

for mistakes in identification.²⁶ It is also well established that extreme stress negatively impacts identification accuracy.²⁷

These factors are independently sufficient to raise questions about a possible mistaken identification, but collectively raise significant concern about the reliability of the victim's identification of Ronnie Long.

Finally, although the victim selected Long from a photo array approximately twenty minutes after the courtroom identification procedure, T p. 39, that second identification cannot remedy the defects of the courtroom identification because the victim was already primed to select Long and only had to pick the same person she selected just twenty minutes before.

E. Petitioner's All-White Jury Resulted from the Purging of the Juror Rolls by Local Law Enforcement Officials

As noted above, the Cabarrus County Jury Commission Chairman described the following as a matter of common practice in his county at the time:

[He] takes the [jury] roll lists to the Sheriff's department and sometimes the sheriff comes to our office on Church Street, and go over name by name and he knows most of them personally, but sometimes he also brings a couple of deputies with him; and they in turn help him check the

²⁶ See, e.g., Jonathan M. Fawcett, Emily J. Russell, Kristine A. Peace, Joh Christie, Of Guns and Geese: A Meta-Analytic Review of the 'Weapon Focus' Literature, 19 PSYCHOLOGY, CRIME & LAW 35 (2013).

²⁷ See, e.g., Kenneth A. Deffenbacher, Brian H. Bornstein, Steven D. Penrod, E. Kiernan. McGorty, A Meta-Analytic Review of the Effects of High Stress on Eyewitness Memory, 28 LAW AND HUMAN BEHAVIOR 699 (2004).

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names off of the ones who are supposed to be disqualified, or the same thing is done in the Concord Police Department...and that's the way we disqualify these people who are not eligible to be on the jury. . . . I give him [the sheriff] a red pencil and he marks that red through that particular name.

T Jury pp. 20-21.

The Sheriff testified that he struck through a couple dozen or more names from the list. T Jury p. 31. There was no testimony regarding the number of jurors struck from the jury rolls by other law enforcement officers, including the Concord Police Chief.

[The Chairman acknowledged that neither he nor the Commission made an independent inquiry of the names disqualified by law enforcement. T Jury p. 22. At trial, the court asked whether the list of those marked off was available, but the Chairman said he was unable to locate it. T Jury p. 28. Notably, Long's juror pool included just 2 blacks out of 49 potential jurors. T Jury p. 1. An additional 50 jurors were summoned, and the total number of potential black jurors called to the jury box during jury selection was 4 out of 43. MAR T at 28. All four were excused.²⁸ Given the questionable jury-selection process, this Court should give less weight to the jury's finding of guilt.]

²⁸ The racial composition of a jury has been found to dramatically influence results in criminal cases. Among

F. It Is More Likely Than Not That No Reasonable Juror Would Have Convicted Long

All of the new evidence described above, including the evidence that has been discovered since Petitioner's 2008 MAR hearing, was withheld from the defense at trial and is favorable under Brady, either because it is wholly exculpatory or has significant impeachment value. Considering all of this new evidence together with the scant evidence presented against Long at trial makes plain that it is more likely than not that no reasonable juror would have convicted Long. It would be patently unreasonable to elevate the now-known fallible eyewitness evidence over the numerous examinations of physical evidence in the case that in no way connect Long to the crime.

Long's jury, the composition of which was carefully engineered by law enforcement's improper participation in the construction of the jury rolls, resulting in an all-white jury, was grossly hindered by the very narrow view of the evidence it was provided. Had the State honored its obligations under Brady, even this unrepresentative jury would have had the opportunity to more fairly assess the question of Long's culpability. Given this, this Court should give no deference to

other things, the greater percentage of Whites on a jury, the more likely it is to convict a Black defendant. Williams, M. R., & Burek, M. W., Justice, juries, and convictions: The relevance of race in jury verdicts, *Journal of Crime & Justice*, 31, 149-69 (2008). This association persists regardless of crime type or strength of case. See Bradbury, M. D., & Williams, M. R., Diversity and Citizen Participation: The Effect of Race on Juror Decision Making, *Admin. & Soc'y*, 45, 563-82 (2013).

LAST NAME Long		FIRST NAME Ronnie		INITIAL Wallace		ALIASES			ARREST NO. 1755				
RESIDENCE 284 Melrose Dr. Concord, N.C.				SEX M	COLOR C	AGE 20	WT. 180	HT. 6-4	HAIR Blk	EYES Brn	OCCUPATION None		
PLACE OF BIRTH Cabarrus Co. N.C. 9-15-55				DATE OF BIRTH				COMPLAINANT		COMPLEXION Blk	DRUNK <input type="checkbox"/>	DRINKING <input type="checkbox"/>	NARCOTIC <input type="checkbox"/>
TIME OF ARREST 0745		DATE 9-18-75		PLACE ARRESTED Ring St.				ARRESTING OFFICERS Brewer & Lancaster					
CHARGE Assault			TRIAL DATE 9-22-75			MAGISTRATE Baggs			SUS. <input type="checkbox"/>	ON VIEW <input type="checkbox"/>			
									FEL. <input type="checkbox"/>	WARRANT <input checked="" type="checkbox"/>			
									MIS. <input checked="" type="checkbox"/>	CAPIAS <input type="checkbox"/>			
									FOR O.A. <input type="checkbox"/>				
FACTS OF ARREST (DESCRIBE SPECIFIC ACT FOR WHICH ARRESTED)						NAMES AND ADDRESSES OF PROSECUTING WITNESSES							
Arrested on warrant for assault on Verna Miller no injury.						Verna Miller 77 Ring St. Concord, N.C.							
						DESK OFFICER Ussery							
FINAL DISPOSITION													
FOUND GUILTY OF						REASON FOR							
						MIS. <input type="checkbox"/> FEL. <input type="checkbox"/>							
OTHER DISPOSITION													
JUDGE				COURT				DATE					