

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT  
LAKE COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Plaintiff, )  
)  
v. )  
)  
MARNI YANG, )  
)  
Defendant, )

No. 09 CF 926

FILED

DEC 15 2021

Emi Cantamust (Assistant)  
CIRCUIT CLERK

**MARNI YANG'S FIRST AMENDED POST-CONVICTION PETITION  
PERSISTING IN HER CLAIMS OF ACTUAL INNOCENCE**

NOW COMES the Defendant, MARNI YANG, by her attorney, Jed Stone, and persists in her assertions of actual innocence in the following First Amended Post-Conviction Petition. In support thereof, MARNI YANG states as follows:

1. MARNI YANG re-states and incorporates by reference paragraphs 1 through 160 of her October 1, 2019 Post-Conviction Petition as well as the Post-Conviction Petition Exhibits that accompanied the October 1, 2019 filing.
2. It must be noted that at the conclusion of the October 1, 2019 filing is a Verification in which MARNI YANG stated upon her oath, and subject to the penalties for perjury, that the facts contained in that pleading were true and correct. Ms. YANG affirmed that her statements contained therein, including her claims of innocence are true, correct and accurate. Ms. YANG's notarized affidavit is appended to this First Amended Post-Conviction Petition.

**NEW FORENSIC EVIDENCE REQUIRES A STAGE 3 HEARING**

3. On May 17, 2021, Ms. YANG filed with this court a pleading, "Compelling new forensic evidence advances Marni Yang's Post-Conviction Petition for Actual Innocence." It is attached as Exhibit A and incorporated herein by reference.

4. On that same, in that same submission an investigative report from Arthur Borchers and John Larsen, dated May 3, 2021, was also filed with the court. It too is appended as Exhibit B and incorporated herein by reference, along with their May 6, 2021 report which appears as Exhibit C and is also incorporated herein by reference.
5. This amended post-conviction petition contains the affidavit of Arthur Borchers. Exhibit D to the First Amended Post-Conviction Petition. Its contents are referenced and incorporated herein.
6. Mr. Borchers noted that eight canisters containing previously undeveloped 35 mm film were not previously disclosed to the defense. While the existence of these film canisters was noted in the volumes of police reports, the undeveloped contents of the film remained unknown until the photographs were developed. Those photographs on the undeveloped film contain critical evidence of the bullet trajectories at the Reuter crime scene. In one of those photographs, Borchers found a nick on the kitchen cabinet from one of the projectiles fired at Ms. Reuter. It was this discovery that led to Borchers, Larsen and now Dr. Wecht's understanding that Ms. Reuter was shot while standing erect.

**FAILURE OF THE STATE TO DISCLOSE THESE 35mm FILM PHOTOGRAPHS IS A VIOLATION OF *BRADY V. MARYLAND***

7. As such, those photographs, as Borchers explains, are clear, exculpatory evidence. Such evidence was in the exclusive control of the state and was not provided to the trial defense team. Indeed, but for Borchers' pursuit of these undeveloped photographs, they would not have been discovered at all.

8. Our courts have consistently reminded prosecutors (even prosecutors from the Lake County State's Attorney's Office) that discovery is not a game of hide and go-seek. See *People v. Garth Collins*, 333 Ill. App. 3d 20, 775 N.E.2d 268, 2002.
9. These undeveloped photos were in the exclusive control of the state. They contain exculpatory evidence withheld by the state from disclosure. The photos were indeed hidden, and this defense team had to seek them.
10. The photographs value is described in detail in Borchers affidavit, Exhibit D.
11. The YANG claim of actual innocence is at Stage 2 of the Post-Conviction process.
12. As such, the facts contained in the petition, and this first amended petition must be taken as true. Well-pleaded factual allegations must be taken as true for purposes of a state's motion to dismiss at Stage 2.

**THE FACTS CONTAINED IN MARNI YANG'S PETITIONS FOR POST-CONVICTION RELIEF REQUIRE AN EVIDENTIARY HEARING**

13. The Borchers' report, demonstrating that MARNI YANG is not the killer of Ms. Reuter contains such well pled facts that demand a Stage 3 hearing.
14. Additionally, the state's assertion that Mr. Borchers and Mr. Larsen are "self-professed experts" is without merit. Both have provided *curriculum vitae*. Both are well qualified to testify to their finding. Both establish to a reasonable degree of scientific certainty that MARNI YANG is not the killer of Rhoni Reuter.
15. The state notes in paragraph 199 of their motion to dismiss that neither Borchers nor Larsen are forensic pathologists.
16. Dr. Cyril H. Wecht is. His report is incorporated herein by reference and included with this First Amended Post-Conviction Petition along with Dr. Wecht's affidavit in support. Dr. Wecht is a highly regarded and well experienced forensic pathologist. It is his



opinion to a reasonable degree of medical certainty that MARNI YANG could not have fired the shots that killed Ms. Reuter. See Exhibit E.

17. MARNI YANG is innocent.

**MARNI YANG IS ENTITLED TO AN EVIDENTIARY HEARING ON FACTS THAT DEMONSTRATE SOMEONE OTHER THAN HER KILLED RHONI REUTER**

18. In addition to advancing Ms. YANG's innocence, this First Amended Post-Conviction Petition seeks to advance evidence that someone other than YANG committed this murder.

19. Moreover, Dr. Wecht noted in his April 21, 2021 report that facial wounds noted on Ms. Reuter preceded the date of her death by 2 to 4 days.

20. Rhoni Reuter was the victim of a domestic battery several days before someone killed her.

21. The police records show that Ms. Reuter did not report to work in the days before her murder.

22. She also did not report being the victim of a domestic battery.

23. Ms. Reuter was pregnant at the time of her death. The father of that child was Shaun Gayle.

24. Mr. Gayle was questioned by the police following the death of Ms. Reuter.

25. His hands were examined by an Illinois State Police Trooper for the presence of gunshot residue

26. Although no photographs of this examination were taken, the Trooper did record on his report that he observed abrasions on the back of Gayle's hands. See Exhibit F.

27. Additionally, on March 25, 2009, Assistant State's Attorney Patricia Fix presented Detective Juan Mazariegos as a Grand Jury witness on the Reuter homicide.
28. There, ASA Fix suborned perjury by allowing Mazariegos to falsely testify that Gayle was at LeRoy's Barbershop between 8:30 a.m. and 9:00 a.m. giving Gayle a false alibi.
29. Ms. YANG's post-conviction lawyer had long sought previously undisclosed video tape of Gayle's entrance and exit of LeRoy's Barbershop on the morning of the Reuter homicide.
30. When that video was finally produced by this court's order, in November 2020, the video demonstrated that Gayle arrived at the barbershop at 10:32 a.m. and left at 10:57 a.m.
31. This video further shows Gayle talking on a cell phone as he walks to his car. The significance of this new discovery is that police reports of cell phone information show no such call. The inference to be drawn by this is that Gayle owned a phone unknown to law enforcement.
32. The murder of Rhoni Reuter occurred a few minutes before 8:00 a.m. on October 4, 2007.
33. Ms. Fix's aiding and abetting in the false testimony of Det. Mazariegos created a false alibi for Gayle. See YANG's pleading "Recent analysis of the LeRoy's Barbershop video demonstrates that Shaun Gayle does not have an alibi." Exhibit G.
34. The Grand Jury perjury allowing a false alibi to be inserted into this record, combined with the subornation of the testimony of Emily Yang by ASA Fix compel this court to conduct an evidentiary hearing.

**THE PROSECUTOR'S USE OF FALSE TESTIMONY BOTH AT GRAND JURY  
AND TRIAL REQUIRE A STAGE 3 HEARING**

35. Taking the current allegations as true, which this court must at this stage in the proceeding, Ms. YANG has presented sufficient evidence to show that ASA Fix suborned perjury in the presentation of a false alibi for Shaun Gayle at the Grand Jury and further suborned perjury in compelling Emily Yang to give false testimony against her mother.
36. The state inducing witnesses to testify falsely, in violation of Ms. YANG's right to due process.
37. Ms. YANG is entitled to a Stage 3 hearing on this issue as well. See *People v. Regis Woods*, 2016 IL App (3<sup>rd</sup>) 140224-U.
38. Factual and credibility determinations must be made at the evidentiary stage of the post-conviction proceeding, not at the dismissal stage. *People v. Coleman*, 183 Ill.2d at 385, 389 (2013).

**NEW EVIDENCE EMERGES**

39. On December 11, 2021, a new witness emerged.
40. The affidavit of this witness is filed under seal.
41. The witness overheard Shaun Gayle admit to killing Rhoni Reuter.
42. The witness was present on October 4, 2007, at LeRoy's Barbershop, when Shaun Gayle said "I did it. She's gone."
43. This witness has a failure to appear warrant against him. He is distrustful of law enforcement.
44. As such, the witness' affidavit was not readily available until December 13, 2021, when he decided he was ready to speak.

45. There is no evidence in the police investigation reports or trial counsels' file that this witness was available and willing to testify at trial.
46. This witness' evidence is material and not cumulative.
47. Evidence will show that Shaun Gayle, the putative father of an unwanted baby, fought with Rhoni Reuter about the pregnancy. Exhibit 51 of the Post-Conviction Petition.
48. Dr. Wecht will testify that Rhoni Reuter had 2-4 day old facial wounds, abrasions unrelated to her shooting death. Exhibit E.
49. An Illinois State Trooper will testify that on the day of Rhoni Reuter's death, he noticed abrasions on Shaun Gayle's hands. Exhibit F.
50. Gayle has always claimed he first heard of the shooting from an ESPN reported who called him.
51. Oddly, when Gayle called 911 he asked "Was it my girlfriend? Was she found in a pool of blood?" Exhibit H.
52. We now know that Gayle arrived at LeRoy's Barbershop a mess, agitated, and sweaty.
53. The witness' testimony is newly discovered, material and noncumulative evidence.
54. Taken as true, it requires a Stage 3 hearing on Ms. YANG's petitions.

### **CONCLUSIONS**

55. This petition and its first amended petition, along with supporting documents and affidavits, demonstrate that there is a substantial showing that the evidence is newly discovered; that this material is not merely cumulative; and that the evidence is of a nature that it would probably change the result on retrial.
56. The photographic evidence, withheld by the state from the original trial team, and discovered only by Arthur Borchers, a forensic crime scene analyst retained by post-



conviction counsel, is newly discovered evidence of bullet marks on the kitchen cabinetry of the victim's home, which once viewed by our experts, conclusively establishes the bullet path of the first shot fired by the killer.

57. This evidence, combined with John Larsen's trajectory analysis and Dr. Cyril Wecht's pathology report demonstrate that MARNI YANG is not, can could not have been, the shooter.
58. This evidence renders the jury's verdict unreliable.
59. The allegations in Ms. YANG's petition and first amended petition, liberally construed in favor of the petitioner, and taken as true, are sufficient to invoke relief under the Post-Conviction Act. See *People v. Sanders*, 2016 IL 118123.
60. Certainly, Ms. YANG has set forth evidence that is relevant and probative of her innocence. Newly developed evidence presents scientific and medical evidence that Ms. YANG is not the killer of Rhoni Reuter.
61. This evidence makes a substantial showing that is of such a conclusive character that it would probably change the result on retrial.
62. While the state did present at her trial the conversation between Ms. YANG and Christie Paschen (the so-called Denny's tapes), the reliability of such tape-recorded statements is challenged by the newly developed forensic evidence showing that what the state claims is a confession is in actuality a false confession.

WHEREFORE, MARNI YANG moves this court to consider the prejudicial impact of each of the above-described deprivations of her constitutional rights, individually and in combination with one another. She therefore prays for vacation of her conviction following an evidentiary hearing in which proof may be offered concerning the allegations contained in her



post-conviction petition and her first amended post-conviction petition, alleging actual innocence.

Respectfully submitted,

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Attorney for MARNI YANG

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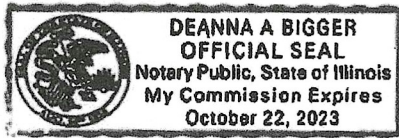
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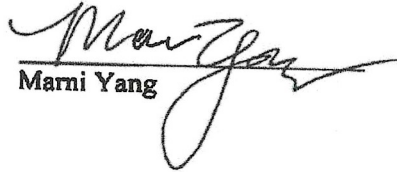
**AFFIDAVIT**

MARNI YANG, being first duly sworn, deposes and states upon her oath, as follows:

I have reviewed the contents of my Post-Conviction Petition and my First Amended Post-Conviction Petition. The facts contained therein are true and correct.

I offer this affidavit under penalty of perjury.



  
Marni Yang

Sworn and signed before me  
on this 14<sup>th</sup> of December, 2021

  
Notary Public