

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

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

**PETITIONER’S FIFTH MOTION FOR *BRADY* DISCOVERY
(CORRECTED)**

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The Alabama Attorney General spent decades trying to shield patently discoverable *Brady* evidence—namely, the hand-written letter of Mr. Wilson’s principal co-defendant (Kittie Corley) admitting to beating the victim to death with a baseball bat—on the premise that Corley authored the letter. The Attorney General relied upon that premise to oppose production of the letter, under procedural default rules, in arguments to this Court: “Wilson knew – at the very least – that the letter stated that Ms. Corley had also struck Mr. Walker **and that the State believed that Ms. Corley was its author**” (see Doc. 64 at p. 7, Respondent’s Response to Motion for Disclosure). In fact, the Attorney General used the authenticity of the Corley letter to argue against production in briefs filed with the United States Supreme Court and this Court on at least these other six occasions:

1. *To the United States Supreme Court, in its Brief in Opposition to Petition for Writ of Certiorari*: “The prosecutor in this case maintained an open file policy and disclosed the existence of the Corley letter, its content, **and its authenticity** to Wilson’s counsel. The police report attached to Wilson’s petition disclosed that there was **an authentic letter** from Wilson’s accomplice in which she stated that she had ‘hit Mr. Walker with a baseball bat until he fell.’” (Doc. 76-35 at PDF 131, Bates 5990)
2. *To the United States Supreme Court, again in its Brief in Opposition to Petition for Writ of Certiorari*: “Wilson also argues that the State violated *Brady* by not producing documents authenticating the Corley letter, but that argument fails for at least three reasons. **First, the authorship of the letter was not in dispute.** As the exhibits to Wilson’s petition show, the investigating officer believed “that the author of both documents are [sic] Catherine Nicole Corley.” (R32 C. 616.) Second, the authenticating documents described in the petition have no independent materiality. [...] A document “authenticating” a letter’s authorship **when the authorship is not in dispute** is not material because it neither adds to nor takes away from the

quantum of evidence before the jury. Third, even if the letter's authenticity was at issue, the State produced the police report which disclosed the substance of the allegedly suppressed fact: ***that the document was authentic.***" (Doc. 76-35 at PDF 133, Bates 5992)

3. *To this Court, in its Response to Notice of Appearance, Motion for a Status Conference, for Appointment of Counsel, and for an Order of Disclosure:* "Thus, Wilson has, for over fifteen years, known both that a letter existed stating that Ms. Corley had also struck Mr. Walker ***and that the State believed that Ms. Corley was its author.***" (Doc. 33 at p. 6)
4. *To this Court, in its Amended Response:* "Thus, Wilson has, for over fifteen years, known both that a letter existed stating that Ms. Corley had also struck Mr. Walker and ***that the State believed that Ms. Corley was its author.***" (Doc. 37 at p. 6)
5. *To this Court, in Respondent's Answer to David Wilson's Petition for Writ of Habeas Corpus:* "In this case, Wilson does not contest the fact that, at minimum, he was made aware of the fact that ***Corley had written a letter*** in which she stated that she had 'hit Mr. Walker with a bat until he fell.'" (Doc. 56 at p. 9)
6. *Again, in its Answer to David Wilson's Petition for Writ of Habeas Corpus:* "Thus, Wilson knew before trial both that a letter existed stating that Ms. Corley had also struck Mr. Walker and ***that the State believed that Ms. Corley was its author.***" (Doc. 56 at p. 13)

Having lost its battle to withhold *Brady* evidence, the Attorney General was forced to produce the full Corley letter under court order and did so on June 28, 2023.

The very next day, on June 29, 2023, the Attorney General obtained a sworn affidavit from Kittie Corley in which she stated that her letter was a forgery. Corley's affidavit is likely perjurious and intended, from her perspective, to help in her upcoming parole hearing before the Alabama Board of Pardons and Paroles. Corley

is parole eligible beginning January 1, 2025, less than a year from now, and will imminently appear before the Alabama Board of Pardons and Paroles. (*See Appendix A, Alabama Department of Corrections, Incarceration Details: Corley, Catherine Nicole*).

Nevertheless, the Attorney General filed the Corley affidavit with this Court (Doc. 86-1) knowing that the State of Alabama and the Attorney General have consistently maintained for the past nineteen years that Corley wrote the confession letter and knowing that United States District Judge W. Keith Watkins found, in the Court’s opinion dated March 27, 2023, that there are “[s]everal known, simple truths about the Corley letter,” the most important of those truths being that: “*Prosecutors possessed the letter before trial, investigated its origin, and concluded that Corley was its author.*” (Doc. 67 at p. 21, italics in original)

Pursuant to this Court’s Order dated January 2, 2004 (Doc. 88), Petitioner hereby submits this Fifth Motion for *Brady* Discovery and Reply to Respondent’s “Response to Order” (Doc. 86) following the massive, belated production of *Brady* materials on December 7, 2023. The Alabama Attorney General’s glut of disclosures on December 7, 2023—including two never-before-seen police interrogations of Kittie Corley and another letter written by Corley—opens a host of contested factual matters that call for augmented discovery, above and beyond the discovery originally requested in Petitioner’s “Fourth Motion for Full Disclosure of Kittie Corley’s

Statements” (Doc. 81). The massive disclosure also opens a question about the authenticity of the Corley letter that now requires additional discovery.

After a brief introduction that lays out the most salient points, Petitioner will retrace in Part I the procedural history of the *Brady* requests and the State’s stonewalling, then, in Part II, the nature of the new evidence that was recently produced. In Part III, Petitioner will explain how each new piece of evidence calls for additional discovery. In Part IV, Petitioner will detail the inadequacies of Respondent’s Response. And in Part V, Petitioner will briefly touch on the legal favorability of the requested evidence. In conclusion, Petitioner will list the exact additional discovery that this Court should order. This court has the authority to order the requested discovery pursuant to Rule 6 of the Rules Governing Section 2254 Cases in the United States District Courts and *Bracy v. Gramley*, 520 U.S. 899 (1997).

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Introduction

1. It is not surprising that Kittie Corley now denies authorship of the letter in which she confesses to having beaten Mr. Dewey Walker to death and to being deeply implicated in the drug-dealings and murder of C.J. Hatfield. (Doc. 86-1, Corley affidavit) Corley is about to appear before the Alabama Board of Pardons and Paroles. (*See* Appendix A) The last thing she wants is to be associated with her confessions to involvement in two murders. Corley has every motive in the world to lie and now contend that she was not involved in those murders—concerning the second of which there is *no public knowledge of her involvement*.

2. But what is deeply alarming is that the Alabama Attorney General would file an affidavit with the Court that, *by their own evidence*, is likely perjurious. (Doc. 67 at p. 21, Opinion of this Court finding that “*Prosecutors ... concluded that Corley was its author*”) In fact, the Corley affidavit explicitly contradicts one of the core arguments that the Attorney General has relied on for years to shield the Corley letter: namely, that Petitioner is procedurally defaulted on his *Brady* claims because he knew that, in the Attorney General’s words to the United States Supreme Court, “*the authorship is not in dispute.*” (Doc. 76-35 at PDF 133, Bates 5992; *see also supra*, p. 1-2)

3. Corley's new affidavit is in all probability perjurious *for at least five independent reasons*. First, the lead investigator of Mr. Walker's death, Sgt. Tony Luker, personally investigated and concluded that Kittie Corley wrote the letter. Sgt. Luker compared Corley's handwriting samples (which he purposefully seized during a search he conducted of her jail cell) and concluded that the Corley letter was written by Kittie Corley: "After comparing the hand written letter turned over to me from Kaylia Lane and the hand written documents seized in the search of Corley's cell, I believe that the author of both documents are Catherine Nicole Corley." (Doc. 76-24 at PDF 17, Bates 3858) Second, Sgt. Luker turned over the Corley letter and handwriting samples to a United States Postal Service (U.S.P.S.) handwriting expert for further evaluation. That handwriting expert, Gale Bolsover, the Laboratory Unit Manager at the U.S.P.S., examined the letter and concluded that, in his expert opinion, Kittie Corley wrote the Corley letter: "Nicole Corley (K-1) probably wrote the questioned entries appearing on Exhibit Q-1-1 (two-sided letter)." (Doc. 76-24 at PDF 37, Bates 3878) Third, the lead investigator on the Hatfield murder, investigator Allen Hendrickson of the Henry County Sheriff's Office, confronted Kittie Corley about her confession in the Corley letter: "the reason I got you brought down here is I wanted to interview you as a witness to a – to a case. I understand you might have some information or an item that I might want in reference to a case." (See Appendix I, Certified Court Reporter Transcription of Interrogation of

Catherine Corley on January 29, 2005, at p. 2, lines 12-17) At no time during that or the subsequent police interrogation did Hendrickson ever suggest that he believed Corley had not written the confession letter; and at no time during that or the subsequent interrogation did Corley deny writing the Corley letter. Fourth, all the intricate details that Kittie Corley wrote on the back side of the Corley letter regarding her involvement in the Hatfield murder are minutely corroborated by what she told Hendrickson in her two recently disclosed police interrogations from 2005. *See* Table of Correspondences Between Corley Letter and Interrogations, *infra* ¶ 50. Fifth, at no time over the course of the past nineteen years, in any of the voluminous *Brady* litigation over the Corley letter, in state or in federal court, has the Attorney General ever once said or implied that the Corley letter is a forgery. On the contrary, the Attorney General has used the fact that the Corley letter was authentic to shield production.

4. It is also alarming that the Alabama Attorney General obtained Kittie Corley's sworn signature on June 29, 2023, the day after the Attorney General complied with this Court's production order of June 21, 2023, Doc. 79. Indeed, on June 28, 2023, at 11:54 PM, just a few hours before obtaining Corley's affidavit, the Attorney General turned over to undersigned counsel the back side of the Corley letter. (*See* Doc. 81-2, Email from Richard D. Anderson to Bernard E. Harcourt dated June 28, 2023, 11:54 PM)

5. It is also alarming that the Alabama Attorney General, having obtained the new Corley affidavit, did not produce it to Petitioner until six months later (on December 7, 2023) and did not mention it in his Response filed on November 16, 2023. (Doc. 84) In that pleading, the Attorney General stated to this Court that “Respondent is unable to certify at this time that no documents responsive to Wilson’s desired discovery exist.” (Doc. 84 at p. 4) At the very moment that the Attorney General signed and filed that federal court pleading, as an officer of the Court, the Attorney General had in his possession the new Corley affidavit which he knew he had to turn over because it was obviously covered by this Court’s previous holdings. That federal court pleading, Doc. 84, may contain a false or misleading statement.

6. It is also alarming that the Alabama Attorney General would file this new controverted evidence at this stage of a § 2554 federal habeas corpus case. The Attorney General could have turned over the affidavit to Petitioner by email, without filing it with the Court, as he did for the “Dearest David” letter and Vroblick police interview worksheet that he produced to Petitioner by email. (*See* Appendix G, two emails from Richard D. Anderson to Bernard E. Harcourt dated December 7, 2023). The Attorney General deliberately chose to make the new Corley affidavit a federal pleading (Doc. 86-1) but chose *not* to do that with any of the other discovery materials that he turned over that same day, including the Vroblick police interview

worksheet, which was a PDF file that would have been easy to file electronically as another pleading appendix. (See Appendix N, police interview worksheet of Vroblick interrogation).

7. Although this is all alarming, it is not unprecedented. The Alabama Attorney General has changed theories to shield production of the Corley letter on several occasions. Most recently, the Attorney General changed theories to argue that the back side of the Corley letter was “not relevant” to Mr. Wilson’s case because it involved another murder. This Court took notice of the Attorney General’s changing arguments, stating in its order granting Petitioner’s third *Brady* motion that “Respondent should not now be heard to conjure wholly new grounds to avoid disclosure of the letter.” (Doc. 79 at p. 6) The Court added in a footnote: “In general, ‘[a]n argument not made is waived[.]’ *Cont’l Technical Servs., Inc. v. Rockwell Intern. Corp.*, 927 F.3d 1198, 1199 (11th Cir. 1991). ... Respondent has cited no authority that would countenance his getting another bite at the apple on an argument he could have presented before disclosure was ordered.” (Doc. 79 at p. 6 n.2)

8. The Alabama Attorney General has now filed an affidavit with the Court stating that the Corley letter is a forgery. This flies in the face of all their own evidence and all their statements to state and federal courts over the past nineteen years. This matter calls for additional discovery above and beyond the initial

requests contained in Petitioner’s “Fourth Motion for Full Disclosure of Corley’s Statements” (Doc. 81).

I. Procedural History

9. In light of the Attorney General now producing, for the first time, two police interrogations of a codefendant conducted in 2005, it is important to review fully the procedural history of the *Brady* requests in this case, beginning from the start of the state capital trial. In this Part, Petitioner will review the history of the *Brady* requests and prosecutorial stonewalling to give the Court a proper background regarding Petitioner’s request for additional discovery.

10. The very first docket entry in the capital prosecution of Mr. David Wilson, dated **July 27, 2004**, is a reciprocal discovery order entered by the state trial court directing the prosecutor to “make any exculpatory materials available to the defense.” (*See* Doc 76-1 at PDF 15, Bates 15, Reciprocal Discovery Order). From that date forward, counsel for Mr. Wilson or Mr. Wilson *pro se* have filed fifteen (15) *Brady* motions specifically requesting statements by the co-defendant Catherine Nicole “Kittie” Corley and/or the “Corley letter.”

11. To help frame the timing of the *Brady* requests, it is important to recall that the Corley letter is dated **August 10, 2004**, on both the front and the back side. (Doc. 69-2; Doc. 81-1) Kittie Corley wrote the Corley letter while she was incarcerated in the Houston County jail four months after the murder of Mr. Dewey

Walker (which occurred on or about **April 7, 2004**) purportedly in order to obtain an attorney. The front side of the Corley letter also bears an August 31, 2004, date stamp, indicating that it was catalogued by state law enforcement on that date. (Appendix B, front side of the Corley letter; and Appendix D, back side of the Corley letter) That would have been one month *after* the state trial court entered its “Reciprocal Discovery Order” on July 27, 2004. It is also important to recall that C.J. Hatfield was murdered on or about **March 13, 2004**, the date his body was accidentally found by the county coroner in the woods. (*See Slate* article, Appendix Q at p. 6) That was about one month before the murder of Mr. Dewey Walker.

12. On **September 2, 2004**, the chief investigator of the Walker murder, Sgt. Tony Luker, met with District Attorney Douglas Valeska and attorney Kaylia Lane, who was then representing Ms. Joan Vroblick, a woman incarcerated in the Houston County jail. (Doc. 76-24 at PDF 16, Bates 3857, Police Report by Tony Luker generated on March 22, 2006) During this meeting, Ms. Lane turned over a letter given to her by Ms. Vroblick, written by Kittie Corley, which, according to Sgt. Luker, “contained details of the murder of Dewey Walker which only the perpetrators would have known,” and “described how the writer hit Mr. Walker with a baseball bat until he fell.” *Id.* Sgt. Luker notes, in the same police report, that he interviewed Ms. Vroblick on **September 9, 2004**, and Ms. Vroblick informed him

that the letter that was turned over by her attorney to Luker was indeed written by Kittie Corley. *Id.*

13. On **September 30, 2004**, Sgt. Luker searched Kittie Corley's jail cell and acquired handwriting samples that were, by her own admission, written by Ms. Corley herself. (Doc. 76-24 at PDF 16-17, Bates 3857-3858) Sgt. Luker compared the handwriting samples with the Corley letter and concluded that the Corley letter was written by Kittie Corley. Sgt. Luker wrote in his report: "After comparing the hand written letter turned over to me from Kaylia Lane and the hand written documents seized in the search of Corley's cell, I believe that the author of both documents are Catherine Nicole Corley." (Doc. 76-24 at Bates 3858)

14. We now know, based on the December 7 productions, that on **January 29, 2005**, Investigator Allen Hendrickson of the Henry County Sheriff's Department interrogated Kittie Corley on her knowledge of the murder of C.J. Hatfield. During that interrogation, Hendrickson explained that he was interrogating Corley because "I understand you might have some information or an item that I might want in reference to a case," apparently referring to the Corley letter. (*See* Appendix I, Transcription at p. 2, lines 12-15) Almost two months later, on **March 24, 2005**, Investigator Hendrickson, joined this time by Corporal Tommy Merritt of the Alabama Bureau of Investigations, interviewed Corley again about the Hatfield murder. These interrogations corroborated the information on the back of the Corley

letter and the extent of Kittie Corley's involvement in drug trafficking and violent crime in the Dothan area. (See Appendix K, Certified Court Reporter Transcription of Interrogation of Catherine Corley on March 24, 2005) At no time did Kittie Corley deny writing the Corley letter; to the contrary, she confirmed most of what was in the Corley letter during those interrogations. See Table of Correspondences Between Corley Letter and Interrogations, *infra* ¶ 50. (Neither the recordings nor transcripts of the two police interrogations were ever turned over to defense counsel until the most recent production from Respondent on December 7, 2023.)

15. On **January 12, 2007**, a U.S.P.S. handwriting expert, Gale Bolsover, the Laboratory Unit Manager, filed a report concerning the Corley letter. The handwriting expert concluded that, in their expert opinion, Kittie Corley wrote the Corley letter. They stated that "Nicole Corley (K-1) probably wrote the questioned entries appearing on Exhibit Q-1-1 (two-sided letter)." (Doc. 76-24 at PDF 37, Bates 3878)

16. Prior to trial, defense counsel filed on **March 1, 2007**, a *Brady* motion including a specific request for any and all statements by the co-defendants, which would have included Kittie Corley. (Doc. 76-1 at PDF 132-144, Bates 132-144, "Motion for Discovery of Prosecution Files, Records, and Information Necessary to a Fair Trial"). This motion specifically requested "Statements of Co-conspirators, Co-defendants, and Accomplices." *Id.* at Bates 135.

17. On **March 5, 2007**, the trial court effectively granted that motion by referencing its earlier “Reciprocal Discovery Order,” entered on July 27, 2004, which ordered the prosecutor to make all exculpatory materials available to the defense. (Doc. 76-2 at PDF 25, Bates 25)

18. Seven months later, on **October 4, 2007**, defense counsel filed a “Motion to Reconsider Denial of Defendant’s Motions and Motion for Hearing on Those Motions Denied Without a Hearing,” which specifically included, in the list of motions to reconsider, the “Motion for Discovery of Prosecution Files, Records, and Information” filed on March 1, 2007. (Doc. 76-2 at PDF 160, Bates 360)

19. A motions and suppression hearing took place on **October 9, 2007**, during which defense counsel reargued the motions, including the “Motion for Discovery of Prosecution Files, Records, and Information” filed on March 1, 2007. (Doc. 76-6 at PDF 117-118, Bates 1122-1123) Despite all those requests, the State of Alabama *did not* turn over the Corley letter or the recently produced police interrogations.

20. Prior to undersigned counsel being appointed to represent Mr. Wilson in January 2020, previous defense attorneys and Mr. Wilson *pro se* filed another four (4) *Brady* motions specifically asking for the Corley letter and/or any Corley statements. These included the following:

- Motion for Discovery of Law Enforcement and Prosecution Files, Records, and Information (specifically requesting Kittie Corley’s confession on

- pages 6, 7, 8, et seq. of the motion), dated September 7, 2016 (Doc. 76-28 at PDF 4-26, Bates 4649- 4671).
- Response to State’s Motion to Withhold Ruling on Motion for Discovery (requesting previous discovery motion be granted), dated October 4, 2016 (Doc. 76-28 at PDF 82-84, Bates 4727-4729).
 - Hearing on Rule 32 Motions (Rule 32 counsel specifically states: “And we’re entitled to the [Kittie Corley] letter. We still don’t have the letter”), dated November 8, 2016 (Doc. 76-30 at PDF 114, Bates 5161).
 - *Pro se* Letter by Mr. Wilson to this Court asking for the Kittie Corley letter (stating that “[I]f this issue was litigated in the first place like I tried to have done I would have more than likely received an evidentiary hearing and obtained the newly discovered evidence which is in the *Brady* issue that was filed”), dated June 13, 2019 (Doc. 15 at p. 2).

21. At no time did the State of Alabama ever argue that the Corley letter was not written by Kittie Corley. From at least August 2008, and to this day, attorney Richard D. Anderson, Assistant Attorney General, has represented Respondent and the State of Alabama. (*See* Doc. 76-14 at PDF 2, Bates 2211, where Richard D. Anderson is listed as the State’s counsel on the cover of the direct appeal brief filed on August 29, 2008) At every stage of the *Brady* litigation over the Corley letter, the Assistant Attorney General responded with various excuses to shield the Corley letter; most recently, the last four (4) times, the Assistant Attorney General argued that the Corley letter was “not exculpatory,” which is patently legally incorrect. Here are some of the reasons that the Attorney General gave for not producing the Corley letter:

- On February 24, 2016, during Rule 32 proceedings, the Attorney General argued in the State of Alabama’s “Amended Answer and Motion to Dismiss” that Mr. Wilson’s *Brady* claim was “procedurally barred because

- it could have been, but was not, raised at trial or on direct appeal” or that, in the alternative, “the claim was meritless on its face” because the police report that mentioned the Corley letter was produced in discovery (Doc. 76-26 at PDF 56-58, Bates 4299-4301).
- On August 17, 2016, the Attorney General once again argued in the State of Alabama’s “Corrected Answer and Motion to Dismiss” that Mr. Wilson’s *Brady* claim was “procedurally barred because it could have been, but was not, raised at trial or on direct appeal” or that, in the alternative, “the claim was meritless on its face” because the police report that mentioned the Corley letter was produced in discovery (Doc. 76-27 at PDF 28-29, Bates 4472-4473).
 - On September 15, 2016, in the “State of Alabama’s Motion to Withhold Ruling on Wilson’s Discovery Motion” in Rule 32, the Attorney General told the state trial court: “As shown in the State’s answer and motion to dismiss, Wilson’s Amended Petition does not contain any facially meritorious claims and every claim in Wilson’s petition is due to be dismissed... Consequently, a ruling on Wilson’s requests would be premature” (Doc. 76-28 at PDF 65-66, Bates 4710-4711).
 - On June 21, 2016, in a motions hearing in state court on Rule 32, the Attorney General told the state trial court: “the *Brady* claim ought to be dismissed because it’s also just facially meritorious in that the letter is a hearsay document... In order to meet *Brady*, it needs to be something that could have been admitted or that that, you know – there’s no allegation that would have led to something else that was admissible. *It’s just an unsworn document that was produced at the behest of another inmate.* It doesn’t have any indicia for reliability. It is – there is an allegation that it was authenticated as something written by Captain [sic] Corley, but there is no – no indicia that it is reliable. I mean, even if it’s authentic, *there is no indicia that it is reliable, because it was produced in the hopes of obtaining an attorney.* And these are all matters from the petition and from the exhibits to the petition that trial counsel would have known. This is a document allegedly written in the hopes of finding a lawyer. So it’s not a clear admission against any kind of interest. It’s a – it’s a writing in furtherance of her interest. And for that reason, it wouldn’t be admissible under any exception to hearsay” (Doc. 76-30 at PDF 82-83, Bates 5129-5130).

- On November 8, 2016, during motion proceedings, the Attorney General told the state trial court, at two points: “Mr. Hedeem, who was Mr. Wilson’s counsel, reviewed discovery in this case. It’s clear that the police report that is the foundation of this claim was divulged to petitioner’s counsel. He could have raised the Brady claim at the time of trial” (Doc. 76-30 at PDF 107, Bates 5154); and “Mr. Hedeem reviewed, at the very least, the police report. And for that reason, he had knowledge of it. He had constructive knowledge of it. That’s all we need under Alabama law to find that it’s procedurally barred, because he could have, but did not raise it at the time of trial” (Doc. 76-30 at PDF 114, Bates 5161).
- On November 9, 2017, in the State of Alabama’s “Brief and Argument” on appeal to the Alabama Court of Criminal Appeals, the Attorney General wrote that the “Rule 32 court correctly dismissed [Petitioner’s *Brady*] claim because it was procedurally barred and meritless” and “Even if, *arguendo*, the letter itself was not produced, the facts demonstrating that Wilson had the opportunity to raise a *Brady* claim regarding the letter at trial or on appeal were established by Wilson’s own pleadings. Moreover, Wilson responded to the State’s assertion of the Rule 32.2 bars in a reply to the State’s motion to dismiss and did not contend that the existence of the alleged confession was actually suppressed” (Doc. 76-31 at PDF 136-137, Bates 5350-5351).
- On March 25, 2019, in the State of Alabama’s “Brief in Opposition” to Petitioner’s petition for writ of certiorari to the United States Supreme Court, the Attorney General argued that “Wilson’s *Brady* claim was procedurally barred because the existence of the letter was disclosed to him prior to trial” (Doc. 76-35 at PDF 128, Bates 5987).

22. Undersigned counsel entered an appearance in Mr. Wilson’s federal habeas corpus proceedings on November 20, 2019, stating that he would take the appointment only if the Corley letter was produced, effectively filing his first *Brady* motion on Mr. Wilson’s behalf. (Doc. 19)

23. Undersigned counsel once again requested the production of the Corley letter in Petitioner’s “Reply to Respondent’s Response,” filed on December 29, 2019 (Doc. 36), and at the hearing held on January 23, 2020 before this Court. (Doc. 42)

24. Undersigned counsel filed a “Renewed Motion for Disclosure of Ongoing *Brady* Material” on November 7, 2022, specifically requesting the Corley letter for what was effectively the eleventh (11) time since proceedings against Mr. Wilson began in 2004. (Doc. 60)

25. In response to those *Brady* requests, the Attorney General took the position that the Corley letter was “not exculpatory.” That is, again, as a legal matter, patently wrong. The Attorney General argued:

- In Respondent’s “Response to Notice of Appearance, Motion for a Status Conference, for Appointment of Counsel, and for an Order of Disclosure,” filed on December 5, 2019, that the Corley letter was a “non-exculpatory document” (Doc. 33 at p. 1).
- During a hearing before this Court on January 23, 2020, in response to the 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. 42 at p. 21).
- In Respondent’s “Response to Motion for Disclosure and to Motion to Refile the State Court Record,” filed on December 12, 2022, that the Corley letter was a “non-exculpatory document” (Doc. 64 at p. 1), and that “the Corley letter is not exculpatory” (Doc. 64 at p. 8).

26. Following Petitioner’s “Reply to Respondent’s Response” filed on December 19, 2022 (Doc. 65), this Court granted Petitioner’s *Brady* motion on March 27, 2023, and ordered the State of Alabama to turn over the Kittie Corley

letter. (Doc. 67) The Court quoted, in its order, Judge Charles S. Coody's comment during the January 23, 2020 hearing (Doc. 42), to the effect that the Corley letter "was exculpatory material which should have been turned over." (Doc. 67 at p. 16)

27. On March 31, 2023, Respondent produced the front side of the Kittie Corley letter to the Court and Petitioner. (Doc. 69-2) On the front side of the letter, Corley mentioned that she had been involved in another murder and referred to the back side of her letter for a description of her involvement in that other murder.

28. Petitioner moved for disclosure of the back side of the Kittie Corley letter on the same day, March 31, 2023, in Petitioner's third *Brady* motion. (Doc. 70, "Motion for Full Disclosure of the Kittie Corley Letter and For a Hearing at the Court's Earliest Convenience")

29. The Attorney General, having been ordered to turn over the Corley letter, nonetheless maintained in Respondent's "Response to Show Cause Order," filed on April 13, 2023, that *both* sides of the letter were "neither exculpatory nor material as required for Brady purposes." (Doc. 73 at p. 1 and p. 4) In fact, counsel for Respondent went so far as to claim that "to the extent the letter has any materiality at all, it is *inculpatory*." (Doc. 73 at ¶8, emphasis added)

30. Mr. Wilson filed a reply on April 27, 2023, once again asking for the back side of the Corley letter. (Doc. 75)

31. The Court granted Petitioner's third *Brady* motion on June 21, 2023. (Doc. 79) In its order, the Court ruled that Respondent had failed to argue, prior to the disclosure of the first side of the letter, that "a part of the letter need not be disclosed because it concerns separate, unrelated criminal activities of Corley," and instead chose an "approach of maximal resistance" by arguing that the "State's *Brady* obligations vanish in postconviction and that, ultimately, no disclosure was warranted because petitioner's *Brady* claim is without merit." *Id.* at p. 5. As that approach had failed, the Court stated in its order granting Petitioner's third *Brady* motion, "Respondent should not now be heard to conjure wholly new grounds to avoid disclosure of the letter." *Id.* at p. 6.

32. Respondent turned over the back side of the Corley letter, via email to undersigned counsel, on June 28, 2023, at 11:54 PM. (Doc. 81-1, back side of Corley letter; and Doc. 81-2, email from Richard D. Anderson to Bernard E. Harcourt) The back side of the Corley letter recounts in detail Corley's involvement in the murder of C.J. Hatfield and was material within the meaning of *Brady v. Maryland*.

33. *The very next day*, on June 29, 2023, the Attorney General obtained a sworn affidavit from Kittie Corley stating that she was not the author of either side of the Corley letter. The authenticity of the Corley letter had never previously been in dispute.

34. The Attorney General did not immediately turn over this new affidavit to Mr. Wilson or his counsel.

35. Petitioner filed his fourth *Brady* motion on July 19, 2023, requesting a thorough production of all written and oral materials in the possession of any state, county, or municipal actors involved in the investigation of the Hatfield and Walker murders related to Kittie Corley. (Doc. 81)

36. On November 3, 2023, this Court entered a show cause order requiring Respondent to respond to Petitioner's fourth *Brady* motion. (Doc. 83)

37. Respondent first responded, on November 16, 2023, that he had found no materials requested by Petitioner in his fourth *Brady* motion and moved for an extra 21 days. (Doc. 84) The Attorney General did not disclose that he had obtained an affidavit from Corley, in which she claims that the Corley letter was a forgery, almost five months earlier. This Court granted Respondent's motion for an extension of time on November 17, 2023. (Doc. 85)

38. On December 7, 2023, Respondent e-mailed undersigned counsel with new discovery productions. (*See* Appendix G, two emails from Richard D. Anderson to Bernard Harcourt dated Dec. 7, 2023) Respondent attached to his emails the following:

- a. a Waveform audio recording of a police interrogation of Kittie Corley conducted on January 29, 2005, lasting 27 minutes (Appendix H; *see*

also Doc. 90, Notice of Conventional Filing, Petitioner has filed an MP3 version of the audio recording with the Court);

- b. a Windows Media Audio recording of a police interrogation of Kittie Corley dated March 24, 2005, lasting 33 minutes (Appendix J; *see also* Doc. 90, Notice of Conventional Filing, Petitioner has filed an MP3 version of the audio recording with the Court);
- c. the first two pages of a “Dearest David,” undated, personal letter that Kittie Corley wrote to Petitioner while she was in jail pending trial for charges in connection to the murder of Mr. Dewey Walker (Appendix L);
- d. a police interview worksheet from a police interrogation of Joan Dixia Vroblick dated August 3, 2004 (Appendix N).

39. In addition, on December 7, 2023, Respondent filed with the Court the new affidavit by Kittie Corley dated June 29, 2023. (Doc. 86-1)

II. The New Evidence

40. It is not Petitioner’s burden or intention, at this preliminary stage, to prove, as a factual matter, that the favorable evidence that has just been produced by the Attorney General in their massive *Brady* disclosure is material and, therefore, that the state’s withholding amounted to a violation of David Wilson’s right to due process under *Brady*. At this early stage of federal habeas corpus litigation, the

additional discovery requested is necessary for undersigned counsel to investigate and determine the materiality of any *Brady* violations disclosed by the Attorney General's December 7 productions, 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 in the newly disclosed evidence is material. Nevertheless, Petitioner will address what we already know about the favorability and materiality of the new evidence at this early, preliminary stage.

41. In sum, all of the new evidence produced by Respondent on December 7, 2023, is favorable and material under *Brady*. Petitioner will take each piece of evidence in order. Very briefly, though, by way of background, Petitioner will begin with a recapitulation of the favorability and materiality of the front and back sides of the Corley letter.

A. The Front Side of the Corley Letter

42. The front side of the Corley letter is favorable to Petitioner because it contains a confession by Kittie Corley to the murder of Mr. Dewey Walker and indicates as well that she was involved in a second murder. (*See Appendix B for the front side of the Corley Letter; Appendix C for the Certified Court Reporter transcription of the front side of the Corley Letter*)

43. This Court has already addressed the potential materiality of the front side of the Corley letter in its two previous opinions dated March 27, 2023 (Doc. 67 at p. 19) and June 21, 2023 (Doc. 79 at pp. 8-10 and 14-17). Briefly, on the front side, Corley writes that she alone, and not Petitioner, bludgeoned Mr. Walker to death with a baseball bat; that she disposed of the murder weapon (the bat) by throwing it in a dumpster; that she had a motive to kill Mr. Walker; that she had some kind of personal relationship with the victim; and that she pawned the items stolen from Mr. Walker's home.

44. The evidence presented at Mr. Wilson's trial never resolved the inconsistency between, on the one hand, Mr. Wilson's claim that he did not beat Mr. Walker to death and, on the other hand, the 114 blows that were inflicted on Mr. Walker's body. This confession by Kittie Corley resolves that inconsistency. A reasonable juror could have concluded that Corley was the person who actually killed Mr. Walker. Moreover, the Corley letter contained reference to another murder that Corley was involved in. Petitioner would refer the Court to Doc. 75 for further discussion of the favorability of the front side of the Corley letter (Doc. 75).

B. The Back Side of the Corley Letter

45. On the back side of the Corley letter, Kittie Corley confesses to being part of a violent drug gang that engages in murder, to having had possession of the murder weapon, to covering up for the murder, and to having serious mental health

problems. The back side of the letter is favorable to Petitioner because it supports the theory—confirmed on the front side of the letter—that Corley had greater culpability for the murder of Dewey Walker, relative to Petitioner, who had no prior criminal history and no previous brushes with the law. (See Appendix D for the back side of the Corley letter; and Appendix E for the Certified Court Reporter transcription of the back side of the Corley letter)

46. This Court already addressed the potential materiality of the back side of the Corley letter in its opinion dated June 21, 2023 (Doc. 79 at pp. 8-10 and 14-17). Petitioner would refer the Court to Doc. 81 for further discussion of the *Brady* materiality of the back side of the Corley letter (*see* Doc. 81 at ¶ 4-11) and the discussion in Part V *infra* at ¶ 125 et seq.

47. Briefly, on the back side of the Corley letter, Corley confesses to being at the heart of a violent drug trafficking gang that engages in the murder of C.J. Hatfield. Corley confesses to possession of the murder weapon. Corley confesses to being the intimate partner of one of the leaders, who is called “Bam Bam” (like the sound of a gun going off twice). Corley confesses to knowing who killed Hatfield. Corley confesses to knowing who the drug runners are for the drug trafficking enterprise and everything that they planned to do (steal the money and pretend to be robbed) and why Hatfield was murdered. Corley confesses to covering up the murder. The letter exposes Kittie Corley as callous and indifferent to human life, as

she reveals she does not care whether an innocent person (even someone who might be considered her friend) will face life imprisonment or the death penalty for a crime he did not commit. These multiple confessions are corroborated by her subsequent police interrogations dated January 29, 2005, and March 24, 2005 (*see* Table of Correspondences Between Letter and Interrogations, *infra* at ¶ 50)

C. Corley Police Interrogation of January 29, 2005

48. Petitioner now will discuss the new evidence produced on December 7, 2023, beginning with the audio recording of the interrogation of Kittie Corley by investigator Allen Hendrickson of the Henry County Sheriff's Office conducted on January 29, 2005. (*See* Appendix H for the audio recording conventionally filed with the Court; Appendix I for the Certified Court Reporter transcription)

49. During this lengthy 27-minute interrogation, Kittie Corley confesses to being deeply implicated in a violent drug-trafficking gang led by her fiancé “Bam Bam” and to substantial involvement in the murder of C.J. Hatfield. During the course of the interrogation, Corley confesses to:

- Having almost exclusive access to the .38 caliber revolver that was apparently used to murder C.J. Hatfield. Corley was one of three people with access to the murder weapon. (Her proximity to the murder weapon is consistent with her having possession of the baseball bat in the Walker case.) Corley was the owner of the safe that the gun was kept in, which was used for myriad illicit activities (Appendix I, Transcription at p. 28, lines 4-15).

- Seeing Hatfield and Stuckey (the drug runners) leave for Atlanta prior to the murder (Appendix I, Transcription at p. 8, lines 21-22).
- Knowing the people in Atlanta (“Flex”) who made the drug transaction with Hatfield and Stuckey and knowing that the transaction was actually made (Appendix I, Transcription at p. 15, lines 6-7).
- Knowing which kind of gun Bam Bam, Mark Hammond, and Stuckey each carried. (Appendix I, Transcription at p. 31, line 15 through p. 34, line 3)
- Knowing where the drug gang met to drop off drugs and how long a drug transaction usually took. In fact, Corley says that most of the gang’s activities happened within fifteen minutes of her apartment, correcting the investigator’s suggestion that most activities occurred within fifteen minutes of downtown Dothan. It is obvious that Corley was, quite literally, central to the drug operations (Appendix I, Transcription at p. 26, lines 12-19).
- Knowing approximately where the Hatfield murder occurred in the outskirts of Dothan (Appendix I, Transcription at p. 6, line 20 through p. 7, line 13).
- Being deeply involved personally with the two leading suspects in Hatfield’s murder and with all of their drug dealings: “Bam Bam” (Scott Mathis), who she identifies as her “fiancé” (*see* Appendix I, Transcription at p. 4, lines 1-2); and Mark Hammond, for whom she served as an alibi and with whom she had sexual relations in the past. (*See* Appendix I, Transcription at p. 4, lines 11-12 and at p. 8, lines 6-7 “Corley: I screwed him [Hammond] once”; and “Hendrickson: Where had you and Mark been? Corley: I was supposed to be his alibi that night.”)
- Being accustomed to murder: “It was nothing for somebody to talk about killing folks, you know, back then, especially with the business that we were doing.” (Appendix I, Transcription at p. 24, line 18 through p. 25, line 2)
- Having severe mental disorders: “I have [dis]sociative disorder, and I’m a paranoid schizophrenic.” (Appendix I, Transcription at p. 20, lines 12-13) This not only is material evidence for Mr. Wilson standing alone, but it also further bolsters the veracity of the front side of the Corley letter, in which she acknowledges mental illness and claims insanity. (*See* Appendix C)

- Being suicidal: “I was hanging from a rope from a tree trying to kill myself.” (Appendix I, Transcription at p. 35, lines 8-9)
- Being callous and not caring about someone being shot dead: “I said, ‘What’d you do, kill somebody?’ And I was laughing about it.” (Appendix I, Transcription at p. 24, lines 14-16)
- Being familiar with finding guns for illicit purposes. (*See* Appendix I, Transcription at p. 33, lines 1-3, “The .38s were hard enough for us to find, let alone unregistered.”)

50. It is remarkable how much consistency there is between Corley’s various statements about the Hatfield murder, given her psychological challenges and the high-pressure, police-custodial environments in which her statements were taken. Most of the important themes on the back side of the Corley letter are corroborated by this (January 2005) and the following (March 2005) police interrogations. This consistency is evident from a side-by-side comparison of the Corley letter, the January 29, 2005 police interrogation, and the March 24, 2005, police interrogation, which can be visualized in the following table:

Table of Correspondences Between Letter and Interrogations

Back of Corley Letter (Appendix D, Certified Court Reporter Transcription at Appendix E)	Interrogation of 1/29/05 (Appendix H, Certified Court Reporter Transcription at Appendix I)	Interrogation of 3/24/05 (Appendix J, Certified Court Reporter Transcription at Appendix K)
<p>Corley is connected to the gun that was used as the murder weapon.</p> <p>“CJ got 3 bullets in him from a gun I bought.”</p> <p>(Appendix E,</p>	<p>Corley was one of three people with the key to the safety box where the gun was kept.</p> <p>“Corley: I’m one of the few people that has keys to my box. [...] There was me, Bam Bam, and Mark had a key. [...]</p>	<p>Corley kept Bam Bam’s gun in her safe.</p> <p>“Hendrickson: Where and when did you see that .38 Rossi?”</p> <p>Corley: When it was put in a box that I had for safe keeping.”</p> <p>(Appendix K, Transcription at p. 10, line</p>

<p>Transcription at p. 2, lines 2-3)</p>	<p>Because that's more or less where they would keep everything. Hendrickson: Okay. Did you go by Drew's and pick up your box? Corley: Yes, I did. When— Hendrickson: What was in your box when you picked it up? Corley: I didn't open it. I didn't want to know. When Bam Bam came over he said, 'I need the box.' I said, "Okay.' He opened it up. There was a gun. He said. 'I'm going to give it to Mark. He needs it.' I said, "Okay.' He gave it to Mark; Mark gave it back to me. I put it in the box." (Appendix I, Transcription at p. 28, line 7 through p. 29, line 10)</p>	<p>11-14) Corley had the gun at the time of her arrest. “Hendrickson: Do you know where that weapon was at when, you – I think that — is this gonna be the weapon that you spoke to me about that was in a safe when you got arrested? (Inaudible response.) Hendrickson: Okay. Where was it at when you got arrested? Corley: It was supposed to be in the apartment that I was staying at before I got locked up.” (Appendix K, Transcription at p. 11, lines 5-15)</p>
<p>Bam Bam and Hammond were the kingpins of the drug gang. “When call came in from David [Stuckey] about what C.J. wanted to do, (take the money and say they were robbed) I rode up with Bam Bam & Tank [Hammond].” (Appendix E, Transcription at p. 2, lines 4-7)</p>	<p>Hatfield and Stuckey went to Atlanta to pick up drugs for Bam Bam and Hammond. “Hendrickson: They were going to pick up some drugs for Bam Bam? Corley: And Mark and a couple of other people that I know of. [...] Hendrickson: Hold on just a second. So C.J., Stuckey went to pick up for who? C.J. and Stuckey to pick up – Corley: Bam Bam. Hendrickson: Uh-huh... Corley: Mark.” (Appendix I, Transcription at p. 15, line 19 through p. 16, line 9)</p>	<p>Bam Bam and Mark Hammond set up the trip to Atlanta for Hatfield and Stuckey. “Hendrickson: Do you know who set this trip up for C.J. and Stuckey to go to Atlanta? Corley: The boys, as always. Hendrickson: The boys. When you say ‘the boys’ – Corley: Bam Bam, Mark, the boys.” (Appendix K, Transcription at p. 19, lines 10-18)</p>
<p>Corley is Bam Bam’s girlfriend and closest intimate partner. “Bam Bam will follow through on his promises & threats. I have seen him in action before & I know how bad it will be for me & my child.” (Appendix E, Transcription at p. 3, lines 6-9)</p>	<p>Corley is Bam Bam’s fiancée “Hendrickson: Did you— I take it you knew— you dated Bam Bam for a while? Corley: Yes, sir. I’m his fiancé. Hendrickson: You’re his fiancé? Corley: It’s a twisted thing. I know. Hendrickson: You know what? Corley: I know who he’s with now. I’m still with engaged to him. I have his engagement and wedding band in my pocket. (Appendix I, Transcription at p. 4, line 22 through p. 5, line 12)</p>	<p>Corley would keep important items for Bam Bam in her safe. “Corley: I can’t tell you. I hardly went in the box, except for when I had to go get things for Bam Bam or other people that come back.” (Appendix K, Transcription at p. 16, lines 14-17) Bam Bam was the one who told her to keep the murder weapon in her safe. “Merritt: Why was this gun in your box?</p>

		<p>Corley: Why was it in my box? Because I was told to hold it. Merritt: By who? Corley: By Bam Bam.” (Appendix K, Transcription at p. 14, lines 16-21)</p>
<p>Corley was afraid to speak with law enforcement because she is afraid the drug gang would hurt her if they found out.</p> <p>“I can never testify & I will never testify even if I get the death penalty.”</p> <p>Appendix E, Transcription at p. 2, lines 20-22</p>	<p>Corley is afraid to speak to law enforcement for fear of retribution.</p> <p>“Hendrickson: Did anybody ever try to find you and talk to you as far as law enforcement, to your knowledge? Corley: Not to my knowledge. But if they find out, I'm dead anyway. Hendrickson: They find out what? Corley: They find out I talked to you, I'm a dead woman.” (Appendix I, Transcription at p. 38, line 19 through p. 39, line 6)</p>	<p>Corley is nervous to talk about Big Country, another one of her associates in the drug gang.</p> <p>“Corley: Big Country? There's several different ones here. Man, I am going to be in so much trouble. Big Country was a guy that used to work at Grands, was a nickname that they gave him, and he was a bouncer.”</p> <p>(Appendix K, Transcription at p. 34, line 20 through p. 35, line 2)</p>
<p>Hatfield and Stuckey were runners for the drug gang.</p> <p>“C.J. was a runner as was David for Mexican weed and coke & for drug boys in Dothan. They were coming back from a drop in Atlanta, Ga.”</p> <p>(Appendix E, Transcription at p. 2, lines 24-24 through p. 3, line 2)</p>	<p>Hatfield and Stuckey made a drug run to Atlanta for the drug gang.</p> <p>“Hendrickson: Are you aware of any trip that was allegedly made to Atlanta? Corley: Yes, sir. Hendrickson: Was that trip made, to your knowledge? Corley: Yes, sir. Hendrickson: How do you know it was made? Corley: Because I seen them leave. Hendrickson: Who? Corley: Stuckey and C.J. got in the truck.”</p> <p>(Appendix I, Transcription at p. 8, line 12 through p. 9, line 2)</p> <p>Hatfield and Stuckey made drug runs regularly</p> <p>“Corley: It wasn't the first time C.J. and Stuckey had to make a run.” (Appendix I, Transcription at p. 17, lines 17-19)</p>	<p>Hatfield and Stuckey made a drug run to Atlanta for the drug gang.</p> <p>“Hendrickson: We're going to go into a little more of the last interview now. Was you aware of a trip that Stuckey and C.J. made to Atlanta prior to his death? Corley: Yes, sir. Hendrickson: What do you know about the trip? Corley: It was supposed to be a drug run. They was supposed to go to Atlanta to buy some drugs so that they could bring it back and we could sell it.”</p> <p>(Appendix K, Transcription at p. 16, line 19 through p. 17, line 6)</p>
<p>Bam Bam and Hammond (“Tank”) are primarily responsible for and are the main</p>	<p>Bam Bam received a phone call about Hatfield wanting to steal money and</p>	<p>Mark Hammond's truck was used for the Hatfield murder.</p>

<p>masterminds behind the murder of Hatfield.</p> <p>“I rode up with Bam Bam & Tank. [...] I could see Bam Bam raise the pistol and fire, I did not know he was firing at C.J. till I saw C.J. go down.”</p> <p>(Appendix E, Transcription at p. 2, lines 6-13)</p>	<p>responded by seeking out Mark Hammond to kill Hatfield.</p> <p>“Corley: When they came back, there was a phone call that Bam Bam had on his cell phone that was a pre-paid phone. Hendrickson: Okay. Corley: And he looked at me. He said, ‘We have a problem.’ ‘What are you talking about?’ ‘Well, we have a problem. We were in Grand.’ I said, ‘Well what is it?’ He said, ‘somebody wants to skip me out of my money. They either don’t want to give me my money or give me my product.’ And Bam Bam never played with his money. I said, ‘Okay.’ He said, ‘I’m getting Mark.’ I said, ‘Okay.’”</p> <p>(Appendix I, Transcription at p. 9, line 12 through p. 10, line 7)</p> <p>Bam Bam told Corley he had dealt with Hatfield.</p> <p>“Hendrickson: Did Bam Bam ever tell you anything about what happened when they met up this time? Corley: He just said it was dealt with. He said anything but— Hendrickson: Did they say – did he ever say how he dealt with it? Corley: It was a present. He got a gift, some .38 gun, .38 Special to be specific. Hendrickson: Who did? Corley: Bam Bam. [...] Hendrickson: He said he dealt with it with his gift? Corley: He dealt with it with a gift, and I never thought anything about it.” (Appendix I, Transcription at p. 22, line 21 through p. 23, line 22)</p> <p>Bam Bam got rid of evidence from the murder of Hatfield.</p> <p>“Corley: And Bam Bam wasn’t—he was normal. He would – he wasn’t upset. He wasn’t freaking. He was just okay. But all the clothes that they had, Bam Bam put in a garbage bag. [...] He bagged everything up, and he put it in his Bronco. I asked again. You know,</p>	<p>“Hendrickson: And why was your – why did you think Mark Hammond’s truck needed to be looked at about this murder? Corley: Because there was a great possibility that it had been used to either take to and fro evidence that might still be in there.”</p> <p>(Appendix K, Transcription at p. 4, lines 5-12)</p> <p>Mark Hammond and Bam Bam got rid of evidence, including Hatfield’s clothes, together.</p> <p>“Hendrickson: Can you describe those clothes that Bam Bam put in a garbage bag and if you know who they belonged to? Corley: I know it was a pair of bluejeans and a dark colored shirt. I can’t ID it specifically, but it was supposed to have belong to Mr. Hatfield. Hendrickson: It was supposed to have belonged to Hatfield? Corley: And they also had their clothes as well. Hendrickson: Do you know what their clothes were? When you’re referring to “their,” who was their? Corley: Mark and Bam Bam.”</p> <p>(Appendix K, Transcription at p. 6, lines 5-21)</p> <p>Bam Bam told Corley to hold on to the murder weapon.</p> <p>“Merritt: Why was this gun in your box? Corley: Why was it in my box? Because I was told to hold it. Merritt: By who? Corley: By Bam Bam.” (Appendix K, Transcription at p. 14, lines 16-21)</p> <p>Mark Hammond said that he had taken care of Hatfield.</p>
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	<p>‘Trash.’ I said, ‘Well, why don't you just’ — ‘Well, no we'll take care of it. You know, I’ve got to take the trash out anyway.’ Bam Bam hardly ever took out trash. But I couldn't question him [...] I don't know if he threw them away or what, but he threw away his favorite pair of pants.” (Appendix I, Transcription at p. 35, line 11 through p. 36, line 20)</p>	<p>“Hendrickson: What did Mark Hammond tell you that he’d done in regards to shooting C.J. Hatfield? Corley: Said that he needed it to be dealt with and that he had shot him and that we didn't have to worry about it anymore.” (Appendix K, Transcription at p. 20, lines 14-20)</p>
<p>Hatfield wanted to steal Bam Bam’s money and say that he and Stuckey had been robbed.</p> <p>“When call came in from David about what C.J. wanted to do, (take the money and say they were robbed) I rode up with Bam Bam + Tank.” (Appendix E, Transcription at p. 2, lines 4-7)</p>	<p>Hatfield wanted to get away with stealing the money from the drug drop in Atlanta.</p> <p>“Corley: He told me that Stuckey and C.J. was going up there. C.J. told Stuckey that they would make a lot more money if they just told us they got robbed, and all they would have to do is beat each other up, and we’d believe them. Well, C.J. kept on pushing and pushing. He was just like that sometimes. You know, he was fun and crazy, but when he had an idea stuck in his head, he was going for it. When I asked Bam again, I said, ‘Well, did – what did he do, you know? Tell me what’s going on.’ He told me that C.J. thought he could get away with it. And Stuckey called him on his cell phone and told him what was up so that they’d know when they got there so if something was missing, we couldn’t blame it on Stuckey.” (Appendix I, Transcription at p. 13, line 11 through p. 14, line 7)</p>	
<p>Stuckey did not kill Hatfield.</p> <p>“C J Hatfield was murdered that's true, but David Stuckey did not do it.” (Appendix E, Transcription at p. 2, lines 1-2)</p>		<p>Mark Hammon said that he killed Hatfield.</p> <p>“Hendrickson: Did Mark Hammond ever tell you that he shot C.J. Hatfield? Corley: Yes” (Appendix K, Transcription at p. 20, lines 10-13)</p>
<p>Bam Bam is a violent and dangerous drug-dealing criminal.</p>	<p>Corley was afraid to question Bam Bam, her fiancé.</p>	

<p>“Bam Bam told me not to talk or he will kill my child and me.” (Appendix E, Transcription at p. 2, lines 13-14)</p> <p>“If Bam Bam does not kill me, one of his friends will.” (Appendix E, Transcription at p. 2, lines 22-23)</p> <p>“David is afraid of Bam Bam as is everyone else.” (Appendix E, Transcription at p. 3, lines 3-4)</p>	<p>“Corley: It was my old man. I was always taught [...] You don’t question your old man, especially when you do dealings like this. You question, and you wind up dead.”</p> <p>(Appendix I, Transcription at p. 38, lines 12-17)</p>	
<p>Corley knows all about the drug trafficking business and is an integral part of it</p> <p>The entire back side of the Corley letter reflects her intimate knowledge of and involvement in the drug trafficking business.</p> <p>(See Appendix E)</p>	<p>Corley knew well how long a drug transaction usually takes.</p> <p>“Corley: Atlanta. They had to make the deal. They had to make the transition, which usually takes about two to three hours to make contact, make the transition, make sure everything’s good and then come back. So we weren’t expecting them until later.” (Appendix I, Transcription at p. 11, lines 9-15)</p> <p>Corley knew all of the details of the Atlanta transaction</p> <p>Hendrickson: [...] Does anybody know if they actually went to Atlanta? Corley: From what I understand, yes. He contacted the guy up there, and he made the delivery. They made the drop off. Hendrickson: Who was the – so they wasn’t robbed in Atlanta? Corley: No, sir. Hendrickson: Okay. So somebody in Atlanta did deliver them their narcotics? Corley: Yes, sir. Hendrickson: Who delivered the narcotics in Atlanta? Corley: That I know of? Hendrickson: Uh-huh. Corley: It’s – we call him Flex. I don’t know names. I have no idea.</p>	<p>Corley is a central player in the drug business</p> <p>“Hendrickson: Did that trip happen, to your knowledge? Corley: To my – to my knowledge, yes sir. Hendrickson: Okay. How do you know it happened? Corley: Because, at the time, when they was getting ready to leave, everybody was around talking about it making sure that the plans were right. I mean, the trip had been planned. The funds had been given out. We were to be called on their way back. We was to be called when they got there, you know, how much they scored exactly. You know, everything was supposed to weigh out with what we all were supposed to know.” (Appendix K, Transcription at p. 17, lines 7-23)</p> <p>Corley has been involved in many drug runs</p> <p>“Hendrickson: Evening. And typically when they left in the evening, how long did it take them to go up and come back?</p>

	<p>Hendrickson: They went to Atlanta. Somebody by the name of Flex did make the drop.</p> <p>Corley: He wasn't my contact; he was Bam's. (Appendix I, Transcription at p. 14, line 11 through p. 14, line 7)</p> <p>Corley knew about the gang's meeting places.</p> <p>"Hendrickson: They always met right around –</p> <p>Corley: Within a 15-minutes area. They would –</p> <p>Hendrickson: Of downtown Dothan?</p> <p>Corley: Basically from my apartment, yeah." (Appendix I, Transcription at p. 26, lines 12-19).</p>	<p>Corley: It's supposed to be a six-hour trip, but it could take him – it normally took them about 12, 10 to 12, to get down there, get everything that was...–"</p> <p>(Appendix K, Transcription at p. 20, lines 1-9)</p> <p>Corley believed that the gang was like a brotherhood and identified with it.</p> <p>"Corley: It was kind of like a brotherhood. One of us needs help, you call another person. Now I've never heard of any one of us coming out and helping each other like this. Because this is just ludicrous. But if they needed help and they knew that they couldn't do it on their own, we've all swore oaths to each other if we all needed help, that's what we would do." (Appendix K, Transcription at p. 40, lines 7-16)</p>
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51. These consistencies reveal that whoever wrote the Corley letter had direct access to Corley's brain: in all likelihood, it was Kittie Corley, as the State of Alabama investigated, concluded, and maintained for nineteen years.

52. To be sure, despite the jury verdict at trial, there remain inconsistencies regarding the murder of Mr. Walker, not the least of which is the identity of the perpetrator of the 114 bat blows to Mr. Walker's body. Given that the State of Alabama used multiple different theories of how, where, and who killed Mr. Hatfield, there are also wild inconsistencies in "what actually happened" in the murder of C.J. Hatfield—which is why multiple suspects were convicted for the

Hatfield murder on different theories (one theory that he was killed in the woods, another that his body was transported to the woods).

53. As the January 29, 2005 interrogation makes clear, it is unsurprising that there are some inconsistencies in Corley's recounting of the murder because Corley admits that she has dissociative personality disorder and paranoid schizophrenia, which would impact her ability to provide cogent and consistent testimony at various points in time. (Appendix I, Transcription at p. 20, line 12 through p. 21, line 4: "Corley: That's not gonna help. I'm a — I have associative disorder and I'm a paranoid schizophrenic and I'm sitting here talking to a police officer. It's nerves [...] I have a straight mind it's just my system goes into shock sometimes.")

54. In Respondent's most recent Response, the Attorney General claims that there are discrepancies between the Corley letter and "what actually happened" (*see* Doc. 86 at pp. 6-7). Regarding the back side of the Corley letter, for instance, the Attorney General attacks the Corley letter for "mis-naming the gunman, James Adger Stuckey, as 'David.'" (Doc. 86 at p. 6)

55. This argument is preposterous for several reasons. First, as a factual matter, the gang members in Bam Bam's drug ring have so many aliases, nicknames, and code names that it is ridiculous to assume that Stuckey might not have gone by "David" to Corley. Mr. Stuckey went by multiple aliases, including James and Jason

(see Appendix Q at p. 6), as well as different spellings of his middle name, even within law enforcement records, as it is spelled “Adger” according to the Alabama Public Access to Trial Court Records (see Appendix R), and as “Adgar” in the Alabama Department of Corrections Incarceration Details page (see Appendix S). In Exhibit A to Respondent’s recently filed “Response to Order and Motion for Extension,” a presentencing report on Mr. Stuckey, the Alabama Board of Pardons and Paroles lists Mr. Stuckey on the first page of their report as “James” (Doc. 84-1 at p. 2, also attached as Appendix F at p. 3), while on the second page *of the same report*, Mr. Stuckey is called “Jason Stuckey.” (Doc. 84-1 at p. 3, Appendix F at p. 4) It is evident that the names of these characters are so confusing that even law enforcement officers tasked with providing a comprehensive risk assessment of Stuckey are unable to ascertain his true name. It is preposterous to attack the Corley letter merely because Corley called Stuckey by the wrong legal name. With such wide-ranging aliases in the drug ring as “Ghost, Iceman, Ice, Tank and Czar” (Appendix N, Police interview worksheet of Vroblick interrogation), and “Big Country” and “Fat Nasty” (Appendix K, Transcription at p. 36), there is no good reason to believe that Corley did not know Stuckey as “David” or, for that matter, that Corley ever knew his Christian name. In fact, Corley’s inability to keep the names of her co-conspirators straight should, contrary to Respondent’s intimations, suggest that the letter was indeed written by her own hand. Kittie Corley herself

admits, in the interrogation from March 24, 2005, that: “I don’t know a lot of names. If I know your nickname, I’m doing good.” (Appendix K, Transcription at p. 35, lines 5-7) It would be completely normal for Corley to have lost track of her co-conspirators’ legal names, to never have known them, or to confuse them.

56. More importantly, some inconsistencies are likely *because Kittie Corley is talking to different audiences*: in the Corley letter, she is trying to obtain an attorney, so Corley is writing to an attorney under the belief that there is an attorney-client privilege. Corley is more forthcoming and honest with her own potential attorney. In the interrogations, Corley is talking to the police and trying to avoid the most serious charges. This may explain why she confesses to being present and witnessing the fatal shooting of Hatfield in the Corley letter to her potential attorney, but does not tell the police that she was present at the murder in her police interrogations. (But note that, at various points in the interrogations, despite her attempt to speak as if all of her information came second hand, she offers details from the murder, such as the type of jewelry that Hatfield was wearing, the clothes that C.J. Hatfield, Bam Bam, and Mark Hammond were wearing, the fact that the two men urinated next to the body, which only someone who was present would have known.) Most of the discrepancies are fully explainable by *the different audiences* to whom she is speaking. The Corley letter is likely to be the most honest and truthful of her statements, given that she believed that she was writing to her

own future attorney and that the communications would be privileged and confidential, covered by the attorney-client relationship. In any event, these different confessions corroborate each other remarkably.

57. Regarding the front side of the Corley letter, Respondent claims that there are discrepancies concerning the bat: “the letter states that Corley disposed of the murder weapon, but the bat was not disposed of. Wilson directed police to its location, they recovered it, and he identified it during his confession.” (*See* Doc. 86 at ¶ 3 *and* at p.7 n.4.) Respondent cuts-and-pastes this in, twice actually, in Doc. 86, from a previous pleading, Respondent’s Response to the Third *Brady* Motion, *see* Doc. 73 at ¶ 7. Petitioner has already addressed this frivolous argument at length in his Reply to Respondent’s Opposition to his Third *Brady* motion and refers the Court to the last round of pleadings, specifically to Doc. 75 at p. 21-23.

58. Respondent also claims discrepancies concerning the stolen property: “Similarly, the letter’s author stated that Corley had “pawned everything ... and split the money” with her accomplices. *Id.* at ¶ 7. But the evidence at trial established that the stolen goods were divvied between the accomplices, with Petitioner taking multiple items that were recovered from his home.” *See* Doc. 86 at ¶ 3 *and* at ¶ 13. Again, Respondent cuts-and-pastes this passage in, again twice here, from an earlier pleading, *see* Doc. 73 at ¶ 7. Petitioner has previously addressed this equally

frivolous argument in detail in his Reply from the last round and refers the Court to the last round of pleadings, specifically to: Doc. 75 at p. 18-21.

59. At a more general level, the Attorney General's claim to know "what actually happened" in these two murders is legally irrelevant. There is no legal significance to what the Attorney General believes "actually happened," or for that matter what Petitioner believes: all that matters, legally, in federal habeas corpus, is ***what a reasonable juror would have believed based on all the evidence***. In other words, what a reasonable juror would have believed about the role of Kittie Corley in the murder of Dewey Walker in light of both sides of the Corley letter, all these new revelations from December 7, 2023, and all the contested and inconsistent evidence, ***including evidence from the mouth and hands of Kittie Corley, presented fully and fairly to a jury***.

D. Corley Police Interrogation of March 24, 2005

60. The next piece of new evidence produced on December 7, 2023, is the police interrogation of Kittie Corley by investigator Allen Hendrickson of the Henry County Sheriff's Office and Tommy Merritt of the Alabama Bureau of Investigations conducted on March 24, 2005. (See Appendix J for the audio recording filed conventionally; Appendix K for the Certified Court Reporter transcription of the interrogation) During this second, lengthy, 33-minutes long interrogation, Kittie Corley again confesses to deep involvement in the violent drug

ring and to substantial involvement in the murder of C.J. Hatfield and its aftermath.

During the course of the interrogation, Corley

- Confesses to having had possession of the murder weapon in the Hatfield case (Appendix K, Transcription at p. 10, lines 11-20).
- Identifies the exact murder weapon (the “blue-plated type,” “dark color not silver” .38 caliber revolver), which is shown to her (Appendix K, Transcription at p. 13, lines 14-15). Corley says that she kept it in a lock box that she had exclusive access to along with Bam Bam and Hammond.
- States that she got the lock box because “I was also holding some narcotics for other people.” (Appendix K, Transcription at p. 14, lines 8-9)
- Admits that, among her drug-dealing conspirators, “between all the boys, we pass knives and guns off all the time.” (Appendix K, Transcription at p. 11, lines 20-21)
- Confesses to planning to sell the drugs that Hatfield and Stuckey were supposed to have brought back from Atlanta (Appendix K, Transcription at p. 17, lines 4-6).
- Says that she was involved in the planning and execution of the drug run to Atlanta (Appendix K, Transcription at p. 17, lines 13-23).
- Says that Hammond told her that he killed Hatfield and said “that he needed it to be dealt with and that he shot him and that we didn’t have to worry about it anymore.” (Appendix K, Transcription at p. 20, lines 17-20).
- Admits knowing that Mark Hammond’s truck was involved in the murder of Hatfield and being able to identify the truck (Appendix K, Transcription at p. 4, line 13 through p. 5, line 17).
- Says that she saw Bam Bam hide evidence involved in the murder of Hatfield and that she was able to roughly identify the evidence (Appendix K, Transcription at p. 6, line 1 through p. 9, line 15).
- Confesses to being involved in illicit drug activities since she was less than eleven years old (Appendix K, Transcription at p. 12, line 12 through p. 13, line 2).
- Admits that she saw the murder weapon for the last time a week before Hatfield was murdered (Appendix K, Transcription at p. 11, lines 3-4).

- Admits knowing the habits and law-evading tactics of the drug ring (Appendix K, Transcription at p. 21, lines 10-16).
- Admits knowing who was with Hammond when Hammond shot Hatfield (Appendix K, Transcription at p. 21, lines 17-22).
- Admits knowing that Hammond gave Sarah Drescher the jewelry that Hatfield was wearing and knowing the type of jewelry it was (Appendix K, Transcription at p. 26, line 7 through p. 28, line 19).
- Admits knowing that Hammond and Stuckey urinated next to Hatfield's body (Appendix K, Transcription at p. 29, line 20 through p. 30, line 1).
- Admits being in constant contact with members of the drug ring on the outside and even while incarcerated (Appendix K, Transcription at p. 23, line 12 through p. 25, line 20).

61. Kittie Corley's knowledge concerning the Hatfield murder here and in the January 29, 2005 interrogation, closely corroborates the back side of the Corley letter. In Petitioner's case, Kittie Corley is the only other individual who had access to Mr. Walker around the time of his murder. Corley's evident comfort with violence, drug dealing, guns and knives, and murder is profoundly material to Mr. Wilson's case.

E. The "Dearest David" Letter

62. The next new piece of evidence produced on December 7, 2023, is a two-page "Dearest David" letter that was written by Kittie Corley (*see* Appendix L for the "Dearest David" letter; Appendix M for a Certified Court Reporter transcription of the letter). The letter was seized by Sgt. Luker on September 30, 2004 (*see* Doc. 76-24 at PDF 16, Bates 3857). It is undated, but was probably written

around that time, two months after the Corley letter. It was used by the U.S.P.S. handwriting expert and has the expert's markings on it. In the letter, Kittie Corley apologizes for being responsible for the Walker murder and for Mr. Wilson's incarceration. In the new "Dearest David" letter, Corley

- Says that Corley and the other co-defendants were badly intoxicated during the entire week during which the Walker murder occurred: "we were all High + drunk. And to my knolage you or I didn't stop drinking all week. But then were all were partying pretty hard." (Appendix M, Transcription at p. 2, lines 7-10, underlining in original)
- Apologizes for the Walker murder: "I am sorry for all of this. I really am sorry we are all up in here." (Appendix M, Transcription at p. 2, lines 19-21)
- Writes "I will not let them give you time on b-s," which suggests that Mr. Wilson did not commit the murder but Corley did. (Appendix M, Transcription at p. 3, lines 2-3)
- Writes "You were Right about it all. I owe you big time," which suggests that Mr. Wilson had taken the fall for her actions in the murder of Mr. Walker, and in fact, might have attempted to stop her. (Appendix M, Transcription at p. 3, lines 19-20)
- Writes "look bro I will help you as much as I can. This is all a big mess that should Never have gone this far," which is consistent with the fact that Mr. Wilson was less culpable. (Appendix M, Transcription at p. 3, lines 12-15)
- Expresses fondness for David and suggests that they had an intimate relationship. Corley writes, referring to the piece of paper she is writing on, "Oh hope you like the paper. Amazing what you can do with Now & Later paper & clear deoterant. huh. You & your girl ok." (Appendix M, Transcription at p. 2, lines 13-15)

63. Throughout the "Dearest David" letter, Corley writes as if she is responsible for the murder of Mr. Dewey Walker.

64. Corley's admission that she considers herself Mr. Wilson's girlfriend ("You & your girl ok") suggests that she believed they were on intimate terms. This supports this Court's suggestion, in its opinion dated June 21, 2023, that Mr. Wilson may have been trying to protect Corley (*see* Doc. 79 at p. 9-10, n.4). It confirms the Court's suggestion that Mr. Wilson may have taken responsibility for Corley's actions and did not mention her bludgeoning the victim with the bat when he was interrogated by the police on April 14, 2004, because of their intimate relationship. As this Court noted, there was independent evidence in the record to support this fact: "At a hearing more than a year before trial, [... o]ne of the appointed attorneys informed the trial court that she had 'suspicions about a codefendant and a possible relationship [Petitioner] has with that co-defendant that might be influencing his decision and influencing the reason why he doesn't want us to be his lawyer.'" (Doc. 79 at p. 10, n.4, citing record at Doc. 76-6 at PDF 23, Bates 1028) This is consistent with Corley writing, in her "Dearest David" letter "You are the only on [sic] I can trust. I am sorry I didn't listen to you earlyer [sic]. You were Right about it all. I owe you big time." (Appendix M, Transcription at p. 3, lines 17-20)

65. Corley is also writing as if she is trying to coordinate a defense with Mr. Wilson and is at greater risk. She seems to feel that Mr. Wilson is no longer cooperating with her and has not responded to her earlier two letters. Corley seems to be trying to coax Petitioner into a joint defense: "I don't believe you did this. And

I have an Alibi. So who did it. Steve wrote Jen Jen & said you had told them someone else was. There. But they have to prove you were there at all. like me. No proff o well right.” (Appendix M, Transcription at p. 3, line 25 through p. 4, line 5) After that, Corley tries to butter him up. “I figure you are pissed at me. Why? I wasn’t the one who put us in here. I was Narked out too. Someone narked out my house and my full name. But I will find out soon enuff. Motion of discovery.” (Appendix M, Transcription at p. 4, lines 7-12)

66. The constant theme throughout her “Dearest David” letter is that Corley believes she is more culpable. As she states, “I am sorry for all of this.”

F. The Police Interview Worksheet re. Joan Vroblick

67. The Attorney General next produced notes from a police interrogation of Joan Dixia Vroblick dated August 3, 2004. The document, a “police interview worksheet,” is attached as Appendix N; a Certified Court Reporter transcription of the document is attached as Appendix O.

68. Joan Dixia Vroblick, referred to elsewhere, by law enforcement, as Joan Ann Vroblick (*see* Doc. 76-24 at PDF 16, Bates 3857), was the jail cellmate of Kittie Corley while Corley was awaiting trial for the murder of Mr. Dewey Walker.

69. The interrogation of Vroblick would have occurred one week prior to Corley writing the Corley letter. The interrogation was conducted by Troy Silva and

Nick Check, of the Henry County Sheriff's Department. Note that the *Slate* article on the Hatfield murder (Appendix Q) states that "The Hatfield case was handled at its outset by an old hand from the Alabama State Bureau of Investigation named Tommy Merritt and Troy Silva, a young detective from the Henry County Sheriff's Office who had never before investigated a murder." (Appendix Q at p. 6).

70. The interview worksheet indicates that Kittie Corley told Vroblick about the Hatfield murder. Vroblick reports to the police that "Kathleen" Corley, whom she also refers to as "Kitty" (presumably a misspelling for "Kittie"), told her:

- "Bam Bam killed C.J." (Appendix N at p. 3; Appendix O, Transcription at p. 7, line 7)
- Something about "C.J., Stucky" (who were the drug runners who went to Atlanta). (*Id.*, line 8)
- Something about "Bankhead Highway, Atlanta." (*Id.*, line 10)
- Pertinent information about an extensive list of drug dealers, including "Ghost, Iceman, Ice, Tank and Czar," as well as "Jessy," C.J., and Stuckey. (*Id.*, lines 9-12)
- Additional information about "DOC" and "MGR Trucking." (*Id.*, lines 10 and 12)

71. This extensive information and the detailed and correct list of aliases confirm, first, that Kittie Corley was at the heart of a violent drug ring headed by "Bam Bam" (her fiancée); and second, that Corley trusted Vroblick and told her everything about the Hatfield murder.

72. In his Response, the Attorney General emphasizes that Kittie Corley purportedly did not trust Joan Vroblick and would not have given her the Corley letter (*see* Doc. 86 at ¶ 9). In the Attorney General’s new affidavit, Corley swears that she would not have trusted Ms. Vroblick: “Nor would I have trusted Ms. Vroblick with any letter because she had a reputation among the jail inmates as a forger who could not be trusted.” (Doc. 86-1, ¶ 6)

73. The police interview worksheet completely contradicts the sworn statement that the Attorney General filed with this Court. It also corroborates that Kittie Corley wrote the Corley letter: Corley was the only person who had the information that was in the Corley letter, and, as Sgt. Luker found, the Corley letter “contained details of the murder of Dewey Walker which only the perpetrators would have known.” (Doc. 76-24 at PDF 16, Bates 3857) If, as the Attorney General claims, Corley never spoke to Vroblick because she did not trust her, then *how did Vroblick get the detailed information needed to write the Corley letter? If Corley did not trust Vroblick enough to give Vroblick the letter, then Corley would not have trusted Vroblick enough to tell her all the details of the crime.* How would Vroblick have known about the bat, Matt Marsh, the stereo equipment, the van, Old Dewey, Bam Bam, Stuckey, the gun, C.J., the drop in Atlanta, the truck, Ghost, Iceman, Ice, Tank and Czar? How did Vroblick get all those details to write the Corley letter if Corley would not trust her enough to talk to her? If indeed, as the Attorney General

contends in the Corley affidavit, Corley did not trust Vroblick, *then there is no one else who could have written the Corley letter. It had to have been Corley who wrote the letter.*

74. In sum, the police interview worksheet of Joan Vroblick documents that Kittie Corley trusted Vroblick and confessed to Vroblick. *The worksheet establishes that Corley perjured herself in her new affidavit.*

G. The Corley Affidavit

75. The Attorney General next produced the affidavit by Kittie Corley sworn and signed on June 29, 2023, in which she claims that the Corley letter was a forgery by Joan Vroblick. (Doc. 86-1) It is likely perjurious and self-serving. Kittie Corley has a parole date on the horizon, now less than a year away (*see Appendix A*). There is no reason to believe anything Corley swore to in her affidavit.

76. In recent months, there has been increased attention to the diminishing parole grant rate by the Alabama Board of Pardons and Paroles, including paroles for people who are in work-release programs (as is the case with Corley) and who usually are considered prime candidates for parole. *See Mike Cason, Report says even low-risk inmates unlikely to get parole in Alabama, AL.com (September 21, 2023), <https://www.al.com/news/2023/09/report-says-public-safety-concerns-do-not-justify-alabamas-low-parole-rate.html>.* In fact, there is an ongoing lawsuit against the State of Alabama, filed in the United States District Court for the Middle

District, in which individuals in ADOC custody are accusing the state of denying eligible persons parole in order to profit from leasing out their labor. *See* Michael Levenson, *Prisoners Sue Alabama, Calling Prison Labor System a 'Form of Slavery'*, N.Y. Times, (Dec. 12, 2023), available at <https://www.nytimes.com/2023/12/12/us/alabama-prisons-lawsuit-labor.html>.

Given the controversies surrounding parole in Alabama, it is only logical that Kittie Corley would seek to ingratiate herself in any way possible with the Alabama Attorney General at this time.

77. To be sure, the new Corley affidavit could not have been turned over at the time of trial because it did not exist at the time. However, at this point in Petitioner's case, it is relevant to the *Brady* claim regarding the original Corley letter, in which Corley admits that she, and not Mr. Wilson, "grabbed the baseball bat & hit Dewey with it till he fell." (*See* Appendix C, Transcription at p. 2, line 23)

H. Excerpts from James Stuckey Clerk's File

78. As an exhibit to the prior "Response to Order and Motion for Extension" (Doc. 84), the Attorney General filed an excerpt from James Stuckey's Clerk's file. (*See* Appendix F; also Doc. 84-1, Exhibit A to Doc 84). The document is a "Report of Investigation" ("PSI") by the Alabama Board of Pardons and Paroles dated March 31, 2010.

79. The Attorney General filed the excerpt as a basis for arguing that there are factual discrepancies between “what actually happened” in the two murders and what Corley says happened (*see* Doc. 84 at ¶ 3).

80. But the information in Doc 84-1 actually corroborates the information that Corley provided to the police, both in the interrogations and in the Corley letter, namely that she was a handler of the Hatfield murder weapon.

81. In the interrogation of Kittie Corley on March 24, 2005, Corley notes that Andrew White had possession of the safe box containing the gun (*see* Appendix K, Transcription at p. 16, lines 7-9, “Corley: Well, it went from Drew to Mark, back to Drew, then Bam Bam, and I got it back”). This is consistent with the PSI report which indicates that Andrew White was the person who turned over the handgun to the police: “Late Monday night, Henry County Authorities were contacted by Andrew White, who released to authorities a Taurus handgun believed to have been used to shoot Hatfield. It was determined that White received the weapon from Hammond and Mathis on Sunday March 14, 2004 and that Mathis had received instruction from Stuckey to dispose of the weapon.” (Appendix F at p. 4) The PSI adds that the police obtained an “empty Taurus handgun box with a serial number that was traceable to Stuckey.” (Appendix F at p. 4)

82. This is all consistent, too, with Corley identifying the .38 gun, which was allegedly the murder weapon, in her interrogation by Hendrickon and Merritt

on March 24, 2005. That gun is identified as a Rossi .38, but Rossi and Taurus effectively merged in the 1990s. The PSI corroborates Corley's admissions about the murder weapon being in her possession.

83. As a result, the PSI is favorable and material evidence for Petitioner. Any slight discrepancies do not lessen the importance to Mr. Wilson of evidence that Kittie Corley has openly confessed, seemingly without remorse, to possessing, handling, and providing the murder weapon in the Hatfield case.

III. The New Evidence Demands More Discovery

84. In this Part, Petitioner will document how the new evidence turned over on December 7, 2023, now requires the production of additional evidence.

A. Corley Police Interrogation of January 29, 2005

85. The Attorney General produced the audio recording of the Corley interrogation of January 29, 2005, but failed to produce the police transcription. It has to be the case that the police made a written transcription of the interrogation. The police transcription is relevant, important, and material because it reflects the expertise of the law enforcement agency for purposes of the interpretation of what was said and because it reflects the state's understanding of what was said. Two listeners might hear a certain word or a mumbled phrase differently, which would lead to different interpretations. The transcription provides favorable, material

information that the audio recording does not, namely how the police and prosecution interpreted Corley's statement. (It is likely that the prosecutors never actually listened to the recordings, but only read the transcription.) For this reason, Respondent should be ordered to produce the police transcription of the interrogation.

86. At the beginning of the interrogation, Hendrickson seems to refer to the Corley letter when he tells Corley that "the reason I got you brought down here is I wanted to interview you as a witness to a – to a case. I understand you might have some information or an item that I might want in reference to a case." (*See* Appendix I, Transcription at p. 2, lines 12-17) It is probable that the "item" he is referring to is her written confession, the Corley letter. During the entire interrogation, there is no indication by Hendrickson that the Corley letter is not authentic. Hendrickson may be a witness regarding the authenticity of the Corley letter. For this reason, it is necessary for Petitioner to depose Hendrickson. Section (c) of Rule 6 of the Rules Governing § 2254 Cases contemplates that a federal judge may grant a party leave to take a deposition under the Federal Rules of Civil Procedure. This Court should grant Petitioner an opportunity to depose Hendrickson. Petitioner has attached a proposed notice of deposition. (*See* Appendix U)

B. Corley Police Interrogation of March 24, 2005

87. For the reason stated in paragraph 85 above, Petitioner is entitled to the official police transcription of the Corley interrogation of March 24, 2005.

88. In addition, the March interrogation suggests there were other interrogations *after* the January 29, 2005 interrogation but *before* the March 24, 2005 interrogation.

89. At the March 24, 2005, interrogation, investigator Hendrickson mentions to Kittie Corley: “Last time you told me you thought Mark Hammond’s truck needed to be looked at; is that correct?,” to which she responds “Yes, sir.” (Appendix K, Transcription at p. 4, lines 1-4). Corley did not tell Hendrickson that Hammond’s truck needed to be looked at in the January 29, 2005 interrogation. So there had to be another interrogation between the two.

90. At the March 24, 2005, interrogation, investigator Hendrickson mentions that Corley had previously mentioned the name “Andrew White.” Hendrickson says: “last time, you also told me that Andrew White had possession of that box at some point in time; is that correct? Can you cover when Andrew White had possession of that box?” (Appendix K, Transcription at p. 15, lines 12-16) However, the January 29, 2005, interrogation makes no mention of “Andrew White.” There is a mention of a “Drew” but Corley never says there that “Drew” is “Andrew White.”

91. Petitioner suspects that this “Andrew White” is the same Andrew White who is mentioned in the “Excerpts from James Stuckey Clerk’s File” that Respondent included as Exhibit A to Doc. 84, filed on November 16, 2023 (Doc. 84-1, also attached as Appendix F). According to Doc 84-1, a sentencing report, Andrew White was associated with Corley’s drug ring, and he was the one who turned over the handgun from Bam Bam and Hammond to the authorities. That report reads: “Late Monday night, Henry County Authorities were contacted by Andrew White, who released to authorities a Taurus handgun believed to have been used to shoot Hatfield. It was determined that White received the weapon from Hammond and Mathis [Bam Bam] on Sunday, March 14, 2004 and that Mathis had received instruction from Stuckey to dispose of the weapon.” (Appendix F at p. 4) Since there is no mention of “Andrew White” in the January interrogation, there had to have been other interrogations of Kittie Corley between the two. Petitioner is entitled to production of those other interrogations.

92. In the March 24, 2005, interrogation, investigator Hendrickson says that “let me put it on the record that we’re not here to try to prosecute you or question you about your old – your current charges that you have or come back and try to prosecute you about drug charges. Okay? So I’d like that to be out there and known. I think I told you that last time also. We just like to document that. Okay?”

(Appendix K, Transcription at 15, lines 3-11). Hendrickson had *not* said that or mentioned anything about non-prosecution in the January 29, 2005, interrogation.

93. All of these discrepancies demonstrate that there are likely one or more other interrogations of Kittie Corley between January 29, 2005, and March 24, 2005, that have not yet been produced by the Attorney General. Those need to be produced.

94. Moreover, an agent of the Alabama Bureau of Investigations, Tommy Merritt, was present and actively interrogated Kittie Corley during the March interrogation. This is, again, consistent with the news reporting about the Hatfield case. (Appendix Q at p. 6) In addition, defense counsel at trial explicitly included the ABI in their original discovery motions. (*See* Doc. 76-1 at PDF 143, Bates 143; Doc. 76-2 at PDF 48, Bates 248) There is no indication in the Attorney General's Response that he searched the ABI files. Petitioner would request access to those ABI law enforcement records as well.

95. Finally, neither Hendrickson nor Merritt indicate that Corley did not write the Corley letter. Petitioner requests an opportunity to take both of their depositions to determine whether they believe, as did Sgt. Luker, that Corley wrote the Corley letter. Petitioner has attached a notice of deposition for Tommy Merritt as Appendix U.

C. The “Dearest David” Letter

96. The Attorney General only produced two (2) pages of a longer letter. It is clear from the letter (Appendix L) that there are likely more pages. There is no closing. There is no signature. Evidently, there are one or more pages missing. Petitioner is entitled to receive the rest of the “Dearest David” letter.

97. In addition, Petitioner is entitled to full access to all of the other letters that were in the stash of Corley letters (referenced in Doc. 86 at ¶ 16) that the USPS handwriting and fingerprint experts consulted when they rendered their expert opinion that the original Corley letter (both sides) was indeed written by Kittie Corley. The “Dearest David” letter is marked number #8 (*see* Appendix L). This matches with the number #8 in the list of papers that Sgt. Luker found in Corley’s cell. (*See* Doc. 76-24 at PDF 16, Bates 3857) This means that there are many more letters in the stash, and in fact, just based upon the list by Sgt. Luker, there is at least “1 folder containing assorted hand written papers” and “1 writing pad with handwritten letters” (listed as #1 and #1A), “1 Brown cardboard folded [sic] containing assorted hand written papers” (listed as #6), and “1 Hand written letter to Travis from Nicole” (listed as #7). Petitioner requests production of the entire stash of letters. It appears that the Attorney General can no longer be trusted to determine what is exculpatory for purposes of *Brady*. Production is also necessary to make proper handwriting comparisons if necessary.

D. The Vroblick police interview worksheet

98. It is clear from the police interview worksheet regarding the interrogation of Joan Vroblick (Appendix N and O) that Kittie Corley had confided in Vroblick about the murder of Hatfield. The notes indicate the names of culprits such as “Ghost, Iceman, Ice, Tank and Czar.” The police interview worksheet makes clear that Corley trusted Vroblick and acted in such a way as to tell her everything.

99. Corley nevertheless maintains now that she did not trust Vroblick “because she had a reputation among the jail inmates as a forger who could not be trusted.” (Doc. 86-1, ¶ 6) If we were to take Corley’s affidavit at face value, the question becomes: Who wrote the Corley letter, if not Corley? The only other person who could have written the letter is Joan Vroblick. But if that’s the case, how would Vroblick have known all the details about the Hatfield and the Walker murders? As Sgt. Luker noted, “[t]his letter contained details of the murder of Dewey Walker which only the perpetrators would have known.” (Doc. 76-24 at PDF 16, Bates 3857) Joan Vroblick is likely a witness regarding the authenticity of the Corley letter. Petitioner must be afforded an opportunity to depose Vroblick. Petitioner has attached a notice of deposition as Appendix U.

100. In addition, Petitioner is entitled to depose the two police interrogators who interrogated Vroblick, Troy Silva and Nick Check. Officer Silva was the novice investigator charged with investigating the Hatfield murder. What Officers Silva and

Check believed at the time of the Vroblick interview would shed significant light on how to interpret the contents of the police worksheet of the Vroblick interrogation (Appendix N and O) and the back of the Corley letter (Appendix D and E).

101. Moreover, Sgt. Tony Luker, in his police report, indicated that Vroblick had turned over the Corley letter first to her own attorney, Kaylia Lane, who then turned it over to District Attorney Douglas Valeska and Sgt. Luker. Ms. Lane is the individual who would be most aware of how Vroblick obtained the letter. Petitioner is entitled to depose attorney Kaylia Lane. Petitioner has attached as Appendix U notices of deposition for: (1) Troy Silva, (2) Nick Check, and (3) Kaylia Lane.

E. Corley affidavit

102. As noted earlier, the State of Alabama has never challenged the authenticity of the Corley letter. Sgt. Luker believed that Corley wrote it, and the same seems to be true of Gary Maxwell and Douglas Valeska in the District Attorney's Office. Assistant Attorney General Richard Anderson, who has been counsel of record since 2008, did not previously challenge the authenticity. To the contrary, Mr. Anderson used its authenticity to argue against production on numerous occasions before the United States Supreme Court and this Court. *See supra* p. 1-2. Accordingly, all of these individuals need to be deposed, including Kittie Corley. Petitioner has attached as Appendix U notices of deposition for: (1)

Kittie Corley; (2) Tony Luker; (3) Gary Maxwell; (4) Douglas Valeska; (5) and Richard Anderson.

103. In order to prepare for these depositions, Petitioner will need to have interrogatories answered by the Attorney General. Petitioner has attached as Appendix T a set of interrogatories for the Attorney General.

F. Additional New Evidence

104. The Alabama Attorney General is improperly shielding a number of other *Brady*-discoverable law enforcement reports as “attorney work product.” On pages 4-5 of his Response to Order, the Attorney General writes: “Additionally, the Henry County District Attorney’s file contained several typed attorney memoranda containing summaries of various recorded statements. Some of these memoranda contained very abbreviated summaries of Corley’s two recorded statements. None of these memoranda contained any material that would be responsive to Wilson’s other requests. Because these documents are attorney work product, they are not discoverable.” (Doc. 86, pp. 4-5, ¶ 9)

105. State law work-product rules do not shield material from *Brady*’s disclosure obligations. *See, e.g., Fontenot v. Crow*, 4 F.4th 982, 1063 (10th Cir. 2021) (although “[a]t the time of Mr. Fontenot’s trials, Oklahoma law viewed unsworn statements of prosecution witnesses and police investigative reports to fall within the work-product privilege, making them non-discoverable,” the Tenth

Circuit holds that the prosecutor's failure to turn such materials over to the defense violated *Brady*).

106. Those law enforcement memoranda that reference Kittie Corley must be produced to Petitioner. They are especially material because they reflect the law enforcement interpretations of what is important, authentic, and reliable in the interrogations, and of the materiality of what Corley told them. If they believed that Corley was making everything up, that would be reflected in the memoranda. What they decided to include in their memoranda is important and reflects their views about the materiality and veracity of the evidence that Corley provided them.

107. The Attorney General states that there are "several" documents that mention the interrogations of Kittie Corley. Petitioner is entitled to each and every one of them.

G. Access to all law enforcement files

108. Finally, the procedural history in this case, *see Part I supra*, reveals that the Attorney General cannot be trusted to determine whether evidence in its possession is favorable to Petitioner and should be produced under *Brady*. As this Court observed in its ruling on June 21, 2023, "respondent's dogged insistence, even after partial disclosure, that no part of the Corley letter, front or back, is favorable for *Brady* purposes calls into question respondent's ability to reckon in good faith with this area of the law." (Doc. 79 at p. 14)

109. In light of this track record, Petitioner respectfully requests access to all law enforcement files in the Walker and Hatfield murder investigations in order to conduct his own review of the existence of additional *Brady* materials.

IV. The Attorney General Has Not Complied with this Court's Directions

110. Petitioner's request for production sought materials in the possession of "any State, county, or municipal actors . . . (including by the District Attorney's Office, the Attorney General's Office, any other law enforcement office, or any law enforcement personnel involved in the Walker or Hatfield homicide cases)." (Doc. 81 at ¶ 34.a and ¶ 35.a)

111. In its Order dated November 3, 2023, this Court directed the Attorney General to determine "that material covered by Petitioner's discovery requests does not exist," and to "certify in his response that no covered material exists." (Doc. 83)

112. In his Response dated December 7, 2023, Respondent certified that that it reviewed material in the files of the following law enforcement agencies: "Materials Reviewed: undersigned counsel has obtained and reviewed the Houston County District Attorney's files regarding David Wilson and Catherine Corley, and the murder of Dewey Walker; undersigned counsel has also obtained and reviewed the Dothan Police Department's file regarding the murder of Dewey Walker; and the

Henry County District Attorney's Office files regarding the murder of C.J. Hatfield.”
(Doc. 86, p. 3, ¶ 4)

113. Paragraph 4 of the Attorney General's Response does not assert that no other State, county, or municipal actors or law enforcement offices or personnel (other than the Houston County District Attorney's office, the Dothan Police Department, and the Henry County District Attorney's Office) were involved in the Walker and Hatfield cases. It asserts only that there was no additional discoverable evidence in the files of the three named agencies that the Attorney General chose to review. As a result, the Attorney General's notice of compliance is deficient. They have not certified that they have comprehensively investigated every law enforcement agency or state actor that could have possession of evidence that Petitioner requested. And therefore, they are not in a position to certify whether there is remaining evidence that they have yet to turn over.

114. So, for instance, no police agency of Henry County is included in the enumeration of agencies whose files were reviewed, although (i) the two interrogations of Corley produced by the Attorney General in the form of audio recordings were apparently conducted by detective Allen Hendrickson of the Henry County Sheriff's Office; and (ii) the March 24, 2005 interrogation mentions a certain Andrew White who appears to have turned the Hatfield murder weapon in to “Henry County Authorities”.

115. Also absent from the enumeration in paragraph 4 of Doc. 86 is the Alabama Bureau of Investigations, although Tommy Merritt, identified as “with the Alabama Bureau of Investigations,” was present and actively questioned Corley during the March 24, 2005 interrogation.

116. In effect, the Attorney General has only canvassed a subset of the law enforcement agencies that would qualify as responsive to the Court’s order.

117. Moreover, as stated in Part III, § F above, the Attorney General’s notice of compliance is deficient because he is improperly shielding a number of *Brady* discoverable law enforcement reports as “attorney work product.” (Doc. 86, p. 4-5, ¶ 9)

118. In addition, paragraph 9 of Doc. 86 does not assert that no other materials than those expressly mentioned therein (which are within the category specified by subparagraph 35.a of Doc. 81) were found in the files examined.

119. Similarly, paragraph 10 of Doc. 86 (at page 5) does not assert that no other materials than those expressly mentioned therein (which are within the category specified by subparagraph 35.b of Doc. 81) were found in the files examined.

120. Similarly, paragraph 16 of Doc. 86 (at pages 7-8) does not assert that none of the “purported writings of Catherine Corley” found in the sealed envelope (other than the single “Dearest David” letter addressed to Petitioner) are within the

category specified by subparagraph 36.c of Doc. 81; and it does not assert that no other materials than the sealed envelope (which is within the category specified by subparagraph 36.c of Doc. 81) were found in the files examined.

121. In all of these paragraphs, the Attorney General has not indicated that there were no other materials to disclose pursuant to this Court's order.

122. Moreover, paragraph 18 of Doc. 86 (at page 8) does not assert that the two individuals mentioned (Lt. Tony Luker (Ret.) of the Dothan Police Department and former Chief Deputy Houston County District Attorney Gary Maxwell) are the only persons within the category of agents and agencies from whom information was requested for "any State, county, or municipal actors . . . (including by the District Attorney's Office, the Attorney General's Office, any other law enforcement office, or any law enforcement personnel involved in the Walker or Hatfield homicide cases)" as requested per Doc. 81.

123. In addition, paragraph 36.e of Doc. 81 requests production of "all . . . materials recording or evidencing any agent's decision, recommendation, or consideration of reasons not to charge Corley with capital murder in the Walker case or participation in the Hatfield homicide." The Attorney General's Response ignores this request completely, without explanation.

124. Finally, as noted earlier, the Attorney General has produced only two pages of the "Dearest David" letter that Corley purportedly wrote to Petitioner while

she was in jail pending charges for the Walker murder. The whole letter needs to be produced.

V. The Favorability and Materiality of the New Evidence

125. Again, it is not Petitioner's burden, at this preliminary stage, to prove that the information produced by the Attorney General in his December 7 filings is material and was required by *Brady* to be disclosed before trial. Nevertheless, it may be helpful to the Court for Petitioner to quickly sketch out why, as a legal matter, Petitioner is entitled to additional discovery.

126. It is important to understand that Petitioner's entire defense at trial was that he was not the person who bludgeoned Mr. Walker repeatedly with the bat. He confessed to the police that he tried to subdue Mr. Walker with an electric cord and mistakenly hit Mr. Walker once with the bat, but he consistently maintained that he did not commit the multiple fatal batteries with the bat. The only other person who entered Mr. Dewey's home was Kittie Corley. So everything turned on who beat Mr. Walker to death with the bat. Petitioner denied doing so and told the police:

She, she was, she was kind of I don't know what was her, what her, she seem like she said she got a little thrilled with it or some . . . something like that. She said she guess she was excited I don't know what was up with her.

...

I asked her if she was ok. She said yeah sure. Cause she use, cause she use to do stuff like that or something like that. I don't know exactly what was up with her, what her story is. Cause she's got in some weird cult thing.

See Memorandum Opinion and Order, Doc. 67 at p. 5.

127. The whole trial, then, turned on whether Petitioner or Corley committed the battery. The Court underscored this in its opinion on June 21, 2023, making the finding that: “evidence of Corley’s apparent propensity to involve herself in murders, especially if the ‘backside’ murder bears any similarity to the circumstances of the ‘frontside’ murder, likely would be ‘advantageous’ in a defense effort to apportion greater culpability onto Corley and away from petitioner” (Doc. 79 at p. 10). It is important to remember that Corley is the only other person who confessed to entering Mr. Walker’s home, and in fact confessed to having access to the body of Mr. Walker. She told the police that she had stepped through a hole in the sheet rock wall into Walker’s bedroom, walked from the bedroom to the living area, and saw Mr. Walker’s body in a different room. (Doc. 76-24 at PDF 27-28, Bates 3868-3869, Catherine Corley Statement to Police)

128. Given that everything turns on their relative culpability, it is clear that any and all evidence that ties Corley to violent drug dealing and murder would be material to the defense. Here, all of the evidence about the Hatfield murder furthers the defense theory in at least three ways:

A. Impeachment Evidence

129. Kittie Corley’s “Dearest David” letter and two police interrogations constitute classic impeachment evidence regarding the prosecution’s lead trial witness, Sgt. Tony Luker, and would have served as the basis for calling Kittie Corley as an adverse witness during the defense case.

130. At trial, the prosecution called Sgt. Luker as the lead witness to recount David Wilson’s admission of involvement in his police statement, which was the most important piece of evidence presented at trial. During the direct examination, investigator Luker testified that he had interviewed Corley, who gave a police statement; the line of questioning came immediately before Luker was asked about the police interrogation of Mr. Wilson. (Doc. 76-8 at PDF 26, Bates 1432) That line of questioning was intended to communicate to the jury that Corley did not tell Luker anything inconsistent with Mr. Wilson’s police statement.¹

¹ This is a commonplace prosecutorial gambit. *See, e.g., United States v. Kizzee*, 877 F.3d 650, 655, 659 (5th Cir. 2017) (the Confrontation Clause was violated when a detective was permitted to testify that he asked a narcotics arrestee whether the defendant had sold the arrestee narcotics on the present occasion and on previous occasions and whether the arrestee had observed additional narcotics at the defendant’s residence, and then “Based on your observations the day before that involved the surveillance at Mr. Kizzee’s residence, the [police] stop . . . [of the informant which resulted in] the discovery of narcotics, and your subsequent interview of . . . [the arrestee], what did you . . . do?,” to which the detective answered: “I was able to obtain a search warrant for . . . [Kizzee’s address]”); *United States v. Hamann*, 33 F.4th 759, 763 (5th Cir. 2022) (“In the last fifteen years, we have vacated at least six convictions and affirmed at least two writs of habeas corpus for kindred reasons. The most recent of those cases was decided just a year before Hamann’s trial. There, we reaffirmed what we had said many times: If the government elects to introduce out-of-court statements to attempt to provide context for its investigation, its use must be ‘circumspect’ and ‘limited.’ . . . Trial courts must be ‘vigilant in preventing . . . abuse’ to avoid ‘the backdoor introduction of highly inculpatory statements.’ . . . We reaffirm those principles today.”)

131. That line of questioning gave an opening to defense counsel to impeach Luker and bring in all the incriminating evidence of Corley's involvement in the murders of Messrs. Walker and Hatfield. Armed with the Corley letters and interrogation transcripts, defense counsel could have engaged in a classic form of impeachment: "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?" And so on. With this impeachment evidence, defense counsel would have cast doubt on the prosecution's theory that David Wilson was the one who bludgeoned Dewey Walker to death. In this respect, the glut of new evidence produced on December 7 and any additional discovery would be material evidence under a *Brady* analysis. See *Clemmons v. Delo*, 124 F.3d 944, 947 (8th Cir. 1997) (finding a *Brady* violation where the prosecution did not disclose a statement made to a state investigator who was a trial witness by an individual who was not called to testify, but who told the investigator that he was present at the scene of the crime, saw the crime committed, and identified the perpetrators in terms that excluded Clemmons; this statement was held material even though the investigator's notes relating it expressed the view that the declarant "did not make sense and further investigation reflects that . . . [his] statement is

untrue”); and see *United States v. Kiszewski*, 877 F.2d 210 (2d Cir. 1989) (finding a *Brady* violation where evidence usable to impeach a police witness was not disclosed); *Jackson v. City of Cleveland*, 925 F.3d 793, 813-15 (6th Cir. 2019) (same); *Douglas v. Workman*, 560 F.3d 1156 (10th Cir. 2009) (a co-defendant’s confession is impeachment material to which the *Brady* rule clearly applies).

132. Moreover, this Court’s holding, in its order on June 21, 2023, regarding the potential materiality of the original Corley letter applies with full force to the December 7 discovery materials and any additional evidence requested: “defense counsel might have called Corley to the stand and impeached her police statement, in which she did not admit to striking Walker or to even being present at the time of the attack. . . .” (Doc. 79 at p. 9) In other words, defense counsel could also have impeached Corley, as an adverse witness, on the basis of her multiple confessions to involvement in a violent drug-dealing ring, to handling the murder weapon, to lying about her whereabouts and serving as an alibi, and to concealing the murder of C.J. Hatfield. Defense counsel might have likewise argued in closing that Corley had motive to mislead the jury (namely, to avoid criminal charges in the Hatfield murder and greater criminal liability in the murder of Dewey Walker) by falsely casting blame on David Wilson for Walker’s death. In this respect as well, the new and any additional evidence would be material under *Brady*. See *Kyles v. Whitley*, 514 U.S. 419, 446 (1995) (holding that an analysis under *Brady* must consider the impact of

impeachment evidence regardless of whether the witness testified at trial); *State v. Whitt*, 220 W. Va. 685, 688-89, 696 (2007) (holding, like *Kyles*, that the possibility of calling another suspect as an adverse witness raises the potential of material evidence under *Brady*).

B. Defense of Incompetent Investigation

133. In addition, the requested discovery is favorable to the defense because it likely undermines the reliability of the investigation. As this Court held in its decision on June 21, 2023, it likely “suggests that [Corley] should have been subject to greater scrutiny for her role in Walker’s murder.” (Doc. 79 at p. 9)

134. Petitioner and the Court are now aware that the State of Alabama had in its possession, prior to Mr. Wilson’s trial, evidence that Corley was deeply involved in violent crime and drug trafficking in the Dothan area—and that there is likely more such evidence. This is evidence which would have allowed defense counsel to have “attacked the reliability of the investigation” and “attacked the investigation as shoddy.” *See* Doc. 79 at p. 10 (citing *Kyles v. Whitley*, 514 U.S. 419 (1995)); *see also* Doc. 75 at p.7-9 (“Petitioner’s Reply,” explicating how Corley’s confession to a second murder is favorable to the defense because it discredits the state’s investigation). Yet, law enforcement and prosecution chose to focus their investigation on Mr. Wilson for the Walker murder, despite Mr. Wilson’s spotless criminal record at the time.

135. In all likelihood, had the State of Alabama turned over all of the material in its possession linking Ms. Corley to the Hatfield murder—including the additional material requested now—the defense could have successfully attacked the credibility of the investigation of the Walker case. *See Stano v. Dugger*, 901 F.2d 898, 903 (11th Cir. 1990) (evidence of a dishonest investigation is considered material for *Brady* purposes); *Lindsey v. King*, 769 F.2d 1034, 1042–43 (5th Cir. 1985) (evidence that discredits the state’s investigation is material); *and see, e.g., Floyd v. Vannoy*, 894 F.3d 143, 165 (5th Cir. 2018); *Dennis v. Secretary, Pennsylvania Department of Corrections*, 834 F.3d 263, 302 (3d Cir. 2016) (en banc); *Juniper v. Zook*, 876 F.3d 551, 570-71 (4th Cir. 2017); *Gumm v. Mitchell*, 775 F.3d 345, 274-75 (6th Cir. 2014); *Mendez v. Artuz*, 303 F.3d 411, 416 (2d Cir. 2002); *United States v. Hannah*, 55 F.3d 1456, 1460 (9th Cir. 1995); *Bowen v. Maynard*, 799 F.2d 593, 613 (10th Cir. 1986). Such evidence of misdirected investigation into Mr. Wilson, considered cumulatively with evidence showing that Corley was a likely alternative perpetrator of the 114 blows, would have served to “undermine confidence in the outcome of the trial.” *Kyles*, at 434, 115 S.Ct. 1555 (quoting *Bagley* at 678, 105 S.Ct. 3375).

C. Exculpatory Evidence

136. Alternatively, the evidence about the Hatfield murder is exculpatory evidence because it may bolster the credibility of Corley's confession to having beaten Mr. Walker with the bat. The central question for the jury at Petitioner's trial was *who* bludgeoned Mr. Walker to death. Corley's criminal history is exculpatory because it stands as evidence that someone else inflicted the 114 contusions, skull fractures, and broken bones. (*See* Doc. 79 at p. 13, "*Brady*... do[es] not require that evidence tend to "exonerate" a defendant to trigger the prosecution's "broad" duty to disclose.")

137. At trial, District Attorney Douglas Valeska convinced the jury that it was Petitioner who did the brutal, fatal beating. But Valeska knew, and withheld, Corley's violent drug-dealing history and involvement in the Hatfield murder. The probability that a reasonable juror would have found Corley's criminal history to be both at odds with Valeska's trial theory and "entirely consistent" with Petitioner's trial defense is enough to question the Attorney General's decision to shield Corley's criminal history. *See Youngblood v. West Virginia*, 547, U.S. 867 (2006). Corley's criminal history is exculpatory evidence because its net effect makes reasonably probable that its disclosure at trial would have produced a different result at the guilt and penalty phase. *See Kyles v. Whitley*, 514 U.S. 419 (1995) (finding that the State's

disclosure obligation turns on the cumulative effect of all suppressed evidence favorable to defense).

138. *Brady v. Maryland* has become such an iconic ruling in the body of federal constitutional law that we sometimes forget its specific facts. On its specific facts, *Brady* holds that due process is violated when the prosecution fails to disclose that a codefendant has confessed to being an actual perpetrator of the murder with which a defendant is charged. *Brady* speaks specifically to Mr. Wilson's situation and clearly controls it.

Conclusion

139. For the foregoing reasons, and pursuant to the authority vested in this Court by Rule 6 of the Rules Governing Section 2254 Cases in the United States District Courts and *Bracy v. Gramley*, 520 U.S. 899 (1997), Petitioner respectfully requests that the Court order the following additional discovery:

1. Production of the police transcripts of the two police interrogations of Kittie Corley dated January 29, 2005 and March 24, 2005.
2. Production of all other police interrogations of Kittie Corley that were conducted between January 29, 2005 and March 24, 2005; and any other police interrogations, statements, writings, letters, or any form of communication of Kittie Corley before or after those dates.

3. Production of all the letters and writings that Sgt. Luker seized from Corley's jail cell and any and all of her other correspondence, including, but not limited to "1 folder containing assorted hand written papers" and "1 writing pad with handwritten letters" (listed as #1 and #1A), "1 White inmate request form" (listed as #2), "1 yellow inmate request form dated 9/06/04" (listed as #3), "1 White inmate request form dated 9/23/04" (listed as #4), "1 Notice of appeal (Houston Co. Jail Form)" (listed as #5), "1 Brown cardboard folded [sic] containing assorted hand written papers" (listed as #6), and "1 Hand written letter to Travis from Nicole" (listed as #7). (Doc. 76-24 at PDF 16, Bates 3857)
4. Production of all materials and information requested by Petitioner's "Fourth Motion for Full Disclosure of Kittie Corley's Statements" (Doc. 81) that the Attorney General failed to disclose in his filings of December 7, 2023, as itemized specifically in paragraphs 113-124 *supra*.
5. Full and complete compliance, through a notice of compliance, with this Court's Order dated November 3, 2023. (Doc. 83)
6. Production of any and all police memoranda in law enforcement files that mention Kittie Corley (using any of her names, nicknames, or aliases), including but not limited to the "several" memoranda contained in the Henry

County District Attorney's file [...] containing summaries of various recorded statements." (Doc. 86 at p. 5)

7. Production of any documents or materials of any kind whatsoever in the possession of any state agency responsible for law enforcement or prosecution that mention Kittie Corley (using any of her names, nicknames, or aliases) in the possession of the law enforcement records of the Alabama Bureau of Investigations.
8. Permission to file the attached interrogatories to the Alabama Attorney General (*see* Appendix T).
9. Permission to depose Kittie Corley (*see* Appendix U for all deposition notices).
10. Permission to depose Tony Luker.
11. Permission to depose Gary Maxwell.
12. Permission to depose Douglas Valeska.
13. Permission to depose Richard D. Anderson.
14. Permission to depose Allen Hendrickson.
15. Permission to depose Tommy Merritt.
16. Permission to depose Joan Vroblick.
17. Permission to depose Troy Silva.
18. Permission to depose Nick Check.

19. Permission to depose Kaylia Lane.

20. Access to all law enforcement records for Petitioner to conduct his own review of the records, given Respondent's abysmal track record on the law of *Brady* disclosures.

140. Further, pursuant to Rule 7 of the Rules Governing Section 2254 Cases in the United States District Courts, Petitioner respectfully requests that the Court expand the federal record to include all of the new material and information that Respondent produced to Petitioner but did not file with the Court, including the following documents:

1. Audio recording of the January 29, 2005 interrogation of Kittie Corley (Appendix H, conventionally filed with the Court);
2. Certified Court Reporter Transcription of the Audio recording of the January 29, 2005 interrogation of Kittie Corley (Appendix I);
3. Audio recording of the March 24, 2005 interrogation of Kittie Corley (Appendix J, conventionally filed with the Court);
4. Certified Court Reporter Transcription of the Audio recording of the March 24, 2005 interrogation of Kittie Corley (Appendix K);
5. Corley's "Dearest David" letter (Appendix L);
6. Certified Court Reporter Transcription of Corley's "Dearest David" letter (Appendix M);

7. Police interview worksheet of the Joan Vroblick interrogation (Appendix N);
8. Certified Court Reporter Transcription of the police interview worksheet of the Joan Vroblick interrogation (Appendix O);
9. Back side of the Corley letter (Appendix D);
10. Certified Court Reporter Transcription of the back side of the Corley letter (Appendix E); as well as, for good measure,
11. Front side of the Corley letter (Appendix B); and
12. Certified Court Reporter Transcription of the front side of the Corley letter (Appendix C).

Dated this 23rd day of February 2024

Respectfully submitted,



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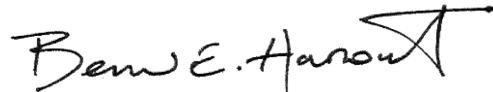
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- C. Certified Court Reporter Transcription of the Front Side of the Corley Letter
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- I. Certified Court Reporter Transcription of Interrogation of Catherine Corley on January 29, 2005
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CERTIFICATE OF SERVICE

I hereby certify that on February 23, 2024, the foregoing corrected motion 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

A handwritten signature in black ink that reads "Bernard E. Harcourt". The signature is written in a cursive style with a prominent, stylized initial "B".

Bernard E. Harcourt