**IN THE SUPREME COURT OF MISSOURI**

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| LEONARD S. TAYLOR, | ) | |
| | ) | |
| Petitioner, | ) | |
| | ) | |
| v. | ) | Case No. SC99956 |
| | ) | Execution Scheduled for |
| DAVID VANDERGRIFF, | ) | February 7, 2022 |
| | ) | |
| Respondent. | ) | |
| | ) | |

**SUGGESTIONS OF AMICUS CURIAE**
**MIDWEST INNOCENCE PROJECT**
**IN SUPPORT OF PETITIONER**

This Amicus Brief is filed with the consent of the parties pursuant to Rule 84.05

## STATEMENT OF INTEREST OF AMICUS

The Midwest Innocence Project has a unique and critical role in protecting the rights of innocent prisoners in Missouri. As a member of the Innocence Network, a collection of 71 innocence organizations around the country and the world, the Midwest Innocence Project is dedicated to providing pro bono legal and investigative services to incarcerated people, whose actual innocence can be proven through post-conviction evidence. To date, 3,367 innocent men and women have been exonerated for crimes they did not commit, including 52 individuals exonerated in the State of Missouri, including 4 from Missouri's death row.[1] Those 3,367 exonerations also include the exoneration of

[1]Nat'l Registry of Exonerations, *Contributing Factors and Type of Crime*, https://www.law.umich.edu/special/exoneration/Pages/about.aspx.

190 death sentenced individuals. When compared to the number of individuals who have been executed, this equals a rate of one exoneration of an individual from death row for roughly every 8 individuals executed.[2]

Because of its expertise, the Midwest Innocence Project has dedicated itself to improving the reliability of the criminal legal system and preventing wrongful convictions by researching their causes and pursuing reforms to enhance the truth-seeking functions of the criminal justice system. Amicus has an interest in this case as Leonard Taylor's conviction rests on common types of unreliable evidence known to increase wrongful convictions and it would be an intolerable injustice for Leonard Taylor to be executed based upon that evidence.

## STATEMENT OF FACTS

Amicus Curiae adopt the Statement of Facts as set forth in Petitioner's Suggestions in Support of Petition for Writ of Habeas Corpus.

## ARGUMENT

Wrongful convictions are often the result of false or misleading forensic evidence and/or false confessions. To date, 3,367 innocent men and women have been exonerated for crimes they did not commit, including 52 individuals exonerated in the State of Missouri, including 4 from Missouri's death row.[3] Those 3,367 exonerations also include

[2] Death Penalty Info. Ctr ("DPIC"), *Sentencing Data*, https://deathpenaltyinfo.org/facts-and-research/sentencing-data/death-sentences-in-the-united-states-from-1977-by-state-and-by-year. Of the 8,770 individuals sentenced to death, 1,558 were executed. DPIC, *Execution Database*, https://deathpenaltyinfo.org/executions/execution-database.

[3] Nat'l Registry of Exonerations, *Contributing Factors and Type of Crime*, https://www.law.umich.edu/special/exoneration/Pages/about.aspx.

the exoneration of 190 death sentenced individuals. When compared to the number of individuals who have been executed, this equals a rate of one exoneration of an individual from death row for roughly every 8 individuals executed.[4]

Flawed forensic evidence, like the time of death testimony here, was a factor in 23% of the total number of exonerations known by the Exoneration Registry, 46% of exonerations achieved with the use of DNA testing, and 42% of exonerations of persons who were charged with murder.[5] False confessions were also a factor in 393 (12%) of known exonerations, 135 (24%) of DNA exonerations, and 269 (23%) of known exonerations for murder.[6] It is therefore crucial that this Court recognize that this case falls squarely within the universe of cases in which it has found the requested relief to be appropriate, and, as in those cases, this Court should grant Mr. Taylor's Petition for Habeas Corpus and Request for Stay.

## I. THIS COURT SHOULD STAY LEONARD TAYLOR'S EXECUTION AND GRANT HABEAS RELIEF BECAUSE HIS CONVICTION WAS BASED ON SCIENTIFICALLY UNSUPPORTABLE AND FALSE TESTIMONY.

There is a significant risk of a wrongful conviction where, like here, the jury is

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[4] Death Penalty Info. Ctr ("DPIC"), *Sentencing Data*, https://deathpenaltyinfo.org/facts-and-research/sentencing-data/death-sentences-in-the-united-states-from-1977-by-state-and-by-year. Of the 8,770 individuals sentenced to death, 1,558 were executed. DPIC, *Execution Database*, https://deathpenaltyinfo.org/executions/execution-database.

[5] Nat'l Registry of Exonerations, *Interactive Data Display*, https://www.law.umich.edu/special/exoneration/Pages/Exonerations-in-the-United-States-Map.aspx; The Innocence Project, *DNA Exonerations in the United States,* https://innocenceproject.org/dna-exonerations-in-the-united-states/.

[6] Nat'l Registry of Exonerations, *% Exonerations By Contributing Factor*, https://www.law.umich.edu/special/exoneration/Pages/ExonerationsContribFactorsByCrime.aspx.

presented with scientifically unsupportable testimony. There is no scientific basis for the change in the medical examiner's testimony in Mr. Taylor's case, and the use of that testimony not only violated Mr. Taylor's constitutional rights, but also increased the likelihood that the State would secure a wrongful conviction of an innocent man. Studies show that jurors place immense weight on testimony—and testifying experts—that they perceive as scientific. *See* John Alldredge, *The "CSI Effect" and Its Potential Impact on Juror Decisions*, 3 THEMIS RSCH. J. OF JUST. STUD. AND FORENSIC SCI. 114, 115 (describing phenomenon that jurors "have unrealistic expectations of forensic tests"); *see also* Simon A. Cole & Rachel Dioso-Villa, *Investigating the 'CSI Effect' Effect: Media and Litigation Crisis in Criminal Law*, 61 STAN. L. REV. 1335, 1351-52 (2009) (describing survey in which prosecutors described "inflated expectations of forensic evidence" among jurors). Expert testimony is particularly persuasive to jurors, and thus particularly problematic when it is false. As the United States Supreme Court noted, "Expert evidence can be both powerful and quite misleading because of the difficulty in evaluating it." *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579, 595 (1993). Such testimony "may be assigned talismanic significance in the eyes of lay jurors," *United States v. Frazier*, 387 F.3d 1244, 1263 (11th Cir. 2004), because "a certain patina attaches to an expert's testimony unlike any other witness; this is 'science'… [and] the jury may think and give more credence to the testimony than it may deserve." *United States v. Hines*, 55 F. Supp. 2d 62, 64 (D. Mass. 1999). Dr. Burch's testimony in this case is not immune from this phenomenon: Medical Examiner testimony regarding time of death is "precisely the type of scientific evidence that juries are likely to consider

objective and infallible." Keith A. Findley, *Innocents At Risk: Adversary Imbalance, Forensic Science, and the Search for Truth*, 38 SETON HALL L. REV. 893, 943 (2008); *see also* Shaila Dawan, "*Failed Autopsies, False Arrests: A Risk of Bias in Death Examinations"*, N.Y. TIMES (Jun. 20, 2022)[7]; Ryan Gabrielson, *Second chances underscore flaws in death investigation*, PBS FRONTLINE, https://www.pbs.org/wgbh/pages/frontline/post-mortem/second-chances/.

There is no doubt that the use of such scientifically unsupportable testimony has led to wrongful convictions. Invalid forensic evidence was a factor in 23% of the total number of exonerations known by the Exoneration Registry, 46% of exonerations achieved with the use of DNA testing, and, notably, 42% of exonerations of persons who were charged with murder.[8] It makes no difference whether the underlying forensic technique used in the case was itself reliable and valid. As a 2009 report from the National Academy of Sciences found, even when an expert uses a scientifically-accepted method of analysis, experts may exaggerate or misrepresent their findings in response to pressure from police or prosecutors.[9] This pressure need not be overt, but is itself a form of cognitive bias. Indeed, the pressure for Dr. Burch to find a window of time in which Mr. Taylor could have committed the crime is present here: at the time of his analysis, the

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[7] Available at https://www.nytimes.com/2022/06/20/us/medical-examiners-autopsy-racism.html.

[8] *Interactive Data Display*, NAT'L REGISTRY OF EXONERATIONS, https://www.law.umich.edu/special/exoneration/Pages/Exonerations-in-the-United-States-Map.aspx; *DNA Exonerations in the United States*, *supra* note 57.

[9] *Strengthening Forensic Science in the United States: A Path Forward*, NAT'L ACAD. SCIS. 7-8 (2009), https://www.ojp.gov/pdffiles1/nij/grants/228091.pdf; *see also* Belinda Buscombe, *When the Evidence Lies*, TIME MAG. (May 13, 2001).

victim's brother, James Rowe, worked in the Medical Examiner's office and had conversations with Dr. Burch about the case. *See* Deposition of Dr. Burch at 7; Deposition of Investigator Lebb at 9.

For these reasons, it is crucial for courts to intervene when a conviction and sentence are the result of "scientific" evidence that has been discredited or proven to be false. As demonstrated in his Petition, Mr. Taylor's wrongful conviction is based on the scientifically unsupportable and false testimony of the State's medical examiner. The use of this false testimony incorrectly subverted Mr. Taylor's alibi and violated Mr. Taylor's constitutional rights, and should compel this Court to grant Mr. Taylor habeas corpus relief.

### A. Courts Across the Country Have Overturned Convictions Where New Evidence from Forensic Pathologists Discredits or Disproves Medical Examiner Trial Testimony Regarding Time of Death

There is precedent for overturning a conviction secured with the use of improper time of death testimony: courts around the country have done just that. Take for example, the case of Herman Williams, who was exonerated in 2022 after it was revealed that the medical examiner's trial testimony narrowing the time of death was not scientifically supported.[10] In that case, there was only a short window for which Williams did not have an alibi, so establishing that timeframe as the time of death was critical to the State's theory that Williams committed the crime. Before trial, the testifying medical examiner provided a time of death which did not exclusively narrow it to the small window of time

[10] *Herman Williams*, NAT'L REGISTRY OF EXONERATIONS, https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=6406.

in which Williams feasibly could have committed this crime. But at trial—just like in Mr. Taylor's case—the Medical Examiner improperly changed the time of death to discredit Williams' alibi and bolster the prosecution's case. And—just like in Mr. Taylor's case—Williams' trial attorneys did not consult with or present a forensic pathologist, despite the time of death as the crux of the case. A subsequent review by two forensic pathologists found there was no scientific basis for the shift in the Medical Examiner's testimony and it was thus both unreliable and scientifically unsupported and William's conviction was overturned. The same result is compelled here.

Just two year before, in 2020, Kimberly Long[11] was also exonerated of murder after new pathology evidence regarding time of death came to light. In Long's case, the medical examiner did not originally testify as to a time of death, but a later review by forensic pathologists established the death must have occurred at a time when Long was indisputably two miles away. The California Supreme Court found trial counsel's failure to present this evidence at trial constituted ineffectiveness, stating: "Not every homicide case presents a significant issue regarding the time of death….But [] time of death was a particularly important issue in this case and therefore gave rise to a duty of defense counsel to investigate." *In re Long*, 10 Cal. 5th 764, 776 (Ca. 2020). Like Mr. Taylor, like Ms. Long, was also miles away at the scientifically supported time of death, and yet trial counsel did not secure an independent pathologist. And like Mr. Taylor, Long had exhausted all of her appeals and post-conviction remedies, nonetheless her conviction

[11] *Kimberly Long*, NAT'L REGISTRY OF EXONERATIONS, https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=5962.

was finally overturned in an original state habeas proceeding like the one pending for Mr. Taylor before this Court.

Notably, the California Supreme Court did not require that there be a unanimous conclusion among experts in overturning the conviction. It found: "This is not to say that contrary time-of-death opinions were not also available, as evidenced by Dr. Cohen's testimony. But our assessment of prejudice focuses on the availability of credible opinions favorable to Long because, in light of our determination that counsel did not properly investigate the victim's time of death, we cannot rule out a reasonable likelihood that had he done so, he would have discovered an opinion helpful to Long's defense." *Id.*

Similarly, Kirstin Lobato's conviction was overturned by the Nevada Supreme Court in 2016 on the basis that trial counsel was ineffective for failing to present testimony from a forensic pathologist (or entomologist) to narrow the victim's time of death. *Lobato v. State*, 132 Nev. 1001, 385 P.3d 618 (2016). She was officially exonerated in 2017 when the prosecutor dismissed all charges.[12] Although no physical evidence tied Lobato to the crime, she was convicted on the basis of her alleged confession. After three new experts, however, all agreed on a time of death that, like in Mr. Taylor's case, occurred when Lobato had a solid alibi, the *Lobato* court held:

> Any evaluation of the prejudice prong also must take into consideration the totality of the evidence before the jury. Because the jury received no physical evidence linking Lobato to the victim's murder, it seems likely that Lobato's statements

[12] *Kristen Blaise Lobato*, INNOCENCE PROJECT, https://innocenceproject.org/cases/kirstin-blaise-lobato/.

> to the detective and others had the greatest influence on the jury's verdict.

*Id.* at 3 (internal citations omitted). Similarly, in Mr. Taylor's case, where no physical evidence tied him to the scene, and multiple witnesses corroborated his alibi, there is "reasonable probability that had counsel investigated and presented expert evidence that narrowed the time of death, the jury would have had a reasonable doubt." *Id.*

The list of wrongful convictions based upon false medical examiner testimony goes on. In 2016, Randy Liebach's murder conviction and 65-year sentence was overturned[13] where "the outcome of the case turned on whether" the blunt force trauma to a child's head was inflicted on the day the defendant had access to the child, or at some earlier point. *People v. Liebich*, 2016 IL App (2d) 130894U, ¶¶ 82-84. Yet like in Mr. Taylor's case, Liebach's trial counsel did not present an expert to rebut this medical testimony. The court held that it is "clear that the failure to adequately understand and present scientific testimony in certain circumstances"—in *Liebach*, like here, those circumstances were time of death analysis – may constitute the ineffective assistance of counsel.[14]

[13] *Randy Liebach*, NAT'L REGISTRY OF EXONERATIONS, https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=5543

[14] While Mr. Taylor has not raised a claim of ineffective assistance of counsel in his pending Rule 91petition, this Court may consider any issues the record supports before it. *See* Rule 91.06 ("Whenever any court of record, or any judge thereof, shall have evidence from any judicial proceedings had before such court or judge that any person is illegally confined or restrained of liberty within the jurisdiction of such court or judge, it shall be the duty of the court or judge to issue a writ of habeas corpus for the person's relief, although no petition be presented for such writ.").

Similarly, in 2015, Jason Strong was exonerated of murder—even though he confessed to the murder to police—because three new medical experts concluded the medical examiner's testimony at trial about time of death was false.[15] The new time of death established by the experts proved the confessions from Strong *and* his co-defendants to be false.

Finally, Isaiah Andrews was exonerated after serving 46 years in prison for the wrongful conviction of the murder of his wife.[16] Andrews only became a suspect because of the medical examiner's mistaken time of death: the original suspect was cleared and released because of this mistake. By the time the Medical Examiner corrected the time of death, Andrews had already been arrested, and police worked to covered up the fact that they had arrested someone else initially. Andrews' conviction was ultimately overturned on the basis of this *Brady v. Maryland* violation for failure to disclose the information about the original suspect and his criminal history to defense before trial.

Like these innocent individuals above, Mr. Taylor's conviction rests on the faulty and yet undisputed at trial time of death testimony. And like these innocent defendants, the use of this testimony compels the same result: Mr. Taylor's conviction should be overturned.

### B. Courts Have Stayed Executions and Overturned Capital Convictions Based on Unreliable Medical Examiner Testimony, Even in Confession Cases.

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[15] *Jason Strong*, NAT'L REGISTRY OF EXONERATIONS, https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=4697

[16] Mr. Andrews was one of the longest exonerations in history. Tragically, he passed away a mere six months after his exoneration at 80 years old. *Isiaah Andrews*, NAT'L REGISTRY OF EXONERATIONS, https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=6053

The impact of unsupportable medical examiner testimony cannot be overstated—it not only leads to the conviction of the innocent, but undermines the reliability of the criminal legal system itself. For this reason, Courts have also considered the impact of this testimony in the implementation of the death penalty, overturning not the conviction, but a defendant's sentence to death. Alfonso Rodriguez Jr.'s death sentence, for example, was overturned because of the "unreliable, misleading and inaccurate testimony" given by the county medical examiner about the cause of death. There, North Dakota District Judge Erickson, now of the Eighth Circuit, held that the coroner was just guessing and that his opinions were not scientifically supported by literature. Judge Erickson wrote:

> Few trials are perfect. Admittedly, even fewer trials are riddled with error because expert testimony is later proven to be so unreliable that had all the circumstance been known it would have been inadmissible . . . . But, these post-conviction relief proceedings have uncovered credible evidence demonstrating that in the trial of this case, the truth was obscured.

Amended Memo. Op. & Order, *U.S. v. Rodriguez, Jr.*, Case 2:04-cr-00055-RRE at *7 (D.N.D. Jan. 3, 2022)[17]. Like Rodriguez, Mr. Taylor has established that the State relied on the unreliable testimony by the medical examiner that the victims could have died two to three weeks before they were discovered. New pathology analysis has proven that this testimony was inaccurate, misleading and scientifically unsupported. Without this false evidence, the State could not have obtained a conviction of Mr. Taylor. And it certainly could not have obtained a sentence of death.

[17] Available at https://documents.deathpenaltyinfo.org/USA-v-Rodriguez-DND-Amended-Habeas-Opinion-2022-01-03.pdf.

Similarly, Melissa Lucio's execution was stayed and an evidentiary hearing ordered in Texas state court based on three claims, all of which equally apply to Mr. Taylor's case: (1) her claim that but for the State's use of false testimony from the medical examiner regarding cause of death, no juror would have convicted her, (2) previously unavailable scientific evidence would preclude her conviction (relating to new evidence regarding "forensic confirmation bias" relevant to the medical examiner's erroneous conclusions about cause of death), and (3) her claim of actual innocence. Order, No. WR-72, 702-05, Court of Criminal Appeals of Texas, April 25, 2022;[18] *See also* Lucio's Subsequent Application for Writ of Habeas Corpus.[19] Like Mr. Taylor, Ms. Lucio had also already exhausted her appellate and post-conviction remedies.

As in Mr. Taylor's case, the medical examiner's false testimony was critical because it established a time frame that rebutted Lucio's defense theory. In *Lucio*, the medical examiner testified that Lucio's daughter, Mariah, could not have died from an accidental fall, that Mariah was intentionally abused and that Mariah's brain injuries were necessarily incurred within 24 hours of the autopsy. This testimony was critical to the State's case as it rendered Lucio's primary defense—that Mariah's injuries were caused by an accidental fall down a flight of stairs two days earlier—impossible. Without this demonstrably false evidence, the State could not have obtained a conviction of Lucio.

[18] Available at https://drive.google.com/file/d/1F-6CidutQgm26gGYaXar8XZfYlvfKvSw/view.

[19] Available at https://drive.google.com/file/d/1cf5pWQL27NQCiC-oDtyuXJi-RnSFl8Qz/view.

Similarly, in Mr. Taylor's case, he was nearly 2,000 miles away at the time of death that is scientifically supported. But the medical examiner's testimony at trial erroneously expanded the possible time of death to a time period when Mr. Taylor was still in town and could have committed the crime. A conviction cannot stand on such false testimony,

### C. This Court Should Follow Its Precedent and Overturn this Wrongful Conviction Resting Upon Scientifically Unsupported Testimony.

But this Court need not look outside the State for precedent to overturn a conviction like Mr. Taylor's. Indeed, this Court has granted habeas relief on the bases of discredited forensic science in *State v. Nash*. In *Nash*, this Court concluded that Donald "Doc" Nash had "establish[ed] his 'gateway innocence' claim in light of the discredited forensic evidence and the newly discovered DNA evidence," and that Nash "further established his claim of ineffective assistance in that his counsel failed to seek a *Frye* hearing regarding the discredited expert forensic evidence." Order, *State ex rel. Nash v. Payne*, SC97903, (Mo. July 3, 2020).[20]

In *Nash*, the now-discredited scientific testimony was regarding whether the victim had washed her hair and whether that would have impacted the presence of DNA under her fingernails.[21] DNA testing of the victim's fingernail clippings had revealed the presence of Nash's DNA, but the two had lived together, so it was not unexpected.

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[20] Sadly, Mr. Nash passed away just last week from pneumonia, a complication of COVID-19. *See* Tony Messenger, *In death, Doc Nash teaches lessons about justice and grace in Missouri*, ST. LOUIS POST-DISPATCH (Feb. 5, 2023), available at https://www.stltoday.com/news/local/columns/tony-messenger/messenger-in-death-doc-nash-teaches-lessons-about-justice-and-grace-in-missouri/article_7e02cff6-a569-57dc-be6c-29146c4c0801.html.

[21] *Donald Nash*, NAT'L REGISTRY OF EXONERATIONS, https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=5840.

Despite scientific studies at the time of trial that said hygiene had no significant effect on the persistence of DNA in fingernail sample, the State presented testimony from the lab analyst that the victim washed her hair before her death and that the washing would have had a "great effect" to eliminated all of Nash's preexisting DNA from under the victim's fingernails. That testimony was not true. After a hearing held after this Court's remand, special master Judge Zerr found: "To assume that Nash's DNA came from a violent struggle is pure speculation and, in fact, conflicts with [the analyst's] own opinion and the failure of the lab tech to find skin or blood under the nails when they were removed after autopsy." Amended Report of the Special Master, *State ex rel. Nash v. Payne*, SC97903, qt *149 (Mo. July 2, 2020). It made no difference that this Court had previously held in its opinion upholding Nash's conviction that: "The jury, by its verdict, found that the State's expert's testimony suggesting that Nash's DNA from under Judy's fingernails that existed on the night before her murder would have been removed when she washed her hair. It is not this Court's role to reweigh the DNA evidence to contradict the jury's conclusions." *State v. Nash*, 339 S.W.3d 500, 511 (2011). Because that testimony was now known to be false, the conviction could not stand. Nor can Mr. Taylor's. Dr. Burch's changed testimony expanding the range of time of death was unsupported by science and was false. Unlike Mr. Taylor, Nash did not have a strong alibi for the time of the crime, yet the false forensic evidence could not support his conviction. The same result is compelled here.

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Mr. Taylor's claim that claim that he would not have been convicted but for Dr. Burch's unscientific testimony, and that this false testimony, violated his due process rights, places his case squarely within the universe of cases in which courts have granted habeas relief when a conviction was procured through the use of scientifically unsupported, unreliable testimony. This Court should similarly grant relief here.

## II. THIS COURT SHOULD STAY LEONARD TAYLOR'S EXECUTION AND GRANT HABEAS RELIEF BECAUSE HIS CONVICION WAS BASED ON A COERCIED, UNRELIABLE, AND FALSE STATEMENT FROM PERRY TAYLOR.

The prosecution's reliance on scientifically unsupportable testimony was not the only unconstitutional problem with Mr. Taylor's trial. The prosecution relied upon the police-induced statement of Perry Taylor, in which Perry stated Mr. Taylor called him and confessed to the murders. But new evidence, including new scientific evidence, proves that Perry's statements from police were coerced by police interrogators and are unreliable. Convictions have been overturned in similar circumstances where a confession or false statement supporting the wrongful conviction was proven to be coerced and/or false. In these circumstances, convictions have been overturned on the basis of actual innocence, as well as due process violations, as well as on the basis of new social science concerning false confessions. *See, e.g, Floyd v. Vannoy*, 894 F.3d 143, 158 (5th Cir. 2018) (finding *Schlup* actual innocence and reversing murder conviction based, in part, on false confession coerced from Floyd by a police officer with a history of misconduct); *Fontenot v. Crow*, 4 F.4th 982, 1056 (10th Cir. 2021) (affirming *Schlup* actual innocence and reversal of murder conviction despite videotaped confession

because evidence demonstrated it was coerced and unreliable); *Bryant v. Thomas*, 274 F.Supp.3d 166 (S.D.N.Y. 2017) (holding that a psychologist report regarding coerciveness of interrogation tactics used and the vulnerability of defendant to such tactics were new evidence of actual innocence).

False confessions were a factor in 393 (12%) of known exonerations, reflecting the all too common reality of false confessions in our judicial system stemming from inappropriately coercive interrogation tactics. 135 (24%) of DNA exonerations involved a false confession, and 269 (23%) of known exonerations for murder did as well.[22] False confessions are the third leading cause of wrongful conviction overall,[23] and the leading cause of wrongful convictions in homicide cases.[24] False confessions are the top cause in homicide cases, because the pressure on law enforcement to close a case, and quickly, is at its apex in such high profile cases.

It is now widely known that the so-called Reid Technique of interrogation, used here and discussed further below, can and frequently does produce coerced and false confessions. Indeed "there is mounting empirical evidence that [the pressures of custodial interrogation] can induce a frighteningly high percentage of people to confess to

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[22] *% Exonerations By Contributing Factor*, NAT'L REGISTRY OF EXONERATIONS, https://www.law.umich.edu/special/exoneration/Pages/ExonerationsContribFactorsByCrime.aspx.

[23] *The Causes of Wrongful Conviction*, INNOCENCE PROJECT, Contributing Causes of Wrongful Conviction (innocenceproject.org).

[24] *Facts and Figures*, FALSE CONFESSIONS.ORG, https://falseconfessions.org/fact-sheet/#:~:text=Since%20the%20late%201980s%2C%20six,were%20the%20single%20leading%20cause.

crimes they never committed." *Corley v. United States*, 556 U.S. 303, 320-21 (2009); *J.D.B. v. North Carolina*, 131 S. Ct. 2394, 2401 (2011).

Far too often the purpose of a criminal interrogation is not to investigate the factual truth behind a crime, but rather to provide evidence of guilt for use at trial or to leverage a guilty plea. Interrogation practices—such as the Reid Technique—that permit and even endorse intentional misrepresentations for the greater good of obtaining a confession are particularly prone to result in false confessions. This Court need not delve far into the recent past to find legions of wrongful convictions resulting from false confessions. From the "Central Park Five" to Ada JoAnn Taylor of the "Beatrice Six," these interrogation practices have indisputably increased the risk of false confessions.

In Mr. Taylor's case, the interrogators used psychologically coercive tactics widely known to lead to false and unreliable confessions and/or witness statements. *See* Ex. 20 to Pet. Suggestions. Perry's resulting false statement, stemming from the use of these criticized and disproven interrogation techniques, was an unreliable basis for Mr. Taylor's conviction, in violation of his constitutional rights. Since Perry's statement that Mr. Taylor confessed was the only evidence presented against Mr. Taylor at trial, his actual innocence is proven—under *Schlup/Clay* procedural gateway standard or *Amrine* freestanding actual innocence standard—when the statement/confession is fatally undermined. In similar circumstances, courts have not hesitated to grant relief. This Court should do the same here.

### A. Psychologically Coercive Police Interrogation Tactics Coerced a False Statement.

#### 1. It is Widely Acknowledged and Recognized that Commonly-Employed Interrogation Tactics Can Produce Involuntary and False Confessions From Suspects.

Understanding how a person can come to falsely confess requires a general understanding of the psychologically powerful tactics that are employed against suspects during custodial interrogations. Most police departments follow a standardized set of procedures typified by the Reid Technique, developed by John E. Reid & Associates, Inc. *See* Fred E. Inbau, John E. Reid, Joseph P. Buckley & Brian C. Jayne, *Criminal Interrogations and Confessions* (5th ed. 2013).

Police interrogators generally begin by separating the suspect from his family and friends, often isolating the suspect in a small interrogation room specially designed to increase his anxiety. *See* Saul M. Kassin et al., *Police-Induced Confessions: Risk Factors and Recommendations*, 34 L. & HUM. BEHAV. 3, 12 (2010). After a brief period of rapport-building during which the interrogator discusses non-threatening topics with the suspect, the interrogator deploys a series of tactics intended to shake the suspect's adherence to his claim of innocence. *Id.* at 11-12. It is at this time the interrogation shifts into confrontation mode, as the questioner directly and repeatedly accuses the suspect of lying, refuses to listen to his claims of innocence, and exudes unwavering confidence in his guilt. *See* Richard J. Ofshe and Richard A. Leo, *The Decision to Confess Falsely: Rational Choice and Irrational Action*, 74 Den. U. L. Rev. 979, 990 (1997). In order to convey the message that the suspect is guilty and that nothing the suspect says will

change the interrogator's mind about this "fact," the interrogator may inform a suspect that the police possess evidence implicating him—fingerprints on a murder weapon, for example, or the statement of an eyewitness—even if such evidence does not actually exist. *See id.* The use of such evidence ploys is designed to make the suspect feel thoroughly hopeless and trapped. Kassin *et al*, 34 L. & Hum. Behav. at 27-28.

After this is accomplished, police interrogators then switch to the next stage of interrogation by offering the suspect a way out of his predicament: confession. To communicate this message, they indicate that the benefits of confessing will outweigh the costs of continued resistance and denial. Ofshe & Leo, 74 Denv. U. L. Rev. at 990. Interrogators frequently minimize or rationalize the suspect's involvement in the crime, for instance, telling the suspect that he must have been merely a witness or that the criminal act must have been unintentional, a mere accident, or an act of justifiable self-defense, all in an effort to make confessing seem less damaging. Steven A. Drizin & Richard A. Leo, *The Problem of False Confessions in the Post-DNA World*, 82 N.C. L. Rev. 891, 916 (2004). Interrogators also assure the suspect that confessing is in his best interests and often imply that he will receive leniency if he confesses. *See id.* By deploying these tactics at the right psychological pressure points, experienced interrogators can be extraordinarily effective in causing a suspect to produce self-incriminating information.

It is now beyond dispute, however, that these potent tactics can be so effective that they can cause even the innocent to confess. In the U.S. Supreme Court's landmark decision in *Miranda v. Arizona*, the Court, after describing standard interrogation

practices and citing the Reid interrogation manual, explicitly recognized that the "heavy toll" of custodial interrogation may result in false confessions. 384 U.S. 436, 455, n.24 (1966). More recently, in 2009, the Court again acknowledged the gravity of the issue, finding that "there is mounting empirical evidence that these pressures [associated with custodial police interrogation] can induce a frighteningly high percentage of people to confess to crimes they never committed." *Corley v. U.S.*, 129 S. Ct. 1558, 1570 (2009) (citing Drizin & Leo, 82 N.C. L. Rev. at 907)).

**2. Regardless of Admissibility or Voluntariness, Perry Taylor's Confession is Demonstrably Unreliable**

There are tried and true ways of evaluating the reliability of confession evidence—ways that are embraced by law enforcement officers as well as academics and researchers who study police interrogation tactics. For example, in a chapter devoted to this topic, the Reid Manual describes two important types of confession corroboration—*dependent corroboration* and *independent corroboration*. *Dependent corroboration* consists of information about the crime that police purposely withhold from the suspect and the media. If a suspect's confession contains these details of the crime that only the police and "the true perpetrator should know," this is evidence that the suspect's confession is reliable. *Independent corroboration* consists of crime information that was not known by the police until the suspect confessed. Such information—like the whereabouts of a

murder weapon or the fruits of a robbery—is additional evidence of the reliability of the suspect's confession. Inbau et al., *Criminal Interrogation and Confessions*, at 354-55.

Psychologists and police interrogation experts Richard J. Ofshe and Richard A. Leo also recommend examining the "fit" between the objectively knowable facts of the crime and the suspect's narrative. *See* Ofshe & Leo, 74 Denv. U.L. Rev. at 1119. If facts relayed in the confession contradict the objective facts of the crime, or otherwise don't make sense in the context of the case or suspect, the confession may be unreliable. *See* Tepfer et al., *Scrutinizing Confessions in a New Era of Juvenile Jurisprudence*, at 9. Further, if the confessor gets non-inculpatory or benign facts incorrect, this may suggest the confession is false and that the suspect is guessing at the answers. *Id.*

The mere fact that the suspect's confession is filled with details that only the true perpetrator should know and that fit the objectively knowable facts of the crime, however, is not enough to prove that the confession is reliable. False confessions are generally filled with a startlingly amount of accurate detail. University of Virginia Law Professor Brandon Garrett, the leading researcher of DNA exonerations, has found that of the first 40 confessions proven false by DNA, 38 included descriptive facts that seemingly only the true perpetrator would know. Brandon L. Garrett, *Convicting the Innocent* 20 (Harvard Univ. Press 2011). Determining the source of those details, and whether they were contaminated, as described above, is crucial.

The existence of contamination can make a highly unreliable confession appear to have the ring of truth. And juveniles may be particularly vulnerable to suggestion and

even more likely than adults to repeat details fed to them by their interrogators to create a plausible—albeit false—confession. *See* Tepfer *et al*., 62 Rutgers L. Rev. at 918.

### 3. Perry Taylor's Statements to the Police Incriminating His Brother are Demonstrably Unreliable and Multiple Experts Discredit his Recorded Statement to Police.

Law enforcement expert James Trainum, a former D.C. homicide detective who now trains law enforcement on interrogations and how to avoid coerced and/or unreliable confessions, reviewed Perry's statement and subsequent testimony and he concluded that the police interrogation of Perry was "overly coercive … using tactics no longer approved by the leading interrogation school in the U.S. because they have been shown to lead to false statements." Ex. 20 to Petitioner's Suggestions at 1. Trainum further concluded that there "red flags" regarding the reliability of Perry's statement, or lack thereof, and indicators that his statement was "contaminat[ed]" by police. Contamination occurs when police provide witnesses (or suspects) information about the crime, and it is often unintentional and interrogators may not even realize it occurred.[25] *Id.* at 3-4.

Dave Thompson, the President of Wicklander-Zulawski & Associates (leading interrogation company), agrees and expands upon Trainum's conclusions. *See* Ex. to Petitioner's Reply. Thompson noted: "Several tactics are present that within the interviews/interrogations of Mr. Perry Taylor that are consistent with those in other

[25] Trainum is personally familiar with the real possibility of unintentionally contaminating a suspect's confession because he realized he did it as a D.C. homicide detective, in a case of wrongful conviction that was ultimately overturned. D. Kim Rosso, Criminal Investigative Failures, Chapter 10: A False Confession to Murder in D.C. (205-217), CRC Press, Boca Raton (2009).

unreliable or false confessions." Thompsons concluded: "This initial review of available evidence and testimony suggests a strong likelihood that Mr. Perry Taylor's statements are as a result of coercive and improper interrogation techniques. Many, if not all, of these tactics have been advocated against in the last several years due to their known contribution to unreliable or false confessions. The use of Mr. Perry Taylor's statements as evidence in the underlying case is of great concern to its reliability and requires a more comprehensive overview regarding the contamination of lack of substantiated details."

The specific improper tactics identified by Thompson as used by the interrogators here include:

- False evidence play: *See* Thompson Report at 2 for specific examples. Many states, including Utah, Delaware, California, Oregon, and Illinois, have now banned the use of the false evidence ploy when interrogating youth because it is widely recognized that this tactics significantly increases the coerciveness of an interrogation, and increases the likelihood of a false confession or statement.
- Threats, both implicit and explicit. *See* Thompson Report at 2 for specific examples.
- Suggestions of leniency, or minimization. *See* Thompson Report at 3 for specific examples.
- Contamination. *See* Thompson Report at 3 for specific examples.
- Allegations of abuse. *See* Thompson Report at 3 for specific examples.

In his sworn testimony at deposition and trial, Perry explained why he falsely said his brother confessed to him. He said police repeatedly threatened him, both with

criminal prosecution and prison time, and with physical harm; police threatened his mother; he was detained at gunpoint; and police told him what they needed him to say. Much of this is actually documented in the videotape. On the recording, police threaten him with long term imprisonment but promise to release him if he implicates his brother. Indeed, he was charged with hindering prosecution and faced a prison term of up to seven years. The interrogating officer repeatedly told Perry to consider this charge a threat. The interrogating officer also told Perry: "the answers that you [give] probably in the next fifteen or twenty minutes are probably going to dictate the next good portion of what happens to the rest of your life." The tape leaves no question that Perry heard and felt the threats, he said: "you have threatened me with my job, my future, my freedom."

In Perry's sworn testimony, he provided even more details about the coercion. Perry described the circumstances regarding his arrest and being jailed before he was interrogated at the Jennings Police Station. Perry told trial counsel that, before his videotaped statement, the police took him out of his cell and put him in a car in the parking lot and told him what he needed to say to obtain his release from jail. Perry testified that police even threatened his mother—she lived in a high-rise apartment, and the police told him she might have an accident where she may fall off her balcony or fall out a window if Perry wouldn't cooperate.

It is important to note that all of this happened on the *third* time that police arrested, detained, and interrogated Perry in the five days, across three states, leading up to his arrest and interrogation in Jennings. In his deposition, Perry described his first encounter with the police investigating this case. Police found him at truck stop in

Georgia, dragged him out of his truck and beat him. They searched his truck, apparently thinking Taylor might be hiding there. Different police then found him in New Jersey, took him to a local police station, fingerprinted him, searched his car, and interrogated him. During both of these the Georgia and New Jersey interrogations, Perry adamantly maintained that he did not know anything about these murders.

Law enforcement expert Trainum noted that the Georgia and New Jersey encounters with police are "important when considering Perry's mindset" when he ultimately gave the statement because encounters that "involve such overwhelming physical control of a subject have a cumulative effect when during a later interrogation the subject is threatened with inevitable consequences if they do not provide the information that the investigators want to hear." Ex. 20 to Petitioner's Suggestions at 5.

The physical control and coercion only increased at the December 8 interrogation in Jennings. Expert Trainum reviewed the documentation and summarized that Perry reported he was arrested at a gas station when he was fueling his truck. He testified that he was surrounded by police who pointed their weapons at him, and he was thrown in the back of a police car and taken to the station. Perry explained that one of the officers told him what he was going to say when they got to the station. If he didn't, something would happen to his mother. The police reports document that they accused Perry of lying in the previous interrogations, and that they could prove it "beyond a reasonable doubt." They told him he was under arrest for hindering a prosecution and "there was only way to make this right." At one point, when Perry did not provide them an answer they liked,

they told Perry that the answers he was going to give in the next several minutes would dictate what happens to the rest of his life."

As highlighted by Trainum, Perry's ultimate statement was provably false in several ways. First, Perry told the police that Taylor called him on November 22, 2004, and confessed that he killed Angela and the children. However, this could not be true, because school records indicate that all three children went to school on that date and the following day. Second, Perry told the police that Taylor told him that he shot Angela after she came at him and cut him with a knife. Again, this could not hold true, because upon Taylor's arrest, the Madisonville, Kentucky police and the Major Case Squad stripped him naked and photographed his body. Not a single mark as alleged was on him. If Taylor had been stabbed or wounded in a knife attack, then physical evidence would support Perry's description. Also, at the scene of the crime, no blood recovered matched Taylor. Third, Perry told the police that Taylor said he shot Angela in the stomach before shooting her in the head. However, the autopsy revealed that the only bullet wounds on her body were to the head, her arms, and upper left chest. She was never shot in the stomach.

To the extent that Perry provided any testimony that did comport with the facts, all of those facts were known to police prior to his statement, meaning that all of them could have been provided, even unintentionally, by investigating officers. Indeed, a review of multiple DNA exonerations revealed that defendants convicted for "knowing facts only the perpetrator could know" often had been interrogated for hours, with police coercing

the defendant into parroting back information or phrases as part of the defendant's "confession."[26]

#### 4. Applying the Fit And Contamination Tests to Perry Taylor's Statements Leads to Significant Concern About Its Reliability.

As set forth by experts James Trainum and Dave Thompson, Perry's statement was highly contaminated because the interrogating officers disclosed details of the crime

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[26] Fabiana Alceste et al., *Facts Only the Perpetrator Could Have Known? A Study of Contamination in Mock Crime Interrogations*, 44 L. & Hum. Behav. 128 (2020). For example, David Vasquez was wrongfully convicted for murder after hours of police interrogation where officers fed him information, as evidenced by following excerpt from the interrogation:

> Det. 1: Did she tell you to tie her hands behind her back?
> Vasquez: Ah, if she did, I did.
> Det. 2: Whatcha use?
> Vasquez: The Ropes?
> Det. 2: No, not the ropes. Whatcha use?
> Vasquez: Only my belt.
> Det. 2: No, not your belt… Remember being out in the sunroom, the room that sits out to the back of the house? ...and what did you cut down? To use?
> Vasquez: That, uh, clothesline?
> Det. 2: No, it wasn't a clothesline, it was something like a clothesline. What was it? By the window? Think about the Venetian blinds, David. Remember cutting the Venetian blind cords?
> Vasquez: Ah, it's the same as rope?
> Det. 2: Yeah.
> Det. 1: Okay, now tell us how it went, David – tell us how you did it.
> Vasquez: She told me to grab the knife, and, and, stab her, that's all.
> Det. 2: (voice raised) David, no, David.
> Vasquez: If it did happen, and I did it, and my fingerprints were on it…
> Det. 2: (slamming his hand on the table and yelling) You hung her!
> Vasquez: What?
> Det. 2: You hung her!
> Vasquez: Okay so I hung her.

Branden Garrett, *Appendix: Characteristics of False Confessions*, CONVICTING THE INNOCENT: WHERE CRIMINAL PROSECUTIONS GO WRONG (2011), available at https://convictingtheinnocent.projects.law.duke.edu/wp-content/uploads/sites/7/2016/10/garrett_false_confessions_appendix.pdf

during the course of the questioning and refused to terminate the interrogation until E.V. adopted these details into his confession. It is impossible to show dependent corroboration—we cannot know if law enforcement withheld any information about the alleged crime—because at least one portion of the interrogation occurred in a car, and was not recorded or documented in police reports. But the transcript of Perry's recorded statement provides evidence that undocumented interrogation did happen. No independent corroboration of Perry's statement exists because Perry did not provide any information about the alleged crime that was not known to the police before Perry's interrogation.

**5. Mr. Taylor Would Not Have Been Convicted Without Perry Taylor's Statement.**

Leonard Taylor's alleged confession was critical—if not indispensable—to the State's case against him. Without Perry's statements, the police would have lacked any evidence against Taylor. In fact, the only direct evidence connecting Taylor to the crime comes from his brother. This explains the extraordinary lengths that police took in searching Perry, and the extraordinary measures they took to secure the false statements.

Perry Taylor's recorded statement to police that Taylor confessed the crime to him was essentially the only evidence presented at trial. There can be no question that it influenced the jury and affected the outcome. In the direct appeal opinion affirming Taylor's conviction and death sentence, the Missouri Supreme Court began its summary of the evidence in this case with Taylor's alleged confession and discussed it in detail for three paragraphs, *Taylor v. State*, 298 S.W.3d 482, 489-90 (2009), making clear that the

alleged confession was paramount to that Court's conclusion that the evidence of Taylor's guilt was "overwhelming," *Taylor v. State*, 382 S.W.3d 78, 78 (2012).

If the jury had not credited his confession, it is likely that Mr. Taylor would not have been convicted. Indeed a "confession is probably the most probative and damaging evidence that can be admitted against" a defendant. *See Arizona v. Fulminante*, 499 U.S. 279, 296 (1991); *see also Webb v. State*, 163 Tex. Crim. 392, 406 (Tex. Crim. App. 1956) ("The importance of the confession to the state's case cannot be doubted"). Accordingly, this Court should provide MR. Taylor the requested relief.

### 6. Missouri Courts Have Exonerated Individuals Who Confessed to Crimes, Including Murder.

George Allen[27] was exonerated in a St. Louis case after serving 30 years of a 95-year sentence for murder. Allen's conviction rested on his false confession, coerced by police using leading questions which provided him details about the crime. *State ex rel. Koster v. Green*, 388 S.W.3d 603, 611 (Mo. Ct. App. 2012). Allen also made several statements that were inconsistent with known details about the crime, like Perry who (1) claimed his brother confessed to killing the victims on a date after which the kids were all reported to have attended school, (2) claimed that Angela Rowe was shot in the stomach (she was not), and (3) claimed his brother confessed to shooting Angela in self-defense as she attacked him with a knife (but he did not have any injuries or wounds when arrested, and his blood was not found at the crime scene). In *Allen*, like here, the "Attorney

[27] *George Allen*, NAT'L REGISTRY OF EXONERATIONS, https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=4091

General ask[ed] [the court] to conclude that because the confession was sufficient to support Allen's conviction and would have remained so even if discounted in its reliability by the undisclosed evidence it was an abuse of discretion to afford Allen habeas relief." *Id.* at 631. The Court disagreed, because new evidence disproved the alleged corroboration for the confession, discredited the interrogating officer. *Id.* at 632. This Court should grant relief to Mr. Taylor because, just like in Allen, Mr. Taylor's convictions rests upon the false and unconstitutionally coerced statement from Perry Taylor.

## III. MANY OF MISSOURI'S EXONEREES WOULD NOT HAVE LIVED TO BE EXONERATED HAD THEY BEEN SENTENCED TO DEATH LIKE LEONARD RAHEEM TAYLOR.

Missouri is not immune from wrongful convictions. The National Registry of Exonerations includes 52 out of Missouri.[28] Four of those exonerations were individuals sentenced to death, including Joe Amrine, Eric Clemmons, Clarence Dexter Jr., and Reginald Griffin. Another, Johnnie Lee Wilson, pled no contest to avoid the death penalty, but he was exonerated 17 years later, despite confessing to police.[29] At least one other person, Marcellus Williams[30] is awaiting a decision from a Board of Inquiry appointed by the Governor to evaluate his innocence. Six of the Missouri exonerations

[28] *Missouri, Browse the Cases*, NAT'L REGISTRY OF EXONERATIONS, https://www.law.umich.edu/special/exoneration/Pages/detaillist.aspx?View={faf6eddb-5a68-4f8f-8a52-2c61f5bf9ea7}&SortField=ST&SortDir=Asc&FilterField1=ST&FilterValue1=MO

[29] *Johnnie Lee Wilson,* NAT'L REGISTRY OF EXONERATIONS, https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3454.

[30] *In Rare Use of Clemency Power, Missouri Governor Stays Execution, Appoints Board of Inquiry*, AMERICAN BAR ASSOC. (Dec. 1, 2017), https://www.americanbar.org/groups/committees/death_penalty_representation/project_press/2017/year-end/in-rare-use-of-clemency-power-missouri-governor-stays-execution/

involved false confessions. Twelve included false or misleading forensic science. In short, we know that the system has made mistakes in cases like Mr. Taylor's. And we also know that, given time, Missouri Courts can correct those wrongful convictions.

But such corrections need time—time Mr. Taylor does not have if a stay of execution is not granted. Indeed, many of the wrongful convictions of Missouri exonerees were corrected only after the defendant had exhausted their appellate and post-conviction process. *See, e.g.*, *Burton v. Dormire*, Cole County No. 06AC-CC00312 (filed Aug. 18, 2008) (granting Darryl Burton's state petition for a writ of habeas corpus following his failed appeals and federal habeas corpus petitions); *Kidd v. Pash*, No. 18DK-CC00017 (43rd Cir. Ct. Aug. 14, 2019) (granting Ricky Kidd's state petition for a writ of habeas corpus and vacating his convictions despite a District Court judge's denial of his federal habeas corpus petition and subsequent denial by the United States Court of Appeals for the Eighth Circuit); *Callanan v. Griffin*, No. SC95443 (Mo. 2020) (holding that Lawrence Callanan was denied the right to a fair trial and granting his habeas petition despite failed appeals and federal habeas petitions); *State v. Nash*, 08C7-CR00139-02 (42nd Cir. Ct. July 3, 2020) (sustaining Donald Nash's state petition for a writ of habeas corpus and vacating his conviction notwithstanding his failed appeals and federal habeas corpus petitions); Judgment, *State v. Strickland*, No. 16CR79000361 (Dist. Ct. 16th Cir. Ct. Jackson Cnty. Mo.) (overturning Kevin Strickland's conviction due to clear and convincing evidence of innocence 43 years after Strickland's conviction and nearly a dozen failed state and federal habeas appeals); *Carnes v. Buckner*, No. SC 98736 (Mo. 2022) (granting Keith Carnes' state petition for a writ of habeas corpus after a failed pro

se federal habeas petition in District Court and subsequent dismissal by a three-judge panel of the United States Court of Appeals for the Eighth Circuit).

If these men had been sentenced to death like Mr. Taylor, they would have not have been alive to be exonerated—some of them by this very Court. Like these innocent defendants, Mr. Taylor has presented meritorious claims and evidence that would result in his exoneration—if he is alive to see it.

## CONCLUSION

Courts have acknowledged that the "qualitative difference" between death and other punishments necessitates a heightened "need for reliability" in capital cases. *Ex parte McKay*, 819 S.W.2d 478, 484 (Tex. Crim. App. 1990). As the cases of George Allen, Herman Williams, Melissa Lucio and other survivors of wrongful convictions show, correcting a wrongful conviction requires a thorough review of the reliability of underlying evidence. When the false and unreliable evidence is stripped from the case, no reliable evidence remains to convict Mr. Taylor. This Court should stay Mr. Taylor's execution, grant Mr. Taylor's habeas petition, overturn his unjust conviction and vacate her judgment imposing death.

Date: February 6, 2023

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I certify that a copy of this document was filed using the Case.net system on February 6, 2023. All counsel of record will be served a copy of the document by electronic service.

/s/ *Tricia J. Bushnell*

TRICIA J. BUSHNELL