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| **ROBERT JONES** | **CRIMINAL DISTRICT COURT** |
| **V.** | **PARISH OF ORLEANS** |
| **BURL CAIN, WARDEN** | **CASE NUMBER 357-917 "D"** |

**AMENDED AND SUPPLEMENTAL APPLICATION FOR POST-CONVICTION RELIEF**

On November 5, 2010, Robert Jones filed an Application for Post-Conviction Relief from his convictions by guilty plea of the April 14, 1992, manslaughter of Julie Stott and armed robberies of Bethany Acosta and Patrick van Hoorebeek (hereinafter the "2010 Application"). Mr. Jones did not commit these crimes and evidence discovered and presented since he filed his 2010 Application further supports his claim of absolute and actual innocence of them. That 2010 Application has remained pending without action since it was filed because it contains claims that are dependent on the outcome of Mr. Jones's post-conviction challenge to his conviction under counts one to six of case number 356-745. Mr. Jones prevailed in that challenge, and it was in the course of that litigation that he discovered more evidence showing his innocence, which is also relevant to the claims he raised in his 2010 Application. Furthermore, the State recently disclosed yet more exculpatory evidence relevant to his claims for relief in the 2010 Application. He therefore files this amendment and supplement to his 2010 Application.

**ADDITIONAL FACTS**

The following specific facts supplement his existing claims for relief, raised in the 2010 Application.

- It is now beyond dispute that Robert Jones's conviction for counts one to six of case number 356-745 was unconstitutional because the State violated *Brady v. Maryland*, 373 U.S. 83 (1963). The Fourth Circuit Court of Appeal reversed his conviction on *Brady* grounds in a unanimous panel ruling, *Jones v. Cain*, 151 So. 3d 781 (La. App. 4 Cir. 2014), which the Louisiana Supreme Court declined to review. *Jones v. Cain*, La. S. Ct. No. 2014-KP-2148, 2015 La. LEXIS 1242 (June 1, 2015). The time for seeking rehearing/reconsideration in the Louisiana Supreme Court or review of this ruling from the U.S. Supreme Court has expired. U.S.S.C. Rule 13; La. S.C. Rule IX. This ruling is relevant because Robert Jones only pled guilty in this case because of the unconstitutionally obtained conviction and inevitable life sentence he had from Case Number 356-745.

- As evidenced by Det. Cade and Det. Stewart's 2013 hearing testimony in case number 356-745, the police had determined prior to Robert Jones pleading guilty to the crime that Lester Jones and Robert Jones were not connected. *9/26/13 Hr. at 26; 10/8/13 Hr. at 10-11.*[1] As Lester Jones was convicted of the first-degree murder of Julie Stott, evidence that there was no connection between the two men evidences Robert Jones's innocence of the Stott homicide. Additionally, a memorandum authored by ADA Fred Menner recommending the reduction of Robert Jones's charges to manslaughter was disclosed to undersigned counsel after the post-conviction challenge in case number 356-745 was complete. *P. Ex. 95.* The memorandum provides contemporaneous proof that—as Lester Jones testified to in 2007—he told the Assistant District Attorney handling this case that he did not know Robert Jones and that his statements stating otherwise to the police were false.[2]
- As evidenced by Det. Cade and Det. Stewart's 2013 hearing testimony in case number 356-745, the police determined there was no credible evidence that Robert Jones had any involvement in the April 14, 1992, crimes against Ms. Acosta, Mr. van Hoorebeek, and Ms. Stott. *9/26/13 Hr. at 26; 10/8/13 Hr. at 11.* Det. Stewart was the homicide detective assigned to the case and Det. Cade was the robbery detective who assisted him by investigation the string of related robberies that were committed in Lester Jones's car. Their conclusions are directly relevant because they show that there was no way for the State to get a constitutional conviction against Robert Jones on these charges.
- As evidenced by the recently disclosed memorandum justifying the decision to accept a plea in this case, the Assistant District Attorney handling this case provided false information about the number of witnesses to the homicide to his supervisors. Thomas Van Develde was one witness who gave irreconcilable accounts of the crime: the first two, in which he said he could not identify the lone perpetrator, were given to police in the immediate aftermath of the crime and the third, in which he claimed he could identify Robert Jones as a second

[1] Citations in this filing are to the record previously filed with this Court in this case. Citations in the form "[Date] Hr. at [Page Number]" refer to a transcript of prior proceedings in case number 356-745. Citations in the form "H. [Exhibit Number] at [Page Number]" refer to the Exhibits 1 to 173 filed at Mr. Jones's post-conviction merits hearings in case number 356-745. Citations in the form "P. [Exhibit Number] at [Page Number]" refer to the Exhibits 1 to 94 filed in support of Mr. Jones's Applications for Post-Conviction Relief in this case and Case Number 356-745. Citations in the form "P. [Exhibit Number] at [Page Number]" refer to the Exhibits 95 to 99 filed with this Supplement and the Supplement filed as to count seven of case number 356-745. Undersigned counsel will provide additional copies of any other cited document to the Court or State upon request.

[2] Mr. Jones's trial counsel testified during the 2013 post-conviction hearing that prior to the 1996 trial he was able to ask Lester Jones one question, whether he knew Robert Jones, and Lester Jones answered that he did not. *9/26/13 Hr. at 105-06.* This testimony is, of course, materially distinct from the memorandum, which provides contemporaneous documentation that prior to trial Lester Jones told the trial prosecutor that he recanted his police statement that stated he knew Robert Jones.

perpetrator was given months later. The memorandum describes Mr. Van Develde as two separate witnesses. *P. Ex.* 95. Mr. Van Develde's first non-inculpatory statements are ascribed to him. His later contradictory inculpatory statement is ascribed to "[a] third witness, Tommy Flowers." *P. Ex. 95.* "Tommy Flowers" is not a person. "Tommy's Flowers" was the name of Thomas Van Develde's business. *H. Ex. 143.* This demonstrates the impossibility of reconciling Mr. Van Develde's statements in this case. It also proves that the ADA was either covering up the misconduct by a prior prosecutor that led to the inconsistent statements or was so careless in his handling of the case that he did not realize he was providing false information.

- As documented by the record on the prosecution of Lester Jones for the Stott homicide, the State took the position in a sworn pleading, filed with the Supreme Court before taking a plea from Robert Jones in the Acosta / van Horebeek robbery case, that Lester Jones robbed Bethany Acosta and Patrick van Hoorebeek. *H. Ex. 101 at 7-8.* As the robbery was committed by a single perpetrator and it was, as the State alleged, committed by Lester Jones, it cannot have been the man the State later convicted of the crime: Robert Jones.
- The 2012 and 2013 testimony in case number 356-745 of Curklin Atkins, who represented Robert Jones before his trial in case 356-745 and his pleas in this case, shows that any discovery during his representation of Robert Jones was done on the record and he was unaware of any other way of getting police reports in this case. *12/7/12 Hr. at 10, 12; 9/26/13 at 105.* It also established that his only sources of information concerning Lester Jones were the discovery in Case Number 356-745, newspaper reports, and a brief meeting with Lester Jones shortly before Robert Jones's trial. *9/26/13 Hr. at 106-07.* This is relevant because it shows how little information counsel had when he entered the guilty plea (the docket shows there had been no discovery furnished in the instant case when counsel advised his client to plead guilty).
- In light of the evidence presented during the post-conviction proceedings in case number 356-745 and the subsequent vacation of Mr. Jones's conviction due to the State's *Brady* violation, Judge Calvin Johnson who presided over the guilty pleas at issue in the 2010 Application and this Supplement has provided an affidavit stating

> [B]ecause Mr. Jones had already been convicted in another case, I did not make enquiries of the prosecutor about the evidence in the case. The guilty pleas entered in this case were basically a way of clearing up the remaining charges in a long and protracted case in

> which the defendant already had a life sentence. However, I still assumed they were based in truth. I am troubled to learn they were not.

*P. Ex. 96 at 2.*

**THE ADDITIONAL FACTS SUPPORT THE FOLLOWING CLAIMS**

- That he was coerced to plead guilty by his prior unconstitutional conviction in Case Number 356-745 (Claim I).
- That his plea was not knowing and voluntary because he was unaware the State did not have a prosecutable case due the State's non-disclosures and his own counsel's ineffectiveness (Claim II).
- That he is actually innocent (Claim III).
- That the totality of the circumstances require vacation of his plea (Claim V).

Additionally, he supplements his 2010 Application with Claims VI and VII, which is that the State knowingly used perjury to the grand jury to obtain an indictment and the prosecution for the April 14, 1992, crimes was conducted in unconstitutional bad faith. How the additional evidence specifically relates to Robert Jones's claims is discussed below.

**CLAIMS**[3]

**I. Robert Jones was coerced to plead guilty by his wrongful conviction which occurred three weeks before he entered the plea.**

When Robert Jones filed his 2010 Application, the issue of whether the March 12, 1996, guilty verdict was a result of a constitutional trial was still before the courts. There has now been a final ruling that this verdict was a result of unconstitutional conduct by the State. As explained in the 2010 Application, Robert Jones only pled guilty in this case because the jury verdict of March 12, 1996, meant he was inevitably receiving a life without parole sentence. Further, the presiding judge only accepted the pleas in the manner in which he did because Mr. Jones was already facing an automatic life sentence. *P. Ex. 96.* Indeed, Mr. Jones's plea in this case contains no concession of guilt. *H. Ex. 95.*

Mr. Jones's 2010 Application discusses the legal effect that the State's unconstitutional conduct at his rape and robbery trial had on the subsequent pleas to manslaughter and robbery.

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[3] These claims are numbered to match those in the 2010 Application. As a result, there is no Claim IV in this Supplement and that claim is entirely addressed by the 2010 Application.

Mr. Jones assumes the State will not raise any procedural bars to the claims in the 2010 Application and this Supplement as it has already been settled during the post-conviction litigation in case number 356-745 that the procedural bars are not applicable to claims based on the new evidence in this case. If, however, the State does make such an argument, Mr. Jones reserves the right to respond to it.

The most important Louisiana case on this point is *State v. Thompson*, 825 So.2d 552 (La. App. 4 Cir. 2002). In *Thompson* the petitioner had waived his right to testify at trial because of an earlier conviction that was subsequently determined to have been unconstitutionally obtained. In this case, Robert Jones waived his right to a trial—which includes the right to testify at that trial—because of an earlier conviction that was subsequently determined to have been unconstitutionally obtained. The remedy in *Thompson* was a vacation of the conviction, the remedy in this case must be the equivalent: vacation of the plea.

## II. Robert Jones's guilty plea to the April 14, 1992, crimes was not knowing, voluntary and intelligent because he was not aware the State had no evidence upon which to convict him, a state of affairs caused by trial counsel's ineffectiveness and the State's withholding of evidence.

There was no basis upon which Robert Jones could have been convicted if he had not pled guilty, but—having just been wrongfully convicted in another case—Mr. Jones had no way to know this because his attorney had done no investigation and the State had disclosed no evidence. The facts as now known establish that the following information was available at the time of trial.

The crimes in this case were the April 14, 1992, robberies of Bethany Acosta and Patrick Van Hoorebeek that occurred late at night on the 600 block of Governor Nicholls street and the homicide of Julie Stott that occurred moments later round the corner on the 1100 block of Chartres Street. Police identified four witnesses in the April 14, 1992, crimes: (1) Bethany Acosta who was a robbery victim; (2) Patrick Van Hoorebeek who was robbed with Ms. Acosta; (3) Peter Ellis who witnessed his girlfriend Julie Stott being killed; and (4) Thomas Van Develde who witnessed part of the crimes from his window. All these witnesses described the crimes as having been committed by a single perpetrator.[4] Ms. Acosta's April 15 statement stated the man who robbed her was "alone" and that the man who robbed her also shot Ms. Stott. *H. Ex. 47.* Mr. Van Hoorebeek's April 15 statement consistently refers to a single perpetrator. *H. Ex. 53.* Mr. Ellis told the police that he and Ms. Stott were attacked by a "lone gunman." *H. Ex. 44 at 15.* Mr. Van Develde 911 call on the night of the crime described seeing a single perpetrator as did the statement he made on April 22. *H. Ex. 28; H. Ex. 45.*

Based on the statements of these four witnesses, the police naturally concluded the April 14 robberies and homicide were committed by the same single perpetrator. The incident reports

[4] The extracts from the various police documents on this point were collated in a single summary exhibit, which was introduced during the post-conviction hearings in case number 356-745. A copy of this summary exhibit is filed with this Supplement as P. Ex. 98.

for both the robberies and homicide state they were committed by a single perpetrator and only include descriptive information for a single perpetrator. *H. Ex. 38; H. Ex. 54.* Det. Cade's Criminal Investigation Bureau report on the crime spree records that in each of the crimes "a single black male was observed." *H. Ex. 3.* Det. Kuhn's Criminal Investigation Report on the robberies records the perpetrator also committed the homicide. *H. Ex. 50.*

This single perpetrator was Lester Jones. By the time of Robert Jones plea, Lester Jones had been convicted of the first-degree murder of Julie Stott under Case Number 356-872. While prosecuting Lester Jones, the State asserted in a sworn pleading that Lester Jones also perpetrated the robbery of Acosta and Van Hoorebeek. *H. Ex. 101 at 7-8.* Lester Jones was convicted of the murder based on the fact that he was found in possession of jewelry stolen during the robbery and the gun used during the homicide and owned the car used in the crimes. *H. Ex. 96.* He also admitted being at the scene. *H. Ex. 39.*

In contrast to the clear evidence of Lester Jones's guilt, there is no credible evidence that there was more than one perpetrator or that Robert Jones had any involvement in the crimes. There is no evidence at all upon which any ethical prosecutor could have relied. Bethany Acosta and Patrick Van Hoorebeek could not identify the perpetrator. Through the various identification procedures, each witness identified three different people as the single perpetrator of this crime. *H. Ex. 44 at 20; H. Ex. 49; H. Ex. 58.* While this pool of people identified included Robert Jones, the final identification made by each witness was a positive identification of a lineup filler. *H. Ex. 58.* The assistant district attorney who handled the plea in this case did not even mention these witnesses in his reduction memorandum discussing the evidence.

Peter Ellis never made any identifications in the case—although he did testify Lester Jones resembled the perpetrator (*H. Ex. 96 at 35*)—which leaves Thomas Van Develde as the only remaining eyewitness to the murder of Julie Stott. Mr. Van Develde's 911 call and statement note a single perpetrator. The police reported Mr. Van Develde "could not identify" anyone and, in his statement to NOPD after the crime, he said he did not get a good look at the perpetrator and saw "just a silhouette." *H. Ex. 44 at 13; H. Ex. 45.* Months later he learned "the case was falling apart with the original people they had arrested." *P. Ex. 71 at 22.* He then met with ADA Roger Jordan and proceeded to identify Lester Jones as the shooter of Julie Stott *and* Robert Jones as a person who "approached the [victim's] body after she was shot and rifled

through the body looking [for] property." *H. Ex.* 27. This is odd, given that he had initially described only one perpetrator and said he could not identify that person.

The memorandum recently disclosed by the district attorney's office documenting the reasons for offering Mr. Jones a plea in this case illustrate the incompatibility of Mr. Van Develde's accounts. The memorandum shows that the assistant district attorney who handled the plea in this case either thought Mr. Van Develde was two different witnesses or, realized all the statements came from one witness, but decided to obscure this situation from his supervisors by creating a second witness to reconcile the irreconcilable statements from the same witness. *P. Ex. 95.*

Mr. Van Develde's statement inculpating Robert Jones is completely incompatible with his prior statements and incompatible with the only other witness evidence from the murder. Peter Ellis reported rushing to his girlfriend Julie Stott's side and cradling her until the ambulance arrived. *H. Ex. 96 at 31-33.* Presumably he would have noticed and considered it worth mentioning if this had been interrupted by someone looting Ms. Stott's corpse.

The only other possible source of evidence available to the State in the homicide prosecution was Lester Jones. On the night he was arrested Lester Jones told police he knew Robert Jones and Robert Jones had shot Ms. Stott. *H. Ex. 18; H. Ex. 39.* Lester Jones could not, however, identify, Robert Jones by name and instead named him as "Larry." *H. Ex. 18 at 3.* His account of the night of the crime was also bizarre and self-serving and completely inconsistent with the evidence at the scene. The account involves Lester Jones being unknowingly taken on a crime spree in his own car on April 14, him being one of four people who exited his car at the crime scene (despite every witness only seeing one person), him being left behind at the crime scene, and finally him stumbling upon his car in the early hours of April 15 and—in his "state of shock"—committing a robbery of his own. *H. Ex. 39 at 3.* Lester Jones had recanted this statement by the time of the 1996 plea in this case and maintained he did not know Robert Jones. *P. Ex. 95.* He testified to this in 2007. *H. Ex. 137.* Det. Stewart, who was the lead detective in the homicide case made clear at Lester Jones 1994 trial that he did not believe Lester Jones's statement from the night of his arrest. *H. 96 at 162-63.* Det. Stewart confirmed this in his 2013 testimony. *10/8/13 Hr. at 10.* Det. Cade, who was the lead robbery detective assigned to the task force in this case, also testified he had concluded during the original investigation that Lester Jones's statement from the night of his arrest was false. *9/26/13 Hr. at 30.*

Even leaving aside the other problems with this case, it would only be possible to convict Robert Jones if he knew Lester Jones as the crimes were undisputedly committed using Lester Jones's car. Both Det. Cade and Det. Stewart testified in 2013 that they investigated the matter and determined during their original investigation that Lester Jones and Robert Jones did not know each other. *9/26/13 Hr. at 26, 10/8/13 Hr. at 10-11.* Det. Stewart specifically recalled reporting this investigation to the district attorney's office. *10/8/13 Hr. at 12.* Det. Cade and Det. Stewart also testified they each concluded there was no credible evidence Robert Jones was involved in the April 14 crimes. *9/26/13 Hr. at 26; 10/8/13 Hr. at 11.* Det. Stewart recalled that, following his initial arrest of Robert Jones for the homicide, he then determined he had arrested the wrong man and reported this to the prosecutor and this was the only time this had happened in his thirty year career as a NOPD Officer and FBI Agent. *10/8/13 Hr. at 22.*

Overall, it is impossible to articulate how the State could have convicted Robert Jones at a constitutional trial. Put simply, all the eyewitnesses to the crimes described a single perpetrator in their initial accounts, the police concluded there was a single perpetrator, and Lester Jones had been convicted of being this single perpetrator. Robert Jones, however, did not know this when he pled guilty. He did not know this because when he pled guilty no discovery had been made in this case, the State had made no *Brady* disclosures, and his lawyer had done no meaningful investigation. As confirmed by his lawyer's 2013 testimony, he had not even attended the trial of Lester Jones *for the same crime* with which his client was charged. Regardless of whether it is attributable to a Sixth Amendment violation by defense counsel, a Due Process violation by the State, or both, it is beyond dispute that Robert Jones did not have enough accurate information at the time of his plea to knowing and voluntarily plead guilty. His plea must be vacated for this reason.

**III. Robert Jones is actually innocent of the crimes and his continued incarceration violates both the Louisiana and Federal Constitutions.**

As detailed in the previous claim, the evidence now known establishes that Lester Jones and not Robert Jones was the sole perpetrator of the crimes of April 14, 1992. Therefore continuing to punish Robert Jones for these crimes is a Cruel and Unusual Punishment and incompatible with Due Process. As explained in more detail in the 2010 Application, this means Robert Jones's punishment violates the Louisiana and U.S. Constitutions.

**V. The totality of the circumstances requires vacation of the plea.**

As detailed in Claim I, the wrongful conviction of Robert Jones in Case Number 356-745 means his plea in this case must be vacated. As detailed in Claim II, the fact that—unbeknownst to Robert Jones—the State had no case against him means his plea in this case must be vacated. Additionally, as detailed in his 2010 Application, all the circumstances, including those related to Claims I and II, must also be considered when assessing the plea. Therefore, just as Robert Jones supplements Claims I and II with the new evidence, he also supplements this totality of the circumstances claim.

**VII. The State knowingly used perjury to obtain an indictment in this case.**

The State indicted Robert Jones by knowingly using perjury at the grand jury proceeding. This violated Mr. Jones's right to due process under the Louisiana and U.S. Constitutions and his right to the proper initiation of prosecution under the Louisiana Constitution. While, at the time of writing, the grand jury testimony has not been produced by the State, the State's misconduct can be reliably inferred by the surrounding circumstances. There is no other rational explanation for the known facts other than that Roger Jordan used perjured testimony from Thomas Van Develde to obtain an indictment in this case. The chain of events showing demonstrating this is as follows:

- As of June 19, 1992, the State was unable to obtain an indictment against Robert Jones for any of the April 14, 1992, crimes. This was documented by the Times-Picayune. *H. Ex. 141.*
- On July 31, 1992, Thomas Van Develde met with ADA Roger Jordan and substituted his earlier account of the crime, which in no way inculpated Robert Jones, for one that inculpated Robert Jones. *H. Ex. 27.* This new account was irreconcilable with any other witness's account of the crime. *See pp. 5-7.* ADA Jordan had previously obtained the indictment of Lester Jones for the homicide of Julie Stott, one of the April 14, 1992, crimes, so he must have been familiar enough with the relevant facts of the case to know that Thomas Van Develde's new account was false. *H. Ex. 90.*
- The post-conviction testimony of Det. Stewart and Det. Cade establishes that there was no evidence against Robert Jones in this case developed after June 19, 1992, other than the new account from Thomas Van Develde. *See p. 2.* This is confirmed by the Reduction Memo written by the then-trial prosecutor in 1996. *See pp. 2-3.*

- On August 13, 1992, ADA Roger Jordan obtained the indictment of Robert Jones for the April 14, 1992, crimes. *P. Ex. 97.*
- ADA Jordan's use of Thomas Van Develde as a witness that could make an identification in the prosecution of Lester Jones, just a month after he obtained the Robert Jones indictment, demonstrates his willingness to suborn perjury from Mr. Van Develde. *P. Ex. 71.*

This establishes—by at least the preponderance of evidence standard a petitioner must meet in a post-conviction proceeding—that the State obtained the indictment in this case by ADA Roger Jordan knowingly using the perjured testimony of Thomas Van Develde. If the State has any evidence to rebut this, it is yet to produce it.

The Louisiana Supreme Court has recognized that prosecutorial misconduct before the grand jury can be grounds for relief as a violation of due process. *State v. Walker*, 567 So. 2d 581 (La. 1990). The gravamen of such a claim is whether the grand jury "was deceived or misled by any misconduct before the jury on the part of the prosecutor." *Id.* at 587. More specifically, "due process prohibits forcing an accused to stand trial on an indictment obtained through the prosecutor's knowing use before the grand jury of perjured testimony material to the crime." *Id.* at 484 n. 6 (citing *United States v. Basurto*, 497 F.2d 781 (9th Cir. 1974) and *United States v. Udziela*, 671 F.2d 995 (7th Cir. 1982)). That is exactly what occurred in this case.

In addition, Article One Section Fifteen of the Louisiana Constitution holds that a prosecution must be initiated by grand jury indictment or information and that, in cases where the accused faces a life sentence, an indictment is a necessity. The grand jury is an independent body. *Costello v. United States*, 350 U.S. 359 (1956). When an indictment is issued by a "grand jury whose integrity as an independent body had been impaired because of the prosecutorial misconduct and which therefore was not unbiased" then the indictment has not been issued by an independent body and so prosecution has not been initiated in a manner mandated by the Louisiana Constitution. *Walker*, 567 So. 2d at 585. In this case, the grand jury's action was caused by Roger Jordan's knowing use of perjured testimony. Therefore, in addition to violating due process, the State conduct in this case violated the Louisiana Constitution.

The State did not indict Robert Jones for any of the April 14, 1992, crimes but subsequently obtained a false account of the murder of Julie Stott from Thomas Van Develde,

and then knowingly presented this false account to the grand jury in order to obtain indictments for the crimes. These indictments must be quashed and the related convictions vacated.

**VII. Robert Jones was charged with these crimes in bad faith.**

"[T]here is a federal right to be free of a bad faith prosecution." *Board of Comm'rs v. Connick*, 654 So. 2d 1073, 1078 (La. 1995) (internal quotation omitted); *see also Bordenkircher v. Hayes*, 434 U.S. 357, 365 (1977); *Shaw v. Garrison*, 467 F.2d 113 (5th Cir. 1972). Bad faith prosecutions include those that have "been brought without a reasonable expectation of obtaining a valid conviction." *Kugler v. Helfant*, 421 U.S. 117, 126 n. 6 (1975). The known facts of this prosecution establish bad faith of this kind in this case.

As detailed above, based on the evidence available at the time, the State declined to prosecute Robert Jones for the April 14 crimes as announced in the press on June 20, 1992. *H. Ex. 141*. The lead detective had told the screening prosecutor that he had concluded Robert Jones was innocent. *10/8/13 Hr. at 22*. After this, the only thing that changed for the State was Thomas Van Develde coming forward and fabricating an account of the crime. Given that Mr. Van Develde met with ADA Roger Jordan before he gave this new account, it is possible that Roger Jordan assisted in fabricating this new account. At a minimum, ADA Jordan knew the account was false because it was completely incompatible with Mr. Van Develde's prior statement or the statements of any other of the witnesses to the crime. *See p. 9*. ADA Jordan then persuaded a grand jury to indict Robert Jones for the April 14 murders. It is evident that ADA Jordan's strategy going forward was to not disclose Mr. Van Develde's prior accounts of the crime and hope his new account could secure a conviction. *P. Ex. 71.*

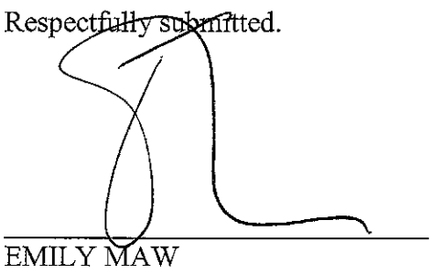
Not only was the indictment only obtained using a fabricated account of the crime, the State's case had actually ceased to exist by the time it secured a plea from Robert Jones. First, Thomas Van Develde had died and so the State had no way to even present his fabricated account to a jury. *H. Ex. 103; H. Ex. 143*. Second, Lester Jones—whose statements were not considered to be a sufficient basis to charge Robert Jones in 1992—recanted those statements and stated he would not testify at a trial of Robert Jones. *P. Ex. 95*. The prosecutor's own assessment of the evidence at this point—which did not acknowledge that Thomas Van Develde's account of the crime was fabricated and instead attributed it to a non-existent witness—still concluded that at best the case "would not survive appellate review in the event of a conviction." *P. Ex. 95*. Put simply, even without acknowledging the fabrication of the evidence

used to get an indictment, the prosecutor concluded he had no "reasonable expectation of obtaining a valid conviction." *Kugler*, 421 U.S. at 126 n. 6. The evidence shows the State brought this prosecution in bad faith and continued it in bad faith. For this reason, the plea violates the constitution and must be vacated.

**CONCLUSION**

The evidence points unerringly to the fact that Lester Jones, and Lester Jones alone, perpetrated the April 14, 1992, crimes against Bethany Acosta, Patrick Van Hoorebeek, and Julie Stott. Robert Jones was only convicted of these crimes because of the State's misconduct in a prior case, the State's misconduct in this case, and Mr. Jones's prior attorney's incompetence. Robert Jones should never even have been charged in this case. Now the facts are known, there is no legitimate justification for not vacating Mr. Jones's conviction in this case and dismissing the charges.

Respectfully submitted.



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**CERTIFICATE OF SERVICE**

I, Emily Maw, hereby verify a copy of the foregoing Supplement and accompanying Exhibit Volume have been served by hand upon David Pipes, Orleans Parish District Attorney's Office, New Orleans, LA, on the 3rd day of March, 2016.