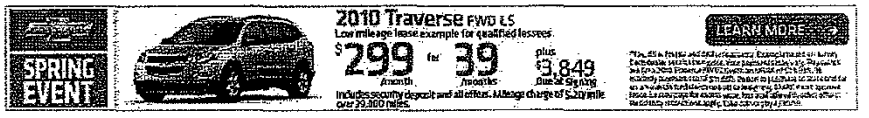

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Wiretaps used in federal probe

An attorney for a TPD officer says he learned of the monitoring from the U.S. attorney in the case.



Tulsa Police Officer Jeff Henderson and another officer have been placed on paid leave by the Tulsa Police Department pending the outcome of the grand jury investigation. Courtesy

By OMER GILLHAM World Staff Writer
Published: 5/2/2010 2:22 AM
Last Modified: 5/2/2010 5:39 AM

View other grand jury stories.

Federal investigators looking into police corruption have used wiretaps to intercept the conversations of various individuals, including at least one Tulsa police officer who is part of a federal grand jury investigation, his attorney says.

The investigators have indicated that wiretaps were used last year to listen to phone calls involving Officer Jeff Henderson, 37, and other individuals, said Chad A. Greer, Henderson's attorney.

Greer's office learned about the wiretaps during a communication with Jane W. Duke, U.S. attorney for eastern Arkansas, who is overseeing the federal grand jury investigating police corruption in Tulsa.

However, Greer said that he has not received specific information about the wiretaps, even though he asked Duke's office to provide such information.

"We have received word from Jane Duke's office that she has been authorized by the court to send letters to individuals who are the subject of the wiretaps," Greer said. "Even though we have asked for these notification letters, they have not been sent."

Duke was asked to produce the notification letter last week, Greer said.

Henderson's defense team granted an exclusive interview with the Tulsa World, which has reported extensively on a grand jury investigation being led by Duke.

Henderson said the wiretaps will contain nothing because he has broken no laws.



"I have done nothing wrong," Henderson said. "They may have wiretaps, but I am confident that I have no problem because there is nothing there."

Henderson and Brandon McFadden, 33, a former agent with the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives, have been implicated in an alleged fabricated drug buy. That buy involved Larita Annette Barnes, 33, and her father, Larry Wayne Barnes Sr., 59, who were convicted and sent to federal prison in 2008.

McFadden has been indicted by a federal grand jury on allegations that he and several Tulsa police officers participated in a drug conspiracy that involved taking drugs and money from drug dealers, orchestrating drug deals and planting drugs on individuals.

Greer said he believes Henderson is the individual identified as "TPD Officer A" in the federal indictment against McFadden.

The grand jury indicted McFadden on April 9 on four counts that include money laundering and drug conspiracy.

Henderson and Officer John K. Gray, 43, have been placed on paid leave by the Tulsa Police Department pending the outcome of the grand jury investigation. Neither has been charged with a crime.

Eight people have either had charges dismissed or have been freed from prison as a result of the inquiry so far.

Greer and private investigator Eric Cullen are members of Henderson's defense team. The team has spent eight months conducting its own investigation, Cullen said.

Meanwhile, Henderson passed a second polygraph test arranged by his defense team, Cullen said.

Given last week, the polygraph test was administered by Bill D. Brown, a former FBI agent with polygraph experience now in private practice, Brown said.

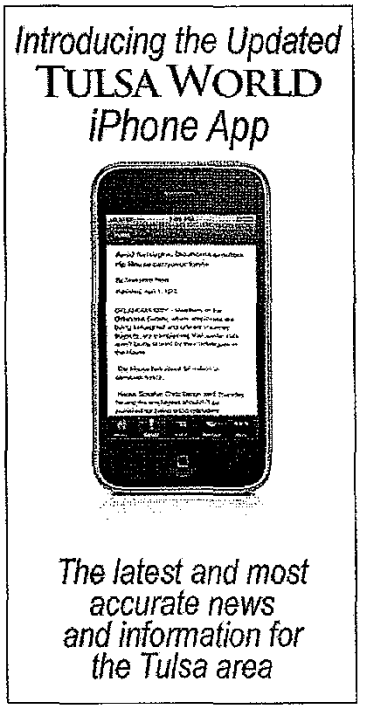
Brown is a member in good standing with the American Polygraph Association, said APA President Dan Sosnowski.

Henderson was questioned about an allegation from the grand jury indictment that stated he and McFadden planted marijuana on a drug dealer and only turned in $10,100 of $60,000 taken from the drug dealer.

When asked if he did these actions, Henderson answered, "No," Greer said.

Brown found that Henderson was not deceptive in his answers about the allegation.







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Henderson said: "I said I would take a polygraph test when all this happened and here are the results. I have passed both of the tests on two of the key allegations."

The results of the polygraph were not readily available to the Tulsa World because the report is still being drafted, Greer said. The results will be made available to the newspaper next week, Greer said.

In the first polygraph given April 22, Henderson answered questions about allegations that he helped fabricate a drug buy in May 2007 that sent the Barneses to prison. The Barneses were released from federal prison after the informant in the case, Ryan Logsdon, recanted his testimony about the drug buy, according to a federal pleading unsealed in March.

During the polygraph, Henderson stated "no" when asked if he helped fabricate the drug buy.

Brown wrote that Henderson was not deceptive in his responses to questions about the alleged Barneses buy.

Duke has received the results of the first polygraph test and is expected to receive the results of the second one, Cullen said.

In response to the polygraph results, Duke sent an e-mail to Greer alerting him to the wiretaps on law enforcement officers believed to be involved in the alleged drug conspiracy, Greer said.

Duke wrote: "Chad. Quick question for you. Last year, we had two different T-III wiretaps and we have now gotten authorization from the court to send out letters notifying people whose conversations were intercepted. Normally, those are sent to the person. However, since Mr. Henderson is now represented by counsel, I need clarification as to whether his letter should go directly to him or to you as his attorney."

Polygraph tests are not considered admissible in court.

Henderson is preparing an aggressive defense to a possible indictment from the grand jury, Cullen said.

Greer said that Henderson is a dedicated police officer who has arrested more than 1,000 criminals during his 15-year career. The arrests have involved murder, drug trafficking, burglary and other crimes.

"We are not just sitting back and waiting on an indictment," Greer said. "We are doing all we can to defend Jeff and his career and his family."

A second officer identified in the indictment is "TPD Officer B." That officer has not been identified yet to the public.

In addition to asking for notification about the wiretaps, Greer has also asked Duke to send the letter that would confirm Henderson is a focus of the federal grand jury investigation. Duke has not responded to that request, he said.

Duke has not returned calls made by the World.

Tulsa Fraternal Order of Police Lodge 93 is paying for Henderson's legal bills, Greer said.

The Barneses were released from federal prison July 2.

Larita Barnes has an earlier drug felony conviction and drug arrests, and Larry Barnes was acquitted of drug charges in 1998. Also in 1998, he pleaded guilty and received probation for using a device known as a "monkey paw" to cheat slot machines at a casino in Mississippi, federal court records show.

McFadden was jailed in early April and released on $50,000 bond and electronic monitoring pending an outcome of his trial.

On April 1, District Attorney Tim Harris ordered a review of all state cases involving Henderson as a witness. Of the 53 current cases reviewed thus far, three cases have been dismissed involving five defendants.

In U.S. District Court in Tulsa, three convictions have been dismissed involving cases connected to Henderson or McFadden.

Omer Gillham 581-8301
omer.gillham@tulsaworld.com

By OMER GILLHAM World Staff Writer

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If you see a comment that violates our terms and conditions, please help us by clicking the "Report Comment" link next to a comment. That will alert the web staff to review the comment. Thank you, Web Editor Jason Collington Report Comment

Some reader comments for this page were copied from "Sunday: Wiretap use reported in federal probe," which was published on 5/1/2010.

Comments

magnumpi28, (3 days ago) Report Comment | Ignore User
I always wondered why TPD never put video cameras in there cars back in the 90's when money was plentiful.

tulsatradition, Tulsa (3 days ago) Report Comment | Ignore User
SUPERMOMMY--
OH SUPERMOMMY---

magnumpi28, (3 days ago) Report Comment | Ignore User
Tulsatradition writes "....FBI Agents are around, they read the TW, (I would think,)..."

Ha Ha.. I would hope and pray the FBI would have better intellengence sources than the newspaper and all the insane quacks that post online here, but at least I get a good laugh.

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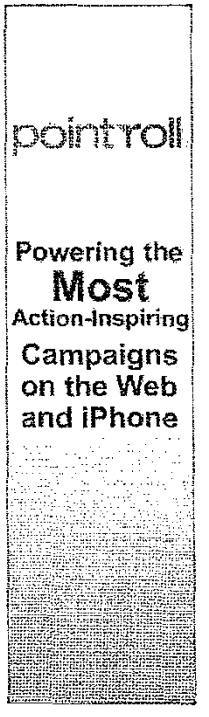
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Sunday: Wiretap use reported in federal probe

by: OMER GILLHAM World Staff Writer
Saturday, May 01, 2010

Federal investigators looking into police corruption have used wiretaps to intercept the conversations of various individuals, including at least one Tulsa police officer who is part of a federal grand jury investigation, his attorney says.

The investigators have indicated that wiretaps were used last year to listen to phone calls involving Officer Jeff Henderson, 37, and other individuals, said Chad A. Greer, Henderson's attorney.

Greer's office learned about the wiretaps during a communication with Jane W. Duke, U.S. attorney for eastern Arkansas, who is overseeing the federal grand jury investigating police corruption in Tulsa.

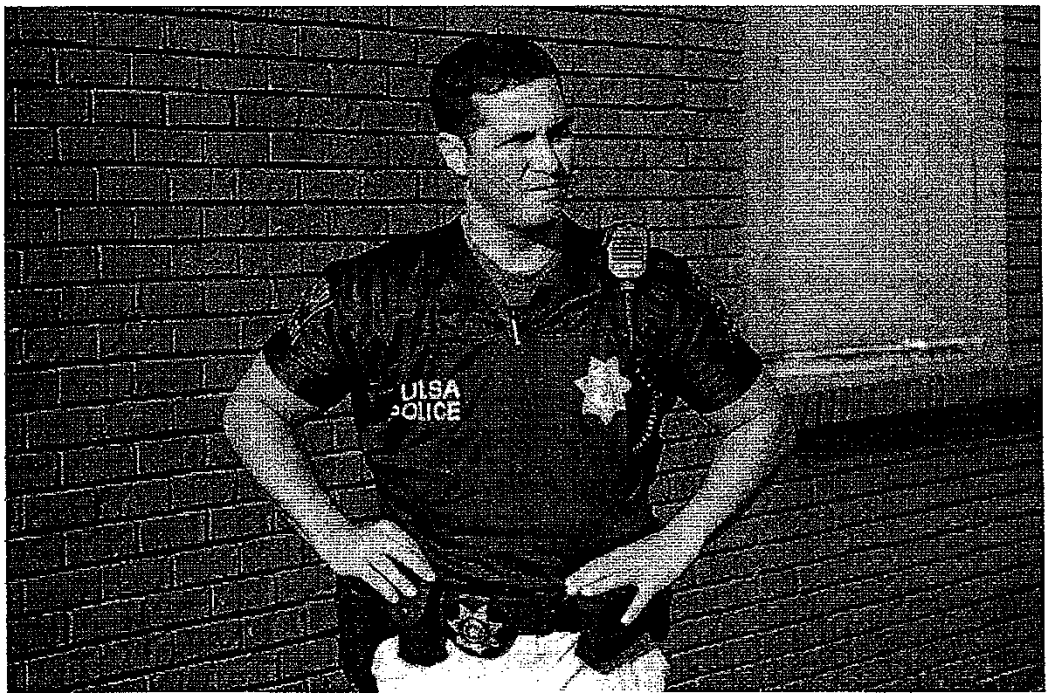
However, Greer said that he has not received specific information about the wiretaps, even though he asked Duke's office to provide such information.

"We have received word from Jane Duke's office that she has been authorized by the court to send letters to individuals who are the subject of the wiretaps," Greer said. "Even though we have asked for these notification letters, they have not been sent." Duke was asked to produce the notification letter last week, Greer said.

Henderson's defense team granted an exclusive interview with the Tulsa World, which has reported extensively on a grand jury investigation being led by Duke.

Read the complete story in Sunday's Tulsa World.

Associate Images:



TULSA WORLD classifieds and more Return to Story Print this page

Attorney: TPD officer passes lie detector test

by: OMER GILLHAM World Staff Writer
Thursday, April 29, 2010
4/29/2010 5:32:47 AM

Read the polygraph results.

An embattled police officer who has been implicated in a federal indictment on police corruption in Tulsa has passed a polygraph test arranged by his defense team, his attorney told the Tulsa World.

Jeff Henderson, 37, an undercover officer with Tulsa Police Department, was administered a polygraph April 22, said Chad Greer, Henderson's attorney.

Greer and private investigator Eric Cullen are members of Henderson's defense team. Henderson has not been charged with a crime.

The team granted an exclusive interview to the Tulsa World, which has reported extensively on a grand jury investigation being led by a special prosecutor looking into alleged stolen drugs and money, fabricated informants and tainted search warrants.

Henderson and Brandon McFadden, a former agent with the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives, have been implicated in an alleged fabricated drug buy on May 8, 2007.

The alleged buy sent Larita Annette Barnes, 33, and her father, Larry Wayne Barnes Sr., 59, to federal prison in 2008.

McFadden has been indicted on four federal counts: taking part in a drug conspiracy, possession of methamphetamine with intent to distribute, possession of a firearm during a drug-trafficking crime, and aiding and abetting money laundering.

In addition to McFadden's indictment, Henderson and Officer John K. Gray have been suspended from the police force pending the outcome of the grand jury investigation. Eight people have either had charges dismissed or have been freed from prison as a result of the inquiry.

The Barneses were released July 2 because the informant in the case said he lied about the drug buy, according to a federal pleading unsealed March 30.

The pleading says the informant, Ryan Logsdon, has passed a polygraph test in which he alleged that Henderson and McFadden coached him on the fabricated drug buy of the Barneses and that the buy never happened.

Federal prosecutors believe the drug buy never took place, records show.

Meanwhile, Greer said he believes Henderson is the police officer identified at "TPD Officer A" in the four-count federal indictment filed April 9 against McFadden.

"We have reason to believe this is true and we have contacted the U.S. attorney leading the grand jury to send us a notification letter to that effect," Greer said.

Henderson's polygraph test was a single-issue test that addressed a limited number of questions about the alleged controlled buy at the Barneses' house in Tulsa, Greer said.

He was not asked about allegations in the grand jury indictment that he and McFadden took $50,000 from a person who became an informant but turned in only $10,100.

Greer said the polygraph was administered by Bill D. Brown, a former FBI agent now in private practice in Edmond.

The key polygraph questions asked by Brown included:

"Did you give three ounces of meth to Logsdon on 5/8/2007? Response: No."

"Did you set up the Barneses by falsifying a purchase of 3 oz. of meth on 5/8/2007. Response: No."

"Did you provide false testimony about that controlled buy from the Barneses? Response: No."

These three questions are the main extent of the questions involving the alleged fake drug purchase, Greer said.

Cullen said Brown created the polygraph questions based on information in McFadden's indictment and the federal pleading that was used to release the Barneses from prison.

As part of preparation for the test, Henderson was briefed on possible questions, Cullen said.

"This is not uncommon," he said. "We went over certain questions that we thought would be asked because we wanted to know the truth as well."

Greer and Cullen were not present during the polygraph test, Cullen said.

Brown mentioned in his summary notes of the test that Henderson stated on the day of the polygraph that he had less than five hours of sleep for the past few nights.

Brown wrote: "Fatigue often suppresses responses from this particular component," electrodermal activity in the skin of the hand.

Dan Sosnowski, the president of the American Polygraph Association, said that in addition to measuring breathing and blood volume, polygraph tests measure the skin surface by having the examinee place his or her fingers on a finger plate.

Attorneys say that lie detector tests are not admissible as evidence in state and federal courts in Oklahoma.

Brown also noted that Henderson, who has suffered from allergies for a long time, sniffled numerous times during the polygraph examination.

"As a result, he sniffled often during the course of the test," Brown wrote. "Some questions had to be repeated because of the timing of the sniffs and one possible scoring spot was disallowed because of the interference of the sniffling. The examiner could not ascertain a deliberate pattern of sniffighing (sic) to interfere with the examination process."

Cullen said he did not know how many times Brown restated some questions.

Brown wrote in his summary: "It is the examiner's conclusion that the responses of the examinee to relevant questions asked of him on this test were not indicative of deception."

The World asked Greer whether Henderson would submit to a polygraph test administered by the office of Jane W. Duke, the U.S. attorney in eastern Arkansas, who is leading the grand jury investigation of police corruption.

Greer said he would consider such a test only if there was some clear benefit to his client if he passed the test and if he had confidence in the polygrapher. Greer said Duke has received the results of Henderson's polygraph.

Duke did not return calls seeking comment.

The Department of Justice administered a polygraph test to Logsdon, a drug felon, on June 22 as part of the investigation into police corruption in Tulsa.

The test showed that Logsdon was not deceptive in his answers to questions about an alleged drug buy at the Barnes' house, the federal pleading states.

Logsdon alleges that McFadden and Henderson fabricated the Barneses' drug buy because they believed the Barneses would be difficult to convict.

Larita Barnes has an earlier drug felony conviction, and Larry Barnes was acquitted of drug charges in 1998. Also in 1998, he pleaded guilty and received probation for using a device known as the "monkey paw" to cheat slot machines at a casino in Mississippi, federal court records show.

Testimony from the Barneses' trial shows that Henderson and McFadden could not produce phone records that showed contact between Logsdon and the Barneses to set up the alleged drug buy.

In addition, the $3,000 allegedly used to purchase the meth was never recovered, records show.

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D.A. drops 3 drug cases

by: OMER GILLHAM World Staff Writer
Tuesday, April 27, 2010
4/27/2010 1:14:39 PM

Felony drug charges have been dropped against five defendants who were investigated by an undercover Tulsa police officer who was suspended during an investigation of police corruption in Tulsa.

The dismissals in state court bring to eight the number of people whose charges have been dismissed or who have been released from prison as a result of the grand jury investigation. Two police officers have been suspended and one federal agent has been indicted.

The cases were dismissed during a review of drug and criminal cases involving Officer Jeff Henderson, an undercover officer assigned to the Special Investigations Division. Henderson was placed on paid leave last month after being implicated in an alleged fabricated drug buy in 2007 that sent two people to federal prison.

Henderson has denied any wrongdoing.

On April 1, District Attorney Tim Harris ordered a review of all cases involving Henderson.

Of the 53 current cases reviewed so far, three cases involving five defendants have been dismissed, Assistant District Attorney Doug Drummond said.

"We dismissed them for further investigation primarily to see what happens in the federal investigation," Drummond said. "We could refile them later if we deem that appropriate."

Harris' office has dismissed drug charges against Richard Miller, Rodney E. Titsworth, Terry U. Perryman, Melanie L. Richardson and Seanta G. Sinclair, Tulsa County District Court records show.

Miller was charged Sept. 10 with possession of a controlled drug. His case was dismissed April 20 by Harris' office, records show.

In a separate case, Titsworth and Perryman were charged Jan. 14 with possession of a controlled drug with intent to distribute. Charges were dropped April 20.

In a third drug felony case, Richardson and Sinclair were charged Oct. 14 with possession of a controlled drug with intent to distribute. The case was dismissed April 9.

Harris' office is also reviewing past cases involving Henderson, Drummond said.

Henderson and a former federal agent, Brandon McFadden, have been implicated in an alleged fabricated drug buy on May 8, 2007. The alleged buy sent Larita Annette Barnes, 33, and Larry Wayne Barnes Sr., 59, to federal prison in 2008.

The Barneses were released July 2 because the informant in the case said he lied about the drug buy, according to a federal pleading unsealed March 30.

Another federal conviction reportedly was dismissed in February. That defendant, Fred Allen Shields, had been found guilty in March 2009 of drug trafficking, records show.

McFadden is a former agent of the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives. He was indicted April 9 on four counts.

Federal officials released him from jail this month on $50,000 bond and electronic monitoring pending his trial.

The indictment charges McFadden with taking part in a drug conspiracy, possession of methamphetamine with intent to distribute, possession of a firearm during a drug-trafficking crime, and aiding and abetting money laundering.

Additional grand jury indictments could be forthcoming, according to U.S. Attorney Jane W. Duke, a special prosecutor from eastern Arkansas who is overseeing the grand jury investigation.

The indictment accuses McFadden and unidentified Tulsa police officers of planting drugs on individuals, stealing drugs and money, giving false testimony and coercing or persuading drug dealers to sell drugs for the officers.

One of McFadden's assistants in the alleged conspiracy was a Tulsa police officer identified in the indictment only as "TPD Officer A."

Although the indictment does not identify "TPD Officer A," it does outline a fabricated drug buy that reportedly took place on the same date detailed in the federal pleading unsealed last month. The date is May 8, 2007.

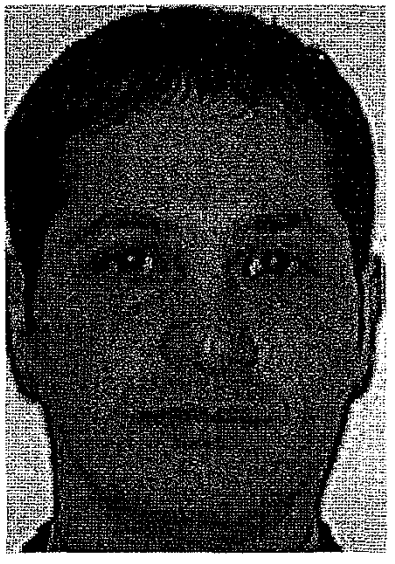
In a related development, Tulsa Police Officer John K. Gray, 43, was placed on administrative leave last week after the U.S. Department of Justice notified the Police Department about an ongoing investigation. An anonymous source told the Tulsa World that Gray received an official letter from the Justice Department informing him that he was the focus of a federal grand jury investigation.

Gray, who has been with the department since 1990, has not been charged with a crime.

View key documents, a timeline of events and read previous stories about the grand jury investigation.

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Associate Images:



UNDER REVIEW
Jeff Henderson: The Tulsa undercover officer is on paid leave as his work in drug and criminal cases in under review.

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Charges dropped in more cases investigated by Tulsa officer

by: OMER GILLHAM World Staff Writer
Monday, April 26, 2010

Felony drug charges have been dropped against five defendants who were investigated by an undercover Tulsa police officer who was suspended during an investigation of police corruption in Tulsa.

The dismissals in state court bring to eight the number of people whose charges have been dismissed or who have been released from prison as a result of the grand jury investigation. Two police officers have been suspended and one federal agent has been indicted.

The cases were dismissed during a review of drug and criminal cases involving Officer Jeff Henderson, an undercover officer assigned to the Special Investigations Division. Henderson was placed on paid leave last month after being implicated in an alleged fabricated drug buy in 2007 that sent two people to federal prison.

Henderson has denied any wrongdoing.

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Federal officials released him from jail this month on $50,000 bond and electronic monitoring pending his trial.

The indictment charges McFadden with taking part in a drug conspiracy, possession of methamphetamine with intent to distribute, possession of a firearm during a drug-trafficking crime, and aiding and abetting money laundering.

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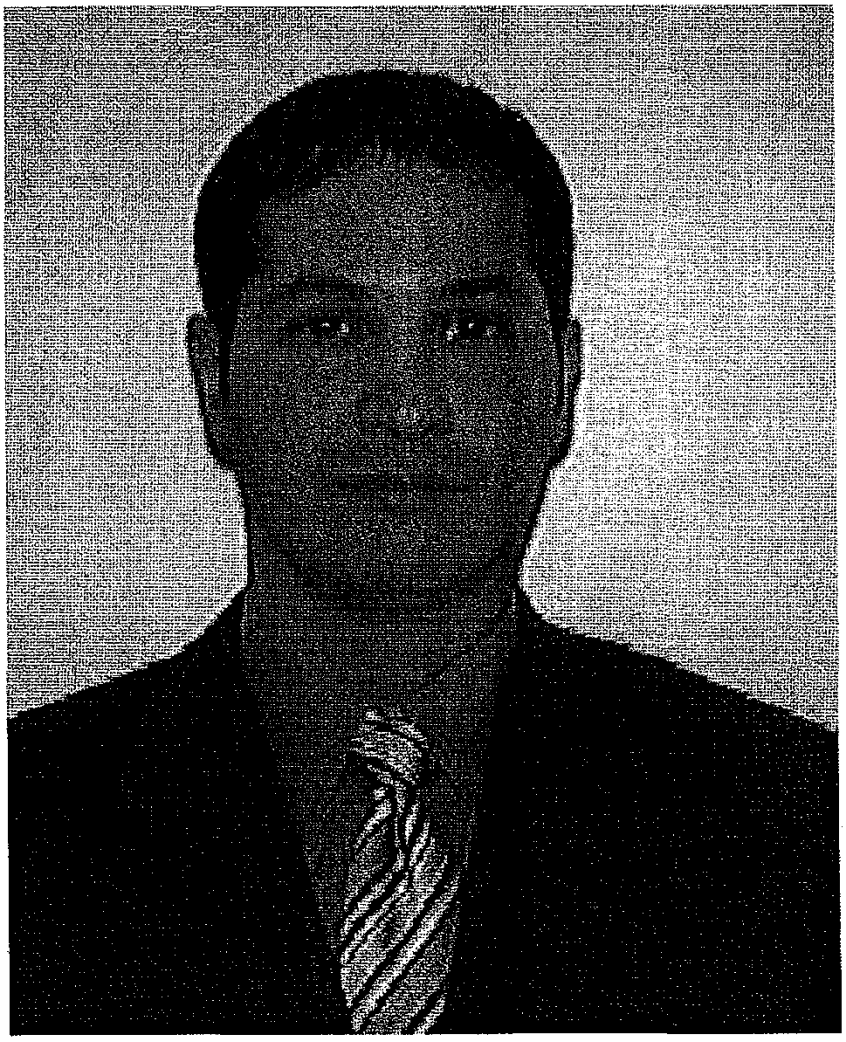
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In a related development, Tulsa Police Officer John K. Gray, 43, was placed on administrative leave last week after the U.S. Department of Justice notified the Police Department about an ongoing investigation. An anonymous source told the Tulsa World that Gray received an official letter from the Justice Department informing him that he was the focus of a federal grand jury investigation.

Gray, who has been with the department since 1990, has not been charged with a crime.

Associate Images:



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Judge won't toss drug case despite former agent's indictment

by: BILL BRAUN World Staff Writer
Saturday, April 24, 2010
4/24/2010 4:18:48 AM

A judge on Friday declined to dismiss a Tulsa County drug case in which an investigator who testified that he found drugs in the defendant's possession has been indicted in federal court.

District Judge Carlos Chappelle said he had "absolutely no legal authority" to dismiss a drug-trafficking charge against Fred Allen Shields Jr.

Chappelle said he also did not have the authority to grant Shields — who faces a June trial in the drug case — a new preliminary hearing.

Chappelle, who two months ago ordered Shields held without bail on the trafficking charge, set his bail in the case at $250,000 Friday. Shields remained in the Tulsa Jail on Friday night.

At a 2008 preliminary hearing, Brandon McFadden — a former agent with the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives — testified that he arrested Shields in August 2007 and found crack cocaine in the defendant's pocket.

In court Friday, defense lawyer James Linger said Shields contends that drugs were planted on him.

An indictment recently unsealed in federal court in Tulsa alleges that McFadden, while he was an ATF agent, and an unnamed Tulsa police officer planted marijuana on an unnamed drug dealer during a search of his home. The indictment also accuses McFadden of organizing a drug ring among local drug dealers, reaping profits from drug sales and offering leniency to dealers who cooperated with him.

Jeff Henderson, an undercover Tulsa police officer, was placed on leave with pay after the Tulsa Police Department was notified that he was being investigated on allegations that he participated in a fabricated drug buy. Henderson has not been charged with a crime and denies any wrongdoing.

In a case that didn't involve Shields, McFadden is accused of coaching an informant and fabricating a drug buy in May 2007, which led to convictions of two people on federal drug charges.

A document filed recently on Shields' behalf by defense lawyer Art Fleak asserts that the prosecution's case "rests entirely on McFadden."

First Assistant District Attorney Doug Drummond said prosecutors "still think we have a case that we can convince a jury beyond a reasonable doubt that Mr. Shields is guilty of trafficking."

In a court document, Drummond asserts that sufficient evidence can be presented at trial "through officers other than Henderson and ATF Agent McFadden."

Henderson did not testify at Shields' preliminary hearing. McFadden did testify at that hearing, but Police Cpl. Gene Watkins is "anticipated to testify at trial that he was present when Agent McFadden found two baggies of cocaine base (5.63 grams) in the defendant's pocket," according to Drummond.

State prosecutors have identified Shields as a four-time convicted felon who, according to police, is a "person of interest" in the 2008 slaying of Tulsa businessman Neal Sweeney.

Shields, 36, is not charged in the Sweeney case. Fleak said Shields was in jail when Sweeney was fatally shot.

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Associate Images:

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Drug case left intact despite former agent's indictment

by: BILL BRAUN World Staff Writer
Friday, April 23, 2010

A judge on Friday declined to dismiss a Tulsa County drug case in which an investigator who testified that he found drugs in the defendant's possession has been indicted in federal court.

District Judge Carlos Chappelle said he had "absolutely no legal authority" to dismiss a drug-trafficking charge against Fred Allen Shields Jr.

Chappelle said he also did not have the authority to grant Shields — who faces a June trial in the drug case — a new preliminary hearing.

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Associate Images:

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Second officer placed on leave

by: OMER GILLHAM World Staff Writer
Wednesday, April 21, 2010
4/27/2010 1:13:35 PM

A second Tulsa police officer believed to be the focus of a federal investigation into alleged police corruption has been placed on administrative leave, the Tulsa World has learned.

Officer John K. Gray, 43, was placed on administrative leave Tuesday after the Justice Department notified the Tulsa Police Department about an ongoing investigation in Tulsa, said Interim Police Chief Chuck Jordan.

A source who asked to remain anonymous told the World that Gray received an official letter from the Justice Department informing him that he was the focus of a federal grand jury investigation.

Gray, a former detective, has been an officer with the Tulsa Police Department since March 1, 1990, said police spokesman Capt. Jonathan Brooks.

As of January 2010, Gray was assigned to the Mingo Valley Division police station in east Tulsa.

Gray does not have any reportable previous disciplinary action that would includes loss of pay, demotion or suspension, according to an Open Records request by the World.

Meanwhile, Tulsa police declined to release Gray's photograph to the World.

"At this time, the release of his photo would constitute a risk to past, current and future investigations, including his own safety, and would clearly be an unwarranted invasion of privacy," Brooks said.

The World could not locate Gray for comment.

Gray is the second Tulsa police officer placed on leave in recent weeks.

Jeff Henderson, an undercover officer with the Special Investigations Division, was placed on leave with pay March 31.

Henderson was placed on leave after Tulsa police were notified that he was being investigated for allegedly participating in a fabricated drug buy in 2007.

Federal prosecutors allege in a document filed in Tulsa County District Court on March 30 that Henderson and Brandon McFadden, a former agent in the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives, coached a drug informant and fabricated a drug purchase on May 8, 2007.

The alleged fabricated drug buy sent Larita Annette Barnes, 33, and Larry Wayne Barnes Sr., 59, to prison on federal drug charges, records show. However, the Barneses were released July 2 after serving about one year of their lengthy sentences.

Larry Barnes and his wife, Linda Sue Barnes, are suing Henderson, McFadden and former Police Chief Ron Palmer for alleged wrongful imprisonment and civil rights violations. The Barneses filed their suit Monday in Tulsa County District Court.

Meanwhile, McFadden was indicted April 9 by a federal grand jury on charges that include conspiracy to distribute drugs and money laundering. The indictment accuses him of organizing a drug ring among local drug dealers, reaping profits from drug sales and offering leniency to dealers who cooperated with him, all while he was an ATF agent.

The indictment alleges that McFadden worked with two police officers, identified only as TPD officer A and TPD officer B, in some of the alleged drug deals and thefts.

McFadden was jailed April 8 but was released last week on $50,000 bond and an ankle monitor to await trial. He lives in Lubbock, Texas.

Henderson has not been charged with a crime and denies any wrongdoing.

The World has reported that Jane W. Duke, the U.S. attorney for Eastern Arkansas, is in charge of a federal grand jury investigation of police corruption in Tulsa.

Tulsa County District Attorney Tim Harris has ordered a review of drug and criminal cases in which Henderson has been involved.

View key documents, a timeline of events and read previous stories about the grand jury investigation.

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Second Tulsa police officer placed on administrative leave

by: OMER GILLHAM World Staff Writer
Tuesday, April 20, 2010
4/30/2010 3:19:08 PM

Grand jury investigates police corruption: Read all of the stories, view a timeline and read key documents.

A second Tulsa police officer believed to the focus of a federal investigation into alleged police corruption in Tulsa has been placed on administrative leave, the Tulsa World has learned.

Officer John K. Gray was placed on administrative leave today after the Justice Department notified the Tulsa Police Department about an ongoing investigation in Tulsa, said Interim Police Chief Chuck Jordan.

Gray is a former detective with the Tulsa Police Department, officials said.

A source who asked to remain anonymous told the World that Gray received an official letter from the Justice Department informing him that he was the focus of a federal grand jury investigation.

Gray has been an officer with the Tulsa Police Department since March 1, 1990, said police spokesman Capt. Jonathan Brooks.

Gray does not have any reportable previous disciplinary action that would includes loss of pay, demotion or suspension, according to an Open Records request by the World.

Gray is the second Tulsa police officer placed on leave in recent weeks.

Jeff Henderson, an undercover officer with the Special Investigations Division, was placed on leave with pay last month.

Henderson was placed on leave based on information Tulsa police received from an agency investigating allegations that Henderson allegedly participated in a fabricated drug buy in 2007.

The World has reported that Jane W. Duke, the U.S. attorney for eastern Arkansas, is in charge of a federal grand jury investigation of police corruption in Tulsa.

Federal prosecutors allege in a document filed in Tulsa County District Court that Henderson and Brandon McFadden, a former agent in the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives, coached a drug informant and fabricated a drug purchase on May 8, 2007.

McFadden was indicted April 9 by a federal grand jury on charges that include conspiracy to distribute drugs and money laundering. The indictment accuses him of organizing a drug ring among local drug dealers, reaping profits from drug sales and offering leniency to dealers who cooperated with him, all while he was an ATF agent.

McFadden was jailed April 8 but was released last week on $50,000 bond and an ankle monitor to await trial. He lives in Lubbock, Texas.

Henderson has not been charged with a crime and denies any wrongdoing.

The fabricated drug buy in 2007 sent Larita Annette Barnes, 33, and Larry Wayne Barnes Sr., 59, to prison on federal drug charges, records show. However, the Barneses were released July 2 after serving about one year of their lengthy sentences.

Tulsa County District Attorney Tim Harris has ordered a review of drug and criminal cases in which Henderson has been involved.

Ex-inmate files suit over voided drug bust

by: OMER GILLHAM World Staff Writer
Tuesday, April 20, 2010
4/20/2010 10:00:09 AM

Read the civil suit filed against Palmer, Henderson and McFadden; read other key documents and view a timeline of events.

A Tulsa man who was wrongly imprisoned for 16 months filed a lawsuit Monday against undercover officers who have been implicated in a federal investigation into law enforcement corruption in Tulsa, records show.

The suit by Larry Wayne Barnes Sr. and his wife, Linda Sue Barnes, in Tulsa County District Court claims wrongful imprisonment and violation of Larry Barnes' civil rights.

The defendants in the suit include Jeff Henderson, an undercover officer in the Tulsa Police Department's Special Investigations Division; Brandon McFadden, a former agent of the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives; and former Tulsa Police Chief Ron Palmer.

Henderson and McFadden have been implicated in a fabricated drug buy that sent Larry Barnes and his daughter, Larita Annette Barnes, to prison in 2008, according to a federal pleading that was unsealed last month.

The alleged fabricated drug buy is consistent with a public corruption investigation concerning certain Tulsa law enforcement officers, the federal pleading states.

Barnes and his daughter were released from federal prison July 2 after the drug informant in their case, Ryan Logsdon, recanted his story, records show.

The lawsuit states that while Larry Barnes was in prison, two of his grandchildren died and he was unable to attend their funerals.

The attorney for Larry and Linda Barnes in the lawsuit is Derek Ingle.

McFadden was indicted April 9 by a federal grand jury on charges that include conspiracy to distribute drugs and money laundering. The indictment accuses him of organizing a drug ring among local drug dealers, reaping profits from drug sales and offering leniency to drug dealers who cooperated with him, all while he was an ATF agent.

He was jailed April 8 but was released last week on $50,000 bond and an ankle monitor to await trial. He lives in Lubbock, Texas.

The lawsuit describes Henderson as a rogue cop who received "a slap on the wrist" from Palmer for violating police policy in 2001.

Records obtained by the Tulsa World show that Henderson received a two-day suspension without pay for conducting a bar check at a local tavern July 20, 2001, as part of his alleged personal dispute with a bar employee.

Palmer ordered the suspension, records show.

Henderson has denied any wrongdoing and maintains that the Barnes drug buy did take place.

After learning of the allegations that the drug buy was fabricated, the Police Department placed Henderson on paid leave pending the outcome of the case.

Tulsa County District Attorney Tim Harris has ordered a review of drug and criminal cases in which Henderson has been involved.

After being wrongly convicted, Larry Barnes served about one year on two 5 1/2-year prison sentences, which were to run concurrently. Larita Barnes served about one year on two concurrent 10-year sentences.

The office of U.S. Attorney Jane W. Dukee is leading a federal grand jury investigation into alleged law enforcement corruption in Tulsa. Duke is the U.S. attorney for the Eastern District of Arkansas.

The four-count indictment against McFadden accuses him of taking part in a drug conspiracy, possessing methamphetamine with intent to distribute; possessing a firearm during a drug-trafficking crime; and aiding and abetting money laundering. He faces forfeiture actions related to the allegations, the indictment says.

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Ex-ATF agent out of jail

by: OMER GILLHAM World Staff Writer
Thursday, April 15, 2010
4/15/2010 1:58:50 PM

A former federal agent accused of running a drug ring was released from jail Wednesday to await trial after his wife testified he was not a flight risk.

U.S. Magistrate Paul Cleary ordered the release of Brandon J. McFadden, 33, a former agent with the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives in Tulsa. McFadden was released on an ankle monitor and a $50,000 unsecured bond to return to his home in Lubbock, Texas. He must surrender his passport and has some travel restrictions, according to conditions of his release.

McFadden was indicted Friday by a grand jury investigating law enforcement corruption in Tulsa. He was in custody in Creek County Jail.

McFadden's wife, Stephanie, testified that her husband poses no flight risk if he's allowed to return home while awaiting trial.

"He is a dedicated father who cares about his children and his family," Stephanie McFadden said during the hearing.

The McFaddens have been married 11 years and have two children, ages 5 and 7, Stephanie McFadden said.

After Cleary ordered the release of her husband, Stephanie McFadden said: "We love him and we support him 100 percent. His children miss him. He is a good man."

In arguing for McFadden's release, attorney Neal Kirkpatrick said McFadden poses no flight risk nor is he a danger to his community.

On the day he learned of the grand jury indictments, McFadden voluntarily surrendered to federal officials by driving to Tulsa from Lubbock, Kirkpatrick said. That contributed to Cleary's decision to release him, Kirkpatrick said.

"Another key factor in his release is that so many friends and family members showed up to support him," Kirkpatrick said.

McFadden was an ATF agent in Tulsa before moving back to Lubbock, where he had served as a police officer before becoming an ATF agent in 2002. He resigned as an ATF agent Sept. 25, 2009.

The prosecution, led by U.S. Attorney Jane W. Duke's office, put on no witnesses during the detention hearing. Duke is the U.S. Attorney for the Eastern District of Arkansas.

A four-count grand jury indictment against McFadden was unsealed last week in U.S. District Court in Tulsa.

The indictment charges McFadden with taking part in a drug conspiracy, possession of methamphetamine with intent to distribute; possession of a firearm during a drug-trafficking crime; and aiding and abetting money laundering. He faces forfeiture actions related to his alleged drug crimes, the indictment states.

The indictment accuses McFadden and unnamed Tulsa police officers of planting drugs on individuals, stealing drugs and money, giving false testimony in court and coercing or persuading drug dealers to sell drugs for the officers.

One of McFadden's main assistants in the alleged drug conspiracy was a Tulsa police officer identified in the indictment only as "TPD Officer A." Duke's office has said that additional indictments could be forthcoming.

The Tulsa County District Attorney's Office is conducting a review of more than 50 pending criminal cases in which a Tulsa police officer, Jeff Henderson, is listed as a witness. A pleading filed by Duke's office implicates Henderson and McFadden in an alleged fake drug buy in 2007 that sent two people to federal prison.

Henderson has denied wrongdoing and has not been charged with a crime. He has been placed on paid leave.

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Review of cases continues

by: OMER GILLHAM World Staff Writer
Wednesday, April 14, 2010
4/15/2010 1:59:13 PM

Court officials continue to scrutinize the number of criminal cases involving a Tulsa police officer placed on paid leave after being implicated in an allegedly fabricated drug buy in 2007 that sent two people to federal prison.

Meanwhile, a detention hearing in U.S. District Court for a former federal agent in custody on charges that he organized a drug ring was delayed one day on Tuesday.

U.S. Magistrate Paul Cleary approved the delay during a detention hearing for Brandon J. McFadden. 33, a former agent with the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives in Tulsa. McFadden was indicted Friday by a grand jury investigating law enforcement corruption in Tulsa.

The delay allows time for McFadden's relatives to travel to Tulsa to testify in his behalf about his living arrangements if he is released to his home in Texas pending trial. His attorney, Neal Kirkpatrick, said McFadden is not a flight risk nor a danger to society.

"He drove here voluntarily from Lubbock (Texas) to surrender," Kirkpatrick said.

McFadden, who appeared in federal court in an orange jump suit and handcuffs, surrendered Thursday and is being held in the Creek County Jail, officials said.

In response to the federal investigation into police corruption, District Attorney Tim Harris' office is reviewing drug and criminal cases involving Jeff Henderson, an undercover officer assigned to the Special Investigations Division of Tulsa Police Department.

Harris ordered the review of criminal cases April 1, one day after the World reported that Henderson and McFadden had been implicated in an alleged fabricated drug buy.

Henderson, 37, has not been charged with a crime and has denied any wrongdoing.

His attorney Chad A. Greer said: "There has been enough said about this situation in the media so we decline to comment further."

Henderson and McFadden allegedly fabricated a drug buy on May 8, 2007, which sent Larita Annette Barnes, 33, and Larry Wayne Barnes Sr., 59, to federal prison in 2008. The Barneses were released from federal prison July 2 because the informant in the case, Ryan Logsdon, said he lied about the drug buy, according to a federal pleading unsealed March 30.

Thus far, Harris' office has identified 53 current cases in which Henderson was involved as a witness, said Assistant District Attorney Doug Drummond. That number is expected to increase once Harris' office moves into other cases involving Henderson, Drummond said.

"We are conducting the review in light of the information that has publicly surfaced," Drummond said. "As ministers of justice, we are making every effort on a case-by-case basis to do what we believe is the right thing to do.

Additional grand jury indictments could be forthcoming, according to U.S. Attorney Jane W. Duke, a special prosecutor from eastern Arkansas overseeing the grand jury investigation.

Drummond said: "Obviously, any decision they make based on their investigation may have a ripple effect on cases we have."

After being charged Friday in a four-count indictment, McFadden was moved from the Tulsa Jail to the Creek County Jail.

The indictment charges McFadden with taking part in a drug conspiracy, possession of methamphetamine with intent to distribute; possession of a firearm during a drug-trafficking crime; and aiding and abetting money laundering. He faces forfeiture actions related to his alleged drug crimes, the indictment states.

The indictment accuses McFadden and unnamed Tulsa police officers of planting drugs on individuals, stealing drugs and money, giving false testimony in court and coercing or persuading drug dealers to sell drugs for the officers.

McFadden is accused of using his position as a federal agent to operate a drug-selling ring in which he allegedly enlisted 12 drug dealers or drug associates to sell drugs for him. By offering the drug dealers leniency or a share of drug profits, McFadden allegedly coerced or persuaded them to work for him, selling and buying methamphetamine, marijuana and cocaine, the indictment states.

McFadden's main assistant in the alleged conspiracy was a Tulsa police officer identified in the indictment only as "TPD Officer A."

In one drug deal, McFadden and "TPD Officer A" allegedly stole $50,000 in cash in January 2007, the indictment states.

The officers allegedly planted marijuana on a drug dealer identified as "Individual 1" during a search of his home. Following that, the dealer retrieved $60,000 in cash and two pounds of methamphetamine from his home for the officers, the indictment states.

However, McFadden and "TPD Officer A" only turned in $10,100, the indictment states.

In a second alleged drug deal, McFadden delivered about 25 pounds of methamphetamine during several months to "Individual 1" to sell for McFadden, the indictment states. The alleged meth deliveries occurred during February 2007 through October 2008, it states.

In another alleged drug deal in the summer of 2007, McFadden delivered 50 pounds of marijuana and received $10,000 from Individual 1, who was told he could sell the marijuana for $20,000 and keep $10,000 in profit as agreed, the indictment states.

While the indictment does not mention "TPD Officer A's" name, it does outline a fabricated drug buy that occurred on the same date detailed in the federal pleading unsealed last month.

That pleading names Henderson and McFadden as being involved in an alleged fake drug buy that sent the Barneses to federal prison in 2008. The pleading was signed by Duke's office.

The pleading states that the alleged fabricated drug buy involving Henderson and McFadden occurred on May 8, 2007.

The grand jury indictment also outlines a fabricated drug buy involving "Individual 1" on that date. Additionally, the quantity and type of drugs and the amount spent on the drugs detailed in the pleading also match the indictment.

The fabricated drug buy involved three pounds of methamphetamine allegedly purchased for $3,000 from the Barneses, the pleading shows.

Other Tulsa police officers are mentioned anonymously in the indictment. They were either involved in warrantless searches or were present when McFadden allegedly stole thousands of dollars during a drug bust, it states.

For example, on June 12, 2007, McFadden and "other TPD officers conducted a warrantless search of Individual 3's residence," discovering $25,000 but only turning in $310, the indictment states.

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Associate Images:

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Wife: Ex-Tulsa agent not a flight risk

by: OMER GILLHAM World Staff Writer
Wednesday, April 14, 2010
4/15/2010 1:59:54 PM

A former federal agent from Tulsa was released from jail today on $50,000 bond to await trial on charges he was running a drug ring after his wife testified he was not a flight risk.

U.S. Magistrate Paul Cleary ordered the release of Brandon J. McFadden. 33, a former agent with the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives in Tulsa. McFadden was released on an ankle monitor to return to his home in Lubbock, Texas.

McFadden was indicted Friday by a grand jury investigating law enforcement corruption in Tulsa.

McFadden's wife, Stephanie, testified that her husband poses no flight risk if he's allowed to return home while awaiting trial. He drove to Tulsa from Lubbock and surrendered April 8th. McFadden was held overnight in the Tulsa Jail and then moved to the Creek County jail.

Stephanie McFadden said when her husband learned of the indictment, ``He was calm and he showed a lot of courage."

The McFaddens have been married 11 years and have two children, ages 5 and 7. His wife, a gymnastics teacher, said McFadden will be employed in home-based investment and property management businesses.

``He is a dedicated father who cares about his children and his family," Stephanie McFadden said during the hearing.

The prosecution, led by Jane Duke, U.S. Attorney for the Eastern District of Arkansas, put on no witnesses during the hearing.

The indictment charges McFadden with taking part in a drug conspiracy, possession of methamphetamine with intent to distribute; possession of a firearm during a drug-trafficking crime; and aiding and abetting money laundering. He faces forfeiture actions related to his alleged drug crimes, the indictment states.

The indictment accuses McFadden and unnamed Tulsa police officers of planting drugs on individuals, stealing drugs and money, giving false testimony in court and coercing or persuading drug dealers to sell drugs for the officers.

McFadden is accused of using his position as a federal agent to operate a drug-selling ring in which he allegedly enlisted 12 drug dealers or drug associates to sell drugs for him. By offering the drug dealers leniency or a share of drug profits, McFadden allegedly coerced or persuaded them to work for him, selling and buying methamphetamine, marijuana and cocaine, the indictment states.

McFadden's main assistant in the alleged conspiracy was a Tulsa police officer identified in the indictment only as "TPD Officer A."

Duke is leading the grand jury investigation into law enforcement corruption. She has said additional indictments could be forthcoming.

The Tulsa County District Attorney's office is conducting a review of more than 50 pending criminal cases in which a Tulsa police officer, Jeff Henderson, is listed as a witness. A pleading filed by Duke's office implicates Henderson and McFadden in an alleged fake drug buy that sent two people to federal prison.

Henderson has denied wrongdoing and has not been charged with a crime. He has been placed on paid leave.

Check back at Tulsaworld.com for updates to this story.

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Ex-ATF agent charged in indictment

by: OMER GILLHAM & DAVID HARPER World Staff Writers
Saturday, April 10, 2010
4/15/2010 2:05:13 PM

Read the indictment.

A former federal agent has been charged in a federal indictment alleging that he and Tulsa police officers planted drugs on suspects, stole drugs and drug money, and sold drugs through numerous dealers who were promised police leniency for their cooperation.

Brandon J. McFadden, 33, a former agent with the Tulsa office of the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives, was indicted Friday on drug and weapons charges brought by a federal grand jury.

McFadden pleaded not guilty during a hearing in Tulsa federal court Friday to four counts in the newly unsealed indictment. Before Friday's unsealing of the indictment, McFadden had been implicated in a fabricated drug buy that sent a Tulsa man and his daughter to federal prison in 2008, a Tulsa World investigation has shown.

McFadden is charged with taking part in a drug conspiracy, possession of methamphetamine with intent to distribute; possession of a firearm during a drug-trafficking crime; and aiding and abetting money laundering. He faces forfeiture actions related to his alleged drug crimes, records show.

McFadden's attorney, Neal Kirkpatrick, said he was disappointed that the prosecution asked that his client be kept in jail while awaiting trial.

Kirkpatrick said he had not had much time to review the indictment, but he said it seemed "rather vague" to him.

U.S. Magistrate Paul Cleary presided over McFadden's court appearance Friday. McFadden faces a detention hearing Tuesday afternoon and is expected to remain in custody until then.

McFadden was placed in the Tulsa Jail on Thursday on a hold for the U.S. Marshals Service, according to jail records.

Jane W. Duke, U.S. attorney for the Eastern District of Arkansas, indicated that the investigation is continuing and that more defendants could be charged. Duke is a special prosecutor in charge of the grand jury that is looking into law enforcement corruption in Tulsa.

James Finch, special agent in charge of the FBI's Oklahoma City Division, said in a news release, "When any law enforcement officer betrays the oath to protect, serve and uphold the law, he tarnishes the badge of all law enforcement, violates the trust of the people and therefore should be prosecuted to the fullest extent of the very laws he has broken."

The World has filed an open records request for the names of several Tulsa police officers who were subpoenaed by the grand jury.

Deputy Chief Mark McCrory said the Police Department recently received the subpoenas and delivered them to the officers.

Meanwhile, the federal indictment details extensive involvement of a few Tulsa police officers who are alleged to have participated in planting drugs and stealing money and drugs in addition to conducting warrantless drug searches.

While the officers' names have not been released, two of them are identified in the indictment as "TPD Officer A" and "TPD Officer B."

Interim Police Chief Chuck Jordan said he could not comment on the indictments.

According to the indictment, McFadden regularly investigated potential firearms and drug-trafficking offenses with the ATF from July 2002 through approximately September of last year.

The indictment alleges that from January 2007 through October 2008, McFadden conspired with other individuals to distribute marijuana, powder cocaine and methamphetamine.

As part of that conspiracy, McFadden is alleged to have planted drug evidence on suspects, stolen drugs and money from suspects and testified falsely in court. The money laundering count charges McFadden with using proceeds of the drug trafficking to purchase a Chevrolet Silverado on June 8, 2007.

The indictment includes extensive detail on 12 people who allegedly had their drugs and money taken from them or who allegedly were pressured to sell drugs brought to them by McFadden and "TPD Officer A," records show.

Many of the unidentified individuals are believed to be federal prison inmates who were transferred to area jails to testify before the federal grand jury in October and November.

The indictment alleges that McFadden and "TPD Officer A" collected $60,000 in drug money on Jan. 28, 2007, but turned in only about $10,200.

In this incident, McFadden and "TPD Officer A" are alleged to have planted marijuana at an individual's home and pretended to discover it while serving a search warrant. McFadden is accused of threatening to have the resident's children taken into custody by the Department of Human Services, the indictment states.

The threat of losing his children and the planted drugs caused the resident to retrieve 2 pounds of methamphetamine and $60,000 in cash for the officers, the indictment alleges.

The Tulsa police officer who assisted in the incident reported only $10,200 from the search, the indictment states.

While "TPD Officer A" is not named in the indictment, McFadden and undercover Tulsa Police Officer Jeff Henderson are implicated in an allegedly fabricated drug buy on May 8, 2007, according to a federal pleading unsealed last week in Tulsa County District Court.

The alleged drug buy led to the convictions of Larita Annette Barnes, 33, and Larry Wayne Barnes Sr., 59, on federal drug charges, records show. The Barneses were released from federal prison July 2 because the informant in the case, Ryan Logsdon, said he lied about the drug buy, the federal pleading states.

Logsdon agreed to become an informant after Henderson and McFadden served a search warrant at his home Jan. 23, 2007, according to testimony offered by Logsdon in the Barneses' trial.

During that search, Logsdon produced a large amount of cash and methamphetamine and agreed to inform on other drug dealers, according to that testimony.

McFadden and a different Tulsa police officer, "TPD Officer B," are accused of taking $15,000 and drugs from an individual during a traffic stop, the indictment states.

McFadden was employed as a Lubbock, Texas, police officer before the ATF, said Lubbock Police Capt. Greg Stevens. He became an ATF agent on July 15, 2002, an ATF official said, and resigned from the ATF on Sept. 25, 2009.

Henderson was placed on paid leave by the Tulsa Police Department last week.

Henderson, who has not been charged with a crime, has denied that the Barnes drug buy was fabricated.

Meanwhile, Tulsa County District Attorney Tim Harris has ordered a review of cases in which Henderson has been involved. They could number more than 100, records indicate.

Henderson was hired by the Tulsa Police Department in June 1995 and moved to the Special Investigations Division in August 2005, records show.

Timeline:

Aug. 2, 1999: Brandon McFadden hired by Lubbock (Texas) Police Department

July 5, 2002: McFadden leaves Lubbock police for U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives

July, 15, 2002: McFadden goes to work for ATF in Tulsa

June 25, 2009: Federal prosecutors file a sealed pleading implicating McFadden and undercover Tulsa Police officer Jeff Henderson in a fabricated drug buy in 2007

July 2: Larry Wayne Barnes and Larita Annette Barnes released from federal prison

Sept. 25: McFadden resigns from ATF

Nov. 1: Tulsa World reports on federal grand jury investigating law enforcement corruption

Dec. 6: Tulsa World reports that federal inmates are being questioned about police corruption

March 30: World reports that Henderson and McFadden are implicated in fabricated drug buy

March 31: Henderson placed on paid leave from Tulsa Police Department

April 2: District Attorney Tim Harris orders review of cases involving Henderson

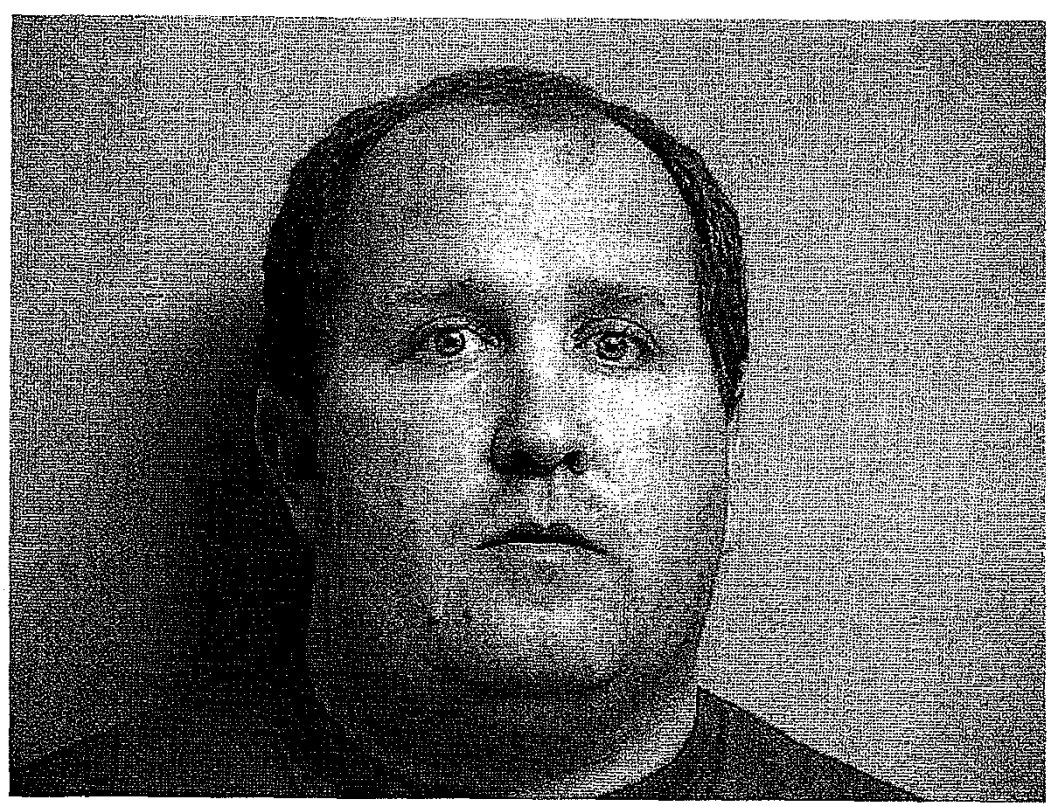
April 8: McFadden arrested by FBI

April 9: Four-count indictment released against McFadden alleges drug crimes, money laundering

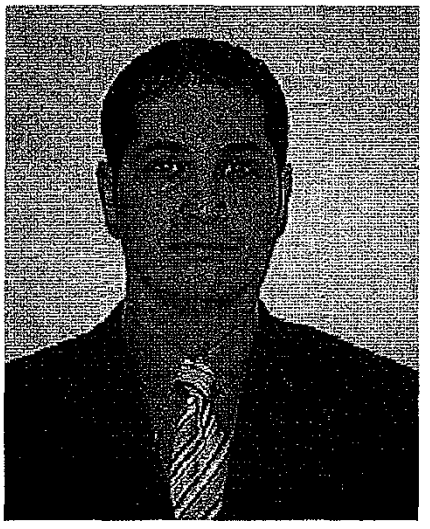
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Associate Images:



INDICTED
Brandon McFadden: The former ATF agent is in the Tulsa Jail at least until a detention hearing on Tuesday.



TPD
Jeff Henderson: The Tulsa officer is on paid leave and has not been charged.

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Ex-agent tied to drug buy jailed

by: OMER GILLHAM World Staff Writer
Friday, April 09, 2010
4/15/2010 2:03:33 PM

Related story: Former Tulsa agent accused of faking drug buy indicted on four counts

A former federal agent who is implicated in a fabricated drug buy was in the Tulsa Jail on Thursday night.

Brandon J. McFadden, a former agent with the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives, was booked into the jail on a hold for U.S. marshals, jail records show.

McFadden, 33, along with Jeff Henderson, an undercover Tulsa police officer, has been implicated in a federal investigation in which prosecutors allege that the pair fabricated a drug buy that sent a Tulsa man and his daughter to federal prison in 2008, records show.

Prosecutors allege that McFadden and Henderson coached a drug informant and fabricated a drug buy on May 8, 2007, according to a federal motion that was unsealed and filed last week in Tulsa County District Court.

An FBI agent arrested McFadden about 7 p.m. Thursday, according to jail records.

McFadden resigned from the ATF about one year ago, an ATF spokesman has said.

Henderson, who has not been charged with a crime, has denied the allegations. His attorney, Zach Smith, has said Henderson and McFadden conducted a proper and legal search in the drug case.

The alleged fabricated drug buy by Henderson and McFadden led to the convictions of Larita Annette Barnes, 33, and Larry Wayne Barnes Sr., 59, on federal drug charges, records show.

The Barneses were released from federal prison July 2 because the informant in the case, Ryan Logsdon, said he lied about the drug buy, the court filing unsealed last week states.

Larry Barnes had served about one year on two 5 1/2-year sentences, which were to run concurrently.

Larita Barnes had served about one year on two concurrent 10-year sentences.

Henderson was put on paid leave by the Tulsa Police Department last week, one day after the Tulsa World reported that the federal pleading had led to the Barneses' July 2 release from federal prison.

Meanwhile, Tulsa County District Attorney Tim Harris has ordered a review of cases in which Henderson has been involved.

There could be more than 100, records indicate.

Harris' office also acknowledges that it was contacted by Jane W. Duke, a special prosecutor looking into alleged law enforcement corruption in Tulsa. Duke is the U.S. attorney for the Eastern District of Arkansas.

Harris stated in a court document that Duke's office could not release any information because of an ongoing investigation by a grand jury.

McFadden is expected to make his initial appearance before a federal magistate today in U.S. District Court in Tulsa, said Neal Kirkpatrick, his attorney.

McFadden went to work as an ATF agent July, 15, 2002, ATF officials said. He worked in Tulsa with the Special Investigations Division of Tulsa Police Department, records show. McFadden resigned from the ATF on Sept. 25, 2009.

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Former Tulsa agent accused of faking drug buy indicted on four counts

by: OMER GILLHAM and DAVID HARPER World Staff Writers
Friday, April 09, 2010
4/9/2010 4:14:47 PM

Document: Read the indictment here.

Related story: Ex-agent tied to drug buy jailed

A former federal agent implicated in a fabricated drug buy in 2007 has been indicted on four counts including drug possession with intent to distribute.

Brandon J. McFadden, 33, a former agent with the Tulsa office of the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives, was booked into the jail Thursday on a hold for U.S. marshals, jail records show.

McFadden pleaded not guilty during a hearing at 2 p.m. today in federal court to four counts that are contained in a newly unsealed indictment.

He is charged with taking part in a drug conspiracy, possession of methamphetamine with intent to distribute; possession of a firearm during a drug trafficking crime, and aiding and abetting money laundering.

He faces forfeiture allegations related to his alleged drug crimes.

U.S. Magistrate Paul Cleary presided over the McFadden appearance in federal court. McFadden faces a detention hearing Tuesday afternoon and will remain in custody until then.

According to the indictment, from July 2002 through approximately September 2009, McFadden regularly investigated potential firearms and drug trafficking offenses with the ATF.

The indictment alleges that beginning in January 2007, and continuing through October 2008, McFadden conspired with other individuals to distribute marijuana, powder cocaine, and methamphetamine in the Northern District of Oklahoma.

As part of that conspiracy, McFadden is alleged to have planted drug evidence on suspects; stolen drugs and money from suspects; and testified falsely in court. The money laundering count charges McFadden with using proceeds of the drug trafficking to purchase a Chevrolet Silverado on June 8, 2007.

The indictment comes from the grand jury overseen by U.S. attorney Jane W. Duke, of the Eastern District of Arkansas. The indictment shows numerous incidences in which McFadden and an unnamed Tulsa police officer allegedly took money and drugs from individuals in return for silence with the agreement that the individual would not be arrested.

In one incident, on Jan., 28, 2007, McFadden and a Tulsa police officer allegedly collected $60,000 in drug money but only turned in about $10,200, the indictment states.

In this incident, McFadden and the Tulsa police officer allegedly planted marijuana at an individual's home and pretended to discover the marijuana while serving a search warrant at the residence.

The drugs allegedly planted by McFadden and the police officer caused the resident to retrieve two pounds of methamphetamine and $60,000 in cash, the indictment states.

The Tulsa police officer who assisted in the incident only reported $10,200 from the search, records show.

An FBI agent arrested McFadden about 7 p.m. Thursday, according to jail records.

Land records show McFadden apparently had lived in Owasso but his arrest report shows a Lubbock, Texas,

address.

McFadden was employed as a Lubbock Police officer in Texas before working for the ATF, said Capt. Greg Stevens, spokesman for Lubbock police.

He was hired by Lubbock police Aug. 2, 1999, and left the police force July 5, 2002, Stevens said.

McFadden went to work as an ATF agent July, 15, 2002, an ATF official said. He investigated drug and weapons crimes in Tulsa and worked with the Special Investigations Division of Tulsa Police Department, court records show.

McFadden resigned from the ATF on Sept. 25, 2009, the ATF said.

McFadden, along with Jeff Henderson, an undercover Tulsa police officer, has been implicated in a federal investigation in which prosecutors allege the pair fabricated a drug buy that sent a Tulsa man and his daughter to federal prison in 2008, records show.

Prosecutors allege that McFadden and Henderson, 37, coached a drug informant for the alleged drug buy that occurred May 8, 2007 in Tulsa, according to a federal motion unsealed and filed last week in Tulsa County District Court.

The detail of the alleged fabricated drug buy is consistent with a public corruption investigation concerning certain Tulsa law enforcement officers, the federal pleading states.

The alleged drug buy led to the convictions of Larita Annette Barnes, 33, and Larry Wayne Barnes Sr., 59, on federal drug charges, records show.

The Barneses were released from federal prison July 2 because the informant in the case, Ryan Logsdon, said he lied about the drug buy, the court filing unsealed last week states, a World investigation shows.

Larry Barnes had served about one year on two 5 1/2-year sentences, which were to run concurrently. Larita Barnes had served about one year on two concurrent 10-year sentences.

Henderson was placed on paid leave by the Tulsa Police Department last week.

Henderson, who has not been charged with a crime, has denied the allegations. Henderson maintains that the Barnes' drug buy occurred and that it was proper and legal.

Meanwhile, Tulsa County District Attorney Tim Harris has ordered a review of cases in which Henderson has been involved. There could be more than 100, records indicate.

Harris' office has been contacted by Duke.

Henderson has worked for the Tulsa Police Department for 14 years. He was assigned to the Special Investigations Division in about 2005.

In 2002, Henderson was suspended for two days without pay for violating police procedures while performing a bar check at a local bar in Tulsa, records show.

Additionally, the World has filed an Open Records Request to obtain the names of several Tulsa police officers subpoenaed by a federal grand jury looking into police corruption.

Deputy Chief Mark McCrory said that the police department received the subpoenas recently and delivered them to the officers.

So far, the grand jury appears to have questioned about 20 federal inmates, the World investigation shows. In October and November, the grand jury summoned 14 current or former federal inmates for testimony, sources said. Inmates previously interviewed by the World say prosecutors are asking questions about fabricated informants, stolen drug money.

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Drug suspect's case in play

by: OMER GILLHAM World Staff Writer
Thursday, April 08, 2010
4/15/2010 2:05:25 PM

Prosecutors want a judge to continue holding a Tulsa man without bail in a drug case despite the fact that two undercover police officers involved in his arrest have been implicated in a fabricated drug buy in a separate case, records show.

Attorneys for Fred Allen Shields Jr. have asked court officials to dismiss his state drug case or grant him a new preliminary hearing.

The attorneys cite claims that a Tulsa police officer and former federal agent lied in a federal drug case that sent a man and his daughter to prison in 2008, Tulsa County District Court records show.

On April 14, 2008, Shields was charged with drug trafficking in Tulsa County District Court, records show. He was convicted of a separate federal drug felony in March 2009, but that conviction was dismissed Feb. 19, records show.

In addition, Shields was convicted of second-degree murder in 1995, court records show. He served four years of a 10-year sentence on that conviction, records show.

The federal case was dismissed because it is connected to a federal grand jury looking into police corruption in Tulsa, according to sources who asked to be anonymous.

The officers who are key witnesses in Shields' state and federal cases are Jeff Henderson, an undercover officer with the Tulsa Police Department's Special Investigations Division, and Brandon McFadden, a former agent with the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives.

In the separate case, the officers are accused of coaching a drug informant and fabricating a drug buy on May 8, 2007, a federal document unsealed last week in Tulsa County District Court alleges.

Outlined in a federal pleading, the alleged fabricated drug purchase led to the convictions of Larita Annette Barnes, 33, and Larry Wayne Barnes Sr., 59, on federal drug charges.

The fabricated drug buy is consistent with a public corruption investigation concerning certain Tulsa law enforcement officers, the pleading states.

The unsealed federal pleading is part of a motion in state court filed by Art Fleak, Shields' co-attorney. Fleak has filed a motion to reseal the motion, records show.

Henderson was put on paid leave last week, one day after the World reported that the federal pleading had led to the Barneses' July 2 release from federal prison.

McFadden resigned from the ATF last year.

Additionally, District Attorney Tim Harris has ordered a review of cases in which Henderson has been involved. There could be more than 100, records indicate.

Fleak filed a motion March 30 to have Shields' state case dismissed since Henderson and McFadden are accused of fabricating a drug buy in the Barneses' case, records show.

Fleak is calling for a new preliminary hearing if District Judge Carlos Chappelle does not dismiss the case.

In response, Harris' office filed a motion Monday asking Chappelle to deny Shields' request because Fleak has presented no legal standing to dismiss the case, said Assistant District Attorney Doug Drummond.

Drummond also is asking that Shields continue to be held without bail, saying sufficient evidence exists to do so without McFadden's or Henderson's involvement.

Additionally, Shields is a person of interest in the shooting death of Tulsa businessman Neal Sweeney, court records show.

Shields has denied involvement in the Sweeney killing, but it appears that the link resulted in his bail being denied Feb. 23 on his state drug case, records show.

Shields' brother, Allen Edward Shields, 33, is also a person of interest in the Sweeney case, records show. Neither of the Shields brothers is charged with Sweeney's killing.

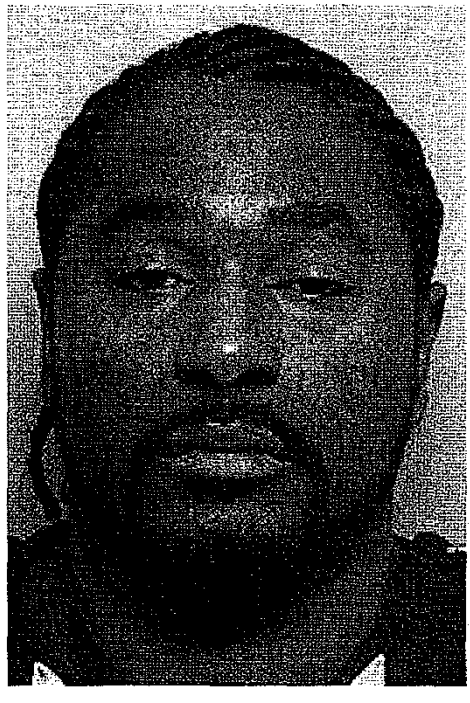
The Barneses' case is believed to be part of the grand jury investigation, as the unsealed motion noted that it is consistent with a public corruption investigation into Tulsa law enforcement officers. Like Shields' federal drug conviction, the Barneses' convictions have been dismissed.

Harris' office also acknowledges that it was contacted by Jane W. Duke, a special prosecutor looking into alleged law enforcement corruption in Tulsa. Duke is the U.S. attorney for the Eastern District of Arkansas.

Harris states in his pleading that he had contacted Duke's office but that she could not release any information due to the ongoing grand jury proceeding.

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Associate Images:



CRIMINAL HISTORY
Fred Allen Shields Jr.: Besides the pending case in which he was charged with drug trafficking, he was convicted of a separate federal drug felony last year, and that conviction was dismissed. He also was found guilty of second-degree murder in 1995 and served four years of a 10-year sentence on that conviction.

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Other officers, inmates to testify

by: OMER GILLHAM World Staff Writer
Sunday, April 04, 2010
4/15/2010 2:13:44 PM

Read the court document unsealed Tuesday.

A federal grand jury looking into law enforcement corruption has issued subpoenas to several Tulsa police officers while also summoning a new group of federal inmates who are expected to testify, the Tulsa World has learned.

Meanwhile, federal prosecutors allege that a Tulsa police officer and a former federal agent fabricated a drug buy that led to the conviction of a Tulsa man and his daughter in 2008, records show.

Prosecutors allege that Jeff Henderson, an undercover officer with TPD's Special Investigations Division, and Brandon McFadden, a former agent with the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives, coached a drug informant and fabricated a drug buy on May 8, 2007, according to a federal document unsealed Tuesday in Tulsa County District Court.

The federal pleading outlines an alleged fabricated drug purchase that led to the convictions of Larita Annette Barnes, 33, and Larry Wayne Barnes Sr., 59, on federal drug charges.

The fabricated drug buy was also consistent with a public corruption investigation concerning certain Tulsa law enforcement officers, the pleading states.

The pleading also called for the release of the Barneses from federal prison.

Mayor Dewey Bartlett said the reputation of the Tulsa Police Department is at stake.

"If there is any semblance of truth to this, and if there is a plurality of officers involved, then this is a huge black eye on the Police Department," Bartlett said.

He said he would be looking to interim Police Chief Chuck Jordan to address questions being raised about the department's Special Investigations Division.

The grand jury is subpoenaing police officers for testimony, according to sources who asked to remain anonymous.

Many of the officers are believed to be in the Special Investigations Division, the sources said.

Henderson was placed on paid leave Thursday, one day after the World reported the allegations about a fabricated drug buy.

District Attorney Tim Harris also has ordered a review of cases in which Henderson has been involved. Records indicate that there could be more than 100.

Harris said his office would be reviewing all cases involving Henderson as a witness or investigator.

That includes pending and current cases in addition to cases involving a plea bargain, guilty plea and jury trial decision.

Through his attorney, Henderson, 37, has denied allegations that he fabricated the Barneses' drug sale with McFadden and drug informant Ryan Logsdon.

Henderson's attorney, Zach Smith, said the drug buy did occur and that Henderson conducted himself in a professional fashion.

Henderson and McFadden are not charged with a crime.

McFadden resigned from the ATF about one year ago, ATF officials said.

The federal grand jury is meeting in secret and is being led by Jane W. Duke, U.S. attorney for the Eastern District of Arkansas.

In addition to subpoenaing police officers, the grand jury appears to be bringing in a second round of federal inmates for testimony, the World investigation shows.

Records show that six to eight federal inmates were transported to an area jail last month. Sources say the inmates are expected to testify before the grand jury.

The inmates are drug offenders who were convicted on a variety of federal and state drug crimes, records show.

So far, the grand jury appears to have questioned about 20 federal inmates, the World investigation shows.

In October and November, the grand jury summoned 14 current or former federal inmates for testimony, sources said.

Inmates previously interviewed by the World say prosecutors are asking questions about fabricated informants, stolen drug money

and tainted search warrants.

Meanwhile, Larry and Larita Barnes were released from federal prison last year because Logsdon said he lied about the drug buy, the court filing unsealed Tuesday states.

The pleading that details Logsdon's recanting of his testimony was filed in the 10th U.S. Circuit Court of Appeals last June 25.

However, the filing remained sealed until last week. A motion has been filed to reseal it, records show.

Before he was released from prison, Larry Barnes had served about one year on two 5

1/2

-year sentences, which were to run concurrently.

Larita Barnes had served about one year on two concurrent 10-year sentences.

In November, the World first reported that the grand jury was investigating possible police corruption.

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Records, defender reveal flaws in case

by: OMER GILLHAM World Staff Writer
Saturday, April 03, 2010
4/15/2010 2:14:24 PM

Jurors who sent Larry Wayne Barnes Sr. and his daughter, Larita Annette Barnes, to federal prison seemed to miss key flaws in evidence presented by law enforcement officers who allegedly staged the Barneses' drug bust in 2007, records show.

The Barneses were freed from federal prison last July 2 because federal prosecutors said they were framed by undercover officers tired of the Barneses getting away with alleged illegal activity, a Tulsa World investigation shows.

Officer Jeff Henderson, an undercover officer with Tulsa Police Department, and Brandon McFadden, a former agent with the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives, allegedly fabricated a 2007 drug buy at the Barneses' home in Tulsa, according to a federal document unsealed this week and filed in state court.

Henderson was placed on leave with pay on Wednesday, pending an investigation into the matter.

Henderson, who has not been charged with a crime, has denied the allegations. His attorney, Zach Smith, has said that Henderson and McFadden conducted a proper and legal search of the Barneses.

McFadden resigned from ATF about one year ago, said Robert Champion, special agent in charge of ATF's Dallas office. McFadden could not be located for comment.

The alleged drug buy that sent the Barneses to prison never happened, federal prosecutors said in the document filed in state court this week. The buy reportedly went like this, according to a transcript of testimony at the Barneses trial in U.S. District Court in Tulsa:

On May 8, 2007, Henderson and McFadden allegedly met an informant at Warehouse Market near Admiral Place and Sheridan Road.

The informant, Ryan Logsdon, was subjected to a routine search for a controlled drug buy, court records show.

During the trial, defense attorneys noted it was odd that Logsdon and his car were allegedly searched at noon on a busy street about one mile from the Barneses home.

After searching Logsdon and his car, Henderson and McFadden testified they reportedly gave Logsdon $3,000 to purchase three ounces of methamphetamine from the Barneses.

McFadden and Henderson reportedly followed Logsdon in his PT Cruiser as he drove to the 7100 block of East Newton Street to the Barneses' home.

Positioned about 250 feet away, the officers allegedly watched as Logsdon approached the front door and knocked. A woman with long hair came onto the porch, which was partially blocked by square pillars and a tree, and invited Logsdon into the house, records show.

The woman was supposedly Larita Barnes, who has convictions on drug offenses, Tulsa County District Court records show.

Logsdon testified in the Barnses' trial that he was greeted by Larry Barnes, who was sitting on a couch with a second daughter, Kelie Barnes.

Logsdon testified he was able to set up the drug buy because he had known Larita Barnes since childhood.

Records show Logsdon began working as an informant after Henderson and McFadden said they found a large amount of methamphetamine in his home during a search on Jan. 23, 2007.

After Logsdon entered the house, the Barneses allegedly sold him three ounces of meth.

Logsdon testified he left the home and met Henderson and McFadden at Warehouse Market to turn over the meth for evidence.

Larry and Larita Barnes were arrested, tried and sent to prison. Before he was released, Larry Barnes served about one year on two 5 1/2-year sentences, which were to run concurrently. Larita Barnes had served about one year on two concurrent 10-year sentences.

All the details of the alleged drug bust and conviction are recorded in testimony in U.S. District Court in Tulsa.

There's only one problem. Prosecutors investigating corruption of Tulsa law enforcement officers said they believe the drug buy never happened.

Logsdon has recanted his testimony, saying that the drug bust was orchestrated by McFadden and Henderson, who wanted to put the Barneses in prison because they were difficult to bring charges against, according to the federal document unsealed in Tulsa County District Court. Art Fleak, the attorney who filed the federal document in a state court case, filed a motion Thursday seeking to re-seal the document, records show.

U.S. Attorney Jane W. Duke from the Eastern District of Arkansas is overseeing the corruption probe of several Tulsa law enforcement officers, records show.

Logsdon told prosecutors that Henderson gave him the methamphetamine which was allegedly used to frame the Barneses, records show. Prosecutors say they corroborated Logsdon's claim with a polygraph test, records show.

Duke's office alleges that Henderson and McFadden allegedly coached Logsdon on the drug bust in anticipation for the trial, court records show.

In her closing arguments in defense of the Barneses, federal public defender Julia O'Connell said that Logsdon was a liar, records show.

Interviewed by the World, O'Connell said the jury seemed to ignore the fact that one of the people supposedly present at the drug buy was actually at work. A restaurant supervisor testified that Kelie Barnes was on the job at noon May 8, 2007, when the alleged buy occurred.

But Logsdon testified Kelie Barnes was sitting on the couch with her father when he walked into the living room.

In her closing arguments, O'Connell said: "Now, your recollection, of course, governs, but I seem to remember and submit to you that Mr. Logsdon said Kelie Barnes was present. That's just a lie. Bottom line, it's a lie. He's not telling the truth."

Additionally, jurors seemed to dismiss the fact that Henderson and McFadden could not provide phone records that could have corroborated the deal between Logsdon and Larita Barnes even though officers had six months to do so, O'Connell said.

McFadden and Henderson not only failed to get records for the Barneses' phone, but they also failed to get records for phones used by Logsdon to set up the alleged drug buy, O'Connell said.

Their reason was that Cricket phone service does not keep phone records past six months, records show.

Finally, the jury seemed to dismiss the fact that McFadden and Henderson failed to produce records of money used for the controlled drug buy, O'Connell said.

"They never produced the form that showed how they allegedly secured or tracked the $3,000," O'Connell said.

O'Connell said McFadden and Henderson also failed to file a search warrant to attempt to recover the money.

"To be honest, I don't believe the $3,000 ever existed," she said.

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DA orders review of officer's work

by: OMER GILLHAM World Staff Writer
Saturday, April 03, 2010
4/15/2010 2:14:04 PM

Tulsa County District Attorney Tim Harris has ordered a review of drug and criminal cases that involved a Tulsa police officer who is implicated in the alleged fabrication of a drug buy, he told the Tulsa World on Friday.

Harris ordered the review Thursday, one day after the World reported details of the investigation. The review could involve more than 100 cases, records indicate.

"I am here to seek truth and justice and be sure justice will be served by seeking the truth," he said.

Federal prosecutors allege that the police officer and a federal agent fabricated a drug buy that led to the conviction of a Tulsa man and his daughter in 2008, records show.

Prosecutors allege that Jeff Henderson, an undercover officer with the Tulsa Police Department's Special Investigations Division, and Brandon McFadden, a former agent with the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives, coached a drug informant and fabricated a drug buy on May 8, 2007, according to a federal motion that was unsealed and filed Tuesday in Tulsa County District Court.

Henderson, a 14-year veteran of the police force, was placed on administrative leave Thursday. McFadden resigned from the ATF about one year ago, an ATF spokesman said.

Henderson, who has not been charged with a crime, has denied the allegations. His attorney, Zach Smith, has said Henderson and McFadden conducted a proper and legal search.

Smith said Harris is only doing his job by calling for a review of Henderson's cases.

"I know Tim, and I expect him to do what he is doing. I don't blame him for being concerned, but I will restate that Mr. Henderson is a dedicated officer who has done nothing wrong."

Records show that Henderson was involved in 119 arrests between March 2006 and March 2009. The figures do not include cases between 2005, when he joined the Special Investigations Division, and March 2006, or cases since March 2009.

In addition to testifying in numerous trials, Henderson has prepared search warrants and conducted surveillance and searches in many cases, records show.

The alleged fabricated drug buy by Henderson and McFadden led to the convictions of Larita Annette Barnes, 33, and Larry Wayne Barnes Sr., 59, on federal drug charges, records show.

Harris said he has ordered his staff to review the current and pending cases in which Henderson was an investigator or witness or was otherwise involved.

"After seeing the motion and its contents, I have ordered the Criminal Information Center to find every case Henderson is a witness or investigator in so we can look at every case in which he was involved in Tulsa County District Court," Harris said.

Harris said perjury on the witness stand is a punishable offense.

"Perjury is a criminal offense, but it has to be proven," he said. "It is one thing to allege perjury, but it is another to prove it."

Harris said compiling and reviewing the cases will take time.

Larry and Larita Barnes were released from federal prison July 2 because the informant in the case, Ryan Logsdon, said he lied about the drug buy, the court filing unsealed Tuesday states.

Larry Barnes had served about one year on two 5 1/2-year sentences, which were to run concurrently. Larita Barnes had served about one year on two concurrent 10-year sentences.

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DA: Cases involving Tulsa undercover officer under review

by: OMER GILLHAM World Staff Writer
Friday, April 02, 2010
4/2/2010 3:53:52 PM

Related stories:
Accused officer put on paid leave
Drug bust fraud alleged

Tulsa County District Attorney Tim Harris told the Tulsa World he has ordered a review of drug and criminal cases involving an undercover Tulsa police officer believed to be under investigation by federal officials.

Harris ordered the review Thursday, one day after the World reported details of the investigation.

Federal prosecutors allege that the Tulsa police officer and a federal agent fabricated a drug bust that led to the conviction of a Tulsa man and his daughter in 2008, records show.

Prosecutors allege that Jeff Henderson, an undercover officer with TPD's Special Investigations Division, and Brandon McFadden, a former agent with the U.S. Bureau of Alcohol, Tobacco and Firearms, coached a drug informant and fabricated a drug buy on May 8, 2007, according to a federal document unsealed Tuesday in Tulsa County District Court.

McFadden resigned from the ATF about one year ago, an ATF spokesman said.

Henderson, who has not been charged with a crime, has denied the claims by prosecutors. His attorney, Zach Smith, has said that Henderson and McFadden conducted a proper and legal search of the Barneses.

Henderson was placed on administrative leave this week after the World reported details of the federal motion naming him.

The unsealed document is part of a federal probe into alleged corruption of Tulsa law enforcement officers, records show.

The alleged fabricated drug bust by Henderson and McFadden led to the convictions of Larita Annette Barnes, 33, and Larry Wayne Barnes Sr., 59, on federal drug charges, records show.

Harris has ordered staff to review the current and pending cases in which Henderson was an investigator, witness or was otherwise involved, he said.

"After seeing the motion and its contents, I have ordered the criminal information center to find every case Henderson is a witness or investigator in so we can look at every case in which he was involved in Tulsa County District Court," Harris said.

"I am here to seek truth and justice and be sure justice will be served by seeking the truth."

Harris said he did not know how many cases could be under reivew.

Harris said that perjury on the witness can be a criminal offense.

"Perjury is a criminal offense but it has to be proven," Harris said. "It is one thing to allege perjury but it is another to prove it."

Larry and Larita Barnes were released from federal prison last year because the drug informant in the case, Ryan Logsdon, said he lied about the drug buy, the court filing unsealed Tuesday states.

The two were released July 2. Larry Barnes had served about one year on two 5 1/2-year sentences, which were to run concurrently. Larita Barnes had served about one year on two concurrent 10-year sentences.

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Accused officer put on paid leave

by: OMER GILLHAM World Staff Writer
Thursday, April 01, 2010
4/15/2010 2:14:46 PM

The Tulsa Police Department placed an undercover officer on administrative leave one day after the Tulsa World reported allegations that he fabricated a drug bust that sent two people to federal prison.

The officer, Jeff Henderson, was placed on leave with pay Wednesday, said Capt. Jonathan Brooks, a police spokesman.

Brooks said the action was based on information the department received from an agency investigating the allegations. Brooks said he could not identify that agency.

The World has reported that Jane W. Duke, the U.S. attorney for eastern Arkansas, is in charge of a federal grand jury investigation of police corruption in Tulsa.

Federal prosecutors allege in a document unsealed Tuesday in Tulsa County District Court that Henderson and Brandon McFadden, a current or former agent in the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives, coached a drug informant and fabricated a drug purchase on May 8, 2007.

The informant is identified as Ryan Logsdon, whom the World could not reach for comment.

Records show Logsdon was convicted of a drug felony in 1998.

Henderson's attorney, Zach Smith, called the claims against his client false.

"Did my client fabricate a drug buy? Absolutely not," Smith said. "He is innocent. He does not deny that a drug buy occurred, but it was proper and legal.

"Mr. Henderson is willing and ready to take a lie detector test today to prove he is telling the truth," Smith said.

Henderson and McFadden have not been charged with a crime.

The 2007 drug bust sent Larita Annette Barnes, 33, and Larry Wayne Barnes Sr., 59, to prison on federal drug charges, records show.

However, the Barneses were released July 2 after serving about one year of their lengthy sentences.

A recently unsealed federal motion details the reason for their release.

The pleading, filed by Duke's office June 25, 2009, in the 10th U.S. Circuit Court of Appeals, details how Henderson, McFadden and Logsdon allegedly orchestrated the arrests. It asks for the release of the Barneses.

Duke's office states in the motion: "The United States has now acquired evidence that the testimony offered at trial by Special Agent McFadden, Officer Henderson and Logsdon was false. It is the United States' belief that the alleged control buy that formed the basis of the indictment (against the Barneses), in fact, did not occur."

Duke's office corroborated Logsdon's story by subjecting him to a lie detector test June 22 in Fort Smith, Ark., the motion states.

"The polygrapher found no indication that Logsdon was being deceptive in response to the questions," it states.

Logsdon told federal officials June 10, 2009 — before he took the lie detector test — that Henderson provided three ounces of methamphetamine to him, the federal motion alleges.

Logsdon said Henderson told him "you bought this from Larry and Larita Barnes," the motion states.

The motion alleges that Henderson told Logsdon that the Barneses were major drug dealers against whom law enforcement officers were having trouble bringing a case.

After Logsdon agreed to help fabricate the drug deal, Henderson and McFadden allegedly spent hours coaching him on his testimony against the Barneses, the motion states.

Smith, Henderson's attorney, said the recanting of testimony by Logsdon is more alleged lies by Logsdon.

"What Ryan Logsdon is saying is that he was given dope by Officer Henderson and that he was told that he bought it from the Barneses," Smith said.

``He is trying to say that Officer Henderson planted it. This is ridiculous."

Smith said Henderson is a longtime police officer who has made Tulsa's streets safer from drug dealers and other lawbreakers.

"He has been an officer for years, and if you would look at how many successful cases he has been involved in, you would see how hard he has worked for citizens," Smith said.

Henderson has been with the Police Department about 14 years. He was assigned to the Special Investigations Division around 2005.

The unsealed federal pleading is part of a motion in state court filed by Art Fleak, an attorney for Fred Allen Shields Jr., who is charged with drug offenses.

Fleak is seeking to have Shields' case dismissed because of McFadden's involvement in it, records show.

Sources who asked to remain anonymous said the Barneses' case appears to have sparked the federal grand jury investigation into claims of stolen money, fabricated informants and tainted search warrants.

In the federal trial, defense attorneys questioned Henderson and McFadden on the methods they used to set up the controlled drug buy at the Barneses' house on East Newton Street.

Henderson and McFadden faced questions on how they documented the $3,000 needed to allegedly buy drugs from the Barneses, court records show.

McFadden testified that the money was provided and documented by the ATF.

Smith said Henderson testified that the Tulsa Police Department was also involved in handling the money and documenting it with the ATF.

McFadden also faced questions regarding the lack of phone records that could have corroborated the alleged drug transaction between Logsdon and the Barneses.

McFadden said that the records were not available because the phone service did not keep records past a certain number of months, court records show.

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Drug bust fraud alleged

by: OMER GILLHAM World Staff Writer
Wednesday, March 31, 2010
4/15/2010 2:20:10 PM

Related story: Tulsa undercover police officer placed on administrative leave

Click here to read the federal document unsealed Tuesday.

Federal prosecutors allege that a Tulsa police officer and a federal agent fabricated a drug bust that led to the conviction of a Tulsa man and his daughter in 2008, records show.

Prosecutors allege that Jeff Henderson, an undercover officer with TPD's Special Investigations Division, and Brandon McFadden, a current or former agent with the U.S. Bureau of Alcohol, Tobacco and Firearms, coached a drug informant and fabricated a drug buy on May 8, 2007, according to a federal document unsealed Tuesday in Tulsa County District Court.

The unsealed document is part of a federal probe into possible corruption of Tulsa law enforcement officers, records show.

The alleged fabricated drug bust by Henderson and McFadden led to the convictions of Larita Annette Barnes, 33, and Larry Wayne Barnes Sr., 59, on federal drug charges, records show.

The Barneses are represented by Tulsa attorney Art Fleak, who said he is prohibited from commenting.

Larry and Larita Barnes were released from federal prison last year because the drug informant in the case, Ryan Logsdon, said he lied about the drug buy, the court filing unsealed Tuesday states.

The two were released July 2. Larry Barnes had served about one year on two 5 1/2-year sentences, which were to run concurrently. Larita Barnes had served about one year on two concurrent 10-year sentences.

Henderson, 37, did not return a call by the World. In a previous interview with the World, he has denied any wrongdoing.

Henderson, who has been with the Police Department about 14 years, was assigned to the Special Investigations Division in 2005.

The World could not locate McFadden for comment. The World submitted a federal Freedom of Information Act request on Nov. 2 to the ATF for the current job status of McFadden, 33.

The ATF said it could not confirm or deny McFadden's status with the agency.

The court filing that details Logsdon recanting his testimony was filed in the 10th U.S. Circuit Court of Appeals on June 25, 2009. However, the filing remained sealed until Tuesday.

The unsealed federal pleading is part of a motion in state court filed by Fleak on behalf of another client, Fred Allen Shields Jr. Fleak is seeking to have Shields' state drug case dismissed due to McFadden's involvement in the case, records show.

The federal motion was filed 10 months ago by U.S. Attorney Jane W. Duke, a special prosecutor in charge of a federal grand jury probe, the World investigation shows.

The Tulsa World first reported on the grand jury's investigation in November.

In the motion, Duke's office states: "The United States has now acquired evidence that the testimony offered at trial by Special Agent McFadden, Officer Henderson and Logsdon was false. It is the United States' belief that the alleged control buy that formed the basis of the indictment (against the Barneses), in fact, did not occur."

Duke's office corroborated Logsdon's story by subjecting him to a lie detector test which was administered June 22 in Fort Smith, Ark, records show.

Questions by federal investigators to Logsdon included:

"Did Henderson and McFadden coach your testimony prior to the Barnes' trial," court documents show.

"Yes," Logsdon answered.

In another question, Logsdon answers "no" when asked if he did a controlled drug buy on May 8, 2007.

On June 10, 2009, before the lie detector test was conducted, Logsdon told federal officials that Henderson provided him with three ounces of methamphetamine, the federal motion alleges. Logsdon said Henderson told him "you bought this from Larry and Larita Barnes," the motion states.

Henderson told Logsdon that the Barneses were major drug dealers whom law enforcement officers were having trouble bringing a case against, the motion alleges.

After Logsdon agreed to help fabricate the drug deal, Henderson and McFadden are accused of spending hours coaching him on his testimony against the Barneses, the motion states.

The motion states that $3,000 was used to facilitate the alleged drug purchase.

Additionally, Duke's filing states: "The information provided by Logsdon has also proven to be consistent with other information developed by law enforcement agents during the course of a public corruption investigation concerning certain Tulsa, Oklahoma, law enforcement officers."

The U.S. Attorney's Office for the Northern District in Tulsa has recused itself from at least one case in the investigation, records show.

The grand jury appears to be continuing its work.

Shields' federal conviction on drug charges was recently dismissed but he is being held on the state drug charge without bond.

Additionally, federal officials appear to be continuing to interview federal inmates expected to testify before the grand jury, the World investigation shows.

Inmates interviewed by the World in December said they were questioned about alleged missing money, nonexistent informants and tainted search warrants.

As first reported by the World on Nov. 1, the grand jury is meeting in a secret location to investigate alleged corruption of several officers assigned to the Tulsa Police Department's Special Investigations Division.

The World has reviewed the arrest and conviction records in two dozen state and federal criminal cases associated with 14 current and former prison inmates who sources say were called before the grand jury to testify in October and November.

The World reported Nov. 8 that a local defense attorney and his client reviewed a photo lineup that included several Tulsa police officers. Not all of the officers in the lineup are believed to be part of the federal probe, sources said.

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Associate Images:

Tulsa undercover police officer placed on administrative leave

by: OMER GILLHAM World Staff Writer
Wednesday, March 31, 2010
3/31/2010 7:15:11 PM

Related story: Drug bust fraud alleged

Document: Click here to read the federal document unsealed Tuesday.

Police officials have placed an undercover officer on administrative leave one day after the Tulsa World reported allegations that the officer fabricated a drug bust that sent two people to federal prison.

Jeff Henderson, an undercover officer with Tulsa Police Department, was placed on leave with pay on Wednesday, said Capt. Jonathan Brooks, police spokesman.

Brooks said Henderson was placed on leave based on information received from an agency investigating the allegations. Brooks said he could not reveal the name of the investigative agency.

As previously reported by the World, U.S. Attorney Jane W. Duke is in charge of a federal grand jury investigation into police corruption in Tulsa.

Federal prosecutors allege that Henderson and Brandon McFadden, a current or former agent with the U.S. Bureau of Alcohol, Tobacco and Firearms, coached a drug informant and fabricated the drug buy May 8, 2007, according to a federal document unsealed Tuesday in Tulsa County District Court.

The informant is identified as Ryan Logsdon, who could not be reached by the World for comment. Records show Logsdon was convicted of a drug felony in 1998.

Henderson's attorney said that the claims against his client are false.

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Smith said that Henderson is a long-time police officer who has made Tulsa's streets safer from drug dealers and lawbreakers.

"He has been an officer for years and if you would look as how many successful cases he has been involved in you would see how hard he has worked for citizens," Smith said.

Henderson, who has been with the Police Department about 14 years, was assigned to the Special Investigations Division in about 2005.

The unsealed federal pleading is part of a motion in state court filed by attorney Art Fleak on behalf of Fred Allen Shields Jr. Fleak is seeking to have Shields' state drug case dismissed due to McFadden's involvement in the case, records show.

The Barnes case appears to have sparked the federal grand jury investigation into claims of stolen money, fabricated informants and tainted search warrants, said sources who asked to remain anonymous.

In the federal trial, defense attorneys questioned Henderson and McFadden on the methods they used to set up the controlled drug buy at the Barneses' house on East Newton Street.

Henderson and McFadden faced questions on how they documented the $3,000 needed to allegedly buy drugs from the Barneses, court records show. The money was provided and documented by the ATF, McFadden said in his testimony.

Henderson said that the Tulsa Police Department was also involved in handling the money and documenting it with the ATF, Smith said.

Additionally, McFadden faced questions on the lack of phone records that could have corroborated the alleged drug transaction between Logsdon and the Barneses.

McFadden said that the records were not available because the phone service did not keep records past a certain number of months, court records show.

Associate Images:

INTER-OFFICE CORRESPONDENCE

TO: Officer Jeff Henderson - UDN

FROM: Ronald Palmer, Chief of Police

DATE: January 16, 2002

SUBJECT: PERSONNEL ORDER 02-05
Suspension

Effective January 22, 2002, you are suspended for two (2) days without pay. You will return to regular duty on January 24, 2002.

This action is taken as a result of your conduct which violates Tulsa Police Department Rules and Regulations 19 and Policies and Procedures 31-103B. Specifically, on July 20, 2001, you conducted an on duty bar check at The Id Bar at 3340 South Peoria Avenue the day following a personal dispute with an employee of the bar. Additionally, you failed to inform your assigned dispatcher that you had cleared from a call and were changing locations to conduct the bar check at The Id Bar.

Rules & Regulations 19—PERSONAL INVOLVEMENT IN QUARRELS AND DISPUTES, which states:

> "Officers shall not effect any personal arrests in their own quarrels, or those of their family or friends. In such cases where officers apply for a warrant, they shall notify the Chief of Police."

Policies & Procedures 31-103B—Radio Communications/Primary Talkgroup Assignments, which states in part:

> "1. If an officer's assignment requires the use of a talkgroup other than the assigned primary talkgroup, notify the assigned primary talkgroup dispatcher."

Any further violations of Rules and Regulations and/or Policies and Procedures of the Tulsa Police Department will lead to more severe disciplinary action, including dismissal.

In accordance with the City of Tulsa/FOP Contract and the Policies and Procedures of the City of Tulsa, you may appeal this action.

RP:lc

cc: Deputy Chief Jackson
Major Steele
Captain Webster
Sergeant Sherman
Order File
Personnel File
Jo Slayton, Human Resources
Larry Simmons, Legal
Charla Wright, Payroll
Internal Affairs

I certify that I served the original of this document to Officer Jeff Henderson on:

011602 / 1805
Date/Time

UNIFORM DIVISION NORTH
Location

Signed by: CAPT. [illegible]

(01-169)

CONFIDENTIAL DOCUMENT – UNAUTHORIZED DISCLOSURE PROHIBITED

INTEROFFICE CORRESPONDENCE

TO: Chief Ronald Palmer

FROM: Sergeant T.M. Evans, Internal Affairs

DATE: December 18, 2000

SUBJECT: Summary report
IA Case 00-199

COMPLAINANT

Lisa Walker; B/F; [redacted] Ms. Walker lives at [redacted] Kansas City, MO 64127. Telephone (816) 920-3096. Ms. Walker has no local record. [redacted]

OFFICERS INVOLVED

1. Officer Jeff Henderson; W/M; [redacted] Henderson began his employment with the City of Tulsa on 060595. He is currently assigned to UDE, 3rd Shift, Edward squad. His chain of command includes Sergeant J. Davis, Captain J. Harris, Major B. York, and DCOP C. Jackson.

2. Sergeant Jeff Davis; W/M; [redacted] Davis began his employment with the City of Tulsa on 031891. He was promoted to Sergeant on 081597. Davis is an FTO Supervisor and a Field Training Supervisor. His chain of command includes Captain J. Harris, Major York, and DCOP C. Jackson.

3. Officer William "Woody" Wolthuis; W/M; [redacted] Wolthuis began his employment with the City of Tulsa on 010499. He is currently assigned to UDE, 3rd Shift, Edward squad. His chain of command

EXHIBIT G

includes Captain J. Harris, Major York, and DCOP C. Jackson.

ORIGIN OF COMPLAINT

Lisa Walker completed a Citizen Complaint Report with Corporal Chris Stout, on October 15, 2000. She alleges she was sprayed unnecessarily with OC, and unnecessarily handcuffed by Officer Jeff Henderson on October 14, 2000, while at the Motel 6 at 1011 S. Garnett Rd. The complaint was forwarded to Chief Ron Palmer, who reviewed the complaint and ordered an investigation. The investigation was set for assignment to Sgt. T.M. Evans, Internal Affairs on October 19, 2000.

WITNESSES

1. Demarco Ladd; B/M; [redacted] Mr. Ladd lives at [redacted] Tulsa, OK 74106. Telephone number [redacted]

1. Jason Hickman; W/M; [redacted] Mr. Hickman is the manager of Motel 6 in Tuscaloosa Alabama. Telephone number [redacted]

2. Tom Evans; W/M; [redacted] Mr. Evans lives at [redacted] Telephone number [redacted]

3. Pete Bennett; W/M; [redacted] Mailing address [redacted] Tulsa, OK 74128.

4. Fred Stevens; W/M; [redacted] Stevens can be reached at 4th Street Auto 1004 E. 4th St., Tulsa, OK 74115. [redacted]

5. Officer Jeff Gatwood, TPD, UDE, 3rd Shift, Edward squad. [redacted]

[redacted]

UNDISPUTED FACTS

On October 14, 2000 at 9:06 pm, Officers Jeff Henderson and Woody Wolthuis were at the Motel 6 at 1011 S. Garnett Rd. The manager of the motel, Jason Hickman, told officers he believed the occupant of Room 124 was selling drugs. Additionally, while gathering information about the occupant of Room 124, Demarco Ladd, Fred Stevens came into the motel office and asked for Ladd.

Henderson, Wolthuis, went to Room 124. Jason Hickman went with Wolthuis and Henderson. Fred Stevens also went to the room and stood near the door with Henderson. Stevens left the area after Ladd's door was knocked on and did not witness any of the events which occurred afterwards. Ladd answered his door. Officers, while standing outside of Ladd's room, observed marijuana and a gun on a table inside. Officers entered the room and arrested Ladd. Officers additionally discovered cocaine and a key to a different motel room.

Ladd was arrested on various felony charges. Jason Hickman determined the key code on the found key checked to room 160. Room 160 was registered to one person, William Sherman. Hickman called room 160 and a female answered the phone. Hickman believed someone other than the registered occupant was in the room and requested that Henderson accompany him to the room to further investigate.

Hickman knocked on the door to Room 160 while Henderson observed. After several unsuccessful attempts to contact the occupant of the room, Officer Henderson began to knock on the door. Henderson announced that he was a Tulsa Police Officer. Eventually, the door to Room 160 was opened, although the security lock was set, which only allowed the door to open partially.

Henderson and Hickman made verbal contact with Lisa Walker, who was inside the room. Neither Hickman nor Henderson was able to see into the room and Walker refused to open the door after being requested to do so.

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Hickman requested that Henderson kick open the door and Henderson made unsuccessful attempts to force entry into the room. Henderson sprayed OC through the crack of the door into Room 160. Lisa Walker opened the door after feeling the effects of OC. Walker was handcuffed and detained.

After being detained for a brief period, Walker was released. The registered occupant of the room, William Sherman was refunded the money for the room at his request and given a gift certificate to stay at another nearby Motel 6.

Henderson notified his sergeant, Jeff Davis, of the incident on October 17, 2000. Henderson submitted a Use of Force Report with regards to the incident on November 7, 2000 through his chain of command.

ISSUES INVESTIGATED

1. Did Officer Jeff Henderson violate Policy and Procedure 31-101 A, Use of Force and 31-101 D, Use of OC Spray by improperly using OC on Lisa Walker on October 14, 2000 and by not completing appropriate reports?

2. Did Officer Jeff Henderson violate Rule 3, Duty to Know, Enforce, and Obey Laws and Ordinances by unlawfully attempting to force entry into Room 160?

3. Did Officer Jeff Henderson violate Rule 8, Duty to be Truthful and Obedient by entering false information into a Probable Cause Affidavit, an offense report and in his Internal Affairs interview?

4. Did Officer William Wolthuis violate Rule 8, Duty to be Truthful and Obedient by giving false information in is Internal Affairs Interview?

5. Did Sergeant Jeff Davis violate Policy and Procedure 31-101D, Use of OC Spray and Rule 2, Duty to Know and Obey Department Rules, Regulations, Policies and Procedures by advising Jeff Henderson not to complete a Use of Force Report with regard to spraying Lisa Walker?

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CONFIDENTIAL DOCUMENT - UNAUTHORIZED DUPLICATION OR PUBLICATION PROHIBITED - PREPARED FOR [redacted]

INVESTIGATIVE DETAILS

LISA WALKER

Lisa Walker states in her Citizen Complaint Report that she was inside of Room 160 and "just got out of the shower" (page 1). Walker states the room was registered to her cousin who had left her alone in the room. She heard the "Police kick in the door" (page 1). Walker states she was told to "open the door" (page 1).

Walker states "I said 'One moment, let me put my clothes on.' I put my jeans on, walked over to the door to undo the second latch because the manager had already unlocked the door" (page 1). Walker states she was trying to undo the security latch when Henderson sprayed her with OC. Walker states "I ran back and grab my face ask again 'what's going on'"? (page 1).

Walker states she managed to open the door after being sprayed and Henderson grabbed and threw her to the bed. Walker states she was handcuffed and told she was under arrest for "obstructing justice" (page 1).

Walker states she was told Demarco Ladd had a key to her room. Walker denies she knew Ladd and states if he had a key to her room it "was by mistake" (page 2). Walker states when she and her cousin, William Sherman, checked in they were initially given the wrong key by the front desk and believes the same mistake could have been made with Ladd.

Walker refers to an unknown Sergeant asking if she wanted to press charges against Ladd for having the key to her room. Walker states she declined to press any charges. Walker states she was eventually released.

NOTE: Lisa Walker has failed to respond to repeated telephone requests for an interview. She was mailed a certified letter on November 7, 2000 requesting an interview and has not responded. Walker retained an attorney in Kansas City, Kevin Regan, [redacted]. Regan has set up appointments for telephone interviews on November 20, 2000 and again on November 29, 2000. Regan cancelled both interviews with this investigator.

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Additionally, Lisa Walker provided witness information with only P.O. boxes for addresses. Witnesses Craig Williams, Lamonte Berry, and William Sherman have failed to respond to certified letters requesting interviews.

DEMARCO LADD

Demarco Ladd states he was in his room at the Motel 6, when he heard a knock at the door. Ladd says he looked out and saw an acquaintance of his, Fred Stevens. Ladd says he noticed police officers outside his door when he opened the door for Stevens.

Ladd says following his arrest, officers found a room key in his pocket. Ladd states Jason Hickman checked the code on the key and determined the key was to Room 160. Ladd says the key was to a motel room at the Motel 6 in west Tulsa. Ladd states he stayed there previously and forgot to return the key when he checked out.

NOTE: The code on the key in question was "G10." This was the key code number to Room 160 on October 14th. Ladd claims to have previously stayed in either room 204 or 206 under a name of "Scotty" at the west Tulsa Motel 6 and the found key was to the West Tulsa room.

The key codes to rooms 204 and 206 were not "G10" at the west Tulsa Motel 6. West Tulsa manager Marsha Elliott advises the code "G10" during that time period checked to room 216. Elliott states all of the west Tulsa "G10" keys were accounted for and none were missing. Looking through registrations for rooms 204, 206, and room 216 at the West Tulsa Motel 6, there was no "Scotty" registered during the time previous to October 14th.

Ladd confirms Hickman and Henderson went to Room 160. Ladd states he saw Hickman "trying to get the key to fit in the door" (page 41), but states the key wouldn't fit. Ladd says after Henderson knocked on the door, he could hear Lisa Walker say "Hold on, I don't have any clothes on" (page 41). Ladd says Walker was not told she was trespassing, but he remembers officers discussing amongst

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themselves that Walker was "trespassing...not supposed to be out here" (page 42) and that Hickman participated in the discussion.

Ladd states he could hear the toilet flushing from inside of Room 160 and that Henderson tried to kick open the door. Ladd states Hickman sent the security guard, Tom Evans, for the bolt cutters when Henderson was unable to kick open the door.

Ladd says he could see the door partially open and saw Henderson spray OC into the room. Ladd says he did not see when the door was opened, but says Henderson brought Walker out of the room and handcuffed her outside.

> NOTE: Ladd says he was unable to see when the door to Room 160 was opened because Jeff Gatwood was standing in front of him, threatening to put a cigar out in my eye" (page 44). Ladd states Gatwood threatened him several times. Gatwood denies the allegation and Pete Bennett confirms Gatwood never threatened Ladd.

Ladd says officers were "saying that I had told them that they were selling drugs, but I didn't even know these people and they didn't know me" (page 44). Ladd says he was taken to UDE and does not know what happened to Walker.

> NOTE: Demarco Ladd waived his preliminary hearing with regards to this arrest and agreed to a plea bargain in lieu of a trial.

FRED STEVENS

Fred Stevens says he went to the Motel 6 to look at a car that Demarco Ladd wanted him to repair. Stevens says he went to the motel lobby to find out which room Ladd was in and was waiting when he noticed Henderson and Wolthuis arrive.

Stevens says upon seeing the police he decided to leave and was stopped by Henderson and Wolthuis. Stevens says "I was accused by the police officer of going to see some guy that sells drugs or something" (page 50). Stevens says he had no knowledge of Ladd selling drugs. Stevens says he had been drinking some and in

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lieu of being arrested for drinking, he agreed to go to Ladd's room and knock on the door for Henderson and Wolthuis.

Stevens says he knocked on the door and walked away as instructed by the officers. Stevens says he does not want to be a part of this investigation or any investigation. He says he has been contacted by Ladd about his criminal case and has refused to help Ladd. Stevens says "I done what I thought was the right thing to do, now I wish I never went over to look at someone's car (page 50).

JASON HICKMAN

Jason Hickman states he believed the occupant of Room 124 was selling drugs and told Henderson and Wolthuis. Hickman confirms during the course of gathering information about Demarco Ladd, Henderson and Wolthuis elicited the assistance of Fred Stevens and Stevens went to the room with Henderson and Wolthuis.

Hickman says Fred Stevens knocked on the door while Henderson and Wolthuis stood beside the door. Hickman says when Ladd answered the door, Henderson and Wolthuis entered the room. Following Ladd's arrest, the key to Room 160 was found in Ladd's pocket.

Jason Hickman states he became concerned that the occupant of Room 124, who had drugs and a gun, would have a key to Room 160. Hickman states Demarco Ladd told him the key belonged to another hotel. Hickman states "I checked the key code. I got the room number to that key code at our motel and the key worked in the door in Room 160" (page 65). Hickman states William Sherman had rented Room 160 for one person. Hickman states he telephoned the room and a female answered the phone. Hickman requested that Officer Henderson accompany him to Room 160 to further investigate.

Hickman states he knocked on the door and "announced myself as management and I needed to speak to the person in the room" (page 53). Hickman states he could tell someone was in the room, but refused to open the door. Hickman states after he made several unsuccessful attempts Henderson eventually tried to make contact. Hickman says Henderson announced "that it was Tulsa Police and that she needed

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to open the door" (page 53). Hickman says Lisa Walker eventually opened the door but had the "security latch put on which causes the door to be opened approximately an inch and a half and no more" (page 53).

Hickman says he could only see partially into the room and momentarily saw Walker inside the room as she looked out the door. Hickman says he and Henderson demanded entry into the room and Walker initially stalled by saying she had been in the shower. Hickman says Henderson told her to put some clothes on and then open the door.

Hickman says, "She continuously refused to open the door. We didn't have the bolt cutters with us. We felt something was going on in the room and per my request I told him [Henderson] I said 'We need to get in the room we don't know what is going on in there'...I told him to attempt to kick the door" (page 55). Hickman says Henderson tried to kick open the door unsuccessfully. Hickman was asked specifically, "Had you ever informed her [Walker] that she was not allowed on the property or that she was trespassing"? (page 60). Hickman responded "No, that is something I don't do until I see who I'm talking to" (page 60). Hickman makes it clear that he told Walker he needed her to open the door but, without question, says he never told her she was trespassing.

NOTE: Hickman insinuates he may have been willing to file trespassing charges if it was determined to be necessary.

Hickman states Walker still refused to open the door, so Henderson sprayed OC into the room through the partially opened door. Hickman says Walker came out of the room a short time later after feeling the effects of the OC. Hickman says he searched the room while Henderson detained Walker outside.

Hickman states during the attempts to enter the room, "there was three black males that came around the corner of the other building, one fitting the description of the person registered in the room and two of the black males went out into the north parking lot. The black male registered to the room, Mr. Sherman, walked up the stairwell and hid around the corner of a building and watched us" (page 56).

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Hickman states he had other duties to attend to and left Walker in the care of Henderson. He states a short time later, Sherman, Walker and the two black males, checked out of the motel at their request. Hickman states he refunded their money and gave them a certificate to stay free at another Motel 6 due to their complaints about the incident. Hickman states he never told Walker she was not welcome on the property.

Hickman says "If I was going to tell them they weren't welcome they wouldn't have got a damn thing from me. And here again that was one of those 'Here, Shut up, Go away.' I knew they were involved in the other things and I'm speaking for myself, not the officers, but I knew they were involved, but I didn't see anything myself and they obviously couldn't prove anything and it was just one of those 'Shut-up, Go away, It is over with' things" (page 65).

TOM EVANS

Tom Evans was working security for Motel 6. He first saw the officers while they were going to Room 124. By the time Evans parked his car and got to where Henderson and Wothuis were, they were already inside Room 124. Evans states he went with officers and Jason Hickman to Room 160.

Evans confirms that Hickman and Henderson both knocked on the door. He states Lisa Walker refused to open the door after "they asked her nicely to 'open the door please we need to talk to you'" (page 69). When asked if Hickman or Henderson ever told Walker she was trespassing, Evans replies "No" (page 70). Evans says he was close to where Hickman and Henderson were and believes he would have heard if Walker were told she was trespassing.

Evans states after Walker refused to open the door and after Henderson tried to push open the door with his shoulder, Hickman sent him to get a bolt cutter. Evans says when he returned with the bolt cutter, Walker was already out of the room and in handcuffs.

Evans confirms that Walker was not arrested. He states she left the motel "on her own free will" (page 71).

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PETE BENNETT

Pete Bennett is the newly hired maintenance man for Motel 6. He remembers "there was a drug bust doing down in number 124" (page 73). He confirms Hickman and Henderson went to Room 160, after finding the key on Demarco Ladd.

Bennett says he stayed a short distance away, with Gatwood and Ladd, "probably 20-25 feet" (page 74) around the corner of the building. Bennett states he doesn't recall anyone telling Lisa Walker she was trespassing. Bennett admits, however, she could have been told that and he just does not remember. Bennett states he could not see what was going on, but heard Henderson try to kick open the door to Room 160 "twice" (page 75).

Bennett says he knew Walker had been sprayed by Henderson, but did not actually see her sprayed. Bennett confirms she showed minimal signs of being affected by OC. Contrary to Demarco Ladd's allegation, Bennett states Jeff Gatwood never threatened to put out a cigar in Ladd's eye.

Bennett says at the conclusion, Walker was released and given a refund. Bennett confirms only Ladd went to jail.

WOODY WOLTHUIS

Officer Woody Wolthuis says he and Henderson were gathering information on Demarco Ladd, to develop their suspicion to conduct a knock and talk. Wolthuis says Fred Stevens was in the motel office inquiring about Demarco Ladd's room. Wolthuis states Fred Stevens agreed to go with them to point out Ladd's room.

> NOTE: Wolthuis says motel manager, Jason Hickman, went with Henderson and him. Wolthuis is unclear as to why Fred Stevens was needed to point out Ladd's room. Although Stevens came to the office to determine which room Ladd was in, Wolthuis says Stevens was able to point out Ladd's room to officers.

Wolthuis says Stevens stood at the door with Henderson, while Henderson knocked.

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Wolthuis concurs that after Ladd answered the door he was arrested and the key to Room 160 was found in Ladd's pocket. Wolthuis states he went to Room 160 with Henderson and Hickman.

Wolthuis states Hickman "knocked on the door a few times and said 'Motel management...motel management' and a female didn't answer the door, she screamed from inside 'Who is it?' 'Motel management'" (page 81). Wolthuis says Hickman continued to knock and he believes the door was opened partially. Wolthuis says two black males, who had been walking towards the room and began to run away, distracted him. Wolthuis states he ran after the males.

Wolthuis says when he returned to the room; Lisa Walker was in handcuffs, outside the room. Wolthuis could tell she had been affected by OC and he could smell traces of OC. Wolthuis says he did not speak with Henderson as to the purpose for using OC. Wolthuis can only assume the use was for safety reasons.

Wolthuis says he transported the original suspect, Ladd to UDE shortly thereafter. Wolthuis says there was not a supervisor present prior to his leaving the Motel 6.

JEFF GATWOOD

Jeff Gatwood states he assisted Jeff Henderson at the Motel 6 by maintaining control of Demarco Ladd following his arrest. Gatwood confirms Henderson and Jason Hickman went to Room 160.

Gatwood states from his position, he was unable to see what occurred at Room 160. Gatwood says he did hear both Hickman and Henderson advise Lisa Walker that she was trespassing and needed to come out of her room.

Gatwood says he came into contact with Walker after she was handcuffed and out of the room. Gatwood says Walker showed minimal signs of exposure to OC.

Gatwood says he asked Walker if she wanted to speak to a supervisor, but she declined after admitting that she was trespassing. Walker told Gatwood, "She understood what had happened and she just wanted to leave and go on about her

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business" (page 92).

JEFF HENDERSON

Officer Jeff Henderson states he received information from Jason Hickman about Demarco Ladd possibly dealing drugs. Henderson says Fred Stevens was in the motel office asking for Demarco Ladd and was detained and interviewed.

Henderson says Stevens "opened up" (page 114) and stated he had come to buy cocaine from Demarco Ladd. Henderson states he, Wolthuis, and Jason Hickman went to Ladd's room and that Stevens also went to point out Ladd's room. Henderson says Stevens did not knock on Ladd's door, but stood near the door when he [Henderson] knocked. Henderson says Stevens was told to leave just prior to Ladd opening the door and that Stevens left the area.

NOTE: Neither the incident report nor the PC Affidavit mentions Fred Stevens. In detailing why officers went to Room 124, there is no mention that they had first hand information that Stevens was there to purchase cocaine from Ladd. Henderson states Stevens was not mentioned in the reports because he left prior to Ladd opening the door and was not a witness to any of the crimes.

Henderson states when Demarco Ladd opened the door to his room the smell of marijuana emanated from the room. Henderson states he could see a bag of marijuana and a pistol in plain view inside of Ladd's room. Henderson says Ladd saw that the police were at the door and made movements towards the marijuana and gun. Henderson states Ladd was arrested and subsequent to the arrest the key to Room 160 was discovered.

Henderson states "I went over to the room with the manager at a little after 9 o'clock. The key fit the door, he [Hickman] knocked on the door, a female inside asked who it was and he advised her that it was management and we needed her to open the door, that she wasn't checked into that room, that at that point he wanted to know why she was there" (page 94). Henderson states the female, Lisa Walker, refused to open the door and made an excuse of having been in the shower and not

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being clothed.

Henderson states Hickman "continued to advise her that at that point she was trespassing and that he was the manager of the property" (page 94). Henderson states Walker refused to open the door even after Hickman "told her several times" (page 96) that she was trespassing. Henderson states "At that point it was a criminal matter. She was trespassing and at that point she was obstructing the instruction of us trying to complete an arrest, execute the arrest for her trespassing on private property" (page 95).

Henderson says Hickman "asked me if I could force entry and try to get in the room basically so he could remove this subject from his property" (page 95). Henderson says he unsuccessfully tried to kick open the door twice. Henderson states he then considered the amount of damage he would cause by kicking the door open.

NOTE: City Attorney, Mike Roming, advises that even with the permission of the hotel manager, the occupants of the room have 4th Amendment Protection. The hotel manager would have the right to force entry into the room, however when the police become involved, it becomes a "police action." Absent exigent circumstances, an officer would not have the authority to force entry without a warrant.

Henderson says, "So I used my OC spray and sprayed one burst into the room towards the bed. Not directly hitting her, not directly contacting her, she was and never once did I intend to spray her. The spray was used more or less as a tool to get her to remove herself from the room." (page 95). Henderson states he was unable to see into the room and did not know if anyone else was inside when he sprayed.

Henderson says from the time Walker first refused to answer the door until he sprayed OC was approximately "five minutes" (page 98). Henderson says Walker opened the door within a minute. Henderson says he grabbed her, handcuffed her, and removed her from the room.

Henderson states he has never been trained to use OC to remove people from rooms.

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Henderson states he was trained to use OC to overcome resistance from an aggressor. Henderson states Walker was not being aggressive, but he believed her to be resistive to his commands for her to exit the room.

Henderson says Walker was eventually released. Henderson says "Using my discretion, the female [Walker] was from Kansas City and she apologized and said that she was in the wrong that she shouldn't have acted the way she did. She didn't know what to do, in her words she didn't know whether to let us in or not. The manager asked her to not come back and advised her that she is not allowed on Motel 6's property anymore" (page 97).

NOTE: Jason Hickman denies banning Lisa Walker from Motel 6.

JEFF DAVIS

Jeff Davis states he was on-duty the night of October 14th, but had no knowledge of the incident at Motel 6 until he came back to work on October 17th. Davis agrees that Henderson's delay in notifying a supervisor does not comply with policy. Davis says, "That part of the policy is not well known" (page 120).

Davis states during his conversation with Henderson on October 17th, Henderson informed him "that there may be a complaint coming down on him" (page 117). Davis says Henderson gave him a brief synopsis of the events from October 14th. Davis says he was told the occupants of Room 160 were associated with Demarco Ladd and that Ladd had been arrested. Davis says, "Officer Henderson indicated that she [Walker] was trespassing. I don't know if this was because of some conversation obviously he had with the motel manager, or she didn't belong there, but the gist of it was that she was going to have to leave and he and the motel manager were both on the same page on that" (page 117).

Davis states he is unsure if Henderson told him of the attempted to force entry, but states "He [Henderson] indicated to me that forced entry wasn't an option" (page 117). Davis says he was informed that Henderson sprayed OC into the room. Davis says "He [Henderson] said he shot a real small burst of OC into the room with the hopes that the nature of the OC being as it is the effects that the only person in there

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would cause them to be uncomfortable enough that they would decide to leave the room of their own volition" (page 117).
Davis says Henderson "inquired if a Use of Force Report would be appropriate and my response to him at the time was 'I'm not sure that is a use of force, per se, as described in policy. Right now hold off on doing one and I'll discuss this with whoever I need to discuss it with, reread the policy, whatever and we will address that issue at another time'" (page 118). Davis says he discussed the incident again with Henderson the day before Henderson's IA interview, which Davis estimated to be approximately a week later.

NOTE: The Use of Force Report was completed twenty days after Davis was notified by Henderson of the event.

Davis states once he realized there was no documentation of the incident and now that IA was investigating, "We decided that it would be best to do a Use of Force Report to document the incident. But I still wasn't and still am not to this day, well I still think the policy is vague enough that it could be opened to interpretation whether or not this was actually a use of force, which would require a report" (page 118).

Davis has taught defensive tactics, which includes the training with OC, at the academy for approximately five years. Davis is aware that OC is considered "intermediate force...calculated to control and overcome...resistance" (page 119). Davis states policy does not address using OC to force someone out of a room and says that tactic is not taught to officers. Davis says, "I think any policy is a guideline and even if you are considering this a use of force, our use of force policy is based on reasonableness, reasonable use of force. But I'm not sure still that the simple fact of subjecting someone to the effects of OC is actually a use of force" (page 120).

NOTE: City Attorney Mike Romig advises that court cases have decided; anytime you use a chemical agent, including OC, with the intent to affect an individual, whether known to you or not, it is considered a use of force.

Davis says there are occasions when OC is used that a Use of Force Report is not

PLAINTIFF'S EXHIBIT

CONFIDENTIAL DOCUMENT - UNAUTHORIZED DUPLICATION PROHIBITED - PREPARED FOR LEGAL PURPOSES

completed, such as accidental exposure to officer or civilian, or spraying an animal. When asked, "Has there ever been another time that you are aware of that we have intended for somebody to feel the effects of OC spray and not done a Use of Force Report"? Davis replies "not that I'm aware of" (page 121). Davis states given the other options, such as kicking open the door, Davis says Henderson's "use of OC was reasonable even if it doesn't technically fall within the policy" (page 121).

Davis says Henderson was requested by the owner of the property to remove a trespasser. "The option to walk away was not an option. This person is going to leave the room" (page 122). Davis says once Walker was removed from the room, Henderson used his discretion "not to place her under arrest" (page 123).

FINDING OF FACT

Did Officer Jeff Henderson violate Policy and Procedure 31-101 A, Use of Force and 31-101 D, Use of OC Spray by improperly using OC on Lisa Walker on October 14, 2000 and by not completing appropriate reports?

It is undisputed that Jeff Henderson, after unsuccessfully attempting to force entry into Room 160, sprayed OC into the room through a partially opened door. It is further undisputed that Henderson intended for Lisa Walker to feel the effects of the OC.

Henderson admits he was never trained to use OC to remove people from rooms. Henderson says he was trained to use OC to overcome resistance from an aggressor. Henderson admits Walker was not aggressive, but believed her to be resistive to commands for her to exit. Henderson had no knowledge of who or how many people were in the room prior to his using OC. Henderson says he never intended to directly spray Walker, but used OC as a tool to "get her to remove herself from the room."

Henderson says he informed a supervisor of his use of OC, three days later. Henderson says he did not complete a Use of Force Report at the direction of Sergeant Davis. Sergeant Jeff Davis concurs with Henderson that there was a delay in completing a Use of Force Report. Davis says he told Henderson to delay

PLAINTIFF'S EXHIBIT 59

CONFIDENTIAL DOCUMENT - UNAUTHORIZED DUPLICATION PROHIBITED - PREPARED FOR LEGAL PURPOSES

reporting the incident, as he was unsure if the use constituted force, which would require a report.

Did Officer Jeff Henderson violate Rule 3, Duty to Know, Enforce, and Obey Laws and Ordinances by unlawfully attempting to force entry into Room 160 on October 14, 2000?

Jeff Henderson says both he and Jason Hickman told Lisa Walker that she was trespassing and she refused to exit the room and leave the property. Henderson says Hickman, who is the motel manager, gave him permission to kick open the door.

Jason Hickman, without question, denies he ever told Lisa Walker she was trespassing. Hickman says since he could not see Walker, he would not have known if she was trespassing or not. Hickman, however, alludes to the fact that he would be willing to file trespassing charges if it were needed. Hickman says after he and Henderson repeatedly told Lisa Walker she needed to open the door, he gave Henderson permission to kick open the door and that Henderson kicked the door, but was unable to force it open.

All witnesses state they never heard Hickman or Henderson tell Lisa Walker she was trespassing except for Jeff Gatwood. Lisa Walker mentions in her Citizen Complaint Report, that she believed to be under arrest for "Obstructing Justice." Demarco Ladd states officers and Jason Hickman discussed amongst themselves that Walker was trespassing, but never told Walker she was trespassing. City Attorney Mike Romig says even if the crime of trespassing were being committed, the occupants of the room have 4th Amendment protection and absent exigent circumstances or a warrant, a police officer would not have authority to forcibly enter the room.

After Lisa Walker came out of the room, she was not arrested or cited for any violation. Jeff Henderson states she was released at his discretion. Jason Hickman says Walker and William Sherman were refunded the money for the room at their request, given a free night stay at another Motel 6 and were not banned from the property.

Did Officer Jeff Henderson violate Rule 8, Duty to be Truthful and Obedient

PLAINTIFF'S EXHIBIT 60

CONFIDENTIAL DOCUMENT – UNAUTHORIZED DISCLOSURE PROHIBITED – PREPARED FOR LEGAL COUNSEL

by entering false information into a Probable Cause Affidavit, an offense report and his Internal Affairs interview?

In Jeff Henderson's Probable Cause Affidavit for Demarco Ladd, he states "Officers went to Room 124" and "Officers knocked on the door" (page 21). In Henderson's IA interview he gave the same account. Henderson never mentions Fred Stevens in any reports. Further, Henderson never mentioned Fred Stevens in his IA interview until this investigator revealed that he knew Fred Stevens was at Room 124 with officers.

Henderson states Stevens admitted that to being at the motel to buy cocaine from Ladd. Henderson says Stevens went with officers merely to point out Ladd's room. Henderson knocked on Ladd's door while Stevens stood near the door. Henderson says before Ladd opened the door, Stevens was told to leave and he complied.

Woody Wolthuis also never mentioned Fred Stevens in his IA interview until this investigator informed Wolthuis of his knowledge of Stevens. Wolthuis then gave a version of events similar to Henderson's. Wolthuis says he and Henderson contacted Stevens in the motel office as he was inquiring about Demarco Ladd's room. Wolthuis says, although Stevens appeared not to know where Ladd's room was, Stevens showed officers which room was Ladd's. Wolthuis gives no reason why Stevens, who was at the motel to buy cocaine from Demarco Ladd, was not mentioned in reports as being part of the reasonable suspicion to go to Ladd's room.

Wolthuis says he saw Henderson knock on Ladd's door while Stevens stood nearby. Wolthuis concurs with Henderson that Stevens walked away prior to Ladd answering the door.

Fred Stevens says he came to the motel to look at a car that Demarco Ladd wanted repaired. Stevens says he did not know which room Ladd was in, which was his reason for being in the office. Stevens says he had been drinking and in lieu of being arrested, agreed to go to knock on the door to Room 124 for Henderson and Wolthuis. Stevens says he was told to knock on the door and walk away, which he did.

CONFIDENTIAL DOCUMENT – UNAUTHORIZED DISCLOSURE PROHIBITED – PREPARED FOR LEGAL COUNSEL

Jason Hickman concurs with Stevens. He states Stevens knocked on the door while Wolthuis and Henderson stood beside the door. Hickman says Henderson and Wolthuis entered the room as soon as Ladd opened the door. Hickman says he stood back some and is unsure of what officers saw that made them enter the room.

Henderson says Stevens was not mentioned in reports because he left before Ladd opened the door, therefore did not witness any of the crimes. Henderson also says he had not obtained enough information from Stevens to list him as a witness prior to Stevens leaving.

Henderson and Wolthuis, both state although Stevens came to the office to determine which room Ladd was in, he was able to point out Ladd's room to them. Both Henderson and Wolthuis admit Jason Hickman, the motel manager, was with them when they went to the room. Additionally, all of the rooms at Motel 6 have the room numbers posted on the doors to identify the individual rooms.

Did Officer Woody Wolthuis violate Rule 8, Duty to be Truthful and Obedient by giving false information in is Internal Affairs Interview?

In Jeff Henderson's Probable Cause Affidavit for Demarco Ladd, he states "Officers went to Room 124" and "Officers knocked on the door" (page 21). In Henderson's IA interview he gave the same account. Henderson never mentions Fred Stevens in any reports. Further, Henderson never mentioned Fred Stevens in his IA interview until this investigator revealed that he knew Fred Stevens was at Room 124 with officers.

Henderson states Stevens admitted that to being at the motel to buy cocaine from Ladd. Henderson says Stevens went with officers merely to point out Ladd's room. Henderson knocked on Ladd's door while Stevens stood near the door. Henderson says before Ladd opened the door, Stevens was told to leave and he complied.

Woody Wolthuis also never mentioned Fred Stevens in his IA interview until this investigator informed Wolthuis of his knowledge of Stevens. Wolthuis then gave a version of events similar to Henderson's. Wolthuis says he and Henderson contacted Stevens in the motel office as he was inquiring about Demarco Ladd's

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room. Wolthuis says, although Stevens appeared not to know where Ladd's room was, Stevens showed officers which room was Ladd's. Wolthuis gives no reason why Stevens, who was at the motel to buy cocaine from Demarco Ladd, was not mentioned in reports as being part of the reasonable suspicion to go to Ladd's room.

Wolthuis says he saw Henderson knock on Ladd's door while Stevens stood nearby. Wolthuis concurs with Henderson that Stevens walked away prior to Ladd answering the door.

Fred Stevens says he came to the motel to look at a car that Demarco Ladd wanted repaired. Stevens says he did not know which room Ladd was in, which was his reason for being in the office. Stevens says he had been drinking and in lieu of being arrested, agreed to go to knock on the door to Room 124 for Henderson and Wolthuis. Stevens says he was told to knock on the door and walk away, which he did.

Jason Hickman concurs with Stevens. He states Stevens knocked on the door while Wolthuis and Henderson stood beside the door. Hickman says Henderson and Wolthuis entered the room as soon as Ladd opened the door. Hickman says he stood back some and is unsure of what officers saw that made them enter the room.

Henderson says Stevens was not mentioned in reports because he left before Ladd opened the door, therefore did not witness any of the crimes. Henderson also says he had not obtained enough information from Stevens to list him as a witness prior to Stevens leaving.

Henderson and Wolthuis, both state although Stevens came to the office to determine which room Ladd was in, he was able to point out Ladd's room to them. Both Henderson and Wolthuis admit Jason Hickman, the motel manager, was with them when they went to the room. Additionally, all of the rooms at Motel 6 have the room numbers posted on the doors to identify the individual rooms.

Did Sergeant Jeff Davis violate Policy and Procedure 31-101D, Use of OC Spray and Rule 2, Duty to Know and Obey Department Rules, Regulations, Policies and Procedures by advising Jeff Henderson not to complete a Use of Force

CONFIDENTIAL DOCUMENT – UNAUTHORIZED DUPLICATION PROHIBITED – PREPARED FOR LEGAL

Report with regard to spraying Lisa Walker?

Sergeant Jeff Davis is a use of force instructor and Henderson's supervisor. Davis says OC is considered intermediate force, but is unsure if Henderson's use of OC constitutes a use of force. While Davis does not deny the use "technically" does not comply with policy, Davis says the policies governing use of force are a guideline based on what is reasonable.

Davis states Henderson told him of the incident three days after the occurrence. Davis admits he told Henderson to "hold off" on completing a Use of Force Report until he could determine if an actual use of force had occurred. Davis says he told Henderson to complete a report for documentation purposes when they met again the day prior to Henderson's IA interview. Henderson's IA interview was 20 days after notifying Davis of the incident.

TME/tme

AFFIDAVIT OF RODNEY FLOYD

STATE OF OKLAHOMA)
) **ss.**
COUNTY OF CLEVELAND)

Before me, the undersigned Notary, on this 9th day of July 2010, personally appeared Rodney Floyd, known to me of lawful age, who being by me first duly sworn, on her oath, deposes and says:

1. My name is Rodney Floyd. I am an investigator for Oklahoma Indigent Defense System. I was assigned to investigate the Clarence Goode Post Conviction appeal.

2. On July 9, 2010, I talked to Stan Moore about his representation of Clarence Goode. I asked Mr. Monroe if he received Internal Affairs reports on Tulsa Police Office Jeff Henderson.

3. Mr. Monroe told me that he does not remember getting any Internal Affairs reports on Officer Henderson. Mr. Monroe said all of his files were turned over and if he did receive those reports they would have been in his file. Mr. Monroe also said that he thinks he would remember any Internal Affairs reports on Mr. Henderson, because he suspected Mr. Henderson of being a bad cop for years and anything on Mr. Henderson would have stood out in his mind.

4. As part of my investigation I go though all of the trial attorneys files. I did not see any Internal Affairs reports in the files from any of the trial attorneys.

FURTHER AFFIANT SAYETH NOT.

Rodney Floyd

Subscribed and sworn to before me this 9th day of July, 2010.

NOTARY PUBLIC

My commission number is: 00014061

My commission expires: 9-11-12

From: Stanley Monroe <sdmonroe.esq@gmail.com>
To: rodney <rodney@oids.state.ok.us>
Date: 7/9/2010 9:15 AM
Subject: Clarance Goode

Rodney,

This is in response to your inquiry whether I was furnished any internal affairs complaints or reports involving TPD Officer Jeff Henderson in discovery. As we discussed, I have been involved in numerous cases for over 10 years where Officer Henderson testified. I have had a clear impression over the years that Officer Henderson is not a credible witness. In spite of my beliefs, Officer Henderson is very adept at testifying - able to look me right in the eye from the witness stand and say something that I firmly believed to be untrue, yet do so without overt signs of lying. Given my long-standing mistrust of Jeff Henderson, I am *certain* that if was furnished any internal affairs documents relating to him, I would remember it very well. I have turned over my entire file to your agency, except a few pages of handwritten notes, including all discovery furnished to the defense.

If you have any other questions, don't hesitate to contact me.

Stan Monroe
(918) 592-1144

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CONFIDENTIAL COMMUNICATION: This email transmission is covered by the Electronic Communications Privacy Act, 18 U.S.C. sec. 2510-2521 and is legally privileged, confidential and protected from disclosure. This message, including any attachments, may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you believe that this message has been sent to you in error, do not read the message; please reply to the sender and then delete the message.

APPENDIX G

Goode v. State, No. PCD-2025-572, Subsequent Application for Post-Conviction Relief (Okla. Crim. App. July 21, 2025)

IN THE OKLAHOMA COURT OF CRIMINAL APPEALS

PCD 2025 572

CLARANCE ROZELL GOODE, JR.,

Petitioner,

-vs-

THE STATE OF OKLAHOMA,

Respondent.

FILED
COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA
JUL 21 2025
JOHN D. HADDEN
CLERK

Tulsa County District Court Case No.:
CF-2005-3904

Direct Appeal Case No.:
D-2008-43

Original Post-Conviction Case No.:
PCD-2008-211

Subsequent Post-Conviction Case Nos.:
PCD-2010-661
PCD-2012-261
PCD-2020-333
PCD-2020-530

SUBSEQUENT APPLICATION FOR POST-CONVICTION RELIEF - DEATH PENALTY -

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First Assistant Federal Public Defender

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July 21, 2025

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PART A: PROCEDURAL HISTORY

Petitioner, Clarance Goode, through undersigned counsel, submits this application for postconviction relief under Section 1089 of Title 22 of the Oklahoma Statutes. This is the sixth application for postconviction relief filed in this case. Pursuant to the Rules of this Court, a copy of each application is attached as part of the simultaneously filed appendix.[1]

The sentences from which relief is sought are: Count I: Death; Count II: Death; Count III: Death; Count IV: 20 years.

1. (a) Court in which sentence was rendered: Tulsa County District Court

   (b) Case Number: CF-2005-3904

2. Date of Sentence: January 7, 2008.

3. Terms of Sentence: Mr. Goode received death on three counts (Counts I, II and III) of first-degree malice aforethought murder.

4. Name of Presiding Judge: Honorable Tom C. Gillert

5. Is Petitioner currently in custody? Yes (X) No ( )

   Where? Oklahoma State Penitentiary

   Does Petitioner have criminal matters pending in other courts? Yes ( ) No (X)

   Does Petitioner have sentences (capital or non-capital) to be served in other states/jurisdictions? Yes ( ) No (X)

I. CAPITAL OFFENSE INFORMATION

6. Petitioner was convicted of the following crime, for which a sentence of death was imposed:

   a. Murder in the First Degree in violation of 21 O.S. Supp. 2005, 2011, § 701.7.

   Aggravating circumstances alleged:

[1]Mr. Goode has not included the attachments to the prior applications for postconviction relief due to their large volume. However, he will make those attachments available to the Court if deemed necessary to the resolution of any issues raised herein.

a. Mr. Goode knowingly created a great risk of death to more than one person; and

b. The existence of a probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society.

The jury found the presence of both the alleged aggravating circumstances.

Mitigating factors listed in jury instructions:

a. Mr. Goode had a secure and healthy attachment with both parents during infancy and early childhood;

b. Mr. Goode lived in the same home from birth to age 18 years;

c. Mr. Goode had only one sibling;

d. Mr. Goode's parents presented good role models, strong work ethic, and strong family ties;

e. Mr. Goode attended Sunday School and church and participated in choir;

f. Mr. Goode has four children who love him. He continues to be in contact with them and their families;

g. Mr. Goode has continued support from his mother, family, girlfriends and mother of his children;

h. Mr. Goode took a leading role in helping his family after his father's death;

i. Mr. Goode was a responsible father to his daughter Marquisha and wants to continue a positive relationship with his children;

j. Mr. Goode was very caring and helpful with seniors in the nursing home where he worked;

k. Mr. Goode was gainfully employed for 5-1/2 years prior to his arrest; and

l. Mr. Goode was 29 years old at the time of the homicides.

Victim impact testimony was presented during the trial's penalty phase.

7. The finding of guilt was made after a plea of not guilty.

8. The finding of guilt was made by a jury.

9. The sentence imposed was recommended by the jury.

II. NON-CAPITAL OFFENSE INFORMATION

10. Mr. Goode was also convicted of one count (Count IV) of first-degree burglary in violation of 21 O.S. 2001, § 1431, after former conviction of a felony. He received a sentence of 20 years imprisonment.

11. The finding of guilt was made after a plea of not guilty.

12. The sentence imposed was recommended by the jury.

III. CASE INFORMATION

13. Trial Counsel:

Larry Edwards	Stanley D. Monroe
601 S. Boulder, Suite 1305	15 West Sixth, Suite 2112
Tulsa, Oklahoma 74119	Tulsa, Oklahoma 74119

14. Counsel were appointed by the court.

15. The conviction and sentence were appealed to the Oklahoma Court of Criminal Appeals.

    Date Brief In Chief filed: February 2, 2009
    Date Response filed: June 11, 2009
    Date Reply Brief filed: July 8, 2009
    Date of Oral Argument (if set): January 12, 2010
    Date of Petition for Rehearing (if appeal has been decided): June 29, 2010 (denied)

    The case was not remanded for an evidentiary hearing.

16. Appellate Counsel:

    James H. Lockard
    Janet Chesley
    Capital Direct Appeals Division
    Oklahoma Indigent Defense System
    PO Box 926
    Norman, Oklahoma 73070-0926

17. Was an opinion written by the appellate court? Yes (X) No ( )

    If "yes," give citations if published:

    Goode v. State, 2010 OK CR 10, 236 P.3d 671.

18. Was further review sought? Yes (X) No ( )

Goode v. State, Case No. PCD-2008-211, Order Denying Application for Post Conviction Relief, (Sept. 7, 2010) (unpub).

Goode v. Oklahoma, 131 S. Ct. 1497 (Feb. 22, 2011) (certiorari denial).

Goode v. State, Case No.: PCD-2010-661, Order Denying Application for Post Conviction Relief, (Sept. 28, 2010) (unpub).

Goode v. Workman, Case No. 11-CV-150 (N.D. Okla. July 11, 2016) (unpub) (denying federal habeas relief).

Goode v. State, Case No.: PCD-2012-261, Order Denying Application for Post Conviction Relief, (May 2, 2012) (unpub).

Goode v. Carpenter, 922 F.3d 1136 (10th Cir. 2019) (denying federal habeas relief).

Goode v. Sharp, 140 S. Ct. 1145 (Feb. 24, 2020) (certiorari denied).

Goode v. State, Case No.: PCD-2020-333, Order Dismissing Successive Application for Post-Conviction Relief and Denying Motion to Hold Successive Application in Abeyance (June 9, 2020).

Goode v. State, Case No.: PCD-2020-530, Order Denying Application for Post Conviction Relief, (Oct. 14, 2021) (unpub).

PART B: GROUNDS FOR RELIEF

19. Has a Motion for Discovery been filed with this application? Yes (X) No ()

20. Has a Motion for Evidentiary Hearing been filed with this application? Yes (X) No ()

21. Have other motions been filed with this application or prior to the filing of this application? Yes () No (X)

22. List Propositions raised (list all sub-propositions):

PROPOSITION ONE

THE STATE WITHHELD MATERIAL IMPEACHMENT EVIDENCE FAVORABLE TO THE DEFENSE WHEN IT FAILED TO DISCLOSE INFORMATION THAT CONTRADICTED THE TESTIMONY OF THE STATE'S STAR WITNESS AND THE STATE'S THEORY OF THE CASE, VIOLATING GOODE'S RIGHT TO DUE PROCESS UNDER THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND ARTICLE II, SECTIONS 7 AND 20 OF THE OKLAHOMA CONSTITUTION.

PROPOSITION TWO

THE STATE KNOWINGLY PRESENTED AND FAILED TO CORRECT FALSE TESTIMONY VIOLATING GOODE'S RIGHT TO DUE PROCESS UNDER THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND ARTICLE II, SECTIONS 7 AND 20 OF THE OKLAHOMA CONSTITUTION.

PROPOSITION THREE

GOODE WAS DEPRIVED OF EFFECTIVE ASSISTANCE OF COUNSEL IN VIOLATION OF THE SIXTH AND FOURTEENTH AMENDMENTS.

PROPOSITION FOUR

THE CUMULATIVE EFFECT OF ALL THE CONSTITUTIONAL ERRORS THAT ACCRUED AT GOODE'S CAPITAL TRIAL AND SENTENCING PROCEEDING RENDER THOSE PROCEEDINGS, AND HIS RESULTING CONVICTIONS AND DEATH SENTENCES, FUNDAMENTALLY UNFAIR AND UNRELIABLE IN VIOLATION OF THE EIGHTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION AND ARTICLE II, SECTIONS 7, 9, AND 20 OF THE OKLAHOMA CONSTITUTION.

PART C: FACTS

References to the record will be made as follows:

1. The seven-volume original record is referred to as O.R. followed by the page number.
2. The nine-volume jury trial transcript is referred to as Tr. followed by the volume and page number.
3. The two-volume preliminary hearing transcript is referred to as PH followed by the volume and page number.
4. Any other facts including the newly discovered evidence will be referred to as App. followed by the page number of the appendix.

A. Introduction

Goode raises claims below based on newly discovered evidence that the Tulsa County Assistant District Attorneys who prosecuted him suppressed favorable and material impeachment evidence to secure his convictions and death sentences in violation of the Due Process guarantees of the Federal and Oklahoma Constitutions. *See* U.S. Const. amend. XIV; Okla. Const. art. II, § 7. This new evidence consists of previously undisclosed police reports, an affidavit from an

undisclosed "confidential informant," and an affidavit and declaration from members of Mr. Goode's trial team. Such evidence reveals that prosecuting attorneys and members of the Owasso Police Department were aware that co-defendant and State's important witness, Ronald Thompson, made inculpatory statements that contradicted his trial testimony and the theory of the State's case. Further, previously undisclosed police reports also indicate that the State failed to disclose potential evidence that could have been used by defense counsel to undermine the credibility of Ronald Thompson and Owasso Police Department Officer Mike Denton.

B. The Forty-Three Days of Family Turmoil that Preceded the Homicides

During the month prior to the homicides in July of 2005, tensions were brewing between two sides of the Thompson family:

Mitch Thompson, Jr. (Mitch) and JR, a.k.a. "Jimmy," Hoffman, Jr. (Hoffman)
- vs -
Christina "Michelle" Thompson-Chastain (Chastain),
Ronald "Bunny" Thompson (Bunny), and Clarance Goode, Jr. (Goode).

Mitch and Chastain were siblings, and Bunny was their paternal cousin. Hoffman grew up with the three of them and was staying with Mitch around the time of the homicides. Chastain and Goode had been romantically involved for over a year. PH I at 138, 140-1, 202.

1. Hoffman Wrecks Chastain's Car

On July 14, 2005, Hoffman borrowed Chastain's 2003 Dodge Neon and while driving under the influence of alcohol and Xanax, crashed into a barrier at a toll booth causing the vehicle to be "totaled." PH I 140, Tr. V 1015, Tr. VII 1407, 1411-12. This event resulted in the arrest of Hoffman and impoundment of Chastain's car. Tr. VII 1407. After paying the impound fee so Chastain's car could be released, Goode found Xanax pills inside the car when he retrieved the

vehicle.[2] Tr. VI 1177-78. Following the incident, Hoffman agreed to make Chastain's car payments until he could afford to pay for the damage to her car to be repaired. PH I 143.

2. Mitch's Violent Assault on Bunny

During the early morning hours of July 26, 2005, around 4 a.m. – exactly one month prior to the homicides – Goode, Bunny, and Hoffman were at the home of Mitch and Chastain's parents, Cherry and Mitch Thompson, Sr. Tr. VI 1179. Bunny and Hoffman were intoxicated and fighting over Hoffman's accusations that Bunny had stolen from him, and Goode punched Hoffman in the mouth for refusing to pay Chastain as promised for badly damaging her vehicle in the July 14th car accident. After Cherry Thompson told Goode to leave, he and Bunny relocated to Chastain's house, and Cherry Thompson and her husband drove Hoffman to Mitch's house because "[she] couldn't handle him" in his intoxicated state. *Id.* at 1179-83.

At approximately 5 a.m., Mitch and Hoffman arrived at Chastain's home brandishing metal baseball bats in pursuit of Bunny, with Mitch exclaiming to Chastain that "[This] doesn't have anything to do with you or [Goode]. It is all for this mother fucker [Bunny] right here." PH I 146-148. The attack was understood to be motivated by Hoffman's false belief that Bunny had stolen his wallet and his suspicion that Bunny had taken his bottle of Xanax. *Id.* at 150-153. Mitch targeted Bunny, striking him with a baseball bat and kicking him repeatedly while he was curled up on the floor. *Id.* at 148-149. The altercation moved outdoors, with Hoffman "graz[ing]" Chastain's arm with a bat and initiating a fight with Goode, *id.* at 149-150, while Mitch continued to kick and hit Bunny while he "[was] curled up trying to protect himself." Tr. V 1022. The violence stopped when Mitch and Chastain's parents arrived. Cherry Thompson later testified to witnessing

[2]To the exclusion of the events imputing motive to Bunny and Chastain, *Infra* at 7-13, this event is at the center of the State's theory of motive against Goode.

"[her] son, [Mitch], whooping [Bunny] in the bushes." Tr. VI 1185. As he was leaving, Mitch threatened, "If you go to the cops, I will kill you and your whole fucking family." App. at 192. Chastain and Bunny did not heed Mitch's warning, and the Tulsa Police Department responded to their call at 5:57 a.m. App. at 188.

Immediately following the attack, Bunny was bleeding and appeared to have injuries to his face, head, and back. PH I 199. Bunny's injuries were so severe that he suffered a broken rib and was transported by ambulance to Saint Francis Hospital where he was admitted for treatment. Tr. V 937, 964, 975. He "lost a week of work because of [the assault]," and returned to the hospital by ambulance on at least four occasions during the following weeks due to seizures that caused him to "urinate[] all over [him]self," that he believed were caused by Mitch's "lethal" assault upon him. App. at 290, Tr. V 975-976. Chastain warned Bunny that he should expect Mitch to cause him additional harm, and Bunny lived in a state of fear, worried about what Mitch might do next. Tr. V 978-979, Tr. VII 1460. Mitch threatened Chastain that if she sided with Bunny, he would "turn [her] in to housing and DHS," among other things. Tr. V 1098.

3. Mitch's Ongoing Sabotage and Chastain's Threats to Get Even

During the weeks following his violent attack of Bunny, Mitch continued to torment Bunny and Goode:

- Mitch called Bunny's place of employment "screaming about his wife being sexually harassed by [Bunny]… and that [he] 'Need[ed] to be fired.'"[3] App. at 088. Bunny was not fired from his job. Tr. V 979-980.

- Mitch tried to get Goode fired from his job by calling his place of employment and reporting that Goode dealt drugs. Goode was not fired from his job. Tr. V 976, 1037, 1081, Tr. VII 1353.

[3]Lori Arion, one of Bunny's managers at Walmart, reported this to the Owasso PD; however, the information was omitted from any produced report. Trial counsel knew of the occurrence only because Arion told their investigator. *See* Declaration of Eric Cullen (Cullen Dec.), App. at 177.

However, as he promised, Mitch's retaliation against his sister was especially relentless:

- Mitch was successful in getting Chastain fired from her job by divulging "several different things," about her to her employer, including her involvement with illegal drugs. Chastain understood that she was terminated because Mitch's call exposed issues that her employer viewed as a threat to their image. Tr. V 976, 1030-1.

- Mitch sought to jeopardize the housing of Chastain and her four children (ages three to eight) by reporting her to the Cherokee Housing Authority for illegal drug activity and having undisclosed inhabitants. PH I 138, 164, Tr. V 1012, Tr. VII 1458.

- Mitch reported to DHS that drugs were being dealt out of Chastain's home, prompting an inspection scheduled for August 26, 2005, to determine "if any illegal substances were in [her] home and how [she] was taking care of [her] boys." Chastain feared "that [she] could have her kids taken from [her]." Tr. V 1030-33, Tr. VII 1466.

- Mitch reported Chastain to DHS for committing welfare fraud, resulting in her eventual arrest (April 2006) and felony charges (Tulsa County Case CF-2006-985, Obtaining Food Stamps by False Representation). Tr. V 1031, Tr. VI 1215-1219. State's Exs. 122, 123.

Chastain spoke to her brother after getting fired from her job but was not able to resolve the conflict between them. Tr. V 1036. She described Mitch's acts as "very upsetting," and said that "[she] wouldn't wish [them] on an animal." Tr. V 1094, 1103. Although she denied doing so, *id.* at 1082, 1092, Bunny testified that Chastain made threats to get even with Mitch. *Id.* at 978. Chastain's former best friend, Penny Avans (Avans), testified that Mitch had "gone too far" by "messing with [Chastain's] kids" and that during the week preceding the homicides Chastain told her, "I'm on my way to Mitch's house, I'm going to burn [it] down." Tr. VII 1459, 1505. Avans testified to accompanying Chastain to the home of Mitch and Chastain's parents and witnessing Chastain tell Cherry Thompson, "Mom, [Mitch is] trying to take my kids away from me, I'm going to kill him." Tr. VII 1458.

Chastain steadfastly denied making any threats against Mitch, and after giving multiple versions of events to law enforcement, went on to become the State's "star witness" against Goode. App. at 142.

4. Tulsa Police Department (TPD) Detective Meulenberg Discourages Filing Charges; Bunny Vows Vigilantism

Bunny and Chastain met with TPD Detective Meulenberg one week after the baseball bat assault, on August 3, 2005, to give written and audio recorded statements. App. at 191-2, 218-267. They shared information with Meulenberg about Bunny's injuries (which he believed caused an increased frequency of seizures) and told him about Mitch's history of violent behavior, including assaults reported in Tahlequah and Tulsa, and a recent rape allegation reported to TPD. Meulenberg was also made aware that Mitch threatened to kill Bunny if he called the police or filed charges. App. at 233, 251-2.

On August 16, 2005, Chastain contacted Meulenberg to request a copy of her witness statement. During their recorded conversation, App. at 269, Chastain mentioned to Meulenberg that Bunny had taken Xanax the night of the assault. Meulenberg was angered by Chastain's decision to "omit [this] major piece of [the] case," and told her not to "jerk [him] around." Confused about why Bunny's sobriety was so critical to filing charges against his assailants, Chastain asked "Did you ask [if he was sober]?" Meulenberg took exception to Chastain's question, responding, "So I need to ask you, 'was he stoned?' Is that a standard question I should ask someone?" The call ended with Meulenberg telling Chastain that her "testimony [was] in question" because she delayed telling him that Bunny had taken Xanax the night that he was beaten by Mitch with a baseball bat. App. at 274.

Following Meulenberg's conversation with Chastain, Bunny called to speak with him. Meulenberg spent a great portion of the recorded 12-minute call badgering Bunny over his ingestion of Xanax, which Meulenberg falsely characterized *seven times* as committing a felony[4]:

> You're admitting to the fact that you're taking an illegal narcotic, **which is a felony**. So you're **admitting to a felony crime**; is that correct?
> …
> So you and Michelle and everybody else are **committing felonies**, right?
> …
> But you're sitting here telling me -- so now you're saying I'm admitting that I was taking Xanax with all these other people, **it's a felony crime**, you took four bars of Xanax --
>
> App. at 283.
>
> …
>
> Ronald, Ronald, Ronald, Ronald, please, quit while you're ahead, man. Please. Just don't -- please don't insult me, man. Just do me that favor. Okay. I'm -- man, I'm willing to help you out with this deal, you know, but man, at this point, it's not looking good for you. Okay. Because what's going to happen is I'll kick this up to the DA and they're going to say, man, he was on four bars of Xanax, unknown milligram, to a prescription that was not his. So he's admitting to doing – he's admitting to **committing a felony** and now he wants to do a report on someone else that he has very little recollection of. You say you remember he hit you, but if you're on four bars of Xanax, that's enough to put someone out. App. at 285.
>
> …
>
> I tell you we're going to lose in court. But I'm willing to put it through, but you have to go before a judge and say, Yes, Your Honor, I was **committing a felony** at the time when this happened, which is fine, if you want to go to court and say I **committed a felony**. This will be court record, too, that you, you know, said, Hey, I was taking four bars of Xanax the night that this happened. Well, do you have a prescription for that Xanax, sir? I mean, Ronald, I'm assuming you don't have a prescription, is that right, Ronald? App. at 286. (emphasis added)

Meulenberg "play[ed] court" with Bunny, playing the role of Mitch's defense attorney cross-examining Bunny to convince him that he shouldn't file charges. Bunny pleaded with Meulenberg:

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[4]Xanax (alprazolam) was then (and remains) a schedule IV drug. 63 Okla. Stat. tit. § 2-210 (2002). Possessing a schedule IV drug without a prescription was then (and remains) a misdemeanor for the first offense (and Bunny had no criminal record). 63 Okla. Stat. tit. § 2-402 (2004).

> [The pills] were just given to me. I mean, it ain't like I bought them. …
>
> … I mean, I'm the victim, you know what I mean?
>
> … I've got copies of my doctors' statements, I got blunt trauma to the head. … it's because of the lethal force[.] … I've got that all in doctors' statements. I've got all my records[.] … I mean, I'm the one that got hit with a baseball bat.

App. at 290.

Meulenberg remained unmoved, and Bunny began to contemplate taking matters into his own hands:

> MEULENBERG: You didn't tell me [about the Xanax] before. So now we got to do a whole 'nother statement. You gotta come down here -- a whole 'nother statement saying "I've been taking pills." So, I mean, what do you want to do? You tell me.
>
> BUNNY: Well, I'll just take it in my end.
>
> MEULENBERG: I mean, what -- is that what you want to do?
>
> BUNNY: **I'll deal with it.**
>
> MEULENBERG: Well, what does that mean?
>
> BUNNY: Nothing. I just said **I'll deal with it. What goes around comes around.**
>
> MEULENBERG: So you want to drop it based on that basis?
>
> BUNNY: On that basis, I guess that's what's gonna happen. I mean, because … **I can't lose my job. I got a family to support**, you know, and it's bad enough that I lost a week of work because of that, you know. And not only that -- and I -- just this morning I went to the hospital and they done brain wave tests on me, they done blood work and stuff like that. I'm not under any other narcotic influence.

App. at 294. (emphasis added)

Meulenberg continued to belabor the issue of Bunny's Xanax use but had no interest in Bunny's injuries sustained during the assault (i.e., he did not review Bunny's medical records), and showed no concern for Bunny's safety (e.g., he did not discuss a protective order). Recognizing

Meulenberg was not going to help him and fearing he might lose his job if he pursued filing charges, 11 minutes and 42 seconds into the 12-minute call, Bunny finally relented:

> MEULENBERG: I'm assuming -- okay, because of this admission and because of the weakening of the case, do you just want to drop it at this point, is that what you're saying?
>
> BUNNY: Yeah. I mean, I'll drop it. I mean, **I'll just take stuff in my own hands.**
>
> MEULENBERG: Okay. I'll go ahead and drop that. I'm not going to -- you know, there's no reason to really do this any further.[5]

App. at 295. (emphasis added)

Ten days later, on the one-month anniversary of Mitch's brutal attack on Bunny, Mitch, Mitch's wife, Tara Burchett-Thompson (Tara), and Tara's ten-year-old daughter, Kayla Burchett (Kayla), were found shot to death in Mitch and Tara's Owasso home. After giving numerous versions of events to law enforcement, Bunny eventually provided the only eye-witness testimony and corroborated evidence crucial to Goode's conviction. There is otherwise no physical evidence that places Goode at the scene.

C. Investigation by the Owasso and Tulsa Police Departments

On the morning of Friday, August 26, 2005, Brenda Smalygo (Smalygo) went to the Owasso home of Mitch and Tara after learning that her granddaughter, ten-year-old Kayla, did not arrive at school and Smalygo's repeated calls to Tara went unanswered. Kayla was being raised by Smalygo and would sometimes not see her mother for two or three weeks at a time, but an impromptu series of events transpired late Thursday evening which led to Kayla spending the night

[5]Meulenberg closed the case as "exceptionally cleared with the victim refusing to cooperate," specifying that "[w]hen [he] told [Bunny] that his credibility would come under attack…he [said] that he wanted to drop all charges and take care of business himself [, and that] …'What comes around, goes around.'" App. at 194. Meulenberg testified for the defense consistent with his report and downplayed the coercive role he played. Tr. VII 1544-1562.

with Tara. PH I 20-23, 25, 28-29. Upon entering the home, Smalygo found Kayla lying lifeless on a floor pallet next to the bed in the master bedroom. Tara's body was on the bed and Mitch's body lay on the floor between the bed and exterior wall. Tr. III 559, 579-84. All three victims had sustained multiple gunshot wounds causing their deaths. Tr. IV 699. Smalygo called 911 at approximately 9:00 a.m. and Owasso Patrol Officer, Sgt. Mike Denton (Denton), was the first to respond to the scene. Tr. III 573, 579-80.

1. Owasso Patrol Officer Sgt. Mike Denton[6]

To the detriment of the Owasso Police Department,[7] in 2005 Denton was known to be "one of the most productive supervisors in the department[,]…consistently [having] more traffic stops, citations, arrests and reports than any other supervisor…[and] more than his subordinates." App. at 144. Denton routinely collaborated with police officers from neighboring jurisdictions, often employing unconventional, at times even reckless, tactics. App. at 132. Further, by 2005 Denton had demonstrated that he was willing to take extreme measures to protect his career and the careers of other police officers. In fact, Denton was terminated for the first time[8] by the Owasso Police

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[6]At the request of Goode's trial counsel, Judge Gillert signed an order for any internal affairs reports related to Denton be turned over to him for review to determine whether there was potential *Brady* material. *See* Aug. 22, 2007 Discovery Status Hrg. at 2-3. Subsequently, Judge Gillert stated that the "personnel file of Mike Denton has apparently been purged….That which is left I have reviewed and there is nothing remarkable, exculpatory or the like, in that." Sept. 7, 2007, Discovery Status Hrg. at 3.

[7]Cpt. Rick DeArmond commented in Denton's 2005-06 review that "the department would be better served if [Denton] was less active and devoted more time to supervising and motivating his subordinates." App. at 144.

[8]As of the date of this filing, Denton has been terminated four times by the Owasso Police Department and reinstated three times per binding arbitration orders in accordance with FOP Collective Bargaining Agreements. App. at 134-40, 145-48, 152-61. Further, Denton's misconduct continued well past Goode's trial. A few examples: In 2014, he was disciplined for using the n-word while at work, App. at 151; he was criminally prosecuted in 2015 for assault and battery with a deadly weapon (*State v. Michael Denton*, Nowata County Case No. CF-2015-126); he was terminated by OPD in January 2025 for shooting and killing his neighbor's dog and lying about it, App. at 154; and most recently in July 2025, he was arrested on a charge of Lewd or Indecent

Department in April 2000 for participating in a "cover-up" by "either los[ing], or intentionally misplac[ing] or destroy[ing]" the booking video that documented a fellow officer assaulting a prisoner (who while handcuffed "was pepper sprayed, struck several times, thrown to the floor, and dragged" for "being verbally disruptive"). During an internal investigation into the matter, Denton stated that the incident was "no big deal" and that he "would do it all over again." He meant it. App. at 136-7.

During the morning of August 26, 2005, Denton was working as a sergeant in the patrol division when he heard a general broadcast that medics were responding to 9707 N. 112th East Avenue in Owasso due to a child not breathing. He responded immediately with plans to begin CPR until the medics arrived. Tr. VII 1443, III 573-6. Instead, however, Denton was the first to arrive at the scene of a triple homicide, Owasso's first homicide in over four years. PH II 1307. From that point forward, patrol Officer Sgt. Denton seemed to play a curiously outsized role[9] "work[ing] hand in hand with Detective [Sonya] DeArmond, maintaining constant communication [with her,]" locating and interviewing "crucial" material witnesses, "submit[ting] a 138-page incident report detailing the investigation," and processing numerous items of evidence. App. at 142.

2. Patrol Officer Sgt. Mike Denton and Chastain, the "State's Star Witness"

Denton's February 2006 performance review highlighted his role as the exclusive law enforcement contact for "the State's star witness," Chastain, whom he made himself "available to [] 24 hours a days, as she felt most comfortable dealing with him[.]" Perhaps the relationship was

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Proposal to a Child. *See* https://www.news9.com/story/686ed461a9207f2be4d07537/sperry-man-former-owasso-police-officer-arrested-and-accused-of-making-lewd-proposal-to-minor (last visited July 17, 2025).

[9]Detectives, not patrol officers, generally conduct witness interviews. Tr. VIII 1586.

established when he "contact[ed] the bereaved …in order to make death notifications," App. at 142, or at the hospital spending time with Chastain's family (sister Gwen, brother-in-law James, and Aunt Sandy)[10] after her father suffered a cardiac event when told of his son's murder. Tr. VII 1535. Unfortunately, the details of Denton's initial contact with Chastain and his interactions with her family are unknown because despite the known family drama imputing motive to Chastain,[11] he generated no reports that mentioned his involvement in making death notifications, his time spent at the hospital, or his conversations with Chastain's family and what they may have reported about her disposition toward Mitch preceding the homicides.[12] For that matter, no Owasso Police Department reports were produced describing any officer's contact with Chastain and Mitch's family.

Chastain's first documented interaction with the Owasso Police Department occurred during the evening hours of August 27, 2005, when she was interviewed by Det. Sonya DeArmond, followed by Denton.[13] By the time of Chastain's interview, DeArmond had a lot of information since Bunny's parents, wife, and sister had already been interviewed, and Bunny's interview at the

[10]On the recording of Chastain's August 27, 2005 interview, the name of her sister, "Gwen," can be heard spoken by Denton or DeArmond at least 25 times (i.e., her presence at the police station, their conversations with her), "James," Gwen's husband, can be understood to be mentioned at least eight times (in the context of their interactions with him), and their conversations with "Aunt Sandy" are mentioned at least 11 times. App. at 297.

[11]DeArmond spoke to Meulenberg and received faxed reports regarding the baseball bat incident on August 26, 2005. App. at 186, 210. Meulenberg provided the recordings of his calls with Chastain and Bunny to the Owasso PD. Tr. VII 1551.

[12]Despite the need to corroborate Chastain's testimony that she never told her family she was going to kill Mitch, Tr. V 1082, 1092, none of them testified to back her up on that claim.

[13]Since Denton "establish[ed] some initial rapport" with Chastain and her family at the hospital on August 26, 2005, the plan was for him to interview Chastain, but DeArmond started the interview since Denton wasn't at the station when Chastain arrived. Tr. VII 1534-36.

Tulsa Police Department was underway.[14] During DeArmond's one-hour and twenty-minute portion of the interview, she told Chastain repeatedly that she "had evidence" of Chastain's advanced knowledge, and Chastain was asked to submit to a polygraph exam. App. at 329-32. Shortly after the suggestion of a polygraph, Denton entered the room, assumed control of the interview, and assured Chastain from the beginning that he believed her and was going to take care of her. App. at 352-54.

On August 30, 2005, Denton re-interviewed Chastain "due to [the] poor audio quality" of the first interview. Denton's Supplement Report No. 24 describes Chastain's statement in the second interview as "the same as on 8/27/05, with the inclusion of more details at [his] request." App. at 208. This was far from true. In fact, despite the poor audio quality, it can be determined there are many discrepancies, the most significant discrepancy being that Chastain never reported that Goode confessed to murdering her brother during the first interview at all, and she actually pointed the finger at Bunny the entire time:

> The first time Chastain divulged what she knew:
> CHASTAIN: "Bunny shot the baby or something, Tara, and Mitch -- I guess -- he -- Bunny was -- please, please don't make me tell nobody." App. at 355.
>
> Later in the interview:
> DENTON: "Who was the one that did the shooting?"
> CHASTAIN: "Bunny." App. at 371.
>
> After the interview concluded (with Det. DeArmond present):
> CHASTAIN (on the phone to her husband): "… he says Bunny is the one that pulled the trigger." App. at 386.

It was not until her second interview with Denton on August 30, 2005, that she named Goode as the one responsible for her brother's death and provided the litany of dramatic details included

[14]Additionally, counsel for Goode believe additional interviews may have taken place on August 27, 2005, that were never produced. App. at. 056.

in Denton's witness summary report. App. at 195. Denton's actions reveal a concerning pattern of behavior, and it is now known that Supplement Report No. 24 is not Denton's only report with omissions or flat-out lies.[15]

D. The "Confidential Informant"

On August 26, 2005, Denton drafted a report documenting his conversation with a "confidential informant." App. at 197. According to this report, Bunny

> made a full confession to C.I. on Friday, August 26, 2005. That Thompson [Bunny] confessed that he accompanied Clarance Goode, and another black male who at the time was unknown to him, to the victim's [sic] house. That he went into the back bedroom area, while Goode & the other male went into the master bedroom. That he heard multiple gunshots, and ran into the master bedroom to discover the victims were murdered.
>
> The C.I was brought to the Owasso Police Department, where a formal interview was conducted, and a detailed statement of Thompson's [Bunny's] confession was given. The C.I. was subsequently re-located to another city for witness protection.

According to discovery receipts, this report was given to the defense on September 29, 2005. O.R. 100.

1. Defense's Attempts to Learn Identity of the "Confidential Informant"

On July 5, 2006, defense counsel filed a Motion for the State to Divulge Confidential Informant. O.R. 191, App. at 481. In its motion, defense counsel argued "even though the proposed statement by the alleged C.I. goes to the defendant, Thompson [Bunny], the proposed testimony would be relevant to defendant, Goode if or when Defendant, Thompson [Bunny] testifies against Goode. The testimony could be possible impeachment testimony against Thompson [Bunny] should he testify concerning any inconsistent statement given to the C.I." O.R. 192. That same

[15]Likewise, defense witness Penny Avans who reported inculpatory information about Chastain to Denton was "shocked" by the information he chose to "include (and exclude)" in his brief report after spending hours talking to him. App. at 183-4. Avans is the only person listed on Owasso PD's Witness(es) Report without a narrative of her statements made to police. App. at 100.

day, defense counsel also filed a Motion for Discovery which included the following request: "Any and all oral, written or recorded statements of any other persons interviewed by the State or its agents which [sic] inconsistent with earlier statements or which are inconsistent with the statement made by another person interviewed by the State or its agents, including law enforcement agencies." O.R. 229.

Because the State still had not disclosed the identity of the confidential informant, at a March 28, 2007, motion hearing, defense counsel re-urged its motion to divulge. App. at 479. The following exchange ensued:

> Defense Counsel: [I]n the discovery and on the Information it lists a person just listed as confidential informant. It shows that that person received information from Ronald Thompson [Bunny] and that that person can be contacted through Sergeant – I'm drawing a blank on his name at the moment – with the Owasso Police Department. Clearly this person has relevant information concerning this crime. We're asking to know who this person is. I think the law is very clear that if a person has relevant information, especially now that we know Ronald Thompson [Bunny] is going to be testifying, it could be inconsistent. We may need to interview this person.
>
> Prosecutor: Judge, this is a person who gave information at the outset, and I will – I think that does rise to the level they need to know that information who that person is. And we'll certainly make that disclosure to them as to any statements made.

Despite the State's assurances that it would disclose the confidential informant's identity, defense counsel was still seeking the identity of the confidential informant at a hearing almost three months later. App. at 476.

> Defense Counsel: We also have issues that – we still have the confidential informant who was named confidential informant. We still need the name for that person . . . .
>
> Court: I do recall and I think that, Mr. Kunzweiler, unless my memory is really gone on me, you acknowledge that

	whoever the confidential informant was, as I recall, was probably also a witness to events and therefore whether they would be called by the State of Oklahoma within the rules of discovery would be discoverable. And so where are we with that?
Prosecutor:	Judge, quite frankly, I'm a little frustrated by that process. Officer Mike Denton – and I've talked with the two detectives who are basically lead detectives. It's Officer Mike Denton's report that reflects that he spoke with the confidential informant. I've had multiple phone calls placed to him. I don't know whether that's because he's an evening shift officer, but I'm probably paying a visit up to the police department.
Court:	I'm sure since we have the lead detective here, he will find that guy and he'll have that information to you for us by next Friday so we don't have to continue this, and if you need to visit with him about that.

There is nothing further in the record, either in transcripts or discovery receipts, to indicate the State divulged the confidential informant's identity to the defense.

2. The Newly Discovered Evidence

As detailed in the affidavit of Angie Beery, App. at 165, undersigned counsel recently discovered the "confidential informant" was Brandy Thompson, Bunny's wife at the time of the crimes. Only by happenstance was such information turned over to Goode's defense team. While attempting to update deteriorating VHS tapes and cassettes in Goode's case, on December 19, 2024, Ms. Beery reached out to Assistant Attorney General Jennifer Crabb to request her permission to request digital copies of recordings in the possession of the Owasso Police Department. Ms. Crabb agreed and requested that Ms. Beery obtain copies for her office as well. App. at 019. On December 20, 2024, Ms. Beery emailed the Owasso Police Department records division requesting copies of digitized recordings for both the Capital Habeas Unit and Attorney General's offices.

On January 30, 2025, the OPD records division responded, stating that two external drives were ready to be picked up. On February 3, 2025, a member of Goode's defense team collected the external drives from OPD and delivered one of the external drives to the Attorney General's office the following day.[16] The drive contained approximately nine gigabytes of data and in addition to audio/visual recordings, included all police reports and documents related to OPD Case Number 2005-1910. Upon receipt of the external hard drive, Ms. Beery and another paralegal began saving the contents and organizing the materials.

During February and March 2025, Ms. Beery's review and organization of the external drive provided by OPD was ongoing. She discovered that some of the documents on the external drive were not produced during discovery (according to discovery receipts in the O.R., indexes of prior counsel's materials, and discussions with prior counsel). These documents revealed information unknown to Goode's present and previous legal teams. App. at 166. Among the documents saved to the external drive not previously produced was Denton's Supplemental Report

[16]The Tulsa County District Attorney's office once directed that any requests by Goode's current legal team for documents needed to go through the Attorney General's Office. App. at 015. AAG Crabb gave her approval for OPD to release of copies of DVDs to Goode's legal team. After OPD released all of its police reports in this case and Goode's defense team recognized discrepancies with what had previously been turned over, AAG Crabb gave her approval to the Tulsa County District Attorney's Office to release specific documents requested by Goode's defense team on February 26, 2025, and again on March 14, 2025, when Goode's team requested more items. App. at 035, 042. The Tulsa County District Attorney's Office has yet to respond to Goode's requests. In response to a follow-up email from Goode's defense team wherein Ms. Beery asked whether District Attorney Kunzweiler will provide specific documents, on May 19, 2025, AAG Crabb stated "I do believe so. I think he is trying to organize files as he has time. I'll keep you updated." App. at 072. Goode's defense team has attempted to follow up on the newly discovered reports provided by OPD with field investigation. After interviewing witnesses named in these newly discovered reports, the Attorney General's Office asked Goode's defense team to refrain from contacting victims' family members, which in this case are also fact witnesses. *See* App. at 058 (email correspondence between undersigned counsel and AAG Crabb).

No. 0087 dated November 19, 2007, that disclosed the "confidential informant's" identity as Brandy L. Thompson.

According to this report, Ms. Thompson's "identity was protected during initial investigation, and subject relocated for witness protection purposes, as suspects in this case were not in custody & subject had information crucial to solving this case & apprehension of perpetrators. As all suspects are in custody and this particular witnesses [sic] potential testimony has been corroborated the need for protection is significantly decreased." This report was dated less than two weeks before Goode's trial commenced and more than two years after Denton interviewed Ms. Thompson, shortly before the three defendants were arrested for these crimes.

Based on the newly acquired Supplemental Report by Denton, members of Goode's defense team located and interviewed Brandy Thompson (now Heisler). On May 21, 2025, Ms. Heisler attested to the following:

> While [Bunny] and I were together August 26, 2005, until the following morning, he spoke to me about the events of the prior evening and his role in the Owasso homicides.
>
> **[Bunny] indicated to me that he was planning to kill JR Hoffman before the evening of the Owasso homicides. He told me that his preplanned intention when he arrived at and entered the home of Mitch and Tara Thompson on the night of the crimes was to kill JR Hoffman in retaliation for being beaten so severely by Mitch Thompson (at Hoffman's behest) on July 26, 2005.**
>
> The morning of August 27, 2005, I had to work and was employed at the Walmart in Owasso. . . . I was asked by my manager to go to the back of the store. I complied and met with Owasso Police Officer Mike Denton who was waiting to speak with me. **Officer Denton asked if I knew anything about the homicides and I responded in the affirmative, sharing without hesitation or any request for confidentiality what [Bunny] had told me – which included that [Bunny] had the intention to kill JR Hoffman prior to entering the home of Mitch and Tara Thompson the night of the homicides. Officer Denton seemed surprised by the amount of information I volunteered, and I remember him saying "Oh shit, I gotta take you to the station."**

> Officer Denton transported me to the Owasso police station for an interview. I remember riding in the front seat of his unmarked vehicle, that Officer Denton was driving fast, and that he was talking to me about the status of the investigation. I remember being emotionally affected when he spoke about Kayla's body being carried out of the home.
>
> [Bunny's] sister, Tressa Beasley, and I were frightened for our safety because we had both spoken to police about the case. Officer Denton arranged for both of us to stay at a hotel under police surveillance and served as our main point of contact with the Owasso Police Department until all suspects were arrested . . ., which was no longer than 3 days.
>
> Following the arrest of the three men, I returned home and no longer felt the need for police protection and did not request, nor did I ask for statements to police to be kept confidential.
>
> I was never interviewed again by the police or the prosecution and was never asked to testify. If asked to testify, I would have testified consistently with the information I reported to Officer Denton.
>
> I was not aware that I was considered a confidential informant during the investigation and only learned of this recently from Goode's legal team after they received a police report naming me as the confidential informant.

App. at 169-70. (emphasis added). Despite that Ms. Thompson affirmed she was interviewed extensively by Denton, to date no report documenting such interview has been turned over to any defense team of Goode's.[17]

After interviewing Ms. Thompson (now Heisler) and securing her affidavit, Goode's current legal team followed up with his trial team. On July 3, 2025, Stanley Monroe,[18] who has practiced criminal defense for over 46 years, swore to the following:

> I know that we made attempts to learn the identity of the C.I., but do not recall how the issue was resolved. However, I have no doubt that if we had learned Brandy

[17]In response to questioning about whether Denton told the jury the full details about an interview of a defense witness, Denton stated "like I said, whatever she said I would have written down in the report and documented." Tr. VIII at 1591. Following this logic, one would assume Denton wrote a detailed report about his interview of a "confidential informant."

[18]Goode's other trial counsel, Larry Edwards, recently died. *See* https://www.newson6.com/story/6822115299db16123b66909f/muskogee-county-district-attorney-larry-edwards-found-dead

> Thompson was the confidential informant, we would've had our investigator, Eric Cullen, interview her. To my knowledge that never happened.

App. at 174.

In a July 9, 2025 declaration, trial investigator Eric Cullen confirmed Mr. Monroe's affidavit. Cullen, who has been a licensed private investigator since 2005 and has worked on several high-profile Tulsa County wrongful conviction cases, attested: "I never interviewed Brandy Thompson, but had I been informed that she was a prosecution witness or the confidential informant, I would have made every effort to locate and interview her." App. at 176.

Further, as Ms. Beery's affidavit, App. at 166, and the documents at Appendix pages 076-82 make clear, the external hard drives provided by the OPD included even more reports that were never before provided to the defense. The following are examples of such reports:

- An October 10, 2005 OPD Supplemental Report written by Detective Sonya DeArmond includes reference to witness statements given by Jennifer and Kirby Bickel, whose names otherwise appear nowhere in the record. App. at 104. According to Jennifer Bickel, Tara Burchett-Thompson told her "J.R. [Hoffman] had been staying at their house. . . . and wanted to move in but Tara always said no," and Bunny was "bad news." App. at 105. Trial investigator Cullen confirms "[h]ad I known Kirby and Jennifer Bickel and the information they reported to the [OPD], I would have attempted to interview them." App. at 178.

- OPD Supplemental Reports 85 and 86, App. at 110-122, which include a November 8, 2007 BATF Firearms Trace urgent request related to Bunny's 9mm firearm (based on an empty gun box found in his car) and Trace Results from November 13, 2007. These reports predate Goode's trial by only three weeks. Such reports may indicate that OPD never ruled out Bunny's 9mm as a potential murder weapon and its whereabouts were unknown. Trial Investigator Cullen confirms that "[n]o reports were ever produced that documented the efforts by law enforcement to rule out Bunny's 9mm from the empty box as one of the firearms used in the homicide." App. at 181.

- The OPD Full Report Witness Section indicates that on September 7, 2005, Lori Arion, who was a manager at the Owasso Wal-Mart, reported to OPD that "3 weeks prior to the murders, she received a call from an irate male screaming about his wife being sexually harassed by Thompson. That the male would not give particulars other than his wife is Thompson's cousin, and that Thompson 'Needs to be fired.'" App. at 088.

At a minimum, these documents demonstrate a disturbing pattern of the Tulsa County District Attorney's Office withholding reports that undermined the credibility of key State's witnesses. Based on the information contained in the new materials received, and with the approval and inclusion of Assistant Attorney General Jennifer Crabb, Ms. Beery has made follow-up requests for records from various agencies. The full list of new reports received, their relevance, and attempts made to collect additional records relevant to the new information gleaned from the recently received reports are documented and appended hereto at App. at 076.

E. Tulsa County District Attorney's Pattern of Misconduct in This Case

This is not the first time Goode has raised a claim alleging the State withheld critical impeachment evidence. In July of 2010, Goode filed a Second Application for Post-Conviction Relief, alleging the Tulsa County District Attorney's Office withheld material impeachment evidence with respect to disgraced Tulsa Police Department officer and convicted felon Jeff Henderson. App. at 550-554. Called by the prosecution to corroborate co-defendant Bunny Thompson's testimony, Henderson testified to finding a bullet and shell casings introduced during Goode's trial. Tr. IV 836. As Goode alleged in his second postconviction application, prosecutors failed to turn over to the defense documents predating Goode's trial showing Henderson was the target of an internal affairs investigation for multiple allegations of police misconduct. In July of 2010, Henderson was charged in a 62-count federal indictment, accusing him of falsifying search warrants, committing perjury, and engaging in witness tampering. Ultimately a federal jury convicted Henderson of six counts of perjury and two counts of violating a person's civil rights. *See United States v. Henderson,* 564 F. App'x 352, 354 (10th Cir. 2014).

This Court denied Goode's subsequent application for post-conviction relief, finding "if Henderson's testimony had been completely impeached, or if the evidence [testified to by

Henderson] had been excluded at trial, the outcome of this trial would have been the same." App. at 722-723. Subsequently, the Tenth Circuit Court of Appeals found "[t]he parties interpret the OCCA's decision as denying relief under the materiality prong of *Brady*, as do we." *Goode v. Carpenter*, 922 F.3d 1136, 1153 (10th Cir. 2019).

PART D: ARGUMENTS AND AUTHORITIES[19]

PROPOSITION ONE

THE STATE WITHHELD MATERIAL IMPEACHMENT EVIDENCE FAVORABLE TO THE DEFENSE WHEN IT FAILED TO DISCLOSE INFORMATION THAT CONTRADICTED THE TESTIMONY OF THE STATE'S STAR WITNESS AND THE STATE'S THEORY OF THE CASE, VIOLATING GOODE'S RIGHT TO DUE PROCESS UNDER THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND ARTICLE II, SECTIONS 7 AND 20 OF THE OKLAHOMA CONSTITUTION.

A. Due Process Requires Prosecutors to Disclose Evidence Favorable to the Accused and Material to Guilt or Punishment.

A fundamental premise of American justice is that "[s]ociety wins not only when the guilty are convicted but when criminal trials are fair; our system of the administration of justice suffers when any accused is treated unfairly." *Brady v. Maryland*, 373 U.S. 83, 87 (1963). As the "architect[s] of a proceeding," prosecutors must disclose the accused evidence favorable to the defense and "material either to guilt or to punishment." *Id.* at 87-88. This duty encompasses disclosing evidence known to others acting on the State's behalf, including law enforcement officers. *Kyles v. Whitley*, 514 U.S. 419, 437 (1995). Favorable evidence "includ[es] evidence that would impeach the credibility of the State's witnesses." *Harris v. State*, 2019 OK CR 22, ¶ 38, 450 P.3d 933, 950; *Giglio v. United States*, 405 U.S. 150, 154 (1972) ("When the reliability of a given witness may well be determinative of guilt or innocence, nondisclosure of evidence affecting that credibility falls within this general rule." (internal quotation marks omitted)); *United States v. Bagley*, 473 U.S. 667, 676-77 (1985) ("This Court has rejected any such distinction between impeachment evidence and exculpatory evidence.").

[19]In compliance with Rule 9.7(A)(4), this Section of the Application does not exceed 50 pages.

To establish a *Brady* violation, a defendant must demonstrate that "the evidence had exculpatory or impeachment value, and that it was material, such that there is a reasonable probability that its omission affected the outcome of the proceeding." *Harris*, 2019 OK CR 22, ¶ 38, 450 P.3d at 950. Importantly, the materiality standard under *Brady* is *not* outcome determinative. "[A] showing of materiality does not require demonstration by a preponderance that disclosure of the suppressed evidence would have resulted ultimately in the defendant's acquittal (whether based on the presence of reasonable doubt or acceptance of an explanation for the crime that does not implicate the defendant)." *Kyles*, 514 U.S. at 434. Rather, the inquiry is "whether, absent the non-disclosed information, the defendant received a fair trial resulting in a verdict worthy of confidence." *Harris*, 2019 OK CR 22, ¶ 38, 450 P.3d at 950; *Kyles*, 514 U.S. at 434 ("A 'reasonable probability' of a different result is accordingly shown when the government's evidentiary suppression 'undermines confidence in the outcome of the trial.'" (quoting *Bagley*, 473 U.S. at 678)).

Nor is *Brady*'s materiality standard "a sufficiency of the evidence test." *Kyles*, 514 U.S. at 434. That means "[a] defendant need not demonstrate that after discounting the inculpatory evidence in light of the undisclosed evidence, there would not have been enough left to convict." *Id.* 434-35. Rather, a defendant must "show[ ] that the favorable evidence could reasonably be taken to put the whole case in such a different light as to undermine confidence in the verdict." *Id.* at 435. Further, when assessing materiality, a court must consider the cumulative effect of *all* suppressed evidence favorable to the defendant, rather than considering each item of evidence individually. *Id.* at 436-37.

Here, the newly discovered evidence suppressed by the State, including Denton's report identifying Brandy Thompson (now Heisler) as the "confidential informant" and the information

about Bunny's intention to kill Hoffman provided to Officer Denton by Brandy Thompson (now Heisler), as well as police reports that undermined key witnesses' credibility, meets all three of *Brady*'s criteria. *See Brown v. State*, 2018 OK CR 3, ¶ 104, 422 P.3d 155, 175 (noting a *Brady* claim requires a defendant to show that "the evidence was: 1) suppressed by the prosecution, 2) favorable to the accused, and 3) material as to guilt or punishment[,]" and recognizing that "evidence favorable to an accused includes impeachment . . . evidence").

B. The State Suppressed Evidence Favorable to the Defense Which Would Have Impeached Key Witnesses.

1. The State Suppressed the Identity of and Information Provided by a "Confidential Informant" to Law Enforcement, in Addition to Other Law Enforcement Reports.

Despite Goode's trial counsel's repeated requests for the State to divulge the identity of the "confidential informant," there is nothing in the record indicating Tulsa County prosecutors disclosed to the defense, to Judge Gillert, or to the jury that Denton designated Brandy Thompson (now Heisler) as a "confidential informant" and that she informed Denton that Bunny had confessed to her he had planned to kill Hoffman upon entering the home of Mitch and Tara Thompson on the night of August 25, 2005. The nondisclosure of that information amounts to a textbook case of suppression. *Brady*, 373 U.S. at 87; *Brown*, 2018 OK CR 3, ¶¶ 102-04, 422 P.3d at 175.

Not until earlier this year when the OPD provided all reports on an external hard drive in response to a request for digitized versions of recorded interviews was defense counsel finally provided Denton's Supplemental Report dated November 19, 2007, disclosing the "confidential informant's" identity as Brandy L. Thompson. App. at 130. Then, on May 21, 2025, Brandy Thompson (now Heisler), provided previously undisclosed evidence that Bunny had confessed to her that "he was planning to kill Hoffman before the evening of the Owasso homicides" and that

"his preplanned intention when he arrived at and entered the home of Mitch and Tara Thompson on the night of the crimes was to kill Hoffman in retaliation for being beaten so severely. . . ." App. at 169-70. Further, Ms. Thompson (now Heisler) provided the previously undisclosed evidence regarding her statement to Denton about the same:

> Officer Denton asked if I knew anything about the homicides and I responded in the affirmative, sharing without hesitation or any request for confidentiality what Ronald told me – which included that Ronald had the intention to kill JR Hoffman prior to entering the home of Mitch and Tara Thompson the night of the homicides. Officer Denton seemed surprised by the amount of information I volunteered, and I remember him saying, "Oh shit, I gotta take you to the station."

App. at 169-70.

Denton's designation of Brandy Thompson (now Heisler) as a "confidential informant" is atypical[20] and appears to be a ruse to conceal her identity so that she could not be interviewed by the defense. According to Denton's newly discovered Supplemental Report, App. at 130, he classified Ms. Thompson (now Heisler) as a "confidential informant" for "witness protection purposes, as suspects in this case were not in custody & subject had information crucial to solving this case & apprehension of perpetrators." By this precise logic, witness Tressa Beasley should have also been classified as a "confidential informant," but she was not. As Ms. Heisler makes clear in her affidavit, "Tressa Beasley and I were frightened for our safety because we had both spoken to police about the case. Officer Denton arranged for both of us to stay at a hotel under police surveillance and served as our sole point of contact with the [OPD] until all suspects were arrested." App. at 169-70. Presumably, Ms. Beasley did not report the same critical impeachment

[20]Denton's designation of Brandy Thompson as a confidential informant is completely at odds with current Owasso Police Department Policy No. 603 (and every prior policy still on file with OPD) pertaining to confidential informants. *See* App. at 417. (defining an informant as a "person who covertly interacts with other individuals or suspects at the direction or request of, or by agreement with the [OPD] . . . for a benefit," and requiring "before using an individual as an informant, an officer must receive approval from their supervisor.").

evidence to Denton; hence, there was no need to protect her identity by classifying her as a "confidential informant."

Further, as set forth in Ms. Beery's affidavit, App. at 166-67, the prosecution also withheld other law enforcement reports that undermined Bunny's and law enforcement's credibility. *See* App. at 076 (chart and supporting newly disclosed law enforcement reports). These reports and the newly discovered evidence regarding "confidential informant" Brandy Thompson (now Heisler), taken together, demonstrate the State's efforts to sanitize Bunny's and Denton's credibility by suppressing evidence.

2. The Suppressed Evidence Is Favorable to Goode's Defense.

Had the evidence related to the "confidential informant," including her identity and the information she provided to Denton, as well as the law enforcement reports that undermined Bunny's and Denton's credibility not been suppressed, Goode's "defense might have used [that] information to impeach Bunny and Denton "by showing bias or interest." *Bagley*, 473 U.S. at 676. "Such evidence is evidence favorable to an accused, so that if disclosed and used effectively, it may make the difference between conviction and acquittal." *Id.; see also Napue v. Illinois*, 360 U.S. 264, 269 (1959) ("The jury's estimate of the truthfulness and reliability of a given witness may well be determinative of guilt or innocence, and it is upon such subtle factors as the possible interest of the witness in testifying falsely that a defendant's life or liberty may depend."). Simply put, "evidence is favorable if it is . . . impeaching." *Browning v. Trammell*, 717 F.3d 1092, 1105 (10th Cir. 2013).

Bunny's trial testimony reveals that he easily could have been impeached by the information Brandy Thompson (now Heisler) provided to Denton:

Monroe: Now, you told the jury on direct examination that you came in and you went to the left and these other two guys went to the right; correct?

Thompson:	Yes sir.
Monroe:	You went to J.R.'s room looking for him, huh?
Thompson:	I didn't make it to the - -
Monroe:	Excuse me, let me rephrase. You went to the room where you thought J.R. was going to be; right?
Thompson:	Yes, sir.
Monroe:	And you had that gun in your hand; right?
Thompson:	Yes, sir.
Monroe:	And you were going there to shoot J.R.; weren't you?
Thompson:	No, sir.
Monroe:	Well, J.R. was the one that had beaten you with a baseball bat a month before; right?
Thompson :	No, sir. It was Mitch.
Monroe:	Mitch was the one?
Thompson:	Yeah.
Monroe:	J.R. started it all?
Thompson:	Yes, sir.
Monroe:	Didn't you want to get even with J.R. too?
Thompson:	No, not really.

Tr. V at 983-84.

Further, trial counsel could have used the suppressed impeachment evidence to dispel that Bunny was an unwitting and unwilling participant in the homicides who was coerced by his co-defendants. *See, e.g.,* Tr. V 907-911 (Bunny testifying that after Goode and Johnson picked him up from work at the Wal-Mart in Owasso, the men got into a vehicle in the parking lot, with Bunny in the backseat, and that Goode said "we're going to take care of some business" and threw Bunny a .22 and some gloves); *id.* at 911 (Bunny denying that he knew the three men were heading to Mitch's house when they left Wal-Mart); *id.* at 913 (Bunny denying that he knew why the three men drove to Mitch's house); *id.* at 914 (Bunny claiming to have "had no clue" as to what kind of business was going to take place at Mitch's house and that he kicked in Mitch's door to the house only because "they [Goode and Johnson] told me to"); *id.* at 915-16 (Bunny testifying that he didn't know why he headed in the direction of Hoffman's usual room in Mitch's house after entering the house); *id.* at 918, 923 (Bunny testifying that he shot Kayla only because Johnson held

a gun to his head and forced him); *id*. at 966-67 (Bunny testifying he told police the truth when he told them he entered Mitch's house against his will).

Similarly, trial counsel could have impeached law enforcement, particularly Denton. The State called Denton as a rebuttal witness to rebut defense witness Penny Avans. Tr. VIII 1577. Ms. Avans earlier testified she had witnessed Chastain threatening to kill Mitch several times based on his continued attempts to disrupt her life, Tr. VII 1462-66, and that Chastain had asked her to lie to the police by informing them that Goode had confessed to Avans, *id.* at 1480-81. In rebuttal, Denton testified about his interview of Avans; he did not recall that Avans had reported Chastain's threats to Mitch's life or Chastain's request that Avans lie to the police.[21] Tr. VIII 1579-85. But in an attempt to undercut Avans' testimony, Denton testified, "whatever she said I would have written down in the report and documented it." *Id.* at 1591. His report did not include such details. App. at 209. Had defense counsel known Denton was selectively omitting details from reports (or possibly not drafting reports of important interviews at all), as the newly discovered reports indicate, Denton could have easily been impeached.

Ms. Avans has recently provided a declaration wherein she addressed her interactions with Denton and the scarcity of details in his report:

> Between my initial phone call with Officer Denton on or about August 26, 2005, and my in-person interview with him on or about September 1st, I spent hours talking to him. During our conversations he would ask me the same questions over and over as if trying to get me to change my story…
>
> When I saw Officer Denton's report about our interview, I was shocked by how short it was given the amount of time I spent talking to him and the information I shared compared to the information he chose to include (and exclude).

[21]Avans further testified she witnessed Chastain threatening to kill Mitch in front of Cherry Thompson, Mitch and Chastain's mother. Tr. VII at 1458. It's curious why the State did not call Cherry Thompson in rebuttal to refute Avans' testimony or even ask Cherry Thompson about such statement in its case-in-chief.

App. at 183-4.

Trial counsel Stanley Monroe, who cross-examined Denton and Bunny, affirms he would have used the suppressed information at Goode's trial for impeachment purposes:

> I have learned from Mr. Goode's present legal team that new evidence has materialized indicating that the Owasso Police Department suppressed at least one witness interview and engaged in a pattern of selectively documenting certain events and information, omitting information from reports, and withholding reports altogether. It appears that the common thread throughout the activity is that these instances occurred with potentially discrediting information related to witnesses Chastain and Bunny. I find this incredibly troubling given that Chastain and Bunny were vital to the State's case against Mr. Goode and any opportunity to impeach them could have literally made the difference between life and death for my client.
>
> I have become aware that one of the witness interviews suppressed was that of Brandy Thompson, Bunny's then-wife, who was not an endorsed witness and whose identity was concealed under the designation of being the confidential informant. I know that we made attempts to learn the identity of the C.I., but do not recall how the issue was resolved. However, I have no doubt that if we had learned Brandy Thompson was the confidential informant, we would've had our investigator, Eric Cullen, interview her. To my knowledge that never happened.
>
> I have been made aware that during Brandy Thompson's interview with Owasso Police Officer Mike Denton, she disclosed that Bunny was not the innocent bystander he claimed to be; that he actually planned to enter the home of Mitch and Tara Thompson the evening of the Owasso homicides with the intention to kill J.R. Hoffman. If I was aware of this information at the time, I would've called Brandy Thompson as a witness and I would've impeached Bunny's testimony.
>
> Not only is the information disclosed by Brandy Thompson important to discredit Bunny, but the fact that the Owasso Police Department sought to conceal it undermines the legitimacy of the entire investigation. This information, especially in context with Owasso Police Department's pattern of selectively documenting and omitting information calls into question the integrity of Officer Denton and others. Had I known then that certain information was being manipulated in the investigation, I certainly would've raised the issue and used it to discredit the State's witnesses and the State's case against Mr. Goode.

App. at 174-5. Because the suppressed evidence could have been used as powerful impeachment evidence, it was favorable to the defense. *See Browning*, 717 F.3d at 1105.

3. The Suppressed Evidence Is Material.

Had prosecutors not suppressed the identity of Brandy Thompson (now Heisler) and the information she provided to Denton regarding Bunny's professed intention to murder Hoffman, as well as the newly discovered police reports, defense counsel could have dismantled Bunny's and Denton's credibility before Goode's jury and, by the same token, the State's entire theory of the case against him. *Kyles*, 514 U.S. at 435 (to show the materiality of suppressed evidence a defendant need only "show[] that the favorable evidence could reasonably be taken to put the whole case in such a different light as to undermine confidence in the verdict); *Nuckols v. Gibson*, 233 F.3d 1261, 1267 (10th Cir. 2000) ("Because impeachment of the witness who held the key to successful prosecution was denied to the defense, we have no doubt Petitioner suffered prejudice as a consequence. Moreover, we are not confident of the outcome of the trial.").

Further, because a court must consider the cumulative effect of *all* suppressed evidence favorable to the defendant, rather than considering each item of evidence individually when assessing materiality, *Kyles*, 514 U.S. at 436-37, this Court must also consider the impact of the suppressed impeachment evidence concerning disgraced TPD officer and convicted felon Jeff Henderson discussed in its materiality analysis. *See Wearry v. Cain*, 577 U.S. 385, 394, 396 (2016) (granting *Brady* relief and holding that state postconviction court improperly evaluated materiality of each piece of evidence in isolation rather than cumulatively).

a. The Suppressed Evidence Is Material to Goode's Conviction.

Both Judge Gillert and the prosecution made clear that Bunny's testimony was vital to the successful prosecution of Goode. At Bunny's sentencing hearing, then Assistant District Attorney Steve Kunzweiler, who was the lead prosecutor in Goode's case, explicitly recognized just how integral Bunny was to the State's case: "I do recognize that [Bunny] testified. I do recognize he

provided a benefit to the prosecution of Mr. Goode and Mr. Johnson." Att. 691 (Apr. 28, 2008 Transcript of Sentencing at 11). Judge Gillert, who served as the trial judge at Bunny's sentencing, concurred that Bunny was vital to the State's case, even more so at Goode's trial than Johnson's: "I don't doubt that [Bunny's] testimony was useful. I think frankly in the Goode case a lot more than in the Kenneth Johnson case . . . ." *Id.* at 14.[22] Because the State suppressed impeachment evidence, including the identity of the "confidential informant" and the information she provided to Denton regarding Bunny's professed intention to murder Hoffman, as well as previously undisclosed police reports, there is simply no way to conclude that Goode "received a fair trial resulting in a verdict worthy of confidence." *Harris*, 2019 OK CR 22, ¶ 38, 450 P.3d at 950; *Kyles*, 514 U.S. at 434 ("A reasonable probability of a different result is accordingly shown when the government's evidentiary suppression 'undermines confidence in the outcome of the trial.'").

The record proves Judge Gillert's assessment of Bunny's importance to the State's case was correct. In fact, Bunny was indispensable to the State's case. Bunny was the *only eyewitness* to testify before Goode's jury. And Bunny's undisclosed statement to his former wife directly contradicts his testimony: At trial, Bunny unequivocally denied that he entered Mitch's home with the intention of killing Hoffman. Tr. V 984.

While "evidence impeaching an eyewitness may not be material if the State's other evidence is strong enough to sustain confidence in the verdict," *Agurs*, 427 U.S. at 112-13 & n.21, that is not the case here. The two key witnesses against Goode—Bunny and Chastain—were extremely compromised. Goode's jury was specifically instructed that Bunny's testimony could not serve to convict Goode unless it was corroborated, O.R. 674, and that if the jury determined

[22]Unlike Goode, Johnson confessed to his involvement in the crime to law enforcement officers. PH II 269.

Chastain was an accomplice, her testimony could not serve to convict Goode unless it was corroborated. O.R. 673. Despite the vulnerabilities of these witnesses, the State's case against Goode hinged on their testimony.

In a desperate attempt to corroborate these problematic key witnesses, the State resorted to the most unreliable category of evidence: jailhouse informant testimony. *See* Jessica A. Roth, *Informant Witnesses and the Risk of Wrongful Convictions*, 53 Am. Crim. L. Rev. 737, 743-44 (2016) (noting that according "to at least one report, false informant testimony is *the* leading factor associated with wrongful convictions in capital cases."). Jailhouse informant Fred Clemons told multiple versions of events and at one time implicated Goode in the homicides while speaking to law enforcement. Nevertheless, he eventually testified that Goode told him Goode wasn't present during the homicides, Tr. V 1126, that he previously tried to get in touch with the prosecution to tell them Goode never said he was at the location during the homicides, *id.* at 1127-28, and that he understood from past experiences if he went to the prosecutors with information on someone, it might help with pending charges, *id.* at 1132.

Further the prosecutors' first-stage closing arguments demonstrate the importance of Bunny's credibility to the State's case. Assistant District Attorney James Hawkins spent seven full pages of the State's initial first-stage closing argument recounting Bunny's testimony. *See* Tr. VIII 1642-49. Hawkins repeated Bunny's narrative that he was forced to shoot Kayla by his co-defendants, *id.* at 1647, and that Bunny's statement to the police was "pretty much consistent with what [the jury] heard," *id.* at 1649. But even more importantly, then Assistant District Attorney Steve Kunzweiler made the following argument in the State's final first-stage closing:

> I told all of you when you hear from Ronald Thompson, you are not going to like that man. And perhaps you could tell from the tone of my questions I don't like him either. But he had information connected to this case and he told you how this shooting went down from his version and the things that he tells you that are -- that

> I think you can believe in is the fact that he's able to tell you that he shot into the wall and it was with a .22. . . .
>
> And so when Ronald Thompson said, here's kind of how it happened, and I had the .22 and shot through the wall, you can, I submit to you, believe he's the guy with the .22.

Id. at 1707-08.

Bunny was the *only* source who told the jury he was in possession of the .22 rather than another firearm. His testimony was absolutely necessary to support the State's theory that Bunny did nothing more than shoot one non-lethal shot into Kayla's hip, one into the wall, and one into a chest of drawers, all at his co-defendants' insistence. *See* Tr. IX 1840 (Hawkins arguing that "the evidence supports the fact that Ronald Thompson had the .22. One of the rounds went in the hip of the child. The medical examiner told you it was nonlethal, and that the other rounds went in the wall and in the chest [of drawers]"). Bunny's claim to have used the .22 was corroborated by no other witness except disgraced TPD officer and convicted felon Jeff Henderson, who testified to purportedly finding .22 shell casings at the location testified to by Bunny. *See* App. 551 (Opinion Denying Petitioner's Subsequent Application for Post-Conviction Relief at 4, *Goode v. State*, PCD 2010-661 (Okla. Crim. App. Sept. 28, 2010)).[23] Had Goode's jury been aware of the suppressed evidence that could have impeached *both* Bunny *and* Henderson, their credibility would have been ruined, and the State's entire case would have been cast in a different light, thereby undermining confidence in the verdict. *Kyles*, 514 U.S. at 435.

As for the other newly discovered law enforcement reports that could have impeached Denton during his rebuttal testimony, in which he undermined Penny Avans' testimony by saying his report did not include the details to which she testified, Tr. VIII 1584, those too are material.

[23]As discussed above, any materiality analysis must consider the cumulative impact of *all* items of suppressed evidence. *See Kyles*, 514 U.S. at 436-37.

Had defense counsel been able to impeach Denton with these documents to show he selectively omitted details from reports (and possibly had not drafted important reports at all), her testimony describing Chastain's repeated threats to kill Mitch would have carried far more weight. What's more, had defense counsel been able to impeach Denton by showing his pattern of omitting important evidence from reports, the following closing argument by the prosecution would have fallen flat:

> Penny Avans had a number of accusations about Michelle Chastain. Remember back when we did voir dire last week, we talked about if you're going to make an accusation from this stand like the State has here, we have to bring in witnesses and evidence. Was there any evidence whatsoever anywhere to support any of those claims of Penny Avans who tells Mr. Denton something that amounts to half a page on a paper and then testified for I don't know how long in here about all these things that she hears Michelle say and her behavior at her brother's funeral, this sort of thing. The point being they're accusations unsupported by any evidence whatsoever.

Tr. VIII 1663. Further, Goode's jury received the following instruction:

> Evidence has been presented that on some prior occasion Penny Avans made a statement inconsistent with her testimony in this case. This evidence is called impeachment evidence and it is offered to show that the witness's testimony is not believable or truthful. If you find that a statement was made, you may consider this impeachment evidence in determining what weight and credit to give the testimony of that witness. You may not consider this impeachment evidence as proof of innocence or guilt. You may consider this impeachment evidence only to the extent that you determine it affects the believability of the witness, if at all.

O.R. 666. The jury would have been far less likely to find that Avans made a prior inconsistent statement to Denton had trial counsel been able to impeach him with the newly discovered evidence.

Trial counsel Stanley Monroe recognizes the many ways in which the impeachment evidence provided by Brandy Heisler and the newly discovered law enforcement reports would have put the whole case against Goode in such a different light as to undermine confidence in the verdict:

> It is difficult to hypothesize all the ways things might have gone differently had I known this information - that Bunny admitted to planning to kill J.R. Hoffman, and that the Owasso Police Department withheld this information. Suffice it to say it would've fundamentally shifted our defense strategy and impacted everything from our investigation and interviews, to how we handled witnesses (and who we called as witnesses), reviewed evidence, the exhibits we submitted, the pretrial motions we filed, etc.
>
> It is my belief that the police department understood that Bunny and Chastain were weak witnesses, otherwise they would not have taken measures to conceal any discrediting information against them. If we were given the opportunity to further discredit Bunny and Chastain, and discredit law enforcement and the investigation - I feel confident that the jurors would've viewed things differently and Mr. Goode's case would've had a different result.

App. at 175. Undoubtedly, the undisclosed impeachment evidence is material; it could reasonably be taken to put the whole case in such a different light as to undermine confidence in the jury's verdict.

b. The Suppressed Evidence Is Material to Goode's Death Sentences.

As with the State's first-stage case, Bunny and Denton were integral to the State's case for the death penalty against Mr. Goode at the penalty phase.[24] First, assuming arguendo the State turned over this newly discovered impeachment evidence, including the Henderson impeachment evidence discussed above, and the jury nonetheless convicted Goode, there is no doubt the State's case would have been incredibly weakened. The State's star witness and co-defendant Bunny's credibility would have been damaged, the necessary corroboration of Bunny's testimony by disgraced TPD officer and convicted felon Jeff Henderson would have been damaged, and Denton's testimony wherein he undermined defense witness Penny Avans would also have been

[24] The State expressly incorporated all the first-stage evidence into the penalty phase, making explicit reference to Bunny. Tr. IX 1743 ("[T]he State of Oklahoma moves to incorporate into evidence the testimony and exhibits previously introduced into evidence in the first stage of these proceedings as they relate to Ronald Dwayne Thompson and his description of the facts involving the shooting deaths of Kayla Burchett, Tara Burchett-Thompson, and Mitch Thompson, Jr.").

damaged. Such weaknesses could have reasonably created residual doubt for at least one juror, which could have bled into the sentencing phase. *See generally Lockhart v. McCree*, 476 U.S. 162, 181 (1986) (noting "residual doubts" by a jury during guilt phase are effective grounds for argument in capital-sentencing phase and finding "in most, if not all, capital cases, much of the evidence adduced at the guilt phase of the trial will also have a bearing on the penalty phase"). Residual doubt is a powerful factor influencing juries to vote for less than death. Stephen P. Garvey, *Aggravation and Mitigation in Capital Cases: What Do Jurors Think?*, 98 Colum. L.Rev. 1538, 1563 (Oct. 1998). The Tenth Circuit has recognized the role of residual doubt in the capital sentencing phase. *See Harmon v. Sharp*, 936 F.3d 1044, 1083 (10th Cir. 2019).

The State's penalty-phase closing argument also demonstrates the materiality of the undisclosed impeachment evidence. During the final, penalty-phase closing argument, just moments before the jury began its sentencing deliberations, Assistant District Attorney James Hawkins painted Bunny as essentially a victim of circumstance, absolving him from the death penalty because he was under duress:

> Let me just make this one observation. If you were judging Ronald Thompson, and you're not, you would have virtually the same case you have here. And Ronald Thompson, the evidence supports the fact that Ronald Thompson had the .22. One of the rounds went in the hip of the child. The medical examiner told you it was nonlethal, and that the other rounds went in the wall and in the chest. Based on that evidence, coupled with his claim, and obviously he was under the influence of drugs, nobody controverts that, his claim that the other co-defendant in this case, Fu Fu, Kenneth Dominick Johnson pointed a gun at him and told him to put in some work or he's next, that he had a duress argument, do you really think that you would give him the death penalty?

Tr. IX 1840. The State's portrayal of Bunny as a victim of duress would not have had any credibility had the defense been able to properly impeach him with the suppressed evidence of his motive to kill Hoffman on the night of the homicides. As a result, at least one juror could have reasonably questioned why the State cut a deal to save Bunny's life yet still sought death for Goode. At least

one juror could have reasonably opted to give Goode a life sentence, believing that Bunny was more deeply involved in the crime and just as culpable, if not more, than Goode.[25]

The suppressed impeachment evidence of Bunny's stated intention to kill Hoffman when he entered Mitch's home on the night of the homicides, along with the suppressed law enforcement reports that damage the credibility of Denton would have put the State's penalty phase case for death "in such a different light as to undermine confidence in the verdict." *Kyles*, 514 U.S. at 435.

C. This Claim Satisfies the Successor Postconviction Requirements of Okla. Stat. tit. 22, § 1089(D)(8)(b) and Rule 9.7 of the Rules of the Oklahoma Court of Criminal Appeals.

Under the Uniform Post-Conviction Procedure Act, this Court "may not consider the merits of or grant relief" based on a subsequent application for post-conviction relief unless:

> b. (1) the application contains sufficient specific facts establishing that the current claims and issues have not and could not have been presented previously in a timely original application or in previously considered application filed under this section, because the factual basis for the claim was unavailable as it was not ascertainable through the exercise of reasonable diligence on or before that date, and
>
> (2) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for the alleged error, no reasonable fact finder would have found the applicant guilty of the underlying offense or would have rendered the penalty of death.

Okla. Stat. Ann. tit. 22, § 1089(D)(8)(b). Rule 9.7(G)(1) of the Rules of the Oklahoma Court of Criminal Appeals, meanwhile, allows this Court to entertain a subsequent application for postconviction relief where it asserts claims "which have not been and could not have been

[25] As discussed earlier, Bunny, the only eyewitness to testify, was the only source to have told the jury he was in possession of the .22 instead of the other firearms used in these homicides. Undermining the credibility of this particular statement reasonably could have had a profound impact on the sentencing determination because it goes straight to the matter of who may have been the most culpable shooter.

previously presented in the original application because the factual or legal basis was unavailable." This Court recently recognized that the factual basis of a claim is "not fully discovered" until a petitioner discovers the last of the materials supporting the newly discovered evidence." *Davison v. State*, 2023 OK CR 11, ¶ 23, 531 P.3d 649, 653-54.

Goode's present application for postconviction relief satisfies these requirements. First, the factual basis for this claim was "not fully discovered" until July 9, 2025, when trial investigator Eric Cullen signed the attached declaration. App. at 176. In compliance with Rule 9.7(G)(3), this Application is being filed well within 60 days of counsel's discovery of this new evidence. Further, as explained above, counsel was unable to discover that Ms. Thompson (now Heisler) was indeed the "confidential informant" until March of 2025, because the State had withheld the November 19, 2007 Supplemental Report of OPD Officer Denton, wherein he identified Ms. Thompson (now Heisler) as the "confidential informant," until such report was disclosed. Alternatively, the Court should review the merits of this application pursuant to *Valdez v. State*, 2002 OK CR 20, 46 P.3d 703, 710, wherein this Court recognized that it may grant relief anytime "an error complained of has resulted in a miscarriage of justice, or constitutes a substantial violation of a constitutional or statutory right," regardless of when the claim is raised.

While this claim satisfies Okla. Stat. Ann. tit. 22, § 1089(D)(8)(b)(1) and Rule 9.7(G), it is nevertheless the case that claims raised under *Brady*, *Giglio*, and *Napue* do not require defendants to seek out new evidence which the State has an affirmative constitutional duty to disclose. *See Fontenot v. Crow*, 4 F.4th 982, 1066 (10th Cir. 2021) (noting the Supreme Court "has never required a defendant to exercise due diligence to obtain *Brady* material") (citation omitted); *Banks v. Dretke*, 540 U.S. 668, 696 (2004) (rejecting rule that '"prosecutor may hide, defendant must seek"' as "not tenable in a system constitutionally bound to accord defendants due process.").

Second, the facts underlying these claims are sufficient to establish by clear and convincing evidence that Goode's convictions and death sentences were obtained in violation of his Due Process rights under the United States and Oklahoma Constitutions; and they establish that, had prosecutors not suppressed favorable and material evidence that co-defendant and State's witness Bunny had confessed to his then wife that he intended to kill Hoffman the night of August 25, 2005, along with the newly discovered law enforcement reports, no reasonable factfinder would have either found Goode guilty of three counts of first-degree, malice murder or sentenced him to death. *See* Okla. Stat. Ann. tit. 22, § 1089(D)(8)(b)(2).

However, to the extent that Okla. Stat. Ann. tit. 22, § 1089(D)(8)(b)(2) imposes a more stringent standard for obtaining relief on the merits of a Fourteenth Amendment Due Process claim raised under *Brady*, *Kyles*, *Napue*, and *Giglio*, it is unconstitutional. *See Montgomery v. Louisiana*, 577 U.S. 190, 204-05 (2016) ("If a state collateral proceeding is open to a claim controlled by federal law, the state court has a duty to grant the relief that federal law requires.") (quoting *Yates v. Aiken*, 484 U.S. 211, 218 (1988)); *but compare* Okla. Stat. Ann. tit. 22, § 1089(D)(8)(b)(2) (requiring that "the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for the alleged error, no reasonable factfinder would have found the applicant guilty of the underlying offense or would have rendered the penalty of death"), with *Kyles v. Whitley*, 514 U.S. 419, 434 (1995) (holding that under *Brady*, "a showing of materiality does not require demonstration by a preponderance that disclosure of the suppressed evidence would have resulted ultimately in the defendant's acquittal[,]" rather it requires showing "[a] 'reasonable probability' of a different result"—i.e., that "the government's evidentiary suppression 'undermines confidence in the outcome of trial." (quoting *United States v. Bagley*, 473 U.S. 667, 678 (1985)).

Goode has satisfied the requirements for this Court to consider this claim, order discovery and a hearing, and grant relief.

PROPOSITION TWO

THE STATE KNOWINGLY PRESENTED AND FAILED TO CORRECT FALSE TESTIMONY VIOLATING GOODE'S RIGHT TO DUE PROCESS UNDER THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND ARTICLE II, SECTIONS 7 AND 20 OF THE OKLAHOMA CONSTITUTION.

A. Due Process Is Violated When the State Solicits False and Material Testimony or Allows It to Go Uncorrected.

"[A] conviction obtained through use of false evidence, known to be such by representatives of the State, must fall under the Fourteenth Amendment." *Napue v. Illinois*, 360 U.S. 264, 269 (1959). False evidence includes "false testimony [that] goes only to the credibility of the witness." *Id*. This is because "[t]he jury's estimate of the truthfulness and reliability of a given witness may well be determinative of guilt or innocence, and it is upon such subtle factors as the possible interest of the witness in testifying falsely that a defendant's life or liberty may depend." *Id.* In *Giglio v. United States*, 405 U.S. 150 (1972), the Supreme Court held that the government violated the defendant's right to due process by failing to correct false testimony even though the prosecutor trying the case was unaware the testimony was false. The Court reasoned that the failure to correct the false testimony was the prosecutor's duty, whether it was a result of "negligence or design." *Id.* at 155. This makes sense; otherwise, prosecutors could deliberately avoid knowledge of what police know to circumvent disclosure.

This Court has applied a three-part test to establish a due process violation under *Napue*: "First, whether a key portion of the State's case was presented with information affecting its credibility intentionally concealed; second, whether the prosecution knew or had reason to know of the concealment and failed to bring it to the attention of the trial court; and third, whether the trier of fact was prevented from properly trying the case against the defendant as a result of the

concealment." *Binsz v. State*, 1984 OK CR 28, ¶ 10, 675 P.2d 448, 450 (citing *Runnels v. State*, 1977 OK CR 146, ¶ 30, 562 P.2d 932, 936); *see also United States v. Garcia*, 793 F.3d 1194, 1207 (10th Cir. 2015) ("A *Napue* violation occurs when (1) a government witness committed perjury, (2) the prosecution knew the testimony was false, and (3) the testimony was material."). In other words, when a prosecutor knows, or should know, that a witness testifies falsely, he or she has a duty to correct the false impression; failure to do so requires reversal "if there is any reasonable likelihood that the false testimony could have affected the judgment of the jury." *United States v. Agurs*, 427 U.S. 97, 103 (1976), *holding modified by United States v. Bagley*, 473 U.S. 667, 678 (1985).

Most recently, the Supreme Court reaffirmed the principles announced in *Napue* in *Glossip v. Oklahoma*, 604 U.S. __, 145 S. Ct. 612 (2025). Glossip's *Napue* claim was based on the false testimony of Glossip's co-defendant, wherein he claimed to have never been seen by a psychiatrist and that he was somehow given Lithium for a cold. *Id.* at 620. In the course of extensive defense and independent investigation, the State finally "unearthed disturbing revelations about the contents" of a box of trial documents "consisting of material it previously prevented the defense from obtaining." *Id.* at 622. Such material included a prosecutor's handwritten notes made during an interview of the co-defendant indicating the co-defendant had indeed been seen by a jail psychiatrist; further, jail medical records indicated the co-defendant had received Lithium to treat his undisclosed bipolar disorder. *Id.* at 622. Despite that Glossip had exhausted all federal review and was ripe for execution, the Supreme Court granted relief on his *Napue* claim first raised in his fifth successor state postconviction action almost two decades after Glossip's conviction.

B. The State Knowingly Solicited and Failed to Correct False Testimony.

As discussed above, defense counsel asked Bunny on cross-examination[26] whether he went to Mitch's house on the night of the homicides with the intention of killing Hoffman:

Monroe:	Now, you told the jury on direct examination that you came in and you went to the left and these other two guys went to the right; correct?
Thompson:	Yes sir.
Monroe:	You went to J.R.'s room looking for him, huh?
Thompson:	I didn't make it to the - -
Monroe:	Excuse me, let me rephrase. You went to the room where you thought J.R. was going to be; right?
Thompson:	Yes, sir.
Monroe:	And you had that gun in your hand; right?
Thompson:	Yes, sir.
Monroe:	And you were going there to shoot J.R.; weren't you?
Thompson:	No, sir.
Monroe:	Well, J.R. was the one that had beaten you with a baseball bat a month before; right?
Thompson :	No, sir. It was Mitch.
Monroe:	Mitch was the one?
Thompson:	Yeah.
Monroe:	J.R. started it all?
Thompson:	Yes, sir.
Monroe:	Didn't you want to get even with J.R. too?
Thompson:	No, not really.

Tr. V at 983-84. Bunny's unequivocal denial of his intention to kill Hoffman on the night of the homicides is flatly contradicted by the newly discovered evidence.

Further, Bunny portrayed himself as an unwilling and unwitting participant in the homicides. *See, e.g.,* Tr. V 907-911 (Bunny testifying that after Goode and Johnson picked him up from work at the Wal-Mart in Owasso, the men got into a vehicle in the parking lot, with Bunny in the backseat, and that Goode said "we're going to take care of some business" and threw Bunny a .22

[26] In *Hall v. State*, 1982 OK CR 141, ¶ 34, 650 P.2d at 899, this Court found there is no distinction between the situation where the State knowingly elicits perjured testimony and the situation where the State lays behind the log and allows a material witness to commit perjury during the defendant's case.

and some gloves); *id.* at 911 (Bunny denying that he knew the three men were heading to Mitch's house when they left Wal-Mart); *id.* at 913 (Bunny denying that he knew why the three men drove to Mitch's house); *id.* at 914 (Bunny claiming to have "had no clue" as to what kind of business was going to take place at Mitch's house and that he kicked in Mitch's door to the house only because "they [Goode and Johnson] told me to"); *id.* at 915-16 (Bunny testifying that he didn't know why he headed in the direction of Hoffman's usual room in Mitch's house after entering the house); *id.* at 918, 922-923 (Bunny testifying initially he did not shoot Kayla, but later testifying that he shot Kayla only because Johnson held a gun to his head and forced him); *id*. at 966-67 (Bunny testifying that he told the police the truth when he told them he entered Mitch's house against his will). So too are these assertions contradicted by the newly discovered evidence.

As for whether the prosecutors knew this testimony was false, they tipped their hand in opening statement:

> I anticipate the evidence is going to show you that the mission of these three men is to go into that house and kill Mitch Thompson and kill Tara Burchett-Thompson and a third party, J.R. Hoffman. And I anticipate you're going to hear some evidence this this J.R. Hoffman is a friend to Mitch Thompson and has been living in this particular house on occasion. He's grown up with Mitch. And you're going to hear evidence of his relationship to this family and why he is a target.

Tr. III 515-16. And again in its opening statement, the prosecution stated "[Bunny] goes to the hallway to left to look for J.R.." *Id.* at 534. With these statements, the prosecution revealed its attempts to have its cake and eat it too. While the prosecution recognized up front that the "mission" of "these three men" was to kill Hoffman, it stood by silently when Bunny perjured himself by denying he went to Mitch's home with such intention.

C. There Is a Reasonable Likelihood that False Testimony Affected the Jury's Decision to Convict Goode and Sentence Him to Death.

In *Napue,* the United States Supreme Court held that "[a] new trial is required if 'the false testimony could . . . in any reasonable likelihood have affected the judgment of the jury.'" *Giglio,* 405 U.S. at 154 (quoting *Napue,* 360 U.S. at 271). Further, "[e]vidence can be material even if it 'goes only to the credibility of the witness.'" *Glossip*, 145 S. Ct. at 628 (quoting *Napue*, 360 U.S. at 269).

The materiality standard for *Napue* violations is less demanding than *Brady* violations. *See Garcia,* 793 F.3d at 1207-08 ("There is a reason that the materiality standard for *Napue* violations is more easily satisfied. A defendant may have a *Brady* claim if the witness unintentionally gave false testimony or the prosecution did not correct testimony that it should have known was false . . . A prosecutor's knowing use of perjured testimony is misconduct that goes beyond the denial of a fair trial, which is the focus of *Brady.* It is misconduct that undermines fundamental expectations for a 'just' criminal-justice system."); *see also Reis-Campos v. Biter,* 832 F.3d 968, 975-76 (9th Cir. 2016) (maintaining that "[t]he *Napue* materiality standard is less demanding than *Brady*"). Courts have consistently held that a violation of *Napue* is "presumptively material 'unless failure to disclose it would be harmless beyond a reasonable doubt.'" *Smith v. Sec'y, of New Mexico Dep't of Corr.,* 50 F.3d 801, 826 n.38 (10th Cir. 1995) (quoting *Bagley,* 473 U.S. at 680). The justification for this presumption is that "by affirmatively using perjured testimony, or by passively failing to correct what is known to be perjured testimony under *Napue,* the prosecution is participating in a 'corruption of the truth-seeking function of the trial process.'" *Id.* (quoting *Agurs,* 427 U.S. at 104).

Goode easily satisfies this standard. *See* Proposition I(B)(3), Bunny was an indispensable witness for the State. His false testimony ensured the jury had no reason to question his narrative

of being an unwitting and unwilling participant in these crimes. There is at least a "reasonable likelihood" that the jury's decisions to find Goode guilty and sentence him to death were each affected by Bunny's false testimony.

D. This Claim Satisfies the Successor Postconviction Requirements of Okla. Stat. tit. 22, § 1089(D)(8)(b) and Rule 9.7 of the Rules of the Oklahoma Court of Criminal Appeals.

For the same reasons that Proposition One satisfies the requirements of Okla. Stat. tit. 22, § 1089(D)(8)(b) and Rule 9.7(G), which Goode expressly incorporates by reference, this claim satisfies those requirements as well.

PROPOSITION THREE

GOODE WAS DEPRIVED OF EFFECTIVE ASSISTANCE OF COUNSEL IN VIOLATION OF THE SIXTH AND FOURTEENTH AMENDMENTS.

The Sixth Amendment guarantees a criminal defendant the reasonably effective assistance of counsel. In *Strickland* v. *Washington,* 466 U.S. 668 (1984), the Supreme Court made clear when counsel provide deficient performance, resulting in prejudice to their client, judicial relief is necessary. It is clear from the record and trial counsel Stanley Monroe's July 2, 2025, affidavit that trial counsel were aware not only that the State used information from a "confidential informant" to build its case against Goode, but that it also intended to use the information to shift the culpability towards Goode and away from his co-defendant Bunny. The significance of Bunny's testimony to the State's case has been detailed earlier in this application and need not be repeated here.

Approximately one month after the murders, Officer Denton prepared a report documenting his conversation with an undisclosed "confidential informant" stating that Bunny had confessed to being present for the murders but implicated Goode and "another black male" as the shooters. App. at 197. According to discovery receipts, this report was given to the defense on September 29, 2005. O.R. 100.

On July 5, 2006, trial counsel filed two relevant discovery requests. The first, titled Motion for the State to Divulge Confidential Informant, specifically noted the importance of the requested information for possible impeachment evidence. O.R. 191-92. In their second motion, counsel requested the disclosure of "[a]ny and all oral, written or recorded statements of any other persons interviewed by the State or its agents which [sic] inconsistent with earlier statements or which are inconsistent with the statement made by another person interviewed by the State or its agents, including law enforcement agencies." O.R. 229.

Trial counsel renewed their request for the State to disclose the identity of the "confidential informant," at a March 28, 2007, motion hearing, wherein the following exchange ensued:

> Defense Counsel: [I]n the discovery and on the Information it lists a person just listed as confidential informant. It shows that that person received information from Ronald Thompson [Bunny] and that that person can be contacted through Sergeant – I'm drawing a blank on his name at the moment – with the Owasso Police Department. Clearly this person has relevant information concerning this crime. We're asking to know who this person is. I think the law is very clear that if a person has relevant information, especially now that we know Ronald Thompson [Bunny] is going to be testifying, it could be inconsistent. We may need to interview this person.
>
> Prosecutor: Judge, this is a person who gave information at the outset, and I will – I think that does rise to the level they need to know that information who that person is. And we'll certainly make that disclosure to them as to any statements made.

App. at 479.

Despite the State's assurances that it would disclose the confidential informant's identity, defense counsel was still seeking the identity of the confidential informant at a hearing almost three months later. App. at 476.

> Defense Counsel: We also have issues that – we still have the confidential informant who was named confidential informant. We still need the name for that person . . . .

Court: I do recall and I think that, Mr. Kunzweiler, unless my memory is really gone on me, you acknowledge that whoever the confidential informant was, as I recall, was probably also a witness to events and therefore whether they would be called by the State of Oklahoma within the rules of discovery would be discoverable. And so where are we with that?

Prosecutor: Judge, quite frankly, I'm a little frustrated by that process. Officer Mike Denton – and I've talked with the two detectives who are basically lead detectives. It's Officer Mike Denton's report that reflects that he spoke with the confidential informant. I've had multiple phone calls placed to him. I don't know whether that's because he's an evening shift officer, but I'm probably paying a visit up to the police department.

Court: I'm sure since we have the lead detective here, he will find that guy and he'll have that information to you for us by next Friday so we don't have to continue this, and if you need to visit with him about that.

There is nothing further in the record, either in transcripts or discovery receipts, to indicate the State divulged the "confidential informant's" identity to the defense. Trial counsel Monroe stated in a recently obtained affidavit that he recalled litigating the identity of the "confidential informant" but did "not recall how the issue was resolved." After learning that Brandy Thompson (now Heisler) was the confidential informant and reviewing Ms. Thompson's May 21, 2025, affidavit, Mr. Monroe offered the following observations:

> I have become aware that one of the witness interviews suppressed was that of Brandy Thompson, Bunny's then-wife, who was not an endorsed witness and whose identity was concealed under the designation of being the confidential informant. I know that we made attempts to learn the identity of the C.I., but do not recall how the issue was resolved. However, I have no doubt that if we had learned Brandy Thompson was the confidential informant, we would've had our investigator, Eric Cullen, interview her. To my knowledge that never happened.
>
> I have been made aware that during Brandy Thompson's interview with Owasso Police Officer Mike Denton, she disclosed that Bunny was not the innocent

> bystander he claimed to be; that he actually planned to enter the home of Mitch and Tara Thompson the evening of the Owasso homicides with the intention to kill J.R. Hoffman. If I was aware of this information at the time, I would've called Brandy Thompson as a witness and I would've impeached Bunny's testimony.
>
> Not only is the information disclosed by Brandy Thompson important to discredit Bunny, but the fact that the Owasso Police Department sought to conceal it undermines the legitimacy of the entire investigation. This information, especially in context with Owasso Police Department's pattern of selectively documenting and omitting information calls into question the integrity of Officer Denton and others. Had I known then that certain information was being manipulated in the investigation, I certainly would've raised the issue and used it to discredit the State's witnesses and the State's case against Mr. Goode.
>
> It is difficult to hypothesize all the ways things might have gone differently had I known this information - that Bunny admitted to planning to kill J.R. Hoffman, and that the Owasso Police Department withheld this information. Suffice it to say, it would've fundamentally shifted our defense strategy and impacted everything from our investigation and interviews, to how we handled witnesses (and who we called as witnesses), reviewed evidence, the exhibits we submitted, the pretrial motions we filed, etc.

App. at 175.

Trial counsel's failure to follow through with their repeated requests to obtain the identity of the confidential informant, which both the State and the court agreed they were entitled to, is an obvious example of ineffective assistance of counsel. Had they done so, the information presented in this application would likely have been discovered prior to trial. It is clear from the record and Mr. Monroe's affidavit that there was no strategic reason for trial counsel's failure to do so.

Goode's appellate and previous post-conviction counsel were also ineffective for failing to present ineffective assistance of trial counsel to this Court. Direct-appeal counsel were charged with raising trial counsel's ineffectiveness. Their failure to alert this Court that trial counsel never obtained the identity of the "confidential informant," ask for this Court's assistance in obtaining the identity (if necessary), and eventually present the information

contained in this application rendered them ineffective. *See Evitts v. Lucey,* 469 U.S. 387, 397-98 (1985) (right to the effective assistance of counsel on appeal); *Neill* v. *Gibson,* 278 F.3d 1044, 1057 n.5 (10th Cir. 2001) (appellate counsel ineffective for not raising claims with reasonable probability of success). Under *Strickland,* "ineffective appellate assistance can be established on the basis of the demonstrable merit of the issue omitted by counsel on the petitioner's direct appeal." *Cargle v. Mullin,* 317 F.3d 1196, 1205 (10th Cir. 2003). "If the underlying issue was not valid, ... counsel was not ineffective for failing to raise it on direct appeal." *English v. Cody,* 241 F.3d 1279, 1283 (10th Cir. 2001). Here, "the underlying issue was ... valid." *Id.*

Post-conviction counsel was also ineffective in failing to raise trial and appellate counsel's ineffectiveness and for not presenting and/or developing this claim. This Court addresses claims of ineffective assistance of post-conviction counsel "using the two-part test in *Strickland v. Washington,* 466 U.S. 668 (1984), requiring Petitioner to show that post-conviction counsel's performance was unreasonably deficient under prevailing professional norms for post-conviction attorneys; and that there is a reasonable probability that this deficient performance deprived Petitioner of a fair proceeding with reliable results." *Tryon v. State,* No. PCD-2020-231, slip op. at 13-14 (Okla. Crim. App. Mar. 11, 2021). App. at 428. Here there is no question that prior counsel were deficient and that these deficiencies resulted in prejudice undermining the integrity of Mr. Goode's convictions and sentences.

PROPOSITION FOUR

THE CUMULATIVE EFFECT OF ALL THE CONSTITUTIONAL ERRORS THAT ACCRUED AT GOODE'S CAPITAL TRIAL AND SENTENCING PROCEEDING RENDER THOSE PROCEEDINGS, AND HIS RESULTING CONVICTIONS AND DEATH SENTENCES, FUNDAMENTALLY UNFAIR AND UNRELIABLE IN VIOLATION OF THE EIGHTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION AND ARTICLE II, SECTIONS 7, 9, AND 20 OF THE OKLAHOMA CONSTITUTION.

"The cumulative error doctrine applies when several errors occurred at the trial court level, but none alone warrants reversal. Although each error standing alone may be of insufficient gravity to warrant reversal, the combined effect of an accumulation of errors may require a new trial." *Tafolla v. State*, 2019 OK CR 15, ¶ 45, 446 P.3d 1248, 1263; *see also Mitchell v. State*, 2006 OK CR 20, ¶ 107, 136 P.3d 671, 712 (noting that "multiple errors or irregularities during a trial" requires reversal if the "cumulative effect" is "to deny the defendant a fair trial").

Goode previously raised the following constitutional error, which this Court found to be harmless: The trial court committed reversible error by admitting misleading, irrelevant, and/or highly prejudicial evidence in the form of a 911 recording into the record in violation of Goode's rights under the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and corresponding provisions of the Oklahoma Constitution. *Goode v. State*, 236 P.3d 671, 681 (Okla. Crim. App. 2010) (finding "[a]lthough the tape contained a highly emotional Smalygo talking to a 911 operator, we cannot conclude that the contents of the tape prejudiced Goode in any material way. Therefore, the introduction of this tape was harmless."). Although this Court did not grant relief on this claim, Goode respectfully asks this Court to consider the cumulative prejudice to his fair trial rights stemming from the totality of the constitutional errors in his case, including those raised previously and in this Application. Doing so is in keeping with "the ultimate focus of our inquiry . . . 'the fundamental fairness of the proceeding whose result is being challenged.'"

Childress v. State, 2000 OK CR 10, ¶ 48, 1 P.3d 1006, 1010 (quoting *Strickland v. Washington*, 466 U.S. 668, 670 (1984)).

Goode could not have presented this claim in his prior post-conviction applications, and it satisfies the requirements of Okla. Stat. Ann. tit. 22, § 1089(D)(8) and Rule 9.7, for the same reasons set forth above, which are expressly incorporated for this proposition as well.

CONCLUSION

Goode has set forth herein colorable allegations that his convictions and death sentences violate his state and federal rights. He respectfully asks that the Court enter an order granting his requested discovery, remand this matter to the Tulsa County District Court for an evidentiary hearing, enter an order reversing his convictions and sentences, and grant any other relief as may be just and proper.

Respectfully submitted,

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VERIFICATION OF COUNSEL FOR PETITIONER

I, Emma V. Rolls, state under penalty of perjury under the laws of Oklahoma that the foregoing is true and correct.

July 21, 2025
Date

Emma V. Rolls
Emma V. Rolls, OBA # 18820

CERTIFICATE OF SERVICE

I certify that on the date of the filing of the above and foregoing instrument, a true and correct copy of the same was delivered to the Clerk of this Court with instructions to deliver said copy to the office of the Attorney General of the State of Oklahoma.

Emma V. Rolls
Emma V. Rolls

APPENDIX H

Goode v. State, No. PCD-2025-572, Motion for Evidentiary Hearing on Post-Conviction Claims (Okla. Crim. App. July 21, 2025)

IN THE COURT OF CRIMINAL APPEALS
OF THE STATE OF OKLAHOMA

CLARANCE ROZELL GOODE, JR.,	)	District Court of Tulsa County
	)	Case No. CF-2005-3904
Petitioner,	)	
	)	
vs.	)	Direct Appeal No. D-2008-43
	)	
STATE OF OKLAHOMA,	)	
Respondent.	)	PCD- 2025-

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA
JUL 21 2025
JOHN D. HADDEN
CLERK
PCD 2025 572

MOTION FOR EVIDENTIARY HEARING
ON POST-CONVICITON CLAIMS

Petitioner, Clarance Rozell Goode, Jr., respectfully requests an order remanding this case to the Tulsa County District Court for an evidentiary hearing on the claims raised in his concurrently filed Subsequent Application for Postconviction Relief ("Application"). *See* Okla. Stat. tit. 22, §§1084, 1089(D)(4); Rule 9.7(D)(4), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch. 18, App. (2025).

The claims raised in Mr. Goode's Application arise out of newly discovered evidence that the State suppressed favorable and material evidence to secure his convictions and death sentences in violation of the Due Process guarantees of the Federal and Oklahoma Constitutions. U.S. Const. amend. XIV; Okla. Const. art. II, § 7. The new evidence demonstrates that a prosecution witness, whom law enforcement classified as a confidential informant, reported to Owasso Police Officer Michael Denton that Ronald Thompson, co-defendant and important State's witness, made statements inculpating himself which contradicted his eventual trial testimony and the theory of the State's case. Neither the identity of the confidential informant nor the full content of her interview by Officer Denton was provided to the defense, despite repeated requests and

acknowledgements from the State and trial court that defense counsel was entitled to the information. O.R. 191-92, 229.

The gravity of the constitutional error that this new evidence brings to light, and which demonstrates official misconduct that corrupted the very framework within which Tulsa County prosecutors secured Mr. Goode's convictions and death sentences, warrants not only relief but also, at a minimum, an evidentiary hearing to resolve any disputed issues of material fact raised by the allegations and evidence presented in support of Mr. Goode's Application. The need for an evidentiary hearing is especially acute here where the constitutional error stems from the State's failure to discharge its duty to disclose evidence favorable and material to Mr. Goode's defense. *Brady v. Maryland*, 373 U.S. 83, 87-88 (1963) (holding that the Fourteenth Amendment's due process guarantee requires prosecutors, as the "architect[s] of a proceeding" in a criminal case to disclose to the criminally accused evidence favorable to the defense and "material either to guilt or to punishment[]"). Rule 9.7(D)(4), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch. 18, App. (2025).

The very rules of this Court recognize that where "failure to comply with a discovery order is grounds for an issue raised in the application, this Court may remand pursuant to Section 1089(D)(5) of Title 22 for an evidentiary hearing." Rule 9.7(D)(4). The evidence and allegations presented in support of Mr. Goode's concurrently filed Application, all of which Mr. Goode incorporates herein by specific reference, demonstrate that the Tulsa County prosecutors who prosecuted Mr. Goode violated their disclosure obligations under *Brady* and *Napue v. Illinois*, 360 U.S. 265 (1959); under Okla. Stat. tit. 22, § 2001 et seq.; *Harris v. State*, 2019 OK CR 22, ¶ 38, 450 P.3d 933, 950 ("Due process requires the State to disclose evidence favorable to the accused,

including evidence that would impeach the credibility of the State's witnesses or the probative force of its physical evidence.").

Under these circumstances, an evidentiary hearing is warranted on Mr. Goode's colorable claims that his convictions and death sentences were obtained in violation of the Federal and Oklahoma Constitution's Due Process guarantees. Okla. Stat. tit. 22, §1084; Rule 9.7(D)(4), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch. 18, App. (2025). Mr. Goode has supported those allegations with the following evidence, including affidavits:

The evidence and affidavits submitted in support of Mr. Goode's Application demonstrate that 1) the Owasso Police Department and Tulsa County District Attorney's Office failed to provide the identity of the State's confidential informant Brandy Thompson; 2) the State had a duty to disclose the identity of the informant to Mr. Goode's defense under *Brady* and *Napue*, Okla. State Ann. tit. 22, §2001 et seq., and the trial court's express pre-trial discovery rulings; and 3) the State's suppression of that evidence was material at the guilt/innocence and penalty phases of Mr. Goode's capital trial.

While the evidence is sufficient to entitle Mr. Goode to relief for the reasons set forth in his Application, an evidentiary hearing at which documentary evidence and the testimony of relevant witnesses, including State actors, can be compelled will further aid this Court's review of the allegations raised therein. The relevant testimony that can be examined at an evidentiary hearing includes but is not limited to testimony from:

- **Michael Denton -** former Owasso Police Department Officer, who interviewed Brandy Thompson (now Heisler) and classified her as a confidential informant;

- **Brandy Thompson (now Heisler) -** former wife of co-defendant and State's star witness Ronald "Bunny" Thompson, whom Officer Denton classified as a confidential informant;
- **Richard Meulenberg -** Tulsa Police Department Captain (then detective) who handled the investigation of the July 26, 2005, assault and subsequent harassment of Ronald Johnson (Bunny) and Michelle Thompson-Chastain by Mitch Thompson, Jr. and Jimmy Hoffman, Jr.;
- **Jeff Felton –** Former Tulsa Police Detective who referenced several interviews related to the murders of Mitch Thompson, Jr., Tara Burchette-Thompson, and Kayla Burchett, which were never disclosed to Mr. Goode's defense team, in an August 30, 2005, police report;
- **Sonya DeArmond –** Former Owasso Police Detective who interviewed Michelle Thompson-Chastain on August 27, 2005, regarding the murders of Mitch Thomson, Jr., Tara Burchette-Thompson, and Kayla Burchett;
- **Jeff Henderson** – Former Tulsa County Police Detective involved in the investigation of the murders of Mitch Thomson, Jr., Tara Burchett-Thompson, and Kayla Burchett and the prosecution of Mr. Goode;
- **Stan Monroe -** Mr. Goode's trial counsel;
- **Eric Cullen** – Investigator retained by Mr. Goode's trial counsel:
- **Steven Kunzweiler -** Tulsa County District Attorney, who prosecuted Mr. Goode;
- **James Hawkins -** former Tulsa County Assistant District Attorney, who prosecuted Mr. Goode;

- **Penny Avans** – Former best friend of Michelle Thompson-Chastain.

Mr. Goode has developed his claims to the best of his ability with the newly discovered evidence presented in his Application. However, there are still outstanding requests for information that could yield additional favorable and material evidence to support the claims presented. If this Court grants a hearing, in addition to the information presented in the attachments to his Application, Mr. Goode requests permission to bring forth other evidence as needed to further support the propositions raised in his Application.

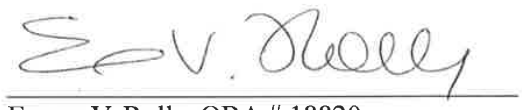
While Mr. Goode submits that 1) the record presented in support of his Application is sufficient to demonstrate his entitlement to relief, and 2) he has demonstrated, at a minimum, the need for further factfinding—including discovery and an evidentiary hearing—under Okla. Stat. Ann. tit. 22, §§ 1084, 1089(D)(4) and Rule 9.7(D)(4), he also respectfully submits that further factfinding on his colorable *Brady* and *Napue* claims is required under the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

Although states are under no obligation to provide defendants with a collateral review process, when they elect to do so, the fundamental fairness mandated by the Fourteenth Amendment's Due Process Clause governs their administration. *Pennsylvania v. Finley*, 481 U.S. 551, 557-78 (1987) ("[W]hen the State opts to act in a field where its action has significant discretionary elements, it must nonetheless act in accord with the dictates of the Constitution—and it particular, in accord with the Due Process Clause[.]" (internal quotations omitted)). The Due Process guarantee "emphasizes fairness between the State and the individual dealing with the State[.]" *Ross v. Moffitt*, 417 U.S. 600, 609 (1974). Justice Marshall distilled this Due Process guarantee down to its simplest definition: "[F]undamental fairness entitles indigent defendants to an adequate opportunity to present their claims fairly within the adversary system[.]" *Ake v.*

Oklahoma, 470 U.S. 68, 77 (1985) (internal quotations omitted). Justices Clark and Brennan also concurred "on a straightforward proposition: the states owe both the people and the federal courts fair procedures by which federal rights may be vindicated in state court." Christopher Flood, *Closing the Circle: Case v. Nebraska & the Future of Habeas Reform*, 27 N.Y.U. Rev. L. & Soc. Change 633, 634 (2001-2002). That is because states are the first, and primary, forum for vindicating federal constitutional guarantees. *Mooney v. Holohan*, 294 U.S. 103, 113 (1935) (per curiam) ("Upon the state courts, equally with the courts of the Union, rests the obligation to guard and enforce every right secured by that Constitution.").

Here, fundamental fairness requires that, at a minimum, Mr. Goode be afforded a full and fair opportunity to vindicate his Fourteenth Amendment Due Process rights in Oklahoma's courts—a right that he has already been denied when the State obtained his convictions and death sentences in violation of that very guarantee. U.S. Const. amend. XIV; Okla. Const. art. II, § 7.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that on the date of the filing of the above and foregoing instrument, a true and correct copy of the same was delivered to the Clerk of this Court with instructions to deliver said copy to the office of the Attorney General of the State of Oklahoma.

Emma V. Rolls

APPENDIX I

Goode v. State, No. PCD-2025-572, Motion for Discovery on Post-Conviction Claims (Okla. Crim. App. July 21, 2025)

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA
JUL 21 2025
JOHN D. HADDEN
CLERK

IN THE COURT OF CRIMINAL APPEALS
OF THE STATE OF OKLAHOMA

CLARANCE ROZELL GOODE, JR.,	)	District Court of Tulsa County
	)	Case No. CF-2005-3904
Petitioner,	)	
	)	
vs.	)	Direct Appeal No. D-2008-43
	)	
STATE OF OKLAHOMA,	)	PCD 2025 572
	)	PCD- 2025-_____
Respondent.	)	

MOTION FOR DISCOVERY
ON POST-CONVICTION CLAIMS

Petitioner, Clarance Rozell Goode, Jr., respectfully requests an order authorizing discovery pursuant to Okla. Stat. tit. 22, § 1089(D)(3) and Rules 9.7(D)(2) and 9.7(D)(4), *Rules of the Oklahoma Court of Criminal Appeals*. Mr. Goode concurrently submits this motion and a request for an evidentiary hearing with his Subsequent Application for Postconviction Relief ("Application").

The claims raised in Mr. Goode's Application arise out of newly discovered evidence that the State suppressed favorable and material evidence to secure his convictions and death sentences in violation of the Due Process guarantees of the Federal and Oklahoma Constitutions. U.S. Const. amend. XIV; Okla. Const. art. II, § 7. The new evidence demonstrates that a prosecution witness, whom law enforcement classified as a confidential informant, reported to Owasso Police Officer Michael Denton that Ronald Thompson (Bunny), co-defendant and important State's witness, made statements that inculpated himself and contradicted his eventual trial testimony and the theory of the State's case. Neither the identity of the confidential informant nor the full content of her interview by Officer Denton was provided to the defense.

The gravity of the constitutional error that this new evidence brings to light, and which demonstrates official misconduct that corrupted the very framework within which Tulsa County prosecutors secured Mr. Goode's convictions and death sentences, warrants not only relief but also, at a minimum, discovery and further fact-finding to resolve any disputed issues of material fact raised by the allegations and evidence presented in support of Mr. Goode's Application. The need for discovery is especially acute here where the constitutional error stems from the State's failure to discharge its duty to disclose favorable evidence material to Mr. Goode's defense. *Brady v. Maryland*, 373 U.S. 83, 87-88 (1963) (holding that the Fourteenth Amendment's due process guarantee requires prosecutors, as the "architect[s] of a proceeding" in a criminal case to disclose to the criminally accused evidence favorable to the defense and "material either to guilt or to punishment[]").

Mr. Goode is aware of the limited nature of discovery in capital post-conviction cases and this Court's reluctance to permit "unfettered discovery in post-conviction proceedings." *Walker v. State*, 1997 OK CR 3, ¶ 43, 933 P.2d 327, 340. However, this Court also recognizes that "[i]n considering [ ] discovery requests, this Court shall presume the parties complied with all discovery rules issued by the District Court at the time of the trial in accordance with Sections 2001 and 2002 of Title 22." Rule 9.7(D)(3), *Rules of the Oklahoma Court of Criminal Appeals*. That presumption has been rebutted here, as the State failed to comply with repeated requests from defense counsel and the trial court's directive to provide the identity of its confidential informant to Mr. Goode's defense team. App. at 475, 478, 481, 484. Furthermore, at the date of filing this motion, Mr. Goode's efforts to obtain evidence to support the claims presented in his Application are still ongoing. App. at 002. Although Mr. Goode was able to obtain the identity of the confidential

informant with the Owasso Police Department's blessing, efforts since then have been unproductive.[1]

The evidence and allegations presented in support of Mr. Goode's concurrently filed Application, which Mr. Goode incorporates herein by specific reference, demonstrate that the Tulsa County prosecutors who prosecuted Mr. Goode violated their disclosure obligations under *Brady* and *Napue v. Illinois*, 360 U.S. 265 (1959); under Okla. Stat. tit. 22, § 2001 et seq.; and, *Harris v. State*, 2019 OK CR 22, ¶ 38, 450 P.3d 933, 950 ("Due process requires the State to disclose evidence favorable to the accused, including evidence that would impeach the credibility of the State's witnesses or the probative force of its physical evidence."). Further, this Court has recognized that the State's obligations to disclose evidence pursuant to *Brady* continue throughout the postconviction process. *See Pickens v. State*, 1996 OK CR 6, ¶ 32, 910 P.2d 1063, 1071. Under the circumstances, this Court is empowered to issue any discovery orders to facilitate review of Mr. Goode's Application. *Bland v. State*, 1999 OK CR 45, ¶ 3, 991 P.2d 1039, 1040; Rule 9.7(D)(4), *Rules of the Oklahoma Court of Criminal Appeals* ("[I]f failure to comply with a

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[1] The Tulsa County District Attorney's office once directed that any requests by Goode's current legal team for documents needed to go through the Attorney General's Office. App. at 015. AAG Crabb gave her approval for OPD to release of copies of DVDs to Goode's legal team. After OPD released all of its police reports in this case and Goode's defense team recognized discrepancies with what had previously been turned over, AAG Crabb gave her approval to the Tulsa County District Attorney's Office to release specific documents requested by Goode's defense team on February 26, 2025, and again on March 14, 2025, when Goode's team requested more items. App. at 035, 042. The Tulsa County District Attorney's Office has yet to respond to Goode's requests. In response to a follow-up email from Goode's defense team wherein Ms. Beery asked whether District Attorney Kunzweiler will provide specific documents, on May 19, 2025, AAG Crabb stated "I do believe so. I think he is trying to organize files as he has time. I'll keep you updated." App. at 072. Goode's defense team has attempted to follow up on the newly discovered reports provided by OPD with field investigation. After interviewing witnesses named in these newly discovered reports, the Attorney General's Office asked Goode's defense team to refrain from contacting victims' family members, which in this case are also fact witnesses. *See* App. at 058 (email correspondence between undersigned counsel and AAG Crabb).

discovery order is the ground for an issue raised in the application, this Court may remand pursuant to Section 1089(D)(5) of Title 22 for an evidentiary hearing.").

Mr. Goode's Application raises colorable claims that his convictions and death sentences were obtained in violation of the Federal and Oklahoma Constitution's Due Process guarantees. U.S. Const. amend. XIV; Okla. Const. art. II, § 7. Mr. Goode has supported these allegations with new evidence, including affidavits, a declaration, and newly discovered police reports.

The evidence submitted in support of Mr. Goode's Application demonstrate that 1) the Owasso Police Department and Tulsa County District Attorney's Office failed to provide the identity of the State's confidential informant Brandy Thompson; 2) the State had a duty to disclose the identity of the informant to Mr. Goode's defense under *Brady* and *Napue*, Okla. State Ann. tit. 22, §2001 et seq., and the trial court's express pre-trial discovery rulings; and 3) the State's suppression of that evidence was material at the guilt/innocence and penalty phases of Mr. Goode's capital trial.

While this evidence is sufficient to entitle Mr. Goode to relief for the reasons set forth in his Application, the following discovery will further aid this Court's review of the allegations raised therein:

i. Depositions

Mr. Goode respectfully requests this Court to issue an order authorizing depositions of the following individuals:

- **Michael Denton -** former Owasso Police Department Officer, who interviewed Brandy Thompson (now Heisler) and classified her as a confidential informant;

- **Brandy Thompson (now Heisler)** - former wife of co-defendant and State's star witness Ronald "Bunny" Thompson, whom Officer Denton classified as a confidential informant;
- **Richard Meulenberg** - Tulsa Police Department Captain (then detective) who handled the investigation of the July 26, 2005, assault and subsequent harassment of Ronald Johnson (Bunny) and Michelle Thompson-Chastain by Mitch Thompson, Jr. and Jimmy Hoffman, Jr.;
- **Sonya DeArmond** – Former Owasso Police Detective who interviewed Michelle Thompson-Chastain on August 27, 2005, regarding the murders of Mitch Thompson, Jr., Tara Burchette-Thompson, and Kayla Burchett;
- **Jeff Felton** – Former Tulsa Police Detective who referenced several interviews related to the murders of Mitch Thompson, Jr., Tara Burchette-Thompson, and Kayla Burchett, which were never disclosed to Mr. Goode's defense team, in an August 30, 2005, police report;
- **Jeff Henderson** – Former Tulsa County Police Detective involved in the investigation of the murders of Mitch Thomson, Jr., Tara Burchett-Thompson, and Kayla Burchett and the prosecution of Mr. Goode;
- **Stan Monroe** - Mr. Goode's trial counsel;
- **Eric Cullen** – Investigator retained by Mr. Goode's trial counsel:
- **Steven Kunzweiler** - Tulsa County District Attorney, who prosecuted Mr. Goode;
- **James Hawkins** - former Tulsa County Assistant District Attorney, who prosecuted Mr. Goode;

- **Penny Avans** – Former best friend of Michelle Thompson-Chastain.

ii. Documents[2]

Mr. Goode respectfully requests this Court grant his motion for discovery and order the State to produce copies of the following documents:

- All reports, interview summaries, and audio and/or video recordings from the Tulsa Police Department relating to Clarance Goode, Ronald Thompson (AKA "Bunny"), and Kenneth Johnon (AKA "FuFu");
- All reports, interview summaries, and audio and/or video recordings from the Owasso Police Department relating to Clarance Goode, Ronald Thompson (AKA "Bunny"), and Kenneth Johnon (AKA "FuFu");
- All reports, interview summaries, and audio and/or video recordings from the Oklahoma State Bureau of Investigation relating to Clarance Goode, Ronald Thompson (AKA "Bunny"), and Kenneth Johnon (AKA "FuFu");
- All reports, interview summaries, and audio and/or video recordings from the Tulsa County Sheriff's Office relating to Clarance Goode, Ronald Thompson (AKA "Bunny"), and Kenneth Johnon (AKA "FuFu");
- All reports, interview summaries, and audio and/or video recordings from the Tulsa Police Department relating to the August 26, 2005, murders of Mitch Thompson, Jr., Tara Burchett-Thompson, and Kayla Burchett;

[2]Mr. Goode attached a detailed affidavit and corresponding chart prepared by Federal Public Defender paralegal Angie Beery detailing her efforts to obtain records and which requests remain outstanding to Mr. Goode's Application. App. at 002, 165.

- All reports, interview summaries, and audio and/or video recordings from the Owasso Police Department relating to the August 26, 2005, murders of Mitch Thompson, Jr., Tara Burchett-Thompson, and Kayla Burchett;
- All reports, interview summaries, and audio and/or video recordings from the Oklahoma Bureau of Investigation relating to the August 26, 2005, murders of Mitch Thompson, Jr., Tara Burchett-Thompson, and Kayla Burchett;
- All reports, interview summaries, and audio and/or video recordings from the Tulsa County Sheriff's Office relating to the August 26, 2005, murders of Mitch Thompson, Jr., Tara Burchett-Thompson, and Kayla Burchett;
- Any and all documents, communications, and/or notes between the Tulsa County District Attorney's Office (or any Oklahoma law enforcement agencies, including the Tulsa Police Department, Owasso Police Department, the Tulsa County Sheriff's Office, and the Oklahoma Bureau of Investigation) relating to Clarance Goode, Ronald Thompson (AKA "Bunny"), and Kenneth Johnon (AKA "FuFu");
- Any and all documents, communications, and/or notes between the Tulsa County District Attorney's Office (or any Oklahoma law enforcement agencies, including the Tulsa Police Department, Owasso Police Department, the Tulsa County Sheriff's Office, and the Oklahoma Bureau of Investigation) relating to the August 26, 2005, murders of Mitch Thompson, Jr., Tara Burchett-Thompson, and Kayla Burchett;
- Any and all documents, communications, and/or notes between the Tulsa County District Attorney's Office (or any Oklahoma law enforcement agencies,

including the Tulsa Police Department, Owasso Police Department, the Tulsa County Sheriff's Office, and the Oklahoma Bureau of Investigation) relating to Brandy Thompson (now Heisler), specifically including former Owasso Police Department Detective Mike Denton;

- Any and all documents, communications, and/or notes between the Tulsa County District Attorney's Office (or any Oklahoma law enforcement agencies, including the Tulsa Police Department, Owasso Police Department, the Tulsa County Sheriff's Office, and the Oklahoma Bureau of Investigation) relating to Michelle Thompson-Chastain;
- Any and all documents, communications, and/or notes between the Tulsa County District Attorney's Office (or any Oklahoma law enforcement agencies, including the Tulsa Police Department, Owasso Police Department, the Tulsa County Sheriff's Office, and the Oklahoma Bureau of Investigation) relating to Penny Avans;
- Any and all documents, communications, and/or notes between the Tulsa County District Attorney's Office (or any Oklahoma law enforcement agencies, including the Tulsa Police Department, Owasso Police Department, the Tulsa County Sheriff's Office, and the Oklahoma Bureau of Investigation) relating to Kenneth Kirk;
- Any and all documents, communications, and/or notes between the Tulsa County District Attorney's Office (or any Oklahoma law enforcement agencies, including the Tulsa Police Department, Owasso Police Department, the Tulsa

County Sheriff's Office, and the Oklahoma Bureau of Investigation) relating to Daniel Thompson;

For the reasons set forth herein and in Mr. Goode's Application, he respectfully requests the Court to order the foregoing discovery which will aid its review of the allegations raised in Mr. Goode's Application.

Respectfully submitted,

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Katrina_Legler@fd.org

CERTIFICATE OF SERVICE

I certify that on the date of the filing of the above and foregoing instrument, a true and correct copy of the same was delivered to the Clerk of this Court with instructions to deliver said copy to the office of the Attorney General of the State of Oklahoma.

Emma V. Rolls

APPENDIX J

Goode v. State, No. PCD-2025-572, Appendix Excerpt:
Affidavit of Brandy Lynn Heisler (formerly Thompson) (May 21, 2025)

AFFIDAVIT OF BRANDY LYNN HEISLER

STATE OF OKLAHOMA)
)
COUNTY OF TULSA)

ss.

Before me the undersigned notary, on the 21st day of May, 2025, personally appeared Brandy Lynn Heisler, known to me of lawful age, who being by me first duly sworn, upon her oath, deposes and states:

1. My name is Brandy Lynn Heisler, formerly Brandy Lynn (Elkins) Thompson. I was married to Ronald Dwayne Thompson from 2002-2007 and we have two daughters. We were separated during August 2005 when the crimes (subject to Tulsa case CF-2005-3904) occurred.

2. On August 26, 2005, Ronald called me asking to see me and our daughters. Ronald picked me and my daughters up from my residence in Mannford. He was driving Tressa Beasley's car and drove us to Tressa's house where we all spent the night together (Ronald, myself, our daughters, Tressa Beasley and Billy Tatum).

3. While Ronald and I were together August 26, 2005, until the following morning, he spoke to me about the events of the prior evening and his role in the Owasso homicides.

4. Ronald indicated to me that he was planning to kill JR Hoffman before the evening of the Owasso homicides. He told me that his preplanned intention when he arrived at and entered the home of Mitch and Tara Thompson on the night of the crimes was to kill JR Hoffman in retaliation for being beaten so severely by Mitch Thompson (at Hoffman's behest) on July 26, 2005.

5. The morning of August 27, 2005, I had to work and was employed at Walmart in Owasso. I learned of an anonymous tip line offering a cash reward for information about the case and planned to call it after my shift ended to report what I knew about the Owasso homicides. I wanted to call the tip line, not out of concern for anonymity, but because I was interested in the cash reward to help me care for my young daughters.

6. Before my shift ended and I had the opportunity to call the tip line, I was asked by my manager to go to the back of the store. I complied and met with Owasso Police Officer Michael Denton who was waiting to speak with me. Officer Denton asked if I knew anything about the homicides and I responded in the affirmative, sharing without hesitation or any request for confidentiality what Ronald told me -- which included that Ronald had the intention to kill JR Hoffman prior to entering the home

of Mitch and Tara Thompson the night of the homicides. Officer Denton seemed surprised by the amount of information I volunteered, and I remember him saying, "Oh shit, I gotta take you to the station."

7. Officer Denton transported me to the Owasso police station for an interview. I remember riding in the front seat of his unmarked vehicle, that Officer Denton was driving fast, and that he was talking to me about the status of the investigation. I remember being emotionally affected when he spoke about Kayla's body being carried out of the home.

8. Ronald's sister, Tressa Beasley, and I were frightened for our safety because we had both spoken to police about the case. Officer Denton arranged for both of us to stay at a hotel under police surveillance and served as our sole point of contact with the Owasso Police Department until all suspects were arrested (Thompson, Clarance Goode, and Kenneth Johnson), which was no longer than 3 days.

9. Following the arrest of the three men, I returned home and no longer felt the need for police protection and did not request it, nor did I ask for my statements to police to be kept confidential.

10. I was never interviewed again by the police or prosecution and was never asked to testify. If asked to testify, I would have testified consistently with the information I reported to Officer Denton.

11. I was not aware that I was considered a confidential informant during the investigation and only learned of this recently from Goode's legal team after they received a police report naming me as the confidential informant.

Brandy Lynn Heisler
BRANDY LYNN HEISLER

Subscribed and sworn to before me this 21st day of May, 2025.

Brandi Maroge
NOTARY PUBLIC

BRANDI MAROGE NOTARY # 17006677 EXP. 07/20/25 PUBLIC STATE OF OKLAHOMA

My commission number is: 17006677

My commission expires 07/20/25

APPENDIX K

Goode v. State, No. PCD-2025-572, Appendix Excerpt:
Declaration of trial counsel Stanley D. Monroe (July 3, 2025)

DECLARATION OF STANLEY D. MONROE

I, Stanley D. Monroe, being over the age of 18 years old and of sound mind, declare under penalty of perjury pursuant to the laws of the United States of America, 23 USC § 1746, that the foregoing is true and correct:

1. I have been an attorney licensed in Oklahoma since 1978, practicing mostly in the area of criminal defense. During the last 46+ years I have represented countless defendants charged criminally and have served as lead counsel in numerous criminal jury trials.

2. On June 20, 2006, I was appointed by the Tulsa County District Court to serve as second chair counsel to Attorney Larry Edwards (now deceased) in Case No. CF-2005-3904, *State vs. Clarance Goode*. The preliminary hearing, formal arraignment, and filing of a bill of particulars had already occurred by the time I joined Mr. Goode's defense team, and pre-trial motion practice and hearings were underway.

3. Mr. Goode was found indigent by the court and our investigative resources were limited; thus, our focus was targeted at fact investigation, interviewing known witnesses, witness preparation, and development of a cogent defense. Additionally, our defense strategy was developed under the assumption that the prosecution and law enforcement officers involved were performing their duties in good faith and in compliance with their constitutional obligations. Therefore, resources were not allocated for, nor were they available to investigate whether the state actors involved were conducting themselves in an honest and ethical manner.

4. At the conclusion of my representation of Mr. Goode, all case materials in my possession (including all discovery) were transferred to successor appellate counsel.

5. At the time of Mr. Goode's trial, I had been a defense lawyer for 28 years and Mr. Edwards had sixteen (16) years combined experience between practicing as a criminal prosecutor and a defense lawyer. As I stated previously in my December 2011 declaration provided to Mr. Goode's legal team (attached to 3rd APCR and Habeas Petition), it was our belief that the trial would result in either an acquittal or a hung jury. I did not believe the State had a strong case against Mr. Goode and I felt confident that if the jurors were guided by the jury instructions, they would return a verdict of not guilty.

6. The jury trial was held December 3-13, 2007, before Judge Tom Gillert. During the first stage of trial, I conducted the cross-examinations of and presented testimony from the witnesses listed below:

Date	**Witness** (S) State / (D) Defense	**Description**
12-05-2007	Lt. Mike Denton (S)	Owasso Police Officer
12-06-2007	Det. William Mozingo (S)	Owasso Police Officer

Date	**Witness** (S) State / (D) Defense	**Description**
12-06-2007	Ofc. Jeff Henderson (S)	Tulsa Police Officer
12-06-2007	Terrance Higgs (S)	OSBI Firearms Examiner
12-06-2007	Det. Jeff Gatwood (S)	Tulsa Police Officer
12-07-2007	Ronald Thompson (S)	Cooperating Accomplice/Co-Defendant
12-07-2007	Fred Clemons (S)	Jailhouse Informant
12-07-2007	Candace Browning (S)	Denny's server (corroboration of Chastain)
12-10-2007	Det. Rick Parsley (S)	Owasso Police Officer
12-11-2007	Eric Cullen (D)	Defense Investigator
12-11-2007	Dep. Chf. Scott Chambless (D)	Owasso Police Officer
12-11-2007	Det. Richard Meulenberg (D)	Tulsa Police Officer

7. Larry Edwards and I chose to share in delivering the crucial and highly consequential first stage closing argument – our final opportunity to highlight reasonable doubt, challenge the prosecution's case, and make a persuasive appeal to the jurors in support of an acquittal. I focused on explaining the legal principles to apply when deciding their verdict and Mr. Edwards discussed the facts and evidence. During this critical point in the trial, we decided that the following points were most important to highlight:

   - I informed the jury that given the nature of the evidence advanced by the State, the instructions pertaining to corroboration and evaluation of accomplice testimony was "of extreme and critical importance," in this case and that Ronald "Bunny" Thompson (Bunny) was considered an accomplice and Christina "Michelle" Chastain (Chastain) could have been considered an accomplice.
   - I discussed the instruction explaining how the jurors should evaluate the credibility of Bunny's and Chastain's testimonies given that each of them stood to benefit from testifying against Mr. Goode (i.e., by avoiding the death penalty and prosecution, respectively).
   - I reminded the jury of the instability of Bunny's mental state (i.e., his inability to remember things and that he was hearing voices).
   - I emphasized Bunny's obvious motive and the State's attempts to minimize it.
   - I asked the jury to consider that the Owasso Police Department had tunnel vision, had lost objectivity and "cherry pick[ed]" evidence to present that "support[ed] their foregone conclusions" in respect to Mr. Goode.
   - I acknowledged to the jury the emotionally charged nature of this case and asked that they guard against being persuaded by their emotions rather than the evidence.

In summary, during closing I highlighted the weakest points in the prosecution's case – which were their key witnesses, Bunny and Chastain, upon whom their entire case against Mr. Goode hinged.

8. Contrary to my expectations, the jury returned guilty verdicts on all counts. Even worse, on Counts 1-3 the jurors were given the option to choose between Murder I (Malice Aforethought) or Murder I (Felony Murder), and the jurors chose Murder I (Malice Aforethought) reflecting their finding that Mr. Goode was not just involved in the crime, but that he intentionally caused the deaths of all three victims. It is my strong belief that the evidence did not support that conclusion.

9. I handled the entire second stage portion of the trial including opening and closing statements and presenting the testimony from the second stage witnesses. The state incorporated the prior testimonies of Bunny and Chastain, which included Goode's alleged threats made to them. The jurors were able to consider their testimonies when deciding whether to impose a sentence of death upon Mr. Goode. As I stated previously in my December 2011 declaration provided to Mr. Goode's legal team (mentioned at ¶5 above, attached to 3rd APCR and Habeas Petition), the majority of our limited resources were devoted to first stage investigation and preparation with the expectation that we would not make it to second stage.

10. During my 46+ years as a defense lawyer, it has been my observation and experience that the defense is often at a disadvantage during jury trials because of the jurors' inherent tendency to trust prosecutors and law enforcement. I believe this bias amongst jurors was even stronger in 2007 when Mr. Goode's trial took place, which was before videos of police misconduct were commonplace online, and before the widely publicized Tulsa Police Department corruption probe hit the media in 2009.

11. I believe the jurors from Mr. Goode's trial reached their conclusions in both the guilt and sentencing phases because the trust they had in the system, the district attorney, and police officers allowed them to discount the lack of credible evidence against Mr. Goode.

12. Since Mr. Goode's 2007 trial, it has become known that between 2003-2009 rampant police misconduct was occurring within the Tulsa Police Department (TPD) involving falsifying, manipulating, and fabricating search warrants, evidence, and witness testimony in cases. TPD was heavily involved in the 2005 Owasso triple homicide investigation; however, the significant role TPD played was insufficiently documented in police reports. The reports that were produced indicate that at least 20 TPD officers took part in the investigation,

including two who were federally indicted in the corruption probe, and one who was an unindicted co-conspirator (Jeff Henderson, Bill Yelton, and Shawn Hickey, respectively).

13. Had I known of the corruption occurring within the TPD during the time I represented Mr. Goode, my entire strategy would've been different. For example, I would've known that we needed to seek out different information and scrutinize certain evidence differently. Of course, my cross examinations of the police officers, Officer Jeff Henderson in particular, would've been handled much differently. I am still suspicious of the circumstances surrounding the "recovery" by Officer Henderson of the .22 caliber bullet and casings and the "recovery" of the twenty-five gloves – both sets of evidence needed to corroborate Bunny, who would've otherwise been a completely unbelievable witness, in my opinion.

14. I have learned from Mr. Goode's present legal team that new evidence has materialized indicating that the Owasso Police Department suppressed at least one witness interview and engaged in a pattern of selectively documenting certain events and information, omitting information from reports, and withholding reports altogether. It appears that the common thread throughout the activity is that these instances occurred with potentially discrediting information related to witnesses Chastain and Bunny. I find this incredibly troubling given that Chastain and Bunny were vital to the State's case against Mr. Goode and any opportunity to impeach them could have literally made the difference between life and death for my client.

15. I have become aware that one of the witness interviews suppressed was that of Brandy Thompson, Bunny's then-wife, who was not an endorsed witness and whose identity was concealed under the designation of being the confidential informant. I know that we made attempts to learn the identity of the C.I., but do not recall how the issue was resolved. However, I have no doubt that if we had learned Brandy Thompson was the confidential informant, we would've had our investigator, Eric Cullen, interview her. To my knowledge that never happened.

16. I have been made aware that during Brandy Thompson's interview with Owasso Police Officer Mike Denton, she disclosed that Bunny was not the innocent bystander he claimed to be; that he actually planned to enter the home of Mitch and Tara Thompson the evening of the Owasso homicides with the intention to kill J.R. Hoffman. If I was aware of this information at the time, I would've called Brandy Thompson as a witness and I would've impeached Bunny's testimony.

17. Not only is the information disclosed by Brandy Thompson important to discredit Bunny, but the fact that the Owasso Police Department sought to conceal it undermines the legitimacy of the entire investigation. This information, especially in context with Owasso

Police Department's pattern of selectively documenting and omitting information calls into question the integrity of Officer Denton and others. Had I known then that certain information was being manipulated in the investigation, I certainly would've raised the issue and used it to discredit the State's witnesses and the State's case against Mr. Goode.

18. It is difficult to hypothesize all the ways things might have gone differently had I known this information – that Bunny admitted to planning to kill J.R. Hoffman, and that the Owasso Police Department withheld this information. Suffice it to say, it would've fundamentally shifted our defense strategy and impacted everything from our investigation and interviews, to how we handled witnesses (and who we called as witnesses), reviewed evidence, the exhibits we submitted, the pretrial motions we filed, etc.

19. It is my belief that the police department understood that Bunny and Chastain were weak witnesses, otherwise they would not have taken measures to conceal any discrediting information against them. If we were given the opportunity to further discredit Bunny and Chastain, and discredit law enforcement and the investigation – I feel confident that the jurors would've viewed things differently and Mr. Goode's case would've had a different result.

Signature

July 3, 2025
Date

APPENDIX L

Goode v. State, No. PCD-2025-572, Appendix Excerpt:
Declaration of trial investigator Eric Cullen (July 9, 2025)

DECLARATION OF ERIC CULLEN

I, Eric Cullen, being over the age of 18 years old and of sound mind, declare under penalty of perjury pursuant to the laws of the United States of America, 28 U.S.C. § 1746, that the foregoing is true and correct:

1. I have been a licensed private investigator and the owner of Cullen Investigations in Tulsa, Oklahoma since 2005. As such, I have worked on numerous criminal cases, including post-conviction and wrongful conviction matters. My experience entails extensive work on the high-profile Tulsa County wrongful conviction cases of Betty Wolfe, Michelle Murphy, Malcom Scott, De'Marchoe Carpenter, and Corey Atchison. Additionally, I was involved in the work that led to the exoneration of Perry Lott (Pontotoc County) and Glynn Simmons (Oklahoma County).

2. In March 2006 I was appointed by the Tulsa County District Court to serve as the defense investigator on Mr. Goode's trial team alongside attorneys Larry Edwards and Stan Monroe in Case No. CF-2005-3904, *State of Oklahoma vs. Clarance Goode*.

3. Mr. Goode was found indigent by the court; thus, resources were limited and investigative efforts were focused, strategic, and largely determined by the discovery materials and witness information provided by the State. Furthermore, our investigative plan was based on the assumption that the law enforcement officers involved conducted their investigations in good faith.

4. I have since learned that significant misconduct may have occurred during the investigation against Mr. Goode, including the suppression of potentially exculpatory witness interviews, the selective documentation of events, and the concealment of information that could have discredited key State witnesses. Recently produced documents that indicate these practices occurred are outlined in sections a-f below (with my comments at paragraphs i, ii, iii, ...):

   a. Brandy Thompson
   Ronald "Bunny" Thompson's then-wife whose identity was suppressed under the guise that she was a confidential informant. She submitted to a formal interview and gave a detailed statement to Owasso Officer Mike Denton (that was never produced to defense) that included details contradicting Bunny's testimony that he was an innocent bystander and exposing that his intent the night of the Owasso homicides was to kill J.R. Hoffman in an act of revenge.

      i. I never interviewed Brandy Thompson, but had I been informed that she was a prosecution witness or the confidential informant, I would have made every effort to locate and interview her.

b. Mike Wade (and Marty Cooper & Lori Arion)

Mike Wade was a night shift manager at Walmart where Ronald "Bunny" Thompson was employed. He was interviewed by Owasso PD on or about 9/7/2005 as were managers Marty Cooper and Lori Arion. The September 2005 interviews of these three witnesses were never produced. Almost 3 months later on November 29, 2005, limited statements (that were produced to defense) were solicited by Owasso PD from Marty Cooper and Lori Arion.

Two years later, in November 2007 I interviewed Marty Cooper and Lori Arion (unaware of Mike Wade), and my interview memos reflect that I learned from Lori Arion that prior to the homicides Mitch Thompson had called Walmart in an irate state demanding that Bunny be fired for sexually harassing his wife. Documents recently received by Mr. Goode's present legal team indicate that Arion also reported this information to Owasso PD, but it was omitted from any reports produced to Mr. Goode's trial team.

During my November 2007 interviews with Marty Cooper and Lori Arion, both witnesses informed me that while meeting with Bunny the day following the homicides, Bunny was intoxicated and talking about a gun. Neither Cooper nor Arion could remember specifically what he said, despite my attempts to help them recall the information. Lori Arion told me that she believed she reported these details to Owasso Police officers two years prior, back in 2005. No reports were produced that referenced this information.

i. I definitely would have interviewed Mike Wade had I known of him and that he was interviewed by Owasso Police Officers. Especially in light of Marty Cooper's and Lori Arion's statements to me about Bunny's gun comments, I would have hoped that he knew and remembered what Bunny said.

c. Kirby and Jennifer Bickel

Kirby and Jennifer Bickel were interviewed by Owasso PD Det. Sonya DeArmond on August 26, 2005, and each of them gave written statements (that were never produced to defense). Both Kirby and Jennifer detailed an employment dispute with Tara Thompson, Kirby noting that Mitch Thompson informed him that Tara quit and brought a police officer with him when he delivered Tara's office keys to Mr. Bickel. Kirby's statement included information about witnessing a fight between Mitch and J.R. Hoffman years prior. Additionally, Tara's statement included information about Tara not wanting J.R. Hoffman to live with them and that she said Bunny was "bad news."

i. Had I known of Kirby and Jennifer Bickel and the information they reported to the Owasso Police Department, I would have attempted to interview them.

d. Supplemental Report 60 and 10-12-2005 letter from Tulsa PD Det. Cpl. Chris Stout to Owasso PD Det. Mozingo (re: Omission of Information that Discredits Chastain)

Owasso PD Det. Mozingo's Suppl. Rpt. 60 and attached letter from Stout (neither produced in discovery) detail the 10-12-2005 initial contact with Jailhouse Informant Fred Clemons including that Det. Regalado was present and that Clemons' stated Christina "Michelle" Chastain "knew about the incident before it happened." Subsequently, on 10-19-2005 Owasso PD Det. Mozingo interviewed Fred Clemons during a recorded (and later transcribed) interview during which Clemons stated:

> "He said [Chastain] knew about what was going on. That's what he told me, she knew about the whole deal that was going down that night. That's what he told me. He said he's more pee-ed off at her because she acted like she didn't know and ...what she told the police, that she didn't know anything about it[.] He said she knew about it."

Rather than produce Suppl. Rpt. 60 and Tulsa PD Det. Cpl. Stout's letter to Mr. Goode's trial team, a 10-25-2005 OPD Witness Report detailing Stout's anticipated testimony and a detailed 3-page report (Suppl. Rpt. 71) by Det. Mozingo "summ[arizing] the interview" were substituted and produced along with an audio tape and transcript of Clemons' 10-19-2005 interview. Notably, Mozingo chose to omit the part about Chastain's prior knowledge of the homicides from his interview summary and there is no mention anywhere of Det. Regalado's involvement in the initial contact with Clemons.

i. The use of jailhouse informants is one of the hallmarks of wrongful conviction cases – a fact recognized by the state of Oklahoma, apparent by the 2020 passing of the *Innocence Protection Law Against Unreliable Jailhouse Informants.*

ii. Mozingo's actions described above are part of a broader pattern of troubling behavior demonstrating that the police and prosecution were not in pursuit of the truth regarding the Owasso homicides but were in pursuit of Mr. Goode and **only** the information necessary to obtain a conviction against him. This is made blatantly obvious by the prosecution's use of Clemons in their case against Mr. Goode. When Clemons, **while under oath**, recanted parts of his 10-19-2005

interview (admitting that he was seeking help with his Texas case and was abusing alcohol and drugs at the time), the prosecution refused to accept his recantation. They even impeached Clemons at trial with select statements that he made while **not under oath** during his 10-19-2005 interview because that was the version they needed to corroborate the accomplice testimonies of Bunny and Chastain -- which were necessary to convict Mr. Goode. The prosecution could have just as easily used part of Clemons' statement to cast doubt on Chastain's story that she was not involved, but they were not interested in discrediting Chastain because her testimony was vital in achieving their goal: convicting Goode.

iii. In fact, as obvious as the State's tunnel vision on Goode was, the blinders they contrived in respect to Chastain were even more blatant. A few examples:

- The Owasso homicides involved a victim (Mitch Thompson) who at the time of his murder was bitterly embattled with his sister (Chastain) upon whom he had been wreaking extreme havoc. Mitch and Chastain were close to their parents and sister but there were **zero** documented law enforcement interviews with Mitch and Chastain's family produced. I am incredulous that no interviews with the family transpired and assume, based on what I now know, that they do not exist because the information learned does not support the State's preferred narrative that Chastain, like Bunny, was an innocent bystander.

- Along those lines, the jury was instructed that Chastain could've been considered an accomplice which meant that her testimony was in need of corroboration. A point of contention was whether she had ever voiced an intention to kill her brother (both Bunny and defense witness Penny Avans testified in the affirmative, Penny stating that Chastain made threats during a conversation with her mother, Cherry Thompson). No family members testified during the trial except for Mitch and Chastain's mother, Cherry Thompson, who testified for the state regarding events related to the State's theory of motive. Interestingly, during Cherry's testimony, the prosecutor never attempted to corroborate Chastain's testimony by asking Cherry whether Chastain made threats to kill Mitch while talking to her. Additionally, when the state sought to discredit Penny Avans' testimony on the subject, they used Officer Denton as a rebuttal witness instead of Cherry Thompson.

No reports were produced regarding any investigative interviews with Cherry Thompson, but they must have occurred for the State to decide to put Cherry on as a witness; and the prosecution would've certainly wanted to be able to use Cherry to corroborate Chastain if possible, so must have asked her about whether Chastain made threats. The absence of this line of questioning during Cherry's testimony is a huge tell and may be indicative of prosecutorial misconduct stemming from the prosecution's awareness of Chastain's perjured testimony.

- I found Penny Avans to be very credible. During the investigation she tried to report damaging information about Chastain to law enforcement and was not listened to. During trial, rather than simply rebutting her testimony with Cherry Thompson (which likely wasn't an option), the prosecution acted viciously toward Avans who stood nothing to gain from telling the truth about Chastain. Amongst the documents recently received by Mr. Goode's legal team is Owasso PD's witness list. It is probably no coincidence that Penny Avans is the only person listed without an accompanying narrative regarding her anticipated testimony.

e. <u>BATF Firearms Trace Reports (related to Bunny's 9mm firearm associated with the empty gun box found in Bunny's vehicle)</u>

10-13-2005 BATF Firearms Trace Summary Reports Requested by ATF Agent Tom Harris on Thompson's (from an empty gun box in his car found during 9-21-2005 search) and Carlos Foster's (in possession of Johnson during arrest) 9mm firearms. Report shows ownership of the Johnson pistol by Carlos Foster. ATF Trace report shows ownership of the gun from the empty box in Thompson's car to Ronald Thompson, purchased 9/18/2004.

11-08-2007 BATF Firearms Trace Request by Owasso PD related to Thompson's 9mm firearm (from an empty gun box in his car). This is a report by Owasso PD Cara Bishop detailing Det. Mozingo's urgent 11-08-07 request to BATF for another gun trace on the gun from the empty gun box from Thompson's car. The application lists Thompson as "last known possessor" and adds Goode, Johnson, and Chastain as associates of Thompson.

11-13-2007 BATF Firearms Trace Results from 11-08-2007 request related to Thompson's 9mm firearm. Lists the same purchase date and purchaser (9-18-04, Ronald Thompson) as listed in the October 2005 BATF gun trace report.

i. I recall that Goode's trial team had their suspicions regarding the 9mm firearm associated with the empty gun box retrieved from Bunny's car (these suspicions are reflected in the trial transcripts). For one, it is odd that Bunny's vehicle -- thought to contain evidence related to a triple homicide -- was towed on 8-27-2005 but not officially searched until 9-21-2005. If the gun box truly was located for the first time on 9-21-2005, it is odd that a gun trace wasn't requested until 3 weeks later (and why did ATF Agent Harris make the request instead of Owasso PD?). For comparison, records indicate that a check was run by Owasso on the revolver found in Tammy Hamilton's vehicle (during the time of Johnson's arrest) the same day – and that seems like standard practice (especially in a homicide case).

No reports were ever produced that documented the efforts of law enforcement to rule out Bunny's 9mm from the empty gun box as one of the firearms used in the homicide. Additionally, no interviews with Bunny were produced where Bunny explained the gun's whereabouts. The first time the defense ever heard Bunny's explanation was when he testified in Mr. Goode's trial that he sold the gun to someone named Kenneth Kirk.

I find it interesting that a 2nd BATF gun trace was requested by Owasso PD 3 weeks prior to trial and believe that may indicate that Thompson's 9mm firearm was never ruled out as a potential murder weapon and its whereabouts were unknown preceding trial in November 2007.

f. Supplemental Report 81 detailing communications between Det. Tony Klahr and Asst. DA Mickey Hawkins regarding firearms evidence

The report states that Asst. ADA Hawkins contacted Klahr on 04-24-2007 with questions regarding headstamps on ammunition evidence. Additionally, "On Monday, April 30, 2007, ...Hawkins informed me that he has since spoke with the OSBI firearms Criminalist [Terrance Higgs]..." On April 25, 2007, Higgs faxed an amended report to Hawkins.

i. Higgs testified at trial that he amended the report because "in [his] notes for casing F12, it [was]...Geco brand." Not mentioned by Higgs during his testimony was that he also omitted a sentence that was on page 2 of his initial report: "They could not be identified or eliminated as having been fired from F13." Additionally, the changes reflected in the amended report only pertain to evidence attributed to Goode; yet an uncorrected error REMAINED in Higgs amended report involving an item not attributed to Goode (Item F4, a 9mm casing, is listed as CBC brand when it is actually Geco brand).

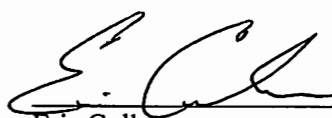
The timing of Higgs' amending his report in relation to the conversation documented in Suppl. Rpt. 81, coupled with the fact that the focus of changes in Higgs amended report was only on the evidence that the state attributed to Goode (leaving another error uncorrected), seems to suggest that Higgs may have changed his report at the behest of Asst. DA Hawkins.

5. In my work on the wrongful conviction cases of Betty Wolfe, Michelle Murphy, Malcom Scott, De'Marchoe Carpenter, Corey Atchison, Perry Lott and Glynn Simmons, several common threads consistently emerged. These included:

(1) Tunnel vision and confirmation bias amongst law enforcement;
(2) The use of unreliable witnesses' incentivized testimony;
(3) The suppression or withholding of exculpatory evidence by law enforcement;
(4) Failure to disclose impeachment material related to key State witnesses;
(5) The fabrication or manipulation of evidence to bolster weak cases;
(6) Selective documentation or omission of information in reports and withholding certain witness statements altogether.

These same red flags are plainly present in the case of Clarance Goode. The information outlined in ¶¶4a-4f reveals a striking pattern of law enforcement's efforts to manipulate the investigation to achieve their desired outcome rather than uncover the truth.

The Tulsa County DA's office and Tulsa Police Department both have a troubled history of engaging in misconduct which has led to numerous wrongful convictions. We now know that these practices were occurring during the time of Mr. Goode's investigation and trial. The actions taken by the Owasso and Tulsa Police Departments in Mr. Goode's case mirror the patterns I've observed in other wrongful conviction cases I've worked to overturn. In my professional opinion, these similarities are not coincidental—they reflect a systemic pattern of misconduct that warrants serious concern and further investigation.



Eric Cullen

7-9-25

Date

APPENDIX M

Goode v. State, No. PCD-2025-572, Appendix Excerpt:
Declaration of defense witness Penny Avans (July 9, 2025)

DECLARATION OF PENNY AVANS

I, Penny Avans, being over the age of 18 years old and of sound mind, declare under penalty of perjury pursuant to the laws of the United States of America, 23 USC § 1746, that the foregoing is true and correct:

1. My name is Penny Avans. I testified for the defense in Tulsa County Case CF-2005-3904 at the trials of Clarance Goode in December 2007 and Kenneth Johnson in February 2008 in regard to my knowledge of the events leading up to the August 2005 triple homicide in Owasso. I have provided multiple sworn statements to Clarance Goode's appellate legal teams over the years.

2. I was best friends with Christina "Michelle" Chastain in August 2005 and had known her for years at that time. We were in our twenties then and my life was certainly a lot different. However, even today -- twenty years later -- I stand by every word of my testimony in Mr. Goode's case. I was telling the truth.

3. My testimony included that during the week prior to the homicides, I witnessed Chastain tell her mother, Cherry Thompson, that she was going to kill Mitch. I was telling the truth.

4. My testimony included that Chastain asked me to lie to the police and tell them that Mr. Goode confessed to me that he was involved in the homicides and when I refused to do so, Chastain threatened me. I was telling the truth.

5. My testimony included that when I tried to tell Officer Denton about certain things Michelle had told me he was not interested in what I had to say. Denton would cut me off and say things like, "That's nice, but we're just trying to focus on the actual killers right now." I was telling the truth.

6. Between my initial phone call with Officer Denton on or about August 26, 2005, and my in-person interview with him on or about September 1st, I spent hours talking to him. During our conversations he would ask me the same questions over and over as if trying to get me to change my story. For example, when I told him that I received a call at a certain time, he badgered me about the time – as if to doubt what I was telling him and tried to get me to agree that it was a different time. When I left my in-person interview with Denton, I recall my then-husband and I talked about how surprised we were by Denton's disinterest in what I was telling him. I reported this occurrence and my distrust of Officer Denton at the time to defense investigator Eric Cullen during my 2006 interview with Cullen.

7. When I saw Officer Denton's report about our interview, I was shocked by how short it was given the amount of time I spent talking to him and the information I shared compared to the information he chose to include (and exclude).

8. I was naïve in thinking that the police would want to know the truth, and I was trying to do the right thing by telling them. So, in September of 2007 I requested another interview with Owasso PD because I thought what I had to tell them was important and they would want to know. An interview did take place where I shared everything I knew about Michelle, her suspected involvement in the homicides, that she had been threatening to kill Mitch prior to, and had asked me to lie to the police about Mr. Goode confessing. At no point in time was I asked to submit to a polygraph, I was not even asked very many questions at all during the interview. They didn't seem interested in what I had to say.

9. I had no incentive to lie and stood nothing to gain from being honest and sharing what I knew with the police and when I testified. If anything, I endured additional stress and burden in my life for doing what I thought was right.

Signature

7/9/25
Date

APPENDIX N

Goode v. State, No. PCD-2025-572, Appendix Excerpt:
Affidavit of FPD Capital Habeas Unit Paralegal Angie Beery (July 17, 2025)

AFFIDAVIT OF ANGELA "ANGIE" BEERY

STATE OF OKLAHOMA)
) ss.
COUNTY OF OKLAHOMA)

I, Angie Beery, being of sound mind and legal age, hereby state under oath:

1. I am employed as a paralegal in the Capital Habeas Unit (CHU) of the Federal Public Defender's Office for the Western District of Oklahoma.

2. As a paralegal with the CHU, I am assigned to work on Clarance Goode's case. Many of my duties are related to the organization of case materials and utilization of information in the case record.

3. To ensure that our file is complete, members of Mr. Goode's legal team have sent communications requesting various items to multiple entities over the years including to the Attorney General's Office, Tulsa County District Attorney's Office, Tulsa County Court Clerk, The City of Tulsa and Tulsa Police Department, The City of Owasso and Owasso Police Department, the Medical Examiner's Office, and the Oklahoma State Bureau of Investigation. Many of these efforts are outlined and indexed with supporting documentation attached in the appendix of attachments contemporaneously filed herewith and may be found at Appendix Vol. I, Section III, p. 236.

4. On December 19, 2024, I emailed Assistant Attorney General Jennifer Crabb (AAG Crabb) for permission to request digital copies of the recordings in the possession of the Owasso Police Department. AAG Crabb agreed and asked for me to obtain copies for her office as well.

5. On December 20, 2024, I emailed the Owasso Police Department (OPD) records division requesting copies of digitized recordings for both the CHU and Attorney General's (AG) offices since many VHS tapes and cassettes had deteriorated over the years. Additionally, I was following up regarding ongoing efforts (since July 2024) to obtain a copy of OPD Evidence Item #40 (Eventide DVD-Ram audio recording) which was not in our possession and was not produced in discovery according to case records (i.e., discovery receipts in the O.R., indexes of materials transferred to our office from prior counsel, discussions with prior counsel).

6. On January 30, 2025, the OPD records division responded (to email outlined in ¶5) stating that two external drives were ready to be picked up. Separate communications were ongoing regarding the status of Evidence Item #40.

7. On February 3, 2025, CHU Investigator Brandi Harris collected the external drives from OPD and CHU Paralegal Brandi Maroge delivered one of the external drives to the Attorney General's office the following day. The drive contained approximately nine gigabytes of data and in addition to audio/visual recordings, included all police reports and documents related to OPD Case 2005-1910. Upon receipt of the external hard drive, Paralegal Brandi Maroge and I began saving the contents to our server and organizing the materials.

8. On February 13, 2025, after extensive communications between OPD, AAG Crabb, and the CHU's IT Professional, it was determined that the Evidence Item #40 disc in possession of OPD would need to be shipped to Eventide's parent company, VistaCom, who still maintained the now obsolete equipment and software needed to read the disc. Thus, OPD shipped the disc to VistaCom with the expectation that copies in readable format would be provided to OPD, AAG Crabb, and my office.

9. On February 20, 2025, after extensive communications between OPD, AAG Crabb, the CHU's IT professional, and the VistaCom service manager, it was determined that the Evidence Item #40 disc shipped to VistaCom on February 13, 2025, was blank.

10. On February 26, 2025, I emailed AAG Crabb requesting assistance or approval obtaining records from multiple agencies including the Tulsa County District Attorney's (DA) Office. My request to the DA's office was for a copy of Evidence Item #40 (since OPD's copy was blank and records indicate that a copy was furnished to the DA by OPD) and copies of a specified bates range of documents totaling 23 pages of discovery. On the same day AAG Crabb forwarded my email to First Assistant Tulsa County District Attorney Erik Grayless notifying him of my request and stating, "The AG's Office has no objection to you providing these items."

11. During February and March 2025, my review and organization of the external drive provided by OPD was ongoing. I discovered that some of the documents on the external drive were not produced during discovery (according to discovery receipts in the O.R., indexes of prior counsel's materials, and discussions with prior counsel), and revealed information unknown to Goode's present and previous legal teams. Some of the information contained in the previously unproduced documents raised questions about the integrity of the investigation. In an attempt to resolve those questions, with Assistant Attorney General Jennifer Crabb's permission, I requested additional records as noted on the index of new materials at Appendix Vol. I, p. 310.

12. Amongst the documents saved to the external drive not previously produced was Officer Michael Denton's Supplemental Report No. 0087 dated November 19, 2007, that disclosed the confidential informant's identity as Brandy L. Thompson. *See* App. at 364.

13. Since the OPD's Witness Summary Report produced in October 2005 stated, "The C.I. was brought to the Owasso Police Department, where a formal interview was conducted, and a detailed statement of Thompson's confession was given," I searched the external drive for a report or recording related to the interview and detailed statement; however, those items were missing.

14. Since Brandy Thompson's interview was missing from the records and multiple witness statements and witness identities not previously produced were on the external drive provided by OPD, I was less confident our file in Mr. Goode's case was complete. I reviewed the case materials to identify any additional interviews and items that may be missing from our file. Given the volume of materials and general, sometimes inconsistent, references to interview timing (and therefore, the necessity to cross-reference events to establish when interviews occurred), it was a time-intensive endeavor.

15. On March 13, 2025, I emailed the OPD Records division, AAG Crabb copied, asking for the records related to Brandy Thompson's formal interview and detailed statement. Additionally, I told them that the mid-day interviews referenced in Tulsa Police Officer Jeff Felton's August 30, 2005, report were unknown to us – that perhaps that is when Brandy Thompson was interviewed. Additionally, I asked them to confirm whether there might be documentation of additional interviews with Ronald "Bunny" Thompson (since his statements evolved greatly without explanation between his 08-27-2005 interview with police and 06-08-2006 interview with the prosecution team; and, he testified at trial to matters not referenced in reports (e.g., selling the 9mm firearm associated with the empty gun box found in his vehicle to a man named Kenneth Kirk)).

16. On March 13, 2025, I also emailed the DA's office, AAG Crabb copied, asking them to check their records and provide copies of: Brandy Thompson's interview or detailed statement, any additional interviews with Ronald "Bunny" Thompson, and copies of interviews/statements/notes related to the expected testimonies of Kenneth Kirk and Daniel Thompson (whom do not appear on witness lists, but were each subpoenaed during trial on 12/06/2007 to testify the following day, though neither did). The following morning, AAG Crabb responded to my email, including the DA's office, stating "That's fine with me."

17. On March 18, 2025, the OPD records division responded (to email outlined in ¶15), AAG Crabb copied, informing me they "double checked and [they] have sent everything [they] have to [me] on the external drives."

18. On March 25, 2025, I emailed First Assistant Tulsa County District Attorney Erik Grayless, AAG Crabb copied, following up on my prior February 26th and March 13th requests (outlined in ¶¶ 10, 16). AAG Crabb replied within ten minutes stating, "Erik let me know last week that I should reach out to District Attorney Steve Kunzweiler about this… I will let you know when I have further information."

19. On May 16, 2025, I emailed AAG Crabb to see if DA Kunzweiler will grant permission for copies of the requested items to be given.

20. On May 19, 2025, AAG Crabb responded, stating "I do believe so. I think he is trying to organize the files as he has time. I'll keep you updated."

21. As of the date of this filing, there has been no further communication regarding obtaining the case materials.

FURTHER AFFIANT SAYETH NOT.

Angie Beery

Subscribed and sworn to before me the 17 day of July 2025, by the person known to me to be Angie Beery.

Notary Public

Comm. No.: _____

Expires: _____

BRANDI MAROGE NOTARY # 17006677 EXP. 07/20/25 PUBLIC STATE OF OKLAHOMA

APPENDIX O

Goode v. State, No. PCD-2025-572, Appendix Excerpt:
Owasso PD Witness Summary Report, Confidential Informant Witness Information and Statement as reported by Officer Denton (Aug. 26, 2005)

stupid ass cousin to throw away them fuckin' shoes & he's still wearin' 'em around like a little bitch".

Michelle said that Goode made her go to 'Denny's' on 11th & Garnett in Tulsa with him (this was early that morning), where Goode continued to inquire as to what she may have told anyone. Goode made her order food, and when she couldn't eat he stated "what the fuck's wrong with you, don't you bitch up, you bitch up & you're next". They returned to her house where Goode continued to make comments about "you're makin' me nervous, don't you fuckin' make me nervous Michelle", etc...

Later that day (Saturday, 8/27) Michelle got a call that her father was getting worse, so she used that as an excuse to get away from Goode. Later that evening, after she was called & asked to come to Owasso for an interview, one of her family members called Goode to let him know that the police were wanting to talk to her. Goode called her sister Gwendolyn Davidson's cell phone on the way to Owasso, her sister answered and spoke with him briefly, then handed her the phone & said "it's Clarence". Goode said "what the fuck are you goin' down there for". She told him that Detective DeArmond had some questions she needed to answer, on some new developments. Goode said "what the fuck did you say?" Michelle responded "I didn't say anything". Goode said "it's that fuckin' Bunny, it's that fuckin' Bunny, if I find him before the cops do, he's gone, I'm lookin' for Bunny, if I find him I'm shootin' his ass". Michelle told him "I gotta to go", and he said "don't fuckin' hang up on me". Michelle said she hung up on him, and he did not call her back.

Witness Information:

Name	SSN	Sex	DOB	Age	Race
INFORMANT, CONFIDENTIAL			/ /	**0**	

Home Phone	Alt Phone	Work Phone	Address
			,

Witness Statement:

The confidential informant's identity/contact information is known to Sgt. Denton. Although this informant was located prior to finding defendant Thompson, the informant's statement corroborates Thompson's subsequent confession. The confidential informant can testify, if necessary, that co-defendant Ronald Dwayne "Bunny" Thompson made a full confession to C.I. on Friday, August 26th, 2005. That Thompson confessed that he accompanied Clarance Goode, and another black male who at the time was unknown to him, to the victim's house. That he went into the back bedroom area, while Goode & the other male went into the master bedroom. That he heard multiple gunshots, and ran into the master bedroom to discover the victims were murdered.

The C.I. was brought to the Owasso Police Department, where a formal interview was conducted, and a detailed statement of Thompson's confession was given. The C.I. was subsequently re-located to another city for witness protection.

Witness Information:

Name	SSN	Sex	DOB	Age	Race
DENTON, MIKE		**M**	/ /	**0**	**W**

Home Phone	Alt Phone	Work Phone	Address	
(918) 272-2244		**(918) 272-2244**	**111 N MAIN ST**	**OWASSO , OK 74055 OK**

Witness Statement:

That, on the listed date/time he was employed as a uniform patrol sergeant for the Owasso Police Department. That he has extensive law enforcement training by the National Highway Traffic Safety Administration, United States Drug Enforcement Administration, Oklahoma Highway Patrol, Royal Canadian Mounted Police, & Florida Highway Patrol. That he is a former member of the Association of Oklahoma Narcotics Enforcers. That he is a former member of the Owasso Police Department Criminal Investigations Division and is a graduate of the State of Oklahoma Criminal Investigation Academy. That he has received training from the Oklahoma Bureau of Narcotics & Dangerous Drugs in recognition & eradication of marijuana. That he holds the Advanced Peace Officer Certification through the State of Oklahoma/CLEET. That he has over 1,100 hours of Law Enforcement Continuing Education training through CLEET. That he has over fourteen (14) years law enforcement experience. That he is the initial responding/reporting officer &

APPENDIX P

Goode v. State, No. PCD-2025-572, Appendix Excerpt:
State v. Goode, No. CF-05-3904, Motion Hearings Transcripts Excerpts
(Mar. 28, 2007 and May 18, 2007)

IN THE DISTRICT COURT IN AND FOR TULSA COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA,)
Plaintiff,)
vs.) Case No. CF 05-3904
CLARENCE ROZELL GOODE,)
Defendant.)

DISTRICT COURT
FILED
JUL 30 2008
SALLY HOWE SMITH, COURT CLERK
STATE OF OKLA. TULSA COUNTY

TRANSCRIPT OF MOTION HEARING

HELD MARCH 28, 2007

BEFORE THE HONORABLE TOM C. GILLERT

IN TULSA, TULSA COUNTY, OKLAHOMA

COPY

APPEARANCES:

FOR THE STATE:
MR. STEVE KUNZWEILER
District Attorney's Office
Tulsa County Courthouse
500 South Denver
Tulsa, OK 74103

FOR THE DEFENDANT KENNETH JOHNSON:
MR. STEVE HIGHTOWER
423 South Boulder, Suite 300
Tulsa, OK 74103
MR. DANNY WILLIAMS
12150 E. 96 St. North
Owasso, OK

FOR THE DEFENDANT CLARENCE GOODE:
MR. LARRY EDWARDS
601 South Boulder, Suite 1305
Tulsa, OK 74119
MR. STAN MONROE
15 West Sixth, Suite 2112
Tulsa, OK 74119

REPORTED BY: JANA HARRINGTON, CSR, RPR
Tulsa County Courthouse
500 South Denver, Suite 405
Tulsa, OK 74103

consistent statement to her was offered to rebut implied influence, recent fabrication, then it would come in under those circumstances as well. But, again, otherwise not.

A motion to require the court reporter to record and preserve all proceedings. We'll do that. I think the problems that people have had have been where -- well, most of the problems that people have had have been where it should have been apparent to everybody that it wasn't being recorded, for instance, discussions in chambers and so on and so forth. And I'll just simply -- I mean obviously in the courtroom and sidebars or bench conferences will be recorded. But if there's anything that happens in this trial that we have talked about that is not on the record, please let me know and we'll put it on the record.

There's a motion to prohibit introduction of physical forensic evidence by Mr. Goode.

MR. EDWARDS: Judge, that's a discovery motion.

THE COURT: Okay. Motion for the State to divulge confidential informant.

MR. EDWARDS: Yes, Judge. There is in the discovery and on the Information it lists a person just listed as confidential informant. It shows that that person received information from Ronald Thompson and that that person can be contacted through Sergeant -- I'm drawing a blank on his name at the moment -- with the Owasso Police Department. Clearly

this person has relevant information concerning this crime. We're asking to know who this person is. I think the law is very clear that if a person has relevant information, especially now that we know Ronald Thompson is going to be testifying, it could be consistent, it could be inconsistent. We may need to interview this person.

THE COURT: What about that?

MR. KUNZWEILER: Judge, this is a person who gave information at the outset, and I will -- I think that does rise to the level they need to know that information who that person is. And we'll certainly make that disclosure to them as to any statements made.

THE COURT: All right. We'll probably need to talk about another discovery hearing.

We have motions to suppress on behalf of both defendants that have been filed now and we'll obviously have to have hearings on those.

MR. MONROE: Well, if you look at Mr. Goode's motion to suppress, that relates to another witness.

MR. EDWARDS: Yes, Judge. It actually relates to -- at one point there was a Fred William Clemons. During his interview he makes a statement, you guys told me that you wanted me to be off in there. And this is -- actually we would need a Dodd hearing because he is a someone in jail. But I think at some point we would need a Jackson-Denno

IN THE DISTRICT COURT IN AND FOR TULSA COUNTY

STATE OF OKLAHOMA

DISTRICT COURT
FILED
JUL 30 2008
SALLY HOWE SMITH, COURT CLERK
STATE OF OKLA. TULSA COUNTY

STATE OF OKLAHOMA,

Plaintiff,

vs. Case No. CF 05-3904

CLARENCE ROZELL GOODE,

Defendant.

TRANSCRIPT OF JACKSON-DENNO HEARING

HELD MAY 18, 2007

BEFORE THE HONORABLE TOM C. GILLERT

IN TULSA, TULSA COUNTY, OKLAHOMA

* * * * *

COPY

APPEARANCES:

FOR THE STATE:
MR. STEVE KUNZWEILER
MR. JAMES HAWKINS
District Attorney's Office
Tulsa County Courthouse
500 South Denver
Tulsa, OK 74103

FOR THE DEFENDANT:
MR. STAN MONROE
15 West Sixth, Suite 2112
Tulsa, OK 74119

MR. LARRY EDWARDS
601 South Boulder, Suite 1305
Tulsa, OK 74119

REPORTED BY: JANA HARRINGTON, CSR, RPR
Tulsa County Courthouse
500 South Denver, Suite 405
Tulsa, OK 74103

our hands by Monday. She has told us she can get us that turned around by a couple of days. That means we should have an announcement for the State when we reappear next Friday. We're hoping that we can put that in their hands on that day.

THE COURT: Okay.

MR. EDWARDS: We also have issues that -- we still have the confidential informant who was named confidential informant. We still need a name for that person. We've been discussing about Owasso giving us a new Wal-Mart tape that isn't fast that we can't watch. And we've asked for any Brady material that would be in any I.A. records with the Owasso Police Department. And then I think we're still talking about the juror questionnaire. I think I've summarized --

THE COURT: Where are we with -- I do recall and I think that, Mr. Kunzweiler, unless my memory is really gone on me, you acknowledge that whoever the confidential informant was, as I recall, was probably also a witness to events and therefore whether they would be called by the State of Oklahoma within the rules of discovery would be discoverable. And so where are we with that?

MR. KUNZWEILER: Judge, quite frankly, I'm a little frustrated by that process. Officer Mike Denton -- and I've talked with the two detectives who are basically lead detectives. It's Officer Mike Denton's report that reflects that he spoke with the confidential informant. I've had

multiple phone calls placed to him. I don't know whether that's because he's an evening shift officer, but I'm probably paying a visit up to the police department.

THE COURT: I'm sure since we have the lead detective here, he will find that guy and he'll have that information to you for us by next Friday so we don't have to continue this, and if you need to visit with him about that.

Anything else, gentlemen?

MR. EDWARDS: No.

MR. KUNZWEILER: Judge, I want to at least address the Wal-Mart video.

THE COURT: Okay.

MR. KUNZWEILER: I believe it was Detective Klahr that told me this. They're still working on that. I think he told me, and don't hold me to my accuracy, but I think he said there was some 14 to 18 camera angles that constitute a full day. And so they are -- apparently Wal-Mart is literally burning the midnight oil trying to get these individual segments out. I told them I needed it ASAP and he says they're working on it. So we're definitely in the throes of trying to get that done, but it's going to be, as I understand it, quite a bit of DVD coverage, probably nothing -- the majority of which is not relevant to our case. But it's all on one video that we provided them in this multiplex format and we're trying to just segregate all those camera angles

APPENDIX Q

Goode v. State, No. PCD-2025-572, Appendix Excerpt:
Owasso PD Suppl. Rpt. No. 87—Officer Denton's report naming
Brandy Thompson as the confidential informant (Nov. 19, 2007)

Reporting Officer: DENTON, MICHAEL (924) **Date: Monday, November 19, 2007**

IDENTIFICATION OF C.I.

Subject listed as "CONFIDENTIAL INFORMANT" during initial investigation. Subjects identity was protected during initial investigation, and subject relocated for witness protection purposes, as suspects in this case were not in custody & subject had information crucial to solving this case & apprehension of perpetrators. As all suspects are in custody & this particular witnesses potential testimony has been corroborated the need for protection is significantly decreased.

CONFIDENTIAL INFORMANT is Brandy L. Thompson. Ms. Thompson's information is updated in the "persons" database of this report, replacing the "confidential informant". Subject reported living with her father James Elkins at the Country Oaks Apartments in Mannford, Ok. at the time of incident. Databases show a more current address as listed in the 'persons' section of the report.

end

APPENDIX R

Goode v. State, No. PCD-2025-572, Appendix Excerpt:
SECTION III—Documents related to former Owasso PD Officer Michael Denton

SECTION III
FORMER OWASSO PD OFFICER MICHAEL DENTON

- January 1999 Quarterly Progress Report of Denton
- March 2000 Termination of Denton: "Cover-up" and "Lost" Evidence
- April 2000 Arbitration Award Reinstating Denton following termination
- 2005-2006 Annual Performance Review of Denton
- June 2012 Arbitration Award Reinstating Denton following termination
- February 2015 Article re: Denton-inspired Senate Bill that would weaken arbitrator's power
- June 2016 Arbitration decision upholding demotion and citing 57 proven acts of insubordination, including "discipline in November 2014 for using the n-word."
- December 2016 Arbitration Award Reinstating Denton following termination
- January 2025 Termination of Denton: Shooting and killing his neighbor's dog and lying about it after its' owner tracked the dog's air-tagged collar to the Owasso Police Department dumpster
- July 2025 Docket Sheet for Tulsa County Case CF-2025-2380 *Lewd or Indecent Proposal to a Child* charges against Denton

QUARTERLY PROGRESS REPORT

EMPLOYEE: CPL. DENTON DSN: 906 SUPERVISOR: LT. DEARMOND: DSN 906

RATING PERIOD: OCTOBER 1998 THROUGH: DECEMBER 1999

APPEARANCE;
CPL. DENTON ALWAYS LOOKS GOOD IN UNIFORM.

COMPLIANCE WITH RULES;
THIS IS AN AREA OF CONCERN. DENTON SOMETIMES ACTS WITHOUT THINKING ABOUT THE RULES AND POLICIES OF THE DEPARTMENT.

KNOWLEDGE OF WORK:
DENTON'S KNOWLEDGE OF WORK RELATED ACTIVITIES FAR EXCEED THE EXPECTED LEVEL. THE PROBLEM IS, HE DOESN'T ALWAYS UTILIZE THE KNOWLEDGE WITH WISDOM AND GOOD COMMON SENSE.

INITIATIVE:
CPL. DENTON IS A VERY PRODUCTIVE OFFICER AND OFTEN LEADS HIS SHIFT, IF NOT THE DEPARTMENT IN THE NUMBER OF ARREST, CITATIONS AND REPORTS.

SCHEDULING AND COORDINATING;
SINCE DENTON HAS BEEN A SUPERVISOR, ALL SUPERVISORS HAVE BEEN DELEGATED THE RESPONSIBILITY OF SCHEDULING THEIR SHIFTS. AT THE SUPERVISORS MEETING IN JANUARY, IT WAS DISCUSSED THE NECESSITY OF TRAINING OUR OFFICERS WHILE KEEPING IN MIND WE HAVE TO ENSURE THE STREETS WILL BE COVERED WITH ADEQUATE MANPOWER. ALSO TO DISTRIBUTE THE TRAINING AMONG THE OFFICERS ON THE SHIFT EQUALLY. THIS CAME ABOUT BECAUSE CPL. DENTON WAS APPROVING ALL TRAINING REQUEST SUBMITTED BY HIS OFFICERS. SHORTLY AFTER THIS MEETING DENTON APPROVED ALL THE SAME TRAINING REQUEST HE HAD APPROVED IN DECEMBER TO INCLUDE 156 HOURS OF TRAINING FOR ONE OFFICER ON HIS SHIFT AND 56 HOURS FOR ANOTHER. THIS MAKES ME QUESTION HIS ABILITY TO MANAGE HIS SHIFT IN THIS AREA.

TRAINING & INSTRUCTING;
DENTON IS A FIELD TRAINING OFFICER AND RESPONSIBLE FOR THE TRAINING OF NEW RECRUIT. THIS IS AN TREMENDOUS TASK THAT LEAVES A LASTING EFFECT ON THE RECRUITS. DENTON RECENTLY INSTRUCTED A RECRUIT THAT IT WAS PROPER AND NECESSARY TO USE PROFANITY WITH AN ARRESTEE AS WELL AS ANY SUBJECTS WITH THE ARRESTEE, IF THE ARRESTEE USES PROFANITY TOWARDS THE OFFICER. THE IS DEFINITELY NOT IN LINE WITH THE POLICIES AND GOALS OF THIS DEPARTMENT AND RAISES CONCERN ABOUT HIS ABILITY AS A TRAINING OFFICER AS WELL AS A DEPARTMENT SUPERVISOR.

JUDGMENTS AND DECISION;
THIS, AS POINTED OUT IN A PREVIOUS EVALUATION THIS IS AN AREA OF CONCERN. ON ONE RECENT INCIDENT, HE ALLOWED ALL OFFICERS ON THE SHIFT TO LEAVE THE CITY TO ASSIST ROGERS COUNTY AND O.H.P. ON A MOTOR VEHICLE ACCIDENT. SUPERVISORS MUST DIRECT WHO, AND HOW MANY WILL LEAVE THE CITY TO ASSIST OTHER AGENCIES TO INSURE THE CITY WILL BE ADEQUATELY COVERED. CPL. DENTON HAS BEEN COUNSELED PREVIOUSLY IN THIS AREA.

LEADERSHIP;
THIS ONCE AGAIN IS AN AREA OF CONCERN. DENTON IS SOMETIMES LAX IN HIS GUIDANCE AND DOES NOT SET A GOOD EXAMPLE. HIS SOMETIMES NEGATIVE ATTITUDE AND THE MANNER HE VOICES HIS OPINION IN REGARD TO THE HANDLING OF ARRESTEE'S AND THE OPERATIONS OF THE DEPARTMENT ARE OFTEN DISRUPTIVE AND MAY SET A BAD EXAMPLE FOR HIS SUBORDINATES. I HAVE COUNSELED HIM IN THIS AREA AND HAVE NOTICED LITTLE IMPROVEMENT.

***CPL. DENTON HAS THE KNOWLEDGE AND ABILITY TO BE AN EXCELLENT LEADER WITH THIS DEPARTMENT, HOWEVER HE IS NOT PROGRESSING AND UTILIZING HIS SKILLS IN THIS AREA.

EMPLOYEE'S SIGNATURE: [signature] DATE: 1/24/99

RATER'S SIGNATURE: [signature] DATE: 012499

City of Owasso
Pre-Determination Interview

Date: 03-16-2000
Employee Name: Michael Denton
Department: Police
Position: Corporal

Infraction(s) and / or personnel policies violation(s):

See Attached

Reason(s) or evidence:

See Attached

Lt. Cliff Hall #92
Supervisor / Department Director Signature

Employee Response (attach additional pages if needed):

Incident not discussed at this time. Desire will provide a statement to allegations by time required. If he needs more time, he must call as directly.

I have discussed the above infraction(s) and / or personnel policy violations with my supervisor / Department Director and have been given an opportunity to explain my actions.
I understand that my signature does not constitute agreement with the above allegations.

3/17/2000
Employee Signature
Personnel Form Number 1

Memorandum

Owasso Police Department

Policy Violations: City of Owasso "Due-Process" Form # 1

March 16, 2000

Corporal Michael Denton - # 924

Policy Violation # 1

Policy Number 127, Rules of Conduct – Failure in the Performance of Duty, Attached Hereto and Made Part Hereof:

16 – Destruction, Theft, or Misappropriation of City Property

19 – Concealment or Failure to Report a Significant Error, Mistake, or Unsafe Working Condition or Injury

22 – Commitment of Acts, on or off the job, which would bring embarrassment, distrust, or discredit to the City of Owasso

25 – Negligence, Inefficiency, or Incompetence in the Performance of Job Duties

27 – Concealment or Failure to Report the Actions of a Fellow Member of the Department, which Actions are Grounds for Suspension, Demotion, or Dismissal of that Member

27 – Conduct Unbecoming an Officer

City of Owasso Policy and Procedure – Chapter Seven, Disciplinary Actions, Attached Hereto and Made Part hereof:

C, 1 – Gross neglect of duty

Policy Number, 128 – Rules of Conduct, Conduct Unbecoming An Officer, Attached Hereto and Made Part Hereof:

10 – Withholding Evidence

Policy Number, 144 – Record Keeping, Arrest Paperwork, Masterfiles, Attached Hereto and Made Part Hereof:

D – Property Receipt

Policy Number, 507 – Field Operations – Property Receipt System, Attached Hereto and Made Part Hereof:

3, F – Securing Evidence

On January 15, 2000, Sergeant H. Burl Cox arrested Mr. Jessie Honeycutt. Mr. Honeycutt was brought to the station, handcuffed behind his back, and placed on the booking bench. During the following time Honeycutt was in Owasso Police custody, he was pepper sprayed, struck several times, thrown to the floor, and dragged down the hallway toward the jail area. Based on the results of an internal investigation into this incident, I have determined that excessive physical force was used against Mr. Honeycutt and that members of the Owasso Police Department willfully mistreated him.

Additionally during this incident, a critical piece of evidence, specifically the booking tape, was lost and / or intentionally misplaced.

You are a supervisor for this Department and witnessed the entire event. Based upon my review of this investigation, you took no action to stop the mistreatment of Mr. Honeycutt and further stated in the subsequent internal investigation, that you saw **no problem** with anything that occurred during the ordeal. Based upon my review of the investigation, you further tried to **cover–up** the mistreatment of the prisoner by having the police dispatcher move the camera so as **not to** view the improper treatment Mr. Honeycutt had to endure at the hands of the police. Based upon my review of this investigation, you ultimately took possession of the booking tape and not only failed to place it into evidence but either **lost it,** or **intentionally** misplaced or destroyed it.

As a supervisor for this Department, it is your responsibility to not only safeguard any prisoner in your custody but to report any improper actions of your fellow officers regarding the mistreatment of these prisoners. During your interview before Department investigators, you stated that you saw no improper actions even though this prisoner was forcibly pepper sprayed, struck several times, and thrown to the floor. You stated that

things of this nature are no big deal and happen all the time. You went on to say that you would do it all over again unless you were directed not too.

This was a prisoner who was handcuffed behind his back and who was only being **verbally** disruptive. I am shocked to think that you found nothing wrong in the handling of Mr. Honeycutt. I am appalled at your cavalier attitude in your regard to Honeycutts rights and to the way that you did not freely admit information to the investigators but rather only admitted to events after the investigators "pulled it out of you". Your responsibility is to the protection of the Departments interests and not to those members who act improperly.

You, as a supervisor as well as a former detective, know the evidentiary value of the booking tape. As it was you that last had possession of this tape, it was your responsibility to log it into evidence and secure it in the evidence locker. Instead, you either lost it or, intentionally destroyed it. Further, during your interview before Department investigators, you admitted to routinely placing tapes that may be of evidentiary value into your personal locker and not into evidence which is where they belong.

Based upon my review of the investigation, I find that your actions in this case are not only **grossly negligent**, but also **appalling**. You are not only responsible for the welfare of all prisoners you have contact with but are also charged with setting the example for proper police conduct to all subordinate members of your shift. What kind of message does this send to your shift officers? By your inappropriate conduct, you send the message that it is "OK" to act above the law. You send the message that it is "OK" to violate policy and procedure and to disregard the rights of arrested persons. This type of conduct cannot nor will not be tolerated by this Police Department.

You are hereby ordered to provide me a response to the allegations set forth above on or before 0800 hours on Wednesday, March 22, 2000. Be advised that a failure to give me a response to the allegations by the designated time and date will be considered an act of insubordination and may result in disciplinary action up to, and including termination.

CITY OF OWASSO PERSONNEL ACTION

Date: 04-07-2000 | Prepared by: nee

EMPLOYEE INFORMATION

EMPLOYEE NAME: Michael Denton | EMPLOYEE # 310-0012

POSITION INFORMATION

New Employee ☐ | Regular ☐ | Temporary ☐ | Full-Time ☒ | Part-Time ☐

Position Title: Corporal | Exempt ☐ | Non-Exempt ☐

Effective Date: 04-06-2000 | Pay Period Ending Date will take Effect: 04-08-2000

Budget Department: Police | Work Location:

Base Rate of Pay: $ | per hour ☐ | or | per pay period ☐ | OT Rate $

Additional/Other Pay

Type	$	per hour/pay period/month
Type	$	per hour/pay period/month
Type	$	per hour/pay period/month
Type	$	per hour/pay period/month
Type	$	per hour/pay period/month

Comments:

STATUS CHANGE

Reason for rate change: | Effective Date: | Effective PPED:

Off Probation ☐ | Merit ☐ | Promotion ☐ | Transfer ☐ | Demotion ☐ | Contract Required ☐

Position Changed From: | To: | Exempt ☐ or Non-Exempt ☐

Salary Changed From: $ per hour/pay period/month	To: $ per hour/pay period/month
Added Pay Type:	Total Added Pay $ per hour/pay period/month
Funding Change From:	To:
New Employee #	New Department #
Status From: Regular ☐ or Temporary ☐	Full-Time ☐ or Part-Time ☐
One Time Pay $	Funding Source:

SEPARATION

Resigned ☐ | Lay-Off ☐ | Dismissed ☒ | Leave of Absence ☐ | Other ☐

Effective Date: 04-06-2000 ✓

Subject to rehire | yes ☐ | no ☒ | Reason:

Comments:

APPROVAL

Supv/Dept Dir	HR		Employee
Date: 4/6/00	Date: 4/10/00	Date: 4/10/2000	Date:
Entered by Payroll MD		Date: 4/24/00	
Verified by Payroll		Date: 4-24-00	
Retro Pay $		Paid PPED	

IN THE MATTER OF ARBITRATION BETWEEN

CITY OF OWASSO, OKLAHOMA AND

FRATERNAL ORDER OF POLICE LODGE 149

FMCS # 00-0509

GRIEVANT: CPL. MICHAEL DENTON

GRIEVANCE: TERMINATION

DATE OF TERMINATION: APRIL 6, 2000

HEARING HELD ON NOVEMBER 14, 2000, AT CONFERENCE BUILDING AT FIRST BAPTIST CHURCH, OWASSO, OKLAHOMA; WITH KRISTEN L. BRIGHTMIRE, ATTORNEY AT LAW, REPRESENTING THE CITY OF OWASSO; JAMES MOORE, ATTORNEY AT LAW, REPRESENTING THE FOP AND THE GRIEVANT, CPL. MICHAEL DENTON; BEFORE BARNETT GOODSTEIN, ARIBTRATOR SELECTED THROUGH PROCEDURES OF THE FEDERAL MEDIATION AND CONCILIATION SERVICE, WASHINGTON, D.C.

ISSUE

DID THE CITY VIOLATE THE PROVISIONS OF THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE PARTIES WHEN IT DISCHARGED CPL. MICHAEL DENTON ON APRIL 6, 2000? IF SO, WHAT SHALL BE THE APPROPRIATE REMEDY THEREFOR?

BACKGROUND

The City of Owasso, Oklahoma has approximately 18,000 inhabitants. The Police Department employs about 42 employees, 28 of whom are in the Bargaining Unit. The City and the Police have had a series of Collective Bargaining Agreements since the 1980s. The Agreement that was effective at the time of the incident resulting in the discharge of Cpl. Michael Denton, became effective on July 1, 1999, and terminated on June 30, 2000. The Grievant was terminated on April 6, 2000.

[redacted]

Rec'd 3-9-01



The City asks: "Would you trust Corporal Denton to intervene on behalf of your son or daughter? My answer is, if my son or daughter were like Mr. Honeycutt, I would not want him to do so. Mr. Honeycutt is not my idea of a stellar citizen. Frankly, I would prefer to see him live in a different city; any different city!

AWARD OF THE ARBITRATOR

The Issue: DID THE CITY VIOLATE THE PROVISIONS OF THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE PARTIES WHEN IT DISCHARGED CPL. MICHAEL DENTON ON APRIL 6, 2000? is answered in the affirmative. The City did violate the rights of the Grievant under and in accordance with the provisions of the Collective Bargaining Agreement. The Issue then asks, IF SO, WHAT SHALL BE THE APPROPRIATE REMEDY THEREFOR? is answered as follows:

The Grievance is sustained. The City is ordered to reinstate the Grievant as of April 6, 2000, and make him whole again, with full back pay and allowances, minus any earned income received since that date, and minus any Unemployment Compensation received while off work. Any records now held by the City, in regard, or respect, to the incident with which the Grievant has been charged, shall be stricken from the Personnel Records of the City, and of the Grievant. His personnel records should be cleared of any information that would be derogatory to his time with the Department, and no allegation made by the City should ever be used against the Grievant at any subsequent hearing.

Barnett Goodstein

Barnett M. Goodstein
Arbitrator

4230 LBJ Freeway, Suite #215-J
Dallas, Texas 75244
(tel) 972-387-4303
(fax) 972-661-5683
March 7, 2001

Owasso Police Department Performance Review: Patrol Lieutenant

Employee	**Mike D. Denton**			**DSN**	**924**
Position	**Patrol Lieutenant**		**Employment Date**	**022894**	
Evaluation Period	**From**	**022805**	**to**	**022706**	
Reason for Review	**X Annual**	**☐ Probation**	**☐ Counseling**	**☐ Other**	
Supervisor Rating Employee	**Captain Rick D. De Armond**			**DSN**	**906**

INSTRUCTIONS

It is the responsibility of the Patrol Captain to evaluate each Patrol Lieutenant. Lieutenants undergoing evaluation shall fill out an evaluation form on themselves to assist the Captain in accurately assessing their performance. In addition, each Corporal assigned to a Lieutenants shift will fill out an evaluation form on the Lieutenant undergoing evaluation.

The evaluation shall be completed and forwarded to the Deputy Chief of Police and approved prior to the Lieutenants review/signature. Any corrections that need to be made to the evaluation will be made prior to the Lieutenants review/signature. At any stage in the review process, the evaluation can be returned to the Captain for correction. Evaluations needing corrections after the Lieutenant has signed must go through the entire review/signature process again.

Upon receiving the evaluation, the Lieutenant may indicate by signature that they have received their evaluation and have had the opportunity to discuss it with their supervisor. After the Lieutenant has signed the evaluation the Chief of Police will review/sign it.

If the Lieutenant wishes to dispute the evaluation then he/she shall refuse to sign it. Then, the Lieutenant may request in writing, a review by the Chief of Police. The Chief shall conduct a review of the evaluation and report his concurrence or disagreement of the evaluation to the Lieutenant. If the evaluation remains in dispute after the Chief's review, the Lieutenant may request a review by a board comprised of three supervisors not involved in the evaluation. Board members shall be randomly selected. The board shall convene and make a recommendation to the Chief of Police within 30 days of the request for an appeal. The Chief of Police shall then render a final decision within three (3) days of receiving the recommendation.

Using the numerical scale below, evaluate the employee on each criterion.

- Exceeds Expectation = 3
- Meets Expectation = 2
- Need to Improve = 1
- Fails to Meet Expectations = 0

***Exceeds Expectation**—Performance exceeding criteria. Must be able to document specific incidents that the rater believes was above and beyond the employee's normal duties.

Meets Expectation– Meets supervisor's expectations on performance of normal duties. The officer performs daily duties or tasks with minimal or no supervision needed.

***Needs Improvement** – Inadequate performance which must be corrected during the next rating period. Must be able to provide evidence of at least two specific incidents in which a problem was observed, corrected, and documented in an action report.

***Fails to Meet Expectation**—Unacceptable performance which has not been satisfactorily corrected by the employee. An explanation is required, citing at least 3 specific incidents which a problem was observed, corrected and documented in an action report.

***Required Documentation:** The only rating that DOES NOT REQUIRE documentation is "meets expectation" however; comments are strongly suggested in order to help the employee improve. Documentation is REQUIRED for all other ratings.

Goals and Objectives MUST BE included in the evaluation and should set the course for the employee's future development. They should be clear, measurable and observable.

Note: action reports are not considered a part of the formal disciplinary process and will not become part of the employees permanent personnel file. Action reports shall be deleted from the Lieutenants Outlook Program 60 days following the final review by the City Manager.

Owasso Police Department Performance Review: Patrol Lieutenant

Bonus Points: The evaluator may assign bonus points up to 10% over the final evaluation score for exceptional performance. Bonus points are subject to final approval by the Chief of Police. Detailed documentation for any bonus points shall be included in the comments section below.

:

Case Number 2005-1910 - 1st degree murder x 3. Lt. Denton coordinated with Detective DeArmond in all aspects of the case. First, Lt Denton conducted a first rate initial response at the scene of the incident, not only coordinating the 1st Responders, but also contacting the bereved in order to appropriatly make death notification. Later, Lt. Denton would receive praise not only by his staff but letters of appreciation from the families and friends of the deceased for quick and professional Police Action. He worked hand in hand with Detective DeArmond, maintaining constant communication when not working together. Denton & DeArmond worked together and located/interviewed material witnesses crucial to solving this case. Denton & DeArmond went days with little or no sleep until locating all three subjects who committed these murders. Denton & DeArmond had direct involvement in the apprehension of all three subjects. Lt. Denton submitted a 138 page incident report detailing his investigation on the incident as well as processed some 138 items of evidence. He also worked approximately 68 hours of overtime during this pay period exclusively on the murder investigation. Because of Lt. Denton's hard work, dedication and determination the suspects were quickly identified, located and arrested. Lt Denton's actions regarding prosecution efforts are what stand out about this case. Lt Denton coordinated a 16 man, countless hour operation involving the Departments Criminal Investigations Division, the Departments Special Operations Team, the Tulsa County District Attorney's Office and the Tulsa County Sheriff's Office – Courthouse Division. The efforts of Lt. Denton resulted in an executive/witness protection plan that required the star witness of the case to be held in a pre-designated safe house for several weeks and to be escorted by motorcade to the Courthouse or prosecution efforts. Lt. Denton made himself available to the witness 24 hours a day, as she felt most comfortable dealing with him, as she had apprehension towards dealing with Law Enforcement in the past. Lt Denton demonstrated the Character Trait of 'Compassion' (Investing whatever is necessary to heal the hurts of others) by allowing the Witness to call upon him for any and all needs she had at ANY hour of the day or night. Further, Lt Denton received the City of Owasso's 'Employee of the Month' honor as a direct result of his actions at and regarding this incident.

Bonus Percentage Points	10% 8%	**Final Percentage Score**	82.72 % (% + Bonus %)

Other Comments

82.54

Goals and Objectives

Goals and objectives are to gain more continuing education. Attend advanced instructor development training. Aid in further training of reserve officers and new hires. Assist in the development of Owasso Police Department's "mini academy" with sights toward the City of Owasso Police Department's future ability to organize and conduct it's own Law Enforcement Training Academy. Continued involvement with the Safe Communities Alliance and Oklahoma Highway Safety Office in developing regional departmental relationships in order to combat crimes & provide traffic safety enforcement, training, and education to officers & citizens.

Rater's Signature	Capt. Rick D. Dent	**DSN**	906	**Date**	022306

City of Owasso
Owasso Police Department
Performance Evaluation and Counseling Form

SUPERVISING OFFICER

==========

Mike D. Denton		Lieutenant Rick DeArmond	
Employee Name		Supervisor	
Patrol Sergeant	02-28-94	02-28-05	[redacted]
Position	Employment Date	Evaluation Date	SSN

Evaluation Period: From: 02-28-04 To: 02-27-05

Reason for Review (check one)

Evaluation & Probationary	Special	Other		
____ Counseling	____ Review	____ Review	__X__ Annual	____ Counseling

Return to Division Commander: 02-07-05 Chief: 02-14-05

==========

INSTRUCTIONS

Using the numerical scale below, compare the performance of the employee being rated against the performance criteria for each factor. Select the number which best indicates your perception of that individual's performance on each of the criterion and enter it in the box provided. Then enter a number indicating a composite, or overall evaluation for the factor. Your composite evaluation should not necessarily reflect an average of the criteria rating since some criterion are more important than others. Examples of past performance must be cited if composite rating is above six or below four.

EVALUATION SCALE

O		E		M		B		U
9	8	7	6	5	4	3	2	1

(O) Outstanding	- Exemplary performance far exceeding performance criteria.
(E) Exceeds Expectation	- Performance which exceeds the level supervisor normally expects.
(M) Meets Expectation	- Generally meets supervisor's expectation on performance criteria.
(B) Below Expectation	- Erratic performance on criteria, falling short of that normally expected ... requires remedial attention.
(U) Unsatisfactory	- Unacceptable performance which must receive immediate attention.
(NA) Not Applicable	- Evaluation of the factor or criterion is inappropriate for the employee being rated.

==========

FACTOR A: Commitment to Departmental Goals and Application of Leadership Skills.

Performance Criteria:

__7__ Takes an active role in goal setting, project planning and internal affairs of the department.
__7__ Departmental needs, plans and goals are communicated to subordinates.
__7__ Subordinates are encouraged to participate in the planning of projects and setting of work objectives.
__6__ Established plans, projects and work objectives are consistent with departmental needs, goals and resources.
__8__ Innovative ideas are advanced and encouraged from subordinates in solving problems and improving the effectiveness of the unit.
__7__ Composite Evaluation for Factor.

If composite rating is above 6 or below 4, cite examples of past performance to support your evaluation.

Sgt. Denton takes an active roll in Department Planning. He encourages his subordinates to take an active roll the planning and problem solving of the department. Sgt. Denton recently presented the Police Department's first citizen character certificate for the character traits of "Alertness & Virtue".

IN

FACTOR B: Direction of Personnel Activities Under Emergency, Unusual or Stressful Conditions.

Performance Criteria:

__6__ Situation is correctly analyzed and appropriate actions taken.
__6__ Personnel, equipment, etc., are correctly deployed.
__5__ Assistance is requested as situation dictates.
__5__ No major errors are identified by supervisor in post-operation review.
__6__ Composite Evaluation for Factor.

If composite rating is above 6 or below 4, cite examples of past performance to support your evaluation.

Sgt. Denton can be depended on to take charge of the situation and deploy the appropriate personnel as needed. No major errors have been identified in post-operations review. Sgt. Denton took charge of a recent plain crash on 86th Street North. Denton coordinated roadblocks & traffic control for the morning rush hour, calling in necessary personnel and providing a written plan of action & maps for all involved. This resulted in the rush hour having no incidents, smooth flow of traffic, and no major delays for the citizens of Owasso.

plane

FACTOR C: Supervision and Evaluation of Subordinate Personnel.

Performance Criteria:

_5___ Assigned personnel understand and perform their job assignments and receive continuing feedback regarding their performance.
_6___ Factual, objective performance appraisals are given to assigned personnel at prescribed times.
_4___ Poor performance is improved or corrective action is taken.
_7___ Training is either provided or recommended as required.
_8___ Personnel/performance problems are normally resolved without referral to a higher level.
_4___ Performance level of assigned group meets requirements.
_6___ Composite Evaluation for Factor.

If composite rating is above 6 or below 4, cite examples of past performance to support your evaluation.

Sgt. Denton is one of the most productive supervisors in the department. He consistently has more traffic stops, citations, arrests and reports than any other supervisor in the department and in most cases more than his subordinates. During 2004 Denton was # 8 (in the department 25 patrol officers/supervisors) in traffic stops (with 505 stops). Denton was # 9 in misdemeanor arrest (26); # 1in felony arrest (25); & # 12 in reports (152). It is this rater's belief that the shift and the department would be better served if he was less active and devoted more time to supervising and motivating his subordinates.

FEDERAL MEDIATION & CONCILIATION SERVICE
Case No. 12-51441-1

In the Matter of the Arbitration between	*	
FRATERNAL ORDER OF POLICE (FOP), LODGE 149, and Mike Denton Grievants	*	**Grievance -- Termination of Mike Denton**
vs.	*	
CITY OF OWASSO, OKLAHOMA a Municipal Corporation Respondent	*	

BEFORE: Edward B. Valverde, Esq. – Arbitrator

APPEARANCES:
For Grievants: James P. Hunt, Attorney; Mike Denton, grievant

For Respondent: Tony G. Puckett, Attorney; Dan Yancey, Police Chief

Place of Hearing:	City of Owasso, Oklahoma
Dates of Hearing:	March 29-30, 2012
Date Hearing closed:	March 30, 2012[1]
Date of Award:	June 20, 2012
Type of Grievance:	Termination

AWARD SUMMARY

Grievance is denied in part. Respondent established by a preponderance of evidence that grievant used unreasonable and unnecessary force against Citizen X. However, the discipline imposed is excessive under all the circumstances. The termination will be reduced to a written reprimand; and grievant will be reinstated immediately with back pay and benefits, less any interim earnings.

Edward B. Valverde

Edward B. Valverde, Esq. – Arbitrator

[1] The record was closed upon receipt of the parties' briefs. The last brief was received by mail on May 11, 2012. The parties agreed to provide the arbitrator an extension for issuing the award to June 30, 2012.

EXHIBIT 2 Tabbies

SECTION III: OFF M DENTON, APP. 145



The arbitrator finds that a written reprimand that references the incidents in this arrest is the appropriate level of discipline in these circumstances. Here, Denton is an above average employee who has demonstrated superior performance on more that one occasion in the past. The level of misconduct involved here is less than the misconduct that occurred in the matter.[17] Thus, based on Denton's quality work record and OPD's demonstrated level of tolerance involving employee misconduct, the arbitrator concludes that a written reprimand is the appropriate level of discipline.

Accordingly, the arbitrator issues the following:

Award

The grievance is sustained in part. A preponderance of evidence does establish that Denton's misconduct during the transport of Citizen X was unnecessary and unreasonable, but was not excessive force within the meaning of existing case law. OPD's action of termination shall be voided and discipline will be reduced to a written reprimand. Respondent is to make Denton whole with full back-pay and benefits less any

[17] To be clear, the arbitrator does not find the matter to be identical to the present matter. However, they are similar enough to allow comparisons, especially when comparing the level of discipline issued there versus here.

interim income.[18]

Further, the arbitrator retains jurisdiction to address any remedial issue.

Dated: June 30, 2012.

Edward B. Valverde

Edward B. Valverde, Esq. – Arbitrator

[18] No additional training is being required. However, future training should include how to properly carry an arrestee who is "playing dead."

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The Daily Oklahoman (Oklahoma City, Oklahoma) · Thu, Feb 26, 2015 · Page 4
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Senate panel to review measure easing police officers' dismissals

BY JULIANA KEEPING
Staff Writer
jkeeping@opubco.com



A video grab shows Owasso police Lt. Mike Denton striking a prisoner with his elbow in June 2011. Denton disputed his termination from the department and was rehired after an arbitrator ruled in his favor. PHOTO PROVIDED

Owasso police Lt. Mike Denton elbowed the suspect three times in the face, dragged him face-down by the handcuffs and stepped on his head.

The June 2011 incident, caught on video, prompted the police department to fire the veteran officer for violating an excessive force policy. Denton disputed his termination and an arbitrator ruled in his favor.

Denton remains on the force, albeit with a letter of reprimand, and last week Owasso agreed to pay him $283,420 in benefits and back pay.

An Oklahoma Senate committee Thursday will consider a measure that would allow district courts to review arbitrator decisions in termination cases involving officers accused of excessive use of force or aggravated sexual assault. Under current law, arbitrator decisions in such cases are binding.

Backers of the bill — including the Oklahoma Association of Chiefs of Police — say the changes will improve the quality of police forces and improve public confidence in police.

"We expect the police to enforce the law, we don't expect police officers to assault those in their custody," said Sen. Brian Crain, R-Tulsa, the author of Senate Bill 210.

Detractors, though, predict court battles will cost more in time and money than arbitration, and involve judges and juries unaccustomed to the intricacies of labor law.

"Labor law is a lot different than criminal law," said Ron Bartmier, president of the Oklahoma State Fraternal Order of Police, which opposes the measure. "While some of these things tug at your heartstrings, you have to look at it all, the entire situation, before you can make a decision."

Bartmier said the existing criminal justice system is sufficient to eliminate officers convicted of sexual assault from police forces.

The arrest

Arbitration documents provided to *The Oklahoman* by the city of Owasso shed light on the June 30, 2011, incident that prompted the legislation.

Officers said Bryan Spradlin became violent with police who tried to arrest him on a public intoxication complaint. Anticipating more trouble taking him to jail, the officers called for backup. Denton and a sergeant arrived. Spradlin would claim in a later civil rights suit that the officers were the aggressors, not him.

Earlier that day, the department had outfitted its officers with body cameras for the first time.

Footage released after the incident by Owasso police begins with an officer assisting a handcuffed Spradlin from the back of a squad car at the police station. Appearing to be uncooperative, Spradlin's body goes limp as he climbs a few stairs and he falls forward.

An arbitrator later found that Denton then stepped on Spradlin's head, dragged him face-down by his handcuffed arms pulled over his head and struck him repeatedly with his elbow.

Fellow officers reported Denton to superiors, which prompted an investigation and the 17-year veteran's firing. Denton disputed his termination. Following a closed hearing in March 2012, the arbitrator found while the use of force was excessive and warranted discipline, it didn't warrant termination. The arbitrator ordered Denton reinstated.

Denton's Tulsa-based attorney, Patrick Hunt, said the process was fair.

"Our view was, we've got nothing to hide," Hunt said. "If you watch the whole thing and hear all the evidence, you'll see things in a different light."

Courts rule

The city took Denton and the police union to court seeking to vacate the arbitrator's ruling. Tulsa County Associate District Court Judge Dana Kuehn sided with the city, writing in a January 2013 decision that the reinstatement would pose "a special risk of injury, physical and psychological, to citizens and, if he is allowed reinstatement, the department will be faced with explaining why Owasso allows abusive conduct by its officers, which is against the law," court documents state.

An April 2014 decision by the Oklahoma Court of Civil Appeals reversed Kuehn's ruling finding it "contrary to public policy" for a court to vacate an arbitrator's decision.

Both Denton and Spradlin, a military veteran, filed civil suits against Owasso in federal court.

Denton's suit claims his firing was in retaliation for union activities.

Spradlin alleges the city and several police officers violated his civil rights.

The cases are pending.

Efforts to reach Spradlin were unsuccessful.

Oklahoma City Police Chief Bill Citty, who heads the largest police department in the state with more than 1,000 officers, supports Crain's bill.

Citty said he believes the odds are generally stacked against management in cases that go before an arbitrator.

During his 11 years as police chief, Citty said he can recall a number instances where he sought to fire or discipline an officer over use of force only to have an arbitrator overturn his decision.

"The goal should be the same," Citty said. "To provide quality service and have good people working in the community."

Bartmier said if arbitrators side with labor, it's because labor has the better case.

"If the city doesn't put on a good enough case to put on their original finding, then an arbitrator has to overturn it," Bartmier said. "And that's just the way it is."

Another try

Similar versions of Crain's bill failed in recent years, including last year, when the measure passed both houses before Gov. Mary Fallin vetoed the legislation.

The Oklahoma Association of Chiefs of Police helped author the latest bill with Crain, who hopes to shed light on a closed process and give cities more authority to dismiss officers who are a potential liability.

When a city can't fire an officer accused of violating excessive force policy, it's costly across the board, Crain said, both in dollars and in public perception of police.

"I'm a believer that sunshine is a great disinfectant," Crain said.

The bill will be heard Thursday by the Senate's Committee on Business and Commerce.

Clipped By:
emma_rolls
Jul 18, 2025

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IN THE MATTER OF ARBITRATION		
BETWEEN	)	
	)	
FRATERNAL ORDER OF POLICE	)	**FMCS No. 16-51404**
LODGE 149 and MIKE DENTON	)	
(Grievants)	)	
	)	
	)	
-and-	)	**Mike Denton Demotion**
	)	
CITY OF OWASSO, OKLAHOMA	)	
(Employer/City)	)	
	)	

Hearing Examiner: Lynne M. Gomez

HEARING

A Hearing was held in the above matter on June 24, 2016, in the Main Conference Room at St. John's Hospital in Owasso, Oklahoma, beginning at 9:00 a.m. The witnesses were sworn and excluded. The Parties submitted post-Hearing briefs and authorities, all of which were received by August 13, 2016. The City submitted a Motion to Supplement Arbitration Record ("Motion"), addressing a post-Hearing argument that had not been made or suggested by the evidence. The Grievants submitted a response opposing the Motion. After reviewing the evidence and the Parties' briefing, as well as the Motion and the Grievants' response, the undersigned determined that the Motion should be granted. The record was supplemented and the Hearing was closed on August 23, 2016. The Parties were given full opportunity to present testimony and evidence.

APPEARANCES

For the City

Tony G. Puckett	Attorney for the City
Elizabeth Bowersox	Attorney for the City
Julie Lombardi	City of Owasso Attorney, observer
Scott Chambless	Owasso Chief of Police, witness
Shaun Jones	Captain, witness
Jason Woodruff	Deputy Chief, witness
Mike Huff	Independent Investigator, witness
Tracy Townsend	Captain, witness
Warren Lehr	Owasso City Manager, witness
Michele Dempster	Human Resources Director, observer

For the Grievants

James Patrick Hunt	Attorney for the Grievants
Mike Denton	Grievant, witness
Melissa Denton	Observer
Becca Moore	Observer

ISSUE

At the Hearing, the Parties and the Hearing Examiner discussed the statement of the issue. The Parties proposed almost identical proposals, and the Hearing Examiner frames the issue as:

> Whether the City of Owasso violated the CBA in the demotion of Mike Denton to Patrol Officer? If so, what is the appropriate remedy?

BACKGROUND

Grievant Denton, who was reinstated to the Owasso Police Department in September of 2014 following arbitration of his 2011 discharge, was demoted from the rank of Lieutenant to Patrol Officer on November 2, 2015 when the City Manager approved the disciplinary action proposed by Chief Scott Chambless based on Denton's alleged insubordination and policy violations.

The Grievants, Fraternal Order of Police, Lodge 149 (the "FOP" or "Union") and Mike Denton ("Denton") appealed the demotion, alleging that it violated the Parties' CBA and was retaliatory. The appeal/grievance was appropriately processed and remains unresolved. The Parties stipulate that this matter is properly before this Hearing Examiner for Opinion and Award.

RELEVANT CONTRACTUAL PROVISIONS

AGREEMENT BETWEEN
THE CITY OF OWASSO, OKLAHOMA
A MUNICIPAL CORPORATION
And
FRATERNAL ORDER OF POLICE
LODGE NO. 149

(July 1, 2015 – June 30, 2016)

* * *

ARTICLE 7
MANAGEMENT RIGHTS AND RESPONSIBILITIES

Section 1. Lodge recognizes the prerogative of the Employer to operate and manage its affairs in all respects and in accordance with its responsibilities, and the power or authority which the Employer has not officially abrogated, delegated, granted or modified by this Agreement is retained by the Employer, and all rights,

underlying events occurred and has much less to lose by being dishonest than the City's witnesses.

Denton's work history does not mitigate the discipline. Evidence of his good work performance was from many years – even decades – ago, and his recent work history shows he was a poor leader. Moreover, he was suspended for a day for insubordination in 2002, although he denied that the discipline involved insubordination. The nine (9) months he spent with the Department following his return in 2014 showed repeated instances of poor judgment and bad behavior by Denton and a decline in work performance. For example, Denton accessed someone else's email account and sent a series of obscene messages. Rather than disciplining Denton for that conduct, Chief Chambless wrote a General Order about computer use. Denton also told a citizen that his bosses were "dickheads" on a call made in the presence of a subordinate. Again, no discipline was issued for that incident. And Denton sent a Department-wide email encouraging officers to leave City of Owasso jurisdiction to fill their cars with gas, which is inappropriate. Another General Order resulted. Denton also told potential DUI drivers he was going to let them go instead of arresting them, and he received discipline in November 2014 for using the n-word at work. The arbitrator who reinstated Denton found that he had used unnecessary and unreasonable force during the 2011 incident. The evidence showed that Denton constantly challenged authority, violated policy and behaved unprofessionally even before his demotion. When 57 instances of insubordination over a relatively short period of time are considered, it is clear that there are no mitigating circumstances that would justify returning Denton to a Lieutenant position. All of these factors demonstrate that the instant discipline should not be mitigated by Denton's work history.

The City's decision to demote Denton did not violate the CBA; it was fully warranted by his repeated insubordination. The City has proven that Denton committed insubordination and that the demotion was the appropriate level of discipline. The City had just cause to demote Denton from Lieutenant to Patrol Officer for 57 proven acts of insubordination. The demotion should be upheld, and the grievance should be denied.

IN THE MATTER OF ARBITRATION BEFORE ARBITRATOR SHERRY R. WETSCH

FRATERNAL ORDER OF POLICE, LODGE 149, and MIKE DENTON,	§	
Grievants,	§	
vs.	§	**FMCS No. 16-54526-6**
CITY OF OWASSO, OKLAHOMA, a Municipal Corporation,	§	
Respondent.	§	

DECISION AND AWARD

An in-person hearing was held in this matter in Owasso on December 5 through December 8, 2016. Attorney James P. Hunt appeared for Grievants. Attorneys Tony Puckett and Elizabeth Bowersox appeared for Respondent. Police Chief Scott Chambless was also present.

The following individuals were sworn and testified: Captain Shaun Jones, Officer William Bright, Officer Bryan Robison, Shannon Butler, SGT H.D. Pitt, Captain Tracy Townsend, Chief Scott Chambless, Officer Andrew Eubanks, City Manager Warren Lehr, Michael Denton.

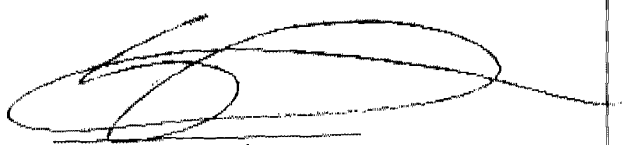
During the December hearing, the parties agreed upon a deadline of February 10, 2017 for submission of post hearing briefs. On January 6th Petitioner requested an extension of the post hearing brief deadline. The request was granted, and the deadline to submit post hearing briefs was extended to March 17, 2017. Both parties timely submitted post hearing briefs.

On March 23rd Petitioner filed *Grievants' Motion To Strike Portions Of Respondent's Brief And Appendix.* On March 24th Respondent filed *Response to Denton's Motion To Strike Portions Of The City's Brief And Counter Motion To Strike Portions Of Denton's Brief,* as well as a supplement to its appendix of case authorities attached to Respondent's post-arbitration brief. On March 24th Petitioner filed *FOP's Reply To City's Response To Motion To Strike Portions Of Respondent's Brief And Appendix And Response To Respondent's Counter Motion To Strike Portions Of FOP's Brief.* On March 28th Petitioners filed *FOP's Motion To Supplement Case Law Appendix Based On Recently Published Authority.* On March 31st, the undersigned issued *Order Granting Respondent's Request To Supplement Case Law Appendix To Respondent's Post-Arbitration Brief,* and *Order Granting FOP's Motion To Supplement Case Law Appendix Based On Recently Published Authority.* On April 1st, the undersigned issued

Respondent did not have just cause for terminating Michael Denton. The grievance is granted in part. The termination of Denton is excessive under the circumstances. The termination is reduced to a one year suspension. Michael Denton is suspended for one calendar year. The suspension period begins March 16, 2016. The written reprimand and counseling stand. Michael Denton is to be re-instated immediately with back pay and benefits, less any interim earnings. Interest to the back -pay award is appropriate. Interest in the amount of 5.25% on the back- pay award is to begin on the date of this Award and continue until the date payment is made.

In their post -hearing brief, Grievants request this arbitrator retain jurisdiction of this case to resolve any disputes that may arise in the remedy. The request is granted. This arbitrator retains jurisdiction until November 1, 2017 to address any remedial issue. If either or both parties desire this Arbitrator to retain jurisdiction beyond November 1 2017, a Motion regarding same is to be filed on or before October 1, 2017.

Dated this 17th day April of 2017.



Sherry R. Wetsch

CITY OF OWASSO

DISCIPLINARY ACTION APPROVAL IA2024-0040 & IA2024-0047

DATE: January 7, 2025

EMPLOYEE NAME: Mike Denton

DEPARTMENT: Police

POSITION: Detective Sergeant

Type of action: Dismissal (IA 2024-0040)

Infractions and/or personnel policy violations:

Count 1: Policy Section 320.5.9(m) – [O]n or off-duty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.

Count 2: Policy Section 320.5.8(a) – Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.

Reasons or evidence:

- While off-duty, on or about Saturday, March 9, 2024, Detective Sergeant Mike Denton shot and killed Jeremy Geiger's St. Bernard mix dog, Buddy Boy, after it purportedly chased and threatened two of Detective Sergeant Denton's cats on his property.

- After shooting the dog, Detective Sergeant Denton removed the dog's collar, which had an AirTag attached, and brought the dog's collar to work with him on Monday, March 11, 2024, where he disposed of the collar in the Police Department's trash dumpster.

- Later, on March 11, 2024, Mr. Geiger tracked the AirTag and found the collar in the dumpster behind the Police Department.

- Mr. Geiger and his wife, Shawna Geiger, went inside the Police Department to ask if there was surveillance video of the area so they could determine who threw the collar in the dumpster.

- Detective Sergeant Denton learned that the Geigers were asking about the collar, so he went into the lobby of the Police Department to speak with them.

- Detective Sergeant Denton told the Geigers that their dog was dead and that he found the dog in an area near Cincinnati hill where people dump dogs all the time, but he did not disclose the fact that he shot the dog.

- Detective Sergeant Denton told the Geigers that he threw the collar in the trash dumpster

and didn't call the number displayed on the collar because he assumed that the dog had been dumped and he gets "spicy about people dumping dogs" and "didn't want to yell at somebody for dumping the dog."

- Mr. Geiger later became suspicious of Detective Sergeant Denton's story and decided to inquire further into the matter.

- On Tuesday, March 12, 2024, Detective Sergeant Denton's wife reportedly saw Mr. Geiger in the back yard of their residence. Suspecting that Mr. Geiger was looking for his dog, Detective Sergeant Denton reported the incident to Tulsa County Sheriff's Office deputies and told them that he shot Mr. Geiger's dog over the weekend for coming onto his property and threatening his cats.

- Later, on March 12, 2024, Mr. Geiger called the Owasso Police Department and left a voicemail message stating that Detective Sergeant Denton found and disposed of his dog, but "kind of refused to share" the location [of the remains]. In the voicemail, Mr. Geiger asked to speak to someone who could get him the remains of his dog for proper burial and who could help answer why the dog's collar was in the dumpster behind the Police Department.

- Detective Sergeant Denton received the voicemail from Mr. Geiger that same day and sent an internal email to his direct supervisor, the on-duty Watch Commander, the Professional Standards Commander, and the Deputy Chief of Police within which he wrote:

  > Sirs,
  >
  > One of y'all are probably gonna want to deal with this dude. I'm certain it was he who was fucking around in my back yard today with my wife home alone and he's VERY lucky my dogs ran him off before she got the gun.
  >
  > His dog is dead, it was on my property and was completely torn up so I disposed of the body because I smell enough rotting carcasses from dogs that have been dumped and died before Missa or I can find and rescue them. I did take the collar off because I considered calling the number on it and reaming their asses out for dumping two (yes, two because there was a gray Pitbull [sic] in the exact area of the dead one) dogs on the Cincinnatti [sic] dumping grounds. I decided I probably shouldn't call the number and yell at whoever answered, because even if I had found that the dog was "missing" we would have had a conversation about irresponsible pet owners (you're welcome). If I were trying to do something surreptitious I wouldn't have thrown a collar with an air tag in the dumpster at the PD.
  >
  > You may also want to impart to them that fucking around on my property is going to be a very bad idea.
  >
  > Thanks

- In the email, Detective Sergeant Denton did not mention to his superiors that he shot the dog.

- On the morning of Wednesday, March 13, 2024, two Tulsa County Sheriff's Office deputies reportedly made contact with Mr. Geiger and informed him that Detective Sergeant Denton shot his dog for attacking Detective Sergeant Denton's cats and that Detective Sergeant Denton was within his rights to protect his property and animals and that there was no criminal activity involved.

- After speaking with the deputies, Mr. Geiger went to Detective Sergeant Denton's residence and made arrangements for Detective Sergeant Denton to turn over his dog's remains, which occurred the following day.

- Mr. Geiger filed a formal complaint against Detective Sergeant Denton for shooting his dog and reportedly lying about the details of the incident. Mr. Geiger also began calling for Detective Sergeant Denton to be held accountable through social media posts and mainstream media interviews. This resulted in calls and emails to the Department demanding "Justice for Buddy" and for Detective Sergeant Denton to be held accountable.

- During the administrative investigation that was initiated as a result of Mr. Geiger's complaint, Detective Sergeant Denton defended shooting the Geigers' dog as a necessary act to protect his helpless kitten from the dog.

- Detective Sergeant Denton's explanation for not telling the Geigers that he shot their dog was that the Geigers were upset at the time, suggesting that he was being delicately aware of the Geiger's feelings and did not want to upset them further.

- Detective Sergeant Denton denied lying to the Geigers when he met with them in the lobby of the Police Department, but admitted that he omitted the fact that he shot the dog.

- In reference to the email that he sent to his superiors on Tuesday, March 12, 2024, Detective Sergeant Denton stated that he intended the email to provide only the basic context of the conversation he had with the Geigers on Monday, March 11, 2024.

- Detective Sergeant Denton stated that he did not intend the email to be an official statement concerning what happened on Saturday, March 9, 2024 while he was off-duty on his own property.

- Detective Sergeant Denton stated that he sent the email believing that someone else should call Mr. Geiger because he had already told Mr. Geiger that the dog was dead and he believed that someone else needed to speak with him.

- Detective Sergeant Denton stated that he didn't put anything in the email about shooting the dog because he didn't tell Mr. Geiger and his wife that he shot the dog.

- When asked if he thought that the fact that he shot the dog would be an important piece of information that his superiors would want to know, given that Mr. Geiger was making a

complaint about the missing dog, Detective Sergeant Denton said "no" and suggested that it was not important because it did not have anything to do with the Police Department.

- Detective Sergeant Denton explained that he had already told a Tulsa County Sheriff's Office deputy that he shot the dog when he sent the email and he didn't think that it was any of the Department's business how he disposes of stray animals while off-duty on his own property.

- Detective Sergeant Denton added that he would have been honest and explained the situation if he would have been asked about the incident informally or as part of a formal investigation.

Count 1: Policy Section 320.5.9(m) – [O]n or off-duty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.

- Although Detective Sergeant Denton was arguably justified in shooting the Geigers' dog for threatening his cats, Detective Sergeant Denton's actions following the event led to a significant amount of negative publicity for the Department.

- Detective Sergeant Denton was off-duty, on private property, and outside the city limits of Owasso when he shot the dog, but Detective Sergeant Denton brought the dog's collar to the Owasso Police Department and chose to dispose of it in the Department's trash dumpster without attempting to contact the Geigers using the telephone number displayed on the collar.

- Furthermore, Detective Sergeant Denton decided to speak with the Geigers himself while on-duty after the Geigers discovered the collar in the dumpster and chose to omit the fact that he shot the Geigers' dog when he spoke with them in the lobby of the Police Department. As a result, the Geigers felt that Detective Sergeant Denton was being misleading, dishonest, and/or unethical.

- Assuming that Detective Sergeant Denton's killing of the dog was reasonable, Detective Sergeant Denton should have known that he was creating a nexus with the Police Department by bringing the dog's collar to the Department and disposing of it in the Department's trash dumpster.

- Detective Sergeant Denton should have known that he was continuing that connection by speaking with the Geigers on-duty and that his failure to disclose the fact that he shot the Geigers' dog would reflect unfavorably upon himself as a representative of the Police Department.

Count 2: Policy Section 320.5.8(a) – Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.

- Although Detective Sergeant Denton claims that it was none of the Department's business that he shot a dog while off-duty that came onto his private property and threatened his cats, a nexus was created when Detective Sergeant Denton transported the dog's collar to the Owasso Police Department and disposed of the collar in the Department's trash dumpster where it was discovered by Mr. Geiger.

- The Department was further connected when Detective Sergeant Denton spoke with the Geigers while on-duty and failed to disclose to them that he shot their dog.

- Also, it is incumbent upon a member of the Department "to promptly and fully report activities on his/her part . . . where such activities resulted in contact with any other law enforcement agency or that may result in criminal prosecution or discipline" (Policy 320.5.9(a)) and the administrative investigation revealed that Detective Sergeant Denton did not officially report that he had at least two contacts with the Tulsa County Sheriff's Office that were either directly or indirectly related to the fact that he shot the Geigers' dog.

- In the official email that he sent to his superior officers on March 12, 2024, Detective Sergeant Denton did not disclose that he shot the Geigers' dog, a material fact that would have prepared his superiors to deal with Mr. Geiger's complaint and the negative media attention that resulted from the social media and mainstream media campaign against him as a representative of the Owasso Police Department.

- Furthermore, Detective Sergeant Denton did not make any other attempt to report his actions until questioned as part of the administrative investigation into Mr. Geiger's complaint.

- Detective Sergeant Denton should have realized that he created a nexus with the Police Department when he discarded the dead dog's collar in the trash dumpster at the Department and furthermore when he spoke with the Geigers on-duty in the lobby of the Department where he failed to disclose the fact that he shot the Geigers' dog.

- After creating those connections with the Department, Detective Sergeant Denton should have known that he was responsible for fully reporting his actions and should not have omitted material facts in the email that he sent to his superior officers.

- The fact that Detective Sergeant Denton provided more details later during a compelled statement given as part of an administrative investigation is not persuasive because Detective Sergeant Denton should have reported the details earlier as part of his regular duties because he disposed of the dog's collar on-duty and knew that the Geigers were seeking an explanation for the dog's collar being in the trash dumpster.

Type of action: Dismissal (IA 2024-0047)

Infractions and/or personnel policy violations:

Count 2: Policy Section 320.5.8(a) – Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.

Reasons or evidence:

On July 16, 2024, CPT Jones filed a written complaint against DET SGT Denton, alleging that Denton had been untruthful in the written response to Chief Yancey in regards to IA-2024-0040. In his complaint, CPT Jones wrote:

> *I am alleging that Detective Sergeant Denton's statement is false insofar that he stated that he told me that he shot Jeremy Geiger's dog during a conversation that occurred on the same day that he sent the email to Lieutenant Jack Wells, which was March 12, 2024. I distinctly remember my conversation with Detective Sergeant Denton that day and he did not tell me that he shot Jeremy Geiger's dog. During that conversation, Detective Sergeant Denton provided basically the same story he included in the email that he sent earlier in the day.*
>
> *The first time that I heard Detective Sergeant Denton tell me directly that he shot Jeremy Geiger's dog was on April 11, 2024 during the interview that I conducted with him as part of the administrative investigation.*
>
> *If, on March 12, 2024, Detective Sergeant Denton had told me that he shot Jeremy Geiger's dog, it is my firm conviction that I would have remembered such a crucially important piece of information and documented it as part of my administrative investigation.*
>
> *Therefore, it is my assertion that Detective Sergeant Denton provided a false statement in his written response to the Pre-Determination Interview.*

On or about March 9, 2024, DET SGT Mike Denton shot a dog at his personal residence located in rural Tulsa County. The location of the incident is outside the city limits of Owasso and DET SGT Denton was off-duty at the time, however, an internal investigation (IA2024-0040) was later initiated regarding alleged false statements made by DET SGT Denton on March 11, 2024 to the dog's owner and alleged false statements made by DET SGT Denton to his superiors in an email on March 12, 2024. CPT Shaun Jones was subsequently assigned to conduct the internal investigation (IA-2024-0040) and submitted the investigative findings to Chief Yancey.

On July 28, 2024, DET SGT Denton submitted a written statement to Chief Dan Yancey in response to the internal investigation findings and proposed disciplinary action for IA-2024-0040. In the written statement, DET SGT Denton wrote:

> *"If Chief Yancey or any other supervisor had come to me back then and asked me, "Mike, what happened to that dog?" I would have just told him that I shot and killed the dog. Though I felt awful about having done it, I knew I hadn't done anything unlawful or wrong. In fact, I told Captain Shaun Jones that I had shot the dog on the same day I sent the e-mail to Lt. Wells. That is, I told Shaun that BEFORE I sat down for the IA interview."*

Upon learning of DET SGT Denton's claims in the written statement from Denton's global email to lodge members, CPT Jones filed a complaint, alleging that DET SGT Denton made false statements in the document. While acknowledging that they did have a brief conversation in the hallway on March 12, 2024, CPT Jones asserted that DET SGT Denton did not tell him that he had shot the dog, instead using vague language that he (Denton) found the dog dead.

During his first interview, DET SGT Denton denied that the statements he made in the written document were false, explaining that during his conversation with CPT Jones on March 12, 2024, he (Denton) said "I don't just go around shooting dogs for no reason". DET SGT Denton described that he made the statement as CPT Jones was walking away at the end of their conversation and it is possible that CPT Jones did not hear him make that statement. DET SGT Denton denied any other reference to him shooting the dog during that conversation and denied that he ever specifically stated to CPT Jones that he "shot the dog", but given the context of the conversation, that was his intent when he said "I just don't go around shooting dogs for no reason". DET SGT Denton confirmed that this statement was the sole basis for his claim that he "told" CPT Jones that he shot the dog in his written statement to Chief Yancey.

On August 26, 2024, DET SGT Denton appeared at Woodruff's request for a follow-up interview.

Investigator Woodruff advised DET SGT Denton that he wanted to speak to him again to gain clarification about his exact wording during his conversation with CPT Jones in the copier hallway on March 12, 2024. Specifically, Woodruff asked DET SGT Denton if his alleged statement to CPT Jones of "I don't go around shooting dogs for no reason" was the sole statement he made to CPT Jones regarding the fact that he shot the Geigers' dog. DET SGT Denton responded "yes". Woodruff asked DET SGT Denton if he made any other statements to CPT Jones similar to "I shot the dog" or any variation of that phrasing that would have communicated to CPT Jones that he shot the Geigers' dog and Denton responded "no sir". Woodruff confirmed that the statement of "I don't just go around shooting dogs for no reason" was the only reference he made during that conversation to shooting a dog and that alleged statement alone was his basis for putting the claim in his written statement to Chief Yancey that he "told CPT Jones that he'd shot the dog". DET SGT Denton confirmed that this was accurate.

Conclusions:

The conclusion is that DET SGT Denton created a situation which resulted in a significant amount of negative publicity for the department by choosing to disposing of the dog collar at the Police Department. DET SGT Denton chose to meet with the Geigers while on duty and chose to omit telling the Geigers and his superiors that he was responsible for shooting the dog. Following this omission of facts, on three occasions DET SGT Denton gave different statements in relation to the dog being shot. In one statement DET SGT Denton indicates he didn't think it was any of the Department's business how he deposed of stray animals off-duty on his property, even though he dumped the deceased dog's trackable collar in the police department's dumpster. In a second statement DET SGT Denton indicated he told Captain Jones he had shot the dog before sitting down for the IA interview. And in the third statement DET SGT Denton indicated he told CPT Jones that he didn't just go around shooting dogs for no reason, and that was his notification to the department that he had shot the dog, and that he couldn't confirm whether or not CPT Jones heard him. CPT Jones recalls DET SGT Denton making a vague statement about finding the dog dead. It should be noted that even if DET SGT did make the statement " I don't go around shooting dogs for no reason" this not an admission but simply avoiding directly answering the question and an omission and denial of the critical facts related to the case.

On June 29th, 2024, I, Chief Daniel Yancey, personally met with the Geigers in this case and they both clearly stated in their conversations with Denton they felt he was trying to cover his tracks as opposed to worrying about their feelings.

Both IA 2024-0040 and 2024-0047 were sustained by the department upon completion of their perspective investigations and dismissal is recommended.

Supervisor/Department Director Signature

Julie Lombardi

City Attorney/General Counsel
(required for terminations)

City Manager's Signature

1.10.25

Date

OKLAHOMA STATE COURTS NETWORK

The information on this page is NOT an official record. Do not rely on the correctness or completeness of this information. Verify all information with the official record keeper. The information contained in this report is provided in compliance with the Oklahoma Open Records Act, 51 O.S. 24A.1. Use of this information is governed by this act, as well as other applicable state and federal laws.

IN THE DISTRICT COURT IN AND FOR TULSA COUNTY, OKLAHOMA

STATE OF OKLAHOMA,
Plaintiff,
v.
MICHAEL DWAIN DENTON,
Defendant.

No. CF-2025-2380
(Criminal Felony)

Filed: 07/08/2025

Judge: CF Docket E

PARTIES

DENTON, MICHAEL DWAIN, Defendant
STATE OF OKLAHOMA, Plaintiff
Tulsa County Sheriff's Department, ARRESTING AGENCY

ATTORNEYS

None

EVENTS

Event	Party	Docket	Reporter
Tuesday, July 15, 2025 at 9:00 AM ARRAIGNMENT(DATE ON BOND)	DENTON, MICHAEL DWAIN	Arraignment Docket	
Tuesday, August 12, 2025 at 9:00 AM ARRAIGNMENT	DENTON, MICHAEL DWAIN	Arraignment Docket	

COUNTS

Parties appear only under the counts with which they were charged. For complete sentence information, see the court minute on the docket.

Count # 1. Count as Filed: LEWD, LEWD OR INDECENT PROPOSAL TO CHILD, in violation of 21 O.S. 1123(A)
Date of Offense: 01/25/2025

Party Name	Disposition Information
DENTON, MICHAEL DWAIN	

DOCKET

Date	Code	Description			
07-08-2025	[**TEXT**]		DENTON, MICHAEL DWAIN	#1	
	CRIMINAL FELONY INITIAL FILING. Pursuant to 12 O.S. § 39, Document Available at Court Clerk's Office				
07-08-2025	[**INFORMATION**]		DENTON, MICHAEL DWAIN	#1	
	DEFENDANT MICHAEL DWAIN DENTON WAS CHARGED WITH COUNT #1, LEWD OR INDECENT PROPOSAL TO CHILD IN VIOLATION OF 21 O.S. 1123(A)				
07-08-2025	[**AFPC**]		DENTON, MICHAEL DWAIN		
	AFFIDAVIT FINDING OF PROBABLE CAUSE Pursuant to 12 O.S. § 39, Document Available at Court Clerk's Office				
07-08-2025	[**WAI$**]		DENTON, MICHAEL DWAIN		$ 50.00
	WARRANT OF ARREST ISSUED, JUDGE: GREG LAVENDER - BOND AMOUNT: $25,000.00 COUNT 1 - LEWD OR INDECENT PROPOSAL TO CHILD COMMENT: ***NCO & GPS***				
07-08-2025	[**OCISR**]		DENTON, MICHAEL DWAIN		$ 25.00
	OKLAHOMA COURT INFORMATION SYSTEM REVOLVING FUND				
07-08-2025	[**TEXT**]				
	OCIS HAS AUTOMATICALLY ASSIGNED JUDGE CF DOCKET E TO THIS CASE.				
07-10-2025	[**BO**]		DENTON, MICHAEL DWAIN	#1	$ 10.00
	PROFESSIONAL BOND FOR DENTON, MICHAEL DWAIN POSTED BY CRANE, RICHARD DAVID (MULTICOUNTY AGENT:AGUILAR, RA DAMPF) (POWER NUMBER:ABB-25-90431), COUNT NUMBER 1, IN THE AMOUNT OF $25,000.00, POSTED 07/10/2025 Pursuant to 12 O.S. § 39, Document Available at Court Clerk's Office				
07-10-2025	[**BOJ**]		DENTON, MICHAEL DWAIN	#1	$ 25.00
	BOND INITIAL FILING JAIL FUND FEE				
07-10-2025	[**CCADMIN25**]		DENTON, MICHAEL DWAIN	#1	$ 2.50
	COURT CLERK ADMINISTRATIVE FEE ON $25 COLLECTIONS				
07-10-2025	[**DCADMIN25**]		DENTON, MICHAEL DWAIN	#1	$ 3.75
	DISTRICT COURT ADMINISTRATIVE FEE ON $25 COLLECTIONS				
07-10-2025	[**RETWA**]		DENTON, MICHAEL DWAIN		
	WARRANT RETURNED 7/10/2025, WARRANT ISSUED ON 7/8/2025 Pursuant to 12 O.S. § 39, Document Available at Court Clerk's Office				
07-11-2025	[**RETRL**]		DENTON, MICHAEL DWAIN		
	RETURN RELEASE Pursuant to 12 O.S. § 39, Document Available at Court Clerk's Office				
07-11-2025	[**ELECTM**]		DENTON, MICHAEL DWAIN		
	ELECTRONIC MONITORING PROGRAM RULES & CONDITIONS Pursuant to 12 O.S. § 39, Document Available at Court Clerk's Office				

APPENDIX S

Goode v. State, No. PCD-2025-572, Appendix Excerpt:
State v. Thompson, No. CF-05-3904, Transcript of Sentencing (Apr. 28, 2008)

DISTRICT COURT
FILED
JUL 25 2008
SALLY HOWE SMITH, COURT CLERK
STATE OF OKLA. TULSA COUNTY

IN THE DISTRICT COURT IN AND FOR TULSA COUNTY

STATE OF OKLAHOMA

STATE OF OKLAHOMA,)
)
Plaintiff,)
)
vs.) Case No. CF 05-3904
)
RONALD DWAYNE THOMPSON,)
)
Defendant.)

C-2008-541

TRANSCRIPT OF SENTENCING

HELD APRIL 28, 2008

BEFORE THE HONORABLE TOM C. GILLERT

IN TULSA, TULSA COUNTY, OKLAHOMA

* * * * *

ORIGINAL

APPEARANCES:

FOR THE STATE: MR. STEVE KUNZWEILER
District Attorney's Office
Tulsa County Courthouse
500 South Denver
Tulsa, OK 74103

FOR THE DEFENDANT: MR. MICHAEL C. TAYLOR
2021 S. Lewis, Suite 420
Tulsa, OK 74104

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA
AUG 05 2008
MICHAEL S. RICHIE
CLERK

REPORTED BY: JANA HARRINGTON, CSR, RPR
Tulsa County Courthouse
500 South Denver, Suite 405
Tulsa, OK 74103

PROCEEDINGS

THE COURT: This is CF 05-3904, State of Oklahoma vs. Ronald Dwayne Thompson. Mr. Thompson is present. This matter comes on today for sentencing following pleas of guilty and a pre-sentence investigation. The pre-sentence investigation, I don't know whether we gave them the wrong information, but it includes some stuff about a case that he really hadn't pled. He's pled guilty to that as an amended charge this morning. He had pled blind.

I have heard the evidence in this case and have heard Mr. Thompson testify twice. Because there was originally a deal, if you will, without specifics, at any rate, that essentially Mr. Thompson would testify and did testify against the co-defendants in exchange for the withdrawing of the Bill of Particulars, but with the understanding, as he testified to in front of the jury on both occasions, with the understanding that whatever the recommendation would be, that it would be a recommendation that would result in his not leaving the penitentiary during his lifetime.

And, again, since that -- well, at least since the first trial, he hired new counsel, Mr. Taylor, who is here today and has represented him, I don't have the exact date, but, again, represented him at the time of the second trial and represented him at the time that he entered these pleas that have led us here today to this sentencing.

And you wanted to be heard, first of all, Mr. Taylor, on behalf of Mr. Thompson.

MR. TAYLOR: Yes, Your Honor.

THE COURT: Go ahead.

MR. TAYLOR: Thank you, Your Honor. For the record, Your Honor, I have requested a mental health psych evaluation. I think the Court indicated they didn't think it was necessary, that you had enough information in that regard in your file and have heard voluminous records and seen voluminous records about it, but for the purpose of the record I wanted to make that request.

THE COURT: Yes, sir. In terms of, again, the history of this case, there were discovery matters early on before the first trial in which I reviewed jail records that included information about the mental health at the time and some mental health history on Mr. Thompson. There were other medical records that were produced at certain times in the so-called baseball bat incident, at least that one and if not one other. And so I have -- I have seen those records. The only thing I don't have is a current status report on what his mental health is today. But in terms of his competency, there really hasn't been any doubt as to his competency either as a witness or now as a litigant. And so for that reason I don't see any reason that I would continue this case for him to have a mental health examination. And you're right about that.

MR. TAYLOR: And, Your Honor, just again for the record, I'm not alleging that he's incompetent. I think that to be clear.

THE COURT: I know that, but just in terms of clearing this up, if somebody looks at this afterwards, I want to make sure that that is clear, that there really hasn't been any doubt, and in some respects as time has gone by, it has appeared to me that Mr. Thompson's mental health has improved. It might have been the time in jail not doing drugs with the zeal that he had done them before. But I don't know whether that's true or not.

Anything else before I pronounce sentencing for Mr. Thompson?

MR. TAYLOR: Yes, Your Honor. I would like to make a brief argument regarding some circumstances for mitigation.

THE COURT: Go ahead.

MR. TAYLOR: Thank you, Your Honor.

It's my understanding that the family of the victim are here, the victims, and Mr. Thompson's family, also victims in their own right, are here today. I know you have heard this testimony, but for the record I want to make a few points for the Court's consideration today.

It is true that there was a deal made early on by Ronald Dwayne Thompson with the prosecutor's office they would remove the Bill of Particulars, that he would have removed

from his potential range of punishment the death penalty in exchange for a life without the possibility of parole.

Subsequent to that being done, however, the family contacted me, this would have been after the trial of Clarence C-Note Goode already had been completed, and eventually retained my services because Mr. Thompson here had decided that he hadn't fully gotten the benefit and felt a lot of pressure in making that deal. His specific concern registered with me was that the Public Defender's Office, although very vigorous in his defense and doing a fine job, had indicated they had never represented someone who had received the death penalty and they wanted to make sure that they continued with that. And he says that he felt a great deal of pressure to make a deal so that they would have that situation go forward. I don't know whether that's true or not, but I'm telling the Court that's something he has registered with me, is one of the parts of making the deal.

Another thing is I think the Court can make its own observation of Mr. Thompson is he's not the brightest person that you would meet. He's a very simple person. He's actually been very kind. Every time I've visited him in the jail he's been very soft spoken, he's always yes, sir, no, sir. He's been very much of a person who smiles and seems to be relatively carefree. He doesn't strike me as someone who would have thought about and plotted this situation.

And I want to refer to that. If the Court will recall on the date this occurred, Ronald Dwayne Thompson was very high on a number of drugs working at the Wal-Mart. That he was asked to leave by management because of his behavior and because of his continued problems. That he had been asked to leave before because of continued problems with drug use at the Wal-Mart. That he called for a ride. That ultimately Clarence Goode, C-Note, came and picked him up. That there was this unknown person, Kenneth Johnson, also there with him and that he had never met Kenneth Johnson, I think referred to as Fu Fu, before. And that these people indicated -- that he took him for a ride and said, we've got to take care of some business. He didn't plan in that, he didn't make any arrangements, could not have possibly known that there was going to be any business to take care of.

If the Court will recall the evidence, I reviewed substantial, I think over 1,000 photographs, probably as many documents of investigation in pages. If the Court will recall, they put on two sets of gloves, I think a smooth set and knobby pair of gloves, and guns were passed out by Clarence, ammunition was passed out, and they went to the victims' home.

The testimony is uncontroverted that the other two men went to the bedroom and commenced the shooting while Ronald Thompson went to another part of the house. He heard

gunfire, was shocked to hear that gunfire, had specifically indicated he would not be involved in doing anything of that nature.

He then traveled to the bedroom, and I think the testimony has been heard by this Court in both cases that after the victims were already deceased, a gun was put to his head and the phrase was, if you don't put some work in, you're going to be dead here just like these people. And, of course, I don't doubt for a moment that there's no one in this courtroom respectfully that wouldn't with a gun to their temple start firing some shots.

But the evidence also was and the pictures bear out that he says, I turned my head away, I closed my eyes, and I fired in the direction of the wall. And there are holes in the wall, holes in the baseboard. Now, one bullet fragment, not a full bullet but a little fragment, from the coroner's report, did enter Kayla's hip, the young girl, but that wasn't the cause of death. But there are no other bullets from the gun that he used and nobody refutes that. He wasn't any cause of death to any of these people.

He never had the planning of it, he didn't have the mens rea, and frankly, I'm not sure he would have had the culpability or the capability to have put all this together had he wanted to and he didn't want to. This was his cousin.

There was a skirmish involving the baseball bat where

Clarence Goode came to his aid. I suspect that this was nothing more than -- when I read the file, the flavor I get is that Ronald Dwayne Thompson had a protector out there, he had a friend that was sharp, and he kind of looked up to him. He wasn't part of his group, but it's a guy that was dating his sister and he was around him, and he was strong and Ronald was weak.

And he was a person with a life-long addiction. He also had quite a few undiagnosed mental conditions. He's bipolar. We know now that he was diabetic. He was never on insulin before he got to the David Moss Center. He's taking quite a few different medications now. His mental health, his clarity is much better. He had tremors for quite awhile. He got that taken care of. But he is certainly not the same person today, of course not on drugs, and with the diagnosis of these other conditions.

But I look at the totality of his involvement and it's minimal. Now, not to diminish the victims and what they've gone through. I understand that they've got some bitter feelings and I fully understand the family's situation finding their loved ones in that condition, and I saw the photographs and it's a terrible situation. I'm certainly not trying to minimize that.

But then I flip to the other side. I look at the trial. What evidence was produced and what evidence was

gathered? Well, first you have the day after this occurred, you have that Bunny Thompson shows up at the Owasso Police Department and he provides a full confession. He names the parties, he names the vehicle, he names exactly everything that happens. He comes forward 100 percent.

He then testifies at trial. During the course of the investigation, he tells them that the shells and the gloves were thrown out. No one would have known where to look to get those shells and to get those guns or to go to the third party's house where they drove the car to that night. If you'll recall all the clothes were soaking in gasoline. That nobody would have known where to go. Nobody came forward except Ronald Thompson because of his conscience of having been there. And he said from the get-go, here's who was involved, here's where you'll find it. And a search team was sent out later and they combed 169 in the area of where he said they would find those goods, and they did. They found casings that they wouldn't have known where to look for, they found the knobby gloves, they found the other gloves. They have found everything they needed in this case but for the weapons, which he didn't know what happened to those. They even found clothing.

I refer the Court to the fact that the bullet holes, both interior walls and exterior walls show that some bullets went away from the bed, away from the victims through the wall

and through the floorboard. None of his bullets were in any of the victims except for the fragment.

And I also look to the fact of how else would the police have been able to maintain a case against Clarence Goode and more particularly against Kenneth Johnson. There was nothing putting Fu Fu, this Kenneth Johnson there. He was a gang member with Clarence, but there was nothing else putting him there. There was absolutely no evidence whatsoever. If Bunny does not come forward and testify at the trial of Clarence Goode, I doubt seriously you can get a conviction. But as far as the case of Kenneth Johnson goes, there is absolutely no way that you could put him at the scene and no way you can get a conviction.

It just strikes me, Your Honor, as bad as the crimes are, it strikes me as extremely disproportionate if one defendant who fights all the way gets the death sentence appropriately, one defendant who fights all the way and doesn't help gets life without the possibility of parole, that the third defendant who did not fire a fatal shot, did not plan it, did not obtain the weapons, did not obtain the bullets, did not obtain the gloves, and was merely high and going along with what was going on, and today has substantially improved his situation, that he should get the same sentence as the deal that he made.

All -- we're not asking that he be cut loose, of

course. All we're asking for is the Court consider his minimal involvement. He was a companion more than an assailant. And also his help in providing convictions which was very important for the two people that wouldn't have been able to have been found because obviously Bunny was a person of interest because of the baseball bat incident. But Kenneth Johnson doesn't get convicted, he simply doesn't get convicted in my opinion without the testimony of Ronald Thompson, and that's what he brought to this Court and that's we are humbly asking the Court to allow him to not keep the deal with the District Attorney's Office of life without, but we are requesting the Court to take the totality of the circumstances into consideration and sentence Bunny to life but run it concurrent with the possibility of parole and let DOC take care of it from here.

THE COURT: Thank you.

Mr. Kunzweiler.

MR. KUNZWEILER: Judge, I'm not going to belabor the point, but Your Honor saw me cross-examine Mr. Thompson. Mr. Thompson certainly knows where I stand. Quite frankly, but for Mr. Hawkins and some other folks, I think I'd have been pursuing the death penalty against Mr. Thompson.

I do recognize that he testified. I do recognize he provided a benefit to the prosecution of Mr. Goode and Mr. Johnson. I disagree a bit with counsel in his recitation of

some of the facts, and Your Honor certainly knows what Mr. Thompson provided. I think we had a case against Mr. Johnson. He gave a statement that he was in the house with the nine millimeter. I don't know that but for Mr. Thompson's testimony we would not have gotten Johnson.

But the reality is this. Three people are dead, one is a ten-year-old child who shouldn't have been there. He's the guy that gets everybody in the house. He's the guy who kicks the door in. Armed with a gun, not knowing what the heck you ought to do or what's going to happen, as soon as you're kicking somebody else's door in, I think you do have an idea what's coming down.

Mr. Thompson had a choice that day. I think his choice was he could have put that gun on Mr. Goode or Mr. Johnson and ended it right there. He decided to join in their criminal enterprise to kill people for the sake of killing them all over somebody losing their job, all over somebody getting involved in a fight. It was vigilante justice at its absolute worst and they went and killed people who had no role in it. If anybody were to be angry at somebody, perhaps it's Mr. Thompson against his cousin, but what did Tara have to do with this, what did Kayla have to do with this? Nothing.

I ask Your Honor to sentence him in such a way that he never sees the light of day outside of the penitentiary. I trust Your Honor's discretion in that regard.

THE COURT: In terms of the mental condition and the fact that Mr. Thompson was doing drugs during that particular period of time as a matter of mitigation, if we had as a standard in sentencing the idea of mitigation for people who were on drugs or committing crimes because of drugs as the factor, we would fairly well empty the penitentiary. And no one doubts that on that particular day and around that period of time that Mr. Thompson was doing drugs. But he was ambulatory enough that he was at least for a while able to get around, there is testimony he eventually passed out, able enough to kick the door in.

And, again, in terms of the idea that three people armed with guns and gloved should enter a house of someone that they had a grudge against, there was not only the matter of the baseball bat but as he's revealed apparently these people were involved in drugs and selling drugs and there was that as motive, the idea that someone would be surprised, what a shock that after they entered the house, three people armed to the teeth, that someone got shot. That's just absurd. That's what you would expect. That's what you would expect.

Now, admittedly maybe in his shape, it's difficult to know what was going on at all in his mind, but I think it would have been surprising if three people in the middle of the night kicking in a door armed to the teeth, that when they -- when the dust settled, that someone, if not everyone in the

house would have been shot.

It was clear that this was not a burglary, never intended to be anything of the sort. It was a trip for retribution.

It is true that he came forward, not entirely on his own. It was apparent that if he hadn't, something was coming. Also in terms of I don't doubt that his testimony was useful. I think frankly in the Goode case a lot more than in the Kenneth Johnson case because Kenneth Johnson -- without Kenneth Johnson's statement, I'm not sure what the outcome of that would have been, not because of the testimony of Mr. Thompson.

And, again, had the jury not found as they did with Mr. Johnson and found him guilty and determined that it was life without parole, imagine they had acquitted him, imagine they had given him, if you will, straight life, does that change what happened in this case? Does that change what Mr. Thompson did? Does that change anything? And it doesn't.

People engage a lot in this comparative justice and so on and so forth. If you do that too long, nobody goes to jail.

Mr. Thompson testified and expected at least, at least to the jury that he would never leave the penitentiary. That was always what was understood.

There are some differences already. His family has

not had to deal with what the families of Clarence Goode and Kenneth Johnson dealt with and the family of Clarence Goode still deals with and that is that he would be put to death. The specter of the possibility of the death penalty has long since been removed from this case for Mr. Thompson or for any of his loved ones.

The question is does he need to come home. And he doesn't. For what he has done, although it was not crafted in exactitude, the idea that he would spend the rest of his life in the penitentiary is a fair sentence, a just sentence, for someone that would be armed and would be doing the things that he did.

Again, in relative comparison to the conduct in that house, no one has doubted that he was not the brains of the organization and that he was not the one that was firing the fatal bullets in any of these people. But it doesn't change what happened and his participation in it.

And, therefore, I believe that in whatever fashion I would sentence him today, the result should be that he not leave the penitentiary. We don't need to worry at least currently, unless they change the law again about 85 percent and that sort of thing, we don't need to worry about the responsibility or wisdom of the system down the road as much as we used to with people being released and so on, but at least, at least today that is no longer the case.

Do you have the Information? Can I see it? I want to make sure that I -- thank you.

So I will find Mr. Thompson guilty in Count 1 and sentence him to life without parole, find him guilty in Counts 2 and 3 and sentence him to life, find him guilty of burglary in the first degree, sentence him to 20 years. There have to be fines and assessments. It's just a ministerial matter. So $100 fine, $100 Victim of Crime Assessment in each of those. And they should run consecutively.

Mr. Thompson, you have a right to appeal. To do that, you have to file or cause to be filed a written application to withdraw the pleas that you'd previously entered. Then I have to hold a hearing, rule on that application within 30 days from the date it was filed. If I were to deny that application, you then have the right to ask the Court of Criminal Appeals to review that denial by filing a Petition for a Writ of Certiorari within 90 days of the date of the denial. Then within ten days from the date the application is denied, Notice of Intent to Appeal and Designation of Record must be filed with the Court of Criminal Appeals. And if you're indigent, you have the right to be represented by a court-appointed attorney. Should you want to appeal, again, the first step would be to file that written application to withdraw your plea. You would do that through Mr. Taylor, and then I would hold a hearing thereafter.

Any questions, sir, about your appeal rights?

THE DEFENDANT: No, sir.

THE COURT: Did you want immediate transportation or did you want to stay here for ten days?

THE DEFENDANT: Stay here for ten days.

THE COURT: Ten days. Anything else for Mr. Thompson?

MR. TAYLOR: No.

MR. KUNZWEILER: No, sir.

THE COURT: All right.

(END OF PROCEEDINGS)

CERTIFICATE

STATE OF OKLAHOMA)
) SS
COUNTY OF TULSA)

I, Jana Harrington, a Certified Shorthand Reporter in and for the State of Oklahoma, do hereby certify that the foregoing transcript of proceedings heard on April 28, 2008, in the city of Tulsa, Tulsa County, Oklahoma, in the matter of State of Oklahoma vs. Ronald Dwayne Thompson, Case No. CF 05-3904, transcribed from my machine shorthand notes, is true and correct to the best of my ability.

I am not an attorney for or a relative of either party.

IN WITNESS WHEREOF, I have hereunto set my hand and stamp this 25 day of July, 2008.

Jana Harrington, CSR, RPR

My Commission Expires:
December 31, 2008

Jana Harrington
Oklahoma Certified Shorthand Reporter
Certificate No. 1591
Exp. Date: December 31, 2008