

**IN THE 351st JUDICIAL DISTRICT COURT
OF HARRIS COUNTY, TEXAS
AND
IN THE COURT OF CRIMINAL APPEALS OF TEXAS
IN AUSTIN, TEXAS**

EX PARTE

Ronald Jeffery Prible, Jr.,

APPLICANT.

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Trial Ct. No. 921126

CCA No. WR-69,328-

CAPITAL CASE

**SUBSEQUENT APPLICATION FOR A WRIT OF HABEAS
CORPUS PURSUANT TO TEX. CODE CRIM. PROC. ART. 11.071**

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INTRODUCTION

On May 20, 2020, a U.S. District Court granted Jeffery Prible guilt-phase federal habeas relief on five *Brady* claims and one *Massiah* claim. **Exhibit 1 (Memorandum Opinion and Order).**¹ This decision came after years of extensive discovery in federal court and a three-day evidentiary hearing at which the prosecutors, their investigator, and the prison informants that they used to make their case against Prible all testified. In granting relief, the district court noted that lead prosecutor Kelly Siegler of the Harris County District Attorney’s Office (“HCDA”) “intentionally and knowingly withheld information [from] the defense, was deceptive about her efforts to do so, and was far from credible in her federal court testimony.” *Id.* at 72. “Without question, the prosecution in this case engaged in a pattern of deceptive behavior and active concealment. And the evidence suppressed sufficiently serves to controvert the primary basis for Prible’s conviction.” *Id.* at 70.

The State’s capital murder case against Prible rested on two pillars of evidence: (1) the presence of Prible’s DNA in the female victim’s mouth, which the State argued could not have been detected unless it had been

¹ Also available as *Prible v. Davis*, No. H-09-CV-1896, 2020 WL 2563544 (S.D. Tex. May 20, 2020), *vacated by Prible v. Lumpkin*, 43 F.4th 501 (5th Cir. 2022).

deposited at the moment of the victim's death (as opposed to during consensual sex hours earlier, as Prible maintained); and (2) the testimony of a jailhouse informant named Michael Beckcom, who claimed Prible confessed to him while they were both serving time in a federal prison. Years after Prible's last state habeas application in 2010, during federal proceedings, a trove of new evidence emerged showing that (1) the State's DNA expert's testimony about the timing of the DNA deposit is unreliable, and (2) inmate Beckcom testified falsely and was part of a larger, orchestrated informant ring that Siegler was using simultaneously to obtain convictions in two otherwise unrelated murder cases: that of Prible and a man named Hermilo Herrero. The State concealed all of this information until the federal habeas court compelled its production. In fact, it was the federal judge himself who discovered key *Brady* and *Massiah* evidence while undertaking an *in camera* review of Siegler's work product file and ordered that it be produced.

Over 13 years of federal litigation, the State never offered any substantive defense to Prible's claims, relying exclusively on procedural defenses of default and prejudice. Those defenses prevailed in the Fifth Circuit, which vacated the district court's order in 2022 without reaching

the merits of Prible's claims. *Prible v. Lumpkin*, 43 F.4th 501 (5th Cir. 2022).

This Court has not had the opportunity to review the avalanche of new evidence that came to light during the federal habeas proceedings, until now. And even beyond that new evidence, there has been a significant development in Prible's case since the Fifth Circuit's 2022 ruling. In July 2025, the State's DNA expert, William Watson, signed a detailed declaration disclaiming key parts of his testimony at Prible's trial and citing significant changes in the field of forensic biology, in the progression of the scientific methods used to analyze the evidence in Prible's case, and in his own scientific knowledge.

The factual and legal bases for the *Brady* and *Massiah* claims granted by the district court, and for Prible's new junk science and false testimony claims, were not available when Prible filed his last state habeas application in 2010.² This new evidence shows that Prible is actually innocent. Prible respectfully requests that this Court authorize his claims to proceed.

² Evidence and documents obtained after the last state habeas application will be cited as exhibits in **bold typeface**. Additionally, Prible has provided a copy of the entire federal habeas record on appeal with this filing.

PROCEDURAL HISTORY

On October 25, 2002, Prible was convicted of capital murder and sentenced to death. 1 CR 212. On January 5, 2004, Prible filed his direct appeal, which the Texas Court of Criminal Appeals (“CCA”) denied in *Prible v. State*, 175 S.W.3d 724 (Tex. Crim. App. 2005).

I. Initial State Habeas Proceedings

Prible filed his initial application for writ of habeas corpus under Article 11.071 on November 18, 2004 (“Initial Application”). 1 SHCR-01 3–193. Over the next few years, Prible filed numerous miscellaneous papers, letters, and *pro se* motions in the convicting court. Among these were two documents in which Prible attempted to raise new state habeas claims without new evidence.

The CCA denied relief on Prible’s Initial Application. In the same order, it deemed two of Prible’s *pro se* documents to be subsequent applications under Section 5(a) and summarily dismissed both as abuses of the writ. *Ex parte Prible*, WR-69,328-01, WR-69,328-02, WR-69,328-03, 2008 WL 2487786, at *1 (Tex. Crim. App. June 18, 2008).

II. Successor State Habeas Proceedings

On June 18, 2009, Prible filed his Original Petition for Writ of Habeas Corpus in the U.S. District Court for the Southern District of

Texas (the “federal habeas court”), followed by a First Amended Petition on August 17, 2009. On April 30, 2010, the federal habeas court found that several of Prible’s claims satisfied *Rhines v. Weber*, 544 U.S. 269 (2005), and stayed the federal case so Prible could present those claims in Texas courts.

Prible then filed a successor state application on September 8, 2010, raising several prosecutorial misconduct claims regarding Siegler’s use of jailhouse informants. 1 SHCR-04 2–117. The CCA remanded Prible’s claims to the trial court to determine whether they satisfied Article 11.071, Section 5’s threshold bar—i.e., whether diligent counsel could have obtained the evidence earlier. *Ex parte Prible*, WR-69,328-04, 2010 WL 5185846, at *1–2 (Tex. Crim. App. Dec. 15, 2010).³

On remand, the State disclosed three letters addressed to Siegler from various inmate informants—including a prisoner named Carl

³ These claims were largely based on information recently provided by Carl Walker, one of Siegler’s jailhouse informants. Prible had attempted to locate and contact Walker before the Initial Application but was unable to speak to him until 2009, by sheer luck. Up to that point, Prible and his counsel only had the name “Walker” to go on—a common name in the federal prison system. A supporter of Prible’s, working *pro bono*, wrote a letter to a “Larry Wayne” Walker, and by chance, he happened to be a friend of Carl Walker. Both Walkers had, by this time, been transferred to a federal prison out of state. Larry Wayne, figuring the letter might have been intended for Carl, brought it to Carl’s attention. Carl then reached out to Prible’s attorney in 2009. *See* 1 SHCR-04 28–32.

Walker—who, up to that point, had never been mentioned or acknowledged as being involved in Prible’s case by the State. **Exhibit 2 (Jesse Gonzalez Letter to HCDA Siegler); Exhibit 3 (Carl Walker Letter to HCDA Siegler); Exhibit 4 (Mark Martinez Letter to HCDA Siegler).** Around the same time, Prible obtained new Federal Bureau of Prisons (“BOP”) documents via federal court order.⁴ The documents revealed, *inter alia*, frequent communications between Siegler’s office and federal prison informants, and showed that Siegler was advocating sentence reductions for her informants for assistance in another case—Hermilo Herrero’s—prior to Prible’s trial. Based on these documents, Prible filed a series of supplemental pleadings to support his prosecutorial misconduct claims. *See* 1 SHCR-04 312–409; 2 SHCR-04 410–76, 491–773.

The convicting court held an evidentiary hearing on June 8–9, 2011, and subsequently found that Prible’s September 8, 2010 successor application did not satisfy Section 5’s threshold bar. 2 SCHR-04 797–804.

⁴ Prible could not have obtained these during prior state proceedings. He first sought disclosure of BOP records via state court subpoena. 2 SHCR-04 425–27. The BOP asserted sovereign immunity and refused to respond to the state process, *id.* at 425, forcing Prible to obtain an order from the federal habeas court, *Prible v. Thaler*, 4:08-mc-00316, ECF No. 18 (S.D. Tex. Mar. 10, 2011).

Importantly, because the question was whether Section 5 was met when the writ was filed, the trial court did not make any findings or conclusions regarding evidence disclosed afterwards during the remand.⁵ *Id.* The CCA affirmed the lower court's recommendations and dismissed the successor application as an abuse of the writ. *Ex parte Prible*, WR-69,328-04, 2011 WL 5221864, at *1 (Tex. Crim. App. Nov. 2, 2011).⁶

III. Federal Habeas Proceedings

Prible's case then returned to federal court. Armed with new information obtained during the *Rhines* stay, Prible amended his federal claims and promptly sought discovery.

Through a combination of court-ordered disclosures, an *in camera* review of the State's file, depositions, and live testimony, a wealth of new evidence emerged showing that Siegler: (1) had orchestrated an informant ring to convict Prible before Prible had even arrived at the unit of the federal prison that housed her informants, fed those inmates

⁵ This means that evidence satisfies Section 5(a)(1) in the instant writ.

⁶ A detailed account of what Prible knew at this time, what the State disclosed and when, and what transpired at the evidentiary hearing can be found in Prible's supplemental briefing submitted after the June 8–9, 2011 evidentiary hearing. 2 SHCR-04 491–773. Importantly, the State repeatedly insisted during the evidentiary hearing that it had disclosed all *Brady* material and that Prible's case had no connection whatsoever to Hermilo Herrero's case. *E.g.*, 2 SHRR 22, 29–30, 50–51, 58; 3 SHRR 27, 61.

information, and withheld details of her meetings with those inmates from Prible's trial counsel and the trial court; (2) was provided information by the head of the Harris County crime lab before trial that undermined the State's argument to the jury about the timing of the DNA deposit; (3) buried all of this information—much of it documented in her own handwriting—in her work product folder;⁷ and (4) repeatedly misled defense counsel, the trial court, the jury, and the federal habeas court about her actions and the truthfulness of her evidence. In its 2020 order granting relief, the federal habeas court aptly summarized:

[T]he ultimate facts of this case are simple. The State's case rested on two facts: (1) a single [inmate] witness who testified that Prible confessed to the murders and (2) testimony suggesting that Prible's DNA had entered Tirado's mouth only a short while before her death. . . . Where, as here, the suppressed evidence taken as a whole would have allowed the defense to seriously undercut the two main arguments the prosecution relied upon, the Court has no trouble finding that a reasonable jury may well have reached a different outcome.

Ex. 1 at 40, 70.

In its 88-page opinion, the court also issued a forceful, detailed

⁷ The federal habeas court compelled production of roughly 19 pages of handwritten notes by Siegler and her investigator, Johnny Bonds, following its *in camera* review of Siegler's work product folder. See **Exhibit 5 (HCDA Siegler's Handwritten Notes)**; **Exhibit 6 (HCDA Investigator Bonds's Handwritten Notes)**.

rebuttal of Siegler’s conduct during the pre-trial investigation, trial, and post-conviction proceedings. It noted that “Siegler’s [federal habeas] testimony was not credible on both minor and major points. Siegler made several statements that the record directly refutes. . . . Siegler was also combative in demeanor and did not appear forthcoming with many of her answers.” *Id.* at 36–37.

In the end, the Court need not look further than the State’s own file to demonstrate that Siegler prevented the defense from learning about exculpatory material evidence. In her [federal] deposition, Siegler claimed that she had an “open file” policy and did not maintain a separate work product file. In reality, however, the State maintained a dense work product file containing a significant amount of exculpatory information that was not disclosed to the defense. . . . These materials came to light only because of court proceedings and court orders occurring after Prible filed his initial federal petition.

Id. at 51–52.

Ultimately, after more than a decade of litigation and fact development, the federal habeas court granted guilt-phase relief on five *Brady* claims and one *Massiah* claim. **Ex. 1 at 87**. The State appealed, and two years later the Fifth Circuit Court of Appeals reversed on procedural grounds. *Prible v. Lumpkin*, 43 F.4th 501 (5th Cir. 2022). The United States Supreme Court denied Prible’s writ of certiorari on June

20, 2023. *Prible v. Lumpkin*, 143 S. Ct. 2644 (2023).

FACTUAL BACKGROUND

I. The 1999 murders and initial investigation.

A. The relationship between Prible, Steve Herrera, and Nilda Tirado.

Esteban “Steve” Herrera and Prible had been friends since junior high. After Prible was honorably discharged from the Marines in the late 1990s, he moved back to his parents’ home in Houston and re-connected with Steve.⁸ The two began hanging out regularly at the house Steve shared with his girlfriend, Nilda Tirado, drinking, using cocaine, and shooting pool. Steve and his brother, Edward Herrera, were both cocaine dealers. 25 RR 61, 100.

Steve and Tirado had been living together for about five years. Between them, they had three little girls. Unbeknownst to Tirado, Steve had been seeing another woman for several months before he died. 26 RR 195. Unbeknownst to Steve, Tirado had become romantically involved with Prible. 31 RR 108.⁹

⁸ This application refers to Steve Herrera as Steve to avoid confusion with Hermilo Herrero, who is discussed further below.

⁹ See also 26 RR 235 (Tirado’s sister-in-law testifying that Prible had recently gifted Tirado a bathrobe); **Exhibit 7 ¶6 (Declaration of Gregory Francisco)** (Steve’s friend stating he “strongly believed” Prible and Tirado were romantically involved based on what he had observed).

B. The bank robbery scheme.

Steve and Prible wanted to open a club together. In the spring of 1999, they concocted a scheme whereby Prible would rob banks and give the proceeds to Steve, who would grow the money by buying and reselling drugs. Between March 30 and April 22, 1999, Prible robbed six banks in Houston for a total of \$45,989.00.¹⁰ 32 RR 73. The scheme was hardly a secret: multiple witnesses testified that they saw Prible and Steve handling large sums of cash during this time period. 25 RR 63–64; *id.* at 140; 26 RR 211; *id.* at 198.

C. The night of the murders.

On the night of April 23, 1999, Prible, Steve, and Victor Martinez (Steve's brother-in-law) were drinking and shooting pool in Steve's garage. 25 RR 9, 14. Steve had been trying to score an 8-ball of cocaine from his brother Edward, paging him from Prible's phone over and over. *Id.* at 74–75.¹¹

The three went to Rick's Cabaret around midnight in Victor's car and returned to Steve's house around 2:00 a.m. *Id.* at 24, 48. Steve and

¹⁰ No weapon was used in the robberies, and no one was physically injured.

¹¹ Edward testified he knew the pages were from Steve because Steve used his special code that he always used when paging Edward, "021." 25 RR 74.

Prible went back into the garage to play some more pool, and Victor left. *Id.* at 32–33. During the entire time the three men were together that night, Victor never saw anything “at all” to suggest that Steve and Prible were angry with each other, nor did he recall any harsh words between them. *Id.* at 53.

Back at the house, Steve again pestered Edward for cocaine, paging him from Prible’s phone at 2:30 a.m., 3:00 a.m., and 4:00 a.m. using his secret code. 25 RR 78–80.

D. The alibi witness.

At around 4:00 a.m., Steve drove Prible home. 31 RR 107; *see also* 25 RR 79–80. Prible’s next-door neighbor, 12-year-old Christina Gurrusquieta, woke up and saw Prible and Steve talking by Prible’s dad’s truck. 27 RR 5, 7–8. She knew Prible and she also knew Steve because he had previously cussed her out when she had kicked a ball at his car while playing. *Id.* at 6–7. She saw Steve drive away and Prible walk into his house, then went back to bed. *Id.* at 7, 9–10.¹²

¹² The State spoke to Gurrusquieta about her experience a week or two later but attempted to conceal this meeting and Gurrusquieta’s identity until just before trial. 27 RR 10; 20 RR 5–6.

E. The discovery of the bodies.

At around 6:00 a.m., Steve and Tirado's neighbor opened his front door and saw smoke coming out of the home, music blaring from inside. He and his wife entered through the garage side door and discovered Steve face-down on the ground in a pool of blood. 21 RR 109, 142–43. They called 9-1-1.

Harris County Sheriff's Office ("HCSO") deputies arrived around 6:53 a.m. *Id.* at 203. They found Steve in the garage. *Id.* at 224. Tirado was face-down on a loveseat in the living room, all of her clothing having been burned away other than the remnants of a t-shirt beneath her body. *Id.* at 219. The skin on her back, buttocks, and legs appeared charred and burned. *Id.* at 219–21.

Near Tirado's body, firefighters found a scorched metal Kutzit container. *Id.* at 216. On the floor in the middle of the room were the melted remains of a small red plastic container that could be used to hold gasoline. *Id.*

Marshall Kramer, a 17-year veteran of the Harris County Fire and Emergency Services Department, testified that the assailant or assailants had set a flashfire—"a very hot rapid fire"—originating in the

middle of the room around the red plastic container. *Id.* at 217–18. Kramer compared flashfires to the phenomena seen when lighter fluid is poured on charcoal and a match is dropped on the soaked heap: “You get a whoosh, a rush of flames,” as the fire immediately consumes all of the liquid fuel. *Id.* at 217. As a result, Kramer expected that traces of the accelerant, soot, and/or smoke would be detected on the arsonist’s body, clothes, or shoes. 22 RR 146–47.

Kramer further described Kutzit, an adhesive remover, as an “irritant” to the skin. *Id.* at 145–47. Buddy Wood, the crime lab supervisor, explained that Kutzit would leave a mark if it touched the skin, and could even singe the skin if a fire was lit. 24 RR 228. He stated that Kutzit could remain on clothes and shoes for possible future testing and would make the clothes that it splashed on smell bad. *Id.* at 229.

Because the house was closed up tightly, the flashfire quickly consumed “all of the oxygen in the room” and “self-extinguished,” leaving behind “very heavy, very thick” smoke. 21 RR 217, 223–24. This smoke permeated the house and suffocated Steve and Tirado’s three children who were asleep in the bedrooms. *Id.* at 226. Crime scene reports and photos show the sofa was burned down to the frame in places, multiple

appliances had melted from the heat, other furniture in the room was charred, and the entire room was covered in soot. The garage also sustained extensive fire damage.

Steve and Tirado had both been executed at close range before the fire started. Steve was shot point-blank in the left side of the back of his neck, the bullet severing his spinal cord, in what the medical examiner described as “an assassin’s wound.” 23 RR 36, 48. Nilda was shot in the back of her neck on the right side, another “assassin’s wound.” *Id.* at 48, 58, 60. Neither body bore signs of a fight or defensive wounds. 23 RR 35–36. The bullet casings were never found. 22 RR 151.

F. The 1999 investigation.

Word spread quickly that morning, and neighbors and relatives gathered at the scene. Police interviewed multiple neighbors, as well as every family member who eventually testified at trial. One neighbor told police that a red Dodge Ram truck bearing Texas license plate number SF4 896 was parked in front of his home earlier, which was “out of the ordinary.” Exhibit 8 at 3 (HCSO April 26, 1999 Supplemental Report).¹³

Tirado’s friend Cynthia Flores told Detective Curtis Brown about

¹³ Nothing in the HCSO file indicates this lead was pursued.

the bank robbery scheme and where Prible lived with his parents. 25 RR 140. Edward Herrera also gave Prible's name and location to Detective Brown. 23 RR 176–78.

Later that day, Detective Brown and two other officers went to the Prible home to question him. Prible voluntarily went with them to the police station and gave blood, hair, and saliva samples. *Id.* at 188–90. His naked body was extensively photographed. *Id.* at 189–90. The photos showed no wounds, burns, scratches, bruises, soot, or suspicious marks of any kind.¹⁴

According to Detective Brown, Prible was cooperative throughout his time at the station. *Id.* at 195. He signed a voluntary consent to search his room in his parents' house and his vehicle. *Id.* at 185. He provided his tennis shoes for analysis, and nothing was found on them: “no blood, no hair, no nothing.” *Id.* at 193; see 24 RR 42–43. Prible also provided his clothes, which were sent to the lab for trace evidence testing and blood analysis. 23 RR 194. They, too, came back negative in all categories. *Id.* at 195.

¹⁴ At trial, Detective Brown repeatedly denied that Prible had been stripped and photographed. 23 RR 191, 230–31. When confronted with the photographs, he acknowledged that they showed no suspicious marks whatsoever. 24 RR 12.

Prible then consented to an interview without counsel and provided two signed statements. In the first statement, Prible said he had been at Steve and Tirado's home the night before and that Steve drove him home early that morning. 31 RR 107. In the second statement, Prible added that he had engaged in consensual oral sex with Tirado that night and that he initially did not volunteer this information because he did not want to ruin Tirado's reputation. *Id.* at 108. The police released Prible from custody, and he returned home.¹⁵

Detective Brown also requested that "all evidence possible" from the scene—"cans, bottles, whatever they felt that could be useful"—be examined for trace evidence. 23 RR 232. Though blood was splattered and smeared about the crime scene, 24 RR 18–19; 26 RR 108, none of it was collected for testing, not even the blood smear that Detective Brown noticed next to Steve's body. 24 RR 4–5; 18–19.¹⁶

Cleva West, a Houston Police Department Crime Lab employee,

¹⁵ Within the following weeks, the HCSO arrested Prible's father on unrelated aggravated assault charges and seized his father's firearms in an apparent attempt to identify the gun used to kill Steve and Tirado. The firearms were all eventually returned and the charges were dropped.

¹⁶ Detective Brown testified that he requested testing on all blood samples from the scene, 23 RR 232–34, then conceded on cross-examination that no blood samples were taken from the scene, 24 RR 4–5.

performed the analysis of the physical crime scene evidence as well as Prible's shoes and clothing. No trace evidence of any kind linked Prible to the scene. 24 RR 209–12, 215–16. The following trial exchange between the prosecutor and Fire Marshal Kramer summed up the extent of the forensic evidence connecting Prible to the killings:

Q: When you came away from your investigation, did you, in what you saw, what you observed and what you handled, did you develop any evidence that linked this crime scene to Jeff Prible?

A: No.

22 RR 163.

While the Medical Examiner did not find any indication of sexual assault, 23 RR 128, she did collect samples from Tirado's vaginal, anal, and oral cavities. Semen was not visually observed during collection, but spermatozoa were microscopically detected on the slides from all three samples. 23 RR 128, 152–53.

William Watson, a then-PhD student at Orchid Cellmark laboratories, performed the DNA analysis. Watson obtained DNA profiles from the swabs taken from Tirado's vaginal, anal, and oral cavities. Steve's DNA could not be excluded from the vaginal and anal swab samples, and Prible's DNA could not be excluded from the oral swab

sample. 24 RR 95–96; 31 RR 113.

G. Other suspects are investigated.

At trial, Detective Brown testified that Prible was the one and only suspect for this crime. 24 RR 25–26. But in 2016, in response to a federal subpoena, the State disclosed criminal history reports, dated before trial, of three men who lived in the neighborhood. **Exhibit 9 (Criminal Records of Alternate Suspects) (under seal)**. Each of these men knew Steve and had extensive criminal records.

Detectives interviewed only one of them, Gilbert Trevino. Trevino claimed he spoke to Steve on the phone around 9:30 p.m. the night of the killings but remained at the home he shared with his parents the rest of the night. Exhibit 10 (HCSO Voluntary Statement of Gilbert Trevino, Jr.). Trevino said that a man named Peter Flores was close friends with Steve and may have had information. Officers attempted to interview Flores once at his mother's home but were unsuccessful. Exhibit 11 (HCSO May 6, 1999 Supplemental Report). Nothing in the State's file indicates that Trevino's alibi was ever investigated, and no additional interview attempts appear to have been made.

H. Days after the murders, a threatening letter arrives at Steve's parents' home.

On May 4, 1999, Steve's parents received a letter in the mail and reported it to HCSO. The letter claimed that "thieves and drug dealers" were living in Steve's father's rental property, listed ten other properties he owned, and threatened to burn them all down if the drug dealing did not stop. Ex. 11 (May 6 Supplemental Report). The HCSO took possession of the letter but did not analyze it for fingerprints or DNA.

I. Without sufficient evidence to bring charges, the case goes cold.

Within six weeks of the murders, the State had developed all of the evidence that it would eventually introduce at trial—*except* for the testimony of jailhouse informant Michael Beckcom. But no one was charged. Years later, during his federal deposition, Siegler's investigator Johnny Bonds explained that the DNA match had not been enough to charge Prible because "he came forward and said that yeah, [] that's my DNA because we had voluntary sexual relations. . . . [H]e said that from the very beginning. . . . [I]f he had denied it, I think maybe they would have filed charges, but he admitted it." **Exhibit 12 at 61 (Deposition of HCDA Investigator Bonds).**

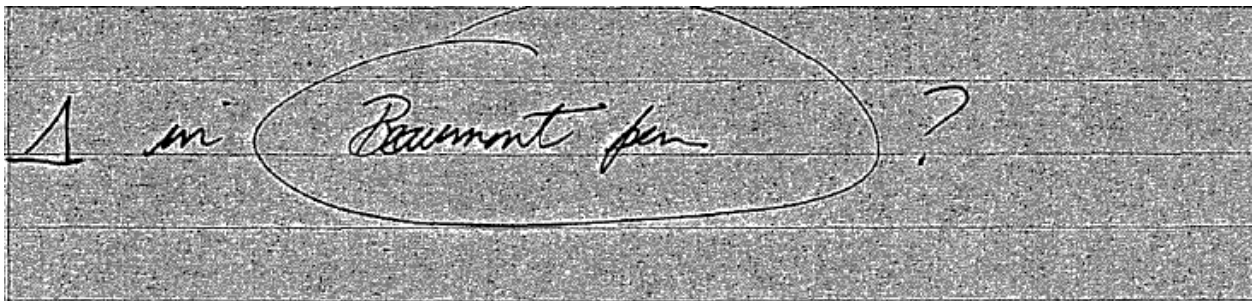
The case went cold. In the meantime, Prible pleaded guilty to

federal bank robbery charges and was sent to the Federal Correctional Institution in Beaumont (“FCI-Beaumont”) to serve his sentence. *See* 32 RR 73. More than two years passed before Prible was charged with capital murder, after prosecutor Kelly Siegler took up the case.

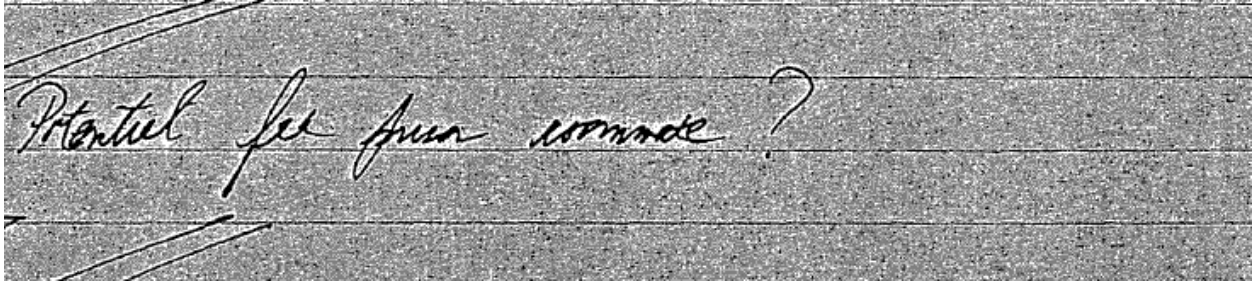
II. Siegler reopens the case in 2001.

Siegler was not involved in the Herrera/Tirado murder case initially. **Exhibit 13 at 55 (Deposition of HCDA Siegler)**. She and Bonds began working on it in March 2001, if not earlier. *Id.* at 65–66; **Ex. 12 at 71**. Prible was set to be released from prison later that year. *See* 32 RR 73.

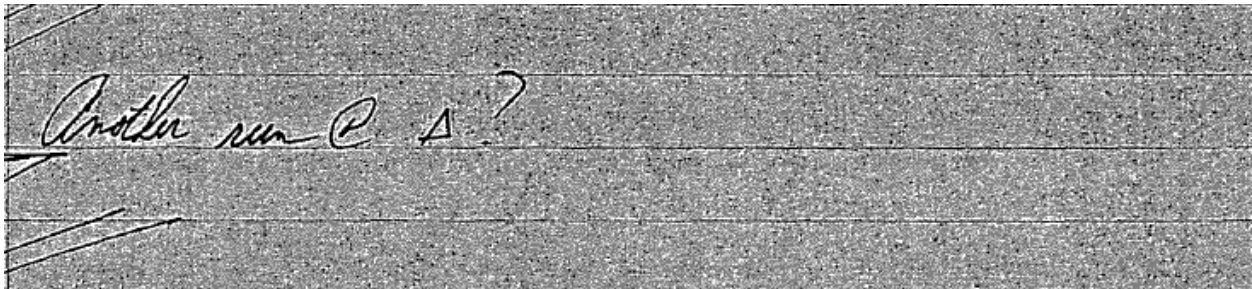
As Siegler reviewed the case file, she jotted down what she later referred to in her federal deposition as some “initial to-do’s” and “random thoughts.” Those included the following:

A photograph of a handwritten note on lined paper. The text is written in cursive and reads "1 in Beaumont pen?". The words "Beaumont pen" are circled with a hand-drawn oval. The note is written on a piece of paper with horizontal lines.

“[Defendant] in Beaumont pen?”

A photograph of a handwritten note on lined paper. The text is written in cursive and reads "Potential for prison roommate?".

“Potential fed prison roommate?”

A photograph of a handwritten note on lined paper. The text is written in cursive and reads "Another run @ Δ?".

“Another run @ [Defendant]?”

Ex. 5.

A. FCI-Beaumont informant Jesse Moreno reaches out to Siegler.

Around this time, on April 4, 2001, one of Siegler’s informants from a previous murder case—Jesse Moreno, who happened to be imprisoned at the same federal prison as Prible—wrote her a letter. **Exhibit 14 (Jesse Moreno Letter to HCDA Siegler).**¹⁷ Moreno said he had information about a murder case that he wanted to share. *Id.* A few days later, Moreno’s mother wrote a letter to Siegler asking her to help her

¹⁷ Siegler used Moreno to secure a cold case murder conviction in *State v. Morales*, No. 743915 (228th Dist. Ct., Harris County, June 6, 1997).

son. **Exhibit 15 (Celia Moreno Letter to HCDA Siegler)**. Siegler arranged to meet with Moreno.

B. The Houston Chronicle writes about the Herrera/Tirado murders.

On April 15, 2001, an article about the Herrera/Tirado murders appeared in the Houston Chronicle. Exhibit 16 (Peggy O'Hare, *Survivors Await Break in Family's 1999 Killing*, HOUS. CHRON., April 15, 2001). It provided information about the crime that had not yet been made public: that DNA was recovered from the scene, "evidence was found on Nilda's body indicating someone besides Herrera had sex with her," the fire might have been set to cover up evidence, and Herrera had a "convicted bank robber" friend who the family believed was connected to the killings. *Id.* In the article, Detective Brown made a public plea for "someone with knowledge about these killings to step forward—someone who may have been told about them by someone involved." *Id.* FCI-Beaumont inmates had regular access to the Houston Chronicle. **Exhibit 17 at 57–58 (Deposition of Michael Beckcom)**.

C. Siegler travels to Beaumont to meet with Moreno.

On July 3, 2001, Siegler met with Moreno at the U.S. Marshal's Office in Beaumont (the "July 3 Meeting"). Some, but not all, of this

meeting was recorded and transcribed. **Exhibit 18 (Transcript of HCDA Siegler’s Interview with Inmate Jesse Moreno)**. Moreno told Siegler that a prisoner at FCI-Beaumont named Hermilo Herrero had confessed to the murder of a man named Albert Guajardo in the presence of Moreno and fellow FCI-Beaumont inmates Nathan Foreman and Rafael Dominguez in November 1999. *Id.* at 13, 17, 21. The transcript reflects that Moreno referred to Foreman as “the one I was asking you [Siegler] about,” prompting Siegler to take down Foreman’s full name, race, age, and housing unit at FCI-Beaumont. *Id.* at 13, 19. Siegler and Moreno also spoke about Prible’s case during this meeting. **Ex. 13 at 130–31 (Deposition of HCDA Siegler)**. This discussion, however, was not recorded or transcribed. Shortly after the July 3 Meeting, Siegler spoke with Foreman over the phone and arranged to meet with him in person. *Id.* at 102–03.

D. Siegler accepts charges against Hermilo Herrero and Prible and has Prible moved to the same unit as Foreman.

Siegler accepted charges against Hermilo Herrero for the murder of Albert Guajardo two days after her meeting with Moreno, on July 5, 2001, having no evidence against him other than Moreno’s confession story.

Exhibit 19 (HCSO July 5, 2001 Supplemental Report); Exhibit 20 (HCDA Siegler’s Letter to AUSA Clemons). She also accepted charges against Prible that day. Exhibit 21 (Ronald Prible July 5, 2001 Charging Information).¹⁸

In accordance with HCDA policy, Siegler prepared and signed detainer paperwork to have Herrero transferred to the Harris County Jail to await trial. **Exhibit 23 (Hermilo Herrero, Jr. Detainer Paperwork).** But Siegler did not prepare detainer paperwork for Prible until months later, on November 29, 2001. **Exhibit 24 at 1 (Prible BOP Housing Records) (under seal).** Instead, Prible was moved from the Low Security Unit to the Medium Security Unit (“FCI-Beaumont Medium” or “Medium”) on July 25, 2001. *Id.* That same day, Foreman was moved back into Medium’s general population from the disciplinary unit. **Exhibit 25 at 3 (Foreman BOP Housing Records) (under seal).**

¹⁸ The probable cause affidavit signed by Detective Brown represented that ballistics tied the bullets recovered at the scene to a .38 Taurus revolver that Prible owned. Exhibit 22 (HCSO Detective Brown’s Probable Cause Affidavit). The ballistics examiner referenced by Brown later testified that the bullets could not have come from a .38 weapon. 24 RR 189.

E. Siegler and Bonds meet with Foreman to discuss Prible's case.

Two weeks later, on August 8, 2001, Siegler and Bonds met with Foreman (the “August 8 Meeting”). *See* **Ex. 5; Ex. 6**. Foreman told them that Prible had confessed to killing Herrera and Tirado in his presence. It would emerge many years later, during federal habeas proceedings, that Siegler and Bonds both believed that Foreman was lying, that his account was not credible, and that he likely had not even met Prible. *See* **Ex. 12 at 44–45, 48–50** (“It was real obvious after talking to Foreman for a few minutes, he was just lying[.]”); **Ex. 13 at 107, 134** (“I didn’t believe him. Neither one of us did. We walked out of there saying we didn’t believe a word he had to say.”).

Siegler later testified that, believing Foreman was a liar, she would not have wanted him to contact her again with more information. *Id.* **at 107–08**. In truth, however, Siegler continued to cultivate him as an informant over the following months.

F. Prible is indicted for capital murder.

On August 29, 2001, Siegler presented Prible’s and Herrero’s cases to the grand jury, securing indictments in both. **Ex. 13 at 120**. She did not present any evidence or witnesses and did not have the proceedings

recorded. ***Id.* at 118–24.** Consequently, there is no record of what she told the grand jury about either case. **Exhibit 26 (Affidavit of Brian Rose).**

G. Foreman’s cellmate Michael Beckcom contacts Siegler, who then arranges to meet with Foreman and Beckcom in person.

Michael Beckcom and Foreman became cellmates in October 2001. 26 RR 23.¹⁹ Foreman gave Beckcom Siegler’s phone number that same month. **Ex. 17 at 32, 42–43.** Beckcom called Siegler shortly thereafter and told her he had information on Prible, and that’s how, according to Beckcom, “[t]he wheels got set in motion.” ***Id.* at 65–67; see** 26 RR 21–24.

On November 12, 2001, Foreman’s attorney sent Siegler a letter stating that Foreman had information “that will lead you to the weapon that was used” in a pending murder case, as well as “other information relating to this case,” and wanted assistance “getting out of prison soon.” **Exhibit 27 (Alan Perceley Letter to HCDA Siegler).** Siegler immediately arranged to meet with Foreman in person on December 10, 2001, to discuss this information. **Exhibit 28 (HCDA Investigator**

¹⁹ Beckcom had murdered a federal informant by forcing him into a metal toolbox, attaching a hose to the exhaust pipe of his car, and suffocating him with carbon monoxide. *See United States v. Beckcom*, No. 1:98-cr-05157, ECF Nos. 1–3 (E.D. Cal. Apr. 20, 1998); **Ex. 17 at 8–10.** In exchange for testifying against his co-defendants, 26 RR 12–13, he received a sentence of only eleven years. *Beckcom*, No. 1:98-cr-05157, ECF No. 16 (E.D. Cal. Feb. 29, 2000); **Ex. 17 at 8–10.**

Bonds's Fax to FCI-Beaumont Medium (Nov. 20, 2001)).

Six days later, Siegler and Bonds sent another letter to FCI-Beaumont, requesting to meet with inmate Michael Beckcom on December 10, 2001, “after we talk to Foreman.” **Exhibit 29 (HCDA Investigator Bonds's Fax to FCI-Beaumont Medium (Nov. 26, 2001))**.

Three days later, on November 29, 2001, evidently confident that she had one or more informants to testify against Prible, Siegler filed an interstate detainer to have Prible transferred out of FCI-Beaumont. *See Ex. 24 (under seal)*.

H. Siegler and Bonds meet with Foreman and Beckcom back-to-back and obtain a handwritten statement from Beckcom.

On December 10, 2001, Siegler and Bonds met with Foreman, then with Beckcom, at FCI-Beaumont to discuss Prible's case (the “December 10 Meetings”). *See Ex. 13 at 224–30; Ex. 5.*²⁰ Bonds's notes from that

²⁰ Prible's trial and state habeas counsel never knew that these meetings had taken place, much less the substance of them. Prible and his federal habeas counsel only became aware of these meetings when the federal district court ordered Siegler and Bonds's notes produced after reviewing Siegler's work product file *in camera*. *See Ex. 5; Ex. 6*. Despite personally memorializing them, Bonds tried, at his federal deposition, to deny the meetings had occurred. *Ex. 12 at 45, 131–36, 151, 155, 176–77*.

meeting, not discovered until federal habeas proceedings, show that Foreman provided Bonds and Siegler a narrative for the killings of Steve and Tirado, namely, that Prible and Steve argued “over \$250k,” Prible “shot Steve in garage,” Prible “shot [Tirado] in head” while she was “face down” and “partially dressed,” and then hid the murder weapon “under asphalt.” **Ex. 6 at 3.**

Beckcom provided similar details: “250k. Steve fucked him out of it . . . (motive),” and “[Tirado] shot in back of head, face down, partially clothed.” *Id.* at 4. The notes further indicate that Foreman was discussed. *Id.*; see **Ex. 13 at 228–30; Ex. 12 at 136–37.**

Beckcom gave Siegler and Bonds a 10-page handwritten statement purportedly describing his many conversations with Prible. Exhibit 30 (Beckcom’s Handwritten Statement (Dec. 10, 2001)). In it, Beckcom claims that he first encountered Prible through his exercise partner, Bobby Williams. *Id.* Then, in late October or early November 2001, *Prible* approached *Beckcom and Foreman* to talk about his murder charge, not the other way around.²¹ *Id.* Beckcom wrote that he, Prible, and Foreman

²¹ Foreman had previously told Siegler and Bonds, in August 2001, that Prible had already confessed to him. See **Ex. 5; Ex. 6.** Bonds also conceded at his deposition that this story of Prible coincidentally approaching Beckcom sounded suspicious, given that Bonds and Siegler had already been speaking with Beckcom’s cellmate,

became very close in a very short period of time, and that after a few weeks, on November 24, 2001, Prible confessed to him and Foreman that he had murdered Tirado and Steve. *Id.* at 9–11.

According to Beckcom’s 2001 handwritten statement, his trial testimony, his 2017 handwritten statement, and his 2017 federal deposition, Foreman was present on each and every occasion that Prible talked about his case with Beckcom, including when he supposedly confessed to the killings. *See id.*; 26 RR 31, 35, 38, 49, 54; **Exhibit 31 (Beckcom’s Handwritten Statement (Apr. 19, 2017))**; **Ex. 17 at 117–18.**

I. Siegler begins advocating for a time cut for Beckcom before Prible’s trial.

Siegler began communicating with Beckcom’s federal prosecutor, Mark Cullers, as early as March 2002. **Ex. 13 at 234–35; Exhibit 32 (AUSA Mark Cullers’s Letter to HCDA Siegler (Mar. 4, 2002)); Exhibit 33 (AUSA Mark Cullers’s Letter to HCDA Siegler (Mar. 5, 2002)).** Beckcom knew that she was in communication with Cullers months before Prible’s trial. **Ex. 13 at 235.** In his 2017 deposition,

Foreman, about Prible’s case for several months. *See Ex. 12 at 158.* Bonds admitted that it appeared Foreman and Beckcom “might have colluded to get more information.” *Id.*

Beckcom testified that Siegler led him to believe he would be released from prison after he testified against Prible. **Ex. 17 at 19–20**. She also told him she had discussed this with his federal prosecutors and “they’re going to play ball . . . they’re in[.]” *Id.* at 92; *see* **Ex. 13 at 235–36**.

J. Other FCI-Beaumont inmates reach out to Siegler about Prible.

In the spring of 2002, a network of snitches emerged “trying to jump on the bandwagon” to testify against Prible. *See* **Ex. 13 at 157**. Prible’s attorneys were never told about any of them.

Siegler’s work-product file contained a telephone memo dated March 7, 2002, asking her to call FCI-Beaumont Medium inmate Mark Martinez. **Exhibit 34 at 5 (Mark Martinez’s Letter with Sticky Note)**. A couple weeks later, Siegler received a letter from Martinez in which he claimed to have been at Steve Herrera’s residence the night of the murders and to have seen Prible and Steve arguing. **Ex. 4**. Despite implicating himself as a fact witness, Siegler kept his identity and information secret. Siegler testified at her deposition that she did not find Martinez credible. **Ex. 13 at 157**.

Inmate Carl Walker also wrote to Siegler, claiming to have heard Prible confess to the murders in front of other informants. **Ex. 3**. Siegler

testified at her deposition that she did not believe Walker either. **Ex. 13 at 155.** She kept his identity secret as well.

Inmates Felix and Jesse Gonzalez (father and son) wrote Siegler a joint letter referencing two prior phone calls they had had with her. **Ex. 2.** They said they had known about Prible and his case before Prible had even arrived at the Medium. ***Id.*** Siegler testified that she did not believe their story. **Ex. 13 at 152–53.**

Siegler hid these three inmate letters from trial counsel, storing them away in a sealed envelope marked “attorney work product.” *See* 1 SHCR-04 316.²²

At her federal deposition, Siegler testified that when she received these letters she thought they all looked the same, signaling to her that the inmates were talking about Prible’s case with one another. **Ex. 13 at 161.** Indeed, they all appear to have been typed on the same typewriter, using the same formatting, indentions, and spacing. ***Id.* at 160.** In each, the word “Prible” is misspelled as “Pribble.” *See* **Ex. 2; Ex. 3; Ex. 4.**

²² The State disclosed these letters for the first time in 2011, during the state evidentiary hearing on whether Prible’s last writ satisfied Section 5(a) when filed. *See* Procedural History § II, *supra*.

K. Siegler uses Jesse Moreno to secure Hermilo Herrero's murder conviction, then writes Rule 35 letters for Foreman and other informants.

Hermilo Herrero was convicted of the murder of Albert Guajardo and sentenced to life in prison in April 2002. **Ex. 13 at 138–39.** Moreno and another FCI-Beaumont inmate named Rafael Dominguez testified against Herrero at trial. Siegler did not call Foreman because by that time, she had presumably learned he was not even at the FCI-Beaumont unit in November 1999 when Moreno claimed Herrero confessed to them. *Compare Ex. 18 at 19, with Exhibit 35 (Affidavit of Nathan Foreman (1)), and Ex. 25 (under seal).*

In other words, both Moreno and Foreman had lied about a critical component of Moreno's confession story—that Foreman was present when Herrero confessed—but Siegler used Moreno as a testifying informant anyway. And she substituted Dominguez for Foreman as a corroborating witness to Moreno's tale, having learned that Dominguez was at FCI-Beaumont that day.

Nevertheless, Siegler sent Rule 35 letters²³ to the federal

²³ Federal Rule of Criminal Procedure 35 permits federal courts to reduce criminal sentences after judgment, often for cooperation with the government. *See* Fed. R. Crim. P. 35. "Rule 35 letters" are written in support of such reductions.

prosecutors for Moreno, Dominguez, Foreman, and another FCI-Beaumont informant named Eddie Gomez for their cooperation in the Herrero case. **Exhibit 36 (Moreno Rule 35 Letter); Exhibit 37 (Dominguez Rule 35 Letter); Exhibit 38 (Foreman Rule 35 Letter); Exhibit 39 (Gomez Rule 35 Letter)**. Indeed, she wrote a Rule 35 letter for Foreman even though, as she later testified in Prible's federal habeas proceedings, she found him not credible, she must have known he was not present for Herrero's alleged confession, and she did not use him at trial. **Ex. 13 at 135–38.**

As a result of the letter she wrote for Moreno, his federal prosecutor filed a motion to reduce Moreno's sentence. **Exhibit 40 (Motion to Modify Sentence, *United States v. Moreno*) (under seal)**. The U.S. District Court in Lafayette, Louisiana, subsequently set a hearing on the motion, at which Siegler was the only witness called. She told the court that Moreno's testimony, and that of another inmate (presumably Foreman, then Dominguez), was the only evidence she had against Herrero. **Exhibit 41 at 6–7 (Transcript of Hearing on Motion to Modify Sentence, *United States v. Moreno*) (under seal)**. She did not reveal that Moreno had lied to her about Nathan Foreman being

present for Herrero’s supposed confession. Moved by her testimony on Moreno’s behalf, the court shaved 77 months off of Moreno’s remaining 78-month sentence. *Id.* at 12.

This hearing for Moreno, the original snitch who had introduced Siegler to Foreman after discussing Prible’s case with her, was held on August 22, 2002, less than two months before Prible’s capital murder trial began. *Id.* at 1. Yet Siegler never revealed her assistance to Moreno—or even Moreno’s connection to Prible’s case—to Prible’s trial counsel.

III. Prible is tried for capital murder in October 2002.

At trial, the State argued that two facts directly incriminated Prible: Michael Beckcom’s “confession” testimony and the DNA evidence.

A. Michael Beckcom testifies that Prible confessed to him and Foreman.

Siegler spent much of her opening statement on Beckcom and his importance to the case. *See* 21 RR 78–83. She told the jury that Beckcom hoped for, but was not guaranteed, a benefit from his testimony. *Id.* at 79–81. She also stated that everything Beckcom knew about the case had “only come from [Prible],” and that “before this State, me, ever knew of the existence of Michael Glen Beckcom, these capital murder charges

were already filed on Jeff Prible.” *Id.* at 80, 82. What she did not say was that she had been speaking with another inmate—Jesse Moreno—about Prible’s case before charges were filed, and that Moreno had led her to Foreman, who in turn had led her to Beckcom.

Siegler conducted Beckcom’s direct examination. He explained the agreement he had with the State as “an understanding that if I testify truthfully to this Court that you will reciprocate by calling my Federal prosecutor. At that point it’s out of [] your hands[.]” 26 RR 14. Otherwise, the State made him no other promises. *Id.* at 17.

Beckcom testified that he learned about Siegler through his cellmate, Nathan Foreman.²⁴ *Id.* at 23. He then contacted Siegler in October 2001, and she met with him for the first time, in person, on December 10, 2001, with Johnny Bonds. *Id.* at 23–24.²⁵ During that meeting, Beckcom provided a letter detailing his knowledge of the crime. *Id.* at 25.

²⁴ *But see* **Ex. 6** (“Michael Beckcom – Nathan never told Mike about Kelly and Bonds.”).

²⁵ The jury did not hear that Siegler had already met with Foreman in August 2001 to discuss this case, after which Siegler determined Foreman was not believable and had never even met Prible. *See* Factual Background § II(E), *supra*. Nor did the jury learn that Siegler and Bonds met with Foreman again on December 10, 2001, before meeting with Beckcom. *Id.* § II(H).

Beckcom told the jury that he met Prible by coincidence and that Prible later approached him and Foreman seeking advice on fighting his capital charges. *Id.* at 28–32. He said information started coming out in “bits and pieces of conversations.” *Id.* at 33. At first, Beckcom “was getting information . . . with no intention of even using it.” *Id.* at 37. But “at one point . . . [he] actually became interested in” contacting Siegler so he “began prodding [Prible] into conversations at times.” *Id.* at 36. Eventually, Beckcom contacted Siegler, who told him that he would have to know “[s]pecifics about the case, facts,” so he “sought to find out as much as [he] could.” *Id.* at 37. After speaking with Siegler, Beckcom got Prible to “soften[] up a bit” and speak more freely, culminating in a full-blown confession on November 24, 2001. *Id.* at 47–48, 53.

From there, Siegler guided Beckcom through all the problematic aspects of the State’s case—Prible’s story of consensual sex, lack of motive, money never found, murder weapon never found, Prible’s alibi witness—so Beckcom could explain them away, and so he would appear more credible because of his knowledge of seemingly innocuous facts.²⁶

²⁶ This exercise of having Beckcom fill in the holes in the State’s case was important enough for Siegler to revisit it in her closing argument. *See* 28 RR 81 (“[S]ome of the things that Mike Beckcom testified to that might otherwise have been innocuous and not so important become very telling when you try to say he’s lying.”);

Concerning the DNA evidence, Beckcom said Prible told him that Prible's DNA had been found on Tirado. *Id.* at 34. Beckcom responded that if that is true, Prible was "through." *Id.* at 43. But Prible insisted that would not be an issue because they were having a consensual affair and had had sex that day. *Id.* at 43–44. According to Beckcom, they "never got into detail" about it, but Prible "gave me the impression [it was] in the bathroom." *Id.* at 43–44. This, however, "didn't make any sense once I started adding up the facts he was giving me," and as a result, "I basically came right out and insinuated I knew he did it." *Id.* at 44.²⁷

Concerning the murder weapon, Beckcom claimed that he, Prible, and Foreman were "making plans" to go into the asphalt business when they got out and discussed it frequently. 26 RR 35. During one of these sessions, Beckcom allegedly asked Prible whether the murder weapon could ever be found, to which Prible responded, "Well, that's – asphalt's good some times for hiding things." *Id.* at 36. He testified that Prible

Id. at 82–83 ("Mike Beckcom turned out to be right, didn't he . . . How would he know that unless Jeff Prible told it to him?").

²⁷ Siegler drove this home during her closing argument: "Even Mike Beckcom told the Defendant, the DNA in her mouth or DNA on the girl pretty much sinks you. An ex-convict can know how telling it is that his semen ends up in her mouth." 28 RR 64.

further told him that the police were looking for a .38 caliber pistol Prible previously owned and had sold. *Id.* at 34. But that pistol was not the one used; it was “clean.” *Id.*

Concerning how Prible would have been able to return to the house after Steve dropped him off at home, kill the family, and then escape unnoticed, Beckcom stated: “I asked him point blank, ‘How did you get in and out without being seen?’ And he said – his response was, ‘It’s a typical high intensity low drag maneuver.’”²⁸ *Id.* at 46–47. Beckcom then confirmed that Prible said he could enter and exit the house without being seen because he was a “bad mother fucker.” *Id.* at 52–53.

Beckcom testified that the motive was money. 26 RR 50. Specifically, he testified Prible told him that Steve “took \$250,000 of my hard-earned money . . . He fucked me out of my money and then he was going to kill me, so I handled my business.” 26 RR 50–51.²⁹

Concerning the fact that the money was never found, Beckcom testified that Prible said he looked in the house but did not find it. *Id.* at

²⁸ “High speed, low drag” is a colloquial military phrase. It carries no technical meaning but is featured in pop culture to describe effectiveness or efficiency, such as in Clint Eastwood’s 1986 film *Heartbreak Ridge*.

²⁹ This \$250,000 number seemingly came out of the blue; the total amount of money obtained from Prible’s six bank robberies was only \$45,989.00. 32 RR 73.

52.

Concerning why Prible would have trusted Beckcom with this information, Beckcom painted a picture that he, Foreman, and Prible had bonded over four months in prison and that their close relationship empowered Prible to confess to them. As Beckcom put it, “He became close to Foreman and I . . . He called us his brothers and said he loved us.” 26 RR 49. Beckcom testified that his and Foreman’s weeks of conversation finally culminated in a confession that Prible “poured out” the night of November 24, 2001. *Id.* at 53.

Siegler asked Beckcom to identify a prison photograph taken of himself, Prible, and Foreman, along with their family members. 23 RR 56. Beckcom testified that it was taken on the day Prible confessed to him and Foreman. 23 RR 56.



See 32 RR 72.

On cross-examination, trial counsel asked about Beckcom's relationship with Foreman. Beckcom testified that they were cellmates for roughly two months, beginning in October 2001. During that time, Foreman provided him with Siegler's name. 26 RR 80–82. Beckcom repeatedly emphasized that everything he knew about Prible's case, he had learned from Prible and Prible alone. *Id.* at 85, 91–95. He also confirmed that he and Foreman arranged for the photograph to be taken on the day of Prible's confession to corroborate their story. *Id.* at 83.³⁰

In her closing argument, Siegler drove home the same things she impressed upon the jury during Beckcom's testimony—namely, that Beckcom and Prible met by coincidence after the capital murder charges were filed, and that everything Beckcom knew about the murders came from Prible's mouth.

[T]here ain't no evidence that Michael Beckcom ever had anybody, anywhere, any paper, any newspaper, any cop, any T.V. show tell him anything about the facts of this case except for Jeff Prible.

...

Remember what [the State] told you, it wasn't until

³⁰ At his federal deposition, Beckcom admitted that the photo was taken hours before Prible purportedly confessed, meaning he and Foreman arranged it to corroborate a "confession" they did not yet have. **Ex. 17 at 124–26.**

charges were already filed on Jeff Prible that caused Jeff Prible to be moved from Beaumont Low to Beaumont Medium, that he ever even met Michael Beckcom.

28 RR 75; *id.* at 77. She never mentioned Foreman, Moreno, or any of the other informants that she had communicated with and that she knew were talking about the case among themselves.

B. The State’s expert testifies Prible’s DNA was deposited at the time of Tirado’s death.

The other pillar of the State’s case was the presence of Prible’s DNA in Tirado’s mouth. Because Prible had told law enforcement, within hours of the murders and several weeks before the DNA analysis was even performed, that he and Tirado had engaged in consensual oral sex earlier that night, the State needed something to undermine his version of events. *See* 31 RR 108; Factual Background § I(F), *supra*. The State thus put forth the theory that unless Prible had “magic semen, magic sperm that somehow lives longer than any of y’all’s or any other man’s in this whole universe,” it would have disappeared moments after ejaculation—and the presence of *any* of Prible’s semen in Tirado’s mouth, no matter how microscopic the amount, could only mean that “as soon as he ejaculated, he executed her.” 28 RR 55, 58.

In her opening statement, Siegler teed up this argument for the

jury:

[T]he DNA expert will tell you what the odds are, what that means exactly statistically the fact that his DNA is found in her mouth. But the most compelling thing he's going to tell you is that you know what, when semen is in somebody's mouth, in a lady's mouth, it goes away in minutes. It goes away with a small swallow. That's what the evidence is about in this case.

21 RR 82–83.

ADA Vic Wisner, Siegler's co-prosecutor, conducted the direct examination of the State's DNA expert, William Watson. Watson testified that he had tested hundreds of oral swabs for the presence of sperm in his career and had never been able to generate even a partial DNA profile before this case. 24 RR 100. Consequently, he said, the semen must have been deposited proximate to the time Tirado was killed and "certainly would be consistent with" a deposit mere seconds before. *Id.* at 101–03.

In their closing arguments, both Siegler and Wisner hammered home their theory that the presence of any of Prible's DNA in Tirado's mouth—no matter how small the amount—could only mean that ejaculation occurred virtually simultaneously with Tirado's murder; otherwise, they argued, the semen would have disappeared immediately. Wisner told the jury:

[I]t had to come right before she was killed or after she was killed. . . . I would suggest to you that what Bill Watson, a credible witness from an independent research lab, tells you is absolutely, totally credible. There is no way in the world that the semen wasn't deposited either moments before or seconds after Nilda died. There is no way that semen is not the semen of somebody who sexually assaulted her just moments before or moments after she died. I would suggest to you what the evidence indicates is that the Defendant after killing Steve forced Nilda to orally copulate him at gunpoint and executed her as soon as he finished. As horrific as that sounds, that is the only logical conclusion that you can draw from that evidence.

28 RR 10–12. Likewise, Siegler told the jury that “[Nilda] left this world with [Prible’s] penis in her mouth.” *Id.* at 57. That was “the only way” it could have happened. *Id.* Prible’s semen was left in her mouth “[b]ecause she didn’t have a chance to spit it out or swallow it or take a drink of water or let any time pass whatsoever because *as soon as he ejaculated*, he executed her.” *Id.* at 58 (emphasis added).

Unless you think [] he had some kind of magic semen, magic sperm that somehow lives longer than any of y’all’s or any other man’s in this whole universe . . . If you believe that story I guess you’ve also got to believe that his semen is so tasty that she walked around savoring the flavor of it in her mouth for a couple hours. That’s the only way it’s going to end up still in her mouth after she’s dead. . . . After executing his friend in cold blood, he was able to get an erection and then with that erection he was able to force it in a woman’s mouth who was on her knees at gunpoint crying and probably begging for her life.

28 RR 55–56, 59.

IV. Siegler advocates for Beckcom after trial.

Shortly after trial, Siegler wrote a letter to Beckcom’s federal prosecutor Mark Cullers informing him of Beckcom’s cooperation. **Exhibit 42 (HCDA Siegler’s Letter to AUSA Cullers (Oct. 29, 2002))**. Cullers responded that the United States did not have jurisdiction to confer any benefit on Beckcom for his cooperation with the State of Texas. **Exhibit 43 (AUSA Cullers’s Letter to HCDA Siegler (Nov. 2, 2002))**.

At this point, Siegler had already done for Beckcom what she told the jury she would do: i.e., write a letter to his federal prosecutor. But she went even further. First, she personally called Cullers and left him a voicemail. While no recording of this message exists, the contents of her voicemail can be gleaned from Cullers’s return voicemail later that day, a recording of which does exist and has been transcribed. **Exhibit 44 (Transcript of Voicemail by AUSA Cullers to HCDA Siegler)**. Cullers was blunt: he told Siegler that “before trial . . . I didn’t guarantee [] that I could do something” and “[i]f [Beckcom] testified in your case with the expectation of some deal from us, that would probably have to

be disclosed to the defense in your case.” *Id.*

Undeterred, Siegler wrote Cullers another letter urging him to reconsider based on the “vital role” that Beckcom played in convicting Prible. **Exhibit 45 (HCDA Siegler’s Letter to AUSA Cullers (Nov. 15, 2002))**.³¹

V. Years later, Prible’s federal habeas court orders discovery.

After Prible was denied relief on his successor state habeas application in 2011, *see* Procedural History § II, *supra*, the federal district court regained jurisdiction over Prible’s federal habeas action. Through a years-long sequence of court-ordered disclosures, discovery, and subpoenas, evidence emerged showing what the State knew, did, and withheld from Prible’s attorneys and Texas courts.

A. The State produces some *Brady* material in 2015.

In October 2015, Prible’s attorney met with attorneys for the State to review the State’s files for records relating to Prible’s and Herrero’s grand jury proceedings, per court order. At the meeting, the State produced, among other items, the following documents from the work product file upon determining they were not work product:

³¹ During her deposition, Siegler denied that Beckcom played a vital role in Prible’s prosecution, this letter notwithstanding. **Ex. 13 at 254.**

- The November 12, 2001 letter from Nathan Foreman's attorney, Alan Percely, to Siegler, in which Percely conveys Foreman's desire to provide evidence against Prible in exchange for Siegler's assistance in getting Foreman's sentence cut. **Ex. 27.**
- Criminal background reports for Foreman and Rafael Dominguez, dated December 6, 2001. **Exhibit 46 (Foreman Criminal History Report) (under seal); Exhibit 47 (Dominguez Criminal History Report) (under seal).**
- A sticky note attached to informant Mark Martinez's April 30, 2002 letter to Siegler, which appears to memorialize a March 7 voicemail from Martinez regarding the Prible case. **Ex. 34.**
- An undated letter from Beckcom to Siegler referencing his upcoming testimony in Prible's trial, expressing concern that his federal prosecutor would not assist him, seeking her reassurance, and proposing that Siegler further help him secure a sentence reduction by arranging for him and another FCI-Beaumont inmate to inform on even more inmates. **Exhibit 48 (Michael Beckcom's Letter to HCDA Siegler).**
- A letter from the HCDA to FCI-Beaumont asking for permission for Siegler and Bonds to interview Beckcom, as Beckcom requested, in May 2002, five months before Prible's trial. **Exhibit 49 (HCDA Investigator Bonds's Letter to Interview Beckcom (May 1, 2002)).**
- Documents showing that after Prible's trial, Siegler lobbied Beckcom's federal prosecutor for a time cut and evidently recruited a federal prosecutor from the Houston office to weigh in on Beckcom's behalf. **Ex. 42; Ex. 43; Ex. 45; Exhibit 70 (Fax from AUSA Mark McIntyre to HCDA Siegler); Exhibit 71 (HCDA Siegler's Handwritten Notes Regarding AUSA Cullers); Exhibit 72 (HCDA Siegler's Fax to AUSA Cullers (Nov. 15, 2002)).**

Prible's counsel had never seen any of these documents.

B. Nathan Foreman executes two affidavits.

Prible's original state habeas attorney had previously bench-warranted Nathan Foreman for an interview before filing the Initial Application. When Prible's counsel identified himself, Foreman went "stone silent" and refused to talk. 2 SHRR 40. But when Prible's federal counsel approached Foreman years later, he agreed to speak. He provided two affidavits describing in detail how Prible and Herrero were "set up" by FCI-Beaumont informants working for Siegler. **Ex. 35; Exhibit 50 (Affidavit of Nathan Foreman (2))**. Importantly, he stated that Prible never confessed in his presence or said anything incriminating, and that Siegler fed him information before he had even met Prible. **Ex. 35**. The prosecution's story, put simply, was "not true." *Id.*

Foreman also denied that Hermilo Herrero had confessed in his presence: "I can't remember ever speaking to the man, not even once." **Ex. 50**.

Siegler signed her own affidavit two months later, which was filed by the State in Herrero's state habeas proceeding. **Exhibit 51 (Affidavit of HCDA Siegler)**. In it, Siegler insisted that Foreman had credibly told

her, during a pre-trial interview, that Herrero had confessed to him. *Id.* “It is my understanding,” she wrote, “that Foreman now attests in an affidavit that Herrero was ‘set up for the Guajardo murder.’ He never told me this. . . . I do not consider his [] affidavit to be credible.” *Id.* at 2.³²

C. The State produces more *Brady* material in 2016.

In July 2016, the federal habeas court granted Prible’s motion for leave to conduct discovery and to depose members of the prosecution team, the informants and potential informants from Prible’s and Herrero’s cases, and FCI-Beaumont employees. *Prible v. Davis*, No. 4:09-cv-01896, ECF No. 134 (S.D. Tex. July 8, 2016). In August 2016, it ordered production of various records regarding Beckcom and Foreman from U.S. Attorney’s Offices and the U.S. Marshals Service. *Prible v. Davis*, No. 4:09-cv-01896, ECF No. 136 (S.D. Tex. Aug. 4, 2016).

In August and September 2016, in response to a subpoena, the State produced even more potential *Brady* evidence from Prible’s casefile. This included, among other things:

- Criminal background reports for possible alternate suspects

³² In other words, Siegler insisted Foreman’s supposed confession story was credible even though it was impossible, *see* Factual Background § II(K), *supra*, and even though she later testified in Prible’s case that she determined Foreman was not trustworthy before Herrero’s trial, **Ex. 13 at 136**.

in the initial investigation. **Ex. 9 (under seal)**.

- A DOJ Fact Witness Voucher for Kelly Siegler, compensating her for her August 22, 2002 testimony in the sentence reduction hearing for Jesse Moreno. **Exhibit 52 (Fact Witness Voucher for HCDA Siegler)**.

Until this time, Prible and his counsel had not known that Siegler had testified in a Rule 35 hearing for Moreno less than two months before Prible's trial. The transcript of that hearing was sealed, so Prible's federal counsel moved to unseal it and the Rule 35 motion. That motion was granted pursuant to a protective order. *See Ex. 40 (under seal); Ex. 41 (under seal)*.

The State withheld approximately 500 pages of documents on grounds that they were protected work product. Prible then filed a motion to compel the work product documents, and the court ordered the State to submit the material for an *in camera* review. *Prible v. Davis*, No. 4:09-cv-01896, ECF No. 150 (S.D. Tex. Dec. 16, 2016).

D. The federal habeas court compels production of documents from Siegler's work product file.

Upon completion of its *in camera* review, the federal habeas court ordered the State to produce approximately 19 pages of handwritten notes from the State's work product file. *Prible v. Davis*, No. 4:09-cv-01896, ECF No. 154 (S.D. Tex. May 12, 2017). These included:

- Notes memorializing meetings with informants Foreman, Beckcom, Jonathan Wayne Jefferson, and Eddie Gomez concerning Prible’s and Herrero’s cases, dated as far back as August 2001;
- Notes indicating that Siegler contemplated setting Prible up with a “potential federal prison roommate”; and
- Notes indicating that Siegler had consulted Pam McInnis, the head of the Harris County crime lab, who told her that semen could live up to 72 hours in the mouth.

See **Ex. 5**; **Ex. 6**. Prible’s counsel had never seen these documents or been informed of any of the information therein.

E. Prible’s counsel conduct interviews and depositions.

1. An FCI-Beaumont unit manager provides an affidavit.

In June 2017, Prible’s counsel obtained an affidavit from former FCI-Beaumont unit manager Gordon Harpe. **Exhibit 53 (Declaration of Gordon Harpe)**. Harpe described how FCI-Beaumont staff could arrange for unmonitored calls to a prosecutor if inmates wanted to share information about a case. He stated that he had reached out to Siegler on behalf of an FCI-Beaumont inmate to pass along information the inmate had about Prible’s case. He remembered that Siegler called him later, thanking him “for not discounting the informant’s claim.” *Id.*

2. Informant Oscar Gonzalez provides an affidavit.

Oscar Gonzalez was one of the Beaumont inmates who reached out

to Siegler in 2002, claiming he had information that could secure Prible's conviction and seeking a time cut in exchange for testifying. **Ex. 2**; see Factual Background § II(J), *supra*.³³ Prible's federal counsel, armed with a subpoena and discovery order, contacted Gonzalez in 2017, and he provided an affidavit. **Exhibit 54 (Affidavit of Jesse Oscar Gonzalez)**. Gonzalez explained:

Before Jeff [Prible] got to the Medium people in the Medium knew that he was coming over there and they knew what had happened in his case . . . There was talk on the Medium about checking Jeff in as soon as he got on the yard because people believed he killed three little girls. [] Guys were talking about Jeff's case on the yard all the time. The guys were trying to put together information so they could give it to the prosecutor and get a time cut. They were saying that Jeff would be their ticket out of prison. . . . I remember the prosecutor on Jeff's case was named Kelly Siegler . . . Siegler was well-known on the compound. The word was that if you helped Siegler, she would help you . . . I remember going into the counselor's office with my dad once and talking with Siegler on the phone . . . I remember writing a letter to Siegler saying I would testify against Jeff because I wanted to help my dad. I wrote the letter by hand. I do not type. I do not even use a computer or text. Someone else must have typed the letter . . . Whoever did it changed the wording. I do remember signing it.

Id.

³³ Gonzalez's letter was among those kept from the defense in the sealed letter-sized envelope marked "attorney work product," which was not produced until 2011. See Procedural History § II, *supra*.

3. Informant Rafael Dominguez is deposed.

Prible's counsel deposed Rafael Dominguez—one of Siegler's jailhouse informants in Herrero's trial—on April 17, 2017. *See* **Exhibit 55 (Deposition of Rafael Dominguez)**. He was shown a copy of the letter that Oscar Gonzalez had written to Siegler, in which Gonzalez said that “[Prible] was worried that inmates Martinez and Dominguez might want to retaliate for Steve and Nilda.” *See* **Ex. 2**. Dominguez said this was false; he did not even know who Steve and Nilda were. **Ex. 55 at 13**. Dominguez also said he didn't know why his name would have been mentioned in Gonzalez's letter to Siegler. *Id.* **at 18–20**. He went on to say that “[e]verybody knew” that Prible had been accused of murder. *Id.* **at 13–14**.

4. Johnny Bonds, Vic Wisner, Michael Beckcom, and Kelly Siegler are deposed.

The complete deposition transcripts for Johnny Bonds, Vic Wisner, Michael Beckcom, and Kelly Siegler are attached as exhibits to this application. *See* **Ex. 12; Ex. 13; Ex. 17; Exhibit 56 (Deposition of Vic Wisner)**. They are discussed in detail in the following section.

VI. The federal habeas court holds a live evidentiary hearing.

The federal habeas court held a three-day evidentiary hearing in

2019. Nathan Foreman, Carl Walker, Kelly Siegler, and trial counsel Terrance Gaiser all testified live. The court also viewed and admitted video-taped deposition testimony of Michael Beckcom, Johnny Bonds, Victor Wisner, and Siegler.³⁴

A. Testimony of Nathan Foreman.

Foreman's testimony served two purposes: (1) it provided background into the ring of informants and their interactions with Siegler, and (2) it established that Beckcom's story of he and Foreman hearing a confession from Prible was not true.

Foreman testified he met Jesse Moreno while they were housed together at FCI-Beaumont. **Exhibit 57 at 37, 39 (Reporters Record, Vol. I, Federal Evidentiary Hearing)**. He learned some facts about Prible's case from Moreno. **Id. at 39**. Moreno suggested that Foreman contact Siegler. **Id. at 40**. Foreman, Moreno, Beckcom, and Dominguez all contacted Siegler from the unit manager's phone. **Id. at 45**.

Foreman did not remember when he first contacted Siegler but recalled meeting her at the Federal Detention Center in Houston. **Id. at 44**. He testified that he did not remember the content of that

³⁴ Unless otherwise noted, citations in this section are to the evidentiary hearing transcripts, which include portions of the depositions played in open court.

conversation. *Id.* at 44, 80–81.

Foreman testified that, after he became cellmates with Beckcom in October 2001, they met Prible in the recreational yard. *Id.* at 46. By that point, however, Foreman already knew some facts about Prible’s case and had relayed them to Beckcom. *Id.* at 51, 54. Foreman had gotten his information from Moreno and Siegler. *Id.* at 54.

Foreman and other inmates were trying to “roll[] over on” Prible in exchange for “time cuts.” *Id.* at 49. But Prible would not talk about the crime: “he didn’t really talk about what he was accused of” other than to say that “they were trying to accuse him for something that he didn’t do.” *Id.* at 51.

Prible’s attorneys took Foreman line-by-line through the December 10, 2001 letter that Beckcom wrote to Siegler relating to Prible’s alleged confession. *See* Ex. 30. Foreman directly contradicted Beckcom’s account and repeatedly denied that Prible made inculpatory statements. **Ex. 57 at 51–70.** Foreman testified that Beckcom “should have been a book writer or something” because his entire story was “not true” and completely fictional. *Id.* at 64.

Importantly, Foreman testified that Beckcom’s written story about

Prible's purported confession sounded "scripted" and "none of this is true[.]" *Id.* at 60. Foreman testified that on that day, the group of snitches used homemade wine to try to get Prible to talk. *Id.* at 71. Prible eventually got so drunk that Foreman had to help him back to his cell, but Prible did not confess. *Id.* at 71–72. Foreman said that he would have remembered if Prible had said anything inculpatory, because he would have used that to inform on Prible. *Id.* at 63.

The federal habeas court found Foreman to be a credible witness who "convincingly and unwaveringly" undermined the basis and truthfulness of Beckcom's trial testimony. *Ex. 1 at 29.*

B. Testimony of Carl Walker.

Walker testified about his involvement in the ring of informants vying to inform on Prible. Walker was initially "approached or recruited" by some inmates who asked "if [he] wanted a blessing, [an] opportunity to get out of jail" by testifying against Prible. *Ex. 57 at 95, 97.* Prible was to be "a mark . . . [i]n every sense of the word. . . . [H]e was going to be a scapegoat for several individuals to have an opportunity to get out of prison sooner than later." *Id.* at 106. The two architects of this plan were Beckcom and Foreman. *Id.* at 99.

The men already had a “plethora of information about Mr. Prible’s case” when they approached Walker—“details, locations, what was found, where the body was, what happened.” *Id.* at 95. The men concocted a plan to “collaborate as if we became prison buddies or pals or et cetera [with Prible], and then he, all of a sudden, feel compelled to confess all these horrific things.” *Id.* at 98. The men would then “writ[e] letters to the prosecutor asking to be a witness or—or volunteering to be a witness because we was just so overwhelmed about the information he supposedly give us.” *Id.* Walker was given instructions to call Siegler and tell her what he had supposedly found out from Prible. *Id.* at 100.

On November 24, 2001—the day of the supposed confession—the group staged a photo “to create a picture of close intimacy with Mr. Prible, a close connection. . . . to show that . . . he would be comfortable enough or confident enough in your friendship to give you this information.” *Id.* at 111. Walker testified that everyone in the photo was involved in the plot against Prible. *Id.* at 102–03.



Exhibit 58 (Informant photograph).

Walker testified that the group made a batch of wine specifically to get Prible drunk enough to confess to the murders, and then drank it with him. **Ex. 57 at 114.** However, Walker said that it “really didn’t matter” if Prible actually confessed, because “the knowledge was already there, you know. That was more of a formality, like you would go through the motions. You would set it up.” *Id.* at 114–15, 127. To Walker’s knowledge, Prible never actually confessed. *Id.* at 115.

Walker nonetheless sent Siegler a letter offering to testify that Prible had confessed.³⁵ Walker testified that he did not write it himself,

³⁵ Walker’s letter was among those kept from the defense in the sealed letter-sized envelope marked “attorney work product,” which was not produced until 2011. *See* Procedural History § II, *supra*.

he only signed it. ***Id.* at 116.** Walker explained that the inmates' letters were designed to corroborate each other. ***Id.* at 117.** He believed that Beckcom typed the letters because he was the only member of the group with the "privacy [or] exclusivity to have access to a typewriter." ***Id.* at 132.**

The federal habeas court found Walker to be a credible witness "who was unwavering in his testimony" and "corroborated Foreman's rejection of Beckcom's trial testimony." **Ex. 1 at 31.**

C. Deposition testimony of Johnny Bonds.

Bonds testified via video deposition taken on September 19, 2017. See **Ex. 12.** Bonds recalled that initially there was not enough information to charge Prible. **Ex. 57 at 143.** He claimed to have never spoken to Beckcom. ***Id.* at 140.** He also said that he had never seen any of the informant letters written to Siegler. ***Id.* at 154–55.** After reviewing them, he acknowledged that they look as though the same person typed them. ***Id.* at 180–81.**

Bonds recalled the August 2001 meeting with Foreman. He testified that, "two minutes into his conversation, I'm like, This guy is lying. He doesn't know anything about this case." ***Id.* at 140.** Bonds testified that

Siegler felt the same way. *Id.* at 172.

Bonds only recalled meeting Foreman once. *Id.* at 139. When confronted with his own notes documenting a second meeting he and Siegler had with Foreman in December 2001, he was surprised. *Id.* at 160–62. He “was at a loss of why [they] would want to talk to him again” when they knew he was a liar. *Id.* at 162–63. Bonds speculated that his notes reflected Siegler’s report to him about a meeting she had with Foreman, rather than a meeting he attended. *Id.* at 164.

Bonds testified that until the day of his deposition, he did not know Foreman and Beckcom were cellmates. *Id.* at 169. He acknowledged that Foreman and Beckcom “might have colluded to get more information.” *Id.* He also acknowledged it was unlikely that Prible would talk about his crime to other inmates after he was indicted. *Id.* at 171–72.

D. Deposition testimony of Vic Wisner.

Wisner testified via video deposition taken on September 20, 2017. See **Ex. 56**. Wisner was Siegler’s co-counsel at trial. He said he had no idea that there were inmates other than Michael Beckcom in FCI-Beaumont who were vying to testify against Prible. **Ex. 57 at 192**. He had never heard of Nathan Foreman. *Id.* at 189. He did not know that

Siegler and Bonds met with Foreman on August 8, 2001, before Prible was indicted. *Id.* at 189–90. “[I]f they would have told me that George Foreman’s nephew had met with them,” he testified, “it would have stuck out in my mind.” *Id.* at 190. Wisner knew nothing of Foreman coming forward to try to testify against Prible originally; nor that Foreman was the cellmate of the informant who ended up testifying. *Id.* at 190. He was unaware that Siegler had met with Beckcom and Foreman back-to-back on December 10, 2001, at FCI-Beaumont. *Id.* at 194.

Wisner said that he never spoke with Beckcom, or any other informant, over the phone. *Id.* at 187–88.

Wisner also knew nothing about Carl Walker. He had never seen the letters to Siegler from Walker, Martinez, or Gonzalez. *Id.* at 192. He acknowledged that if he were a defense attorney representing Prible, he would probably have been able to use those letters to impeach Beckcom’s testimony that everything he heard about the case, he heard from Prible. *Id.* at 193–94.

Wisner knew nothing about Jesse Moreno. He had never seen the letters to Siegler from Moreno and his mother. *Id.* at 194. He was not aware of the July 3, 2001 meeting between Moreno and Siegler, nor that

Moreno had mentioned Nathan Foreman to Siegler. ***Id.* at 194–95.**

When pressed about his *Brady* obligations with respect to these other informants angling to testify against Prible, Wisner said:

I couldn't be responsible for Brady on something I didn't know. . . . Are you saying I should ask a prosecutor I'm sitting with, []Do you have any Brady information that you're not telling me, and I need you to tell me so I can tell – tell the defense?[] . . . I cannot read people's minds, and I don't [] have access to information that I don't know.

***Id.* at 191–92.**

E. Deposition testimony of Michael Beckcom.

Beckcom testified via video deposition taken on October 10, 2017.³⁶ See **Ex. 17.** Beckcom said he learned about Siegler's involvement in the Prible case from Foreman after they became cellmates. **Ex. 57 at 215–16.** He called Siegler from unit manager Gordon Harpe's phone instead of the inmate phones. ***Id.* at 214.**

The purpose of Beckcom's first phone call was to discuss the

³⁶ Beckcom tried to avoid testifying. When he was served with a deposition subpoena, he became very angry with Prible's investigator and threatened, "If I have to I'll kill the son of a bitch lawyer and go back to prison, but I'm not going to get involved in this case anymore." **Exhibit 59 (Affidavit of J.J. Gradoni)**. He failed to appear for his initial deposition date, necessitating a contempt proceeding and a show cause order. See *Prible v. Beckcom*, No. 0:17-cv-61695-WPD, ECF No. 1 (S.D. Fla. Apr. 25, 2017); ECF No. 11 (Aug. 30, 2017).

possibility of arranging for a reduction in his sentence. ***Id.* at 238.** Siegler made clear in that conversation that Beckcom needed to get specifics about the case. ***Id.*** From then on, Beckcom took notes after conversations with Prible “[t]o have the information that Kelly Siegler asked me to get.” ***Id.* at 239.**

Beckcom explained that he was one of “a group of guys from Houston . . . this whole group of, like, fricking ten guys were trying to get information, and somehow I ended up with the information.” ***Id.* at 218.** Beckcom confirmed that the inmates in the staged photo belonged to this group. ***Id.* at 220; see Ex. 58.** They all knew Prible was coming to FCI-Beaumont Medium before he arrived and were talking about Prible’s murder case before he got there. **Ex. 57 at 221–22.** He remembered Carl Walker specifically and recalled Walker visiting his cell. ***Id.* at 232.**³⁷

Beckcom recalled talking to Foreman “plenty” about trying to get a confession from Prible. ***Id.* at 220.** He agreed that he and Foreman both probably knew they were meeting with Siegler on December 10, 2001. ***Id.***

³⁷ Though not played into the evidentiary hearing record, Beckcom testified at his deposition that he knew some of these informants, including Foreman, were involved in Herrero’s case. **Ex. 17 at 84, 129.** He also acknowledged that Prible may have shown him Prible’s probable cause affidavit, which contained details of the alleged crime. ***Id.* at 70–71.**

at 227. He testified that Foreman was present every time Prible talked about his case to him. *Id.* at 239.

Beckcom confirmed that inmates were allowed to watch the news and read newspapers, including the Houston Chronicle, and that “it’s possible” he read newspaper articles about Prible’s case. *Id.* at 223; see Factual Background § II(B), *supra*.

Beckcom testified that, from the beginning, Siegler led him to believe that he would “get walked out . . . for [his] testimony” against Prible. *Ex. 57* at 214. Siegler told Beckcom, “This will probably get you out of prison.” *Id.* at 213. Siegler also told him, before Prible’s trial, that she had talked to his federal prosecutors and “they’re going to play ball . . . they’re in[.]” *Id.* at 230–31. Beckcom explained that immediately after he testified:

as I’m getting off the stand, they go in the back, and she’s got this grim look on her face, and I’m like what now? [Siegler:] “Well, they’re only going to give you 12 months.” So at that point I felt like – I knew she had lied to me in the beginning that I was going to get walked out, you know, for my testimony.

Id. at 213–14.

The federal habeas court found that “Beckcom was not a credible witness” and “was dishonest when it suited his needs” but “certain areas

of his testimony can be confirmed when compared to the record.” **Ex. 1 at 34.**

F. Testimony of Kelly Siegler.

Siegler testified both by video deposition and live examination.³⁸ *See Ex. 13.* She confirmed that Foreman contacted her after she visited with Moreno on July 3, 2001. **Exhibit 60 at 37–38 (Reporter’s Record, Vol. II, Federal Evidentiary Hearing).** She and Bonds then met with him at the Federal Detention Center in Houston on August 8, 2001. *Id. at 39.* They spoke about Prible’s and Herrero’s cases and also discussed Moreno and other would-be informants. *Id. at 39–40.* Siegler claimed that she “didn’t believe a word [Foreman] had to say” and would not have wanted more information from him. *Id. at 40–41.* She conceded, however, that even though she similarly did not believe Foreman regarding Herrero’s case and accordingly did not use his testimony at trial, she nonetheless wrote a Rule 35 letter for him. *Id. at 52–53, 56–57.* She did not recall discussing this meeting with Prible’s attorneys, but maintained

³⁸ Siegler initially succeeded in avoiding service of a subpoena to testify at the evidentiary hearing. *See Prible v. Davis*, No. 4:09-cv-01896, ECF No. 220 (S.D. Tex. Apr. 17, 2019). The court convened an emergency hearing to discuss the efforts made to serve her and instructed the Texas Attorney General’s Office to contact her and her lawyer directly. She eventually agreed to testify by live video feed from the location of her television show. *See id.* ECF No. 231.

that her notes from the meeting “would have been in the open file” for their review because “that’s not work product.” *Id.* at 43–44.

Siegler presented the Prible and Herrero cases to the grand jury on the same day, after meeting with Foreman. *Id.* at 45–46. She presented no witnesses in Prible’s case and did not mention a jailhouse informant. *Id.* at 45, 47. She testified that she did mention a jailhouse informant in Herrero’s case, though. *Id.* at 47. She did not request a court reporter for either grand jury proceeding. *Id.* at 47–48.³⁹

Siegler denied ever speaking with Foreman again after this meeting. *Id.* at 103–04. When confronted with evidence that she requested a second meeting with Foreman in December 2001—a few days after she received the letter from Foreman’s attorney stating that Foreman knew where the murder weapon could be found—she acknowledged meeting with Foreman again but said she did not remember why she would have wanted to. *Id.* at 105–09.

Siegler recalled receiving the letters from Gonzalez, Walker, and Martinez, but claimed she did not believe their accounts. *Id.* at 63–64,

³⁹ Consequently, there is no record of what she told the Prible or Herrero grand juries. **Ex. 26.**

68–70. She testified that these letters were in the open file for Prible’s attorneys to review. *Id.* at 71.

Siegler acknowledged that she reached out to Beckcom’s federal prosecutor months before Prible’s trial. *Id.* at 115–16. She discussed a possible Rule 35 reduction for Beckcom in those pretrial conversations. *Id.* at 117. Siegler said she told Beckcom about the conversations she had had with his prosecutor to reassure him about his sentence reduction. *Id.* at 118–19.

Siegler conceded that it was not her practice to indict a defendant and delay transfer to Harris County until much later, as she had done in Prible’s case. **Ex. 13 at 129** (not played into evidentiary hearing record).

Siegler acknowledged that she spoke to Pam McInnis, head of the Harris County crime lab, about the semen and DNA evidence. **Ex. 60 at 144–45**. Siegler thought the information she learned from McInnis—that semen could live up to 72 hours in the oral cavity—was presented at trial. *Id.* at 145. She could not remember if she told Prible’s counsel about McInnis’s information. *Id.*

Consistent with her deposition testimony, Siegler maintained in her live examination that she did not find Foreman credible and did not

need to disclose information about her meetings with him to Prible's defense counsel. **Exhibit 61 at 38, 42–43 (Reporter's Record, Vol. III, Federal Evidentiary Hearing)**. She opined that Foreman was a liar "in a category all by himself." **Id. at 49**. She also reiterated that she did not need to disclose information about Moreno to Prible's defense counsel. **Id. at 35–43**. She maintained that she did not give any inmate at FCI-Beaumont information about Prible's case or encourage any inmate to obtain information against Prible. **Id. at 46–47**.

The federal habeas court found, *inter alia*:

Siegler's testimony was not credible on both minor and major points. Siegler made several statements that the record directly refutes. . . . Siegler was also combative in demeanor and did not appear forthcoming with many of her answers.

Ex. 1 at 36–37.

G. Testimony of Terry Gaiser.

Gaiser was Prible's trial attorney. **Ex. 60 at 155**. Gaiser confirmed that he had not been informed of McInnis's conclusions on the semen evidence until the federal habeas proceedings. **Id. at 193**. Gaiser said that he asked Siegler for information about how she came into contact with Beckcom. **Id. at 164**. However, Siegler never told him that she had

communicated with Beckcom's cellmate, Foreman, or that she had determined that Foreman was untruthful. ***Id.* at 165.** Siegler also did not tell Gaiser that she wrote a Rule 35 letter for Foreman in connection with another case. ***Id.* at 172.** In fact, Siegler did not tell Gaiser anything about Foreman; Gaiser was aware of Foreman's name only because of Beckcom's statements. ***Id.* at 165–66.** Siegler never mentioned Moreno to Gaiser either. ***Id.* at 166.**

Gaiser testified he would have wanted the letters and evidence about the other inmates because that evidence “brings into question the credibility of these people in the Beaumont facility in terms of people wanting to give information to get consideration for doing this.” ***Id.* at 179.** However, he never saw any of these pieces of evidence before trial. ***Id.* at 179–80.**

Gaiser confirmed that Siegler had previously told him that she could not contact inmates at FCI-Beaumont by phone. ***Id.* at 187–88.** Gaiser said that the knowledge that she could, in fact, call them was important so he could ascertain “who was cultivating who? . . . [W]ho precipitated the—the information? Who—who was the instigator of the—the informant's testimony?” ***Id.* at 188.**

VII. The federal habeas court grants guilt-phase relief.

At the conclusion of federal habeas proceedings, the court issued its 88-page Memorandum Opinion and Order finding that Prible was entitled to federal habeas relief on six separate guilt-phase claims (five *Brady* claims and one *Massiah* claim) due to Siegler's misconduct. **Ex. 1.** As explained above in the Procedural History, the Fifth Circuit reversed two years later on procedural grounds without disturbing the lower court's findings on the merits, and the Supreme Court subsequently denied Prible's petition for writ of certiorari.

VIII. New evidence emerges after the conclusion of federal habeas proceedings.

A. State DNA Expert William Watson retracts his testimony due to advancements in science.

On July 31, 2025, Watson signed a declaration disclaiming key parts of his trial testimony, citing significant changes in the field of forensic biology, in the progression of the scientific methods used to analyze the evidence in Prible's case, and in his own increased experience and scientific knowledge. See **Exhibit 62 ¶ 6 (Declaration of Dr. William Watson)**.

Critically, he retracted his testimony related to the timing of the semen deposit, explaining: "I cannot definitively state when the

spermatozoa detected in the oral cavity were deposited in relation to Nilda Tirado's time of death. . . ." *Id.* ¶ 9; *see also* ¶ 19 ("I cannot conclude with scientific certainty . . . when the spermatozoa was deposited in the oral cavity in relation to the time of death.").

Watson definitively stated he would not testify the same today, *id.* ¶ 7, and he now admits that he "cannot conclude, scientifically, that the sample in the oral swab was any 'stronger,' more 'pure,' or more recently deposited than the vaginal or anal swab samples," nor can he "conclude there was more spermatozoa in the oral cavity than in the vaginal or anal cavities." *Id.* ¶ 14. He also repudiated Siegler's characterization of his opinions in her opening statement and the conclusions the State drew from his testimony in their closing arguments. *Id.* ¶¶ 20–26.

B. Prible is excluded as a contributor to the threatening letter.

In 2025, the threatening letter and envelope sent to Steve Herrera's parents was examined for DNA. *See* Exhibit 63 (Threatening Letter to the Herreras); Factual Background § I(H), *supra*. The DNA analysis of the envelope yielded a mixture of three contributors, but because there was no discernable major contributor, the profile could not be uploaded into CODIS. **Exhibit 64 (SERI Evidence Examination Report 1).**

Prible is definitively excluded as a contributor. **Ex. 65 (SERI Evidence Examination Report 2).**

CLAIMS FOR RELIEF

Claim 1. The State suppressed favorable evidence regarding its use of informants and the DNA testimony in violation of the Due Process Clause.

All facts above are incorporated here by reference.

Due process requires the prosecution to disclose information favorable to the defense. *Brady v. Maryland*, 373 U.S. 83 (1963). There are three elements of a due process violation under *Brady*: (1) the information must be favorable to the defendant; (2) the information must have been suppressed by the State, either willfully or inadvertently; and (3) prejudice must have ensued. *Strickler v. Greene*, 527 U.S. 263, 281–82 (1999). Prejudice exists where “there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different.” *Kyles v. Whitley*, 514 U.S. 419, 433 (1995) (citation omitted).

Several features of the prosecution’s *Brady* obligation deserve emphasis. The obligation includes both exculpatory and impeaching information. *United States v. Bagley*, 473 U.S. 667, 676 (1985). It applies even if other government agencies retain custody of the evidence, *id.* at

682, and even if the defendant has not requested the evidence, *United States v. Agurs*, 427 U.S. 97, 107 (1976). In addition, the prosecution’s obligation applies to evidence that enables the defense to “attack[] the reliability of the investigation[.]” *Kyles*, 514 U.S. at 436, 445–47.

The materiality question is not whether the defendant would more likely than not have been acquitted with the new evidence, but simply whether he received a fair trial, one worthy of confidence in the outcome. *Id.* at 434. That is, a claimant must show only that the new evidence “undermines confidence” in the outcome. *Smith v. Cain*, 565 U.S. 73, 75–76 (2012) (citing *Kyles*, 514 U.S. at 434). A defendant can therefore prevail “even if . . . the undisclosed information may not have affected the jury’s verdict.” *Wearry v. Cain*, 577 U.S. 385, 392 n.6 (2016).

In evaluating materiality, a court must “weigh the strength of the exculpatory evidence . . . against the evidence supporting conviction.” *Pena v. State*, 353 S.W.3d 797, 812 & n.11 (Tex. Crim. App. 2001). The evidence is “considered collectively, not item by item.” *Kyles*, 514 U.S. at 436. Since *Kyles*, the Supreme Court has reemphasized the necessity of evaluating materiality cumulatively. *See, e.g., Wearry*, 577 U.S. at 394 (holding that “the state postconviction court improperly evaluated the

materiality of each piece of evidence in isolation rather than cumulatively”); *Cone v. Bell*, 556 U.S. 449, 473–74 (2009) (noting “the Court of Appeals’ failure to assess the effect of the suppressed evidence collectively rather than item by item”) (citations omitted).

Here, the State suppressed evidence that: (I) Beckcom and Foreman were part of an organized informant ring seeking to secure favors in return for fabricating a false confession; (II) Siegler assembled her case against Hermilo Herrero using overlapping informants, including Foreman, and rewarded those who helped secure the conviction even if they had lied, even if she did not find them credible, and even if they did not testify; (III) Foreman, in hopes of a reward, had offered Siegler a contradictory (and impossible) story of Prible’s confession before Siegler spoke with Beckcom; (IV) Siegler concealed evidence of her dealings with Beckcom, despite specific pre-trial requests for this information by Prible’s attorneys and the trial court ordering its production; and (V) Siegler consulted with the head of the Harris County crime lab before trial, who told her that semen could live “up to 72 hours” in the oral cavity.

Assessed collectively, there is a reasonable probability that the jury

would have reached a different result with this new evidence. *Kyles*, 514 U.S. at 433. Prible is therefore entitled to relief from the guilt verdict.

I. The State suppressed evidence of the informant ring in Prible’s case.

Trial counsel’s *Brady* request included information about Beckcom and any other witnesses. 1 CR 69–74. The court ordered the State to produce “all witness statements, whether oral or written, by any witness.” 2 RR 16.

The State did not disclose the letters written to Siegler by inmates Mark Martinez, Jesse Gonzalez, and Carl Walker. *See Ex. 2; Ex. 3; Ex. 4* (collectively, “the informant letters”). Instead, Siegler concealed them in a sealed envelope labeled “attorney work product.” *See* 1 SHCR-04 316. At the time, trial counsel had no reason to believe any other witnesses existed, let alone who they were. **Ex. 60 at 179–87.**

A. This evidence was favorable.

The informant letters all indicate that several inmates heard Prible confess to the murders. In each letter, the informant offered to testify against Prible in exchange for help obtaining a reduced sentence. The letters all told a similar story, providing corroboration for the others.

At a minimum, the informant letters reveal that a ring of

informants was engaged in a collective, coordinated effort to secure sentence reductions in return for providing the State with incriminating evidence in the form of manufactured confessions. Both Beckcom and Foreman were part of this ring. Because the letters were addressed to Siegler and marked received, they further prove the State was made aware of the informant ring. And the fact that the letters were suppressed in a sealed envelope labeled “attorney work product” shows that the State understood them to implicate its key witness in a scheme to fabricate evidence. That is, the State knew these letters would be favorable to Prible and knowingly suppressed them as “work product” when they were not.

Walker’s letter, in particular, demonstrates that Siegler was in contact with Foreman and was aware of multiple informants seeking “time cuts” for incriminating Prible:

As you may, or may not, know from previous conversations with Nathan Foreman, myself, Mark Martinez, Jesse Gonzalez, his father Felix Gonzalez and Beckcom were all close friends of Pribble [sic]. We all hung around each other because we are all from Houston, and because some of us knew one another from home.

Ex. 3. This letter also shows that Walker knew Siegler had communicated with Foreman about Prible, and that Foreman and

Beckcom had formed a tight-knit group of prisoners drawn together by the common purpose of falsely incriminating Prible, their “close friend[.]” *See id.*

Moreover, each letter follows a similar pattern as Beckcom’s testimony in describing how Prible’s confession came about and corroborates Walker’s contention that the informants named in the letters—including Beckcom and Foreman—coordinated their manufactured accounts. According to this common narrative, Prible was at first cautious and guarded, but gradually became more comfortable with the informants as camaraderie between them built; finally, he allegedly confessed. *Compare* 26 RR 28–48, *with* **Ex. 2**, *and* **Ex. 3**, *and* **Ex. 4**.

Indeed, testimony developed on federal habeas review shows that the corroboration was likely due to Beckcom’s calculated efforts. The inmates all stated they did not write the letters. Walker testified that although he signed a letter, he did not write it. **Ex. 57 at 116**. Gonzalez similarly stated that he remembers signing a letter, but he did not type one. **Ex. 54 ¶ 9**. Martinez denied altogether signing the letter bearing his name. **Exhibit 66 (J.J. Gradoni Statement (June 23, 2011))**.

According to Walker, the letters were in fact designed to corroborate each other. **Ex. 57 at 117.** He believed they were all written by Beckcom. All of the letters were typewritten, and Walker explained that Beckcom was the only inmate in the informant ring with access to a typewriter. ***Id.* at 132.** Each letter misspells Prible's name as "Pribble," and Beckcom's deposition suggests that he believed that this spelling of "Pribble" was the correct one. **Ex. 17 at 96–97.** Evidence showing that the State's star witness was fabricating statements by other witnesses—especially those Siegler admitted, at her deposition, that she did not find credible—would have been favorable to Prible's defense. *See Bagley*, 473 U.S. at 676–77 (*Brady* evidence includes evidence that can be used to impeach the State's witnesses).

Disclosure of these letters would have prompted a reasonable attorney to interview each of these inmates. At the last state habeas hearing, on June 8–9, 2011, Prible's initial state habeas counsel testified that he would have "absolutely" investigated and interviewed each of them had he known of the letters:

[N]ot only do they buttress what . . . the trial defense advocated, that Prible was being framed by these guys, it also raises an issue of whether these – these prison informants or potential prison informants were being used

in an improper way by the Harris County District Attorney's Office. In other words, sending agents in to talk to Prible without revealing who or what they were at a time when he was already represented by counsel.

2 SHRR 44. Prible's trial counsel added that these letters would have been relevant and useful to argue that a group of men engaged in a coordinated attempt to obtain and/or manufacture incriminating evidence:

They show that there are all these people. They obviously know one another. They know Ms. Siegler. They are seeking out deals . . . [O]ne, it would show where Beckcom is coming from. I refer to it as a culture of complicity of, you know, trying to gain favor so you can rewrite your sentence at some future date. So he's coming from this general mindset.

3 SHRR 61.

Defense counsel could have cross-examined Beckcom about his knowledge of this fabricated "evidence" to powerful effect. They could have called one or more of these would-be informants, introduced the letters into evidence, and then used them to impeach Beckcom's testimony and the reliability of the State's investigation.⁴⁰ Trial counsel could have pointed out similarities in the letters, both in form and in

⁴⁰ Since the letters would not be used to establish the truth of the matters asserted, but to establish knowledge for impeachment purposes, hearsay objections would have failed.

content; elicited testimony that only Beckcom had access to a typewriter and that the other signatories did not in fact write their letters; and even developed testimony—such as that from Walker in the federal evidentiary hearing—that Prible never confessed, but was in fact set up. This evidence would have certainly been favorable to Prible’s defense.

II. The State suppressed evidence of the informant ring in Herrero’s case.

Trial counsel’s *Brady* request included information about other witnesses and “[a]ll promises, agreements, offers or leniency, consideration or understandings extended to any State witness, their relatives or friends[.]” 1 CR 69–74. The court granted both requests. 2 RR 8, 16.

The State suppressed information that, before Prible’s trial, Siegler had written Rule 35 letters for Foreman, Dominguez, Moreno, and Gomez for helping secure Hermilo Herrero’s conviction—even though Foreman could not possibly have heard Herrero confess and both Moreno and Foreman had lied to her about that critical fact. **Ex. 36; Ex. 37; Ex. 38; Ex. 39.** The State also suppressed information about Siegler’s July 3, 2001 interview of Moreno, during which both Herrero’s and Prible’s cases were discussed. **Ex. 13 at 130–31.** This evidence was placed in the

Herrero case file.

Prible's defense counsel had no way of knowing that Siegler was using the same informants in a completely unrelated murder case at the same time; therefore, they could not have known to ask to review the Herrero file before Prible's trial. That file was not made available until May 2011, after Prible's federal habeas counsel had learned about the intersection of the two cases and filed the successor application. *See* 1 SHCR-04 331.

A. This evidence was favorable.

Suppressing this evidence was critical to preserving the story the State sought to tell at trial. Indeed, had trial counsel known about this evidence, they would have been able to argue that the State had arranged for Prible to be targeted by its informants and had given the informants a reasonable expectation of a reward in exchange for information, even if that information was false. Any credibility the State had with the jury would have been materially undermined. *See Glossip v. Oklahoma*, 604 U.S. 226, 249–50 (2025) (relevant question is the effect a “midtrial revelation” would have had on the jury; the State's credibility would be severely undermined, likely affecting the outcome of the trial, if they

were to admit to suppressing evidence midtrial).

The evidence would have also significantly damaged Beckcom's credibility. The State's allegation that Beckcom and Foreman were initially disinterested witnesses who coincidentally came into contact with Prible was essential to Beckcom's credibility and the State's entire narrative of Prible's confession. *See, e.g.*, 28 RR 15–16; *id.* at 77–78. Evidence showing the State knew far earlier—on July 3, 2001—that Foreman was already working to supply the State with incriminating information about another inmate would have directly undercut that representation. Foreman's status as Beckcom's cellmate, that is, would no longer appear to be a natural explanation for why Prible confessed to both; instead, it would be compelling evidence that Beckcom and Foreman, from the beginning, were working in tandem to incriminate Prible. *See Banks v. Dretke*, 540 U.S. 668, 702 (2004) (“[O]ne can hardly be confident that [the defendant] received a fair trial, given the jury's ignorance of [the informant's] true role in the investigation and trial of the case.”).

Additionally, the Rule 35 letters—particularly the one for Foreman—would have allowed trial counsel to establish that Foreman

and Beckcom had reason to believe that Siegler would reward them, no matter how contrived their testimony would be and even if they ended up not testifying at all.⁴¹ The evidence also would have allowed trial counsel to document that the State charged Prible two days after Siegler met with Moreno to discuss the Prible and Herrero cases, on July 5, 2001—not because the State had different non-informant evidence (it did not), but rather to ensure that Prible would be placed in reach of Siegler’s seasoned informants at FCI-Beaumont Medium. This evidence from the Herrero file would have been favorable to Prible’s defense.

III. The State suppressed evidence of Siegler’s communications with Foreman.

Trial counsel’s *Brady* request included information about other witnesses. 1 CR 69–74. The court ordered the State to produce “all witness statements, whether oral or written, by any witness.” 2 RR 16.

Siegler and Bonds met with Foreman on August 8, 2001—before Prible was indicted—at the suggestion of Siegler’s informant, Moreno. **Ex. 5; Ex. 6.** At that meeting, they determined that (1) Prible had never confessed to Foreman or had likely even met him; and (2) Foreman was

⁴¹ Foreman and Gomez did not testify at Herrero’s trial, yet Siegler still wrote Rule 35 letters for their assistance in Herrero’s case.

not a credible person. **Ex. 13 at 107** (“We walked out of there saying we didn’t believe a word he had to say.”); **Ex. 12 at 45** (“[T]wo minutes into his conversation, I’m like this guy is lying. He doesn’t know anything about this case. Then I asked him to describe Prible. He’s like what? I said what does he look like? And he couldn’t . . . [A]t the time we talked to Nathan Foreman, I don’t think he had ever met Prible.”). A few months later, on December 10, 2001, they met with Foreman again but found him no more credible than the first time. *See* **Ex. 13 at 224–30**.

This information was memorialized in both Siegler’s and Bonds’s handwritten notes, suppressed in the State’s file and never produced to trial counsel. **Ex. 5; Ex. 6**. It was not disclosed until May 2017, after the federal habeas court ordered the State to produce, for *in camera* review, documents it had theretofore withheld from the defense on grounds that they were protected work product. *See Prible v. Davis*, No. 4:09-cv-01896, ECF No. 154 (S.D. Tex. May 12, 2017); Factual Background § V(D), *supra*. Corroborating information in the form of inmate phone and housing records was obtained from the Federal Bureau of Prisons in 2011. *See* Procedural History § II, *supra*. It could not have been obtained prior to the initiation of federal habeas proceedings. *See* footnote 5, *supra*.

A. This evidence was favorable.

1. This evidence would have directly undermined Beckcom's confession story.

Foreman was instrumental to the informant ring: he introduced Beckcom and other would-be informants to Siegler, he discussed information about Prible's case with them, he was living proof that Siegler would reward informants who helped secure convictions even if they did not testify, and he was supposedly present for Prible's alleged confession. *See* 26 RR 31, 35, 38, 49, 54; **Ex. 3; Ex. 17 at 117–18; Ex. 30; Ex. 31; Ex. 38; Ex. 54; Ex. 57 at 95, 99.** This new evidence showed that Foreman had been fabricating evidence against Prible from the start and that Siegler had determined early on that he was not a credible or believable person.

These facts are similar to those in *Kyles*. In that case, “[b]ecause the State withheld evidence [regarding statements made by an informant who was never called to testify], its case was much stronger, and the defense case much weaker, than the full facts would have suggested.” 514 U.S. at 429. The suppressed information impeaching the informant here is even more favorable than in *Kyles*: in addition to the withheld impeachment evidence of the State's star witness, the State also

suppressed evidence of other targeted informants that were working simultaneously to assist the prosecutor in obtaining convictions in two otherwise unrelated murder cases.

Even though Foreman did not testify, his credibility was essential to Beckcom's testimony. Foreman was the only other person present when Prible allegedly confessed; thus, he was the only one who could vouch for Beckcom's testimony. This information about Foreman and his credibility therefore would be central to the jury's assessment of the only testimony describing the crime, that of Beckcom.

Moreover, this evidence would have given trial counsel reason to call Foreman to the stand, which only could have helped Prible. Had Foreman denied these interviews occurred, trial counsel could have impeached him—thereby destroying his credibility and the credibility of Beckcom's story. And had Foreman conceded that these interviews occurred, he also would have had to concede that he had falsely claimed, on August 8, 2001, that Prible had confessed to him—thereby destroying his credibility and the credibility of Beckcom's story.

In sum, this suppressed evidence would have enabled trial counsel to show that: (1) the State determined that Foreman was not credible; (2)

Foreman had previously claimed, falsely, that Prible confessed to him; and (3) Siegler discussed Prible's case with Foreman before he and Beckcom supposedly encountered Prible by coincidence. With or without calling Foreman, trial counsel would have been able to show that Foreman could not, in fact, corroborate Beckcom's testimony; *and* that he had actually been trying to fabricate evidence against Prible from the start. This would have seriously dismantled Beckcom's story as well as the reliability of the State's investigation.

2. This evidence would have impeached Beckcom's testimony and credibility.

As the Supreme Court made clear in *Bagley*, 473 U.S. at 676, evidence impeaching a state witness is material and must be disclosed. Impeachment evidence is that which calls into question the credibility of a state witness "by showing bias or interest[]" and, like exculpatory evidence, falls under *Brady*. *Id.* For the reasons below, this suppressed evidence had powerful impeachment value against Beckcom.

In this case, the State needed an explanation for why Prible would confess to Beckcom and Foreman, men he met in prison and had known for only a short period. The jury also needed assurance that Beckcom was not fabricating a confession so that Siegler could use her influence to

reduce his federal sentence. Beckcom's testimony that he and Foreman met Prible coincidentally, were initially disinterested, then engaged in normal conversation about other matters that eventually led to a trusting relationship, provided the jury with these necessary assurances. *See* 26 RR 28, 31–32, 53. Again, Beckcom testified that everything he learned about Prible's case, he learned from Prible and Prible alone. *Id.* at 85, 91–95. He also testified Foreman was present for every conversation he had with Prible. *Id.* at 31, 35, 38, 49, 54.

Foreman's supposed presence at each and every interaction undoubtedly bolstered Beckcom's credibility. Beckcom was able to create a more convincing story by adding Foreman to his narrative because it gave the impression that someone else had heard the same confession, thereby making it less likely that Beckcom had fabricated the story. Foreman was, in essence, a non-testifying corroborating witness to Beckcom's story.

That Foreman was fabricating evidence against Prible in hopes of a reward *before he even met Prible* completely undermines Beckcom's story and credibility. It is reasonably probable that jurors would have concluded that Foreman and Beckcom were intent on setting Prible up

from the start, before they had even met him. Indeed, Beckcom admitted in his deposition that he engaged in talk about the asphalt business as a “pretense” for extracting information from Prible. **Ex. 17 at 138–39.** It is also reasonably probable that jurors would have concluded that Beckcom and Foreman conspired to fabricate evidence against Prible, just as Foreman had already done in August 2001. And had jurors known that Siegler had rewarded Foreman in another cold murder case, even though she had determined he was fabricating evidence and he did not testify in that case, this probability would only increase. Finally, reasonable jurors would have concluded that Beckcom’s testimony about learning information from Prible alone was almost certainly false: Foreman, his cellmate, had already been discussing the case with Siegler and ultimately put Beckcom in contact with her.

Beckcom was the State’s star witness. The suppressed evidence would have enabled the defense to show that he had, in fact, fabricated his testimony. By undercutting the State’s account of what occurred, this would have given jurors compelling reasons to discount him as well as the State for using him. *Cf. Glossip*, 604 U.S. at 249–50 (State’s credibility would be severely undermined, likely affecting the outcome of

the trial, if they were forced to admit to suppressing evidence midtrial).

IV. The State suppressed evidence of Siegler's dealings with Beckcom.

Finally, the State suppressed a wide range of evidence about Beckcom and its dealings with him.

Prible's attorneys filed various discovery motions before trial, including a motion requesting all *Brady* evidence and specific information about the State's dealings with Beckcom. 1 CR 69–74. The court held a pretrial hearing on the motion, at which Siegler misled the trial court, made numerous misrepresentations, and concealed evidence that the court ordered her to disclose. *See* 2 RR 3–41.

A. Evidence of how Siegler came to know Beckcom.

Trial counsel asked for the date, time, place, and manner of the State's contacts with Beckcom, "including a statement of how contact was first initiated, and with whom it was made." 2 RR 4. Siegler initially refused, arguing, "I don't think I'm required to provide that to him . . . I don't think I have to sit down and write out a statement to the Defense as to how I came in contact with Mr. Beckcom." *Id.* at 5. Trial counsel responded that this material would be relevant to Beckcom's credibility and motive; additionally, information like dates and times could not be

considered work product. *Id.* This prompted the following statement by Siegler:

Judge, I'll agree to tell Mr. Gaiser how we came into contact and the times that we've met. I don't remember the dates. *I didn't take any notes.* And the best that I can remember, I'll let him know what they are, but I'm not going to write it all down. He can come to my office and I'll sit down and tell him what I can remember.

Id. at 5–6 (emphasis added). The court then granted the request “as to Ms. Siegler’s oral transmission of the information to Mr. Gaiser as described on the record.” *Id.* at 6.

But Siegler did take notes about her interactions with Beckcom, as well as Foreman. **Ex. 13 at 104–05; Ex. 5.** Her investigator, Johnny Bonds, did too. **Ex. 6.** These notes were concealed until the federal habeas judge found them while undertaking an *in camera* review of Siegler’s work product file and ordered that they be produced. *Prible v. Davis*, No. 4:09-cv-01896, ECF No. 154 (S.D. Tex. May 12, 2017).

Siegler also never told trial counsel the real story of how she came to know Beckcom: through Foreman, who told her a false confession story in August 2001 and who she met with at the suggestion of her long-time informant Jesse Moreno. **Ex. 12 at 44–46; Ex. 13 at 104–06, 291.**

B. Evidence of sentence reduction requests for Beckcom.

Trial counsel also asked for Beckcom’s “entire criminal record, including . . . sentence reductions or sentence reduction requests[.]” 2 RR 4. The court granted this request, specifically as to any sentence reduction requests “referring to Federal cases he may have[.]” *Id.*

Siegler did not disclose to Prible’s attorneys that she had, at that point, been talking with Beckcom’s federal prosecutor in California for months about a possible sentence reduction. *See* **Ex. 32; Ex. 33.**

C. Evidence of other cases in which Beckcom appeared as a witness.

Trial counsel also asked for a list of all cases in which Beckcom had appeared as a witness, been listed as a witness, or volunteered to appear as a witness. 1 CR 70. The trial court granted this request. 2 RR 6.

Siegler did not disclose that she had bench-warranted Beckcom in *State of Texas v. Danny Bible*, another capital murder case she was handling at the same time as Prible’s case. *See* **Exhibit 67 (*Texas v. Bible* Witness List)**. In her federal habeas deposition, Siegler clarified that Beckcom was never a witness in that case; she had purposefully misrepresented that he was so that “Jeffrey Prible wouldn’t know that he was brought back for Jeffrey Prible’s case.” **Ex. 13 at 267–68, 288–91.** By doing so, she was also able to conceal any face-to-face meetings that she

may have had with Beckcom at the Harris County Jail.

D. Evidence of Beckcom’s written statements.

Trial counsel also asked for “[a] copy of all statements made by Beckcom and communicated to the State, including notes of any conversations had with Beckcom by any agent of the State.” 1 CR 70. The following exchange took place at the hearing:

[Mr. Gaiser:] We’ve been supplied with a written statement that [Beckcom] made and been told by Ms. Siegler that that’s the only written statement they have.
[Ms. Siegler:] That’s correct, Judge. . . .

2 RR 7. The court granted trial counsel’s request “as to the witness statement that’s been described in the record, not as to notes made by Ms. Siegler or Mr. Bonds.” *Id.*

Although Siegler provided trial counsel with Beckcom’s letter outlining Prible’s supposed confession, Siegler did not reveal or disclose that she had another written statement from Beckcom in her file. After providing his initial statement, Beckcom wrote to Siegler seeking assurance that he was going to get a time cut and asked her to arrange a meeting with him and another inmate to discuss another informant opportunity—a request that Siegler granted. **Ex. 48; Ex. 49.**

E. Evidence of agreements between Beckcom and the State.

Trial counsel asked for “a copy of any agreements made with Beckcom concerning any benefits or treatment he will receive in exchange for his testimony in this case, including any oral agreements.” 1 CR 70. This request was granted. 2 RR 8. The court also granted trial counsel’s separate request for “any promises, whether implied or expressed, or aid, assistance, reward, compensation or benefit [] any witness would or might receive[.]” 1 CR 42–45.

Siegler did not disclose that she had already been in touch with Beckcom’s federal prosecutor, that she expected a time cut to be forthcoming, and that she had said this to Beckcom. Beckcom testified to the following during federal habeas proceedings:

A: Well, when this whole thing got started and I set myself in motion to testify in state court she said she was going to call my prosecutor in California. She [Siegler] said, “This probably will get you out of prison.”

Q: She said – she said that to you, this will get you out of prison?

A: Yeah, so I think she bullshitted me at that point because once it was said and done as I’m getting off the stand they go in the back and she’s got this grim look on her face and I’m like what now? [“]Well, they’re only going to give you 12 months,[”] so at that point I felt like I knew she had lied to me in the beginning that I was going to get walked out, you know, for my testimony.

...

Q: Did she lead you to believe that you would be getting out of prison?

A: Yeah.

Ex. 17 at 19–20. Siegler had also assured him before trial that she had spoken with his federal prosecutors and “they’re going to play ball . . . they’re in[.]” *Id.* at 92; *see Ex. 13 at 235–36.*

F. Evidence of benefits extended to other witnesses.

Trial counsel also asked for “[a]ll promises, agreements, offers of leniency, consideration or understandings extended to any State witness, their relatives or friends for testimony against the defendant.” 1 CR 70. The trial court granted this request. 2 RR 8.

Siegler did not disclose that she had written a Rule 35 letter to Foreman’s prosecutor a few months before, **Ex. 38**, or that she had testified at Moreno’s Rule 35 hearing, which resulted in 77 months being taken off of his remaining 78-month sentence, **Ex. 41 (under seal)**.

G. Evidence of conflicting or contradictory witness statements.

Trial counsel also asked for “[a]ll witness statements whether written or oral which conflict internally or with the statements of other witnesses.” 1 CR 71. The court ordered the State to produce “all witness

statements, whether oral or written, by any witness.” 2 RR 16. The following exchange then took place:

Ms. Siegler: Judge, [how] about just written because oral statements is a lot of people that end up not saying anything worth – worth our time *and I didn’t take notes on and I don’t plan on using.*

The Court: Okay. I guess with the exception of any oral statement by any witness turns out to be *Brady* –

Ms. Siegler: Okay.

The Court: – or exculpatory or impacts on punishment, then that –

Ms. Siegler: Yes, sir.

The Court: – needs to be turned over. So I’m going to say any written statements and then I’m going to change the language to any oral statements which are *Brady* or mitigate punishment.

2 RR 16–17. But Siegler and her investigator did take notes on statements from Foreman and Beckcom, **Ex. 5**; **Ex. 6**, which were hidden until the federal habeas judge found them himself during his *in camera* review of Siegler’s work product file. *Prible v. Davis*, No. 4:09-cv-01896, ECF No. 154 (S.D. Tex. May 12, 2017).

Siegler’s push to exclude written statements was no doubt an effort to conceal the informant letters, which would have exposed the informant ring. See **Ex. 2**; **Ex. 3**; **Ex. 4**. This would have significantly undermined Beckcom’s credibility and revealed that the conspiracy to frame Prible was set in motion before Prible even arrived at the Medium.

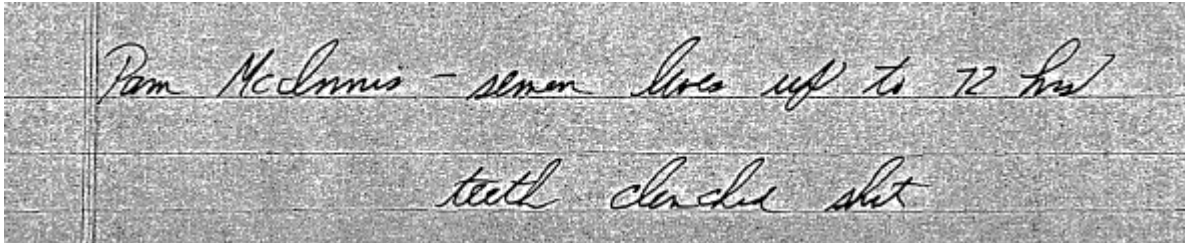
H. This evidence was favorable.

The concealed evidence was favorable to Prible's defense for reasons already explained in the preceding sections of this claim, incorporated here by reference. But the fact that Siegler misled and made misrepresentations to the court as to these matters, and refused to comply with its orders, carries significant weight on its own. As the Supreme Court recently clarified in *Glossip*, evidence that a prosecutor knew she was engaging in misconduct can be detrimental to that prosecutor's credibility, casting doubt on the integrity of the entire case. *Glossip*, 604 U.S. at 253 (on the question of whether a mid-trial revelation that the prosecutor had allowed a witness to lie on the stand would have affected the jury's judgment, "the answer is clearly yes"). Had it been revealed that Siegler had lied to the court about important aspects of her investigation, the impact on the jury would have been severe. *See id.*

V. The State suppressed evidence of Siegler's communications with Pam McInnis.

Trial counsel requested all information favorable to Prible on the issue of guilt. 1 CR 69. This would necessarily include any information undermining or casting doubt on the DNA evidence. The court granted this request. *Id.* at 74.

Not long after Siegler took up the case, she contacted Pam McInnis, a DNA analyst who was head of the Harris County crime lab, to ask her how long semen can live in a victim's mouth. **Ex. 13 at 286.** Siegler's own notes show that McInnis told her it lives "up to 72 hours."

A photograph of a handwritten note on lined paper. The text is written in cursive ink and reads: "Pam McInnis - semen lives up to 72 hrs" on the first line, and "teeth clenched shut" on the second line.

Ex. 5. This evidence was suppressed until May 2017, when the federal habeas judge discovered it during his *in camera* review of Siegler's work product file and ordered the State to produce it. *Prible v. Davis*, No. 4:09-cv-01896, ECF No. 154 (S.D. Tex. May 12, 2017); **Ex. 60 at 192–93**; see **Ex. 5.**

A. This evidence was favorable.

This evidence is favorable because it supports Prible's defense that he had consensual sexual contact with Tirado earlier in the night, well before she was killed—an explanation he offered to detectives in his April 25, 1999 signed statement, within hours of the murders and before any DNA analysis had been performed. It also directly impeaches Watson's testimony that semen survives in the mouth for only minutes, if not

seconds, which the State relied on heavily at trial. *See* 24 RR 101–03; 28 RR 10–12; *id.* at 58. Even though Prible’s trial counsel called their own expert who disagreed with Watson’s conclusion (but could not offer a timeframe), *see* 27 RR 106–37, further evidence undercutting the State’s principal arguments, especially when that evidence was from the head of the Harris County crime lab, could have been of paramount importance to the defense.

This evidence is favorable, separately, because it would have enabled Prible to argue that the State had information that would support his defense, but knowingly concealed it and instead shopped for an expert who would support its theory. Moreover, it would have given Prible’s counsel reason to call McInnis to the stand and offer testimony directly undermining the State’s narrative. Accordingly, the evidence is favorable because it both refutes the validity of Watson’s testimony and undermines the reliability of the State’s investigation.

VI. The suppressed evidence was material.

The cumulative effect of the suppressed evidence in this case casts the entire case in a different light and “undermine[s] confidence” in the jury’s verdict. *Smith v. Cain*, 565 U.S. 73, 75–76 (2012) (citing *Kyles*, 514

U.S. at 434). Had this evidence been disclosed to the defense, it would have undercut the two pillars upon which the prosecution's case against Prible solely rested: Beckcom's testimony and the DNA evidence. There is thus a reasonable probability that the jury would have reached a different conclusion.⁴²

As discussed above, the State relied heavily on Beckcom's testimony that Prible had confessed to him and Foreman about the murders. Beckcom's testimony was bolstered by his claim that Foreman was present at each interaction with Beckcom. Yet, as discussed at length above, the suppressed evidence—the letters to Siegler, the new information about Foreman, and the numerous other documents uncovered in Siegler's work product folder—reveals an orchestrated effort by a ring of informants to fabricate a confession from Prible in return for sentence reductions. Had this evidence been disclosed, trial counsel could have argued not only that Beckcom was part of a ring of informants that sought to obtain incriminating evidence against Prible for their own gain, but also that Beckcom, the State's star witness, had

⁴² This information also would have enabled trial counsel to move to exclude Beckcom's testimony under *Massiah*, as explained in Claim 2, *infra*.

in fact fabricated evidence against Prible.

This suppressed evidence could have been used to impeach Beckcom's credibility. Armed with the letters to Siegler from several would-be informants that echoed Beckcom's testimony regarding Prible's confession, the defense could have argued that Siegler's decision to present only Beckcom at trial was calculated and deceptive. At the time, trial counsel had no reason to believe Foreman would do anything other than corroborate Beckcom's story, and thus no reason to call him to the stand. **Ex. 60 at 225–26.** But in light of the new evidence, Siegler's decision to only call Beckcom was to eliminate the risk that Foreman—and the evidence surrounding her interactions with him—would undermine the State's case. Such evidence, as trial counsel testified during federal proceedings, would have cast significant doubt on Beckcom's story, motivations, and credibility. ***Id.* at 162–63, 188.**

Moreover, as trial counsel testified, they could have used documents showing that Beckcom proposed informing on even more FCI-Beaumont inmates in exchange for Siegler's help securing a Rule 35 sentence reduction to highlight the extent to which Beckcom was willing to go to receive a personal benefit. ***Id.* at 194–95.** This evidence also

would have impugned Beckcom's motivations and credibility.

Not only could trial counsel have used this evidence to impeach the State's star witness individually, it also could have been used to uncover a broad, orchestrated effort to manufacture confessions against Prible and others, like Hermilo Herrero. For instance, trial counsel could have invoked the curious similarity in the form and content of the letters—including consistently misspelling Prible's name as "Pribble," *see* **Ex. 2; Ex. 3; Ex. 4**—to show that the letters were written by the same person, or at a minimum, in a deliberately coordinated effort. Indeed, as trial counsel testified, the letters could have been used to demonstrate just how many inmates were willing to act for personal benefit. **Ex. 60 at 179–80, 182.** To bolster this presentation of a ring of informants, trial counsel could have pointed to the suppressed evidence showing that Siegler had written and lobbied for Rule 35 sentence reductions for Beckcom, Foreman, and numerous other informants. **Ex. 32; Ex. 33; Ex. 36; Ex. 37; Ex. 38; Ex. 39.**

Moreover, trial counsel could have used suppressed evidence that Foreman was apparently present during all critical interactions between Prible and Beckcom to cast doubt on the veracity of Beckcom's testimony

and the trustworthiness of the State's assembly of its case against Prible, especially in light of Siegler's professed distrust of Foreman. Using this evidence in conjunction with the other documents suppressed in Siegler's work product file, the defense could have developed a compelling argument around the ring of informants and cast doubt both on Beckcom's testimony and the manner in which the State investigated and constructed its case against Prible. Without the suppressed evidence, the defense at trial was left to attempt to impeach Beckcom with only his past conduct.

Taken as a whole, these efforts would have, at the very least, cast serious doubt on the veracity of the State's star witness and, in turn, on one of the State's two pillars of evidence against Prible. The materiality standard for *Brady* prejudice requires that there be a reasonable probability that the outcome would have been different. *Kyles*, 514 U.S. at 433. Prible can easily meet this standard here, especially when considering the additional impact of the suppressed evidence on the second pillar—the DNA evidence.

Critical to the State's theory of the case was Watson's affirmation that Prible deposited the semen in Tirado's mouth "moments, if not

seconds, before she was killed.” 24 RR 103. The State used this to argue repeatedly that Prible must have been the killer. 21 RR 82–83; 28 RR 10–12, 55–59. Suppressed evidence from Siegler’s work product file, however, revealed a contradicting opinion from McInnis that semen can survive in the mouth for up to 72 hours. **Ex. 5.**

Had this evidence been disclosed to the defense, it would have bolstered Prible’s story (from the beginning) that the sexual encounter with Tirado occurred hours, not seconds, before she was killed, and that he had returned home by the time of the killing. Indeed, it would have corroborated the testimony of Prible’s expert—that spermatozoa could persist in the oral cavity for longer periods of time after consensual sex than after forced sex. *See* 27 RR 119–22. And because this evidence came from the head of the Harris County crime lab, which is connected with law enforcement, it may have held more sway in the eyes of a reasonable jury than Prible’s hired expert.

As a whole, the suppressed evidence would have allowed the defense to seriously undercut the two main pillars of evidence on which the State relied. As the federal habeas court noted in its order granting relief, “[w]ithout question, the prosecution in this case engaged in a

pattern of deceptive behavior and active concealment.” **Ex. 1 at 70.** As in *Kyles* and its progeny, Prible is entitled to relief from the verdict on this *Brady* claim.

VII. This claim satisfies Section 5(a)(1).

Texas law requires that further proceedings be authorized when a claim “ha[s] not been and could not have been presented previously in a timely initial application or in a previously considered application filed under this article or Article 11.07 because the factual or legal basis for the claim was unavailable on the date the applicant filed the previous application.” Tex. Code Crim. Proc. art. 11.071 § 5(a)(1). The factual basis of a claim is unavailable if “the factual basis was not ascertainable through the exercise of reasonable diligence on or before” the date the previous application was filed. Tex. Code Crim. Proc. art. 11.071, § 5(e). The claims that grew out of the State’s withholding of *Brady* evidence lie in the heartland of claims that the CCA typically authorizes for subsequent litigation.

Prible first raised a *Brady* claim in one of his *pro se* filings, which this Court dismissed as an abuse of the writ. *Ex parte Prible*, WR-69,328-01, WR-69,328-02, WR-69,328-03, 2008 WL 2487786, at *1 (Tex. Crim.

App. June 18, 2008). Prible raised another *Brady* claim in his 2010 successive state habeas application. 1 SHCR-04 33–39. This Court authorized that claim for factual development on whether it met Section 5(a)(1)’s threshold bar and ultimately did not reach the claim’s merits after determining that the claim was procedurally barred. *Ex parte Prible*, WR-69,328-04, 2011 WL 5221864, at *1 (Tex. Crim. App. Nov. 2, 2011). Those *Brady* claims, however, were based only on speculation and lacked the factual support Prible now presents because, at the time, the evidence was still being suppressed by the State.

As explained above, the informant letters were not disclosed until after the previous state writ was filed. *See* Procedural History § II, *supra*; 1 SHCR-04 316. Because the remand was only on the question of whether the application satisfied Section 5(a)(1) when it was filed, the state habeas court did not mention the informant letters in its findings and conclusions, which served as the basis for this Court’s subsequent dismissal. 2 SHCR-04 797–804, *adopted in Ex parte Prible*, No. WR-69,328-04, 2011 WL 5221864, at *1 (Tex. Crim. App. Nov. 2, 2011).

All other new evidence came to light only because of federal court proceedings and orders occurring after Prible filed his initial federal

petition. *See* Factual Background §§ V–VI, *supra*; **Ex. 1 at 57–58**. And as explained earlier in this claim, trial counsel had no knowledge of Siegler’s contacts and communications with the would-be informants, the full extent and nature of her contacts with Beckcom, or the information provided by McInnis.

This evidence was also unavailable to Prible’s initial state habeas counsel, Roland Moore, despite his diligent attempts to uncover it. The only information Moore had were the identities of Beckcom and Foreman, and Prible’s suggestion that a man with the last name of Walker might have relevant information. 2 SHRR 16, 34–36. Moore tried to speak with Foreman by attaching him to an unrelated felony case to obtain a subpoena, but once Foreman realized Moore was representing Prible, “he went stone silent, wouldn’t answer any questions, wouldn’t cooperate. . . . He absolutely would not talk to us.” *Id.* at 40. Moore also attempted to interview Beckcom, but Beckcom’s attorney refused Moore’s request. *Id.*

At this time, Moore had no reason to believe any other informants existed. And though Moore tried to find a person named Walker, with no other identifying information, that effort quickly became “a fool’s errand.” *Id.* at 34; *see also* footnote 4, *supra*. During the state habeas evidentiary

hearing in 2011, Moore testified that he ultimately did not raise a *Brady* claim because he had no facts to support one, only speculation. 3 SHRR 49–50 (“[I]t wasn’t possible. [The evidence] was purposefully classified so that I couldn’t look at it.”).

Subsequent habeas counsel also diligently investigated a *Brady* claim before filing Prible’s last successive application. After locating Carl Walker by sheer luck, *see* footnote 4, *supra*; 1 SHCR-04 28–32, counsel questioned him extensively about the informant ring and argued that the information he provided constituted a new factual basis for a *Brady* claim under Section 5. *See* 1 SHCR-04 42–49. At the time of filing, Prible and his counsel still had no reason to believe additional evidence existed that could support this claim.⁴³ Indeed, re-attempting to interview Beckcom at that time would have been futile given his refusal to speak with Prible’s prior habeas counsel—as evidenced by Beckcom’s hostile response when Prible’s federal habeas counsel later did contact him. *See* footnote 37, *supra*; **Ex. 59**. It also would have been unreasonable to expect Beckcom to willingly provide information supporting a *Brady*

⁴³ As explained in Procedural History § II, *supra*, the State did not disclose the inmate letters or any other information from its file until after that application was filed and authorized for factual development on whether the claims met Section 5(a)(1).

claim because, by doing so, he would be admitting to perjury. The trial court ultimately denied relief on that *Brady* claim after finding that Walker’s statements “consist[ed] almost entirely of hearsay and speculation and contain[ed] no direct evidence” supporting Prible’s prosecutorial misconduct claims. 2 SHCR-04 799–800. In sum, only once the federal habeas court began ordering discovery was Prible able to remove the obstacle that Siegler’s suppression of evidence had created for the development of this *Brady* claim. See Factual Background §§ V–VI, *supra*.

For these reasons, this Court should authorize this *Brady* claim for subsequent litigation.

Claim 2. After Prible’s right to counsel had attached, the State used a covert agent to obtain information from him in violation of his Sixth Amendment rights pursuant to *Massiah v. United States*.

All facts above are incorporated here by reference.

The Sixth Amendment right to assistance of counsel “[e]mbod[ies] ‘a realistic recognition of the obvious truth that the average defendant does not have the professional legal skill to protect himself.’” *Maine v. Moulton*, 474 U.S. 159, 169 (1985) (quoting *Johnson v. Zerbst*, 304 U.S. 458, 462–63 (1938)). To have any efficacy, the right to counsel “cannot be

limited to participation in a trial.” *Id.* at 170. Indeed, “to deprive a person of counsel during the period prior to trial may be more damaging than denial of counsel during the trial itself.” *Id.*

Accordingly, once the Sixth Amendment right to counsel has attached, the State may not “deliberately elicit[]” information from a defendant outside the presence of counsel. *Massiah v. United States*, 377 U.S. 201, 206 (1964). The State violates the Sixth Amendment if it secures information through an agent, such as a confidential informant, rather than through a law-enforcement officer. *United States v. Henry*, 447 U.S. 264, 270–71 (1980). This is so even if the defendant initiated contact with the State’s agent. *Moulton*, 474 U.S. at 176–77.

To show a *Massiah* violation, an applicant must demonstrate (1) that his right to counsel had attached by the time incriminating statements were elicited, (2) that the State knowingly circumvented the right to counsel, and (3) that the State used the informant to elicit incriminating information. *Hall v. State*, 663 S.W.3d 15, 29 (Tex. Crim. App. 2021) (citing *Rubalcado v. State*, 424 S.W.3d 560, 570 (Tex. Crim. App. 2014)).

Prible can make this showing. Beckcom testified at trial that he

reached out to Siegler to see if she would be interested in, and willing to reward, information obtained from Prible. 26 RR 37. Siegler advised Beckcom that if he obtained specific details of Prible’s alleged crime, she would advocate for a sentence reduction with his federal prosecutor. *Id.*; **Ex. 17 at 19–20**. Indeed, unbeknownst to the jury, the trial court, or Prible’s trial counsel, she explicitly told Beckcom that his assistance would “probably get [him] out of prison.” *Id.* Beckcom then provided a purported confession story⁴⁴ and the State rewarded him with a sentence reduction. *Id.* at 87. By doing so, the State violated Prible’s Sixth Amendment rights.

I. Prible’s right to counsel had attached.

Prible’s right to counsel had attached by September 3, 2001, when trial counsel was appointed, if not earlier. 1 CR 20–21; *see United States v. Gouveia*, 467 U.S. 180, 189 (1984) (“[T]he right to counsel attaches at the initiation of adversary judicial criminal proceedings.”). Beckcom testified that the two began conversing about Prible’s charges after

⁴⁴ Prible maintains that Beckcom invented the incriminating story he told at Prible’s trial.

that—i.e., after he spoke to Siegler in October 2001. 26 RR 24, 37.⁴⁵

II. Beckcom acted as an agent of the State.

The Supreme Court “assume[s] that status as a government agent is a component of the constitutional violation but do[es] not expressly address how [courts] . . . should determine that someone occupies that status.” *Manns v. State*, 122 S.W.3d 171, 178 (Tex. Crim. App. 2003). Accordingly, this Court has provided guidance for Texas applicants.

Under Texas law, “to qualify as a government agent, the informant must have at least some sort of agreement with, or act under instructions from, a government official.” *Hall*, 663 S.W.3d at 29 (citing *Manns*, 122 S.W.3d at 183–84). In other words, agency is predicated on the existence of “an agreement or an instruction to gather evidence.” *Id.* at 30. Although a *quid pro quo* is not required, *id.* at 29, an exchange of benefit or advantage is strong evidence of agreement, *see Rubalcado*, 424 S.W.3d at 575 (citing *Manns*, 122 S.W.3d at 183 and surveying other jurisdictions).

Under this framework, Beckcom acted as a state agent. He knew

⁴⁵ Siegler knew Prible’s right to counsel had attached when she spoke to Beckcom. Not only had she secured Prible’s indictment, she had also filed and had been served with numerous motions throughout September 2001. *See* 1 CR 20–176.

next to nothing about the case when Foreman gave him Siegler’s contact information—only “something about a guy coming from the Low charged with murder.” 26 RR 22. When he called Siegler for the first time, in October 2001, he did not have any details to share. *Id.* at 24.⁴⁶

At trial, Beckcom testified that the purpose of his phone call was to see whether he could arrange for a sentence reduction even though he did not have any evidence at that time:

Q [Siegler]. And eventually you made up your mind you were going to do what, sir?

A [Beckcom]. Contact you and see if we could make some kind of deal.

Q. Because you were hoping for what, again?

A. Sentence reduction.

Q. And the only way for me to be interested is if you know what?

A. Specifics about the case, facts.

Q. So, in that regard you did what?

A. I sought to find out as much as I could.

Q. From who?

A. From Prible.

Id. at 37.

What Beckcom did not mention at trial—and what Prible did not know until federal habeas proceedings—is that Siegler did more than tell

⁴⁶ Although Beckcom claimed he already knew Prible at this point, it was not for “weeks or maybe a month later” that they started talking about anything related to Prible’s case. 26 RR 31.

him she needed “[s]pecifics” and “facts.” She also explicitly enticed him with a benefit—an immediate release from prison—and began working to secure that benefit through communications with his federal prosecutor months before he ever testified at Prible’s trial. Beckcom later admitted this in his federal deposition:

A. Well, when this whole thing got started and I set myself in motion to testify in state court, she [Siegler] said she was going to call my prosecutor in California. She said, “This will probably get you out of prison.”

Q. She said – she said that to you, This will get you out of prison?

A. Yeah, so I think she bullshitted me at that point because once it was said and done as I’m getting off the stand they go in the back and she’s got this grim look on her face and I’m like what now? [“]Well, they’re only going to give you 12 months,[”] so at that point I felt like I knew she had lied to me in the beginning that I was going to get walked out, you know, for my testimony.

...

Q. Did she lead you to believe that you would be getting out of prison?

A. Yeah.

Ex. 17 at 19–20.

Not long after Beckcom provided Siegler with the “specifics” she needed, she began to follow through on her end of the deal. As early as March 2002 (seven months before trial), she started pushing for a sentence reduction with Beckcom’s federal prosecutor, Mark Cullers. **Ex.**

13 at 233–36; Ex. 32; Ex. 33. Around that same time, Beckcom wrote a letter requesting “reassurance” on the sentence reduction. **Ex. 48.** Siegler told him that she had spoken to his federal prosecutors and “they’re going to play ball . . . they’re in[.]” **Ex. 17 at 92.**

This pretrial conduct by Siegler was successfully concealed from the defense and the trial court, who held a pre-trial hearing concerning the defense’s *Brady* motion on September 10, 2002. *See* 1 CR 69–74. The defense requested that the State provide, among other things, any deals the State had made with Beckcom. *Id.* at 70. Siegler told the court:

[I]n exchange for [Beckcom’s] cooperation and truthful testimony, **when this trial is completely over with and resolved** I will notify his Assistant United States Attorney [whose] name is Mark Cullers, in Fresno, California, that [Beckcom] cooperated in this case, what the level of his cooperation was, the extent of his cooperation, and whether or not I believe that it was truthful. At that time it will be Mark Cullers’ decision as to whether or not to file a Rule 35 reduction.

2 RR 29 (emphasis added). What she failed to tell the court was that she had promised Beckcom that his testimony would get him out of prison, that she had been in communication with Cullers for months, and that Beckcom knew she and Cullers had been communicating. None of this was discovered until federal proceedings, when Siegler’s letters to Cullers came to light and she and Beckcom testified in their federal depositions.

See **Ex. 17 at 19–20; Ex. 13 at 233–36; Ex. 32; Ex. 33**. And indeed, although Beckcom did not immediately get out of prison after testifying, he did receive a sentence reduction. **Ex. 17 at 87**; *United States v. Beckcom*, No. 1:98-cr-05157, ECF No. 28 (E.D. Cal. Mar. 6, 2003).

The agreement between Beckcom and Siegler is functionally identical to the one found in *Wesbrook v. State*, 29 S.W.3d 103 (Tex. Crim. App. 2000) (en banc). In *Wesbrook*, an inmate contacted the State after obtaining incriminating information and thereafter entered into an agreement to solicit more information; in return, the State “agreed to provide a good word on [the inmate’s] . . . behalf during the prosecution of his pending charges.” *Id.* at 116. This Court easily concluded that the information obtained afterwards violated *Massiah*. *Id.* at 119 (plurality opinion by Mansfield, J., joined by Meyers and Keasler, JJ.); *id.* at 128 (Womack, J., dissenting, joined by Price, Holland, and Johnson, JJ.); see *Manns*, 122 S.W.3d at 181 (reaffirming *Wesbrook*’s holding).⁴⁷

⁴⁷ The plurality concluded the *Massiah* error was harmless because the information—which spoke only to future dangerousness—mirrored that obtained prior to the agreement with the State and therefore “was of minimal consequence.” *Wesbrook*, 29 S.W.3d at 120. The circumstances here differ significantly. Beckcom’s testimony was one of the two main pillars of the State’s case against Prible. He was the only witness who testified that Prible made any incriminating statements, and his testimony filled in numerous holes in the State’s case. See Factual Background § III(A), *supra*.

As in *Wesbrook*, Beckcom contacted Siegler to discuss offering evidence against Prible. She told him that if he obtained incriminating information, she would advocate for him in his own case. He then sought out information from Prible with the expectation of her assistance—which, he was told, would end his prison time. Indeed, hers was a much stronger inducement than the State’s offer in *Wesbrook* to merely put in “a good word” for the informant. *Compare Ex. 17 at 19–20, with 29 S.W.3d at 116.*

Moreover, the situation here is materially distinct from this Court’s holding in *Manns*. There, the informant contacted the State with incriminating information he had already obtained. *Manns*, 122 S.W.3d at 177. After giving his statement, the State made “no promises or offers” and no further requests “to elicit any more information.” *Id.* Although “[t]he government eventually rewarded [the inmate] . . . by dismissing his misdemeanor DWI prosecution,” that decision was made only after the inmate shared the information he knew. *Id.* at 188. This evidence did not prove agency because “[t]he government did nothing to encourage [the inmate’s] . . . behavior but merely accepted the information . . . [he] had to offer.” *Id.* at 189.

Whereas the State in *Manns* had not offered the informant any benefit or done anything to encourage his actions, 122 S.W.3d at 188–89, the agreement between Beckcom and Siegler was struck before Beckcom elicited any information from Prible. In fact, Siegler explicitly told—and even reassured—Beckcom that his cooperation would result in a benefit. **Ex. 17 at 19–20, 92.**

This new evidence establishes that Beckcom was acting as an agent of the State. *See Hall*, 663 S.W.3d at 29; *Wesbrook*, 29 S.W.3d at 119.

III. Beckcom deliberately elicited incriminating information from Prible.

Deliberate elicitation “involves some conduct designed to obtain incriminating statements.” *Rubalcado*, 424 S.W.3d at 576 (quotation and citation omitted). It requires “some action, beyond merely listening.” *Kuhlmann v. Wilson*, 477 U.S. 436, 459 (1986), *superseded on other grounds by Bannister v. Davis*, 590 U.S. 504 (2020).

The Supreme Court has established that deliberate elicitation occurs when a fellow inmate actively engages the defendant in conversation designed to elicit incriminating statements. In *United States v. Henry*, a *Massiah* violation occurred where the state directed an inmate informant to “be alert to any statements” but “not to question” or

“initiate any conversations with Henry regarding the bank robbery charges[.]” 447 U.S. 264, 268 (1980). The informant later reported that “he and Henry had engaged in conversation and that Henry had told him about the robbery[.]” *Id.* at 266. The Court held that this constituted deliberate elicitation because the informant “was ostensibly no more than a fellow inmate,” which caused Henry to trust him and be more likely to make incriminating statements. *Id.* at 270.

Similarly, in *Maine v. Moulton*, the Court held that deliberate elicitation occurred when the defendant’s accomplice, who was working with the state, engaged the defendant “in active conversation about their upcoming trial.” 474 U.S. at 177 n.13 (citing *Henry*, 447 U.S. at 277).

As in *Henry*, Beckcom used his shared circumstance as a fellow inmate to gain Prible’s trust. Beckcom testified that Prible was “not trusting anybody” at first. 26 RR 35. In their first encounter, Prible said he knew that Beckcom had also fought a capital murder charge and asked Beckcom general questions about the process. *Id.* at 32–33. Beckcom believed “it was apparent that because of my involvement in a case like

this [Prible] was interested” in discussing his own charges. *Id.* at 37.⁴⁸

From there, Prible, Foreman, and Beckcom grew closer and ostensibly started making plans to go into the asphalt business together after release. *Id.* at 35–36. Beckcom later described the asphalt business as only a “pretense” for obtaining information. **Ex. 17 at 138–39.**

When Beckcom called Siegler for the first time, he did not have any details to share. 26 RR 24. After she invited him to find “specifics” about the case, Beckcom “sought to find out as much as [he] could . . . from Prible.” *Id.* at 37. Beckcom “began prodding him into conversations” about his crime. *Id.* at 36. Beckcom elaborated on this during the federal habeas proceedings:

Q. [Y]ou had no other reason to develop evidence against Mr. Prible other than the fact that you may be – might be given a Rule 35?

A. Correct.

Q. Okay, that was the motivation and the sole motivation?

A. Correct.

...

Q. And . . . you started taking notes about what Mr. Prible was telling you about his case in effect to have the information that Kelly Siegler asked [you] to get, correct?

...

A. Yes.

⁴⁸ Beckcom later admitted that he knew Prible had been charged with capital murder before their first conversation. **Ex. 17 at 56–57.**

Ex. 17 at 114, 117–18. In other words, Beckcom engaged Prible in “active conversation about [Prible’s] upcoming trial” to deliberately elicit the incriminating information that Siegler asked him to obtain. *See Moulton*, 474 U.S. at 177. By Beckcom’s own admission, his conduct was “designed to obtain incriminating statements.” *Rubalcado*, 424 S.W.3d at 576.

Indeed, nothing suggests that Siegler instructed Beckcom to be a passive listener. *Cf. Kuhlmann*, 477 U.S. at 460. And even if this Court were to find that Prible initiated contact with Beckcom— notwithstanding that Beckcom knew Prible was coming to the Medium before he even arrived there—that is immaterial because Beckcom took “affirmative steps to secure incriminating information” and “such propinquity likely would lead to that result.” *Henry*, 447 U.S. at 271. Under these facts, deliberate elicitation occurred.

IV. This claim satisfies Section 5(a)(1).

Prible incorporates the Section 5 standard from Claim 1 § VII by this reference. This Court should authorize Prible’s *Massiah* claim.

Prible first raised a *Massiah* claim related to Beckcom in one of his *pro se* filings, which this Court dismissed as an abuse of the writ. *Ex parte Prible*, WR-69,328-01, WR-69,328-02, WR-69,328-03, 2008 WL 2487786,

at *1 (Tex. Crim. App. June 18, 2008). Prible raised another *Massiah* claim in his 2010 successive state habeas application. 1 SHCR-04 33–39. This Court authorized that claim for factual development on whether it met Section 5(a)(1)’s threshold bar and ultimately did not reach the claim’s merits after determining that the claim was procedurally barred. *Ex parte Prible*, WR-69,328-04, 2011 WL 5221864, at *1 (Tex. Crim. App. Nov. 2, 2011). Those *Massiah* claims, however, were based only on speculation. Critically, Prible was unable to uncover the facts establishing the agency relationship between Beckcom and Siegler—facts that Prible now presents.

As with Prible’s *Brady* claims, the ability to develop this *Massiah* claim in state court proceedings was hobbled by Siegler’s suppression of information regarding the extent of her relationship with Beckcom and other inmates and the nature of the arrangement between herself and Beckcom. During trial, direct appeal, and state habeas proceedings before the most recent application, Prible and his attorneys had no reason to know that Siegler was suppressing evidence of her relationship with Beckcom and other informers.

As explained above in Claim 1 § IV, Prible’s trial counsel made a

Brady request for the State to furnish any agreements made with Beckcom concerning benefits in exchange for testimony, which was granted. 1 CR 70; 2 RR 8. Siegler suppressed the fact that she had promised and reassured Beckcom that his assistance would get him out of prison. *See* 2 RR 29.

Initial state habeas counsel Roland Moore also made diligent attempts to discover facts to support a *Massiah* claim. He tried to speak with Foreman by attaching him to an unrelated felony case to obtain a subpoena, but once Foreman realized Moore was representing Prible, “he went stone silent, wouldn’t answer any questions, wouldn’t cooperate. . . . He absolutely would not talk to us.” 2 SHRR 40. Moore also attempted to interview Beckcom, but Beckcom’s attorney refused Moore’s request. *Id.*

At this time, Moore had no reason to believe any other informants existed. And though Moore tried to find a person named Walker, with no other identifying information, that effort quickly became “a fool’s errand.” *Id.* at 34; *see also* footnote 4, *supra*. During the state habeas evidentiary hearing in 2011, Moore testified that he ultimately did not raise a *Massiah* claim because he had no facts to support one, only speculation.

3 SHRR 47, 49.

Subsequent habeas counsel also diligently investigated a *Massiah* claim before filing Prible’s last successive application. After locating Carl Walker by sheer luck, *see* footnote 4, *supra*; 1 SHCR-04 28–32, counsel questioned him extensively about the informant ring and argued that the information he provided constituted a new factual basis for a *Massiah* claim under Section 5. *See* 1 SHCR-04 33–38. At the time of filing, Prible and his counsel still had no reason to believe additional evidence existed that could support the *Massiah* claim.⁴⁹ Indeed, re-attempting to interview Beckcom at that time would have been futile given his refusal to speak with Prible’s prior habeas counsel—as evidenced by Beckcom’s hostile response when Prible’s federal habeas counsel later did contact him. *See* footnote 37, *supra*; **Ex. 59**. It also would have been unreasonable to expect Beckcom willingly to provide information supporting a *Massiah* claim because, by doing so, he would be admitting to perjury. The trial court ultimately denied relief on that *Massiah* claim after finding that Walker’s statements “consist[ed] almost entirely of hearsay and

⁴⁹ As explained in Procedural History § II, *supra*, the State did not disclose the inmate letters or any other information from its file until after that application was filed and authorized for factual development on whether the application met Section 5(a)(1)’s threshold bar.

speculation and contain[ed] no direct evidence” supporting Prible’s prosecutorial misconduct claims. 2 SHCR-04 799–800.

It was only after federal habeas counsel was finally able to depose Beckcom and Siegler and obtain Siegler’s letters to Cullers that this *Massiah* claim became anything more than speculative. See **Ex. 17 at 19–20; Ex. 13 at 233–36; Ex. 32; Ex. 33**. Only in his deposition did Beckcom finally acknowledge that Siegler had promised him from the beginning that this would get him out of prison—a promise she later reassured—and that the only reason he acted was to get himself a sentence reduction. **Ex. 17 at 19–20, 92, 117–18**. This information came to light only because the federal habeas court ordered his deposition, and when he failed to appear for his noticed deposition in his home state of Florida, Prible’s federal habeas attorneys then instituted a show cause and contempt proceeding in the U.S. District Court for the Southern District of Florida. See *Prible v. Beckcom*, No. 0:17-cv-61695-WPD, ECF Nos. 1, 11 (S.D. Fla. Aug. 24 and 30, 2017); see also footnote 37, *supra*; **Ex. 59**.

The full nature of Beckcom’s interactions with the State was further clarified and contextualized by federal testimony from other

inmates, as well as the other evidence produced in federal habeas proceedings—all described in detail above. *See* Factual Background V–VI, *supra*. In sum, only once the federal habeas court ordered discovery was Prible able to remove the obstacle that Siegler’s suppression of evidence had created for the development of this *Massiah* claim.

For these reasons, this Court should authorize this *Massiah* claim for subsequent litigation.

Claim 3. The State sponsored false or misleading testimony through informant Beckcom in violation of Prible’s due process rights.

All facts above are incorporated here by reference.

A conviction procured through the use of false or misleading testimony is a denial of the due process guaranteed by the Federal Constitution. *Napue v. Illinois*, 360 U.S. 264, 269 (1959); *Mooney v. Holohan*, 294 U.S. 103, 112–13 (1935); *Ex parte Ghahremani*, 332 S.W.3d 470, 477 (Tex. Crim. App. 2011); *Ex parte Chabot*, 300 S.W.3d 768, 770–71 (Tex. Crim. App. 2009). Such “deliberate deception of a court and jurors by the presentation of known false evidence is incompatible with rudimentary demands of justice.” *Giglio v. United States*, 405 U.S. 150, 153 (1972) (quotation omitted).

Under federal precedent, a claimant must show (1) the evidence was false, (2) the evidence was material, and (3) the prosecution knew the evidence was false. *Giglio*, 405 U.S. at 153–54. Under Texas precedent, however, “applicants [may] prevail on due-process claims when the State has unknowingly used false testimony.” *Ghahremani*, 332 S.W.3d at 478 (citing *Chabot*, 300 S.W.3d at 770–71). In Texas courts, then, an applicant must only show (1) falsity and (2) materiality. *Ex parte Weinstein*, 421 S.W.3d 656, 665 (Tex. Crim. App. 2014).

To assess falsity, “[t]he question” is not whether the testimony was perjured, but simply “whether the testimony, taken as a whole, gives the jury a false impression.” *Ex parte Chavez*, 371 S.W.3d 200, 208 (Tex. Crim. App. 2012) (citing *Ghahremani*, 332 S.W.3d at 477). This is generally the case when a “witness omitted or glossed over pertinent facts.” *Ex parte Robbins*, 360 S.W.3d 446, 462 (Tex. Crim. App. 2011).

To assess materiality, the question is whether there is a “reasonable likelihood” that the false testimony affected the judgment of the jury. *Ghahremani*, 332 S.W.3d at 478 (citing *United States v. Agurs*, 427 U.S. 97, 103 (1976)). The Supreme Court recently clarified in *Glossip v. Oklahoma* that the proper measure for materiality is not whether the

false testimony “directly affected” the outcome; it is how the jury would have been affected by the State having to correct its own witness. 604 U.S. 226, 253 (2025). That is, the materiality analysis requires assessing whether the “prosecutor’s midtrial revelation that [the witness] lied on the stand” could have affected the judgment of the jury. *Id.* at 250.

I. The State elicited false testimony from Beckcom.

A. Beckcom falsely testified that he learned the facts of the crime from Prible alone.⁵⁰

Prible incorporates by reference Beckcom’s trial testimony regarding when, where, and how he learned the facts of Prible’s case, as described above in Factual Background § III(A).

Beckcom repeatedly emphasized to the jury that he had learned every detail about Prible’s case from Prible and Prible alone. Over the course of *thirty-one* consecutive questions by Siegler, Beckcom affirmed that every piece of his testimony—the DNA evidence, the alibi witness, the layout of the home, the positioning and location of Nilda and Steve’s bodies, the gunshot locations, the children’s locations and causes of death, the failure to find a murder weapon, the failure to find trace

⁵⁰ On this claim, the federal habeas court found that Prible met the falsity and materiality prongs of *Giglio*. **Ex. 1 at 71–72.**

evidence on Prible, Prible and Steve’s bank robbery scheme—had been provided by Prible and no other source. 26 RR 91–95.⁵¹ Evidence developed during federal habeas proceedings proves this was false testimony.

At the federal habeas hearing, Nathan Foreman testified that he had relayed facts about Prible’s case to Beckcom after the two had become cellmates, *before* they met Prible. **Ex. 57 at 53–54**. Foreman had gotten this information from Moreno and Siegler. ***Id.* at 54**. Importantly, Foreman testified that he did not recall any November 24, 2001, conversation in which Prible had allegedly confessed to the murders in his and Beckcom’s presence. ***Id.* at 59–60**. Foreman said that he would have remembered if Prible had said anything inculpatory, because he would have used that to inform on Prible. ***Id.* at 63**.⁵²

Foreman further stated in his 2016 affidavit that Siegler had fed him information directly via phone conversations from his unit manager’s office—specifically, “[t]hat is how I learned that Prible’s semen

⁵¹ Beckcom also testified on cross-examination that he had learned all information from Prible, not from the TV, newspaper articles, or any other person. 26 RR 85.

⁵² The federal habeas court found Foreman “a credible witness” who “unequivocally and credibly testified that Beckcom did not provide truthful testimony at trial.” **Ex. 1 at 29**.

was found in Nilda’s mouth.” **Ex. 35 at 2.** This would have been around July or August 2001, well before Foreman or Beckcom met Prible. ***Id.***

Carl Walker testified that he had been recruited to join the informant ring led by Beckcom and Foreman before Prible had even arrived at the unit. The men already had a “plethora of information about Mr. Prible’s case” when they approached him—“details, locations, what was found, where the body was, what happened.” **Ex. 57 at 95.** Walker clarified: “There was no information they needed to get. All the information was already presented to me.” ***Id. at 97.*** The men concocted a plan to “collaborate as if we became prison buddies or pals or et cetera [with Prible], and then he, all of a sudden, feel compelled to confess all these horrific things.” ***Id. at 98.*** However, Walker said that it “really didn’t matter” if Prible actually confessed, because “the knowledge was already there, you know. That was more of a formality, like, you would go through the motions. You would set it up.” ***Id. at 114–15, 127.***⁵³

Moreover, the letters to Siegler from Martinez, Gonzalez, and Walker show that different members of the informant ring all had similar

⁵³ The federal habeas court found that “Walker was a credible witness who was unwavering in his testimony [and] provided trustworthy testimony that corroborated Foreman’s rejection of Beckcom’s trial testimony.” **Ex. 1 at 31.**

information about Prible’s crime. **Ex. 2; Ex. 3; Ex. 4.** These letters all also refer to Beckcom, showing they were aware of his connection with Siegler and that he likely had been privy to any conversations they had had about Prible’s case. Walker corroborated this when he testified that the informants had hatched a plan and discussed it prior to interacting with Prible. **Ex. 57 at 98–99.**

Together, this evidence shows that Beckcom testified falsely when he said he learned all the facts of Prible’s case from Prible and Prible alone.

B. Beckcom falsely testified that Siegler made him no promises regarding his sentence reduction.⁵⁴

Siegler questioned Beckcom about their agreement shortly after he took the stand. Beckcom told the jury there was only “an understanding” that *if* he testified truthfully, *then* Siegler would inform his federal prosecutor, Mark Cullers, of Beckcom’s assistance. 26 RR 14–15. Cullers would then decide whether to ask the judge for a sentence reduction. *Id.* at 16. Siegler made sure to impress upon the jury that any such reduction was entirely out of her hands. *Id.* (“Q. If Mark Cullers decides to file the

⁵⁴ This claim was not raised in any prior proceedings because Prible and his counsel had no reason to believe this testimony was false until Beckcom was deposed.

motion, first of all, does he have to do that just because I ask him to? A. No he doesn't. . . . Q. And your sentencing judge could do what with that motion? A. Anything he wants."). Siegler concluded this line of questioning with:

Q. Obviously, Mr. Beckcom, what are you hoping the Federal Judge does assuming you testify truthfully and I call Mark Culler[s] and Mark Culler[s] files a motion for a time request? It's your hope that the Judge will do what?

A. Let me out.

Q. Have I ever made you any guarantees or promises in that regard?

A. None whatsoever.

Id. at 17.

This was false testimony. During federal proceedings, Beckcom testified that Siegler had, in fact, assured him he would get out of prison in exchange for testifying. And unbeknownst to Beckcom, Siegler apparently knew what his sentence reduction would likely be (and that it would be considerably lower) when she called him to the stand.

Beckcom testified:

A. Well, when this whole thing got started . . . [Siegler] said, "This will probably get you out of prison."

Q. She said – she said that to you, this will get you out of prison?

A. Yeah, so I think she bullshitted me at that point because once it was said and done as I'm getting off the

stand they go in the back and she's got this grim look on her face and I'm like what now? [“]Well, they're only going to give you 12 months,[”] so at that point I felt like I knew she had lied to me in the beginning that I was going to get walked out, you know, for my testimony.

...

Q. Did she lead you to believe that you would be getting out of prison?

A. Yeah.

Ex. 17 at 19–20. But in addition to proving the falsity of Beckcom's statements, this testimony also reveals that Siegler knew she was eliciting false testimony for the entire line of questioning about their “understanding.” In other words, Siegler lied to her star witness to secure his assistance, then got him to lie to the jury about his expected benefit.

Additionally, documents obtained during federal habeas proceedings show that Siegler began communicating with Cullers about Beckcom well before trial, as early as March 2002. **Ex. 13 at 233–36; Ex. 32; Ex. 33.** Beckcom knew this. **Ex. 13 at 235.** Thus, Beckcom's testimony that their agreement was *if* he testified truthfully, *then* Siegler would contact Cullers, *see* 26 RR 14–15, was also false.

Furthermore, after Prible's trial, Cullers initially refused Siegler's request for a sentence reduction for Beckcom. **Ex. 43.** Siegler persisted, calling Cullers personally and then sending him another letter, saying:

[Beckcom] played a vital role obtaining a conviction. . . . Mike Beckcom did MUCH MORE than that in this death penalty trial. Keeping in mind how often [Rule 35] Motions ARE filed for defendants who provide much less information that results in much less true help to law enforcement in much less important cases is where it seems to me to be confusing.

Ex. 45 (emphasis in original). Cullers eventually relented, and Beckcom received a sentence reduction. **Ex. 17 at 87**; *United States v. Beckcom*, No. 1:98-cr-05157, ECF No. 28 (E.D. Cal. Mar. 6, 2003).

II. Beckcom’s false testimony was material.⁵⁵

Glossip reaffirmed that, as with *Brady* claims, the materiality analysis for false testimony claims “requires a cumulative evaluation of all the evidence[.]” *Glossip*, 604 U.S. at 251 (2025) (citation omitted). This includes any other instances of prosecutorial misconduct—regardless of whether they are related to the false testimony claim or “whether or not” they are presented as independent claims for relief. *Id.* at 250–51 (cumulating prejudice from the prosecution’s violation of the rule of

⁵⁵ In Texas, the burden of proving materiality is conditioned on the State’s knowledge. If the State knew the testimony was false, the State must prove beyond a reasonable doubt that the testimony did not contribute to the verdict. *Ghahremani*, 332 S.W.3d at 478 (citing *Bagley*, 473 U.S. at 680 n.9). If the State did not know, the applicant must prove by a preponderance of the evidence that the error affected the outcome. *Id.* at 482 (citing *Chabot*, 330 S.W.3d at 771). Prible can prevail under either standard.

sequestration, its destruction of evidence, and its withholding of favorable evidence). The prosecution's arguments should also be considered. *Id.* at 249.

Here, Beckcom's testimony was one of the two main pillars of the State's case. *See Ex. 1 at 63*. Without him, there was no "confession" story. Without him, there was no explanation for all the problematic aspects of the State's case: Prible's story of consensual sex, 26 RR 43–45 ("[He said] [e]verybody knew they were messing around. So, that was his justification[.]"); a lack of motive, *id.* at 49–51 ("[I]t was over money"); the stolen money never found, *id.* at 52 ("I said, 'Well, did you look in the house?' And he said, 'Yeah, but it wasn't there.'"); the missing murder weapon, *id.* at 33–36 ("[A]sphalt's good some times for hiding things"); the alibi witness, *id.* at 40 ("I [asked] him what you guys had on him, he said DNA . . . but I've got a witness that saw Steve take me home that night."); how he was able to return to the house after being dropped off at home by Steve and get out without being seen, 26 RR 52–53 ("Anybody that can go in a house and take out a whole family and get out without being seen is a bad mother fucker and I'm that mother fucker."). Without him, the State's case would have rested on explainable DNA evidence

that the State initially considered insufficient to even file charges on Prible. Without Beckcom, in other words, the State's case was tenuous at best.

It is no surprise, then, that the State placed emphasis on Beckcom from the start. In opening statements, Siegler spent much of her time on Beckcom and his importance to the case. *See* 21 RR 78–83. She told the jury that Beckcom hoped for, but was not guaranteed, a benefit from his testimony. *Id.* at 79–81. She also stated that everything Beckcom knew about the case had “only come from [Prible],” and that “before this State, me, ever knew of the existence of Michael Glen Beckcom, these capital murder charges were already filed on Jeff Prible.” *Id.* at 80, 82.

Siegler doubled down during closing arguments. She repeatedly vouched for Beckcom's credibility. *E.g.*, 28 RR 7 (“Mike Beckcom is telling the truth. . . . [e]verything he's telling you about what happened is the truth.”); *id.* at 15 (“I proved to you that Mike Beckcom was telling the truth[.]”); *id.* at 18 (“He is absolutely, positively telling you the truth. You can take that to the bank.”). For Beckcom's “confession” story to hold any water, it was important for the jury to believe that Prible confessed all the details to him directly. So, the State repeatedly drove that point home

as well. *E.g.*, 28 RR 75 (“[T]here ain’t no evidence that Michael Beckcom ever had anybody, anywhere, any paper, any newspaper, any cop, any T.V. show tell him anything about the facts of this case except for Jeff Prible.”); *id.* at 81 (“And whose fault is it that Mike Beckcom knew all the details? Jeff Prible’s for telling him.”); *id.* at 82 (“How would Mike Beckcom know that unless he got it out of Jeff Prible?”); *id.* at 83 (“Right all down the line. . . . Out of the mouth of Jeff Prible.”); *id.* at 84 (“That’s what Jeff Prible told Mike Beckcom.”). Finally, the State emphasized that Beckcom had been given no guarantee of a reward for testifying, and the decision still rested with his federal prosecutor and judge. *Id.* at 79.

Had the jury been told that Beckcom learned facts of Prible’s case from other sources, discussed Prible’s case with numerous other informants, and helped orchestrate a plan to offer evidence against him—all before Prible had even arrived at their prison unit—Beckcom’s testimony would have been irreversibly impeached.

The same effect would have resulted if Beckcom had testified truthfully about his deal with Siegler. This case is very similar to *Giglio* in that regard. There, the State did not disclose that it had promised its informant—a co-conspirator to the offense—that he would not be

prosecuted if he testified against Giglio. *Giglio*, 405 U.S. at 151–52. After he inculcated Giglio on the stand, the following exchange occurred:

Q. Did anybody tell you at any time that if you implicated somebody else in this case that you yourself would not be prosecuted?

A. Nobody told me I wouldn't be prosecuted.

...

Q. To this date, have you been charged with any crime?

A. Not that I know of, unless they are still going to prosecute.

Id. at 151–52. In closing argument, the State's attorney said that “[Informant] received no promises that he would not be indicted.” *Id.* at 152. The Supreme Court reversed Giglio's conviction because “evidence of any understanding or agreement as to a future prosecution would be relevant to his credibility and the jury was entitled to know of it.” *Id.* at 155.

The facts here are functionally similar. Beckcom testified in federal court that Siegler told him, before trial, that he would get out of prison in exchange for testifying. **Ex. 17 at 19–20.** She further told him before trial that she had spoken with his federal prosecutor and “they're going to play ball . . . they're in[.]” ***Id.* at 92.** Yet, just as with the informant in *Giglio*, when Beckcom was questioned about whether Siegler had made him any “promises or guarantees,” he responded, “None whatsoever.” 26

RR 17. Further, as with the informant in *Giglio*, Beckcom's credibility was central to the State's case—a point which the State made on its own during closing arguments.

Accordingly, Beckcom's multiple instances of false testimony were material.

III. This claim satisfies Section 5(a)(1).

Prible incorporates the Section 5 standard from Claim 1 § VII by this reference. This Court should authorize Prible's false testimony claim.

Prible first raised a false testimony claim related to Beckcom in his 2010 successive state habeas application. 1 SHCR-04 39–41. This Court authorized that claim for factual development on whether it met Section 5(a)(1)'s threshold bar and ultimately did not reach the claim's merits after finding the claim procedurally barred. *Ex parte Prible*, WR-69,328-04, 2011 WL 5221864, at *1 (Tex. Crim. App. Nov. 2, 2011). That claim, as with the rest of that application, was supported only by the hearsay statements of Carl Walker, which the trial court found to be speculative. 2 SHCR-04 799–800.

As with Prible's *Brady* and *Massiah* claims, the ability to develop

this false testimony claim in state court proceedings was hobbled by Siegler's suppression of information regarding the extent of her relationship with Beckcom and other inmates, and the nature of the arrangement and communications between her and Beckcom. During trial, direct appeal, and state habeas proceedings before the most recent application, Prible and his attorneys had no reason to know that Siegler was suppressing additional evidence of her relationship with Beckcom and other informers.

Initial state habeas counsel Roland Moore also made diligent attempts to discover facts that could support a false-testimony claim. He tried to speak with Foreman by attaching him to an unrelated felony case to obtain a subpoena, but once Foreman realized Moore was representing Prible, he would not speak. 2 SHRR 40. Moore also attempted to interview Beckcom, but Beckcom's attorney refused Moore's request. *Id.*

At this time, Moore had no reason to believe any other informants existed. And though Moore tried to find a person named Walker, with no other identifying information, that effort quickly became "a fool's errand." *Id.* at 34; *see also* footnote 4, *supra*. With no concrete evidence, Moore was not able to include any prosecutorial misconduct claims in Prible's Initial

Application. 3 SHRR 48.

Subsequent habeas counsel also diligently investigated a false testimony claim before filing Prible’s last successive application. After locating Carl Walker by sheer luck, *see* footnote 4, *supra*, counsel questioned him extensively about the informant ring and argued that the information he provided constituted a new factual basis for a false-testimony claim under Section 5. *See* 2 SCHR-04 39–41. At the time of filing, Prible and his counsel still had no reason to believe additional evidence existed to support the claim.⁵⁶ Indeed, re-attempting to interview Beckcom at that time would have been futile given his refusal to speak with Prible’s prior habeas counsel—as evidenced by Beckcom’s hostile response when Prible’s federal habeas counsel later did contact him. *See* footnote 37, *supra*; **Ex. 59**. It also would have been unreasonable to expect Beckcom to willingly provide information supporting a false testimony claim because, by doing so, he would be admitting to perjury. The state habeas court ultimately denied relief on that false-testimony claim after finding that Walker’s statements “consist[ed] almost entirely

⁵⁶ As explained in Procedural History § II, *supra*, the State did not disclose the inmate letters or any other information from its file until after that application was filed and authorized for factual development on whether the application met Section 5(a)(1)’s threshold bar.

of hearsay and speculation and contain[ed] no direct evidence” supporting Prible’s claims. 2 SHCR 799–800.

It was only after federal habeas counsel was finally able to depose Beckcom, Foreman, Siegler, and Bonds that this false-testimony claim became anything more than speculative. Only in his deposition did Beckcom finally acknowledge that Siegler had promised him from the beginning that this would get him out of prison—a promise she later reassured—and that the only reason he acted was to get himself a sentence reduction. **Ex. 17 at 19–20, 92, 117–18.** This information came to light only because the federal district court ordered his deposition and when he failed to appear, Prible’s federal habeas attorneys instituted a show cause and contempt proceeding in the U.S. District Court for the Southern District of Florida. *See Prible v. Beckcom*, No. 0:17-cv-61695-WPD, ECF Nos. 1, 11 (S.D. Fla. Aug. 24 and 30, 2017); *see also* footnote 37, *supra*; **Ex. 59.**

The full nature of Beckcom’s interactions with the State was further clarified and contextualized by federal testimony from other inmates, as well as other evidence produced in federal habeas proceedings—all described earlier in this application. *See Factual*

Background § V–VI, *supra*. In sum, only once the federal habeas court ordered discovery was Prible able to remove the obstacle that Siegler’s suppression of evidence had created for the development of this false testimony claim.

For these reasons, this Court should authorize this false testimony claim for subsequent litigation.

Claim 4. Prible is entitled to habeas relief under Article 11.073.

All facts alleged above are incorporated here by reference.

I. Overview

Contemporary scientific knowledge does not support the State’s presentation of the DNA evidence at Prible’s trial. As the federal habeas court noted, that Prible’s semen was found in Tirado’s mouth was not necessarily inculpatory on its own. See **Ex. 1 at 63**. This is so because the evidence did not suggest that Tirado had been sexually assaulted, 23 RR 63–64, and Prible had voluntarily told the police—hours after the murders and weeks before the DNA results came back—that he and Tirado had had a consensual sexual encounter that night, 31 RR 108. To obtain a conviction, then, the State needed to show that the semen was deposited at the very moment Tirado was murdered.

New evidence has emerged since Prible’s previous habeas

application that contradicts the State DNA expert’s trial testimony and the manner in which the State used that testimony to cement the DNA pillar of its case against Prible. This new evidence includes published scientific articles and studies, the expert report of forensic scientist Huma Nasir, and the recent declaration from State DNA expert William Watson himself. Together, the evidence shows significant, material changes in the “science” used to convict Prible and warrants habeas relief under Article 11.073. Had this new scientific evidence been presented, Prible likely would not have been convicted.

II. Watson’s expert opinion at trial erroneously relied on the quantity of spermatozoa recovered.

At trial, the State laid the groundwork for its timing theory by questioning Watson in a manner calculated to draw a false contrast between the oral swab and the vaginal and anal swabs he tested. Watson testified he identified the presence of spermatozoa on all the swabs. He said that this was the only case in which he had ever been able to find sufficient sperm on an oral swab to generate a complete male DNA profile. 24 RR 94–102. He told the jury he was able to obtain a *single source* DNA profile consistent with Prible from the oral swab, but was able only to obtain a *mixed profile*—consistent with Tirado and Herrera—

from the vaginal and anal swabs. *Id.* at 93–95. This is because there were “low amounts of sperm” on the vaginal and anal swabs, such that there “wasn’t a strong enough sample to obtain a pure male fraction.” *Id.* Conversely, Watson said he was able to get a pure male profile from the oral swab because it was “a strong[er] sample” on which “a great deal of sperm” were present. 24 RR 94–95 (“[B]ased on the quantity of DNA that was extracted, yes, I can say there was more in the mouth than in the vaginal or anal swabs.”).⁵⁷

Watson testified that, given the strength of the oral swab sample, the presence of Prible’s DNA on the oral swab “would certainly be consistent” with a deposit at the time of Tirado’s death, and “inconsistent” with a deposit up to an hour before. *Id.* at 101–03. He said it was “difficult to say” whether a half-hour timeframe was possible. *Id.* at 102.

⁵⁷ The State used this testimony to argue that the mere fact that Watson was able to obtain a complete male profile from the oral swab was proof that there was more sperm present on the oral swab than on the vaginal or anal swabs, which in turn proved that Prible’s sperm had to have been deposited in Tirado’s mouth closer in time to her murder. *See, e.g.*, 28 RR 57–59. That this was the one and only time Watson had ever been able to generate a complete male profile from an oral sample only amplified the State’s argument. *See* 24 RR 100.

In closing arguments, the State told the jury that, based on Watson’s testimony that there were more sperm present on the oral swab than on the anal and vaginal ones, “[t]here is no way in the world that [Prible’s] semen wasn’t deposited either moments before or seconds after Nilda died.” 28 RR 11. Thus, “[Tirado] left this world with [Prible’s] penis in her mouth.” *Id.* at 58. That was “the only way” it could have happened. *Id.* Prible’s semen was left in her mouth, according to Siegler, “[b]ecause she didn’t have a chance to spit it out or swallow it or take a drink of water or let any time pass whatsoever because *as soon as he ejaculated*, he executed her.” *Id.* at 58 (emphasis added). She further argued:

[U]nless you think I guess that he had some kind of magic semen, magic sperm that somehow lives longer than any of y’all’s or any other man’s in this whole universe . . . If you believe that story I guess you’ve also got to believe that his semen is so tasty that she walked around savoring the flavor of it in her mouth for a couple hours. That’s the only way it’s going to end up still in her mouth after she’s dead.

Id. at 55–56.

III. Article 11.073(b) requires that Prible receive habeas relief based on new scientific evidence.

Texas Code of Criminal Procedure article 11.073(b) authorizes habeas corpus relief if (1) a convicted person files an application containing specific facts indicating that relevant, admissible scientific

evidence is currently available and was not available at the time of trial through the exercise of reasonable diligence; and (2) the court also finds, by a preponderance of the evidence, that, had the scientific evidence been presented at trial, the person would not have been convicted. Tex. Code Crim. Proc. art. 11.073(b)(1)–(2).

If the new-science claim is raised in a subsequent application under Article 11.071(5)(a)(1), the Court may not consider it if the science was ascertainable through the exercise of reasonable diligence on or before the date on which the previously considered application was filed. *Id.* art. 11.073(c). In making this determination, the court must consider whether the field of scientific knowledge, a testifying expert's scientific knowledge, or a scientific method on which the relevant scientific evidence is based has changed since the date on which the previously considered application was filed. *Id.* art. 11.073(d)(2).

Scientific advancements have rendered Watson's testimony, including his inferences about when the semen was deposited in Tirado's mouth, erroneous. Although there was little available literature on the subject at the time, the scientific consensus today is that spermatozoa can survive in the oral cavity of a living person for up to fifteen hours—

and even longer in a deceased person. As DNA expert Huma Nasir explains, this literature renders Watson's testimony at Prible's trial wholly unsupportable. Even Watson, in a lengthy declaration, now disavows that testimony.

A. New studies regarding the presence of sperm extend the time in which it can survive.

Current science, as reflected in academic and scientific literature, demonstrates that Watson's testimony provided a wholly erroneous basis for finding Prible guilty. At the time of Prible's trial, there was little to no research on the detection and identification of sperm cells in the oral cavity of deceased persons. **Exhibit 68 at 3 (Huma Nasir DNA Review Letter)**; see Kim A. Collins, *Persistence of Spermatozoa and Prostatic Acid Phosphatase in Specimens from Deceased Individuals during Varied Postmortem Intervals*, 22 AM. J. FORENSIC MED PATHOLOGY 228, 229 (2001) (noting dearth of research and data on this issue). Research on the persistence of spermatozoa in the oral cavity of living persons was also limited. See David G. Casey, *The Persistence of Sperm and the Development of Time Since Intercourse (TSI) Guidelines in Sexual Assault Cases*, 62 J. FORENSIC SCI. 585, 585 (2016) (noting "a particular shortage of published information on the persistence of sperm following

anal and oral intercourse”).

In the years since trial, the persistence of spermatozoa in the oral cavity of living individuals has been further studied and is much better understood. **Ex. 62 ¶ 6.** Now, it is widely known and accepted in the field that spermatozoa yielding DNA profiles can be collected from oral cavities many hours after deposit, and “in some instances considerably longer.” *Id.* ¶ 17; see Casey, *supra*, at 585–92 (2016); Ane Fonneløp, *A Retrospective Study on the Transfer, Persistence and Recovery of Sperm and Epithelial Cells in Samples Collected in Sexual Assault Casework*, 43 *FORENSIC SCI. INT’L: GENETICS* 102–153 (2019).

The Casey study (2016) was the first to present a statistical analysis of the persistence of sperm in the mouth from a large population data set of actual cases. Casey, *supra*, at 585. Before that, publications were based on only small numbers of case studies or from volunteer donors, meaning the field lacked evidence-based statistics. *Id.* The Casey study found that spermatozoa can persist in the oral cavity up to fifteen hours after intercourse. *Id.* at 590. A few years later, the Fonneløp study (2019)—the second to use real case data rather than controlled experiments—found that spermatozoa can persist in the oral cavity up to

twelve hours after intercourse. Fonneløp, *supra*, at 104.

As these studies demonstrate, the field of scientific knowledge on the persistence of spermatozoa in the oral cavity has evolved since Prible’s trial—from an issue with little to no research, to one with evidence-based and peer-reviewed findings. The scientific consensus today is that spermatozoa can persist in the oral cavity of a living person for up to fifteen hours. It can persist even longer in the oral cavity of a deceased person. **Ex. 68 at 3.**

B. Based on these new understandings, DNA expert Huma Nasir concludes that Watson’s testimony was unscientific.

The work of forensic DNA specialist Huma Nasir confirms that, in light of new understandings about the life of spermatozoa, Watson’s testimony could not support the State’s theory of guilt. Prible retained Nasir to re-evaluate the DNA evidence in this case.⁵⁸ In 2025, she provided counsel with a report summarizing her observations and conclusions. **Ex. 68.**

Nasir describes Watson’s trial testimony as “not scientifically supported.” *Id.* at 2. She explains how “[a] full DNA profile could be

⁵⁸ Nasir is an experienced DNA analyst and consultant. Her *curriculum vitae* is attached as **Exhibit 69 (Huma Nasir CV)**.

obtained even from extremely low levels of DNA” and influenced by many other factors that have nothing to do with the timing of the deposit. *Id.* Thus, Watson’s ability to obtain a profile from the oral swab “does not imply that ejaculation occurred recently or immediately prior to death.” *Id. at 3.* It “cannot be used to estimate proximity to death.” *Id. at 4.* This conclusion was “misleading and not substantiated by forensic literature.” *Id. at 3.*

Nasir further explains that at the time of trial, it was “standard forensic practice” to collect and test oral swabs in sexual assault cases. *Id.* It was therefore misleading for Watson to testify he had never developed one himself or seen such results in published literature. *Id.*

C. Watson himself now recognizes that his trial testimony is unsupportable.

Watson, the State’s DNA expert at trial, has himself recognized the effect of new science in this case. He signed a detailed declaration disclaiming key parts of his trial testimony and citing significant changes in the field of forensic biology, in the progression of the scientific methods used to analyze the evidence in Prible’s case, and in his own scientific knowledge. See **Ex. 62 ¶ 6.** Based on these changes, Watson would testify differently today. *Id. ¶ 7.* His new testimony would completely alter the

State's case, because, critically, Watson has retracted his testimony related to the timing of the oral sample, explaining: "I cannot definitively state when the spermatozoa detected in the oral cavity were deposited in relation to Nilda Tirado's time of death." *Id.* ¶ 9.

Indeed, each of the foundational claims Watson made to reach his conclusion has now been debunked by new science. Watson now states that he "cannot conclude, scientifically, that the sample in the oral swab was any 'stronger,' more 'pure,' or more recently deposited than the vaginal or anal swab samples." *Id.* ¶ 14; *see id.* ¶ 12. Nor can he "conclude there was more spermatozoa in the oral cavity than in the vaginal or anal cavities." *Id.* ¶ 14. Thus, he cannot estimate when the spermatozoa from the oral swab was deposited in relation to Tirado's time of death or in relation to the spermatozoa recovered from the anal or vaginal swabs. *Id.* ¶ 9. Today, "the only scientifically definitive conclusions [he] can draw regarding the evidence in this case are that spermatozoa containing sufficient DNA to generate a male profile were present on (1) one oral swab, (2) one vaginal swab, and (3) one anal swab." *Id.* ¶ 8.

Additionally, in the intervening years since Prible's trial, Watson

has seen both partial and full profiles developed from oral swabs in sexual assault cases. *Id.* ¶ 16. He would testify today that “while it is still not common, it is not unusual.” *Id.* He is also now aware of multiple studies that have found sperm present in the oral swabs of sexual assault victims numerous hours after assault. *Id.*

For that reason, Watson could no longer testify it was “inconsistent” for Prible’s DNA to have been deposited up to an hour before Tirado’s death. *Id.* ¶ 17. Instead, he believes that it is just as “consistent with it being there for over one hour” as it is for less than one hour. *Id.* He would also tell the jury that numerous studies have found that spermatozoa can survive in the oral cavity “for longer than an hour, in some instances considerably longer.” *Id.* And he would clarify that while deposit at the time of death was “one possible explanation, it is not the only one[,]” and he “cannot definitively determine the exact timing of deposition based on the profile.” *Id.* ¶ 18.

In sum, based on changes in the scientific field and my own scientific understanding, I would make it clear in my testimony that I cannot conclude with scientific certainty (1) whether more spermatozoa was present in the oral cavity than the other cavities, (2) whether the spermatozoa in the oral cavity was deposited before or after the spermatozoa in the vaginal or anal cavities, or (3) when the spermatozoa was deposited in the oral cavity

in relation to the time of death.

***Id.* ¶ 19.**

Watson also forcefully repudiates Siegler’s characterization in her opening statement of what his testimony would be, and disavows key conclusions that the State drew from his testimony in closing arguments to the jury. ***Id.* ¶¶ 20–26.** He now describes these statements as, among other things, “inflammatory,” “scientifically baseless,” “highly inappropriate,” and “not [] scientifically valid” or “sound.” ***Id.***

This Court has held that Article 11.073(d) can be met “when an expert’s opinion changes due to a change in their scientific knowledge (e.g., an expert who, upon further study and acquisition of additional scientific knowledge, would have given a different opinion at trial).” *Ex parte Roark*, 707 S.W.3d 157, 184–85 (Tex. Crim. App. 2024) (quoting *Ex parte Chaney*, 563 S.W.3d 239, 255 (Tex. Crim. App. 2018)). In *Roark*, this Court heavily relied on evidence demonstrating that the State’s experts would testify differently at a new trial. *Id.* at 185–86. Specifically, it noted the ways in which those experts “shifted their testimony in later trials” involving the same issues and how those shifts were consistent with testimony by their “successors” as well as new scientific literature.

Id. Together, these changes “demonstrate[ed] the change in medical science” justifying Article 11.073 relief. *Id.* at 186.

Similarly, in *Ex parte Henderson*, this Court granted habeas relief where the State’s medical examiner changed his opinion due to scientific developments. 384 S.W.3d 833, 833–34 (Tex. Crim. App. 2012).⁵⁹ Despite originally testifying that the fatal injuries must have been intentional, he later explained that due to advancements in the science there was “no way to determine with a reasonable degree of medical certainty” whether they were intentional or accidental. *Id.* This Court agreed with the trial court that this re-evaluation “constitute[d] a material exculpatory fact.” *Id.* at 834.

As in *Roark* and *Henderson*, Watson’s re-evaluation of his testimony constitutes a “material exculpatory fact.” *See id.*; *Roark*, 707 S.W.3d at 186. This change in expert opinion is based on the acquisition of additional scientific knowledge and is consistent with scientific literature published after Prible’s trial. Accordingly, this Court should find that this claim satisfies Article 11.073(d).

⁵⁹ *Henderson* predated Article 11.073 and was therefore analyzed under only an Article 11.071 framework.

IV. Had the new scientific evidence been presented at trial, Prible would not have been convicted.

In making the inquiry under Article 11.073(b)(2), this Court may consider the extent to which the State emphasized the evidence now called into question at trial, as well as whether any other incriminating evidence was presented. *See Ex parte Chaney*, 563 S.W.3d 239, 263 (Tex. Crim. App. 2018); *Ex parte Robbins*, 478 S.W.3d 678, 692 (Tex. Crim. App. 2014). Evidence presented in relation to Prible's other habeas claims may also be considered. *See Ex parte Kussmaul*, 548 S.W.3d 606, 623–27 (Tex. Crim. App. 2018); *Chaney*, 563 S.W.3d at 274. Because the Article 11.073(b)(2) standard is lower than the actual innocence standard—requiring proof only by a preponderance of the evidence—it may be satisfied even where the record contains some evidence jurors could view as incriminatory. *Kussmaul*, 548 S.W.3d at 641.

Applying those standards, it is more likely than not that the jury would not have convicted Prible if it had considered the totality of the record including this new DNA evidence. As explained above, the State repeatedly emphasized during closing argument that the presence of Prible's DNA in Tirado's mouth conclusively proved he was the killer. 28 RR 10–11, 55–58. Indeed, this was the only forensic evidence linking

Prible to the scene. *See* Factual Background § I(F), *supra*. And during federal habeas proceedings, prosecutor Wisner testified that the State could have tried the case with the DNA evidence alone. **Ex. 56 at 30, 72.** The only other incriminating evidence was Beckcom’s now-debunked “confession” story. *See* Factual Background § III(A), *supra*; Claims 1–3, *supra*. The remainder of the State’s evidence addressed the crime scene, the police investigation, and Steve and Tirado’s reputations and activities prior to the crime—none of which inculpated Prible.

This Court has found that Article 11.073(b)(2) was satisfied under similar circumstances—i.e., where the discredited scientific evidence was presented as highly inculpatory, where the State emphasized that evidence during closing argument, and where remaining inculpatory evidence was scant. *See Chaney*, 563 S.W.3d at 263; *Robbins*, 478 S.W.3d at 692. This Court should reach the same conclusion here.

V. This claim satisfies Section 5.

The legal basis for this claim was not previously available to Prible. Prible’s most recent habeas application was filed on September 8, 2010. 1 SHCR-04 at 1–116. Article 11.073 took effect on September 1, 2013. Therefore, Article 11.073 provides a new, previously unavailable legal

basis to raise this claim in the instant application under Texas Code of Criminal Procedure art. 11.071(5)(a)(1). *Ex parte Robbins*, 478 S.W.3d 678, 690 (Tex. Crim. App. 2014).

This Court should authorize Prible’s 11.073 claim for factual development.

Claim 5. Prible is actually innocent.

All facts alleged above are incorporated here by reference.

I. Legal background for actual innocence claims.

The current standard for freestanding actual innocence claims is whether “[an] applicant can prove by clear and convincing evidence . . . that a jury would acquit him based on his newly discovered evidence” of innocence. *Ex parte Elizondo*, 947 S.W.2d 202, 209 (Tex. Crim. App. 1996). However, actual innocence claims involving constitutional error are assessed under a preponderance-of-the-evidence standard. *See Ex parte Franklin*, 72 S.W.3d 671, 675–76 (Tex. Crim. App. 2002) (quoting *Schlup v. Delo*, 513 U.S. 298, 327 (1995)) (“The petitioner must show that it is more likely than not that no reasonable juror would have convicted him in light of the new evidence.”).

As a member of this Court recently explained, a preponderance-of-the-evidence standard would be a “more appropriate measure” under the

Texas Constitution for all actual innocence claims when the deprivation of life is at stake. *Ex parte Wood*, -- S.W.3d --, 2025 WL 2148862, at *2 (Tex. Crim. App. July 30, 2025) (Schneck, P.J., concurring and dissenting in part). This is because the Texas Constitution includes unique due process protections absent from the U.S. Constitution, including a safeguard against suspension of the writ of habeas corpus as a “writ of right” and an open courts provision, which demonstrate the framers’ intent to further safeguard the rights of the criminally charged. *See Wood*, 2025 WL 2148862, at *3; Tex. Const. art. 1, 12, 13, 19.

Accordingly, this Court should hold that the Texas Constitution requires reversal of a conviction when newly discovered evidence shows the applicant is actually innocent by a preponderance of the evidence.

II. The new evidence shows Prible is actually innocent.

Whether this Court applies the *Elizondo* standard or the lesser standard articulated in *Schlup* or *Ex Parte Wood*, Prible has presented new evidence so troublesome that this Court can no longer have confidence in the outcome of Prible’s trial. Prible’s claim of actual innocence contains many instances of grave misconduct, presentation of false testimony, and *Brady* violations common to *Schlup*-type claims. *See*

Schlup, 513 U.S. at 314; *see also Ex parte Miles*, 359 S.W.3d 647, 671 (Tex. Crim. App. 2012) (relying on previously undisclosed *Brady* evidence and the resulting investigation as affirmative evidence of actual innocence). Like the applicant in *Miles*, Prible presents a hybrid case in which the facts and standards underlying his claim of actual innocence and his claims of State misconduct are so intertwined that this Court cannot fully analyze one without the other. Newly discovered evidence combined with evidence of State misconduct makes clear that Prible is entitled to relief on actual innocence grounds.

The new evidence presented in Prible’s application includes, *inter alia*, evidence that: (1) the State’s DNA evidence at trial is not supported by contemporary science, which the State’s own expert concedes; (2) the State suppressed information undermining its own DNA expert’s testimony; (3) the State presented false testimony through informant Beckcom about how he obtained information and what he expected in exchange for his testimony; (4) the State dispatched Beckcom as its agent to extract a “confession” from Prible after his right to counsel had attached; and (5) the State suppressed a wealth of exculpatory and impeaching information regarding Beckcom, his testimony, other would-

be informants, and their dealings with Siegler. This new evidence wholly dismantles the two pillars of the State’s case: the DNA evidence and the purported “confession” story. *See* Claims I–IV, *supra*.

Additionally, the threatening letter sent to Steve Herrera’s parents was recently examined for DNA. *See* Ex. 63; Factual Background § I(H), *supra*. This yielded a DNA mixture from three contributors. **Ex. 64.**⁶⁰ Prible is definitively excluded as a contributor. **Ex. 65.**

This means that another person or persons knew of drug activities at a house owned by Steve’s father, knew of all the houses he owned, and threatened to burn them all down if the drug dealing did not stop—mere days after a fire was set to his drug dealing son’s home. Another person or persons had the motive, knowledge, and willingness to commit such a crime, but to date, they have not been identified or investigated.

Gregory Francisco, Steve’s friend and neighbor who discovered the smoke that morning, also recently signed a Declaration in which he states that he “strongly believed” Prible and Tirado were having an affair due to the way they interacted around him. **Ex. 7 ¶ 6.** He also observed

⁶⁰ Because there was no discernable major contributor, it could not be uploaded into CODIS. **Ex. 64.**

Prible go into the Herrera home multiple times when Steve was not there.

*Id.*⁶¹

This trove of new evidence, weighed against the State’s remaining evidence, satisfies *Elizondo*’s clear-and-convincing standard. 947 S.W.2d at 206, 210. Necessarily, it is more likely than not that no reasonable juror would have convicted Prible of capital murder. *See Franklin*, 72 S.W.3d at 675 (citing *Schlup*, 513 U.S. at 327); *see also Wood*, 2025 WL 2148862, at *2. Prible’s error-riddled trial, in conjunction with the new evidence presented, is more than sufficient to doubt his guilt, enough so to justify the conclusion that executing Prible or otherwise keeping him confined would be “a miscarriage of justice.” *Elizondo*, 947 S.W.2d at 208.

III. This claim satisfies Section 5.

Prible incorporates the Section 5 standard from Claim 1 § VII by this reference. This Court should authorize Prible’s actual innocence claim.

As established in the preceding claims, the factual basis underlying this claim—as well as Prible’s *Brady*, *Massiah*, false testimony, and junk science claims—was not available at the time of his last application. *See*

⁶¹ Francisco provided a statement to the police in 1999 and testified at Prible’s trial, but did not share this information. **Ex. 7 ¶ 8.**

Claims I–IV, *supra*. The additional evidence included in this claim also was not available. The State had possession of the threatening letter since 1999 but did not subject it to any forensic analysis until 2025. *See* Factual Background § I(H), *supra*. Francisco withheld the information cited in his declaration from law enforcement in 1999, and when he testified at Prible’s trial in 2001. *See* footnote 62, *supra*.⁶²

In the alternative, this Court should authorize this claim under Section 5(a)(2) because Prible has made a prima facie showing of actual innocence. Tex. Code Crim. Pro. art. 11.071 § 5(a)(2). Prible has made a prima facie case that “no reasonable juror would have convicted [him] in light of the new evidence.” *See Ex parte Chaney*, 563 S.W.3d 239, 278 (Tex. Crim. App. 2018) (citing *Ex parte Kussmaul*, 548 S.W.3d 606, 636–37 (Tex. Crim. App. 2018)).

For these reasons, this Court should authorize Prible’s actual innocence claim for factual development and grant him guilt-phase relief.

⁶² Even if this Court were to find that one or both of these pieces of evidence were previously available, the claim should still be authorized because the overwhelming majority of the new evidence was not previously available.

CONCLUSION AND PRAYER FOR RELIEF

For the reasons set forth above, Jeff Prible asks this Court to find that this Application satisfies Article 11.071, § 5 of the Texas Code of Criminal Procedure, grant and remand the case for an evidentiary hearing on the claims and any disputed issues of fact, and subsequently grant him relief from the verdict. Jeff Prible is actually innocent.

DATED: August 28, 2026

Respectfully Submitted,

/s/ Gretchen Scardino

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VERIFICATION

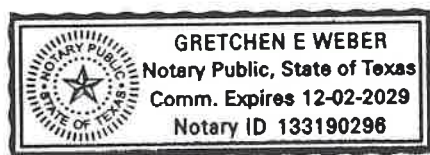
BEFORE ME, the undersigned authority, on this day personally appeared Gretchen N. Scardino, who upon being duly sworn by me testified as follows:

1. I am a member of the State Bar of Texas.
2. I am the duly authorized attorney for Ronald Jeffery Prible, Jr., having the authority to prepare and to verify Ronald Prible's Subsequent Application for Writ of Habeas Corpus.
3. I have prepared and have read the foregoing Subsequent Application for Writ of Habeas Corpus, and I believe all allegations in it to be true.

Subscribed by me August 28, 2026, in Austin, Texas.


GRETCHEN N. SCARDINO
Counsel for Petitioner

SUBSCRIBED AND SWORN TO BEFORE ME on this 28th day of August 2026.




Notary Public, State of Texas

CERTIFICATE OF SERVICE

I do hereby certify that on August 28, 2026, the foregoing Subsequent Application for Writ of Habeas Corpus was served upon Harris County Assistant District Attorney Rehana Vohra via email at vohra_rehana@dao.hctx.net.

/s/ Gretchen Scardino
GRETCHEN N. SCARDINO
Counsel for Applicant

CERTIFICATE OF COMPLIANCE

I hereby certify that this Subsequent Application for Writ of Habeas Corpus was computer generated and is 35,063 words in length, in compliance with Tex. R. App. Proc. 9.4(i)(2)(A).

/s/ Gretchen N. Scardino
GRETCHEN N. SCARDINO
Counsel for Applicant

Table of Exhibits⁶³

Exhibit	Description
1	Memorandum Opinion and Order, <i>Prible v. Davis</i>, No. H-09-CV-1896, 2020 WL 2563544 (S.D. Tex. May 20, 2020)
2	Jesse Gonzalez Letter to HCDA Siegler (May 22, 2002)
3	Carl Walker Letter to HCDA Siegler (Undated)
4	Mark Martinez Letter to HCDA Siegler (April 30, 2002)
5	HCDA Siegler's Handwritten Notes
6	HCDA Investigator Bonds's Handwritten Notes
7	Declaration of Gregory Francisco (June 17, 2026)
8	HCSO April 26, 1999 Supplemental Report
9	Criminal Records of Alternate Suspects (<u>UNDER SEAL</u>)
10	HCSO Voluntary Statement of Gilbert Trevino, Jr. (April 29, 1999)
11	HCSO May 6, 1999 Supplemental Report
12	Deposition of HCDA Investigator Bonds (Sept. 19, 2017)
13	Deposition of HCDA Siegler (Oct. 17, 2017)
14	Jesse Moreno Letter to HCDA Siegler (April 4, 2001)

⁶³ Exhibits obtained after the last state habeas application are in **bold typeface**.

Exhibit	Description
15	Celia Moreno Letter to HCDA Siegler (April 10, 2001)
16	Peggy O'Hare, <i>Survivors Await Break in Family's 1999 Killing</i> , HOUS. CHRON., April 15, 2001
17	Deposition of Michael Beckcom (Oct. 10, 2017)
18	Transcript of HCDA Siegler's Interview with Inmate Jesse Moreno (July 3, 2001)
19	HCSO July 5, 2001 Supplemental Report
20	HCDA Siegler's Letter to AUSA Clemons (May 1, 2002)
21	Ronald Prible July 5, 2001 Charging Information
22	HCSO Detective Brown's Probable Cause Affidavit
23	Hermilo Herrero, Jr. Detainer Paperwork (Sept. 4, 2001)
24	Prible BOP Housing Records (<u>UNDER SEAL</u>)
25	Foreman BOP Housing Records (<u>UNDER SEAL</u>)
26	Affidavit of Brian Rose (Dec. 5, 2016)
27	Alan Percely Letter to HCDA Siegler (Nov. 12, 2001)
28	HCDA Investigator Bonds's Fax to FCI-Beaumont Medium (Nov. 20, 2001)
29	HCDA Investigator Bonds's Fax to FCI-Beaumont Medium (Nov. 26, 2001)
30	Beckcom's Handwritten Statement (Dec. 10, 2001)
31	Beckcom's Handwritten Statement (Apr. 19, 2017)

Exhibit	Description
32	AUSA Mark Cullers Letter to HCDA Siegler (March 4, 2002)
33	AUSA Mark Cullers Letter to HCDA Siegler (March 5, 2002)
34	Mark Martinez's Letter with Sticky Note
35	Affidavit of Nathan Foreman (1) (Jan. 11, 2016)
36	Moreno Rule 35 Letter (May 1, 2002)
37	Dominguez Rule 35 Letter (May 1, 2002)
38	Foreman Rule 35 Letter (May 1, 2002)
39	Gomez Rule 35 Letter (May 1, 2002)
40	Motion to Modify Sentence Pursuant to Rule 35(b) of the Federal Rules of Criminal Procedure, <i>United States v. Moreno</i> (<u>UNDER SEAL</u>)
41	Transcript of August 22, 2002 Hearing on Motion to Modify Sentence, <i>United States v. Moreno</i> (Aug. 22, 2002) (<u>UNDER SEAL</u>)
42	HCDA Siegler's Letter to AUSA Cullers (Oct. 29, 2002)
43	AUSA Cullers's Letter to HCDA Siegler (Nov. 4, 2002)
44	Transcript of Voicemail by AUSA Cullers to HCDA Siegler (Nov. 12, 2002)
45	HCDA Siegler's Letter to AUSA Cullers (Nov. 15, 2002)
46	Foreman Criminal History Report (<u>UNDER SEAL</u>)

Exhibit	Description
47	Dominguez Criminal History Report (<u>UNDER SEAL</u>)
48	Michael Beckcom's Letter to HCDA Siegler (Undated)
49	HCDA Investigator Bonds's Letter to Interview Beckcom (May 1, 2002)
50	Affidavit of Nathan Foreman (2) (Jan. 11, 2016)
51	Affidavit of HCDA Siegler (March 22, 2016)
52	Fact Witness Voucher for HCDA Siegler in <i>United States v. Moreno</i> (Aug. 22, 2002)
53	Declaration of Gordon Harpe (June 22, 2017)
54	Affidavit of Jesse Oscar Gonzalez (Jan. 30, 2017)
55	Deposition of Rafael Dominguez (April 17, 2017)
56	Deposition of Vic Wisner (Sept. 20, 2017)
57	Reporter's Record, Vol. I, Federal Evidentiary Hearing (April 29, 2019)
58	Informant Photograph
59	Affidavit of J.J. Gradoni (Aug. 7, 2017)
60	Reporter's Record, Vol. II, Federal Evidentiary Hearing (April 30, 2019)
61	Reporter's Record, Vol. III, Federal Evidentiary Hearing (May 2, 2019)
62	Declaration of Dr. William Watson (July 31, 2025)
63	Threatening Letter to the Herreras

Exhibit	Description
64	SERI Evidence Examination Report 1 (Aug. 25, 2025)
65	SERI Evidence Examination Report 2 (May 29, 2026)
66	J.J. Gradoni Statement (June 23, 2011)
67	<i>Texas v. Bible</i> Witness List
68	Huma Nasir DNA Review Letter (Sept 12, 2025)
69	Huma Nasir CV
70	Fax from AUSA Mark McIntyre to HCDA Siegler (Fed. Ex. 99)
71	HCDA Siegler's Handwritten Notes regarding AUSA Cullers (Fed. Ex. 101)
72	HCDA Siegler's Fax to AUSA Cullers (Nov. 15, 2002) (Fed. Ex. 102)

Automated Certificate of eService

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Status as of 8/31/2026 8:28 AM CST

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