IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

DAVID WILSON,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. 1:19-CV-284-WKW-CSC
	)	
JOHN Q. HAMM, Commissioner,	)	DEATH PENALTY CASE
	)	
Respondent.	)	

PETITIONER'S REPLY TO RESPONDENT'S OPPOSITION TO HIS MOTION FOR FULL DISCLOSURE OF THE KITTIE CORLEY LETTER

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Pursuant to this Court's order dated April 14, 2023 (Doc. 74), Petitioner respectfully submits this reply to Respondent's Response (Doc. 73) to Mr. Wilson's Third Motion for Full Disclosure of the Kittie Corley Letter (Doc. 70). Petitioner requests that this Court order Respondent to produce the full Kittie Corley letter, including both sides of the letter. Petitioner withdraws his motion for a hearing to air charges of prosecutorial misconduct at this time.

INTRODUCTION

Respondent tucks away, in the last paragraph of its pleading, another astounding revelation: The second murder to which Kittie Corley confessed involvement in 2004, and which has never been disclosed to David Wilson, involves a "criminal matter that the State is *currently evaluating*." (Doc. 73, p. 10, lines 2-3, emphasis added)

It has now been nineteen (19) years since Kittie Corley confessed involvement in that second murder, and the State of Alabama now says it is *actively investigating* that criminal matter. This is another stunning disclosure. It means that the information Corley provided nineteen years ago is so reliable and so significant that, nineteen years later, the State is actively looking into it. It means that her evidence regarding the second murder was *not* incredible or nonsense. It means that this federal habeas corpus litigation is unearthing hidden evidence that, nearly two decades later, has profound implications for David Wilson's culpability and death sentence today.

There is no doubt that the information concerning Kittie Corley's involvement in a second murder is favorable to the defense and should be disclosed to Petitioner. David Wilson will need to demonstrate to this Court the materiality of this evidence to address procedural questions of "cause" and "prejudice" to excuse any possible default or other bar to hearing the *Brady* claim, as

well as the question of prejudice resulting from the State of Alabama's failure to produce this evidence. The questions of materiality and prejudice cannot be reliably resolved without disclosure of the full Kittie Corley letter, including both sides of the letter.

Recognizing the weakness of their argument, Respondent states that they are "entirely willing to file the second letter with the Court, under seal, for in camera review." (Doc. 73 at 10) Petitioner has no objection to the full letter being provided to the Court *and* Petitioner under seal. If, however, Respondent is proposing to file the letter *ex parte*, only with the Court, Petitioner strenuously objects. We have an adversary system of justice in the United States. *See* Monroe H. Freedman, *Our Constitutionalized Adversary System*, 1 CHAPMAN LAW REVIEW 57 (1998). An adversary system is not an inquisitorial system, as in civil law jurisdictions, in which the judge investigates the case. In our adversary system of justice, a petitioner must have a fair opportunity to make their strongest arguments to the court. In this case, David Wilson must have the opportunity to make his strongest arguments for materiality and prejudice regarding Kittie Corley's involvement in a second murder in order to address preliminary questions of procedural default. He cannot advance the strongest arguments without having access to the full Corley letter.

Elsewhere in its Response, Respondent argues that Kittie Corley's confession to involvement in a second murder is "not exculpatory for *Brady* purposes" and therefore should not be produced. Doc. 73 at 10. Respondent is flatly wrong and continues to mistake favorability for materiality and prejudice. (*See infra* Part II.) Those questions of materiality and prejudice, however, can only be addressed once Petitioner has a fair opportunity to review the evidence and make the strongest arguments to the Court in written pleadings.

I. KITTIE CORLEY'S CONFESSION TO INVOLVEMENT IN ANOTHER MURDER IS FAVORABLE TO THE DEFENSE

There are several ways in which Kittie Corley's confession to involvement in a second murder would be favorable to the defense.

A. Impeachment Evidence

First, Kittie Corley's confession to involvement in a second murder is impeachment evidence and could have served to undermine the prosecution's case. It represents classic impeachment material (similar to evidence of prior criminal history) to which the Court's rule in *Brady* clearly applies. *See Giglio v. United States*, 405 U.S. 150, 154 (1972) (holding that prosecution's agreement not to prosecute witness in exchange for their testimony was material impeachment evidence that should have been disclosed under *Brady*); *United States v. Bagley*, 473 U.S. 667 (1985) (clarifying that impeachment evidence is both material and favorable to the accused under *Brady*); *Douglas v. Workman*, 560 F.3d 1156 (10th Cir. 2009).

The United States Supreme Court has made clear that a *Brady* analysis must consider the impact of impeachment evidence regardless of whether the witness testified at trial. *See Kyles v. Whitley*, 514 U.S. 419 (1995). Moreover, evidence does not need to be admissible at trial in order to qualify as *Brady* material that is required to be disclosed. *See*, *e.g.*, *Johnson v. Folino*, 705 F.3d 107, 130 (3d Cir. 2013); *Bradley v. Nagle*, 212 F.3d 559, 567 (11th Cir. 2000); *Spaziano v. Singletary*, 36 F.3d 1028, 1044 (11th Cir. 1994). In *Kyles*, the prosecution suppressed impeachment evidence concerning an informant known as ''Beanie,'' who was never called to testify. Despite the fact that Beanie did not testify at trial, the Supreme Court evaluated the materiality of his withheld statements by analyzing what would have happened if defense counsel had called Beanie to the stand: "If the defense had called Beanie as an adverse witness, he could not have said anything of any significance without being trapped by his inconsistencies." *Kyles*,

514 U.S. at 446. On the basis of this and other evidence, the Court concluded that the suppressed impeachment evidence would have made a different result reasonably probable in that capital murder case, and thus the nondisclosure violated *Brady*. *See Bagley,* 473 U.S. at 682 (holding that evidence is material for Brady purposes where there is a "reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different.")

Defense counsel will often call a co-perpetrator, under circumstances like this, as an adverse defense witness and impeach them. Under certain circumstances, counsel will aim to have the adverse witness invoke their Fifth Amendment privilege against self-incrimination and thereby rebut the inference that they were not involved. Had defense counsel called Kittie Corley to the stand at David Wilson's trial, he could have rebutted the prosecutor's implication that Corley's statement to the police was consistent with the State's case, or impeached her testimony with her prior inconsistent statement in the letter if she testified to facts that hurt the defense. Defense counsel could have then argued that Corley had a motive to mislead the jury (namely, her relatively greater criminal responsibility) by falsely casting blame for Dewey Walker's death on David Wilson. *See*, *e.g.*, *State v. Whitt*, 220 W. Va. 685, 688-89, 696, 649 S.E.2d 258, 260-61, 269 (2007). This common impeachment practice is what underlies the analysis of materiality in the *Kyles* opinion. *See Kyles v. Whitley*, 514 U.S. at 446.

Furthermore, the police investigator, Tony Luker, referred in his testimony to the fact that he had interrogated Corley. Investigator Luker testified at trial that he had spoken with Kittie Corley, who gave a police statement:

> Q. [District Attorney Doug Valeska]: Did you talk to Catherine Corley?
> A. [Investigator Luker]: Yes, sir.
> Q. And then you talked to Wilson?
> A. That's correct.

(Fed. Rec. Vol. 8, PDF p. 26) (Trial Transcript at 282)

A reasonable juror could have inferred from this line of questioning that there was nothing in Kittie Corley's statements that contradicted the prosecution's case. We now know that was not true. The contents of Kittie Corley's confessional letter could have been used to cross-examine Investigator Luker about the res gestae of the Dewey Walker murder and about Corley's involvement in a second murder. Armed with that information, defense counsel could have engaged in a very simple line of questioning: "At any time during the course of your investigation, Sgt. Luker, did you ever come across any evidence whatsoever that another person beat Dewey Walker to death with a bat, disposed of the murder weapon in a dumpster, and pawned his stolen property? Did you ever come across any information that this person was involved in a second murder as well?" This would have opened up a whole line of questioning that would have brought up classic impeachment evidence.

Under well-established federal law, impeachment evidence regarding prior criminal activity amounts to evidence that is favorable to the defense at both the guilt and the penalty phase. For instance, in *Amado v. Gonzalez*, 758 F.3d 1119 (9th Cir. 2014), the Court held that the state's failure to reveal impeaching evidence about a key prosecution witness was a *Brady* violation that required that defendant's murder conviction be set aside. The witness there did not actually testify at trial; instead, his earlier statement to the police was read by the officer who interviewed the witness. The prosecution failed to reveal that the witness was on probation for a robbery offense and that he was a member of a rival gang at the time he made the statement to the police. The court held that the prosecution's failure to disclose this information violated *Brady*. *See also United States v. Salem*, 578 F.3d 682 (7th Cir. 2009) (where, prior to trial, government was aware that there was information that a key witness was involved in a murder; despite the fact that there was no plea agreement, or any other kind of agreement in place to protect witness, the Court found that

this information should have been disclosed to the defense under *Brady*); *United States v. Price*, 566 F.3d 900, 903 (9th Cir. 2009) (State's failure to disclose a key witness' history of fraud and dishonesty, reflected in police reports, violated *Brady*, as the defense could have used that information to impeach the witness); *Wilson v. Beard*, 589 F.3d 651 (3d Cir. 2009) (prosecutor failed to disclose information regarding witness's prior crimen falsi conviction for impersonating a police officer; this information could have been used to impeach the witness and was therefore a *Brady* violation); *Valentin v. Mazzuca*, No. 05-CV-0298(VEB), 2011 U.S. Dist. LEXIS 2126, at *50 (W.D.N.Y. Jan. 10, 2011) (holding that the criminal history of the prosecution's witness was *Brady* material because it could have been used to impeach the witness).

In its brief, Respondent argues that the Kittie Corley letter is not impeachment evidence because "Corley *did not* testify" at trial and "her statement was not admitted at trial." (Doc. 73 at 9) But again, the fact that Corley did not testify at trial does not vitiate a *Brady* claim. As a legal matter, a witness need not testify for evidence to be used as impeachment. *See Kyles v. Whitley*, 514 U.S. at 446; *Amado v. Gonzalez*, 758 F.3d 1119 (9th Cir. 2014) (witness did not testify at trial); *United States v. Tavera*, 719 F.3d 705 (6th Cir. 2013) (prosecution failed to disclose that co-defendant who entered a plea agreement made an exculpatory statement vis-à-vis the defendant, before changing his story; co-defendant did not testify at trial; the Court found that the failure to disclose the co-defendant's prior statement was a *Brady* violation that required vacating the conviction; the Court also ordered the U.S. Attorney's Office to investigate why this information was not revealed to the defense prior to trial). Moreover, the impeachment evidence need not be admissible at trial. *See, e.g., Johnson*, 705 F.3d at 130; *Bradley*, 212 F.3d at 567; *Spaziano*, 36 F.3d at 1044. In any event, in this case, the Corley letter directly came into play because Valeska introduced evidence to the jury that the police had interrogated Kittie Corley and gave the jury

reason to believe that what she said was consistent with the prosecution's case. It is important to emphasize that the evidence that Kittie Corley confessed to involvement in another murder must be considered in terms of its favorability at the guilt *and* at the death sentencing phase. At the penalty phase, evidence of Corley's greater culpability and of her involvement in a second murder would have been mitigating for David Wilson. *See Lockett v. Ohio*, 438 U.S. 586 (1978).

B. Defense Theory of Inadequate Investigation

Second, Kittie Corley's confession to involvement in a second murder could have served to demonstrate that the prosecution failed to adequately investigate her role in the murder of Dewey Walker and that the investigation was shoddy. *See Kyles v. Whitley*, 514 U.S. 419 (1995); *Bies v. Sheldon*, 775 F.3d 386 (6th Cir. 2014) (evidence concerning the police's shoddy investigation and failure to follow up on leads would have been admissible, and the failure to reveal this information was a *Brady* violation); *see also* D. Kim Rossmo & Joycelyn M. Pollock, *Confirmation Bias And Other Systemic Causes Of Wrongful Convictions: A Sentinel Events Perspective*, 11 NORTHEAST. UNIV. L. REV. 790, 812-813 (2019) (discussing "tunnel vision" as a cause of wrongful convictions); Keith Findley and Michael Scott, *The Multiple Dimensions of Tunnel Vision in Criminal Cases*, 2 WIS. L. REV. 291 (2006); Barbara O'Brien, *Prime Suspect: An Examination of Factors that Aggravate and Counteract Confirmation Bias in Criminal Investigations*, 15 PSYCHOL. PUB. POL'Y & L. 315 (2009).

Based on Kittie Corley's confession to involvement in another murder, defense counsel could have cross-examined the police investigator, Tony Luker, as to why he did not further investigate Kittie Corley's role in the Dewey Walker murder or her involvement in a second murder. A reasonable juror could have found that the State had tunnel-visioned on David Wilson—unreasonably failing to pursue credible leads against a person who had confessed to Walker's

battery and who was also involved in another murder. While David Wilson had no prior criminal record, Kittie Corley had been involved in another murder. Yet, the state focused only on David—seeking the death penalty for him alone, and letting Kittie plead out to a 25 year term. A reasonable juror could have found this fact to be exculpating and mitigating at sentencing as well.

The United States Supreme Court specifically held that this kind of evidence was favorable to the defendant in *Kyles v. Whitley*, 514 U.S. 419, 446-447 (1995), writing (and I quote at length because of its pertinence):

> Even if Kyles's lawyer had followed the more conservative course of leaving Beanie off the stand, though, the defense could have examined the police to good effect on their knowledge of Beanie's statements and so have attacked the reliability of the investigation in failing even to consider Beanie's possible guilt and in tolerating (if not countenancing) serious possibilities that incriminating evidence had been planted. See, *e.g., Bowen v. Maynard,* 799 F.2d 593, 613 (CA10 1986) ("A common trial tactic of defense lawyers is to discredit the caliber of the investigation or the decision to charge the defendant, and we may consider such use in assessing a possible *Brady* violation"); *Lindsey v. King,* 769 F.2d 1034, 1042 (CA5 1985) (awarding new trial of prisoner convicted in Louisiana state court because withheld *Brady* evidence "carried within it the potential … for the ... discrediting ... of the police methods employed in assembling the case").
>
> By demonstrating the detectives' knowledge of Beanie's affirmatively self-incriminating statements, the defense could have laid the foundation for a vigorous argument that the police had been guilty of negligence….

David Wilson told the police 19 years ago, when he was interrogated in 2004, that Kittie Corley told him that "she used to do stuff like that"—referring to the murder of Dewey Walker. David Wilson expressed his belief to the police that "she's got in some weird cult thing." (Fed. Rec. Vol. 3, PDF p. 128) The tape and the transcript of David Wilson's police interrogation were entered in evidence and went into the jury room (Exhibit 2 and Exhibit 45), and the tape of the interrogation was played to the jury during the trial. (Fed. Rec. Vol. 8, PDF p. 165) (Trial Transcript at 421) Defense counsel could have used Corley's confessional letter to demonstrate to

the jury that the investigators had not pursued these leads and had unreasonably tunnel-visioned on David. It is important to emphasize that, at the penalty phase, evidence of inadequate investigation would have been mitigating for David Wilson. *See Lockett*, 438 U.S. 586.

C. Exculpatory Evidence

Alternatively, Kittie Corley's confession to involvement in a second murder is exculpatory evidence because it bolsters the reliability of her confession to beating Dewey Walker with the bat—doubly so, now, because Respondent has revealed that her confession is currently being evaluated and is therefore still of active interest to the state 19 years later.

The central question for the jury at David Wilson's guilt and penalty phases was *who* bludgeoned Mr. Dewey Walker to death with a baseball bat. The evidence that Petitioner tried to subdue Mr. Walker with an extension cord was not sufficient to establish that Petitioner caused his death. The medical examiner testified that Mr. Walker was alive when he received the multiple beatings with a bat:

> Q [Valeska]. And I apologize. The question I should have asked you is, then, all the other injuries -- if he received the ligature marks and they caused the death, all the other injuries would have been after he was dead, postmortem. That didn't happen. He was still alive on all of them. Correct?
> A [Dr. Enstice]. Yes, he was.

(Fed. Rec. Vol. 9, PDF p. 61; see also PDF p. 49-50, 57, 59; 132; and 138)

Dr. Enstice, the medical examiner, found that the cause of death was "multiple traumatic injuries." (Fed. Rec. Vol. 9, PDF p. 108-109, Trial Transcript 561-562) She testified that Mr. Walker did not die from asphyxiation but from the blunt trauma several hours after the battery. (Fed. Rec. Vol. 9, PDF p. 45, Trial Transcript at 499: "In my opinion, based on what I found in regard to his breathing in blood, which there was a pattern of breathing in blood in all lobes of both lungs, which is indicative of Mr. Walker being alive for a period of time, hours, if you will –

he is breathing in blood, so we know he is alive"; Fed. Rec. Vol. 9, PDF p. 47-48, Trial Transcript at 501-502: Mr. Walker died two or more hours later).

Thus, the key question at the guilt and death sentencing stages was *who* inflicted the 114 contusions, skulls fractures, and broken bones with the bat. Douglas Valeska convinced the jury that it was David Wilson. But Valeska knew, and withheld, that Kittie Corley had confessed to a much greater role in Dewey Walker's death *and* to being involved in another murder.[1]

Now that the Attorney General has finally produced half of the Kittie Corley letter, another central question emerges as to whether her confession to playing a far greater role in the murder of Dewey Walker is reliable. This is where the information on the other side of her letter is critical, and where the Attorney General's latest revelation that her information is (or is still) being investigated *nineteen years later* is crucial: The veracity of Corley's confession to involvement in a second murder (that is still being investigated) bolsters the veracity of her confession to playing a larger role in the death of Dewey Walker. It serves to reinforce her reliability.

And that is precisely what Kittie Corley was trying to do by confessing to involvement in a second murder: namely, to demonstrate that what she was saying about her involvement in the Dewey Walker murder was truthful. It is important to remember that Kittie Corley's letter was never intended for the State of Alabama to read; it was meant to help her find an attorney to represent her in the Dewey Walker case. Kittie Corley had no incentive to lie and was being truthful in her letter—truthful to the point of inculpating herself—because she wanted to convince an

[1] Incidentally, it appears that District Attorney Valeska was not sure that he was going to succeed in suppressing Kittie Corley's written confession. In his opening statement at the guilt phase, Valeska told the jury: "Unbeknownst [to Mr. Dewey Walker], one or more people were in the house, uninvited guests that were going to rob him, burglarize him and beat him to death and kill him." (Fed. Rec. Vol. 7, PDF p. 135) (Trial Transcript at 192) After all the evidence comes in, and Kittie Corley's confession does not, Valeska never again mentions that "one or more people were in the house"—insisting that it was just David.

attorney that she was an honest client in need. The veracity of Corley's confession on the other side of the letter is thus critical exculpatory material for the defense.

The syntax of the letter makes clear that the information on the reverse side of the letter is intended to bolster the truth of the information on the front side. A good lawyer would have written "incorporated as though set forth herein," but Kittie Corley is not a trained attorney. The syntax of her letter nevertheless makes clear that that was precisely what she intended:

- First, she writes, in the very first sentence of the letter, "I am involved in 2 murders." (Doc. 69, Exhibit B) In other words, she is confessing to involvement not just in the Dewey Walker murder, but in another murder, and there is a connection between the two.
- In the penultimate paragraph, after describing her involvement, she writes: "This story is true." (Doc. 69, Exhibit B) In fact, that's how she begins the paragraph.
- Then, she begins the final paragraph *in the same way*: "Story on other side is true also." (Doc. 69, Exhibit B) She is referencing the other side of the letter in order to bolster the credibility of her confession to the first murder on the front side of the page.

Kittie Corley is saying that the other side of the letter is incorporated by reference. She uses the fact of her confession to involvement in a second murder to convince the intended recipient that she is telling the truth about the first murder. "This story is true," she writes, and "[s]tory on other side is true also." (Doc. 69, Exhibit B) Under any doctrine of completeness, the full letter would have to be considered. *See*, *e.g.*, Rule 106 of the Federal Rules of Evidence; Rule 106 of the Alabama Rules of Evidence; *Chambers v. Mississippi*, 410 U.S. 284 (1973); *Green v. Georgia*, 442 U.S. 95 (1979); *Holmes v. South Carolina*, 547 U.S. 319, 331 (2006) (defendants have a constitutional right to have a meaningful opportunity to present a complete defense, including third-party guilt); *Boykins v. Wainwright,* 737 F.2d 1539, 1544 (11th Cir. 1984) ("Fundamental

fairness is violated when the evidence excluded is 'material in the sense of a crucial, critical, highly significant factor.'")

II. CORRECTING RESPONDENT'S MISLEADING ARGUMENTS REGARDING THE MATERIALITY OF KITTIE CORLEY'S CONFESSION

Respondent continues to argue that all the information in Kittie Corley's letter, including the confession to involvement in a second murder, is "not exculpatory for *Brady* purposes." (Doc. 73 at 10) This is clearly incorrect. Respondent is confusing favorability with materiality.

It is not Petitioner's burden or intention, at this preliminary stage, to prove that the favorable evidence in Kittie Corley's letter was material—and therefore amounted to a violation of David Wilson's right to due process under *Brady*. At this early stage of federal habeas corpus litigation, production of the full Kittie Corley letter is necessary for undersigned counsel to investigate and determine the materiality of any potential *Brady* violation, and to argue the preliminary questions of "cause" and "prejudice" to excuse any possible procedural default. *See Strickler v. Greene*, 527 U.S. 263, 282 (1999); *Amadeo v. Zant*, 486 U.S. 214 (1988); *Murray v. Carrier*, 477 U.S. 478 (1986). In fact, it is premature for undersigned counsel to specify in what way the information on the other side of the Kittie Corley letter is material because no one besides the State of Alabama has seen that information for nineteen years.

Nevertheless, Petitioner David Wilson cannot let Respondent's misleading arguments go unanswered. In this section, Petitioner will address what we already know about the materiality of Kittie Corley's confession at this very early and preliminary stage—in essence:

The jury at David Wilson's trial was presented with a lot of inconsistent and contradictory evidence. At all times, and during his interrogation by police, David Wilson consistently denied inflicting the multiple traumatic injuries that killed Dewey Walker. He denied having the intent to

kill Mr. Walker. Yet the evidence at trial failed to resolve the contradictions between David Wilson's testimony and the existence of 114 blows to Mr. Walker's body. Defense counsel waived closing argument and did not present an explanation for the inconsistent evidence. Valeska convinced the jury that David Wilson lied to the police and that he inflicted the traumatic injuries.

Now that we have Kittie Corley's detailed confession, where she claims a much greater role in the burglary and murder, the totality of the evidence looks entirely different. A reasonable juror could have concluded that David Wilson lied to the police to protect Kittie Corley, rather than to protect himself, and that Corley was the one who killed Mr. Walker. A reasonable juror could have found that the prosecution had not proven beyond a reasonable doubt that David Wilson was the one who inflicted the multiple traumatic injuries. A reasonable juror could have concluded that unlike David, Kittie Corley had a motive and intent to kill ("It was Dewey's time to go"), and that David Wilson was therefore not guilty of capital murder, but only felony murder. A reasonable juror could have concluded that David Wilson should not have been sentenced to death because it was Kittie Corley who administered the beating that killed Dewey Walker. The cumulative effect of all the *Brady* material in the Kittie Corley letter was material and its suppression caused prejudice to Mr. Wilson. *See Kyles,* 514 U.S. at 420 (finding that State's disclosure obligation turns on the cumulative effect of all suppressed evidence favorable to defense, not on the evidence considered item by item). This cumulative effect becomes clear upon reviewing all the individual pieces of evidence suppressed by the State, even at this preliminary stage.

A. Kittie Corley's Confession to Beating Dewey Walker with the Bat

First, on the front side of her letter, Kittie Corley takes responsibility for bludgeoning Mr. Dewey Walker to death with a baseball bat. The way she writes her confession, Kittie Corley says that she was the only one who hit Mr. Walker with the baseball bat. In other words, she was the

only one who inflicted the fatal contusions and broken bones. Corley writes: "About an hour later I heard Dewey hollering saying he was going to call the cops, he was hollering at me. I froze where I was. David slipped up behind Dewey and put an extension cord around his neck, Dewey would not fall. I did not know what to do so I grabbed the baseball bat & hit Dewey with it till he fell." (Doc. 69, Exhibit B) Here Corley is saying that David was not able to subdue the victim with the extension cord, and that she was the one who perpetrated the battery. She is taking sole responsibility for beating Mr. Walker to death with the bat.[2]

This directly contradicts the state's theory of the case against David Wilson at trial, in which Valeska asserted that David alone inflicted Mr. Walker's injuries. During opening argument at the guilt phase, Valeska argued:

1. "[T]his defendant [David Wilson] continued to wail away at him [Dewey Walker] with the baseball bat and striking him and hitting him as blood is being slung off after him being hit, with droplets in large amounts in different parts of the den or kitchen-type area." (Fed. Rec. Vol. 7, PDF p. 139) (Trial Transcript at 196)
2. "The evidence will be David Wilson either beat him with the bat in the chest when he was down or he stomped on him or he kicked him…. Mr. Walker was crawling, sliding, belly-flopping." (Fed. Rec. Vol. 7, PDF p. 141-142) (Trial Transcript at 198-199)

During closing argument at the guilt phase, Valeska also made the following arguments:

1. "He splattered me all the way to eternity and back and tortured me and beat me and struck me and ran around…" (Fed. Rec. Vol. 9, PDF p. 154) (Trial

[2] Incidentally, even though this does not matter because the Kittie Corley letter was suppressed and not produced in response to multiple *Brady* motions, it is important to emphasize that her confession letter is far more damning on this point than the simple reference in the police report that she "hit Mr. Walker with a baseball bat until he fell." (Doc. 73, Exhibit A) In the confessional letter, Corley takes full responsibility for being the only one who battered Mr. Dewey Walker. The reference in the police report could have been consistent with David Wilson having administered all the contusions and broken bones. The confessional letter is totally inconsistent with that.

Transcript at 607) (This was Valeska hypothesizing what Mr. Dewey Walker would say if he were still alive.)

2. "How come you continue to hit, strike, beat, choke, attack, physically whip, torture, inflict a high degree of pain for sheer enjoyment on a defenseless man." (Fed. Rec. Vol. 9, no. 159) (Trial Transcript at 612)
3. "[T]hose broken ribs, some broken two – two of them two different times in two locations. The sternum, the bruising of the heart – in other words, this defendant, to commit the robbery, used such tremendous force against a 64-year-old man." (Fed. Rec. Vol. 9, PDF p. 164) (Trial Transcript at 617)
4. "To beating a man and all the injuries that he did to Dewey Walker over hours and hours…" (Fed. Rec. Vol. 9, PDF p. 170) (Trial Transcript at 623)

During the penalty phase, Valeska made the same argument about David Wilson inflicting the blows with the bat, saying that "David Wilson continued to inflict those injuries upon Mr. Walker while he was still alive." (Fed. Rec. Vol. 10, PDF p. 40) (Trial Transcript at 694)

This also contradicts Kittie Corley's statement given to the police. In her police interrogation, she claimed that:

1. the first time that she saw Mr. Walker in his home, after breaking in, he was already on the floor unconscious, and she "looked around the corner and… saw a left leg with a sock." (Fed. Rec. Vol. 24, PDF p. 28); and that
2. David Wilson told her "that Dewey had walked in and he, it had scared him. And he got his, a bat I [Corley] don't know if he had it with him he had to cause he said it was his favorite one. And he hit him." (Fed. Rec. Vol. 24, PDF p. 29)

There was never a good explanation for the discrepancy between what David Wilson said during his police interrogation and the injuries on Mr. Walker's body. Valeska made a great deal of that at the guilt and penalty phases of the trial. (Fed. Rec. Vol. 9, PDF p. 44-45) Because the defense did not have Kittie Corley's letter, the jury had no explanation for the discrepancy. Valeska convinced the jury that it was David Wilson who inflicted the fatal blows, and the jury agreed. *See*, *e.g.*, *Wilson v. State*, 142 So. 3d 732, at 750 (Ala.Cr.App. 2010) ("The results of the autopsy

conflicted with Wilson's account of a single, accidental blow to Walker's head"). However, with the evidence in the Kittie Corley letter, a reasonable juror could have found that it was Kittie Corley, not David Wilson, who administered the beating that resulted in Dewey Walker's death.

(1) Replying to Respondent's Argument

Respondent argues that Kittie Corley's confessional letter is inconsistent with David Wilson's police statement, insofar as he said that he was alone during his struggle with the victim, whereas she says that they were both present. Respondent therefore proposes that the presence of Kittie Corley during the physical struggle is inculpatory, rather than favorable to the defense. Respondent writes that "to the extent the letter has any materiality at all, it is *inculpatory*." (Doc. 73 at 7) This is incorrect for several reasons.

Every attorney knows that there will be inconsistencies between some facts in evidence and the theory of the defense (and of the prosecution, for that matter). When there are contradictions, it is up to the jury to decide what to believe. On the full record of this case, with Kittie Corley's letter, a reasonable juror could have found that David Wilson was trying to protect Kittie Corley and took the rap for the murder during his police interrogation. A reasonable juror could have found that Kittie Corley accompanied David into the home of Dewey Walker and was the one who administered the bat blows that caused his death.

A reasonable juror could have reached these conclusions especially in light of questions surrounding the reliability of David Wilson's statement to the police and the inadequacy of defense counsel. David Wilson's interrogation by the police was not fully recorded. Investigator Luker inexplicably turned on the tape recorder a full 49 minutes after Mr. Wilson was Mirandized, and Mr. Wilson was interrogated for approximately 10 minutes after the recording stopped. (Fed Rec. Vol. 8, PDF p. 144-145; Fed. Rec. Vol. 6, p. 83-85) The transcript of the police interrogation does

not include everything David Wilson told the police. Petitioner wanted to testify on his own behalf at trial and present his defense, but his appointed counsel prevented him from doing so. (Doc. 1 at 160-164) Moreover, it is important to note that defense counsel waived closing argument at the guilt phase of David Wilson's trial (Fed. Rec. Vol. 9, PDF p. 174, Trial Transcript at 627); and did not call any witnesses. (Fed. Rec. Vol. 9, PDF p. at 141, Trial Transcript at 594) Defense counsel made no closing argument and presented no theory of defense at the guilt phase. Petitioner has raised all this as a claim of ineffective assistance of trial counsel. (Doc. 1 at 64-168) Therefore, it makes little sense for Respondent to argue that any inconsistencies between Kittie Corley's letter and David Wilson's partial police interrogation would be inculpatory. A reasonable juror would have had to consider all of the evidence and inconsistencies before deciding what to believe.

David Wilson has consistently maintained, throughout the past 19 years, that he did not beat Mr. Dewey Walker to death. Any inconsistency as to whether Mr. Wilson was or was not present when Kittie Corley attacked Mr. Walker does not undermine the much more important point that it was Kittie Corley who wielded the bat and killed Mr. Walker, not David Wilson. That directly contradicts Valeska's entire theory of the case, namely that David Wilson savagely beat Mr. Walker to death. *See* Arguments of Douglas Valeska at Trial, *supra* at p. 14-15. A reasonable juror could have concluded that it was Kittie Corley, and not David Wilson, who administered the battery that resulted in Dewey Walker's death.

B. Kittie Corley Took Responsibility for the Stolen Property

Second, on the front side of the letter, Kittie Corley takes responsibility for pawning the property that was stolen from Mr. Walker's home, giving her a far greater role in the burglary. "I pawned everything we got, split the money 3 ways," she wrote. (Doc. 69, Exhibit B) That contradicts the state's case against David Wilson at trial, which made him primarily responsible

for the burglary and stolen property. At trial, Valeska placed primary responsibility on David Wilson, telling the jury that, apart from the speakers and amplifier, it was David Wilson who pawned the stolen property. (Fed. Rec. Vol. 7, PDF p. 147) Consistent with that argument, the Alabama Court of Criminal Appeals reported that "According to Catherine Nicole Corley[,] a co-defendant[,] Wilson was to get half of the audio equipment from [Walker's] van because he had taken all of the chances in [the] burglary, theft and murder." *Wilson v. State*, 142 So. 3d 732, 765 (Ala. Crim. App. 2010); Fed. Rec. Volume 18, PDF p. 159. Kittie Corley's confession to pawning the property and splitting the proceeds three ways presents a different story. A reasonable juror could have inferred that she had a far greater role in the burglary than Valeska suggested.

Respondent argues that Kittie Corley's letter is inculpating, rather than exculpating, because it contradicts the evidence at trial that the codefendants "divvied up Mr. Walker's property, with Petitioner taking multiple items that were recovered *from his home*." (Doc. 73 at 7) Here again, there were different stories about what happened. The fact that the Kittie Corley's letter contradicts David Wilson's police interrogation does not render it inculpating. The jury had to consider contradictory evidence and make sense of the inconsistencies. A reasonable juror could have concluded that Kittie's involvement in the burglary was far greater than what Douglas Valeska had argued.

There were many inconsistencies as to what happened to the audio equipment and the other property. Investigator Luker testified at trial that they seized audio equipment from Michael Ray Jackson's home, as well as a baseball bat, black baseball hat, two basketballs, and some papers found near Mr. Walker's body with red stains. (Fed. Rec. Volume 6, PDF p. 111-112) Luker said that they returned to the victim's family the speakers and audio equipment that was seized from Jackson's home. *Id.*

There was audio equipment that the police seized from David Wilson's home, but it was not identified as having been stolen from Dewey Walker's house. Investigator Luker testified at trial that speakers were found at David Wilson's home when he executed the search warrant he obtained from Judge Mendheim. According to the return and inventory list from the search of Mr. Wilson's home, Officer Luker recovered items including "1 Swiss Audio Crossover" and "2 Swiss Audio Speakers." (Fed. Rec. Vol. 3, PDF p. 22). However, despite the apparently inculpatory nature of these items, and despite Luker's claim that there was no need to test any of the items (Fed. Rec. Vol. 6, PDF p. 113), David Wilson never identified the audio equipment that was taken from his home as items that he or his co-defendants had taken from the home of Mr. Walker. At trial, Luker testified as follows:

> Q [Valeska]: The equipment, the speakers, the van – I believe a term – you called some kind of box yesterday a relay. What was that?
> A [Luker]: The crossover?
> Q: Thank you. Yes. The crossover for my benefit. And what I will ask you, all of that equipment, was it shown to David Wilson?
> A. Yes, sir, it was.
> Q. And did he admit to you, in other words, that that was the equipment or the items that were all taken out of Dewey M. Walker's van by him and the others?
> A. The equipment was actually recovered after the interview with Mr. Wilson.
> Q. Okay. Was it ever shown to him?
> A. No, it was not.

(Fed. Rec Vol. 8, PDF p. 108-109) So the jury did not have evidence that the audio equipment seized from David Wilson's home was stolen from Dewey Walker's home.

David Wilson, in the portion of the police interrogation that was recorded, told the police that the stolen property was left at Matt Marsh's house, who then disposed of it. Wilson said he did not know where most of the property ended up, because Marsh hid it somewhere or disposed of it in some way:

> ME [Michael Etress]: Where is all that property at?

> Wilson: Most of it's there in Matt [Marsh's,] I don't know what he did with it cause I left his stuff at his house.
> ME: Most of it's there where?
> Wilson: At, well we left it all at Matt's house cause he got, he put it in some boxes. We all was at his house. I was [going to] take four speakers and some amps but I told him I was like naw just leave it at your house. So he said fine. And then the next day I asked him if he would bring it over to my house and then that night I talked to him he was like he got rid of it. I don't know where he put it at. He said he hid it somewhere that's all I know.
> ME: Where is the laptop?
> Wilson: I have no clue -- he put it somewhere. And then the next day I saw him [and] asked him where was, where was the TV, that was Tuesday it was yesterday, I asked him where the TV was. He said he got rid of it.

(Fed. Rec. Vol. 3, PDF p. 132)

In her police statement, Kittie Corley said that David Wilson was the one who split the property among her, Matthew Marsh, Michael Ray Jackson, and himself. (Fed. Rec. Vol. 24, PDF p. 31) ("David split it [the stolen property] between everybody. Matthew, for some reason ah, David handed the laptop to Matt. He said this is what you wanted. Ah, Michael picked up the camera and David said no you don't get the camera. Ah. David got the jersey. Matt got the baseball cap and the candy bar. Michael got the chocolate milk and the orange and black basketball.")

Also, in her police statement, Corley told officer Jason Devane that she and her codefendants were planning to give fifty percent of the stolen property to David Wilson. Fed. Rec. Vol. 24, PDF p. 32 ("I know the plan was David was gonna get half of everything because he said I put my life on the line. I should get half at least. Ah, Matt wanted a couple of speakers, a couple of tweeters, a couple of amps. Just enough to put in the car and Michael was gonna get two fifteen and an amp and like two tweeters.")

In his application and affidavit for a search warrant, Officer Luker reiterated this claim by Corley. Fed. Rec. Vol. 3, PDF p. 20 ("According to Catherine Nicole Corley a co-defendant Wilson was to get half of the audio equipment from the van because he had taken all of the chances

in burglary, theft and murder. Corley stated that she was told by Wilson that he was going to hide the audio equipment in and under the mobile home in which he lived"). The Alabama Court of Criminal Appeals relied on this and quoted this passage *in extenso* in its opinion. *See Wilson v. State*, 142 So. 3d 732, 765 (Ala. Crim. App. 2010); Fed. Rec. Vol. 19, PDF p. 161.

By contrast, in her confessional letter, Kittie Corley said it was she who got rid of the property by pawning it. (Doc. 69, Exhibit B)

Investigator Luker testified that the State never tested the evidence they seized. The reason that Luker gave for not testing the evidence was that "all of the defendants confessed to the murder of Dewey Walker" (Fed. Rec. Vol. 6, PDF p. 113). But clearly even though they all confessed and gave statements, their statements regarding the property were contradictory. Because the evidence that was seized was not tested, there is no way of knowing whose fingerprints were all over the seized property—in other words, who was in charge of disposing of it.

Presented with all of this inconsistent information, a reasonable juror could have believed from Kittie Corley's confessional letter that she had played a far greater role in disposing of the stolen property that was not retrieved. A reasonable juror could have believed that Kittie Corley felt she was the principal actor and primarily in charge of fencing the stolen property. On this understanding, Kittie Corley's criminal responsibility increases, due to her confession letter, and the information would be material to the defense.

C. Kittie Corley Took Responsibility for the Bat

Third, on the front side of her confession, Kittie Corley takes responsibility for the bat she used to attack Dewey Walker. In her confessional letter, Corley writes "I threw baseball bat in trash dumpster." (Doc. 69, Exhibit B) This too indicates a far greater role in the death of Dewey Walker than what Valeska argued at trial. Respondent argues, again, that this contradicts David

Wilson's statement to the police and is therefore inculpating. But once again, that police interrogation is not the only evidence, and was certainly not the theory of defense. The jury was presented with conflicting evidence about the circumstances surrounding one or more bats.

There were different stories about what happened to the bat or bats. In her police interrogation, Kittie Corley told Investigator Luker that she and her codefendants still had the baseball bat a few days later. (Fed. Rec. Vol. 24, PDF p. 32) A bat was introduced at trial as one of the trial exhibits, Exhibit #18. (Fed. Rec. Vol. 6, PDF p. 147) That bat was marked "4-J," which means that it was seized from Michael Ray Jackson's car, hence the "J" designation (Fed. Rec. Vol. 6, PDF p. 111). There are other indications that a bat was left in Michael Ray Jackson's car. In his police interrogation, which was consulted during the prosecution's direct examination of Investigator Luker in front of the jury (Fed. Rec. Vol. 8, PDF p. 161), Michael Ray Jackson stated that the bat was in his car and retrieved from there. In his police interrogation, David Wilson identified a bat that was later introduced as Exhibit #18. (Fed. Rec. Vol. 3, PDF p. 118) And of course, in her confessional letter, Kittie Corley said she disposed of the bat by throwing it in a dumpster.

Presented with these inconsistent stories, a reasonable juror could have believed that there may have been more than one bat and that Kittie Corley disposed of the bat that she used to bludgeon Mr. Walker. As Respondent states, "if the letter is to be believed, there were *two* bats at the scene." (Doc. 73 at 6) Alternatively, a reasonable juror could have believed that Kittie Corley did not dispose of the bat but felt so responsible and associated with the bat that she used that she mistakenly recalled that she was the one who had thrown the baseball bat in a trash dumpster to get rid of the evidence. On this understanding, Kittie Corley may have felt she desperately needed

to get rid of the bat to cleanse her hands of guilt—to the point that she believed that she herself had thrown the bat in the dumpster. In either case, this would be material to the defense.

D. The Question of Motive

Fourth, on the front side of the letter, there is an indication that Kittie Corley had a possible motive to kill Mr. Walker because, in her own words, "It was Dewey's time to go." The letter indicates that Kittie Corley had "sex adventures at Dewey's" home, and some kind of personal relationship with the victim that allowed her to refer to him by his first name. Once again, this is favorable to David Wilson's case. A reasonable juror could have inferred that Kittie Corley had a personal relationship with Mr. Walker, had a motive, and was engaged in other forms of foul play. This evidence would have thus been material to the defense at both the guilt and penalty phases.

In their response, Respondent writes that "Ms. Corley's 'motive' for pleading guilty would not make Wilson any less guilty of his heinous crime." (Doc. 73 at 9) In addition, Respondent asserts that "the letter refers to Petitioner as Corley's 'boyfriend,' [and] a reasonable jury would likely believe that the 'sex adventures' were between her and Petitioner—and simply another display of the shocking disregard for Mr. Walker's rights and dignity that were displayed by all involved in this heinous crime." (Doc. 73 at 7) For these reasons, Respondent argues the confession is not exculpatory, but inculpatory. There are, again, a number of problems with this argument.

First, if Respondent is right that a reasonable juror would have believed that David Wilson was Kittie Corley's boyfriend, that would be even more favorable evidence for the defense, because it would explain why David Wilson tried to protect Corley and took the rap for the murder when he was interrogated by the police. In other words, this would be even more material for the defense. For a juror, it could explain why David Wilson lied to protect Kittie Corley.

Second, however, a reasonable juror could have believed that the reference in Kittie Corley's letter to her "boyfriend" refers to Michael Ray Jackson, another codefendant. Kittie Corley's confession lacks punctuation and reads as follows: "I with David my boyfriend & Matt Marsh late one night we sat around talking." What that would mean, with the proper punctuation and grammar, is: "I, along with David, my boyfriend [the fourth co-defendant Michael Ray Jackson], and Matt Marsh, late one night, were sitting around talking." In other words, a reasonable juror could have understood that Kittie Corley was referring in her letter to four people: herself, David Wilson, her "boyfriend" Michael Ray Jackson, and her friend Matthew Marsh. On this reading, the "sex adventures" had nothing to do with David Wilson.

Third, in either event, the question of motive is very important in this case—not just Kittie Corley's motive, but also the prosecutor's motive for pleading her out and not calling her as a witness. A reasonable juror could have believed that Kittie Corley was more culpable but received a favorable plea deal in Dewey Walker's murder, despite the fact that the prosecution believed she wielded the bat, because she provided information about a second murder. Alternatively, a reasonable juror could have believed that Kittie Corley was minimizing her role in Dewey Walker's murder in order to avoid prosecution for the second murder; or that the prosecution was protecting her by not calling her as a witness in order not to reveal her identity in the other murder case. A reasonable juror could have believed that the prosecution had an interest in silencing Kittie Corley with a favorable plea deal in the Dewey Walker murder because of what she knew about the other murder.

E. Kittie Corley's Confession to Mental Illness

Fifth, on the front side of the letter, Kittie Corley confesses to having suffered from untreated mental health problems at the time of Dewey Walker's murder that affected her behavior.

Kittie Corley writes that she is on "lots" of medications, but that she was not at the time of the crime and that she should have been because she "needed them." This too is material favorable evidence to the defense. A reasonable juror could have concluded that Kitty Corley's untreated mental health issues affected her judgment and partly explain why she beat Mr. Walker to death.

F. Kittie Corley Confession to Involvement in a Second Murder

Sixth, on the front side of the letter, Kittie Corley confessed to involvement in a second murder. This information is material to the defense because it suggests that Kittie Corley is involved in other criminal behavior, whereas David Wilson had no prior involvement in a criminal matter, let alone another murder. It also raises doubts as to whether the state adequately investigated Kittie Corley's involvement in the murder of Dewey Walker, whether the state investigators suffered from tunnel vision, whether there is an unexplained, possibly suspicious reason why the state focused on David Wilson and not Kittie Corley. A reasonable juror could have questioned why the state was seeking the death penalty for David Wilson but agreeing to plead out Kittie Corley for a term of 25 years. Alternatively, the fact of Corley's involvement in a second murder could have served to impeach Kittie Corley or Investigator Luker on the stand. In other words, Corley's confession to involvement in a second murder is material favorable evidence in multiple different ways: either by bolstering Corley's confession to the murder of Dewey Walker, by raising questions about the state's investigation, or by impeaching Corley and Luker.

III. PETITIONER WITHDRAWS HIS REQUEST FOR A HEARING

In its Response, counsel for Respondent continues to claim that the Kittie Corley letter "is not exculpatory." *See* Doc. 73 at 1 (Kittie Corley letter "was neither exculpatory nor material as required for *Brady* purposes"); Doc. 73 at 4 ("the letter is *not* exculpatory or favorable to Petitioner"). Counsel for Respondent continues to maintain that "the State *never suppressed* the

letter." (Doc. 73 at 3). In fact, counsel for Respondent goes so far as to claim that "to the extent the letter has any materiality at all, it is *inculpatory*." (Doc. 73 at 7)

It is clear from Respondent's continued assertions that it would be a waste of this Court's time to hold a hearing to simply air the matter of prosecutorial misconduct without a more definite request for a remedy. The matter of prosecutorial misconduct needs to be addressed in a different posture. Petitioner therefore withdraws his request at this time and will raise the matter with the Court at a later stage. Nevertheless, Petitioner firmly maintains—and there is absolutely no question, as a matter of fact and law—that the following is true:

- District Attorney Doug Valeska had a legal and ethical obligation to immediately turn the Kittie Corley letter over to defense counsel in August 2004 when he was made aware of the letter. At the time, Mr. Valeska was under a "Reciprocal Discovery Order" entered by the trial court a few days earlier on July 27, 2004. The trial court had ordered the prosecutor to "make any exculpatory materials available to the defense." *See* Fed. Rec. Vol. 1, PDF p. 42; CRT. 28 (Reciprocal Discovery Order).
- District Attorney Doug Valeska should have immediately turned the letter over to defense counsel on March 1, 2007, in response to defense counsel's renewed motion for *Brady* material including, specifically, a request for any and all written statements by Kittie Corley:

  > *Statements of Co-conspirators, Co-defendants, and Accomplices.* Provide the same information requested in paragraphs one through six above, for any written or recorded statements made by any co-defendant or alleged co-conspirator whether indicted or not. Provide or reduce to writing the same information as requested in paragraph two for any oral statements by any co-defendant or alleged co-conspirator whether or not the statements were written or recorded by the State and its agents or any other responsible person.

  Fed. Rec. Vol. 1, PDF p. 135; CRT. 121.
- Counsel for Respondent, Richard Anderson, should have immediately produced the Kittie Corley letter in September 2016 when state post-conviction counsel filed its "Motion for Discovery of Law Enforcement and Prosecution Files, Records, and

> Information" (specifically requesting Kitty Corley's confession on pages 6, 7, 8, et seq. of the motion), dated September 7, 2016. (Fed. Rec. Vol. 28, PDF p. 4-26) Instead of turning over the letter, Mr. Anderson filed a motion specifically asking the state court to withhold ruling on the request for *Brady* material. *See* Fed. Rec. Vol. 28, PDF p. 65-67 ("State of Alabama's Motion to Withhold Ruling on Wilson's Discovery Motion," signed by Richard D. Anderson). That motion, and all further delay until March 31, 2023, were improper.

Petitioner David Wilson requested production almost a dozen times, all of which specifically mentioned the Kittie Corley letter or any written statement by Kittie Corley. *See* Doc. 65 at 10-11. At every step of the process, including now, the State of Alabama has declared that the Kittie Corley letter is "not exculpatory" and that it does not need to turn the letter over to David Wilson. *See, e.g.,* Doc. 33 at 1 ("non-exculpatory document"); Doc. 42 at 21 (responding to Court's question as to whether they were agreeing that the letter is exculpatory, "No, Your Honor, we're not. Having seen the letter myself"); Doc. 64 at 1 ("non-exculpatory document") and 8 ("the Corley letter is not exculpatory"). Even in its response to this Court's most recent order, the State of Alabama continues to maintain that the Kittie Corley letter is not exculpatory. *See* Doc. 73 at 1 (the Kittie Corley letter "was neither exculpatory nor material as required for Brady purposes").

At the same time, Respondent contends that David Wilson has procedurally defaulted the *Brady* claim because he could have obtained the letter earlier by simply asking for it. Those are mutually contradictory positions. Everything the State of Alabama has said demonstrates that they were never going to turn over the Kittie Corley letter—which they continue to maintain is not exculpatory—unless ordered to do so by a federal court.

Respondent's declarations to the Court are legally incorrect and misleading. But a hearing to air all of this out is not going to serve any meaningful purpose at the present moment.

FOR THE FOREGOING REASONS, Petitioner David Wilson respectfully requests that this Court order Respondent to produce the full Kittie Corley letter, including both sides of the letter.

Dated this 27th day of April 2023.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 27, 2023, the foregoing has been electronically filed with the Clerk of the Court and therefore a copy has been electronically served upon counsel for Respondent:

Office of the Attorney General
Attn: Capital Litigation Division
501 Washington Avenue
Montgomery, AL 36130

Bernard E. Harcourt